

**DISTRICT ATTORNEY**



**13<sup>TH</sup> JUDICIAL DISTRICT**

*Brittney B. Lewton*

Counties of Kit Carson, Logan,  
Morgan, Phillips, Sedgwick,  
Washington & Yuma

**Report:**  
**Officer Involved Shooting**  
**Kit Carson County**  
**March 1, 2017**

**Materials Reviewed:**

- Colorado Bureau of Investigations interview with Sgt. Travis Belden
- Colorado Bureau of Investigations interview with Deputy Jon Cisneros
- Colorado Bureau of Investigations photographs of Sgt. Travis Belden
- Colorado Bureau of Investigations photographs of Sgt. Travis Belden's firearm
- Colorado Bureau of Investigations photographs of suspect juvenile T.B., obtained by Burlington Police Department officers
- 911 call placed by clerk of the Conoco that was robbed in Stratton, CO
- All dispatch "traffic" or audio recording between all agencies in Kit Carson County, from the time the 911 call came in, to the time the ambulance arrived at the Burlington Hospital with the suspect juvenile T.B.
- Video footage of the robbery as it takes place at the Conoco in Stratton, in addition to the suspect arriving and leaving the Conoco gas station viewed from external videos
- Video from the "Seibert Travel Plaza" of the actual shooting
- Body-Cam footage from Deputy Jon Cisneros, from the time he arrived on scene directly after the shooting, during the ambulance ride with the suspect juvenile T.B., until the ambulance arrived at the Burlington Hospital.
- Conversations with the Sheriff of Kit Carson County, Sheriff Tom Ridnour
- Conversations with Colorado Bureau of Investigations Agents Tammy Lee and Kellon Hassenstab
- An NCIC/CCIC printout from the Kit Carson County Sheriff's Office with the juvenile's real name, DOB, and the fact that he had been reported a runaway, and had absconded while on probation out of the State of Nebraska for a drinking related offense.

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-Pictures and descriptions, provided by the Colorado Bureau of Investigations, of the weapon utilized by the juvenile suspect in this case.

### Witnesses:

Kit Carson County Sgt. Travis Belden  
Juvenile suspect T.B. 11/07/2000  
Kit Carson County Sheriff Tom Ridnour  
Kit Carson County Undersheriff Robert Furrow  
Kit Carson Deputy Jon Cisneros  
Stratton Town Marshal Dan Cooper  
Patsy Berryhill  
Kit Carson County Dispatcher Stephanie Isenbart  
Kit Carson County Dispatcher Rana Epperly  
Colorado Bureau of Investigations Agent Tammy Lee  
Colorado Bureau of Investigations Agent Kellon Hassenstab  
Colorado Bureau of Investigations Agent Greg Zentner

### Synopsis of Events:

**After my review of the aforementioned materials and discussions with, or viewing materials from, the aforementioned witnesses, these are the facts as I find them to be, as they existed on March 1<sup>st</sup>, 2017, in relation to this incident.**

On March 1<sup>st</sup> of 2017, myself, and my Assistant District Attorney Hollie Wilkinson were staying in Burlington, Colorado, for a First Degree Murder Trial that we were conducting from February 27<sup>th</sup>-March 10<sup>th</sup>. Burlington is the county seat of Kit Carson County (hereafter referred to as "KCC"), which is one of the seven counties in the Thirteenth Judicial District. Shortly before the noon hour, I was engaged in jury selection, when I was informed that there had been an officer involved shooting, in KCC, just a few miles from where I was selecting my jury. Thus, once I was finished with my trial duties that day, I was able to view most of the pertinent materials immediately upon arriving at the Kit Carson County Sheriff's Office (hereafter referred to as "Sheriff's Office") from the Burlington Community Center where jury selection was being held.

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On March 1<sup>st</sup>, 2017, at approximately 11:04 am, the KCC Dispatch Center received a 911 call from a female who indicated she had just “been robbed”. She further stated that the individual was armed with a gun when he robbed her. The tone of her voice and the sound of her breathing was clearly that of someone who had recently witnessed or been subject to a very traumatic event. Upon further questioning by the dispatcher, the female party indicated that she was employed at the Conoco gas station in Stratton, CO. and that her name was Patsy Berryhill, and the individual who robbed her was a “young kid”, who was wearing a black bandanna around his face. Ms. Berryhill went on to state that believed the suspect to be armed with some kind of black or silver handgun; possibly a 9mm or maybe a 22, but she was ultimately unable to tell for sure. All of this can be viewed in the video footage from the interior and exterior cameras at the Conoco in Stratton. Ms. Berryhill went on to state to the dispatcher that the individual was male, tall and skinny, had blue eyes and brown hair. She stated that the suspect left immediately prior to her placing the 911 call, and so she witnessed him drive off in a four-door gray car, which she described as being very dirty, prohibiting her from getting an entire reading of the license plate. Ms. Berryhill tells the dispatcher that all she could make-out on the suspect license plate, were the letters “I” and “Q”. She tells dispatch that the vehicle had tinted or dark windows with the plastic curved covers over each window. Finally, she indicates that the suspect left the Conoco and turned left onto Colorado Highway 24.

As Ms. Berryhill is giving this information to one dispatcher, another dispatcher is almost simultaneously airing to all law enforcement in KCC, that there had just been an armed robbery at the Conoco in Stratton. According to KCC dispatch logs, this information is aired at approximately 11:05 am. Many of the aforementioned details from Ms. Berryhill were aired to local law enforcement, including the type of vehicle that was likely the type the suspect could be found driving. Upon further questioning by the dispatcher, Ms. Berryhill never clarifies which direction she believed the suspect to be going when he “turned left” onto Highway 24, but the dispatcher informs law enforcement that she (the dispatcher) believes the vehicle to be headed west on Highway 24. Several officers respond to dispatch, confirming receipt of the information just aired about the armed robbery and that the suspect was still at large. Further, many of the officers indicated to dispatch they would be in route to attempt to locate the suspect and/or suspect vehicle. The responding officers were from a number of different locations and agencies, between Burlington and Siebert. The Stratton Town Marshal, Dan Cooper, the KCC Sheriff, Tom Ridnour, the KCC Undersheriff, Robert Furrow, KCC Sgt. Travis Belden, the Burlington Police Chief Barry Romans, and others were just some of the officers that responded

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to the information dispatch aired. The Stratton Town Marshal and the KCC Sheriff's officers indicated they would be actively looking for the vehicle or going to the Conoco to follow-up with Ms. Berryhill, while others stated they would take over security at the Burlington Community Center (as the jury trial was still in session), because so many of the Sheriff's deputies previously providing security, had responded to this particular call. Most notably, the dispatch traffic indicates that Undersheriff Furrow and Sgt. Belden drove both directions on Highway 24 in search of the gray car, until the Undersheriff went to assist the Stratton Town Marshal at the Conoco.

On the date of this incident, March 1<sup>st</sup> 2017, Sgt. Belden would later tell Colorado Bureau of Investigations (hereafter referred to as CBI) agents the following pertinent information, in an audio and video recorded statement:

Sgt. Belden was driving an unmarked Chevy Tahoe, silver in color that was equipped with red, blue, and white lights and sirens associated with typical police vehicles. He was armed with a "Glock 22, 40 caliber" handgun, purchased by Sgt. Belden, but sanctioned by the KCC Sheriff per his office's policies. Further, at the time of this incident the Glock was loaded with the standard issued Winchester Ranger ammunition provided by the KCC Sheriff's Office. There had been no modifications made by anyone to this weapon, other than a small flashlight attached to the weapon just below the barrel, by Sgt. Belden, and sanctioned by the KCC Sheriff. To the best of Sgt. Belden's knowledge, the weapon was in good working order, clean, and prepared for duty. According to Sgt. Belden, he is up-to-date with his firearms qualifications, as required by both the KCC Sheriff's Office and the State of Colorado's Police Officer Standards. Sgt. Belden was carrying two fully loaded magazines, in addition to the one of that was loaded in the weapon. The other two magazines are kept on his person, along with all of the other items typically carried by law enforcement officers. Sgt. Belden was not equipped with a body-worn video camera on March 1<sup>st</sup>, despite the fact that the KCC Sheriff's Office recently began to use such units, because according to Sgt. Belden on the day of this incident his body-worn camera unit was not operable. It is also apparent from the video at the Seibert Travel Plaza, and Sgt. Belden later told the agents from CBI, that he was dressed as a typical patrol officer on the date and time of this incident. Thus he had on the standard issued black pants and black shirt, his bullet-proof vest on the outside of his shirt, with the word "Sheriff" written in white, bold letters across the back of his vest. Finally, his vest was equipped with all of the standard issued equipment that all deputies with the KCC Sheriff's Office have, including two sets of handcuffs, a Taser gun, and his spare magazines mentioned above. Sgt. Belden also carries a flashlight on

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his vest, in addition to the one attached to the Glock he was carrying. He was also carrying his radio or "pack-set" on his vest, which has a microphone attached to the upper part of the officer's vest.

At approximately 11:20-11:22 am, after going to the Conoco, to assist the Stratton Town Marshal, the KCC Undersheriff radios in that he believes the vehicle is likely going to be a late model Chevy, possibly a Malibu, with a rear spoiler, and blacked out windows that have scoops on them. Sgt. Belden confirms the receipt of that information at approximately 11:23 am. At 11:24 am Sgt. Belden radios in that he has located, and will be out with the suspect vehicle of the Seibert Travel Plaza, located in Seibert, Colorado. According to the exterior camera of the Seibert Travel Plaza, it is at approximately 11:41 am that a gray four-door, small sedan, with dark windows, each covered with a curved plastic covering, is seen pulling into a parking space on the east of the store. Within seconds, the same camera shows Sgt. Belden's Tahoe pull into the parking area of the Travel Plaza, and stop some distance behind the suspect vehicle. During his interview later with CBI agents, Sgt. Belden indicates that he saw the suspect vehicle getting off of Interstate 70 at the "405" and proceeded to follow it from that point on, which was only a short time before the stop then occurs.

**NOTE:** There is obviously a time discrepancy between the time shown on the camera at the Travel Plaza and the time aired by dispatch. I believe this to be nothing more than a common time lag often seen on convenience store video systems, and believe that the times given by the KCC dispatchers are the times that should be relied upon.

Once Sgt. Belden pulls in behind the suspect vehicle, he radios into dispatch that not only is he out with the suspect vehicle, but that it in fact has a NE plate. However, he never gets the chance to give the plate number before the shooting occurs. It appears from the video at the Travel Plaza that once Sgt. Belden pulls into the parking area behind the suspect vehicle he waits for just a few seconds, and then proceeds forward, closer to the suspect vehicle and turns on all of his emergency lights. Up to this point, there is no activity by the suspect that can be seen on the video. Once Sgt. Belden activates his emergency lights, he opens his driver door, rolls the window down, and pulls his Glock and begins to conduct what is considered a "felony stop". The video footage from the Travel Plaza also shows Sgt. Belden momentarily reaching into his vehicle and then moving his Tahoe slightly more forward, toward the suspect vehicle, with his emergency lights still on, and with his driver's door still open. He quickly resumes his position

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in his open window, gun still drawn, to effectuate the “felony stop”. A felony stop is where the party being contacted is believed to be armed and dangerous, and thus the officer does not make the typical approach to the driver’s door of the vehicle to contact the driver, but rather draws his firearm, and calls out commands for the driver get out of his own vehicle and get onto the ground. The video system from the Travel Plaza shows visual images, but does not record any audio. However, when interviewed later by CBI agents, Sgt. Belden stated that he made it clear in a very loud voice that he was with the Sheriff’s Department and that the driver needed to get out of the vehicle with his hands up.

With the information Sgt. Belden had at this point, a felony stop would have been completely reasonable and appropriate. What he knew was that the individual in that car, was armed with some sort of firearm, has just robbed a young woman at gunpoint, had fled the scene, and there were no other law enforcement officers on scene at the time to assist Sgt. Belden. He had to ensure the safety of the public, the people in the Travel Plaza, and himself. Within seconds of Sgt. Belden relaying to dispatch that he would be out with the suspect vehicle with Nebraska plates, and within seconds of him attempting to conduct this “felony stop”, he calls out to dispatch that there have been “shots fired and the suspect is down.” When this information is aired, Sgt. Belden is clearly speaking in a much more elevated and exacerbated tone. Upon review of the footage caught by the cameras at the Travel Plaza it is clear that at approximately 11:24 am, the suspect opens his driver’s door, and immediately turns to face Sgt. Belden, while simultaneously beginning to bring a black looking hand-gun up and point it directly at Sgt. Belden. It is at this point that the Sgt. fires three consecutive shots from his weapon, striking the suspect, who falls to the ground. Upon being interviewed by CBI, Sgt. Belden stated that at the time of the shooting he was roughly ten feet from the suspect vehicle, calling out the aforementioned commands, with his weapon drawn and pointed at the suspect vehicle. He further indicated that it appeared to him that the suspect driver had leaned over to the passenger side of the suspect vehicle briefly, before opening his door and stepping out to point his weapon at Sgt. Belden. The juvenile suspect in fact, had been shot, by Sgt. Belden in the chest and with a “through-and-through” in his left forearm.

Once Sgt. Belden completed firing the three rounds at the suspect, the video at the Travel Plaza, shows the suspect lying on the ground, but the weapon still within his reach. Within moments of the shooting, multiple officers arrive on scene. The weapon was immediately kicked out of reaching distance for the juvenile, and he was immediately detained and handcuffed by

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Deputy Jon Cisneros. Further, the suspect was given first aid by Stratton Town Marshal Dan Cooper, and taken by ambulance to the Burlington Hospital, roughly 24 miles from Seibert. Deputy Cisneros accompanied the suspect in the ambulance to the hospital and remained with him until he was taken into the hospital for treatment. All of this can be seen and heard from Deputy Cisneros's body-worn camera footage. The suspect ultimately survived his injuries as a result of being fired upon by Sgt. Belden.

In that later interview by the agents from CBI, Sgt. Belden stated that he had almost ten years on the job as a peace officer. A couple at the Burlington Police Department, just over three years with an agency in Kansas, and just over four years with the KCC Sheriff's office. Further, he indicated that prior to the shooting he was feeling physically good, had gotten an average or "normal" amount of sleep the night before, had eaten an average or "normal" regimen of food, both that day and the day before, and was not currently on any type of medications. He went on to note that he had not consumed any alcohol or illicit substances the prior night or on the date of the incident, March 1<sup>st</sup>, and had recently (the prior Sunday) had a full day off. Even though Sgt. Belden's normal work schedule would have had him off on Sundays and Mondays, because of the trial, all of the Sheriff's officers were working extra shifts to provide security. Finally, Sgt. Belden told the CBI agents that he does not wear prescription glasses or sunglasses, and that the sunglasses he was wearing on March 1<sup>st</sup> (which can be seen in the videos both at the Travel Plaza and during the interview with CBI), were worn simply to repel the sun.

Finally, during his interview with CBI, Sgt. Belden stated that the reason he fired his weapon at the suspect was because once the suspect pointed the gun at him, it was "him or me", essentially Sgt. Belden's life or the suspect's. Further, Sgt. Belden, who is sworn to "Protect and Serve", stated that he believed the suspect, armed with this handgun, having just robbed a young woman at gunpoint, and now standing in broad daylight pointing that same weapon at him, had to ensure that the suspect could not cause any further harm to the community and its citizens.

Upon review of additional information available to me directly after the shooting, I saw an NCIC/CCIC printout showing that the juvenile suspect was sixteen years of age and from the state of Nebraska. Further, the juvenile was in fact a missing person out of the state of Nebraska, and further, was a minor on probation for a drinking related-offense out of Nebraska, and had recently been reported as absconding from said probation. In addition, CBI crime scene agent Zentner, sent me information that the weapon the juvenile was carrying turned out to be a

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Powerline by Daisy; model 5501, Co2 cartridge powered, .177 cal., (4.5mm) BB gun. However the picture of the weapon clearly shows how much it looks like a firearm, similar to a 9mm.

### **Applicable Law:**

Under C.R.S. 18-1-707(2), a “peace officer is justified in using deadly physical force upon another person...only when he reasonably believes that it is necessary: (a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or (b) to effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes: (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or (II) Is attempting to escape by the use of a deadly weapon; or (III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.”

Also relevant to this incident, are C.R.S. 16-2.5-301 and C.R.S. 20-1-114 (1). In C.R.S. 20-1-114(1) the legislature declared that the “district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney’s findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website...”

### **Conclusion:**

I have determined that no criminal charges will be filed against KCC Sergeant Travis Belden, for the shooting incident that occurred on March 1<sup>st</sup> of 2017. The suspect juvenile had put a bandanna over his face, pulled up his hoodie, and at gunpoint, robbed the clerk at the Conoco gas station in Stratton, Colorado. By the video at the Conoco and by the description by the store clerk, the gun looked to be deadly weapon, in particular a firearm. The suspect then flees the scene in Stratton and is at large, armed with some kind of gun. Upon making contact with the suspect at the Travel Plaza, KCC Sgt. Belden confirms it is the correct vehicle from the robbery, activates his emergency lights, gives oral commands to the suspect to surrender, and attempts to effectuate a felony stop. At that moment, instead of surrendering or complying with

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the officer's commands, the suspect gets out of his vehicle and immediately turns on Sgt. Belden, pointing the gun directly at the Sgt. At that point in time, Sgt. Belden had no choice but to fire upon the suspect, or else risk getting fired upon and badly injured or killed. In addition, Sgt. Belden had to fire on the suspect, in order to prevent the suspect from fleeing and possibly harming more individuals in the community. Thus, he was justified in utilizing deadly physical force against the suspect on March 1, 2017.

  
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13<sup>th</sup> Judicial District Attorney

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