



July 20, 2018

Chief Jim May  
Northglenn Police Department  
11701 Community Center Drive  
Northglenn, CO 80233

Re: *The investigation into the officer-involved shooting of Jeremy Patscheck and Serina Minella, occurring on December 13, 2017.*

Dear Chief May,

The investigation and legal analysis of the officer-involved shooting of Jeremy Patscheck and Serina Minella occurring on December 13, 2017 is complete. The 17<sup>th</sup> Judicial District Critical Incident Investigation Team (CIIT) conducted the investigation into this matter. The CIIT is comprised of detectives and crime scene technicians from multiple police agencies within the 17<sup>th</sup> Judicial District, as well as investigators from the Office of the District Attorney for the 17<sup>th</sup> Judicial District. Adams County Sheriff Detectives Dylan Lussier and Liliana Cano presented the factual findings of the investigation to our office on April 17, 2018. The CIIT presented police reports, videos and transcripts of the interviews of witnesses, along with photographs and diagrams of the scene investigation. The Office of the District Attorney concludes that the investigation is thorough and complete.

The District Attorney's review is limited to determining whether criminal charges should be filed against the involved officers or other involved parties. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any criminal violations beyond a reasonable doubt to a jury. In this instance, the prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not justified pursuant to Colorado law. This review does not evaluate the appropriateness of the actions of the involved officers, whether department policies or procedures were followed, or whether the policies, practices, or training at the involved agency were sufficient. That evaluation is left to the involved agency.

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving any crimes beyond a reasonable doubt at trial. Therefore, no criminal charges will be filed against the law enforcement officers involved in this incident.

## **The Incident**

On Tuesday December 12, 2017 at approximately 10:07 p.m., Northglenn Police Officers Tim Kuenning and Emil Czernicki were patrolling the Thistle Sage Apartments located at 11801 Washington St. in Northglenn when Officer Kuenning observed a silver Honda Accord parked in the parking lot. The officers cleared the VIN number and found that the Honda had been reported stolen out of Longmont, Colorado on December 8, 2017. The officers observed a backpack in the Honda and felt that the driver may come back to the Honda. Sergeant James Gardner requested that the Central Metropolitan Auto Theft Task Force (CMATT) assist in this investigation. The CMATT team is a group of investigators from a number of law enforcement agencies in the Denver metropolitan area committed to investigating crimes related to auto theft.

At 11:06 p.m., CMATT investigators placed a GPS device (tracker) on the Honda to monitor its movements. CMATT was in the process of developing a plan to arrest the driver of the stolen Honda when they were alerted that the Honda was moving. CMATT tracked the movement of the stolen Honda throughout the Denver metro area from 11:06 p.m. to 3:05 a.m. Northglenn Police Department Officers were monitoring the CMATT radio traffic and were planning to intercept the Honda if it returned to the apartment complex. CMATT investigators informed Officer Kuenning that the driver fit the description of a party that was involved in a ramming of a marked Thornton Police Patrol car the week before and was known to carry a gun in a backpack, however this information was never confirmed.

Trooper Matt Lasater with CMATT observed the Honda with what appeared to be three individuals in it in the area of Emerson St. and Muriel Dr. parked on the street. A fire truck then went by with its lights and siren activated and the Honda did a U-turn. The Honda went to 10445 Franklin Way and dropped off a female. The Honda then proceeded to the area of Denver Health where the driver exited and met with another individual in a vehicle. The Honda then went back to the driveway of the 10445 Franklin Way address for a second time. Trooper Lasater took a position on foot across the street from 10445 Franklin Way and gave updates to CMATT at 3:06 a.m. that no one got out of the Honda once it parked in the driveway.

Northglenn Officers Nathan Galluzzo, Zachery Schieferecke, Emil Czernicki and Sergeant Gardner met with members of the CMATT team to develop a plan to apprehend the driver of the Honda. The decision was made to use the Sergeant's marked police SUV to pin the Honda in the driveway between the SUV and the garage of the residence to prevent the Honda from driving away. Northglenn Officers and CMATT personnel were sitting on the outer perimeter of the residence as cover in case the driver decided to make a run for it.

On December 13, 2017 at approximately 3:49 a.m., Sergeant Gardner approached 10445 Franklin Way in his marked police SUV with its lights out. When Sergeant Gardner pulled into the driveway, he turned on his headlights and driver side spotlight but did not activate his overhead emergency lights. Sergeant Gardner drove up the driveway and bumped the Honda with his SUV. Officers Galluzzo, Czernicki and Schieferecke got out of the SUV and ordered the occupants to get out of the Honda. As officers approached the Honda, the driver of the Honda started the engine and drove forward almost hitting the garage of the residence. The driver of the Honda then puts the vehicle in reverse and backed up in the direction where Officer Galluzzo was standing striking Sergeant Gardner's SUV. As this happened, Officers Galluzzo, Czernicki and Schieferecke fired their weapons at the driver of the Honda, later identified as Jeremy Patscheck, who was later pronounced deceased on scene. It was then discovered that the front seat passenger, later identified as Serina Minella, in the Honda had been shot as well. Ms. Minella was unresponsive and transported to Swedish Hospital where she was treated for a gunshot wound to her spine.

## Witness Interviews

Investigators from various law enforcement agencies including the Adams County Sheriff's Office, Westminster Police Department, Thornton Police Department, Federal Heights Police Department, and the District Attorney's Office conducted interviews of the necessary witnesses. The following are summaries of the interviews pertinent to this review.

**Officer Nathan Galluzzo:** Adams County Sheriff Detectives Cano and Lussier conducted his interview on December 14, 2017 with his attorney present. Officer Galluzzo is a patrol officer with the Northglenn Police Department and has been with the department for a little over a year. He has three and half years of prior law enforcement experience with the Commerce City Police Department.

Officer Galluzzo was working patrol on December 12, 2017, when he learned that Officer Kuenning had located an unoccupied stolen Honda with a backpack in it at the Thistle Sage Apartments. Officer Kuenning radioed Sargent Gardner that he felt that the Honda was still being used as a stolen vehicle. CMATT was contacted to assist in the investigation of the stolen Honda and placed a tracer on the Honda to monitor its movements.

At approximately 12:35 a.m. on December 13, 2017, Officer Kuenning called Officer Galluzzo on his cell phone and requested that Officer Galluzzo meet him at the Thistle Sage Apartments in case the stolen Honda returned to that location. CMATT had informed Officer Kuenning that there may have been four occupants in the Honda and it was heading back on Washington St. in the direction of the Thistle Sage Apartments. Officers Kuenning and Galluzzo parked in the back area of the apartment complex in hopes that they could arrest the occupants of the stolen Honda once they got out of the car at the Thistle Sage Apartments if they returned.

As Officer Galluzzo was waiting for the Honda to return, he was getting reports over his police radio from CMATT that the driver of the Honda was doing "burn runs" through neighborhoods in Northglenn. Officer Galluzzo said that it is his experience that "burn runs" are when drivers in stolen vehicles go fast and then slow down to see if anyone is following them before they park the stolen vehicle. CMATT aired over the radio that the Honda had stopped and let an occupant out of the Honda at a residence and was parked for a while until a firetruck went by them with its emergency lights on. At that point, CMATT reported that the Honda left and drove through several neighborhoods until it eventually parked in the driveway of the 10445 Franklin Way residence. At approximately 1:30 a.m., CMATT reported that people were getting out and in of the Honda at the residence for about five to ten minutes. The Honda then left again and headed south on I-25 at a high rate of speed.

At that point, Officer Galluzzo went back to the Northglenn Police Department and continued to monitor the CMATT radio traffic concerning the movements of the stolen Honda. When he learned that the Honda was heading north on I-25, he left the police station and went with other officers to the area of the Thistle Sage Apartments a second time in case the Honda went there. Officer Galluzzo heard descriptions over the CMATT radio traffic of the Honda doing

“burn runs” in the same Northglenn neighborhoods as before. The Honda eventually went back to the Franklin Way address and a CMATT trooper was monitoring the Honda from across the street. Officer Kuenning had informed Officer Galluzzo that CMATT radioed that the driver of the Honda fit the description of a party that was involved in a ramming of a marked Thornton Police Patrol car the week before and that person was known to carry a gun in a backpack.

CMATT then aired that the Honda’s engine was turned off and there may be two occupants in the front seat as it sat in the driveway of 10445 Franklin Way. Investigators with CMATT felt that the Honda was not going to move again for the rest of the night. Officer Galluzzo, Sergeant Gardner, other Northglenn officers and CMATT investigators met to decide what the best option would be to contain the vehicle and safely apprehend the suspects in the stolen Honda. The plan that was developed was to use Sergeant Gardner’s SUV to block the Honda in the driveway and arrest the occupants of the Honda.

Officers pulled up Google maps to look at the satellite image of the residence and asked the trooper on scene what the layout of the driveway was. The trooper said that the driveway was a long, thin driveway that kind of widens at the end, and the Honda is parked on one side with its front facing the garage. Officer Galluzzo felt that based on what he heard on the radio, the Honda was fairly close to the garage door and officers felt the best plan would be to pin the stolen Honda in the driveway with the Sergeant’s SUV. The plan was to initiate either a surrender or foot pursuit to force the car out of the equation. Officer Galluzzo stated that foot pursuits are obviously safer than pursuing cars and that is why it was decided to approach the Honda without the lights of the SUV on to avoid the Honda from eluding them which would have created a risk to the public.

Officer Galluzzo volunteered to take a position in the back driver side seat of Sergeant Gardner’s SUV as he had more law enforcement experience than Officers Czernicki and Schieferecke. Sergeant Gardner was driving, Officer Czernicki was in the front passenger seat and Officer Schieferecke was in the rear passenger seat. All officers had on their standard police uniform and the SUV was a clearly marked police vehicle. Officer Galluzzo stated that the plan was to complete a high risk stop on the stolen Honda. The officers talked about how to approach the Honda and Officer Galluzzo reminded the other officers to watch your crossfire. Officer Galluzzo told the other officers that he would be giving the verbal commands to the occupants of the Honda so that there would be one loud clear voice.

As they were driving to the residence on Franklin Way, Sergeant Gardner turned off all the lights to his SUV and drove up the long driveway to 10445 Franklin Way. Sergeant Gardner turned on all of his lights as soon as he gets up to the Honda. Officer Galluzzo had his rear driver’s side door propped open as they drove up the driveway and as soon as the SUV got up to the Honda, he opened the door and jumped out. Officer Galluzzo ran around to the front of the SUV and got his service weapon out, shining his weapon light on the Honda. Officer Galluzzo yelled “police stop don’t move, police stop don’t move.”

When Officer Galluzzo’s weapon light illuminated the Honda, he could see the male driver was looking back at him and the other two officers with a “panicked expression on his face.” Officer Galluzzo got the impression that the male driver knew he was caught and was getting ready to open the door and run. As this is happening, Officer Galluzzo stepped up to the rear driver door of the

Honda a couple feet away from the car and saw the Honda shake side to side because the driver was moving in the car. Officer Galluzzo realized that the driver had put the car in gear. The Honda drove forward first towards the garage and then the driver put the Honda in reverse turning the front wheels before the driver put it in drive again going forward veering to the right. Officer Galluzzo felt that the driver was not going to stop and if he gets the Honda turned around he would hit his fellow officers.

Officers Czernicki and Schieferecke were positioned on the rear passenger side of the Honda and Officer Galluzzo was on the rear driver's side approximately one yard ahead of the other two officers. The driver then put the Honda in reverse and spun the wheels the other way and at that point, it was coming back directly towards Officer Galluzzo who felt that the Honda was going to hit him. Officer Galluzzo was positioned in between the house and the police SUV and did not have time to get out of the way as he was in front of the tailgate of the Honda. The Honda accelerated in reverse towards Officer Galluzzo and he thought, "I have to stop him." Officer Galluzzo then fired his service handgun two times at the driver of the Honda through the driver window. The Honda did not stop and Officer Galluzzo fired two more rounds towards the driver and saw that one of his rounds struck the driver in the head. He felt he was within five feet of the Honda when he fired his gun. The Honda struck the police SUV and stopped at that point.

Officer Galluzzo did not see the other two officers fire their weapons, but could hear gunshots coming from their location and saw the passenger side window shatter out of his peripheral vision. Officers Galluzzo, Czernicki and Schieferecke were yelling out commands and Officer Galluzzo said "I got command, everyone else be quiet." Officer Galluzzo heard someone say shots fired on the radio and he started yelling at the driver "to get out of the car, lay on the ground, we will help you, get out of the car, lay on the ground, we will help you." The driver then was able to open the door and get out of the car. Other officers in the area gave the driver and the passenger medical treatment.

**Officer Zachery Schieferecke:** Adams County Sheriff Detectives Cano and Lussier conducted his interview on December 14, 2017 with his attorney present. Officer Schieferecke is a patrol officer with the Northglenn Police Department for the past three years and was a Detention Specialist with the Adams County Sheriff's Office for three years prior to that.

In the early morning hours of December 13, 2017, Officer Schieferecke responded to the Safeway parking lot to meet with Sergeant Gardner about a stolen Honda that CMATT had been tracking. Sergeant Gardner discussed a plan to apprehend individuals in the stolen Honda. Officer Schieferecke was assigned to be part of the team along with Sergeant Gardner, Officers Galluzzo and Czernicki that would approach the stolen Honda in Sergeant Gardner's marked police SUV. The team went to the Franklin Way location in Sergeant Gardner's SUV followed by the CMATT units. Officer Schieferecke was seated in the rear passenger side of the patrol SUV and he was assigned to make contact with the front passenger of the stolen Honda.

Sergeant Gardner drove his SUV down Franklin Way with his lights out until they pulled in the driveway behind the Honda and his lights were then turned on illuminating the stolen Honda. Officer Schieferecke felt the SUV bump the stolen Honda at which time Officer Galluzzo got out of the SUV first because he had his door partially opened as they entered the driveway. Officer Schieferecke then got out of the SUV and started yelling commands, "Please stop!", "Stop the

vehicle.”, “Police Department.” Officer Czernicki, who was seated in the front passenger seat, got out of the SUV and was positioned just behind Officer Schieferecke to the right front of the SUV with the Honda approximately ten feet in front and to the left of them.

The stolen Honda pulled forward and a spotlight must have been turned on because Officer Schieferecke could now clearly see the driver looking over his right shoulder. Officer Schieferecke could see the driver’s torso, shoulder and head between the two front seats. The stolen Honda then started “Peeling” backwards toward Officer Galluzzo. Officer Schieferecke could see Officer Galluzzo in his peripheral vision and was focused on the driver of the Honda. Officer Schieferecke stated that he felt without a doubt that the driver of the Honda was going to run over and kill Officer Galluzzo. He described this as a “very scary moment” and said that it happened really quickly. Officer Schieferecke stated at that point he did not see anyone else in the Honda and he fired at the driver through the back passenger window until the threat was over by the vehicle running into Sergeant Gardner’s SUV. The driver was slouched over and was no longer on the accelerator. Officer Schieferecke thought he fired three to four shots at the driver to stop the threat.

Officer Schieferecke believed other officers were firing, because he heard more shots being fired. Officer Schieferecke was not sure who fired first and later learned that he fired a total of six rounds. As he was firing his weapon, he thought that the Honda hit Officer Galluzzo possibly killing him. It was not until he had stopped firing did he notice the female in the front passenger seat of the Honda slouched over. Officer Schieferecke then removed the female from the Honda and provided medical care to her. Officer Schieferecke stayed with the female until medical arrived on scene and transported her to the hospital.

**Officer Emil Czernicki:** Adams County Sheriff Detectives Cano and Lussier conducted his interview on December 14, 2017 with his attorney present. Officer Czernicki is a patrol officer and has been with the Northglenn Police Department since July of 2015.

On December 12, 2017 at approximately 10:00 p.m., Officer Czernicki was riding along with Officer Kuenning through the Thistle Sage Apartments and spotted a Honda Civic backed into a parking space with no front license plate. Officer Czernicki got out of the patrol vehicle to check for a rear plate and as he walked by he noticed a backpack on the passenger rear driver side floorboard. Officer Czernicki then gave Officer Keunung the plate number and it came back to a Honda Civic. Officer Czernicki checked the VIN number for the Honda Civic and it came back stolen out of the Longmont Police Department. CMATT was contacted and placed a tracker on the stolen Honda.

Officers Keunung and Czernicki parked across the way when they were advised by CMATT that the vehicle was on the move and they were tracking it. Officers Keunung and Czernicki waited at the Apartment Complex in case the stolen Honda returned. CMATT advised the stolen vehicle was headed south towards Denver. Officer Czernicki then got back into his own patrol vehicle and went back on patrol.

Officer Czernicki heard CMATT on his radio that the stolen Honda was heading back north. Officers then went back to the Thistle Sage Apartments when they learned that the stolen Honda had parked in the driveway of 10445 Franklin Way with a male driver and female passenger

still sitting in it. Officers received information from a trooper assigned to CMATT that occupants of the stolen Honda may be sleeping while it was parked in the driveway.

Sergeant Gardner had a meeting with Northglenn Police Officers and investigators with CMATT to develop a plan to take the occupants of the Honda into custody. During the meeting, Sergeant Gardner brought up that the male driver may be the same suspect involved in a Thornton incident where he rammed a marked patrol unit with a stolen vehicle, but it was not confirmed. The plan was that Sergeant Gardner, Officers Czernicki, Galluzzo and Schieferecke would get into Sergeant Gardner's patrol SUV approach the stolen Honda blacked out, give commands and arrest the occupants. The plan involved Sergeant Gardner driving his SUV up to the Honda, bumping the back of the Honda, so that it would be stuck between the garage and his vehicle without any room to maneuver. At that point they would try to apprehend the suspects.

They then headed to the location with Sergeant Gardner driving, Officer Czernicki in the front passenger seat, Officer Galluzzo in the rear driver's side seat and Officer Schieferecke in the rear passenger seat. When they turned down Franklin Way all the vehicles involved turned their headlights off and when Sergeant Gardner turned up the driveway he activated his lights.

Officers Czernicki, Galluzzo and Schieferecke exited the SUV and immediately started giving commands "Police, show us your hands." The stolen Honda then pulled forward at an angle to the right towards the garage of the residence. Officer Czernicki could clearly see through the rear passenger window on the right side of the Honda and saw the driver look all the way back over his right shoulder towards the area of where Sergeant Gardner's SUV and Officer Galluzzo were located. Then Officer Czernicki heard the Honda's engine rev loud and the Honda backed into the direction of the SUV and Officer Galluzzo. Officer Czernicki said, "he must have floored it because he accelerated backwards" and that he was very fearful that the Honda was going to hit Officer Galluzzo. Officer Czernicki stated that he saw Officer Galluzzo jump out of the way of the stolen vehicle and that he was really worried Officer Galluzzo was going to be trapped or crushed against the brick wall next to the driveway or run over by the stolen Honda.

Officer Czernicki felt that the driver's actions indicated that he was going to get out of there no matter what and it didn't matter who was in his way and that the next move for him would have been to try to turn around to the right where Officer Schieferecke and him were standing. Officer Czernicki hears Officer Galluzzo fire a round into the stolen Honda as it backed into and crashed into the front of the SUV. Officer Czernicki raised his firearm and aims in the direction of the driver. Officer Czernicki explained that he could see the driver's head and a portion of his right arm holding the steering wheel. Officer Czernicki is looking at the driver through the rear passenger side window when "It gets blown out" and that's when he fired three or four shots at the driver. Officer Czernicki stated that he fired because he thought the driver was going to kill Officer Galluzzo. Officer Czernicki felt that he was the third officer to fire because he heard Officer Galluzzo fire first and that Officer Schieferecke must of shot through the rear passenger side window because he was next to him when the shooting started.

The incident happened very quickly and the shots happened almost simultaneously. The shooting stopped and Officer Czernicki saw the female slump over and towards the center console. He then saw the driver reach for the door handle and fall out of the Honda with Officer Galluzzo

still giving the driver commands. Officer Czernicki then provided cover for Officer Schieferecke to contact the female passenger. The female was unresponsive so she was removed from the stolen vehicle and provided medical treatment.

**Sergeant James Gardner:** Adams County Sheriff Detectives Cano and Lussier conducted his interview on December 14, 2017 with his attorney present. Sergeant Gardner is currently assigned to the patrol division as a supervisor and has been with the Northglenn Police Department for eighteen years. The last three years as a Patrol Sergeant and he has five years of prior experience with the Denver County Sheriff's Office.

On December 12, 2017 Sergeant Gardner received a call from Officer Kuenning stating that he had found a stolen Honda at the Thistle Sage Apartments and was requesting permission to contact CMATT to have a tracker put on the Honda. The tracker was placed on the stolen Honda. Sergeant Gardner later learned that CMATT was tracking the Honda and it was on the move. Sergeant Gardner decided to put a plan in place at the Thistle Sage Apartments and contact the occupants of the stolen Honda if they came back to that location.

Sergeant Gardner later learned that the stolen Honda was headed south towards Denver and cleared the officers that were at the apartment complex to return to their assignments. CMATT later advised that the Honda was heading back north at which time Sergeant Gardner advised officers that if the Honda passed 58<sup>th</sup> Ave and I-25 they would go back to the Thistle Sage Apartments to re-set up the original plan from earlier in the evening. CMATT advised the stolen Honda had returned to 10445 Franklin Way and was parked in the driveway close to the garage door. CMATT had a trooper on the other side of the street monitoring the stolen Honda. The trooper aired on the police radio that the engine was not running and he felt the occupants were sleeping in the Honda. Sergeant Gardner along with his officers and the CMATT investigators met up again to formulate another plan to arrest the occupants of the Honda. Sergeant Gardner decided that he would take three of his officers in order to arrest the occupants of the stolen Honda.

The plan was that Sergeant Gardner, Officers Galluzzo, Czernicki and Schieferecke would get into his marked police Tahoe SUV and proceed to 10445 Franklin Way to make a felony arrest. Officer Galluzzo was to be seated in the rear driver's side seat and would focus on getting the driver out of the Honda to arrest him. Sergeant Gardner would drive his SUV with the lights off until he got to the driveway of the residence and then turn his lights on as he pins the Honda in the driveway. He would then assist in the arrest of the driver. Officer's Czernicki and Schieferecke would be on the passenger side of the SUV and were assigned with arresting the passenger of the Honda. CMATT investigators were to act as back up to Sergeant Gardner's team. Sergeant Gardner stated that the hope was that the occupants of the Honda would be sleeping and would be overwhelmed with the amount of officers on the scene causing them to comply with officer's orders.

Sergeant Gardner, Officers Galluzzo, Czernicki and Schieferecke proceeded to 10445 Franklin Way in Sergeant Gardner's marked police Tahoe SUV. Sergeant Gardner approached the residence with his lights off and when he turned into the driveway he turned on his headlights and bumped the back of the stolen Honda. The only lights on the SUV that were turned on was the driver side spotlight and his headlights. He did not have an opportunity to turn on his



emergency overhead lights. The Officers exited his SUV and started giving commands to the occupants of the stolen Honda. Sergeant Gardner was in the process of setting his parking brake and turning the driver side spot light on when the stolen Honda started and immediately went forward to the right towards the garage. The Honda then backed up into his SUV. As Sergeant Gardner was opening his door he heard gunshots.

Sergeant Gardner then gets out and sees the driver's side door of the Honda open and the driver slumped out on the ground. Sergeant Gardner then see's the female passenger slumped down on the center console. Sergeant Gardner continued hearing commands being given but he was not sure from who or where they were coming from. Sergeant Gardner then communicated with dispatch that shots were fired and asked for medical to arrive immediately.

**Trooper Matthew Lasater:** Adams County Sheriff Detectives Leroy Olivas and Luis Hernandez interviewed Trooper Lasater on December 13, 2017 at 7:54 a.m. at the Thornton Police Department. Trooper Lasater has been employed as a trooper with the Colorado State Highway Patrol for thirteen years. Trooper Lasater is part of the CMATT and works as a plain clothes detective working primarily Auto Theft investigations.

On December 13, 2017 at approximately 1:00 a.m., Trooper Lasater was informed that one of his team members had placed a GPS tracker on a stolen Honda that was parked in an apartment complex in Northglenn. Trooper Lasater was advised that the Honda was in motion and his team began following the Honda around the Denver metro area. Trooper Lasater caught up to the Honda in the area near Emerson and Muriel Drive near Washington Street in Northglenn. Trooper Lasater said that the stolen Honda was parked on the curb on Emerson and Muriel Drive where he was conducting surveillance on the Honda. He believed there were three occupants in the Honda at that time. The driver was wearing a black beanie cap and a black long sleeve hoodie shirt and a female was in the back seat. The Honda was parked there for approximately ten to fifteen minutes until a firetruck passed it with its emergency lights activated causing the vehicle to make a U-turn and leave the area. The Honda then went to 10455 Franklin Way where a female exited the Honda and went into the residence via the back gate. The female never came back out and the Honda left approximately ten minutes later.

CMATT investigators followed the Honda around the Denver metro area and eventually back to 10455 Franklin Way in Northglenn. Trooper Lasater was on foot dressed in plain clothes across the street of 10455 Franklin Way when the stolen Honda parked in the driveway. There was no movement in the stolen Honda and Trooper Lasater assumed the occupants were sleeping inside the Honda.

A decision was made to contact the stolen Honda. Trooper Lasater was positioned near a tree across the street from 10455 Franklin Way. Trooper Lasater said he was in a good position to see the Honda and no occupants exited the Honda. Trooper Lasater was in contact with his team via cell phone and he was relaying the information via text and calling. He did not have a radio on him at the time. A Northglenn Police Department marked SUV and CMATT unmarked units approached the Honda that was parked in the driveway of the residence. The units approached the stolen Honda in a caravan style approach. The marked Northglenn Police SUV unit activated its,

headlights and emergency lights near the end of the driveway. There were also four undercover vehicles that activated their emergency lights.

The Northglenn Police department marked SUV bumped the stolen Honda's rear bumper in an attempt to pin in the suspect vehicle. Officers got out of the SUV and approached the stolen Honda from both the driver's side and passenger side of the stolen Honda. Trooper Lasater could hear at least seven to ten loud verbal commands coming from officers, identifying them as the police and for the occupants of the Honda to show their hands. The Honda had previously been shut off and parked straight in the driveway. Upon contact it started its engine. Trooper Lasater could hear the loud muffler on the Honda rev up. The stolen Honda pulled forward to the right and then, very quickly reversed and started to back out towards the left which was directly at the officer or officers on the driver's side of the vehicle.

The stolen Honda backed into and crashed into the police SUV. Simultaneously with this crash, Trooper Lasater heard gunshots and believed that one officer on the driver's side of the suspect vehicle fired his weapon. He could not see the passenger side from his vantage point. Trooper Lasater then went up to the passenger side of the vehicle identified himself and asked if he could assist in any way. Trooper Lasater moved to the driver's side because the officer on that side was yelling that the driver was moving around. Trooper Lasater was given gloves by one of the officers for protection and he attempted to put the suspect in custody by placing handcuffs on him.

Trooper Lasater did not find any weapons on the suspect when he did a quick search after he was in custody. Trooper Lasater could see there was a female passenger in the front seat of the vehicle that appeared to have been shot and was unresponsive. Trooper Lasater stated he did not see any officers on the passenger side of the stolen Honda fire any rounds. Trooper Lasater did not fire any rounds during the incident.

**Trooper Jonathon Smith:** Detective Dean Groff of the Federal Heights Police Department interviewed Trooper Smith shortly after this incident on December 13, 2017 at the Thornton Police Department. Trooper Smith has been with the Colorado State Patrol for twelve years and has been assigned to the CMATT for the past five years.

Trooper Smith was called out around 11:30 p.m. on December 12, 2017 when the Northglenn Police Department located a stolen Honda at the Thistle Sage Apartments. Trooper Smith knew that the apartment complex is well known to CMATT for being a "hot-spot for stolen cars." It was decided that the team would be activated and electronic surveillance would be conducted via the use of a GPS tracker. The Honda began moving before Trooper Smith arrived and he joined the team in tracking the stolen Honda. As the track progressed, it was determined that there were three people in the car; a male driver and two females, one in the front and one in the back. Eventually the vehicle arrived at 10445 Franklin Way and after a few minutes, the vehicle left again with only two people in it.

The track followed the Honda around the Denver metro area and eventually the Honda returned to the driveway of 10445 Franklin Way in Northglenn. The two persons did not exit the Honda, and a plan was set in place for officers in a marked unit to block the vehicle in the

driveway to make contact with the occupants of the Honda. The unmarked CMATT units would be close at hand to provide support as necessary, or help pursue the occupants of the Honda should they flee on foot.

Trooper Smith parked a short distance away from the residence. He approached on foot from the north when he observed the Northglenn patrol SUV pull into the driveway behind the stolen Honda, effectively blocking the Honda from being able to back up out of the driveway and flee. The Honda then began to aggressively move back and forth, backing into the Northglenn patrol SUV as it was attempting to flee the area. The three uniformed officers were now on foot and shouting commands while the suspect vehicle continued to elude law enforcement contact in the driveway. Trooper Smith believed all three officers began firing at the stolen Honda, but he was not in a position to see exactly what was taking place as his focus was on the Honda. When the Honda stopped moving, Trooper Smith could see that both persons from the vehicle had wounds and he called for medical to respond.

**Trooper Michael Monckton:** Adams County Sheriff Detectives Leroy Olivas and Luis Hernandez interviewed Trooper Monckton on December 13, 2017 at 5:40 a.m. at the Thornton Police Department. Trooper Monckton has been with the Colorado State Patrol for eleven years, currently assigned to CMATT for the last six years.

On December 12, 2017, Sergeant Bowden contacted Trooper Monckton regarding a stolen silver Honda Civic sedan that had been located by Northglenn Police Department at the Thistle Sage Apartments. A tracker was placed on the stolen Honda and it was mobile. Trooper Monckton and other CMATT investigators located and followed the Honda as it drove slowly through neighborhoods. The Honda's actions were consistent with what other drivers of stolen vehicles do as the Honda was driving through neighborhoods, speeding up, slowing down, and making multiple turns. CMATT followed the stolen Honda around the Denver metro area until it eventually went back to the Franklin Way address in Northglenn.

The stolen Honda pulled up into the driveway of 10455 Franklin Way where Investigator Matthew Lasater maintained a visual on the vehicle, which was now parked in the driveway. Investigator Lasater advised the occupants were possibly sleeping due to inactivity. At approximately 3:00 a.m. on December 13, 2017, all involved personnel met and a plan was made to contact the stolen Honda.

Northglenn uniformed officers rode in the Police Tahoe followed by CMATT investigators in unmarked vehicles to the Franklin Way address. As the vehicles entered the area, they were all "blackout" (turned off their headlights) in order to maintain stealth. The Tahoe entered the driveway and turned its headlights and a spotlight on. The overhead lights and emergency lights were not turned on. Trooper Monckton parked behind the Tahoe, just short of entering the driveway. He exited his vehicle and heard what sounded like a collision of vehicles, he described as a "crunch" sound. Trooper Monckton did not see what or how the collision occurred. He observed two uniformed officers approach the Honda on the passenger side, and one uniformed officer approach on the driver's side. He approached the Honda on the driver's side, so there would be two officers on each side of the Honda. As he approached from the rear, he heard multiple officer's giving loud verbal commands, "Police, Show me your hands, Stop!" He heard tires

squealing and he observed the Honda back into and crash into the Tahoe. The Honda did not stop. The Honda's tires were squealing and it was trying to push the Tahoe backwards at an angle.

Trooper Monckton was standing between the house and the Tahoe, at about the front driver's door and he observed a Northglenn officer in front of him. The Honda was slowly pushing the Tahoe out of the way, therefore he backed up and took a position by the house. When the Honda was about to break free from the Tahoe, he hears gunfire. Trooper Monckton stated that if the Honda would have "broken loose," the Northglenn officer on the driver's side would have been hit and/or ran over. Trooper Monckton heard a rapid succession of multiple shots being fired, but was unable to estimate how many shots were fired and the only Northglenn officer he observed firing his weapon was the officer he was with on the driver's side of the Tahoe. Once the gunfire started, the Honda immediately stopped. He moved up to the driver's door of the Tahoe and observed the male driver inside the Honda with blood on his face and he appeared to be looking around for an unknown item. The male gets out of the Honda and again multiple officers began yelling out verbal commands for him to get on the ground. He observed the front female passenger slumped over the center console, unresponsive.

Trooper Monckton went to his vehicle to retrieve rubber gloves. As he walked to his vehicle, he observed emergency lights activated on the other undercover vehicles which were spread out behind the Tahoe. He went back up to the Honda and assisted Northglenn officers with extracting the female passenger out of the front seat, as she was still "limp."

**Serina Minella:** Adams County Sheriff Detectives Cano and Lussier conducted a recorded interview with Ms. Minella on March 8, 2018 at the Kindread Hospital of Aurora. Ms. Minella was still being treated for her injuries sustained from this incident which made it difficult to hear her at times.

The detectives were advised that hospital staff would stop the interview if it created a risk to her medical care. It was then decided that Detectives would only ask her about the night after parking in the driveway of the Franklin Way address and nothing prior. Ms. Minella said they had been parked in the driveway waiting for a friend to come out of the residence. Ms. Minella bent forward to get her phone out of her bag that was on the floorboard to text her friend that if she did not hurry up they were leaving. About that time Mr. Patscheck said "Cops" and Ms. Minella looked to her right seeing two Officers then looked to her left and saw a single Officer. When asked how she knew they were Officers she said she saw the uniforms and the chirp from the radio. Ms. Minella then saw Mr. Patscheck get shot and then she got shot. Ms. Minella stated that at no time did she ever hear the Officers giving commands. Ms. Minella was asked if she remembers being bumped behind to which she said "No." She was then asked if Mr. Patscheck had started the Honda and started pulling forward to which she also said "No."

**Other Witnesses:** Investigators canvassed the neighborhood in an effort to identify additional witnesses. None of the individuals contacted had any further information beyond what is summarized herein. In addition, a number of law enforcement officers were interviewed or completed reports in connection with the investigation of this incident. In summation, these officers either were near the scene but did not see the shooting take place or had no additional information relevant to the decision to file criminal charges in this matter. These officer's

interviews are not summarized here because their interviews did not add significant details to the investigation of the shooting incident.

### **Crime Scene Investigation**

On December 13, 2017 shortly after this incident, Westminster Police Department Senior Criminalist Ivanie Meier as well as other Crime Scene Investigators (CSI) processed the involved officers and their weapons used in this incident. CSI Meier first met with Sergeant Gardner to examine his service weapon. Sergeant Gardner carries a Glock 17 pistol with a magazine inside of the firearm, which contained seventeen 9 mm Speer live rounds, which is the maximum capacity of the magazine. There was also a chambered round which was also a 9 mm Speer. The two extra magazines Sergeant Gardner carries both contained seventeen live rounds. Sergeant Gardner did not fire his weapon during this incident.

CSI Meier next met with Officer Galluzzo and examined his service weapon. Officer Galluzzo's service weapon is a Glock 17 Gen4 pistol with a magazine inside the firearm, which contained thirteen 9 mm Speer live rounds, with the maximum capacity of the magazine being seventeen. There was also a chambered round which was a 9 mm Speer. Officer Galluzzo stated that he carries a full magazine in his service weapon with one round in the chamber indicating that he fired four rounds during this incident. The two extra magazines Officer Galluzzo carried both contained seventeen live rounds each (9 mm Speer, one round was a 9 mm Hornady). Officer Galluzzo also carries a backup firearm, which was a Glock 26 Gen4 pistol. There was a magazine inside of the backup firearm, which contained eleven 9 mm Speer live rounds, with the maximum capacity of the magazine being ten. There was also a chambered round, which was a 9 mm Speer.

CSI Meier then met with Officer Schieferecke and examined his service weapon. Officer Schieferecke's service weapon is a Glock 17 Gen4 pistol, with a magazine inside of the firearm, which contained eleven 9 mm Speer live rounds, with the maximum capacity of the magazine being seventeen. There was also a chambered round which was a 9 mm Speer. Officer Schieferecke said that he carried a full magazine as well as a round in the chamber indicating that he fired six rounds during this incident. The two extra magazines Officer Schieferecke carried both contained seventeen 9 mm Speer live rounds each.

CSI Meier next we met with Officer Czernicki and examined his service weapon. Officer Czernicki's service weapon is a Glock 17 Gen4 pistol, with a magazine inside of the firearm, which contained thirteen 9 mm Speer live rounds, with the maximum capacity of the magazine being seventeen. There was also a chambered round which was a 9 mm Speer. Officer Czernicki said that he carried his weapon with seventeen rounds in the magazine and one round in the chamber indicating that he fired four rounds during this incident. The two extra magazines Officer Czernicki carried both contained seventeen 9 mm Speer live rounds each.

Westminster Police Department Senior Criminalist Michael Schultz and other assigned Critical Incident CSI's responded to process the scene at 10455 Franklin Way. The CSI's took measurements of the scene in relationship to the evidence and vehicles involved in the shooting, which was located in the driveway area of the residence.

Upon their arrival they observed a Northglenn Police Department SUV squad car was parked in the driveway of 10445 Franklin Way. The front of the squad car was partially in contact with a silver Honda Accord. Both vehicles were facing approximately west in the driveway. The front driver's door of the squad car was open, all windows were open, and the vehicle was running. Both front doors of the Honda Accord were open. The front driver's windows and rear passenger's window of the Honda Accord were broken out. Bullet damage was observed to both front doors, rear passenger window, and dashboard of the Honda Accord. Blood was observed in the front driver and passenger areas of the vehicle, as well as in the driveway outside of the front driver's door of the Honda Accord. Broken glass was observed in the driveway on both sides of the Honda Accord.

Fourteen "SPEER 9mm LUGER" discharged cartridge casings were observed behind the Honda on the ground on both the driver and passenger sides of the SUV. Four casings were found on the driver's side of the SUV and ten casings were found on the passenger side of the SUV. Two fired bullets were observed on the ground in the driveway of 10445 Franklin Way. A black leather jacket, pink scarf, and red purse were observed in the driveway outside of the front passenger door of the Honda Accord. A black hooded sweatshirt and red bandana were observed just east of the jacket, scarf, and purse. Various items of medical debris were observed next to the black sweatshirt and in the rocks to the south of the Honda Accord. Multiple additional CMATT vehicles were observed parked in the street surrounding 10445 Franklin Way.

The Honda Accord was later processed and searched. The Honda had suspected bullet impact damage on both the driver and passenger sides of the vehicle. A black/gray cloth bag was found in the front passenger's floorboard of the Honda and collected as evidence. The bag contained a scale, plastic baggies, plastic bin with drug paraphernalia, a clear plastic baggie containing .16 grams of suspected methamphetamine, a vial of "Naloxone HCL" (1 mL) and a cloth pouch with a screwdriver. A blue plastic baggie containing .1 grams of suspected heroin was also collected from the interior of front driver's door of the Honda.

### **The Stolen Honda**

Westminster Police Detective Matt Calhoon contacted the owner of the stolen 1996 Honda Accord involved in this incident. The registered owner said that on December 7, 2017 at approximately 7:30 p.m. she parked her Honda in the parking lot of her apartment complex located in Longmont, Colorado. On December 8, 2017 at approximately 5:30 a.m. she returned to where her Honda was parked and found that the Honda had been stolen. There was no sign of broken glass and the Honda was locked when she left it and she was in possession of all of the keys for it. She reported the stolen vehicle to the Longmont Police Department and they completed Case # 2017-11087. The registered owner said that she does not know anyone by the name of Jeremy Patscheck and a DMV photo of him was shown to her and she said she did not recognize him.

Detective Calhoon also learned that the stolen Honda was recovered with Colorado License Plate ONE406 attached when it should have been 102OJM. Detective Calhoon contacted the registered owner of ONE406 to see why his license plate was on this stolen vehicle. He said that

he is the owner of a grey 1996 Honda Accord with the license plate ONE406. He told Detective Calhoon that he discovered that his front license plate was missing on December 12, 2017 at approximately 3:00 a.m.

### **Medical Examination Analysis**

On December 13, 2017, forensic pathologist Dr. Stephen Cina conducted an autopsy of the male identified as Jeremy Patscheck. Dr. Cina identified a total of eight gunshot wounds. One gunshot wound to the left side of his head, one to the left side of his neck, one to the right side of his neck, a graze wound to his left shoulder, a graze wound to his right shoulder, a gunshot wound to the right side of his chest, a gunshot wound to the lower right chest and a gunshot wound to his upper back. None of the wounds had soot or stippling associated with them which indicated that they are all distant gunshot wounds.

The decedent's toxicology report revealed positive levels of amphetamine (120 ng/ml), methamphetamine (360 ng/ml), Free morphine (15 mg/ml), Acetyl fentanyl (.11 ng/ml) and Fentanyl (1.6 ng/ml). Dr. Cina opined that Mr. Patscheck had used heroin, methamphetamine, fentanyl and acetyl fentanyl prior to his death. Dr. Cina determined the cause of death to be multiple gunshot wounds and the manner of death to be homicide.

Thornton Police Department Detective Doug Parker went to Swedish Medical Center located at 501 E. Hampden Avenue at approximately 8:10 a.m. on December 13, 2017. A Trauma Nurse Coordinator advised Detective Parker that the female, later identified as Serina Minella, had one gunshot wound to her upper back, and the projectile remained lodged in her neck/spine area.

### **Legal Analysis**

As was previously noted, this review is limited to a determination of whether to file criminal charges against the involved officers. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Generally speaking, criminal liability is established when the evidence is sufficient to prove all of the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must also disprove any statutorily recognized justification or defense beyond a reasonable doubt. In this instance, in order to file a criminal charge, the District Attorney's Office must prove beyond a reasonable doubt that any of the involved law enforcement officer's actions were not justified under the circumstances surrounding this incident and the applicable law.

It is not my role to question tactics or whether or not department policies were followed as that is left for your review. The legal question I have to answer is whether or not at the time the officers fired their weapons, we can prove to a jury of twelve that their actions were not justified under Colorado law beyond a reasonable doubt.

In this case, there is no dispute that Northglenn Police Officers Nathan Galluzzo, Zachery Schieferecke and Emil Czernicki fired their handguns at the driver of the Honda striking both occupants. Likewise, there is no dispute that the cause of the death of Jeremy Patscheck resulted from multiple gunshot wounds and the injury to Serina Minella resulted from a single gunshot wound. The issue of which of the involved officers actually caused the injuries is complicated, as the interior of the Honda was penetrated by bullets from both the driver's and passenger's sides. The investigation does not reveal forensic evidence that would conclusively distinguish the location of each of the gunshots. Therefore, for purposes of this review, it is assumed that any one of the three shooting officers actually caused the death of Jeremy Patscheck and/or the injury to Serina Minella.

At the time of the shooting, Officers Galluzzo, Schieferecke and Czernicki were engaged in the course of their duties as a law enforcement officers seeking to apprehend suspects in a stolen car.

The use of force by a law enforcement officer necessarily invokes an analysis under §18-1-707, C.R.S. (2017), the law applicable to the use of force by a peace officer. In pertinent part, the language of the statute reads as follows:

(1) A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effectuating or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(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

(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; or

(III) Otherwise indicates, except through a motor vehicle violation,



that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

...

(4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If they believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid.

“Deadly physical force” is defined as “force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact produce death.” §18-1-901(3)(d), C.R.S. (2017).

Northglenn Police Officers Nathan Galluzzo, Zachery Schieferecke, Emil Czernicki and Sergeant James Gardner along with members of the CMATT team developed a tactical plan to apprehend the driver of a stolen Honda after following it around the Denver metro area for hours. Once the Honda appeared to be stopped for the night at the Franklin Way residence, Sergeant Gardner drove his marked police SUV with Officer Galluzzo seated in the rear driver’s side seat, Officer Schieferecke seated in the rear passenger seat, and Officer Czernicki seated in the front passenger seat. According to the officers involved, the plan was designed to make a felony arrest and limit the possibilities of the stolen Honda getting back on the roads and eluding police officers.

As Sergeant Gardner’s SUV bumped into the back of the Honda and Officers began yelling commands, the Honda’s engine started and drove forward to the right towards the garage. Once the Honda had nowhere else to go, the engine revved loudly and accelerated in reverse towards the police SUV and Officer Galluzzo. Officer Galluzzo was in between the SUV and the residence and did not have time to get out of the way as the Honda was accelerating towards him. He felt that he had to stop the driver and he fired his service weapon at the driver four times. Simultaneously, Officers Schieferecke and Czernicki see the Honda accelerating towards Officer Galluzzo and fired their service weapons at the driver to stop the stolen Honda from striking Officer Galluzzo. Ms. Minella recalled that both she and Mr. Patscheck knew the officers were present. All the officers, CMATT investigators, and scene investigation corroborate the descriptions of the actions of the Honda accelerating in reverse toward Officer Galluzzo. Accordingly, the evidence supports the three officers’ reasonable belief that the driver of the stolen vehicle, Mr. Patscheck, was using unlawful force upon Officer Galluzzo.

There is no evidence to contradict the suggestion that the officers used a reasonable amount of force. When Mr. Patscheck chose to operate the Honda in a manner that posed a clear threat to the officers, there is no basis for which to conclude that a lesser degree of force was necessary. Under those circumstances, Mr. Patscheck’s actions dictated the officers’ response of firing their weapons.

While Ms. Minella was not a person the officers were seeking to arrest, the evidence also leads to the conclusion that she was not targeted by the officers. Rather, her injuries appear to be an accident that resulted as a consequence of their decision to fire their weapons at the driver of the vehicle, whom they reasonably believed posed the threat. Unfortunately, Ms. Minella was situated in close proximity to the driver. However, that fact alone does not call into question the officers' reasonable belief in the necessity of the use of force against the driver of the vehicle. Therefore, given all the facts and circumstances, the prosecution cannot prove that any of the officer's actions of pulling the trigger and accidentally injuring Ms. Minella was not justified in self-defense due to the actions of Mr. Patscheck as applied to §18-1-707(1).

This legal analysis does not review the justification of the tactical plan involved in this incident. The legal question presented to the Office of the District Attorney is whether, at the time the officers fired their weapons, the prosecution can prove beyond a reasonable doubt that their actions were not justified under Colorado law. Given all the facts and circumstances, the prosecution cannot prove beyond a reasonable doubt that any of the officer's actions of pulling the trigger shooting Mr. Patscheck and Ms. Minella were not justified in self-defense as applied to §18-1-707(1).

Consequently, the prosecution cannot prove beyond a reasonable doubt that Officers Nathan Galluzzo, Zachery Schieferecke, and Emil Czernicki were not justified in protecting Officer Galluzzo or themselves from what they reasonably believed to be the use or imminent use of deadly physical force under §18-1-707, C.R.S. (2017).

### Conclusion

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against Officers Nathan Galluzzo, Zachery Schieferecke, and Emil Czernicki for the shooting of Mr. Patscheck and Ms. Minella on December 13, 2017. Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Respectfully,

A handwritten signature in black ink, appearing to read 'Dave Young', is written over the printed name.

Dave Young  
District Attorney