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**MEMORANDUM**

**DATE:** October 4, 2018

**TO:** John Choi, Ramsey County Attorney 

**FROM:** John Kelly, First Assistant Ramsey County Attorney and  
Richard Dusterhoft, Adult Criminal Division Director 

**SUBJECT:** In the Matter of the Death of Darren Robert Jahnke -Addendum to Memorandum  
Dated March 12, 2018

**CA FILE NO:** 0398243

**I. Audio Evidence Taken from Darren Jahnke's Cell Phone**

**A. Discovery of the Audio Recording**

On September 13, 2018, two Assistant Ramsey County Attorneys assigned to the RCAO's Civil Division were assisting RCSO personnel in response to a request by J.V., the sister of Mr. Jahnke, for access to her brother's personal belongings that were turned over from the BCA to the RCSO. None of the RCSO personnel involved in this process were involved in the April 16, 2017 incident, and the two Assistant Ramsey County Attorneys were not involved in the RCAO's prosecution review of the evidence presented to the RCAO.

During their inventory of Mr. Jahnke's belongings, a computer disk was discovered that contained an audio recording of what appeared to be the April 16, 2017 incident, including the shooting of Mr. Jahnke and the preceding interactions between Mr. Jahnke and RCSO Deputies Rongitsch, Daly, Naglosky and Haider. The RCSO personnel and the attorneys who discovered the disk assumed that the audio was part of the evidence presented by the BCA to the RCAO on January 24, 2018.

On September 19, 2018, one of the Assistant County Attorneys assisting J.V.'s request for her brother's belongings, called the primary BCA investigator assigned to this case, to confirm whether the audio was included in a set of materials previously provided by the BCA to J.V. It was during that call, that the investigator said that he was unaware of the existence of the audio. On that same day, the BCA quickly took custody of the audio from the RCSO evidence room and delivered it to these two prosecutors on the following day.

The audio recording was not included in the investigative file gathered and presented by the BCA to the RCAO on January 24, 2018, and thus was never heard or reviewed by us until September 20, 2018. According to the BCA, the agent originally assigned to review the cell phone information reviewed multiple sets of data stored on the phone but did not listen to the audio recording and the BCA's report to our office did not reference or include the audio recording.

In light of this newly presented evidence, the RCAO re-opened our review of the case on September 20, 2018. The BCA also undertook a comprehensive audit of all the evidence gathered in this case to ensure that all of it was presented to our office.

## **B. RCAO Review of the Audio Recording**

On March 12, 2018, this office issued a Memorandum determining that based on the evidence presented to us by the BCA at that time, that the use of deadly force against Mr. Jahnke by Deputy Rongitsch was justified under Minnesota Statute, Section 609.066, Subd. 2(1). Since there was no video or audio evidence presented to us at that time that captured any of the incident, our determination necessarily relied on other evidence presented to us, including the investigative statements provided by those known persons who witnessed all or some of the incident. The following persons identified by the BCA who fall into that latter category are Mr. Jahnke's girlfriend, A.M.; and Deputies Rongitsch, Daly, Naglosky and Haider.

Based on our review of the recently presented audio recording, we find that the evidence contained therein is consistent with the investigative statements provided by the above-referenced witnesses and in fact, corroborates many of their statements in the following ways:

### **1. Mr. Jahnke's Repeated Refusals to Identify Himself**

When interviewed, Deputies Rongitsch and Daly both described their repeated efforts to identify Mr. Jahnke and his refusals to be identified.

The audio recording confirms that first Deputy Rongitsch, then Deputy Daly, repeatedly asked Mr. Jahnke to identify himself. Between their initial contact with Jahnke until 17:35 minutes later, when Deputy Daly was recorded breaking the window to unlock the door and enter the RV, there are numerous attempts by first Deputy Rongitsch and then by Deputy Daly to get Jahnke to give his name. Each time he was asked, Mr. Jahnke provided the deputies with only the following false first names, "Dave", "David", or simply the nickname, "Doc". The recording shows that Mr. Jahnke repeatedly told deputies he was not legally required to identify himself and repeatedly refused to provide a last name.

Additionally, according to BCA investigative reports, A.M. initially identified herself to Deputy Naglosky and that she was Mr. Jahnke's girlfriend, but that she only knew his name to be "Doc." During her own later interview with BCA investigators, A.M.

admitted that she did know his name was Darren Jahnke. In the BCA investigative reports, Deputy Naglosky tells the investigators that she informed Deputy Rongitsch that A.M. said she was Mr. Jahnke's girlfriend but that she only knew his name as "Doc."

The audio recording corroborates these statements given by the deputies and their expressed suspicion over the reluctance of A.M. to identify her self-described boyfriend and Mr. Jahnke to identify himself with his legal name. For example, the audio recording captures Mr. Jahnke first refusing to identify himself to Deputy Rongitsch as simply "Dave." Mr. Jahnke then is heard telling Deputy Rongitsch that A.M., is "Annie." When asked by Deputy Rongitsch who A.M. is to him, Mr. Jahnke says "She is my girlfriend." Deputy Rongitsch who is aware that A.M. has already said that she does not know Mr. Jahnke's first or last name, can be heard responding to Mr. Jahnke, that "she said she doesn't even know you." Mr. Jahnke simply replies "Well, I get a little from her, so..."

Deputy Rongitsch can then be heard telling Mr. Jahnke that, "We are actually investigating some stuff here. Some shady stuff. Everything is closed. This is not your trailer. That's not your car. I'm trying to investigate. We have reasonable suspicion that something is going on here because your stories do not match."

Later in the audio recording and in response to Mr. Jahnke's repeated refusals to identify himself and to step out of the RV, Deputy Rongitsch can be heard telling Mr. Jahnke on two separate occasions, that "I don't know what's in here, it's not your RV. If everything checks out, we'll be out of here." And again later, "[i]f it all checks out, we can be out of here in five minutes." In response to a later inquiry posed by Mr. Jahnke surrounding the actual ownership of the RV and Grand Am, Deputy Daly later can be heard telling him that "There are other issues at hand that you don't know about." Mr. Jahnke acknowledges Deputy Daly's response by saying, "Alright, well when you can let me know what you are investigating me for, I'd like (sic), that be great."

The foregoing statements as well other statements captured on the recording, are consistent with the statements given by the deputies to the BCA investigators as referenced in our March 12, 2018 Memorandum concerning their numerous attempts to identify Mr. Jahnke and their reasons for doing so.

## 2. Mr. Jahnke's Use of the Home Depot Bucket and Its Contents as a Weapon

In his statement to BCA investigators, Deputy Rongitsch said that Mr. Jahnke "made it clear" that the five-gallon Home Depot bucket Jahnke was clutching inside the RV contained fecal matter. The audio recording confirms that Mr. Jahnke told deputies, more than once, that he had "pooped" in the bucket. Later, when the deputies entered the RV, they can be repeatedly heard directing Mr. Jahnke to "put the bucket down", and to "drop the bucket."

These recorded statements are consistent with their statements given to investigators that they clearly knew what was in the bucket and that they had warned Mr. Jahnke multiple times to not use the bucket and its contents as a weapon against them.

3. The Attempted Use of Tasers by the Deputies to Subdue Mr. Jahnke

Deputy Rongitsch told investigators that after Mr. Jahnke retreated to the rear of the RV with the Home Depot bucket, the deputies made entry and one of the deputies attempted to Taser Mr. Jahnke, but that it was unsuccessful in incapacitating him. Deputy Daly told investigators that she deployed her Taser twice on Mr. Jahnke after he wrestled her to the floor of the RV and was on top of her. Deputy Haider also told investigators that after he saw Mr. Jahnke on top of Deputy Daly, that he deployed his Taser once on Mr. Jahnke to no effect.

Multiple sounds of Tasers being deployed can be heard on the audio tape. Deputy Daly can be heard saying "It's broke" after the deployment of a Taser, followed by the sounds of Mr. Jahnke continuing to yell and resist. The audio appears to corroborate the deputies' statements that their use of three Tasers on Mr. Jahnke were not effective in compelling him to stop resisting their attempts to arrest him and to show his hands.

4. Mr. Jahnke's Attack on Deputy Daly

The audio recording captures the entirety of the entry into the RV by the deputies and their attempt to arrest and then subdue Mr. Jahnke. From the deputies' entry into the RV to the single gunshot fired by Deputy Rongitsch, the sounds of a physical altercation can be heard, including Mr. Jahnke's voice resisting their commands. The recording is consistent with the investigative statements given by the deputies.

The deputies told investigators that Mr. Jahnke was lunging past Deputy Rongitsch and ending up on top of Deputy Daly. The above-described efforts by the deputies to deploy their Tasers on Mr. Jahnke are heard. The deputies then described a physical altercation between Mr. Jahnke and Deputy Daly with Mr. Jahnke ending up on top of Deputy Daly. The deputies said they then heard Deputy Daly screaming "He's got my gun" followed by Deputy Daly telling Deputy Rongitsch to shoot Jahnke.

Deputy Daly similarly told investigators that Mr. Jahnke tackled her to the floor of the RV, wrapping his arms around her lower torso, and then feeling him pulling on her holstered gun. Deputy Daly also told investigators that she was able to see Mr. Jahnke pulling her gun, still in the holster, away from her. She said she informed Deputy Rongitsch of this and told him to shoot Mr. Jahnke.

According to the audio recording, Officer Daly first screams "He's got my gun!" at 18:44 minutes into the recording, and then sounds consistent with a physical confrontation is heard. Deputy Daly can be heard yelling multiple times to "Get up! Get off!" and then "Show us your hands!" Deputy Rongitsch can be heard yelling to "show us your hands! and "stop resisting!!"

Deputy Daly can then be heard yelling "Give us your hands!", immediately followed by her screaming "He's got my gun!!!" at least five times. Deputy Rongitsch can be heard responding to her command by asking, "Does he have it!?" Deputy Daly screams "Yes!" followed by Deputy Rongitsch screaming at Mr. Jahnke to "Drop the gun!!" multiple times. Mr. Jahnke's voice can be heard yelling "No!", throughout the interchange between Deputies Daly and Rongitsch.

Deputy Daly is then heard again yelling that Mr. Jahnke has her gun followed by her screaming "Shoot him!!" at least three times. Deputy Rongitsch is heard yelling "Where is it!" as Deputy Daly is yelling "Shoot him now! At the 19:20 mark of the recording, Deputy Rongitsch begins to yell "Put the gun down!! At the 19:22 mark, Mr. Jahnke can be heard beginning to appear to say, "Don't shoot me." At the 19:23 mark, Deputy Rongitsch can be heard again beginning to say, "Put the gun down!" The shot fired by Deputy Rongitsch is heard at the 19:24 mark of the recording.

#### 5. Relevant Actions Taken and Statements Made by the Deputies After the Shooting

The deputies told the investigators that immediately following the shooting of Mr. Jahnke they called for medical assistance and began administering oxygen and CPR to him on their own. According to the audio recording and consistent with their statements, immediately following Deputy Rongitsch shooting Mr. Jahnke, a female deputy can be heard calling in, "Shots fired, we need EMS! Deputy Haider can then be heard yelling, "Get that gun!" Deputy Rongitsch yells for someone to, "Get a medic bag!" Deputy Daly also calls out for a medic bag. A few moments later, Deputy Haider can be heard saying "Just let me know if you want me to take over for you," indicating that CPR was being performed on Mr. Jahnke.

Deputy Daly also told investigators that after Mr. Jahnke tackled her and was on top of her, he grabbed her holstered gun and ripped it from her duty belt. Consistent with her statement, at the 23:26 mark on the recording, Deputy Daly can be heard saying, "He ripped it right off! It's in the holster still. Who's got it? Who's got my gun?" At the 24:22 mark of the recording, Deputy Daly can again be heard saying, "He ripped my fucking gun. He ripped my holster right off."

### **C. Recommendation**

Our March 12, 2018 Memorandum noted that the observations and statements made by the deputies was not contradicted by any known witness or evidence. The audio recording does not contradict any witness or evidence, and in fact is consistent with and corroborates the statements of the witnesses and provides further clarity about what occurred during this incident. For this reason, based on all of the evidence presented by the BCA to this office, including the above-referenced audio recording, it remains our opinion and recommendation that the use of deadly force by Deputy Rongitsch was necessary and reasonable under the circumstances, and that no criminal charges should be brought against him, or any of the other deputies involved in this incident.