

INTERNAL AFFAIRS INVESTIGATION

WOODLAND PARK POLICE DEPARTMENT

Allegation – Improper Police Response to a Report of Someone Threatening Suicide

Woodland Park Case Report Number – 20-1712

Officers Involved – Sergeant Mike McDaniel and Commander Andy Leibbrand

Date – December 23, 2020

Time – 7:56 P.M.

Location – [REDACTED] Woodland Park, CO

Decedent – Jeremy Mitchell DOB [REDACTED]

I was retained on September 13, 2021, by Woodland Park Interim Police Chief Steve Hasler to review the police response to a 911 call of someone possibly threatening suicide.

My investigation consisted of:

- *Review of the police reports in this incident**
- *Listening to dispatch tapes**
- *Review of interviews of Commander Liebbrand and Sergeant McDaniel conducted by Commander Kevin Tedesco of the Teller County Sheriff's Office and Agent Joe Cahill of the Colorado Bureau of Investigation**
- *Interviewing Sergeant McDaniel and Commander Liebbrand**
- *Interviews of Woodland Park Sergeant [REDACTED] and Detective [REDACTED]**
- *Visiting the area of [REDACTED] in Woodland Park**
- *A review of the current law enforcement literature relative to responding to calls of threatening suicide**

Investigation

On December 23, 2020, at 7:56 P.M. a male party (later identified as [REDACTED] father of Jeremy Mitchell) contacted the Woodland Park Police Department to report that his son, Jeremy Mitchell DOB [REDACTED] had been suicidal, had not returned his phone call, is suffering from [REDACTED] and approximately three weeks earlier had attempted suicide by hanging. His wife, [REDACTED] found him hanging in the garage.

Sergeant McDaniel (at this point Sergeant McDaniel failed to activate his body worn camera) and Officer Jeff Sanchez arrived on scene at 8:01PM. They knocked on the door and was met by [REDACTED] DOB [REDACTED] (Jeremy Mitchell's wife).

[REDACTED] quietly exited the front door and inquired why the officers were at the house. They advised that they were there to conduct a welfare check on Jeremy Mitchell. She explained that she did not call the police and that she did not want them to talk to Jeremy because he would get mad. Sergeant McDaniel asked [REDACTED] if Jeremy had a gun, or a weapon and she responded that Jeremy said something about a gun being loaded. [REDACTED] explained to the officers that they had removed all guns that she had known of and that she did not see anything in their bank account showing a large purchase.

From the outside the officers could hear loud music coming from a bedroom and then they heard Jeremy yelling and sounds of him punching or breaking something.

Officer Sanchez then took a presumably protective position just inside the doorway while Sergeant McDaniel spoke to [REDACTED]. Sergeant McDaniel discussed with [REDACTED] if she had a place to stay for the evening at which time [REDACTED] stated that she could stay with a friend. Sergeant McDaniel asked [REDACTED] to gather some of her personal belongings. Sergeant McDaniel made the decision at this point to not force a confrontation with Jeremy for fear of him or officers being injured or creating a suicide by cop scenario.

Sergeant McDaniel then telephoned Commander Leibbrand and advised him of the following:

- Jeremy may be suicidal
- He had been drinking
- He could hear him yelling and possibly damaging items in the bedroom
- There is a possibility that he may have a gun

Sergeant McDaniel advised Commander Leibbrand that it may be safer to remove [REDACTED] from the house and step away without Jeremy knowing they were there than force a situation where it could turn violent and either Jeremy or an Officer could get hurt or worse. Commander Leibbrand agreed with Sergeant McDaniel's decision.

Sergeant McDaniel then heard Jeremy talking to [REDACTED] stating, "I would never hurt you; I have made peace with myself, I am not worried about anything." Jeremy then told [REDACTED] to leave for the night.

Jeremy then stated, "If you call the fucking cops I will end it, it will be over in a snap, it would happen so fast you won't know anything, or it will end by suicide by cop, do not call the fucking cops."

[REDACTED] then stepped out of the front door and told Sergeant McDaniel who was standing just outside the front door that Jeremy was very intoxicated and that he did have a gun in his hand.

recontact the next morning and that between that time and when [REDACTED] found Jeremy's body at the residence that at least seventeen 911 calls were received in the dispatch center from friends, family and military associates advising that Jeremy Mitchell may be suicidal and that he was on Facebook with suicidal ideations to include holding a gun to his head. [REDACTED] stated that it was actually a few more than seventeen telephone calls, but a few were lost in the computer system.

Dispatcher [REDACTED] confirmed this as well, during my interview with him on September 28, 2021, at 3:39 PM. at the Woodland Park Police Station. Dispatcher [REDACTED] advised me that Sergeant McDaniel told him to tell anyone that called dispatch that the police would not be responding to the Jeremy Mitchell residence again that evening and that the situation is being monitored.

When I interviewed Sergeant McDaniel, he told me that during his shift on the date of this incident that he was aware of a few calls that had been received by dispatch.

**Options Available to Sergeant McDaniel at the Scene During the Initial Response
or
Command Direction Commander Leibbrand Could Have Provided**

*Assign Officer Sanchez to watch the front of the house (a loose perimeter) after Sergeant McDaniel had himself and Officer Sanchez leave the area. This would have prevented an armed, intoxicated, suicidal individual from leaving his home (on foot or by vehicle) and possibly endangering the community. Jeremy Mitchell did have his personally owned pick-up truck at the residence in which he could have driven after the police left.

*Contact the Ute Pass Regional Health Service District – Mental Health Assessment Program (MAPS) and have them review the situation and/or have them attempt to contact Jeremy Mitchell by telephone from a safe location.

*Contact the Teller County Sheriff's Office and request that the Teller County SWAT Team be activated and respond to the residence and maintain a stronger perimeter. As part of this response a Crisis Negotiator would have responded from the Teller County Sheriff's Office. According to Sheriff Jason Mikesell in an interview at 3PM on September 28, 2021, the Teller County Sheriff's Office had two Crisis Negotiators on staff at the time of this incident. Sheriff Mikesell advised me that in the Teller County Sheriff's Office a situation like this has *always* resulted in the SWAT Team being deployed.

*The National Suicide Hotline at 1-800-273-8255 could have been called and advice obtained.

*The Stop Soldier Suicide organization at 844-317-1136 could have been contacted and advice obtained.

She also told Sergeant McDaniel that she hasn't seen Jeremy this mad in a long time. Sergeant McDaniel then advised [REDACTED] to leave the residence in her own car and she and both Officers left. [REDACTED] and Sergeant McDaniel then drove to the Woodland Park Police Station.

At the Woodland Park Police Station Sergeant McDaniel again telephoned Commander Leibbrand and arrangements were made for [REDACTED] to stay at a local hotel. Sergeant McDaniel briefed Commander Leibbrand of the situation and advised Commander Leibbrand that Jeremy was seen by [REDACTED] with a gun in his hand.

Commander Leibbrand again agreed with the way that Sergeant McDaniel was handling this situation telling him it's his decision and that he agrees with stepping away.

Sergeant McDaniel then spoke to [REDACTED] after [REDACTED] called him. [REDACTED] explained to Sergeant McDaniel that Jeremy was an Army veteran suffering from [REDACTED]. Sergeant McDaniel explained to [REDACTED] what was happening and why they left Jeremy at the house. Sergeant McDaniel explained to [REDACTED] that they were trying to prevent an escalation of force and that they didn't want anyone to get hurt. Sergeant McDaniel told [REDACTED] that he hopes Jeremy would go to sleep after drinking and that they would try to contact him later that evening by phone or in the following morning. [REDACTED] appreciated and agreed with this course of action. Sergeant McDaniel explained to [REDACTED] that he would meet with Corporal Avery who is a former military veteran and that they would try to telephone Jeremy at about 8 A.M. [REDACTED] stated that he thought this was a good plan.

On September 22, 2021, at 10 A.M. I interviewed Sergeant McDaniel at the Woodland Park Police Station. He confirmed the above version of the events.

On September 28, 2021, at 10 A.M. I interviewed Commander Liebbrand at the Woodland Park Police Station. He confirmed the above version of events.

Sergeant McDaniel contacted Corporal Avery the next morning at about 7 A.M. during morning briefing and advised him of the prior evening incident and the plan to have Corporal Avery to contact Jeremy. At about 7:20 A.M. dispatch advised Sergeant McDaniel that there was a 911 hangup call with a female crying on the other end. The 911 call indicated that it came from [REDACTED] and that the dispatcher thought it might have been [REDACTED] calling. Sergeant McDaniel then called her back and didn't get an answer, so he left her a message. Within a minute [REDACTED] called him back and was crying and stated he was dead and why did the police make her leave and that it was her fault he is dead.

Further investigation later that morning by Detective Shannon Everhart confirmed that Jeremy Mitchell had committed suicide by shooting himself in the head with a 9mm handgun in his bedroom at [REDACTED]

Dispatcher [REDACTED] advised me that after Sergeant McDaniel decided to remove [REDACTED] from the residence and to pull back officers from the scene and to attempt

***The Colorado Crisis Service Hotline at 1-844 493-8255 could have been contacted and advice obtained.**

***Have one of the six Woodland Park Police Department members who are both military veterans and crisis intervention trained to attempt contact with Jeremy Mitchell via telephone while he was in crisis. These include the following department members:**

**Sergeant Beth Huber
Detective Shannon Everhart
Officer Jeff Sanchez
Officer Darren Traylor
Officer Levente Racz
Chief Miles DeYoung**

***There was some information received earlier from [REDACTED] that Jeremy Mitchell may have not answered his phone if he didn't recognize the phone number and not know who was calling. An attempt to reach him by telephone could have been made on [REDACTED] telephone, thereby he would have recognized the number and possibly answered the telephone.**

***Contact the psychologist that the Woodland Park Police Department uses for pre-employment examinations – Dr. Kenyon Jordan Ph.D. at 303-986-0026 and seek advice.**

***Contacted Nicoletti – Flater and Associates - a nationally recognized psychological services provider who are experts in situations like this. They are available 24 hours a day for emergency telephone consultations. They are based in Lakewood, Colorado and can be reached at 303-985-1617. They have been available for emergency crisis consultations for over 40 years.**

***Contact the El Paso County Sheriff's Office or the Colorado Springs Police Department and request emergency assistance in the form of a Crisis Negotiator experienced in dealing with military veterans with [REDACTED]. Due to a large military community in their jurisdiction, it is likely that that may have been able to provide this level of expertise.**

When I interviewed Sergeant McDaniel, he stated that he was not aware of any other options that might have been utilized at the scene of this incident. He stated it didn't cross his mind that Jeremy may leave the scene, he didn't consider using MAPS because they respond after a situation is stabilized and it would not have been safe for them to respond, and he did not consider using a trained negotiator because Jeremy wouldn't answer the phone if he didn't recognize the number. He stated that didn't think much could be done differently. Sergeant McDaniel stated that during his two phone calls to Commander Liebbrand that Commander Liebbrand agreed with what he was doing and did not offer any additional direction, guidance, or suggestions.

When I interviewed Commander Liebbrand he stated that he was not aware of any other options that might have been utilized in this situation. He advised that the two conversations with Sergeant McDaniel were brief and that he didn't think of using MAPS, a SWAT Team, a negotiator, setting up a perimeter, or calling Jeremy back, using crisis intervention trained officers or using officers who are military veterans to contact Jeremy. He was not aware of the negotiation capability of the Teller County SWAT Team. He stated that he was not aware that after Sergeant McDaniel left the residence that friends and family were calling dispatch concerned that Jeremy might be suicidal. He stated that he learned of the phone calls to dispatch from family and friends until he read the reports days later. He stated that he didn't know that Jeremy was a military veteran. He stated that he found out about Jeremy's suicide the next business day.

A Review of Training Material that Discusses Police Response to This Type of Situation

"Responding to Calls with Suicidal Suspects: Practical Command and Psychological Considerations" by Jen McCutcheon, The Police Chief, May, 2013 – discusses the need for a multi-disciplinary approach to suicidal and mentally ill subjects.

"Risk Management of Police Response to Suicide Threats" by Ken Wallentine, Chief of police, West Jordan Police Department, April 3, 2019 – discusses Tactical repositioning or Tactical withdrawal and, that suicidal subjects can become homicidal.

"When Should Law Enforcement Leave from an Armed Suicidal Barricade" by Scott Savage of the Savage Training Group, October 18, 2018 – discusses that tactical withdrawal may be appropriate when you have exhausted *all* other practical options in trying to convince the suicidal non-criminal to exit his home and surrender.

"The Role of Law Enforcement Officers in Preventing Suicide", Suicide Prevention Resource Center, May, 2013 – discusses *significant* risk factors which include prior suicide attempts, alcohol and drug abuse, post traumatic stress and *access to lethal means to kill oneself*.

"Suicide Prevention, Suicide and First Responders' Role, Illinois Department of Public Health, June 2014 – discusses that paramedic and emergency personnel are considered first responders, most suicides are completed at home, that the following signs may mean someone is at risk for suicide:

Talking about wanting to die or to kill themselves

Increase use of alcohol or drugs

Showing rage

Displaying extreme mood swings

"The Mentally Ill in Crisis: What is the Role of Law Enforcement?" by Lloyd Mackinnon, (Savage Training Group), November 13, 2019 – discusses the importance of police department need to develop protocols and best practices especially those that *incorporate assistance from medical and mental health professionals*.

"Suicide response: Police intervention in a person's choice to die" by Chief Joel F. Shults, Ed.D, Police 1, June 20, 2018 discusses – Alternatives to immediate action in cases where a distressed person's danger comes only from themselves and no one else is at risk include seeking a warrant or court order or *protecting the scene to wait for a mental health crisis team to arrive*.

"Understanding key factors for police de-escalation of potential suicides", by Bill Lewinski Executive Director of Force Science for Police 1, June 29, 2018, discusses – the importance of establishing contact with the suicidal subject and identifying and *engaging professional mental health assistance*.

"Suicide by Cop: Protocol and Training Guide, by the Police Executive Research Forum, August, 2019 – discusses what a suicide by cop scenario might look like where the subject attempts to make the officer believe he poses such a threat, in situations where a person is a danger only to himself or herself it is *essential for police to contain the situation and take whatever time they need to defuse it, the importance of establishing rapport with the suicidal person, the response to suicide by cop incidents is greatly improved when additional resources can be called to the scene including:*

A supervisor
Crisis intervention team
Other resources with special training on mental illness calls

Analysis of Sergeant McDaniel's Actions in this Incident

Sergeant McDaniel failed to assess the potential for lethality in this incident correctly based on Jeremy Mitchell being clearly suicidal, intoxicated, armed, having the potential to leave his house and drive away and be a danger to the community. Sergeant McDaniel should have immediately set up a perimeter, requested the Teller County SWAT Team to respond with a negotiator, called the mental health assessment team (MAPS) for guidance and requested they respond to a safe location and coordinate with the SWAT Team negotiator, and requested the department detective to respond and gather more intelligence information on this situation as well as additional patrol officers to respond to set up a perimeter. Sergeant McDaniel should have had a CIT trained officer who is a military veteran coordinate with MAPS personnel and a SWAT Team negotiator to facilitate contacting Jeremy Mitchell. This three-person team would have been able to conduct a thorough crisis negotiation with Jeremy if he would speak to them while the Department Detective would have been providing real time intelligence information to this team.

Additional Woodland Park Officers Were Available to Respond and Assist

On December 23, 2020, Sergeant McDaniel and Officer Sanchez were scheduled to work from 12 noon until 10PM. On this date Officer Dena Currin and Officer Ivan Rodriguez were scheduled to work from 9PM until 7AM. There were enough Officers on duty to:

- Set up a perimeter at Jeremy Mitchell's residence
- Facilitate an attempt to communicate with him via telephone using MAPS personnel resources
- Actively monitor this situation
- Ensure that his vehicle would not be drivable (the tires could have been deflated)
- Assign an Officer to contact various suicide prevention hotlines and police psychologists for suggestions on how to deal with this situation

Based on a preponderance of the evidence presented to me, Sergeant McDaniel violated the following department policies:

319.3.8 Efficiency

(a) Neglect of Duty

430.5 – An Officer responding to a call involving a person in crisis should:

(b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate

(f) Secure the scene and clear the immediate area as necessary

(k) If circumstances reasonably permit, consider, and employ alternatives to force

430.7 – When responding to an incident that may involve a mental health disorder or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

Additional resources and a supervisor should be requested as warranted

430.8

(a) Attempt to secure appropriate and sufficient resources

(e) Conduct an after action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Section Commander

(f) Evaluate whether a critical incident stress management debriefing for involved members is warranted

421.5 Activation of the Audio/Video Recorder

The recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interviews (fi) situations

Sergeant McDaniel's judgment on how to resolve this situation was faulty, short sighted and did not include generally accepted law enforcement practices.

Analysis of Commander Liebbrand's Actions in this Incident

Commander Liebbrand failed to grasp the severity of this incident as it was unfolding. Sergeant McDaniel was describing this incident during two phone calls to Commander Liebbrand that clearly involved a high potential for lethality and Commander Liebbrand did not recognize that the approach Sergeant McDaniel was utilizing was not appropriate given the facts and circumstances.

Commander Liebbrand should have responded to the scene and assumed command. While at the scene he should have facilitated and coordinated obtaining additional resources as described in this report and facilitated attempting contact with Jeremy Mitchell using a three-person negotiation approach described earlier along with intelligence being provided by the Department Detective.

Commander Liebbrand should have realized that Sergeant McDaniel had only been a police Sergeant for the Woodland Park Police department at the time of this incident for eight months and didn't have the supervisory experience to properly assess and manage an incident of this complexity and nature.

After this incident Commander Liebbrand should have directed a review of the incident in attempt to improve future responses by the Woodland Park Police Department to similar incidents.

After this incident Commander Liebbrand in conjunction with Chief DeYoung and Commander Holzwarth should have developed department training on how to respond to calls of this nature.

After this incident Commander Liebbrand should have been instrumental in researching and developing department policy regarding responding to calls of this nature.

Based on the preponderance of the evidence presented to me, Commander Liebbrand violated the following department policies:

319.3.8 Efficiency

- (a) Neglect of duty**

319.4.2 Supervisor Responsibilities

Supervisors and Managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control**

Attempted Suicide Cases Where MAPS Has Responded to Assist

MAPS has responded on the two following recent attempted suicide cases that were handled by the Woodland Park Police Department:

21-1482

21-0112 (involving an armed military veteran with PTSD)

Background of the Author of this Report Relative to Suicidal Barricaded Individuals

***From 1986 to 1995 I was the Commander of the North Metro Crisis Negotiation Unit serving the cities of Thornton, Northglenn, and Federal Heights, Colorado with a service population of 100,000 people.**

***From 1995 to 2002 I was the Commander of the South Omaha Crisis Negotiation Unit serving the cities of La Vista, Papillion, Ralston and Bellevue, Nebraska with a service population of 50,000 people.**

***From 2002 to 2017 I was the Commander of the Fremont County Crisis Negotiation Unit serving the cities of Canon City, Florence and the unincorporated areas of Fremont County, Colorado serving a population of 40,000.**

From 2017 to 2020 I was the Commander of the Morgan County Crisis Negotiation Unit serving The cities of Fort Morgan, Wiggins, Log Lane, Sterling, and the unincorporated areas of Morgan County, Colorado serving a population of 35,000 people.

I have over 34 years of continuous experience as the Commander of Crisis Negotiation Units in two states in both urban and rural areas. I am a graduate of the FBI Crisis Negotiation training

course twice, the Advanced Crisis Negotiation taught by the former Commander of the New York Police Department Crisis Negotiation Unit, and the Crisis Negotiation Unit Commanders Course taught by the Commander of the Chicago Police Department's Hostage, Barricaded Terrorism Unit at Northwestern University.

During this time, I have responded to approximately fifty barricaded cases most involving threats of suicide.

I have 47 years of law enforcement experience with the last 25 years as Chief of Police and have been Chief of Police in La Vista, Nebraska, Lafayette, Colorado, Director of Colorado Peace Officer Standards and Training and Chief of Police in Canon City, Colorado, and Fort Morgan, Colorado. I have also served as President of both the Nebraska and Colorado State Police Chiefs Associations. For the past 26 years I have been the principal instructor for the Southern Police Institute's Managing Small Law Enforcement Agency training course.

Respectfully submitted,

Paul D. Schultz

Paul D. Schultz MCJ (Retired Chief of Police)
Municipal Police Consultants LLC
Municipalpoliceconsultants.com
303-886-8380

October 11, 2021



Woodland Park

To: Commander A. Leibbrand
From: Chief S. Hasler
Date: October 28, 2021
Subject: Internal Investigation, Jeremy Mitchell

Notice of Recommended Discipline Pursuant to Section 1007.10.2 of the Woodland Park Police Department Policy Manual, you are being provided the following written Notice of Recommended Discipline.

As you are aware, the City contracted with Municipal Police Consultants LLC on September 13, 2021, to conduct an administrative investigation into case number 20-1712, a welfare check/ suicide involving Jeremy Mitchell.

The City has received the results of this investigation, which I have received and reviewed, a summary of which is below.

Analysis of Commander Leibbrand's Actions in this incident.

Commander Leibbrand failed to grasp the severity of this incident as it was unfolding, Sergeant McDaniel was describing this incident during two phone calls to Commander Leibbrand that clearly involved a high potential for lethality and Commander Leibbrand did not recognize that the approach that Sergeant McDaniel was utilizing was not appropriate given the facts and circumstances.

Commander Leibbrand should have responded to the scene and assumed command. While at the scene he should have facilitated and coordinated obtaining additional resources as described in this report and facilitated attempting contact with Jeremy Mitchell using a three-person negotiation approach along with intelligence being provided by the Department Detective.

Commander Leibbrand should have realized that Sergeant McDaniel had only been a Police Sergeant for the Woodland Park Police Department at the time of this incident for only eight months and did not have the supervisory experience to properly assess and manage an incident of this complexity and nature.

After this incident, Commander Leibbrand in conjunction with Chief De Young and Commander Holzwarth should have developed department training on how to respond to calls of this nature.

After this incident Commander Leibbrand should have been instrumental in researching and developing departmental policy regarding responding to calls of this nature.

The report stated the following Woodland Park Police department policies were violated.

319.3.8 Efficiency

- (a) Neglect of Duty

319.4.2 Supervisor Responsibilities

Supervisors and Managers are required to follow all policies and procedures and may be disciplined for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

Commander Leibbrand has been found to be in violation of the following policies:

1. Neglect of Duty

Sustained

2. Supervisor Responsibilities.

Sustained

Based on the totality of the substantiated findings of this investigation, and the serious violation of our department policies, I am recommending and proposing termination of your position at the Woodland Park Police Department.

Pursuant to Woodland Park Police Department Policy 1007.10.2 I am providing you with the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.**

You may review the investigatory materials considered by me by contacting me at ____ - _____ to arrange a mutually agreeable time.

- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.**

You may respond to this Notice of Recommended Discipline, either orally or in writing, to me within five (5) days of your receipt of this Notice. You may contact me at 719-687-9262 to arrange a time for an oral response or you may submit your written response to 911 Tamarac Parkway, Woodland Park, CO. 80863

Be advised that if you request to respond orally, that opportunity is not intended to be an adversarial or formal hearing. Although you may be represented by an uninvolved representative and/or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses. Rather, WPPD Policy 1007.10.2 is intended for you to provide me with any mitigating information you would like me to consider before a final decision is made.

Effective today, you will continue to be on paid administrative leave until my final written decision is issued, and the applicable discipline becomes effective.

Importantly, the City prohibits retaliation against employees who initiate this investigative process by identifying concerns or who participate in the investigation process itself. Any perceived retaliation should be reported to the HR Generalist, Amy Jacob, or to me.

Signed and issued this 28th day of October, 2021

A handwritten signature in black ink, appearing to read 'Steve Hasler', written over a horizontal line.

Steve Hasler, Interim Chief of Police

Chief Steve Hasler
Woodland Park Police Department
911 Tamarac Parkway-P.O. Box 7255
Woodland Park, CO 80863

Office 719.687.9262
Fax 719.687.1869
shasler@city-woodlandpark.org

Steve Hasler

From: A A <andyleibbrand754@gmail.com>
Sent: Friday, November 5, 2021 4:52 PM
To: Steve Hasler; Michael Lawson
Cc: Mike Lowe
Subject: Response to Notice of Recommended Discipline

[EXTERNAL]

Chief Hasler,

Thank you for the opportunity to provide you with a response and mitigating facts prior to you making a decision regarding my employment with Woodland Park, a community I have served faithfully for over ten years. You should know that in all that time, I rose through the ranks consistently and have no disciplinary history whatsoever. Please understand that in light of my record, commitment, and length of service to the people of Woodland Park, I have difficulty understanding how a single, tragic incident reviewed after the fact with the convenience of 20/20 hindsight could result in a recommendation of termination of my employment. During the Mitchell call, I performed consistent with not only how I had been trained in my years with Woodland Park, but also consistent with my years of practice and experience with the Department, which have never before been questioned.

It is important to point out at the beginning that Mr. Schultz's investigation leaves out several important factors, and seems to completely ignore others. Perhaps most critically, Mr. Schultz appears to make no effort to establish the training that Woodland Park PD engaged in and continues to engage in with respect to mental health contacts, and specifically suicidal individuals, consistent with national standards. For example, there is no mention in Mr. Schultz's investigation of our utilization of the Status: Code 4, Inc. training protocols, which is specifically targeted to provide mental health and trauma resources and training for first responders and their families. In fact, our Department utilizes their training protocols and conducts monthly reviews with the organization to ensure we are properly trained. There is no mention in the report that Sgt. McDaniel is the mental health advocate for the Woodland Park Police Department, or that Sgt. McDaniel brings over fifteen years of experience—the bulk of it with a major metropolitan police force, Denver—to his position with Woodland Park. To that point, it is fundamentally unfair for Mr. Schultz to ignore this fact of Sgt. McDaniel's experience, while claiming that I failed to recognize that Sgt. McDaniel had only been a sergeant for eight months at the time of this call. The fact is that Sgt. McDaniel has years of experience, is the mental health advocate for the Department, has attended the same training myself and the rest of the Department has attended and continues to attend, and there was thus no reason to suspect Sgt. McDaniel was not accurately and competently assessing the situation on an ongoing basis that evening, or that he was inadequately communicating with me. As a Commander, I have to be able to rely on the judgment and experience of my sergeants in the performance of their duties, and Sgt. McDaniel has never given me any reason to doubt his competence or judgment. It is thus unfair to graft a generalized policy regarding "appropriate guidance and control" of subordinates to the specific circumstances of the Mitchell case. It is simply not a policy violation to rely on experienced, high-performing subordinates. And there is no policy of the Woodland Park Police Department or the City that requires commanders to respond to the scene of suicidal suspects, or requires them to exercise command in-person rather than remotely, based on circumstances and information. To the contrary,

Woodland Park Police Department Policy 430, which covers persons in crisis, expressly states that “strategic disengagement” is to be considered in these situations and may be the most reasonable response. This is no surprise, as many of the resources cited by Mr. Schultz make similar recommendations. Critically, Mr. Schultz nowhere references the trainings of internationally-recognized Force Science Institute—utilized by Woodland Park—which presents training specifically stating that when confronting a suicidal individual who is not committing a serious crime and is not an active threat to anyone other than themselves, the best response may be to withdraw.

Similarly, none of the extensive training I’ve received indicated to me that Sgt. McDaniel was not handling the call appropriately, or that my presence was required. As with the rest of Mr. Schultz’s investigation, there is no mention in his report of the simulation scenarios we engage in yearly, at an extensive cost to a small jurisdiction like Woodland Park, where actors are paid thousands of dollars to come in and act the part of individuals in mental health crisis. Nor is there any mention of the ongoing Department efforts to send every officer to be CIT certified, or that the mental health concerns of citizens, and particularly veterans, falls very close to home with many at the Department. There is simply no mention, or even an indication, that Mr. Schultz considered the fact that our policies are not only regularly reviewed and updated, they are directly adopted from Lexipol, a nationally accredited agency and the gold standard for law enforcement policies.

The lack of recognition of these efforts, training and experience in Mr. Schultz’s report perhaps explain why the suggestions he makes as to other measures that could have been taken would actually have made the situation more dangerous, and more likely to result in harm to law enforcement, mental health professionals, or citizens on the evening of the Mitchell case. It is important to recognize that not one of the generalized articles Mr. Schultz references in his report addresses a scenario where a suicidal individual has threatened to kill himself if law enforcement is summoned, much less any scenario where the individual’s immediate family members *recommend* and *agree with* the decision to tactically withdraw, ensure their safety, and minimize the chance that the individual would escalate. In fact, one of the articles actually recommends that course of action in a scenario very similar to that encountered with Mr. Mitchell. The fact is that had we taken the measures suggested by Mr. Schultz in his report—me responding to the scene and assuming command, Sgt. McDaniel summoning a SWAT Team to the home, ordering MAPS or any number of other mental health professionals to the scene, making subversive attempts to contact Mr. Mitchell to discuss his mental state, etc.—Mr. Mitchell would almost certainly have made good on his threat to commit suicide, and then the Department and the City would be in an even less enviable position of justifying a response that almost certainly forced Mr. Mitchell’s hand, and would be spun in the media as the Department actually *making* Mr. Mitchell kill himself. Those suggestions from Mr. Schultz are thus not only without basis, they do not take into account the specifics of the situation confronted that night. Yes, it is a tragedy that Mr. Mitchell committed suicide that evening. But the actions taken that night, by everyone involved, were within policy and designed to minimize the chance of that happening. Unfortunately, those efforts were not enough, as is sometimes the case. It is important to note also that Mr. Schultz did not consult Officer Jeff Sanchez (the other Woodland Park Officer on the scene with Sgt. McDaniel that night), or the former Chief of Police, who agreed with the actions taken that night, along with the consulted family members.

There are several other factual misrepresentations in Mr. Schultz’s report, which, along with his failure to interview directly involved individuals, ought to throw his conclusions into question. The fact is that in September 2020, the last remaining hostage negotiator (which Mr. Schultz wrongly suggests should have been called to the scene) in Teller County left the Woodland Park Police Department. As of December 2020, no

replacement had been found. Therefore, despite Mr. Schultz's representations, that resource was simply nonexistent on that evening. Similarly, the citation to cases *subsequent* to the Mitchell incident that Mr. Schultz refers to, have no bearing on the common, historical practice of both MAPS and the SWAT team to not respond to suicidal parties. Those representations in the report are simply inaccurate and completely contrary to my years of application and experience with the Woodland Park Police Department.

Considered as a whole, Mr. Schultz's report seems to criticize the small Department of Woodland Park based on the perspective of much larger departments with a huge amount of manpower and resources, which our department simply does not have. That is simply unfair to place the limitations of a small police force on the shoulders of a single officer. In this case, the response should be to utilize this incident as a training opportunity, which I deeply wish to participate in. I would enthusiastically participate in the refinement and expansion of our training protocols and policies and procedures, targeted at improving responses to these scenarios. I would be an asset in that endeavor, and I would put all my energy into that process. But terminating a long-time officer who did not violate any policies or procedures of the Department is not an effective way to maintain and improve morale, and would in fact have the opposite effect.

Chief Hasler, I respectfully request that I be allowed to continue my service to the people of Woodland Park by continuing in my role as an Officer, and be allowed the opportunity to address any shortcomings in the Mitchell response through improvement and expansion of the practices, policies, and procedures of the Woodland Park Police Department.

Thank you for your consideration.

Sincerely,

Andrew Leibbrand



Woodland Park

Andrew Leibbrand
911 Tamarac Pkwy
Woodland Park, CO 80863

November 8, 2021

Mr. Leibbrand:

I have completed a review of your letter of grievance of discipline, dated November 5, 2021, submitted in response to my October 28, 2021 Notice of Recommended Discipline. I have carefully considered your statements and information in the letter and weighed them along with the findings of the investigation completed by Paul Schultz and the Woodland Park Police Department Policies.

I have determined that the following policy violations were egregious and warrant termination effective today, November 8, 2021.

319.3.8 Efficiency

- (a) Neglect of Duty

319.4.2 Supervisor Responsibilities

Supervisors and Managers are required to follow all policies and procedures and may be disciplined for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

Your final paycheck has been issued, it can be mailed to your home or picked up at City Hall. Please let me know how you would like to receive your check.

Pursuant to Woodland Park Police Department Policy 1007.10.1, I have obtained approval for this termination from the City Manager before issuing this decision.

Your health insurance benefits will continue through November 30, 2021. Your rights to continue coverage under COBRA will be provided to you by mail from our plan administrator.

You can contact Empower at 800-701-8255 regarding your retirement plan distribution options.



Woodland Park

According to policy 1007.13, B. If the employee is not satisfied with the response to his or her grievance, then s/he can request a hearing with the Chief of Police, City Clerk, City Attorney and City Manager. The City Manager shall render a decision within 3 working days of the hearing.

Sincerely,

Steve Hasler

Interim Chief of Police

CC: Nina P. Williams, City Attorney
Michael S. Lawson, City Manager



Woodland Park

To: Sgt. Michael McDaniel
From: Chief S. Hasler
Date: October 28, 2021
Subject: Internal Investigation, Jeremy Mitchell

Notice of Recommended Discipline Pursuant to Section 1007.10.2 of the Woodland Park Police Department Policy Manual, you are being provided the following written Notice of Recommended Discipline.

As you are aware, the City contracted with Municipal Police Consultants LLC on September 13, 2021, to conduct an administrative investigation into case number 20-1712, a welfare check/ suicide involving Jeremy Mitchell.

The City has received the results of this investigation, which I have received and reviewed, a summary of which is below.

Analysis of Sergeant McDaniel's Actions in this incident.

Sergeant McDaniel failed to assess the potential for lethality in this incident correctly based on Jeremy Mitchell being clearly suicidal, intoxicated, armed, having the potential to leave his house and drive away and be a danger to the community.

Sgt. McDaniel should have immediately set up a perimeter, requested that the Teller County SWAT team respond with a negotiator, called the Mental Health assessment team (MAPS) for guidance and requested they respond to a safe location and coordinate with the SWAT negotiator. He should have requested the Department Detective respond and gather more intelligence information on this situation as well as additional patrol officers to respond and set up a perimeter. Sergeant McDaniel should have had a CIT trained officer who is a military veteran coordinate with MAPS personnel and SWAT negotiator to facilitate contacting Jeremy Mitchell. This three-person team would have been able to conduct a thorough crisis negotiation with Jeremy if he would speak with them while the Department Detective would have been providing real time intelligence information to this team.

The report stated the following Woodland Park Police Department policies were violated.

319.3.8 Efficiency

(a) Neglect of Duty.

430.5 An officer responding to a call involving a person in crisis should:

(b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate

(f) Secure the scene and clear the immediate area as necessary

(k) If circumstances reasonably permit, consider, and employ alternatives to force.

430.7 When responding to an incident that may involve a mental health disorder or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

Additional resources and a supervisor should be requested as warranted.

430.8

(a) Attempt to secure appropriate and sufficient resources.

(e) Conduct an after action tactical and operational debriefing, and prepare an after action evaluation of the incident to be forwarded to the Section Commander.

(f) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

421.5 Activation of the Audio/ Video Recorder

The recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview situations.

Sergeant McDaniel's judgement on how to resolve this situation was faulty, short sighted and did not include generally accepted law enforcement practices.

1. Neglect of Duty.

Sustained

2. Fail to activate Audio/Video camera

Sustained

Based on the totality of the substantiated findings of this investigation, and the serious violation of our department policies, I am recommending and proposing termination of your position at the Woodland Park Police Department.

Pursuant to Woodland Park Police Department Policy 1007.10.2 I am providing you with the following:

(a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

You may review the investigatory materials considered by me by contacting me at ____ - ____ to arrange a mutually agreeable time.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

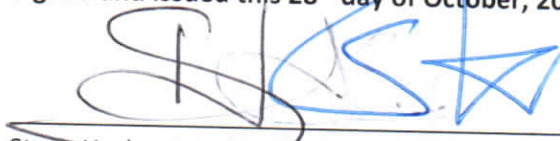
You may respond to this Notice of Recommended Discipline, either orally or in writing, to me within five (5) days of your receipt of this Notice. You may contact me at 719-687-9262 to arrange a time for an oral response or you may submit your written response to 911 Tamarac Parkway, Woodland Park, CO. 80863

Be advised that if you request to respond orally, that opportunity is not intended to be an adversarial or formal hearing. Although you may be represented by an uninvolved representative and/or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses. Rather, WPPD Policy 1007.10.2 is intended for you to provide me with any mitigating information you would like me to consider before a final decision is made.

Effective today, you will be placed on paid administrative leave until my final written decision is issued, and the applicable discipline becomes effective.

Importantly, the City prohibits retaliation against employees who initiate this investigative process by identifying concerns or who participate in the investigation process itself. Any perceived retaliation should be reported to the HR Generalist, Amy Jacob, or to me.

Signed and issued this 28th day of October, 2021



Steve Hasler, Interim Chief of Police

Chief Steve Hasler
Woodland Park Police Department
911 Tamarac Parkway-P.O. Box 7255
Woodland Park, CO 80863

Office 719.687.9262
Fax 719.687.1869
shasler@city-woodlandpark.org

To: Chief Steve Hasler

From: Sgt. M. McDaniel

Date: 11/05/2021

Subject: Appeal Internal investigation Reference Jeremy Mitchell

Dear Chief Steve Hasler,

My intent of this letter is not to overshadow the tragedy in the loss of life of Jeremy Mitchell. My intent is to add clarity to the notes/suggestive actions outlined in the internal investigation summary.

I would like to start by addressing the secondary item in relation to my body worn camera not being activated during investigation/interaction. I own this mistake in its entirety. Only mitigation that I can reasonably proffer is coming from five years in investigations, I was still getting accustomed to wearing a body worn camera. This oversight shall not be repeated henceforth.

Concerning the unfortunate resulting tragedy of the call for service relating to Jeremy Mitchell, it was a horrendous tragedy; however, I stand by many of the decisions made that day based on my experience, training, and factors and options known at the time. I will state that I am quite curious on how a complete investigation transpired with only interviewing one of the two officers on-scene that evening. I

stand by Officer Sanchez's actions that evening, and believe he performed in a prudent manner; although, I am slightly questioning the principle of a completed investigation that fails to interview all involved and available witnesses for the best possible context.

Secondly, the investigative summary/analysis conducted by Municipal Police Consulting (MPC) LLC. fails to consider the size of WPPD, the resource availability, best practices, and other factors. In fact, the analysis suggests external factors that simply do not exist at this agency.

The analysis presented by MPC suggested the following: set up a perimeter, request TCSO SWAT respond with a negotiator, MAPS response for guidance, requested a department detective, a CIT trained officer and veteran. These resources were suggested on the premise that Mr. Mitchell would be willing to speak with said resources.

To the first point a perimeter was not considered as the time of day, 1945 hours on December 23, 2020, there are only two WPPD officers on shift: Officer Sanchez and myself. Secondly, this call was initiated as a welfare check, and officers were initially met by Mrs. Mitchell who advised she did not call, and did not want them present. Mrs. Mitchell further complicated matters in initially stating there were no weapons, then later correcting that Mr. Mitchell was presently armed with a handgun. With this information, the priority of life starts with Mrs. Mitchell, then officers, and then Jeremy. Officers did their best to consider the priority of life at the time of the incident and removed Mrs. Mitchell and themselves from the situation. To do otherwise would have turned the priority of life scale on its head.

Following the suggestion of MPC, I could have requested TCSO for more bodies for the perimeter; however, experience would suggest that I would have only received one deputy.

MPC also added in his investigation, Chapter 3, entitled "Review of Contemporary Protocols".

Savage Training Group on "When Should Law Enforcement Leave from an Armed Suicidal Barricade" Court cases and "The Tactical Withdrawal".

Vancouver PD Policy Manual #417 "Response to Suicidal Subject Calls" With Definitions to Disengage/Disengagement. Situational Guidelines with the consideration to disengagement.

Risk Management of Police Responses to Suicidal threats. Where many public agencies are training officers in the concept of tactical repositioning, or tactical withdrawal. Finally recognizing that the subject may harm themselves after police leave.

Force Science Institute, (not included in chapter 3 of MPC's investigation), in which an hour long webinar from three prominent police attorneys, produced by Lexipol, who we use for Woodland Park Police Policies. When you're confronting a suicidal subject, "who isn't committing a serious crime and isn't an active threat to anyone other than themselves, the best response may be to withdraw. Understanding the limitations of our legal duty, they stress we have no legal duty to keep a person from harming themselves.

Our own Policy, WPPD 430, has the definition of a Person in Crisis, Signs, and De-Escalation (430.6) Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis. 430.8 Supervisor Responsibilities, Consider strategic disengagement.

Concerning the calling of TCSO SWAT for a negotiator, the MPC mistakenly assumed that TCSO had a crisis and/or hostage negotiator in December of 2020. The only hostage and crisis negotiator in Teller County left WPPD in September of 2020, and there had not been a countywide replacement at that time. Furthermore, TCSO does not send ERT (SWAT) to armed-barricaded suicidal parties without charges in lessons learned from similar calls for service in the past. Nearly all surrounding agencies do not respond to calls for service of this exact nature with SWAT or ERT elements as tactical options are extremely limited due to an absence of criminal charges; and past experiences have shown that the presence of a tactical team typically exacerbates the situation rather than improves it. In consideration of a military veteran suffering PTSI, it was believed at the time tactical options would do just that; exacerbate the situation.

Regarding having a CIT trained and military veteran officer respond, WPPD Officer Sanchez is both a CIT trained officer and military veteran. The rule with CIT and armed barricaded suicidal is you never try to talk through a door, or face to face. A CIT trained officer or crisis negotiator can tell you that when intoxicants are on board a person in crisis, de-escalation tactics and reasoning abilities are difficult, sometimes impossible, to navigate. Lastly, I will never in good conscience place an officer in danger of attempting to contact a suicidal armed subject in person/close proximity. Based on information known and presented at the time, Mr. Mitchell did not appear ambivalent about taking his own life, especially in stating to Mrs. Mitchel "I have made peace with myself and I am not worried."

I read an article where "Tiny" from MAPS had stated WPPD routinely called MAPS for armed suicidal parties. This was a misnomer. Checking with officers and former WPPD supervisors, WPPD has never

and would never call in a civilian paramedic to the scene of an armed suicidal party until the scene was rendered safe, as it would interject one more layer into the priority of life scale. Could MAPS have consulted away from the scene? Absolutely, however it was not something that I had considered in the moment of the call for service.

Lastly, calling in a department detective on a welfare check or suicidal party call was not feasible at the time, and not sustainable moving forward. Detectives are great for intelligence gathering, but it would have been a duplication of efforts already in progress in interviewing Mrs. Mitchell.

Again, this was a tragic situation. Based on my 16 years as a police officer I have seen the gamut of these call types and they consistently end in one of three ways based on employed tactics. The first, and best option, is the subject surrenders and officers assist in getting the subject somewhere safe and into immediate treatment. The second, the subject has no ambivalence about taking their own life, and they do so without harming others (this case). Lastly, the worst option, the option I was concerned with the most, is the subject elects to either escalate law enforcement into taking their life, or they go further in their attempt and actively try to harm/kill responding officers to provoke immediate action in taking of their life.

In this situation, the subject was alleged to have been armed with a pistol according to Mrs. Mitchell, intoxicated, and stated that if she called law enforcement "I would end it, it would be over in a snap, it would happen so fast you won't know anything, or it will end by suicide by cop." Mr. Mitchell making the conditional threat of law enforcement involvement being a major factor in him taking his own life was heavily considered. All the suggested options by MPC failed to consider these statements made by Mr. Mitchell. I believed at the time, and still hold true, that contacting Mr. Mitchell would have contained the highest probability of him taking his own life. Did I wish to walk away? Absolutely not, but when someone who is heavily intoxicated, not ambivalent about taking their life makes a conditional threat, you do not add the condition. As stated in my report, my hope was that Mr. Mitchell would become so

intoxicated that he would pass out (fall asleep) and awake in the morning with a new mindset. This was also the hope of Mr. Mitchell's father. This was not fanatical thinking. It was rooted in 16 years of experience, and the experience of many other law enforcement officers where this is typically the result with heavily intoxicated-suicidal subjects.

I appreciate your time and consideration in reading this appeal. I cannot express enough that this letter does not detract from the tragedy that occurred. I believe that an experienced law enforcement officer such as yourself can understand that investigations after the fact, with the clarity of hindsight, can never truly appreciate the factors of an evolving situation.

Sincerely,

Sergeant Michael McDaniel.



Woodland Park

Michael McDaniel
911 Tamarac Pkwy
Woodland Park, CO 80863

November 8, 2021

Mr. McDaniel:

I have completed a review of your letter of grievance of discipline, dated November 5, 2021, submitted in response to my October 28, 2021 Notice of Recommended Discipline. I have carefully considered your statements and information in the letter and weighed them along with the findings of the investigation completed by Paul Schultz and the Woodland Park Police Department Policies.

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Woodland Park

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Sincerely,

Steve Hasler
Interim Chief of Police

CC: Nina P. Williams, City Attorney
Michael S. Lawson, City Manager