



## OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY  
18TH JUDICIAL DISTRICT  
SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

6450 S. REVERE PARKWAY  
Centennial, CO 80111  
720-874-8500  
FAX 720-874-8501

---

June 24, 2020

Chief Paul Pazen  
Denver Police Department  
1331 Cherokee Street  
Denver, Colorado 80204

RE: January 6, 2020 shooting of Nico Alexander Descheenie by Denver Police Officer Joseph Heckenkamp and attempted shooting by Sergeant Timothy Hyatt

Chief Pazen,

The Aurora Police Department has completed their investigation into the shooting of Nico Alexander Descheenie where Denver Police Officer Joseph Heckenkamp discharged his weapon and Denver Police Sergeant Timothy Hyatt attempted to discharge his weapon. Detective Jamie Krieger was the lead detective in the case documented under Aurora Police Department Case Number 2020-708. I have completed my review of the information and material provided by Detective Krieger. Below is my summary of the facts, investigation, legal analysis, and conclusion.

### **EXECUTIVE SUMMARY**

On January 6, 2020, a fixed license plate reader located at 6<sup>th</sup> Avenue and Federal Boulevard notified the Denver Police Department's District 4 Impact Team ("Impact Team") that a stolen Chevrolet Avalanche ("Avalanche") was driving south on Federal Boulevard. The Impact Team, consisting of marked and unmarked vehicles, responded to the area and located the stolen Avalanche. The Impact Team deployed "Starchase," a GPS dart, to the rear of the Avalanche allowing the Impact Team to safely follow the vehicle from a distance. The Impact Team followed the Avalanche for approximately one hour through the Denver Metro area and into the City of Aurora. The driver, later identified as Nico Descheenie, date of birth [REDACTED] 1994, abandoned the Avalanche behind ExtraSpace Storage located at 2240 South Xapary Way, Aurora. Denver Police Officers Benavides and Heckenkamp observed Mr. Descheenie fleeing the area on foot. Officer Heckenkamp chased Mr. Descheenie to the eastbound lanes of East Iliff Avenue and I-225. Denver Police Sergeant Hyatt and Officers Chris Parton and Fernando Benavides joined Officer Heckenkamp on East Iliff Ave. and attempted to arrest Mr. Descheenie. Mr. Descheenie disobeyed the officers' commands and pulled a handgun from his jacket pocket and pointed it at his own head. Officer Heckenkamp ordered Mr. Descheenie to "drop the weapon" and "don't do it." Mr. Descheenie backed away from the officers, crossed the median to

the westbound traffic lanes and attempted to carjack<sup>1</sup> [REDACTED] by pointing his handgun at her and motioning her to get out of her car. [REDACTED] was scared and drove away from Mr. Descheenie. Mr. Descheenie turned and pointed his handgun at Officer Heckenkamp and Sergeant Hyatt. Sergeant Hyatt attempted to shoot Mr. Descheenie, however his weapon had a mechanical malfunction and did not fire. Officer Heckenkamp fired his weapon at Mr. Descheenie fourteen times striking him five times. Denver Police Officers approached Mr. Descheenie, secured the handgun, and provided medical treatment until emergency medical personnel arrived. Mr. Descheenie was transported to the Medical Center of Aurora where he died from his injuries. The Aurora Police Department (“APD”) responded to the scene after the shooting and conducted their investigation.

Based on my review of the investigation conducted by Detective Krieger, I find that Sergeant Hyatt and Officer Heckenkamp reasonably feared that Nico Descheenie posed an imminent threat of danger or serious bodily injury to them and members of the public in the immediate area. Both Officers had the legal right to defend themselves and others by the use of deadly physical force. Sergeant Hyatt legally and justifiably attempted to shoot Mr. Descheenie. Similarly, Officer Heckenkamp legally and justifiably shot and killed Nico Descheenie.

### **THE STATUTORY FRAMEWORK FOR INVESTIGATIONS INTO OFFICER-INVOLVED SHOOTINGS**

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved shootings.

This statute provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

C.R.S. § 16-2.5-301(1).

The Aurora Police Department (“APD”) investigated the shooting by the Denver Police Officers. Detective Jamie Krieger led the investigation with the assistance of detectives assigned to APD’s Major Crime Unit, officers assigned to the traffic and patrol units, and crime scene investigators.

C.R.S. § 20-1-114 provides, in relevant part:

The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a

---

<sup>1</sup> Carjacking is a general term to describe taking a person’s car by threatening the use of a deadly weapon. Generally, carjacking is prosecuted in Colorado as Aggravated Robbery, C.R.S. 18-4-302, and/or Aggravated Motor Vehicle Theft, C.R.S. 18-4-409. I use the term carjacking in this report because that is how the witnesses described Mr. Descheenie’s actions.

report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

C.R.S. § 20-1-114(1).

This document constitutes a report of the findings of the District Attorney for the 18<sup>th</sup> Judicial District, and includes the basis of the decision not to charge the involved officers with any criminal conduct.

### **MATERIALS REVIEWED AND INFORMATION CONSIDERED**

I have been provided the following investigative materials produced and gathered by the Denver Police Department and Aurora Police Department into shooting of Nico Descheenie.

- All reports completed by members of the Aurora Police Department and Denver Police Department.
- Autopsy report completed by Dr. Dawn Holmes, Denver Officer of the Medical Examiner, dated January 25, 2020.
- Denver Police Officers Christopher Parton, Fernando Benavides and Joseph Heckenkamp body worn camera videos.
- Body worn camera videos from Aurora Police Officers. Aurora Police Officers were not present during the shooting. Their cameras recorded the scene and investigation.
- Photographs of the scene, vehicles, and physical evidence.
- Radio Traffic and Dispatch Recordings from the Aurora Police Department and Denver Police Department.
- Recorded Interviews of Officers Benavides, Heckenkamp, Hinkle, McNabb, Parton, Valderamma, and Sergeant Hyatt.
- Recorded interviews of civilian witnesses [REDACTED].
- Video Surveillance from local businesses including 7-Eleven, Advantage Security, Alta Convenience, Gyroz, Aurora Housing Authority, Legends of Aurora Sports Grill, and Noonan's Sports Bar & Grill.

### **SUMMARY OF THE FACTS**

On January 4, 2020, [REDACTED] reported her 2007 Black Chevrolet Avalanche, license plate [REDACTED], stolen to Aurora Police Officer Joshua Teeples.<sup>2</sup> She discovered her vehicle had been stolen from her driveway at approximately 6 a.m. She did not know who stole her vehicle. The vehicle was entered as stolen in the Colorado Crime Information Center "CCIC".<sup>3</sup>

---

<sup>2</sup> Officer Teeples was recently terminated from APD for reasons unrelated to this investigation.

<sup>3</sup> "The CCIC is a computerized information system established as a service to all Colorado criminal justice agencies. The mission is to provide and maintain accurate and timely documented criminal justice information in an effort to prevent crime and protect life and property by enabling the rapid exchange of valid, complete information among

On January 6, 2020, the Denver Police Department District 4 Impact Team was actively looking for stolen vehicles in the community. The team consisted of Sergeant Timothy Hyatt, Officer John Heckenkamp, Officer Chris Parton, Officer Fernando Benavides, Officer Kyle McNabb and Officer Chris Valderamma. Denver Police Department's Impact Teams "provide focused, extended term enforcement and patrol efforts when pressing safety issues arise" in the community. <https://www.denvergov.org/content/denvergov/en/police-department/news/2019/dpd-creates-citywide-impact-team.html>. Generally, the Denver Police Department's Impact Teams proactively focus on major crimes and motor vehicle thefts in their districts.

On January 6, 2020 at approximately 5 p.m., a fixed license plate reader at 6<sup>th</sup> Avenue and Federal Boulevard recorded [REDACTED] stolen Avalanche traveling south on Federal Boulevard. The Impact Team responded to the area. Officer Heckenkamp confirmed the Avalanche was stolen at 5:06 p.m. and notified the Impact Team that the Avalanche was an active steal.

Officer Chris Valderamma, driving an unmarked patrol car, located the Avalanche traveling south on Federal Boulevard. Officer Valderamma followed the Avalanche and observed a female exit the stolen Avalanche on South Dale Court.<sup>4</sup> Initially, the unmarked patrol units maintained visual surveillance of the vehicle. The driver, later identified as Nico Descheenie, apparently detected the surveillance and drove erratically. At one point, Mr. Descheenie drove extremely close to the bumper on Sergeant Hyatt's unmarked patrol car.

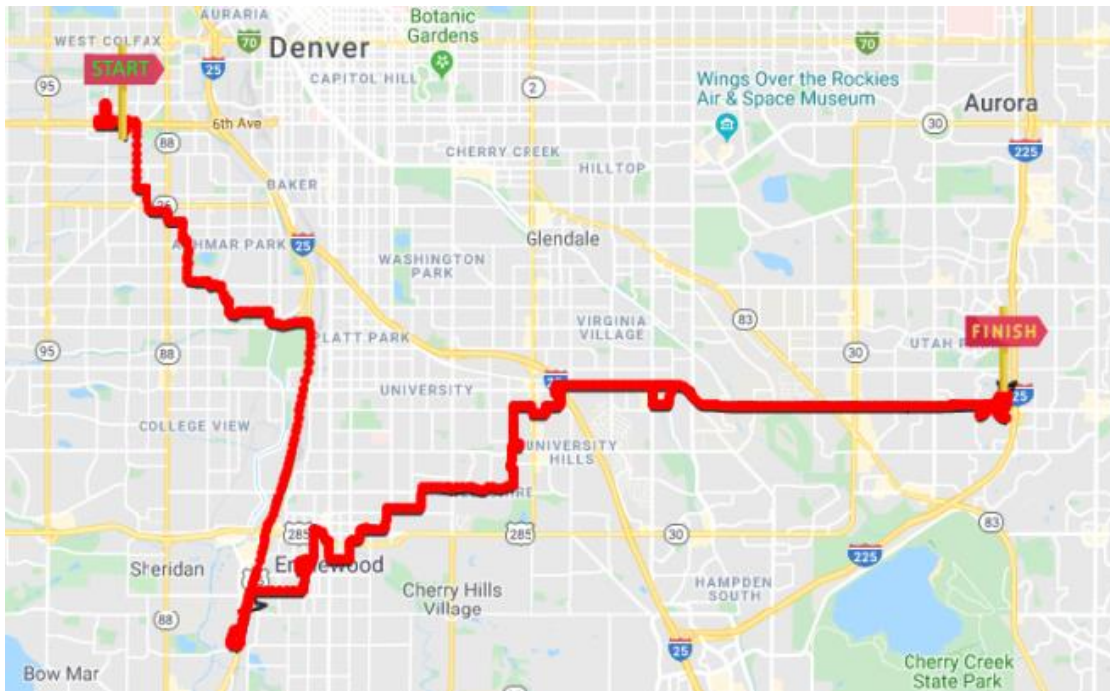
Sergeant Hyatt requested Officer Heckenkamp and Officer Benavides deploy Starchase<sup>5</sup>. Starchase would allow the Impact Team to safely follow the Avalanche and arrest Mr. Descheenie when he was out of the vehicle. Officer Benavides's patrol car was the only vehicle equipped with the Starchase launcher. Officer Benavides drove behind the Avalanche and Officer Heckenkamp launched the dart attaching it to the rear of the Avalanche. Officer Heckenkamp provided real-time location information to the Impact Team as they followed the stolen Avalanche around the metro area for approximately one hour. The Avalanche drove through Denver and into the City of Aurora. Mr. Descheenie's route was recorded and documented by Starchase.

---

criminal justice agencies." Criminal justice information includes stolen property. <https://www.colorado.gov/pacific/cbi/colorado-crime-information-center-ccic>.

<sup>4</sup> The female has not been identified or interviewed.

<sup>5</sup> Starchase is a vehicle mounted GPS tag launcher that provides real-time location information. Starchase.com.



At approximately 6:02 p.m., Mr. Descheenie drove the Avalanche behind ExtraSpace Storage located at 2240 South Xapary Way. Mr. Descheenie abandoned the vehicle and fled south on Xapary Way.



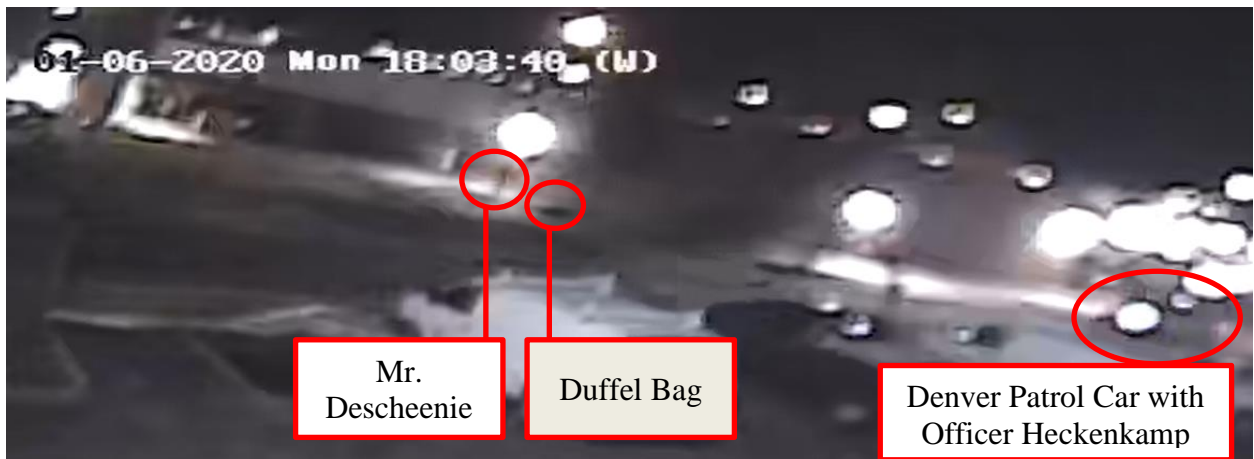
Video surveillance from ExtraSpace Storage captured Mr. Descheenie leaving the Avalanche carrying a backpack and duffel bag.



Sergeant Hyatt and Officer Kyle McNabb, both driving unmarked patrol cars, responded to ExtraSpace Storage and found the abandoned Avalanche.



Mr. Descheenie ran south on Xapary Way but quickly changed direction as Officer Benavides drove his marked patrol north on Xapary Way. Mr. Descheenie immediately changed direction and ran east between the buildings toward I-225 and dropped the duffel bag. Surveillance video from the Aurora Housing Authority recorded Mr. Descheenie running from the Denver Police and dropping the duffel bag.



Officer Heckenkamp jumped out of the patrol car and chased Mr. Descheenie between the buildings and then south to the eastbound lanes of East Iliff Avenue. Officer Benavides drove his patrol car to East Iliff Avenue. At 6:03:05 p.m., Officer Heckenkamp aired that the driver of the vehicle was running southbound toward East Iliff Avenue. Sergeant Hyatt was positioned near the abandoned Avalanche and observed Officer Heckenkamp chasing Mr. Descheenie south toward East Iliff Avenue. Sergeant Hyatt ran after them. During the chase, Officer Heckenkamp yelled at Mr. Descheenie to get on the ground. On East Iliff Avenue, Mr. Descheenie responded “fuck you” and pulled a black handgun from his jacket. Officer Heckenkamp repeatedly yelled “drop the gun.” Officers Parton and Benavides and Sergeant Hyatt joined Officer Heckenkamp on East Iliff Avenue and yelled at Mr. Descheenie to drop the gun. The officers had their guns drawn and pointed at Mr. Descheenie. Mr. Descheenie pointed his handgun at his own head and Officer Heckenkamp yelled at Mr. Descheenie “drop it” and “don’t do it.” At 6:04 p.m., Officer Heckenkamp aired that the driver of the vehicle had a gun to his head.



Mr. Descheenie walked east in the eastbound lanes on East Iliff Avenue still carrying his handgun. Officer Benavides moved his patrol car up to the officers’ location so they could use it as cover. Mr. Descheenie walked away from the officers and crossed the median into the westbound traffic lanes.

At 6:04:42 p.m., Sergeant Hyatt aired that the driver, Mr. Descheenie, was trying to carjack a vehicle. [REDACTED] was driving a Toyota Corolla, which was stopped in the westbound traffic lanes on East Iliff Avenue. Her two-year-old daughter was a passenger in the rear seat. Mr. Descheenie stood in front of her car, pointed his gun at her and motioned for her to get out of her car. [REDACTED] was afraid and drove away. Mr. Descheenie did not fire his weapon and [REDACTED] was not injured. Officer Heckenkamp immediately ran towards Mr. Descheenie when Sergeant Hyatt aired “he’s trying to carjack.”

After [REDACTED] drove away, Mr. Descheenie turned towards Officer Heckenkamp and Sergeant Hyatt and raised his gun at them. Sergeant Hyatt attempted to fire his weapon at Mr. Descheenie but his weapon did not fire. Officer Heckenkamp fired his weapon fourteen times striking Mr. Descheenie five times. "Shots fired" was aired over the police radio at 6:05:00 p.m. Mr. Descheenie fell to the ground after being struck by Officer Heckenkamp's rounds. Officers ordered Mr. Descheenie to put his hands to his side but he did not respond. Officer Benavides drove the patrol car over the median and parked near Mr. Descheenie. The officers approached and placed Mr. Descheenie in handcuffs. Mr. Descheenie's handgun was found underneath his body.

Officers provided medical treatment to Mr. Descheenie until the Aurora Fire Department arrived. Falk Ambulance transported Mr. Descheenie to the Medical Center of Aurora where he died from his injuries. Dr. Heather Crysel pronounced Mr. Descheenie's death at 6:33 p.m.

On January 7, 2020, Dr. Dawn Holmes with the Denver Office of the Medical Examiner conducted the autopsy of Mr. Descheenie. Her report describes Mr. Descheenie as a 25 year old, 6'1", 192 pounds, American Indian male. Dr. Holmes observed five gunshot wounds: two penetrating and three through-and-through wounds. The autopsy report described the gunshot wounds as follows:

- I. Penetrating indeterminate-range gunshot wound to the left cheek. The wound course is front to back, left to right, and downward. No organs or major vessels are involved. A deformed medium-caliber copper-jacketed lead bullet is recovered.
- II. Penetrating indeterminate-range gunshot wound to the left shoulder. The wound course is slightly back to front, left to right, and downward. The wound involves the left lung, pulmonary artery, and right lung. A deformed medium-caliber copper-jacketed lead bullet is recovered.
- III. Through-and-through indeterminate-range gunshot wound to the right back. The wound course is back to front, slightly right to left, and upward. No organs or major vessels are involved.
- IV. Through-and-through indeterminate-range gunshot wound to the left buttock. The wound course is back to front, left to right, and upward. The wound involves the left testis.
- V. Through-and-through indeterminate-range gunshot wound to the left forearm. The wound course is back to front, slightly left to right, and upward. No major vessels are involved.

Mr. Descheenie's blood was tested with the following results:



TOXICOLOGY

REFERENCE LABORATORY: National Medical Services, Inc.  
Horsham, PA

Basic (postmortem iliofemoral blood) drug panel results:

Ethanol .....	18 mg/dL
Blood Alcohol Concentration (BAC) .....	0.018 g/100 mL
Amphetamine .....	95 ng/mL
Methamphetamine .....	630 ng/mL

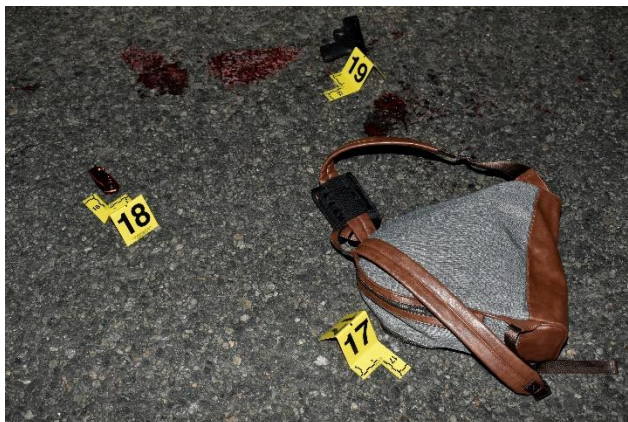
Dr. Holmes opined that Mr. Descheenie died as a result of multiple gunshot wounds and ruled the manner of death as homicide.

On January 6, 2020, Mr. Descheenie had multiple warrants for his arrest for failing to appear in court. Warrants were active in the following cases:

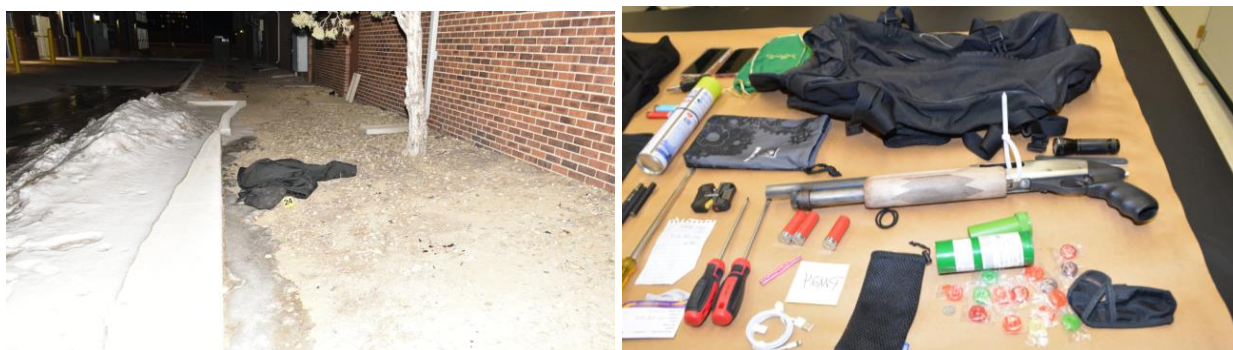
- 2019CR2628, Jefferson County. Mr. Descheenie failed to appear for court on September 30, 2019. The case was pending and the charges included Aggravated Motor Vehicle Theft with two priors, Driving Under the Influence, and Possession of a Controlled Substance.
- 2019CR20, Adams County. Mr. Descheenie had an active warrant for failing to appear in court on October 23, 2019. Mr. Descheenie was serving a probationary sentence after pleading guilty to Possession of a Controlled Substance, a class one drug misdemeanor. Mr. Descheenie had a pending complaint to revoke his probation.
- 2018CR4147, Jefferson County. Mr. Descheenie had an active warrant for failing to appear on September 30, 2019. Mr. Descheenie was serving a probationary sentence after pleading guilty to Aggravated Motor Vehicle Theft. Mr. Descheenie had a pending complaint to revoke his probation.
- 2018CR1329, Jefferson County. Mr. Descheenie had an active warrant for failing to appear in court on September 30, 2019. Mr. Descheenie was serving a probationary sentence after pleading guilty to Criminal Possession of a Financial Transaction Device, Possession of a Controlled Substance and Aggravated Motor Vehicle Theft in the Second Degree. Mr. Descheenie had a pending complaint to revoke his probation.

At 6:05 p.m., Aurora Police Officers were dispatched to the scene and began this investigation. Aurora Police Officers were not involved in or present when Mr. Descheenie was shot. The crime scene was photographed, video recorded, measured and processed by the Aurora Police Department. The stolen Avalanche was located behind the ExtraSpace Storage facility. It was towed to the Aurora Police Department's Impound Lot and searched with the consent of [REDACTED]. No items of evidentiary value to the shooting investigation were identified. When the Avalanche was returned to [REDACTED], she identified property inside the vehicle that did not belong to her. Further investigation found that property was stolen from two other vehicles in Aurora.

Mr. Descheenie's handgun was seized and examined at APD. The handgun was identified as a black Smith & Wesson M&P 9 Shield handgun. The handgun had one "RP 9mm Luger" cartridge in the chamber and 3 "RP 9MM Luger" cartridges in the magazine. Mr. Descheenie was carrying a backpack when he was shot. The backpack was seized and searched at APD. The backpack contained .40 caliber ammunition and suspected controlled substances.



A black duffel bag was located behind the 7-11 convenience store where Mr. Descheenie dropped it while running from Officer Heckenkamp. The duffel bag was seized and searched at APD. The duffel bag contained a shotgun, 12 gauge ammunition, screwdrivers and two cell phones.



Officer Heckenkamp was armed with a Smith & Wesson M&P 9mm handgun. His weapon was seized and inspected at APD. Based on the bullet count, Officer Heckenkamp fired a total of 14 rounds. At East Iliff Ave. and I-225, investigators located thirteen "Speer 9mm Luger+P" cartridge casings. These casings are the same caliber and brand as the rounds carried by Officer Heckenkamp. The crime scene investigators did not locate the fourteenth shell casing.

Officers Parton, Benavides, and Heckenkamp were wearing body cameras. Their body cameras were recording at the time of the shooting. Their body camera videos were downloaded and reviewed by APD as part of the investigation. Information from those videos has been included in my Summary of the Facts and in the following summary of the officers' statements.

APD obtained surveillance video from businesses in the area. Surveillance video from ExtraSpace Storage and Aurora Housing Authority captured Mr. Descheenie abandoning the

Avalanche and fleeing. The relevant portions of those videos has been described above. Surveillance video did not record the events on East Iliff Avenue and the shooting.

APD Detectives interviewed the members of the Denver Police Department's District 4 Impact Team and motorists who observed part or all of the events surrounding the shooting. Below is my summary of the relevant witness interviews.

### **Officer Fernando Benavides**

Officer Benavides was interviewed on January 6, 2020 by APD Detectives Matt Ingui and Nicholas Huber. Officer Benavides has been an officer with Denver Police Department for fifteen years. On January 6, 2020, Officer Benavides was driving a marked patrol car, Officer Heckenkamp was the passenger. They were notified of the stolen Avalanche and assisted in following the vehicle. His patrol car was equipped with Starchase and they deployed it on the Avalanche. The Avalanche drove to Aurora and stopped north of East Iliff Ave. He drove toward the location of the Avalanche and observed Mr. Descheenie running. Officer Heckenkamp chased the suspect on foot. Officer Benavides drove to East Iliff Avenue. He observed Mr. Descheenie and stopped his car in the eastbound lanes and attempted to arrest Mr. Descheenie. Officer Heckenkamp and Sergeant Hyatt were also attempting to arrest Mr. Descheenie. All three officers had their guns drawn and pointed at Mr. Descheenie. He observed Mr. Descheenie holding a gun. Officer Benavides was afraid for his life when he saw the gun. Mr. Descheenie placed the gun to his own head and walked away from the officers. Mr. Descheenie said he was going to shoot himself. Officer Benavides returned to his patrol car and moved the car so the officers could use it for cover. Officer Heckenkamp and Sergeant Hyatt followed Mr. Descheenie. Mr. Descheenie crossed to the westbound lanes of East Iliff Ave. and walked through traffic. Officer Benavides believed Mr. Descheenie was going to steal a car based on his demeanor, weapon, and walking into traffic. Officer Benavides feared Mr. Descheenie would shoot a motorist. Officer Benavides drove his patrol car over the center median and heard gunfire but did not see the shooting. Officer Benavides was not sure how many shots were fired but estimated between five and seven. Officer Benavides observed Mr. Descheenie standing in front of a truck facing the officers before he fell to the ground. Officer Benavides drove his patrol car close to Mr. Descheenie, stopped and got out and ordered Mr. Descheenie to show his hands. Mr. Descheenie did not move or respond so officers approached and placed him in handcuffs. Officer Benavides and other officers performed CPR until the fire department arrived. Officer Benavides did not fire his weapon.

Officer Benavides was wearing a body camera. Officer Benavides's video recorded driving to East Iliff Ave. after Officer Heckenkamp began chasing Mr. Descheenie. The recording shows Officer Benavides arrive on East Iliff Ave., exit the patrol car, draw his weapon and tell Mr. Descheenie to drop his gun. The video recorded Officers Heckenkamp and Parton and Sergeant Hyatt on East Iliff Ave. ordering Mr. Descheenie to drop the gun. The video captured Mr. Descheenie place the gun to his head and walk backwards away from the officers. Officer Benavides returned to his car and drove forward to provide cover for the officers. Officer Benavides's video did not visually capture the shooting, although shots can be heard, because he was driving the patrol car. Officer Benavides drove his patrol car to the westbound traffic lanes and gave Mr. Descheenie commands to show his hands. After Mr. Descheenie was secured, Officer Benavides and other officers provided CPR until the Aurora Fire Department arrived.

## **Officer Chris Parton**

Officer Parton was interviewed by Detective Matt Ingui and Nicholas Huber on January 6, 2020. On January 6, 2020, Office Parton was driving a marked patrol car and wearing his department uniform. Around 5 p.m., the Impact Team was notified about the stolen Avalanche. The Impact Team followed the car from District 4 to Aurora. He only saw the Avalanche a couple times. He followed the Avalanche based on information provided by undercover officers and Starchase. Officer Hyatt ordered the team to approach the vehicle when it parked. Officer Parton was driving behind Officer Benavides's patrol car and saw Officer Heckenkamp chase Mr. Descheenie. Officer Parton drove to East Iliff Ave, parked his patrol car and joined Officer Heckenkamp who was giving commands to Mr. Descheenie. Officer Parton drew his weapon when he observed Mr. Descheenie holding a gun in his right hand. Officer Parton feared for his life when he saw Mr. Descheenie with the gun. Mr. Descheenie backed away from the officers. Office Heckenkamp gave loud commands to drop the gun but Mr. Descheenie did not obey. Mr. Descheenie moved the gun from his head to his leg. Officer Parton was concerned for the officers because they were in the roadway and did not have cover. Officer Benavides moved the patrol car closer to the officers. Officer Parton was behind the patrol car when he heard shots being fired. He did not see the shooting or know how many shots were fired. When he heard the shots, he ran towards Mr. Descheenie and passed Sergeant Hyatt and saw him "manipulating" his weapon. He observed Officer Heckenkamp standing in a "shooting platform" but did not see him shoot. Officer Parton approached Mr. Descheenie and ordered him to put his hands by his side. Mr. Descheenie did not respond. He placed handcuffs on Mr. Descheenie and checked for a pulse but did not feel one. Officer Parton performed CPR along with several other officers until the Aurora Fire Department arrived. Officer Parton did not fire his weapon.

Officer Parton was wearing a body camera. His body camera recorded the following events. Officer Parton drove to East Iliff Ave, stopped his vehicle and ran to East Iliff Avenue and I-225. Mr. Descheenie was in the intersection being confronted by Officer Heckenkamp. Officer Heckenkamp had his gun drawn and ordered Mr. Descheenie to get on the ground and drop the gun. Mr. Descheenie pointed his firearm at his own head. Mr. Descheenie did not comply with the officers' orders and walked away from them. Office Parton yelled at the officers to get behind cover. Officer Parton moved behind Officer Benavides's patrol car when it drove closer. Officer Parton left cover and ran towards Mr. Descheenie when "he's trying to carjack" was aired over the radio. Shots can be heard on the video however the video does not show Mr. Descheenie or Officer Heckenkamp immediately before or during the shooting. Officer Parton ran past Sergeant Hyatt as shots were being fired. After the shots were fired, Officer Parton arrived at Officer Heckenkamp's location. Officers ordered Mr. Descheenie to put his hands to his side but he did not respond. Officers approached and secured Mr. Descheenie and performed chest compressions until the fire department arrived.

## **Sergeant Timothy Hyatt**

Sergeant Hyatt was interviewed on January 6, 2020, by Detective Jamie Krieger and Denver Detective Dan Andrews. Sergeant Hyatt has been employed with the Denver Police Department for fourteen years. He has been the sergeant for the District 4 Impact Team for four years. On January 6, 2020, Sergeant Hyatt was driving an unmarked Chevrolet Impala. He was dressed in plain clothes and not wearing a body camera. Sergeant Hyatt explained that undercover officers do not wear body cameras. The Impact Team was notified that the stolen Avalanche was driving

south on Federal Boulevard between 4 p.m. and 5 p.m. The Impact Team responded to the area and Officer Valderamma located it driving south on Federal Blvd. The undercover cars followed the Avalanche. Sergeant Hyatt believed Mr. Descheenie knew officers were following him based on his driving, including Mr. Descheenie driving very close to Sergeant Hyatt's rear bumper. Officers Benavides and Heckenkamp deployed Starchase based on Sergeant Hyatt's request. The team followed the vehicle for one approximately one hour. The Avalanche drove into Aurora. Near Iliff and Xanadu, Sergeant Hyatt passed the Avalanche and observed the driver. Mr. Descheenie was the only occupant of the vehicle and appeared to be a Hispanic male with short hair. Officer Heckenkamp reported the Avalanche stopped so Sergeant Hyatt responded to the self-storage facility and found it abandoned. Sergeant Hyatt observed Mr. Descheenie running south near the I-225 fence being chased by Officer Heckenkamp. Sergeant Hyatt ran to East Iliff Ave. and joined the other officers who were attempting to arrest Mr. Descheenie. Sergeant Hyatt recognized Mr. Descheenie as the person he had seen driving the stolen Avalanche. Officer Heckenkamp ordered Mr. Descheenie to surrender but he did not comply. Mr. Descheenie was holding a black handgun by his leg and later held it to his own head and backed away from the officers. The officers did not have any cover so Officer Benavides moved his patrol car closer to the officers. Mr. Descheenie moved toward the median with the handgun raised to his head and then he ran toward a car stopped in traffic. Sergeant Hyatt radioed that Mr. Descheenie was attempting a carjack. Sergeant Hyatt stated that he would have fired his weapon to prevent the carjacking but he was afraid he would strike an occupant in the car. The car drove off and Mr. Descheenie immediately turned and pointed his gun at him and Officer Heckenkamp. Sergeant Hyatt believed Mr. Descheenie was going to fire his weapon at the officers. Sergeant Hyatt attempted to fire his weapon but it malfunctioned. Sergeant Hyatt explained that he attempted to fire his weapon because he feared for his life and the lives of officers and motorists in the area. Sergeant Hyatt ejected three live rounds from his firearm attempting to clear the malfunction. He raised his gun again but did not shoot because Mr. Descheenie was on the ground and no longer a threat having been shot by Officer Heckenkamp. The Impact Team approached and secured Mr. Descheenie. The handgun was located underneath Mr. Descheenie's body. Officers performed CPR on Mr. Descheenie until the Aurora Fire Department arrived.

Sergeant Hyatt was armed with a Colt 1911, .45 caliber handgun. His weapon was inspected at the APD. Sergeant Hyatt's weapon was missing 3 .45 caliber rounds. Three live .45 caliber rounds were found on scene consistent with Sergeant Hyatt ejecting the rounds in an attempt to clear the weapon's malfunction. Sergeant Hyatt's Colt 1911 was examined by APD Range Armorer John Stewart. Officer Stewart found a mechanical defect which prevented the firearm from firing.

### **Officer Joseph Heckenkamp**

Officer Heckenkamp was interviewed on January 7, 2020, by Detective Jamie Krieger and Denver Detective Dan Andrews. Officer Heckenkamp has worked for the Denver Police Department for six years and has worked a total of sixteen years in law enforcement. On January 6, 2020, Officer Heckenkamp was the passenger in a marked patrol unit driven by Officer Benavides. Officer Heckenkamp was notified that the stolen Avalanche was at 6<sup>th</sup> Ave. and Federal Blvd. Officer Heckenkamp confirmed the Avalanche was stolen and notified the Impact Team. Officer Valderamma located the Avalanche and followed it. The undercover cars attempted to maintain visual surveillance. Officer Heckenkamp briefly saw the driver and described him as a younger, light skinned Hispanic male with short hair. Sergeant Hyatt ordered

Starchase to be deployed when the Avalanche drove erratically and close to Sergeant Hyatt's rear bumper. Officer Benavides drove behind the vehicle and Officer Heckenkamp successfully launched a Starchase dart which attached to the rear tailgate of the Avalanche. The Avalanche fled after spotting their patrol car. Officer Heckenkamp tracked the Avalanche based on GPS information from the Starchase dart and provided that information to the Impact Team. Eventually, the Avalanche drove east on Iliff Avenue into Aurora. Sergeant Hyatt ordered the Impact Team to move on the Avalanche when Starchase showed that it stopped behind a business. While driving to that location, Officer Heckenkamp observed Mr. Descheenie run between buildings toward I-225. About the same time, Sergeant Hyatt radioed that the Avalanche was empty. Officer Heckenkamp chased Mr. Descheenie on foot to East Iliff Avenue and I-225. Officer Heckenkamp initially drew his weapon but reholstered it while running. At East Iliff Ave. and I-225, the male turned and drew a handgun and pointed it at his own head. Officer Heckenkamp drew his firearm and ordered the male to drop the gun. Mr. Descheenie raised and lowered his gun. Officer Benavides moved the patrol car so the officers could use it for cover. Mr. Descheenie walked east on East Iliff Ave. and crossed the median to the westbound lanes. It was rush hour and there were a lot of cars on the road. Officer Heckenkamp was concerned Mr. Descheenie may carjack a vehicle. Mr. Descheenie pointed his gun at a car. Officer Heckenkamp did not shoot Mr. Descheenie because he feared that if he missed he might hit a motorist. The car that Mr. Descheenie was trying to carjack drove off and Mr. Descheenie turned towards Officer Heckenkamp and Sergeant Hyatt. Mr. Descheenie raised his gun towards the officers so Officer Heckenkamp fired his weapon. Officer Heckenkamp explained that he was afraid for himself and others in the area. He believed Mr. Descheenie would carjack another car if not stopped. Officer Heckenkamp fired until Mr. Descheenie was no longer a threat. Mr. Descheenie fell to the ground and the officers ordered him to show his hands. Officers placed Mr. Descheenie in handcuffs and performed chest compressions until the Aurora Fire Department arrived. Mr. Descheenie's gun was underneath him and the officers found it when they rolled him over. Officer Heckenkamp recognized Mr. Descheenie as the person he observed driving the Avalanche earlier.

Officer Heckenkamp was wearing a body camera. Officer Heckenkamp activated his body camera shortly before chasing Mr. Descheenie. His body camera was not turned off until after the shooting. Officer Heckenkamp's bodycamera recorded the following: Officer Heckenkamp chasing Mr. Descheenie to East Iliff Ave. and I-225, Mr. Descheenie turning toward the officers and pulling a firearm, Mr. Descheenie pointing the gun at his own head, Officer Heckenkamp yelling at Mr. Descheenie "get on the ground," "drop the gun" and "don't do it", Mr. Descheenie walking away from the officers, Officer Heckenkamp requesting the patrol car be brought up for cover, Officer Heckenkamp stating his concern that Mr. Descheenie may commit a carjacking, Officer Heckenkamp running towards Mr. Descheenie, shots fired shortly after Sergeant Hyatt aired "he's trying to carjack," handcuffing Mr. Descheenie and officers performing CPR. Due to the angle of the camera, the video does not show Mr. Descheenie at the time of the shooting.

██████████

██████████ was interviewed by APD Sergeant Jeff Longnecker with the assistance of an Arabic interpreter on January 6, 2020. ██████████ provided the following information about the shooting. She was driving home from work on East Iliff Avenue in her Toyota Corolla. Her two year old daughter was also in the car. She was stopped in the middle lane underneath I-225. She observed police cars and officers on the other side of the road. She recognized the officers

because she saw the police vehicle and they were wearing uniforms. She thought there was a car accident. She observed a male walking across the median away from the police toward her vehicle. The male walked in front of her car and pointed a gun at her. He motioned for her to get out of the car. She started crying and was afraid she would be taken hostage. The male was upset and said something but she couldn't hear him. The male did not try to open her car door. The police officers came toward her and the male. The male quickly moved away and shot at the officers. She drove away when she heard gunshots. She and her daughter were not injured. She drove home and told her husband what happened. He called the police and they returned to the scene.

██████████

██████████ was interviewed by APD Detective Matt Ingui on January 6, 2020. ██████████ was stopped in traffic on East Iliff Avenue with his stepdaughter, ██████████, near the time of the shooting. He observed two plain clothes officers telling a male to get down. He knew they were police because their vests said "POLICE." He was able to hear their commands despite his windows being closed. The officers ordered the male to get down and the male said "Fuck you guys." He observed the male standing in the median and then attempt to carjack the vehicle next to his van. He reported the male attempted to open car door and ordered the woman to get out of the car. The woman drove away. Initially, he thought the male was holding a cell phone but recognized it as a gun when the male turned and raised it at the officers. He believed the gun was a 9 mm semi-automatic handgun. He believed two officers shot the male before he was able to shoot them. He heard approximately eight to ten shots and then the male fell to the ground in front of his van. After the shooting, the officers approached the male and removed his gun.

██████████

██████████ was interviewed by Detective Randy Hansen on January 6, 2020. ██████████ was the passenger in ██████████ van. They were driving west on East Iliff near I-225 at the time of the shooting. She saw a male standing in the median who walked into traffic. She initially thought he was holding a cell phone but realized it was a gun. The male attempted to carjack a smaller car and tried to open that car's door. He turned and raised a gun at the officers who shot him. She heard approximately seven to nine shots. She believed the male shot at the officers. The officers approached him while on the ground and took the gun from his hand.

██████████

██████████ was interviewed by APD Detective Warren Miller on January 6, 2020. ██████████ was driving west on East Iliff Avenue at I-225 where he observed a male running with something in his hands. He observed flashing blue lights and police vehicles at the intersection in front of him. He believed the male was trying to find cover. The male ran toward a white box truck when he heard approximately four gunshots. The male fell to the ground and he did not hear any more shots.

██████████

██████████ was interviewed by APD Detective Matt Ingui on January 6, 2020. ██████████ was stopped in traffic on East Iliff Avenue at I-225 when the shooting occurred.

She observed a male running away from two people who she believed were officers in plain clothes wearing Police vests. The male crossed the median into the westbound lanes. She observed the officers shoot three times. She did not recall if the male was holding anything in his hands. She could not hear anything being said because her windows were up and her music was on. She reported that everything happened very quickly. She did not see the male attempt to get in a car. Her view of the events was partially blocked by cars in front of her.

██████████

██████████ was interviewed by APD Detective Warren Miller. ██████████ was driving west on East Iliff Avenue with his daughter. A large white van in front of him suddenly stopped. He observed a white police SUV drive over the median and an officer fire his weapon five times. ██████████ told his daughter to get down. He could not see what the officer was shooting at.

██████████

██████████ was interviewed by Detective Randy Hansen on January 6, 2020. ██████████ was driving a white box truck west on East Iliff Avenue at I-225 at the time of the shooting. He observed a black male run across the road and a police officer near the median. Additional officers and a patrol car were on the other side of the road. He thought the male was running from the officers. The male turned toward the officers and pointed something at them. He could not see what the male was holding. He did not see a weapon in his hands. The officers shot the male and they stopped firing when he went down. He heard one gunshot followed by two more. He saw the male on the ground and the officers slowly approached him and kicked a gun out of the male's hand.

### **APPLICABLE LAW**

The District Attorney's review of this event is guided by the following statutes pertaining to the use of deadly force by peace officers:

Deadly physical force "means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death." C.R.S. § 18-1-901(3)(d). Officer Heckenkamp used deadly physical force against Mr. Descheenie when he discharged his weapon fourteen times causing Mr. Descheenie's death. Sergeant Hyatt attempted to use deadly physical force when he attempted to fire his weapon at Mr. Descheenie.

C.R.S. § 18-1-707 states in relevant part:

- (2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:
  - (a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or
  - (b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:
    - (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or



(II) Is attempting to escape by the use of a deadly weapon.

### **ANALYSIS AND CONCLUSION**

The question presented is whether Officer Heckenkamp and Sergeant Hyatt reasonably believed their use of deadly physical force was necessary to defend themselves or others from what they reasonably believed to be the imminent use of deadly physical force by Mr. Descheenie. Officer Heckenkamp and Sergeant Hyatt's actions were reasonable and justified based on Mr. Descheenie's actions. Mr. Descheenie's actions included attempting to carjack Ms. Al Dahlaki and her two year old daughter by the use of a firearm and then turning and pointing his handgun at the officers. Officer Heckenkamp and Sergeant Hyatt did not communicate their intent to shoot Mr. Descheenie but both, separately, made the same decision to shoot based on the imminent, deadly threat posed by Mr. Descheenie. Mr. Descheenie would still be alive if he had not threatened a mother and her daughter and then police officers with a firearm. Mr. Descheenie is solely responsible for his death. I find that Officer Heckenkamp and Sergeant Hyatt reasonably believed that Mr. Descheenie posed an imminent threat of deadly physical force to both of them and nearby motorists. As such, I find that Officer Heckenkamp and Sergeant Hyatt were justified in using deadly physical force against Nico Descheenie to defend themselves and nearby motorists from the imminent use of deadly physical force. Officer Heckenkamp and Sergeant Hyatt did not commit a crime and criminal charges will not be filed against them.

Jason Siers  
Chief Deputy District Attorney