State of North Carolina
General Court of Justice
Twenty-Sixth Prosecutorial District
Mecklenburg County

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April 2, 2018

Chief Kerr Putney
Charlotte-Mecklenburg Police Department
601 East Trade Street, 3rd floor
Charlotte, NC 28202

Re: Jonathan Bennett Death Investigation

Dear Chief Putney:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Jonathan Bennett on January 11, 2018. The case was investigated under complaint number 20180111224601. The purpose of this review was to examine whether the actions of Probation Officer Dwain Johnson, Probation Officer Jason Dzierzynski, CMPD Officer Jeffrey Zederbaum, and CMPD Officer Jared Decker were unlawful when they shot and killed the decedent.

Jonathan Bennett, the suspect in the murder of his girlfriend, Brittany White, occurring earlier in the day at 4112 Carlyle Drive in Charlotte, arrived alone at the Law Enforcement Center (LEC) driving a white Ford Expedition. Bennett exited the SUV and, while walking in the direction of the main entrance of the LEC, almost immediately opened fire upon officers congregated in the parking lot, striking Officer C. Shue in the upper left thigh. Probation Officers Johnson and Dzierzynski and CMPD Officers Zederbaum and Decker returned fire, striking Bennett. Body-worn camera (BWC) footage shows the gunfire exchange lasted approximately 6 to 10 seconds.[1] Bennett was pronounced deceased at Carolinas Medical Center at 11:15 p.m. The officers involved were unaware at the time of the shooting that Bennett was the suspect in the earlier murder investigation.

As you know, this letter specifically does not address issues relating to tactics, or whether officers followed correct police procedures or CMPD Directives.

I personally responded to the scene of this incident and monitored the investigation along with two senior Assistant District Attorneys (ADAs). I reviewed the investigative file as

[1] After the release of this report, my office will petition the Court for the release of the relevant body-worn camera footage.

provided by CMPD. Finally, consistent with the District Attorney's Office Officer-Involved Shooting Protocol, this case was presented to the District Attorney's Homicide Team, which is comprised of the office's most experienced prosecutors.

A. The role of the District Attorney under North Carolina law

The District Attorney (DA) for the 26th Prosecutorial District is a state official and, as such, does not answer to city or county governments within the prosecutorial district. The District Attorney is the chief law enforcement official of the 26th Judicial District, the boundaries of which are the same as the County of Mecklenburg. The District Attorney has no administrative authority or control over the personnel of CMPD or other police agencies within the jurisdiction. That authority and control resides with each city or county government.

Pursuant to North Carolina statute, one of the District Attorney's obligations is to advise law enforcement agencies within the prosecutorial district. The DA does not arrest people or charge people with crimes. When the police charge a person with a crime, the DA decides whether or not to prosecute the charged crime. Generally, the DA does not review police decisions not to charge an individual with a crime. However, in officer-involved shooting cases, the DA reviews the complete investigative file of the investigating agency. The DA then decides whether he agrees or disagrees with the charging decision made by the police. If the DA concludes that uncharged conduct should be prosecuted, the case will be submitted to a Grand Jury.

If no criminal charges are filed, that does not mean the District Attorney's Office believes the matter was in all respects handled appropriately from an administrative or tactical viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt unanimously to a jury. This is the limit of the DA's statutory authority in these matters. The fact that a shooting may be controversial does not mean that criminal prosecution is warranted. Even if the District Attorney believes a shooting was avoidable or an officer did not follow expected procedures or norms, this does not necessarily amount to a violation of criminal law. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The District Attorney has no administrative or civil authority in these matters. Those remedies are primarily in the purview of city and county governments, police departments and private civil attorneys.

B. Legal standards

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to "self-defense." A police officer does not lose the right to self-defense by virtue of becoming a police officer. Officers are entitled to the same protections of the law as every other individual. An imminent threat to the life of a police officer entitles the officer to respond in such a way as to stop that threat.

Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in State v. Norris, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appeared to a person that it was necessary to kill in order

to save himself or another from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. Id. at 530.

C. Use of deadly force by a law enforcement officer

The same legal standards apply to law enforcement officers and private citizens alike. However, officers fulfilling their sworn duty to enforce the laws of this State are often placed in situations in which they are required to confront rather than avoid potentially dangerous people and situations.

The United States Supreme Court stated, "[t]he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." Graham v. Connor, 490 U.S. 386, 396 (1989). The Court further explained that "[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." Id. at 396–97. A situation in which an officer is confronting an armed person with uncertain motives is by definition dangerous, and such a circumstance will almost always be tense, uncertain and rapidly evolving. In these circumstances, we are not deciding whether the officer's belief in the need to use deadly force was correct but only whether his belief in the necessity of such force was reasonable.

In conducting a legal analysis, this office must take its guidance from the law, and a decision must not be based upon public sentiment or outcry. The obligation of a District Attorney is clear; he must simply apply the law to the known facts.

What the law demands is an evaluation of the reasonableness of the officer's decision at the moment he fired the shot. The Supreme Court of the United States has provided guidance on what is objectively reasonable and how such an analysis should be conducted. That guidance indicates that it is inappropriate to employ "the 20/20 vision of hindsight," and an analysis must make "allowance for the fact that police officers are often forced to make split-second judgments." *See* Graham v. Connor, 490 U.S. at 396.

D. The officer-involved shooting of Jonathan Bennett

On the evening of January 11, 2018, several Probation and CMPD officers were conducting probation compliance checks at various locations in Charlotte. Officers participating in the checks included:

- Probation Officer Dwain Johnson
- Probation Officer Jason Dzierzynski
- CMPD Officer Jared Decker
- CMPD Officer Jeffrey Zederbaum
- Probation Officer M. Romero
- Probation Officer J. Baker
- CMPD Officer C. Shue
- CMPD Detective S. Strayer
- CMPD Officer M. Epolito

- CMPD Officer J. Burch
- CMPD Officer P. Banham
- CMPD Detective D. Federowicz
- CMPD Detective S. Adcox

At approximately 10:46 p.m., these officers were in the process of gathering in the parking lot of the LEC for a briefing regarding the last Probation compliance check of the evening. A review of the interviews of these officers, as well as relevant BWC footage, reveals that all of these officers – with the exception of Detectives Adcox and Federowicz – were in the LEC parking lot at the time of the shooting. A summary of each witness' account follows.

Probation Officer Dwain Johnson

Probation Officer Johnson was interviewed on January 17, 2018. Probation Officer Johnson stated that he and his passenger, Probation Officer Romero, pulled into the LEC through the Davidson Street entrance. Officer Johnson parked their white 2014 Chevrolet Impala in the fourth spot to the right of the LEC parking deck main entrance.[2] Officer Baker followed Officer Johnson into the parking deck. Officer Baker was, in turn, followed by a white SUV. Officer Baker parked in the second spot to the right of the parking deck entrance. As Officer Johnson, who was wearing an external vest with Probation markings, started to get out of his car, he saw the white SUV pull into the first parking spot to the right of the deck entrance, next to Officer Baker's car. The SUV pulled in very close to Officer Baker's car, backed up, and pulled back into the spot. Officer Johnson stated that, as he was standing between the trunk of his car and Officer Baker's car waiting on Officer Baker, he heard a shot. At that point, Officer Johnson noticed Bennett holding a silver firearm, with arms extended, firing at a group of 6 to 10 officers who were congregated farther down the LEC parking lot. Officer Johnson stated that he believed there to be an imminent danger that Bennett would kill him or someone else, and he returned fire in the direction of Bennett. Officer Johnson stated that he stopped firing when Bennett fell, and Officer Johnson then ejected the magazine clip from his firearm and inserted another magazine.[3] Officer Johnson also reported that when Bennett hit the ground, he heard another officer say, "Stop firing." Officer Johnson could not remember how many rounds he fired.[4] He recalled hearing other shots as well, but as he was focused on Bennett, he could not give any detail on who fired those shots. He reported that he then checked the white SUV next to Officer Baker's car for any other individuals and, finding none, stayed by Bennett's vehicle as CMPD officers handcuffed Bennett. Officer Johnson reported that Probation officers do not wear body-worn cameras.

Probation Officer Jason Dzierzynski

Probation Officer Dzierzynski was interviewed on January 17, 2018. Dzierzynski stated he was riding with Probation Officer Baker in a silver GMC SUV. Officer Baker pulled their

[2] All directional labels in this report with regard to the positioning of vehicles will be from the perspective of one who is standing at the main entrance of the LEC looking toward the main entrance of the LEC parking deck.
[3] Officer Johnson noted that his first magazine was not yet empty when he ejected it.
[4] As will be discussed later in this report, CMPD recovered 11 spent casings fired from Officer Johnson's gun.

vehicle into the second parking spot. Officer Johnson pulled into the fourth parking spot. CMPD officers who were also participating in the probation operation had already arrived and were parked farther down the parking lot. Officer Dzierzynski stated, after parking, he began walking toward the CMPD officers and, as he got to the back of Officer Johnson's car, he heard a gunshot from behind him. Officer Dzierzynski turned and saw Bennett, with his right arm extended toward the CMPD officers. Officer Dzierzynski stated he saw two to three muzzle flashes from the gun in Bennett's hand and that it was apparent Bennett was deliberately shooting at the rest of Officer Dzierzynski's team. Officer Dzierzynski said he believed his team to be in imminent danger and drew his gun, firing until he determined the threat was over. Officer Dzierzynski did not recall how many times he fired his weapon.[5] After the shooting had ended, Officer Dzierzynski provided coverage on Bennett while CMPD officers handcuffed him and then assisted Probation Officers Baker and Johnson in determining whether there were any other subjects located in Bennett's vehicle. Officer Dzierzynski stated he did not have time to give Bennett any commands as Bennett was already shooting by the time Officer Dzierzynski saw him. Officer Dzierzynski did not personally see which other officers fired weapons. He also confirmed Probation officers do not wear body-worn cameras.

Probation Officer M. Romero

Probation Officer Romero was interviewed the morning of January 12, 2018. Officer Romero stated he was riding with Probation Officer Johnson, and the two of them parked next to another Probation officer. Romero stated he got out of the car and was between the parking deck and the headquarters building. He had been in the parking lot about 10 to 20 seconds and was about to start walking toward the CMPD officers when he heard gunfire coming from the Davidson Street side of the parking lot. He stated that he then heard gunfire coming from officers who were standing to his left, which would be the Alexander Street side of the parking lot. He observed Bennett "side-stepping" toward the LEC while facing the CMPD officers. He recalled Bennett shot first, and he heard at least three shots come from the area to which Bennett had side-stepped. Officer Romero recounted the events happened quickly, and he did not personally see Bennett with a gun in his hand or hear anyone say anything before the shooting started. He personally saw Probation Officer Johnson firing his weapon but heard other officers firing as well. After the shooting ended, Officer Romero observed Bennett on the ground with a firearm next to him. He stated he remembers the slide of Bennett's firearm being locked to the rear, which indicates the magazine in the weapon had been emptied. Officer Romero stated he did not fire his weapon.

Probation Officer J. Baker

Probation Officer J. Baker was interviewed the morning of January 12, 2018. Officer Baker stated he drove his GMC Terrain SUV into the parking lot with Officer Dzierzynski in the passenger seat. When Officers Baker and Dzierzynski arrived, Officer Baker observed a white Expedition that was following him very closely pull in behind him so close that he thought the Expedition may have hit his vehicle. The white Expedition then realigned and parked beside him. Officer Baker stated he observed a single male occupant in the vehicle. As Officer Baker sat in

[5] As will be discussed later in this report, CMPD recovered 12 spent casings fired from Officer Dzierzynski's gun.

the driver's seat with one foot out of the door, he saw the male get out and start toward the rear of the Expedition at which point Baker lost sight of him. After about a second, Officer Baker heard multiple gunshots and exited his vehicle for cover. He saw the male standing 8 to 10 feet away from him. Officer Baker drew his weapon and heard a second volley of shots. Officer Baker stated he saw Bennett fall and saw a gun drop out of what Officer Baker believes was Bennett's right hand as he was falling. After the shots stopped, Officer Baker heard Officer Shue say she had been hit, and he proceeded to check to make sure there were no other subjects in the Expedition. Officer Baker stated he never personally saw anyone shoot a gun; he only heard the gunshots. In his initial interview on January 12, 2018, Officer Baker stated he did not fire his weapon during the encounter. On January 17, 2018, Officer Baker amended his statement to say that he could not be sure whether or not he fired his weapon. As will be discussed later in this report, CMPD did not recover any spent casings fired from Officer Baker's weapon.

CMPD Officer Jared Decker

CMPD Officer Jared Decker was interviewed on January 13, 2018. Officer Decker stated he was assisting Probation with an operation and was in the middle of the LEC parking lot walking toward Officers Shue and Burch and the Probation officers. Officer Decker stated that while in the middle of the parking lot, he heard several pistol shots in rapid succession. Officer Decker stated that they were very loud, very close, and that he had no cover. Officer Decker said he instinctively rotated in the direction of the shots and drew his weapon. Officer Decker saw Officer Zederbaum and Probation officers firing their weapons. He traced their aim and saw Bennett walking toward the front entrance of the LEC. Officer Decker stated he saw a firearm in what he believed to be Bennett's right hand being held on the left side of his person. Officer Decker stated he could see Bennett was pointing the gun in his direction. Bennett's hands looked as if they were handcuffed and Bennett was scrunched over. Officer Decker opined that Bennett may have been in the process of being shot at this point. Officer Decker described Bennett's firearm as having a silver slide and black bottom. Officer Decker stated he then returned fire until he believed the threat had been eliminated. Officer Decker estimated he fired 4 to 5 times.[6] After the gunfire stopped, Officer Decker approached Bennett with Officers Zederbaum, Banham, and Strayer. Officer Decker believes he turned on his BWC as he was approaching Bennett.[7] Officer Decker stepped on Bennett's firearm while Officers Zederbaum, Banham, and Strayer handcuffed Bennett and then kicked the firearm 2 to 3 feet away from Bennett. At this point, Decker stated that he heard Officer Shue screaming that she had been hit, and he retrieved a first aid kit to provide medical assistance to Officer Shue. Officer Decker then retrieved his patrol vehicle and took Officer Shue to the hospital.

CMPD Officer Jeffrey Zederbaum

CMPD Officer Jeffrey Zederbaum was interviewed on January 13, 2018. Officer Zederbaum stated he was participating in the Probation operation. He had been in the parking lot approximately 5 to 10 minutes, and he and other officers were standing in the parking lot when he heard 4 to 5 shots fired in rapid succession. Officer Zederbaum could not recall exactly which

[6] As will be discussed later in this report, CMPD recovered 7 spent casings fired from Officer Decker's gun.
[7] CMPD BWC buffers 30 seconds of video but no audio. When an officer switches on his BWC, the 30 seconds of video prior to the BWC being switched on is saved. Audio is only saved from the moment the BWC is switched on.

direction he had been facing when he first heard the shots, but he recalled the shots were close and sounded like they were coming from the direction of Davidson Street. Officer Zederbaum stated he turned and saw what he believed were two Probation officers in a shooting stance, engaging a subject. Officer Zederbaum stated he observed a muzzle flash from the middle of the parking lot. Bennett was walking toward the LEC, turned to face the officers' direction, and had his hand out as if he were firing a weapon. Officer Zederbaum described Bennett's orientation as if someone were turning to fire shots while still trying to get away and not looking. Officer Zederbaum thought Bennett had shot at the Probation officers and was running to the LEC. Officer Zederbaum said he perceived Bennett to be an imminent threat and fired two shots at Bennett and saw him fall to the ground. At that point, he could still hear shots, Bennett was still moving, and he could not tell whether Bennett dropped the gun, so Officer Zederbaum fired two more shots.[8] Officer Zederbaum believes he was walking toward Bennett as he fired. Once the shooting stopped, Officer Zederbaum approached Bennett to handcuff him. Officer Zederbaum reported Bennett was laying on his stomach and his hands were underneath him. Officer Zederbaum handcuffed Bennett's right hand, then left hand. When Officer Zederbaum pulled Bennett's left hand out, he saw a firearm lying next to Bennett's left side. Officer Zederbaum described the firearm as a small semi-automatic, compact or subcompact, with a gray or silver slide and a regular handle. At this point, Officer Zederbaum recalled activating his BWC and then either heard Officer Shue screaming or heard someone yell that Officer Shue had been hit. Bennett was rolled to his right side, and Officer Zederbaum told Officers Decker and Banham to tend to Officer Shue. Officer Decker put his foot on Bennett's weapon. Officer Zederbaum then broadcast over the radio that shots had been fired. Officer Zederbaum recalled that shortly after his radio broadcast, officers who had been in the LEC rotunda came outside, and one of them again moved the gun away from the subject with his foot. Detective Strayer then rendered aid to Bennett. Officer Zederbaum stated he had not seen Bennett in the parking lot prior to hearing the first shots and that he first became aware of Bennett when the flash drew his attention. He did not know how Bennett arrived in the parking lot.

CMPD Officer C. Shue

Officer C. Shue was interviewed on January 16, 2018, while recovering from a gunshot wound to the upper left thigh sustained in this incident. Officer Shue stated she was assisting Probation with an operation and was waiting in the parking lot of the LEC. Officer Shue said she and other officers were standing around the back of a car talking and that she had been there approximately 5 to 10 minutes before the shooting occurred. She was facing Alexander Street with her back to Davidson Street. Officer Shue stated she and other officers were talking, and she felt an impact on her leg before hearing any shots. After feeling the impact, she heard approximately 3 shots and then realized she might have just been shot.[9] Officer Shue then turned and saw someone running between vehicles and assumed that it was the person who had shot her. She thought she and the other officers were being flanked, so she ran toward the bushes for concealment, drawing her firearm while she ran. Once at the bushes, Officer Shue laid down and pointed her firearm at the person she had seen running, noticed the person was wearing a Probation tactical vest and realized the person she had seen running was a Probation officer. Officer Shue stated she then saw other officers with guns drawn and pointed toward the threat.

[8] As will be discussed later in this report, CMPD recovered 4 spent casings fired from Officer Zederbaum's gun.
[9] Officer Shue stated she did not initially realize the sounds were gunshots and could not pinpoint where they were coming from due to the echo between the LEC and the parking deck.

She tracked where they were aiming and turned in time to see Bennett fall, but she did not see Bennett shoot or see his gun. Once Bennett was on the ground, she began yelling out to other officers that she had been hit. Officers rendered first aid and took her to the hospital. Officer Shue did not see Bennett in the lot prior to the shooting and never had any interaction with him. Officer Shue stated she activated her BWC while she was lying in the bushes.

CMPD Detective S. Strayer

Detective Strayer was interviewed the morning of January 12, 2018. Detective Strayer stated he was participating in the Probation operation and that he and other officers were meeting at the LEC. He said he was walking to his car when he heard gunfire. Detective Strayer stated he could not determine where the gunfire was coming from and initially thought they were being attacked from above because of the echo. Detective Strayer looked up, grabbed his weapon, and ducked behind a car. He did not fire his weapon. He then saw other officers moving toward something, and he followed their movement to where he could see Bennett on the ground. Detective Strayer observed a silver and black semi-automatic pistol lying on the left side of Bennett. Detective Strayer did not actually see the shooting.[10] Detective Strayer assisted in handcuffing Bennett and then rendered aid to Officer Shue, before assisting her into a vehicle to be transported to the hospital. Detective Strayer then rendered aid to Bennett, including applying pressure to injuries, affixing a tourniquet to Bennett's right leg, and applying chest seals to gunshot wounds. The handcuffs were then removed from Bennett so that Medic could provide aid. While rendering aid, Detective Strayer recognized the subject's face as the suspect from the homicide earlier in the day. After the fact, he also recognized the white Expedition as the suspect vehicle in the earlier homicide. Detective Strayer did not hear Bennett say anything and does not recall other officers saying anything prior to the shooting. Detective Strayer stated all CMPD officers were wearing clothing that identified them as police officers and the Probation officers were wearing their Probation vests. Detective Strayer recalled he did not have any interaction with Bennett prior to the shooting and did not see Bennett's Expedition pull into the parking lot.

CMPD Officer M. Epolito

Officer Epolito was interviewed the morning of January 12, 2018. Officer Epolito stated he and other officers were meeting in the LEC parking lot for the Probation operation. Officer Epolito recalled he and other officers were standing in a circle around the back of the cars talking. Officer Shue was standing next to him. Officer Epolito heard a couple of gunshots and took cover. He heard additional rounds being fired, but he could not recall how many. At the time, Officer Epolito believed there were multiple people involved in an ambush on law enforcement officers, but he did not personally observe anyone firing a weapon. Officer Epolito stated he looked out from cover and saw officers standing in the middle of the parking lot and Bennett lying on the ground. Bennett was located on the ground in between the parking deck and the LEC. Officer Epolito then heard Officer Shue calling out, and he went to her to provide aid. Officer Epolito was not aware of how Officer Shue ended up across the parking lot in the bushes. Officer Epolito stated he and Officers Banham and Decker took Officer Shue to the hospital. Officer Epolito said he did not see Bennett arrive at the LEC, and the first time he saw Bennett

[10] Detective Strayer stated that he did not see the shooting but heard the gunfire. Detective Strayer said he assumed Bennett shot first, but stated he did not have personal knowledge of that fact.

was when he saw him on the ground in the parking lot. Officer Epolito did not fire his weapon during the incident.

CMPD Officer J. Burch

Officer Burch was interviewed on the morning of January 12, 2018. Officer Burch stated he was participating in the Probation operation and was standing in the parking lot between the parking garage and the LEC. Officer Burch stated that he heard several shots but could not determine how many guns were firing or where the shots were coming from due to the echo between the buildings. Officer Burch stated that when he heard the shots, he took cover behind a vehicle and drew his weapon. As he approached the driver's side of the vehicle, he could see officers advancing toward Bennett on the ground. Officer Burch did not fire his weapon. Officer Burch stated that he observed a firearm on the ground to the right of Bennett and heard Officer Zederbaum announce that there was a gun on the ground. Officer Burch stated that he heard Officer Shue yell out something to the effect of "I'm hit," and saw her lying in the bushes. He approached Officer Shue and activated his BWC once he reached her. Officer Burch provided aid to Officer Shue and assisted in placing her into the vehicle to be taken to the hospital. Officer Burch then stood by with Officer Zederbaum and the gun. Officer Burch stated that he did not recall seeing Bennett in the parking lot prior to the shooting.

CMPD Officer P. Banham

Officer Banham was interviewed on the morning of January 12, 2018. Officer Banham stated he was assisting with the Probation operation and that he and other officers were meeting in the LEC parking lot. Officer Decker parked their vehicle in the officer transport area next to the LEC prisoner entrance. Officers Banham and Decker exited their patrol car and started walking toward the other officers who were gathered across the lot closer to the parking deck. Officer Banham stated that as they walked, he heard gunfire, initially believing it was coming from the parking deck. He saw a muzzle flash coming from the area of the Probation officers and then saw Bennett fall in the parking lot. Officer Banham recalled he and Officer Decker approached Bennett and he saw a gun partially under Bennett where he had fallen. Officer Banham assisted in handcuffing Bennett. Officer Banham stated someone moved the gun away from Bennett with their foot. He then helped Officer Shue in their car and drove Officer Shue and the other officers to the hospital.

CMPD Detective D. Federowicz

Detective Federowicz was interviewed on the morning of January 12, 2018. Detective Federowicz stated he was participating in the Probation operation and was meeting up with the other participants at the LEC. Once arriving at the LEC, Detectives Federowicz and Adcox went inside. Detective Federowicz recalled that as he was walking back out of the LEC, he heard a sound "like someone was closing a door real quick." Detective Federowicz did not recognize the sounds as gunshots at that time. Detective Federowicz walked out of the door and saw Bennett laying on his right side on the ground and saw Officer Zederbaum moving toward Bennett. Detective Federowicz saw a silver semi-automatic handgun lying next to Bennett whom he recognized as the suspect in the earlier homicide. Detective Federowicz said the gun did not look like the type of gun CMPD or Probation officers carry. Detective Federowicz saw officers

tending to both Officer Shue and Bennett, and Detective Federowicz retrieved medical supplies for Detective Strayer. Detective Federowicz stated he did not discharge his firearm and did not personally see anyone else discharge a firearm during the incident.

CMPD Detective S. Adcox

Detective Adcox was in the LEC at the time of the shooting. Detective Federowicz radioed for Detective Adcox to come outside quickly. Detective Adcox exited the LEC into the parking lot and saw Bennett on the ground. Detective Adcox saw Detective Strayer applying a tourniquet to Bennett's leg. Detective Adcox did not witness the shooting or personally render aid to any involved.

E. Video evidence

Body-worn camera footage capturing the incident was obtained from several officers present on scene, including Officers Banham, Burch, Decker, Shue, and Zederbaum. Officer Banham's BWC illustrates the positions of Bennett in relation to a number of the officers involved. Officer Zederbaum's BWC captured Bennett appearing from the driver's side of the Ford Expedition, raising his right arm, a muzzle flash from the first gunshot, Bennett continuing in motion, and the muzzle flash from a second gunshot.

F. Forensic evidence

Autopsy report

A senior ADA spoke with the Medical Examiner about the injuries suffered by the decedent. The Medical Examiner observed a total of 16 gunshot wounds to the decedent, a number of which could be reentry wounds. Because Bennett was fully clothed at the time of the shooting, the Medical Examiner could only give range estimates for two of the gunshot wounds. The Medical Examiner classified both of those as distant range gunshot wounds, meaning that they were fired from a distance of greater than 2 to 3 feet. Five projectiles and one projectile fragment were recovered from the decedent. [11]

Results of the examination revealed the presence of ethanol at 40 mg/dL (equating to a blood alcohol concentration of .04) and the recent use of both marijuana and cocaine.

A copy of the Medical Examiner's report is attached as Exhibit 1.

Laboratory Analysis

Decedent's firearm

Crime Scene Investigators recovered a 9mm Luger caliber Kahr model CW9 semiautomatic pistol from the area of the parking lot where Bennett fell. The slide was locked back and the magazine was empty.

Crime Scene Investigators collected two 9mm Luger caliber JAG discharged cartridge cases from the area of the parking lot where Bennett was located. In addition, investigators

[11] The remaining gunshot wounds had corresponding exit wounds for the projectiles.

recovered a 9mm Luger caliber Blazer discharged cartridge case from inside the White Ford Expedition. Firearms experts determined these three casings were all fired in the 9mm Luger caliber Kahr model CW9 semiautomatic pistol located next to where Bennett fell. In addition, Crime Scene Investigators recovered seven discharged WIN 9mm Luger cartridge cases from the scene of the homicide occurring earlier in the day. Firearms experts also determined those seven shell casings were fired from this same weapon. A trace performed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives determined the firearm was first purchased in 2016 by Brittany White, Bennett's girlfriend and the victim of the earlier homicide.

CMPD and Probation officer firearms

Crime Scene Investigators collected the following firearms from the CMPD and Probation officers involved in the shooting.

- CMPD Officer Decker: .45 Auto Glock model 21 Gen4 semiautomatic pistol
- Probation Officer Dzierzynski: .40 S&W caliber Smith & Wesson model M&P 40 semiautomatic pistol
- CMPD Officer Zederbaum: .40 S&W caliber Smith & Wesson model M&P 40 semiautomatic pistol
- Probation Officer Johnson: 40 S&W caliber Smith & Wesson model M&P 40 semiautomatic pistol

Crime Scene Investigators recovered 34 discharged cartridge cases from the vicinity of Officers Decker, Dzierzynski, Zederbaum, and Johnson. Firearms experts determined these cartridge cases were fired from the firearms collected from the above officers as follows.

- CMPD Officer Decker: Seven discharged cartridge cases
- Probation Officer Dzierzynski: 12 discharged cartridge cases
- CMPD Officer Zederbaum: Four discharged cartridge cases
- Probation Officer Johnson: 11 discharged cartridge cases

Two of the five projectiles recovered from Bennett were matched to Officer Decker's weapon. Three of the five projectiles recovered from Bennett were matched to Officer Johnson's weapon. Although a positive identification could not be made, the projectile fragment recovered from Bennett showed marks consistent with being fired from Officer Dzierzynski's weapon.

In addition, two fired bullet fragments were recovered from the wound to Officer Shue's leg. Due to the condition of the fragments, firearms experts could not identify or eliminate the fragments as having been fired from any particular firearm.

H. Conclusion

There is no dispute that Probation Officers Johnson and Dzierzynski and CMPD Officers Decker and Zederbaum fired their weapons and killed Bennett.[12] Therefore, the central issue in

[12] While no projectiles recovered from Bennett were matched to the weapon fired by Officer Zederbaum, it is clear he fired four rounds at Bennett. Furthermore, a number of the entrance wounds had corresponding exit wounds from which no projectiles could be recovered. For the purpose of this report, I will assume that one or more of Officer Zederbaum's rounds struck Bennett.

this review is whether or not the officers were justified under North Carolina law in using deadly force. A police officer – or any other person – is justified in using deadly force if he in fact believed that he or another person was in imminent danger of great bodily harm or death from the actions of the person who was shot and if his belief was reasonable. The evidence clearly supports the conclusion that when Officers Johnson, Dzierzynski, Decker, and Zederbaum fired their weapons at Bennett, they and numerous other unsuspecting officers were under fire from Bennett. As such, they faced an imminent threat of great bodily harm or death and were justified in returning fire. Consequently, I will not be seeking charges related to the death of Jonathan Bennett.

G. Responsible transparency

My office routinely provides the public with detailed reports containing analysis and evidence to more effectively communicate the facts of officer-involved shootings and the decision-making process used by this office. Responsible transparency is also the basis upon which I have asked that evidence, including police videos, only be released after my prosecutors and I have completed a review of the investigation, in light of our obligation to protect the integrity of every investigation and to preserve, should someone be charged, the defendant's right to a fair trial. For that reason, this office objected to release of the body-worn camera video prior to our completion of the investigation. *Immediately after the release of this report, my office will ask the Court to reconsider its earlier ruling denying a local media outlet's request for the body-worn camera footage.*

If you have any questions, please contact me directly.

Sincerely,

Spencer B. Merriweather III
District Attorney

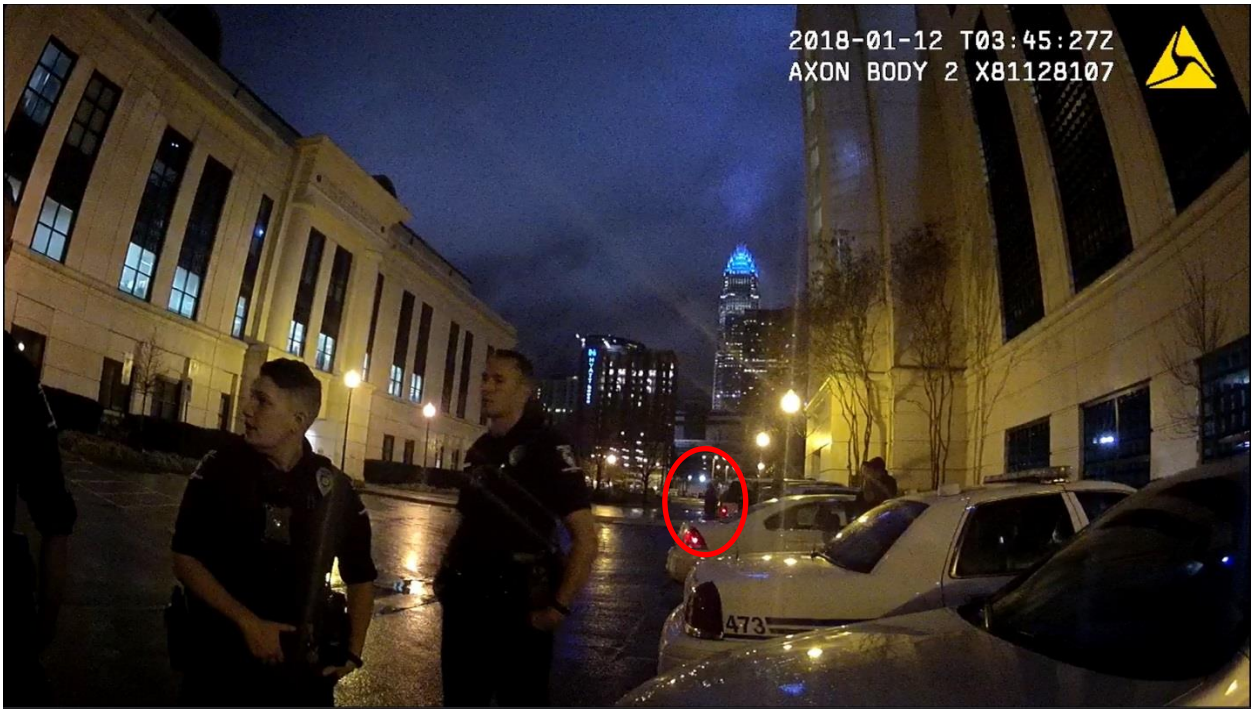
Exhibits:

Expedition follows Officer Baker's SUV into the LEC parking lot. Return

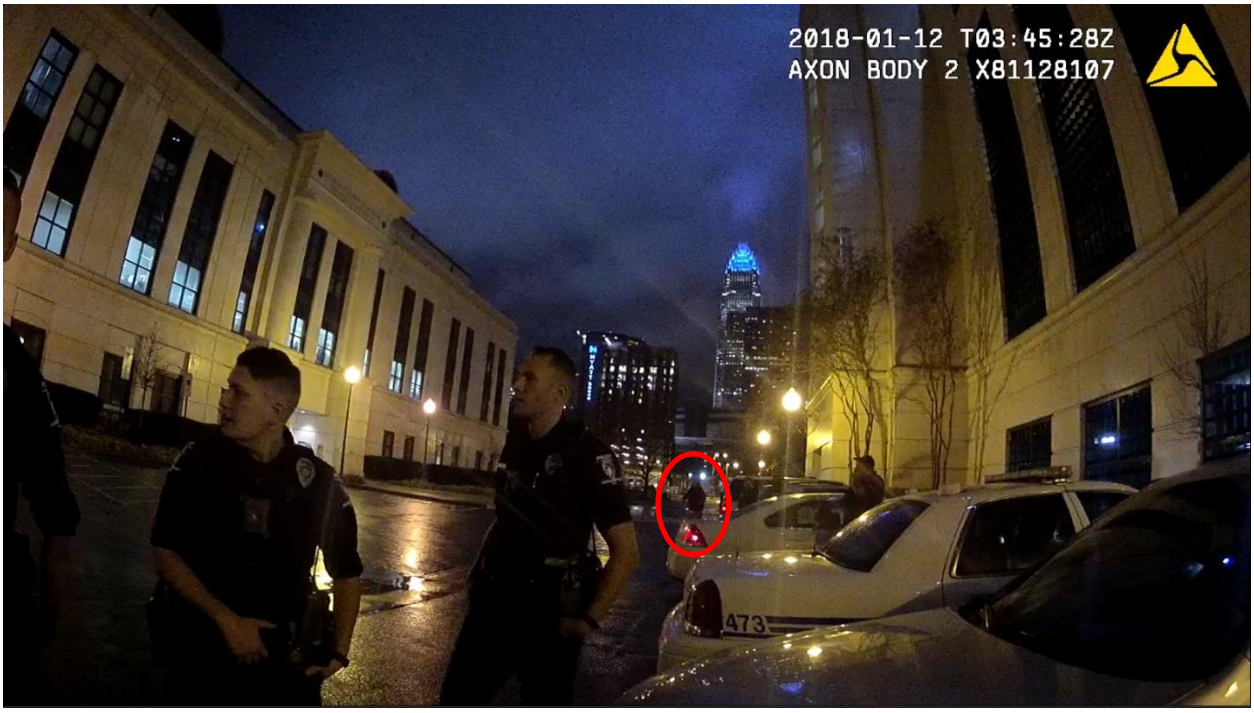
Officer Banham's BWC just prior to the shooting. Return

Bennett can been seen in the far left. To the right of Bennett in the photo are Probation Officers Johnson and Dzierzynski. To the right of them is Probation Officer Romero. Gathered by the vehicle to the far right are Officers Epolito, Shue, Burch, Zederbaum, and Detective Strayer.

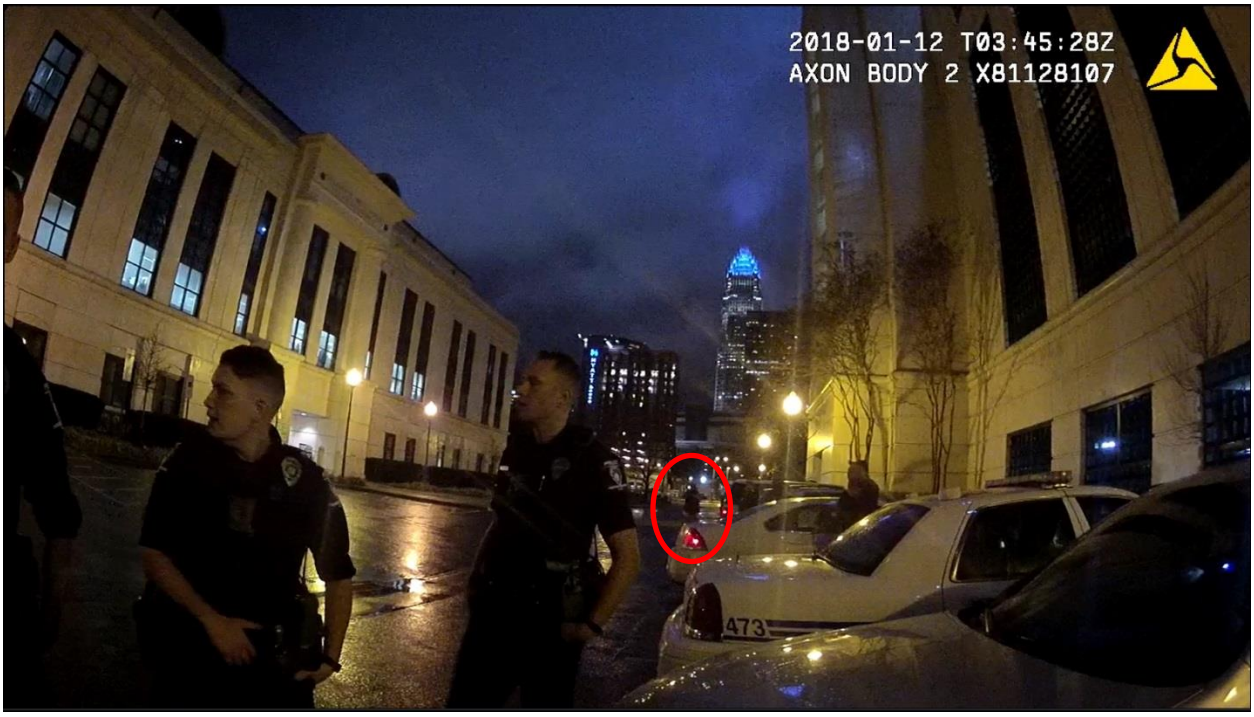
Zederbaum BWC – Bennett appears from the driver's side of the Ford Expedition Return



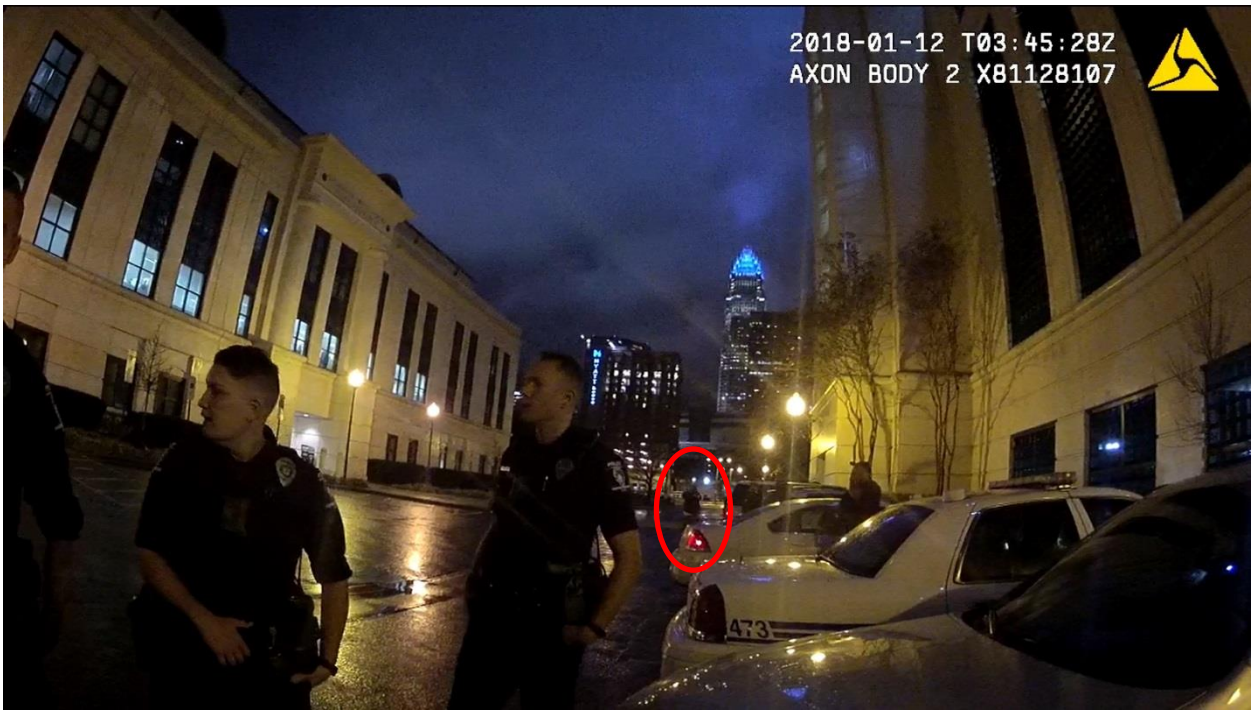
Officer Zederbaum BWC – Bennett raises right arm Return



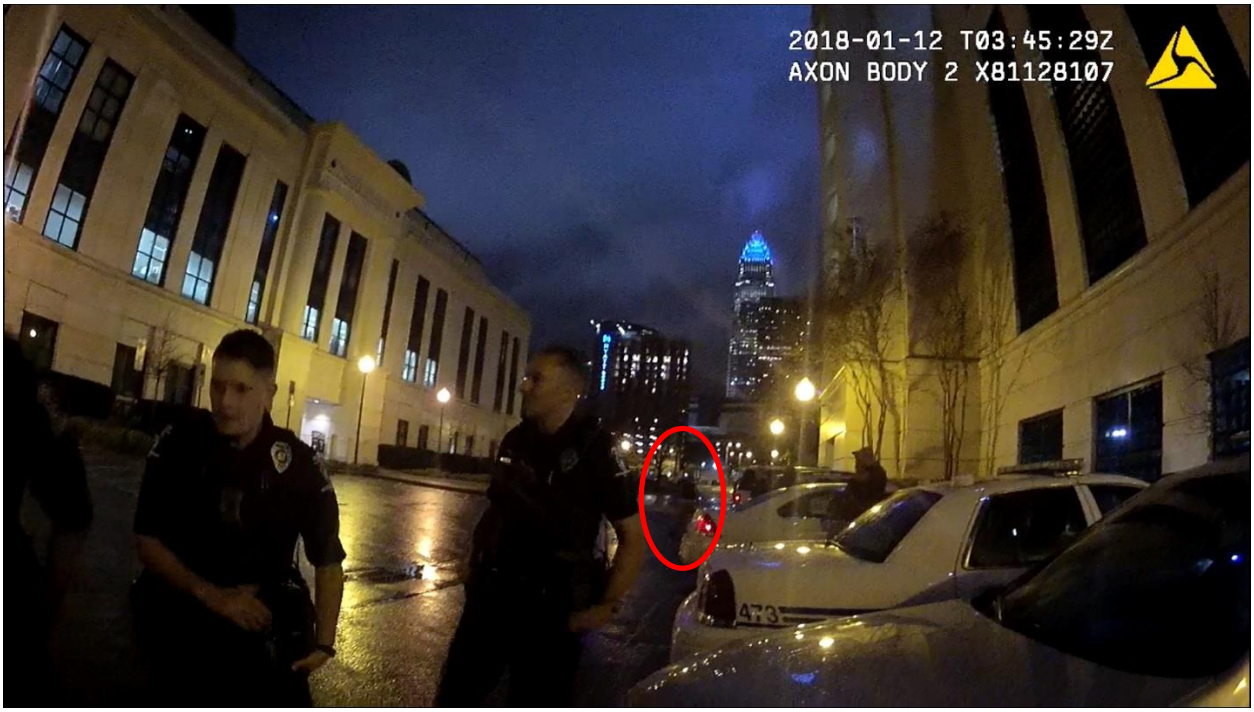
Officer Zederbaum BWC – First muzzle flash Return



Officer Zederbaum BWC – Bennett continues in motion Return



Officer Zederbaum BWC – Second muzzle flash Return



9mm Luger caliber Kahr model CW9 semiautomatic pistol recovered from Bennett. Return

Exhibit 1

Mecklenburg County M E Office

3440 Reno Avenue, Charlotte, NC 28216
Telephone 7043362005
Fax 7043368353

REPORT OF AUTOPSY EXAMINATION

DECEDENT

Document Identifier B201800079
Autopsy Type ME Autopsy
Name Jonathan J Bennett
Age 23 yrs
Race Black
Sex M

AUTHORIZATION

Authorized By J. Michael Sullivan MD **Received From** Mecklenburg

ENVIRONMENT

Date of Exam 01/12/2018 **Time of Exam** 10:00
Autopsy Facility Mecklenburg County M E Office **Persons Present** Mr. Jacob May

CERTIFICATION

Cause of Death
Multiple gunshot wounds

The facts stated herein are correct to the best of my knowledge and belief.
Digitally signed by
J. Michael Sullivan MD 03 March 2018 15:59

DIAGNOSES

1. Gunshot wound of the right hand with injury to 4th and 5th fingers
2. Gunshot wound of the right forearm with injury to soft tissue
3. Gunshot wound of the left hand with injury to 5th finger
4. Gunshot graze wound of the left hand
5. Gunshot wound of the left forearm with injury to soft tissue and musculature
6. Gunshot wound of the abdomen and chest with injury to rib, transverse colon, stomach, liver, diaphragm, right lung with hemorrhage into peritoneal cavity and right pleural cavity
7. Gunshot wound of the right flank with injury to soft tissue and musculature, laceration of right parietal pleura
8. Gunshot wound of the right flank with injury to soft tissue and musculature
9. Gunshot wound of the neck and face with injury to soft tissue
10. Gunshot wound of the head with injury to skull and brain.
11. Gunshot wound of the right leg with injury to soft tissue and musculature
12. Gunshot wound of the left leg with injury to soft tissue and musculature
13. Gunshot graze wound of the right forearm
14. Gunshot wound of the chest and neck with injury to soft tissue and musculature, fracture of left clavicle
15. Gunshot wound of the right leg with injury to soft tissue and musculature
16. Gunshot wound of the right leg with injury to soft tissue and musculature
17. Minor blunt trauma injuries: small linear abrasion right chest, small linear facial abrasion, small facial contusion

IDENTIFICATION

Body Identified By
Papers/ID Tag

EXTERNAL DESCRIPTION

Length 70 inches
Weight 208 pounds
Body Condition Intact
Rigor 3+

Livor Purple, posterior
Hair Black with dreadlocks
Eyes Brown
Teeth Present

The body is that of a young adult black male, appearing the stated age, normally nourished, unclothed, with evidence of recent medical intervention including oral endotracheal tube in place, intravenous catheter in place left antecubital fossa, intraosseous catheter in place anterior right lower leg, pulse oximeter on the left index finger, EKG leads on the chest, abdomen and shoulders, gauze and with foil bandaging over the right chest and right abdomen. Hospital identification tags on the right hand and left foot list the name: BENNETT, JONATHAN. There is a beard present, and there are multiple tattoos including on the arms, left hand, chest, left flank, right flank and upper back. A hospital bag accompanies the body which includes a previously cut black jacket and previously cut black vest, both of which show holes corresponding to gunshot wounds.

INJURIES

DESCRIPTION OF GUNSHOT WOUNDS:

GUNSHOT WOUND #1:
This is a gunshot wound of the right hand traversing 4th and 5th fingers. Entrance aspect of the wound appears to be on the lateral aspect of the 5th finger, where there is abrasion margin, 39" below the top of the head. Entrance aspect of the wound shows no soot or powder stippling. Wound continues in a direction (with the arm in anatomic position) to the right and upward, lacerating soft tissue of the 5th and 4th fingers, on the 5th finger wound laceration measures 7/8" in length with tears up to ½", on the 4th finger tears measure 1" in length and up to ½" in width. Wound causes fracture of the distal and middle phalanx of the 5th finger and proximal middle phalanx of the 4th finger. Exit aspect of the wound is on the medial aspect of the 4th finger approximately 38" below the top of the head.

GUNSHOT WOUND #2:
This is a gunshot wound of the right forearm near the right wrist, with entrance wound located over the extensor aspect of the right forearm, 30" below the top of the head, where there is a ½" rounded entrance wound with abrasion margin, no soot or powder stippling.

Wound continues in a direction (with the arm in anatomic position) to the right, slightly upward and slightly forward, perforates subcutaneous soft tissue over the right distal forearm, exiting from the radial aspect of the right distal forearm, 29" below the top of the head where there is an irregular exit wound measuring ¾" x 7/16".

GUNSHOT WOUND #3:
This is a gunshot wound to the left hand which caused injury traversing the left 5th finger. Entrance aspect appears to be at the distal end of the 5th finger, with exit aspect over the proximal left 5th finger. Entrance aspect shows no soot or powder stippling. Wound traverses along the length of the finger causing laceration of skin and underlying subcutaneous soft tissue with the wound measuring 1½" in length and ¾" in width and fractures of the middle and distal phalanges. Exit aspect of the wound appears to be at the proximal end of the wound.

GUNSHOT WOUND #4:
This is a gunshot graze wound of the left hand located over the palmar base of thumb 34" below the top of the head. Graze wound measures 1¼" in length and 7/16" in width. Tears point to the entrance aspect of the wound being the distal margin of the wound. There is no soot or powder stippling. There is superficial injury to palmar skin. Additionally there is an abrasion which probably represents a very superficial gunshot graze wound a short distance proximal/cephalad to this graze wound, located on the flexor aspect of the left wrist, radial aspect.

GUNSHOT WOUND #5:
This is a gunshot wound of the left forearm with entrance wound located over the flexor aspect of the proximal left forearm, ulnar aspect, 26½" below the top of the head. Entrance wound is round, shows abrasion margin, no soot or powder stippling, measures 7/16" in diameter.

The wound continues in a direction (with the arm in anatomic position) upward and backward, perforating soft tissue and musculature over the proximal left forearm, exiting from the extensor aspect of the left forearm, ulnar aspect, 23"

below the top of the head where there is an irregular exit wound measuring ¾" x 5/16".

GUNSHOT WOUND #6:
This is a gunshot wound of the abdomen and chest with entrance wound located over the left upper quadrant of the abdomen, 26" below the top of the head, 5¼" to the left of anterior midline. Entrance wound is oval, measures 5/16" x ½", shows abrasion margin inferiorly, no soot or powder stippling.

The wound continues in a direction, upward, backward and to the right, causing fracture of the left costal margin, perforating injury to the transverse colon near the splenic flexure, causes perforating injury of the lesser curvature of the stomach and perforating injury of the left lobe of liver, perforates the right hemidiaphragmatic leaflet, and penetrates through the right lower lobe of lung where superiorly within the right lower lobe of lung is recovered a large caliber, deformed, yellow metal jacketed, gray metal bullet. There is hemorrhage along the wound track within the lung, and hemorrhage within the pleural cavity and peritoneal cavity, approximately 1000 cc within the right pleural cavity and several 100 cc within the peritoneal cavity.

In summary, this is a large caliber gunshot wound of the abdomen and chest which caused injury to large bowel, liver, stomach, diaphragm and right lung with hemorrhage into peritoneal cavity and pleural cavity.

GUNSHOT WOUND #7:
This is a gunshot wound of the right flank with entrance wound located over the posterior right flank 21½" below the top of the head, 6¼" to the right of posterior midline. Entrance wound is oval, measures 5/16" x 7/16", shows abrasion margin, no soot or powder stippling.

Wound continues in a direction forward, very slightly upward, perforating soft tissue and musculature over the right flank, with hemorrhage along the wound track, and causing laceration of the right parietal pleura, no injury to the right lung, continuing with exit wound over the anterior right flank, 21" below the top of the head, 6¼" to the right of anterior midline where there is an ovoid exit wound measuring 1" x ½".

GUNSHOT WOUND #8:
This is a gunshot wound of the flank with entrance wound located over the right posterior flank, 27½" below the top of the head, 6" to the right of posterior midline. Entrance wound is oval, measures 5/16" x 7/16", shows abrasion margin, no soot or powder stippling.

The wound continues in a direction forward, very slightly upward and very slightly to the left, perforating soft tissue and musculature over the right flank, with hemorrhage along the wound track, without entrance into the peritoneal cavity, exiting from the anterior right flank 27" below the top of the head where there is an oval exit wound measuring 7/16" x 3/8", located 27" below the top of the head and 5½" to the right of anterior midline. Exit wound also shows an abrasion margin.

GUNSHOT WOUND #9:
This is a gunshot wound of the neck and face with entrance wound located over the right lateral neck 8" below the top of the head, 3" to the right of anterior midline. Entrance wound is oval, with abrasion/guttering posteriorly, as the entrance wound enters the neck in tangential fashion causing a guttering oval entrance wound measuring approximately 1¼" in length and 5/16" in width, greater portion of the length taken up with abrasion/guttering at its posterior margin. There is no soot or powder stippling.

The wound continues in a direction forward and minimally to the left and slightly upward causing injury to subcutaneous soft tissue over the right lateral neck and right lateral lower face, exiting from the right cheek 7" below the top of the head and 2" to the right of anterior midline where there is an irregular exit wound measuring 7/8" x 7/16".

In summary this is a distant gunshot wound of the neck and face which caused injury to soft tissue.

GUNSHOT WOUND #10:
This is a gunshot wound of the head with entrance wound located over the right posterior head at the lower margin of the occipital scalp, 9" below the top of the head and 2" to the right of posterior midline. Entrance wound is round, 5/16" in diameter, shows abrasion margin, no soot or powder stippling.

The wound continues in a direction to the left, slightly forward and slightly upward, perforating the right basilar skull. Adjacent to the skull entrance site are small jacketing fragments of yellow metal are recovered. The wound continues with entrance into the right posterior fossa with disruptive injury through the right cerebellar hemisphere. There is radiating fracture extending into the right middle cranial fossa. Bullet recovered within the right cerebellar hemisphere is a deformed gray metal medium caliber, yellow metal jacketed, gray metal bullet. There is a subarachnoid hemorrhage over the brainstem, cerebellum, inferior right temporal and occipital lobes with cerebral cortical contusions of inferior right temporal and occipital lobes.

In summary, this is a distant range, medium caliber gunshot wound of the head which caused injury to the skull and brain.

GUNSHOT WOUND #11:
This is a gunshot wound of the right leg and groin with entrance wound located over the posterior medial aspect of the right upper leg, 43" below the top of the head. Entrance wound is oval, measures ¾" x 7/16", shows abrasion margin, no soot or powder stippling.

The wound continues in a direction forward, upward and slightly to the left, perforating soft tissue and musculature of the right upper leg, exiting from the right groin approximately 37" below the top of the head and 1" to the right of anterior midline where there is a slit-like exit wound measuring 7/8" in length. Immediately adjacent there is a re-entrance wound within the lateral right scrotum, with an irregular re-entrance wound measuring 7/8" in length, with bullet continuing into the right scrotum in shallow fashion causing disruptive injury to soft tissue. Bullet is recovered from the right scrotum and is a deformed, medium caliber, yellow metal jacketed, gray metal bullet. There is hemorrhage along the wound track.

GUNSHOT WOUND #12:
This is a gunshot wound of the left leg with entrance wound located over the medial aspect of the left upper leg, 41" below the top of the head. Entrance wound is oval, 5/16" x ½", shows abrasion margin, no soot or powder stippling.

Wound continues in a direction upward, slightly forward and slightly to the left, perforating soft tissue and musculature over the medial left upper leg, exiting from the left groin, 38" below the top of the head, 2" to the left of anterior midline where there is a slit-like exit wound measuring 1¼" in length, up to ¼" in width. There is hemorrhage along the wound track. There is abrasion of the adjacent scrotal skin at the exit wound site.

GUNSHOT WOUND #13:
This is a gunshot graze wound of the right forearm. Graze wound is centered approximately 27½" below the top of the head. Direction of fire cannot be ascertained. There is no soot or powder stippling. Graze measures 2¼" in length and up to 7/16" in width and extends obliquely over the extensor aspect of the right forearm, ulnar side. Graze wound causes injury to skin.

GUNSHOT WOUND #14:
This is a gunshot wound of the left chest and neck, entrance wound located in the left axilla, 16" below the top of the head, 9½" to the left of anterior midline. Entrance wound is oval, 5/16" x 7/16" in diameter, shows abrasion margin, no soot or powder stippling. The wound continues in a direction to the right, upward and minimally backward, perforating soft tissue and musculature within the left axilla and left upper chest, causes fracture of the left clavicle, with incomplete exit wound located over the left base of neck, 10" below the top of the head, 3½" to the left of anterior midline. Within the incomplete exit wound, a bullet protrudes. Bullet recovered is a deformed, large caliber, yellow metal jacketed, gray metal bullet. There is hemorrhage along the wound track. Adjacent to the incomplete exit wound are two areas of abrasion of the skin lateral to the exit wound, and a linear abrasion and superficial skin laceration medial to the wound over the left base of neck.

GUNSHOT WOUND #15:
This is a gunshot wound of the right leg with entrance wound located over the posterior lateral aspect of the right upper leg, 40" below the top of the head. Entrance wound is round, 3/8" in diameter, shows abrasion margin, no soot or powder stippling.

The wound continues in a direction to the left, forward and upward, perforating soft tissue and musculature over the right upper leg, bullet within subcutaneous tissue over the right lateral groin. Bullet recovered is a deformed, medium caliber, yellow metal jacketed, gray metal bullet. There is hemorrhage along the wound track.

GUNSHOT WOUND #16:
This is a gunshot wound of the right leg with entrance wound located over the posterior lateral aspect of the right upper leg above the knee level, entrance wound located 47" below the top of the head. Entrance wound is oval, measures 1¼ x ½" with length predominantly comprising abrasion/guttering extending inferiorly. No soot or powder stippling is noted.

The wound continues in a direction upward, slightly forward and minimally to the left, perforating soft tissue and musculature over the right upper leg, bullet recovered adjacent to the right proximal femur. Bullet recovered is a deformed, somewhat flattened, medium caliber, yellow metal jacketed, gray metal bullet. There is hemorrhage along the wound track.

There is an abrasion of the medial right upper leg located a short distance from the entrance of gunshot wound #12 and may reflect a graze wound associated with gunshot wound #12.

Note: Wounds have been numbered arbitrarily, wound numbers do not indicate the order in which they were sustained.
Because the decedent was apparently fully clothed at the time of the gunshot wounds, range estimates are not given except for gunshot wounds #9 and #10.

Blunt trauma injuries: There is a 7/8" linear abrasion over the right upper chest. There is a 3/4" linear abrasion over the left cheek. There is a faint 1/2" red contusion over the right forehead.

DISPOSITION OF PERSONAL EFFECTS AND EVIDENCE

The following items are released with the body
None

The following items are preserved as evidence
Jacket, vest

PROCEDURES

Radiographs
X-rays show bullets projecting over the head, chest, pelvis

Chemistry
None

Special Evidence Collection
Blood card, jacket, vest, bullets

INTERNAL EXAMINATION

Body Cavities
Hemorrhage as noted. No adhesions.

Cardiovascular System
Heart Weight 300 grams
Coronary arteries show a normal distribution and no atherosclerosis. Valves and chambers show normal configuration. On section, myocardium discloses no abnormalities. Aorta unremarkable.

Respiratory System
Right Lung Weight 350 grams
Left Lung Weight 360 grams

Right lung is slightly atelectatic and shows gunshot injury as described. Pulmonary arteries contain no thromboemboli. Hilar lymph nodes unremarkable. Larynx, trachea, and proximal bronchi clear. Gunshot injury as described with hemorrhage within right lung parenchyma.

Gastrointestinal System
The esophagus is normal throughout. Stomach contains ½ cup of digested food and fluid. Duodenum unremarkable. Remainder of small bowel unremarkable on periodic inspection and palpation. Transverse colon shows gunshot injury as described. Colon is otherwise unremarkable. The appendix is present.

Liver
Liver Weight 1320 grams
Capsule smooth with the exception of area of gunshot injury as described. Parenchyma otherwise firm and brown. Gallbladder present with liquid bile.

Spleen
Spleen Weight 90 grams
Capsule smooth and intact. Parenchyma firm and red.

Pancreas
Tan and unremarkable on section.

Urinary
Right Kidney Weight 130 grams
Left Kidney Weight 150 grams
Subcapsular surfaces smooth. Cortices not narrowed. Pelves and ureters not dilated. Bladder contains 150-200 cc of clear yellow urine.

Reproductive
Male genitalia. Prostate unremarkable.

Endocrine
THYROID: Unremarkable

ADRENALS: Unremarkable

Neurologic
Brain Weight 1460 grams
Injury as described. Vessels at the base of the brain show normal distribution and no atherosclerosis. On section, brain shows gunshot injury as described and is otherwise unremarkable.

SUMMARY AND INTERPRETATION

This is a 23-year-old black male who was pronounced dead shortly after arrival at Carolinas Medical Center Main Emergency Department with multiple gunshot wounds, on the night of 1/11/2018, following an exchange of gunfire with law enforcement personnel.

Autopsy showed the body of a young adult black male with 16 gunshot wounds. A gunshot wound to the right hand caused injury to right 4th and 5th fingers. A gunshot wound of the right distal forearm caused injury to soft tissue. A gunshot wound of the left hand caused injury to the left 5th finger. A gunshot graze wound of the left hand caused superficial injury to palmar skin. A gunshot wound of the left forearm caused injury to soft tissue.

A gunshot wound of the abdomen and chest caused injury to transverse colon, stomach, liver, diaphragm and right lung with hemorrhage into right pleural cavity and hemorrhage into peritoneal cavity.

There were two gunshot wounds of the right flank which caused injury to soft tissue and musculature, one wound also causing injury to right parietal pleura.

A gunshot wound of the neck and face caused injury to soft tissue.

A gunshot wound of the head caused injury to the skull and brain.

There were four gunshot wounds of the legs which caused injury to soft tissue and musculature. A gunshot graze wound of the right forearm caused injury to skin. A gunshot wound of the left axilla and chest caused injury to soft tissue and musculature and fracture of the left clavicle.

There was no evidence of significant pre-existing disease. Toxicologic analysis of central blood sample taken at the time of autopsy showed an ethanol content of 40 mg/dL (.04% on the Breathalyzer scale). Analysis of urine sample showed an ethanol content of 70 mg/dL.

Toxicologic analysis of peripheral blood sample showed a content of cocaine of .081 mg/L, cocaine derivative cocaethylene .055 mg/L, and cocaine derivative benzoylecognine 1.1 mg/L. This indicates recent use of cocaine.

Toxicologic analysis of peripheral blood sample showed a content of Delta-9-THC of .62 ng/mL, was negative for Delta-9 Carboxy THC, and was negative for 11-Hydoxy-THC. This indicates recent use of marijuana.

Toxicologic analysis was negative for other organic acids and neutrals, and analysis was negative for other bases.

In my opinion, the cause of death is multiple gunshot wounds.

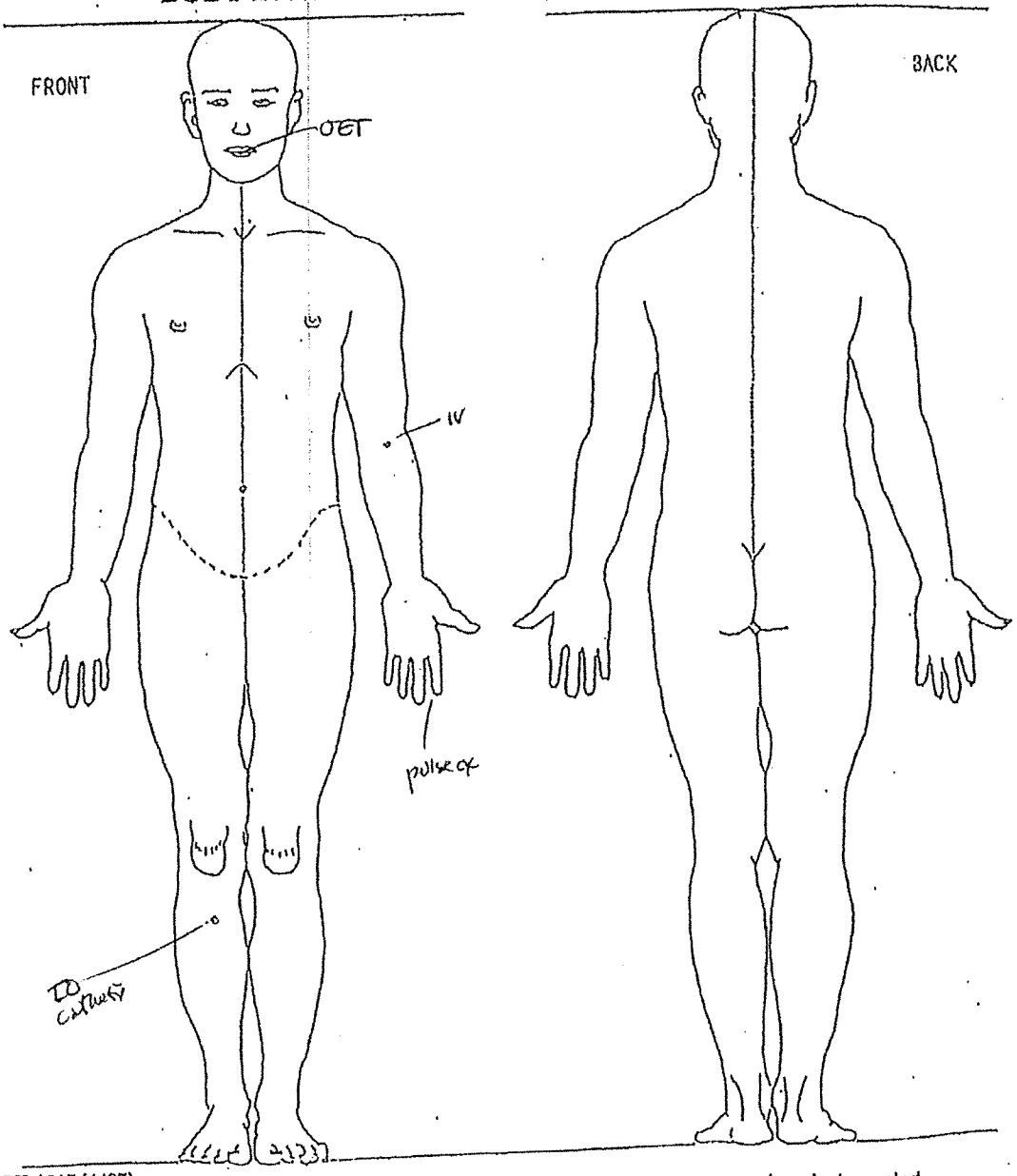
DIAGRAMS

1. BODY DIAGRAM: ADULT (FRONT/BACK)
2. BODY DIAGRAM: ADULT HANDS
3. BODY DIAGRAM: ADULT ARMS
4. BODY DIAGRAM: HEAD (LEFT/RIGHT)
5. BODY DIAGRAM: HEAD (FRONT/BACK)
6. BODY DIAGRAM: ADULT (FRONT/BACK)
7. BODY DIAGRAM: ADULT (FRONT/BACK)
8. BODY DIAGRAM: ADULT (LEFT/RIGHT)

State of North Carolina
Office of the Chief Medical Examiner
Chapel Hill, North Carolina 27599-7580

Name of Decedent: Jonathan Bennett
Autopsy # B18-79
Examined By: SMS Date: 1/12/18

BODY DIAGRAM: ADULT (Front/Back)



DEHNR 1917 (1/97)
Medical Examiner

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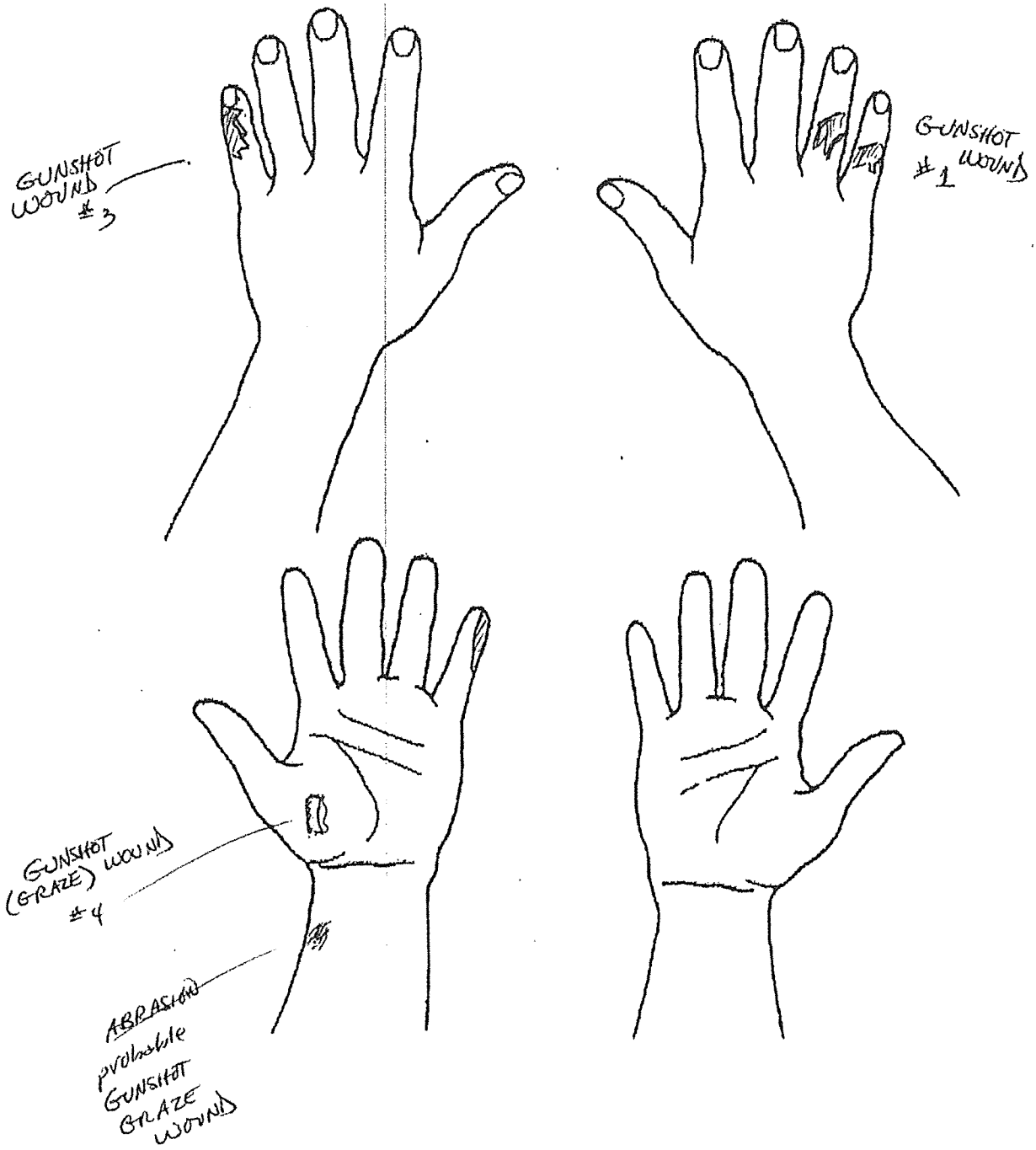
PAGE 1 OF 8

State of North Carolina
Mecklenburg County Medical Examiner's Office
Charlotte, North Carolina 28216

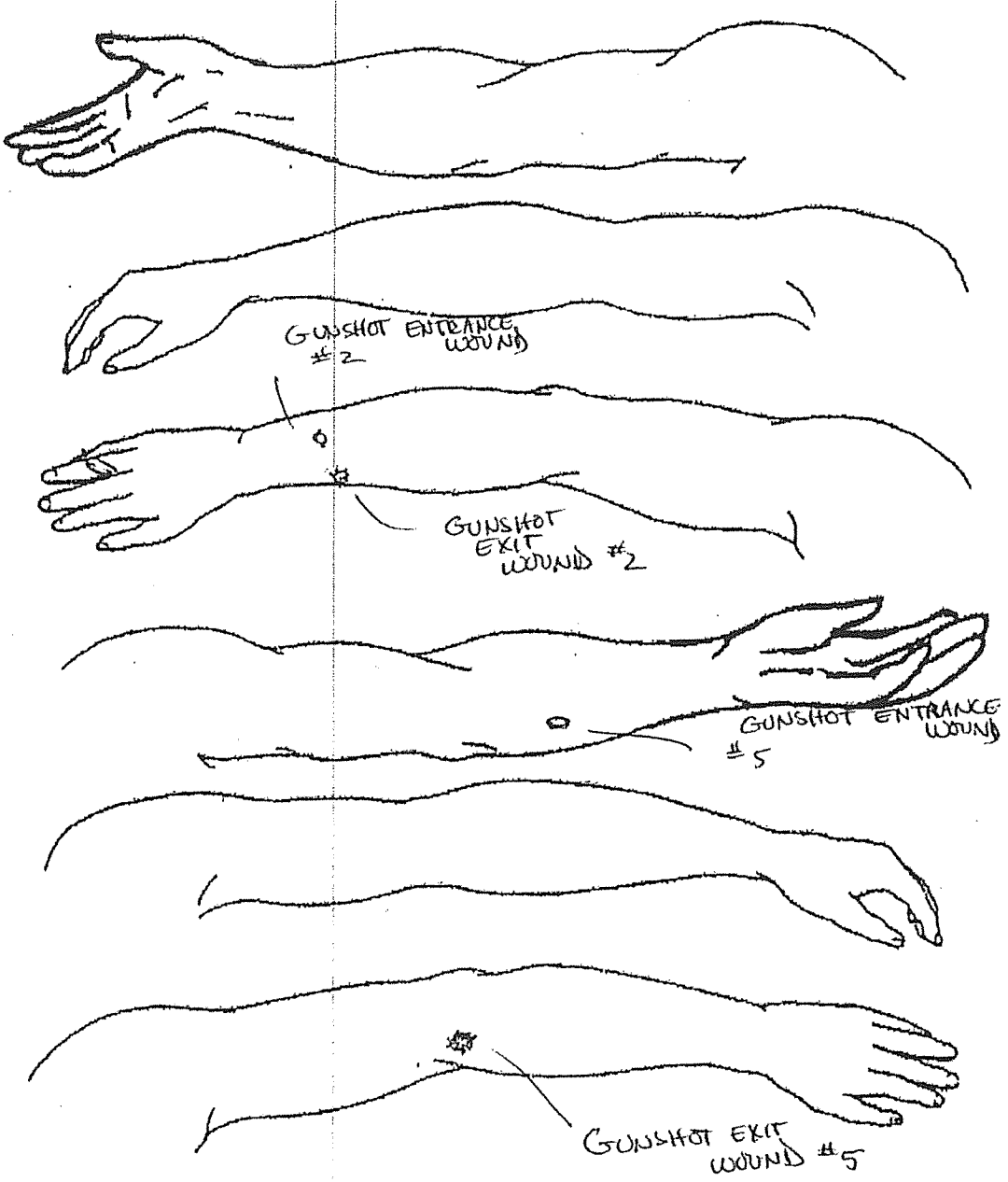
Name of Decedent: JONATHAN BENNETT
B#: 18-79
Examined by: [illegible] Date: _____



2 of 8

State of North Carolina
Mecklenburg County Medical Examiner's Office
Charlotte, North Carolina 28216

Name of Decedent: JONATHAN BENNETT
B#: 18-79
Examined by: JG Date:



3 OF 8

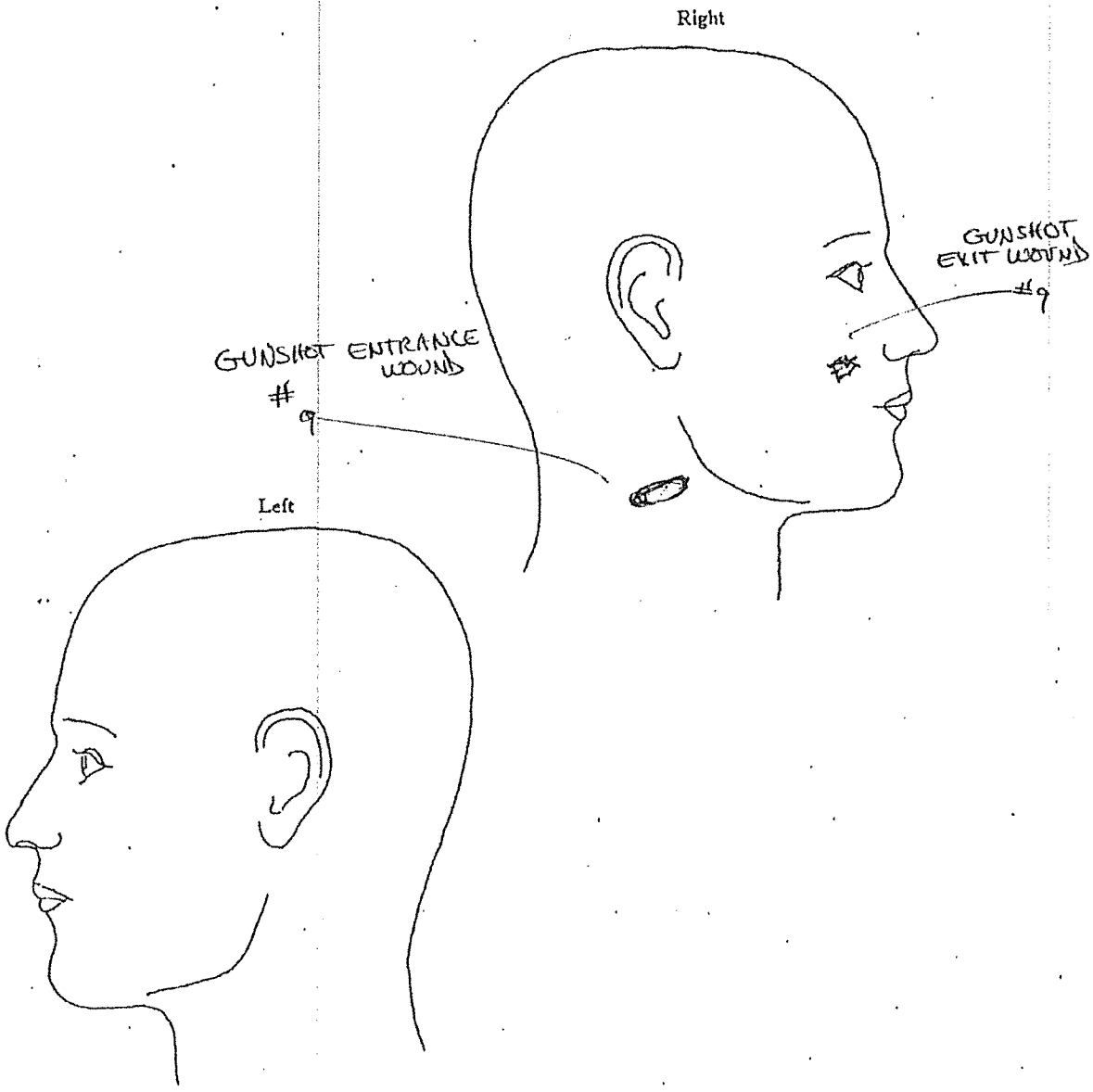
State of North Carolina
Mecklenburg County Medical Examiner's Office
Charlotte, North Carolina 28216

Name of Decedent: Jonathan Bennett

Autopsy # B18-79

Examined By: JS Date:

BODY DIAGRAM: HEAD (left/right)



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Medical Examiner

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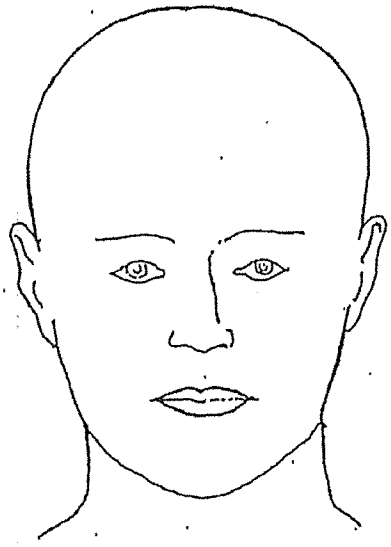
PAGE 4 OF 8

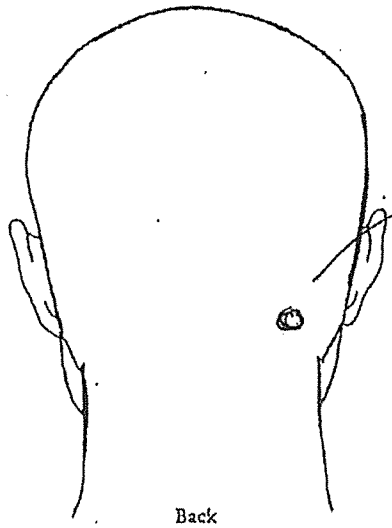
State of North Carolina
Mecklenburg County Medical Examiner's Office
Charlotte, North Carolina 28216

Name of Decedent: JONATHAN BENNETT
Autopsy # B 18-79
Examined By: JS Date:

BODY DIAGRAM: HEAD (front/back)



Front



Back

DEHNR 1919 (4/97)
Medical Examiner
PAGE 5 OF 8

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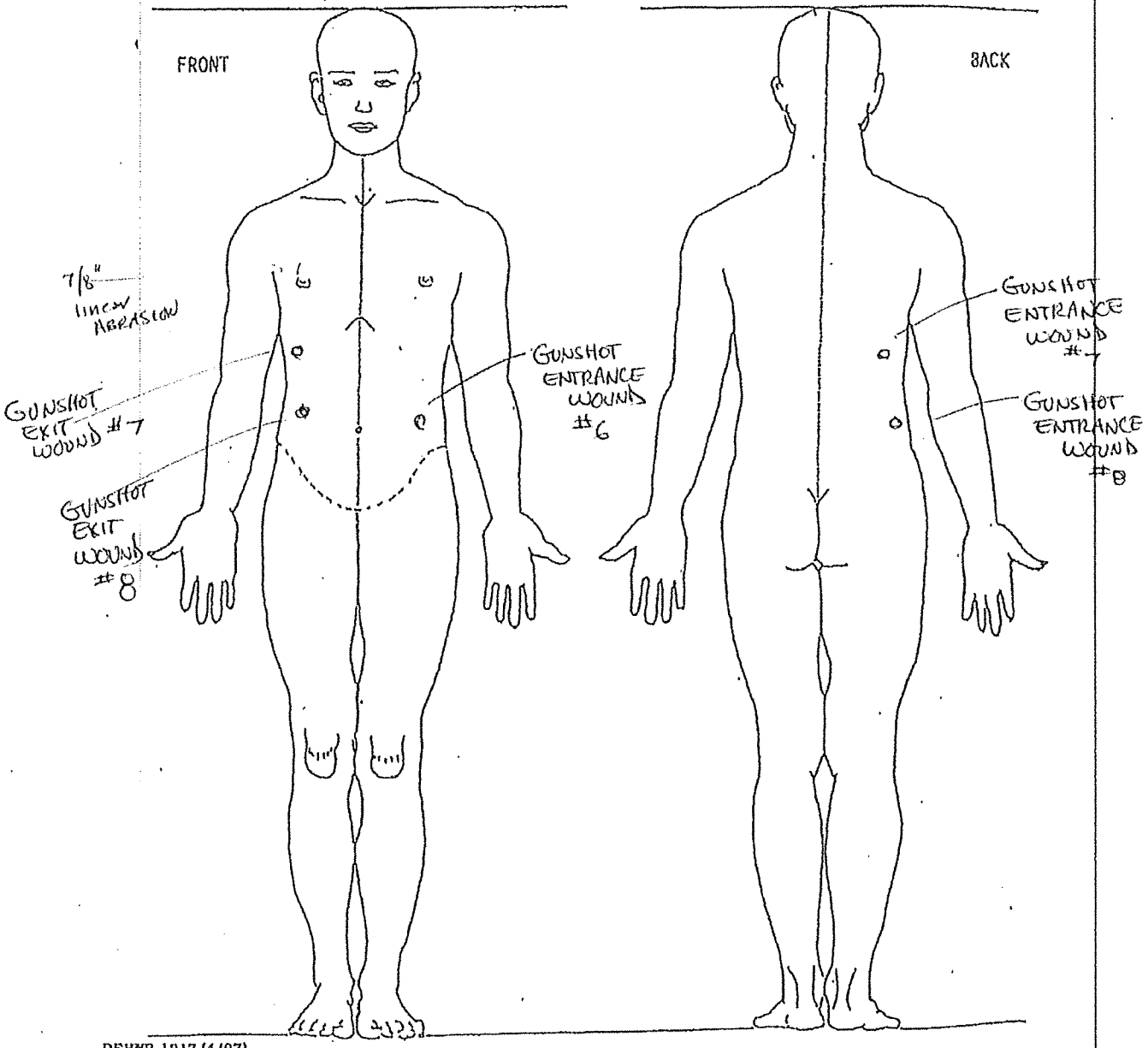
State of North Carolina
Office of the Chief Medical Examiner
Chapel Hill, North Carolina 27599-7580

Name of Decedent: JONATHAN BENNETT
Autopsy # B18-79
Examined By: JS Date:

BODY DIAGRAM: ADULT (Front/Back)



DEHNR 1917 (4/97)
Medical Examiner

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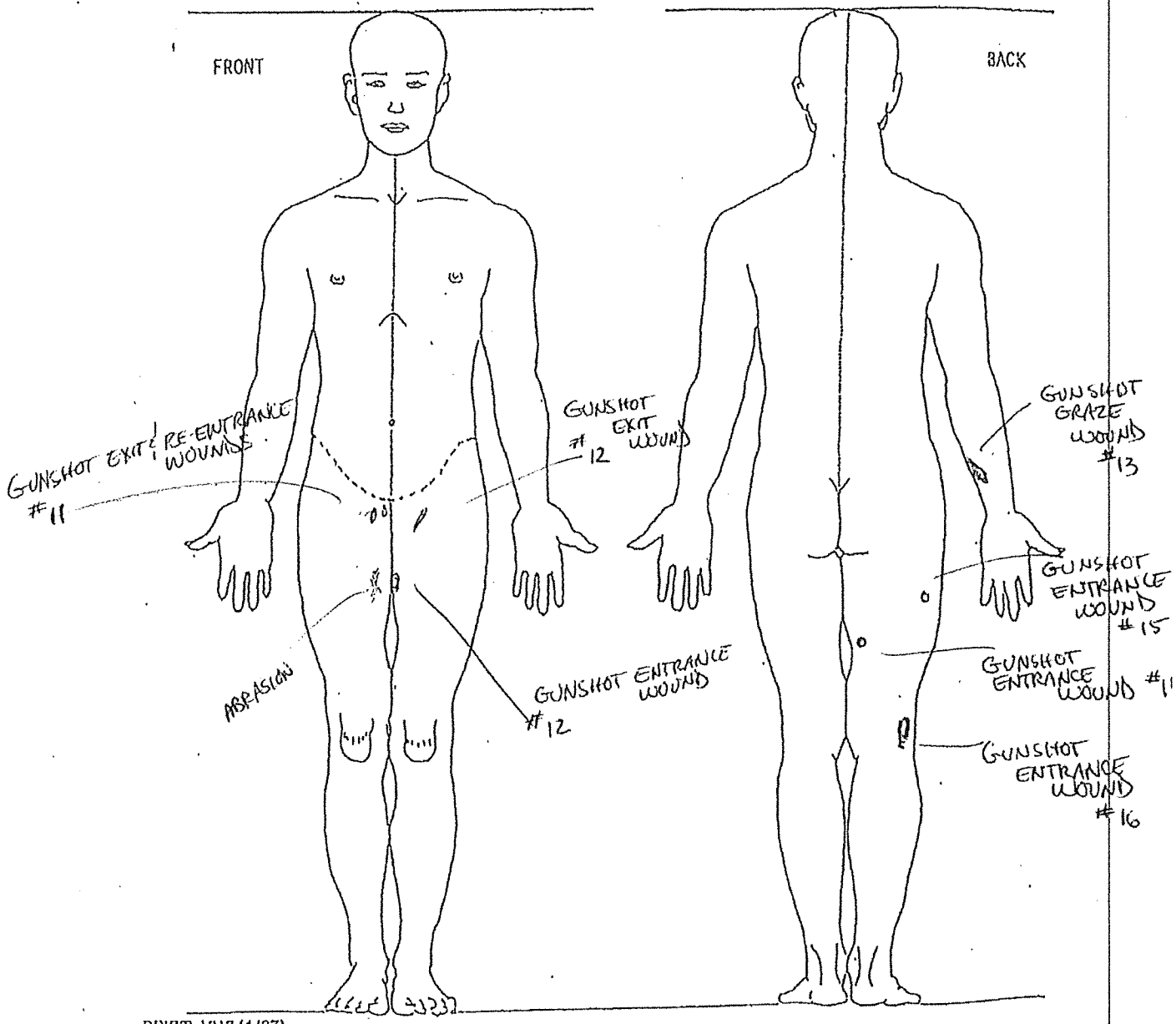
PAGE 6 OF 8

State of North Carolina
Office of the Chief Medical Examiner
Chapel Hill, North Carolina 27599-7580

Name of Decedent: JONATHAN BENNETT
Autopsy # B 18-79
Examined By: [illegible] Date:

BODY DIAGRAM: ADULT (Front/Back)



DEHNR 1917 (4/97)
Medical Examiner

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PAGE 7 OF 8

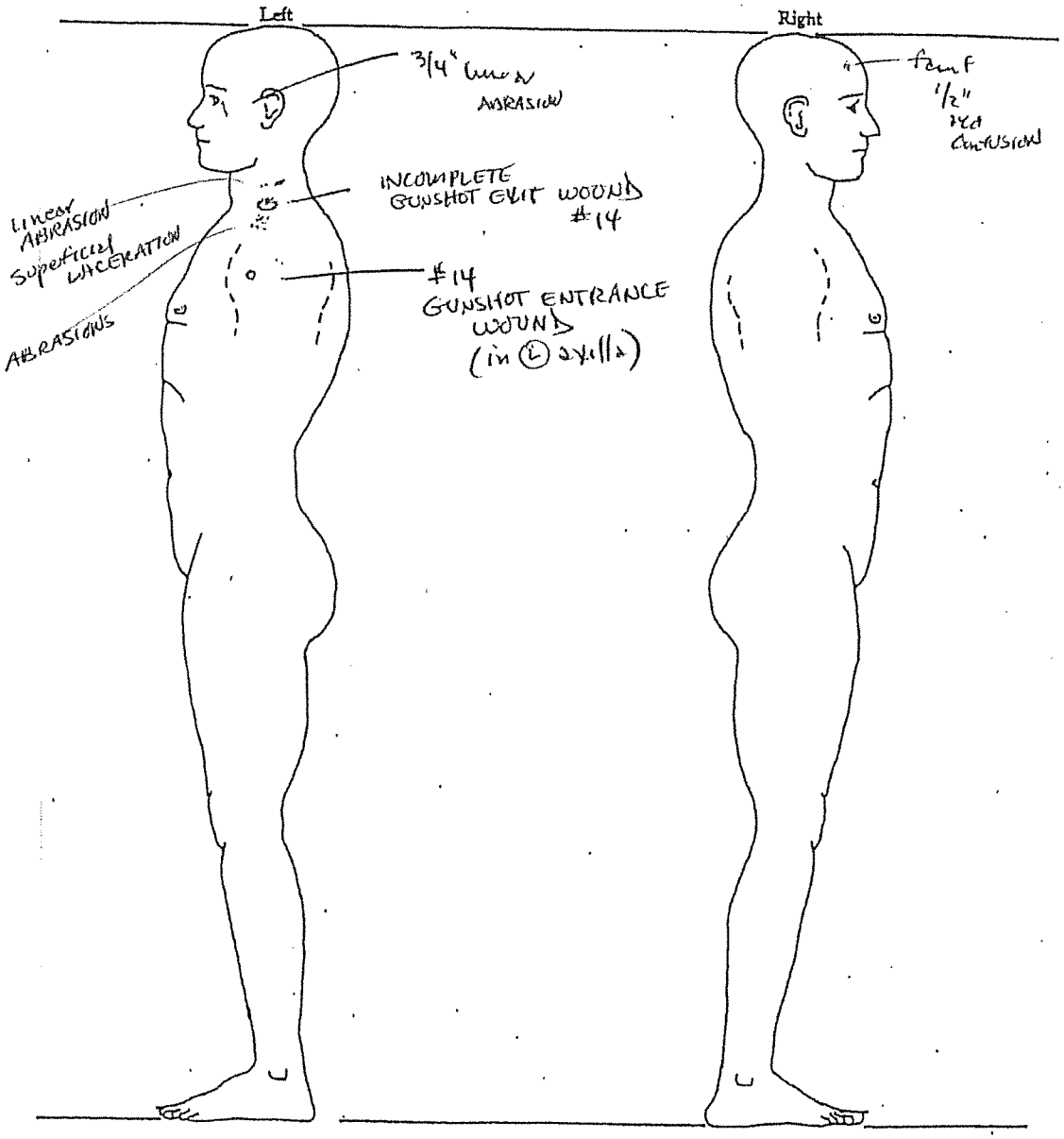
State of North Carolina
Mecklenburg County Medical Examiner's Office
Charlotte, North Carolina 28216

Name of Decedent: JONATHAN BENNETT

Autopsy # 18-79

Examined By: [illegible] Date:

BODY DIAGRAM: ADULT (Left/Right)



DEHNR 1918 (4/97)
Medical Examiner
PAGE 8 OF 8

This form may be photocopied.

Koll, Brian

From: noreply@dhhs.nc.gov
Sent: Tuesday, March 06, 2018 8:08 AM
To: Koll, Brian
Subject: [EXTERNAL EMAIL] No Reply: OCME Toxicology F201800065

TOXICOLOGY REPORT

Office of the Chief Medical Examiner
Raleigh,NC 27699-3025

Toxicology Folder: T201800765
Case Folder: F201800065

Date of Report: 28-feb-2018

Brian Koll
CMPD
601 E Trade Street
Charlotte, NC 20202

DECEDENT: Jonathan J Bennett

Status of Report: Approved
Report Electronically Approved By: Justin Brower, PhD

* * *

SPECIMENS received from J. Michael Sullivan on 24-jan-2018

S180002325: 20.0 ml Blood CONDITION: Postmortem
SOURCE: Heart OBTAINED: 12-jan-2018

Ethanol	40	mg/dL	02/28/2018

S180002326: 8.0 ml Blood CONDITION: Postmortem
SOURCE: Iliac vein OBTAINED: 12-jan-2018

** Comments Concerning This Specimen **
Unless otherwise noted, all testing on this specimen was performed by NMS Labs. The Test Panel includes abused and therapeutic drugs, some of which are not tested at OCME(THC, LSD) but the results must be reported. Other drugs may appear due to add-on testing directed by OCME. Contact the lab for a full list.
** End of Comments Concerning This Specimen **

11-Hydroxy-THC	None Detected		02/28/2018
Benzoylecgonine	1.1	mg/L	02/28/2018
Cocaethylene	0.055	mg/L	02/28/2018
Cocaine	0.081	mg/L	02/28/2018
Delta-9 Carboxy THC	None Detected		02/28/2018
Delta-9-THC	0.62	ng/mL	02/28/2018
Other Organic Acids/Neutrals	None Detected		02/28/2018
Other Organic Bases	None Detected		02/28/2018

TOXICOLOGY REPORT

Office of the Chief Medical Examiner
Raleigh, NC 27699-3025

Toxicology Folder: T201800765
Case Folder: F201800065
Date of Report: 28-feb-2018

Decedent: Jonathan J Bennett

* * * SPECIMENS received from J. Michael Sullivan on 24-jan-2018 (Continued)

S180002327: 16.0 ml Urine
SOURCE: Urinary Bladder

CONDITION: Postmortem
OBTAINED: 12-jan-2018

Ethanol ----------	70	mg/dL	02/28/2018

S180002328: Liver
SOURCE: Liver

CONDITION: Postmortem
OBTAINED: 12-jan-2018

Accredited by the American Board of Forensic Toxicology, Inc.

030618 08:08 * * * END OF REPORT * * * B201800079

Exhibit 2

Charlotte Mecklenburg Police Department *Supplement Report ©*		COMPLAINT NUMBER **20180111224601**	Page # 1 of 38
2. Victim Name **Officer Shue**		3. Original Offense / Charge **ADW**	
4. Location Of Offense **601 E. Trade Street**		5. Arrest Number	6. C.R. Number
7. Original Report Date **1/11/2018**	8. Supplement Date **1/17/2018**	9. Correct Incident Classification	
10. Juvenile Case **No**	11. Multiple Case Clearance **No**	12. Supplement Confidential **Yes**	13. Purpose Of Supplement Interview with Probation Officer Dwain Johnson

REVIEWED: BKoll #3803

THIS IS DETECTIVE KOLL WITH THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT, TODAY IS WEDNESDAY JANUARY 17TH 2018; THE TIME IS NOW 1520 HOURS UH IN INTERVIEW ROOM 2001. UH SERGEANT CRUM'S ALSO PRESENT. IT'S GONNA BE A RECORDED INTERVIEW OF UH PROBATION OFFICER DWAIN JOHNSON, HIS ATTORNEY UM MR. RAWLS IS ALSO PRESENT.

Koll: Um just go over some basics, this is voluntary um interview, we're conducting a criminal investigation um for the …related to the shooting that happened out here in the parking lot that you're involved in. Um we did your ammo count the night of um and we went over that form and asked you what you were wearing, prior law enforcement, all that other stuff so um today is gonna be focused on uh everything that took place in the parking lot…

Crum: <Inaudible>…I don't think we did that portion<Inaudible>

Koll: I think did yeah…

Crum: Okay.

Koll: …during the ammo count. Um we'll go over everything that took place in the parking lot. Um we're conducting the criminal investigation um your Internal Affairs, administrative, whatever you guys call it is conducting their own, that has nothing to do with us. Um we're not, ya know, going back and forth and trading stuff or anything like that. Um…and uh also wanna cover <Inaudible>…this is voluntary so you can not answer questions um you can get up and walk out any time you want <Inaudible> Everybody on the same page?

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded	23. Reporting Officer **B. Koll**	Code **3803**	Assignment **Homicide**	Date **1/17/2018**
22. Investigative Status] Active] Inactive] Closed] Administrative	25. Case Referred To	26. Reviewing Supervisor, Code, Date		

2. Victim Name	3. Original Offense / Charge		
Officer Shue	ADW		
4. Location Of Offense 601 E. Trade Street		5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/17/2018	9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose Of Supplement Interview with Probation Officer Dwain Johnson

Rawls: Yeah we are, I've told him any time that you got a question for me he can step outside <Talkover - inaudible>

Koll: You can step outside. I just wanna cover it, I like covering make sure everybody's on the same page okay. Um so I'll kind a just give you the floor um does this look familiar to you this zoomed in one?

JOHNSON: Yeah.

Koll: Okay so…and just to clarify, so this is gonna be the Law Enforcement Center the building that we're in right now, this is the deck parking deck…Davidson Street would be that way…

JOHNSON: Correct.

Koll: …Alexander Street would be that way where kind a the media trucks always park if you're familiar.

JOHNSON: Yeah.

Koll: So um I will just kind a let you um start with how you got to the um Law Enforcement Center and what you were doing here and then kind a take me through um what happened that night.

JOHNSON: Alright we came here, we was doing um high risk supervision checks…

Koll: Okay.

JOHNSON: …compliance checks on probationers, CMPD was assisting us. Um we had done…

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1/11/2018	1/17/2018		
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No	No	Yes	Interview with Probation Officer Dwain Johnson

Rawls: You...he...he works with a specialized group, SRG group, and does...works with gang probationers and other folks like that, very high risk probationers.

Koll: Okay.

JOHNSON: Um we had finished up most part for the night and we was coming back here um there was one more house to hit, CMPD was gonna assist um we entered the parking lot through North Davidson Street um turned left into the parking lot from North Davidson. Um... the other CMPD officer's that were there, already there waiting to assist, they was down in the further end of the parking lot um in a group there was a group of 'em...five or six to ten officers I'd say. Um I pulled into the fourth parking spot on the left hand side just on the other side of the... sidewalk there um...

Koll: And if you need to draw it or make any notations...

JOHNSON: ...Baker...

Koll: ...feel free.

JOHNSON: There was one space between Baker, me and Baker's car so he pulled in, I believe it'd be the second parking spot to the ...it was the second parking spot because I was starting to get out of my vehicle and noticed the large, white SUV pulled to the rear end...

Koll: Uh huh.

JOHNSON: ...of Officer Baker's car...

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Officer Shue	ADW		
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601 E. Trade Street			
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1/11/2018	1/17/2018		
10. Juvenile Case	11. Multiple Case Clearance	12. Supplement Confidential	13. Purpose Of Supplement
No	No	Yes	Interview with Probation Officer Dwain Johnson

Koll: Okay.

JOHNSON: ...which... wasn't normal and he then backed up and then pulled into the parking ...the first parking spot on the other side of Baker in the first spot. Um...I got...was getting out...I got out a the car and was standing in between at the rear, between the trunk of my car and Bakers car and waiting for Baker and I was facing for Baker to get out of the car. Um at that time I was alerted that it was <Inaudible>...loud shot, the gunshot um and I turned and saw the black male with his arm pointed out, extended with a silver handgun in color and he was firing at officers down the ...uniformed officers down the parking lot.

Koll: Okay.

JOHNSON: Um... at that time I felt imminent danger that he was gonna kill somebody or even me based on the distance perimeters that we were from. Um pulled my duty weapon and returned fire. Um at that time when he began to fall the...I felt the threat was over um stopped firing um immediately after that I dropped my clip, reloaded and we we went to check the suspect vehicle to make sure there wasn't any other threats um coming from that directions um...and at that time I believe the... it was the... CMPD officer's had said stop firing um and he was going in to cuff the suspect, he then cuffed the suspect, CMPD started rendering aid to him then somebody in the office was...the bushes were screaming they were hit or...other officers went to their aid um I stayed by the vehicle, the suspect vehicle just to make sure, to protect the scene for scene security or whatnot.

Koll: Okay. Alright um and uh kind a after... take me from there and then we'll go back over and ask some clarifying <Talkover - inaudible>

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Officer Shue		ADW	
4. Location Of Offense		5. Arrest Number	6. C.R. Number
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7. Original Report Date	8. Supplement Date	9. Correct Incident Classification	
1/11/2018	1/17/2018		
10. Juvenile Case	11. Multiple Case Clearance	12. Supplement Confidential	13. Purpose Of Supplement
No	No	Yes	Interview with Probation Officer Dwain Johnson

Unknown: <Talkover - inaudible>

Koll: Uh after...after that happens, does anything else um relevant take place or...?

JOHNSON: No just the officer's rendered aid to him um...

Koll: Uh huh.

JOHNSON: ...and then like they got her cause she was in the bush, they got her out a the bushes and they was rendering aid to her.

Koll: And her, that's the female officer?

JOHNSON: I didn't know that at the time...

Koll: Okay.

JOHNSON: ...or who, even who it was, I knew it was an officer.

Koll: Okay.

JOHNSON: Um that they were rendering aid to her.

Crum: But you know now it was a female officer?

JOHNSON: Right...<Talkover - inaudible>

Koll: Okay.

2. Victim Name		3. Original Offense / Charge	
Officer Shue		ADW	
4. Location Of Offense 601 E. Trade Street		5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/17/2018	9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose Of Supplement Interview with Probation Officer Dwain Johnson

JOHNSON: Um...and rendering aid to her and we just stayed, pretty much, I never really left the area of the suspect vehicle.

Koll: Okay.

JOHNSON: Um for scene security purposes.

Koll: Okay we'll just go over that and just a few clarifying things and um... so the car you arrived in, can you describe it?

JOHNSON: White, I think it's a 2014 Chevy Impala.

Koll: White Impala? Is it marked in any way?

JOHNSON: It has logos on the sides.

Koll: Okay what are the logos?

JOHNSON: Um DPS.

Koll: Okay <Inaudible>...Probation vehicle.

JOHNSON: <Talkover - inaudible>

Koll: Okay so that um... Are you driving?

JOHNSON: Yes.

Koll: Okay and who's the...um do you have any passengers?

JOHNSON: Yes.

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13. Purpose Of Supplement Interview with Probation Officer Dwain Johnson		

Koll: And who's that?

JOHNSON: Mark Romero.

Crum: Is that your supervisor?

JOHNSON: No.

Koll: Okay. Um so you guys arrive, are you abe...are you able or willing to write on this?

OHNSON: Am I able to?

Koll: Yeah.

JOHNSON: Yeah.

Koll: Okay.

JOHNSON: <Talkover - inaudible>

Koll: Are you willing to? Yeah I'm not gonna... obviously this is uh...not how it was cause obviously different cars and this was taken from Google um and I'm also not gonna hold anyone to uh...nor would it be expected to hold anyone to specific parking spaces but this is all um general and hopefully helps illustrate what your statement is, does that make sense?

JOHNSON: Right.

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Officer Shue	ADW	
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13. Purpose Of Supplement Interview with Probation Officer Dwain Johnson		

Koll: So I'm not holding you to this parking spot and I was standing right by this bumper…

JOHNSON: I know.

Koll: …this is just general…help illustrate what you're saying okay…

JOHNSON: <Talkover - inaudible>

Koll: That make sense?

JOHNSON: Yeah.

Koll: Okay so here's a… here's a marker, if you don't mind, can you mark generally um where your car was?

JOHNSON: Generally…

Rawls: He can mark exactly where it was.

JOHNSON: I was in this space right here, the fourth space.

Koll: Okay can you just put a Me…that…that works for me. Okay and so did you pull in?

JOHNSON: Yes.

Koll: Okay so you pull into that parking spot there?

JOHNSON: Correct.

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Koll: Your other um... uh probation officers do you remember where they parked?

JOHNSON: Baker parked right here.

Koll: Okay.

JOHNSON: One space.

Koll: Okay and you said you saw the um...the white Expedition coming in, where were you...

JOHNSON: <Talkover - inaudible>...it...it pulled in...

Koll: Uh huh.

JOHNSON: ...behind us and he pulled behind um...he pulled and he got real close...

Koll: Okay.

JOHNSON: ...to Bakers car as if it just alerted like...

Koll: Okay.

JOHNSON: ...why would somebody pull that close to the vehicle?

Koll: Okay so just to clarify so you're...you actually pull into the LEC parking lot in front of him?

JOHNSON: In front of Baker? Yes.

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Koll: No…um…

JOHNSON: Baker followed me into the parking lot.

Koll: Okay Baker follows you into the parking lot…

JOHNSON: Right.

Koll: …and is there…is there a car that follows Baker?

JOHNSON: Yeah.

Koll: Which car is that?

JOHNSON: It would be the white SUV.

Koll: The SUV? Okay so you all three kind a… caravan in obviously but um you park, Baker parks and that's when you see the white…

JOHNSON: I'm… as I'm getting out of my vehicle…

Koll: Uh huh.

JOHNSON: …um I <Inaudible>…see this SUV pull…

Koll: Okay.

JOHNSON: …like to the back end super close to…

Koll: Okay.

2. Victim Name	3. Original Offense / Charge	
Officer Shue	ADW	
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No	No	Yes	Interview with Probation Officer Dwain Johnson

JOHNSON: ... Bakers and it was odd because it was plenty of parking spots, why would you be...

Koll: Okay.

JOHNSON: ...that close?

Koll: Um so that initially kind a drew your attention to the vehicle?

JOHNSON: Right.

.oll: Is there anything outstanding or anything else about the vehicle that gives you...

JOHNSON: No just <Talkover - inaudible>

Koll: ... a second glance?

JOHNSON: ...just the thing was to... It was odd for him to pull that close and then he backed up and then pulled into that spot.

Koll: Okay so you're out a the car, where are you out a the car now?

JOHNSON: I'm in between the rear end of uh the two trunks of Baker's car...

Koll: Okay.

JOHNSON: ...and my car.

Koll: And there's obviously a car in this picture...

2. Victim Name		3. Original Offense / Charge	
Officer Shue		**ADW**	
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JOHNSON: <Talkover - inaudible>

Koll: ...that was an empty slot?

JOHNSON: <Talkover - inaudible>...empty spot.

Koll: Okay um so you're kind a hanging out in the thing?

JOHNSON: Right cause I'm waiting...because, like I say, that vehicle it drawed my attention...

.oll: Okay.

JOHNSON: ...so I was waiting for Baker to get out...

Koll: Okay.

JOHNSON: ...of his vehicle.

Koll: Okay and uh...

JOHNSON: I was facing, pretty much, Bakers car...

Koll: Facing...

JOHNSON: ...looking <Talkover - inaudible>

Koll: ...toward Davidson?

JOHNSON: Yeah.

2. Victim Name		3. Original Offense / Charge	
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Koll: Okay and uh does your passenger, do you know if uh…if Mark gets out or what he's up to?

JOHNSON: <Talkover - inaudible>

Koll: Okay. That's fine so you're hanging out here, you're waiting for Baker to get out um is anyone else in Baker's car?

JOHNSON: Officer Dzierynski…

Koll: Okay.

JOHNSON: …had arrived with Baker…

Koll: Okay.

JOHNSON: …but <Inaudible>…I don't know where, after everything <Inaudible>…I knew J.D. was to my left.

Koll: Okay.

JOHNSON: But I don't remember him…

Koll: That's fine…

JOHNSON: …watching him get out a the car or where he moved to or whatnot.

Koll: So you're waiting in between these vehicles kind of waiting for Baker to get out of the car?

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No	No	Yes	Interview with Probation Officer Dwain Johnson

JOHNSON: <Talkover - inaudible>

Koll: What happens then?

JOHNSON: Um then I was waiting for him then I hear a loud... would be a gunshot and I turned my attention to that direction where the shot came from...

Koll: Okay.

JOHNSON: ...and I see a black male was standing out there with his arm extended...

.oll: Okay.

JOHNSON: ...and rapidly firing shots...

Koll: Okay.

JOHNSON: ...towards the officers <Talkover - inaudible>

Koll: And you remember what kind a gun he had?

JOHNSON: I knew it was silver in color, what kind...

Koll: Okay.

JOHNSON: ...what brand I do not know.

Koll: Was he standing out there by himself?

JOHNSON: Correct.

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No	No	Yes	Interview with Probation Officer Dwain Johnson	

Koll: Okay um and you demonstrated with your arm extended and you said several gunshots?

JOHNSON: <Talkover - inaudible>

Koll: Um where was he...where was his handgun facing?

JOHNSON: His <Inaudible>...handgun was facing down towards the officers <Talkover - inaudible>

Crum: <Talkover - inaudible>...officers were at, I'm sorry?

Koll: Okay. And how were you...and you said officers were at, how are you familiar that there's officer's down there?

JOHNSON: When I pulled into the parking lot that's where they were congregated at.

Koll: Okay you could see... do you remember how many officers were there?

JOHNSON: Approximately six to ten.

Koll: Six to ten officers? Kind a congregating, hanging out here?

JOHNSON: Right.

Koll: Okay um and your thought process when you see this subject point a handgun down this alleyway toward that direction of where you last saw officers.

2. Victim Name	3. Original Offense / Charge		
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JOHNSON: It was imminent danger that he was firing at officers attempting to kill…

Koll: Okay.

JOHNSON: …or injure.

Koll: Okay. Um…

Crum: Shooting at the cops just…<Talkover - inaudible>

JOHNSON: Right, right.

Crum: Okay.

Koll: Okay and at that point do you discharge your weapon?

JOHNSON: Yes I did.

Koll: Okay um can you tell me about um anything as… anything you remember about uh you shooting your weapon, do you remember your backdrop, do you remember how many times you shot um can you take me through what happened when you shot, did the suspect do or say anything?

JOHNSON: Um there's a clear backdrop, nobody was here except the suspect that I seen. Um don't remember how many rounds I fired um but…

Koll: Okay in response to your gunshots…

2. Victim Name		3. Original Offense / Charge	
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JOHNSON: Right.

Koll: ...um does he divert his attention at all, is he...does he make any movements, is he just standing there static?

JOHNSON: I just remember him standing there and rapidly firing the...

Koll: Okay.

JOHNSON: ...firearm.

Koll: Um... you...you fired your weapon, you don't remember how many times, at some...

JOHNSON: No I do not.

Koll: Okay, at some point do you...do you stop firing?

JOHNSON: I stopped when I saw his ...he started to fall...

Koll: Okay.

JOHNSON: ...and I thought the threat was over at that point and I stopped firing.

Koll: Okay so that's when you stopped firing?

JOHNSON: Right.

Koll: Um he goes to the ground...

JOHNSON: Correct.

2. Victim Name Officer Shue			3. Original Offense / Charge ADW
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Koll: ...can you take me through anything you saw or heard after <Talkover - inaudible>

JOHNSON: Soon as he started falling towards the ground, he hit the ground, um I heard the officer say ...it was a CMPD officer said stop firing, I think those were the word... I can't say the exact words but it was in the reference of stop firing.

Koll: Okay.

JOHNSON: Um, at that time, I dropped my clip...my magazine, reloaded just in case...cause we were going to check the vehicle for another threat...

Koll: Okay.

JOHNSON: ...and I didn't wanna be faced in that situation with no knowing how many rounds I fired...

Koll: Okay.

JOHNSON: ...I ain't wanna...have no empty weapon.

Koll: Okay and I'm familiar with handguns and stuff like that um if someone listened to this or whatever and is not familiar with handguns so um dropping the mags that's when you...there's a magazine release on the side?

JOHNSON: <Talkover - inaudible>

2. Victim Name		3. Original Offense / Charge	
Officer Shue		ADW	
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Koll: Okay do you know …do you remember if your …if your gun went empty?

JOHNSON: It did not go empty.

Koll: Did not go empty so the slide was still forward?

JOHNSON: Correct.

Koll: Okay um so you…but you wanted a full clip unknown of what…

JOHNSON: Yes.

Koll: …whatever threat you may still face…

JOHNSON: Correct.

Koll: …you wanted to have a… more ammunition? Okay. So you do that, do you remember putting the mag in, do you remember if you racked the slide?

JOHNSON: I do not remember that…

Koll: Okay um so you get a fresh mag in um and your concern is this vehicle that he arrived in and any other dangers that are still present.

JOHNSON: Correct.

Koll: So take me from there how …how you address that.

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JOHNSON: I remember Baker was on this side of the car, I went around to the driver's side...

Koll: And you're...you just kind a did a loop around kind a the...the bushes that are up next to...

JOHNSON: In front of the bushes...

Koll: Okay.

JOHNSON: ...pretty much walk through the mulch area...

.oll: Okay.

JOHNSON: ...on this side <Talkover - inaudible>

Koll: So it would've been...you would a walked around the front of his car as it was pulled in?

JOHNSON: Correct.

Koll: Okay um any ...anything of note as far as the car, clearing the car or anything like that?

JOHNSON: There was nobody in it, the doors were locked on the vehicle.

Koll: Okay.

JOHNSON: I remember that part.

Koll: Okay did you try the doors to try to get in and get a good look?

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JOHNSON: <Talkover - inaudible>

Koll: Okay um can you take me from there?

JOHNSON: Um after that um we stayed…I pretty much stayed with the vehicle and as they were rendering aid to the suspect and the officer and I remember another vehic… officer pulling…I think the first officer probably pulled in this parking lot, they were like bring a vehicle down…

Koll: Okay.

JOHNSON: …for her and yelling like motioning for that but I, pretty much, stayed here at that vehicle.

Koll: Okay at what point do you realize that a Police officer had been shot?

JOHNSON: Um when she was yelling out a the bushes and they said officer down.

Koll: Is that after he's already been shot and…

JOHNSON: Correct.

Koll: …after you've cleared the vehicle?

JOHNSON: Correct.

Koll: Okay. Um… do you remember, did you give him any commands?

JOHNSON: The suspect?

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Koll: Uh huh.

JOHNSON: No.

Koll: Okay and why not?

JOHNSON: Because when I...when the scene started and he was already firing at that point I... I only felt that there was only one response.

Koll: Okay um...okay, you saying there wasn't enough time?

OHNSON: Correct cause he was already...when I engaged with him he was already ...

Koll: Okay.

JOHNSON: ...firing shots towards officers.

Koll: Okay um did you hear any other... anyone else have any commands or anything like that, did you hear anything being yelled...yelled, screamed either by him or by officers, anything like that?

JOHNSON: No the only screaming I remember was after that um like I say it was stop shooting and it echoed through was everybody okay.

Koll: Okay. So the officers...uh after the shooting, after you've cleared the vehicle, the officers over here um you can hear her screaming...

JOHNSON: Correct.

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Koll: ...you now know to be a Police officer screaming?

JOHNSON: Correct.

Koll: Um you said you, pretty much, hang out over here do you have any interaction with the suspect?

JOHNSON: No.

Koll: Can you put an X kind a where he ...he was when you...

JOHNSON: Yeah it'll be somewhere <Talkover - inaudible>

Koll: Okay.

JOHNSON: <Talkover - inaudible>

Koll: So do you approach him at all, do you have any other interaction, do you see him closer up, do you get a better look at the firearm anything like that?

JOHNSON: No.

Koll: No? Um and you hang out here um...<Inaudible> by the car?

JOHNSON: Correct.

Koll: Okay. Um do you see um...do Medic, Fire, any other personnel arrive?

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JOHNSON: Medic does arrive.

Koll: Okay and what is Medic do when they get there?

JOHNSON: Uh they assisted with … I think they had her in a car or put her in a car.

Koll: Okay.

JOHNSON: …and that officer, at that time, was officer in a car…

Koll: Okay.

JOHNSON: …and they had um Medic and they were working on him.

Koll: Okay um…

JOHNSON: Only thing I can probably remember… the only officer I recognized would be Shane…

Koll: Okay.

JOHNSON: …Strayer was there…

Koll: Strayer?

JOHNSON: …cause he had on a white shirt.

Koll: Do you uh… did you get to see um this guy being taken into custody and by in custody I mean handcuffed or anything like that?

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JOHNSON: At that time that the guy was approaching to handcuff um another officer had that and I was going around the car.

Koll: You were clearing the car while that was happening?

JOHNSON: Correct.

Koll: Okay um can you tell me of the lighting conditions out here?

JOHNSON: Fair.

Koll: Okay.

JOHNSON: It had been a rainy night...

Koll: Okay.

JOHNSON: Wet.

Koll: Is it uh...well lit, not well lit?

JOHNSON: I'd say more well lit than an average <Talkover - inaudible>

Koll: Okay and you could clearly see that he had a handgun?

JOHNSON: Yes it was silver.

Koll: Okay. Alright um...did you hear <Inaudible>...you heard these gunshots and that's what directed your attention to the black male holding the handgun with it extended...

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JOHNSON: Right.

Koll: …do you hear any other gunshots during this encounter?

JOHNSON: I mean I could hear probably other … At that point I'm a say I'm tunnel vision on him I'm not gonna say I heard how many other shots or…

Koll: Okay that's fine.

JOHNSON: …things along that nature.

Koll: But you hear…

JOHNSON: Gunshots, yes.

Koll: Okay. Alright um do you know anyone else who shot during this incident? And then <Inaudible>…I'm not asking personally I'm just saying of…of…like you know when you hang out with them and go to cookouts I'm asking do you know …do you know who…who was involved with the shooting uh this night? Did you see anyone else shoot?

JOHNSON: Um…

Koll: I guess is the easiest way to ask it.

JOHNSON: …did I see anybody shoot?

Koll: Yes.

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JOHNSON: No I'm not gonna say I saw somebody else firing <Talkover - inaudible>

Koll: Okay you just later became aware that other people had fired?

JOHNSON: <Talkover - inaudible>

Koll: Okay, sorry for the confusion...

JOHNSON: <Talkover - inaudible>

Koll: ...that was my fault. Um... the subject that was shot, did you...have you ever had any interaction with him?

JOHNSON: No.

Koll: Um any...and I know it was <Inaudible>...other than seeing him pull up to the bumper of uh ...um Baker's car, any other interaction or anything else that kind of stuck out?

JOHNSON: No the only... like I say, the only action that stood out at first was him pulling up so close to...

Koll: Okay.

JOHNSON: ...Bakers car...

Koll: Okay.

JOHNSON: ...and being that there was plenty of room out there <Inaudible>

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Koll: And him or his vehicle, at the time that you were there, did anything stick out as far as him or the vehicle...at the time that he pulled in or anything like that, other than that?

JOHNSON: No.

Koll: Do you later become aware of any type of BOLO or be on the lookout for him or the vehicle or anything like that?

JOHNSON: At the time I did that it was later when we had been separated and they had me in the room down the hall by myself <Talkover - inaudible>

Koll: Okay and what did...what did you then learn?

JOHNSON: I ...checking the headlines I figured it had done gone out and my phone it showed the uh ...the top screen was um about the ambush and then the next little alert was the ...it showed a picture of a males face and then the next like two pictures in a slide...

Koll: Uh huh.

JOHNSON: ...and it showed a white Expedition with a... <Inaudible>...well the tail end of a white veh...SUV...

Koll: Okay.

JOHNSON: ...with a New York tag on it.

Koll: Okay and did...what was the significance of that if anything?

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No	No	Yes	Interview with Probation Officer Dwain Johnson

JOHNSON: I just remember it being a white SUV…

Koll: Okay do you…

JOHNSON: …out front.

Koll: You later become aware that this was wanted for uh the…the vehicle or the person was wanted in connection with a murder.

JOHNSON: That was later…later on <Talkover - inaudible>

Koll: Later, didn't know that at the time? Okay.

JOHNSON: No didn't know that at the time.

Koll: Okay. Um…

Crum: I…I just wanna…you kind a touched on it but I just wanna be clear so… you see him pull in um this guy that you later see with the gun…

JOHNSON: He… When I was getting out a my vehicle he was coming in, he had pulled in from this direction…

Crum: Got ya.

JOHNSON: …and pulled like right to the tail end of …

Crum: Okay.

JOHNSON: …Bakers bumper.

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Crum: So he pulls in and so…you said that kind of, I guess, increased your awareness of him um but the…<Inaudible> do you hear anything from him, see that he does anything prior to those gunshots?

JOHNSON: <Talkover - inaudible>

Crum: So the first time you really see him as a person instead of just a vehicle he's firing shots?

JOHNSON: Correct.

Crum: Okay. Um… and I…I think that's…I…you…you said the backdrop was clear, do you know…do you know where your rounds, do you remember what was behind him when you were shooting specifically?

JOHNSON: No I didn't…there was no other movement in that direct vicinity.

Crum: Okay but you're pointing over in this area…

JOHNSON: Well I mean it's…just based on my trajectory yeah.

Crum: So generally the front of the building?

JOHNSON: Right.

Crum: Okay. I think that's it um… <Talkover - inaudible>

Koll: Do you um… Our officers wear body worn cameras they're um like things that attach to your vest and record, do you …do you carry or issued any type of recording device, body work camera anything like that?

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No	No	Yes	Interview with Probation Officer Dwain Johnson

JOHNSON: No.

Koll: Okay.

Crum: Sorry, one last one, um... I think at the time with the round counts you know you indicated that you reloaded here as well, were you wearing your um...uh...what...what were you wearing?

JOHNSON: My bullet... my molle vest with the...all my...my handcuffs and extra magazines <Talkover - inaudible>

Crum: Okay what's writ...is there anything written on there or ...?

JOHNSON: I have Probation patch.

Crum: Okay.

Koll: And actually uh...thinking back, I don't...I'm not uh...

Crum: We didn't ask those questions...

Koll: Yeah so we'll...

Crum: We had a couple other questions <Talkover - inaudible>

Koll: This is more admin stuff just...we're gonna... it's gonna go over um...uh... ya know sleep you got before, what you were wearing and stuff like that just <Talkover - inaudible>

JOHNSON: Sleep?

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No	No	Yes	Interview with Probation Officer Dwain Johnson

Koll: Like if you...

JOHNSON: <Talkover - inaudible>

Koll: ...if you got enough sleep the night before, all the... ya know, just some basic stuff <Talkover - inaudible>

Crum: No I don't think anybody gets enough but just generally.

JOHNSON: I got a 1 year old...

.oll: I know I don't.

JOHNSON: ... and a 2 year old so ain't no sleep.

Crum: Uh...well yeah, I understand that.

Koll: Um...so how...how long have you uh...do you have your... do you remember your hire date with Probation?

JOHNSON: My hire date?

Koll: Yeah and if you... if...I know it's... <Inaudible>...ours is on a card so it's always easy, a month and a year...anything?

JOHNSON: June.

Koll: Okay.

JOHNSON: Eleven years ago.

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No	No	Yes	Interview with Probation Officer Dwain Johnson

Crum: Okay.

Koll: Okay.

Crum: <Talkover - inaudible>

JOHNSON: Somewhere in that vicinity.

Crum: June <Inaudible>...I'm really bad at math <Talkover - inaudible>

Koll: Yeah.

Crum: <Inaudible>...myself real quick. June of uh...

Rawls: 2007.

Crum: ...2...2007.

Rawls: <Talkover - inaudible>...2006.

Crum: Yeah somewhere in there.

Rawls: <Talkover - inaudible>

Crum: So you've been with 'em for eleven years?

JOHNSON: <Talkover - inaudible>

Koll: Okay um...

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JOHNSON: <Talkover - inaudible>

Crum: <Talkover - inaudible>

Koll: And I think I've asked you before, do you guys have like a code or a badge number?

JOHNSON: JDE17.

Koll: JDE...7?

JOHNSON: 17.

Koll: Okay. Did you have any prior law enforcement or military experience prior to starting with probation? No? Okay.

JOHNSON: <Inaudible>

Koll: Sure, just passed down?

JOHNSON: <Inaudible>

Koll: Um and this is all kind a internal stuff as far as... do you uh...you guys are ...you're issued a radio?

JOHNSON: Yeah.

Koll: What talk group do you...

JOHNSON: Think that night we were ...oh boy... North Tryon SCU.

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No	No	Yes	Interview with Probation Officer Dwain Johnson

Crum: Did you transmit anything that night or...

JOHNSON: No.

Crum: <Inaudible>... okay.

Koll: Okay. Um now the uniform you were wearing, essentially uh we photographed you but... the external vest...

JOHNSON: Right.

Koll: ...um and uh what kind a pants did you have on? If you remember.

Crum: It's a tough question, if you don't remember that's fine <Talkover - inaudible>

Koll: And it's fine...

JOHNSON: <Talkover - inaudible>

Koll: ...we...we've got...

Crum: No, no that's okay...

Koll: <Talkover - inaudible>

JOHNSON: <Talkover - inaudible>

Crum: That's okay and we got a photo of you if you don't remember.

Koll: Yeah it's not that...

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Crum: Plain clothes attire right?

JOHNSON: Khaki color cargos <Talkover - inaudible>

Koll: Plain clothes?

Crum: That works.

Koll: Is there anything on your external vest or anything like that identified as <Talkover - inaudible>

OHNSON: <Talkover - inaudible>...Probation.

Koll: Probation? Okay um... how much uh...what's our height and your weight?

JOHNSON: Come on now... 6'2, 310.

Koll: 6'2, 310? Alright and uh... If you can remember the amount of sleep you got the night or day before you going into work that day? If you don't remember you don't remember I'm not gonna...

Crum: <Talkover - inaudible>

JOHNSON: I do not.

Koll: Okay.

Crum: Okay.

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Koll: Um...

Crum: Were you well rest...did you feel well rested <Talkover - inaudible>

JOHNSON: Oh yeah I was fine <Talkover – inaudible>

Crum: Okay.

Koll: You guys don't work off duty do you like secondary jobs that...

JOHNSON: <inaudible>

Koll: ...markets or anything? Okay. Um I've got your vehicle information...

JOHNSON: Well I mean...

Koll: Not that day, did you work any off duty jobs ...

JOHNSON: <Talkover - inaudible>

Koll: ...or anything like that? Okay. Um...your vehicle, I've got that information, does that have a uh...any type of recording, digital...vid...video recording, none of that stuff right?

JOHNSON: <Inaudible>

Koll: Okay. And we've already done that. Okay? Alright. That was it okay.

Crum: Mr. Rawls you got anything you wanna clarify or that you wanna ask while we're sitting here?

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No	No	Yes	Interview with Probation Officer Dwain Johnson

Rawls: No um...the um...<Inaudible>...said it all, I don't think you need to add anything else. I do think um... ya know working through uh four hours today and a couple a hours uh yesterday um I just have to say that cause I know his dad well I know Jason's mother and father well uh but these guys probably saved some lives out there that night so I'm very proud of the way they've handled themselves and uh they were on the spot, they acted professionally they uh...were...<Inaudible> kicked into training immediately and uh there's not telling uh if they hadn't taken this guy down how many CMPD officer's might a been hurt or killed so I am...I'm uh...I'm very proud of...of Mr. Johnson and Mr. Baker...Mr. Dzierynski.

Koll: Uh huh.

Crum: Alright.

Rawls: Say that for the record.

Koll: I'm a end the recorded statement; time is now 1546 hours.

BK/BC/rge

Exhibit 3

2. Victim Name		3. Original Offense / Charge	
Officer Shue		**ADW**	
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Reviewed: B Koll #3803

Rawls: So what's that unit ring for?

Koll: Hold on, I'm sorry sir.

SO THIS IS UH DETECTIVE KOLL WITH THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT, TODAY IS WEDNESDAY 17TH 2018; THE TIME IS NOW 1552 HOURS. I'M AT THE LEC IN INTERVIEW ROOM 2001. UM SERGEANT CRUM JUST STEPPED OUT TO GRAB A MARKER BUT SERGEANT CRUM'S GONNA PRESENT IN THE INTERVIEW. IT'S GONNA BE A RECORDED INTERVIEW OF A...JASON UH DZIER...

DZIERZYNSKI: Dzierynski.

Koll: Dzierynski?

DZIERZYNSKI: Dzierynski.

Koll: I'll get it eventually...D-Z-I-E-R-Z-Y-N-S-K-I, um his attorney um Mr. Rawls is also present. Um, excuse me, so um just the parameters, obviously this is a voluntary interview you don't have to answer questions, you can get up and walk out um at any time. Your attorney's um here to help um assist ya in any way. If you need to step out and talk to him you can. Um I'm conducting the criminal investigation, everything that took place in the parking lot out here um as far as the shooting that you're involved in.

DZIERZYNSKI: Okay.

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Koll: Um I don't do any part of your agencies internal administrative whatever so um any part of that is gonna be handled by them, this is...I'm only the criminal investigations part of everything that took place here.

DZIERZYNSKI: Got ya.

Koll: Um do you have any questions about that?

DZIERZYNSKI: No.

Koll: Okay. Alright so uh I'm a start with some basics here, do you know your date a hire...hire for Probation?

DZIERZYNSKI: Uh April 20 13.

Koll: 4/20/13? Okay and what's your code number, do you have like a badge number?

DZIERZYNSKI: Um like radio call sign?

Koll: Um...

DZIERZYNSKI: Like my... DJP17 is like a...the general one and then...

Koll: <Talkover - inaudible>

DZIERZYNSKI: <Inaudible>...identifier is <Talkover - inaudible>

Koll: Okay that's fine.

2. Victim Name	3. Original Offense / Charge		
Officer Shue	ADW		
4. Location Of Offense 601 E. Trade Street		5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/17/2018	9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose Of Supplement Interview with Probation Officer Jason Dzierzynski

DZIERZYNSKI: Okay.

Koll: Um did you have any prior law enforcement or military experience prior to starting with Probation?

DZIERZYNSKI: No.

Koll: No? Okay um and you're just assigned probation Mecklenburg County or how does that work?

DZIERZYNSKI: Yeah just to Mecklenburg.

Koll: Mecklenburg? Okay you follow up with probationers and um the other tasks that a Probation officer does...

DZIERZYNSKI: Yeah <Talkover - inaudible>

Koll: ...your normal duties?

DZIERZYNSKI: ...SRG unit.

Koll: What's the SRG unit?

DZIERZYNSKI: The Gang unit.

Koll: Okay. Um so your probationers are all on...all...are all gang members or suspected gang members?

DZIERZYNSKI: Uh huh.

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Koll: Okay. Um you remember what you were wearing the night this happened?

DZIERZYNSKI: Yes um I was wearing my issued molle vest with um a probation patch on the front and on the back.

Koll: Uh huh.

DZIERZYNSKI: Uh ya know it had like my gear pouches on it um…badge, my issued firearm uh magazine and cuff combo holster. Um…do you want clothing as well?

Koll: <Inaudible>…you wearing…

DZIERZYNSKI: It was like um…

Koll: …civilian clothes?

DZIERZYNSKI: Yeah it was uh a black uh like quarter zip I think uh and khaki cargo pants and like a ball cap.

Koll: Okay. And uh your height and weight?

DZIERZYNSKI: Uh 5'9…

Koll: Okay.

DZIERZYNSKI: …165.

Koll: Alright and um do you remember how much sleep you got the night before?

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DZIERZYNSKI: Eight hours.

Koll: Okay and did you guys work off duty or did you work any other jobs prior to starting your shift that day?

DZIERZYNSKI: No it…it was just my normal shift.

Koll: Okay what's your normal shift, what were you guys working that day?

DZIERZYNSKI: That day it was uh 2 to 11 um…

Koll: Is that what everybody was working out there?

DZIERZYNSKI: I don't know.

Koll: Okay you were working 2 to 11?

DZIERZYNSKI: Yeah I mean…I had equipment inspection earlier in the day so I…I was in earlier …

Koll: Okay.

DZIERZYNSKI: …but uh my scheduled shift that day was 2 to 11.

Koll: Okay. The car you were in, were um… Did you have a car you're operating?

DZIERZYNSKI: I was riding…

Koll: Okay.

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DZIERZYNSKI: ...in uh TFO Baker's vehicle.

Koll: Uh... and what kind a car is that?

DZIERZYNSKI: It's a silver uh GMC SUV.

Koll: Okay do you know uh...does that have any kind of um video camera system, anything like that?

DZIERZYNSKI: I don't think it does.

Koll: Okay um and we did your ammo count prior. Did you take any notes in reference to this case?

DZIERZYNSKI: <Inaudible>

Koll: Like handwritten notes out on the scene or anything like that?

DZIERZYNSKI: No.

Koll: Okay. Um so essentially I'm just gonna give you the floor, you just tell me about kind a who you are, what...what your job is uh what brought you to the Law Enforcement Center um who you were with, etcetera, and then um we'll kind a go from there.

DZIERZYNSKI: Okay um Jason Dzierynski, uh Probation/Parole officer, Mecklenburg County. Um ...uh I'm a specialized SRG Gang officer. Um so those are my...my primary functions are to supervise gang members. Um so on um Thursday January 11th we were doing a uh...an operation doing high risk compliance checks um I was ...my team and I, we

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were heading to the LEC to brief with um the CMPD officers for, ya know, to do our…our last compliance check for the evening um…

Koll: Okay.

DZIERZYNSKI: At about 10:45 um we pulled into the parking lot, we came off of Davidson Street and came in and crossed over the concrete walkway uh that leads to the elevators of the parking garage.

Koll: Okay.

)ZIERZYNSKI: Um I was riding in the passenger seat of uh Jason Baker's vehicle and we went to park in…in the second spot um..

Koll: Here's this if you need it.

DZIERZYNSKI: Okay.

Rawls: How do you want him to mark it? <Talkover - inaudible>

DZIERZYNSKI: Do you want me to to do any <Talkover - inaudible>

Koll: However…however…yeah…

Crum: Put a number one down there it's fine.

Koll: Works for me.

DZIERZYNSKI: Okay.

Crum: <Inaudible>

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Koll: So one is where you believe you parked?

DZIERZYNSKI: Yes this is where Jason Baker parked.

Koll: Okay.

DZIERZYNSKI: Um and, I'm sorry, um… so as we pulled into the parking lot um I noticed and observed that the rest of the CMPD officers that were with our team uh had already arrived and they were down…down at the far end of the parking lot down here.

Koll: And you can just put a circle…

DZIERZYNSKI: Put a circle?

Koll: …that's fine yeah.

DZIERZYNSKI: Okay.

Crum: General area there…

Koll: Okay and how…how many officers you think? And could you tell what they were doing? Obviously I know you're not in the group with 'em but I mean could you tell kind a what was going on?

DZIERZYNSKI: It was about uh… I would say six to ten uh uniformed officers um I know Shane Strayer was there, he was in plain…plain clothes um but we were just there to brief um for the final compliance check so they…they had our…they had gotten there before us so they were kind a just grouped around just...

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Koll: Okay.

DZIERZYNSKI: ...waiting for us.

Koll: Okay.

DZIERZYNSKI: Um so as...as Baker and I pulled in um I remember mentioning to him said oh um... the rest of our teams already there, something along those lines I mentioned to him um so he parked um where I marked number one um and an empty space was left and uh Dwain Johnson parked in the fourth space down, we'll... I'll put a number two.

Koll: That's fine, yeah.

DZIERZYNSKI: Um so as we parked um I pretty much immediately got out of uh Baker's car um to walk down and meet with the CMPD officers. Um I got to about the trunk of Officer Johnson's car um... You want me to mark that with a little X or?

Unknown: <Talkover - inaudible>

Koll: <Talkover - inaudible>...fine, yeah.

DZIERZYNSKI: Um I got to the back... sorry, back of um Officer Johnson's car and I heard uh a pop, a gunshot come from behind me.

Koll: Okay.

DZIERZYNSKI: Um I turned around, saw a black male with shoulder length dreads standing in the middle of the parking lot um...

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Koll: You want to put a triangle?

DZIERZYNSKI: Sure.

Koll: Okay.

DZIERZYNSKI: Approximately right there um...

Koll: Okay.

DZIERZYNSKI: And so I heard the gunshot, I turned...I saw uh the shooter right there um, black male, shoulder length dreads um... by then uh I looked around to the team, see if anybody else noticed him or...or saw him um and then I looked...I looked back to him, um the shooter, and saw that he had his right arm extended out pointing down towards the group of CMPD officers um and then I saw muzzle flashes uh two to three shots coming from the gun he had in his hand um and that time I drew and started firing at the shooter. Um...he...his knee's buckled he...he fell um, I assessed the ...the threat had been stopped and I mean <Inaudible>...I ceased...I stopped firing once I determined the threat was over. Um... ya know he...it was apparent to me, ya know, he was deliberately shooting at the rest of my team, the CMPD officer's down there um, ya know, it...to me, we were in immediate danger, ya know, he was shooting to kill... to wound um, ya know, I was... I had to stop the threat from, ya know... if he would a turned on me um or kept shooting so um...so when...when he fell down um the threat was over. CMPD officers uh went in to handcuff and um I covered the shooter uh with my gun as...as they went in to handcuff um then I went to help uh TFO Baker and Officer Johnson clear the shooters vehicle which was in the first spot um...

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Koll: You can put a three.

DZIERZYNSKI: We'll put a three. Uh once we determined it was clear um I went to...and took cover behind the wheel well of Officer Johnson's vehicle and covered the rear of the parking lot um for any additional threats that might've been out there. Um... after...well at the same time um CMPD started administering first aid to the shooter um after they secured him um... then, from there, it was...ya know I pretty much provided scene security um ...uh, ya know, officer's came out a the LEC, I got scooped up by uh one of the officer's, he asked "Did you shoot?" and I told him yes and he, ya know, took me away from the scene kind a...ya know, isolated me.

Koll: Okay and then essentially uh you come into the Law Enforcement Center here and that's when uh you kind a... you stage in here, we do the ammo count that night?

DZIERZYNSKI: Yes sir.

Koll: Okay. Um... sorry, um you hop out a the vehicle um he's uh...you hear the gunshots, direct your attention to the sound of those gunshots, first thing you see is him with a handgun punched out um and he continued to fire, you describe hearing more gunshots and seeing the muzzle flash?

DZIERZYNSKI: Yes sir.

Koll: Okay um that's when you...you start...draw your weapon, you do a quick assessment see if anybody else is seeing what you're seeing um...?

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DZIERZYNSKI: Uh no not quite um... I heard the first gunshot as...as I was walking this way.

Koll: Okay.

DZIERZYNSKI: Um when I heard that I...I spun around and saw him um recognized him as a black male um shoulder length dreads, ya know, I knew he's not part of our group um so... I looked around and see if anybody else was seeing what I saw and then when I turned my attention back on the shooter he was extended out firing uh...

Koll: Okay.

DZIERZYNSKI: ...down the parking lot.

Koll: Okay.

DZIERZYNSKI: And that's when I, ya know, engaged the threat.

Koll: Okay um when you began shooting, do you remember how many gunshots...how many times you shot?

DZIERZYNSKI: I didn't remember at the time I... I know, after the fact, how many I did shoot so um...

Koll: Okay but at the time you didn't have a recollection, remember that night or anything?

DZIERZYNSKI: No.

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Koll: Okay.

Crum: It's based on a round count, just to clarify.

DZIERZYNSKI: Yeah, afterwards...

Koll: Okay.

DZIERZYNSKI: ...the round count, yes sir.

Koll: Um so you begin shooting, you stop shooting when you saw his knee's buckle and he falls to the ground?

DZIERZYNSKI: Uh huh.

Koll: Um do you ever um... do you see anyone else shoot?

DZIERZYNSKI: No um...

Koll: No?

DZIERZYNSKI: ...ya know I...I was focused on him um and I... I...I just remember his muzzle flashes, my muzzle flashes and the cease fire.

Koll: Okay um after he goes down um you kind a start surveying looking for other threats, um...can you tell me about anything you hear or see in that, during that time?

DZIERZYNSKI: Sure um I hear um...there's a CMPD officer coming up on my ...my left side and he called out um to go handcuff him so, ya know, I...I covered the shooter as they were moving in to handcuff um then

about the same time um I remember hearing Officer Shue uh scream out um... I don't remember exactly what she was saying uh she was in the bushes down around here somewhere um...

Koll: Okay.

DZIERZYNSKI: I can remember um... uh TFO Baker, he popped his trunk um... he was um... going for his medical kit um and I also remember someone yelling to go get a car uh someone yelled get a car or car...car um and they brought in a ...a CMPD vehicle to scoop up Officer Shue um that was about the same time that they were giving first aid to the shooter.

Koll: Okay.

DZIERZYNSKI: Um and then after that, ya know, they... they scooped me up, everyone came out uh started securing the scene um... One officer that came out from the LEC uh started putting markers around the shell casings. Um...I know we were very careful not to disturb any of them uh that were on the ground in that empty spot um but they...they removed me pretty quickly from the area.

Koll: Okay can you tell me about um the lighting conditions um here and then also your backdrop when you um...begin shooting at him?

DZIERZYNSKI: It was um... drizzly, it was uh night time so um the street lights were on um ...uh the backdrop um I remember there was lights coming from behind the shooter um the backdrop was the wall of the LEC.

Koll: Okay.

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DZIERZYNSKI: Um...there weren't any civilians around um, no vehicles um...at the...it was safe to engage him without any collateral.

Koll: Okay um and backing up to just after um you...um you shoot and the officer's saying handcuff, you approach, do you have any interaction with him when you're kind a providing lethal coverage?

DZIERZYNSKI: No.

Koll: Um is he saying anything or doing anything like that?

DZIERZYNSKI: Uh what I remember, he was just laying there I...

Koll: Okay.

DZIERZYNSKI: ...I didn't hear anything or...

Koll: Okay um do you remember seeing the firearm...

DZIERZYNSKI: No.

Koll: ...when you approached?

DZIERZYNSKI: I didn't approach.

Koll: Okay.

DZIERZYNSKI: I...I...I stayed down here behind Officer Johnson's vehicle.

Koll: Okay um so you...you never went up then? Okay.

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DZIERZYNSKI: No.

Koll: Alright um... did you recognize the person that um you shot?

DZIERZYNSKI: Not at the time?

Koll: Not at the time... and do you later become aware of him somehow?

DZIERZYNSKI: Yes.

Koll: What...what did you learn about him?

DZIERZYNSKI: Um after it was all said and done um I was told that it was Jonathan Bennett um the suspect from earlier in the day that allegedly shot and killed his girlfriend and kidnapped the...the child.

Koll: Okay and you...do you have any information or did you learn anything about the car or anything like that?

DZIERZYNSKI: Yeah um la...later I was informed that ya know...that was the car he was driving. Um someone had made a comment later on and later on that he had swapped out tags.

Koll: Okay. Um... just prior to the shooting, I know uh you heard the gun since you turn around and you saw him um did you give him any commands or anything like that?

DZIERZYNSKI: No um... I...I went straight into engaging him with the firearm.

Koll: Okay. Okay and <Inaudible>... um can you tell why you didn't give any commands?

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10. Juvenile Case **No**	11. Multiple Case Clearance **No**	12. Supplement Confidential **Yes**	13. Purpose Of Supplement Interview with Probation Officer Jason Dzierzynski	

DZIERZYNSKI: He was already shooting...

Koll: Okay.

DZIERZYNSKI: ...um at my team...

Koll: Okay.

DZIERZYNSKI: ...and I...I didn't think I needed to or had time to.

Koll: Okay. Anything else?

Crum: That's it.

Rawls: No <Talkover - inaudible>

Koll: Nothing else? Alright um...

Crum: Rawls, you good?

Rawls: We're good.

Koll: <Inaudible>...okay um...and I know I asked about the uh... no body cam or anything like that right?

DZIERZYNSKI: No sir.

Koll: Okay...okay, I'm a end the uh recorded statement, time is uh ...uh 1611 hours.

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BK/BC/rge

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded	23. Reporting Officer **B. Koll**	Code **3803**	Assignment **Homicide**	Date **1/17/2018**
22. Investigative Status] Active] Inactive] Closed] Administrative	25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Exhibit 4

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10. Juvenile Case	11. Multiple Case Clearance	12. Supplement Confidential	13. Purpose Of Supplement
No	No	Yes	Interview with Officer J. Decker

Reviewed: B Koll #3803

DETECTIVE KOLL, CHARLOTTE-MECKLENBURG POLICE DEPARTMENT; TODAY IS SATURDAY, JANUARY 13TH, 20-18. THE TIME IS NOW 10 A.M. UM, I'M AT THE L-E-C IN INTERVIEW ROOM 2001 WITH SERGEANT CRUM. UM, INTERVIEWING OFFICER, UM, J. DECKER, CODE NUMBER 51-63. HIS ATTORNEY, UH, MIKE GREENE, IS ALSO PRESENT.

KOLL: Um, so, kind, regurgitate that a little bit here.

DECKER: Sure, that's fine.

KOLL: I'm Detective Koll and assisting me with this interview is Sergeant Crum. Today's date is 1-13-2018, um, time is 10 a.m. This interview is being conducted at the L-E-C, Interview Room 2001. Due to your involvement in an officer-involved shooting, Sergeant Crum and I would like to speak with you about your involvement in the case. At this time, I'd also, uh, note that per your request your attorney, um, Mr. Greene, is present with you. As part of this investigation our interviews are recorded and I want to ensure that you know that this interview is being recorded. Are you okay with proceeding with this interview knowing that it's being recorded?

DECKER: Absolutely.

KOLL: Okay. This is a voluntary interview and you're free to leave at any time; you understand that?

DECKER: Yes, sir.

KOLL: Alright. You are not under arrest, do you understand this?

DECKER: Yes, sir.

UCR Clearance Status	23. Reporting Officer	Code	Assignment	Date
] Open] By Arrest] Exceptional] Unfounded	B. Koll	3803	Homicide	1/13/2018
22. Investigative Status] Active] Inactive] Closed] Administrative	25. Case Referred To	26. Reviewing Supervisor, Code, Date		

2. Victim Name	3. Original Offense / Charge	
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13. Purpose Of Supplement Interview with Officer J. Decker		

KOLL: Okay. So I also want to inform you that there are two parallel investigations going on right now. First investigation is the criminal investigation, which is what we're conducting.

DECKER: Uh huh.

KOLL: Uh, you don't have to speak with us but we'd like to speak with you to gain your perspective and assist us with our investigation. The second investigation going on right now is the internal affairs investigation, um, which is conducted obviously by Internal Affairs.

DECKER: Uh huh.

KOLL: They'll speak to you separately about their investigation as need be.

DECKER: Uh huh.

KOLL: You understand that?

DECKER: I do.

KOLL: So I'mma talk about the differences between the two.

DECKER: Uh huh.

KOLL: So, the criminal investigation that's being led by us, um, all the information we gather and, uh, results of this interview and all this stuff can be shared with Internal Affairs.

DECKER: Uh huh.

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KOLL: Now if In, Internal Affairs goes and asks separate questions or does some other type of investigation, the results of all that stuff does not get shared with me.

DECKER: Okay.

KOLL: You understand that?

DECKER: I do.

KOLL: Okay. Um, with all that, are you willing to speak with us at this time?

DECKER: Absolutely.

KOLL: Okay. So this next part, um, is just some of the basics, um, code number 51-63. Do you know your date of hire?

DECKER: Uh, 7-21-20-14.

KOLL: 7-21-20-14.

DECKER: I think <chuckle>.

KOLL: Okay.

DECKER: It's right there; I mean I'm pretty sure that's what it is.

KOLL: Okay. You have any prior, uh, law enforcement or military experience prior to coming to C-M-P-D?

DECKER: No law enforcement, but I was in the Army for 5 years.

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10. Juvenile Case	11. Multiple Case Clearance	12. Supplement Confidential	13. Purpose Of Supplement
No	No	Yes	Interview with Officer J. Decker

KOLL: Army? Okay.

DECKER: 4 and a half- 5 years, yeah.

KOLL: Um, and what did you do for the Army?

DECKER: Um, I started out as a Infantryman.

KOLL: Okay.

DECKER: Uh, but the identifier's 11-Bravo, it's just like a basic... just a grunt.

KOLL: Okay.

DECKER: Um, and then I moved into same identifier as 11-Bravo and I moved into a long range surveillance unit out of Fort Bragg.

KOLL: Okay. Um, and the current division you're assigned?

DECKER: Uh, North Tryon Division, the Crime Reduction Unit.

KOLL: And it's C-R-U?

DECKER: Yes, sir.

KOLL: Alright, and the shift you were working that, um, night this happened?

DECKER: Uh, 1600 to 0-2, 4 p.m. to 2 a.m.

KOLL: And that shift is probably what, like a 4th shift?

DECKER: Yeah, you'd call it a fourth-ish <unintelligible, talk-over>.

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KOLL: Okay. Do you remember the call sign you were using that night?

DECKER: 7-61-32-dash-0.

KOLL: 1-32-dash-0, alright. And the radio talk group that you would've talked on or been operating off of that night?

DECKER: Uh, well, there was really two.

KOLL: Okay.

DECKER: The main like North Tryon Division.

KOLL: Okay.

DECKER: Uh, that's what my radio was on, I believe, but then we were communicating or we'll get into the later, but we're also commit, communicating on North Tryon S-C-U.

KOLL: D-3-S-C-U, alright. Um, the supervisor that night?

DECKER: Um, my direct line supervisor, Sergeant Jeff Wheaton, was not in.

KOLL: Okay.

DECKER: Uh, and so we, uh, Sergeant Greenlees out of Eastway C-R-U was in charge of us.

KOLL: Okay. And the uniform you were wearing that night?

DECKER: Uh, the, I guess it was Class B, 5-11s.

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KOLL: Okay.

DECKER: Long, long-sleeved T-shirt, badge, nameplate.

KOLL: And your height and weight?

DECKER: Uh, about 5-10, 1-90ish. I'm probably 5-9 <chuckle>. I say 5-10 cause it makes me feel better.

KOLL: Okay.

DECKER: <chuckle>

KOLL: I'm giving you an extra inch.

DECKER: Yeah.

KOLL: <chuckle> Alright. Uh, any, uh, amount of sleep you got the night or day prior to your, to your shift?

DECKER: About 7 hours.

KOLL: Alright. And did you work any off duty prior to coming in?

DECKER: No.

KOLL: No? Alright, the vehicle you were driving that night?

DECKER: Uh, P-D-A-3-8-1, that's my assigned car.

KOLL: Okay. It's a take home?

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DECKER: It is, it's a SWAT car.

KOLL: Is that a marked car?

DECKER: It is.

KOLL: Alright.

DECKER: Crown Vic.

KOLL: Um, is that have a D-M-V-R?

DECKER: It does but it doesn't, it doesn't operate.

KOLL: Okay.

DECKER: It's on, non-operational.

KOLL: Yes ...and do you have a body-worn camera that night?

DECKER: I do or I did.

KOLL: Do you remember it was activated?

DECKER: Uh, it was on, yes, sir.

KOLL: Okay. Um, now were you driving 3-81?

DECKER: I was.

KOLL: Did you have any passengers?

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DECKER: I did, Officer Phillip Banham. I don't know his code.

KOLL: Okay, that's fine. Um, and we did the ammo count, um, I'm <unintelligible> no backup weapons, anything like that?

DECKER: No, sir.

KOLL: Any other weapon systems deployed other than your service?

DECKER: No, sir.

KOLL: Okay. Um, your attorney's here and, uh, did you take any handwritten notes in reference to this?

DECKER: No, sir.

KOLL: Okay.

DECKER: Not that I recall.

KOLL: Okay. Um, have you, uh, viewed, um, any real time video footage or bodycam footage? I know you said you had your body camera on.

DECKER: I haven't watched mine. The only thing that I did see in passing was Officer Banham when we were at the office was watching his from that night.

KOLL: Okay.

DECKER: Um, but my attorney advised me he'd rather, you know.

KOLL: Yeah.

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DECKER: So I kinda walked by it and didn't really see it.

KOLL: Okay.

DECKER: So, uh, just being honest, you know.

KOLL: Okay.

DECKER: He, he was playing his and I walked by it, you know.

KOLL: Okay, that's fine, that's why I'm asking. Um, alright, so, uh, there's a map if you need it, um, and a marker to …

DECKER: Uh huh.

KOLL: … mark things and I'm kinda gonna give you the floor.

DECKER: Sure.

KOLL: Um, if you just wanna go through, um, what brought you to the L-E-C.

DECKER: Sure.

KOLL: Who you were with, um, and just go from there.

DECKER: Sure. So and feel free to stop me at any time; it won't, it won't bother me.

KOLL: Okay.

DECKER: Um, alright, so, uh, like I stated before, I'm assigned to North Tryon C-R-U.

KOLL: Uh huh.

DECKER: Um, we were scheduled to work, uh, 4 p.m., 1600 is 0-2, on, what was that January 11th?

KOLL: Yes.

DECKER: Yeah, January 11th into January 12th. Um, I woke up at approximately 0-800, uh, that day. Um, it's my normal habit, well, I try to go in and work out before work, uh, so I left my home approximately 1:30, probably arrived at work around 2:00. Worked out from about 14-30 to 13-30, showered, got changed, um, and, uh, went and you know. We don't have roll call but for lack of a better term, roll call at 1600, meeting up, checking email, you know, categorizing B-W-C, follow up, stuff like that, just the normal, you know, getting ready for the day.

KOLL: Admin stuff before your shift?

DECKER: Admin, admin stuff. So that day, um, and I can't give you an exact date of when that email was, uh, this email was sent out, but there was a preplanned operation, uh, between North Tryon C-R-U, Eastway C-R-U, uh, Gang, and Probation, uh, to do, uh, assist Probation in their routine probation searches. Um, this is something that I've been a part of. I, I, I can't give you an exact number, but I've done these probation operations, um, I don't know, 4 times, maybe 5 times.

KOLL: Okay.

DECKER: Each time they look a little bit different, sometimes they involve multiple C-R units like almost sometimes it's a citywide operation, sometimes it's just probation's look or looking to search a particular guy in a particular division. They kinda give a courtesy call, hey, can you come help us out? Um, I'm

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not gonna speak to their legality cause I'm not, I don't fully understand what they can and cannot do. I know they have badges and guns, uh, but best I understand, uh, they're conduct, they have, uh, either absconders or probationers that they're either doing, they either have some type of, and I'm generally speaking, they either have some type of parole violation or, um, they're just conducting routine search and we are there to assist with scene security and then, if there's any criminal action taking place, we're there to take over that because that's beyond their jurisdiction.

KOLL: Okay.

DECKER: Um, so that's the normal. So the, a brief had been given at the North Tryon Team Office, it was prescheduled for 18-30. Uh, so in that room was, uh, David-3 C-R-U, Charley-2 C-R-U, um, and I don't know everyone by name or exactly where they're from. I'm pretty sure MET was present, a coup, a couple of people from MET.

KOLL: Okay.

DECKER: Uh, a couple of people from Gang, Probation of course, um, and there may have been others, you know, 'cool guy' units that I don't know about <chuckle>, but you know I didn't recognize everyone.

KOLL: Okay.

DECKER: Uh, but there was a good amount of people there. Um, so, um, probation officer, I don't know his title so I'm just gonna call him probation officer, uh, Ben Savage, he was kind of the guy in charge, he normally is.

KOLL: Uh huh.

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DECKER: Um, he had, and this is approximate, he had approximately 18 guys, uh, um, that they were interested in and they divide, and they were spread out all over the city, Freedom, Metro, North Tryon, University, Hickory Grove, Eastway, um, not limited to that but, uh, it, it was fairly well spread out. So, uh, he divided basically like 9 and 9 and Eastway C-R-U, um, went with a couple Gang, Probation, um, and then whatever, um, and then North Tryon C-R-U went with, uh, Gang, Probation, you know, so we kinda just split the room in half using the two, two C-R-Us to tackle each of those 9 guys.

KOLL: Okay.

DECKER: So out of those 9 guys, you know, we're looking for John Smith at 1-2-3 Elm Street, you know, and they go and they knock and, to be honest, we had had very little luck <chuckle>. Uh, they knocked on, I can't give you an exact number, but it was probably 7 or 8, uh, out of our 9 guys or 7 out of our 8 guys, um, and either nobody was home or, um, I think we made contact with somebody, uh, and you know nothing came of it. We just kinda stood outside, they didn't ask us to come in. Um, and so there was one other person, um, I can't, I can't remember his, his name. It was one other person that, um, they were interested in, um, and it was one of those where his location was a little bit ambiguous as to where he might be; so at the time, myself and Officer Banham riding in P-D-A 3-8-1, my, my car, we, uh, Probation a, attempted to locate an individual somewhere on Reagan Drive in one of the hotels. They had knocked it, uh, they were like we don't know who you're talking about, so we were staged at like 5100 block of Reagan in that business park. They knocked it, they said, hey, we can't find 'em so let's, let, let's go 'head and look for this guy, um, let's just meet at the L-E-C. So, Officer Banham, uh, and I, we decided to swing by the North Tryon office southbound on Sugar Creek, right on North Tryon, pulled into the North Tryon office. I heated up some food; it was just kind of like a let's, let's regroup, you know, went to the bathroom, um, joking and jiving, you know, like nothing to, just hanging out, you know?

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KOLL: Okay.

DECKER: Uh, we spoke with a patrol officer, um, in the parking lot, just saying hey, like you know he, he mentioned, you know, hey, we're looking for this car, y'all seen it; yeah, we'll keep an eye out. So like in, in other words, the reason I'm bringing that up, it wasn't like en route to L-E-C 10-4.

KOLL: Okay.

DECKER: You know like moving there, you know.

KOLL: Yeah.

DECKER: It was just kinda hey, get there when you wanna get there, we'll all link up.

KOLL: Okay.

DECKER: Um, and, does that make sense what I'm saying?

KOLL: Yeah.

CRUM: Yeah.

DECKER: Okay.

KOLL: Perfect.

DECKER: So, um, anyway so myself and Officer Banham pull out of North Tryon, right on North Tryon, uh, we decide to go, head straight to the L-E-C. Um, so at this point, I won't mark on it, but I'll kinda just show ya.

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KOLL: Okay.

DECKER: Um, so we came up, uh, 11th Street to Davidson.

KOLL: Okay.

DECKER: Uh, so obviously Davidson's right here.

KOLL: Uh huh.

DECKER: Uh, Davidson turn left on 5th Street. We turn right into the L-E-C.

KOLL: Okay.

DECKER: Uh, and then pulled around, so as I'm pulling around it's dark. Obviously the L-E-C is a lit parking lot, but it's not like those ... what do you call, like the, like the, those bright L-E-D like daylight, you know, lights.

KOLL: Right.

DECKER: So it's, it's kinda of like a yellow light, um, there are shadows in and out of the parking lot. So what I saw, um, as best as I can recall, there was, there were several cars parked here. And, by 'here' I mean if this is the entrance of the parking deck, there were probably like car, car, car, space, car, space car, something like that.

KOLL: Okay.

DECKER: I, I can't tell you exactly. Uh, I, I could see, you know, Probation, they use, I'm sure there's some type, like they have police capability, like siren and I'm, I'm assuming, but they're civilian vehicles or S-U-Vs, minivans, Impalas, stuff like that.

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KOLL: Okay.

DECKER: They're not marked cars that say 'Police', so I rec, but I did recognize, uh, Probation Officer, uh, Baker, I believe his name is.

KOLL: Okay.

DECKER: Um, white guy, goatee.

KOLL: Uh huh.

DECKER: Um, I, I recognized his car, uh, somewhere in here. Um, looking back, there was a white S-U-V parked somewhere right in here.

KOLL: Uh huh.

DECKER: Um, anyway so, for some reason, I, I, I, I, I can't tell you why, I, these, these right here it, it says 'Officer Transport Only', obviously, I didn't see anybody here.

KOLL: Uh huh.

DECKER: By 'anybody', anybody might also mean no, no vehicles here.

KOLL: Okay.

DECKER: Um.

KOLL: You're pointing at the parking spaces to the right of the main entrance.

DECKER: To the right of the main entrance on the Davidson side.

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KOLL: Uh huh, okay.

DECKER: Um, obviously, I couldn't see these, you know, uh, portion.

KOLL: Right.

DECKER: So I pulled in, so as I'm, as I'm rounding the corner, there was a group of people, officers and probation officers, um, uh, C-M-P-D officers, uh, and probation officers standing approximately right, so I'm gonna go 'head and mark now.

KOLL: Okay.

DECKER: A, approximately right here, I'm just gonna put a dot.

KOLL: Okay.

DECKER: And, I mean just joking and jiving, you know, just talking, you know, nothing, there was no formation, it wasn't like somebody being briefed, it was just, we're all waiting to link up. I recognized Officer Shue, uh, she was on that side, Officer Burch, he's, uh, there, there's, uh, two individuals around North Tryon C-R-U.

KOLL: Okay.

DECKER: Um, I, and then I recognized some of the probation officers; these are the same officers and probation officers that we had been, I had been working with, we had been working with all day and all night.

KOLL: Okay.

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DECKER: Uh, so I parked, um, and again I, I'm gonna put a dot, I'm, I'm, it's not exact. There was like a, I wanna say it's a Chevy Malibu, it was like, I believe it was tan unless my memory's failing me; it was parked in like somewhere basically where this white car is, so we're just gonna like go, that's the Chevy Malibu.

KOLL: Okay.

DECKER: I parked somewhere; it wasn't directly next to it, but somewhere in this region.

KOLL: Okay.

DECKER: So that's where my car, I parked nose in, in other words I didn't back in. Um, Officer Banham and I were joking, he, he's a good friend of mine, we were joking and jiving, um, I, I think I was just giving him a hard time about something. Um, and so we parked, we got out, uh, we began to walk towards this group of officers just to link up. Um, and granted, you know I'm, I'm putting dots, I mean <sigh>, within my mar, the margin of error in memory.

KOLL: I'm not gonna hold you to ...

DECKER: Yeah, yes, you know.

KOLL: ... a specific parking stall <unintelligible, talk-over>, yeah.

DECKER: Uh, but approximately, um, I, I was, um, I'm just gonna say like midway and rit, now that I'm looking at this, may, maybe the, the, the group of officers, Shue, Burch, and Probation were closer down to here.

KOLL: Okay.

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DECKER: Uh, so I was approximately ... best I can recall, smack dab in the middle of the parking lot.

KOLL: Okay.

DECKER: That's a technical term, smack dab.

KOLL: Yep.

DECKER: Um, facing, I was kinda walking in this direction. I don't wanna like clutter this image, but I was kinda walking in this direction.

KOLL: Okay.

DECKER: Towards ...

CRUM: Towards the parking.

DECKER: In other words, my hips and my shoulders were faced, uh, towards Shue and Burch and Probation.

KOLL: Okay.

DECKER: Um, suddenly I heard shots; it was several shots in rapid succession. Um, I could tell that they were pistol shots, training and experience, I've been around firearms a lot, um, I could tell they were pistol shots and I could tell they were close. So, you know, I could tell that it wasn't like that distance crack of a rifle, pop-pop-pop, you know like when you're standing at Sugar at 85 and you hear that pop-pop-pop-pop, you know <chuckle>, like, or Metro, wherever, you know, like.

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KOLL: Uh huh.

DECKER: It, I could tell it was very close and I remember it was very loud. Um, nn-nn-knowing now that the shots were coming from this area, you know the, those high walls and then high walls, there was nowhere for the sound to go, it was very loud. So I knew, uh, that someone was firing their weapon and they were firing their weapon close.

KOLL: Okay.

DECKER: I did not see, who I now know to be, the suspect firing at us, um, as he was, uh, as he, he fired his first shots.

KOLL: Okay.

DECKER: Um, so in other words, I'm, let, let's say, uh, Sergeant here is Burch, Probation, and Shue, like that group.

KOLL: Uh huh, uh huh.

DECKER: I'm facing them. I hear shots kinda at a 45-degree angle. Um, I begin to rotate towards those shots, instinctively I'm drawing my weapon. I didn't know if it was a negli, negit, negligent discharge, I didn't know if it was from the parking deck, I, but I knew the direction. Um, I, um, I was facing as I'm, as my vision is kinda transitioning towards this direction, I see officers, um, Zederbaum and probation officers, firing their weapon. I see muzzle flash. Um, I'm, so, and this is all happening <two finger snap sounds> very quickly. I see muzzle flash and I kind of trace their point of aim, um, and I see a black male, uh, walking, and this is where I am gonna go 'head and mark.

KOLL: Uh huh.

DECKER: He was approximately here and he was walking towards the front desk.

KOLL: Okay.

DECKER: Uh, the, I'm sorry, the front entrance, the main entrance of the L-E-C.

KOLL: Okay.

DECKER: I, I don't know what the right term is. Um, in other words <sigh>, you mind if I stand up?

KOLL: No <unintelligible>.

CRUM: Yeah.

DECKER: So like if you're me ...

KOLL: Okay.

DECKER: And I'm the suspect, he was kinda walking like this, makes sense?

KOLL: Uh huh.

DECKER: So he, he wasn't walking away from me, he wasn't walking perpendicular to me, he's walking almost at a 45-degree angle.

KOLL: Okay.

DECKER: Um, at this point several people were firing. Um, I saw a firearm in this black male's hand. Um, the firearm, I could see that it had a, a, um, nickel slide, a silver slide, and a, and a black bottom. That's all I saw. I saw it on

the left side of his body, but both of his hands were ... I don't know why, I, I almost thought he was handcuffed, you know, it's like we're in the parking lot of the L-E-C, like, like, but that's almost how he looked, like he was, he was kinda scrunched over. Um, he may have already been taking rounds at that point and he, you know he was, uh, I don't wanna speculate, but he was, he was kinda crunched over. If you're me, he's kinda this, this position. In that whole process of me seeing this, I'm already punched out, I've acquired him as the target, um, and I've identified him as the source of the fire against the officers.

KOLL: Okay.

DECKER: Um, I did so not only by the other officers' direction of their point of aim, but also seeing, without that, seeing him pointing a gun at us in addition to hearing the initial shots.

KOLL: Okay.

DECKER: Um, I then fire my weapon, um, and I fired my weapon until I was absolutely sure that the threat had been eliminated completely.

KOLL: Okay.

DECKER: I now know that to be 7 rounds due to our round count. At the time, if I were honest, um, like, you know, people come, hey, how many times did you shoot? I, I said 4 to 5. Um, so, um, but yeah, now, now I know it's 7. So at this point, so let's say you're the suspect and I'm, I'm punched out, I had just fired, the dust settled and it's that, that lull. I hear Officer Zederbaum saying, I believe, I don't wanna quote him but he, what he was saying is I'm hands free, like, so in any, it's a patrol-level skill; it's nothing like high speed. The apprehension of, for instance, a, a robbery suspect, an armed individual, whatever the case may be, normally one person's

gonna maintain lethal coverage and then either one of the officers or multiple other officers are going to go, what we call, hands on, and we don't mean body slamming or punching the face. What we mean by that is we, obviously, this had been a lethal force scenario. We had been shot at, um, and we had returned fired. Um ... but we couldn't just assume that the situation was safe until we had taken full control of the person who had chosen to fire upon officers. So, um, he said something to the effect of I'm hands free or I've got hands or, you know, like I said, I don't wanna quote him. I said I'll, I'm lethal, I'm lethal. By that, I means I'm, I intended on maintaining lethal coverage doing so with my firearm on the suspect until we had his hands.

KOLL: <unintelligible>

DECKER: By we had his hands, I mean officers either had him in handcuffs or had control of his hands. Uh, so at this point, um, am I allowed to draw?

KOLL: Yeah, yeah.

DECKER: Okay. So like, I'm not an artist, but at this point if this is the L-E-C over here, so L-E-C parking deck, he's laying approximately here. He's facing the, uh, main entrance of the L-E-C, so head, feet, and he's laying like this.

KOLL: Okay.

DECKER: So head, feet, please forgive <chuckle>.

KOLL: That's fine.

CRUM: <unintelligible>

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DECKER: You know, arms. Um, so I approach the, as best I can recall, um, when I fired my weapon and my line of approach was almost perpendicular to Davidson and parallel to the L-E-C and the parking deck or, or 5th Street. So in other words I didn't come at an angle. Uh, Officer Zederbaum, best I, I could recall, was coming from an angle and now, uh, Officer Banham and Detective Strayer from Gang was also coming in at an angle.

KOLL: Okay.

DECKER: Uh, best I could recall. I was coming straight on, so I maintain lethal, uh, and they came up as I, as I approach I saw, the suspect was laying and, and, again, my, my memory's not, you know ... I, the, I, I believe the suspect was laying with his right arm underneath him, um, best I could remember.

KOLL: Uh huh.

DECKER: And, but I do know for a 100, a 100-percent fact that, that the firearm was laying at his left ribcage, and I do remember that the weapon was in slide lock, by what I mean is it was a semiautomatic weapon.

KOLL: Uh huh.

DECKER: Uh, when you fire a semiautomatic weapon that's magazine fed, most 90%, uh, semiautomatic pistols when they have no, when that magazine has no more rounds to give, the, the, the slide locks to the rear. Uh, so you have the barrel slightly poking out, the slide is poking out over where your hand would be if you're holding a gun. Uh, so the weapon was empty, um, the, unless he had some type of malfunction. So the gun was laying right here ... makes sense?

KOLL: Uh huh.

2. Victim Name	3. Original Offense / Charge		
Officer Shue	ADW		
4. Location Of Offense 601E. Trade Street	5. Arrest Number	6. C.R. Number	
7. Original Report Date 1/11/2018	8. Supplement Date 1/13/2018	9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose Of Supplement Interview with Officer J. Decker

DECKER: Uh, so I stepped on the gun while, I believe it was Officer Zederbaum, Banham, and Detective Strayer, were taking control of his hands and put him in handcuffs. Um, someone said, I don't know who it was, someone said kick the gun, I didn't like <chuckle> nail it, but I kinda tapped it away maybe two to three feet.

KOLL: Okay.

DECKER: Um, at this point my first thought was we need to render aid, uh, to the, the person that we had just shot and who had just shot at us. Um … however, um, I'm standing over him with my firearm and I hear who I now know to be Officer Shue screaming over my left shoulder. So best I can tell, she was somewhere in these bushes approximately here.

KOLL: Okay.

DECKER: So I'm up here, she's here, it's over my left shoulder, I hear her screaming. Um, I went to the Academy with Officer Shue, um, I know her pretty well, um, and I know her voice, I work with her almost on a daily basis when I'm working.

KOLL: <unintelligible>

DECKER: Uh, so I knew it not to be, to my knowledge, she was the only female, I could tell that it was a female screaming, um, and I could tell that it wasn't, you know, it wasn't 'show me your hands' or …

KOLL: Right.

DECKER: It wasn't 'get a car, start medic', it was pain. Um, and so when I turned and started running towards that, um, I heard Officer Banham saying 'go, go,

go' and, um, and I'll be honest, you know, we, um, you know, talked in between now and then and what Banham was saying is, uh, Banham believed the suspect to be on, to be beyond help, but we knew that a police officer had been shot. Um, so Banham and Strayer and Zederbaum stayed to render aid to the suspect. I have a med kit in my car, it's nothing special, but it's, it's like a trauma kit.

KOLL: Okay.

DECKER: Um, so I was going to go assist Officer Shue first. So we went to Officer Shue, um, Detective Strayer, um, went, also went, uh, over to, uh, Officer Shue. I believe he's the one that put the tourniquet on her left leg; she had been shot in the left leg. So there was a brief like, you know, there's a lot of yelling, it's very chaotic. Um, there was a brief, uh, not debate, but conversation of like do we stay and wait for MEDIC or do we transport to the hospital? Um, but I, I go ahead and get my car, I back it up, and then I pull it up to Officer Shue, Shue location, Officer Shue's location, facing Davidson, rear to Alexander, right to 5th, left to Trade, uh, so my car's facing here. I open up the rear doors, um, we grab Officer Shue, we get her in the back of the car get her about halfway, I go around to the, uh, the parking deck side of my car, I grab her underneath her arms and I pull her through and almost lay her a little bit like on top of me like right here.

KOLL: Kinda straddled in between your legs?

DECKER: Yeah, kinda straddle, so like I'm, I'm sitting like this in the car, she's like up against my chest. Um, she was coherent but she was in a lot of pain. Uh, so Officer Banham drove my car, uh, and Officer Epolito, who is Shue's partner, sat in the front right passenger feet, uh, seat, excuse me. Um, so the, the reason that I stayed back there with her is, uh, you know we could've just thrown her in the back and got her to a hospital, but if that had been a femoral bleed or if that round had been a hardball round, uh, not a,

not a hollow point and it would've bounced off her pelvis and got up into her whatever, you know what I mean?

KOLL: Uh huh.

DECKER: Um, that could be lethal just because she's not gushing blood doesn't mean that a shot to the thigh, according to my training and experience, that could be very lethal very quick, and she could go from, um, coherent and, you know, screaming to not coherent, uh, very quickly. So it's, it was necessary for an officer to be with her in the back of the car. So I held her hand, you know, make, you know, talking to her, hey, you're good, you know you're alright; she's, she's, uh, in, in a lot of pain, uh, just trying to reassure her. So, uh, Officer Banham does an incredible job, uh, takes the fastest route possible to C-M-C Main. Uh, by this time it, I believe it had put a, oh, I'm sorry, when shots were fired and we were standing over Shue, I believe that's when I put it out and my radio was on North Tryon Main. I, I believe I said, 7-61-32, shots fired, L-E-C.

KOLL: Okay.

DECKER: Um, I believe that's what I said, some, something to that effect.

KOLL: Okay.

DECKER: Um ... so it had all, and I'm, uh, I now know other off, several other officers had, you know, they had switched to Central, which is the division that this division, this location is in. They had said shots fired, officer down; other people had said shots fired, um, and, according to my training and experience and, and, and, and C-M-P-D, um, when, when an officer, when there's shots fired, period, but especially when it's officer's down, the whole city's coming. So the reason that we did not stay for MEDIC is MEDIC's gonna have a hard time getting in to our location if there's a hundred police

cars. And, even if you say slow it down, you know, officers are still coming cause they know an officer's been shot.

KOLL: Right.

DECKER: And so I know that a big ole firetruck and a big ole MEDIC truck is gonna have a hard time getting in to our location, getting her loaded up, and then getting out with more officers coming. Uh, so we just made the determine, termination [*sic*] to go 'head and take her.

KOLL: Okay.

DECKER: So we got to C-M-C, um, we got to C-M-C and, um, got her out of the car. I was trying to keep everybody calm, <unintelligible> pretty hec, hectic. Um, she was okay, you know, um, I've been around gunshot wounds before. Um, obviously it's, I'm not diminishing her injuries, but I could tell that she was coherent, uh, she was angry <chuckle>, and that's a good sign, you know, she had fight in her and that's a good sign. So we got her into Trauma Room One in, uh, in C-M-C, um, and stayed with her. Um, at that point, um, I informed, you know, people around me that I've, I've been involved in a shooting, uh, and then that started the process of peer support and getting checked out at the hospital for blood pressure and stuff like that and.

KOLL: Okay.

DECKER: Stuff like that.

KOLL: Were you injured in any way?

DECKER: I was not injured in any way.

KOLL: Okay. Um, I know you're issued a .45 and you keep talking about patrol level tactics and stuff like that.

DECKER: Uh huh.

KOLL: Do you have any specialized training or unit, specialized units within the department?

DECKER: Yes, sir, I'm on the SWAT team.

KOLL: Okay. Um, can you tell me about what that entails and, um, any training or specialized training or anything like that <unintelligible, talk-over>?

DECKER: Yeah, so the, I'm, I'm new to the SWAT team, I'm a rookie, you know, uh, I got on in September of 20-17, so I've only been on, what, what is that, 4 months?

KOLL: Okay.

DECKER: Three months, three and a half months. Um ... that entailed the process of getting on and involved a firearm standard of 90 and above, uh, and that's our state qual, 90% and above. Uh, it involved a P-T standard, um, and then it involved going through a week of trial where it's a lot of shooting, physical assessment and mental drills. Uh, once I passed the tryout, uh, we, we, we went into the school process, same thing, shooting, P-T, mental drills, a lot of evaluation, a lot of teaching, uh, and so we're trained on, not only the fundamentals of shooting but also shooting on the move, uh, shooting moving targets, shooting from cover, shoot, shooting from without cover, uh, what that means and why, you know, what you may do from cover and what you may do from without cover, um, things like that.

KOLL: Okay.

2. Victim Name	3. Original Offense / Charge	
Officer Shue	ADW	
4. Location Of Offense 601E. Trade Street	5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/13/2018	9. Correct Incident Classification

10. Juvenile Case	11. Multiple Case Clearance	12. Supplement Confidential	13. Purpose Of Supplement
No	No	Yes	Interview with Officer J. Decker

DECKER: Um, the mission of the SWAT team is to preserve life; so we hold ourselves to a higher standard of physical and shooting, or phys, physical ability, shooting and mental sharpness in order to preserve that life. Um, um, so we train once a month, two to three days a month, um, and we sharpen all types of, there's so many roles on the, on the, on the SWAT team. I don't real, you know, I'm just a newbie, I'm there to learn, uh, but I mean it, it, it varies from learning about demolition, uh, learning about, uh, uh, squad movement tactics, individual movement tactics, entries, all surrounding the fundamentals of shooting, um, mental aptitude and physical, physical ability.

KOLL: Okay. Okay, um, do you have any questions before we <unintelligible, talk-over>?

CRUM: Yeah, just a few. Um, so you said you, when you got evaluated at the hospital, you weren't injured, just, just for evaluation, is that what you were there for?

DECKER: Yeah, yes, sir.

CRUM: Just to be clear? Okay, um, when, uh, you talked about, you said that you saw, and <unintelligible> found out an SUV later, um.

DECKER: Yeah.

CRUM: And the shooter, what was the first time you were aware, number one, his presence, was that the gunfire?

DECKER: Yes, sir.

CRUM: Okay. And the S-U-V, when did you find out about that S-U-V being there?

DECKER: So I didn't know that the, the, the individual who had shot at us was Jonathon Bennett, the, the, the, the homicide suspect, until well into the time that I was at the hospital.

CRUM: Okay.

DECKER: I had no idea, I had no idea.

CRUM: Did you know him at all or?

DECKER: I mean I know, all I know is the department-wide email of hey, be looking for this guy and, um, be looking for this car. And we had been keeping an eye out for that car, you know, that day as we were riding around.

CRUM: Okay, so you never had any personal interaction?

DECKER: No, no.

CRUM: Um, when, uh, so, you talked about seeing his gun in his hand and you then you also talk about his body position.

DECKER: Uh huh.

CRUM: Um, and, you know, obviously, the tape doesn't really capture, what you're doing...

DECKER: Uh huh.

CRUM: ... physically, you're showing kinda your hands coming down like this, which hand is the gun and I guess, which hand is the gun in, he's turned at a 45-degree angle?

DECKER: I believe it was in his right hand.

CRUM: Okay.

DECKER: Uh, just biomechanically, right like, you know, if it was in his left hand, based on ...

CRUM: Okay.

DECKER: ... where he fell and the direction the gun was facing, I believe it was his right hand, but I'm not gonna, I mean.

CRUM: That's fine.

DECKER: You know, I saw a gun pointing, pointed in my direction.

CRUM: Okay, that's what I was trying to clarify.

DECKER: Yeah, absolutely.

CRUM: So he's at 45-degree angle and you could ...

DECKER: Yeah.

CRUM: ... see a firearm pointed in your direction?

DECKER: Absolutely.

CRUM: Okay, okay.

DECKER: And I also know that he had already fired that gun.

CRUM: Okay.

DECKER: And I identified him as to be shooter.

CRUM: Okay. Um ... and when you engaged him do you remember what your backdrop was?

DECKER: Yeah, I, uh, excuse me, yes, sir, I do, uh, nothing.

CRUM: Okay.

DECKER: Davidson, you know, um, that's why I stated before I, I didn't see any people standing like you know here.

CRUM: Uh huh.

DECKER: I was, I would've been firing on, like I said, almost perpendicular to Davidson. It was 11:00 at night, there was no traffic, um, and barring like the coincidental car driving down Davidson, uh, I, I didn't see an individuals or vehicles.

CRUM: Okay. Um, and the first time you're aware of Shue you saw her standing initially you said with <unintelligible> group of officers?

DECKER: Yeah, before this whole started, yeah.

CRUM: Did you how she got to where she ultimately was?

DECKER: No idea.

CRUM: Or any <unintelligible> ...

2. Victim Name Officer Shue		3. Original Offense / Charge ADW	
4. Location Of Offense 601E. Trade Street		5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/13/2018	9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose Of Supplement Interview with Officer J. Decker

DECKER: No <unintelligible, talk-over>.

CRUM: ... what happened after the shots started being fired?

DECKER: No idea.

CRUM: Okay. Um, and your B-W-C, do you know if you switched it on or?

DECKER: Yes, sir, uh, I know that I switched it on. Um, I either switched it on directly aft, I haven't observed it.

CRUM: That's okay.

DECKER: Um, I either switched it on directly after I shot or remember when I said I'm lethal hands, that took a few seconds to identify who was gonna be hands free and who was gonna lethal. I believe that as I was approaching, I kicked it on.

CRUM: Okay. Um, and why did you turn it on?

DECKER: Because I knew that I had done the right thing and I had eliminated the threat or been a part of a team-eliminated threat, and I wanted it to be recorded.

CRUM: Okay.

DECKER: In order to protect myself and also identify the suspect's actions.

CRUM: So you knew you had that buffer that's gonna go back and capture that <unintelligible>?

2. Victim Name Officer Shue		3. Original Offense / Charge ADW	
4. Location Of Offense 601E. Trade Street		5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/13/2018	9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose Of Supplement Interview with Officer J. Decker

DECKER: Yeah, I know, I know the B-W-C captures prior 30 seconds with video but no audio.

CRUM: Okay. Mike, you got anything?

GREENE: Um, only one question, what was your cover like in the, uh, in the parking lot while the gunfire was being exchanged?

DECKER: Sir, I have absolutely zero cover and that is why, um, the necessity for me to quickly identify my target and then, um, put accurate rounds on target as quickly as possible. Um ...in, in law enforcement we have, there were, there, uh, a lethal force encounter is so dynamic and not one situation is the same, right? Uh, however, however, there are certain times where if you're on a shift from, from 41 to 42, from start to finish, there are times that, for instance, you get behind an armed robbery suspect vehicle, you light it up, that armed robbery suspect vehicle's pulling over, you know that they just robbed somebody or maybe shot in the air, homicide, what, whatever the case may be.

GREENE: Right.

DECKER: Your vigilance is going from maybe or like if this is sleep and you're here, your vigilance is going up and you're almost mentally preparing yourself what, for what *could* occur. Um, serving a search warrant ...

CRUM: Sure.

DECKER: You know, John Smith, he's a bad dude, he's, you know, um, you're, as you're entering that home, you know, you know that this is a bad individual with a bad criminal history and so your vigilance goes up. Um, I mean, y'all are police officers ...

CRUM: Yeah.

DECKER: You, you, you know what I'm at referring to?

CRUM: Yeah, absolutely.

DECKER: Yeah. Uh, so even on a traffic stop, it may not be, but like you're still you know maybe your hand's slightly towards your weapon, you're, you're looking in the car, you're identifying hands, um ... when I pulled into the park of the L-E-C and this speaks to I need to get better at my own mental complacency, but ... it's almost like we're in a like a, a, a, a safe zone when obviously we were not.

CRUM: Okay.

DECKER: Um, but in other words, I wasn't vigilant, you know I wasn't ... you know on a mission in the Middle East, I wasn't serving a search warrant, I was walking across the parking lot, joking with my buddy, Banham, meeting up with my fellow team members to conduct the next phase of our little operation. Um ... and so when we began being fired upon, we had *zero* warning, *zero* chance to take cover, and the necessity to eliminate that threat as soon as possible was all the more necessary because we did not have the luxury of mentally prepping our vigilance ... in the, in, in the same way that we would be able to do on a felony stop or during a car chase, alright, when this guy pulls over, you know, we gotta be ready, you know, you're, you're, you're prepping yourself mentally, emotionally, intellectually, all of those ways. We didn't have that advantage.

GREENE: Sure.

DECKER: So the necessity to definitively eliminate the threat became all the more, um, prevalent, um, and the necessity, um, *and* the fact that we have been

2. Victim Name		3. Original Offense / Charge	
Officer Shue		ADW	
4. Location Of Offense		5. Arrest Number	6. C.R. Number
601E. Trade Street			
7. Original Report Date	8. Supplement Date	9. Correct Incident Classification	
1/11/2018	1/13/2018		
10. Juvenile Case	11. Multiple Case Clearance	12. Supplement Confidential	13. Purpose Of Supplement
No	No	Yes	Interview with Officer J. Decker

fired upon. Um, it wasn't just a guy walking across the parking lot flashing a gun. It wasn't just a guy with a gun in his waistband. With those scenarios, of course, any officer I would hope would, you know, 'put the gun down', 'show me your hands', you know, 'get on the ground'. There would be commands; there would be that chance, that split second chance to put your vigilance up. Perhaps get that sight picture side alignment, do things the right way, and we were put in an extreme disadvantage because we didn't have any cover, um, and we had to act very quickly and fire our weapons very quickly and effectively, um, in order to eliminate the threat.

UNKNOWN: Very good. That's all.

KOLL: Okay. I'm gonna, um, end the recorded statement. Time is now, uh, 10:37 hours.

BSK/BC/MG/olw

Exhibit 5

Charlotte Mecklenburg Police Department *Supplement Report ©*		COMPLAINT NUMBER **20180111224601**	Page # 1 of 42
2. Victim Name **Officer Shue**		3. Original Offense / Charge **ADW**	
4. Location Of Offense **601 E. Trade Street**		5. Arrest Number	6. C.R. Number
7. Original Report Date **1/11/2018**	8. Supplement Date **1/13/2018**	9. Correct Incident Classification	
10. Juvenile Case **No**	11. Multiple Case Clearance **No**	12. Supplement Confidential **Yes**	13. Purpose Of Supplement Interview with Officer Zederbaum

REVIEWED: BKoll #3803

THIS IS UH DETECTIVE BRIAN KOLL WITH THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT, TODAY IS SATURDAY JANUARY 13TH 2018; THE TIME IS 0906 HOURS, I'M IN INTERVIEW ROOM 2001 AT THE LEC. UH ALSO PRESENT IN THE INTERVIEW UM IS SERGEANT CRUM. UH THIS IS GONNA BE AN INTERVIEW OF OFFICER UM J. ZEDERBAUM AND HIS ATTORNEY UH GEORGE LAUGHRUN IS ALSO PRESENT.

Koll: Um so this first part, explained earlier, is just kind of uh… um…kind of a little bit of a…set the parameters of the uh interview so I am Detective Koll and assisting me uh with this interview is Sergeant Crum, today's date is 1/13/2018; the time is 0906 hours. This interview is being conducted at the LEC interview room number 2001. Due to your involvement in an officer involved shooting Sergeant Crum and I would like to speak with you about your involvement in this case. Uh at this time would also like to note that per your request your attorney um George Laughrun is with… is present with you. As part of this inv… <Inaudible> uh investigation our interviews are recorded, I want to ensure that you know that this interview is…is being recorded. Are you okay proceeding with the interview knowing that it's being recorded?

ZEDERBAUM: Yes.

Koll: Okay, this is a voluntary interview and you're free to leave at any time or not answer any questions, do you understand this?

ZEDERBAUM: Yes.

Koll: Okay uh you're not under arrest, do you understand this?

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded	23. Reporting Officer **B. Koll**	Code **3803**	Assignment **Homicide**	Date **1/13/2018**
22. Investigative Status] Active] Inactive] Closed] Administrative	25. Case Referred To	26. Reviewing Supervisor, Code, Date		

2. Victim Name	3. Original Offense / Charge	
Officer Shue	ADW	
4. Location Of Offense 601 E. Trade Street	5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/13/2018	9. Correct Incident Classification
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes
13. Purpose Of Supplement Interview with Officer Zederbaum		

ZEDERBAUM: Yes.

Koll: Okay, I also want to inform you that there are two parallel investigations current right now, the first investigation uh is the criminal investigation which is what we, the homicide investiga... uh homicide unit, are conducting. You don't have to speak with us but we would like to speak with you to gain your perspective and to assist us with our investigation. The second investigation is the internal um administrative investigation which...which is being conducted by Internal Affairs. They will speak with you about their investigation... You understand this?

ZEDERBAUM: Uh huh.

Koll: Okay so to set up the differences, the criminal investigation uh being conducted by us, including this interview, um can and will be shared with the Internal Affairs um unit as they conduct their separate but parallel investigation however important to note that any information they obtain during separate interviews or anything else they do um does not get shared with us. Do you understand the difference there?

ZEDERBAUM: <Talkover - inaudible>

Koll: Okay. Uh with that being said, are you <Inaudible>...are you willing to speak with us at this time?

ZEDERBAUM: Yeah.

Koll: Okay. So this first part is uh just some basics uh what's your code number?

ZEDERBAUM: 4371.

2. Victim Name	3. Original Offense / Charge	
Officer Shue	ADW	
4. Location Of Offense 601 E. Trade Street	5. Arrest Number	6. C.R. Number
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10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes
13. Purpose Of Supplement Interview with Officer Zederbaum		

Koll: 4371 and your date a hire?

ZEDERBAUM: January 12th 2009.

Koll: Uh any prior uh law enforcement or military experience?

ZEDERBAUM: No.

Koll: No? Alright and your current division assignment?

ZEDERBAUM: North Tryon Division.

Koll: Alright. And the shift you were working at the time?

ZEDERBAUM: Uh it's fourth shift hours, 4 p.m. to 2 a.m...uh Crime Reduction Unit.

Koll: Alright. And the call sign you were using that night?

ZEDERBAUM: Uh I believe I was using 07-6134-0 uh Officer Burch signed us in; we were in the car together. Usually I use 6137...

Koll: Okay.

ZEDERBAUM: ...that is my call sign but ...

Koll: Okay.

ZEDERBAUM: ...I...

Koll: <Talkover - inaudible>

2. Victim Name	3. Original Offense / Charge	
Officer Shue	ADW	
4. Location Of Offense 601 E. Trade Street	5. Arrest Number	6. C.R. Number
7. Original Report Date 1/11/2018	8. Supplement Date 1/13/2018	9. Correct Incident Classification
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13. Purpose Of Supplement Interview with Officer Zederbaum		

ZEDERBAUM: My partner was out having a kid so…

Koll: Okay the talk group that you were operating off that night?

ZEDERBAUM: Uh we were using uh mix of North Tryon TAC, North Tryon and then Metro because of what we were doing … we were over in Metro division.

Koll: Okay did you talk or get out on any other channels during this incident?

ZEDERBAUM: Uh I…I turned to Central division <Talkover - inaudible>

Koll: Central at some point?

ZEDERBAUM: …this incident.

Koll: Okay. Alright and your supervisor that night?

ZEDERBAUM: Uh…uh Sergeant Greenlees in Eastway Division was supervising us cause our supervisor was out…

Koll: Okay.

ZEDERBAUM: …with uh…a family medical issue.

Koll: Sergeant Greenlees?

Crum: I wanna go back <Inaudible>… Were you using SCU at all um just cause I know Probation doesn't have TAC <Talkover - inaudible>

ZEDERBAUM: Oh I'm sorry yeah we were using SCU not TAC.

2. Victim Name	3. Original Offense / Charge	
Officer Shue	ADW	
4. Location Of Offense 601 E. Trade Street	5. Arrest Number	6. C.R. Number
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13. Purpose Of Supplement Interview with Officer Zederbaum		

Crum: Okay <Inaudible>

ZEDERBAUM: <Inaudible>

Koll: Alright the uniform of the day you were wearing at the time?

ZEDERBAUM: Um long sleeve 511's.

Koll: Alright so…

ZEDERBAUM: My class B.

Koll: Alright and your height and weight?

ZEDERBAUM: Uh 5'11.

Koll: Alright.

ZEDERBAUM: And 200 pounds.

Koll: And the amount of uh sleep you had the day or night prior to that shift?

ZEDERBAUM: Uh the night before I had about nine hours of sleep and then during the day I took like a half an hour nap.

Koll: Okay. And any off duty prior to your shift?

ZEDERBAUM: No.

Koll: Alright the vehicle you were driving?

2. Victim Name		3. Original Offense / Charge	
Officer Shue		ADW	
4. Location Of Offense 601 E. Trade Street		5. Arrest Number	6. C.R. Number
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10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose Of Supplement Interview with Officer Zederbaum

ZEDERBAUM: Uh 5515.

Koll: Alright.

ZEDERBAUM: Which is a black Chevy Impala.

Koll: So it's a unmarked?

ZEDERBAUM: Yes, but it has lights and sirens <Talkover - inaudible>

Koll: Uh huh. Does it have a DMVR?

ZEDERBAUM: No it doesn't.

Koll: Alright were you the driver?

ZEDERBAUM: Yes.

Koll: Any passengers?

ZEDERBAUM: Yes Officer Jerry Burch.

Koll: Alright um...and uh you had a body worn camera with ya?

ZEDERBAUM: Yes.

Koll: Alright. Uh <Inaudible>...we've done... Any backup weapons or anything like that?

ZEDERBAUM: No.

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Koll: Did you take any notes?

ZEDERBAUM: No.

Koll: Alright. And uh asked you about the body cam, have you reviewed any uh real time cameras, body worn cameras, anything like that prior to the interview?

ZEDERBAUM: <Inaudible>

Koll: No? Okay. Alright so essentially I'm just kind a gonna give you the floor to uh…um, ya know, take me through um how you got to the LEC, what you were doing there and then essentially just uh…um what happened.

ZEDERBAUM: Okay um we were doing probation searches that night with the Department of Probation <Inaudible>…we are…we are assisting them, basically, they knock on the door uh people who are on probation that they have reason to believe are still involved in uh criminal activity.

Koll: Okay.

ZEDERBAUM: They knock on the door uh go in, they ask us to assist them in helping them make sure the scene is safe while they do the search. Uh …went to maybe like seven or eight houses that night, only one person was home and they were only there for like ten minutes and I stayed outside during that. Uh the last one we went to before the LEC was at 5515 Reagan Drive at the Travel Inn, they said that the room number that the probationee had given didn't exist so we were leaving there and then our group was done with our uh…our list of people and we had nobody left.

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Koll: Okay.

ZEDERBAUM: So the other group, cause we were splitting in two groups that night, said that they were tied up on some stuff but their probation officers were going to go to [redacted] to go make a visit to [redacted] apartment so…

Koll: Okay.

ZEDERBAUM: …uh obviously working in North Tryon division we know [redacted] so we were like hey we're…we're done, we're free, we'll go stand…help out and say hello to them…

Crum: Sure.

ZEDERBAUM: …um so it was at the …while we were outside the Travel Inn uh Shane Strayer said that they were gonna go…we were gonna go meet at the LEC and wait there until everyone was ready to go and then from there, we drive over to Davidson Street and do the visit.

Koll: Okay.

ZEDERBAUM: So uh Officer Burch and I, we took 85 to 77 to 277 to the LEC um pulled into the LEC, I came in off a Davidson Street uh…uh Officer Strayer was in front of me in his silver Impala and then pulled in, drove down to the LEC parking lot and pulled in between the buildings over right around here across from the officer transport parking spaces up against the parking deck…

Koll: <Talkover - inaudible> Okay.

ZEDERBAUM: ...I'm sorry, so over here <Talkover - inaudible>

Koll: Okay this is Davidson this is 5th so over here?

ZEDERBAUM: Yep.

Koll: Okay.

ZEDERBAUM: Um other officers pulled up Officer Shue and Epolito pulled up in their marked car uh Decker and Banham pulled up in their marked car and Probation uh, I believe it was Probation, and then one of their other guys that they work with who...I don't know if he was a ATF or DEA guy um I believe they...they had pulled up and they were parked closer to the door of the parking deck in like the second or third spot.

Koll: Okay and if it... can you uh...do you mind just jotting down kind a where you parked and where <Talkover - inaudible>

ZEDERBAUM: <Talkover - inaudible>

Koll: ...you think they ended up being.

ZEDERBAUM: Yeah, we were...I was probably around like right here...

Koll: Okay.

ZEDERBAUM: ...in this area...

Koll: Alright.

ZEDERBAUM: ...um along with like the marked cars and then Probation uh I believe they were like in one of those two spots right over there.

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Koll: Alright can you just put a...kind of a P by them and then I'll know the other persons...

ZEDERBAUM: <Talkover - inaudible> is that?

Koll: <Talkover - inaudible>

ZEDERBAUM: <Talkover - inaudible>...circle?

Koll: Yep.

ZEDERBAUM: Okay so uh... we were, myself and the rest of CRU pretty much were...and uh...Strayer were kind a hanging out outside um for a little bit. I remember Strayer had like left, went into the building came back and I believe he went and sat in his car. Uh we were still just standing outside and then all of a sudden heard like four or five just rapid succession shots fired. Um to me they were really close and they sound like they were coming from the direction of Davidson Street.

Koll: Okay.

ZEDERBAUM: Uh so at that point the only thing that escapes me is I can't tell you which way I was like...where I was standing when we were talking around in a circle...

Koll: Uh huh.

ZEDERBAUM: ...um...I don't know if I was facing the LEC, facing the parking deck...

Koll: Okay.

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ZEDERBAUM: ...but when the shots uh came from over in this direction I remember my first thing to look at I thought was well Probations right there um maybe something happened over there but not so...as I was turning and I saw Probation um...my eyes saw Probation it looked like they were engaging in somebody as I was still continuing to turn and from over out a the corner of my eye uh from right around this area...

Koll: Uh huh.

ZEDERBAUM: ...it looked to me, what appeared to be, a flash like a muzzle flash...

Koll: Okay.

ZEDERBAUM: ...from that direction.

Koll: And when you say uh looked like they were engaging with... Can you explain what you mean by that?

ZEDERBAUM: Um just like our training at the uh shooting range, it looked like they were engaged in a shooting situation like they were in...almost in like shooting stance...

Koll: Okay.

ZEDERBAUM: ...with somebody I...I saw uh somebody with their...it looked like their uh arm was punched out as if they were firing their weapon.

Koll: Okay, did you recognize the person who was doing that as a Probation?

ZEDERBAUM: They were standing in the area where the Probation officers...

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Koll: Okay.

ZEDERBAUM: ...where I'd last seen them.

Koll: Okay.

ZEDERBAUM: Um and then, like I said, I saw from what I thought to be like a... a flash that instantly reminded me of a muzzle flash from...from the area like right there...

Koll: Okay.

ZEDERBAUM: ...and I...I continued in like one fluid motion to look in that area.

Koll: Okay.

Crum: Sorry, just to interrupt for... for the benefit of the tape, when you're saying you saw flashes further...you see them punched out, you're pointing on the diagram that you saw flashes from somewhere different than where they're standing at...

ZEDERBAUM: Yes.

Crum: ...so they're punched out but you see flashes elsewhere?

ZEDERBAUM: Yes.

Crum: Okay.

ZEDERBAUM: Um and it was just...it's just like a ...a quick flash, one quick flash of light that kind of brought me around to that ...that area.

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Koll: And that muzzle flash area as you're putting that black dot there kind a in the middle <Talkover - inaudible>...

ZEDERBAUM: Yeah it was...

Koll: ...between the parking deck and the LEC?

ZEDERBAUM: Yeah right in the middle of...of the lot.

Koll: Okay.

ZEDERBAUM: Um and that point, like continuing to...to look I saw a ...a subject appear to be...and I can't tell you which direction he was turned but it appeared to be he was turned and had his hand out as if he was also firing a weapon...

Koll: Okay.

ZEDERBAUM: ...at someone and that I didn't see any Police writing, any identification at that point on him uh and for a quick second as he was doing that, drew my weapon, and at that point to me it appeared he turned and was walking towards the door of the LEC.

Koll: Okay.

ZEDERBAUM: So like in...moving like in this direction a little bit.

Koll: Okay.

ZEDERBAUM: Um I fired two shots in that direction at that subject, saw him fall to the ground and which point I still could hear shots and appeared he was

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still moving and I fired two more at him while he was on the ground and then kind of at that time is when all the shots kind of just stopped.

Koll: Okay.

ZEDERBAUM: Uh still with my firearm out I didn't know where the rest of like my CRU guys were so my first thought was I know probations over there, I know we don't work together, somebody needs to tell them that we need to handcuff this guy.

Koll: Uh huh.

ZEDERBAUM: Uh so I began…and I wanna say while I was shooting I can't… I wanna say I was either walking very slow or aggressing on the subject at the same time um…

Koll: Okay.

ZEDERBAUM: …as I was firing and just that's…ya know, like our training at the range a lot of times with our CRU training it's…we start at 25, ya know, we…we address threat as we're still continuing to uh approach the threat we…we fire our …our two shots, readdress the threat um, reassess the threat, sorry, fire two shots and whatnot.

Koll: Okay.

ZEDERBAUM: Um so I remember yelling out something along the lines like hey we need to handcuff him, he needs to be handcuffed uh…I'll go handcuffing meaning we're just letting somebody know I'll…I'll be the one to…to handcuff him.

Koll: Okay.

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ZEDERBAUM: Uh at that point I remember hearing Decker who's on our CRU relay hey like I have lethal coverage which means that he heard me, he understood what I was trying to do...

Koll: Okay.

ZEDERBAUM: ...and he was...he was right there with me. Um that point I holstered my weapon, walked up, noticed that the male now laying on the ground was laying face first but he still had his hands underneath him so all I could see was his elbows sticking out just like this, if he was laying on his stomach.

Koll: Okay.

ZEDERBAUM: Uh I also relayed that Decker as I was walking up and I believe, at this time, I was also looking and I could see Officer Banham with us and I...I remember saying uh hey just be mindful like he's...he...I can't see his hands, they're still underneath his body. Uh I went up to him, pulled out my handcuffs, grabbed his right hand or right...underneath his right elbow, pulled his right hand out, handcuffed that. I remember thinking damn I just got blood on me um pulled out his left hand, handcuffed that and when I pulled out his left elbow from underneath in his left hand I saw a firearm uh laying right there next to his left side...

Koll: Okay.

ZEDERBAUM: ...which I could see more as I kind a pulled him up on his side to fully make sure that he couldn't get to that firearm and we could make sure that Officer Decker was on that firearm at that time...

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Koll: Okay.

ZEDERBAUM: ...like standing on there.

Koll: Do you remember...can you describe the firearm?

ZEDERBAUM: Uh it was a...it was a small firearm, it was a semi automatic, I know that, uh... it looked like a...a compact or a sub compact, it wasn't very big uh and I ...I wanna say, in that moment, the...the slide was like possibly a gray or silver it wasn't very...if it was black it wasn't very dark black and then the...

Koll: Okay.

ZEDERBAUM: ...the handle was just a regular handle to a firearm.

Koll: Okay semi automatic handgun then?

ZEDERBAUM: Yes.

Koll: Okay. Alright and then uh from there?

ZEDERBAUM: Um... from there I remember uh like somebody...somebody saying like hey...I'm sorry, before that when...right after I handcuffed him I remember looking down seeing the firearm and seeing the green blinking light on my camera and I thought I should probably turn that on so I activated my body worn camera at that moment.

Koll: Okay.

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ZEDERBAUM: Uh just because like...knowing that, okay, this just happened I gotta turn this on now so I can get back the last thirty seconds at least of visual.

Koll: Okay.

ZEDERBAUM: Uh... and then, at that point, I remember hearing somebody uh yelling out or...I don't know if it was Banham and Decker talking to me or somebody uh from back asking <Inaudible>...check yourself, like is anybody hit, is anybody hit... and at that point uh you could hear Officer Shue screaming uh and then somebody yelling out hey Shue's hit, Shue's hit.

Koll: Okay.

ZEDERBAUM: Um so I'm still with the subject now he's handcuffed and then he's rolled onto his right side um just... and I'm still holding onto him at this point I'm still holding onto his arm. Uh Decker, I let Decker, Banham know as they were like running off like hey I...I'm good here go...go tend to Officer Shue she needs to get to the hospital. Uh...and while Banham was still there I remember pulling out my radio looking, seeing if it was Metro still from when we were in Metro so... I told him I was like hey I'm gonna switch to Central real quick and let them know what's going on. Got on the radio, let them know...I believe I said 7-6137 just out of habit, out a my call sign, let 'em know that we had an officer down at the LEC and there were shots fired. Uh and then I remember the rotunda guys coming out, come running out uh...of the...the LEC at that point and then looking up and just seeing like a...a wave of blue lights starting to come.

Koll: Okay.

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ZEDERBAUM: Uh stayed there with them, with uh...with the subject, sorry, on the ground as I remember the... kind a watching them pull Decker's car up to about like maybe like right... right about like here or so...

Koll: Okay.

ZEDERBAUM: ...and then I...I saw...sorry...and then I saw the um...

Crum: No it's fine just so you don't have to keep messing with it.

ZEDERBAUM: And then as they were doing that I...they were uh like I saw them pull the car around talking about how they were getting to the ho...hospital and stuff.

Koll: Okay.

ZEDERBAUM: Uh I let dispatch know that we needed a ambulance for the subject and that Officer Shue was in the back of a Police car and going to the hospital that way.

Koll: Okay.

ZEDERBAUM: Uh at some point while I'm there I know the... one of the guys from the rotunda came and now he was with the gun...

Koll: Uh huh.

ZEDERBAUM: ...and he kind a slid it away uh or moved it away with his foot...

Koll: Okay.

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ZEDERBAUM: ...more so away from the subject and then Shane Strayer came over and uh asked me if I'd rendered medical aid, which I hadn't at that point...

Koll: Okay.

ZEDERBAUM: ...and he started rendering medical aid, he said hey I need a tourniquet, I gave him my tourniquet. I remember him starting to render aid to the subjects left uh leg.

Koll: Okay.

ZEDERBAUM: And then um...K9 Officer Shields asked me if I fired my weapon, I said yes, so he grabbed me and pulled me over and walked me over to about uh the entrance to the parking deck and had me just stand over there with him until uh...other officers and sergeants arrived and then he kind a handed me off until ultimately I got passed off to Sergeant Baker who stayed with me.

Koll: Okay and uh where do you go from out...from there?

ZEDERBAUM: Uh I walked over to... This is Davidson Street right?

Koll: Uh huh.

ZEDERBAUM: I walked over to an ambulance that was over here...

Koll: Okay.

ZEDERBAUM: ...um just to be checked out, uh I remember my heart rate was like 120 and my blood plessure was like 160 over 90 something...

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Koll: Okay.

ZEDERBAUM: ...which is super high so I just went from there to CMC Main just to be checked out...

Koll: Checked out? Okay.

ZEDERBAUM: ...just to make sure I was good.

Koll: Any other <Inaudible>... Were you injured at all during this <Talkover - inaudible>

ZEDERBAUM: No.

Koll: Okay. Um...so we're gonna kind a go um over that um just a little bit so the...who all...do you...can you...and I know you may not be able to tell me every officer but off the top can you just start naming names of officers who uh were out there just so we make sure that we...we talked with everyone we need to talk to.

ZEDERBAUM: I know ... I don't know the names of the Probation <Inaudible>...

Koll: Okay.

ZEDERBAUM: Uh...

Koll: Do you remember how many of those guys there were?

ZEDERBAUM: I wanna say there was like two or three out there at the time.

Koll: Okay.

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ZEDERBAUM: Um as far as us I know it was myself, Officer Burch, cause we rode together...Officer Decker and Officer Banham were riding together.

Koll: Okay.

ZEDERBAUM: Officer Shue and Officer Epolito were riding together.

Koll: Right.

ZEDERBAUM: And then Strayer was, again I know... Strayer like walked into the building and then walked out at one point then I think he got in his car so I don't even know if he was outside...

Koll: Okay.

ZEDERBAUM: ...at that point but I know he was...he was there and then he was outside helping at some point so I...I just don't...I know that he had...

Crum: <Talkover - inaudible>

ZEDERBAUM: Yeah.

Koll: Okay um how long had you been uh... you said you guys came here off Davidson parked...how long was it that you were parked before this happened?

ZEDERBAUM: Five, ten minutes maybe.

Koll: Five, ten minutes and that five, ten minutes um did you see or hear this subject at all...

ZEDERBAUM: <Talkover - inaudible>

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Koll: …prior to this incident happening? Okay.

ZEDERBAUM: No.

Koll: Um and you're kind a in the parking lot …

ZEDERBAUM: Uh huh.

Koll: …um can you tell me what you guys were doing, are you guys doing a briefing, you just kind a hanging out, talking, waiting for something to happen?

ZEDERBAUM: We were gonna brief uh just before every house we go to we'll kind a go over, usually it's done like if we were leaving house A and going to house B…when we were leaving house A we would saying okay this is the next house we're going to, this is who it is ya know where…if you guys'll park here officer's park here, wait for us to ask your assistance and then walk up… that stuff, um because we're meeting up and we're two separate groups we didn't do that, obviously, so we were meeting at the LEC and we were just waiting out there just hanging out just talking um waiting for everybody to get there for the briefing.

Koll: Okay um can you talk about the weather and lighting conditions through there.

ZEDERBAUM: Uh yeah it…I remember it was raining off and on throughout the night.

Koll: Okay.

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ZEDERBAUM: Uh I don't…it wasn't raining at that time…I don't believe because we were standing outside. Uh if it was raining we probably would've been in our cars <Inaudible> windows down talking window to window. Uh the lighting condition I remember is…it's…it's dark outside but it's not …it's not super dark over here its…it's lit, it's not super bright where it's well lit where, ya know, it's like a…a night time baseball game or a football game or something but…

Koll: Okay.

ZEDERBAUM: …it's lit enough that you can still see what's…what's going on throughout the parking lot.

Koll: Okay so um you're kind a milling about, hanging out chatting with fellow officers…

ZEDERBAUM: <Inaudible>

Koll: …not really doing a briefing you're waiting for some more people to show up um and you hear that first kind of uh…gunshots?

ZEDERBAUM: Uh huh.

Koll: Um do you remember how many gunshots?

ZEDERBAUM: I wanna say it was like four or five quick.

Koll: Okay and so that brings your attention toward uh…down this kind a view here…

ZEDERBAUM: Uh huh.

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Koll: ...um toward Davidson so you...your LEC would be on your left, parking deck would be on the right.

ZEDERBAUM: Yeah.

Koll: And as you bring your focus down that area um you said you saw um what appeared to be like a...a muzzle flash?

ZEDERBAUM: Uh huh.

Koll: And you...you saw Probation guys engaging?

ZEDERBAUM: Uh huh.

Koll: Um did you hear any commands or anything like that?

ZEDERBAUM: Uh huh.

Koll: No? Okay.

ZEDERBAUM: I...I couldn't tell you.

Koll: Okay. Um so do you remember how many probation guys were engaging, was it just one?

ZEDERBAUM: <Inaudible>...at the time it looked like two um...

Koll: Okay.

ZEDERBAUM: ...I couldn't tell definite, yes or no though.

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Koll: Okay um and the person that it appeared that they were engaging with, can you describe kind a...

ZEDERBAUM: I...I just ...I just saw a...a figure of a taller, it was kind a taller person...

Koll: Okay.

ZEDERBAUM: ...from what I saw a that time and that's it. I didn't see his face, it...it...it looked like he was wearing dark clothing.

Koll: Okay.

ZEDERBAUM: Uh and that's it.

Koll: Okay and that...that subject um you described a muzzle flash coming from um and you...<Inaudible>...at one point kind a had your hand out um like a muzzle flash when you're describing him.

ZEDERBAUM: Uh huh.

Koll: Um do you remember uh exactly kind a where he was turned and any other...any other descriptors or actions that um as you're focus goes down that way just a little bit uh about what he's doing or anything else you saw or heard?

ZEDERBAUM: When the muzzle flash uh no because it...that's like I remember my eyes kind a drawing... the muzzle flash kind a drawing my attention of my eyes over to that area.

Koll: Okay.

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ZEDERBAUM: Um when I looked over to that area I remember him being turned as…as if he was <Inaudible>…as…as if somebody was turning around to fire shots while still trying to get away…

Koll: Okay.

ZEDERBAUM: …and not looking.

Koll: <Talkover - inaudible>

ZEDERBAUM: Um and then I heard shots being fired so…

Koll: I'm trying to…

Crum: Sorry, I just wanna stop just for the tape to describe, since obviously ya know…audio you can't see what you're doing…

ZEDERBAUM: Uh huh.

Crum: You're turning and you're describing, you're holding your hand and you're actually squeezing your hand as you're doing that?

ZEDERBAUM: Uh huh.

Crum: That posture to me, I mean… what…what did that… what did you think in your mind as you're seeing that cause you…you're showing a particular action your hands.

ZEDERBAUM: Like…

Crum: Ya know…

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ZEDERBAUM: ...to me that's...it's almost like when it goes back I...I was thinking about it when ...when we did it, I don't know if...if you guys remember like TAC 5 a few years back where they sat us down in a restaurant setting and it's like we were ambushed and had to almost shoot underneath our arm at the target without fully turning our body because we just didn't have time, to me that's what it... it...it kind a reminded me of, like somebody was not trying to face us but just trying to still shoot while blindly...

Crum: Okay.

ZEDERBAUM: ...behind that person or to the side. I couldn't tell exactly...the exact direction...

Crum: So what you're showing me is it's basically a person shooting blindly?

ZEDERBAUM: Yes.

Crum: Um... Okay.

Koll: And I'm just trying to clarify so from your view point if I'm looking down uh ...let's just say I'm...I'm you, okay...

ZEDERBAUM: Uh huh.

Koll: ...and so the parking deck is gonna be on my right, LEC's gonna be on the left um the Probation guys would be...would be on which side?

ZEDERBAUM: They'd be on my right closer to the parking deck.

Koll: Okay so if you are the subject that's doing that and described that so am I seeing your front, am I seeing your right side, your back side?

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ZEDERBAUM: You're...I was seeing more so the back side ...

Koll: Okay.

ZEDERBAUM: ...of...and somebody with like a turned torso.

Koll: Which way was he turning, toward the...

ZEDERBAUM: I...

Koll: <Talkover - inaudible>

ZEDERBAUM: I...I couldn't...I...

Koll: Okay.

ZEDERBAUM: ... couldn't tell ya...

Koll: Okay.

ZEDERBAUM: ...I just remember it being uh...it looked...looking like somebody was...was...their back side was kind a like walking in that direction but their...their upper body was turned in the direction.

Koll: Okay. Um so kind a...can you go through, from there, um again?

ZEDERBAUM: Um okay so when I... when my eyes go to 'em and I saw that somebody...it appeared that he'd been turned <Inaudible>...as...when I drew my weapon it seemed like he almost had turned and now completely facing the backside of him but was walking towards the LEC door.

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Koll: Okay.

ZEDERBAUM: Um and that's when I fired my two shots…

Koll: Okay.

ZEDERBAUM: …at…<Inaudible>…in…at him. Uh he fell to the ground, still hearing the shots going off…

Koll: Okay.

ZEDERBAUM: …uh I fired two more <Talkover - inaudible>

Koll: Could you tell where those gunshots were coming from?

ZEDERBAUM: No it…it seemed like they were coming from…in the direction in front of me…

Koll: Okay.

ZEDERBAUM: …where I was…going towards.

Koll: Okay um…

ZEDERBAUM: But I couldn't tell exactly…

Koll: So you fire two shots as he's…um kind a turned and walking toward the LEC?

ZEDERBAUM: Uh huh.

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Koll: Okay can you tell me what your um...the thought process of ...of that and what's going through your mind and uh...as he turns and starts walking toward the LEC?

ZEDERBAUM: My thought process is that this guy just shot Probation...at Probation um that...I didn't know that any of us had been shot or <Inaudible>...they had shot in the direction of us um based on where he was and then my next thought was well now he's trying to run to the LEC armed and I mean it...it didn't even occur to me that at that time of the night the doors would be locked and they'd have to let him in and it was just, my thought as he's running up to the LEC there's people in there, who knows besides, ya know, the two officers sitting at the rotunda, how many uh civilians are in there whether doing a report or ...or filing a report or ya know just people out...down there at the bottom um walking around and that...at that point he's an imminent threat of bodily harm or death to somebody if he's willing to fire at Police, Police officers and Probation officers that are sitting in a parking lot.

Koll: Okay. Um and so you fired two and then you do a reassess and he's um...falls to the ground?

ZEDERBAUM: Uh huh.

Koll: Um and you describe him like uh...just said moving and can you go over that as to why um that second when you... decide to fire again, the thought process of that?

ZEDERBAUM: I heard...I heard the shots still going off...

Koll: <Talkover - inaudible>

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ZEDERBAUM: ...and it appeared to me at that point that he's on the ground, that he was still making just like quick jerking movements and I couldn't tell...I didn't see a firearm laid out on the street anywhere so I couldn't tell that he had...if he had dropped a weapon or anything and still hearing the shots and then seeing a quick like flinching, almost a jerking movement I couldn't tell if he was trying to get a firearm out from underneath him, if he ...I couldn't see where his arms were at that point I wasn't...

Koll: Okay.

ZEDERBAUM: ...close enough, I couldn't see where...where his hands were.

Koll: Okay um did you believe he had a firearm at that point?

ZEDERBAUM: Yes.

Koll: Okay um...

ZEDERBAUM: Cause I...I could still hear shots.

Koll: Okay and the jerking movement, just for the transcription, you're kind a jerking your shoulders?

ZEDERBAUM: Uh huh.

Koll: Okay.

Crum: So you can hear... still hear shots?

ZEDERBAUM: Yes.

Crum: Do you think he's still shooting or I think... and I guess...it sounds like you're...I'm trying to just clarify what you're saying, is you're saying he's making a jerking movement, you're still hearing shots...

ZEDERBAUM: Yes.

Crum: Okay.

ZEDERBAUM: Yeah it...and from what I remember is one, he made like one just kind a like flinching movement I...I couldn't tell, ya know, what...what he was doing and I still hearing shots.

Koll: Okay. Um... you... do you remember how many shots you shoot that second kind a time?

ZEDERBAUM: Two more.

Koll: Two more?

ZEDERBAUM: Uh huh.

Koll: Um and why do you...why do you stop shooting?

ZEDERBAUM: At that point I stop hearing shots being fired...

Koll: Okay.

ZEDERBAUM: ...and it was in our...I've...I've been on CRU for ...since the summer of 2013 and in our training it's been drilled to us we do a monthly training, it's been drilled to us two shots and then reassess the threat, two shots reassess the threat, two shots reassess the threat so it's...the two shots and then, at that point, I stop hearing the shots and

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then stop seeing there was no movement at all coming from him so at that point it's …I didn't feel that there was any longer a… a threat of anything so I had to kind of get a better look and closer look to reassess if he was still a threat at that point.

Koll: Okay. Um and so while this all was going on you…you said earlier you kind a believe you're still kind of uh…like you said, to get a better vantage moving up on him.

ZEDERBAUM: Uh huh.

Koll: Um when you…and you're calling out that hey we need to handcuff this guy…

ZEDERBAUM: <Talkover - inaudible>

Koll: …cause you never worked with probation um so you're not sure how they're trained or…

ZEDERBAUM: Yeah.

Koll: … if they're kind a up to…up to the standard of, ya know, handcuffing people immediately and all that stuff …

ZEDERBAUM: Uh huh.

Koll: …so you're putting all that out and as you come up um… you described uh handcuffing him.

ZEDERBAUM: Uh huh.

Koll: Did he make any statements or anything like that?

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ZEDERBAUM: No uh I just remember rolling him to his side and seeing his eyes wide open…

Koll: Uh huh.

ZEDERBAUM: …and I…my first thought is that he was, at that point, he was…he was deceased.

Koll: Okay. Um so no statements, anything like that?

ZEDERBAUM: No.

Koll: And…and you see the gun actually as you uh go to get his left hand you said, how you describe it?

ZEDERBAUM: Yeah as I was…I'm not sure if it was as I'm getting his left arm out or I'm handcuffing his left hand or as I'm rolling him…

Koll: Uh huh.

ZEDERBAUM: …kind of on his side uh but that's when I see the gun right there over on his left side.

Koll: Alright another officer comes up and …

ZEDERBAUM: Yeah I…Decker was there at that time and Decker kind a just uh stood over the…the gun from what I remember.

Koll: Okay. Alright and as far as medical care you said you thought he was deceased?

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ZEDERBAUM: Uh huh.

Koll: Um and another officer came up and...

ZEDERBAUM: Yeah uh...Officer Strayer came up, asked if I had rendered medical aid, I said no um and at that point when Strayer said it it kind a clicked to me okay let's...let's at least try um and Strayer said well we need to <Inaudible>...see if he's got a pulse, Strayer put on some gloves uh Strayer said hey he's still got a...a pulse...

Koll: Okay.

ZEDERBAUM: ...and at that point uh I remember Strayer... I wanna say Strayer maybe cut uh... cut his pants of the subject to see if he had any bullet wounds to his legs and then Strayer asking for a tourniquet and me giving him the... my tourniquet and me seeing that he had ...that the subject had maybe uh like a...a red ...a round red spot where it looked like a...a bullet had made it into his leg.

Koll: Okay.

ZEDERBAUM: And then I saw Strayer start applying the tourniquet <Talkover - inaudible>

Koll: Do you see any other gunshot wounds or injuries or anything like that?

ZEDERBAUM: No I just remember when I rolled him over I...there was a... a...decent amount of blood underneath him.

Koll: Okay. Um and you called for Medic on the radio?

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ZEDERBAUM: Yeah I...I remember saying that uh... I don't know if I had called for Medic originally or was clarifying that we only needed one because Shue was in the back of the Police car and they were taking her to the hospital but I remember uh specifically saying that, on the radio, that Decker um...I'm sorry, that Strayer had put a tourniquet on to mark the time like we're trained to do so this way the doctor's will know um also what...how long that tourniquet had been on once he had gotten to the hospital and then I remember saying that we just needed the one ambulance for the suspect at that...time.

Koll: Okay. Um and you had uh... you talked about your body cam and looked down and you saw that green light blinking.

ZEDERBAUM: Uh huh.

Koll: Um and you decided to turn it on there.

ZEDERBAUM: Yes.

Koll: Um you said something and I...I know what you're talking about but if someone who's not familiar with how our body camera's work um there was some thought process about a previous recording ...

ZEDERBAUM: Uh huh.

Koll: ...um that it would've been captured, can you explain that?

ZEDERBAUM: Yeah um when our body cameras are turned on...

Koll: Uh huh.

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ZEDERBAUM: ...when the battery is on it blinks green and I always joke that green means good so you're good to say ...you...you can say anything because it's not recording so um when I looked down I saw it was green and then I pressed it to start recording and when it...when you turn it on to start recording it automatically keeps the last thirty seconds of recording...

Koll: Okay.

ZEDERBAUM: ...to that video that now is started at least of the...the visual, it doesn't record the last thirty seconds of audio but every thirty seconds once you turn it on it attaches the last thirty seconds that what would've been on or recording to that one recording.

Koll: Okay and did you believe that your shooting would've been captured in that previous thirty seconds?

ZEDERBAUM: Yeah I... I thought so.

Koll: Okay so you made a decision to turn it on to capture that...

ZEDERBAUM: Yeah thinking that this...this happened pretty quick let me at least turn this on now and see hopefully if it gets...<Talkover - inaudible>

Koll: To try and capture that footage?

ZEDERBAUM: Uh huh.

Koll: Okay.

Crum: Just a couple points um...so the first...when was the first time you're aware that this...that this pers... the subject in the parking lot um I

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mean <Inaudible>...you didn't...said you didn't see him milling about earlier but what's the first time you were <Inaudible>...like acutely aware that he's there?

ZEDERBAUM: Uh when it...like the flash kind a drew my attention to that and I saw the...I saw an individual that was away from where Probation was and then obviously not where we were at that point.

Koll: So is it safe to assume you don't know how that person arrived to the...<Talkover - inaudible>

ZEDERBAUM: Yeah I...I have no idea.

Koll: Okay.

Crum: And...and then you started to talk about, you said you didn't see any Police writing on him anywhere did...you're also out there with Probation who's in plain clothes, did you have any reason to believe that he was a Police officer or...<Talkover - inaudible>

ZEDERBAUM: No <Talkover - inaudible>

Crum: Um when you fired um the first set of shots do you remember what your backdrop was at the time?

ZEDERBAUM: Yes I remember just seeing all white of the LEC, ah which... <Inaudible>... the cement or whatever the material that the LEC's made of.

Crum: Okay and the second set of shots?

ZEDERBAUM: Uh the ground.

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Crum: Okay.

Laughrun: May I?

Crum: George?

Laughrun: Yes. Uh Jeff when you …you said something in response to detectives' questions, you heard shots in front of you…

ZEDERBAUM: Uh huh.

aughrun: …were there any officer's in front of you?

ZEDERBAUM: Uh there were two Probationer's, I believe still to my right in front of me but there were no…

Laughrun: Not <Talkover - inaudible>

ZEDERBAUM: …no… yeah not in the general area then in front of me and as …as far as I knew I had no idea where the rest of the CMPD officer's were.

Koll: Okay.

Laughrun: And why didn't you have your body worn camera on in the parking lot <Talkover - inaudible>

ZEDERBAUM: Uh well originally cause we were doing a briefing so we're not supposed to turn them on during briefings because the information that may be shared um may be detrimental if it were to get out as far as tactics…tactics or information sharing and stuff uh and at that point it was just…we don't have to have our body camera's on when we're

not engaging in the public or not speaking to any...any citizens, whatnot, we were just standing around uh same as if we were inside the office with a couple other officers.

Laughrun: And then all hell broke loose?

ZEDERBAUM: Yeah.

Laughrun: Okay and that was, I guess, the least of your concerns turning your camera on?

ZEDERBAUM: Yeah. Uh it's...the...the first time it crossed my mind was when I saw that green light.

Laughrun: And do you remember who put their foot on the firearm, who stayed with the firearm?

ZEDERBAUM: Uh at first it was Decker and then I wanna say it was somebody I didn't recognize but I wanna say when one of the rotunda guys came out it was one a them.

Laughrun: Okay.

Koll: Now uh...

Laughrun: That's all, thank you.

Koll: Yep. And clarify two things so um at what point do you realize that an officer or somebody had been shot?

ZEDERBAUM: Uh at...after the subject was handcuffed you could hear uh...and everything kind... <Inaudible>...there's no more shots and everything

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kind a just was quieted down now you could hear uh Officer Shue like screaming in obviously agonizing pain um…and then I don't know who said it but it was somebody behind me to my left was saying hey Shue's hit, Shue's hit.

Koll: Okay and the…the subject that you shot, do you …do you know him, do you recognize him, have you ever seen him before at the time of this?

ZEDERBAUM: At the time of that no, uh…while I was there um rendering aid or with Strayer rendering aid, don't know…somebody came up and said oh that's the homicide suspect from earlier.

Koll: Okay.

ZEDERBAUM: And then said that's Mr. Bennett.

Koll: Okay and does…did that mean anything to you um …did you received any BOLO's or anything like that or?

ZEDERBAUM: Yeah I remember uh receiving a…an email about it um about a uh… with a picture of uh Bennett, I don't remember his first name, uh…I more specifically remember the uh…the BOLO about the white Expedition …

Koll: Okay.

ZEDERBAUM: …with the New York plates and I remember the…it started with HUP because we have a convenience store in our division called the HUP Inn so I…that's how I kind a…

Koll: Okay.

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ZEDERBAUM: …related it into my mind and uh also Officer Burch and I talked about it earlier that night once we saw and received uh email that the child in the incident was found, Officer Burch and I said well now we would feel more comfortable uh being involved in a chase with it because we know that there wouldn't be an infant in the car.

Koll: <Talkover - inaudible>

ZEDERBAUM: Prior to that we had kind a made the decision like hey if we find this car and it takes off we don't really know if we would wanna chase this thing because we wouldn't wanna put the life of a… a two month old at risk.

Koll: Okay. Um… so other than the BOLO you had no other familiarity with him or anything like that?

ZEDERBAUM: No I never…never <Talkover - inaudible>

Koll: Never locked him up or done traffic stop <Talkover - inaudible>

ZEDERBAUM: Nah I…I never knew who he was.

Koll: Okay. Alright any other…

Crum: George you good?

Laughrun: Thank you.

Koll: …other questions? Alright I'm gonna end the recorded statement, time is uh now 0948 hours.

BK/BC/rge