

DISQUALIFYING INCIDENT NOTIFICATION FORM

January 6, 2020

Colorado Department of Law
Criminal Justice Section, POST Board
1300 Broadway 9th Floor
Denver, CO 80203
post@coag.gov
720-508-6721 FAX 866-858-7486

Please complete the following information for ANY peace officer with a disqualifying incident, as referenced in § 24-31-305 (1.5), C.R.S. Contact POST directly regarding questions about what constitutes a "disqualifying incident".

Peace Officer Name:

Brown

Donnie

Mack

Last

First

Middle

138052

[REDACTED]

PID # (000000 or 0000-0000)

Peace Officer Contact Information

Complete information below for COLORADO offense(s), as applicable:

10-12-2020

Harassment/Domestic Violence

20M358

22nd

Sentencing Date

Offense/Conviction

Case #

Jurisdiction

If known, please briefly describe the circumstances concerning the COLORADO criminal case(s).

On 07-26-20, Donnie Brown was arrested and charged with the crimes (CRS 18-9-111 and 18-6-801)

An Internal Affairs Investigation was conducted and completed on 10-29-20 after court disposition.

On 10-12-20 Donnie Brown entered a Diversion Agreement in Montezuma County Court case 20M358 admitting to violation of CRS 18-9-111(1)(a) Harassment and CRS 18-6-801 Domestic Violence.

Steven D. Nowlin Sheriff

Date: 12-10-20

Name and Title

Montezuma County Sheriff's Office

Agency

DONNIE BROWN

[REDACTED]
CORTEZ, COLORADO 81321
[REDACTED]

NOVEMBER 2, 2020

MONTEZUMA COUNTY SHERIFF'S OFFICE
PATROL DIVISION
730 DRISCOLL STREET
CORTEZ, CO 81321

Dear Sheriff Steve Nowlin,

After 13 years of service, I would like to inform you that I am retiring from my position as Patrol Deputy with the Montezuma County Sherriff's Office, effective November 2, 2020.

I want to personally thank you for the opportunities you have provided me over the years. It has been an honor and a pleasure to work for the agency and I appreciate the support provided me throughout the years. I will miss being a part of MCSO Family.

If I can be of any assistance during the transition, please let me know.

Sincerely,



Donnie M Brown

Approved
11/2/20

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

730 East Driscoll
Cortez, Colorado 81321

Telephone 970-565-8452
FAX 970-565-3731
www.montezumasheriff.org


November 2, 2020

To: Deputy Donnie Brown

Subject: Resignation allowed

During the disciplinary hearing held at the Montezuma County Sheriff's Office on November 2, 2020, Deputy Donnie Brown requested to resign after nearly 15 years with the agency, and his resignation was accepted.

As of this date, his employment and appointment as Deputy Sheriff for the Montezuma County Sheriff's Office has been terminated through resignation. The final disciplinary action will stand and he will not be re-hired as a certified peace officer as per Colorado State Statutes and Colorado Peace Officer Standards and Training under POST Rule 18.



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

cc: Personnel File

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

730 East Driscoll
Cortez, Colorado 81321

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November 2, 2020

To: Deputy Donnie Brown

Subject: Results of Disciplinary Action Hearing per MCSO Policy 1030.10

Deputy Donnie Brown,

On October 29, 2020, I received the findings of your Disciplinary Hearing held on October 28, 2020 conducted by Patrol Division Supervisor, Lieutenant Jeff Copeland, who was assigned to conduct both the Pre-Disciplinary Hearing and the Disciplinary Hearing following the completion of the Internal Affairs Investigation No. 2020-01, provided under Montezuma County Sheriff's Office Policy 209 and Policy 1030 for multiple policy violations.

On October 29, 2020, I received and reviewed the findings and recommendations of the Internal Affairs Investigation No. 2020-01 conducted by Lieutenant Tyson Cox, and the Pre-Disciplinary Hearing and the Disciplinary Hearing conducted by Patrol Division Supervisor, Lieutenant Jeff Copeland, for the following policy violations:

- 1) Standards of Conduct, Policy 320.7.1(c) Violation of federal, state, local, or administrative laws, rules, regulations, or court orders. Colorado Revised Statutes 18-9-111 (1) (a) and 18-6-801.
- 2) Standards of Conduct, Policy 320.2 A members off-duty conduct that brings discredit or harm to the professional image or reputation of the Sheriff's Office, its members, the County, or the law enforcement profession.
- 3) Criminal Convictions, Policy 1005.3. Colorado Revised Statutes 18-9-111 (1) (a) and 18-6-801.
- 4) Intoxicants, Policy 320.10 Use of Alcohol Off Duty

As a member of this agency, you received, reviewed, and acknowledged the Montezuma County Sheriff's Office Policies, which were revised and made effective January 29, 2020 with policy updates issued.

As provided in Montezuma County Sheriff Office Policy 1030.10, you are receiving written notice of your required disciplinary hearing scheduled for Monday, November 2, 2020 at 1000 hours in the Sheriff's Conference Room. Because of the recommended disciplinary action, Termination or Demotion is only imposed by the Sheriff.

During the Disciplinary Hearing you were given the opportunity to review all documentation submitted to me from the Internal Affairs Investigation No. 2020-01, the findings of your Disciplinary Hearing held on October 28, 2020 conducted by Patrol Division Supervisor, Lieutenant Jeff Copeland, and the opportunity to reply to the policy violation charges.

As for identified criminal convictions in number three above, violation of Policy 1005.3, you entered into a pre-trial diversion agreement in Montezuma County Court criminal case 20M358 that was the result of violations of Colorado Revised Statutes 18-9-111 and 18-6-801 which occurred on July 26, 2020 at your residence located at 730 Cherry Street in Cortez, Colorado. The pre-trial diversion agreement in Montezuma County Court criminal case 20M358, your written and signed statement of offense pursuant to Colorado Revised Statute 18-1.3-101(9)(d) states that "On the above date, and within Montezuma County, I shoved my wife as an act of domestic violence in violation of C.R.S. 18-9-111(1)(a), and C.R.S. 18-6-801".

Colorado Revised Statute 24-31-305(1.5)(b)(III) states that the POST Board must deny peace officer certification to any person who entered into one of the following for a crime listed in paragraph (a) of this subsection(1.5) if the POST Board determines that certification is not in the public interest: A pre-trial diversion agreement, whether pending or successfully completed. You must contact Colorado POST as your Colorado Peace Officer Certification may be revoked as required in POST Rule No. 18. A photocopy of C.R.S. 24-31-305 through C.R.S. 24-31-307 has been provided to you at the Disciplinary Hearing on this date.

Upon the conclusion of this hearing and review of all relative circumstances including your admission to the violations, I find that you were in violation of the above listed policy violations and violations of Colorado Revised Statutes as listed above, and taking into consideration of all the relative facts and my observations, your employment with the Montezuma County Sheriff's Office is terminated effective November 2, 2020.

As of this date, your employment and appointment as Deputy Sheriff for the Montezuma County Sheriff's Office has been terminated. You are required to make necessary arrangements with Patrol Division Supervisor, Lieutenant Jeff Copeland, for the return of all issued Montezuma County Sheriff's Office property and/or equipment that may still be in your possession, no later than 1700 hours on November 3, 2020.

This written notice is provided as required by Montezuma County Sheriff's Office Policy 1030.10. Appeal of this disciplinary action imposed as provided in Policy 1030.11, must be in writing to the Sheriff within seven days.



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

cc: Deputy Donnie Brown
Personnel File ←

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

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Cortez, Colorado 81321

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July 27, 2020

To: Deputy Donnie Brown, #1545

Re: Suspension during IA Investigation

Deputy Brown,

On July 26, 2020, you were arrested in Cortez, Colorado by the Cortez Police Department for a complaint of Harassment/Domestic Violence, in direct violation of Montezuma County Sheriff's Office Standards of Conduct, Policy 320.3. Upon my notification, you have been suspended from duty as a Certified Deputy Sheriff for the Montezuma County Sheriff's Office, and are immediately placed on unpaid Administrative Leave pending the outcome of an Internal Affairs Investigation regarding the incident, as provided in Montezuma County Sheriff's Office Policy 209.6(c) and 1030.6.

All issued firearms, ammunition, MCSO Badges, identification cards and vehicle must be returned to the Sheriff. Your access to the Montezuma County Sheriff's Office, Dolores Sub-Station, and Combined Court secured areas, and all other secured areas within County Facilities have been suspended.



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

Cc: Deputy Donnie Brown
Personnel File
Patrol Division Supervisor

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

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TO: Steven D. Nowlin, Sheriff

From: Vernon Knuckles, Undersheriff

Date: July 24, 2018

Subject: Internal Investigation 18-01

Sheriff Nowlin,

On July 24, 2018, I received Lieutenant Bryce Queen's written recommendation regarding Sergeant Edward Oxley's use of force incident on February 15, 2018.

On July 25, 2018, I received a verbal and written summary of the Use of Force Boards findings after they reviewed Internal Investigation 18-01.

I have reviewed and am familiar with the findings of Internal Investigation 18-01 conducted by Patrol Administrative Sergeant Jeff Copeland, a complete and thorough investigation of the incident. I have read Lt. Queen's summary of the internal investigation as well as the Use of Force Review Board's summary and give my recommendations below.

Throughout the use of force incident involving Sgt. Edward Oxley which culminated in the death of a Fordell Hill, there have been questions regarding Sgt. Oxley's actions as well as his adherence to the Montezuma County Sheriff's Office (M.C.S.O.) Policies and Procedures. When looking at the totality of the circumstances surrounding Sgt. Oxley's choice of action on February 15, 2018, one must take care to judge those acts from the perspective of a reasonable officer on the scene, rather than with the clarity of hindsight. Personal opinion of the reviewer must not play a role in determining whether or not M.C.S.O. Policies and Procedures have been violated. Do I believe the course of action Sgt. Oxley took on February 15, 2018, was the best course of action available to him at the time, "no?" Does that belief influence my decision and my recommendations on the possible M.C.S.O. Policy violations, "no?"

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The M.C.S.O. Policies in question and revilement to Sgt. Oxley's use of force on February 15, 2018, are 300.3, 300.4, 300.4.1, 306.4.7, 307.2, and 307.3.1. I will discuss each policy in order of occurrence as best as applicable.

M.C.S.O. Policy 307.2 Definitions (Vehicle Pursuit)

Sgt. Oxley conducted a traffic stop on a motor vehicle for a minor traffic violation. During the vehicle stop Sgt. Oxley received a state-issued identification card from the driver matching the driver as well as verbal names from the front and rear passengers. Sgt. Oxley also made observations of and received statements from the other two passengers of the vehicle that gave Sgt. Oxley reasonable suspicion to believe the occupants were lying about their identities and were possibly engaged in other criminal activity outside the initial traffic stop. Sgt. Oxley retained the driver's ID and informed the occupants of his belief they were untruthful with him. Sgt. Oxley advised the occupants he was going to determine their identities before they would be released.

Sgt. Oxley returned to his patrol vehicle to check the occupants for driver's status and warrants. Before Sgt. Oxley could communicate with dispatch the vehicle made a U-turn and left the traffic stop without being released in a manner contrary to M.C.S.O. 307.2 Definition of a vehicle pursuit. Sgt. Oxley pulled out to follow the vehicle, indicating over the radio to dispatch he was following the vehicle not pursuing. Sgt. Oxley caught up to the vehicle and followed for approximately 1.3 miles before remembering to turn off his emergency lights.

Sgt. Oxley initiated a lawful traffic stop. Sgt. Oxley made observations from the occupants that raised suspicion of the possibility other criminal activity may be occurring. Because of his heightened reasonable suspicion of the possibility of other criminal activity other than the initial traffic stop Sgt. Oxley was justified in following the vehicle fleeing the scene. The fact that Sgt. Oxley failed to turn off his emergency lights immediately does not indicate a pursuit.

M.C.S.O. Policy 307.3.1 When to Initiate a Pursuit

While Sgt. Oxley was following the vehicle, he began to receive gunfire in his direction as well as sustaining bullet strikes to his vehicle from the vehicle he was following. Sgt. Oxley activated his emergency lights and siren initiating a vehicle pursuit in accordance with M.C.S.O. Policy 307.3.1 and radioed dispatch to inform them he was being shot at.

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M.C.S.O. Policy 300.4.1 Shooting at or From Moving Vehicles

After receiving gunfire, Sgt. Oxley returned fire at the fleeing vehicle while he pursued. Sgt. Oxley fired his department-issued sidearm weak hand out of his driver's door window and through the front windshield of his patrol vehicle. Sgt. Oxley transitioned to his department-issued .223 cal, AR-15 and continued to fire through the front windshield.

M.C.S.O. Policy 300.4.1 states that "*shots fired at or from a moving vehicle are rarely effective*" but does not say you cannot shoot from a moving vehicle. Moreover, Sgt. Oxley did not indicate he was trying to disable the fleeing vehicle which the policy does address. Sgt. Oxley did not violate M.C.S.O. Policy 300.4.1

M.C.S.O. Policy 300.4 Deadly Force Applications

Sgt. Oxley indicated the front passenger was leaning out the passenger's side window and he saw shell casings coming from that area of the vehicle confirming he was being shot by the front passenger. Sgt. Oxley stated the backseat passenger was raising and lowering his head in the backseat leading Sgt. Oxley to assume the backseat passenger was also firing at him. (Note: Sgt. Oxley radioed that an object had been thrown from the vehicle during the pursuit and exchange of gunfire. It is unknown whether that object was another firearm because the object could not be located.) The driver of the fleeing vehicle was facilitating the violent felony perpetrated on Sgt. Oxley by fleeing in an attempt to escape.

Sgt. Oxley was justified in using deadly force upon all occupants of the fleeing vehicle.

M.C.S.O. Policy 306.4.7 Ammunition

During the pursuit and gunfire Sgt. Oxley had to stop and exchange the magazine in his department-issued .223 cal. AR-15. During the magazine exchange, Sgt. Oxley retrieved a magazine loaded with non-departmental ammunition which was ultimately fired at the fleeing suspects.

Sgt. Oxley did violate M.C.S.O. Policy 306.4.7 by having non-department issued ammunition in his patrol vehicle. Firing the non-department issued ammunition bears no meaning to the use of deadly force because M.C.S.O. Policy 300.3 allows deputies to improvise weapons or methods.

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M.C.S.O. Policy 300.4 (cont.)

The pursuit ended when the driver of the fleeing vehicle got out of the vehicle, laid face down in the road indicating he gave up and the vehicle rolled to a stop in the ditch. The front passenger exited the passenger's side and began shooting at Sgt. Oxley, described by him as accurate gunfire. Sgt. Oxley returned fire and exchanged gunfire with the suspect until the suspect went down. Sgt. Oxley then directed his focused on the driver who was prone on the road and the rear passenger who had exited the vehicle and laid on the road as well surrendering. Sgt. Oxley stated the front passenger was getting up on all fours in a manner the lead Sgt. Oxley to believe he was searching for something. Sgt. Oxley also stated, "I had to assume he still had the weapon because I had not seen him drop it." Sgt. Oxley ordered the front passenger to stay down, but he continued to attempt to get up. Sgt. Oxley continued to give commands which the front passenger refused to obey and told Sgt. Oxley "fuck you just kill me." Sgt. Fired two more times. The front passenger attempted to get up a couple more times and stopped moving. The driver and rear passenger complied with Sgt. Oxley until backup units arrived and placed them in custody.

Conclusion

Deputies employed by the Montezuma County Sheriff's Office are held to the highest standards of conduct as outlined in M.C.S.O. Policy 320. Sgt. Oxley's actions as a result of the events on February 15, 2018, in my opinion, have only violated one M.C.S.O. Policy and Procedure, M.C.S.O. Policy 320 Standards of Conduct M.C.S.O. and 306.4.7 Ammunition. Sgt. Oxley's decision to close the gap between his patrol vehicle and the fleeing vehicle upon receiving gunfire does not display a level of judgment I would expect from a Patrol Sergeant with over 25 years of experience. Law Enforcement is an inherently dangerous profession, however, by reducing the distance between Sgt. Oxley and the vehicle shooting at him increased the likely hood of serious injury. Sgt. Oxley was by himself in an area of the county known to have poor radio reception and chose to close the gap while being fired upon. County Road G, in McElmo Canyon, is populated with private residences and utilized by many motorists. Although policy does not specifically state that firing from a moving vehicle is prohibited, it does state it is rarely effective as evidenced by the distances traveled during the exchange of gunfire and its ineffectiveness to stop the pursuit. A sergeant with the Montezuma County Sheriff's Office should recognize this fact and reframe from indiscriminately firing without the ability to acquire a proper sight picture on the intended target accurately. Sgt. Oxley's stated he would fire any time he could make a ting. Sgt. Oxley also said, "I wasn't conserving ammo." A "ting" is not an adequate target and has no relevant factor in stopping the threat against Sgt. Oxley which was the individual shooting at him. Sgt. Oxley's statement, "I wasn't conserving ammo" is an indication Sgt. Oxley was firing his department-issued firearms indiscriminately throughout the event. As a law enforcement officer, Sgt. Oxley is responsible for every bullet fired and where that bullet

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goes. Sgt. Oxley's indiscriminate firing at the fleeing vehicle placed the residence and motorists in McElmo Canyon at grave danger.

Utilization or possessing non-authorized ammunition while on duty is a violation of Montezuma County Sheriff's Office Policy 306.4.7. As a Sheriff's Office supervisor you are responsible for supporting and ensuring that all policies of this agency are followed.

Recommendation

Based on my review of Internal Investigation 18-01, Lt. Queen's review and recommendations, and the Use of Force Review Board's findings it is my recommendation Sgt. Edward Oxley is demoted from the rank of Sergeant to a position of Patrol Deputy along with a reduction in pay appropriate to that of a Patrol Deputy.



Vernon Knuckles, Undersheriff

Cc Edward Oxley, Patrol Sergeant
Personnel file

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

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July 24, 2018

Sergeant Edward Oxley

Re: Suspension from Deputy Sheriff Appointment

Sergeant Oxley,

Since February 15, 2018, you were placed on paid Administrative Leave pending the outcome of a FBI criminal investigation and determination from the U.S. Attorney in the District of Utah, because of your involvement in an on duty use of deadly force. You were placed on light duty approximately four weeks later after recommendations from a psychotherapist resulting from a required post shooting stress review. The four hours per day work week continued for approximately 3-4 weeks, and because you reported that you were fine mentally, at which time you were to work a full 40 hours a week at assigned administrative duties until completion of the Internal Affairs Investigation as required by Montezuma County Sheriff Office Policy 209 and Policy 305. You were allowed to continue with care, maintenance and work with the Mounted Patrol as part of the administrative duty assignments.

Because of the lack of a timely criminal investigation on the part of the FBI and review with determination by the U.S. Attorney Office, the decision was made to proceed with the Internal Affairs Investigation on June 26, 2018 as authorized in Montezuma County Sheriff Office Policy 209 and Policy 305. On July 17, 2018 the Internal Affairs Investigation was completed and a Use of Force Review Board, as authorized by Policy 301, was scheduled to be convened on July 24, 2018.

On Tuesday July, 17, 2018, you entered my office and told me that you were too stressed out and needed to take a week or two off away from the work, and attend a doctor's appointment on July 24, 2018, because the federal criminal investigation process has taken way too long. I agreed and explained that the Internal Affairs Investigation will continue to completion even without the criminal investigation reports and determination review from the U.S. Attorney Office as this is causing more stress on you and members at this agency, and that the criminal investigation is out of our control. You became upset when I advised that you were still on paid administrative leave working light duty, and prohibited from any enforcement action or work, and would have to take vacation leave and sick leave for the doctor's appointment. Your behavior was deemed out of line by me as this visit by you was completely unforeseen as myself and others had observed you to be what appeared to be non-stressed in your work around the Sheriff's Office. Afterwards, I observed that it appeared that you had removed all personal items from your office.

On July 17, 2018 at 1037 hours, I received a text from you that stated "The key (to the patrol vehicle) is on my desk. I hope you respect my privacy in reference to my appointment. Thanks for your help". I replied "Thank you and please take care of yourself". On July 21, 2018 at 1033 hours, you sent a text to me that stated "Sheriff, are you interested in meeting me outside of work. I feel like we need to air some stuff out. I'm not comfortable with how things are going".

On Sunday, July 22, 2018 at 1831 hours, upon my viewing this latest text message, I replied "Ed, I do not believe that it would be appropriate at this time as the IA is completed and the Use of Force Review Board will begin this week. After I have reviewed everything we will meet. I also received a call from the USA on Wednesday and things are moving forward. Just take care of yourself and your family". You replied "Thanks".


On July 23, 2018, I learned that you met Detective McClellan at the Mounted Patrol Stables and took the horses on a ride somewhere. Patrol Lieutenant Bryce Queen or I did not receive notification from you or the other deputy about this activity and location, which has been a requested standard procedure for safety reasons since April 2017. I also found this action by you to be unauthorized because of your statements by you to me on July 17, 2018 about being unable to work around the office as you were too stressed out over the lack of speed from the USA and agency investigative process.

On July 23, 2018 at 2124 hours, after deep consideration in regards to your behavior and demeanor, I sent you a text message stating "Sgt. Oxley, I understand that you took Charley and went on a ride with Detective McClellan on Sunday. This is after you stated on Tuesday that you were to stressed out and needed to take a week or two off away from the building. You and Detective McClellan also did not notify myself or Lt. Queen when and where you were going to ride. Effective today you are temporarily restricted from the Sheriff's Office to include the horses and Mounted Patrol stables until you are notified by me upon completion of the IA and Use of Force Review. A psychological evaluation with a fitness for duty report will be required before being reinstated back to full duty status. A letter repeating the contents of this message will be sent to your home address. I anticipate contacting you next week as to the investigation and review findings".

You replied "Thanks for your support Sheriff. I attempted to speak to that day in the office but you decided to go off on me for no reason. You also told me on multiple occasions that spending time with Charley was something you wanted me to do. Thanks for taking that away from me too. You must be very proud of yourself".

Shortly after I received this last text message from you, I observed a passenger car traveling northbound on County Road 31 approaching County Road V.6, traveling at a high rate of speed and in a reckless manner. I observed this vehicle make a fast turn onto County Road V.6 and stop suddenly at my home driveway gate. I approached and observed it was you and immediately told you that the speed limit on that road was forty miles per hour, not sixty or seventy, and asked for an explanation. You stated because you were mad. You began arguing with me about the shooting investigation and required process as well as contradicting your statements made to me about you needed to take a week or two off because you were too stressed out, changing your statement to me of only needing to take two or three days. This discussion with you at my residence that upset my wife and grandson is not acceptable and inexcusable. After this twenty minute argument/discussion in regards to my authorized and appropriate action to your restriction, you drove away in the same manner as you arrived.

I find your actions, behavior and demeanor to be insubordinate, and in violation of your off-duty conduct as set forth in Montezuma County Sheriff Office, Standards of Conduct Policy 320. Specifically, Sections 320.2, 320.3(a)(b)(c)(k), 320.6, 320.7 and 320.7.1. As provided in Montezuma County Sheriff Office Policy 1031, your appointment as a Deputy Sheriff with the Montezuma County Sheriff Office is hereby suspended effective this date and you will be notified of a scheduled disciplinary hearing. You are hereby ordered to make arrangements with Patrol Lieutenant Bryce Queen to surrender you badge, all identification cards and firearm.


Steven D. Nowlin, Sheriff
Montezuma County, Colorado

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

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July 27, 2018

To: Edward Oxley, Sergeant
From: Vernon Knuckles, Undersheriff
Re: Pre-Disciplinary Hearing

Sergeant Oxley,

This letter is to advise you of a pre-disciplinary hearing scheduled for August 1, 2018, at 9:00 am in accordance with M.C.S.O. Policy 1031.8 Pre-disciplinary Hearing to discuss the results of Internal Investigation 18-01 initiated as a result of your use of force incident on February 15, 2018.

On July 24, 2018, I received Lieutenant Bryce Queen's written recommendation regarding Sergeant Edward Oxley's use of force incident on February 15, 2018.

On July 25, 2018, I received a verbal and written summary of the Use of Force Boards findings after they reviewed Internal Investigation 18-01.

I have reviewed and am familiar with the findings of Internal Investigation 18-01 conducted by Patrol Administrative Sergeant Jeff Copeland, a complete and thorough investigation of the incident. I have read Lt. Queen's summary of the internal investigation and his recommendations, as well as the Use of Force Review Board's summary, and give my recommendations below.

Deputies employed by the Montezuma County Sheriff's Office are held to the highest standards of conduct as outlined in M.C.S.O. Policy 320. Your actions as a result of the events on February 15, 2018, in my review, have violated M.C.S.O. Policy and Procedure, M.C.S.O. Policy 320 Standards of Conduct and 306.4.7 Ammunition. Your decision to close the gap between your patrol vehicle and the fleeing vehicle upon receiving gunfire does not display a level of judgment I would expect from a Patrol Sergeant with the Montezuma County Sheriff's Office, having years of law enforcement experience. Law enforcement is an inherently dangerous profession, however, by reducing the distance between yourself and the vehicle shooting at you increased the likely hood of serious injury to yourself. You were by yourself in an area of the county

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known to have poor radio reception and chose to close the gap and pursue upon being fired upon. County Road G in McElmo Canyon, is populated with private residences, agricultural production and utilized by many motorists. Although policy does not specifically state that firing from a moving vehicle is prohibited, it does state it is rarely effective as evidenced by the distances traveled during the exchange of gunfire and its ineffectiveness to stop the pursuit.

A patrol supervisor with the Montezuma County Sheriff's Office should recognize this fact and reframe from indiscriminately firing without the ability to acquire a proper sight picture on the intended target accurately. You stated you would fire any time you could make a "ting." You also stated, "I wasn't conserving ammo." A "ting" is not an adequate target and has no relevant factor in stopping the threat against you which was the individual shooting at you. "I wasn't conserving ammo" is an indication you were firing your department-issued firearms indiscriminately throughout the event. As a law enforcement officer, you are responsible for every bullet fired and where that bullet goes. Your indiscriminate firing at the fleeing vehicle placed the residence and motorists in McElmo Canyon in grave danger.

Utilization or possessing non-authorized ammunition while on duty is a violation of Montezuma County Sheriff's Office Policy 306.4.7. As a Sheriff's Office supervisor you are responsible for supporting and ensuring that all policies of this agency are followed.

These actions and statements indicate a willful disregard toward the established values, mission and policies, which reflect negatively upon the Montezuma County Sheriff's Office.

Based on my review of Internal Investigation 18-01, Patrol Lt. Queen's review and recommendations, and the Use of Force Review Board's findings, it is my recommendation you be demoted from the rank of Sergeant to a position of Patrol Deputy along with a reduction in pay appropriate to that of a Patrol Deputy, and removed from all other assigned duties.



Vernon Knuckles, Undersheriff

Cc Edward Oxley, Sergeant
Steven D. Nowlin, Sheriff
Personnel File

Montezuma County Sheriff's Office

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August 1, 2018

To: Steven D. Nowlin, Sheriff
From: Vernon Knuckles, Undersheriff
Re: Pre-Discipline Hearing Findings

Sergeant Oxley,

On August 1, 2018, at 0900 hrs. I conducted a pre-disciplinary hearing with Sgt. Oxley to discuss policy violations I believed he committed on February 15, 2018.

Sgt. Oxley addressed my statement that he closed the gap between his patrol vehicle and the suspect vehicle while they were firing at him. Sgt. Oxley adamantly denied closing the gap after the front passenger started firing. Sgt. Oxley's reason was based on the maximum effective range of the suspect's weapon, a handgun being 30 yards compared to the maximum effective range of his AR-15, a rifle being 300 yards. Sgt. Oxley stated that because of the range differences he would not need to close the gap, and he didn't. Sgt. Oxley also refuted my statement that making a ting was not consistent with acquiring a proper sight picture when firing at the suspect. Sgt. Oxley's reasoning was that every time one hits the vehicle you were effectively keeping the suspect(s) head(s) down preventing them from firing back. I explained to Sgt. Oxley the threat needing to be eliminated was the front passenger who was shooting at him, not the vehicle. Sgt. Oxley re-stated that by hitting the car, you were keeping their heads down as well as causing a physiological impact on the suspects. Sgt. Oxley gave reasoning for having non-department issued ammunition in his patrol vehicle and took responsibility for that violation.

Sgt. Oxley presented mitigating information to the allegations outlined in the notice of pre-disciplinary hearing. Because the FBI investigation has not been completed, I have no evidence to disprove Sgt. Oxley's statements. However, I believe that Sgt. Oxley firing his handgun weak handed out the driver's door window while driving to be reckless. Based on the mitigating information Sgt. Oxley provided I am changing my discipline recommendations. I am recommending Sgt. Oxley removed from all other non-patrol assigned duties and attend a remedial 40-hour Use of Force Firearms Training.




Vernon Knuckles, Undersheriff

Cc Edward Oxley, Sergeant
Personnel File

MEMORANDUM

TO: Sheriff Steve Nowlin

FROM: Sergeant Edward F. Oxley 

DATE: August 01, 2018

SUBJECT: Appealing disciplinary action dated July 27, 2018

In reference to your "close the gap" violation. At no time during the pursuit did I "close the gap". Your reference to this is absurd. I kept my vehicle a safe distance from the fleeing vehicle at all times. This is evident by the suspects inability to fire effectively into my vehicle. At no time during either interview did I ever indicate that I intentionally positioned my vehicle close to the suspects. If you inferred this through something I said, it surely it is a misunderstanding.

As far as your allegation that I put myself in unnecessary danger, I also find this to be absurd. Being in an area with poor radio coverage, alone and being fired upon, is, as you said, an inherently dangerous part of our job. A part of our job that I accepted many years ago. In our policy manual, the law Enforcement Code of Ethics, States "I will enforce the law courteously and appropriately without fear....." Our Mission Statement goes on to say "Only those with the most impeccable character are chosen to bear the responsibility of protecting the democracy. GUARDIAN HEART - WARRIOR SPIRIT.

I don't remember anything in any of my Law Enforcement training that allows someone who is trying to kill me to be let go. ***Nothing in my character would allow it.***

You go on to accuse me of "indiscriminately firing without the ability to acquire a proper sight picture". I don't even know how you can make such an allegation. Every time I fired my weapon, I had a clear sight picture. You make reference to the term I used, "Ting". I would assume someone with your experience would be familiar with firearm slang. A "ting" or a 'plink' while firing at a metal target, is a hit. Which, by the way, requires a proper, clear sight picture.

You amazingly go on to say that a "ting" has no relevant factor in stopping the threat against me. The fact is, because I was there, every round that struck the vehicle and made a "ting", prevented the suspect from rising up and returning fire.

I was responsible for every round I fired. I did not discharge my weapon in any location that endangered anyone or any property. The only people I put in grave danger were the three suspects who were trying to kill me.

As far as the unauthorized ammo, I kept almost identical ammo in my ammo bag that I used to practice with my duty weapon. We are issued keys to a range and encouraged to practice, but we are not issued practice ammo. I can only assume when the suspect began to fire on me, I slammed on the brakes and took evasive maneuvers which caused the bag to fall from the passenger seat to the floor. When I retrieved the bag during the pursuit, I inadvertently grabbed the wrong ammo. The only difference between the two being, we issue hollow points and the others were soft points.

I will add, that you make these allegations against me, without any physical evidence, without statements from the other suspects, without any crime scene data, without the Federal Bureau of Investigations report, without the Utah U. S. Attorneys findings.

I will also add that you convened a "Use of Force Panel" with the same information, or I should say lack of information.

I accept responsibility for mixing up my ammunition during a pursuit in which I was receiving and sending fire. All of your other allegation lack merit.

I have requested and been denied access to the Use of Forces Panels findings. There is nothing in policy that states these findings are private and by your own admission, it was completed separately and is not part of the Internal Affairs Investigation.

I do not have any of Sergeant Copelands findings.

I have been provided a copy of Administrative Investigation Control#18-01. I am confused by your investigative procedures. Normally, the person conducting the investigation would complete the written summary. Instead, you had Lt. Queen review what Sergeant Copeland did and make his determination from that. Yet, there is no written summary provided by Sergeant Copeland.

There has been a long history of animosity toward me from Lt. Queen stemming from my interaction with one of his ex-girlfriends. I have sought your assistance several times in this matter to no avail. He has made several negative statements attacking my character in front of multiple employees and multiple civilians, all of who will be providing statements if this goes to the next level. With this knowledge, you found it okay for him to be part of this investigation?

Lt. Queens summary is full of inaccuracies, and clearly shows his ignorance of Colorado statutes and blatant animosity towards me. Besides those listed above, I will touch on a few others:



Both occupants were actively participating in my attempted murder. Lt Queen was not there, he has not seen or read my initial statement or heard or read the suspects statement. For him to make any statement otherwise is outright perfidious, detrimental to me, and the agency as a whole.

Lt Queen tries to make the argument that I was pursuing the vehicle from the beginning. Im not even sure why this argument is being brought up, aside from him "looking" to find error in the incident. If you listen to the 911 recordings of the incident, You can here the vehicle trying to speed off, as I say they are leaving. My demeanor is very calm. I did not speed off with my lights and siren on. The vehicle is old and running poorly, as I mentioned over the radio. I admitted in both interviews that after driving a few moments, I checked my equipment and noticed my overhead lights were still on from the initial traffic stop. Upon noticing this, I turned them off and continued to follow from a safe distance. Had I wanted to actually pursue the vehicle, I would have. I was in an unpopulated area of the county with very little traffic. I did not initiate the pursuit because I didn't feel the crime warranted it. I followed the vehicle because I was pretty sure it was going to break down and wanted to make sure they made it out of Montezuma County. Lt Queen mentions "disturbed gravel" consistent with a "high speed exit," that he determined was from me, how, I don't even know. You will have to explain that, and while you explain that, you can find me a pickup that turns in gravel without disrupting it.

Lt Queen synopsis of the events after the vehicle came to rest, we exchanged gunfire, and I shot the suspect are a complete misrepresentation of the facts. I can tell you from many years of experience that no Law Enforcement Professional would make such statements without knowing the facts. There has been a complete crime scene analysis by the Federal Bureau of Investigations, Actual crime scene investigators did their job. Yet Lt Queen, without these finding, without being there, without interviewing the suspect, without even taking one measurement or accounting for the rounds fired on scene. Can make all of those determinations. Sheriff, you should be very embarrassed.

This investigation has played out in a typical "witch hunt fashion". I am at a loss for further-words.

Actually, I would like to share one final fact. All of you were on the radio, the recording is clear. Had anyone had any reservations of my actions, no one decided to speak up.

I would respectfully request you wait for the actual investigation that was completed on scene and all interviews conducted by the FBI before you pass judgment on my actions.

Respectfully,


Sergeant Edward F. Oxley
cc Dave Albrecht

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

730 East Driscoll
Cortez, Colorado 81321

Telephone 970-565-8452
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www.montezumasheriff.org

August 13, 2018

To: Sergeant Edward Oxley

Re: Disciplinary Hearing

Sergeant Oxley,

On August 1, 2018, a pre-disciplinary hearing was scheduled and held with you by Undersheriff Vern Knuckles at the Montezuma County Sheriff's Office in regards to the Internal Affairs Investigation 18-01 initiated as a result of your use of force incident on February 15, 2018. On August 1, 2018, I received Undersheriff Vern Knuckles written findings of the Pre-Disciplinary Hearing and his recommendations for corrective action for violations of Montezuma County Sheriff's Office Policies. I have also reviewed the written findings and recommendations for corrective action to be taken from both Lieutenant Bryce Queen and Undersheriff Vern Knuckles in regards to Internal Affairs Investigation 18-01.

On August 2, 2018, I received two separate written appeals from you, one being a Certified Mailing, that appear to be the same. The "Subject" is titled "Appealing disciplinary action dated July 27, 2018". I am not aware of any pre-disciplinary hearing, disciplinary hearing or disciplinary action on July 27, 2018, and can only assume that this is a written appeal from the Pre-Disciplinary Hearing held with Undersheriff Vern Knuckles on August 1, 2018.

I have read, listened to and reviewed all documentation in regards to the Internal Affairs Investigation 18-01 resulting from the actions taken and decisions made by you during the incident that occurred on February 15, 2015 that resulted in your use of force against a moving motor vehicle, occupied by three adult males, traveling westbound on County Road G after leaving or fleeing from the traffic contact you made with this vehicle in the 12000 Block of County Road G within Montezuma County, Colorado during the course of your officially assigned duty.

From your written appeal letter, I will attempt to respond in that order and provide any violations of Montezuma County Sheriff's Office Policy or Colorado Law, if any. In your first paragraph you state the reference to "close the gap" violation is "absurd", and state that you kept your vehicle a safe distance from the fleeing vehicle, and that you never indicated in any interview that you positioned your assigned patrol vehicle close to the suspects. That is not correct. In the interview and heard in radio traffic by you after the vehicle left your contact location and began traveling west on County Road G, you did state that you were "not pursuing, just following". In your interview with the Internal Affairs Investigator you stated that your estimation of distance was 80 to 100 yards behind the vehicle, and then stated that when you perceived that the occupants were firing at you, you got within "2 to 3 car lengths, maybe closer, while traveling at 55 mile per hour".

In your second paragraph you state that the "allegation" that you put yourself in unnecessary danger is "absurd". You have listed all the things that make this an unnecessary danger such as poor radio coverage, being alone and being fired upon by an occupant of the fleeing vehicle that you decide to get closer too. You also make selected quotes from the Law Enforcement Code of Ethics. You failed to read and understand so much more and acknowledge "develop self-restraint, and be constantly mindful of the welfare of others", and "I will be exemplary in obeying the laws of the land and the regulations of my department". I will also complete the sentence that you only used partially, "I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accept gratuities". Let's not forget the next to the last sentence of this Code, "I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service". Instead of you picking and choosing bits and pieces of important documents that you may believe justifies your statements or position, let's look at the entire Mission Statement.

The mission of the Montezuma County Sheriff's Office is to provide the highest professional level of dedicated public safety service to our citizens, communities and visitors, as sworn to by our oath of office, by providing knowledgeable, responsible, caring and protective service with unconditional respect. Members of the Montezuma County Sheriff's Office are held to the highest standards by our citizens who have entrusted us with the authority by law to provide fair and equal enforcement of our laws in a respectful and professional manner, so as to ensure a safe environment for the daily freedoms that we hold, while building community partnerships.

The Montezuma County Sheriff's Office has embraced a guardian concept, in which a republic that honors the core of democracy - the greatest amount of authority is given to those called the Guardians. Only those with the most impeccable character are chosen to bear the responsibility of protecting the democracy. **GUARDIAN HEART - WARRIOR SPIRIT**

The Vision and Goals of the Montezuma County Sheriff's Office is to become the most highly trained and respected law enforcement professionals to serve our community, citizens and visitors.

In your third paragraph you state that you don't remember anything in any of your law enforcement training that allows someone who is trying to kill you be let go, and that "Nothing in my character would allow it". This last statement in your written appeal letter may possibly be the concern in your good decision making ability, your character won't allow it. At no time did I find that anyone was going to be "let go". I would like to bring your attention to the fact that law enforcement officers in San Juan County, Utah had been notified of the suspect vehicle description, occupants, its location and direction of travel into their jurisdiction. In listening to the recorded radio traffic from their dispatch center, officers were headed to that location and were ready to intercept. Officer safety and safety to the public is paramount. Team work brings successful conclusions in high risk situations such as this incident. The Constitution and our laws of criminal procedure provide extradition for prosecution.

In your fourth paragraph you state that you are accused of "indiscriminately firing without the ability to acquire a proper sight picture", and you don't know how anyone can make such an allegation. The facts are clear in this matter. You also state that every time you fired your weapon you had a clear sight picture, and the term or slang you used of "Ting", you have justified the use of deadly force in stopping the threat against you. The vehicle and two other occupants by your own statements were not the imminent threat that would justify the use of deadly force. It was only the right front passenger that could be perceived as the imminent threat while you were so close in the pursuit. You also stated in the Internal Affairs Investigation that at one point in the 4000 block of County Road G, you pulled over and stopped to retrieve your bag with ammunition that had fallen on the right floorboard and performed a magazine change. Your radio communication with the Cortez Communication Center also verifies this and that you also stated in that communication that the suspect vehicle was not in sight and that no shots were being fired at that time.

After several minutes your next radio communication you state that the vehicle is back in sight. You had to accelerate and travel faster than the suspect vehicle to catch it. During that time, no shots were being fired at you, and you did not continue shooting at this fleeing vehicle until you caught back up with it. In your next radio communication you stated that you did return fire and the back window was shot out and the vehicle had one flat tire. There is no way to tell from your communication where or when this vehicle damage occurred. The facts clearly indicate that distance from the suspect vehicle during that brief stop prevented shots being fired at you and you firing at the vehicle and occupants. At no time did you communicate with the Cortez Communication Center or responding deputies and myself that you were discharging your firearms at this vehicle while driving and pursuing it.

These facts are clear that you have violated Montezuma County Sheriff's Office Policy 300.4.1, shooting at or from a moving motor vehicle. Shooting at or from a moving vehicle are rarely effective, and poses a substantial risk to the public and property such as persons, homes and livestock, not to mention the other two occupants of the vehicle that did not appear to pose an imminent threat to you by your own statements about the right front passenger was observed by you to be the only occupant of the vehicle attempting to use deadly force against you. His actions also posed that same threat to the public and property, but ceased firing when not being so closely pursued by you. Again, distance between you and the suspect vehicle prevented gunfire. Driving an emergency vehicle and accurately firing a firearm are two separate high level skills that require proficient training to perform each properly, safely and with the public safety being priority. You have never received training from the Montezuma County Sheriff's Office on shooting from a moving motor vehicle and anyone or another moving motor vehicle for that very reason. There are certain circumstances where this may be a deputies only choice, but this incident is not that circumstance.

Your next paragraph is concerning and does not have facts or merit to justify you discharging your firearm while pursuing a vehicle. You are correct that you are responsible for every round that you fired and you cannot account for every round fired. You are correct that you put others in grave danger as I have stated above.

In your next few paragraphs you use more condescending statements and attempt to justify your actions and excuse or disregard a standing order by policy that prohibits any deputy or member of this agency in carrying, possessing or using any ammunition not authorized. Again, this fact is clear that you have violated Montezuma County Sheriff's Office Policy 306.4.3 and Policy 306.4.7 in which you carried, possessed and used unauthorized ammunition while on-duty. There are many reasons why we have written policies, orders restrictions and training requirements, whether you agree with them or not, does not allow non-compliance.

The Internal Affairs Investigation 18-01 was primarily focused on the events and actions that took place from the time you made the traffic contact until the time you left your authorized jurisdiction, and does not include the homicide that occurred within the boundaries of the Navajo Nation. The IA Investigation is not a criminal investigation, it is an administrative function. I will direct your attention to Montezuma County Sheriff's Office Policy 209 for review. Policy section 209.10 directs that when an IA Investigation is completed the file is provided to the members direct Division Supervisor, in this case it is Patrol Lieutenant Bryce Queen, who reviews the investigation findings and then submits it up the chain of command to the Undersheriff and the Sheriff. You have indicated in your letter that you have been provided a copy of this investigation. Sergeant Copeland followed policy and provided the findings to the Patrol Division Supervisor who provided you with a copy of his review findings as well as the Undersheriff, which you have received as well. Upon my review of Internal Affairs Investigation 18-01, I find that the policy violations that have been listed in this investigation, as well as the review and recommendations from both the Division Supervisor and Undersheriff are substantiated in part, as listed above.

In closing I will address your written statement and comments in reference to the Use of Force Review Board. I will direct your attention to Montezuma County Sheriff's Office Policy 301, which explains that the Sheriff, no one else, MAY convene a Use of Force Review Board that is not part of any criminal investigation or Internal Affairs Investigation, but separate. The findings of this board will be submitted to the Sheriff who make a final determination. This determination is provided to the Division Supervisor and the Undersheriff and no one else. At this conclusion all documentation will be filed with the Sheriff and no one else. Your facts or statement in this regard are not correct. I will not address your all of your comments and acquisitions you make towards Patrol Lieutenant Bryce Queen, who is your immediate supervisor.

I find that you have violated the following Montezuma County Sheriff Office Policies:

Policy 300.3.2 Shooting at or from a moving motor vehicle

Policy 306.4.3 Patrol Rifles, Only approved Sheriff Office ammunition will be used on-duty

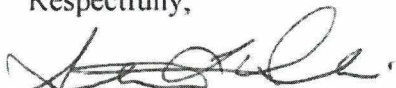
Policy 306.4.3 Ammunition, Members shall carry only Office Approved Ammunition

I also find that it is possible that other policy violations may have occurred and am concerned, but will not be addressed at this time:

Policy 300.3.2 (h)(j)(k)(n)(q) Factors used to determine the reasonableness of force

The recommendation for demotion in rank from Patrol Sergeant to Patrol Deputy and removal from all other assigned duties will be considered. As further provided in Montezuma County Sheriff's Office Policy 1030.10, you are scheduled for a hearing with the Sheriff on **Wednesday, August 15 at 1500 hours** at the Montezuma County Sheriff's Office. This hearing notice is provided to you which requires a minimum of 24 hour notice. No recording devices of any kind will be permitted during this or any other hearing.

Respectfully,



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

PERSONNEL FILE

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

730 East Driscoll
Cortez, Colorado 81321

Telephone 970-565-8452
FAX 970-565-3731
www.montezumasheriff.org

August 20, 2018

To: Sergeant Edward Oxley

Re: Disciplinary Hearing Disposition

Sergeant Edward Oxley,

The first Disciplinary Hearing was conducted with you on Wednesday, August 15, 2018 at 1500 hours held at the Montezuma County Sheriff's Office. The second disciplinary action which placed you on a paid suspended status from light duty status occurred on July 21, 2018. The Pre-Disciplinary Hearing with Undersheriff Vernon Knuckles and the Disciplinary Hearing conducted on August 15, 2018 did not include the second incident, and my findings will not include the second incident as you were advised.

On Friday, August 17, 2018, I was contacted via telephone by the Assistant United States Attorney for the District of Utah in regards to the homicide investigation conducted on February 15, 2018 within the Navajo Nation, within the County of San Juan, Utah. I was advised that the findings and determination will be completed within the next two weeks, and grave concerns were expressed as to agency policy violations, and potential law violations, that occurred prior to and leading up to the point that you entered into the State of Utah and the Navajo Nation where the homicide occurred.

Montezuma County Sheriff Office Policy violations include:

Policy 300.3.2 Shooting at or from a moving motor vehicle

Policy 306.4.3 Patrol Rifles, Only approved Sheriff Office ammunition will be used on-duty

Policy 306.4.3 Ammunition, Members shall carry only Office Approved Ammunition

Other policy violations that may have occurred:

Policy 300.3.2 (h)(j)(k)(n)(q) Factors used to determine the reasonableness of force

My decision and final disciplinary course of action, as provided in Montezuma County Sheriff's Office Policy 1030.10, will be held until I am in receipt of the United States Attorney Office findings and the Federal Bureau of Investigation case involving the incident that occurred on February 15, 2018. You will be notified in writing on any course of action to be taken. Until that time, you will continue to be on a paid suspended status and must continue to make all agency provided appointments.

Respectfully,



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

✓ PENDING FILE

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

730 East Driscoll
Cortez, Colorado 81321

Telephone 970-565-8452

FAX 970-565-3731

www.montezumasheriff.org

September 10, 2018

To: Sergeant Edward Oxley

Re: Disciplinary Disposition Hearing

Sergeant Edward Oxley,

The first Disciplinary Hearing was conducted with you on Wednesday, August 15, 2018 at 1500 hours held at the Montezuma County Sheriff's Office. The second disciplinary action which placed you on a paid suspended status from light duty status occurred on July 21, 2018. The Pre-Disciplinary Hearing with Undersheriff Vernon Knuckles and the Disciplinary Hearing conducted on August 15, 2018 did not include the second incident, and my findings will not include the second incident as you were advised.

On Tuesday, September 4, 2018, I received the written findings and decision from the Assistant United States Attorney for the District of Utah in regards to the homicide investigation conducted by the Federal Bureau of Investigation on February 15, 2018 within the Navajo Nation, within the County of San Juan, Utah. The findings and determination is accompanying this letter, and addresses concerns that expressed potential agency policy violations, and your actions being "negligent, even reckless", that occurred prior to and leading up to the point that you entered into the State of Utah and the Navajo Nation where the homicide occurred.

Montezuma County Sheriff Office Policy violations include:

Policy 300.3.2 Shooting at or from a moving motor vehicle

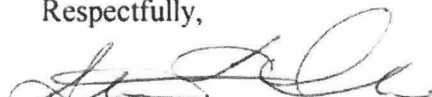
Policy 306.4.3 Patrol Rifles, Only approved Sheriff Office ammunition will be used on-duty

Policy 306.4.3 Ammunition, Members shall carry only Office Approved Ammunition

Policy 300.3.2 (h)(j)(k)(n)(q) Factors used to determine the reasonableness of force

My decision and final disciplinary course of action, as provided in Montezuma County Sheriff's Office Policy 1030.10, will be held with you on **Monday, September 17, 2018 at 1400 hours**, at the Montezuma County Sheriff's Office.

Respectfully,



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

cc: Personnel File ✓

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

730 East Driscoll
Cortez, Colorado 81321

Telephone 970-565-8452
FAX 970-565-3731
www.montezumasheriff.org

September 17, 2018

To: Sergeant Edward Oxley

Re: Disciplinary Action - Termination

Sergeant Oxley,

On August 1, 2018, a pre-disciplinary hearing was scheduled and held with you by Undersheriff Vern Knuckles at the Montezuma County Sheriff's Office in regards to the Internal Affairs Investigation 18-01 initiated as a result of your use of force incident on February 15, 2018. On August 1, 2018, I received Undersheriff Vern Knuckles written findings of the Pre-Disciplinary Hearing and his recommendations for corrective action for violations of Montezuma County Sheriff's Office Policies. I have also reviewed the written findings and recommendations for corrective action to be taken from both Lieutenant Bryce Queen and Undersheriff Vern Knuckles in regards to Internal Affairs Investigation 18-01.

On August 2, 2018, I received two separate written appeals from you, one being a Certified Mailing, that appear to be the same. The "Subject" is titled "Appealing disciplinary action dated July 27, 2018". I am not aware of any pre-disciplinary hearing, disciplinary hearing or disciplinary action on July 27, 2018, and can only assume that this is a written appeal from the Pre-Disciplinary Hearing held with Undersheriff Vern Knuckles on August 1, 2018.

I have read, listened to and reviewed all documentation in regards to the Internal Affairs Investigation 18-01 resulting from the actions taken and decisions made by you during the incident that occurred on February 15, 2015 that resulted in your use of force against a moving motor vehicle, occupied by three adult males, traveling westbound on County Road G after leaving or fleeing from the traffic contact you made with this vehicle in the 12000 Block of County Road G within Montezuma County, Colorado during the course of your officially assigned duty.

The following is a summary of the facts and your actions that occurred on February 15, 2018, that provide violations of Montezuma County Sheriff's Office Policy and/or Colorado Law, as discussed in the disciplinary hearings. In your interview and heard in radio traffic by you after the vehicle left your contact location and began traveling west on County Road G, you did state that you were "not pursuing, just following". In your interview with the Internal Affairs Investigator you stated that your estimation of distance was 80 to 100 yards behind the vehicle, and then stated that when you perceived that the occupants were firing at you, you got within "2 to 3 car lengths, maybe closer, while traveling at 55 mile per hour". This decision by you put yourself in unnecessary danger, and began further poor decisions and actions by you that put innocent persons and the public in danger.

You began firing at this fleeing vehicle outside the driver window with your assigned duty handgun in your weak hand while pursuing in a marked Montezuma County Sheriff's Office patrol vehicle at speed according to you approximately 50-55 miles per hour on County Road G, which is a narrow, two lane asphalt road with numerous curves. A road that is heavily traveled.

You then attempt to use your duty handgun to shoot through the windshield from the interior, again while driving in a pursuit manner, destroying the windshield and impairs your ability to clearly see while pursuing and shooting. When this fails, you decide to your issued AR-15 assault rifle, again shooting a hole through the front windshield, and continue to use deadly force by firing at the fleeing vehicle while driving in a pursuit manner. This use of force used is attempted to be justified by you when you state that every time you fired your weapon you had a clear sight picture, and the term or slang you used of "Ting", was justification for the use of deadly force in stopping the threat against you, which was a fleeing vehicle. The vehicle and two other occupants by your own statements were not the imminent threat that would justify the use of deadly force. It was only the right front passenger that could be perceived as the imminent threat while you were so close in the pursuit. You also stated in the Internal Affairs Investigation that at one point in the 4000 block of County Road G, you pulled over and stopped to retrieve your bag with ammunition that had fallen on the right floorboard and performed a magazine change. Your radio communication with the Cortez Communication Center also verifies this and that you also stated in that communication that the suspect vehicle was not in sight and that no shots were being fired at that time.

After several minutes in your next radio communication, you state that the vehicle is back in sight. You had to accelerate and travel faster than the suspect vehicle to catch it. During that time, no shots were being fired at you, and you did not continue shooting at this fleeing vehicle until you caught back up with it. In your next radio communication you stated that you did return fire and the back window was shot out and the vehicle had one flat tire. There is no way to tell from your communication where or when this vehicle damage occurred. The facts clearly indicate that distance from the suspect vehicle during that brief stop prevented shots being fired at you and you firing at the vehicle and occupants. At no time did you communicate with the Cortez Communication Center or responding deputies and myself that you were discharging your firearms at this vehicle while driving and pursuing it.

The fact is that law enforcement officers in San Juan County, Utah had been notified of the suspect vehicle description, occupants, its location and direction of travel into their jurisdiction. In listening to the recorded radio traffic from their dispatch center, officers were headed to that location and were ready to intercept. Officer safety and safety to the public is paramount. Team work brings successful conclusions in high risk situations such as this incident. The Constitution and our laws of criminal procedure provide extradition for prosecution.

These facts are clear that you have violated Montezuma County Sheriff's Office Policy 300.4.1, shooting at or from a moving motor vehicle. Shooting at or from a moving vehicle are rarely effective, and poses a substantial risk to the public and property such as persons, homes and livestock, not to mention the other two occupants of the vehicle that did not appear to pose an imminent threat to you by your own statements about the right front passenger was observed by you to be the only occupant of the vehicle attempting to use deadly force against you. His actions also posed that same threat to the public and property, but ceased firing when not being so closely pursued by you. Again, distance between you and the suspect vehicle prevented gunfire. Driving an emergency vehicle and accurately firing a firearm are two separate high level skills that require proficient training to perform each properly, safely and with the public safety being priority. You have never received training from the Montezuma County Sheriff's Office on shooting from a moving motor vehicle at anyone or another moving motor vehicle for that very reason. There are certain circumstances where this may be a deputies only choice, but this incident is not that circumstance.

In review of the second interview that you gave to FBI Agent John McPherson in Monticello, Utah on February 22, 2018, you stated that you had taken a training class "a year, few years ago" that taught you to shoot out the front windshield. This statement is false. You never received any training to shoot from a moving vehicle while employed with the Montezuma County Sheriff's Office, or with the Saint Lucie County Sheriff's Office in Florida as your training records from that agency do not indicate that type of training. When asked by me during the Disciplinary Review Hearing on August 15, 2018, you stated that you received this training in the Army.

The findings of this investigation clearly show that you possessed and used unauthorized, non-agency issued ammunition in your assigned patrol rifle during the course of firing upon this fleeing motor vehicle. Your disregard for a standing order by policy is clear that you have violated Montezuma County Sheriff's Office Policy 306.4.3 and Policy 306.4.7 in which you carried, possessed and used unauthorized ammunition while on-duty. There are many reasons why we have written policies, orders, restrictions and training requirements, whether you agree with them or not, does not allow non-compliance.

The Internal Affairs Investigation 18-01 and the disciplinary hearings were focused on the events and actions that took place from the time you made the traffic contact until the time you left your authorized jurisdiction, and does not include the homicide that occurred within the boundaries of the Navajo Nation. I have received and reviewed the Federal Bureau of Investigation criminal investigation, FBI Number 198A-SU-2586053, into the shooting death of Fordell Hill.

Upon my review of both the Internal Affairs Investigation 18-01 and the FBI Criminal Investigation, I find that the policy violations that have been listed in this investigation, as well as the review and recommendations from both the Division Supervisor and Undersheriff are substantiated in part.

You have violated the following Montezuma County Sheriff Office Policies:

Policy 300.3.2 Shooting at or from a moving motor vehicle

Policy 306.4.3 Patrol Rifles, Only approved Sheriff Office ammunition will be used on-duty

Policy 306.4.3 Ammunition, Members shall carry only Office Approved Ammunition

I also find that it is possible that other policy violations may have occurred, as follows:

Policy 300.3.2 Factors used to determine the reasonableness of force

Policy 300.3.2 (h) The availability of other options and their possible effectiveness.

Policy 300.3.2 (j) Training and experience of the deputy.

Policy 300.3.2 (k) Potential for injury to deputies, suspects and others.

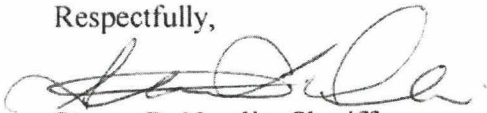
Policy 300.3.2 (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.

I find that you were in violation of the above listed policy violations listed above, and taking into consideration of all the relative facts and my observations, your employment with the Montezuma County Sheriff's Office is terminated effective September 17, 2018.

This written notice is provided as required by Montezuma County Sheriff's Office Policy 1030.10. Appeal of this disciplinary action imposed as provided in Policy 1030.11, must be in writing to the Sheriff within seven days of receipt of this notice personally served upon you.

All property belonging to the Montezuma County Sheriff's Office as indicated on the agency inventory must be returned no later than 1600 hours on September 24, 2018, unless an appeal in writing has been requested.

Respectfully,



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

Personnel File

Montezuma County Sheriff's Office

Steven D. Nowlin – Sheriff

730 East Driscoll
Cortez, Colorado 81321

Telephone 970-565-8452
FAX 970-565-3731
www.montezumasheriff.org

September 28, 2018

Mr. Edward Oxley
18812 County Road 27
Dolores, Colorado 81323

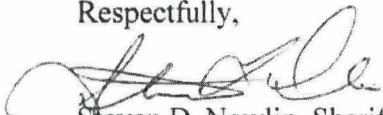
Re: Disciplinary Action – Termination – Appeal Decision

Dear Mr. Oxley,

On September 24, 2018, I received an appeal of your disciplinary action imposed on September 17, 2018 after the findings of the Disciplinary Hearing, as provided in Montezuma County Sheriff's Office Policy 1030.11.

After review, taking into consideration all of the relative facts and my observations, your appointment as a Deputy Sheriff with the Montezuma County Sheriff's Office was terminated effective September 17, 2018, and my final decision remains the same, given my authority provided by Colorado Revised Statute.

Respectfully,



Steven D. Nowlin, Sheriff
Montezuma County, Colorado

cc: Edward Oxley via certified mail
Personnel file

Incident Report #MC180191



MONTEZUMA COUNTY SHERIFF'S OFFICE
730 EAST DRISCOLL STREET
CORTEZ, CO 81321
STEVE NOWLIN - SHERIFF
970-565-8452
970-564-3731

Event Info

Date Reported	Time Reported	Time Dispatched	Time Arrived	Time Completed	
02/15/2018	12:43	12:43	12:43	19:48	
Addr. of Occ.	State	County	City	Zipcode	Date Occ. Range
12000 ROAD G	CO	Montezuma	CORTEZ	81321	02/15/2018 - 02/15/2018
District	Grid	How Reported	Dispatch Disposition		
MONTEZUMA COUNTY	SOUTH WEST COUNTY	SELF INITIATED	RPT		

Classification Completed

Class	Subclass
ASSAULT	Aggravated Assault - Police Officer - Weapon

Suspect

Name Type	Name	Sex	Race	EO
Suspect	HILL, FORDELL	M	INDIAN	NON-HISPANIC

Other inv

Name Type	Name	Address	City	State
OTHER INV	MALONE, CLIFFORD ROBERT	13850 ROAD 29	DOLORES	CO
Zip	Race	Hair	Eyes	Cell Phone
81323	WHITE	BRO	HAZ	(970) 507-0786

Witness

Name Type	Name	Sex	Race	EO
WITNESS	HILL, FENANDO	M	INDIAN	NON-HISPANIC

Witness

Name Type	Name	Sex	Race	EO
WITNESS	BELETSO, AVERILL	M	INDIAN	NON-HISPANIC

SMT

Location	Description
TATTOO BACK	"AWAXS"
TATTOO LEFT ARM	SLEEVE PATTERN
TATTOO RIGHT ARM	"AVERILL"

Property

Record Type	Date Reported	Status	Bin/Tag No	Evidence Item No.
EVIDENCE	02/15/2018	RELEASED	180191-1	180191 - 1
Property Type	Brand	Model/Desc	Stolen Value	
RECORDING, AUDIO/VIDEO	CD	CD W/CBI REPORTS COMPACT DISK	\$0.00	
Date Recovered	Recovered Value	Damaged Value	Property Classification	
03/21/2018	\$0.00	\$0.00	NO CLASS ASSOCIATON	

DropDownList HAND	Property Location	Property Quantity 1
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Vehicle

Date Reported 02/15/2018	Color
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Narrative

Written By Cox, Tyson	Date Written 02/20/2018
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On February 15, 2018, at 1254 hours, while in the Detective Division office at the Montezuma County Sheriff's Office, I overheard radio traffic that Patrol Sergeant Edward Oxley was involved in a pursuit and shots had been fired at him from the suspect vehicle.

I notified Sheriff Steve Nowlin and Patrol Lieutenant Bryce Queen of the radio traffic and we went en route at approximately 1256 hours. Sergeant Oxley advised he was traveling westbound on County Road G, Montezuma County, Colorado and was actively pursuing the suspect vehicle described as an eighties model, white, Ford, Tempo.

While en route to the scene, I was in the 10000 block of County Road G, I heard Sergeant Oxley advised over the radio that he was in contact with three subjects. Sergeant Oxley advised that one subject was shot and the two other subjects had surrendered. Sergeant Oxley also advised a brush fire had ignited near the scene.

At 1325 hours, Sheriff Nowlin, Lieutenant Queen and I arrived on scene. The scene ended up being approximately one-quarter mile into the state of Utah. I observed a medical helicopter landing on scene and Detectives Travis Peck and Yvonne McClellan attempting to extinguish the brush fire that had started. Detective Jason Williams was attempting life-saving measures on a Native American subject that was in the ditch on the north side of the road.

I met with Sheriff Nowlin; Sheriff Nowlin assigned me to Sergeant Oxley due to the critical nature of this incident. I accompanied Sergeant Oxley to my vehicle and sat with him while jurisdictional issues of this case could be established. During this time with Sergeant Oxley, I did not ask him questions related to this incident, but Sergeant Oxley did make unprompted statements during that time.

Sergeant Oxley mentioned he had been shot at by the suspects shortly after they absconded from the original traffic stop. Sergeant Oxley advised he had returned fire while driving his department-issued vehicle. Sergeant Oxley said he had stopped at one point to conduct a magazine exchange in his department-issued patrol rifle. Sergeant Oxley additionally mentioned that while he was engaged with the suspect he took cover at the rear of his department vehicle on the passenger side and felt glass hit him in the face.

Arrangements were made for Sergeant Oxley to get civilian clothes and his uniform to include duty belt and boots were collected by the Federal Bureau of Investigations. Sergeant Oxley's duty handgun and magazines were collected by BIA Special Agent Lyle Benally.

Sergeant Oxley and I cleared the scene at 1731 hours. On our way to the hospital, Sergeant Oxley pointed out the area he initially conducted his initial traffic stop. Sergeant Oxley conducted the traffic stop slightly east of the Sand Canyon parking lot at a driveway on the south side of County Road G.

Sergeant Oxley and I arrived at Southwest Memorial Hospital at 1821 hours. A drug and alcohol screen was conducted by Compliance drug testing. Sergeant Oxley tested negative for alcohol and drugs. I have included a copy of the alcohol and drug testing results with this report.

After clearing the hospital I took Sergeant Oxley to his residence and I called off duty.

End of Supplement

Cox 1945

Supplemental Narrative

Written By	Date Written
Farnsworth, Jared	02/16/2018

On February 15, 2018, at approximately 1243 hours, I overheard Sgt. Oxley initiate a traffic stop in the 12000 blk of CR G, County of Montezuma, State of Colorado.

Sgt. Oxley came back on the radio and asked Cortez Dispatch to check 3 parties for warrants and driving status. In almost the same breath Sgt. Oxley stated, "They are running from me. " Before I was able to get on the radio Sgt. Oxley aired that he was not pursuing, but he was going to follow then. Sgt. Oxley's next radio traffic was, "They are shooting at me, shots fired!" I activated my lights and sirens at approximately CR L and Hwy 491. While enroute I heard Sgt. Oxley advised that parties were shooting at him several times. Sgt. Oxley advised the front passenger was the one shooting at him.

Prior to my arrival on scene Sgt. Oxley stated he had 2 at gun point, one wounded and a brush fire had started somehow.

I arrived on scene approximately 30 seconds to a minute after Deputy Hancock. I drew my duty weapon and I observed Deputy Hancock walking suspect one (I/M/A) towards Sgt. Oxley's patrol vehicle in hand cuffs. Deputy Hancock told me to take care of the male party. I searched the male and stuck him in the back seat of my patrol car. I checked the handcuffs for proper fit and double locked them prior to placing the unknown male in the back seat of my patrol car.

I drew my duty weapon and moved towards the suspects' car where the Deputy Hancock had another party in handcuffs and was now searching him. I observed a third suspect that appeared unconscious and extremely pale with what appeared to be a gunshot wound to the chest. Deputy Haynes began placing the unconscious subject in handcuffs. Sgt. Oxley stated that was all of them, I put my weapon away and took over for Deputy Hancock and prepared to escort suspect number 2 to a patrol vehicle. At this same time Deputy Haynes and Detective Williams began rendering aid to the 3rd suspect that appeared unconscious. Sgt. Oxley asked if anyone could see the gun, suspect number 3 had it when he exited the car. I observed a pistol lying in the weeds with the thumb safety off and the hammer cocked back, a few feet from where I just stood up suspect number 2. I requested Detective Peck take suspect number 2, while I stood by the firearm. At this time, Care flight was beginning to land in the roadway and Sgt. Oxley told me to go find something to cover the gun with to prevent debris from contaminating it, Sheriff Nowlin told me to wait on that, and to go supervise suspect one in my patrol vehicle.

I remained with suspect 1 in my patrol car for the remainder of my time on scene. At one point suspect one stated his shoulder was cramping and the cuffs were hurting him. Due to the larger stature of the suspect and the duration of his time in handcuffs, I added a second set of handcuffs. The suspect continually asked me questions, and I repeatedly told him I knew nothing. I asked the suspect in my car if he was "ok" approximately every 20 minutes. The suspect's only complaint was the shoulder cramp which was attended to.

After a while, Utah Highway patrol came and took custody of the suspect in my car and his property.

I left the scene.

Nothing Further.

Deputy J. Farnsworth 6065

Supplemental Narrative

Written By	Date Written
Hancock, Ryan	02/19/2018

On 02/15/2018 at approximately 1245 hours, I overheard Sgt. Oxley call out that a vehicle was driving away from him on CR G toward Utah. As I began responding from the Montezuma County Sheriff's Office, Sgt. Oxley called out that he was not pursuing the vehicle, but was following it. Sgt. Oxley then called out that he was being shot at.

While I was en route to assist, I overheard Sgt. Oxley advise several times that he was being shot at, and the front passenger was the suspect that was shooting at him. Approximately five minutes prior to my arrival, I overheard Sgt. Oxley advise that he was in Utah, one suspect was down, and he had two suspects at gunpoint. Sgt. Oxley also advised there was a brush fire near his location.

I arrived on scene, and advised dispatch that we were approximately one quarter of a mile past the Colorado state line into Utah. I observed Sgt. Oxley standing on the westbound side of the road approximately thirty feet in front of his patrol vehicle, and he was pointing his duty issued pistol toward a vehicle that was off the north side of the road. I also observed a male subject lying prone in the middle of the road approximately ten feet to the left of Sgt. Oxley, and two other subjects lying prone next to the suspect vehicle.

As I approached, Sgt. Oxley told me to put handcuffs on the male subject (unknown name I/M/A) lying in the road. I placed handcuffs on the male subject, escorted him back toward my patrol vehicle, and handed him off to Deputy Farnsworth who just arrived on scene. I returned to Sgt. Oxley and Deputy Haynes who had also just arrived on scene. Sgt. Oxley, Deputy Haynes, and I approached the other two subjects who were still lying prone near the suspect vehicle. I observed the male subject on the left (unknown name I/M/A) appeared to be unconscious. The male subject on the right (unknown name I/M/A) began yelling at us to help the unconscious male subject, because he was not breathing. I asked the male subject on the right where the gun was at, and he said the unconscious male subject had it. I placed handcuffs on the male subject on the right, and handed him off to Deputy Farnsworth, who had just returned to assist. Deputy Haynes placed handcuffs on the unconscious male subject, and then began performing CPR on him. There appeared to be a bullet wound on the unconscious male subject on the upper left chest area.

I observed a semi-automatic pistol lying in the grass approximately five feet in front of where the right male subject had been lying prone. The hammer was cocked back, and the magazine was missing from it. The magazine was later found approximately twenty feet away, toward the road, and it was empty. I remained near the gun, to prevent it from being disturbed, until it was marked and all medical personnel left the scene.

I remained on scene to give an initial interview with the FBI, and then cleared the scene.

End of Report
Ryan Hancock 3020

Supplemental Narrative

Written By	Date Written
Haynes, John	02/19/2018

On 02/15/18 at approximately 1250 hours, I overheard Sergeant Edward Oxley's radio traffic stating he was following but not pursuing a vehicle that was headed towards Utah on CR G, Montezuma County, State of Colorado.

I started to respond towards his location to assist if needed. Shortly after he stated he was following the vehicle, Sergeant Oxley stated there were shots fired and that he was being shot at. As I was responding to assist, Sergeant Oxley said he was following an off-white Ford Tempo and the vehicle was not capable of going very fast.

He also said it was the front passenger that was shooting at him. I remember hearing updates from Sergeant Oxley stating they threw something out of the car, he stopped to pick up a magazine, he was behind the vehicle again, shots fired again, and the vehicles' rear window and rear passenger tire was out. Sergeant Oxley then said the vehicle was stopped about two miles past the state line, one suspect was shot, and he had two at gunpoint.

Deputy Ryan Hancock was the first backup officer to arrive on scene and advised it was approximately ¼ mile past the state line. I arrived on scene 30 seconds to a minute after Deputy Hancock with Deputy Jared Farnsworth. I responded up to Sergeant Oxley with my department issued rifle deployed just as Deputy Hancock gave an individual who was detained to Deputy Farnsworth. I observed two males lying on the ground near an off-white vehicle that crashed into a barbed wire fence. Sergeant Oxley said the male on the left is the one he shot. The male on the left was not moving or responsive and the male on the right was asking for assistance for his brother. I ordered the male on the right to show me his hands and he did so. Sergeant Oxley, Deputy Hancock and I moved up to the two males. I covered Deputy Hancock as he detained the male who was responsive.

Sergeant Oxley stated he didn't know where the gun was so as soon as Deputy Hancock had the male detained I searched the male who was unresponsive for a weapon. I was unable to find a weapon on him. One of the other deputies on scene pointed out a pistol about 5 to 6 feet away from the unresponsive male. I handed my department issued rifle to Deputy Hancock and detained the unresponsive male by handcuffing his hands behind his back, checking for proper fit, and double locking them. I then began to render aid to the unresponsive male just as Detective Jason Williams arrived on scene. Detective Williams asked me to remove the male's shirt, so I cut it off with my knife and observed what appeared to be a bullet wound in his upper right chest area. There was no sign of a pulse or active blood flow. Detective Williams began CPR and I removed a piece of his shirt to use as a bandage and applied pressure to the wound. Sergeant Oxley retrieved his AED from his vehicle and we attempted to use the AED on the unresponsive male. Detective Williams and I swapped out and continued CPR until medical personnel arrived from an ambulance and an air flight helicopter. When enough medical personnel arrived, I moved out of the way so they could render aid.

I was informed one of the subjects that had been detained was in the back of my patrol vehicle. I was told to monitor his condition. At one point, the subject advised he needed medical attention because he was breathing rapidly. Medical personnel from Utah assisted the male and informed me he was having a panic attack, but they would not be transporting him. I provided the male with water to drink and allowed for him use the restroom at one point. Due to his stature, I placed the male into two sets of cuffs. As I was in my vehicle monitoring the subject, he made multiple statements of his own accord without me asking any questions. I wrote several of the statements down and they are as follows:

"I didn't even know he had a gun in the car."

"Stop. Stop the ride. I want to get out."

"Fuck! I didn't know he had a gun. Fuck!"

"I jumped in with the wrong people man."

"Fuck! What if I would have been shot man. That's fucked up."

The subject also mentioned he was curled up in the back seat floorboard as shots were being fired, but I did not write down exactly what he said in regards to that statement. I never questioned the male about what happened, he made these statements all on his own.

After several hours, Utah State Police took custody of the subject and his property.

I cleared the scene without further incident.

End of report.

Deputy John Haynes 6038

Supplemental Narrative

Written By

Williams, Jason

Date Written

02/20/2018

On 02/15/18 at approximately 1300 hours I overheard radio traffic by Sgt. Oxley of the Montezuma County Sheriff's Office indicating he was being shot at during a traffic stop somewhere in the 1200 block of CR G in Montezuma County and began pursuing the suspect vehicle. Detective McClellan and I began responding to the area in my vehicle with lights and siren activated.

While enroute to the area radio traffic was extremely spotty and broken but I overheard Sgt. Oxley advise multiple times that shots were being fired during the course of the pursuit. I also overheard Sgt. Oxley advise that something had been thrown from the suspect vehicle and that he had recovered it. Sgt. Oxley also advised that one of the tires was flat on the suspect vehicle and the rear windshield was blown out. I also overheard radio traffic advising that the pursuit had entered into Utah.

Upon my arrival to the scene I observed the grass on fire on the West side of the road near multiple Montezuma County Sheriff's Office marked patrol vehicles. As I exited my unmarked Sheriff's Office pickup truck and approached the scene I observed a white Ford sedan off in the grass to the West side of the road with the front of the sedan facing West. I observed one suspect actively being detained by Montezuma County Sheriff's Office Deputies and one suspect on the ground being placed in handcuffs.

I observed Sgt. Oxley standing near the roadway and I contacted him and asked him if he was alright, to which he responded he was. I asked which of the suspects had fired shots and Sgt. Oxley identified the subject that was laying on the ground. Deputy Haynes rolled the suspect onto his back after placing him in handcuffs and I observed what appeared to be a Native American Male with blood staining his shirt on the top left side of his chest. I checked for a carotid pulse on the suspect and observed his eyes to be glassy and unfocused and his skin tone was pale. I did not detect a pulse and ordered Deputy Haynes to cut his shirts (as he was wearing multiple) open to expose his chest so that I could further assess the suspect. I put on a pair of nitrile gloves while Deputy Haynes cut open the suspect's shirt.

Upon viewing the suspect's chest I observed a single gun shot wound to the suspect's upper left chest which was not actively bleeding. I began performing chest compressions on the suspect which caused the wound to begin bleeding again. I ordered Deputy Haynes to cut a piece of the suspect's shirt and use it to apply pressure to the wound to stop the bleeding. I ordered Sgt. Oxley to grab his AED so that it could be applied to the suspect. Deputy Haynes and I switched off an on doing compressions on the suspect and holding pressure on the wound for approximately 5 to 10 minutes until EMS arrived. As EMS arrived I briefed the Paramedics on the situation while the AED began analyzing the suspect's heart rhythm, the AED then notified us that no shock was advised. EMS took over treatment of the suspect and I began taking digital photos of the scene.

After gathering initial photos of the crime scene I observed that EMS had ceased treatment on the suspect and he had been pronounced deceased. Lt. Queen of the Montezuma County Sheriff's Office requested I ride with him and try to locate the scene of the initial traffic stop and evidence of shooting along the path of the pursuit. Lt. Queen and I located what appeared to be fresh evidence of tires accelerating quickly on gravel or "peeling out" at 12632 CR G Cortez, CO 81321. I took digital photos of the area and the acceleration marks left in the gravel and dirt.

Lt. Queen and I then located two shell casings, one a Speer 9mm Luger casing and the other a Federal .223 Remington casing, at 6841 CR G Cortez, CO 81321. The 9mm casing was located near the center of the West bound lane of travel on CR G and the .223 casing was located on the edge of the road on the North side of the West bound lane of travel. I took digital photos of the locations of the casings prior to collecting them as evidence.

I turned the shell casings over to a DTF Agent with San Juan County Utah's Sheriff's Office as they were handling evidence collection at the time. All digital photos taken by me were submitted into this report. No further action

was taken by me at this time. End of report.

Det. Jason Williams
#6025

Supplemental Narrative

Written By	Date Written
McClellan, Yvonne	02/20/2018

On 02/15/2018 at approximately 1300 hours, myself and Detective Jason Williams responded to a shots fired call during a vehicle pursuit called out by MCSO Sergeant Edward Oxley. Detective Williams and myself arrived on scene (1/4 mile into Utah past the Colorado/Utah state line on County Road G.) at approximately 1319 hours.

On my arrival, I saw two Native American males being taken into custody by previously on scene MCSO Deputy's. I also observed a Native American male laying on the ground on his back in front of a white sedan. Detective Williams started CPR on this male. Detective Williams then yelled at me to get on the radio and advise the scene was secure to have medics respond. Flight for Life helicopter arrived a short time later but departed after the suspect was pronounced dead at the scene.

I observed numerous small grass fires starting to take hold in the shoulder of the road. I grabbed and used several fire extinguishers to put out the small grass fires. The fire department arrived a short time later and completely extinguished any remaining heat sources.

I was asked to start a crime scene log to document all the personnel from different agencies arriving on scene. The log was created and handed over to FBI agent Andy Chapman at my departure time of 1832 hours. Nothing further by this detective.

I was also given the name of Clifford Malone (DOB 03/28/1962) with a phone number of 970-507-0786, who was the first to arrive on scene before law enforcement. Clifford said he was never asked for his contact information or statement and would be available to do so if needed.

Detective Yvonne McClellan #6060

Supplemental Narrative

Written By	Date Written
Queen, Bryce	02/20/2018

On February 15, 2018, I was informed by Detective Lieutenant Tyson Cox that a Deputy was actively involved in a shooting in the McElmo Canyon area which is within Montezuma County and the State of Colorado. I was informed the Deputy involved was Sergeant Edward Oxley and his last known location was in the 12,000 block of Montezuma County Road G. I was informed a person from the vehicle was shooting at Sgt. Oxley and his patrol vehicle.

I immediately left the Montezuma County Sheriff's Office to respond to the location and heard Sgt. Oxley relaying information to Cortez Dispatch that the suspect(s) were still actively shooting at him and he had shot back. Sgt. Oxley stated the suspect vehicle was traveling back towards the State of Utah on Montezuma County Road G.

While I was responding to the location, Sgt. Oxley gave an update that he was in the 7400 block of Montezuma County G and was still pursuing the suspect vehicle. Sheriff Steve D. Nowlin requested Cortez Dispatch have medical personnel respond to the location. There were several minutes that Sgt. Oxley could not be reached by his 800 MHz radio due to the poor radio reception in that area.

I was in the 13,000 block of Montezuma County Road G when I lost radio reception due to the area. I did not hear

any radio communications until I reached the 4,000 block of Montezuma County Road G. The next radio communications I heard was Deputy Ryan Hancock, Deputy John Haynes, Deputy Jared Farnsworth, Detective Jason Williams and Detective Yvonne McClellan arriving at the scene. Deputy Hancock advised the final incident took place about a quarter mile past the Utah/Colorado State line on the Utah side.

When I arrived on the scene at approximately 1415 hours, I observed multiple police vehicles on scene with their emergency lights activated. I observed Sgt. Oxley's patrol vehicle that was parked near the center line of the roadway and had multiple bullet holes in the front of the patrol vehicle. I observed Detective Williams, Deputy Haynes and Deputy Farnsworth actively performing C.P.R. (cardiopulmonary resuscitation) to a male. The Deputies and the male were next to an off-white colored, Ford Tempo. I observed Deputy Hancock standing to the northeast of the Deputies giving CPR and he was near a small bush. I observed Sgt. Oxley standing near Deputy Hancock. I immediately removed Sgt. Oxley from the immediate area and asked if he had been injured due to the multiple bullet holes in his patrol vehicle. Sgt. Oxley said he was not injured but I know through training and experience a Deputy may not feel an injury due to the high level of stress and adrenaline. I had Sgt. Oxley stand while I looked for any blood or injuries to his person. I did not locate any immediate injuries.

Sgt. Oxley was visibly feeling the effects of the incident because he was not able to concentrate on any one specific question and constantly was looking around. Sgt. Oxley said, "that motherfucker was trying to kill me". Sgt. Oxley repeated that statement several times when I first contacted him.

Sgt. Oxley was taken back to Detective Lieutenant Cox's patrol vehicle where he was looked after by other personnel.

I walked back to where the Deputies performing CPR were at and observed medical personnel had taken over CPR. I asked Deputy Haynes where the other people were at and he said one of the males was in his patrol vehicle and the other male was in Deputy Farnsworth's patrol vehicle. I asked both Deputies to stand by their patrol vehicles so they could monitor the subjects.

I went to Sgt. Oxley's patrol vehicle and observed a silver 9mm shell casing near the driver's door of his patrol vehicle. I recognized the shell casing as a department-issued shell casing due to me being a firearms instructor for the Sheriff's Office. I asked for cones to preserve the evidence due to a helicopter landing for medical assistance. I placed an orange cone over the 9mm shell casing. I observed another shell casing to the southwest of Sgt. Oxley's patrol vehicle. The shell casing was a .45 caliber and was not a shell casing I recognized as department issued. I placed an orange cone over the .45 caliber shell casing to preserve it as evidence. All the Deputies on the scene were carrying a department issued Sig Sauer P320 chambered in a 9mm.

I went to where Deputy Hancock was still standing and asked what he was doing. Deputy Hancock pointed to a firearm that was near the bush and was not a department-issued firearm of the Montezuma County Sheriff's Office. The firearm was a handgun with a silver colored slide and the grip was black. The hammer on the handgun was cocked back and ready to be fired if the trigger was pulled. Deputy Hancock remained with the handgun until he was told he did not need to be.

I was asked by medical personnel from Utah if we knew who the suspects were and I said no. A male medic said he was told the deceased male was Fernando Hill (unk DOB) but it was not Fernando Hill. The male medic said he knew Fernando Hill but did not know who the deceased male was. I asked the male medic if he could identify Fernando Hill if he saw him and he said he could. I took him to Deputy Haynes's patrol vehicle so he could identify the male subject. The male medic said he did not know who the male was and it was not Fernando Hill. I took the male medic to Deputy Farnsworth's patrol vehicle and opened the left side passenger door where the male subject was. The male medic looked at him but did not say anything. Once I shut the door to the patrol vehicle, the male medic identified the male suspect as Fernando Hill. I was unable to get the male medic's name.

I spoke with Detective Lieutenant Cox about locating the original scene where the traffic stop was made and locating any shell casings that may have been on the road. Det. Lt. Cox and I went to his patrol vehicle and I asked Sgt. Oxley where the original stop had been made and he said the 10,000 block of Montezuma County Road

G on the right side of the roadway and in a driveway.

Det. Williams and I went to the 10,000 block of Montezuma County Road G to attempt to locate the original traffic stop but were unable to locate it in the 10,000 block. We then began searching the 12,000 block of Montezuma County Road G and located a driveway at 12632 MCRD G that had fresh tire tracks from a vehicle losing traction when it took off. Det. Williams took photographs of the driveway and the tire impressions.

After photographing the driveway, we began to travel back to the final scene and began searching for any shell casings on or near the roadway. We located a shell casing in the middle of the roadway at 6841 MCRD G. The shell casing was a 9mm caliber and I recognized it as a similar department issued ammunition. We located a .223 caliber shell casing where the pavement meets the gravel and was in the same vicinity of the 9mm shell casing. The .223 caliber shell casing was also similar to department issued ammunition. Both shell casings were photographed then collected as evidence. Det. Williams retained the shell casings.

Once I was back at the final scene, I was told the FBI (Federal Bureau of Investigations) was taking over the incident for investigative purposes.

Once all Montezuma County Sheriff's Office personnel were spoken with and allowed to leave the scene, I also departed.

This concludes my involvement with this incident.

End of supplement.

Patrol Lt. Bryce Queen #4200

Supplemental Narrative

Written By	Date Written
Peck, Travis	02/21/2018

On 02/15/2018 at approximately 1258 hours, I overheard Sergeant Oxley say on the radio that he was being shot at. I heard dispatch say that the last location that he had called out was the 12000 block of Cr. G. I responded towards Sergeant Oxley's location. While responding I overheard Sergeant Oxley say that the suspect vehicle was travelling west bound on Cr. G and he was still being shot at. Due to bad radio reception I was unable to hear what was going on for a while. When I began to get radio reception again I overheard that Sergeant Oxley was just across the Utah state line. When I arrived on scene (1/4 mile into Utah past the Colorado/Utah state line on County Road G), I saw a brush fire on the side of the road. I saw one male subject in the back seat of a patrol vehicle, another male subject lying on his back in the bar ditch and Deputy Farnsworth was escorting a third male subject back to the patrol vehicles. I escorted the male that Deputy Farnsworth had detained, back to a patrol vehicle.

I saw the other Deputies starting CPR on this male that was lying on the ground. The brush fire was continuing to spread and get closer to the patrol vehicles. Detective McClellan and I used several fire extinguishers to put out the fire.

I checked to make sure there was nothing else I could assist with. I then returned back to Montezuma County to assist with taking calls for service.

Detective Peck #3964

Supplemental Narrative

Written By Cox, Tyson	Date Written 02/27/2018
<p>On February 27, 2018, Colorado State Trooper Wyatt Smith delivered me a copy of his report concerning this case. I have attached Trooper Smith's report to this supplement. Trooper Smith's case number is 5A180271.</p> <p>End of Supplement</p> <p>Cox 1945</p>	

Supplemental Narrative

Written By Cox, Tyson	Date Written 03/14/2018
<p>On March 14, 2018, I received Detective Tom Quinnett's report concerning this incident. I have attached Cortez Police Department report number 11800370 to this supplement.</p> <p>Nothing Further</p> <p>Cox 1945</p>	

Supplemental Narrative

Written By Cox, Tyson	Date Written 04/09/2018
<p>On March 21, 2018, Agent Jeff Brown of the Colorado Bureau of Investigations provided me with a compact disk that contained his reports from this incident.</p> <p>I will enter the compact disk into evidence in this case.</p> <p>This case will be closed/complete. The Federal Bureau of Investigations is handling all further investigation into this matter.</p> <p>End of supplement</p> <p>Case Closed</p> <p>Cox 1945</p>	

Case Management

Initial Investigator Cox, Tyson	Exceptional Clearance DEATH OF OFFENDER	Exceptional Clearance 04/09/2018	Report Status Approved
Approved By Hill, Tayler	Date Approved 02/18/2022 10:27	Case Status EXCEPTIONALLY CLEARED	