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Thank you, Mr. Low, for your inquiry regarding the District Attorney's position on the cases involving Officer Haferman. We have been in communication with Fort Collins Police Services (FCPS) over the past several weeks as we continue to put transparency and accountability at the center of our review of these cases.

In the *Padilla* case, 21CR311, during a court trial the judge came to a determination about Officer Haferman's credibility with which the District Attorney disagreed based on a review of the facts, transcripts, reports, video evidence, and the impressions of the Deputy District Attorney who was in the courtroom for the testimony. While the officer's investigation and description at trial may have been deficient, that is not the standard for making a *Brady* notification. However – in an effort to be even more transparent than the law requires us to be -we decided to put all defense counsel on notice of the Court's finding so issues regarding his credibility could be litigated on a case-by-case basis, if necessary.

We take our obligations regarding transparency and officer credibility very seriously, but we must be guided by the law (both statutory and case authority) and cannot issue a *Brady* notification or Credibility Disclosure Notification, pursuant to §16-2.5-502, unless the evidence supports an officer being "untruthful" or "dishonest." §16-2.5-502 defines this as "conduct that involves a knowing misrepresentation, including but not limited to intentionally untruthful statements, knowing omissions of material information, and knowingly providing or withholding information with an intent to deceive or mislead except as lawfully utilized as part of an investigatory procedure." Our notification about *Padilla* was the clearest and most thorough way for us to meet our legal and ethical obligations.

We also became aware of several recent cases in which Officer Haferman was the primary officer where the toxicology results did not support charges of Driving Under the Influence of alcohol or drugs and began immediate review of those cases. We spoke to FCPS leadership about those cases and they confirmed they were conducting their own internal review. Upon receiving your email on June 15th, we requested a complete list of cases known to FCPS where Officer Haferman was investigated, and toxicology results did not support DUI charges. We immediately reviewed the additional cases.

The role of the District Attorney's Office is to review cases filed by law enforcement agencies for sufficiency of the evidence to prove a case beyond a reasonable doubt. In the DUI cases filed by Officer Haferman, our

deputies fulfilled that obligation and had already dismissed the drug and alcohol-related driving charges in the respective cases at the earliest opportunity.

These dismissals reflect the District Attorney's position that, 1) when a lab test result comes back negative for drugs or alcohol there is very rarely a reasonable likelihood of conviction beyond a reasonable doubt that the person was impaired by alcohol or drugs, and 2) it is our duty to dismiss charges not supported by the evidence in order to protect the innocent.

It is possible that a person may have used an impairing drug for which CBI does not screen (CBI does not include every possible drug which could impair an individual in its testing) and we have engaged in discussions with FCPS about how and when to seek additional testing. However, in these cases, that possibility does not change the District Attorney's position regarding the need to dismiss charges. We are constantly reviewing additional evidence – both inculpatory and exculpatory – and this allows us to make a more informed decision than an officer on the street. Our dismissal of the DUI charges served as an important check and balance on law enforcement decision making, but that does not relieve officers from exercising sound decision making at the time of an incident, including listening to alternative explanations, considering the entire context of a situation, and pausing to pursue additional investigation if needed.

We also reviewed all those cases with an eye toward any issues involving credibility and any additional disclosures that would be required. While we did find concerning judgment and decision making leading to some of the arrests, we did not uncover any specific instances of dishonesty that would implicate *Brady* notifications. We are confident that FCPS is taking this issue seriously and will conduct a thorough internal review. Should their review reveal additional information regarding credibility, we will take appropriate action.

The District Attorney takes seriously any unwarranted conduct by any law enforcement officer that leads to our citizens being deprived of their liberty or facing unjust charges for any amount of time. An unnecessary arrest is simply unacceptable. The District Attorney's office will closely scrutinize every case in which Officer Haferman was involved to provide a check on his investigations. While we do not believe these cases are reflective of FCPS as a whole, we have communicated our disappointment to FCPS with the specific cases here where some arrests may have been unwarranted and our concern about the impact to the community. While the District Attorney's office cannot dictate internal police agency policy, we expressed our expectations to FCPS that Officer Haferman's conduct dramatically improve if we are to prosecute cases he submits.