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| DISTRICT COURT, PUEBLO COUNTY, COLORADO   | DATE FILED: September 9, 2022    |
| , JUDGE   | COURT USE ONLY                   |
| Pueblo Combined Court<br>501 N. Elizabeth St.<br>Pueblo, Colorado 81003<br>Phone: 719-404-8700                    | Case Number<br><b>22 CR 1274</b> |
| <b>THE PEOPLE OF THE STATE OF COLORADO</b><br>vs.<br><b>DIEGO GUILLERMO DURAN (DOB: 03-11-1967)</b><br>Defendant. | Division                         |
| <b>AFFIDAVIT OF PROBABLE CAUSE FOR ARREST WARRANT</b>   |                                  |

Case Number ~~19-021723~~ **22-017781**

STATE OF COLORADO       )               ) ss.  
COUNTY OF PUEBLO       )

Affiant, Detective Ron Gravatt being first duly sworn upon His oath, states that He has reason to believe that **DIEGO GUILLERMO DURAN (DOB: 03-11-1967)** has committed the crime(s) of **Sexual Assault, (C.R.S. 18-3-402)** (as amended) (**a class 4 Felony**), and as reason for this belief states as follows:

On 09-07-2022, AFFIANT (Detective Ron Gravatt) was notified by Detective Sgt. C, Flores of an incident that occurred in the City of Pueblo and the victim had reported the incident to the Canon City Police Department.

Sgt. Flores informed me that [REDACTED] had reported that [REDACTED] was sexually assaulted in the City of Pueblo earlier in the day of 09-07-2022 and named the offender as a Pueblo County Sheriffs Officer Diego DURAN. [REDACTED] is an investigator for the Pueblo County District Attorney's Office.

Sgt. Flores requested that I respond to Canon City where [REDACTED] was currently located.

On 09-07-22 at approximately 2227 hrs. I responded to the Canon City Police Department Detective Annex and met with Detective SMELSER who had conducted an interview with [REDACTED]. SMELSER informed me that a SANE exam had been completed earlier on [REDACTED] and SMELSER had already submitted it into the Canon City P.D. evidence. Arrangements to collect the evidence at a later date were made and no findings were made available to AFFIANT at the time.

Detective SMELSER provided AFFIANT with a brief background of what he had learned in his videotaped interview with [REDACTED] and SMELSER indicated that he would be submitting his report to AFFIANT upon completion.

## AFFIANT INTERVIEW WITH HANSEL

AFFIANT asked Detective SMELSER to accompany him in an interview with [REDACTED] and AFFIANT learned the following information:

[REDACTED] stated [REDACTED] worked in the Colorado State Fair on Monday (Labor Day) as they were required too and when [REDACTED] arrived at the fair, DURAN was flirtatious and he asked [REDACTED] a couple times to go to lunch and [REDACTED] told him [REDACTED] would see and then [REDACTED] said OK let's shoot for Wednesday. DURAN agreed and [REDACTED] stated [REDACTED] could meet him because [REDACTED] took a lunch at 1:00 P.M.

[REDACTED] stated long story short, DURAN texted [REDACTED] and asked if [REDACTED] was ready for lunch and DURAN stated he was parked out in front [REDACTED] office (DA'S Office) and [REDACTED] then went out the front door and at that time, [REDACTED] received another text that DURAN had moved to 7<sup>th</sup> and Court.

[REDACTED] stated [REDACTED] walked around the building and didn't know which vehicle was DURAN'S as [REDACTED] was expecting his work car and [REDACTED] saw a truck parked and heard it running. [REDACTED] stated [REDACTED] had never seen DURAN in that vehicle before and [REDACTED] stated that because the truck windows were really dark, [REDACTED] had to get really close to the front window to look inside and see that it was DURAN. [REDACTED] stated after seeing it was DURAN, [REDACTED] then got into the vehicle.

[REDACTED] stated DURAN asked where [REDACTED] wanted to go for lunch and [REDACTED] told him burritos were fine [REDACTED] only had an hour before [REDACTED] had to be back to work. [REDACTED] stated they went east on 7<sup>th</sup> Street to Santa Fe where DURAN again asked [REDACTED] where [REDACTED] wanted to go and [REDACTED] stated just something quick because [REDACTED] had to be back within an hour. They then went south on Santa Fe and turned West on 4<sup>th</sup> Street and DURAN suggested CASA BELLA ( 314 W.4<sup>th</sup> Street) and [REDACTED] agreed.

[REDACTED] stated they went inside and lunch was taking forever so they just sat talking shop. [REDACTED] stated every time DURAN shifted the conversation to personal things or saying things like "hey we need to start going out", [REDACTED] would bring the conversation back to work.

[REDACTED] stated lunch came out late and [REDACTED] only had a couple bites and requested a box as [REDACTED] had to get back to work in ten minutes. [REDACTED] stated that DURAN scarfed down his food and [REDACTED] had [REDACTED] boxed and was ready to go.

[REDACTED] stated they left the restaurant and DURAN had parked right across the street from CASA Bella, in front of the China Lantern, and they both got inside the truck. [REDACTED] stated [REDACTED] put [REDACTED] seatbelt on and the next thing [REDACTED] knew, DURAN was leaning over and grabbing at [REDACTED] waistband in an attempt to try and see [REDACTED] underwear. [REDACTED] stated that DURAN asked [REDACTED] what color underwear [REDACTED] was wearing and [REDACTED] told DURAN [REDACTED] thought they were white. [REDACTED] stated DURAN continued grabbing at [REDACTED] underwear and [REDACTED] stated he couldn't see them so then DURAN started to undo [REDACTED] belt.

[REDACTED] stated that at this point [REDACTED] was shocked and wondering "what the fuck is happening",

██████████ stated DURAN looked up at the clock and said ██████ had to be to work in three minutes and DURAN had unbuckled ██████ belt and started opening it and was then struggling with the clasps on ██████ pants and he finally got them undone. ██████████ stated at this point ██████ was trying to stop DURAN by grabbing his arms and DURAN had undone ██████ seatbelt as well.

██████████ stated DURAN "got in between ██████ legs and ██████████, like he was trying to stick his finger inside" ██████████ and ██████ pulled forward to try and stop him and had both of ██████ hands on DURAN'S arms. ██████████ stated, ██████ "was like shit I got to get to work, how can I get out of this" and ██████████ told DURAN "dude I got to get to work, I got to go" and DURAN kept on going and shoved his hands down on ██████████ several times and ██████████ stated "it hurt" because "he was trying to rub" ██████ and DURAN kept on saying "c'mon help me out" and ██████████ continued closing ██████ legs and leaning forward to try and stop DURAN.

██████████ stated DURAN "grabbed ██████████ and pushed it open" and "he started going at ██████ again with his hands down ██████ pants and he was rubbing really hard" and ██████ shut ██████ legs again and DURAN said, "c'mon help me out" and DURAN had leaned over with his head near ██████ and at one point he was just staring down at ██████.

██████████ stated DURAN then "started pulling my pubes" and said "let me shave you" and ██████████ told DURAN again, "I got to get to work, we got to go", and DURAN then started going up towards ██████ chest and at that point ██████ pushed his hand away from ██████ chest because DURAN was trying to pull up ██████ shirt and ██████ was trying to push him away and ██████████ stated ██████ is pretty sure ██████ said stop, like stop it but ██████████ stated ██████ wasn't positive.

██████████ stated DURAN then stopped and he started driving to ██████ work which takes less than a minute to get to. ██████████ stated they went down Grand and pulled onto 7<sup>th</sup> street.

██████████ stated ██████ had ██████ wallet out because ██████ had originally taken it into the restaurant to pay and DURAN insisted on paying the bill so ██████████ told DURAN let me cover the tip at least.

██████████ stated so ██████ has ██████ wallet out and ██████ covid bag that ██████ takes everywhere with ██████ and ██████ was trying to get the wallet back inside the bag as ██████ had already stepped out of the vehicle but ██████ was shaking so bad it was difficult.

██████████ stated that DURAN then stated can I come over this evening so we can finish this up and ██████████ stated ██████ told DURAN just call me because ██████ just wanted to get away.

██████████ stated that during lunch they had discussed ██████ sleeping habits being messed up from working graveyard and ██████ had been waking up at 0330 hrs. every morning. ██████████ stated that DURAN asked, "how about if I come over to your house at 0330 when you wake up" and ██████████ stated, "if you do", ██████ "would meet him at the door with a shotgun". ██████████ stated that DURAN didn't say anything after that and by that time ██████ had grabbed ██████ wallet, bag and food and went straight inside to ██████ office where ██████ started to break down and ██████ couldn't control it anymore.

██████████ stated ██████ called a co-worker, Anna GUAGLIARDO and ██████████ told GUAGLIARDO what had just happened and GUAGLIARDO asked ██████ what ██████ was going to do and suggested ██████ go home.

██████████ stated during ██████████ conversation with GUAGLIARDO, DURAN had texted ██████████ and said ██████████ had left ██████████ mountain dew in his vehicle and ██████████ didn't respond to the text message. ██████████ stated ██████████ then left work and drove around a little bit while heading to ██████████ residence but had to stop and pull over because ██████████ was crying and trying to figure out what to do.

██████████ stated that ██████████ then briefly talked to ██████████ friend Amanda TERWILLIGER about what happened and TERWILLIGER told ██████████ ██████████ needed to report it and ██████████ agreed but ██████████ didn't want to do it Pueblo and ██████████ just wanted to get out of town and get the SANE kit done.

██████████ stated the SANE exam was completed in Canon City. ██████████ stated ██████████ originally called Memorial hospital and they suggested ██████████ come in the following day and ██████████ stated ██████████ wanted to get it done now and ██████████ recalled picking up a SANE kit in Canon City as part of ██████████ duties during an investigation and ██████████ decided to get it done in Canon City.

AFFIANT asked ██████████ if DURAN had tried contacting ██████████ again after this incident and ██████████ stated no, not until ██████████ had reported it to SMELSER and ██████████ stated they then initiated pretext conversations with DURAN.

AFFIANT asked ██████████ to tell him how DURAN was positioned inside the vehicle, such as was he using both hands to get ██████████ buckle undone and seatbelt off. ██████████ stated ██████████ thought it was one hand at first because he was leaning over the center console and ██████████ reflected and thought he was using both hands. ██████████ stated ██████████ knows after his intrusion that DURAN brought his hand up to his nose and smelled it and then licked it.

██████████ stated ██████████ didn't really remember and ██████████ thinks when DURAN had his left hand down ██████████ pants by the way he was positioned ██████████ just kept trying to keep his hands from ██████████. AFFIANT asked ██████████ if ██████████ was fearful when DURAN began that act and ██████████ stated ██████████ was taken back and it hurt ██████████. ██████████ stated ██████████ didn't want it and ██████████ thought they were just friends having lunch.

██████████ stated DURAN was very flirtatious with ██████████ when ██████████ worked at the sheriff's department and he was ██████████ supervisor and would show up on all ██████████ calls. ██████████ stated ██████████ has known DURAN since 2011 and when ██████████ worked at the S.O. with DURAN, ██████████ worked with him on the streets for 3 ½ to 4 years.

AFFIANT asked ██████████ if ██████████ and DURAN ever had any type of relationship either in person or by text or social media app's and ██████████ stated no. DURAN asked ██████████ out to lunch or dinner one time while ██████████ was into ██████████ second year of working with DURAN as ██████████ supervisor and DURAN continued asking ██████████ to go out and to go by ██████████ but ██████████ stated ██████████ didn't want any crossing of boundaries and ██████████ insisted that ██████████ son be there when ██████████ finally said yes.

██████████ stated ██████████ told DURAN ██████████ would meet him and they met at a Mexican restaurant on 4<sup>th</sup> street that is no longer there and that was the one and only time even though DURAN continued to ask ██████████ out and ██████████ would tell him no.

██████████ stated they never had any relationship whatsoever and ██████████ stated DURAN didn't even try to ██████████ me today, he went straight to my waist and straight to, ██████████ then stated usually most guys will usually try to ██████████ you and that's what shocked ██████████ so much and took ██████████ back like what the hell is he doing.

██████████ stated that during lunch DURAN had mentioned what are you wearing, your underwear and █████ cut him off and asked how co-workers at the S.O. were and steered the conversation away from that. I asked ██████████ if anything was being said when █████ was trying to pry DURAN'S arms up and █████ stated █████ was focused on keeping █████ legs closed, getting back to work and █████ regrets not saying stop and █████ was trying to pressure DURAN to take █████ back to work now and was trying to get out of the situation.

██████████ stated █████ kept prying DURAN'S arms, shutting █████ legs, and leaning forward to keep DURAN from inserting his finger into █████ and █████ kept feeling him going down farther and █████ would go forward with █████ body to stop him and DURAN was breathing heavy. I tried to clarify if DURAN were using his left hand and if he was completely turned in almost a mounting position and ██████████ stated he was using the bottom of his fingers when he was rubbing █████ and it could have been his right hand that he was doing that with and it but it was his right hand that he brought up to his nose and smelled.

██████████ stated █████ really didn't know which hand DURAN used █████ was just trying to hoist his hands up and off █████.

AFFIANT asked what type of vehicle it was that DURAN was driving and ██████████ stated it was a black or dark charcoal Denali truck that was fancy with "all the fixings" leather seats, the steps were automatic when the doors opened, and the rear-view mirror was awesome and had a camera view.

AFFIANT asked about past conversations █████ has had with DURAN, such as text messaging and ██████████ stated █████ had shown Detective SMELSER the messages █████ had with DURAN and █████ stated █████ tried to always keep it professional. ██████████ stated that was another thing DURAN said, while they were in the truck DURAN told ██████████ to send him pictures and █████ told DURAN █████ didn't do that. ██████████ believed the picture request conversation was prior to DURAN taking █████ seatbelt off and attempting to penetrate █████.

██████████ stated that while they were in the restaurant DURAN kept asking █████ to go out and █████ told him that wasn't a good idea and DURAN stated it was and ██████████ would change the conversation away from personal stuff.

██████████ stated that DURAN has been flirtatious over the years and █████ never had any interest in DURAN at all. ██████████ stated █████ made it clear that night that they agreed to go out to lunch that it was as friends.

AFFIANT asked if there was anything that was important that AFFIANT needed to know that hadn't been asked and ██████████ stated █████ didn't think so, █████ just knows DURAN was trying to go inside █████ and █████ wouldn't let him.

AFFIANT asked ██████████ about when DURAN was trying to go up █████ shirt and ██████████ stated █████ told him to stop and DURAN did and then took █████ back to work. ██████████ stated █████ never expected that behavior from him "crossing the line".

AFFIANT asked ██████████ for consent to download █████ cellphone that contained the messages with DURAN and █████ agreed and signed a consent form and provided the unlock code.

AFFIANT asked [REDACTED] to tell HIM about injuries [REDACTED] received as a result of DURANS actions and [REDACTED] stated it burns where DURAN was rubbing and he was rubbing really hard, like rubbing it raw. [REDACTED] stated [REDACTED] doesn't know if the exam showed any physical injuries.

AFFIANT asked [REDACTED] if DURAN was using a lot of force and [REDACTED] stated it was painful and forceful and DURAN wasn't trying to romance [REDACTED] or anything, it was a hard rubbing friction. [REDACTED] stated [REDACTED] wasn't helping DURAN out by spreading [REDACTED] legs and letting him go at it, [REDACTED] was trying to stop him and pull him off [REDACTED] by moving [REDACTED] body and shutting [REDACTED] legs.

Detective SMELSER asked [REDACTED] that when they first spoke, [REDACTED] told SMELSER about DURAN asking [REDACTED] out in weird ways and SMELSER asked if it was at that time when DURAN was asking what color [REDACTED] were and [REDACTED] stated [REDACTED] thought that was brought up right before. [REDACTED] kept telling DURAN that it wasn't a good idea and [REDACTED] stated DURAN was awkward when he was asking [REDACTED] out, not like hey would you like to go to the movies, DURAN told [REDACTED] we should just do this and [REDACTED] knew what DURAN was referring to and [REDACTED] told him no that's a bad idea and this conversation happened inside the restaurant with nothing else sexual being brought up.

AFFIANT clarified with [REDACTED] that DURAN asked [REDACTED] what color [REDACTED] were inside the car when they were getting ready to leave the restaurant and [REDACTED] stated [REDACTED] thought maybe that conversation happened inside the restaurant and not in the car. [REDACTED] stated [REDACTED] remembered when [REDACTED] put [REDACTED] seatbelt on DURAN immediately started trying to pull at [REDACTED] [REDACTED] and was pulling [REDACTED] belt back and DURAN couldn't see them and [REDACTED] told DURAN there just white underwear and [REDACTED] didn't understand why DURAN was so desperate to see them.

Detective SMELSER and AFFIANT left briefly to follow up with supervisors and returned with a couple follow-up questions.

AFFIANT asked [REDACTED] if [REDACTED] were fearful of DURAN, in the way of him being a retaliatory person and [REDACTED] stated [REDACTED] would hope not, but [REDACTED] doesn't know him that well. [REDACTED] stated [REDACTED] could see DURAN shooting off his mouth to co-workers. AFFIANT asked [REDACTED] if [REDACTED] had any fear that DURAN would do something against [REDACTED] and [REDACTED] stated [REDACTED] hoped not, but [REDACTED] really didn't know.

AFFIANT asked if the messages in [REDACTED] phone came up as DURAN and [REDACTED] stated the name that comes up with DURANS number is titled LT. Duran.

[REDACTED] stated that at the Colorado State Fair on Monday (Labor Day) he got upset because [REDACTED] introduced him to an attorney as LT. DURAN. And DURAN told [REDACTED], come on [REDACTED] you know I like to be called by my first name. [REDACTED] stated that he also showed up to [REDACTED] calls when [REDACTED] worked at the S.O. and it was 1/2 the reason [REDACTED] left the S.O. was because DURAN was always there and [REDACTED] couldn't escape him, he was always there. [REDACTED] stated DURAN was flirtatious, but didn't cross the line and he was [REDACTED] Lt.

[REDACTED] stated that it was DURAN almost crossing the boundary it was made it uncomfortable and [REDACTED] never made any complaints because it would have caused [REDACTED] problems so [REDACTED] always joked it off but DURAN never touched [REDACTED] or anything. I asked if [REDACTED] had heard of DURAN ever doing anything like this to anyone else and [REDACTED] stated that [REDACTED] heard from Anna that DURAN went after a S.O. deputy Lamas but [REDACTED] didn't know any details about that.

[REDACTED] stated [REDACTED] knows DURAN is a private person but he is using dating websites and [REDACTED]

ran across him one time and the site was called plenty of fish.

Detective SMELSER asked [REDACTED] what [REDACTED] wanted to see happen to DURAN and [REDACTED] stated [REDACTED] never wants to have any contact with [REDACTED] and knows that is difficult with the state fair and [REDACTED] employment and [REDACTED] never thought he would do something like this.

[REDACTED] stated [REDACTED] never gets picked up by people, [REDACTED] always meets them for just that reason, but [REDACTED] trusted DURAN and being flirtatious is one thing but [REDACTED] never expected DURAN to do something like what he did. [REDACTED] stated he didn't try to kiss [REDACTED], touch [REDACTED] like nothing physical and it was just out of the blue when they got into the truck that he was right on top of [REDACTED] and [REDACTED] was stunned and shocked.

Our contact with [REDACTED] was ended.

### DETECTIVE TORRES INTERVIEW ANNA GUAGLIARDO

On 09-07-22 at approximately 2146 hours, Detective Ryan Torres met GUAGLIARDO at the Pueblo Police Department and at approximately 2212 hours, he began an interview with GUAGLIARDO

Detective Torres told Anna he knew she worked as an investigator at the Pueblo County District Attorney's Office, and she agreed with this and Detective Torres then obtained her personal information.

Detective Torres told GUAGLIARDO that we were investigating a sex assault that she may have information about and he asked GUAGLIARDO to tell him about the information she knows about, and how she came to know about the information.

GUAGLIARDO said she got back to her office (Pueblo County District Attorney's Office), and she began to work on a report. GUAGLIARDO told Detective Torres her co-worker, [REDACTED], who is also a Pueblo County District Attorney Investigator, called her on the phone and asked her to come to [REDACTED] ([REDACTED]) office. GUAGLIARDO said she went to [REDACTED] office and when she entered, she observed that [REDACTED] is crying and visibly upset. GUAGLIARDO closed the office door and asked [REDACTED] what was going on. [REDACTED] couldn't speak at the moment, so GUAGLIARDO approached [REDACTED] and hugged [REDACTED]. GUAGLIARDO said she and [REDACTED] are co-workers and friends.

[REDACTED] told GUAGLIARDO that [REDACTED] went to lunch today (09-07-22) with Lieutenant Diego DURAN from the Pueblo County Sheriff's Office. [REDACTED] said that after lunch, [REDACTED] got into DURAN'S car so he could take [REDACTED] back to work. As they were in DURAN'S car, DURAN began unbuckling [REDACTED] belt, and tried sticking his hand down [REDACTED] pants.

[REDACTED] said DURAN was quite forceful putting his hand down [REDACTED] pants, and [REDACTED] was trying to prevent him from doing so by pushing [REDACTED] legs down and smacking his hand away. [REDACTED] told GUAGLIARDO that DURAN was able to get his hand down [REDACTED] pants forcefully. GUAGLIARDO asked [REDACTED] if DURAN penetrated her [REDACTED] and [REDACTED] said he did not, but he was forceful enough that it caused [REDACTED] to be sore in [REDACTED] genital area. [REDACTED] said DURAN took his hand out and then he smelled his hand.

██████████ told GUAGLIARDO that prior to DURAN sticking his hand down ██████ pants, he was wanting to know what kind of ██████ and ██████ was wearing. ██████ told GUAGLIARDO that DURAN was having a hard time unbuckling the belt, and he said something like, can't you help me unbuckle the belt.

Detective Torres asked GUAGLIARDO what else ██████ said about this incident, and GUAGLIARDO told me that she said they went to some Mexican restaurant on 4<sup>th</sup> St. Detective Torres asked GUAGLIARDO if she knew what Mexican restaurant that would have been, and she said it is a newer one, and it is located where the old Cajun restaurant was. Detective Torres knew from personal experience a Cajun restaurant use to be in the 300 block of W. 4<sup>th</sup> St. Detective Torres also knew a new Mexican restaurant had opened at this location, but he did not know the name of the restaurant. ██████ told GUAGLIARDO they were parked in the parking lot of the Mexican restaurant, and they were sitting in DURANS personal vehicle.

Detective Torres asked GUAGLIARDO if she told anybody else about the incident once ██████ told her, and she said no. GUAGLIARDO said after ██████ was done talking, GUAGLIARDO told her ██████ needed to go home, and ██████ finally agreed to leave work. GUAGLIARDO said ██████ mentioned to one of ██████ bosses that something came up with ██████ and ██████ had to leave. GUAGLIARDO said it was apparent at the time she talked with ██████ that ██████ didn't anybody else to know. GUAGLIARDO said ██████ told ██████ that it would be a good idea to get a SANE Exam done, but ██████ was hesitant because ██████ knows everyone who performs the SANE exams.

Detective Torres asked GUAGLIARDO when the conversation with ██████ took place, and ██████ said it was today at around 1430 hours at their office. Detective Torres asked GUAGLIARDO if ██████ told her who DURAN is, and GUAGLIARDO said yes. Detective Torres asked GUAGLIARDO if she knows DURAN and she said yes, and she use to work with DURAN at the Pueblo County Sheriff's office. Detective Torres asked GUAGLIARDO if ██████ and DURAN are in any type of relationship, and GUAGLIARDO said no. Detective Torres asked GUAGLIARDO if ██████ and DURAN ever dated or where friends. GUAGLIARDO said ██████ worked as a deputy at the Pueblo County Sheriff's office and DURAN was ██████ boss. GUAGLIARDO said DURAN was one of the reasons why ██████ quit the sheriff's office. GUAGLIARDO said DURAN was always flirtatious with ██████

Detective Torres asked GUAGLIARDO if ██████ told her that DURAN invited ██████ to lunch, and GUAGLIARDO said yes, ██████ told her that DURAN invited ██████ to lunch. GUAGLIARDO said she was surprised that ██████ would agree to go to lunch with DURAN.

Detective Torres asked GUAGLIARDO if the incident occurred before DURAN and ██████ ate lunch, or after lunch. GUAGLIARDO said it occurred after they ate lunch.

GUAGLIARDO told Detective Torres that as she was talking to ██████ in ██████ office, DURAN texted ██████ and told ██████ forgot her Mountain Dew in his truck. ██████ told GUAGLIARDO that ██████ didn't fucking care about the Mountain Dew. GUAGLIARDO wasn't sure if the communication was thru text message or a messaging app. But it occurred as ██████ was sitting talking to ██████.

Detective Torres asked GUAGLIARDO if ██████ rode to lunch in DURANS car or is ██████ met him at the restaurant, and GUAGLIARDO said ██████ thinks ██████ went with DURAN in his car or truck. GUAGLIARDO said as she was getting back to work, she saw ██████ walking



toward the front door, so ■■■ must have just gotten dropped off.

Detective Torres asked GUAGLIARDO if ■■■ tells ■■■ exactly what ■■■ is telling DURAN when he is trying to take ■■■ belt off. ■■■ said ■■■ was leaning over and bending ■■■ legs trying to get him to stop. ■■■ also told DURAN to stop. Detective Torres asked GUAGLIARDO if ■■■ said ■■■ pants were unzipped, unbuckled, or came off and ■■■ didn't know. ■■■ told GUAGLIARDO that ■■■ was wearing ■■■. Detective Torres asked GUAGLIARDO if ■■■ told her if DURAN put his fingers under ■■■, on top of ■■■ or somewhere else, and GUAGLIARDO didn't know. Detective Torres asked GUAGLIARDO if ■■■ said how long this incident lasted, and GUAGLIARDO did not know.

Detective Torres asked GUAGLIARDO what she observed ■■■ wearing today, and GUAGLIARDO said ■■■ had on slacks with a belt and a dress shirt. GUAGLIARDO said ■■■ was wearing her gun and handcuffs on her belt. Detective Torres asked GUAGLIARDO if she knows what DURAN was wearing, or if ■■■ mentioned what he was wearing, and GUAGLIARDO said no. Detective Torres asked GUAGLIARDO what kind of vehicle DURAN was in, and GUAGLIARDO thought DURAN has a truck, but she did not know make, model or color of the truck. GUAGLIARDO said ■■■ told her the truck has very tinted windows. GUAGLIARDO said ■■■ was looking for some videos that could have captured the incident, but it wouldn't have got anything because of how tinted the window are on DURAN'S truck.

Detective Torres asked GUAGLIARDO if there is something he was not asking that she thinks might be important, and she said she couldn't think of anything like this. Detective Torres asked GUAGLIARDO how long she has known ■■■ and she said it has been several years because they worked together at the Pueblo County Sheriff's Office together, as well as at the Pueblo County District Attorney's Office. Detective Torres asked GUAGLIARDO if she has ever seen ■■■ emotional like she saw ■■■ today, and GUAGLIARDO said no. Detective Torres asked GUAGLIARDO if ■■■ has ever made these types of allegations against anybody, and GUAGLIARDO said no. GUAGLIARDO told me that ■■■ would complain about some advances that DURAN had made on ■■■ in the past, but they were never like to this extent. GUAGLIARDO didn't know if ■■■ ever reported these advances from DURAN.

Detective Torres explained to GUAGLIARDO that we are taking this information very seriously, and he thanked her for coming to the police station to talk with him. GUAGLIARDO said ■■■ mentioned to her that ■■■ has great fear of reporting this incident because of who DURAN is. GUAGLIARDO told Detective Torres that ■■■ is worried about getting black balled for telling on another police officer.

## DETECTIVE TORRES INTERVIEW AMANDA TERWILLIGER

On 09-08-22, Detective Ryan Torres spoke with Amanda Terwilliger (DOB: 07-03-78) on the phone. The phone conversation with Amanda was audio recorded.

Detective Torres explained to her that we were investigating an incident that occurred on 09-07-22 and involved [REDACTED]. TERWILLIGER acknowledged that [REDACTED] had reached out to her by phone on 09-07-22 and gave her a brief statement of what happened.

Detective Torres asked TERWILLIGER if she would tell him about the conversation she had with [REDACTED]. Amanda told me that she received a text message on 09-07-22 from [REDACTED], and [REDACTED] asked her if [REDACTED] could call her (TERWILLIGER). TERWILLIGER sent a text message back to [REDACTED] saying it was a good time to call her. TERWILLIGER told Detective Torres that [REDACTED] then called her on the phone. TERWILLIGER said when she answered [REDACTED] phone call, she could tell [REDACTED] was upset, [REDACTED] voice was shaking, and [REDACTED] was crying. [REDACTED] told TERWILLIGER that [REDACTED] had been assaulted by a Lieutenant that works at the Pueblo County Sheriff's office. TERWILLIGER told me that [REDACTED] did tell her the name of the Lieutenant, but she (TERWILLIGER) could not recall his name at this time.

TERWILLIGER said that [REDACTED] told her that [REDACTED] went for a "work lunch" with the Lieutenant, and he assaulted [REDACTED] in the parking lot. Detective Torres asked TERWILLIGER if [REDACTED] told her what [REDACTED] meant by assault. TERWILLIGER said [REDACTED] told her that the Lieutenant forced his hand down [REDACTED] pants, and he was rough. TERWILLIGER said [REDACTED] told her that [REDACTED] tried to get him to stop because the act was unwelcomed.

[REDACTED] said [REDACTED] pulled away from the Lieutenant and told him [REDACTED] had to hurry and get back to work. [REDACTED] told TERWILLIGER that [REDACTED] had to leave work and then [REDACTED] called TERWILLIGER and was crying.

Detective Torres asked TERWILLIGER what time [REDACTED] called her, and she said it was 1456. TERWILLIGER told Detective Torres they talked on the phone for approximately seven minutes. TERWILLIGER told Detective Torres that she called [REDACTED] back at around 1556 hours, and [REDACTED] was driving to Canon City, CO to receive a SANE exam.

Detective Torres asked TERWILLIGER who [REDACTED] was to her, and she said they have been friends for numerous years. TERWILLIGER said she and [REDACTED] were also once roommates. TERWILLIGER said she and [REDACTED] are close, and they talk all of the time. Detective Torres asked TERWILLIGER if she has ever heard or seen [REDACTED] distraught before, and she said maybe one time. TERWILLIGER said it was not as bad as when she talked to [REDACTED] yesterday.

Detective Torres asked TERWILLIGER if she knew the Lieutenant personally, and she said no. TERWILLIGER said [REDACTED] has never talked to her about this person before, and TERWILLIGER said she knows [REDACTED] does not have a romantic relationship with anybody right now.

Detective Torres asked TERWILLIGER if [REDACTED] said the Lieutenant forcefully put his hands down [REDACTED] pants, and TERWILLIGER said yes. Detective Torres asked TERWILLIGER what [REDACTED] said the Lieutenant did next, and TERWILLIGER said that he forced his hand down

██████████ pants and was grabbing at ██████. The Lieutenant touched ██████ on ██████ genitals underneath ██████ under ware. Detective Torres asked TERWILLIGER if ██████ said if ██████ was penetrated in anyway by the Lieutenant, and TERWILLIGER said ██████ might have said that, but she didn't fully recall.

TERWILLIGER said she knows that ██████ told her that ██████ was in pain after the Lieutenant touched ██████. TERWILLIGER said she thinks ██████ did tell her that the Lieutenant did penetrate ██████ with his fingers. Detective Torres asked TERWILLIGER if ██████ told her where this incident occurred, and she said ██████ was not specific where this occurred. TERWILLIGER said ██████ told her ██████ went to a work lunch with this Lieutenant and the assault took place near or in his truck. Detective Torres asked TERWILLIGER if ██████ was specific with her about being inside of the Lieutenant's truck or near the truck, and TERWILLIGER said ██████ mentioned that his truck windows were really tinted.

Detective Torres asked TERWILLIGER if ██████ has told her that anything like this has ever happened before, and TERWILLIGER said no. Detective Torres asked TERWILLIGER if there was anything else she thought was important that maybe he didn't ask, and TERWILLIGER said ██████ called ██████ back around 1556 hours and ██████ was going to be checked out.

#### AFFIANT INFORMATION

AFFIANT checked the department of motor vehicle records for DURANS vehicles and found that DURAN has a 2021 Green GMC Sierra bearing Colorado license # CKSP90 / VIN # 1GTU9FET6MZ169714 that is registered to him at 2207 Longhorn Dr.

AFFIANT checked the GMC website and learned that the GMC Sierra does have a Denali edition.

AFFIANT viewed the recorded interview that Detective SMELSER conducted with ██████ to include the pre-text texting and phone calls that ██████ placed to DURAN during the interview.

██████████ statements and recollection of events appeared relatively similar to those that ██████ told AFFIANT when AFFIANT spoke with ██████. The interview AFFIANT had with ██████ was conducted on 09-07-22 several hours after Detective SMELSERS interview.

During ██████ interview with Detective SMELSER, The Pre-Text phone calls and messages were conducted and ██████ started the process by answering the last text message ██████ received from DURAN.

This last message from DURAN was received by ██████ on 09-07-22 at 2:23 PM when ██████ was dropped off back at work by DURAN. ██████ indicated that ██████ was picked up from work and dropped back off by DURAN in DURANS personal vehicle which ██████ described as a nice and fancy 2021 Denali.

The text message noted above from DURAN indicated that ██████ had left ██████ mountain dew

in his vehicle.

██████████ responded at 7:27 PM with I don't care about the mountain dew. I just don't understand why you kept sticking your hands down my underwear when you knew I had to be to work.

DURAN responded at 7:27 PM with Okay, I'm sorry.

██████████ responded at 7:29 PM Why didn't you stop? I was trying to pull your hands up, out of my ██████████

DURAN responded at 7:30 PM with I did stop

██████████ responded at 7:31 PM with After me trying several times, I'm just saying it wasn't okay with me.

DURAN responded at 7:32 PM with You were telling me you couldn't be late back to work. I think you made it back in time. Didn't you?

DURAN at 7:34 PM continued with I'm sorry. I misread the situation. I promise I will keep my hands to myself from now on.

██████████ responded at 7:35 with I did make it back in time but I don't understand why you were like that! You never did that before. I thought we were just going out to lunch as friends.

DURAN responded at 7:36 PM with Again, I'm sorry.

After the last message from DURAN, ██████████ told Detective SMELSER that it would be he said ██████████ said because nobody was around us and the windows were limousine black.

██████████ was discussing ██████████ next text and ██████████ received a telephone call from DURAN.

██████████ answered with "what's up" and DURAN stated, "so ok, I'm sorry, I apologize".

██████████ stated "yeah, cuz I didn't expect that", and DURAN stated, "well I'm sorry, is there anything I can do to make it up to you?"

██████████ stated "no, I just, I was just blown away because it came out of nowhere, like we were eating lunch and then we go to the truck and then you started grabbing at, opening my belt and shit, and I'm like what the fuck is going on, I was shocked".

DURAN stated "ok I'm sorry. I apologize, I thought, I misread the situation, I thought you were ok."

██████████ stated, "How did you think that?" and DURAN stated, "I just did, I guess because it seemed like you were ok with it." ██████████ stated "I don't understand that. Because I was pulling at your arm trying to get it up" and DURAN stated "I'm sorry again, I don't recall you pulling at my arm. like I said, I will do whatever I can to make it up to you and I promise I will

keep my hands to myself in the future.”

██████████ stated “yeah, because I mean, I just honestly thought we were going out as friends like” and DURAN stated “ok, I’m sorry, you know I’m sorry like I said I misread the situation.”

DURAN stated, “you ok?” and ██████████ stated “no, I’ve been upset, I’ve been crying all day, my eyes are fucking red right now, and that really got to me, it really pissed me off and I can’t believe you did that.”

DURAN stated “Ok, I’m sorry and again I’m sorry, I misread the situation all together. I honestly thought you were ok with it.”

██████████ stated, “No I wasn’t”, I just wasn’t ok with it, it wasn’t cool on your part to do that” and DURAN stated “Ok, I get that now, I’m sorry. I thought, to be quite honest with you I’ve always been attracted to you and I totally misread the situation.” ██████████ stated, “I don’t know, I mean we were just friends like lunch to just out in the car you didn’t even try to kiss me, like nothing, you just went straight for my pants I was like what the fuck is going on here.”

DURAN stated “again I’m sorry I thought you were ok. I really did and I know there are times that I can be very aggressive but I’m sorry, I don’t remember you telling me the to stop. I know you were telling me you needed to get back to work and” ██████████ said “yeah, I did say that but I kept on pulling at your hand, I was leaning forward, like I was trying to stop you” and DURAN stated, “I don’t remember you pulling at my hands and I’m sorry.”

██████████ stated, “both my hands were around your arm trying to pull it up and I went into freakout mode because I wanted to just get back to working away” and DURAN stated, “uh huh.”

DURAN stated, “well like I said I’m sorry.” “I will do what I can to make it up to you.” “I totally misread the situation.” “I thought you were ok with it, like I told you I’ve been attracted to you for a long time and I’ve never been able to show it, so, I don’t know.”

██████████ stated, “so like I closed my legs and you pushed my thigh open and you were saying come on help me out, I never said like oh yeah baby” and DURAN stated “I understand that. I get that.” ██████████ stated, “I kept on closing my legs for a reason” and DURAN stated I’m sorry. I don’t remember you telling me to stop or not do that. I misread the situation.”

██████████ stated “I wasn’t like inviting you. I didn’t open my legs and slip down in the chair” and DURAN stated “I understand that. I misread the situation and I’m sorry, please tell me how I can make this better” and ██████████ stated, “you can’t make this better.” “How can you make this better? it was fucked up.”

DURAN stated “I’m sorry from the bottom of my heart. I’m sorry, again like I said I misread the situation.” “I guess I crossed a line that I shouldn’t have and I’m sorry, I misread the situation.” and ██████████ stated “even when we were talking at lunch I kept going back to work and you were asking me out in a weird way. I told you you’re a pain in the ass I’m a pain in the ass, that’s just not a good idea” and DURAN stated “Again, I totally misread the whole situation even though we were sitting there I misinterpreted the conversation.”

██████████ stated, “I mean, I just don’t understand what did I do to make you think to do that?” because I don’t understand.”

DURAN stated "I don't understand your question" and ██████ stated "what were my cues?" "because I don't know what I did" and DURAN stated "you know I guess what it was is when I asked you to show me your ██████ and you reached into your waistband and pulled them up and I said let me get a better look and that's when I undid your belt and you seemed to be ok with that in my mind and then your there exposed, so I guess I just figured let me take it a little bit further. Again, I misread the situation. I'm sorry". ██████ stated yeah because I mean you asked me what color my underwear were and I said white". DURAN stated, "I was in no way trying to disrespect you or anything like that, you have to believe that." "I guess in my own weird way I'm telling you that I'm attracted to you and I know as odd as that sounds, that's what I was thinking."

██████ stated, "you didn't even try to kiss me though" and DURAN stated, "I realize that and that thought has crossed my mind and I thought about it then and I thought about it at the fair, I think about it when I see you, I do." ██████ stated, "think about what?" and DURAN stated, "kissing you and just stuff." "I do I think about that those thoughts have crossed my mind you know. I don't know what else to say other than you just know I was always in a position at the SO and I couldn't do anything about it and you go to the ██████ office and I don't ever see you and occasionally we run into each other and I guess I'm sorry I misread everything. I'm sorry. I don't know how else to tell you that."

██████ stated, "I kept on closing my legs and most people understand if you close your legs like I'm not opening my legs to get pleasure, I closed my legs to stop it." "So I guess I just don't understand how you misread that." DURAN stated, "I guess because I didn't realize that you had, you know I didn't realize that you had."

██████ stated, "but you pushed my legs open after that" and DURAN stated, "Yeah but what I said was, yeah you know I said you can help a little bit, but I thought that you were okay with that, that's why I said that. It's not like I was trying to force you to do anything you weren't comfortable in doing because I just thought you were ok, again I'm sorry. I apologize. I'm not one to put myself in a position that's going to come back and haunt me later, at least I hope I'm not. I honestly felt you were ok with that. I totally misread the situation and I'm sorry. I don't know how else to make it right. I understand now. I get it and I'm sorry I didn't get it this afternoon." ██████ stated, "Cuz I mean" and ██████ was interrupted by DURAN "I'm sitting here thinking about when's the next time is we can spend time together because you said to call you and I guess that's not what you were thinking about."

██████ stated, "I was just trying to get out of the car to tell you the truth and tell you what you wanted to hear so I could get out of the car." DURAN stated, "I'm sorry again. I misread the situation. I'm so sorry that I made you so uncomfortable, again please believe me it was not my intention." ██████ stated, "so I closed my legs and you were like can you help me out, how did you want me to help you out?" DURAN stated, "I understand that. I did say that. But again, like I said, I guess I misread the situation I thought you were ok with it, I really did. I know you kept telling me that you had to get to work, you told me like 3 times you had to get to work. I knew you had to get to work I wasn't about to have you get in trouble at work. But again, you never told me to stop or not to do that."

██████ stated, And I thought I did when you went for my ██████ I felt like I pushed you away and said stop." DURAN stated, "No you told me I can't be late for work and I said OK, you can't be late for work and like I said I wasn't about to make you late." ██████ stated, "Well I did make it work on time at least." DURAN stated, "but like I said, you never once told me to stop if you would have told me to stop, trust me that's the magic word right there. You just kept saying I can't be late for work and I was like ok I get that. I guess I was thinking next time I hope we

have more time, so again I misread the situation. Obviously, we were on two different pages we were not on the same page, I'm sorry."

██████████ stated, "I definitely was not on the same page" and DURAN stated, "Ok I get that and trust me, I get that now and I understand that our friendship, relationship is it's strictly professional. It was not my intention to do anything to make you uncomfortable, that is not the way I am that is not the way I operate, it's not." "I'm sure if I had that reputation you would have heard about it by now but that's just not me." "Again, I just saying I've been attracted to you for a long time and I thought you were ok."

██████████ stated, "all right well I'll talk to you later" and DURAN stated, "again, I'm sorry" and the conversation ended.

Detective SMELSER then left the interview room and Advocate Lori Jenkins entered to check on ██████████ who expressed concerns that ██████████ would be taken off the sex assault case load and assignments because of this incident. AFFIANT then ended watching their conversation as JENKINS was in and out of the room along with other L.E. who advised ██████████ that they would have to make jurisdiction notifications.

Affiant states that He is and was at all times relevant hereto employed as a Police Detective for the Pueblo, Colorado Police Department. Affiant further states that all incidents described herein occurred within the County of Pueblo and State of Colorado.

Affiant states that there is probable cause for an arrest warrant for **DIEGO GUILLERMO DURAN (DOB: 03-11-1967)** for the crime(s) of Sexual Assault, (C.R.S. 18-3-402) (as amended) (a class 4 Felony)



AFFIANT

Subscribed and sworn to before me this 9th day of September 2022.



Judge

|   |                |
|---|----------------|
| DISTRICT COURT, PUEBLO COUNTY, COLORADO   |                |
| Pueblo Combined Court<br>501 N. Elizabeth St.<br>Pueblo, Colorado 81003<br>Phone: <u>719-404-8700</u> | COURT USE ONLY |
| THE PEOPLE OF THE STATE OF COLORADO   | Case Number    |