

# **Boulder Police Department**

## **Executive Summary**

### **Investigation Into the Elk Shooting on January 1, 2013**

**Report Date - March 25, 2013**



# **BOULDER POLICE DEPARTMENT**

## **Elk Shooting – Executive Summary March 25, 2013**

This report is an executive summary of an extensive personnel investigation into allegations of serious misconduct involving Boulder Police Officers Sam Carter and Brent Curnow. Some detailed information is included, while other details have been excluded to protect information belonging to other agencies and/or the criminal case that has yet to be concluded. Some names have been redacted to protect department members' personnel privacy rights. Investigative reports on personnel matters are typically not made public. The decision to release this report was made in the interest of transparency (to the degree possible) and due to the already public nature of the incident, the degree of public concern expressed over the incident, and the fact that both employees are no longer with the Boulder Police Department.

On January 1, 2013, at approximately 2255 hours, Officer Sam Carter shot and killed an elk with his police issued shotgun on the corner of 9<sup>th</sup> and Mapleton while on duty. Officer Carter had made prior arrangements with off duty Officer Brent Curnow to assist him in loading the elk in Curnow's truck for later processing. Officer Carter made no attempt to report that he had discharged his shotgun or that he had killed the elk. (Officers sometimes have to euthanize injured animals to prevent further suffering.) Officer Carter did not notify a supervisor, dispatch, or file any reports about the incident.

On the morning of January 2<sup>nd</sup>, the department began to receive media inquiries about the killing of the elk. The department had no knowledge of any officer involvement in the killing at that time. The department continued to follow-up on reports that an elk had been killed by a Boulder officer and learned on the evening of January 2<sup>nd</sup> that Sam Carter had killed the elk. The department then began a preliminary internal investigation to determine the circumstances and why Carter did not report the shooting to anyone. As information was developed, it became obvious that there were serious questions around the circumstances of the shooting and the actions of the officers involved.

On January 3<sup>rd</sup>, a formal Internal Affairs Investigation (IA) was initiated against Officers Carter and Curnow (see attached complaints officially filed January 4th). Both officers were placed on administrative leave pending the outcome of the investigation. At about the same time, a criminal investigation was initiated by the Colorado Division of Parks and Wildlife (CPW). While information was shared with CPW, the investigations remained separate and distinct. The goal of the department's IA investigation was to determine whether Officers Carter and Curnow had violated any department rules and/or policies. The criminal investigation was left to CPW and eventually forwarded to the Boulder County District Attorney's Office. We did not conduct a personnel investigation into the actions of Deputy Jeff George. That responsibility fell to his employer, the Boulder County Sheriff's Office.

On January 18<sup>th</sup>, Officers Carter and Curnow were arrested and charged with multiple offenses related to the elk shooting. On the same date, both officers were placed on leave without pay and given appointments to report to the police department for their formal IA interviews on January



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21<sup>st</sup>. Rather than appear for their interviews as scheduled, their attorney Marc Colin appeared and announced that both officers would resign effective January 22<sup>nd</sup>.

Boulder Police continued to investigate to determine the facts and whether other employees were potentially involved. The department did not find any other violations of rules or policies by any other employees. Some employees had overheard statements by Carter and or Curnow about wanting to get the elk, or shoot the elk. However, the context in which these statements were made did not lead those employees to believe either officer would illegally or without justification shoot the elk. Both officers were hunters, as were other members of the department, and would often talk about hunting, so this type of conversation did not seem alarming. Often, job related joking occurs at briefings to start the day, so it is not unusual to hear officers make statements in jest. As one officer put it, Carter was always making brash statements in briefing but never did any of the things he joked about. No one took him literally when he said he wanted to kill the elk. Officer Curnow also reportedly teased a Sergeant about putting the elk down as he knew that Sergeant was an animal lover.

The elk in question had been around Boulder for many months and was admired by many officers. Some officers even took pictures of the elk due to its size and beauty. After the shooting, the officers who worked with Carter and Curnow were shocked, disappointed, and angry that they would do such a thing.

All of the information gathered during the investigation was provided to supervisors and the department's 12 member IA Review Panel, (six community members and six department members). All reviewers were unanimous in recommending the allegations against Carter and Curnow be sustained. Chief of Police Mark Beckner agreed with these recommendations and entered a sustained finding in the personnel files of both Carter and Curnow.

None of the reviewers or panel members believed any disciplinary action was appropriate for any other officer. The Chief of Police also asked specifically for feedback from supervisors and the IA Review Panel in regards to some decision making on the part of two other officers. One involved a post on a Facebook page about the elk and the other involved being more timely in letting the department know of Carter's involvement. The consensus feedback was that both situations were best handled as learning experiences to be addressed through documented counseling with supervisors. The Chief accepted this recommendation.



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## Primary Involved Employees

Samuel J. Carter

- Patrol Officer
- Hired January 2007
- Resigned January 22, 2013
- Six years of service
- Assigned to Watch 3 (9:00 PM to 7:00 AM), Sundays – Wednesdays
- Primarily assigned District 1 (Northwest Boulder)

Brent R. Curnow

- Patrol Officer
- Hired May 1998
- Resigned January 22, 2013
- 14 years, 8 months of service
- Assigned to Watch 3, Tuesdays – Fridays
- Primarily assigned District 4 (Southwest Boulder)

On January 2, 2013, the Boulder Police Department began receiving media inquiries regarding an elk that had reportedly been shot in the Mapleton Hill neighborhood by a police officer during the evening hours. The media stated that neighborhood residents believed that the police also removed the elk after it was dead.

The department's public information officer was off on January 2nd. Chief's Assistant Laura Ogden was tasked with trying to find information about the elk. After researching the overnight watch logs and dispatch's Computer Aided Dispatch (CAD) data, no record could be found for the elk. Sergeant Kerry Yamaguchi paged on duty Open Space Mountain Parks (OSMP) Ranger Arian Hampel. Sergeant K. Yamaguchi told Ranger A. Hampel that the chief's office was receiving phone calls regarding an elk that had been shot the prior night. Sergeant K. Yamaguchi asked him if OSMP had put down any animals that might match what was being reported. A short time later Ranger A. Hampel called back and stated that OSMP had no record of putting down any animals overnight. In addition, the ranger stated he checked with the Colorado Division of Parks and Wildlife (CPW) and confirmed they had no record of euthanizing any animals that matched the report.

On the morning of January 3, 2013, Sergeant K. Yamaguchi received an e-mail from Commander Ron Gosage. According to the e-mail, and later rewritten as a memorandum<sup>1</sup>, Commander R. Gosage learned some information regarding the elk. The information included:

- During the evening of January 2, Commander R. Gosage spoke with CPW Officer Kris Middendorf regarding the media reports about the elk

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<sup>1</sup> CPW Criminal Case File, Bates #00255



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- Though no record could be found that Boulder police personnel had been involved with the elk's death and removal, Commander R. Gosage told Officer K. Middledorf that he would question the Watch 3 officers when they reported for briefing
- In the interim, Commander R. Gosage learned that Officer <<Redacted #1>> had seen the media reports about the elk and called Officer Sam Carter
- Officer S. Carter reportedly told Officer <<Redacted #1>> that he shot the elk and that Officer B. Curnow took it home
- Officer <<Redacted #1>> also reported that she had not heard any radio traffic the previous night (night of January 1 – January 2) about the incident
- Officer <<Redacted #1>> told Sergeant Jim MacPherson what she had learned and the sergeant informed Commander R. Gosage
- Commander R. Gosage called Officer S. Carter's personal cell phone since he (Carter) had called in sick for his January 2 shift
- Officer S. Carter reportedly told Commander R. Gosage:

*“Officer Carter said at around 1100 pm on the night of January 1, 2013, he was ‘cruising his beat’ and saw the elk at 9th and Mapleton. He said the animal was ‘gimping’ pretty bad on his right front leg and his right side antlers had been broken off. He said he watched the animal walk to a yard on the corner and either lay down or stand still under a tree. He said he watched the animal for some time and it was obvious the animal was injured. He said at some point a female resident of the house the elk was camped at came onto her front porch, presumably <<Redacted #6>> from the Camera article. He said he learned from the female that the animal had been in the area most of the day and was at one point in her backyard threatening the family dog. Carter said because the animal was injured and aggressive he felt he needed to put it down. He said he told the female of his intention. Officer Carter said he exited his car and deployed his shotgun. He said he chambered a round and aired on blue that he would be putting an elk down at his location. He said he shot the animal once and it died. He said he then called Officer Curnow (who was on sick leave) and asked if he wanted the animal for the meat. He said Curnow told him he did and would respond from home. When Curnow arrived on scene he was driving his personal truck. Jeff George (I mistakenly called him Mark George in an earlier e-mail) with the BCSO was also on scene at that point and helped load the animal into Curnow's truck. I don't know if George just happened upon them or if “they” called him for assistance. Carter said he filled out a “road kill” tag for Curnow, and Curnow took the animal home. Cater (sic) said he later went home sick at around 0200 hours. I asked Carter if he had told anyone, including his Sergeant, about the incident and he said he had not.”*

[However, according to the arrest warrant affidavit, there were no observed injuries to the elk that were consistent with a broken leg or automobile strike.]

- Commander R. Gosage called Officer B. Curnow's personal cell phone since he



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(Curnow) had called in sick for his January 2 shift

[Note that Officer B. Curnow had originally been scheduled for a vacation day on January 2. However, when his son injured his foot, Officer B. Curnow called in and changed the leave type of the day to sick-family.<sup>2</sup>]

- Officer B. Curnow reportedly told Commander R. Gosage:

*“Officer Curnow said he received a call on January 1, 2013 from Carter between 1130 pm and midnight. He said Carter told him that he had put down an Elk and asked him if he wanted it. Curnow said he absolutely wanted it and responded from his home in his personal truck (sic). He said they loaded the animal into his truck and he drove home. He said he went to sleep and got up the next morning (January 2, 2013) to process the animal. He said he called the main State Parks and Wildlife office and requested a "donation or road kill" tag. He said he was given authorization to possess the animal at the time, but he could not remember who he talked with. Curnow said when he was processing the animal he discovered that the elk had a fractured right front leg, and the right front shoulder had been badly damaged. He said neither the meat nor the hide in that area was salvageable because of the injury. He said the right side antlers had also been broken. According to Curnow it was obvious the animal had been hit by something. He confirmed the damage was not due to the shotgun pellets as Carter had shot the animal in the neck. Curnow said he still had the meat, the antlers, and the ivory teeth, and would be happy to talk with the State Parks officer.”*

[However, according to the arrest warrant affidavit, there were no observed injuries to the elk that were consistent with a broken leg or automobile strike.]

- Dispatch Supervisor Carrie (Lorea) was unable to locate a CAD entry for the elk
- Supervisor C. Lorea listened to radio traffic recordings for January 1 between 10:00 PM and midnight but could not locate any pertinent transmissions
- Commander R. Gosage called Watch 3 Sergeant Alastair McNiven, who had worked the night of January 1 – 2, at home and learned that no one told the sergeant that an elk had been shot
- Commander R. Gosage learned that Sergeant Pat Wyton worked Watch 2 the night in question and reported that no one told him that an elk had been shot
- When asked, none of the Watch 2 officers on January 2 who also worked the night of January 1 reported they heard anything about the elk
- Commander R. Gosage called Officer K. Middledorf back and told him of what he (Gosage) learned
- Officer K. Middledorf told Commander R. Gosage that he (Middledorf) would check with CPW supervisors and let us know how they were going to proceed

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<sup>2</sup> CPW Case File, Bates #00058



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On January 3, 2013, Sergeant K. Yamaguchi had several phone conversations with Officer K. Middendorf. From that point forward, Sergeant K. Yamaguchi provided personnel and other information to the CPW and 20<sup>th</sup> Judicial District (DA's Office) Chief Investigator Jane Harmer as it was requested.

On January 3, 2013, a meeting was held at the Boulder Police Department with Chief Mark Beckner, Deputy Chief Greg Testa, Commander R. Gosage, Sergeant K. Yamaguchi, Officer K. Middendorf and CPW Area Wildlife Manager Larry Rogstad. The CPW officials briefed the BPD attendees on what they had learned thus far. In addition, the CPW officials explained that road kill possession permits are no longer issued to local law enforcement agencies. A law enforcement officer may legally issue a possession permit to another party (even a coworker) when the wildlife has been killed due to being struck by a vehicle. It is also lawful to issue a road kill possession permit if the animal had to be put down because it was severely injured by a vehicle. During initial phone calls between the subject officers and Officer K. Middendorf, claims had been made by S. Carter and B. Curnow that the elk was injured before it was shot.

On January 3, 2013, Sergeant K. Yamaguchi spoke with eyewitness <<Redacted #6>> and <<Redacted #7>> by telephone. He explained that he wished to interview them regarding the elk and allegations of misconduct against department employees. He emphasized that the investigation was separate from the criminal investigation being conducted by CPW. <<Redacted #6>> told Sergeant K. Yamaguchi that she or <<Redacted #7>> would call him back. When he did not hear from either, he called again and spoke with <<Redacted #7>>. <<Redacted #7>> expressed a desire to speak with an attorney before being interviewed. Sergeant K. Yamaguchi invited <<Redacted #7>> to have his attorney call if there were any questions. <<Redacted #7>> offered to send some photographs and videos (both in the case file) of what occurred to the elk. Below is an excerpt from a subsequent e-mail exchange.

*Dear Sargent (sic) Yamaguchi,  
Thank you for the email of this morning describing internal processes and responsibilities.*

*Given the circumstances of a criminal investigation by CDPW, I do not believe that it is appropriate for us to provide you with early depositions outside of a possible court proceeding. Possible violations of Colorado and Federal laws supersedes your needs to determine possible violations of Boulder Police Department "rules, values, or policies."*

*We will not be meeting with you or answering questions regarding the case via telephone until a legal direction is determined by the State of Colorado.*

*Best Regards,  
<<Redacted #7>>*

*cc: <<Redacted #6>>*



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*On 1/4/2013 9:13 AM, Yamaguchi, Kerry wrote:  
Dear <<Redacted #7>> and <<Redacted #6>>,*

*Thank you for the photographs and video clips.*

*I know that the past few days have been chaotic and upsetting to both of you. I appreciate that and don't wish to add to your stress. However, I would like to explain how the incident is being investigated and give you both an opportunity to ask me any questions about the process. I covered as much of this as I could when I spoke with both of you yesterday, but I know that sometimes seeing it in writing helps.*

*There are currently two separate investigations into the elk's death that occurred on your property on January 1. The Colorado Division of Parks and Wildlife (CDPW) is conducting a criminal investigation to determine if anyone violated the law. At this point, that investigation, in its entirety, is being run by CDPW Officer Kris Middendorf and his agency. The Boulder Police Department is providing Officer Middendorf with any assistance he requests.*

*The second investigation is being conducted by the Boulder Police Department's Professional Standards Unit and is tasked with gathering information into whether any department employees violated any of our rules, values or policies. This investigation is being overseen by me. As the Professional Standards Unit Supervisor, I report directly to Chief Mark Beckner. My investigation will include gathering any evidence (such as the photo and video files you provided) and conducting interviews with any witnesses. Once all the information has been assembled, the investigation will be reviewed by the subject employees' supervisors, a review panel (the review panel consists of six Boulder community members and six department members) and the chief. Chief Beckner will then render a decision on the allegations and if warranted, administer discipline. Any interviews I conduct may be used in administrative personnel proceedings related to the subject employees. It is possible that interviews that I conduct could be used during any criminal proceedings that may result from the CDPW criminal investigation.*

*I wish to emphasize that without obtaining information from those who witnessed the incident, it is difficult to do a thorough and complete investigation. It is our belief that you both may have pertinent information which will help us determine whether any department employees violated any of our rules, values or policies.*

*I'm happy to answer any questions you may have regarding the above.*

*Thank you,*



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*Kerry*

*-----Original Message-----*

*From: <<Redacted #7>>*

*Sent: Thursday, January 03, 2013 10:27 PM*

*To: Yamaguchi, Kerry*

*Subject: Elk Shooting Pictures*

*Sargent (sic) Kerry Yamaguchi*

*Internal Investigation*

*Boulder Police Department*

*Dear (sic) Sargent Yamaguchi,*

*Please find attached five of the pictures that have been provided to the press, as we discussed.*

*Two short video clips will be transmitted separately, due to their size.*

*I will not have an opportunity to talk with my legal counsel until late tomorrow afternoon.*

*Regards,*

*<<Redacted #7>>*

Given the information gathered and the fact that a criminal investigation was in progress, Chief M. Beckner placed Officers S. Carter and B. Curnow on administrative leave with pay on January 3, 2013.

On January 4, 2013, Chief M. Beckner initiated Class 1 IA investigations that alleged violations of general orders and rules by Officer S. Carter and Officer B. Curnow. Sergeant K. Yamaguchi incorporated the details into complaints. The complaints were delivered by e-mail to the officers and their attorney, Marc Colin. Sergeant K. Yamaguchi spoke with Officer S. Carter and advised him of the complaint. He also left a voice mail for Officer B. Curnow and advised him of the complaint.

Sergeant K. Yamaguchi reviewed the CAD history<sup>3</sup> and listened to the radio traffic for Officer S. Carter's shift that started on January 1, 2013. Pertinent information read and heard included Officer S. Carter radioing that he was at "BCH" (Boulder Community Hospital) at 11:24 PM. The next transmission and CAD entry for Officer S. Carter is him going in service on January 2, 2013 at 1:02 AM. There were no radio transmissions to indicate Officer S. Carter was on any incident prior to 11:24 PM.

While formal internal affairs complaints had been initiated against Officers S. Carter and B.

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<sup>3</sup> CPW Criminal Case File, Bates #00259



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Curnow, the CPW (with later assistance from the district attorney's office) was conducting a criminal investigation into the same officers. Despite the significant public pressure for answers to why the elk was shot and removed by Boulder police officers, CPW's criminal investigation took precedence. Sergeant K. Yamaguchi continued to gather non-testimonial evidence and, except for Deputy J. George, did not conduct any formal interviews. We were working closely with CPW and did not want to interfere in any way with the criminal investigation. It was agreed that any information obtained during the criminal investigation would be shared with the Boulder Police Department for use in the personnel investigation.

On January 5, 2013, Sergeant K. Yamaguchi met with Boulder County Sheriff's Office (BCSO) Sergeant Steve Cullen at Sheriff's Headquarters. The BCSO was conducting an internal affairs investigation into BCSO Deputy Jeff George's involvement with the elk. Sergeant S. Cullen and Sergeant K. Yamaguchi interviewed Deputy J. George. Information obtained during this interview was used in the IA investigation against Officers Carter and Curnow. However, this information cannot be shared, as it is also part of a personnel investigation conducted by the BCSO.

On January 8, 2013, Chief M. Beckner and Sergeant K. Yamaguchi attended a meeting at the district attorney's office. Also in attendance were members of CPW's investigative team and district attorney's office. CPW Officer K. Middendorf presented information about what had been learned to that point. This included that the necropsy on the elk revealed no evidence that it was injured before being shot. The evidence showed that the elk had not been hit by a car and did not have an injured leg. Further work still needed to be done on the criminal investigation.

On January 17, 2013, District Attorney S. Garnett called Chief M. Beckner and let him know that a charging decision for the involved officers would be announced on January 18, 2013. The officers were going to be charged with several violations, some of which included felonies.

On January 17, 2013, separate administrative hearings were held for Officers S. Carter and B. Curnow. The officers participated via conference call. Physically present for the hearings were Chief M. Beckner, Deputy Chief G. Testa, Boulder Police Officers' Association President Rich Denig and Sergeant K. Yamaguchi. The hearings were audio recorded and are included in the case file. During each hearing, Chief M. Beckner advised the officers that if they were arrested on criminal charges, they would immediately be placed on unpaid administrative leave.

On January 18, 2013, both officers were arrested on warrants after turning themselves in at the jail. Sergeant K. Yamaguchi met with their attorney, Marc Colin, at the jail to collect badges and ID cards from the officers. They were also served leave without pay notices and notices for IA interviews scheduled for January 21<sup>st</sup>.

Later that day, we received copies of the arrest warrants and affidavits. The affidavits contained information previously shared with the Boulder Police Department during various conversations. Included in the affidavit were incriminating text messages obtained from cell phone texts between Carter and Curnow. This information is addressed later and also available in the attached affidavit.



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Interviews with Carter and Curnow were scheduled to be held at the Boulder County Sheriff's Office Headquarters on January 21, 2013. On January 21, at about 12:15 PM, Sergeant K. Yamaguchi met with Mr. Colin at BCSO HQ. Officers S. Carter and B. Curnow failed to arrive for their interviews. Sergeant K. Yamaguchi asked Mr. Colin if he had seen the arrest warrants and he confirmed he had. Mr. Colin reviewed the case files and spoke with his clients by phone. Afterwards, Mr. Colin advised Sergeant K. Yamaguchi that Officer S. Carter and Officer B. Curnow were going to resign. He agreed they would submit formal letters of resignation before the end of the day on January 22, 2013.

## Elk Shooting Timeline

Date	Time	Event
12/26/2012	9:00 PM	Watch 3 briefing – Officers S. Carter and B. Curnow make statements about wanting to shoot the elk <sup>4</sup> . Sgt. <<Redacted #2>> instructed both officers to leave the elk alone. <sup>5</sup>
01/01/2013	2:26 PM	Officer B. Curnow calls in sick <sup>6</sup> (family) for his shift that starts at 9:00 PM.
01/01/2013	9:33 PM	Officers S. Carter, <<Redacted #1>>, and Deputy <<Redacted #3>> meet at Starbucks (3033 Arapahoe Avenue, Boulder) for coffee. Deputy <<Redacted #4>> joins them later. <sup>7</sup>
01/01/2013	10:00 PM – 10:43 PM	Officer S. Carter encounters the bull elk near 9 <sup>th</sup> Street and Mapleton Avenue. <sup>8</sup> Officer S. Carter engages <<Redacted #6>> and <<Redacted #7>> in conversations about the elk. <sup>9</sup>
01/01/2013	10:58 PM	Officer S. Carter shoots the elk with a shotgun <sup>10</sup> . Radio traffic recorded for the night does not have Officer S. Carter airing that he was out with an elk or that he put down an animal. <sup>11</sup>
01/01/2013	11:00 PM	Deputy <<Redacted #3>> joins Officer S. Carter at 9 <sup>th</sup> and Mapleton <sup>12</sup>
01/01/2013	11:24 PM	Officer S. Carter radios that he is out at Boulder Community Hospital (BCH). <sup>13</sup>

<sup>4</sup> CPW Criminal Case File, Bates #00090, 00091, 00093, 00577

<sup>5</sup> CPW Criminal Case File, Bates #00016

<sup>6</sup> Curnow's Absence Report in Tab 6

<sup>7</sup> Deputy <<Redacted #3>> and Officer <<Redacted #1>> Interview Summaries in this Report; CPW Case File, Bates #00020, 00036, 00070

<sup>8</sup> CPW Case File, Bates #00001, 00249, 00255, 00291, 00442

<sup>9</sup> CPW Case File, Bates #00001, 00024, 00249

<sup>10</sup> CPW Case File, Bates #00002, 00025, 00027, 00044, 00249, 00255

<sup>11</sup> DA Investigator Report, Bates #00582

<sup>12</sup> CPW Case File, Bates #00071

<sup>13</sup> CPW Case File, Bates #00259; DA Investigator Report, Bates #00582



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Date	Time	Event
01/02/2013	12:00 AM – 12:30 AM	Officer B. Curnow arrives at 9 <sup>th</sup> and Mapleton from his Aurora residence. <sup>14</sup> BCSO Deputy <<Redacted #5>> stops by the intersection and takes a couple of photos of the dead elk. <sup>15</sup>
01/02/2013	1:00 AM	Officers B. Curnow, S. Carter and Deputy <<Redacted #3>> finish loading the elk into the pickup. <sup>16</sup>
01/02/2013	1:02 AM	Officer S. Carter radios that he is back in service. <sup>17</sup>
01/02/2013	1:47 AM	Officer S. Carter goes end of watch early due to illness. <sup>18</sup> Officer S. Carter removes his assigned patrol vehicle (#3462) from service due to a reported transmission problem. <sup>19</sup>

On January 22, 2012, Sergeant K. Yamaguchi received scanned copies of signed resignation letters from Officers S. Carter and B. Curnow. Copies of the letters are in the case file. On the same date, Sergeant K. Yamaguchi received an electronic copy of the CPW criminal investigation file (more than 600 pages). He also obtained an electronic copy of CPW’s criminal case file from DA Chief Investigator J. Harmer.

<sup>14</sup> CPW Case File, Bates #00035, 00048, 00071

<sup>15</sup> CPW Case File, Bates #00035

<sup>16</sup> CPW Case File, Bates #00002, 00028, 00072

<sup>17</sup> DA Investigator Report, Bates #00582

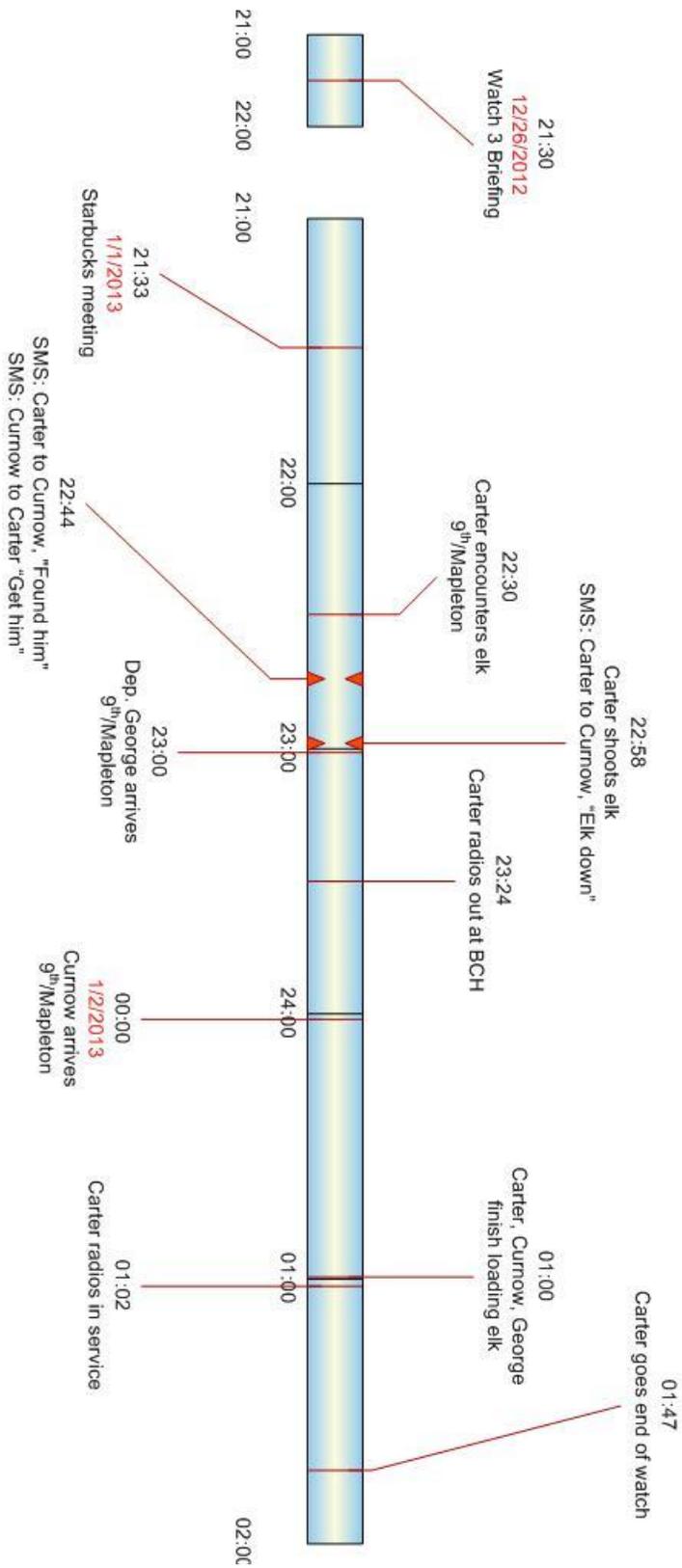
<sup>18</sup> Carter’s Absence Report in Tab 6; DA Investigator Report, Bates #00582

<sup>19</sup> Sgt. C. Grimes’s Memorandum in Tab 6



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## Elk Shooting Timeline 12/26/2012 and 1/1 – 1/2/2013





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Based on records and interviews, the following timeline is the sequence of events that led to the determination of who was responsible for shooting and removing the elk.

## Responsible Parties' Discovery Timeline

Date	Time	Event
01/02/2013	4:00 AM	Officers <<Redacted #1>> and Deputy <<Redacted #3>> meet during their shift. Deputy <<Redacted #3>> tells Officer <<Redacted #1>> that Officer S. Carter shot the elk. <sup>20</sup> Officer <<Redacted #1>> assumes Carter had validation to shoot the elk.
01/02/2013	Mid morning	Police department begins receiving media inquiries about the elk. No records (dispatch, reports, and night logs <sup>21</sup> ) can be found. A check with the BCSO and OSMP is completed with no information found.
01/02/2013	7:00 PM	Commander R. Gosage and CPW Officer K. Middledorf talk by phone regarding the elk. <sup>22</sup> No additional information is known at this time.
01/02/2013	8:30 PM	Sergeant J. MacPherson sees Officer <<Redacted #1>> and asks if she knew anything about the elk. Officer <<Redacted #1>> tells Sergeant J. MacPherson that Officer S. Carter shot the elk <sup>23</sup> . Sergeant J. MacPherson informs Commander R. Gosage of what he has learned. <sup>24</sup>
01/02/2013	~8:40 PM	Commander R. Gosage calls Officer S. Carter and confirms that he (Carter) shot the elk and Officer B. Curnow picked it up. <sup>25</sup>
01/02/2013	9:01 PM	Commander R. Gosage calls Officer B. Curnow and confirms that Officer S. Carter shot the elk and he (Curnow) picked it up. <sup>26</sup>
01/02/2013	~9:30 PM	Commander R. Gosage calls Officer K. Middledorf and informs him of who was responsible for shooting and collecting the elk.
01/02/2013	9:46 PM	Officer K. Middledorf calls Officer B. Curnow and confirms he (Curnow) picked up the elk and has it in his possession. <sup>27</sup>
01/02/2013	10:03 PM	Officer K. Middledorf calls Officer S. Carter and confirms he (Carter) shot the elk. <sup>28</sup>

<sup>20</sup> DA Investigator Report, Bates #00573

<sup>21</sup> Watch 2 and Watch Activity Logs in Tab 6

<sup>22</sup> CPW Case File, Bates #00068, 00255

<sup>23</sup> CPW Case File, Bates #00019

<sup>24</sup> CPW Case File, Bates #00255

<sup>25</sup> CPW Case File, Bates #00255

<sup>26</sup> CPW Case File, Bates #00255, 00564

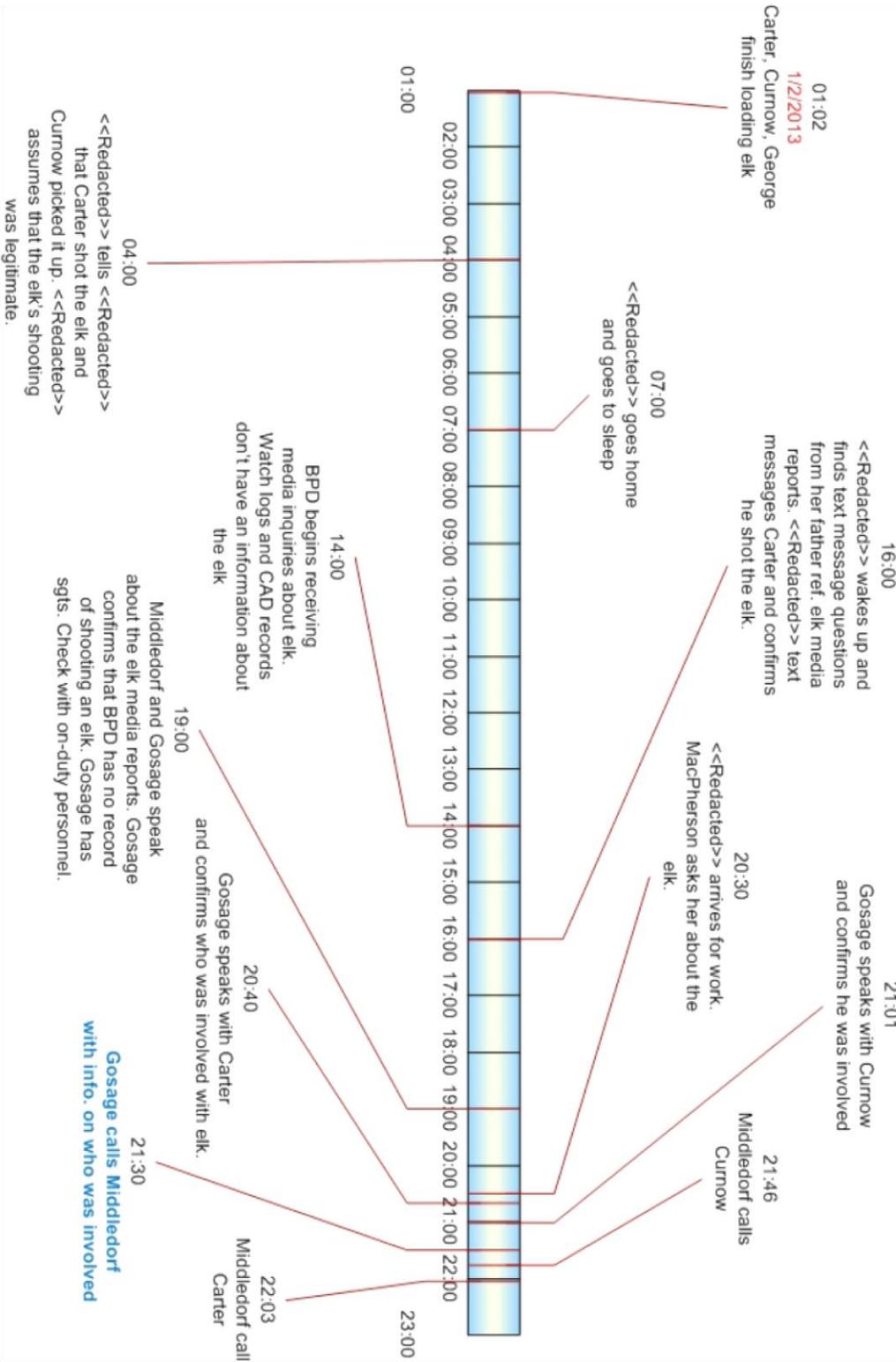
<sup>27</sup> CPW Case File, Bates #00062, 00564

<sup>28</sup> CPW Case File, Bates #00068



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## Elk Shooting Timeline 12/26/2012 and 1/1 - 1/2/2013





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It should be noted that Officer B. Curnow’s phone records show that Officer S. Carter called Officer B. Curnow on January 2, 2013 at 10:30 PM. The call lasted 287 seconds or almost 5 minutes<sup>29</sup>.

The text messages that were obtained during the criminal investigation, some of which have been published in media reports and in arrest warrant affidavits, were gathered from text messaging information from Officer B. Curnow’s and BCSO Deputy J. George’s personal phone records between December 31, 2012 and January 4, 2013. Their phone records include messages sent to and received from Officer S. Carter’s personal cell phone.

After examining the information provided by Verizon (the carrier for Curnow and George), it is believed there may be some time of day errors in information provided by Verizon. Specifically, it appears that the times in Officer B. Curnow’s records are off by one hour ahead (e.g., record states 22:00 and the correct time was 21:00). This is based on the timing from several messages when the time is known. For instance, when Officer S. Carter text messaged Officer B. Curnow, “Elk down”, the Verizon records shows it was 23:58 hours (almost midnight). However, according to multiple witnesses, the elk was shot around 23:00 hours. Also, according to the Verizon record, Officer B. Curnow text messaged Officer S. Carter that he was at “28 Colorado” at 00:53 hours (January 2). However, multiple witnesses indicate that Officer B. Curnow arrived at 9<sup>th</sup> and Mapleton around midnight. In contrast, Deputy J. George’s Verizon records appear to have times that are consistent with what is known. When Verizon provides phone records, they inform the recipient that the time stamps may be off due to the possibility that the server being used is located in a different time zone. While a complete list of text messages for Officer B. Curnow’s and Deputy J. George’s phones are in the CPW case file, we only list those that are pertinent to this investigation.

### Text Messages

Date/Time	From	To	Message	Bates #
12/31/2012 <del>04:31</del> 03:31	Curnow	Carter	“Where’s the wapiti” [Note I have adjusted times for Curnow’s messages by one hour]	00274
12/31/2012 <del>04:32</del> 03:32	Carter	Curnow	“Fuck idk”	00274
12/31/2012 <del>04:32</del> 03:32	Curnow	Carter	“K going to bed”	00274
12/31/2012 <del>04:33</del> 03:33	Carter	Curnow	“Ok”	00275

The previous messages were exchanged between Officers S. Carter and B. Curnow during the early morning of December 31, 2013. It appears they were exchanging text messages about the

<sup>29</sup> CPW Case File, Bates #00564



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elk.

## Text Messages

Date/Time	From	To	Message	Bates #
01/01/2013 05:56	Carter	George	"Elk 9/mapleton"	00408
01/01/2013 06:14	George	Carter	"Did you shoot h"	00408
01/01/2013 06:15	George	Carter	"Him"	00408
01/01/2013 10:03	Carter	George	"No"	00410

The previous messages were exchanged between Officer S. Carter and Deputy J. George during the morning of January 1, 2013. It appears they were referring to the elk that was eventually shot by Officer S. Carter. During his interviews with CPW, Deputy J. George stated that he (Officer S. Carter) told Deputy J. George that he (Carter) had permission from a supervisor to shoot the elk a couple of weeks prior to January 1.

## Text Message

Date/Time	From	To	Message	Bates #
01/01/2013 14:45 13:45	Curnow	Carter	"You should have killed it"	00289

While it is somewhat unclear what the above message is regarding, it may be in reference to the elk.

## Text Messages

Date/Time	From	To	Message	Bates #
01/01/2013 19:37 18:37	Carter	Curnow	"Not feeling so good. You gonna come down tonight after I shoot him"	00289
01/01/2013 19:42 18:42	Curnow	Carter	"Yep if you get him call me"	00290
01/01/2013 19:44 18:44	Carter	Curnow	"Oh he's dead tonight. His right side is broke off at the main beam. And he looks a little smaller. He may not be wapiti but he's gonna die"	00290
01/01/2013 19:44 18:44	Curnow	Carter	"K"	00290



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The above messages between Officers S. Carter and B. Curnow appear to be a discussion about shooting the elk. According to Officer B. Curnow’s phone records, there were no phone calls between the two on January 1, 2013.<sup>30</sup>

### Text Messages

Date/Time	From	To	Message	Bates #
01/01/2013 21:33	George	Carter	“You working” [Note the time of this message appears correct. Briefing for BPD started at 21:00.]	00436
01/01/2013 21:34	Carter	George	“Yep getting coffee now”	00436
01/01/2013 21:35	George	Carter	“I have to run down to Louisville really quick.”	00436
01/01/2013 21:36	George	Carter	“I will catch up with you in a few”	00437

The above messages between Officer S. Carter and Deputy J. George are regarding meeting for coffee at the 3033 Arapahoe Avenue Starbucks. There, Officer S. Carter states to Deputy J. George and Officer <<Redacted #1>> that he was going to go look for the elk. Deputy <<Redacted #4>>, who was also present at the meeting, reportedly did not hear Officer S. Carter say he was going to look for the elk.<sup>31</sup> However, there are no reported statements by Officer S. Carter that he planned on killing the elk.

### Text Messages

Date/Time	From	To	Message	Bates #
01/01/2013 22:43	Carter	George	“9 mapleton”	00442
01/01/2013 22:45	George	Carter	“On my way.”	00442

According to Deputy J. George, the above text messages represent that Officer S. Carter had found the elk at 9<sup>th</sup> and Mapleton and he (George) saying he was on his way.

### Text Messages

Date/Time	From	To	Message	Bates #
01/01/2013 23:44 22:44	Carter	Curnow	“Found him”	00291

<sup>30</sup> CPW Case File, Bates #00564

<sup>31</sup> CPW Case File, Bates #00036



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Date/Time	From	To	Message	Bates #
01/01/2013 23:44 22:44	Curnow	Carter	"Get him"	00291
01/01/2013 23:44 22:44	Curnow	Carter	"Text me when he's down"	00291
01/01/2013 23:45 22:45	Carter	Curnow	"Too many people right now. Start heading this way. 9/mapleton"	00291
01/01/2013 23:46 22:46	Curnow	Carter	"<<Redacted #8>> says she's got a bed for ya so you can sleep"	00292
01/01/2013 23:46 22:46	Curnow	Carter	"Take a picture of it"	00292
01/01/2013 23:47 22:47	Carter	Curnow	"I'm gonna go home sick"	00292
01/01/2013 23:47 22:47	Curnow	Carter	"Yeah to my house"	00293
01/01/2013 23:54 22:54	Curnow	Carter	"You gonna be able to butcher it? Or are you gonna go home sick?"	00293
01/01/2013 23:54 22:54	Carter	Curnow	"I can butcher"	00294
01/01/2013 23:55 22:55	Curnow	Carter	"K when u think you can wack it"	00294
01/01/2013 23:58 22:58	Carter	Curnow	"Elk down"	00294
01/02/2013 00:06 01/01/2013 23:06	Curnow	Carter	"<<Redacted #8>> says take a picture of it to prove we aren't having an affair"	00296
01/02/2013 00:06 01/01/2013 23:06	Carter	Curnow	"On my way"	00296



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Date/Time	From	To	Message	Bates #
01/02/2013 00:13 01/01/2013 23:13	Curnow	Carter	"Where to"	00297
01/02/2013 00:14 01/01/2013 23:14	Carter	Curnow	"9 and mapleton"	00297
01/02/2013 00:14 01/01/2013 23:14	Curnow	Carter	"K omw"	00298
01/02/2013 00:31 01/01/2013 23:31	Carter	Curnow	"Eta"	00298
01/02/2013 00:32 01/01/2013 23:32	Curnow	Carter	"25 mins nax (sic)"	00298
01/02/2013 00:33 01/01/2013 23:33	Carter	Curnow	"Cool"	00298
01/02/2013 00:36 01/01/2013 23:36	Curnow	Carter	"If we could find the broken part of the antler I could fix it for a mount"	00299
01/02/2013 00:53 01/01/2013 23:53	Carter	Curnow	"Where you at"	00299
01/02/2013 00:53 01/01/2013 23:53	Curnow	Carter	"28 Colorado"	00299
01/02/2013 00:53 01/01/2013 23:53	Carter	Curnow	"Nice"	00300

The above lengthy text message exchange appears to be Officers S. Carter and S. Curnow discussing that the elk had been found, killed and Officer S. Curnow began driving to Boulder to



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pick it up.

## Text Messages

Date/Time	From	To	Message	Bates #
01/02/2013 09:52 08:52	Curnow	Carter	"Let me know when you're on your way"	00301
01/02/2013 09:53 08:53	Carter	Curnow	"Loading up on meds then I'm omw"	00301
01/02/2013 09:53 08:53	Curnow	Carter	"K"	00301
01/02/2013 10:13 09:13	Carter	Curnow	"Omw"	00302
01/02/2013 10:13 09:13	Curnow	Carter	"Cool"	00302

The previous text messages between Officers S. Carter and B. Curnow appear to be plans to meet, possibly at Officer B. Curnow's residence.

In addition, the CPW's court orders for Verizon's records included phone call (voice) data (when, length) information made and received by Office B. Curnow's and Deputy J. George's personal cell phones. The actual files are printed and in the criminal case file.

## Curnow/Carter Phone Calls<sup>32</sup>

Date/Time	From	To	Duration
12/31/2012 00:53	Carter	Curnow	38 Seconds
12/31/2012 01:04	Carter	Curnow	45 Seconds
12/31/2012 01:05	Carter	Curnow	130 Seconds
01/02/2013 01:02	Curnow	Carter	58 Seconds
01/02/2013 01:04	Curnow	Carter	253 Seconds

<sup>32</sup> CPW Case File, Bates #00564



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Date/Time	From	To	Duration
01/02/2013 22:30	Carter	Curnow	287 Seconds
01/03/2013 01:25	Curnow	Carter	754 Seconds
01/03/2013 16:42	Carter	Curnow	648 Seconds
01/03/2013 17:48	Curnow	Carter	338 Seconds
01/04/2013 10:38	Curnow	Carter	306 Seconds

While it is unknown what was said during the above phone calls, it should be noted that the early morning calls on January 2, 2013 appeared to have occurred right after the elk was loaded into Officer B. Curnow’s truck.

According to a memorandum completed by CPW employee John Flier<sup>33</sup>, Officer B. Curnow called the CPW on January 2, 2013. Mr. J. Flier reported the following in his memorandum.

- Officer B. Curnow requested a road kill permit for a bull elk that a Boulder police officer had given him on January 2 at about 1:30 a.m.
- When asked, Officer B. Curnow provided the location where the elk was killed (9<sup>th</sup> and Mapleton)
- Officer B. Curnow told Mr. Flier that the accident’s impact had broken off one antler and the other antler only had two points  
 [Note that on January 8, Officer B. Curnow told CPW investigators that the elk’s antlers (left = six points; right = three points) were attached when he arrived at 9<sup>th</sup> and Mapleton<sup>34</sup>]

On January 2, 2013, at 9:00 p.m. CPW Officer K. Middendorf went to Officer B. Curnow’s residence and seized portions of the elk<sup>35</sup>. This included the elk’s antlers, legs, head, cape, ribs, hide, miscellaneous bones, and some of the meat.

<sup>33</sup> CPW Case File, Bates #00254

<sup>34</sup> CPW Case File, Bates #00050

<sup>35</sup> CPW Case File, Bates #00062



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## Other Issues

On January 29, 2013, Sergeant K. Yamaguchi interviewed Officer <<Redacted #1>>. He conducted a follow up interview by telephone on January 30, 2013. Both interviews were audio recorded and are in the case file. Since Officer <<Redacted #1>> had already been interviewed by the CPW and DA investigators, the questions were limited to issues that needed clarification. During the interviews, Sergeant K. Yamaguchi learned the following.

- Officer <<Redacted #1>> characterized her relationship with Officers B. Curnow and S. Carter as coworkers and friends
- Though she did not do things with Officer B. Curnow off duty, Officer <<Redacted #1>> would occasionally do things with Officer S. Carter on their weekends
- Officer <<Redacted #1>> did not work on December 26, 2012
- Officer <<Redacted #1>> stated she never heard Officer S. Carter say that he wanted to kill the elk, however, she heard other officers say they had heard him make such statements
- Officer <<Redacted #1>> stated that it would not surprise her if Officer S. Carter expressed a desire to kill the elk
- However, Officer S. Carter was described as being “full of bravado” and many things he said were taken with a grain of salt by Officer <<Redacted #1>>
- Officer <<Redacted #1>> never heard Officer B. Curnow speak about wanting to kill the elk
- Officer <<Redacted #1>> knew of previous instances (three or four times the past year) when one of them (Carter or Curnow) had to put down a deer legitimately (e.g., broken legs due to a car strike), then processed it at Curnow’s residence after work
- Officer <<Redacted #1>> clarified that the officers (Carter and Curnow) would move the deer carcass off the road and pick it up after their shift ended
- Officer <<Redacted #1>> stated that she knew of one instance when Officers S. Carter and B. Curnow picked up a deer carcass while on duty
  - Several months ago, Officer <<Redacted #1>> ended her shift early due to a court appearance scheduled for the next day
  - After she went end of watch, but before she went home, Officer B. Curnow (who was on duty) asked her to bring his personal pickup to a north Broadway intersection
  - Officer <<Redacted #1>> did as she was asked and met the two officers, who loaded the deer carcass into the pickup
  - Officer <<Redacted #1>> noted that the deer had at least one compound fracture to a leg and was dead when she got there
  - Officer <<Redacted #1>> was unsure if an officer had to shoot the deer
  - Officer <<Redacted #1>> drove the pickup back to the department’s parking lot, parked it and then went home
  - Officer <<Redacted #1>> clarified that she mistakenly told DA Investigator J. Harmer that she was not in uniform when she drove Officer B. Curnow’s pickup; she believed she was in uniform



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- During 2012, Officer <<Redacted #1>> recalled hearing Officer S. Carter air a couple of times (excluding January 1) that he was going to put an animal down
- On January 2, 2013 at about 4:00 a.m. (a few hours after the elk was shot), Officer <<Redacted #1>> briefly met with Deputy J. George
  - Deputy J. George told her that Officer S. Carter put down the elk
  - The deputy and Officer S. Carter helped load the elk into Officer B. Curnow's personal pickup
  - Officer <<Redacted #1>> thought that if Officer S. Carter put down the elk, there must have been a good reason; she trusted Officer S. Carter's decision making
  - Officer <<Redacted #1>> did not believe there was anything suspicious about what Deputy J. George told her occurred
- After meeting for coffee, Officer <<Redacted #1>> did not see Officer S. Carter before he ended his watch early
  - The next time she saw Officer S. Carter was after he had been placed on administrative leave, possibly Sunday, January 5
- Officer <<Redacted #1>> completed the shift and went home on January 2
- When Officer <<Redacted #1>> woke up on January 2, 2013 at about 3:30 PM, she noticed her father had sent her text messages about the elk's media coverage
- Officer <<Redacted #1>> read a media account of what occurred and sent a text message to Officer S. Carter that read, she believed, something about "your elk caper made the Daily Camera"
- Officer S. Carter replied "no doubt"
- On January 2, 2013, between 8:00 and 8:30 PM, Officer <<Redacted #1>> came into work and encountered Sergeant J. MacPherson
  - The sergeant asked Officer <<Redacted #1>> if anyone on her shift put down an elk the night before
  - Officer <<Redacted #1>> told Sergeant J. MacPherson what Deputy J. George had told her about the elk
- When asked, Officer <<Redacted #1>> said that she did not tell anyone about what she knew earlier because she "...honestly didn't think about it. I mean, I was just waking up and..."

## Questions About a "Kill Order"

On January 17, 2013, DA Investigator J. Harmer asked that we send an e-mail to all commissioned department supervisors and ask if anyone had given Officer S. Carter permission to kill the elk. Some officers had heard Carter state that he had permission from a Sergeant or Commander to put the elk down because it was aggressive. Chief Beckner put out a message to all supervisors asking the following questions:

*Did you give Officer Carter or any other officer permission to shoot the elk?*

*Do you know anything about any other supervisor giving such direction to Officer Carter*



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*or any other officer?*

*Did you have any conversation, not already shared with investigators, with Officer Carter about shooting the elk?*

*Please forward your answers to Sgt. Yamaguchi and cc to Jane Harmer at [jharmer@bouldercounty.org](mailto:jharmer@bouldercounty.org) as soon as you receive this message. Thank you.*

*Mark R. Beckner  
Chief of Police  
Boulder, Colorado*

Responses were received from each supervisor. Two commanders, (R. Gosage and C. Johnson) were interviewed by CPW or the DA's office and did not need to respond to these questions<sup>36</sup>. All responding supervisors indicated that they had not given or heard of anyone issuing permission to shoot the elk.

It also should be noted that during his January 8, 2012 interview with CPW investigators, Officer B. Curnow stated that no one at the department gave an order to kill the elk<sup>37</sup>. In addition, it appears that CPW and/or the DA investigator asked each officer interviewed about an order to kill the elk. None of the employees stated they heard of anyone giving an order to kill the elk.

## **December 26, 2012 Questions About Threats to Kill the Elk**

Based on information contained in the arrest affidavits, the media had reported that Officers S. Carter and B. Curnow threatened to kill the elk during the December 26, 2012 Watch 3 briefing. This issue was investigated during the CPW and DA investigation. Except for Officer S. Carter (refused to be interviewed by CPW investigators), all commissioned department employees interviewed were questioned about this issue.

During his January 8, 2013 interview with CPW investigators, Officer B. Curnow made the following statements about an undated briefing (believed to be December 26, 2012)<sup>38</sup>.

- During a discussion about the alleged trapped mailman, Officer B. Curnow "razed" a sergeant (later identified by Officer B. Curnow to be Sergeant <<Redacted #2>>) about killing the elk because she (the sergeant) was an animal lover
- Officer B. Curnow told the sergeant that if the elk trapped him, he (Curnow) would shoot it
- Sergeant <<Redacted #2>> told Officer B. Curnow that he could "not do that"
- Officer B. Curnow emphasized that they were just giving Sergeant <<Redacted #2>> a hard time

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<sup>36</sup> E-mail Supervisor Responses in Tab 6

<sup>37</sup> CPW Case File, Bates #00054

<sup>38</sup> CPW Case File, Bates #00054



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- Officer S. Carter reportedly stated that he was going to go look for the elk if it was a threat to the public, which Officer B. Curnow characterized as an effort to “razz” Sergeant <<Redacted #2>>

During her January 4, 2013 interview with CPW investigators, Sergeant <<Redacted #2>> answered questions about the December 26, 2012 Watch 3 briefing. According to the CPW reports, Sergeant <<Redacted #2>> made the following statements about what was said during the discussion<sup>39</sup>.

- She (<<Redacted #2>>) was not surprised that Officer S. Carter killed the elk
- Sometime after briefing, Officer B. Curnow told her (<<Redacted #2>>) that there was a reported moose (which they all knew was actually the elk) and they (presumably Curnow and Carter) were going to put it down
- Sergeant <<Redacted #2>> told Officers S. Carter and B. Curnow to leave the elk alone
- The sergeant also stated that Officers S. Carter and B. Curnow would tease her about killing the elk because they knew she cared for wildlife

In addition, the following information was gleaned from the CPW and DA criminal investigation.

- Officer <<Redacted #9>> stated that he recalled Officer S. Carter talking about elk steak during the December 26, 2012 Watch 3 briefing<sup>40</sup>
- Officer <<Redacted #10>>, who works on Watch 3, told an investigator that Officer S. Carter would usually sit behind him (<<Redacted #10>>) during briefing and make comments under his breath so the sergeant could not hear him
  - In the prior couple of years, Officer S. Carter said five or six times that if the elk was in front of his car, he would hit it with his car and then put it down
  - During the December 26, 2012 briefing, Officer <<Redacted #10>> heard Officer S. Carter make a similar statement about hitting and then killing the elk<sup>41</sup>
- Officer <<Redacted #1>> told an investigator that she recalled Officer S. Carter saying something during the December 26, 2012 Watch 3 briefing that the elk was being aggressive with people who were trying to get pictures and getting too close<sup>42</sup>
- While no date was provided, Officer <<Redacted #22>> told CPW investigators that he and Officer S. Carter had been involved in group conversations where the elk was discussed
- During a conversation, Officer S. Carter said something about a standing kill order and Officer <<Redacted #23>> assumed it came from someone in management<sup>43</sup>

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<sup>39</sup> CPW Case File, Bates #00016

<sup>40</sup> CPW Case File, Bates #00091

<sup>41</sup> DA Investigator Report, Bates #00579

<sup>42</sup> DA Investigator Report, Bates #00572

<sup>43</sup> DA Investigator Report, Bates #00577



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## Officer S. Carter's AVL (GPS)

In mid November 2012, the police department switched to new dispatching software. The change allowed for the use of GPS information called automatic vehicle locator (AVL) in the patrol cars. When working properly, the AVL system shows dispatchers and supervisors where patrol cars are located. Since the system is new, there are still some bugs being worked out.

AVL equipped patrol cars have external GPS antennas that feeds information to the cars' mobile data computers (MDCs). Almost all of the patrol cars have AVL antennas installed. The few that do not are older vehicles that are due for replacement soon.

Patrol cars are assigned to officers for each scheduled shift. For the most part, officers are assigned the same one or two vehicles for their workweek. Upon beginning each shift, officers sign a log book indicating which patrol cars they are driving. In addition, upon going in service on the radio at the start of their shift, officers tell the dispatcher their patrol cars' unit numbers.

According to the patrol vehicle assignment sheet and historical CAD information, Officer S. Carter drove unit #3462 most of the time. #3462 is a Chevrolet Tahoe SUV and is equipped with an AVL antenna and MDC.

On January 9, 2013, DA Investigator J. Harmer interviewed Boulder Police Department Communications (Dispatch) Manager Ted McEldowney<sup>44</sup>. Manager T. McEldowney researched Officer S. Carter's CAD information and found that when he (Carter) drove unit #3462, his AVL was operational for an average of 15 minutes per 10 hour shift. However, when other officers drove the same vehicle, CAD showed the AVL worked properly for their entire shifts.

Following Officer S. Carter's January 2, 2013 shift, unit #3462 was taken out of service for a transmission repair<sup>45</sup>. When the vehicle came back, Officer <<Redacted #11>> noticed that there was a problem with the vehicle's MDC. Manager T. McEldowney examined the MDC and noticed that the AVL antenna was unplugged from the computer. According to Manager T. McEldowney, this would cause the type of AVL problem shown in Officer S. Carter's CAD logs.

In addition, when Officer <<Redacted #11>> inspected unit #3462 after it came back from the service garage, she located a spent 12 gauge shotgun shell. The shell is consistent with the ammunition used in department shotguns. Officer <<Redacted #11>> submitted the shell to property and evidence and completed a memorandum<sup>46</sup>. This information was passed onto the CPW and DA investigators.

Since there are eight older patrol cars that do not have AVL antennas installed, dispatchers are used to seeing some officers in CAD that do not have GPS information. When *all* patrol cars

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<sup>44</sup> DA Investigator Report, Bates #00582

<sup>45</sup> Sergeant Cooper Grimes's Memorandum in Tab 6

<sup>46</sup> Officer <<Redacted #11>>'s Memorandum in Tab 6



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become AVL enabled, dispatchers will be able to easily tell when a patrol car's AVL is not working.

## Officers B. Curnow and <<Redacted #12>> Interaction

While reviewing Officer B. Curnow's text messages, I located a series that were between Officer B. Curnow and phone number <<Redacted>>. Using investigative databases, I found the phone number belonged to Boulder Police Department Officer <<Redacted #12>>. The following is a listing of the text messages. Note that the times have been corrected by one hour for the apparent Verizon records error.

### Text Messages

Date/Time	From	To	Message	Bates #
01/02/2013 <del>20:26</del> 19:26	<<Redacted #12>>	Curnow	"You got elk meat now?"	00303

There is a three hour and 29 minute (3:29) gap between messages. This coincides with the reported phone calls between Officer B. Curnow and Officer K. Middledorf & Commander R. Gosage<sup>47</sup>.

### Text Messages

Date/Time	From	To	Message	Bates #
01/02/2013 <del>23:57</del> 22:57	Curnow	<<Redacted #12>>	"We will see. Dow might come get the head. See if they take the meat"	00304
01/02/2013 <del>23:59</del> 22:59	<<Redacted #12>>	Curnow	"You in trouble?"	00304
<del>01/03/2013</del> 00:00 01/02/2013 23:00	Curnow	<<Redacted #12>>	"Nope. Got a road kill tag thru Dow but I guess there is a big fuss about Carter shooting it"	00306
<del>01/03/2013</del> 00:01 01/02/2013 23:01	<<Redacted #12>>	Curnow	"Why did he shoot it?"	00306
<del>01/03/2013</del> 00:01 01/02/2013 23:01	Curnow	<<Redacted #12>>	"Only heard a little about it but sounds like the daily camera did an article on it"	00306

<sup>47</sup> CPW Case File, Bates #00255, 00564, 00062



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Date/Time	From	To	Message	Bates #
01/03/2013 00:02 01/02/2013 23:02	<<Redacted #12>>	Curnow	"Yeah I saw the article."	00307
01/03/2013 00:03 01/02/2013 23:03	Curnow	<<Redacted #12>>	"Front leg was fucked up and it was chasing the home owner at 9 and mapleton"	00307
01/03/2013 00:03 01/02/2013 23:03	Curnow	<<Redacted #12>>	"According to sam"	00307
01/03/2013 00:04 01/02/2013 23:04	<<Redacted #12>>	Curnow	"Why would they take the meat if they gave ya a carcass tag?"	00308
01/03/2013 00:05 01/02/2013 23:05	<<Redacted #12>>	Curnow	"Oh. Got ya."	00308
01/03/2013 00:08 01/02/2013 23:08	Curnow	<<Redacted #12>>	"0 V mit but he said that he needs to see it Told him the guys name I talked to and he was gonna try to call him to verify"	00308
01/03/2013 00:08 01/02/2013 23:08	Curnow	<<Redacted #12>>	"0 V Cuz they mail them out and the warden dude that wrote you guys the ticket out goose hunting is the fucker coming down Told him I called and got the per"	00308
01/03/2013 00:11 01/02/2013 23:11	<<Redacted #12>>	Curnow	"That dude doesn't work for dow anymore."	00309
01/03/2013 00:12 01/02/2013 23:12	Curnow	<<Redacted #12>>	"Oh I thought this Chris guy was him. Never mind. I feel better now. Thought they might take meaty"	00309
01/03/2013 00:13 01/02/2013 23:13	<<Redacted #12>>	Curnow	"Cool. Is he coming tonight?"	00309

There is a 44 minute gap between messages. This coincides with Officer K. Middledorf's visit to



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Officer B. Curnow's residence.<sup>48</sup>

## Text Messages

Date/Time	From	To	Message	Bates #
01/03/2013 00:57 01/02/2013 23:57	Curnow	<<Redacted #12>>	"Here and gone kept the meat"	00310
01/03/2013 00:59 01/02/2013 23:59	<<Redacted #12>>	Curnow	"You kept it? How about rack?"	00310

There is a 30 minute gap in messages. This, in part, corresponds to two phone calls between Officers B. Curnow and S. Carter.<sup>49</sup>

## Text Messages

Date/Time	From	To	Message	Bates #
01/03/2012 01:29 00:29	Curnow	<<Redacted #12>>	"No but it was fucked up right side busted"	00310
01/03/2012 01:32 00:32	<<Redacted #12>>	Curnow	"Bummer."	00310
01/03/2012 01:34 00:34	Curnow	<<Redacted #12>>	"No big deal he was pretty jacked. Would have liked to keep the left side antler though. Give me a call. I still don't know what the whole story is."	00311
01/03/2012 01:36 00:36	<<Redacted #12>>	Curnow	"K. I'll call ya in a few on my way home."	00311
01/03/2012 01:36 00:36	Curnow	<<Redacted #12>>	"K"	00311

According to Officer B. Curnow's phone records, Officer <<Redacted #12>> called him

<sup>48</sup> CPW Case File, Bates #00063

<sup>49</sup> CPW Case File, Bates #00564



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(Curnow) on January 3, 2013 at 12:57 AM. The call lasted 693 seconds or about 12 minutes. It should be noted that after this phone call, the same records show that Officer B. Curnow called Officer S. Carter on January 3, 2013 at 1:25 AM, which lasted 754 seconds or about 13 minutes.<sup>50</sup>

On January 24, 2013, Sgt Yamaguchi interviewed Officer <<Redacted #12>>. Prior to asking any questions, Officer <<Redacted #12>> waived his right to have 72 hours notice prior to being interviewed. Officer <<Redacted #12>> brought his personal cell phone (older flip style phone) to the interview. Officer <<Redacted #12>>'s cell phone displays the date for text messages but not the time. Officer <<Redacted #12>> stated the following:

- Officer <<Redacted #12>> is currently assigned to the department's Target Crime Team (TCT), which works evening hours, Wednesdays – Saturdays

[Officer <<Redacted #12>> did not work the night of January 1, which was a Tuesday]

- Officer <<Redacted #12>> confirmed that <<Redacted>> is his personal cell phone number
- Officer <<Redacted #12>> worked Wednesday, January 2, 2013 and got to work around 3:00 PM
- Soon after arriving at work, Sergeant <<Redacted #14>> told Officer <<Redacted #12>> and the rest of TCT to read the Daily Camera's website about the elk
- After reading the article, Officer <<Redacted #12>> recalled he had heard other officers talking about the elk, which had been around for the past three winters or so
- Officer <<Redacted #12>> read in the article that witnesses were adamant that a Boulder police officer was involved in the elk's shooting
- A few hours later, Commander R. Gosage approached them (Sergeant <<Redacted #13>>, Sergeant <<Redacted #14>>, Officer <<Redacted #12>>) and asked, half jokingly, if they knew anything about the elk (this was before Commander R. Gosage had learned who was responsible for the elk's death)
- Someone in the group suggested that it might make sense to check with officers who are known hunters (partial list included Officer <<Redacted #15>>, Officer <<Redacted #16>>, Officer Brent Curnow), many of whom were not working that day
- Commander R. Gosage, who wanted to find out what happened to the elk, stated he had not checked with officers who hunt and began asking Sergeant <<Redacted 13>> and Officer <<Redacted #12>> to start calling some of them
- Commander R. Gosage asked Officer <<Redacted #12>> to call Officer B. Curnow and ask if he knew anything about the elk
- Officer <<Redacted #12>> told Commander R. Gosage that he did not want to call Officer B. Curnow and did not want to get involved
- After going back and forth for a little while, Officer <<Redacted #12>> relented and said he would send Officer B. Curnow a text message

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<sup>50</sup> CPW Case File, Bates #00564



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- Officer <<Redacted #12>> sent Officer B. Curnow the text message, “You got elk meat now?”<sup>51</sup>

[Note that Officer B. Curnow’s phone records show that this message was sent on January 2 at 7:26 PM, which is about one hour before Sergeant J. MacPherson spoke with Officer <<Redacted #1>> and learned that Officer S. Carter shot the elk<sup>52</sup>]

- After sending the text, Officer <<Redacted #12>> did not receive an immediate response from Officer B. Curnow, which, according to Officer <<Redacted #12>>, was unusual

[Note that the 3.5 hour gap between text messages is consistent with phone records that show calls between Officer B. Curnow and Commander R. Gosage & Officer K. Middledorf.]

- Before Officer <<Redacted #12>> received a response from Officer B. Curnow, Sergeant <<Redacted #13>> told him (<<Redacted #12>>) that he had just learned that Officers S. Carter and B. Curnow were responsible for the elk’s death
- Officer <<Redacted #12>> and Sgt Yamaguchi went through the text message exchange that ends at about 11:13 p.m. on January 13, 2013

[Note there is a 44 minute gap between messages, which corresponds to Officer K. Middledorf’s visit to Officer B. Curnow’s residence.<sup>53</sup>]

- Officer <<Redacted #12>> confirmed that he and Officer B. Curnow spoke by phone at 12:56 a.m. on January 3, 2013<sup>54</sup>, after exchanging the text messages
- During the phone conversation, Officer B. Curnow told Officer <<Redacted #12>> that Officer S. Carter had called him (Curnow) and wanted to know if he (Curnow) wanted the meat
- Officer B. Curnow confirmed that he (Curnow) came up to Boulder and got the elk
- When asked about a road kill permit, Officer B. Curnow told him (<<Redacted #12>>) that he (Curnow) had spoken to “John” at CPW [believed to be CPW employee John Flier<sup>55</sup>] and was getting a permit
- Officer <<Redacted #12>> only asked Officer B. Curnow questions about the road kill permit
- In a later phone call [believed to be January 3, 2013 at 1:11 p.m.<sup>56</sup>], Officer <<Redacted #12>> recommended to Officer B. Curnow that he (Curnow) should take down his (Curnow’s) Facebook page and to “tell the truth”

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<sup>51</sup> CPW Case File, Bates #00303

<sup>52</sup> CPW Case File, Bates #00019

<sup>53</sup> CPW Case File, Bates #00063

<sup>54</sup> CPW Case File, Bates #00564

<sup>55</sup> CPW Case File, Bates #00254

<sup>56</sup> CPW Case File, Bates #00564



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[Note that following the above phone call, there appears to be a corroborating series of text messages between Officer B. Curnow and <<Redacted #8>><sup>57</sup>.]

Officer <<Redacted #12>> then addressed the text messages regarding goose hunting.

- Several years ago, Officer <<Redacted #12>>, Officer <<Redacted #17>> and Officer <<Redacted #17>>'s father (<<Redacted #18>>) went goose hunting on private property near Niwot
- While hunting, a CPW (then "DOW") officer contacted the trio as part of a routine compliance check
- All three were found to have valid hunting licenses, however, Mr. <<Redacted #18>>'s shotgun was not in compliance (goose hunters must alter their shotguns so they cannot have more than two rounds in the magazine)
- The CPW officer wrote Mr. <<Redacted #18>> a summons for the violation
- Officers <<Redacted #12>> and <<Redacted #17>> were in compliance with the hunting laws and regulations

On January 28, 2013, Sergeant K. Yamaguchi interviewed Commander Ron Gosage. During the interview, Gosage stated the following:

- Commander R. Gosage confirmed that on January 2, 2013, around 7:00 p.m., he spoke with CPW Officer K. Middeldorf (at the time it still was not known that Officers S. Carter and B. Curnow were involved with the elk's shooting and removal)
- Between speaking with Officer K. Middeldorf and 8:30 p.m., Commander R. Gosage approached the <<Redacted>> and asked if they knew anything about the elk
- Commander R. Gosage believed that if a Boulder police officer was involved, it would likely be someone who has hunting experience
- Commander R. Gosage asked Sergeant <<Redacted 13>> to call Boulder Police Officer <<Redacted #15>> and <<Redacted #16>>, who are known hunters
- Though Commander R. Gosage asked Sergeant <<Redacted 13>> to call Officer B. Curnow, there was some reluctance due to Officer B. Curnow calling in sick for his January 1 and 2 shifts
- As time passed with no explanation, it seemed more and more likely that a Boulder officer was involved
- Officer <<Redacted #12>> finally agreed to send Officer B. Curnow a text message
- Commander R. Gosage recalled that Officer <<Redacted #12>> did not receive an immediate response from Officer B. Curnow

It appears that Officer B. Curnow's text message to Officer <<Redacted #12>> regarding illegal activity while goose hunting did not involve Boulder police employees. In addition, Officer <<Redacted #12>>'s text message to Officer B. Curnow on January 2, 2013 at 7:26 p.m. was not sent because of prior knowledge of Officer B. Curnow's involvement. Rather, it was sent in an

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<sup>57</sup> CPW Case File, Bates #00319 to 00329



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attempt to see if Officer B. Curnow was indeed involved with the elk's death and disappearance.

## Officer <<Redacted #19>>/Facebook Postings

On January 4, 2013, Deputy Chief Dave Hayes sent two IA screen captures from Facebook to Sergeant K. Yamaguchi. One of the screens contained a picture of the elk while alive and had been taken sometime prior to January 1, 2013.

The page contained several postings from various people about the elk, including one from Officer <<Redacted #19>> that stated, "Apparently I missed the standing kill order by one day after it cornered a mailman. I'm no hunter but getting a cow and an elk on duty would be impressive."

The image and Officer <<Redacted #19>>'s information was sent to DPW Officer K. Middendorf on January 4, 2013. During their work, DPW investigators interviewed Officer <<Redacted #19>> twice. The interviews were audio recorded. Officer <<Redacted #19>> stated the following:

- On December 27 or 28, 2012, Officer <<Redacted #19>> recalled that dispatch received reports of a "moose" in the area of 4<sup>th</sup> Street and Dewey Avenue
- Officer <<Redacted #19>> checked the area and found the elk standing in the middle of 7<sup>th</sup> Street
- The elk did not appear injured when Officer <<Redacted #19>> saw it
- Officer <<Redacted #19>> learned later that the day before, the elk had cornered a mailman<sup>58</sup>
- While Officer <<Redacted #19>> did not witness the elk being aggressive, he did see cars drive up close to it without it reacting
- When asked if he (<<Redacted #19>>) had heard anything about a "kill order" for the elk, he (<<Redacted #19>>) answered, "Not that I'm aware of"
- When asked again if he (<<Redacted #19>>) had been told by a supervisor in a briefing or similar situation about a kill order, Officer <<Redacted #19>> stated he had not
- While Officer <<Redacted #19>> described Officer S. Carter as a friend, he (Carter) had never mentioned the elk
- However, a year prior, the two had discussed a sighting of a different elk
- At that time, Officer S. Carter expressed his doubt that there were elk in the city and Officer <<Redacted #19>> told him (Carter) that it must be a "super deer"
- The investigators asked Officer <<Redacted #19>> if he knew anything else that they (the investigators) might want to know, and he (<<Redacted #19>>) replied he did not

During the first interview, Officer <<Redacted #19>> did not disclose his posting on Facebook about a kill order. In listening to the interview, we found that CPW investigators did not ask him about any Facebook postings.

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<sup>58</sup> DA Investigator Report, Bates #00598



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On January 6, 2013, CPW Officer K. Middendorf and Investigator P. Pope interviewed Officer <<Redacted #19>> a second time. The interview was audio recorded. The following is what was learned from the interview.

- Officer <<Redacted #19>> confirmed that during the first interview, he stated that he had not heard anyone give a “kill order” regarding the elk
- Officer <<Redacted #19>> told the investigators, “In order to help try and clear up anything at all, from street supervisors to command staff to any senior officers, I have not heard anything from the Boulder Police Department about a kill order for wildlife within the city or out of the city.” “No, no kill order any animal, ever.”
- Officer <<Redacted #19>> elaborated and stated that the only way “kill order” would come up would be in “jest”
- When Investigator P. Pope asked, “Have you ever commented about a kill order?” Officer <<Redacted #19>> responded, “I have.”
- Officer <<Redacted #19>> then explained that he posted a Facebook comment about a standing kill order
- Officer <<Redacted #19>> continued by emphasizing that the posting was his own comment and did not come from anyone at the Boulder Police Department
- Officer <<Redacted #19>> explained to the investigators that in the first interview, they asked whether a supervisor had given a “kill order”. Since no such order had ever been given, Officer <<Redacted #19>>’s answer was “no”
- Officer <<Redacted #19>> also explained to the investigators that he had since removed his Facebook account due to an interaction with a “sovereign citizen” that he documented in case number <<Redacted>><sup>59</sup>
- Officer <<Redacted #19>> also explained that his posted comment about a cow was related to a previous incident he had been involved in with a loose cow on US Highway 36 in the past (apparently other officers gave Officer <<Redacted #19>> a hard time about it)

CPW investigators (L. Rogstad and J. Koehler) interviewed Officer <<Redacted #20>> (see above Facebook screen capture) on January 5, 2013<sup>60</sup>. DA Investigator J. Harmer interviewed Officer <<Redacted #20>> again on January 15, 2013<sup>61</sup>. During the interviews, Officer <<Redacted #20>> told the investigators the following.

- Officer <<Redacted #20>> spoke with Officer S. Carter about the elk several weeks prior
- During the conversation, Officer S. Carter mentioned that he either wanted to or had already spoken with Commander Curtis Johnson about permission to shoot the elk
- Officer <<Redacted #20>> did not hear Officer S. Carter state that he had actually obtained permission to shoot the elk, but may have indicated he (Carter) was hoping to

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<sup>60</sup> CPW Case File, Bates #00106

<sup>61</sup> DA Investigator Report, Bates #00571



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get permission

- Since Commander C. Johnson is the Watch 1 commander, Officer <<Redacted #20>> did not know why Officer S. Carter (Watch 3) would seek permission from him
- During Investigator J. Harmer's interview, Commander C. Johnson stated that at no time did Officer S. Carter seek permission from him (Johnson) nor did he (Johnson) ever indicate he gave permission to kill any animal

On January 15, 2013, DA Investigator J. Harmer interviewed Commander C. Johnson<sup>62</sup>. During the interview, the commander told the investigator the following.

- Commander C. Johnson stated that he spoke with many officers over the years about the elk
- Some of the officers were hunters and may have mentioned that they would like to see an elk of that size when they were hunting
- Officer S. Carter never asked the commander for permission to put down the elk
- Officer S. Carter never mentioned to Commander C. Johnson that the elk had been aggressive
- The last conversation Commander C. Johnson had with Officer S. Carter was several months prior when Officer S. Carter told him (Johnson) that he had not seen the elk for a while

## Officers Obtaining Road Kill

During the investigation, it was learned that other officers had obtained road kill animals after they had been hit by vehicles within the city limits. For the instances that could be established, it appears the collection of the animals was done lawfully. In conversations with CPW staff and specifically Area Wildlife Manager Larry Rogstad, we learned that the taking of road kill by law enforcement is common practice around the state.

As explained, it is legal for any person to take a road kill deer or elk so long as they call CPW within 72 hours to get a permit to have the animal. CPW will usually ask a few questions to be satisfied the animal is truly a road kill. Depending on the circumstances and animal, they will sometimes go to the person's home to inspect the animal. Rogstad advised that because law enforcement often deals with these animals, it is law enforcement or their friends who end up taking the animals for the meat. Some departments have lists of people who are willing to come out to pick up the carcasses and some donate the meat to charity food kitchens. It is legal and often preferred to have someone take the animals. It is okay for a law enforcement officer to call someone off duty to collect the animal, so long as they follow the procedure and call CPW within 72 hours. According to Rogstad, CPW officers used to do the same thing. Recently they have stopped the practice due to negative public perception regarding the practice.

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<sup>62</sup> DA Investigator Report, Bates #00573



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In the last few years, BPD has contracted with an outside vendor to pick up any large road kill such as deer. However, some officers had still been operating under a previous practice of giving the meat away or taking it for themselves after their shift ended.

Officer <<Redacted #21>> has been with the department since August 2011. According to Officer <<Redacted #21>>, he has picked up two deer carcasses that had been hit by cars. The first occasion was in August or September 2012 and involved Officer B. Curnow. Officer <<Redacted #21>> recalled that Officer B. Curnow had to shoot a doe that had been struck and severely injured by a car. After ending his shift, Officer <<Redacted #21>> drove his personal vehicle to the deer, picked it up and took it home. Officer <<Redacted #21>> contacted CPW, explained what occurred and received a Road Kill Permit via mail.

The second incident occurred in November 2012. According to Officer <<Redacted #21>>, he was not working when he received a call from Officer B. Curnow. Officer B. Curnow informed him (<<Redacted #21>>) that he (Curnow) had just put down an injured buck (deer) in north Boulder. Officer <<Redacted #21>> drove his personal truck to Boulder and picked up the deer carcass. After returning home, Officer <<Redacted #21>> called CPW and reported what had occurred. Since the deer was a buck, CPW asked that he e-mail photographs of the antlers (reportedly 3-point). When the CPW agreed the animal did not qualify as having trophy parts, the CPW mailed Officer <<Redacted #21>> a permit.

According to Officer <<Redacted #21>>, large portions of both animals could not be salvaged by the butcher due to the damage that had been done due to being hit by cars. When asked, Officer <<Redacted #21>> believed his actions were okay and not illegal or a violation of any department policy. It should be noted that both incidents occurred prior to a directive issued by Chief M. Beckner on February 4, 2013 that now clearly prohibits officers taking home road kill animals.

## Public Reaction

- Chief M. Beckner received in excess of 15,000 e-mails from Boulder community members and from across the United States
- The Professional Standards Unit office received more than 100 voice mail messages from community members (other areas of the department received comments as well)
- Numerous media reports have been published
- Questions from the city council had to be addressed
- Members of the department have been subjected to public ridicule about the incident while trying to perform their normal duties

## Disposition

Due to the public concern created by this incident, the Department chose to continue the personnel investigation even after receiving the resignations of Officers Carter and Curnow. This is sometimes done in high profile or serious violation cases in which a final finding would



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be beneficial to the Department and the community. In such a case it is beneficial to complete the investigation to create a formal record and bring some closure to the incident. It also serves as a barometer of how the department investigates and polices itself when serious allegations are made against members.

The complete investigative case file was provided to the supervisory chain of command and to the Internal Affairs Review Panel, comprised of six community members and six department members. All supervisors and the Review Panel recommended a sustained finding on all allegations of misconduct by Officer Carter and Officer Curnow.

The Police Chief met personally with the Review Panel to assess their reaction to how the Department handled the investigation. The Review Panel was complimentary in how the investigation, information, and public reaction were managed. The role of other officers was also discussed with the panel (overhearing comments, Facebook posting, etc). The consensus of the panel was that, besides Officer Carter and Curnow, no other member should be disciplined. The consensus was that the comments heard or made were not taken seriously by other officers, nor could they be expected to know that Carter would illegally shoot the elk.

The written statement entered into the record by the IA Panel was as follows:

*The investigation was fair, complete and accurate, and provided overwhelming evidence to indicate that Officer Carter (Curnow) violated all four stated rules. We unanimously recommend a disposition of sustained.*

Upon review of the evidence and recommendations of the review process, the Police Chief entered an official finding of sustained against both officers.

## **Finding: Sustained**

A sustained finding indicates that the allegations against Officer Sam Carter and Officer Brent Curnow were proven by a preponderance of the evidence. A finding of Sustained was entered into the record of both officers.

Both officers resigned prior to the completion of the investigation and prior to any disciplinary action being imposed.

Attachment A: Complaint against Officer Carter

Attachment B: Complaint against Officer Curnow

## Attachment A

### Complaint on Officer Carter:

On January 1, 2013 at approximately 2300 hours, you shot and killed a trophy sized elk with a shotgun in the area of 9<sup>th</sup> and Mapleton. The reasons provided for shooting the elk were that it had been aggressive toward others and appeared to be injured. After shooting the elk, you called off duty officer Brent Curnow (who had called in sick) to come to the scene to pick up the elk for personal use. You also requested the assistance of an outside agency officer (via text message) to respond to the scene to assist with loading the elk for Curnow. You remained on the scene while still on duty for approximately two hours assisting Curnow with the personal business of collecting the elk. You also posed for pictures with the elk. During this time you never gave anyone, communications or a supervisor, any notice of where you were or what you were doing. Afterwards, no information was provided to any supervisor, nor were any reports completed explaining your actions. The following day, when public inquiries were made as to the circumstances surrounding the shooting of the elk, the department had no information or accounting of what occurred. Later, the department had to publicly correct the denial of being involved in this incident. This created embarrassment and public ridicule of the department.

We have since learned that the Colorado Division of Parks and Wildlife is investigating this matter to determine whether criminal charges are appropriate. Based on the information above and preliminary information obtained from the investigation thus far, we believe there is reason to believe there was some prior planning in place to kill the elk; there may have been prior planning to provide the elk to Officer Curnow for personal use; you may have been untruthful in your reasons for shooting the elk; may have been untruthful in trying to contact dispatch; may have been untruthful about location at the time; may have abused your position as a police officer; may have inappropriately utilized city equipment, resources, and money for personal gain for yourself and/or another officer; used unreasonable judgement; participated in conduct that caused embarrassment to the department and its members and reflected discredit upon the individual; and did not conduct yourself in a manner in line with our organizational value of Integrity. For these reasons, we are conducting an internal affairs investigation into the following allegations:

Violation of General Order 201-2 (L), Report Writing. No report or documentation was completed on this incident. Officer Carter should have known that an incident of this nature should have been reported as beneficial to explain his actions.

Violation of General Order 241-16, Animal Control. A report is required when use of force is used and an animal sustains severe injury or death.

Violation of General Order 225-9, Use of Firearms. Firearms may only be discharged to destroy seriously injured or dangerous animals when another disposition is impractical. There are conflicting reports on the injured status of the animal and there is no evidence that other dispositions were considered, or that anyone was consulted as to other dispositions prior to shooting the animal.

Violation of General Order 225-11, Use of Force Report. A use of force report is required when an officer discharges a firearm in a law enforcement incident, whether or not an injury is inflicted.

Violation of the following Department Rules:

**1. Compliance with Values, Rules, and General Orders**

Except as otherwise approved by the Chief of Police, members of the department perform their duties in accordance with city and department rules, policies, and procedures, and conduct themselves within the framework of the department's values

**3. Truthfulness**

Members are truthful in matters associated with or related to department business or responsibilities, except as recognized for legitimate investigative purposes.

**5. Police Authority and Public Trust**

Members are entrusted to effectively, helpfully, and non-abusively use the authority and public trust vested in them. Members do not take any police action which they know, or reasonably should know, is not in accordance with the law, and always use their position and credentials appropriately. Members appropriately utilize city equipment, resources, and public monies.

**8. Conduct**

Members use reasonable judgment and refrain from conduct which reflects unfavorably on the department. This type of conduct includes that which:

- a) causes embarrassment to the department or its members, or compromises the department's reputation;
- b) reflects discredit upon the individual as a member of the department; or
- c) tends to impair the operation, effectiveness, credibility, or efficiency of the department or its members.

## **Attachment B**

### **Complaint on Officer Curnow**

On January 1, 2013 you called into work sick for sickness in family/child. You apparently had to stay home to care for a sick child and were unable to report for work that night at 2100 hours.

On January 1, 2013 at approximately 2300 hours, Officer Carter shot and killed a trophy sized elk with a shotgun in the area of 9<sup>th</sup> and Mapleton. The reasons provided for shooting the elk were that it had been aggressive toward others and appeared to be injured. After shooting the elk, Carter called you to come to the scene to pick up the elk for personal use. He also requested the assistance of an outside agency officer (via text message) to respond to the scene to assist with loading the elk into your pickup. Given travel time and time at the scene, it is estimated you were away from home and your sick child for at least three hours. During this time, no communication was made with any supervisor or any other member of the department in regards to your sick time status or your activities in the city of Boulder. During this time, Officer Carter may have referred to you as "Frank" in front of civilian witnesses. The secrecy around the activities of you and Officer Carter is indicative of not wanting others to know what you were doing. Based on information obtained thus far, there is reason to believe the killing of and disposition of the elk was pre-planned with Officer Carter.

We have also learned that the Colorado Division of Parks and Wildlife is conducting a criminal investigation into this incident due to the circumstances surrounding the shooting, including conflicting information as to the injured status of the elk.

This incident has reflected unfavorably on the department creating embarrassment for the department and subjected us to public ridicule.

For these reasons, we are conducting an internal affairs investigation into the following allegations:

Violation of General Order 142-1 (A), Use of Sick Time.

Sick leave is used when employees are incapacitated by sickness or injury (other than injuries sustained in the performance of their duties), for medical treatment, when exposure to contagious diseases would jeopardize the health of others, and for attendance to the illness, injury, or medical care of an employee's related household. In addition, use of sick leave is governed by appropriate employment agreements.

Violation of department rules:

#### **1. Compliance with Values, Rules, and General Orders**

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