



June 6, 2014

Chief Doug Abraham
University of Colorado-Denver Police Department
12454 East 19th Place
Aurora, CO 80045

Re: Investigation of the officer-involved shooting of Joseph Gorden, D.O.B. 11/27/63

Dear Chief Abraham:

The Office of the Seventeenth Judicial District Attorney has completed the review of the investigation regarding the officer-involved shooting of Joseph Gorden on March 19, 2014. The Aurora Police Department conducted the investigation into this matter. Detective Mike Prince presented the factual findings on May 6, 2014 to the District Attorney of the Seventeenth Judicial District which included law enforcement reports, audio and video recorded interviews, photographs, surveillance videos, and diagrams of the crime scene. The Office of the District Attorney concludes that the investigation was thorough and complete.

The District Attorney's review is limited to determining whether criminal charges should be filed against the involved officer or other involved parties. The standard of proof for a criminal case is whether there is sufficient evidence to prove any potential criminal violations beyond a reasonable doubt. This review does not otherwise evaluate the appropriateness of the actions of the involved officer, whether police department policies or procedures were followed, or whether the policies, practices, or training at the involved agency were sufficient. That evaluation is left to you or your internal affairs investigation.

As further set forth herein, based upon the evidence presented and applicable law, no criminal charges will be filed against the law enforcement officer involved in this incident.

OVERVIEW OF THE INCIDENT

On March 19, 2014 at approximately 6:48 pm Mike Fabian called 911 and stated his co-worker, "Joseph Gorden," just sent out a "mass text picture of his hands holding a gun," and said that he "couldn't take it anymore." Mr. Fabian stated, "We're all worried he's going to kill himself." A female co-worker of his told him she just saw Mr. Gorden sitting in his car on the seventh level of the new parking structure by the AIP tower. Mr. Fabian described Mr. Gorden as a 55 to 65 year old white male, approximately 6'1" to 6'2", with military-cut grey hair. Mr. Fabian wasn't certain of the description of Mr. Gorden's vehicle, but thought it might be a "grey Kia SUV."

University of Colorado-Denver Police Officers, Sergeant John Hughes, Officer Jim Duncan and Officer Dale McCauley were dispatched to the parking structure located at 1690 Quentin St. in Aurora in attempt to locate Mr. Gorden. Upon their arrival, the officers located Mr. Gorden in a red colored Saturn VUE, bearing Colorado License Plate 191NCQ. Sergeant Hughes, driving a marked police SUV, attempted to contact Mr. Gorden in the parking garage, but Mr. Gorden immediately drove away downward through the parking garage towards the exit. Sergeant Hughes was not able to stop Mr. Gorden within the parking garage. In addition, Officer Duncan's attempt to block the pathway of Mr. Gordon's oncoming Saturn VUE prior to reaching a public street (Quentin Street) was also unsuccessful as Mr. Gorden swerved to the side and drove past Officer Duncan's stationary police vehicle.

During a subsequent interview, Officer Duncan explained how he feared the Saturn was going to strike his vehicle, causing him to suffer serious injury. In regards to the same situation, Sergeant Hughes stated, "This guy definitely wants to do bad things, this guy is definitely out to hurt somebody. He's already made threats that something bad is going to happen and he's bound and determined that it's going to happen."

Sergeant Hughes continued following Mr. Gorden with his emergency lights and siren activated. During his subsequent interview, Sergeant Hughes was asked about his thought process at this time and he replied how concerned he was for his safety and believed the driver of the Saturn was armed and possibly homicidal and/or suicidal. When asked what his thoughts were about the Saturn's driver getting away, he stated, "I was afraid he would hurt himself or somebody else, he was going to hurt someone in the public, even someone in the hospital. I didn't want it to get out on the street on a high speed chase, I wanted to get him stopped." This culminated with Sergeant Hughes pulling in front and blocking the pathway of Mr. Gorden's Saturn VUE just prior to the intersection of Quentin St. and East 16th Ave on westbound Quentin Street.

Sergeant Hughes got out of his police SUV and drew his gun. He positioned himself by the rear end of the police SUV where he observed Mr. Gorden still seated within the vehicle. All of the Saturn's doors were closed and the front driver's side window was down, allowing Sergeant Hughes to observe Mr. Gorden's head and upper torso. Sergeant Hughes did not recognize Mr. Gorden and did not recall exchanging any words with him.

Sergeant Hughes observed Mr. Gorden look towards him while raising his right arm up and across his chest. Sergeant Hughes observed Mr. Gorden was holding a black object in his right hand, which Sergeant Hughes believed to be a handgun. Sergeant Hughes then heard the sound of a gunshot and observed a muzzle flash coming from Mr. Gorden's handgun. After briefly stepping back, Sergeant Hughes stepped forward to within approximately twelve feet of the Saturn and fired one shot from his handgun towards Mr. Gorden's center mass.

After firing his gun, Sergeant Hughes remained by his police SUV for cover. He observed Mr. Gorden had momentarily dropped his right arm and head downward towards his lap. While he continued to assess, Sergeant Hughes observed Mr. Gorden had lifted his head and looked towards Sergeant Hughes while simultaneously turning his body and raising his right arm again. Upon observing this, Sergeant Hughes fired an additional shot at the driver, but could not determine his shot placement. Regarding the second shot, Sergeant Hughes indicated he believed Mr. Gorden was going to fire at him again stating, "He's going to shoot at me again." Sergeant Hughes estimated he was approximately twelve feet away from the Saturn when he fired the second round. He described the time lapse between his first and second shots as only seconds.

After firing the second round, Sergeant Hughes observed that his gun had malfunctioned, causing him to eject the magazine seated within the gun and replacing it with a magazine from his duty belt. Sergeant Hughes then forced the slide forward to chamber a round, but did not fire again.

Sergeant Hughes assessed again, but did not observe any response from Mr. Gorden. With Officers Duncan and McCauley present, Sergeant Hughes went to the passenger's side of the Saturn VUE where he observed a revolver lying on the front passenger seat. Sergeant Hughes returned to the driver's side of the Saturn where he removed the unresponsive Mr. Gorden from the driver's seat and summoned medical personnel.

Paramedics arrived on the scene and transported Mr. Gorden to the nearby Emergency Room at University Hospital. At 7:22 pm, Dr. Vaughn Brown pronounced Joseph Gorden deceased.

During the follow up scene investigation, three .45 caliber shell casings were recovered from the area where Sergeant Hughes fired his service weapon. Sergeant Hughes service weapon's round count corroborated the fact that three .45 caliber rounds were fired. The examination of Mr. Gorden's revolver revealed one spent .357 casing and five unspent .357 cartridges, indicating Mr. Gorden had fired one round.

The examination of Mr. Gorden's Saturn VUE revealed the trajectory of four rounds being fired, but it is not possible to determine the order in which they were fired. The first round, denoted by the letter "A," struck the Saturn's windshield and continued along the vehicle's interior headboard. The second round, denoted by the letter "B," struck the driver's side mirror, passed through and continued on towards the upper portion of the driver's seat. There were no indicators of round "B" striking or passing through the driver's seat. The third

round, denoted by the letter "C," also struck the driver's side mirror, passed through, and continued along the outer panel of the driver's side door. The fourth round, denoted by the letter "D," passed through the center of the driver's seat at a downward trajectory. There were no indicators that bullet "D" had originated from outside the Saturn. Trajectory "D" is consistent with Mr. Gorden shooting himself in the chest. A projectile consistent with a .357 caliber was recovered on the rear drivers side floorboard. The examination of Mr. Gorden's revolver revealed evidence of blowback (blood spatter), such that the revolver was in close proximity to Mr. Gorden chest when being fired.

The autopsy of Joseph Gorden revealed bullet holes in his left shoulder, chest, and left lower back. There was a large, semi-flattened bullet recovered from the middle of Mr. Gorden's back. The internal examination of Mr. Gorden's upper torso revealed severe damage to his heart. There were two possible bullet trajectories documented on Mr. Gorden's body. The first indicated that the bullet had entered Mr. Gorden's left shoulder, piercing both the upper and lower lobes of the left lung and coming to rest near the spine (where the semi-flattened round was recovered). The second indicated that the bullet entered Mr. Gorden's chest, piercing his heart, and exiting the left lower back. The forensic pathologist, Dr. Michael Arnall, indicated in his report that this round was the result of a "contact wound" due to what appeared to be gun powder residue and carbon monoxide scarring inside the wound.

WITNESS INTERVIEWS

Sergeant John Hughes:

On March 24, 2014 Detectives Warren Miller and Mike Prince conducted a recorded interview with Sergeant John Hughes with his counsel, Ryan Coward, present at the Aurora Police Department's District 2 Station. Sergeant Hughes stated on the evening of March 19, 2014, he was working by himself as uniformed patrol, designated by the call sign of "Sam Three." His shift, prior to this shooting, consisted of him drafting yearly evaluations at the UCPD Headquarters Building on the Anshutz Campus.

Between approximately 6:00 pm and 6:30 pm, Sergeant Hughes received a radio call of an armed male on the sixth floor of the University Hospital employee parking garage, located near East 16th Avenue and Quentin Street. Sergeant Hughes indicated that he approached the parking garage with his emergency lights activated, but kept his siren off so as not to alert the armed male of his approach. Sergeant Hughes overheard Officer Jim Duncan broadcasting his position outside the garage and watching the exits. Sergeant Hughes recalled hearing a broadcast that the armed male was possibly driving a green colored Jeep Cherokee. Sergeant Hughes then overheard additional broadcasts about the armed party texting photographs of himself holding a handgun, telling others that he had had enough and that something bad was going to happen.

Sergeant Hughes reached the sixth floor of the parking garage, but did not see any green Jeep Cherokees. He overheard additional broadcasts that the armed male was possibly on the top level of the garage. Sergeant Hughes knew the top level of the garage was one above him, so he

continued driving while Officer McCauley had parked his vehicle on the sixth floor and proceeded up to the seventh level on foot.

As Sergeant Hughes reached the seventh level, he observed a hospital security guard standing nearby and pointing towards a red colored Saturn SUV that was backed into a parking space along the west side. At this time, Sergeant Hughes overheard broadcasts updating the armed male's vehicle as a red colored SUV. Sergeant Hughes activated his emergency lights and siren, which prompted the Saturn to pull out of its parking space and head northbound towards the ramp that goes to the lower levels.

Sergeant Hughes drove behind the Saturn and broadcasted its license plate while maintaining the emergency lights and alternating the siren. The driver of the Saturn failed to stop and Sergeant Hughes continued following at approximately twenty to twenty-five miles an hour. Sergeant Hughes made approximately three or four attempts at driving his police SUV in front of the Saturn trying to get it's driver to stop. These attempts were unsuccessful as the Saturn would swerve around the police SUV and continue downwards through the garage. Sergeant Hughes could not recall if there had been any collisions between the police SUV and the Saturn during this time.

Sergeant Hughes described his thought process at this time as being concerned for his safety and believed the driver of the Saturn was armed, possibly homicidal and/or suicidal. Sergeant Hughes stated, "I was afraid he would hurt himself or somebody else, he was going to hurt someone in the public, even someone in the hospital. I didn't want it to get out on the street on a high speed chase, I wanted to get him stopped."

The Saturn approached the south exit and slowed as the driver appeared to be swiping a card to get the automatic arm to open. Sergeant Hughes approached from behind and used the push bumper of the police SUV to contact the rear bumper of the Saturn in an attempt to push it into one of the nearby pillars and get it to stop. This was unsuccessful as the Saturn broke through the automatic arm and continued out of the garage and westbound along the access drive.

Sergeant Hughes observed that Officer Duncan had stopped his police vehicle across the access drive in an attempt to get the Saturn stopped, but the Saturn narrowly missed striking Officer Duncan's police vehicle swerving past him driving over the curb. Sergeant Hughes stated, "This guy definitely wants to do bad things, this guy is definitely out to hurt somebody. He's already made threats that something bad is going to happen and he's bound and determined that it's going to happen."

Sergeant Hughes continued to follow the Saturn as it turned left (southbound) on Quentin Street. Sergeant Hughes decided he was going to prevent the Saturn from driving any further so he drove past at approximately thirty-five to forty miles per hour and stopped directly in front of the Saturn at the East 16th Avenue and Quentin Street intersection. This caused the front, driver's side quarter panel of the Saturn to collide with the passenger's side of the police SUV,

preventing the Saturn from driving any further. Sergeant Hughes recalled his emergency lights and siren were activated throughout.

Sergeant Hughes stated that he then got out of his police SUV and drew his gun. He positioned himself by the rear end of the police SUV where he observed the Saturn's driver was still seated within the vehicle. All of the Saturn's doors were closed and the front driver's side window was down, allowing Sergeant Hughes to observe the driver's head and upper torso. Sergeant Hughes did not recognize the driver and there were no words exchanged between them. Sergeant Hughes described and demonstrated how the Saturn's driver looked towards him while raising his right arm up and across his chest.

Sergeant Hughes observed the driver was holding a black object in his right hand, which Sergeant Hughes believed to be a handgun. Sergeant Hughes then heard the sound of a gunshot and observed a muzzle flash coming from within Saturn driver's seat. Sergeant Hughes stated that, "He just shot at me and I was wondering if I had been hit." Later in the interview, Sergeant Hughes stated that once the driver had fired his gun, he believed he had been shot, "I thought I was shot. I was really worried because he had me dead bang."

Sergeant Hughes stated after briefly stepping back, he stepped forward to within approximately twelve feet of the Saturn and fired one shot from his handgun towards the center mass of the Saturn's driver. He could not recall seeing any indicators of his shot placement. After firing, Sergeant Hughes remained by his police SUV for cover. He observed the driver had momentarily dropped his right arm and head downward towards his lap. The driver then lifted his head and looked towards Sergeant Hughes while simultaneously turning his body and raising his right arm.

Upon observing this, Sergeant Hughes stated he fired an additional shot at the driver, but could not determine his shot placement. Sergeant Hughes described his thought process at that time, "That he's going to shoot at me again." Sergeant Hughes estimated he was approximately twelve feet away from the Saturn when he fired the second round. He described the time lapse between his first and second shots as only seconds.

After firing the second round, Sergeant Hughes realized that his gun had malfunctioned, causing him to eject the magazine from the gun and replace it with a magazine from his duty belt. Sergeant Hughes then forced the slide forward to chamber a round, but did not fire again.

Following Sergeant Hughes's second shot, the driver's head and arms dropped down and he remained unresponsive. Upon observing this, Sergeant Hughes walked around Officer Duncan's patrol vehicle (to the north) and behind the Saturn so that he could approach the Saturn's passenger's side. Sergeant Hughes did not observe any movement from the driver as his arms were slumped and his hands were lying in his lap. He indicated that he observed a black colored revolver with a black colored handle lying on the front passenger's seat of the Saturn.

Sergeant Hughes returned to the driver's side of the Saturn, but did not recall which route he had taken. He approached the Saturn's opened driver's side window and reached inside to unlock it. He then opened the front driver's door and reached over to unbuckle the seatbelt. He grabbed the driver by the arms and removed him from his vehicle onto the pavement. It was around this time that Sergeant Hughes broadcasted for rescue. Sergeant Hughes checked the driver's vital signs, but did not locate any. He also checked the driver's body for signs of trauma (gunshot wounds) and located a possible gunshot wound on the driver's back and a large amount of blood on his chest. At this time, other officers had arrived on scene and Sergeant Hughes was transported to the District 2 Station.

At the conclusion of the interview, Sergeant Hughes's counsel asked, "Why did you choose to shoot?" Sergeant Hughes replied, "I thought he was going to shoot, I thought he was going to kill me. I thought he already took a shot at me and he was going to take another one at me."

Officer Jim Duncan:

On March 20, 2014, Detectives Larry Martinez and Mike Prince interviewed Officer Jim Duncan with his counsel, Ryan Coward, present at the Aurora Police Department's District 2 Station. Officer Duncan stated that on the evening of March 19, 2013, he was working by himself as uniformed patrol, designated by the call sign of "Paul One," driving in a marked patrol unit that was equipped with functional emergency lights and siren. His shift, prior to the shooting, consisted of speed enforcement as there were no prior radio calls. At approximately 6:30 pm, Officer Duncan was conducting a traffic stop in the area of East 16th Avenue and Quentin Street, when he overheard UCPD Dispatch broadcasting an "Alert Tone," indicating an emergent call. Following the tone, dispatch advised there was an armed party on the seventh floor of the employee parking garage, located on the 1600 block of Quentin Street. Due to his close proximity to the call, Officer Duncan repositioned his patrol vehicle in a driveway along Quentin Street so that he could maintain a visual observation of the south and west side entrances/exits to the garage.

It was during this time that Sergeant John Hughes and Officer Dale McCauley had driven into the parking garage and upwards towards the seventh level. Officer Duncan heard additional details coming from dispatch indicating there was a male with a gun, driving a black Jeep Wrangler, but the original caller was not on scene. Dispatch indicated the armed male had sent text messages (to unknown recipients) indicating he, "Couldn't take it anymore." Officer Duncan described this follow up information as confusing since it lacked many details. Officer Duncan could not recall if dispatch broadcasted the name of the Jeep's owner, but surmised that this must have happened because Sergeant Hughes and/or Officer McCauley had located a red Saturn SUV within the garage and determined its driver was the suicidal party.

Officer Duncan heard the sound of a police siren coming from within the garage. Officer Duncan concluded that whichever officer had his siren activated must have been moving through each level of the garage as the siren came in cycles of being loud, soft, then loud again as it

passed close by, then far away. During this time, Sergeant Hughes broadcasted he was in pursuit of a red Saturn through the garage.

Officer Duncan observed both vehicles approaching the garage's south exit. The Saturn stopped momentarily and it appeared the driver must have swiped an employee badge as the automated arm, controlling access to the garage, had opened while the Saturn waited. The Saturn exited the lot and turned right to proceed westbound along the private access drive towards Quentin Street.

In an attempt to box in the Saturn, Officer Duncan turned his marked police vehicle perpendicular to the access drive, with the overhead lights activated, so as to block the Saturn's pathway. Officer Duncan was getting out of his patrol vehicle when he observed the Saturn, traveling at approximately 20 miles per hour, continuing straight towards his patrol vehicle before swerving at the last minute veering to the side. The Saturn drove up and over the curb line and behind Officer Duncan's patrol vehicle with Sergeant Hughes still in pursuit. Officer Duncan observed the Saturn's rear bumper was loose and was hanging off to the side of the vehicle.

Officer Duncan described three concerns that he had at the time; (1) the Saturn's position in between the two patrol vehicles created a potential cross fire situation, (2) Officer Duncan feared the Saturn was going to strike his vehicle, causing him to suffer serious injury and (3) the Saturn could potentially escape by driving over the curb line, which it eventually did. Officer Duncan looked south along Quentin Street and observed Sergeant Hughes was now at the East 16th Avenue and Quentin Street intersection parked at an angle, blocking the pathway of the Saturn. Sergeant Hughes's police SUV is facing southwest with its emergency lights and siren still activated. The Saturn was stopped behind the police SUV. There was a third vehicle, described as a white pickup truck, which was stopped directly behind the Saturn, but Officer Duncan was unsure of what, if any, involvement the pickup had with the incident.

According to Officer Duncan, Sergeant Hughes stepped from his police SUV and unholstered his handgun. Sergeant Hughes stood approximately eight feet to the east of the driver's side front wheel well of the Saturn and was pointing his handgun towards the driver of the Saturn. Officer Duncan continued his approach with the emergency lights and siren activated and the driver's side window down. He heard Sergeant Hughes yelling something, but could not make out its content over the noise from the sirens.

Officer Duncan heard approximately three to four gunshots. Officer Duncan believed Sergeant Hughes fired two of the shots as he could observe Sergeant Hughes's gun recoil twice. Officer Duncan estimated he was approximately a half a block away when he made this observation. Officer Duncan then stopped his patrol vehicle in between the north and south bound lanes of Quentin Street and northeast of Sergeant Hughes's police SUV. Officer Duncan stated within seconds of him stopping his patrol vehicle and exiting, he observed Sergeant Hughes firing approximately three to four additional shots in the direction of the Saturn, causing Sergeant Hughes's gun to recoil multiple times.

Officer Dale McCauley:

On March 19, 2014, Detective Miller interviewed Officer Dale McCauley at the District 2 Station. Officer McCauley stated he was conducting a perimeter check by the campus library when he overheard the alert tone of a male who was armed with a gun on the seventh level of the employee parking garage.

Officer McCauley arrived shortly thereafter and entered the parking garage through the west side exit off of Quentin Street and drove to the sixth floor. He stopped his patrol vehicle and proceeded on foot to the seventh floor. Upon reaching the pedestrian walkway on the seventh floor, he encountered two security guards pointing towards a red colored SUV that was backed into a space along the west wall. At this time, Sergeant Hughes had arrived in his police SUV and was directed to the same red SUV by the security guards. The red SUV pulled out of the parking space and drove away, followed by Sergeant Hughes, who had now activated his emergency lights and siren. Both vehicles continued downward into the structure as Officer McCauley ran back to his own police vehicle.

As he drove to the bottom floor of the garage, Officer McCauley observed Sergeant Hughes following the red SUV westbound from the garage towards Quentin Street. Officer McCauley observed debris lying next to the garage's exit, but was unsure of how it got there. He exited the garage and observed Officer Duncan turning his police vehicle around towards southbound Quentin Street.

Officer McCauley made it to the Quentin Street intersection where he observed Sergeant Hughes had stopped his police SUV in a diagonal position, facing southwest at the East 16th Avenue and Quentin Street intersection and approximately four feet in front of the red SUV. Behind the red SUV was a white colored pickup truck and Officer Duncan had parked northeast of the white pickup. Officer McCauley observed Sergeant Hughes at the rear of his police vehicle, but did not observe Sergeant Hughes firing his weapon.

As Officer McCauley drove towards the stop, he heard at least two "pops" and recognized them as gunfire. Upon stopping (approximately fifty to sixty feet to the north), Officer McCauley heard at least one additional "pop" which he believed to be gunfire.

Officer McCauley deployed his shotgun and ran towards Officer Duncan's vehicle when he overheard Sergeant Hughes state, "He shot at me!" Officer McCauley remained at the rear of Officer Duncan's police vehicle while Officer Duncan remained at the front end. Officer McCauley estimated he was approximately thirty feet away from the red SUV and could not observe the driver from his vantage point.

Officer McCauley observed Sergeant Hughes walk behind the red SUV while stating, "Let me see your hands, raise your hands," or similar words to that effect. Sergeant Hughes continued around the front of the red SUV, then opened the driver's side door and removed the driver. Sergeant Hughes was checking the driver for vital signs when additional police and fire personnel arrived.

John Stevens:

On March 19, 2014, Detective Miller spoke with John Stevens. Mr. Stevens stated he was driving his white 1995 Ford F150 pickup truck and leaving the parking lot of the Cedars Rehabilitation Clinic on Quentin Street when he overheard sirens. Stevens then observed a police vehicle with its lights activated attempting to block the nearby street. A red or light orange colored vehicle was driving west from the Hospital's ER and towards Quentin Street. The red vehicle swerved around the police vehicle and continued south on Quentin Street.

Mr. Stevens stated that the red vehicle was pursued by a second police vehicle which attempted to stop the red vehicle. The second police vehicle then pulled in front of the red vehicle. Mr. Stevens pulled in behind to "block" the red vehicle and pin it in place. Mr. Stevens estimated he was within two feet of the red vehicle, but did not make contact with it. Upon stopping, Mr. Stevens observed that the officer in the second police vehicle had stepped out and pointed his handgun towards the driver's side of the red vehicle. The officer was in full uniform and was standing approximately fifteen feet from the red vehicle.

Mr. Stevens stated the officer paused and did not fire immediately. The officer yelled something, but he could not make out what it was. Mr. Stevens then heard gunshots, but did not see a muzzle flash from the officer's gun. Mr. Stevens stated he did not know who had fired first. Mr. Stevens heard a total of six to seven shots with some pauses in between, but could not tell if there was one or multiple guns being fired. Mr. Stevens observed the officer firing his weapon during this time. Mr. Stevens also heard the officer giving multiple orders, including, "Get out of the car!" After the shots had been fired, additional officers approached the red vehicle, removed the driver, and checked to see if he was breathing.

Joseph Gorden's Cell Phone Information:

During the course of the investigation Joseph Gorden's cell phone was examined for information that may be relevant to the investigation. The photo that Mr. Gorden took of his handgun in his hand that he had text to Mr. Fabian was examined on his phone. The photo depicts the Ruger, Security Six model, .357 Magnum revolver, the same that was ultimately recovered from Mr. Gorden's Saturn.

At 6:11 pm on March 19, 2014, Mr. Gorden utilized his cellular phone to send the following message to multiple recipients, including Janelle Mitton, his former supervisor: "Just tell you I love you all but I can't handle all this." This is followed by additional group texts by Mr. Gorden texting, "I can't handle all of this," at 6:16 pm and "I can't handle this" at 6:18 pm. These messages generate multiple responses from the recipients, asking Mr. Gorden if he is feeling okay.

At 6:19 pm, Mr. Gorden sends a follow up message, "I'm shouting shoot myself." This too is met with multiple responses urging Mr. Gorden to reconsider and call someone. At 6:27 pm, Mr. Gorden responds with, "Too late I have my gun & it's time to go." Several recipients,

including co-worker Mike Fabian, added to the group text by stating they were unsuccessful in trying to call Mr. Gorden.

Video Surveillance:

The University of Colorado Medical Center maintains multiple surveillance cameras throughout the Anschutz Campus. Specific to this incident, there were four cameras (five segments total) that captured portions of the incidents that led up to this officer involved shooting.

The first segment of video is stamped with the following notation: “2014-Mar-19 06:59:34.467 PM (MDT UTC -06:00)” at the top and “AIP II 12FL ROOFTOP SOUTHWEST” at the bottom. As such, this segment of footage was taken by a camera that was positioned atop the 12th floor of the Anschutz Inpatient Pavilion Building (west side). The camera is pointed to the north-west, covering the intersection of East 16th Avenue and Quentin Street, the uncovered parking lot on the northeast corner of the intersection, and the employee parking garage and its uncovered seventh floor. The westernmost section of the seventh level is cut off and not visible. This segment depicts the following:

- At 1859:49 hours, Sergeant Hughes turned right (west) and drove westbound. Just prior to his police SUV leaving the view of the surveillance camera, Sergeant Hughes activated his emergency lights.
- At 1859:51 hours, a red SUV (Joseph Gorden) drove into view from the far west end of the parking level. Mr. Gorden continued north, then turned right (east) past the stairwell housing and Officer McCauley. Sergeant Hughes remained close behind with his emergency lights activated.
- At 1900:07 hours, Mr. Gorden turned right (south) into the down ramp and out of view, still followed by Sergeant Hughes. The footage for this segment ended at this time.

The second segment of video is stamped with the following notation: “2014-Mar-19 07:02:50.757 PM (MDT UTC -06:00)” at the top and “EPG SOUTH DRIVE WAY” at the bottom. This segment of footage, beginning at 1902 hours, came from a camera that is positioned within the first floor of the employee parking garage (1690 Quentin Street) and covered the south side entrance/exit. The viewpoint is from the inside of the garage, looking outward and covered only the three entrances/exit lanes and their respective control panels and automatic arms. This segment depicts the following:

- At 1902:51 hours, Mr. Gorden’s red Saturn SUV appeared into view as it drove towards the far right (west) exit. The Saturn’s brake lights illuminated as Mr. Gorden extended his left hand out the opened driver’s side window and appeared to swipe a card against

the control pad. Sergeant Hughes's police SUV is close behind with its emergency lights activated.

- At 1902:56 hours, Sergeant Hughes continued forward and contacted the driver's side rear quarter panel of the Saturn. This initial contact shifted the back end of the Saturn to the right (west), causing its passenger side quarter panel to contact the cement wall that bordered the west side of the lane. This failed to stop the Saturn as it continued forward, then to the right (west) on the access drive until it was out of view. The two collisions caused damage to the Saturn's rear quarter panels and its rear bumper such that the inner padding had fallen to the ground while the remaining outer shell was partially detached and dragging behind the vehicle.
- At 1903:01 hours, Sergeant Hughes followed behind the Saturn with his emergency lights activated.
- At 1903:03 hours, Officer McCauley's police vehicle appeared into view. Officer McCauley waited for the automatic arm to rise prior to proceeding through and westbound on the nearby access drive.

The third segment of video is stamped with the following notation: "2014-Mar-19 07:02:51.642 PM (MDT UTC -06:00)" at the top and "EPG SOUTH DRIVEWAY EXIT" at the bottom. This segment of footage, beginning at 1902 hours, came from a camera that was positioned outside of the employee parking garage by the south exit. It covered the south side entrance/exit of the employee parking garage. The viewpoint is from the outside of the garage, looking west along the access drive. This segment depicts the following:

- At 1902:56 hours, Mr. Gorden's Saturn appeared into view as it traveled south out of the garage and at an angle from the collision with Sergeant Hughes's police SUV. Mr. Gorden's front driver's window remained down as he turned right and drove west along the access drive. Sergeant Hughes remained behind the Saturn with his emergency lights activated.
- At 1903:03 hours, Officer Duncan has driven across Quentin Street and is stopped perpendicular to the Saturn's pathway. Officer Duncan has activated his emergency lights.
- At 1903:07 hours, the Saturn's brake lights illuminated as it swerved to the left and narrowly avoided striking Officer Duncan's police vehicle.

- At 1903:13 hours, the Saturn and Sergeant Hughes's police SUV proceeded south on Quentin Street and out of view. Officer Duncan conducted a wide turn to the left (u-turn) on Quentin Street. Officer McCauley exited the garage's south exit.

The fourth segment of video is stamped with the following notation: "2014-Mar-19 07:02:55:161 PM (MDT UTC -06:00)" at the top and "AIP II 12FL ROOFTOP SOUTHWEST" at the bottom. As such, this segment of footage was taken by a camera that was positioned atop the 12th floor of the Anschutz Inpatient Pavilion Building (west side). The camera is pointed to the north-west, covering the intersection of East 16th Avenue and Quentin Street, the uncovered parking lot on the northeast corner of the intersection, and the employee parking garage and its uncovered seventh floor. The video recording was motion activated as there are segments of the video where the recording will stop and the screen will remain still for several seconds until activated once again. This segment depicts the following:

- At 1903:02 hours, a marked patrol car (driven by Officer Jim Duncan) is parked in a lot on the west side of Quentin Street, directly west of the access drive to the employee parking garage. The red Saturn emerged from the south exit of the parking garage, followed by Sergeant Hughes' SUV with its emergency lights activated.
- At 1903:03 hours, Mr. Gorden turned right (westbound) on the access drive and proceeded towards Quentin Street, still followed by Sergeant Hughes. Officer Duncan drove across Quentin Street, activated his emergency lights and parked at an angle, facing northeast across the access drive and just west of the crosswalk, thereby blocking Mr. Gorden's pathway.
- At 1903:06 hours, Mr. Gorden approached Officer Duncan's police vehicle before swerving to the left (south) and driving over the nearby median; narrowly avoiding a collision with the passenger side of Officer Duncan's police vehicle. A white pickup truck (John Stevens) pulled out of a parking lot along the west side of Quentin Street.
- At 1903:09 hours, Mr. Gorden continued southbound on Quentin Street, closely followed by Sergeant Hughes. Sergeant Hughes initially moved to the right, then to the left side of the Saturn before accelerating along the driver's side of the Saturn.
- At 1903:15 hours, Sergeant Hughes pulled up to and stopped at the limit line along the far south end of Quentin Street. The limit line is several feet north of the east/west crosswalk that borders the East 16th Avenue intersection. Mr. Gorden came to a stop and did not collide with Sergeant Hughes's SUV. As Sergeant Hughes came to a complete stop, Officer Duncan was in the process of completing a wide angled turn to the left (westbound) such that he was perpendicular to Quentin Street and parallel with the

employee parking garage. A third police vehicle (Officer McCauley) drove out of the garage's south exit with its emergency lights activated.

- At 1903:19 hours, the white pickup (Stevens) pulled up to and stopped within several feet directly behind Mr. Gorden's Saturn. Officer Duncan has completed his turn and is now south on Quentin Street, passing the access drive to the employee parking garage. Officer McCauley was westbound along the garage's access drive, approaching the intersection with Quentin Street.
- At 1903:37, Officer Duncan moved to his left and closer to Sergeant Hughes's police SUV while Officer McCauley approached Officer Duncan's vehicle on foot.
- At 1903:39 hours, Officer McCauley reversed his direction and ran back to his patrol vehicle.
- At 1903:43 hours, Officer McCauley returned to Officer Duncan's vehicle. The coverage stopped at 1903:50 hours.
- At 1904:28 hours, the coverage began again.
- At 1904:31 hours, Sergeant Hughes was standing next the front passenger's side quarter panel of the white pickup (Stevens); Officer Duncan was standing next to the driver's side front quarter panel of his police vehicle and Officer McCauley is standing behind the rear quarter panel of the same police vehicle.
- At 1905:00 hours, Sergeant Hughes approached the passenger side of Mr. Gorden's Saturn and is out of the camera's view.
- At 1906:04 hours, Sergeant Hughes removed Mr. Gorden from the driver's seat of the Saturn as the Saturn lurched forward and collided with Sergeant Hughes's police SUV.

The fifth segment of video is stamped with the following notation: "2014-Mar-19 07:02:55.369 PM (MDT UTC -06:00)" at the top and "EPG ROOFTOP SOUTHWEST" at the bottom. This camera is positioned on top of the employee parking garage and pointed to the south-west, covering the intersection of East 16th Avenue and Quentin Street and portions of the access drive that runs along the south end of the garage. It covered many of the same aspects of the shooting as the, "AIP II 12FL ROOFTOP SOUTHWEST" except this angle is closer. This segment depicts the following:

- At 1903:01 hours, Mr. Gorden's red Saturn appeared on the left side of the screen as it drove west along the access drive. Officer Duncan appeared on the right side of the

screen as he pulled into the access drive, activated his emergency lights, and parked at an angle, facing northeast across the access drive and just west of the crosswalk, thereby blocking Mr. Gorden's pathway.

- At 1903:06 hours, Mr. Gorden approached Officer Duncan's police vehicle before swerving to the left (south) and driving over the nearby median; narrowly avoiding a collision with the passenger side of Officer Duncan's police vehicle.
- At 1903:09 hours, Mr. Gorden continued southbound on Quentin Street, closely followed by Sergeant Hughes. Sergeant Hughes initially moved to the right, then to the left side of the Saturn before accelerating along the driver's side of the Saturn. A white pickup truck (John Stevens) drove south on Quentin Street and pulled in behind the Saturn.
- At 1903:15 hours, Sergeant Hughes pulled up to and stopped at the limit line along the far south end of South Quentin Street. The limit line is several feet north of the east/west crosswalk that borders the East 16th Avenue intersection. Mr. Gorden came to a stop and did not collide with Sergeant Hughes. As Sergeant Hughes drove past and in front of Mr. Gorden, his police SUV struck the Saturn's rear bumper, which was already damaged and swinging behind, causing it to dislodge from the Saturn and come to rest next to the Saturn's driver's side.
- At 1903:17 hours, Sergeant Hughes exited his police SUV and obtained a shooting stance with his arms outstretched in front of him. Sergeant Hughes pointed his handgun in the direction of Mr. Gorden's Saturn.
- At 1903:19 hours, the white pickup (Stevens) pulled up to and stopped within several feet of Mr. Gorden's Saturn. Officer Duncan has completed his turn and is now south on Quentin Street, passing the access drive to the employee parking garage. Officer McCauley was westbound along the garage's access drive, approaching the intersection with Quentin Street.
- At 1903:20 hours, Sergeant Hughes immediately ducked down and stepped to his left, further behind his police SUV.
- At 1903:22 hours, Sergeant Hughes stepped forward to the driver's side rear quarter panel of his police SUV with his arms outstretched in a shooting stance. Due to the distance of the camera, in addition to the dark background of the police SUV, it is difficult to decipher when Sergeant Hughes fired his weapon.

- At 1903:23 hours, a cloud of light colored smoke or debris rose from the center of the Saturn's front windshield, possibly from Sergeant Hughes's round striking the windshield. Officer Duncan has pulled up and stopped to the east of the white pickup.
- At 1903:24 hours, Officer McCauley stopped his police vehicle on Quentin Street, just south of the access drive.
- At 1903:25 hours, Sergeant Hughes took a step backwards and appeared to slightly lower his gun.
- At 1903:26 hours, Sergeant Hughes had raised his gun again and pointed it in the direction of the Saturn. Due to the distance of the camera in addition to the dark background of the police SUV, it is difficult to decipher when Sergeant Hughes fired his weapon at this time as well.
- At 1903:28 hours, Officer Duncan has exited the driver's seat of his police vehicle while Sergeant Hughes again lowered his firearm and appeared to conduct a reload.
- At 1903:52 hours, Sergeant Hughes took several steps back while Officer Duncan maintained cover on the Saturn.
- At 1904:10 hours, Sergeant Hughes walked north in a counterclockwise arch around Officer Duncan's police vehicle and the white pickup truck.
- At 1905:36 hours, Sergeant Hughes walked around the front of the Saturn as Officer Duncan approached the driver's side door of the Saturn. Sergeant Hughes tried the handle of the Saturn's driver's side door then reached inside and opened it.
- At 1905:47 hours, Sergeant Hughes holstered his handgun and reached into the interior of the Saturn.
- At 1906:04 hours, Sergeant Hughes removed Mr. Gorden from the driver's seat of the Saturn as the Saturn lurched forward and collided with Sergeant Hughes's police SUV.

Scene Investigation:

The primary scene for this incident was the intersection of East 16th Avenue and Quentin Street. The intersection is a four way stop that is controlled by stop signs in each direction. The lanes are delineated with a variety of colored paint depicting turn lanes, through lanes, turn arrows, cross walks and limit lines.

Crime Scene Investigator (CSI) Darvin Harrell processed the scene on March 19, 2014 at approximately 8:15 pm and observed Sergeant Hughes's fully marked police SUV was parked facing southwest part way between the southbound through lane and the left turn lane for westbound East 16th Avenue. The front push bumper appeared to be dented and partially coated with flakes of red colored paint.

There were three .45 caliber shell casings and two unspent .45 caliber rounds as well as one semi-automatic handgun magazine loaded with three .45 caliber rounds lying on Quentin Street just to the east of the SUV. On March 19, 2014, Detectives Miller and Prince conducted an examination and bullet count on Sergeant Hughes's .45 caliber semiautomatic duty weapon. That inspection revealed that the magazine was fully loaded with .45 caliber bullets to its eight round capacity. As such, the weapon inspection and examination of the crime scene was consistent with Sergeant Hughes having fired three (3) rounds during this incident based on the three shell casings, the two .45 caliber live rounds and the three live rounds in the magazine found at the scene.

The red Saturn VUE was facing south and positioned along the west curb line of Quentin Street, directly east of an RTD Bus Stop. The Saturn VUE's engine was running and the gear shift was positioned in "Drive." An apparent bullet hole was located in the mid section of the windshield approximately two inches below the windshield's connection to the roof. The driver's side mirror had two apparent bullet holes. One such bullet appeared to have traveled through the mirror then passing along through a portion of the front driver's door panel.

A dark colored black Ruger Security Six .357 caliber Revolver with its cylinder closed was located lying on the front passenger seat with the muzzle facing southwest. There was a black nylon holster next to the revolver along with a cellular phone and lunchbox. There were multiple suspected blood stains on the driver's seat and center console. There was an opened can of "Steel Reserve" beer sitting in the center console's cup holder and a bloodied ID badge lying nearby.

On March 19, 2014, Crime Scene Investigators Darvin Harrell and Nicholas Carroll processed and documented the black Ruger, Security Six .357 caliber Revolver, serial number 15833441, recovered from the front passenger seat. Their examination of the revolver revealed evidence of blowback, apparent blood spatter, near the muzzle. CSI Carroll opened and examined the revolver's cylinder. The cylinder contained one spent .357 caliber casing and five unspent .357 caliber cartridges. The result of this weapon inspection is consistent with Joseph Gorden having fired one (1) round during the incident.

On March 20, 2014, Detectives searched Joseph Gorden's apartment, located at 12517 East Kansas Place, Apartment I-205 in Aurora, and located one full (25 round) box of Hornady brand .357 ammunition; one (20 round) box of Corbon brand .357 ammunition with six (6) cartridges missing; one empty (revolver) speed loader; one (revolver) speed loader containing three (3) Corbon brand .357 cartridges and three (3) Hornady brand .357 cartridges and a instruction manual for a Ruger, Security Six Model Revolver.

On March 20 and 21, 2014, Detective Larry Martinez and CSI Faye Borquez conducted a search of Joseph Gorden's Saturn, which was being held at the APD Seizure Bay. During the search, CSI Borquez observed the following:

- A suspected bullet hole through the top of the driver's side mirror (denoted as "B")
- A suspected bullet hole through the bottom of the driver's side mirror (denoted as "C")
- A suspected bullet hole through the top of the driver's side windshield (denoted as "A")
- A suspected bullet hole through the driver's backrest (denoted as "D")
- Lead fragments on the rear driver's floor
- Lead fragments on the rear driver's seat
- A piece of mirror with suspected blood on it from the rear floor between the driver's seat and the driver's "T" panel

CSI Borquez placed trajectory rods in the four observed bullet holes to determine their direction. The order in which the rounds were fired could not be determined.

The (A) bullet appeared to have gone, "through the top of the front windshield at an upward trajectory traveling at a driver's side to passenger side angle; hit the clamped visor, deflected to a front to rear angle, traveled along the inside roof, hit the roof just before the rear seat and dropped into the cargo area."

The (B) bullet, "Appeared to penetrate the driver's side mirror and hit the driver in the upper left shoulder area of the driver's backrest."

The (C) bullet, "Penetrated the bottom arm of the driver's side mirror; hit the door frame just under the driver's window frame, skipped along the window/door frame and came out of the outside of the door fiberglass, approximately 8 inches from the entrance."

The (D) bullet, "The hole in the driver's seat came from the front of the backrest in a downward trajectory; through the backrest, through the tote bag hanging on the back of the backrest, across the rear driver's side seat and to the metal seat frame on the rear driver's side of the seat, the bullet bounced off of the metal frame and fell on the floor between the seat and the driver's side wall."

Forensic Autopsy:

Dr. Michael Arnall, a board certified forensic pathologist, performed a forensic autopsy on the body of Joseph Gorden on March 21, 2014. Dr. Arnall identified two gunshot wounds to Mr. Gorden. He determined that the gunshot wound to Mr. Gorden's chest was a contact gunshot wound with an exit wound located on his back. This contact wound caused Mr. Gorden's death as the bullet traveled through his heart.

The second gunshot wound was to Mr. Gorden's left arm with no exit wound. This bullet was recovered at autopsy and the wound path perforated the left lung. Dr. Arnall determined that the cause of death was a contact wound to the chest and the manner of death was suicide.

LEGAL ANALYSIS

Criminal liability is established in Colorado when it is proven beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statutes. In addition to proving the elements of the offense beyond a reasonable doubt, the prosecution must also disprove beyond a reasonable doubt any statutorily recognized justification or excuse. In this instance the prosecution would also have to be proven beyond a reasonable doubt that Mr. Gorden did not commit suicide.

Colorado Revised Statute § 18-1-704 defines the circumstances under which anyone, including a peace officer, can use physical force in the defense of a person in Colorado. The relevant parts of the statute are as follows:

(1) ... [A] person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

The legal question presented to the Office of the District Attorney is whether at the time Sergeant Hughes fired his weapon, he reasonably believed that Mr. Gorden was about to use physical force against him or another person. Moreover, in order to establish criminal responsibility for an officer who uses such physical force, the prosecution must prove beyond a reasonable doubt that the officer either did not believe Mr. Gorden was about to use unlawful physical force or that the officer's belief that Mr. Gorden was about to use unlawful physical force was unreasonable in light of the totality of the facts and circumstances.

The use of lethal force by a law enforcement officer necessarily invokes an analysis under § 18-1-707(2), C.R.S. (2013), the law applicable to the use of deadly physical force by a peace officer. In pertinent part, the language of the statute reads as follows:

(2) A peace officer is justified in using deadly physical force upon another person for a

purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

- (a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;

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

In this particular incident the investigation revealed that Joseph Gorden was distraught and suicidal over various personal factors going on his life and he expressed this to several people via text messages. In particular, he expressly indicated that he was planning on committing suicide with his handgun. This information was dispatched to Sergeant Hughes and he responded to the employee parking garage with the knowledge that Mr. Gorden was distressed, suicidal and armed with a handgun. Sergeant Hughes attempted to contact Mr. Gorden in the parking facility, but Mr. Gorden chose to leave the area and was eventually stopped at the intersection of Quentin St. and East 16th Ave on westbound Quentin Street.

At this point Sergeant Hughes got out of his SUV with his service weapon drawn when he noticed an object that appeared to be a black handgun in Mr. Gorden's hands. Sergeant Hughes then simultaneously heard a gunshot and saw a muzzle flash come from inside the driver's seat area of Mr. Gorden's Saturn. Sergeant Hughes felt at that time that Mr. Gorden was shooting at him and returned fire with his service weapon. It was later discovered during the course of the investigation that the most probable conclusion in explaining the first shot and muzzle flash that Sergeant Hughes describes is that Mr. Gorden shot himself in the chest with the barrel of his gun contacting his chest. The surveillance video corroborates that at no time during this incident was Sergeant Hughes close enough to Mr. Gorden to cause this contact wound.

This is supported not only through the forensic autopsy, but through the search and trajectory analysis completed on Mr. Gorden's Saturn as well as the "blowback" discovered on his handgun. Dr. Arnall has ruled the manner of death as suicide based on Mr. Gorden's contact wound to the chest which resulted in causing his death. The trajectory analysis with regard to bullet trajectory labeled as "D" is consistent with Mr. Gorden shooting himself in the chest and the bullet traveling through his chest cavity, the driver's seat backrest and with the projectile being recovered in the driver's side rear seat area.

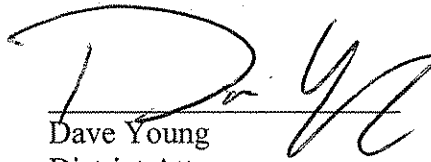
Sergeant Hughes described Mr. Gorden raising his arm a second time seconds after the initial shooting and Sergeant Hughes fired his service weapon a second time in the direction of Mr. Gorden. Sergeant Hughes again described being in fear of his life at the time he fired a second time at Mr. Gorden. It is reasonable under the totality of the circumstances for Sergeant Hughes to conclude that his life was in danger from his perspective during both times he fired his service weapon during this incident. It is very probable that the gunshot wound to Mr. Gorden's arm was caused by Sergeant Hughes; however, it is also probable that Sergeant Hughes had a reasonable belief that his life was in danger and he was justified in defending himself.

CONCLUSION

It is the conclusion of the Office of the District Attorney for the Seventeenth Judicial District that the investigation and evidence in this incident supports the conclusion that Mr. Joseph Gorden committed suicide. Even applying the facts of this incident to C.R.S. §18-1-707, there is also insufficient evidence for the likelihood of a conviction on any criminal charges beyond a reasonable doubt against Sergeant Hughes for his use of deadly physical force or physical force upon Joseph Gorden on March 19, 2014.

Therefore, it is the conclusion of the Seventeenth Judicial District Attorney's Office that no criminal charges will be filed against Sergeant Hughes. Please feel free to contact me if you have any questions or further investigation is needed.

Respectfully,



Dave Young
District Attorney