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MEMORANDUM

DATE: March 12, 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
RCAO 0398243

I. Summary

On April 13, 2017, the Ramsey County Sheriff's Office ("RCSO") received a report of a sexual assault that had occurred three days earlier in a recreational vehicle in Little Canada. On the evening of Easter Sunday, April 16, 2017, Deputy Sara Naglosky and her field training officer, Deputy Andre Rongitsch from the RCSO Canine Unit together with his canine partner, were on patrol and aware of the reported sexual assault, when they noticed a recreational vehicle parked in front of a business at 3250 Fanum Road in a non-residential, industrial area of nearby Vadnais Heights, Minnesota. The deputies did not observe anyone present in the recreational vehicle and they left the scene with plans to return later.

When Deputies Rongitsch and Naglosky returned at approximately 9:23 PM, they noticed a car parked behind the recreational vehicle. They also observed a woman who would subsequently be identified as A.M., sitting in the front passenger seat of the car and a man in the recreational vehicle, who would be subsequently identified as 47 year-old, Darren Robert Jahnke. The deputies were soon joined by fellow RCSO Deputies Lisa Daly and Douglas Haider, from the Canine Unit and their respective canine partners.

Mr. Jahnke was initially sitting in the driver's seat of the recreational vehicle and he refused to identify himself to Deputies Rongitsch and Daly. A.M. refused to provide Deputy Naglosky with the full identity of Mr. Jahnke. Deputy Rongitsch told Mr. Jahnke that he needed to know his full name because they were investigating a reported sexual assault that recently occurred in a similar-looking vehicle. Also, neither Mr. Jahnke nor A.M. resembled the listed identities of the registered owners of the recreational vehicle and car.

For approximately 22 minutes, the deputies unsuccessfully attempted numerous times to verbally persuade Mr. Jahnke to disclose to them his true identity. They also warned him that his refusal to fully identify himself would result in his arrest for obstructing legal process. After he continued to refuse telling them his name, the deputies told Mr. Jahnke that he was

under arrest. When Deputies Rongitsch and Daly began to enter the recreational vehicle, Mr. Jahnke grabbed a five gallon bucket containing fecal matter and ran towards the rear of the interior of the dimly lit and confined vehicle. Deputies Rongitsch and Daly were the first to enter the motor home followed by Deputies Naglosky and Haider. Mr. Jahnke made threatening motions to throw the fecal matter at the deputies.

The deputies ordered Mr. Jahnke to drop the bucket and he refused. Deputy Daly then drove her Taser into Mr. Jahnke's leg, causing him to finally drop the bucket. When he refused to turn around, she then fired her Taser at him but it failed to incapacitate him. Instead, Mr. Jahnke tackled Deputy Daly to the floor of the motor home landing on top of her. As Mr. Jahnke fought with Deputy Daly, he grabbed her loaded, holstered gun and ripped it from her duty belt. Later testing by BCA Forensic Scientists determined that Mr. Jahnke's DNA was found on Deputy Daly's gun. Deputy Daly also suffered injuries consistent with her wrestling with Mr. Jahnke.

Mr. Jahnke refused to comply with multiple commands by the deputies to let go of Deputy Daly and her gun and to show his hands. A Taser round fired by Deputy Haider struck Mr. Jahnke in the right shoulder but also failed to stop him. Deputy Daly repeatedly screamed "He's got my gun! He's got my gun!" None of the deputies could see Mr. Jahnke's hands. Deputy Daly then screamed multiple times for Deputy Rongitsch to "Please shoot him!" Deputy Rongitsch fired a single shot at Mr. Jahnke, striking him in the back of the head. The deputies and paramedics administered first aid to Mr. Jahnke, before he was taken to Regions Hospital where he was pronounced dead.

This Memorandum contains a summary description of the relevant evidence gathered by the Minnesota Bureau of Criminal Apprehension ("BCA") during its investigation of the shooting of Mr. Jahnke. The investigative file was presented by the BCA to our office on January 24, 2018. As set forth below, the evidence gathered by the BCA includes statements given by the deputies and other witnesses, physical and forensic evidence, including DNA and ballistics evidence, and audio recordings taken from RCSO radio dispatch transmissions. None of the four deputies present during the incident were equipped with body worn cameras or squad recording devices.

Based on our review of all of the presented evidence and for the reasons explained in this Memorandum, it is our opinion that the use of deadly force by Officer Rongitsch in this incident was justified by Minn. Stat. §609.066, subd. 2(1). Accordingly, we recommend that no criminal charges be brought against him related to this incident.

II. Events Leading to April 16, 2017 Shooting of Mr. Jahnke

With the exception of 911 dispatch audio, there is no known audio or video evidence capturing the April 16 shooting of Mr. Jahnke or the confrontation between the deputies and Mr. Jahnke that immediately preceded the shooting that was presented to this office. Accordingly, our review necessarily relies significantly on the interviews conducted by BCA investigators of the following material witnesses with relevant information regarding the shooting of Mr. Jahnke.

A. BCA Interview of A.M.

At 2:30 a.m. on April 17, 2017, A.M. was interviewed by BCA investigators.

A.M. told the investigators that she had been involved in a close, romantic relationship with Mr. Jahnke for approximately four years. For the previous two years, A.M. and Mr. Jahnke were homeless and lived together in automobiles. During the past month they lived in a 2003, four-door Pontiac Grand Am recently purchased by Mr. Jahnke. A.M. said that both she and Mr. Jahnke had used methamphetamine "off and on" for a long period of time. She also told investigators that they most recently used meth together on April 15, 2017.

A.M. said that an acquaintance of Mr. Jahnke's named J.D. owned a late model Crossman Motorhome recreational vehicle (referred to in this Memorandum as the "RV") that he agreed to sell to Mr. Jahnke. J.D. had previously loaned the RV to G.T. and his girlfriend D.N. who lived in it during the prior 5 1/2 months while it was parked on a private street near Fanum Street in Vadnais Heights. Approximately one week prior to April 16, G.T. said he was asked to move the Crossman RV from the private street. The RV broke down due to engine problems and G.T. and D.N. pushed it to the curb in front of a business located at 3250 Fanum Road, where it remained until April 16.

On the evening of April 15, A.M. accompanied Mr. Jahnke and J.D. to 3250 Fanum Road where they attempted to repair the RV. They worked into the evening but were unsuccessful in fixing the engine. J.D. then left for home with plans to return later in the day on April 16 to help Mr. Jahnke again attempt to fix the engine. A.M. and Mr. Jahnke spent the night of April 15 in the RV. According to A.M., they had to use flashlights in the RV because it had no electrical power.

Early in the evening of April 16, Mr. Jahnke and A.M. returned to the RV. They parked their Pontiac Grand Am approximately three feet behind the RV. Approximately one hour after their return, A.M. was sitting in the front passenger seat of the Grand Am when she observed two marked Ramsey County Sheriff's vehicles pull up near the RV with a uniformed deputy approaching her vehicle. She said Mr. Jahnke was inside the RV at that time.

When a deputy asked her for the identity of the person in the RV, A.M. said she initially responded by simply saying "my friend." When asked by the deputy to be more specific as to her friend's identity, she said she only identified him as "Doc," despite her knowing his full legal name.

As the other uniformed deputies then approached the RV, A.M. remained seated in the front passenger seat of the Grand Am with both front side windows "cracked open." She heard the deputies order Mr. Jahnke to exit the RV with "his hands up or whatever, for a couple of minutes." She said she did not hear any verbal response from Mr. Jahnke and he did not exit the RV. From her seat in the Grand Am, A.M. could not see what was happening inside the RV.

A.M. again said “for a couple of minutes” she heard the deputies order Mr. Jahnke to exit the RV with his hands up. She then said she saw the RV’s doors open followed by hearing what she thought were two gunshots. Her initial worry was that Mr. Jahnke had shot one of the deputies. She was not aware that Mr. Jahnke had been shot until after an ambulance arrived and she observed persons performing CPR on him.

A.M. told BCA investigators after the shooting that she knew that there was an outstanding warrant for Mr. Jahnke’s arrest at the time the deputy spoke to her. She believed the warrant was for a probation violation related to Mr. Jahnke fleeing from police in Washington County in October 2016.

A.M. also told BCA investigators that she knew that Mr. Jahnke possessed a firearm. She said that although she never saw it, Mr. Jahnke had been talking about having acquired a handgun “for a couple of weeks.” She was not sure how he acquired it but said “I highly doubt it was legal.”

When asked by BCA investigators if Mr. Jahnke was carrying the handgun A.M. replied “he must have been, because we just gotten (sic) to the trailer and he was talking about it. But I told him I didn’t want to see it.” A.M. also said that Mr. Jahnke “probably” kept the gun “on him or near him...I don’t know for sure.” She did say that he also kept it in “a blue zipper bag.”

A.M. was also asked what Mr. Jahnke would do if he came into contact with law enforcement officers. She said “[h]e talked about the gun and said he wasn’t going back to jail.” She then requested of him that “if you ever come into a shootout and I’m there, just take me with you.” He told her that “we were going to go together.” When asked if Mr. Jahnke ever said how an encounter with law enforcement was going to end, A.M. simply replied “[h]e said he wasn’t going back to jail.”

1. Handwritten Statement Made by A.M. on May 16, 2017

On August 26, 2017, A.M. provided to BCA investigators a four-page handwritten document purported to have been written by her on May 16, 2017. The document was not requested by the investigators and does not state a reason as to why it was prepared or provided by her. The document contains numerous statements from A.M. related to the April 16 shooting of Mr. Jahnke.

The following is additional information contained in A.M.’s document about the April 16 shooting that were not provided by A.M. in her April 17 interview with BCA investigators:

- While waiting in the Grand Am, A.M. wrote that she “saw 6-8 police walking up with their guns drawn...They said who is in the trailer? I said I am not telling you anything. We are not doing anything wrong and we are leaving. The (sic) wanted me to wind down the window. I put my hands on the dash and said what are we doing wrong and we are leaving.”

- A.M. next wrote that “4 of them walked to the side door on the trailer. The (sic) opened the door. 2 of them entered. At this point, I heard a Taser and 2 gunshots. I looked to my left and saw three images of Darren. At that time I knew he was gone.”
- A.M. also wrote that “I believe there was not enough time for Darren to disarm the officer. They say he was sitting in the driver’s seat. As soon as they entered they tased him and then 2 guns went off there was not enough time to disarm the cop. The tazer (sic) then 2 gunshots went off within 3-5 seconds of the officer entering.”

B. BCA Interview of RCSO Deputy Andre Rongitsch

At 3:44 p.m. on April 19, 2017, Deputy Rongitsch was interviewed by BCA investigators.

Deputy Rongitsch is a Use of Force Instructor, a canine handler, and a Field Training Officer. On April 16 he was training Deputy Sara Naglosky. Deputy Rongitsch told investigators that they started their shift at 4:00 p.m. and were scheduled to work until 2:00 a.m. The deputies were aware of a reported criminal sexual conduct case involving a recreational vehicle that happened in nearby Little Canada. Deputy Rongitsch recalled having seen a motor home in the area of Fanum Road so they decided to take a look in that area. They spotted the RV but it appeared unoccupied.

Deputy Rongitsch said they went to a nearby Kwik Trip about 9:00 p.m. to get something to eat. After eating, they decided to take another look at the RV. When they got back to Fanum Road, they saw a person in the passenger side of the RV who disappeared from their view, presumably inside the RV. They also saw a silver or gray Pontiac Grand Am parked behind the RV, with a female, subsequently identified as A.M., sitting in the passenger seat.

Because all the businesses in the area were closed, the deputies approached to speak with A.M. who, according to Deputy Rongitsch, appeared hesitant to give her name. When asked for the identity of the person in the RV, A.M. said his name was “Doc.” A.M. wouldn’t provide “Doc’s” last name and said she’d known “Doc” for only about a month. Deputy Rongitsch had already run the plates on both the RV and the Pontiac. He learned that both the RV and the Grand Am were registered to persons whose listed identities did not match Mr. Jahnke or A.M. Deputy Rongitsch said he told Deputy Naglosky to watch A.M. while he approached the RV.

Deputy Rongitsch looked through the passenger-side windows of the RV and didn’t see anyone. He walked around and looked through the windshield with his flashlight and didn’t see anyone but could hear movement inside the vehicle. Deputy Rongitsch went to the passenger side and knocked on the window, identifying himself as a sheriff’s deputy. A male inside the RV, identified after the shooting as Mr. Jahnke, appeared in the window, holding an orange-colored bucket. Deputy Rongitsch said he directed Mr. Jahnke to sit in the driver’s seat, which he did. Deputy Rongitsch said Mr. Jahnke refused to provide his

name and said the deputy had no reason to be there. Deputy Rongitsch told Mr. Jahnke that the deputies were investigating a sexual assault. After some back-and-forth, Deputy Rongitsch said Mr. Jahnke told him that his first name was "David." Deputy Rongitsch said Mr. Jahnke again refused to provide his last name.

During the exchange with Mr. Jahnke, Deputy Rongitsch asked Deputy Naglosky to call for another squad. Deputy Daly arrived and was briefed by Deputy Rongitsch on the situation. Deputy Rongitsch then asked her to watch Mr. Jahnke while he went to his squad to run A.M.'s name. Deputy Rongitsch was able to identify A.M., but was not able to find a "David" or "Doc" associated with her. Deputy Rongitsch wanted to identify Mr. Jahnke so that they could determine if there were any warrants for his arrest but, without his name, he was unable to do that.

Upon returning to the RV, with Deputy Daly on the driver's side and Deputy Rongitsch on the passenger side, Deputy Rongitsch told Deputy Daly that he wasn't able to identify Mr. Jahnke. Mr. Jahnke continued to tell the deputies he did not have to identify himself. Deputy Rongitsch again told Mr. Jahnke that they were investigating a sexual assault and warned him that he could be arrested. Mr. Jahnke set the bucket on the passenger seat next to Deputy Rongitsch, who said Mr. Jahnke "made it clear" that the bucket contained fecal matter.

Deputy Rongitsch said he informed Mr. Jahnke that he was under arrest and directed him to step out of the RV. Mr. Jahnke refused to exit the RV. Deputy Rongitsch then unlocked the passenger door by reaching through the open window and he opened the door. As he did so, Deputy Daly broke the driver's side window to unlock that door. As the deputies began to make entry, Mr. Jahnke retreated to the rear of the RV, brandishing the bucket in a threatening manner so as to create a barrier between himself and the deputies.

Deputies Rongitsch and Daly approached Mr. Jahnke inside the RV, while Deputies Haider and Naglosky also entered the RV. Deputy Rongitsch told Mr. Jahnke to drop the bucket and that he was under arrest. Deputy Rongitsch said Mr. Jahnke was reaching toward the cupboards as Deputy Rongitsch pulled the bucket away. At that point, someone whose identity was unknown to Deputy Rongitsch fired a Taser at Mr. Jahnke. Deputy Rongitsch said a second Taser round was also deployed but again was unsure who fired the round. Deputy Rongitsch said the Tasers did not appear to have any effect on Mr. Jahnke.

Deputy Rongitsch next saw Mr. Jahnke lunge past him toward Deputy Daly. Deputy Rongitsch said he turned and saw Deputy Daly on her back with Mr. Jahnke on top of her. They were struggling and Deputy Rongitsch heard Deputy Daly repeatedly scream "He's got my gun!" Deputy Rongitsch said he had worked with Deputy Daly for several years and had never heard a scream like that. He described it as a "horrible, horrible scream." He then heard Deputy Daly scream, "Shoot him! Shoot him!"

Deputy Rongitsch who was behind Mr. Jahnke, said he tried to grab and pull Mr. Jahnke's arms away from Deputy Daly, but he was unable to do so because Mr. Jahnke kept them

in a “turtle-like position. He also said he considered trying to put Mr. Jahnke in a choke hold. But because he could not see either Mr. Jahnke’s hands or Deputy Daly’s firearm, Deputy Rongitsch said he did not do so out of concern that if Mr. Jahnke had Deputy Daly’s gun, he could have still used the gun against her, his fellow deputies in the RV, or himself.

Deputy Rongitsch also said that because Mr. Jahnke’s head was moving as he continued to fight with Deputy Daly, he wasn’t certain he could shoot at him without hitting her. Fearing that if he did not act immediately, Deputy Daly would be shot and killed, Deputy Rongitsch said he pulled his own firearm and fired once striking Mr. Jahnke.

He saw Mr. Jahnke’s body go limp and someone place handcuffs on Mr. Jahnke. Deputy Rongitsch said he then saw Deputy Daly’s holstered firearm. He said the deputies handcuffed Mr. Jahnke and then immediately began to render medical aid to him.

Deputy Rongitsch estimated that it took approximately 30 seconds from the time he made entry into the RV to the time he shot Mr. Jahnke.

C. BCA Interview of RCSO Deputy Lisa Daly

At 5:31 p.m. on April 19, 2017, Deputy Lisa Daly was interviewed by BCA investigators.

Deputy Daly, who has twenty-five years of experience with the Ramsey County Sheriff’s Office, is also a canine handler. Deputy Daly said that she started her shift at 4:00 p.m. She responded to Deputy Rongitsch’s call for backup to 3250 Fanum Road. She knew that Deputy Rongitsch was investigating a motor home in the area of Fanum and Buerkle Roads. As she pulled up, Deputy Daly noted that Deputy Rongitsch’s squad was behind a silver car, which was behind a small, older RV. Deputy Naglosky was standing next to the passenger side of the silver car and there was a female in the passenger seat of the silver car, who was subsequently identified as A.M. Deputy Rongitsch was at the passenger window of the RV and asked Deputy Daly to “get up here.”

Deputy Daly approached the RV and saw a male in the driver’s seat, who was subsequently identified after the shooting as Mr. Jahnke. Mr. Jahnke had his hands on the wheel, while also holding a phone in one hand. Deputy Daly watched Mr. Jahnke, apparently while Deputy Rongitsch went to his squad to try to identify Mr. Jahnke. Deputy Daly tried to start a conversation with Mr. Jahnke by asking for his name. Deputy Daly said Mr. Jahnke responded that she didn’t need to know his name and that he didn’t have to give her his name. When Deputy Daly asked Mr. Jahnke for his driver’s license or other proof of identity, he said that he had a driver’s license, refused to produce it, and said he didn’t know whether it was valid or not.

Mr. Jahnke pointed out to Deputy Daly that he wasn’t driving, but just sitting in a parked vehicle. Deputy Daly remembered Mr. Jahnke mentioning that he was homeless and that he was living out of the RV. Deputy Daly also said that Mr. Jahnke said his first name was “David” and that he went by “Doc.” Mr. Jahnke said that he would not provide his last name. She described Mr. Jahnke’s demeanor as being “very defiant.”

Deputy Daly remembered from roll call that there had be a reported sexual assault that had occurred in an RV in nearby Little Canada. She also recalled that the RV on Fanum Road met the description of the one involved in the assault. Deputy Daly said that, based on the reported assault and the possible involvement of the RV, they needed to identify Mr. Jahnke.

Deputy Rongitsch remained on the passenger side of the RV while Deputy Daly went to the driver's side. She said the windows on both sides were down only about three inches and that she directed Mr. Jahnke repeatedly to either open the windows or open the door, which he refused to do. Deputy Daly said she pulled her Taser and pointed it at Mr. Jahnke through the partially open window, but she refrained from firing her Taser at him at that time.

Deputy Daly then noticed that Deputy Rongitsch had opened the passenger door and saw Mr. Jahnke grab the bucket. Deputy Daly said she heard Mr. Jahnke say that he defecated in the bucket. She said that Mr. Jahnke turned to face Deputy Rongitsch and behaved as if he was threatening to throw the fecal matter at Deputy Rongitsch. Deputy Daly broke the driver's door window and she unlocked the door. She saw Mr. Jahnke leave the driver's seat and move toward the back of the RV, going out of sight.

Deputies Rongitsch and Daly entered the RV through the passenger and driver doors respectively, with Deputy Rongitsch ahead of Deputy Daly. Deputy Daly saw Mr. Jahnke crouched down in the back of the RV, holding the bucket in front of him. Deputy Daly said the deputies were yelling for him to drop the bucket. Deputy Daly placed her Taser against Mr. Jahnke's leg and shocked him. He was not incapacitated but he did drop the bucket.

Deputy Daly directed Mr. Jahnke to turn around. He refused and she Tased him a second time. He suddenly put his arms around her waist and tackled her to the floor of the RV. She described being on her back with Mr. Jahnke's arms around her and his head on her stomach. Deputy Daly said she started hitting Mr. Jahnke on the left side of his face with her Taser "really hard". She then felt Mr. Jahnke tugging on her gun belt and felt both of his hands on her gun.

Deputy Daly continued hitting Mr. Jahnke and told Deputy Rongitsch that he was going for her gun. She described looking down and seeing Mr. Jahnke pulling her gun, still in the holster, away from her. Deputy Daly said she was terrified.

Deputy Daly said she told Deputy Rongitsch that the male had her gun, and repeated this several times. She said that she believed that Deputy Rongitsch either wasn't hearing her or wasn't understanding. She was concerned that Deputy Rongitsch wasn't responding because he was afraid that, if he shot Mr. Jahnke while she was underneath him, he could shoot her too. She again screamed that Mr. Jahnke had her gun, then yelled at Deputy Rongitsch, repeatedly, to "shoot him, shoot him now!" Deputy Daly described Deputy

Rongitsch as “leaning down” when she heard the gunshot and believed Deputy Rongitsch had shot Mr. Jahnke between the shoulder blades.

Deputy Daly remembered hearing Deputy Naglosky call out shots-fired. She also heard someone yell “Grab the gun! Grab the gun!” Deputy Daly said she thought she grabbed her gun, still in the holster, from underneath Mr. Jahnke and then handed it to someone to secure it. She remembered that the deputies turned Mr. Jahnke on to his back and she began doing chest compressions on him. She saw Deputy Haider administer oxygen to Mr. Jahnke. Deputy Daly also recalled deputies removing Mr. Jahnke out of the RV so that medics would have sufficient room to administer first aid to him. She said she was then escorted away from the scene by RCSO Sergeant Olson and placed inside a squad car.

- D.** At 2:50 p.m. on April 19, 2017, RCSO Deputy Douglas Haider was interviewed by BCA investigators.

Deputy Haider told BCA investigators that he was on patrol with his canine partner and in the middle of responding to a call when he heard Deputies Rongitsch and Naglosky call for assistance with a suspicious vehicle at 3250 Fanum Road. Although he knew that Deputy Daly had already responded to the call, after Deputy Haider cleared his call, he also responded in the event that a third squad would be needed to assist.

Upon his arrival at 3250 Fanum Road at approximately 9:43 p.m., Deputy Haider observed a car parked behind an RV. He saw Deputy Naglosky standing near the front passenger door of the car and a woman sitting in the front passenger seat with her hands on the dashboard. The woman would later be identified as A.M. Deputy Haider also noticed Deputy Daly standing outside the front passenger seat side of the RV and speaking with a man who would be identified after the incident as Mr. Jahnke, sitting in the driver’s seat of the RV. Deputy Rongitsch told Deputy Haider that the man would not provide the deputies with his full name. Instead when repeatedly asked by Deputy Daly for a first and last name, he would only identify himself as “Dave.”

Deputy Haider assumed Deputy Naglosky’s position near the passenger side of the car so as to continue monitoring A.M. seated in the front passenger seat. Deputy Naglosky then assumed Deputy Daly’s position outside the front passenger door of the RV next to Deputy Rongitsch while Deputy Daly moved to outside the driver’s door of the RV. According to Deputy Haider, Deputies Naglosky and Daly continued their efforts to have the man in the RV fully identify himself.

While standing next to the front passenger door of the car, Deputy Haider said A.M. kept her hands on the dashboard with her front passenger window closed. He then heard the deputies near the RV repeatedly tell Mr. Jahnke in increasingly “heated” voices, “Sir, get out of the vehicle.” He also heard Deputy Daly “screaming, ‘Get out of the vehicle, get out of the vehicle!’” Noticing that Deputy Daly was the only deputy outside the driver’s door of the RV, Deputy Haider moved halfway between the car and RV so that he could provide better back-up for her while also keeping an eye on A.M.

Using his peripheral vision, Deputy Haider did not see Mr. Jahnke cooperate with the orders to exit the vehicle. He said he heard "at least a dozen if not more, commands for him to step out of the [RV]." Deputy Haider said he then noticed that Deputy Daly had her Taser in one hand. He then saw Deputy Daly break out the driver's side window of the RV in an attempt to get Mr. Jahnke out of the vehicle. Once the window was removed, he saw Mr. Jahnke move from the driver's seat towards the back of the RV. He then saw Deputy Daly enter the RV through the driver's door.

After a brief delay, Deputy Haider followed Deputy Daly into the RV through the driver's door. He did not know from where Deputies Rongitsch and Naglosky entered the RV.

Deputy Haider described the inside of the RV as being dark with no interior lights on and "very confined space." He was positioned between the driver's and front passenger seats facing the rear of the RV. Deputy Daly was in front of him and she was also facing the rear of the RV. Mr. Jahnke was in front of Deputy Daly facing both her and the front of the RV. He also noticed Mr. Jahnke holding a large, orange-colored Home Depot bucket. He said that he and Deputy Daly told Mr. Jahnke "Sir, get out of the vehicle. Sir, we need you to step out of the vehicle."

Deputy Haider heard Deputy Daly say, "Taser, Taser, Taser." He said that her Taser had no effect on stopping or slowing Mr. Jahnke's aggressive behavior. He then said "the next thing I heard was the Taser didn't work." Deputy Haider said Mr. Jahnke next tackled Deputy Daly to the floor slightly behind the driver's seat, pushing her back so as to impede Deputy Haider's ability to advance towards Mr. Jahnke. Deputy Haider heard Deputy Daly yell "get off of me" to Mr. Jahnke.

Haider fired his Taser at Mr. Jahnke, striking him in the right shoulder. He allowed the electrical charge passing through the Taser into Mr. Jahnke to last for the maximum five second cycle. According to Deputy Haider, it has been his experience that the use of a Taser for the maximum five second cycle on an individual is effective in causing that person to go limp and cease his/her physically combative behavior. But, despite having been struck three times by Tasers (two by Deputy Daly and one by Deputy Haider), Deputy Haider said that Mr. Jahnke did not stop his assault on Deputy Daly.

Deputy Haider could see that Mr. Jahnke was on top of Deputy Daly. He then heard Deputy Daly loudly scream, "He's going for my gun!" Quickly followed by hearing her say, "He's got my gun! He's got my gun! He's got my fucking gun!" Having worked patrol with Deputy Daly for many years, Deputy Haider said that he had never heard that tone and urgency in her voice and he described it as putting "chills down the back of your spine." Deputy Haider said it had now become "a deadly force" situation because "everybody's life was in danger" with Mr. Jahnke in possession of Deputy Daly's firearm.

From his position between the driver's and front passenger's seats, Deputy Haider drew his service weapon as Deputy Daly was fighting Mr. Jahnke for control of her gun. But because of her movements in trying to keep him from possessing her gun combined with the lack of light in that confined area of the RV, he was unable to get a clear shot at Mr. Jahnke without also shooting Deputy Daly. He heard Deputy Daly yell repeatedly, "He's

got my gun! Shoot him! He's got my gun!" Had he a clear shot, Deputy Haider said he would have shot Mr. Jahnke.

With his peripheral vision, Deputy Haider could see Deputy Rongitsch to his left, standing behind Mr. Jahnke and Deputy Daly. Deputy Naglosky was behind the front passenger seat. Deputy Haider heard Deputy Rongitsch order Mr. Jahnke to "let me see your hands, show me your hands." He did not hear Mr. Jahnke say anything in response to the verbal commands issued by Deputies Daly and Rongitsch. Deputy Haider said he then noticed Deputy Rongitsch fire his gun and Mr. Jahnke "went a little limp."

Deputy Haider believed that all of the deputies in the RV "would have got shot" had Deputy Rongitsch not shot Mr. Jahnke. He also said that "I thought we were all gonna' die. That's what I thought would be the ultimate decision if one of us didn't use our service weapon." According to Deputy Haider, he wasn't sure who, but "somebody" moved Mr. Jahnke's body and "grabbed [Deputy Daly's] gun" that had been ripped from her duty belt.

Deputy Daly continued to scream "He's got my gun! He's got my gun!" Deputy Haider yelled "Get that gun! Get that gun!" At the same time, Deputy Haider heard either Deputy Rongitsch or Daly call attention to A.M. who was last seen sitting in the car parked behind the RV. Deputy Haider quickly exited the RV so he could secure A.M. He ordered A.M. out of the vehicle, placed handcuffs on her and had her sit down next to an adjacent tree, so that he could return to the RV and assist the deputies in providing first aid to Mr. Jahnke.

When Deputy Haider returned to the RV he observed Deputy Daly performing chest compressions on Mr. Jahnke. Deputy Naglosky retrieved the medic bag from her squad so she and Deputy Haider could administer oxygen to Mr. Jahnke. Because of the confined space in the RV, the deputies quickly determined that they needed to remove Mr. Jahnke from the RV so as to create more space in order for them and the oncoming medics to effectively provide first aid to Mr. Jahnke. They carried him out the side passenger door of the RV and laid him down on the grass adjacent to the door. Once the medics arrived, RCSO Commander Daniel Loots appeared on the scene, identified the four deputies present during the incident, and consistent with RCSO protocol, kept them separated from one another.

Deputy Haider told BCA investigators that the only persons with whom he discussed the details of the incident prior to his interview with were his wife and his attorney.

E. BCA Interview of RCSO Deputy Sara Naglosky

At 3:08 p.m. on April 18, 2017, RCSO Deputy Sara Naglosky was interviewed by BCA investigators.

Deputy Naglosky began her employment with the RCSO on January 3, 2017. On April 16, 2017, she was still in the field training phase of her employment with the RCSO and was on patrol in the Little Canada/Vadnais Heights areas with her Field Training Officer, Deputy Rongitsch. Deputies Naglosky and Rongitsch were working the 4:00 p.m. to

2:00 a.m. shift. The two deputies had been discussing a recent report of criminal sexual conduct that occurred in a camper-style vehicle in Little Canada.

At approximately 9:00 p.m., the two deputies took their lunch break at the Kwik Trip located at 3278 Highway 61 in Vadnais Heights. They read the investigative report about the Little Canada CSC and learned that the alleged assault occurred in a yellow camper-style vehicle with shag interior carpeting. Deputy Naglosky said that Deputy Rongitsch recalled that in the past he noticed that there had been two camper-style vehicles parked in an industrial park-like area on Fanum Road near the Kwik Trip. The deputies drove along Fanum Road and noticed the RV parked on the street in front of a business located at 3250 Fanum Road. There was no one inside or near the RV, but the deputies could see a shag carpeted bench inside the RV. The deputies returned to the Kwik Trip to finish their lunch.

At approximately 9:23 p.m., Deputies Rongitsch and Naglosky returned to the RV. Upon their arrival they noticed a Pontiac Grand Am parked behind the RV with someone going inside the RV. Deputy Naglosky also noticed a white female, later identified as A.M., sitting in the front passenger's seat of the Grand Am. Deputy Rongitsch initially made contact with A.M. while Deputy Naglosky kept an eye on the RV. After Deputy Rongitsch identified A.M., he went to the RV to make contact with the man inside who was identified after the shooting, as Mr. Jahnke. Deputy Naglosky was asked by Deputy Rongitsch to remain near the Grand Am with A.M.

Because the inside was full of clothing and other items, Deputy Naglosky believed that A.M. and Mr. Jahnke were living in the Grand Am. She also said that Deputy Rongitsch's check of the license plates for both the RV and the Grand Am listed the respective registered owners of those vehicles as persons whose listed identities did not match Mr. Jahnke or A.M.

While A.M. was seated in the front passenger seat of the Grand Am, Deputy Naglosky attempted to ask her a few questions. Because all of the car doors were closed and the front passenger window was only open approximately one inch, Deputy Naglosky said she needed to lean close to the window in order to hear A.M. When Deputy Naglosky asked A.M. for the full name of the man inside the RV, A.M. replied that his name was "Doc." When asked again for a complete name, Deputy Naglosky said A.M. she had "only known him as Doc." A.M. also told Deputy Naglosky that she had "known him for over a year." Deputy Naglosky said that due to inconsistencies in A.M.'s answers, she believed that A.M. was being evasive when she said that she did not know the full, legal name of "Doc."

While standing near the Grand Am, Deputy Naglosky observed Deputy Rongitsch talking to Mr. Jahnke. She believes Mr. Jahnke was seated in the front passenger seat of the RV, because Deputy Rongitsch was standing outside of the front passenger door. She heard Deputy Rongitsch repeatedly ask Mr. Jahnke to provide his full name. She described Deputy Rongitsch as "trying to reason" with Mr. Jahnke. She said Deputy Rongitsch told her that Mr. Jahnke would not provide him with a last name.

Deputy Daly arrived as back-up and was briefed on the situation by Deputies Rongitsch and Naglosky. Deputy Rongitsch said that his check on A.M.'s name came back as clear, with no warrants or hold requests. Deputy Naglosky said that Deputy Rongitsch was unable to identify Mr. Jahnke because he would only provide him with a first name of "Dave" or "Dan." Deputy Haider then arrived and he assumed Deputy Naglosky's position near the Grand Am, while she joined Deputy Rongitsch near the front passenger door of the RV. Deputy Daly assumed a position near the driver's door of the RV. At that time, Deputy Naglosky saw Mr. Jahnke sitting in the driver's seat, with a five gallon bucket next to him.

Deputy Naglosky said that Deputies Rongitsch and Daly continued to ask Mr. Jahnke for his full name. She heard Deputy Rongitsch ask Mr. Jahnke why he would not provide him with a first and last name and Mr. Jahnke respond by saying "you have no legal right to ask me." She heard Deputy Rongitsch repeatedly tell him that they needed his last name as part of an investigation. She described the demeanor displayed by Mr. Jahnke when he refused to provide his last name, as "defiant." She said Mr. Jahnke again refused to provide his true name.

She heard Deputies Rongitsch and Naglosky notify Mr. Jahnke at least 15 times that he was under arrest for obstruction of legal process for failure to provide them with an identifiable name and that he was to step out of the RV. She said that Mr. Jahnke refused to leave the RV. Deputies Naglosky and Rongitsch had also come to learn that the five gallon bucket next to Mr. Jahnke contained fecal matter. As Deputy Rongitsch reached through the open front passenger window of the RV to unlock the door, Mr. Jahnke grabbed the bucket before the deputies could get it. Deputy Naglosky then saw Mr. Jahnke run towards the rear of the RV clutching the bucket.

Deputy Daly was forced to break the driver's closed window in order to unlock the driver's door so she could enter the RV to pursue Mr. Jahnke. Deputy Rongitsch entered the RV through the front passenger door, followed by Deputy Naglosky. She said Mr. Jahnke motioned with the bucket in a manner that she described as him threatening to throw the fecal matter on the deputies. She said he refused the deputies' orders to drop the bucket.

Deputy Naglosky said that Deputy Daly and Mr. Jahnke were facing each other, with Mr. Jahnke facing the front of the RV and Deputy Daly facing the back. Deputy Naglosky said that Mr. Jahnke would not drop the bucket and Deputy Daly shot him with her Taser. Deputy Naglosky believed the prongs of the Taser did not fully attach to Mr. Jahnke because it appeared to have no effect on him. She said that Deputy Daly then used the drive stun feature of the Taser on Mr. Jahnke in which she needed to push the Taser into his body while in very close physical proximity to him. Deputy Naglosky saw him finally drop the bucket and heard him say "ouch."

She said Mr. Jahnke then immediately tackled Deputy Daly causing her to fall on her backside towards the front of the RV on the floor of the very confined space behind the driver's seat. Deputy Naglosky saw Mr. Jahnke on his knees on top of Deputy Daly's side, fighting with her. Deputy Naglosky was standing by the right shoulder and head of Mr.

Jahnke as he continued his fight with Deputy Daly. She said Deputy Rongitsch was standing behind Mr. Jahnke.

Deputy Naglosky said she punched Mr. Jahnke in the back ordering him to let go of Deputy Daly. She also ordered him to “give us your hands” which he refused to do. As she was trying to grab Mr. Jahnke by the head, Deputy Naglosky said she felt the shock in her hand from a Taser round fired by Deputy Haider that struck Mr. Jahnke. Deputy Naglosky then heard Deputy Daly repeatedly scream “He has my gun! He has my gun!” She said both Deputy Rongitsch and her drew their firearms, aimed them at Mr. Jahnke and ordered him multiple times to “Let go of the gun!”

Deputy Naglosky said that she could not see Deputy Daly’s gun because Mr. Jahnke was hunched over the top of her. Because he refused to remove his arms from underneath Deputy Daly, Deputy Naglosky said she could not see his hands. She then heard Deputy Daly screaming to Deputy Rongitsch, “Please Andre shoot him, shoot him! He has my gun!” Deputy Naglosky heard a gunshot and she called out “shots fired!”

Deputy Naglosky told BCA investigators that when she heard Deputy Daly screaming that Mr. Jahnke had her gun, she felt scared for both Deputy Daly’s life and her own. She said there “was no stopping” Mr. Jahnke, as witnessed by the ineffectiveness of striking him with Taser rounds. In her view, had Deputy Rongitsch not shot Mr. Jahnke, another deputy in the RV would have “got hurt.”

Mr. Jahnke ceased his fight with Deputy Daly and Deputy Naglosky was able to place handcuffs on him. Deputy Naglosky said Deputy Daly then took her holstered gun from Mr. Jahnke’s hand together with her gun’s ammunition magazine, and handed it to her with instructions to secure both items. It was apparent to Deputy Naglosky that during his struggle with Deputy Daly, that Mr. Jahnke was able to rip Deputy Daly’s holstered gun from her duty belt. Deputy Naglosky was not sure how Deputy Daly’s magazine was removed from her gun.

Deputy Naglosky, who was wearing leather gloves during the entire confrontation with Mr. Jahnke, took Deputy Daly’s holstered gun and magazine and placed it in the trunk of the squad shared by her and Deputy Rongitsch. She then grabbed the medical bag from the trunk, locked the trunk and returned to the RV to assist the deputies administer first aid to Mr. Jahnke. When she arrived back at the RV she saw Deputy Daly performing chest compressions on Mr. Jahnke. Deputy Naglosky went to grab the AED and shortly after she placed an AED patch on Mr. Jahnke, she was replaced by another deputy.

F. BCA Interviews of G.T. and D.N.

On April 18, 2017, G.T. was interviewed by BCA investigators.

G.T. told investigators that he and his girlfriend D.N., used and occupied the RV for approximately 168 days. He said he borrowed the RV from J.D. and when the engine broke down the week prior to the shooting, he pushed it to the curb in front of 3250 Fanum Road. At that same time, G.T. returned possession of the RV to J.D. After returning possession

of the RV to J.D., G.T. saw a gray Grand Am parked periodically behind the RV while someone was working on the RV.

On April 16, 2017 at the time of the shooting, G.T. and D.N. were living in a newly acquired recreational vehicle parked on a private road nearby 3250 Fanum Road. G.T. told BCA investigators that he “heard a pop...[or]...one gunshot for sure.”

On March 6, 2018, D.N. was interviewed by BCA investigators. D.N. said that she was at a nearby storage locker and not in their recreational vehicle at the time that Mr. Jahnke was shot. She told investigators that she did not hear any gunshot or see any of the events that preceded the shooting. When she returned to her recreational vehicle, she saw the ambulance and other medical and law enforcement responders on the scene. She told investigators that she captured video of the post-shooting activities with her cell phone.

G. BCA Interview of A.J.

On March 8, 2017, A.J. was interviewed by a BCA investigator.

A.J. told the investigator that he had known Mr. Jahnke for approximately 2 ½ years and that they were good friends. A.J. said he is also friends with J.D. and A.M. and he was with those three on April 15, 2017. They met to discuss an upcoming construction project that A.J., J.D. and Mr. Jahnke would be working on together. A.J. described Mr. Jahnke and A.M. as always being together and that A.M. was “his shadow.”

A.J. said that Mr. Jahnke was looking forward to repairing the RV so that he and A.M. could live in it. A.J. also said that Mr. Jahnke and A.M. had been partially living in the Grand Am. After their meeting on April 15th, A.J. said Mr. Jahnke, A.M. and J.D. left to go get something to eat and “grab a few beers.” That was the last time he saw or spoke with Mr. Jahnke.

H. BCA Interview of J.D.

On April 28, 2017, J.D. was interviewed by BCA investigators.

J.D. was the registered owner of the RV and a friend of Mr. Jahnke's. J.D. had previously allowed Mr. Jahnke to live with him. J.D. also previously allowed G.T. and his girlfriend D.N. to use the RV. When J.D. asked D.N. to return the RV to him, she told him that it would not run and that she and G.T. had parked it along the curb in front of 3250 Fanum Road. Mr. Jahnke together with A.M., helped J.D. try to repair the RV's engine. They most recently worked on the RV together on the evening of April 15, 2017. It was J.D.'s plan to pick up an engine part for the RV and return sometime on April 16 to continue working on the RV with Mr. Jahnke.

J.D. said that three months prior to the shooting, Mr. Jahnke said that he had terminal stomach cancer and that he expressed suicidal thoughts. J.D. said he told Mr. Jahnke to stop talking about suicide and that it was “kind of crazy” for him to do so. J.D. also said that while he didn't know if Mr. Jahnke was under the influence of methamphetamine

when he expressed those thoughts, he believed “he might have been.” J.D. said that Mr. Jahnke did not again express suicidal thoughts, but that he noticed a change in Mr. Jahnke’s mood during the previous three months and that he seemed depressed and not “happy with anything.”

J.D. said he did not know Mr. Jahnke to be confrontational. But in offering his opinion of Mr. Jahnke’s state of mind at the time of the April 16 incident, J.D. said “I think honestly in defense of the police officer, I honestly think that he was in a state of mind to probably do something like that... What I have seen in the last few months and what his actions and...just what he said to me that day. He never came out and said I’m gonna’ have the police shoot me and kill me you know. But, I could kind of see him going towards that. Or maybe not even that, but maybe just when they came up to that RV maybe he was just in a state of mind where like you know, ‘fuck you man, fuck all this, fuck everything and I’m done.’ Like they said he disarmed one of their weapons. I can see it. I can see him doing that.”

III. Other Relevant Evidence

A. Medical Intervention and Autopsy

Allina paramedics arrived to find that the deputies had begun providing medical assistance to Mr. Jahnke. The deputies had removed him from the RV and had attached both oxygen and an automatic external defibrillator to him and they were performing CPR. Paramedics took over administering first aid to Mr. Jahnke and noted Taser barbs still stuck in his back. They were able to detect a pulse and immediately transported Mr. Jahnke to Regions Hospital. While on the way to the hospital, Mr. Jahnke’s pulse was lost and they restarted CPR on him. Mr. Jahnke was pronounced dead at Regions and his body was transferred to the Ramsey County Medical Examiner’s Office.

Assistant Ramsey County Medical Examiner Dr. Victor Froloff performed the autopsy on the body of Mr. Jahnke. He noted multiple abrasions, lacerations and contusions consistent with the struggle described by deputies. He also noted Taser barbs and Taser injuries consistent with the statements of deputies. Dr. Froloff determined that Jahnke died from a single, intermediate range gunshot wound to the back of his head, consistent with the shot described by Deputy Rongitsch. A fired bullet was recovered from Mr. Jahnke’s body.

Routine toxicology testing showed that Mr. Jahnke’s urine contained amphetamine and methamphetamine.

B. Deputy Rongitsch

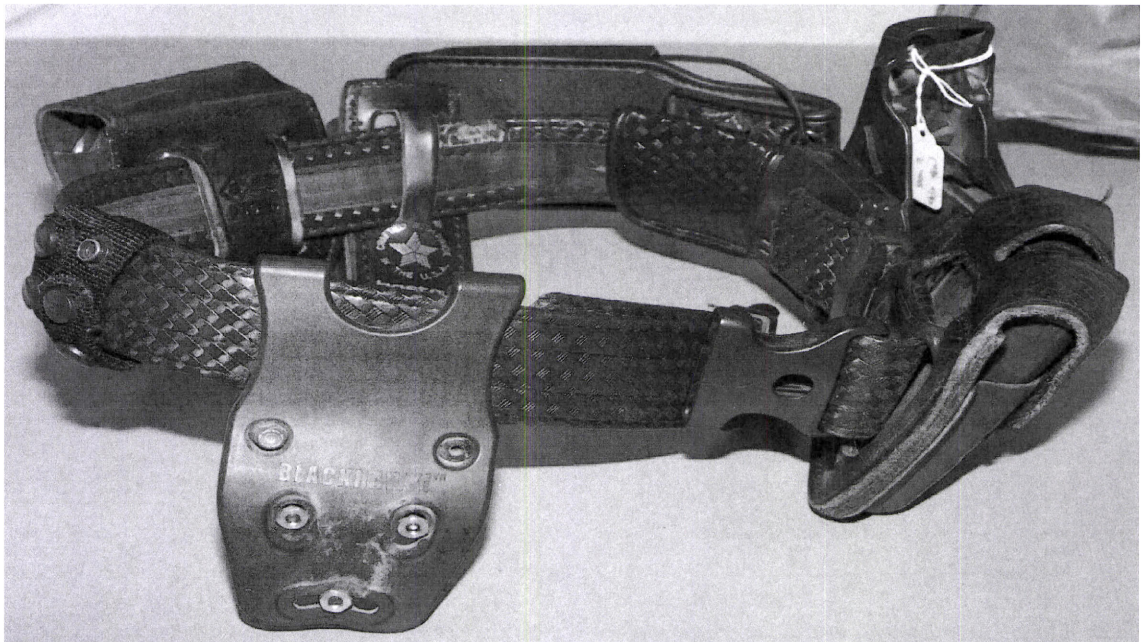
Deputy Rongitsch’s Glock 17 Gen 4, Model 9x19 9mm handgun was test fired and the test fired casing and bullet were analyzed and compared by BCA Forensic Scientists. The fired casing recovered from the RV was determined to have been fired by Deputy Rongitsch’s handgun. The fired bullet recovered from the body of Mr. Jahnke was determined to have been fired by Deputy Rongitsch’s handgun.

Training records for Deputy Rongitsch obtained by investigators show that he most recently completed Use of Force training on February 19, 2016 and Duty Handgun Qualification training on March 20, 2017.

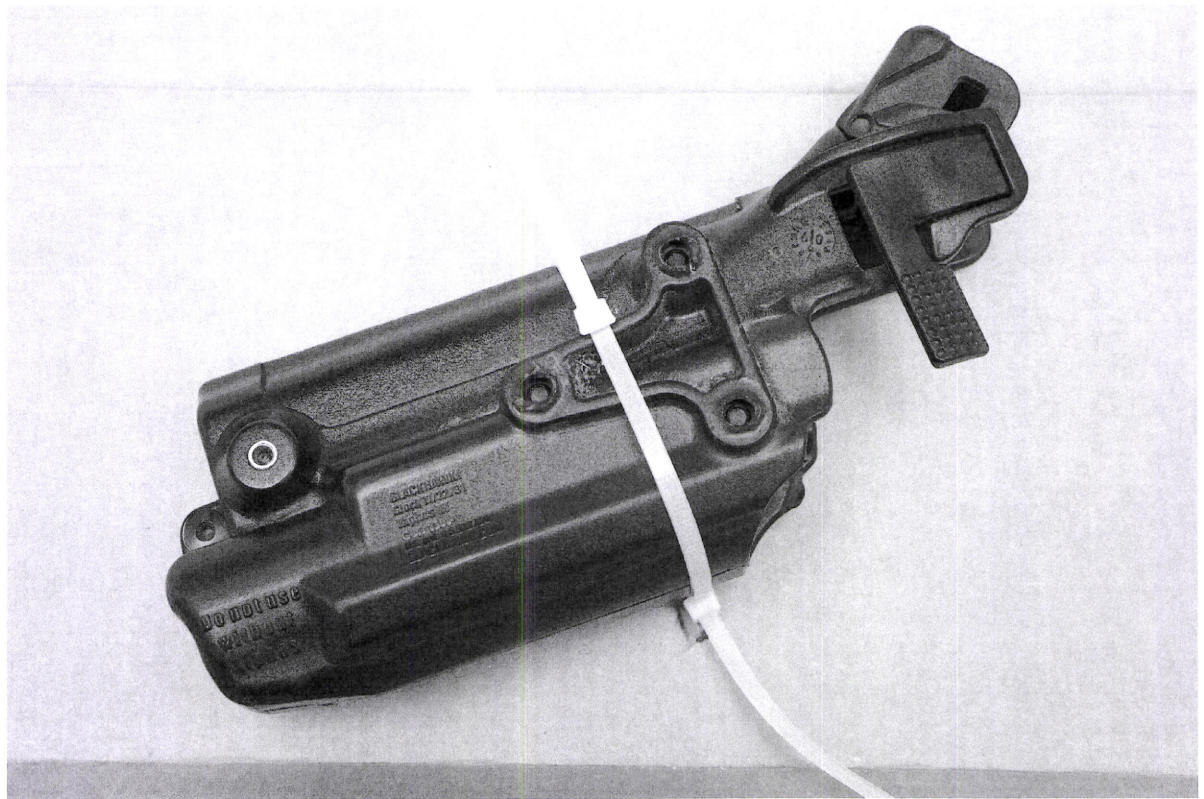
C. Deputy Daly

Deputy Daly's Glock 17 Gen 4, Model 9x19 9mm handgun, still in the jacket slot portion of her Blackhawk holster was recovered by BCA investigators. The handgun contained a round in the chamber.

Deputy Daly's Blackhawk holster is made entirely of hard plastic and consists of a jacket slot containing her handgun and the belt loop by which the holster is attached to her duty belt. The belt loop is connected to the jacket slot by three metal mounting screws and is intended to remain a unitary holster when affixed to her duty belt. As shown from the below photos, the metal mounting screws visible on the belt loop portion of her holster had been ripped from the jacket slot portion containing her handgun.



Deputy Daly's duty belt with the belt loop portion of her Blackhawk holster containing the three mounting screws in the foreground.



Deputy Daly's jacket slot portion of her Blackhawk holster showing the three holes from which the mounting screws were separated when it was ripped from her holster's belt loop.

Deputy Daly's handgun was swabbed for DNA and DNA was recovered, analyzed and compared. A major profile was identified on the slide and release buttons of her handgun, and on its grip. Those DNA profiles matched the DNA profile of Mr. Jahnke and would not be expected to occur more than once among unrelated individuals in the world's population.

Photos taken by BCA investigators of Deputy Daly on April 16, 2017 at approximately 11:52 p.m. show a fresh cut on her right middle-finger; some bruising on the inside of her right wrist; a fresh, large bruise and welt on the outside of her right forearm; and a fresh, large scrape on the inside of her right elbow.

Records for her Taser show that it had been deployed six times on April 16, 2017, for durational times ranging between five and eight seconds, between 9:47:37 p.m. and 9:48.40 p.m.

Training records for Deputy Daly obtained by investigators show that she most recently completed both Use of Force training and Taser Recertification on February 20, 2017.

D. Deputy Naglosky

Photos taken by BCA investigators of Deputy Daly on April 16, 2017 at approximately 11:52 p.m. show a fresh scrape on a knuckle of her left hand.

Training records for Deputy Naglosky obtained by investigators show that she most recently completed Use of Force training in February 2017 and Taser training in January 2017.

E. Deputy Haider

Photos taken by BCA investigators of Deputy Haider on April 16, 2017 at approximately 11:52 p.m. show fresh cuts on the outside of his right wrist, a small cut on his right elbow and a small cut on a knuckle of his right hand. There also appears to be blood stains on the right knee area of his uniform pants.

Records for his Taser show that it had been deployed twice on April 16, 2017: once for a five second durational spark test conducted at the beginning of his shift at 8:05:15 p.m. and a second time for an eight second durational use at 9:46:30 p.m.

Training records for Deputy Haider obtained by investigators show that he most recently completed both Use of Force training and Taser Recertification on February 19, 2016.

F. The Pontiac Grand Am

The 2003 Pontiac Grand Am was registered to M.F. A.M. said that Mr. Jahnke had acquired the Grand Am through some kind of trade, and that they both had been living in the vehicle. BCA investigators noted clothing, luggage, and other property in the vehicle, consistent with A.M.'s description of their recent living situation. BCA investigators spoke to M.F., who confirmed that he had traded the car to Mr. Jahnke and did not know that the vehicle was still registered in his name.

BCA investigators sought and obtained a search warrant for the Grand Am. Inside, they found mail addressed to A.M., a bag containing drug paraphernalia and glass pipes which contained methamphetamine and syringes which contained methamphetamine.

Under the driver's seat, investigators found a blue-colored, zippered first aid kit bag that contained a loaded Lorcin 9mm handgun and ammunition. This appears to be the handgun referred to by A.M. The handgun was determined to have been originally purchased in Fridley, Minnesota by J.W.V. on August 10, 1995. J.W.V. subsequently sold the handgun to S.J.S. S.J.S. reported the handgun stolen from a vehicle in Winnebago, Minnesota, on November 10, 2016. Because Mr. Jahnke had previously been convicted of a felony and, at the time of his death was on probation, he was ineligible to possess a firearm.

G. The RV

The RV was searched and the contents documented by the BCA Crime Scene Team. Deputy Daly's Taser X26 with no cartridge and with apparent blood on its surface, was recovered from the floor of the RV a few feet behind the driver's seat. Taser wire with attached darts were strewn about the rear of the RV. Mr. Jahnke's blood was also found near Deputy Daly's Taser and between the driver's and passenger's seats.

A single, fired 9mm casing was recovered, consistent with the shot described by Deputy Rongitsch, from the RV. Also found in the RV was a five gallon, orange-colored Home Depot bucket containing fecal matter.

IV. Legal Analysis and Recommendation

A. Applicable Law

Minnesota Statutes, Section 609.066, subdivision 2(1) provides that the use of deadly force by a peace officer is justified only when necessary in certain situations, including the following: "to protect the peace officer or another from apparent death or great bodily harm." In order to bring charges against a peace officer for using deadly force in the line of duty, a Minnesota prosecutor must be able to prove beyond a reasonable doubt that the use of force was not justified.¹

The United States Supreme Court has recognized in the case of Tennessee v. Garner, 471 U.S. 1 (1985) that the use of deadly force by a peace officer is justified where the officer has probable cause to believe that the suspect poses a threat of serious bodily harm either to the officer or to others. In Graham v. Connor, 490 U.S. 386 (1989), the Court further held that an objective reasonableness standard should be used to evaluate an officer's use of force. The determination of reasonableness requires "careful attention to the facts and circumstances of each particular case."

In Graham, the Court outlined a non-exhaustive list of factors for balancing an individual's rights versus an officer's rights. Among the factors identified by the Court include: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether he is actively resisting arrest or attempting to evade arrest by flight. The Court also made clear that whether an officer used reasonable force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." The Court held that allowance must be made for the fact the law enforcement officers are often required to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving.

¹ RCAO charging policies provide that charges should only be filed in any criminal case "when credible admissible evidence creates a reasonable probability of obtaining a conviction at trial. This is similar to the National District Attorneys Association Charging Standard 4-2.2 ("a prosecutor should file charges that...[the prosecutor] reasonably believes can be sustained by admissible evidence at trial") and the US Attorney Manual § 9-27.220 (a federal prosecution should be commenced only when "the admissible evidence will probably be sufficient to sustain a conviction").

When taken together, Minn. Stat. § 609.066 and the above-referenced constitutional standard, establish that if the officer's use of deadly force was objectively reasonable in the face of the danger of death or great bodily harm, no criminal charges can be brought against the officer.

B. Recommendation – The Use of Deadly Force Against Mr. Jahnke Was Justified Under Minnesota Law

1. The Deputies Initial Contact with Mr. Jahnke was Reasonable Under the Circumstances.

After carefully considering the evidence presented in this case and the objective legal standard recognized by the U.S. Supreme Court, we believe that the use of deadly force by Deputy Rongitsch against Mr. Jahnke was objectively reasonable, necessary and therefore justified under Minnesota Statutes, Section 609.066 subdivision 2(1), for the following reasons.

Deputies Rongitsch and Naglosky came into contact with Mr. Jahnke and A.M. through their investigation of a sexual assault that had occurred three days earlier in nearby Little Canada. The assault was alleged to have taken place in a camper-style vehicle that may have contained some shag carpeting. Deputy Rongitsch recalled having seen “a couple of recreational vehicles” recently parked on Fanum Road in an industrial business area where there is no residential housing. It was also the evening of Easter Sunday and most of the businesses in that area were closed when the deputies noticed the RV parked on the street in front of a business that was closed. Consequently it was unusual for the deputies to see the RV parked in that location at that time of day.

Although no one was seen inside the RV at the time, Deputies Rongitsch and Naglosky noticed a bench in the RV that appeared to be covered with shag carpeting. The deputies decided to return later to see if anyone was inside the RV. When they returned, they saw A.M. sitting in the Grand Am and Mr. Jahnke inside the RV. Deputy Daly soon arrived as back-up.

Mr. Jahnke refused to provide his full name despite having been asked to do so many times by Deputies Rongitsch and Daly. Deputy Rongitsch said he explained to Mr. Jahnke that the reason he needed to know his full name was because the deputies were investigating a reported sexual assault that occurred nearby in a camper-style vehicle that shared some similarity with the RV. Additionally, the listed identities of the registered owners of the RV and Grand Am did not match the identities of Mr. Jahnke and A.M.

A.M. simply told the deputies that his name was “Doc.” Given her additional statement that she had known Mr. Jahnke for one year, the deputies found her claim that she did not know his last name to be suspicious. Their doubts were confirmed when after the shooting, A.M. told investigators that she and Mr. Jahnke had been in a romantic relationship and had lived together for two years, and that she knew his full name.

Under these foregoing circumstances, it was objectively reasonable for the deputies to believe it necessary to establish Mr. Jahnke's identity by insisting that he either voluntarily provide them with his full name or requiring him to submit to being fingerprinted by the deputies.

2. Deputy Rongitsch's Use of Deadly Force was Reasonable Under the Circumstances.

For approximately 22 minutes the deputies unsuccessfully attempted to verbally persuade Mr. Jahnke to provide them with his full name. Deputy Rongitsch again informed Mr. Jahnke of the reason why the deputies needed to know his full name. Mr. Jahnke again refused to provide his last name, leading Deputies Rongitsch and Daly to warn him multiple times that his refusal would result in his arrest. When he continued to refuse to give his full name, the deputies made the decision to arrest him. As Deputy Rongitsch began to enter the RV, Deputy Daly said she saw Mr. Jahnke grab the bucket containing fecal matter and face Deputy Rongitsch as if threatening to throw it on him.

Mr. Jahnke continued to use the bucket of fecal matter in a threatening manner against the other deputies in the RV. He refused to drop the bucket despite several commands to do so from the Deputies Rongitsch and Daly. He only dropped the bucket after Deputy Daly used the "drive-stun" feature on her Taser to shock him in his leg. When Mr. Jahnke then refused to Deputy Daly's order to turn around, her use of her Taser to shoot him with the electrical prongs was ineffective. He then tackled her to the floor and began to grab her gun, eventually ripping it from her duty belt.

None of the attempts by the deputies to stop Mr. Jahnke using non-lethal force were successful. Deputy Daly struck Mr. Jahnke repeatedly with the butt end of her Taser and Deputies Rongitsch and Naglosky were each unsuccessful in using their hands to stop him. Deputy Haider shot Mr. Jahnke in the right shoulder with his Taser but that also failed to stop him. As Deputy Daly repeatedly screamed that Mr. Jahnke had her gun, none of the deputies, including her, could see his hands. Deputy Rongitsch was heard ordering Mr. Jahnke to show his hands. Deputy Daly then began screaming multiple times for Deputy Rongitsch to shoot Mr. Jahnke, which he did one time.

None of the foregoing observations and statements by the deputies were contradicted by any known witness or evidence. To the contrary, Mr. Jahnke's DNA was found on the slide and release buttons of Deputy Daly's handgun, and on her handgun's grip consistent with the statements of the four deputies that Mr. Jahnke had grabbed her loaded gun with enough force to rip it away from her duty belt. Deputy Daly's injuries were also consistent with the accounts of her and the other deputies that she was defending herself against Mr. Jahnke's physical assault and his grabbing of her gun. Deputies Naglosky and Haider also had minor injuries that are consistent with their unsuccessful efforts to pull Mr. Jahnke away from Deputy Daly.

Taser records and injuries sustained by Mr. Jahnke are also consistent with statements from the deputies that Deputies Daly and Haider had each deployed their Tasers on

Mr. Jahnke. Statements from A.M. that he had recently told her that if he was stopped by the police "he was not going back to jail" and from J.D. that he was not surprised that Mr. Jahnke resisted being arrested on April 16th, also provide legally relevant information regarding Mr. Jahnke's state of mind on that date.

Mr. Jahnke's persistent fighting with Deputy Daly despite having been Tased three times and his successfully ripping her loaded gun from her duty belt combined with his refusal to show his hands to the deputies, made it reasonable for Deputy Rongitsch to conclude that the use of deadly force was necessary to protect her and his fellow deputies, who were present in the dimly lit RV, from apparent death or great bodily harm. It was equally reasonable under the circumstances for Deputy Daly to repeatedly implore Deputy Rongitsch to shoot Mr. Jahnke, and for Deputy Rongitsch to do so.

Accordingly, based on the evidence presented by the BCA to this office, we believe that Deputy Rongitsch's use of deadly force against Mr. Jahnke was necessary and thus justified under Minn. Stat. § 609.066, Subdivision 2(1). Consequently, we recommend that no criminal charges be brought against Deputy Rongitsch.