



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

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

Re: Danquirs Franklin Death Investigation

Dear Chief Putney:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Danquirs Franklin on March 25, 2019. The case was investigated by the Charlotte-Mecklenburg Police Department (CMPD) under complaint number 2019-0325-0901-02. The purpose of this review was to examine whether the actions of Officer Wende Kerl were unlawful when she shot and killed the decedent in a confrontation at the Burger King located at 2601 Beatties Ford Road.

At approximately 9:01 a.m. on March 25, 2019, CMPD received calls for service relating to (1) an armed man inside the Burger King pointing a gun at an employee and (2) a male who appeared to be pulling a gun on the female caller while she was in her vehicle at the Burger King drive-thru. Officers Larry Deal and Wende Kerl responded to the calls, arriving at the Burger King approximately two minutes after the second 9-1-1 call. Upon arriving, Officers Deal and Kerl encountered the decedent, who matched the description of the armed subject, squatting next to the open passenger door of a dark red Honda Accord. During an approximately 36-second encounter, Officers Deal and Kerl gave the decedent various commands to which he did not respond until ultimately producing a loaded Black Ruger LCP .380 automatic pistol [\(1\)](#) [\(2\)](#) [\(3\)](#). Upon seeing the firearm, Officer Kerl discharged her weapon two times, striking and killing the decedent. Two shell casings [\(1\)](#) [\(2\)](#) were located by crime scene investigators. Officer Deal did not fire during the encounter.

Beginning with my initial response to the scene of this incident, I personally monitored the investigation along with another senior Assistant District Attorney (ADA). I reviewed the investigative file as provided by the Charlotte-Mecklenburg Police Department. Finally, consistent with the District Attorney's Office Officer-Involved Shooting Protocol, this case was presented for review to a team comprised of the office's most experienced prosecutors.

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

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

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

If no criminal charges are filed, that does not mean the District Attorney's Office believes the matter was in all respects handled appropriately from an administrative or tactical viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt unanimously to a jury. This is the limit of the DA's statutory authority in these matters. The fact that a shooting may be controversial does not mean that criminal prosecution is warranted. Even if the District Attorney believes a shooting was avoidable or an officer did not follow expected procedures or norms, this does not necessarily amount to a violation of criminal law. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The 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. Officers are entitled to the same protections of the law as every other individual. An imminent threat to the life of a police officer entitles the officer to respond in such a way as to stop that threat.

Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did *not* act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in State v. Norris, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appeared to a person that it was necessary to kill in order to save himself or another from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. Id. at 530.

C. Use of deadly force by a law enforcement officer

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

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

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

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

As stated by the Fourth Circuit Court of Appeals, “The [law] does not require police officers to wait until a suspect shoots to confirm that a serious threat of harm exists.” The Court suggests that when reviewing use of force cases, caution should be used to avoid analysis “more reflective of the ‘peace of a judge’s chambers’ than of a dangerous and threatening situation on the street.” Elliot v. Leavitt, 99 F.3d. 640, 643 (4th Cir. 1996).

D. The officer-involved shooting of Danquirs Franklin

Two officers, Officers Larry Deal and Wende Kerl, were present at the time of this encounter. Several civilian witnesses were present for the events leading up to and including the decedent’s fatal engagement with police. In addition, various portions of the events were captured by surveillance video and cellphone video. Although some of the information provided by the civilian witnesses and video evidence encompasses details of events occurring prior to Officers Deal and Kerl’s arrival that would not have been known to Officers Deal and Kerl at the time of the encounter, this information is relevant to the legal analysis of this incident. Were Officer Kerl to be charged in this matter, a jury could potentially hear information relating to these events because it “complet[es] the story of a crime by proving the immediate context of events near in time and place.” State v. Sexton, 153 N.C. App. 641 (2002). This is sometimes

called the “complete story rule.” In light of this plausibility, a summary of each witness’ account follows.¹

Officer Wende Kerl

A round count conducted at the Law Enforcement Center on Officer Kerl’s service weapon showed Officer Kerl to be in possession of two full magazines and 14 live rounds, which indicates two missing rounds.

Officer Kerl was interviewed at the Law Enforcement Center on March 27, 2019. On the morning of March 25, 2019, Officer Kerl was operating vehicle 218, which was not equipped with a digital motor vehicle recorder (DMVR),² but she was wearing her body-worn camera. She recounted that she was at the CMPD Metro Division team office and was outside of her car talking to Officer Deal when she received a priority one call that there was an armed man inside the Burger King, chasing someone and brandishing a weapon.³ She and Officer Deal left the team office immediately, and she followed Officer Deal down Beatties Ford Road.⁴

While enroute, Officer Kerl received information that the suspect⁵ was a black male wearing a dark gray or black jacket.⁶ Officer Deal’s vehicle was still in front of hers as they were about to turn left into the Burger King. Officer Kerl reported that, at this point, an officer with the Real Time Crime Center (RTCC) at CMPD Headquarters broadcasted over the radio that a black male who fit the description wearing a gray jacket had walked outside of the Burger King and was standing next to a red Honda.⁷ Officer Kerl stated that Officer Deal entered the parking lot first and parked behind the Honda Accord. Officer Kerl parked behind it on the left.⁸ Officer Kerl recalled that Officer Deal immediately drew his weapon and started yelling “drop the weapon.”⁹ Officer Kerl got out of her car and drew her weapon, but all she could see from her vantage point at that time was a passenger in the red Honda Accord. She could not see exactly where Officer Deal was pointing, but he was pointing his weapon next to the passenger as if something was below him.¹⁰

Officer Kerl stated that she crossed in front of Officer Deal and observed the suspect, who was wearing a dark gray jacket, squatting with his hands between his legs and facing a passenger who was seated in the Honda. The passenger door to the Honda was open. Officer Kerl stated she perceived this squatting as a threat to the passenger because she did not know

¹ Witnesses who did not identify themselves publicly in media interviews or otherwise are not identified by name in this document. To name those who did not publicly identify themselves could have a chilling effect on witness cooperation in other cases.

² Kerl Transcript pp. 6-7.

³ Kerl Transcript pp. 9, 22.

⁴ Kerl Transcript p.9.

⁵ References to the decedent, Danquirs Franklin, as “suspect” or “subject” in the narratives of Officers Kerl and Deal are included to accurately depict language each officer used in their interviews with investigators.

⁶ Kerl Transcript p.10.

⁷ Kerl Transcript p.10.

⁸ Kerl Transcript p.10.

⁹ Kerl Transcript p.10.

¹⁰ Kerl Transcript pp. 10, 24.

who he was or what had happened prior to her arrival.¹¹ On the other side of the suspect, to his rear, was a small gray car.¹² Officer Kerl explained that she took the position she did because it gave her a good view of the suspect's hands, the passenger, and her partner, and she believed she could fall back behind the silver vehicle for cover, if necessary.¹³

Officer Kerl recounted that it appeared as if the suspect was concealing his hands.¹⁴ She stated she could only see the top part of his hands.¹⁵ Because of the nature of the call, Officer Kerl stated that she and Officer Deal were assuming the weapon was in his hands and they continued to tell him to "drop the weapon." Because she could not see the suspect's hands, she assumed the weapon was in his hands.¹⁶ Officer Kerl further detailed that the call for service stated he had a weapon and he had pulled it out inside the Burger King. She believed he still had the weapon in his hand and she could not see what or what was not in his hand.¹⁷ She later added that she based the command to "drop the weapon" on the call for service, which said he had a weapon inside and was chasing someone, the fact that she could not completely see his hands, and the way he was holding what of his hands she could see. She said these factors combined suggested to her he had a weapon in his hands.¹⁸ Officer Kerl stated that at this point in the encounter she did not see a weapon, but because the information contained in the call said that he had a weapon and she could not see his hands, she was not taking any chances.¹⁹ Officer Kerl recalled that she and Officer Deal gave multiple commands and were yelling for the suspect to "drop the weapon, let me see your hands, drop the weapon."²⁰ Officer Kerl did not recall every command she gave to the suspect, but she recalled telling him to drop the weapon repeatedly.²¹ Officer Kerl stated that the suspect "was not complying, he wasn't talking, he was just looking back and forth and just wasn't saying anything."²² She and Officer Deal asked the suspect repeatedly to drop the weapon. When asked what response or compliance she was looking for, Officer Kerl stated that she was looking for the suspect to:

[J]ust drop it out of [his] hand, or to say okay, you know acknowledge me, I am gonna drop it or wherever the weapon is they'll tell you, and come up with nothing in their hands. That was not happening. He wasn't moving. He wasn't communicating. He wasn't following my directions or instructions.²³

¹¹ Kerl Transcript p.43.

¹² Kerl Transcript p.26.

¹³ Kerl Transcript pp. 44-45.

¹⁴ Kerl Transcript p.34.

¹⁵ Kerl Transcript p.11.

¹⁶ Kerl Transcript pp. 11, 43, 53.

¹⁷ Kerl Transcript pp. 33, 53, 56.

¹⁸ Kerl Transcript pp. 37, 56.

¹⁹ Kerl Transcript p.28.

²⁰ Kerl Transcript pp. 28, 36.

²¹ Kerl Transcript p.36.

²² Kerl Transcript p.29.

²³ Kerl Transcript p.34.

Officer Kerl reported that during the encounter with the suspect, a female and a male walked near the suspect. Officer Kerl yelled at them to move out of the way for their safety, and the male pulled the female back toward the front of the business.²⁴ Neither the male nor female said anything to Officer Kerl to make her believe the suspect was no longer a threat.²⁵

Officer Kerl reported that she and Officer Deal continued to give the suspect commands to drop the weapon. She did not hear any conversation between the subject and the passenger in the Accord.²⁶ She noted she heard other noises such as hearing a woman say to lock the door and hearing a woman yelling and people screaming.²⁷

Officer Kerl recounted that, during this time, the suspect had a very strange stare. He never said a word. She reported that the suspect “looked at the passenger, and would look over to where the female had moved to, and then he would look directly at [Officer Kerl] with a very strange blank stare as if he was contemplating something.”²⁸ She believed the suspect did this twice.²⁹ Officer Kerl later reiterated that “you could tell with the stare he was contemplating something.”³⁰ Officer Kerl recalled that the second time he stared at her for a second or two and then looked at the passenger. That is when she saw him slowly move his hand into his jacket.³¹ Officer Kerl believed it was his left hand that moved into his jacket.³² She did not believe she could see his right hand.³³ Officer Kerl recounted that although she could not see exactly where the suspect was reaching, he appeared to slowly reach inside of his jacket, not into a pocket.³⁴ Officer Kerl recalled that “[the suspect] pulled out a small black gun and as I saw him pull it out and start to turn I felt a lethal threat for my life, and the passenger’s, and for my partner and I shot [the suspect].”³⁵ She further indicated that it “appeared [the gun] was going to turn toward the passenger or continue to turn to myself or my partner.”³⁶ Additionally, she stated that “[the suspect] had the handle and it looked like it was...gonna come around, but I didn’t wait for it to come all the way around, because I didn’t know if he was going to shoot the passenger or continue to come around.”³⁷ Officer Kerl did not recall which direction the muzzle was pointed. She simply recalled seeing the black weapon and [the suspect] starting to turn his wrist.³⁸ She indicated she was not able to retreat for cover once she saw the gun.³⁹ Though other evidence suggests otherwise, Officer Kerl’s recollection was that when she saw the firearm, she yelled

²⁴ Kerl Transcript pp. 11, 28, 29.

²⁵ Kerl Transcript p.52.

²⁶ Kerl Transcript p.42.

²⁷ Kerl Transcript pp. 13, 30, 51.

²⁸ Kerl Transcript p.11.

²⁹ Kerl Transcript p.30.

³⁰ Kerl Transcript p.35.

³¹ Kerl Transcript p.30.

³² Officer Kerl’s body-worn camera footage depicts the suspect retrieving the weapon with his right hand. Her body-worn camera footage will be addressed later in this report.

³³ Kerl Transcript pp. 31, 35.

³⁴ Kerl Transcript pp. 11, 31, 45, 47, 48.

³⁵ Kerl Transcript p.12.

³⁶ Kerl Transcript pp. 35, 46.

³⁷ Kerl Transcript p.32.

³⁸ Kerl Transcript p.55.

³⁹ Kerl Transcript p.45.

“gun” and “drop the weapon.”⁴⁰ She stated the suspect did not comply fast enough and she shot twice.⁴¹ Officer Kerl stated that Officer Deal did not fire his weapon.⁴²

Officer Kerl recalled that after firing, she picked up the suspect’s firearm and secured it on the rear of the car that was to her right.⁴³ Officer Kerl then requested multiple additional units over the radio while Officer Deal tried to request medic and fire.⁴⁴ When additional units arrived, she turned over custody of the suspect’s firearm and was placed inside of her vehicle and taken to the hospital.⁴⁵

Officer Kerl stated that she has been employed with CMPD for 24 years and has had to draw her weapon multiple times in the line of duty but has never discharged her weapon at a suspect.⁴⁶ Having had time to reflect, she still believed the suspect posed an imminent threat and she believed she made the correct decision.⁴⁷

Officer Larry Deal

A round count was conducted on Officer Deal’s service weapon at the Law Enforcement Center after the incident. All of his rounds were present.

Officer Deal was interviewed by detectives at the Law Enforcement Center on March 27, 2019. He has been employed with CMPD since October 2001. On the morning of March 25, 2019, he was operating vehicle 426, which is not equipped with a DMVR.⁴⁸ Officer Deal was scheduled to report for his shift at 9 a.m. He was at the team office in his patrol car when the priority call came in from dispatch.⁴⁹ He was not wearing his body-worn camera. Officer Deal reported that he had worked the previous night at the Spectrum Center directing traffic, and his [body-worn camera was still on his traffic vest](#) from the previous evening. He had not yet put it on for his shift as he was just reporting to work when the priority one call came out.⁵⁰ Officer Deal reported that he has two body-worn cameras, but his second body-worn camera had been malfunctioning.

Officer Deal stated that the call came out as a priority one call for service at the Burger King regarding an armed subject with a gun who went around the corner and is possibly fighting someone at that location.⁵¹ Officers Deal and Kerl both requested dispatch to assign them to the call.⁵² Dispatch provided a description of the subject as Officer Deal was travelling to the Burger

⁴⁰ Kerl Transcript p.44. Officer Kerl’s body-worn camera footage does not depict additional commands being given after the suspect produced the firearm.

⁴¹ Kerl Transcript pp. 12, 44, 47.

⁴² Kerl Transcript p.44.

⁴³ Kerl Transcript pp. 13, 41.

⁴⁴ Kerl Transcript pp. 13, 44.

⁴⁵ Kerl Transcript pp. 13-14.

⁴⁶ Kerl Transcript p.50.

⁴⁷ Kerl Transcript p.60.

⁴⁸ Deal Transcript pp. 6-7.

⁴⁹ Deal Transcript p.8.

⁵⁰ Deal Transcript pp. 27, 44.

⁵¹ Deal Transcript pp. 8, 17.

⁵² Deal Transcript p.8.

King.⁵³ Officer Deal recalled that while he was on his way to the call, an officer with the RTCC stated over the radio that he was monitoring a camera in the vicinity and saw the subject walk out of the Burger King and toward a maroon colored car. The RTCC officer informed officers that they would see the car as they pulled into the parking lot. Officer Deal recalled that he did, in fact, see the maroon car as he pulled in.⁵⁴ Officer Deal did not recall the RTCC officer stating whether he saw a weapon. Officer Deal stated there was a lot of information coming in and that he was processing information from multiple sources, including 9-1-1, the dispatcher, and the RTCC.⁵⁵

Officer Deal recounted that when he arrived on scene, he positioned his car to the rear of the Honda at a 45-degree angle.⁵⁶ When he arrived on scene, there were two people inside the Honda, a driver and a passenger. The suspect was crouched next to the open passenger door of the Honda.⁵⁷ Officer Deal stated that he immediately got out of his vehicle. He did not hear the suspect say anything to the passenger.⁵⁸ Officer Deal recounted that upon getting out of his vehicle, he drew his service weapon and gave loud verbal commands to “let me see your hands.” The suspect did not respond and did not give any indication he was going to comply with their commands.⁵⁹ Officer Deal recalled that the suspect was “looking.” Officer Deal stated “[i]t was almost as though he was looking into the vehicle, but I mean he wasn’t acknowledging us, there was no indication he was gonna comply with our commands.”⁶⁰ Officer Deal explained that:

[C]ompliance would have been the subject raising his hands so that I could see his hands so that it would be...less threatening; him laying down on the ground, even acknowledging us. But there was none of that. There was no acknowledgment at all, to either myself or to Officer Kerl.⁶¹

Officer Deal later reiterated that the subject never announced he had a weapon, said he was dropping the weapon, put his hands up, nor showed his hands.⁶²

Officer Deal stated that the subject was crouched down between the open passenger side door of the Honda and the vehicle to the suspect’s rear. He could not see the subject’s hands, only the upper portion of his body.⁶³ Officer Deal stated that Officer Kerl got out of her car and drew her weapon. She crossed in front of him and became the primary contact officer. Officer Deal kept his weapon trained on the suspect and gave multiple loud verbal commands to “let me see your hands.”⁶⁴

⁵³ Deal Transcript p.9.

⁵⁴ Deal Transcript p.9.

⁵⁵ Deal Transcript p.26.

⁵⁶ Deal Transcript p.9.

⁵⁷ Deal Transcript pp. 10, 16.

⁵⁸ Deal Transcript pp. 23, 27.

⁵⁹ Deal Transcript pp. 10, 18, 19.

⁶⁰ Deal Transcript p. 19.

⁶¹ Deal Transcript pp. 29-30.

⁶² Deal Transcript p.45.

⁶³ Deal Transcript pp. 18, 19, 31.

⁶⁴ Deal Transcript p.10.

Officer Deal recalled that Officer Kerl positioned herself face-to-face with the suspect and there was no barrier between her and the suspect.⁶⁵ Officer Deal was at the back right corner of the Honda and was to Officer Kerl's left at this point. He was providing cover to Officer Kerl and was trying to focus on the two individuals in the car, as well as the suspect.⁶⁶ He stated that he continued to give loud verbal commands to "let me see your hands."⁶⁷

Officer Deal recalled that he could see the front of the suspect's jacket.⁶⁸ Officer Deal's recollection was that he and Officer Kerl gave commands to "let me see your hands" up until the point that the suspect pulled the weapon out of his jacket pocket, at which point they began saying "drop the gun."⁶⁹ In a later recollection in the same interview, suggesting some uncertainty on the sequence of events, Officer Deal said that he may have given the command to "drop the gun" before actually seeing the gun.⁷⁰ Officer Deal stated that even though he had not seen the gun, he had reason to believe the suspect was armed based on the information he had received up until this point.⁷¹

Officer Deal recalled that the suspect very casually looked up at the officers, then looked back toward the inside of the Honda.⁷² The suspect then reached into his jacket pocket and pulled out a compact handgun.⁷³ Though his precise sequencing of events does not appear to be corroborated by other available evidence, Officer Deal's recollection was that after the suspect produced a gun, he and Officer Kerl gave commands for the subject to drop the weapon, but he was not acknowledging or complying with commands almost as if they were not there.⁷⁴

Officer Deal believed the subject pulled the gun out from the right side of his jacket using his right hand.⁷⁵ Officer Deal recalled that "the weapon was positioned as though he was getting ready to draw, it wasn't pointed at the ground. It was pointed over towards...it would have been towards us as he pulled it out of his jacket with his right hand."⁷⁶ When asked which way the barrel of the weapon was pointed, Officer Deal stated:

I could see the way that the gun...as he was retrieving the gun out of his jacket pocket which way the gun was pointed which it would have been in our general direction. Meaning that if as he pulled it

⁶⁵ Deal Transcript p.10.

⁶⁶ Deal Transcript pp. 10, 22, 23.

⁶⁷ Deal Transcript p.23.

⁶⁸ Deal Transcript p.24.

⁶⁹ Deal Transcript p.32

⁷⁰ Deal Transcript pp. 32-33. It is clear from the entirety of Officer Deal's interview that he is not entirely sure of the order in which the commands were given. Officer Kerl's body-worn camera shows the two officers giving commands to "let me see your hands" followed by commands to "drop the gun" prior to the gun being produced by the suspect.

⁷¹ Deal Transcript pp. 34, 41.

⁷² Deal Transcript pp. 10, 23.

⁷³ Deal Transcript pp. 11, 25, 35.

⁷⁴ Deal Transcript pp. 11, 24. Again, Officer Kerl's body-worn camera does not corroborate any commands being given to the suspect in the short time between the suspect producing the gun and the shooting.

⁷⁵ Deal Transcript p.31.

⁷⁶ Deal Transcript p.26.

out the gun would have been pointed at us...it would have been pointed at Officer Kerl.⁷⁷

Officer Deal recalled the suspect was not holding the gun by a finger or two. "I mean it was...a full grip. So, he had it palmed in his hand – it was a grip – he had a grip on the gun."⁷⁸ Officer Deal did not believe the suspect was trying to hold the gun with his fingertips to drop it to the ground. He believed the suspect "was going to pull that weapon, retrieve it from his jacket pocket, and shoot the weapon – fire the weapon at us."⁷⁹ Officer Deal stated that he perceived a threat "to our lives and their lives."⁸⁰ Officer Deal further explained that the moment the subject went into his jacket was a threat. "I didn't know what he was going for...the information that I received was that he was armed with a gun. So, he's going inside his jacket pocket and pulls the weapon out."⁸¹

Officer Deal recalled that Officer Kerl fired twice. He said he did not fire because it happened quickly and he was focusing on all three individuals (the driver who exited the Honda, the unknown passenger who remained in the Honda, and the suspect next to the Honda).⁸² Officer Deal estimated it was two to three seconds from when he first saw the gun to shots being fired.⁸³ Officer Deal stated that Officer Kerl was in the best position to engage the suspect explaining that she was face-to-face with the suspect, and he was at the rear of the vehicle.⁸⁴ Officer Deal stated that if he had been in Officer Kerl's position, he would have fired as well.⁸⁵

Officer Deal recounted that after the shooting, Officer Kerl secured the firearm that the suspect was pulling from his jacket pocket and placed it on the trunk of the car that was parked beside them.⁸⁶ Officer Deal made contact with the passenger, not knowing who he was or if there was another weapon on scene. Officer Deal told him to keep his hands on the dash.⁸⁷ Officer Deal stated he then checked the suspect and determined him to be non-responsive. He requested medic and fire who provided aid when they arrived.⁸⁸ He had the passenger exit the vehicle through the driver's side and patted him down for a weapon.⁸⁹ Officer Deal recalled he learned the passenger was the manager and the person who was crouched down at his door had been in a relationship with one of his employees up until about two months ago. The employee had started dating another employee at the restaurant.⁹⁰ Officer Deal was then escorted by Officer Walsh to Sgt. Overcash's car.⁹¹

⁷⁷ Deal Transcript pp. 39-40.

⁷⁸ Deal Transcript p.40.

⁷⁹ Deal Transcript p.47.

⁸⁰ Deal Transcript p.25.

⁸¹ Deal Transcript p.38.

⁸² Deal Transcript p.28.

⁸³ Deal Transcript p.39.

⁸⁴ Deal Transcript p.28.

⁸⁵ Deal Transcript pp. 48-48.

⁸⁶ Deal Transcript pp. 11, 36-37

⁸⁷ Deal Transcript p.11.

⁸⁸ Deal Transcript pp. 11, 29.

⁸⁹ Deal Transcript p.12.

⁹⁰ Deal Transcript p.12.

⁹¹ Deal Transcript p.12.

K.J. (Burger King employee)

K.J. was interviewed at the Law Enforcement Center. K.J. stated she was working as the assistant manager on the morning of March 25, 2019. A.L. and T.S. were also working. The decedent, who is the father of A.L.'s children, came into the store. K.J. described the decedent as a black male, approximately 6 feet tall, slim to average build, wearing a gray and black jacket, short hair, and in his 20s. The decedent had two of A.L.'s daughters with him.

K.J. recalled that when the decedent came inside, he was not in his right mind. K.J. called 9-1-1. The decedent came inside looking for T.S. The decedent chased T.S. outside. R.N. locked the door to the dining room. The decedent was able to pull the door open, and he came back inside. The decedent hit A.L., and she fell to the ground. The decedent was in possession of a small, black handgun. He jumped on the counter and pointed the handgun out in an aggressive manner. K.J. did not see from where the decedent pulled the gun. The decedent was very upset and then went after A.L. again.

The general manager arrived at the store and was outside in his car by the front door. A.L. was still inside. Two officers arrived on the scene: a man and a woman. K.J. heard a lot of yelling by the officers. K.J. recalled the officers were telling the decedent to either put his hands up or put his hands down. The officers were giving loud commands and she heard them repeat the commands at least two times. She said she then heard three to four shots fired, though available evidence does not corroborate this impression.

T.S. (Burger King employee)

T.S. was interviewed at the Law Enforcement Center. T.S. stated that he works at the Burger King and clocked in on March 25, 2019, at 7:40 a.m. T.S. was dating a coworker, A.L., who also works at the Burger King. A.L. called him that morning because she was the only cook and needed help, so he came in to work. T.S. knew A.L. had two children with someone named Danquarius [sic]. T.S. stated that he and A.L. have been dating for about two months and went apartment shopping the previous weekend, and they were planning on moving in together the following week. T.S. stated that the father of A.L.'s children somehow obtained T.S.'s phone number and started texting and calling him, threatening to hurt him and shoot him. On the morning of the shooting, Danquarius [sic] started threatening him over the phone, and T.S. blocked the number.

While T.S. was at work on the morning of March 25, 2019, A.L. told him that her ex was on the way to the Burger King and that he should leave. Her ex arrived at the Burger King and started chasing him around the inside and outside of the store. He knew the decedent had a gun because A.L. had told him about a gun that the decedent owned. The decedent pushed A.L. to the ground. The decedent chased him around the Burger King twice and pointed the gun at him the second time as he was being chased, but T.S. was already rounding the corner, so he did not think the decedent had time to shoot. The decedent had both arms extended like he was aiming the gun. T.S. was able to run around the drive-thru area and managed to run through the bushes to the 7-Eleven store next door, and that is when the police arrived. He did not see what happened when police arrived.

A.L. (Mother of the decedent's children)

A.L. was interviewed by detectives at the Law Enforcement Center. A.L. advised she was the mother of the decedent's children, and they had recently broken off their relationship. She had been with the decedent for 11 years total, although they had broken up several times. She described an incident that occurred a few weeks earlier when she learned from police that the decedent was threatening to shoot her. He was ultimately admitted for evaluation at Behavioral Health at the time of that incident. He stayed there for four to five days. She advised it was at that time she had decided to end their relationship.

A.L. advised that the decedent had been diagnosed with bipolar disorder and she thought he had been taking his medication. She further advised he would drink on a regular basis even while he was on his medication. She did not know whether he was taking any other medications or using any illicit drugs. A.L. further advised that when the decedent was admitted to Behavioral Health, she decided to hide his firearm, a Ruger, since he had been threatening to shoot her. She described moving the firearm from under the mattress to a location under the passenger seat of her vehicle. She said she met with the decedent on March 24, 2019, and as they were sitting in her vehicle talking, he found his firearm that she had hidden.

A.L. stated that the decedent had been threatening T.S. via text messages. A.L. advised that she was at work when she received a call from the decedent, who stated that he was coming to her workplace. She advised he was upset and she was concerned for her safety and the safety of her coworkers. A.L. knew he had a gun and told her manager to lock the doors. She stated that given what was going on with him, she was concerned for everyone else's safety. A.L. stated she told her manager what was going on, and employees were directed to call 9-1-1 if he came to the restaurant. A.L. advised the decedent arrived at Burger King with two of her children, ages 4 and 7. She described the decedent as being very irate and that he started looking for a coworker of hers, T.S., who she had been dating. She advised the decedent began chasing T.S. around the kitchen area of the restaurant, and the decedent ultimately pulled out a gun. The employees told T.S. to run. She described T.S. as running out of the business. She believed that if T.S. had stayed, the decedent would have shot him. The decedent put the gun away and was trying to run after T.S. A.L. advised she attempted to calm the decedent down, but he ultimately slung her to the ground.

A.L. advised a short time later the general manager arrived at the restaurant, and the decedent walked to the general manager's car and knelt down beside the car and was crying in her boss' arms. She advised it appeared the two of them were talking when the police arrived. She advised she did not see the gun in the hands of the decedent when he was beside the car. A.L. stated that her boss was telling the decedent to take it out and put it down because all the police knew was that he was armed and "when you feel like a person is armed...you just don't take no risk...." A.L. stated that the police repeatedly asked the decedent to put his gun down, but she knew he had already put it up. She went outside to calm him down, but police told her to go back into business. She stated that it seemed like the police knew they were going to shoot him. She advised she was inside when she heard two gunshots.

T.G. (Burger King general manager)

T.G. was interviewed at the Law Enforcement Center. T.G., who is the general manager of the Burger King, stated he received a telephone call on the morning of March 25, 2019, from the store manager K.J. regarding A.L. having problems with the father of her children. K.J. informed T.G. that the decedent was on the way to the restaurant. T.G. told K.J. to call 9-1-1 if he showed up.

While on the way to the Burger King, T.G. received a telephone call from S.M., a cashier at the Burger King. S.M. informed him the decedent was inside the restaurant with a gun. T.G. stated he arrived in the parking lot with his wife, who was dropping him off there. While in the parking lot, he observed the decedent kicking and banging on the door to the restaurant. He described the decedent as being in a total rage. T.G. stated the decedent is the father of A.L.'s children, and he had been at the restaurant before with the kids.

While sitting in the front passenger seat of his vehicle, T.G. opened the car door and asked the decedent what was going on. The decedent walked right next to T.G.'s car and asked where T.S. was. The decedent knelt and began speaking to T.G. while T.G. was still seated in the front passenger seat. T.G. stated he is in the ministry, and he began to pray with the decedent. While speaking with him, the decedent told T.G., "she let him in the house."

Seconds later, the police arrived behind his vehicle and began giving the decedent verbal commands to drop the weapon. The weapon was concealed. T.G. stated he did not see a weapon in the decedent's hand. When they were telling him to drop the weapon, the decedent was just "staring at a gaze." The decedent was not saying anything to T.G. and not responding to officers. T.G. told him not to do anything stupid, and the decedent did not respond. T.G. said "he was just in a daze." The weapon was concealed in the decedent's coat. It looked like it was tucked into his jacket or jogging pant area. T.G. saw the decedent reach for the gun. That was the first time he had seen the firearm.

While still kneeling in the door of T.G.'s vehicle, the decedent reached to his side and pulled a handgun slowly from his front jacket or pants area. T.G. explained that the decedent did not reach aggressively, but he would not speculate on the decedent's mindset. He described that the decedent's motion was very slow, but he was still pulling out a gun. He did not know what the decedent was going to do. T.G. stated, "I didn't know if I was getting ready to get shot or whatever. I just know they were saying drop the weapon so okay." As the decedent was removing the handgun, the police shot him. [T.G. demonstrated how the decedent was holding the firearm.](#) T.G. stated police then gave him verbal commands to put his hands on the dashboard, and he complied.

A.G. (Wife of the general manager)

A.G. was interviewed by detectives at the Law Enforcement Center. A.G. stated that she was the driver of the burgundy vehicle that pulled into the parking lot. Her husband, T.G., is the manager of the Burger King. A.G. stated that they were on the way to the Burger King when T.G. got a call from a female employee about someone acting disorderly. Her husband appeared to know what was going on. T.G. told the employee to lock the doors so no one would get hurt. A.G. stated that when they pulled up to the Burger King, she could see the decedent inside,

beating on the glass door with his elbow. She could not see anything in his hands at that point. A.G. stated that she stopped her husband from getting out because she did not want him to get hurt. The decedent came out and asked T.G., "Where is he?" and T.G. said he didn't know. T.G. was trying to calm the decedent down, and the decedent hugged her husband. A.G. stated that the police pulled up and told the man to put the gun down. When she heard that, A.G. got out of the car and walked away from the vehicle because she was not sure what was happening. She kept hearing the police say, "put the gun down, put the gun down," and she told the decedent to put the gun down if he had one. She recalled the police saying "put the gun down" at least four times. A.G. advised she looked at the decedent and the decedent was looking at her with a blank stare like he had zoned out, and then she heard the shots.

A.G. could not see whether the decedent had a gun or was holding a gun from her position. She stated that T.G. also told the decedent to put the gun down. She heard two to three shots. She did not know who fired the shots. She walked to the other Burger King doors, and one of the employees inside let her in.

S.M. (Burger King cashier)

S.M. was interviewed at the Law Enforcement Center. S.M. stated that she was working at the Burger King on the morning of March 25, 2019. She stated she was at work when all of a sudden, the father of A.L.'s children barged into the restaurant and said, "Where's he at, where's he at?" The decedent went to the back area looking for T.S. and started aggressively chasing him around the kitchen area and threatening to kill T.S. Everyone was telling T.S. to run. T.S. managed to run out of the door, and the decedent chased after him. A.L. tried to stop the decedent from going outside, but he pushed her to the ground. As T.S. was running away, S.M. saw the decedent with a gun in his hand, waving it around, fighting and yelling at A.L. with the gun. At one point, she saw the decedent talking to A.L. and waving the gun in his hand, telling her "this was all her [expletive] fault." She stated that she was scared for her life, so she left the Burger King before the police arrived.

J.T. (Burger King employee)

J.T. was interviewed by detectives at the Law Enforcement Center. J.T. advised she overheard a conversation A.L. was having with the manager about her boyfriend, who was on the way to the restaurant. She advised the decedent arrived with two of A.L.'s children and was very angry and upset. She stated she has never seen the decedent like that. He was irate, she said, and it looked like his "mouth was white," presumably suggesting he was frothing at the mouth. He jumped on the counters and knocked all the stuff down, J.T. stated. She advised A.L. tried to calm him down, but he pushed her and began chasing T.S. around. She advised she saw the decedent point the gun at T.S. while he was chasing T.S.

She advised she was inside when the officers arrived and could not hear what they were saying, but she could see their lips moving and could tell they were telling him to put the gun down. She was by the drink machine when she heard the gunshots. She assumed it was the decedent shooting at police but later learned the police had shot at the decedent. J.T. explained that while the decedent was talking to T.G., she could not see the gun because the decedent was crouched down.

J.T. advised she recorded some of the events on her cellphone.

W.M. (Customer)

W.M. was interviewed by detectives at the Law Enforcement Center. W.M. advised he was at the Burger King waiting on his food when a man entered the business. He described the man as being very angry. He stated the decedent went behind the counter, and then he heard the sound of items being thrown around in the kitchen area. W.M. observed another man run from the kitchen area being chased by the decedent. W.M. advised a female tried to stop the decedent, but he pushed her to the ground and ran outside. W.M. described the decedent as “wide open, hot, livid.” The decedent had a small black handgun in his hand. W.M. advised that, once outside the business, the decedent pointed the gun at the person running away, but he never fired the weapon.

W.M. advised he was in the parking lot when the police arrived and saw the decedent kneeling down beside a car. W.M. did not have a full view of the decedent, but it appeared he was talking to someone in the car he was knelt down beside. W.M. advised the police began yelling for the person to drop the gun several times. He recalled that, at first, he heard them tell the decedent to put the gun down and, judging from the tone of the officers’ voices, he did not think the decedent was posing a threat, but the officers kept telling him and then he could hear a change in their tone, which became more assertive. He heard two gunshots.

J.M. (Customer)

J.M. was interviewed by detectives at the Law Enforcement Center. J.M. stated he arrived at the restaurant and witnessed the employees running out, being chased by a man with a gun. He stated that he observed the decedent pointing the gun at employees. The decedent then returned to the business and tried to get in, pounding on the door. The decedent must have broken back in, J.M. said. The decedent then came back out screaming and shouting and started pointing the gun, which he described as a black semi-automatic firearm. J.M. believed the decedent was going to shoot, that the employees were in danger, and he was afraid to get out of his car.

The last time J.M. saw the decedent with the gun, he was pointing it and walking down toward the employees, but he came back and started pounding on the door and no longer had the gun. The decedent broke back in, and the people inside the restaurant scrambled.

The decedent next walked to a red vehicle that belonged to the manager, who had arrived. While the decedent was speaking to the manager, two officers arrived. J.M. advised that he heard the officers both tell the decedent to “Drop the gun!” approximately 15 to 20 times. He then heard two gunshots. He was unable to see the male at that time and could not state whether he had a weapon or not because he was crouched down. J.M. stated that the police did their job and all the decedent had to do was obey their commands.

R.N. (Burger King employee)

R.N. was interviewed by detectives at the Law Enforcement Center. R.N. advised he was working at the Burger King. R.N. was outside the Burger King when he saw T.S. running alongside the drive-thru and then run inside the Burger King. The decedent was behind him wearing a sweater or jacket. The decedent pulled out a gun and possibly chambered or cocked it.

The decedent then ran inside the Burger King. T.S. ran back out and kept running away from the Burger King.

R.N. walked back into the Burger King and saw the decedent with the gun. The decedent then walked out the front door. He then pulled the front door back open and started yelling at A.L. stating, “You did this – you did this.” The decedent – with the gun – then went back out the front door. R.N. stated that as the decedent was walking out, he put the gun in his jacket.

R.N. stated that at this point, the general manager pulled up and said, “What’s going on?” The general manager started talking to the decedent by the general manager’s car and hugged him, and the decedent started crying. R.N. stated that the police then pulled up. The two officers drew their guns and told the decedent several times to drop the gun. R.N. stated that what felt like five to 10 minutes later, he heard three to four gun shots. Again, the available physical evidence suggests only two shots were fired. R.N. advised that he did not know whether the decedent had pulled the gun back out.

S.S. (Burger King employee)

S.S. was interviewed at the Law Enforcement Center. S.S. works at the Burger King. She stated she arrived to work around 8:07 a.m. on March 25, 2019. She knows the decedent as “Dchris.” The decedent was texting T.S.’s phone, and S.S. knew that the decedent was coming to the Burger King.

S.S. went outside to smoke and saw T.S. running out the building and the decedent running out, chasing after T.S. S.S. stated she was scared for her life. She and T.S. ended up running around the building twice. The first time, she did not see the decedent with a gun, but the second time, she did see the gun. She saw the decedent chasing after T.S. with the gun and saw the decedent pointing the gun at T.S. While the decedent was chasing after T.S. with the gun, S.S. got scared and asked a customer in the drive-thru for a ride. S.S. got in the back seat of the customer’s car, and they drove away and went across the street to the McDonald’s parking lot.

S.S. stated that she saw the police pull up and could hear the police yelling at the decedent to put the gun down. She heard two shots and, when it was all over, she went across the street to talk to police.

E.B. (Customer)

E.B. stated that she was driving from Gastonia and stopped at the Burger King. E.B. parked and was facing the Burger King doors as she talked with a coworker. She stated that she saw a bunch of employees running out of the door and then saw a man come out of the Burger King. She immediately knew something was going on because the man looked like he was chasing someone. The man ran around the Burger King, and she saw him come through the same doors again, but this time, he was holding a black handgun in his hand. He looked around as if he was looking for someone in particular. He ran toward the drive-thru. When she saw this, she immediately left and drove down the street to seek safety. She went to a store across from the library and came back to the McDonald’s. She saw T.S. go into the library on Beatties Ford Road. When she got to the McDonald’s, the police were already at the Burger King and “whatever happened had already happened.”

M.H. (Customer)

M.H. advised he was in the drive-thru of the Burger King when he saw people running around outside. An upset female wearing a Burger King uniform ran up to his car and asked to get into his vehicle. M.H. stated the female got into the back seat of his vehicle. The female stated that the decedent was inside the Burger King with a gun. The female told him that the decedent was chasing after his ex-girlfriend's new boyfriend. M.H. stated he drove from the Burger King drive-thru across the street to the McDonald's parking lot. The female was still in the back seat and was scared. The female pointed out a man who was standing next to a burgundy Honda and identified him as the person who had the gun. The police then pulled into the parking lot of the Burger King. Two police cars pulled in and drew their guns on the male beside the Honda. Shortly after the police arrived and drew their weapons, he heard two shots.

R.L. (Customer)

R.L. stated that he had stopped at the Burger King to meet a client who was supposed to pay him for a job. He was in the parking lot facing the restaurant entrance that faces the parking lot when he saw people running out of the side door. R.L. saw the decedent come running out of the door, chasing after another man. R.L. stated he saw the decedent pointing the gun at the subject he was chasing. The decedent then went back inside the Burger King and stuck the gun back in his pocket. R.L. believed the decedent put the gun in his left pocket.

R.L. recalled that a burgundy vehicle pulled into the parking lot and parked in front of the Burger King doors, and the decedent began talking to the front seat passenger of the car and gave the passenger a hug. At that point, the police pulled up, and two officers ordered the decedent to drop the gun numerous times. R.L. had no doubt the decedent knew who the police were and heard them. R.L. stated that the passenger in the car was telling the decedent to put the gun down. R.L. said officers told the decedent to back away from the man in the car.⁹² He could hear the officers yelling at the decedent and telling him to drop the gun several times, and then he heard the shots being fired by police. From his position, he could not see what the decedent was doing when police shot because the subject was kneeled or bent down. R.L. stated that he did not believe the officers had a choice.

Precious Robinson

Detectives investigating at the scene located a person they described as a red-haired black female speaking to reporters and a group that had gathered across the street from the Burger King. Detectives noted that she appeared to be making statements to the media that indicated she had direct knowledge of what occurred at the Burger King. Detectives stated that the female did not make herself available to be interviewed by police at the time.

The female described by detectives appears to be the person interviewed by members of the media who identified herself as Precious Robinson. She is referenced in the following media reports:

⁹² Other evidence suggests it is likely R.L. heard officers instructing other onlookers to back away from the burgundy vehicle.

<https://www.charlotteobserver.com/news/article228373559.html>
<https://www.wfae.org/post/activists-officer-who-shot-franklin-must-be-charged#stream/0>

In a video published by the Charlotte Observer, Ms. Robinson claimed that there were two men fighting. She stated that one man was trying to protect an employee from another man who was threatening the employee. She claimed that the man who was protecting the employee and the man who was threatening the employee engaged in a fist fight. She stated that the man who had been threatening the employee was beaten in the fist fight and pulled out a pistol. She claimed that when the police arrived, the man with the pistol ran and the man who had been protecting the employee started to walk back to a car. She claimed police started telling him to drop the weapon, but he did not have a weapon and police shot him.

The account given by Precious Robinson to the media, and not law enforcement, is not consistent with the physical evidence, the video evidence, or the accounts of more than 14 civilian witnesses who agreed to be interviewed by detectives.

E. Video evidence

The events leading up to the shooting were captured by both Burger King surveillance cameras and cellphone video by J.T., a Burger King employee. As stated above, although the information in this video evidence encompasses details of events occurring prior to Officers Deal and Kerl's arrival that would not have been known to Officers Deal and Kerl at the time of the encounter, this information is relevant to the legal analysis of this incident. Were Officer Kerl to be charged in this matter, a jury would potentially hear information relating to these events because it "complet[es] the story of a crime by proving the immediate context of events near in time and place." State v. Sexton, 153 N.C. App. 641 (2002). This is sometimes called the "complete story rule."

The Burger King surveillance video captured images of the decedent arriving on foot at 8:59:18 with two children, as well as the events occurring inside the Burger King. (1-2) (3-16). The surveillance video depicts the decedent as significantly agitated, as he can be observed chasing T.S., striking A.L and pinning her against a window, and brandishing his firearm throughout the dining room of the restaurant.

Cellphone video recorded by employee J.T. captured the decedent pointing the gun at T.S. as T.S. was fleeing toward the drive-thru. (1) (2) (3).

The events occurring after police arrived were captured by Officer Kerl's body-worn camera. Officer Kerl's body-worn camera reflects that Officer Deal was the first officer to give the decedent a command. Officer Kerl's body-worn camera also reflects that the officers gave the decedent approximately 20 commands over a period of 32 seconds prior to receiving the one and only response by the decedent. Officer Deal's first command to the decedent was "let me see your hands," which was repeated numerous times by both Officers Deal and Kerl. Officer Kerl then crossed in front of Officer Deal to directly in front of the decedent and gave the command to "put the gun down," which was repeated multiple times by Officers Deal and Kerl. Officer Kerl can then be heard advising, "he's got a gun." Officers Deal and Kerl then gave numerous commands to "drop the gun" or "drop the weapon." It is at this point that the decedent can be heard giving his one and only response to officers by telling officers, "I heard you the first time."

Prior to this response, the decedent can be seen “staring” as described by the officers in their interviews, as well as shifting his gaze between the passenger, the officers, and the others present. After the decedent stated, “I heard you the first time,” Officers Deal and Kerl gave the decedent a minimum of seven more commands beginning with “drop it” and “drop the weapon now” and changing to multiple commands to “put it on the ground” and “put the gun on the ground.” Ultimately, after Officer Kerl fired two shots at the decedent, he appeared to utter, “You told me to...,” before he fell to the ground. Certainly, this evidence would appear to suggest the decedent revealed an intent to comply with the officers’ commands after he was shot. This suggestion does not resolve the question of whether Officer Kerl was reasonable to believe otherwise when she used lethal force.

Frame-by-frame analysis of body-worn camera may well be categorized as the type of hindsight analysis warned against by the courts, in that it is “more reflective of the peace of a judge’s chambers than of a dangerous and threatening situation on the street.” In fact, the timeframe between the gun first becoming visible on Officer Kerl’s body-worn camera and the first shot by Officer Kerl could be measured in tenths of a second. Similarly, while frame-by-frame analysis of the body-worn camera is helpful in supplementing officer recollections to determine how events have transpired, the actual view and perceptions of a moving officer will necessarily be different than the events captured by a fixed camera mounted at chest level. With those caveats, a careful analysis of the body-worn camera at the time of the shooting appears to show the decedent [holding the firearm in his right hand](#). The gun is not perfectly parallel or perpendicular to Officer Kerl. Instead, it appears that the butt of the gun is slightly angled in Officer Kerl’s direction. As discussed below, this is not consistent with the account of T.G., the civilian witness who appears to be in the best position to see the gun, or the recollections of Officers Deal or Kerl. The angle of the gun may also turn slightly during the very brief period that the gun is visible, but it is impossible to determine with certainty given the angle of the video and brevity of the visibility of the gun.

Officer Kerl’s body-worn camera also confirms the presence of three individuals within feet of the decedent during the encounter with officers, although two of these individuals returned to the restaurant prior to the shooting, leaving the decedent within inches of the vehicle passenger, T.G.

F. Forensic evidence

Autopsy report

The Report of Autopsy Examination issued by the Mecklenburg County Medical Examiner’s Office found the decedent was likely shot twice resulting in three separate wounds: a through and through wound to the left upper arm which re-entered the left upper abdomen, and a separate gunshot wound to the left abdomen. The cause of death was determined to be gunshot wounds of the abdomen. Ethanol was not detected in the decedent’s blood.

A copy of the Medical Examiner’s Report of Autopsy Examination is attached to this report as Exhibit 1.

G. Analysis

There is no dispute that Officer Kerl fired her weapon and killed the decedent. Therefore, the central issue in this review is whether or not the State could meet the burden of proving to a jury beyond a reasonable doubt that Officer Kerl did not act in self-defense. This would mean proving to a jury of 12 citizens beyond a reasonable doubt that (1) Officer Kerl did not believe it was necessary to kill the decedent in order to save herself or another from death or great bodily harm or (2) that Officer Kerl's belief that it was necessary to kill the decedent was not reasonable under the circumstances.

Consistent with this office's Officer-Involved Shooting Protocol, this case was presented to a group of my most experienced prosecutors for review. This review included a presentation of the relevant evidence and considerable discussion of the evidence and issues raised in the incident, including, but not limited to, the body-worn camera, the discrepancies between the officers' recollections and the body-worn camera evidence, the commands that were given by the officers, other reasonable alternative courses of action, the admissible evidence that would be presented to a jury at any potential trial of the matter, and whether the perceptions and assumptions made by the officers were patently unreasonable under the law.

My review committee discussed the commands Officers Deal and Kerl gave during the encounter. Although the decedent did not have a gun in his hands at the time Officers Kerl and Deal arrived, based on the information in the call that there was an armed man pointing a gun at an employee of the Burger King, the fact that the decedent's hands appeared to be concealed between his legs, the decedent's lack of response to commands, and the decedent's failure to show his hands as instructed, Officer Kerl stated that she believed the weapon was in the decedent's hands and thus commanded him to "put the gun down." This belief is not patently unreasonable. Based on this belief, the compliance she expected from the decedent was either verbal, by telling her where the gun was, or physical, by dropping the gun from his hands, which would have resulted in the gun falling to the ground. As she thought the gun was already in the decedent's hands, it follows she would not have been expecting the decedent to reach for the gun and retrieve it from his jacket. These expectations are also not patently unreasonable based on the circumstances, the available evidence suggests.

My review committee discussed the positioning of Officer Kerl during the encounter as it related to the imminent danger she perceived to herself. During the encounter, Officer Kerl was in an open, largely unprotected position, increasing the perceived danger to herself. While Officer Kerl was the one who chose this position, it appears that this position, while undesirable for herself, was likely the best position to protect T.G., the passenger of the dark red Honda. Officer Kerl had the option of taking a less exposed position for herself behind the trunk of the silver car next to the decedent, but had she taken that position, the passenger of the Honda would be dangerously positioned in the backdrop if she fired her weapon at the decedent.

My review committee closely and repeatedly examined Officer Kerl's body-worn camera. The opportunity to view the body-worn camera multiple times at real speed, slow motion, and frame-by-frame could allow the viewer to conclude that the decedent was in the process of putting the gun on the ground at the time of the shooting, however, these events unfolded in real time within tenths of a second without the opportunity to pause and rewind. The rapidly evolving nature of these events and various perceptions resulting from the speed at which

events unfolded is illustrated by the different accounts of how the gun was positioned by all who were present. While the body-worn camera likely shows the decedent holding the muzzle of the gun and the butt of the gun angled toward Officer Kerl, (1) Officer Deal perceived the gun as pointed at Officer Kerl, (2) Officer Kerl believed the decedent held the gun by the handle but was not sure which direction the muzzle was pointed, and (3) T.G., the civilian who was within inches of the decedent and in the best position to see the gun, [demonstrated](#) the decedent holding the gun by the handle with the muzzle pointed toward the ground.

Additionally, as the body-worn camera depicts the decedent apparently saying, “You told me to...,” instantly after he was shot, this evidence alone, while leaving this outcome all the more tragic, is insufficient to prove the unreasonableness of Officer Kerl’s perceptions and assumptions of the danger the decedent presented before the shots were fired.

Regardless of the direction the firearm was actually pointing, the law affords an officer the right to protect his life and the lives of others by acting on her reasonable perception of the threat confronting her. The decedent did not have a criminal record of violence, but Officer Kerl, responding to two calls regarding a subject brandishing a gun, did not know that information. The law did not require Officer Kerl to wait until the firearm was pointed at her before defending herself. If an officer responding to an active crime scene waits until a firearm is pointed at her before engaging, it will likely leave that officer with no time to successfully stop a potentially deadly attack on herself or others, even if the officer is pointing her gun at an armed assailant at the time. Therefore, it can be lawful for an officer to take lethal action before it is too late to repel a deadly attack.

Specifically, reaction-time studies dealing with police shootings have concluded that an armed person is an extreme danger to an officer whether or not the person is pointing the gun at the officer.⁹³ One study’s results showed 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.”⁹⁴

Given the circumstances present, combined with speed with which the events unfolded, the State could not prove to a jury that Officer Kerl’s perception that the presence, motion, and position of the gun posed an imminent threat to her, Officer Deal, and T.G. was unreasonable beyond a reasonable doubt.

H. Conclusion

As you are aware, the statutory role of my office in the review of officer-involved shooting incidents, as with any other case in which there has been a criminal investigation, calls on me to determine the likelihood of proving the criminal culpability of an individual beyond a reasonable doubt to a unanimous jury. Generally, such an analysis does not demand I specifically contemplate the prudence of tactics or the totality of compliance with police procedures and directives. Similarly, I expect prosecutors in my office to base their case analysis, not on the unrelated bad acts of a decedent but, instead on whether a viable case can be sustained against the person who caused his death.

⁹³ J. Pete Blair et al. Reasonableness and Reaction Time, 14 Police Q. 323, 330 (2011).

⁹⁴ Id. at 338.

In the analysis above, I have described much about the events which transpired only moments before Officers Kerl and Deal had a fatal encounter with the decedent, Danquirs Franklin. I have offered some detail about those occurrences because I believe they included plausibly admissible evidence in a trial by jury. In those preceding events, available evidence suggests the defendant assaulted a former intimate partner, violently brandished a firearm in the presence of children, and terrified a number of people who had every expectation simply of getting a warm breakfast that morning. These were serious offenses, and, obviously, I would rather have seen the decedent face trial for each of them. None of those offenses that day warranted his death, and nothing stated in the analysis above should suggest otherwise.

As Officer Kerl arrived at the scene that morning, she responded instantly with only the limited information her dispatcher provided, which was that there was an armed person in the restaurant wanting to fight an employee and that employees had run out of the business. She knew nothing of the decedent's agitated state only seconds before, nor did she know that he had purportedly engaged in prayer with T.G., the passenger of the car outside the restaurant. Yet, we do know Officer Kerl was misinformed in believing the defendant was holding a firearm in his hand when she approached him. We know it would be difficult for a person not actually holding a gun in their hands to comply with the competing commands of "drop the weapon" and "put the gun on the ground." While his preceding silent "gaze" can be understood to be an indication of either passivity or defiance, the decedent's last utterances certainly offer some suggestion of at least some final intent to comply with officers' commands.

And yet, given the circumstances, the risk of serious harm to Officers Kerl and Deal, and especially to T.G., the passenger of the Honda, is compelling. Other authorities are empowered to determine whether Officer Kerl was right to assume a position which did not allow her an optimally informed vantage point of the decedent, but it seems clear she took a position that enabled her to protect the passenger of the car if the decedent confronted him with lethal force. When the decedent did indeed pull out a firearm, the car passenger, the person with the closest proximity to the decedent, stated, "I didn't know if I was getting ready to get shot or whatever." Given the available evidence and circumstances, it seems unlikely a jury would find that Officer Kerl should have had any more certainty about the decedent's intentions with the firearm.

After a lengthy and careful review of the investigation, including the information outlined above, and following a review of a team of senior prosecutors in my office, I have determined that the State could not prove to a unanimous jury beyond a reasonable doubt that Officer Kerl's belief that she faced an imminent threat of death of great bodily harm was unreasonable. Consequently, I will not be seeking charges related to the death of Danquirs Franklin.

If you have any questions, please contact me directly.

Sincerely,



Spencer B. Merriweather III
District Attorney

Exhibits:

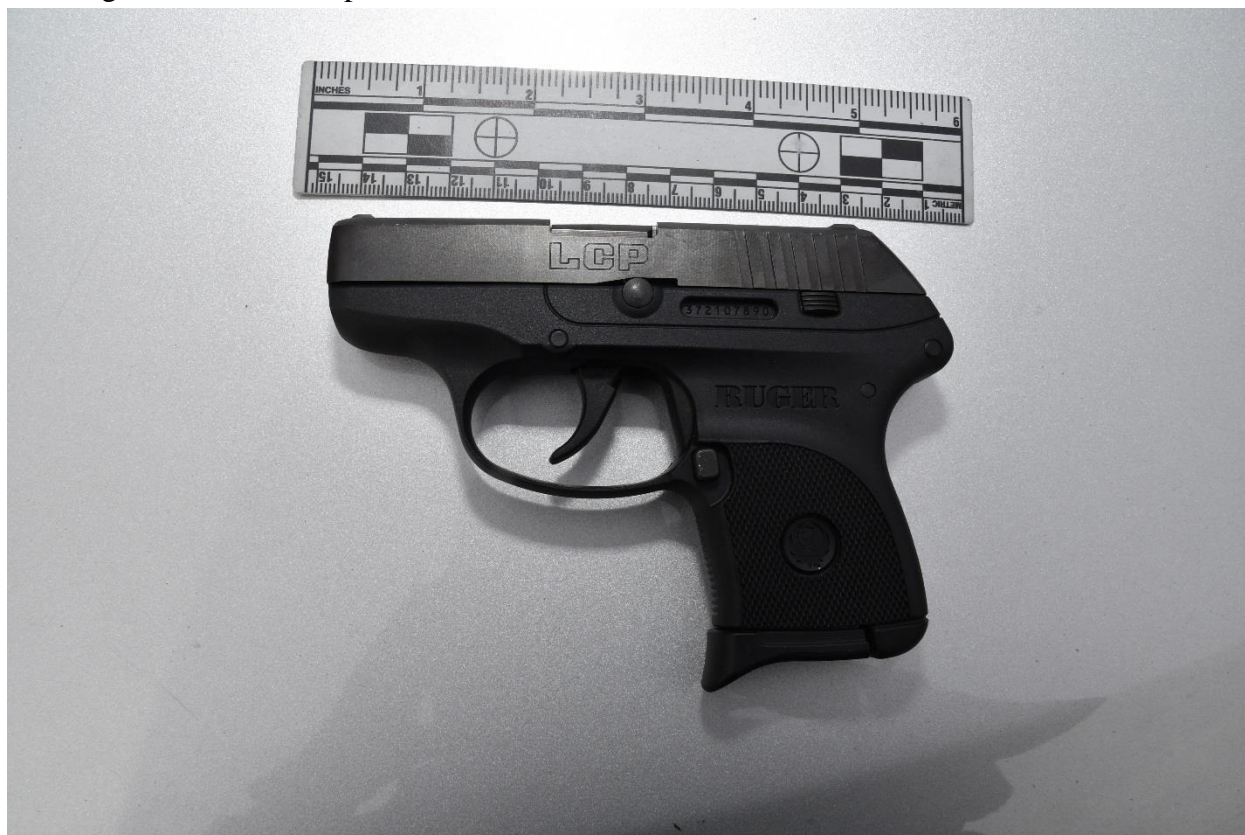
The Ruger LCP .380 auto pistol recovered from the decedent after being placed on a nearby vehicle by Officer Kerl.

[Back](#)



The Ruger LCP .380 auto pistol recovered from the decedent.

[Back](#)



The magazine from the Ruger LCP .380 auto pistol recovered from the decedent.

[Back](#)



Two shell casings were located in the area where Officer Kerl discharged her weapon. [Back](#)



The two shell casings in relation to location of the dark red Honda. [Back](#)



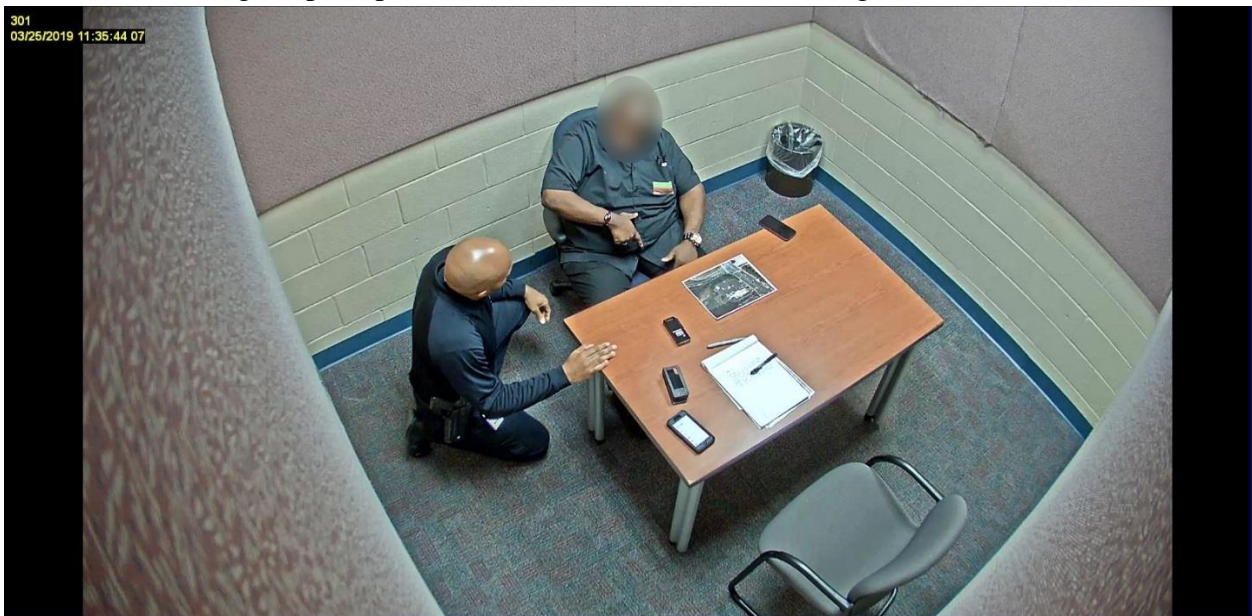
Officer Deal's body-worn camera was located on his traffic vest.

[Back](#)



T.G. demonstrating his perception of how the decedent was holding the firearm.

[Back](#)

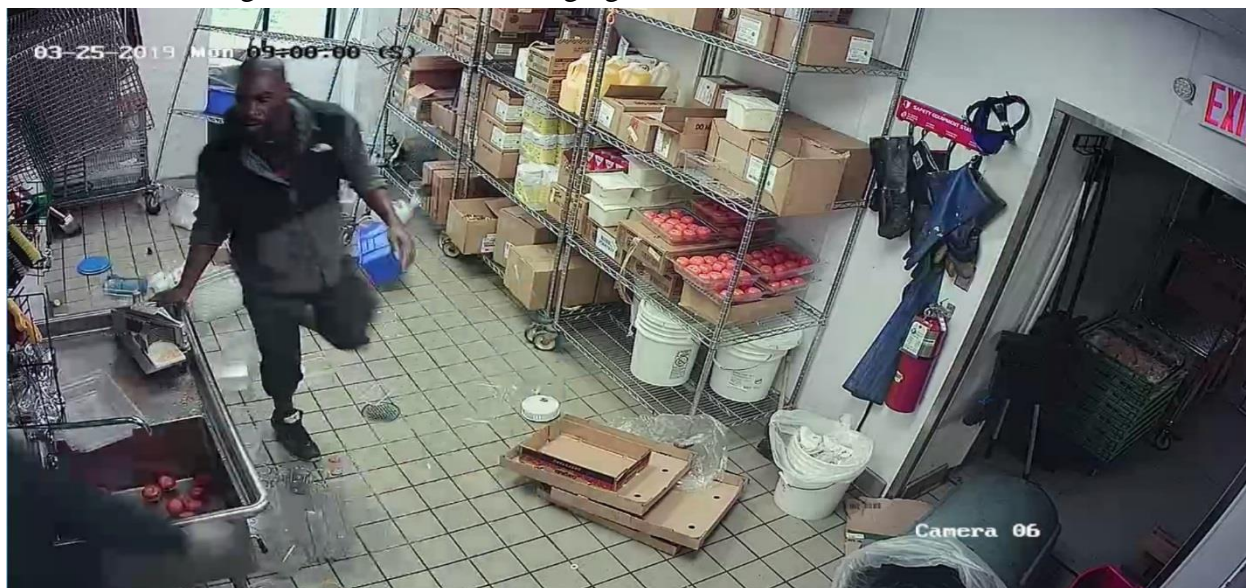


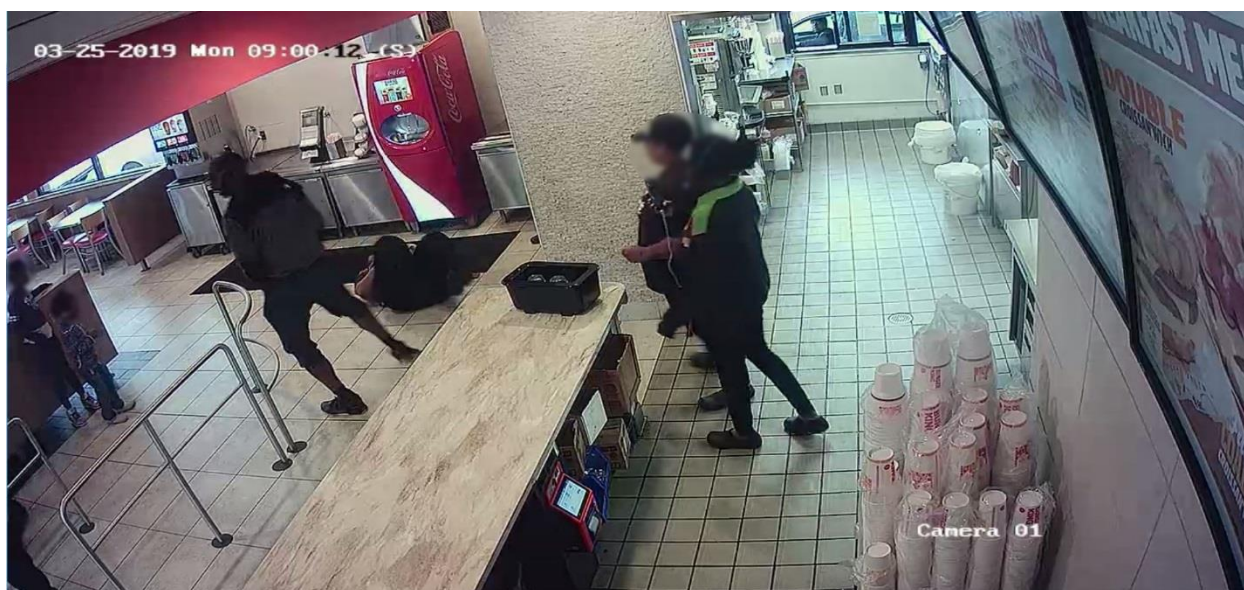
The decedent approaches and enters the Burger King.

[Back](#)



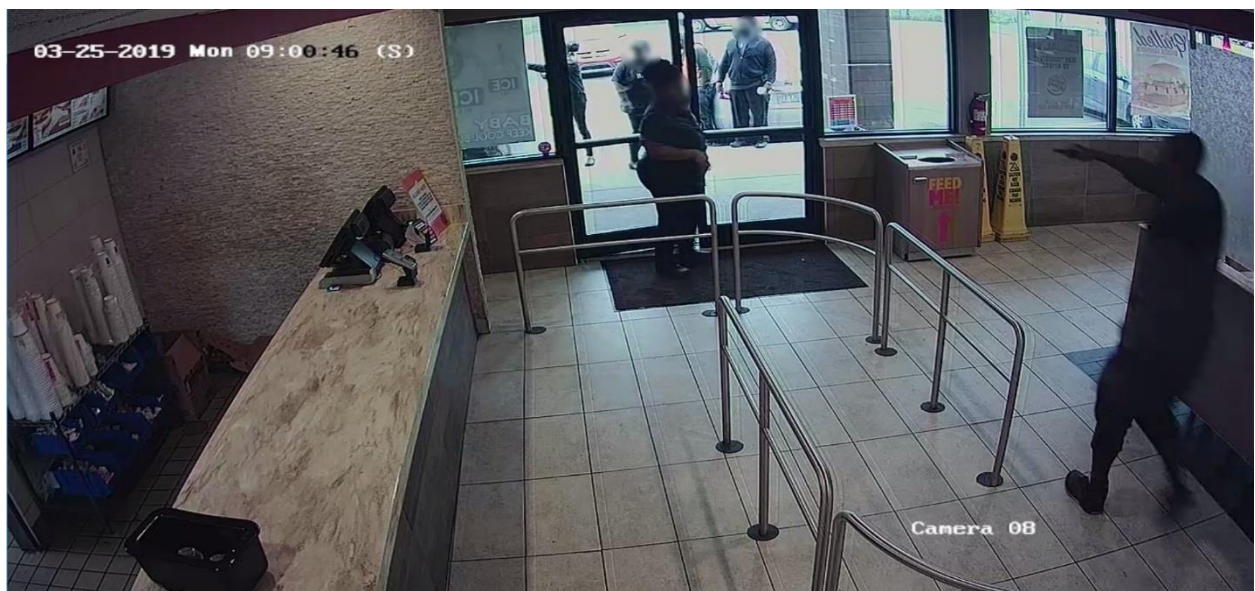
The following images depict the decedent overturning items in the restaurant, assaulting A.L., pointing the firearm in the direction of civilians, forcing his way back into the restaurant, standing on the counter, and banging on the entrance doors. [Back](#)

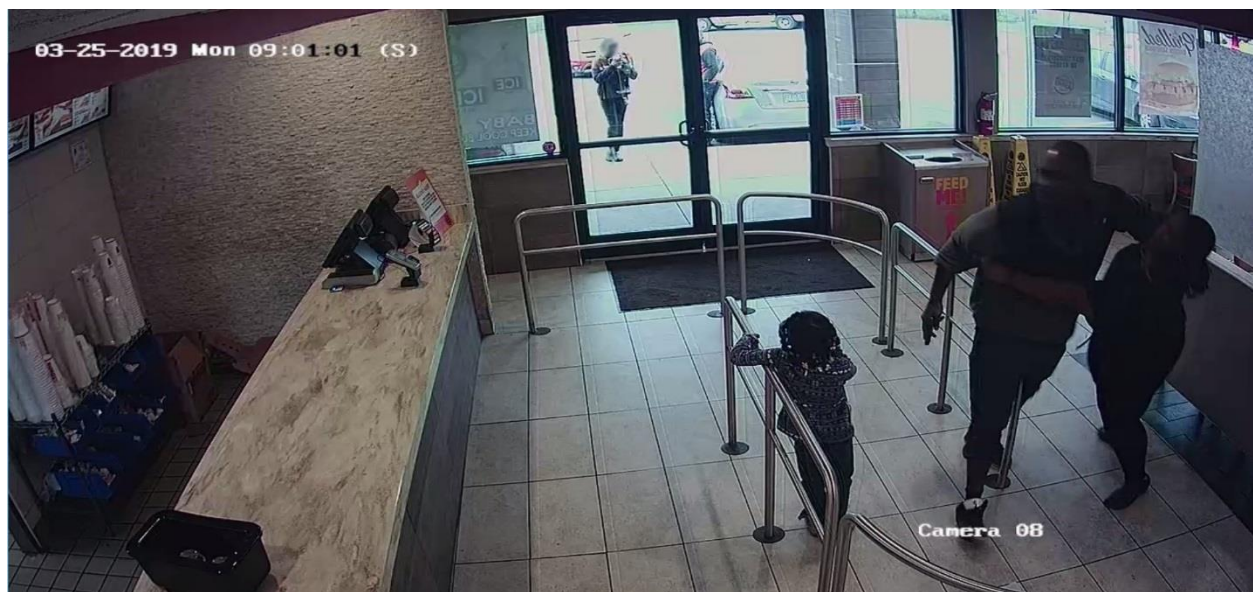






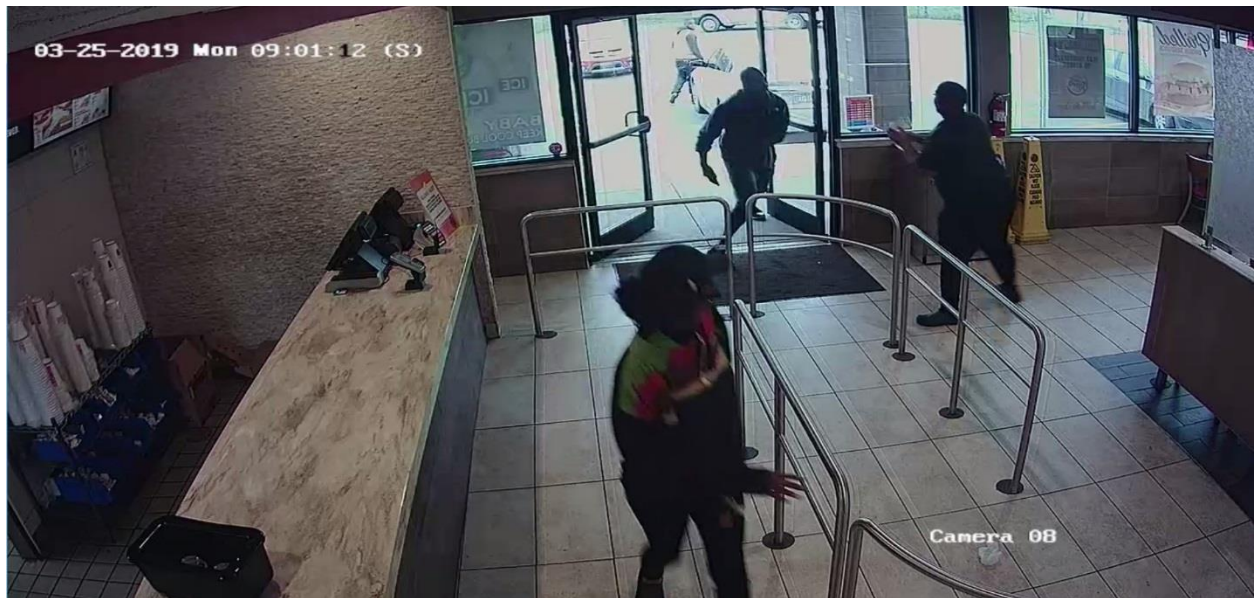
[Back](#)





[Back](#)





[Back](#)





The decedent pointing the gun at T.S. as T.S. flees toward the drive-thru.

[Back](#)



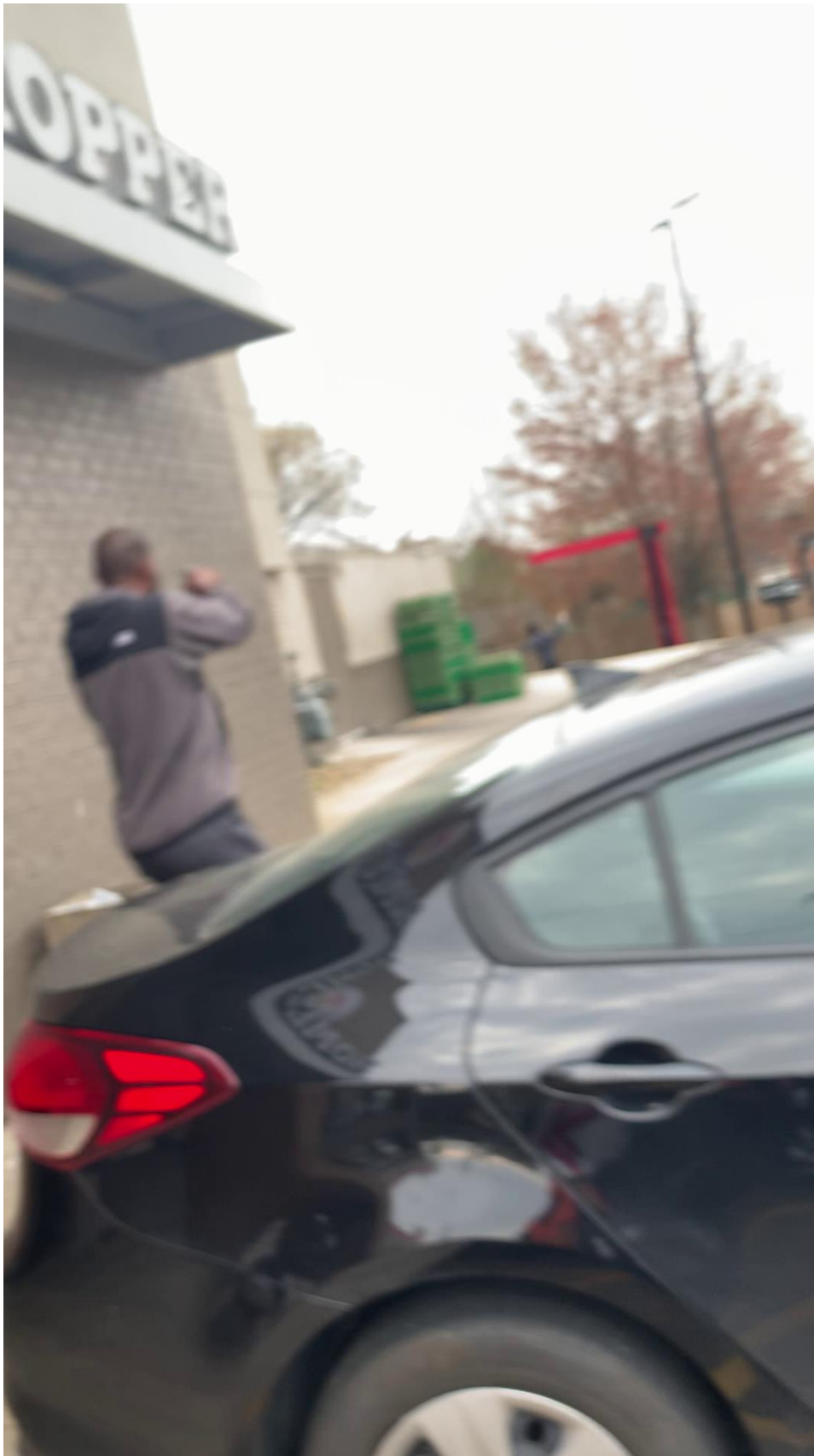
The decedent pointing the gun at T.S. as T.S. flees toward the drive-thru.

[Back](#)



The decedent pointing the gun at T.S. as T.S. flees toward the drive-thru.

[Back](#)



The firearm in the decedent's hand at the time of the shooting.

[Back](#)



Exhibit 1

Mecklenburg County M E Office

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



REPORT OF AUTOPSY EXAMINATION

DECEDENT

Document Identifier B201901706
Autopsy Type ME Autopsy
Name Danquirs Napoleon Franklin
Age 27 yrs
Race Black
Sex M

AUTHORIZATION

Authorized By James R. Lozano MD **Received From** Mecklenburg

ENVIRONMENT

Date of Exam 03/26/2019 **Time of Exam** 09:00
Autopsy Facility Mecklenburg County M E Office **Persons Present** Ms. Linnelle Banks

CERTIFICATION

Cause of Death

Gunshot wounds of abdomen

The facts stated herein are correct to the best of my knowledge and belief.

Digitally signed by

James R. Lozano MD 02 July 2019 15:16

DIAGNOSES

1. Perforating gunshot wound of left upper arm (A), exiting left upper arm
 - Soft tissue lacerations
2. Penetrating gunshot wound of left upper abdomen (B)
 - Lacerations of the liver, pancreas, small intestine, right kidney, and large intestine
 - Hemoperitoneum
3. Penetrating gunshot wound of left abdomen (C)
 - Lacerations of the spleen, left kidney, small intestine, large intestine, aorta, and liver
 - Hemoperitoneum
4. Abrasions of right forehead and cheek
5. Cardiomegaly (500 grams) with left ventricular hypertrophy
6. Pulmonary edema
7. Status post left thoracotomy

IDENTIFICATION

Body Identified By

Papers/ID Tag

EXTERNAL DESCRIPTION

Length 77 inches
Weight 219 pounds
Body Condition Intact
Rigor 2+
Livor None
Hair Black, with moustache and beard
Eyes Brown
Teeth Natural

Received is the body of a well-developed, well-nourished black man appearing compatible with the reported age of 27 years. The body is received unclothed. There are no personal effects accompanying the body. Identifying marks and scars consist of a well-healed scar on the left lateral elbow. Evidence of medical intervention consists of a nasopharyngeal airway in the right nasal cavity; endotracheal intubation; needle thoracotomy catheters in the right and left upper chest; chest tube in the right chest; sutured left thoracotomy incision from the right lower chest across to the left axilla; left chest tube incision; electrocardiograph lead on the right upper chest; abdominal drain tube in the middle upper abdomen; intravascular lines in the right antecubital fossa and right femoral triangle; and right femoral cut-down incision.

INJURIES

The gunshot wounds are lettered for convenience of description. The lettering is not intended to convey the order in which the injuries occurred. There is no evidence of soot or gunpowder stippling on the skin surrounding these wounds. Wound directions are given relative to the body in the standard anatomic position.

PERFORATING GUNSHOT WOUND OF LEFT UPPER ARM (A):

There is a 5/8" by 1/2" elliptical entrance gunshot wound on the left upper arm located 8" below the top of the left shoulder and along the posterior midline of the left arm. The wound track proceeds through the soft tissue of the posterior left upper arm and ends at an irregular 1" by 3/4" exit gunshot wound on the posterior-medial left upper arm located 9" below the top of the left shoulder and 2" medial to the posterior midline of the arm. There is no bullet or fragment of bullet recovered from the wound track. The wound path is associated with soft tissue hemorrhage. The wound direction is left-to-right and downward. ****See Note****

PENETRATING GUNSHOT WOUND OF LEFT UPPER ABDOMEN (B):

There is 1-3/4" by 1-1/4" atypical re-entrance gunshot wound with up to 1/4" marginal abrasion on the left upper abdomen located 22-1/2" below the top of the head and 4-1/2" left of the midline. The wound track proceeds through the soft tissue of the left upper abdomen; lacerates the liver, pancreas, loops of small intestine, right kidney, and ascending colon; and terminates in the soft tissue of the right flank/abdomen, where a deformed, jacketed bullet is recovered. The wound path is associated with hemoperitoneum. The wound direction is front-to-back, left-to-right, and downward. ****See Note****

****NOTE**** In the appropriate anatomic position, the wound paths of gunshots A and B align and likely resulted from the same projectile.

PENETRATING GUNSHOT WOUND OF THE LEFT ABDOMEN (C):

There is a 1/2" entrance gunshot wound with up to 1/8" circumferential marginal abrasion on the left abdomen located 26-1/2" below the top of the head and 3/4" posterior to the left axillary midline. The wound track proceeds through the soft tissue of the left abdomen; lacerates the spleen, left kidney, loops of small and large intestine, the aorta, and liver; and terminates in the soft tissue of the anterior right upper abdomen, where a deformed jacketed bullet is recovered. The wound path is associated with hemoperitoneum. The wound direction is back-to-front, left-to-right, and slightly downward.

Other Injuries:

There are minor abrasions on the skin of the right forehead and right cheek.

DISPOSITION OF PERSONAL EFFECTS AND EVIDENCE

The following items are released with the body

None

The following items are preserved as evidence

- Bloodstain card
- Deformed jacketed bullet recovered from right abdomen (gunshot wound B)
- Deformed jacketed bullet recovered from anterior right abdomen (gunshot wound C)

These items are released to CMPD Crime Scene Investigator S.R. Zay on March 28, 2019 at 2:10 p.m.

PROCEDURES

Radiographs

Anterior-posterior and lateral full-body radiographs reveal two radio-opaque projectiles in the anterior right abdomen and lateral right abdomen.



INTERNAL EXAMINATION

Body Cavities

The pleural cavities exhibit the previously described medical interventions and are free of significant fluid and adhesions. The peritoneal cavity exhibits the previously described gunshot injuries.

Cardiovascular System

Heart Weight 500 grams

The pericardial sac is free of significant fluid and adhesions. The coronary arteries arise normally, follow the usual distribution, and are widely patent without evidence of significant atherosclerosis or thrombosis. The left ventricular free wall measures 1.5 cm in thickness at a point located 1 cm below the mitral valve annulus. The chambers and valves otherwise bear the usual size-position relationships and are unremarkable. The myocardium shows no evidence of acute infarction, scarring or focal lesions. The abdominal aorta exhibits the previously described gunshot injury.

Respiratory System

Right Lung Weight 675 grams

Left Lung Weight 450 grams

Examination of the soft tissues of the neck including the strap muscles and large vessels reveals no abnormalities. The hyoid bone and laryngeal cartilages are intact. The larynx is clear. The upper and lower airways are free of debris and foreign material. The lungs are normally formed. The parenchyma of both lungs shows congestion and edema without obvious consolidation or focal lesions. The pulmonary arteries are free of thrombi or emboli.

Gastrointestinal System

The gastrointestinal tract exhibits the previously described gunshot injuries. The stomach is empty.

Liver

Liver Weight 1275 grams

The liver exhibits the previously described gunshot injuries. The gallbladder is present, contains bile, and is grossly unremarkable.

Spleen

Spleen Weight 150 grams

The spleen exhibits the previously described gunshot injuries.

Pancreas

The pancreas exhibits the previously described gunshot injury.

Urinary

Right Kidney Weight 150 grams

Left Kidney Weight 150 grams

The kidneys exhibit the previously described gunshot injuries. The bladder contains sanguineous urine.

Reproductive

Grossly unremarkable.

Endocrine

The thyroid gland and bilateral adrenal glands are grossly unremarkable.

Neurologic

Brain Weight 1375 grams

Reflection of the scalp reveals no evidence of injury. There are no skull fractures identified. The leptomeninges are thin and delicate. The cerebral hemispheres are grossly unremarkable. The vasculature at the base of the brain is intact and without significant atherosclerosis. Coronal sections reveal a normal architecture without focal lesions or masses.

Skin

Except as previously described, grossly unremarkable.

Immunologic System

Grossly unremarkable.

Musculoskeletal System

Except as previously described, grossly unremarkable. There are no fractures identified.



MICROSCOPIC EXAMINATION

Microscopic Comment

Histologic examination is not performed.

SUMMARY AND INTERPRETATION

The decedent is a 27-year-old black man who was shot.

Autopsy examination reveals three gunshot wounds on the body, with the abdominal wounds resulting in fatal injuries to multiple organ systems.

Ethanol is not detected in the decedent's blood on postmortem toxicology. Please see separate report (T2019-2715) for further toxicology details.

Based on the history and autopsy findings, it is my opinion that the cause of death in this case is Gunshot wounds of the abdomen.

DIAGRAMS

1. BODY DIAGRAM: ADULT (FRONT/BACK)
2. BODY DIAGRAM-Injuries: ADULT (FRONT/BACK)

State of North Carolina

Name of Decedent: Danquils Franklin

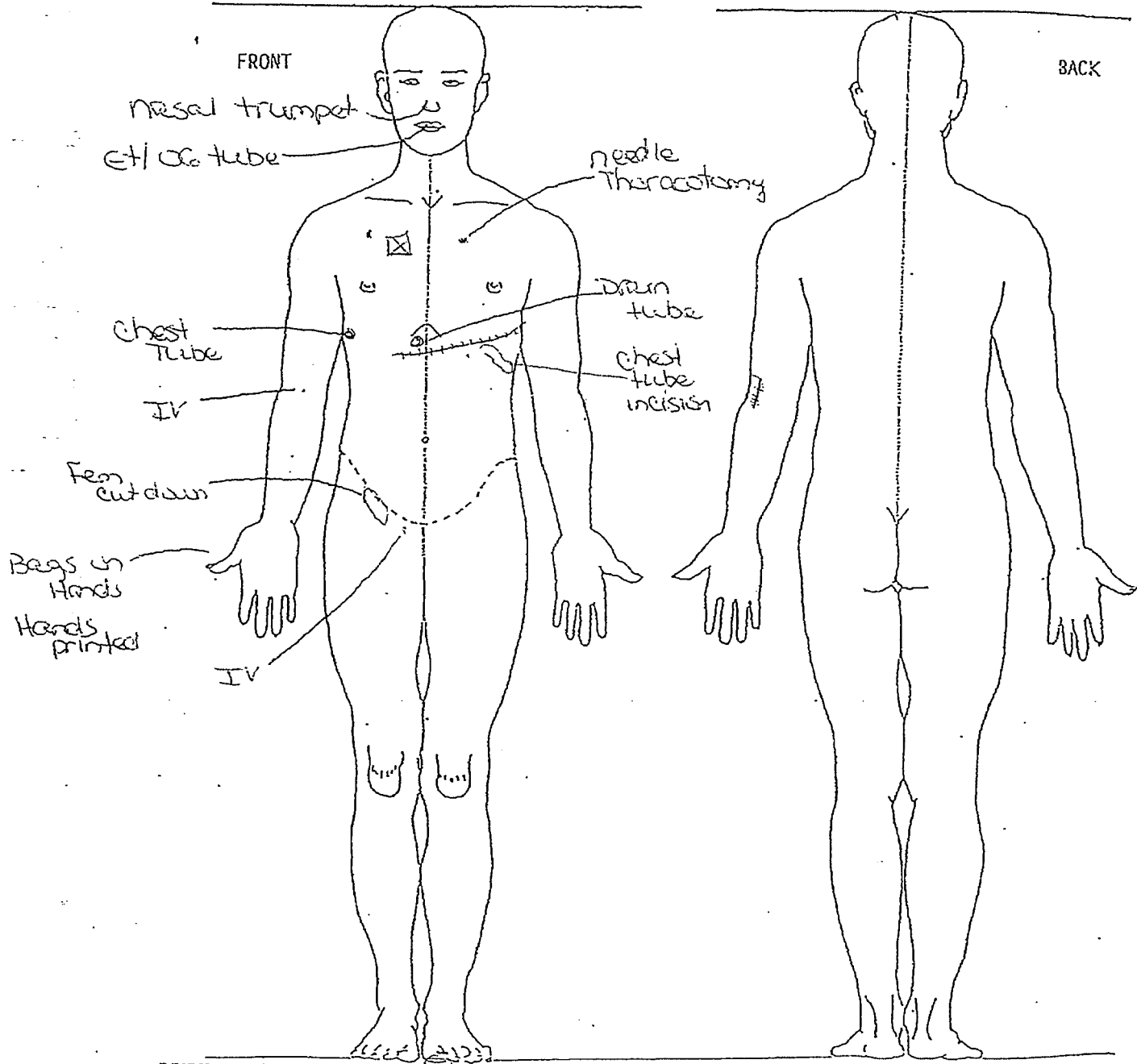
Office of the Chief Medical Examiner

Autopsy # B19-1706

Chapel Hill, North Carolina 27599-7580

Examined By: JBL Date: 3-26-19

BODY DIAGRAM: ADULT (Front/Back)

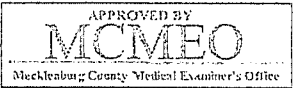


DEHR 1917 (4/97)
 Medical Examiner

Pennsylvania
 Trauma

This form may be photocopied.

PAGE 1 OF 2



Balcome, Kelly E.

From: noreply@dhhs.nc.gov
Sent: Wednesday, July 03, 2019 12:02 PM
To: Balcome, Kelly E.
Subject: No Reply: OCME Toxicology F201901334

T O X I C O L O G Y R E P O R T

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

Toxicology Folder: T201902715
Case Folder: F201901334
Date of Report: 01-apr-2019
Page: 1

Spencer B. Merriweather
District Attorney's Office
720 E. 4th Street Suite 403
Charlotte, NC 28202-3016

DECEDENT: Danquairs Napoleon Franklin

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

* * *

=====

SPECIMENS received from James R. Lozano on 28-mar-2019

S190008914: 19.0 ml Blood CONDITION: Postmortem
 SOURCE: Aorta OBTAINED: 26-mar-2019

Ethanol ----- None Detected 04/01/2019

S190008915: 9.0 ml Blood CONDITION: Postmortem
 SOURCE: Iliac vein OBTAINED: 26-mar-2019

S190008916: Liver CONDITION: Postmortem
 SOURCE: Liver OBTAINED: 26-mar-2019

S190008917: 2.0 ml Vitreous Humor CONDITION: Postmortem
 SOURCE: Eye OBTAINED: 26-mar-2019


Accredited by the American Board of Forensic Toxicology, Inc.

070319 12:01

* * * E N D O F R E P O R T * * *

B201901706

Exhibit 2

Charlotte Mecklenburg Police Department						COMPLAINT NUMBER 20190325090102		Page # 1 of 62	
2. Victim Name Danquirs Napoleon Franklin				3. Original Offense / Charge Homicide					
4. Location Of Offense 2601 Beatties Ford Rd.				5. Arrest Number		6. C.R. Number			
7. Original Report Date 03/25/19		8. Supplement Date 04/09/19		9. Correct Incident Classification					
10. Juvenile Case No		11. Multiple Case Clearance No		12. Supplement Confidential Yes		13. Purpose Of Supplement Statement Of Officer W. Kerl			
Statement of	14. Name (last, middle, first) Wende, Kerl			Age		16. Residence Address			
	17. Home Phone		18. Business Address			19. Bus. Phone			

Reviewed by Det. B. Tisdale #3045 on 04/11/19

TISDALE: Okay, Todays date is Wednesday March 27, 2019 19. The time is 2:07 Pm, this is Detective B. TISDALE code number 3045. This is reference to complaint number 20190325090102, I am at 601 E. Trade Street. In interview room 2003, with uh Sgt. THOMPSON, and Officer KERL and ah her Attorney by the name of Jeremy Smith correct?

Smith: That is correct.

TISDALE: Okay, so uh before we get started you know you're here voluntarily correct?


KERL: Yes, I do.

TISDALE: Okay, and so I just gotta go over this form before we start. And go in to questions, okay.

KERL: Okay

TISDALE: Okay, this is interdiction for is an Officer involved shooting okay. I am Detective B. TISDALE, I am Detective B. TISDALE and assisting me with this interview is Sgt. THOMPSON. Today is 03/27/2019 the time is 2:08 pm. This interview is being conducted at the LEC in interview room 2003. Due to your involvement in an Officer involved shooting. Sgt. THOMPSON and I would like to speak to you about the involvement in the case. At this time, I would like to also note that per your request your attorney Jeremy Smith is present with you. As

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer B. Tisdale		Code 3045	Assignment Homicide	Date 04/11/19
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte Mecklenburg Police Department						COMPLAINT NUMBER 20190325090102		Page # 2 of 62	
2. Victim Name Danquirs Napoleon Franklin				3. Original Offense / Charge Homicide					
4. Location Of Offense 2601 Beatties Ford Rd.				5. Arrest Number			6. C.R. Number		
7. Original Report Date 03/25/19		8. Supplement Date 04/09/19		9. Correct Incident Classification					
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	17. Home Phone		18. Business Address				19. Bus. Phone		

part of this investigation our interviews are recorded and I want to ensure you that this interview is being recorded you understand, that right?

KERL: Yes, I do.

TISDALE: Okay, are you okay with proceeding with this interview knowing that its being recorded?

KERL: Yes.

TISDALE: This is a voluntary interview and you are free to leave at any time do you understand this?


KERL: Yes.

TISDALE: You're not under arrest do you understand that?

KERL: I do.

TISDALE: Also I want to infer you, inform you that there are two parallel investigations occurring right now. The first investigation is the criminal investigations which is what we the homicide unit are conducting. You do not have to speak with us but we would like to speak with you to gain your perspective and to assist us with our investigation. The second investigation is an internal administrative investigation which is being investigated by internal affairs. They will speak with you about their investigation do you understand this?

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				23. Reporting Officer B. Tisdale				Code 3045 Homicide		Date 04/11/19	
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative				25. Case Referred To				26. Reviewing Supervisor, Code, Date			

Charlotte Mecklenburg Police Department						COMPLAINT NUMBER 20190325090102		Page # 3 of 62	
2. Victim Name Danquirs Napoleon Franklin				3. Original Offense / Charge Homicide					
4. Location Of Offense 2601 Beatties Ford Rd.				5. Arrest Number		6. C.R. Number			
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Statement of	14. Name (last, middle, first) Wende, Kerl			Age		16. Residence Address			
	17. Home Phone		18. Business Address				19. Bus. Phone		

KERL: I do.

TISDALE: The criminal investigation being led by the homicide unit including this interview will be shared with internal affairs as they conduct their separate but parallel investigation. However, it is important to note that information obtained by internal affairs during their separate but parallel investigation cannot be shared with the criminal investigators in the homicide unit. Do you understand this?

KERL: Ah, Yes

TISDALE: With that said are you willing to speak to us at this time?

KERL: Yes.


TISDALE: That form I had to fill out. But the other one is the officer involved incident interview form. And, so basically, it's pretty much self-explanatory I ask you the questions okay, I am just gonna predate this. Put the dates in here. And so, a couple questions I have to ask you. And just your correct name Officer?

KERL: Wendy, spells Wende, um G is my middle initial, and my last name is KERL spells KERL.

TISDALE: Okay Officer KERL what is your code number?

KERL: Um, 1644

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer B. Tisdale		Code Assignment 3045 Homicide		Date 04/11/19	
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte Mecklenburg Police Department						COMPLAINT NUMBER 20190325090102		Page # 4 of 62	
2. Victim Name Danquirs Napoleon Franklin				3. Original Offense / Charge Homicide					
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TISDALE: **Officer KERL, what is what is your date of hire?**

KERL: **April. 19, 1995**

TISDALE: **Officer KERL do you have any prior law enforcement or military experience?**

KERL: **No**

TISDALE: **Officer KERL your current division assigned what is that?**

KERL: **Um, David 2 excuse me Metro.**

TISDALE: **What shift are you assigned?**

KERL: **First shift.**

TISDALE: **And what are your duty hours?**


KERL: **Um, 6:15 till 2:30.**

TISDALE: **At 06:15 in the morning to?**

KERL: **Till 02:30 in the afternoon.**

TISDALE: **And what is your call sign?**

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				23. Reporting Officer Code Assignment Date B. Tisdale 3045 Homicide 04/11/19			
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte Mecklenburg Police Department Supplement Report @						COMPLAINT NUMBER 20190325090102		Page # 5 of 62	
2. Victim Name Danquirs Napoleon Franklin					3. Original Offense / Charge Homicide				
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KERL: 2-1202

TISDALE: Is it 2-1202 is there a number after 2-1202 is there a dash after?

KERL: Um yeah dash 1

TISDALE: Okay, and what radio talk group are you assigned?

KERL: Um, Metro

TISDALE: And your supervisor?

KERL: Um, Overcash and Busic are my sergeants.

TISDALE: Overcash?

KERL: Uh-huh and Busic.


TISDALE: So on this particular day which is the 25th correct, um what uniform were you wearing Class A, B, C or other?

KERL: Um, I was wearing the uh one with the pockets I don't remember which one that is like a BDU outfit.

THOMPSON: Long sleeve, short sleeve?

KERL: Short sleeve with the big pockets on the side.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				23. Reporting Officer Code Assignment Date B. Tisdale 3045 Homicide 04/11/19			
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Charlotte Mecklenburg Police Department Supplement Report @						COMPLAINT NUMBER 20190325090102		Page # 6 of 62	
2. Victim Name Danquirs Napoleon Franklin						3. Original Offense / Charge Homicide			
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TISDALE: Class B?

KERL: I think that's class B, yeah, I'm sorry.

TISDALE: That's fine and what's your height and weight?

KERL: 5'8, 280

TISDALE: And amount of sleep the night um the night or day before this incident occurred?

KERL: Um, I at least got 10 hours.

TISDALE: 10 hours at least?

KERL: Uh-huh

TISDALE: Did you work any off duty prior to your shift?


KERL: Um, No.

TISDALE: And what vehicle number were you uh assigned that day were you driving?

KERL: Um, 318.

TISDALE: Is this a marked patrol vehicle?

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				23. Reporting Officer Code Assignment Date B. Tisdale 3045 Homicide 04/11/19			
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KERL: Yes.

TISDALE: Was there a DMVR used?

KERL: Um no.

TISDALE: Where you a driver or the passenger of the vehicle?

KERL: I was the driver.

TISDALE: Okay the rest of this is asking about your duty weapon. Ya'll recall the day we did a ammo count of your duty weapon, so we're not going to fill this out because we already took care of that okay?

KERL: Okay,

Smith: Yes, sir.


TISDALE: And so your attorney is present. Do you have any notes taken from this incident?

KERL: Um No.

TISDALE: It wasn't a backup weapon or anything I just have to ask that?

KERL: No I just had my service weapon.

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TISDALE: Okay, you got that out the way.

TISDALE: I guess um you understand the reason for you coming down voluntary for a interview correct?

KERL: Yes

TISDALE: Okay, its reference to an incident that happened on 03/25/2019, and the complaint number's again like I said is 20190325090102. Um, are you aware of the location where the incident had happened Officer KERL?

KERL: Yes,

TISDALE: Okay, and what address was it where it happened at?


KERL: It was the BURGER KING on Beatties Ford and I think its 2845 but I am not 100%.

TISDALE: Okay, the incident location is going to be 2601 Beatties Ford Road, so we are talking about the incident that happened at the BURGER KING the actual address is 2601 Beatties Ford Road.

KERL: Sorry.

TISDALE: Oh that's all right, so what we want to talk about to you is the incident occurred from the time you got to the call all the way back to the time you got to the police station? Just in your own words can you, can you tell us

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what happened on this particular incident as far as getting to duty to the time the incident occurred?

KERL: So you want me start with when I received the call for service?

TISDALE: Yes ma'am or you can just go as far as back to what you were doing prior where were you at prior to you getting the call, and how you received the as long as the route you took to the call, and, and from the time of arrival what did actions were taken?

KERL: Okay,

TISDALE: Okay.


KERL: Um, I was at the Metro team office and I was out of my vehicle speaking to um Officer Deal. When the call came out.

TISDALE: Uh-huh.

KERL: Um the call we volunteered for was at the BURGER KING. Um, and uh we headed out immediately the call stated that there was an armed man um inside the BURGER KING. Um, he had the weapon out he was chasing someone. Um, like I said we left the office immediately, I followed Officer Deal, um, we went Beatties Ford Road straight there.

TISDALE: Uh-huh.

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KERL: Um, as we were in route to the call um, little pieces of information came out like what he was wearing. Which was I heard a grey dark grey or black jacket, he was a black male, um as I turned at Larry, Um, excuse me Officer Deal was in front of me um we got to the BURGER KING as we were about to turn left into the BURGER KING um, I remember um Real Time Crime adding some more information. He said the black male that fit the description with the grey jacket had walked outside of the BURGER KING, and was standing next to a red Honda. As that went out, we were pulling in, um Larry, or Officer Deal went first. I came like right beside of him. He had parked right in front, right behind the Accord, the red Accord and I parked um kinda on the left side behind it but on the left.

TISDALE: Okay.


KERL: Um Deal automatically he immediately got out of his vehicle, drew his weapon and started yelling "drop the weapon". I immediately got out of my vehicle drew my weapon, but all I could see where I was at that time was a passenger, in the red Honda accord.

TISDALE: Uh-huh.

KERL: And I couldn't see exactly where he was pointing. Because he wasn't pointing at the passenger he was point next to the passenger, um like something was below him.

TISDALE: Okay.

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KERL: Um, I immediately yelled to him, to Deal I am coming on your so he knew not to shoot, or lift his weapon and I went in front of him or under his weapon. And I could see um the suspect that was in question was wearing a dark grey jacket and he was squatting next to the passenger of the car the door was open. Um, at that point I could not see his hands he was squatting and he had his hands in between his legs. Um, so the only part I was really able to see was kinda the top part of his hands. Um, because of the call we continued to tell him to "drop the weapon" because we couldn't see his hands and we're assuming the weapon was in his hands.

I don't know how many times we asked him repeatedly to drop the weapon I don't recall but I know it was a lot. And then um a female in a **BURGER KING** outfit and a male, I don't know who he was he was a black male and black female they walked to the door, the other side, the door was open so their on the other side of the door and the suspect was um, you know on the inside of the door. I immediately told her to move, I said you gotta get out of the way please get out of the way. Um, and I um I think the man pulled her back a little bit like towards the front of the business.

Again, we gave him commands to drop the weapon. Um, During this time, he had a very strange stare. Um, he never said a word he looked at the passenger, and he would look over to where the female had moved to and then he would look directly at me with a very strange blank stare like as if he was contemplating something.

Um, I continued to give him the command, Deal continued to give him the command. Um once again he kinda looked over another direction and then he looked at me and just stared at me with that stare. Um, at that time he slowly moved his um, left hand it looked like it was going inside his jacket. We are

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telling him "let me see your hands, drop the weapon, let me see your hands". And then he pulled out a small black gun and as I saw him pull it out and start to, to turn I felt a, a lethal threat for my life and the passengers and for my partner. And I shot him. Um when I shot him the first time he uhh, his chest was facing towards me he hit the door kinda like with the gun still in his hand, I still felt the threat because he wasn't going all the way down, so I shot him again, he dropped the gun and he rolled over on it, and um I secured the weapon. Sorry.

TISDALE: No, It's alright.

KERL: It's okay, I am okay.

SMITH: I can get some.

<mumbling in audible>

TISDALE: Here you go.

KERL: Thanks.


THOMPSON: Try to relax if we need to take a break we can do that.

KERL: No, I am good.

TISDALE: You alright?

KERL: Uh-huh.

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TISDALE: So you were saying?

KERL: Um, I, I had to step over him because I knew the weapon was underneath him. Um, I stepped over him and could see a little bit of the gun the black gun, um I picked it up and I moved to the back of the back of a car that was to my right, it was to the right it was like a silver car and I placed my hand and the weapon on that back of the car and kept my hand on the car to secure the weapon.

Um, the next thing I remember, as I got, I think I got on the radio at one point and said I need multiple units we have multiple witnesses.

TISDALE: Uh-huh.


KERL: Multiple people in the parking lot and the business. Um, can I back up.

TISDALE: Sure.

KERL: I remember at one point um, a lady yelling, um lock the door of the BURGER KING. She kept saying lock the door lock the door. And that was um, I think prior to me shooting him the first time, um and then back to where I was securing the weapon I remember Officer Atwood coming to me and saying are you okay? I said this is the weapon that he had, I am securing the weapon. He goes I got the weapon now. And then I stood there for a moment and I was placed inside of my vehicle.

TISDALE: Okay, anything else happen after that?

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KERL: Um, Officer Helms stood with me the whole time. Um, Sgt. Overcash eventually got to me said I need your body worn camera.

TISDALE: Uh-huh.

KERL: I gave it to him I don't know how long I sat in my car. I don't remember who came up to me. I just remember ahh Sgt. Triola saying you good you come with me I am going to take you to the hospital. I said okay and um, he took me to the hospital.

TISDALE: Okay, which hospital did you go to?

KERL: Um, Presbyterian Main.

TISDALE: Okay, okay, and um is that pretty much. The only reason I ask you if that's pretty much it is because we would like to ask some questions too as far as you don't mind?

KERL: I, I can tell you what happened at the hospital.


TISDALE: Okay.

KERL: I spoke to the doctor my attorney was there.

TISDALE: Okay.

KERL: Um Crime Scene came in and took some pictures of my hands, I think my face. Um Sgt. Triola, um I had asked me for my weapon, I um took the

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magazine out and unloaded the one in the chamber and laid it on the bed, hospital bed for him and he took it and put it in a hospital bag...

TISDALE: Uh-huh.

KERL: ...and when crime scene came the hospital, I didn't know it at the time but the hospital bag was in the chair...

TISDALE: Uh-huh.

KERL: ... um in the corner of the room.

TISDALE: Right.

KERL: Um, so when they were done with me I was released from the hospital. Um, I was taken straight to um, Wolf labs um, for a te... a pee test.


TISDALE: Right.

KERL: Um, and a breath test. I did that um, and I came straight to the law enforcement center and somebody brought me something to eat and then, um I came up here with my attorney, and um I don't know I was asked. I don't remember everything...

TISDALE: I understand.

KERL: ... I was asked some questions and then we went through um the round count.

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TISDALE: Okay, can, can we just um, from my perspective and um, the criminal investigative part. Can we just back up a little bit.

KERL: Uh-huh.

TISDALE: Um I heard you kinda dissect some things that you um told us.

KERL: Uh-huh.

TISDALE: Um so first of all how long have you been assigned to um, Metro Division David 2 like you said?

KERL: I want to say 9 years or 8 years, I am sorry I don't remember.

TISDALE: Okay, that's all right. And, and, you years your um, assigned to David 2 what response um, the district you respond in is broken down to different response areas correct?

KERL: Yes.


TISDALE: What response area are you assigned to?

KERL: Response area 2.

TISDALE: Okay, and response area 2 is this the same location um of the BURGER KING 2601 Beatties Ford Road?

KERL: Yes. Yes, it is.

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TISDALE: Okay so with that being said, so since your since your years there you have been assigned to response area 2 metro division?

KERL: Right.

TISDALE: Okay, so I am going to show you a map, have you ever been out the BURGER KING located 2601 Beatties Ford Road?

KERL: Prior to Monday?

TISDALE: Yes.

KERL: Yes.

TISDALE: Okay, throughout your career you've been there?

KERL: Yes.


TISDALE: Your familiar with the area?

KERL: Yes.

TISDALE: okay, with that been said I am going to show you a map okay.

KERL: Uh-huh.

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TISDALE: And um if you recognize this map, I can tell you this is uh, 2601 Beatties Ford Road.

KERL: Uh-huh.

TISDALE: um if it doesn't look familiar just let me know?

KERL: Uh-huh.

TISDALE: This right here is going to be the BURGER KING right here. So, is it starting to be refreshing to you?

KERL: Yeah.

TISDALE: To your left this is Beatties Ford Road right here,

KERL: Correct.


TISDALE: Is that correct?

KERL: Uh-huh.

TISDALE: Do you know what's going, what's this direction down here, I know it's not on the map. But do you know what's down here?

KERL: Um, 85 is right under it and this is going north bound, this way is going north bound, um towards the shell station right there.

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TISDALE: Okay, so I just want to make sure that when we're talking about the incident that we're all on the same page okay.

KERL: Right.

TISDALE: Okay, so originally you said you got you were at the metro team office. You and Officer Deal correct?

KERL: Correct.

TISDALE: And um what time did you start your shift that day?

KERL: Um, 6:15.


TISDALE: You start your shift um 6:15, prior to um prior to you going to this call for service at 2601 Beatties Ford Road, did you go to any calls prior to a call prior to you going there or what brought you about at the Metro Team Office?

KERL: I am sorry I don't remember, there were calls that I was given one and I was 22ed off of it and I can't remember off hand.

TISDALE: Okay, so okay so let's talk about the incident your direction of travel where you coming from, and I got this marker so you can draw on here you can do whatever you want to do to the map.

KERL: Okay.

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TISDALE: I just want you to show me, like the route you took um, to 2601 Beatties Ford Road which is the BURGER KING, correct?

KERL: Correct

TISDALE: And um where, where was your vehicle at if you can remember um, where was Officer Deal's vehicle at if you can remember, and you also stated that um you were given up to date information about someone crouched down beside the vehicle also where was that vehicle at. Can you show me what route you took first of all on the map?

KERL: Okay,

TISDALE: To get to the uhh


KERL: Okay so the metro team office would be this way towards the south so we came up north bound, Beatties Ford.

TISDALE: Okay can you draw on the map with this pen which direction you took and how you pulled in the parking lot?

KERL: Yeah so, we were coming in different lanes, but I would say that we were mostly in this lane and um this is the entrance. So, we came in like this so the red Honda I don't see it on here it was either in this spot or this spot.

TISDALE; And, and where ever you do that where you think the red Honda is you can just put an X or a circle where you think it was at on the map and upon your arrival.

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KERL: I think it was here. Um so Deal came in and parked behind directly behind kinda at an angle. When I came in I came in at the same route but I kinda came in parallel to him. So, I stopped about right here I guess.

TISDALE: And this is where we gonna have to slow everything down.

KERL: Okay,

TISDALE: This is a critical point.

KERL: Okay,

TISDALE: Of once you get at the scene. So again, what was the purpose of you going to 2601 Beatties Ford Road?


KERL: Um, a call for service that was an armed man.

TISDALE: Okay and, I know we, we categorize our calls as different priorities, right? Do you know what type, of call it was, um what type of priority call it was that you were going to?

KERL: Priority one.

TISDALE: Okay, so a priority, armed man, do you recall then what was being relayed to you over the radio? Or information you received on your computer?

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KERL: Um, at first, I received the information of a man that was armed inside the BURGER KING and was possibly chasing someone around with the gun, as I got closer to the BURGER KING um, some of the new updated information and read came up on my computer, and kinda gave out a description of a black male, with a dark grey or black jacket, as Larry, Um Deal and I got to um right about here.

TISDALE: Uh-huh.

KERL: Real time said got on the air and from my understanding its live feed, um that he saw the suspect in uh a jacket, that type of jacket, or that color of jacket, walk out the front and go stand next to a red Honda accord. And that's as we were pulling in. So obviously Deal saw it immediately, and when I came in I saw it as well.

TISDALE: Okay, what did, and so you got Deal coming in so you're the second vehicle coming in is that correct? This is your vehicle?

KERL: Correct


TISDALE: Okay, so can you put a W over your name, over where you're at?

KERL: Sure.

TISDALE: Okay, that's representing your first initial. So, your right here what did you see?

KERL: I wasn't right there, where your finger is

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TISDALE: No right here I am saying where the dot is.

KERL: Oh Okay,

TISDALE: So once officer Deal pulls in right, here right?

KERL: Uh-huh.

TISDALE: Well um, is he out the vehicle at this point, when your pulling in or how is that going down?

KERL: Well we kinda got there at the same time, he hopped out a little faster than I did.

TISDALE: Uh-huh.


KERL: Um, I was getting out as fast as I could but I was also trying to monitor what was around us.

TISDALE: Okay, and so he's already out and you come out the vehicle correct, your vehicle?

KERL: Correct.

TISDALE: Um, as soon as you come out your vehicle what do you see and what do you hear? What's going on as soon as you exit your vehicle?

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KERL: So, soon as I exit my vehicle, I can hear Larry or Deal giving commands. He already is gun drawn and giving commands to "drop the weapon".

TISDALE: Okay,

KERL: At that time all I can see was the um, left side of the car and I could see through the back window a passenger in the seat.

TISDALE: When you say, I am sorry didn't mean to cut you off. When you say the left side of the car what car are you talking about?

KERL: Um, I am sorry the red Honda.


TISDALE: Okay, alright I just want to make sure we on the same page.

KERL: And then when I looked through the window, the back window, I could see a person sitting in the seat. Um, I had obviously drawn my weapon at this time, um, but he continued to yell "drop your weapon" I knew I wasn't standing in the correct place. Because where he was pointing was not directly at the passenger. It was more towards the ground.

TISDALE: Uh-huh.

KERL: And ah, that's when I said to him you know I am coming under you so I could get to the other side and he understood that.

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TISDALE: Ok, where was, where was, when you said I am coming under you where was Officer Deal at. Um, when you said I am coming under you?

KERL: He was um, at first, he was behind his driver door, like he had opened it and was using it for cover.

TISDALE: Okay,

KERL: And, I think he started to move forward when I am yelling I am coming over. And, he kept his eye and his weapon on the suspect. So, he is already around his car door and I went under him.

TISDALE: Okay, as his car door is open and you said, he's um, his car door is open and he's giving commands at the car door, um at some point, um you say I am coming over and when you say you're coming over which route did you take?


KERL: I went um from my vehicle here, straight over and there was a grey silver car next to the red Honda accord. So, I went to the back end of the grey or silver car.

TISDALE: Okay, I know this sound like a stupid question, but when you came over did you walk behind Officer Deal's vehicle or did you cross in front of his vehicle?

KERL: I crossed in front.

TISDALE: Okay, and you said it was a silver car next to?

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KERL: Silver, grey small car, yes.

TISDALE: Okay, and this silver-gray car was that um, to the left or the right of that ah, red Honda that was pulled in?

KERL: To the right.

TISDALE: Okay, and what did you see when you crossed over the front of Officer Deal's vehicle, and your next to um the silver car, you're between the silver car and the red Honda, correct?

KERL: Uh-huh.

TISDALE: What do you see at this point?

KERL: I see um, a black male wearing the jacket in the description, a dark grey jacket um kinda squatting really low to the ground, with his hands in between his legs.


TISDALE: Okay.

KERL: And he's looking at the passenger.

TISDALE: Okay, when you say he's looking at the passenger um, is, is how many people are in that vehicle?

KERL: I only saw one person in the vehicle.

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TISDALE: And was it a male or female?

KERL: I think it was a male.

TISDALE: Okay, and do you know the position of that passenger in that vehicle.

KERL: Yeah, he was sitting in the front passenger seat, and the vehicle was pointing, and the front of the vehicle was pointing towards the bur, **BURGER KING**.

TISDALE: Right, and you said you saw a male squatting?

KERL: Uh-huh.

TISDALE: And this same male, was this the same male that you saw squatting was he the same male that the description that you just received over the radio in reference to an armed person?


KERL: Yes,

TISDALE: Okay, and how did you determine that the same male?

KERL: Um, he had the same jacket on that came over the air.

TISDALE: Okay, and at this point um while you're between the vehicle and your next to the silver car and you see the male squatting um, what's, what's,

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being, what's going on at this point while you're between those vehicles? What are you seeing and what are you hearing, and what are you saying?

KERL: Um, I am giving him verbal commands telling him to "drop the weapon".

TISDALE: Okay.

KERL: Um I repeated that several times, I see um a male, a black male, come from he ended up at the corner like the front corner on the Beatties Ford side.


TISDALE: Uh-huh.

KERL: He was just standing there and then um I remember a female, a black female I think she had long hair. I know she was in a BURGER KING outfit, like whatever they wear, and he was a male a black male standing next to her, and as we're giving these verbal commands she comes up to the outside of the car door that was open the passenger door.

TISDALE: Okay, and, when, when you saying when you walk up and you saying, "drop the weapon", what are you seeing uh, for you to give those commands, uh, "drop the weapon"?

KERL: At this time I did not see the weapon. Um, but I wasn't taking any chance because from all the information in the call and from what real time said he had the weapon and because I couldn't see his hands we were yelling "drop the weapon, let me see your hands, drop the weapon". And he was not

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complying he wasn't talking he was just looking back and forth and just wasn't saying anything.

TISDALE: Okay, and when you say you couldn't see his hands about how close were you or what was the distance from you to him, and you know he was squatting can you tell what position his hands were at or where were his hands at?

KERL: His hands were folded like the two insides were together and he had them between his legs while he was squatting. Um, I could see the upper part just a little bit but I couldn't see what was in his hands because they were between his legs.

TISDALE: Okay, and, and what happened after that your giving commands for him (over talking) drop the weapon.


KERL: We give him several commands "to drop the weapon, to see his hands" (coughing and clearing throat) Um, and like I said that lady and that man had come to the door and I am yelling for them, you know for their safety to move out of the way.

TISDALE: Did they move out the way?

KERL: Um, they did, um the black male kinda pulled the black female in the BURGER KING outfit backwards towards the front door.

TISDALE: Okay, and as your giving commands Um for this gentleman to drop the weapon, um, is he saying anything to you?

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KERL: No,

TISDALE: Okay, and at what point what happens next after you say, "drop the weapon" you say he looks at the passenger in the car, and then he looks at you correct?

KERL: Right, and when, when the female was being pulled back I could hear somebody yelling lock the doors, lock the doors. And then I saw, I focused back on him and he kinda looked over to where the female was and just looked there for a second and then looked at the passenger for a second and he looked over right at me, eyes met and he had just this blank stare. And I think he did this that same kinda route twice and the second time, he just stared at me, for a second or two and then looked at the passenger, and that's when I saw him slowly, his hands were like this and he slowly moved his hand like this into his jacket.

TISDALE: When you say he slowly moved his hands in his jacket? Which hand um, so your standing to the left of him correct?

KERL: I am standing to the kinda diagonal right.


TISDALE: So, um.

Smith: You mean his left.

TISDALE: His left.

KERL: Um, Yeah.

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TISDALE: Standing to his left, and when you say you saw his hand move slowly to his jacket which hand are you, you seeing?

KERL: I am seeing his left hand

TISDALE: Okay,

KERL: I still couldn't see the other hand.

TISDALE: Right.

KERL: So I didn't know what he had in that hand when he's going like this.

TISDALE: Okay, so his hand his left hand is moving to his which jacket pocket that?


KERL: It wasn't even a pocket it looked like he was going inside the, this part of the jacket. He wasn't reaching in a pocket or anything he just reached inside the jacket.

TISDALE: Okay, and what happened?

KERL: I couldn't where he was reaching.

TISDALE: Okay, and what happened as, as he's reaching uh, what happened next as he's reaching?

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KERL: Um, with in a second or two he slowly came out with a the weapon and it um started to turn and I perceived it to be a lethal threat to the passenger, um to my partner and to myself. And that's why I fired one shot.

TISDALE: Okay, and did you see where the weapon was removed from?

KERL: All I know it in, somewhere inside where I couldn't see, all I saw was the black weapon come out.

TISDALE: And could when you say you saw the black weapon come out what hand um, did you see um, this weapon come out?

KERL: Left.

TISDALE: Okay,


KERL: Left hand and I think he still had his other hand right hand down.

TISDALE: Okay, and when you say you saw the left hand did he how was the gun positioned when you when you saw him remove the weapon, I mean?

KERL: He had, he had the handle and it looked like it was coming, was gonna come around, but I didn't wait for it to come all the way around, because I didn't know if he was gonna shoot the passenger or continued to come around.

TISDALE: Okay, and what were the commands you were giving him as you saw his hands between his legs like this correct, and you, you were able to see um his hands like this?

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KERL: Both hands,

TISDALE: Yeah, but you couldn't see what was in his hands?

KERL: No.

TISDALE: What commands were you giving him while he's knelt down and his hands are like that?

KERL: Um, Drop the weapon, I think we said let me see your hands once or twice, um, just multiple commands like that.

TISDALE: Okay, and your purpose of saying drop the weapon was because of?

KERL: Um, he the call stated he had a weapon, he had it pulled out in the BURGER KING, um, ah, so to me that's a lethal threat. If, if you come out of there and I believed he still had the weapon in his hand I couldn't see what or what wasn't was in his hand.


TISDALE: Okay, Sgt, you have anything.

Smith: Did, did it app... can I ask something?

TISDALE: Sure, yes sir.

Smith: Did it appear as if he was concealing his hands?

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KERL: Yes, it did. It, the way his hands were held I thought there was a weapon in his hand. Between his hands.

TISDALE: Okay,

THOMPSON: So, you're giving him commands to drop the weapon repeatedly?

KERL: Uh-huh.

THOMPSON: Loud verbal commands um, and he's not complying correct?

KERL: Correct.


THOMPSON: What response or what compliance were you looking for, for him to do at that moment while you giving him those commands to drop the weapon?

KERL: What I look for is um, you know for him to just drop it out of their hand, or to say Okay, you know acknowledge me, I am gonna drop it or where ever the weapon is they'll tell you, and come up with nothing in their hands. That was not happening. He wasn't moving he wasn't talking communicating, he wasn't following my directions or instructions.

Smith: Were you, were you the only one giving directions and instructions?

KERL: No, Officer Deal was also giving instructions.

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THOMPSON: And, so it appeared to you as he retrieved the weapon from inside of his jacket, can you tell what hand he retrieved the weapon with?

KERL: He, he went in with his left hand.

THOMPSON: Left hand, okay so he, he's securing the weapon with the left hand, and as he is bring it out, if I, make sure I am doing it correctly, like this and you said he is it appears

KERL: It appears that he was gonna turn it and um he still wasn't fallowing commands and we're yelling at him to drop it.


THOMPSON: And you clarify when you say it appears he was gonna turn it, was it was the was his wrist starting to bend or what, I mean?

KERL: It appeared to me that his wrest, his wrist was starting to come around with the weapon. Um, and I was still yelling at him to drop the weapon. And I yelled gun to Officer Deal and I believe that's when I shot. I perceived him to be a lethal threat.

THOMPSON: So, when at that moment when you saw the weapon what you think was gonna happen?

KERL: I thought he was gonna turn and shoot myself or my partner honestly. Um, he wasn't following commands. You could tell with the stare he was contemplating something. I didn't know what um, but I determined he was a lethal threat to people there and to my partner, and myself.

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TISDALE: When you, when you arrived and walked across Officer Deals vehicle and you encountered this gentleman, and you said he had his hands um, bent down um between his legs, you couldn't see in his hands, were any verbal commands given um for him to see his hands?

KERL: I believe yes myself or Officer Deal I am sure we said that. I can't recall I just know that there were multiple commands given "drop your weapon, let me see your hands, drop your weapon, drop your weapon, let me see your hands."


TISDALE: Okay, how, how did, the sequence of events how were the commands given because at some point you said, um drop the weapon and you're also saying at some point your saying let me see your hands. So kinda, kinda go through the sequence of events at the time where the point where your saying um, let me see your hands all the way up until the point to where that you're saying drop the weapon.

KERL: Um, I, I mean I know I was verbally telling him to drop the weapon because I couldn't see what was between his hands. Um, I don't recall I am sorry I mean I don't remember everything I yelled. I know I told him to drop the weapon over an over again.

TISDALE: At what point um, did you say or where were you at. Um at what point did you say let me see your hands, do you know your position of when your saying let me see your hands or drop the weapon? Which one came first?

KERL: Uh, I think I said drop the weapon first and I was, I think at the back end of that silver car at the back end of the red Honda.

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TISDALE: Okay, but at that point when you're asking him to drop the weapon did you see a weapon at the time you asked him to drop the weapon?

KERL: NO, It hadn't been a few seconds, we kept yelling it at him before he went into his jacket.

Tisdal: Okay,


Smith: And what you basing the command of drop the weapon on?

KERL: Um, the call for service um, that he had the weapon and an update saying he had the weapon inside and was chasing somebody and um, the fact that I couldn't see his hands. And the way they were told me he had a weapon in his hand.

TISDALE: Okay, and, and what was the purpose of you crossing over, if Deals coming in, I am just talking from a tactical stand point. If Officer Deal vehicle is, I he's pulled in and he's and his vehicle appears to be at a angle, he's directly behind the vehicle and you stated that he had his door open and from my law enforcement experience and training just like yours. If he he's has his door open. And he has his gun drawn would it be fair to say he's in a safe position to where that um, he's, he's out of some type of threat providing cover from him. Um, what made you cross over the front of, of Officer Deals vehicle to engage between those to, between the burgundy vehicle and the silver vehicle?

KERL: Because I couldn't see who he was pointing at. I could only see through the window the passenger sitting in the car and I had to have a better

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view then that. So that's why I went over and I had planned on using the back of the silver vehicle if I needed that for cover.

TISDALE: Okay, did, did you go over to the back of the silver vehicle for cover?

KERL: I didn't use it for cover no, Um, things were happening quickly I wanted to make sure I had a good view of his hands. Um and I wanted to you know make sure I could see every movement.

TISDALE: Okay, and as your walking up to this um this vehicle do you know what kinda vehicle it was by the way?

KERL: It was a maroon or red Honda.

TISDALE: As you walking up to the maroon or red Honda could you see, how many occupants did you see inside the vehicle?

KERL: Just the one the passenger in the seat. In the passenger's seat.


TISDALE: Okay, and when you say in the passenger seat do you know which passenger seat are you talking about?

KERL: The front one.

TISDALE: The front?

KERL: Right.

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TISDALE: Oh, the front right. And um is this person in the passenger seat as you giving commands, is this person saying anything to ya'll while your giving commands drop your weapon, drop our weapon?

KERL: He wasn't saying anything to me, I don't know if, I wasn't really focusing on him. I was focusing on the man that had the description in the call.

TISDALE: Okay, and at some point, you said that he took his left hand and went up to his jacket area and produced a hand gun.

KERL: Uh-huh

TISDALE: And you perceived that as, as what?

KERL: As a lethal threat.

TISDALE: Okay, and, and how many times did you, did you discharge your service weapon?


KERL: Um, twice.

TISDALE: Twice, and which direction did you discharge your service weapon?

KERL; Um to the suspect.

TISDALE: Okay, do you know if you struck the umm, this person?

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KERL: Yes, I know I struck him the first time.

TISDALE: Okay, um, what about the second time?

KERL: I know I hit the second time because he went all the way down.

TISDALE: Okay, and after he fell down where did he fall down at?

KERL: Um, he kinda fell down with his chest towards the passenger, so his legs were kinda like that and his chest was down on the ground.

TISDALE: Okay, and where is, where is the hand gun that you saw him possessing at the time that you fired shots? Where's the handgun at this point?

KERL: Um, I had to step over his one leg and I looked down and I could see the hand gun kinda in this area and a little bit was sticking out.

TISDALE: Uh-huh and what happened after that?


KERL: Um, I told Deal I was gonna secure the weapon and take the weapon from there.

TISDALE: Did you do that?

KERL: I did.

TISDALE: Okay, and when you say secure the weapon how did you go about securing the weapon?

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KERL: Um, I backed away from him and the passenger in the car and stood behind the Honda, not the Honda the silver car next to me and I kept the weapon out with my hand over on top of the car until someone came and took it from me.

TISDALE: And at this point the gentleman that you discharged your fire arm at your service weapon and he fell to the ground what is he doing at this point after you secure the weapon what is he doing is he saying anything?

KERL: No, he's not moving.


TISDALE: Okay, um did was there any aid rendered to this gentleman or anything of that point after he's shot?

KERL: Um, not from me. Um I don't know if it was because I was at this point not only securing the weapon but I could hear people around, and I was concerned of whether they were coming towards us. Um, I don't know if there was going to be any issues. I was trying to look at my environment.

THOMPSON: Um, as your pointing your service weapon at the subject, do you have a clear line of sight and if so were you sure of your back, back stop could you tell what was behind you in your line of fire?

KERL: Yes , um, that's why I made the lady and the man move away from behind the door. Um, at that point there was nobody directly in my line of sight if I needed to shoot my weapon. Um, so I was sure that if I happened to miss that there was no one directly there.

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THOMPSON: Um, the gentleman that was sitting in the front right passenger seat of that burgundy Honda...

KERL: Uh-huh.

THOMPSON: and the subject that was crouched down, could you hear any conversation taking place between the two?

KERL: I did not.

THOMPSON: Did that person in the car indicate for help or he's got a gun or anything?

KERL: No, um I know the suspect wasn't saying anything, um whether or not the passenger was, I, it didn't appear that he was saying anything, he wasn't really moving, um he kinda kept real still, um so no.


THOMPSON: Did you know who the person in that passenger seat was did he identify himself?

KERL: Uh, no and I still don't know.

TISDALE: When, when you pulled up and as you engaged in between the vehicle, um what did you perceive was going on as he's knelt down, um between the vehicles engaging in um, conversation with the gentleman that's seated on the front passenger's side of that, of that vehicle?

KERL: So what

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Smith: I don't, well hold on now let's clarify, I don't think she said at all that there was any conversation between the passenger or the and the subject.

TISDALE: When you walked over to the vehicle you saw this gentleman knelt down facing toward the gentleman that is with the door open. What did you perceive?

KERL: Well, he wasn't kneeling down he was squatting,

TISDALE: Okay,

KERL: Um, I perceived that he was a threat to the passenger, because I didn't know who he was or what had happened prior to me getting there.


TISDALE: Okay, and how did, how did you perceive that threat?

KERL: Um, cause I knew there was a weapon involved and he fit the subjects description and he had his hands like this and I couldn't and I assumed he had a weapon in his hands the way his hands were being held.

TISDALE: But the only time and this is what you're saying and when you saw the weapon, um you was giving commands for him to drop a weapon, but you didn't see a weapon, but at some point he moved his hands to his, to his uh, jacket area and produced a weapon?

KERL: Correct.

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TISDALE: And at that point when you saw the weapon what command was given when you saw the weapon?

KERL: Drop the weapon.

TISDALE: Okay, and what would your response, when you saw him with the weapon and you told him to drop the weapon?

KERL: Yeah, and then I yelled gun to Deal. And then, he didn't it was a split second and he didn't comply fast enough and I shot him.


TISDALE: What was Officer Deal's um response or actions after um, after the shots were fired, did he fire his service weapon?

KERL: Um, no I don't think so no. Um, he tried and tried to get on the radio um to let them know you know that shots had been fired. And we needed medic and fire and then I got on the radio and asked for multiple units and we had multiple witnesses and multiple people inside the building.

TISDALE: And another question I know there are gonna be some hard questions but we have to ask these questions. And just from, from our standpoint the way we're trained um, just asking, as far as tactic wise, any reason why you didn't position yourself in a manner to where behind you were um you had cover from the silver vehicle that was to the right of you? Or retreat to Officer Deals vehicle was?

KERL: Um, well Officer Deal was very close to me at this point. And um, I had a very good view from where I was standing but yet if I needed to I knew I

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could fall back behind the vehicle. But I had a very good vision of him and his hands and what was gonna happen.

TISDALE: Were you concerned about your safety at any point um, if you were on an armed person call and your telling em this man to drop a weapon. Why are you standing out in the open. And you going on a call, on a person that is armed with a hand gun and your, you're in the middle of, of, of fire and not retreat to a safe position to where that if this gentleman does produce a hand gun you have time to react for cover?

KERL: Um, that's why I was comfortable, I feel I had a very good vision, I could see the passenger very well from where I was I could see the suspect very well, I could see my partner. At that time I felt that I needed to be there and that I would have cover if I needed it.


TISDALE: Were you able to retreat for cover at any time once you saw the weapon produced by this gentleman?

KERL: No, um.

TISDALE: And do when, do you know the manner, what manner was he removing the handgun from his jacket area. Did he you know as far as how he was holding the gun or in which direction it was pointed once you saw this handgun?

KERL: Well it was in his hand the right hand was still between his legs, he took his left hand went appeared to be inside the jack I don't couldn't really see where his hands went. And when he came out and I saw the black handgun

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and I told him to drop the weapon and that's when his hand started to turn and that's when I shot once.

TISDALE: And when you said his hand started to turn his left hand you were talking about?

KERL: The gun was in his left hand yes.

TISDALE: Okay and you said started turning started turning in which?

KERL: Appeared it was going to turn toward the passenger or continue to turn to myself or my partner.

TISDALE: Okay.

THOMPSON: Um, You said just to clarify one thing, um,

Smith: Do you need a break.


THOMPSON: Are you good.

KERL: Yeah, yeah.

SMITH: Okay,

THOMPSON: You said that after he drew the weapon and your giving him loud verbal commands to drop the weapon, and you said he wasn't compli, he didn't

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comply fast enough so you shot him. Can you kinda put that in a time perspective for me, as how long did it take or how many seconds or?

Smith: Are you talking about from the beginning of her contact with this suspect, or from.

THOMPSON: No sir, from the time the weapon was produced.

Smith: Okay, I just wanted to clarify.


KERL: It was probably seconds, I mean I saw the weapon, um, I perceived it was as lethal threat he had already been pointing it and chasing someone with it inside, um, I saw the small black handgun and I yelled I am sure Deal yelled and within seconds when he pulled that out he wasn't dropping it so I shot him.

TISDALE: And again where did he pull the weapon from?

KERL: Somewhere inside his jacket, I don't know if it was his waist band, I couldn't see inside the jacket, I just know he reached into the jacket somewhere, I dont know if he was reaching for his waistband what he was reaching for.

TISDALE: At any point did you see um, the gentleman pull a handgun from his jacket pocket?

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KERL: Um, no I, I uh, remember him going in, it look like he was going in his jacket, like I said, I couldn't see, its like mine its like this kinda and he just kinda went in and I couldn't see his fingers until he came out with the weapon.

TISDALE: Okay,

THOMPSON: I know you and Officer Deal have been partners for a while working together, in Metro, how long have you guys worked together?

KERL: Um, as long as I have been there the 8 or 9 years.

THOMPSON: 8 or 9 years, okay, and you've been assigned to the same response area in that amount of time?

KERL: Correct.

THOMPSON: Was that you guys first call for service for the day?

KERL: He came in late.


THOMPSON: The two of you responding for a call for service was that the first one?

KERL: Together?

THOMPSON: Yes.

KERL: Yes it was.

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THOMPSON: Okay.

KERL: Yeah.

THOMPSON: Um, do you recall if what or any commands Officer Deal gave the suspect? Like you said he first was encounter with the suspect did he give him any commands?

KERL: He was giving commands to drop the weapon?

THOMPSON: Drop the weapon?

KERL: Uh-huh

TISDALE: When you arrive shortly after within seconds Officer Deal arrives what commands, what commands did you hear him say?

KERL: Drop the weapon.


TISDALE: Okay.

Smith: Did you ever hear him say let me see your hands?

KERL: I, I can't remember if I said that or he said that, I remember hearing it I know it sounds weird but I remember hearing something or saying something along those lines.

TISDALE: You got any additional questions?

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Smith: Just a couple if ya'll, um you have been with CMPD that entire 24 years?

KERL: Uh-huh

Smith: Since 95, I am sure you have other calls of suspect with a weapon is that right?

KERL: That's correct.

Smith: That's what you call priority one calls?

KERL: Uh-huh

Smith: Um, how many times have you had to draw your weapon on those calls?

KERL: Um, multiples times.


Smith: You don't even know.

KERL: I don't even know.

Smith: How many times have you had to discharge your weapon at a suspect?

KERL: None

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Smith: And why have you never discharged before?

KERL: I didn't see them as a threat, a lethal threat. They either um, complied to my directions or commands and I never felt them as a threat because they complied and we're able to show me empty hands.

Smith: Okay, so the choices that their, that you could have make could have been, getting down laying down on the ground, putting his hands out, without a gun in them?

KERL: he could have communicated with me, you know I mean anything.

Smith: You don't recall hearing him say anything to you?

KERL: No I don't.


Smith: Um, was there ahh were there a lot of audio was there a lot of noise?

KERL: There was a lot of noise.

Smith: And a lot of yelling and things of that nature?

KERL: Yes, the lady, I heard a woman yelling over here there were people screaming back here. Yeah.

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Smith: Even though you didn't hear him say anything did you see him say anything. Like this?

KERL: I don't recall him opening his mouth. No.

Smith: Okay,

KERL: I just remember the blank stares. That he was given us.

Smith: Do you recall the passenger saying anything to you?

KERL: No I don't recall that.

Smith: The two people that came out of the **BURGER KING** did they make any statements to you um about he's trying to put a gun down or he's trying to do anything that would have made you feel like the threat wasn't there anymore?


KERL: No I mean the male and the females just stood behind that door and I remember her looking down and I don't know if she said something to him or not I don't recall that, I just remember telling her to get out of the way.

Smith: But they didn't say anything to you to make you think that?

KERL: No, not that I recall.

Smith: That he didn't have the gun anymore?

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KERL: No,

SMITH: Okay.

TISDALE: Did you give commands for the gentleman to get on the ground?

KERL: Um, I did not I just wanted to see his hands or if he had the weapon to drop it.

TISDALE: Okay, did you give commands for him to put his hands in the air?

KERL: I don't recall. I just remember repeating drop the weapon, drop the weapon. Because I felt like it was in his hands between his legs.

TISDALE: I keep hearing you say you felt lilke it was in his hands in his legs?


KERL: I believed it was in his hands.

TISDALE; Okay.

KERL: Due to the call for service the way his hands were placed. I thought he had a weapon in his hands.

TISDALE: At any point the way his hands were place when you encountered him between the vehicle did you tell him to put his hands up?

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KERL: I don't recall.

TISDALE: Okay, at any time when he was you were between the vehicle um, did you tell him to drop the weapon?

KERL: I am sure I did. Yes.

TISDALE: Okay, at any point during this investigation have you spoken to anyone other than your husband or your attorney about this incident in hand as far as the shooting?

KERL: No.

TISDALE: Has anybody called and asked you questions about the shooting?

KERL: No,


TISDALE: Okay.

THOMPSON: Now just for clarification on when you first saw the weapon in the suspect's hand, just think back when you first saw the weapon in his hand and he is pulling it out. He is pulling it out retrieving it with his left hand. Now just think back take your time take your minute.

KERL: Yeah.

THOMPSON: If you can.

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KERL: I just remember the left hand.

THOMPSON: Can you, do you recall which direction the muzzle was pointed, which way it was pointing?

KERL: No I just saw black weapon and he was starting to turn his wrist.

Smith: Towards the passenger first.

KERL: Yes

SMITH: First?

KERL: Uh-huh.


TISDALE: And when you saw if you can remember it's very critical and important if you can visualize, um, where's this weapon being retrieved from. If you can't see his hands at some point he starts moving his hands. So when he starts moving his hands after you're saying, "drop the gun, drop the gun". When he's moving his hands up towards the jacket area did you see a gun at that point?

KERL: When he moved his hand up?

TISDALE: Yes.

KERL: No, I think what I am remembering now is that, what I told you before it looks like he is reaching in and then he pulled the weapon out.

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TISDALE: And you

KERL: That's when I first saw the weapon when his hand was up here and it looks like he was going inside it and pulling something out.

TISDALE: Okay, but prior to that there was no weapon.

KERL: I believed there was a weapon but I did not see one.

TISDALE: Okay, and you believed there was a weapon based on?

KERL: The call for service, um, real time saying the description and the updates of the call saying he was chasing somebody around with a gun in the BURGER KING.

TISDALE: Okay,


Smith: And did real time basically, what specifically did real time tell you that this was the same person leaving the BURGER KING and went to that car?

KERL: Uh-huh

Smith: Is that what you remember?

KERL: Yeah he said the suspect is coming out the front and he is going to a red Honda.

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THOMPSON: Did real time say the suspect came out of the building going to the Honda with the weapon in his hand?

KERL: I don't recall.

THOMPSON: You don't recall them saying I see a gun saying he is armed. Just to give you guys a heads up?

KERL: I don't recall.

TISDALE: Do you recall your state of mind um, not your state of mind but any statements that you might of said, out loud after the incident?

KERL: I do,


TISDALE: Okay, and what was that?

KERL: Um, I told Deal, that I had to do it I had to shoot him, he was gonna hurt somebody he was gonna kill somebody, um, I , uh, asked Deal I looked at him to make sure his camera was still going, I think when Officer Atwood came to me, he looked at me like are you okay. And I said, yeah I had to do it. Um, I believe I might have said it to Officer Helms.

TISDALE: Do you remember you saying where the gun was at after you shot him?

KERL: I think I might have said the gun's underneath him I have to go secure the weapon or something along those lines.

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TISDALE: I guess my question is do you recall what you said where the gun was at that led to you shooting him?

KERL: I, I think I just yelled gun, I, I don't recall exactly.

Smith: Are you talking about after the shooting?

TISDALE: Yeah you were saying that you made some statements to Officer Deal and you made some statements to another officer.

KERL: After the shooting

TISDALE: Do you recall you said um you recall what you had said but do you recall um, making a statement um to one of your colleagues your peers who you work with as far yeah, I had to shoot him as far as where the gun was at prior to you shooting him?


KERL: I don't recall.

TISDALE: Okay.

THOMPSON: Okay, um, if you don't mind we are gonna take a quick break. I am gonna let you out and use the bathroom talk and do whatever you need to do and we'll come back in just a minute we might have one or two more additional follow up questions.

KERL: Okay.

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TISDALE: That's fine?

KERL: That's fine.

SMITH: Thank you.

TISDALE: Okay I am gonna pause the interview the time is 3:11pm.


TISDALE: Okay we are resuming the recording with Officer KERL the time is 03:19.

TISDALE: I guess um I think um, Sgt, THOMPSON might have a couple of follow up questions he gotta ask.

THOMPSON: Um, let's just go back and clarify if we can. Um, the part when you said he retrieved the firearm from his jacket or from somewhere in his waistband area. You give him commands to "drop the weapon, drop the weapon" repeatedly and he did not comply fast enough and you had to shoot him, can you just explain a little more in detail what you meant?

KERL: To comply to my commands as he was pulling that out he should have immediately dropped or he should have said I have a weapon I am gonna bring my hands up empty. He did not do any of those things all he did was make a movement to what appears to be inside his jacket or somewhere and when he come out he had a gun and it started to kinda turn a little bit and I yelled drop the weapon and it didn't happen immediately, to me that is a lethal threat and I don't know if he's gonna shoot someone in the public, or myself or my partner, but we had been given him multiple commands and he would not speak

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10. Juvenile Case No		11. Multiple Case Clearance No		12. Supplement Confidential Yes		13. Purpose Of Supplement Statement Of Officer W. Kerl			
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to us or communicate so as he came out with that gun, and started to slightly turn that's when I shot him.

Smith: And slightly turn towards the passenger is that correct?

KERL: Correct, um.

THOMPSON: I mean as far as time frame your talking about what, 10 minutes, 2 minutes a minute, 30 seconds?

KERL: From when he pulled the gun out?

THOMPSON: To the time the shots were fire?

KERL: Seconds.


THOMPSON: Okay

KERL: I mean he knew what we were asking him to do. We were repeatedly asked him to do it he wasn't doing went inside or whatever he did with it and came out with a gun.

THOMPSON: Having time to go back and reflect and to think on it, do you still feel now that he posed an imminent threat and you made the correct decision?

KERL: Yes, I do.

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TISDALE: And if you were placed in that position again would you still do the same thing?

KERL: I would.

TISDALE: Do you have any questions um attorney Smith?

Smith: No I have asked all I need to.

TISDALE: Officer KERL, is there anything else, any questions that we may have not asked you that you want to add to your statement?


KERL: No.

TISDALE: Okay, Sgt. THOMPSON.

THOMPSON: I don't have any questions.

TISDALE: Okay, this is gonna conclude the recorded statement with Officer KERL. The time is 03:22 pm.


21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				23. Reporting Officer Code Assignment Date B. Tisdale 3045 Homicide 04/11/19			
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21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Code Assignment Date B. Tisdale 3045 Homicide 04/11/19	
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Exhibit 3

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Reviewed by Det. B. Tisdale #3045 on 04/11/19

TISDALE: Ok, todays date is Wednesday um 03/27/2019, the time is 10:44 am, this is Detective B. TISDALE, code number 3045, um its 601 E. Trade Street in interview room 2003 in reference to complaint number 20190325090102, um in interview room I have present Sgt. THOMPSON, Officer DEAL, and attorney Mike Greene. And um you aware Officer DEAL your aware that this interview is being recorded correct?


DEAL: Yes, sir I am.

TISDALE: And, before we start I have to view a statement before we start okay,

DEAL: Yes, sir.

TISDALE: It says I am Detective TISDALE and I am, I am Detective TISDALE assisting me with this interview is Sgt. THOMPSON. Today's date is 03/27/19 the time is 10:44 am. This interview is being conducted at the LEC room 2003. Officer DEAL due to your involvement in an officer involved shooting Sgt. THOMPSON and I would like to speak with you about your involvement in the case. At this time, I would like to also note that per your request your attorney Mike Greene, Michael Greene is present with you as part of this investigation our interviews are recorded and I want to ensure that this interview is being recorded. Are you okay proceeding with this interview knowing that its being recorded?

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Code Assignment Date B. Tisdale 3045 Homicide 04/11/19	
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To 26. Reviewing Supervisor, Code, Date	

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DEAL: Yes, sir I am.

TISDALE: This is a voluntary interview and you are free to leave any time.
Do you understand this/

DEAL: Yes, sir.

TISDALE: You are not under arrest do you understand this?


DEAL: Yes, sir I do.

TISDALE: I also want to inform you that there are two parallel investigations occurring right now. The first investigation is a criminal investigation, which is what we the homicide unit are conducting. You do not have to speak with us but we would like to speak with you to gain your perspective and to assist us with our investigation. The second investigation is the internal administrative investigation, which is being investigated by internal affairs. They will speak to you about their investigation. Do you understand this?

DEAL: Yes, sir I do.

TISDALE: The criminal investigation being led by the homicide unit including this interview will be shared with Internal Affairs as they conduct their separate but parallel investigation. However, it is important to note that information obtained by Internal Affairs during their separate but parallel investigation cannot be shared with criminal investigators in the Homicide unit. Do you understand this?

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer B. Tisdale		Code 3045	Assignment Homicide	Date 04/11/19
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DEAL: Yes, sir.

TISDALE: With that being said are you willing to speak with us at this time?

DEAL: Yes, sir. I am.

TISDALE: Alright, so this other form DEAL I am going to fill out is gonna be the officer involved incident review. So basically, what it says umm I am just gonna go through step by step I am gonna put todays date on here 03/27/19. <Writing> And just, just state your name for me. Officer do you have a first initial your whole name.

DEAL: Um Larry Edward DEAL Jr. is my full name.

TISDALE: I am just gonna put Officer Larry DEAL that is that fine?

DEAL: That will work that's fine.

TISDALE: And what's your code number?


DEAL: 3087

TISDALE: What's your date of hire?

DEAL: Uh, date of hire is October, I want to say 17th of 01.

TISDALE: It's fair to but October 2001 down here?

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DEAL: Yeah that's fine.

TISDALE: Do you have prior law enforcement or military experience?

DEAL: I have prior mil, military.

TISDALE: What branch?

DEAL: Uh, army.

TISDALE: What's your current assigned division?

DEAL: Um, I am currently assigned to Metro division as a patrol officer.

TISDALE: What shift are you assigned?

DEAL: First shift.

TISDALE: And, what are your duty hours?


DEAL: From 6:15 in the morning until 2:30 in the afternoon.

TISDALE: What's your call sign?

DEAL: It's ah 02-1208-1.

TISDALE: And the radio talk group you assigned?

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DEAL: Is the ah the Metro talk group.

TISDALE: And your supervisor?

DEAL: Supervisor is Brandon Overcash.

TISDALE: So we need to talk to you about the incident occurred on March 25th, 2019, and the complaint number is going to be uh 20190325090102 okay?

DEAL: Okay

TISDALE: And, uh on this particular day what uniform were you wearing Class, A, Class B, C or other?

DEAL: My with it would be my duty uniform would have been my class the Class B 511 duty uniform.

TISDALE: And, what's your height?


DEAL: Ah, 6'2

TISDALE: What's your weight?

DEAL: Ah, about 360.

TISDALE: And amount of sleep uh you had on the night or day before the incident occurred?

21. UCR Clearance Status				23. Reporting Officer				Code		Assignment		Date	
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DEAL: About five and a half hours.

TISDALE: Did you have any off duty prior to your shift?

DEAL: I did.

TISDALE: And, and, where was that?

DEAL: That would have been a concert at the Spectrum Arena the night before.

TISDALE: And what were the hours your worked?

DEAL: I worked uh from 18:30 until the 42, I 42ed at um 12 o'clock.

TISDALE: And that was the night prior to that?

DEAL: Yes, sir it was.


TISDALE: Does that mean 3/24?

TISDALE: What vehicle number were you driving?

DEAL: 426

TISDALE: Is that a marked patrol?

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DEAL: It is.

TISDALE: Was there a DMVR used?

DEAL: Uh, not in that vehicle no there's not.

TISDALE: Were you the driver of the vehicle or the passenger?

DEAL: I was the driver of the vehicle?

TISDALE: So we are not gonna do the duty weapon. We um know your duty weapon we did an ammo count. <mumbles> From ah the other day.

DEAL: Yes, sir.


TISDALE: So we good with that. So that's what the rest of this from is okay?

DEAL: Okay.

TISDALE: So I guess we can just go ahead and jump right into um the investigation its self. So again DEAL, the um incident we are talking about is an incident that occurred at 2601 Beatties Ford Road Correct?

DEAL: Yes, sir.

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TISDALE: And, so just in your own words just kinda like tell us what happened that day prior to you going to the call and all up until um you got you arrived at 2601 Beatties Ford Road. You know what this is?


DEAL: Yes, sir I do. I am very familiar with it.

TISDALE: Okay, alright go-ahead sir.

DEAL: So my, my duty hours were adjusted for that morning. That particular morning. I had called in the previous night and got permission from the supervisor to come in late. So, the beginning of my shift was at 9 o'clock. Um, right about that time I was at the Metro Division Team Office, I was out in the parking lot. I noticed Officer Kerl's car was parked there, in the parking lot as well. Maybe after about a minute or two Officer Kerl comes out to my car. Uh, we talk very casually like we do about every morning working together. We just talk a little bit. As we were sitting there, I am in my car. As we are sitting there I noticed that a priority call comes into queue for dispatch. Um that's in the CAD system.

So, this priority call comes up I look at the call and see that it's a Priority 1 call for the Burger King for 2601 Beatties Ford Road. Um it's in reference to an armed subject. Ah, that is reportedly armed with a gun and is there, that went around the counter and is possibly fighting someone at that location. I inform the dispatcher that I would go ahead and take the call. I was just down the street fairly close and I was available to respond. I informed the dispatcher to give me the call. They assigned me to the call Officer Kerl was there with me at my vehicle when I notify the dispatcher of that. Um Officer Kerl says told me I'll back you up. She also notifies the dispatcher by radio that she wanted to be assigned

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to the call as well. So, we proceed up Beatties Ford Road, there are multiple calls coming into 911 as we're responding. Uh the information that I have got at hand at that moment is that again there was an armed subject gentleman has a gun and he went around the counter and is possibly fighting someone. I ask the dispatcher for clarification on a description of the subject of the suspect. The dispatcher um does tell me that over the radio that the subject the suspect is going to be a black male wearing a grey jacket, and grey sweatpants, grey jogging pants possibly in his 20's. That's the description that I get. So, we're still proceeding to the call we're going up Beatties Ford Road.

While, while we're in route to the location. Officer Upchurch, I recognize his voice. Who's a Detective with the real-time crime unit, comes over our talk group, gets on on the radio. He was monitoring a camera that was in the vicinity of the ah at the Burger King. So, he tells us that he observes a black male with grey jacket, grey jogging pants, fitting that description, walk out of the restaurant and go towards a maroon colored car.

Um he and Officer Upchurch said that you know as soon as we turn into the parking lot, we will be able to see it that the car was parked in a handicap parking spot right there at the entrance of the restaurant. So, at that point with that information I am turning into the Burger King parking lot. I do in fact observe a maroon colored Honda sitting there. In a handicap parking spot right there at the entrance to the restaurant. So, at that point I position, I pull into the parking lot, position my patrol car vehicle 426, where it's in a 45-degree angle at the rear of that Honda.

At that point I immediately notice that there are two individuals inside of the car. One in the driver's seat one in the passenger's seat. The passenger side door is standing open. There is a gentleman, a black male with a grey jacket from what

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I could see of him, a grey jacket on that is crouched at that open door. Between the open passenger side door of the car and the vehicle. I immediately get out of my my patrol car. Draw my service weapon. Point my service weapon over in the direction of that subject, of that the gentleman. I start giving loud verbal commands let me see your hands, let me see your hands. Umm I am getting no response. At the same time Officer Kerl she was right behind me. Officer Kerl is already out of her vehicle her weapon is drawn as well. Officer Kerl is coming up towards me as I am standing at my vehicle the car door of my vehicle. Officer Kerl crosses in front of me. I at this point lower my service weapon so as to not sweep her back.

At that point Officer Kerl becomes the primary the contact officer. She progresses towards the vehicle I progress along with her. Still keeping my weapon on trained on that subject. Still giving loud commands "let me see your hands, let me see your hands". Officer Kerl positions herself so that she's directly face to face with the gentleman that's crouched down that has the grey jacket, and at this point we can see that he had grey pants on, grey jogging pants. She is face to face with him. There is no barrier between her and the gentleman.

I am to Officer Kerl's left. I am standing to her left, um I am at the back-right corner of the car. I'm at this point in a, in a cover officer capacity. Trying to focus on the three individuals that we've got within with in our area. I've got the two individuals in the car and I've got the individual that is crouched down at the car. Still giving loud commands "Let me see your hands, let me see your hands" um I don't know how many times we, we said that. But giving loud, loud verbal commands. Um, um, the gentleman as I recall, the gentleman that is crouched down is very, momentarily looks up at us and then looks back in the direction towards the inside of the vehicle.

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As he's doing that he reaches into his jacket pocket, and pulls out a compact hand gun at that point we're yelling "drop the weapon, drop the gun, drop the gun." Um he's not acknowledging us he's not complying with our commands at all. It's almost as if we're not there. At that point there, there was a threat. There was a imminent threat to my life, Officer Kerl's life, and those individuals in the car. Um at that point Officer Kerl fired two shots, I believe two shots with her service weapon. Um, at that point I am still focusing on the other two individuals that are inside the car. The one individual on the driver seat who was a um lady she, she gets out of the vehicle she exits the vehicle she goes towards the restaurant. Um, there's a gentleman over in the passenger side seat of the car.

Um at that point I'm, I'm still focused on him. I don't know who he is I don't know if he is a threat, I am focused on him. Officer Kerl makes contact with the gentleman that uh was in the crouch position that had the firearm. She reaches down and secures the firearm that he was pulling out of his jacket pocket. Officer Kerl brings it back umm I think she may have put it on the trunk of the car that was parked right beside of us. At that point I progress towards the passenger side of the car. I try, I make contact with the gentleman that's in the passenger seat. Um not knowing who he is or if there's another weapon on scene, I tell him to just keep his hands on the dash.

Um at that point I initiate first aid. Umm I check for response; the gentleman is not responsive. I get on the radio my police radio and tell them that I've got one shot I need medic I need fire immediately, again he's uh, I am not seeing response from him. I've got the gentleman that's inside the car. Um we um as other officers are arriving on scene at that point. They were directed I directed think Officer Hyde to try to attempt to make contact with the female that exited the vehicle. Um medic and fire get there, they they begin to provide medical attention to the gentleman. That uhh is right there at the passenger side door. At

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this point, I go back around to the driver side door of the car I ask the gentleman that's sitting in the passenger seat to exit the vehicle. I ask him to crawl through the driver side. So he is able after a little bit of, after a little he is able to get get through there. I pat him down to make sure that there are no weapons on him. Um after the after the scene is somewhat secure. We got officers there. I speak with the gentleman, to try to determine what situation led up to the 911 call that, that morning.


Apparently that the gentleman I am talking to that was seated in the passenger seat of the car he, he was a manager I believe the store manager or regional manager possibly. He tells me that the gentleman that was crouched down at the passenger side door with him had been in a relationship a dating relationship with one of the employees there at the at the restaurant. So other officers are coming in, um at this point, I feel like I can break away go inside the restaurant and try to make contact with this female. She ah she was upset. Um I tried my best to console her. I asked what her relationship was to the gentleman that was there. Um she was a boyfriend they dated up until about 2 months ago. Um and that she was seeing a coworker there at the restaurant. So, I, I can only assume that, that was part of the reason the gentleman was up there at the Burger King that morning.

TISDALE: Okay

DEAL: Um, so now I am talking with her. Officer Walsh eventually arrives on scene, he uh he relieves me and at that point he escorts me back to uh Sgt. Overcash's car to the Sgt.'s car. And that's um where I sat.

TISDALE: With Officer Walsh?

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DEAL: With uh Officer Walsh.

TISDALE: Okay, alright that's pretty much it?

DEAL: Yes, sir.

TISDALE: Okay, only reason I asked because uh we would like to ask you questions as well.

DEAL: Yes, sir.

TISDALE: But, before we ask questions, I just wanna you say early before your statement you said your very familiar with the area.

DEAL: Yes, sir.


TISDALE: Um, when you say very familiar with the area what do you mean by that?

DEAL: I am have been assigned to ah Metro division, ah to that particular area since 2002, April 2002, I have worked there ever since so that's 17 years.

TISDALE: okay, what, what were the response area is that again?

DEAL: That is the 2-2 response area.

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TISDALE: The 2-2, okay so in reference to what you're saying your familiar with 2601 Beatties Ford Road, Right?

DEALs: I am sir yes, sir.

TISDALE: And what type of business is that?

DEAL: It is a restaurant it's a fast food restaurant Burger King.

TISDALE: Okay, right now I am gonna show you map Officer DEAL, and um I am gonna ask you, do you recognize this map?


DEAL: I do, yes sir.

TISDALE: What is recognize, what, how do you what's familiar about that map?

DEAL: That uh that is the location that is 2601 Beatties Ford Road, that is the Burger King.

TISDALE: Okay, alright so right here I have a I have a gray marker right so what I want you to do if you don't mind. So once you got dispatched to the call so I just want you to show me the route you took. Um you can just draw a arrow a line showing me the route you took, and in reference to when you encountered um the maroon vehicle and where your vehicle is parked at. And um your position of your vehicle.

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DEAL: so, in relation to this map that would have been south, this would be heading north, alright 85 is right about here so I would have been heading North on Beatties Ford Road. I would be heading in that direction right there, um my vehicle I passed that would be the, that's the front facing the street of the restaurant that right there that side would be the entrance to the restaurant. So, I am heading north on Beatties Ford Road, I proceed into the parking lot right here and right about just as we're coming up is when Officer Upchurch is on our talk group confirming that he observed that male walking out to the maroon Honda. The maroon Honda was parked so that it was right there at the entrance to the (bea) to the um to the restaurant.

TISDALE: Can you draw a circle where you where you?

DEAL: Where I believe it was in one of these handicap parking spots. I want to say right about there.


TISDALE: In reference you put a X right here where it was parked at

DEAL: Yes,

TISDALE: And in reference to where this vehicle is parked at where was your vehicle in reference to where it was at?

DEAL: So, I pulled into the parking lot here. I have already seen the maroon colored car. Officer Upchurch has said that the maroon colored car would be parked there in that handicap parking spot. So, I position my vehicle to the rear of the maroon Honda about a 45-degree angle.

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TISDALE: Okay, and when you pull up to the rear of the maroon Honda how is the Honda facing was it uhh was the front end facing you or was the rear end facing you?

DEAL: The rear end was facing me. The front towards the building.

TISDALE: okay, and so once you pull at a 45-degree angle behind the vehicle what did you see?

DEAL: I saw that the maroon Honda, that there were two individuals inside the car. Somebody sitting in the driver's side of the car and somebody sitting in the passenger side of the car. I saw that the car door the passenger side door of the Honda was open there was a black gentleman that was wearing a, from what I could see a grey jacket that was crouched down.


TISDALE: Um, go ahead.

DEAL: At, at the open door. The passenger side door in between the door and the vehicle?

TISDALE: Okay, let me back up because there's two questions I want to ask you. When you were in route to um, to Beatties Ford Road. I heard you say it was a priority call were you running blue lights and sirens?

DEAL: We, we were not normally depending on how far away I am from the call yeah, you gonna you've got to get there quick, you got to get there immediately, your gonna initiate your blue lights and sirens. And you gonna get there and uh you'll go which will basically allow you to exceed the the speed

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limit and get there safely. Um I was only a matter of a few blocks down the Road at the team office at the time when the call went out.

TISDALE: Okay, and um you said a priority call and how did that call come out. When you say priority, call was it what was your response time to get to that call. I mean was it an emergency was it a routine call.

DEAL: It was an emergency, its immediate response.

TISDALE: Okay, and that priority call was in reference to what again?

DEAL: As I recall the call came out is an armed subject armed with a gun.

TISDALE: At, at 260 was it at 2601 Beatties Ford Road?

DEAL: 2601 yes sir.


TISDALE: Okay, and 2601 is?

DEAL: The Burger King.

TISDALE: Okay, so once you pull up in the parking lot, and you said as you pulled in Officer Upchurch from the real-time crime scene he gave you a update as far as where this gentleman was going to be at correct?

DEAL: Yes, sir.

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TISDALE: And when you pulled in did you observe uhh the description that was given to you by Officer Upchurch?

DEAL: Yes, sir I did.

TISDALE: Okay, and ah what you saw and you saw this based on the description, is this the same male that was ah between the driver side door uh crouched down of that maroon vehicle the passenger side door crouched down of that maroon vehicle?

DEAL: I believed it was.


TISDALE: Okay.

DEAL: From the information that I had from the call that 911, that uh was coming in through 911, ah in addition to the information that I did get from Officer Upchurch. Yes, sir.

TISDALE: And at this point we are gonna have to slow some things down. Because these are, these are important parts. What did you see as soon as you exited your vehicle, you exit your vehicle did you close your door or did you um where are you at in reference to your vehicle once you pulled in at a 45-degree angle?

DEAL: So, my car door remained open, um car door remained open I remained at my car door. And that's when initiated started initiating of course my weapon was draw. I start initiating the loud verbal commands "let me see your hand, let me see our hands".

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TISDALE: Okay and based on you saying, "let me see your hands, let me see your hands" what was the purpose of you giving those commands to that gentleman uh first of all who were you giving the commands to?

DEAL: To the gentleman that was crouched down, that I saw the male that had the grey jacket, the black male that had the grey jacket on. That same one that fit the description that was given to us by through 911 and by Officer Upchurch as well.

TISDALE: Okay, and so at this point and your saying "let me see your hands" how is he positioning and where's his hands at?

DEAL: He's crouched down, I can't see his hands I can, I can, at that moment only see maybe the upper portion of his body. But he is crouched down on the passenger side, between the passenger side between the open passenger side door and the vehicle.


TISDALE: Okay, and what was his response once you gave those commands "let me see your hands?"

DEAL: There was no response.

TISDALE: Okay, and when you say there was no response was there any type of gesture or anything what happened next?

DEAL: No, sir all I saw was him looking, it was almost as though he was looking into the vehicle, but I mean he wasn't acknowledging us, he was no indication he was gonna comply with our commands.

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TISDALE: Okay,

DEAL: I mean no response at all.

TISDALE: And when you say he was crouched down. How was he crouched down was he bend over, uh or was he kneeled down or?

DEAL: He was kneeled down.

TISDALE: He was kneeled down?

DEAL: Yes, sir.

TISDALE: Um, could you tell if his knees was on the ground or?


DEAL: I could not from that vantage point being back at my patrol car as far away um that I was really I couldn't tell again I could only see the upper portion of his body.

TISDALE: Okay, and you said, I hate to sound repetitive and you said you said your exact words you were saying to him based on the physical description "let me see your hands" right? And you didn't get a response?

DEAL: Yeah, and I didn't get a response.

TISDALE: Okay, at what point did um you are still at your vehicle when all this is going on at the driver side door with your door open right?

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DEAL: Yes, sir.

TISDALE: At what point did you transition move from your vehicle because earlier you stated that at some point Officer Kerl came up and um took primary contact where yall where she was directly in front of him. At what point did you transition from your vehicle to another location? To where that you were to the um left of her?

DEAL: Yes, sir, it was almost a fluid motion as soon as Officer Kerl, I saw her coming up in front of me. Again I lowered my weapon so I wouldn't sweep her back and as she progressed. I pretty much just fell into her right in behind her.

TISDALE: Okay, on the map do you know where her vehicle was?

DEAL: Her vehicle, if I can draw it. Her vehicle would have been, approximately right there behind mine.


TISDALE: Okay, and, and she um at some point she is back here and you're at your door. What route did she take to cross, cross in front of you?

DEAL: So, she not to uhh

TISDALE: You can do whatever you want to do with it.

DEAL: So she crosses in front right about there, so she is crossing in front of my vehicle and behind of that maroon car.

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TISDALE: Okay, and at this point when she crosses in front your vehicle where does that put you at?

DEAL: As far as I at that point she is the contact officer she is the primary the contact officer I would have been the cover officer that would have put me right behind her following her.

TISDALE: Are you to the left of her or to the right of her?

DEAL: To the left

TISDALE: Okay,

DEAL: Yes sir.

TISDALE: Okay, so what's going on at this point she crosses in front of you right and um she is the contact officer. Is she in front of your police car at this point or she was at at your um driver's side door? She is in front of your?


DEAL: She's in front of my police car.

TISDALE: Okay, and she's come in contact with this gentleman correct just like we are?

DEAL: Face to face.

TISDALE: At this point um you're to the left of her what's going on at this point. What are you seeing at this point, and what are you saying at this point?

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DEAL: We continued loud verbal commands "let me see your hands" um I still I am at this point I am focused on three individuals.

TISDALE: Correct

DEAL: I am focused on the people in the car and the gentleman crouched down outside the car. What I see is that as we're giving him commands the gentleman just very casually almost just looks up at us very briefly for maybe a second or so and then he looks back at the direction he was to begin with.

TISDALE: Did you say anything did he say anything to you or Officer Kerl?

DEAL: Not that I recall


TISDALE: Okay, did he say anything to um the person that had the right front passenger door open?

DEAL: Not that I could tell. I, I don't believe he said anything to them.

TISDALE: And once you're to the left of Officer Kerl. How is your view point advantage as far as I know you see three people but where was your primary focus at?

DEAL: The primary focus I 've got three people I am trying to stay focused on. While he indeed is the one that was described through the 911 calls and by Officer Upchurch. I am trying to maintain more of a focus on him as well.

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TISDALE: Okay,

DEAL: If that makes sense.

TISDALE: It does and once you as you to the left of Officer Kerl. Are you able to get a better view of this gentleman that is crouched down at some point?

DEAL: A somewhat better view?

TISDALE: And when you say a better view what are you able to see once you change positions from your driver side door and move to into the left of Officer Kerl ah while she's contact. What are you able see even though you have three people however your primary focus was on him what were you able to see?

DEAL: I was able to see that he was he was knelt down and I was able to see the front of his jacket. Um.


TISDALE: And as he is knelt down and you see the front of his jacket are there any commands being given at this point?

DEAL: We are continually giving commands "let me see your hands" um as he reaches into his jacket and proceeds to pull out a compact hand gun and then we tell him" put the gun down, put the gun down"

TISDALE: Uh-huh, and what happens after that?

DEAL: He, he does not obey our commands, again he is not listening to us, he is not um even acknowledging us. Um he's uh (cough) excuse me. So he's

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not following our commands there was, there was uh a threat, a threat there to our lives to their lives. And uh Officer Kerl fired her service weapon I know at least twice.

TISDALE: Okay, and once. Did you see um the gentleman that was crouched did you see him remove a hand gun?

DEAL: I did see the hand gun come out of his jacket yes.

TISDALE: And when you say it came out of his jacket. Where at what part of his body did he have it as far as was it his jacket pocket was it left jacket pocket, right jacket pocket or what?

DEAL: I want to say because he I remember I think he pulled it out with his right hand so it would have been the right side of the jacket.

TISDALE: Okay, and, and what did as he is pulling this weapon out did you, did you actually see him pull the weapon out?


DEAL: I saw him pulling, pulling the weapon out of his jacket, yes.

TISDALE: Okay, could you see how that the weapon how the hand gun was positioned, you said it was a small compact handgun right?

DEAL: Yeah,

TISDALE: Could you see how the weapon was positioned when he removed it out of his jacket pocket?

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DEAL: The weapon was positioned as though he was getting ready to draw, it wasn't pointed at the ground it was pointed over towards it would have been towards us as he pulled it out of his jacket with his right hand.

TISDALE: Okay, You got any questions?

THOMPSON; Yeah quick question um Officer you said that while you're in route to the call your getting an update from Officer Upchurch in real time crime?

DEAL: Yes sir.


THOMPSON: What exactly was the information that he was relaying to you guys. As far the description of the subject or the description of the subject actions what is he doing at that time?

DEAL: He's um the information he's relaying is what he is getting off the camera um which is that he observed a suspect matching that description the description that was given to 911. The same description that I confirmed with the dispatcher, that it was a black male with the grey jacket, grey jogging pants was walking towards that maroon colored car.

THOMPSON: Any of those comments that he provided state that the subject was armed at that time. Could he see, did Officer Upchurch advise that he saw a weapon?

DEAL: Not that I recall. Again, there's a lot of information coming in. I am processing a lot of information there their getting several calls to 911, so I am getting information from my dispatcher and from Officer Upchurch as well.

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THOMPSON: Um, the subject that was crouched down on the passenger side of the vehicle you said there was a subject in the passenger seat, front passenger seat?

DEAL: Yes sir there was.

THOMPSON: Uh, could you hear any conversation between them two, if so could you tell what was being said?

DEAL: I don't recall any conversation, I, I didn't hear any conversation going on at that point between those two. I don't.


THOMPSON: Um, Officer DEAL, did you have your body warn camera on?

DEAL: No sir I did not.

THOMPSON: Did you have it with you at work during the day?

DEAL: Its normal protocol for me at the beginning of my shift to put the camera have the camera on make sure the camera is functioning properly and I do wear my camera throughout my duty day. On that particular occasion, again I worked off duty, the previous night at the Spectrum Center um I keep that camera on my traffic vest. Um when we when we get ready they call a 42 from off duty I just take the vest off it still had the camera on it and I just through it over there with my duty bag and that's where it stayed when I got to work, so that uh, yeah.

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THOMPSON: Um, as far as directive or SOP when responding to a priority call its protocol to have your body camera on and activated is that correct?

DEAL: Yes sir that is correct. You are correct.

THOMPSON: Um just be honest with you, you had a pretty good vantage point as far as looking at the subject correct?

DEAL: Um, a decent vantage point.

THOMPSON: Okay, would you say that your position put you at a better position than Officer Kerl's as far as line of sight to the subject?

DEAL: Officer Kerl was in the I guess the best position to encounter to engage the suspect. Um she was face to face with him where as I was over to her left behind, behind the vehicle. I still had I was at the rear of the vehicle so I wasn't necessarily face to face with the subject.


THOMPSON: Would you say that the subject posed an imminent threat to you?

DEAL: Yes sir.

THOMPSON: Why didn't you fire your weapon?

DEAL: It. Understand it happened very, very quickly. Um, again you go back to what I said a while ago I am focused on three individuals, at that time it

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just it, it unfolded very, very quickly. We're giving loud verbal commands, you know "drop the gun, drop the gun" and Officer Kerl fired two shots.

THOMPSON: Um, you advised after the shooting that you guys rendered aid, attempted to render aid to the subject. Correct.

DEAL: Yes sir.

TISDALE: And explain to me exactly what were your actions what did you do?

DEAL: I approached him as he lay there on the ground, um beside the car I checked for responsiveness at the same time there's a gentleman that's still seated inside the car on the passenger seat of the car. Um so we are still dealing with him I tell him to keep his hands on the dash of the car. So, I check for responsiveness, there's no responsiveness I immediately get on the radio and alert dispatcher that we need fire and we need medic immediately.


THOMPSON: Um, I know at some point you both of you guys gave the command repeatedly, "drop the weapon"

DEAL: Yes sir.

THOMPSON: Okay, after giving the command what does compliance look like what would you expect for the subject to do?

DEAL: Compliance would have been him raising his hands so that I could see his hands so that it would be less I guess less threatening. Him laying

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down on the ground, even, even acknowledging us. But there was none of that, there was no acknowledgement at all, ah to either myself or to Officer Kerl.

TISDALE: At what point did you say what was your words, I know you said, you were saying "let me see your hands" these are your words ah "ah let me see your hands" you gave several commands to him "let me see your hands" at some point um he, he reached in his jacket pocket correct and you said um, he removed the hand gun.

DEAL: Yes sir.


TISDALE: At what point did you or the command was given drop the gun? At what point was that said.

DEAL: I want to say that Officer Kerl had, was the first to give the command and at that point I gave the command "drop the gun, drop the gun" and that's as I can see part of the back portion of that handgun that he is pulling from his jacket pocket.

TISDALE: And when you, when you arrived and you exited the vehicle, was there imminent threat at that time?

DEAL: There from the information that I had, there was not an immediate threat, from the information that I had I reasonably believe that there was a gentleman there that was armed with a gun.

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TISDALE: Did you see a weapon once you drew your service weapon, and you gave command in your words "let me see your hands" did you see a weapon at that point when you said, "let me see your hands"?

DEAL: Back here at my car no I could not. The gentleman was crouched down in between the passenger side door and the and the car so I could only see the top portion of his body at that point back here at my car.

TISDALE: Okay, and then at some point when you get to the left of the vehicle and you said your words "let me see your hands" did you see a handgun?

DEAL: So we get up here. I am at the back right of the vehicle Officer Kerl is facing him, face to face, I did there was no weapon at that point.


TISDALE: Okay, so are you continue are you continuing saying "let me see your hands" at this point or what are what are the words that you using the commands that your giving to the gentleman that is crouched um down beside this maroon vehicle with the passenger side door open?

DEAL: As I recall we I believe I was still giving him commands "let me see your hands".

TISDALE: Okay, and at some point, you said after giving those commands "let me see your hands", he reached in which side jacket pocket?

DEAL: It was his it, would have been his ah his right side.

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TISDALE: Okay, and uh at that point you said he began to remove, remove it?

DEAL: Yes, sir.

TISDALE: Remove, remove it. And what was said as soon as he put his hands inside his jacket pocket?

DEAL: Before the weapon was drawn, before he took the weapon out of his jacket pocket?

TISDALE: It could have been the same time or as he took it out. Was any commands given?

DEAL: We were we were constantly giving commands. To "let me see your hands" uh up to the point that he pulls the weapon out of his jacket pocket and we're saying, "drop the drop the gun drop it"


TISDALE: So, at at is was the command drop the gun stated when he removed the handgun out of his jacket pocket?

DEAL: Yes, sir.

TISDALE: Okay, is that the only time the command was given was drop the gun as he removed out his jacket pocket?

DEAL: As I recall I mean I may have said that before.

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TISDALE: You may have said what before?

DEAL: I may have said drop the gun before.

TISDALE: Um, when was, go ahead I am sorry.

DEAL: No before, before he actually pulled the.

TISDALE: Okay, and when, when would that command been given when would that command been given drop the gun before he uh removed it out his jacket pocket. Is it as his hand is going in his jacket pocket, or before?

DEAL: I may have said that um before.

TISDALE: Okay, and when you say before where would you have been at when you made the command drop the gun?


DEAL: I am still right here at the back-right corner of the uh maroon Honda.

TISDALE: Okay, and um at that point when you say you may have said it before uh drop the gun did you see a gun at that point?

DEAL: Not at that point.

TISDALE: Okay, and then so at some point that's when you said you saw him remove the hand gun and you said drop the gun?

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DEAL: No I still had the reason to believe that he was that he was armed.

TISDALE: Okay

DEAL: I did not see a weapon but I had reason to believe from the information that I had that he was armed.

TISDALE: Right


DEAL: Yes, sir.

TISDALE: Right, so um I am just trying to make clarification on at what point did you did you see a weapon and order him to drop the gun. That's all I am trying to do. Just find out you know at what point was the command was given for him to drop the gun.

DEAL: So I initiate the commands "let me see your hands" from right here from my car, that's when, when I start with the commands let me see your hands. As we're approaching we are continually verbalizing "let me see your hands" at that point Officer Kerl would have been face to face with him. I would have been again back here at the right corner of the car to Officer Kerl's left. And at at that point when I, I see him in the crouched position at the car not acknowledging us. Reaching, reaching into his jacket pocket. At that point I may have said "drop the gun drop the gun "I felt like the threat was becoming was increasing at that point.

TISDALE: Just, go ahead.

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DEAL: He's, he's not following our instructions, um at all our directions and he's reaching into his jacket pocket that in itself to me is a threat.

TISDALE: So, as he's reaching in his jacket pocket in your own words is it fair to say is that when you say, "drop the gun"?

DEAL: Yes, sir I, I may have initiated that command at that point.

TISDALE: Okay, and was he complying with any of your commands as he is reaching in his jacket pocket and your saying "drop the gun"?

DEAL: No, sir. He's not.

TISDALE: Okay,

DEAL: At all.


TISDALE: And, did, could you tell what color the gun was once it came out his jacket pocket?

DEAL: It appeared to be uh compact possibly like a black handgun. I remember it was a compact firearm, it was a compact hand gun. It wasn't silver maybe a dull looking color.

TISDALE: Okay, and you said Officer Kerl fired her service weapon?

DEAL: She did.

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TISDALE: And, did you fire your service weapon?

DEAL: I did not.

TISDALE: Okay, and um after Officer Kerl fired her service weapon what did the gentleman, do next that was crouched down beside?

DEAL: He remained upright for maybe a second or two. I remember that he let out a grown like ugh and it was maybe a second or so that he dropped down to the ground.


TISDALE: Okay, did, did anybody say anything as far as, did the gentleman inside the maroon car uh that was seated on the front right passenger seat, did he say anything after the shots were fired? That you recall.

DEAL: I know as I approached he identified himself as the manager, I just told him to keep your hands where I can see them, keep them on the dash.

TISDALE: Okay, and where's the weapon at at this point um once this gentleman is fired um once this gentleman, um Officer Kerl fires a shot at him and you say he falls and makes a moaning noise, uh where's his weapon at, at this point?

DEAL: I can't see the weapon at this point, I don't see the weapon again until Officer Kerl makes contact with the gentleman as he lays is laying there. Officer Kerl she secures the weapon. She picks the weapon up shows me that she has the weapon, that she has secured that weapon. Um at that point she

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backs away comes away from him, and I think she may have placed the weapon on the trunk of the car that is parked beside us.

TISDALE: Okay, and what kind of car was that?

DEAL: I'll be honest I don't recall.

TISDALE: And, where is the female at? You said something about a female that was also in this car where's she at during all of this?

DEAL: By this point she's got out of the driver seat and she is going towards the walking towards the restaurant.

TISDALE: Okay, do you recall when she got out of the driver's seat was it before or after uh Officer Kerl fired her shots?


DEAL: I want to say that it was after she fired the shots.

THOMPSON: Okay, um so let's say at some point you initially gave the commands "let me see your hands" then you guys the next command was "drop the weapon"?

DEAL: Yes sir.

THOMPSON: Um, when you gave the command "drop the weapon" could you see the subject's hand?

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DEAL: I could see that he was going inside his jacket that jacket pocket.

THOMPSON: Did you see both of his hands?

DEAL: I could see both of his hands at that point I saw the, the right hand was going inside the jacket pocket, um that at that moment was a threat to me. I didn't know what he was going for from the information that I received was that he was armed with a gun. So, he's going inside his jacket pocket and pulls the weapon out. Um and I see that it's a compact hand gun I think it was a dull color, it wasn't silver it wasn't shiny.


THOMPSON: At some point when you gave the command "drop the weapon", if I am not mistaken I think you said you gave the command prior to actually seeing the weapon?

DEAL: Yes Sir.

THOMPSON: So, had you given that command what would you how would this subject comply with this what was his action what would you think he should do? You've given him the command drop the weapon.

DEAL: I, I gave him the command initially to let me see your hands and he did not. We went there we responded with the knowledge that there was an armed suspect up at the Burger King. There was a man there that fit his description that was armed with a gun. Um, I have reason to believe that him reaching into his jacket pocket he is going for a gun. And in fact, as I am

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standing there we are giving the commands 'drop the gun, drop the gun" he is pulling out this gun that he had reached for in his jacket pocket.

THOMPSON: So, walk me through tell me exactly what you were seeing as he is pulling out this weapon?

DEAL: So, he's, he's reaching into his jacket he's pulling out the weapon again I say it's a compact handgun. Uh, possibly dull in color, I know it wasn't shiny it wasn't a silver handgun, he's pulling this out, um we're giving him commands "drop the gun, drop the gun". And at that point I heard Officer Kerl discharge I believe two rounds, two rounds from her service weapon.

THOMPSON: If roughly if you had to give an estimate from the time, that you actually first saw the weapon being pulled out of his jacket pocket to when the shots were fired how long do you think might have been?


DEAL: It would have been ah, couple of seconds I mean, two to three seconds maybe thereabout and that's an estimate.

THOMPSON: Could you see which way the barrel of the weapon was pointed?

DEAL: I could see the way that the gun as he was retrieving the gun out of his jacket pocket which way the gun was pointed which it would have been in our general direction. Meaning that if as he pulled it out the gun would have been pointed at us.

THOMPSON: At you guys correct?

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DEAL: Yes, sir he would it would have been pointed at Officer Kerl.

THOMPSON: Could you tell if he had a full grip on that handgun or maybe about a finger or two, or could you?

DEAL: He didn't have it by a finger or two, I mean it was I would as you would say a full grip. So, he had it palmed in his hand it was a grip he had a grip on the gun.

TISDALE: Other than consulting with the ah attorney have you spoken with anybody else about other than your wife. Have you spoken to anybody any coworkers that you work with about the incident?

DEAL: I spoke with my wife.

GREENE: He said other than your wife.


DEAL: Okay I am sorry, um the coworkers that were out there that day.

TISDALE: Did you discuss uhh the shooting with any coworkers about this investigation?

DEAL: No, Sir.

TISDALE: Okay, um and just for clarif for clarity, when you arrived when you first pulled up to 2601 Beatties Ford Road and you had your vehicle parked at a 45-degree angle. As soon as you exited your vehicle you saw this gentleman crouch crouching down? Behind the vehicle?

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DEAL: Yes sir

TISDALE: Um, and as commands are being given to him as soon as you pull up did you see any weapons from anybody at that time you pulled up?

DEAL: From, from that vantage point back at my vehicle I did not at that time.

TISDALE: Okay, and when you when Officer Kerl walked in front of you and you had a transition and she came directly in front of this gentleman and you were behind the rear of this vehicle looking at him with your better vantage point. Did you see this gentleman in possession of a weapon?


DEAL: Immediately no I did not.

TISDALE: Okay, at what point did you I know we sound repetitive at what point did you see a weapon?

DEAL: So we're there I am at the back of the car at the back of the vehicle, the Honda the maroon Honda, um we had just gotten there and it was maybe a second or two that he looked up at us and then looked back he didn't say anything. Um and at that point he goes to he goes in his jacket pocket to pull the gun; the handgun and I want to say it's a couple seconds.

TISDALE: Okay and my point that I was just getting at Officer DEAL is I was just basically asking when you got there did you see a gun in his hand as soon as your got there?

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DEAL: I did not, no sir.

TISDALE: Okay,

THOMPSON: Um, two quick questions. Can you I know you said you positioned your vehicle at a 45-degree angle as you pulled into the (PVA) correct.

DEAL: Yes, sir.

THOMPSON: Can you explained why you positioned your vehicle in that manner?

DEAL: It's too, I wanted to keep a barrier between myself and that gentleman, meaning if he immediately stood up and started firing at me, I can crouch down for cover, I've got that cover, I've got that engine block between myself and him that if he starts firing in my direction I can crouch down I can seek cover.


THOMPSON: Secondly when you saw the subject pull his firearm out of his jacket pocket, what did you think his intentions were at that moment?

DEAL: To shoot us. It was it was a threat. I mean it was not a doubt in my mind that he was gonna shoot us.

TISDALE: So, Officer DEAL, um, this this photo right here I am gonna put I am gonna date this photo if you don't mind if you just sign this sign it for me.

DEAL: Yes sir,

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TISDALE: Okay, I am putting todays date on here 03/27/19, I started showing this photo at 11:05 am, if you don't mind just sign your name under there and just put your code number beside it.

DEAL: Okay, yes sir,

TISDALE: Just right here underneath.

DEAL: Okay, just underneath.

TISDALE: Yes, sir.

DEAL: Gotcha

TISDALE: Um, attorney Greene do you have any questions?

Greene: Yeah, a few if I could. Officer DEAL you were on a priority one call correct?


DEAL: Yes sir, you are correct.

Greene: And the typical situation you have been on the force for how many years?

DEAL: 17 or 17 and a half.

Greene: 17 and a half years and that 17 and a half years and it's your typical practice to put on your blue lights correct?

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DEAL: Yes sir, absolutely.

Greene: and this time you would have but are you telling the Detective and SGt. THOMPSON that you would have but it was the primary focus was getting to the scene?

DEAL: Yes sir it was.

Greene: Okay and also that how far was it from where you were to the to the Burger King?

DEAL: A matter of a few city blocks.

Greene: Okay, um and with your body worn camera, if there was no priority one call that went out what would you what would your practice have been?


DEAL: It would have been as I do daily. To make sure that that camera is on my body and that it's working.

Greene: Okay, and then once you got out how, how much time lap from the time you got the information from Officer Upchurch to getting to the scene and seeing the subject?

DEAL: Not even a minute or two.

Greene: Did you have time to go to the back of your car and snap on your body warn camera?

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DEAL: No sir I didn't have that opportunity.

Greene: You were um they asked you why didn't you fire. Did you have who in your opinion had a better angle in of vision and in line of safety to fire the weapon once they perceived an imminent threat?

DEAL: Officer Kerl had a direct line of sight to the suspect. Um, she was, she was at a vantage point to uh, if that threat was there to engage that threat.

Greene: and when we discussed the threat they asked you some questions what his compliance look like. Did the subject ever announce that he had a weapon?

DEAL: No sir he did not.

Greene: Did he ever say, okay I am dropping the weapon?

DEAL: No sir he did not.


Greene: Did he put his hands up at any point?

DEAL: No sir he did not

Greene: Did he show you his hands at any point?

DEAL: No sir he did not.

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Greene: How long did you engage the subject?

DEAL: It was a matter of seconds. Umm from the time that I excited my vehicle, to the time that we're approaching making contact and Officer Kerl fires her weapon. It could be anywhere from 5-10 seconds.

Greene: Okay, and when you were when you began by saying show me your hands?

DEAL: Yes sir

Greene: Okay, and then you progress to show me or drop the weapon?

DEAL: Yes sir.

Greene: So I am assuming that your trying to communicate that you didn't see a weapon at first?


DEAL: I didn't see a weapon I was to assume that there was a weapon given the information that I had and I wanted him to know that I was aware there was a weapon involved.

Greene: And at some point, it went from let me see our hands to let me see a weapon so you saw a weapon?

DEAL: Yes sir I did.

Greene: Okay, and, and you believe that escalated the situation?

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DEAL: It did yes sir.

Greene: Do you believe that he was trying to hold it by his finger tips and drop it to the ground?

DEAL: No sir absolutely not.

Greene: Do you believe he was trying to take it out and say here Officer DEAL, here's the gun?

DEAL: No, sir.

Greene: What do you believe he was trying to do?


DEAL: I believe he was going to pull that weapon, retrieve it from his jacket pocket and shoot the weapon fire the weapon at us.

Greene: And you also have uh you said you had military experience did you have combat military experience. Were you in active combat?

DEAL: Yes sir I was I uh was deployed back in 2003 with a reserve unit we went to uh, we were deployed with a 3rd Infantry Division. Uh, we started out is Kuwait, and once the invasion started I, we were with 3rd Infantry Division the whole time, we went all the way from Kuwait all the way up to Bagdad, with 3rd ID. Yes, sir.

Greene: And then lastly if you were standing where Officer Kerl was and if you were in her position would you have fired your weapon?

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DEAL: I would have yes sir.

Greene: Nothing further.

THOMPSON: Um, Officer DEAL, in reference to the body warn camera how many as a patrol officer. How many body warn cameras are you issued by the department?

DEAL: Two sir

THOMPSON: And where was your second body worn camera?

DEAL: It ah, it was, it was inside, I kept it right, it was in the ah lunch pouch.

THOMPSON: The second body camera?

DEAL: Yes, sir.


THOMPSON: Okay, so one was on your?

DEAL: On the traffic vest.

THOMPSON: And the second was in your lunch compartment?

DEAL: Yeah, yeah, the lunch bag, yes sir.

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THOMPSON: **Okay**

TISDALE: **You said you started your shift later than usual?**

DEAL: **Yes sir I did.**

TISDALE: **And why was that?**

DEAL: **Due to the fact that I worked off duty the previous night, uhh it was right about 9 it was right about 12 o'clock that we were getting out of there. Uh as soon as we were released from off duty, I called the Metro Division sergeant. Who was Sgt. Burkhardt. And I asked that he check the line up the first shift line up for that day to see if I could possibly come in a little bit later. He did and he said sure that they had plenty working and I asked if I could come in at 9 o'clock so he put me out until 9 o'clock.**

TISDALE: **So you started your shift at 0900?**

DEAL: **Yes, sir.**


TISDALE: **Okay, um prior to the call you went to at 2601 Beatties Ford Road. Was there any other calls that you went to prior that day?**

DEAL: **Not that day, No sir.**

TISDALE: **Okay,**

Greene: **Did your < inaudible whisper>**

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22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte Mecklenburg Police Department					COMPLAINT NUMBER 20190325090102		Page # 50 of 51	
2. Victim Name Danquirs Franklin					3. Original Offense / Charge Homicide (OIS)			
4. Location Of Offense 2601 Beatties Ford Rd					5. Arrest Number		6. C.R. Number	
7. Original Report Date 03/25/19			8. Supplement Date 04/11/19		9. Correct Incident Classification			
10. Juvenile Case No		11. Multiple Case Clearance No		12. Supplement Confidential Yes		13. Purpose Of Supplement Statement Of Ofc. Deal		
Statement of	14. Name (last, middle, first) Deal, Edward, Larry			Age		16. Residence Address		
	17. Home Phone		18. Business Address				19. Bus. Phone	

DEAL: No sir I had been having some problems with it in the field when I would activate the camera I would get a blue, I think a blue light. And normally if its functioning properly you're going to get a green light, its gonna tell you that the cameras functioning properly when you turn it on. Um, it would I would hear an intermittent beeping sound coming from it, so no it was not functioning properly.

TISDALE: Do you have any questions for us Officer DEAL?

DEAL: No I do not.

TISDALE: Um, Attorney Greene?


Greene: No questions thank you very much.

TISDALE: Sgt. THOMPSON?

THOMPSON: No sir.

TISDALE: Okay, this is gonna conclude a recorded statement with Officer DEAL, the time is 11:53 am.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer B. Tisdale		Code 3045	Assignment Homicide	Date 04/11/19
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BT/clzm

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