



# El Paso County Sheriff's Office



## INTRA-OFFICE MEMORANDUM

**TO:** Professional Standards via Chain of Command  
**FROM:** Sgt. Derek Mower 04018 *DJM 04018 MB #00023*  
**DATE:** October 3, 2019  
**SUBJECT:** Complaint # CCI2019-095

### Receipt of Complaint

I received this complaint via email from Lieutenant Darren O'Driscoll on Tuesday September 24, 2019.

### Complainant

[REDACTED] resides in El Paso, Texas and was in town for two days to attend a court appearance. Hobbs was accompanied by her 19 year old son [REDACTED] name was not known to the involved deputy.

### Involved Personnel

Deputy Robert Easter

### Summary of Events Leading to Complaint

Complainant [REDACTED] accompanied her son [REDACTED] to the downtown area for a court date on September 18, 2019.

### Investigation Into Complaint

On 09/25/19:

- I read the written complaint.
- I spoke with Deputy Easter regarding the complaint and requested he complete a memorandum.

On 09/26/19:

- I received a memorandum from Deputy Easter.

On 09/29/19:

- I read the complaint again.
- I conducted a review of the Avigilon Camera System for any possible footage of the incident in question. The available cameras were too distant to provide insight into the event.

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#### Civil Process Unit

210 South Tejon St. • Colorado Springs, CO 80903  
719-520-7144



#### Office of the Sheriff

27 East Vermijo Ave. • Colorado Springs, CO 80903  
719-520-7100  
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719-390-2106

On 10/02/19:

- I met with Nina Phelps from County Security to see if the District Attorney's Office or Office of the Sheriff cameras provided a better view of the incident. Better video footage of the incident was located and subsequently recorded to DVD. The video footage shows 2 parties, believed to be Mrs. [REDACTED] and Mr. [REDACTED], as they begin crossing Vermijo Ave., from the front of the District Attorney's Office to the median in the center of Vermijo Ave. They begin crossing the street approximately 20-25 feet east of the crosswalk, walking diagonally northwest towards Tejon St. They reached the center median approximately 4-5 feet east of the crosswalk. Deputy Easter's vehicle is seen making a left turn off of Tejon onto Vermijo, slowing to a near stop on the crosswalk, with his front tires just past the crosswalk on the east side as the 2 parties finish crossing the street. A red Nissan SUV had followed Deputy Easter's vehicle and is seen stopping in the intersection while Deputy Easter waits on the 2 parties to finish crossing to the median. It is evident on the video that Deputy Easter's vehicle does not make contact with either of the 2 parties. Additionally, both parties are looking straight ahead and neither looks towards Deputy Easter's patrol car until he pulls up next to them. It is at this time the female party is seen turning towards the car, stretching her hand in that direction, and then taking several steps after him as he pulls away. The duration of the incident, from when Deputy Easter arrives at the crosswalk, until he pulls away from the 2 parties is 6 seconds.

### Findings

Deputy Easter encountered 2 individuals crossing the street outside of the designated crosswalk, causing him and the car behind him to stop in the intersection, creating a potentially unsafe traffic situation. Based on the written statement from both Deputy Easter and Mrs. [REDACTED] I believe Deputy Easter did make comments towards the parties, reference their crossing outside of the designated crosswalk. Given the potentially unsafe situation caused by their location of crossing, I do not believe these comments were inappropriate or outside the scope of policy. Further, I do not see any indication of Deputy Easter attempting to inch towards the parties in an attempt to bully them. To the contrary, as Mrs. [REDACTED] is seen saying something in the direction of Deputy Easter, he drives away ending the encounter. It should also be noted that based on the video footage, I do not believe Deputy Easter was in a position to see these parties until after he had entered the intersection and therefore could not have prevented the situation.

It is my determination no policies were violated by Deputy Easter, and his actions were reasonable for the situation. I do not feel this situation or complaint merit any further investigation or activity.

DM/dm



# El Paso County Sheriff's Office



## INTRA-OFFICE MEMORANDUM

**TO:** Acting Commander Lt. Carnell via Chain of Command *SL 97033*  
*06/25/20*

**FROM:** Sergeant Brian Erhardt #04032

**DATE:** June 24, 2020

**SUBJECT:** [REDACTED] Complaint 2020-047

On May 19, 2020, Lt. Carnell gave me a complaint submitted by [REDACTED] Ms. [REDACTED] alleged that after a professional visit with her client, [REDACTED] # [REDACTED], a deputy made a statement that could only have been heard by those privy to the conversation her legal team had with her client. It is alleged this comment was heard by Inmate [REDACTED] not Ms. [REDACTED]. There is a No Law Enforcement Contact alert in affect regarding Inmate [REDACTED] so it was necessary for me to attempt to gain information from Ms. [REDACTED].

On May 19, 2020 at approximately 1302 hours, I spoke with Ms. [REDACTED] on the phone and asked her if she could give me a specific time and date of the occurrence. I also asked if she could give me the name of the deputy that made the statements. Ms. [REDACTED] said she did not have a specific time or date and could not identify the deputy. I asked her if she would be willing to speak with her client and obtain the answers to the above stated questions. Ms. [REDACTED] agreed to speak with her client and call me back with the answers.

As of June 23, 2020, Ms. [REDACTED] had not called me with any information, so I called her at approximately 0929 hours. Ms. [REDACTED] informed me she still did not have the time and date however, she identified Deputy Katherine Draper #18084, as the deputy that made the comments.

On June 23, 2020 at approximately 1600 hours, I spoke with Deputy Draper. I asked her if she had ever made any statements to Inmate [REDACTED] about her case or any other legal matters. Deputy Draper told me that she has never spoken to Inmate [REDACTED] about her case or made any statements of a legal nature. She further stated she does not speak to Inmate [REDACTED] unless it is related to her duties. I asked Deputy Draper is she had ever transported Inmate [REDACTED] to or from a professional visit. Deputy Draper ensured me that she has never transported Inmate [REDACTED] to or from a professional visit, and she could only recall transporting her from the [REDACTED] to Ward [REDACTED] on two occasions for her hour out. I asked her if she spoke to Inmate [REDACTED] during those transports. Deputy Draper said she did not speak with her about her case and only gave her commands that would have been necessary during the transport. Deputy Draper informed me that Inmate [REDACTED] has attempted to speak with her on several occasions and each time Deputy Draper has told her not to talk about her case. Deputy Draper told me she has documented each incident in Beacon. Those reports are #20004772 and #200004421.



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Based on my interview with Deputy Draper and the limited information provided by Ms. [REDACTED], I find this complaint unfounded.

I have nothing further.

BE/bde



# El Paso County Sheriff's Office



## INTRA-OFFICE MEMORANDUM

**TO:** Commander John David #99018

**FROM:** Lieutenant Charles F. Kull #01014

**DATE:** December 23, 2020

**SUBJECT:** Chain of Command Investigation 2020-133: Deputy Zachary Lacey #18030  
CSPD complaint #9268139

On December 23, 2020, I received an email from Acting Commander Lieutenant Paul Mynatt regarding a citizen complaint against Deputy Zachary Lacey. Lieutenant Mynatt had already contacted Internal Affairs and was assigned a Chain of Command Investigation control number, 2020-133.

The complainant is identified as [REDACTED] (DOB: [REDACTED]).

The email contained a copy of CSPD complaint #9268139 authored by Angela Argos in CSPD Internal Affairs and an electronic copy of El Paso County Sheriff's Office (EPSO) complaint form, completed by Lieutenant Mynatt. Both are attached.

### Background

The complaint is regarding a traffic stop conducted on July 7, 2020 at approximately 2236 hours, on Marksheffel Blvd.

The associated call screen number is 2020-0012461.

The associated traffic citation is EPC137789; Speeding 60mph in a posted 50mph zone. A copy is attached.

Deputy Zachary Lacey transferred from the Jail, to Patrol, around late March of 2020. After Field Training Officer completion on or about June 28, 2020, he was assigned to Sergeant John Hammond, on Shift 1, from 2100 hours to 0700 hours, working Saturday, Sunday, Monday and Tuesday.

Deputy Lacey was assigned to work district 3 as 1A31 on July 7, 2020.



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Mr. [REDACTED] plead "not guilty" during his first appearance via telephone.

Mr. [REDACTED] will go to court on April 23, 2021 for a final disposition.

The complaint was originally filed with CSPD on December 20<sup>th</sup> and given to Angela Argos in Internal Affairs for review. Ms. Argos researched the complaint and figured out it should have been made with our Office.

Ms. Argos then forwarded the complaint to us and it was somehow routed to Lieutenant Mynatt, who in turn, forwarded it to me.

### **COMPLAINT ITEMS**

The complaint made my Mr. [REDACTED] is broken down as follows.

1. Mr. [REDACTED] seems to be concerned that Deputy Lacey conducted a U-turn to catch up with him by documenting the following.
  - a. Officer Lacey did a U-turn from the southbound lane of Marksheffel to get behind me, going northbound on Marksheffel.
  - b. By the point Officer Lacey could first have seen my vehicle, I was out of the construction zone marked by Industrial Lane, which is where Officer Lacey performed a U-turn.
2. Mr. [REDACTED] seems to believe he was traveling the posted 50 mph speed limit by documenting the following.
  - a. As the construction zone was over and I was going 50 mph (the speed limit), Officer Lacey had no cause to cut off traffic behind me, nor did he have a reason to tailgate me unsafely.
3. Mr. [REDACTED] seems to believe he was "tailgated unsafely" by authoring the following.
  - a. Officer Lacey had no cause to cut off traffic behind me, nor did he have a reason to tailgate me unsafely.
  - b. He did so for about a quarter of a mile, close enough that I could make out no part of his headlights, probably within one foot of my rear bumper.
  - c. This is incredibly unsafe driving situation.

Mr. [REDACTED] justifies his actions as follows.

1. Mr. [REDACTED] wrote this about his speed.
  - a. To increase the distance between the erratic, tailgating, possibly drunken driver behind me, who I did not take to be a police officer due to the dangerous situation he was creating, I sped up.
  - b. At this point, after being tailgated and made to fear for my own safety by officer Lacey, Officer Lacey turned on his lights and pulled me over.

Mr. [REDACTED] describes the contact as follows.

1. He [Lacey] told me I was speeding through a construction zone.
2. He [Lacey] took my ID and insurance and went back to his vehicle. When he returned he told me that even though I was speeding through a construction zone (which is a blatant lie), he was going to write me a ticket that did not mention this fact, as that ticket would be twice the ridiculous ticket he WAS giving me.
  - a. It seems the Officer knew I was not in a construction zone nor was I speeding, even though this was the reason he claims he pulled me over.
  - b. If he [Lacey] pulled me over for speeding in a construction zone, a construction zone I was not in, why did he dangerously tailgate me and provoke me into speeding in order to protect myself?

Mr. [REDACTED] requested the "dashcam or body-worn cam" footage be reviewed and that Deputy Lacey's "other tickets" should be examined for instigation and provocation on the part of Officer Lacey.

Mr. [REDACTED]s concluded by writing, "Police officers should have no right to provoke citizens and then write tickets to those who dare to protect themselves from what seems to be a drunken driver, dangerously close to their vehicle. Officer Lacey should be demoted immediately as his unsafe, possibly drunken driving, while on duty, is a hazard to the citizens of El Paso County.

During a follow-up email with Ms. Argos on December 21<sup>st</sup>, Mr. [REDACTED] documented additional concerns.

1. I did notice that there are certain areas within El Paso County where I cannot file a complaint, and that makes me wonder about the jurisdiction of those areas.
  - a. If a complaint cannot be filed about an officer within those bounds, such as the one my complaint is on the perimeter of, does this mean these areas are not with CSPD jurisdiction?
  - b. If this is the case I continue my thought with, how was I followed and pulled over in this area if it is not within the jurisdiction of CSPD?

### Insight/Overview

This complaint was made 166 days after the traffic stop.

Mr. [REDACTED] was under the impression he was stopped by CSPD and attempted to file his grievance with them. This led to some of confusion about jurisdiction.

Mr. [REDACTED] documented he was first observed on Marksheffel at Industrial Lane. I believe he meant Industry Rd. I don't believe there is an Industrial Lane on that stretch of Marksheffel Rd.

Mr. [REDACTED] documented he was stopped at Gray Fox Heights which does not connect with Marksheffel Rd but is in direct line with Zircon Dr on the east side.

The distance between Industry Rd and Zircon Dr on Marksheffel Rd is 0.9 miles.

Deputy Lacey has ZERO complaints filed against him according to the supervisors working file.

### **Findings**

Complaint item #1(a) and (b):

**UNFOUNDED**

The deputy did conduct a U-turn to attempt to contact a citizen speeding in the opposite direction of travel. This maneuver is allowed in C.R.S. 42-4-108(2)(d).

IT SHOULD BE NOTED: Mr. [REDACTED] will make additional claims he did not know a police officer was behind him in contradiction to his claim he saw Deputy Lacey execute a U-turn to get behind him, he knew the location as "Industrial Lane" [Industry Rd], and made a judgement of, "By the point Officer Lacey could first have seen my vehicle, I was out of the construction zone."

Complaint item #2(a):

**UNFOUNDED**

As noted in my findings above, Deputy Lacey did have cause to execute a U-turn. Mr. [REDACTED]'s statement about his speed should be argued in court where he can provide his evidence of how fast he was going.

As far as the complaint of tailgating, law enforcement officers must close the distance to read the license plate to dispatchers. We teach our deputies to not activate their overhead lights until the plate has been given and acknowledged by dispatch. We teach our deputies to wait until there is an open and safe area to conduct a traffic stop. Deputy Lacey decided the larger intersection at Zircon Dr was the safest place.

Complaint item #3:

**UNFOUNDED**

Mr. [REDACTED] is again writing his concerns he was tailgated but made additional claims Deputy Lacey "cut off traffic behind him [me]." We have received no complaints from citizens of being cut off by a marked patrol unit in the performance of their duty on this date, at this time, according to our Computer Aided Dispatch (CAD) system.

The issue of, "nor did he have a reason to tailgate me unsafely" is subjective to Mr. [REDACTED]'s memory of events. As I have stated above, we train our deputies to conduct traffic stops and it can be necessary to move close to the suspect vehicle to read a license plate, especially at 2236 hours in an un-lit section of the county.

Part (b) of the complaint addresses the distance. Traveling at 1 mile a minute, the ¼ mile Mr. [REDACTED] said he was followed by Deputy Lacey would have been approximately 15 seconds long.

Part (c) of the complaint is Mr. [REDACTED]'s personal opinion, which I have no frame of reference with which to agree or disagree.

Regarding Mr. [REDACTED]'s justification for speeding, he now writes Deputy Lacey was "erratic" and "possibly drunken". I fully understand the need of a person professing their innocence to paint the best possible picture they can to convince others to see things their way. In this case; however, there is absolutely no evidence to support a claim Deputy Lacey was driving erratic or drunk. Therefore, I am disregarding these statements as weightless.

Regarding Mr. [REDACTED]'s declaration, "who I did not take to be a police officer", I find this to be deliberate attempt to influence a public servant by deception since we have already established in the findings above that Mr. [REDACTED] did see Deputy Lacey, watched him [Lacey] make a U-turn, claimed he "cut off people", and tailgated him.

Regarding Mr. [REDACTED]'s description of the contact with Deputy Lacey, I do have a concern about what Mr. [REDACTED] was cited for that I will address with Sergeant Hammond and revisit with our team members.

It is well known we expect our deputies to write citations for the exact infraction they observed. We do not allow "roadside breaks" by our deputies. Watching the BWC footage of this contact, Mr. [REDACTED] was told he could have been cited for a more costly violation of speeding in a construction zone with a higher point violation than what Deputy Lacey ended up writing down. I noted the construction zone was not active at this time of night so it would not have been appropriate to cite Mr. [REDACTED] for the higher violation and it was inappropriate for Deputy Lacey to say he could have.

It is obvious to me if Deputy Lacey was southbound on Marksheffel Rd, approaching Industry Rd, his dash mounted radar would have picked up Mr. [REDACTED] from a good distance away given the flat terrain of the roadway. Deputy Lacey would have had a good speed indication while Mr. [REDACTED] was in the construction zone and the appropriate charge should have been rendered. We expect our deputies to monitor construction zones to reduce fatalities and protect our Department of Transportation workers.

Regarding Mr. [REDACTED]'s request the Body Worn Camera footage be reviewed, I did watch it and so did Lieutenant Mynatt. Deputy Lacey is polite and courteous and attempts to put Mr. [REDACTED] at ease by saying, "I assure you I'm not going to screw you over." When Deputy Lacey returns to contact Mr. [REDACTED] he explains how he is only writing the ticket for 50 mph in a 60-mph zone at \$199.50 instead of the construction zone violation at \$507.00. Again, I will speak to Sergeant Hammond and ask him to counsel Deputy Lacey about what he said about the reduced fine.

### **Recommendations**

In determining appropriate corrective action, I have considered all of the facts and circumstances surrounding this incident and I have taken into account the orders given by the seated Commander, John David, at the time. I have also considered Deputy Lacey's work history during this investigation.

I recommend Sergeant John Hammond complete a Supervisory Discussion of Record (SDR) regarding the chain of command direction on roadside breaks and providing correct information to our public. The SDR will be kept by the commander for a period of 12 months (in the employee's working file) and then purged. It is not disciplinary in nature; however, since this has been assigned an Internal Affairs Unit tracking number, a copy must be sent to them for filing and subject to the Office retention schedule.

I have nothing further.

CFK/ck

**El Paso County Sheriff's Office**  
Complaint Receipt Form

**Complaint Disposition Details:**

I reviewed and investigated this complaint. There is no policy violation on the face of this complaint and none to be found in my subsequent investigation Deputy Stengle has broad authority to exercise order and discipline in whatever ward she is assigned to and Inmates have access to supervisors frequently throughout the day to verbalize their concerns should they arise.

I reviewed two JMS reports she wrote documenting the justification to move two disobedient inmates to special detention cells over the course of two days (200010703 and 200010737). Both were absolutely within the guidelines of policy and procedures.

I verified the kiosk in the ward was non-functional over the holiday weekend and Deputy Stengle was actually the person who requested it be attended to...which it was the following Monday upon the arrival of the vendor's technician.

Since the repair of the kiosk, there have been NO greivances filed by ANY inmates about Deputy Stengle regarding this temporary laspe of service or the unjust punishment, discipline, or oppression of any inmates in her ward, despite the inability to file grievances against Deputy Stengle being one of the points of Inmate [redacted]'s complaint.

During my inquiry, based primarily on the volume of 3 complaints about staff members ([redacted] Stengle, and [redacted] technicians) in [redacted] over the course of two months from the same outside source ([redacted] love interest of Inmate [redacted] housed in ward [redacted] I reviewed telephone calls, one video visit, and tablet messages between [redacted] and [redacted] to see what was happening.

In a tablet message Inmate [redacted] implores [redacted] to "...call the facility and talk to a Sargent or higher..." so as to get the kiosk repaired, primarily, for making canteen orders because the kiosk being "...frozen for 3 day unacceptable I haven't been about to check my account or put my last dollar on the phone to call u..." The reference to an unjust lockdown of an inmate is consistent with the inmate referenced in Deputy Stengle's JMS report # 200010737.

In a follow up telephone call to [redacted] Inmate [redacted] reiterates he sent her the aforementioned message and wants her to call the facility and complain about the kiosk. His primary complaint is that he cannot order commissary items, but he also wants her to complain about Deputy Stengle who he says is crazy and has sent someone " [redacted] to the hole..." every day she worked. [redacted] asks if this is the same woman she complained about before (likely [redacted] and Inmate [redacted] says no. At some point in the conversation [redacted] says, "If she fuckin' puts you in the hole I will burn her fuckin' house to the ground."

Deputy Stengle told me Inmate [redacted] is always very polite and non-confrontational toward her. It is clear to me Inmate [redacted] has found an effective method of passive-aggressively complaining by proxy through [redacted] and weaponizing the Internal Affairs section as merely a general complaint conduit vs. clearing house instead of seeking out jail supervisors to voice his concerns.

Unvetted, frivolous complaints such as this are a tremendous drain on operational resources in any organization when more efficient methods of established conflict resolution are literally at the fingertips of the inmates.

**Findings:**  Exonerated  Unfounded  Not Sustained  Sustained  Sustained - No Penalty

Supervisor Receiving Complaint:	Date:
Internal Affairs Representative: Lt. Michael St.Charles #06073	Date: 12/28/2020
Division Commander: Cy T. Gillespie	Date: 12/31/20

**El Paso County Sheriff's Office  
Complaint Receipt Form**

<b>In person:</b> <input type="checkbox"/>	<b>Telephone:</b> <input type="checkbox"/>	<b>Other:</b> <input checked="" type="checkbox"/>	<b>Date:</b> 08/22/2021	<b>Complaint #:</b> 2021-121		
<b>Complainant / RP's Name:</b> Lt. Klug			<b>Sex:</b>	<b>Race:</b>	<b>DOB:</b>	<b>Age:</b>
<b>Address:</b> 2739 East Las Vegas, Colorado Springs, CO 80906				<b>Telephone:</b> N/A		
<b>Email Address:</b> N/A			<b>Date/Time of Incident:</b> 08/17/2021 1629			
<b>Involved Employee(s):</b> Deputy Laura Stengle						

**Details of Allegation(s) or Statement of Complainant or RP:**

On August 22nd, 2021 at approximately 1850 hours, Deputy Laura Stengle informed me by memorandum that a friend of hers had been and arrested and was in our custody. This Inmate is [REDACTED]. Deputy Stengle gave minimal details in her memorandum about their relationship. Deputy Stengle states that Inmate [REDACTED] walked her dogs and had been to her home for dinners on numerous occasions. Deputy Stengle, when asked about their relationship, stated that it was strictly platonic. Deputy Stengle failed to mention that she was aware that Inmate [REDACTED] maintained an address at a sober living house.

Deputy Stengle, based on her previous experience as a Department of Corrections Officer and a Lieutenant at the Cheyenne Mountain Re-Entry Center, should have known that persons in a Sober Living home tend to battle addictions and may have criminal histories.

I attempted to speak to Inmate [REDACTED] while he was housed in Medical Cell [REDACTED] about his involvement with Deputy Stengle, his response was, " Fuck off, Bitch. " then muttering unintelligible statements. Inmate [REDACTED] was housed in this cell, because of his psychiatric issues, violent outburst, and smearing feces on the wall of the cell.

Lieutenant Klug informed me that a letter mailed by Inmate [REDACTED] had been intercepted and was given to me.

I read the letter and discovered that Inmate [REDACTED] had stated, " I hope you received my last letter, and I hope you receive this one, " Inmate [REDACTED] later in the letter, Inmate [REDACTED] instructs Deputy Stengle how to write to him, using her dog ' s names and a different return address.

I interviewed Inmate [REDACTED] again after he was housed in [REDACTED] approximately 3 weeks later. Inmate [REDACTED] denied any sort of relationship with Deputy Stengle, only stating, " She is a sweet, sweet soul and a great friend. "

Sergeant Ayyad and I sat down and interviewed Deputy Stengle. Deputy Stengle was very forthcoming with answers. I asked about the letter Inmate [REDACTED] stated he mailed, Deputy Stengle stated, " I did receive a letter when I returned from vacation, it was in my mailbox. " I asked, " Did you inform anyone? " Deputy Stengle answered, " Yes. I called Investigator Kevin Sypher and then Sergeant Ty Smith. I brought it straight in and turned it into Kevin. Sergeant Smith had me fill out a memo. "

Deputy Stengle did say that in exchange for the dog walking, she gave Inmate [REDACTED] approximately \$20.00 in cash, wrote a check for \$60 for his rent, and bought him some business cards.

After the interview, Sergeant Ayyad and concluded that Deputy Stengle appears to have notified all of her supervisors of all involvement with this person in a timely manner and has not violated any policies.

*I hereby state that the information provided by me in this complaint is true and correct.*

Signature of Complainant: 

Date: 10/27/2021

**\*\* For Internal Use Only \*\***

**Status of Information:**

The information provided does not constitute a violation of Office Policy. No further investigation needed.

This complaint will be examined by the employee's chain of command.

A formal investigation will be initiated based on the information received. An impartial investigation will be conducted to determine whether misconduct occurred.



# El Paso County Sheriff's Office



## INTRA-OFFICE MEMORANDUM

**TO:** Commander Andrew Prehm, EID #02009, via Chain of Command  
**FROM:** Sergeant Amy Ward, EID #08039 *aw 2.17.22*  
**DATE:** February 14, 2022  
**SUBJECT:** Chain of Command Investigation #2022-022

**Complainant:** The Honorable Judge Denise Peacock

**Involved Staff Member:** Deputy Dylan Watts, EID #18087

**Administrative Insight:** On Wednesday, February 9, 2022, at approximately 0850 am, Judge Peacock asked Deputy Dylan Watts to leave her courtroom after she felt he displayed an attitude and was rude to her while she was on the bench.

**Summary of Incident:** On Wednesday, February 9, 2022, at about 0900 am, Deputy Dylan Watts entered my office and stated that he had been asked to leave Division A and another deputy needed to be assigned. Deputy Watts told me that attorneys had been talking to the inmates for about 20 minutes since he brought them into the courtroom at 0830. Deputy Watts stated that when one of the attorneys told the Honorable Judge Peacock that they were ready to proceed on a case, the judge "sat there doing nothing for at least five minutes." When the judge did call the first case, Watts said that the judge asked him if there was a problem and he responded something to the effect of, "With all due respect, I could have left five minutes ago."

Deputy Watts stated that at this point the judge remarked that she wasn't aware she was on a timeline, and then asked that Deputy Watts leave her courtroom with the inmates and assign another deputy to the division. Deputy Watts returned the inmates to their holding cells and returned to the Court Office. After speaking with me, Deputy Watts took a docket for another courtroom.

I responded to Division A. When I entered the courtroom, the Honorable Judge Peacock was on the bench. I stated that a deputy had just told me he had left her courtroom and asked if there was anything she wanted to discuss about what had happened. Judge Peacock asked if I would meet her in her chambers.

When I met with Judge Peacock, she was visibly upset and shaking. She stated that when the first case was called and she asked for the inmate to be brought to the



podium, Deputy Watts muttered something under his breath. That is when she asked if there was a problem and Deputy Watts said what he did. Judge Peacock asked Deputy Watts to leave the courtroom at that point.

Judge Peacock told me she never wanted to see Deputy Watts in her courtroom again. She stated that deputies have consistently been professional when bringing inmates into Division A, but that Deputy Watts was rude and she did not want him ever in her courtroom again.

I apologized to Judge Peacock and stated that what had happened was unacceptable. I also told her I would speak to the deputy about his attitude and behavior. Judge Peacock was appreciative and became emotional and teary when stating, "I didn't deserve that and my staff didn't deserve that."

I let Judge Peacock know that deputies have been instructed it is acceptable to leave a courtroom if in-custody cases are not being called and no progress is being made with the in-custody inmates for a period of 20-30 minutes. I told her deputies have been instructed to politely let the court know that they are needed to cover other unassigned courts and to please call the Court Office when they are ready. However, I then stated that it sounded as if progress was being made in her courtroom that morning and the inmates were not being ignored at all. Judge Peacock stated that she never ignored deputies when inmates were brought into her courtroom.

I asked if Division A was still ready to proceed and Judge Peacock told me it was. I told her I would find someone to bring in the inmates and if no deputy was available, I would take care of it myself. There were no deputies available in the Court Office, so I brought Division A's docket into their courtroom until I was able to be relieved.

Later that morning, Sergeant Lene Lipford and I spoke to Deputy Watts privately, letting him know we wanted to hear his side of the story. Deputy Watts repeated what he had told me earlier. Sergeant Lipford asked if any attorneys were talking to the inmates. Deputy Watts stated yes, but he had other inmates who weren't called. Sgt. Lipford said, maybe the judge was calling inmates in a certain order.

Deputy Watts also stated that one of the inmates was taking a plea, the paperwork was not ready, and it appeared that the PD was still working out details with the DA. Deputy Watts took this as the PD was basically conducting a professional visit within the courtroom. Deputy Watts was frustrated with the situation because he had brought three inmates into the courtroom, only one was being talked to by an attorney, and that no one was being called for 20 minutes. He stated what pushed him over the edge was

that when the attorney said they were ready, Judge Peacock "just sat there not doing anything for five minutes before she called the inmate." I mentioned that perhaps the judge was working on paperwork. I also said that in the grand scheme of things, 20 minutes was not a lot of time.

Sgt. Lipford told Deputy Watts that when I spoke with Judge Peacock she was upset and shaking and said she didn't want Deputy Watts in her courtroom again. Deputy Watts said, "Okay." Sgt. Lipford said that obviously we cannot have deputies getting kicked out of courtrooms and they must be able to get along with court staff.

I then spoke to Deputy Watts about ways that he expresses anger and frustration, and how this has caused problems in the past. I talked about how important it is to remain calm even when frustrated or angry and to work on his patience. I said that I noticed when he gets angry his tone becomes...and Deputy Watts said, "Snippy?" and I said yes. Deputy Watts stated that he was aware of it. We talked further about having better communication with the court staff to get a clear picture of the day's docket.

On February 16, 2020, I reviewed camera footage from February 9 from the [REDACTED] [REDACTED] Deputy Watts and three inmates enter Division A at 0827 and exit at 0850 hours, so the time inside the courtroom was 23 minutes.

This is not the first time that Deputy Watts has muttered under his breath in open court, causing an issue. Please see the attached memo from Deputy Thomas Neumann about an incident which occurred several months ago.

**Findings:**

Due to these factors, I find that an allegation of violation of Policy 400.7 Performance and Conduct, #3: Respect for Employees and Members of the Office, County Employees, or the Public is Sustained.

AW/aw



# El Paso County Sheriff's Office



## INTRA-OFFICE MEMORANDUM

**TO:** Commander Andrew Prehm, EID #20009 via Chain of Command

**FROM:** Sergeant Amy Ward, EID #08039 *AW 4.19.22*  
*NA 04023*

**DATE:** March 3, 2022

**SUBJECT:** Chain of Command Investigation #2022-037

**Complainant:** Investigator Shelby Zortman

**Involved Staff Member:** Deputy Dylan Watts, EID #18087

**Summary of Incident:** I received an email from Lt. Michael Pitt on 3/1/22 which had originated from Investigator Shelby Zortman. Lt. Pitt asked me to investigate this issue.

In her email dated 2/28/22, Investigator Zortman stated: "On 2/14/22 at 0830 hours, I was in DIV 20 for a hearing on 22CR629 (██████████). While I was in court, there was a great amount of communication between the in-custody defendant's and 2 female parties in the gallery. One of the in-custodies was ██████████ and unknown name for the other defendant. The female parties were related to ██████████ case. One of the females is ██████████'s girlfriend in CO, the other female is (██████████). ██████████ was giggling and whispering to the females and the unknown in-custody. The females even moved seats to be closer to the bench the in-custodies were sitting on.

At one point, I observed a court deputy who was the in-custody deputy, (W/M taller, heavy set with brown hair) whispering to the unknown in-custody. After their interaction the deputy walk into the Gallery/pews and whispered to (██████████) that the unknown in-custody would like her phone number. The deputy handed her a ripped piece of white paper, she used her own pen and wrote a number on it and handed it back to the deputy. The deputy walked back to the in-custody area and handed him the scrap of paper with the phone number on it."

On March 3, I reviewed video footage. At 0832 hours on February 14, Deputy Dylan Watts can be seen on camera (██████████) entering Division 20 with four inmates, including Inmate ██████████ # ██████████. At 0903 hours, Deputy James Lawler comes to the courtroom and removes three of the inmates, taking them back downstairs in the elevator. At 0942 hours, Deputy Watts is seen escorting Inmate



██████████ from Division 20. I took a still shot of the video, emailed it to Zortman, and she confirmed that Deputy Watts was the deputy in the courtroom.

On March 3, 2022, I spoke to Investigator Zortman on the phone. She stated there were two out of custody females in the gallery who were giggling and smiling at Inmate ██████████ and another unidentified inmate. She identified these two females as ██████████ and ██████████

Investigator Zortman stated that the two females in the gallery continued to communicate with two of the in-custody males by whispering, giggling, and mouthing words. The females moved to the front bench in the gallery so that they could be as close to the inmates as possible. She stated that at one point, Deputy Watts walked over to Ms. ██████████ and could be overheard telling her which of the inmates wanted her phone number. Investigator Zortman stated that it looked like Deputy Watts had torn off a piece of his docket about an inch and a half long and then handed it to Ms. ██████████. Ms. ██████████ wrote something down on the piece of paper and walked back to the bench where the inmates were sitting. Investigator Zortman stated she did not see what Deputy Watts did with the piece of paper.

Investigator Zortman stated that the females were making enough noise that on two separate occasions, other people in the gallery "shushed" the two females. I asked Investigator Zortman if she felt the deputy could have been oblivious to the ongoing communication between the inmates and females, and she said she wasn't sure, but he must have seen it.

Investigator Zortman remarked that she was glad the family of the victim was not in the courtroom as Inmate ██████████ is charged with first degree murder and she thought it would have been hard for them to see the communication between Inmate ██████████ and his girlfriend.

On March 4, I spoke with The Honorable Judge Jill Brady in Division 20's chambers. I asked if she recalled an incident from a few weeks ago where a deputy had allowed inmates and people in the gallery to communicate during court proceedings. Without my naming any inmates, Judge Brady replied, "Do you mean ██████████ and his girlfriend?" I said yes. She said, "He (the inmate) was talking to ██████████, whose cases I have also heard." Judge Brady stated that she had a vague recollection of this issue happening with Inmate ██████████ but wasn't sure of the details.

Inmate ██████████ also attended court in Division 20 on 2/28/22, escorted by Deputy Jordan Bandt, so I reasoned it was possible that someone in the gallery attempted to

communicate with Inmate [REDACTED] or other inmates on that date. On 3/10/22 I showed Deputy Bandt Inmate [REDACTED]'s booking photo and said that he had taken this inmate into court in Division 20 the previous Monday, 2/28/22. I asked Deputy Bandt if he remembered any issues with this inmate trying to communicate with people in the gallery on this date. Deputy Bandt stated that he always briefs inmates about not communicating with friends or family, and did not remember any incidents where the inmate was attempting to communicate with anyone in the gallery when he was in the courtroom with Inmate [REDACTED].

On March 10, 2022, I spoke with Jordan Mann, clerk in Division 20. I asked if she remembered an incident from a few weeks ago where a deputy allowed communication between inmates and people in the gallery. She looked confused and asked if it was a female inmate communicating with someone in the gallery, and I stated that the deputy had several male inmates in the courtroom and there were some females that they were communicating with. I stated one of the inmates was [REDACTED].

She then said she did remember a time recently when Inmate [REDACTED] was in the courtroom and there was "gesturing" going on between [REDACTED] and a female. She said she remembered it because it was out of the ordinary for it to happen. I asked if she thought the deputy was aware of the inmate communicating with the female and she stated, "He had to have been." I asked if she remembered anything else about the incident or if the deputy had done anything else noteworthy that she could remember and she stated she did not.

I said that this inmate had been in Division 20 on several occasions, February 14 and February 28. I asked if this issue had occurred on both occasions or just one and she stated just one. I asked if she thought it would have been on February 14 or February 28th, and she stated, "The 14<sup>th</sup>."

On March 21, 2022, Sgt. Lene Lipford and I spoke privately to Deputy Watts in our office to ask him about the incident. I stated someone had contacted our office concerned that a deputy had allowed communication between inmates and females in the gallery on February 14 of this year. I mentioned that one of the inmates in the courtroom was Inmate [REDACTED].

Deputy Watts stated that he remembered the situation and that he got the phone number from someone in the gallery at the request of one of the inmates he'd brought into court. The inmate, whose name he could not remember (not Inmate [REDACTED]), asked to get the phone number of a female in the gallery because this inmate stated the woman was his sister. Deputy Watts stated he approached the female and asked if she

knew one of the inmates. She stated she did and was his sister, so Deputy Watts got the woman's phone number and gave it to the inmate.

Deputy Watts also stated that he noticed some communication between the inmates and the people in the gallery after giving the phone number to the inmate, and told the inmates involved to be quiet. After that, Deputy Watts stated he didn't notice any excessive communication between the inmates and people in the gallery.

Deputy Watts was asked to write a memo to document this incident.

**Findings:** Deputy Watts' memo collaborates with Investigator Zortman's observation that Deputy Watts gave a phone number from a civilian in the gallery to an inmate. Deputy Watts' recollection of the incident differs from Investigator Zortman's and the other witnesses I spoke to in that they observed the inmate/civilian communication to be prolonged and more disruptive.

I find that although there is not sufficient evidence to establish Deputy Watts violated a standard of conduct, Deputy Watts did exhibit poor judgement that day in court. Court is not the time to help an inmate with obtaining a phone number or to allow any kind of communication between inmates and the public.

Deputy Watts' management of inmates in court needs attention. In his memo, Deputy Watts indicates he satisfactorily dealt with the communication issue between inmates and the public, but observations from experienced court staff contradict his view of what happened. The court staff present in the courtroom at the time noticed enough of a disruption to normal procedures that it stood out in their mind weeks later, and according to Investigator Zortman, irritated other civilians as well. It appears that despite Deputy Watts' efforts and recollection, there was communication that took place between two male inmates and two females in the gallery.

**Recommendations:** I recommend that Deputy Watts have remedial training in management of inmates while in court.

AW/aw

## ***I. Administrative Information***

**CASE NUMBER:** CCI2022-059

**TO:** Disciplinary Action Board

**SUBJECT:** Details of Chain of Command Investigation

**DATE:** July 11, 2022

**COMPLAINT:** Policy 400.7(1), Performance & Conduct  
Policy 400.8(1(2), Efficiency  
Policy 401.5(8), Accessing Websites for Unauthorized Purposes ...  
Policy 400.9.1, Departing from the Truth  
and / or any other violations as deemed appropriate by the Chain of  
Command or DAB

**INVESTIGATOR:** Inspector Ken Hilde

### ***Basis for Investigation:***

On June 30, 2022, Detention Bureau Chief Jeff Kramer authored a memo titled "CCI 2022-059 / Dep Laura Stengle. The memo was addressed to the El Paso County Sheriff's Office Internal Affairs Unit and explained that the Chain of Command Investigation (CCI) conducted by the Detention Division had discovered information which would constitute "Departing From the Truth." Chief Kramer explained that after discussions with Undersheriff Joe Roybal, they concluded this matter should be referred to a Disciplinary Action Board (DAB) for consideration.

Internal Affairs Inspector Ken Hilde was selected to present this matter to the DAB. A review of the case as documented by the Detention Division revealed that the case stood on its own merits and no further investigation by Internal Affairs was necessary. This document is intended to provide a brief summary of the CCI conducted by the Detention Division.

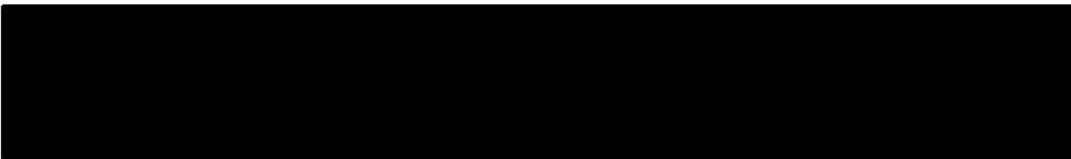
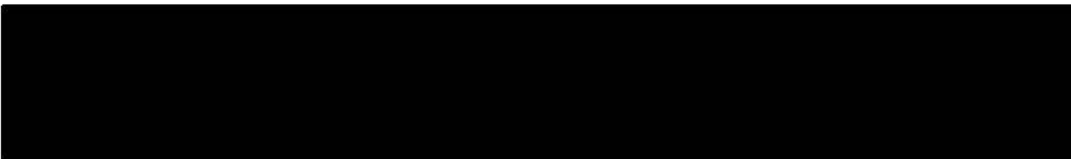
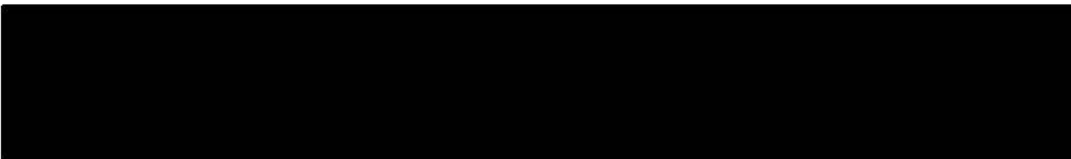
## *II. Summary of Investigation:*

On July 1, 2022, I conducted a review of the documents forwarded to the Internal Affairs Unit regarding this matter. I learned the following relevant information:

### Dep Stengle Memo


On April 14, 2022, Dep Laura Stengle authored a memo titled "Explanation of Duty Performance," addressed to Detention Division Sgt Jacob DeLong. The memo shows a scribbled set of initials, Employee ID #96012 (which I recognize as Lt Paul Wheeler's EID), and the date of 5/20/22 (approximately five weeks after she authored it). It appears that she authored this memo in response to a verbal discussion / coaching / counseling administered by Sgt DeLong previously in the year. It revealed the following relevant information:

- That she's had a "rough go since January" of 2022. Specifically:
  - She [REDACTED]
  - Her [REDACTED] and subsequently died. She explained that she felt responsible for his death.
  - That shortly after her father died, a stray dog attacked her two dogs.
  - She [REDACTED] and was forced to undergo [REDACTED]
  - That one of her dogs subsequently began attacking her smaller dog, and that as a result, she had to "get rid" of the bigger dog.
  - That this took yet another emotional toll on her.
  - That in the months thereafter, her daughter [REDACTED]
  - [REDACTED]
  - That her bout / bouts with [REDACTED]
  - She had suffered a "deer strike" on two different occasions and caused damage to two of her vehicles.
  - That her mother repeatedly calls her at 0200 hours believing she can hear her husband (Stengle's late father) calling for her in the night, only to discover that he is not there.
  - That her brother was [REDACTED]
- That she was not asking for sympathy, but rather offering context as to what was occurring in her life, and that she had went on "auto-pilot" as a means to dealing with her "depression" which manifested itself as a result of this deluge of emotional and physical crises.

- That Sgt DeLong had apparently first talked to her on or about March 5, 2022, and as a result, she made the following observations:
  - That she now understands that her work was “less than standard,” but that as a result of having been on “auto-pilot” she was not aware of her previous shortcomings.
  - That she was ignorant about the Office prohibition about using “Facebook” while at work, stating it was her understanding that it “... is how most of the deputies communicate while at work.”
- That she accepted responsibility and has “... lost countless hours of sleep knowing I slipped like I did.”
- That she has taken the following steps / corrective action to fix the problem:
  - 
  - 
  - 
  - That she has started keeping day-planner to help her stay on task.
  - That she had ordered a wristwatch which would provide her audible reminders to conduct ward checks.
  - That she had reviewed, and continues to review, specific EPSO policies [209.10, 400.7, 400.8, & 401.5(8)], so as to stay abreast of expectations at work.

Sgt DeLong Memo #1

On May 21, 2022, Sgt Jacob DeLong authored a memo titled “CCI# 2022-059 Video Footage.” It was addressed to Detention Division Commander Eric Carnell and reads as follows (in its entirety):

*“On May 18, 2022, while completing my investigation and drafting my memo, I realized that I did not download the video footage I reviewed to conduct my investigation. This video footage is directly related to the events investigated and on (sic) March 5, 2022, in Ward *

*I double checked to see if the camera footage needed was still available, however, it was past the sixty-day time frame in which we must view camera footage of past events.”*

Sgt DeLong Memo #2

On June 4, 2022, Sgt Jacob DeLong authored a second memo regarding this matter titled “Chain of Command Investigation CCI# 2022-059.” It was addressed to “Commander Eric Carnell via Chain of Command.” It bore Lt Wheeler’s initials, EID (96012), and a date of 6/10/22. It was four and a half pages long and contained the following relevant information:

- Under “Administrative Insight” Sgt DeLong noted:
  - Dep Stengle has been with the EPSO since 2020, completed the Basic Recruit Academy in 2020, and subsequently completed the Detention Training Officer (DTO) program.
  - That she had ancillary duties as a member of the Honor Guard and Crisis Negotiation Unit.
  - That she had been previously disciplined with a Supervisory Discussion Record (SDR) for using fireworks during a county-wide ban on fireworks in 2020.
- That on March 17, 2022, (presumably 12 days after Sgt DeLong spoke with her on March 5, 2022), Sgt DeLong was reviewing Stengle’s work performance as the [REDACTED]-Mod Deputy that day.

\*\*\* **Investigator’s Note:** This investigator is aware that on March 17, 2022, Inmate [REDACTED] was discovered deceased in the bunk of her cell in Ward [REDACTED]. This incident resulted in a review of the actions of the Ward [REDACTED] deputy (Deputy Rasheida Snipe) and the DTO Training Program. Sgt DeLong apparently initiated a review of Deputy Stengler’s performance as well. She was assigned as the [REDACTED]-Mod Deputy that day, and would have been responsible for providing assistance to Dep Snipe in Ward [REDACTED] in addition to the deputies in Wards [REDACTED] and [REDACTED] as well.

- Sgt DeLong’s review revealed that:
  - Dep Stengle was only “... providing minimal assistance to the [REDACTED] wards. Instead of actively helping in the wards, she spent most of her time viewing the wards on the monitor in the mod (area).”
  - That as he investigated further, he “... discovered several days where Dep Stengle was not meeting the basic standard of performance. **On several occasions were logged and not walked. Checks were logged but only a partial check was walked**” (emphasis added by this investigator).
  - Sgt DeLong also noted that her Ward Logs neglected to include entries which were required by her Post Orders.
  - Sgt DeLong noted that on a few occasions she neglected to pat search inmates and / or check their property when required.
- That on March 5, 2022, Sgt DeLong conducted a review of the ward video in Ward [REDACTED] where Dep Stengle was assigned. He subsequently compared what he observed on video and compared it to her Ward Log. He noted the following relevant information:
  - That Ward [REDACTED] requires 30-minute checks, and thus a 12-hour shift would require 24 checks.

- That in reviewing her Ward Log, he noticed that she “logged but did not walk a total of 5 (checks).” The times of those checks were reportedly at 0627, 1243, 1316, 1415, and 1640 hours.
  - That “She was anywhere from 1 minute to 5 minutes late on a total of 3 checks.” The time of those late checks were noted at 0658, 0800, and 0815 hours.
  - Deputy Stengle logged but only walked partial or incomplete checks a total of 10 times. Those checks were noted at 0728, 0850, 0921, 1023, 1145, 1214, 1608, 1709, and 1759 hours.
  - Sgt DeLong noted that on four occasions, Dep Stengle failed to pat search inmates and property as they were leaving or entering her ward.
  - Sgt DeLong noted that Dep Stengle neglected to conduct a Formal Welfare / Hands & Face Check during her shift, nor did she do a Security Door Check or Equipment Inventory.
- Reviewing eight hours of video of Dep Stengle’s performance on March 17, 2022, (the date of Inmate [REDACTED] death), revealed that while Stengle was assigned as the [REDACTED] Mod and wherein she was expected to assist Ward [REDACTED] Ward [REDACTED] and Ward [REDACTED] with making checks, med pass, pat searches, meals, etc., Stengle instead monitored the computer from the mod area.
  - Sgt DeLong went on to note that on April 1, 2022, Detentions Division Sgt Aaron Palm received a complaint from the Ward Deputies assigned to [REDACTED] and [REDACTED]. They reported that upon returning from an Honor Guard Detail at noon, Dep Stengle was assigned to [REDACTED] Mod where she was expected to assist as described beforehand. Instead one deputy complained that she only assisted by conducting one check in his ward, and the other deputy stated that her help was nonexistent to the point that he wasn’t even aware of her presence / assignment as the [REDACTED]-Mod.
  - In reviewing three hours of video of Dep Stengle’s performance in [REDACTED]-Mod on April 1, 2022, Sgt DeLong noted:
    - Stengle conducted four checks (three in [REDACTED] and one in [REDACTED]).
    - She assisted in serving meals to [REDACTED] cells in Ward [REDACTED]
    - She sat at the Mod Desk during Med Pass in Ward [REDACTED]
    - Sgt DeLong opined that during her three-hour stint as the Mod Deputy, “she could have assisted with a total of 16 checks between both wards.”
  - That on April 2, 2022, Sgt Palm observed Dep Stengle utilizing “Facebook Messenger” (a social media application) while assigned to Ward [REDACTED]. Sgt Palm noted that although Stengle quickly minimized the screen (perhaps intending to hide her activities from him), she admitted that she was using it to send and receive messages.
  - Conducting a near 12-hour video review of Dep Stengle’s performance in Ward [REDACTED] that day, resulted in the following observations:

- She logged, but did not walk, checks at 1301 and 1346 hours.
  - She logged but only walked partial checks four times (at 0715, 1215, 1245, and 1402 hours).
  - She did not conduct a Formal Hands & Face Check.
  - She did not log her “unlock” times.
  - She did not pat search two inmates who left her ward.
  - She walked away from the nurse during Med Pass to conduct a check. In doing so, she left the nurse unattended / unprotected in the presence of inmates.
- That on April 14, 2022, Sgt DeLong and Sgt Palm “had a discussion” with Dep Stengle regarding the above. Sgt DeLong recounted:
    - That Stengle appeared embarrassed and upset with herself.
    - That she pointed out the many personal, physical and emotional set-backs she had recently experienced.
    - That she did not know there were restrictions about the use of social media for personal communication while at work. Sgt DeLong noted that under some circumstances, such as notifying family of having to work late, such communication would be permitted.
- That Sgt DeLong subsequently audited “weeks” of Dep Stengle’s performance and noted a remarkable improvement in her performance. He noted no further deficiencies in her performance.
  - Under “Findings” he noted:
    - Policy 400.7(1), Performance & Conduct: He “Sustained” the allegation citing that she admitted to not performing her “duties to the best of her knowledge, skills, and abilities ... (h)er use of the internet ..., failure to walk complete and accurate checks, or make necessary ... log (entries) ....
    - Policy 400.8(1(2), Efficiency: He “Sustained” the allegation citing his review of ward video showing that she was logging but not actually walking checks, not pat searching as required, nor making necessary log entries.
    - Policy 401.5(8), Accessing Websites for Unauthorized Purposes ...: He “Sustained” the allegation citing that she admitted to using Facebook Messenger.
- Under “Recommendations” he recommended a 24-hour Suspension without Pay, a Written Reprimand, a three-month Performance Improvement Plan (PIP), and a six month temporary suspension from the Crisis Negotiation Unit and Honor Guard.

### Sgt DeLong Memo #3

On June 10, 2022, Sgt Jacob DeLong authored a third memo regarding this matter titled "Performance Improvement Plan." It was addressed to Deputy Laura Stengle, and it bore Lt Wheeler's initials, EID (96012), and a date of 6/10/22.

\*\*\* **Investigator's Note:** Upon speaking with Dep Stengle on July 6, 2022, (nearly a month after the date of the PIP) to arrange her DAB appointment, she was unaware that she had been placed (or would be placed) on a PIP.

### Lt Wheeler Memo

On June 10, 2022, Lieutenant Paul Weeler authored a memo titled "Findings and Recommendations Reference CCI 2022-059." It was addressed to Commander Eric Carnell, and I noted the following relevant information:


- He concurred with Sgt DeLong's findings and recommended sanctions.
- He, however, mistakenly wrote that Sgt DeLong recommended a 20-hour suspension, when in fact, DeLong recommended a 24-hour suspension.
- Lt Wheeler added that he would speak with Dep Stengle regarding her personal struggles and [REDACTED]

### Cmdr Eric Carnell Endorsement

On June 10, 2022, Cmdr Carnell concurred with Lt Wheeler's findings on the first three charges (no "Departing from the Truth" had been suggested) and endorsed a 20-hour suspension without pay, a Written Reprimand, suspension from auxiliary duties, and intended to schedule a "Commander's Meeting."

### TIMELINE

- March 5, 2022: Verbal discussion between Sgt DeLong and Dep Stengle regarding his review of her work based upon audits of her Ward Logs and Ward Video.
- March 17, 2022: Sgt DeLong conducts a second focused audit of Dep Stengle's performance in the aftermath of Inmate [REDACTED] death.
- April 1, 2022: Sgt Palm receives a complaint that Dep Stengle does not provide the proper amount of assistance when she is assigned as a Mod-Deputy.
- April 2, 2022: Sgt Palm noted that Dep Stengle was accessing "Facebook Messenger" while on duty.
- April 14, 2022: Sgt Palm & Sgt DeLong "have a(nother) discussion" with Dep Stengle. She accepts responsibility for her substandard performance, to include the logging of checks either only partially done or not completed at all. She attributes it to [REDACTED]

- 
- April 14, 2022: Dep Stengle authors a “mea culpa” memo, wherein she explains the above. She, however, claims ignorance of the EPSO social media restrictions.
  - May 20, 2022: Lt Wheeler reviews Dep Stengle’s aforementioned, April 14, 2022, memo.
  - May 21, 2022: Sgt DeLong reports that he failed to save the relevant ward video.
  - June 10, 2022: Sgt DeLong authors his CCI Findings & recommends 24-hour suspension w/out pay, Written Reprimand, three month PIP, and temporary suspension from ancillary assignments. Sgt DeLong documents that repeated audits since April 14, 2022, show that Dep Stengle has (already) made the needed / required improvements.
  - June 10, 2022: Sgt DeLong authors, but does not serve, a PIP for Dep Stengle.
  - June 10, 2022: Lt Wheeler concurs with Sgt DeLong’s findings and recommendations.
  - June 10, 2022: Cmdr Carnell concurs with Lt Wheeler’s findings and recommendations.
  - June 30, 2022: Subsequent to discussion with Undersheriff Roybal, Chief Kramer adds “Departing from the Truth” allegations to the CCI and forwards the case to Internal Affairs for purposes of administering the Disciplinary Action Board (DAB) process.

KRH/kh  
071122

**El Paso County Sheriff's Office**  
Complaint Receipt Form

**Complaint Review and Disposition Details:**

On 11/23/22, At approximately 21:30 hours, I began my review of the BWC for this incident. I learned the following Deputies were on scene.

Deputy Brandon Hall #17034

Deputy Dakota Richardson #18036

Deputy Sean Donahoue #18049

Deputy Zachary Lacey #18030

Allegation 1 - Deputy Lacey Omitting information from the report, specifically the following:

A. Mrs. [REDACTED] told deputies that [REDACTED] (A passenger in Mrs. [REDACTED]'s car) was in possession of drugs.

B. Mrs. [REDACTED] told deputies the reason she gave [REDACTED] a ride in the first place is [REDACTED]'s sister threatened to "beat her ass" if she didn't give [REDACTED] a ride.

Allegation 1 Sergeant Hubbell's findings.

I pulled this case up in LERMS and found deputy Lacey's Case narrative was the only submitted report of this incident. I reviewed deputy Lacey's BWC and found he arrived on scene, was briefed by deputies already on scene as well as with Mrs. [REDACTED], Mrs. [REDACTED] and Mrs. [REDACTED]. At no time was deputy Lacey told anything about the information Mrs. [REDACTED] alleged was omitted from deputy Lacey's report. Disposition - Unfounded.

Allegation 2 - Deputies refused to look at or take her evidence on her phone.

Allegation 2 - Sergeant Hubbell's findings.

while reviewing BWC Mrs. [REDACTED] claims she has video that proves her side of the incident when deputy Lacey requests her to sign a summons and complaint for assault. Mrs. [REDACTED] manipulates her phone for two minutes while making her argument. deputy Lacey and deputy Hall both tell her she can provide the videos. Mrs. [REDACTED] requests they be looked at immediately but never shows deputies her phone and simply places it back in the center console and signs the summons while stating she has video. Disposition- Not Sustained.

Allegation 3 - Mrs. [REDACTED] was treated with Bias because of her criminal history.

A- she could not be a victim because she has a criminal history

B- deputies took 11 minutes to respond while she was being assaulted

Allegation 3 - Sergeant Hubbell's findings.

deputies arrived on scene approximately 10 minutes after dispatch received the call. Mrs. [REDACTED]'s information was not run and entered into the CFS until deputies had been on scene for 10 minutes. BWC has deputy Richardson and deputy Sean Donahoue clearly inform the victim Mrs. [REDACTED]'s previous record will not affect the current investigation.

Disposition - Unfounded

On 11/26/22, At approximately 23:56 hours, I contacted Mrs. [REDACTED] to let her know I was going to be investigating her complaint. She told me she had been given advice by her Attorney not to talk to law enforcement. She mentioned something about being conflicted because she wanted to talk about the poor police work that she has received and mentioned CSPD. I told her I didn't want to ask her any questions and have her not listen to her Attorney's advice, but I confirmed with her that I was with the El Paso County Sheriff's Office and not CSPD. She stated, is this is about the assault. I told her yes that is correct. I apologized for the late hour but told I was going to investigate her complaint and inform her when it was completed.

## ***I. Administrative Information***

**CASE NUMBER:** IA2020-003

**TO:** Undersheriff Pete Carey

**SUBJECT:** Details of Investigation

**DATE:** February 12, 2020

**COMPLAINT:** 320.5.8 Performance (b) and/or any other violations deemed appropriate by the DAB or Chain of Command

**COMPLAINANT:** Undersheriff Pete Carey

**ACCUSED:** Deputy Russell Smith

**INVESTIGATOR:** Sergeant Aric Powell

## ***II. Basis for Investigation:***

It is alleged that on November 28, 2019, Deputy Russell Smith was inefficient in his duties as a deputy sheriff assigned to the Criminal Justice Center (CJC) and falsified work-related documentation (Beacon Jail Management Software (JMS)). Specifically, while working Ward [REDACTED] he logged two Formal Welfare/Hands and Face Checks but did not conduct the Formal Welfare/Hands and Face Checks in accordance with an interim directive released on July 9, 2019, by Chief Northam.

This arguably could have delayed the discovery of the inmate's injuries, sustained during Deputy Smith's shift, on November 28, 2019, at approximately 1120 hours. The inmate's injuries were later discovered by another deputy on November 29, 2019, while conducting a Formal Welfare/Hands and Face Check.

Further investigation revealed Deputy Smith had a pattern of logging Welfare Checks into JMS but not fully completing or in some cases not conducting the Welfare Checks at all.

Based on this complaint, Undersheriff Pete Carey directed the Internal Affairs Unit to conduct an investigation to gather facts surrounding the aforementioned allegation. Sergeant Aric Powell was assigned as the lead investigator.

### ***III. Details of Investigation:***

On Wednesday, January 22, 2020, at approximately 1400 hours, EPSO IA Lieutenant Ray Bernier assigned this case to me. My initial information was Security Division Commander Cy Gillespie referred this case to Internal Affairs (IA) in preparation for a Disciplinary Action Board (DAB). At that same time, I received a collection of memos and a CD containing multiple videos.

After sorting through the various memorandums, I ascertained that in December 2019 Sergeant Cynthia Ayyad, at the direction of Commander Gillespie, started an initial investigation. The initial investigation encompassed several deputies, to include Deputy Smith. Sergeant Ayyad's investigation revolved primarily around one incident that happened on November 28, 2019, in Ward [REDACTED] at approximately 1120 hours. Inmate [REDACTED], Inmate ID [REDACTED] assaulted Inmate [REDACTED] Inmate ID [REDACTED] inside a cell. Inmate [REDACTED] received [REDACTED] which were not discovered until the following day, at approximately 1255 hours.

Between the time of the assault and the discovery of Inmate [REDACTED]'s injuries several deputies conducted and logged Formal Welfare/Hands and Face Checks into JMS but did not detect his injuries. During Sergeant Ayyad's investigation she noted Deputy Smith logged his Formal Welfare/Hands and Face Check with meals. That is counter to the July 9, 2019, directive released by Chief Northam in which he specifically stated that face and hands checks would be a stand-alone event and not be concurrent with any other event such as meal distribution. Upon further investigation Sergeant. Ayyad observed that during the Formal Welfare/Hands and Face Check, Deputy Smith did not check the hands and face of any inmate. Deputy Smith instead, glanced through the cell door window before opening the door to allow the ward trusty to hand the meal tray to the inmate inside the cell.

***\*\*\*Investigators Note:*** *Deputy Smith was a Detentions Training Officer (DTO) during this time and was assigned a trainee, Deputy Paul Owens.*

Sergeant Ayyad confronted Deputy Smith about conducting his Formal Welfare/Hands and Face Checks with meals. Deputy Smith acknowledged Chief Northam's July 2019 directive regarding Formal Welfare/Hands and Face Checks. However, Deputy Smith stated a male sergeant (later identified as Sergeant Brian Erhardt) authorized that Formal Welfare/Hands and Face Checks could be done during breakfast meal service to prevent the meals from becoming cold.

***\*\*\*Investigators Note:*** *Based on my experience working at CJC, I witnessed the breakfast meals in Ward [REDACTED] often arrived during the transition from shift five to shift two. The breakfast meals would be left in the [REDACTED] mod area until the transition was complete and shift two could distribute the meals. The transitional delay coupled with the completion of a Formal Welfare/Hands and Face Checks could reasonably cause a significant delay in the distribution of meals allowing the meals to become cold.*

Deputy Smith ultimately admitted to Sergeant Ayyad, that he was wrong for failing at his duty, said he would take full responsibility and accept whatever disciplinary action was necessary.

I began my initial investigation by reviewing the Avigilon video footage for other wards Deputy Smith had been assigned post November 29, 2019. I did this to establish if Deputy Smith always conducted his

Hands and Face Checks in the same manner or if the Hands and Face Check on November 29, 2019, was an anomaly.

On February 3, 2020, I reviewed video footage in Ward [REDACTED] for January 2, 2020, I noted several instances that Deputy Smith logged a 30 Minute Check into JMS but never conducted his checks. I reviewed video footage for Ward [REDACTED] on January 3, 2020, and again noted several instances that Deputy Smith logged a 30 Minute Check into JMS but never conducted his checks.

I checked the shift two manning roster for the current day, February 3, 2020, and saw that Deputy Smith was currently assigned to Ward [REDACTED]. I immediately reviewed the video footage for Ward [REDACTED] and observed that Deputy Smith was logging 15 Minute Checks into JMS but failing to conduct them completely or at all. At approximately 1000 hours, I notified Lt. Bernier who contacted Detention Commander Cy Gillespie to inform him of Deputy Smith's actions. That same day, at approximately 1030 hours, Commander Gillespie served Deputy Smith his notice of investigation and ordered him to report to IA at 1200 hours for his IA interview.

*\*\*\*Investigators Note: Later Sergeant Bud Perry provided a memorandum that documented discrepancies in Deputy Smith's 15 minute checks in Ward [REDACTED].*

#### **JMS Report # 190012289 from Deputy Conor Dornan**

On November 29, 2019 Deputy Conor Dornan authored a JMS report which addressed his discovery of Inmate [REDACTED]'s injuries while conducting his Formal Welfare/Hands and Face Check in Ward [REDACTED].

- At approximately 1255 hours Deputy Dornan conducted a Formal Welfare/Hands and Face Check on the top tier of Ward [REDACTED], discovering Inmate [REDACTED], "with facial swelling on his nose and some bruises around both of his eyes;"
- Inmate [REDACTED] was initially reluctant to tell Deputy Dornan what happened but later informed Deputy Dornan that Inmate [REDACTED] and he engaged in a mutual fight;
- Inmates [REDACTED] and [REDACTED] fought because Inmate [REDACTED] "burped" in Inmate [REDACTED]'s face;
- Inmate [REDACTED] claims to have been choked by Inmate [REDACTED] during the altercation and that he ([REDACTED]) fell unconscious;
- Inmate [REDACTED]'s cellmate, Inmate [REDACTED], appeared to have been a minor participant or witness to a portion of the incident;
- Deputy Dornan reviewed the Avigilon Camera system and determined the fight took place on November 28, 2019, at approximately 1122 hours in Ward [REDACTED], cell [REDACTED];
- Due to inconsistent statements by Inmate [REDACTED], Deputy Dornan decided to not pursue criminal charges at that time.

#### **Formal Welfare (Face and Hands) Checks Directive – Bureau Chief Clif Northam**

This directive was sent to all personnel on July 9, 2019, with the subject, "Formal Welfare (Face and Hands) Checks." See summary of the relevant information below.

- All wards will be locked down prior to each shift change;
- Before the locked wards are unlocked for normal activities, the oncoming ward deputies on shifts 2, 3, 4, and 5 will conduct face and hands checks of each inmate in the ward;
- This face and hands check will be its own stand-alone event and will not be concurrent with any other event (meal distribution, med pass, programs attendance, 15/30 minute ward checks, etc.);
- The oncoming deputy will enter each cell or pod and physically speak to each inmate and announce a face and hands check;
- The deputy will require each inmate to show their face and each side of their head, as well as both the front and back of their hands;
- The deputy will look for any injuries, swelling, cuts, bruises, or other physical anomalies consistent with a violent encounter or illness;
- Upon completion of each face and hands check, the deputy will enter the face and hands check into their ward log;
- Only when the face and hands check has been entered into the ward log can the deputy unlock the ward to resume normal activities.

## **Memorandums**

***\*\*\*Investigators Note:*** I received several memorandums for this investigation. That is because this investigation started as a Chain of Command Investigations (CCI2019-120) into the alleged failure of several deputies to correctly conduct their Formal Welfare/Hands and Face Checks which arguably could have led to the early detection of an inmate's injuries. However, during the CCI conducted by Sergeant Ayyad several of the deputies already received their findings and were given a disposition in their case. I will not be addressing those deputies' memos or portions involving them unless it is relevant to this investigation.

– **Deputy Paul Owens**

On December 3, 2019, Deputy Owens authored a memorandum to Sergeant Ayyad with the subject, "Formal Welfare Check Ward [REDACTED] 11/28/2019." In his memorandum he detailed his involvement in an incident in which Inmate [REDACTED]'s injuries were not discovered in a timely manner. See the summary of the relevant information below.

- On November 28, 2019, he was assigned to Ward [REDACTED];
- He was still on the daily evaluation portion of his DTO process;
- At approximately 1245 hours, the meal cart was brought into [REDACTED] and he began to serve the lunch meal to the inmates;
- He performed a Formal Welfare/Hands and Face Check on the inmates that accepted their meals;
- Cells [REDACTED] were all unlocked at the time;
- Inmate [REDACTED] asked Deputy Owens for Inmate [REDACTED]'s meal because he ([REDACTED]) was in the shower;
- The inmate assisting with the meal service handed the meal to Inmate [REDACTED];
- Deputy Owens served meals to the inmates that were locked down, starting with cell [REDACTED] working toward cell [REDACTED];

- Deputy Owens served meals and performed welfare checks on inmates inside cells █ to █;
- When he arrived at cell █, several inmates began to crowd him and the meal cart;
- When he asked the inmates why they were crowding him, they told him he was being paranoid as they directed him past cells █ and █, causing him to fail to perform a welfare check on the inmates inside cells █ and █;

**\*\*\*Investigators Note:** *At the time of the incident, Inmate █ was assigned to cell █ and Inmate █ was assigned to cell █.*

- Deputy Owens assumed he had already completed a formal welfare check on the inmates in cells █ and █ when they received their meals;
- He did not notice any interaction between Inmates █ and █.

**\*\*\*Investigators Note:** *Deputy Owens would later tell Sergeant Ayyad that he understood a Formal Welfare/Hands and Face Check to only consist of getting a response from the inmates to be sure they were alive and well.*

– **Deputy Russel Smith**

On December 3, 2019, Deputy Smith authored a memorandum to Sergeant Ayyad with the subject, “Formal Welfare Check of Ward █ on 11/28/2019.” In his memorandum he detailed his involvement in an incident in which Inmate █’s injuries were not discovered in a timely manner. See the summary of the relevant information below.

- On November 28, 2019, he was assigned to Ward █;
- Deputy Smith was in the first week of the DTO process with his trainee;
- His trainee was Deputy Paul Owens;
- Deputy Smith explained the Formal Welfare Check to his trainee as, “...an actual hands and face check of all inmates in the ward” and “...is to be conducted during each meal and when we arrive to our ward shift;”
- He stated that the Ward █ breakfast meal typically arrives within the first 15 minutes of arriving to the ward and again stated the formal welfare check is completed “during the distribution of meals;”
- He received an email regarding the inmate altercation involving Inmate █ and reviewed the Avigilon Camera system;
- Deputy Smith allowed his trainee to serve the lunch meals by himself after his trainee said he was comfortable doing so;
- Deputy Smith watched Inmate █ receive his meal and ask to take Inmate █ his meal because he (█) was in the shower;
- He stated that it is common for inmates to take another inmate their meal but that he verifies the inmate’s wellbeing after the current unlock group is served however, in this case, he kept his attention focused on his trainee;
- His trainee started serving meals from cells █ to █ which were locked down at that time and was satisfied with his trainee’s performance;
- Deputy Smith proceeded to cell █ in response to an emergency panic alarm;

- Deputy Smith was called to cell [REDACTED] by the inmate inside to discuss issues with the inmate's diet and that there was an ongoing issue with that inmate's diet;
- He did not speak with his trainee any further during the meal service because he believed there to be no issues;
- Upon his review of camera footage he observed Deputy Owens reach cell [REDACTED] (last cell to be given a meal) where he was crowded by inmates and he (Deputy Owens) continued to walk past cell [REDACTED];
- Deputy Smith assumed that the inmates crowding Deputy Owens made him uncomfortable causing Deputy Owens to continue past cell [REDACTED];
- The rest of his shift continued without issue for him or his trainee.

– **Sergeant Cynthia Ayyad**

On January 9, 2020, Sergeant Ayyad authored a memorandum to Commander Gillespie with the subject, "Unsatisfactory work performance CCI2019-120." In her memorandum she detailed her investigation into the allegations of Unsatisfactory work performance revolving around multiple deputies' alleged failure to conduct Formal Welfare/Hands and Face Checks. See the summary of the relevant information below.

- On November 29, 2019, at approximately 1400 (Deputy Dornan reported 1255 hours) hours while conducting the hands and face check in [REDACTED], Deputy Conor Dornan discovered Inmate [REDACTED] with [REDACTED];
- After further investigation, it was discovered Inmates [REDACTED] and [REDACTED] entered into cell [REDACTED] in Ward [REDACTED] at approximately 1120 hours on November 28, 2019 and engaged in a mutual fight;
- Four formal (hands and faces) Welfare checks were logged by multiple deputies between the time of the initial altercation and when the inmate's injuries were discovered;
- Sergeant Ayyad summarized Deputy Dornan's JMS report;
- Sergeant Ayyad referred to statements from Inmate [REDACTED] on how he made attempts to subvert deputies from discovering his injuries;
- Sergeant Ayyad detailed the following ways Inmate [REDACTED] would hide his injuries:
  - "sit back in the shadows;"
  - Wear his glasses so the frames would block around his eyes;
  - Wave his hands in front of his face;
  - His roommate "...would run interference either by dropping his pants and sitting on the toilet while telling deputies he was going to the bathroom and at mealtimes, his roommate would stand between him and the deputies to retrieve the meal tray;"
- Sergeant Ayyad addressed the memos submitted by other involved deputies;
- Sergeant Ayyad reviewed camera footage for November 28, 2019, at 0515 hours, and observed that Deputy Smith logged a Formal Welfare/Hands and Face Check but neither he nor Deputy Owens conducted a hands or face check;

- Sergeant Ayyad reviewed camera footage for November 28, 2019, at 0515 hours and observed that Deputy Smith logged a Formal Welfare check with the comment “CONDUCTED DURING MEAL” but neither he nor Deputy Owens conducted a hands or face check. They instead went door to door of each cell, briefly looked in the window of each cell before moving on to the next cell. During the meal pass they opened the doors, stepped aside for the Trusty to pass the meals into the cell but still did not conduct a hands or face check;
- Sergeant Ayyad reviewed camera footage for November 28, 2019, at 1244 hours and observed that Deputy Smith logged a Formal Welfare check with the comment “CONDUCTED DURING MEAL” but neither he nor Deputy Owens conducted a hands or face check. Deputy Owens went door to door of each cell, briefly looked in the window of each cell before moving on to the next cell. During the meal pass Deputy Owens opened the doors, stepped aside for the Trusty to pass the meals into the cell but still do not conduct hands and face check;
- Sergeant Ayyad confronted Deputy Smith about conducting his Formal Welfare/Hands and Face Checks with meals. Deputy Smith acknowledged Chief Northam’s July 2019 directive regarding Formal Welfare/Hands and Face Checks. However, Deputy Smith stated a male sergeant (later identified as Sergeant Erhardt) authorized that Formal Welfare/Hands and Face Checks could be done during breakfast meal service to prevent the meals from becoming cold;
- Sergeant Ayyad confirmed with Sergeant Erhardt that he had directed deputies that it was permissible to conduct hands and face checks during the breakfast meal service;
- Sergeant Erhardt authorized deputies to conduct a hands and face checks during the breakfast meal service to prevent the meals that arrived during the shift five to shift two transition from becoming cold. Sergeant Erhardt did not intend for it to pertain to meals outside of those parameters;
- Sergeant Ayyad gave her disciplinary recommendations. She recommended Deputy Smith be removed from the DTO program and receive a letter of reprimand.

– **Commander Gillespie**

On January 21, 2020, Commander Gillespie authored a memorandum to Commander Kramer. The subject of this memorandum is titled, “CCI2019-120 (Smith/Owens/Ronk/Ackary/Dornan/Erdle).” In his memorandum he summarized Sergeant Ayyad’s investigation, his concerns with Deputy Smith’s integrity and his recommendation for Deputy Smith to face a Disciplinary Action Board (DAB). See the summary of the relevant information below.

- Commander Gillespie addressed several deputies and the disposition of their discipline;

- Stated Deputy Owens bears no culpability for anything he did because he was under the direction or supervision of his training officer, Deputy Smith;
- Reiterated that Deputy Smith logged welfare checks that he did not conduct;
- That Deputy Smith taught his trainee, “that a cursory glance at an inmate reaching for a food tray from another inmate was an acceptable method of making sure the inmate hadn’t been in a physical altercation;”
- That Deputy Smith has a history of compromised integrity within the Sheriff’s Office;
- That welfare checks are the fundamental element of good detention work and quality checks are nonnegotiable;
- He does not know if Deputies Smith or Owens would have discovered Inmate [REDACTED]’s injuries if they had done “quality” hands and face checks like they were instructed to but that the chances of them accidentally finding the injuries were impossible using their current methods;

***\*\*\*Investigators Note:*** *Commander Gillespie’s reference to Deputy Smith’s compromised integrity is primarily based on Deputy Smith’s involvement in a prior incident in which he received disciplinary action from a DAB. On September 12, 2018 Deputy Smith received disciplinary action for his involvement in an incident where deputies received patrol oral board questions prior to their appearance before their oral boards. The questions were obtained by a deputy that took part in the current oral board process who then shared them with deputies that had not had their oral board yet.*

- Commander Gillespie recommended Deputy Smith face a DAB for violation of policy 320.5.8 Performance (b): The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any Office record, public record, book, paper or document.

### **JMS Log / Video Review and Comparison**

The following information was compiled by comparing JMS ward log entry times to the Avigilon camera system times. Deputy Smith’s ward assignment for each day was verified using shift manning rosters and later during Deputy Smith’s interview he would verify his identity. As the task of reviewing, exporting and comparing video is extremely time consuming I used a small sample over three different dates for my investigation. The video is included with this investigative summary.

***\*\*\*Investigators Note:*** *The JMS ward log entry times are approximately two minutes behind the Avigilon camera system time. For example, if the JMS entry time reads 05:00 the Avigilon Camera system time will read 05:02.*

- January 2, 2020 – Ward [REDACTED]
  - 05:42 - Logged Formal Welfare Check but conducted no check at all
  - 05:59 - Logged 30 Minute Check but conducted no check

- 06:30 - Logged 30 Minute Check but conducted no check
- 07:00 - Logged 30 Minute Check but conducted no check
- 07:29 - Logged 30 Minute Check but conducted no check
- January 3, 2020 – Ward [REDACTED]
  - 10:25 - Logged 30 Minute Check but conducted no check
  - 10:55 - Logged 30 Minute Check but conducted no check
  - 11:14 - Logged 30 Minute Check but conducted no check
  - 11:43 - Logged 30 Minute Check but conducted no check
- February 3, 2020 – [REDACTED]
  - 07:15 - Logged 15 Minute Check but only completed top tier
  - 07:45 - Logged 15 Minute Check but only completed top tier
  - 08:01 - Logged 15 Minute Check but conducted no check
  - 08:14 - Logged 15 Minute Check did not check cells [REDACTED] to [REDACTED]
  - 08:28 - Logged 15 Minute Check, only checked cells [REDACTED] to [REDACTED]
  - 08:42 - Logged 15 Minute Check but conducted no check

*\*\*\*Investigators Note: Sergeant Bud Perry submitted a memorandum providing his observations and comparison of the February 3, 2020, B4 JMS logs to the applicable video from 0600 hours to 0935 hours. This memo is included with this investigation summary.*

**Deputy Russell Smith (Subject Employee) Interview**

On February 3, 2020, at approximately 1200 hours, I conducted a scheduled interview with Deputy Russell Smith regarding this investigation. I provided him a Garrity Advisement and he acknowledged understanding that the consequence of not being truthful was termination of his employment. I explained to him that pursuant to C.R.S. 24-31-305(2.5) (a) the reasons his POST certification could be subject to revocation to which he acknowledged he understood. Deputy Smith related the following relevant information:

- He has been employed with EPSO since September 2016;
- Deputy Smith is currently assigned to the Security Division as a Detentions Deputy and has been since his graduation from the academy;
- He is assigned to Shift Two (0520 hours to 1520 hours) with Tuesday, Wednesday and Thursday off;
- Deputy Smith defined his current duties as, “To work my assigned post and help maintain the safety and security of the facility and discipline and order of it;”
- He received his notice of investigation and stated he knew why he was here;
- He has been a DTO since February 2019 and has trained two trainees but has never been through the DTO training class;
- He defined a DTO as, “...they teach, uh, new, recently graduated recruits, now new deputies of the office. Uh...in regards to floor security, how to run a ward, the ins and outs of whatever our

log entries are, ACA accreditation requirements, and, uh, policies and SOPs (Standard Operating Procedures) set forth;

- As a DTO he is familiar with the normal “running” of a ward and SOP;
- His current understanding of the Formal Welfare/Hands and Face Check “recently” changed;
- The Formal Welfare/Hands and Face Check was “recently” and “thoroughly” explained to him;
- Deputy Smith acknowledged Bureau Chief Northam’s July 2019 directive regarding Formal Welfare/Hands and Face Checks and the procedures surrounding it;
- He now understands it to be, “... , hands, face, knuckles check. Um, to be conducted, uh, in accordance with meals in the chief’s, uh, memorandum that he published at shift change for shifts 2, 3, 4 and 5. Um, that is somewhat recent, um, of a change for us. Uh, now we do it oncoming every shift, uh, up in the wards [REDACTED] and [REDACTED];”
- He stated he received a “training flaw and scar” from his DTO and that he was trained that a formal welfare check was, “...a, hey, okay, he’s breathing, he’s alive, good;”
- He cannot attest to reading the DTO manual, “cover to cover” and the last DTO manual he remembers looking through was a 2013 version but is familiar with it;

**\*\*\*Investigators Note:** *Later in the interview ,when he is asked about what the DTO manual describes a hands and face check as he replies, “I’ll just be honest with you, I’ve never read it.....So it’s my fault.”*

- Deputy Smith acknowledged that after Bureau Chief Northam’s Formal Welfare (Face and Hands) Checks directive was released supervisors explained to him what a “hands and face” and a “formal welfare” check entailed;
- Deputy Smith believed Bureau Chief Northam’s directive was sent in response to an inmate who was assaulted multiple times in the [REDACTED] Wards and left under a bunk. Deputies failed to conduct count, conduct hand and face checks, housing inspections, etc. As Deputy Smith stated it “it was the straw that broke the camel’s back as far as accountability;”
- Deputy Smith said it takes approximately 10 to 15 minutes to complete a proper hands and face check in the [REDACTED] wards but if done during shift change, with the help of both shifts, it can take five to six minutes.
- For a cell in the [REDACTED] wards housing two inmates, he estimates a hands and face check to take only a few seconds if they are awake. However, if they are asleep, which he said is common on Shift Two, it takes longer;
- He acknowledged the fight that took place on November 28, 2019, in [REDACTED] between inmates [REDACTED] and [REDACTED] and that he was assigned to the ward on that date;
- He stated he did not do a hands and face check after the fight took place that day but instead, his trainee Deputy Owens completed the hands and face check;
- Deputy Smith said he observed Deputy Owens open, “...a number of cell doors” during meal service, said, “...hands and face, were serving lunch” but did not watch Deputy Owens for every cell;
- Deputy Smith admitted that the morning the fight took place between inmates [REDACTED] and [REDACTED], he failed to conduct a complete formal welfare hands and face check but did log his formal welfare check as if he had;

- Deputy Smith acknowledged that since the incident between inmates [REDACTED] and [REDACTED], Sergeant Ayyad has spoken with him about the correct way to do a Formal Welfare (Face and Hands) Check;
- Deputy Smith said Sergeant Ayyad and he talked about the fact he wasn't doing his Formal Welfare (Face and Hands) Checks in their entirety and it needed to be "fixed;"
- After watching the video of the day the fight happened, Deputy Smith believes that Inmates [REDACTED] and [REDACTED] fought on his shift while he and Deputy Owens were distracted gathering other inmates for medical appointments;
- Deputy Smith believed that he and Deputy Owens missed Inmate [REDACTED]'s injuries during their Formal Welfare (Face and Hands) Check because he allowed Deputy Owens to conduct the check and the inmates crowded Deputy Owens, causing him to pass Inmate [REDACTED]'s cell without checking;
- Deputy Smith stated it probably wasn't a good idea to let his trainee, Deputy Owens, complete the Formal Welfare (Face and Hands) Check by himself on the third day of his training;
- Deputy Smith described a 15/30 minute check as:
  - Logging the check;
  - "Going bay to bay or door to door" and if it is a door he is going to look inside;
  - Check to see if they are alive and "...not doing anything that they're not supposed to be doing;"
  - "...if nothing looks out of the ordinary, I move on to the next one;"
  - He makes mental notes of what the inmates are doing at the time, looking for oddities;
  - In the tower he walks by the front of the bays.
- Deputy Smith said he has logged and completed a check from the deputy station without ever walking away from the desk;
- At times he said he logged his check and "stood there and kinda looked for a bit and, yeah, I don't – I don't see anything out of the ordinary;"
- Deputy Smith stated he knew what a correct 15/30 minute check and what he was doing was not the correct way;
- He said he would not do some of his checks because of "mis-prioritizing" and sometimes he would get distracted;
- Deputy Smith offered the following reason for not conducting his checks, "It can be cumbersome. And as of late, like I was explaining to Inmate Class this morning, um, our groups are continually over 16, it was only – it was originally built to have 16 groups. Um, if we can do what we can to get our groups to 16 then the ward runs a little better. Um, the – the, uh, so sometimes I get caught up in what I'm doing, trying to make sure that the ward's – big picture wise, is set up how it should be set up, things are organized how they should be organized, um...other times I don't – I don't know what was going through my head;"
- Deputy Smith was aware of the recent suicide that took place in the jail where an inmate successfully committed suicide by hanging himself;
- He stated he understood the Sheriff's Office's concern over his lack of conducting correct welfare checks and the liability of his actions;
- Deputy Smith said he was not aware he needed to notify a supervisor, make any JMS log entries when he missed or was late on a welfare check;

- At no time did he ever notify any supervisor that he missed a welfare check;

**\*\*\*Investigators Note:** *During this portion of the interview I used a laptop to show Deputy Smith some Avigilon videos of him working his assigned wards in CJC. I asked him to read aloud the JMS entries, Time/Date stamps on the video, verify it was him in the video and to tell me if he conducted a welfare check.*

- Video Review
  - [REDACTED] - November 28, 2019, 5:15 – Logged as a Formal Welfare Check – Agreed he was “Not looking at hands, face, knuckles.” He agreed had an assault happened at that point he would not have detected it
  - [REDACTED] – January 3, 2020, 05:43 – Logged as a 30 Minute Check – Did not conduct a check and remained seated at the deputy station. At that point he said, “That is not a check. I’d say that’s somewhere along the lines of poor judgement;”
  - [REDACTED] – January 3, 2020, 06:05 – Logged as 30 Minute Check – He agreed he did conduct the check;
  - [REDACTED] – January 3, 2020, 06:33 – Logged as 30 Minute Check – He agreed he did not conduct the check;
- Deputy Smith reiterated several times that it was bad judgement and complacency to not conduct his checks and by not doing so he put others at risk;
- When asked why he didn’t conduct his checks he said, “A lot of bad judgement, it looks really bad on me. Um...I don’t know that I could tell you it’s for any one particular reason or multiple – the mix of being in the tower. Um, not taking it seriously. Um, obviously being lazy, if I’m sitting there at the computer, so it’s a – can’t say any particular one was done or not done, uh, and logged only for any particular reason. Um, it just – it looks really bad on me, it’s a lot of bad judgement;”
- He agreed that if we checked video from other days he worked, we would find several other instances where he logged but failed to conduct his welfare checks;
- On an unknown date, he recalled that after a conversation with Sergeant Ayyad he began to question his own integrity, that other deputies look up to him, he needed to be better and he needed to be the deputy his sergeants know he is. After stating this he followed up with, “It’s not like I walked out of that office and I was like, I’m gonna do this right now;”
- Deputy Smith continued describing his behavior as extreme complacency, “not right”, bad judgment and that he just needed a swift kick to get back to doing his job right;
- I asked Deputy Smith that if I were to review video of him working [REDACTED] this morning, would I find that he failed to conduct his welfare checks? His response was, “I don’t believe so, there might have been one that I didn’t do” and later he would say, “I think there was at least one that I missed;”
- He agreed that JMS requires his unique login and password to make an entry;
- Deputy Smith agreed that by logging his checks into JMS but not doing them he was essentially falsifying a document and it was a departure from the truth. He stated, “...I logged something, I said I did it, and I didn’t do it. Is that a departure from the truth? Yes. That hurts;”
- Deputy Smith agreed that he failed to change his behavior after being counseled by his supervisor;

*\*\*\*Investigators Note: Toward the end of the interview Deputy Smith began to cry and become emotional. During this time, he would make statements relating his regret for his poor decisions, failing Bureau Chief Northam, Sergeant Ayyad and his awareness that this investigation will most likely go to a DAB.*

- Deputy Smith said that based on his current actions they (the Office) wouldn't be wrong if they terminated him but he would like the opportunity to correct his behavior.

### **UNDERSHERIFF CAREY BRIEFING**

On Monday, February 3, 2020, at approximately 1500 hours, Lt. Bernier, Cmdr. Kramer and I briefed Undersheriff Carey on the status of this case as well as Deputy Smith's failure to conduct Welfare Checks within his ward, to include that morning.

*AMP/ap*

## ***I. Administrative Information***

**CASE NUMBER:** IA2020-025

**TO:** Undersheriff Peter Carey

**SUBJECT:** Details of Investigation

**DATE:** October 18, 2020

**COMPLAINT:** 320.5.8 Performance (a) and/or any other violations deemed appropriate by the DAB or Chain of Command

**COMPLAINANT:** Commander Cy Gillespie

**ACCUSED:** Deputy Todd Hauck

**INVESTIGATOR:** Sergeant Aric Powell

## ***II. Basis for Investigation:***

On October 18, 2020, at approximately, 1145 hours, Inmate [REDACTED] escaped from the El Paso County Jail, Ward [REDACTED]. At the time of the escape, Deputy Todd Hauck was assigned to provide security for Ward [REDACTED]. At the direction of Commander Cy Gillespie, Sergeant Jennifer Vancena conducted a preliminary investigation into the inmate escape. Sergeant Vancena determined that on multiple days, multiple times and in multiple wards, Deputy Hauck failed to conduct his 30-minute checks.

After reviewing Sergeant Vancena's preliminary investigation, Commander Gillespie requested the Internal Affairs Unit investigate Deputy Hauck's actions and pattern of behavior. Inmate [REDACTED]'s escape will not be the primary focus of this investigation.

Based on Commander Gillespie's complaint, Undersheriff Peter Carey directed the Internal Affairs Unit to conduct an investigation to gather facts surrounding the aforementioned allegation. Sergeant Aric Powell was assigned as the lead investigator.

## ***III. Details of Investigation:***

On October 18, 2020, at approximately 2040 hours, I received a phone call from Security Division Commander Gillespie directing me to place Deputy Todd Hauck on paid administrative leave. Commander Gillespie notified me that Inmate [REDACTED] had escaped from the El Paso County Jail,

Ward [REDACTED], which at that time, was under the supervision of Deputy Todd Hauck. Commander Gillespie informed me that Sergeant Jennifer Vancena had conducted a preliminary investigation into Inmate [REDACTED]'s escape. During Sergeant Vancena's investigation she determined that Deputy Hauck had entered several 30-minute checks into the Beacon Jail Management Software (JMS), but he failed to complete those checks. Sergeant Vancena further determined that, Deputy Hauck's failure to conduct his checks was prevalent across several different dates, times and wards. Commander Gillespie provided me a memorandum written by Sergeant Vancena referencing Deputy Hauck's behavior.

I began my initial investigation by reviewing Avigilon video footage for other wards Deputy Hauck had been assigned prior to October 18, 2020. I did this to establish if Deputy Hauck's behavior of entering welfare checks into JMS but not conducting them was an anomaly or a pattern of behavior.

In addition to verifying what Sergeant Vancena listed in her memorandum, I reviewed videos from:

- Ward [REDACTED] - August 16, 2020;
- Ward [REDACTED] - September 9, 2020.
- Ward [REDACTED] - October 6, 2020;

In each of the videos I reviewed, I observed that on multiple occasions Deputy Hauck logged his 30-minute check in JMS but never conducted that check. Additionally, he logged his formal welfare check in JMS but never checked the inmate's hands/face or awakened them to get a response. Deputy Hauck also failed to enter several standard ward entries into JMS; to include, [REDACTED]. Those entries are required by the Ward Post Orders, Detention Bureau SOP 2.22 and are necessary to maintain our American Correctional Association (ACA) accreditation.

On October 26, 2020, I interviewed Deputy Hauck. I confronted Deputy Hauck about the fact he logged his welfare checks in JMS but never conducted them and he affirmed that fact. Deputy Hauck first stated the reason for his behavior was due to health issues, but later affirmed that his current behavior started long before his health issues. He stated he had been logging his checks and not conducting them for approximately six to nine months prior to October 18, 2020. When asked for an explanation for his behavior he said, "Burnt out... Um...and...got lazy."

Directly after my interview with Deputy Hauck, I met with the Division of Professional Responsibility Commander Jeff Kramer and briefed him on the status of my investigation. Commander Kramer spoke with Undersheriff Carey who directed the investigation be turned over to a Disciplinary Action Board (DAB) for a decision.

### **Definition of a Welfare Check**

Detention Bureau SOP 2.22 defines a welfare check as: "A visual check of a deputy's total area of responsibility to include all open areas, individual cells, and other enclosures accessible to inmates and be conducted at random 15 or 30 minute intervals as determined by the ward post orders. Members are encouraged to conduct checks more often than these minimums as time and/or staffing allows. During these checks, deputies will ensure inmates are present, safe, are not being subjected to harm from other inmates, are not engaging in activity that is against facility rules or might be harmful to themselves, and to identify inmates in need of medical attention because of injury or illness. If the welfare check exceeds the

expected timeframe by three minutes or more, a comment will be entered into the ward log describing why the check was late. (EPSO).”

**Definition of Formal Welfare Check**

Detention Bureau SOP 2.22 defines a formal welfare Check as: “Prior to the ward being unlocked for normal activities, the oncoming ward deputies on shifts 2, 3, 4 and 5 will conduct a face and hands check of each inmate in the ward. This face and hands check will be its own stand-alone event and will not be concurrent with any other event. The oncoming deputy will enter each cell or pod and physically speak to each inmate and announce a face and hand check. The deputy will require each inmate to show their face and each side of their head, as well as both front and back of their open hands. The deputies will look for injuries, swelling, cuts, bruises, or other abnormalities consistent with a violent encounter or illness. Deputies will enter the hands and face check into their ward log. Only after the hands and face check has been entered in the ward log can the deputy unlock the ward and resume normal activities.”

**JMS Report # 200008564 from Deputy Todd Hauck**

On October 18, 2020, Deputy Todd Hauck authored a JMS report supplement that addressed Inmate [REDACTED]’s escape from the El Paso County Jail, Ward [REDACTED], which was under Deputy Hauck’s supervision at that time. Please see the details below.

- At approximately 1137 hours he heard [REDACTED] announced over his handheld radio.

**\*\*Investigator’s Note:** [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- After hearing the [REDACTED] announced over his radio, Deputy Hauck immediately locked down his ward and completed a formal count using his bedding card book “Facebook Binder”;
- Upon completion of his formal count, he determined that Inmate [REDACTED], [REDACTED] was missing;
- He notified Sergeant Lipford and Sergeant Cynthia Ayyad of the missing inmate;
- He reviewed Avigilon surveillance video and observed that Inmate [REDACTED] walked by the deputy desk with a blanket in his arms;

**\*\*Investigator’s Note:** [REDACTED]  
[REDACTED] *When Inmate [REDACTED] walked by the deputy desk/office, both Deputy Hauck and Deputy Jeremy Draper were inside that office. Deputy Hauck had entered a 30-minute check into JMS at approximately the same time Inmate [REDACTED] walked past the office. However, Deputy Hauck never conducted that check.*

- Inmate [REDACTED] approached the exterior security fence and threw the blanket over the razor wire located at the top of the fence;
- Inmate [REDACTED] climbed over the exterior security fence, leaving the secure area of the jail.

***\*\*Investigator's Note:*** *There was no video of Inmate [REDACTED] using the blanket or climbing over the fence. However, a blanket was found thrown over the exterior security fence and Inmate [REDACTED] would later corroborate Deputy Hauck's details of the escape.*

### **Formal Welfare (Face and Hands) Checks Directive – Bureau Chief Clif Northam**

This directive was sent to all personnel on July 9, 2019, with the subject, “Formal Welfare (Face and Hands) Checks.” At the time of this memo, Deputy Hauck was employed by EPSO and working as a Detention Deputy. See the summary of the relevant information below.

- All wards will be locked down prior to each shift change;
- Before the locked wards are unlocked for normal activities, the oncoming ward deputies on shifts 2, 3, 4, and 5 will conduct face and hands checks of each inmate in the ward;
- This face and hands check will be its own stand-alone event and will not be concurrent with any other event (meal distribution, med pass, programs attendance, 15/30-minute ward checks, etc.);
- The oncoming deputy will enter each cell or pod and physically speak to each inmate and announce a face and hands check;
- The deputy will require each inmate to show their face and each side of their head, as well as both the front and back of their hands;
- The deputy will look for any injuries, swelling, cuts, bruises, or other physical anomalies consistent with a violent encounter or illness;
- Upon completion of each face and hands check, the deputy will enter the face and hands check into their ward log;
- Only when the face and hands check has been entered into the ward log can the deputy unlock the ward to resume normal activities.

### **Memorandum(s)**

#### **– Sergeant Jennifer Vancena**

On October 18, 2020, Sergeant Jennifer Vancena authored a memorandum to Commander Gillespie titled, “Deputy Hauck Failure to Conduct Welfare Checks.” In her memorandum she relayed the following information.

- On October 18, 2020, Deputy Hauck was assigned to Ward [REDACTED] at the El Paso County Jail;
- On October 18, 2020, at approximately 1145 hours an inmate escaped from Ward [REDACTED];
- Sergeant Goodloe confirmed through Avigilon surveillance video, that Deputy Hauck did not conduct his 30-minute welfare checks in Ward [REDACTED] from the time he started his shift to the time of the inmate's escape;
- Lt. Wheeler directed Sergeant Vancena and Sergeant Lene Lipford to conduct an audit of Deputy Hauck's welfare checks from different dates and wards he had been previously assigned to.
  - Sergeant Vancena's and Sergeant Lipford's audit of Deputy Hauck welfare checks are listed below and were direct quotes from Sergeant Vancena's memorandum:
    - A review of the Avigilon camera system on October 18, 2020, of Deputy Hauck working in Ward [REDACTED] [REDACTED] showed the following:

- 1036: Logged, does not walk check
- 1107: Logged, does not walk check
- 1142: Logged, does not walk check. 35 min since last logged check.
- 1146: Inmate escapes [REDACTED]
- A review of the Avigilon Camera System on October 7, 2020 of Deputy Hauck working Ward [REDACTED] showed the following:
  - 10:02: Deputy Hauck conducts a welfare check after getting briefed by the deputy he is taking over for.
  - 10:44 - Logged, does not walk check. 42 min since last logged check.
  - 11:45 - Logged, does not walk. 1 hour since last logged check.
  - 12:12 - Logged, does not walk
  - 12:42 - Logged, does not walk.
  - 13:35 - Logged, does not walk. 53 min since last logged check.
  - 14:39 - Logged, does not walk
  - 15:10 - Logged, does not walk
  - 15:44 - Logged, does not walk. 34 min since last logged check.
  - 16:08 - Logged, does not walk
  - 17:15 - Logged, partially walks check. 1 hour and 7 min since last logged check.
  - 17:41 - Logged, does not walk
  - 18:12 - Logged, does not walk
  - 18:42 - Logged, does not walk
  - 19:13 - Logged, does not walk
  - 19:40 - Logged by oncoming deputy
  - Deputy Hauck completed his initial welfare check of the ward when he assumed duties. Out of his 10-hour shift, the initial welfare check was the only check completed in [REDACTED].
- A review of the Avigilon camera system on September 9, 2020, of Deputy Hauck working in the Medical Unit [REDACTED] showed the following:

***\*\*Investigator's Note:*** *I reviewed the September 9, 2020, Avigilon video for the Medical Unit and determined that Deputy Hauck had not worked that ward on that day. Instead, I observed that Deputy Michael Krablean worked the Medical Unit that day and that none of the times Sergeant Vancena listed below were accurate. However, after reviewing the September 6, 2020, Avigilon video for the Medical Unit I did find that Sergeant Vancena's list below was accurate. Based on that information, I believe Sergeant Vancena wrote September 9<sup>th</sup> in error and the date should have been September 6<sup>th</sup>.*

- 10:12 - Logged, does not walk check
- 10:24 - Logged, does not walk check
- 10:51 - Walked check. 27 min since last logged check. Medical is a 15-minute check ward
- 11:06 -Walked check.
- 11:21 - Walked check.
- 11:31 - Sgt. Vancena completed check, not Deputy Hauck.

- 12:01 - Completed check while he passed out food. 30 min since last logged check.
- 12:15 - Logged, does not walk check
- 12:29 - Logged, does not walk check
- 12:44 - Walked check.
- 12:52 - Logged did not complete. Took Mental Health to 3 cells.
- 13:06 - Deputy Yelton walked check
- 13:19 - Walked half of the check with Deputy Yelton walking the other half.
- 13:30 - Logged did not walk. Picked up trays outside of cells did not look in them.
- 13:43 - Logged, does not walk check
- 13:53 - Logged, does not walk check
- 14:07 - Walked check
- 14:23 - Logged, does not walk check
- 14:38 - Walked half check with Deputy Yelton walking the other half.
- This was the last check Deputy Hauck logged. There is 47 minutes between this check and the relieving deputy, Deputy Stirling's check at 1525.

**JMS Log / Video Review and Comparison**

The following information was compiled by comparing JMS ward log entry times to the Avigilon camera system times. Deputy Hauck's ward assignment for each day was verified using shift manning rosters and later during Deputy Hauck's interview, he would verify his identity. As the task of reviewing, exporting and comparing video is extremely time consuming I used a sample over three different dates for my investigation. The videos are included with this investigative summary. During Deputy Hauck's interview, he acknowledged that he was not conducting checks reliably; or in some cases at all, for at least six to nine months prior to October 18, 2020.

**\*\*\*Investigators Note:** *The JMS ward log entry times are approximately four minutes behind the Avigilon camera system time. For example, if the JMS entry time read 05:00, the Avigilon Camera system time would read 05:04.*

- August 16, 2020 – Ward [REDACTED] [REDACTED]
  - 09:59 - Logged Formal Welfare Check - Walked top and bottom tier but did not enter each bay, wake inmates or conduct hands/face check;
  - 10:24 - Logged 30 Minute Check - Never conducted check;
  - 10:53 - Logged 30 Minute Check - Never conducted check;
  - 11:19 - Logged 30 Minute Check - Never conducted check;
  - 11:53 - Logged 30 Minute Check - Never conducted check;
- September 9, 2020 - Ward [REDACTED] [REDACTED]
  - 10:01 - Logged Formal Welfare Check - Walked top and bottom tier but did not enter each bay, wake inmates or conduct hands/face check;
  - 10:50 - Logged 30 Minute Check - Never conducted check and check was 20 minutes late;
  - 11:20 - Logged 30 Minute Check - Never conducted check;

- 11:47 - Logged 30 Minute Check - Never conducted check;
- October 6, 2020 – Ward [REDACTED] [REDACTED]
  - 10:04 - Logged Formal Welfare Check - Walked top and bottom tier but did not enter each bay, wake inmates or conduct hands/face check;
  - 10:24 - Logged 30 Minute Check - Never conducted check;
  - 10:55 - Logged 30 Minute Check - Never conducted check;
  - 11:25 - Logged 30 Minute Check - Never conducted check;

## Interviews

### – Deputy Jeremy Draper (Witness) Interview

On October 26, 2020, at approximately 1053 hours, I conducted a scheduled interview with Deputy Jeremy Draper regarding this investigation. I provided him a Garrity Advisement and he acknowledged understanding that the consequence of not being truthful was termination of his employment. I explained to him that pursuant to C.R.S. 24-31-305(2.5) (a) the reasons his POST certification could be subject to revocation to which he acknowledged he understood but informed me he did not have a POST certification. Deputy Draper related the following relevant information:

- His EID is 18124 and he has been with EPSO since 2018;
- He was currently assigned to Shift II in the El Paso County Jail;
- Shift II arrived at 0500 hours and left at 1500 hours;
- His current days off were Wednesday, Thursday and Friday;
- He attended a nine-week Non-certified Deputy academy;
- On October 18, 2020, he was assigned to Ward [REDACTED] and worked adjacent to Deputy Hauck that day;
- He had not been in Ward [REDACTED] recently, not since they moved the deputy desk downstairs;
- He described what his normal duties in a ward were;
- He said that day he did not do a proper hands and face check but didn't know why;
- He described a Hand/Face check as “A proper hands and face, you would wake them up, make them turn their – show their face, show their hands, and then go to the next bunk and do that over and over and over again. Until you get through the entire ward.”
- He described a 30-minute check as “you walk through the ward and you visualize the inmates to make sure that they're safe, they're secure, they're not hanging or doing anything that would jeopardize their life. Um, and you look for stuff that they're doing;”
- He said checks could not be more than a minute late and if they were, you were “supposed to make sure everyone's alive, if it's really late you call your sergeant and say, I walked a check late, everybody's alive;”
- He did not see Deputy Hauck conduct a Hand/Face Check that day;
- He (Deputy Draper) did all his welfare checks;
- While in the Ward [REDACTED] office with Deputy Hauck, he saw that Deputy Hauck did “something on the computer” but never saw that Deputy Hauck conducted a check. Deputy Draper did state that Deputy Hauck may have done a check later;
- Anytime he entered Deputy Hauck's office, Deputy Hauck was sitting at the desk;

- At some point that day, he and Deputy Hauck watched a video on the computer of a Tampa Bay sheriff being stabbed;
- Not that day, but on other days, he had seen Deputy Hauck watching YouTube videos;
- He stated that he knew they were not supposed to watch YouTube videos while working;
- He affirmed that you cannot see inmates in the ward from the offices in Ward ■■■;
- He indicated that there were miscellaneous sheets of paper taped to the bottom of the Ward ■■■ office window;
- I informed Deputy Draper that at one point he had been in the office with Deputy Hauck for 20 minutes;
- When asked if he thought he or Deputy Hauck were able to supervise inmates from inside that office he said, “Obviously it’s not being done the way it should be;”
- When asked how he could correct his lack of supervision, he said, “Um, one, not be over there.” (“Over there” was a reference to being inside the office);
- In reference to being assigned to work the ■■■ wards he said, “Um...not to say it’s right, but Hotel ■ and ■ have always been considered the, go out there for a break.”
- When asked who considered the ■■■ Wards a “break” he said, “Just about everybody. I’ve heard sergeants say that;”
- He worked as a firefighter for 26 years prior to joining EPSO;
- He said it was not the first time he (Deputy Draper) hadn’t completed his hands/face check correctly;
- He said that he (Deputy Draper) doesn’t always do his hands/face check correctly because “You know, so things happen. Whether it’s right or not;”
- When asked if he would have had time to complete his (Deputy Draper) hands/face check during lockdown he said, “Right...Correct;”
- He (Deputy Draper) did not do a Housing Inspection that day;

***\*\*Investigator’s Note:*** *The interview continued but the focus shifted from the actions of Deputy Hauck to the actions of Deputy Draper. Please see the interview transcription or video for those additional details, as Deputy Draper was not the focus of this investigation.*

– **Deputy Todd Hauck (Subject Employee) Interview**

October 26, 2020, at approximately 1310 hours, I conducted a scheduled interview with Deputy Todd Hauck regarding this investigation. I provided him a Garrity Advisement and he acknowledged understanding that the consequence of not being truthful was termination of his employment. I explained to him that pursuant to C.R.S. 24-31-305(2.5) (a) the reasons his POST certification could be subject to revocation to which he acknowledged he understood. Deputy Hauck related the following relevant information:

- His EID is 16020;
- He started working as a deputy for EPSO in 2013 and resigned a couple years later to work as a personal trainer;
- He rejoined EPSO again as a deputy in 2016;

- He was currently assigned to Floor Security as a deputy on Shift III with Thurs, Friday and Saturday off;
- He described his current duties and responsibilities as “The safety and security of the inmates;”
- He described a 30-minute check as “You walk around and check – check all the inmates and make sure they’re – you know, nobody’s having medical issues or...not escaped or that kind of stuff;”
- He described a hands/face check as “Um...when you’re doing the hands and face check you’re checking for, you know, if they have any – any bruises on their face or scrapes or cuts on their knuckles from fighting” and “Depending on where you’re working, you just – you just walk by every inmate, have them check – you know, show you their hands and their – their face;”
- He said that if an inmate was asleep during a hands/face check, you would awaken them;
- He affirmed that he was supposed to enter formal welfare checks into JMS;
- He believed that a 30-minute check could be four minutes late but knew that you had to notify a sergeant and make an entry into JMS. (SOP 2.22 reads: “If the welfare check exceeds the expected timeframe by three minutes or more, a comment will be entered into the ward log describing why the check was late”);
- He was unaware of the July 9, 2019, directive sent out by Chief Northam explaining the new process for formal welfare Checks. Part of that directive stated that formal welfare checks would not be done in conjunction with any other event, to include meals;
- He thought that formal welfare Checks could still be completed in conjunction with meals and he normally completed his Formal Welfare Checks with meals;
- He affirmed that Ward [REDACTED] was [REDACTED];

**\*\*Investigator’s Note:** [REDACTED]

[REDACTED]

- He affirmed that he was working Ward [REDACTED] on October 6, 2020;
- He affirmed that he did not complete and enter a JMS event for his inventory;
- He affirmed that he did not complete a JMS entry indicating he read his post orders;

**\*\*Investigator’s Note:** *During this portion of the interview I used a laptop to show Deputy Hauck the Avigilon video of him working Ward [REDACTED] inside CJC. I asked him to read aloud the JMS entries, Time/Date stamps on the video, verify it was him in the video and to tell me if he conducted a welfare check.*

- He affirmed that he did not complete his formal welfare check correctly and that he did not awaken inmates or observe their hands and face;
- He affirmed he did conduct the welfare checks he logged into JMS and said, he “didn’t want to waste our time;”
- When asked if he was conducting his welfare checks, Deputy Hauck said, “I’ve been really sick for the past like, three months. Bleeding ulcers and stuff. And I’ve been trying to do as much as I can. But have I – have I missed checks, have I screwed stuff up? Yes, I have;”

- He affirmed that when he was supposed to be conducting his welfare checks he was sometimes watching YouTube video and that the videos were not always job related;
- I stated to Deputy Hauck, “So rather than going through this whole video, you acknowledge that you’re not doing checks.” Deputy Hauck said, “Absolutely;”

***\*\*Investigator’s Note:*** *At this point Deputy Hauck acknowledged that he was not conducting the welfare checks he entered into JMS. I stopped showing Deputy Hauck the video and closed the laptop.*

- He acknowledged that an inmate could have died during the times he did not conduct his Welfare Checks;
- His first explanation for not conducting his welfare checks was “You know, I think, honestly, I think I’m – I’ve been really sick for months. Burnt out. Um...and...got lazy and...that’s – that’s really all I gotta...;”
- He did not let a supervisor know his illness was affecting his work;
- I asked him not to go into detail about his illness other than how long he had been sick, and he said, “...a couple months...few months;”
- I asked Deputy Hauck if I would see him conducting his welfare check if I looked at video prior to his illness. Deputy Hauck said, “I mean, I wasn’t missing the whole day of checks, that’s for sure” and “They probably weren’t, you know, logged at the exact time or walked at the exact time they were logged;”
- He stated the reasons he didn’t conduct his welfare checks was he was “being lazy” and “just burnt out;”
- He understood that EPSO had an expectation that he would do his job;
- He acknowledged that he could have let someone know he was “just burnt out” and that we had resources such as the Staff Psychologist, Dr. Sharon Trivette available to him;
- He acknowledged that on October 18, 2020, while working Ward ■■■, he did not conduct his welfare checks;
- I informed him that had he conducted one of the welfare checks he entered into JMS; he probably would have walked into the inmate as he was escaping. Deputy Hauck replied, “That sucks...That sucks;”
- He affirmed that he was probably watching videos in his office that day (October 18, 2020);
- He acknowledged that by not conducting his welfare checks he put people in danger;
- He said he stopped conducting checks regularly, sometime six to nine months prior to October 18, 2020;
- He affirmed that he and “some people” think Ward ■■■ is a “vacation...easy...a break;”
- He acknowledged that had he conducted his welfare checks; the inmate might not have escaped;
- He said, “I had a really good thing, made great money, job wasn’t that difficult. I...I screwed up. And, uh, I apologize. I mean, I apologized to you for – you having to sit here with me and do this, this is just...it shouldn’t have happened;”
- I asked Deputy Hauck what he would say to the Sheriff, if the Sheriff were here, and he said, “You know, just that if – if, uh, if the sheriff or the undersheriff was watching this interview and stuff, I mean, I want my job. But I understand this is a business and I screwed up bad.”

*AMP/ap*

## ***I. Administrative Information***

**CASE NUMBER:** IA2021-005

**TO:** Commander Cy T. Gillespie

**SUBJECT:** Details of Investigation

**DATE:** May 10, 2021

**COMPLAINT:** 400.8 Efficiency [formerly 320.5.7(b)]  
and / or any other violations as deemed appropriate by the Chain of  
Command or DAB

**COMPLAINANT:** Undersheriff Peter Carey

**ACCUSED:** Deputy Burr Tolles #14046

**INVESTIGATOR:** Inspector Ken Hilte

### ***Basis for Investigation:***

It is alleged that on March 29, 2021, Deputy Tolles was inefficient in performing his duties as a deputy sheriff assigned to Ward [REDACTED] of the Criminal Justice Center (CJC) Detention Facility. Specifically, he conducted checks outside the acceptable time parameters, and / or did not perform them as documented in the Ward Log.

Based on this complaint, Undersheriff Peter Carey directed the Internal Affairs Unit to conduct an investigation to gather facts surrounding the aforementioned allegations. Inspector Ken Hilte was assigned as the lead investigator.

## *II. Summary of Investigation:*

### CASE BRIEFING

At approximately 0925 hours, Wednesday, March 31, 2021, Internal Affairs Unit Lieutenant James Vidmar briefed me that an inmate suicide had occurred at CJC on the afternoon of Monday, March 29, 2021.

Lieutenant Vidmar explained that it occurred in Cell [REDACTED] of the Upper Left Quad, of Ward [REDACTED] and that Inmate [REDACTED] had hanged himself. Preliminary inquiry revealed that Deputy Tolles had conducted a ward check at about 1728 hours, and subsequently departed for the Sergeants Office to obtain a new battery for his handheld radio, and that upon his return to the ward at 1740 hours (12 minutes later), saw that the evening meals had been delivered to his ward.

The preliminary inquiry showed that Deputy Tolles logged at a ward check at 1742 hours, but instead of actually conducting the check, he proceeded with the process of serving the meals. Preliminary review of the ward video reportedly showed that he served the meals to the four cells in the Lower Left Quad first and then the Lower Right Quad.

Deputy Tolles then proceeded to the Upper Left Quad and started with the cell on the far left and worked left to right. When he arrived at Cell [REDACTED] at 1755 hours, he discovered Inmate [REDACTED] hanging.

**\*\*\* Investigator's Note:** Subsequent investigation would reveal that video showed Deputy Tolles entering Cell [REDACTED] at 1753, and Logs would show that the [REDACTED] was listed as being called at 1754. The video showed Deputy Tolles calling via radio immediately upon discovery.

Lieutenant Vidmar described the noose as being "elaborate."

I was advised that the Detentions Investigations Team (DIT) was conducting the Preliminary Inquiry.

### ADMIN LEAVE / EQUIPMENT COLLECTION

At approximately 1720 hours, Wednesday, March 31, 2021, Lieutenant James Vidmar and myself met with Deputy Tolles and his immediate supervisor, Sergeant Lene Lipford, at CJC. We served him a memo from Undersheriff Carey placing him on Administrative Leave with Pay and collected his duty weapon, badge, EPSO ID card and miscellaneous equipment. He was provided a receipt of the equipment collected, and he agreed to bring a second EPSO issued firearm to the Office of The Sheriff (OTS) following day.

### CASE ASSIGNMENT

At approximately 1720 hours, Wednesday, March 31, 2021, Lieutenant Vidmar advised me that the aforementioned case would be assigned to me. At the time, reports, memos, videos, were pending.

## SECONDARY EQUIPMENT COLLECTION

At approximately 1340 hours, Thursday, April 1, 2021, Deputy Tolles arrived at OTS and returned his EPSO issued Glock 45 (but which he was not yet authorized to carry as a result of not having completed the required "transition course"). He turned in his nylon duty belt and accessories as well. As before, the equipment was inventoried, and he was provided a receipt.

## INITIAL VIDEOS & LOGS

On the afternoon of Thursday, April 1, 2021, Lieutenant Vidmar provided me the applicable Ward Log for this incident, and number of work schedules / duty assignments for Deputy Tolles for the purposes of reviewing his work performance. In particular, I was directed to compare his Ward Logs to the available video and determine what his work habits were, i.e., did he log his checks first and then do them or vice-versa; or did he log ward checks without doing them?

I was advised that the current video software system at CJC was "closed" and would require me to view / research it on-site.

On Thursday, April 1, 2021, my Internal Affairs partner Sergeant Aric Powell provided me a thumb drive with video from aforementioned March 29, 2021, incident in Ward [REDACTED]

## REVIEW OF MARCH 29, 2021, WARD [REDACTED] WARD LOG

At approximately 1754 hours, Monday, March 29, 2021, Inmate [REDACTED] was discovered hanging in Cell [REDACTED] located in the far-right corner of the upper left quad of Ward [REDACTED] of CJC.

A [REDACTED] was immediately called and help was summoned.

The Ward Log revealed that Deputy Tolles conducted a ward check at 1728 hours and again at 1742. The [REDACTED] was called at 1754 hours.

\*\*\* **Investigator's Note:** My review of the ward video later showed Deputy Tolles began his 1728 Ward Check at 1724 hours (according to the time stamp on the video) and walked into the Lower Left Quad with Sergeant Bond, two other deputies and a female dressed in black civilian clothes. Deputy Tolles spent about two minutes in the Lower Left Quad with the other persons, and then proceeded into the Lower Right Quad at about 1726 hours and exited a minute later.

Deputy Tolles then went to the Deputies Desk and appeared to make computer entries (logging the check?) and then proceeded to the Upper Left Quad. He entered the quad and began his check with Cell [REDACTED] (one of the middle cells), turned left and checked Cells [REDACTED] and [REDACTED] and then reversed course and doubled back towards Cell [REDACTED] (walking past Cells [REDACTED] and [REDACTED] again).

Upon concluding his check of the Upper Right Quad at 1728 hours, he walked directly out of the ward without stopping at the Deputies' Desk leading me to suspect that he logged his check in

the middle of his walk, i.e., after he checked the two lower quads but before checking the two upper quads.

Upon reviewing the video of him discovering the suicide in Cell [REDACTED] I noted him calling on his radio at 1753 hours (rather than the log noting it was called at 1754 hours), but even giving him the benefit of this one minute, he was still 11 minutes late / beyond the 15 minute window to complete timely checks.

#### **REVIEW OF MARCH 29, 2021, WARD [REDACTED] VIDEO**

My review of the video provided to me via thumb drive revealed the following relevant information:

- The recording began at 1749 hours, 3/29/21.

\*\*\* **Investigator's Notes:** I noted this excluded the checks he reportedly conducted at 1728 and 1742 hours.

- Deputy Tolles was standing in the first floor Dayroom of Ward [REDACTED]. A serving cart was staged at the bottom of the steps leading to the second floor;
- The individual meals were enclosed in white Styrofoam "clam shell" type containers similar to what one might receive from many restaurants as a "to go" box;
- Deputy Tolles gathered a group of seven meals and a small brown paper bag and carried them upstairs;
- At 1750 hours, he keyed open the door to the Upper Left Quad, entered, and placed the meals on the fixed, stainless steel table which is located therein;
- Deputy Tolles appeared to remove condiments from the brown paper bag and paired them with the meals;
- At 17:51:46 (5 pm, 51 minutes and 46 seconds) hours, he keys open Cell # [REDACTED] delivers the meal, and closes the door at 17:52:04;
- At 17:52:25 hours, he keyed open Cell [REDACTED] delivered the meal, and closed the door at 17:52:34;
- At 17:52:51 hours, he keyed open Cell [REDACTED] delivered the meal, and closed the door at 17:52:58;
- At 17:53:28 hours, he keyed open Cell [REDACTED] and enters but quickly exited at 17:53:34 and set the meal on the metal picnic table located directly outside the cell;
- Deputy Tolles can be seen calling on his radio at 17:53:38 as he reenters the cell;
- Help began to arrive in the form of multiple deputies 11 seconds later at 17:53:49;
- The first nurse / Medical Staff Member arrived at 17:54:26;
- In addition to several other deputies, Medical Staff Members, and Detention Specialists, I noted the presence of six sergeants (Sieder, Goodloe, Lipford, Bonk, Dodge and Bond) in addition to Lieutenant Klug;
- At 1757 hours, an oxygen bottle was brought to the scene;
- At 1805 hours, the aforementioned picnic table was picked up and set on its end presumably to make more room on the Quad Dayroom Floor;

- At 1806 hours, a six-person team from the Colorado Springs Fire Department (CSFD) arrived in the quad;
- At 1806 hours, Inmate [REDACTED] was removed from his cell and laid on the quad floor where CSFD began Cardiopulmonary Resuscitation (CPR) efforts. I observed an Automated External Defibrillator (AED) was applied / used, and Inmate [REDACTED] was intubated, and an oxygen bag was attached.

\*\*\* **Investigator's Note:** I would later receive reports indicating that the first responding deputies in fact began CPR efforts in the cell immediately after Inmate [REDACTED] was freed from the ligature.

- The CSFD continued CPR for 14 minutes stopping only to assess the patient, take his pulse, etc;
- They ceased resuscitation efforts at 1820 hours and departed the quad at 1826 hours.

### **MEETING WITH DETENTIONS INVESTIGATION TEAM**

At 1400 hours, Monday, April 5, 2021, I met with Detentions Investigation Team (DIT) Deputy Kim Farrell who has been tasked with investigating Inmate [REDACTED]'s suicide. She advised that her report was not yet complete but advised me that she had uncovered a telephone call [REDACTED] had with his girlfriend wherein they broke up, and he said he would never be happy unless he was dead. Deputy Farrell also advised that Inmate [REDACTED] had asked another inmate in the quad if one should place a ligature under or over one's "Adam's apple" when hanging oneself.

I advised Deputy Farrell that although there was some degree of urgency in completing the investigation (Deputy Tolles is currently suspended with pay), she should finish her investigation and provide it to me in its entirety. I requested that she keep me apprised of her progress.

She provided me with additional ward video which will allow me to view the Ward Checks he logged at 1728 and 1742 hours.

### **REVIEW OF MARCH 29, 2021, WARD CHECKS LOGGED AT 1728 & 1742 HOURS**

Deputy Farrell provided me additional video of Ward [REDACTED] from March 29, 2021. This video featured the ward from 1650 hours to 1750 hours.

#### **1650 Check**

As part of my review, I timed a check Deputy Tolles conducted at 1650 hours. I noted that from the time he left his desk (1650:16 / 4:50 pm and 16 seconds) to the time he checked the last cell (1655:01) took a total of four minutes and 45 seconds. I noted as well that this check in particular was not hampered by delivering meals and / or extended conversations with inmates.

#### **1728 Check**

As reflected in the "Investigator's Note" on page 2 of this report, Deputy Tolles started this check at 1724 hours, checked the bottom two quads, pre-logged his check his check as "1728" at 1726 hours,

then proceeded upstairs, checked the other two quads (finishing at 1728) and then walked out of the ward without first stopping at the Deputy's Desk to log an entry.

#### 1742 Check

At 1737 hours, I noted Deputy Tolles was on the telephone, standing at the meal cart which contained a number of Styrofoam tray stacked on the cart located near the base of the steps.

At 1739:55 he is off the phone.

At 1741 hours, he appears to walk out of the ward.

**At 1742 hours**, Deputy Tolles was back in the ward, and he is on the telephone again. He proceeds to the Deputies Desk / Station where he **presumably logs the aforementioned check**. He does not, however, begin a check, but instead begins his meal delivery process at 1743 hours (per the video).

**\*\*\* Investigator's Note:** It is within the realm of possibilities that Deputy Tolles intended to conduct his ward check simultaneous to delivering meals. I would later learn that upon serving the lunch meal, he logged both the meal service and the check at 1303 hours. This is apparently a consistent work habit of his.

At 1743 hours, he wheeled the meal cart into the Lower Left Quad and delivered the meals.

**\*\*\* Investigator's Note:** 1743 hours marks 15 minutes since he logged his check at 1728 hours, and an argument can be made that he has, in fact, begun another check, but it is hampered and delayed by the meal service process.

At 1746:21, he wheeled the meal cart out of the Lower Left Quad (taking approximately three and half minutes to deliver the meals).

At 1746:50, he wheeled the meal cart into the Lower Right Quad.

At 1749:25, Deputy Tolles exited the Lower Right Quad (having taken about two and a half minutes to serve those meals).

**\*\*\* Investigator's Note:** The following *italicized* information is repeated from my initial review of the video first presented to me. I've included it again here for purposes of continuity.

- *The recording began at 1749 hours, 3/29/21.*
- *Deputy Tolles is standing in the first floor Dayroom of Ward [REDACTED]. A serving cart is staged at the bottom of the steps leading to the second floor.*
- *Deputy Tolles gathers a group of seven meals and a small brown paper bag and carries them upstairs.*
- *At 1750 hours, he keys open the door to the Upper Left Quad, enters, and places the meals on the fixed, stainless steel table which is located therein.*

- Deputy Tolles appears to remove condiments from the brown paper bag and pairs them with the meals.
- At 17:51:46 hours, he keys open Cell [REDACTED] delivers the meal, and closes the door at 17:52:04.
- At 17:52:25 hours, he keys open Cell [REDACTED] delivers the meal, and closes the door at 17:52:34.
- At 17:52:51 hours, he keys open Cell [REDACTED] delivers the meal, and closes the door at 17:52:58.
- At 17:53:28 hours, he keys open Cell [REDACTED] and enters but quickly exits at 17:53:34 and sets the meal on the metal picnic table located directly outside the cell.

\*\*\* **Investigator's Note:** I noted that Deputy Tolles took about three and a half minutes to serve the meals to four cells in the Upper Left Quad (at which point he discovered the suicide). This was a similar amount of time it took him to serve the other two quads. Extrapolating this pace of meal service / ward checks to the fourth quad (the Upper Right Quad), leads one to conclude that Deputy Tolles would have likely finished checking his ward completely prior to 1758 hours, i.e., **16 minutes** after he began at 1742 hours.

#### **EPSO DETENTION BUREAU STANDARDS FOR CONDUCTING CHECKS**

In conducting a "word search" review of the 70-page EPSO Detention Training Officer Training Manual (dated 2020), I found 95 references to the word "check," however the most applicable portions appeared on pages 12-14 ("2:16, Welfare Checks" and "2:16, Formal Welfare Checks").

The Manual refers to ward checks as "Welfare Checks," and says the following on pages 12-14.

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#### ***WELFARE CHECKS***

***Definition:*** A visual check of a deputy's total area of responsibility, made at specified 15 or 30-minute intervals. Its purpose is to ensure that the inmate population and the facility are safe and secure.

*These checks will include all open areas, individual cells and other enclosures that are accessible to inmates. During these checks, deputies will insure that inmates are present, safe, are not being subjected to harm from other inmates, are not engaging in activity that is against facility rules that might be harmful to themselves or others, and to identify inmates in need of medical attention because of injury or illness.*

#### ***Procedure***

1. *The respective ward deputy will conduct a welfare check every 15 or 30 minutes, depending on the ward's classification requirements. Times of checks should be varied as to avoid the development or appearance of detectable patterns.*

2. *The time of the welfare check will be documented on the ward log. If the check is late, it will be noted on the log with an explanation provided.*
3. *To conduct a welfare check, the deputy will walk the perimeter of the ward looking into each cell and shower while simultaneously observing the entire open area of the dayroom to insure the welfare of each inmate. The deputy will pay close attention to the location of all inmates and be on constant alert for contraband, rule violations, suicide attempts or attempts to escape.*
4. *Welfare checks on inmates placed in Special Detention (SD) Cells will be conducted at a minimum, each 15 minutes. These checks will be recorded on the Inmate Welfare Check Sheet DB-222.*
5. *Welfare checks on inmates placed in Professional Attorney Booths in the [REDACTED] and [REDACTED] mods should have 15 minute welfare checks conducted by the [REDACTED] and [REDACTED] or available personnel.*

## ***FORMAL WELFARE CHECKS/HANDS AND FACE CHECK***

### ***Definition – Formal Welfare Check***

*A check of a deputy's total area of responsibility, made as directed by post orders, usually in conjunction with meal times. These checks are visual, but also require the deputy to obtain a specific response from the inmate to assure in the deputy's mind that the inmate is alert, responsive, and able to function and move about. Deputies will also obtain a response from any inmate who appears to be asleep. The response the deputy observes may be body movement, a verbal response, or a combination of both.*

### ***Definition – Hands and Face Check***

*A check by the ward deputy of the face, neck, hands, and knuckles of every inmate assigned to the ward at the time the check is conducted. The deputy is looking for signs of an assault, fight, attempted suicide or any other abnormal event that may leave marks on a person's body. When inmates engage in a fight or assault one another often the only evidence available are marks left on the combatants, suspects, and victims. These marks may include but are not limited to red marks, red patches or areas, scrapes, laceration, bruises, bumps, etc... If such marks are observed an investigation must be started and the incident reported to your supervisor.*

### ***Procedure***

1. *The respective ward deputy will conduct a **Formal Welfare Check** of the ward in conjunction with the service of each meal or as indicated by Ward Post Orders.*

2. *The time of the formal welfare check will be documented on the respective ward log under the subject "Formal Welfare Check/Hands and Face Check." The formal welfare check and time will be annotated in the body of the log. A statement indicating the specific type of check such as "Formal Welfare Check" or "Hands and Face Check," or both a "Formal Welfare Check/Hands and Face Check" will be entered in the narrative box for the log entry.*
3. *To make a "Formal Welfare Check" the deputy will follow the procedures stated above under Welfare Check. The deputy will wake or otherwise disturb all inmates if necessary to accomplish this procedure.*
4. *The Hands and Face Check will only take place on certain shifts at a certain time per the wards Post Orders. All other shifts are only required to do the Formal Welfare Check, although it would be a better practice for all deputies to do the Hands and Face check once on every shift.*

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**\*\*\* Investigator's Note:** I took note that the Manual did not direct if the order of operations in conducting such a check should be:

- Log the time of the check and then physically conduct it, or
- physically conduct the check and then log it, or
- begin the check and log your entry in the middle of the check.

I also reviewed the 13-page EPSO Detention Bureau Standard Operating Procedure Manual Chapter 02.22, titled "Security Staff Logs / Shift Reports" (dated 11/9/20), where I found 44 references to the word "check." The most applicable was in the definitions of the below listed terms:

**FORMAL WELFARE CHECK:** *Prior to the ward being unlocked for normal activities, the oncoming ward deputies on shifts 2, 3, 4 and 5 will conduct a face and hands check of each inmate in the ward. This face and hands check will be its own stand-alone event and will not be concurrent with any other event. The oncoming deputy will enter each cell or pod and physically speak to each inmate and announce a face and hand check. The deputy will require each inmate to show their face and each side of their head, as well as both front and back of their open hands. The deputies will look for injuries, swelling, cuts, bruises, or other abnormalities consistent with a violent encounter or illness.*

**WELFARE CHECK:** *A visual check of a deputy's total area of responsibility to include all open areas, individual cells, and other enclosures accessible to inmates and be conducted at random 15 or 30 minute intervals as determined by the ward post orders. Members are encouraged to conduct checks more often than these minimums as time and/or staffing allows. During these checks, deputies will ensure inmates are present, safe, are not being subjected to harm from other inmates, are not engaging in activity that is against facility rules or might be harmful to themselves, and to identify inmates in need of medical attention because of injury or illness. If the welfare check*

*exceeds the expected timeframe by three minutes or more, a comment will be entered into the ward log describing why the check was late. (EPSO)*

**\*\*\* Investigator's Note:** I took note that the SOP, just like the DTO Training Manual, did not direct what the order of operations should be. I did note, however, the last sentence in the definition of "Welfare Check," read "*If the welfare check exceeds the expected timeframe by three minutes or more, a comment will be entered into the ward log describing why the check was late. (EPSO)*"

I presumed the reference to "(EPSO)," meant this was a mandate placed by the agency rather than the American Correctional Association (ACA) standards or otherwise.

I also read and reviewed the nine-page Ward [REDACTED] Post Orders, (dated 3/7/21) noted nothing of relevance regarding 15 minute checks other than it was in fact a "15-MINUTE CHECK WARD," and the first sentence under the heading "Ward Concept Statement," reading "*This ward is a SERIOUS HIGH MAX (CSP), AD/SEG, DISCIPLINARY LOCKDOWN, and PROTECTIVE CUSTODY ward. \*\*(Seg All)\*\**"

**\*\*\* Investigator's Note:** While it is certainly common knowledge that a 15-minute check should be done at 15 minute intervals, there appears to be no guidance as to the "order of operations" (Is it 15 minutes from "beginning of check to beginning of check" or is 15 minutes from "end of check to end of check?) and it is also likely that some deputies use a hybrid of the two systems / processes, i.e., Tolles' 1728 check indicated the time he finished, but his 1742 check indicated the time he started.

It has also been accepted to be up to two minutes late in either event. (See page 25. Deputy Tolles was within the 2-minute leeway in 26% of his checks on March 29, 2021). At the three-minute mark, a supervisor notification and log entry is required.

Likewise, while I learned that the "Hands & Face Check" was not to be conducted in conjunction / combination of any other event (such as delivering meals), there was no such prohibition preventing "Meal Delivery" as constituting a "ward check" as well. (See Bureau Chief Northam's memo dated July 9, 2019, and the excerpt of the Detention Bureau SOP Manual on page 9).

None the less, it is commonly understood that "15-minute checks" imply that no more than 15 minutes should pass between checks. As pointed out earlier in this report, by logging his check at 1742 hours, he was within the allotted 15 minutes, but as a result of the slower process of serving meals, by the time he arrived at Cell [REDACTED] in the Upper Left Tier at 1753 hours, it had been 25 minutes since he last checked Cell [REDACTED] and he was thus **10 minutes late**.

Had Deputy Tolles conducted a check at 1742 hours **without serving meals**, he would have likely completed it in roughly 4:30 – 5:00 minutes (completing it at approximately 1746 – 1747 hours) and **would still have been approximately three to four minutes late** (check subsequent to 1728 should have been completed by 1743).

**REVIEW OF DEPUTY TOLLES' NOTES**

On the afternoon of Wednesday, March 31, 2021, Investigator Farrell forwarded a copy of Deputy Tolles' "Notes" for his shift in Ward [REDACTED], March 29, 2021. These notes appear to be a combination of a cut and pasted copy of his Ward Log for the day, a number of bulleted narratives regarding both the scheduled / routine events of the ward and "incidents," to include a Disturbance between Inmate [REDACTED] and Inmate [REDACTED]

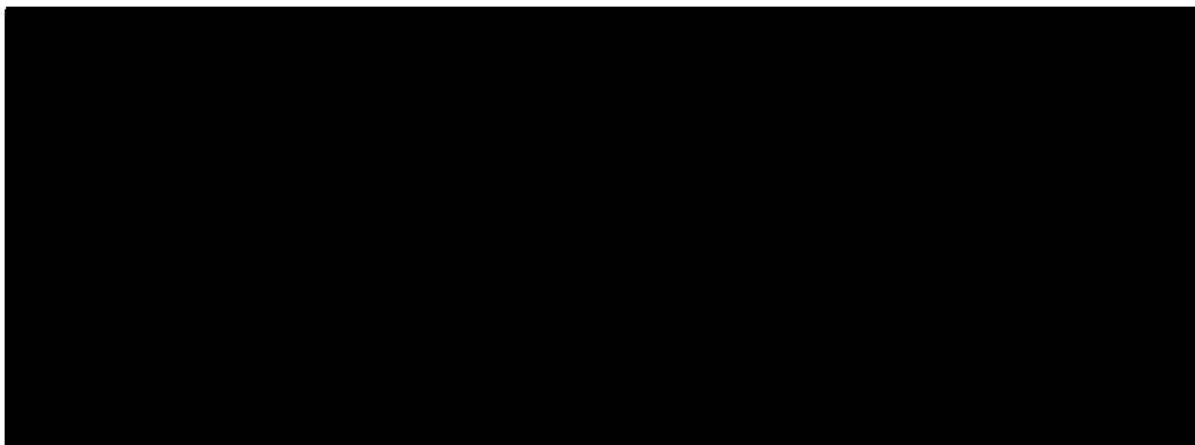
Other than documenting the Disturbance regarding Inmate [REDACTED] there is very little of relevance to this incident.

The only mention of Inmate [REDACTED] reports that he appeared to be sleeping at the beginning of the shift, ate lunch, had his "hour out" at 1500 hours, and used both the phone and the shower.

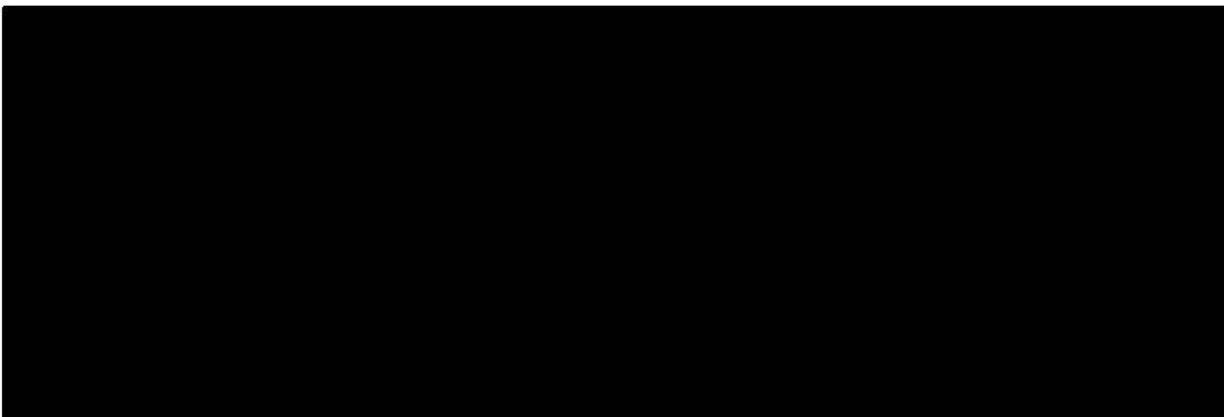
**REVIEW OF MEDICAL STAFF RESPONDER NOTES**

Late Monday, April 5, 2021, Investigator Farrell sent me 10-pages of "Emergency Response Worksheets" regarding their response to Inmate [REDACTED]'s suicide. The documents contained the following relevant information:

As Written by BBlain-Karkofsky, RN (sic)

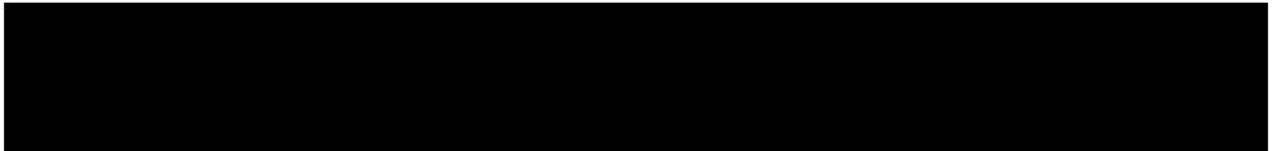


As Written by H. Grant, RN





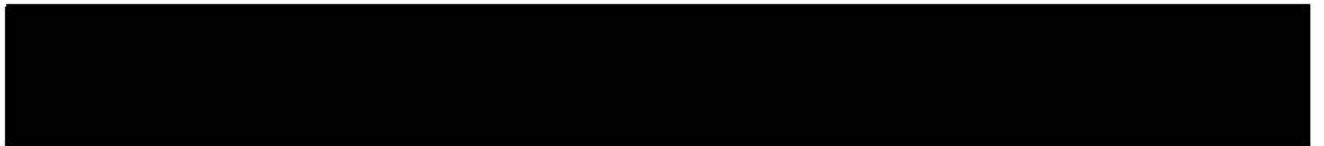
RN Ellis, Samuel



RN Sabo, Terra

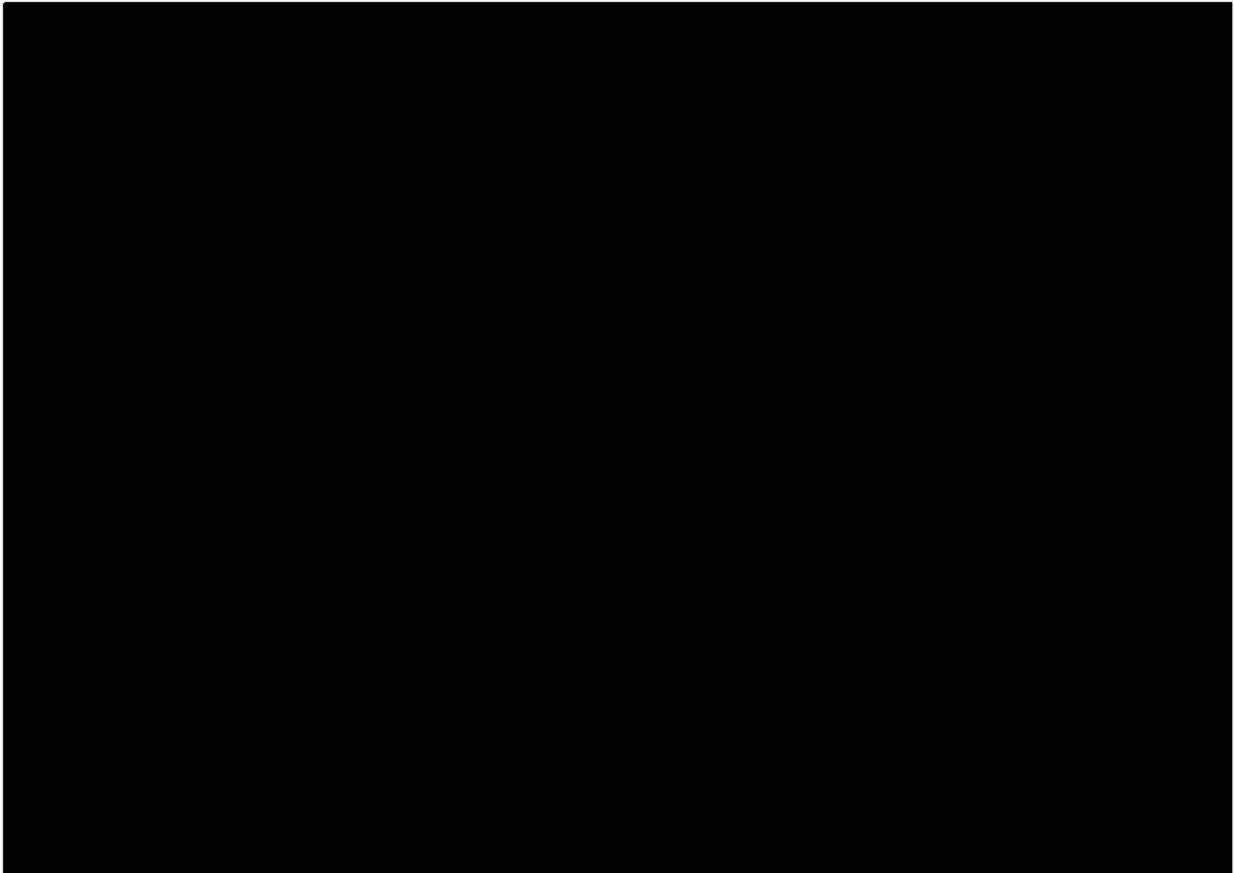


REVIEW OF MENTAL HEALTH DIRECTOR'S NOTES



Ms. Mohr's notes reflected the following relevant information:

- That [redacted]'s fiance's name was [redacted] and that his grandmother's name was [redacted]
- That he listed his "Mom, Dad, Brothers and Grandparents as his social support;



**REVIEW OF SERGEANT GOODLOE'S MEMO**

Late Thursday, April 8, 2021, I was provided a copy of Sergeant Goodloe's memo. It was addressed to Lieutenant Christopher Klug, titled "[REDACTED]" and dated March 29, 2021. It related the following relevant information:

- That he responded to the Code Blue, saw staff members performing CPR, and instructed staff to begin a Crime Scene Log;
- That American Medical Response (AMR) ambulance and Colorado Springs Fire Department (CSFD) personnel arrived in the Sallyport at 1803 hours.

**REVIEW OF DETENTIONS INVESTIGATOR DEPUTY FARRELL'S REPORT / MEMO**

Late Friday, April 9, 2021, Investigator Kimberley Farrell forwarded me an 11-page memo, addressed to me and dated April 6, 2021. In it she details her review of the Ward [REDACTED] video from 1650 hours, March 29, 2021, until 1826 hours. Here most relevant findings were that the three 15-minute checks logged during that time, were in fact 18, 17, and 17 minutes apart, and that prior to discovering Inmate [REDACTED] had hanged himself at 1753 hours, Deputy Tolles' previous check was at 1728 hours was 25 minutes and three seconds.

Her memo also summarized an interview she conducted with Deputy Tolles on Wednesday, March 31, 2021. She noted the following relevant information:

- That Deputy Tolles told her his normal workdays are Sunday through Wednesday;
- That he is normally assigned to Ward [REDACTED] or [REDACTED], and that he tries to vary the times he does his checks, because he felt the inmates often asked him how much time had passed since his last check. He later added that he tries to “mix it up;”
- That he was familiar with Inmate [REDACTED] and found him to be polite, smiling and non-descript;
- That Inmate [REDACTED] had received his “hour out” near “mid day,” and had showered, used a razor to shave, and asked about the weather;
- That Inmate [REDACTED] from the Lower Left Quad, became disruptive earlier in the shift and necessitated the response of the Mental Health Staff and “sergeants.”

\*\*\* **Investigator’s Note:** I presumed this is what I observed on video at 1724 hours.

- That after Sergeant Bond had calmed Inmate [REDACTED] down, Deputy Tolles brought the meals into the ward, and that he began by serving the Lower Left Quad first, following by the Lower Right Quad and the Upper Left Quad;
- That upon arriving at Cell [REDACTED] Deputy Tolles noted that Inmate [REDACTED] was not standing by the door, but rather appeared to be sitting on the end of the bunk by the toilet and appeared to be leaning forward;
- Deputy Tolles said that he opened the cell door and called out to Inmate [REDACTED] but did not receive a response, and at that point he saw the blanket around Inmate [REDACTED]’s neck;
- Investigator Farrell then wrote that Deputy Tolles corrected himself, and said that he came to the cell door with the meal in his hand, and that he noted that Inmate [REDACTED] was neither standing at the door nor seated at the desk;
- That Inmate [REDACTED] was sitting on the edge of the bunk in between the bunk and toilet and “just staring;”
- That he opened the door to give [REDACTED] his meal, but that Lowe did not respond;
- He described [REDACTED] as leaning forward and saw the blanket on the left side of his neck and saw the other end was tied off to the bunk;
- That he grabbed [REDACTED]’s wrist and back of his head to stand him up and angle him out of the noose and then laid him on the floor;
- That he had initial concerns that [REDACTED] had tricked him into coming into the cell;
- He recalled calling the [REDACTED] and asking for a cut-down knife;
- He recalled trying to position Inmate [REDACTED] so as to permit CPR to be performed and that someone among the first responding deputies in fact did so;
- Regarding logging his checks, Deputy Tolles told Investigator Farrell that does not always log his checks the same way, i.e., sometimes he logs them as he begins his checks, and sometimes he logs them afterwards;
- Investigator Farrell asked Tolles what events of the day might have made him late in conducting his checks, and he pointed out that Inmate [REDACTED] outbursts / disturbances lasted through-out his shift and could have contributed to making him late. He also mentioned that he had gone to the Sergeants Office to retrieve a radio battery after Sergeant Bond didn’t bring him

one earlier. He stated there were no extra batteries in the Mod and that rather than ask the Mod Deputy (Yersak) to get him one, he went to get it himself;

- He told Investigator Farrell that “to the best of my knowledge,” his checks were on time, and that he knew that if he was late on a check, he should conduct it anyway, notify a sergeant and log it.

\*\*\* **Investigator’s Note:** In response to questioning, Deputy Tolles told Investigator Farrell that he had last conducted a “housing inspection” at “the end of last week.” This was of significance since it appeared that the noose was braided and “elaborate” as described by Lieutenant Vidmar, i.e., it had likely been fashioned over a period of time.

- Deputy Tolles told Investigator Farrell that he was struggling with Inmate [REDACTED]’s suicide and added that he was having difficulty remembering many of the details. He added that this stress was atop of what he was experiencing regarding the recent murder of this parents. He expressed concerns about being fired as a result of the inmate suicide.

Investigator Farrell also conducted an interview of Medical Service Member (MSM) Tara Sabo who related the following relevant information:

- That she responded to the [REDACTED] (medical emergency) at approximately 1750 hours, and upon her arrival noted that MSM Hunter was in the cell doing CPR on the inmate and had asked for a “C collar;”
- That she heard someone call for the AED and that she herself went to retrieve the “Code Bag” from the Mod Area, because she thought it was taking too long to retrieve;
- That she instructed the staff who were conducting CPR to switch-out every two minutes, and that she herself took over “bagging.” She stated that she thought there was difficulty in establishing an airway until she arranged for an “oral airway;”
- That the AED was attached but “no shock” was advised;
- That Sergeant Seiter called 911;
- Sabo described the inmate as laying on his back, his face blue, his eyes open, and non-responsive. She didn’t notice if he was cold because the cell was really warm;
- Sabo described the noose as having been fashioned from “the gray blankets” and that it looked like he (Inmate [REDACTED]) put a lot of work into it.

Investigator Farrell interviewed Sergeant Josh Seiter that day as well, and he relayed the following relevant information:

- That he and MSM Grant responded to the [REDACTED] call in Ward [REDACTED] together;
- That upon his arrival, he saw Inmate [REDACTED] on the floor and that his face appeared to be gray, that his eyes were partially open, but that he was non-responsive;
- That “Hunter” asked for an AED while Deputy Correia was already busy doing CPR;
- That he called 911 from the Mod Area, and arranged for expedited entry for American Medical Response (AMR) ambulance and Colorado Springs Fire Department (CSFD) personnel.

## REVIEW OF JAIL INCIDENT REPORT

On Wednesday, April 14, 2021, I obtained a copy of the Jail reports regarding this incident. The report totaled 14 pages and contained 18 narratives from Deputies Tolles (14046), Benjamin Corriea (16115), Nick Sackett (19017), Michael Anderson (20048), David DeHaan (14043), Ryan Georg (18127), Justin Yersak (18020), Mariah Urbina (17038), Miguel Garcia (20083), Joshua Droge (17011), Candace Bradbury (19053), Specialists Christopher Schubert (16065), Osvaldo Paz (19017), Sergeants Joshua Seiter (11018), Lene Lipford (10051), James Dodge (08007), Willie Bond (03049), and Lieutenant Christopher Klug (05009).

I've included the most relevant part of Deputy Tolles' narrative below in its entirety and summarized the most relevant parts of the others.

### Deputy Tolles' Report

Deputy Tolles' report was authored on 3/30/21, and the entire report (including supplements by others) was approved by Sergeant Lipford and Lieutenant Klug on 3/31/21, and 4/4/21, respectively.

*"At approximately 1740 hours, I brought dinner into Ward [REDACTED] and verified diets and count."*

**\*\*\* Investigator's Note:** This is erroneous. Tolles was assigned to Ward [REDACTED] not [REDACTED]

*"After serving dinner to the lower two quads (Cells [REDACTED]), I stacked the meals and brought them upstairs. When I arrived at Cell [REDACTED] (Inmate [REDACTED] DOB: [REDACTED]) he was not at his door nor on his desk which is typical where is at if not pacing his cell. I looked down through the window to be sure the door was clear before opening the door. Upon opening the door, [REDACTED] appeared to be sitting at the end of his bunk. [REDACTED] did not respond when I called out to him. Upon stepping inside the cell, I noticed a long item approximately 1.5" in thickness stretching from corner to corner on the bunk. Upon realizing this was a stretch of blanket, I immediately announced "[REDACTED]" on my hand-held radio, followed by "I need a cut down knife." I placed my hand on [REDACTED]'s chin to lift his head, supporting the back of his head with my other hand and realized there was no knot or tie. I shifted his back and to the left and the blanket construction fell away. I grasped [REDACTED] (sic) left hand with my right, guiding his head with my left hand on the back of his head off of the bunk and laid him on the floor face up. His skin tone did not appear different than I have observed. As I laid him flat on his back in a position to accept CPR or any other needed medical attention (sic). In reflection, I recollect observing his lips taken on a slight blue tint. As soon as I had him positioned, I stepped over to this other side to begin an assessment and clear the doorway for responders. A responding deputy quickly began CPR. Another responding deputy arrived with an automated external defibrillator (AED) unit. Patches were placed, and the unit activated. CPR continued, then paused for the AED a 2<sup>nd</sup> time. Sgt L. Lipford (10051) ordered me out of the cell and I departed Ward [REDACTED] with Sgt. C. Bonk (10022)."*

### Deputy Yersak's Report

Deputy Yersak's report was authored on 3/30/21. He related the following relevant information:

- That he was assigned as the [REDACTED] Mod Deputy when he responded to the [REDACTED] call and the request for a “cut down” knife;
- It appears that he was the first person to come to Deputy Tolles’ assistance in Cell [REDACTED];
- That he saw Deputy Tolles Grab Inmate [REDACTED] “... out of the noose made from a piece of blanket and place him on the floor face up;”
- That he described Inmate [REDACTED] as “...unresponsive, pale in the face, and mouth and eyes slightly open;”
- That he stepped out of the cell to call for an AED;
- That as Deputy Correia performed CPR, Yersak prepared the AED and placed the pads on Inmate Lowe;
- That Medical Staff Member Grant Hunter joined the effort and was stabilizing Inmate’s [REDACTED] head and maintain C-Spine alignment while CPR was taking place;
- That after two minutes, he relieved Deputy Corriea of chest compressions;
- That he noticed Inmate [REDACTED]’s skin to be pale, bluish, and “cool and clammy to the touch;”
- That he was relieved of CPR compressions by Deputy Urbina;
- That oxygen was brought to the cell;
- That the AED repeatedly advised “no shock;”
- That he watched as Emergency Medical Responders (AMR & CSFD moved Inmate [REDACTED] out of his cell
- That he then conducted checks of the [REDACTED] cells, and later joined Deputies Corriea and Urbina in keeping watch over Inmate [REDACTED]’s body;
- That Lieutenant Klug sent him to Ward [REDACTED] for the rest of the shift;
- That he was interviewed by a member of the Coroner’s Office regarding his observations, and that he told them he was the first person to arrive to assist Deputy Tolles, and that while Tolles was already removing [REDACTED] from the noose, Yersak saw that [REDACTED] “... had his feet hanging off the back of the bunk, facing the door of the cell.”

#### Deputy Correia’s Report

Deputy Correia’s report was authored on 3/30/21. He related the following relevant information:

- That he was assigned as the [REDACTED] Mod deputy and conducting a “two-deputy” transport with Deputy Bradberry from [REDACTED] to the Medical Unit when he heard “[REDACTED] bring the cut down knife” over the radio;
- That upon transferring his “two deputy” responsibilities to a second deputy, he responded to the scene;
- That he noted Inmate [REDACTED]’s skin was “grayish” and not breathing;
- That he checked for carotid pulse on Inmate [REDACTED] but detected none, and immediately began chest compressions;
- That he estimated he completed 200 chest compressions before being relieved by Deputy Yerskak;

- That Sergeant Lipford told him to leave the cell and that he then went to the Sallyport to help guide the responding Emergency Medical Responders to the scene;
- That Sergeant Dodge assigned him to assume the Ward [REDACTED] duties for the rest of the evening.

Deputy Urbina's Report

Deputy Urbina's report was authored on 3/30/21. She related the following relevant information:

- That she was assigned to Booking and had been designated as the "Armed Response Deputy" on the day in question when she heard the [REDACTED] called and the subsequent request for the cut-down knife;
- That upon responding to the scene, she noted Inmate [REDACTED] was receiving CPR first from Deputy Corriea;
- That she heard Nurse H. Grant ask for the AED and as it and oxygen were delivered, she noted Deputy Yersak had assumed CPR compressions;
- That Sergeant Lipford directed her to relieve Yersak of compression, and that she (Urbina) administered approximately 90 chest compressions until she was relieved by Nurse Same Ellis;
- That she provided scene security until she was directed to return to her original post / assignment, i.e., the Intake Section.

Deputy Bradburry's Report

Deputy Bradburry's report was authored on 3/30/21. She related the following relevant information:

- That she was assigned as the [REDACTED] Mod Deputy, and was escorting an inmate to the Medical Unit when she heard the [REDACTED] call and request for a cut down knife;
- That she responded to the scene after completing her escort;
- That Sergeant Dodge instructed her to serve as a scribe and make notes regarding all activities;
- Those notes are listed below in their entirety:
- [REDACTED] 03292021
- *On March 29, 2021, I, Deputy Candace Bradburry, EID 19053, was assigned as [REDACTED] Mod at the El Paso County Criminal Justice Jail (CJC) located at 2739 E Las Vegas Street, Colorado Springs, CO 80906.*
- *At approximately 1755 hours, I heard "[REDACTED] bring a cut down knife" while transporting an Inmate to medical. After dropping off the inmate to medical I quickly responded to [REDACTED]. Due to my positioning and being able to see what was going on inside the cell Sgt. Dodge, James instructed me to take notes of everything that was occurring. The following notes are what were included:*

**[REDACTED] Notes:**

1755- [REDACTED] w/ cut down knife called; AED brought.

1756- 911 called by Sgt. Sieter.

1759- Hunter conducting CPR/Tera securing head.

1800- Shock not advised from AED.

1801- CPR resumed by Nurse Ellis, Samuels.  
1802- CPR by Blain-Krakofsky, Bianca.  
1803- Shock not advised by AED.  
1804- AMR/ Fire in sallyport; CPR resumed.  
1805- Shock not advised from AED.  
1806- EMS moved Inmate from cell and took over CPR.  
1807- Shock advised from EMS AED.  
1809- EMS continued CPR.  
1812- No shock advised from AED.  
1813- Fire Lt. stated inmates pupils fixed and dilated.  
1814- Fire Lt. stated inmates blood sugar was 228; Continued CPR by EMS; No shock advised from AED.  
1816- No shock advised from AED; CPR continued by EMS.  
1820- Fire Lt. stated EMS on 6<sup>th</sup> round of CPR.  
1821- Fire Lt. discontinued CPR/ called it on scene.  
1826- Fire & AMR leave scene; Deputy Bradburry and Deputy Urbina maintain crime scene.  
1830- Lt. Klug enters crime scene and leaves at the same time.  
1835- Deputy Bradburry & Deputy Urbina relieved and leave crime scene; Deputy Garcia and Deputy Corriea take over crime scene.

**Fire staff (Engine 11): Incident #21132921**

-Lt. Valdez  
- Paramedic Taylor  
- Driver Richardson  
- Firefighter Mena

**AMR 128 staff:**

- Paramedic Atkins, James  
- EMT Rattan, Shawn

**CJC Staff on scene:**

- Dep. Anderson  
- Dep. Garcia  
- Dep. Corriea  
- Dep. Yersak  
- Dep. Urbina  
- Dep. Bradburry

**CJC Nursing staff on scene:**

- Ellis, Samuel  
- Blain-Krakofsky, Bianca  
- Grant, Hunter  
- Michele

**Deputy Anderson's Report**

Deputy Anderson's report was authored on 3/30/21. He related the following relevant information:

- That he was the deputy assigned to the [REDACTED] when he responded to the [REDACTED] call;
- Once on-scene, he took a turn administering CPR on Inmate [REDACTED] and that after being relieved from that task, accompanied Deputy Corriea to the Sallyport;
- Once in the Sallyport, he was directed to retrieve his firearm and prepare to escort the inmate to the hospital, but that task was cancelled when Inmate [REDACTED] was not transported.

**Deputy Sackett's Report**

Deputy Sackett's report was authored on 3/30/21. He related the following relevant information:

- That he was assigned Ward [REDACTED] when he responded to the [REDACTED] call;
- That upon responding to [REDACTED] he noted a number of personnel in the affected area, so he proceeded to the Deputy's Desk and began a Crime Scene Log;
- That he was relieved by Deputy Drogge at 1930 hours.

#### Deputy DeHaan's Report

Deputy DeHaan's report was authored on 3/30/21. He related the following relevant information:

- That he was in the Sergeant's Office when he responded to the [REDACTED] call;
- That upon responding to Ward [REDACTED] a sergeant directed him to begin a Crime Scene Log, but upon arriving at the Deputy's Desk, he saw that Deputy Sackett was already accomplishing that task. Through mutual agreement, they agreed that Sackett would maintain the Crime Scene Log while he maintained Security Checks of the Ward;
- At one point he assisted in locating and delivering the oxygen bottle;
- He was told to prepare to escort the inmate to the hospital but that order was belayed.

#### Deputy Georg's Report

Deputy Georg's report was authored on 3/30/21. He related the following relevant information:

- That he was assigned to Ward [REDACTED] when he heard the [REDACTED] call;
- That upon responding, he saw there were a number of people already on-scene and elected to conduct a "formal welfare check" of the ward;
- That Sergeant Goodloe directed him to return to his own ward.

#### Deputy Garcia's Report

Deputy Garcia's report was authored on 3/30/21. He related the following relevant information:

- That he was in the Sergeants' Office with Sergeant Goodloe, and Deputies DeHaan and Anderson when he heard the [REDACTED] and request for a cut down knife;
- Upon his response to the scene, he noted that CPR was being started and that an AED had been requested;
- That he was directed to perform "continuous checks" in Ward [REDACTED] until directed otherwise;
- That he was eventually relieved and directed to assume duties in [REDACTED]

#### Deputy Drogge's Report

Deputy Drogge's report was authored on 3/30/21. He related the following relevant information:

- That he relieved Deputy Sackett of duties in Ward [REDACTED] at 1925 hours, that night;
- That Deputy Coroners Robb Stevenson and Rachel Broden arrived at 2047 and 2120 hours respectively, and removed Inmate [REDACTED]'s body at 2137 hours;
- That Detentions Investigators Farrell and Rodriguez released the scene at 2208 hours.

### Specialist Schubert's Report

Specialist Schubert's report was authored on 3/30/21. He related the following relevant information:

- That he was in [REDACTED] Mod when he heard the [REDACTED] called and request for a cut down knife;
- That upon his response, he retrieved a [REDACTED] (a prepackaged and sealed bag containing emergency medical equipment) from the [REDACTED];
- That he assisted Specialist Paz in erecting the privacy screens;
- That Lieutenant Klug directed him to retrieve a medical backboard.

### Specialist Paz' Report

Detentions Specialist Osvaldo Paz' report was authored on 3/30/21. He related the following relevant information:

- That he assisted in placing the privacy screens in Ward [REDACTED]

### Sergeant Seiter's Report

Sergeant Seiter's report was authored on 3/30/21. He related the following relevant information:

- That he was on-duty as an Intake Supervisor when he heard the [REDACTED] and request for a cut down knife;
- That he responded from the Main Hallway;
- That upon his arrival to the scene, he witnessed Deputies Corriea and Yersak assisting Medical Service Member Grant tend to Inmate [REDACTED]. Corriea was "actively performing chest compressions;"
- That he observed the noose which he deduced was made from an inmate blanket;
- That he made the 911 call from the [REDACTED] area, and that he was told AMR #28's "run number" was 11173891, and that CSFD Engine 11's "run number" was 21132921;
- That he assisted in escorting the EMS personnel from the sallyport to Ward [REDACTED];
- That he briefed Detentions Investigator Farrell upon her arrival.

### Sergeant Lipford's Report

Sergeant Lipford's report was authored on 3/30/21. He related the following relevant information:

- That upon hearing the [REDACTED] and call for a cut down knife, that she obtained two knives but they were no longer needed upon her arrival;
- That she retrieved a C-Collar for Medical Staff Member Grant;
- That she observed Deputies Tolles, Correia and Yersak in the cell, along with Medical Staff Members Grant and Sabo;
- That the AED had already been applied by the time of her arrival on scene;
- That she observed Grant and Sabo apply the C-Collar to Inmate [REDACTED]

- That Inmate ██████ appeared unresponsive and pale as Deputy Corriea was conducting CPR compressions;
- That Deputies Corriea, Yersak and Urbina applied CPR compressions as did Medical Staff Members Grant, Ellis and Blain-Krakofsky.

#### Sergeant Dodge's Report

Sergeant Dodge's report was authored on 3/30/21. He related the following relevant information:

- That he responded to the ██████ call, request for a cut down knife and an AED;
- That he retrieved the AED;
- That Charge Nurse Bianca Blain-Krakofsku instructed him to make notes and document all on-goings, and that he, in turn, delegated that task to Deputy Bradburry, who had a better vantage point;
- That he heard a member of the CSFD team state, "We're calling it," and then declared the time of death to be 1821 hours;
- That he departed the scene upon Investigators Farrell and Rodriguez' arrival at 1930 hours.

#### Sergeant Bond's Report

Sergeant Bond's report was authored on 3/30/21. He related the following relevant information:

- That he responded to scene and observed multiple members performing CPR;
- That he directed the privacy screens be put in place;
- That he partially watched ██████ video footage before ceding the task to Sergeant Goodloe;
- That he reviewed Ward Log information regarding the checks.

#### Lieutenant Klug's Report

Lieutenant Klug's report was authored on 3/30/21. He related the following relevant information:

- That he was on-duty Watch Commander at the time of the incident;
- That he responded to the ██████ call and request for cut down knife;
- That an AED had been requested and delivered prior to his arrival on scene;
- That he attempted to fill a request for an oxygen bottle, but that it was not in its designated storage location requiring that one be obtained from ██████ Mod;
- That he observed Sergeant Seiter on the telephone with 911;
- That he arranged for personnel to escort Emergency Medical Personnel from the Sallyport to Ward ██████;
- That he directed Sergeant Dodge to stage in ██████ Mod and serve as "Incident Command;"
- That he made telephone notifications to Detentions Division Commander Cy Gillespie;
- That he entered the Crime Scene at 1830 for purposes of taking a photograph of the noose.

## REVIEW OF DETENTION BUREAU INVESTIGATIONS REPORT

On Wednesday, April 14, 2021, I made the second trip of two to obtain information from Investigator Farrell regarding her investigation into this incident. She three large Inter-Office envelopes with a number of documents and CD's / DVD's included. I noted the following;

- A "Table of Contents" listing 24 tabs:
  - Press Release
  - EPSO Case #2021-00003433
  - Case Supplements
  - JMS Incident Report #210002595
  - Crime Scene Log
  - Post Orders Ward [REDACTED]
  - Ward [REDACTED] Log
  - Main CCR Log
  - Inmate Classification File
  - Medical File / Mental Health Files
  - Photograph's (sic) / Video/ GTL Tablet Info
  - Intake File
  - Criminal History – NCIC/City
  - Calls / Visits
  - Interviews
  - Observation Log
  - Coroner's Office Evidence Release Form
  - Property Form
  - AED Log
  - Court Date Information
  - Coroner Autopsy Report
  - Debrief Notification
  - Timeline
  - Copies of Miscellaneous Paperwork

\*\*\* **Investigator's Note:** The Table of Contents had a handwritten note attached reading "Don't have: #21 #22 #23 Ø Complete yet or completed EPSO case" (sic).

I also noted that although various documents were stabled or paper-clipped together, none had corresponding "tabs" as outlined above. As I reviewed them, I attempted to label each document / packet with its appropriate "tab number."

Finally, I noted that many of the documents listed in the Table of Contents were items which I had apparently already reviewed.

My review of the items forwarded / left for me revealed the following relevant information:

- Tab 1: Press Release: Stated that the Medical Emergency was declared at 5:54 pm. The Ward Log reflected it was called at 5:54 pm. Both the video and [REDACTED] Log show the [REDACTED] called at 5:53
- Tab 5: Crime Scene Log: It ranged from 1755 hours until 2208, 3/29/21, and noted:
  - 1756 hours – [REDACTED] Cell [REDACTED]
  - 1757 hours – Sgt Seiter called 911
  - 1759 hours - Med, Oxygen (sic)
  - 1800 hours - Deputies Corriea & Anderson were sent to Medical to meet AMR
  - 1805 hours – Sgt Seiter and AMR in ward
  - 1824 hours – Commander Gillespie
  - 1827 hours – AMR out
  - 1831 hours – AMR called Time Of Death (TOD)
  - 1906 hours - Deputy Farrell (mistakenly called Deputy Sypher) announced in the building
  - 1907 hours – In ward serving (meals)

\*\*\* Investigator's Note: Although Cells [REDACTED] had been served meals by Dep Tolles, shift leadership decided to feed everyone again.

- 1911 hours – Deputy Nick Sackett logged that *"Hands and face check while serving"*

\*\*\* Investigator's Note: EPSO rules prohibit conducting the "hands & face check" while serving meals.

- 1927 hours – Detentions Investigators Farrell and Rodriguez in the ward
- 1931 hours – Scene turned over to Detentions Investigations
- 2047 hours - Deputy Coroner Stevenson on scene
- 2120 hours - Deputy Coroner Stevenson on scene
- 2120 hours - Lieutenant Vidmar (internal Affairs) on scene
- 2124 hours - Deputy Coroner Broden on scene
- 2137 hours – Inmate [REDACTED]'s body removed at 2134 hours
- 2208 hours – Investigators Farrell and Rodriguez clear the scene
- Tab 7: Ward [REDACTED] Log:
  - 1013 hours - Deputy Tolles assumed duty
  - Deputy Tolles noted there were 16 inmates in his ward
  - 1014 - Deputy Tolles reviewed his Post Orders
  - 1303 hours - Deputy Tolles fed lunch (16 foam trays)

\*\*\* Investigator's Note: I noted that he logged at 15-minute check at 1303 hours as well.

- 1727 hours - Deputy Tolles notes "MEDICAL 9Med/Diabet) MH/SGT/[REDACTED] IN
- 1737 hours - Deputy Tolles notes "15EA FOAM TRAYS IN WARD (1 KOSHER) ...."

- 1754 hours – ██████████ (Logged by Deputy Sackett)

\*\*\* **Investigator's Note:** I noted that on March 29, 2021, Deputy Tolles *logged* 31 ward checks in Ward ██████████ between 1000 hours and 1742 hours (the last check logged before the ██████████. Of those 19 (61%) were logged as having been conducted in 15 minutes or less. Another 8 checks (26%) were logged as having been performed within the allotted two minute or less leeway. Four checks (13%) were outright late (three minutes late or later). Those checks are listed below:

1. At 1114 hours, he logged a check which was 11 minutes late from his last check conducted at 1048 hours. There is no indication he logged a "late check" or notified a supervisor.
2. At 1447 hours, he logged a check which was 3 minutes late from his last check conducted at 1429 hours. There is no indication he logged a "late check" or notified a supervisor.
3. At 1525 hours, he logged a check which was 13 minutes late from his last check conducted at 11457 hours. There is no indication he logged a "late check" or notified a supervisor.
4. At 1616 hours, he logged a check which was 4 minutes late from his last check conducted at 1557 hours. There is no indication he logged a "late check" or notified a supervisor.

It is noteworthy that these times are "self-reported" and have not (at this point) been verified / cross-checked against video.

- **Tab 8: Central Control Room (CCR) Log**
  - 1753 hours – ██████████
  - 1754 hours – CPR begun
  - 1754 hours – AED requested
  - 1755 hours – 911 called
  - 1802 hours – Deputies Correia and Anderson awaiting EMS arrival
  - 1803 hours - Fire on scene
  - 1804 hours – AMR on scene
  - 1806 hours – Fire and AMR in Ward ██████████
  - 1822 hours – Time of Death announced
  - 1829 hours – Deputy Farrell called in to speak with Lt Klug
  - 1904 hours – Deputy Farrell on scene
  - 2042 hours – Coroner on scene
  - 2138 hours – Coroners depart
- **Tab 9: Alerts History & Inmate Classification Report**
  - Alert History ranged from 5/16/07 through present
    - Contained nine (9) entries titled "Suicide Risk." The first was entered 5/22/17. The other eight were added "automatically" on 7/14/17, 2/3/18, 9/5/18, 9/6/18, 8/29/19, 7/17/20, 10/30/20, and on 1/6/21
    - Inmate ██████████ was placed in "Disciplinary Lockdown" on 3/26/21
  - Inmate Classification Report
    - Denied suicidal thoughts (Question 24)

- Inmate [REDACTED] was caught with elaborate tattooing equipment & placed in Pre-Discip Hearing Detention on 3/21/21
- Booking Sheet
  - White male, DOB: [REDACTED] (33 yoa)
  - 211 Crew (a known white supremacist prison gang)
  - Resided at [REDACTED]
  - Rec'd Mail at [REDACTED]
  - Incarcerated 1/6/21
  - Charges Unauthorized Absence & Parole Violation / No Bond & Dist of Controlled Substances (\$50,000 bond), Drug Paraphernalia & Crim Mischief
  - Next of Kin listed as [REDACTED] (grandmother) and [REDACTED] (sic) his fiancé.
- Scheduled Events
  - Written up on 2/27/21 (Threw his Inmate Tablet thus damaging it). Inmate [REDACTED] complained of "... you faggot ass cops always fucking with me" and threatened to "kill as many cops as possible" when he was released. He told Deputy C. McCormick that it was "just business."
  - A report dated 3/20/21 describes nail clippers missing from Ward [REDACTED]. Inmate [REDACTED]'s cell was searched, and although the clippers weren't found, deputies did find a tattoo gun

\*\*\* **Investigator's Note:** The nail clippers were found in Inmate [REDACTED]'s cell in Ward [REDACTED] after his death.

- On 3/22/21, Inmate [REDACTED] is observed illegally removing a metal plate (approximately 5.5 inches by 24 inches) from the Inmate Kiosk
- On 3/24/21, Inmate [REDACTED] was discovered to have peeled, cut, pulled the mattress cover off of his jail mattress. He told the deputy the mattress was cold and the cover simply made it colder

\*\*\* **Investigator's Note:** Although the deputy collected the cut-off mattress cover, he chose not to replace it since he concluded Inmate [REDACTED] would simply do the same to the replacement mattress. At the time of his death, a mattress cover was found under his bunk indicating that another deputy had chosen to replace the mattress. The deputy cited him for damaging the mattress.

- On 3/29/21, at 1131 hours, Inmate [REDACTED] was called to meet the Disciplinary Board to answer to the charges of "Damage to Property," i.e., damaging the aforementioned mattress. He refused to attend the Hearing and was sentenced to 10 days disciplinary lockdown.

- Tab 10: Medical & Mental Health Files
  - Previously reviewed (see pages 11-13)
- Tab 11: GTL (Jail Telephone Data)
  - Revealed a number of contacts with [REDACTED] whom he referred to as his "spouse."
  - One of his tablet contacts was listed as [REDACTED] and the email address was [REDACTED]

Written Communication with Classification

- 1/8/21 – Asked that his Parole Officer "Hathaway" be contacted to release his Parole Hold
  - 1/14/21 – Asked to use the Law Library
  - 1/16/21 – Asked to see Mental Health to be put back on his medications
  - 1/18/21 – Asked for a Power of Atty for his "wife"
  - 1/23/21 – Asked for [REDACTED]
  - 2/14/21 – Asked that \$77 be transferred to his Commissary acct
  - 2/14/21 – Asked Mental Health [REDACTED]
  - 2/16/21 - Asked for Notary service on behalf of Inmate [REDACTED]
  - 3/9/21 – Asks to weigh himself
  - 3/13/21 – Asks for \$89 money order made out to "publishers Representatives"
  - 3/23/21 – Asked to release \$300 to [REDACTED] (of a \$300.54 balance)
  - 3/24/21 – Changes request to \$275
  - 3/27/21 – Changes request to \$225
- 3/21/21 – Admin Seg Placement Form: Based upon all the tattooing contraband which was recovered from his cell. It was noted that he had also attached electrical wires to the lights in order to fashion a tattoo gun.
- Tab 12: Intake File
    - Paperwork related to his 1/6/21 arrest for Narcotics and Parole Violation
    - Documents related to the Criminal Mischief (breaking of the jail tablet) in-custody booking
    - Personal Property Release giving his SS Card, three State ID's, key w/flashlight, car key, Visa Debit Card (# [REDACTED]), Visa Debit Card (# [REDACTED]), Visa Debit Card (# [REDACTED]), Mastercard Debit Card (# [REDACTED]) EBT (# [REDACTED]) and Wallet to [REDACTED]
    - Personal Property Release giving his EBT Card and I-Phone cell phone to [REDACTED] on 1/25/21
  - Tab 13: Criminal History

- 15 pages dating back to 2004 (juvenile), and from Arapahoe County SO, CSPD, EPSO, Jefferson County SO, and Lakewood PD
- Including Agg Motor Veh Theft, Assault (2<sup>nd</sup> Deg), Burglary, Dangerous Drugs (Sched II), Driving Under Restraint, Escape, Failure To Appear, False Info to Pawnbroker, Forgery, Menacing, Menacing with Weapon, Property Damage, Obstruction of a Peace Officer, Poss of Drug Paraphernalia, Receiving Stolen Prop, Reckless Driving, Robbery, Robbery of At-Risk Persons, Shopliftings, Theft (Felony) and Shoplifting. Many of the above included multiple counts.
- He had been sentenced to the Department of Corrections previously.
- Tab 14: GTL Calls
  - 104 calls listed dating to 2/7/21
  - The last two were on 3/29/21 at 1544 and 1551 hours to [REDACTED]
- Tab 16: Observation Log
  - 3/14/21: Shift Three: Tore mattress cover off mattress
  - 3/29/21: Shift Three: Deceased
- Tab 17: Coroner's Office Evidence Release Form
  - Ligature was submitted to the Coroners Office and returned to Deputy Farrell after the autopsy
- Tab 18: Inmate Personal Property Inventory
  - Final Check for \$261.33 made payable to [REDACTED]
- Tab 19: AED Log
- Tab 20: Court Computer Documents
- Tab 14: Misc Documents from Lowe's Cell
  - Yellow pad with black handwritten statements
    - *I WILL BE HAPPY*
    - *I WILL STAY SOBER*
    - *I WILL WORK HARD*
    - *I WILL TAKE CARE OF AUTUMN*
    - *I WILL BE RICH*
    - *I WILL NEVER GO BACK 2 PRISON*
    - *I WILL BEAT ALL MY CASES*
    - *I WILL THANK GOD*
    - *THANK YOU GOD*
  - "Fear of Death – How Can You Overcome It?" includes five scriptures reference death

**REVIEW OF WORK HABITS & COMPARING VIDEO TO LOGGED CHECKS ON MARCH 29, 2021**

Ward [REDACTED]'s construction is a unique to the jail. There are four 4-cell quads. Each of the quads is separated and segregated from the other three. Two are located on the first floor and two are located

on the upper floor. The four quads are commonly referred to as the “Lower Left, Lower Right, Upper Left and Upper Right” quads.

In addition to the four cells within each quad, each quad contains its own “Mini Dayroom” which is equipped with tables, a television, shower and inmate pay phone. Those four Mini Dayrooms all lead to the Main Dayroom wherein the Deputy’s Station is housed on the ground floor. Access to the two upper quads is gained via a single set of steps which originate from the ground floor of the Main Dayroom and lead to a walkway which parallels the two upper quads.

When a deputy conducts a “ward check,” he / she first walks to any one of the four quads, uses a key to enter the mini dayroom, and then walks by each of the four cells within, and looking into the window of each cell door. The deputy is then required to leave that quad, shut the quad door behind him / her, and proceed to the next quad, until all four quads and 16 cells have been checked.

Ward [REDACTED] is, by definition, [REDACTED] and the inmates housed therein are most often segregated from other inmates for a variety of reasons, but primarily as a result of Disciplinary or Administrative Segregation and / or Protective Custody. By policy, checks in Ward [REDACTED] are required to be conducted within 15 minutes of one another.

On Friday, April 23, 2021, I met with Detentions Bureau Investigators Kim Farrell and Kevin Sypher at their office in the jail. They assisted me in observing the 31 checks Deputy Tolles logged on March 29, 2021, between the hours of 1000 and 1753 (the time Deputy Tolles discovered Inmate [REDACTED] hanging).

See the Investigator’s Note on page 25 of this report. My intention was to verify the accuracy of the checks he logged by comparing them to the actions I observed on video over that nearly eight-hour segment. I noted that the video timestamp only matched the logged entry time three times (1130, 1146, and 1232 hours).

I noted that the video timestamp was off by two minutes or less from the logged entry time an additional eight times.

**\*\*\* Investigator’s Note:** Seeing this in the eye most favorable to Deputy Tolles, I note that these differences could be attributed to something as simple as computer timestamps, wristwatches, and video timestamps not being synced. I also noted that Deputy Tolles was on-record with Investigator Farrell as not logging his checks in a consistent manner, i.e., sometimes he logged the check before he began it, sometimes during, and sometimes after.

His logged checks differed from when I observed his beginning a check by three to four minutes, six times, and in two of those six, video showed that he started his check before the time it was logged.

In checking when his logged checks differed from when I observed him beginning a check by five minutes or more, I noted it happened seven times, but in each of those cases, he started his checks earlier than logged (by 5, 6, 6, 8, 9, 12, and 30 minutes). This, of course, would lend credence that Deputy Tolles sometimes logged his checks after completing them.

I found one check which, according to the camera, was started at 1607 hours, and was completed at 1611 hours. I could find no log entry documenting that check in particular (it occurred between checks which were logged at 1616 and 1629 hours). Prior to that was a check logged at 1557 hours (but which I could not locate on video suggesting perhaps that he was ten minutes late starting the check he logged at 1607 hours).

#### Missed Checks

I noted there were six logged instances where I did not observe a corresponding check on video:

1. There were two checks logged at 1114 and 1115 hours, but video showed only one check beginning at 1110 hours and ending at 1113 hours. I noted that a Maintenance Crew was in the ward at that time changing light bulbs. **This resulted in a 20-minute delay in start times, and 20-minute delay in conclusion times.**
2. There was a check logged at 1317 hours, but I did not observe a check conducted at that time. Deputy Tolles began a check at 1300 hours, wherein he served meals during that check, and completed it at 1312 hours. He logged that check as occurring at 1303 hours. I noted that after he finished that check, he walked right out of ward, and did not walk to his computer to log the check at the time. **This resulted in a 25-minute delay in start times, and 25-minute delay in conclusion times.**
3. There was a check logged at 1414 hours, but I saw no video corroborating that check. There was a previous check logged at 1401 hours, which appeared to start at 1402 and concluded at 1413 hours. It appears that Deputy Tolles logged both the beginning and end of this one check as though it were two checks. The next check (logged at 1429 hours) started at 1423 and involved a one-two minute break (from 1425-1426), before finishing the check at 1428 hours. **This resulted in a 21-minute delay in start times, and 25-minute delay in conclusion times.**
4. At 1447 hours, Deputy Tolles logged a check, but there was no corroborating video. The previous check (as noted above), was logged at 1429 hours, but started at 1423 and involved a one-two minute break (from 1425-1426), before finishing the check at 1428 hours. **This resulted in a 35-minute delay in start times, and 33-minute delay in conclusion times.**
5. At 1557 hours, Deputy Tolles logged a check, but there was no corroborating video, but I did see a check starting at 1607 and ending at 1611 hours. **This resulted in a 40-minute delay in start times, and a 40-minute delay in conclusion times.**
6. Lastly, I noted a logged check at 1657 hours, with no corroborating video. The previous check, logged at 1643, began at 1637 and concluded at 1655 hours (making it last 18 minutes). The check which followed was logged at 1711 but began at 1706 and concluded at 1711 hours. **This resulted in a 29-minute delay in start times, but only a 16-minute delay in conclusion times.** Again, it appeared that Deputy Tolles logged both the beginning and end of this one check as though it were two checks. I noted a nurse was at this desk during this time.

### Partial / Split Checks

- I additionally noted a check logged at 1333 hours (conducted between 1325 and 1337) where he appeared to not check the lower left quad, but he did check the other three.
- There was a check logged at 1513 hours (conducted between 1513 and 1518), wherein Inmate [REDACTED] was on his "hour out" (of his cell), where Deputy Tolles did not check the lower right quad, but then returned at 1549 hours to ONLY check the lower right quad.
- Lastly, there was a check logged at 1643 which started at 1637 and involved a long delay, and then ended at 1655. Initially he started with the lower left quad and then there was a long delay before he finished at 1655. This incident is commensurate with "Missed Check" #6 above.

### Conclusion Intervals

My review of the March 29, 2021, logs and video revealed that Deputy Tolles conducted and logged his checks in an inconsistent and haphazard manner. In an effort to make some sense out of the multitude of ways he documented and conducted his checks, I focused on the intervals between his completing checks as verified by video. Not counting the last check (which was not completed as a result of finding Inmate [REDACTED] hanging), my review revealed the following:

- Of the 23 checks verified by video, the duration between completed checks ranged from 11 to 40 minutes;
- The duration between completed checks was 17 minutes or less on 14 occasions;
- The duration between completed checks was 19 minutes or more on 9 occasions;
- The average amount of time between completed checks was over 19 minutes;
- The median value was 16.5 minutes.

### COMPARING VIDEO TO LOGGED CHECKS ON MARCH 7, 2021

On Wednesday, April 28, 2021, I met with Detentions Bureau Investigators Kim Farrell and Kevin Sypher at their office in the jail. They assisted me in observing 28 checks Deputy Tolles logged on March 7, 2021, between the hours of 1300 and 1948. I chose to begin my video review commensurate with his serving of the lunch meal at approximately 1300 hours. I observed and made notes of 28 checks he logged from 1300 to 1948 hours. I noted the following relevant information:

#### Checks During Meal Service

- Deputy Tolles logged a check at 1302 hours, but the video showed it commenced at 1305 and concluded at 1312. Ten meals had been brought into the ward at 1304 and Deputy Tolles served those meals while conducting his check. This was consistent with how he served meals on March 29, 2021, as well. I noted that the Upper Right quad was apparently unoccupied meaning that Deputy Tolles only had to check three quads per check. Two inmates would be brought into the quad later.
- Dinner meals were brought to the [REDACTED] Mod area at 1647 hours, and nine minutes later (1656 hours), Deputy Tolles wheeled the meals into the Ward [REDACTED] Dayroom. He logged that a check

occurred at 1703, but as before, I noted that he and another deputy, conducted the check in conjunction with serving the meal. The meal delivery and ward check began at 1700 hours and was complete at 1708 hours.

#### Missed Checks

I noted there were eight logged instances where I did not observe a corresponding check on video:

1. At 1316 hours, Deputy Tolles logged a check, but I saw no corroborating video that he either began or ended a check near then. This was the first check he logged after having served lunch (which he completed at 1312). In his log, however, he wrote that he completed his 1316 check with the "Formal Check" he completed with the serving of lunch. This is yet another example of where Deputy Tolles takes the opportunity of using a check which takes a longer time than usual (in this case, seven minutes to feed 10 meals in three quads), and then counting it as two separate checks (one logged at 1302 and then another at 1316) when in fact, only one check was done (lasting from 1305 to 1312). Deputy Tolles neglected to do his next check, logged at 1331 as well (i.e., missed back to back checks), **resulting in a 41-minute delay in start times, and 39-minute delay in conclusion times.**
2. As referenced above, Deputy Tolles logged a check at 1331 hours, but there was no video evidence to show that he actually conducted it. He appeared to sit at the Deputy's Station throughout the time. **This resulted in a 41-minute delay in start times, and a 39-minute delay in conclusion times.**
3. At 1646 hours, Deputy Tolles logged a check, but I did not observe a check being conducted. As referenced above, I noted that the dinner meals were brought into the Mod Area at 1647, and that he then brought them into Ward [REDACTED] at 1656 hours, but no check was conducted commensurate with that time. The previous check (logged at 1632) was conducted between 1629 and 1635. The next check (logged at 1703) was conducted between 1700 and 1708. **This resulted in a 31-minute delay in start times, and a 33-minute delay in conclusion times.**
4. At 1747 hours, Deputy Tolles logged a check, but I did not observe a check being conducted.
5. At 1750, he retroactively logged that he had completed a check at 1715 hours in conjunction with his "Formal Check" at the time. There was, however, no video evidence of him conducting a check at 1715 hours.
6. At 1751 hours, he retroactively logged that he had completed a check at 1732 hours, but again, video did not show him making a check. Between items #4, #5 and this item (#6), Deputy Tolles missed three successive checks. The previous check (logged at 1703, i.e., the one conducted in conjunction with the meal service) took place between 1700 and 1708. The next physical check I observed on video was logged at 1751 hours and started at 1752 and concluded at 1757. **This resulted in a 52-minute delay in start times, and a 49-minute delay in conclusion times.**
7. At 1837 hours, Deputy Tolles logged that he had completed a check, but video did not show him making a check. The previous check (logged at 1824, took place between 1818 and 1826 (but he neglected to do the Lower Left Quad). The next physical check I observed on video was logged at 1852 hours and started at 1845 and concluded at 1855. **This resulted in a 27-minute delay**

in start times, and a 29-minute delay in conclusion times (the missed quad check is covered below).

8. At 1920 hours, Deputy Tolles logged that he had completed a check, but video did not show him making a check. The previous check (logged at 1906, took place between 1900 and 1906. The next physical check I observed on video was logged at 1935 hours and started at 1929 and concluded at 1834 (but did not include the two upper quads, i.e., he did not check the upper quads). This resulted in a 29-minute delay in start times, and a 28-minute delay in conclusion times (the missed quad checks are covered below).

#### Partial Checks

- I additionally noted a check logged at 1824 hours (conducted between 1818 and 1826) where Deputy Tolles appeared to not check the lower right quad, but he did check the other three. This incident is commensurate with “Missed Check” #7 above.
- There was a check logged at 1935 hours (conducted between 1929 and 1934), where Deputy Tolles did not the two upper quads. This incident is commensurate with “Missed Check” #8 above.

#### Conclusion Intervals

My review of the March 7, 2021, logs and video revealed that Deputy Tolles conducted and logged his checks in the same inconsistent and haphazard manner as he did on March 29, 2021. As I focused on the intervals between his completing checks as verified by video, my review revealed the following:

- Of the 17 checks verified by video, the duration between completed checks ranged from 10 to 49 minutes;
- The duration between completed checks was 17 minutes or less on 7 occasions;
- The duration between completed checks was 19 minutes or more on 10 occasions;
- The average amount of time between completed checks was over 22.88 minutes;
- The median value was 20.5 minutes.

\*\*\* **Investigator’s Note:** Subsequent to briefing Division of Professional Responsibilities Commander Lari Hanenberg on the aforementioned findings, she concluded that pattern of behavior had already been established and no further research was necessary.

#### DEPUTY BURR TOLLES INTERVIEW

On Wednesday, May 5, 2021, I conducted a scheduled interview with Deputy Tolles. I advised him of his Garrity Rights and acknowledged that the consequences of not being truthful with me could include termination and revocation of his POST Certification. He related the following relevant information:

- That he had received a “Notice of Investigation,” recalled the incident in question and recognized why he was being interviewed;

- That he had been a member of the EPSO since 2014, and had been serving as a deputy sheriff assigned to the Detentions Division since that time, albeit on different shifts;
- That he had been on his current shift (0945 – 1945 hours) for the past three years;
- He acknowledged that we had met in my office prior to the recorded interview, and that I had directed him not to speak while I explained the nature of my investigation. I had also shown him my handwritten notes regarding his checks in Ward [REDACTED], on both March 7 and March 29, 2021, and the discrepancies I had discovered, i.e., him being late on his checks and him logging checks when, in fact, he did not complete them. Lastly, he acknowledged that I had offered him the opportunity to watch ward video of the discrepancies and that he waived the opportunity to see them for himself.

**\*\*\* Investigator's Note:** I had created a handwritten log wherein I numbered the checks Deputy Tolles "logged," and the time he reported that he had done them (whether he conducted them or not), and then noted what time the video showed him actually beginning the check and what time the video showed him concluding the check. I also made a number of notes as to what I might have observed while watching the video at that particular time.

Watching him from 1000 hours until 1753 (nearly eight hours), on March 29, 2021, (the day of Inmate [REDACTED]'s suicide), I noted that he voluntarily recorded four late checks (at 1114, 1447, 1525 and 1616 hours), and that those checks were 11, 3, 13 and 4 minutes late, i.e., beyond 15 minutes, respectively according to his own log. He did not report those late checks to his supervisor, nor did he make notes in his log about them as required by EPSO policy and procedure.

Upon watching the video from that same time period, I noted that of the 31 checks he logged, he was actually late 11 times (at 1033, 1114, 1130, 1303, 1333, 1401, 1457, 1525, 1616, 1643 and 1742 hours) and that those checks were 4, 5, 5, 5, 10, 10, 18, 4, 25, 12, and 10 minutes late, i.e., beyond 15 minutes, respectively according to the conclusion times of each check according to the time observed on the video. Seen in the light most favorable to Deputy Tolles, those late times could each be reduced by the two-minute leeway time afforded each check.

Perhaps even more disturbing was that six instances (at 1115, 1317, 1414, 1447, 1557, and 1657 hours) where he logged that he did a check, but the video showed that he did not, in fact, conduct a check. I listed those as missed checks or "no check."

I then did the same thing for March 7, 2021, wherein he was assigned to Ward [REDACTED] from 1000 hours until 1945 hours. I noted that he voluntarily logged 27 checks occurring from 1302 hours (I deliberately did not watch the first three hours of his shift, and instead chose to begin with his noon meal service) until 1935 hours. According to his own log, he was more than two minutes late (the acceptable leeway) on three of his checks. Again, he did not report those late checks to his supervisor,

**nor did he make notes in his log about them as required by EPSO policy and procedure.**

**Upon watching the video from that same time period however, I noted that of the 27 checks he logged, he was actually late 10 times (at 1346, 1444, 1530, 1558, 1614, 1703, 1751, 1824, 1852, and 1935 hours) and that those checks were 34, 18, 9, 9, 7, 18, 34, 4, 14, and 13 minutes late, i.e., beyond 15 minutes, respectively according to the conclusion times of each check according to the time observed on the video. Again, seen in the light most favorable to Deputy Tolles, those late times could each be reduced by the two-minute leeway time afforded each check.**

**And, as was the case in the previous review and comparison of logs to video, there were 10 instances wherein he logged a check (at 1316, 1331, 1429, 1515, 1646, 1715, 1732, 1837, and at 1920 hours), but the video showed that he did not, in fact, conduct a check. I listed those as missed checks or “no check.”**

- I asked Deputy Tolles to address the late and missed checks. He told me:
  - *“I’m, honestly, I’m shocked. I run a timer. When the timer goes – well technically speaking, before my timer goes off, I just start my walk. And I’ve noticed that sometimes I forget to reset that timer, but when it pops, I walk. Sometimes I walk early and vary my checks. Sometimes, I walk late. And honestly, I’m, I’m kinda’ of appalled. I’m shocked. I did not realize that I was missing that many.”*
- That he thought there was a two-three minute leeway for late checks;
- That he didn’t notify a supervisor, nor make a “late check” entry into his log because “I honestly probably didn’t even notice (that he was late);”
- Upon being confronted that there wasn’t a single entry acknowledging a “late check,” he said “... very rarely do I ever actually write in a log that I notified a supervisor ... I usually call;”
- That he would tell them “... hey, I got a check that was late. I was doing X and ended going late,” and that their reaction would typically be “Thank you for letting me know.”

Drawing Deputy Tolles’ attention to aforementioned handwritten notes regarding his checks on March 29, 2021, I pointed out that Check #5, logged as occurring at 1114 hours, actually started at 1110 and was concluded at 1113. I showed him, however, that he logged yet another check at 1115 hours, when in fact, he did not complete yet another check. I told him that my review of his work habits showed that sometimes, if the check took somewhat longer, that he would log both the beginning and ending times as two different checks, even though he had only completed the one.

He responded, *“The only thing I can associate to that to is, is with my timer. I have noticed that sometimes I’ve gone to click it and it doesn’t register, and I get back after I walked a check, and I know just (unintelligible) off a check, so I end up having to reset and log, because I don’t reset the time until after I log. It’s apparently not a very good practice – looking at this. I always figured if I don’t do this until this is done, the then first must be completed. I do everything in sequence, kind of – (pause) a lot of it is because I pay more attention to the ward than anything else, so when I’m doing checks ... it seems*

*that with eyes, ears, and everything else, when I'm in the ward, I'm more involved there than I am in the computer. As of late, we've had to do the POST qualification stuff on there, but – and I'm behind on that because I don't have time in the ward to do that. It's hard to focus on both, so a lot of time it ends up splitting my thing and when I see the timer, I'm like 'wait a minute, I know I just walked.'*"

I then drew his attention back to the handwritten notes for March 29, 2021, and pointed out Check #13, wherein it was logged at 1303 hours, but that he began both his meal-service and check at 1300 hours, and that the video didn't show him being done until 1312 hours, and that he walked directly out of the ward when he was done (as opposed to returning to the desk to log the completed check), leading me to conclude that he had pre-logged "1303" prior to actually beginning the check at 1300 hours. I showed him that he actually logged another check at 1317 hours, and then did not conduct that check whatsoever.

**\*\*\* Investigator's Note:** This would be another example of Deputy Tolles pre-logging a check (at 1300 hours) as occurring at 1303 hours, completing it at 1312 hours, and then logging it again at 1317 hours, as though he had conducted two checks, when in fact, he had only conducted one check.

Asked to explain, he pled ignorance and said, *"The only time I would be able to log a check is if I was looking at my time. If it was – I honestly don't know. I mean, if I enter – the only time I actually enter – physically, a time, is when I've walked and my timer is reset, but there was no check, because I have to use that time to figure out what happened."*

Told that I didn't understand his explanation, he continued *"I have logged before, and I walk, and I reset my time, and I come back and my screen is on the 'password incorrect' or ... didn't save it (the check), so I have to look at my timer to see how many minutes had passed to figure out when it was that that (sic) thing hit, and then I end having to switch that. That's the only time I've ever actually entered a time, does that make any sense?"*

Deputy Tolles explained that the timer he uses is part of the computer screen and sometimes when he attempts to make a computer entry showing that he made a check, it fails to record his check and that he then has to reverse engineer the check by looking at how many minutes have passed, since he started his check.

I took that opportunity, however, to point out that in simply watching his actions on video, and noting when he physically started and ended each of his checks (without regard for what he wrote and / or what was or was not captured on his log), there was **"no check"** logged at Line /Check #6, Line /Check #14, Line /Check #18, Line /Check #20, Line /Check #24, and Line /Check #28. I pointed out that none of those entries were related to a computer problem or his timer. It was simply a matter of him not getting up to complete a check.

I then cited each of the 11 "late checks" I had identified and the respective amount of time which had passed between checks as result of each of those checks. He acknowledged the tardiness of each of those checks, and upon my concluding "...my review of your work habits suggests that's just how you do business," he replied, "Yeah, on this day, I was extremely focused on an individual (Inmate [REDACTED]);"

In response to his reference / suggestion that Inmate ██████ was the cause of his continuous late checks, I drew his attention to my review of his performance on Ward 1B1 on March 7, 2021, a day when there were only 10-12 inmates in his ward, and a day when there did not appear to be any disruptions / disturbances in his ward.

I noted that he had acknowledged to Detentions Bureau Investigator Deputy Farrell that he sometimes logged his checks before he did them, sometimes did so after he did the check, and sometimes logged them in the middle of the check.

I also pointed out that he consistently counted his meal service as a check despite the fact that serving the meal often took more than 15 minutes. Deputy Tolles acknowledged that the expectations in a "15 minute ward" were just that, i.e., the checks were to be finished within 15 minutes of one another without regard or consideration of how long meal service took.

I drew his attention to the handwritten log / notes I had used to review his performance in Ward ██████, on March 7, 2021, i.e., a shift which started with him only having three (not four) occupied quads with ten inmates, and yet he logged at check at 1302 hours, which actually took place between 1305 and 1312 hours during meal service, only to have him log yet another check at 1316 (which he did not conduct) and then he logged another check at 1331 hours, and never left his desk during to conduct the check.

He replied "I might not have realized that I logged it (previously). I'm starting to see that my methodology is not working very well."

I pointed out that this meant that there was a 49 minute gap between his completing his last actual check at 1312 hours (as part of his meal service), and 1351 hours, when he completed his next check.

He replied, "That's unacceptable."

Deputy Tolles agreed that my comparing his "check completion times" was a fair way to measure his performance.

I then pointed out that Check #7, logged as having been completed at 1429 hours, was not done at all, and that his next completed check at 1453 was then 33 minutes after his last completed check at 1420 hour.

I stressed that this seemed to speak for itself and suggested that he try to explain his behavior. He replied:

*"Looking at these like this, it's just different. When you're in the ward, everything is extremely busy, and Like I said, I don't – I focus on the walks and trying to get everything else done – with all the stuff they've piled on us over the years trying to get things done, your're multi-tasking at a level (that) is just, it's unreal. I'm not gonna' lie. It's is. It's unreal. I spent a lot of times in tech, and I've done a lot of multi-tasking, but with different priorities, and people that say 'Oh well, this has got to get done (and) this has got to get done,' your priorities start shifting and trying to*

*keep up and trying to keep everything level across the board. I put the logs and timers on auto, and I click along with that while focusing elsewhere, and that is apparently just not working."*

I took that opportunity to point out, and Deputy Tolles acknowledged, that he had seven years' experience, had some level of formal education, some college and certifications, and was aware that he was supposed to both log his checks as being late and report them to a supervisor, yet he didn't, and the reason was it was because he didn't realize they were late.

He replied, "Yes. I have made those calls before. They're – I, I - (sigh) – I am extremely disappointed with myself to be honest."

I then pointed out that at 1750 hrs (Entry #18), he (retroactively) logged that he had completed a check at 1715 hours, but in fact, had not. I asked him to explain why that should be accepted as a "mere oversight" as opposed to "an outright lie and departing from the truth."

Deputy Tolles replied, *"The only, like I said, the only reason I would log a time is if I noted that there was something wrong, and in the middle of everything, I just tried to calculate back to what it should have been, or when it was done, and (sigh)."*

Deputy Tolles' would not acknowledge that his entries were "fictitious," and instead insisted they were simply "incorrect."

I then drew his attention to Line / Check #19, logged at 1751, where again, there was "no check," yet he retroactively logged that he had done one at 1732, when in reality he had not. As a result, when compared to his last check completed check at 1708, 49 minutes had passed until his next completed check at 1757.

Deputy Tolles responded "Wow. (pause). I have no explanation for that. I honestly don't. There was no intent to deceive anybody. I, I, it would have been easier to just call, - and I have no idea what I would have been tied up on. I really don't. Where my focus would have changed or anything like that. I really have no (pause) no concept of how that even occurred.

Deputy Tolles agreed that he had demonstrated an "...inadequate level of performance," stating "I'm disappointed with my performance..."

Asked what he thought the consequences of his behavior should be, he first suggested "a discussion," and then probation, a performance action plan, and "definitely under a microscope."

Reminded that he had questioned whether he would be terminated upon being served with Notice of this investigation, he said "Yes, sir. It – a client had died," and related that I had informed him he had been late in completing his check (prior to the suicide), and that his "honest assessment" was that was all that was going to be considered as opposed to recognizing that it occurred "... in the middle of all that crap that was going on."

Upon stressing that “But as you can see, we didn’t just look at that one check that was late ... what we found was is that you ...,” at which point Tolles added “I have a systematic issue in the way I do my job.”

I told Tolles, “On March 7<sup>th</sup>, I checked 17 of those checks that I logged, and they ranged from - the conclusion times ranged from 10 minutes, which is certainly acceptable, to 49 minutes, which is completely, disastrously unacceptable. The duration between completed checks of 17 minutes or less was only 7 occasions. Out of 17 checks, only 7 of them were on time. The duration between (inaudible) checks was 19 minutes or more on 10 occasions and that’s more than half of your checks being late. The average amount of time between completed checks was almost 23 minutes. So almost 8 minutes late on average. And your median value was like 20 and a half minutes late on March 7<sup>th</sup>.”

Tolles responded, “Yeah, my methodology is not working very well. I try to vary these things, the way they tell us to vary them, but I’m looking at exactly why people do them on the quarters – which is what they tell us not to do, but we do. A lot of us, a lot of them do. And I’m beginning to see the (unintelligible) behind it.”

He later added, “I chose a methodology I thought was working well. I’ve never had time to go back and analyze after the fact. I – obviously, the methodology is not working as well as I thought it would. I figured running that 14-minute timer and putting those little check points into place and letting it run on, or letting my...run on autopilot while I focus on other things was going to work. It didn’t work. And apparently it, it’s frequently not working.”

Given the opportunity to explain why he should be able to retain his job, he stated, “I enjoy working for this Office, I enjoy working with the people that I’m with. And I’m constantly trying to make sure that I get things done. And apparently, I focused in the wrong spots. I started to develop a methodology over time that has apparently failed heavily. And being faced with this, this is (pause) it’s, I understand this is not acceptable. This definitely requires a change. Whether I’m going to have that opportunity to correct or effect that change, is entirely up to my supervisors and the chain of command, I understand that. And I’m going to have to abide by anything they say.”

Deputy Tolles told me that although he has never suffered a previous inmate suicide under his watch, he thought they have occurred on his shift. He denied, however, having been privy to any of the debrief information.

In closing, he acknowledged:

- That he logged checks he did not do.
- That although he denied any “intent to deceive,” he recognized that logging check he did not do could be interpreted as a “departure from the truth.”
- That his jail logs (Beacon software system) constituted “an official law enforcement document.”
- That the EPSO had a right to expect a higher level of performance from him.
- That given his level of maturity and as someone with seven years’ experience in the same assignment, people were more likely than not **to not believe** he “didn’t realize” he logged a check he didn’t actually do.

At this point, Deputy Tolles, once again, insisted "... there was never any intent to deceive. I was running on a – what I thought, was a bulletproof plan ...."

I told him "I'm having a hard time believing and understanding how you never realized you were missing checks and late on checks at this rate. I'm struggling with that."

Deputy Tolles responded "*I, I am too. I, I, I am kind of beside myself right now, I mean literally. It's something that it (pause) – I mean I leave that desk before that timer goes off as many times as I can. And as things get busy, I know it starts getting closer and closer, but um – and then there's been times I've had to log them and walk right off again.*"

I told Tolles, "I would say that there are examples where you're sitting at that desk for extended periods of time, and I'm thinking that the timer is not only gone off once, sometimes twice, and sometimes even three times, and that you're not moving from your desk. And that's contradictory to what you're telling me."

Deputy Tolles said, "*I, I (pause) that's what I'm not, I'm not understanding. I don't get it. I don't see how because the damn thing's annoying as hell. It really is. That's why I didn't - I never thought about it. I just, I figured that thing, as long as I'm following with it, I would be good. And I'm not – I mean there's times that I've walked checks and I know I had gone back and I literally double walk a check because it's - I hear that thing going off and I'm walking somewhere else.*"

In attempting to close out the interview, Deputy Tolles wanted to add "something about the environment." Specifically, he said, "*Well this isn't even for me. I mean I thought I was dealing with it well, but I obviously was not. Those guys could use more help, they really could. It just seems that I was far too focused on the wrong spot. And having the extra stuff doing it on the computers, it just, if you've got a partner it makes it easy, but when you don't have a partner, it's a difficult thing. And apparently, I have failed at that miserably.*"

He later spoke about "four" checks which were "out of parameter," and that "they shouldn't have been that far off parameter."

I corrected him to point out that the ones stating "no check" should be of a larger concern to him, and that there were six "no checks" on March 29, 2021, alone. I then pointed out that there were another seven "no checks" on March 7, 2021, and that we had already concluded that his logged times were "incorrect."

Deputy Tolles replied "This is a logic fuck for me ... I spend a lot of time doing things by method ... this just doesn't make sense to me."

I told Tolles "You know what's being implied, Burr? What's being implied is that, that it's a matter of laziness and not wanting to get up out of the chair and do the check. And, and it's inexplicable that a man of your experience and integrity would list a check and then not do it. And we're, and, and – I would suggest that the chain of command is going to say 'I can't buy that this is just a typographical

error, that this is a systems problem, that he didn't know that he hadn't done a check in 30, 40 minutes."

Deputy Tolles said "I understand that," but then added "I, I, I understand that. I mean – but you know, I also understand that they're not there, and there's a lot more that goes on than what's on paper. And right now that's, that's the thing I'm actually looking at flat out too, is it's just on paper, just on checks alone. If it was just checks, it would be completely ridiculous. But with everything going on, I'm trying to think of what could of – I know we constantly are multitasking, but it just – like I said, I (pause) this was shocking. And as far as – and forgive this too because, you know, I'm pretty sure they're going to look at this and shoot me out the door either way – this isn't laziness. I am overly hyperactive to begin with. It was why I never went for Court and Transport, I can't sit still long enough to sit in a courtroom, I just can't. It causes my legs to go numb. I don't like being at that desk with all the crap that we've got to do. It irritates me with all the logs and the freakin' uh, all the other, um, observation logs and everything else. Which I understand now why people are like, slept all shift, did this, did that. I document what they're doing for the entire thing. And yes, it puts me behind sometimes. And yes, it causes me pain sometimes from sitting there. I, I just, I."

In response, I pointed out the video showed there were times where he voluntarily sat at his desk for extended periods of time.

Tolles suggested that his "notes" might reflect what else was going on in his ward at the time to require him to sit at his desk.

I assured him I had reviewed those notes and there was nothing which excused his performance that day.

He replied that they weren't intended as "excuses," and then implied that Inmate Whitfield's actions that day were why he was deficient in his duties.

**\*\*\* Investigator's Note:** It should be noted that as evidenced by Deputy Tolles' performance on March 7, 2021, his work habits and deficient practices were already well-established prior to his interactions with Inmate Whitfield on March 29, 2021.

In concluded the interview at 1430 hours.

#### **CASE BRIEFING TO UNDERSHERIFF**

On Thursday, May 6, 2021, I briefed Undersheriff Peter Carey on this case. Based on that briefing, Undersheriff Carey directed that this matter be forwarded to a Disciplinary Action Board (DAB) for consideration / action.

KRH/kh

## ***I. Administrative Information***

**CASE NUMBER:** IA2021-007

**TO:** Undersheriff Peter Carey

**SUBJECT:** Details of Investigation

**DATE:** April 16, 2021

**COMPLAINT:** 400.8(2) Efficiency  
And / or any other violations as deemed appropriate by the Chain of Command.

**COMPLAINANT:** Undersheriff Peter Carey

**ACCUSED:** Deputy Michael Reed

**INVESTIGATOR:** Sergeant Aric Powell

## ***II. Basis for Investigation:***

It is alleged that Deputy Michael Reed, on multiple occasions, while performing his duties as a Patrol Deputy, failed to complete his duties in a satisfactory manner.

Based on this complaint, Undersheriff Peter Carey directed the Internal Affairs Unit to conduct an investigation to gather facts surrounding the aforementioned allegation. Sergeant Aric Powell was assigned as the lead investigator.

## ***III. Details of Investigation:***

On Wednesday, April 28, 2021, at approximately 0930 hours, El Paso County Sheriff's Office (EPSO) IA Lieutenant James Vidmar assigned this case to me, EPSO Internal Affairs Sergeant Aric Powell EID: 06054. The investigation was initiated by the Patrol Division Chain of Command and was conducted by Patrol Division Sergeant Kristyn Nordeman (Please see her memorandum located farther below). After Sergeant Nordeman completed her initial investigation she recommended that the investigation be given to Internal Affairs for further investigation. Sergeant Nordeman's Chain of Command concurred.

I received the following initial information:

- Memorandum authored by Sergeant Kristyn Nordeman to Lieutenant Michael St. Charles
- Memorandum authored by Lieutenant Michael St. Charles to Commander Jeff Kramer
- Memorandum authored by Deputy Ashleigh Witherite to Sergeant Jason Garret
- Memorandum authored by Sergeant Jared Harmon to Internal Affairs
- EPSO Case reports and Call for Service (CFS) Screens reference in the aforementioned memorandums.

**Deputy Michael Reed Employee Information**



**Name:** Michael Reed  
**EID:** 14039  
**Date of Hire:** January 27, 2014  
**Current Assignment:** Law Enforcement Bureau /Patrol Division  
**Supervisor:** Sergeant Kristyn Nordeman  
**Patrol Division Start Date:** May 4, 2020

**- EPSO Career Progression**

- January 27, 2014 Hired - Deputy Sheriff (Certified)
- June 12, 2014 Completed Academy and Started as Detentions Deputy
- June 12, 2015 Promoted to Deputy II
- June 13, 2016 Promoted to Deputy I
- June 12, 2019 Promoted to Senior Deputy
- May 4, 2020 Transferred to Patrol Division as Patrol Deputy

**Field Training Officer (FTO) Training Records - Deputy Reed**

- Deputy Reed started Phase One of his FTO on May 5, 2020 and completed Phase One on May 29, 2020.
- Deputy Reed started Phase Two of his FTO on June 1, 2020 and completed Phase Two on June 29, 2020.
- Deputy Reed started Phase Three of his FTO on July 21, 2020 and completed Phase Three on August 15, 2020.
- During his FTO Deputy Reed completed 340 minutes of remedial training. The breakdown in minutes is as follows:

Category	# of Minutes
ATTITUDE: ACCEPTANCE OF FEEDBACK	0
ATTITUDE: TOWARDS POLICE WORK	0
KNOWLEDGE: POLICY & PROCEDURES	10
KNOWLEDGE: CRS & COUNTY ORDINANCES	10
KNOWLEDGE: TRAFFIC CODE & ENFORCEMENT	0
KNOWLEDGE: CRIMINAL PROCEDURE	20
PROBLEM SOLVING & DECISION MAKING	5
DRIVING: NORMAL CONDITIONS	0
DRIVING: MODERATE & HIGH STRESS CONDITIONS	0
ORIENTATION / RESPONSE TIME	10
REPORT WRITING: ORGANIZATION & DETAILS	55
REPORT WRITING: ACCURACY & COMPLETION	35
REPORT WRITING: TIME MANAGEMENT	60
FIELD PERFORMANCE: NON-STRESS CONDITIONS	0
FIELD PERFORMANCE: STRESSFUL CONDITIONS	0
INVESTIGATIVE SKILL	0
INTERVIEW & INTERROGATION SKILL	0
OFFICER INITIATED ACTIVITIES	15
OFFICER SAFETY: GENERAL	40
OFFICER SAFETY: SUSPECTS	0
CONFLICT CONTROL: VOICE COMMANDS	0
CONFLICT CONTROL: PHYSICAL SKILL	0
RELATIONSHIPS: PUBLIC	0
RELATIONSHIPS: LAW ENFORCEMENT	0
RADIO: LISTENS & COMPREHENDS	25
RADIO: TRANSMISSIONS, CODES, PROCEDURE	20
MDC USAGE	35

- FTO Jeremy Juhl wrote the following in Deputy Reed’s End of Phase One FTO evaluation:
  - “Although Deputy Reed did not have the 2-week training class prior to starting FTO I believe he is where he needs to be to go to the next phase.”
  - “One weakness that was immediately apparent for Deputy Reed was his report writing. I documented in DER’s as well as many hard conversations with him in person.”
  - “Deputy Reed usually had the important details and facts to in the reports but his sentence structure was very bad.”
  - “Deputy Reed knew this was a weakness of his and made efforts outside of work to fix the problems.”
  - “He would commonly speak to his wife and get her opinions about his reports. According to Deputy Reed, she too said that his reports were very bad. Deputy Reed told me that he would write fake reports at home and have his wife review them.”
- FTO Thomas Conaway wrote the following in Deputy Reed’s End of Phase Two FTO evaluation:
  - “During my four weeks with Deputy Reed, I found he consistently had problems in the areas of: radio usage, report writing and computer usage. These shortcomings were documented repeatedly during this phase in his daily evaluations.”
  - “Deputy Reed displayed a hard time becoming comfortable with the use of his radio. This would become apparent when he would attempt to call out simple patrol related functions, such as a traffic stop, and would be unable to recall what information must be provided.”
  - “Deputy Reed struggled with the idea of getting his thoughts down on paper. Deputy Reed would perform great on scene and would ask most of the questions required to get the information he needed to create his report. That information would then get lost in translation and would not make it into the report. Deputy Reed initially was utilizing the report writing template. As Deputy Reed continued to struggle, I instructed him to cease

- using the template and instead to recreate the report in chronological order as he was accustomed to doing from the jail. This continued to be a challenge for Deputy Reed, and so I instructed him to dictate his reports. While this did assist him in his speed of getting the reports completed, he still neglected to get important facts such as elements of the crime into his reports and Probable Cause Affidavits. Deputy Reed also struggled with getting his reports completed in a timely fashion as it would take him approximately 2 hours on average to write the narrative for each of his case reports taken. During one shift Deputy Reed made a felony arrest and required over 4 hours to write a single PC.”
- “During an average shift Deputy Reed would miss at least two radio transmissions where dispatch would be attempting to hail him, resulting in the channel being toned by dispatch if his FTO did not inform him. Deputy Reed would also answer for others or call out using the wrong call sign on a regular basis.”
  - “Deputy Reed appears to be unfamiliar with computer usage at a basic level. The most tangible product created by a Law Enforcement Officer is the paperwork that is created as the result of detecting and documenting a crime that has occurred. Deputy Reed would routinely struggle while using MFR (Mobile Field Reporting) and the CAD (Computer Aided Dispatch) software suites. Deputy Reed would ask his FTO the same questions daily on how to perform basic functions.”
  - “At this time I do NOT recommend that Deputy Reed be passed onto and allowed to continue the FTO program in phase 3. At a minimum I recommend that Deputy Reed be allowed an extension for 1-2 weeks with a different FTO to determine if he is able to retain and utilize the skills he is being taught.”
  - FTO Ian Devlin wrote the following in Deputy Reed’s End of Phase Three FTO evaluation:
    - “Deputy Reed completed Phase 3 with myself and had completed a week-long remedial training prior to Phase 3. I was informed by the prior FTO Deputy Conaway that Deputy Reed was struggling with report writing and time management. Deputy Reed, per Deputy Conaway, was unable to complete detailed reports in a timely manner and was leaving out important information pertaining to the cases he was taking.”
    - “While Deputy Reed was with me through remedial training in Phase 3, I had him dictate his reports. I noticed a huge improvement in his detail during report writing and the time that he was completing reports in.”
    - “Deputy Reed was able to portray what he was being told on scene during his investigations of calls for service in his reports in a detailed manner which anybody could understand. Deputy Reed stated he had struggled with typing reports and that is why I had him attempt to dictate his reports during Phase 3.”
    - “During Phase 3, Deputy Reed had taken several cases which he had not taken in previous phases. Deputy Reed was able to convey a clear picture in his reports and was able to complete these in a timely manner. Deputy Reed is continuing to work on his time management on reports, however, I believe in time, his time management will be sufficient enough to complete reports in a rapid period.”
    - “I do recommend that Deputy Reed progress on to his own and complete his FTO program at this time.”

## Memorandums

### - Sergeant Kristyn Nordeman

On April 12, 2021, Sergeant Kristyn Nordeman authored a memorandum to Lieutenant Michael St. Charles titled, "CCI2021-022." The memorandum was written from the perspective of the author at that time. The author did not have access to this report prior to writing their memorandum. Please see her memorandum for additional information.

- Deputy Reed was hired at the EPSO on January 27, 2014 and was currently assigned to the Law Enforcement Bureau.
- Deputy Reed had worked in the Law Enforcement Bureau since August 2020.
- Deputy Reed has had one IA investigation for Unreasonable and Unwarranted Force (PS2017-029) that occurred on October 8, 2017.
- Prior to April 12, 2021, Deputy Reed has had four verbal supervisor discussions.
  - Lieutenant Christopher Gonzalez had a discussion with Deputy Reed regarding his failure to complete a report/case for an Indecent Exposure call for service.
  - Sergeant Jason Haag had a discussion with Deputy Reed regarding officer safety.
  - Sergeant Marcus Miller also had a discussion with Deputy Reed regarding officer safety.
  - Sergeant Nordeman had a discussion with Deputy Reed regarding his reports, efficiency on calls and officer safety.
- Sergeant Nordeman, in her memorandum, listed the following violations:
  - SOP - P2-02 - Responding procedures.
    - "Deputy Reed operated a Sheriff's Office vehicle using emergency lights and sirens and did not slow his vehicle for a busy intersection with his direction of travel having a red light. He also passed another Sheriff's Office Vehicle who was slowing at the intersection safely attempting to clear it before proceeding."
  - Policy 610 - Medical Aid and Response
    - "Deputy Reed failed to provide medical aid to an unconscious female."
  - Policy 400 - Standards of Conduct - Efficiency, Ethics
    - "After reviewing Deputy Reed's body worn camera footage, he has neglected to take several cases to include elder abuse, domestic violence and theft. Depending on the report you are talking about, his reports have either false or inaccurate information pertaining to the events documented."
    - "Deputy Reed is lacking knowledge of C.R.S. and is providing incorrect information to the public."
    - "Deputy Reed does not conduct thorough investigations or ask pertinent questions during his interviews."
  - Policy 400.9 - Standards of Conduct - Ethics - Departing from the truth.
    - "Deputy Reed has multiple reports where he included information which was not accurate."
  - Policy 701.4.1 - Report Preparation
    - "Deputy Reed has not taken several cases to include multiple domestic violence cases, elder abuse and misdemeanor crimes where policy determines a case report or fir shall be taken."

- Policy 706.5 - Domestic Violence
  - “Deputy Reed has failed to take photographs of victims and suspects on domestic violence calls.”
  - “Deputy Reed has not conducted any follow up investigation regarding several domestic violence cases and has not completed through investigations regarding these types of crimes.”
- Sergeant Nordeman ended her memorandum with the following statement, “Based on my investigation into Deputy Reed's behavior and work product, I recommend this investigation be turned over to the Internal Affairs Unit for further investigation.”

**- Lieutenant Michael St. Charles**

On April 12, 2021, Lieutenant St. Charles authored a memorandum to Commander Jeff Kramer titled, “Deputy Michael Reed.” The memorandum was written from the perspective of the author at that time. The author did not have access to this report prior to writing their memorandum. Please see his memorandum for additional information.

- Lieutenant St. Charles was advised by Sergeant Jason Garrett and Sergeant Nordeman there were concerns regarding Deputy Reed’s performance. See below.
  - Departing from the truth
  - Officer safety
  - Poor investigations
  - Failure to make reports
- Lieutenant St. Charles directed Sergeant Nordeman to conduct an investigation into Deputy Reed’s work performance.
- Lieutenant St. Charles stated that the supervisors advised that they addressed issues with Deputy Reed’s performance as they arose, but the issues continued.
- Lieutenant St. Charles stated that he had reviewed Sergeant Nordeman’s initial investigation and that it thoroughly and clearly documented Deputy Reed’s performance issues.
- Lieutenant St. Charles stated that Deputy Reed completed the Field Training Program (FTO) program which included a one-week extension in Phase 2, primarily due to report writing issues and CRS/Traffic Code knowledge.
- Lieutenant St. Charles stated that Deputy Reed was also given additional training in the area of Domestic Violence investigations and procedures.
- Lieutenant St. Charles believed that some of Deputy Reed’s “issues” could be addressed with training and further experience but that at this point in Deputy Reed’s career, he should be able to conduct a basic investigation.
- Lieutenant St. Charles stated, “Deputy Reed consciously adds information to rejected reports that is not verified or truthful instead of doing basic case follow up.”
- Lieutenant St. Charles stated, “Deputy Reed makes an effort to avoid taking reports when required by policy.”
- Lieutenant St. Charles stated, “Based on the allegations and violations of numerous policies, and the liability to the Sheriff’s Office, I concur with Sgt. Nordeman’s recommendation this case be forwarded to the Internal Affairs Unit for further investigation.”

**\*\* Investigator's Notes:** *In his memorandum, Lieutenant St. Charles applied the applicable EPSO policy and SOP to each violation Sergeant Nordeman alleged Deputy Reed violated. As such, it will be addressed below in the same manner as his memorandum.*

- **Patrol SOP P2-02 (IV)(B)(1) - Responding Procedures: Non-Emergency Response Procedures** - Deputies responding to non-emergency calls shall not operate any emergency equipment and shall observe all State, County and Municipal traffic laws.
  - Lieutenant St. Charles stated, “Deputy Reed was responding [REDACTED] to a non-emergent call. He failed to slow for a red light at an intersection and drove through it without due regard for the safety of others. He passed another deputy on the left side who had slowed for the intersection. It should be noted the other deputy involved in this incident was also responding [REDACTED] unnecessarily. This was handled at the supervisor level.”
  - Lieutenant St. Charles found that Deputy Reed’s actions were in violation of this SOP.
  
- **Policy 610 - Medical Aid and Response: (610.4) Whenever practical, members should take appropriate steps to provide initial medical aid...**
  - Lieutenant St. Charles stated, “Deputy Reed responded to an unconscious female in a vehicle. Deputy Reed removed her from the vehicle and placed her on the ground on her back. Other than tapping her to try to get a response, he initiated no first aid to the victim, nor did he place her in a recovery position.”
  - Lieutenant St. Charles stated, “No aid was rendered to the victim until another deputy arrived on scene and administered aid.”
  - Lieutenant St. Charles found that Deputy Reed’s inaction and failure to render basic first aid was in violation of Policy 610.4.
  
- **Policy 400 - Standards of Conduct: 400.8 (2) Unsatisfactory Work Performance / 400.9 (1) Departing from the Truth / 400.9 (10) Failure to Make Reports**
  - Lieutenant St. Charles stated, “Deputy Reed does not conduct thorough investigations or ask pertinent questions to involved parties.”
  - Lieutenant St. Charles stated, Deputy Reed does not appear to be knowledgeable in CRS and has given inaccurate information to citizens.
  - Lieutenant St. Charles stated, “Deputy Reed was found to have not taken reports on legitimate Elder Abuse, Domestic Violence and Theft cases where at minimum a Field Interview Report should have been completed.”
  - Lieutenant St. Charles stated, “Of most concern regarding Deputy Reed is he writes untruthful information in his completed reports.”
  - Lieutenant St. Charles elaborated on what he meant by “untruthful information.”
    - “...either states he has taken an action that he did not.”
    - “...quotes victims and suspects of statements that were never made.”
    - “...or includes information that he did not investigate.”
    - “In the case of the medical aid call mentioned above, he said on the radio he had placed the victim in the recovery position...This never occurred as he did not render any aid to the victim other than lying her on the ground.”
  - Lieutenant St. Charles found that Deputy Reed’s actions violated multiple sections of Policy 400.

- **Policy 701 - Report Preparation: 701.4 Required Reporting / 701.4.1(b)(d) Criminal Activity / 701.4.1 (5) All misdemeanor crimes where the victim desires a report.**
  - Deputy Reed has failed to properly document multiple cases and in at least one case, he failed to complete a report required by the reports policy. Lieutenant St. Charles specifically referenced case(s) that involved Elder Abuse and Domestic Violence.
  - Lieutenant St. Charles found that Deputy Reed's actions/inactions violated multiple sections of Policy 701.
  
- **Policy 706.5 - Domestic Violence: 706.5- Investigations**
  - Lieutenant St. Charles stated, "Deputy Reed has failed to obtain accurate statements, failed to properly interview victims and suspects, failed to photograph injuries, and properly document Domestic Violence cases in accordance with this policy."
  - Lieutenant St. Charles stated, "In cases where there is question as to the validity of a Domestic Violence case, Patrol deputies are directed to at a minimum complete an FIR for the incident. This has also not occurred per the guidance."
  - Lieutenant St. Charles found that Deputy Reed's actions/inactions violated Policy 706.5.

### **Interview Deputy Michael Reed May 18, 2021**

On May 18, 2021, at approximately 1015 hours, I conducted a scheduled interview with Deputy Michael Reed regarding this investigation. I provided him a Garrity Advisement and he acknowledged understanding that the consequence of not being truthful was termination of his employment. I explained to him that pursuant to C.R.S. 24-31-305(2.5) (a) the reasons his POST certification could be subject to revocation to which he acknowledged he understood. Deputy Reed related the following relevant information:

***\*\*Investigator's Note:*** *The entries below are from the perspective of Deputy Reed at the time of his interview. When the pronoun he, him or his is utilized, it should initially be assumed that it was referring to Deputy Reed. It may be beneficial for the reader to refer to the applicable call for service screen and/or case report located in section 07 - Related Reports, while reading Deputy Reed's interview summary below.*

#### **- General**

- He signed his Garrity form and agreed to answer questions.
- He struggles with the content of his reports and has "never been a great writer."
- He stated, "I have a difficult time putting what's in my brain down on paper. Always have."
- In reference to his report writing he stated, "Um, so that's kind of – content, um, to give you an example, um...like, for instance, on a – on a burglary. We want to know what the last time you saw something was. When – when the last time, um, or how much the value was or something like that. And I would forget one of those – those details, you know."
- His reports would get "kicked back" with a note from his supervisor that he was missing information.
- He destroyed his notes as soon as he submitted his reports.

- When writing his reports, he never referred to his Body Worn Camera (BWC) video for additional details because he “didn’t think we were supposed to.”
- Prior to being placed on administrative leave, Sergeant Nordeman informed him that he could review his BWC video.
- He “got into the habit” of turning off his BWC during situations such as driving an arrestee to jail.
- He offered that a reason some of the statements he wrote in his reports were not verified by his BWC was because he had turned his BWC off early or not turned it on again.
- He said he needed to “...slow down a little bit, maybe you need to, you know, leave things on longer, start paying attention, you know. I guess...for lack of a – a better word, being more, um, attention to detail.”
- Deputy Reed said that prior to Sergeant Marcus Miller’s departure from the patrol division he called several deputies on his shift into his office and told them, “ ... you guys are doing an awesome job, keep it up, keep up the good work...”
- Deputy Reed said that Lieutenant Christopher Gonzales called him (Deputy Reed) into his office and told him (Deputy Reed), “...you’re a paperwork nightmare” and told him to fix it.
  - He said that he believed this was after he responded to an Indecent Exposure call for service where he failed to cite the suspect. Deputy Reed said that after he had left the call the first time, Sergeant Robert Mihill called and told him, “said hey, go and cite that kid.”
  - He said he was “pulled into the office and talked to about PC and what PC is.”
  - He said he did not want to issue a citation to the suspect because the victim did not want to press charges but “This was – this...stemmed from above sergeants’ and lieutenants’ level.”
- Sergeant Mihill spoke to Deputy Reed about a DV call in which the victim received a facial injury. Deputy Reed said he forgot to take photographs of the injury and Sergeant Mihill told him to take photographs.
- Lieutenant Lori Harrell counseled him about his failure to maintain officer safety when he handled a motorist assist involving multiple people and where one party had warrants.
- He agreed that in the past he had been counseled about the following:
  - Officer safety
  - Report writing issues
  - Investigation Handling
  - When to issue a citation
- At the end of the interview the questions below were asked to assist with summarization (AP = Aric Powell / MR = Michael Reed):
  - AP:** And, uh, if I’m incorrect, let me know, or if you disagree with any statements. So at least once you drove your vehicle in an unsafe manner, um, by going through that red light at a higher rate of speed than was necessary for that call. Is that fair?
  - MR:** That’s fair.
  - AP:** Okay. Um, you told dispatch you placed an unconscious female into the recovery or recovering position when you didn’t.
  - MR:** That – that’s a true statement.
  - AP:** Okay. You told Deputy Witherite you conducted a sternum rub on an unconscious female when you did not, but what you meant was you –

**MR:** That I tried to wake her up.

**AP:** - tried to wake her up. Okay. You responded to a hostage situation without waiting for a cover car, which one could argue is definitely not good officer safety skills. Okay.

Um, you wrote in your call screen that you were attempting to contact [REDACTED] but we can't prove that you did call him because of the phone number you referenced in your FIR is not the one that you would have dialed on that phone record.

**MR:** Correct.

**AP:** And we don't know what that phone number is.

**MR:** Correct, 'cause I don't think I have – in fact, I'm positive I don't have that number anymore.

**AP:** Um, on your call with the theft of medication, you wrote in your report I asked [REDACTED] if she took any of [REDACTED]'s medications and [REDACTED] denied the accusation, however, we've got no way of proving that happened, nor did you document it.

**MR:** I didn't document that.

**AP:** Okay.

**MR:** I talked to her on multiple occasions and it was captured.

**AP:** Um, you handled multiple calls without taking a report when you probably should have taken a report.

**MR:** Yes, that's a true statement.

**AP:** Okay. Um –

**MR:** Looking at it now, you know, having someone explain – someone – I mean, why are we waiting nine reports before someone comes and says hey, you're fucking up? I don't know. I don't have that answer.

**AP:** Right. And you've only – you can only recall about three times that –

**MR:** yeah.

**AP:** - someone's spoken to you and only once was it about your report handling, or twice.

**MR:** Once or twice, yeah.

**AP:** Um, on multiple calls, you failed to conduct a thorough investigation or follow through in some cases with it. Is that fair?

**MR:** That's fair.

**AP:** And we've already talked about performance, um, would you agree your performance could improve?

**MR:** Absolutely.

**AP:** Can you see how someone else might look at all this and say there's a pattern to your behavior on these calls, taking it – not necessarily taking a report when they should have been taking a report, not doing a thorough investigation, um...a lot of times I also notice you take a phone call, you try and handle it over the phone first. Can you agree that that's kind of a pattern of how you do – do your job at this point?

**MR:** Um...yeah, I could see where someone would see that.

- When asked, "...if you were a supervisor and you heard everything that we talked about today, what would you recommend the next action be?" Deputy Reed replied, "If I was a supervisor, I guess my first question would be why did we let this go on for nine things, not talk to the deputy, not figure out what's going on or how we can correct it

or how we can improve it. That would be my first question” and “I mean, how are you supervising someone if you’re just letting them – giving them enough rope to hang themselves with?”

- He acknowledged that he needed improvement and that he did not know he was had performance issues.
- He stated that there were discrepancies between supervisor feedback, particularly regarding the amount of details written into a report.
- He stated that he had not received an employee evaluation in over a year and that the last evaluation he received was when he was assigned to the jail.
- He said he believed that his case reports got “kicked back” an average of two times out of five submissions.
- He said that his reports were “kicked backed” for “Content usually. Or lack thereof.” He clarified content to mean, “you forgot to put this in, um, um...did you – did you talk to this person, did you, um, uh, do a – did you, uh...what’s the word, canvass the area, things like that. Things that I haven’t – yes, I did, but I didn’t put it in my report, didn’t mention it, you know. Content.”
- When told that it seemed that he had “quite a lot of reports kicked back” he said “Other deputies that I talk to say hey, you know, I’m getting a lot of reports kicked back, everybody – I’ve got deputies that have been out there, you know, more than two years saying yeah, I still get reports kicked back, you know, because I forget this or forget that. It happens, you know. Um, so I thought this was normal, you know.”
- When asked if a “kicked back” report was a supervisor communicating a problem with his reports to him he said, “Yes. On that – on that particular report, yes.”
- He agreed that multiple reports being “kicked back” would be indicative of a problem with his work performance.
- He had never thought to get some examples of well written case reports to mirror his reports after.
- He agreed that he did not have to wait for someone else to help him and that there were things he could have done to help himself.

#### **- FTO**

- He started his patrol FTO training program May 2020, and he completed the program in August 2020.
- His FTO training was extended because he had difficulties with his report writing.
- Due to COVID precautions, the normally offered two weeks training that deputies receive prior to starting their FTO program was not offered.
- When he was asked if he felt ready when he completed his FTO program he said, “I felt I was ready, as ready as somebody who’s just got off FTO, I mean, there is...I’ll be the first one to admit, I don’t know everything. I don’t know half of everything, you know. I am willing to learn. I’ve always been willing to learn. I’ve always been the first one to say, hey, you know, I don’t know what I’m doing here, or hey – but when I’ve voiced these concerns, everybody says, you’ll get it, it’ll come, it just takes time. You know. You’ll get – you know, you’ll do enough of these calls where it’ll start to become automatic.”

***\*\*Investigator's Note:*** *The two week training deputies receive prior to starting their FTO program generally consists of training in the Mobile Field Reporting (MFR) software used for report writing, radio procedures, general report writing, Mobile Data Computer (MDC) usage, etc....*

- He was part of the first patrol group to use the new report writing template.

**- [REDACTED] Response - Unsafe Driving Concerns (CFS # 2021-00041942)**

- He was given the CFS report and allowed to read it.
- He said he drove his patrol vehicle [REDACTED] to the call for service.
- He described [REDACTED] as driving while utilizing the vehicles lights and sirens as well as, "...getting there as quickly as possible as safe as possible."
- He said that a [REDACTED] response was typically reserved for emergencies.
- He believed that this call for service was a "a high-risk thing" because "...it's the incident type comes up high risk on the call screen." (The CFS report does show that the priority was 1 - High Risk. However, a High-Risk priority does not inherently imply or mandate the need for a [REDACTED] response).
- He approached the intersection of Meridian Road and Woodmen Hills Drive and the light was red.
- When asked how he approached the intersection he said, "I didn't see any traffic, I continued at my speed that I was already going. Um, I could see all the way down the street, there were no oncoming vehicles or anything like that, so I proceeded through the intersection."
- He did not know what his speeds were prior to, while crossing the intersection or after the intersection.
- He saw Deputy Ashleigh Witherite was ahead of him and that she had slowed down at the intersection.
- When asked if responding to a call for missing children that may have been missing for a while is normally a good reason for a [REDACTED] response he said, "No, it probably – it probably wasn't the best judgement call, you know, at the time, I was just concerned. You know, with getting there quickly and trying to locate the kids. So..."
- He acknowledged driving faster increased the chances of an accident.
- He said that no supervisor had talked to him about this call prior to his interview.

**- Check the Welfare - Life Saving Measures (CFS # 2021-00041747)**

- He was given the CFS report and allowed to read it.
- He was the first on-scene.
- He approached the vehicle, opened the door, asked dispatch to send medical and removed the female from the vehicle.
- He communicated to dispatch that the female was not conscious but was breathing.
- He laid the female on the pavement.
- Looking at the female's neck, he could see she had a "good pulse" and her chest was rising and falling.
- He said he communicated to dispatch that he had placed the female into a recovery position when he had not.

- When asked why he said he had placed her in a recovery position he said, “I...I had taken her out of the position where she was stuffed up underneath the – the console. Um, and so, I don’t know why I was – I said that. I put her flat on the back thinking, you know, like I said, I was still trying to determine if I possibly needed to do CPR, um, my intent was to put her in a recovery position, I just didn’t get there. You know, um, and like I said, I – I screwed up, you know. I – I said the wrong thing. I misspoke, um, was not intentional, I didn’t – was not trying to deceive anybody or, um – it was just a human error.”
- When asked if he understood why he needed to be accurate in his details he said, “it was a screw up, you know, I – I said the wrong thing, I should have corrected myself, I should have, you know, maybe not even said it at all until things were more calmed down, I was more calmed down. Um, you know, and kinda, you know, been a little bit more – I was – I was excited, I was nervous, you know, uh, had a lot of stuff going on.”
- He said that was the first time he had responded to that type of incident by himself.
- He asked over the radio for ██████ (Deputy Ashleigh Witherite) to “step it up.”
- Deputy Ashleigh Witherite arrived on-scene approximately three minutes after Deputy Reed’s arrival to the scene and began a sternum rub on the female.
- While Deputy Ashleigh Witherite was performing a sternum, Deputy Reed said to Deputy Witherite. “Yeah...I’ve tried that.”
  - When asked why he said to Deputy Ashleigh Witherite, “Yeah...I’ve tried that” he said he was referring to attempts to wake the female and not specifically the sternum rub.
- He said that no supervisor had talked to him about this incident prior to his interview but later said that Sergeant Nordeman had spoken to him and that the incident was being investigated.
- He said that same day, Deputy Ashleigh Witherite had told him he should probably clear intersections better. He said he responded with a “chuckle” and said, “you’re right, you know.”

**- Violation of Protection Order - Performance Concerns (CFS # 2021-00045823 / Case # 2021-00002828)**

- He was given the CFS report, his case report and allowed to read them.
- He said, “dispatch had a call that someone was stuck in the back of a – a truck and had been there for like, 10 hours. I don’t recall what exactly dispatch had said. And I had a conversation with Sergeant Nordeman about that.”
- One of the individuals on-scene was in violation of a protection order (PO) but Deputy Reed failed to notice the PO and failed to arrest the individual.
- Deputy McKenzie Boyne and Sergeant Nordeman informed Deputy Reed of the PO.
- Sergeant Nordeman instructed Deputy Reed to return to the scene and arrest the individual that violated the PO.
- He did not recall any information being relayed to him that the call for service was a hostage situation. (Dispatch did communicate on the radio and by MDC that it was a hostage situation.)
- He acknowledged that if it was a hostage situation, he should have waited for additional deputies to arrive before entering the scene.
- He did not wait for additional deputies to arrive.
- He reiterated that he though the call for service was just for someone stuck in a vehicle.

- He arrested the individual that violated the PO.
- He said his case report was rejected by Sergeant Nordeman because he wrote statements in his report from a conversation with the arrestee that she didn't see him ask on his BWC video. Deputy Reed said that those statements happened while he was driving the arrestee to jail and his BWC was off.
- He acknowledged that if he writes a statement in his report and his BWC is turned off he may want to notate that in his report.
- He agreed that someone reviewing this interview may conclude that there is a pattern of making statements in his reports that may or may not have happened. When asked how you would explain this pattern to anyone watching he said the following:
  - "Um... I got some work to do on – on paying attention to detail."
  - "I didn't think this was an issue until it was brought up to me."
  - "I definitely screwed up; you know. You know, hands down, you know."
  - "I should be more clear as to what I'm saying, when I'm saying it and how I'm saying it."
  - "Um, it's...it's a lot to learn and, you know, um...it would be...it'd be a lot easier if I had somebody that would say, hey, this is something I noticed, this is how we're gonna fix it."

**- Theft of Medications - Performance Concerns (CFS # 2021-00028825 / Case # 2021-00001742)**

- He was given the CFS report and allowed to read it.
- The caregiver's "boss" was the reporting party.
- [REDACTED] was the caregiver.
- [REDACTED] was the victim.
- The victim did not want to press charges.
- Deputy Reed wrote in his report that he "asked [REDACTED] if she took any of [REDACTED]'s medication and [REDACTED] denied the accusation, however there was no indication in his BWC video that he asked that question.
  - Deputy Reed said he was "100 percent positive" that he asked [REDACTED] the aforementioned question.
  - Deputy Reed stated there was a potential he did not have his BWC on when he asked [REDACTED] the aforementioned question.
- He agreed again that it would have been a good idea to notate that he did not have his BWC on while questioning the suspect.
- Again, he agreed that there was a pattern of not having his BWC turned on and it would be difficult to determine if a particular event did indeed happen. He said he had started trying to correct these issues before he was placed on administrative leave.
- He said he had spoken with Deputy Matt Klinedinst in the past "cause one of – one of my – a couple of my calls I'd hit record, I heard it say record, or I thought it said record and so I let go, come to find out it didn't record anything."

**- Disturbance - DA Investigators - Performance Concerns (CFS # 2021-00033966)**

- He was given the CFS report and allowed to read it.

- The reporting party stated that two people claiming to be district attorneys attempted to open his vehicle door and that he didn't believe they were district attorneys.
- The reporting party wanted to press charges.
- He told the reporting party that he could not press charges because the district attorneys had the legal right to be there.
- He stated two district attorneys served the reporting party with subpoena paperwork.
- He said the reporting party was not cooperating with the service.
- He said the district attorney told him that the reporting party's windows were darkly tinted.
- He said, "I didn't know anything about DAs. I didn't know if they were POST certified, you know, DA inspectors – I didn't know."
- The following items were pointed out to Deputy Reed, as being important reasons to document this call for service in a report.
  - The vehicle had dark tinted windows which, could have been a valid officer safety reason for an officer to open the vehicle door.
  - The district attorney and potentially another citizen told him that the reporting party was "not wanting to be served."
  - It involved another officer's actions and even if their actions are justified it may still be beneficial to take a report just to provide additional clarity and protect all involved parties.
  - In today's climate, with the accusations that officers are protecting their own, it would be beneficial to write a report providing additional details.
- Based on the information he was provided during his interview, he said he understood why he should have written a report.
- He said he spoke to Sergeant Miller about this call and that Sergeant Miller agreed with his decision to not charge.
- Sergeant Miller did not direct him to complete or not complete a report.

**- Domestic Violence - Text Messages - Performance Concerns(CFS # 2021-00038457)**

- He was given the CFS report, his Field Information Report (FIR) and allowed to read them.
- He recalled that this call was about "a lady who thought her ex was trying to reach her through Facebook."
- He said the reporting party's evidence was "was a picture of a picture."
- He said he told the reporting party, "So I documented it, I talked to the lady, I was like, you know, I – I can't prove that this is your ex-husband, I can't even prove it was sent to you because it doesn't even have your name on it. You know, it – you – you're just showing me a picture of a conversation that – and she no longer had it. She's like, oh, it's been deleted."
- He said he attempted to call the suspect ( [REDACTED] ) but [REDACTED] never answered the phone.

***\*\*Investigator's Note:*** *I reviewed Deputy Reed's work cell phone records for March 2, 2021 and found no phone number matching what was listed on the FIR card for [REDACTED]. I searched Accurant for any phone numbers for Mr. [REDACTED] and found [REDACTED] as well as [REDACTED], none of which were listed in Deputy Reed's phone records. After Deputy Reed spoke with the reporting*

party, his phone records indicated he made only one outgoing phone call to [REDACTED], which is the cell phone assigned to Deputy Brendon Sanchez-Allee. I spoke with EPSO Information Technology Manager Guy Funkhouser who called our Office AT&T Accounts Manager. The AT&T Accounts Manager informed Mr. Funkhouser that only incoming\outgoing calls that completed a connection would be displayed in the phone records. During his interview Deputy Reed stated, "I couldn't get a hold of – I didn't get an answering machine or anything." Plausibly, that would infer that Deputy Reed's outgoing call never completed a connection.

- He said the reporting party gave him a different phone number than what he had written on the FIR but he did not record the new number. He agreed that he should have written the new number in a report.
- He said that he did not "think" he tried the phone number listed on the FIR card. He agreed that he should have tried the phone number listed on the FIR card. He said, "I feel really frickin' dumb for not putting it in my call screen."
- He said that no supervisors had talked to him about this call for service.

**- Harassment - Mail Tampering - Performance Concerns (CFS # 2021-00038373)**

- He was given the CFS report and allowed to read it.
- He recalled that the call for service regarded a grandparent, who had currently had custody of a 13-year-old child, checked the child's parent's mailbox.
- He said he did not take a case report for this call for service.
- When asked why he didn't take a case report for the call for service he said, "Um...I have no idea. I – I didn't – think of – I thought the grandmother having custody of the child, you know, and the child had ordered something, it didn't seem out of the norm for me. Um, for a grandmother to try to help her grandchild get her mail. So..."
- He acknowledged that he should have taken a case report due to the fact, there were multiple calls to the residence, the Department of Human Services (DHS) was involved and there would probably be additional calls for service to this residence.
- He acknowledged that one of his first statements to the reporting party was that if he "took a case" for this call for service "it would just be a misdemeanor."
- He said he was not trying to discourage the reporting party reporting the incident.
- He agreed that the public had an expectation that our Office would take their report, regardless of the level of violation.
- He did not refute that the reporting party tried to show him text messages from the grandparent that may have evidentiary value, but he initially dismissed the messages until the reporting party asked him again to look at the messages.
- He acknowledged that he did not call the suspect to talk with them and that he should have.
- When he was asked if he would consider that good investigative work he said:
  - "well, looking at, like you said, I've said before there's more than one side to a story. I guess I kinda just chalked this up as – I guess in my mind I got...to thinking this is just, you know, a lady who's, you know, disputing her DHS taking her kids type of thing and she's just looking – she's just hunting for – for something to try to get her – her mother in trouble so she can get her kids back, I guess is where –."

- When asked if he thought that was a preconceived notion or his opinion he said, “Yeah it is.”
- When asked if that was a great way to conduct an investigation he said, “No, it’s not. But I guess that’s kinda where my mindset was.”
- He agreed he should have completed a case report for the call for service and if necessary unfound the case.
- He agreed that he was there 78 minutes and that he should have probably cleared the call “quicker.”
- He agreed that this call was also indicative of a pattern of behavior where he lacked documentation and “follow through.”
- He said that no supervisors had talked to him about this call for service.

**- Domestic Violence (Involving Vacuum Cleaner) - Performance Concerns (Case # 2021-00002867)**

- He was given the CFS report and allowed to read it.
- He recalled that the call for service involved a male that reported his wife had kicked in the door and struck him with a vacuum cleaner.
- When asked if he thought he wrote a good report, Deputy Reed said, “Honestly? Um, I thought I did at the time, now looking at it, with someone with more experience looking at it going, hey...should have put this in there, then I can see where there’s room for improvement. Um...and more detail.” When asked what additional details he should have added to his report he said:
  - “I should have put that Carnell said I couldn’t look at his back.”
  - “I probably should have taken photos of her face and – and her wrist to document that they looked old or...whatever.”
  - “Um...photo of the door.”
  - “Photo of the vacuum, where it was standing.”
  - “...a photo of him.”
  - “Document hands...”
- When asked why he didn’t document the aforementioned items he said, “I’ve – I’ve got no excuse. I just...”
- When asked why he didn’t document the wife’s broken phone he said, “Yeah, and I believe the husband showed me a spot on the wall and I probably should have taken a picture of that too, of where he said she threw her phone at him. And I don’t think I put that in here either.”
- He acknowledged that he understood that if in this instance the husband took his wife’s phone it may be “Interference with a telephone call if they’re trying to call for help.”
- When Deputy Reed was show Deputy Amanda Kelsey report for the same call, he noted that “She followed up with, um, the – getting her to write a statement out, things like that.” (Deputy Reed said that he did not have any calls for service during his FTO where, the victim wrote a statement.)

**- Theft of Registration Sticker - Performance Concerns (CFS #2021-00055405)**

- He was given the CFS report and allowed to read it.

- He recalled that a, “guy called in, said he didn’t know if his sticker fell off, um, he – he didn’t have any suspect information, um, I had seen other deputies handle it that way, they call the DMV and get a new replacement...”
- When asked why he told the reporting party that if there was no video, we were going to assume they just fell off he said, “I – I’ve seen – I’ve seen other deputies make that assumption, so...”
- He was unable to recall any of the “other deputies” that made the assumption that if there was no video evidence, the stickers just fell off.
- He did not take a case report for this call for service.
- He agreed he could have written better notes in his call screen and should have taken a case report.
- He said that no supervisors had talked to him about this call for service.
- During his interview, Deputy Reed wrote notes in his notebook of how he could improve. He said he wrote the following in his notebook, “Phone numbers, pictures of injuries, reasons why not on the body cam. Um, for things that get missed or whatever, um, conversations I have. Take time to explore every avenue. Follow every lead until there is no more leads. Triple check everything and annotate changes in MFR for addresses and phone numbers.”

*AMP/ap*

## ***I. Administrative Information***

**CASE NUMBER:** IA2021-015

**TO:** Undersheriff Joe Roybal

**SUBJECT:** Details of Investigation

**DATE:** August 30, 2021

**COMPLAINT:** 400.9 (1) Ethics - Departing from the Truth  
And / or any other violations as deemed appropriate by the Command of Command.

**COMPLAINANT:** Chief Brad Shannon

**ACCUSED:** Deputy Joseph Feldman

**INVESTIGATOR:** Sergeant Aric Powell

## ***II. Basis for Investigation:***

It is alleged that on multiple occasions, Deputy Joseph Feldman, fraudulently logged welfare checks into the Beacon Jail Management System (JMS) and either conducted his welfare checks late, conducted them partially, or failed to conduct them at all.

Based on this complaint, Undersheriff Joe Roybal directed the Internal Affairs Unit to conduct an investigation to gather facts surrounding the aforementioned allegation. Sergeant Aric Powell was assigned as the lead investigator.

## ***III. Details of Investigation:***

***\*\*Investigator's Note:*** Throughout this investigative summary the reader will see the term "Welfare Check" or "Check." Detentions SOP 2.22 defines a Welfare check as "A visual check of a deputy's total area of responsibility to include all open areas, individual cells, and other enclosures accessible to inmates and be conducted at random 15 or 30-minute intervals as determined by the ward post orders. Members are encouraged to conduct checks more often than these minimums as time and/or staffing allows. During these checks, deputies will ensure inmates are present, safe, are not being subjected to harm from other inmates, are not engaging in activity that is against facility rules or might be harmful to themselves, and to identify inmates in need of medical attention because of injury or illness..." Detentions SOP 2.16 refined the Welfare Check with "...If the welfare check exceeds the expected

*timeframe by any length of time the deputy will enter an explanation in the ward log late and notify his or her supervisor by phone. Any check which has been conducted, but not logged for any reason carries the same requirement of supervisory notification.”*

On August 30, 2021, I received a packet from Security Division Commander Cy Gillespie. The packet contained:

- A memorandum authored by Commander Gillespie to Bureau Chief Brad Shannon, titled “Deputy Joseph Feldman (14071).”
- A Memorandum authored by Sergeant Mary Bryant to Commander Gillespie, titled “Deputy Joe Feldman Missing Checks in Ward [REDACTED].”
- Eight optical discs containing ward surveillance camera video from August 10 and 15.

I reviewed the provided ward surveillance video and compared the video against Deputy Feldman’s JMS ward log. I noted there were several instances where he logged welfare checks into JMS but conducted his welfare check late, partially, or not at all. This corroborated what Sergeant Mary Bryant detailed in her memorandum to Lieutenant Kevin Greier.

On September 7, 2021, I utilized the jail video surveillance system and again compared Deputy Feldman’s JMS ward log to the video. Again, I noted there were several instances where he logged welfare checks into JMS but conducted his welfare check late, partially, or not at all.

During his interview, Deputy Feldman acknowledged that he fraudulently entered his welfare checks into JMS. Deputy Feldman also acknowledged that he was falsifying a legal document and that it was a departure from the truth.

***\*\*Investigator’s Note:*** *Policy 400.9 (1) Ethics states, “Departing from the Truth: Employees or members will not willfully or knowingly depart from the truth in any manner, to include giving testimony, or in connection with official duties except in the lawful performance of their assigned duties. Upon order of their superior, members shall truthfully answer all questions specifically, directly, and narrowly related to their scope of employment and operation of the Office which may be asked of them. Employees or members will not make a false report either verbally or in writing. This includes failure to disclose or misrepresenting material facts or making any false or misleading statement on any application, examination form, or other official document, report or form, or during any work-related investigation.”*

## Employee Information

### Deputy Joseph Feldman Employee Information



**Name:** Joseph Feldman  
**EID:** 14071  
**Date of Hire:** May 27, 2014  
**Current Assignment:** Detention Security - Certified  
**Supervisor:** Sergeant Cynthia Ayyad  
**Schedule** Dayshift (0600-1800) Off: Thu, Fri, Sat  
**Status** Currently on Paid Admin Leave

## Memorandums

### Sergeant Mary Bryant

On August 16, 2021, Sergeant Bryant authored a memorandum to Lieutenant Greier titled, “Deputy Joe Feldman Missing Checks in Ward [REDACTED].” The memorandum was written from the author’s perspective at that time. The author did not have access to this report before writing their memorandum. Below is a summary of the memorandum. The reader is encouraged to read the original memorandum for additional information.

- Sergeant Bryant wrote that it was brought to her attention by a deputy assigned to dayshift “that Feldman would not survive an audit of his checks.”
- Sergeant Bryant audited Deputy Feldman’s welfare checks conducted on August 15, 2021, by comparing jail ward surveillance video against Deputy Feldman’s JMS logs and found:
  - “At 0804 hours, a check was logged and walked. His next check was not logged until 0842 hours. 38 minutes between logged checks in a 15-minute check ward.”
  - “Deputy Feldman missed a check at 0819 hours.”
  - “Deputy Feldman brought meals in at 0815 and walked a checked at 0829 hours as he conducted breakfast.”
  - “At 0834 hours he missed an additional check.”
  - “Deputy Feldman logged a check at 0843 hours, which he also did not walk. Deputy Feldman walked and logged a check at 0856 hours.”
  - “0804 to 0829 hours is 25 minutes between eyes on inmates. 0829 to 0856 hours is 27 minutes between eyes on inmates.”
  - “At 1059 hours, a check is logged and walked.”
  - “At 1114 hours, a check is logged and not walked. At 1129 hours, a check is logged and not walked.”

- “At 1143 hours, a check is logged and walked.”
- “From 1059 to 1143 hours, 44 minutes goes by without eyes on inmates.”
- To ensure that Deputy Feldman wasn’t having what Sergeant Bryant described as an “off day” she audited his ward logs for August 10, 2021, and noted:
  - “At 0845 hours, a check was logged and walked.”
  - “At 0900 hours, a check was logged but not walked until 0906 hours by Sergeant Willie Bond #03049 (21 minutes between checks).”
  - “At 0920 hours, Deputy Feldman logs a check at 0920 hours as Sergeant Bond having walked it, but he has since departed the ward, and no check was walked.”
  - “At 0931 hours, a check was logged and walked.”
  - “At 0946 hours, a check was logged but not walked. At 1000 hours, a check was logged and not walked.”
  - “At 1015 hours, a check was logged and only walked on the bottom tier.”
  - “At 1039 hours, a complete check was finally logged and walked to completion.”
  - “There was 1 hour and 8 minutes between a full and complete check. No one on the top tier was checked during this timeframe.”
- Sergeant Bryant stopped her auditing of Deputy Feldman’s JMS ward logs and believed “that further investigation into Deputy Feldman’s welfare checks and wards will yield the same results.”
- Sergeant Bryant ended her memo with “Please accept this memo as notification of an observed Policy 400.8 (Efficiency) violation, 400.9 (Ethics/Departing From the Truth).”

***\*\*Investigator’s Note:*** *Sergeant Bryant provided the Ward [REDACTED] surveillance videos she utilized to verify Deputy Feldman’s welfare checks against his Beacon ward logs. I reviewed each video and concurred with Sergeant Bryant’s findings.*

### **Commander Cy Gillespie**

On August 25, 2021, Commander Gillespie authored a memorandum to Bureau Chief Brad Shannon titled, “Deputy Joseph Feldman (14071).” The memorandum was written from the author’s perspective at that time. The author did not have access to this report before writing their memorandum. Below is a summary of the memorandum. The reader is encouraged to read the original memorandum for additional information.

- Commander Gillespie summarized Sergeant Bryant’s memo and findings.
  - On August 15<sup>th</sup>, Deputy Feldman was working a ward requiring 15-minute checks. He missed several checks, several checks were late, and he logged some checks that he did not do.
  - Each questionable check was noted in Sergeant Bryant's memo chronologically. Between 0300 and 1143 hours, Deputy Feldman conducted late or falsely logged 12 welfare checks of the inmates in his ward.
  - Sergeant Bryant audited Deputy Feldman's checks on August 10<sup>th</sup>, and he had the same pattern of missed, late, and falsely logged checks emerged with a total of eight questionable welfare checks between 0900 and 1039 hours.

- Commander Gillespie requested that Deputy Feldman be placed on paid administrative leave pending an Internal Affairs investigation.

## Jail Surveillance Video Review

On September 7, 2021, I utilized the jail video surveillance system and compared Deputy Feldman’s JMS ward log to the video. I noted there were several instances where he logged welfare checks into JMS but conducted that welfare check late or not at all. I have included video surveillance from Ward [REDACTED], date June 26, 2021, from 1115 hours to 1400 hours. In that video I noted the following behavior from Deputy Feldman:

Time the Welfare Check was Conducted	Time the Welfare Check was Logged	Additional Comments
1119 hours	1119 hours	Deputy Feldman walked the top and bottom tiers of Ward [REDACTED] but he did not look inside the ward bays.
1154 hours	Deputy Feldman logged a welfare check in [REDACTED] log at 1154	Deputy Feldman walked only the top tier - 35 minutes after his last welfare check.
1329 hours	1334 hours	Deputy Feldman walked by two bays on the bottom tier – 1 hour and 37 minutes since his last incomplete check.

Sergeant Bryant provided the Ward [REDACTED] surveillance videos she referenced in her memorandum to verify Deputy Feldman’s welfare checks. I reviewed each video and concurred with Sergeant Bryant’s findings. On multiple occasions, Deputy Feldman logged welfare checks into the Beacon Jail Management System (JMS) and either conducted his welfare checks late, conducted them partially, or failed to conduct them at all. In some instances, Deputy Feldman failed to log his welfare checks in Beacon and failed to conduct his welfare check.

## Interview - Deputy Joseph Feldman

On September 10, 2021, at approximately 1000 hours, I conducted a scheduled interview with Deputy Joseph Feldman regarding this investigation. I provided him a Garrity Advisement and he acknowledged that he understood the consequence of not being truthful was the termination of his employment. I explained to him that pursuant to C.R.S. 24-31-305(2.5) (a) the reasons his POST certification could be subject to revocation, to which he acknowledged he understood. Deputy Feldman related the following information.

***\*\*Investigator’s Note:*** *The information below is a summary and from the perspective of Deputy Feldman, at the time of his interview. Readers are encouraged to read the transcript for additional information.*

- Deputy Feldman read, understood, and signed his Garrity form.
- Deputy Feldman acknowledged that if he wasn't truthful his employment could be terminated.
- Deputy Feldman described the duties of a detention deputy as, "We sit in the ward and um, we keep an eye on the inmates, make sure they're not, make sure they're doin what their suppose, keep an eye on them, keep them safe and secure. Um, if I have to I run the codes, um, I guess just, the way I look, just safety and security in the jail."
- Deputy Feldman stated that some of the things he did to maintain safety and security was to "...walk around and talk to em. Cause I, they tell me a lot of things. Um, I joke with them and- and I get a rapport, so they'll tell me everything. So I know what's going on prior to things happening going on."
- When asked how often he would "walk around" Deputy Feldman stated, "As much as I can. The problem is there's a lot of input to do on the computer. So I don't get to do what I like to do, and I like to go out and, I look at their artwork. Um, I'll tease them when they're playing card games, watch them play Chess. Just, I don't know how to explain it, I'm just out and about."
- Deputy Feldman stated he had read our SOP's regarding welfare checks.
- Deputy Feldman stated he was currently a DTO.
- Deputy Feldman stated he had read the DTO manual but it had "been a while."
- Deputy Feldman stated that he had not been assigned a detentions trainee in three or four years.
- Deputy Feldman read the following excerpts from the DTO Manual:
  - Welfare Check Definition: A visual check of a deputy's total area of responsibility made at specified fifteen or thirty-minute intervals. Its purpose is to ensure the inmate population in the facility are safe and secure.
  - The time of the welfare check will be documented on the ward log. If the check is late, it will be noted on the ward on the log with an explanation provided.
  - Ward logs are legal documents that could be subpoenaed into court.
- Deputy Feldman agreed that the JMS ward logs were legal documents.
- Deputy Feldman stated he was "pretty comfortable" with his understanding of what a welfare check was but could not "put it into words."
- Deputy Feldman agreed that it would be safe to assume that he knew what a welfare check was and what it entailed.
- Deputy Feldman stated he had worked previously in Ward [REDACTED] and that he understood it to be a special management ward, requiring welfare checks to be conducted at least every fifteen minutes.
- Deputy Feldman understood that Ward [REDACTED] may house inmates with potential health issues. He agreed that it might house inmates in a state of detoxification or with higher risks of suicide.
- Deputy Feldman believed that he had only worked Ward [REDACTED] "at most twice this year."

**\*\*Investigator's Note:** A review of JMS indicated that Deputy Feldman had made several entries on three different dates which could indicate he was assigned as the primary deputy in Ward [REDACTED].

- Deputy Feldman stated he opened the Ward [REDACTED] Post Orders when he worked that ward.
- Deputy Feldman indicated that even though he did not work Ward [REDACTED] often, he was familiar with its operations.

- Deputy Feldman described his process of completing a welfare check as “I look in the cell. Um, sometimes in the morning you gotta shield your eyes cause the glare on the door on the glass but, yeah I look in.”
- When asked if he had ever missed a welfare check or conducted an incomplete check he answered yes.
- When asked if he had ever logged a welfare check into JMS and not conducted that welfare check, he answered, “I think I have. Not intentionally.”
- When Deputy Feldman was offered the opportunity to review the surveillance video from Ward [REDACTED], he declined.
- Deputy Feldman was asked why he declined, and he said, “Because I remember that day in [REDACTED] and I’m sure I missed or was late.”
  - Deputy Feldman elaborated by saying, “That was a pretty bad day. I mean that ward gets pretty busy and uh, you know, recently I’ve- I’ve found out quite a bit about myself as I get older. Um, um, I- I have uh, ADD and I’m on meds for it but what I found recently when uh, when things get busy and it starts getting outta control, I uh, I don’t know, it- it gets bad for me and then I get sidetracked pretty easy. Um, I- I enjoy the hell out of talkin to the inmates. I’m- especially um, uh, guys that have come up in there they’re struggling cause you can tell and well I- I get overwhelmed. In that ward I get hugely, hugely overwhelmed and it’s not an excuse. I don’t want to say it’s an excuse. I just like I said, I’ve been learning about me and uh, um, I’m just, I- I do, I forget. There are times then all of a sudden three hours has gone by. I’m like holy crap where did that go? Just cause I get overwhelmed and I...”
- Deputy Feldman stated that there were times he would conduct his welfare check but forgot to enter it into JMS because he got “sidetracked.”
- Deputy Feldman was told that there was a video of him working a ward, when there were no immediate distractions and that he still failed to conduct his welfare checks. He replied that he had no excuse for not conducting his welfare checks.
- Deputy Feldman stated he had “no idea” how long he had been falsifying his welfare checks but acquiesced that it had been at least eight months and had been “going on for a while.”
- Deputy Feldman stated that he did not know why he was falsifying his welfare checks but that it was a conscious effort on his part.
- Deputy Feldman said his decision to falsify his welfare checks and not conduct them was not “malicious.”
- Deputy Feldman agreed that our Office had an expectation that he would conduct his welfare checks.
- Deputy Feldman agreed that by not conducting his welfare checks he jeopardized the safety and security of the facility and the inmates.
- Deputy Feldman agreed that an inmate could have attempted suicide and he would not have discovered it until hours later.
- Deputy Feldman was asked, “If you were sheriff for the day and I came to you with this information, what- what do you think you would recommend happening to that person?” Deputy Feldman replied, “...he would be let go.”

- Deputy Feldman agreed that by not conducting his welfare checks he increased the risks for his fellow deputies.
- Deputy Feldman said he knew that when he missed a welfare check, he was supposed to call his sergeant to let him/her know but he did not do that.
- Deputy Feldman stated that sometimes he manually entered the time for his welfare checks with the comment logged late because he could not remember if he had conducted the welfare check.
- Deputy Feldman agreed that the best way to remember if he had conducted a welfare check was to log the welfare check and immediately conduct that welfare check.

Investigator's Note: At the end of the interview, Deputy Feldman was asked a set of questions to summarize some of the highlights of his interview. See his summary below. (AP = Sergeant Aric Powell and JF = Deputy Joseph Feldman)

- **AP:** Okay. So, what I want to do is kind of go back and summarize some things that we've talked about. Can we agree that doing the check in a ward is fundamental? It's the basics of your job?
- **JF:** Yes, sir.
- **AP:** Can we agree that a check involves getting out of your seat and walking around the- the ward, looking in each cell or each bay?
- **JF:** Yes, sir.
- **AP:** Can we agree that you haven't been making your checks when you in fact are required to do so?
- **JF:** Yes, sir.
- **AP:** Can we agree that this habit of not making checks when they are required has been going on for months on end for quite some time?
- **JF:** Sure.
- **AP:** Okay, can we agree that you sitting at the desk logging a check but then not doing that check is in fact a departure from the truth?
- **JF:** Yes, sir.
- **AP:** And that it's documented on a legal document?
- **JF:** Yes, sir.

## Facts and Stipulations

- Deputy Feldman was witnessed in ward surveillance videos, in different wards, logging welfare checks into JMS and either conducting his welfare checks late, conducting them partially, or failing to conduct them at all.
- Deputy Feldman agreed that he had on multiple days/times, in multiple wards fraudulently logged his welfare checks into JMS and either conducted his welfare checks late, conducted them partially, or failed to conduct them at all.
- Deputy Feldman agreed that he understood what a welfare check was and how to correctly conduct one.

- Deputy Feldman agreed that he had read the SOPs, POST orders, and DTO manual which detailed the procedures for welfare checks.
- Deputy Feldman agreed that he had not notified his sergeant(s) when he failed to conduct or missed a welfare check.
- Deputy Feldman stated he understood that our Office had an expectation that he would conduct his welfare checks.
- Deputy Feldman agreed that by not conducting his welfare checks he compromised the safety and security of the facility, the safety of the deputies, and the safety of the inmates.
- Deputy Feldman stated he had no excuse for not conducting his welfare checks or for fraudulently logging his welfare checks into JMS.
- Deputy Feldman agreed that JMS was a legal document.
- Deputy Feldman agreed that logging a welfare check into JMS but not conducting the welfare check was a departure from the truth in a legal document.
- Deputy Feldman stated that he believed the disciplinary action for fraudulently entering welfare checks into JMS should be the termination of that employee's employment.

## **Deputy Feldman's Resignation**

On September 13, 2021, Human Resources Business Partner April Hunt forwarded an email authored by Deputy Joseph Feldman. Deputy Feldman's email contained his resignation from the El Paso County Sheriff's Office, effective September 13, 2021. Deputy Feldman's resignation was confirmed by Mrs. Hunt.

*AMP/ap*

## ***I. Administrative Information***

**CASE NUMBER:** ~~CCI2021-133~~  
IA2021-017

**TO:** Undersheriff Joe Roybal

**SUBJECT:** Details of Investigation

**DATE:** October 8, 2021

**COMPLAINT:** 400.8 (2) Efficiency: Unsatisfactory Work Performance  
And / or any other violations as deemed appropriate by the Command of  
Command.

**COMPLAINANT:** Chief Andy James

**ACCUSED:** Deputy Michael Reed

**INVESTIGATOR:** Sergeant Aric Powell

## ***II. Basis for Investigation:***

On June 14, 2021, Deputy Michael Reed was placed on a Performance Improvement Plan (PIP) for issues regarding his performance, particularly with officer safety, report writing, inefficiency, and incompetent work. As of September 2021, Deputy Reed had not made significant improvement in any of the areas outlined in his PIP, and in some cases, he regressed in his performance.

Based on the totality of Deputy Reed's current performance, lack of improvement, and recent officer safety issues, Undersheriff Joe Roybal directed the Internal Affairs Unit to conduct an investigation to gather facts surrounding the aforementioned allegation(s). Sergeant Aric Powell was assigned as the lead investigator.

## ***III. Details of Investigation:***

### **Employee Information**

#### **Deputy Michael Reed Employee Information**

<b>Name:</b>	Michael Reed
<b>EID:</b>	14039
<b>Date of Hire:</b>	January 27, 2014



**Current Assignment:** Law Enforcement Bureau /Patrol Division  
**Supervisor:** Sergeant Jeremy Juhl  
**Patrol Division Start Date:** May 4, 2020  
  
**Status** Currently assigned to Telephone Reporting Service

**- EPSCO Career Progression**

- January 27, 2014 Hired - Deputy Sheriff (Certified)
- June 12, 2014 Completed Academy and Started as Detentions Deputy
- June 12, 2015 Promoted to Deputy II
- June 13, 2016 Promoted to Deputy I
- June 12, 2019 Promoted to Senior Deputy
- May 4, 2020 Transferred to Patrol Division as Patrol Deputy

**Field Training Officer (FTO) Training Records**

The Field Training Officer Records below have been provided for historical reference as they apply to the current investigation.

Deputy Reed started Phase One of his FTO on May 5, 2020, and completed Phase One on May 29, 2020.

- Deputy Reed started Phase Two of his FTO on June 1, 2020, and completed Phase Two on June 29, 2020.
- Deputy Reed started Phase Three of his FTO on July 21, 2020, and completed Phase Three on August 15, 2020.
- During his FTO program, Deputy Reed completed 340 minutes of remedial training. The breakdown of Deputy Reed’s training, in minutes, are as follows:

Category	# of Minutes
ATTITUDE: ACCEPTANCE OF FEEDBACK	0
ATTITUDE: TOWARDS POLICE WORK	0
KNOWLEDGE: POLICY & PROCEDURES	10
KNOWLEDGE: Colorado Revised Statutes (CRS) & COUNTY ORDINANCES	10
KNOWLEDGE: TRAFFIC CODE & ENFORCEMENT	0
KNOWLEDGE: CRIMINAL PROCEDURE	20
PROBLEM SOLVING & DECISION MAKING	5
DRIVING: NORMAL CONDITIONS	0

DRIVING: MODERATE & HIGH STRESS CONDITIONS	0
ORIENTATION / RESPONSE TIME	10
REPORT WRITING: ORGANIZATION & DETAILS	55
REPORT WRITING: ACCURACY & COMPLETION	35
REPORT WRITING: TIME MANAGEMENT	60
FIELD PERFORMANCE: NON-STRESS CONDITIONS	0
FIELD PERFORMANCE: STRESSFUL CONDITIONS	0
INVESTIGATIVE SKILL	0
INTERVIEW & INTERROGATION SKILL	0
OFFICER INITIATED ACTIVITES	15
OFFICER SAFETY: GENERAL	40
OFFICER SAFETY: SUSPECTS	0
CONFLICT CONTROL: VOICE COMMANDS	0
CONFLICT CONTROL: PHYSICAL SKILL	0
RELATIONSHIPS: PUBLIC	0
RELATIONSHIPS: LAW ENFORCEMENT	0
RADIO: LISTENS & COMPREHENDS	25
RADIO: TRANSMISSIONS, CODES, PROCEDURE	20
MDC USAGE	35

- FTO Jeremy Juhl wrote the following in Deputy Reed’s End of Phase One FTO evaluation:
  - “Although Deputy Reed did not have the 2-week training class prior to starting FTO I believe he is where he needs to be to go to the next phase.”
  - “One weakness that was immediately apparent for Deputy Reed was his report writing. I documented in DER’s as well as many hard conversations with him in person.”
  - “Deputy Reed usually had the important details and facts to in the reports, but his sentence structure was very bad.”
  - “Deputy Reed knew this was a weakness of his and made efforts outside of work to fix the problems.”
  - “He would commonly speak to his wife and get her opinions about his reports. According to Deputy Reed, she too said that his reports were very bad. Deputy Reed told me that he would write fake reports at home and have his wife review them.”
- FTO Thomas Conaway wrote the following in Deputy Reed’s End of Phase Two FTO evaluation:
  - “During my four weeks with Deputy Reed, I found he consistently had problems in the areas of: radio usage, report writing and computer usage. These shortcomings were documented repeatedly during this phase in his daily evaluations.”
  - “Deputy Reed displayed a hard time becoming comfortable with the use of his radio. This would become apparent when he would attempt to call out simple patrol related functions, such as a traffic stop, and would be unable to recall what information must be provided.”
  - “Deputy Reed struggled with the idea of getting his thoughts down on paper. Deputy Reed would perform great on scene and would ask most of the questions required to get the information he needed to create his report. That information would then get lost in translation and would not make it into the report. Deputy Reed initially was utilizing the report writing template. As Deputy Reed continued to struggle, I instructed him to cease using the template and instead to recreate the report in chronological order as he was accustomed to doing from the jail. This continued to be a challenge for Deputy Reed, and so I instructed him to dictate his reports. While this did assist him in his speed of getting the reports completed, he still neglected to get important facts such as elements of the crime into his reports and Probable Cause Affidavits. Deputy Reed also struggled

with getting his reports completed in a timely fashion as it would take him approximately 2 hours on average to write the narrative for each of his case reports taken. During one shift Deputy Reed made a felony arrest and required over 4 hours to write a single PC.”

- “During an average shift Deputy Reed would miss at least two radio transmissions where dispatch would be attempting to hail him, resulting in the channel being toned by dispatch if his FTO did not inform him. Deputy Reed would also answer for others or call out using the wrong call sign on a regular basis.”
- “Deputy Reed appears to be unfamiliar with computer usage at a basic level. The most tangible product created by a Law Enforcement Officer is the paperwork that is created as the result of detecting and documenting a crime that has occurred. Deputy Reed would routinely struggle while using MFR (Mobile Field Reporting) and the CAD (Computer Aided Dispatch) software suites. Deputy Reed would ask his FTO the same questions daily on how to perform basic functions.”
- “At this time I do NOT recommend that Deputy Reed be passed onto and allowed to continue the FTO program in phase 3. At a minimum I recommend that Deputy Reed be allowed an extension for 1-2 weeks with a different FTO to determine if he is able to retain and utilize the skills he is being taught.”
- FTO Ian Devlin wrote the following in Deputy Reed’s End of Phase Three FTO evaluation:
  - “Deputy Reed completed Phase 3 with myself and had completed a week-long remedial training prior to Phase 3. I was informed by the prior FTO Deputy Conaway that Deputy Reed was struggling with report writing and time management. Deputy Reed, per Deputy Conaway, was unable to complete detailed reports in a timely manner and was leaving out important information pertaining to the cases he was taking.”
  - “While Deputy Reed was with me through remedial training in Phase 3, I had him dictate his reports. I noticed a huge improvement in his detail during report writing and the time that he was completing reports in.”
  - “Deputy Reed was able to portray what he was being told on scene during his investigations of calls for service in his reports in a detailed manner which anybody could understand. Deputy Reed stated he had struggled with typing reports and that is why I had him attempt to dictate his reports during Phase 3.”
  - “During Phase 3, Deputy Reed had taken several cases which he had not taken in previous phases. Deputy Reed was able to convey a clear picture in his reports and was able to complete these in a timely manner. Deputy Reed is continuing to work on his time management on reports, however, I believe in time, his time management will be sufficient enough to complete reports in a rapid period.”
  - “I do recommend that Deputy Reed progress on to his own and complete his FTO program at this time.”

## **Internal Affairs Investigation IA2021-007**

In April 2021, Deputy Reed was the subject of an Internal Affairs investigation for failing to complete his duties as a patrol deputy in a satisfactory manner.

Deputy Reed received a sustained finding for the following Policy/SOP violations:

- Patrol SOP P2-02 (IV)(B)(1) - Responding Procedures: Non-Emergency Response Procedures - Deputies responding to non-emergency calls shall not operate any emergency equipment and shall observe all State, County, and Municipal traffic laws.
  - Deputy Reed was responding [REDACTED] to a non-emergent call. He failed to slow for a red light at an intersection and drove through it without due regard for the safety of others. He passed another deputy on the left side who had slowed for the intersection.
- Policy 610 - Medical Aid and Response: (610.4)
  - Whenever practical, members should take appropriate steps to provide initial medical aid Deputy Reed responded to an unconscious female in a vehicle. Deputy Reed removed her from the vehicle and placed her on the ground on her back. Other than tapping her to try to get a response, he initiated no first aid to the victim, nor did he place her in a recovery position. No aid was rendered to the victim until another deputy arrived on scene and administered aid.
- 400.8 (2) Unsatisfactory Work Performance
- 400.9 (10) Failure to Make Reports
  - Deputy Reed does not conduct thorough investigations or ask pertinent questions to involved parties. Deputy Reed does not appear to be knowledgeable in CRS and has given inaccurate information to citizens. Deputy Reed was found to have not taken reports on legitimate Elder Abuse, Domestic Violence and Theft cases where at minimum a Field Interview Report should have been completed.
- Policy 701 - Report Preparation:
  - 701.4 Required Reporting
    - Deputy Reed has failed to properly document multiple cases and in at least one case, he failed to complete a report required by the reports policy.
- Policy 706.5 - Domestic Violence: 706.5- Investigations
  - Deputy Reed has failed to obtain accurate statements, failed to properly interview victims and suspects, failed to photograph injuries, and properly document Domestic Violence cases in accordance with this policy.
- Policy 510 Body worn Cameras (BWC) - Portable Recorders
  - Deputy Reed deactivated his BWC prematurely or failed to activate his BWC on several calls for service.

Patrol Commander Kramer (Now Chief Kramer) recommended, “Based on Deputy Reed's obvious pattern of behavior and negligence in his duties as described above, I recommend a 40-hour leave without pay and the implementation of a Performance Improvement Plan for a period of six months.” Deputy Reed received a 40-hour leave without pay and on June 14, 2021, Deputy Reed started his performance plan.

### **Performance Improvement Plan Summary - June 14, 2021**

Deputy Reed started his PIP on June 14, 2021. The following relevant information was provided in his PIP.

- The PIP was effective immediately on June 14, 2021, and was scheduled to end on December 13, 2021.
- EPSO reserved the right to extend all or parts of this Performance Improvement Plan at its sole discretion, but the PIP would not exceed six months in total.
- The employee must show progress on the identified issues by exhibiting the behaviors noted in the Performance Expectations section of the plan. The improvement must begin immediately, progress must be commensurate with the time elapsed under the plan, and all performance expectations must be satisfactorily met by the end of the plan period.
- If the employee did not show required progress or refused to take an active role in the process, disciplinary action may be taken, up to and including termination.

Below are excerpts from Deputy Reed's PIP.

**Core Competencies Needing Improvement**

- Decision Making
- Investigative Skill
- Job Knowledge
- Reports

**Identified Performance Issues**

INVESTIGATIVE SKILL / JOB KNOWLEDGE

1. Deputy Reed does not conduct thorough investigations or ask pertinent questions to involved parties.
2. Deputy Reed has failed to obtain accurate statements, failed to properly interview victims and suspects, and failed to photograph injuries.

REPORTS

1. Deputy Reed was found to have not taken reports on legitimate Elder Abuse, Domestic Violence, and Theft cases where at minimum a Field Interview Report should have been completed.
2. Deputy Reed has demonstrated a lack of proper report preparation by failing to document pertinent facts which were learned during the call in the narrative or other areas of the report.

DECISION MAKING

Deputy Reed has demonstrated poor decision making when he deactivated his BWC prematurely or failed to activate his BWC on several calls for service.

**Performance Expectations**

REPORTS

Deputy Reed is expected to adhere to policy 701 (Report Preparation) in its entirety. This includes but is not limited to accurately reflecting the identity of the persons involved, witnesses, all pertinent information seen, heard, or assimilated by any other sense, and any actions taken. Deputy Reed shall not suppress, conceal or distort the facts of any reported incident.

#### REPORTS/ INVESTIGATIVE SKILL

Deputy Reed is expected to adhere to policy 706 (Domestic Violence) in its entirety. This includes but is not limited to ensuring that injuries are photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Communications Center so a deputy may respond to photo document the injuries in the event the injuries later become visible.

#### JOB KNOWLEDGE / INVESTIGATIVE SKILL

Deputy Reed is expected to adhere to policy 102 (Rank Structure and Responsibility), specifically section 102.4 which in part states, "Deputy Sheriffs will abide by and enforce the laws of the Constitution of the United States of America as well as the State of Colorado. They will preserve the peace, protect life, and property, prevent crime, apprehend criminals, recover lost or stolen property, and enforce all laws in a fair and impartial manner. Deputy Sheriffs will report all crimes, suicides, attempted crimes, and important happenings or other information of concern to the Office that may come to their attention."

#### DECISION MAKING

Deputy Reed is expected to adhere to policy 510 (BWC-Portable Recorders) in its entirety. He should pay particular attention to rules governing system checks and when the camera should be turned on or off.

### **Measurement Criteria**

Deputy Reed will meet in person with his immediate supervisor, Sergeant Juhl every other week. The first meeting shall occur the week of 6/19/21. Deputy Reed is responsible for scheduling the meetings. If Sergeant Juhl is not available for an entire week due to vacation or training etc., the meeting will be scheduled with Lt. St.Charles.

During the meetings:

Deputy Reed shall be prepared to discuss cases taken during the previous two weeks, as well as calls for service when cases were not taken. Deputy Reed will identify actions taken during the call for service to include interviews conducted, questions asked, evidence noted and/or collected, photographs taken, any other relevant information, and the status of the call (CBA, inactive, active etc).

Prior to each meeting, Sergeant Juhl will conduct an audit of a SAMPLING of Deputy Reed's work for the previous two-week period. The audit, at a minimum, will review BWC footage during calls for service to review interactions with victims, witnesses, and suspects. The quality of interviews shall be noted as well as crime scene work as it relates to photographs and/or evidence collection/processing and proper disposition of the call. Furthermore, the associated report shall be reviewed as a matter of comparison to ensure compliance with policy 701.

In summary, the measurement criteria for the PIP includes:

1. Deputy Reed's adherence to the administrative instructions within the PIP which includes the scheduling of the bi-weekly meetings with his supervisor and his preparations for each meeting.
2. Adherence to policy 701. Although all deputies are responsible to follow all policies of the office, Deputy Reed's performance in report preparation is not commensurate with his position. His performance in this area will be monitored, discussed, and is expected to improve.
3. Adherence to policy 706. Although all deputies are responsible to follow all policies of the office, Deputy Reed's performance in the investigation, processing, and documentation of domestic violence calls is not commensurate with his position. His performance in this area will be monitored, discussed, and is expected to improve.
4. Adherence to policy 102.4. Although all deputies are responsible to follow all policies of the office, Deputy Reed's performance in the application of law, enforcement of laws, and proper investigations not commensurate with his position. His performance in this area will be monitored, discussed, and is expected to improve.
5. Adherence to policy 510. Although all deputies are responsible to follow all policies of the office, Deputy Reed's compliance with policy 510 will be closely monitored and discussed. Deputy Reed's decisions surrounding the use of the BWC should be consistent with the policy.

**Performance Improvement Supervisory Meetings**

**Deputy Reed met with his supervisors on the following dates:**

<b>Date of Meeting</b>	<b>Supervisor(s) Present</b>
June 28, 2021	Lt. Michael St. Charles
July 12, 2021	Sgt. Jeremy Juhl / Lt. Charles Kull
July 20, 2021	Sgt. Jeremy Juhl
August 3, 2021	Sgt. Jeremy Juhl
- Not Conducted -	- Not Conducted - (See note Below)
August 24, 2021	Sgt. Jeremy Juhl
September 6, 2021	Sgt. Jeremy Juhl
September 21, 2021	Sgt. Jeremy Juhl

***\*\*Investigator's Note:*** Per the verbiage of deputy Reed's PIP, the first meeting was to occur the week of June 19, 2021, which was a Saturday. Lt. St. Charles indicated that the first meeting was delayed until

*June 28, 2021, due to Deputy Reed being out on his scheduled days off as well as other scheduling conflicts. Between August 3<sup>rd</sup> and August 24<sup>th</sup>, there was no meeting conducted. It should be noted that Deputy Reed's PIP stated, "Deputy Reed is responsible for scheduling the meetings. If Sergeant Juhl is not available for an entire week due to vacation or training etc., the meeting will be scheduled with Lt. St. Charles."*

*The PIP provided to Internal Affairs did not have any dates or signatures filled in for the Follow Up Tracking portion of the document. The area titled, "If the employee has not successfully met all of the performance criteria outlined, the following actions will be taken" was also blank.*

During Deputy Reed's supervisory meetings, his supervisors referenced previous documentation such as emails and reports. Those documents were included with this investigation. The reader is encouraged to read the additional supporting document to provide additional perspective.

### **June 28, 2021, Supervisory Meeting (First Meeting)**

On June 28, 2021, Lt. Michael St. Charles met with Deputy Reed to discuss his performance relating to his PIP. Below is a summary of that meeting from Lt. St. Charles' perspective.

- Deputy Reed stated that he felt like his performance was improving and that he asked "lots" of questions of his fellow deputies.
- Deputy Reed stated that he had fellow deputies proofread his case reports before submitting them to his supervisors.
- Deputy Reed told Lt. St. Charles he was "still struggling with report writing overall because he is not a strong writer."
- Lt. St. Charles discussed with Deputy Reed that most of his reports were either poorly written or turned in late and that Deputy Reed "did not make any attempt to justify the issues."
- Deputy Reed stated that it was "taking a long time to get transcribed reports back" to which Lt. St. Charles told him that he could have submitted the report with "a line in the narrative box [sic] it has been submitted for transcription."
- Lt. St. Charles discussed with Deputy Reed an issue with "missing text message evidence" for a "harassment case" he was assigned to. Deputy Reed told him that he may have "mismarked it in the system" but he would "look for it and correct any errors."
- Lt. St. Charles discussed with Deputy Reed "his handling of a motor vehicle theft recovery where he did not wear gloves, did not correctly look for evidence and misstated in his report that he had done it prior to the registered owner showing up." Deputy Reed "owned the error and promised to do a better job next time."
- Deputy Reed had a positive attitude during his discussion with Lt. St. Charles and reiterated "he truly loved the job and wants to improve."
- Deputy Reed told Lt. St. Charles that he was "working a little scared because he knows everything he does is being scrutinized."
- Lt. St. Charles recommended to Deputy Reed that he keep copies of his final reports that had been approved so he could use them for guidance. Deputy Reed stated he would start doing that.

Lt. St. Charles reviewed Deputy Reed's assigned cases from May 31, 2021, to June 13, 2021, and found eight cases that had not been submitted for approval and completion. Five of the eight cases were not used in this evaluation period because they were initiated before the start of deputy Reed's PIP. Deputy Reed had emailed the remaining three cases to Deputy Henry Crist for a peer review. Deputy Crist returned the three reports to Deputy Reed on June 14, 2021, with suggested corrections.

As of June 15, 2021, Deputy Reed had not submitted the three reports before he left for his scheduled days off on June 15, 2021. Lt. St. Charles stated that Deputy Reed was at work on June 14, 2021, and that based on Deputy Reed's call for service (CFS) history, he believed that Deputy Reed had ample time to complete and submit the three reports.

Lt. St. Charles referenced Policy 701.4 Required Reporting which stated all priority reports, reports with no suspect information or cold call not requiring immediate follow up must be turned in prior to the end of the deputy's workweek. An exception to this rule was allowed but required supervisor approval which Deputy Reed had not sought or received.

### **July 12, 2021, Supervisory Meeting (Second Meeting)**

On July 12, 2021, Sgt. Jeremy Juhl met with Deputy Reed to discuss his performance relating to his PIP. Below is a summary of that meeting from Sgt. Juhl's perspective.

- Deputy Reed stated that he felt he was improving.
- Deputy Reed stated that struggled with "the notion that everything he is doing is being scrutinized and he is under a microscope."
- Deputy Reed stated that he "struggles with report writing but feels he is getting better by talking with his peers and reading their reports."
- Sgt. Juhl questioned Deputy Reed as to why it took him over four hours to write a misdemeanor Probable Cause (PC) Affidavit for a domestic violence (DV) call for service.
  - Deputy Reed stated that he worked on both the PC Affidavit and the entire case report.
  - Sgt. Juhl advised Deputy Reed that was "probably not the best practice" and Deputy Reed agreed.
  - Sgt. Juhl told Deputy Reed that there might be times when spending that amount of time was appropriate, giving the example of completing paperwork at the end of a shift or on your "Friday" but that he should have notified his supervisor.
- Deputy Reed told Sgt. Juhl that there was nothing he wanted to discuss concerning his current cases.
- Sgt. Juhl suggested to Deputy Reed that he read books and other reports to improve his report writing skills.
- Sgt. Juhl suggested to Deputy Reed that he create a "cheat sheet" of handling domestic violence calls for service.
- Sgt. Juhl provided Deputy Reed with a binder he had obtained from recently retired Deputy Phil Gurnett. The binder contained "...instructions, paperwork, examples and a how-to guide on almost everything from traffic stops to PR bonds."
- Sgt. Juhl stated that Deputy Reed was very receptive to their discussion and "positive of the feedback."

- Sgt. Jason Haag provided the following supporting documentation:
  - EPSO Case # 21-7384 Deputy Reed didn't properly utilize his BWC.
  - EPSO Case # 21-6408: Deputy Reed indicated in a supplement that, there was BWC video available but Sgt. Haag could not locate any BWC from Deputy Reed. Deputy Reed failed to include a person he named in his supplement in the appropriate report field location.
- Sgt. Nordeman provided the following supporting documentation from a DV CFS where she acted as his cover deputy:
  - Deputy Reed was told by the suspect that he had taken the victim's phone but had given it back to them because he had not seen it as a crime.
  - Upon arresting the suspect, Deputy Reed failed to remove all of the suspect's personal items.
  - Deputy Reed failed to inform Dispatch personnel that he was transporting the suspect to jail until Dispatch personnel asked for his status.
  - Deputy Reed spent five hours writing a PC Affidavit which had to be returned to Deputy Reed for corrections, at least once.
  - Deputy Reed failed to take any photographs.
  - Deputy Reed failed to locate/identify evidence that was in plain sight and mentioned by the victim.

**July 20, 2021, Supervisory Meeting (Third Meeting)**

On July 20, 2021, Sgt. Juhl and Lt. St. Charles met with Deputy Reed to discuss his performance relating to his PIP. Below is a summary of that meeting from Sgt. Juhl's perspective.

- Deputy Reed believed he was "doing better" but still believed he had room to improve, specifically in the "report writing category."
- Sgt. Juhl spoke to Deputy Reed in length about EPSO Case # 21-8086 (18-3-402 (2) Sexual assault - Weapon.)
  - Deputy Reed answered with "...he really messed that call-up."
  - Sgt. Juhl told Deputy Reed that were numerous felonies alleged by the victim at which point Deputy Reed appeared confused.
- Sgt. Juhl and Lt. Michael St. Charles informed Deputy Reed that he had regressed in his performance, particularly in the categories of basic law enforcement knowledge and policies.
- Deputy Reed stated that he was afraid to "reach out" to a sergeant for advice and fear that they would document he was asking questions. Sgt. Juhl and Lt. Michael St. Charles told him that he "could not be farther from the truth" and that a phone call asking for advice would have shown that he was trying to improve himself.
- Deputy Reed said that he had reached out to other deputies when he was confronted with a "problem call." However, he had not done that for EPSO case # 21-8086.
- Deputy Reed said that he was going to contact Sgt. Jared Harmon to learn how to review "good" reports which was an indication that he had not attempted this before July 20, 2021, thirty-six days after the start of his PIP.

- Sgt. Juhl and Lt. Michael St. Charles offered several different ideas for Deputy Reed to “help him be successful.” One suggestion was to audit the academy classes during the Colorado Revised Statute (CRS) and the interview and interrogation training days.
- Deputy Reed appeared receptive to their ideas but Sgt. Juhl expressed concern that based on Deputy Reed’s past behaviors he would not take the initiative to accomplish the task.
- From June 14, 2021, to July 19, 2021, Deputy Reed had taken 29 cases. See below for more detail.
  - Overview of the 29 cases:
    - 19 Case Reports
      - 12 Case Reports were rejected (64%)
      - 7 of the rejected Case Reports were rejected multiple times
    - 5 Arrest Reports
      - 3 Arrest Reports were rejected (60%)
    - 4 Supplement Reports
      - 2 Supplement Reports were rejected (50%)
    - 1 Field Information Report (FIR)
      - 0 FIRs were rejected (0%)
- EPSO Record Supervisor Jennifer Harris stated that based on her professional experience and training, she considered anything above a 50% rejection rate to be excessive. Deputy Reed was at or above that rejection percentage on everything but FIRs.
- Sgt. Juhl opined that Deputy Reed was spending more time rewriting/correcting his reports than he did writing his original reports.
- Sgt. Juhl stated that Deputy Reed was regressing in the category of report writing.
- Sgt. Juhl wrote that Deputy Reed was currently failing in four categories of his PIP, “most notably Report Preparation and BWC Usage.
- Regarding EPSO Sex Assault Case # 21-8086, Sgt. Juhl provided the following additional supporting information:
  - Sgt. Juhl, after reading Deputy Reed’s report, was unable to determine exactly what happened and had to watch Deputy Reed’s BWC video.
  - Sgt. Juhl identified the following issues from Deputy Reed’s BWC:
    - Deputy Reed failed to ask important “follow-up” questions.
    - Before placing the victim into his patrol vehicle, Deputy Reed failed to ask if the victim had any weapons or have the female deputy on-scene conduct a patdown.
    - Deputy Reed never offered the victim medical treatment.
    - Deputy Reed failed to identify additional potential crimes.
    - Deputy Reed never attempted to contact residents of the residence the victim allegedly escaped from.
    - Deputy Reed failed to conduct a thorough interview of the victim, reporting party, or the victim’s husband.
    - Deputy Reed failed to follow additional leads such as verifying credit/debit card charge statements.
    - Deputy Reed offered to have the husband pick up the victim’s vehicle that had a high probability of being a crime scene and containing valuable evidence.

- Deputy Reed failed to identify any pertinent information about the involved vehicle in his report.
- Deputy Reed failed to ask clarifying questions regarding the alleged sexual assault.
- The victim identified another potential location where she was allegedly sexually assaulted which Deputy Reed never identified in his report.
- Deputy Reed wrote details in his report that Sgt. Juhl was unable to locate in his BWC video. Deputy Reed later told Sgt. Juhl that he had received that information during another interview with the victim where he failed to utilize his BWC.
- Deputy Reed never notified his or any supervisor to report this incident.
- Deputy Reed never identified the victim's husband that he spoke with on the phone.
- Deputy Reed failed to fill out the correct fields in his case report.
- In an effort to provide accurate and complete information to detectives, Sgt. Juhl attempted to contact Deputy Reed who was on his days off. Sgt. Juhl intended to have Deputy Reed come to work that day and make necessary corrections to his report. Deputy Reed never answered his work cell phone. However, Deputy Reed did reply to an unrelated work email that same day.

#### **August 3, 2021, Supervisory Meeting (Fourth Meeting)**

On August 3, 2021, Sgt. Juhl met with Deputy Reed to discuss his performance relating to his PIP. Below is a summary of that meeting from Sgt. Juhl's perspective.

- Deputy Reed stated that he didn't feel as anxious or as stressed as he had previously.
- Sgt. Juhl talked with Deputy Reed about a call for service Deputy Reed had responded to involving a fraud.
  - Sgt. Juhl told Deputy Reed he had done a better job of interviewing the victim and gathering all of the important information.
  - Sgt. Nordeman made only a few corrections to Deputy Reed's case report.
- Deputy Reed had an "at fault" vehicle accident. He struck a concrete light pole post causing \$5000 worth of damage to the vehicle. Sgt. Nordeman and Sgt. Juhl concurred that the concrete post was below Deputy Reed's view and not visible from his position.
- On CFS # 2021-138512 (Theft) Deputy Reed interviewed both the suspect and victim of a Theft in the same room, at the same time which lead to arguing between the two parties. It had been previously explained to Deputy Reed that he needed to separate involved parties before interviewing.
- On CFS # 2021-142646 (Suspicious Incident) Deputy Reed was the cover unit and during the incident, Deputy Reed left another deputy alone with two suspects. Deputy Reed was in the general area but should have stayed with the other deputy. Deputy Reed positioned both suspects near the suspects' respective vehicles and began to interview them together. Additionally, Deputy Reed assisted the other deputy in searching a vehicle rather than providing oversight over the two suspects.

- Deputy Reed stated that he had been “reaching out” to his peers and supervisors to ask questions about his calls for service. Sgt. Juhl attested to the fact that Deputy Reed had called him several times during this rating period.
- Sgt. Juhl indicated that Deputy Reed’s “overall rating” for this review period had been more positive.
- Sgt. Nordeman informed Sgt Juhl that she had made a supervisory decision to cancel Deputy Reed’s response to a CFS involving an out-of-state father that allegedly grabbed his child by the neck. The child, who was currently visiting his mother in Colorado, reported the incident to his mother. Sgt. Nordeman did not believe Deputy Reed would have been able to conduct a proper investigation and wanted to “make sure it was handled correctly.”

**Between August 3<sup>rd</sup> and 24<sup>th</sup>, 2021 No Meeting was Conducted (Should have been Fifth Meeting)**

During this time frame, there was no supervisory meeting conducted. As noted earlier, Deputy Reed’s PIP dictated that Deputy Reed was responsible for arranging his meetings with his supervisor.

**August 24, 2021, Supervisory Meeting (Sixth Meeting)**

On August 24, 2021, Sgt. Juhl met with Deputy Reed to discuss his performance relating to his PIP. Below is a summary of that meeting from Sgt. Juhl’s perspective.

***\*\*Investigator’s Note:*** *Sgt. Juhl stated this was Deputy Reed’s “seventh PIP review” when in fact it should have been Deputy Reed’s sixth PIP review. As stated earlier, Deputy Reed failed to schedule a meeting between August 3, 2021, and August 24, 2021.*

- Sgt. Juhl said that Deputy Reed did not have anything he wanted to discuss for this meeting. However, Sgt. Juhl later stated that Deputy Reed did talk about a trespassing case that happened in Black Forest where the suspect would not identify himself. Deputy Reed stated that rather than push the issue with the suspect, both he and Deputy Western Rubio agreed that it was not worth “pushing the issue.” Thus they chose not to identify the suspect.
- Sgt. Juhl discussed with Deputy a pursuit that happened on August 23, 2021, where Deputy Reed continued to follow the suspect's vehicle after the pursuit had been terminated.
  - Deputy Reed stated that the suspect vehicle passed him approximately 15 minutes after he terminated the pursuit and that the vehicle was violating several traffic laws.
  - Deputy Reed stated that several other drivers in the proximity made eye contact with him and he felt obligated to at least attempt a traffic stop. This continued for several more lights until Deputy Reed stated he was able to pull to the side of the road.
  - Based on Deputy Reed’s articulation of the incident, Sgt. Juhl agreed that Deputy Reed’s behavior was reasonable.
- Sgt. Nordeman relayed to Sgt. Juhl that Deputy Reed had told her a different story. Sgt. Nordeman stated that Deputy Reed “...gave her an excuse that he didn't follow the suspect, the suspect never saw Deputy Reed and he was more than a block and a half away from the suspect the entire time.”

- Sgt. Juhl noted that Deputy Reed’s attitude and demeanor seemed “upbeat and positive” and that he felt good about how “this process was going.”
- On August 17, 2021, Sgt. Juhl and Lt. St. Charles had a conference call with Patrol Commander Jeff Kramer (now Chief Kramer) and relayed the following information to Commander Kramer:
  - They discussed EPSO Case # 21-9186 which was a DV sex assault case where Deputy Reed showed a lack of CRS knowledge and his report was rejected “several times” for “flaws.” Sgt. Nordeman had to assist him in correcting his errors.
    - Upon reviewing Deputy Reed’s BWC video, Sgt. Juhl identified that Deputy Reed failed to include pertinent information relayed by the suspect. Sgt. Juhl believed that had he (Sgt. Juhl) been aware of that information he would have not instructed Deputy Reed to unfound the case. Based on the new information, Sgt. Juhl had to resubmit the case to detectives.
    - Deputy Reed failed to establish a venue or address where the alleged sexual assault happened.
    - Deputy Reed failed to provide any details in his initial report, referencing a forgery crime alleged by the victim.
  - Sgt. Juhl noted that when he assigned Deputy Reed to districts with “strong district partners” he performed better. Sgt. Juhl believed that this was because Deputy Reed’s district partner would handle the “heavy lifting” and Deputy Reed “followed their lead.” Sgt. Juhl believed that this was a learning tool for Deputy Reed. However, when Deputy Reed was alone on a CFS, his CRS knowledge, interview skills, and general investigative skills diminished or were lacking.

**September 6, 2021, Supervisory Meeting (Seventh Meeting)**

On September 6, 2021, Sgt. Juhl met with Deputy Reed to discuss his performance relating to his PIP. Below is a summary of that meeting from Sgt. Juhl’s perspective.

- Deputy Reed spoke about two fraud cases he needed to complete “follow-up work on” because nobody assumed his cases while he was out on administrative leave.
- Deputy Reed stated he felt that he was “doing a better job with each passing week and feeling more confident.”
- Sgt. Juhl told Deputy Reed that he felt Deputy Reed was “doing better than when he first started his PIP review.”
- Sgt. Juhl told Deputy Reed that his performance “...ebbs and flows” and by that he meant, “one week he will do pretty good and the next week he makes a lot of errors.”
- Sgt. Juhl told Deputy Reed that he was “...starting to establish a measurable baseline.”
- Sgt. Juhl discussed a CFS from their prior meeting where Deputy Reed responded to a trespassing incident in Black Forest but failed to identify the suspect. (See the August 24, 2021, Supervisory Meeting section for additional information.)
  - “Deputy Reed was able to explain what his authority was to a certain degree.”
  - “Deputy Reed knew he could detain the subject further until proper identification could be made, but he had a hard time articulating all the mitigating factors, i.e where the

subject was going, where did he come from, time of day, temperature based off what the subject was wearing.”

- Sgt. Juhl told Deputy Reed that if he believed that another deputy was not following proper procedure, that he needed to speak up and correct them.
- Sgt. Juhl discussed a DV call, the term “predominant aggressor” and how it related to his call.
  - Sgt. Juhl, before this meeting but after Deputy Reed’s DV call, had sent an email out to his shift referencing and explaining the predominant aggressor.
  - Deputy Reed stated that after he read Sgt. Juhl’s email, he understood that in his DV call, he should have arrested the female party instead of the male party.
  - It appeared to Sgt. Juhl that Deputy Reed was unfamiliar with the term predominant aggressor and that it was the first time Deputy Reed had “ever heard” of the term.
- Sgt. Juhl discussed with Deputy Reed a traffic stop he (Deputy Reed) had conducted and how he had spoken to the driver.
  - Originally Deputy Reed thought that the driver was rude to him and in return, Deputy Reed was rude to the driver. Sgt. Juhl, after reviewing Deputy Reed’s BWC video, explained to Deputy Reed that he (Deputy Reed) was rude at the start of the traffic stop.
  - Deputy Reed agreed with Sgt. Juhl’s assessment but explained that he was rude because the driver had been driving 31 mph over the speed limit in a school zone.
- They discussed that Deputy Reed should use his physical stature and commanding voice to control a scene. Sgt. Juhl explained that both of those physical attributes are part of an officer’s presence and a form of de-escalation.
- Sgt. Juhl told Deputy Reed that he had a “bad habit” of not deactivating his BWC after an incident and on one such incident he had recorded himself entering information into the Mobile Field Reporting (MFR) software while driving at speeds more than 55 mph. In another instance, during a traffic stop, Deputy Reed was heard referring to the driver as a jerk on his BWC video. Sgt. Juhl explained how that could be detrimental in a legal case.
- Deputy Reed volunteered to work two hours past his normal shift hours to assist the oncoming patrol shift.

### **September 21, 2021, Supervisory Meeting (Eighth Meeting)**

On September 31, 2021, Sgt. Juhl met with Deputy Reed to discuss his performance relating to his PIP. Below is a summary of that meeting from Sgt. Juhl’s perspective.

- Deputy Reed advised that he had three to four active cases that should no longer be active because he was “in the process to fix those cases.”
- Sgt. Juhl told Deputy Reed he was not improving in the areas of CRS knowledge, interviewing and that this had been an issue since the beginning of his PIP.
- Sgt. Juhl told Deputy Reed he was not improving in his officer safety.
- Sgt. Juhl told Deputy Reed that his inability to improve his officer safety skills had led to the opening of chain of command investigation (CCI) number CCI2021-133.

**Investigators Note:** *CCI2021-133 was absorbed into this investigation and will not be handled separately.*

- Sgt. Juhl told Deputy Reed that his report writing was still “very poor” and elaborated by telling Deputy Reed that:
  - He did not gather all the information from the suspects and/or victims.
  - He did not list the sequence of events.
  - He did not “do a good job in scene description.”
  - He always had “a lot of missing pieces from the story.”
- Sgt. Juhl told Deputy Reed that “he is not showing improvement in his PIP” and continued to make the same mistakes.
- Deputy Reed told Sgt. Juhl that he kept a copy of CRS on his nightstand and that he read it every night.
- Deputy Reed told Sgt. Juhl that he had recently contacted Training Sgt. Gregory White about training in interviewing tactics. Sgt. Juhl verified that Deputy Reed did contact Sgt. White but had yet to follow up with Sgt. White. Sgt. Juhl noted that this advice was suggested by Lt. St. Charles on July 20, 2021, (63 days before this meeting).
- Sgt. Juhl documented that Deputy Reed failed to activate his BWC while conducting a Business Alarm CFS (2021-00177241.)
- On September 15, 2021, Sgt. Juhl conducted a review of Deputy Reed’s cases and found that out of the six cases he submitted, three had been rejected. One of the rejected cases had been rejected multiple times.
- Sgt. Juhl identified that Deputy Reed failed to complete an FIR for CFS # 21-00173129.
- Sgt. Juhl documented several inadequacies in another of Deputy Reed’s case reports, EPSO Case # 21-11196. Deputy Reed failed to ask follow-up questions, adequately describe the scene, articulate the elements of the crime, describe the emotional status of victims, or describe any injuries.
- Sgt. Juhl documented several issues with Deputy Reed’s case report EPSO case # 21-11224. Deputy Reed’s case report was confusing and written out of chronological order.
- Sgt. Juhl detailed CFS # 2021-173129 in which Deputy Reed responded to a DV in progress. Sgt. Juhl listed the following information regarding the CFS:
  - During the CFS Lt. St. Charles requested Deputy Reed meet him at a designated location because the reporting party said she would meet deputies there and was potentially armed.
  - Lt. St. Charles waited at the designated location but after several minutes Deputy Reed had not shown up. Lt. St. Charles called Deputy Reed over the radio and requested again for him to come to the designated location.
  - While waiting for Deputy Reed, the reporting party arrived at the designated location and was armed.
  - Lt. St. Charles communicated over the radio that the reporting part had arrived and he had initiated contact with the reporting party.
  - When Deputy Reed finally arrived at the designated location he explained to the reporting party that he was just at the suspect’s house but no one answered the door.
  - Sgt. Juhl identified several issues with Deputy Reed’s response to the call:

- Deputy Reed attempted to contact the suspect by himself when the suspect was known to be armed.
- Deputy Reed never communicated over that radio that he was on scene at the suspect's residence.
- Deputy Reed left Lt. St. Charles alone to contact the reporting party that was also known to be armed even after Lt. St. Charles communicated over the radio that he was with reporting party.
- Deputy Reed did a “poor job” of interviewing the reporting party and never established if a crime had been committed.
- Sgt. Juhl detailed another incident, CFS # 21-00173224 where he identified the following issues:
  - Deputy Reed responded to a motor vehicle theft (MVT) in progress. It was communicated over the radio that the suspects were armed and possibly under the influence of drugs or alcohol. Deputy Reed was the first to arrive on-scene and without waiting for additional cover deputies, he contacted both the suspect and reporting party together.
  - Deputy Reed ordered the reporting party to go onto the suspect’s property to retake his stolen property. Deputy Reed did this before gathering enough information to even ascertain if he had the authority to make that decision.
  - Deputy Reed never separated the reporting party or suspect before speaking with them.
  - Deputy Reed allowed both parties to continually enter their respective vehicles.
  - Deputy Reed allowed the suspect to repeatedly put his hands in his pockets.
  - Deputy Reed told both parties that his radio was not working correctly and that he needed to go back to his vehicle to communicate with Dispatch. At which point he turned his back to both parties.
  - Deputy Reed failed to ask pertinent follow-up questions.
  - Deputy Reed did not “listen or interview” either party.

### **Chain of Command Investigation CCI2021-133**

On September 24, 2021, Sgt. Nordeman initiated a chain of command (CCI2021-133) into Deputy Reed’s actions/inactions during CFS 2021-00173224 (see the section before for details). Sgt. Nordeman and Lt. St. Charles both recommended Deputy Reed receive a Letter of Reprimand for his actions.

Before the completion of CCI2021-133, Undersheriff Roybal directed that CCI2021-133 be merged with this Internal Affairs Investigation.

### **Case Updates**

On November 10, 2021, I sent an email to Deputy Reed containing his Notice Investigation along with copies of EPSO Policies 400 – Standards of Conduct, 404 – Internal Investigative Rules for reference, and

402 - Disciplinary Action Process. Later that day, Deputy Reed replied to my email indicating that he had received his notification.

On November 12, 2021, I was contacted by Lt. St. Charles who informed me that Deputy Reed had just told him that [REDACTED]. [REDACTED]

[REDACTED]

On December 15, 2021, I sent an email to Deputy Reed's EPSO email informing him that the original due date for his investigation, December 29, 2021, had been extended and the new due date [REDACTED]. The email instructed Deputy Reed to contact Internal Affairs [REDACTED].

[REDACTED]

On February 2, 2022, I was notified by HR Coordinator Filita'a Io that Deputy Reed had resigned, effective February 1, 2022. She provided me with a copy of his resignation which was included with this investigation.

At the direction of Undersheriff Joe Roybal, Deputy Reed's investigation was returned to his chain of command for review and to determine the disposition.

*AMP/ap*

## ***I. Administrative Information***

**CASE NUMBER:** IA2022-004

**TO:** Undersheriff Joe Roybal

**SUBJECT:** Details of Investigation

**DATE:** 04/22/2022

**COMPLAINT:** 400.6.2 Laws, Rules, Directives and Orders  
400.9.8 Ethics and / or any other violations as deemed appropriate by  
the Chain of Command or DAB

**COMPLAINANT:** Undersheriff Joe Roybal

**ACCUSED:** Former Deputy Scott Stone

**INVESTIGATOR:** Sgt Jennifer Vanderpool

### ***Basis for Investigation:***

It is alleged former Deputy Scott Stone used his position as an EPSO employee to access protected law enforcement information for the use in his personal private practice business under the company name "Cross Point Polygraph" which is owned and operated by Mr. Stone. This is in violation of C.R.S 18-8-404 First Degree Official Misconduct.

Based on this complaint, Undersheriff Joe Roybal directed the Internal Affairs Unit to investigate the allegations. Sgt Jennifer Vanderpool was assigned as the lead investigator.

## ***II. Details of Investigation:***

### **Case Assignment**

On Monday, April 11, 2022, at approximately 0800 hours, Internal Affairs Lieutenant Jim Vidmar assigned me this case. This case was previously assigned to Sgt Aric Powell. I was provided information already gleaned by Sgt Powell during his initial investigation.

### **Review of Preliminary Investigation**

In reviewing the preliminary investigation conducted by Sgt Powell, I learned the following:

- On September 23, 2021, El Paso County Sheriff's Office (EPSO) Lt. Vidmar and Sgt Aric Powell met with EPSO (retired) Lt. Kull. Lt. Kull informed them he had been contacted by Colorado Springs Police Department (CSPD) Lt. Stanke regarding a potential release of confidential CSPD report information by former EPSO employee Scott Stone.
- It was alleged that Stone used his position as an EPSO employee to access protected law enforcement information. It was later determined by Lt. Kull Scott Stone accessed the report information through EPSO Detective Michael Callis. Detective Callis told Lt. Kull that Scott Stone told him he needed the information for a background investigation he was working. Detective Callis believed the information was needed for Stone's position at EPSO.
- Kull stated he spoke with Stone who told him he had received a request from a "fellow polygrapher" in Bent County who wanted to know if we had any cases on a [REDACTED]. Scott said he did not have access and asked Detective Callis to research it for him. Scott said he told the polygrapher there were cases, but she needed to submit a Colorado Open Records Act (CORA) request for those cases. Scott said he provided case numbers and if the cases were active.
- Approximately 30 minutes after Kull's conversation with Stone, Stone walked back into Kull's office and told him the person who had asked him for help was [REDACTED] who was working a private investigation for him. Mr. Stone wanted to ensure that Detective Callis would not be in any trouble because he did not know the true reason Ms. [REDACTED] was being searched for in the Law Enforcement Records Management System (LERMS).
- After receiving this information, Sgt Powell recognized immediately the actions of Stone possibly constituted a criminal act. The information was provided to EPSO Command Staff who determined the internal investigation would be placed on hold

until such time as there was a determination on criminal charges. The case was sent to the 4<sup>th</sup> Judicial District Attorney's Office for review and determination on charges.

- **\*\*\*Investigator's Note:** It is unknown to me exactly how CSPD was alerted to the information regarding Deputy Stone's use of the protected information. In reviewing the case report provided by District Attorney (DA) Senior Investigator Clint Kramer, I discovered a copy of a written appeal drafted by attorney R. Davis Younts. Mr. Younts was the Civilian Defense Counsel representing United States Air Force Academy Cadet [REDACTED] in an appeal of findings and punishment related to a sexual assault case in which Mr. [REDACTED] was the defendant. Mr. Warner hired Stone's company, Cross Point Polygraph, to investigate Ms. [REDACTED] the victim in the sexual assault case.

In the appeal, Mr. Younts states, "She (Ms. [REDACTED]) has a history of legal and disciplinary concerns that include drug use, expulsion from Air Academy High School, admitted dishonesty in a previous false allegations of sexual assault, and attention seeking behavior. **OSI ignored this information, and it only came to the light as a result of the work of the Colorado Springs Police Department and a private investigator.**"

This letter would have been made available to Ms. [REDACTED] and her attorney through the discovery process. It is my understanding Ms. [REDACTED]'s attorney contacted CSPD to complain about the release of this information since they were the ones cited in the appeal. This explains CSPD then contacting Lt Kull after determining the employment of Stone with EPSO.

### **Review and summary of DA Senior Investigator Clint Kramer's Report**

On October 1<sup>st</sup>, 2021, DA Investigator Clint Kramer was assigned to investigate Scott Stone's case under DA case number 2021DA277. Investigator Kramer learned the following:

Mr. [REDACTED] was an Air Force Academy Cadet who had been accused of sexually assaulting a female party, identified as Ms. [REDACTED]. Mr. [REDACTED] had completed a polygraph examination performed by Mr. Stone on or about August 26, 2021. It was believed this polygraph was requested by the attorney, Mr. R Davis Younts, representing Mr. [REDACTED] in the sexual assault case. Mr. [REDACTED] presumably passed the polygraph and Mr. Younts subsequently filed an appeal of the findings and punishment levied on Mr. [REDACTED]. In the appeal, there was

information provided which would have come from a law enforcement database or through open-records requests. The appeal also referenced Scott Stone's report.

Stone was hired by Mr. Warner to investigate Ms. [REDACTED] and her credibility. It was believed Ms. [REDACTED] had lied in the past and had previously made false allegations about being sexually assaulted. Stone initiated the case, Cross Point Polygraph case #21-CP-901, and started an investigation. Stone's [REDACTED] was assigned as Assistant Investigator.

In Stone's completed report, he referenced several incidents involving Ms. [REDACTED] and identified two specific case reports from CSPD, CR#15-20372 and CR#15-34707. He also referred to a CSPD field report, #17198. In his report, Stone outlined details which would have been obtained from an inquiry into LERMS.

Stone also referenced incidents from 2016-2020, however he did not provide related case or incident numbers, only a brief overview of the incidents. This information could have been obtained through LERMS but may also have been solicited from other law enforcement personnel. Stone did make a request to CSPD records under CORA, but ultimately did not obtain records from them. The request for information was made on September 12, 2021 and was denied on September 17, 2021.

In addition, Stone reported he spoke with a former School Resource Officer from Air Academy High School and was provided pertinent information regarding a juvenile. This information would not have been obtainable by a private citizen, but only available to law enforcement or the school district. It is suspected Mr. Stone may have utilized his authority granted him through his position at EPSO to obtain this information.

Stone stated in his report he made an inquiry with the Department of Human Services (DHS) but was unable to obtain records due to DHS's policies. With that said, Stone still provided narrative information which he might have obtained through law enforcement only databases.

During his investigation, Investigator Kramer learned on September 13, 2021, Stone had requested Detective Michael Callis assist him in conducting a search of the LERMS database. Investigator Kramer conducted an interview with Detective Callis and confirmed this information. Detective Callis told him Stone had said he was having issues logging in to LERMS and asked him to conduct a search. Stone provided Detective Callis the name [REDACTED] and provided her DOB to search her name in the database. Callis was of the belief this information was needed in Stone's official capacity. Detective Callis performed the search and discovered a few case files contained within the system. Stone took notes while reviewing this information.

Investigator Kramer obtained records from the LERMS program coordinators which confirmed Detective Callis did log onto LERMS and did access case files associated to Ms. [REDACTED] on September 13, 2021.

Since Scott Stone's [REDACTED] was listed as Assistant Investigator, Investigator Kramer conducted an interview with her as well. It should be noted; [REDACTED] is a Deputy Sheriff in Bent County, Colorado. Deputy [REDACTED] told Investigator Kramer she started calling people and making inquiries into Ms. [REDACTED] prior history of incidents as part of her investigation but was provided a hard deadline by Mr. Warner's Attorney's Office due to a hearing on September 15, 2021. Deputy [REDACTED] advised they needed as much information as possible against Ms. [REDACTED] before that date. Ms. [REDACTED] advised she made an online request through CSPD for records related to Ms. [REDACTED] on September 12, 2021, however since they had not heard back from them, she decided to call [REDACTED] Mr. Stone, to see if he could help her locate information for her to complete the investigation. A short time after speaking with Stone, they spoke again and he provided case numbers, disposition of the related cases and some minor case details to her and it was with that information, she completed a narrative report to provide to the attorney of Mr. Warner.

On October 19, 2021, Investigator Kramer attempted to schedule an interview with Mr. Stone, however Stone advised he had retained an attorney. As of the completion of the report, Investigator Kramer was unable to facilitate an interview with Mr. Stone.

On October 28, 2021, Investigator Kramer interviewed now retired Lt Chuck Kull. Lt. Kull advised him he had pulled Detective Callis and Stone into his office and asked why a Ms. [REDACTED] was searched for in LERMS and what case either of them was working which necessitated this search. That is when Mr. Stone said he received a request from a fellow polygrapher in Bent County asking for case numbers and disposition of cases, but he did not have access to LERMS, so he solicited the assistance of Detective Callis to pull the person up in LERMS. Detective Callis told Lt. Kull since Mr. Stone asked for his help, he assumed it was for official business and did not hesitate to help him. Lt. Kull said he excused the two of them and was going about his routine. About 30 minutes later, Mr. Stone walked back into Lt. Kull's office and asked, "Am I in trouble for this?" He then admitted the person who had asked him for help was [REDACTED] who was working a private investigation for him.

**\*\*\*Investigator's Note:** Scott Stone resigned from his position with El Paso County Sheriff's Office on 11/01/2021. This was prior to the start of the initial Internal Affairs investigation, but post inquiry by (retired) Lt. Kull. Due to his resignation, Stone was not served with a Notice of Investigation.

## Review of Cross Point Polygraph Investigations Investigation Report

Investigator Kramer obtained the investigation report generated by Cross Point Polygraph Investigations, case #21-CP-901(1). It is a summary of the investigation conducted by Scott Stone and [REDACTED]. The report is five (5) pages in length and includes a signature block on the bottom of page four (4) with "Scott Stone/[REDACTED]" in typed print on the signature line.

The report is broken down into sections and subsections. At the beginning of the report there is a predication which states the purpose of the investigation is to, "Discover information about [REDACTED] DOB: [REDACTED]" The report states the information requested is as follows:

- 1) CSPD records regarding Ms. [REDACTED]
- 2) Obtain vital Records for Ms. [REDACTED]
- 3) Interview possible character witnesses for Ms. [REDACTED] and
- 4) Obtain investigator notes on Ms. [REDACTED] conduct.

The next section is titled, "Investigator Notes" which explains on 08/26/2021, Stone conducted a polygraph examination on Mr. [REDACTED] to determine if Mr. [REDACTED] was being truthful about a sexual assault which he was accused of committing. Mr. [REDACTED] was accused of forcing Ms. [REDACTED] to perform sexual acts with him and physically assaulting her during the process. Stone states Mr. [REDACTED] passed the polygraph.

This section goes on to state on 09/08/2021, Mr. [REDACTED] contacted Stone's office asking for them to conduct further investigation into Ms. [REDACTED]

Stone's report states he gathered information on Ms. [REDACTED] criminal history, her school history in Academy District 20, Department of Human Services history, vital records, and character references.

In the "Criminal History" section, Stone states he was able to speak with investigators with both CSPD and EPSO and indicates this is where he obtained the information included in his report. This information includes two (2) specific CSPD case numbers with detailed information on their contents, a CSPD Field Investigation report, specific traffic violations, law enforcement case report information where Ms. [REDACTED] was listed as a victim, civil court proceedings for a divorce case, and warrant information from the courts for a failure to appear (FTA). Stone states he requested copies of the listed cases but doesn't know if he will get them due to them being juvenile records.

In the section titled "El Paso County Sheriff's Office/District 20" Stone states on 09/14/2021, he spoke with a School Resource Officer who provided him disparaging information on Ms. [REDACTED] to include drug and alcohol use in school and the fact she was expelled.

In the "Colorado Department of Human Services" section, Stone provides information on the custody of Ms. [REDACTED] as a child and information where Ms. [REDACTED] grandfather was accused of sexual assault on a child. Stone states, "Colorado Department of Human Services believed [REDACTED] was also a victim. DHS did temporarily remove [REDACTED] from [REDACTED] custody and provided custody to [REDACTED]"

In the "Vital Records" section, Stone lists the dissolution of marriage of Ms. [REDACTED] in 2019 and adds a note that a contempt of court and protection order were filed but dismissed by the judge.

The last section in Stone's report is "Character References." In this section Stone outlines an interview he conducted with Ms. [REDACTED] ex-husband. He also mentions a high school friend of Ms. [REDACTED] who he attempted to contact but was unable. Stone states this friend was, "named in several police reports with [REDACTED]" This is the final section in Stone's report followed only by his signature as mentioned previously.

**\*\*\*Investigator's Note:** There are several databases/resources available to law enforcement personnel for official use in criminal investigations. The information outlined above could be accessed via LERMS, Colorado State Courts-Data Access (JBITS), Accurint, and Trails (Colorado's certified state-county SACWIS system used by DHS.)

## **Summary of Facts in Evidence**

### **LERMS ACCESS**

- CSPD case # 15-20372 – Accessed once by Detective Michael Callis (16073) on September 13, 2021, at the request of Stone.
- CSPD case # 15-34707 – Accessed once by Detective Michael Callis (16073) on September 13, 2021, at the request of Stone.
- CSPD Field Investigation 17198 Accessed twice by Detective Michael Callis (16073) on September 13, 2021, at the request of Stone.
- No record of [REDACTED] in Beacon
- NCIC QQ did not show any recent access from anyone in our Office on September 13, 2021.
- Scott Stone completed online training on EPSO Policy Updates 01/04/2021-02/23/2021

## DA Filing Decision

On 04/05/22, at approximately 0928 hours, Rachael Powell, 4<sup>th</sup> Judicial District Senior Deputy District Attorney, advised Lt Jim Vidmar via email that the DA would be filing the charge of First-Degree Official Misconduct against Stone.

On 04/07/2022, at approximately 1000 hours, Scott Stone was served Colorado State Summons A74739 on the charge of **C.R.S. 18-8-404 First Degree Official Misconduct, a class 2 misdemeanor**. Mr. Stone was released on his promise to appear in court on June 24<sup>th</sup>, 2022, at 10:00 am.