

SECOND JUDICIAL DISTRICT
BERNALILLO COUNTY
STATE OF NEW MEXICO

REBEKAH WRIGHT, as Personal Representative
of the Estate of BILLY R. WEINMAN, deceased,

Plaintiff,

No. D-202-CV-2020-01752

v.

SHANNON MURDOCK and THE SEVENTH
JUDICIAL DISTRICT COURT OF NEW MEXICO,

Defendants.

COMPLAINT TO RECOVER DAMAGES FOR WRONGFUL DEATH

Plaintiff brings this action alleging negligence against Defendant Shannon Murdock and the Seventh Judicial District Court of New Mexico and seeks damages under the New Mexico Wrongful Death Act, NMSA 1978, § 41-2-1, *et seq.*, for the injury and death to decedent Billy R. Weinman. As further stated below, Billy R. Weinman was killed when Judge Shannon Murdock, driving a large SUV, struck him from behind at a high rate of speed while he was bicycling on Highway 60 near Mountainair, New Mexico. Upon information and belief, Judge Murdock was traveling upon Highway 60 at the time of the crash as part of her duties and obligations as a District Court Judge for the Seventh Judicial District Court of New Mexico. Plaintiff now seeks damages for the losses endured as a result of Defendants' actions.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, Rebekah Wright, is the Personal Representative of the Estate of Billy R. Weinman. Ms. Wright resides in Albuquerque, New Mexico, within the County of Bernalillo.

2. Defendant Shannon Murdock resides in Torrance County, New Mexico. Defendant Murdock is a district court judge for the Seventh Judicial District Court, and her office is located at the Neil Mertz Judicial Complex, 903 N. 5th St., Estancia, NM 87016.

3. Defendant Seventh Judicial District Court of New Mexico is a subdivision of the Judicial Branch of the State of New Mexico. The principal offices of The Seventh Judicial District Court are located in Catron, Sierra, Socorro, and Torrance Counties. The principal offices of the Judicial Branch of the State of New Mexico are located in Santa Fe County, New Mexico.

4. This Court has jurisdiction over the parties and the subject matter of this litigation, and venue is proper pursuant to NMSA 1978, Section 38-3-1.

FACTS

5. The decedent, Billy R. Weinman, was a resident of Mountainair, New Mexico and was sixty-seven (67) years old at the time of his death.

6. Billy had one son, Matthew Weinman, and one grandchild, who had only recently been born.

7. Billy was an active person. He was an avid pickleball player and had been instrumental in bringing a pickleball craze to Mountainair. He was also a dedicated and experienced cyclist. In fact, prior to his death, Billy had recently completed a bicycle ride from Mountainair to Kansas City, Kansas to visit his son, Matthew Weinman.

8. One of Billy's best friends and frequent cycling companions was Karl Baumgartner. Billy and Karl had been riding together for approximately six years and had traveled countless miles together.

9. On the morning of September 21, 2019, Billy and Karl set off from Karl's house in Mountainair for a bicycle ride. They rode dirt roads out to Abo, New Mexico, where they ate lunch at the San Lorenzo Catholic Church. After lunch, Billy and Karl road their bicycles east on U.S. Route 60 back towards Mountainair. This was a fifteen to twenty-mile loop that Billy and Karl had ridden numerous times before without incident.

10. Billy and Karl rode single file, with Billy riding in the lead and Karl approximately two feet behind. Both wore brightly colored vests and helmets.

11. In the early morning of September 21, 2019, Defendant Murdock drove from her home in Moriarty, New Mexico to an 8:00 a.m. work meeting in Socorro, New Mexico. She was driving a 2015 Ford Expedition.

12. Upon information and belief, Defendant Murdock's attendance at this meeting was related to her employment as a judge with Defendant Seventh Judicial District Court.

13. Upon information and belief, Defendant Murdock is, and at all relevant times was, authorized to use her personal vehicle (including her 2015 Ford Expedition), to conduct her judicial duties as a District Court Judge for Defendant Seventh Judicial District Court.

14. At approximately 11:30 a.m., Defendant Murdock left Socorro and drove north on Interstate 25.

15. At least one witness observed Defendant Murdock driving erratically and swerving in and out of her lane. When the witness (Kristi Chavez) attempted to pass Defendant Murdock, Defendant Murdock erratically swerved into Ms. Chavez' lane almost running her off of the road.

16. Both Ms. Chavez and Defendant Murdock exited Interstate 25 at exit 175 and headed east on U.S. Route 60.

17. Ahead of Defendant Murdock were two other vehicles. The front vehicle was a grey Dodge pickup truck driven by Kristi Chavez.

18. As all three vehicles approached Mountainair at approximately 12:45pm, the weather was clear, and the road was straight. The three vehicles approached Billy and Karl riding up the final hill into town.

19. Billy and Karl were slowly ascending the hill.

20. As U.S. Route 60 does not have a shoulder wide enough for riding a bicycle, Billy and Karl were riding on the white line on the far-right edge of the roadway.

21. As the three cars approached from behind them, Karl, who was riding in the rear, announced, "car back," to let Billy know of the approaching vehicles.

22. Ms. Chavez, seeing Billy and Karl, passed them by moving to her left and into the westbound lane. She then watched in her rearview mirror as the other two cars approached Billy and Karl.

23. The second vehicle also moved partially to its left and into the westbound lane to pass Billy and Karl.

24. Defendant Murdock, however, did not move over or slow down.

25. Rather, Defendant Murdock crashed into Karl and Billy in quick succession.

26. Defendant Murdock hit Karl with the front right corner of the Ford Expedition. Karl was thrown forward and to the right off the road and into the dirt. Karl suffered severe injuries, including a cracked vertebrae in his neck and back, broken ribs, and a torn and lacerated left calf. Karl was airlifted to University of New Mexico Hospital, and survived.

27. Defendant Murdock also hit Billy with the front right corner of the Ford Expedition. The front right fender smashed into Billy's buttocks and hip, and he went up over the hood where the windshield impacted his head. This violent impact split open Billy's helmet.

28. Billy was thrown 68 feet through the air and came to rest in the dirt beside the road.

29. Billy suffered catastrophic blunt force trauma to his head, neck, back, and hip.

30. As a result of Defendant Murdock's (at a minimum) negligent actions, Billy died on scene.

31. The crash was investigated by New Mexico State Police and Torrance County Sheriff's Office. A copy of the New Mexico State Police report is attached as Plaintiff's Exhibit A. A copy of the Torrance County Sheriff's Office report is attached as Plaintiff's Exhibit B.

32. At the time of the crash, Defendant Murdock produced her personal cellular phone for inspection by law enforcement and the District Attorney's Office.

33. However, Defendant Murdock failed to even advise law enforcement of the existence of her work issued cellular phone and did not provide it for inspection by the police and the District Attorney's office.

34. Upon information and belief, Defendant Murdock's work issued cellular phone remained in constant use in the days and months after the crash.

35. Defendant Murdock's work-issued cellular phone was not mirror imaged nor were the contents of that phone preserved as potential evidence in this case.

CAUSES OF ACTION

COUNT I: Negligence against Defendant Murdock

36. The allegations contained in all preceding paragraphs are realleged as if fully set forth herein.

37. At all times relevant to the allegations in this Complaint, Defendant Murdock was acting outside the scope of the duties of her employment with Defendant Seventh Judicial District Court and solely in her individual capacity.

38. Defendant Murdock owed a duty to Billy Weinman to use ordinary and reasonable care in the operation of the Ford Expedition involved in the fatal crash which occurred on September 21, 2019. This duty of care was required to avoid the foreseeable risk of injury or death which could be caused by operating the Ford Expedition in an unsafe manner.

39. Defendant Murdock breached this duty by failing to use ordinary care in the operation of the Ford Expedition involved in the death of Billy Weinman and by failing to keep a proper look out and failure to follow basic traffic laws meant to ensure the safety of the public who use public roads, including Billy R. Weinman.

40. The fatal injuries suffered by Billy R. Weinman were a direct and proximate result of the breaches of the duties owed to him by Defendant Murdock.

**ALTERNATIVE TO COUNT I:
Negligence against Defendants Murdock and Seventh Judicial District Court**

41. The allegations contained in all preceding paragraphs are realleged as if fully set forth herein.

42. At all times relevant to the allegations in this Complaint, in the alternative, Defendant Murdock acted in her capacity as an employee and agent of Defendant Seventh Judicial District Court, and within the scope of the duties of her employment with Defendant Seventh Judicial District Court. Defendant Seventh Judicial District Court is therefore vicariously liable for the negligent actions of Defendant Murdock as alleged herein.

43. Defendant Murdock and Defendant Seventh Judicial District Court, acting through its employees and agents, owed a duty to Billy Weinman to use ordinary and reasonable care in the operation of the Ford Expedition involved in the fatal crash which occurred on September 21, 2019. This duty of care was required to avoid the foreseeable risk of injury or death which could be caused by operating the Ford Expedition in an unsafe manner.

44. Defendant Murdock and Defendant Seventh Judicial District Court, acting through its employees and agents, breached this duty by failing to use ordinary care in the operation of the Ford Expedition involved in the death of Billy R. Weinman and by failing to follow basic traffic laws meant to ensure the safety of the public who use public roads, including Billy R. Weinman.

45. Under the New Mexico Tort Claims act, immunity is waived in this matter under NMSA 1978, § 41-4-5 because Defendant Murdock negligently operated a vehicle, while acting within the course and scope of her employment, when she killed Billy R. Weinman.

46. The fatal injuries suffered by Billy R. Weinman were a direct and proximate result of the breaches of the duties owed to him by Defendants Murdock and Seventh Judicial District Court.

**COUNT II:
Negligence Per Se against Defendant Murdock Individually**

47. The allegations contained in all preceding paragraphs are realleged as if fully set forth herein.

48. At all times relevant to the allegations in this Complaint, Defendant Murdock acted outside the scope of the duties of her employment with Defendant Seventh Judicial District Court and solely in her individual capacity.

49. At the time of the death of Billy Weinman, existing statutes, ordinances, regulations, and laws prescribed certain actions and defined standards of conduct, either explicitly or implicitly, related to the proper operation of a motor vehicle on public roads. These ordinances, regulations and laws include, among other things, motor vehicle speed restrictions, standards regarding the level of care and attention to be used in operating a motor vehicle, and provisions governing the proper overtaking of another vehicle. Defendant Murdock violated those ordinances, regulations, and laws by failing to control the Ford Expedition at the proper speed as necessary to avoid colliding with Billy R. Weinman.

50. Defendant Murdock also violated those ordinances, regulations, and laws by failing to give full time and attention to the operation of the Ford Expedition.

51. Defendant Murdock also violated those ordinances, regulations, and laws by failing to maintain a safe distance from Billy R. Weinman when overtaking and attempting to pass him.

52. The harm, injuries, and subsequent death suffered by Billy R. Weinman are generally of the type the State of New Mexico sought to prevent in the enactment of these ordinances, regulations, and laws.

53. The death of Billy R. Weinman was a direct and proximate result of the negligence per se of Defendant Murdock.

**ALTERNATIVE TO COUNT II:
Negligence Per Se against Defendants Murdock and Seventh Judicial District Court**

54. The allegations contained in all preceding paragraphs are realleged as if fully set forth herein.

55. At all times relevant to the allegations in this Complaint, in the alternative, Defendant Murdock acted in her capacity as an employee and agent of Defendant Seventh Judicial District Court, and within the scope of the duties of her employment with Defendant Seventh Judicial District Court. Defendant Seventh Judicial District Court is therefore vicariously liable for the negligence per se of Defendant Murdock as alleged herein.

56. At the time of the death of Billy Weinman, existing ordinances, regulations, and laws prescribed certain actions and defined standards of conduct, either explicitly or implicitly, related to the proper operation of a motor vehicle on public roads. These ordinances, regulations and laws include, among other things, motor vehicle speed restrictions, standards regarding the level of care and attention to be used in operating a motor vehicle, and provisions governing the proper overtaking of another vehicle.

57. Defendant Murdock and Defendant Seventh Judicial District Court violated those ordinances, regulations, and laws by failing to pay attention and control the Ford Expedition, including at the proper speed, as necessary to avoid killing Billy R. Weinman.

58. Defendant Murdock and Defendant Seventh Judicial District Court also violated those ordinances, regulations, and laws by failing to give full time and attention to the operation of the Ford Expedition.

59. Defendant Murdock and Defendant Seventh Judicial District Court also violated those ordinances, regulations, and laws by failing to maintain a safe distance from Billy R. Weinman when attempting to pass him.

60. The harm, injuries, and subsequent death suffered by Billy R. Weinman are generally of the type the State of New Mexico sought to prevent in the enactment of these ordinances, regulations, and laws.

61. The death of Billy Weinman was a direct and proximate result of the negligence per se of Defendants Murdock and Seventh Judicial District Court.

**COUNT III:
Recklessness against Defendant Murdock Individually**

62. The allegations contained in all preceding paragraphs are realleged as if fully set forth herein.

63. Defendant Murdock owed a duty to Billy R. Weinman to use ordinary and reasonable care in the operation of the Ford Expedition involved in the fatal crash which occurred on September 21, 2019. This duty of care was required to avoid the foreseeable risk of injury or death which could be caused by operating the Ford Expedition in an unsafe manner.

64. Defendant Murdock's operation of the Ford Expedition was reckless and performed with wanton disregard for the safety of members of the public, including Billy R. Weinman.

65. The fatal injuries suffered by Billy Weinman were a direct and proximate result of the breach of the duty owed to him by Defendant Murdock.

DAMAGES

66. Through its named personal representative, the Estate of Billy R. Weinman is entitled to damages for the negligence of Defendants including, but not limited to:

- a. Medical, funeral, and burial related expenses;
- b. Conscious pain and suffering;
- c. Loss of the value of Billy R. Weinman's life;
- d. Loss of enjoyment of family and social life;
- e. Loss of earnings and earning capacity;
- f. Property damage;
- g. All other losses to the beneficiaries of the estate having monetary value.

67. In the alternative, if Defendant Murdock was not acting in the course and scope of her employment, Plaintiff also requests an award of punitive damages for the reckless conduct of Defendant Murdock.

WHEREFORE Plaintiff requests that the Court, after a trial by jury, award Plaintiff:

- A. Damages in an amount to be proved at trial, including punitive damages to the extent available;
- B. Plaintiffs' reasonable costs incurred;
- C. Pre- and post-judgment interest, to the extent available; and
- D. Any and all other relief the Court may deem proper.

Respectfully Submitted,

FREEDMAN BOYD HOLLANDER
GOLDBERG URIAS & WARD, P.A.

/s/ H. Jesse Jacobus, III

H. JESSE JACOBUS, III

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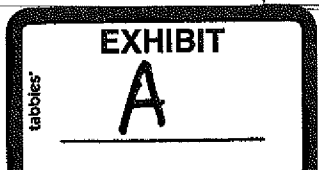
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					NMNSP7700	2019-26558	Y	I	10				
OCCURRENCE DATE(S)			DATE REPORTED	AGENCY	COUNTY								
ON OR BETWEEN				NMSP SPEC OPS	Torrance								
MM/DD/YYYY		MM/DD/YYYY		MM/DD/YYYY	OPTIONAL USE (CASE NO., ETC.)								
09/21/2019				09/21/2019	19-77-5-0068								
TIME	DAY	TIME	DAY	TIME	DAY	HATE / BIAS MOTIVATION			GANG REL				
	SAT				SAT	No Hate/Bias motivation apparent			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
ADDRESS/LOCATION OF INCIDENT													
Address Type: HIGHWAY OR ROAD Road Type: US ROUTE													
County: TORRANCE													
Highway: US60 Mile Marker: 204													
Latitude: 34.513054 Longitude: -106.255261													
OFFENSE / INCIDENT					FEL/ MISD.	ATTEM	COMP	DOM. VIOL.	SEX	CHILDO			
ASSIST OTHER LAW ENFORCEMENT							X	N	N	N			
STATUTE OR ORDINANCE					BURGLARY Force No F	Burglarized (# of)	Cargo Theft	OFFENDER(S) SUSPECTED OF USING:					
Other Reportable Incident								ALCOH.	DRUG	COMP.			
								N	N	N			
UCR OFFENSE Information Reports					WEAPON								
CRIM. ACTIVITY					WEAPON								
LOCATION Highway / Road / Alley					WEAPON								
PERSON CODE			TYPE CODE		INJURY CODE								
DECEASED			INDIVIDUAL		OTHER MAJOR INJURY								
NAME (LAST, FIRST, MIDDLE)				SOCIAL SECURITY NO.		DOB	AGE	SEX	RACE: WHI	BLK	ASIA	IND	UNK
WEINMAN, BILLY						/1952	67	M					
OCCUPATION				HEIGHT	WEIGHT	HAIR	EYES	ETHNICITY	Residential Status: RES NON				
EMPLOYER / SCHOOL				GANG AFFILIATION									
ARREST/CITATION NO. F.B.I. NO			S.I.D. NO.	NCIC NO.	TYPE OF ARREST:			ON VIEW	CITED	CUST.			
VICTIM OF OFFENSE				VICTIM OF SUSPECT			RELATIONSHIP						
ASSIST OTHER LAW ENFORCEMENT													
PERSON CODE			TYPE CODE		INJURY CODE								
OTHER			INDIVIDUAL		OTHER MAJOR INJURY								
NAME (LAST, FIRST, MIDDLE)				SOCIAL SECURITY NO.		DOB	AGE	SEX	RACE: WHI	BLK	ASIA	IND	UNK
BAUMGARTNER, KARL								M					
OCCUPATION				HEIGHT	WEIGHT	HAIR	EYES	ETHNICITY	Residential Status: RES NON				
EMPLOYER / SCHOOL				GANG AFFILIATION									
ARREST/CITATION NO. F.B.I. NO			S.I.D. NO.	NCIC NO.	TYPE OF ARREST:			ON VIEW	CITED	CUST.			
PERSON CODE			TYPE CODE		INJURY CODE								
OTHER			INDIVIDUAL		NONE								
NAME (LAST, FIRST, MIDDLE)				SOCIAL SECURITY NO.		DOB	AGE	SEX	RACE: WHI	BLK	ASIA	IND	UNK
MURDOCK, SHANNON						/1977	42	F					
OCCUPATION				HEIGHT	WEIGHT	HAIR	EYES	ETHNICITY	Residential Status: RES NON				
EMPLOYER / SCHOOL				GANG AFFILIATION									
ARREST/CITATION NO. F.B.I. NO			S.I.D. NO.	NCIC NO.	TYPE OF ARREST:			ON VIEW	CITED	CUST.			



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VEHICLE STATUS		VEHICLE TYPE		REGISTERED OWNER'S NAMES					
OTHER		AUTOMOBILE							
YEAR	MAKE	MODEL	BODY STYLE	LICENSE NO.	LIC. YEAR	LIC. ST.	TOP COLOR	BTM. COLOR	VALUE / DAMAGE EST.
2015	FORD	FORD	UT	ALAF86	2019	NM	BLK	BLK	
VIN		DISTINGUISHING FEATURES / VISIBLE DAMAGE							
1FMJKLJT6FEF11717									
ADDRESS				LIEN HOLDER					
TOWTO / BY				NCIC NO.					
AGENCY OPTIONAL USE		TOWED FROM		<input type="checkbox"/> OWNER NOTIFIED		DATE RECOVERED		TIME RECOVERED	
M.O. EVENT CODES: (AGENCY OPTIONAL USE)						TOTAL VALUE STOLEN		TOTAL VALUE REC.	
FATAL CRASH INVESTIGATION, 19-77-5-0068									
SYNOPSIS									
Assist with crash investigation and reconstruction of vehicle v. bicycle crash									

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NARRATIVE

On Saturday September 21, 2019 the New Mexico State Police (NMSP)/Crash Reconstruction Unit (CRU) assisted the Torrance County Sheriff Office (TCSO) with a fatal crash investigation. The crash was on US60 near mile post 204. This was on the west side of Mountainair. The crash involved a vehicle and two bicycles. The vehicle struck two bicycles and killed one of the bicyclist.

NMSP Officer Kevin Smith, Uniform Bureau Albuquerque, had taken aerial photographs of the crash scene on September 21, 2019. I was given a copy of those photographs.

NMSP Officer Nicholas Galeano, Uniform Bureau Albuquerque, had taken still photographs of the crash scene and mapped some points in the crash scene with a Total Station on September 21, 2019. I was given a copy of the photographs and the Total Station data.

NMSP Sgt. Lauren Milligan, Special Operations Bureau/Crash Reconstruction Unit, asked me to assist examine the vehicle and bicycles involved in this crash and collect crash data from the Event Data Recorder (EDR) of the vehicle.

TCSO Deputy Kent Ballard obtained a search warrant for the vehicle involved in the crash and emailed me a copy. Arrangements were made to serve the search warrant on Monday September 30, 2019 at Tavenner's Towing yard in Moriarty.

On Monday September 30, 2019 about 10:30 AM I met NMSP Officer Todd Sibley, Uniform Bureau Edgewood, and TCSO Deputy Erwin Young at Tavenner's Towing yard in Moriarty. Deputy Young had been at the crash scene and explained the crash to me. There were three vehicles driving eastbound on US60 approaching the city limits of Mountainair. There were two bicyclists traveling eastbound approaching the city limits of Mountainair. The bicycles were ahead of the vehicles. The first vehicle was a gray in color Dodge pickup driven by Kristi Chavez. The second vehicle was a black in color Sonata driven by Henry Mullins. The third vehicle was a black in color Ford Expedition driven by Shannon Murdock. The lead bicycle was ridden by Billy Weinman. The second bicycle was ridden by Karl Baumgartner. The Dodge pickup and the Sonata overtook the bicyclists and drove into the westbound lane to go around the bicyclists. The Ford Expedition struck Karl Baumgartner and Billy Weinman. After the collision Murdock stopped in the road, then drove out of the road onto the shoulder. Weinman was killed in the collision and Baumgartner was seriously injured.

The Ford Expedition and the two bicycles were stored inside a building. I asked Tavenner Towing to move the Expedition outside for better viewing. Officer Sibley was assigned to document the Expedition and the bicycles with still photography. I was assigned to collect crash data from the Event Data Recorder (EDR) of the Expedition, document the Expedition with a Leica Laser scanner and examine the Expedition and bicycles. Deputy Young was there to observe.

The Ford Expedition was a black in color 2015 bearing New Mexico chile license plate ALAF86 and VIN 1FMJK1JT6PEF11717. The Expedition had contact damage to the passenger side front corner and passenger side of the windshield. The front bumper cover on the passenger side was torn. The passenger headlight assembly was missing. The passenger side front corner of the hood was pushed down and back. The passenger side front fender was pushed back and dented in on the side. The passenger side front tire was deflated, off the bead and the sidewall was punctured. The bottom corner of the windshield on the passenger side was cracked, starred and dented inward. The

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exterior mirror on the passenger side front door was missing. There was suspected human tissue and fluid on the passenger side front corner of the hood, passenger side front fender and passenger side front door. There was a scuff mark on the window of the passenger side front door.

I connected a Bosch Crash Data Retrieval (CDR) tool, version 18.0.2, to the Data Link Connector (DLC) of the Expedition. I collected crash data in an 18-page CDR report.

I scanned the Expedition with four scans of the Leica scanner, one on each corner.

The bicycle that Weinman was riding was a teal in color Kona Sutra with multiple gears front and rear. There were three sprockets by the pedals and several sprockets on the rear hub. The Kona bicycle had heavy damage to the rear. The rear tire, wheel and gears were torn off. The rear wheel assembly was bent in a semi-circle. The rear of the frame was torn and bent. The rear wheel fender was still attached to the frame but was bent. The front wheel was bent out of round. The front wheel fender was bent. The right pedal was broken, and part of the pedal was ground off.

The bicycle that Baumgartner was riding was a dark green in color Specialized Hardrock classic with multiple gears. There was one sprocket by the pedals and several sprockets on the rear tire. The front fender was broken. There was a luggage rack mounted above the rear tire. The luggage rack was bent. There was a brown nylon saddlebag tied to the right side of the luggage rack. There was a matching brown nylon saddlebag lying loose with the bicycle. There was a bag tied to the upper frame between the seat and handlebars. There was a mirror mounted to the right handlebar on the bottom. The glass was broken out of the mirror.

We concluded the vehicle investigation about 1:00 PM. The photographs taken, Leica scan data and CDR data were placed on a DVD. The DVD was signed over to Deputy Young. I signed a return and inventory for Deputy Young.

On Monday October 21, 2019 Sgt. Milligan and I met with NMSP Chief Tim Johnson and TCSO Sheriff Martin Rivera. A presentation of the crash investigation to date was given and the crash investigation was discussed. Originally the NMSP/CRU was providing technical assistance with the crash investigation. It was decided that NMSP would become the lead investigating agency for this crash. I was assigned as the lead investigator and Reconstructionist. I was given a copy of TCSO's report of the crash.

I reviewed the TCSO report of the crash. Shannon Murdock had been given Field Sobriety Tests (FST's) at the crash scene by Deputy Woodward with Sheriff Rivera observing. No signs of impairment were seen. Deputy Ballard had obtained a search warrant for Shannon Murdock's cell phone and downloaded the cell phone. No evidence of phone calls, texting, social media or internet use near the time of the crash was found. I started attempting to contact witnesses listed to re-interview them.

On Monday November 4, 2019 about 9:05 AM I met Henry Mullins at the NMSP office in Edgewood. My department issued digital recorder stopped working during this interview. The digital recorder could not be downloaded. A new digital recorder was issued later from the NMSP Quartermaster. This is a synopsis of the interview:

Mullins told me that on Saturday September 21, 2019 he was traveling east on US60 near Mountainair. Mullins was driving his mother-in-law's car, a black Hyundai Sonata 4

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door. He was following a Dodge pickup at about 3 car lengths and a black SUV was about 8-10 car lengths behind him. When Mullins had gotten on US60 at Bernardo the Dodge pickup had been behind him. The Dodge pickup had passed him sometime after Bernardo and the three vehicles had maintained this order as they traveled east on US60 toward Mountainair. The black SUV had been behind him on US60 since Bernardo and had been maintaining that following distance, not gaining or dropping back. Mullins had not noticed any unusual driving behavior from the black SUV as they traveled east on US60. As the three vehicles approached Mountainair the Dodge pickup drove into the westbound lane. The vehicles were traveling about 45 MPH. Mullins saw two bicyclists in the right side of the eastbound lane. The bicyclists were wearing bright colored vests and helmets. Mullins could not remember the exact color, but it was bright. The bicyclists were several feet to the left of the painted white line on the edge of the eastbound lane. Mullins moved over partially into the westbound lane to go around the bicyclists. As Mullins passed the bicyclists they were not going very fast and it appeared they were pedaling hard as it was an uphill grade going into Mountainair. After passing the bicyclists he heard a noise and looked in his rear-view mirror. He saw one of the bicyclists flying through the air. The Dodge pickup and Mullins stopped on the west side of Mountainair at a motel. Mullins did not have any phone service but the woman driving the Dodge pickup did. The woman driving the Dodge pickup called 911 and reported the crash. While the woman was on the phone with 911, an eastbound copper in color tricycle pulled up and said there was a crash, someone hit a bicycle. Mullins told the tricycle driver that the woman was on the phone to 911 reporting the crash. The tricycle continued east on US60.

I showed Mullins three papers, one with a Google satellite photograph of US60 on the west side of Mountainair, one with a photograph of the scene looking east on the west end of the scene and one of a diagram showing three vehicles on a road. Mullins marked the approximate location of the crash scene on the Google satellite photograph, identified the photograph as the crash scene and marked distances between the three vehicles in the diagram.

Mullins had his mother-in-law with him who was diabetic. They were traveling to a family members residence in the Edgewood area. After the woman driving the Dodge pickup got off the phone, Mullins continued his trip to the Edgewood area. As Mullins was driving through Estancia he saw the copper colored tricycle at a gas station on the east side of the road. The interview was concluded about 9:30 AM.

I contacted TCSO Deputy Ballard and requested assistance in trying to identify the copper colored tricycle mentioned by Mr. Mullins. The gas station on the east side of the road in Estancia was Speedway. Neither the manager or employees working on that day recalled a copper in color tricycle. Deputy Ballard reviewed video from Speedway taken on September 21, 2019. Several motorcycles could be seen parking in a dirt parking lot to the south of Speedway. One of them appeared to be a tricycle. No color of the motorcycles could be distinguished in the video. Three males and one female from the motorcycles entered the Speedway store. Two of the males were wearing jackets with "Legion Riders" on the back. These individuals have not been identified.

On Friday November 15, 2019 about 10:49 AM I met Kristi Chavez at the Mountainair Police Department. Present also was Jeannie Wettermen, Kristi's friend. The interview was recorded on my department issued digital recorder. This is a synopsis of the interview:

Chavez gave me a sheet of paper, typed front and back, with her statement of what

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happened on September 21, 2019. Chavez said she had typed this after the incident when she got home. I had Chavez sign and date the typed statement. Chavez explained that on September 21, 2019 she was driving from her home near Magdalena to her parents' house in Mountainair. The weather was clear and sunny. She was driving a gray Dodge pickup. As she was driving northbound on I-25 near Lemitar she overtook a black SUV. As she was passing the black SUV, the black SUV swerved into her lane. She passed the black SUV and continued watching it in her mirror. The black SUV swerved out of its lane several times on I-25 after she passed it by Lemitar. Chavez took the Bernardo exit onto eastbound US60. The black SUV also took the exit. Chavez overtook a small black car and passed it. The three vehicles, Chavez in the Dodge pickup, small black car and black SUV, continued traveling eastbound in this order toward Mountainair. As the eastbound vehicles approached Mountainair they overtook two bicyclists. Chavez was traveling about 40 MPH. Chavez went into the westbound lane to go around the bicyclists. There were no vehicles in the westbound lane. Chavez did not see a vehicle in the westbound lane until she passed the bicycles and the road flattened out coming into Mountainair. There was a white car in the westbound lane coming out of Mountainair, but Chavez did not know if the white car went by the crash scene or turned off US60 before the crash scene. The bicyclists were traveling slow as this was an uphill grade. The bicyclists were near or on the painted white line at the edge of the eastbound lane. The small black car went into the westbound lane to go around the bicyclists. The black SUV was driving on the white line and had been driving on the white line for some distance. The black SUV struck the two bicyclists.

Chavez pulled over to call 911. She did not have a good cell signal and went a little further east to the Rock motel to call 911. The small black car pulled over with her. After the male driver of the small black car checked to see if Chavez was calling 911 the small black car continued eastbound.

After Chavez got off the phone with 911 she turned around and went back to the crash scene. The black SUV was parked on the edge of the eastbound lane. There was a westbound gray pickup pulling a flatbed trailer parked on the north side of the road. There was a small blue car parked on the north side of the road. There were two women talking and checking on the bicyclists. One of the bicyclists was sitting up asking about his friend. Chavez helped direct traffic until the ambulance and officers arrived.

I showed Chavez three papers, one with a Google satellite photograph of US60 on the west side of Mountainair, one with a photograph of the scene looking east on the west end of the scene and one of a diagram showing three vehicles on a road. Chavez had a tough time orienting herself with the Google satellite photograph, identified the photograph as the crash scene, pointed out bicycle and vehicle positions in the photograph and explained distances between the three vehicles in the diagram. The distances between the vehicles Chavez described were the small black car was close behind her, maybe 2 car lengths, the black SUV was further behind her. Chavez could see all the black SUV in her mirrors. The interview was concluded about 11:14 AM.

On Friday November 15, 2019 about 11:50 PM I met Karl Baumgartner at his residence, 109 South Roosevelt, in Mountainair. Present also was Samantha Baumgartner, Karl's wife. The interview was recorded on my department issued digital recorder. This is a synopsis of the interview:

Baumgartner explained that on September 21, 2019 he went on a bicycle ride with his friend, Billy Weinman. Baumgartner and Weinman had been riding together for about six

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years. They had traveled countless miles on bicycles together. They left Baumgartner's residence, 109 South Roosevelt, about 10:30 AM on September 21, 2019. They left Mountainair on Third Street traveling west. They went to San Lorenzo Chapel traveling on dirt roads. They ate lunch at San Lorenzo Chapel by US60 then came back on US60 traveling east toward Mountainair. They had made this loop many times in the past. This was a 15-20 mile loop. They traveled in a single file with Weinman in the front, about two feet apart. They communicated about vehicle traffic as they had in the past by saying "car up" or "car back", meaning a car approaching them from the front or a car approaching from the back. Baumgartner and Weinman had mirrors, Baumgartner's was mounted to his bicycle and Weinman wore glasses with mirrors on the glasses. Several vehicles had passed them on US60 as they were traveling east toward Mountainair and Baumgartner had said "car back". As they were approaching the Mountainair city limit Baumgartner remembers saying "car back", meaning a vehicle was approaching from behind. Baumgartner and Weinman were traveling maybe 6 MPH at this point as they were going up a grade. They were by the painted white line at the edge of the eastbound lane. The next thing Baumgartner remembered was being on a helicopter taken to UNMH and asking about his friend. He was told his friend was not so lucky.

Baumgartner's injuries were cracked vertebrae in the neck, cracked vertebrae in the lower back, broken ribs, torn and lacerated back of left calf. Skin grafts were done taking skin from his right thigh for his left calf. Baumgartner and Weinman were both wearing colored riding jersey's and helmets. Baumgartner was wearing a bright yellow jersey and could not remember what color Weinman was wearing.

I showed Baumgartner two papers, one with a Google satellite photograph of US60 on the west side of Mountainair and one with a photograph of the scene looking east on the west end of the scene. Baumgartner marked on the Google satellite photograph the approximate position that he was hit. Baumgartner recognized the photograph as the crash scene and pointed out his approximate location in the photograph. The interview was concluded about 12:19 PM.

I contacted Attorney Marna Trammell, Murdock's legal counsel, via email on November 15, 2019 and requested an interview with Murdock. Ms. Trammel replied that Murdock had given a statement at the scene and had nothing more to add at this time.

I reviewed TCSO Deputies Young and Woodard lapel video and car video and the Torrance County dispatch 911 calls about this crash. Murdock is heard saying to Deputy Young that she saw the bicyclists and couldn't move over, she did not know what happened. Deputy Woodard later read Murdock her Miranda rights and Murdock declined to make any further statements. Murdock stopped in the road after striking the bicyclists and called 911. Murdock is heard saying she clipped two bicyclists. Later in the call Murdock said she had to move her vehicle out of the roadway. For further refer to recording.

I used the aerial photographs taken of the crash scene to create a diagram using Pix4D. Measurements were taken from the diagram. The Total Station points imported into the drawing program flipped. The bicycles, gouges and tire marks showed on the north side of the road when they were in fact on the south side of the road. Technical assistance is being sought to correct this. The Total Station points were not used in the diagram.

I reviewed the photographs taken of the crash scene (aerial and still). There were

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several photographs, aerial and still, that showed scuff marks and gouge marks on the painted white line of the eastbound lane. There was some greenish paint transfer in the marks that was consistent with the color of Weinman's bicycle and pedals. There were two scuff marks that were consistent with the wheel base of Weinman's bicycle. The gouges were consistent with the broken frame of Weinman's bicycle. These marks were west of the bicycles final rest and Weinman's final rest positions. The start of these marks was used as the Approximate Point of Impact (APOI) for the Expedition striking Weinman. In the diagram a model bicycle was placed at the start of the marks. This placed the bicycle against the painted white line and in the eastbound lane. A scale model of the Expedition, created from the Leica scan data, was placed in the diagram. Using the contact damage to the Expedition, the Expedition was aligned with the model bicycle. There was a scuff on the passenger side of the front bumper cover of the Expedition and the bumper cover was torn. This scuff mark was at a height that was consistent with the rear fender/tire of Weinman's bicycle. The passenger front corner of the Expedition hood was bent and torn with a round impression. The passenger side front fender was pushed back with a round impression. This was consistent with injuries to Weinman's butt/hip. The passenger side headlight assembly was broken out. There was an indentation in the bottom corner of the passenger side of the Expedition windshield. This indentation was consistent with Weinman's helmet/head striking the windshield. This placed The Expedition in the eastbound lane with the passenger side tires against the painted white line of the eastbound lane at impact with Weinman.

A distance of about 68 feet was measured from the APOI to Weinman's final rest position and a downhill grade of about 3 percent. This was the distance and grade that Weinman traveled from the APOI to final rest. It was unknown what angle in the air Weinman was projected from the impact of the Expedition. Using a default angle of 45 degrees, distance of 68 feet and a drag factor of .76 (Searle .79, adjusted for 3 percent downhill grade) a minimum speed for Weinman being projected of about 31 MPH was calculated. This was a fender vault projection. Weinman was struck by the Expedition and projected to the side and forward. In this type of vault, the pedestrian does not attain the full speed of the striking vehicle.

No calculations were done for Baumgartner. No marks were found in the roadway to determine an approximate point of impact for Baumgartner and the final rest position of Baumgartner was not marked in the diagram.

The 18-page CDR report from the Expedition recorded one event. The ignition cycles recorded at the time of investigation was 11,035. The ignition cycles recorded at the time of the recorded event was 10,624. This was a difference of 411 ignition cycles. It was not likely that the recorded event was from the crash being investigated. The speed recorded at time 0 for the recorded event was 1 MPH. This was not consistent with the crash being investigated. The data from the Expedition CDR report was not used in the reconstruction. Per the Electronic Communications Privacy Act (ECPA) of 2019, pages 7-18 of the CDR report were deleted.

At the scene of the crash US60 was a paved asphalt road that ran generally east and west. There were two lanes, one lane for eastbound traffic and one lane for westbound traffic. The eastbound and westbound lanes were divided by a painted solid yellow line on the eastbound side and a painted dashed yellow line on the westbound side. The edges of the lanes were marked by a painted solid white line. There was a little over a foot of paved shoulder on both sides of the road past the painted solid white line. The right of way on both sides of the road was gravel/dirt after the pavement ended. There

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was about a three percent grade in US60 at the crash scene, uphill for eastbound traffic and downhill for westbound traffic. The posted speed limit at the crash scene was 45 MPH. The speed limit changed from 55 MPH to 45 MPH just west of the crash scene, 45 MPH for eastbound traffic and 55 MPH for westbound traffic.

On September 21, 2019 about 12:46 PM there were two bicycles and three vehicles eastbound on US60 near mile post 204. This was on the west side of Mountainair near the city limit. The weather was clear, and the roadway was dry. The lead bicycle was ridden by Billy Weinman. The rear bicycle was ridden by Karl Baumgartner. The bicycles were traveling in a single file line in the right side of the eastbound lane by the painted white edge line. Baumgartner estimated they were traveling about 6 MPH. The first vehicle was a Dodge pickup driven by Kristi Chavez. As Chavez overtook the bicycles she moved partially into the westbound lane and went around the bicycles. Chavez was going about 40 MPH when she went around the bicycles. The second vehicle was a Sonata driven by Henry Mullins. Mullins was several car lengths behind the Dodge pickup. As the Dodge pickup moved into the westbound lane Mullins saw the bicycles and moved partially into the westbound lane to go around the bicyclists. The third vehicle was an Expedition driven by Shannon Murdock. The Expedition was 8-10 car lengths behind the Hyundai Sonata. The Expedition did not move over to go around the bicyclists. The Expedition struck the bicycle ridden by Karl Baumgartner. Baumgartner was projected to the side onto the dirt right of way on the south side of US60. Damage to Baumgartner's bicycle and his injuries suggest that the passenger front corner of the Expedition clipped the left side of Baumgartner's bicycle and his left calf. At this impact Baumgartner would have been in the right side of the eastbound lane near the painted white line. The Expedition struck the bicycle ridden by Billy Weinman. At this impact Weinman would have been in the right side of the eastbound lane near the painted white line. Weinman's bicycle sustained heavy damage from this impact. Damage to the Expedition and Weinman's helmet suggest that Weinman came over the hood of the Expedition and struck the windshield. Weinman was projected forward and to the side onto the dirt right of way on the south side of US60 at about 31 MPH from the impact of the Expedition. Weinman was killed in the collision and Baumgartner was seriously injured.

After striking the bicycles ridden by Baumgartner and Weinman, Murdock stopped in the eastbound lane. Murdock called 911 and reported the crash. Murdock later moved the Expedition off the roadway onto the shoulder of the eastbound lane.

Baumgartner and Weinman were riding eastbound single file several feet apart with Weinman leading and Baumgartner in the rear. They were riding in the right side of the eastbound lane near the painted white line. Baumgartner being struck first would suggest that the Expedition was at a slight angle when Baumgartner was struck by the Expedition. This would explain Baumgartner being clipped and Weinman taking the brunt of the impact.

Attachments:

- SL-1, diagram
- SL-2, calculation
- SL-3, Expedition CDR report
- SL-4, Mullins interview
- SL-5, Chavez interview
- SL-6, Baumgartner interview
- SL-7, Chain of Custody

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		NMNSP7700	2019-26558	Y	10	10			
End of report.									
I WILL PROSECUTE / TESTIFY SHOULD THE OFFENDER <table border="1" style="display: inline-table; vertical-align: middle;"> <tr> <td style="width: 15px; height: 15px; text-align: center;">Y</td> <td style="width: 15px; height: 15px; text-align: center;">N</td> </tr> </table>		Y	N	I UNDERSTAND IT IS A CRIMINAL OFFENSE TO FILE A FALSE REPORT TO POLICE.			COMPLAINANT / VICTIM CERTIFICATION SIGNATURE X		DATE
Y	N								
REPORTING OFFICER STANLEY LUNDY		RANK PATROLMAN	I.D. NO 107698	DATE 11/20/2019					
ASSISTING OFFICER									
APPROVING OFFICER LAUREN MILLIGAN		RANK SERGEANT	I.D. NO 104673	DATE 12/09/2019					
REFERRED TO									
CASE AGENT									
DETECTIVE / FOLLOW-UP OFFICER									
PROCESSED BY		DATE	DATA ENTRY PERSON SLUNDY		DATE 11/08/2019				
INCIDENT STATUS INACTIVE		C.L.A.	C.L.E.	EXCEPTIONAL CLEARANCE CODE					
AGENCY OPTIONAL USE (DISTRIBUTION, OTHER OFFICERS, ETC.)			CASES CLEARED BY THIS ARREST						
			Case No.	Case No.	Case No.				

NEW MEXICO SUPPLEMENTAL REPORT		SUPP NO. 1	ORI NO. NMNSP7700	INCIDENT NO. 2019-26558	PRIMARY N	PAGE 1	OF 3
ORIGINAL OFFENSE DATE	09/21/2019	SUPPLEMENTAL DATE	11/19/2019	CASE NUMBER	19-77-5-0068		
M.O. EVENT CODES: (AGENCY OPTIONAL USE) Supplemental #1 by NMSP Ofc. N. Galeano				TOTAL VALUE STOLEN	TOTAL VALUE REC.		
SYNOPSIS This report documents my involvement in a vehicle vs bicycle fatality crash which occurred in the town of Mountain Air, county of Torrance, and State of New Mexico.							

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NMNSP7700

INCIDENT NO.

2019-26558

PRIMARY

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NARRATIVE

On September 21, 2019, I Officer Galeano of the New Mexico State Police Uniform Bureau while in full uniform and displaying my badge of Office #319 was dispatched to a report of a vehicle vs. bicycle fatal crash located on Highway 60 near milepost 204. This occurred in the City of Mountain Air, County of Torrance, and State of New Mexico.

I arrived at the location of the crash located at the mile post 204 on Highway 60. I observed the weather to be cloudy, and the roadway dry and free of debris during daylight hours. Highway 60 was a two lane roadway traveling west and east bound, with a single lanes for each direction. The roadway was separated by a painted yellow center line that was solid with dashes allowing for passing traffic heading west bound. The shoulders were painted with a solid white painted line, and the roadway had a downward sloped soft dirt shoulder on the south side of the roadway. The roadway was on an incline upward when traveling east bound. I observed on the south shoulder the remains of a bicycle and other debris, the bicycle had sustained heavy crushing damages, and other personal contents from the riders were also strewn across the grass of the shoulder. I was able to observe a black in color Ford SUV bearing New Mexico Registration ALAF86. The vehicle was parked further east bound from the location of the crash. The vehicle had sustained damages to the front end passenger side head light assembly and hood, with impact/crush damages to the windshield, hood, and fender. The vehicle had biological material on the hood/fender/ and glass of the passenger side of the vehicle. The vehicle had deposited debris on the roadway traveling east bound from the collision. Located next to the roadway sign advising "DO NOT DRINK AND DRIVE" which was located on the south shoulder of Highway 60. I observed the victim of the crash lying face down. I observed injuries to the victims left side hip and thigh area, along with abrasions to the skull and head. The victim was wearing a helmet. I observed a clear line of sight for more than half a mile for vehicles traveling east on Highway 60. The roadway had a curve to the right located approximately half of a mile west of the crash location. I was advised by Torrance County Sheriffs that there had been two vehicles ahead of the suspect vehicle which were able to move to the left in order to avoid contact with the bicyclists. I did not observe any vehicle skid marks on the roadway. I was advised by Torrance county that the suspect vehicle had collided with the victim's bicycle while traveling east bound. The subsequent collision caused the rider to be thrown east on to the south bound shoulder. The driver of the vehicle stopped and then repositioned the vehicle again when police assistance arrived.

Walking the roadway I was able to locate skid/scuff marks on the south side east bound white painted edge line just west of the final resting position of the victims body. The scuff marks were made from the bicycle tire of the victim. Located in the same area were gouge marks in the roadway from the bicycle metal and tire. Photographs of the skid marks and gauge marks were taken, along with the marks to the rubber portion of the victims bicycle.

The scene and vehicle were photographed using my department issued Nikon D-90 Digital DSLR camera, Officer Kevin Smith of the New Mexico State Police Unmanned Aerial Systems (UAS) was able to secure overhead photography of the scene. I also utilized my department issued Nikon Total Station to secure data points on the location of the roadway. Upon completion of the scene all photographs were provided to the Torrance County Sheriffs Department, and also provided to Officer Stan Lundy for review. The suspect vehicle was towed from the scene and secured for future investigation. The Office of the Medical Investigations was contacted for the victim. This completed my involvement in this incident, and additional information will be documented in a supplemental report.

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		1	NMNSP7700	2019-26558	N	3	3
Attachment: NG1) Scene Photos							
End Report.							
"I WILL PROSECUTE / TESTIFY SHOULD THE OFFENDER" <input type="checkbox"/> Y <input checked="" type="checkbox"/> N		"I UNDERSTAND IT IS A CRIMINAL OFFENSE TO FILE A FALSE REPORT TO POLICE."			COMPLAINANT / VICTIM CERTIFICATION SIGNATURE X		DATE
REPORTING OFFICER NICHOLAS GALEANO		RANK PATROLMAN		I.D. NO. 340512		12/14/2019	
ASSISTING OFFICER							
APPROVING OFFICER LAUREN MILLIGAN		RANK SERGEANT		I.D. NO. 104673		12/19/2019	
REFERRED TO							
CASE AGENT							
DETECTIVE / FOLLOW-UP OFFICER							
PROCESSED BY		DATE		DATA ENTRY PERSON NGALEANO		11/19/2019	
INCIDENT STATUS INACTIVE		C.L.A. <input type="checkbox"/> C.L.E. <input type="checkbox"/>		EXCEPTIONAL CLEARANCE CODE			
AGENCY OPTIONAL USE (DISTRIBUTION, OTHER OFFICERS, ETC.)				CASES CLEARED BY THIS ARREST			
				Case No.		Case No.	

NEW MEXICO SUPPLEMENTAL REPORT		SUPP NO.	ORI NO.	INCIDENT NO.	PRIMARY	PAGE	OF
		2	NMNSP7700	2019-26558	N	1	1
ORIGINAL OFFENSE DATE	09/21/2019	SUPPLEMENTAL DATE	12/19/2019	CASE NUMBER	19-77-5-0068		
M.O. EVENT CODES: (AGENCY OPTIONAL USE)				TOTAL VALUE STOLEN	TOTAL VALUE REC.		
<p>SYNOPSIS</p> <p>The following report details my involvement in documenting the below listed crash scene. Refer to narrative.</p>							
<p>NARRATIVE</p> <p>INCIDENT: CRASH RECONSTRUCTION UNIT SCENE CALLOUT. DATE OF INCIDENT: 09/21/2018 @ 14:30 HOURS</p> <p>On September 21, 2019 at about 14:30 hours, I was dispatched to Highway 60 Mile marker 204 to assist NMSP Crash Reconstruction and Torrance County in reference to a Crash Reconstruction. I was asked to assist in documenting a crash scene with pictures. As part of the callout, the Crash reconstruction commander requested the use of a UAV (drone) to assist. After completing a pre-flight checklist and making sure I was not in restricted airspace, I deployed my department issued UAV, a DJI Phantom 4 Pro at 16:35 hours. I proceeded to keep the UAV airborne off and on for the next couple hours as needed. My last flight started at approximately 6:00pm. After completing aerial picture documentation of the scene, all photographs taken were handed over to CRU Officer Nicholas Galeano to submit as evidence.</p> <p>This concludes my involvement in this incident. If further investigation is needed, a supplement report will be generated.</p> <p>Kevin Smith NMSP 324</p>							
*I WILL PROSECUTE / TESTIFY SHOULD THE OFFENDER <input type="checkbox"/> Y <input checked="" type="checkbox"/> N		*I UNDERSTAND IT IS A CRIMINAL OFFENSE TO FILE A FALSE REPORT TO POLICE.*			COMPLAINANT / VICTIM CERTIFICATION SIGNATURE X		DATE
REPORTING OFFICER		RANK		I.D. NO		DATE	
KEVIN SMITH		PATROLMAN		320880		12/19/2019	
ASSISTING OFFICER							
APPROVING OFFICER		RANK		I.D. NO		DATE	
KURTIS WARD		SERGEANT		121061		12/19/2019	
REFERRED TO							
CASE AGENT							
DETECTIVE / FOLLOW-UP OFFICER							
PROCESSED BY		DATE	DATA ENTRY PERSON		DATE		
			KESMITH		12/19/2019		
INCIDENT STATUS		C.L.A.	C.L.E.	EXCEPTIONAL CLEARANCE CODE			
INACTIVE		<input type="checkbox"/>	<input type="checkbox"/>				
AGENCY OPTIONAL USE (DISTRIBUTION, OTHER OFFICERS, ETC.)				CASES CLEARED BY THIS ARREST			
				Case No.	Case No.	Case No.	

Incident Report

#TCSO19090057



TORRANCE COUNTY SHERIFF'S OFFICE
 903 N. 5TH STREET
 P.O. BOX 498
 ESTANCIA, NM 87016
 505.544.4900

Event Info

Date Reported 09/21/2019	Time Reported 12:46	Time Dispatched 12:48	Time Arrived 12:57	Time Completed 19:04
Addr. of Occ. 20400 US HIGHWAY 60 EB	State NM	County TORRANCE COUNTY	City MOUNTAINAIR	Zipcode 87036
Date Occ. Range 09/21/2019 - 09/21/2019	District TORRANCE	Grid MOUNTAINAIR TOWN LIMITS	How Reported 911	
Dispatch Disposition RPT				

Classification Completed

Class TRAFFIC ACCIDENT	Subclass Traffic Accident, Fatal
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Victim

Name Type Victim	Name BAUMGARTNER, KARL EDWIN	Address 109 S ROOSEVELT	City MOUNTAINAIR	State NM
Zip 87036	Sex M	Race WHITE	EO NON-HISPANIC	Height 511
Cell Phone (520) 204-2400	Residential Phone (505) 847-2346	Marital Status MARRIED	Weight 160	Hair BRO
			Eyes BRO	Residency Status RESIDENT

Deceased

Name Type Deceased	Name WEINMAN, BILLY R	Address 6386 S HIGHWAY 55	City MOUNTAINAIR	State NM	Zip 87036
Sex M	Race WHITE	EO NON-HISPANIC	Height 507	Weight 185	Hair GRY
			Eyes GRY	Residency Status RESIDENT	

Driver

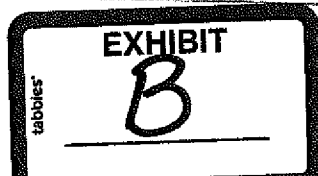
Name Type Driver	Name MURDOCK, SHANNON	Address 8 BARROWS RD	City MORIARTY	State NM
Zip 87035	Sex F	Race WHITE	EO NON-HISPANIC	Height 507
Residential Phone (505) 977-9188	Marital Status MARRIED	Weight 160	Hair BLN	Eyes BLU
		Residency Status RESIDENT		

Field contact

Name Type Field contact	Name WEBB, CASSJE	Address [REDACTED]	City [REDACTED]	State [REDACTED]	Zip [REDACTED]
Sex [REDACTED]	Race [REDACTED]	EO [REDACTED]	Height [REDACTED]	Weight [REDACTED]	Cell Phone [REDACTED]

Mentioned

Name Type Mentioned	Name ESQUIBEL, THOMAS	Address [REDACTED]	City [REDACTED]	State [REDACTED]	Zip [REDACTED]
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Sex	Race	EO	Height	Weight	Hair	Eyes	Cell Phone
Employer Phone (505) 384-2659							

Owner

Name Type Owner		Name POFF, JUSTIN RICHARD		Address 8 BARROW RD		City MORIARTY		State NM	
Zip 87035	Sex M	Race WHITE	EO NON-HISPANIC	Height 507	Weight 180	Hair BRO	Eyes HAZ		
Cell Phone (505) 362-8106		Marital Status MARRIED		Residency Status RESIDENT					

Witness

Name Type Witness		Name CHAVEZ, KRISTI DEANN		Address		City		State	
Zip	Sex	Race	EO	Height	Weight	Hair	Eyes		
Cell Phone		Residential Phone		Residency Status					

Witness

Name Type Witness		Name MULLINS, HENRY EDGAR		Address		City			
State	Zip	Sex	Race	EO	Height	Weight	Hair	Eyes	
Cell Phone									

Vehicle

Record Type SUSPECT VEHICLE	Date Reported 09/21/2019	Status SUSPECT VEHICLE	Year 2015	Make FORD	Model EXPEDITION
Style UTILITY TRAILER	Color BLK/BLK	Vehicle Classification TRAFFIC ACCIDENT - Traffic Accident, Fatal		Vehicle Owner POFF, JUSTIN RICHARD (OWNER)	

Narrative

Written By YOUNG, ERWIN	Date Written 09/25/2019
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ASSIGNMENT:

On Saturday, September 21, 2019, at approximately 1246 hours, Torrance County Units were dispatched to a crash with injuries on Highway 60 Mile Marker 204 on the west side of Mountainair. Deputy Woodard and I responded to the scene from the McIntosh area. While en route to the scene, I kept checking the call notes to get update information. The driver, later identified as Shannon Murdock, stated that she clipped two subjects on bicycles. While the 911 operator had Mrs. Murdock on the phone, they asked her questions and she stated the following: She stated to dispatch that both subjects were males in their 50's and one of them is not breathing, and the other appeared to have a [REDACTED]. Mrs. Murdock also stated that both of them were lying on the shoulder. I also noticed that OMI had been added to the list of units responding to the scene after Mountainair Rescue arrived.

SCENE:

Upon arrival to the scene, I entered the crash site from the east. I noticed that Mountainair rescue Unit was already on scene and had parked facing to the west with the driver's side tire on the westbound shoulder near the area where I noticed two bicycles on the shoulder. I parked my patrol unit across the roadway on the west side of the crash scene and shut down vehicle traffic in both directions and had Mountainair Fire Department personnel stop traffic on the east side. I also noticed a black in color SUV parked on the shoulder some distance away from the location of the bicycles. The vehicle had damage to the passenger side front to include the windshield. I also noticed a silver in color truck with a trailer parked on the westbound shoulder near the crash scene and another silver in color truck parked further off the roadway.

I noticed Mountainair Rescue was attending to a male subject in the back of their Rescue. I was also pointed to the location of the other deceased male. The male was approximately 10- 15 feet off of the roadway and was covered with a sheet.

DRIVER:

The male in the back of the Rescue unit was later identified as Karl Baumgartner. Mr. Baumgartner stated that they were riding up and "boom." I asked Mr. Baumgartner where they were riding, and he advised the side of the road. Mr. Baumgartner then stated that someone didn't see us and pull over. Mr. Baumgartner also kept asking about his friend.

On checking Mr. Baumgartner for injuries, I noticed that his [REDACTED] and that he had a [REDACTED]

DRIVER:

Mr. Billy Weinman was deceased at the scene.

WITNESS:

Mrs. Kristi Chavez stated that she was traveling east on Highway 60. Mrs. Chavez stated that she saw the bicycles near the white line as she approached Mountainair. Mrs. Chavez stated that she also noticed a white in color passenger vehicle, traveling west out of Mountainair. Mrs. Chavez stated that she and the vehicle directly behind her went into the westbound traffic lanes and went around the bicyclist. Mrs. Chavez stated that she was looking in her rearview mirror and saw the black SUV, which was third in line, traveled toward the two bicyclists, and Mrs. Chavez stated to herself that she hopes they see them referring to the bicyclists. Mrs. Chavez then stated the black vehicle struck them, and she does not know if the driver is a male or female. Mrs. Chavez stated that she turned around and parked on the other side of the roadway, and the second vehicle kept going.

Side Note:

I walked to the black SUV to locate the driver and did not locate her with her vehicle. I then walked to the truck towing the trailer, and I located the driver in the back seat with a female later identified as Cassie Webb standing by the rear door. I asked the female if she saw the crash, and she stated that she arrived afterward. Mrs. Webb also stated that she had used Shannon's phone to call Shannon's husband, and he is coming to the scene.

BYSTANDER:

I spoke with Mrs. Cassie Webb, who owned the vehicle that Mrs. Murdock was sitting. Mrs. Webb stated that she arrived a few minutes after the crash and did not see anything. I asked if the black vehicle had moved since she arrived, and she stated that it had not moved.

DRIVER:

I spoke with Mrs. Murdock, who was sitting in the rear passenger seat of Mrs. Webb's truck. Mrs. Murdock appeared not to be injured but very shaken up with the incident. Mrs. Shannon Murdock stated that she honestly didn't know. She remembers some vehicles in front of her and some bicyclists. Mrs. Murdock stated that she doesn't know what happened

WITNESS:

I had received a telephone call from Atty. Marna Trammel who gave me information on the driver of the second vehicle that was directly in front of Mrs. Murdock's vehicle.

I spoke with Rick Mullens by telephone. Mr. Mullens stated that he had stopped at the Rock Motel on the day of the crash with another female who had called 911. (*Investigators Notes: The female who Mr. Mullen's had spoken with at the Rock Motel was identified as Kristi D. Chavez. Ms. Chavez ultimately returned to the scene of the crash and was interviewed by deputies. KB*) Mr. Mullens stated that when no one came to the motel, he left. Mr. Mullens stated that he was the vehicle behind the gray truck. Mr. Mullens stated that as they were coming into Mountainair, he noticed the truck in front of him go into the westbound traffic lanes, and he did also not know why. Mr. Mullens then stated that he then noticed two cyclists traveling in the middle of the roadway. Mr. Mullens stated that once he got around them he heard a loud bang and noticed the black vehicle behind him struck the bikes.

On a follow-up interview, Mr. Mullens stated that they were traveling approximately 45 miles an hour, and the black vehicle was about 8 vehicle lengths behind him. Mr. Mullens stated that he always checked his rearview mirror, and he does not like tailgaters. Mr. Mullens also stated that he estimated the speed for the bikes was less than 10 miles an hour and it appeared they were struggling going uphill.

INVESTIGATION:

On 9-21-2019, at approximately 1246 hours, Torrance County Units were dispatched to Highway 60 Mile Marker 204 in reference to a vehicle crash with injuries and possible death. Upon arrival, I noticed a black in color SUV style vehicle parked on the eastbound shoulder of Highway 60 with passenger front end damage. I also noticed Mountainair Rescue was parked on Highway 60 facing to the west with its driver's side tires on the eastbound dirt shoulder. I also noticed two full-size bikes lying on the eastbound shoulder in the grass. One bike was lime green in color and had extensive damage done to the rear tire area. I also noticed a dark green bike lying south of the original bike. This bike had little damage done to its frame or tires. I also noticed a deceased male east of the lime green bike on the downhill slope of the shoulder out of sight of the roadway. A blue blanket covered the male.

It should be noted upon my arrival; I shut down eastbound lanes of traffic and had the Mountainair Fire Department shut down the westbound lane of traffic. Traffic was still moving through the crash scene on the westbound lane of travel. Upon the arrival of Mountainair Police officer, I had them shut down Highway 60 on the west end of the crash scene.

I spoke with a male who was standing behind the Rescue and asked if he had seen the crash, and he advised that he had arrived after and pointed out the two bikes and the black SUV.

I went to the side of the Rescue Truck and spoke with a male subject that was later identified as Karl Baumgartner. The male was talking, and when asked what had happened. He stated that they were riding up the road and "boom". I asked Mr. Baumgartner where they were riding and he advised the side of the road. Mr. Baumgartner then stated that someone didn't see us and pulled over. Mr. Baumgartner also identified the other male as Billy Weinman. Mr. Baumgartner also asked where his friend was.

I spoke with Mrs. Kristi Chavez, who was near her gray in colored Dodge truck that was facing west on the westbound shoulder of Highway 60. Mrs. Chavez stated that she was traveling east on Highway 60, and she saw the bicycles near the white line as she approached Mountainair. Mrs. Chavez stated that she also noticed a white in color passenger vehicle traveling west out of Mountainair. Mrs. Chavez stated that she changed lanes and went into the westbound traffic lanes to avoid the bikes and she noticed the vehicle directly behind her went into the

westbound traffic lanes to get around the bicyclists as well. Mrs. Chavez stated that she was looking in her rearview mirror and saw the black SUV, which was third in line, travel toward the two bicyclists and strike them. Mrs. Chavez stated that she turned around and parked on the other side of the roadway and the second vehicle kept on going.

I then spoke with the driver of the black SUV, who was sitting in the rear passenger seat of Mrs. Webb Truck. Mrs. Shannon Murdock appeared not to be injured but very shaken up with the incident. It should be noted that I knew Mrs. Murdock as a District Court Judge from the 7th District. Mrs. Shannon Murdock stated that she honestly didn't know. She remembers some vehicles in front of her and some bicyclists. Mrs. Murdock stated that she doesn't know what happened. I asked Mrs. Murdock for her driver's license and she stated that it was in the truck. I then obtained her name and date of birth.

I also contacted Sheriff Rivera by cell phone and advised him of the fatal crash. I also requested New Mexico Crash Team to reconstruct the crash. I received a telephone call from Sgt. Ward from New Mexico State Police and advised him the details of the crash. SGT Ward asked if we had felony charges on the driver and I advised him not at this time. Sgt. Ward advised that he would have to talk to his supervisor about sending a crash unit out because the crash did involve a District Court Judge. Sgt. Ward then called me back and he advised that they would be sending out two officers, one being a Reconstructionist and the other a Drone Pilot.

Superior Ambulance Crew arrived on the scene and started their treatment of Mr. Baumgartner. I also asked Mountainair Rescue what their level of care was and they advised EMT-B. I had the paramedic from Superior Ambulance check Mr. Weinman and he confirmed the male was deceased. Air Ambulance also arrived on the scene and landed in the roadway. Mr. Baumgartner was flown out of the scene. I also had Superior Ambulance check on the driver that was sitting in the back of Deputy Woodard's vehicle. It should be noted that a limited amount of rescue personnel was given access to the driver due to the fatal crash scene. Superior Ambulance cleared Mrs. Murdock. It should be noted that Mrs. Murdock was also asked to turn over her cell phone for the investigation, which she complied with.

All non-law enforcement personnel were removed from the crime scene. OMI Investigator arrived on the scene. He was shown the deceased and advised that the NMSP crash team was being dispatched and they requested the deceased not to be moved.

After the crash scene was cleared, I walked the area and noticed scrape marks on the white stripe where the Rescue had parked. The location of the scrape matched the direction the bikes were going after the crash. I also noticed a piece of headlight that was approximately 40 feet from the lime green bike. The piece of headlight was approximately 4 feet from the white stripe. The black vehicle was another 70 feet away and parked on the dirt shoulder. Upon checking the roadway, I noticed that it is a two-lane road with little or no shoulder. The eastbound traffic lane has a small shoulder approximately 1 foot in width and downward slope, the dirt shoulder is very rough. The westbound shoulder has a larger shoulder, and the dirt shoulder is smooth. It was later determined that the overall width of the roadway is 27 feet. The eastbound traffic lane is 11.4 feet wide, and the westbound traffic lane is 12.7 wide.

Sheriff Rivera arrived on the scene, and he was walked through the scene. Sheriff Rivera and Deputy Woodard gave Mrs. Murdock the standard Field Sobriety Test ("FST"). I was advised after the FST that there was no indication of impairment. Mrs. Murdock then sat in the back of Deputy Woodard's unit. Justin Poff, Shannon's husband, arrived on the scene, and he was allowed access to her and they were both advised not to talk about the crash.

I asked Mrs. Murdock if she had moved her vehicle from the roadway. Mrs. Murdock stated that she did; traffic was coming and she wanted to get it off the roadway. I then had Mrs. Murdock point to the location where her vehicle was and she pointed to the area where the headlight piece was located.

While waiting for NMSP to arrive, a second interview was requested from Mrs. Murdock. Deputy Woodard was going to be the lead and he read Mrs. Murdock the Miranda Warning, and she requested an Attorney to be present. After checking with Special Investigation Detective and NMSP, Mrs. Murdock left the scene.

New Mexico State Police Crash Team, Officer Ken Smith and Patrolman Nicholas Galeano arrived on the scene. They took numerous photographs and gathered other information that they would need to reconstruct the crash.

OMI Investigator Wayne Granger then photographed the deceased and had the deceased removed to OMI in Albuquerque. Next of kin was notified.

Tavener's Towing was dispatched to the scene and removed Mrs. Murdoch's Truck and both bicycles from the scene. They transported the vehicles to their inside storage unit located at their tow yard in Moriarty.

I also picked up the 911 tapes from Dispatch. I listened to the original call made by Mrs. Murdock to 911. Mrs. Murdock stated that she clipped two bicyclists and one of them may be deceased. During the approximately 10 minute 911 call, Mrs. Murdock was asked what had happened: she stated that they were on the side and couldn't get over and she clipped them. Mrs. Murdock was asked if she wanted to do CPR on the possibly deceased male and she advised that it would not work. Mrs. Murdock then stated later in the call that when she saw them she could not get over but did not explain what she meant.

Mrs. Murdock and Justin Poff were asked if they would consent to a search of the vehicle and cell phone, and they advised "No." Detective Ballard wrote up two search warrants, one for the truck and one for the cell phone and had them approved.

On September 30, 2019, a search warrant was executed on the vehicle; Mrs. Murdock was driving the day of the crash. The search warrant was completed and I tagged the information that was obtained from the CMU and photographs that were taken off all three vehicles into Evidence. All Vehicles were released after speaking with the District Attorney Office.

During the course of the investigation, it was determined that three vehicles were traveling east on Highway 60 and a white in colored passenger vehicle traveling west. The two bicyclists were traveling east on Highway 60 near the white outside stripe or in the middle of the roadway per the statement to two of the drivers. Mrs. Murdock was traveling behind two other vehicles east on Highway 60. The speed limit for the area is 45 MPH. The first vehicle was a full-size Dodge truck, which was lifted and had 35-inch rims. The second vehicle was a black in color passenger vehicle. There was also a white in color passenger vehicle that was traveling west out of Mountainair that was not identified. The Dodge truck changed lanes and went into the westbound lane. The second vehicle followed suit, but the driver did not notice the bikes until the first truck moved off the lane. Mrs. Murdock was traveling per the statement of driver of vehicle two approximately 8 to 10 car lengths behind him. Mrs. Murdock struck the first bike lime green in color with the passenger front headlight area and bumper. The force of the impact pushed the first bike into the second bike, pushing it onto the shoulder. Mrs. Murdock stopped her vehicle in the roadway. Mrs. Murdock then went and checked on the cyclists and advised Dispatch. Mrs. Murdock then moved her vehicle off the roadway due to traffic coming.

It is undetermined where exactly the bicyclists were in the roadway.

A copy of this report will be submitted to the DA's Office for review.

ENFORCEMENT ACTION:

None at this time. Pending the outcome of the crash reconstruction being done by New Mexico Stated Police.

-End of report-

Report completed by:

Deputy E.R.Young
Torrance County Sheriff's Office #257

Supplemental Narrative

Written By WOODARD, BRENT	Date Written 09/25/2019
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Supplemental Report

On September 21, 2019 I, Deputy Woodard of TCSO, was dispatched to an auto collision along with Deputy Young of TCSO on Hwy 60 at mile marker 204 in Mountainair, NM. While in route I observed in the call notes that the calling party reporting the auto collision was a driver of a vehicle that had struck two bicyclists. The driver was later to be known as Shannon Murdock. Shannon reported to dispatch that two men had been struck and that one of the men later to be known as Billy Weinman was not breathing and appeared to be dead. The other man later to be known as Karl Baumgartner was conscious but was [REDACTED] and that both men were on the ground on the side of the road.

Upon arrival in the area in my marked law enforcement vehicle, wearing my uniform and badge of office, I observed that Deputy Young had arrive on scene and that medical personal had also arrived.

Scene:

I observed a dark SUV (which listed in the vehicle section of this report) stopped on the side of the road on northbound Hwy 60 near the 204 mile marker approximately 352 feet north of where Deputy Young and medical personal were attending to Billy and Karl. Near the two men, I observed two mountain bike type bicycles in the grass, approximately 3 feet and 15 away from the roadway Hwy 60 on the eastern side of the road. Belongings of the two men were also observed near the men and the bicycles on the ground in the grass. I observed medical personnel working with Karl for his injuries sustained during the auto collision and Billy laying in the grass was unresponsive due to traumatic injuries sustained during the auto collision.

Deputy Young began his crash investigation while I made arrangements and communicated with the incoming Medical Helicopter PHI. After arrival of PHI and after Karl was secured and lifted off with PHI to an Albuquerque hospital, I met with Cassie Webb who approached me and stated she was a friend of Shannon and had been passing by after the auto collision. She stopped to help with the scene and to meet with Shannon. Cassie said that when she arrived, Shannon was on 911 with dispatch. Cassie said after she helped try to assist with the two men, she discovered one of the men did not have a pulse. Cassie said once medical personnel arrived, she and Shannon walked over to Cassie's vehicle where she stated Shannon kind of fell apart. Cassie said she used Shannon's phone to call Shannon's husband who was at work. Cassie said that at some point during that conversation, Shannon's husband told Cassie to hold on to Shannon's phone. At approximately 1332 hours Cassie handed me Shannon's phone and went back to her vehicle.

At approximately 1330 hours, I met Shannon and had her sit in the back of my truck where I turned the air conditioner on high for her comfort as she was obviously distraught from the situation. At approximately 1337 hours, I met with Shannon and introduced myself, gave her my card, and told her she was not under arrest but she was being asked to sit in my vehicle while the crash investigation was taking place and while medical personnel were attending to the injured. Shannon shook her head in understanding. I asked Shannon to write down her name and date of birth along with her phone number. She wrote Shannon Murdock [REDACTED] 77 505 977 9188. At approximately 1340 hours, I gave Shannon her phone that Cassie had given me. I told Shannon for some reason, Cassie had her phone and that I was giving it back to her, and that it would be better if she just didn't make any calls right now. Shannon said she understands. At 1344 hours, while entering into the notes that I had returned Shannon's phone to her, I was contacted by phone from dispatch that Detective Ballard of TCSO was instructing dispatch to inform me to seize Shannon's phone and place it in airplane mode. At 1353 Hours, I met with Shannon and informed her that I was being asked by a detective to ask her to put her phone into airplane

mode and have her turn it over as part of a crash investigation that included the death of a person. Shannon put the phone in airplane mode. When asked to turn it over, she stated she said she feels like maybe she should talk to an attorney at this point. Moments later, Shannon handed the phone to me.

Torrance County Sherriff Rivera was on scene and observed Shannon provide her phone to me. I advised Shannon an investigation would continue into the next week where she would be contacted and asked if she would provide the code to the phone so that investigators could continue the crash investigation. Shannon said she understood. Shannon was advised if she needed to contact anyone to advise me, and I would make those phone calls for her. Note: Shannon's husband was already in route, Cassie was still on scene and the Sherriff as well as the Medical Examiner were already speaking to Shannon while she was in the back of my truck while I assisted Deputy Young with the crash investigation.

I met with Shannon at 1400 hours and informed her that I was going to administer the Standard Field Sobriety Test on her as part of the crash investigation that included the death of a person during the collision that she was involved in. I asked Shannon if she had heard of the Standard field Sobriety Test before. Shannon stated she had. (To note at this point and then forward, I personally knew that Shannon was a Judge in the New Mexico Judicial System as I had been informed by Deputy Young during crash investigation. I don't believe I had met Shannon prior to the crash investigation and I did not let her know that I knew she was a judge during all my interactions with her.)

I informed Shannon that she were to perform the Standard Field Sobriety Test to eliminate the possibility of assumption that she had consumed an alcoholic beverage prior to operating a motor vehicle on the roadway and then later been involved in an auto collision that caused the death of a person. Shannon shook her head in understanding and agreed to take the test.

Shannon was asked standard pre-test questions which she answered. Shannon was given verbal and physical instructions on what was acquired of the Standard Field Sobriety Test. Shannon said she understood all questions and instructions concerning the test. Shannon completed the test when asked. No indicators or clues were observed during the Standard Field Sobriety test that would lead me to believe Shannon had consumed an alcoholic beverage and then operated her motor vehicle. I do not have a portable breath test machine and did not give Shannon a portable breath test.

At 1413 hours Shannon's husband arrived and stayed with Shannon for the remainder of the time she was on scene.

At 1419 hours, I met with Kristi Chavez who had been driving two vehicles ahead of Shannon in a 2001 Dodge pickup NM 181WGH. Kristi had previously met with Deputy Young and I did a follow up interview with her while she was still on scene. Kristi stated that she was in front of a black car and her vehicle indicating and pointing at Shannon's SUV. Kristi said the two bikers were right on the white line with not much room on the shoulder. Kristi said she looked in rear view mirror and saw "her" Shannon veer off to the right and then hit the bikers. Kristi stated that on approach to the bikers she was able to move to the left and cross the yellow line to avoid the bikers and the black car behind her did the same thing but noticed the SUV did not move over to the left as all three vehicles were approaching the limits of Mountainair at what she described as the speed limit. Kristi stated that a white car was coming towards her from the opposite direction and that she and the car behind her had room to move to the left prior to that white car getting close to them but believes the white car was near the SUV when the SUV hit the bikers. Kristi stated the SUV was on the white line the whole time. Neither the white car or the black car stopped for the crash and they are unknown at this time. Kristi said she drove to the Rock Motel to get phone service and upon her return she saw Shannon on her phone standing next to a woman until Deputy Young arrived. I continued assisting Deputy Young with the investigation.

At 1508 hours, I returned to Shannon who had been with her husband at my truck to conduct an interview. I read Shannon her Miranda Rights prior to the start of the interview. (To note I had not asked Shannon any questions about the collision prior other than for her to provide her identity and the SFST's instructions). Shannon chose not to speak with me after being read the Miranda Rights verbatim from a written card. I continued to assist Deputy

Young in the investigation. Shannon was released from the scene by Deputy Young and was advised her SUV and phone were evidence in the crash investigation and were being held.

I assisted Deputy Young in preparing the SUV as well as the two bicycles for tow by Tanners Towing. The tow company later arrived and collected the SUV the bicycles and all the items that were carried on the bicycles.

State Police arrived and conducted their crash reconstruction investigation.

At 1857 hours Deputy Young and I traveled to Billy's house where we met with Dolly Archuleta [REDACTED]-78 [REDACTED] and Guy Burken [REDACTED] 75 [REDACTED]. The couple stated they were Billy's close friends and that he had no relatives in town. Deputy Young provided Dolly Billy's phone to call his relatives and notify them of his passing.

Shannon's phone was placed into TCSO evidence by Deputy Young.

End of supplement report.

Deputy B. Woodard

TCSO #293

Supplemental Narrative

Written By BALLARD, KENT	Date Written 09/26/2019
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On **September 21, 2019**, at approximately 1:32 PM, I received a telephone call from Torrance County Sheriff's Office ("TCSO") Deputy Erwin Young advising me of a fatal traffic collision that occurred on US Highway 60 just west of Mountainair, NM. Deputy Young indicated that the crash involved a black Ford Expedition and two bicycles, and that one of the bicyclists had died on the scene. Deputy Young said that the New Mexico State Police ("NMSP") Crash Reconstruction Unit ("CRU") had been called out to the scene to assist with the investigation.

I know through training and experience that a common contributing factor to any crash can be driver distraction and that cellular phones or devices are sometimes found to be the source of these types of distractions. I also know through training and experience that electronic data like that found on a cellular phone is extremely perishable and can be altered or destroyed in a matter of seconds. Since this investigation was still in the very early stages, I told Deputy Young that it was my recommendation that if the driver of the black Ford Expedition had a cell phone that it be secured immediately to preserve any possible evidence. I was later advised that TCSO Deputy Brent Woodard had secured the driver's (Mrs. Shannon Murdock) cell phone. Deputy Young said that during his initial conversation with Mrs. Murdock she had said that she had not been on the cell phone at the time of the crash and that the only phone calls she made were after the fact when she called 9-1-1 and her husband.

At approximately 1:55 PM, I submitted a formal request via e-mail to the Torrance County Dispatch Center asking for all records and audio recordings related to the crash.

During a subsequent phone conversation between myself and Deputy Young, I asked him whether or not there was any probable cause for an arrest. Deputy Young informed me that he did not believe that there was sufficient probable cause based on the information available to him at that point. He said that Standardized Field Sobriety Tests ("SFST") had been conducted by Deputy Woodard and that there were no observed impairment clues. Deputy Young's opinion was that it would be prudent to continue the investigative process and to review the totality of the facts before making a determination on whether criminal charges were appropriate. I suggested to Deputy Young that he contact the NMSP CRU personnel responding, and that if they did not need to speak directly to Mrs. Murdock as part of their investigation, that she be released from the scene.

Later that afternoon, I spoke with Deputy Young again, who advised that NMSP CRU would need to examine the data recorder on the black Ford Expedition as part of the investigation. I told Deputy Young that I would speak with the NMSP CRU personnel directly to find out whether or not they were going to need any assistance with drafting the affidavits for a search warrant or whether they would handle that task.

On **September 22, 2019**, I had e-mail correspondence with NMSP CRU Sgt. Lauren Milligan who clarified that his team would handle the data acquisition and interpretation, but asked that TCSO draft and submit the affidavits for a search warrant on both Mrs. Murdock's cell phone and the data recorder on the Ford Expedition she was driving. NMSP Sgt. Milligan also advised that his team was going to be unavailable to perform the data acquisition from the Ford Expedition until the following week and to plan accordingly to stay within the time constraints associated with any search warrant.

Since Mrs. Murdock was a presiding District Court Judge with the Seventh Judicial District, which includes Torrance County, I conferred with the District Attorney's Office on the matter. At the request of the District Attorney's Office, TCSO Deputy Young asked Mrs. Murdock if she would consent to the search of both her phone as well as the data acquisition from her vehicle. Mrs. Murdock opted not to give consent and indicated that she would prefer that a search warrant be sought. Based on the potential conflict, I was told by Deputy District Attorney Ray Sharbutt that his office would be seeking another district to handle this matter.

On **September 25, 2019**, I was contacted by the District Attorney's Office advising me that Chief Deputy District Attorney Brent Capshaw with the Eleventh Judicial District would be my point of contact for any matters related to this investigation.

On **September 26, 2019**, I met with TCSO Deputy Erwin Young at the Sheriff's Office to get a statement from him on what he knew based on his interviews and observations up to that point so that I could prepare the affidavits for the search warrants. *(Investigators Notes: I wrote in my affidavits for search warrant that Mrs. Murdock was part of a line of four vehicles traveling eastbound on US HWY 60 at the time of the crash. I was later corrected by TCSO Deputy Erwin Young who said that there were three vehicles traveling eastbound and one white passenger car traveling westbound. The driver/occupants of the white passenger car did not stop and have not been identified as of 10-9-2019. KB)*

I submitted two separate search warrants to Chief Deputy District Attorney Brent Capshaw for his review. One search warrant was for the engine control module ("ECM") on the Ford Expedition while the second search warrant was for Mrs. Murdock's cell phone. Chief Deputy District Attorney Capshaw telephonically approved both warrants and directed me to get in touch with the on-call judge for San Juan County.

I contacted the Eleventh Judicial District Courthouse and advised them of the situation. I was first directed to the office of District Court Judge Sarah V. Weaver. Trial Court Assistant Carlotta Thode told me that Judge Weaver was in a meeting. Ms. Thode told me to contact the office of Judge Daylene Marsh. I called the number provided by Ms. Thode and spoke with Ms. Tabitha Wilkie. Ms. Wilkie said that she would e-mail Judge Marsh, who was unavailable at that moment. A short time later, I received a call back from Ms. Wilkie, directing me to contact on-call Judge Gary McDaniel out of the Aztec Magistrate Court. I was able to reach the Honorable Judge McDaniel by telephone, and he agreed to review the two search warrants.

At approximately 5:38 PM, I received the signed search warrant regarding the Ford Expedition ECM.

At approximately 5:59 PM, I received the second signed search warrant for Mrs. Murdock's cell phone.

On **September 30, 2019**, members of the NMSP CRU unit, accompanied by TCSO Deputy John Stocum and TCSO Deputy Erwin Young, executed the search warrant on the black 2015 Ford Expedition involved in this crash. I uploaded a copy of the search warrant as well as the return to this case file.

On **October 1, 2019**, I filed the search warrant relating to the black 2015 Ford Expedition via fax with Ms. Rebecca

Gottschall with the Aztec Magistrate Court in Aztec, NM.

That afternoon, I was in contact with Mrs. Murdock's legal counsel (Mrs. Marna Trammell). Mrs. Trammell provided me with the four (4) digit passcode required to access Mrs. Murdock's phone and conduct the examination.

On the morning of **October 2, 2019**, I took Mrs. Murdock's Samsung Galaxy S10 (SM-G973U1) cell phone to the Federal Bureau of Investigation ("FBI") Regional Computer Forensics Laboratory ("RCFL") in Albuquerque, NM to execute the search warrant. I was able to conduct the examination using a Cellebrite Universal Forensic Extraction Device ("UFED") 4PC. The Cellebrite UFED 4PC is an electronic data extraction platform designed to execute read-only commands to prevent the opportunity to alter it to issue write commands to mobile devices. There are two different methods of mobile device extraction; logical and physical.

The most comprehensive and detailed analysis of a device is through a physical extraction. The UFED accesses the additional data layers in both allocated and unallocated space that make up a device's physical memory. The physical extraction creates a bit-for-bit copy of the mobile device's flash memory which is then decoded with the UFED Physical Analyzer. This method is not possible on all devices and becoming increasingly less common as cell phone device technology evolves.

A logical or advanced logical extraction of data is performed, for the most part, through a designated Application Programming Interface ("API") available from the device vendor. Just as the API allows commercially available third-party apps to communicate with the devices operating system ("OS"), it also enables forensically sound data extraction. When the device is connected to the Cellebrite UFED 4PC, the UFED loads the relevant vendor API and makes a series of read-only requests to the device for data. If the extraction is successful, the device will reply to the request by providing extracted data content such as text messages, phonebook entries, pictures, video, etc. API based extractions are limited to the scope of what a specific vendor has made available through its particular API. For example, pictures taken via a third-party app are likely stored in a folder that is different from the vendor default and may not be captured in the extraction.

I was able to conduct a successful advanced logical extraction of the target device. Based on the facts of this investigation, I focused the scope of my search to a reasonable amount of time before and after the crash. Using the "Timeline" section of the extraction, I was able to view activity transactions or usage on the cell phone such as messages (SMS/MMS), calls, web activity, etc. Out of the thirteen thousand three hundred and twenty-six (13,326) data points captured in the total extraction, including thirty-three (33) previously deleted transactions, I found ten (10) data points on 9-21-2019 between 12:14:27 PM (UTC-6) and 1:24:08 PM (UTC-6). I compiled these ten data points or transactions during this period into a report named "AdvancedLogical_2019-10-02_Report - Timeline Report".

Torrance County Dispatch records show that they received the 9-1-1 call from Mrs. Murdock at approximately 12:26 PM. This time was corroborated by transaction #2 in the Timeline report showing the phone call was placed to 9-1-1 at 12:46:26 (Device Time, UTC-6). The last activity captured on the cell phone **before** the call to 9-1-1 was an outgoing call to voicemail placed from the device at 12:24:27 PM (UTC-6), approximately twenty-two (22) minutes within the captured data that suggests that Mrs. Murdock was using the device at the time of the crash. However, third-party application access is not typically part of the extraction process since they are not part of the vendor specific API. I was able to manually search some of the social media applications installed on the device (e.g. Snapchat, Facebook Messenger), and I did not find any communication in the time period immediately preceding the crash.

As of July 1, 2019, New Mexico state law (NMSA Section 10-16F-3) required that any information obtained through the execution of a warrant that is unrelated to the objective of that warrant must be destroyed within thirty (30) days after the information is seized and cannot be subject to further review, use, or disclosure, except when the information obtained is exculpatory with respect to the natural person targeted.

As required by NMSA Section 10-16F-3, I destroyed all of the information obtained through the execution of this

search warrant that was unrelated to the objective of this investigation. I uploaded the "AdvancedLogical_2019-10-02_Report - Timeline Report" to this case file and notified TCSO Deputy Young of my findings.

This same day, I filed the search warrant relating to the Samsung cell phone via fax with Ms. Rebecca Gottschall with the Aztec Magistrate Court in Aztec, NM.

On **October 6, 2019**, I e-mailed Mrs. Marna Trammell and asked whether or not Mrs. Murdock would be willing to provide a formal statement to law enforcement about her recollection of the crash.

On **October 7, 2019**, Mrs. Trammell responded to my e-mail stating that Mrs. Murdock had given her statement at the scene and had nothing additional to add at that time.

On **October 8, 2019**, I followed up on information that a second 9-1-1 call had been made on the day of the crash by a female who had stopped at the Rock Motel in Mountainair, NM. I wanted to make sure that this witness was positively identified and interviewed. Using the phone number provided by Dispatch, I was able to confirm that this caller was Ms. Kristi Chavez who had ultimately returned to the scene and was interviewed by deputies on the day of the crash. During my conversation with Ms. Chavez, she mentioned that there was another person who had witnessed the crash who had also stopped at the Rock Motel at the same time. This second person was identified as Mr. Henry Mullins. Mr. Mullins had already been identified and interviewed by TCSO Deputy Erwin Young.

I will document any further involvement in this matter in a supplemental narrative.

End of Report

Detective K. Ballard
Torrance Co. Sheriff's Office
210

Supplemental Narrative

Written By	Date Written
STOCUM, JOHN	10/04/2019

On October 2, 2019 per Det. Ballard I returned the cell phone to Atty. Marna Trammel.

J. Stocum

Supplemental Narrative

Written By	Date Written
BALLARD, KENT	11/16/2019

On or about **November 7, 2019**, I was contacted by New Mexico State Police ("NMSP") Officer Stan Lundy of the Crash Reconstruction Unit ("CRU") regarding a follow-up on this matter. NMSP Officer Lundy advised that during his subsequent interview with Henry Mullins, he (Mullins) mentioned that after the crash when both he and Kristi Chavez stopped at the Rock Motel in Mountainair, a man on a copper-colored factory three-wheeled motorcycle stopped as well. Mr. Mullins said that his man asked them to call 9-1-1 to report the crash. According to NMSP Officer Lundy, this person left the Rock Motel before law enforcement arrived, but that he saw the same motorcycle parked at the "Speedway" gas station in Estancia later that afternoon.

It was unclear whether or not the man described by Mr. Mullins was a witness to the crash or had come upon the aftermath. I told NMSP Officer Lundy that I would try and obtain the surveillance video from the Speedway to identify this person. I immediately called Torrance County Sheriff's Office ("TCSO") Deputy Ryan Collier, who was on-duty and asked him to go to the Speedway to request the surveillance video and find out who was working on this afternoon. TCSO Deputy Collier was advised that Tom Esquibel (Speedway, Store Manager) would be in the following day and would see if the video in question was still available.

On **November 11, 2019**, TCSO Deputy Collier obtained the requested video as well as the names of the

employees working at the Speedway on September 21, 2019. According to Mr. Esquibel, nobody recognized or recalled seeing the copper-colored three-wheeled motorcycle on that day. TCSO Deputy Collier brought the two (2) discs containing the surveillance video to my office, where he dropped them off.

On November 13, 2019, I began reviewing the Speedway surveillance video. I first focused my attention on the exterior camera. I noted that the color on the outside camera was extremely "washed out," making it almost impossible to distinguish colors beyond merely dark and light.

9/21/2019 @ 1:43:21 PM (system time) - Two motorcycles are observed traveling northbound on NM Highway 41 and turning into the parking lot just south of the Speedway. The first motorcycle, which had two riders, appears to be a three-wheeled model like the one described by Mr. Mullins.

On the "Front Door" camera, I observed the following;

9/21/2019 @ 1:44:14 PM (system time) - Three individuals, two males and one female, enter the store from the direction of where the motorcycles had parked.

9/21/2019 @ 1:44:34 PM (system time) - A fourth person, a male, enters the store from the direction of where the motorcycles had parked. This man seemed to link up with the other three and is believed to be part of the same group.

9/21/2019 @ 1:46:57 PM (system time) - The four individuals approach the cashier to make their purchases. The jackets that two of men were wearing had the club name "Legion Riders" on the back.

9/21/2019 @ 1:49:17 PM (system time) - The last of the four individuals leave the store.

I switched back to the exterior camera and observed the following;

9/21/2019 @ 1:51:40 PM (system time) - The two motorcycles pull out of the parking lot and are last seen headed southbound on NM Highway 41.

Based on my review of the video, the individuals described above appear to be the closest to what was described by Mr. Mullins.

On November 16, 2019, I uploaded my screenshots of these individuals from the surveillance video to this incident report and notified NMSP Officer Lundy of my findings.

End of Report

Detective K. Ballard
Torrance Co. Sheriff's Office
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Case Management

Initial Investigator YOUNG, ERWIN	Current Investigator YOUNG, ERWIN	Report Status Approved	Approved By TYROLT, CHRISTOPHER
Date Approved 10/29/2019 10:49	Case Status OPEN		