Jefferson County Court, Jefferson County, Colorado

Affidavit in Support of Arrest Warrant

DAVID SCOTT DELANEY **DOB: 01/25/1990** **Golden Police Case #** **18-2258**
Defendant

DATE FILED: September 24, 2018

CHARGE(S): **SEXUAL EXPLOITATION OF A CHILD 18-6-403(b)(II) F4**

Your affiant, Detective Gretchen Schroeder, of the Golden Police Department, being duly sworn upon oath says that the facts stated herein are true.

Your affiant is a sworn Peace Officer for the City of Golden, which is located in the County of Jefferson, State of Colorado. Your affiant has been a sworn Peace Officer for the Golden Police Department since December 2010. Your affiant has been assigned to the Investigations Section of the Golden Police Department since October 2016. Your affiant's law enforcement experience includes training in, and investigating, crimes against persons as well as those against property.

Your affiant believes the following information to be true, based on interviews and review of the official reports and other documents.

On 7/3/2018, your affiant was assigned a child pornography case that was sent to Golden Police Investigations from Jefferson County Sheriff's Office Investigator Kevin Donahue (JCSO CR 18-15278).

On June 5, 2018, Investigator Donahue was connected to the BitTorrent network. At about 7:04 am Mountain Time (1304 hours UTC), Investigator Donahue located a device on the Internet sharing a torrent file identified by an infohash value of: Infohash is a mathematically derived value describing the contents of a torrent file. In this particular case, the torrent described thirty-four (34) files with a total byte size of 14,993,754 bytes (15 Mb). Using software that performs a single source download, Investigator Donahue was able to connect to the device and retrieve the thirty-four (34) files described by the torrent. The device making the content available was located at an Internet Protocol (IP) address of The file download terminated, at about 7:05 am, as the torrent download completed successfully.

In the download, there was one folder called: Within that folder there were thirty-four (34) files, including a "_directory", thirty-one (31) image files, a spreadsheet named ', and an image file called "Index - On August 2, 2018, Investigator Donahue submitted the thirty-two (32) hash values from the images for an initial hash value comparison to the National Center for Missing and Exploited Children (NCMEC). Thirty-one (31) exact hash values were associated with images which appear to depict at least one (1) child previously identified by law enforcement.

Your Affiant reviewed the contents of the ," folder which consisted of images of two females posing, independently and together, clothed and in various stages of undress. The following are examples of the images. Based on your affiant's review of the images, the images were intended to elicit a sexual response in the viewer and depicted the lascivious exhibition of the genitals or pubic area of the minor victim depicted:

A. This image depicts a nude prepubescent minor female with a nude post-pubescent female, sitting on the floor of a bedroom with their legs spread apart, exposing their vaginas to the camera.

B. . This image depicts a nude prepubescent minor female with a nude post pubescent female on their knees. They are bent over with their hands reaching around their bodies spreading apart their buttocks, exposing their anuses and vaginas to the camera.

C. ;: This image depicts a nude prepubescent minor female sitting on a bedroom floor with her legs spread apart while a female wearing a bra and underwear is seen lying on the floor with her face near the minor's vagina.

The thirty one image files begin with a pubescent, teenage girl fully dressed. As you progress through the images the girl's clothing is removed until she is completely naked. In the fourteenth image, a second, fully naked, prepubescent female is introduced. The remainder of the thirty one images include the two females in numerous poses to include oral sex.

The " ' image is a collage of the previous thirty one images.

The file download terminated on June 5, 2018, at about 7:05 am, as the torrent download completed successfully.

Investigator Donahue used a publicly available Internet tool, the American Registry of Internet Numbers (ARIN), to determine the IP address is part of a block of IP addresses assigned to Comcast Cable Communications, Inc.

On 6/25/2018, Comcast responded to Investigator Donahue's court order for records based on the above information. The subscriber associated with the Internet Protocol (IP) address ., port number 23554, on 6/5/2018 at 1304hrs UTC was :

Subscriber Name: David Delaney
Address: [redacted]

Phone: [redacted]
Type of Service: High Speed Internet
Account Number:
Start of Service: 3/24/2017
Account Status: Active
IP Assignment: Dynamically Assigned
Email User Ids: [redacted]

Investigator Donahue used a law enforcement database and Colorado Department of Revenue driver's license records to fully identify David Scott Delaney (DOB 1/25/90).

On July 30, 2018, Jefferson County Judge K.J. Moore issued state search warrant 18-2258 for 18218 W. 3rd Avenue, Apartment 4, Golden, Colorado 80401 to search for evidence of the commission of, contraband, the fruits of crime, or instrumentalities of violations of Colorado Revised Statute (CRS) 18-6-403, sexual exploitation of children.

On July 31, 2018, your affiant and Golden Police Detectives, executed the search warrant at 18218 W. 3rd Avenue, Apartment 4, Golden, Colorado 80401. At the time of execution, law enforcement encountered Nathan Thompson. Thompson was residing at the apartment with his roommate, David Delaney, whom Thompson advised was in the Philippines visiting his girlfriend "Eve". Thompson and Delaney each have their own separate bedrooms in the apartment. Thompson was interviewed and denied any involvement in child pornography and provided full consent to search his computer and electronics which revealed no child pornographic material.

On August 1, 2018, your affiant requested the assistance of Homeland Security Investigations (HSI) and Agent Melissa Allen was assigned the case. HSI has also been responsible for the forensic examinations of all electronic evidence seized.

After reviewing the items seized as evidence from the second search warrant, it was determined a second warrant was required to look for more evidence. On August 3, 2018, Jefferson County Judge K.J. Moore issued a second state search warrant under case 18-2258 for 18218 W. 3rd Avenue, Apartment 4, Golden, Colorado 80401. On this same date, your affiant executed the search warrant to search for evidence of the commission of, contraband, the fruits of crime, or instrumentalities of violations of Colorado Revised Statute (CRS) 18-6-403, sexual exploitation of children.

During the execution of the above-mentioned search warrants, your affiant seized various cellphones, compact discs, SD cards and other items believed to belong to David Delaney; preliminary forensic review of these devices has not revealed the presence of child pornography with the exception of the SD card described below. However, no computer or current cellphone belonging to Delaney were recovered from the residence.

On August 6, 2018, Agent Allen accepted custody of various items of evidence from Golden Police recovered from Delaney's bedroom during the execution of the two above-described search warrants. Agent Allen turned over the evidence to HSI Computer Forensics Analyst (CFA) Brian Trout who conducted a preliminary forensic examination of the items to include a blue Lexar 1GB SD card which revealed the following video in a deleted folder which has not been overwritten.

A. Dad Cums In Her Mouth and Pussy (Trade Only).mpg": This video depicts a minor female wearing a purple shirt and performing oral sex on an adult male. As the video progresses the male inserts his penis in the minor's vagina and digitally penetrates the minor's vagina with his fingers. It appears the male ejaculates on the minor's vagina. The video is approximately 10 minutes and 34 seconds in length.

On August 6, 2018, Agent Allen learned the Honorable Judge Kristen L. Mix, United States Magistrate Judge, District of Colorado, issued federal search warrant 18-sw-05753-KLM on July 26, 2018 for 18218 West 3rd Avenue, Apt 4, Golden, CO 80401. The warrant was for evidence of the commission of, contraband, the fruits of crime and instrumentalities of violations of Title 18, United States Code Sections 2252(a)(1), (2), and (4) and 2252A(a)(1), (2), (3), and (5). The affiant was Federal Bureau of Investigations (FBI) SA Tina Fourkas. On this date, Agent Allen confirmed with SA Fourkas the warrant was not, and will not, be executed after learning of your affiant's (Golden Police) investigation. The FBI investigation is described below.

FBI SA Tina Fourkas investigates criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of Title 18, United States Code, Sections 2251, 2252, and 2252A. She has received training and instruction in the field of investigation of child pornography and has had the opportunity to participate in investigations relating to the sexual exploitation of children. As part of her training and experience, she has reviewed images containing child pornography in a variety of formats (such as digital still images and video images) and media (such as digital storage devices, the Internet, and printed images).

On June 5, 2018, the FBI SA Fourkas in Denver was connected to the BitTorrent network. SA Fourkas directed the investigative focus to a device at IP address . Because this IP address was associated with a torrent which included known files of child pornography.

On June 5, 2018, between approximately 7:10am and 7:20am Mountain Time, SA Fourkas directly connected to the device at IP address and successfully completed the download of approximately 44 files the device with IP address was making available for sharing. The files consisted of a prepubescent girl posing both clothed and unclothed. The device at IP address was the sole candidate for each download, and as such, each of the files was downloaded directly from this IP address. Additional files of child pornography were downloaded on the same date from the IP address

On June 21, 2018, an Administrative Subpoena was obtained for the subscriber information for the IP address , belonging to Comcast Cable, for the date June 5, 2018.

On same date, Comcast Cable responded to the Administrative Subpoena and advised the subscriber to the IP address for the date of June 5, 2018 was David Delaney, 18218 West 3rd Avenue, Apt 4, Golden, CO 80401. Comcast records show the IP has been assigned to Delaney from December 25, 2017 through the date of the Comcast records were requested on June 21, 2018.

A check of the BitTorrent network revealed IP was also sharing known child pornography files on June 16, 2018, but no files were successfully downloaded by SA Fourkas on that day.

On June 25, 2018, SA Fourkas reviewed the images of child pornography downloaded from the IP address on June 5, 2018. SA Fourkas confirmed the images downloaded from IP address to be indicative of child pornography. Agent Allen has not reviewed these images at this time. Some examples of the images as described by SA Fourkas are as follows:

B. P6069746 – an image of a nude prepubescent girl standing on a bed in a provocative pose

C. P6069748 – an image of the same nude prepubescent girl sitting on a bed in a provocative pose

D. P6069753 – an image of the same nude prepubescent girl, now laying down on the bed, with her legs spread to expose her vagina

On August 6, 2018, Delaney entered the United States at Los Angeles International Airport (LAX) onboard flight PR112 from Manila, Philippines. At the time of entry, Delaney was found to be in possession of, and attempting to enter the United States with one Toshiba laptop computer, serial number 3G037841S, and one Samsung Galaxy Note 3 cellular phone, Model SM-N900T, serial number RV1DB295VPT. At the time of entry, Delaney declined to provide the passwords to HSI Special Agents and your affiant to access the devices, at which time HSI detained the devices to conduct a border search.

Delaney was also read his Miranda Rights by your affiant to discuss his internet activities and he wished to have a lawyer present.

On August 6, 2018, HSI Special Agent (SA) Elaine Kwong packaged the one Toshiba laptop computer, serial number 3G037841S, and one Samsung Galaxy Note 3 cellular phone, Model SM-N900T, serial number RV1DB295VPT for shipment to HSI Denver. On August 8, 2018, the Devices arrived at the HSI Denver office and were secured in the Forensics Laboratory.

On August 8, 2018, the Honorable Judge Kristen L. Mix, United States Magistrate Judge, District of Colorado, issued federal search warrant 18-sw-05871-KLM for one Toshiba laptop computer, serial number 3G037841S, and one Samsung Galaxy Note 3 cellular phone, Model SM-N900T, serial number RV1DB295VPT, for evidence of the commission of, contraband, the fruits of crime and instrumentalities of violations of Title 18, United States Code Sections 2252(a)(1), (2), and (4) and 2252A(a)(1), (2), (3), and (5).

The forensic examination of the Toshiba laptop computer, serial number 3G037841S, and Samsung Galaxy Note 3 cellular phone, Model SM-N900T, serial number RV1DB295VPT are in their preliminary stages. At this time, the government has not yet been able to gain access to the Samsung Galaxy Note 3 cellular phone. The preliminary forensic examination of the Toshiba laptop computer has revealed the presence of child pornography. Based on a visual comparison, the same three images downloaded by Investigator Donahue were revealed on the laptop in unallocated space. Unallocated space is the writable portion of the hard drive. Unallocated space can contain no data but can also contain data that once resided on allocated space but was

ed and not overwritten. Therefore, unallocated space can contain data that can be recovered. Any images ated in unallocated space on the computer at one time existed in the computer's allocated space. The amination also revealed the installation of the uTorrent network. uTorrent is a freeware client owned by BitTorrent. uTorrent is a P2P file sharing protocol used for distributing large amounts of data.

David Delaney is employed as a Police Officer at Red Rocks Community College (RRCC) located at 13300 W. 6th Avenue in Lakewood, Colorado 80228. Delaney has been in this position since on or about July 24, 2017. On or about August 6, 2018, Delaney was placed on administrative leave.

On August 6, 2018, RRCC Sergeant Anthony Schaller advised Golden Police Detective Sergeant Marcus Williams that two thumb drives were found on a desk David Delaney shared with another employee, Officer Ryan Horecny. Sergeant Schaller advised the bright green thumb drive was found on top of the shared desk on the lower of two desk shelves. The dark green thumb drive was found plugged into the Workstation computer tower at the desk. The investigation has not yet determined the source or owner of the thumb drives. At this point in the investigation, it appears that numerous individuals, both civilians and RRCC investigators, may have had access to the thumb drives prior to the recovery of the thumb drives from the shared desk area.

On August 7, 2018, Jefferson County Judge Harold Sargent issued state search warrant 18-2258 for "Two green thumb drives found on a desk shared by David Delaney and Ryan Horecny at Red Rocks Community College, Public Safety Office located at 13300 W. 6th Avenue in Lakewood, Colorado 80228" to search for evidence of the commission of, contraband, the fruits of crime, or instrumentalities of violations of Colorado Revised Statute (CRS) 18-6-403, sexual exploitation of children.

On August 9, 2018, Golden Police turned over the two green thumb drives to HSI for forensic analysis. The thumb drives are described as follows:

i. Transcend dark green, 16GB thumb drive
ii. Micro Center, bright green, USB3.0, 8GB thumb drive

CFA Trout conducted a preliminary forensic examination of the two green thumb drives. Analysis of the Micro Center, bright green, USB3.0, 8GB thumb drive revealed various images including images of child pornography in unallocated space. Some examples of the images are described below:

iii. Image described as a clothed minor female sitting on a couch holding an erect penis in her hand.
iv. Image described as a clothed male sitting on a couch with his underwear pushed to the side, exposing his penis. A clothed minor female is sitting next to the male with her hand on his penis.
v. Image described as a nude prepubescent minor female laying on the seat of a motor scooter with her feet on the handle bars, her legs are spread apart and her hand is on her vagina.

Initial forensic examination of the Transcend dark green, 16GB thumb drive revealed the thumb drive may not be functional.

On August 15, 2018, Agent Allen, CFA Trout and your affiant spoke to RRCC Officer Horecny who advised he shared a workspace, both a desk and the Workstation computer tower referenced herein, with David Delaney. Officer Horecny advised that he observed Delaney utilize their shared computer. Officer Horecny also observed Delaney with the bright green thumb drive; Delaney had utilized it in conjunction with a theft he was investigating.

On August 14, 2018, Agent Allen served a Department of Homeland Security summons on RRCC for records related to Delaney's employment. Agent Allen has not yet received all of his employment records.

n August 15, 2018, Agent Allen, CFA Trout and your affiant met with RRCC Chief of Police Sean Dugan. fter initially learning of the investigation involving Delaney, Chief Dugan secured the Workstation computer ver that was located under the shared desk of Delaney and Officer Ryan Horecny, in his office. When vestigators met with Chief Dugan on this date, the Workstation computer tower was located on a round table Chief Dugan's office.

hief Dugan provided investigators verbal consent to search the HPZ220 Workstation computer tower bearing /N 2UA3382J2D and RRCC Vice President of Administrative Services Bryan Bryant provided written consent o search the Device(s). Agent Allen took possession of the Workstation computer and transported the Device(s) o the HSI Denver Forensic Laboratory.

RRCC Human Resources (HR) Director Arnie Oudenhoven provided Agent Allen "SP 3-125c – General Computer and Information Systems Procedures", which can also be found online on the Colorado Community College System (CCCS) website. This policy was last revised on February 24, 2014 and Oudenhoven advised this policy pertained to Delaney as an employee at RRCC. Below are excerpts from the policy:

E. Anyone using a CCCS computer, application or communication system must have a unique User ID and Password. This includes user accounts for the Local Area Network, Servers, and task-specific software applications such as Banner and Desire2Learn. To maintain system security, users are not to login as another user. Generic logins will not be issued unless an application requires it with no work-around.
F. For protection of users and the confidentiality of data, users are prohibited from disclosing their passwords to others.
G. Fraudulent, harassing, embarrassing, indecent, profane, obscene, intimidating, or other unlawful material may not be sent via email, viewed and downloaded, or passed by any other form of communication, including social media, or be displayed or stored. Exceptions may be made for various instructional purposes.
H. Various procedures are in place to protect the CCCS information systems from virus/malware infection. Since removable media can introduce a variety of malicious software into the campus network, users should exercise caution in their use of these devices. Any time removable media is used to transfer files it should be scanned prior to file copy.
I. Prohibited activities on CCCS computers and telecommunications systems include but are not limited to: Sending, receiving, displaying, printing, otherwise disseminating, or storing material that is fraudulent, harassing, illegal, abusive, indecent, embarrassing, profane, sexually explicit, obscene, intimidating, or defamatory. Exceptions may be made for legitimate instructional purposes.; Accessing personal interest sites, viewing chat rooms (except chat rooms integrated within the course management system), or using recreational games for other than occasional or educational use.
J. CCCS has the right to look at any user's electronic accounts, files, or communications within the limits established by law. Employees need to understand that there is no absolute right to personal privacy when the employee is using the employer's equipment, including IT resources. CCCS does not routinely monitor the content of files or communications, but may view contents whenever it deems necessary.

Agent Allen has learned that RRCC cannot access employee computer login passwords since they are encrypted, however, RRCC does have the ability to change the password and login to the user account. It appears this change may only be effected on the physical computer.

On 9/23/18 at approximately 1455hrs, your affiant discovered from Agent Allen she had received an alert that Delaney had booked a plane ticket via EVA Air, flight number BR25, from Seattle to Taipei leaving Seattle at 0130 hours on 9/24/18. It should be noted, Taiwan does not have an extradition treaty with the United States.

Based on the facts stated above Your Affiant believes probable cause exists to support the warrantless arrest of David Scott Delaney (DOB: 1/25/90) and requests that he/she be held on the charges listed above. David Scott Delaney is described as a white male, 5'06", 125lbs with brown hair and brown eyes. He is last known to live at 18218 W 3rd Ave #4, Golden, CO 80401.

/s/ G. Schroeder
YOUR AFFIANT; Detective Gretchen Schroeder

DATED:

Subscribed and sworn to before me this 23rd day of September, 2018, at 5:05 PM.

NOTORY PUBLIC

Notary commission expires

JUDGE DIEGO G. HUNT