



June 7, 2016

Chief Lee Birk
Westminster Police Department
9110 Yates Street
Westminster CO 80031

Re: The investigation of the officer-involved traffic accident resulting in the death of Travis Wood, dob 1/11/1992, occurring on February 18, 2016

Dear Chief Birk:

The investigation and legal analysis of the traffic accident resulting in the death of Travis Wood is complete. The North Metro Accident Investigation Team (NMAIT) conducted the investigation into this matter, led by Trooper Lisa Middleton of the Colorado State Patrol. The NMAIT is comprised of investigators from multiple police agencies within the 17th Judicial District. The factual findings of the investigation were presented to my office on May 3, 2016. The NMAIT presented police reports, videos and transcripts of the interviews of witnesses, along with photographs and diagrams of the accident investigation. The Office of the District Attorney concludes that the investigation is thorough and complete.

The District Attorney's review is limited to determining whether criminal charges should be filed against Officer Kevin Parnell, the Westminster police officer involved in the accident. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any criminal violations beyond a reasonable doubt to a jury. This review does not evaluate the appropriateness of the actions of the involved officer, whether department policies or procedures were followed, or whether the policies, practices, or training provided by your agency were sufficient. That evaluation is left to the Westminster Police Department.

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving Officer Parnell committed any crimes beyond a reasonable doubt at trial. Therefore, no criminal charges will be filed against Officer Parnell as a result of this incident.

Overview of the Incident

During the early morning hours of February 18, 2016, a two-vehicle crash occurred at the intersection of W. 88th Avenue and Federal Boulevard. The vehicles were traveling opposite directions on Federal. A marked Westminster Police Department Ford Interceptor was traveling southbound in the right lane of Federal Blvd. A Chevrolet Malibu was traveling northbound on

Federal Blvd. in the left turn only lane for westbound W. 88th Avenue. The patrol vehicle was traveling at an extremely high rate of speed with its emergency lights and siren activated, en route to a dispatch call regarding a disturbance with weapons. As the patrol vehicle entered the intersection at W. 88th Avenue, the driver of the Malibu made a left turn onto westbound W. 88th Ave., resulting in a collision between the vehicles. The front of the patrol vehicle struck the right passenger's side of the Malibu, causing extensive damage to both vehicles. The driver of the Malibu, identified as Travis Wood, sustained fatal injuries as a result of the crash. Mr. Wood's blood alcohol content was 0.129 g/100 mL at the time of the incident.

Accident Investigation

Initial responders found a male inside the driver's seat of the Chevy Malibu. The male was not responsive and was declared deceased at 1:34 a.m. Inside the Malibu, investigators located a wallet with Texas driver's license belonging to Travis Wood, dob 1/11/92. His identity was later confirmed as such by the Coroner's Office. The driver of the Westminster Police Department patrol vehicle was identified as Officer Kevin Parnell, who was evaluated on scene for his injuries and then transported to Good Samaritan Hospital for further examination and treatment. Officer Parnell suffered a broken ankle and lacerations to his head.

Federal Blvd. at the intersection of W. 88th Ave. is a four lane highway with two northbound lanes and two southbound lanes. Each direction has a dedicated left turn and right turn lanes. There is a raised concrete median between the northbound and southbound lanes. The lanes are paved with asphalt. The roadway is straight and level at the area of the crash. The roadway also appeared to be dry and clear of any debris. The posted speed limit signs in both directions is 45 mph.

The traffic control lights at the intersection cycled as designed, and otherwise appeared to be in good working order. There are two streetlights, one on the southwest corner and another on the southeast corner. Both streetlights were lit and provided ambient lighting around the intersection.

There were tire and gouge marks in front of the right lane of southbound Federal Blvd. at W. 88th Ave. There were also tire and gouge marks in the intersection made by the Malibu after impact. There were no other pre-impact tire marks or other roadway evidence to suggest any mechanical failures of either vehicle prior to the crash.

The damage to the Chevy Malibu was extensive—from the right front wheel well to the right rear passenger side door. The right side front and rear passenger doors were crushed heavily towards the interior, encompassing much of the left side. The hood and front sub-frame were shifted to the left, and the windshield was heavily damaged. The roof of the vehicle was buckled from right to left.

The patrol car revealed extensive damage to the front end. There was also damage to the driver's side of the front windshield of the patrol car, consistent with damage caused by an unrestrained driver striking the windshield during the crash. Data from the airbag control module of that vehicle confirmed that the driver's seatbelt was not in use at the time of the crash.

The light control bar was activated and set to mode 3, full strobing lights, though they were not flashing at the time of examination. The vehicle was equipped with a rooftop exterior light bar, side strobes, and rear strobes.

Using the FARO HD computer program, Trooper Middleton completed a series of scale diagrams from measurements taken of the scene. The accident was then reconstructed using mathematical calculations and formulas available through computer software. An animation was also produced depicting a graphic recreation of the accident.

With the distances and angles created by the computer program, the precise impact speed of the Malibu was calculated to be 9.17 mph, while the speed of the patrol car was 73.14 mph. The investigators further gathered and analyzed the data from the airbag control modules of both vehicles to determine the respective speeds of the two vehicles prior to collision. This information revealed that five seconds prior to impact, the Malibu was traveling at a speed of 1 mph and the patrol vehicle at 95 mph. The Malibu steadily increased its speed to 9 mph one second prior to collision. The patrol vehicle's speed slightly increased to 96 mph four, three, and two seconds prior to collision. The data also showed that the patrol vehicle's brakes were applied one second prior to the collision, at which point its speed slowed to 94 mph.

The airbag control modules and other pertinent evidence support the investigators' conclusions about the relative direction of travel of both vehicles. The Malibu slowed to 1 mph and entered the intersection approximately 40 feet south of the area of impact. The Malibu slowly moved forward and accelerated from 1 mph to 9 mph in approximately 5 seconds as it turned into the path of the approaching patrol vehicle. From the other direction, approximately 150 feet north of the intersection of W. 88th Ave., the patrol vehicle veered toward the right lane. Just prior to impact, the vehicle turned back to the left and the brakes were applied, slowing the speed to 73 mph at the time of the crash. After the collision, the Malibu rotated clockwise and traveled to the southwest of the road facing south. The patrol vehicle rotated clockwise and traveled to the south facing northwest.

Timeline

At approximately **12:49 a.m.**, Westminster Police Officers Bruce Moua and Scott Holly reported making a traffic stop on a vehicle in the parking lot of a gas station located on the northwest corner of W. 88th Avenue and Federal Boulevard.

Investigators located a receipt inside the Malibu from a bar named "The House of Babes." The time stamp on the receipt read February 18, 2016, at 0052 hours, or **12:52 a.m.** This bar is located at 2265 W. 84th Avenue, Westminster, CO 80260.

At approximately **1:00 a.m.**, Adams County Sheriff's Deputies Aaron Sandoval and Kevin Trimble observed a 2010 Chevrolet Malibu displaying one headlight in the area of W. 84th Avenue and Decatur Street. The Deputies performed a traffic stop of the vehicle in the shopping center parking lot on the northeast intersection of W. 84th Avenue and Federal Blvd. According to police records, the location of the stop was 8424 Federal Boulevard. The Deputies identified the driver and sole occupant of the vehicle as Travis Wood. Mr. Wood acknowledged that his headlight needed to be replaced.

The Westminster Police Dispatch records and Adams County Communications dispatch (AdCom) records reveal the sequence of times relevant to the activity in the vicinity of the two traffic stops. At 1:02 a.m. there was a report of a man with a gun in the area of W. 88th Avenue and Federal Boulevard. At 1:04 a.m., the name and dob for Travis Wood is provided to AdCom for clearance. At 1:09 a.m., AdCom advises that Travis Wood is clear of warrants and is a valid driver from Texas. At 1:10 a.m., another report aired regarding a disturbance with weapons at Baskin Robbins, located in the area of 8424 Federal Boulevard. Details of the report included individuals in a fight, one of whom pulled a gun. Shortly after, dispatch reported a shooting. Westminster Police Officers Josh Verver and James Beaudry were searching the area of 8424 Federal and, at 1:12 a.m., reported that the area was clear of any activity. At 1:13 a.m., Officer Kevin Parnell reported that he was in an accident at the intersection of W. 88th Avenue and Federal. AdCom records show Deputies completing the traffic stop of Travis Wood with the issuance of a warning at 1:13 a.m.

Witness Interviews/Statements

Officer Kevin Parnell Northglenn Police Department Sergeant James Gardner conducted an interview of Officer Kevin Parnell at his residence with his attorney present. This interview took place on February 29, 2016.

Officer Parnell was working patrol Around 1:10 a.m. on February 18, 2016, Officer Parnell heard a "BOLO" (Be On the Look Out) for a man with a gun at W. 88th and Federal Boulevard. At the time of the dispatch, Officer Parnell was driving his patrol car eastbound on W. 92nd Avenue, approaching Federal Boulevard. While en route to the call, he heard a "tone alert," which was a dispatch report of a disturbance with weapons at W. 84th Ave. and Federal Boulevard. There was not much detail provided and there was one officer reportedly on the scene. Due to the nature of the two calls involving guns and only one officer on scene, Officer Parnell initiated the lights and sirens on his patrol car. In the course of responding to the location, Officer Parnell heard another tone alert reporting a shooting, but it was not certain whether it was the same incident.

Officer Parnell drove southbound on Federal Boulevard and did not recall seeing any traffic, other than a vehicle approaching him from the south near the intersection of W. 88th Avenue. The vehicle appeared to him to be in the turn lane to head westbound on W. 88th Avenue. Officer Parnell recalled seeing a silver sedan start "jerking," as if it were going to turn. Then, just as he entered the intersection, the sedan turned in front of him and he collided with it. Officer Parnell did not have time to swerve or maneuver his vehicle out of the way. He did not recall his speed at the time of the accident. He also did not recall whether he saw the headlights of the other vehicle.

Fellow Westminster Police Officers were already on scene on a separate incident. The officers ran over and assisted until an ambulance arrived. Officer Parnell was transported to Good Samaritan Hospital where he was treated for lacerations to his head and a broken ankle.

Javier Lucero Some hours after the accident, Javier Lucero walked up to the scene and

advised Westminster Police Officers that he witnessed the accident. Mr. Lucero was transported to Westminster Police Department, where he gave an interview to Detective Dean Passarelli.

Mr. Lucero is seventeen years old and lives in a townhome approximately one hundred yards from the intersection of W. 88th Avenue and Federal Boulevard. During the early morning hours of February 18, 2016, Mr. Lucero was sitting on his couch listening to his police scanner. He watched Westminster Police Officers as they performed a traffic stop at the Shell gas station located on the intersection of W. 88th and Federal.

During the course of the stop, Mr. Lucero noticed one patrol car leave the area of the stop and head southbound on Federal Blvd. with its lights activated. He then saw several more patrol cars with emergency lights travel southbound on Federal Blvd. As those vehicles drove by, he got up and looked out the sliding glass door to his patio. There, he noticed a final patrol vehicle heading southbound with both lights and sirens approach the intersection at W. 88th Avenue. About the same, he saw a four-door vehicle facing northbound waiting in the turn lane to go west onto W. 88th Ave. Just as the police vehicle entered the intersection in the right-hand lane, the four-door vehicle turned in front of it and the vehicles crashed.

Mr. Lucero stated that the traffic signal was green for both southbound and northbound traffic. He also stated that the green arrow for northbound traffic was not displayed. He estimated that the patrol vehicle was traveling 45-50 mph, but could not estimate how fast the other vehicle made the turn. He could not see whether the four-door vehicle had headlights on.

Eunice Rodriguez Westminster Police Officer Derek Whipple contacted Eunice Rodriguez shortly after the accident. Ms. Rodriguez stopped her vehicle just south of the intersection of 88th and Federal Boulevard and reported to officers that she observed the crash.

Ms. Rodriguez was traveling southbound on Federal Boulevard between 92nd and 88th Avenue and saw a police car with its lights and sirens activated driving ahead of her. She observed a solid green traffic signal light as the police car approached W. 88th Avenue. She then saw an "off white or gray" car turn in front of the police car in the intersection of W. 88th Avenue. She noted that this vehicle did not have its headlights on.

Ms. Rodriguez completed a handwritten statement detailing the facts that she reported to Officer Whipple. Her passenger, Eloisa Payon, did not speak English.

Kendra Thompson Westminster Police Officer Cody Lineberger had Kendra Thompson in custody in the back of his patrol car following the traffic stop at the gas station on W. 88th Avenue and Federal Boulevard. Ms. Thompson was transported to the police department, where she advised that she witnessed the accident. She completed a handwritten statement. Ms. Thompson stated that the lights and sirens of a police vehicle caught her attention as she sat in the back of the patrol car. She reported seeing the police car heading southbound on Federal Blvd. where she "witnessed another car smash into the police cruiser."

Officer Josh Verver Westminster Police Officer Josh Verver heard the dispatch call at

1:02 a.m. regarding the man with the gun at W. 88th Avenue and Federal Boulevard. He proceeded to that location and found other officers handling a traffic stop at the gas station on the northwest corner. He further advised that Federal Heights Police Officers were in the same area and found no evidence supporting the call.

Officer Verver also reported hearing the 1:10 a.m. dispatch call about a fight where someone pulled a gun at Baskin Robbins located at 8424 Federal Boulevard. He left the area of the traffic stop and headed southbound on Federal to investigate the call. As he arrived at the location, dispatch advised that someone had been shot. When Officer Verver pulled into the parking lot, he observed a silver sedan exit the parking lot and leave northbound on Federal Blvd. He proceeded into the parking lot toward Baskin Robbins and saw an Adams County Sheriff's Office patrol vehicle, but did not locate any people or evidence of a disturbance.

As he drove around the back of the business complex, Officer Verver heard another officer on the radio advise of a traffic accident at W. 88th Ave. and Federal Blvd. He then responded to that location and found a damaged patrol car and a silver sedan that appeared similar to the one he saw leave the parking lot at W. 84th and Federal minutes earlier. The male driver was not responsive.

Officer Verver then contacted a vehicle occupied by two women who advised that they observed the accident and stated that "the car had no lights on." He requested another officer to contact them and take their statement.

Crystal Addison In the days following the accident, a woman contacted the Westminster Police Department and advised that Travis Wood had been posting messages on a social networking website to Crystal Addison, a woman with whom he had a relationship. Colorado State Patrol Sergeant Scott Liska conducted a telephone interview of Ms. Addison on February 23, 2016.

Ms. Addison lives in Colorado Springs with her son. She explained that she was a friend of Travis Wood, and that he lived with she and her son approximately a year prior to his death. Ms. Addison spoke with Mr. Wood about two hours prior to the crash, when Mr. Wood was asking her if she knew of a place he could spend the night in the Denver area. Apparently, Mr. Wood was fighting with his fiancée, Julie Santistevan, and was looking for a place to go. Colorado Springs was too far and, since he had nowhere else to go, Mr. Wood decided to go to the bar.

Other Pertinent Information

The Coroner's Office tested Travis Wood's blood for alcohol concentration. The toxicology report reflects Travis Wood's Blood Alcohol Concentration (BAC) of .129 g/100 mL at the time of his death.

The Westminster Police Department further investigated the 911 calls regarding the fight involving weapons at 8424 Federal Blvd. Detectives discovered the identity of the person who called Westminster Police Dispatch and interviewed her concerning the events. The woman

ultimately admitted to making a false report as a ruse to clear her friend from the traffic stop at W. 88th Ave. and Federal Blvd. A criminal case is pending in Adams County District Court involving felony charges related to this investigation.

Legal Analysis

As was previously noted, this review is limited to a determination of whether criminal charges should be filed against the involved officer. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Generally speaking, criminal liability is established when the evidence is sufficient to prove all of the elements of a crime beyond a reasonable doubt.

In this case, the legal analysis involves an assessment of certain provisions of the traffic code as it pertains to the manner in which Officer Parnell operated his motor vehicle. In particular, this evaluation must consider whether his conduct is a violation of traffic offenses such as reckless driving or careless driving:

“A person who drives a motor vehicle...in such a manner as to indicate either a wanton or a willful disregard for the safety of persons or property is guilty of reckless driving.” §42-4-1401, C.R.S. (2015).

“A person who drives a motor vehicle...in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, is guilty of careless driving.” §42-4-1402, C.R.S. (2015).

Additionally, if Officer Parnell’s conduct violates either of these offenses, further consideration must be given to whether such conduct is the proximate cause of the death of another.

In addition to proving the elements of a crime, the prosecution must also consider any statutorily recognized justification or exception to the traffic code. For instance, when responding to an emergency call, a driver of an emergency vehicle may exercise certain privileges under the law. Specifically stated, “[t]he driver of an authorized emergency vehicle may [e]xceed the lawful speeds set forth in [the statute applicable to speed limits] or exceed the maximum lawful speed limits set forth [by statute] so long as said driver does not endanger life or property.” §42-4-108, C.R.S. (2015).

Here, there is no dispute that Officer Parnell was driving his vehicle far in excess of the maximum lawful speed limit at the time of collision. Not only is Officer Parnell’s speed of great concern, but also the fact that he did not appear to decrease his speed when entering the intersection in the presence of an oncoming vehicle. One would be hard pressed to conclude that traveling through an intersection in the presence of oncoming traffic at a speed of 95 mph is reasonable and prudent under the circumstances.

However, when evaluating whether criminal charges should be filed in this circumstance, there are factors beyond Officer Parnell's speed that must be taken into account. First, just minutes prior to the accident, dispatch reported an emergency call regarding a fight with a gun that appeared to be elevated to shots fired. Second, Officer Parnell was attempting to respond to that call by driving a marked patrol vehicle with its emergency lights and sirens activated. Third, there is no evidence to suggest that Officer Parnell disregarded any other traffic regulations. Fourth, the Malibu had one headlight in working order, and there remains a question as to whether it was illuminated.

The available evidence supports a conclusion that the traffic lights were solid green for both northbound and southbound traffic. The traffic conditions at the time of the crash were light. The Malibu appeared to be the only other vehicle in the immediate area at the time of the collision. Officer Parnell stated that he observed the Malibu in the turn lane of northbound Federal Blvd. as he approached the intersection. Although he did not reduce his speed, the direction of travel of the patrol vehicle demonstrates that Officer Parnell veered one lane away from the oncoming Malibu as he approached the intersection.

Perhaps most significantly, the overwhelming evidence supports a conclusion that Officer Parnell was responding to a dispatch call with his emergency lights and siren activated. Therefore, at the time he is driving 95 mph, he is the driver of an authorized emergency vehicle. The evidence further suggests that the Malibu was traveling at an extremely slow rate of speed and slightly increased as it turned in front of a police vehicle displaying its emergency lights and siren. Additionally, the driver of the Malibu had a BAC of .129 g/mL, an amount in excess of the legal limit designated for safe highway driving. Therefore, evaluating all of the evidence, the prosecution cannot prove beyond a reasonable doubt that Officer Parnell drove his vehicle in such a manner as to suggest a willful disregard for the safety of others, or that his driving was careless or imprudent. Given this conclusion, it is not necessary to reach a conclusion as to whether Officer Parnell's driving was the proximate cause of the death of Travis Wood.

Conclusion

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against Officer Parnell for the accident that resulted in the death of Travis Wood on February 18, 2016. Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Respectfully,

A handwritten signature in dark ink, appearing to read 'D. Young', is written over a horizontal line.

Dave Young
District Attorney