



*State of North Carolina*  
*General Court of Justice*  
*Twenty-Sixth Prosecutorial District*  
**MECKLENBURG COUNTY**

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January 4, 2017

Director Bob Schurmeier  
N.C. State Bureau of Investigation (SBI)  
512 North Salisbury Street  
Raleigh, NC 27604

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

Re: Sylasone Ackhavong Death Investigation

Dear Director Schurmeier and Chief Putney:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Sylasone Ackhavong on April 19, 2016. The case was investigated under complaint number 20160419030502. The purpose of this review was to examine whether the conduct of CMPD Officer O.M. Lester was unlawful.

Counsel for the Ackhavong family requested that the State Bureau of Investigation (SBI) take over the investigation. Upon receipt of that request, I tasked the SBI with investigating this matter.

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

Assistant District Attorney Bill Stetzer, supervisor of my Homicide Team, personally responded to the scene of this incident and watched the interviews of all pertinent witnesses. I personally reviewed the investigative files provided by the CMPD and the SBI. Finally,

consistent with the District Attorney's Office Officer-Involved Shooting Protocol, this case was presented to the District Attorney's Homicide Prosecution 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 26<sup>th</sup> 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 26<sup>th</sup> 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 the 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 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 DA believes a shooting was avoidable or an officer did not follow expected procedures or norms, that does not make it criminal. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The DA 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. They 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 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 529.

### **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.

Federal court decisions have established standards that provide useful guidelines for assessing the reasonableness of police use of deadly force. These civil cases address when the use of deadly force is reasonable and articulate the meaning of the term “imminent threat.”

[The Constitution] does not require police officers to wait until a suspect shoots to confirm that a serious threat of harm exists . . . No citizen can fairly expect to draw a gun on police without risking tragic consequences. And no court can expect any human being to remain passive in the face of an active threat on his or her life. Elliott v. Leavitt, 99 F.3d 640, 643–644 (4<sup>th</sup> Cir. 1996).

In other words, the Court said, “The Constitution simply does not require police to gamble with their lives in the face of a serious threat of harm.” Id. at 641.

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.

### **D. The officer-involved shooting of Syllasone Ackhavong**

The facts, as ascertained through the personal observations of my Assistant District Attorney who responded to the scene and from reviewing the investigative files provided by CMPD and the SBI, are as follows:

At the time of the incident, which occurred outside of a 7-Eleven store, Ackhavong was acting irrationally<sup>1</sup>, [armed with a handgun](#)<sup>2</sup>, wearing a [bulletproof vest](#)<sup>3</sup> and sitting on the top of a vehicle while refusing to drop his gun. Patrol officers and a SWAT negotiator tried to convince Ackhavong to drop the gun. After a stand-off lasting more than an hour, believing that

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<sup>1</sup> Ackhavong’s behavior may be attributable to the use of methamphetamine.

<sup>2</sup> Photograph of the Taurus 9mm handgun recovered from the scene is attached as [Exhibit 1](#). This firearm was stolen from a residence in Gaston County in February of 2016.

<sup>3</sup> Photograph of the bulletproof vest taken off of Ackhavong at the scene is attached as [Exhibit 2](#).

Ackhavong was about to fire upon officers, SWAT Officers Rud and Lester fired at him. Officer Lester's round struck Ackhavong and killed him.

In the days before the shooting, Ackhavong seems to have been suffering from some type of escalating psychotic break. Those who knew Ackhavong said they first started noticing irregular behavior the week leading up to the fatal encounter at the 7-Eleven. Interviews with family members and a coworker provide a timeline that helps put the fatal event in context.

On Monday, April 11, Ackhavong approached a friend from work and wanted to talk about guns, the government and Osama bin Laden. According to the coworker, as well as Ackhavong's family members, he had never previously expressed any interest in firearms.

On Tuesday, April 12, Ackhavong continued to talk to his coworker about his concerns about the government, and he told the coworker that a person or persons were listening to his phone calls and interfering with his email. He also told the same coworker about problems with his iPad. Before allowing this friend to help him with his iPad, Ackhavong asked to see the friend's driver's license to prove the friend was not an imposter. Ackhavong explained that he was taking pictures of his apartment, refrigerator and electronic equipment each time he left because he was convinced someone was messing with things in his apartment while he was not there.

On Wednesday, April 13, in addition to espousing concerns about the government, Ackhavong began to explain to people that he was seeing ghosts and that he had seen three ghosts that evening while at work.

On Thursday, April 14, Ackhavong disclosed to a friend that he had a firearm and continued to express concerns about someone moving things around in his apartment while he was not there.

On Friday, April 15, Ackhavong had an outburst at work and threatened his coworkers, whom he believed were moving his things. In a subsequent meeting with his employer in an attempt to address his abnormal behavior, Ackhavong revealed that he had stopped brushing his teeth and washing his face because he believed someone had put something in the water. He also gave examples of people at work "changing" things. The examples he gave were not physically possible. Ackhavong also said he was not sleeping because of a bad dream but had recently slept in the back of a store.

On Saturday, April 16 and Sunday, April 17, Ackhavong stayed with family in the area. The family described Ackhavong as generally doing well but acknowledged that he spoke of being followed and that he was concerned that someone – possibly the government – was tampering with his laptop.

All of the above behaviors are inconsistent with the behavior known to Ackhavong's family and associates prior to April 11. No one interviewed was aware of any prior mental health history for Ackhavong.

In the early morning hours of Tuesday, April 19, Ackhavong came into contact with a customer and a clerk at a 7-Eleven store. It was those interactions that led to the police, and specifically SWAT, being called to respond.

A customer of the 7-Eleven reported that as Ackhavong was leaving the store, Ackhavong approached him outside and told him to give Ackhavong his vehicle. The customer told the SBI that Ackhavong looked “high or spaced-out” and that Ackhavong told him his life was in danger and he needed the customer’s truck. The customer refused and began to drive away. He observed Ackhavong go toward the store with a gun. The customer then circled back, called 911 and waited for the police to arrive. He reported seeing Ackhavong exit and then unsuccessfully attempt to re-enter the store. The customer did not see the shooting, but he was nearby and heard commands to drop the gun. He also heard two gunshots.

The 7-Eleven clerk reported that she saw Ackhavong approach the customer in the parking lot. She said Ackhavong then entered the store. Ackhavong placed a lighter on the counter and said he didn’t have a gun but he needed her car. The clerk told Ackhavong she didn’t have a car. Not believing her, Ackhavong again demanded the clerk’s car keys and said he would take them from her if she did not give them to him. Ackhavong showed her he was wearing a bulletproof vest and said he needed her car and his life depended on it. Ackhavong left the store when another customer arrived in the parking lot, and after Ackhavong left, the clerk locked the doors and called 911. Once he was outside the 7-Eleven, the clerk could see that Ackhavong had a gun, but she reported that she didn’t see the gun while Ackhavong was inside the store. Ackhavong tried to re-enter the store, but she would not open the doors for him. Instead, she retreated to a back office and locked herself in that office until SWAT officers arrived to escort her out.

The encounter between Ackhavong and the 7-Eleven customer in the parking lot is not captured by surveillance video. However, after leaving the store, video captures Ackhavong entering his vehicle. When he emerged from the vehicle, he did not have a gun in his hand. But when police arrived, Ackhavong again [entered his vehicle](#) and when he exited his vehicle, he had a [firearm in his right hand](#).<sup>4</sup>

SBI investigators determined that Ackhavong spoke briefly to a friend by cellphone while at the 7-Eleven. Ackhavong told this friend that he had been poisoned, and someone was trying to kill him. The friend reported that Ackhavong, whom he knew to be a confident person, sounded extremely nervous and scared. This friend told investigators he was aware that Ackhavong owned a handgun and bulletproof vest.

#### Patrol officers arrive

Officer McAdoo was the first officer on scene. He arrived in a marked patrol vehicle with his blue lights activated. Upon his arrival, a citizen began pointing at a vehicle in the 7-Eleven parking lot. When Officer McAdoo looked in the direction the citizen had pointed, he observed Ackhavong get something from Ackhavong’s car.<sup>5</sup> This is significant because he

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<sup>4</sup> [See Exhibit 4.](#)

<sup>5</sup> From the store surveillance video, Ackhavong can be seen entering the vehicle as soon as the officer arrives, and then a gun is clearly observable in Ackhavong’s right hand. [See, Exhibit 3.](#)

retrieved a handgun from his vehicle. Officer McAdoo immediately saw the gun, drew his weapon and began telling Ackhavong to put the gun down.<sup>6</sup> Officer McAdoo also observed that Ackhavong was wearing a bulletproof vest. According to Officer McAdoo, “[Ackhavong] told me no several times ... saying basically that I was gonna have to kill him.”<sup>7</sup> According to Officer McAdoo, Ackhavong repeatedly said, “I’m gonna make you shoot me.”<sup>8</sup> As other officers arrived, Officer McAdoo and the other officers used their vehicles as cover and spent approximately 45 minutes trying to convince Ackhavong to put the gun down.

Officer Waite, who was also in a marked patrol vehicle, arrived moments after Officer McAdoo. Officer Waite saw that Ackhavong had a gun and saw that Officer McAdoo’s gun was drawn and pointed at Ackhavong.<sup>9</sup> Officer Waite heard Officer McAdoo trying to “talk him down.”<sup>10</sup> Officer Waite also reported seeing the bulletproof vest, hearing Ackhavong say he had been poisoned<sup>11</sup> and hearing Ackhavong repeatedly say he wanted the media there to “see what’s ... going to happen.”<sup>12</sup> Officer Waite was eventually relieved by SWAT officers and moved back to a safer location.

Officer Campbell arrived around the same time as Officer Waite. She was also in a marked patrol vehicle. When she arrived, she saw Officer McAdoo standing approximately 10 feet away from Ackhavong.<sup>13</sup> She saw that Ackhavong had a gun in his right hand behind his back.<sup>14</sup> Officer Campbell heard Officer McAdoo repeatedly tell Ackhavong to drop the gun but stated “the male made it clear that he wasn’t gonna put the gun down, he wanted the news and wanted an ambulance. And he kept asking for cameras.”<sup>15</sup>

As other officers arrived on the scene, Officer Campbell told investigators, she heard those officers telling Ackhavong to put the gun down. In response to these commands, Ackhavong continued to refuse and, as Officer Campbell stated, Ackhavong “made it clear he wanted us to kill him ... he was lifting up his shirt to show us that he had body armor and telling us we were gonna have to shoot him in the head.”<sup>16</sup>

At one point, Ackhavong made eye contact with Officer Campbell and told her she would have to live with the guilt of shooting him. Officer Campbell replied that “no one wanted to shoot him, we wanted to get the help he needed, he needed to put down the gun so Medic could treat him.”<sup>17</sup> Ackhavong then winked at Officer Campbell and made a comment about her being a female officer. Officer Campbell was relieved by SWAT officers and instructed to block traffic from coming near the scene.

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<sup>6</sup> Transcript of McAdoo interview, page 7, attached as Exhibit 5.

<sup>7</sup> Transcript of McAdoo interview, page 12.

<sup>8</sup> Transcript of McAdoo interview, pages 18-19.

<sup>9</sup> Transcript of Waite interview, page 6, attached as Exhibit 6.

<sup>10</sup> Transcript of Waite interview, page 7.

<sup>11</sup> Transcript of Waite interview, page 9.

<sup>12</sup> Transcript of Waite interview, page 8.

<sup>13</sup> Transcript of Campbell interview, page 6, attached as Exhibit 7.

<sup>14</sup> Transcript of Campbell interview, page 6.

<sup>15</sup> Transcript of Campbell interview, page 7.

<sup>16</sup> Transcript of Campbell interview, page 9.

<sup>17</sup> Transcript of Campbell interview, page 9.

## SWAT officers arrive

### *Lt. Chickoree:*

SWAT was activated and responded to the scene. Lt. Chickoree responded first and was the SWAT negotiator. Officers Rud and Lester responded to the scene and were the assigned snipers to provide protection to Lt. Chickoree and the other officers present.

Lt. Chickoree tried to de-escalate the situation. He is a trained SWAT crisis negotiator and has additional training in Crisis Intervention Techniques (CIT), as well as being a CIT Instructor.<sup>18</sup> Specifically, Lt. Chickoree tried to assure Ackhavong that the officers were not a threat. Lt. Chickoree positioned himself within 20 feet of Ackhavong and directly in his line of sight. This enabled them to speak to each other.

Lt. Chickoree told Ackhavong, "I've got folks here who want to help you. . . the last thing we wanna do is hurt you."<sup>19</sup> Lt. Chickoree told him to put down the gun.<sup>20</sup> Ackhavong told Lt. Chickoree that somebody had poisoned him and repeatedly<sup>21</sup> said he wanted to police to kill him. Lt. Chickoree recounted that Ackhavong repeatedly said he wanted to die and "I want it to be on your conscience, not mine."<sup>22</sup> Ackhavong also kept saying, "its gonna end when the sun comes up."<sup>23</sup>

As Lt. Chickoree described it, "he just seemed hell bent on having us be the tool to end his life, that's . . . that's really the demeanor I got from him I mean by his statements and his demeanor."<sup>24</sup> Lt. Chickoree described Ackhavong's demeanor to include being disoriented<sup>25</sup>, displaying paranoia<sup>26</sup>, and consistently saying he was going to force the police to kill him.<sup>27</sup>

Despite knowing that Ackhavong had a firearm in his hand and was wearing tactical body armor, Lt. Chickoree stood with his hands in the air to show Ackhavong that Lt. Chickoree's gun was not drawn. Lt. Chickoree did this, he stated, in an effort to de-escalate the situation and attempt to establish a rapport with Ackhavong. Given Lt. Chickoree's proximity to Ackhavong and his lack of adequate cover, Lt. Chickoree was in a very vulnerable position. As stated by Lt. Chickoree, "yeah, you do expose yourself to some degree with being in that position and . . . and the hopes were that we could connect with him so that we could say look . . . I have nothing in my hands. I'm here to speak with you, I'm here to make sure that you get through this safely."<sup>28</sup>

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<sup>18</sup> CIT encompasses training to deal with individuals in mental health crisis. Both CIT and SWAT Crisis Negotiator training involve de-escalation components.

<sup>19</sup> Transcript of Lt Chickoree interview, page 11, attached as Exhibit 8.

<sup>20</sup> Transcript of Lt Chickoree interview, page 11.

<sup>21</sup> Transcript of Lt Chickoree interview, page 11-12.

<sup>22</sup> Transcript of Lt Chickoree interview, page 12.

<sup>23</sup> Transcript of Lt Chickoree interview, page 12.

<sup>24</sup> Transcript of Lt Chickoree interview, page 25.

<sup>25</sup> Transcript of Lt Chickoree interview, page 25.

<sup>26</sup> Transcript of Lt Chickoree interview, page 25.

<sup>27</sup> Transcript of Lt Chickoree interview, page 26.

<sup>28</sup> Transcript of Lt Chickoree interview, page 30.

Lt. Chickoree stated that while he was still trying to convince Ackhavong to drop the gun, Ackhavong made a sudden movement, and other officers shot him. As Lt. Chickoree stated, “he raises his body up and of course the damned gun pulls up with it and I’m thinking this dudes gonna shoot me, no bullshit . . . I think I literally froze when I saw him move and then sure as hell I heard pop pop.”<sup>29</sup> When asked whether Ackhavong could have shot him, Lt. Chickoree said “Oh hell yeah, he’d a hit me in a heartbeat, all he had to do is swing the gun around, and honestly that’s what I thought was happening at the time.”<sup>30</sup>

*Officer Lester:*

Officer Lester responded to the scene as part of the SWAT Team. Officer Lester’s role was to act as a sniper, provide cover to the other officers and respond to the threat to the other officers. Officer Lester deployed across the street from the 7-Eleven with a rifle equipped with a high magnification scope. Officer Lester was aware of the attempts at negotiations but was concerned by the fact that officers closest to Ackhavong were exposed and had poor cover. Officer Lester told investigators, “I can see some [officers] that are in the open and they’re not under cover.”<sup>31</sup> Officer Lester was aware that Ackhavong was armed and wearing body armor.<sup>32</sup> Officer Lester was also aware that Ackhavong was acting irrationally, was suicidal, and negotiations were failing.<sup>33</sup> Officer Lester told investigators, “I could tell he’s very serious. He’s not gonna give up and . . .this . . . is based on all my experience.”<sup>34</sup>

Officer Lester, told investigators that due to the proximity of the officers to Ackhavong, they were in extreme danger. He stated, “it wasn’t real good cover, again, he’s elevated, and from what I’m looking at, I’m looking at all these guys and, and they’re all in a dangerous spot, they’re at risk, so I was worried about ‘em.”<sup>35</sup> Officer Lester also told investigators he was worried about members of the community. Officer Lester said he was concerned that if Ackhavong began shooting, members of the public could be killed. Officer Lester mentioned to investigators his concern, stating, “I don’t know about the neighbors coming out or people going to work, cars are going left and right.”<sup>36</sup>

Officer Lester described the moments leading up to his decision to shoot. Officer Lester stated:

I could tell he is very serious. He’s not gonna give up and he’s, this is based on all my experience . . . the negotiations are starting to, um, they’re not helping, they’re not gonna talk this guy down. The entire time I’m, you know, I’m watching him and out of my peripheral in the scope, I could see officers. I can see some guys in blue that are out in the open and they’re not under cover. When a

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<sup>29</sup> Transcript of Lt Chickoree interview, page 14.

<sup>30</sup> Transcript of Lt Chickoree interview, page 30.

<sup>31</sup> Transcript of Lester interview, page 15, attached as Exhibit 9.

<sup>32</sup> Transcript of Lester interview, page 10.

<sup>33</sup> Transcript of Lester interview, pages 12, 15.

<sup>34</sup> Transcript of Lester interview, page 15.

<sup>35</sup> Transcript of Lester interview, page 12.

<sup>36</sup> Transcript of Lester interview, page 13.

definitive action comes, he was on the phone and when he got off the phone and he looks and he stops and kinda presents his face forward, and I immediately saw a demeanor change in his face where he went from serious to, I see you. When I saw that, his right shoulder began to slump forward and his hand came off his ass. So the entire time that he's telling 'em I'm not gonna put this gun down, you're gonna have to kill me, he's keeping his right hand behind his back, arm just almost glued to that right butt cheek. And when his face express, facial expression changes and he sees who he sees, that I believe he's picking up a target. His hand comes out and at that moment I knew that was the only inch I could give him and I had, I had to do what I had to do.<sup>37</sup>

Officer Lester further stated that he believed that Ackhavong's intent was "to engage the officers out there into a gun fight to his death and he's hell bent on killing them."<sup>38</sup>

*Officer Rud:*

Officer Rud was the second SWAT sniper who responded to the incident. Officer Rud fired his weapon at approximately the same time as Officer Lester. It appears that Officer Lester's round struck the decedent first and consequently, Officer Rud's round missed.

Officer Rud deployed at a different location than Officer Lester. Officer Rud was approximately 30 yards from Ackhavong and – through the scope of his rifle – had a clear view of Ackhavong. At one point, Officer Rud could see Ackhavong's gun and Ackhavong's finger inside the weapon's trigger guard.<sup>39</sup> Officer Rud could also see the bulletproof vest Ackhavong was wearing.<sup>40</sup> Officer Rud was under a vehicle but was close enough to Ackhavong that Ackhavong called out to him and said he could see him and knew he was a sniper.<sup>41</sup>

Officer Rud could also hear the interactions between the patrol officers and Ackhavong. Officer Rud heard officers telling Ackhavong to drop the gun. Officer Rud stated, "I could tell he was agitated um you could see the veins on his neck kind a protruding. He had wide eyes he was spitting a lot like he had dry mouth. Um, just mumbling something that he's not gonna drop the gun, you're gonna have to kill me."<sup>42</sup>

Officer Rud stated, "at one point [Ackhavong] starts kinda starts moving the gun and he starts bringing it up, raising it towards the officers on scene um, in fear for myself ... other officers on scene ... mine and Lester's ... Lester shot then I pretty much immediately right after uh Lester."<sup>43</sup> It should be noted that Ackhavong did not raise the gun toward the officers. The

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<sup>37</sup> Transcript of Lester interview, page 16.

<sup>38</sup> Transcript of Lester interview, page 20.

<sup>39</sup> Transcript of Rud interview, page 7, attached as exhibit 10.

<sup>40</sup> Transcript of Rud interview, page 7.

<sup>41</sup> Transcript of Rud interview, page 12.

<sup>42</sup> Transcript of Rud interview, page 8.

<sup>43</sup> Transcript of Rud interview, page 9.

movement described by Officer Rud may have been the result of Officer Lester's round striking Ackhavong.

#### **E. Report of autopsy examination**

Ackhavong died from a single gunshot wound to the chest. The entrance wound was near Ackhavong's armpit.<sup>44</sup> Toxicology reports revealed the presence of methamphetamine at a level of .65 mg/L.

#### **F. Legal analysis of this incident**

The central issue in this matter is whether Officer Lester acted lawfully in using deadly force against Ackhavong. As already stated, a police officer – or any other person – is justified in using deadly force if the officer reasonably believed, and in fact believed, that he or another person was in imminent danger of great bodily injury or death from the actions of the person who is shot.

Generally speaking, a subject with a gun in his hand who is non-compliant with police commands to drop the gun is reasonably considered to be an imminent deadly threat to the officers.

In reviewing whether Ackhavong was reasonably considered to be an imminent threat to Officer Lester or others, one must consider the science of response time and reaction time. The reality is that Ackhavong could likely have raised his gun and killed Lt. Chickoree or a fellow officer before any of them could have reacted. An officer has a right to protect his life, or the lives of others, by acting on his reasonable perception of the threat confronting him. It is not required under the law that an officer wait until the firearm is pointed at him. Once a firearm is pointed at an officer, there is no time to successfully stop the deadly attack, even if the officer is pointing his gun at the assailant at the time. Therefore, it is lawful for an officer to take action before it is too late to repel a deadly attack.

John C. Hall, the former Unit Chief of the FBI's Firearms Training Unit, explains reaction time as follows:

Simply expressed, an action will always occur before an appropriate reaction can be initiated and implemented. Action always beats reaction. This is a reality that is a focus of training throughout law enforcement because law enforcement officers are always in the position of having to react to what somebody does.

The practical effect in the field of deadly force usage is that no law enforcement officer is required to wait or can be expected to wait until he is absolutely certain what it is that a subject is going to do, or has in his hand. [...] To wait for certainty is to ensure that no

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<sup>44</sup> The placement of this injury indicates the projectile passed through the arm-hole of the bulletproof vest Ackhavong was wearing.

response can possibly prevent or avert the subsequent death or injury.<sup>45</sup>

Reaction-time studies dealing with police shootings provide some valuable information for the analysis of this shooting. Two studies on reaction time help explain the decision Officer Lester faced on April 19, 2016. Those studies cannot tell us what Ackhavong intended to do or whether he would have been successful in shooting one or several of the officers at the scene, if that was his intent. These studies can, however, highlight the risk of death faced by the officers present.

The first study examined whether a person with a gun at his side could raise the gun and shoot a police officer before the officer could react to shoot back. According to this study:

The scenario that we have chosen to examine is one in which a police officer is confronting an armed suspect. The suspect does not have his or her gun pointed at the officer, but the officer has his or her weapon pointed at the suspect. The police officer issues commands to the suspect to put the gun down. The suspect either complies or attempts to shoot the police officer. The basic question is can the police officer shoot the suspect before the suspect shoots (assuming the suspect attempts to fire)?<sup>46</sup>

Professor J. Pete Blair's study concludes that generally the officer would lose in this situation. Specifically, "[c]ompleting all of the steps necessary to interpret a situation, select, and then execute a response simply tends to take longer than it takes to execute an already decided-upon action."<sup>47</sup>

Officers are not justified in shooting a person merely because the person is armed. However, the study does show that an armed person is an extreme danger to an officer whether or not the person is pointing the gun at the officer. "Our results show that even well-trained officers, who are operating in nearly ideal circumstances, with their guns aimed at a suspect, cannot reasonably be expected to shoot before the suspect raises his or her gun and fires."<sup>48</sup>

The second study reviewed research to answer the question of how fast an officer can respond to a visual cue, make the decision to fire and carry out that decision. The results were similar to those found in the Blair study:

The results of this study show that waiting until the suspect begins to move the gun may be fatal to the officer. This does not give officers carte blanche to shoot anyone with a gun in his hand. But faced with an uncooperative armed subject, where the officer has

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<sup>45</sup> Urey W. Patrick & John C. Hall, In Defense of Self and Others . . . Issues, Facts & Fallacies – *The Realities of Law Enforcement's Use of Deadly Force* 135 (2d. ed. 2010).

<sup>46</sup> J. Pete Blair et al. *Reasonableness and Reaction Time*, 14 Police Q. 323, 330 (2011).

<sup>47</sup> *Id.* at 336.

<sup>48</sup> *Id.* at 338.

little or no cover, waiting for the subject to make that movement endangers both the officer and innocent bystanders.<sup>49</sup>

Based on the facts and circumstances of this case and the law of self-defense in North Carolina, I have concluded that Officer Lester acted lawfully and consequently, no charges will be pursued in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Andrew Murray", with a stylized flourish at the end.

R. Andrew Murray  
District Attorney

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<sup>49</sup> Thomas A. Hontz, Justifying the Deadly Force Response, 2 Police Q. 462, 474 (1999).

# EXHIBITS

## Exhibit 1: [\(Return to text\)](#)



## Exhibit 2: [\(Return to text\)](#)



## Exhibit 3 [\(Return to text\)](#)



## Exhibit 4 [\(Return to text\)](#)


In the top right of the screen, the first officer can be seen arriving. At this point, Ackhavong (with a phone in one hand and nothing in his other hand) grabs his jacket off of the hood of the car and enters the car.



Seconds later, the still photo below shows Ackhavong after he emerged from the car with the gun in his right hand.



## **Exhibit 5**

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THIS IS IN REFERENCE CASE NUMBER 20160419030502 AND THE SUBSEQUENT OIS NUMBERS ARE 20160419055900. THIS IS DETECTIVE J.B. HELMS, CONDUCTING THE INTERVIEW OF OFFICER J. MCADOO, CODE NUMBER IS 5178, WE'RE IN ROOM 2003 AT THE LEC AND THE TIME NOW IS 1035 HOURS.

Helms: Alright. Um as you know when we have officer involved shootings they...two central investigations going on at the same time as the criminal investigation which we handle then there's the internal investigation. Um so what I'm a do now is just get your statement about kind a what happened when you got there, what was going on, what you saw, what you said, any interaction you had with anybody um and I'm gonna go through this form really quick and uh...and get it knocked out okay.

MCADOO: Okay.

Helms: When's your date a hire?

MCADOO: Uh July.

Helms: You got your I.D. on ya?

MCADOO: Yeah.


Helms: Should be...

MCADOO: I think its July 21<sup>st</sup>.

Helms: Alright.

MCADOO: I don't want to lie to you. Um, yep July 21<sup>st</sup> 2014.

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Helms: Alright. Do you have any prior military or law enforcement experience prior to this?

MCADOO: Nope.

Helms: Alright, you, you assigned to third shift?

MCADOO: I am.

Helms: And that's what 1945 to...

MCADOO: 1945 to 5:45 a.m.

Helms: And what's your call sign?

MCADOO: Uh 1317 um that night I was 1117 though.

Helms: Okay so you were...

MCADOO: I had a different response area that night.

Helms: Uh how tall are you?


MCADOO: Last time I checked, six foot even.

Helms: Alright, weight?

MCADOO: Uh right now bout 155?

Helms: Uh huh. So prior to you starting last night's shift uh, you know how much sleep you got?

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MCADOO: Uh about six and a half hours.

Helms: Okay.

MCADOO: I'll say.

Helms: And did you work the shift prior to tonight...

MCADOO: Yeah I did.

Helms: <Talkover - inaudible> would a been Sunday night?

MCADOO: Yeah.

Helms: Yeah. And what vehicle were you operating?

MCADOO: Uh 904.

Helms: Alright, anybody riding with you?

MCADOO: No I was riding alone.

Helms: Does it have DMVR in it?


MCADOO: Uh it does but I...I don't have any DMVR footage.

Helms: Okay. And you were wearing your body worn camera?

MCADOO: I was.

Helms: Alright is it...where is it now, is it back?

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MCADOO: It's back at the office.

Helms: Okay.

MCADOO: Yeah it's been downloaded and everything.

Helms: Do you know your uh serial number on the gun or can you get it <Talkover - inaudible>

MCADOO: I can look...

Helms: Alright.

MCADOO: Um whenever you're ready it's...

Helms: Alright.

MCADOO: ...HSZ4202.

Helms: Alright. And you got three mags?

MCADOO: I do.

Helms: Alright. Do you have any secondary weapons?


MCADOO: Uh no.

Helms: Any back up weapons or anything?

MCADOO: No.

Helms: Alright. Do you have any hand written notes?

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MCADOO: <Inaudible>

Helms: No, no, no <Inaudible> not gonna count 'em.

MCADOO: <Inaudible>

Helms: Any hand written notes or anything?

MCADOO: Uh no not from this incident no.

Helms: Alright. Alright. What I have here um just some maps of during ... your explanation or anything or you need to look at these or we need to reference those we can.

MCADOO: Okay.

Helms: Um so just give you baring this is the store um this'll be the tire place, that's what the.

MCADOO: CVS pharmacy.

Helms: Pharmacy now.


MCADOO: Uh huh.

Helms: Whichever one I can't remember and this is just a bigger view of that so...

MCADOO: Okay.

Helms: So just kind a...just take me kind a through what was going on uh what...what the call for service was all that and we'll...

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MCADOO: Okay um from my understanding uh it was a B and E that apparently had occurred at the store is what I remember hearing. Uh soon as I heard it sounded odd to me um and then I looked over I heard...the last thing I heard was 7-11.

Helms: Uh huh.

MCADOO: I was coming down Tuckaseegee Road uh running into Little Rock and uh I just so happened to remember that...that uh that store...

Helms: Uh huh.

MCADOO: ...is right there on the corner. I took a look to the right, I...I see nobody in sight, ya know, really.

Helms: Uh huh.

MCADOO: I see a few cars but I don't really see anybody outside so I just typically think it's just a regular old maybe, ya know, false call or something...


Helms: Right.

MCADOO: ...so I...I pulled into the gas station, I wasn't even on the call um but I heard it and kind a just responded and was about to add myself to the call. Uh soon as I entered into the parking lot I looked to the right and it's a SUV, um...

Helms: Uh huh.

MCADOO: ...uh by pump, I wanna say pump 2...

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Helms: Uh huh.

MCADOO: ...and he looks at me and uh he starts pointing kind of ferociously at a...a vehicle that's in uh that's parked in front of the store, ya know I...so immediately after seeing him doing all this ...

Helms: Uh huh.

MCADOO: ...pointing and everything I turned to the left and I observe uh a young man uh kind a get in and out of his vehicle.

Helms: Uh huh.

MCADOO: Kind a hesitating not really knowing what he was doing. Uh it was odd to me, I pulled up uh and at this point I was pretty much behind his vehicle.

Helms: Uh huh.

MCADOO: Parked the vehicle as soon as uh I looked in his hand and I saw what appeared to me to be a gun.


Helms: Okay.

MCADOO: I jumped out a the vehicle with him uh engage him uh point my uh...uh firearm at him.

Helms: Uh huh.

MCADOO: He uh ...I stated to him, several times, ya know put the gun down, put the gun down. I tried to talk to him several times kind a just uh ya know let 'em know it'd be okay you should just put the gun down, let's talk, uh he gave

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me several...he told me no several times that he wasn't. Uh he uh... I remember saying that uh basically that I was gonna have to kill him.

Helms: Uh huh...

MCADOO: Uh and uh ya know I...I told him I didn't wanna do that, ya know, let's talk about, let's put the gun down let's have a conversation. He uh just kept giving me uh interference uh finally, apparently my partner pulled up probably about, I'll say probably about three or four seconds and to me engaging him I slowly, with him to the left of me I slowly kind a edged my way to the uh rear end of my vehicle...


Helms: Uh huh.

MCADOO: ...so I could get some kind a distance between me and the uh the suspect. I kind a slowly just back off of him give him some space uh watching his hand. At this time he takes the gun that he initially had uh the... visible to me and he just kind a takes and puts it behind his back. Uh put his right...uh right hand behind his back and his left hand in the air with the phone, he had a phone in his hand and uh as I continuously uh draw down on him telling him to put the gun down, telling him put the gun down, talk to me uh he just continuously just uh tells me know and uh everything like that, finally uh my uh other officers arrive on scene and uh we uh we basically tried to talk to him, probably for the next I would say probably 40...30 or 40 minutes just trying to talk him down, trying to uh get some understanding of the situation trying to talk to him, trying to uh ...I know I brought up his children several times...

Helms: Uh huh.

MCADOO: ...trying to maybe establish a connection there and uh he just really didn't too much wanna hear what we had to say.

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Helms: Right.

MCADOO: So uh finally uh I think SWAT arrived, tapped us and uh we...we moved from that section and went to uh the Command staff center...

Helms: Uh huh.

MCADOO: ...that had been established so that was...

Helms: <Talkover - inaudible>

MCADOO: That's pretty much all I remember.

Helms: Could you see anything that was going on after you go to the command post which was essentially that was set up somewhere here near the tire place I think.

MCADOO: Yeah um so from when I was pulled back I initially went to the intersection of Tuckaseegee and Little Rock.


Helms: Uh huh.

MCADOO: Uh after speaking uh to uh members of the Command staff that were in that area uh I changed locations and went down a little bit further down Tuckaseegee Road um probably bout to that location...

Helms: Uh huh.

MCADOO: ...and uh headed...made my way to the tire and uh auto shop. Uh as I was walking I...I initially saw him from that distance...

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Helms: Uh huh.

MCADOO: ...uh and uh I believe they were getting ready to make their move. Uh the SWAT was in there... aw um but after that I...I wasn't...I...I didn't see anything after that I went and uh as I was walking back to uh the auto shop I...I heard gunshots and I...

Helms: Uh huh.

MCADOO: ...that's when I turned around and hid behind a tree.

Helms: Alright can you describe the ...I guess the guy that...that you were talking to?

MCADOO: Uh he...he appeared to be uh an...an Asian male.

Helms: Uh huh.

MCADOO: Um he had a bald head, I remember, um appeared to be probably around I would say anywhere from 35 to 40 years old. Uh I remember him wearing some kind of tan uh I...I believe maybe it was tan pants.


Helms: Okay.

MCADOO: Uh I don't necessarily remember his shirt too much um. I do remember he...he kept lifting his shirt up continuously showing us that he had uh a bullet proof uh vest on so...

Helms: Did you recognize that as a bullet proof vest when he pulled it up?

MCADOO: Yeah.

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Helms: Okay.

MCADOO: Absolutely.

Helms: Alright.

MCADOO: Absolutely uh and I...I...I think I recall it being blue <Talkover - inaudible>

Helms: Alright.

MCADOO: Yeah I...I think I recall it being blue so... But that...that's pretty much, I remember...I remember him uh, like I said, initially, I went... soon as I arrived on scene he had the gun, I mean me and him were probably anywhere from 10 to 12 feet apart.

Helms: Uh huh.

MCADOO: And I remember him having the gun, me pointing the gun at him telling him to drop the gun, put the gun down. Uh he never pointed it at me but uh ya know he continuously kind a just had that gun just sitting there so I was little, ya know...


Helms: Right.

MCADOO: ...uncomfortable with that, I remember that. Um and yeah uh that's pretty much all I remember about him.

Helms: Okay.

MCADOO: Yeah.

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Helms: So as you...as you're looking at him can you see him through the store at all?

MCADOO: Um yeah at...at one point I think I saw uh...I saw the clerk, I saw her one time and then after that I ...I don't remember seeing her anymore.

Helms: <Talkover - inaudible> okay alright. And do you remember what kind of car he was by or what car he was getting in and out of?

MCADOO: From what I remember I...I think I remember it being kind of a... a tan color like a maybe a beige kind a color.

Helms: <Talkover - inaudible>

MCADOO: <Talkover - inaudible> I don't remember exactly.

Helms: Right. So you were engaged with this guy in conversation for...


MCADOO: For...yeah, me and I was...I mean I was the first one there uh and uh, ya know, the fact that I kind of was ...I was kind a close to his vehicle so I mean he couldn't really leave if he wanted to um and I think that kind scared him a little bit. I...I...ya know, I had no idea that it...what was going on.

Helms: Right.

MCADOO: I just kind a arrived on scene, I looked to the left and he's kind a just, ya know, there and we're in the situation so uh it was just kind a one those things last, ya know, at the moment and I had to try to talk to him best way I can. I...I didn't want to see him get hurt.

Helms: Uh huh.

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MCADOO: I...I didn't wanna get hurt so...

Helms: Did uh...did he appear to be on drugs or anything or could...could you make that determination?

MCADOO: To be honest with you if he wasn't on dr...I...I'm not a hundred percent sure if he was on drugs or not but if he wasn't I...I think he definitely had a...a mental break. He...I...I definitely remember him, he said uh a few times that uh he had been set up that uh...we knew exactly who he was and...and we just had no clue. I...I had no idea um who he was and uh, ya know, he ...he said several things about I...I think uh...I remember him saying something about he felt like uh...uh...the federal Police were after him or something uh to that extent...

Helms: Uh huh.

MCADOO: ...and that basically we knew who he was um...but yeah we I mean ...I had no idea who he was.

Helms: No prior contact with him?


MCADOO: No.

Helms: Alright. Um did you feel like you were getting anywhere with him with your conversation?

MCADOO: Uh initially I felt like I could talk him down...

Helms: Uh huh.

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MCADOO: ...because I felt like he uh, ya know, he...hadn't really uh...he hadn't done anything up until that point to really put me in uh...a hundred percent danger.

Helms: Uh huh.

MCADOO: Now I mean it was ...it was definitely up there I would...I would definitely say I was 80 percent full throttle, ya know.

Helms: Right.

MCADOO: It was what it was but I mean ya know we...we talk...we deal with so many people out there like that that you can kind a talk down sometimes.

Helms: Right.

MCADOO: And he...he seemed like he was in a...in a spot that sometimes he wanted to come down and...and kind a talk to us but, for the most part, he was kind a on edge the whole time, didn't really trust him much...

Helms: Okay.

MCADOO: ...so I...I would say, pretty much, no...


Helms: Right.

MCADOO: ...at that point.

Helms: Alright. Um you said your...you had body worn camera so...

MCADOO: Uh huh.

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Helms: ...you have footage of that?

MCADOO: I do.

Helms: Okay.

MCADOO: Um I...I believe, if I'm not mistaken, uh it...it caught me off guard so bad cause I was right there.

Helms: Uh huh.

MCADOO: Uh soon as it happened so I don't have the...the initial contact with me getting out of my vehicle but as soon as I was able to kind a get out a the...the danger...

Helms: Uh huh.

MCADOO: ...of me and him and nobody else ya know, me not having backing up then I uh went ahead and turned my body worn camera on.

Helms: Alright and you, just for the recorder, you got them out on your...I guess your right shoulder, is that where you wear it?


MCADOO: Yeah, right shoulder, yeah.

Helms: Okay, alright. Um the gun that you saw, can you describe it, the one that he had in his hand?

MCADOO: Uh I...I initially said it was a...it looked to me to be a black revolver.

Helms: Uh huh.

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MCADOO: Um it could've been either a black revolver or a pistol, to be a hundred percent honest with you.

Helms: Okay.

MCADOO: I didn't...I mean I didn't get the greatest look but I...I know it was black for sure.

Helms: Right. So you know when you looking at a gun?

MCADOO: Yeah...yeah I mean that's pretty much what it was I just...yeah I was so focused on him, all I saw was a black gun ya know.

Helms: Okay. Right. Alright can you think of anything that I haven't asked you that you feel is important or that you need to bring up?

MCADOO: Mm...I mean no I...nothing other than just stress the fact that, ya know, apparently that this guy was just, he was...he was really going through some stuff.

Helms: Right.


MCADOO: He was...I could...I could definitely tell that he was stressed out about something and I...and I ...I definitely remember him uh making contact with somebody via the telephone at one point.

Helms: Okay.

MCADOO: During our conversation.

Helms: So he was making a phone call?

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MCADOO: Yeah he definitely made a phone call during the...our...our conversation now I believed it was a family member...

Helms: Uh huh.

MCADOO: ...and he believe he had kind a been set up uh to an extent but he never...he never would clarify to us why he felt that he had been set up.

Helms: Okay.

MCADOO: So...

Helms: Um...and just to calri...what...what were some of the things he was saying to yall?

MCADOO: Oh man it was a lot, uh he...he...basically told us that uh he didn't trust anybody.

Helms: Uh huh.


MCADOO: Um he's visibly upset uh he...he didn't cry but it looked like several times where he...he kind a wanted to.

Helms: Uh huh.

MCADOO: Uh but he ...he just kept telling us that uh, ya know, he wouldn't...he wouldn't go into detail about his kids or anything but he...ya know, he would...ack... acknowledge that he had kids um he...he acknowledged the fact that he had family and then he would say uh, ya know, if my family loved me then they'd be out here right now.

Helms: Uh huh.

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MCADOO: Um...ya know, just like I said, he...he kept saying that we knew who he was...

Helms: Uh huh.

MCADOO: ...and then he would, ya know, kind a say that uh...uh...the...the cousin that he was call...or...or family member he was calling stayed on Spyglass, it...it was...it was just a...everything he was saying was kind a all over the place.

Helms: Okay.

MCADOO: I mean I...I can't...concrete tell you, ya know, everything he said. I...I know he repeated his...himself a lot.

Helms: Right.

MCADOO: Like he...he kept saying a lot a stuff but I mean I...I...ya know, I can't give you a...a...a very detailed description of what he was saying.

Helms: Okay. Did he ever tell you to shoot him?


MCADOO: He said, uh from what I remember him saying was uh yall are gonna have to shoot me. Um you guys are gonna shoot a innocent man but you guys are gonna have to shoot me.

Helms: Okay.

MCADOO: Is what uh I remember him saying, I'm gonna make you shoot me.

Helms: Alright.

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MCADOO: Um and he...and he said that several, several times.

Helms: Right.

MCADOO: And uh I...I...I...I definitely initially remember when me and him were engaged alone uh it was just me and him, him telling me that, ya know, I was gonna have to shoot him and...and I...I...ya know, I definitely said I don't wanna do that.

Helms: Right.

MCADOO: Ya know, I...I kept telling him come on, ya know, maybe we can work this out...I don't wanna shoot you, I don't wanna shoot you, ya know but...

Helms: <Clears throat>

MCADOO: ...but he just appeared to be so kind a into his own world at that point he didn't really...he didn't respond well ...

Helms: Okay.

MCADOO: ...to a lot of what I was telling him.


Helms: Alright. This concludes the interview; the time now is 10:54.

JBH/rge

*Reviewed By  
J.A. Hoppe  
4/16/16  
12/15/16*

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## **Exhibit 6**

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THIS IS IN REFERENCE CASE NUMBER 2016-0419-0559-00, THIS IS THE OIS NUMBERS. ORIGINAL COMPLAINT NUMBERS ARE 20160419030502. THIS IS DETECTIVE J.B. HELMS CONDUCTING THE INTERVIEW OF OFFICER WAITE SPELLING W-A-I-T-E, CODE NUMBER 4991 ASSIGNED TO THE FREEDOM DIVISION. WE'RE IN ROOM 2007 AT THE LEC; THE TIME NOW IS 0824.

Helms: Alright. Just so you know um with all officer involved it's...it's a criminal investigation but it also parallel um...or separate um IA investigation so...

WAITE: Okay...

Helms: ...what I'm a do just go through this form with you and then we'll kind a just go over what you saw tonight and...and what you did okay.

WAITE: Yes sir.

Helms: Do you know your date of hire?

WAITE: Uh...it'd be April 2000 and...would it be 13 I wanna say, sorry, it should be uh...

Helms: <Inaudible>


WAITE: ...2013 or 14. <Talkover - inaudible>

Helms: You got your I.D. on you? Do you...

WAITE: Uh I do...I do, hold on.

Helms: It should be on there.

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WAITE: It's sad I don't know that. It's not like I have been on that long. Uh 4/29/2013.

Helms: There you go. Do you have any prior law enforcement or Military experience?

WAITE: Uh no sir.

Helms: Alright. Uh you third shift?

WAITE: Yes sir.

Helms: And what are yall's hours?

WAITE: It's 7:45 p.m. to 5:45 a.m.

Helms: And what's your call sign?

WAITE: Uh 27-1213.

Helms: Third?

WAITE: Yeah.


Helms: That would be...

WAITE: Yeah, yeah.

Helms: How tall are you?

WAITE: Uh 5 foot 9.

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Helms: Weight?

WAITE: 173.

Helms: So before the shift you started last night, how much sleep did you get?

WAITE: Uh...I probably got eight hours probably about...

Helms: Okay. And did you work prior to starting last night, did you work the night...the night before?

WAITE: Uh no sir.

Helms: Okay. And what vehicle were you driving?

WAITE: Uh 232.

Helms: Anybody riding with you?

WAITE: No sir.

Helms: Alright. Is that a marked vehicle?

WAITE: Yes sir.


Helms: That have DMVR?

WAITE: It did but I never hit the lights to kick it on ...

Helms: Okay.

WAITE: ...when I pulled in.

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Helms: Do you have any body worm uh camera for the...

WAITE: Yes I do.

Helms: Alright. And your duty weapons...

WAITE: Yep.

Helms: ...and... Do you know your serial number by chance?

WAITE: I do not <Inaudible>

Helms: Yeah if you wanna make it safe <Talkover - inaudible>

WAITE: Oh yeah.

Helms: <Talkover - inaudible>

WAITE: Uh let's see it's gonna be... Henry, Steve, Zebra 9453.

Helms: 9453, cool. You have any secondary weapons?


WAITE: Uh no sir.

Helms: Alright do you have... the one magazine and had two full?

WAITE: Yes sir.

Helms: No back up weapon. Did you take any hand written notes in reference... to any of this?

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WAITE: Uh no sir.

Helms: Alright. Alright... so I guess I've got some aerial maps that as we talk about this, if it'll help you out...

WAITE: Okay.

Helms: ...um we'll use those um... <Talkover - inaudible> Okay, this is the 7-11, this will be the Arby's.

WAITE: Okay, yeah got ya.

Helms: Um... same here, this 7-11 and the Arby's.

WAITE: Okay.


Helms: So what... I guess take me... did you initially get dispatched to the call or how did... how did you arrive on scene?

WAITE: Um I was actually sitting over here with Officer Campbell kind a working on reports and checking emails and stuff so I was actually right across the street when the call came out.

Helms: Okay.

WAITE: Which was a commercial B and E... didn't really make any sense at the time because this store is open 24/7 so the fact that somebody's breaking into a store that's open is kind of confusing but uh we pretty much responded right away by the time we're coming out, came out through this way saw Officer McAdoo coming down this way, pulled in from here... um I pretty much followed him pretty close behind him, I see him pull up over here,

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immediately over the radio he say's drop the gun, drop the gun and that's when I stopped about right there.

Helms: Okay. What I'm a do is just have you mark...

WAITE: Sure.

Helms: ...kind of, I guess, so you don't...just draw like a square wherever your car is and then we'll...

WAITE: Okay. So I was right about here when I started and McAdoo was about that's there.

Helms: Okay.

WAITE: So I see Officer McAdoo get out of his vehicle, um he draws his gun, points it at a subject, from here I see the subject put something to his head which I thought was a gun...

Helms: Uh huh.


WAITE: Um...got a closer look after couple seconds I noticed that it's actually a cell phone that he's putting to his head but he had his gun in his other hand.

Helms: Okay.

WAITE: Um... at that point I pretty much stood there with a gun on him, let McAdoo just try to talk him down, pretty much.

Helms: Uh huh.

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WAITE: Uh at that time I kind a took over radio traffic while McAdoo was trying to talk to him so location, what was going on... all that stuff cause the address that came out is it was...it's a different address than the address it actually is no which is 6606 but it came out as...I think it's like 5342 or something like that...

Helms: Okay.

WAITE: ...so nobody knows...that address but they're familiar with 6606 Tuckaseegee.

Helms: Okay.

WAITE: Um at that point more officer's arrive, still had my gun pointed, I don't really say anything, I kind a let Officer McAdoo and then Officer Meyer who eventually pulls up here kind a talk him down I guess.

Helms: Okay.

WAITE: Um, at that point when more officers arrived I pulled my vehicle closer to him to about right there so about twenty feet back...


Helms: Okay.

WAITE: ...for officers to give cover and all that stuff, I put the spotlight on his...body or face...

Helms: Alright.

WAITE: ...to kind a illuminate him and at that point that was pretty much it till SWAT came in probably thirty minutes after um...

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Helms: Okay.

WAITE: ...tapped me on the back said you can go back here which...I then backed out a the scene and then went across the street over here and kind a just stood by.

Helms: Okay, alright. Um... this...this guy that was out there, can you describe...describe him to me?

WAITE: Uh he was kind a Hispanic, Asian looking...

Helms: Okay.

WAITE: ...kind a shorter, average build...bald head, probably in his...older twenties...

Helms: Okay.

WAITE: ...maybe early thirties.


Helms: Alright. And this time, I guess you were there about 30 minutes that yall were...they were out there, um prior to SWAT relieving you, um...what's he doing, what's he saying, what are his actions?

WAITE: Um he's got his phone and uh...I guess it'd be his left hand the whole time and then he's got his...pistol and its back behind him like this...

Helms: Okay.

WAITE: ...and the whole time he's saying I want media here um...I want them to see what's, pretty much, gonna happen. Uh at the time he kept holding up his...shirt showing that he has body armor...

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Helms: Uh huh.

WAITE: ...and he said this is where you guys are gonna have to, pretty much, kill me.

Helms: Okay.

WAITE: Um he's using kind a different term every time, kind of beating around it a little bit but um...he was very concerned about media being there to view him I guess uh... He kept trying to make phone calls which I don't know who he's making phone calls to the whole time because one time he called I think somebody named...I wanna say David who said lives on Spyglass Place which is over here kind a off a Pawtucket.

Helms: Is he telling yall this or is he...

WAITE: Yeah, yep and he's...right now he's saying that uh... the guy over on Spyglass pretty much set him up, he smoked something and he got poisoned and he kept saying something about poison...

Helms: Okay.


WAITE: ...not really making any sense.

Helms: Alright.

WAITE: Um he called him and while he was talking to him he said he's on his way here um I don't know this guy actually...eventually showed up or not, I don't know if other officers kind a directed him in.

Helms: Uh huh.

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WAITE: Um ...trying to think if there's anything else. That's...I mean that's pretty much it, it's kind a the same thing over and over on repeat that he's poisoned um...kept lifting his shirt up to show he had body armor...

Helms: Okay.

WAITE: ...and then, pretty much, keeps saying this is where you need to shoot me. There was one point when K9 arrived and the K9 came around, he was actually on the ground between the two cars and then when K9 came out close with the dogs he actually jumped on the hood where he was kind a kneeling on the hood.

Helms: Okay. Alright um...while he was by the car did he ever go back...try to go back in the store aft...after yall had gotten there or he's...

WAITE: No he pretty much just stayed on that hood facing kind a talking around to everybody.

Helms: Okay.

WAITE: Yeah...


Helms: Um and so you...on the map, you illustrated that you fall back which would be uh towards the Arby's correct?

WAITE: Yep, yep...in the Arby's parking lot pretty much.

Helms: And did you stay in that position?

WAITE: Yeah actually what happened was, sorry, I kind a... I went over here where there were cars sitting um...Lieutenant Chickoree asked me to move a

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vehicle that was sitting there cause I had the keys and then they went another way so I actually parked the car over in the back of Arby's, came back over to the scene there were a couple, few other cars... um they said fall back to the command post which was over here, stayed there for about a couple minutes until we were told by uh Freedom supervisor to kind a...gather together over at the Arby's parking lot...

Helms: Okay.

WAITE: ...so that's when he came all the way back around this way and about right here is when I heard the two gunshots um...

Helms: Okay.

WAITE: ...immediately kept going through this way to the back of the Arby's and met with other Freedom officers over here.

Helms: Did you hear where the gunshots come from or could you tell?

WAITE: Um it...it was hard to tell, I just heard two loud bangs...

Helms: Okay.


WAITE: ...one after another so...

Helms: After that um what did you see happen?

WAITE: Um I didn't really see anything, at that point I just kept following around um...I saw SWAT start to move in, pretty much, at where the victim was at but I couldn't see the victim, or not the victim but the suspect at that point.

Helms: Okay.

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WAITE: Which I'm guessing he was down on the ground but, yeah, pretty much any vantage point over here I couldn't really see ...

Helms: Alright...

WAITE: ...much going on cause of the cars in the way.

Helms: Um...in the 30 minutes that you were there um...how many times or...how many times did you tell him to put the gun down or any of that <Talkover - inaudible>

WAITE: Um I didn't really, I just kind a kept the gun on him and then let Officer McAdoo...

Helms: Everybody was just talking to him?

WAITE: Yeah, who were closer to him...

Helms: Okay.

WAITE: ...kind a right in front of him <Talkover - inaudible>


Helms: But they were in continuous dialogue with him?

WAITE: Yeah continued dialogue the whole time.

Helms: Okay.

WAITE: Tell him to put it down, ya know...what about your kids, you have any kids...ya know, do you want us to call family and trying to make uh...a contact with him with a cell phone and stuff like that which it...he didn't quite

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seem to understand the whole cell phone thing so I don't know if he was on something or what but...

Helms: Okay, alright, anything that you can think about um...that I haven't asked you you feel is important?

WAITE: Uh no that's...that's about it, uh the only other thing is he kind a made a mention about the watch tower about...he was really concerned about the cameras on the watch tower I guess...

Helms: Okay, so is that the uh...one of those mobile trailers that's <Talkover - inaudible>

WAITE: The Sky Tower yeah...

Helms: Okay so it was the Sky Tower?

WAITE: Yeah, yeah, yeah.

Helms: What was he saying about that just...?

WAITE: He just mentioning that a cameras on cause he was so concerned about cameras being on him the whole time...


Helms: Okay.

WAITE: ...and wanting the media to get there.

Helms: Uh huh. Alright...alright well I think that's it.

WAITE: Alright.

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Helms: This concludes the interview; the time now is ...0838.

JBH/rge

*Reviewed By*  
*J.H. 4464*  
*12/14/16*

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## **Exhibit 7**

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THIS IS GONNA BE A RECORDED STATEMENT, IT'S GONNA BE RELATED TO COMPLAINT NUMBERS 20160419055900. TODAY'S DATE IS APRIL 19<sup>TH</sup> 2016; THE TIME IS 831 HOURS. IT'LL BE IN ROOM 2001 AT THE LAW ENFORCEMENT CENTER, 601 EAST TRADE STREET SPEAKING WITH OFFICER A. CAMPBELL CODE NUMBER 5360 BEING INTERVIEWED BY DETECTIVE S.R. LADD.

Ladd: Officer you realize that...you're being recorded?

CAMPBELL: Yes.

Ladd: You alright with that?

CAMPBELL: Yes.

Ladd: I am doing that spelling right C-A-M-P-B-E-L-L?

CAMPBELL: Yes sir.

Ladd: What's your date a hire?

CAMPBELL: Uh June 22<sup>nd</sup> 2015.

Ladd: Do you have any prior law enforcement or military experience?


CAMPBELL: Uh both.

Ladd: Okay where were you at in law enforcement?

CAMPBELL: Uh four years in Greensboro.

Ladd: Greensboro P.D.?

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CAMPBELL: Uh huh.

Ladd: Military?

CAMPBELL: Uh six years Navy Reserves.

Ladd: Spent 12 years in the Marine Corp...

CAMPBELL: Oh...

Ladd: ...I'm not gonna hold that against you.

CAMPBELL: So I was your taxi.

Ladd: You are currently assigned to what division?

CAMPBELL: Freedom.

Ladd: What shift were you on this evening?

CAMPBELL: Third.

Ladd: Now everybody's a little bit different from district to district, what's the third shift in Freedom?


CAMPBELL: Uh 2000 to 06.

Ladd: You do...

CAMPBELL: Ten.

Ladd: ...a ten hours shifts. Your call sign for this evening?

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CAMPBELL: Uh 27-1219-third.

Ladd: They usually pretty standard...

CAMPBELL: Yes.

Ladd: ...stays the same?

CAMPBELL: Uh huh.

Ladd: You're on Freedom talk group?

CAMPBELL: Yes.

Ladd: Before this incident did you remain on Freedom talk group?

CAMPBELL: Yes.

Ladd: Uh now everybody... I understand when there's a critical incident ...there is a lot of people out there.

CAMPBELL: Uh huh.


Ladd: But who is your supervisor before all this went off?

CAMPBELL: Sergeant Hendricks.

Ladd: Hendricks?

CAMPBELL: Uh huh.

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Ladd: Is that with a I-C-K-S?

CAMPBELL: Yes.

Ladd: How tall are ya?

CAMPBELL: 5'3.

Ladd: How much do you weigh?

CAMPBELL: 155.

Ladd: Prior to beginning shift this evening how much sleep did you have?

CAMPBELL: Uh six hours.

Ladd: Did you work any off duty before this shift?

CAMPBELL: No.

Ladd: Your vehicle number?

CAMPBELL: Uh 236.


Ladd: Were you one man or two man?

CAMPBELL: One.

Ladd: That's a marked unit correct?

CAMPBELL: Yes.

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Ladd: You have DMVR installed in the vehicle?

CAMPBELL: Uh I believe so, I'm not sure if it's 236 or 232 I doesn't...it...yes I do, it was pulled up it just wasn't activated.

Ladd: Okay. So you...in the vehicle itself, it still has the DMVR?

CAMPBELL: <Talkover - inaudible>...yes...yes it has DMVR and I had...

Ladd: Didn't have...didn't have it activated?

CAMPBELL: Right cause I was right across the street I didn't have to go emergency traffic.

Ladd: Okay. Uh don't want you to unload your weapon but, if you would, just give me your serial number off of it.

CAMPBELL: It is...Henry, Tom, Charles 0746.

Ladd: Do you have a secondary weapon issued to you?

CAMPBELL: I do not.


Ladd: Do you have a back up issued to you?

CAMPBELL: I do not.

Ladd: Okay um you were on shift, of course...

CAMPBELL: Yes.

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Ladd: ...almost...almost to the end of shift as a matter of fact when it all broke off so tell me just prior to all that going haywire this morning tell me what was going on.

CAMPBELL: Uh I was sitting across the street from this location uh in the Rite Aid parking lot um talking to Officer Waite about some reports in KB Cop.

Ladd: Uh huh. Tell me what happened.

CAMPBELL: Um while we were sitting there, call came out that a male was trying to break into the um 7-11 at 6606 uh Tuckaseegee. Um we were right across the street and uh immediately checked enroute and pretty much, immediately checked arrival cause we had to go a left out of Rite Aid, made a left on Little Rock and we were right there...

Ladd: Okay.


CAMPBELL: ...at the corner um and then arrived on scene and progressed from there.

Ladd: Tell me what you saw when you arrived.

CAMPBELL: Oh when I arrived on scene saw Officer McAdoo, he was engaged with a male, he appeared Hispanic um possibly Pacific Islander I wasn't sure um and he was about ten feet away from him, ten to twelve feet. Uh the subject was in front of, directly in front of, the front entrance, he had his back to the store facing McAdoo. Um he appeared to have a black object, looked like a pistol um behind his back. He had a cell phone in his left hand...

Ladd: Okay.

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**CAMPBELL:** ...and McAdoo had his weapon drawn on him giving him commands to drop the weapon um put down the gun, um just kept going back and forth on that, the male made it clear that he wasn't gonna put the gun down, he wanted the news and he wanted an ambulance. And he kept asking for cameras.

**Ladd:** Okay. What did you do?

**CAMPBELL:** Um by this time I had exited my vehicle and gone around to the passenger side um, well actually no, originally I... I got out and went to take cover behind um one of the pillars near the gas pump.

**Ladd:** Okay.


**CAMPBELL:** Um I turned around and I saw a white Tahoe trying to come back into the entrance of the uh gas station so I waved him to tell him to ...to go somewhere else um, that ended up being one of the witnesses of the incident um who I had transported to LEC after all was done.

**Ladd:** Okay.

**CAMPBELL:** Um after I took cover from there um I'm not exactly sure how long I was behind that part and went and took cover behind my car at one point and then a K9 vehicle came and parked in between me and uh where McAdoo and the subject were engaged um so when that happened I came to the back passenger corner of that K9 vehicle um where I had a better angle on the subject. At that point I was probably 15 feet away from him.

**Ladd:** Okay.

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CAMPBELL: And I just continued to uh stay on him, by that time several officers uh Sergeant Hendricks, Officer Richter um... Officer Meyer, Simmons arrived and we all kind of took cover behind a car and stayed engaged with him and ended up moving to the car where McAdoo was, his car, so we were all kind of behind that one car um talking to him and uh giving him commands um...

Ladd: Who's doing most of the talking?

CAMPBELL: Uh at first it was McAdoo cause he was first on scene...

Ladd: Okay.

CAMPBELL: ...after that it was um... I remember hearing Sergeant Hendricks and Officer Meyer a lot uh and also Richter um were giving him commands.

Ladd: Giving him commands to do what?


CAMPBELL: Uh put down the gun, tell him that... cause he was... made it clear he wanted us to kill him, he wanted uh... he... he was lifting up his shirt showing us that he had body armor and telling us that we were gonna have to shoot him in the head.

Ladd: Okay.

CAMPBELL: Um and um just kept saying that he wanted news, he kept asking where the cameras were. He pointed up to the uh tower that we have in that parking lot um I... I think he thought that was some kind of... important news camera of some sort. Um...

Ladd: You talking bout the Police box...

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CAMPBELL: Right, uh huh yeah he...he...pointed to that. At one point he got on the hood of his car and he stayed there probably a good 25 to 30 minutes um still going back and forth. Um keeping the gun behind his back, he was making phone calls.


Ladd: Okay.

CAMPBELL: Uh he called someone and I heard him telling that subject that uh he set him up and that he was gonna have to live with it uh it was gonna be on his conscience cause he was gonna die. Um he wanted his family, he wanted us to contact his family and let's see, what else was he saying? Um at one point I had switched positions with Simmons um so that he could kind of give his arms a break and I engaged uh the subject and he made eye contact with me at that point and said something about being a female officer and I was gonna have to live with, basically, guilt of pulling the trigger if...when I had to shoot him and at that point that was the first time I spoke with him and told him that no one wanted to shoot him, we wanted him to get the help he needed, he need to put the down the gun so that Medic could treat him cause he was still asking for Medic at that time. Um when I went back to the corner where I originally was, at one point he winked at me and went on some kind of spill about female officers but I don't remember exactly what his words were. Um and soon after that, SWAT arrived and relieved us and um we went... I was sent to Little Rock and 85 to block traffic.

Ladd: Okay.

CAMPBELL: So I think I was on scene 40...little over 40 minutes, I had 40 minutes of BWC.

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Ladd: Okay.

CAMPBELL: Uh but it was basically just back and forth, him wanting us to shoot him, us telling him we didn't want to. Um he kept the gun behind his back pretty much the whole time that I saw him.

Ladd: Okay. <Inaudible>

CAMPBELL: <Inaudible> ...let's see...yes, uh huh, gas station and the Rite Aid is right here.

Ladd: Okay <Inaudible> ...easier to draw on this than...

CAMPBELL: Okay.

Ladd: ...it is to draw on that so that's why I drew it.

CAMPBELL: Okay.

Ladd: Does this uh look familiar to you at all?

CAMPBELL: Yeah.


Ladd: Okay, this'll be the store, the little gas pumps...

CAMPBELL: Uh huh.

Ladd: ...the hood.

CAMPBELL: Right.

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Ladd: If you would, uh as best you can remember and I understand we're not trees we're not rooted in...in the ground...

CAMPBELL: <Inaudible>

Ladd: ...people move, okay.

CAMPBELL: Uh huh.

Ladd: Bu upon your arrival where exactly was he in relation to the...I'm assuming somewhere in front of the store.

CAMPBELL: He was right here.

Ladd: Right dead center?

CAMPBELL: Uh...

Ladd: In front of the store?

CAMPBELL: For...most a his car was maybe a little bit to the right and when he went on the hood then he would've been...

Ladd: Okay.


CAMPBELL: ...there but I believe he was, pretty much...

Ladd: <Talkover - inaudible>

CAMPBELL: ...right in the middle.

Ladd: Show me where his car was.

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CAMPBELL: <Inaudible>...right about right here.

Ladd: Okay uh if you uh put an arrow <Inaudible> just like you do for orientation for a vehicle.

CAMPBELL: Uh <Talkover - inaudible>

Ladd: <Inaudible>...little arrow on the car, show me which way it was pointed <Talkover - inaudible>

CAMPBELL: Oh.

Ladd: The headlights towards the store or...?

CAMPBELL: Yeah the headlights were towards the store.

Ladd: Okay, and we believe that to be his car?

CAMPBELL: Yes.

Ladd: Okay you mentioned something earlier, you said that he had his right hand behind his back holding a pistol, could you in fact see the gun?


CAMPBELL: Um when I first pulled up...

Ladd: <Talkover - inaudible>

CAMPBELL: ...no, when I got out of my car yes.

Ladd: Where was your car at?

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CAMPBELL: Uh it was about right here kind a behind pump, I don't know if this is one or eight or what order they go in but...

Ladd: Okay.

CAMPBELL: ...um there's an entrance right here and I came in and uh my car was kind a facing this way cause I pulled in from here and stopped my car there.

Ladd: Okay let's just do this let's make it a little longer.

CAMPBELL: Okay.

Ladd: Like that.

CAMPBELL: Uh huh.

Ladd: And I'm gonna write my car.

CAMPBELL: Uh huh.

Ladd: Alright.


CAMPBELL: Yep.

Ladd: So you're oriented towards the pumps...

CAMPBELL: Uh huh.

Ladd: ...if I'm standing at the front of the store looking at the store, your car is off to the left to the left of the pumps?

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CAMPBELL: Correct.

Ladd: Okay, oriented towards the pumps themselves?

CAMPBELL: Yes that's correct.

Ladd: That position, is that line a sight to where he was, could you see him when you got out a your car?

CAMPBELL: Yes cause there were no um... Officer Waite was parked right here but I could see past his car.

Ladd: Okay where was Officer McAdoo upon your arrival?

CAMPBELL: Uh he was about right here.

Ladd: Okay...

CAMPBELL: His car was parked...

Ladd: <Talkover - inaudible>...put it here, that's a little darker.

CAMPBELL: Okay.


Ladd: Put an M for McAdoo.

CAMPBELL: <Inaudible>

Ladd: Okay and put a circle around McAdoo... <Inaudible> M so we know that's a person.

CAMPBELL: Yeah.

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Ladd: Okay. Is he standing behind anything?

CAMPBELL: Uh...

Ladd: I mean is he...

CAMPBELL: ...from my angle I couldn't tell...well his vehicle...do you want me to draw his vehicle right here?

Ladd: Draw anything you want to.

CAMPBELL: Okay. His vehicle was right here, I couldn't tell if he was behind the hood of his car, his car was facing this way...

Ladd: Okay.

CAMPBELL: ...um so if he had cover it was the hood of his car right here.

Ladd: Was he ducked down when he was talking to you or...

CAMPBELL: No he was standing...

Ladd: ...or was he standing up?


CAMPBELL: He was standing straight up.

Ladd: Okay. Is McAdoo the only person who was there when you arrived?

CAMPBELL: Yes.

Ladd: Okay.

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CAMPBELL: Cause he arrived and then 30 seconds later, not even 30 seconds later we pulled in here.

Ladd: Alright where'd your partner park at?

CAMPBELL: Uh Waite parked right beside a me, I'm not exactly sure what position...

Ladd: And again I...I under...we're not trees.

CAMPBELL: Yeah.

Ladd: We move.

CAMPBELL: So...I don't know if his car was completely parallel to mine but he was about right here, he was in front of me.

Ladd: Okay, little bit closer to the store...

CAMPBELL: Uh huh.

Ladd: ...oriented the same direction.


CAMPBELL: I think so...

Ladd: Right.

CAMPBELL: ...I'm not...

Ladd: Okay.

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CAMPBELL: Yeah can't be a hundred percent sure.

Ladd: <Talkover - inaudible>

CAMPBELL: He might've been more of like an angle this way but...around there.

Ladd: Initially where did you take uh your first position at?

CAMPBELL: Um there's...there's the pumps right here and then there's like a pillar...

Ladd: Okay.

CAMPBELL: ...and I was behind this pillar um so I had a clear line a sight to the subject there.

Ladd: Okay so you moved several times...

CAMPBELL: Yes I moved a lot.

Ladd: ...during the course of this?

CAMPBELL: Uh huh.


Ladd: Okay. So uh for clear...for...for...clear and clarification...

CAMPBELL: Uh huh.

Ladd: ...let's just do this, first position put A...that's your first position okay.

CAMPBELL: Uh huh.

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Ladd: Um everybody's moving around...

CAMPBELL: Right.

Ladd: ...so he, McAdoo is still sp... speaking with this subject you said he may be Hispanic, may be... Pacific Islander?

CAMPBELL: Yeah some kind... I mean he looked tan and...

Ladd: Okay.

CAMPBELL: ...um...

Ladd: And they're <Talkover - inaudible>

CAMPBELL: ...not white, not African Amer...

Ladd: McAdoo is telling him what exactly?

CAMPBELL: Um put down the gun, didn't have to do this um that we didn't want him to die and at one point McAdoo, I know several times, he said I'll put down my gun if you put down your gun, ya know, put down your gun then I'll put my down.


Ladd: Okay.

CAMPBELL: Um kind a trying to um... reason with him.

Ladd: Okay.

CAMPBELL: And he didn't want any part of that. Um he just had the first....

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Ladd: So when you first see McAdoo he's got his weapon out and he's drawing down on this guy?

CAMPBELL: Correct.

Ladd: Okay. Alright where did you move to from there?

CAMPBELL: Uh after that I moved to the passenger side, front passenger side of my car.

Ladd: Okay.

CAMPBELL: To take some cover cause uh when I was here I was like well I'm right next to a gas pump, really not very safe, um so I just backed up a little bit cause it didn't change my line of sight but it just seemed a little safer.

Ladd: Okay.

CAMPBELL: Um...and then from here I might've moved back here briefly after um...cause, at this point, K9, I'm not sure which K9 officer it was um but a K9 came and parked his car right here um...like this.


Ladd: You can just write K9 on the car.

CAMPBELL: Yeah...and so it blocked my view of the subject...

Ladd: Okay.

CAMPBELL: ...um when he pulled in.

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Ladd: So the K9 officer arrived and he actually put his vehicle between the pumps and the store?

CAMPBELL: Yeah...yes.

Ladd: Okay.

CAMPBELL: Um so I couldn't see him anymore so I came back here where I could see the subject again but then I didn't wanna be next to the gas pumps so uh Richter and...by this time Richter had um come up with McAdoo...

Ladd: Okay.

CAMPBELL: ...and um I went from here originally cause no one was behind this car, I'm not sure where the K9 officer went when he got out um but this car was unoccupied.

Ladd: Okay.


CAMPBELL: And it was facing that way <Inaudible> should a made that little bit longer this way. So I came here and I was on the back passenger corner um...

Ladd: Okay.

CAMPBELL: ...for a good bit and um...then a K9 officer told me I could come over here with them so at one point I moved across here and this is where I stayed the rest of the time.

Ladd: Okay so from A to B to C to D?

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CAMPBELL: Yes.

Ladd: Okay.

CAMPBELL: And then once SWAT relieved me I just backed straight out and...

Ladd: At some point he gets on the hood of the car you said?

CAMPBELL: Correct.

Ladd: When was that, is that before you moved from C to D?

CAMPBELL: It was some time in between C and D <Talkover - inaudible>

Ladd: Okay so as...what you're saying is as you're moving from the K9 the back right of the K9 over to uh McAdoo's car, he gets on the hood of the car?

CAMPBELL: I'm not sure if he got on the hood while I was still behind K9...

Ladd: Uh huh.

CAMPBELL: ...or if it was after I had moved here <Talkover - inaudible>


Ladd: Okay but he's not moving while you're moving?

CAMPBELL: No, no, no...

Ladd: Okay.

CAMPBELL: ...he wasn't moving while I was moving um...

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Ladd: <Talkover - inaudible>

CAMPBELL: ...he was still, he had the gun behind his back and um there were uh... Simmons was here, Meyer was here, there was another car here that uh Sergeant... Sergeant Hendricks was behind...

Ladd: Okay.

CAMPBELL: ...and I'm not sure who was with Sergeant Hendricks there.

Ladd: Okay.

CAMPBELL: But they all had ...had him drawn on and um I moved over here quickly cause it was probably eight to ten feet between these two cars.

Ladd: Okay.

CAMPBELL: Wasn't a lot of um gap...

Ladd: Not enough space?

CAMPBELL: Right.


Ladd: Not as much space as it looks like on this <Talkover - inaudible>

CAMPBELL: Right, not as much spa...yeah it was probably like eight to ten.

Ladd: Okay.

CAMPBELL: Um they were pretty close um but uh McAdoo, Richter and I uh rotated the...uh front spot over here um...

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Ladd: Okay.

CAMPBELL: ...stayed drawn on him for the next 20 minutes or so until we relieved from SWAT.

Ladd: Okay.

CAMPBELL: Does that make sense?

Ladd: At some point he's on the hood of the vehicle?

CAMPBELL: Uh huh.

Ladd: You said that uh McAdoo was talking to him originally?

CAMPBELL: Yes.

Ladd: And then pretty much Sergeant Hendricks and whoever was over with him took over, eventually and tried to make...

CAMPBELL: Yeah but everyone kind a...yeah everyone still said all that stuff to him...


Ladd: Sure.

CAMPBELL: ...but mostly it was Hendricks and uh Meyer...from what I can recall.

Ladd: Anybody uh ...did he...respond favorably to anybody?

CAMPBELL: Um he... he wasn't unfavorable to anybody, he just kept saying the same thing over and over again that uh he wanted his camera, he

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wanted his Medic, um...he was gonna die, that he had been set up and that he had been poisoned. Um he kept...it was almost like he was chewing on something he kept doing stuff with his mouth. Um I don't know if anything was in his mouth or if he was just trying to bring home the fact he thought he had been poisoned.

Ladd: Okay.

CAMPBELL: Um but he kept talking bout a set up and the poisoning and talking to his family and he kept calling people on his phone.

Ladd: You said the original call for service was someone trying to break into the 7-11?

CAMPBELL: Right but...

Ladd: Was it closed?

CAMPBELL: No it was open.

Ladd: Okay.


CAMPBELL: Yeah.

Ladd: We know who made that call?

CAMPBELL: The clerk I believe.

Ladd: Okay.

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CAMPBELL: Um I'm not sure if she had it locked for some reason, it's usually open all night um cause we're in and out there all night. Um so that...uh...we were kind a confused about that part of the call.

Ladd: Okay, upon your arrival, what was your understanding of where the clerk was, still inside?

CAMPBELL: Uh I had no idea um...I know while we were on scene they were requesting her to go to the back room but the line was busy we couldn't get in touch with her, finally someone let her out uh the back, I'm not sure what officer went around back and escorted her out but...

Ladd: Okay.

CAMPBELL: ...at some point it was confirmed that she was out of the store and no one else was in there.

Ladd: You don't know when that was in this... Was it while you were still out there?

CAMPBELL: It was while I was still on...yeah it was...

Ladd: Okay.


CAMPBELL: ...I was in ...behind this car <Talkover - inaudible>

Ladd: And you say this entire interaction with you in the parking lot was about 45 minutes?

CAMPBELL: Uh huh.

Ladd: And at some point you're relieved by SWAT...

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CAMPBELL: Correct.

Ladd: ...they come back here to where your vehicle is, you get your vehicle and leave in your vehicle?

CAMPBELL: No my vehicle stayed there, I left on foot um...came up here to Little Rock and was instructed by I...I...I think it was a Lieutenant I'm not sure who it was um I took their vehicle to Little Rock and 85 to block off traffic.

Ladd: Okay.

CAMPBELL: And then I was relieved on that post, came back up and I um transported um the witness who turned out to be the guy that I had told not to come back on the property, um...I didn't know he was a witness, I thought he was a customer trying to come in.

Ladd: Sure.


CAMPBELL: Um so for his safety I told him to go away but um he ended up having been in the parking lot, uh having left the store he had, the suspect had engaged or subject had engaged him earlier before Police arrived.

Ladd: Okay, you know that guys name?

CAMPBELL: Uh... starts with a T, Tr...Treone, Trenonce, I'm not sur...Trenon, something like that. It's not a common name.

Ladd: Okay.

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CAMPBELL: A black male with dreads, he had like a grey work shirt on.

Ladd: Okay did he come down here?

CAMPBELL: Yes I transported him.

Ladd: Alright.

CAMPBELL: Um he had stated that um...the subject had tried to um take his truck. He had come up to his driver's side...

Ladd: Okay.

CAMPBELL: ...and um said let me have your truck and he had a gun um...in his right hand by his right side. He said the gun looked like a 9 millimeter, black 9 millimeter.

Ladd: Okay so he's not a witness, he's a victim?

CAMPBELL: Yeah, well yeah a victim.


Ladd: Okay.

CAMPBELL: So...

Ladd: Okay. Okay. And you said that you went to block off traffic and that's where you remained?

CAMPBELL: Uh I remained there until um...uh...someone needed the vehicle that I was driving uh to follow Medic to the hospital so they came, got the vehicle and took me back up to the scene.

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Ladd: Okay.

CAMPBELL: And I ...by this time Medic had the subject um so I was meeting with Sergeant Hendricks to kind a figure out what we needed to do next and that's when the two witnesses needed to be transported so...

Ladd: Were you close enough to hear the shots?

CAMPBELL: No I did not hear the shots.

Ladd: Anybody explain to you what had happened?

CAMPBELL: Uh no I just knew that Medic had the subject. It actually wasn't um... when I was down here, the person I transported said that he had heard the subject had died but I hadn't heard anything about that.

Ladd: Okay. Anything else you can think of?

CAMPBELL: Uh... no, not off the top of my head. It just kind a seemed like it was just a bunch of stuff on repeat saying the same things over and over again.

Ladd: No...no...


CAMPBELL: And so...

Ladd: Knowing wherever you went to was pretty good. Anything else you wanna add to your statement, anything you wanna say?

CAMPBELL: Uh no, that's it.

Ladd: This will conclude at this time, it's 855 hours.

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*Reviewed By*  
*[Signature]*  
*4464*  
*12/15/16*

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## **Exhibit 8**

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REVIEWED BY DETECTIVE SR LADD, P-2524 ON 04/26/2016 

THIS IS GONNA BE A RECORDED INTERVIEW THIS GONNA BE RELATED TO COMPLAINT NUMBERS 20160419055900. TODAY'S DATE IS APRIL 19<sup>TH</sup> 2016; THE TIME IS 9:27 HOURS. GONNA BE IN ROOM 2003 OF THE LAW ENFORCEMENT CENTER AT 601 EAST TRADE STREET SPEAKING WITH LIEUTENANT CHICKOREE, BEING INTERVIEWED BY DETECTIVE SR LADD. ALSO PRESENT FOR THE INTERVIEW IS SERGEANT JD FURR.

Ladd: What's your first initial sir?

Chickoree: Z.

Ladd: What's your code number?

Chickoree: 2269.

Ladd: Date a hire?

Chickoree: 12/2 of 1998.

Ladd: Any prior law enforcement or military experience?

Chickoree: No sir.


Ladd: What division you assigned to sir?

Chickoree: Currently the Operational Command.

Ladd: Uh, on shift? Were you on duty <Talkover - inaudible>?

Chickoree: I'm on midnight shift, yeah.

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Ladd: What's the hours for that sir?

Chickoree: 8 p.m. to 6 a.m.

Ladd: Your call sign on the radio this evening?

Chickoree: It's uh 65-5035-0.

Ladd: What talk group were you operating on initially?

Chickoree: I typically monitor Central and Metro <Inaudible>

Ladd: When all this kicked off did you switch over and monitor SWAT?

Chickoree: No I went to...from Metro to Freedom, I was in the car scanning Metro when it uh...when I heard the Metro officer switch over to Freedom is when I had switched it over.

Ladd: Okay, initially you were the ranking officer <Inaudible>...I understand, when they contact you but <Talkover - inaudible>


Chickoree: That's correct, uh huh.

Ladd: Eventually you fell under who?

Chickoree: Uh...under...once the SWAT sergeant became on scene I think it was Sergeant Milliken after that and it was uh...I was...pretty much under his orders as a...negotiator. Once I had another sergeant who was able to take over for me.

Ladd: How tall are you?

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Chickoree: Uh 5'6.

Ladd: How much do you weigh?

Chickoree: Uh 175.

Ladd: How much sleep did you get the night before?

Chickoree: Uh full probably ten hours, Sunday night I slept the whole night.

Ladd: Did you work off duty any time yesterday?

Chickoree: No sir.

Ladd: Do you have a marked vehicle?

Chickoree: Yes.

Ladd: Do you have the number?

Chickoree: Yes it's PDA 498.


Ladd: Anybody with you?

Chickoree: No.

Ladd: Is the vehicle equipped with DMVR?

Chickoree: No sir.

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Ladd: I don't want a round count sir but what's the serial number on your weapon?

Chickoree: I'm a have to pull it out the... <Inaudible>

Ladd: <Inaudible>

Chickoree: Yeah <Inaudible>... I know the other ones but... this is my newest one so H... Henry, Sam, John 3458... HSJ3458.

Ladd: Do you have a secondary weapon issued to you?

Chickoree: No.

Ladd: Do you have a backup weapon issued to you?

Chickoree: No.

Ladd: Okay. Sir, if you would, just start back from what got your attention... drew your attention to what was going on over here, uh... what you were told initially and your response since then.


Furr: Uh, Lieutenant before you begin I just wanna... for the purposes of the recording I wanna remind you that this is a uh ... an officer involved shooting incident.

Chickoree: Yes.

Furr: It's a uh... its two investigations, separate but parallel it's...

Chickoree: Right.

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Furr: ...the criminal investigation conducted by the Violent Crimes Division and the internal investigations conducted by Internal Affairs.

Chickoree: Correct.

Furr: Go ahead.


Chickoree: Uh, at around 3:14 I believe it was uh I was leaving the Hickory Grove division or just prior to that um and I was, obviously, monitoring the Metro division and I heard ...something caught my ear about the Metro officers being requested to switch over to Freedom to assist with a call uh...I was just driving my vehicle, heading towards uptown. Uh...I switched over to Freedom to monitor it and...as soon as I switched over I could hear talk on the radio, uh appeared that they had a person that was armed at some type a convenience store. Uh I recognized the voice of Sergeant uh Eddie Hendricks, the midnight shift sergeant at Freedom, he was talking and I could hear him saying that the guy had a gun, that he could see it um...I think at the time I heard some type of talk about there being a clerk inside the store that was um...locking herself in one the room to get away from him. And obviously, at that point, uh I knew something was up so I obviously started to...to pay more attention and started to focus in on what was going on. Um and then I heard uh Sergeant Hendricks saying hey he's showing us he's got a bullet proof vest. Um, at that point, I got on the radio and I asked Eddie can you confirm...if he does have a pistol and you have seen a bullet proof vest um I believe Eddie's reply was yes he has. I was actually on the Central talk group as well on my...uh shoulder mic and I...I went ahead on the Central talk group and requested that the SWAT team be deployed. I think at first I might've called for an operator, I asked if there was an operator that was working uh...a tactical operator working in the ...in the...department and I think the...Communications dispatcher asked

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for a blood kit operator. Um I was...as I was monitoring it I ended up hearing that things were getting kind a ramped up uh on scene with the um...at the...at the convenience store and I think I ended up making an all call. I requested the all call, I believe, over to Central. I said headquarters initiate an all call for the SWAT team. Um at that point I contacted Sergeant Brochu, I think it was right around Brookshire, getting on Brookshire. I called him to notify him that I had activated the SWAT team, you know, without his approval. Uh kind a let him know what the circumstances were. He asked if I had activated the SWAT team I said yes. Uh...just driving down the road, I contacted uh Captain J.D. Thomas with our negotiator unit, sound like it was gonna be some type of negotiation being done with the guy, who I believe, was suicidal and uh with him obviously having a gun, we believe at the...at the time that he might a had someone either being held against their will or hostage inside the store. Um he communicated back with me that he was up in the mountains on some kind a negotiator retreat so...all this stuffs going on. At the time I'm responding as operational command as well so I'm listening to the radio trying to communicate back and forth with uh Sergeant Hendricks. Uh I saw that Ed Mark with the SWAT team was working so I requested that he respond out to the scene as the tactical operator. Um even though ...ya know, with Operations Command you know I'm not <Inaudible>...they're the ones that make the tactical decisions with the team for calls outs. Uh by the time I get to Little Rock and uh 85, pull off the roadway, driving up I can see a bunch a blue lights right around the intersection where Tuckaseegee and Little Rock were to come into play and um...so I pull my car up uh...literally park it in the middle of the intersection and I was parked there with the...there were several other vehicles parked in the intersection and I looked across the street, there's a little...just kind a like a little valley <Inaudible>...you can see the lot pretty clearly from where the street...the street actually sits up a little bit higher and um I could see

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probably a dozen officers, there were multiple vehicle's parked in the lot, various...it looked like kind of a...kind a like a semi circle, little bit...not as...not as deep and there were officers that were using vehicles, you know, as cover and, you know, everybody had their guns out. And I could see a guy standing ...well he wasn't standing and I really could just see him from the waist up um over the ...the hood of his...his car, over I guess the roof not the hood and he looked like he had a uh...could tell it was a cell phone, I guess, in his one hand and his other hand was behind his body. Um...I...I asked numerous times, at that point, because you know I haven't...I hadn't put eyes on the pistol myself. Hey are you sure he's got a gun, have you seen the gun?...and they again confirmed yes he's got a gun, he's got it in his...I think Eddie had said the wrong hand at first but it ended up being his right hand. Uh but he was hiding it behind him. Uh as I was on scene and getting the area set up for the SWAT teams resources were gonna be delivered to set up the Command post. Uh I think one of the K9 officers, I believe it was Darryl Brown initiated a um...a...like a rescue attempt to get the person that was trapped inside the building out. Um so that occupied the radio for a good few minutes as...I guess, they made their way up to the side of the building and was able to get the um...I believe it was the clerk of the business out safely. Uh as that was being done, you know, the center of attention was on...I...I couldn't tell he was Asian when I...when I got there cause I was just so far back but I could see, I believe, he had like a black shirt on...had a black tee shirt, um still had his...ya know, one hand tucked behind his back and he kept talking about the phone so we're like okay. My big...my mission at that point after I kind a expanded the uh...the footprint of the scene and just extended some more officers out so that cars wouldn't be coming in to stop pedestrian traffic or vehicular traffic. Uh, ya know, my option at that point was then trying to identify who this guy was so we could do a work up on him and we could maybe...try...we could try and reach

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out to him to see what some of his issues are what...what...got him to that point tonight. Uh I was very un...I was unsuccessful, really, I think they ran the tag on the car <Inaudible> gave us the name of Uri...which wasn't really much to go on. Um eventually Sergeant Gerrod was able to uh get a hold, somehow, the license tag and relay it to a KB Cops report and they was able to pull a phone number off of that. Um I tried the phone number and of course it went to a phone that I guess he had a few years ago. Um the young lady on the phone said yeah I get a lot a calls for this guy uh it's not him. And obviously I could see at that point that...he wasn't, ya know, communicating with the phone's and, obviously, knew it wasn't him plus it was a female so that was kind of a dead end. Um at some point the SWAT resources started to arrive and, of course, their big thing is to uh, ya know, they're gonna switch out the patrol officers on scene with the SWAT officers just because they have the...ya know, the heavy equipment the helmets and all that so they started to make their...their way up uh towards the front of the gas station and they started to kind a pick the patrols officers off couple at a time and moving 'em back from the front of the gas station back out to where I was. So the ones that were able to come back out I was able to assign 'em little...little tasks, again, to kind a help out with some of the chaos that was going on in the back area and as the SWAT guys started to either speak or engage with this guy um I was requested by Sergeant Milliken, he was requesting a <Inaudible> negotiator to come up so at that point uh I know Sergeant Mackle was...was either 17 or almost on scene so I went ahead and went up as his negotiator to try and communicate with this guy. Um I hadn't really spoken to him before that I didn't really know anything about what was going on in his head at that time I just knew that they had been speaking with him and they were somehow able to keep him talking the whole time, with some level of success. Um until the ...the tactical unit uh arrived. Uh so I was worked up through the front and I brought, I believe, I

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was right next to some K9 officer's Tahoe and the vehicle, the Tahoe was kind a angled like this in the lot and the suspects car or Mr. Vong's car would've been uh just directly in front of me, I believe, it was parked forward. So I believe the K9 officers car, if I can just do a box quick. I wanna say his car would've been one of the spaces, maybe right here. And I would say the front of the store was probably somewhere right here. So I was placed uh right behind the wheel here, I guess, where the engine block would be and uh Sergeant Eddie Hendricks initially was right here. He was eventually removed and then uh I'm gonna be this little spot right here and then Officer Riddle was right here, Andrew Riddle. I knew Sergeant Milliken was somewhere right there cause he had actually, you know, got me up to the scene but um I don't really know exactly what his position was around the vehicle but that's...typically um, I mean that's...that's where I was. Well from my vantage point I had a full line a sight view of Mr. Vong... Is that his name, Mr. Vong?


Ladd: Doesn't matter.

Chickoree: Okay.

Furr: Yeah that's fine.

Chickoree: I...I had full line a sight view with him and he was actually kneeling on the hood of his car so he would've been somewhere where...right about here. So he was kneeling on the hood of his car um his...his vision was kind a turned back towards me and the spotlight was on the car and the spotlight was kind a on him directly. Um...so there I...I initiated contact with him as soon as I was able to um, ya know, to...ya know I had my helmet on, I had my tac vest on um...ya know, I was briefed that he had a pistol in his hand. I didn't really see the pistol initially, be honest with you, um I just initiated conversation with

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him, ya know, the big thing I wanted to do was kind a help develop a rapport with him, I established myself hey...um I'm not here to hurt you um...I'm, ya know, Mr. Chickoree, I'm here to talk and get you through this to make sure you're gonna be safe. Now I'm showing you my hands up for a reason because that's exactly what I did. Um and I actually stood up at the vehicle and Riddle told me that he had my cover for me and if something were to...to go bad I was just to make myself small and get behind a vehicle for cover um so I was standing up uh...really right...I guess right at the...the edge of the vehicle, I can't even tell you, honestly, if it was a Tahoe or a car now but...but that's where I was either way. Uh...


Furr:

But you believe it was a K9 vehicle?

Chickoree:


I thought it was a K9 vehicle that was there, yeah, uh but it might a been a car I don't know if it was a...man I'll be honest with you, I can't remember right now. Might a been a car because...I wanna say it was a car cause the hood was not...as I stood up I remember the hood was actually kind a low but either way I could see directly through to where he was uh...so I started talking to him, I thought his name was Uri or Eri...so I...I started to use that to call...to call out to him, you know, hey...ya know I understand you're upset, ya know, tell me what got ya here this place today...and right away I could tell when he started...and he did engage in conversation with me which was good, I mean that's usually a big plus <Inaudible>...if they'll...they'll talk back to you so...uh some physiological things I could notice from him, he was...he appeared to be really sweaty, he had some type of huge bump...uh I don't know if it was uh, like a hematoma or some type of just...ya know, maybe just some kind of...ya know, some kind a knot in his forehead that was on his upper right side. I noticed that right away and his lower jaw was kind a protruding but he...when he would speak he would speak kind

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ground...he would kind a grind his teeth and uh his jaw would move off to one side. Um...he also had like a line of dried spit kind a on the underneath of it and a lot of times when folks, ya know, if they're been not taking they're medication or if they take medication related to like mental health stuff um some of the classes like ya know I...I teach with CIT, uh...some of the classes I've been to, ya know, a dry mouth is usually a...it's a common symptom of folks that take some type of psychiatric mediation or some kind a medication for depression or the lack of taking it as well, uh...that can also manifest itself, so I'm thinking wait, maybe this guy hasn't been taking his medication uh, ya know, maybe we can just get him back on the right track so I'm talking to him...uh at some point, I believe, it was Officer Riddle told me his name was Mr. Vong, I think they had found that out somewhere through the intel so I...I tried to talk to him as Mr. Vong. I said, ya know, reaching out to him...hey I've got Medic here, ya know, I've got folks here that wanna help you, ya know, last thing we wanna do is hurt you. Uh please consider putting the gun down, you know, we can't have a conversation without, you know, you putting that gun down, we can't speak...uh...we can't speak at a level where you're holding a pistol in your hand, it's just not gonna work. I did ask him at one point cause I usually always ask folks...are you interested in putting the gun down right now and coming out and talking to me which that didn't...ya know, he didn't...wasn't upset at that but he just wasn't gonna do it so the first thing that really caught my attention, the first conversation where he really exchanged uh...language back with me was he said ...when I asked him how did you get here, he said that he believed that someone had poisoned him. I said okay...so how...how did they poison you, did they poison you with food? He said they just poisoned me and he was...he was adamant that someone had poisoned him and that he believed that he was gonna die and he said that because those are the words that he, pretty much, used...he said I've been poisoned, he's like I feel like I'm

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gonna die...he's like I want this to be on your conscience, he kept repeating that, I want it to be on your conscience not mine. Um, ya know, so of course at that point I'm thinking well...ya know, this guy is trying to engage us in some type of suicide by cop, ya know, using us as the tools to end his life so I let him know that that's not what our plan is uh, ya know, we don't...we don't want that by any means um, ya know, the folks out here they're good people...uh they want...ya know, they...they're here to look out for you they're here to, ya know, to basically um...do whatever we can to get you through this and get you through it safely but he just really ...uh you could see on his face that he was having a problem just kind a keeping it together and uh he was in a very uncomfortable position on the hood of the car and I could tell his body was becoming very fatigued, uh...he did say a blanket statement that he wanted us to kill him, he said, ya know you guys are gonna kill me. I know he said a couple times that he kept referring to sunset, that it's gonna end when the sun comes up. Uh...he kept really, ya know, repeating those lines back and forth, back and forth. I tried to get...or solicit uh some type of family information for him he said well I've talked to that guy, the guy I spoke to on the phone...just let me know when he gets here, just let me know when he gets here, and typically that's...ya know, um folks that are...that are suicidal or they get into that...that frantic state, you know, when they...the people show up and they see, you know, they have an audience...they have an audience for what they wanna do so he's...ya know I'm really expecting...well okay when this guy gets here obviously don't bring him down so that was...another thing that was on my mind. Uh...ya know the speech with him, uh...at...it continued for a number of minutes, I don't know exactly how long we spoke for. Um but his, you could just tell his condition was deteriorating. Uh I started to become alarmed because, at one point, he rose up and I finally saw that he was actually holding that damn gun uh right behind his legs and I could see it from through the

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window of the car that he was sitting on and when he lifted up and looked, I mean I could tell ya...like...I didn't...I haven't seen the gun on scene but from seeing it from where I was it looked like it was a Beretta, a black Beretta. Um I still haven't seen the gun right, ya know, since...the incident happened but I...it looked like it was a Beretta so to me it was a real pistol. Uh...so I said, you know, at that point I started to engage him with the dialogue about the gun ya know sir you need to put the gun down um, ya know, again continuing on with the same line of...of...of...of thought, ya know, we can't have a conversation with the gun in your hand uh we can't talk like men if you've got that gun in your hand, you know, if you wanna talk let's put it down and just...have...have a seat somewhere on the car, I know you're uncomfortable, I know you're not feeling good. Um, ya know, at one point I think I offered him, hey, can we get you some water, I mean at that point we're close enough to throw it to him if he needed it. Um...so the conversation, at that point, you know was to really just try and get him to leave the gun, put the gun down...put it to the side so we could have a conversation with him. Uh I noticed that he really started to focus back on the inside of the store. Uh he kept turning his head...and, you know, we...ya know keep in mind also that we had this...this big spotlight on him so it might a been comfortable to look at me as well. Um but I know he could see me because, you know, we...we made eye contact <Inaudible>...but...but still, with that, you know, the spotlight in your face it's gotta be a bit uncomfortable but uh he still...ya know, he still tried to maintain the uh...the visual contact with me. Um, ya know, during the conversation, you know I kept...he kept going in these incoherent loops about the guy that he wanted to be...ya know, brought out to the scene, he kept making some references to that guy knows what's going on, uh...he knows the reason why he wants to end his life. Uh...the conversation with him just kind a continued on, continued on and, again, I could just tell his body was getting really fatigued from that position, he was on the

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hood of the car and I'm like look...you've gotta put that gun down, I know it's uncomfortable just rest it on the car we can talk...we can have a conversation and as we're having the conversation, just like I'm explaining it to you, he makes this move...I don't know if he was getting out of the car or he was just tired of sitting like that but he jerks that gun with his right hand and I could see the gun move...


Furr: You said...you said getting out of the car?

Chickoree: Like...stepping, like getting off the car.

Furr: Okay <Talkover - inaudible>

Chickoree: <Inaudible>...he...he raises his body up and of course the damn gun pulls up with it and I'm thinking this dudes gonna shoot me, no bullshit...and...as that...I think I literally froze when I saw him move and then sure as hell I heard pop, pop...and of course it was louder than that but uh I saw, I mean honestly, once I saw some material shatter off of him and I just freakin hit the ground and uh...cause obviously I've been told I hit the ground, if I heard anything, but...ya know I didn't see him fire a shot, I honestly didn't know what had happened be honest with you; I thought they might've hit him with some less lethal munition. Uh...because I think when I came around I saw, I think it might a been Walsh I saw holding like a...one of the forty millimeter so I was thinking at first but then all of a sudden I realized when they started calling out to him and I realized he wasn't responding, I'm like oh shit he just got shot. Um...from that aspect, you know, I definitely heard two distinct...pop, pop's...as it happened or two or...and I could...I could see, you know, his...his clothing break away from him. All I did after that...ya know, Riddle told me to move to the back of the car, of course I did and uh...I heard them, ya know, giving him commands...get on your stomach, uh...put your

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hands behind your back. They kept calling out, ya know, where's this gun? They could see the gun separated from him so they ended up moving in. I got up at that point, they were handcuffing him. I think I got on the radio and said let's bring Medic out here so they'll bring Medic to him so that we could get him loaded up and uh down to the hospital. Uh, ya know, really to slow it down...as I was speaking to him I think I was still...I'm sure the video probably captured this cause there's two big video camera's sitting in front a the store. Uh...I believe my position was just this...see my hands up, I was still talking to him...I saw him jerk, I saw that gun raise up, I really thought again that he was turning to me...to shoot because it seemed that he was kind a draw one of us to shoot him and uh, ya know, like I said I just...I think I just literally was right there when the rounds hit him and I just...ya know <Inaudible> done anything, I...I couldn't move fast enough but I just hit the floor right after that. That's...


Furr: Do you remember what time you arrived?

Chickoree: Uh, ya know, I hit arrived as I was leaving...so, I...if I can look at my phone I could probably tell ya.

Furr: Sure.

Chickoree: Let me do it by phone calls cause obviously my phone was blowing up. Okay I called Communications at 3:22, I called Captain Voorhees, I was enroute at 3:23, I called J.D. Thomas at 3:24...some news person called me at 3:30. It would a been sometime between 3:24 and 3:30 during that time...cause I believe it was some news people called me, I just hung up the phone on 'em. So the last person I spoke to was J.D. Thomas...and I was getting off of 85 onto...Little Rock so I would say 3:24, 3:25 I actually pulled my car up on scene. And the AVL would probably verify that.

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Furr: Okay.

Chickoree: For time.

Furr: And then...you got on the radio and called for Medic when...the...after the shots were fired <Talkover - inaudible>

Chickoree: Yes sir...yeah.


Furr: ...and the suspect was down?

Chickoree: Yeah I think my language was we can receive Medic now cause he was uh...he was handcuffed and they actually had the uh SWAT Medic already treating him but I knew we had the ...I mean I knew we needed the Medic truck cause he had to be transported so and they...got him in there pretty quickly and go him loaded up for transport.

Furr: Can you explain, again, how he was positioned on the...hood of his vehicle or the vehicle that he was on?

Chickoree: He had both his knees down, he had both his knees down. I hate to do the demonstration...I will, here in this corner. So...he had both his knees down, he had the pistol here...so I'm watching him, he had the phone in this hand...okay, so he had the phone in this hand and he would look back at me and I could see him from...through the window in the car so this is where...this is where his hand was, here. He kept looking back into the store and kept starting to get fidgety I could tell because this is not a comfortable position for anyone to be on and he looked like he was on...that position for a while. He kept looking back at me and the last movement...that I can recall him, before those

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shots went out, was that his body jerked up and this hand moved like this and soon as I lost sight of it from behind this leg...is when...those shots hit him or clipped him. That's the last thing I can remember...so I don't know how high the gun came up, I'm just telling you that's where the gun went when he was hit and it looked like he moved ...he moved quick...he moved quicker than he was before, okay, so it wasn't like he was slowly <Inaudible>...see we engaged him in conversation where he had the gun and it was held down and the <Inaudible>...he was moving the gun but at no point did he ever really kind a pull the gun or make a really quick movement, the only time that he did that, honestly, was when he got shot. Uh, when the gun...I lost sight of it on the other side of his leg, again, I can just push that little video button on my head and I can just see it, that's when his...he gets hit and that's when I drop behind the car.

Furr: Okay, when you arrived on scene can...you said you saw approximately...<Talkover - inaudible>

Chickoree: I wanna say it was about twelve guys...


Furr: <Talkover - inaudible>

Chickoree: ...but the <Inaudible>...they were lined up from the front of the...from the front of the store all the way around like in a...like in a semi circle. I remember seeing Darryl Brown cause I know him...

Furr: Uh huh.

Chickoree: ...uh I know Greg Tucker was there, um...I...I know...I saw Lopez there later but I don't remember seeing him, I believe I saw him and Tucker and some of the Freedom officers that were there I know uh... I don't really know most of those folks but uh...I know we had a

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couple Metro, I know Robert Preston was there with the shotgun out on one of the vehicles um...initially I know Eddie... Sergeant Hendricks was down there cause he kept giving me intel back and forth about...how they were talking to him. I tried to have Eddie deliver my phone number to him by speaking to him a few times but he just...he just wouldn't contact me and he wouldn't allow...me to get a number from him to speak to him. This was...on the early stages when I got there cause I tried to reach out to him to get in contact with him.


Furr: Okay. You said you saw about a half dozen standing around in what you described to be a semi circle uh...

Chickoree: Yes.

Furr: Do you remember anyone specifically engaging him in conversation or attempting to?

Chickoree: I...I do not, uh...I know that there was an officer, I don't know who it was but somebody was... somebody was reaching out to him and speaking to him and I think we...I tried to deliver the information for the phone number through Eddie...through that person. Um I did not like reach out to that person or have any direct contact with them. Um they appeared to be doing a good job because their...I mean they kept 'em speaking the whole time or he was...from down there I couldn't see what he was saying or doing. I could see his movements, I could see his movements with the phone. Um...he was...he was smart to keep the...ya know, I guess the pistol tucked behind him the whole time. Um...but I don't know who was speaking to him directly and I don't know... Every...any information really from the radio traffic is gonna be directed between Sergeant Hendricks and myself when I said hey give him my phone number...here's m

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phone number, um...and, ya know, see if he'll give me his phone number. I think they tried that a couple times but he just...he didn't wanna do it. I could hear him trying to maybe say something back...like call me or I'm not gonna call you but I...I don't know, it was all kind a...it was so far away from...from where I was. I mean <Inaudible>...they...they weren't like all yelling at him which was good I mean they...I mean...des...despite the position they were in I mean they were trying to do a good job as far as I guess speaking or talking to him but... He just appeared in really bad shape.

Furr:

Can you tell me about the information that you received regarding the vest...the bulletproof vest.

Chickoree:

Okay so um I actually got to see it um it was like a...like a dark blue, and I wasn't sure...I mean I don't know, I didn't obviously test the vest out um but it looked like a vest cover which would be containing a bulletproof vest. He lift...he would lift up his shirt numerous times and he would show uh...and he would use the...the hand that he had the phone with to pick up and he would show that he had some type of ballistic vest underneath his tee shirt. I mean you could look at him and see that, you know, that it looked like he was carrying a vest um it was...it was thick, his...his tee shirt kind a clung to it and then obviously he would pick it up or produce it it looked like the lower half of our vest we pull the Velcro across with a...a black and maybe some blue, some kind a dark blue. Um, I mean we interpreted it as it was a vest and I took it ... that's what it looked like even from being close up it looked like it was a vest...so...


Furr:

Did... now obviously he was showing that uh...

Chickoree:

Right.

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Furr: ...that he had something on underneath the shirt...

Chickoree: Yes.

Furr: ...but was he saying anything about....


Chickoree: No he didn't...he didn't really... I don't remember him specifically saying something like oh I have a vest on um...I think I remember him, at one point, showing me the vest and he was saying that I'm serious or that's what this is about...or that he had come prepared, something like that, I don't remember exactly specifically what he said but he did...we had a conver...we had...we were in conversation, he did, ya know lift up his vest to show again that he was wearing some type of...some type of...of...vest or some kind of paneling that looked like a vest and I think I might a relayed on the radio to the...to Sergeant Milliken, I mean all the guys were there they could see it for themselves but...I think every time we would see it everyone would just say oh he's showing the vest again. It was just something I guess they just keep passing the information to keep everybody aware of it...so...

Ladd: Uh Lieutenant you started out saying uh...something about all call, what exactly is that?

Chickoree: Uh SWAT all call is a page that is sent out to all uh of the SWAT team, that's all the tactical unit and all the negotiators. As well...that is basically to bring those resources out to the scene as quickly as possible.

Ladd: Okay...and for people who are gonna read this statement, who are not gonna really understand um the techniques and procedures when you're working with SWAT; explain your role as it regards...in...in

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regards to working with SWAT, you are a Lieutenant but you have Sergeants who are taking charge of the scene.


Chickoree:

Correct yeah so a tactical officer, basically on a SWAT scene is in charge. Uh my rank really doesn't mean anything um cause they are in charge of all the resources, they have been trained up on all the resources that are available for them to use, all the...special weapons and tactics I guess and um...and my role as a Lieutenant is really second once they...my...role over all on scene was...was to manage to the entire scene whereas they were to manage the tactical component of it and that would be their specialty so while I was in...ya know...my job would be to manage to the footprint where the officers...where the vehicles were placed, to keep the overall, general public, safe and out a harms way. Their job would be to...direct their resources to either contain, isolate the threat and deal with it so that, ya know, ya know obviously they would like to have the person surrender is what the goal is and preserve life but...uh so when Mark got there I think I had a quick conversation with him and like hey and we kind a understood uh obviously you're in charge of the SWAT component uh...and I'm just gonna stay here and manage the bigger scene. Now when Sergeant Milliken called for a negotiator at that point I have...ya know, with my training as a negotiator I had to respond to him say well look I'm available, I'm here, I can come assist you and Sergeant Gerod, at that point, actually told Sergeant Gerrod hey, you're gonna have to manage the scene, everything's already set up just til the next person gets here and uh...and that...he said alright no problem and then I made my way up...to the uh...the front of the store.

Ladd:

So in response to the request for negotiator, you basically change hats?

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Chickoree: Correct, yes yeah.


Ladd: Now you're taking the negotiator role?

Chickoree: Yes sir.

Ladd: Uh explain some, just a little bit...uh about your training experience as a negotiator.

Chickoree: Okay I went to an uh...I've got the forty hour basic negotiator school completed, I wanna say it was October of 2012 and I've since had another forty hour advanced negotiator school, I can't remember if it's 2013 or not; I believe it was I think it was the following year. I've also had a four day course for tactical command uh that was held in, I believe it was...might a been Asheboro, um so I've had...and I've had, obviously, <Inaudible>... we train with the SWAT team we do...ya know, joint training four times a year, we have our own training monthly that we attend. During that training we often do scenarios um ...Captain Thomas and those guys are up at a conference right now in regards to that but uh...ya know, we do ongoing training with the...with the unit and you know the trainings...ya know <Inaudible>...it's mandatory um and, you know, we've obviously had numerous call...call out's since I joined the team in August of 2012 and we've had, ya know, numerous call out's since then. Um and I've been a part of...obviously uh...as a primary negotiator like basically...last night I was a primary negotiator with him. If the resources would a...or the time would've allowed it would a been great to have a secondary with me to help guide me, ya know, while you're speaking to the person to help give you information and gather intel to relay back but we were literally...uh Sergeant Mackle was, ya know, with command and then I was on scene, we didn't even have a third person come til a while later after that so it was

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really just Roland and I...that's only because we were both working midnight shift that we were there, ya know, so fast.

Ladd: So how many ...how many uh...call out's were you the primary negotiator in the last three years...maybe ten a year?

Chickoree: Yeah I would probably say um ...I don't know if...I don't know I would say I was the primary ten a year but maybe, probably at least three or four per year.

Ladd: Okay. And you were describing earlier and again we're...face to face.

Chickoree: Right.

Ladd: But someone's gonna...this is gonna be reduced to writing, someone's gonna read this.

Chickoree: Of course.

Ladd: You were describing uh...the cell phone in one hand and the weapon in the other, you were describing the left hand being a cell phone was in his left hand.


Chickoree: Yes.

Ladd: And his right hand was tucked behind him.

Chickoree: Right, correct.

Ladd: Did that ever change...did he ever change hands?

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Chickoree: No he never...I never saw him switch hands. I know...I think Sergeant Hendricks, at some point, was incorrectly saying what hand the gun was in on the radio, um cause I noticed that I was like what the hell...looks like the guns in his uh right hand not his left. Um I think he was saying that on the radio a couple times but I just...just thought he had his...his stuff backwards but uh, I mean obviously I verified it when I approached from my perspective that the gun was in his right hand and it was tucked in behind him.

Ladd: Okay.

Chickoree: Um...

Ladd: So each time, in your description...it's...the cell phone is in his left hand, the weapon that you could see was in his right hand?

Chickoree: In his right hand, correct, and even from the uh...when I was on the street, when I first arrived I could tell that it was a cell phone that he was holding up in his...uh left hand.


Ladd: Okay.

Chickoree: He was pointing out to us.

Ladd: You had described and even demonstrated uh...the knees on the hood, his body orientation, as best you can remember, from where you're at looking at him, you're looking at the left side of his body.

Chickoree: Correct, yeah, I'm looking at an angle of his left side so his bodies turned about a 45 degree angle with his left side forward.

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Ladd: Okay so most of the...uh, 45 degree angle you can see most of the chest...

Chickoree: He was closed out so actually uh...what I'm looking at, you actually see some of his chest...

Ladd: Okay.

Chickoree: ...so I'm here, if...if my line a sight is right here...this is his position here so actually don't.... I can still it see it but what I'm looking at is his body's like 45 degrees, ya know, off center to me and with the weapon back...that's why I could see the gun...

Ladd: Okay.

Chickoree: ...being held clearly behind him.

Ladd: So he's actually turned more?

Chickoree: He's actually turned more away from me <Talkover - inaudible>


Ladd: Okay so you're <Talkover - inaudible>

Chickoree: ...I can still see the front of his body...yeah.

Ladd: Okay. His uh...from the time you put on the negotiator hat and began speaking with them, did his...did his demeanor change, was it up and down, did it remain static or did it continue to elevate?

Chickoree: No he just seemed uh...he just seemed very disheveled um, he seemed confused, he seemed disoriented. Uh ya know he really was displaying a lot of...lot a paranoia um you could tell by the way he

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was looking around um...the way he kept referring to um, ya know, wanting to end it tonight um...he really, didn't really change. I mean I...I really didn't make...it's very difficult to not make any leeway whatsoever with the person. The...the best I got was for him to actually exchange in conversation with me, which I thought was a plus and, ya know, once you make conversation you usually you can kind a get in and establish some type a rapport whether they love you or hate you and with him I just couldn't establish any type of emotional connection one way or the other.

Ladd: Uh huh.

Chickoree: He just seemed hell bent on having us be the tool to end his life that's...that's really the demeanor I got from him I mean by his statements and his demeanor.


Ladd: When you engaged him was his responses to you appropriate?

Chickoree: His responses to me <Talkover - inaudible>

Ladd: Like if we're talking about oranges, did he respond with oranges or <Talkover - inaudible>

Chickoree: No, no, no, no, that's...and that's one of the things we talked about it was...he was really ya know I...I could tell his...his train of thought when he would make the statements like, you know, he wanted us...this...he wanted this event to be on our conscience, he wanted us to...he wanted us to be the ones that were responsible for what was gonna happen and that does...that's...I'm mirroring his language that he used. Uh...again he also clearly stated in a conversation with me that he wanted...he wanted to die by our hands, that he said he wanted us to kill him. Um and that he was gonna make it happen and

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I...I...I don't recall exactly his time line but basically <Inaudible>...ya know, basically when he said the sun came up is when we were expecting things, you know, to come to some type of head... obviously that didn't happen but that's kind a where his conversation was going.

Ladd: Is it safe to say that when you're engaging him and you're trying to...to talk to him that he is responding to you from an internal dialogue he's...verbalizing, basically thoughts are in his head?

Chickoree: Right, correct, yeah he's just...

Ladd: Okay.

Chickoree: Yeah he's not really exchanging conversation with us.


Ladd: When you demonstrated and were describing him turning is there any doubt in your mind that he was beginning to the level the weapon at you?

Chickoree: I thought...I <Inaudible>...I mean I froze and I hate to say that in here as a grown man but when I saw him move I thought that he was gonna shoot and...that's when the, ya know, literally the <Inaudible> the rifle rounds hit him.

Ladd: Okay.

Chickoree: Cause I...I remember standing there, cause my hands were up...and I'm like shit, I'm pretty defenseless here at this point and you know hoping Riddle, you know, obviously is covering me and um...I did, I saw him jerk...I saw him move little bit faster, more than he should a been and I'm like oh shit...and before, ya know, that thought could

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really fully process ya know you feel it...you feel it inside when you see him move fast, I'm like crap this is really gonna happen and of course...then the rounds come in on him so...

Ladd: At the point that he begins to move, you're actually standing up.

Chickoree: Yeah...


Ladd: ...and you're talking to him...

Chickoree: ...I was standing up like just...just...we were actually just having the regular <Inaudible>...like the same banter back and forth we were having until and...during that process which I think...which is what caught me off guard is...is that movement of the <Inaudible>...I could see it, I...cause I had my, of course, at that point I was a little bit more focused on where the gun was. Um well he started to lean up...he started to lean forward like his butt was down and as he leaned forward it opened up where I could see the gun so obviously I was like well shit...ya know, if I see the gun move my ass needs to drop because I can't control where he points it at or at... honestly there were...there were people behind me that I'm like I'm sure they have their guns out and I don't wanna be involved in anything coming from behind me...

Ladd: Sure.

Chickoree: ... so my ass needs to drop. Um and of course, ya know, eventually the movement happened and I just dropped to the...ya know I'm...it happened I dropped...ya know I remember right before I hit...right before I went underneath the uh...I guess the hood of the car where I could see like the last thing I saw um...was, ya know, just pieces of material flying off of him, I just saw pieces of material scattering

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everywhere. Again I...I literally thought that they had hit him with...like a bean bag round of something less lethal, um...ya know I heard...I heard the noises um...been around rifle shots before but, ya know, I...I really didn't think that that's...that's what it was initially until, like I said, after I saw him there and...they were working on him, I'm like oh shit he actually got shot...so...

Ladd: If you...and of course we're estimating, we're not computers but...how far from him were you?

Chickoree: So uh...he's sitting on his car, so whatever the length of his car is back, pretty sure there was a little space in between us and then whatever the other side of that car was or...<Talkover - inaudible>

Ladd: But if we had to guess...<Talkover - inaudible>

Furr: <Talkover - inaudible>


Ladd: ...twenty feet?

Furr: Yeah <Talkover - inaudible>

Chickoree: Yeah maybe twenty feet, I mean I could see him pretty clear as day, I mean I could see the...the...I could see the sweat on his face I could see the...the...the little bump on his head. Um, ya know, I could make...I could see the spit line ya know on his...on his lips, I could see him moving his mouth when he would talk. He was really struggling to speak, to be honest with you, he was having like a really rough time doing it and uh...ya know I had a pretty clear picture of him...but I have 20 /15 vision.

Ladd: Okay so you're exposed from the waist up?

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Chickoree: Yes.

Ladd: He's twenty feet from you?

Chickoree: Yes.


Ladd: And there's absolutely no way he could not...if he'd a chosen to hit you and he wasn't stopped, he could've hit you from that distance?

Chickoree: Oh hell yeah, he'd a hit me in a heartbeat, all he had to do is swing that gun around and honestly that's what I thought was happening at the time, that's...ya know...

Ladd: Okay.

Chickoree: ...and I, like I said that's...I really, truly believe that's what he was trying to do because he had really foc...he was completely focused on me at that time. I think I was the closest thing to him, ya know, that was reaching out to him and I really... You gotta remember the guy's that were talking to him or whoever it was before, they were talking to him from behind vehicles and, ya know, the position I was in was really to try and calm him to show that there were no weapons in my hand, to try and give him a sense of connection that he may not have had with the officer prior and the idea, again <inaudible>...yeah you do expose yourself to some degree um with being in that position and...and the hopes were that we could connect with him so that we could say look and I...I did say a couple...ya know, let him know...like I have no...I have nothing in my hands. I'm here to speak to you, I'm here to make sure that you get through this safely. That was the idea behind what was going on and...uh...it did put me in a...in a somewhat vulnerable position um not intentionally for myself

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but the idea was to make that connection with him. You know I felt strongly if I needed to get down low behind uh...the engine block I could get there um I knew I had cover uh with Riddle saying hey I've got you covered. Um <inaudible>...is directions to me were...if something happens just make yourself small and, ya know, that's what I tried to...the best I could, at that point, when I...ya know, when I saw him move.

Ladd: After the shots were fired um...obviously at some point you stand back up.

Chickoree: Actually no I kind a crawled back from the car...

Ladd: Okay.

Chickoree: ...and I look over and I see them, they...guys come up from behind me...

Ladd: Okay.

Chickoree: ...they based up between two vehicles and I hear them giving him commands, I think I heard Riddle giving him commands to them, you know, get on your stomach put your hands behind your back.


Ladd: Did you ever hear him respond?

Chickoree: No...

Ladd: Okay.

Chickoree: ...there was no response and after a few seconds I realized, ya know, well he should a been like moaning or groaning or something at this

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point and uh that's <inaudible>...started to realize oh shit that was...he actually got shot, he didn't get hit with something else.

Ladd: Okay. Uh, what's the next thing you see...you see them take him into custody?

Chickoree: Uh yeah so I...I stand up at...near the...I move back and I get some field of view where I can kind a see them uh, remember him...I can see them, I think, putting handcuffs on him, I saw the female Medic there, she was <inaudible>...I think she was taking out some chest shiels...chest seals and uh after that I just kind a...moved back out a the way because I knew I had called for Medic on the radio which obviously they were on the call anyway but ...that was my next part to make sure the Medic truck was clear to come in to the uh...to the gas station to get him loaded up and boarded up and get the hell out a there.

Ladd: When they go to take him into custody um...you only heard the two shots...

Chickoree: Yeah I do remember hearing the two distinct...

Ladd: Okay.


Chickoree: ...like right after each other pop, pop.

Ladd: When the uh officer's...

Chickoree: <Talkover - inaudible>

Ladd: ...the SWAT uh take him into custody you didn't see anybody do anything <inaudible> inappropriate to him?

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Chickoree: No.

Ladd: Struck him, no <Talkover - inaudible>

Chickoree: No, no, no, no, no, no...they were...they were completely focused on his care and well-being at that point um...

Ladd: Okay. And Medic's began treating him?

Chickoree: Yes <inaudible>...like immediately.

Ladd: Did you see them load him into the ambulance?

Chickoree: I did see him get on the stretcher or I did see them load the stretcher onto the...Medic truck, I believe that's what I saw 'em do.

Ladd: Okay did you have any contact with him after that?

Chickoree: No, no, no...no. I...never actually had any physical contact with him.

Ladd: Okay. Anything else you can think of, anything else you think is important?


Chickoree: Uh, no sir.

Ladd: Sarge?

Furr: No.

Ladd: This'll conclude this, time is 1014 hours.


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## **Exhibit 9**

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TODAY'S DATE IS APRIL THE 19<sup>TH</sup>, 20-16. THE TIME IS 11:21. THIS IS IN REFERENCE TO COMPLAINT NUMBER 2-0-1-6-0-4-1-9-0-5-5-9-0-0; PRESENT DETECTIVE HOPPE, SERGEANT FURR, OFFICER LESTER, AND HIS ATTORNEY, MICHAEL GREENE. WE'RE IN ROOM 22-27 AT THE L-E-C, 6-0-1 EAST TRADE STREET.

HOPPE: Um, let me go ahead and start by getting this filled out. What was, uh, it's O. M. Lester?

LESTER: Yes, correct.

HOPPE: Okay, and 28-05?

LESTER: Yes, sir.

HOPPE: Okay. And your date of hire?

LESTER: Uh, September 27, 2000.

HOPPE: Okay. And, uh, do you have any prior law enforcement or military experience?

LESTER: Military.


HOPPE: Okay. And what was that?

LESTER: Uh, U. S. Army Ranger, 4 ½ years.

HOPPE: Okay. And what's your current division?

LESTER: Uh, assigned to Vice as well as S.W.A.T.

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HOPPE: And what shift do you work?

LESTER: Uh, work a rotating shift. Basically I, uh, we go in around one, get off at 11. Usually off Saturday, Sunday, Monday. Come to a modified second.

HOPPE: Okay. 1 p.m. to 11 p.m.?

LESTER: Yes, sir.

HOPPE: And, uh, what's your, do you have normal call sign?

LESTER: 74-50-66.

HOPPE: Is that what you're operating under tonight?

LESTER: No.

HOPPE: Uh, what are you operating under tonight?

LESTER: Uh, Hawk Eye Alpha.


HOPPE: Okay. And, uh, what <clears throat>, excuse me, talk group were you operating on tonight?

LESTER: SWAT One.

HOPPE: And who is your supervisor tonight?

LESTER: Uh, there's several of 'em out there. Um...Wise was out there, Sergeant Greene, or Sergeant Graue was out there and Millikin was

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out there. Brochu was out there. And that was my S.W.A.T. team command.

HOPPE: Okay. Um, what is your, uh, height and weight?

LESTER: Uh, right around around 6 foot, 1-60, 1-65.

HOPPE: Okay. Uh, can you tell me the amount of sleep you had last night?

LESTER: Uh, give or take, you know 7 hours.

HOPPE: Okay. Did you work any off duty prior to your shift?

LESTER: No, sir.

HOPPE: Okay. Uh, were you operating a <clears throat> vehicle, do you know the, um, number?

LESTER: Uh, 55-42.

HOPPE: Is that an unmarked vehicle?

LESTER: It is, a white SUV.


HOPPE: Okay. You drove?

LESTER: Yes, sir.

HOPPE: Uh, did anybody ride in the vehicle with you?

LESTER: No.

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HOPPE: <clears throat> Does the vehicle have a D-M-V-R?

LESTER: Yes.

HOPPE: And was it on?

LESTER: Uh, it might if the lights were activated. I'd have to look now but it should've been on, yeah.

HOPPE: Okay.

LESTER: I don't think I ever turned it off, so it's probably still on right now.

HOPPE: Okay.

LESTER: Or it's jacked up.

HOPPE: And you did run emergency response to the?

LESTER: Yes.

HOPPE: Okay. Um, what's your, uh, duty weapon?

LESTER: Um, I have a Glock 21 S-F, for my sidearm.


HOPPE: Okay.

LESTER: And tonight I was deployed with a, uh, A-R 10, 3-0-8 semiautomatic.

HOPPE: Okay. The, um, can you give me, is the Glock on you right now?

LESTER: Yes.

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HOPPE: Do you mind getting me the serial number or if you know it off the top of your head?

LESTER: Uh, the last three are 2-5-1. L-P-R-2-5-1.

HOPPE: L-P-R-2-5-1?

FURR: Uh huh.

HOPPE: And how many magazines for the Glock do you carry with you?

LESTER: Uh, it all varies. On this particular deployment, I had one additional, uh, magazine for my Glock on me.

HOPPE: Okay, so two, one in and one additional?

LESTER: Yes.

HOPPE: Okay. Um, how many rounds do Glock magazines?

LESTER: Uh, at least 13.


HOPPE: 13?

LESTER: Yes.

HOPPE: Uh, okay, so what...

LESTER: To...to clarify before I confuse you, um, I'm a sniper, so I have multiple weapon systems.

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HOPPE: Okay.

LESTER: So on my vest I carry three different sets of ammo.

HOPPE: Got it.

LESTER: Okay.

HOPPE: What, um, can you give me the list of your secondary weapons?

LESTER: Um, my, my primary tonight was the, uh, A-R 10.

HOPPE: Okay.

LESTER: Which is a 3-0-8.

HOPPE: Okay.

LESTER: And then my secondary tonight was the Glock.

HOPPE: Okay. You carry any, uh, did you have any other firearms with you tonight?

LESTER: In the truck I did, but I didn't have to deploy them.


HOPPE: Okay. Can you just list those off for me I'll put them...

LESTER: I had A-R 15.

HOPPE: Okay.

LESTER: Which is a 2-2-3.

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HOPPE: Okay.

LESTER: Uh, had another 3-0-8 an FN Bolt gun.

HOPPE: Okay.

LESTER: And that's it.

HOPPE: Okay. Um <clears throat>, how many magazines, uh, did you carry for the A-R 10?

LESTER: Tonight two. I had a 10-round mag that was in the weapon firing one round out of it leaving me with nine.

HOPPE: Okay.

LESTER: And then I had a 20-round magazine on my vest.

HOPPE: Okay.


LESTER: And in my pack I keep a, another mag in there and I keep a variety of of rounds in there for all my weapon systems just...

HOPPE: Gotcha.

LESTER: You don't know what you're <inaudible>.

HOPPE: Right. So you <clears throat>, had to just make sure I'm right, a 10-round magazine in the firearm, you had a 20-round magazine on your vest and you had another magazine in the vehicle?

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LESTER: In the vehicle I've got a ton of rounds

HOPPE: Okay.

LESTER: <unintelligible, talk-over>

HOPPE: Okay.

LESTER: In the vehicle I have, all types of rounds and magazines and stuff...

HOPPE: Okay.

LESTER: The different platforms that I have on me that I was carrying...

HOPPE: Uh huh.

LESTER: ...was two magazines, one in the, one in the weapon system and then one on my vest.

HOPPE: Got it.


LESTER: So a total of 30 rounds for that particular weapon system.

HOPPE: Seems like a redundant question, but do you have any backup weapons?

LESTER: On top of that, no, just those yeah.

HOPPE: Okay. Um <clears throat>, attorney present, I'm gonna put Michael Greene.

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HOPPE: Alright, I'll let you just, uh, walk us through it from, um, you first got notification and you just...

LESTER: Yes sir.

HOPPE: ...walk me through the process.

FURR: Mark, before you begin...

HOPPE: Oh, yeah.

FURR: ...I'd just want to say that, Um, there are two investigations being conducted. Um, they're separate investigations but parallel. You've got the criminal investigation that's being conducted by the Violent Crimes Division.

LESTER: Right.

FURR: And the internal investigation's gonna be conducted by Internal Affairs.

LESTER: Right.


FURR: Do you have any questions regarding that?

LESTER: No, sir.

FURR: Okay, alright, thank you. That's it.

HOPPE: Okay, just walk me through it from start to finish and when we get down at the end, if we have questions, we'll go back.


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LESTER:

Okay. Um, dead asleep, been asleep for several hours get a notification for S.W.A.T., which is over my phone, comes to a text, uh, notification system. Uh, obviously, loud to wake me up, um, text basically is, uh, short and sweet, that there, it, Little Rock off of 85 there's a gentleman with body armor or a pistol threatening suicide. That's exactly what my text says. Um, it's a S.W.A.T. all call which means to us, um, that everybody on S.W.A.T. team's gonna start heading to that direction. I already know based on, um, the, just a little bit in the text, he's got body armor, he's armed, and he's suicidal; but it, Patrol's already out there dealing with him. It's probably a severely dangerous situation for them, that's why they're calling us, um, so I'm gonna run emergency traffic there. Uh, leave my house, um, soon as I hit 485 with turn lights on, started to run emergency traffic there. I get there <clears throat>, while I'm en route my, um, trying to listen to any, um, information that's being broadcasted. They can update us. The, not a lot of Intel was coming out at the time other than the guys on the scene were already confirming, uh, the guy's very irate. It's, um, a, a white guy, description of him, um, blue jeans, T-shirt, um, with his black T-shirt. He has body armor on, they confirmed that, and he's got a pistol in his hand, they confirmed that. Um, very irate and negotiations are ongoing to try to talk to him. Uh, still continue to monitor, make, uh, any decision making about, um, weapon systems I may deploy with or how I'm going to deploy what type of setup, how quickly the they're going to need me. I know they got a command post that's set up. We got one or two snipers that are, um, already there and they started to deploy. Uh, Derrick Rud mentioned to one of the other snipers that we are getting ready to ride to bring a 2-2-3, which is a different variation of the AR-15, um, cause it's close in proximity. I knew this was at the 7-Eleven. I know that, uh, it's a typical gas station been by plenty of times during the day, as well as at night. I know the intersection I know the area. I know that it's a wide open area. Um, I know it's a 7-Eleven like any

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other place it's got glass door front, and, uh, gas pumps. So I all this is processing in my head as I'm getting there. Um, I get to the scene. Uh, I get my gear. I decide that <clears throat> since it is an open area, I'm trying to decide between my 308 bolt gun and my 308 AR10, cause they had different scopes on them. The AR10 that I deployed with tonight has a 2 ½ by 8 power scope. What that means is it allows me to see objects up to 8 times my vision away.

HOPPE: Hm.


LESTER: I also have another scope on my bolt gun that shoots a 308 platform as well that is 6 ½ x 20, meaning I can dial in as far as 20, um, 20 power so I can see 20 times where I can see you know with my naked eye. Um, they're telling me its they're using close proximity. Um, if it's more standoff I would get my bolt gun, but since it was a little close proximity they're telling me, I'm going to grab that A-R 10. Um, so once I grab that, get my gear, gear up, uh, which doesn't take long, I go to command, tell them, you know, hey I'm here, um, Mark Ed is the sniper that's already on the Alpha side. They want me to go support him, um, which is typical thing we do. We start placing snipers around a object, whether it's person, vehicle, or a building and then once we get all the avenues and angles covered, we start supplementing and adding people to support our other snipers. Um, and that could be, uh, supported with rifles gear or with just different angles cause that's what we do, we operate off the angles. What I see here 10 feet from my right might be a different angle and it gets you a different point of view. So, uh, at that point they come and they go over to where Mark Ed is, so I go find him. He's off the, uh, the Alpha/Delta corner, which would be as you're looking at the front of the store, the right-hand side. He's in some bushes on the ground on the opposite side of where I believe that's Tuckashe, Tuckaseegee there, um, near the Arby's parking lot. Uh, at that point, uh, I kinda

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look at him. I look at, well, I can see the suspect plain as day. I can see he's with my naked eye he's holding a pistol in his hand. I can see he's very irate. He's sitting on his knees almost in a praying position on top of a white sedan, but he's on the hood of it where the windshield of the sedan is kinda facing his chest and I've got a broadside, so I'm looking at his left side. Um, I could tell he's got a cell phone in his left hand and he's very irate and yelling. Can't tell what he's yelling but he's yelling. I can tell that there's 4 or 5 police cars that are in extreme close proximity to him. They're in that parking lot and they blocked his vehicle in and there's, I saw two canine officers out there. I saw some other blue patrol, patrol uniforms of officers, and, uh, some S.W.A.T. guys out there. I know negotiations, uh, had been started. I knew we had a negotiator up front right there with him, which is not something we all do a lot of, um, where it's a, almost a face-to-face, especially with an armed person. So I knew they were relatively close within 10 feet of this guy and he's elevated. Um, so all this is going through my head and I'm looking this open ground and I'm like, cause it, the, the road faces out to the intersection, so it gives you an even more open ground all the way to where the Food Lion is, as if there's a tire shop right there on the corner. But other than that, it's just all open ground, so it's for all intents and purposes, it's a, a dangerous area. You know, where he can just start cranking rounds off and hit anybody, anybody out in the open. So the, it cover is where those cars were, um, but it wasn't real good cover cause, again he's elevated, and from just what I'm looking at, I'm looking at all these guys and, and they're all in a dangerous spot, they're all at risk, so I was worried about 'em. Um, at this point, I continue to, I'm looking for a, we call it a hide. Um, a location that's set up as a sniper and I'm looking around, I see Ed, I know he's on the ground. He's on the guy right now, but if he comes off the car, where is he gonna go? So, uh, I've gotta think if he gets mobile, if he goes back inside, if he gets on the ground, I need to be at the best

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advantage to cover this guy and keep everybody safe. If he starts shooting, uh, what are we gonna do, if there's any hostages involved, are there people inside the 7-Eleven? So that was a huge concern for me, so at this point I tell Mark just hold what you got and I, I have to make a quick decision. And I know, based on the trees that I'm looking at in front of me, I can't get up on top of the Arby's cause what I wanna do is if I have to put a round on the guy, if I have to take a shot, I want that round to kinda go down and I don't want it to go up. But since he's elevated...I, I wanna be just a little, a little bit above him. So I'm looking at the ground, looking at everything else and I'm thinking to myself, okay, the, the best position I could do is to run off, my ass all the way back over here and go with my S-U-V. Bring the S-U-V back over here and use the one, the engine block for cover, and then two, the, the hood itself, um, cause I'm, again I'm in the dark, uh, the shadows, if you will, um, and I can use that just to elevate myself up enough to get just above him where angles are different, it's going downward, and I, I have a better, um, left and right limit to covering if he goes mobile or if he goes inside the store or if he tries to get in the car, he tries to walk off. Uh, or he starts shooting at my guys, which is what I'm really afraid he's gonna start doing. I don't know if there's any civilians around I don't know if anyone is walking their, you know walking out, running, and I know it's 3:30 in the morning when I got the notification, but I don't know about the neighbors coming out or people going to work, cars are going left and right. I mean it's a wide open area and I don't know the unknowns about what's inside of the 7-Eleven. So all this is going through, going through my mind. Um, McKinney, so I go get the S-U-V, I come back. I get set up, uh, I told Mark Ed to come back to me. It's not really, it's, it's a great position for one guy, not for multiple, and we want, we wanna put the angles, you know, so, um, I thought I got this point of view and you go, I can send a sniper in front of me to the right and I can cover him and he can have just a different angle or

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point of view. So if he shifts or change, the biggest thing is seeing that pistol cause our guys are so close proximity to this guy, it, he, there's not a lot of room for error where his action is gonna beat my reaction. I know that I'm within a 100 yards, probably around 75 to 100 yards, and I know that the round coming out of my rifle is gonna be about 2750 feet per second, okay? So, if you do the math...even at that speed, can I stop his action before he starts, you know, with, you know, it's, you know, what's gonna happen. So, all this is going through my mind, all this. I'm going back and forth with, uh, Officer McKinney, uh, a little bit and we're, you know, we're talking, uh, about you know is there anybody left in the store. I get on the radio and ask Command; they tell me that they believe everybody's been evacuated, hasn't been confirmed. I'm getting on horn asking Command will hear the radio traffic to get more up, what led this guy up to this, what's his background, cause a sane person does not have body armor on at a 7-Eleven with a pistol on top of a car threatening suicide or kill cops, it's just not rational, especially, the body armor, so the body armor's already showing his intent. He had no intentions of going to jail, he had no intentions of giving up. The body armor tells me he's, his intentions are to shoot it out with whoever. The body armor also tells me when he's armed like that and it's a grocery store or a convenience store in the middle of the night, I'm thinking a robbery went wrong. He tried to go in there and rob this store and it didn't work out for him. He got pinned in, now what's he gonna do? Is he gonna fight? Is he gonna start shooting at my guys? What transpired to get him there? So this is what's going on in my mind and I believe, based on his demeanor, which was, I can read his facial expressions and his body language. They had him lit up with a spotlight and the lighting out there was pretty good for the parking lot. I'm across the street in the Arby's in the shadows and even though I'm standing using my pack, and had a position off the hood of my car, I can see him very well. Um, I've got a illuminated

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reticle on my rifle or on my scope. What that means is I, I can highlight the cross hairs and I can tone it up or tone it down, make it brighter or less. So it can be more definitive when it's in a position where you're using a lot of light on a suspect, so it makes it more accurate for me to see. Um, I'm watching his demeanor for maybe 10 or 12 minutes it seemed like, um, they're telling me some'um on the radio in my ear that negotiators are not going good, that he's constantly yelling, uh, he wants to die, that he has body armor on and he's, his tone is to shoot him in the head. You, at one point, he lifts his shirt up to show us the body armor. I can see the body armor, so I know the type of body armor he has. I know that my 308 could punch through it if I had to. Um, he was very erratic with his head, very, uh, his facial expressions were very serious, very demeaning. When, the entire time I'm observing him, he's got a Beretta in his right hand and he's not holding it like a, like a softball or a Frisbee or anything. He's holding it with a purpose, tightly, in the grip with his hand all the way up on the tang and he's got the, the slide facing down and he's got it, while he's on his knees, it's almost like the back of his hand is glued to his right butt cheek. And he's being very specific with his actions. He's on the phone with his left hand, he's off the phone, he's pointing, he's, the emotions in his face, I could tell he's very serious. He's not gonna give up and he's, this, this, based on all my experience...the negotiations are starting to, um, they're not helping, they're not gonna talk this guy down. Um, the entire time I'm, you know, I'm watching him and out of my peripheral in the scope, I, I, in the scope I can see officers. Out of my peripheral in my left eye, I could see officers. I can see some guys in blue that are out in the open and they're not under cover. When a the definitive action comes, he was on the phone and he got off the phone and he looks and he stops and kinda presents his face forward, and I immediately saw a demeanor change in his face where he went from serious to, I see you. When I saw that, his right shoulder began to slump forward

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and his hand came off his ass. So the entire time that he's telling 'em, I'm not gonna put this gun down, you're gonna have to kill me, he's keeping his hand behind his back, arm just almost glued to that right butt cheek. And then when his facial express, facial expressions changed and he sees who he sees, that I believe he's picking up a target. His hand comes out and at that moment I knew that was the only inch I could give him and I had, I had to do what I had to do. That moment I put a 3-0-8 round in him to stop him cause I believe he's about to kill some of my, my people out there. I believed my life is in danger. I believe their lives were more so in danger. The snipers in front of me were exposed; their lives were in danger, but more so those guys that were in 10 feet, our negotiators, the patrol guys, our S.W.A.T. guys were about to be engaged by a guy that had body armor on, a will to die, and a pistol in his hand. It was a Beretta...and I feel the only action I could've done to save their lives was to, unfortunately, take a shot on this man. I don't know this guy, I've never seen him a day in my life.

HOPPE: Can you talk to me about, um, what happened after the fact and continuing through after you took a shot, what you saw or heard?


LESTER: Once, uh, once I, uh, put the shot out, uh, I immediately knew that <sigh> I didn't aim for his head because of his erratic, kinda how he was and his torso was <unintelligible>, um, I knew he had the armor, so I had aimed for his closed armpit there, cross over...

HOPPE: I'm sorry, you said his torso was?

LESTER: I had a, uh, a profile shot.

HOPPE: Okay.

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LESTER: So my end point was underneath his armpit.

HOPPE: Okay.

LESTER: To cross over.

HOPPE: Okay.

LESTER: Um, tsk...to hit a switch and turn him off. Um, at that point when, uh, the round impacted him, it was very specific that, that it hit him. Um, he collapsed in my scope and off the car. By the time he was hit and began to collapse, the second round went out. Um, that was, I believe from Derrick, Officer Rud, uh, he fell off the car out of my view. Uh, our procedures, I let them know you know Hawkeye Alpha shot out so they know that was my shot. They're not worried, you know, they know where it came from and, uh, suspect is down, which they're within 10 feet of him so as soon as he hit the ground, they were moving on him. Um, Medic was already there working on him.

HOPPE: Did you ever have to get any closer for any reason or...

LESTER: No.


HOPPE: That's where you were?

HOPPE: And I've got a, um, overhead here; this'll help both of us sorry. It will help both of us here and you can kinda show me...

LESTER: Uh huh.

HOPPE: ...um, tsk, you can see, is that too zoomed in?

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LESTER: No.

HOPPE: Okay.

LESTER: Would you like me to show you?

HOPPE: Further out, this one is further out.

LESTER: Okay.

FURR: Show us where you were positioned.

HOPPE: And you can use my pen or that pen works better.


FURR: This pen <unintelligible, talk-over>.

LESTER: Uh, what I'm, what I'm marking right now is, I went over here to the Food Lion, got my car, come back around here around the Arby's and that's where I stopped my car, so that, that would be the hood of my car.

HOPPE: Okay.

LESTER: And my angle was straight to the, for me, in that right side onto the front cause he had, he had nosed his car that he was on, that white S-U-V was nosed right dead center of those front doors. Um, the other thing is, you know, my backdrop is windows, um, at the time there's nobody in my backdrop, tsk, but I know around, I know it well, it was a 155 grain Hornady tap and I know it's got 17 inches of penetration, and we picked that round so it doesn't penetrate. So I know if I hit him from the side, it's not gonna punch, it's not gonna punch out his other side. It's gonna stay inside his body. If I hit him

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in the head, it's gonna punch out to the side and then possibly go inside that store. So that's another decision I had to make quickly.

HOPPE: Okay, and you said the only other person over here with you is Mark?

LESTER: He was, uh, Hall and McKinney.

HOPPE: Oh, okay.

LESTER: Was in front of my S-U-V to the right and then in front of him to the right further was, um, Mark Ed, or Ed Mark, I always say his name backwards.


HOPPE: Could you see, um, who, who could you see that was up here around this area?

LESTER: I could see, uh, Chickoree was up here, a negotiator, I know, um, I knew we had Riddle up here; Jeremy up there for the S.W.A.T. side. I know there was some other guys up there, um, I'm not sure exactly who I just saw green but there was several patrol officers, um, but like I, I saw several blue uniforms <sigh>, as well as, like I said, this is all open area right through here.

GREENE: Uh huh.

LESTER: So as this is all going on, I'm seeing when, when they had just, when I say 'they', S.W.A.T. had just went up there and within a couple of minutes had said, alright, guys, pull back, we'll get you out. So they start pulling back and some of the patrol guys were just going straight back, so now they're in that open area that fatal funnel and I'm like, <inaudible>, you know, it worried me for their safety, um, and that's, you know. I, I, I truly believe that his intent was to engage the officers

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out there into a gunfight to his death and he's hell bent on killing them.

HOPPE: Do you know, um, do you know about how many officers, uh, were over there?

LESTER: I'm gonna estimate 7 to 10.

HOPPE: Okay. Did you ever see anybody, uh, in the store or anybody else around other than officers?

LESTER: No, just the officers and the suspect.

HOPPE: Um, could you, uh...describe that, uh, gun for me that you saw?

LESTER: It, it was a, uh, it was a Beretta.

HOPPE: Okay.


LESTER: There was no doubt in my mind about that. Originally on the radio I described it as a .9mm Beretta but that's just from force of habit or military cuz it was...it looked just like the one I had in the military, so, um.

HOPPE: And you said that, uh, it is, uh, that was in his right hand and his left hand you said a cell phone?

LESTER: Yes.

HOPPE: Okay, did, you said he was on the cell phone, like was he talking to somebody on the cell phone or could you tell?

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LESTER: He was yelling and, and he could've been talking on the phone at the same time as yelling at these guys. I, I don't know.

HOPPE: Okay.

LESTER: But he was on the phone, off the phone, I don't know if he was talking to negotiators on the phone or his mom. Uh, I do know negotiators were talking to him face-to-face and that's where a lot of our intel was coming from. When they told us, you know, negotiations are not going good, that, um, he's constantly telling them, them to kill him.

HOPPE: Can you tell me, um, you said you got a pretty good look at his demeanor and you could see, based on his facial expressions, what he was, can you talk to me a little bit more about that, what you observed in terms of his demeanor while you're out there?


LESTER: From my angle and I'm looking at a profile shot, it's almost a crazed look, a bug-eyed drooling pissed off look. Um...like I said, I, I, I, I was putting pieces together, trying to in...out of my experience, you know, why is he on top of the car with a pistol, body armor at 7-Eleven at 3:30 in the morning? A robbery went bad, hostage, so I, I don't know. But sane people with good intentions don't do that. Um, so obviously there's something wrong that we, you know, we were trying to get the information, too. I just, it just never came.

HOPPE: When, um, you said he was <clears throat> making that motion, uh, with the firearm that was in his right hand?

LESTER: Uh huh.

HOPPE: Um...uh, you in your scope were targeted on him at that point already?

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LESTER: Yes.

HOPPE: What, what part of his body at that point were you targeted on?

LESTER: I, um, understand I've got his whole body in my scope...

HOPPE: Okay.

LESTER: ...where I can see everything he's doing, so he is entirely in my scope.

HOPPE: Okay.

LESTER: Um, I've got it dialed in at 8 power, so I could see good but it's not that it's simply focused on one part of his body.

HOPPE: Okay.

LESTER: I can see it all.


HOPPE: Okay.

LESTER: Um...go back to your question, I'm sorry:

HOPPE: Uh, what, what part, I guess, were you targeted on at that point in time?

LESTER: When...I, I made decision quickly, like wh, very quickly that, okay, if I have to put a round in this guy or hit him in the head, my rounds probably gonna go through, maybe in that store, that's one. Um, I know my 3-0-8 will punch the body armor he has if I have to do a

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body shot, that's two. Um, the angle I was at and I wanted to keep, a round in his body if I had to put a round on him. His erratic behavior with his head...

HOPPE: Uh huh.

LESTER: ...also told me don't aim for his head. Um, I needed to hit a switch and turn him off so that my best chance is if I had to do it, was a, was in the body. So since I had a profile shot of him coming from his left, that's when I chose the torso underneath his armpit.

HOPPE: Okay, so you were able to get the left side?

LESTER: Yes.

HOPPE: Uh, approximately under his armpit? Okay. Uh, and you said when you took your shot, you only took one shot?

LESTER: Yes sir.

HOPPE: Okay, uh, and you thought your shot hit him?


LESTER: Yes.

HOPPE: Okay. Uh, and then how much time would you say passed before you first shot him and the second shot you heard?

LESTER: I, I, it's, it's probably not even gonna be a full second.

HOPPE: Okay.

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LESTER: So from my point of angle, I'm seeing his <unintelligible> of motion. I'm decision making pressing the trigger, um, from the other angle that Derrick's at. I'm sure he's seeing, uh, a similar motion and he's processing it and pulling the trigger probably just a hair after me.

HOPPE: Uh huh.

LESTER: Um, tsk, because he's at a different angle. So, because I, he can't see his hand and the pistol start with it, I can, and as soon as he breaks, I know what he's doing with it, I know where it's going, so he's, it's just that split second. So within a half a second after my shot's out, he's falling. It probably only took three tenths a second for the round to hit the guy in the time it went out. So it hits him and the kinetic energy, the force, immediately is tumbling him off that car. So as he begins to tumble, I believe that's when the other shot came out.

HOPPE: Okay. Did anybody else call out on the radio that they had fired a shot as well or?

LESTER: Uh,


HOPPE: Do you remember?

LESTER: Some, I, I believe so, but I, I was focused on making sure if he wasn't down, where'd he go <unintelligible, talk-over>?

HOPPE: Okay. Fair enough.

FURR: Would it been the same, um, dialogue on the radio not dialogue but, would it have been the same, uh, statement, uh, Hawkeye Alpha uh?

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LESTER: Hawkeye Alpha shot out and since he's on the Alpha/Baker, he might say the same thing.

FURR: Okay.

LESTER: I'd say cause you know typically you'd have Alpha, Baker, Charlie, Delta, but when you're off angled like, we got three hawk guys guys off the Alpha/Delta, so any of us coulda been Hawkeye Alpha shot out really.

FURR: Right.

LESTER: Um, the biggest thing was it, it lets Command know the area it came from and that it's us.

FURR: Right.

LESTER: Um, that way they don't think there's a, another shooter or a second suspect or someone had an AD or something that it's intentional. This is us, the suspect's down.

FURR: Okay.


HOPPE: Can you, uh, just on the map there, can you put the, uh, a sides of the...

LESTER: Yeah.

HOPPE: ...since it's in the corner, you can't see it from the map?

LESTER: <inaudible>

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HOPPE: That you used, yeah, that'll work.

FURR: Can you make that out?

HOPPE: Yep.

FURR: Okay.

HOPPE: Um, and just...

LESTER: Uh huh.

HOPPE: <clears throat> I'm trying to picture, you said that the car was there and he was on the back of the car but you didn't, you didn't have any part of the car obstructing?

LESTER: No.

HOPPE: You just said...

LESTER: He was on the front of the car, so it's nosed in and he is on top of the car on his knees.

HOPPE: Okay.


LESTER: Uh, very, just down on his knees like this.

HOPPE: Okay.

LESTER: Hand glued this one doing his thing.

HOPPE: Uh huh.

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LESTER: And my leg wants to cramp up.

HOPPE: So you could, you could see based off your angle, you weren't, it's not like you were looking over or through the glass? You, you could see...

LESTER: Yes.

HOPPE: ...unobstructed view of him?

LESTER: Yeah, I, I, the open air on him the whole way. Yes sir.

HOPPE: Okay. Um, do you have anything right now?

FURR: Uh, I just wanted to talk to you a bit, uh, Officer Lester about, uh, your years with, from S.W.A.T. How many?

LESTER: Uh, I been on S.W.A.T. 13 years? Um, this is the third <inaudible>.

FURR: Okay. That was gonna be my next question thank you.


LESTER: Yes, sir.

FURR: You were very descriptive in, um, earlier about what you, the information that coming in, uh, regarding, what was at the scene and the information collected once you deployed and were actually in position.

LESTER: Yes, sir.

FURR: Uh, so thank you for that. Um, I don't have any questions.

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GREENE: Um, just a couple. When you say 'turn him off', is, is, you mean so that he can't deploy his weapon on the other individuals that were there as well?

LESTER: Absolutely. It, hit a switch so he can't, um, in fact, operate that weapons system.

GREENE: Okay. And you were watching his demeanor for the 10 to 12 minutes? Did that confirm your suspicion that all the information that you'd gotten before?

LESTER: Yes sir.

GREENE: And where did you see his finger on that Beretta?

LESTER: Um, I'm not sure 'bout his finger. Um, his...

GREENE: His hand...


LESTER: ...his, his hand was, uh, was on the pistol grip up in the tang and holding onto it, almost like a death grip. Um, not like he was holding a bottle or anything else, but like he was determined and had purpose.

GREENE: And then lastly, when, when his, when his arm came forward, is that the first time you'd seen his arm come forward like that?

LESTER: That was the only time he moved it, yes, sir.

FURR: Actually, I forgot that I had one more question.

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LESTER: Go 'head.

FURR: Um, the weapon system that you deployed?

LESTER: Yes, sir.

FURR: Um, you, I think earlier you said 30 rounds of ammunition?

LESTER: Yes, sir.

FURR: Is that correct?

LESTER: Yes, sir.

FURR: Can you tell me how that was, it's a 20-round mag and then?


LESTER: It was a 10-round mag that I initially deployed with, uh, which now has 9 rounds in it, and then a 20, 20-round mag that's on my vest.

FURR: Okay. Thank you.

HOPPE: Is there anything else that you wanna add before I wrap up or that I just forgot to ask or is important for us?

LESTER: No, I think the totality of the circumstances, uh, led me to make a decision and, I, I, I wholeheartedly believe without a shadow of a doubt that, um, my guys, the patrol guys, the negotiators, and any citizen that was walking out there, lives were in danger. He was hell bent on, um, either killing somebody or killing himself. Um, and he, his actions forced, um, my actions, unfortunately. Uh, but I wholeheartedly believe that my guys' lives were in danger and I feared for them, gravely.

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HOPPE: Alright, I appreciate it. I'm gonna go 'head and end this, uh, the end time is gonna be 12:00.

JAH/JDF/MG/olw

*Reviewed By*  
*JAH*  
*4/26/16*

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## **Exhibit 10**

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TODAY'S DATE IS APRIL THE 19<sup>TH</sup> 2016; THE TIME IS 10:38 A.M. PRESENT DETECTIVE HOPPE UH SERGEANT FURR; WE'RE IN ROOM 2227 AT 601 EAST TRADE STREET. THIS IS REFERENCE COMPLAINT NUMBER 20160419055900.

Hoppe: I'm gonna set that there so it can hear everybody okay. I'm gonna start by just uh getting everybody's information uh I'm gonna fill this out on here so uh ... Let me get the time. Okay spell your last name for me.

Rud: R-U-D.

Hoppe: R-U-D? And your first two initials?

Rud: D...D.D.

Hoppe: And what's your code?

Rud: 3721.

Hoppe: And I'm sorry, it's pronounced Rud (Rood)

Rud: Yes sir.

Hoppe: Okay. What uh was your date a hire?


Rud: July 18<sup>th</sup> 2005.

Hoppe: Uh prior to this, do you have any prior law enforcement or military experience?

Rud: Four years in the Marine Corp.

Hoppe: Okay, thank you. Uh where are you currently assigned?

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Rud: Metro Division.

Hoppe: Okay. And what shift do you work?

Rud: First.

Hoppe: What are your normal hours?

Rud: 6:15 a.m. to 2:30 p.m.

Hoppe: Okay uh what call sign uh...were you operating on tonight, as tonight?  
Excuse me.

Rud: Mm...Hawkeye Alpha is what the sniper's call signs are.

Hoppe: Okay.

Rud: Otherwise it's my last name.

Hoppe: Okay and what um...talk group were you operating off of?

Rud: SWAT 1.


Hoppe: Okay. And who was your supervisor today?

Rud: Uh...Sergeant Milliken or Sergeant Graue...Milliken was first on scene.

Hoppe: Or Graue?

Rud: Yep.

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Hoppe: Okay and lets see...what um height and weight?

Rud: 5'9...probably 190.

Hoppe: Okay. Uh can you tell me the amount of sleep you had um...last night.

Rud: Probably seven and a half hours.

Hoppe: Uh did you work off duty prior to your shift?

Rud: No sir.

Hoppe: And uh what vehicle were you operating today?

Rud: Uh 163.

Hoppe: Okay, is that a marked or unmarked?

Rud: Marked.

Hoppe: Okay. Uh you drove?

Rud: Yes sir.


Hoppe: Okay did you have a passenger?

Rud: No sir.

Hoppe: Okay and did you use your DMVR in your response?

Rud: Don't have one.

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Hoppe: Okay. Okay um what's your normal duty weapon?

Rud: Uh the Glock SI21.

Hoppe: Okay do you have the...do you know the serial number?

Rud: Not right off the top of my head.

Hoppe: Okay and you don't have it with you?

Rud: <Inaudible>

Hoppe: I'm sorry?

Rud: My gun?

Hoppe: Uh huh.

<Talkover - inaudible>

Hoppe: Yeah you can check it.

Rud: <Inaudible>...LPR271.


Hoppe: Thank you. How many magazines do you carry?

Rud: Three.

Hoppe: Okay. Do you have a secondary issued weapon?

Rud: As far as...I got...three rifles.

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Hoppe: Okay. Can you tell me what they are?

Rud: Uh one's an FM 308.

Hoppe: Okay.

Rud: One's an AR 10 Armalite.

Hoppe: Armalite?

Rud: Yeah.

Hoppe: Okay.

Rud: And one's a Daniel Defense AR 15. And then I got a...issued shotgun.

Hoppe: Okay <Inaudible> What was the shotgun?

Rud: Uh...SWAT's version of the Remington's.

Hoppe: Okay.


Rud: And I think I've...also have a Colt, I think it is, breaching shotgun.

Hoppe: Okay. And those are all that you carry with you in the marked car?

Rud: Yes sir.

Hoppe: Okay. Alright um...I have to go back to those individually cause obviously not having with them...we'll get serial numbers and all that later. Um do you carry a backup weapon with you?

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Rud: No sir.

Hoppe: Okay. Um and your attorney is present, Mike Green.

Rud: Yes sir.

Hoppe: And I'm sorry is it Michael?

Greene: Either way.

Hoppe: Okay. Okay uh what we'll do is just start from callout uh...walk me through the process um kind a from start to finish, let you talk about the investigative part of it and how that...works before we start.

Furr: Right um...Officer Rud just wanted to make you aware that uh there are two separate but parallel investigations going on here, you've got your criminal investigation that's being conducted by the Violent Crimes Division and the internal investigation that's being conducted by Internal Affairs.

Rud: Okay.

Furr: You understand that?


Rud: Yes sir.

Furr: Okay. Alright.

Hoppe: Alright if you wanna just kind a walk me through, start to finish, then we'll come back and ask questions.

Rud: I was in bed when I received a page about 3:25 I believe it went off; uh the page said that there was a suicidal male wearing a bullet proof vest armed

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with a handgun at the 7-11 off of uh Little Rock Road. I think I don't remember the numerics are in the page, it's like 24 something Little Rock.

Hoppe: Okay.

Rud: Um I got up, got dressed um got in my patrol car, I proceeded to that direction. Took me probably fifteen minutes I'll say from my house to get there. Once on uh...enroute Officer... SWAT Officers Riddle and Ed Mark had already arrived on scene. Uh SWAT Officer Riddle took control of the... command post. Ed Mark advised to Riddle that he was deploying with his rifle uh downrange. On the way uh SWAT Officer Mark said that he could see a handgun uh I think he said that... he was wearing a black shirt, uh the suspect. Um I showed up probably fifteen minutes later. Uh Riddle had told me to go ahead and deploy as a sniper. I have the abilities of deploying as both a sniper or entry guy. Um ...I grabbed my AR 10, my vest, my snipers vest just...and uh... Officer Ignaczak and myself deployed together. Once on scene we split up on the front which is A. Um he went to the left, I went to the right. I encountered...two patrol officers. I relieved one, uh told him to go ahead and step off. I got my rifle up. I didn't like my position, the patrol officer I relieved, he was behind cover on the SUV said hey theres a...a patrol rifle officer underneath the SUV in the back he'd a been in the back...right, so the back passenger. Um came off the gun move to him, relieved him, took his spot. Um had eyes on uh the suspect the whole time. I could see, just from his shirt, he's wearing a bullet proof vest just from...knowing what they look like. Um and then his right hand I had a clear sight of a...a black handgun. Being as close as I was I was probably maybe thirty yards um I could tell...I could see him, I scoped that he had his finger in the trigger guard. He was talking, kind a...in circles, I couldn't really understand what he was saying, I could hear the...patrol officers telling him to drop the gun. I could tell he was agitated um you could see the veins on his neck kind a protruding. He had wide eyes he was spitting a lot like he had dry mouth. Um just mumbling something that

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he's not gonna drop the gun uh, you're gonna have to kill me. He's on top of the ...the car was pulled in facing the store um and he's on the roo...roof of the car kind of on his knees, kind a bouncing back and forth. Sergeant Milliken came up uh, on the radio he asked me what the best route was, we were kind a committed to the parking lot, I told him just to come to where I was um... Sergeant Milliken started pulling patrol assets out so SWAT guys could take their spots. In the interim um...Lester asked ...uh McKinney asked me where I was, I told him off the...Alpha Delta corner underneath the SUV. He went with uh Lester they're across the street directly behind me. Uh we discussed ya know he'd be...if he had to take a shot, he'd be shooting over me to stay prone. Um...the whole time's kind still talking to patrol guys uh...our negotiator uh Chickoree showed up starts trying to get a verbal dialogue with him. Whole times he's saying you're gonna have to kill me. He pulls up his shirt, look I'm wearing a vest you're gonna have to shoot me in the head. Um...he kept asking for somebody uh...uh...a name, I can't remember the name if it was a male or female. At one point he said I want 'em here to watch me die. Um...Chickoree kept trying to get him some kind of verbal dialogue he's not hap...not listening to him, he kept on saying I'm gonna...you're gonna have to kill me, shoot me in the head, I'm gonna die. About ...about fifteen minutes in you could um...he had the gun kind of in...holding onto it behind his back kind of the center of his back, he's kind of in a kneeling position. He moves the gun from his back to kind of right below his right buttock, knee area.

Hoppe: Uh huh.

Rud: Um the patrol officers, SWAT officers uh...I know Chickoree is probably directly in front of him trying to negotiate him. I never came of the scope. I could hear him off to my left and I know there's SWAT guys and probably still some patrol guys on scene that we haven't relieved yet. I know that they we were...all pretty much within thirty yards at the most.

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Hoppe: Uh huh.

Rud: They were pretty close. He's starting to get more agitated, kept saying you're gonna have to kill me, gonna have to kill me. Um at one point he starts kind a moving the gun and he starts bringing it up, raising it towards officers on scene um, in fear for myself... other officers on scene... mine and Lester's... Lester shot then I shot pretty much immediately right after uh Lester.

Hoppe: Okay.

Rud: Suspect kind a spun around. Laying on the ground, I stayed prone, I could see him from my prone, from underneath the car. I could see him underneath the white car on the passenger side. I could only make out his face, he's kind a... moving his head but I didn't see any other movement other than that. Uh I think Sergeant Milliken took the entry guy's element up, put him in handcuffs and called for Medic.

Hoppe: Who actually put handcuffs on him?

Rud: I don't know.


Hoppe: Okay.

Rud: I know it was one a the SWAT guys, I just don't know who put handcuffs on him.

Hoppe: Okay. Um... I think what we'll, at we've got overheads um... to assist in, you just kind a showing us ... <Inaudible> If you can just... yeah, kind a show us there... you see the... 7-11 there?

Rud: Yep.

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Hoppe: Okay.

Rud: So...there's an SUV... want me to write on it?

Hoppe: Yeah, yeah...

Furr: This'll be a better pen for ya.

Rud: There's SUV's and patrol cars all along the front the farthest red SUV right about there.

Hoppe: Uh huh.

Rud: And I was directly underneath the rear tire.

Hoppe: Okay.

Rud: Bumper area.

Hoppe: Okay. And where was he, where's the target?

Rud: He was in this or this parking spot up on the roof of the...or the hood of a car.


Hoppe: Okay.

Rud: That one.

Hoppe: Okay and who can you place around you?

Rud: I know I was talking to Sergeant Milliken.

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Hoppe: Okay.

Rud: Uh he's the only one that I had...other than the patrol officer and I don't even know who he was, I never looked at him, so Sergeant Milliken and the one patrol officer that I relieved, um he was at the hood of this same SUV when I got there.

Hoppe: Okay. Were there other people in this area though that...

Rud: There was.

Hoppe: You...you just don't know who they are?

Rud: Right there was...cars all along here, I wanna say three or four including the K9, I know that for a fact.

Hoppe: Okay.

Rud: And I knew when I got there there's probably...maybe half a dozen patrol guys and I'm not sure how many of them got relieved...

Hoppe: Okay.


Rud: ...before the SWAT guys took over.

Hoppe: So Sergeant Milliken was sharing cover with you behind this...

Rud: He's kind a...coming to my cover and then trying to get assets in place.

Hoppe: Okay.

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Rud: At one point I do know that when I was moving up he called me out by a sniper he said I see you sniper.

Hoppe: Okay.

Rud: Um, I even told Milliken hey...he kept looking over at me for some reason, even when I was under the car and I told Milliken hey he's looking at us, make sure you stay behind cover.

Hoppe: Who are you talking about was looking at you?

Rud: Uh the suspect.

Hoppe: Okay. Do you know whose SUV that was?

Rud: I don't.

Hoppe: Okay.

Furr: Officer Rud, just to go back on what you said earlier, you said you were approximately thirty yards away from the suspect?

Rud: Yes sir.


Furr: Uh is that, you say the suspects and the first or second...

Rud: Second I guess.

Furr: ...to...to the best of your...

Rud: Right.

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Furr: Okay. And you're...so that's about, approximately thirty yards right there based on, ya know, what you're showing us in the illustration?

Rud: Uh huh, yes sir.

Furr: Okay. Alright.

Hoppe: I...just...you may have said this but just to make sure I've...which...which of your rifles did you have?

Rud: The AR 10.

Hoppe: Okay. And you had shown me earlier his movements but for the purpose of the recording can you kind a help me to verbalize that and...tell me what...what it...was that he was doing.

Rud: When I got there the gun was directly I'll say in the small of his back.

Furr: Okay.


Rud: He was holding it with his right hand. Um...when he...We had...there...there was a spotlight in his face and he's trying to kind a shield his eyes, I think there's a cell phone in his left hand at some...at one point. Um...he kept turning to try to kind a...I think see where all the patrol officers were and SWAT guys were and I could see that his finger was inside the trigger guard...

Furr: Okay.

Rud: ...resting on the trigger.

Furr: Uh huh.

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Rud: Um Chickoree starts to uh negotiate with him; he moves it from the small of his back to kind a right behind his...right knee, right buttock area. Um from then he just...his agitation was getting higher and higher and he kept saying you're gonna have to kill me, you're gonna have to kill me, shoot me in the head, I got a vest on, and from then he brought it to the side and started to bring it up towards the officers.

Furr: Okay. So the vehicle that he uh...how was he positioned in relation to the vehicle?

Rud: He was...

Furr: Not...not the vehicle that you were taking cover behind but the vehicle that he was next to, how was he positioned on...

Rud: He was on top of the hood um...

Furr: Okay.


Rud: <Inaudible>...he was on both knees at one point and I think he came to one knee again um and we actually talked about...it looked like he's getting ready to kind a make a jump and run for it.

Furr: Uh huh.

Rud: Um but he's on...he's just kind a going from knee's to knee's he never really would sit still but he was on the hood on his knees for majority of <Inaudible>...

Furr: And how was that vehicle in the parking space?

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Rud: It was nosed in towards the store.

Furr: Okay, alright. And he's on the hood of the vehicle and which direction is he facing?

Rud: Facing us...towards... His back was to the store his body was facing us.

Furr: Okay so if his backs...

Rud: Towards Chickoree.

Furr: ...his...if his backs to the store then, based on what I'm looking at here and correct me if I'm wrong, then he's facing the pumps, this covered area here?

Rud: Right.

Furr: Okay.

Rud: He's...he faced the pumps but then he kind a turned, he'd blade his body...

Furr: Uh huh.


Rud: ...to the right to see who was over there...

Furr: Right.

Rud: ...then he kind a blade back towards me so he's kind a shifting around but majority of time when uh Chickoree was talking to him he was facing him.

Furr: Okay. So uh Lieutenant Chickoree is acting as the negotiator and he's contacting the suspect and he's...he's over here by the gas pumps?

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If...and if I say anything that's incorrect just please correct me but is that where he is?

Rud: He was in front of the gas pumps yes sir.

Furr: Okay and then you said you had other officers over to...<Inaudible> the right of the suspect...

Rud: Yes sir.

Furr: Okay and then you're positioned to the...

Rud: <Talkover - inaudible>

Furr: ...and uh...and this is oriented for me now...

Rud: Uh huh.

Furr: ...uh from the store front facing out the you're...you're to the left of the suspect?


Rud: Yes sir.

Furr: Okay and you mentioned a couple of times ...in your overview of your response you mentioned uh Officer Lester, can you tell me where he was positioned?

Rud: He didn't...at the time, he didn't tell me exactly where he was he told me I'm off your six in the Wendy's parking lot.

Furr: Okay.

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Rud: When I was there I didn't...I knew it was behind me but I didn't know exactly where.

Furr: Okay, alright.

Rud: <Talkover - inaudible>

Furr: That...and that's fine that's just I wanted to...find out where he was oriented. Alright so um you said that the...suspect was on his knees, excuse me...on the hood of the car and he is facing uh more or less, facing the gas pump?

Rud: Yes sir.

Furr: Okay, alright. And that's all...just go ahead.

Hoppe: Sure um, you said that he had actually...looked at you or...

Rud: Yeah he called me out when I um...when me and Ignaczak deployed we didn't really know what we had.


Hoppe: <Talkover - inaudible>

Rud: We didn't reali...we didn't think that they were gonna be that close. So when we got there as soon as you get in the lot you're kind of on top of the whole scene.

Hoppe: Okay.

Rud: He went left, I went right and as soon as I went right he caught me in between the two SUV's I...or the...might a been K9-SUV, it was two SUV's

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and he called me out <Inaudible> see you sniper, he...he called me...<Talkover - inaudible>

Hoppe: Okay the suspect said that?

Rud: Called me out as a sniper.

Hoppe: Okay. Um did he...say anything else to you or...did he say anything else to you, first of all other than that...

Rud: No uh...like I said, he just kept looking over to my direction um and then whoever...whether it's Lieutenant Chickoree or patrol officers that would engage him he kept lifting up his shift saying I have a vest on you're gonna have to shoot me in the head. I have a vest on, look I have a vest on so...

Hoppe: Okay. Uh did you catch anything else uh that he was saying to people?

Rud: He kept saying something about...he's asking for somebody to come to the scene, I don't know who it was um...cause he wanted them there to watch him die...what he said.


Hoppe: Okay um from that distance you said that you never really took your eyes off the scope?

Rud: Right.

Hoppe: Um...what...what could you see?

Rud: I could see...I could dial my scope back; I could see, pretty much, his whole ...I mean he's on his knee's so I could see from his torso up to his head and when he turned I could see behind him, I could see his gun and

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then I could see his vest and I could see the outline of a vest through his shirt.

Hoppe: Okay um...and then moving forward to when uh...he...you said that he had brought the gun up further than what he had before, was there anything particular going on in the conversation at that point in time or anything change about his demeanor?

Rud: No the whole time Lieutenant Chickoree was trying to negotiate with him you could...he was starting to get more and more, I guess, uh voistrous and getting more adamant that we're gonna have to kill him. Um I don't really recall anything specific...

Hoppe: Okay.

Rud: ...at the time other that the shots went out.

Hoppe: Okay and um...you said that um another officer had fired the first shot.

Rud: Yes sir.

Hoppe: Okay and then you fired the second shot, how close were those and...


Rud: They were almost simultaneous where...

Hoppe: Okay.

Rud: ...um it sounded like one but I heard his shot first as...as I was squeezing the trigger on mine.

Hoppe: Okay and could you tell...uh did you see uh the first shot hit him?

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Rud: No.

Hoppe: Okay did you see your shot hit him?

Rud: No.

Hoppe: Okay what were...what was your aim when you took your shot?

Rud: Being that close um...and from training I know to...that you have to aim lower um...and I was aiming chin, chest...

Hoppe: Okay.

Rud: ...and he kept moving around so sometimes it would be kind of at his nose and it'd go...come down to his chest, armpit area.

Hoppe: Okay.

Rud: And that's what...pretty much what I was trying to hold.


Hoppe: Okay and was that um...at that point in time, I'm just trying to get the angles...understanding that but when he's pulling the gun up like that are...do you have a...are you looking straight at him or...is it at an angle or...

Rud: He was kind of...he was angled but not at like a 45 he was...like he wasn't at a...straight on either.

Hoppe: Okay.

Rud: Just kind of at a...I guess 25 degree angle if you wanna...

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Hoppe: Okay.

Rud: ...call it that.

Hoppe: And when you see him with that angle are you seeing more of his right side or more of his left side? Does that make sense?

Rud: Yeah um but the way he was I could see more of his left side.

Hoppe: Okay.

Rud: Um but I could also make out the fact that...the gun that was behind him and it's almost like he straightened it out to bring up past his...I guess it'd be his thigh cause he's on his knee's but...he started bringing it up and you can make the shoulder movement out.

Hoppe: Okay.

Rud: <Talkover - inaudible>...so...

Furr: I may have missed this earlier, did you see anything in his left hand?

Rud: Uh I think he had a cell phone.


Furr: Okay. How was his left hand positioned at that moment?

Rud: Of the shot?

Furr: Yeah.

Rud: I wanna say it was down but I don't recall.

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Furr: Okay, alright.

Rud: <Talkover - inaudible>... hundred percent.

Hoppe: Did he ever use his phone did you ever see him use it?

Rud: No he just had it...it was kind of in his ... open like this in his hand the whole time.

Hoppe: Okay.

Rud: And I think uh, over the radio, I think... Lieutenant Chickoree tried to call him and I think it went to a... a bad number or didn't go through or something.

Hoppe: Okay.

Furr: Officer Rud, can you tell me again how you were positioned specifically?

Rud: I was ... underneath the SUV um at an angle I guess, 45 degree angle to him...

Furr: Uh huh.


Rud: ...would be the best way to describe it. Right off the... If you're looking at the building the...right corner of the Alpha Delta corner.

Furr: Okay and you were prone?

Rud: Yes sir.

Furr: Okay and tell me about your weapon system.

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Rud: So Armalite AR 10 uh shoots a 308 bullet. Uh it's semi automatic, the magazine holds twenty rounds, has a Leupold scope...thinks it's a fifteen power but you can dial it down to ten. And I also had a uh dead air as the company suppressor on the end of it.

Furr: Is it supported with a tripod or...

Rud: Yes...it's supported with a tripod, yes sir.

Furr: And tell me about the ammunition that is uh issued with this rifle.

Rud: 308, uh believe it's a 1...a 158 grain.

Furr: And the issued count?

Rud: Is twenty...in that magazine.

Furr: <Talkover - inaudible>

Furr: And how many magazines?

Rud: Think I got four or five in my car.


Furr: Okay.

Rud: I only took one.

Hoppe: So you take one magazine, load it in...

Rud: And then deploy.

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Hoppe: ...and the rest of 'em... Okay. Making sure I'm not missing anything but just to give you opportunity is there anything else that um... you can think of that you saw or heard that... is important for us?

Rud: No sir. The only thing I missed is uh I think we've talked about uh... the door was open of the store but it had been evacuated.

Hoppe: Uh huh.

Rud: Um that came from patrol I'm not sure how they knew that or not but...

Hoppe: Okay.

Rud: Someone else said it was evacuated.

Hoppe: Did you ever see anybody behind him or...

Rud: No.

Hoppe: Okay. Do you have anything?


Furr: Um you mentioned earlier it was a SWAT all call?

Rud: Yes sir.

Furr: Okay can you tell me about... what a SWAT all call is?

Rud: Basically means uh... there's different types of calls, if we get a... if we have a search warrant we have to serve a page will come through our city phones that will say I need twelve or thirteen SWAT guys, once they get the amount needed to serve the warrant they won't take any more. Uh SWAT all call is basically all available SWAT assets. If you're not on

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vacation and available you need to...come in. Um and we all respond on the radio we're enroute just so they know that we're all coming and that the page got out.

Furr: Okay. How many years of service on SWAT?

Rud: Just under six.

Furr: How many years of service as SWAT sniper?

Rud: Probably have...probably a year, a year and some months...maybe a year and two months.

Furr: Okay. And what information did you have um...available to you responding to the scene?


Rud: Responding, the only information that I was given was it was a suicide uh call um and that he's armed with a handgun and he was wearing a bulletproof vest. Once on scene uh we actually talked about on the radio do we have any intel on this guy, what's his history and I think that negotiators were in the progress or working it up. Um over the radio they said one of his friends had showed up on scene and that they're talk...debriefing him to try to get information from...about him.

Hoppe: And I'm sorry can you describe the...the handgun that you saw in his hand?

Rud: I just knew it was black um...just a black handgun. You could see it in his right hand.

Hoppe: Okay. Were you, at any point, able to see the whole thing, were you just seeing parts of it based off of...

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22. Investigative Status				25. Case Referred To		26. Reviewing Supervisor, Code, Date		
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Rud: I could see...at...I could only see part...parts of it, I mean you could see him holding it, you could see his finger on the trigger guard and the outline on it but I couldn't make out the make and model or...

Hoppe: Okay.

Rud: ...what it was or anything.

Hoppe: Okay, fair enough.

Furr: He moved that handgun from the small of his back to his right hip...

Rud: Behind his right knee.

Furr: Behind his...behind his right knee, I'm sorry.

Rud: Uh huh.

Furr: And uh then you said he was in the process of bringing it up uh when the first shot rang out.

Rud: Yes sir.


Furr: Okay and he was...was he facing officers?

Rud: Yes sir.

Furr: Okay. Alright. And that posed an imminent threat to those officers?

Rud: Yes sir.

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Furr: That movement?

Hoppe: I'm good.

Furr: I am too.

Hoppe: Alright let me go ahead and..

Greene: I've got a couple questions.

Hoppe: Yep, go ahead...go ahead.

Greene: Did you...in your initial call for service you said it was a suicidal suspect, there was a gun, he was suicidal ...did he also...was he also making threats?

Rud: He kept saying we're gonna have to kill him um...when we got there.

Greene: And then...in the line of fire from the... of the suspect, how many officers would you approximate were in his line of fire <Talkover - inaudible>

Rud: <Talkover - inaudible>...probably half dozen at least.


Greene: Okay and those officers, did...did you see them, did they have their guns drawn?

Rud: I didn't see 'em.

Greene: Okay and did you hear any verbal commands being given to the suspect?

Rud: There was a...when I first got out there the patrol officers repeatedly tell him to drop the gun.

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Greene: Okay and then were you also listening in on the radio?

Rud: Yes sir.

Greene: So you were consistently getting...or constantly getting intel?

Rud: Uh huh.

Greene: Okay. And when he moved his ...when he moved his arm with the gun forward, did he have the cell phone still in his hand or had he dropped the cell phone?

Rud: I don't recall but he had the cell phone in his hand the whole time.

Greene: And...but that was the first time you had seen that gun come...go forward?

Rud: Yes.

Greene: And...and how long were you watching him?


Rud: Probably fifteen, twenty minutes.

Greene: Okay. I don't have anything else.

Hoppe: Uh, I'm sorry the...with you getting updates did anything change with the situation, did you get any significant intel or anything like that <Talkover - inaudible>

Rud: No the only thing that they were telling us is they were trying to look up his history...

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Hoppe: Okay.

Rud: Um by debriefing the friend that had shown up on scene I guess at the command post.

Hoppe: Okay, I appreciate it. Anything else?

Rud: No sir.

Hoppe: Alright let me go ahead and end...the recorded part of the interview the end time is gonna be 11:07.

JAH/JDF/MG/rge

*Revised By*  
*JAH*  
*4464*  
*4/22/16*

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