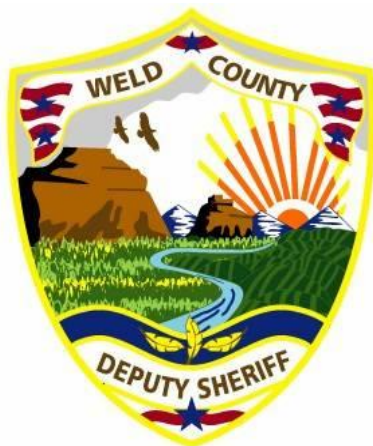


# WELD COUNTY SHERIFF'S OFFICE

## Post Incident Administrative Review



Deputy Sam Brownlee  
November 23, 2010

WELD COUNTY SHERIFF'S OFFICE

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## Methodology

An internal, three member incident review committee was appointed by Weld County Sheriff John Cooke. The Committee was composed of top staff officers, the Internal Affairs Commander and collectively represents more than 90 years of combined law enforcement experience. The Committee was tasked with reviewing the events of November 23, 2010 that preceded the death of Deputy Sam Brownlee in the line of duty and determine what improvements may be recommended to improve safety and potentially avert future tragedy.

This report is a summary of that Committee's comprehensive review of hundreds of pages of police reports from five law enforcement agencies, written and recorded officer statements, vehicle GPS locator and cell phone records, photographs, coroner reports, forensic laboratory reports, equipment research and the results of personal safety equipment examinations. Radio and telephone digital recordings, Weld County Sheriff's policy and operating procedures were reviewed extensively.

Information gathered during the review process was collated to comprehensively reconstruct a timeline of the events on November 23, 2010. This information was evaluated to gain a better understanding of the uncertain, dynamic and rapidly evolving events local law enforcement officers encountered and how these events may have influenced the tragic outcome.

It is important to note that current technology frequently allows events and activity to be documented by date, hour, minute and seconds. This data, however, comes from independent systems that do not share a synchronized clock. Collating this information, therefore, may not be as precise as it may appear. Where possible, event time data from recording equipment from one source, Weld County Communications, is referenced in order to maintain the relationship of events and activities in real time. Event time references from sources other than Weld County Communications are documented in endnotes.

## Incident Summary

The November 23, 2010 incident began about 09:37 hours when a vehicle was reported stolen during a domestic dispute in the City of Fort Morgan, Colorado. The perpetrator and driver of the stolen vehicle was the boyfriend of the victim who was positively identified by the victim as Ruben Reyes. Fort Morgan Police determined Reyes was an admitted gang member currently on felony probation in the 13<sup>th</sup> Judicial District for menacing and was restrained from driving. Family members subsequently told Fort Morgan Police that Reyes may be suicidal because of a previous statement about not going back to prison that Reyes had made to a family member before this incident.

Fort Morgan Police attempted to stop the vehicle Reyes was driving in Fort Morgan near the victim's residence shortly after the initial report. Reyes refused to stop and sped away. The vehicle was last seen traveling at a high rate of speed out of Fort Morgan. Fort Morgan Police elected not to pursue because Reyes had been positively identified and an arrest warrant could be obtained. Fort Morgan Police did notify Morgan County Communications to dispatch a BOLO (**B**e **O**n the **L**ook **O**ut) to Morgan County law enforcement agencies that included a description of the stolen vehicle and information about Reyes.

A few minutes later, a police officer in the nearby Town of Wiggins saw the stolen vehicle traveling westbound on Colorado Hwy 34 in Morgan County. Highway 34 is a paved, two lane highway with one lane of traffic east and westbound. The Wiggins Officer was driving a police SUV not immediately recognizable as a police vehicle. This officer began following the stolen vehicle with the regular flow of traffic without attempting contact and notified the Morgan County Communications Center.

An investigator from the Morgan County Sheriff's Office responded as back-up. The Morgan County car was operating emergency equipment as it approached the Wiggins police vehicle from behind. As the Morgan County car closed on the Wiggins officer, the stolen vehicle sped up and began driving into the oncoming eastbound traffic lane to pass westbound traffic. The Morgan County car passed the Wiggins vehicle and engaged in a high speed pursuit as a primary pursuit vehicle followed by the Wiggins Police SUV in a secondary pursuit position. When Fort Morgan police were contacted by Morgan County Communications about the pursuit, a Fort Morgan Officer radioed that the pursuit was a decision left to pursuing agencies.

The pursuit continued westbound on Hwy 34 for several miles at speeds in excess of 100 miles per hour. At the reported speeds, the pursuit was traveling approximately one mile every 35 seconds. The pursuit soon entered Weld County from Morgan County and was subject to multi-jurisdictional vehicle pursuit procedures for Weld County law enforcement.

As the pursuit was near the old township of Masters in Weld County at 10:34:41 hours, the Morgan County Communications Center radioed the following message to the Weld County Communications Center:

***"We've got a high speed in your direction, pursuit at this time. They're at Masters, excess of 100 miles per hour. Should be a black 2006 Nissan Altima stolen vehicle. Suspect driver is dangerous, possibly armed, but that is not known for sure. Morgan clear at 10:35...Also, they are on Hwy 34 and MAC 7 is the channel our chase car is on at this time."***

The message was acknowledged and documented by Weld County Communications with a dispatch computer incident entered at 10:36:40 hours as follows:

***"2006 Black Nissan susp dangerous possible armed..Mac 7 w/chase car..914UJY. High speed chase"***

Ten seconds after that message was entered, Weld County Communications radioed the area Weld County deputy with the following information:

***"Morgan County asking for assistance. They're at Hwy 13 and CR 87 westbound on a...it's Hwy 34 and CR 87 on a high speed chase. They're chasing a 2006 Black Nissan suspect in a dangerous, possibly armed, robbery. They're on MAC 7."***

Law enforcement agencies typically use unique radio channels for routine activity in order to separate the volume of use. MAC 7 is a radio channel with the capability for many law enforcement agencies to share a common channel when multi-agency coordination is necessary. Morgan County and Weld County were using MAC 7 for communication.

The Colorado State Patrol, Kersey Police, Greeley Police and Evans Police remained on routine radio communication channels throughout the pursuit. Pursuit updates from these agencies were relayed to agency dispatch centers and dispatched to Morgan and Weld County deputies on the MAC7 channel. To avoid the potential delay from the relay process, the Sheriff's Commander in this incident attempted to monitor several radio channels sometimes switching channels to communicate directly with an agency during the pursuit.

Weld Deputies Terry Reed and Sam Brownlee both acknowledged the radio message and began driving to intercept the pursuit on Hwy 34. They planned to deploy "stop sticks" that would safely deflate the tires of the stolen vehicle and stop it. Deputy Brownlee asked Weld County Communications to notify the on-duty shift commander. The shift commander that day was Commander Spalding.

Information entered into dispatch incident history records by Weld County Communications is immediately available to all Weld County law enforcement vehicles equipped with in-car mobile data terminals. Less than one minute after the radio call notifying Deputies Reed and Brownlee, Weld County Communications updated the dispatch incident history computer record at 10:37:41 hours as follows:

***\*\*\*Susp armed & Dangerous\*\*\*Armed Robbery occurred in Morgan, 107 mph***

A stolen vehicle in Fort Morgan that Fort Morgan Police decided not to pursue was now a stolen vehicle occupied by an armed and dangerous armed robbery suspect. Less than 23 minutes after this incident history record was entered, both Deputy Brownlee and Ruben Reyes would be fatally wounded.

The suspect vehicle sped past Deputies Reed and Brownlee as they approached the intersection of Hwy 34 and CR 61 before stop sticks could be deployed. The suspect vehicle was being followed by the Wiggins Police SUV but nearly one mile behind because the Morgan County vehicle had become disabled. At 10:43:57 hours, Deputy Brownlee radios that both he and Deputy Reed have begun pursuing the suspect vehicle still westbound on Hwy 34.

Hwy 34 widens into a four lane highway with two lanes of traffic in each direction shortly after the deputies engaged the pursuit. The Town of Kersey was about 5 miles ahead.

Kersey Police planned to deploy stop sticks near Hwy 34 and CR 53. However, as the stolen vehicle approached Kersey at 10:45:09 hours, Kersey Police radioed they had no stop sticks.

A Colorado State Trooper joined the pursuit at Kersey. Other Colorado State Troopers planned to deploy stop sticks across the westbound lanes of Hwy 34 just west of the Platte River Bridge a few miles ahead of the pursuit. Another Trooper was positioned to deploy an additional set of stop sticks, if needed, about one mile further west of the Platte River deployment.

At 10:47:32 hours, Weld County Commander Spalding radioed Weld County Communications to ask what the suspect was supposed to be armed with. A Morgan County Communications dispatcher monitoring the MAC7 radio channel heard Spalding's request and responded, ***"This party has made talks of suicide, does not want to go back to prison. As of this time, we do not know of any weapons in the vehicle. Does have gang affiliation."***

Commander Spalding responds, ***"Do we have a suicide or an armed robbery here?"***

The Morgan County dispatcher replies, ***"This is a stolen out of Morgan County but this party apparently, from family members, has made suicidal comments that he did not want to go back to prison. This vehicle is stolen out of Fort Morgan."***

One minute and 17 seconds after Commander Spalding received the Morgan County information, the suspect vehicle avoided the first set of stop sticks at the Platte River Bridge. During the avoidance maneuver, the vehicle lost control and traveled into the dirt median between the eastbound and westbound lanes of Hwy 34. When the suspect vehicle lost control in the median, Deputy Brownlee radioed, "TA, TA" at 10:49:09 hours apparently to report a traffic crash. Reyes recovered, however, continued across the dirt median and began driving westbound in the eastbound lanes of Hwy 34 into oncoming traffic. Deputy Brownlee and a CSP Trooper followed the suspect vehicle across the median and are also westbound in the eastbound lanes. However, the Trooper's car is damaged in the process and disabled. Deputy Reed continued westbound in the westbound lanes of Hwy 34.

Commander Spalding is responding to the Platte River Bridge deployment and was within a few hundred feet of the cross over when it occurred. As the stolen vehicle and Weld Deputy Brownlee pass by Commander Spalding, a deputy (possibly Deputy Brownlee) is heard on the radio saying, "That's him right there, Bill" at 10:49:21 hours. Commander Spalding performs a u-turn and is now westbound in the eastbound lanes of Hwy 34 behind Deputy Brownlee and the stolen vehicle.

The CSP Trooper further west of the Platte River Bridge deployment attempted a second stop stick deployment in the eastbound lanes. The stolen vehicle also avoided the second stop sticks and

continued westbound. It was now approaching the Greeley City limits and the interchange with Hwy 85 By-Pass.

Deputy Brownlee had fallen well behind the stolen vehicle and notified Weld Communications that he had lost the vehicle and was out of the pursuit at 10:50:20 hours. No Sheriff's deputies or other law enforcement vehicles were in direct pursuit of the stolen vehicle.

At 10:50:35 hours, a Greeley Police supervisor notified Greeley Police units to float toward the area of the chase on side streets but not to engage in the pursuit.

The stolen vehicle exited the eastbound lanes of Hwy 34 using the on ramp from southbound Hwy 85 By-Pass. At 10:50:51, Deputy Reed reported sighting the stolen vehicle northbound in the southbound lanes of Hwy 85 By-Pass. A Greeley Police Officer a few seconds later reported sighting the vehicle westbound on 22<sup>nd</sup> Street from Hwy 85 By-Pass. No Sheriff's deputies were in direct pursuit of the stolen vehicle.

At 10:51:18, Commander Spalding makes the following radio broadcast to all cars on the MAC 7 channel:

***"All cars from 12, this is getting into Greeley and we are getting into too much traffic. We may have to call this."***

During Commander Spalding's broadcast, a Greeley Police Officer on a different radio channel reported sighting the stolen vehicle southbound in the 2600 block of 8<sup>th</sup> Avenue to Weld Communications. An Evans Police Officer then reported the stolen vehicle was westbound on 26<sup>th</sup> Street from 8<sup>th</sup> Avenue. At 10:51:30 hours, the same Evans Officer was directly behind the stolen vehicle in primary pursuit vehicle position on 26<sup>th</sup> Street as the stolen vehicle and Evans Officer cross 11<sup>th</sup> Avenue. A second pursuit began in the City of Greeley by the Evans Police.

The pursuit entered primarily residential areas from the 11th Avenue and 26th Street location. Speeds were reported to be 65 mph. While no Sheriff's deputies were in direct pursuit of the vehicle, deputies reacted to the Evans Officer's information and were maneuvering to shadow the pursuit on parallel streets and intercept it if it became necessary. These streets were also within the City of Greeley in residential areas.

Snaking through residential areas, the pursuit eventually turned from westbound 25<sup>th</sup> Street to southbound 19<sup>th</sup> Avenue at 10:53:00 hours. While speeds are reported to be 25 mph, this location is on the east side of Jackson Elementary School. This location is subsequently mentioned as a consideration when Colorado State Patrol Captain Matzke ordered no further trooper participation at 10:54 hours.

At 10:53:30 hours, the pursuit turned westbound on 28<sup>th</sup> Street immediately adjacent to Hwy 34 By-Pass. Speeds are reported to be 35 mph. The pursuit turned southbound on 23<sup>rd</sup> Avenue from 28<sup>th</sup> Street at 10:54:19 hours. Deputy Reed reports he is behind the primary Evans pursuit vehicle at 29<sup>th</sup> Street southbound on 23<sup>rd</sup> Avenue. Speeds increase significantly from those reported earlier<sup>1</sup>.

Commander Spalding makes a second general radio broadcast at 10:55:00 hours as follows:

***"All cars, this is 12. This is getting to the point of being dangerous here. We're going into too much traffic and in town around schools. We may have to call this real soon and if we don't get anything here, we're going to call it."***

Following this transmission, another Weld Deputy radioed Commander Spalding to clarify if this is an armed robbery suspect. The Commander responds, ***"Negative. As far as we've got here, all it is is a stolen car and a suicidal threat."***

At 10:55:15 hours, the Evans officer in primary pursuit position reports seeing smoke coming from the engine of the stolen car. Fifteen seconds later, the pursuit turns westbound on 37<sup>th</sup> Street from 23<sup>rd</sup> Avenue. Deputy Reed moved to the primary pursuit vehicle position with the Evans car now in

secondary. Speeds are reported to be about 25 mph and a front tire of the stolen vehicle appeared to be disintegrating a few seconds later. It is clear to pursuing officers that the stolen vehicle was not going much further.

The stolen vehicle turned from 37<sup>th</sup> Street to southbound 35<sup>th</sup> Avenue at 10:56:44 hours and made a left turn from 35<sup>th</sup> Avenue into the Cave Creek subdivision about 45 seconds later. At this point, the stolen vehicle is being directly followed by Deputy Reed in primary pursuit position followed by two Evans Police vehicles and a fourth vehicle driven by Weld County Deputy Patch. The stolen vehicle is reported to be traveling between 20 and 30 mph in the Cave Creek subdivision.

Deputy Patch briefly radios Deputy Brownlee about deploying at the exits of the subdivision to keep the stolen vehicle from leaving. Deputy Brownlee stated he was at 35<sup>th</sup> Avenue just south of Hwy 34 By-Pass.

At 10:57:05 Weld Investigator Noonan broadcasts to all units on the MAC 7 channel that the suspect is wanted for domestic violence, stolen vehicle, ~~habitual~~ ~~traffic~~ ~~offender~~ (HTO) and suicidal. No weapons they know -of. Commander Spalding acknowledges this information with "OK". Weld Investigator Noonan had made an earlier cell phone call at 10:54 hours<sup>2</sup> to speak directly with a Fort Morgan officer and clarify possible charges against Reyes. Noonan made a second, one minute cell phone call to Commander Spalding's cell phone at 10:58 hours<sup>3</sup>.

A private citizen driving a pick-up truck pulling a large enclosed trailer in the Cave Creek subdivision saw the vehicle pursued by law enforcement. Trying to render aid, the citizen positioned the pick-up truck and trailer across lanes of traffic on Coyote Lane in front of the pursued vehicle.

The stolen vehicle passed behind the trailer and came to a stop partially on the sidewalk. The car horn in the stolen vehicle was stuck on and blaring. Deputy Reed drove around the front of the pick-up truck and, after seeing the stolen vehicle was now stationary, came to a stop on the left side of the stolen vehicle. Evans Police Officer 1 reported that the pursued vehicle had stopped on Coyote Lane at 10:58:48 hours. Evans Police Officer 1 stopped near the rear of the stolen vehicle.

The citizen driving the pick-up and trailer then drove forward to move out of the way of responding officers and came to a stop parallel with Coyote Lane a short distance from the pursued vehicle. Deputy Patch, followed by Evans Police Officer 2 in another car, stopped a short distance behind Evans Officer 1's vehicle.

Deputy Reed exited his vehicle, drew his sidearm and ran to the front of the stolen vehicle. He yelled loud commands for Reyes to show his hands and exit the vehicle. Evans Officer 1 exited his vehicle, drew his sidearm and approached the stolen vehicle from the rear on the driver's side. Deputy Patch exited his vehicle and drew his weapon. Evans Officer #2 exited his vehicle and was armed with a shotgun. Both Deputy Patch and Evans Officer 2 approached the stolen vehicle from the rear.

Deputy Patch joined Evans Officer 1 on the driver's side of the stolen vehicle while Evans Officer #2 remained to the rear of the vehicle on the driver side. Several of the officers were shouting, "Show us your hands!" to Reyes. Reyes did not show his hands or attempt to exit the vehicle.

At 10:59:28 hours, Deputy Brownlee arrived at the scene. Deputy Brownlee stopped his vehicle on the right side of Coyote Lane to the left and rear of the vehicle driven by Evans Officer 2. His specific approach was not witnessed by the four officers at the stolen vehicle.

Evans Officer 1 saw the driver's door open slightly as he was standing on the driver's side but when Reyes saw Evans Officer 1, the door closed. Evans Officer 1 tried to open the driver's door but found it would not after Reyes closed it.

Deputy Reed moved from the front of the stolen vehicle to the passenger side and opened the passenger door. Deputy Patch moved around the rear of the stolen vehicle to the passenger side near the B pillar. Deputy Reed continued verbal commands for Reyes to show his hands and to get out of the vehicle. Reyes remained in the driver position of the stolen vehicle and did not comply.

Evans Officer 1 moved around the back of the vehicle to the passenger side and was standing between two Weld Deputies already on that side of the vehicle. Deputy Patch was probably to the left of Evans Officer 1 and Deputy Reed probably on the right.

Evans Officer 1 fired a Model X-26 Taser at Reyes through the open passenger door. Data from the Taser (not synchronized to radio time stamps) shows activation at 10:59:42 hours for 7 seconds followed by a second activation for 5 more seconds<sup>4</sup>. The Taser was ineffective.

Reyes abruptly moved from the driver's position of the vehicle across the front seats toward the open passenger door. The sudden movement apparently surprised officers on the passenger side of the vehicle and left them uncertain of Reyes's intent. As Reyes was partially across the seats, he was grabbed about his upper body and pulled from the vehicle probably by Deputy Brownlee. This is the first time Deputy Brownlee was reported to be seen at the scene.

Reyes was stood upright and held with his back against the stolen vehicle facing Deputies Brownlee, Patch and Reed. Reyes immediately began punching, fighting and struggling.

After Reyes was forced up against the car, Deputy Reed holstered his sidearm and attempted to control one of Reyes' hands. Deputy Patch holstered his sidearm after seeing Deputy Brownlee "hands on" and before Deputy Patch engaged the suspect. The status of Deputy Brownlee's sidearm at that point in time cannot be established.

Deputy Patch saw Deputy Brownlee's left hand was empty but he could not see Deputy Brownlee's right hand. Deputy Brownlee's sidearm most likely was holstered but not secured or in his right hand at the time he physically engaged with the suspect. There is no indication that the holster self locking weapon retention system was breeched. That condition makes it less probable that the sidearm was removed from the holster after it was secured by the self locking weapon retention system.

Evans Officer 1 entered the struggle by pushing his right shoulder into Reyes' midsection. After making contact with Reyes and holstering his sidearm, Evans Officer 1 grabbed the front of suspect's legs. At this point, Reyes, the three Deputies and Evans Officer 1 fall as a group to the horizontal road surface. This action is not anticipated by Deputies Reed and Patch. Deputy Reed appears to have fallen approximately on Reyes' left side in very close proximity. Reyes fell face down with Deputy Brownlee initially falling face down to Reyes' right in very close proximity. Deputy Patch landed on top of both Reyes and Brownlee. Evans Officer 1 landed on Reyes' legs.

Deputy Reed was on his knees near the suspect's left shoulder pulling on Reyes' left arm underneath Reyes to control it. Evans Officer 1 attempted to dry stun the suspect with the Taser while on the ground. Taser records show activation at 11:00:10 hours for 5 seconds and another at 11:00:16 hours for 5 more seconds<sup>5</sup>.

Deputy Patch saw Reyes reaching around Deputy Brownlee's back with the right arm toward what would have been Deputy Brownlee's right side holster. Deputy Patch grabbed Reyes' right arm to control it and heard Deputy Brownlee shouting, "He's got my gun! He's got my gun!" Deputy Patch loudly said, "No, I got his hand!" Three muffled shots followed.

As Deputy Patch gained control of Reyes's right hand, he then saw Reyes had a gun in his left hand underneath Reyes. The gun was pointed upward toward the neck or upper chest region. Deputy Patch grabbed the gun with both hands trying to take it away from Reyes but Reyes would not let go. Evans Officer 1 fired three shots at Reyes. Following these shots, Deputy Patch gained control of the gun and removed it from Reyes.

63 seconds after Deputy Brownlee checked out at the scene, a garbled "Shots fired" radio transmission is aired. A second transmission requesting EMS occurred at 11:00:47 hours. Both Deputy Brownlee and Ruben Reyes were transported by ambulance to North Colorado Medical Center in Greeley. Neither man survived.

Deputy Brownlee was struck three times by bullets from his .45 caliber semi automatic sidearm. The circumstances and trajectories suggest the weapon was fired in close contact at different angles.



One bullet appears to have ricocheted from the paved road surface and struck Deputy Brownlee's right hand. One bullet lodged in the upper left quadrant of the front panel of the ballistic vest Deputy Brownlee was wearing. This bullet did not penetrate the vest. The lethal third bullet also entered the ballistic vest in the upper left vest quadrant but at a very shallow angle slightly above the second bullet.

The third bullet appears to have made contact with, and slightly deformed, one of the points on the Deputy Brownlee's seven point shirt badge adjacent to the bullet's point of entry into the vest. The third bullet only partially penetrated the vest. It penetrated some of the top layers of ballistic vest material, travelled within the ballistic vest panel from the point of entry and exited the top of the panel striking Deputy Brownlee in the head. While the ballistic vest was equipped with a soft trauma plate, it was not hit by either bullet that struck the vest.

## **Sheriff's Policy and Operating Procedure**

Weld County Sheriff's Office Policy **2.7.0 PHYSICAL AND DEADLY FORCE** states that deputies will use the least amount of force necessary to safely control a given situation. The Policy allows deadly force under two conditions:

- 1) When there is a reasonable belief of imminent death or serious bodily injury to self or others; or,
- 2) When there is probable cause to believe a person is a fleeing felon and poses a significant threat to human life should escape occur

This Policy also states that agency physical and deadly force training will emphasize, "...employee and citizen safety."

Policy **2.8.0 SAFETY** states that employees are expected to practice safety in all facets of their job duties. The Policy makes clear that no employee is expected to intentionally place themselves in a situation where injury or death is likely to result. The Policy requires training on the following safety topics:

- 1) Operating a motor vehicle in routine and emergency conditions
- 2) Arrest control, use of restraints, and restraint devices
- 3) Self protection
- 4) Search and seizure safety

The statement, "Employees are to operate equipment and conduct themselves in a safe manner...and follow emergency procedures," appears in this Policy.

Public Safety Bureau Procedure **1.7.04 Less Lethal Vehicle Stop Alternatives** authorizes the use of "stop sticks" when reasonably necessary to provide safe control and when deployment is tactically sound. This procedure requires seven considerations be made to determine if deployment would be tactically sound. The procedure requires a supervisor be notified in advance of deployment, when possible.

Public Safety Bureau procedure **2.3.12 Emergency Response** lists rationale that must be considered and weighed prior to and when initiating or continuing an emergency response. The rationale acknowledges that emergency response has inherent risks to occupants of emergency vehicles and the public. The risk to the public is required to be considered and weighed against several factors listed in the directive: The threat of injury, further injury, nature of reported injury, the risk to the public

if the perpetrator were not immediately apprehended, alternatives to a response of long duration, and the conditions an emergency response will be performed in.

This procedure mandates that emergency response be objectively reasonable within the facts and information known to responding personnel at the time. It places responsibility on the on-duty supervisor to ensure the response is objectively reasonable given the facts known at the time. The procedure limits the number of responding emergency vehicles but allows exceptions when necessary.

Public Safety procedure **2.3.17 Multi-Jurisdictional Vehicular Pursuit** lists other operational considerations for a pursuit. The seriousness of the offense giving rise to the pursuit must be balanced against the risk to the public from pursuing agencies. Alternatives to pursuit for apprehending an offender must be considered and the seriousness of the offense must be weighed against the need to immediately apprehend an offender. Like **2.3.12 Emergency Response**, this directive requires consideration of conditions, such as traffic volume, in which a pursuit is conducted.

This procedure limits direct pursuit to one primary and one secondary vehicle when practical but allows for necessary exceptions. It describes the support role of other law enforcement vehicles that include blocking cross traffic at major intersections and notifying pursuit vehicles of special hazards that may be encountered. Overall command of a multi-jurisdictional pursuit rests with the jurisdiction of the primary pursuit vehicle but may shift to whatever jurisdiction assumes the primary pursuit position.

The procedure makes a supervisor responsible to terminate a pursuit whenever the danger to the public or personnel involved becomes greater than the risk to the public created by fleeing person not immediately being apprehended. The procedure requires felony or high-risk stop procedures to be employed upon termination of a pursuit and recommends that physical custody of an offender be made by personnel other than the operators of primary and secondary pursuit vehicles.

Public Safety Bureau procedure **2.3.24 Vehicular Pursuit** is not materially different from **2.3.17 Multi-Jurisdictional Pursuit**. Public Safety Bureau procedures **2.3.17 Multi-Jurisdictional Vehicular Pursuit** and **2.3.24 Vehicular Pursuit** both include "...felony or high-risk stop procedures..." being required upon termination of a pursuit. While felony and high-risk stop training is included in Public Safety Bureau officer training, a specific, written felony or high-risk stop procedure does not appear in Public Safety Bureau procedures.

## Equipment

### 1. Ballistic Vest

Deputy Sam Brownlee was wearing a Threat Level II ballistic vest. The Monarch Summit, Butterfly Lite model was manufactured by Second Chance Body Armor on March 7, 2006. The vest is an upgraded version of the standard Sheriff's Office issued vest in 2006. At that time, deputies were offered the option wear the issued vest or purchase an upgraded vest at their own expense. The model worn by Deputy Brownlee was the upgraded model.

The vest was inspected for any wear and tear. The inspection revealed no defects or concerns. It appeared that the vest was given the appropriate and required maintenance. There were no signs of tears or degradation to the vest material besides that of the impact areas. The inspection of the vest also looked for areas where folds or cracks could have caused degradation but not were found.

It should be noted that Second Chance Body Armor was involved in a recall of certain vests in 2005. The Second Chance Monarch Butterfly Lite and Monarch Summit Butterfly Lite upgrade were not subject to the recall.

Recalled vests contained a ballistic material called Zylon. A study by the manufacture of Zylon indicated that there was a serious "loss of strength" problem over a relatively short amount of time when Zylon had been exposed to heat (104 degrees) and (80%) humidity. The Sheriff's Office was aware of this information and confirmed that the Monarch Butterfly Lite model vests being issued did not contain Zylon and met Threat Level II standards for that time period.

Deputy Brownlee's vest front panel was impacted by two bullet projectiles. One bullet impact was just below the outside left breast pocket flap. The projectile penetrated a few layers of the ballistic fabric and then lodged in that fabric. This projectile was not a fatal shot and the body armor functioned as intended.

The second bullet projectile impact occurred just above the left breast pocket area closer towards the center of the chest. The projectile appears to have initially struck the bottom left point of the metal, 7 point star badge worn on a uniform shirt. The projectile glanced off the point of the star and entered the vest at a very shallow, upward angle. The bullet penetrated through several layers of the ballistic fabric and travelled between the fabric layers until it exited the protective panel at the top edge. The bullet then struck Deputy Brownlee in the head.

In 2006, the U.S. Department of Justice revised standards for body armor in NIJ Standard - 0101.06. Testing requirements at that time included several test shots fired at a 30 degree angle. Inspection of Deputy Brownlee's vest indicated that the fatal bullet angle was much greater than 30 degrees. This was an extreme angle to the vest and may account for the bullet's path between layers of protective material before exiting out the top. It also appears the projectile entered the vest at an angle the vest may not have been tested for.

## **2. Duty Holster**

Deputy Brownlee's holster was a Safariland Model 6280 level II retention duty Holster, Mid Ride. This is the base model of Self Locking System (SLS). The (SLS) system is a rotating hood that is released when simultaneously pushed down and rotated forward. The holster design causes it to become more secure when upward force is applied. The Sheriff's Office minimum standard requires a level II retention holster. This holster also has a tensioning device, which, when firmly adjusted, increases the holster to a level III retention holster. At the time Deputy Brownlee's holster was inspected, the tension screw did not indicate it was adjusted to a retention level III classification.

The holster was inspected for any wear or defects. The inspection found that the holster appeared to be functioning as designed and no defects were found.

The inspection was unable to determine whether the weapon was in or out of the holster prior to Deputy Brownlee going to the ground. The inspection of the holster could not determine whether the SLS was in a secured or unsecured position.

The holster did show scratches on two outside holster screws that may have been consistent with Deputy Brownlee being on his right side in contact with the road surface. These scratches were evaluated relative to scuff marks near the pivot point on the SLS to determine if it was possible to

establish the position of the SLS when the scratches on the holster were made. The SLS portion of the holster was examined by forensic lab staff. The scuff found on the SLS did not give any indication of position relative to the holster scratches. The review committee was therefore unable to draw any conclusion about the position of the SLS.

The holster was also inspected for any signs that the weapon had been forcibly removed from the holster. There was no indication that the weapon was forcibly taken out of the holster. The holster had no damage such as scuff or gouge marks that would indicate any type of forced removal.

The holster appears to function as designed.

### **3. Duty Weapon**

Deputy Brownlee carried a Kimber, model Eclipse II, 45 ACP with a 5 inch barrel. This pistol is equipped with two separate safety devices. The two safety devices are a thumb safety and a grip safety. The thumb safety has to be in the off position and the grip safety has to be depressed simultaneously for the weapon to fire.

The weapon was sent to the Colorado Bureau of Investigation for functionality testing. The CBI examined the weapons for proper mechanical function including both safety features. The weapon was test fired using the magazine and two rounds submitted by the investigating agency. The CBI concluded that the safety features work properly and the weapon was fully functional making it capable of inflicting serious injury or death.

This weapon is not issued by the Sheriff's Office. Public Safety Bureau procedure 10.5.100 establishes specifications for any personally owned weapons a deputy may carry on duty. A review of the specifications indicates that Deputy Brownlee's weapon met all specifications outlined in procedure 10.5.100.

### **4. Duty Ammo**

The duty ammo carried by Deputy Brownlee was Winchester, RA45T, 45ACP 230gr. This is a hollow point round and the standard issued duty ammo for all 45 caliber pistols carried by Weld County Deputies.

Studies indicate that the Winchester RA45T, 45ACP 230gr. round was designed to perform acceptably after defeating intermediate barriers<sup>6</sup>. Acceptable performance requires that a bullet penetrate deep and cause incapacitation after striking a hard object (badge) and when the hollow nose cavity is plugged (clothing)<sup>7</sup>. Ammunition would otherwise be considered undesirable for Law Enforcement purposes. These studies explain the relatively intact form and condition of the bullets that struck the ballistic vest and the one bullet that subsequently caused Deputy Brownlee's fatal wound.

## **Summary and Recommendations**

The circumstances of November 23, 2010 were uncertain, dynamic and rapidly evolving requiring accurate, consolidated information to make quick decisions. Any assessment of what occurred and subsequent recommendations must consider what officers knew or encountered at the time and not be evaluated from the comfort of 20/20 hindsight.

The events of that day have two separate and distinct phases: 1) A multi-jurisdictional pursuit, and, 2) An arrest situation involving a non-compliant subject within a stationary motor vehicle. Multi-jurisdictional pursuits typically occur with low frequency while arrests of non-compliant subjects within a stationary motor vehicle occur more frequently and usually are not preceded by a pursuit. The apprehension of uncooperative suspects is not unusual.

The information officers initially received about the nature of the pursuit from Morgan County created an initial perception that significantly conflicted with later, updated information. Rather than updated information providing clarity, it appears to have caused uncertainty about the reliability of all information. This uncertainty was difficult to resolve because of the time period and ineffective verbal communication. Not all officers involved in the pursuit heard updated information about the nature of the chase at all.

While inherent risks of injury and death are created by a pursuit, there were no injuries or deaths to anyone during the pursuit of November 23, 2010. Deputy Brownlee did not die during a pursuit.

Deputy Brownlee's direct participation in the pursuit ended when the vehicle he had pursued entered Greeley city limits. His death occurred within the totality of circumstances surrounding the apprehension of a suspect within a stationary motor vehicle after a pursuit had ended. He appears to have been the sixth law enforcement officer to arrive at that scene most probably with the intent to provide whatever assistance was required by officers already there.

This review did not find one factor that directly resulted in Deputy Brownlee's death. However, improvements may collectively better manage risk in the future:

- 1. On-duty supervisors and deputies must give greater weight to the risk a pursuit represents to the public and themselves**
  - a. Current pursuit procedure operational considerations provide adequate guidance but need more consistent application and accountability**
  - b. Training should be enhanced to include annual objective evaluation of decision making in response to a range of scenarios including the identification of alternatives to pursuit**
- 2. On-duty supervisors have responsibility to exercise greater affirmative command and control of a pursuit or emergency response**
- 3. The multi-jurisdictional pursuit policy within Weld County Law Enforcement should be reviewed and updated as necessary**
  - a. Standardize a protocol to clarify the basis for a pursuit by requiring concise, specific information to reduce ambiguity and misperception**
  - b. Improve multi-channel radio communication use protocols to consolidate and improve the continuity of information**
  - c. Clarify how command and control of a pursuit are maintained and the role of outside agencies related to the command and control structure**
- 4. Felony and high-risk stop procedures are currently required at the termination of a pursuit. Training to execute felony and high-risk stops is evaluated according to the training objectives of qualified individual instructors. A unified procedure for felony and high risk stop tactics that emphasize unified tactical command, containment and control before considering extraction alternatives is recommended to enhance consistency.**

- a. **One multi-jurisdictional felony and high-risk stop procedure including regular cross jurisdictional joint training would be optimal because agencies frequently work together**
  5. **Improve emergency response discipline by secondary law enforcement responders and reduce the number and duration of the number of operating emergency vehicles to reduce overall risk and improve command and control.**
  6. **Current arrest control training and weapon retention should be expanded to include greater emphasis on the weapon retention of a non-secure weapon. Expanded training should include objective evaluation of weapon retention during unplanned physical encounters with unarmed subjects.**
  7. **While a significant amount of training is currently provided, overall training delivery, documentation and information retrieval would be significantly improved from the skill set of a professional FTE training position rather than the current practice of collateral assignment.**
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<sup>1</sup> Deputy Reed AVL records, 23rd Avenue segment

<sup>2</sup> Noonan cell phone record

<sup>3</sup> Ibid.

<sup>4</sup> Evans Police report 102606.6. Time in this document reflects adjustment of minus 5 minutes 52 seconds per information in this report.

<sup>5</sup> Ibid.

<sup>6</sup> "Handgun Wounding Factors and Effectiveness," Federal Bureau of Investigation Ammunition Data, Rev. 12/07/2010, p 11-12.

<sup>7</sup> "An Overview of Terminal Ballistics", National Rifle Association, Law Enforcement Activities Division, Technical Information Set, copyright 2000, p 119-120.