

<p>DISTRICT COURT, COUNTY OF DENVER, STATE OF COLORADO Denver City &amp; County Building 1437 Bannock St., Room 256 Denver, CO 80202</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p><b>Plaintiff:</b> RUBY JOHNSON</p> <p>v.</p> <p><b>Defendant:</b> GARY STAAB, an officer of the Denver Police Department, in his individual capacity and GREGORY BUSCHY, an office of the Denver Police Department, in his individual capacity.</p>	
<p><i>Attorneys for Plaintiff:</i></p> <p>Paul G. Karlsgodt, No. 29004 Michelle R. Gomez, No. 51057 Colby M. Everett, No. 56167 Jon S. Maddalone (<i>admitted pro hac vice</i>) BAKER &amp; HOSTETLER LLP 1801 California Street, Suite 4400 Denver, CO 80202-2662 <a href="mailto:pkarlsgodt@bakerlaw.com">pkarlsgodt@bakerlaw.com</a>   <a href="mailto:mgomez@bakerlaw.com">mgomez@bakerlaw.com</a>   <a href="mailto:ceverett@bakerlaw.com">ceverett@bakerlaw.com</a>   <a href="mailto:jmaddalone@bakerlaw.com">jmaddalone@bakerlaw.com</a> P: 303.861.0600   F: 303.861.7805 <i>In cooperation with the ACLU Foundation of Colorado</i></p> <p>Ann M. Roan, No. 18963 LAW OFFICES OF ANN M. ROAN, LLC 4450 Arapahoe Avenue, Suite 100 Boulder, CO 8030 303-448-8818   <a href="mailto:ann@annroanlaw.com">ann@annroanlaw.com</a> <i>In cooperation with the ACLU Foundation of Colorado</i></p> <p>Timothy Macdonald, 29180   Mark Silverstein, No. 26979 Sara R. Neel, No. 36904   Anna I. Kurtz, No. 51525 Lindsey M. Floyd, No. 56870 American Civil Liberties Union Foundation of Colorado 303 E. 17th Ave., Suite 350 Denver, Colorado 80203 <a href="mailto:tmacdonald@aclu-co.org">tmacdonald@aclu-co.org</a>   <a href="mailto:msilverstein@aclu-co.org">msilverstein@aclu-co.org</a>   <a href="mailto:sneel@aclu-co.org">sneel@aclu-co.org</a>   <a href="mailto:akurtz@aclu-co.org">akurtz@aclu-co.org</a>   <a href="mailto:lfloyd@aclu-co.org">lfloyd@aclu-co.org</a> P: (720) 402-3114   F: (303) 777-1773</p>	<p>Case No: 2022CV33434</p> <p>CrtRm/Div: 269</p>
<p style="text-align: center;"><b>PLAINTIFF’S COMBINED RESPONSE IN OPPOSITION TO DEFENDANTS’ MOTIONS FOR SUMMARY JUDGMENT</b></p>	

## I. INTRODUCTION

Plaintiff Ruby Johnson, a 78-year-old Black woman and retired postal services worker, was alone in her Montbello home when it became the errant—and unconstitutional—target of a Denver Police Department (“DPD”) search and SWAT home invasion. Ms. Johnson became enmeshed in the investigation of a downtown theft that had nothing to do with her when the investigating officer, Defendant Staab, and his supervisor, Defendant Buschy, relied on a second-hand report of a “ping” from Apple’s “Find My” iPhone app to conclude, mistakenly, that a stolen phone had tracked to her address. A warrant to search Ms. Johnson’s residence issued based on Defendants’ uninformed misrepresentations about the ping’s significance. The resulting search was unreasonable, unjustified, and turned up nothing. It succeeded only in traumatizing Ms. Johnson, destroying her sense of security in her home of forty years, and profoundly transforming her life for the worse.

Defendant Staab swore out the affidavit to obtain the warrant, which Defendant Buschy reviewed and approved. Though Defendant Staab was concerned there was not probable cause to search Ms. Johnson’s home, and discussed those concerns with Defendant Buschy, Defendants pressed forward with the unlawful search.

Even under federal law, which Defendants incorrectly presume governs Ms. Johnson’s state constitutional claims, the evidence precludes summary judgment in their favor. “When it comes to the Fourth Amendment, the home is first among equals.” *Florida v. Jardines*, 569 U.S. 1, 6, 133 S. Ct. 1409, 1414, 185 L. Ed. 2d 495 (2013). Contrary to Defendants’ motions, a police officer who seeks a warrant unsupported by probable cause to search a person’s home cannot escape liability—even under qualified immunity—“simply because a magistrate . . . approved the application,” or because it was reviewed “by an officer’s superior or a deputy district attorney.”

*Messerschmidt v. Miller*, 565 U.S. 535, 554-555 (2012); *People v. Leftwich*, 869 P.2d 1260, 1269 n.11 (Colo. 1994).

In this case, there is evidence that the affidavit was materially misleading. Among other things, it withheld from the reviewing judge that Defendant Staab had no experience, training, or understanding—professional or otherwise—regarding the use of “Find My,” and it misrepresented that a screenshot of the app signified the stolen phone “being inside” Ms. Johnson’s home, when in fact the screenshot showed that the app could not pinpoint the stolen phone to any particular address. These issues alone preclude summary judgment under the federal test, and they certainly preclude summary judgment under C.R.S. § 13-21-131, which explicitly prohibits qualified immunity as defense for officers who violate the Colorado Constitution.

Because Defendants are wrong on the law and wrong on the facts, which continue to be disputed, their motions for summary judgment should be denied. Ms. Johnson is entitled to present her case to a jury of her peers.

**II. RESPONSE TO DEFENDANT STAAB’S STATEMENT OF UNDISPUTED FACTS**

1. Undisputed.
2. Undisputed.
3. Undisputed.
4. Undisputed.
5. Undisputed that McDaniel told Defendant Staab that the iPhone in McDaniel’s possession, on which he was using the “Find My” application, identified by “ping” that the stolen phone was in a location in the vicinity of Ms. Johnson’s home, and the “Find My” app listed Ms. Johnson’s address, 5380 Worcester Street. Ex. 1, January 4, 2022 Phone Call Between Defendant

Staab and Jeremy McDaniel (“McDaniel Phone Call”) (in response to Defendant Staab asking for the address on the phone, McDaniel replied, “It shows the house that’s on the corner of Worcester and Victor Way. On the southeast side. And the address that it shows as far as that map’s concerned, it says 5380 Worcester Street, Denver, CO 80239.”) Disputed to the extent the information McDaniel relayed to Defendant Staab did not demonstrate that the stolen phone pinged specifically to Ms. Johnson’s house, but to an area in which the house, among several others, was located.

6. Undisputed that McDaniel said the first ping in the vicinity of 5380 Worcester occurred at the stated time. Disputed to the extent McDaniel had relayed pings at other locations earlier in the day. Ex. 2, Deposition Transcript of Defendant Staab (“Staab Depo”) at 38:3-10; Ex. 3, Incident Detail Report DPD-22-0003319 (“CAD 3319”); Ex. 4, Affidavit of Ann Roan (“Roan Affidavit”) at ¶ 3.

7. Undisputed.

8. Disputed. First, there are disputed issues of fact as to whether a conversation occurred at all. Deputy District Attorney (“DDA”) Ashley Beck has no recollection of speaking to Defendant Staab or Defendant Buschy about this case. Ex. 5, Deposition Transcript of Ashley Beck (“Beck Depo”) at 63:23-64:7. Furthermore, even if the conversation did occur, according to Defendant Staab’s testimony, DDA Beck never expressed to him any understanding of the functionality or accuracy of the Find My application on January 4, 2022 or at any other time. Ex. 2, Staab Depo at 119:25-120:6. Therefore, even if DDA Beck believed at the time that Find My was “incredibly precise,” she never shared that with Defendant Staab or Defendant Buschy. Finally, Beck admits that she is “not an expert in the Find My iPhone application.” Ex. 5, Beck Depo at 71:1-2.

9. Disputed. DDA Beck has no recollection of talking to Defendant Buschy about the search warrant. Ex. 5, Beck Depo at 66:10-13.

10. Undisputed.

11. Disputed. DDA Beck added information about Defendant Staab's training and experience, stating:

Your affiant [Defendant Staab] knows through his training and experience over the last 24 years that individuals who steal motor vehicles often use those vehicles to perpetuate other crimes and/or frequently abandon recently stolen vehicles after a short period of time to avoid detection/apprehension. Your Affiant knows through his training and experience that when valuable items are located in a stolen motor vehicle, such as electronics (to include cellular telephones) and firearms, that motor vehicle thieves will often abandon the vehicle and retain the valuable property. Firearms, drones, and cellular telephones are easily transportable and can be hidden in a home or garage.

Ex. 6, Edited Version of Detective Staab's Affidavit in Support of Search Warrant ("Edited Affidavit"); Ex. 7, Emails Between Deputy District Attorney Ashley Beck and Chief Deputy District Attorney Victoria Sharp ("Beck Emails with Sharp"), p. 1.

12. Undisputed that Beck's revisions were accepted. Additionally, none of the information discovered or added to the affidavit during this process provided additional factual information tending to make it more likely that the stolen property was in Plaintiff's home.

13. Undisputed that Defendants testified that McDaniel relayed this anecdotal information. Plaintiff has reason to believe that McDaniel did not provide this information, Ex. 4, Roan Affidavit, ¶ 4, and even if he did, Plaintiff disputes that this anecdotal information demonstrates that the Find My application was accurate in this circumstance or that Defendant Staab reasonably relied on this information as a basis for reaching any conclusion that the stolen property was, in fact, inside Ms. Johnson's home.

14. Disputed. Defendants have merely testified about this “research” but have not produced any documents or records that show the evidence of this “research.” More importantly, Defendants did not include any of the purported results of this “research” in the search warrant affidavit or the general offense report. Ex. 8, Denver Police Department General Offense Hardcopy #2022-3319 (“GO Report”); Ex. 9, Affidavit in Support of Search Warrant and Search Warrant for Plaintiff’s Address (“Affidavit”). Finally, if this research was done, it would have only tended to raise doubts about any conclusion that the stolen property could have been inside Ms. Johnson’s home. Ms. Johnson has no criminal record and Defendant Staab identified the son’s criminal history from “the early 1990s.” Ex. 2, Staab Depo. 63:1-10. No further investigation was done to see whether her adult son had any recent relation to the address. Ex. 10, Buschy Depo. 81:10-82:6.

15. Disputed. Defendant Staab did not draft the Affidavit and accompanying Warrant as truthfully as possible. He made material misrepresentations in the affidavit, including that there was a red dot on the screenshot provided by McDaniel and that the red dot signified that the stolen iPhone was located within Ms. Johnson’s home. Ex. 9, Affidavit, p. 3. Defendant Staab also left out of the affidavit significant, material information. He omitted information regarding his doubt that the facts supported a finding of probable cause, his complete lack of information about how the Find My application works, and the lack of any investigation into the significance of the information shown on the iPhone screenshot. The affidavit further omitted information about the owner of the house or any of the other locations where the phone had previously pinged. He also omitted that the pre-search surveillance team observed no suspicious activity at the address. Additionally, in the sworn affidavit, Defendant Staab stated that he had reason to believe that the 2007 Chevrolet truck was “now located” at Ms. Johnson’s house. This is despite having absolutely

no reason to believe that the truck was at that property at that time. Ex. 2, Staab Depo. at 42:24-43:6, 195:15-17, 195:11-14, 196:21-197:5, 197:20-22. Ex. 9, Affidavit in Support of Search Warrant for Plaintiff's Address ("Affidavit"), p. 1-2. Defendant Staab further testified that he feels the pre-affidavit surveillance team would have told him if they had seen suspicious activity, but that they did not relay this information. Ex. 2, Staab Depo. at 50:2-10. All this information was available to Defendant Staab while he was drafting the search warrant affidavit. Not only did he omit much of this information, he also stated in the warrant that he had reason to believe that the truck was at Ms. Johnson's house. Ex. 2, Staab Depo. at 195:11-14; Ex. 9, Affidavit, p. 1-2.

16. Undisputed.

17. Disputed. Defendant Staab testified that the pre-affidavit surveillance team was sent to Ms. Johnson's home before he authored the affidavit in order to take photos for the affidavit. Ex. 2, Staab Depo. at 42:4-16, 44:13-19. The truck was not visible in the photos sent by the pre-affidavit surveillance team, one of which was used in his affidavit. Ex. 2, Staab Depo. at 42:24-43:6, 195:15-17; Ex. 9, Affidavit, p. 1.

18. Disputed. DDA Beck actually testified that she did not "recall any indication that there was a disagreement of probable cause" between she and Victoria Sharp. Ex. 5, Beck Depo at 102:5-7.

19. Undisputed.

20. Undisputed.

21. Undisputed.

22. Undisputed.

23. Undisputed.

**III. RESPONSE TO DEFENDANT BUSCHY'S STATEMENT OF UNDISPUTED FACTS**

1. Undisputed.

2. Disputed. McDaniel first reported to the Denver Police Department that the stolen truck contained an old iPhone and several firearms during his initial call at least as early as 9:30am on January 3. Ex. 3, CAD 3319, p. 1-2. McDaniel again relayed this information to Officer Rop Monthathong, not Officer Chris Randall, when the two officers arrived at the Hyatt approximately one hour later. Officer Randall never spoke with McDaniel, as Randall was tasked with talking with Hyatt security while Officer Monthathong interviewed McDaniel Ex. 11, Deposition Transcript of Sergeant Chris Randall ("Randall Depo."), 74:6-8; 83:25-84:2.

3. Undisputed.

4. Undisputed.

5. Undisputed

6. Undisputed.

7. Undisputed.

8. *See Plaintiff's Response to Defendant Staab's "Undisputed Fact" number 5, which mirrors this statement of fact.*

9. Undisputed.

10. Disputed. During the partially recorded phone call between McDaniel and Defendant Staab at 8:45am on Jan. 3, McDaniel told Defendant Staab that the stolen iPhone pinged once at 11:24am and then stated, "3:55 is the last time it showed me yesterday." McDaniel merely provided two separate time stamps and did not indicate in that phone call that the iPhone continued

to ping “for several more hours.” Ex. 1, January 4, 2022 Phone Call Between Defendant Staab and Jeremy McDaniel (“McDaniel Phone Call”).

11. Undisputed.

12. Disputed. McDaniel only provided DPD with a screenshot from what he characterized as the 11:24am “ping” and not any evidence of “the last place the stolen phone had pinged” at 3:55pm. Defendant Staab did not receive evidence of the screenshot until 9:57am on January 4, 2022, over an hour after the 8:45am phone call during which Defendant Staab stated that he was planning to prepare a search warrant and had “a whole bunch of people going up there right now.” Ex. 8, GO Report, p. 35-36; Ex. 1, McDaniel Phone Call.

13. Disputed. The Defendants have not produced any document establishing a “red dot” on the Find My screenshot, despite Defendant Staab’s statement in the affidavit identifying a red dot and Defendants’ continued description throughout this case of a “red dot” that identified Ms. Johnson’s house. Multiple, color versions of the screen shot have been produced, and while they include red text, there is no red coloring at all within the large blue circle signifying the approximate zone in which the iPhone may have been located. The Find My screenshot illustrates a phone icon on the corner of the building at Ms. Johnson’s address overlaid with a faint blue circle that encompasses a four-way intersection, at least six properties, and four other structures that are not the image of Ms. Johnson’s address. Ex. 9, Affidavit; Ex. 12, Grant Declaration, p. 7-8.

14. Undisputed.

15. Disputed. *See* Plaintiff’s Response to Defendant Staab’s “Undisputed Fact” number 14, which mirrors this statement of fact.

16. Undisputed.

17. Disputed. Defendant Buschy advised Defendant Staab to speak with the District Attorney's Office "to find out what they thought about the warrant, if we had to write a warrant, whether [the phone was] stale or not." Ex. 10, Buschy Depo. at 57:21-58:1. Notably, this communication between the Defendants occurred after Defendant Staab had already informed McDaniel that he was going to "do a warrant." Ex. 1, McDaniel Phone Call.

18. Disputed. DDA Beck has no recollection of speaking to Defendant Staab or Defendant Buschy about this case. DDA Beck further testified that she does not believe Defendant Staab or Defendant Buschy provided her with information about the Find My application, nor is that information she would have sought. Ex. 5, Beck Depo, at 63:12-64:7; 111:22-112:11.

19. Disputed. *See* Plaintiff's Response to Defendant Staab's "Undisputed Fact" number 13.

20. Disputed. Prior to Defendant Staab reporting back to DDA Beck about McDaniel's perception of the accuracy of the Find My application, DDA Beck had informed Defendant Staab that there was sufficient information in the affidavit to establish probable cause. Ex. 2, Staab Depo at 28:21-29:3.

21. Disputed. DDA Beck has no recollection of speaking with Defendant Buschy about the warrant. Ex. 5, Beck Depo at 66:10-13.

22. Disputed. DDA Beck has no recollection of speaking with Defendant Buschy about the warrant. Ex. 5, Beck Depo at 66:10-13.

23. Undisputed.

24. Undisputed.

25. Undisputed.

26. Undisputed

27. Undisputed

28. Undisputed that Defendants Staab and Buschy conveyed the information about Ms. Johnson's age to SWAT only after failing to provide the same information in the affidavit for review and consideration by Judge Faragher. Ex. 9, Affidavit.

29. Disputed. Ms. Johnson was told she was removed from her property to talk to detectives, not for her safety. Ex. 13, January 4, 2022 Body Worn Camera Footage ("BWC") at 13:54:23-33. DPD also believed Plaintiff was the only one at her residence so, to the extent it was for her safety, it must have been to be safe from DPD officers. Ex. 10, Buschy Depo. At 100:10-17.

30. Undisputed.

31. Disputed. Defendant Buschy testified that he was aware of one other case. That case did not involve a search warrant, but involved a "a suicidal party, and they used, in conjunction with his wife, used her Find My iPhone phone for her husband, and they located his deceased body." Ex. 10, Buschy Depo at 138:24-139:3. Defendant Buschy testified that he did not know of any other cases where the Find My application was used. *Id.* at 139:9-10.

32. Disputed. DDA Beck never expressed any understanding of the functionality or accuracy of the Find My application to Defendant Staab on January 4, 2022 or at any other time. Ex. 2, Staab Depo at 119:25-120:6. DDA Beck is "not an expert in the Find My iPhone application." Ex. 5, Beck Depo at 71:1-2. DDA Beck testified that she used the Find My application to find her personal phone when she left it in her parents' garage and based her belief about the

accuracy of the application on that experience. *Id.* at 71:9-19. Defendant Buschy relied on Defendant Staab's statements in his affidavit, not on conversations with DDA Beck, regarding the information conveyed by the Find My screenshot. Ex. 10, Buschy Depo at 131:5-10.

33. Undisputed.

34. Disputed. Neither Defendants Buschy nor Staab believed there was probable cause for the affidavit at the time it was prepared and submitted to DDA Beck. Ex. 10, Buschy Depo at 58:16-18; 59:1-3; 59:15-25; Ex. 2, Staab Depo at 51:8-12. No additional facts supporting a finding of probable cause were discovered or included in the affidavit after it was prepared for review and before it was executed.

#### **IV. PLAINTIFF'S STATEMENT OF ADDITIONAL MATERIAL FACTS**

1. On January 3, 2022, McDaniel reported to DPD that his stolen iPhone was in his 2007 Chevrolet truck and had "pinged" at several locations throughout Denver and Aurora. These locations included "out by the airport," "5558 Lewiston Ct," "Falcon Park 13600 E Maxwell Pl," and "5380 Worcester St." Ex. 11, Randall Depo, 82:8-11, 91:8-16; Ex. 3, CAD 3319, p. 1-2.

2. Despite the knowledge that McDaniel's stolen Chevrolet truck was in several specific locations throughout Denver and had several guns inside of it, the theft was not assigned to a DPD detective for further investigation until almost 24 hours later on January 4, 2022. Ex. 8, GO Report, pg. 10; Ex. 2, Staab Depo. at 15:22-24. McDaniel was upset by DPD's inaction on the day he reported his truck stolen. Ex. 2, Staab Depo. at 38:4-10.

3. On January 4, McDaniel's report was assigned to Defendant Staab. Ex. 2, Staab Depo. at 15:22-24; Ex. 8, GO Report, pg. 10.

4. At 8:45am on Jan. 4, Defendant Staab called McDaniel. McDaniel informed Defendant Staab he had an old iPhone in his truck and had used the Find My application to track the iPhone in the stolen truck. Ex. 8, Go Report, pg. 11. McDaniel told Defendant Staab that the stolen iPhone pinged once on Jan. 3 at 11:24am and then stated, “3:55 is the last time it showed me yesterday.” Ex. 1, McDaniel Phone Call. McDaniel also provided Ms. Johnson's address that was shown on the iPhone app. *Id.*

5. During the 8:45am phone call, Defendant Staab told McDaniel, “We got a whole bunch of people going up there right now so I got to do a warrant and that takes a little time, but we’ll stay in touch with you throughout the day, okay?” Ex. 1, McDaniel Phone Call. Presumably, Defendant Staab was working under the assumption that wherever the stolen iPhone was located, the police would also find all the other stolen property identified in the affidavit.

6. At the time Defendant Staab stated that he was going to draft a search warrant for Ms. Johnson’s property, the only information he had about the ping of the stolen iPhone had been relayed to him orally by McDaniel. *See id.*; Ex. 8, Go Report, pg. 11. McDaniel sent an email with the iPhone screenshot to Defendant Buschy at 9:47am, who forwarded the email to Defendant Staab at 9:57am, more than an hour after Defendant Staab’s phone call with McDaniel. Ex. 8, GO Report, p. 35-36.

7. When Defendant Staab received the email from Defendant Buschy that included the Find My screenshot (showing the 11:24am ping), the information about the location of the stolen phone (and potentially all the other stolen property) was more than 22 hours old. Ex. 8, GO Report, p. 35-36; Ex. 9, Affidavit, p. 1.

8. No documentary evidence of the 3:55 p.m. ping on January 3, 2022 has been produced in this case. Ex. 2, Staab Depo at 149:8-11.

9. A DPD team surveilled Ms. Johnson's address before Defendant Staab submitted the application for warrant. Ex. 2, Staab Depo at 42:1-3; 42:13-16; 44:13-29; 46:13-17; Ex. 8, GO Report, p. 12; Ex. 10, Buschy Depo at 79:16-22.

10. While he was drafting his Affidavit, Defendant Staab relayed to Defendant Buschy his concerns about whether the ping of the iPhone the previous day meant that the phone was still at the location. Ex. 2, Staab Depo at 28:1-17, 29:5-7, 29:22-30:4, 33:21-23. Defendant Buschy instructed him to call DDA Ashley Beck. Ex. 2, Staab Depo at 28:21-25, 30:13-15; Ex. 10, Buschy Depo. at 57:21-58:1, 59:10-12, 60:10-18. Defendant Staab expected that DDA Beck would tell him that he did not have probable cause for a search warrant for Ms. Johnson's home. Ex. 2, Staab Depo. at 50:17-51:3.

11. Defendant Buschy was surprised that DDA Beck was not concerned about the 17 hours that had elapsed since the time of the last ping of the stolen phone. Ex. 10, Buschy Depo. at 61:20-62:4; 64:19-65:13.

12. DDA Beck never relayed her experience with the Find My application to Defendants Staab or Buschy. Ex. 2, Staab Depo. at 119:25-120:6; Ex. 10, Buschy Depo. at 131:5-10. DDA Beck assumed, without inquiring, that Defendant Staab was familiar with the Find My application. Ex. 2, Beck Depo. at 78:20-79:4.

13. Defendant Staab did no independent investigation into McDaniel's interpretation that the Find My screenshot demonstrated that the stolen phone was located inside Ms. Johnson's home. Ex. 2, Staab Depo. at 149:12-15.

14. Defendant Staab had no knowledge as to how the Find My application works. Ex. 2, Staab Depo. at 152:20-23. He had never been trained on Find My or any other cellphone tracking technology. *Id.* at 118:6-12. Defendant Staab did not try to educate himself on the functionality of the Find My application. Ex. 2, Staab Depo. at 152:24-153:7.

15. Prior to preparing this Affidavit, Defendant Staab had never used the Find My application, personally or professionally. Ex. 2, Staab Depo. at 153:8-13.

16. In his career, Defendant Staab had only prepared 10 search warrant affidavits, none of which used the Find My application. Ex. 14, Defendant Staab's Responses to Plaintiff's Request for Interrogatories ("Staab's Responses to First Interrogatories") at No. 9; Ex. 2, Staab Depo. at 148:22-25.

17. Defendant Staab could have contacted the Denver Crime Lab for more information about the Find My screenshot but did not do so. Ex. 2, Staab Depo. at 162:14-21.

18. Despite Defendant Staab's "little" search warrant experience, Defendant Buschy did no additional investigation. Ex. 10, Buschy Depo. at 53:7-13; 83:14-18.

19. Nonetheless, Defendants included in the sworn affidavit, the following false statement, "A photo of the app shows a red dot, **signifying the phone being inside the house 5380 N Worchester St. Denver, CO 80239.**" Ex. 9, Affidavit, p. 3 (emphasis added); Ex. 2, Staab Depo at 152:20-23.

20. Defendant Buschy does not know if Defendant Staab did anything to investigate the truck theft besides contacting McDaniel and a representative of the Hyatt. Ex. 10, Buschy Depo. at 56:5-12.

21. While drafting the search warrant affidavit, Defendant Staab learned from the pre-affidavit surveillance officers that they had not seen McDaniel's 2007 Chevrolet truck at Ms. Johnson's address. Ex. 2, Staab Depo. at 42:24, 48:9-11.

22. McDaniel also reported that he had driven by 5380 Worcester Street on the day prior but did not see his Chevrolet truck outside of her home. Ex. 8, GO Report, p. 11.

23. Staab knew when he submitted the warrant application that the truck was not at Ms. Johnson's property. Ex. 2, Staab Depo at 42:10-24; 44:17-19; 47:16-25; 53:24-54:4.

24. Despite having no factual basis support a reasonable belief that the truck was located at Ms. Johnson's property, Defendants included the following information in the sworn affidavit, "I, Detective Gary Staab . . . have reason to believe that at [5380 Worcester St. Denver CO 80239] is now located [a] 2007, white, Chevrolet Truck, Texas License #LWY059." Ex. 9, Affidavit, p. 1.

25. While drafting the search warrant affidavit, Defendant Staab testified that he looked up the owner of the home and discovered that she was an elderly woman. Ex. 2, Staab Depo at 61:9-15.

26. Neither Defendant Staab nor Defendant Buschy thought Ms. Johnson had actually committed the theft of McDaniel's truck and other property. Ex. 2, Staab Depo at 62:13-15; Ex. 10, Buschy Depo. at 80:25-81:2.

27. Ms. Johnson was never a suspect. Ex. 2, Staab Depo at 25:23-25; Ex. 10, Buschy Depo at 105:14-15.

28. Defendant Staab did not include in the affidavit any information about Ms. Johnson, including that she was a 78-year-old woman, or that she was never a suspect. Ex. 9, Affidavit; Ex. 2, Staab Depo at 195:11-14.

29. Defendant Staab did not include his concerns about probable cause or his conversations about those concerns with DDA Beck and Defendant Buschy in his Affidavit. Ex. 9, Affidavit; Ex. 2, Staab Depo at 196:21-23.

30. Defendant Staab did not include his complete lack of experience with the Find My application or information about the functioning and accuracy of the Find My application in his Affidavit. Ex. 9, Affidavit; Ex. 2, Staab Depo at 196:24-197:5, 197:20-22.

31. The only evidence DPD had that linked Ms. Johnson's home to the truck theft was that the stolen iPhone had "pinged" in the vicinity of her address the day before. Ex. 10, Buschy Depo at 101:1-5.

32. An Apple device "ping" is a geolocation process that can utilize various levels of accuracy calculation based on individualized settings and data collection services provided by third parties. Ex. 12, Grant Declaration, p. 6. A mobile device can utilize multiple sources when calculating its approximate location (Geolocation). This is identified as Assisted Global Positioning System (A-GPS). While a true Global Positioning System GPS utilizes signals from only Satellites, A-GPS can also utilize signals from Cell Towers, Wi-Fi Hotspots, and Bluetooth Beacons. Each of these independent sources can greatly impact the accuracy levels of a mobile device's geolocation. Ex. 12, Grant Declaration, p. 6.

33. Neither Detective Staab nor Sergeant Buschy made any inquiry into the significance of what it meant for a phone to “ping” to a location. Ex. 10, Buschy Depo. at 131:5-19, 138:13-20, 139:11-16; Ex. 2, Staab Depo. at 152:20-153:7.

34. When an Apple device performs a geolocation process, it will calculate latitude and longitude coordinates based on proprietary algorithms that take into consideration the source, signal strength and other factors such as additional device sensors, crowdsourced Wi-Fi hotspots and Cell Tower locations. In addition to calculating the latitude and longitude, it can also calculate a Horizontal Accuracy Radius distance in meters. Latitude and longitude coordinates do not indicate exactly where the device is located, they are a position to plot on a map to identify the Horizontal Accuracy area. This Horizontal Accuracy area is where the Geolocation process believes the device is within. Ex. 12, Grant Declaration, p. 6.

35. A blue circle or shading around an Apple Find My geolocation ping represents “The radius of uncertainty for the location, measured in meters.” This means that the device could be anywhere within that circle. *Id.* at p. 7.

36. Each Geolocation is unique and based on many factors. *Id.* While it may be extremely accurate on one occurrence, it could be hundreds of meters off, if not more, on another. Factors such as source, phone model, topography, etc. can change the results. *Id.* For example, whether the phone is in a covered building, or an open field will change the accuracy of the Geolocation. That is precisely why the blue circle/shading is there, to indicate a horizontal error rate. *Id.* at p. 8.

37. A single screen capture from a device running the Apple Find My App was included in the Affidavit for a Search Warrant. The location information appears to be from another Apple device that would have been associated with the same Apple Account. Ex. 9, Affidavit, p. 1.

38. Contrary to Detective Staab's sworn statement in the affidavit, a "red dot" on the Apple Find My App did not indicate the phone's precise location. Ex. 12, Grant Declaration, p. 7.

39. A blue circle, or blue shading around the red dot meant that the device could be anywhere within that circle and not specifically the center of the circle. *Id.* at p. 7-8.

40. At best, the screen capture in the Affidavit indicated a general area the phone may have been located that covers five (5) different structures and surrounding areas. Nothing from the screen capture indicates precisely where the phone was located, and 5380 N. Worcester Street was only one of the possible locations. *Id.* at p. 7.

41. The affidavit included no information about how Find My works. *See generally* Ex. 9, Affidavit.

42. The only independent information in the affidavit about the reliability or accuracy of Find My is McDaniel's supposed anecdotal evidence from an unspecified time and unspecified place. *Id.*

43. The affidavit did not relay that any DPD officer had any experience with Find My iPhone. *Id.*

44. Defendant Staab did not believe he had probable cause to search Plaintiff's home for the 2007 Chevrolet Truck or the stolen items before he submitted his search warrant affidavit to DDA Beck and Judge Faragher. Ex. 2, Staab Depo at 51:4-12.

45. Defendant Staab did not want to draft the search warrant for Plaintiff's home because of his concern that seventeen (17) hours had passed since McDaniel last reported a ping in the vicinity of Ms. Johnson's home. Ex. 2, Staab Depo at 28:7-20; 29:22-24; 34:14-20. The time lapse made Defendant Staab worry that the phone, guns, cash, drones, and truck may no longer be at the location. *Id.*

46. Defendant Buschy shared Defendant Staab's concerns, testifying that he did not "know if the phone had been moved, had been turned off, had died. . . because it had been over 17 hours [since the last ping]." Ex. 10, Buschy Depo at 58:16-18; 59:1-3. The seventeen (17)-hour delay was "not giving [them] probable cause. It [was] not giving [them] reason to believe that the phone is still there." *Id.* at 59:15-25.

47. Defendant Staab submitted the Affidavit after he was instructed to do so by Defendant Buschy because had he not, another detective would have. Ex. [X], Staab Depo at 178:13-25. The affidavit "would have been done regardless." *Id.* Defendant Staab testified that DPD is a "paramilitary organization. . . You have people you answer to and when you're told to do something, you do it." *Id.*

48. With the benefit of hindsight, Defendant Buschy wishes that DPD would have "narrow[ed] down the scope and the accuracy of the cell phone a little bit more" prior to the submission of the Affidavit. Ex. 10, Buschy Depo at 102:3-10.

## V. ARGUMENT

Plaintiff brings her claims under the state statute that was passed in the wake of the murder of George Floyd, C.R.S. § 13-21-131, for violations of the article II, section 7 of the Colorado Constitution. Defendants' arguments proceed from the faulty premise that a police officer's

liability under state law (C.R.S. § 13-21-131) for a violation of the state Constitution (article II, section 7) is “co-extensive” with an officer’s liability under federal law for a violation of the federal Constitution. Staab Mot. for Sum. Judg., p. 8. However, Defendants’ reliance on 42 U.S.C. § 1983 and its standards associated with qualified immunity is misplaced. As discussed further below, the federal standard does not apply to Ms. Johnson’s Colorado state law claim, and C.R.S. § 13-21-131 expressly prohibits reliance on the doctrine of qualified immunity. Instead, C.R.S. § 13-21-131 makes officers liable for obtaining a warrant without probable cause in violation of article II, section 7.

Nonetheless, even if the Court were to apply the federal test, Defendants’ motions must be denied because genuine disputes of material fact remain as to each element of that standard. Critically, the evidence demonstrates the affidavit included reckless falsehoods and omissions material to probable cause.

**A. Standard of Review**

Trial courts must “exercise great care in granting motions for summary judgment.” *Smith, for & on Behalf of Leech v. Mills*, 225 P.2d 483, 485 (Colo. 1950). Because it denies a litigant a trial, summary judgment is a “drastic remedy” that is “never warranted except on a clear showing that there exists no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” *Churchey v. Adolph Coors Co.*, 759 P.2d 1336, 1339–40 (Colo. 1988); *Smith*, 225 P.2d at 485 (“Trial courts should . . . not deny a litigant a trial where there is the slightest doubt as to the facts.”).

Prudence is especially warranted where summary judgment is sought as to mixed questions of law and fact, which “involve[] the application of a legal standard to a particular set of evidentiary

facts in resolving a legal issue.” *Mt. Emmons Min. Co. v. Town of Crested Butte*, 690 P.2d 231, 239 (Colo. 1984). The Colorado Supreme Court has cautioned that “[e]ven if the historical facts underlying the mixed question might be undisputed, as long as a reasonable trier of fact nevertheless could draw divergent inferences from the application of the legal criteria to the facts, summary judgment should be denied.” *Id.* Stated differently, the court must deny a motion for summary judgment unless it finds “not only that the material facts are undisputed but also that ‘reasonable minds could draw but one inference from them’ and that the moving party is entitled to judgment as a matter of law.” *People In Interest of S.N. v. S.N.*, 2014 CO 64, ¶ 18, 329 P.3d 276, 282 (quoting *Gibbons v. Ludlow*, 2013 CO 49, 304 P.3d 239).

**B. Genuine issues of material fact preclude entry of summary judgment for Defendant Staab.**

Defendant Staab argues that Ms. Johnson’s claim against him must fail because “there is no evidence that Staab knowingly, intentionally, or with reckless disregard for the truth,” either “included any false statements of material fact in the Affidavit,” or “omitted any material information from the Affidavit that would have vitiated probable cause.” Staab Mot. for Sum. Judg., p. 2. As explained further below, Plaintiff disagrees that either showing is necessary to support her state law claim under C.R.S. § 13-21-131 and the state Constitution. But even under Staab’s asserted elements, he fails to meet his burden to show the absence of disputed material facts and his entitlement to judgment as a matter of law. The heart of the case turns on genuine fact disagreements that must be resolved by a jury.

A reasonable jury could conclude that Defendant Staab’s affidavit was misleading for three reasons: (1) the affidavit included falsehoods and omitted facts, (2) the falsehoods and omissions

were made with reckless disregard for the truth, and (3) removing the falsehoods, and ignoring the omitted material facts, the affidavit lacked probable cause.

***1. A reasonable jury could conclude the affidavit included falsehoods and omitted facts.***

Staab does not assert, much less meet his burden to establish, the absence of a genuine dispute between the parties as to whether the affidavit actually included falsehoods or omitted facts, and he cannot.

First, competent evidence demonstrates the falsity of a key sworn statement in the affidavit. Staab's affidavit centered on an image he said captured a screenshot of the Find My app. The affidavit represented that the image contained a "red dot" which "signif[ied] the phone being inside the house, 5380 N Worchester St. Denver, CO 80239." This statement is false. Whether the image included a "red dot" at all is an obvious fact that was readily determinable from the image itself. Either Staab recklessly failed to look at the image carefully, or he intentionally made reference to a red dot in an effort to exaggerate the significance of the image. Either way, Staab clearly failed to consult easily accessible online information from Apple that would have helped him understand the significance of the blue circle, which was actually displayed in the image, and which signifies only that the phone might have been found anywhere in the blue circle and not at its center. *See* Ex. 12, Grant Declaration.

Plaintiff has not only pointed to readily available guidance from Apple's own website contradicting Defendant's assertion, but has also produced an expert report explaining that Staab's representation was false. Ex. 12, Grant Declaration; Staab Depo., 161:18-162:4.

Staab appears to argue the statement was not false because "the screenshot unmistakably shows the address of 5380 Worchester Street." Staab Mot. for Sum. Judg., p. 12. But this misses

the point entirely. The dispute is about Staab’s characterization of what the display of the address meant. The evidence demonstrates that Find My is approximate, and its accuracy and precision depend on a number of factors, such that it can produce results that are “unavailable, inaccurate, or incomplete.” Ex. 12, Grant Declaration, p. 11. Crucially, the degree of accuracy of any particular result is apparent on the face of the app: if a device’s “location can’t be determined precisely, you’ll see a blue circle around the marker. The size of the circle shows how precisely [the device’s] location can be determined—the smaller the circle, the greater the precision.” *Id.* at p. 11. Corroborating this publicly available information, Plaintiff’s expert has sworn that the screenshot indicated that “[a]t best, this screen capture would indicate a general area the phone may be located that covers five (5) different structures and surrounding areas,” and that “[n]othing from the screen capture indicates precisely where the phone is located, and 5380 N. Worchester Street would only be one of the possible locations.” *Id.* at p. 7. Authorizing a search of Ms. Johnson’s home based on the true meaning of this result would be akin to authorizing the search of a random apartment in a multi-unit building based on suspicion that evidence of a crime would be found somewhere in the structure. *C.f. People v. Arnold*, 509 P.2d 1248, 1249–50 (Colo. 1973) (affidavit supporting search of multi-unit apartment building must supply probable cause “*as to each separate . . . place to be searched*”).

Plaintiff has produced competent evidence that the very assumption improperly relied on in Staab’s affidavit and repeated in his Motion—*i.e.*, that the address displayed in the Find My screenshot established that the phone was inside the home—is flatly wrong. The screenshot result displays a blue circle with a radius spanning several neighbors’ houses, yards, and nearby streets. Based on the evidence, and drawing all reasonable inferences in Ms. Johnson’s favor, a jury could

easily conclude that Staab’s statement that the screenshot signified not just that the phone was at 5380 N. Worchester Street, but actually *inside* the house, was false.<sup>1</sup>

Second, Staab swore that he had reason to believe that the victim’s white Chevrolet truck was located at Ms. Johnson’s home, 5380 N. Worchester Street. Ex. 9, Affidavit, p. 1-2. This too was false. Staab testified at his deposition that when the undercover team surveilled the house—which was before he authored the affidavit—he knew the truck was not there. Ex. 2, Staab Depo., 42:10-24; 44:17-19; 47:16-25; 53:24-54:4.

Third, and relatedly, the record reveals a host of adverse facts that a jury could conclude Staab withheld from the affidavit, including but not limited to (1) his complete lack of familiarity, understanding, experience, or training with the Find My app or any similar cellphone tracking technologies; (2) his doubts about probable cause, including regarding the potential staleness of the reported Find My “pings”; (3) information about the homeowner of 5380 Worchester, including that she was an elderly woman and not a suspect; (4) that a pre-search surveillance team observed no evidence of suspicious activity at the address nor any evidence of the existence of the 2007 Chevrolet. In sum, there are genuine disputes between the parties regarding information Staab’s affidavit misrepresented to and withheld held from the reviewing judicial officer.

**2. *A reasonable jury could conclude the falsehoods and omissions were made with reckless disregard for the truth.***

While Staab later obfuscated about when he learned from the surveillance team that the truck was not at Ms. Johnson’s home, his initial, repeated testimony that he knew it *before* he wrote

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<sup>1</sup> Even if Staab’s misrepresentation were characterized as an opinion, “an opinion [that] proves incorrect . . . is ‘false’ for the purpose of a veracity challenge to an affidavit for a warrant.” *People v. Young*, 785 P.2d 1306, 1309 (Colo. 1990).

the affidavit establishes a question for the jury to resolve—including about Staab’s credibility. Ex. 2, Staab Depo. at 42:24, 48:9-11. Drawing all reasonable inferences in favor of Ms. Johnson, a jury could conclude that Staab’s statement that he had reason to believe the truck would be found at Ms. Johnson’s address was made with at least reckless disregard for the truth.

As to the misrepresentation about the phone “being inside the house,” Staab argues that even if that statement *was* false, there is no evidence he knew that at the time he prepared his affidavit. Staab Mot. for Summ. Judg., pp. 12, 15. But Plaintiff need not prove that Staab had affirmative knowledge that his statement was false, because there is a genuine dispute whether Staab’s misrepresentations and omissions were made with “reckless disregard for the truth.” Assertions are made with “reckless disregard for the truth” when, “viewing all the evidence, the affiant must have entertained serious doubts as to the truth of his statements or had obvious reasons to doubt the accuracy of the information he reported.” *United States v. Clapp*, 46 F.3d 795, 799 (8th Cir. 1995). Omissions are made with “reckless disregard for the truth” when a law enforcement officer omits facts that “any reasonable person would have known the judge would wish to have brought to [their] attention.” *United States v. Jacobs*, 986 F.2d 1231, 1235 (8th Cir. 1993).

Staab asserts that his “lack of knowledge of any information that could contradict his statement” regarding the screenshot demonstrates a “paucity of evidence” that his assertion of what it signified was made with reckless disregard for the truth. Staab Mot. for Summ. Judg., p. 12. But the opposite is true. Especially drawing all inferences in favor of Ms. Johnson and against Defendant Staab, a reasonable jury could find that Staab’s total lack of knowledge of, experience with, or training regarding the Find My app or any comparable cellphone technology should have

given him “obvious reason to doubt” his baldly conclusory statement of what the screenshot signified. In fact, Defendant did doubt that there was probable cause to believe that the phone was inside the house. Ex. 2, Staab Depo. at 28:7-20; 29:22-24; 34:14-20. He testified that had concerns regarding whether the phone was still inside the house because of the length of time since the last known ping. *Id.*

Moreover, a jury could conclude that he also would have had reason to doubt his untrained interpretation of the accuracy of the screenshot rather than swear to it as an objective fact. That is especially true considering that the only evidence that implicated Ms. Johnson or her address in the crime under investigation were McDaniel’s reported Find My pings. And a finding that Staab demonstrated reckless disregard for the truth would be further supported by evidence that a quick google search or reaching out to his own agency’s technology department in the Denver Crime Lab would have told him what the large blue circle meant: that the app could not provide probable cause to search Ms. Johnson’s home. Police cannot “rel[y] on their own willful ignorance and failure to conduct an adequate investigation. [For example,] [t]he use of a SWAT-style raid may not be justified by the unknowns of the search if those unknowns were readily discoverable through simple investigatory tactics. . . .” *Cf. Baptiste v. J.C. Penney, Co.*, 147 F.3d 1252, 1259 (10th Cir.1998) (“[P]olice officers may not ignore easily accessible evidence and thereby delegate their duty to investigate and make an independent probable cause determination based on that investigation.”); *Maryland v. Garrison*, 480 U.S. at 85 (in particularity challenge, “the validity of the warrant must be assessed on the basis of the information that the officers disclosed, or had a duty to discover and to disclose, to the issuing [judge]”).

A reasonable jury could similarly conclude that Staab should have known that the reviewing judge would wish to have brought to her attention several of the facts he withheld from his affidavit. The judge was tasked with evaluating the sufficiency of an affidavit that relied exclusively on the reported results of a cell phone app—Find My—to establish a nexus to the place to be searched to find the specific items identified in the affidavit. At the very least, any reasonable person would have known that a reviewing judicial officer in that position would wish to have brought to her attention her affiant’s experience (or lack thereof) with the technology solely purporting to establish probable cause. It would be reasonable to conclude the judge would also have wished it had been brought to her attention that the only first-hand police investigation done—*i.e.*, learning about the elderly homeowner, observing no suspicious activity during surveillance of the property, and that the truck was not anywhere on the property—failed to bolster or corroborate any nexus to 5380 Worchester Street.

**3. *Excising the falsehoods, including the omitted material facts, and drawing all reasonable inferences in Ms. Johnson’s favor, the affidavit lacked probable cause.***

Finally, Staab attempts to show he is entitled to summary judgment by asserting that each falsehood or omission, analyzed on its own, would not have vitiated probable cause. Staab Mot. for Summ. Judg., pp. 12-13. But that is not the relevant question even under the federal standard. Instead, the issue is whether a corrected affidavit, with falsehoods excised and omissions included, established probable cause. *Kapinski v. City of Albuquerque*, 964 F.3d 900, 905 (10th Cir. 2020) (“We make this assessment by “(1) removing any false information from the affidavit, (2) including any omitted material information, and then (3) inquiring whether the modified affidavit establishes [or negates] probable cause for the warrant.”).

Removing just Staab’s misrepresentations from the affidavit all but eliminates the only basis for suspicion that the phone and all other evidence of the crime would be found *inside* Ms. Johnson’s residence. None of the other facts purporting to establish a nexus to her address—*i.e.*, (1) the screenshot itself, (2) McDaniel’s alleged report that he used the app to track his phone to 5380 N. Worchester Street, and (3) McDaniel’s alleged report that he had previously used the app at some unknown time and found it to be precise—established a fair probability that the phone and the other property would be located inside, as opposed to somewhere else in the neighborhood. Indeed, the screenshot itself, without Staab’s mischaracterization of its meaning, only *undermined* the value of the other supposed ping. Because the only evidenced ping “at 5380 Worchester” was really just a ping to the vicinity, that suggests the other reported ping was similarly unable to pinpoint any particular suspected location within the blue circle.

More broadly, Staab’s misrepresentation about the phone “being inside the house” was the *only* assertion in the affidavit establishing any nexus to Plaintiff’s home whatsoever that bore even a cloak of basis in the affiant’s personal knowledge or observation. This is important for at least two reasons. First, Staab’s representation of what the screenshot signified gave the false impression that he had familiarity with the app or a personal understanding of its functionality, particularly because he swore his conclusions were derived from his experience and training as a police officer. As discussed further below, this false impression was only amplified by his failure to advise Judge Faragher, in fact, he had no experience, training, or understanding—professional or otherwise—regarding the technology at issue.

Second, it is foundational—and the reason for the affidavit procedure—that probable cause must be “supported by oath or affirmation reduced to writing,” Colo. Const. art. II, § 7. Where an

officer affiant relies on some source other than their own first-hand knowledge, the reliability of that source is open to question in the probable cause analysis. *See People v. Fortune*, 930 P.2d 1341, 1345 (Colo. 1997) (under the totality of the circumstances test, “the type of showing necessary to establish the trustworthiness of the information supporting the search . . . will vary with the source of the information.”). In this case, absent the statement about the phone “being inside the house” based on a conclusion drawn from a non-existent “red dot,” the remaining facts in the affidavit purporting to establish a nexus to Ms. Johnson’s residence all relied on another source of information—either McDaniel or the Find My app itself—that had not sworn any oath to tell the truth and would not be accountable for any misrepresentations. *Cf. Cortez v. McCauley*, 478 F.3d 1108, 1118 (10th Cir. 2007) (“That unsubstantiated double-hearsay . . ., standing alone, does not give rise to probable cause should have been patently obvious to any reasonable law enforcement official.”).

The treatment of dog alerts in the probable cause analysis provides a useful analogy. In *Florida v. Harris*, 568 U.S. 237 (2013), the U.S. Supreme Court considered whether a probable cause determination could be based principally on an alert from a drug-detection dog. It likened the dog to an informant’s tip, such that its veracity, reliability, and corroboration were all highly relevant in the determination of its trustworthiness. *See Illinois v. Gates*, 462 U.S. 213, 230 (1983). In that case, the Court made clear that the dog’s reliability could not be taken for granted; indicia of reliability had to be proven. *Id.* at 245-48. The defendant was also due an opportunity to challenge such evidence of reliability, both in general and under the circumstances surrounding a particular alert. *Id.* at 247 (“[E]ven assuming a dog is generally reliable, circumstances surrounding a particular alert may undermine the case for probable cause.”).

Here, Staab's misrepresentation itself amounted to most of what the affidavit had to say about the Find My app's reliability or accuracy. Stripped of Staab's misrepresentation, the only basis it gave to justify reliance on the Find My app was McDaniel's report of the app's accuracy. But while victim-witnesses' reports of percipient facts, like their first-hand observations of a crime, might generally justify trust in their statements to police,<sup>2</sup> Staab has not shown that their assurances can suffice to corroborate the reliability of a technological process furnishing the sole basis for probable cause.

Staab's attempt in his Motion to rely post-hoc on Beck's experience with Find My to bolster the affidavit is unavailing. Staab Mot. for Summ. Judg., p. 4. While Beck testified in a deposition for this case that she was familiar with the app, there is no evidence that she communicated that fact to Staab before the affidavit was executed. Ex. 2, Staab Depo., 119:25-120:6; Ex. 10, Buschy Depo., 131:5-10. Instead, there is incongruent testimony that she directed Staab to ask *McDaniel* whether the app was accurate or not. Ex. 2, Staab Depo., 39:2-5. In any event, Beck's asserted knowledge of the Find My app was not accurate as it relates to this case. And, it is not relevant. She conveyed no such knowledge or experience to Staab at any point during her review and editing of the affidavit, and it is nowhere mentioned in the affidavit itself. Ex. 9, Affidavit. *Dailey*, 639 P.2d 1068, 1073 (Colo. 1982) (the constitution "prohibit[s] the rehabilitation of a defective warrant by the introduction of additional evidence not contained in the warrant affidavit").

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<sup>2</sup> Moreover, a reasonable jury might be somewhat skeptical of the statements of a person whose car was stolen with arms, drones, and thousands of dollars of cash inside.

Ultimately, Staab’s position appears to be that *all* of his alleged falsehoods and omissions are immaterial because of “the undisputed and critical fact that the address of 5380 Worchester Street is clearly displayed in the screenshot.” Staab Mot. for Summ. Judg., p. 13. That position is untenable. Accepting Staab’s view of the evidence would require deciding that no reasonable jury could conclude that a police officer should actually understand the technology he relies on—rather than guess at its meaning—before deciding it justifies invading the privacy of a person’s home.

Ultimately, “[w]hether probable cause exists is a mixed question of law and fact.” *People v. Zuniga*, 372 P.3d 1052, 1056 (Colo. 2016) (citing *People v. Coates*, 266 P.3d 397, 400 (Colo. 2011)). To grant summary judgment on this question, the court must find “not only that the material facts are undisputed but also that ‘reasonable minds could draw but one inference from them’ and that [Staab] is entitled to judgment as a matter of law.” *People In Interest of S.N.*, ¶ 18, 329 P.3d at 282 (quoting *Gibbons*, ¶ 13, 304 P.3d at 244). Because Staab’s position unreasonably elevates the importance of a single fact over all others, it cannot suffice at this stage in the litigation. Staab’s motion for summary judgment must fail. For all the above reasons, even under the federal test, Ms. Johnson’s claim against Defendant Staab must proceed to a trial on the merits.

**C. Genuine issues of law and material fact preclude entry of summary judgment for Defendant Buschy.**

For many of the same reasons Defendant Staab’s Motion fails, so too does Defendant Buschy’s. Like Defendant Staab, Defendant Buschy relies on the federal standard for challenging the integrity of an affidavit to argue he is entitled to summary judgment. Buschy Mot. for Summ. Judg., p. 13. As discussed further below, neither Defendant has met their burden to show the federal test is the correct measure of liability under C.R.S. § 13-21-131. But even assuming the federal test applies, disputes of fact preclude summary judgment for Defendant Buschy.

***1. A reasonable jury could conclude the affidavit was misleading.***

Importantly, Buschy's Motion does not address several of the omissions of adverse facts supported by the record. *See* Part V(B)(1), *supra*.<sup>3</sup> For that reason alone, Buschy fails to meet his burden to show the "absence of evidence in the record to support the non-moving party's [Ms. Johnson's] case." *Casey v. Christie Lodge Owners Ass'n*, 923 P.2d 365, 366 (Colo. App. 1996).

But his argument is unavailing in any event. First, Buschy agrees there is a dispute whether the statement in the affidavit that the screenshot "signif[ied] the phone being inside the house, 5380 N. Worchester St. Denver, CO 80239" was false. Buschy Mot. for Summ. Judg., p. 13. He does not address evidence in the record that the false statement was made with reckless disregard for the truth, *see* Part V(B)(2), *supra*. Buschy's Motion thus relies on his argument that, even excising the statement, the affidavit still established probable cause. Buschy Mot. for Summ. Judg., p. 13-14.

But Buschy's failure to address the information omitted from the affidavit also dooms his analysis of whether a corrected affidavit would have established probable cause. That is, because Buschy's imagined affidavit, stripped of the false screenshot statement, continues to omit adverse facts (like Staab's inexperience with Find My), it remains a materially misleading affidavit, and his conclusion that it supplies probable cause is unavailing. He fails to show that the affidavit

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<sup>3</sup> Among these omitted adverse facts were (1) Staab's complete lack of familiarity, understanding, experience, or training with the Find My app or any similar cellphone tracking technologies; (2) his doubts about probable cause, including regarding the potential staleness of the reported Find My "pings"; (3) information about the homeowner of 5380 Worchester, including that she was an elderly woman and not a suspect; and (4) that a pre-search surveillance team observed no evidence of suspicious activity nor evidence of the truck being at the property.

would supply probable cause if corrected to account *both* for the record-supported falsehoods *and* record-supported omissions.

Buschy fails to meet his burden to establish that no reasonable jury could find the affidavit contained falsehoods and omissions, made in reckless disregard for the truth, that were material to the probable cause determination. And as described in Part V(B) above, genuine issues remain as to each of those inquiries.

**2. *A judicial finding of probable cause based on a misleading affidavit is not owed deference.***

Even under the federal test, given record-supported evidence that the affidavit was misleading, Buschy’s position that the judge’s probable cause determination is owed “great deference,” Buschy Mot. for Summ. Judg., p. 11, is incorrect. Indeed, it would make little sense to defer to a probable cause determination that was secured by a misleading affidavit. *See Franks v. Delaware*, 438 U.S. 154, 168 (1978) (“The requirement that a warrant not issue ‘but upon probable cause, supported by Oath or affirmation,’ would be reduced to a nullity if a police officer was able to use . . . falsified allegations to demonstrate probable cause and, having misled the magistrate, then was able to remain confident that the ploy was worthwhile.”); *People v. Reed*, 56 P.3d 96, 99 (Colo. 2002) (“Since probable cause determinations are based on inferences drawn from the language in warrant affidavits, false statements may result in a mistaken finding of probable cause.”).

Moreover, because the analysis requires the court to consider the sufficiency of a re-imagined affidavit, stripped of any material falsehoods and restored any omitted adverse facts, the court is no longer “reviewing” the judge’s original decision. In this context, there is effectively no

judicial decision to defer to—the court must engage in its own analysis of the totality of the circumstances of the reformed affidavit, which is before it for the first time.

**3. *Cases featuring use of Find My in police investigations do not establish that Defendants’ reliance on Find My was justified in this case.***

Finally, Defendant Buschy asserts that a collection of string-cites from out-of-state cases where police used Find My in their investigations establish as a matter of law that it was “reasonable” for Defendants to rely on McDaniel’s reported Find My evidence in this case to justify searching Ruby’s home. Not so.

First, most of the cases in Buschy’s Motion merely reference officers’ use of Find My in the course of various investigations.<sup>4</sup> But the question is not whether police can ever reasonably “utilize ‘Find My iPhone’ in attempting to locate stolen cellphones and related property.” Buschy Mot. for Summ. Judg., p. 19. The question is whether or under what circumstances police may rely on a Find My app result to search a person’s home. Because these cases do not ask, let alone consider the answer to, that question, they are unhelpful to the analysis here. Defendant Buschy cannot meet his burden to show that the reported Find My pings in this case established probable cause to search Ms. Johnson’s home—as a matter of law—by making the uncontroversial point that the app has provided clues in unrelated criminal investigations. It does bear mentioning,

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<sup>4</sup> See *People v. Green*, 146 N.Y.S.3d 360, 361 (N.Y. App. 2021); *Commonwealth v. Gil*, No. 566-EDA-2014, 2015 WL 7575708, \*1 (Pa. Super. Feb. 10, 2015); *People v. Easton*, No. H041704, 2017 WL 393263, \*2 (Cal. App. Jan. 30, 2017) (unpublished); *People v. Foy*, 199Cal.Rptr.3d 208, 212 (Cal. App. 2016); *People v. Snyder*, No. B265391, 2016 WL 6777819, \*1 (Cal. App. Nov. 16, 2016) (unpublished); *People v. Scales*, No. B260902, 2016 WL 1057108, \*3 (Cal. App. Mar. 17, 2016) (unpublished); *Adams v. State*, No. 1142, 2016 WL 483493, \*1 n.3, (Md. Ct. Spec. App. Feb. 5, 2016); *State v. Coleman*, No. W2012-00880-CCA-R3-CD, 2013 WL 12185234, \*1 (Tenn. Crim. App. June 10, 2013) (unpublished); *Felder v. State*, No. 0273, 2016 WL 704913, at \*1 (Md. Ct. Spec. App. Feb. 23, 2016) (unpublished).

however, that the Find My alerts in the cited cases bore more indicia of reliability than the ones at issue here. In each case, the Find My app was either used in real-time by law enforcement officers themselves, was corroborated by other direct observation, or both. *See* fn. 4.

Finally, cases that have actually addressed the adequacy of reliance on Find My to establish probable cause—or even reasonable suspicion—support the view that Find My pings do not suffice without officers’ averments of personal experience with the app’s reliability as well as other evidence contributing to individualized suspicion.<sup>5</sup> Contrary to Defendant Buschy’s suggestion, these cases do not instruct that the affidavit here, even on its face, could establish probable cause. Plaintiff is aware of no case that has blessed an officer’s reliance on a Find My ping to search a

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<sup>5</sup> *See, e.g., State In Int. of J.A.*, No. A-1624-14T2, 2016 WL 763923 at \*5 (N.J. Super. Ct. App. Div. Feb. 29, 2016) (acknowledging Find My as presenting “novel aspect of cutting-edge technology”; concluding search of property was justified where police themselves tracked a stolen iPhone’s signal to an address within minutes of a robbery and then “immediately obtained . . . subsequent corroborative observation” when they saw in plain view through the window a pink glittery phone case matching the missing phone’s description); *Commonwealth v. Milburn*, 191 A.3d 891 (Pa. Super. Ct. June 22, 2018) (officer testified to substantial personal and professional experience with the app’s reliability; ping was “but one factor” in totality of the circumstances supporting reasonable suspicion for challenged stop, along with victim’s detailed description of the perpetrators, that the stopped vehicle was the only one in the vicinity of the ping, and that the vehicle was driving erratically); *State v. Carter*, 906 N.W.2d 183 (Wis. Ct. App. 2017) (officer testified to substantial experience with app’s reliability; other factors, including vehicle’s suspicious driving patterns, contributed to reasonable suspicion for a stop); *United States v. Rivera*, 234 F. Supp.3d 346 (D.P.R. Feb. 10, 2017) (officer personally used the app, had a demonstrated understanding and familiarity with it, and had corroborated its reliability by its successful use that same day to track down stolen items from same robbery under investigation); *U.S. v. Thorne*, No. 4:18-CR-00029-FL, 2019 WL 7596303, at \*2 (E.D.N.C. Aug. 23, 2019) (every officer involved testified that “they or officers they knew had previously used the Find My iPhone application to locate stolen phones and found it reliably tracked the location of the phones”). To the extent any of these cases presumes the reliability of GPS technology as a general matter, they are of limited value here, where the record establishes a genuine fact dispute about the accuracy and even facial reliability of the Find My result used to justify the SWAT team’s deployment to Ms. Johnson’s home. *Cf. Florida v. Harris*, 568 U.S. at 247.

home where the officer had neither familiarity with the technology nor any other basis to suspect a nexus to the property.

This Court should not endorse law enforcement officers' casual reliance on technology they do not understand to invade the privacy of people's homes. It was unreasonable under the circumstances to proceed to a SWAT home invasion when further police investigation could have avoided such a profound intrusion into Ms. Johnson's life. The constitution requires more, and this case demonstrates why. For all the above reasons, summary judgment for Defendant Buschy should be denied.

**D. Application of the facts to the proper state constitutional standard precludes summary judgment for Defendants.**

Ms. Johnson brings this action under Colorado's Enhance Law Enforcement Integrity Act, *see* S.B. 217, 2020 Gen. Assemb., Reg. Sess., to vindicate her right to be free from unlawful searches and seizures under article II, section 7 of the Colorado Constitution. Passed in 2020, the Act made available to Coloradans, for the first time, a civil cause of action for damages to vindicate violations of the state's Bill of Rights. C.R.S. § 13-21-131. The statute provides for the liability of any peace officer who, under color of law, subjects or causes to be subjected (including failing to intervene) any other person to the deprivation of individual Colorado constitutional rights. *Id.* § 131(1). Importantly, "qualified immunity is not a defense to liability" when peace officers are sued under C.R.S. § 13-21-131. *Id.* § 131(2)(b).

Defendants' Motions take for granted that this litigation is governed by the federal standard for holding an officer liable under 42 U.S.C. § 1983 for a Fourth Amendment violation stemming from a deficient affidavit. *See* Staab Mot. for Summ. Judg., p. 8; Buschy Mot. for Summ. Judg., pp. 11, 13. While Plaintiff's claims survive summary judgment even under the federal framework,

see Parts B and C, *supra*, that test does not control Defendants' liability under C.R.S. § 13-21-131 for violating article II, section 7.

First, the Colorado Supreme Court has made clear that “there is no reason to think, as an interpretive matter, that constitutional guarantees of independent sovereigns, even guarantees with the same or similar words, must be construed in the same way.” *Rocky Mountain Gun Owners v. Polis*, 2020 CO 66, ¶ 35, 467 P.3d 314, 324 (quoting Jeffrey S. Sutton, *51 Imperfect Solutions: States and the Making of American Constitutional Law* 181 (2018)); *People v. Young*, 814 P.2d 834, 843 (Colo. 1991) (The Colorado Constitution, “written to address the concerns of our own citizens and tailored to our unique regional location, is a source of protection for individual rights that is independent of and supplemental to the protections provided by the United States Constitution.”). The court has long embraced independent interpretation of article II, section 7 of the Colorado Constitution in particular, see *People v. McKnight*, 2019 CO 36, ¶¶ 28-32, 38-39, 446 P.3d 397, 404, 406-07, including in the context of challenges to the veracity of an affidavit for search warrant. For example, whereas federal law permits a veracity challenge in the criminal context only upon defendant’s “substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included . . . in the . . . affidavit,” *Franks*, 438 U.S. at 155-56, under Colorado law a defendant need only show some good faith basis in fact to question the accuracy of an affidavit, *People v. Dailey*, 639 P.2d 1068, 1075 (Colo. 1982). Moreover, while federal law burdens the defendant with showing the falsehood was included in the affidavit knowingly or with reckless disregard for the truth, the Colorado Supreme Court has suggested the burden ought to be on the government to prove the *absence* of a knowing or reckless falsehood. *Id.* at 1076, fn. 9. Finally, while under the Fourth Amendment, “negligence

or innocent mistake” in an affidavit is categorically insufficient to justify suppression of evidence, under article II, section 7, trial courts are empowered to suppress evidence where affidavit errors result from “the negligence or good faith mistake of either the officer or the informant.” *Dailey*, 639 P.2d at 1075–76. In sum, article II, section 7 provides greater protection from misleading affidavits than does the Fourth Amendment.

Second, applying the federal test would implicitly shield officers sued for violating the Colorado Constitution with the defense of qualified immunity, which C.R.S. § 13-21-131(2)(b) expressly rejects. That is because the federal standard for civil liability in this context has the defense of qualified immunity *built in*.

To hold an officer liable under § 1983 for a Fourth Amendment violation stemming from a misleading affidavit, a plaintiff must show that the affiant “knowingly, or with reckless disregard for the truth, include[d] false statements in a supporting affidavit or omit[ted] information which, if included, would prevent the warrant from lawfully issuing.” *Kapinski v. City of Albuquerque*, 964 F.3d 900, 905 (10th Cir. 2020) (citing *Franks*, 438 U.S. at 171). This test for civil liability derived from the threshold articulated in *Franks*, discussed above, for applying the exclusionary rule to suppress evidence seized pursuant to a warrant that issued on a misleading affidavit. The *Franks* rule was a compromise among “competing values”: the importance of the probable cause requirement on the one hand and the societal cost of the exclusionary rule on the other. 438 U.S. at 165–66. The Court struck its balance where it thought the exclusionary rule’s benefit as a deterrent to official misconduct would outweigh the burden to society of interfering with criminal convictions. *Id.* Later, when the Court adopted the good faith exception to the exclusionary rule in *United States v. Leon*, 468 U.S. 897 (1984), it reaffirmed that in a situation meeting *Franks*’

requirements—*i.e.*, where a warrant issued on a knowingly or recklessly misleading affidavit—the good faith exception would not apply. *Id.* at 923.<sup>6</sup> Finally, given the similar purposes of qualified immunity and the exclusionary rule—*i.e.*, deterrence of police wrong-doing, the Court eventually concluded in *Malley v. Briggs*, 475 U.S. 335 (1986), that the same standards that justified suppression of evidence in *Leon* should also “define[] the qualified immunity accorded an officer whose request for a warrant allegedly caused an unconstitutional [search].” *Malley*, 475 U.S. at 344–45. Thus, the federal test for suppressing evidence seized pursuant to a warrant became the federal test for piercing the shield of immunity provided by a warrant.

Because the *Franks*-derived federal test defines civil liability for officers *with* qualified immunity, it follows that it cannot define civil liability for officers *without* qualified immunity. And Colorado law is crystal clear that “qualified immunity is not a defense to liability” when peace officers are sued under C.R.S. § 13-21-131. *Id.* § (2)(b). Nor would the *Franks* test strike the right balance under the state statute, the effect of which is to compensate Coloradans when their rights are violated by the police, without the cost of the suppression of evidence.

Finally, by its terms, C.R.S. § 13-21-131 imposes liability wherever a peace officer causes the Plaintiff’s deprivation of an article II right. *Id.* (“A peace officer . . . who, under color of law, subjects or causes to be subjected, including failing to intervene, any other person to the deprivation of any individual rights . . . secured by the bill of rights, article II of the state constitution, is liable to the injured party . . .”). It is well-settled under constitutional tort principles

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<sup>6</sup> In *Leon*, the Court also recognized that suppression would remain an appropriate remedy where the issuing magistrate “wholly abandoned his judicial role,” where an affidavit is “so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable,” and where a warrant is “so facially deficient . . . that the executing officers cannot reasonably presume it to be valid.” *Id.*

that a magistrate’s decision to issue a warrant does *not* break the causal chain between the application for the warrant and an improvident search. *Malley*, 475 U.S. at 345. Thus, the appropriate standard under C.R.S. § 13-21-131 is that so long as the search of Ms. Johnson’s home was unconstitutional—*i.e.*, not supported by probable cause—Defendants must be held liable for the “natural consequences of [their] actions.” *Id.*

**E. In the Alternative, Mr. Johnson Requests the Right to Conduct Limited Discovery Pursuant to C.R.C.P. 56(F).**

If this Court determines that Defendants have met their burden and that Mr. Johnson has not established the existence of genuine issues of material fact as to her claim, Defendants’ motion should still be denied without prejudice, or at least stayed pending discovery into this matter. Pursuant to Rule 56,

Should it appear from the affidavits of a party opposing the motion that the opposing party cannot for reasons stated present by affidavit facts essential to justify its opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

C.R.C.P. 56(f). “In order to avoid the precipitous and premature grant of judgment against the opposing party, C.R.C.P. 56(f) affords an extension of time to utilize discovery to seek additional evidence before the trial court rules on a motion for summary judgment.” *Bailey v. Airgas-Intermountain, Inc.*, 250 P.3d 746, 751 (Colo. App. 2010) (quoting *Sundheim v. Board of County Comm’rs*, 904 P.2d 1337, 1352 (Colo. App. 1995), *aff’d* 926 P.2d 545 (Colo. 1996)). “Unless dilatory or lacking in merit, the [Rule 56(f)] motion should be liberally treated.” *Id.* (internal quotation marks and citation omitted).

Here, undersigned counsel submitted an affidavit explaining what discovery remains outstanding (including as a result of a discovery hearing today, December 4, 2023), what he expects

this discovery to yield, and why it might preclude a finding of summary judgment in favor of Defendants. Ex. 15, Aff. of Colby M. Everett. In particular, the discovery sought, but not yet received, includes extensive document discovery from the City and County of Denver, the deposition of the City and County of Denver, the deposition of Officer Brian Norwell, the deposition of Officer Rop Monthathong, and extensive document production and written discovery responses from Defendant Buschy. *Id.* Additionally, as set forth in the Roan Affidavit, Plaintiff's counsel continues to seek discovery from Mr. McDaniel. Ex. 4, Roan Affidavit. The facts learned through the forgoing discovery methods will establish more genuine issues of material fact for determination by a jury.

## **VI. CONCLUSION**

The basic purpose of the Fourth Amendment "is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials." *Carpenter v. United States*, 138 S. Ct. 2206, 2213 (2018). The SWAT search here was the height of an arbitrary intrusion. For all the reasons stated above, Plaintiff respectfully requests that the Court deny Defendants' Motions for Summary Judgment.

Dated: December 4, 2023

Respectfully submitted,

By: /s/ Colby M. Everett

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***Attorneys for Plaintiff Ruby Johnson***

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of **PLAINTIFF'S COMBINED RESPONSE IN OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT** was filed and served via the Court's ECF system on this 4<sup>th</sup> day of December, 2023, to all counsel of record.

*/s/ Tara Popp* \_\_\_\_\_

# **EXHIBIT 1**

DOCUMENT PLACEHOLDER:

MCDANIEL PHONE CALL.MP3

# **EXHIBIT 2**

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DISTRICT COURT, COUNTY OF DENVER  
STATE OF COLORADO

^ COURT USE ONLY ^

1437 Bannock Street  
Denver, Colorado 80202

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RUBY JOHNSON, Case No: 22cv33434

Plaintiff, Division: 269

vs.

GARY STAAB, an officer of  
the Denver Police Department,  
in his individual capacity,

Defendant.

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VIDEO RECORDED DEPOSITION OF GARY STAAB  
September 15, 2023

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1 affidavit in question and the reason we -- you went to  
2 Ms. Johnson's house gave rise to this suit?

3 A. Yes.

4 Q. Do you know Ms. Johnson?

5 A. Just from that day.

6 Q. And what do you -- what do you know about  
7 her from that day?

8 A. Just the sweetest lady. Very sweet.

9 Q. Generally speaking, what was your -- let me  
10 strike that.

11 Generally speaking, how would you describe  
12 your involvement leading up to the search of Ms. Johnson's  
13 home?

14 A. My involvement is the search warrant and  
15 affidavit.

16 Q. And you're aware that there was a -- a  
17 truck theft --

18 A. Yes.

19 Q. -- that led to this warrant; right?

20 A. Yes.

21 Q. Let's -- let's talk about that truck theft.

22 When were you first assigned to investigate  
23 that theft?

24 A. On January 4th, 2022, in the morning.

25 Q. Do you remember what time?

1 investigation into the truck theft?

2 A. Yes.

3 Q. Okay. On what page does that narrative  
4 end?

5 A. The Staab number or the page number?

6 Q. The Staab number, if you would. Thank you  
7 for that clarification, too.

8 A. Staab 73.

9 Q. Okay. When did you create the narrative  
10 from Staab 69 to Staab 73?

11 A. Sorry. I'm doing it again.

12 Q. That's okay.

13 A. Looking at the page number. Between  
14 January 4th and January 19th.

15 Q. Okay. So you supplemented this narrative  
16 on an ongoing basis then?

17 A. Yes.

18 Q. You indicate on -- on Staab 69 that the  
19 suspect is unknown; right?

20 A. Yes.

21 Q. Is that still true today?

22 A. Yes.

23 Q. Okay. At any point, was Ms. Johnson a  
24 suspect?

25 A. No.

1 Sergeant Buschy do, if any?

2 A. None.

3 Q. None.

4 A. That I'm aware of.

5 Q. So what was the context of your  
6 conversation with him?

7 A. I spoke to him about the information he had  
8 received from the victim via email about a Find My Phone,  
9 a photograph, and after reading my report and discussing  
10 with the victim and finding out the times the phone pinged  
11 at Ms. Johnson's home, from the last ping to the time I  
12 was assigned the case was 17 hours, roughly.

13 So I spoke with Sergeant Buschy about the  
14 time frame in between the last ping at the house and the  
15 time I got the case, and that is a long time in between to  
16 still say that phone is still there. And I told him I  
17 didn't want to do the search warrant --

18 Q. You told Sergeant --

19 A. -- based on that time frame in between the  
20 last ping and by the time I was assigned the case.

21 So I spoke with him about my concerns, and  
22 he said to contact the City Attorney's office -- or  
23 sorry -- District Attorney's office and, basically, have  
24 them review it or ask them -- talk to them. There was  
25 nothing to review.

1 I called them, told them what I had, told  
2 her my concerns. And she said you're good with the  
3 information I had.

4 Q. Uh-huh.

5 A. And so I hung up the phone. I went back in  
6 and spoke with Buschy. I told him still my concerns with  
7 the search warrant.

8 Q. Uh-huh.

9 A. And he said he would call Ashley Beck --  
10 the District Attorney, Ashley Beck. He called her and had  
11 a conversation with her. I couldn't tell you what the  
12 conversation was. He came back out and said do the  
13 warrant.

14 Q. What day did all of these communications  
15 occur?

16 A. On the 4th.

17 Q. And based on emails I've seen in this case,  
18 would you agree -- let me strike that.

19 Would you agree those communications  
20 occurred before 11 a.m. on the 4th?

21 A. Yes.

22 Q. Why were you concerned about the time  
23 period between the last ping and the present?

24 A. Because you don't know where anything is.

25 Q. It leads to some doubt?

1 A. Yes.

2 Q. And you expressed that doubt to Buschy; is  
3 that right?

4 A. Yes, sir.

5 Q. Do you have any idea why Buschy was so  
6 adamant to execute this warrant?

7 MR. O'CONNELL: Form. Foundation.

8 A. I don't think he was adamant on doing the  
9 warrant because he called the DA, as well.

10 Q. (By Mr. Everett) Did Sergeant Buschy  
11 express concerns about the time frame between the last  
12 ping and the present on January 4th, 2022, to you?

13 A. It was my -- it was me going to him, and  
14 then his response was send it to the district attorneys  
15 for a decision.

16 Q. Okay. And --

17 A. And that was when I -- when I say "send  
18 it," I mean, it was a phone call. I didn't send anything  
19 at that point.

20 Q. Gotcha. Did he express anything in words  
21 or physical action or any other type of communication to  
22 you that said, I agree, Detective Staab, that is a long  
23 time?

24 A. Not that I recall.

25 Q. What other concerns, besides the span of

1 A. I added -- I added an -- an R.

2 Q. Excuse me. Sorry. Did these  
3 communications with the District Attorney by phone with  
4 you and Sergeant Buschy with the District Attorney by  
5 phone occur prior to 1055 hours on January 4, 2022?

6 A. Yes.

7 Q. Approximately what time did those  
8 conversations take place?

9 A. I would say between 8 and 10:55. I don't  
10 have exact times when they took place.

11 Q. Do you remember if you spoke to the  
12 District Attorney after you spoke to Jeremy McDaniel that  
13 day?

14 A. I don't recall.

15 Q. When Detective -- excuse me. When Sergeant  
16 Buschy said do the warrant, could you have told him no?

17 A. With a DA and your sergeant saying do the  
18 warrant, I don't -- I don't think so.

19 Q. You didn't feel comfortable dissenting to  
20 your sergeant and the District Attorney?

21 A. Well, I did. I did tell them I -- that's  
22 too much time in between, and I was told, I guess, after  
23 my concerns, do the warrant once and do the warrant twice.

24 Q. So you thought you were given two orders to  
25 do it and you couldn't say no at that point?

1 A. Still questioning, yeah.

2 Q. After this lawsuit was filed, did you talk  
3 to Sergeant Buschy about that interaction? And let me  
4 qualify "that interaction" as your saying I'm not  
5 comfortable with this search warrant on January 4, 2022.

6 A. After the lawsuit was filed?

7 Q. Uh-huh.

8 A. I don't recall anything.

9 Q. You didn't ever go up to him and say, "I  
10 told you I didn't want to do this"?

11 A. Oh. I mean, that was always stated. I  
12 don't know if I did after I found out the lawsuit was  
13 filed. I don't recall that.

14 Q. You never wanted to author this affidavit  
15 and search warrant -- in support of search warrant, did  
16 you?

17 A. In the -- no.

18 Q. And you didn't want to execute it on  
19 Ms. Johnson's home?

20 A. No.

21 Q. Did you ever have any communication in the  
22 course of -- strike that.

23 Did you ever express to Sergeant Buschy,  
24 before executing the search warrant, that we shouldn't use  
25 SWAT or SORT?

1 phone with you that morning?

2 A. No.

3 Q. Okay. You don't recall if he was angry?

4 A. He -- he was angry about one thing. The  
5 day before, on the 3rd, he was getting pings on his Find  
6 My iPhone. And he had called DPD and was telling them on  
7 the 3rd in District 5 that the phone was pinging at a --  
8 like a convenience store, gas station. And they said,  
9 well -- I don't know if they were too busy or whatnot, but  
10 he was upset that no one was helping him that day.

11 Q. Did you find that concerning when he shared  
12 that with you?

13 A. Yes.

14 Q. Because there were guns involved and --

15 A. Yes.

16 Q. -- the nature of the crime?

17 Did you ever follow up with anybody in  
18 District 5 and say --

19 A. No.

20 Q. -- anything?

21 When you talked to McDaniels a second time  
22 on January 4th, 2022, at 10:55 a.m., did he share anything  
23 beyond what's listed in your narrative on Staab 70, second  
24 paragraph from the top?

25 A. I'm sorry. Right here? Did you say 10:55?

1 Q. That's correct.

2 A. I know I was asked by the DA to ask him,  
3 you know, how accurate the Find My iPhone app is, and he  
4 responded they found his wife's phone in the middle of a  
5 field, you know, within 5 feet.

6 Q. And he told you that at 10:55?

7 A. I don't recall if it was at 10:55. It  
8 definitely was after 8:45, but that's the only time I put  
9 in there that I spoke to him.

10 Q. And you write in your -- your narrative  
11 here that McDaniels, quote, related his wife's debit card,  
12 VISA, ending number 2345, had an attempted purchase online  
13 through Metro PCS on 1/4/2022 at 10:52 hours.

14 Do you see that?

15 A. Yes.

16 Q. Was this significant to you in any way?

17 A. Well, someone is using the credit cards,  
18 yes. Trying to get anything from online Metro PCS is not  
19 easy.

20 Q. On Staab 69, Officer Randall -- Randall's  
21 report doesn't say anything about a debit card. Would you  
22 agree?

23 A. Yes.

24 Q. Was that debit card reported stolen by  
25 McDaniels prior to this phone call?

1 Q. Yeah. Did you ever consider driving by the  
2 house to take a look?

3 A. Our undercovers did. I did not.

4 Q. And what did your undercovers relay to you,  
5 if anything, about that?

6 A. Nothing. Just -- I mean, they took, you  
7 know, their photos and -- for the warrant.

8 Q. Do you remember what time your undercovers  
9 relayed that information to you?

10 A. I don't know what time Sergeant -- that's  
11 Sergeant Foster's team. I don't know what time they were  
12 sent out there.

13 Q. Was their undercover work at the house  
14 before or after you authored the affidavit for a search  
15 warrant?

16 A. Before.

17 Q. And what do you recall them saying to you  
18 about --

19 A. I don't recall anything.

20 Q. Do you recall them reporting that there was  
21 no visible truck?

22 A. I don't recall.

23 Q. Do you recall them reporting --

24 A. I mean, I know the truck wasn't there. And  
25 I apologize --

1 Q. Yeah. That's okay. That's okay.

2 A. -- for --

3 Q. You learned the truck wasn't there after  
4 the execution of the search warrant; right?

5 A. The photos that I was sent for the house --  
6 Ms. Johnson's house didn't have a truck around the house.

7 Q. Did the undercover team relay that an  
8 elderly woman was seen at the house?

9 A. No.

10 Q. How come you didn't include the undercover  
11 team's report to you about the truck in your narrative?

12 A. I just put in there that the undercover  
13 teams went. I don't know what they did while they were  
14 there.

15 Q. So I see a reference to the undercover team  
16 at 0150 hours on Staab 70.

17 A. Uh-huh.

18 Q. Do you see that?

19 A. Yes.

20 Q. Okay. And you testified a minute ago that  
21 the undercover team reported to you that they did not see  
22 a truck there before you authored the search warrant?

23 A. Oh, in this?

24 Q. Right. I think I can probably clarify  
25 this. If you look on -- on Staab 70, the second bolded

1 time heading --

2 A. 1:50. Right?

3 Q. Was that -- was that intended to be  
4 1:50 p.m. or was that intended to be some other time?  
5 Because as that reads in your 24-hour time here, that  
6 would be 1:50 a.m.; right?

7 A. Yes. It would.

8 Q. 0150 hours?

9 A. Yes.

10 Q. So do you know what this 0150 hours should  
11 have been?

12 A. 1350.

13 Q. So is it -- is it true, then, if this is  
14 1350 hours, not 0150 hours, the drive-by by the  
15 undercovers happened after you got the affidavit for  
16 search warrant authored?

17 A. No. They went before. They were already  
18 out there prior. District 6 undercover unit was already  
19 on scene, surveilling the house. They were already there.

20 Q. Okay. And when did they start surveilling  
21 the house?

22 A. That, I don't know.

23 Q. Okay. Would it --

24 A. I didn't do anything with directing them or  
25 anything.

1           A.     Sergeant Greg Buschy, Sergeant John  
2 Bronson, I do not recall who the sergeant was at the time  
3 for our COT team, our -- it's a Community Outreach Team.  
4 That's what COT stands for. I don't recall who the  
5 sergeant was because they go through those sergeants  
6 pretty quick. And Tony Foster.

7           Q.     Do you know why they go through the  
8 sergeants pretty quickly for COT?

9           A.     They just move them around. You know,  
10 Community Outreach Team, they do a lot of help with, you  
11 know, narcotics and community meetings and -- and stuff  
12 like that.

13           Q.     Okay. I believe you testified that you  
14 knew the undercover team was surveilling the house before  
15 you authored the search warrant, but you do not know what  
16 they were doing there. Is that accurate?

17           A.     Yes.

18           Q.     Okay. Do you feel comfortable relying on  
19 what they were relaying to you if you didn't know what  
20 they were doing there?

21           A.     I guess I don't quite understand the  
22 question.

23           Q.     So was the undercover team relaying  
24 information to you?

25           A.     I don't recall if it was directly to me or

1 their supervisor.

2 Q. Where would -- where would you have gotten  
3 that information?

4 A. From one of them.

5 Q. But you don't remember who?

6 A. No.

7 Q. Okay. What did you expect the surveillance  
8 team to do while they were on the street by Ruby's house?

9 A. I didn't expect them to do anything. I --

10 Q. You just expected them --

11 A. They were just doing their job.

12 Q. -- to surveil?

13 A. Yeah.

14 Q. Okay. Did you hope to learn anything from  
15 the surveillance?

16 A. Oh, I would have liked to have, Hey, the  
17 truck is here.

18 Q. That would have been a --

19 A. Yes.

20 Q. -- positive outcome; right?

21 A. Yes.

22 Q. Yeah. When -- when they didn't relay --  
23 when they didn't relay seeing the truck, did that cause  
24 you more concern in light of the lag time of the pings?

25 A. Yes.

1 Q. Did anyone ask them to do any further  
2 investigation as far as surveillance would go on the  
3 street?

4 A. Not that I know of.

5 Q. What kinds of things would -- would  
6 surveillance do if they were assigned, as they were here,  
7 to sit on Ms. Johnson's house and see what was going on  
8 there?

9 A. Just who comes in and out, if the truck  
10 comes back, drives by, you know, is anyone going around  
11 the house.

12 Q. Anything else?

13 A. Not that I can think of.

14 Q. Do you remember them -- being the  
15 undercover team -- relaying any information about who came  
16 in and out of the house?

17 A. I don't recall.

18 Q. Do you remember if they relayed anything  
19 about any cars of interest driving by?

20 A. No.

21 Q. Did they relay any information about  
22 anything going on at Ruby Johnson's house?

23 A. No.

24 Q. When you received this information from the  
25 surveillance team that the truck hadn't been seen, there's

1 flowing to you. Is that true?

2 A. I don't know if they had information to  
3 flow.

4 Q. Well, the nonexistence of the truck would  
5 have been information that you would need to know; right?

6 A. Yeah.

7 Q. And that there was nothing going around  
8 the -- going on around the house, that would be something  
9 you would need to know; right?

10 A. I feel they would tell me if there was.

11 Q. So at any point when you had that  
12 information or the lack thereof, we'll say that, and --  
13 you know that nothing's happening at the house, that the  
14 truck isn't there, did you share that with the District  
15 Attorney?

16 A. I don't recall.

17 Q. What -- what were -- let's walk back to  
18 that then. So you call the District Attorney, Ashley  
19 Beck, at Sergeant Staab -- Sergeant Buschy's instruction.  
20 Tell me how that conversation went.

21 A. I was expecting it to go, yeah, we don't  
22 have -- we don't have it. We don't have the probable  
23 cause. That's how I was expecting the conversation to go.

24 Q. You didn't believe that there was probable  
25 cause to search Ms. Johnson's house?

1           A.    I did not like the time frame in between  
2 the pings. I thought there was too much time in between  
3 to be able to get a warrant.

4           Q.    Did you believe that there was probable  
5 cause to search Ms. Johnson's house?

6           A.    After it was signed off by the District  
7 Attorney and a judge, yes.

8           Q.    What about before it was signed off by the  
9 District Attorney and the judge? Did you think there was  
10 probable cause?

11          A.    With -- with the time lag, I didn't. That  
12 was my whole concern.

13          Q.    Why didn't you put in the affidavit in  
14 support of search warrant that there was no truck at the  
15 property?

16          A.    I don't know. I don't know if I knew that  
17 at the time I had spoken with Ashley Beck.

18          Q.    Is there a reason that you didn't include  
19 the lack of activity at the property in your search  
20 warrant affidavit?

21          A.    Is there a reason -- I'm sorry. Can you  
22 repeat that again?

23          Q.    Sure. Is there a reason that you didn't  
24 include the lack of activity at the property in your  
25 search warrant affidavit?

1 Q. And as part of that obligation, do you  
2 agree that it's important for you to be certain you have  
3 probable cause before you execute a search warrant on  
4 someone's house?

5 A. I did.

6 Q. You testified earlier that you didn't think  
7 you had probable cause.

8 A. Well, I related earlier that I had spoken  
9 about the concerns of probable cause with my sergeant and  
10 then he goes, Call the attorney. I call the attorney.  
11 She says I'm good.

12 Q. Uh-huh.

13 A. I still argue it with my sergeant. He  
14 calls the attorney. She says we're good. And then I  
15 wrote the warrant as truthfully as I could based on just  
16 the facts I had. I didn't try and, you know, leave  
17 anything out on purpose. I didn't try and do anything  
18 wrong in my affidavit.

19 You know, when they say you've got it and  
20 you write it, I mean, that's -- that's what I did. I  
21 didn't try and fool anybody, I didn't try and hide  
22 anything. It was as truthful that I could do with the  
23 facts I had.

24 Q. Uh-huh. Would you agree that some facts  
25 were left out of the affidavit?

1 A. And what you're saying, yes, they were left  
2 out.

3 Q. The -- the truck not being at the property?

4 A. It's not in the affidavit.

5 Q. Not in the affidavit. And the lack of  
6 suspicious activity at the house is also not in the  
7 affidavit; right?

8 A. Right.

9 Q. Why didn't you put in your -- your GO  
10 Report narrative that you dissented about the probable  
11 cause in the affidavit?

12 A. Is that questioning it?

13 Q. Dissented with -- with Sergeant Buschy.  
14 You said that you twice told him that you didn't believe  
15 that there was probable cause for this search warrant, and  
16 he twice told you to --

17 A. Right.

18 Q. -- go forth.

19 A. Conversations with District Attorneys,  
20 supervisors, detectives, I have never put those in my supp  
21 reports.

22 Q. Would that have been a good -- I don't want  
23 to be crass here, but a good CYA --

24 A. Yes.

25 Q. -- to include in your report?

1 on your own in furtherance of your investigation before  
2 the warrant?

3 A. You know, I haven't. Usually, all the  
4 information we get is on-scene officers or the photos  
5 because, usually, what we need for, you know, the  
6 affidavit is photos. And so I would always request that  
7 and, you know, a description of the house. I've never  
8 gone by myself.

9 Q. Could you have looked up the owner of the  
10 home?

11 A. I did.

12 Q. You did. And what did you learn when you  
13 looked up the owner of the home?

14 A. That it was an elderly female that owned  
15 the home.

16 Q. And at what point did that take place?  
17 That lookup?

18 A. I would say around 8:45 when I found out  
19 the address and the emails I got from -- yeah. I received  
20 some emails from Buschy showing a photo of the victim's  
21 truck and the, I guess, i -- Find My iPhone screenshot.

22 Q. Do you know how McDaniels knew to get in  
23 contact with Sergeant Buschy?

24 A. I don't.

25 Q. In your mind, would McDaniels have had any

1 other DPD officers' information besides Officer Randall?

2 A. I don't know.

3 Q. How come you didn't include looking up the  
4 house and the owner in your GO Report?

5 A. It -- just common of what I -- you know,  
6 doing research on the house.

7 Q. Was there any other common research that  
8 you would do that would not be included in your narrative  
9 here?

10 A. Not that I can think of.

11 Q. Okay. Could you have -- let me strike  
12 that.

13 When you looked up the address and saw that  
14 an elderly woman lived there, what was your first thought?

15 A. I know she didn't do it.

16 Q. Tell -- tell me what your thought process  
17 following that -- that first thought was.

18 A. Well, the thought process would be, you  
19 know, do they have friends, family members that could be  
20 living in the house, as well.

21 Q. And did you see any other people in your  
22 research of this address that were associated with this  
23 address?

24 A. I know one of her sons was. I couldn't  
25 tell you which one.

1 Q. Did you look into one of her sons' --

2 A. Yep.

3 Q. Did you do any deeper research there?

4 A. Yes.

5 Q. What kind of research did you do?

6 A. Just see what his background was.

7 Q. And what did you learn about his

8 background?

9 A. He had a history from -- I don't recall the  
10 exact year, but I believe it was in the early nineties.

11 Q. He had --

12 A. So that was all we really had.

13 Q. So you had --

14 A. I don't recall exactly what his history  
15 was.

16 Q. Uh-huh.

17 A. Sorry.

18 Q. No. That's okay. That's okay. I  
19 interrupted you. So that's my fault.

20 So you -- you did some research on one of  
21 Ms. Johnson's sons that was associated with this address  
22 and he had, I'm assuming, some sort of criminal history  
23 from 30 or so years ago?

24 A. Something.

25 Q. Okay. Was the nature of his criminal

1           Q.     (By Mr. Everett) Detective Staab, do you  
2 recall, earlier in your deposition testimony -- and I may  
3 draw an objection for this -- but I believe you said  
4 something to the effect of on your call with District  
5 Attorney Beck, she said to you to go back to McDaniels and  
6 find out some information about the accuracy of Find My  
7 iPhone.

8                     Do you recall something to that effect?

9           A.     Yes.

10           Q.     Okay. Could you remind me in your own  
11 words what -- what happened there?

12           A.     Yeah. I just was presenting this to her  
13 and she just had a question of calling and asking him  
14 how -- I don't know if it's how it works. I don't recall  
15 verbatim, but just to see, you know, the accuracy of him  
16 finding a phone.

17                     And that's how I got the answer. I don't  
18 know exactly the verbiage between her and I, but calling  
19 him, I asked him the question and -- and he responded with  
20 his comment.

21           Q.     So what was -- what was his comment in  
22 response?

23           A.     His wife had lost a phone in the middle of  
24 a field and said it was accurate within 5 feet or ...

25           Q.     Did District Attorney Beck express any

1 understanding of the functionality of Find My iPhone to  
2 you on the phone?

3 A. No.

4 Q. Did she express any understanding of the  
5 accuracy of Find My iPhone to you on the phone?

6 A. No.

7 Q. Okay. Before speaking with McDaniels, did  
8 you have any understanding of the functionality of the  
9 Find My iPhone app?

10 A. No.

11 Q. Did you have any understanding of the  
12 accuracy of that application?

13 A. No. I just know on my phone, when I go,  
14 you know, through an intersection or use it to drive,  
15 that's where I'm at.

16 Q. Uh-huh. Let's look at interrogatory answer  
17 Number 3, Exhibit 3. The interrogatory asks you to  
18 identify all professional law enforcement organizations to  
19 which you currently belong or to which you have previously  
20 belonged.

21 A. Yes.

22 Q. And you list the Police Protective  
23 Association from 1998 to present?

24 A. Yes.

25 Q. The International Association for

1 lose a suspect or something for like a traffic infraction.  
2 You know, someone runs from a car --

3 Q. Right.

4 A. -- you know.

5 Q. They'll call SWAT and SWAT will say no?

6 A. Like we have the perimeters, you know,  
7 locked down. You know, they will ask the questions, are  
8 there weapons, are there, you know, extenuating  
9 circumstances that requires a SWAT team. And if they say  
10 no, you ran a red light and ran from the car, then they  
11 probably won't come out for something like that.

12 Q. Okay. Okay. Let's look at your response  
13 to interrogatory Number 9. That's on page 6 of Exhibit 4  
14 (sic). So this -- this interrogatory asks you to state  
15 the number of search warrant applications that you have  
16 submitted that relied on data from Apple's Find My  
17 application and similar app-based cellphone tracking  
18 technologies.

19 And your response is "none other than this  
20 case"; is that right?

21 A. Yes.

22 Q. So this is the first and only case in which  
23 you have used Find My iPhone to support a search warrant  
24 affidavit; right?

25 A. Yes.

1 Q. Let's look back at Exhibit 4, which is your  
2 search warrant affidavit and search warrant. If we look  
3 at this screenshot -- and I understand it's pretty small  
4 in this exhibit -- you testified earlier that you received  
5 this screenshot from an email that was forwarded to you by  
6 Sergeant Buschy that he received from Mr. McDaniel; right?

7 A. Yes.

8 Q. Did you receive any other Find My data from  
9 either Buschy or McDaniel or anyone else, besides this  
10 screenshot here?

11 A. Not that I recall. I believe that's it.

12 Q. Okay. Did you perform any independent  
13 verification of the veracity of the information contained  
14 in this screenshot --

15 A. No.

16 Q. -- from Find My? Did you ask Mr. McDaniels  
17 for the iPhone model?

18 A. No.

19 Q. Did you find out what the iPhone model was  
20 at a later time?

21 A. Not that I recall.

22 Q. Okay. Did you at any point confirm the  
23 stolen iPhone's time zone indicated in the screenshot?

24 A. No.

25 Q. Did you at any time independently confirm

1 Q. And was that an additional concern of yours  
2 as you were going to submit this search warrant affidavit?

3 A. That was my concern.

4 Q. Did you have a -- an iPhone when -- did you  
5 personally have an iPhone when you created the affidavit  
6 in this case?

7 A. My work phone is an iPhone. My personal  
8 phone is not.

9 Q. Okay. And so you had an iPhone for a work  
10 phone in January of 2022?

11 A. I believe so.

12 Q. In your knowledge, how does Find My iPhone  
13 work?

14 A. Just from what I understand, it's an app  
15 that if you lose your phone -- I've never done it myself,  
16 but it'll kind of give you where your phone is located.

17 Q. Did you -- do you have any knowledge about  
18 how the application functions?

19 A. No.

20 Q. Okay. Did you have any knowledge about how  
21 the application functions when you signed the search  
22 warrant affidavit in this case?

23 A. No.

24 Q. Did you, at any point during your  
25 investigation, try to educate yourself on the

1 functionality of this application?

2 A. No, I didn't. Again, when I did the  
3 warrant and related what I had, that didn't cross my mind  
4 when I was told you're good to go.

5 Q. Did you do any internet searches of any  
6 kind on Find My iPhone?

7 A. No, sir.

8 Q. So was the sole source of your familiarity  
9 with this application your personal use of it on your work  
10 iPhone?

11 A. Oh, I've never done it.

12 Q. You've never used it?

13 A. Huh-uh.

14 Q. Okay. Do you feel like you were operating  
15 at an information deficit with respect to the  
16 functionality of that iPhone when -- or of that  
17 application when you signed the search warrant affidavit?

18 MR. O'CONNELL: Form.

19 A. No.

20 Q. (By Mr. Everett) And why do you say "no"?

21 A. Again, my issue was the time frame, when I  
22 received all this information and presented it to the DA's  
23 office and even when they had me call and ask and confirm  
24 with the victim about its validity and distance, and I  
25 gave that back to them, they said you're good to go, so it

1 Q. And is it possible that it could have been  
2 pinging in the street or another property covered by that  
3 blue circle?

4 A. Yes.

5 Q. Was that statement that we just read,  
6 quote, a photo of the app shows a red dot, signifying the  
7 phone being inside the house 5380 North Worchester Street,  
8 Denver, Colorado 80239, a statement original to you in  
9 this affidavit?

10 A. How I believed it to be.

11 Q. And to clarify, that's not a statement that  
12 District Attorney Beck added; right?

13 A. Not that I recall.

14 Q. In the course of your investigation, before  
15 you executed the final search warrant affidavit, did you  
16 ever consider consulting the Denver Crime Lab?

17 A. For ...

18 Q. About the screenshot. The Find My iPhone  
19 screenshot.

20 A. I'll say no, because that's -- you just  
21 brought it up, so I'll say no.

22 Q. Okay. Have you worked with the crime lab  
23 in your capacity as a detective?

24 A. I was in the crime lab.

25 Q. But since becoming a detective --

1 knowledge of any policies or procedures within DPD that  
2 would have allowed you to stop Sergeant Buschy from  
3 ordering you to do the search warrant?

4 MR. O'CONNELL: Form.

5 A. I mean -- thank you. You have, you know,  
6 the District Attorney say you're good. You have PC. Your  
7 sergeant argues for you. And then he says do the warrant.  
8 Gosh, I -- you could have -- I could have fought more, I  
9 suppose, but that could be a battle.

10 Q. (By Mr. Everett) Right.

11 A. And here's the thing --

12 Q. Understood.

13 A. -- too, it could come down to, Well, if  
14 you're not going to do it, another detective will. And  
15 then am I going to get in trouble because I wouldn't do  
16 it? You know, it would have been done regardless.

17 Q. When you say it could turn into a battle,  
18 can you explain that to me? What do you -- what do you  
19 anticipate?

20 A. Well, not like a -- a fight or anything  
21 like that.

22 Q. Right.

23 A. But, you know, it's a -- a paramilitary  
24 organization. Right? You have people you answer to and  
25 when you're told to do something, you do it.

1 Q. I'd like to talk about your -- your  
2 affidavit, Exhibit 4, just briefly.

3 In the course of our discussion today,  
4 we've talked about a lot of information and we've talked  
5 at length about this affidavit; would you agree?

6 A. Yes.

7 Q. Would you agree that we've established that  
8 you did not include who the homeowner of 5380 Worchester  
9 Street, Denver, Colorado, was in your affidavit?

10 A. Yes.

11 Q. And would you agree that you didn't include  
12 the information about the pre-affidavit surveillance in  
13 this affidavit?

14 A. Yes.

15 Q. And would you agree that you didn't include  
16 the pre-affidavit surveillance photos in this affidavit?

17 A. I have one.

18 Q. Is that -- those are these two photos?

19 A. One of them, I believe, was a -- what's it  
20 called? Like a Google -- Google Earth maybe. I don't  
21 recall.

22 Q. This bottom one was likely a Google Earth  
23 because it's got leaves on trees; right?

24 A. Yes. That makes sense. And snow in  
25 January.

1 Q. Got it. So the -- the top photo is one of  
2 the surveillance photos?

3 A. Yes.

4 Q. Were there other surveillance photos taken  
5 that were not included in this search warrant?

6 A. Not to my knowledge.

7 Q. Okay. And you didn't include the \$1,000 in  
8 cash that was stolen in this --

9 A. 4,000?

10 Q. Or excuse me. \$4,000; correct?

11 A. No, sir.

12 Q. And you didn't include the debit card --

13 A. No, sir.

14 Q. -- in this affidavit?

15 And you didn't include the ammunition in  
16 this affidavit; right?

17 A. No, sir.

18 Q. And you didn't include the suppressor in  
19 the affidavit; right?

20 A. No, sir.

21 Q. And you didn't include any of your concerns  
22 about the timeliness of the screenshot in this affidavit?

23 A. No, sir.

24 Q. You didn't include any information on the  
25 functioning of the Find My app in this affidavit, did you?

1 A. No, sir.

2 Q. You didn't include any information about  
3 the accuracy of the Find My app in this affidavit, did  
4 you?

5 A. No.

6 Q. You didn't include any information about  
7 the credibility of your informant in this affidavit, did  
8 you?

9 A. One more time. I'm sorry.

10 Q. Did you include anything about the  
11 credibility of your informant --

12 A. No.

13 Q. -- in this affidavit?

14 A. You mean victim; right?

15 Q. Victim.

16 A. Okay. Yes.

17 Q. And you didn't include anything on his  
18 credibility; right?

19 A. No.

20 Q. Did you include anything on your  
21 inexperience with Find My in this affidavit?

22 A. No.

23 Q. Who is -- or what is the Chevy Chase Crew?

24 A. The Chevy Chase Crew?

25 Q. Do you know what that is?

# **EXHIBIT 3**

# Incident Detail Report

Data Source: **Data Warehouse**  
Incident Status: **Closed**  
Incident number: **DPD-22-0003319**  
Case Numbers:  
Incident Date: **1/3/2022 09:32:46**  
Report Generated: **5/24/2023 10:09:41**

## Incident Information

<b>Incident Type:</b>	1 Officer	<b>Alarm Level:</b>	
<b>Priority:</b>	P5 Report High Priority	<b>Problem:</b>	Auto Theft
<b>Determinant:</b>		<b>Agency:</b>	Police
<b>Base Response#:</b>		<b>Jurisdiction:</b>	DPD Denver Police
<b>Confirmation#:</b>		<b>Division:</b>	PD District 6
<b>Taken By:</b>	Rodriguez, Erika = CIT	<b>Battalion:</b>	Dist 6- Sector 1
<b>Response Area:</b>	P611	<b>Response Plan:</b>	
<b>Disposition:</b>	Report Made	<b>Command Ch:</b>	
<b>Cancel Reason:</b>	D Dispatcher Cancellation	<b>Primary TAC:</b>	
<b>Incident Status:</b>	Closed	<b>Secondary TAC:</b>	
<b>Certification:</b>		<b>Delay Reason (if any):</b>	
<b>Longitude:</b>	104992982	<b>Latitude:</b>	39743927

## Incident Location

<b>Location Name:</b>	**GUNS **PRG HYATT REGENCY DENVER VALET	<b>County:</b>	Denver
<b>Address:</b>	650 15th St	<b>Location Type:</b>	Parking Structure
<b>Apartment:</b>	1921	<b>Cross Street:</b>	Welton St/California St
<b>Building:</b>		<b>Map Reference:</b>	1/231
<b>City, State, Zip:</b>	Denver CO 80202		

## Call Receipt

<b>Caller Name:</b>	AT&T Mobility	<b>Call Back Phone:</b>	469-212-2827
<b>Method Received:</b>		<b>Caller Location:</b>	
<b>Caller Type:</b>		<b>Caller Location Phone:</b>	
<b>Caller Address:</b>		<b>Caller Apartment:</b>	
<b>Caller Building:</b>		<b>Caller County:</b>	
<b>Caller City, State, Zip:</b>			

## Time Stamps

Description	Date	Time	User
Phone Pickup	1/3/2022	09:32:46	
1st Key Stroke	1/3/2022	09:32:46	
In Waiting Queue	1/3/2022	09:32:46	
Call Taking Complete	1/3/2022	09:32:46	Rodriguez, Erika = CIT
1st Unit Assigned	1/3/2022	10:18:52	
1st Unit Enroute			
1st Unit Arrived			
Closed	1/3/2022	17:50:42	Baranski, Catherine C = CIT, CTO

## Elapsed Times

Description	Time
Received to In Queue	
Call Taking	00:00:00
In Queue to 1st Assign	00:46:06
Call Received to 1st Assign	00:46:06
Assigned to 1st Enroute	
Enroute to 1st Arrived	
Incident Duration	08:17:56

## Resources Assigned

Unit	Primary Flag	Assigned	Disposition	Enroute	Staged	Arrived	At Patient	Delay Avail	Complete	Odm. Enroute	Odm. Arrived	Cancel Reason
MALL16	Y	10:18:52	Report Made						17:50:42			D Dispatcher Cancellation
MALL13	N	10:20:04	Report Made						17:50:42			D Dispatcher Cancellation

## Personnel Assigned

Unit	Name
MALL16	Randall, C S 07045 = CIT (P07045)
MALL13	Monthathong, Rop 95103 = TI, CIT (P95103) - Officer

## Caution Notes

No Caution Notes found

## Pre-Scheduled Information

No Pre-Scheduled Information

## Transports

No Transports Information

## Transport Legs

No Transports Information

## Comments

Date	Time	User	Type	Conf.	Comments
1/3/2022	09:30:39	SYS	Response		WPH2 Cell Tower Address: 650 15TH STREET - OMNI Sec[Shared]
1/3/2022	09:32:44	PC05012	Response		127 RP WILL WAIT IN LOBBY - VEH WAS STOLEN AT 0700HRS THIS MORNING -- WEAP IN VEH **** GLOCK MODEL 45 SERIAL #

**CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER**

**DEN000833**

1/3/2022	09:32:46	PC05012	Response		BMSG202/ 3 OTHER GUNS IN VEH -- NO INJ[Shared]
1/3/2022	09:33:15	PC05012	Response		Multi-Agency 911Ops Incident #: 911-22-0003369
1/3/2022	09:33:28	PC05012	Response	Y	127 WHI 2007 CHEVY Z71 TX LWY0548 [Shared]
1/3/2022	09:33:28	PC05012	Response	Y	[Query] , 1. DMV / Reg / Stolen (QV,RQ): TX,LWY0548,2022,PC [Shared]
1/3/2022	09:33:28	PC05012	Response	Y	[Query] , 2. BOLO Vehicle: TX,LWY0548 [Shared]
1/3/2022	09:34:00	PC05012	Response		[Query] , 3. Inform SI Vehicle: TX,LWY0548 [Shared]
1/3/2022	09:34:08	PC05012	Response		127 LIC C4 [Shared]
1/3/2022	09:34:45	PC05012	Response		127 CAMERA FOOTAGE AVAIL [Shared]
1/3/2022	09:35:19	PC05465	Response		127 >>>>> CALLER NAME: JEREMY MCDANIEL - RO TEL 469-212-2827 [Shared]
1/3/2022	09:35:31	PC05012	Response		BLIND BROADCAST TO THE CHANNEL MALL CARS [Shared]
1/3/2022	09:35:37	PC05012	Response		127 >>>>> CALLER CONTACT - YES <<<<<< CALL TAKING COMPLETE [Shared]
1/3/2022	09:36:42	PC05012	Response		127 CLEARED AND LOGGED [Shared]
1/3/2022	09:36:48	PC05012	Response		127 CALL TAKING COMPLETE [Shared]
1/3/2022	09:50:15	SYS	Response		[911Ops] has closed their incident [911-22-0003369]
1/3/2022	09:50:26	PC05384	Response		[Appended, 09:50:26] WPH2 Cell Tower Address: 650 15TH STREET - OMNI Sec
1/3/2022	09:50:40	PC05384	Response		Duplicate call appended to incident at 09:50:26 [Shared]
1/3/2022	09:51:05	PC05384	Response		101 COMPLAINT CALLED BACK, SPOKE WITH - JEREMY [Shared]
1/3/2022	09:51:27	PC05384	Response		101 RP HAS SECOND PHONE INSIDE VEH -- GPS IS SHOWING OUT BY THE AIRPORT [Shared]
1/3/2022	09:52:00	PC05384	Response		101 GPS FOR SECOND PHONE INSIDE VEH -- 5558 LEWISTON CT [Shared]
1/3/2022	10:20:38	PC05465	Response		101 CALL TAKING COMPLETE [Shared]
1/3/2022	10:23:07	PC05465	Response		Duplicate incident created: DPD-22-0003379 [Shared]
1/3/2022	11:30:45	PC05182	Response		MALL 16 CLEAR ON THE NOTES [Shared]
1/3/2022	11:30:59	PC05182	Response		MALL 13 VEH IN AREA OF PKS Falcon Park 13600 E MAXWELL PL [Shared]
1/3/2022	11:31:33	PC05465	Callback		AIRED CH5 [Shared]
					. [Shared]

#### Address Changes

Date	Time	Location/Address	User
1/3/2022	09:35:30	PRG HYATT REGENCY DENVER VALET / 650 15th St	JLR

#### Priority Changes

No Priority Changes

#### Alarm Level Changes

No Alarm Level Changes

#### Activity Log

Date	Time	Radio	Activity	Location	Log Entry	User
1/3/2022	09:32:46		MultiAgencyResponse		Originating Inc: 911Ops Inc#911-22-0003369	PC05012
1/3/2022	09:33:56		Read Incident		Incident 657 was Marked as Read.	PC05465
1/3/2022	09:35:30		Address Update		Address Update, Incident ID Assigned: 29323657	PC05465
1/3/2022	09:36:22		UserAction		User clicked Exit/Save	PC05465
1/3/2022	09:36:34		UserAction		User clicked Exit/Save	PC05465
1/3/2022	09:37:02		UserAction		User clicked Exit/Save	PC05465
1/3/2022	09:50:26		Duplicate Call Warning		Duplicate Call Warning - New call appended to incident	PC05384
1/3/2022	09:52:10		UserAction		User clicked Exit/Save	PC05384
1/3/2022	09:54:43		UserAction		User clicked Exit/Save	PC05465
1/3/2022	09:58:21		UserAction		User clicked Exit/Save	PC05465
1/3/2022	09:59:45		UserAction		User clicked Exit/Save	PC05465
1/3/2022	10:02:59		UserAction		User clicked Exit/Save	PC05246
1/3/2022	10:18:52	MALL 16	Dispatched	650 15th St [**GUNS **PRG HYATT REGENCY DENVER VALET]		NCOL01MPD0
1/3/2022	10:20:04	MALL 13	Dispatched	650 15th St, APT 1921		PC05465
1/3/2022	10:20:13		UserAction		User clicked Exit/Save	PC05465
1/3/2022	10:20:42		UserAction		User clicked Exit/Save	PC05465
1/3/2022	10:23:09		UserAction		User clicked Exit/Save	PC05465
1/3/2022	11:31:34		UserAction		User clicked Exit/Save	PC05465
1/3/2022	11:32:44		UserAction		User clicked Exit/Save	PC05182
1/3/2022	11:34:07		UserAction		User clicked Exit/Save	PC05465
1/3/2022	11:35:21		UserAction		User clicked Exit/Save	PC05182
1/3/2022	13:13:12	MALL 16	Odometer update from MDC N Clarkson St/E 16th Ave		Old Odometer 22000 new Odometer 22000MDC	
1/3/2022	14:43:07		UserAction		User clicked Exit/Save	PC05461
1/3/2022	15:11:24		UserAction		User clicked Exit/Save	PC05454
1/3/2022	17:50:41		UserAction		User clicked Cancel	PC05162
1/3/2022	17:50:42		Cancel Response	**GUNS **PRG HYATT REGENCY DENVER VALET	Cancellation Reason: D Dispatcher Made	PC05162
1/3/2022	17:50:42	MALL 16	Available	650 15th St [**GUNS **PRG HYATT REGENCY DENVER VALET]	Unit Cleared From Incident DPD-22-0003319	PC05162
1/3/2022	17:50:42	MALL 13	Available	650 15th St, APT 1921 [**GUNS **PRG HYATT	Unit Cleared From Incident DPD-22-0003319	PC05162

REGENCY DENVER  
VALET]

Edit Log

Date	Time	Field	Changed From	Changed To	Reason	Table	WorkstationUser
1/3/2022	09:33:56	Read Call	False	True	(Response Viewer)	Response_Master_Incident	DSP46P PC05465
1/3/2022	09:35:30	Location_Name	PRG HYATT REGENCY DENVER VALET	**GUNS **PRG HYATT REGENCY DENVER VALET	Powerline Command	Response_Master_Incident	DSP46P PC05465
1/3/2022	09:35:30	ResponsePlanType0		1	Powerline Command	Response_Master_Incident	DSP46P PC05465
1/3/2022	09:35:30	PremiseID	124167	0	Powerline Command	Response_Master_Incident	DSP46P PC05465
1/3/2022	09:35:30	Address	650 15th St	650 15th St	Update Address Form	Response_Master_Incident	DSP46P PC05465

Custom Time Stamps

No Custom Time Stamps

Custom Data Fields

No Custom Data Fields

Attachments

No Attachment

# **EXHIBIT 4**

DISTRICT COURT, COUNTY OF DENVER,  
STATE OF COLORADO  
Denver City & County Building  
1437 Bannock St., Room 256  
Denver, CO 80202

**Plaintiff:** RUBY JOHNSON

v.

**Defendants:** GARY STAAB, an officer of the Denver Police Department, in his individual capacity, and GREGORY BUSCHY, an officer of the Denver Police Department, in his individual capacity.

▲ COURT USE ONLY ▲

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*In cooperation with the ACLU Foundation of Colorado*

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*In cooperation with the ACLU Foundation of Colorado*

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Case No: 2022CV33434

Div.: 269

**DECLARATION OF ANN M. ROAN**

1. My name is Ann M. Roan. I am above the age of eighteen (18) years old, of sound mind, and am fully competent to make this Affidavit. The matters set forth in this Affidavit are based on my personal knowledge and are true and correct.
2. I spoke with Jeremy McDaniel via phone in November 2023.
3. In that conversation, Mr. McDaniel relayed that he texted between 10 and 15 screenshots from his Find My application to an officer at the Denver Police Department, showing his stolen iPhone pinging from multiple different locations throughout the day on January 3, 2022.
4. Mr. McDaniel also reported that he never told Sergeant Gregory Buschy or Detective Gary Staab that he believed the Find My application was always accurate within 5 feet. It was his belief that the 11:24am screenshot showing a circle around 5380 Worchester Street and several other properties meant that his phone could have been inside or outside any of the houses, properties, or areas encompassed in the circle at the time of the screenshot.
5. Plaintiff is working on getting an affidavit from Mr. McDaniel or scheduling his deposition.
6. I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Dated: December 1, 2023

By:   
Ann M. Roan

# **EXHIBIT 5**

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DISTRICT COURT, COUNTY OF DENVER,  
STATE OF COLORADO  
1437 Bannock Street  
Denver, Colorado 80202

^ COURT USE ONLY ^

---

RUBY JOHNSON,  
Plaintiff,

Case Number: 22CV33434  
Division: 269

vs.  
GARY STAAB, an officer of the  
Denver Police Department, in  
his individual capacity and  
GREGORY BUSCHY, an officer of  
the Denver Police Department,  
in his individual capacity,  
Defendants.

---

VIDEO DEPOSITION OF ASHLEY BECK  
November 7, 2023

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1 A. In this specific instance?

2 Q. In general, aside from this instance.

3 A. It would not be unusual for something  
4 like that to happen.

5 Q. Why do you say that?

6 A. Because we have an open line of  
7 communication. And often, they will call and say,  
8 "Hey, here are the facts; what crime do you think or  
9 what -- do you think we have probable cause; if I send  
10 a warrant your way, would you review it" types of  
11 conversations.

12 Q. And in terms of this incident, how many  
13 times did you speak with Detective Staab on January 4?

14 A. I have no recollection.

15 Q. Would you say it was more than one?

16 A. I have no recollection. It was a routine  
17 interaction that I had with Detective Staab, like I do  
18 any other detective when I am handling a warrant.

19 Q. Do you recall Detective Staab calling you  
20 about probable cause in this incident?

21 A. I don't have a specific recollection.

22 No.

23 Q. So you don't have any -- you don't have  
24 any recollection about if there were questions raised  
25 about lack of probable cause?

1           A.    I do not have a specific recollection of  
2           any conversations we may have had that day.

3           Q.    So you don't have a specific recollection  
4           of Detective Staab saying that he was concerned about  
5           a lack of probable cause in this case?

6           A.    I don't have a specific recollection of  
7           any conversations we had.

8           Q.    Did you only communicate with  
9           Detective Staab via phone, or were there other forms  
10          of communication that were used?

11          A.    I believe -- affidavits always come to me  
12          in email. So I imagine there was email communication.  
13          And generally, I am speaking by phone either prior to,  
14          during, or after the review with the detective.

15          Q.    Any instant messaging apps?

16          A.    Not that I would have communicated with  
17          with the detective. No.

18          Q.    From your recollection, did you ever  
19          advise Detective Staab that there was not enough  
20          information to establish probable cause in this case?

21          A.    Again, I don't have a specific  
22          recollection, but the fact that I signed off on it, I  
23          found that there was probable cause.

24          Q.    Did you say that there would need to be  
25          more information at any point to establish probable

1 to talk about probable cause after a detective has  
2 already contacted you?

3 A. It would be infrequent. I don't know  
4 that I would say it would be unusual.

5 Q. Why would it be infrequent?

6 A. Generally, I am dealing with the  
7 detectives. A sergeant would be akin to kind of their  
8 boss, my chief. And so, generally, I'm just dealing  
9 the detectives.

10 Q. Do you recall having a conversation with  
11 Sergeant Buschy on January 4, 2022?

12 A. I don't recall anything specific to this  
13 warrant on January 4, 2022.

14 Q. In terms of in general or just with  
15 respect to Sergeant Buschy?

16 Sorry, just to clarify.

17 A. Sure. And just to reiterate, I sign a  
18 handful, if not dozens, of warrants each day, each  
19 week, when I was in the intake unit. This warrant was  
20 one of hundreds to under a thousand, and I don't have  
21 a specific recollection of any of the warrants that I  
22 have addressed.

23 Q. Aside from this search warrant, you say  
24 that it is very infrequent for a sergeant to contact  
25 you to talk about probable cause, right?

1                   A.    I am not an expert in the Find My iPhone  
2    application.   My own experience and case experience  
3    tells me that there is essentially some sort of GPS in  
4    the phone that somehow communicates to the world up in  
5    the Internet that this is the location of the phone.

6                   Q.    And was this knowledge that you had  
7    before January 4, 2022?

8                   A.    Absolutely.

9                   Q.    How precise do you believe the Find My  
10   application is?

11                  A.    Based on my experience, incredibly  
12   precise.

13                  Q.    And based off your experience, can you  
14   elaborate on that?

15                  A.    Sure. I routinely leave my phone, most  
16   frequently at my parents' house as they dog-sit my  
17   dog. And it pings every time in the garage of their  
18   house when I leave it on the bench when I go in to get  
19   my dog.

20                  Q.    And has your understanding of how the  
21   Find My iPhone application changed since January 4,  
22   2022?

23                  A.    It has not. I have, in fact, seen  
24   numerous, numerous cases come through where, again, it  
25   has indeed been accurate. It has indeed panned out.

1 conditioning?

2 (Discussion off the record.)

3 (Deposition Exhibit 3 was marked.)

4 Q. (BY MR. MADDALONE) I'm handing you what  
5 we'll mark as Exhibit 3 today. I will submit to you  
6 this is a portion of Detective Staab's deposition  
7 testimony.

8 Please let me know when you've had a  
9 chance to review the entirety of it.

10 A. I have reviewed it.

11 Q. Okay. So looking at page 153, lines 21  
12 through 25, would you say that based off of this  
13 testimony that you instructed Detective Staab to  
14 confirm the validity of the Find My application with  
15 the victim?

16 MR. RINGEL: Object to the form and the  
17 foundation.

18 A. I have no reason to doubt his  
19 representation.

20 Q. (BY MR. MADDALONE) Is there a reason why  
21 you did not instruct Detective Staab to research the  
22 Find My application himself?

23 A. I didn't think it was necessary.

24 Q. Why not?

25 A. Familiar with it, used it.

1 Q. You are familiar with it or he's familiar  
2 with it?

3 A. I was familiar with it. I assumed he was  
4 familiar with it.

5 Q. Did you ask Detective Staab about his  
6 experience with the Find My application?

7 A. I don't recall.

8 Q. You didn't personally research the  
9 Find My application before signing the search warrant  
10 affidavit?

11 A. Not that I recall.

12 Q. Did you ever speak to the victim  
13 personally?

14 A. No. And I would not do so.

15 Q. Why not?

16 A. I'm not the investigating agency, and I  
17 cannot make myself a witness to the case.

18 Q. So you never determined the victim's  
19 credibility?

20 A. No.

21 Q. And you didn't determine the victim's  
22 expertise in Find My iPhone?

23 A. Sir, what I reviewed was an affidavit  
24 that provided information as well as corroboration via  
25 a screenshot as to what the victim was reporting. I

1 Q. (BY MR. MADDALONE) Did you ask your  
2 colleagues if they believed there was sufficient  
3 evidence to support probable cause for the January 4,  
4 2022, search warrant?

5 A. I believe my chief and I reviewed the  
6 warrant, and I don't recall any indication that there  
7 was a disagreement of probable cause.

8 Q. And your chief again was who?

9 A. Victoria Sharp.

10 Q. When did you speak with them?

11 A. January 4, 2022.

12 Q. And was this prior to the submission of  
13 the search warrant affidavit?

14 MR. RINGEL: Object to the form and the  
15 foundation.

16 A. Well, the submission of the affidavit for  
17 my review by Detective Staab would likely have been  
18 what initiated this conversation.

19 Q. (BY MR. MADDALONE) Did you talk to  
20 Ms. Sharp at any point prior to the -- Detective Staab  
21 providing the search warrant to you?

22 A. I would not have known of the existence  
23 of any search warrant prior to it having been emailed  
24 to me.

25 Q. And was this prior to you -- was this

1 submits information to the judge.

2 Am I correct that you review the  
3 affidavit for probable cause prior to submission to  
4 the judge?

5 A. Correct. Yes.

6 Q. And you have conversations with officers  
7 related to the facts underlying the affidavit itself?

8 A. If I have a question or am seeking a  
9 clarification or providing guidance, yes, I will  
10 consult with the detective who has submitted the  
11 affidavit.

12 Q. And that happens regularly?

13 A. Yes.

14 Q. And in this case, to the best of your  
15 recollection, is that something that you believe that  
16 happened here?

17 A. I don't have a recollection. After  
18 reviewing Detective Staab's, it appears as though we  
19 did consult, and I have no reason to doubt that. It  
20 also appears in my email to Ms. Sharp that I had  
21 discussed it with Detective Staab. Yes.

22 Q. Okay. And did Detective Staab provide  
23 you with any information about how the Find My  
24 application works?

25 A. Not to my recollection.

1 Q. Did Sergeant Buschy provide you with any  
2 information about how the Find My application works?

3 A. Not to my recollection. And I likely  
4 would not have asked based on my own knowledge and  
5 experience.

6 Q. And did anyone else at the Denver Police  
7 Department provide you with any information about how  
8 the Find My application works?

9 A. Not to my recollection. And, again,  
10 based on my knowledge and experience, I would not have  
11 sought such.

12 Q. And that's based off of the personal  
13 experience you have with the Find My iPhone  
14 application?

15 A. My personal experience as well as seeing  
16 it utilized in various types of cases. Yes.

17 Q. What information in Detective Staab's  
18 search warrant affidavit confirmed the existence of  
19 probable cause for you?

20 A. I wouldn't be able to pull out specific  
21 facts. I reviewed it in the totality. So it's the  
22 totality of all of the paragraphs on page 2 and 4,  
23 coupled with his 24 years of experience as a  
24 detective.

25 Q. If you turn to -- I believe it was marked

# **EXHIBIT 6**

---

**From:** Ashley N. Beck  
**Sent:** Tuesday, January 4, 2022 11:46 AM  
**To:** Staab, Gary S. - DPD Detective  
**Subject:** Warrant  
**Attachments:** EDITS AND SIGNED BY DA - 2022-3319 Affidavit for SW residence.docx



**Ashley Beck | Deputy District Attorney**  
Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202  
[ashley.beck@denverda.org](mailto:ashley.beck@denverda.org) | 720-913-9264  
[www.denverda.org](http://www.denverda.org)



## AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

I, Detective Gary Staab/98032, state under oath that I have reason to believe that at the place described as:

- **5380 Worchester St. Denver CO, 80239, a Ranch style, single-family residence, with an attached garage, with a white door, tan siding, dark brown trim, white bars on the front windows, and a white bar security door. Visible from Google Earth is also an apparent shed, tan in color, with a brown entry door located in the northeast portion of the fenced backyard with a brown entry door.**



in the City and County of Denver, State of Colorado, there is now located the following described property or contraband:

- ~~Any firearm, rifle, handgun, pistol~~ Firearms, to include: Glock 45, Serial#BMSG202, .223 Carbine Snowflake, Serial#LT00464, 9mm Kimber, unknown serial number, .22 caliber revolver, unknown serial number, .22 caliber Taurus TC22, unknown serial number, .25 caliber unknown make pistol, unknown serial number.
- 2007, white, Chevrolet Truck, Texas License #LWY0549, VIN # 2GCEK13Z771154347.
- Any ~~Drones~~ DJI Drones
- iPhone 11, gold/silver in color
- Articles of personal property tending to establish the identity of the person(s) in control or possession of the place, such as utility company receipts, rent receipts, canceled mail envelopes, vehicle registration, credit card receipts, repair bills, photographs, keys and articles of clothing.
- Any material evidence developed by a thorough crime scene investigation such as still and video photographing, measuring, trace material of every kind such as clothing, fiber, hair, body fluids, and latent prints and objects on which they are found, documentary evidence tending to establish the motive or identity of any suspect or witness

**- Any electronic devices capable of storing location information and/or communicating with other devices either through data transmission or wirelessly, including cellular telephones and tablets.**

For which a search warrant may be issued upon one or more of the grounds set forth in the Colorado Rules of Criminal Procedure and CRS § 16-3-301 and 19-2-504, namely that this property is stolen or embezzled, or is designed or intended for use as a means of committing a criminal offense, or is or has been used as a means of committing a criminal offense, or the possession of which is illegal, or would be material evidence in a subsequent criminal prosecution in this state or another state, or the seizure of which is expressly required, authorized or permitted by any statute of this state, or which is kept, stored, maintained, transported, sold, dispensed, or possessed in violation of a statute of this state, under circumstances involving a serious threat to public safety or order or to public health, or which would aid in the detection of the whereabouts of or in the apprehension of a person for whom a lawful arrest warrant is outstanding.

The facts tending to establish the grounds for issuance of a Search Warrant are as follows:

Your Affiant, Detective Gary Staab/98032, has been a Police Officer for over 24 years. Your affiant was assigned to the Denver Police District Six Investigations on April 2016 as a Detective. Your affiant currently holds this position.

Your Affiant has been trained in Search and Seizure, Investigative Techniques, Property Crime Offenses, DNA Processing, Latent Print Processing, Photography, Crime Scene Processing, Sex Crimes, and Homicide Investigations. Your Affiant has been assigned as a detective in the Crime Scene Unit from 2005-2013, and District 6 Investigations from 2016 to present. Your Affiant has also been trained in the requirements needed for Colorado POST Certification.

On 01/03/2022, at approximately 1100 hours, Denver Police Officer Chris Randall/07045 responded to The Hyatt, 650 15th St. on a report of a motor vehicle theft. This location is in the City and County of Denver, State of Colorado. Officer Randall completed a General Occurrence Report, CASE#2022-3319, Titled Theft - Of Motor Vehicle.

**OFFICER CHRIS RANDALL/07045 REPORTED:**

"On 01-03-2022 at approximately 0645 the security of the Hyatt located at 650 15th st which is located in the City and County of Denver, State of Colorado captured a vehicle with Texas Plate LWY0548 break the arm of their garage gate and speed away. They contacted a guest who was staying there (Jeremy McDaniel ) who told them that it was his vehicle, but he hadn't used his vehicle. The Vehicle was taken without McDaniels permission or knowledge and fled the area. McDaniels had 6 firearms, 2 drones, \$4000.00 cash in the vehicle when it was stolen."

On 01/04/2022, Denver Police Detective Gary Staab/98032, assigned to the District 6 Investigations Unit, was assigned this case file for follow-up investigation.

Through review of responding officers' reports, Your Affiant learned that the vehicle stolen on 01-03-2022 was a 2007, white, Chevrolet Truck, Texas License #LWY0549, VIN # 2GCEK13Z771154347 belonging to Jeremy McDaniel. The victim (McDaniel) reported that inside his vehicle were six firearms, to include the following: (1) Glock 45, Serial#BMSG202, (2) .223 Carbine Snowflake, Serial#LT00464, (3) 9mm Kimber, unknown serial number, (4) .22 caliber revolver, unknown serial number, (5) .22 caliber Taurus TC22, unknown serial number, and (6) .25 caliber unknown make pistol, unknown serial number. McDaniel also reported that he had DJI drones inside the vehicle, as well as an old iPhone.

**0845 hours-** Your Affiant phoned (469)212-2827, listed number for the victim Jeremy McDaniel, who advised Your Affiant he had an old iPhone he left in his truck and he uses an app, find my phone. The victim related that he utilized the find my iPhone app in an attempt to track down his own vehicle/belongings, and the phone pinged to a house, 5380 N. Worchester St. Denver, CO 80239. He reported the first ping occurred on 01/03/2021, at 1124 hours, and the last ping was on 01/03/2021, at 1555 hours. During this time the phone had not moved. The phone has not pinged at the location since and the victim believes the phone might have died. Victim added he had rented a car and drove by the address and didn't see his truck at the location but stated it could be in the garage. The phone was pinging at the address when the victim drove by. Victim has used this iPhone app on other occasions, where he found his wife's phone in the middle of a field, with an accuracy of five feet. A photo of the app shows a red dot, signifying the phone being inside the house, 5380 N Worchester St. Denver, CO 80239.

Your Affiant knows through his training and experience over the last 24 years that individuals who steal motor vehicles often use those vehicles to perpetuate other crimes and/or frequently abandon recently stolen vehicles after a short period of time. Your Affiant knows through his training and experience that when valuable items are located in a stolen motor vehicle, such as electronics (to include cellular telephones) and firearms, that motor vehicle thieves will often abandon the vehicle and retain the valuable property. Firearms, drones, and cellular telephones are easily transportable and can be hidden in a home or garage.

Case No. 2022-3319

Based on the above information and evidence, Your Affiant respectfully requests that a search warrant be issued for the above-described residence.

\_\_\_\_\_  
Signature of Affiant

This Affidavit was read and approved by Supervisor \_\_\_\_\_.

**Review & Approval**

Approved electronically	/s/ Ashley N. Beck	January 4, 2022 @ 1142
District Attorney – Signature	District Attorney – Printed name & Registration #	Date and Time

Subscribed under oath before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ in the City and County of Denver, CO

\_\_\_\_\_  
Signature of Judge

---

Printed Name of Judge

# **EXHIBIT 7**

---

**From:** Ashley N. Beck  
**Sent:** Tuesday, January 4, 2022 11:42 AM  
**To:** Victoria Sharp  
**Subject:** RE: Affidavit & Search Warrant #2022-3319

Added this:

Through review of responding officers' reports, Your Affiant learned that the vehicle stolen on 01-03-2022 was a 2007, white, Chevrolet Truck, Texas License #LWY0549, VIN # 2GCEK13Z771154347 belonging to Jeremy McDaniel. The victim (McDaniel) reported that inside his vehicle were six firearms, to include the following: (1) Glock 45, Serial#BMSG202, (2) .223 Carbine Snowflake, Serial#LT00464, (3) 9mm Kimber, unknown serial number, (4) .22 caliber revolver, unknown serial number, (5) .22 caliber Taurus TC22, unknown serial number, and (6) .25 caliber unknown make pistol, unknown serial number. McDaniel also reported that he had DJI drones inside the vehicle, as well as an old iPhone.

And....

Your Affiant knows through his training and experience over the last 24 years that individuals who steal motor vehicles often use those vehicles to perpetuate other crimes and/or frequently abandon recently stolen vehicles after a short period of time. Your Affiant knows through his training and experience that when valuable items are located in a stolen motor vehicle, such as electronics (to include cellular telephones) and firearms, that motor vehicle thieves will often abandon the vehicle and retain the valuable property. Firearms, drones, and cellular telephones are easily transportable and can be hidden in a home or garage.

And am having him call victim to figure out the make/model of the iphone that we think is in the house and will add that to the list of items to be recovered.

Ashley Beck | Deputy District Attorney  
Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 ashley.beck@denverda.org | 720-913-9264 www.denverda.org

-----Original Message-----

From: Victoria Sharp <Vas@denverda.org>  
Sent: Tuesday, January 4, 2022 11:34 AM  
To: Ashley N. Beck <Ashley.Beck@denverda.org>  
Subject: RE: Affidavit & Search Warrant #2022-3319

And I agree - take out "any gun" and include the more "specific" gun description of .22 with unknown serial number. And have Staab describe each of these in the affidavit (does that make sense?)

Victoria Sharp | Senior Chief Deputy District Attorney Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 vas@denverda.org | 720-913-9000 www.denverda.org  
Pronouns: She/her/hers

-----Original Message-----

From: Ashley N. Beck <Ashley.Beck@denverda.org>

Sent: Tuesday, January 4, 2022 11:31 AM  
To: Victoria Sharp <Vas@denverda.org>  
Subject: RE: Affidavit & Search Warrant #2022-3319

I like it. Thanks.

And confirmed with Staab it is NOT a no-knock. Just taking extra precautions because of the weapons etc.

Ashley Beck | Deputy District Attorney  
Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 ashley.beck@denverda.org | 720-913-9264 www.denverda.org

-----Original Message-----

From: Victoria Sharp <Vas@denverda.org>  
Sent: Tuesday, January 4, 2022 11:27 AM  
To: Ashley N. Beck <Ashley.Beck@denverda.org>  
Subject: RE: Affidavit & Search Warrant #2022-3319

I would also put something in there like "guns aren't fungible like drugs and in fact, it may be harder to get rid of them within a day."

Victoria Sharp | Senior Chief Deputy District Attorney Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 vas@denverda.org | 720-913-9000 www.denverda.org  
Pronouns: She/her/hers

-----Original Message-----

From: Ashley N. Beck <Ashley.Beck@denverda.org>  
Sent: Tuesday, January 4, 2022 11:25 AM  
To: Victoria Sharp <Vas@denverda.org>  
Subject: FW: Affidavit & Search Warrant #2022-3319

I asked him to send it back in word - but if you want to take a quick look?

My thoughts are (1) we need to specify the guns that were stolen in the body of the warrant; (2) we need to flush out something along the lines of "in my training and experience, people who steal shit put it in their homes?"

Ashley Beck | Deputy District Attorney  
Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 ashley.beck@denverda.org | 720-913-9264 www.denverda.org

-----Original Message-----

From: Staab, Gary S. - DPD Detective <Gary.Staab@denvergov.org>  
Sent: Tuesday, January 4, 2022 11:09 AM  
To: Ashley N. Beck <Ashley.Beck@denverda.org>  
Subject: Affidavit & Search Warrant #2022-3319

Hello Ashley,

Please see attached warrant for your review and approval.

Respectfully,

Gary Staab | Detective  
District 6 Investigations, Denver Police Department | City and County of Denver  
p: (720) 913-2960 Fax: (720)913-2991 | gary.staab@denvergov.org

-----Original Message-----

From: tsxerox@denvergov.org <tsxerox@denvergov.org>  
Sent: Tuesday, January 4, 2022 11:05 AM  
To: Staab, Gary S. - DPD Detective <Gary.Staab@denvergov.org>  
Subject: Scanned from a Xerox Multifunction Printer

Please open the attached document. It was sent to you using a Xerox multifunction printer.

Attachment File Type: pdf, Multi-Page

Multifunction Printer Location: District 6 1566 Washington St. 2nd flr  
Multifunction Printer Name: DPD12004

For more information on Xerox products and solutions, please visit  
[https://urldefense.com/v3/\\_\\_http://www.xerox.com\\_\\_;!!M87Ej6RJKlw!EcirUINgFK-5s-Jr9cwwRf8NkzaAaNum6u9v7MQzkQuvw09tkJomb-LXt1LAW9Uio05N\\$](https://urldefense.com/v3/__http://www.xerox.com__;!!M87Ej6RJKlw!EcirUINgFK-5s-Jr9cwwRf8NkzaAaNum6u9v7MQzkQuvw09tkJomb-LXt1LAW9Uio05N$)

---

**From:** Victoria Sharp  
**Sent:** Tuesday, January 4, 2022 11:33 AM  
**To:** Ashley N. Beck  
**Subject:** RE: Affidavit & Search Warrant #2022-3319

Also - maybe he can include the screen shot of the red dot in the house?

Victoria Sharp | Senior Chief Deputy District Attorney Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 vas@denverda.org | 720-913-9000 www.denverda.org  
Pronouns: She/her/hers

-----Original Message-----

From: Ashley N. Beck <Ashley.Beck@denverda.org>  
Sent: Tuesday, January 4, 2022 11:31 AM  
To: Victoria Sharp <Vas@denverda.org>  
Subject: RE: Affidavit & Search Warrant #2022-3319

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And confirmed with Staab it is NOT a no-knock. Just taking extra precautions because of the weapons etc.

Ashley Beck | Deputy District Attorney  
Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 ashley.beck@denverda.org | 720-913-9264 www.denverda.org

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From: Victoria Sharp <Vas@denverda.org>  
Sent: Tuesday, January 4, 2022 11:27 AM  
To: Ashley N. Beck <Ashley.Beck@denverda.org>  
Subject: RE: Affidavit & Search Warrant #2022-3319

I would also put something in there like "guns aren't fungible like drugs and in fact, it may be harder to get rid of them within a day."

Victoria Sharp | Senior Chief Deputy District Attorney Denver District Attorney's Office  
201 W. Colfax Avenue, Dept. 801 | Denver, CO 80202 vas@denverda.org | 720-913-9000 www.denverda.org  
Pronouns: She/her/hers

-----Original Message-----

From: Ashley N. Beck <Ashley.Beck@denverda.org>  
Sent: Tuesday, January 4, 2022 11:25 AM  
To: Victoria Sharp <Vas@denverda.org>

# **EXHIBIT 8**



**DENVER POLICE DEPARTMENT  
GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)  
GO# 2022-3319**

## Table of Contents

<b>Related Event GO# 2022-3319</b> .....	1
<b>Offense(s)</b> .....	1
<b>Related Person(s)</b> .....	2
1. VICTIM # 1 - MCDANIEL, JEREMY SHANE .....	2
<b>Related Business(es)</b> .....	2
1. VICTIM # 1 - HYATT REGENCY .....	2
<b>Related Vehicle(s)</b> .....	3
1. STOLEN # 1 - LWY0548, TX VIN# 2GCEK13Z771154347 .....	3
STOLEN VEHICLE DETAILS .....	4
STOLEN VEHICLE DETAILS .....	4
<b>Related Narrative(s)</b> .....	6
1. RANDALL, CHRIS S. (P07045), INITIAL REPORT/NARRATIVE - NARRATIVE .....	6
2. DURAN, DOREEN (B21018), CCIC/NCIC ATTACHMENT - EG: CCIC/NCIC *PISTOL-BMSG202* .....	7
3. DURAN, DOREEN (B21018), CCIC/NCIC ATTACHMENT - EG: CCIC/NCIC *SNOWFLAKE-LT00464* .....	10
4. DURAN, DOREEN (B21018), CCIC/NCIC ATTACHMENT - EG: CCIC/NCIC *KIMBER 9MM*--1416995 .....	13
5. DURAN, DOREEN (B21018), CCIC/NCIC ATTACHMENT - EG: CCIC/NCIC *TAURUS* 141699683 .....	15
6. DURAN, DOREEN (B21018), CCIC/NCIC ATTACHMENT - EG: CCIC/NCIC *45 GLOCK-BMSG202* .....	17
7. DURAN, DOREEN (B21018), CCIC/NCIC ATTACHMENT - EV: DMV/NLETS/CCIC/NCIC .....	20
8. LUNDGREN, CARRIE (B18109), CCIC/NCIC ATTACHMENT - N/CCIC MV HITS/ NLETS/ HOLD FOR PRI .....	26
9. ROSS, DANA (B05039), CCIC/NCIC ATTACHMENT - YQ YR .....	32
10. ROSS, DANA (B05039), CCIC/NCIC ATTACHMENT - LOCATES /RECOVERY .....	34
11. ROSS, DANA (B05039), CCIC/NCIC ATTACHMENT - CV NCIC CCIC CLEARS .....	37
12. ROSS, DANA (B05039), CCIC/NCIC ATTACHMENT - EL NCIC CCIC NLET LP HITS FRONT ... ..	41
13. WETHINGTON, HANNAH (B21082), CCIC/NCIC ATTACHMENT - Gun serial numbers .....	44
14. WETHINGTON, HANNAH (B21082), CCIC/NCIC ATTACHMENT - GUN SERIAL NUMBER .....	46
15. WETHINGTON, HANNAH (B21082), CCIC/NCIC ATTACHMENT - N/CCIC EG: SERIAL NO. PB183782 .....	48
16. WETHINGTON, HANNAH (B21082), ID BUREAU / RECORD COMMENTS - EMAIL TO DET .....	51
17. JOHNSON, JENNIFER (B21083), CCIC/NCIC ATTACHMENT - XL: C/NCIC DMV NLETS (TX) PLATE CAN .....	52
18. RANDALL, CHRIS S. (P07045), SYSTEM GENERATED - OFFICER'S ORIGINAL REPORT .....	55
<b>Related Follow Up(s)</b> .....	65
1. Follow Up Report # 1 - STAAB, GARY S. ....	65
<b>Related Clearance Information</b> .....	75
<b>Related Property Report(s)</b> .....	76
1. PROPERTY REPORT # 1233683 (DAMAGED) .....	76
ARTICLE .....	76

<b>2. PROPERTY REPORT # 1233504 (LOST/STOLEN)</b> .....	<b>77</b>
FIREARM .....	77
FIREARM .....	77
FIREARM .....	77
FIREARM .....	78
FIREARM .....	78
FIREARM .....	78
ARTICLE .....	78
ARTICLE .....	79
<b>3. PROPERTY REPORT # 1237159 (SEIZED)</b> .....	<b>81</b>
ARTICLE (TAG # 1237159 - 1) .....	81
<b>Related Attachment(s)</b> .....	<b>83</b>
<b>1. MISCELLANEOUS - HYATT NATASHA EMAILS 01/04/2022</b> .....	<b>83</b>
<b>2. MISCELLANEOUS - APPROVED AFFIDAVIT AND SERACH WARRANT RESIDENCE</b> .....	<b>87</b>
<b>3. MISCELLANEOUS - RETURN AND INVENTORY</b> .....	<b>93</b>
<b>4. MISCELLANEOUS - NATASHA EMAILS 01/05/2022</b> .....	<b>95</b>
<b>5. MISCELLANEOUS - GARAGE ARM DAMAGE INVOICE</b> .....	<b>100</b>
<b>6. MISCELLANEOUS - SGT BUSCHY EMAILS FROM VICTIM #1 PHOTOS</b> .....	<b>102</b>
<b>7. MISCELLANEOUS - SGT BUSCHY EMAIL FROM VICTIM STOLEN ITEMS LIST</b> .....	<b>105</b>
<b>8. MISCELLANEOUS - METRO SWAT AFTER ACTION REPORT</b> .....	<b>109</b>
<b>9. MISCELLANEOUS - MATT UNIT VEHICLE PROCESSING REPORT</b> .....	<b>126</b>
<b>10. CRIME LAB REPORTS - NIB-LabReport</b> .....	<b>128</b>
<b>11. MISCELLANEOUS - VICTIM'S STOLEN ITEMS LIST 01/19/2022</b> .....	<b>130</b>

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GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**General Offense Information**

Operational Status INACTIVE  
 Reported On JAN-03-2022 (MON.) 1101  
 Occurred On JAN-03-2022 (MON.) 0645  
 Approved On NOV-18-2022 (FRI.)  
 Approved By P00092 - BRONSON, JOHN J.  
 Report Submitted P07045 - RANDALL, CHRIS S.  
 By  
 Org Unit DISTRICT 6  
 Accompanied By P95103 - MONTHATHONG, ROP  
 L.  
 Address 650 15TH ST  
 Municipality DENVER  
 County DENVER  
 District 6 Beat 611  
 Felony/ Misdemeanor FELONY  
 Value Loss \$23,754.00  
 Value Recovered \$1.00  
 Value Damaged \$500.00  
 Gang Involvement NOT GANG RELATED  
 Family Violence NO  
 Cargo Theft NO

**Offenses (Completed/Attempted)**

Offense # 1 2404-0 THEFT - OF MOTOR VEHICLE - COMPLETED  
 Location PARKING LOT/GARAGE  
 Suspected Of Using NOT APPLICABLE  
 Bias NONE (NO BIAS)

Offense # 2 2999-0 CRIMINAL MISCHIEF - OTHER - COMPLETED  
 Location PARKING LOT/GARAGE  
 Suspected Of Using NOT APPLICABLE  
 Bias NONE (NO BIAS)



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**Related Person(s)**

**1. VICTIM # 1 - MCDANIEL, JEREMY SHANE**

**CASE SPECIFIC INFORMATION**

**Sex** MALE  
**Race** WHITE  
**Date Of Birth** JUN-20-1989  
**Address** 702 N LAMAR ST  
**Municipality** TIOGA  
**State** TEXAS  
**ZIP Code** 76271  
**HOME** (469) 212-2827

**PERSON PARTICULARS**

**Ethnicity** NON-HISPANIC

**MASTER NAME INDEX REFERENCE**

**Name** MCDANIEL , JEREMY SHANE  
**Sex** MALE  
**Race** WHITE  
**Date Of Birth** JUN-20-1989  
**Ethnicity** NON-HISPANIC  
**Address** 702 N LAMAR ST  
**Municipality** TIOGA  
**State** TEXAS  
**ZIP Code** 76271

***PHONE NUMBERS***

**HOME** (469) 212-2827

**LINKAGE FACTORS**

**Resident Status** NONRESIDENT  
**Age Range** 30-49 YEARS  
**Related Vehicle #** 1 - LWY0548, TX  
**Victim Of** 2404- 0 THEFT - OF MOTOR VEHICLE - COMPLETED

**Related Business(es)**

**1. VICTIM # 1 - HYATT REGENCY**

**Address** 650 15TH ST



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

Municipality DENVER  
State COLORADO  
ZIP Code 80202  
District 6 Beat 611  
Phone Number (303) 486-4495  
Type HOTELS AND MOTELS

**PARTICULARS**

Security YES

	Contact Name	Affiliation	Phone Numbers
Contact # 1	CHRIS VILLONES	SECURITY	(303) 486-4600
Contact # 2	KODY.KUNKEL@HYATT.COM		
Contact # 3	JESSE.HELLAND@HYATT.COM	JESSE HELLAND	(303) 486-4497

**LINKAGE FACTORS**

Victim Of 2999 - 0 CRIMINAL MISCHIEF - OTHER - COMPLETED

**Related Vehicle(s)**

1. STOLEN # 1 - LWY0548, TX VIN# 2GCEK13Z771154347

**CASE SPECIFIC INFORMATION**

License Number LWY0548  
State Of Issue TEXAS  
VIN 2GCEK13Z771154347  
License Type REGULAR PASSENGER  
Year Of Issue 2022  
Misc. Information VOTRTEX IN BACK WINDOW  
Type AUTOMOBILE (INCL. SUV AND LIGHT DUTY TRUCK)  
Make And Model CHEVROLET SILVERADO  
Style 4DR AUTOMOBILE  
Year 2007  
Color WHITE

**AUTOMOBILE DETAILS**

State Of Issue TEXAS  
Windows TINTED  
Wheels BLACK





# DENVER POLICE DEPARTMENT

GO# 2022-3319

CONFIDENTIAL INACTIVE

## GENERAL OFFENSE HARDCOPY

(THEFT - OF MOTOR VEHICLE)

---

### VEHICLE INFORMATION

Doors Locked NO

Ignition Locked YES

Keys In NO

Registration In YES

Vehicle/Plate Value \$5.00

Owned Less Than 6 Months NO

Months

Remarks FRONT PLATE IN VEH WHEN RECVD FRONT PLATE ONLY// VEHICLE AND REAR PLATE RECOVERED 01-06-2022



**GENERAL OFFENSE HARDCOPY**

(THEFT - OF MOTOR VEHICLE)

---

**Narrative Text**

**Type** INITIAL REPORT/NARRATIVE

**Subject** NARRATIVE

**Author** P07045 - RANDALL, CHRIS S.

**Related Date** Jan-03-2022 11:14

On 01-03-2022 at approximately 0645 the security of the Hyatt located at 650 15th st which is located in the City and County of Denver, State of Colorado captured a vehicle with Texas Plate LWY0548 break the arm of their garage gate and speed away. They contacted a guest who was staying there (Jeremy McDaniel ) who told them that it was his vehicle, but he hadn't used his vehicle. The Vehicle was taken without McDaniels permission or knowledge and fled the area. McDaniels had 6 firearms, 2 drones, \$4000.00 cash in the vehicle when it was stolen.



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

Follow Up Report # 1

**Follow Up Report # 1**

**ASSIGNMENT INFORMATION**

**Assigned To** P98032 - STAAB, GARY S.  
**Capacity** LEAD INVESTIGATOR  
**Assigned On** JAN-04-2022 (TUE.) 0708  
**Report Due On** FEB-03-2022 (THU.)

**Rank** DETECTIVE  
**Org Unit** DISTRICT 6 INVESTIGATIONS  
**By** P98010 - BUSCHY, GREGORY J.

**SUBMISSION INFORMATION**

**Submitted On** JAN-26-2022 (WED.) 1000  
**Checked By** P00092 - BRONSON, JOHN J.  
**Approved On** JAN-26-2022 (WED.)

**By** P00092 - BRONSON, JOHN J.

**FOLLOW UP CONCLUSION**

**Follow Up** YES  
**Concluded**



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**Narrative Text**

Type SUPPLEMENTARY REPORT

Subject SUP REPORT

Author P98032 - STAAB, GARY S.

Related Date Jan-04-2022

**PRELIMINARY INVESTIGATION:**

On 01/03/2022, at approximately 1100 hours, Denver Police Officer Chris Randall/07045 responded to The Hyatt, 650 15th St. on a report of a motor vehicle theft. This location is in the City and County of Denver, State of Colorado. Officer Randall completed a General Occurrence Report, CASE#2022-3319, Titled Theft - Of Motor Vehicle.

**OFFICER CHRIS RANDALL/07045 REPORTED:**

"On 01-03-2022 at approximately 0645 the security of the Hyatt located at 650 15th st which is located in the City and County of Denver, State of Colorado captured a vehicle with Texas Plate LWY0548 break the arm of their garage gate and speed away. They contacted a guest who was staying there (Jeremy McDaniel ) who told them that it was his vehicle, but he hadn't used his vehicle. The Vehicle was taken without McDaniels permission or knowledge and fled the area. McDaniels had 6 firearms, 2 drones, \$4000.00 cash in the vehicle when it was stolen."

**FOLLOW-UP INVESTIGATION:**

On 01/04/2022, Denver Police Detective Gary Staab/98032, assigned to the District 6 Investigations Unit, was assigned this case file for follow-up investigation. Staab reviewed the preliminary investigative statement(s) and paperwork.

**VICTIM:**

MCDANIEL, JEREMY SHANE  
Date of birth: Jun-20-1989  
702 N LAMAR ST  
TIOGA , Texas 76271  
CELLULAR: (469) 212-2827

**SUSPECT: UNKNOWN**

**0820 hours-** Staab phoned (303)436-1234, number for the Hyatt Regency, 650 15th St., and spoke with Operations Coordinator, Natasha, who advised Staab they do have video of the truck breaking through the security arm. You can't see the driver, due to tinted windows, and they don't have any video of anyone walking throughout the garage. Staab emailed Natasha, at Natasha.Aragon@hyatt.com, a link to upload video to evidence.com., as well as an email with Staab's contact information.

**0845 hours-** Staab phoned (469)212-2827, listed number for the victim Jeremy McDaniel, who advised Staab he had an old iPhone he left in his truck and he using an app, find my phone, the victim related the phone pinged to a house, 5380 N. Worchester St. Denver, CO 80239. First ping occurred on 01/03/2021, at 1124 hours, and the last ping was on 01/03/2021, at 1555 hours. The phone has not pinged at the location since and the victim believes the phone might have died. Victim added he had rented a car and drove by the address and didn't see his truck at the location, but stated it could be in the garage.

GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

Staab received notice the video has been uploaded to Evidence.com. Video shows on 01/03/2022, at approximately 0645 hours, the victim's truck is observed driving through the security arm of the hotel. The driver or possible passengers can not be seen.

**1055 hours-** Staab received a call from the victim, who related his wife's debit card, VISA ending in #2345, had an attempted purchase, on-line, through Metro PCS, on 01/04/2022, at 1052 hours.

Staab added The Hyatt Regency as a victim entity for the damage garage security arm. Staab requested an invoice for the repair from Natasha.

Staab authored an Affidavit Search Warrant for 5380 N. Worchester St. Denver, CO 80239, which was approved by Sergeant G. Buschy/98010 and emailed to the District Attorney's Officer for review and approval. A short time later Staab received an approved and signed warrant from DA Ashley Beck.

PDF of the warrant was emailed to the warrant review judge for review & approval. A short time later Staab received an approved/signed PDF of the warrant from Judge B. Faragher.

Staab received emails from Sgt. Buschy, which he received from the victim.

**0150 hours-** Staab along with Detective Sergeant G. Buschy/98010, Detectives B. Norwell/01037 and P. Walker/05179, responded to 5380 N. Worchester St. Denver, CO 80230, with SWAT, SORT, and District 5 Officers. District 6 Undercover Unit was already on scene surveilling the house. SWAT ordered the resident, later identified as Ruby Johnson, DOB:06/091945, out of the house. Johnson was placed into a patrol vehicle and driven up the street for safety. Staab contacted Johnson and advised her on the situation and handed her a copy of the search warrant and his business card. Johnson advised Staab her son came over on 01/03/2021, at approximately 1000 hours to place the grill cover back on the grill, which they used new years eve. Johnson added her son only stayed for a few minutes and she had no other visitors that day.

Once the house was cleared by SWAT, Staab and other detectives and sergeants searched the location for any of the items listed in the search warrant, which included the cell phone and firearms. Staab observed the attic tile had been broken from the ceiling and was laying on the hallway floor. Norwell took photos of the damage. After a search of the residence, shed and yard. none of the items listed in the warrant were recovered or located. Staab spoke with Johnson again advising her on the damage and gave her a copy of the return and inventory. Staab gave Johnson her vehicle keys, which he received from SWAT after they removed her vehicle from the garage for search. Staab advised Johnson the pad lock on the shed had also been cut off, but the shed was secured with a brick in front of the door. Detectives cleaned the debris from the hallway floor and replaced the grill covers back on the grills.

**1530 hours-** Staab phoned the victim and notified him on the status of the search warrant. Victim advised Staab there was a Hispanic male, sitting in a green smaller type truck, possibly a Ford Ranger type truck, which was parked on the street in front of the victim's house, when he drove by on 01/03/2021. Staab advised the victim the next steps of the investigation, which is when the vehicle is possibly recovered. Victim was currently driving back to Texas and will get serial numbers for the remaining guns and drones.

Staab received a message from the son of Johnson, Greg Brunson, asking for a call in regard to the search of his mother's home. Staab advised Sgt. Buschy, who contacted Brunson and recorded the



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

call on his BWC.

**01/05/2021**

**0904 hours-** Staab phoned Auto Theft Records and requested they add a caution to the theft report for Officer safety, guns in vehicle at time of theft, as well a a request to tow and hold the vehicle for prints and processing.

Staab received an email from Natasha, which included an invoice for the garage arm repair. Staab responded with questions about cameras around the victim's vehicle and if any other cameras captured any parties wondering through the garage.

Staab received an additional email from Natasha relating the following:  
"Unfortunately the only cameras we have are at the parking gate, and on the elevator landings of our parking garages. There is not a camera that can see into the P2 level where he was located.

We also traced back footage to see if anyone entered the garage by walking down our ramps or through the elevators and saw no one around the time that his truck was stolen.

Let me know if you need anything else.

Natasha Aragon  
Operations Coordinator"

Staab recorded the message from Greg Brunson and uploaded it to Evidence.com along with Sgt. Buschy's BWC phone call with Brunson. Staab also uploaded a phone call with the victim, describing the phones location, and photos of the damage to Johnson's attic tile.

**01/06/2022**

Staab was notified the victim's vehicle had been recovered on Aurora, 19900 E 23rd Ave., and towed to the Aurora impound facility, 19900 E Colfax Ave., (303)326-8680/AP22-663.

NOTICE/VEHICLE LOCATED DOL/20220106 ORI/CO0010100 OCL/AP22-663  
REM/FOUND BY OFFICER DARIN DASKO 01/06/22 AT 19900 E 23RD AVE/NO  
SUSP/ONLY REAR PLATE/OWNER NOT CALLED FOR YOUR HOLD/TOWED TO OUR LOT  
19900 E COLFAX AVE 303 326 8680/AP22-663

**1352 hours-** Staab phoned (469)212-2827, listed number for the victim Jeremy McDaniel, who advised Staab he had been notified of the

**1405 hours-** Staab phoned Aurora Dispatch and left a message for Officer Darin Dasko, asking for a return call.

Staab received an Email from Sergeant T. Hyatt/05132, Metro Auto Theft Task Force, who related the victim's stolen vehicle sounds similar to a crew, Chevy Chase Crew, that has been stealing cars and they have been investigating. Staab phoned Sgt. Hyatt, who advised Staab their Technician would process the vehicle for Staab. Sgt. Hyatt advised the Technician would release the hold on the vehicle and Stab would receive the Technician's report in approximately two weeks.

**1412 hours-** Staab received a call from Aurora Officer Falentine, who advised Staab he did not see



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

any firearms or ammunition in the vehicle, as well as no Drones. There were some personal items left in the vehicle and items in the bed of the truck, which was covered in snow.

**1420 hours-** Staab phoned the victim and advised him the firearms were not inside the vehicle. Victim is still in the process of gathering remaining serial numbers.

**01/10/2022**

-Staab received a voice mail, on 01/07/2022, from the victim asking for a return call in regard to his vehicle being processed.

-Staab phoned Sergeant Hyatt, who advised the vehicle will be processed on 01/11/2021.

-Staab phoned (469)212-2827, listed number for the victim Jeremy McDaniel, advising him on the status of his vehicle.

**01/12/2022**

**0945 hours-** Staab phoned Aurora PD Impound (303)326-8680 and spoke to staff, who related the vehicle is off of the HOLD.

**0950 hours-** Staab phoned (469)212-2827, listed number for the victim Jeremy McDaniel, advising him on the status of his vehicle. Staab requested the remaining serial numbers for the drones and the firearms.

**01/19/2022**

Staab received an email from the victim containing a list of items stolen from his truck. Victim provided serial numbers to two addition firearms: **TOTAL \$17,631.02**

-Kimber micro 9 two-tone 9mm

Ser# PB183782

\$735 retail

-Sparrow 22lr

Ser# SS-4721

\$1250

-Staab notified Pawn Shop Records of the additional gun serial numbers.

**01/26/2022**

Staab received an email from the MATT Unit, Detective Tyler Carroll/15021, which contained the vehicle processing report, from Kayla Mathewson.

Kayl reported:

"On Tuesday, January 11, 2022, at approximately 12:02 hours, I arrived at the Aurora Impound Lot (19900 E. Colfax Ave. Aurora CO) for a request to process a recovered 2007 Chevrolet Silverado (VIN: 2GCEK132771154347). The Chevrolet was white in color and had a rear TX license plate reading LWY0548 on it when I arrived.

While inspecting the Chevrolet, I took overall exterior and interior photographs as well as close up photos in the interior.

DNA was not requested. I dusted for fingerprints on the rear-view mirror, passenger's visor mirror,



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

interior driver and passenger door frames and windows. However, I was unable to lift any prints. I photographed and collected the following evidentiary item: One spent shell casing, located under the backseat on the driver's side.

It is important to note that the steering column appeared to be intact however, I was able to start the vehicle with a flathead screwdriver.

Additionally, I transported the evidentiary item back to CMATT where they were placed into a storage locker for Detective Ladwig . I then gave Detective Ladwig the photos on a CD."

The casing was sent, by Detective Ladwig, to the Firearms Unit, which was processed on NIBN. (See attached lab report)

Based on the information learned for this case file, and until additional information is learned / obtained; this case will be carried as **INACTIVE, NOT CLEARED.**

**The following abbreviations may have been used throughout this case file and/or statement(s):** Also Known As - AKA, Apartment - Apt, App - Application, Attempt To Locate - ATL, Body Worn Camera - BWC, Body Worn Video - BWV, Building - Bldg, Colorado Crime Information Center - CCIC, Computer Aided Dispatch - CAD, Civilian Report Technician-CRT, Crime Scene Analyst - CSA, Crime Scene Unit - CSU, Combined DNA Index System - CODIS, Compact Disc - CD, Complainant - Comp, Date of Birth - DOB(dob), District Attorney - DA, Denver Detection Center - DDC (City Jail), Denver Health Medical Center - DHMC, Denver Justice Center - DJC, Denver Police Department - DPD, Denver Sheriff-s Department - DSD, Domestic Violence - DOMV, Driver - Drv, East - E, Emergency Department - ED, Forensic Imaging Unit - FIU, General Occurrence - GO, General Sessions - GS, General Warrant - GW, Gun Shot Wound - GSW, High Activity Location Observation - HALO, Headquarters - HQ, Incident Command(er) - IC, Last Known Address - LKA, Latent Print - LP, Marker - Mkr/mrkr, Medical Examiner - M.E. - Mobile Data Terminal - MDT, Modification of Prisoner Hold - MPH, Motor Vehicle Theft - MVT, Negative - Neg/neg, National Crime Information Center - NCIC, North - N, Northeast - NE, Northwest - NW, Not Marked - NM, Number - #, O/I - Order In (Request to Appear), Office of Safety Information - OSI, Passenger - Pass, Phenolphthalein - PHE, Point of Entry - POE, Positive - POS, Possession of a Weapon by a Previous Offender - POWPO, Property Management Bureau - PMB, Protection Order - PO, Records Management System - RMS, Reporting Party - RP, Residential - Res, Regional Transportation District - RTD, Serial Number - SN, Serious Bodily Injury - SBI, South - S, Southeast - SE, Southwest - SW, Sport Utility Vehicle, SUV, Theft From Motor Vehicle - TFMV, Unified Summons & Complaint/Warrant - USC, Use of Force - UOF, Vehicle Processing Bay - VPB, Victim - Vict, VIF - Vehicle Impound Facility (City Pound), West - W, Witness - Wit, Years of Age - yoa.



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

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**Clearance Information**

**Agency** DENVER P.D.  
**Cleared Status** NOT APPLICABLE - NOT APPLICABLE  
**Cleared On** JAN-26-2022 (WED.)  
**Cleared By Officer 1** P98032 - STAAB, GARY S.  
**Org Unit** D6I - DISTRICT 6 INVESTIGATIONS  
**Complainant/Victim** YES  
**Notified**  
**Notified By** P98032 - STAAB, GARY S.  
**Notified On** JAN-12-2022 (WED.)  
**How Notified** TELEPHONE



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**Related Property Report(s)**

**REPORT INFORMATION**

Property Report # 1233683

Case Status DAMAGED

Submitted On JAN-03-2022 (MON.)

By RANDALL, CHRIS S.

**RELATED EVENTS**

Offense GO 2022 - 3319

Related Items 1

**ARTICLES**

Status DAMAGED

Article YOTHER- MISC ITEMS

# Of Pieces 1

Serial # 1 NA

Value \$500.00

Description SECURITY GARAGE ARM

Recovered Value \$0.00

Current Location (LOCATION UNKNOWN)



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**REPORT INFORMATION**

Property Report # 1233504

Case Status LOST/STOLEN

Submitted On JAN-03-2022 (MON.)

By RANDALL, CHRIS S.

Disposal Authority RANDALL, CHRIS S.

Org Unit DISTRICT 6

**RELATED EVENTS**

Offense GO 2022 - 3319

Related Items 11

**FIREARM**

Status LOST/STOLEN

Make UNKNOWN OR UNLISTED GUN MAKE

Item PISTOL

Type SEMI-AUTO

Model UNKNOWN

Caliber .25

Serial # UNKNOWN

Value \$200.00

Serial # Obliterated NO

Value \$0.00

Current Location (LOCATION UNKNOWN)

**FIREARM**

Status LOST/STOLEN

Make TAURUS/FALCON/FORJAS TAURUS/TAURUS INTL.

Item PISTOL

Type SEMI-AUTO

Model TC22

Caliber .22

Serial # UNKNOWN

Value \$300.00

Serial # Obliterated NO

Value \$0.00

Flags ENTERED ON NCIC

Current Location (LOCATION UNKNOWN)

**FIREARM**

Status LOST/STOLEN

Make KIMBER

Item PISTOL

Type SEMI-AUTO

Model MICRO 9

Caliber 9

Serial # PB183782

Value \$1,000.00



# DENVER POLICE DEPARTMENT

GO# 2022-3319

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## GENERAL OFFENSE HARDCOPY

(THEFT - OF MOTOR VEHICLE)

**Serial # Obliterated** NO  
**Value** \$0.00  
**Flags** ENTERED ON NCIC  
**Current Location** (LOCATION UNKNOWN)

### FIREARM

**Status** LOST/STOLEN  
**Make** UNKNOWN OR UNLISTED GUN MAKE  
**Item** PISTOL **Type** REVOLVER  
**Caliber** .22  
**Serial #** UNKNOWN  
**Value** \$300.00  
**Serial # Obliterated** NO  
**Value** \$0.00  
**Current Location** (LOCATION UNKNOWN)

### FIREARM

**Status** LOST/STOLEN  
**Make** UNKNOWN OR UNLISTED GUN MAKE  
**Item** PISTOL **Type** CARBINE  
**Model** SNOWFLAKE **Caliber** .223  
**Serial #** LT00464  
**Value** \$1,000.00  
**Description** SPIKE SNOWFLAKE .223 PISTOL WITH EOTECH SCOPE  
**Serial # Obliterated** NO  
**Value** \$0.00  
**Flags** ENTERED ON NCIC  
**Current Location** (LOCATION UNKNOWN)

### FIREARM

**Status** LOST/STOLEN  
**Make** GLOCK, INC.  
**Item** PISTOL **Type** SEMI-AUTO  
**Model** 45 **Caliber** 9  
**Serial #** BMSG202  
**Value** \$600.00  
**Serial # Obliterated** NO  
**Value** \$0.00  
**Flags** ENTERED ON NCIC  
**Current Location** (LOCATION UNKNOWN)



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**ARTICLES**

**Status** LOST/STOLEN  
**Article** PMONEY- PERSONAL ACCESSORIES  
**Serial # 1** UNKNOWN  
**Value** \$4,000.00  
**Description** US CURRENCY  
**Recovered Value** \$0.00  
**Current Location** (LOCATION UNKNOWN)

**ARTICLES**

**Status** LOST/STOLEN  
**Article** DRONE- MISC ITEMS  
**Serial # 1** UNKNOWN  
**Value** \$500.00  
**Description** DJI DRONE  
**Recovered Value** \$0.00  
**Current Location** (LOCATION UNKNOWN)

**ARTICLES**

**Status** LOST/STOLEN  
**Article** DRONE- MISC ITEMS  
**# Of Pieces** 1  
**Serial # 1** UNKNOWN  
**Value** \$1,299.00  
**Description** DJI DRONE  
**Recovered Value** \$0.00  
**Current Location** (LOCATION UNKNOWN)

**ARTICLES**

**Status** LOST/STOLEN  
**Article** PBCKPCK- PERSONAL ACCESSORIES  
**Color** BLK/SIL  
**Serial # 1** UNKNOWN  
**Value** \$300.00  
**Description** 5.11 BACKPACK  
**Recovered Value** \$0.00  
**Current Location** (LOCATION UNKNOWN)

**ARTICLES**

**Status** LOST/STOLEN



# DENVER POLICE DEPARTMENT

GO# 2022-3319

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## GENERAL OFFENSE HARDCOPY

(THEFT - OF MOTOR VEHICLE)

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**Article** YOTHER- MISC ITEMS

**Make** SPARROW

**Model** 22LR

**Serial # 1** UNKNOWN

**Value** \$1,250.00

**Description** SS-4721

**Recovered Value** \$0.00

**Current Location** (LOCATION UNKNOWN)



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**REPORT INFORMATION**

Property Report # 1237159  
Case Status SEIZED  
Submitted On JAN-21-2022 (FRI.)  
Disposal Authority LADWIG, JEFFREY J.

By LADWIG, JEFFREY J.  
Org Unit METRO AUTO THEFT TASK  
FORCE

**RELATED EVENTS**

Offense GO 2022 - 3319  
Location 5160 N YORK ST  
Municipality DENVER  
District 2  
Related Items 1

County DENVER  
Beat 212

**ARTICLES - EVIDENCE**

Status SEIZED  
Tag # 1237159 - 1  
Article YCASING- MISC ITEMS  
Serial # 1 UNKNOWN  
Value \$0.00  
Description SPENT SHELL CASING  
Recovered Value \$0.00  
Flags EVIDENCE  
Current Location WH DR22003



**Related Attachment - MISCELLANEOUS**

**Description** HYATT NATASHA EMAILS 01/04/2022

**Reference Number**



**DENVER POLICE DEPARTMENT**  
**GENERAL OFFENSE HARDCOPY**  
**(THEFT - OF MOTOR VEHICLE)**

GO# 2022-3319  
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**Staab, Gary S. - DPD Detective**

---

**From:** Aragon, Natasha (DENCC) <natasha.aragon@hyatt.com>  
**Sent:** Tuesday, January 4, 2022 10:16 AM  
**To:** Staab, Gary S. - DPD Detective  
**Subject:** [EXTERNAL] RE: Denver Police CASE#2022-3319

Thank you so much! I will have it over to you shortly ☺

**Natasha Aragon**  
*Operations Coordinator*

**HYATT REGENCY DENVER AT  
COLORADO CONVENTION CENTER**  
650 15<sup>TH</sup> Street, Denver, Colorado 80202, USA  
T +1.303.486.4496 E [Natasha.aragon@hyatt.com](mailto:Natasha.aragon@hyatt.com)  
[denverregency.hyatt.com](http://denverregency.hyatt.com)



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2019 & 2018 Best of Meetings Today Magazine Award  
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**From:** Staab, Gary S. - DPD Detective <Gary.Staab@denvergov.org>  
**Sent:** Tuesday, January 4, 2022 10:15 AM  
**To:** Aragon, Natasha (DENCC) <natasha.aragon@hyatt.com>  
**Subject:** RE: Denver Police CASE#2022-3319

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I will add it to this case. Would you please send me a damage repair invoice?

**Gary Staab** | Detective  
District 6 Investigations, Denver Police Department | City and County of Denver  
p: (720) 913-2960 Fax: (720)913-2991 | [gary.staab@denvergov.org](mailto:gary.staab@denvergov.org)



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(THEFT - OF MOTOR VEHICLE)

**From:** Aragon, Natasha (DENCC) <[natasha.aragon@hyatt.com](mailto:natasha.aragon@hyatt.com)>  
**Sent:** Tuesday, January 4, 2022 10:12 AM  
**To:** Staab, Gary S. - DPD Detective <[Gary.Staab@denvergov.org](mailto:Gary.Staab@denvergov.org)>  
**Subject:** [EXTERNAL] RE: Denver Police CASE#2022-3319

Detective Staab,

We uploaded that video for you. Is there any way we could also do a police report for the broken gate and have that added to the file?

Thank you in advance,  
Natasha

**Natasha Aragon**  
*Operations Coordinator*

**HYATT REGENCY DENVER AT  
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650 15<sup>TH</sup> Street, Denver, Colorado 80202, USA  
T +1.303.486.4496 E [Natasha.aragon@hyatt.com](mailto:Natasha.aragon@hyatt.com)  
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2019 & 2018 Best of Meetings Today Magazine Award  
2019 & 2018 Trip Advisor Certificate of Excellence

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**From:** Staab, Gary S. - DPD Detective <[Gary.Staab@denvergov.org](mailto:Gary.Staab@denvergov.org)>  
**Sent:** Tuesday, January 4, 2022 8:28 AM  
**To:** Aragon, Natasha (DENCC) <[natasha.aragon@hyatt.com](mailto:natasha.aragon@hyatt.com)>  
**Subject:** Denver Police CASE#2022-3319

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Hello Natasha,

Here is my contact information. Please reach out with any questions or concerns.

Thank you for your help.

Take care,



# DENVER POLICE DEPARTMENT

GO# 2022-3319

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## GENERAL OFFENSE HARDCOPY (THEFT - OF MOTOR VEHICLE)

---

**Gary Staab** | Detective

District 6 Investigations, Denver Police Department | City and County of Denver  
p: (720) 913-2960 Fax: (720)913-2991 | [gary.staab@denvergov.org](mailto:gary.staab@denvergov.org)



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# DENVER POLICE DEPARTMENT

GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

GO# 2022-3319  
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## Related Attachment - MISCELLANEOUS

**Description** NATASHA EMAILS 01/05/2022  
**Reference Number**



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**Staab, Gary S. - DPD Detective**

**From:** Aragon, Natasha (DENCC) <natasha.aragon@hyatt.com>  
**Sent:** Wednesday, January 5, 2022 8:44 AM  
**To:** Staab, Gary S. - DPD Detective  
**Subject:** [EXTERNAL] RE: Denver Police CASE#2022-3319

Unfortunately the only cameras we have are at the parking gate, and on the elevator landings of our parking garages. There is not a camera that can see into the P2 level where he was located.

We also traced back footage to see if anyone entered the garage by walking down our ramps or through the elevators and saw no one around the time that his truck was stolen.

Let me know if you need anything else.

**Natasha Aragon**  
*Operations Coordinator*

**HYATT REGENCY DENVER AT  
COLORADO CONVENTION CENTER**  
650 15<sup>TH</sup> Street, Denver, Colorado 80202, USA  
T +1.303.486.4496 E [Natasha.aragon@hyatt.com](mailto:Natasha.aragon@hyatt.com)  
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2019 & 2018 Best of Meetings Today Magazine Award  
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**From:** Staab, Gary S. - DPD Detective <Gary.Staab@denvergov.org>  
**Sent:** Wednesday, January 5, 2022 8:41 AM  
**To:** Aragon, Natasha (DENCC) <natasha.aragon@hyatt.com>  
**Subject:** RE: Denver Police CASE#2022-3319

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Hello Natasha,

Thank you for the invoice.

Is there any cameras that would have captured where the victim parked his truck?



**DENVER POLICE DEPARTMENT**  
**GENERAL OFFENSE HARDCOPY**  
**(THEFT - OF MOTOR VEHICLE)**

**GO# 2022-3319**  
**CONFIDENTIAL INACTIVE**

He was in spot #72 and he related there were cameras by the elevators and "all over the garage."

Also did you happen to see anyone on video walking through the garage that morning?

Respectfully,

**Gary Staab** | Detective  
District 6 Investigations, Denver Police Department | City and County of Denver  
p: (720) 913-2960 Fax: (720)913-2991 | [gary.staab@denvergov.org](mailto:gary.staab@denvergov.org)



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---

**From:** Aragon, Natasha (DENCC) <[natasha.aragon@hyatt.com](mailto:natasha.aragon@hyatt.com)>  
**Sent:** Wednesday, January 5, 2022 8:37 AM  
**To:** Staab, Gary S. - DPD Detective <[Gary.Staab@denvergov.org](mailto:Gary.Staab@denvergov.org)>  
**Subject:** [EXTERNAL] RE: Denver Police CASE#2022-3319

Good morning Detective Staab,

Attached is the invoice for our parking gate.

Thank you again, and stay safe!  
-Natasha

**Natasha Aragon**  
*Operations Coordinator*

**HYATT REGENCY DENVER AT  
COLORADO CONVENTION CENTER**  
650 15<sup>TH</sup> Street, Denver, Colorado 80202, USA  
T +1.303.486.4496 E [Natasha.aragon@hyatt.com](mailto:Natasha.aragon@hyatt.com)  
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GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

**From:** Staab, Gary S. - DPD Detective <[Gary.Staab@denvergov.org](mailto:Gary.Staab@denvergov.org)>  
**Sent:** Tuesday, January 4, 2022 10:15 AM  
**To:** Aragon, Natasha (DENCC) <[natasha.aragon@hyatt.com](mailto:natasha.aragon@hyatt.com)>  
**Subject:** RE: Denver Police CASE#2022-3319

Cyber Security Reminder: Please use caution - message originated outside Hyatt. Forward suspicious messages to [plush@hyatt.com](mailto:plush@hyatt.com)

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**Gary Staab** | Detective  
District 6 Investigations, Denver Police Department | City and County of Denver  
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**Natasha Aragon**  
*Operations Coordinator*

**HYATT REGENCY DENVER AT  
COLORADO CONVENTION CENTER**  
650 15<sup>TH</sup> Street, Denver, Colorado 80202, USA  
T +1.303.486.4496 E [Natasha.aragon@hyatt.com](mailto:Natasha.aragon@hyatt.com)  
[denverregency.hyatt.com](http://denverregency.hyatt.com)



THINK BEFORE YOU PRINT: Please consider the environment before printing this email.

2020 Global Biorisk Advisory Council (GBAC) Star Accreditation  
2020 Smart Meetings Smart Stars and Platinum Choice Award Winner  
2020 Northstar Meetings Group Magazine Stella Award- Best On-Site Support Staff  
2019 & 2018 Cvent Top 100 Meeting Hotels in the United States  
2019 & 2018 Best of Meetings Today Magazine Award  
2019 & 2018 Trip Advisor Certificate of Excellence



DENVER POLICE DEPARTMENT  
GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

GO# 2022-3319  
CONFIDENTIAL INACTIVE



**From:** Staab, Gary S. - DPD Detective <[Gary.Staab@denvergov.org](mailto:Gary.Staab@denvergov.org)>  
**Sent:** Tuesday, January 4, 2022 8:28 AM  
**To:** Aragon, Natasha (DENCC) <[natasha.aragon@hyatt.com](mailto:natasha.aragon@hyatt.com)>  
**Subject:** Denver Police CASE#2022-3319

Cyber Security Reminder: Please use caution - message originated outside Hyatt. Forward suspicious messages to [phishing@hyatt.com](mailto:phishing@hyatt.com)

Hello Natasha,

Here is my contact information. Please reach out with any questions or concerns.

Thank you for your help.

Take care,

**Gary Staab** | Detective  
District 6 Investigations, Denver Police Department | City and County of Denver  
p: (720) 913-2960 Fax: (720)913-2991 | [gary.staab@denvergov.org](mailto:gary.staab@denvergov.org)



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# DENVER POLICE DEPARTMENT

GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

GO# 2022-3319  
CONFIDENTIAL INACTIVE

---

## Related Attachment - MISCELLANEOUS

Description	GARAGE ARM DAMAGE INVOICE
Reference Number	



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

Fisher Parking & Security, Inc.  
Colorado

14 Inverness Drive East, Suite 140-H  
Englewood, CO 80112  
+1 7205006133  
mtr.accounting@parking-security.com  
www.parking-security.com



INVOICE

BILL TO  
ProPark Mobility Denver

SHIP TO  
Hyatt Regency  
650 15th Street  
Denver, CO 80202

INVOICE 67700  
DATE 01/05/2022  
TERMS Net 15  
DUE DATE 01/20/2022

DATE		DESCRIPTION	QTY	RATE	AMOUNT
01/04/2022	MAG-MICROBOOM-KC010ADA	MICRODRIVE MICROBOOM ARTICULATED 10FT 98" CLEARANCE	1	568.00	568.00T
01/04/2022	MAG-KB-DS-MADA	MICROBOOM ARTICULATED FORCING LEVER KIT FOR ADA HEIGHT Assembled	1	150.00	150.00T
01/04/2022	FISHER Labor	Service Location: Hyatt Regency Date: 01/04/2022 Job #: 4315 Technician(s): Michael McCain Category: On Site Service - Denver	2	115.00	230.00

Reported by: Bonny  
Lane: Exit / Valet  
Issue: Impact Damage – replace gate arm / check forcing lever & base of operator  
Completion Notes: I reset the gate housing. Then cut the forcing arm and the new gate arm and installed to gate device.

REMIT PAYMENT TO:  
Fisher Parking & Security, Inc.  
15014 NE 116th Street  
Kearney, MO 64060

Check No:

SUBTOTAL	948.00
TAX	63.26
SHIPPING	120.00
TOTAL	1,131.26
BALANCE DUE	<b>\$1,131.26</b>



# DENVER POLICE DEPARTMENT

GO# 2022-3319

CONFIDENTIAL INACTIVE

## GENERAL OFFENSE HARDCOPY

(THEFT - OF MOTOR VEHICLE)

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### Related Attachment - MISCELLANEOUS

**Description** SGT BUSCHY EMAILS FROM VICTIM #1 PHOTOS  
**Reference Number**



**DENVER POLICE DEPARTMENT**  
**GENERAL OFFENSE HARDCOPY**  
**(THEFT - OF MOTOR VEHICLE)**

GO# 2022-3319  
CONFIDENTIAL INACTIVE

**Staab, Gary S. - DPD Detective**

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**From:** Buschy, Gregory J. - DPD Sergeant  
**Sent:** Tuesday, January 4, 2022 10:05 AM  
**To:** Staab, Gary S. - DPD Detective  
**Subject:** FW: [EXTERNAL] 22-3319

---

**From:** Buschy, Gregory J. - DPD Sergeant  
**Sent:** Tuesday, January 4, 2022 9:57 AM  
**To:** Staab, Gary S. - DPD Detective <Gary.Staab@denvergov.org>  
**Subject:** FW: [EXTERNAL] 22-3319

---

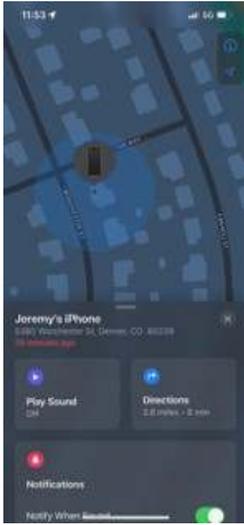
**From:** Jeremy McDaniel <[xlive.jeremy@gmail.com](mailto:xlive.jeremy@gmail.com)>  
**Sent:** Tuesday, January 4, 2022 9:47 AM  
**To:** Buschy, Gregory J. - DPD Sergeant <[Gregory.Buschy@denvergov.org](mailto:Gregory.Buschy@denvergov.org)>  
**Subject:** [EXTERNAL] 22-3319





**DENVER POLICE DEPARTMENT**  
**GENERAL OFFENSE HARDCOPY**  
**(THEFT - OF MOTOR VEHICLE)**

GO# 2022-3319  
CONFIDENTIAL INACTIVE



Jeremy McDaniel  
Sales  
469-212-2827



# DENVER POLICE DEPARTMENT

GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

GO# 2022-3319  
CONFIDENTIAL INACTIVE

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## Related Attachment - MISCELLANEOUS

**Description** SGT BUSCHY EMAIL FROM VICTIM STOLEN ITEMS LIST  
**Reference Number**



**DENVER POLICE DEPARTMENT**  
**GENERAL OFFENSE HARDCOPY**  
**(THEFT - OF MOTOR VEHICLE)**

GO# 2022-3319  
**CONFIDENTIAL** INACTIVE

**Staab, Gary S. - DPD Detective**

**From:** Buschy, Gregory J. - DPD Sergeant  
**Sent:** Tuesday, January 4, 2022 9:46 AM  
**To:** Staab, Gary S. - DPD Detective  
**Subject:** FW: [EXTERNAL] Jeremy case # 22-3319

**From:** Jeremy McDaniel <xlive.jeremy@gmail.com>  
**Sent:** Tuesday, January 4, 2022 9:44 AM  
**To:** Buschy, Gregory J. - DPD Sergeant <Gregory.Buschy@denvergov.org>  
**Subject:** [EXTERNAL] Jeremy case # 22-3319

## Truck \$15000

Guns  
 Ar-15 sbr piston driven with eotech and Franklin armory trigger  
 \$2000  
 Ser# LT000464  
 Glock mod 45 in 9mm  
 \$600  
 ser # BMFG202  
 Kel tec pmr 30  
 Ser#  
 \$325  
 Kimber micro 9  
 Ser#  
 \$550  
 Drones  
 DJI air 2 s  
 Ser#  
 \$1250  
 DJI mini 2  
 Ser#  
 \$550  
 Cabela's guide wear jacket  
 \$350  
 Boots new 13  
 \$100  
 Art work bought in co springs mouth screaming bowl  
 \$50  
 Gifts for friend  
 \$100  
 +\$56 at Kum and go hats  
 1000rds 9mm  
 \$350  
 iPhone 12



# DENVER POLICE DEPARTMENT

GO# 2022-3319

CONFIDENTIAL INACTIVE

## GENERAL OFFENSE HARDCOPY (THEFT - OF MOTOR VEHICLE)

---

\$850  
Back up battery pack  
\$300  
Snap on light and impact with batteries  
\$425  
Misc dog stuff  
\$72 (Petco bought on trip)  
Head unit alpine  
\$450  
Subs amp and install  
\$450  
Tint  
\$250  
chilis gift cards  
\$45  
Hey dudes shoes  
\$65  
Crocks x2 womens sz 9 and mens sz13  
\$70  
Cabela's hoodie  
\$50  
Oakleys mid frames  
\$150  
Walker head phones with coms 55+45x2  
\$200  
North face jacket women's sz L  
\$150  
Camping gear and utensils (new from Christmas)  
\$150  
Truck tent  
\$175  
Blankets  
\$ 75 (new from Christmas)  
Do it Amazon shoes women's sz 9  
\$45  
Car phone charger and cords  
\$30  
Hot hands  
\$15  
All steel bullet trap large  
\$300



# DENVER POLICE DEPARTMENT

## GENERAL OFFENSE HARDCOPY (THEFT - OF MOTOR VEHICLE)

GO# 2022-3319  
CONFIDENTIAL INACTIVE

•  
  
Jeremy McDaniel  
Sales  
469-212-2827



# DENVER POLICE DEPARTMENT

GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

GO# 2022-3319  
CONFIDENTIAL INACTIVE

---

## Related Attachment - MISCELLANEOUS

**Description** METRO SWAT AFTER ACTION REPORT  
**Reference Number**



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

Denver Police Department **AFTER ACTION REPORT** (continued)

Page 2 of 3

NARRATIVE OF INCIDENT (attach CAD Report if applicable)

On January 4, 2022, Detective Sergeant Buschy of District 6 Investigations, contacted the METRO SWAT Section requesting assistance in the service of a K&A Search Warrant at 5380 Worchester St. Detective Sergeant Buschy advised that this is a followup investigation from a stolen motor vehicle out of D6 in which 6 firearms were also stolen. Victim's cellphone was tracked to this location and it was thought those responsible would be located here along with the stolen property. Based on the information a search warrant was obtained for the residence.

All information regarding the service of the warrant was obtained by a METRO supervisor. METRO CPL Eberharter and Technicians Gruenther and Sinnema were assigned to scout the listed location. They were instructed to observe the location and develop a tactical plan for the service of the warrant. After they developed a plan, they were to prepare a thorough tactical brief to present to all personnel involved in the warrant service. A supervisor then reviewed and approved the plan and line up with the listed scouts.

On 01/04/22, at 1130 hours all involved METRO personnel met at the METRO SWAT Section for a complete operational brief of the warrant service. The scouts presented a plan that would surround the location from the front and rear. The rear team would breach the rear wooden fence which would allow an unobstructed view into the backyard and side 3 of the residence. Multiple announcements of "Police with a search warrant" would be given from the PA system in the Bearcat. Any person that complied with the order to exit the residence would be secured and walked over to awaiting SORT and D6 investigators.

Upon completion of the K&A procedure and after a reasonable amount of time, Sgt. Speelman would give a port command. The bearcat would be used to remove security bars from a side one window which would then be manually ported. This would support a front door breach if necessary. These steps would allow visibility into the residence and the ability to communicate directly with any person inside. Once the residence was believed to be empty METRO personnel would move into the residence and perform a tactical clearance of the house.

Contingency and compromised plans were discussed, and it was ensured that all involved personnel understood their role in the warrant service. Dispatch was contacted and made aware of the warrant service. DHMC was asked to standby near the listed location and briefed prior to executing the warrant. After the brief was completed it was ensured that all METRO personnel understood their role. The address was verified by detectives and a signed copy of the warrant was provided. All updated information was provided to the involved METRO personnel executing the warrant, which included an elderly female was observed by surveillance teams. Due to new information, the tactical plan was adjusted and would be solely dependant on occupant's actions.

At approximately 1350 hours, the tactical plan was initiated, and the residence was surrounded. Numerous announcements and air horn bursts were provided, via the PA system from the Bearcat. The west facing door opened, and Ruby Johnson appeared at the door. Johnson was called back to officers and detained without incident. Johnson related she was the sole occupant of the residence and that no additional parties lived at the location. Based on this information, Sgt. Speelman gave a command to approach the open front door. METRO personnel moved into the residence and tactically secured the location with no additional contact made.

The location was checked with a K9 then double checked before being released to the on-scene Detectives and SORT. DHMC was also released from the scene.

**METRO Personnel:**

**Front Bearcat:**

- Dr -TRL- Sgt Speelman
- T1 - Gruenther/Sinnema
- T2 - Pietrafeso/Jones (B/R)
- T3 - Matthews/Moen (window)
- T4 - Gamboa/Apala
- T5 - Sgt Martinez/Sgt Speelman

**Rear Team:**

- Dr - Cpl Eberharter
- Kohls/Crowe
- K9 Morghem

**1/4 Corner:**

- K9 - Decker
- Bradley/Bowser

**1/2 Containment:**

- Lt Smith
- SORT Officers



# DENVER POLICE DEPARTMENT

GO# 2022-3319

CONFIDENTIAL INACTIVE

## GENERAL OFFENSE HARDCOPY

(THEFT - OF MOTOR VEHICLE)

This report prepared by:

Sgt. P. Speelman  
Name

92045  
Serial Number

010422  
Date of Report

\_\_\_\_\_  
Signature



# DENVER POLICE DEPARTMENT

GO# 2022-3319  
CONFIDENTIAL INACTIVE

## GENERAL OFFENSE HARDCOPY (THEFT - OF MOTOR VEHICLE)

Page 1

Case No. 22 - 5028

### Denver Police Department STATEMENT

NAME (LAST, FIRST, MIDDLE INITIAL) <u>GRUENTLIZ, CHRIS A</u>		MAKING STATEMENT IS <input checked="" type="checkbox"/> OFFICER <input type="checkbox"/> WITNESS <input type="checkbox"/> PERSON ADVISED		
BUSINESS STREET ADDRESS <u>550 E. ILIFF AVE.</u>		CITY <u>DENVER</u>	COUNTY <u>DENVER</u>	STATE <u>CO</u>
CELL PHONE	BUSINESS PHONE <u>(303) 871-8888</u>	SERIAL NO. <u>97023</u>		
DIVERSIONARY DEVICE DEPLOYED <input type="checkbox"/> YES (ARTICULATE BELOW) <input checked="" type="checkbox"/> NO NFDD SN#		COMPROMISE CALLED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO BY SN#	USE OF FORCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DID YOU HEAR THE KNOCKS AND ANNOUNCEMENTS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
OFFICER TAKING STATEMENT	SERIAL NO.	DATE <u>01-04-22</u>	TIME <u>1530</u>	
CONSIDERING ACCIDENT AT LOCATION LISTED BELOW		LOCATION WHERE STATEMENT TAKEN <u>METRO/SWAT UNIT</u>		

On Jan 4, 2022 at 1350 hours, personnel from the METRO/SWAT Bureau served a high-risk search warrant at 5380 Worchester St.

We executed a S.A.C.O. at the above listed address. I was assigned to Team One with Tech Siemering 08029. After several announcements an elderly female exited the residence. I assisted with clearing the residence. There were no suspects present.

I have read the foregoing statement and the facts contained therein are true to the best of my knowledge and belief. I do not maintain that it contains all of the facts or details of the incident, but only those facts about which I have been asked.

01/04/22  
Date  
1533  
Time Statement Completed

[Signature] 97023  
Signature of person making statement

# **EXHIBIT 9**



DENVER POLICE DEPARTMENT  
GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

GO# 2022-3319  
CONFIDENTIAL INACTIVE

County/District Court  
City and County of Denver, Colorado

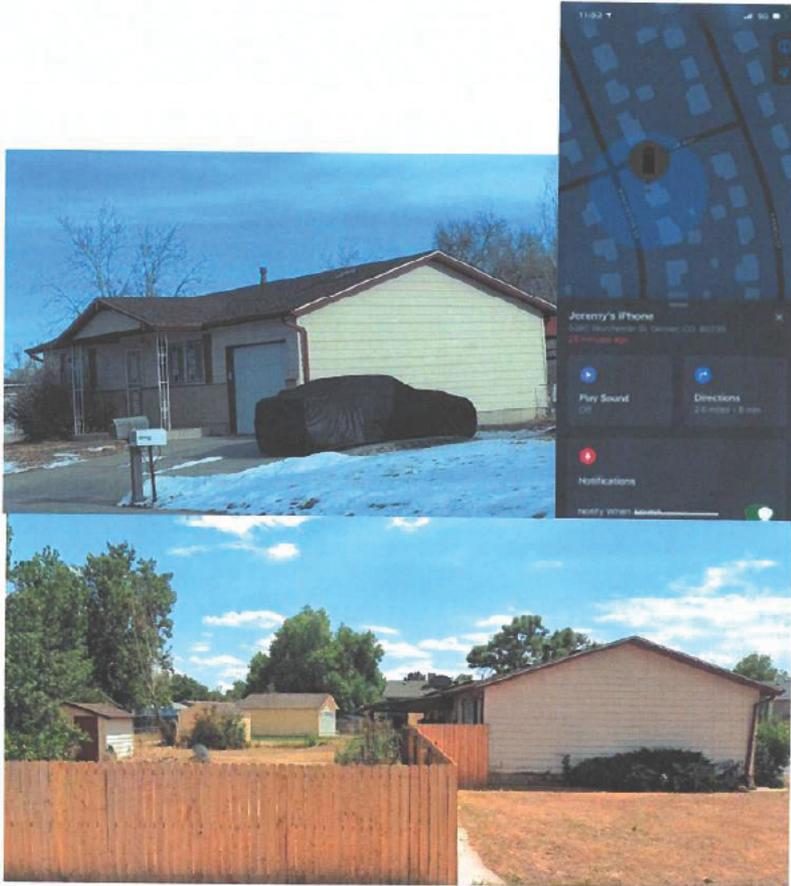


Case No. 2022-3319

**AFFIDAVIT IN SUPPORT OF SEARCH WARRANT**

I, Detective Gary Staab/98032, state under oath that I have reason to believe that at the place described as:

- **5380 Worchester St. Denver CO, 80239, a Ranch style, single-family residence, with an attached garage, with a white door, tan siding, dark brown trim, white bars on the front windows, and a white bar security door. Visible from Google Earth is also an apparent shed, tan in color, with a brown entry door located in the northeast portion of the fenced backyard with a brown entry door.**



in the City and County of Denver, State of Colorado, there is now located the following described property or contraband:

REV 11/18

Page 1 of 4



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

Case No. 2022-3319

- Firearms, to include: Glock 45, Serial#BMSG202, .223 Carbine Snowflake, Serial#LT00464, 9mm Kimber, unknown serial number, .22 caliber revolver, unknown serial number, .22 caliber Taurus TC22, unknown serial number, .25 caliber unknown make pistol, unknown serial number.
- 2007, white, Chevrolet Truck, Texas License #LWY0549, VIN # 2GCEK13Z771154347.
- Any DJI Drones
- iPhone 11, gold/silver in color
- Articles of personal property tending to establish the identity of the person(s) in control or possession of the place, such as utility company receipts, rent receipts, canceled mail envelopes, vehicle registration, credit card receipts, repair bills, photographs, keys and articles of clothing.
- Any material evidence developed by a thorough crime scene investigation such as still and video photographing, measuring, trace material of every kind such as clothing, fiber, hair, body fluids, and latent prints and objects on which they are found, documentary evidence tending to establish the motive or identity of any suspect or witness
  
- Any electronic devices capable of storing location information and/or communicating with other devices either through data transmission or wirelessly, including cellular telephones and tablets.

For which a search warrant may be issued upon one or more of the grounds set forth in the Colorado Rules of Criminal Procedure and CRS § 16-3-301 and 19-2.5-205, namely that this property is stolen or embezzled, or is designed or intended for use as a means of committing a criminal offense, or is or has been used as a means of committing a criminal offense, or the possession of which is illegal, or would be material evidence in a subsequent criminal prosecution in this state or another state, or the seizure of which is expressly required, authorized or permitted by any statute of this state, or which is kept, stored, maintained, transported, sold, dispensed, or possessed in violation of a statute of this state, under circumstances involving a serious threat to public safety or order or to public health, or which would aid in the detection of the whereabouts of or in the apprehension of a person for whom a lawful arrest warrant is outstanding.

The facts tending to establish the grounds for issuance of a Search Warrant are as follows:

Your Affiant, Detective Gary Staab/98032, has been a Police Officer for over 24 years. Your affiant was assigned to the Denver Police District Six Investigations on April 2016 as a Detective. Your affiant currently holds this position.

Your Affiant has been trained in Search and Seizure, Investigative Techniques, Property Crime Offenses, DNA Processing, Latent Print Processing, Photography, Crime Scene Processing, Sex Crimes, and Homicide Investigations. Your Affiant has been assigned as a detective in the Crime Scene Unit from 2005-2013, and District 6 Investigations from 2016 to present. Your Affiant has also been trained in the requirements needed for Colorado POST Certification.

On 01/03/2022, at approximately 1100 hours, Denver Police Officer Chris Randall/07045 responded to The Hyatt, 650 15th St. on a report of a motor vehicle theft. This location is in the City and County of Denver, State of Colorado. Officer Randall completed a General Occurrence Report, CASE#2022-3319, Titled Theft - Of Motor Vehicle.

**OFFICER CHRIS RANDALL/07045 REPORTED:**

"On 01-03-2022 at approximately 0645 the security of the Hyatt located at 650 15th st which is located in the City and County of Denver, State of Colorado captured a vehicle with Texas Plate LWY0548 break the arm of their garage gate and speed away. They contacted a guest who was staying there (Jeremy McDaniel ) who told

REV 11/18



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

Case No. 2022-3319

them that it was his vehicle, but he hadn't used his vehicle. The Vehicle was taken without McDaniels permission or knowledge and fled the area. McDaniels had 6 firearms, 2 drones, \$4000.00 cash in the vehicle when it was stolen."

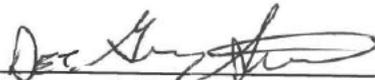
On 01/04/2022, Denver Police Detective Gary Staab/98032, assigned to the District 6 Investigations Unit, was assigned this case file for follow-up investigation.

Through review of responding officers' reports, Your Affiant learned that the vehicle stolen on 01-03-2022 was a 2007, white, Chevrolet Truck, Texas License #LWY0549, VIN # 2GCEK13Z771154347 belonging to Jeremy McDaniel. The victim (McDaniel) reported that inside his vehicle were six firearms, to include the following: (1) Glock 45, Serial#BMSG202, (2) .223 Carbine Snowflake, Serial#LT00464, (3) 9mm Kimber, unknown serial number, (4) .22 caliber revolver, unknown serial number, (5) .22 caliber Taurus TC22, unknown serial number, and (6) .25 caliber unknown make pistol, unknown serial number. McDaniel also reported that he had DJI drones inside the vehicle, as well as an old iPhone.

**0845 hours-** Your Affiant phoned (469)212-2827, listed number for the victim Jeremy McDaniel, who advised Your Affiant he had an old iPhone he left in his truck and he uses an app, find my phone. The victim related that he utilized the find my iPhone app in an attempt to track down his own vehicle/belongings, and the phone pinged to a house, 5380 N. Worchester St. Denver, CO 80239. He reported the first ping occurred on 01/03/2021, at 1124 hours, and the last ping was on 01/03/2021, at 1555 hours. During this time the phone had not moved. The phone has not pinged at the location since and the victim believes the phone might have died. Victim added he had rented a car and drove by the address and didn't see his truck at the location but stated it could be in the garage. The phone was pinging at the address when the victim drove by. Victim has used this iPhone app on other occasions, where he found his wife's phone in the middle of a field, with an accuracy of five feet. A photo of the app shows a red dot, signifying the phone being inside the house, 5380 N Worchester St. Denver, CO 80239.

Your Affiant knows through his training and experience over the last 24 years that individuals who steal motor vehicles often use those vehicles to perpetuate other crimes and/or frequently abandon recently stolen vehicles after a short period of time. Your Affiant knows through his training and experience that when valuable items are located in a stolen motor vehicle, such as electronics (to include cellular telephones) and firearms, that motor vehicle thieves will often abandon the vehicle and retain the valuable property. Firearms, drones, and cellular telephones are easily transportable and can be hidden in a home or garage.

Based on the above information and evidence, Your Affiant respectfully requests that a search warrant be issued for the above-described residence.

  
\_\_\_\_\_  
Signature of Affiant

This Affidavit was read and approved by Supervisor \_\_\_\_\_

REV 11/18



# DENVER POLICE DEPARTMENT

GO# 2022-3319

CONFIDENTIAL INACTIVE

## GENERAL OFFENSE HARDCOPY (THEFT - OF MOTOR VEHICLE)

Case No. 2022-3319

### Review & Approval

Approved electronically	/s/ Ashley N. Beck	January 4, 2022 @ 1142
District Attorney – Signature	District Attorney – Printed name & Registration #	Date and Time

Subscribed under oath before me on this 4th day of January, 20 22 at 12:52 pm in the City and County of Denver, CO

Beth A. Faragher  
Signature of Judge

Beth A. Faragher  
Printed Name of Judge



GENERAL OFFENSE HARDCOPY  
(THEFT - OF MOTOR VEHICLE)

SEARCH WARRANT



County/District Court }  
City and County of Denver, Colorado } **THE PEOPLE OF THE STATE OF COLORADO**

To Detective Gary Staab 98032, or any officer authorized by law to execute a Search Warrant in the County in which the property is located in Colorado. The affiant, Detective Gary Staab 98032, has filed an Affidavit for a Search Warrant in conformity with the provisions of the Colorado Rules of Criminal Procedure for the following described property:

- Firearms, to include: Glock 45, Serial#BMSG202, .223 Carbine Snowflake, Serial#LT00464, 9mm Kimber, unknown serial number, .22 caliber revolver, unknown serial number, .22 caliber Taurus TC22, unknown serial number, .25 caliber unknown make pistol, unknown serial number.
- 2007, white, Chevrolet Truck, Texas License #LWY0549, VIN # 2GCEK13Z771154347.
- Any DJI Drones
- iPhone 11, gold/silver in color
- Articles of personal property tending to establish the identity of the person(s) in control or possession of the place, such as utility company receipts, rent receipts, canceled mail envelopes, vehicle registration, credit card receipts, repair bills, photographs, keys and articles of clothing.
- Any material evidence developed by a thorough crime scene investigation such as still and video photographing, measuring, trace material of every kind such as clothing, fiber, hair, body fluids, and latent prints and objects on which they are found, documentary evidence tending to establish the motive or identity of any suspect or witness
- Any electronic devices capable of storing location information and/or communicating with other devices either through data transmission or wirelessly, including cellular telephones and tablets.

For which a Search Warrant may be issued pursuant to the provisions of Colorado Rules of Criminal Procedure, CRS 16-3-301 and CRS 19-2.5-205, on the grounds that property is stolen or embezzled; or is designed or intended for use as a means of committing a criminal offense; or the possession of which is illegal; or would be material evidence in subsequent criminal prosecution in this state or in another state; or the seizure of which is expressly required, authorized, or permitted by any statute of this state; or which is kept, stored, maintained, transported, sold dispensed in violation of a statute of this state, under circumstances involving a serious threat to public safety or order or to public health; or which would aid in the detection of the whereabouts of or in the apprehension of a person for whom a lawful arrest warrant is outstanding; or believed to be situated at the place, in the vehicle or on the person known or described as:

- **5380 Worchester St. Denver CO, 80239, a Ranch style, single-family residence, with an attached garage, with a white door, tan siding, dark brown trim, white bars on the front windows, and a white bar security door. Visible from Google Earth is also an apparent shed, tan in color, with a brown entry door located in the northeast portion of the fenced backyard with a brown entry door.**

City of Denver, County of Denver, state of Colorado; upon one or more of the grounds set forth in the Colorado Revised Statutes and the Colorado Rules of Criminal Procedure, namely; that this property is stolen or embezzled; or is designed or intended for use as a means of committing a criminal offense; or is or has been used as a means of committing a criminal offense, or the possession of which is illegal; or would be material evidence in a subsequent criminal prosecution in this state or another state; or the seizure of which is expressly required, authorized or permitted by any statute of this state; or which is kept, stored, maintained, transported, sold dispensed in violation of a statute of this state, under circumstances involving a serious threat to public safety or order or to public health; or which would aid in the detection of the whereabouts of or in the apprehension of a person for whom a lawful arrest warrant is outstanding.

Based upon the affidavit of the above named affiant, which is incorporated by reference, I am satisfied that there is probable cause to believe that the property described is located at the place, in the vehicle or on the person above described. YOU ARE THEREFORE AUTHORIZED to search the place, vehicle or person described for the property described, and to make a return of this Warrant to the undersigned judge within ten days, and to deliver to the person from whom the property is taken, a copy of this Warrant together with a receipt for the property taken, or, to leave a copy of the Warrant and receipt at the place from which the property was taken.

Date January 4, 2022, Time 12:52 pm  
in Denver, Colorado

Beth A. Faragher  
Signature of Judge

Beth A. Faragher  
Printed Name of Judge

# **EXHIBIT 10**

1 DISTRICT COURT, COUNTY OF DENVER,  
STATE OF COLORADO  
2 1437 Bannock Street  
Denver, Colorado 80202

3 ^ COURT USE ONLY ^

4  
5 RUBY JOHNSON,  
Plaintiff,

Case Number: 22CV33434

Division: 269

6 vs.

7 GARY STAAB, an officer of the  
Denver Police Department, in  
8 his individual capacity and  
GREGORY BUSCHY, an officer of  
9 the Denver Police Department,  
in his individual capacity,  
10 Defendants.

11  
12 VIDEO DEPOSITION OF GREGORY BUSCHY

13 November 6, 2023  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 Detective Staab that the phone -- that he talked to 10:27  
2 somebody in District 5 about the phone pinging at the 10:27  
3 Worchester address? 10:27  
4 A. I believe that's how it went. Yes. 10:27  
5 Q. Do you know if Detective Staab did 10:27  
6 anything beyond contacting the victim to investigate 10:27  
7 this truck theft? 10:27  
8 A. I believe he contacted the Hyatt or a 10:27  
9 representative of the Hyatt as well. 10:27  
10 Q. What beyond those two things did he do, 10:28  
11 if you know? 10:28  
12 A. I don't know. 10:28  
13 MR. MURPHY: Object to the form. 10:28  
14 Q. (BY MR. EVERETT) With respect to 10:28  
15 Detective Staab's investigation, what were your 10:28  
16 responsibilities? 10:28  
17 MR. MURPHY: I'll object to the form. 10:28  
18 A. As far as what was -- he was assigned the 10:28  
19 case to investigate it. 10:28  
20 Q. (BY MR. EVERETT) Right. 10:28  
21 A. Okay. 10:28  
22 Q. So what were your responsibilities 10:28  
23 following your assignment of the case to him? 10:28  
24 A. Up until a point where he would submit 10:28  
25 the case, my only responsibilities to him would be to 10:28

1 just basically just check in with him, say, How is it 10:28  
2 going with everything? 10:28  
3 Q. Did you do that during his investigation 10:28  
4 of the truck theft? 10:28  
5 A. No. Detective Staab had came to me and 10:28  
6 talked to me about the case. 10:28  
7 Q. When did Detective Staab come to you and 10:29  
8 talk to you about the case? 10:29  
9 A. Later that morning. 10:29  
10 Q. And which morning is that? 10:29  
11 A. The day I was assigned. 10:29  
12 Q. Do you recall that being January 3 or 10:29  
13 January 4? 10:29  
14 A. One of the two days. Exact date, I'd 10:29  
15 have to look in the report. 10:29  
16 Q. Do you recall talking to him the same day 10:29  
17 that the search warrant was executed? 10:29  
18 A. Yes. 10:29  
19 Q. Okay. And when he came to talk to you 10:29  
20 about the case, what did he say? 10:29  
21 A. He told me what had happened and that the 10:29  
22 phone had stopped pinging approximately 17 hours 10:29  
23 prior. And at that point, I had told him to get ahold 10:29  
24 of one of the district attorneys to find out what they 10:29  
25 thought about the warrant, if we had to write a 10:29

1 warrant, whether it being stale or not. 10:29

2 Q. When you say "it," what is the "it" 10:30

3 there? 10:30

4 A. The phone. 10:30

5 Q. So did you understand Detective Staab is 10:30

6 expressing a concern about the validity of that phone 10:30

7 ping at the time? 10:30

8 MR. MURPHY: Object to the form. 10:30

9 A. No. My understanding was he had the 10:30

10 objection on it, as well as I did, of the warrant -- 10:30

11 of the phone not pinging -- being a stale ping. We 10:30

12 hadn't pinged for 17 hours is what I believe the time 10:30

13 frame was. 10:30

14 Q. (BY MR. EVERETT) And why was that 10:30

15 concerning? 10:30

16 A. Because at that point, we don't know if 10:30

17 the phone had been moved, had been turned off, had 10:30

18 died. It wasn't actively pinging at that location at 10:30

19 the time. And so it being that stale, we weren't sure 10:30

20 if there was a problem with it, because we could not 10:30

21 prove that it was pinging at that location or anywhere 10:30

22 after the last 17 hours. 10:30

23 And the 17 hours is an approximate time 10:31

24 frame from when I think -- I don't know the exact 10:31

25 times. 10:31

1 Q. Did you share Detective Staab's concern 10:31  
2 about that staleness, as you put it? 10:31  
3 A. I did. 10:31  
4 Q. And why did you share those concerns? 10:31  
5 A. Because it had been over 17 hours. 10:31  
6 Q. Were you concerned that the phone might 10:31  
7 not be there anymore? 10:31  
8 A. Potentially. Yes. 10:31  
9 Q. So what did you do next? 10:31  
10 A. I instructed Detective Staab to contact 10:31  
11 the district attorney's office and speak to them 10:31  
12 concerning that, issues with it. 10:31  
13 Q. Why is a delay of 17 hours important to 10:31  
14 you? 10:31  
15 A. Because their net time frame, we don't 10:31  
16 know if the phone was still there or had it moved, had 10:31  
17 it been in the truck, had the truck moved. If the 10:31  
18 phone is no longer there, are there any other things 10:31  
19 still there. It's not giving us probable cause. Is 10:32  
20 it giving us reason to believe that that phone is 10:32  
21 still there. We haven't seen it for 17 -- we don't 10:32  
22 know -- for 17 hours, it has not transmitted from that 10:32  
23 or however it did from that location. There was 10:32  
24 not -- there was no pinging or any -- us knowing that 10:32  
25 it was there for 17 hours. 10:32

1 Q. No confirmation that -- 10:32

2 A. No confirmation. 10:32

3 Q. -- it could have been there still? 10:32

4 A. Yeah. 10:32

5 Q. Do you think that is important to the 10:32

6 probable cause inquiry that you were doing when you 10:32

7 reviewed the search warrant affidavit ultimately? 10:32

8 A. Yes. 10:32

9 MR. MURPHY: Object to the form. 10:32

10 Q. (BY MR. EVERETT) So just to walk back 10:32

11 through this, Detective Staab brings this concern to 10:32

12 you about the staleness of the phone ping, and then 10:32

13 you tell him to contact the district attorney; is that 10:32

14 right? 10:32

15 A. Yes. 10:32

16 Q. Okay. And to your knowledge, did he do 10:32

17 that? 10:32

18 A. Yes. 10:32

19 Q. How soon after this discussion between 10:32

20 you and he about the staleness of the ping did 10:33

21 Detective Staab call the district attorney, if you 10:33

22 know? 10:33

23 A. I do not know. 10:33

24 Q. You don't know? 10:33

25 A. I don't know how long it was. 10:33

1 Q. Okay. What is the next thing that you 10:33  
2 remember happening with respect to your interaction 10:33  
3 and his investigation? 10:33

4 A. He came back to me and told me he had 10:33  
5 talked to District Attorney Beck, and she said that we 10:33  
6 were -- that she had no issues with the staleness of 10:33  
7 the warrant, the staleness of the phone there, and 10:33  
8 that we would be good to go. 10:33

9 Q. What was your thought when you heard 10:33  
10 that? 10:33

11 A. My thought was I was still -- I 10:33  
12 double-checked it. So I contacted District Attorney 10:33  
13 Beck and reiterated that this phone has been missing, 10:33  
14 has not pinged for the last 17 hours, and this is -- 10:33  
15 going to make sure that she understood it wasn't -- 10:33  
16 there wasn't a miscommunication between her and 10:33  
17 Detective Staab at that point, that she knew it had 10:33  
18 been not -- we couldn't confirm its whereabouts for 17 10:33  
19 hours. 10:34

20 Q. When she came back to Detective Staab and 10:34  
21 you and said that she had no issue, were you surprised 10:34  
22 by that response? 10:34

23 A. On the staleness of the warrant, yes. 10:34

24 Q. And you were surprised enough that you 10:34  
25 wanted to follow up with her directly? 10:34

1           A.    After she had talked to Detective Staab,           10:34  
2    yes.   I wanted to make sure she understood it had been           10:34  
3    17 hours and there was not a miscommunication between           10:34  
4    the two of them.           10:34

5           Q.    How did that conversation go?           10:34

6           A.    Just like I just testified, that I talked           10:34  
7    to her.  She was aware of it.  She didn't think there           10:34  
8    was a problem with it.  She had asked me how accurate           10:34  
9    is this, and I told her I can find out, because I           10:34  
10   believe she had already talked to Detective Staab           10:34  
11   about it.  I contacted the victim on it, and he had           10:34  
12   said he had -- in the past, he had lost his phone on a           10:34  
13   job site, and he had walked within feet of it finding           10:34  
14   my cell phone app.  I relayed that information to DA           10:34  
15   Beck as well after she asked me to find out, relayed           10:35  
16   that to her.  She said we were good to go.           10:35

17          Q.    So you had two separate conversations           10:35  
18   with District Attorney Beck?           10:35

19          A.    I don't know if I had one or two with           10:35  
20   her.  I believe it was two.           10:35

21          Q.    Were both of those by phone?           10:35

22          A.    Yes.           10:35

23          Q.    Did you text with her at all?           10:35

24          A.    No.           10:35

25          Q.    Did you email with her at all?           10:35

1 the screenshot provided by Mr. McDaniel? 10:36

2 A. No. 10:36

3 Q. Did you do anything besides contacting 10:36

4 McDaniel to independently verify the veracity of the 10:36

5 screenshot he provided? 10:36

6 A. No. 10:36

7 Q. So after you talked to DA Beck, and you 10:37

8 had already spoken with Mr. McDaniel, and you tell her 10:37

9 that he once found this phone in a field -- a phone in 10:37

10 a field with the Find My app, what did she say in 10:37

11 response to that? 10:37

12 A. I don't remember her exact words. 10:37

13 Q. Do you remember generally? 10:37

14 A. Generally, she said, Okay, and we're good 10:37

15 to write the warrant. 10:37

16 Q. At that point, had the warrant affidavit 10:37

17 been written? 10:37

18 A. I do not believe so. 10:37

19 Q. What were your expectations with respect 10:38

20 to District Attorney Beck's feedback on probable cause 10:38

21 when you called her the first time? 10:38

22 A. What do you mean by what were my 10:38

23 expectations? 10:38

24 Q. Were you expecting her to say that this 10:38

25 was not enough? 10:38

1 MR. MURPHY: Object to the form. 10:38

2 A. I was concerned about the time frame on 10:38

3 the phone, and I personally did not think that -- I 10:38

4 didn't think they were going to -- I thought they were 10:38

5 going to come back and say it was stale. 10:38

6 Q. (BY MR. EVERETT) You thought DA Beck was 10:38

7 going to come back and say that there's not enough 10:38

8 probable cause to execute a search warrant here? 10:38

9 A. I expected her to come back and say our 10:38

10 time frame has been too long, so we don't have it. 10:38

11 Q. And the "it" there is probable cause, 10:38

12 right? 10:38

13 A. Yes. 10:38

14 Q. Okay. Do you have an understanding -- 10:38

15 let me back up a step. 10:38

16 You said before this deposition, you 10:39

17 reviewed the GO report with respect to Ms. Johnson's 10:39

18 case? 10:39

19 A. Yes. 10:39

20 Q. Or Jeremy McDaniel's case, depending on 10:39

21 how you look at it. 10:39

22 A. Yes. 10:39

23 Q. In that GO report, I'll represent to you 10:39

24 there's no discussion of this interaction between you 10:39

25 and DA Beck or Detective Staab and DA Beck. Do you 10:39

1 Q. When they started laying the groundwork 10:55  
2 and you and Detective Staab were waiting for this 10:55  
3 search warrant to be signed by the judge, what 10:55  
4 happened in that interim waiting period? Anything? 10:55  
5 Did you do anything? 10:55  
6 A. As far as? 10:55  
7 Q. Anything at all with respect to this 10:55  
8 case. 10:55  
9 A. No. While we were waiting -- once I had 10:55  
10 signed off on it and talked to District Attorney Beck, 10:55  
11 the case was in Detective Staab's -- it was his, and 10:55  
12 he did what he needed to do. 10:56  
13 Q. Okay. What was the next thing that you 10:56  
14 remember doing with respect to this case on January 4, 10:56  
15 2022? 10:56  
16 A. The next thing I remember is we had found 10:56  
17 out -- our narcotic team had seen Ms. Johnson outside 10:56  
18 of her home on her front porch. They had relayed that 10:56  
19 information to -- I don't know who it was. It was 10:56  
20 either Sergeant Foster or Detective Staab. We then 10:56  
21 contacted Sergeant Speelman, let him know, Hey, this 10:56  
22 is what's going on. 10:56  
23 So then once we had the warrant signed, 10:56  
24 we agreed to meet them. And I believe it was the 10:56  
25 District 5 parking lot where we all got together to do 10:56

1 a prewarrant briefing with them. 10:56

2 Q. You said you talked to Sergeant Speelman, 10:56

3 said, Hey, this is what's going on. 10:56

4 What did that conversation entail? 10:56

5 A. Exactly, I don't remember. 10:56

6 Q. Did you tell him that you learned that an 10:56

7 elderly woman lived at the property? 10:57

8 A. Yes. 10:57

9 Q. Do you remember what he said in response 10:57

10 to that? 10:57

11 A. I don't remember his answer. I do know 10:57

12 they revised how they were going to approach the 10:57

13 house. 10:57

14 Q. So coming into this search, you had, you 10:57

15 know, initially these concerns, right, on the 10:57

16 staleness of the phone. And then as the investigation 10:57

17 progresses, you learn that an elderly woman lives at 10:57

18 this property. 10:57

19 Were there any like alarm bells going off 10:57

20 for you during that period? 10:57

21 A. Concerning what? 10:57

22 Q. Maybe this is the wrong spot? 10:57

23 A. I was confident in what we had received 10:57

24 from the victim, Daniel, on where that phone had 10:57

25 pinged. Our concerns had been that it was stale. I 10:57

1 did not think a 78-year-old woman had rammed a truck 10:57  
2 through the gates of the Hyatt, but when people have 10:57  
3 kids and grandkids or neighbors that stay with them, 10:58  
4 or we don't know her living situation or anything like 10:58  
5 that. 10:58  
6 So I was concerned for her, because I did 10:58  
7 not think she did it. But I could not speak to the 10:58  
8 fact whether or not anybody she knew or was staying in 10:58  
9 her house had committed this crime. 10:58  
10 Q. What investigation was done with respect 10:58  
11 to her kids, for example? 10:58  
12 A. We ran -- we found associated with that 10:58  
13 address, one of her sons had a past criminal history. 10:58  
14 Q. From when? 10:58  
15 A. I don't remember the year. 10:58  
16 Q. Was it in the last five years? 10:58  
17 A. I don't remember. 10:58  
18 Q. Was it recent enough to cause concern? 10:58  
19 MR. MURPHY: Object to the form. 10:58  
20 A. It had been in the past that it was a 10:58  
21 violent crime that we were concerned, that it raised 10:58  
22 flags that, okay, this could possibly be somebody of 10:58  
23 interest. 10:58  
24 Q. (BY MR. EVERETT) Was any investigation 10:58  
25 done, if you know, with respect to that son's 10:58

1 whereabouts, where he lived or anything like that? 10:59

2 A. No. 10:59

3 Q. Besides running a background check on 10:59

4 that son, was any other investigation done pertaining 10:59

5 to him? 10:59

6 A. No. 10:59

7 Q. Why not? 10:59

8 A. At the time, we had found out that he had 10:59

9 used the address of the Worchester address. So that's 10:59

10 what we were looking at that. I was not the 10:59

11 investigator on the case moving forward on this stuff. 10:59

12 I never was the investigator on it. So what happened 10:59

13 after the fact, I don't know. 10:59

14 Q. Do you defer to the findings of your 10:59

15 investigative officer on your cases? 10:59

16 A. On their cases, yes. 10:59

17 Q. On their cases. 10:59

18 Why did you call Sergeant Speelman about 11:00

19 requesting SWAT for this search warrant? 11:00

20 A. I called Sergeant Speelman because we 11:00

21 were missing an AR-15-style rifle and six handguns. 11:00

22 Q. Do you have an understanding that there 11:00

23 were other firearms besides those that were stolen? 11:00

24 A. I thought we just had the six handguns 11:00

25 and the AR-15-style rifle. So no. But I believe it 11:00

1 was six handguns and a rifle. 11:00

2 Q. Did you have an understanding at that 11:00

3 time that there was also a firearm suppresser stolen? 11:00

4 A. No. 11:00

5 Q. Do you have that understanding today? 11:00

6 A. I do. 11:00

7 Q. Do you have an understanding that a 11:00

8 short-barrel rifle was also stolen? 11:00

9 A. It was the AR-style rifle, yes. 11:00

10 Q. And the AR -- there's only one AR-style 11:00

11 rifle that was a short-barrel rifle, to your 11:00

12 understanding? 11:01

13 A. I believe, to my understanding. Yes. 11:01

14 Q. Is there ever an occasion where you do 11:01

15 additional research or investigation after receiving 11:01

16 a -- the findings of your lead investigator on a case 11:01

17 as a supervisor? 11:01

18 A. I have not. No. 11:01

19 Q. Okay. How do you know when to utilize 11:01

20 SWAT? 11:01

21 A. If I believe the situation will rise to a 11:01

22 level of it possibly becoming a tactical situation or 11:01

23 a potentially more-dangerous-than-most scenario. 11:01

24 Q. And is there a policy or procedure that 11:01

25 you can follow for that? 11:01

1 warrant. 11:22

2 Q. Do you have any idea how it changed? 11:22

3 A. I do not know. 11:22

4 Q. Okay. Did you see Sergeant Speelman 11:22

5 review the search warrant affidavit? 11:22

6 A. I don't remember if I did or not. 11:22

7 Q. Did anyone that met in the parking lot 11:22

8 that day express concerns about probable cause? 11:22

9 A. Not that I'm aware of. 11:23

10 Q. Did anyone express concerns about 11:23

11 Ms. Johnson, her safety, anything like that? 11:23

12 A. That's why we explained to 11:23

13 Sergeant Speelman, Hey, we have an elderly female 11:23

14 inside the residence; we think it's only her. 11:23

15 Q. Why did you think it was only her? 11:23

16 A. Based on surveillance from the narcotic 11:23

17 unit. 11:23

18 Q. So knowing that it was only her or very 11:23

19 likely only her, did anyone ever say, Maybe we should 11:23

20 just go knock on the door? 11:23

21 A. No. 11:23

22 Q. Why not? 11:23

23 A. Because we were missing a short-barreled 11:23

24 rifle, AR-15, and six handguns, and over a thousand 11:23

25 rounds of ammunition. 11:23

1 Q. What evidence did DPD have that you're 11:23  
2 aware of linking Ms. Johnson's residence to the truck 11:23  
3 theft? 11:24  
4 A. None, other than the fact that the cell 11:24  
5 phone had pinged at her address. 11:24  
6 Q. Looking back, do you think that SWAT was 11:24  
7 required to search Ms. Johnson's home? 11:24  
8 MR. MURPHY: Object to the form. 11:24  
9 A. After knowing everything that we found 11:24  
10 out after the fact, I would say no. But moving 11:24  
11 forward, we would still request SWAT to respond 11:24  
12 because we're missing those handguns. They are set up 11:24  
13 to tactically handle that situation. They have the 11:24  
14 body armor, they have the shields, and the capability 11:24  
15 of if something happened. 11:24  
16 Knowing -- looking back, Oh, yeah, we 11:24  
17 know this is just her there, nothing going -- no, then 11:24  
18 we would just do it different. But knowing the facts 11:24  
19 of the case as they were at the time, and moving 11:24  
20 forward without the after the fact, we would do the 11:25  
21 exact same thing with SWAT. 11:25  
22 Q. (BY MR. EVERETT) Would you change 11:25  
23 anything about the investigation and eventual search 11:25  
24 of Ms. Johnson's home, looking back? 11:25  
25 MR. MURPHY: I'll object to the form of 11:25

1 the question and foundation. 11:25

2 A. Can you repeat that? 11:25

3 Q. (BY MR. EVERETT) Sure. Would you change 11:25

4 anything about the investigation and the search of 11:25

5 Ms. Johnson's home, looking back? 11:25

6 MR. MURPHY: Objection to the form and 11:25

7 foundation. 11:25

8 A. We would probably -- change it would be 11:25

9 try to narrow down the scope and the accuracy of the 11:25

10 cell phone a little bit more to this date. But on 11:25

11 that, that would be the only thing. 11:25

12 Q. (BY MR. EVERETT) What happened after the 11:25

13 meeting in the parking lot at District 5? 11:25

14 A. The SWAT team rolled out in their vehicle 11:25

15 to execute the search warrant. We -- the detectives 11:25

16 followed behind them. And we waited until they called 11:26

17 and said the scene was secure. 11:26

18 Q. Where did you wait? 11:26

19 A. I couldn't tell you the cross streets. I 11:26

20 was a block or two away. 11:26

21 Q. Where was SORT? 11:26

22 A. I do not know. 11:26

23 Q. When you pulled up after the all-clear 11:26

24 was given, were SORT officers there? 11:26

25 A. I don't know who was there and who -- I 11:26

1 Q. Looking back, do you remember if it was a 11:29  
2 robe? 11:29  
3 A. I don't remember. 11:29  
4 Q. Okay. 11:29  
5 A. I've seen her on the video, but I don't 11:29  
6 know if it was a robe or a coat, what it was. 11:29  
7 Q. Was she at any time offered, if you know, 11:29  
8 food? 11:29  
9 A. Not that I'm aware of. I don't know. 11:29  
10 Q. What about water? 11:29  
11 A. I don't know. 11:29  
12 Q. Medications? 11:29  
13 A. I don't know. 11:29  
14 Q. Was Ms. Johnson at any time a suspect? 11:29  
15 A. I don't believe she was. 11:29  
16 Q. Were there any other reasons besides 11:29  
17 Ms. Johnson's safety that she was put in a patrol car 11:29  
18 and driven away from her residence? 11:29  
19 A. Not that I'm aware of, other than to keep 11:29  
20 her comfortable. 11:29  
21 Q. What did you do after you arrived on 11:29  
22 scene? 11:29  
23 A. I assisted Detective Staab and the other 11:29  
24 detectives there with attempting to search the house. 11:29  
25 Q. Can you tell me about that, what that 11:30

1 in there, in that paragraph, "0845 hours." 12:50

2 Can you review that to yourself, and let 12:50

3 me know when you're ready. 12:50

4 A. Okay. 12:51

5 Q. Is it safe to say that you relied on 12:51

6 Detective Staab's statements in this paragraph here 12:51

7 regarding what the Find My iPhone app meant, that 12:51

8 screenshot meant? 12:51

9 A. Yes. As well as myself talking to the 12:51

10 victim as well. 12:51

11 Q. Mr. McDaniel. 12:51

12 Did you ever ask Detective Staab to do 12:51

13 any follow-up investigation about the app itself, the 12:51

14 Find My app itself? 12:51

15 A. No. 12:51

16 Q. Looking back, do you think that that 12:51

17 might have given you more information about the 12:51

18 location of the phone? 12:51

19 A. It may have. 12:52

20 MR. MURPHY: Objection. Form and 12:52

21 foundation. 12:52

22 Q. (BY MR. EVERETT) Are there any 12:52

23 technologically inclined folks working for DPD that 12:52

24 you could have asked to help verify this information? 12:52

25 MR. MURPHY: Object to the form. 12:52

1 Q. Did you know that at the time that you 01:00  
2 reviewed Detective Staab's search warrant affidavit? 01:00  
3 A. No. I was under the opinion -- I was 01:00  
4 under the impression it was just a GPS-based system. 01:01  
5 Q. Okay. Do you have any understanding of 01:01  
6 the impact of ceilings and walls on a GPS signal? 01:01  
7 A. It can distort it. 01:01  
8 Q. So if this phone was inside Ms. Johnson's 01:01  
9 house, that GPS signal could have been distorted? 01:01  
10 MR. MURPHY: Object to form. 01:01  
11 Q. (BY MR. EVERETT) Right? 01:01  
12 A. It may have been distorted. 01:01  
13 Q. Did you have any familiarity whatsoever 01:01  
14 with the Find My application at the time you reviewed 01:01  
15 this search warrant affidavit? 01:01  
16 A. Did I have any? 01:01  
17 Q. Familiarity. 01:01  
18 A. Familiarity with it? 01:01  
19 Q. Yeah. 01:01  
20 A. I personally did not, but I know of other 01:01  
21 cases where people have used the Find My iPhone app. 01:01  
22 Q. When you say you know of other cases, 01:01  
23 what other cases do you know of? 01:01  
24 A. I know of a case where one of our 01:01  
25 officers -- there was a suicidal party, and they used, 01:01

1 in conjunction with his wife, used her Find My iPhone 01:01  
2 phone for her husband, and they located his deceased 01:01  
3 body. 01:02  
4 Q. Was that out in the open? 01:02  
5 A. It was inside of a car downtown. 01:02  
6 Q. Was a search warrant involved in that 01:02  
7 case? 01:02  
8 A. No. 01:02  
9 Q. Any other cases? 01:02  
10 A. No, I don't. 01:02  
11 Q. Looking back, do you feel like you were 01:02  
12 operating at an information deficit with respect to 01:02  
13 knowledge of the Find My app when you reviewed this 01:02  
14 search warrant? 01:02  
15 MR. MURPHY: I'll object to the form. 01:02  
16 A. Looking back now, yes. At the time, no. 01:02  
17 Q. (BY MR. EVERETT) Let's look at what's 01:02  
18 been previously marked as Exhibit 13 in 01:02  
19 Detective Staab's deposition. 01:02  
20 If we could, let's look at the second 01:03  
21 page, the heading "How your device uses location 01:03  
22 services." 01:03  
23 In this second paragraph under that 01:03  
24 heading, it says "In Maps, if your location can't be 01:03  
25 determined precisely, you'll see a blue circle around 01:03

# **EXHIBIT 11**

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DISTRICT COURT, COUNTY OF DENVER,  
STATE OF COLORADO  
1437 Bannock Street  
Denver, Colorado 80202

^ COURT USE ONLY ^

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RUBY JOHNSON,  
Plaintiff,

Case Number: 22CV33434  
Division: 269

vs.

GARY STAAB, an officer of the  
Denver Police Department, in  
his individual capacity and  
GREGORY BUSCHY, an officer of  
the Denver Police Department,  
in his individual capacity,  
Defendants.

---

VIDEO DEPOSITION OF CHRIS RANDALL  
November 21, 2023

---

1 Hyatt when you were dispatched?

2 A. Yes.

3 Q. And when you got there, what did you do?

4 A. Got out of the vehicle and went to check,  
5 because it said there was camera footage available.

6 So I went to go check for the camera footage while my

7 partner, Rop Monthathong, went and talked with

8 Mr. McDaniel.

9 Q. How did you decide who would talk to --  
10 or who would check camera footage and who would talk  
11 to Mr McDaniel?

12 A. Well, because I was driving that day, the  
13 passenger takes the reports.

14 Q. And is the person who takes the reports  
15 usually the person who talks to the victim, or how  
16 does that work?

17 A. Yes. He's the one that gathers the  
18 information for the report.

19 Q. Okay. So you arrived. You got out of  
20 the vehicle. And then who did you talk to for the  
21 footage?

22 A. I can't remember his name. It was the  
23 head security guy there at the Hyatt.

24 Q. What did he tell you?

25 A. That they had camera footage available.

1 that that's not correct?

2 A. Okay. No. You're right.

3 So yeah, because I was dispatched at  
4 10:18.

5 Q. Okay.

6 A. So yeah, it would have been in the call  
7 notes, then.

8 Q. Okay. So you knew that this phone was  
9 pinging out by the airport and then at 5558 Lewiston  
10 Court before you got to the Hyatt?

11 A. Okay. Yes.

12 Q. Did that change your investigation at  
13 all?

14 A. Not at the time, because we hadn't even  
15 got there yet.

16 Q. Okay.

17 A. And if that was the case that it's on the  
18 notes before we even got there.

19 Q. And so when you got there, did Jeremy  
20 McDaniel relay that he had had a phone in the vehicle  
21 and that it was moving?

22 MR. MURPHY: Object to the form.

23 A. Again, I don't know if it was a phone, if  
24 it was an air tile, or what he had in there. He had  
25 some kind of GPS in his car.

1 Q. (BY MS. FLOYD) Okay.

2 A. Or in his truck.

3 Q. And he mentioned that it had been moving?

4 A. Yes.

5 Q. Okay. So help me understand the timing  
6 of all of this.

7 So the vehicle, it looks like, was stolen  
8 around 7:00 a.m.?

9 A. Correct.

10 Q. But you weren't dispatched until 10:18.

11 Do you know why?

12 A. Probably because the victim went out to  
13 get into his truck, saw it stolen, then went back, saw  
14 the video footage, and saw what time the vehicle had  
15 been -- had gone out of the gate from the video  
16 footage.

17 Q. Do you know who called the police  
18 department?

19 A. It should have been that Jeremy McDaniel.

20 Q. Do you know if anyone from the Denver  
21 Hyatt called the police department?

22 A. I have no idea, because I don't see  
23 anything in here with the Hyatt calling. It said the  
24 caller's name was Jeremy McDaniel.

25 Q. Okay. So how long did your partner talk

1 to Jeremy McDaniel at the Hyatt?

2 A. You would have to ask him.

3 Q. How long were you there at the Hyatt?

4 A. Maybe 10, 15 minutes.

5 Q. And is that about the average time you're  
6 at a scene?

7 A. Yeah. Get the information for the  
8 report, give him the report number. And then it takes  
9 longer to go and type out the report.

10 Q. Okay. And if you knew there was some  
11 sort of GPS thing in the truck beforehand, did you  
12 ever have any inclination to go and try and track down  
13 the truck yourself?

14 A. No.

15 Q. Do you know if anyone did?

16 A. Yes.

17 Q. Go and try to track down the truck?

18 A. Yes.

19 Q. (BY MS. FLOYD) How do you know that?

20 A. Because we aired it. Rop Monthathong  
21 aired it at 11:34:45 that it was in Falcon Park, 13600  
22 East Maxwell Place, and asked a District 5 car to go  
23 check the area out. And it was aired on Channel 5 at  
24 11:30:59.

25 Q. What does it mean to air something?

1 Regency Denver valet"?

2 A. Ask the dispatcher. I have no idea.

3 Q. Does the report indicate that you were --  
4 because you didn't log out, you were at Hyatt Regency  
5 Denver that entire time, from 10:18 to 17:50?

6 Is that what that means, because no one  
7 logged out?

8 A. No, because it showed our -- updated at  
9 Clarkson -- 16th and Clarkson at 13:13. We were  
10 probably there for lunch.

11 Q. So it looks like you arrived at 10:18,  
12 and then received a call around 11:30 from Jeremy  
13 McDaniel that the vehicle was in the location of  
14 Falcon Park.

15 And that's when you shared it, correct?

16 A. When Rop shared it. Yeah.

17 Q. And then from 11:30 to 4:00, you had no  
18 further involvement?

19 A. No.

20 Q. Did you have any further involvement the  
21 following day?

22 A. Nope.

23 Q. How about the following next few days?  
24 Have you ever had involvement since?

25 A. That ended our involvement when that

# **EXHIBIT 12**

<p>DISTRICT COURT, COUNTY OF DENVER, STATE OF COLORADO Denver City &amp; County Building 1437 Bannock St., Room 256 Denver, CO 80202</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p><b>Plaintiff:</b> RUBY JOHNSON</p> <p>v.</p> <p><b>Defendants:</b> GARY STAAB, an officer of the Denver Police Department, in his individual capacity, and GREGORY BUSCHY, an officer of the Denver Police Department, in his individual capacity.</p>	
<p><i>Attorneys for Plaintiff:</i></p> <p>Paul G. Karlsgodt, No. 29004 Colby M. Everett, No. 56167 Michelle R. Gomez, No. 51057 Jon S. Maddalone, (<i>admitted pro hac vice</i>) BAKER &amp; HOSTETLER LLP 1801 California Street, Suite 4400 Denver, CO 80202-2662 <a href="mailto:pkarlsgodt@bakerlaw.com">pkarlsgodt@bakerlaw.com</a>   <a href="mailto:mgomez@bakerlaw.com">mgomez@bakerlaw.com</a> <a href="mailto:ceverett@bakerlaw.com">ceverett@bakerlaw.com</a>   <a href="mailto:jmaddalone@bakerlaw.com">jmaddalone@bakerlaw.com</a> P: 303.861.0600   F: 303.861.7805 <i>In cooperation with the ACLU Foundation of Colorado</i></p> <p>Ann M. Roan, No. 18963 LAW OFFICES OF ANN M. ROAN, LLC 4450 Arapahoe Avenue, Suite 100 Boulder, CO 80303 303-448-8818   <a href="mailto:ann@annroanlaw.com">ann@annroanlaw.com</a> <i>In cooperation with the ACLU Foundation of Colorado</i></p> <p>Mark Silverstein, #26979   Sara R. Neel, #36904 Timothy Macdonald, #29180   Anna I. Kurtz, #51525 Lindsey M. Floyd, #56870 American Civil Liberties Union Foundation of Colorado 303 E. 17<sup>th</sup> Ave., Suite 350 Denver, Colorado 80203 <a href="mailto:msilverstein@aclu-co.org">msilverstein@aclu-co.org</a>   <a href="mailto:akurtz@aclu-co.org">akurtz@aclu-co.org</a>   <a href="mailto:sneel@aclu-co.org">sneel@aclu-co.org</a> <a href="mailto:tmacdonald@aclu-co.org">tmacdonald@aclu-co.org</a>   <a href="mailto:lfloyd@aclu-co.org">lfloyd@aclu-co.org</a> P: (720) 402-3114   F: (303) 777-1773</p>	<p>Case No: 2022CV33434</p> <p>Div.: 269</p>

**DECLARATION OF GERALD R. GRANT, JR.**

1. My name is Gerald R. Grant, Jr. I am above the age of eighteen (18) years old, of sound mind, and am fully competent to make this Declaration. The matters set forth in this Declaration are based on my personal knowledge and are true and correct.

2. Attached as Exhibit A to this Declaration is a true and accurate copy of a Location Analysis Report dated October 4, 2023, (“Expert Report”), which I prepared for this matter, and which is incorporated in this Declaration.

3. The statement in the Affidavit in Support of Search Warrant prepared by Detective Gary Staab and approved by Sergeant Gregory Buschy that the photograph of the FindMy application attached to the search warrant “shows a red dot, signifying the phone being inside the house,” is false and misleading as the photograph in question indicated the phone, at best, could be located in an area spanning several properties.

4. I am familiar with the facts, analysis, and opinions in my Expert Report. The Expert Report contains my opinions, which are based on my personal review and analysis of the materials identified in my Expert Report, including the Search Warrant and Supporting Affidavit at issue in this matter; a screen capture from a mobile device, indicating location information from the Apple Find My App; Detective Staab’s September 15, 2023, Deposition Transcript and corresponding Exhibits 1-15; and various pages of Apple’s website regarding location services and the Find My App.

5. Attached as Exhibit B are true and correct copies of pages from Apple’s website upon which I relied and are documents of the type reasonably relied on by experts in my field.

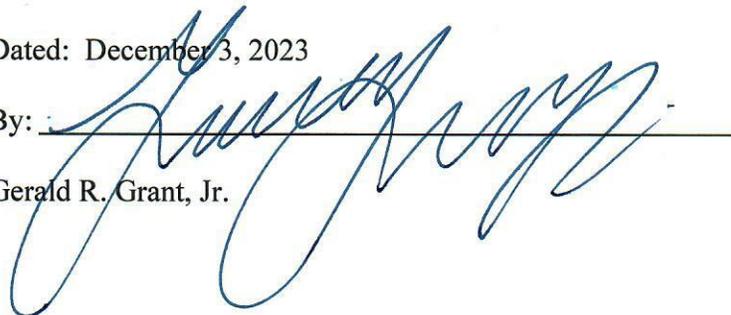
6. If called to testify, I could testify as to the Expert Report’s contents and exhibits.

7. I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

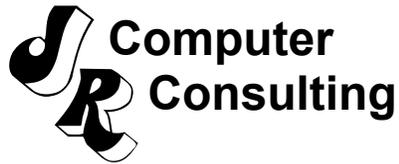
Dated: December 3, 2023

By: \_\_\_\_\_

Gerald R. Grant, Jr.

A handwritten signature in blue ink, written over a horizontal line. The signature is cursive and appears to read "Gerald R. Grant, Jr.".

# **EXHIBIT A**



170 Downsview Drive  
Rochester, NY 14606  
585-739-4337 – Cell  
jerry@jrcc.com

October 4, 2023

Ann Roan  
The Law Offices of Ann M. Roan  
4450 Arapahoe Avenue, Suite 100  
Boulder, CO 80303

Re: *Johnson v Staab* - Location Analysis Report

Dear Ms. Roan:

I have been retained by Baker Hostetler, counsel for Ruby Johnson, to review discovery related to the above-mentioned case. For my engagement in this matter, I am being compensated at a rate of \$200.00 per hour. Please accept this document as my Report of Findings.

### **QUALIFICATIONS AS AN EXPERT**

I am an AccessData Certified Examiner, Cellebrite Certified Operator, Cellebrite Certified Physical Analyst, Cellebrite Certified Mobile Examiner, Cellebrite Certified Advanced Smartphone Analysis Examiner, Cellebrite Certified Smartphone Extraction Examiner, Cellebrite Certified Evidence Repair Technician – Forensics, Cellebrite Iron Python Certified, systems analyst, programmer and trainer with more than 25 years of experience involving digital forensics, cell site analysis, social site investigations, eDiscovery and litigation support.

I have also been involved in numerous training sessions on Cell Site Analysis and Location Information from CyberForensics360, PATCtech, SecurCube and Hawk Analytics. I frequently lecture on Mobile Forensics, Cell Site Analysis and Location Information across the country. I have been involved in many state and federal cases and have been qualified as an expert approximately fifty-nine (59) times.

My Curriculum Vitae is attached as **Exhibit A**. A list of all other cases in which, during the previous 4 years, I have testified as an expert at trial or by deposition is attached as **Exhibit B**.

## **MATERIALS REVIEWED**

I reviewed specific materials associated with the above-mentioned case as well as other sources listed below:

- Search Warrant and supporting Affidavit
- Screen capture (included in the Affidavit) from a mobile device, indicating location information from the Apple Find My App
- Detective Staab's September 15, 2023 Deposition Transcript and corresponding Exhibits 1-15
- Second Amended Complaint
- <https://www.apple.com/legal/privacy/data/en/location-services/>
- <https://developer.apple.com/documentation/corelocation/cllocation>
- <https://developer.apple.com/documentation/corelocation/cllocation/1423599-horizontalaccuracy>

## **MOBILE DEVICE LOCATION INFORMATION**

A mobile device can utilize multiple sources when calculating its approximate location (Geolocation). This is identified as Assisted Global Positioning System (A-GPS). While a true Global Positioning System GPS utilizes signals from only Satellites, A-GPS can also utilize signals from Cell Towers, Wi-Fi Hotspots and Bluetooth Beacons. Each of these independent sources can greatly impact the accuracy levels of a mobile device's geolocation. The Apple device itself can also utilize various levels of accuracy calculation based on individualized settings and data collection services provided by third parties.

When an Apple device performs a geolocation process, it will calculate Latitude and Longitude coordinates based on proprietary algorithms that take into consideration the source, signal strength and other factors such as additional device sensors, crowd-sourced Wi-Fi hotspots and Cell Tower locations. In addition to calculating the Latitude and Longitude, it can also calculate a Horizontal Accuracy Radius<sup>1</sup> distance in meters. Latitude and Longitude coordinates do not indicate exactly where the device is located, they are a position to plot on a map to identify the Horizontal Accuracy area. This Horizontal Accuracy area is where the Geolocation process believes the device is within.

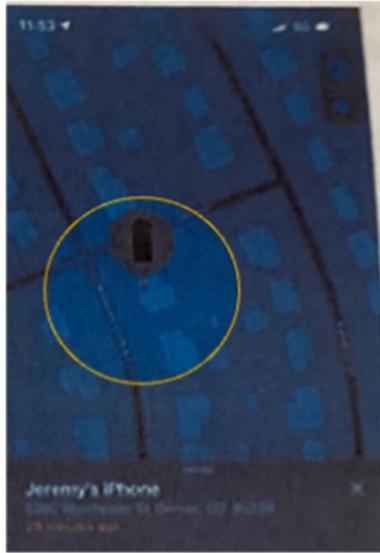
## **ANALYSIS OF RECEIVED DISCOVERY**

This case is based on what appears to be location information that was produced via the Apple Find My App. A single screen capture from a device running the Apple Find My App was included in the Affidavit for a Search Warrant. The location information

---

<sup>1</sup> Apple Developer CLLocation Information:  
<https://developer.apple.com/documentation/corelocation/cllocation/1423599-horizontalaccuracy>

appears to be from another Apple device that would have been associated with the same Apple Account (see below):



Based on my review of the Affidavit, Detective Gary Staab indicates that a red dot signifies that a missing phone is inside the house located at 5380 N Worchester Street, Denver, CO 80239. However, a red dot on the Apple Find My App does not indicate the phone's precise location contrary to Detective Staab's contention in the affidavit.

What is clear from the screen capture is a **BLUE CIRCLE/SHADING**, bounded by a **YELLOW** circle added for emphasis, around the red dot that is not taken into consideration in his statement. The **BLUE CIRCLE/SHADING** could indicate the Horizontal Accuracy Radius that was being calculated at the time the screen capture was taken. Based on the Apple Developer Documentation mentioned previously, this represents "**The radius of uncertainty for the location, measured in meters.**" This means that the device could be anywhere within that circle and not specifically the red dot (center) of the circle.

Looking at the screen capture more closely; this area can cover completely/portions of at 5 structures in the immediate area. It would also cover areas outside of the homes (yards, street, intersections, etc.).

## MISLEADING AFFIDAVIT

The Affidavit for the Warrant by Detective Gary Staab is misleading based on the screen capture from the Apple Find My App. At best, this screen capture would indicate a general area the phone may be located that covers five (5) different structures and surrounding areas. Nothing from the screen capture indicates precisely where the phone is located, and 5380 N. Worchester Street would only be one of the possible locations.

Although Detective Gary Staab states that the victim has used the Find My App previously to find a device with an accuracy of five feet, each Geolocation is unique and based on many factors. While it may be extremely accurate on one occurrence, it could be hundreds of meters off, if not more, on another. Factors such as source, phone model, topography, etc. can change the results. For example, whether the phone is in a covered building, or an open field will change the accuracy of the Geolocation. That is precisely why the **BLUE CIRCLE/SHADING** was there, to indicate a horizontal error rate.

### OTHER RESOURCES FOR VALIDATION

Prior to drafting the Affidavit, additional investigation would have been needed to conclude any information about the device's location. In my experience, Law Enforcement has many resources to investigate/confirm what digital evidence represents. Regional Computer Forensic Laboratories, Secret Service Labs, FBI Labs, Homeland Security have been available resources to Local Law Enforcement in many cases I have been involved in. These resources could have been utilized to interpret the data in the screen capture. That information could have assisted in drafting an accurate Affidavit in support of Search Warrant.

### SUMMARY/OPINION

A conclusion that a device is inside of a specific residence should not have been made based on the information I was provided. Due to the horizontal accuracy covering multiple houses as well as outside areas, no specificity was available for a Warrant without additional investigation.

If you have any questions about this report, or need additional information, please do not hesitate to contact me at your convenience.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



Gerald R. Grant, Jr.  
Digital Forensics Investigator  
ACE, CCO, CCPA, CCME, CASA, CASE, CERT-F, CIP

Executed on: October 4, 2023

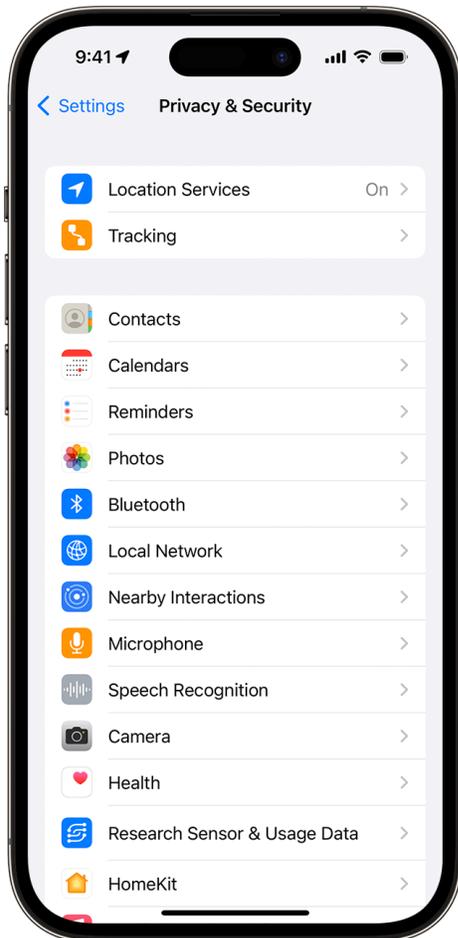
# **EXHIBIT B**

# About privacy and Location Services in iOS, iPadOS, and watchOS

Learn how privacy settings and Location Services help protect your personal information on your iPhone, iPad, iPod touch, and Apple Watch.

## Privacy settings

Privacy settings in iOS and iPadOS help give you control over which apps have access to information stored on your device. For example, you can allow a social-networking app to use your camera, so you can take and upload pictures to that app. You can also grant access to your contacts, so a messaging app can find any friends that are already using the same app.



In Settings > Privacy & Security, you can see which apps you have allowed to access certain information, as well as grant or revoke any future access. This might include access to:

- Location Services
- Contacts
- Calendars
- Reminders

- Photos
- Bluetooth
- Local Network
- Nearby Interactions
- Microphone
- Speech Recognition
- Camera
- Health
- Research Sensor & Usage Data
- HomeKit
- Media & Apple Music
- Files and Folders
- Motion & Fitness
- Focus

On your device, you can select a type of data from this list to see which apps have asked for permission to use that data. An app won't appear on the list until it asks permission to use your data. You can add or remove permission from any app that has asked for access to data. An app can use the data type in the setting only if you have given the app permission.

If you sign in to iCloud, apps are granted access by default to iCloud Drive. You can view and manage apps that are allowed to use iCloud under iCloud in Settings as well.

If you allow third-party apps or websites to use your data or your current location, you're subject to their terms, privacy policies, and practices. You should review the terms, privacy policies, and practices of the apps and websites to understand how they use your location and other information. Information that Apple collects will be treated in accordance with [Apple's Privacy Policy](#).

## How your device uses Location Services

With your permission, Location Services allows apps and websites (including Maps, Camera, Weather, and other apps) to use information from cellular<sup>1</sup>, Wi-Fi<sup>2</sup>, Global Positioning System (GPS)<sup>3</sup> networks, and Bluetooth<sup>4</sup> to determine your approximate location<sup>5</sup>.

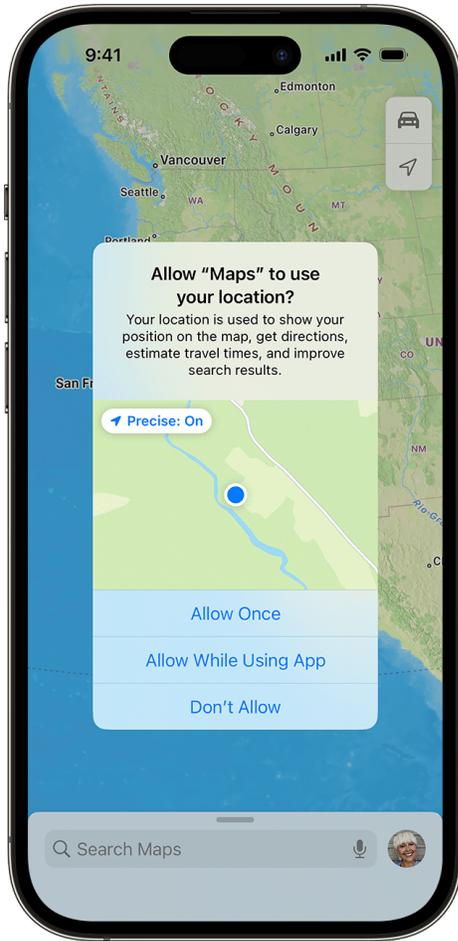
Apps that can show your location on the screen, including Maps, show your current (approximate) location using a blue marker. In Maps, if your location can't be determined precisely, you'll see a blue circle around the marker. The size of the circle shows how precisely your location can be determined—the smaller the circle, the greater the precision. When Location Services is active, a black or white arrow icon appears in the status bar.

Maps, directions, and location-based apps depend on data services. These data services are subject to change and might not be available in all geographic areas, resulting in maps, directions, or location-based information that might be unavailable, inaccurate, or incomplete. Compare the information provided on the device to your surroundings and defer to posted signs to resolve any discrepancies.

Learn more about [Location Services and privacy](#).

## Give apps permission to use your location

The first time an app tries to access your location, it must ask for your permission. You see a prompt explaining which app is asking for permission to use your location as well as the app developer's reason for requesting it.



Some apps ask to use your location only while the app is in use. An app is considered "in use" when you're actively using it in the foreground, or when it is using location in the background, in which case a blue pill will display in your status bar.

If you grant an app While In Use permission, the app may ask you for permission to use your location when it is in the background.

When you allow an app to use your location in the background, your device will remind you from time to time that an app is using your location, and will display those locations on a map. You'll also be asked if you want to continue to allow the app to use your location in the background.

With iOS 13, iPadOS 13, and watchOS 6, you can tap Allow Once to let an app access Location Services data only for one session (One Time). If you close and then re-open the app and it tries to access your location again, it will ask for your permission again. Apps won't use your location until they have asked for your permission and you grant permission.

You can change your mind anytime and update your preferences from Settings > Privacy & Security > Location Services.

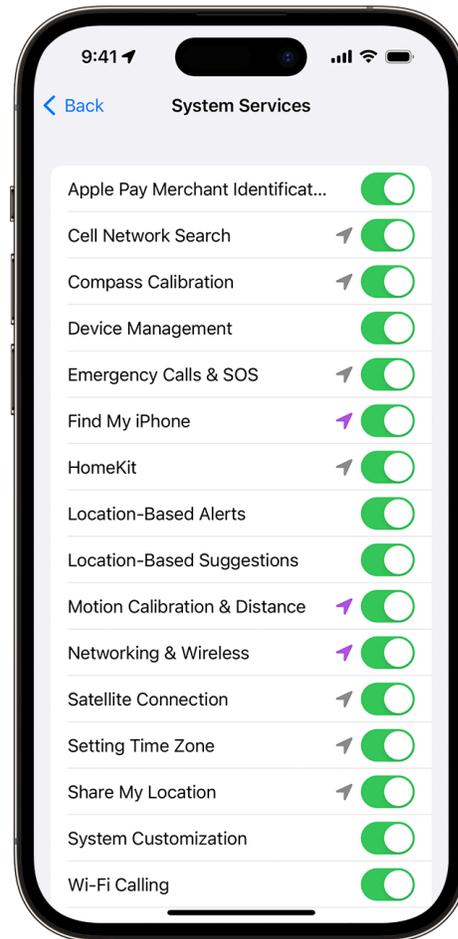
## Turn Location Services on or off

You can turn Location Services on or off at Settings > Privacy & Security > Location Services. You can turn Location Services on either during the Setup Assistant process or later through the Location Services setting. You can individually control which apps and system services have access to Location Services data. When Location Services are off, apps can't use your location in the [foreground or background](#). This will limit the performance of various Apple and third-party apps.

If you would like to reset all of your location settings to the factory default, go to Settings > General > Transfer or Reset [device], tap Reset, then tap Reset Location & Privacy. When your location and privacy settings are reset, apps will stop using your location until you grant them permission.



Settings > Privacy & Security > Location Services.



Settings > Privacy & Security > Location Services > System Services.

## Improve GPS accuracy

GPS accuracy depends on the number of visible GPS satellites. Locating all visible satellites can take several minutes, with accuracy gradually increasing over time. To improve GPS accuracy:

- Make sure that you've set the date, time, and time zone correctly on the device in Settings > General > Date & Time. If possible, use Set Automatically.
- Keep a clear view in several directions. Walls, vehicle roofs, tall buildings, mountains, and other obstructions can block line of sight to GPS satellites. When this happens, your device uses Wi-Fi or cellular networks to determine your position until the GPS satellites are visible again.

# Crowd-sourced Wi-Fi and cellular Location Services

If Location Services is on, your device will periodically send the geo-tagged locations of nearby Wi-Fi hotspots and cell towers to Apple to augment Apple's crowd-sourced database of Wi-Fi hotspot and cell tower locations. If you're traveling (for example, in a car) and Location Services is on, a GPS-enabled iOS device will also periodically send GPS locations, travel speed, and barometric pressure information to Apple to be used for building up Apple's crowd-sourced road-traffic and indoor pressure databases. The crowd-sourced location data gathered by Apple is stored with encryption and doesn't personally identify you.

## About Bluetooth, data and Location Services

With iOS 13 and iPadOS 13, an app must ask permission to use Bluetooth functions except to play audio to a Bluetooth device, which doesn't require permission. You can change your device's Bluetooth permissions from Settings > Privacy & Security > Bluetooth.

## About your location during emergency calls

For safety purposes, your iPhone's location information may be used when you place an emergency call to aid response efforts regardless of whether you enable Location Services.

## Learn more

- Learn more about using Location Services to track your location in Maps and other apps in your product's [user guide](#).
  - Learn more about [Apple and Privacy](#).
1. iPad (Wi-Fi + Cellular models): Make sure that Cellular Data is on in Settings > Cellular > Cellular Data, even if you're not subscribed to a cellular data plan. This will allow your device to more accurately calibrate itself using network time and location information. In some instances, disabling a [SIM PIN](#) may be necessary.
  2. iOS and iPadOS devices sold in China mainland and Germany may use the term Wireless LAN (WLAN) instead of Wi-Fi.
  3. GPS is available on iPhone and iPad Wi-Fi + Cellular models.
  4. Bluetooth interacts with iBeacons to provide a way to create and monitor areas that advertise certain identifying information.
  5. iOS and iPadOS devices without a cellular connection use only Wi-Fi for Location Services (if a Wi-Fi network is available). Some third-party apps rely on a Wi-Fi connection for region monitoring. If a device is passcode locked, this feature may be limited or inaccurate.

Information about products not manufactured by Apple, or independent websites not controlled or tested by Apple, is provided without recommendation or endorsement. Apple assumes no responsibility with regard to the selection, performance, or use of third-party websites or products. Apple makes no representations regarding third-party website accuracy or reliability. [Contact the vendor](#) for additional information.

Published Date: November 08, 2023

Helpful?

Yes

No



### Explore Apple Support Community

Find what's been asked and answered by Apple customers.

Search the Community

Submit



## Contact Apple Support

Need more help? Save time by starting your support request online and we'll connect you to an expert.

[Get started >](#)

Support    About privacy and Location Services in iOS, iPadOS, and watchOS

# Find your lost iPhone or iPad with Find My

Find your lost iPhone or iPad with Find My. If you can't find it or think it might be stolen, lock it to protect your information and stop someone else from using it.

## Find your iPhone or iPad with Find My

In the Find My app or on the web at [iCloud.com/find](https://icloud.com/find), you can find your phone on a map, play a sound if it's nearby, and mark it as lost to lock it with a passcode until you find it again.



### Use your Apple Watch

Think your iPhone is nearby? If you have an Apple Watch, [open Control Center](#) and tap the Ping your iPhone button. With Apple Watch Series 9 or Apple Watch Ultra 2, you can even get directions to your phone's location right on your watch.\*



### Use iCloud.com in a web browser

When you sign in, you might be asked to enter a code sent to a trusted device. If you lost your trusted device, or otherwise can't get the code, select the Find Devices button instead.

[Sign in to iCloud.com/find](https://icloud.com/find) ↗



### Use the Find My app on another device

If you have another Apple device that's signed in with your Apple ID, use Find My on that device to find your iPhone or iPad.

[Use Find My on another Apple device](#) >



### Use a family member's device

If you're part of a Family Sharing group, your devices can appear in Find My on your family members' devices.

[Use a family member's iPhone](#) >

\*If your Apple Watch is in [Low Power Mode](#), you can't use Precision Finding to get directions to your iPhone with the Ping your iPhone button.

## If you can't find your iPhone or iPad

If Find My isn't turned on for your device before you lose it, it won't appear in Find My or at [iCloud.com/find](https://icloud.com/find) and you can't put it in Lost Mode. To protect your personal information, you should change your Apple ID password right away. You might want to change your password for other accounts, too.

## Mark as Lost

When you mark your iPhone or iPad as lost, you remotely lock it with a passcode to keep your device and information secure. To help someone return it to you, you can display a custom message with your contact information. When you mark your device as lost, the cards and passes that you use with Apple Pay are also turned off.

- [Mark your iPhone as lost on iCloud.com/find >](#)
- [Mark your iPhone as lost in Find My >](#)

## If your iPhone or iPad is lost permanently or was stolen

- Change your Apple ID password: Sign in to [appleid.apple.com](#), then choose Sign-in and Security from the sidebar. Select Password and follow the instructions.
- Remotely erase your iPhone or iPad: If you have access to a trusted device or a family member's device, [erase your device with Find My](#). Otherwise, erase your device from [iCloud.com/find](#).
- If your iPhone is covered by AppleCare+ with Theft and Loss, [file a claim for an iPhone replacement](#). Don't remove your iPhone from Find My or your Apple ID until your claim has been fully approved.
- Report it to local law enforcement. They might request the serial number of your iPhone or iPad, which you can find even if you don't have the device. [Learn how to find the serial number of your device](#).
- Contact your wireless carrier to report your missing iPhone, ask them to disable your account, and file a claim if your iPhone is covered under your wireless carrier plan.
- Remove your iPhone or iPad from your trusted devices: Sign in to [appleid.apple.com](#), then choose Devices from the sidebar. Select your device, scroll down, and select Remove from account. If you filed an iPhone Theft and Loss claim, don't remove the iPhone from your trusted devices until your claim has been fully approved.

AppleCare+ with Theft and Loss is not available in all countries and regions.

Information about products not manufactured by Apple, or independent websites not controlled or tested by Apple, is provided without recommendation or endorsement. Apple assumes no responsibility with regard to the selection, performance, or use of third-party websites or products. Apple makes no representations regarding third-party website accuracy or reliability. [Contact the vendor](#) for additional information.

Published Date: September 21, 2023

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Helpful?

Yes

No

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## Related topics

[Check your Apple ID device list to find where you're signed in >](#)

[Find your lost Apple device or AirTag with Find My >](#)

[Activation Lock for iPhone and iPad >](#)

## Start a discussion in Apple Support Communities

Ask other users about this article

[Submit my question](#)

[See all questions on this article >](#)



## Contact Apple Support

Need more help? Save time by starting your support request online and we'll connect you to an expert.

[Get started >](#)

[Support](#)   [Find your lost iPhone or iPad with Find My](#)

Table of Contents 

## Locate a device in Find Devices on iCloud.com

You can use Find Devices on iCloud.com to find the approximate location of your iPhone, iPad, iPod touch, Mac, Apple Watch, AirPods, and Beats product if Find My is set up on the device and the device is online.

To sign in to Find Devices, go to [icloud.com/find](https://icloud.com/find).

---

### Locate your device

1. In Find Devices on iCloud.com, select the device in the All Devices list on the left.

- *If the device can be located:* It appears on the map so you can see where it is.
- *If the device can't be located:* You see Offline below the device's name. The last known location is displayed for up to 24 hours. Select "Notify me when found" to get an email when it's online again.

*Note:* If you turned on the Find My network, you can use the Find My app on any device that's signed in with the same Apple ID to see your device's location, even if it's offline. The last known location is stored for up to 7 days. See the Apple Support article [Use the Find My app to locate a missing device or item](#).

2. To locate another device, click All Devices to return to the list, then select a new device.

If you're no longer using a device, [remove it from your account](#) so it doesn't appear in Find Devices.

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### Locate a family member's or friend's device

If you're part of a Family Sharing group, you can use Find Devices on iCloud.com to help locate any family member's device. Their devices appear below yours in the All Devices list.

Each family member must set up their devices to share their locations with other family members. See the Apple Support article [Share your location with your family](#). Once they set up location sharing, you can locate their devices using the instructions above.

You can't add a friend's device to Find Devices. Friends who lose a device can go to [icloud.com/find](https://icloud.com/find) and sign in with their Apple ID.

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### Update the map

Do any of the following:

- *Move the map:* Drag it.

- *Zoom in:* Click  in the bottom-right corner, or pinch open on a trackpad.
- *Zoom out:* Click  in the bottom-right corner, or pinch closed on a trackpad.
- *Change the map view:* The button at the top right of the map indicates if the current map is a standard view , a hybrid view , or a satellite view . To choose a different map, click the button, then click the view you want.
- *See more of the map:* To compress the All Devices list, click . To open it again, click .

---

You can also use Find My on any device that's signed in with the same Apple ID. See [Use Find My to locate people, devices, and items](#).

*Note:* Maps information may depend on data and services provided by third parties, which may be subject to change and may not be available in all geographic areas. This may result in inaccurate or incomplete map information.

#### See also

[Apple Support article: Find the serial number or IMEI on your iPhone, iPad, or iPod touch](#)

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Helpful?

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[< Previous](#)  
[Sign in](#)

[Next >](#)  
[Play a sound on a device](#)

[Support](#) | [iCloud User Guide](#) | [Locate a device in Find Devices on iCloud.com](#)

# **EXHIBIT 13**

DOCUMENT PLACEHOLDER:

STAAB 000162\_CONFIDENTIAL.MP4

# **EXHIBIT 14**

SERVED ONLY: June 9, 2023 11:57 AM  
FILED ID: A1F5F15F3772E  
CASE NUMBER: 2022CV33434

**DISTRICT COURT, CITY AND COUNTY OF DENVER,  
STATE OF COLORADO**

1437 Bannock Street  
Denver, CO 80202

**PLAINTIFF: RUBY JOHNSON**

v.

**DEFENDANTS: GARY STAAB, an officer of the Denver  
Police Department, in his individual capacity**

*Attorneys for Defendant Gary Staab:*

William T. O'Connell, III, #34127

Saugat K. Thapa, #51256

WELLS, ANDERSON & RACE, LLC

1700 Broadway, Suite 900

Denver, CO 80290

Telephone: (303) 830-1212

woconnell@warllc.com; sthapa@warllc.com

▲ COURT USE ONLY ▲

Case No: 2022CV33434

Div.: 269

**DEFENDANT GARY STAAB'S RESPONSES TO PLAINTIFF RUBY JOHNSON'S  
FIRST SET OF INTERROGATORIES TO DEFENDANT GARY STAAB**

Defendant Gary Staab, by and through his counsel, William T. O'Connell, III, and Saugat K. Thapa, of Wells, Anderson & Race, LLC, hereby submits his Responses to Plaintiff's First Set of Interrogatories to Defendant Gary Staab as follows:

**INTERROGATORIES**

1. If you claim that Plaintiff, or any of her agents have made any admissions relating to the subject matter of Plaintiff's Complaint, Plaintiff's claims or Defendant's defenses or Affirmative Defenses, state: the date made; where made; the name and address of each person present at the time the admission was made; the contents of the admission; and if in writing, attach a copy.

**RESPONSE:** Objection. This interrogatory is vague and ambiguous to the extent "agents" is not defined or further described. This interrogatory is overly broad, unduly burdensome, and

disproportionate to the needs of the case to the extent it seeks identification and description of “any admissions...” made by Plaintiff or any of her undefined agents. This interrogatory calls for a legal conclusion to the extent it seeks identification of “any admissions.” This interrogatory is premature to the extent discovery is ongoing, Plaintiff has not responded to Defendant’s first set of discovery, and Plaintiff’s deposition has not been taken. Plaintiff’s written discovery responses and deposition testimony will constitute admissions.

Subject to and without waiving these objections, Staab 000070 includes references to Defendant’s conversations with Plaintiff on January 4, 2022. Plaintiff’s statements to Defendant during their conversations constitute admissions. Staab 000148, 000149, 000150, 000151, 000158 and 000162 are bodycam videos of Defendant’s conversations and other officers’ conversations with Plaintiff on January 4, 2022. Plaintiff’s statements to Defendant or any other officer during their conversations constitute admissions.

2. Identify your education history, in addition to all work history since becoming a police officer, including, but not limited to the functions and titles of each role within the DPD or other law enforcement agency, dates of promotion or demotion, and any commendations or other remarks received.

**RESPONSE:** Objection. This interrogatory is compound as it contains multiple subparts relating to “education history” and “work history” each of which constitutes a separate interrogatory.

Subject to and without waiving this objection, Defendant attended Metro State University between approximately 1993 and 1998; however, he did not receive a degree. Defendant was a Denver public safety cadet from approximately 1996 to 1998. Defendant attended the Denver Police Academy beginning on October 1, 1998 and graduated in approximately February 1999.

Defendant was assigned as a Patrol Officer in District 6 from 1999 to 2005. Defendant was assigned as a Crime Scene Detective from 2005 to 2013. As a Crime Scene Detective, Defendant's duties were the identification, documentation, collection and transportation of crime scene evidence. In or about 2013, the Crime Scene Unit was civilianized and Defendant transferred back to District 6 as a Patrol Officer until 2016. During his second stint as a District 6 Patrol Officer, Defendant filled in as needed with Investigations. In 2016, Defendant was assigned to Investigations and has been employed as an Investigative Detective since that time. As an Investigative Detective, Defendant's duties are the investigation of a range of crimes from thefts to aggravated assaults.

Defendant received a Merit award in approximately 2001 for his actions in the apprehension of property crime suspects. Defendant has also received commendations; however, he cannot recall the specific reason(s) for the commendations.

3. Identify all professional law enforcement organizations to which you currently belong or to which you have previously belonged. In your answer, state the month and year that you joined each organization.

**RESPONSE:** Police Protective Association 1998-Present; International Association for Identification (IAI) from approximately 2012 to 2017 and Rocky Mountain Division IAI from approximately 2012 to 2017.

4. State whether you teach or train other police officers and/or detectives and, if so, identify the topics on which you have taught; any supporting documentation including course materials; and the dates of trainings you have provided for the last five years.

**RESPONSE:** Defendant has no taught or trained other police officers/detectives.

5. State the number of search warrant affidavits you have prepared or participated in preparing in the last five years and describe the factual basis for each.

**RESPONSE:** Objection. This interrogatory is overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it seeks a description of the factual basis for each search warrant affidavit Defendant has prepared or participated in preparing over the last five years. This interrogatory is disproportionate to the needs of the case to the extent it seeks information irrelevant to the disputed issues in this case.

Subject to and without waiving these objections, Defendant has prepared or participated in preparing less than ten search warrant affidavits over the last five years to the best of his recollection. With the exception of the search warrant affidavit that is the basis of Plaintiff's Complaint, Defendant cannot recall the factual basis for the other search warrant affidavits.

6. State the number of search warrant applications you have prepared or participated in preparing that were revised after review by a supervisor, district attorney, or judge in the last five years, and describe the bases for any revisions.

**RESPONSE:** Objection. This interrogatory is overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it seeks a description of the basis for any revisions of search warrant applications Defendant has prepared or participated in preparing over the last five years. This interrogatory is disproportionate to the needs of the case to the extent it seeks information irrelevant to the disputed issues in this case.

Subject to and without waiving these objections, Defendant has no knowledge of any revisions made to the search warrant application in this case. Defendant is aware of revisions made

by the DA's office to other search warrant applications he prepared or participated in preparing over the last five years; however, he has no knowledge of the specific revisions made.

7. State the number of search warrant applications that you have submitted that were denied by either a supervisor, district attorney, or judge in the last five years, and state the reason(s) they were denied.

**RESPONSE:** Objection. This interrogatory is overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it seeks a description of the reason(s) any search warrant applications Defendant has submitted over the last five years were denied. This interrogatory is disproportionate to the needs of the case to the extent it seeks information irrelevant to the disputed issues in this case.

Subject to and without waiving these objections, none.

8. State the number of search warrant applications that you have prepared and submitted that resulted in a SWAT or similar tactical team being deployed to execute the warrant in the last five years, and describe the factual basis for each.

**RESPONSE:** Objection. This interrogatory is overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it seeks a description of the factual basis for each search warrant application Defendant has prepared or participated in preparing over the last five years that resulted in the deployment of SWAT or other tactical team. This interrogatory is disproportionate to the needs of the case to the extent it seeks information irrelevant to the disputed issues in this case.

Subject to and without waiving these objections, the incident that forms the basis of Plaintiff's Complaint is the only one to the best of Defendant's recollection.

9. State the number of search warrant applications that you have submitted that relied on data from Apple's FindMy Application and similar app-based cell phone tracking technologies as part of a probable cause showing, and describe the facts surrounding each application.

**RESPONSE:** Objection. This interrogatory is vague and ambiguous to the extent "similar app-based cell phone tracking technologies" is not defined or further described. This interrogatory is overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it is unlimited in time.

Subject to and without waiving these objections, none other than this case.

10. Identify all individuals who taught or were instructors at the trainings described in the RFPs, including but not limited to trainings regarding the FindMy Application and search warrants.

**RESPONSE:** Objection. This interrogatory is vague and ambiguous to the extent it references unspecified RFPs. This interrogatory is overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it is unlimited in time and purports to request the identification of all individuals who have trained Defendant over the course of his entire law enforcement career.

Subject to and without waiving these objections, Defendant cannot recall the names of the individuals who taught or were instructors at the various trainings he has attended during his career at the Denver Police Department.

11. Identify any and all supervisors who approved your search warrant affidavit for the search of Ruby Johnson's home.

**RESPONSE:** Sergeant Greg Buschy. Defendant does not know if Sergeant Buschy's supervisor(s) approved the search warrant affidavit.

12. Identify by name and badge number the DPD officer in a half-zip sweatshirt who can be seen during the search of Ruby Johnson's home Body 3 60A05927 at approximately 14:03:59.

**RESPONSE:** Defendant did not see anyone in a half-zip sweatshirt on the bodycam at the time specified in the interrogatory.

13. Identify by name and badge number the DPD officer who said "did you hear the cell phone might just be in the yard?" Body Cam 3 X6033281T at approximately 13:54:22 and also identify the officer being spoken to by name and badge number.

**RESPONSE:** Defendant does not know the officers' names or badge numbers.

14. Identify every DPD officer involved, in any way, in the search of Ruby Johnson's home. In your [sic] answer, please provide names, badge numbers, rank, and years of DPD service.

**RESPONSE:** Objection. This interrogatory is overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it seeks identification of "every officer involved, in any way, in the search of Ruby Johnson's home."

Subject to and without waiving this objection, Defendant is aware of the following officers:

Sergeant Greg Buschy - badge number 98010, 24 years of service

Sergeant Tony Foster - retired

Detective Brian Norwell - badge number 01037, 21 years of service

Detective Pat Walker - badge number 05179, 17 years of service

Detective Ralene Norris - badge number 14089, 8 years of service

Detective Rob Foster - badge number 13065, 9 years of service

Detective Michael Traudt - badge number 13073, 9 years of service

Defendant has no additional information responsive to this interrogatory.

15. State whether you have participated in an internal affairs investigation with respect to this Action. If yes, describe in detail your participation and statements or documents provided to Internal Affairs.

**RESPONSE:** This interrogatory is disproportionate to the needs of the case to the extent it seeks information irrelevant to the disputed issues in this case.

Subject to and without waiving this objection, Defendant was aware of an IA investigation but did not participate in any such investigation.

16. State the amount of time you spent preparing the affidavit for search warrant at issue in this case.

**RESPONSE:** Defendant spent approximately 2.5 hours preparing the affidavit in support of the search warrant.

Dated this 9<sup>TH</sup> day of June 2023.

**AS TO OBJECTIONS:**

WELLS, ANDERSON & RACE, LLC:

s/ William T. O'Connell, III  
William T. O'Connell, III, #34127  
Saugat K. Thapa, #51256

**ATTORNEYS FOR DEFENDANT**

*[Original Signature on File at the Office of  
Wells, Anderson & Race, LLC]*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>TH</sup> day of June, 2023, a true and correct copy of the foregoing **DEFENDANT GARY STAAB'S RESPONSES TO PLAINTIFF RUBY JOHNSON'S FIRST SET OF FIRST SET OF INTERROGATORIES TO DEFENDANT GARY STAAB** was electronically served through the E-Filing System pursuant to C.R.C.P. 121, §1-26(3), upon the following:

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s/ Barbara McCall  
Barbara McCall, Legal Assistant

*[Original Signature on File at the Office of Wells,  
Anderson & Race, LLC]*

## VERIFICATION

I have read the foregoing answers to Plaintiff's First Set of Interrogatories and state under penalty of perjury that they are true and correct to the best of my knowledge and belief.

Dated this 5<sup>th</sup> day of June, 2023.



---

Gary Staab

# **EXHIBIT 15**

<p>DISTRICT COURT, COUNTY OF DENVER, STATE OF COLORADO Denver City &amp; County Building 1437 Bannock St., Room 256 Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Plaintiff:</b> RUBY JOHNSON</p> <p>v.</p> <p><b>Defendants:</b> GARY STAAB, an officer of the Denver Police Department, in his individual capacity, and GREGORY BUSCHY, an officer of the Denver Police Department, in his individual capacity.</p>	
<p><i>Attorneys for Plaintiff:</i></p> <p>Paul G. Karlsgodt, No. 29004 Colby M. Everett, No. 56167 Michelle R. Gomez, No. 51057 Jon S. Maddalone, (<i>admitted pro hac vice</i>) BAKER &amp; HOSTETLER LLP 1801 California Street, Suite 4400 Denver, CO 80202-2662 <a href="mailto:pkarlsgodt@bakerlaw.com">pkarlsgodt@bakerlaw.com</a>   <a href="mailto:mgomez@bakerlaw.com">mgomez@bakerlaw.com</a> <a href="mailto:ceverett@bakerlaw.com">ceverett@bakerlaw.com</a>   <a href="mailto:jmaddalone@bakerlaw.com">jmaddalone@bakerlaw.com</a> P: 303.861.0600   F: 303.861.7805 <i>In cooperation with the ACLU Foundation of Colorado</i></p> <p>Ann M. Roan, No. 18963 LAW OFFICES OF ANN M. ROAN, LLC 4450 Arapahoe Avenue, Suite 100 Boulder, CO 80303 303-448-8818   <a href="mailto:ann@annroanlaw.com">ann@annroanlaw.com</a> <i>In cooperation with the ACLU Foundation of Colorado</i></p> <p>Mark Silverstein, #26979   Sara R. Neel, #36904 Timothy Macdonald, #29180   Anna I. Kurtz, #51525 Lindsey M. Floyd, #56870 American Civil Liberties Union Foundation of Colorado 303 E. 17<sup>th</sup> Ave., Suite 350 Denver, Colorado 80203 <a href="mailto:msilverstein@aclu-co.org">msilverstein@aclu-co.org</a>   <a href="mailto:akurtz@aclu-co.org">akurtz@aclu-co.org</a>   <a href="mailto:sneel@aclu-co.org">sneel@aclu-co.org</a>   <a href="mailto:tmacdonald@aclu-co.org">tmacdonald@aclu-co.org</a>   <a href="mailto:lfloyd@aclu-co.org">lfloyd@aclu-co.org</a> P: (720) 402-3114   F: (303) 777-1773</p>	<p>Case No: 2022CV33434</p> <p>Div.: 269</p>
<p><b>AFFIDAVIT OF COLBY M. EVERETT</b></p>	

1. My name is Colby M. Everett and I am above the age of eighteen (18) years old, of sound mind, and am fully competent to make this Affidavit. The matters set forth in this Affidavit are based on my personal knowledge and are true and correct.

2. The following exhibits attached to Plaintiff's Response to Defendants' Motions for Summary Judgment are true and correct copies of documents and transcripts received and/or produced during the discovery process in this case.

- Staab Deposition Transcript
- CAD 3319
- Roan Affidavit
- Beck Deposition Transcript
- Edited Affidavit in support of search warrant
- DDA Beck Emails to Victoria Sharp
- General Offense Report
- Affidavit in support of search warrant
- Buschy Deposition Transcript
- Randall Deposition Transcript
- Partial recording of Mr. McDaniel Phone Call with Defendant Staab
- Jerry Grant Declaration
- Body worn Camera Footage
- Defendant Staab Responses to First Interrogatories

3. The discovery cut-off date in this case is January 8, 2024. Plaintiff has been diligently seeking relevant discovery through deposition testimony, discovery requests, and subpoenas, some of which is currently outstanding.

4. Plaintiff anticipates that the following additional evidence will be produced and will tend to establish genuine issues of material fact in support of Plaintiff's opposition to Defendants' motions for summary judgement.

5. Plaintiff served a document Subpoena on the City of Denver on May 19, 2023. The City objected to every request and subsequently provided minimal records in response. Following a lengthy conferral process, the Court heard argument on these issues on December 4, 2023 and ordered that the City produce several categories of documents requested by Plaintiff.

Included in the ordered production are all communications among and between Denver police department employees involved in the investigation, surveillance, and the drafting and issuance of the warrant at issue in this case. Plaintiff has reason to believe that these communications will also reveal previously undisclosed communications from Mr. McDaniel, the owner of the stolen truck, and Denver police officers.

6. The City is also required to produce records of training materials to include relevant training that the Defendants participated in and any relevant training that was offered to Defendants that they did not complete. The City is also required to produce relevant portions of the Defendants' personnel files, to include training and performance materials and disciplinary actions.

7. Plaintiff has also served a 30(b)(6) deposition notice on the City with a list of topics limited to issues relevant to this case that was the subject of the discovery hearing on December 4, 2023. According to the Court's order, the parties will be working toward an agreement on those topics and plan to schedule the deposition of the City's witness(es) within the next two weeks. I anticipate that the testimony provided during that deposition will tend to establish that Defendants acted knowingly, intentionally, or with reckless disregard for the truth when they authored, approved, issued, and/or executed the search warrant, and underlying affidavit, for Plaintiff's home.

8. Additionally, the depositions of the following witnesses are scheduled to take place on December 11 and December 21:

- Denver Detective Brian Norwell – Plaintiff anticipates that Detective Norwell will testify about the discussions he had with Defendant Staab

related to Defendant Staab's concerns about the lack of facts supporting probable cause to search Ms. Johnson's home.

- Denver Police Officer Rop Monthathong – The identify of Officer Monthathong was disclosed by Defendant Buschy on November 16, 2023. It was only during Officer Chris Randall's deposition on November 21, 2023 that Plaintiff learned that it was Officer Monthathong, not Officer Randall, who spoke with Mr. McDaniel on the day that the truck was reported stolen. Prior to Officer Randall's deposition, the documents produced by Denver indicated that Officer Randall was the investigating officer. Upon learning that Officer Monthathong was actually the officer who communicated directly with Mr. McDaniel, Plaintiff promptly scheduled the deposition of Officer Monthathong.

9. Finally, responses to Plaintiff's discovery requests to Defendant Buschy are outstanding and with the exercise of reasonable diligence could not have been issued or answered any sooner than they were.

10. All of the foregoing and outstanding discovery is relevant and likely to generate even more genuine issues of material fact for trial. Specifically, I expect the outstanding discovery to demonstrate that Defendant Staab included false statement in the Affidavit for search warrant of Plaintiff's home and omitted material information from the Affidavit that would have vitiated probable cause.

