DATE: July 31, 2018

TO: Colorado Springs City Council

FROM: Civil Action Investigation Committee

SUBJECT: *Sean Welch v. Michael Happ and City of Colorado Springs*, Case No. 18CV31547, District Court, El Paso County, Colorado

This memorandum is to apprise you of the facts alleged in the above-referenced case as you consider the claims made against the involved police officer.

NATURE OF THE CASE

Plaintiff's complaint arises out of a traffic accident. At approximately 8:35 am on December 31, 2015, Officer Happ was driving his Crown Victoria police cruiser eastbound on Bijou Street toward the I-25 bridge. He was on duty, en route to the site of another traffic accident fatality to assist with the investigation. Plaintiff was making a left turn in a Ford F-150 from the southbound I-25 off-ramp into the eastbound lanes of Bijou Street. Officer Happ drove through the intersection but was unable to avoid colliding with Plaintiff's vehicle. The driver side corner of the front bumper of his police cruiser rubbed against the passenger side door and running board of Plaintiff's truck. There were no injuries and very minor damage to the vehicles.

Plaintiff filed suit alleging negligence and negligence per se claims against Officer Happ and vicarious liability against the City. He claims damages for:

- Bodily injury, including:
    - Head and neck pain;
    - Right shoulder, arm, wrist, and hand pain;
    - Right fingertip numbness;
    - Back pain;
    - Left hip and leg pain;
    - Headaches;

- o Feeling dazed; and

- o Difficulty sleeping.

- Medical costs;

- Economic loss;

- Non-economic loss;

- Permanent impairment; and

- Costs of suit.

<u>RECOMMENDATION</u>

The Civil Action Investigation Committee recommends that the City represent Officer Happ as required by the Colorado Governmental Immunity Act and the Peace Officer's Liability Act. Officer Happ was acting in the course and scope of his employment and not in a willful and wanton manner. As usual, it is recommended that the City reserve the right to not pay any award of punitive damages.