



January 20, 2023

**RE: December 8, 2022, officer-involved shooting at 2300 WCR 38E, Ft Collins, Colorado.**

Dear Sheriff Feyen,

The District Attorney's office has been asked to review the shooting of Randy Goens, which took place on December 8, 2022, at the Timber Ridge South mobile home community in Fort Collins. This statutorily mandated review is to determine whether Larimer Sheriff's Office personnel violated any Colorado criminal statutes with respect to the shooting.

## **I. EXECUTIVE SUMMARY**

Applying the law to the facts of this incident, as described in greater detail below, I conclude Corporal Margaret Johanson was legally justified in her use of physical force to defend herself and her fellow deputy from the threat posed by Randy Goens on December 8, 2022. Because I have concluded that Corporal Johanson was legally justified in her use of physical force, no criminal charges will be filed.

## **II. THE STATUTORY FRAMEWORK FOR OFFICER INVOLVED SHOOTING INVESTIGATIONS AND REVIEW**

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved shooting investigations. It provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

The investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from agencies within the jurisdiction who are members of the district's Critical Incident Response Team (CIRT). Specifically, the Larimer County Sheriff's Office was the lead agency, and they were aided by other agencies, including the Loveland Police Department, Fort Collins Police Services, and the District Attorney's Office.

C.R.S. § 20-1-114 provides:

The district attorney shall, if no criminal charges are filed following the

completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

This document constitutes a report of the District Attorney's findings and includes the basis of the decision not to charge the involved peace officer with any criminal conduct.

### **III. MATERIALS REVIEWED**

I have been provided materials produced during the CIRT investigation into the shooting of Randy Goens. The agencies involved were Loveland Police (lead agency) - LP22-97813; Larimer County Sheriff – SO22-16906; Fort Collins Police - FC22-16906; CSU Police – CS22-1732; Windsor Police – WP22-21493.

The information I have considered includes:

- Relevant body worn camera footage of the involved peace officers
- Reports/summaries of the CIRT investigators
- Recorded interviews of involved peace officers
- Photographic evidence
- Physical evidence (*e.g.*, firearms, ballistics, items recovered from home, etc.)
- Limited medical evidence

### **IV. APPLICABLE LAW**

The District Attorney's review of this event is guided by the Colorado statutes pertaining to the use of force by peace officers, including self-defense. Corporal Johanson and all other persons referred to as "deputies" in this letter are "peace officers" per statute. *See* §16-2.5-101-103, C.R.S.

By using her service weapon and causing the death of Mr. Goens, Corporal Johanson's conduct implicates Colorado's peace officer use of force and self-defense statutes. As she caused death, the deadly physical force provision of the statute also applies.

#### Colorado's relevant use of force statutes and legal definitions:

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

§ 18-1-707, C.R.S. (Use of force by peace officers—definitions), states in relevant part:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest,

preventing an escape, or preventing an imminent threat of injury to the peace officer or another person.

(2) When physical force is used, a peace officer shall:

(a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense;

(b) Use only a degree of force consistent with the minimization of injury to others;

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and

(d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:

(a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;

(b) The suspect poses an immediate threat of death or serious bodily injury to the peace officer or another person;

(c) The force employed does not create a substantial risk of injury to other persons.

(4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

(4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

§ 18-1-704, C.R.S., Colorado's general self-defense statute, states in relevant part:

(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.

(2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and: (a) The actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury; or

Under Colorado law, a person acts legally to defend themselves or others when both a "reasonable belief and actual belief" exist on behalf of the actor. *See Sanchez v. People*, 820 P.2d 1103, 1108 (Colo. 1991). The law requires the fact finder to "weigh all relevant circumstances to determine whether a person asserting the defense of self-defense has acted as a reasonable person would act in similar circumstances." *Id.*

## V. SUMMARY OF LEGAL STANDARD AS APPLIED TO THIS EVENT

Distilling the legal authority down to an applicable standard to apply to this event, we must determine:

- 1) Whether Corporal Johanson reasonably believed that the use of physical force – and degree of force employed - was necessary to defend herself or others from what she reasonably believed to be the imminent, or continued, use of physical force by Randy Goens, and
- 2) Would nonviolent means have been ineffective in preventing an imminent threat of injury to the peace officer or another person in this situation?

Additionally, the law requires us to ask:

- 3) Did Corporal Johanson identify herself as a peace officer and give a clear verbal warning of her intent to use her firearm, with sufficient time for the warning to be observed, and if not, is she exempted from having given that warning because it: a) would have unduly placed her or her fellow officers at risk of injury, or b) would have created a risk of death or injury to other persons?
- 4) Did Corporal Johanson or her fellow officers ensure that assistance and medical aid were rendered to Goens as soon as was practicable?
- 5) Did Corporal Johanson or other officers ensure that Goens' identified relatives or next of kin were notified as soon as practicable?

## VI. SUMMARY OF RELEVANT FACTS

### **Overview of events up to and including the shooting of Randy Goens.**

The following factual overview is derived from a combination of body worn camera footage, interviews of involved peace officer witnesses, and the results of additional investigation performed by members of the CIRT. If there are relevant inconsistencies between individual accounts or between accounts and media, those inconsistencies will be described herein.

On December 8, 2022, Larimer County Sheriff's Office Corporal Margaret Johanson and Deputy Santos Romero, went to 2300 West County Road 38E, trailer number 299, to perform an eviction. The resident of that trailer, Randy Goens, 62 years of age, had been previously served the eviction notice and December 8<sup>th</sup> was the date deputies were to remove him from the premises if he had not already vacated. The community management staff had been reaching out to Mr. Goens and eviction documents were provided and appear to show valid notice and service of process to Goens, including a Notice of Judgment and Writ of Restitution issued by the Larimer Court on October 26, 2022 (ordered by a Judge or Magistrate after a Court hearing on October 4, 2022 – case # 2022C32870) and Certified Statement of Notice served (by posting) by the Sheriff's Office on November 15, 2022. The deputies arrived at 2300 West County Road 38E and met with the Timber

Ridge mobile home community manager and maintenance employees. The employees' role was to change the locks on trailer number 299 after confirmation that Goens had vacated.

The deputies approached the trailer from the north. Both deputies wore standard Larimer County Sheriff's Office uniforms and were clearly identifiable as law enforcement officers. Deputy Romero walked along the east side of the trailer while Corporal Johanson walked up the short flight of wood stairs onto a small porch (approximately 3 - 4 sq. ft.) to the front door. Deputy Romero took up a position to the left (southeast) of the front door on the ground level while Corporal Johanson knocked on the front door. Corporal Johanson pulled open the screen door and knocked loudly on the main door in two series of knocks; Goens came to door and opened it fully after the second set. Corporal Johanson was positioned just off the porch, on the top step when he came to the door.



*(View of the trailer from the north – front door and porch area circled in red)*

Goens was standing in the trailer, facing the front door with his right hand at his side, behind his leg. In reviewing the body camera video, Goens' slightly turned position seems to have been intentionally designed to conceal the view of his right side. Corporal Johanson, while holding the screen door open, addressed Goens by his first name, Randy, and said the Sheriff's Office "was there for the eviction," and asked him if there the only person in the home. Goens said "no" and proceeded to raise a long gun from behind his right leg and pointed that gun directly at Corporal Johanson in a "hip-firing" position.

Corporal Johanson immediately tells Goens to "drop the gun," as she let the screen door go and backed up to take position. Deputy Romero yells "drop the gun" clearly two additional times. It is clear in the footage that in the seconds after the gun is displayed and until she fires, Corporal Johanson was in the direct line of fire of the rifle and within a few feet of the barrel's tip. Given her exposed position - on a small landing, up a set of stairs - a quick retreat would have been near impossible to conduct safely. Deputy Romero, from his position on the walkway below and slightly to the east, simultaneously began yelling at Goens to drop the gun.

Despite commands, Goens did not drop his rifle and Corporal Johanson fired her weapon, a Kimber 1911 .45 ACP handgun, four times at Goens, hitting him multiple times. Deputy Romero moved toward the front door but never discharged his weapon as he did not have a clear vantage point. Body worn camera time stamps show that approximately four to five seconds transpired from the time Goens first raised the rifle (10:45:46) to the first shot fired by Corporal Johanson (10:45:51). Johanson fired the four rounds over a span of approximately two seconds, and all while she remained in the line of fire.



*(Still photos from Johanson's body worn camera showing Goens' rifle pointed at her before she fired; Johanson's hand still on the screen door and Goens' rifle circled in red - top photo)*

After firing her weapon, Corporal Johanson entered the trailer and began to clear the trailer by making announcements that she was with the Sheriff's Office and for anyone else in the trailer to make themselves known. While doing so, she went to the stove and turned off all the gas burners which were all lit. Deputy Romero came in right behind Corporal Johanson and removed the rifle from the floor next to Goens and stood it outside on the porch and joined Johanson in clearing the trailer and making announcements.



*(Deputy Romero removes the rifle from floor next to Goens)*

Once the trailer was cleared, Corporal Johanson went out to her patrol vehicle to get a medical bag to attempt to render medical aid. There was an initial check of Goens' wounds and vital signs by Johanson and Romero before Deputy Ethan Powers arrived and began chest compressions. Sgt. Bernstein continued to assist paramedics in the ambulance as Goens was being transported to the hospital.

### **Relevant interviews.**

Interview of Corporal Margaret Johanson. Corporal Johanson describes Goens as “pointing a rifle directly at [her]” and immediately drawing her weapon. She told the investigator:

“I could hear Romero saying ‘drop the gun, drop the gun’ . . . and he still had it pointed at me and I was amazed that I wasn’t shot. I remember thinking to myself, I’ve gotta’ fire a round before he gets a round off . . . and so, I fired . . . I’m guessing four to five rounds at him and then he went down. I saw him go down.”

Later in the interview, Corporal Johanson attempted to describe what went through her mind when she was face-to-face (she reported approximately 3-4 feet) with Goens in the doorway:

“Um, it’s really hard to say. And obviously when I first made eye contact with him, when I saw the rifle, I was in shock, really. I’m just like, this guy’s pointing a rifle at me. He’s gonna kill me. And then I thought, um, I couldn’t believe I hadn’t heard any shots. . . . I was afraid . . . obviously I was afraid that he was gonna shoot me.”

Corporal Johanson described what she saw and where she aimed to neutralize the threat. She said, when she fired, she “could see most of his chest . . . I mean he was pretty much directly right on with me.” She told the investigator that when she fired, she “was aiming at [Goens’] center mass” and the reason she stopped firing is because she saw Goens fall to the ground and felt the threat had ended.

From the interview and the body worn camera footage, it is clear that Corporal Johanson feared for her life as soon as she saw the rifle up until she fired her last round.

Interview of Deputy Santos Romero. Deputy Romero’s statements were mostly consistent with Corporal Johanson’s. He said that once Goens opened the door he began walking back toward the door and saw part of the barrel of a rifle. He heard Johanson yell “drop the weapon!” Then he drew his gun and also yelled, “drop the weapon!” He saw Johanson back away from the door, and the screen door close after she stepped back.

Deputy Romero said from his vantage point he thought Johanson was out of the line of fire, then he noticed she was firing her weapon. It is important to note that Romero’s view of the event was hindered as he was viewing from a few feet below and to the south side of Johanson. Deputy Romero also stated that once the screen door closed, he could no longer see into the trailer from his angle. Thus, it is reasonable for him to believe Corporal Johanson was out of the line of fire when in fact she was not.

Deputy Romero describes entering and clearing the trailer and then hears Corporal Johanson say she is “going to get the med kit.” He then focuses on Goens who is on the floor bleeding. He describes rolling up Goens’ sleeve to check for a pulse and not feeling one, and then observing the gunshot wounds. He described another deputy arriving on scene and their attempt to render medical aid to Goens.

Interview of Dalton Minor. Mr. Minor is a maintenance worker for Timber Ridge. He described being across the street as the deputies approached to contact the resident. He saw a male peek out of the window a “moment” before the male opened the door. Minor’s additional observations are generally consistent with the deputies’ version apart from Minor believing both deputies fired their weapons.

Interview of Candra Zepada. Ms. Zepada is an employee with Timber Ridge who was present to observe the eviction of Goens. She told the investigator that she heard the deputies knocking on the door, the female deputy identifying herself, and then hearing her raise her voice and saying something like “put your hands where I can see them!” before hearing shots fired. Ms. Zepada observed the female deputy running to her truck and retrieving a first aid kit.



Interview of Dora Basurto. Ms. Basurto is the Timber Ridge Community Director. She said Goens had been a long-term resident. Basurto said, “she wasn’t surprised [Goens] did something like that.” She explained that he had been a resident since 2016 and he had previously lived there with his girlfriend. She passed away a few years ago and Goens subsequently had another girlfriend, but Goens told her they had broken up. Basurto said after the breakup Goens started falling behind on payments - starting in July of 2022. She said he was not paying any rent at all, and that he did not reach out and contact them. Basurto said they did not see activity in the home, and they began to reach out to Goens, including making collection calls. Basurto said Goens wasn’t served a demand for payment until September, even though he hadn’t paid in July or August. She said on the date of the eviction Goens owed Timber Ridge \$2,078.39.

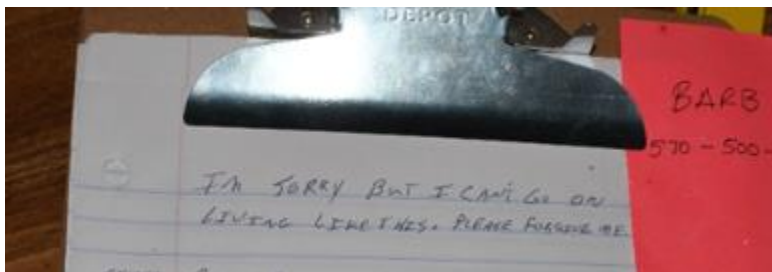
Interview of Goens’ daughter. Mr. Goens’ daughter spoke with a CIRT investigator. Ms. Goens lives in Montana and had periodic communication with her father. She reported that Mr. Goens had a work-related accident earlier in 2022, and his injury kept him out of work since then. Mr. Goens had been diagnosed with multiple types of cancer, had a long history of depression, and struggled with alcohol addiction. He had been borrowing money from family members and making vague suicidal statements. Ms. Goens stated that her aunt told her that Randy kept a “shotgun” by the front door.

### **Additional evidence.**

After the shooting, the 8<sup>th</sup> Judicial District CIRT protocol was invoked and officers from several agencies began the investigation. As part of the investigation, a search warrant was obtained to permit the collection and documentation of evidence within the trailer. Additional evidence was collected from the involved peace officers, including their firearms, and from the autopsy of Mr. Goens (at the time of the writing of this letter the official autopsy report has not been completed, however, given the nature of this incident and a follow up discussion with the coroner’s investigator, the report is not needed to provide thorough findings).

### **Goens’ letter to his family.**

A letter was recovered from Goens’ trailer. The letter said in relevant part, “I’m sorry but I can’t go on living like this. Please forgive me.”



*(Portion of the letter Goens left for his family)*

### Firearms and ballistics:

- The firearm Randy Goens pointed at Corporal Johanson was a bolt-action rifle. Subsequent investigation revealed that the rifle was not loaded with ammunition. The rifle was determined to be real and appeared to be capable of firing (if loaded).



*(Goens' bolt action rifle)*

- Corporal Johanson's firearm was the only one discharged during this event.
- Corporal Johanson fired four total rounds, apparently all of which hit Goens (see injuries below). The projectiles left various defects in the trailer walls and ceiling and while all projectiles were not located, the evidence is consistent with Johanson having fired four rounds.
- Four .45 cal. shell casings were recovered outside the trailer - consistent with one weapon being fired from the location where Corporal Johanson stood
- An examination of Corporal Johanson's firearm and magazines (she carried three spare magazines) revealed four 4 cartridges were missing, which is consistent with the report of four bullets fired, the casings found on scene, the associated injuries to Goens, and the defects inside the trailer.

### Goens' injuries:

- Goens suffered injuries to his torso and arms that were consistent with having been caused by the multiple rounds fired by Corporal Johanson.
- Goens received a perforating wound to his left wrist, a glancing wound causing a significant (although non-life threatening) laceration to his right hand, and an apparent glancing wound to his left wrist leaving a small contusion.
- The most serious [perforating] wound entered the back of his right shoulder and exited his right chest near his collar bone. The evidence supports this gunshot as having impacted crucial organs and having caused Goens' death. It is important to note that while the gunshot entered through the back of Goens' shoulder, Goens was in fact facing the deputy when she began to fire shots in rapid succession. Thus, it is likely that the force of the initial shots turned Goens around, leading to the trajectory of the perforating shot through his shoulder.

## **Potential charges based on Goens' conduct on December 8, 2022.**

Based on the evidence gathered in the case, had Mr. Goens survived he would have faced a criminal charge of Menacing, a class 5 felony, for pointing a firearm at Corporal Johanson. Pursuant to §18-3-206, C.R.S., “[A] person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury. Menacing is a ... class 5 felony if committed by the use of a firearm...” Thus, as he placed Corporal Johanson in fear of being shot and killed by pointing the rifle at her, even though the weapon was not loaded, Mr. Goens committed the crime of Menacing.

## **VII. CONCLUSIONS**

This CIRT investigation comported with both the letter and the spirit of §16-2.5-301, C.R.S. The investigation was thorough, and all relevant materials were provided in a timely manner. The investigation yielded ample evidence from which factual and legal conclusions could be reached, and no additional investigation was required for the District Attorney to make its statutorily mandated conclusions.

Corporal Johanson cooperated with the CIRT investigation and provided a voluntary interview. She appeared candid and genuine in her responses. Her account was consistent with the other evidence, including her body worn camera footage and the physical evidence on scene. Pursuant to CIRT protocols, Corporal Johanson did not watch her body worn camera footage before the interview.

As stated above, in applying the law to the facts in this incident we must ask the following questions:

1. Did Corporal Johanson reasonably believe that firing her weapon was necessary to defend herself or others from what she reasonably believed to be the imminent, or continued, use of physical force by Goens?
2. Would nonviolent means have been ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to Corporal Johanson or another person in this situation?
3. Did Corporal Johanson identify herself as a peace officer and give a clear verbal warning of her intent to use her firearm, with sufficient time for the warning to be observed, and if not, is she exempted from having given that warning because it would have unduly placed her or her fellow deputies at risk of injury or would have created a risk of death or injury to other persons?
4. Did Corporal Johanson or her fellow officers ensure that assistance and medical aid were rendered to Goens as soon as was practicable?

5. Did Corporal Johanson or fellow officers ensure that any of Goens' identified relatives or next of kin were notified as soon as practicable?

To avoid redundancy, questions 1 and 2 will be addressed together. Subsequently, questions 3, 4, and 5 will be addressed independently.

**(Questions 1 and 2) Conclusion: Corporal Johanson had both a reasonable belief that shooting was necessary, and that nonviolent means would have been ineffective in stopping the threat posed.**

The evidence is clear that Corporal Johanson was faced with an imminent and deadly threat without warning when she shot Mr. Goens. The body worn camera clearly shows she had only a few seconds to react, including simultaneously giving commands, releasing the screen door, drawing her weapon, and preparing to shoot, all while his rifle was still pointed directly at her. Deputy Romero, while not directly in the line of fire, was also at imminent risk, as within moments Goens could have trained the weapon on him. The evidence supports Corporal Johanson's belief that she was at risk of being shot and killed by Goens when she fired her duty weapon. It is important to note that there is no way Corporal Johanson could have surmised that Goens' rifle was not loaded and capable of causing death or serious bodily injury. In fact, tragically, it seems clear that Mr. Goens also knew this – and relied on it - given the note left in the trailer.

Corporal Johanson had a reasonable belief that she needed to shoot to defend herself or others and it was clear that nonviolent means would have been entirely ineffective. As captured in the body worn camera footage, Mr. Goens' stance – initially concealing the rifle, then raising it up and aiming it directly at Corporal Johanson – demonstrates objectively that her fears were reasonable. The fact that Goens' rifle was not loaded is immaterial as that fact was not known to Corporal Johanson.

**(Question 3) Conclusion: Corporal Johanson was exempted from giving the verbal warning because it would have unduly placed her or her fellow officers at risk of injury or would have created a risk of death or injury to other persons.**

As outlined above, given the lack of warning and immediate danger Goens' appeared to pose, Corporal Johanson was exempted from giving a full verbal warning to Mr. Goens, as to have done so would have wasted critical time and subjectively placed her and others at risk of injury or death. As noted above, while a complete warning that deputies may fire was not given, several clear and audible warnings to drop the gun were given by deputies.

**(Question 4) Conclusion: Corporal Johanson or her fellow officers ensured that assistance and medical aid were rendered to Goens as soon as was practicable.**

Deputies called paramedics and also rendered aid on the scene. Corporal Johanson ran to her car and obtained her medical kit and she and Deputy Romero initially tended to Goens and Deputy Powers subsequently attempted CPR. Deputies' decision to ensure the safety of the scene prior to providing medical aid was reasonable pursuant to their standard practice and as Goens had indicated others may be in the trailer.

**(Question 5) Conclusion: Investigating peace officers ensured that any identified relatives or next of kin of Goens were notified of his injuries as soon as practicable.**

Goens relatives and next of kin were made aware of his condition as soon as practicable after the shooting. It appears that his family may have also received information from civilians on scene, as his family members began calling to find out what occurred soon after the shooting.

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The totality of the evidence presented through the CIRT investigation reveals that the circumstances Corporal Johanson faced on December 8, 2022, justified her actions in shooting Randy Goens. As a result, I find that no charges can, or will, be brought against Corporal Johanson.

The District Attorney's Office thanks the Critical Incident Response Team for conducting a thorough and expeditious investigation of this incident.

Sincerely,

*Matt Maillaro*

Matt Maillaro,  
Assistant District Attorney