

COUNTY OF LARIMER)
STATE OF COLORADO)

SS

IN THE District COURT
DATE FILED IN CLERK OF COURTS
LARIMER COUNTY, CO

AFFIDAVIT FOR ARREST WARRANT

MAY 18 2021

Before the Honorable

Susan Blawie
Judge

Affiant, **SCOTT A. ROGERS**, Chief Investigator of the Office of the District Attorney, 8th Judicial District, a peace officer, being duly sworn, deposes and says that I have probable cause to believe that the defendant:

Name:	DARIA JALALI
Date of Birth:	10/13/1993
Physical Description:	WHITE FEMALE, 5'00, 120 LBS., BROWN HAIR, HAZEL EYES
Social Security Number:	
Last Known Address:	1829 CHARLTON DRIVE, LOVELAND, CO 80550
Driver's License Number:	

Committed the crime(s) of:

Failure to Report Excessive Use of Force; C.R.S. 18-8-802(1)(a); class 1 MISDEMEANOR

Failure to Intervene; C.R.S. 18-8-802(1.5), class 1 MISDEMEANOR

First Degree Official Misconduct; C.R.S. 18-8-804(1)(c); class 2 MISDEMEANOR

And I ask the court to issue a warrant for **HIS / HER** arrest.

The facts establishing probable cause to believe that a criminal offense was committed and that the above named person committed that offense and showing grounds for the issuance of an arrest warrant are as follows:

1. On Thursday, April 15th, 2021, a video recording was released to the media involving Loveland Police Officers using force to arrest Karen Garner. DOB: 12/30/1946, after contacting her on June 26th, 2020, for an alleged theft from Walmart, located 1325 North Denver Ave. in Loveland, Colorado. The arrest and use of force by Loveland Police occurred within a short distance from the

Walmart and within the City of Loveland, County of Larimer, and state of Colorado.

2. The primary source of the recording of Garner's arrest was the body worn camera of officer Austin HOPP, who was the initial officer who took custody of Ms. Garner.
3. Based on the use of the of force depicted in the video footage, and the information surrounding its release, including the alleged injuries suffered by Ms. Garner during the arrest, the District Attorney requested a use of force investigation by the Eighth Judicial District's Critical Incident Response Team (CIRT) on April 19th, 2021. This investigation was primarily conducted by Fort Collins Police Services and led by Fort Collins Police Services Detective Justin Butler.

Fort Collins Police Services Detective and lead CIRT Investigator Justin Butler reports the following, as learned through personal observations (including a review of all video footage), interviews, and conversations with fellow investigating officers:

4. On April 19th, 2021, The Fort Collins Police Services was assigned to investigate an incident that occurred in Loveland, Colorado, on June 26th, 2020, which involved a Loveland Police Officer using force against a woman named Karen Garner. Garner suffered serious bodily injury during the use of force. I was assigned as the lead investigator into the criminal investigation into the use of force incident.
5. On June 26th, 2020, at 1627 hours, the Loveland Police Dispatch Center received a call for service from Wal Mart located at 1325 North Denver Avenue, Loveland Colorado, Larimer County within the State of Colorado. Wal Mart Loss Prevention Associate Gilbert Amaya called to report a "short older female with a light gray hoodie, jeans, and short red hair had left the store after the employee took merchandise back from her. The female was reportedly walking south on Denver Avenue then changed directions toward Lowes. The call did not state if the female had been violent with staff.
6. Loveland Police Officer Austin HOPP responded to the call for service and contacted a female matching the description of the theft suspect in the 2600 block of Mountain Lion Drive at 1639 hours. This person was later identified as Karen Garner. Garner was 73 years old on June 26th, 2020. The following is a summary of what was on the body worn camera video:
7. Officer HOPP activates his body worn camera as he is exiting his patrol vehicle.
8. From HOPP's vantage point, you can see Garner walking off the side of the road along the roadway. HOPP stated "let's stop ma'am" followed by "I don't

think you want to play it this way" as he hurriedly walks towards her. Garner appears to acknowledge HOPP by stopping and turning towards him. HOPP comes close to her and you can see she has a blue cell phone case in her right hand with some flowers in the same hand. Garner says something to Officer HOPP and smiles while raising her arms to her sides. She begins to walk away while smiling while HOPP states "Do you need to be arrested right now?" followed by "No, no, no. Ok."

9. HOPP moves toward Garner and controls both of her hands and arms. Garner attempts to pull away from HOPP while saying "I'm going home". HOPP then moves Garner to the ground by her arms. This occurred approximately 26 seconds after HOPP exited his vehicle to approach Garner
10. HOPP is laying on her stomach and you can see her trying to pull her hands out of HOPP's grasp. HOPP then handcuffs Garner while she continues to repeat "I'm going home". Once Garner is handcuffed, HOPP calls on the radio "B242, after a short struggle she is now detained". "I am code 4". Code 4 is a term used by Law Enforcement to state a situation was in control.
11. Garner appears to say, "Don't do that". HOPP asks her "Why did you do that?". "I told you to stop, you don't get to act this way." At this point Garner is still holding her phone in her right hand, HOPP removes the phone from her hand and tosses it on the ground in front of her, then proceeds to roll her back on the phone, allowing her to grab it again with her right hand.
12. HOPP stands Garner up by her left arm and begins to walk her to the car. Garner said, "I'm not doing anything". HOPP responds by stating "Right now you're resisting, which is not going to fly with me. And before that you tried to steal from Walmart, and they caught you and took the stuff back."
13. HOPP continues to walk Garner towards his patrol vehicle by using her left arm and shoulder to move her. Once at the vehicle, Garner turns toward him and says "I'm not going..." It was difficult to make out the rest of what she said. HOPP states "Why are you fighting with me and why are you trying to slip the cuffs off?". Garner repeats "I'm going home" and tries to move away from HOPP, who still has control of her arm. HOPP then grabs Garner's left wrist with his right hand and used his left hand to grab a hold of her left upper arm. HOPP then appears to apply pressure to her left wrist by pinning it and uses his left arm to raise her left elbow up toward the back of her head. This action causes Garner to be pushed up against the hood of his vehicle. He holds her in that position asking her "Are you finished?" and "We don't play this game, you understand me?". He then says, "If you try to kick me this is going to be bad". From the angle of the body camera, you cannot see Garner's legs so I could not see if she did try to kick HOPP. Garner continues to repeat "I'm going home."

14. Loveland Police Officer Daria JALALI then arrives on scene. JALALI approaches from the hood of the vehicle toward where HOPP had Garner pinned against the hood. HOPP is still maintaining his hold of Garner's wrist and elbow, appearing to apply pressure to keep her left elbow raised. Garner continued to repeat "I'm going home".
15. JALALI grabs a hold of Garner's left arm. During this transition, HOPP lets off of the pressure he was applying to Garner's elbow, allowing her to begin to stand straight up. She repeats "I'm going home" while she stands and turns her face towards JALALI, HOPP then reapplies the pressure to Garner's left elbow and forcibly pushes her against the hood of his vehicle by applying force to the left elbow. Garner immediately said "Ow" and appeared to be in pain. You can then clearly see her start dropping to the ground while her arm is still being held up high with it nearly touching the back of her head. HOPP asks her "Are you finished?" as Garner continues to drop. JALALI tells her to stand up and that they were not going to hold her. HOPP then takes Garner to the ground and lays her on her stomach.
16. HOPP removes the blue cell phone from her hand and gives it to JALALI. You can see HOPP double lock the handcuffs and he begins to tell JALALI a little about what happened. He stated "We wrestled for a minute. Then she almost got her handcuffs off". Garner repeats the phrase "I'm going home" two more times while on the ground. They stand her up and walk her to JALALI's patrol vehicle while Garner continues to repeat "I'm going home". When they arrive at JALALI's vehicle, Garner continues to say, "I'm going home" and resists being placed in the vehicle by turning toward the Officers, not putting her feet in the vehicle, and trying to stand up.
17. HOPP then leaves to briefly speak to a witness who pulled up and then and runs back towards JALALI's vehicle as Garner was still not secured in the vehicle. HOPP makes the decision to remove Garner from her position of being partially in the vehicle to place her on the ground and place a hobble restraint on her legs. Once she is hobbled, they stay with Garner on the ground while she continues to repeat "I'm going home".
18. Loveland Police Sergeant Phil Metzler arrives on scene and assists placing Garner in JALALI's patrol vehicle. At this time, you can see what appears to be blood on Garner's sweatshirt. Officers place her in the vehicle and Garner asks for her credit card while holding her hand out.
19. HOPP then explains the situation to Metzler. Metzler asks if Garner had been drinking and HOPP stated he did not know as she had not talked to him much. They then make the decision to take Garner to the Loveland Police Department. Metzler appears to notice blood on JALALI's hands and asks her if that was blood and if the blood was on her. HOPP responds by telling Metzler it was Garner's blood.

20. JALALI leaves to speak with Garner in her patrol vehicle. She then tells HOPP that she asked Garner if she needed medical, but Garner would not answer her. HOPP stated "Ok". HOPP then speaks with Garner and tells her he has her credit card. He asks her for her date of birth, and she states, "I want my credit card". He asks her again for her date of birth and she does not respond. HOPP then uses his radio to speak with who I assume is Loveland Dispatch to provide them information to try and identify Garner. He provides her demographics as 4'10 or 5'00 feet tall and maybe 100 pounds.
21. HOPP and JALALI talk outside of the car about HOPP not telling her (JALALI) he was in a fight and how she would have gotten there quicker. HOPP stated he had it handled and if it was "a big dude it would've been different, but she was like 20 pounds." Garner is transported to the Loveland Police Department as they agreed to charge her with theft, obstructing law enforcement, and resisting arrest. She was transported to the Loveland Police Department by JALALI.
22. Once at Loveland Police Department, HOPP and JALALI meet with Community Service Officer, Tyler BLACKETT in the sallyport. HOPP described Garner as "A frail little thing, but she's wily". They then move to JALALI's vehicle and open the door. Garner begins to step out and says "I'm going to run" while smiling and laughing. They then carry her to her cell. When they pick Garner up, she says "Ouch, ouch". She then begins to repeat "I was going to pay for it" while they carry her into a cell.
23. CSO BLACKETT begins to remove Garner's hobble and tells her not to kick him. They remove her handcuffs temporarily and then proceed to handcuff her to the bench in the cell. They all three leave while Garner repeats "I was going to pay for it".

Loveland Police Department video and audio recordings of the jail cells and booking area. Detective Justin Butler continues:

24. From viewing the recording of the cell Garner was in, you can see Ms. Garner continuously moving her handcuffs in a repeating manner against the bench. She also continues to repeat "I was going to pay for it".
25. At 1738 hours, Garner appears to say, "it hurts" and kicks the wall of the cell in an evident attempt to get the attention of the Officers outside. I noted throughout the video when she is moving/manipulating the handcuffs, she is primarily using her right hand to do so.
26. At 1744 hours, Garner kicks the wall of the cell again to get the attention of the Officer's outside. You can hear Officer's talking outside of the room and the sound of what I would later learn was HOPP's body camera being played.

27. From viewing the booking video, which showed the interaction between HOPP, JALALI, and BLACKETT, they begin to discuss Garner and how old she is. HOPP states "She's ancient" and then says, "She's 73, I'm a little worried she's like, senile and stuff".
28. At approximately 1717 hours, BLACKETT leaves the booking area, leaving only JALALI and HOPP in the booking area. HOPP is seen whispering something to JALALI and appeared to be asking her if her body worn camera was on or off. They then fist bump and begin to talk about the use of force. HOPP states he thought it went great and they discuss JALALI's role and how she may have felt HOPP believed she was not taking enough action during the incident.
29. At approximately 1719 hours, HOPP whispers to JALALI "I thought I broke her shoulder. Did you hear the pop?" JALALI acknowledges the question with a "Mmmm". HOPP then demonstrates the moment he heard the pop and states "When I had her up against the car when you first got there, I was like ok, if you wanna play. I was pushing pushing, pushing, I hear (makes pop noise with mouth) I was like (gasps) oh no!" During this narrative HOPP physically demonstrated what he did to Garner, which was seen in his body worn camera video. From this it is evident the injury to Garner's shoulder occurred when HOPP had her against the car and pushed up on her elbow.
30. JALALI then states, "This is gonna turn into something" and HOPP responds by stating "Yeah". JALALI then states "No doubt. There's other cars that stopped. There's more than just that guy" (referencing the witness who stopped).
31. HOPP pulls up his body camera on the computer at approximately 1746 hours, so he, BLACKETT and JALALI, can watch it. From watching the body camera video, I could tell based on the audio I heard what part of the video they were watching. From the audio I could tell HOPP was watching the part when he had Garner pressed up against the hood of his car and JALALI is walking up. HOPP states "Ready listen. Here's the pop. It already popped." HOPP then lifts his arm high up, like he had Garner's and stated he "Heard it pop really bad".
32. At 1751 hours, Officer JALALI enters Ms. Garner's cell. Garner repeats "They keep hurting" and JALALI's response is "You keep fighting with us". JALALI checks on Garner's handcuffs for proper tightness. Garner continues to complain "They keep hurting" and asks if she could take them off. JALALI and Garner have a back-and-forth reference JALALI not removing the handcuffs because Garner keeps fighting with them. JALALI eventually leaves the cell and Garner is left inside with her handcuffs still secured to the bench. JALALI did not ask about Garner's injuries or anything about her

shoulder as at this time even though she clearly knew HOPP had hurt her shoulder.

33. At 1800 hours, JALALI enters the cell again. Garner asks if she can "take these off, they hurt my wrist", reference her handcuffs. JALALI repeated she could not several times because Garner kept fighting with them. Garner repeated they hurt her wrists and then said they hurt her shoulder. JALALI asked her if she was going to keep fighting with them and Garner repeated "they hurt my shoulders". JALALI takes a few photos of Garner as Garner repeats "they hurt my shoulders". JALALI tells Garner she keeps fighting with them so she cannot take them off. JALALI then leaves the cell. Garner told JALALI about her shoulders being hurt 9 times while JALALI checked on her.
34. At 1806 hours, HOPP and BLACKETT enter Ms. Garner's cell. Garner states "It hurts my shoulders". HOPP responds by saying "Ok" and went on to explain they needed to take some pictures of her. Garner repeated it "Hurts my shoulders" and HOPP stated he knew they weren't comfortable but what could she expect to happen if she kept fighting them. Garner again stated, "It hurts my shoulder" followed by "I was going to pay for it" followed by "It hurts my shoulder". HOPP proceeds to remove her handcuffs from the bench so he could take photos of her wrist injuries. Garner repeats her shoulder hurts and HOPP tells her "Ok we will be gentle". Garner kept repeating her shoulders hurt and at one point said "Ow" when they moved her hands and arms to take a picture.
35. Garner stated her shoulder hurt 14 times when in the presence of HOPP and BLACKETT, and they did not offer her medical treatment or follow up on her complaint that her shoulder hurt.

Transport to Larimer County Detention Center. Detective Justin Butler continues:

36. Garner was transported by BLACKETT to the Larimer County Detention Center to be booked in on her charges. He called her in as an uncooperative person. This prompted the Detention Center Staff to enact their uncooperative booking procedures. Part of these procedures included taking a video of their interaction with the arrestee until they are placed in a cell.
37. The video begins by BLACKETT describing why Garner is an uncooperative person and the force they used against her, which consisted of take downs and control holds. He said he was concerned over some possible mental health concerns as she kept repeating the same phrases over and over again. He did not mention anything about her having any potential shoulder injury.
38. Staff at the Larimer County Detention Center contacted Garner in the back seat of BLACKETT's vehicle. She immediately complained about her

shoulder hurting. They gently walked with Garner to a cell and removed her handcuffs.

39. Garner was later spoken to by Nurse Sue Mandoni of the Larimer County Detention Center. Nurse Mandoni could almost immediately tell something was wrong with Garner and saw she had bruising and swelling to her shoulder. They contacted the Poudre Valley Hospital and arranged for an ambulance to take Garner to the Hospital for her injuries.
40. Once at Poudre Valley Hospital, Garner was diagnosed with a "fracture of the surgical neck of the humerus. There is mild anterior displacement of the humeral shaft compared to the humeral head" per the medical records obtained from Poudre Valley Hospital.
41. On May 12th, 2021 Doctor Kriss Delotta signed the physicians report of serious bodily injury stating Garner's injuries suffered on June 26th, 2020 did constitute a serious bodily injury.

Use of Force Reporting (Blue Team). Detective Justin Butler continues:

42. Officer HOPP completed a Blue Team report for the use of force he used on Garner. Blue Team is a use of force tracking and entry tool used by Law Enforcement to report a use of force. In the Blue Team entry, Officers are required to complete a short narrative describing the use of force. These narratives are typically one or two sentences long according to personnel at the Loveland Police Department. Officer HOPP wrote the following for his narrative:

"Suspect was contacted as a subject of a shoplifting call from the east Walmart. Upon contact the suspect attempted to flee the scene and was placed onto the ground to safely detain her. The suspect fought against officers continuously and several controlling holds had to be used. The suspect sustained minor lacerations to her wrists from the handcuffs and a small laceration to her chin. Photos were taken of the suspect and uploaded to the case file as well as this blue team report. The suspect was asked several times if she wanted medical attention and she either would not answer or start talking about something else and never asked for medical attention. Once at LCJ the suspect complained of shoulder pain and the jail nurse determined she had a possible shoulder injury. It's unknown when the shoulder injury was caused due to the length of her struggle against officers as well as her continuously try to escape her restraints in booking."

43. CIRT detectives worked to attempt to find out how HOPP knew Garner complained of a shoulder pain at the Larimer County Detention Center. Later in the evening, at approximately 2131 hours, Officer HOPP was assigned a follow up call after the Larimer County Detention Center contacted the

Loveland Police Department requesting additional information on Garner's family or contact information as she was going to be taken to the Poudre Valley Hospital. Detectives pulled up the recorded phone calls through the Loveland Police Department reference these communications. No mention of injury was heard during the phone calls.

44. CIRT detectives received phone call logs from the involved Officer's department cell phones. Officer HOPP was found to have made a call to the Larimer County Detention Center at 2133 hours for a phone call that lasted four minutes. Through several interviews with Larimer County Detention Center employees, it was determined the person HOPP may have spoken to was Corporal Jonathan Simmons. Corporal Simmons stated he recalled speaking to a Loveland Police Officer about Garner and specifically telling him she had bruising and an injury to her shoulder and was going to the Poudre Valley Hospital for treatment. He stated the Officer told him they would get someone to Poudre Valley Hospital to speak with Garner, which did not occur.
45. Based on the timeline of the follow up call, the phone call with Corporal Simmons and the Blue Team entry, it was evident HOPP was aware of a potential injury being reported to Garner's shoulder and he learned about it during his call with Corporal Simmons, before HOPP entered it into the Blue Team.
46. I read the original reports written by HOPP, JALALI, and BLACKETT. There was no mention of a potential injury to Garner's shoulder.
47. The Loveland Police Department has a policy titled "Provision of Appropriate Medical Aid after Use of Force" in their use of force policy and procedure manual. In that police it states, "Any time a person has visible injury or complains of being injured as a result of force used against him/her by an Officer, the Officer must take appropriate actions to provide medical care for the injured person". Neither HOPP, JALALI, or BLACKETT made any attempt to provide Garner medical care after learning of the "pop" as described by HOPP to them and after Garner repeated approximately 22 times in their respective presence that her shoulder hurt.

Affiant, District Attorney Chief Investigator Scott A. Rogers' review:

48. As the District Attorney's representative, your affiant has participated in the use of force CIRT investigation from its inception. As part of my responsibilities in this investigation, I have viewed several video recordings in relation to the arrest and detention of Ms. Garner. Those recordings include, but are not limited to:

- body worn camera footage of Austin HOPP's interaction with Ms. Garner alongside the 2600 block of Mountain Lion Drive near Walmart, and subsequently at the Loveland jail,
 - body worn camera footage of Officer Daria JALALI's interactions with Ms. Garner alongside Mountain Lion Drive, as well as within the Loveland jail facility,
 - body worn camera footage of Officer Tyler BLACKETT at the Loveland jail facility (including driving Ms. Garner to the Larimer County Detention Facility),
 - booking area footage from the Loveland jail facility, including audio and video footage of former officers HOPP, JALALI, and BLACKETT as they interacted with Garner, and
 - booking area footage from the Loveland jail facility of former officers HOPP, JALALI and BLACKETT watching and discussing HOPP's body camera footage of the arrest of Garner.
49. Your affiant has also reviewed many of the police reports generated through the subsequent use of force investigation primarily conducted by the Fort Collins Police. These reports include documentation of observations and interactions with Ms. Garner by lay witnesses, police personnel, Larimer County Detention Facility staff, jail staff and pretrial employees, who had knowledge of and/or interacted with Ms. Garner or the officers involved in her arrest and detention on June 26-27, 2020.
50. Your affiant is aware that the arrest of Ms. Garner resulted in the Loveland Police charging Ms. Garner with three misdemeanor crimes: Theft, Resisting Arrest, and Obstructing a Peace Officer. These charges were brought under Larimer County case number 20M926. All charges were subsequently dismissed on August 24, 2020.
51. Your affiant knows from information gained through the use of force investigation, as well as through information shared during the pendency of 20M926, and other media reports, that Ms. Garner suffers from a form of dementia, and suffered from that condition when she was arrested on June 26, 2020.
52. Your affiant knows from his training and experience that the results of "blue team" or use of force protocols may be used to discipline officers who are found to have used excessive force.
53. Pursuant to 18-8-803, C.R.S., Use of excessive force, "Subject to the provisions of section 18-1-707, "a peace officer who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the same degree as any other citizen..."
54. Under the version of 18-1-707, C.R.S. that was in effect at the time of the arrest of Karen Garner, "a peace officer is justified in using reasonable and

appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

55. Your affiant watched the interview of jail nurse MONDANI and she described Garner's shoulder injury as visibly swollen, "like a classic broken or dislocated shoulder" and very different from her other shoulder, and "did not look normal at all."
56. It should be noted that any references to Austin HOPP, Daria JALALI, and Tyler BLACKETT as "officers" throughout this affidavit are based on their professional status at the time of the use of force incident and in close proximity thereto.
57. Your affiant was subsequently informed that HOPP, JALALI, and BLACKETT have all since resigned (in 2021) from the Loveland Police Department.
58. From your affiant's review of all the video footage, the reports, statements, police policies, and medical information surrounding the arrest and detention of Karen Garner, on June 26, 2020 by the Loveland Police, your affiant believes:
- The use of force by Officer Austin HOPP was neither reasonable nor necessary to complete the arrest of Karen Garner given her apparent age, her size, her demeanor, and the lack of physical threat to HOPP and JALALI.
 - The use of force by Officers HOPP and JALALI throughout the arrest of Karen Garner was the cause of multiple injuries to Ms. Garner, including pain, fresh abrasions and bleeding from being thrown to the ground on two occasions, and more serious injuries including bruising, swelling, a shoulder dislocation, and a fractured humerus (upper arm bone) from the use of force at and near the hood of the patrol car.
 - Karen Garner's behavior, including her appearance, her verbal interactions and repetition of phrases, among other factors, indicated an obvious deficiency in Garner's comprehension of her surroundings and reasonably elevated the need for Officer HOPP and Officer JALALI to engage in less aggressive and forceful methods to effectuate her arrest, once it was decided an arrest would occur.
 - Officer HOPP's use of force against Garner, assisted by Officer JALALI, while on and near the hood of the patrol vehicle was not only unreasonable and unnecessary, but also was the likely cause of her

shoulder and arm injury based on the degree of force used, the location where the force was applied, Garner's reaction to that specific use of force, the subsequent observable signs of injury to that area (bruising and swelling), and the serious bodily injury determination by the reviewing doctor.

- Officer HOPP knew at the time he was physically controlling Ms. Garner on the hood of the car that he was causing her pain, and that upon putting more pressure on her left arm when forcing her down into the hood of the car and hearing a "pop" sound and her verbal reaction, he knew he had caused her more serious injury. Thus, Austin HOPP used excessive force, and violated 18-3-203(1)(g) and 18-6.5-103(3)(b), by committing assault in the second degree – at risk person.
- Officer JALALI assisted Officer HOPP as soon as she arrived on scene by holding Ms. Garner during the time HOPP was applying pressure on Ms. Garner's arm at the hood of the car.
- Officer JALALI had less time to observe Ms. Garner, but there was ample time throughout her contact with Garner for JALALI to recognize Garner's physical and mental deficiencies and to recognize that Officer HOPP was not acting reasonably in his use of force.
- Officer JALALI also watched Officer HOPP's body camera footage while at the Loveland Police station, in which it was clear that HOPP used excessive force while she was present.
- Officer JALALI did not attempt to stop Officer HOPP when he engaged in unreasonable and unnecessary force in his physical interaction with Garner; nor did she report within 10 days of the incident his use of excessive force to an immediate superior.
- Daria JALALI, a peace officer, failed to report Officer Austin HOPP's use of excessive force against Karen Garner to her immediate supervisor. Thus, Daria JALALI violated 18-8-802(1)(a), by committing failure to report excessive force.
- Daria JALALI, a peace officer, failed to intervene to prevent Officer Austin HOPP's use of excessive force against Karen Garner. Thus, Daria JALALI violated 18-8-802(1.5)(a), by committing failure to intervene.

Your Affiant, **SCOTT A. ROGERS**, believes the above facts to be true based on the review of the police reports generated through the subsequent use of force investigation primarily conducted by the Fort Collins Police Department, review of all the video footage, statements, police policies, and medical information surrounding the arrest and detention of Karen Garner, personal observations, interviews, and conversations with fellow District Attorney personnel.

Further, your affiant is a duly sworn peace officer for the State of Colorado and is employed full time as the Chief Investigator for the Office of the District Attorney, 8th Judicial District of Colorado. I have been trained at the state and local levels with regard to my duties and I am authorized by law to execute search and arrest warrants in

the State of Colorado.



Affiant

Dated this 18th day of May, 2021 at 1740 HOURS



Notary

Signed 5/18/21

BRIAN J. HARDOUIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20184029485
MY COMMISSION EXPIRES JUL 20, 2022

Reviewed 5/18/2021.



21CR878-4A

REDACTED

COUNTY OF LARIMER)
STATE OF COLORADO)

SS

IN THE District Court

FILED IN CLERK OF COURTS
LARIMER COUNTY, CO

AFFIDAVIT FOR ARREST WARRANT

MAY 18 2021

Before the Honorable Susan Blanco
Judge

Affiant, **SCOTT A. ROGERS**, Chief Investigator of the Office of the District Attorney, 8th Judicial District, a peace officer, being duly sworn, deposes and says that I have probable cause to believe that the defendant:

Name:	AUSTIN SCOTT HOPP
Date of Birth:	06/16/1994
Physical Description:	WHITE MALE, 5'10, 195 LBS., BROWN HAIR, BROWN EYES
Social Security Number:	
Last Known Address:	120 N. GRANT AVE. LOVELAND, CO 80537
Driver's License Number:	

Committed the crime(s) of:

Assault in the Second Degree – at risk person; C.R.S. 18-3-203(1)(g) and 18-6.5-103(3)(b); class 3 FELONY

Attempt to Influence a Public Servant; C.R.S. 18-8-306; class 4 FELONY

First Degree Official Misconduct; C.R.S. 18-8-804(1)(c); class 2 MISDEMEANOR

And I ask the court to issue a warrant for HIS / HER arrest.

The facts establishing probable cause to believe that a criminal offense was committed, and that the above-named person committed that offense and showing grounds for the issuance of an arrest warrant are as follows:

1. On Thursday, April 15th, 2021, a video recording was released to the media involving Loveland Police Officers using force to arrest Karen Garner, DOB: 12/30/1946, after contacting her on June 26th, 2020, for an alleged theft from Walmart,

located 1325 North Denver Ave. in Loveland, Colorado. The arrest and use of force by Loveland Police occurred within a short distance from the Walmart and within the City of Loveland, County of Larimer, and state of Colorado.

2. The primary source of the recording of Garner's arrest was the body worn camera of officer Austin HOPP, who was the initial officer who took custody of Ms. Garner.

3. Based on the use of the of force depicted in the video footage, and the information surrounding its release, including the alleged injuries suffered by Ms. Garner during the arrest, the District Attorney requested a use of force investigation by the Eighth Judicial District's Critical Incident Response Team (CIRT) on April 19th, 2021. This investigation was primarily conducted by Fort Collins Police Services and led by Fort Collins Police Services Detective Justin Butler.

Fort Collins Police Services Detective and lead CIRT Investigator Justin Butler reports the following, as learned through personal observations (including a review of all video footage), interviews, and conversations with fellow investigating officers:

4. On April 19th, 2021, The Fort Collins Police Services was assigned to investigate an incident that occurred in Loveland, Colorado, on June 26th, 2020, which involved a Loveland Police Officer using force against a woman named Karen Garner. Garner suffered serious bodily injury during the use of force. I was assigned as the lead investigator into the criminal investigation into the use of force incident.

5. On June 26th, 2020 at 1627 hours, the Loveland Police Dispatch Center received a call for service from Wal Mart located at 1325 North Denver Avenue, Loveland Colorado, Larimer County within the State of Colorado. Wal Mart Loss Prevention Associate Gilbert Amaya called to report a "short older female with a light gray hoodie, jeans, and short red hair had left the store after the employee took merchandise back from her. The female was reportedly walking south on Denver Avenue then changed directions toward Lowes. The call did not state if the female had been violent with staff.

6. Loveland Police Officer Austin HOPP responded to the call for service and contacted a female matching the description of the theft suspect in the 2600 block of Mountain Lion Drive at 1639 hours. This person was later identified as Karen Garner. Garner was 73 years old on June 26th, 2020. The following is a summary of what was on the body worn camera video:

7. Officer HOPP activates his body worn camera as he is exiting his patrol vehicle. From HOPP's vantage point, you can see Garner walking off the side of the road along the roadway. HOPP stated "let's stop ma'am" followed by "I don't think you want to play it this way" as he hurriedly walks towards her. Garner appears to acknowledge HOPP by stopping and turning towards him. HOPP comes close to her and you can see she has a blue cell phone case in her right hand with some flowers in the same hand.

Garner says something to Officer HOPP and smiles while raising her arms to her sides. She begins to walk away while smiling while HOPP states "Do you need to be arrested right now?" followed by "No, no, no. Ok."

8. HOPP moves toward Garner and controls both of her hands and arms. Garner attempts to pull away from HOPP while saying "I'm going home". HOPP then moves Garner to the ground by her arms. This occurred approximately 26 seconds after HOPP exited his vehicle to approach Garner.

9. HOPP is laying on her stomach and you can see her trying to pull her hands out of HOPP's grasp. HOPP then handcuffs Garner while she continues to repeat "I'm going home". Once Garner is handcuffed, HOPP calls on the radio "B242, after a short struggle she is now detained". "I am code 4". Code 4 is a term used by Law Enforcement to state a situation was in control.

10. Garner appears to say, "Don't do that". HOPP asks her "Why did you do that?". "I told you to stop, you don't get to act this way." At this point Garner is still holding her phone in her right hand, HOPP removes the phone from her hand and tosses it on the ground in front of her, then proceeds to roll her back on the phone, allowing her to grab it again with her right hand.

11. HOPP stands Garner up by her left arm and begins to walk her to the car. Garner said, "I'm not doing anything". HOPP responds by stating "Right now you're resisting, which is not going to fly with me. And before that you tried to steal from Walmart, and they caught you and took the stuff back."

12. HOPP continues to walk Garner towards his patrol vehicle by using her left arm and shoulder to move her. Once at the vehicle, Garner turns toward him and says "I'm not going..." It was difficult to make out the rest of what she said. HOPP states "Why are you fighting with me and why are you trying to slip the cuffs off?". Garner repeats "I'm going home" and tries to move away from HOPP, who still has control of her arm. HOPP then grabs Garner's left wrist with his right hand and used his left hand to grab a hold of her left upper arm. HOPP then appears to apply pressure to her left wrist by pinning it and uses his left arm to raise her left elbow up toward the back of her head. This action causes Garner to be pushed up against the hood of his vehicle. He holds her in that position asking her "Are you finished?" and "We don't play this game, you understand me?". He then says, "If you try to kick me this is going to be bad". From the angle of the body camera, you cannot see Garner's legs so I could not see if she did try to kick HOPP. Garner continues to repeat "I'm going home."

13. Loveland Police Officer Daria JALALI then arrives on scene. JALALI approaches from the hood of the vehicle toward where HOPP had Garner pinned against the hood. HOPP is still maintaining his hold of Garner's wrist and elbow, appearing to apply pressure to keep her left elbow raised. Garner continued to repeat "I'm going home".

14. JALALI grabs a hold of Garner's left arm. During this transition, HOPP lets off of

the pressure he was applying to Garner's elbow, allowing her to begin to stand straight up. She repeats "I'm going home" while she stands and turns her face towards JALALI, HOPP then reapplies the pressure to Garner's left elbow and forcibly pushes her against the hood of his vehicle by applying force to the left elbow. Garner immediately said "Ow" and appeared to be in pain. You can then clearly see her start dropping to the ground while her arm is still being held up high with it nearly touching the back of her head. HOPP asks her "Are you finished?" as Garner continues to drop. JALALI tells her to stand up and that they were not going to hold her. HOPP then takes Garner to the ground and lays her on her stomach.

15. HOPP removes the blue cell phone from her hand and gives it to JALALI. You can see HOPP double lock the handcuffs and he begins to tell JALALI a little about what happened. He stated "We wrestled for a minute. Then she almost got her handcuffs off". Garner repeats the phrase "I'm going home" two more times while on the ground. They stand her up and walk her to JALALI's patrol vehicle while Garner continues to repeat "I'm going home". When they arrive at JALALI's vehicle, Garner continues to say, "I'm going home" and resists being placed in the vehicle by turning toward the Officers, not putting her feet in the vehicle, and trying to stand up.

16. HOPP then leaves to briefly speak to a witness who pulled up and then runs back towards JALALI's vehicle as Garner was still not secured in the vehicle. HOPP makes the decision to remove Garner from her position of being partially in the vehicle to place her on the ground and place a hobble restraint on her legs. Once she is hobbled, they stay with Garner on the ground while she continues to repeat "I'm going home".

17. Loveland Police Sergeant Phil Metzler arrives on scene and assists placing Garner in JALALI's patrol vehicle. At this time, you can see what appears to be blood on Garner's sweatshirt. Officers place her in the vehicle and Garner asks for her credit card while holding her hand out.

18. HOPP then explains the situation to Metzler. Metzler asks if Garner had been drinking and HOPP stated he did not know as she had not talked to him much. They then make the decision to take Garner to the Loveland Police Department. Metzler appears to notice blood on JALALI's hands and asks her if that was blood and if the blood was on her. HOPP responds by telling Metzler it was Garner's blood.

19. JALALI leaves to speak with Garner in her patrol vehicle. She then tells HOPP that she asked Garner if she needed medical, but Garner would not answer her. HOPP stated "Ok". HOPP then speaks with Garner and tells her he has her credit card. He asks her for her date of birth, and she states, "I want my credit card". He asks her again for her date of birth and she does not respond. HOPP then uses his radio to speak with who I assume is Loveland Dispatch to provide them information to try and identify Garner. He provides her demographics as 410 or 500 feet tall and maybe 100 pounds.

20. HOPP and JALALI talk outside of the car about HOPP not telling her (JALALI) he was in a fight and how she would have gotten there quicker. HOPP stated he had it handled and if it was "a big dude it would've been different, but she was like 20 pounds." Garner is transported to the Loveland Police Department as they agreed to charge her with theft, obstructing law enforcement, and resisting arrest. She was transported to the Loveland Police Department by JALALI.

21. Once at Loveland Police Department, HOPP and JALALI meet with Community Service Officer, Tyler BLACKETT in the sallyport. HOPP described Garner as "A frail little thing, but she's wily". They then move to JALALI's vehicle and open the door. Garner begins to step out and says "I'm going to run" while smiling and laughing. They then carry her to her cell. When they pick Garner up, she says "Ouch, ouch". She then begins to repeat "I was going to pay for it" while they carry her into a cell.

22. CSO BLACKETT begins to remove Garner's hobble and tells her not to kick him. They remove her handcuffs temporarily and then proceed to handcuff her to the bench in the cell. They all three leave while Garner repeats "I was going to pay for it".

Loveland Police Department video and audio recordings of the jail cells and booking area. Detective Justin Butler continues:

23. From viewing the recording of the cell Garner was in, you can see Ms. Garner continuously moving her handcuffs in a repeating manner against the bench. She also continues to repeat "I was going to pay for it".

24. At 1738 hours, Garner appears to say, "it hurts" and kicks the wall of the cell in an evident attempt to get the attention of the Officers outside. I noted throughout the video when she is moving/manipulating the handcuffs, she is primarily using her right hand to do so.

25. At 1744 hours, Garner kicks the wall of the cell again to get the attention of the Officer's outside. You can hear Officer's talking outside of the room and the sound of what I would later learn was HOPP's body camera being played.

26. From viewing the booking video, which showed the interaction between HOPP, JALALI, and BLACKETT, they begin to discuss Garner and how old she is. HOPP states "She's ancient" and then says, "She's 73, I'm a little worried she's like, senile and stuff".

27. At approximately 1717 hours, BLACKETT leaves the booking area, leaving only JALALI and HOPP in the booking area. HOPP is seen whispering something to JALALI and appeared to be asking her if her body worn camera was on or off. They then fist bump and begin to talk about the use of force. HOPP states he thought it went great and they discuss JALALI's role and how she may have felt HOPP believed she was not taking enough action during the incident.

28. At approximately 1719 hours, HOPP whispers to JALALI "I thought I broke her shoulder. Did you hear the pop?" JALALI acknowledges the question with a "Mmmm". HOPP then demonstrates the moment he heard the pop and states "When I had her up against the car when you first got there, I was like ok, if you wanna play. I was pushing pushing, pushing, I hear (makes pop noise with mouth) I was like (gasps) oh no!" During this narrative HOPP physically demonstrated what he did to Garner, which was seen in his body worn camera video. From this it is evident the injury to Garner's shoulder occurred when HOPP had her against the car and pushed up on her elbow.

29. JALALI then states, "This is gonna turn into something" and HOPP responds by stating "Yeah". JALALI then states "No doubt. There's other cars that stopped. There's more than just that guy" (referencing the witness who stopped).

30. HOPP pulls up his body camera on the computer at approximately 1746 hours, so he, BLACKETT and JALALI, can watch it. From watching the body camera video, I could tell based on the audio I heard what part of the video they were watching. From the audio I could tell HOPP was watching the part when he had Garner pressed up against the hood of his car and JALALI is walking up. HOPP states "Ready listen. Here's the pop. It already popped." HOPP then lifts his arm high up, like he had Garner's and stated he "Heard it pop really bad".

31. At 1751 hours, Officer JALALI enters Ms. Garner's cell. Garner repeats "They keep hurting" and JALALI's response is "You keep fighting with us". JALALI checks on Garner's handcuffs for proper tightness. Garner continues to complain "They keep hurting" and asks if she could take them off. JALALI and Garner have a back-and-forth reference JALALI not removing the handcuffs because Garner keeps fighting with them. JALALI eventually leaves the cell and Garner is left inside with her handcuffs still secured to the bench. JALALI did not ask about Garner's injuries or anything about her shoulder as at this time even though she clearly knew HOPP had hurt her shoulder.

32. At 1806 hours, HOPP and BLACKETT enter Ms. Garner's cell. Garner states "It hurts my shoulders". HOPP responds by saying "Ok" and went on to explain they needed to take some pictures of her. Garner repeated it "Hurts my shoulders" and HOPP stated he knew they weren't comfortable but what could she expect to happen if she kept fighting them. Garner again stated, "It hurts my shoulder" followed by "I was going to pay for it" followed by "It hurts my shoulder". HOPP proceeds to remove her handcuffs from the bench so he could take photos of her wrist injuries. Garner repeats her shoulder hurts and HOPP tells her "Ok we will be gentle". Garner kept repeating her shoulders hurt and at one point said "Ow" when they moved her hands and arms to take a picture.

33. Garner stated her shoulder hurt 14 times when in the presence of HOPP and BLACKETT, and they did not offer her medical treatment or follow up on her complaint that her shoulder hurt.

Transport to Larimer County Detention Center. Detective Justin Butler continues:

34. Garner was transported by BLACKETT to the Larimer County Detention Center to be booked in on her charges. He called her in as an uncooperative person. This prompted the Detention Center Staff to enact their uncooperative booking procedures. Part of these procedures included taking a video of their interaction with the arrestee until they are placed in a cell.

35. The video begins by BLACKETT describing why Garner is an uncooperative person and the force they used against her, which consisted of take downs and control holds. He said he was concerned over some possible mental health concerns as she kept repeating the same phrases over and over again. He did not mention anything about her having any potential shoulder injury.

36. Staff at the Larimer County Detention Center contacted Garner in the back seat of Blackett's vehicle. She immediately complained about her shoulder hurting. They gently walked with Garner to a cell and removed her handcuffs.

37. Garner was later spoken to by Nurse Sue Mandoni of the Larimer County Detention Center. Nurse Mandoni could almost immediately tell something was wrong with Garner and saw she had bruising and swelling to her shoulder. They contacted the Poudre Valley Hospital and arranged for an ambulance to take Garner to the Hospital for her injuries.

38. Once at Poudre Valley Hospital, Garner was diagnosed with a "fracture of the surgical neck of the humerus. There is mild anterior displacement of the humeral shaft compared to the humeral head" per the medical records obtained from Poudre Valley Hospital.

39. On May 12th, 2021 Doctor Kriss Delotta signed the physicians report of serious bodily injury stating Garner's injuries suffered on June 26th, 2020 did constitute a serious bodily injury.

Use of Force Reporting (Blue Team). Detective Justin Butler continues:

40. Officer HOPP completed a Blue Team report for the use of force he used on Garner. Blue Team is a use of force tracking and entry tool used by Law Enforcement to report a use of force. In the Blue Team entry, Officers are required to complete a short narrative describing the use of force. These narratives are typically one or two sentences long according to personnel at the Loveland Police Department. Officer HOPP wrote the following for his narrative:

"Suspect was contacted as a subject of a shoplifting call from the east Walmart. Upon contact the suspect attempted to flee the scene and was placed onto the ground to safely detain her. The suspect fought against officers continuously and several controlling holds had to be used. The suspect sustained minor lacerations to her wrists

from the handcuffs and a small laceration to her chin. Photos were taken of the suspect and uploaded to the case file as well as this blue team report. The suspect was asked several times if she wanted medical attention and she either would not answer or start talking about something else and never asked for medical attention. Once at LCJ the suspect complained of shoulder pain and the jail nurse determined she had a possible shoulder injury. It's unknown when the shoulder injury was caused due to the length of her struggle against officers as well as her continuously try to escape her restraints in booking."

41. CIRT detectives worked to attempt to find out how HOPP knew Garner complained of a shoulder pain at the Larimer County Detention Center. Later in the evening, at approximately 2131 hours, Officer HOPP was assigned a follow up call after the Larimer County Detention Center contacted the Loveland Police Department requesting additional information on Garner's family or contact information as she was going to be taken to the Poudre Valley Hospital. Detectives pulled up the recorded phone calls through the Loveland Police Department reference these communications. No mention of injury was heard during the phone calls.

42. CIRT detectives received phone call logs from the involved Officer's department cell phones. Officer HOPP was found to have made a call to the Larimer County Detention Center at 2133 hours for a phone call that lasted four minutes. Through several interviews with Larimer County Detention Center employees, it was determined the person HOPP may have spoken to was Corporal Jonathan Simmons. Corporal Simmons stated he recalled speaking to a Loveland Police Officer about Garner and specifically telling him she had bruising and an injury to her shoulder and was going to the Poudre Valley Hospital for treatment. He stated the Officer told him they would get someone to Poudre Valley Hospital to speak with Garner, which did not occur.

43. Based on the timeline of the follow up call, the phone call with Corporal Simmons and the Blue Team entry, it was evident HOPP was aware of a potential injury being reported to Garner's shoulder and he learned about it during his call with Corporal Simmons, before HOPP entered it into the Blue Team.

44. I read the original reports written by HOPP, JALALI, and BLACKETT. There was no mention of a potential injury to Garner's shoulder.

45. The Loveland Police Department has a policy titled "Provision of Appropriate Medical Aid after Use of Force" in their use of force policy and procedure manual. In that police it states, "Any time a person has visible injury or complains of being injured as a result of force used against him/her by an Officer, the Officer must take appropriate actions to provide medical care for the injured person". Neither HOPP, JALALI, or BLACKETT made any attempt to provide Garner medical care after learning of the "pop" as described by HOPP to them and after Garner repeated approximately 22 times in their respective presence that her shoulder hurt.

Affiant, District Attorney Chief Investigator Scott A. Rogers' review:

46. As the District Attorney's representative, your affiant has participated in the use of force CIRT investigation from its inception. As part of my responsibilities in this investigation, I have viewed several video recordings in relation to the arrest and detention of Ms. Garner. Those recordings include, but are not limited to:

- Body worn camera footage of Austin HOPP's interaction with Ms. Garner alongside the 2600 block of Mountain Lion Drive near Walmart, and subsequently at the Loveland jail,
- Body worn camera footage of Officer Daria JALALI's interactions with Ms. Garner alongside Mountain Lion Drive, as well as within the Loveland jail facility,
- Body worn camera footage of Officer Tyler Blackett at the Loveland jail facility (including driving Ms. Garner to the Larimer County Detention Facility),
- Booking area footage from the Loveland jail facility, including audio and video footage of former officers HOPP, JALALI, and BLACKETT as they interacted with Garner, and
- Booking area footage from the Loveland jail facility of former officers HOPP, JALALI and BLACKETT watching and discussing HOPP's body camera footage of the arrest of Garner.

47. Your affiant has also reviewed many of the police reports generated through the subsequent use of force investigation primarily conducted by the Fort Collins Police. These reports include documentation of observations and interactions with Ms. Garner by lay witnesses, police personnel, Larimer County Detention Facility staff, jail staff and pretrial employees, who had knowledge of and/or interacted with Ms. Garner or the officers involved in her arrest and detention on June 26-27, 2020.

48. Your affiant is aware that the arrest of Ms. Garner resulted in the Loveland Police charging Ms. Garner with three misdemeanor crimes: Theft, Resisting Arrest, and Obstructing a Peace Officer. These charges were brought under Larimer County case number 20M926. All charges were subsequently dismissed on August 24, 2020.

49. Your affiant knows from information gained through the use of force investigation, as well as through information shared during the pendency of 20M926, and other media reports, that Ms. Garner suffers from a form of dementia, and suffered from that condition when she was arrested on June 26, 2020.

50. Your affiant knows from his training and experience that the results of "blue team" or use of force protocols may be used to discipline officers who are found to have used excessive force.

51. Pursuant to 18-8-803, C.R.S., Use of excessive force, "Subject to the provisions of section 18-1-707, "a peace officer who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the

same degree as any other citizen.. "

52. Under the version of 18-1-707, C.R.S. that was in effect at the time of the arrest of Karen Garner, "a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

- (a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or
- (b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

53. From your affiant's review of all the video footage, the reports, statements, police policies, and medical information surrounding the arrest and detention of Karen Garner, on June 26, 2020 by the Loveland Police, your affiant believes:

- The use of force by Officer Austin HOPP was neither reasonable nor necessary to complete the arrest of Karen Garner given her apparent age, her size, her demeanor, and the lack of physical threat to HOPP and JALALI.
- The use of force by Officers HOPP and JALALI throughout the arrest of Karen Garner was the cause of multiple injuries to Ms. Garner, including pain, fresh abrasions and bleeding from being thrown to the ground on two occasions, and more serious injuries including bruising, swelling, a shoulder dislocation, and a fractured humerus (upper arm bone) from the use of force at and near the hood of the patrol car.
- Karen Garner's behavior, including her appearance, her verbal interactions and repetition of phrases, among other factors, indicated an obvious deficiency in Garner's comprehension of her surroundings and reasonably elevated the need for Officer HOPP and Officer JALALI to engage in less aggressive and forceful methods to effectuate her arrest, once it was decided an arrest would occur.
- Officer HOPP's use of force against Garner, assisted by Officer JALALI, while on and near the hood of the patrol vehicle was not only unreasonable and unnecessary, but also was the likely cause of her shoulder and arm injury based on the degree of force used, the location where the force was applied, Garner's reaction to that specific use of force, the subsequent observable signs of injury to that area (bruising and swelling), and the serious bodily injury determination by the reviewing doctor.
- Officer HOPP knew at the time he was physically controlling Ms. Garner on the hood of the car that he was causing her pain, and that upon putting more pressure on her left arm when forcing her down into the hood of the car and hearing a "pop" sound and her verbal reaction, he knew he had caused her more serious injury. Thus, Austin HOPP used excessive force, and violated 18-3-203(1)(g) and 18-6.5-103(3)(b), by committing assault in the second degree – at risk person.

- Austin HOPP, a peace officer, was purposefully not forthcoming and was misleading in his reports to his superiors, who were all public servants, regarding the injuries he knew he caused to Garner, including in his narrative in his "blue team" report, to avoid liability, reprimand, or to otherwise benefit himself. Thus, Austin HOPP violated 18-8-306, by committing attempt to influence of public servant.
- Austin HOPP was acting in his capacity as a public servant when he attempted to influence the decision and/or opinions of his superiors when he purposefully attempted to mislead them through his misleading "blue team" report narrative, which omitted his role in the injury caused to Ms. Garner. Thus, Austin HOPP violated 18-8-404, by committing first degree official misconduct.

54. It should be noted that any references to Austin HOPP, Daria JALALI, and Tyler BLACKETT as "officers" throughout this affidavit are based on their professional status at the time of the use of force incident and in close proximity thereto.

55. Your affiant was subsequently informed that HOPP, JALALI, and BLACKETT have all since resigned (in 2021) from the Loveland Police Department.

Your Affiant, **SCOTT A. ROGERS**, believes the above facts to be true based on the review of the police reports generated through the subsequent use of force investigation primarily conducted by the Fort Collins Police Department, review of all video footage, statements, police policies, and medical information surrounding the arrest and detention of Karen Garner, personal observations, interviews, and conversations with fellow District Attorney personnel.

Further, your affiant is a duly sworn peace officer for the State of Colorado and is employed full time as the Chief Investigator for the Office of the District Attorney, 8th Judicial District of Colorado. I have been trained at the state and local levels with regard to my duties and I am authorized by law to execute search and arrest warrants in the State of Colorado.

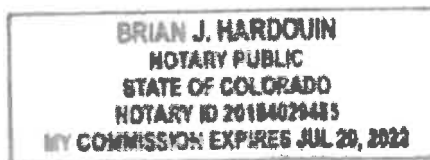


Affiant

Dated this 18th day of May, 2021 at 1740 HICKS



Notary Signat 5/18/21



Reviewed 5/18/2021
S. Blanco