



Cochise County Sheriff

Office Report for Incident 22-03910

Nature: DECEASED 112
Location: 3R

Address: SKELETON CANYON
San Simon AZ 85632

Offense Codes: M006, M046

Received By: ABryan SEAC

How Received: T

Agency: CCSO

Responding Officers: BLOmeli, JSpezzano CCSO, JGjerde, DNoland, JHoke

Responsible Officer: BLOmeli

Disposition: FDT 03/04/22

When Reported: 21:56:26 02/19/22

Occurred Between: 21:54:20 02/19/22 and 21:54:20 02/19/22

Assigned To: JHoke

Detail: GI

Date Assigned: 02/19/22

Status: ACT

Status Date: 02/19/22

Due Date: **/**/**

Complainant: 314837

Last: Border Patrol
Douglas Station

First:

Mid:

Race: **Sex:**

City: Douglas, AZ 85607

Offense Codes

Reported: M006 Dead Body

Observed:

Additional Offense: M006 Dead Body

Additional Offense: M046 Death Investigations

Circumstances

LT10 Field/Woods

DEATH Death

MOR Miscellaneous Offense report

UDA UDA Related

BORDR Border Related calls

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Responding Officers:

BLOmeli

JSpezzano CCSO

JGjerde

DNoland

JHoke

Unit :

C337

C146

C7D11

C98

Responsible Officer: BLOmeli

Received By: ABryan SEAC

Agency: CCSO

Last Radio Log: **:*.** **/**/**

How Received: T Telephone
When Reported: 21:56:26 02/19/22
Judicial Status: PSP
Misc Entry: CMPLT

Clearance: RCP Reviewed by Corporal
Disposition: FDT **Date:** 03/04/22
Occurred between: 21:54:20 02/19/22
and: 21:54:20 02/19/22

Modus Operandi:	Description :	Method :
Day of Week	Preferred Day of Week	Saturday
Time of Day	Preferred Time of Day	Night
Scene	Type of Crime Scene	Mountains

Involvements

Date	Type	Description	Relationship
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Narrative

Cochise County Sheriff's Office
Narrative Report

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SYNOPSIS:

On 02/19/22 at approximately 2154 hours United States Border Patrol (USBP) advised of a Agent involved shooting in the area of Skeleton Canyon (GPS Coordinates: 31.51278, -109.06393). Corporal Davidson was advised of the incident where Detective JC Hoke and Detective Spezzano took over the incident.

NARRATION:

On 02/19/22 at approximately 2154 hours SEACOM advised me via radio of a unattended death call for service in the Skeleton Canyon area. Upon observing the incident comments on Spillman via Mobile Data Computer (MDC) the comments listed as follows.

COORDINATES 31.51278, -109.06393/FOUND MALE SUBJ WITH GUNSHOT TO NECK AND CHEST/CONFIRMED 901/AGENTS OS CD4
21:57:16 02/19/2022 - ABryan SEAC (ProQA Medical)
ProQA Case Cancelled: BP

As I read the incident comments I proceeded by contacting United States Border Patrol (USBP) via telephone for further information. Upon speaking to USBP I was advised the incident was an agent involved shooting that occurred in the mountain area of Skeleton Canyon (GPS coordinates 31.51278, -109.06393). I questioned the agent if he knew what occurred, which he advised me USBP Agents were tracking a group of illegal immigrants in the Skeleton Canyon area which led to one of the Agents discharging their duty issued firearm, striking an illegal immigrant. The Agent advised me he did not know what led up to the incident as he did not have further information. I asked the Agent for the approximate area of the scene which he stated it was a hour to 2 hour hike in and advised air support would be best due to the rugged terrain in the area. At this time I advised the Agent I would be calling him back as I had to advise my supervisors of the incident due to it being an Agent involved shooting.

I proceeded by advising Corporal Davidson of the incident via telephone. Upon speaking to Corporal Davidson I was instructed to contact Detective Hoke who was the on call Detective at the time. As I contacted Detective Hoke via telephone he advised me he would be responding to the Douglas Area to obtain further information from USBP on the incident. Once Detective Hoke arrived in the Douglas Area, Detective Spezzano, Detective Hoke and I proceeded to the Douglas Office. Once Detective Hoke obtained further information Detective Hoke advised me he and Detective Spezzano would be taking over the case and my assistance was no longer needed. This concluded my involvement in the incident. NFI. End of report.

STATUS: Forward to Detectives

Supplement

CCSO

DR# 22-03910

NATURE: Officer involved shooting/Deceased

DETECTIVE: JC Hoke

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NARRATIVE: On 02/19/22 approximate time 10:15 Sgt. Gjerde requested I check on duty and respond to the United States Border Patrol Douglas Station. I was advised CCSO received a report of a deceased UDA which resulted from an officer involved shooting. Sgt. Gjerde said he was in the process of determining as to whether the Federal Bureau of Investigations would be investigating the incident as the primary investigating agency, and until he learned more facts my role was to assist with the investigation. I prepared myself for duty and proceeded to the USBP Station Douglas.

While enroute Sgt. Gjerde called me and advised CCSO MCU had been requested to conduct the investigation and that the FBI had declined to investigate the matter as primary. I was advised to call Dan Heston of the United States Office of Professional Responsibility and coordinate our efforts with his assistance. Furthermore Sgt. Gjerde said he was made aware of the fact that the incident occurred in a remote area of Skeleton Canyon which would be difficult to navigate safely on foot and also pack investigations gear too. Sgt. Gjerde said he called out Detective Spezzano to assist me and Det. Spezzano had an extended ETA from Sierra Vista.

Sgt. Gjerde said he would contact Sgt. Noland of the CCSO SAR and try to coordinate an effort to have personal and gear transported by air into the area. Sgt. Gjerde requested I check if the CIT, (USBP Critical Incident Team) could assist us. Our CCSO MCU Crime Scene Tech was unavailable for this investigation and this presented a problem but knowing the CIT was capable of processing the scene it was logical to utilize them in the absence of our CST. I advised Sgt. Gjerde I would call Agt. Heston and discuss the case with him, afterwards I would call him back at which time I would update him as to whether I was able to acquire the CIT and additional air support.

Contact was made with Agt. Heston, and after advising him I was assigned as the investigator I needed to know as much facts as he had to assist with the investigation. Agt. Heston said he had been informed by United States Border Patrol Agent, Steve Poligula, that a reported shooting occurred in Skeleton Canyon and the agent who was identified as to having shot and killed a male subject was identified as USBP Agt. Kendrek Bybee Staheli, the decedent had not been identified up to this point but was believed to be an illegal alien crossing with a large group of UDA's which agents had previously been tracking. Agt. Heston confirmed the FBI had declined to investigate the matter and he was advised by them to assist CCSO as much as possible.

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Agt. Heston confirmed the area was remote where the incident occurred and asked me how I intended to get assets into the area for further follow up. I advised him Sgt. Gjerde was in the process of having Sgt. Noland assist me with that issue and I hoped to hear back soon from him. I asked Agt. Heston if his agency or USBP could assist with air support, he said they could not. I asked him if he knew if the incident scene was currently secured and furthermore if Agt. Staheli had been removed from the area and transported to the USBP Station in Douglas.

Agt. Heston advised he was informed by Agt. Poligula that the incident area had been secured by USBP agents BORTAC unit and they were provided with instructions to set a perimeter and for no one to enter the scene until further notice. He further said Agt. Staheli was still on scene and it was his belief he would be kept there until I could meet with him at that location. Agt. Heston asked me to send MCU assistance to the scene and I informed him it was too early in the investigation to send anyone up and furthermore as mentioned to him earlier that I was attempting to get air support from my CCSO SAR.

I asked Agt. Heston if the USBP CIT (Critical Incident Team) could be deployed to assist me with processing the scene and he suggested I speak with Agt. Poligula in regards to my request. Agt. Heston said while I did that he would be preparing to drive to Douglas and meet with me.

(side note) In the past I have personally been involved with criminal investigations which the USBP CIT processed crime scenes and I am aware of the fact the CIT is a well trained unit who specializes in crime scene processing and work directly for OPR and OIG, (Office of Inspector General). I believed in the absence of the CCSO CST the CIT would be processed in a professional and accurate manner.

I then made contact with Agt. Poligula and we discussed the case. I further requested assistance by way of having the CIT assigned to me and Sgt. Gjerde. Also requested were air assets in order to fly us in and if CIT was assigned to us, CIT gear would also have to be flown into process the scene. I was told CIT could be deployed but he would not be able to provide any air assets. Agt. Poligula explained the air asset request is an issue which he nor his CIT have control over and that I would be better served by requesting air assets through OPR. We ended our call and I drove to the USBP Douglas Station.

(side note) Prior to driving to USBP station, Det. Spezzano advised he arrived at the USBP station. I advised him to drive to the CCSO Office in Douglas so I may brief him and gather any additional evidence bags, boxes which would be needed. Upon doing this we met and he was briefed. I advised him of what needed to be accomplished at the USBP station and we drove there.

While enroute, Agt. Heston called me for updated information. He wished to know if CIT would be enroute and any other details which possibly arose. I advised him CIT was approved and were enroute with an extended ETA from Tucson, and San Tan Valley, Maricopa County. Upon speaking to Agt. Heston I requested he facilitate Agt. Staheli's transport to the USBP Douglas Station so I could process him and his gear. I also advised I would attempt to interview all witnesses and Agt. Staheli. Agt. Heston said he recently learned that at the time of the incident Agt. Staheli's backup partner was near the incident when it occurred but did not actually observe the shooting. I asked him who the second agent was and he identified him as USBP Agt. Tristan Tang.

Upon learning this I requested he also facilitate Agt. Tang's transport to the USBP Douglas Station so I may interview him. Agt. Heston requested I not

interview them at the station and to instead interview them in the field. He said both agents had been removed from the incident scene and brought down to an area which was not as remote as the initial scene. I advised Agt. Heston I preferred he facilitate the transport back to the station so I could process evidence and complete interviews there. I advised him under the current circumstances it would be hours before we could have personnel flown to the scene so it was best to secure it and as soon as we were able to get up there that would happen, until then I wished to complete what I could at the station. Agt. Heston advised he would look into having my request followed up with. I advised him I was proceeding to the station where he could meet with me when he arrived.

I then spoke with Sgt. Gjerde and he was advised of the additional information I had learned. He advised me he made arrangements with Sgt. Noland to have DPS Ranger One launch from Phoenix but due to current weather conditions they would not launch until 08:00 hrs. Upon arriving in the area Sgt. Noland would have his SAT on the ground so DPS Ranger One could pick them up and also facilitate Sgt. Gjerde and the CIT teams frights into the canyon where they could process the scene and extract the decedent.

I advised Sgt. Gjerde that taking the current time into account and the hazards of conducting this type of night time mission safely it would be best to begin that process at first light of day, not to mention we would have to wait for 08:00 hrs for DPS Ranger One to launch. In the meantime I would coordinate with CIT and provide them with instructions for meeting with Sgt. Gjerde when he set out. I would also process Agt. Staheli's gear and any evidence to include the completion of the interviews with the agents. I advised after I completed that he could take over and process the scene, I would then break for a few hours, return later in the day, and interview the illegal aliens which were on scene. Sgt. Gjerde agreed that was the safest option we had and I proceeded onto the station.

Upon arrival I met with with USBP Supervisory Agent Omar Rascon. I was advised he had been instructed to have the two agents brought to the station and their ETA was one and a half hours out. While waiting for the agents to arrive agents Crystal Diaz and Roberto Saenz OIG, (Office of Inspector General) met with me. Minutes prior to this the agents' union steward Keith Bocharski had met with me at which time he said per Union/Admin agreement a period of seventy two hours would have to expire before I could interview Agt. Staheli. Agt. Bocharski advised I would be allowed to interview Agt. Tang and that the seventy two hour rule did not apply to him under the circumstances.

I then spoke with OIG Agents Diaz and Saenz, they were briefed as to what we intended to do and they advised they were sent to assist me. I advised them I intended to interview Agt. Tang and then process Agt. Staheli's gear. Furthermore I would conduct interviews with the illegal aliens this afternoon. Both agents advised although they were prohibited from being present when I interviewed Agt. Tang or processed Agt. Staheli's gear they could assist me with interviewing the illegal aliens. Agents Diaz and Saenz said they had learned there would be a minimum of five illegal aliens to interview. Arrangements were made to have them meet with me at 16:30 hrs.

Upon arrival of both Agents Staheli and Tang I made contact with Agt. Bocharski who was standing next to Agents Staheli and Tang, Agt. Bocharski said Agt. Staheli had a hand injury and they were making arrangements to transport him to the Copper Queen Urgent Care in order to have him treated. Knowing that he would soon be taken to the hospital I chose to interview Agt. Tang. I

requested an interview and Agt. Tang said he would speak with me so I escorted him to an admin conference room where he was asked to sit.

Present in the room with us was Det. Spezzano. The interview was conducted on 02/20/22 approximate time 03:35 hrs and Agt. Tang was asked to explain what he observed, I advised him I would be recording the interview and the recording was later up loaded into the case file. The following is a summary of what was discussed and is not verbatim.

- Agt. Tang said while on horse patrol he and Agt. Staheli were tracking on foot when they were advised by the TOC that a sensor had activated which indicated ten subjects were observed on a buckeye camera system.

- Agt. Tang said they followed up on the report and began to cut sign. He said they located the sign and what he described as booties. He explained the booties are worn by these individuals to conceal their shoe prints. He said they located ten sets of booties which was consistent with the TOC report with regards to how many were observed on the camera.

- TOC advised them the group had set off another sensor approximately one mile north of their current location. He said they decided to load the horses into the stock trailer and drive to that location where they would unload the horses and take over tracking at that location.

- He said they rode the OBJ trail and located the foot sign again. He said the terrain at this location was, "nasty" rough and a lot of rocks. He further described the area as rocky, steep, cliffs everywhere, and heavily thicketed manzanita.

- He said they continued north for approximately one half mile. He said the terrain became too rough to ride on the horses so they dismounted and led the horses over the trail while they tracked on foot. He said they decided Staheli would lead the horses while he continued to cut the foot sign.

- At this time he was now able to hear voices, (whispering) although he was not able to understand what they were saying. He believed the voices were coming from a distance of fifty yards out. Upon hearing the voices he informed Staheli via portable radio of what he discovered and further instructed him to tie up the horses and join him.

- As soon as he and Agt. Staheli met up he projected his light into the direction where he heard the voices and they heard brush breaking, indicative of being discovered and now they were running through the brush breaking branches in what was an attempt to flee. He said they ran to the direction of the sound and soon observed people dressed in camouflage. He said they both began to chase the UDA's and he caught one male subject and placed him into handcuffs. He said the subject he caught had to be tackled in order to take him into custody.

- He said he then walked to where he thought Agt. Staheli was at, and when he got close to him he observed Agt. Staheli also had one male subject in custody. Agt. Tang said at this time another UDA came out of the brush and turned himself over to them. They now had a total of three UDA's in custody.

- He said Agt. Staheli handcuffed the two together, wrist to wrist, and they decided it would be advantageous for Agt. Tang to walk with the three UDA's up to a higher location in order for him to use his night vision goggles and direct/guide Agt. Staheli to any additional UDA's.

- He said he was at a distance of approximately twenty yards away from from Agt. Staheli when he observed another male subject. He said he informed Agt. Staheli of this and Agt. Staheli began to go after him. He said Agt. Staheli was approximately fifty yards out when subject took off running. He said Agt. Staheli gave chase and a short time afterwards Agt. Tang lost visual contact with them because they had entered a thick area of brush.

- He said he believed Agt. Staheli had caught him and was struggling to take him into custody. He heard Agt. Staheli give voice commands telling him to give him his hands. He said he heard this numerous times and the male subject would respond to him but Agt. Tang did not know what he was saying to Agt. Staheli.

- He said he did not believe the UDA was cooperating. He yelled out to Staheli if he was ok and Agt. Staheli told him he was ok. He said at this time Agt. Staheli tone of voice became louder and he continued to tell the UDA to put his hands back but it appeared he continued to be uncooperative. He said he then heard brush begin to break as if a struggle ensued. He said he called out to Agt. Staheli asking him if he was ok but Agt. Staheli did not answer back to him.

- He said he decided at this time to leave the three UDA's seated on the ground while he ran down to assist Agt. Staheli. He said the distance from where he left the UDA's to where he believed Agt. Staheli was, was approximately one hundred yards or more. He said while he ran to help him he could now hear Agt. Staheli say, "Tang," like a cry for help and he believed Agt. Staheli was now in distress.

- He said he continued to work his way towards the area when he heard gun shots. He said he heard multiple gunshot. He yelled out if he was all right, and Agt. Staheli replied he was good. Agt. Tang said when he reached the area he observed Agt. Staheli standing near the male subject who was laying face up on the ground covered in blood.

I asked Agt. Tang if he asked Agt. Staheli what happened, and if he did what was Agt. Staheli's response. He said he could not remember what he said. I asked him to think about the question and try to answer. Agt. Tang thought about the question for approximately one and half minutes.

- He then said Agt. Staheli said the UDA had a big rock and was going to either smash him with it or throw it at him. He said he could not remember anything more. After some more thought he said he then went to check the male subject and after cutting away his clothes and inspecting the body closer he observed the male subject was dead. He said he told Agent Staheli to move away from the male subject. He said Agt. Staheli was obviously shaken and asked him to hold him. Agt. Tang said of course and held him for a few moments.

- Agt. Tang said prior to holding him he radioed for assistance and thought it would be best to bring the other three UDA's down from where he had left them. He said he walked back and they were still sitting on the ground, he escorted them back down. He said he did not allow the UDA's to get near the dead body and he believed he kept them at a far enough distance where they could not see the dead body.

- He said he and Agt. Staheli then waited for BORTAC, BORSTAR, and a supervisor to arrive. He said they waited for approximately two hours before they arrived on scene.

(side note) BORTAC, and BORSTAR are USBP teams which are specially trained to

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handle certain types of missions for the USBP.

- He said after they arrived USBP Supervisory Agt. Stanley advised him and Staheli to come down and also bring the UDA's they had taken into custody with them. He said after meeting with Supervisory Agt. Stanley they continued to wait for an extended period of time while fellow agents attempted to track and gather the remaining UDA's who were still at large. He said eventually two additional UDA's were brought down to their location. He said all five UDA's and the decedent were dressed in the same type of camouflage.

Det. Spezzano spoke with Agt. Tang about post shooting incident counseling and I also reiterated the importance of post incident counseling and suggested he and Agt. Staheli seek help if needed. No other questions were asked and the interview was ended at 04:08 hrs.

After interviewing Agt. Tang, Det. Spezzano and I met with CIT members, S. Feagley, A. Dickison, and J. Kondrat. Also present were Agt. Staheli and his attorney Jim Calle. I explained to them I would need to process Agt. Staheli's outer wear to include his boots, duty belt, and pistol.

We began the process of gathering the above noted items. Prior to having Agt. Staheli remove his gear and clothing, photographs were taken of him frontal, rear, left, and right side. His duty pistol, (9mm Glock Model 19) was removed and a round count conducted. I observed while the CIT gathered evidence they wore sterile latex gloves when handling the items. The pistol magazine was released from the pistol and the barrel was examined. The pistol barrel had one loaded 9mm round seated in the chamber in a ready to fire position. The magazine count resulted with a count of fifteen rounds.

The CIT removed both magazines from the magazine pouch attached to the duty belt. One magazine contained fifteen rounds, and the second magazine contained eleven rounds. The pistol and magazines were secured in a evidence pistol box and sealed. The duty belt, shoes, and outer clothing were also processed and sealed in evidence bags. All items were later transported to the CCSO Douglas where the evidence was entered into Spillman and transported to the CCSO Sierra Vista temp evidence room for safe keeping.

At approximate time 16:30 hrs I met with OIG agents Diaz and Saenz, and OPR agent Brian Irving. Arrangements had been made to interview the five illegal aliens which were apprehended near the shooting incident. At approximate time 17:13 hrs an interview was conducted with Filomeno Ruiz-Martinez, and shortly there-after with Irving Torres-Peralta

I opened the interview by asking Filomeno what happened on the previous night. He said he was apprehended. I asked if he remembered anything else. I asked him to tell me everything he observed or heard. He said he didn't see or hear anything. I asked him who he was with, he said Irving. I asked him where he resides and he said he resides in Oahauxa, Mexico. Again I asked him to tell me what happened when he was apprehended. He said he observed lights and when he saw the lights he ran. He said he observed two lights.

I asked him how many people were with him when he observed the two lights. He said there were seven other people with him, he said they all ran. He said he then hid. Agent Diaz then spoke and told him what I needed to know was what he did, what he observed or heard, and who was with him. Agent Diaz asked him to be specific.

He said he and another person ran together, he said they were apprehended by an agent who spoke to them in English. He said they were hiding when the agent found them and the agent told them to raise their hands. He said he doesn't understand English so he didn't know what the agent had told them, (apparently he understood the agent tell them to raise their hands up but did not understand anything else). He said he didn't hear anything else. I asked him if there were any other people with them and he said there were seven of them when they originally crossed. I asked Filomeno if there was anything else he wished to add and he said he did not have anything further to say. The interview was ended at this time.

We then interviewed Irving Torres-Peralta, I began the interview by asking him how many people he crossed with and he said seven others. I asked him to tell what he observed with his own eyes and personally heard. He said he observed four lights, he said he remembered three of the people he had crossed with had been apprehended, he said one of those subjects was his brother. He said when they were apprehended he could hear a male subject say in the English language, "This is America motherfucker."

I asked him if he understood English, he said he did more or less. I asked him if he had previously spent time in the USA, he said no. I asked him how he understood English and he said he learned English in school. He said he heard the statement, "This is America mother fucker" while he and his companion, Filomeno were hiding nearby.

(side note) According to Filomeno he did not hear anything while he and Irving were hiding together. According to Irving he heard Agt. Staheli talking. He does not make any mention of ever hearing Agt. Tang talk. I believe that based off statements up to this point both agents were talking loudly and if one was heard it would be reasonable to believe the other would also be heard. I noted Filomeno and Irving's statements contradict each other and if they were in fact hiding closely together I would think they both would have made or not made observation consistently the same.

He said while hiding he could hear the "agent" speaking with his brother. He said he then heard three shots fired but was later told by his brother that there were four shots that were fired.

(side note) At some point and time after they had been taken into custody Irving had the opportunity to speak with his brother about what occurred.

Irving's brother was identified as Carlos Juan Torres-Peralta. Agent Saenz asked him when he had spoken to his brother and he said when they had been placed into the transport vehicle. He said his brother also told him someone in the group they had traveled with had been shot. He said he did not see anything and only heard the gun shots. He said about one hour later he was apprehended by a agent who had a canine. He said he would had been approximately three hundred feet from the area where the incident occurred. I asked Irving if there was anything else he wish to add and he said there was not. The interview was ended.

Next to be interviewed was Carlos Juan Torres-Peralta. Prior to asking any questions Carlos was escorted into the room and said, "Are you going to kill me too?" He said this in Spanish. It appeared that he knew why he had been brought to be interviewed so I asked him to explain what happened and how many people were with him. He said there were seven or eight companions. I asked him if he remembered seeing the agents who were on horse back. He said he did remember them, that they came after them. He said one of the agents dismounted

and yelled for one of his companions to stop, he said the agent yelled, "This is America."

He said the agent told his companion, "Stop or I'm going to shoot you." He said his companion ran off and when he tried to run he stumbled on rock and the agent caught him. He said the agent told him, "This is America motherfucker." He referred to the agent as Agent Stain. I believe he was referring to Agent Staheli. He said the second agent yelled at Agent Staheli if he was ok and Agent Staheli said he was ok. He said he didn't see anything but believed both agents went to look at his companion and they moved his companion's body.

(side note) Carlos did not describe what happened prior to what he believes were the agents moving the body. He said although he did not see anything he believes the agents moved his companion's body. His statements were confusing. If he had not seen them how could he have made the determination they were moving his companion's body.

I asked him if he was certain he did not hear anything else. He said he heard many shots fired. He said he heard Agent Stain say, "motherfucker." He said the other agent told Agent Stain to not talk with anyone. He said the agents then told him and his companions to take off their shoes. He said he heard the other agent tell Agent Stain again, don't worry man, don't talk with no one and it will be fine."

Agent Diaz then asked Carlos which agent had apprehended him, he said it was Agent Stain. She asked him to describe the other agent and he said the other agent had Chinese eyes and hair. He said Agent Stain has green eyes and was wearing a cap. He said the other agent was not wearing a cap. He said Agent Stain caught him and another companion and the other agent caught one of his other companions.

Agent Diaz asked him how many companions had entered the US frontera with him. He said seven or eight. He said originally there were more but the guide got mad at them and left. He said the guide abandoned them two days earlier. Carlos appeared confused with regards to how many companions had initially crossed into the US with him.

Agent Saenz then asked him if he remembered how far the second subject had ran before Agent Stain caught him and Carlos said he didn't run much because at first his companion was hiding. Agent Saenz asked Carlos to listen to him and tell him if he understood what Carlos was saying was, that after Agent Stain had caught him and his companion and the other agent had caught a third companion they were escorted from the area by the other agent, and Agent Stain then went running after a forth companion. Carlos said yes that was correct.

He said then he heard Agent Stain say, "You're in America motherfucker" and he heard shots fired. Agent Saenz asked him if he witnessed the shooting and Carlos said he saw the light, flash from the firearm.

Carlos was asked if he knew who the two other subjects were that were apprehended when he was. He believed one was named Ricardo. He said his brother Irving and Filomeno were caught after they were, so the third person which was apprehended with would have to have been Horaldo Jimenez-Cruz. Carlos was asked if he had anything further to add and he said he did not. The interview stopped at this time.

(side note) I noted while speaking with Carlos he spoke English to a small degree. I asked him if he knew how to speak English and he said he learned while

residing in Jefferson, Wisconsin for three years.

At approximate time 18:46 hrs Horaldo Jimenez-Cruz was interviewed. I asked him if he knew why we had him summoned to the room and he said he did not. I asked him where he is from and he said, Puebla, Mexico. I asked him if he acknowledged something had happened last night and he replied he was apprehended. He said he was apprehended and nothing more happened. I asked him how many people were in the group he was with when they crossed into the US and he said nine others.

He said after they crossed into the US their guide abandoned them. He said when he was apprehended he did not attempt to run, he said he simply stopped. He said the agent that caught him was tall. He said two others were apprehended and the second agent had escorted them away from the other agent. He said these agents were initially riding horses and had flashlights. He said one of his companions which was apprehended with him was named Carlos Juan. He said a short time later he heard either four of six shots fired.

He said he was sitting down when the shots were fired, he said prior to sitting down the other agent who was not with them was walking down below. I asked him when he heard the shots fired how far did he think he was from where the gun shots were, he said about three hundred feet away. He said he did not see anything and could only hear the gun shots. I asked if he was able to hear the agents or anyone else talking and he said, "no." He said while he was sitting down Carlos Juan and the other companion were all hand cuffed together.

He said after being seated on the ground the other agent left them so he could go down to where the other agent was. He said shots were fired and later he and his companions were escorted back down. He said when they arrived at the location where the agent had escorted them they stopped. He said he could not see anything nor did he hear anything. Horaldo did not have anything more to add and the interview was ended.

At approximate time 19:11 hrs Ricardo Huerta-Nepomuceno was interviewed. I opened the interview by asking him what occurred the past night and if he could explain everything he personally observed or heard. He said he had crossed with a group. He said he didn't know there names and furthermore he didn't hear anything. He said they were being followed by men riding horses. He said they were sitting down and resting when they saw the men on horses.

I asked him if he could describe the men on horses. He said one agent was tall, he wore a cap and had a green in color uniform. He didn't describe the second agent. He said when he was apprehended the agent didn't say anything other than for him to raise his hands. He said the agents apprehended two other companions along with him. He said the name of one of his companions was Carlos. He said after they were apprehended he didn't see anything but he did hear three or four shots fired.

He said after the shots were fired he and his companions walked down to the area where he believes the shooting occurred. He said although he doesn't speak or understand English well he picks up on a few words in English. He said he believed the agents had said the man was shot in the neck. He said he was not near enough to see the man but could hear the agents talking. Again he said he didn't understand what they were discussing.

Agents Diaz and Saenz asked what they did after they discovered what had happened. He said they waited around for awhile and were later transported away from the area. He said when they were transported he and the others were all

transported together. Agent Saenz asked him if he had been carrying anything in a pack when he was traveling through the area. Ricardo said all he had was food and water. I asked Ricardo if there was anything else he would like to add and he said no. The interview was concluded at this point.

After the interviews were completed Agents Diaz and Saenz were advised that the autopsy would be conducted on 02/22/22. I advised them after the examination was completed I would brief them as to what the OME discovered and determined as manner of death. I also advised them I would interview Agent Staheli on Wednesday and after the interview was completed I would also brief them as to what was discussed in the interview.

On 02/22/22 approximate time 15:10 hrs SA Juan Chiriguayo of OPR contacted me. SA Chiriguayo advised he had been directed by his OPR supervisor to re-interview Carlos Torres-Peralta, Irving Torres-Peralta, Filomeno Ruiz-Martinez, Horaldo Jimenez-Cruz, and Ricardo Huerta-Nepomuceno. SA Chiriguayo said he audio/video recorded the interviews and intended to draft summaries of the interviews which he would provide me with. On 02/23/22 I reviewed via e-mail five summaries which SA Chiriguayo provided to me.

Upon review of the statements I observed for the most part that four of the subjects statements were somewhat consistent with regards to the information they initially provided to me and OIG SA Diaz, and Saenz.

I did note that Carlos Torres-Peralta added additional information with regards to having previously resided in the US. He added he had a girlfriend and children in Jefferson, Wisconsin and was enroute back to Jefferson, Wisconsin to look for work. He said he and his girlfriend have children in common. Based from the statement he provided to SA Chiriguayo it appears he was not truthful with providing us with that information at the time of his initial interview.

Carlos added that when Agt. Staheli had first taken him into custody, Agt. Staheli had told him, "Shut up or I will shoot you." Carlos did not make any mention of that statement when he was initially interviewed. It also appears he was not truthful with regards to his understanding the English language. It appears he is more fluent in English than he led us to believe. SA Chiriguayo advised me he believes Carlos is approximately 80% fluent in the English language.

Carlos further added information concerning Agent's Staheli and Tang. He states to SA Chiriguayo that he believed the agents had moved the decedent's body, repositioned the body, and he heard them discussing how they should follow up with statements and not say anything to anyone, and that Agent Tang had told Agent Staheli "it would all be ok and that he had his back." Carlos further said he heard Agent Tang tell Agent Staheli that he should say he was attacked with a rock. Carlos statements would suggest the agents had covered up evidence and would not be truthful with any after action interviews they would have.

(side note) The above noted information was provided to SA Chiriguayo two days after the date Carlos had provided Agents Diaz, Saenz, and me his statements at the initial interview on 02/20/22. The summarized statements will be uploaded to the case file of this report, and the initial interview recordings will be placed into CCSO Evidence. Those recordings will be made available if needed for review.

On 02/22/22 Sgt. Gjerde and CST Kessler attended the autopsy which was conducted at the Pima County Medical Examiner's Office in Tucson, AZ. At the time of the examination Doctor Winston located an ID believed to be that of the

decedent. A set of case prints were rolled and provided to Sgt. Gjerde. Upon completion of the examination Sgt. Gjerde transported the case prints to the Tucson Border Patrol Sector in order to query them in the IDENT system. Knowing it was possible the decedent had previously crossed into the US and subsequently apprehended it was possible USBP had the decedent entered into their system. This is why Sgt. Gjerde utilized IDENT in hopes of locating him in this manner.

Upon doing this USBP positively identified the decedent as Carmelo Cruz-Marco. Further queries were performed and USBP located pervious illegal crossings which indicated Carmelo had been arrested on at least one occasion by the USBP and returned to Mexico. Upon discovery of the decedents identity Sgt. Gjerde passed on his biographical information to the OME who had previously said they would advise the Mexican Consulate as soon as they had an accurate ID.

At the time of the initial incident we did not know the citizenship of Carmelo and determined we would investigate further to try and get a positive ID. Now that we had the decedent identified the OME could make the notification. Sgt. Gjerde also notified the CCSO PIO Carol Capas and she indicated she would also follow up with notifications with the Mexican Consulate. Refer to Sgt. Gjerde's supplemental report.

STATUS: Active investigation

Tue Mar 01 14:43:20 MST 2022, Detective JC Hoke #0512

Supplement

Detective J. Spezzano #1836
Cochise County Sheriff's Office
DR# 22-03910
Date of Incident: 02/19/22
Nature: Assist BP OIS
Supplemental Report #2
Date: 03/04/22

NARRATIVE:

On 02/19/22 at 10:30 pm, I was contacted by Sergeant Gjerde about an incident involving Border Patrol Agents with an unidentified male deceased. I was to respond to the Border Patrol Station located in Douglas at 1608 N Kings Hwy and meet with Detective J.C. Hoke. Dispatch had received a call on 02/19/22 at 9:56 pm from Border Patrol informing CCSO of a male found with a "gunshot to neck and chest" in an area known as Skeleton Canyon. BP Agents on the scene confirmed the male being deceased.

Upon arrival, I met with Detective Hoke, and we were escorted to a conference room at the station. We met with investigators from Border Patrol's Office of Inspector General (OIG) and Office of Professional Responsibility (OPR), along with their Critical Incident Team (CIT).

OIG Investigators Crystal Diaz and Roberto Saenz gave a brief overview of the initial information known about the incident at that time. The following, in part, is what I learned.

There were two Border Patrol Agents involved in the incident belonging to the Mounted Horse Unit. Agent Kendrek Staheli and Tristan Tang. Agent Staheli has been with Border Patrol since May 2019 and Agent Tang has been with Border Patrol for 7 years with 1 year with the Border Patrol Mounted Horse Unit.

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They had been dispatched to an area known as Skeleton Canyon located Northeast of Douglas, Arizona toward the border with the State of New Mexico. The Buckeye surveillance cameras in the area had sensor activation indicating potentially 10 individuals traveling north. It was believed they had crossed into the United States from Mexico illegally. The area is well-known for illegal border crossing activity. The terrain in the area is considered mountainous and rough. There are no other camera or surveillance-type systems in this remote area. The Buckeye cameras do not capture audio.

The first camera sensor activation was at approximately 6:00 pm. From the first sensor activation to the point of the incident location is approximately 1.47 miles. Several still photos were presented for viewing by Investigator Diaz.

One photo I viewed showed what appeared to be a male dressed all in camouflage clothing carrying a large black backpack. The 6 remaining photos I viewed were dark but one to two separate individuals similarly dressed can be seen. Heavy vegetation, grass, and trees along with rocky terrain can also be seen in the printed photos.

Agents Staheli and Tang came upon several individuals believed to be a part of the same group with several taken into custody. An altercation between Agent Staheli and a male is believed to have occurred with shots being fired by Agent Staheli causing the death of the unknown male. The unknown male is believed to have entered the United States illegally.

Various Border Patrol Units responded to the scene, including Bravo Unit, BORTAC, and trained paramedic agents. It appeared the unknown male had been shot in the neck and torso area. BP paramedics on scene determined the unknown male to be deceased at "0010 hours" on 02/20/22.

It was reported that Agent Staheli had sustained an injury to a hand from a potential fight with the unknown male. It was unknown the extent of his injuries. No other BP Agents were reported injured. A total of 5 illegal immigrants were detained by Border Patrol Agents believed to be a part of the original group of 10.

The area of the incident is over an hour from any established roadways and then approximately 45 minutes to an hour away from the Douglas BP station. The involved BP Agents were being brought to the Douglas Station along with the immigrants taken into custody.

On 02/20/22 at 3:32 am, BP Agent Tang arrived at the conference room and agreed to discuss the incident. Detective Hoke interviewed Agent Tang with me present during the interview. See Detective Hoke's report or the audio recording for additional or more accurate details of the conversation.

The following, in part, is what I learned:

It was before dark on 02/19/22 when Agent Tang and Staheli were advised by "Talk" about 10 subjects. They responded to the area from coordinates relayed to them. They found signs of footprints. The 10 subjects were approximately 1 mile away from their location. They both got on horseback and took the OBJ trail. They went north from a camera on top of the mountain for about 1/2 mile. They began to hear whispering about 50 yards away. Due to the rough terrain with rocks and unseen rock ledges hidden by the vegetation, they tied up their horses and proceeded on foot. When they got close to where they had heard the noise, they shined a light and brush could be heard breaking. Agent Tang tackled and cuffed one suspected illegal immigrant having to push him to the ground. Agent

Staheli detained another illegal immigrant with another stepping out of the bushes near him giving up. They had 3 detained. They cuffed two together and began to walk. Agent Tang used his "Night Vision Goggles (NVG)" to scan the area and saw another suspected illegal immigrant. Agent Tang had all 3 initially detained illegal immigrants with him when he guided Agent Staheli toward the other one seen with his NVGs. It was dark but it appeared the fourth illegal immigrant Agent Tang had seen with his NVGs was 50 yards downslope from Agent Staheli. When Agent Staheli ran after the illegal immigrant to detain him as well, he could hear him say, "Give me your hands" several times. Agent Tang could hear the illegal immigrant saying something back to Agent Staheli but could not understand what was said. Agent Tang yelled out to Agent Staheli asking, "Are you okay?" and Agent Staheli responded, "Yes". When he began to hear noises leading him to believe they were fighting. He called out to Agent Staheli with no response. Agent Tang left the three already detained illegal immigrants up on a hillside and began to run downhill toward where Agent Staheli was located approximately 100 yards away from him. He then heard Agent Staheli yell out his name, "Tang!" The voice sounded distressed to Agent Tang. They have been partners on the horse-mounted unit for about a year and the tone of Agent Staheli's voice was not normal. Agent Tang then heard "multiple gunshots". Tang yelled out to Agent Staheli, "Are you alright?" and he responded, "Yeah, I'm fine".

When Agent Tang arrived at where Agent Staheli was located, he saw him standing to the side of an unknown male down on the ground. The male was wearing camouflage clothing and Agent Tang believed him to be the illegal immigrant he had seen previously through his NVGs. Agent Tang saw lots of blood. Agent Tang quickly assessed Agent Staheli to ensure he was okay. Agent Tang remembered Agent Staheli saying the unknown illegal immigrant had a rock. He also told Agent Tang, he might have broken his hand and stated it "hurts" multiple times. Agent Staheli seemed pretty shook up to Agent Tang.

After ensuring Agent Staheli was okay, Agent Tang instructed him to stand aside while he focused on rendering emergency medical care to the male on the ground. Agent Tang used a knife to cut away the clothing to assess any wounds. He could see multiple holes in the body. It appeared to him there were injuries to the neck and mouth of the unknown male. The male was lying on his back face up. After his initial assessment of the male, he radioed for assistance. Agent Staheli had wanted to help but he told him to stand to the side. It had been clear to Agent Tang based on his training and experiences the male was deceased.

Agent Tang then focused back to Agent Staheli to ensure he was still okay. He asked Agent Tang to hold onto him, so he hugged him. The three detained "Undocumented Illegal Aliens (UDAs)" were brought from where he had left them down to approximately 30 feet away from where the deceased male was lying. According to Agent Tang, the other 3 would not have been able to see anything because the slope and terrain concealed the body from their view. Agent Tang then instructed Agent Staheli to go retrieve their horses and bring them closer to their location.

Agent Tang said they waited approximately 2 hours for other agents to arrive at their location. He did not talk anymore about the incident with Agent Staheli.

At this time, Agent Tang said he could not recall any further details of what or if Agent Staheli had said anything additional about the incident.

I noted the conclusion of the interview with Agent Tang to be 4:08 am.

At about 4:21 am, Agent Staheli was at the station and in a nearby building. An interview with him would be done on another day, but the collection of evidence was to occur with the assistance of the agents from the Border Patrol Critical Incident Team.

The CIT members who were to collect and photograph the evidence were Agents Stephen Feagley, Andrew Dickison, and Supervisor James Kondrat. Detective Hoke and I witnessed the collection and processing of Agent Staheli's duty gear, outer clothing, and the weapon fired during this incident. The CIT Agents cataloged, photographed, and sealed all the collected evidence with me present. When Agent Staheli's weapon was processed there were three magazines collected. One from the weapon itself and two from a duty belt holder. Agent Staheli did make a voluntary statement that he had made a magazine exchange. The one used when he fired his duty weapon would be found in the duty belt holder. CIT Agent Dickison completed a magazine round count that I witnessed.

The magazine from the Glock 19 duty weapon had 15 rounds with one in the chamber of the weapon. The two magazines from the duty belt holder contained 15 rounds in one and 11 rounds in the other. This led me to believe 4 rounds had been shot from the weapon when used in this incident.

After all the evidence was sealed it was placed in the rear seat of my patrol car and brought to the CCSO Douglas substation. The collected evidence was then entered into Spillman, labeled, and later secured at the CCSO Sierra Vista substation evidence room.

This concluded my involvement in the investigation of this case.

End / JS 1836

Supplement

CCSO

DR# 22-03910

Supplement # 3

Deceased

CSI K Kessler # 1525

INVESTIGATIONS DIVISION

DISTRIBUTION:

CCSO Records, Bisbee

DATE OF ORIGINAL REPORT: 2/19/2022

DATE OF THIS REPORT: 3/2/2022

EVIDENCE:

1525-1 Fingerprint card

1525-2 DNA patch

1525-3 Projectile from right chest

1525-4 Swab of right and left hands

1525-5 Hair pull

1525-6 Right and left nail scrapings

1525-7 Right and left nail clippings

1525-8 Camo backpack

PERSONS MENTIONED IN THIS REPORT:

Sgt. Gjerde

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NARRATIVE:

On 2/21/2022 at approximately 1432 hours Sgt. Gjerde contacted me in reference an autopsy on 2/22/2022 at approximately 1000 hours and if I was available to attend the autopsy. I advised yes.

On 2/22/2022 at approximately 1000 hours I attended the autopsy for the victim in this case.

Photographs were taken during the autopsy. Injury photographs were taken with a ruler. There were four bullet entry holes and one large laceration to the back of the victim's head that were photographed.

I cleared Pima Medical Examiner's Office at approximately 1117 hours and transported all evidence to the Sierra Vista Detective's Evidence Room. At approximately 1147 hours we arrived at the Border Patrol substation in Tucson to get the fingerprint card (1525-1) analyzed by their lab. At approximately 1210 hours I repackaged the fingerprint card. The fingerprint card was in my custody the entire time photographs were being taken.

All evidence was placed into the Sierra Vista Detective's Evidence room at approximately 1530 hours.

All evidence was entered into Spillman and all photographs were downloaded into Spillman.

STATUS: ACT

ATTACHMENTS: None

Report generated by:
CSI K Kessler #1525
CCSO Investigations Division
Date/Time Wed Mar 02 15:40:18 MST 2022

Reviewed by:
Sgt. J. Gjerde A#0422

Supplement

CCSO
DR# 22-03910
NATURE: Officer involved shooting
DETECTIVE: JC Hoke

NARRATIVE: On 02/23/22 approximate time 08:23 hrs I conducted an interview with Kendrek Staheli at the Office of Inspector General, 333 E. Wetmore Rd, Suite 225, Tucson, AZ. Present in the room was Agt. Staheli's attorney, Jim Calle, and CCSO Sgt. Gjerde. Prior to asking any questions Miranda warning was provided to Agt. Staheli in which he said he understood and would answer my questions. The interview was digitally recorded and later uploaded into the Spillman report file and will be transcribed at a later date. The following is a summary of what was discussed and is not verbatim.

I opened the interview by telling Agt. Staheli that I had completed an interview with Agt. Tang, and five UDA's which were apprehended the night of the incident. I told him that although Agt. Tang provided a description of how the

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incident occurred he was only able to describe what he immediately observed and that he was not present when Mr. Marcos was shot and killed by him. I asked Agt. Staheli to explain in as much detail what occurred that night and what he observed, and how he reacted to what he observed.

(side note) I asked Agt. Staheli to first tell me about his training and experience.

- Agt. Staheli said he began his law enforcement career with the St. George Police Department, located in Enterprise, Utah. He said he was a cop for approximately ten months. He said in 2018 he was hired by the United States Border Patrol and by 2019 had completed the USBP Academy. He was stationed to the USBP Douglas Office.
- Agt. Staheli said he joined the horse patrol just under a year ago and successfully completed the horse patrol academy in 2021. In total he said he had approximately three years of experience with USBP and overall experience of four years including his time served with the St. George Police Department.
- Agt. Staheli said on Saturday he and Agt. Tang were assigned to patrol the eastside AOR, (area of responsibility). He said they began their shift at 13:00 hrs but were not actively in the area until 14:00 hrs, looking for sign on Geronimo Trail Rd. He said they were making their way to MP 390 of Geronimo Trail Road, and they began cutting again by the Lazy J Road which is approximate mile marker 22 on GRT. He said at this location they first received information via radio of a group in the area. They had been notified that the buckeye camera sensor had activated. The sensor is the
- Agt. Staheli said they were advised the sensor had indicated a group of ten subjects. He said the sensor hit in the area and they advised dispatch they would proceed to the area from their current location which was quite a ways from He said they had an extended period for arrival, approximately one hour.
- Agt. Staheli said when they arrived they decided it would be better to cut sign on foot rather than remove the horses from the stock trailer. He said Agt. Tang cut for sign at around the inside the canyon. He said although he wasn't with Agt. Tang, he was told by Agt. Tang that he located sign coming out of a dry wash.
- I advised Agt. Staheli that Agt. Tang told me at this location he located carpeted shoes, (carpeted shoes are used to disguise foot sign left on the ground by the wearer of the shoes). Agt. Staheli said he and Agt. Tang had split up and he did not see the carpeted shoes but he knew that to be a common practice used to conceal shoe sign.
- Agt. Staheli said at this time a second sensor, , was activated crossing The sensor indicated ten subjects and those subjects crossed a dry wash and began to hike up a steep hill. By this time it was dark, he said there was no moon light so it was very dark. He said it was now approximately 20:00 hrs or later.
- Agent Staheli said he knew they were closing the distance between themselves and the group. He said he knew this because the sensor that activated was located near their location and since the sensor had just activated that would indicate they recently crossed it so he and Agt. Tang were now closing the distance.

- He said at this time they decided to drive to the OBJ Trail rather than hike to it. Upon arriving they deployed at the OBJ Trail, they unloaded their horses and rode to the trailhead. He said when they reached the saddle they began to cut for sign again. He said at this location the terrain became so rough they had to dismount from their horses. He said cutting for sign was now very difficult. He said they located an area where the group had stopped, maybe to rest.

- He said they pushed on for approximately one quarter of a mile but it was very slow travel because the terrain was so rough. He said he and Agt. Tang decided he would hold the horses while Agt. Tang tracked for sign. The area is quite rocky and sign is difficult to locate in this type of terrain. A short time after doing this, Agt. Tang told him via portable radio he could hear the group.

- Agt. Staheli said at this point he was leading the horses at a location below Agt. Tang, that Agt. Tang was on top of the draw and he was at the bottom of the draw with the horses. He said Agt. Tang had apparently begun to use his night vision goggles (NVG's) because he told him via radio that he could now see them.

-Agt. Staheli then met up with Agt. Tang and he said he believed the group now knew they were being followed by the agents. He said he and Agt. Tang were not attempting to be stealthy, they had their flash lights on, and the horses hooves made loud noises when they walked through the brush. He said they now both observed the group take off running.

- Agt. Staheli believes they were as close as twenty yards to the group when they ran off. He said they could hear them crashing through the trees as they ran, he said Agt. Tang ran downhill, and he ran uphill, both agents pursuing after them. He said while running uphill he passed one subject but as soon as he realized he had ran passed him he turned around and observed the individual was sitting on the ground, he appeared to give up. He said he told him not to move and to remove his shoe laces.

- Agt. Staheli said he now observed two individuals running from him so he focused his attention on one of them and gave chase. He said while running after him they would lose their footing, trip, and fall. He said he was successful with apprehending him and after he had him in custody, (no restraints placed on him) he turned him around and began to escort him back to where the individual was sitting on the ground. He said he intended to cuff them together. While escorting him back Agt. Tang met up with him and he too had an individual in custody. They now had three in custody.

- He said when they met together all three were restrained in handcuffs wrist to wrist. Sgt. Gjerde asked him if he recalled giving voice commands or if he identified himself as a federal agent. He said while chasing these individuals he did tell them he was a federal agent.

- Agt. Staheli said they decided at this point that Agt. Tang would climb up to an elevated area approximately thirty yards away and try to locate more UDA's with his NVG's. He said they could still hear branches breaking from the UDA's running through the thickets.

- He said Agt. Tang had left the UDA's he caught with him so he watched over the three UDA's while Agt. Tang continued to look for more. He said within seconds Agt. Tang told him he located another UDA just below Agt. Staheli. He said they were close enough that they were able to speak to each

other without using the portable radio. He said he told Agt. Tang that he would send the three UDA's with him so this would free him up to go after the one Agt. Tang had eyes on. After doing this he proceeded after the UDA.

- Agt. Staheli said he thought Agt. Tang told him the UDA was laying under a tree so he continued to go to the direction that Agt. Tang directed him to. He said by this time he believes he was about seventy to eighty yards out from Agt. Tang. He said he knew he was close now because he heard the UDA stand up and take off running. He said he ran after him and although it was dark he could see branches swinging.

- He said he then observed the UDA and it appeared the UDA was falling. He believed at this point he could apprehend him so he continued to run to his location. He said when he reached his location, the UDA turned around and through a punch at him with a closed fist.

- I asked Agt. Staheli how close would a person have to be to see someone in front of him, taking into consideration how dark it was and the thickness of brush, and boulders they were in. He said he believed a person could see another person under those condition at a distance of about eight to ten yards.

- Sgt. Gjerde asked him to describe the subject and Agt. Staheli said he had facial hair, he was also shorter than him and appeared to out weigh him. He said the subject was more stocky than he was and was wearing camouflage. He said the camo he was wearing looked like older army style camo, but not the camo type usually worn by UDA guides or mules.

- Agt. Staheli said all the UDA's that he observed wore the same type of camo. He said this is unusual and would indicate to him that this group appeared more like a team which knew the terrain well and have done this before. He said from what he has learned on patrol he has seen that groups like this are more willing to fight in order to get away. He said this type of group generally works for the cartel to move drugs.

- He said the subject threw a right hand punch at Agt. Staheli and his fist hit his shoulder, he said his fist deflected off his shoulder and struck his jaw. He said now seeing he was actively being assaulted he tackled the subject and they landed on the ground.

- He said they both fell to the ground and in doing so the subject landed stomach down and Agt. Staheli landed on top of the subject's back. He said he became very nervous when the subject tucked his arms under his torso. Agt. Staheli did not know if the subject was armed and could possibly reach for a weapon. Agt. Staheli said he told the subject to place his hands behind his back but he failed to comply. He said he tried to pry the subject's arms out from underneath his torso but was unable to and they continued to wrestle.

-He said he eventually got his left arm out but when he did the subject attempted to strike him with his elbow. He said they continued to wrestle and he began to get very worried because he was now beginning to tire. He said the subject was larger than him and could over power him if he didn't get him into custody. He said he also worried about the subject having a weapon hidden inside his waistband and he didn't know if that was what the subject was trying to reach for. Furthermore he was worried that the other UDA's had possibly circled back to him in order to help out the subject. He said if that happened he would be outnumbered.

- He said he needed to do something else that would work so he began delivering

strikes to the side of his face. He said the subject became very upset and tried to buck him off his back. He said the subject was successful with knocking him off his back at which time he scooted forward.

- He said the subject then moved forward, downhill from the location they were at. Agt. Staheli stands up, he said he looks at the subject who has now stopped moving away and instead is leaning down looking, appearing as though he was scanning the ground. The subject then picks up a rock which was off to the left side of his body. He describes the rock as being seven to ten inches long, oval shaped and bigger than a soft ball. He said the subject is approximately six to seven feet away from him and while turning his body he faces Agt. Staheli, rears his arm back in what looks like an attempt to throw the rock at him.

- He said he could see him because he had his head lamp turned on. He said when the subject cocked his hand back he believed he was going to throw it at him, he said he thought the subject was attempting to kill him. He said he then drew his service pistol, pointed it at the subject and fired. He said he fired more than once. He said he fired many rounds but could not recall how many. He said the subject dropped to the ground. He said he holstered his weapon and advised 866, the Douglas station, that he was just involved in a officer involved shooting.

- He said he then heard Agt. Tang yelling for him, asking if he was ok. He said he was ok and he believed Agt. Tang was running to his location because he was soon there. He asked Agt. Tang if he observed what happened and Agt. Tang told him he did not see the incident. Agt. Tang asked him what happened and he told him the subject picked up a big rock and was attempting to throw it at him and before the subject could release the rock he shot him. He said he didn't describe to Agt. Tang in detail what happened.

- He said Agt. Tang then checked the subject, he cut some of his clothing off at which time Agt. Tang observed multiple gun shot wounds. He said the subject was deceased at this time.

- He said he then walked a short distance into the direction where the three UDA's had been left and flashed his light at them in order to direct them to come to him. He said they complied and when they reached him it was decided until help arrived he would watch over the UDA's while Agt. Tang stood near the decedent. He said they waited approximately one an a half hours before help arrived. He said BORTAC and a female agent who is also a certified paramedic were first on scene.

Sgt. Gjerde asked a few questions regarding position and distance from where Agt. Staheli and the subject were when the incident turned fatal. The information they discussed was brief (a summary of what he had said to me). Refer to Sgt. Gjerde's supplemental report.

- After they spoke I asked Agt. Staheli if he recalled saying anything else to Agt. Tang. I advised him Agt. Tang said he, Agt. Staheli, was very emotional. He said he recalled asking Agt. Tang to hold him up, to hug him because he was having a difficult time breathing and needed help standing. I asked him if he recalled saying anything else to the subject prior to the fatal incident other than federal agent, and voice commands to stop resisting. He said he did not, I asked him if he recalled saying, "You are in America motherfucker." Agt. Staheli said he did not make that statement.

- I asked Agt. Staheli if he recalls when he motioned for the three UDA's to come to his location did they possibly see the decedent on the ground. He said they were looking over to the area but could not have seen the decedent. He said

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they were seated about fifty yards from the decedent. He said he had them sit on a rock ledge while they waited for assistance.

- He said while waiting he was standing directly behind them. He said the UDA who was seated in between the other two asked him in English if he had shot the man. He said he told the UDA, "yes", the UDA asked why and he replied, "because he tried to kill me." He said the UDA continued to talk to him and would also speak to the other UDA's. He said the UDA told him he was not going to sleep well tonight, that he was nervous and shaking and that his spirit was going to follow him, that he would haunt you for the rest of your life, you better watch your back.

- Agt. Staheli said in his experience he has found that if a UDA speaks English they have most likely resided in the United States and learned the English language. He said in his experience he has also found that many mules and guides also speak English.

Sgt. Gjerde spoke with Agt. Staheli and they discussed various things with regards to how long he thought it took for backup to arrive, and if when they arrived did backup process the UDA's, and if he knew if the UDA's were allowed to stay together in the same transport vehicle. He said he believed it took a couple of hours to get the UDA's out of the area and he was pretty certain they were transported in the same transport van. Sgt. Gjerde also discussed whether he was right or left handed and if he recalls using both hands to hold his pistol. He said he is a right handed shooter and that he secured the pistol with both hands when he fired.

I asked Agt. Staheli if he was still suffering from his hand injury. He said he suffered a hand and knee injury but was feeling better. Other than requesting Agt. Staheli's medical records from the hospital which treated him, the interview was concluded and he was advised to send me the medical report as soon as possible. As previously noted a copy of the recorded interview can be obtained for a accurate account of what we discussed and the interview will be transcribed for further review.

STATUS: Active case.

Fri Mar 04 14:00:32 MST 2022, Detective JC Hoke 0512

Supplement

On 03/09/2022 I was contacted by BPA Bocharski and advised he had BPA Staheli's medical records as requested. I met with BPA Bocharski and he handed me the medical record documents from BPA Staheli going to the doctor after the shooting incident.

The packet included a U.S. Department of Labor authorization for examination and/or treatment form. A Part B-Attending Physician's report (5 pages), and Douglas Emergency Department patient discharge instructions (6 pages).

The doctor advised the right hand had a contusion (deep bruise). X-ray's were taken and came back normal.

The packet will be entered into evidence.

Thu Mar 10 13:45:39 MST 2022 Sgt. J. Gjerde A#0422

Supplement

05/10/22

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CCSO DR# 22-03910
SUPPLEMENT# 6
NATURE: Homicide
Sergeant John Gjerde A#0422
SPECIAL OPERATIONS - MAJOR CRIMES

DISTRIBUTION:
CCSO Records, Bisbee

DATE OF ORIGINAL REPORT: 02/19/2022
DATE OF THIS REPORT: 3/1/2022

PERSONS MENTIONED:
Detective J.C. Hoke
Detective Spezzano
BPA CIT K. Haller
Sgt. D. Noland
BPA CIT J. Jensen
BPA CIT M. Lourenco
OPR J. Gage
CSI K. Kessler
BPA L. Slate

EVIDENCE:
0422-1 Shell Casing
0422-2 Shell Casing
0422-3 bullet

NARRATIVE:
On 02/19/2022 I was contacted by Sgt. J. Gilbert who advised of a Border Patrol Agent involved shooting northeast of Douglas off of Geronimo Trail Rd (GTR) He advised that he did not have any further information. I contacted the "on call" detective J.C. Hoke and told him there had been a shooting off of GTR at almost the New Mexico state line involving a Border Patrol agent. I asked him to start getting ready to respond and I would call back with more details. I called Detective J. Spezzano and he advised he was available to assist. I told him to respond to the Douglas Border Patrol station and meet with Det. Hoke.

I was advised FBI would not be responding or taking any action in this incident.

GPS coordinates were given in the initial call to SEACOM and I looked up the coordinates. The GPS location showed to be approximately 1 mile north of Geronimo Trail Rd at approximately MM 36 and approximately .84 miles straight line distance west from the New Mexico state line. I have knowledge that the terrain is rugged with steep hills, rock, and brush. With this information I contacted Sgt. D. Noland the CCSO SAR coordinator. He also plotted the coordinates and determined the best approach would be for a helicopter to get us into the scene and help with extraction. Sgt. Noland advised AZDPS Ranger would not be available until after 0800. I confirmed with Det. Hoke that the scene was secured and Border Patrol was holding the scene until we could get there.

On 2/20/2022 I checked on duty at 0500 hours and made contact with Det. Hoke to

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see where the investigation was at. Det. Hoke advised they had collected evidence (agent's clothing, weapon, ammo) with the assistance of BP CIT and they were processing the items to be turned over to CCSO. Det. Hoke advised the CIT team he was working with was being changed out and another team would be assisting at the shooting scene. I contacted Sgt. Noland to ensure we still would have air support to aid in getting us to the scene or at least closer. We had been advised it was an hour and half to two hour hike from the road to get to the shooting scene.

I contacted the Pima County Medical Examiner prior to leaving to the scene to advise of the situation. I spoke with investigator Maryalice Pratt #22 and told her what we knew at this point. I advised the shooting occurred in a rugged area of Cochise County and there would be little to no cell reception. She advised to ensure to collect all property and send it with the body. I was told the autopsy was set for 1000 hours on 2/22/2022 and was assigned PCME case #22-0784.

Det. Hoke advised there were 5 undocumented aliens that had been apprehended around the time of the shooting. Detective Hoke advised plans were already made to start the apprehended subjects interviews at approximately 1630 hrs. on 2/20/2022. He advised the agent who fired his weapon could not be interviewed for at least 72 hours due to BP policy. Det. Hoke advised he did speak with the agent's partner BPA Tang who was on scene when the shooting occurred (see Det. Hoke's report for full details). BPA Tang did not see the shooting as he was approximately 100 yards away when the shooting occurred.

While en-route to MM 25 GTR to meet with Sgt. Noland, I made contact with BP CIT team leader K. Haller. He advised himself and a couple more of his team members were on their way and would meet at MM 25 with the other units. After everyone arrived it was determined to move the staging location further up GTR to an old ranch at approximately MM 28. This is where AZDPS Ranger was advised to land. Once AZDPS Ranger arrived on scene 2 SAR personnel, 3 BP CIT members (K. Haller, J. Jensen, M. Lourenco) and an OPR agent (J. Gage) were air lifted to an LZ approximately 400 yards (straight line) distance from the shooting scene. From the LZ it took approximately 30 minutes of hiking to arrive at the body as the terrain is extremely rocky, brushy, and steep.

BP CIT advised they would be photographing the scene and using a 3-D Laser scanner for a scene diagram. Once I arrived at the scene I was logged into the scene by Asst. SBPA Stricklin at 1140 hours on 2/20/2022. It still took and additional 10 minutes to get down to the body. On approach there was yellow crime scene tape marking off an area around the body. I observed a body on the ground on his back. There was dried blood which had come from the face area. The clothes had been cut off all the way to the top of his boots (hiking boots). I saw what appeared to be a bullet wound on the left side of the lower abdomen and a bullet wound to the cheek/face area. There were four heart monitor leads on the chest and lower abdomen as a Border Patrol paramedic had responded after learning of the shooting. Shortly after arriving at the scene other units were arriving on a different trail to the southeast of where we were. They advised there was a single backpack on the trail which may belong to the deceased. We located the backpack on the trail southeast of the location. It was photographed and collected as it was unknown if the backpack belonged to the deceased or someone else.

Once the scene was photographed units started trying to locate evidence to be marked using evidence markers. To the north of the body there were several small blood spots located on rocks. There was a piece of meat/bone or tooth

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located near the blood droplets.

A shell casing was located by OPR Agent J. Gage and was marked using evidence marker #8 at approximately 1300 hours. A second shell casing was located at approximately 1305 hours by CIT supervisor Agent K. Haller and was marked with evidence marker #9. At approximately 1400 hours after placing the body in a body bag I started to move clothing that was still on the ground. I observed a bullet that appeared to have been fired due to the rifling marks and what appeared to be dried blood on it. The bullet was photographed and marked as evidence marker #10.

After all the marked evidence was collected the body bag was sealed. AZDPS Ranger dropped a net so the body could be flown to the original staging location on GTR. All units on scene checked the area to ensure nothing was left behind and we proceeded back to the LZ. AZDPS Ranger flew everyone out who had been flown to the scene in the morning. Once back at the staging location Sgt. Noland advised Espinoza's funeral home had been contacted and would meet us somewhere on GTR to take custody of the body. The body was loaded into a search and rescue vehicle and transported to approximately MM 5 GTR where we met with Espinoza's funeral home.

I proceeded to the Sierra Vista detective's office and placed the 2 shell casings and the bullet into temporary storage at approximately 1800 hours on 2/20/2022.

On 2/21/2022 I received a telephone call from the Pima County Medical Examiner's Office. They were wanting to know the time of death and if I had any other details. I told them I would find out time of death and let them know. I was advised that "shots fired" had been aired over BP radio at 2131 hours on 2/19/2022. I was advised by Det. Hoke, BPA Tang stated after he heard the shots he went down the hill to find Staheli. Upon arrival he saw the male subject on the ground. BPA Tang started to cut clothes off the subject to start life saving measures, however, the male subject was deceased so he stopped cutting the clothes. I was also advised, BPA Tang had called out over the radio "unconscious not breathing". Due to this statement the time of death was marked as 2131 hours at the time of the radio calls. BPA L. Slate had also pronounced the time of death over the radio at 1210 hours on 2/20/2022. BPA Slate had responded to the scene from the Douglas area after hearing the shot's fired call. BPA Slate is a paramedic and the one who had placed the leads on the deceased body. She had arrived on scene at approximately 2317 hours on 2/19/2022.

On 2/22/2022 I attended the autopsy at the Pima County Medical Examiner's Office with CCSO CSI K. Kessler. There were several members of CIT and OPR also present. I was in the observation room, see CSI Kessler's report for details on the autopsy. After the autopsy was completed the doctor came in and briefly explained there were 4 gunshot wounds. He stated they all were from left to right. There was one in the lower abdomen region, left ribcage area, and two in the face/cheek area. For full details see the ME report.

CSI Kessler and I took a fingerprint card from the deceased to the USBP Tucson sector headquarters to have them run the prints in hopes of getting a positive identification. On 2/23/2022 I was advised the prints matched the ID found on the deceased as Carmelo Cruz Marcos from Mexico with a date of birth of 07/16/1989.

On 2/23/2022 Detective Hoke and I met with BPA Kendrek Staheli and his attorney

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Jim Calle at the OIG office in Tucson Arizona. BPA Staheli was interviewed as he was the agent who shot Cruz Marcos. See the transcription and Detective Hoke's report for full details on the interview.

I had been provided a copy of the photographs from the scene and the 3-D scene diagram while at the autopsy. On 2/25/2022 I reviewed the photographs and 3D scan. On 2/28/2022 I met with Detective Hoke at the Sierra Vista Detective Office to go over photo's and the scene diagram in order to put the incident in perspective from the interviews and what the scene looked like. These items will be placed into evidence.

On 3/2/2022 I received reports from BP CIT agents involved in this incident that will be attached to report.

STATUS:

Active Investigation

Report generated by:
Sergeant John Gjerde A#0422
CCSO Investigations Division

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Supplement

CCSO
DR# 22-03910
NATURE: IOS/Homicide
DETECTIVE: JC Hoke

NARRATIVE: On 02/19/2022 United States Border Patrol Agent, Kendrek Staheli and Tristan Tang were assigned to work east of Douglas Az , near Geronimo Trail Road. While on duty they responded to sensors which had been activated, they were advised of this by USBP Dispatchers also referred as the TOC, (tactical operations center). During the course of their duty (which is to apprehend illegal aliens and contraband which enter into the US by way of the Mexican International Border) they encountered the group which they believe the TOC had initially alerted them to.

The first group of UDA's they apprehended consisted of three male subjects, two of those individuals resisted arrest to some degree while being taken into custody but after a brief struggle were safely secured, one was taken into custody by Agt. Tang and two were taken into custody by Agt. Staheli. A fourth subject was observed attempting to hide under a bush and Agt. Staheli attempted to apprehend him.

While attempting to take him into custody he became combative, first punching at Agt. Staheli with a closed fist and on the second incident attempting to strike Agt. Staheli upon his head with an elbow strike. Agt. Staheli reported he was left with no choice but to defend himself and subsequently shoot the subject with his USBP issued duty firearm after the subject grabbed a large

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rock, reared back in a throwing stance directed at Agt. Staheli and before completing his throw was shot and killed by Agt. Staheli. Agt. Staheli stated in his interview Carmelo was within seven to ten yards from him when he attempted to throw the rock at him. Agent Staheli stated he was protecting himself from being killed.

Upon review of statements provided to me by, Agt. Staheli, and Agt. Tang I observed both agents' description as to what occurred appeared to be consistent with each other. According to those statements they advised they made it known to the group they were attempting to take them into custody that they were federal agents and to stop. They said three out of the four were aggressive and had to be forcefully taken into custody.

Agt. Staheli describes three times which the subject who was later identified as Carmelo Cruz-Marcos is physically combative, first punching Agt. Staheli when Agt. Staheli had first caught him, then when Carmelo breaks free and is caught a second time and attempts to elbow strike Agt. Staheli upon the head. Then a third time after getting free again Carmelo locates a large rock on the ground and attempts to throw it at Agt. Staheli. According to Agt. Staheli Carmelo had not attempted to keep running away and decided to stop within a few yards from him and continue to assault him with the rock. It would appear Carmelo could have kept running away but instead chose to stop and assault Agt. Staheli again. Agt. Staheli said he feared for his life, and he defended himself.

Five illegal aliens were apprehended and all five were believed to be in the original group which they were initially tracking. All five to include Carmelo wore the same camo print clothing, military style. All five were later interviewed as to their involvement in this case and of the five only two statements were varied slightly. Two subjects which were identified as being brothers, (Carlos Juan Torres-Peralta, and Irving Torres-Peralta) stated they heard Agt. Staheli make the comment, " I will shoot you," and "You're in America mother fucker." None of their companions heard those statements.

Sgt. Gjerde and the USBP Critical Incident Team conducted a follow up investigation on the morning of 02/20/22 and discovered Carmelo had been shot four times. Also located inside Carmelo's pant pocket was an identification card which identified him as Carmelo Cruz-Marcos, the id was located by the OME at the time of the autopsy. By comparing the ID with case prints obtained by the Pima County Medical Examiners Office Sgt. Gjerde was able to positively identify the decedent as Carmelo Cruz-Marcos.

Further investigation on scene revealed numerous rocks on the ground, the rocks ranged in size from small to large, a few inches in size to numerous inches in size and certainly capable of causing injury or death to a person if struck by one. Although the exact rock which Agt. Staheli described as being used by Carmelo was not recovered many rocks were noted in the area and photographs of the scene were taken which clearly show the rocks.

In comparing the angle in which Carmelo was shot with regards to the location his body was located we observed trajectory of the rounds were fired in a downward angle by Agt. Staheli and their entry and trajectory of the rounds were consistent with the angle Carmelo would have been positioned in when the round struck his body.

Based off of evidence at the scene, trajectory and angle of shots fired into Carmelo's body, and statements taken from the agents and witnesses it appears

05/10/22

Carmelo was the aggressor in this incident. It appears his actions subsequently led Sgt. Staheli to protect himself and subsequently resulted in Carmelo's death.

CONCLUSION: The case file will be forwarded to the Cochise County Attorney's Office for review.

STATUS: Pending review by CAO and determination of officer involved shooting resulting in the death of Carmelo Cruz-Marcos.

Wed Mar 16 13:58:13 MST 2022, Detective JC Hoke #0512

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