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May 7, 2007

Gerald Whitman  
Chief of Police  
Denver Police Department  
1331 Cherokee Street  
Denver, CO 80204

RE: Investigation of the wounding of Carlos Sanchez, DOB 1/14/87, DPD # 631316, F.B.I.#34300IKC7, by Officer Clinton Heck, 87010, on April 4, 2007, in the 3300 block of West Florida Avenue, Denver, Colorado.

Dear Chief Whitman:

On April 4, 2007, at approximately 1:35 p.m., Denver Police Officers were attempting a felony stop on Carlos Sanchez on an arrest warrant for a March 27, 2007, aggravated robbery in which he fired a gun. Sanchez was the front-seat passenger in a vehicle being driven by C. K. when officers turned on their emergency equipment. The vehicle was a black and silver 1996 Acura SLX sport utility. Rather than stopping the vehicle C.K. continued driving eastbound on West Florida Avenue. The officers saw what appeared to be a struggle between Sanchez and C.K. After a short distance the vehicle pulled over in the 3300 block of West Florida Avenue. C.K. was forced out the driver's door by Sanchez.<sup>1</sup> Officer Heck pulled his marked police car at an angle to the left-front side of Sanchez's vehicle. He saw that C.K. came out with his hands in the air and was not armed. Officer Heck and the other officers repeatedly ordered the parties to stop and put up their hands. Officer Heck ran around the front of his police car to confront Sanchez. Sanchez revved the engine and accelerated rapidly at Officer Heck who was trapped between the right side of his car and Sanchez's vehicle. As he tried to move against his police vehicle to avoid being struck he simultaneously fired a single shot at a downward angle which he believed went through the front of the driver's-side window. Sanchez nearly struck Officer Heck as he turned to the right missing Officer Heck's vehicle in order to escape. This all happened very rapidly.

Other Denver officers at the scene pursued Sanchez. Officers notified the Denver Police Dispatcher that shots had been fired and the suspect was fleeing. Englewood Police Officers later joined in the pursuit. During his escape Sanchez struck another vehicle at Santa Fe and Evans Avenue. Sanchez continued to flee southbound on Santa Fe, then crossed over and was traveling southbound in the northbound lanes of Santa Fe. At this time the pursuing officers were instructed not

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<sup>1</sup> In his statement to investigators, C.K. said Sanchez repeatedly told him not to pull over and grabbed the steering wheel to prevent him from doing so. He was finally able to stop the vehicle. Sanchez reached over him and pushed him out the door.

to pursue Sanchez in the northbound lanes. Officers observed Sanchez turn from the northbound lanes of Santa Fe while traveling southbound to eastbound Hampden Avenue into oncoming westbound traffic. The officers then lost sight of Sanchez and he escaped.

An acquaintance of Sanchez, M.E., told investigators that he and a friend were called by Sanchez. They picked him up at 3<sup>rd</sup> and Gray Street. Sanchez told them he had been in a chase with police. M.E. could see that Sanchez had been shot in the top area of his right thigh and took him to Denver Health Medical Center, but Sanchez would not go in because he said the police would find him. Before dropping him off at a relative's home, Sanchez told them he was going to be going to Mexico first thing in the morning (April 5, 2007) because he has family there. M.E. had a picture of the wound that Sanchez had taken with his cell-phone camera. Sanchez said he took the picture to "show the media—to show what the police had done to him—shooting an innocent person." Sanchez told them he "could not get pulled over because he would get sent back to Mexico." Sanchez said that when the car pulled over he pushed the driver out and "punched it" and "the cop shot at him." M.E. said the person in the car "smokes weed" with Sanchez.

Statements from several citizen witnesses confirm the pertinent portions of the statements of Officer Heck and the other officers involved in the attempt felony stop and the confrontation with Sanchez. One of the citizen witnesses, L.B., stated that the officer (Officer Heck) was in extreme danger and he did not know how he did not get hit by the vehicle. He said the vehicle almost ran over the officer. Another citizen witness, L.T., said that after pushing the driver out of the vehicle, the passenger moved into the driver's side, revved up the engine very loudly, put it in gear and sped off, almost striking an officer. L.T. stated that as the vehicle was taking off he heard a shot but did not know if the person in the vehicle or the officer fired the shot. Another citizen witness, C.E., stated he heard shouting and what he thought was the backfiring of a vehicle. He then saw a vehicle (Sanchez) "rocket south" through the complex.

Written and/or videotape statements were given by all involved Denver Police Officers. Their statements also confirm the pertinent portions of this confrontation and flight by Sanchez. The officers at the scene of the shooting who were in a position to see indicated Sanchez almost struck Officer Heck at the time he fired the single shot and one officer thought that he had struck him with the vehicle. Also, officers involved in pursuing Sanchez as he fled reported seeing him pointing what appeared to be a rifle barrel out the driver's window.

On April 5, 2007, at 6:50 a.m. a citizen, J.C., called police to report seeing the suspect vehicle at 3725 South Emporia Way in Aurora, Colorado. Denver detectives Randy Stegman and Tony Widmayer recovered the vehicle for crime laboratory processing. On April 6, 2007, crime laboratory examination revealed a partial bullet defect to the driver's side door glass. A defect was also located in the passenger seat back and scuffing on the hard plastic back of the folding rear seat. On the floorboard below the scuffing mark was a partial copper jacket of a bullet. Homicide Lieutenant Jon Priest observed that the general trajectory path of the bullet would be from front to back and up to down. A stain was recovered from the driver's seat that appeared consistent with blood. Lieutenant Priest examined the known evidence and compared it to the reported injury to Sanchez. It appears the bullet fragmented with a part of the copper jacket striking the passenger seat and the bullet core striking the right leg of Sanchez.

The single shot was fired by Officer Heck from his semi-automatic 9mm Sig Sauer P226 service pistol. One spent 9mm shell casing was recovered at the scene and identified to Officer Heck's weapon by the Denver Police Crime Laboratory.

In addition to the arrest warrant for felony aggravated robbery in which he had fired a gun, Sanchez is wanted on two traffic warrants and is on probation for felony possession of burglary tools. Sanchez is also a known gang member.

## CONCLUSION

Criminal liability is established in Colorado only if it is proved beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statute, and it is proved beyond a reasonable doubt that the offense was committed without any statutorily-recognized justification or excuse. While knowingly or intentionally shooting and causing injury or death to another human being is generally prohibited as assault or murder in Colorado, the Criminal Code specifies certain circumstances in which the use of physical force or deadly physical force is justified. As there is generally no dispute that the officer intended to shoot at the person who is wounded or killed, the determination of whether the conduct was criminal is primarily a question of legal justification.

Section 18-1-707 of the Colorado Revised Statutes provides that while effecting or attempting to effect an arrest, a peace officer is justified in using deadly physical force upon another person . . . when he reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force. Therefore, the question presented in most officer-involved shooting cases is whether, at the instant the officer fired the shot that wounded or killed the person, the officer reasonably believed, and in fact believed, that he or another person, was in imminent danger of great bodily injury or death from the actions of the person who is shot. In order to establish criminal responsibility for knowingly or intentionally shooting another, the state must prove beyond a reasonable doubt that the person doing the shooting either did not really believe he or another was in imminent danger, or, if he did hold such belief, that belief was, in light of the circumstances, unreasonable.

When a peace officer shoots and wounds or kills a person in Denver, Colorado, a very specific protocol is followed to investigate and review the case.” This case represents the unique release of a decision letter under circumstances in which the party shot, Carlos Sanchez, escaped from the scene in a vehicle after a single shot was fired at him by Officer Clinton Heck and Sanchez has not been apprehended. The Officer-Involved Shooting protocol does not apply to circumstances where an officer discharges his/her firearm, but no one is wounded or killed.<sup>2</sup> Over the years, there have been circumstances where individuals escape after a shooting and it is unknown whether they were wounded. They are almost always apprehended later and it can be

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<sup>2</sup> In at least the past 4 decades a decision letter has not been released prior to the apprehension of the suspect under circumstances where shots have been fired by Denver Police Officers but the party shot at escaped and was still at large. Because Sanchez will be prosecuted for his conduct in this case, we will not be able to open our case file for in-person review at our office until after his apprehension and prosecution. The fact that Sanchez is still at large is also the reason we have used initials of witnesses in this decision letter.

determined if they were wounded in the confrontation. The most recent example is the officer-involved shooting that occurred 6 days before this shooting and our decision letter was released April 30, 2007. In that case, the suspect escaped and 3-hours later arrived at an area hospital with a gunshot wound to his hip. Police were notified and he was arrested.

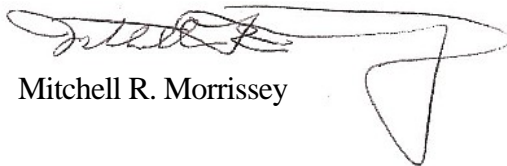
This case is unique because we have significant evidence to believe Sanchez was, in fact, wounded by the single shot even though Sanchez is still at large. Sanchez used his cell-phone camera to take a picture of a wound to his right thigh. Homicide investigators obtained this photo and witness statements confirm its authenticity. The pictured wound is consistent with being a gunshot wound and its location is consistent with the trajectory of the shot fired at close range by Officer Heck and Sanchez's position at the time the shot was fired. Therefore, we are releasing this letter today because one month has passed and Sanchez has not been apprehended. We do not believe Officer Heck should have to wait for Sanchez's apprehension for the release of this decision letter.

Based on the totality of the facts developed in this investigation we could not prove beyond a reasonable doubt that it was unreasonable for Officer Heck to perceive that Sanchez's conduct posed an imminent threat to Officer Heck when he fired the shot. Officer Heck is fortunate to not have been struck and seriously injured or killed by Sanchez's felonious conduct. Therefore, no criminal charges are fileable and provable against Officer Heck in the apparent wounding of Sanchez.

When captured Sanchez will face multiple felony criminal charges involving his conduct in the aggravated robbery in which he fired a gun, the assault on Officer Heck, and the vehicular eluding. He may also be held by Federal immigration authorities. Based on this violent criminal history Sanchez should be considered dangerous and potentially armed. Law enforcement authorities should be contacted with any information concerning Sanchez's whereabouts. Citizens should not attempt to contact him.

In accordance with the protocol, the administrative and tactical aspects of the event will be addressed by the Manager of Safety and Chief of Police in their review and administrative decision letter. The Denver Police Department is the custodian of records related to this case. As in every case we handle, any interested party may seek judicial review of our decision under C.R.S. 16-5-209.

Very truly yours,



Mitchell R. Morrissey

cc: Officer Clinton Heck; David Bruno, Attorney at Law; John W. Hickenlooper, Mayor; All City Council Members; Alvin J. LaCabe, Jr., Manager of Safety; Arlene Dykstra, Acting Denver City Attorney; Marco Vasquez, Deputy Chief; Michael Battista, Deputy Chief; Dan O'Hayre, Division Chief; Dave Fisher, Division Chief; David Quinones, Division Chief; Mary Beth Klee, Division Chief; Gregory LaBerge, Crime Lab Commander; John Burbach, Captain; Jon Priest, Lieutenant, Homicide; Jim Haney, Lieutenant; Detective Randy Stegman, Homicide; Detective Bruce Gibbs, Homicide; John Lamb, Commander, Civil Liability Bureau; Chuck Lepley, First Assistant District Attorney; Lamar Sims, Chief Deputy District Attorney; Doug Jackson, Chief Deputy District Attorney; Henry R. Reeve, General Counsel, Deputy District Attorney; Justice William Erickson, Chair, The Erickson Commission; Richard Rosenthal, Office of the Independent Monitor.