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<p>DISTRICT COURT, COUNTY OF ADAMS, COLORADO</p> <p>1100 Judicial Center Drive Brighton, CO 80601</p> <hr/> <p><b>THE PEOPLE OF THE STATE OF COLORADO</b></p> <p>Plaintiff,</p> <p><b>vs.</b></p> <p><b>NATHAN WOODYARD, DOB 07/14/1989,</b></p> <p>Defendants.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>PHILLIP J. WEISER, Attorney General Natalie Hanlon Leh, #18824* Chief Deputy Attorney General Ann M. Luvera, #51988* Assistant Attorney General Robert James Booth II, #51042* Assistant Deputy Attorney General 1300 Broadway, 9<sup>th</sup> Floor Denver, CO 80203 (720) 508-6000 * Counsel Of Record</p>	<p>Case No.: 21CR2794</p> <p>Div.: L</p>
<p><b>COLORADO STATE GRAND JURY INDICTMENT</b></p>	

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO  1437 Bannock Street Denver, CO 80202	
<b>THE PEOPLE OF THE STATE OF  COLORADO,</b>  v.  <b>RANDY ROEDEMA, 08/06/1982,  JASON ROSENBLATT, 11/05/1988,  NATHAN WOODYARD, 07/14/1989,  JEREMY COOPER, D.O.B., 11/05/1974,  PETER CICHUNIEC, D.O.B. 10/26/1972,</b>  Defendants.	
<b>^ COURT USE ONLY ^</b>	
PHILIP J. WEISER, Attorney General Natalie Hanlon Leh, #18824* Chief Deputy Attorney General Ann M. Luvera, #51988* Assistant Attorney General Robert James Booth II, #51042* Assistant Deputy Attorney General 1300 Broadway, 10 <sup>th</sup> Floor Denver, Colorado 80203 (720) 508-6000 *Counsel of Record	Case No: GJ Case No.: 20CR01  Ctrm: 259
<b>COLORADO STATE GRAND JURY INDICTMENT</b>	

Of the 2020-2021 term of the Denver District Court in the year 2021; 2020-2021 Colorado State Grand Jurors, chosen, selected, and sworn in the name of and by the authority of the People of the State of Colorado, upon their oaths, present the following:

COUNT ONE	MANSLAUGHTER, § 18-3-104(1)(a), C.R.S. (F4)
<b>Code 01031</b>	<b>DEFENDANT RANDY ROEDEMA</b>
COUNT TWO	CRIMINALLY NEGLIGENT HOMICIDE; § 18-3-105,
<b>Code 01041</b>	C.R.S. (F5)
	<b>DEFENDANT RANDY ROEDEMA</b>
COUNT THREE	ASSAULT IN THE SECOND DEGREE; § 18-3-203(1)(g),
<b>Code 02021</b>	C.R.S. (F4)
	<b>DEFENDANT RANDY ROEDEMA</b>
COUNT FOUR	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B),
<b>Code 36092</b>	C.R.S. (SE)
	<b>DEFENDANT RANDY ROEDEMA</b>
COUNT FIVE	MANSLAUGHTER; § 18-3-104(1)(a), C.R.S. (F4)
<b>Code 01031</b>	<b>DEFENDANT JASON ROSENBLATT</b>
COUNT SIX	CRIMINALLY NEGLIGENT HOMICIDE; § 18-3-105, C.R.S. (F5)
<b>Code 01041</b>	
	<b>DEFENDANT JASON ROSENBLATT</b>
COUNT SEVEN	ASSAULT IN THE SECOND DEGREE; § 18-3-203(1)(g), C.R.S. (F4)
<b>Code 02021</b>	
	<b>DEFENDANT JASON ROSENBLATT</b>

COUNT EIGHT  
**Code 36092**

CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B),  
C.R.S. (SE)

**DEFENDANT JASON ROSENBLATT**

COUNT NINE  
**Code 01031**

MANSLAUGHTER; § 18-3-104(1)(a), C.R.S. (F4)

**DEFENDANT NATHAN WOODYARD**

COUNT TEN  
**Code 01041**

CRIMINALLY NEGLIGENT HOMICIDE; § 18-3-  
105, C.R.S. (F5)

**DEFENDANT NATHAN WOODYARD**

COUNT ELEVEN  
**Code 01031**

MANSLAUGHTER; § 18-3-104(1)(a), C.R.S. (F4)

**DEFENDANT JEREMY COOPER**

COUNT TWELVE  
**Code 01041**

CRIMINALLY NEGLIGENT HOMICIDE; § 18-3-  
105, C.R.S. (F5)

**DEFENDANT JEREMY COOPER**

COUNT THIRTEEN  
**Code 02027**

ASSAULT IN THE SECOND DEGREE; § 18-3-  
203(1)(d), C.R.S. (F4)

**DEFENDANT JEREMY COOPER**

COUNT FOURTEEN Code 36092	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B), C.R.S. (SE)  DEFENDANT JEREMY COOPER
COUNT FIFTEEN Code 36091	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(A), C.R.S. (SE)  DEFENDANT JEREMY COOPER
COUNT SIXTEEN Code 02029	ASSAULT IN THE SECOND DEGREE; § 18-3- 203(1)(e), C.R.S. (F4)  DEFENDANT JEREMY COOPER
COUNT SEVENTEEN Code 36092	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B), C.R.S. (SE)  DEFENDANT JEREMY COOPER
COUNT EIGHTEEN Code 36091	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(A), C.R.S. (SE)  DEFENDANT JEREMY COOPER
COUNT NINETEEN Code 02021	ASSAULT IN THE SECOND DEGREE; § 18-3- 203(1)(g), C.R.S. (F4)  DEFENDANT JEREMY COOPER
COUNT TWENTY Code 36092	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B), C.R.S. (SE)  DEFENDANT JEREMY COOPER

COUNT TWENTY-ONE Code 36091	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(A), C.R.S. (SE)  DEFENDANT JEREMY COOPER
COUNT TWENTY-TWO Code 01031	MANSLAUGHTER; § 18-3-104(1)(a), C.R.S. (F4)  DEFENDANT PETER CICHUNIEC
COUNT TWENTY-THREE Code 01041	CRIMINALLY NEGLIGENT HOMICIDE; § 18-3- 105, C.R.S. (F5)  DEFENDANT PETER CICHUNIEC
COUNT TWENTY-FOUR Code 02027	ASSAULT IN THE SECOND DEGREE; § 18-3- 203(1)(d), C.R.S. (F4)  DEFENDANT PETER CICHUNIEC
COUNT TWENTY-FIVE Code 36092	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B), C.R.S. (SE)  DEFENDANT PETER CICHUNIEC
COUNT TWENTY-SIX Code 36091	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(A), C.R.S. (SE)  DEFENDANT PETER CICHUNIEC
COUNT TWENTY-SEVEN Code 02029	ASSAULT IN THE SECOND DEGREE; § 18-3- 203(1)(e), C.R.S. (F4)  DEFENDANT PETER CICHUNIEC

COUNT TWENTY-EIGHT Code 36092	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B), C.R.S. (SE)  DEFENDANT PETER CICHUNIEC
COUNT TWENTY-NINE Code 36091	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(A), C.R.S. (SE)  DEFENDANT PETER CICHUNIEC
COUNT THIRTY Code 02021	ASSAULT IN THE SECOND DEGREE; § 18-3- 203(1)(g), C.R.S. (F4)  DEFENDANT PETER CICHUNIEC
COUNT THIRTY-ONE Code 36092	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(B), C.R.S. (SE)  DEFENDANT PETER CICHUNIEC
COUNT THIRTY-TWO Code 36091	CRIME OF VIOLENCE; § 18-1.3-406(2)(a)(1)(A), C.R.S. (SE)  DEFENDANT PETER CICHUNIEC

### ESSENTIAL FACTS

On August 24, 2019, Elijah McClain, a 23-year-old Black man, was walking home from a convenience store. Mr. McClain was carrying a plastic grocery bag and listening to music using earbuds connected to his phone. It was a warm night, although Mr. McClain, who was frequently cold, was wearing a black mask and a jacket. An individual driving nearby called 911 to report an individual walking near East Colfax Avenue and Billings Street in Aurora, Adams County, Colorado, wearing a ski mask and jacket and acting strangely.

Aurora Police Officers RANDY ROEDEMA (08/06/1982), JASON ROSENBLATT (11/05/1988), and NATHAN WOODYARD (07/14/1989), (hereinafter ROEDEMA, ROSENBLATT, and WOODYARD) responded to a dispatch call for service to the area. ROEDEMA had been with the Aurora Police Department for five years, and previously spent six years with the Denver Sheriff's Department, and eight years of active duty service in the United States Marine Corps. WOODYARD had been with the Aurora Police Department for two years and ten months, with five years of active duty service in the Marine Corps. ROSENBLATT had been with the Aurora Police Department for two years.

WOODYARD arrived first and ordered Mr. McClain to stop. WOODYARD did not see Mr. McClain with any weapons, but he noted a grocery bag and that, in his opinion, Mr. McClain was "suspicious." Immediately after WOODYARD contacted Mr. McClain, ROSENBLATT joined WOODYARD, and the stop quickly turned physical. ROEDEMA later told investigators that in Aurora, as opposed to other police departments, they tended to "take control of an individual, whether that be, you know, a[n] escort position, a twist lock, whatever it may be, we tend to control it before it needs to be controlled." The officers grabbed Mr. McClain's arms then forcibly moved Mr. McClain over to a grassy area near where the officers first contacted Mr. McClain and pushed him up against the exterior wall of a nearby apartment building. ROEDEMA grabbed the grocery bag out of Mr. McClain's hands and threw it to the ground. He did not examine the bag's contents. The bag contained cans of iced tea. Mr. McClain was struggling as the officers attempted to restrain him. While Mr. McClain was pushed up against the wall and struggling, ROEDEMA told the other officers that Mr. McClain had reached for "your gun." Neither ROSENBLATT nor WOODYARD knew whether "your gun" meant ROSENBLATT's or WOODYARD's gun. ROEDEMA later said that Mr. McClain reached for ROSENBLATT's gun. ROSENBLATT stated that he did not feel any contact with his service weapon.

Officers are instructed that to perform a carotid control hold an officer uses his or her bicep and forearm to apply pressure to the carotid arteries on the sides of a



subject's neck, thereby cutting off blood flow to the subject's brain and causing temporary unconsciousness for the purpose of gaining compliance or control. ROSENBLATT stated that he applied an unsuccessful carotid control hold to Mr. McClain, and WOODYARD then applied a carotid control hold that resulted in Mr. McClain going unconscious and snoring. Mr. McClain suffered bodily injury. He was rendered unconscious, suffered hypoxia, and his physical and mental condition were impaired. The risk of hypoxia and cerebral hypoxia was exacerbated by applying two carotid control holds. ROEDEMA also placed Mr. McClain in a bar hammer lock. A bar hammer lock is a physical defensive tactic whereby a subject's arm is held back behind their back to gain control of the subject. ROEDEMA stated that he "cranked pretty hard" on Mr. McClain's shoulder and heard it pop three times. ROEDEMA, WOODYARD, and ROSENBLATT had all been trained that the carotid hold posed dangers and should never be administered more than once.

WOODYARD later told investigators that he was an arrest control instructor and had been serving in that role for about two months prior to the incident. ROEDEMA was also an arrest control instructor. ROSENBLATT had taken an in-service training that covered the carotid control hold on August 23, 2019, WOODYARD took the training on August 14, 2019, and ROEDEMA took the training on August 13, 2019.

Once Mr. McClain lost consciousness, WOODYARD released the carotid control hold, and ROSENBLATT radioed for Aurora Fire Rescue to respond to the scene. At the same time, Mr. McClain regained consciousness, the struggle resumed, and WOODYARD reported that Mr. McClain started to twist and pull away while on the ground. ROEDEMA, ROSENBLATT, and WOODYARD wrestled Mr. McClain to the ground. ROEDEMA tried to maintain control of Mr. McClain by putting his entire body on top of Mr. McClain in an attempt to sprawl him out. The officers reported that Mr. McClain exhibited extraordinary strength. The officers placed Mr. McClain in handcuffs, and the officers continued to restrain Mr. McClain. ROEDEMA, ROSENBLATT, and WOODYARD remained on top of him and continued to hold him on the ground despite pleas that he could not breathe.

WOODYARD rolled Mr. McClain onto his side into the "recovery position." Officers were trained that if they administered a carotid control hold they had to place the individual in the "recovery position," meaning placement on one's side rather than in the prone position. Mr. McClain vomited multiple times while being restrained. Mr. McClain vomited into his mask during the struggle, and it ultimately came off after the handcuffs were secured. There was evidence of vomit found inside the mask. Mr. McClain's handcuffs behind his back restricted his movement and prevented him from removing the mask.

Around this time, additional officers arrived on scene. ROEDEMA and ROSENBLATT continued to hold Mr. McClain on the ground, while WOODYARD walked away and was replaced by another officer. None of the officers checked Mr. McClain's pulse or monitored his airway, breathing, or circulation. ROSENBLATT straddled Mr. McClain's legs, while ROEDEMA was positioned at McClain's back; Mr. McClain's hands were handcuffed behind his back. During this time, Mr. McClain said his name, stated that he could not breathe and that what the officers were doing "really hurt," Mr. McClain reported that he did not have a gun, did not do that sort of thing, he asked for help, and asked to find his phone. ROEDEMA applied, and directed other officers who responded to apply, pain compliance techniques to the handcuffed Mr. McClain. While restraining Mr. McClain, ROEDEMA increased pressure causing Mr. McClain to cry out, "Ah, ow, okay, okay." ROEDEMA responded, "Well, chill out! You've already been told several times to stop." Mr. McClain spoke again and ROEDEMA picked up Mr. McClain's torso and forcibly pushed it to the ground, causing Mr. McClain to cry out, "Ow!"

ROEDEMA was the senior patrol officer on scene and directed other officers. Mr. McClain repeatedly stated that he could not breathe. ROEDEMA ignored Mr. McClain's repeated statements that he could not breathe. Initially during the restraint, ROEDEMA, ROSENBLATT, and WOODYARD were all on top of Mr. McClain, and they were lying on his back. Throughout the restraint, two or three officers were physically restraining Mr. McClain, with ROEDEMA on his back and controlling him there, and with ROSENBLATT on Mr. McClain's legs. Other officers on the scene told ROEDEMA to make sure Mr. McClain could breathe, and ROEDEMA dismissed those reminders, asserting that Mr. McClain could breathe.

Additionally, prior to the restraint period, Mr. McClain vomited into his mask, which he was unable to remove during the struggle and once restrained. In addition to the vomit inside Mr. McClain's mask, Mr. McClain vomited repeatedly while being restrained on his side. Gurgling sounds by Mr. McClain were audible in body-worn camera video footage. Medical evidence indicated that this was evidence of potential aspiration while he was restrained. Mr. McClain's breathing further indicated he had hypoxia<sup>1</sup> following the police restraint and use of the carotid control hold. Medical evidence also conveyed that Mr. McClain was in a hypoxemic state with decreased cerebral oxygenation. Finally, Mr. McClain suffered from metabolic acidosis from the physical struggle with police. Hypoxia, hypoxemia,<sup>2</sup> and metabolic acidosis,<sup>3</sup> all constitute serious bodily injury. Individually and collectively, they pose a substantial

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<sup>1</sup> Hypoxia is low oxygen. Cerebral hypoxia is low oxygen to the brain, and hypoxia can refer to low oxygen to the brain or to the body as a whole.

<sup>2</sup> Hypoxemia is low oxygen to the blood.

<sup>3</sup> Metabolic acidosis is too much acid in the blood.

risk of death or a substantial risk of protracted loss or impairment of the function of any part or organ of the body.

Aurora Fire Rescue Paramedics JEREMY COOPER (11/05/1974) and PETER CICHUNIEC (10/26/1972) (hereinafter COOPER and CICHUNIEC) arrived on scene after Mr. McClain was restrained and in handcuffs. COOPER was the medic in charge of the call and responsible for the medical decisions related to Mr. McClain as the patient. CICHUNIEC was in charge of the crew and was responsible for scene safety for both the patient and the emergency response personnel.

Upon their arrival at the scene, some members of the team from Aurora Fire Rescue were informed by a police sergeant that the carotid control hold had been applied to Mr. McClain, that he lost consciousness, and that he was "obviously on something." In their interviews following the incident, COOPER and CICHUNIEC denied having knowledge that the carotid control hold had been applied to Mr. McClain. Officers also reiterated their belief that Mr. McClain was "definitely on something." COOPER and CICHUNIEC stood near Mr. McClain but did not speak to him or ask him questions, though they did ascertain from officers that Mr. McClain spoke English.

COOPER and CICHUNIEC were trained as paramedics to treat patients for certain injuries and illnesses, including a condition known as "excited delirium." Both COOPER and CICHUNIEC were interviewed by investigators several weeks after the incident. CICHUNIEC told investigators that excited delirium is a medical condition in which the patient has no control over his or her body and is not in the right state of mind. CICHUNIEC described those symptoms as hyper-aggression, disorientation, tachycardia,<sup>4</sup> tachypnea,<sup>5</sup> and diaphoresis.<sup>6</sup> COOPER explained to the investigators that the symptoms of excited delirium were diaphoresis, hyper aggression, and abnormal strength.

COOPER and CICHUNIEC observed the physical restraint by police and watched ROEDEMA forcibly push Mr. McClain to the ground. Shortly after ROEDEMA forcibly pushed Mr. McClain to the ground, COOPER told police "We'll just leave him there until the ambulance gets here and we'll just put him down on the gurney."

After approximately two minutes on scene, COOPER and CICHUNIEC both concluded that Mr. McClain was suffering from excited delirium. COOPER reached

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<sup>4</sup> Tachycardia means rapid heart rate.

<sup>5</sup> Tachypnea means rapid breathing.

<sup>6</sup> Diaphoresis means profuse sweating.

his diagnosis after receiving some information from officers and observing Mr. McClain for about one minute. Neither COOPER nor CICHUNIEC ascertained Mr. McClain's vital signs, nor did either of them talk to or physically touch Mr. McClain before diagnosing him with excited delirium.

CICHUNIEC ordered Ketamine from the Falck ambulance that was on scene to assist Aurora Fire. Neither COOPER nor CICHUNIEC asked Mr. McClain whether he consented to the administration of Ketamine. Upon COOPER's statement that he would administer Ketamine, ROSENBLATT replied, "Yup, sounds good." ROEDEMA replied, "Perfect, dude, perfect." ROEDEMA then told COOPER that Mr. McClain had "incredible strength," and that Mr. McClain had earlier fought his way out of the bar hammer lock and seemed not to respond to pain.

As paramedics, COOPER and CICHUNIEC were trained in medication administration. COOPER and CICHUNIEC were also trained on the effects of Ketamine by a representative from Falck Ambulance, the ambulance company that carried the Ketamine for Aurora Fire Rescue. CICHUNIEC told investigators that the signs of a Ketamine overdose included hypersalivation, which means drooling a lot, and in rare circumstances cardiac arrest. COOPER told investigators that one of the side effects of Ketamine can be respiratory depression.

A Falck Ambulance paramedic delivered the syringe to COOPER, who verified that it contained 500 mg of Ketamine. COOPER indicated that he intended to inject ketamine into Mr. McClain's shoulder. ROEDEMA asked whether COOPER wanted to administer ketamine into Mr. McClain's buttocks. ROEDEMA and other officers restrained Mr. McClain while COOPER injected the 500 mg of Ketamine into Mr. McClain's right deltoid.

A correct dosage of Ketamine is calculated according to a patient's weight, with 5 mg of Ketamine per kilogram of patient weight. COOPER said he estimated Mr. McClain's weight to be approximately 200 pounds (90.7 kg). At that weight, in accordance with the standing order from their medical director, Mr. McClain should have been administered 453 mg of Ketamine. COOPER administered 500 mg of Ketamine. Mr. McClain actually weighed 143 pounds (65 kg) and as such his weight-based Ketamine dose should have been closer to 325 mg of Ketamine. The paramedics did not ask Mr. McClain how much he weighed and overestimated his weight by 57 pounds and administered a dosage that was appropriate for a patient who weighed 77 pounds more than Mr. McClain.

After the injection, COOPER told ROEDEMA that they would give the Ketamine a few minutes to take effect and then they would remove the handcuffs if police were "okay with it." ROEDEMA directed WOODYARD and ROSENBLATT

that once "this medicine kicks in, we're gonna uncuff him, put him on the bed, and then we're gonna restrain him, soft-point him to the bed." Soft-point referred to soft restraints that they planned to use on the gurney rather than metal handcuffs. WOODYARD indicated his readiness to assist and he put on gloves. ROSENBLATT stood by in case he was needed. WOODYARD and ROSENBLATT stood by the gurney and prepared to help.

Approximately two minutes after COOPER administered the Ketamine, police officers, including ROEDEMA, and paramedics transferred Mr. McClain to an ambulance gurney. COOPER asked if they could remove the handcuffs, and ROEDEMA instructed him to wait until he was on the gurney. While the police and paramedics fastened the soft restraints, WOODYARD took out his flashlight and shined it onto Mr. McClain in order to illuminate the work of the officers and the paramedics.

By the time he was placed on the gurney, Mr. McClain appeared unconscious, had no muscle tone, was limp, and had visible vomit coming from his nose and mouth. ROEDEMA said he heard Mr. McClain snoring, which can be a sign of a Ketamine overdose. Shortly after Mr. McClain was loaded into the ambulance, the paramedics discovered that Mr. McClain had no pulse and was not breathing. Paramedics performed CPR on scene, intubated Mr. McClain, and administered epinephrine directly into his shinbone. After a few minutes, Mr. McClain was transported to the University of Colorado Medical Center, and he eventually regained a pulse.

Mr. McClain never regained consciousness. Mr. McClain suffered a hypoxic ischemic event<sup>7</sup> and, ultimately, brain death. Mr. McClain suffered hypoxia, hypoxemia, aspiration<sup>8</sup> (to include large volume aspiration), metabolic acidosis, lacerations, abrasions, and bruising. He was declared brain dead on August 27, 2019 at University Hospital in Aurora, Adams County, Colorado. Life support was removed, and Mr. McClain became an organ donor.

After reviewing the body-worn camera footage of officers who were present during the incident, an emergency room physician with expertise in paramedic protocols concluded the excited delirium was an inaccurate diagnosis born of the paramedics' failure to adequately assess Mr. McClain's symptoms, and further concluded that Ketamine should never have been administered. In addition,

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<sup>7</sup> Hypoxic ischemic events involve decreased oxygen to the brain. Hypoxic ischemic encephalopathy is a global hypoxia, where there no longer any oxygen getting to the brain.

<sup>8</sup> Aspiration involves a volume of liquid getting into the lung where it should not be and can impede the ability to

paramedics administered 500 mg of Ketamine to a patient whose correct dosage, had the drug been warranted, would have been 325 mg.

COOPER and CICHUNIEC deviated from the standard protocols governing when to administer Ketamine such that the administration of Ketamine to Mr. McClain was unlawful. They did not perform a proper assessment of Mr. McClain, so their diagnosis of excited delirium was inaccurate. They did not obtain a reasonable estimate of Mr. McClain's bodyweight, so the dosage administered was too high. They did not properly monitor Mr. McClain during or after Ketamine was administered, so Mr. McClain suffered multiple predictable complications from the Ketamine administration. Further, paramedics did not have Mr. McClain's consent to administer Ketamine, and they made no attempt to obtain his consent.

As a dissociative anesthetic drug, Ketamine can place a patient into deep sedation. The dosage threshold for reaching such a state is referred to as an anesthetic dose. A dose below that threshold is a subanesthetic dose. Ketamine can cause increased blood pressure, an elevated pulse rate, increased salivation, as well as a risk of respiratory depression and laryngospasm. Both respiratory depression and laryngospasm can be life-threatening emergencies that run the risk of insufficient oxygen reaching the organs. If a patient who has been administered an anesthetic dose of Ketamine does not have the ability to protect his airway, additional risks can be created through the aspiration of foreign substances into the airway and lungs. Likewise, if the ketamine has caused increased salivation, there is a risk that it too can lead to an aspiration event. Just as with respiratory depression and laryngospasm, aspiration can be life threatening and poses a substantial risk of depriving the organs of oxygen.

Ketamine, a substance capable of causing death, is a deadly weapon. The risk of death from Ketamine is heightened when it is administered in excess of the recommended dose and without proper monitoring for any possible side effects.

Here, while protocols authorized only a subanesthetic dose of Ketamine, Mr. McClain received an anesthetic dose. An anesthetic dose renders someone unconscious, and is generally used in a hospital setting for procedures that requires a patient to be completely anesthetized. Administering an anesthetic dose outside of a hospital environment and without monitoring oxygen, pulse, blood pressure, and conducting capnography monitoring is very dangerous, and poses risks for hypoxia, aspiration, and potentially other complications. The training materials for Aurora Fire Rescue explained many of the associated risks of ketamine.

Following the physical restraint and pain compliance techniques employed by ROEDEMA, WOODYDARD, and ROSENBLATT, as well as the Ketamine

administered and approved by COOPER and CICHUNIEC, Mr. McClain suffered hypoxia, cerebral hypoxia, hypoxemia, metabolic acidosis, aspiration, respiratory arrest, all of which constituted serious bodily injury because it posed a substantial risk of death and a substantial risk of protracted loss or impairment of the function of any part or organ of the body.

Mr. McClain was a normal healthy 23-year-old man prior to encountering law enforcement and medical response personnel. A forensic pathologist opined that the cause of death for Mr. McClain was complications following acute Ketamine administration during violent subdual and restraint by law enforcement and emergency response personnel, and the manner of death was homicide.

**COUNT NUMBER ONE**  
**MANSLAUGHTER (F4) §18-3-104(1)(a), C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **RANDY ROEDEMA** unlawfully, feloniously, and recklessly caused the death of **Elijah McClain**; in violation of section 18-3-104(1)(a), C.R.S.

**COUNT NUMBER TWO**  
**CRIMINALLY NEGLIGENT HOMICIDE (F5) § 18-3-105, C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **RANDY ROEDEMA** unlawfully and feloniously caused the death of **Elijah McClain** by conduct amounting to criminal negligence; in violation of section 18-3-105, C.R.S.

**COUNT NUMBER THREE**  
**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(g), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **RANDY ROEDEMA**, with intent to cause bodily injury to **Elijah McClain**, unlawfully and feloniously caused serious bodily injury to **Elijah McClain**; in violation of section 18-3-203(1)(g), C.R.S.

**COUNT NUMBER FOUR**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**RANDY ROEDEMA**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count three, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER FIVE**  
**MANSLAUGHTER (F4) § 18-3-104(1)(a), C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **JASON ROSENBLATT** unlawfully, feloniously, and recklessly caused the death of **Elijah McClain**; in violation of section 18-3-104(1)(a), C.R.S.



**COUNT NUMBER SIX**

**CRIMINALLY NEGLIGENT HOMICIDE (F5) § 18-3-105, C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **JASON ROSENBLATT** unlawfully and feloniously caused the death of **Elijah McClain** by conduct amounting to criminal negligence; in violation of section 18-3-105, C.R.S.

**COUNT NUMBER SEVEN**

**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(g), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **JASON ROSENBLATT**, with intent to cause bodily injury to **Elijah McClain**, unlawfully and feloniously caused serious bodily injury to or the death of **Elijah McClain**; in violation of section 18-3-203(1)(g), C.R.S.

**COUNT NUMBER EIGHT**

**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**JASON ROSENBLATT**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count seven, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER NINE**

**MANSLAUGHTER (F4) § 18-3-104(1)(a), C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **NATHAN WOODYARD** unlawfully, feloniously, and recklessly caused the death of **Elijah McClain**; in violation of section 18-3-104(1)(a), C.R.S.

**COUNT NUMBER TEN**

**CRIMINALLY NEGLIGENT HOMICIDE (F5) § 18-3-105, C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **NATHAN WOODYARD** unlawfully and feloniously caused the death of **Elijah McClain** by conduct amounting to criminal negligence; in violation of section 18-3-105, C.R.S.

**COUNT NUMBER ELEVEN**

**MANSLAUGHTER (F4) § 18-3-104(1)(a), C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **JEREMY COOPER** unlawfully, feloniously, and recklessly caused the death of **Elijah McClain**; in violation of section 18-3-104(1)(a), C.R.S.

**COUNT NUMBER TWELVE**

**CRIMINALLY NEGLIGENT HOMICIDE (F5) § 18-3-105, C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **JEREMY COOPER** unlawfully and feloniously caused the death of **Elijah McClain** by conduct amounting to criminal negligence; in violation of section 18-3-105, C.R.S.

**COUNT NUMBER THIRTEEN**

**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(d), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **JEREMY COOPER** unlawfully, feloniously, and recklessly caused serious bodily injury to **Elijah McClain** by means of a deadly weapon (Ketamine); in violation of section 18-3-203(1)(d), C.R.S.

**COUNT NUMBER FOURTEEN**

**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**JEREMY COOPER**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count thirteen, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER FIFTEEN**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(A), C.R.S.**

**JEREMY COOPER** unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: ketamine, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of Assault in the Second Degree, as charged in count thirteen; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

**COUNT NUMBER SIXTEEN**  
**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(e), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **JEREMY COOPER**, unlawfully, feloniously, and for a purpose other than lawful medical or therapeutic treatment, intentionally caused stupor, unconsciousness, or other physical or mental impairment or injury to **Elijah McClain**, by administering a drug, substance, or preparation capable of producing the intended harm, without **Elijah McClain's** consent; in violation of section 18-3-203(1)(e), C.R.S.

**COUNT NUMBER SEVENTEEN**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**JEREMY COOPER**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count sixteen, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER EIGHTEEN**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(A), C.R.S.**

**JEREMY COOPER** unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: ketamine, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of Assault in the Second Degree, as charged in count sixteen; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

**COUNT NUMBER NINETEEN**

**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(g), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **JEREMY COOPER**, with the intent to cause bodily injury to **Elijah McClain**, unlawfully and feloniously caused serious bodily injury to **Elijah McClain**; in violation of section 18-3-203(1)(g), C.R.S.

**COUNT NUMBER TWENTY**

**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**JEREMY COOPER**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count nineteen, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER TWENTY-ONE**

**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(A), C.R.S.**

**JEREMY COOPER** unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: ketamine, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of Assault in the Second Degree, as charged in count nineteen; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

**COUNT NUMBER TWENTY-TWO**

**MANSLAUGHTER (F4) § 18-3-104(1)(a), C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **PETER CICHUNIEC** unlawfully, feloniously, and recklessly caused the death of **Elijah McClain**; in violation of section 18-3-104(1)(a), C.R.S.

**COUNT NUMBER TWENTY-THREE**

**CRIMINALLY NEGLIGENT HOMICIDE (F5) § 18-3-105, C.R.S.**

Between and including August 24, 2019, and August 27, 2019, within the State of Colorado, **PETER CICHUNIEC** unlawfully and feloniously caused the death of **Elijah McClain** by conduct amounting to criminal negligence; in violation of section 18-3-105, C.R.S.

**COUNT NUMBER TWENTY-FOUR**

**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(d), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **PETER CICHUNIEC** unlawfully, feloniously, and recklessly caused serious bodily injury to **Elijah McClain** by means of a deadly weapon (Ketamine); in violation of section 18-3-203(1)(d), C.R.S.

**COUNT NUMBER TWENTY-FIVE**

**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**PETER CICHUNIEC**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count twenty-four, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER TWENTY-SIX**

**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(A), C.R.S.**

**PETER CICHUNIEC** unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: ketamine, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of Assault in the Second Degree, as charged in count twenty-four; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

**COUNT NUMBER TWENTY-SEVEN**

**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(e), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **PETER CICHUNIEC**, unlawfully, feloniously, and for a purpose other than lawful medical or therapeutic treatment, intentionally caused stupor, unconsciousness, or other physical or mental impairment or injury to **Elijah McClain**, by administering a drug, substance, or preparation capable of producing the intended harm, without **Elijah McClain's** consent; in violation of section 18-3-203(1)(e), C.R.S.

**COUNT NUMBER TWENTY-EIGHT**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**PETER CICHUNIEC**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count twenty-seven, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER TWENTY-NINE**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(A), C.R.S.**

**PETER CICHUNIEC** unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: ketamine, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of Assault in the Second Degree, as charged in count twenty-seven; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

**COUNT NUMBER THIRTY**  
**ASSAULT IN THE SECOND DEGREE (F4) § 18-3-203(1)(g), C.R.S.**

On or about August 24, 2019, within the State of Colorado, **PETER CICHUNIEC**, with the intent to cause bodily injury to **Elijah McClain**, unlawfully and feloniously caused serious bodily injury to **Elijah McClain**; in violation of section 18-3-203(1)(g), C.R.S.

**COUNT NUMBER THIRTY-ONE**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(B), C.R.S.**

**PETER CICHUNIEC**, during the commission, attempted commission of, conspiracy to commit, or immediate flight from the crime of Assault in the Second Degree, as charged in count thirty, unlawfully caused serious bodily injury to or the death of **Elijah McClain**, a person not a participant in the crime; in violation of section 18-1.3-406(2)(a)(I)(B), C.R.S.

**COUNT NUMBER THIRTY-TWO**  
**CRIME OF VIOLENCE (SE) § 18-1.3-406(2)(a)(I)(A), C.R.S.**

**PETER CICHUNIEC** unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: ketamine, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of Assault in the Second Degree, as charged in count thirty; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

PHILIP J. WEISER  
Attorney General

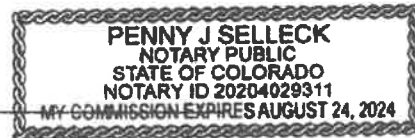
*Ann M. Luvera*

ANN M. LUVERA, #51988\*  
Assistant Attorney General  
Attorneys for the People  
\*Counsel of Record

Subscribed to before me in the City and County of Denver, State of Colorado, this  
20th day of August, 2021 by \_\_\_\_\_  
\_\_\_\_\_.

*Penny J. Selleck*  
Notary Public

My commission expires: \_\_\_\_\_

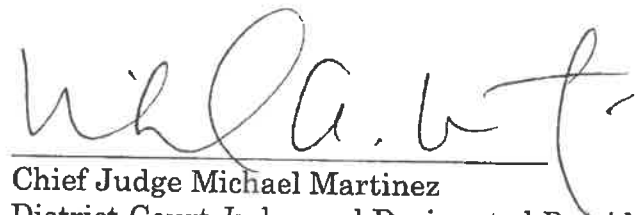




The 2020-2021 Colorado Statewide Grand Jury presents the Indictment contained within and the same is hereby ORDERED FILED this 27<sup>th</sup> day of August, 2021.

Pursuant to § 13-73-107, C.R.S., the Court designates Adams County, Colorado as the county of venue for the purposes of trial.

Dated this 27<sup>th</sup> day of August, 2021.



Chief Judge Michael Martinez  
District Court Judge and Designated Presiding Judge for the Statewide Grand Jury  
Second Judicial District,  
State of Colorado