

**DARIAN JARROTT INCIDENT REVIEW
COMMITTEE REPORT**

SUMMARY

On February 4, 2021, Officer Darian Jarrott was violently shot and killed during a traffic stop on Interstate 10, about 15 miles east of Deming, New Mexico by Omar Cueva-Felix (40) of Deming.

On May 13, 2021, New Mexico State Police (NMSP) Interim Chief Robert O. Thornton and his staff assigned New Mexico State Police Commissioned personnel to a committee to conduct an internal review of the circumstances surrounding this incident to prevent similar incidents. This committee was named the Darian Jarrott Incident Review Committee, referred to in this report as the “Committee.”

The Committee consisted of:

Captain Damyan Brown–Committee Chair
Lieutenant Arcenio Chavez
Lieutenant Richard Mathews
Lieutenant Bryan Waller
Sergeant Jonathan Tenorio
Sergeant Orlando Ayers
Sergeant Noe Alvarado
Officer Felipe Melendez

On May 17, 2021, the Committee met at the Law Enforcement Academy in Santa Fe, NM. During this meeting, areas of interest were determined, and Captain Brown assigned personnel to subcommittees to investigate these areas. This report documents the findings of the Committee.

Contents

1. Incident Details	4
2. Officer Jarrott - Career Background	6
3. Officer Jarrott - Personal Life	6
4. Communication and Intelligence	8
5. Traffic Stop and Tactics	14
6. Conclusion	35

Incident Details

Captain Damyan Brown

In early 2021, the Department of Homeland Security, Homeland Security Investigations (HSI) began investigating Omar Cueva-Felix (Cueva). On January 28, 2021, an HSI undercover agent arranged to meet Cueva near Las Cruces, NM, to conduct an undercover purchase of narcotics. During this undercover meet, the undercover agent purchased approximately one (1) pound of methamphetamine from Cueva. Cueva was also in possession of fentanyl pills. The undercover agent was able to negotiate a deal with Cueva in which the undercover agent would take the pills and pay for them later. Also, during the meet, the undercover agent observed Cueva to be armed with a semiautomatic rifle. Cueva told the undercover agent that it was for his protection and that he was not returning to prison.

Initially, HSI planned to arrest Cueva after the undercover purchase on January 28, 2021. Still, after negotiating the deal for the fentanyl pills, it was decided not to arrest him at that time.

On January 29, 2021, HSI Agent Matthew Rodriguez spoke with New Mexico State Police K9 Officer Leonel Palomares. Agent Rodriguez stated he informed Officer Palomares of the circumstances of what occurred during the undercover purchase and asked if he would be willing to assist in conducting a traffic stop on Cueva in an attempt to “wall off”¹, a confidential informant (CI).

On February 2, 2021, a CI informed HSI that Cueva was in Phoenix, Arizona, purchasing narcotics. A “Be On The Lookout” (BOLO) was disseminated by the New Mexico Fusion Center via email to surrounding Agencies (please see Attachment 1). HSI also emailed the BOLO for Cueva to New Mexico State Police Lieutenant Oscar Sosa, who disseminated it to his employees in the Deming and Lordsburg areas. HSI Agents attempted to locate Cueva returning from Phoenix to Deming but were unsuccessful. They received a call from a CI at about 9:00 p.m. on February 3, 2021, who informed them Cueva was back in Deming.

The HSI undercover agent arranged an undercover purchase of narcotics with Cueva, which was to take place near Las Cruces on February 4, 2021. The operation plan by HSI indicated that Officer Palomares was to conduct a traffic stop on Cueva while he was en route to complete the transaction with the undercover agent. If that plan failed, an HSI Special Response Team (SRT) would arrest him after the undercover purchase.

A briefing was held by HSI on the morning of February 4, 2021, in Las Cruces, NM.

¹ “Wall off” means to arrest an individual being investigated without compromising the integrity of an investigation or confidential informant.

Neither New Mexico State Police personnel nor HSI Agent Rodriguez were at the briefing. HSI Agents, including Agent Rodriguez, conducted surveillance of Cueva's residence and observed several vehicles arrive and leave the property. During this time, Agent Rodriguez began communicating directly with New Mexico State Police Sergeant Mark Madrid regarding a traffic stop on Cueva. This was separate communication from the text message string that the rest of the group utilized, including Officer Palomares. Agent Rodriguez eventually observed a white Chevrolet pickup leave the residence. The vehicle traveled east on Pine Street in Deming and entered Interstate 10 eastbound. During this time, HSI Agent Rodriguez sent Sergeant Madrid a photo of the pickup. Sergeant Madrid notified Officer Jarrott via phone call regarding the white pickup. Officer Jarrott was parked in the median of Interstate 10 at about milepost 99.

A short time later, the vehicle passed Officer Jarrott's location, and he began following it until he conducted a traffic stop on the vehicle near milepost 101. Officer Jarrott exited his unit and approached the car on the passenger side, where he contacted the driver, who was identified as Cueva. Several minutes went by as Officer Jarrott talked to Cueva. He asked Cueva five times to exit the vehicle and proceed to his unit so Officer Jarrott could conduct his checks. Each time, Cueva stalled. Finally, Cueva exited the vehicle, at which time Officer Jarrott noticed a handgun on Cueva's person. He politely asked Cueva to leave the firearm in the vehicle, which Cueva complied with. Unbeknownst to Officer Jarrott, Cueva had also armed himself with a semi-automatic rifle, which Officer Jarrott could not see.

As they both proceeded to the rear of Cueva's vehicle, Cueva suddenly lifted the rifle and began firing at Officer Jarrott over the bed of the pickup. Officer Jarrott, obviously startled by the sudden production of the rifle and rounds being fired at him, stumbled and fell while simultaneously drawing his sidearm. While Officer Jarrott fell, Cueva very aggressively proceeded around the rear of his pickup and began directing several rounds at Officer Jarrott while Officer Jarrott was on the ground. Several rounds struck Officer Jarrott. Cueva continued to approach Officer Jarrott and ultimately shot Officer Jarrott in the head at point-blank range. Cueva then got in his vehicle and left the area, traveling eastbound on Interstate 10.

HSI Agents in the area observed an altercation and believed Officer Jarrott was attempting to take Cueva into custody. They moved in to assist and found Officer Jarrott lying on the side of the road. They attempted life-saving measures until Emergency Medical Services arrived. Meanwhile, a pursuit ensued of Cueva by Officer Palomares and New Mexico State Police Officer Alfonso Montez, which ended in Las Cruces when a Las Cruces Police Department Officer performed a Pursuit Intervention Technique, which led to a gunfight between Cueva, the Las Cruces officer, and others, ultimately ending with the death of Cueva.

Officer Jarrott - Career Background

Officer Felipe Melendez

Officer Jarrott began his career with the New Mexico Department of Public Safety in 2011 as a Transportation Inspector in Hobbs, NM.

Officer Jarrott attended the New Mexico Law Enforcement Academy (NMLEA) Basic Police Officer Training (BPOT) class number 189 and graduated on December 14, 2014. During his training in BPOT 189, he received 665 hours of training, which included 8 hours of training in patrol operations, 8 hours of Officer Survival training, and 68 hours of firearms training.

After graduating, Officer Jarrott was stationed in District 3 as a Motor Transportation Division Officer and completed a Field Training and Evaluation Program (FTEP). On July 1, 2015, the Motor Transportation Division was merged with the New Mexico State Police and became the Commercial Vehicle Enforcement (CVE) Bureau. After the merger, Officer Jarrott stayed in the Carlsbad and Roswell area and patrolled as a Patrolman/CVE Officer. He patrolled the area under the command of Captain Bateman and Sergeant Clouthier for the next five years. While performing his duties in that area, he patrolled the area, conducting traffic stops and answering calls for service. In March 2020, Officer Jarrott transferred to District 12, Lordsburg, and worked there until his death in 2021.

During Officer Jarrott's time in these Districts, Officer Jarrott kept up with all certifications, including his Part A and Part B Commercial Vehicle Enforcement (CVE) certifications and his biennium recertification training through the New Mexico State Police.

Administrative staff in District 3 was able to assist in finding training that Officer Jarrott attended while in District 3. The certificates were for NCIC loss control, EEO Employment Test, an IR-8000 recertification, and Instructor Development – an accredited certification taken through Eddy County Sheriff's Office. District 12 Administration maintained Officer Jarrott's district personnel file.

According to Officer Jarrott's training records maintained by the NMLEA, between 2014 and 2021, he received numerous advanced training hours, including 24 hours of Highway Drug Investigation for patrol officers and a drug/criminal interdiction class, in August 2015. He also had 24 hours of Advanced Patrol Tactics in March of 2017.

Officer Jarrott - Personal Life

Sergeant Orlando Ayers

Officer Jarrott worked in District 12 Deming from March 21, 2020, to February 4, 2021. He was very well-liked in the District and worked overtime regularly. Officer Jarrott worked

between 20 and 35 hours of overtime every pay period. Officers in this district are allowed to work 40 hours or less; he worked above-average hours compared to others.

According to peers, Officer Jarrott left Carlsbad and moved in with his parents while working in District 12 (Deming). Darian had issues with his wife, and his wife changed her last name back to her maiden name. Initially, he moved to Lordsburg with his wife, but his wife did not like Lordsburg, so she moved back to Carlsbad. Officer Jarrott attempted to salvage his marriage but was unable to. Officer Jarrott served his wife with divorce papers, but she did not sign them.

According to peers, he was an involved father and frequently posted pictures of his family on social media. He was stressed about his two kids living in a separate city and missed them. He would travel almost every other weekend to visit them. Officer Jarrott had a daughter from his first girlfriend from high school who lived with Darian and his mother. Shortly after moving back to Lordsburg, he met his fiancé, who became pregnant with his child.

Officer Jarrott had goals and worked towards them. Officer Jarrott wanted to become part of the Tact Team and worked out to get in better shape to join the team. Officer Jarrott accomplished the goals he set for himself. On his last physical fitness test on August 28, 2020, his scores were as follows:

1.5-mile score: 11:31

300-meter score: 48 seconds

70 push-ups in 1 minute

59 sit-ups in 1 minute

His Physical Fitness scores were outstanding.

Before his passing, Officer Jarrott took some vacation from January 18-24, 2021. Officer Jarrott had a low leave balance during his time in District 12.

According to his peers, Officer Jarrott was looking forward to living his life with his fiancé. Officer Jarrott did not talk much about his family in the open. Officer Jarrott had reminders on his cell phone to talk to his children. He appeared to have no issues speaking with his boys' mother. Officer Jarrott communicated well with his children's mother in Carlsbad about the care and needs of their two kids.

According to peers, Officer Jarrott never seemed stressed and always seemed happy at work. Officer Jarrott was open to criticism and used it to better himself. Officer Jarrott would read leadership books such as "Lone Survivor" and "Extreme Ownership."

Videos reviewed before February 4, 2021, did not display any noticeable issues. The day before February 4, 2021, Officer Jarrott assisted in a call regarding a male aiming a semiautomatic rifle at persons on the Interstate. Officer Jarrott drew his gun and appeared to be in a heightened awareness with no issues noted in this video.

Communication and Intelligence Report

Lieutenant Arcenio Chavez and Sergeant Noe Alvarado

This report aims to narrow down and specify the information and knowledge Officer Darian Jarrott had when he made the traffic stop on the vehicle being driven by Omar Felix Cueva.

This report was produced by reviewing, but was not limited to, the following: incident reports, videos, operations plan, interviews, recordings, and agency information.

TERMINOLOGY

Homeland Security Investigations – HSI
New Mexico State Police – NMSP
Special Response Team – SRT

PERSONNEL

Hector Huerta – HSI
[REDACTED] – HSI, Undercover Agent
Mark Madrid – NMSP, Sergeant
Matt Rodriguez – HSI, Case Agent
Darian Jarrott – NMSP, Officer
Leonel Palomares – NMSP, K9 Officer

INFORMATION LEARNED THROUGH INTERVIEWS

The following is a summary of interviews conducted with those involved. It is not intended to be a verbatim account and does not memorialize all statements made during the interviews. The recording captures the actual words spoken during the interviews.

1.0 INTERVIEW: Agent Hector Huerta

Special Agent Hector Huerta knew Cueva was residing in Deming but was from California. He knew Cueva was dealing with large quantities of narcotics.

Agent Huerta knew that when the HSI undercover (UC) agent made the first narcotics buy, Cueva was armed with an AR-style weapon.

He knew Cueva needed to go to Arizona to get more narcotics to distribute.

HSI put out a "Be on the Look Out" (BOLO) on Tuesday, February 2, 2021. Please refer to the attached BOLO.

Agent Huerta coordinated with NMSP, speaking with Sergeant Madrid and Sergeant Jensen. He told them to create their probable cause (PC) to stop the vehicle. He told them HSI would also be looking for the suspect vehicle.

During his interview, Agent Huerta stated that HSI agents had a briefing on February 4, 2021, at 10:30 a.m. regarding this incident.

Agent Huerta said they were trying to get Cueva before the deal was done.

It would be a buy-bust, that is, they would attempt to "wall-off" their confidential informant.

Agent Huerta said the UC had set up the deal for 1:00 p.m. and that air support was available from noon to 1:30 p.m.

Agent Huerta knew Matt Rodriguez had been in contact with NMSP Officer Palomares and knew Officer Palomares was making his way to Deming. He had also been in frequent contact with Sergeant Madrid. He thought Officer Palomares knew there were other NMSP officers involved as well.

While reviewing the interview video, Agent Huerta stated he talked to Sergeant Madrid on February 3, 2021. He told Sergeant Madrid they were looking for Cueva and mentioned to the Sergeant, "This is what's going on."

Agent Huerta stated he put Sergeant Madrid and HSI Agent Rodriguez in contact to communicate.

2.0 HSI Undercover Agent [REDACTED]

UC Agent [REDACTED] said he saw the long gun while conducting the UC deal. He asked Felix Cueva if it was a "chivo" which is slang for an AK-47 rifle. Cueva said yes and that it was for his protection as he had served 12 years in prison, and he was not going to go back.

UC Agent [REDACTED] said "They are able to do it, but it's not going to be typical, usual stop. They are going to roll in ready to go."

3.0 NMSP Sergeant Mark Madrid

Sergeant Madrid stated he received a BOLO on Tuesday, February 2, 2021, sent by Lieutenant.

Oscar Sosa regarding an individual who was supposed to be coming into Deming with a load of drugs.

Sergeant Madrid talked to Agent Huerta. Agent Huerta told him the suspect was expected to come in from Arizona.

On Wednesday, February 3, 2021, Agent Huerta called him again and told him the suspect might have switched vehicles. Sergeant Madrid told him they would keep an eye out. Sergeant Madrid referred him to Sergeant Jensen.

The BOLO was still active on the morning of February 4, 2021. Agent Huerta contacted Sergeant Madrid, and they spoke. Agent Rodriguez also reached Sergeant Madrid. Agent Rodriguez was doing surveillance on a house. Agent Rodriguez sent him four different BOLOs on four other vehicles.

The subject was supposed to be in a white pickup truck with a headache rack. Officer Jarrott was working on Interstate 10 at milepost 103. Officer Jarrott called Sergeant Madrid earlier and said he locked himself out of the unit. Once he could unlock the unit, he went 10-8 (on-duty). Sergeant Madrid asked Officer Jarrott if he saw the BOLO, and Officer Jarrott said, "Yeah." Sergeant Madrid told him to keep his eyes open, "This guy is supposed to be carrying a gun; that's what the BOLO said."

Later, Sergeant Madrid was coming into Deming from Lordsburg. He heard dispatch do three status/welfare checks with no answer from Officer Jarrott. He knew no other officers were in the area, so he started to drive faster. The next thing he heard was, "officer down."

Sergeant Madrid did not have any knowledge of Cueva's criminal history. He just knew what was on the BOLO.

Sergeant Madrid said there was not a briefing for this operation. He also stated he did not distribute the BOLO, and Lieutenant Sosa sent it to everyone.

Sergeant Madrid knew Officer Palomares was also looking for this vehicle at milepost 132. Sergeant Madrid did not forward the BOLO to Officer Palomares. He does not know how he knew; he figured the BOLO was sent to everybody.

Sergeant Madrid stated he did not know of any previous UC deal regarding Cueva. Sergeant Madrid said he had no idea the HSI SRT was involved regarding this BOLO.

Sergeant Madrid was asked why Agents Huerta and Rodriguez would say they told him Cueva was known to carry an AK-47. Sergeant Madrid responded that they told him Cueva would have a gun, that's all he remembers.

4.0 HSI Agent Matt Rodriguez

A CI first notified them of Cueva. The CI said Cueva reached out to him and asked if he knew if anyone would like to buy pounds of meth. They had the CI introduce the UC to Cueva. Cueva did not give out his info to the UC. They used the CI as a middleman. They were able to set up a deal to purchase one (1) pound of meth for three thousand dollars.

On the date of the UC deal, January 28, 2021, they noticed Cueva made a couple of heat runs².

During the deal, the UC saw fentanyl pills. Agent Rodriguez said once the UC saw the pills, he said, "We can't let that walk." Initially, they were going to move in to arrest him there, but the UC agreed with Cueva. Cueva would front the pills and get paid at a later date. When Cueva left, he again made heat runs. He went down a frontage road and observed a vehicle, which was the same as the one the UC was in. Cueva took a picture of this vehicle, sent it to the UC, and asked if that truck was with him. The UC convinced Cueva he was being paranoid. This shows how observant and experienced Cueva was.

Agent Rodriguez said they talked about "walling off" the stop. If they did a straight bust, Cueva would know the CI ratted him out and where he lives.

Agent Rodriguez personally reached out to Officer Palomares on Friday, January 29, 2021. He advised him of the situation. Agent Rodriguez said he gave him full disclosure of everything they had on Cueva at the time. No specifics were obtained as to what "full disclosure" consisted of and whether it included his criminal history or what the UC observed, including the firearm. The UC saw a buttstock on the seat and asked Cueva what it was. Cueva lifted a shirt that was covering it, showed him the gun, and told him it was for his protection. Agent Rodriguez told Officer Palomares he carried an M4 carbine rifle, and he probably carried a pistol on his hip. He told him they would try to "wall off" the CI and asked if it was something the NMSP was interested in helping with.

On Tuesday, February 2, 2021, he again contacted Officer Palomares and asked if the NMSP would assist. Officer Palomares said, "Yes."

On Tuesday, February 2, 2021, Agent Rodriguez' supervisor, Agent Hector Huerta, called Sergeant Mark Madrid. Agent Rodriguez was there during this phone call. Agent Rodriguez says Agent Huerta gave Sergeant Madrid full disclosure on the case and the suspect and asked if they could provide backup. He did not say what was included in this disclosure. According to Agent Rodriguez, Sergeant Madrid agreed to provide a couple of police officers.

On Wednesday, February 3, 2021, the CI told Agent Rodriguez that Cueva was re-upping his supply in Phoenix. The CI told Agent Rodriguez how he was doing it and that he was driving a

² A heat run is driving in a route designed to escape from or to watch for and identify surveillance.

dark blue Toyota Tundra towing a trailer with an older model Chevrolet Trailblazer. Agent Rodriguez put out a BOLO on this information on this same day. They also requested the BOLO be sent out to the Arizona Department of Public Safety and NMSP.

Agent Rodriguez said he called Lordsburg Police Department Chief Delagarza, advised him of the situation, and told him they would be heading out there to see if they could pick Cueva up. He also notified NMSP Sergeant Jensen. Agent Huerta also spoke to Sergeant Madrid to tell them they were set up and looking for him. Agent Rodriguez stated they reached out to other departments requesting assistance as they were short on manpower since they had an officer-involved shooting that day.

Agent Rodriguez said they stayed there until 9:00 p.m. until the CI told them Cueva had made it back home and switched the vehicle he was driving from Phoenix to Deming. At this time, they were done for the day.

On February 4, 2021, during early hours, Agent Rodriguez went by Cueva's address and observed a white truck, a trailer, and a white car sitting on the trailer. He also kept a red car. He remained nearby doing surveillance on the residence. Agent Rodriguez changed the briefing time from 10:00 a.m. to 10:30 a.m. and requested Agent Huerta conduct the briefing. This briefing was held in Las Cruces, NM.

At this point, Agent Rodriguez planned to have State Police develop their probable cause to stop Cueva. NMSP would then call HSI as a regular request for a service call to respond to the scene. If that did not happen, they would have the HSI Special Response Team (SRT) conduct a takedown.

Agent Rodriguez said SRT sent a two-person team to provide any coverage out on the highway.

Agent Rodriguez sent Officer Palomares and Sergeant Madrid updates on the vehicles exiting the residence. He would tell them he did not have a visual of the person in the car but that the vehicle was leaving the residence. His surveillance team would then conduct surveillance on the vehicles around town.

When he saw the white pick-up truck leave the property, he took a picture and sent it out in a text message and on the radio. His surveillance team followed the truck, which travelled east towards Pine Street until it merged onto Interstate 10. The surveillance team was calling out the location, and, at this same time, Agent Rodriguez was sending updates to Officer Palomares and Sergeant Madrid.

Agent Rodriguez said he thought Officer Palomares would make the traffic stop and NMSP Officers from Deming would provide backup.

He got word over the radio that the NMSP was conducting a traffic stop. Agent Rodriguez told Officer Palomares of this, and Officer Palomares stated he would be on his way.

5.0 OFFICER LEONEL PALOMARES

February 1, 2021 - Officer Palomares received a call from HSI Agent Rodriguez. He asked Officer Palomares if he could assist with a “whisper-stop,” as this will be defined later in this report.

Officer Palomares told him he was unavailable, as he was working in Otero County. Agent Rodriguez stated he would attempt to get other units to do the traffic stop.

February 2, 2021 – Officer Palomares remembers seeing the BOLO for Cueva.

February 3, 2021 – Agent Rodriguez called Officer Palomares again for assistance conducting a traffic stop. Officer Palomares agreed to help him. Agent Rodriguez told Officer Palomares they would have a briefing on Thursday, February 4, 2021, at 10:00 a.m.

Officer Palomares received two emails from Agent Rodriguez. One was setting the time and date for the briefing. The second email was to notify him of the change of time.

Officer Palomares did not know about the buy/bust that was supposed to take place if the traffic stop did not go as planned.

February 4, 2021 - Officer Palomares drove to Interstate 10 to await instructions from HSI.

Agent Rodriguez called Officer Palomares and told him he talked with Sergeant Madrid. Agent Rodriguez stated he requested units from Deming or Las Cruces to stop the suspect if they saw him on the road.

Officer Palomares does not know why Agent Rodriguez did this.

Officer Palomares called his supervisor, Sergeant Ron Wood. Sergeant Wood told him to have a secondary unit assist him.

Officer Palomares remembers that no one told him to cancel the traffic stop, even after they arranged for patrol to conduct it.

Officer Palomares stated HSI Agent Laughter told him they would have NMSP Deming or Las Cruces stop the vehicle. HSI Agent Laughter said there were units already at milepost 102.

Officer Palomares didn't know who told Officer Jarrott the details of Cueva's location and vehicle description.

CONCLUSION

Homeland Security Investigations was conducting a drug investigation involving Cueva as the target.

HSI put out a BOLO, which advised law enforcement to obtain probable cause to stop Cueva's vehicle. This BOLO also stated Cueva had an extensive criminal history and was known to carry firearms with him.

HSI requested assistance from surrounding agencies to attempt to locate Cueva.

Homeland Security Investigations Agents Matt Rodriguez and Hector Huerta state they gave “full disclosure” to New Mexico State Police Sergeant Mark Madrid regarding the history of Cueva. Agent Rodriguez sent Sergeant Mark Madrid a picture of the vehicle Cueva was driving and updated location information.

New Mexico State Police Sergeant Mark Madrid states he did not receive full disclosure on Cueva’s criminal history or the operation HSI planned to apprehend Cueva.

Sergeant Mark Madrid relayed the information on the BOLO to Officer Darian Jarrott. He reminded him to create his probable cause to stop Cueva and that Cueva was understood to be armed.

TRAFFIC STOP AND TACTICS

Lieutenant Richard Mathews, Lieutenant Bryan Waller, and Sergeant Jonathan Tenorio.

The authors of this section looked at the tactics that Officer Jarrott used in the traffic stop. The group assessed those tactics related to the information that he knew, evidence of what he had been trained to do, and the information that was known to others. The authors of this section also review better tactical options that an officer in a similar situation can use to mitigate a threat like the one Officer Jarrott faced on this traffic stop.

FACTS ABOUT INCIDENT

To dissect the tactics regarding this incident, we must first look at what information was communicated to Officer Jarrott.

Officer Jarrott was contacted over the phone by NMSP Sergeant Mark Madrid to conduct a traffic stop on a white truck with a headache rack. This initial information was relayed from HSI to Sergeant Madrid and Officer Jarrott.

How Officer Jarrott Became Involved

In Sergeant Madrid's first interview on February 4, 2021, he stated that there was a BOLO for a load of drugs that was coming in from Tucson, Arizona, and a handgun was supposed to be in the vehicle. Officers deal with this type of call for service regularly. Sergeant Madrid stated he told Officer Jarrott to keep an eye out for the vehicle, a white pickup truck with a headache rack, and to make sure he had probable cause to stop it. In this interview, Sergeant Madrid failed to disclose that he had more involvement in this operation than simply passing along information on a BOLO.

Investigators interviewed Sergeant Madrid again on February 11, 2021, and he disclosed that he was in contact with Agent Huerta and Agent Rodriguez regarding this investigation. On February 4, 2021, Sergeant Madrid got regular text message updates from Agent Rodriguez regarding the surveillance, including images of different vehicles. Once the HSI surveillance team identified the suspect vehicle, Agent Rodriguez began sending Sergeant Madrid the description, location, and direction of the suspect's vehicle. Sergeant Madrid then relayed that information to Officer Jarrott. Sergeant Madrid provided his cell phone to investigators to show the text string. The text string on Sergeant Madrid's phone displayed the following information:

- Agent Rodriguez told Sergeant Madrid that the suspect told the UC he would be in Las Cruces by noon. Agent Rodriguez also told Sergeant Madrid they had a Border Patrol (BP) K9 available.
- Sergeant Madrid responded that he had his guy (Officer Jarrott) on Interstate 10.
- Agent Rodriguez sent Sergeant Madrid the image of a white pickup with a black headache rack. The rear license plate in the photo appeared to be visible as well.
- Agent Rodriguez also sent the text: "this truck left the target house" and "might be our target" suspect's truck.
- Sergeant Madrid replied with "OK."
- After two texts between Sergeant Madrid and Agent Rodriguez, in which HSI agents attempted to identify the suspect vehicle, Agent Rodriguez texted, "... the main target is going to be the white truck after all."
- Sergeant Madrid replied with "OK."
- Agent Rodriguez returned the same image of the white pickup truck to Sergeant Madrid.
- Sergeant Madrid replied that he had an officer standing by at the 98-mile marker, watching for the subject truck.
- Agent Rodriguez then texted Sergeant Madrid, stating, "He's entering the freeway from Deming headed to Cruces. White truck. Passing mm 94."

Sergeant Madrid's phone did not show that he sent Jarrott the image of the truck or any information regarding Sergeant Madrid's continuous contact with HSI. Sergeant Madrid's phone showed that he called Officer Jarrott at 11:33 a.m. and 11:50 a.m., presumably when Sergeant Madrid passed Jarrott the information related to the stop.

Initiation of Traffic Stop

On February 4, 2021, Officer Jarrott was provided information by NMSP Sergeant Mark Madrid. That information was related to an HSI narcotics case they were working on. Sergeant Madrid provided the vehicle information and the location to Officer Jarrott. The suspect vehicle was identified as a white Chevrolet truck with a headache rack on the back. The vehicle was traveling eastbound on Interstate 10.

Officer Jarrott positioned his unit stationary in the median of Interstate 10 and facing westbound near milepost 99. At twenty-three seconds into his dashcam video, a white Chevrolet truck passes Officer Jarrott's location and travels eastbound on Interstate 10 in the left lane. Officer Jarrott recognizes the suspect vehicle passing him, traveling eastbound. Officer Jarrott turned his vehicle around and began to travel eastbound on Interstate 10 to catch up to the subject truck. At the 1:40 (one minute, forty seconds) mark on the dashcam, Officer Jarrott catches up to the suspect's vehicle, now traveling in the right lane. As noted in this report, the forthcoming time frames depict the recorded time-lapse noting the events on the Watchguard system. At 2:50, Officer Jarrott initiates a traffic stop on the suspect's vehicle by turning on his overhead lights at milepost 101. Officer Jarrott calls in the stop over the radio system by reading the temp tag (0527EP) displayed on a white Chevrolet truck.

It must be noted that the notification to dispatch should have been done first before initiating his lights to have the suspect pull over. Officer Jarrott initiated his lights first; the vehicle began pulling over, and then he called in the stop over the radio. Tactically, officers should provide all relevant information to dispatch before taking any action. This allows an officer to stay ahead of the curve should a suspect vehicle refuse to pull over or the suspect act in a manner not foreseen by the officer. Relaying information first allows officers to focus their efforts on a suspect's actions rather than focusing on relaying information to dispatch, which can divert the officer's attention. In contrast, the suspect is aware they are getting pulled over.

Stopping of Vehicle and Initial Approach

At 3:06 on the dashcam, Officer Jarrott stops his unit approximately one car length behind the suspect vehicle, with the unit offset slightly to the left of the suspect vehicle. Officer Jarrott's door opens at 3:09, and at 3:22, Officer Jarrott begins his right-hand (passenger-side) approach. Officer Jarrott appears to be employing reasonable officer safety measures as he makes initial contact with the driver, there is no evidence that he identifies danger cues that are present during the early part of the traffic stop. He appears to be looking through the back window of the cab. However, there is no evidence that he recognizes that the brake lights are still illuminated as he approaches. The brake lights indicate that the truck may still be in gear. The truck still being in gear is a danger cue that the driver may intend to move the truck quickly by either driving away or backing up while the officer is outside his unit.

At 3:31 on the dashcam, Officer Jarrott knocks on the passenger window with his left hand while remaining behind the B pillar- right side front cabin of truck. He immediately backs up a few paces and appears to look through the back window at the driver as the driver reaches over to roll

down the passenger side window. All these tactics are reasonable tactics for mitigating a threat during a traffic stop.

Contact with the Suspect

At 3:03 on his bodycam, Officer Jarrott makes his first contact with the suspect on the truck's passenger side. Officer Jarrott introduced himself and told the suspect the reason for the traffic stop was that the window tint was too dark. Officer Jarrott asked the suspect if it was ok to open the door. It is believed that Officer Jarrott asked this because he could not see inside the vehicle. Officer Jarrott also asked the suspect to roll the passenger side window down slightly more. At 3:20, Officer Jarrott requested his proof of registration, insurance, and driver's license.

At 3:39 on Officer Jarrott's bodycam, Officer Jarrott first asks, "Come with me to my vehicle so I can run your name and date of birth. That way, I can get my return, OK?" At 4:01, Officer Jarrott asked the driver to exit the vehicle and go with him to his unit. At 4:11, the driver's door opened (evidenced by the cab light turning on), but the driver did not exit. At 4:16, Officer Jarrott asked for the driver's name, and the driver said, "Omar Cueva." At 5:07, Officer Jarrott asks a third time for the driver to go with him to his unit so that Officer Jarrott can run his "checks" on the driver. At 5:25, Officer Jarrott answers the driver's question with a fourth request for the driver to exit the truck and walk back to the officer's unit, so Officer Jarrott can run his checks and do a "little bit" of paperwork that he's "gotta do."

Suspect Exits the Vehicle

At 5:33 on his bodycam, Officer Jarrott asks Cueva to remove his firearm for Officer Jarrott's safety. Based on this statement, it's believed that Officer Jarrott observed a handgun holstered on the suspect's right hip. Officer Jarrott recognized the handgun when the suspect began to move to his left to exit the truck, exposing the handgun. After the investigation, the suspect had a handgun holster attached to his right hip. At 5:49, Officer Jarrott asked the driver to walk to the officer's unit for a fifth time. At 5:51, Officer Jarrott turned to the left and moved toward his unit along the side of the stopped truck. At 5:54, Officer Jarrott arrives at the back corner of the bed of the suspect truck, and the first two gunshots register on Officer Jarrott's bodycam. At 5:55, his bodycam shows that he appears to take his first evasive action. At 5:59, the video temporarily cuts out after Officer Jarrott falls. The video cuts back in again at 6:07 with Officer Jarrott not actively moving and the sound of draining liquid that is consistent with blood flowing from the body. At 6:37, the bodycam registers the first voice of HSI agents arriving to assist Officer Jarrott. At 8:11, the HSI agent rolls Officer Jarrott over to his back. Officer Jarrott's pistol is visible in his hand as he is being rolled over, and then it rests on the ground next to his left hand once he is rolled entirely over.

Based on the dash camera footage, it does not appear that Officer Jarrott was referring to the rifle that the suspect had in his left hand when Officer Jarrott asked Cueva to remove his firearm. The dashcam shows no evidence of the suspect moving the rifle into a position that would be consistent with the suspect placing it in the vehicle. The suspect was also armed with a handgun. The better

explanation is that Officer Jarrott was referring to the suspect's pistol.

At 6:09 on the dashcam from Officer Jarrott's unit, the driver's door opens. At 6:12, the muzzle of the rifle is visible at the bottom of the driver's door as the suspect initially exits the vehicle. At 6:13, the suspect partially re-entered the truck. The suspect's left foot is still visible on the ground outside the driver's door, showing that he is only partially back inside the truck. At 6:27, the muzzle is visible again as it is moving at the bottom of the driver's door, and the muzzle appears to be in the driver's left hand while the driver is still in the truck. At 6:28, the rifle is in view in the driver's left hand, close to his lower torso, as the driver emerges from the truck. At 6:30, the driver turns back toward the truck and shifts the rifle from the left hand to the right hand while it is down by his legs and out of view from Officer Jarrott. During the time that the suspect transitions the rifle from the left hand to the right hand, Officer Jarrott begins moving toward the back of the truck. At 6:31, the suspect starts moving toward the back of the truck with the rifle held next to his right leg. Officer Jarrott appears to be pacing the suspect as he watches the suspect over the truck bed. Officer Jarrott and the suspect appear to reach the back corners of the truck at about the same time. At 6:32, the suspect raises the rifle over the truck bed and fires his first shots at Officer Jarrott.

After the first shots, Officer Jarrott ducks below the truck bed, and the suspect immediately moves around the back of the truck to continue shooting him. The suspect moves up to Officer Jarrott, shoots him two more times, then runs around the front of his truck, gets into the truck, and drives away.

OVERALL CRITICAL ISSUES

1. HSI Tactical plans were flawed based on the suspect's criminal history, the totality of the investigation, and the priorities of protecting life. These plans led to improper tactical decision-making on how to conduct the traffic stop.
2. HSI went outside of its own operations plan when HSI agents began communicating directly with NMSP Uniform Bureau officers. Only the NMSP K9 Task Force Officer (TFO) was assigned to handle one of the courses of action, but HSI Agents chose to communicate with someone else from NMSP rather than going through the K9 TFO who was assigned to the operation.
3. No NMSP representatives were a part of any briefing for this operation. NMSP K9 units are Federal Task Force Officers and were part of the operations plan but did not attend the briefing. NMSP Uniform Bureau officers were not part of the operations plan or at the briefing.
4. No Incident Command Structure was in place for this operation, even though two agencies and different HSI elements were working in different cities 60 miles apart.

5. Communication between the HSI surveillance team, HSI SRT units, NMSP K9, and NMSP Uniform Bureau was done primarily over text, and Officer Jarrott was not part of any text string.
6. Based on the information provided in the operation plan, an interdiction traffic stop was the wrong tactic for this operation.

TACTICAL FLAWS WITH TAKEDOWN PLAN INVOLVING NMSP

Tactical Decision-making and Priorities of Life

This case involved specialized tactical elements in armored vehicles that planned to do a takedown of the suspect if the K9 traffic stop was unsuccessful. Specialized tactical units make tactical decisions based on a hierarchy of priorities for the lives of people who may be involved in the tactical operation. These life priorities are explained in the NMSP Tactical Team procedural manual and will be discussed in more detail later in this report.

The Tactical Team Standard Operating Procedure³ describes priorities of life in the following passages:

1. *The mission of the New Mexico State Police Tact Team is to save lives. However, recognizing that Tactical operations are hazardous undertakings and realizing that the successful management and resolution of an incident often involves the need for decisions that may affect the life safety of the persons involved.*
2. *Where possible, the life safety of suspects will be a serious consideration. However, the life of a suspect will not take precedence over the life of hostages, innocent citizens and civilians, or police officers, regardless of the state of negotiations or any other activity designed to take a suspect into custody.*

Operations Plan

As noted earlier, the HSI Tactical plans were flawed, based on the suspect's criminal history, investigation totality, and life priorities.

An interdiction traffic stop may include a "whisper stop," a "wall off stop," or a traditional traffic stop that becomes an interdiction stop with the development of reasonable suspicion/probable cause of criminal activity. Based on the information provided in the operation plan, an interdiction stop was the wrong tactic for this operation. It did not matter whether an NMSP K9 officer or a NMSP Uniform officer made that traffic stop. Illegal narcotics, walling off the UC and CI, and

³ NMSP Tact Team SOPs Revised for RDS 1-2021, p7

conducting a “whisper stop” is not higher in the safety priorities than the officer’s life.

To properly develop a robust operational plan, considerations must be made based on the suspect’s criminal history, known facts about the suspect and the totality of the investigation, and priorities of life. In this incident, none of these were considered when HSI contacted Sergeant Madrid to utilize an officer who was not involved in the operation plan to conduct a traffic stop on the suspect.

NMSP K9 Officers and HSI Task Force Officers (TFOs), were part of the written operation plan. NMSP Uniform Bureau officers in Deming were not part of the written operation plan. Regardless of whether HSI Agents gave Sergeant Madrid “full disclosure” of the details surrounding the suspect, the fact remains that Sergeant Madrid’s role, along with that of Officer Jarrott, was never listed in the operation plan. HSI went outside its operation plan when HSI Agent Hector Huerta and HSI Agent Matthew Rodriguez began communicating with Sergeant Madrid in Deming rather than with NMSP K9 Officer Palomares. Both HSI Agents knew or should have known that an HSI TFO listed on the operation plan should have been the NMSP point of contact for the operation.

HSI put the value of the narcotics case and concealing the CI’s identity above the value of the life of the NMSP officers helping them. The course of Action 1 (COA1)(K9 traffic stop) should have never been a tactical option for the arrest of the suspect. Action 2 (COA2) (SRT takedown of suspect) was tactically the better option, except for having the UC involved. HSI intended to arrest the suspect after the initial UC buy, and HSI planned to arrest the suspect even if NMSP did not make a traffic stop that day. The suspect was a felon with a long criminal history; he had been recently released from federal prison, he was actively selling illegal narcotics, and was known to be armed with a firearm. It was also learned that the suspect made threats toward law enforcement during the first UC encounter. The suspect had the means to act on that threat because the UC confirmed he was armed with a rifle at that time. The suspect was dangerous enough that HSI planned to use tactical elements to arrest the suspect, regardless of whether the K9 officer stopped him. The use of the tactical units alone should have indicated a much greater degree of threat associated with this individual. Also, the “walling off” of a CI would be moot if the HSI used COA2 because the suspect would have known that the HSI arrest was related to the drug deal with the UC and the CI.

Briefing

New Mexico State Police K9 units were not involved in the tactical operation briefing even though NMSP K9 was assigned in COA1 as the primary take-down unit. There is no information that any NMSP Uniform Bureau officers from Deming were involved in the tactical operation briefing in Las Cruces either.

It is unknown whether HSI has a policy or standard practice that requires those involved in this type of operation to attend the briefing. NMSP does not have a specific policy or procedure in place for all officers to attend formal briefings for planned operations outside Tactical Team SOPs. However, it is a long-established common practice in multiple agencies that all officers involved in a tactical or takedown operation attend the briefing related to operations like these.

Officer Palomares did not attend the tactical briefing in Las Cruces but was aware of the operations plan. If Officer Palomares had participated in the briefing, he may have been informed that other NMSP officers were involved in the operation, but there is no way to know this. An operational plan details all pertinent information regarding the operation and the suspect(s) and lists all participating personnel and agencies. When reading the operation plan, which is covered during the tactical briefing among participating officers and agents prior to the execution of the planned operation, one would have no way of knowing that HSI in Deming provided accurate information to a Uniform Bureau sergeant in Deming as part of the operation.

Incident Command Structure

An Incident Command System (ICS) Unified Command structure should have been implemented for this type of operation. Command from NMSP and HSI Agents responsible for the investigation, surveillance, and tactical elements from Las Cruces and Deming should have all been in the same room and at the same briefing. Communication between all involved personnel during the surveillance should have been funneled up through agents and vetted by all agencies involved. This type of ICS is an established procedure in large-scale complex operations. It is based on federal guidelines established under the National Incident Management System (NIMS).

Communication

Communications between the HSI surveillance team, HSI SRT units, NMSP K9, and NMSP Uniform were flawed. They were primarily by text message. There was no central command post coordinating units and communications to ensure all involved had the correct information. In complex operations with multiple agencies and teams within each of those agencies, there should be a central point of communication that ensures information is routed effectively and accurately to everyone involved. The HSI SRT members, who were in an armored vehicle watching the traffic stop from 200 yards away, had no contact with Officer Jarrott, and no one from the tactical briefing knew that Officer Jarrott would make the traffic stop.

It is not unusual for different elements involved in an operation to be on different frequencies. However, using text messages as the primary means of communication between different elements does not ensure that all those elements are aware of the information, nor does it guarantee that the various elements know where others are located. HSI included someone in the text string who was not part of the written operations plan. The NMSP K9 units are HSI TFOs who work with HSI daily. The HSI supervisor who chose to include someone who was not part of the operations plan, the HSI surveillance agent who had someone in the text string that was not part of the operations plan, and Sergeant Madrid, who acted as the go-between for HSI and Officer Jarrott, all contributed to the lack of information which caused Officer Jarrott to make improper tactical decisions during the traffic stop. Sergeant Madrid was on a text string with Agent Rodriguez for an extended time

as Agent Rodriguez worked to identify the suspect and vehicle. Officer Jarrott was not part of that text communication. Sergeant Madrid relayed information to Jarrott that he had received from the surveillance team. Neither Sergeant Madrid nor Officer Jarrott was part of the written operation plan.

The text from HSI to Sergeant Madrid, in which Agent Rodriguez stated that a Border Patrol K9 was available, also indicates that the surveillance team did not know precisely who was involved in the operation. A Border Patrol K9 unit was not listed anywhere in the operation plan. The only K9 unit listed in the operation plan was NMSP. Either Agent Rodriguez, the center of communication with Sergeant Madrid and calling out the suspect vehicle's location, was unaware of the specific operation plan, or Agent Rodriguez was again going outside the operation plan to involve another agency.

Sergeant Madrid should have asked more questions about the operation. Whether or not he was given “full disclosure” regarding the suspect's dangerousness, Sergeant Madrid knew through communications with HSI that this traffic stop was more than simply a “BOLO” stop. Sergeant Madrid knew that a surveillance team was actively attempting to identify the suspect vehicle related to narcotics trafficking. Sergeant Madrid knew that the surveillance team was following the car once they remembered it. The surveillance team's involvement alone should have indicated to Sergeant Madrid that this investigation was more than a general request to be on the lookout for vehicles related to drug trafficking. Sergeant Madrid should have ensured Officer Jarrott was included on the text string rather than playing an intermediary. Sergeant Madrid's repeated contact with Agent Rodriguez gave him plenty of time to request that Agent Rodriguez have Officer Jarrott on the text string since Officer Jarrott was the one who would make the stop according to their plan.

K9 officers have learned to ask more questions about traffic stops for other agencies. These types of stops and the recommended questions to make proper tactical decisions are noted in the recommendation section below.

OFFICER TACTICS

Tactical Decision-making and Priorities of Life

The priority of life tactical decision-making structure utilized by the NMSP's Tact Team can be used by any officer when deciding on a course of action in a dangerous situation. This decision-making structure is particularly useful when the officer is about to interact with a person who the officer may know is armed and involved with drug-related or violent crime. Officers should look at the dangers and threats based on these priorities. The officer can then make tactical decisions according to the officer's assessment of those priorities. An officer should never put the value of recovering drugs over the value of anyone's life, including the officer's. When an officer has a choice of what to do in a dangerous situation, deciding what to do based on these priorities is a starting point.

The NMSP Tactical Team's priorities of life are as follows:

1. Hostages
2. Citizens
3. Law Enforcement
4. Suspect

The priorities of life are then followed by specific tactics to mitigate the threat that the officer faces.⁴ The Tact Team teaches that the terrain dictates the tactics, including traffic stops. When making face-to-face contact with the driver, the right-hand approach to a vehicle is the preferred method of approaching a vehicle. This tactic presumes that the vehicle is stopped in a location that makes approaching the right-hand side of the vehicle possible.

When an officer is at the vehicle's right-hand side and recognizes some increased threat level, the officer is posed with some tactical problems. There is no one-size-fits-all solution for the officer.

1. If the officer retreats to his vehicle, he loses sight of the occupants and puts himself into open ground between the two vehicles without cover.
2. If the officer directs the driver to exit the driver's side of the vehicle, the officer will lose sight of the driver's hands for a short period, regardless of whether the officer remains at the passenger side door, moves to the front of the vehicle, or moves to the back of the vehicle.
3. If the officer has the driver crawl across the seat and exit the vehicle on the same side of the vehicle as the officer, the officer loses the reactionary gap⁵ between the suspect and the officer, or the officer loses sight of the driver if the officer backs up to put more space between the driver and himself/herself.

Officer Jarrott's dashcam shows that he chose the second option, and he appeared to be watching the suspect to the best of his ability as the two walked toward the back of the truck. In the next section, we will discuss better options for an officer who faces a suspect in a vehicle that poses a significant threat to the officer, with the understanding that there is no one-size-fits-all best tactic.

⁴ The NMSP Tactical Team is not the only group that makes tactical decisions based on life's priorities. The National Tactical Officers Association (NTOA) also advocates for life's priorities when developing operational plans. In the NTOA's position statement on No-Knock warrants³, the NTOA states the following:

For years, the NTOA has advocated for the priority of safety and life, which drives strategic decision-making and critical thinking for developing operational plans and orders. Tactical leaders and supervisors create these plans daily while sending personnel into harm's way. These safety priorities are well known to all of us, but as a reminder, they are:

1. Hostages/victims
2. Innocent bystanders
3. Public safety personnel (Police, EMS, Fire)
4. Suspect(s)
5. Drugs/evidence (Controlling objective)

⁵ ⁴ Reactionary gap: "the minimum amount of space needed to ensure that you can properly react to whatever threat may be presented by a suspect being questioned or detained." – <https://www.police1.com/police-trainers/articles/the-reactionary-gap-reminders-on-threats-and-distances-10NjF9gRYlpo3uMJ#:~:text=%E2%80%9CReactionary%20gaps%E2%80%9D%20are%20defined%20as,suspect%20being%20questioned%20or%20detained.%E2%80%9D>

Sometimes there is no “correct” decision. The officer can only do what is best for the situation at that moment in time. When an officer perceives a threat, the best decision is to disengage with the suspect and choose a way to move to a better tactical position while keeping the priorities of life in mind.

Information Officer Jarrott reportedly had for his Tactical Decisions and Tactical Options.

Officer Jarrott knew that this traffic stop was more than an unknown risk, as are traditional stops, which officers make for traffic infractions every day. He stopped a specific vehicle in a specific area at a particular time.

The NM Fusion Center BOLO, which Lt. Sosa sent to the officers, identified Omar Cueva-Felix as the driver of a “possible methamphetamine and fentanyl load.” Cueva had an extensive criminal history, and he was known to carry firearms with him. Sergeant Madrid stated that the officers were working off this BOLO during his first interview with investigators, which indicates that Officer Jarrott also had this information.

Officer Jarrott had the information that the driver of the truck was Omar Cueva, based on the driver telling Officer Jarrott his name.

Officer Jarrott knew that the driver was armed, based on his request to Cueva to remove the firearm for Officer Jarrott's safety.

Officer Jarrott appeared to be attempting an interdiction stop. The evidence that supports this hypothesis is the information that Officer Jarrott reportedly had at the time of the stop, as well as Officer Jarrott's repeated request for the driver to accompany him back to his police vehicle to run checks and do paperwork. An interdiction stop entails a driver to step out of the car, go to the officer's unit, and stand with the officer.

Officer Jarrott should have changed his tactics and stopped his attempt at an interdiction stop when he identified the driver and saw that the driver was armed with at least a handgun, in addition to the other information he had at that time.

Also, a driver who stalls or refuses to exit the vehicle is a danger cue that K9 Officers are trained to recognize when doing these stops. K9 officers will adjust their tactics when they realize danger cues like these. It does not appear that Officer Jarrott was aware of this danger cue, which supports Officer Jarrott repeatedly asking the driver to exit the vehicle, even after he saw a firearm.

If Officer Jarrott recognized the driver's stalling tactic as a danger cue and the other danger cues noted before, those cues would have supported a change in tactics. It would also have

comported with the priorities of life hierarchy, which puts the safety of the officer before the goal of continuing a drug investigation.

Traffic Stops – General

While different types of traffic stops have different names, this report will only focus on five types of stops.

The first type of stop is an “**unknown risk stop.**” This report also refers to this type of stop as an officer's “traditional” traffic stop for daily traffic offenses. Officers do not typically use the unknown risk stop for a particular individual or vehicle at a certain time and place. Suppose an officer makes a traffic stop of a specific person or vehicle at a particular time and place. In that case, the officer knows some information that the officer uses to determine how to stop the vehicle. In the NMSP Academy, officers are taught to use a right-hand approach. A video review shows that Officer Jarrott appeared to have learned the right-hand approach to traffic stops. Common practice is for the officer to have the choice of either leaving the driver in the vehicle for the entire traffic stop or having the driver exit the vehicle to complete the traffic stop. With the implementation of the electronic Traffic & Criminal Software (TraCS) system in units, officers will often have drivers exit the car and come back to the right front tire of the units for the entire traffic stop because the TraCS system requires an officer to make three trips to a car to complete a traffic stop with a citation. Officers recognize that the most dangerous part of the stop is the second approach to the vehicle because the officer must leave cover and go back to the stopped vehicle. With the TraCS system, the officer must also make that trip for a third time.

The second type of stop is an “**interdiction stop.**” NMSP K9 units use interdiction to find criminal activity, including drug trafficking. K9 officers are trained in the specific tactics and procedures for this type of stop. This type of stop begins as an unknown risk stop in which the K9 officer has the driver exit the vehicle as soon as possible and walk back to the officer's unit to complete the stop. The officer often walks back to the unit at the same time the driver does. The driver stands by the right front tire of the officer's unit while conducting the stop. K9 officers found that this type of stop is a more positive and personable experience for the driver when there is no criminal activity other than traffic violations. The officer can converse with the driver while completing a traffic stop and issuing a citation. K9 officers use this interaction with the driver to determine if there is any reasonable suspicion or probable cause for criminal activity beyond the traffic violation. If the K9 officer finds reasonable suspicion of illegal activity, the traffic stop moves into the next phase of being an interdiction stop.

The third type of stop is a “**felony stop.**” Officers are trained to use this type of stop for high-risk traffic stops. The officer first calls for backup if it is not present. The officer directs the suspect out of the car from a position of cover, usually at gunpoint, and preferably from the officer's unit. An unknown risk stop can turn into a felony stop if the officer recognizes a significant threat during the stop.

It should be noted that the below-defined traffic stops are not Department of Public Safety policy. Federal law allows for pretextual stops, state law does not.

The fourth type of stop is a “**whisper stop.**” This type of stop is directly related to investigations and interdiction. As federal TFOs, NMSP K9 officers will make whisper stops for federal investigations. Federal agencies will contact NMSP K9 officers and ask them to be on the lookout (BOLO) for a particular vehicle that may be part of a federal investigation. If they see that vehicle, officers must develop their own probable cause to effectuate a traffic stop of that vehicle. If, during the ordinary course of a traffic stop, officers establish reasonable suspicion or have probable cause to believe that the vehicle or occupants are involved in criminal activity other than the traffic violation, officers will pursue that investigation in conjunction with the federal agency that requested the whisper stop.

The fifth type of stop is a “**wall-off stop.**” This type of stop is also directly related to investigations and interdiction. As federal TFOs, NMSP K9 officers will also make these stops for federal investigations. In these cases, the vehicles or occupants are already involved in a federal investigation. That federal investigation often involves UCs or CIs, but if the federal agents seize the vehicle or arrest the occupants of that vehicle, the UC or CI could be identified. Federal agencies will ask the K9 officers to BOLO for that vehicle to protect the UC or CI. If the officers find the vehicle, they must develop probable cause to make a traffic stop and develop reasonable suspicion or probable cause to further the investigation. If the officer discovers illegal activity and makes an arrest, the federal investigation, as well as the identities of the CI or UC, is protected. Officer Jarrott's traffic stop has been incorrectly identified as a whisper stop. It was not. It was a wall-off stop, in which the federal agents and NMSP K9 knew about the suspect's criminal history, criminal activity, and weaponry.

Officer Jarrott's Tactical Options

In this incident, Officer Jarrott had some information regarding the risks with this stop, even though he did not have all the information he needed to make the correct tactical decision. He chose to continue with an interdiction stop, even though he knew this vehicle was related to drug trafficking from either the BOLO or Sergeant Madrid, or both. The information from the BOLO indicated that the driver had a lengthy criminal history, he knew the driver was armed, and the driver stalled to avoid getting out of the vehicle. Faced with all these factors, Officer Jarrott should not have continued to ask the driver to get out of the car and walk with him back to his unit.

If Officer Jarrott recognized the suspect from the BOLO or information provided by Sergeant Madrid and identified that the suspect was armed with a handgun, four different tactical options have been identified that could have been implemented. Based on the video and facts surrounding this incident, we know that the suspect had two firearms: a handgun that was holstered on his right hip and a concealed M4/AR-15 rifle that was tucked between the driver's door and the driver's seat. It is concluded that Officer Jarrott only observed the handgun holstered on his right hip when he was asking the suspect to step out of the vehicle. Based on the audio and video evidence, it appears that once the suspect was confronted about the handgun by Officer Jarrott, the suspect unholstered the handgun and left it on the seat. In the dashcam video, it is observed that once the suspect opens the driver's door, he can be seen holding the rifle in his left hand while at the same time he

removes the handgun with his right hand in a manner that suffices for Officer Jarrott's request. Officer Jarrott never saw the rifle inside the truck, nor did he know the suspect's left hand was holding the rifle when he was exiting the car.

The four tactical options for Officer Jarrott are based solely on the information provided to Officer Jarrott by Sergeant Mark Madrid, the information in the BOLO, and what Officer Jarrott may have observed prior to the suspect exiting the truck. Two additional tactical options were available that are specific to the K9 plan to make a "wall off" traffic stop of the suspect vehicle. Officer Palomares had significantly more information regarding the danger associated with the plan for making a traffic stop on this suspect than Officer Jarrott did. Because of the known dangerousness of the suspect and the courses of action in the operations plan, Officer Palomares planned to adjust his tactics to maximize cover/concealment and change the dynamics to put the officers at a tactical advantage. This plan is the first option for the K9 plan noted below. The tactics that Officer Palomares intended to use may have worked initially for the stop of the suspect because the suspect did not shoot at Officer Jarrott when Officer Jarrott first approached the vehicle. A second and better option was recognized after further discussion with Officer Palomares and NMSP K9 Sergeant Ron Wood. The second option for the K9 plan is also explained below.

Tactical Option 1

After recognizing the firearm on the suspect's right hip, Officer Jarrott could unholster his weapon system and begin a felony stop from the passenger's side of the truck while maintaining his position and the view he had of the suspect. Additionally, Officer Jarrott should have attempted to open the passenger door to increase his view into the suspect's vehicle. In such a case, one of three things is likely to happen.

1. The suspect complies with the felony stop and follows the directions given to him by the officer.
 - a. The suspect could realize he is now at a disadvantage, thus inhibiting his ability to attack the officer.
2. The suspect is non-compliant and drives off.
 - a. A pursuit is initiated by the officer, providing time for additional resources.
3. The suspect attempts to retrieve a firearm.
 - a. Officer would have a tactical advantage of time, distance, and angles.

Tactical Option 2

Officer Jarrott could initially leave the suspect in the truck, tell the suspect that he will use the PA to call the suspect back to his unit in a few minutes to complete the traffic stop, take the paperwork the suspect gave him back to the cover of his unit, call for backup, then use his PA to call the suspect back to his unit to complete the stop in a consensual manner. One of four things may happen:

1. The suspect complies with the officer's directions, exits the truck, and walks back to the officer's unit while the officer watches him from a position of cover.

- a. The suspect could realize he is now at a disadvantage, thus inhibiting his ability to attack the officer.
- b. Prior to walking back to his unit, Officer Jarrott could instruct the suspect to leave the firearm in the truck. As the suspect begins walking toward the unit, and before the suspect reaching the unit, from a position of advantage, the officer can ask the suspect to show him his hands and waist to confirm he left the gun in the truck. If the suspect continued to advance on the officer without showing his hands or waist, the officer has a tactical advantage of time, distance, and angles.
2. The suspect is non-compliant and drives off.
 - a. A pursuit is initiated by the officer, which provides time for additional resources, or the officer follows the suspect until he has backup and then attempts to stop the suspect again.
3. The suspect remains in his truck and refuses to exit.
 - a. By refusing to exit the truck, the suspect gives the officer an overt danger cue. The officer can wait for backup to arrive and continue to talk the suspect out of the truck from a position of cover. The refusal to exit the truck also changes this stop from a traditional traffic stop to a felony stop.
4. The suspect exits the truck with the firearm.
 - a. Officers would have a tactical advantage of time, distance, and angles to counter the suspects' actions.

Tactical Option 3

After recognizing the suspect and that he is armed with a firearm, Officer Jarrott could conclude the traffic stop by reiterating the reason and that no other action will occur. Officer Jarrott could give the registration slip back to the suspect, give him a verbal warning, tell him he is free to leave, and let him go. This option would put the suspect at ease, allow the officer to buy time to request additional resources, and develop a plan to take the suspect into custody further down the road effectively.

Tactical Option 4

After recognizing the suspect and that he is armed with a firearm, Officer Jarrott could notify the suspect to stay in the vehicle, draw out his firearm, and retreat to his unit to initiate a felony stop.

1. Although the officer would be creating distance between himself and the suspect, there is no cover/concealment while retreating to his unit.
2. Upon retreating to the unit, Officer Jarrott could have retrieved a long gun already in his unit's passenger seat and begun conducting a felony stop.
3. Upon the initiation of a felony stop, one of three things is likely to happen: 1) the suspect is going to be compliant; 2) the suspect is non-compliant or even drives off, or 3) the suspect engages in a gunfight with Officer Jarrott.

All four of these tactical options aim to buy time, create distance, maximize cover/concealment, and change the dynamics to put the officer at a tactical advantage.

K9 Planned Tactical Option (K9 Option 1)

With these tactics, Officer Palomares planned to execute the “wall off” traffic stop. First, he enlisted the help of another NMSP officer, Officer Alfonso (Sonny) Montez, who had experience working with K9 and knew how K9 did this type of stop.

Officer Palomares intended to do an interdiction stop, where he would make a passenger-side approach and ask the driver to exit the vehicle. Officer Montez was assigned to park his unit in a felony stop configuration, with his unit in line with Officer Palomares' unit, and two car lengths behind the suspect vehicle. The presence of a second police unit parked behind the suspect vehicle, with the cover officer watching from a position of tactical advantage, was intended to show the suspect a disparity of force in favor of the officers if the suspect attempted an attack on them. Officer Montez would provide cover with a rifle from a position of advantage at the units. In a case like this, the rifle would be held discreetly unless the officer needs to use a greater show of force/use of force than just his presence.

Better K9 Tactical Option (K9 Option 2)

After further discussions with Officer Palomares and Sergeant Wood, the officers recognized that this “wall off” stop differed from all the others that K9 does with regularity. The significant difference that separated this stop from others was COA2. When the threat level associated with a suspect is so high that specialized tactical elements with armored vehicles are required for an arrest, the danger of the operation is more significant than an average agent or patrol officer should handle. As soon as K9 officers learned that specialized tactical elements were part of the plan, the type of stop expected in COA1 should have moved from an interdiction stop to a felony stop with tactical elements in direct support.

When reading COA1 and COA2 in the operation plan, K9 should not have agreed to make the traffic stop unless it was a felony stop, knowing that specialized tactical elements were involved. The CI would be identified anyway if the K9 stop was unsuccessful because the HSI SRT agents would do a takedown when the suspect reached his destination. At that point, the suspect would have realized that he had been set up by the CI and UC anyway. If HSI still wanted to put the value of the officer's life below the value of the drugs, the investigation, or the identity of the UC and CI by having K9 officers do an interdiction stop under COA1, NMSP K9 should have turned down the operation.

Understanding that federal agencies do not always provide full disclosure when asking uniformed officers to assist with traffic stops, NMSP K9 has developed a list of questions to ensure that specific criteria are met for K9 officers to be involved in a whisper or wall-off stop. The list of questions initially centered around the investigation itself and whether the federal agency would adopt the

case if the NMSP officer made an arrest. Additional questions, like those in the NMSP Tact Team Activation Matrix, have been added to that list to ensure that officers ask the right questions to obtain enough information to make the proper tactical decision in making a whisper or wall-off traffic stop.

TACTICAL RECOMMENDATIONS

Matrix for Assisting Other Agencies with Traffic Stops:

The authors of this section recommend creating a checklist that forms a decision-making matrix when another agency requests that NMSP officers conduct a traffic stop for an operation related to a criminal investigation. This matrix can be used to determine whether the traffic stop should be made and the correct tactics for that stop if it is made. This checklist should not be only used by NMSP K9. It could be used by all NMSP supervisors assigned to help with these types of traffic stops.

The following is a list of additional tactical and operational recommendations when NMSP assists other agencies:

- Train officers on the decision-making matrix for assisting other agencies with traffic stops, which includes an assessment of the priorities of life and legalities surrounding the requested traffic stop.
- When assisting other agencies, always ask if this is a planned operation and the contingency plans.
- If any of the contingency plans involve the use of tactical elements, the priorities of life change from a focus on the recovery of drugs or walling off informants and undercover officers to a focus on greater officer safety.
- If this is a planned operation, ask if a briefing was or will be held for all the elements involved.
- Establish a policy or procedure that requires officers to attend the formal briefing if they are involved in the operation.
- If it is a more extensive operation covering multiple jurisdictions, significant distances, and multiple agencies, a command post should be set up, a unified command structure created, and a communications plan formed that synchronizes all communications.
- When working closely with other NMSP officers not known to be a part of the operation, mainly when working near district lines, officers should communicate directly with the other NMSP officers to ensure they are aware of what is going on.
- Train officers that when conducting any traffic stop, look at danger cues and the priorities of life to determine if the tactics need to change to a felony stop, regardless of the investigation developing from the traffic stop.

ORIGINAL K9 SUPERVISOR LIST OF QUESTIONS FOR AGENCY ASSIST

The following is the list of questions or required actions that K9 officers developed for requests to make traffic stops for other agencies:

- Briefing time and location?
- Notify the appropriate NMSP chain of command?
- What is the case involving, i.e., narcotics, weapons, human trafficking, or money laundering?
- Will the agency that is being assisted take possession of all evidence and suspects? This is their case, and we are only assisting? We cannot adopt a case for state prosecution that is from a whisper stop because, under State law, it would be deemed pretextual.
- How many people will be in the vehicle/residence?
- Criminal history of suspects?
- Any known drug use or mental health concerns with a suspect?
- Known, or possibility of, weapons?
- What charges are currently on the suspect?
- For whisper stops, do they want a stop and detain, or are they requesting a “wall off stop” where we develop our own PC? If using our own PC, are they wanting us to try and search the vehicle if there is PC to believe the suspect or vehicle is currently involved in illegal activity?
- If the suspect denies consent to search, what do they want us to do? Search under federal authority based on their PC or have a K-9 deployed on the vehicle and if the K-9 does alert then search the vehicle based on K-9 alert under federal authority? We **cannot** request a state warrant for a whisper stop.
- For whisper stops, we should have two officers present unless a felony stop is being conducted, then we should have at least four. Be cautious about using more than two officers if requesting consent from the suspect, as it can be construed as intimidation if multiple officers are present when asking for consent.
- Discuss pursuit plan before stop so officers know if we will pursue based on charges, suspect, time of day, roadway, traffic conditions, etc.
- If possible, determine the approximate location of the traffic stop to put the officer in the best tactical advantage and minimize the impact on other traffic.

TRAFFIC STOP ASSISTS FOR CRIMINAL INVESTIGATION OPERATIONS

The following are questions that could be asked by all NMSP supervisors when requested to assist other agencies with traffic stops related to criminal investigation operations, including but not limited to traffic stops involving narcotics, human trafficking, weapons trafficking, and money laundering. Officers should determine tactics for the requested traffic stops based on the priorities of life, their training, and the law.

- **Federal TFO Questions and Points for Discussion:**

- For whisper stops, do they want a “stop and detain,” or are they requesting a “wall off stop” where we develop our own PC? If using our own PC, do they want us to try and search the vehicle if there is PC to believe the suspect or vehicle is currently involved in illegal activity?
- If the suspect denies consent to search, what do they want us to do? Search under federal authority based on their PC or have a K-9 deployed on the vehicle and if the K-9 does alert then search the vehicle based on K-9 alert under federal authority? We **cannot** request a state warrant for a whisper stop.
- For whisper stops, we require two officers to be present unless a felony stop is being conducted. Be cautious using more than two officers if requesting consent from the suspect, as it can be construed as intimidation if multiple officers are present when asking for consent.

- **General Supervisor Questions**

- Just because another agency requests this assistance does not mean we must do it. If there are safety or legal concerns, you should decline to assist until these issues are resolved.
- Is there a briefing, and what is the location and time? Along with the NMSP supervisor, have any NMSP agents or officers involved attend any briefing?
- Has the appropriate NMSP chain of command been notified and briefed?
- Ensure all involved personnel receive a copy of the operations plan. If need be, make your own operational plan.
- Have all appropriate de-conflictions been checked?
- What is the case involving; i.e., narcotics, weapons, human trafficking, or money laundering?
- Is K9 available, as this is their specialty, and they already have federal commissions?
- Use caution regarding human trafficking to ensure that the case is, in fact, human trafficking and not just undocumented persons being transported. We will not be involved in cases **solely** related to immigration issues.
- Will the agency that is being assisted take possession of all evidence and suspects? This is their case, and we are only assisting? We cannot adopt a case for state prosecution from a whisper stop.
- How many people will be in the vehicle/residence?
- Criminal history of suspects? Does this meet the threshold for tact team assistance?
- Any known drug use or mental health concerns with a suspect?
- Known, or possibility of, weapons?
- What charges are currently on the suspect?
- Is tactical medic and aircraft available?
- Discuss the pursuit plan before stopping so officers know if we will pursue or not based on charges, suspect, time of day, roadway, traffic conditions, etc. Ask questions to determine, if possible, the approximate location of the traffic stop to give the officer the best tactical advantage and minimize impact on other traffic.
- How do you intend for this stop to further your investigation?

- Has the driver been identified?
- Do you have enough for a search or arrest warrant without the traffic stop?
- Is there an arrest warrant for the suspect?
- Is the warrant for a violent felony?
- Do you intend to do a controlled delivery?
- Do you want NMSP to ID and let the vehicle go?
- Do you want NMSP to develop its own RS/PC for a search?
- If the vehicle is loaded, how reliable is the source, and how valid is this information?
- Is there surveillance on the vehicle? Active surveillance means we know where the vehicle is, and we have time to get the right resources in place.
- Does anyone have visual contact on the vehicle right now?
- Is it vehicle surveillance?
- Aerial surveillance?
- Do you have a tracker?
- Pinging the phone?
- Is there a CI involved?
- If our officers need backup for a search or arrest, will you burn the surveillance to assist?
- How many occupants will be in the vehicle?
- What is your agency's history with the suspect?
- How many people will we be dealing with?
- Are there UCs, CIs, or civilians in the car who are unrelated to the investigation?
- What are their approximate ages?
- Do you have criminal histories of everyone in the car?
- Does anyone in the car have military or LE training?
- Is anyone in the car associated with gangs, criminals, or anti-government organizations?
- Any indication of mental illness with anyone in the car?
- Any known weapons?
- Any threats to law enforcement?
- What are the other options if we cannot find the vehicle, develop PC to stop the vehicle, or find any further criminal activity associated with the vehicle?
- Internally for the supervisor: Do you have the right people on duty to handle this request – both primary and backup officers?
- Training and experience in interdiction?
- Training and experience working together?
- Tactical training and experience?

TRAFFIC STOP ASSISTS FOR CRIMINAL INVESTIGATION OPERATIONS



**New Mexico State Police
Threat Assessment Matrix**



Case#: _____ Suspect(s): _____ Tact Team Case #: _____
 Date: _____ Address: _____
 Time: _____

Check if Mandatory

If Mandatory, Matrix is not required

The following situations require a **Mandatory** Tactical Team Activation

- Armed Barricaded Subject
- "Booby Trap" Situations
- Hostage Situation
- Penitentiary Disturbance
- Active Manhunt for Violent Suspect or Escapee
- Open Field Marijuana Eradications
- Armed Suicidal Subject that poses eminent threat to public or another person
- Warrant for suspect has been served by tactical team before

1-9 points= Consultation with Tact Team is Optional 10+ points= Consultation with Team is Required

Arrest Warrant	Points		Score
Arrest warrant for suspect is for committing a violent felony (Homicide, Aggravated Battery, Robbery, Kidnapping)	5	<input type="checkbox"/>	
Search Warrant			
Search Warrant is for arrest/seizure of person	5	<input type="checkbox"/>	
Target Location			
Firearms are present or available at location	2	<input type="checkbox"/>	
Target Location is Fortified (Use of Specialized Entry Tools)	5	<input type="checkbox"/>	
Target location has Geographical Barriers	2	<input type="checkbox"/>	
Suspect History			
Suspect has history of Mental Illness	3	<input type="checkbox"/>	
Suspect has Military or LE Training, other specialized tactical training	5	<input type="checkbox"/>	
Suspect is involved in Gang, Criminal, or Anti-Government Org	3	<input type="checkbox"/>	
Suspect is known to have made statements of violence against LE	5	<input type="checkbox"/>	
Suspect Criminal History			
History of Armed Violent Crime	5	<input type="checkbox"/>	
History of Unarmed Violent Crime	3	<input type="checkbox"/>	
History of weapons violations	3	<input type="checkbox"/>	
History of Aggravated Resisting/Evading/Fleeing	2	<input type="checkbox"/>	
History of other crimes against police	5	<input type="checkbox"/>	
Other			
Suspect of Homicide but no evidence to arrest or obtain arrest warrant	5	<input type="checkbox"/>	
Tactical Team Activated? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Name of Tactical Team Commander consulted:			
	Total		

ALL preplanned, high risk warrant service **MUST** have a Threat Assessment Matrix completed prior to the service of the warrant unless exigent circumstances exist for immediate service. A copy of all completed Threat Assessment Matrices will be kept in the case file. If the Tactical Team is involved in any capacity, a copy will also be forwarded to the Tactical Team Commander.

 Officer Signature
 Date: _____

 Supervisor Signature
 Date: _____

 Tactical Team Commander Signature
 Date: _____

Conclusion


Captain Damyan Brown

This committee aimed to identify what could have been done differently in this tragic case and what can be changed to help prevent something similar from happening again. The Committee thoroughly reviewed the incident. This report identifies what the Committee decided were the root causes that led to the death of Officer Jarrott, and what could have been done to have possibly prevented or lessened the severity of this incident.


The approaches suggested in this report are recommended to be implemented by the NMSP. The Committee believes that among the most important of these are better communication with the Agency requesting assistance; eliciting details about the operation that the other Agency is running; ensuring personnel that are assisting in the operation are mandated to attend briefings; limiting communication to only those involved in the operation and those that participated in the briefing; and utilizing the best tactics based on the situation or individual. If adopted, the Committee hopes these improvements will help produce a better outcome for all NMSP officers in similar circumstances.

ATTACHMENT 1

UNCLASSIFIED//LAW ENFORCMENT SENSITIVE



DEPARTMENT OF HOMELAND SECURITY
HOMELAND SECURITY INVESTIGATIONS
OFFICE OF THE SPECIAL AGENT IN CHARGE
EL PASO, TEXAS



HSI BOLO

Date: 02/02/2021
 BOLO Number: 2021EP-DN-01
 Prepared By: CA Robert
 Oroscó.

Dissemination: Law Enforcement
 Agencies **(No Public or Media
 Dissemination)**

POSSIBLE Narcotics Smuggling Attempt



***** Actual Vehicle*****

Early 2000's model Chevy Trailblazer or GMC Envoy

PARTICULARS:

NAME: Omar CUEVA-Felix
DOB: [REDACTED] 1981

HSI Special Agents assigned to HSI Deming received information regarding a possible methamphetamine and fentanyl load vehicle traveling from Phoenix, AZ, to Deming, NM, between 02/02/2021 and 02/03/2021. The driver, Omar CUEVA-Felix, DOB: [REDACTED] 1981, has an extensive criminal history out of California and is known to carry firearms with him.

The load vehicle is two-toned, with black over silver and appears to be an early 2000's Chevy Trailblazer or GMC Envoy. Information received indicated that the load vehicle will have a non-factory compartment hidden underneath the front passenger seat, and the load vehicle will be placed on a trailer being towed by a dark blue Toyota Tacoma.

Officers must Develop their PC for stop and subsequent search, if encounter positive results please get in touch with Special Agent Matthew Rodriguez at 915-218-9283 or Special Agent Hector Huerta at 575-545-9100.

LAW ENFORCEMENT SENSITIVE

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