

MEDIA RELEASE

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FOR IMMEDIATE RELEASE

SUBJECT: No Charges to be Filed in Officer Involved
Fatality Shooting on August 18, 2016, in Hays, KS

(Summary). On August 18, 2016, Hays Police Officer Sergeant Brandon Hauptman attempted to stop a vehicle driven by Joseph “Joey” Weber, age 36, for improper tag display, due to the license plate having an expired year decal. Weber failed to stop for Sgt. Hauptman and attempted to elude the officer. Weber did stop his vehicle in an alley, but refused to obey the lawful commands of Sgt. Hauptman who was attempting to arrest Weber for eluding a police officer. As additional law enforcement officers approached, Weber drove away. Weber was pursued by three law enforcement vehicles. Weber eluded officers for several minutes and stopped his vehicle in the 2300 Block of Timber Drive in Hays, KS. Weber got out of the vehicle, and again refused to follow the lawful commands of Sgt. Hauptman who ordered Weber, at gunpoint, to lie on the ground. Weber fled on foot from Sgt. Hauptman towards a residence. Sgt. Hauptman gave chase and attempted to force Weber to the ground. This resulted in Weber falling onto the sidewalk and Sgt. Hauptman falling on top of him. Weber continued to ignore Sgt. Hauptman’s commands, and tried to wrestle Sgt. Hauptman’s handgun away from him. Sgt. Hauptman, fearing for his life, pushed the barrel of his gun into the chest of Weber and fired one shot. Weber died from the gunshot wound. Sgt. Hauptman reasonably believed shooting Weber was necessary to prevent death or great bodily harm to himself. Therefore, no crime occurred because Sgt. Hauptman was acting in self-defense of his person.

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(Full Text). On August 18, 2016, at approximately 2:30 p.m., Hays Police Officer Sergeant Brandon Hauptman was eastbound on 27th Street west of the intersection of 27th and Vine in Hays, Ellis County, KS. Sgt. Hauptman observed a white Ford Taurus with an expired license plate year decal. The tag had expired as of November 2015. Sgt. Hauptman pulled in behind the vehicle and began radioing information to dispatch. Sgt. Hauptman observed the driver, later identified as Joseph “Joey” Weber, age 36, repeatedly looking in his rear view mirror at the officer, leaning over and moving objects on the seat next to the driver, and appeared to be

reaching for objects in the glove box. Weber continued to make the furtive movements in the vehicle and repeatedly made eye contact with Sgt. Hauptman in his rear view mirror. Sgt. Hauptman received information from dispatch that the registration on the vehicle was valid. Sgt. Hauptman decided to stop the vehicle for the expired year decal on the license plate (illegal tag display). Weber continued making furtive movements, reaching for objects on the seat and in the glove box and repeatedly looking in the mirror at the officer. After the two vehicles passed through the intersection, Sgt. Hauptman turned on his emergency lights to initiate the traffic stop. Weber's vehicle continued driving and made several turns. Sgt. Hauptman initiated his siren. The vehicle turned onto Plaza Avenue and traveled north. Instead of stopping, the vehicle turned into the Golden Belt Bank parking lot and drove the wrong direction through the drive-thru teller lane; continued driving through the parking lot and back onto 27th Street. Weber's vehicle then made a U-turn on 27th Street into an alley next to Golden Belt Bank and drove north down the alley before coming to a stop. Sgt. Hauptman decided to arrest Weber for interference with a law enforcement officer – failing to stop for and eluding a police officer. Sgt. Hauptman continued to observe Weber manipulating items on the front seat. Worried for his safety, Sgt. Hauptman decided to treat this as a “felony vehicle stop” and wait for a backup officer to arrive on scene before approaching Weber's vehicle. Sgt. Hauptman opened his driver's side door, drew his handgun, took cover behind the vehicle frame and gave Weber verbal commands. Sgt. Hauptman's body recorder recorded the commands as follows:

Get your hands out the window!
Hays Police Department!
Hands out the window! . . . Hays Police Department!
Stick your hands out the window!
Do it now! . . . Hands out the window!
This is the Hays Police Department! . . . Stick your hands out of the window!
Both of'em, drop the phone! . . . Put the phone down!
You are under arrest!
Put your hands out the window; do it now!

Several witnesses at a Hays business observed the officer yelling commands at Joey Weber and Weber failing to respond to the commands. At one point several witnesses observed Weber roll down his window part way, and place part of one hand out of the window, then retract it into the vehicle and roll the window back up. Sgt. Hauptman continued to observe Weber manipulate items on the front seat, and Weber speaking on his cellular telephone. Sgt. Hauptman observed Weber stick the fingers of one hand outside the vehicle. Weber then retracted his hand into the vehicle. Weber then started driving forward and left the alley.

Sgt. Hauptman re-holstered his weapon and began pursuing Joey Weber. The vehicle traveled southbound on Broadway and stopped at the stop sign. At this time a Sheriff's Deputy also arrived and two police vehicles were behind Weber with lights and siren. Weber then turned eastbound on 27th Street and proceeded to 27th and Indian Trail. A third police car with activated lights and siren was blocking eastbound traffic beyond the intersection. Weber stopped at the stop sign. Both pursuing police vehicles caught up to Weber. Weber then turned southbound onto Indian Trail. Weber proceeded eastbound on 26th Street then southbound on Timber Drive stopping at the stop sign at 25th and Timber. All three police vehicles caught up to Weber.

Weber then proceeded southbound on Timber and pulled onto the sidewalk in the 2300 Block of Timber with Weber's passenger side tires on the sidewalk and the driver's side tires in the roadway. Sgt. Hauptman stopped behind Weber's vehicle in the roadway, exited his police vehicle, drew his weapon and ordered Weber to "get on the ground". Weber got out of his vehicle, looked at Sgt. Hauptman, then started running to the southwest toward a residence. Sgt. Hauptman gave chase and kicked at Weber's feet in an attempt to force Weber to the ground so Sgt. Hauptman could affect the arrest. Weber lost his footing and fell onto the sidewalk with Sgt. Hauptman falling on top of Weber. A struggle ensued. Weber was able to roll onto his back and was face-to-face with Sgt. Hauptman. Sgt. Hauptman ordered Weber to get on his face. Weber struggled with Sgt. Hauptman. Weber then grabbed Sgt. Hauptman's handgun and began pulling on it. Sgt. Hauptman, believing Weber was attempting to take his handgun from him to kill him with it, feared for his life. Sgt. Hauptman was able to push the barrel of the gun into the chest of Weber and fire one shot. The shot occurred at approximately 2:41 p.m. Sgt. Hauptman and a fellow officer immediately checked Weber for weapons and began performing CPR on Weber.

Sgt. Hauptman directed other arriving officers to watch the house Joey Weber was attempting to run to, and to secure Weber's vehicle. Weber never communicated with Sgt. Hauptman that day. Sgt. Hauptman had never been in contact with Weber before this incident, and did not know anything about the residence Weber was attempting to run to. Weber's cell phone was recovered next to Weber. Weber did not have a weapon.

The Ellis County Sheriff's Office took control of the scene. The area was canvassed to speak to persons who may have observed what occurred. The officer's handgun was recovered and the Kansas Bureau of Investigation was called to assist in the investigation. Dr. Lyle Noordhoek, Coroner of the 23rd Judicial District, was contacted as soon as emergency medical services personnel determined that Joey Weber had died. Dr. Noordhoek, Coroner, then began directing the death investigation.

KBI and law enforcement interviews determined that four persons, in addition to Sgt. Hauptman, saw part of the chase, struggle and gunshot at the scene, two law enforcement officers and two lay witnesses. There was both consistency and inconsistency in the four statements as to what occurred at the shooting scene. Video was recovered from a sheriff's deputy's vehicle dashboard camera. The video showed Sgt. Hauptman ordering Joey Weber to the ground, Weber fleeing Sgt. Hauptman, Sgt. Hauptman chasing Weber and both falling onto the sidewalk. Both fell in front of Weber's vehicle and were no longer visible to the camera. The struggle and the gunshot were audio recorded, but not visibly captured by the dashboard camera.

Joey Weber was 5' 7" tall, with a muscular frame, and weighed approximately 170 pounds. Weber enjoyed working out at two Hays gyms multiple times a week. Dr. Noordhoek's autopsy determined Weber had fresh abrasions on his head, arms, legs and right knee consistent with having had fallen on, then struggled on the concrete sidewalk. One gunshot entry wound was present in Weber's chest. The bullet was recovered between Weber's shirt and the concrete sidewalk. A contact wound was present on Weber's chest showing the muzzle and gun sight imprint on Weber's chest. The gunshot wound perforated the heart and the left lung. The

autopsy was consistent with Weber having engaged in a physical struggle with Sgt. Hauptman at the scene and Sgt. Hauptman firing one contact gunshot into Weber's chest.

The post-shooting investigation determined that Sgt. Hauptman began with the Hays Police Department in August 2007 and graduated from the Kansas Law Enforcement Training Center in December 2007. He is currently a member of the Special Situation Response Team and has been for the past eight years. Sgt. Hauptman serves as a police instructor and supervisor for the Hays Police Department. Sgt. Hauptman has maintained his certification and training each of his nine years on the Hays police force. Sgt. Hauptman has not been the subject of any disciplinary actions during his law enforcement career.

The post-shooting investigation also determined that Joey Weber had been diagnosed with, and was undergoing treatment for mental health issues including Autism, Anxiety Disorder, Intermediate Explosive Disorder and Mild Intellectual Disability. Sgt. Hauptman had no knowledge of these illnesses and had no way of knowing about them as the illnesses did not manifest outward signs.

In evaluating the facts and evidence in this matter it became clear that Sgt. Hauptman was dealing with an individual who refused to stop for lights and sirens of police vehicles; refused to follow the lawful commands of Sgt. Hauptman who was attempting to arrest him; continued driving with multiple law enforcement vehicles pursuing him; Weber was refusing to be arrested, even at gunpoint; and Weber fled from Sgt. Hauptman towards a residence.

The legal issue involves answering this question: was Sgt. Hauptman met with what he reasonably believed to be deadly force, thereby justifying the officer's use of deadly force? Kansas Statutes Annotated (K.S.A) 21-5404(a)(2) defines voluntary manslaughter as the voluntary and knowing killing of a human being committed upon an unreasonable but honest belief that circumstances existed that justified use of deadly force.

K.S.A. 21-5227(a) states as follows:

“A law enforcement officer...need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably believes to be necessary to effect the arrest and the use of any force which such officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person...”

Having assessed what Sgt. Hauptman knew, what he observed, and the actions of Joey Weber (first evading the officer, then eluding the officer, then running from the officer towards a residence), it was appropriate for Sgt. Hauptman to use physical force to arrest Weber. Once both men were lying on the sidewalk, struggling face-to-face and Weber tried to take Sgt. Hauptman's gun from him, Sgt. Hauptman was confronted with deadly force, and Sgt. Hauptman

was justified in the use of deadly force to shoot Weber. Therefore, no criminal charges will be filed stemming from this officer involved shooting.

Joey Weber's parents, John and Nancy Weber, have requested the media respect their privacy as they grieve the loss of their son. They ask that media refer any questions for them to their attorney Ken Wasserman, Salina, Kansas, (785) 827-3646.

Coroner Noordhoek, County Attorney Drees and Ellis County Law Enforcement express their condolences to John and Nancy Weber on the loss of their son Joey. We also thank the public and the media for their patience during this necessary investigation and the time it took to properly conduct the investigation. The public is also thanked for their respectful and peaceful gatherings to celebrate Joey Weber's life.