



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

**R. ANDREW MURRAY**  
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November 17, 2017

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

Re: Rueben Galindo Death Investigation

Dear Chief Putney:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Rueben Galindo on September 6, 2017. The case was investigated under complaint number 20170906211005. The purpose of this review was to examine whether the conduct of CMPD Officer D. Guerra was unlawful when he shot and killed the decedent.

The decedent, Rueben Galindo, called 911 and asked for the police to come get him because he “couldn’t take it anymore.” Four officers arrived, and when Galindo was confronted by police officers in this brief encounter, he pulled a [firearm](#) from his pocket. Officer D. Guerra fired two rounds from a patrol rifle, killing the decedent. Officer C. Suggs also fired his handgun, but his shot did not strike the decedent.

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

Two senior Assistant District Attorneys (ADAs) responded to the scene of this incident and monitored the investigation. I personally reviewed the investigative file as provided by the CMPD. Finally, consistent with the District Attorney’s Office Officer-Involved Shooting Protocol, this case was presented to the District Attorney’s Homicide Prosecution Team, which is comprised of the office’s most experienced prosecutors.

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

The District Attorney (DA) for the 26<sup>th</sup> Prosecutorial District is a state official and, as such, does not answer to city or county governments within the prosecutorial district. The

District Attorney is the chief law enforcement official of the 26<sup>th</sup> Judicial District, the boundaries of which are the same as the County of Mecklenburg. The District Attorney has no administrative authority or control over the personnel of the CMPD or other police agencies within the jurisdiction. That authority and control resides with each city or county government.

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

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

## **B. Legal standards**

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to "self-defense." A police officer does not lose the right to self-defense by virtue of becoming a police officer. 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 from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. Id. at 530.

## **C. Use of deadly force by a law enforcement officer**

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

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

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

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

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 (4<sup>th</sup> Cir. 1996).

#### **D. The officer-involved shooting of Rueben Galindo**

##### **911 calls and dispatch communications**

On September 6, 2017, 911 received a call from a person who requested an interpreter. The caller was then switched to a Spanish language interpreter. The caller, Rueben Galindo, told the 911 operator (through the interpreter service) that he wanted the police to come to the residence where he was living. The following information is also contained in this recording:

- Galindo wanted the police to come because he had a gun in his hand.
- He said he wanted to turn himself in. (Note: The officers found this odd and were suspect of the motive since the decedent did not appear to have an active warrant for his arrest.)
- Galindo repeatedly asked if the police could help him.
- When asked by the dispatcher, Galindo admitted he had been drinking and made a confusing reference to prior drug use.
- When asked his name, Galindo replied, “El Dios Estrella” (The Star God).
- Galindo told the dispatcher, “I need them to get here, I am going crazy.”
- Galindo elaborated that he “can’t take it anymore” and that people were following him but he didn’t know who.

After that 911 call was abruptly terminated, the dispatcher called Galindo back. He was again asked if he had a gun, and he stated that he did. He was repeatedly asked to leave the gun in a safe place when officers arrived. He replied that the gun did not have any bullets. The full transcripts of both 911 calls are attached to this report as exhibit 1. One of the 911 calls ended with the following exchange:

INT: No, but did you leave the firearm in a safe place?

RG: No I have it with me

INT: No please, no, no please

RG: It doesn't have bullets (appears to be giggling)

INT: Ok, I need you to ... are you outside or inside?

RG: Well do you or don't you know where I am?

INT: Ok but, um

RG: I don't have bullets, I don't have bullets, I have the gun in my hand but I don't have bullets

INT: Ok, but please

RG: I will come out with my hands up but I don't have bullets

INT: But please leave it

RG: How will I leave it if I don't know where it is?

INT: Ok I understand sir But for your safety and of everyone's

RG: And for yours as well but I ask you to tell me where are they (appears to be giggling)

INT: They are almost there

RG: Well if they are almost here, tell me where they are? How do you want me to show a firearm?

INT: They are almost there, they are on your street but I need you to assure me that you will leave the gun please

RG: No, well if they get here, as long as they don't shoot me I will throw them the gun

INT: They are there to help you

RG: I don't have bullets, I don't have bullets, I don't have bullets, I don't have bullets



INT: Ok, sir I understand that you are saying that but

RG: I don't have bullets, I telling you initially and clearly that I don't have bullets

INT: Ok, I understand and we are here to help you, um

RG: I am also helping, (appears to be giggling) I am also helping or is it that you can't or what?

INT: I need you to please put that gun somewhere please

RG: No, Well if you are not helping me, I can I help you I am telling you I don't have bullets or anything

INT: Well do you have the gun on you?

RG: Yes.

INT: Ok, Rueben, look, my name is Jessica ok and I work for the Charlotte police department

RG: Look I know that you are nervous, and all of that, I know, well me too

RG: Can you help me or not?

#### Information relayed to officers from the dispatcher

Officer Guerra was dispatched to a call regarding a person armed with a gun who "wants officers to come help him." Officers Tran-Thompson, Batson and Suggs heard the dispatch and agreed to back Officer Guerra up on the call. The dispatcher informed the officers of the following relevant facts:

- The subject initially refused to give the interpreter further information.
- It was unknown what the subject wanted to do with the gun.
- It was unknown whether the subject was suicidal.
- The subject was uncooperative.
- The subject had been drinking.
- There was at least one other person inside the dwelling with the subject.
- The subject sounded delusional.
- Once dispatch learned the subject's name, Rueben Galindo, the officer determined that Galindo had a pending charge for assault by pointing a gun.
- Dispatch was trying to call Galindo back but the call was going straight to voicemail.
- After dispatch was able to re-contact Galindo, the dispatcher passed along to the officers that she requested Galindo to put the gun in a secure location but that Galindo still had it on his person. The dispatcher further informed the officers that she told Galindo to show his hands when the officers arrived.

- The dispatcher told the officers that Galindo claimed the gun did not have any bullets but that he did not want to put it down anywhere, and it appeared he was still carrying the gun despite being told multiple times to put it in a safe place.

### Officers' interviews

Four officers responded to this incident. Each of them agreed to be interviewed by the detectives investigating the matter. None of the officers viewed the body-worn camera footage of the incident prior to being interviewed.

#### Officer Courtney Suggs

Officer Suggs was interviewed on September 8, 2017, by CMPD Homicide Detective T. Burkard and Homicide Unit Sergeant D. Jeter. This interview was conducted at the Law Enforcement Center and was video recorded. Officer Suggs did fire his weapon during the encounter, but his shot did not strike the decedent. The interview was transcribed. A copy of that transcription is attached to this report as exhibit 2. During the interview, Officer Suggs provided the following relevant information:

- Officer Suggs and the other officers were responding to a call for service regarding an “armed person” who stated he needed help from the police.
- Officer Suggs was aware that the call for service involved an armed, potentially impaired and uncooperative individual.
- Officer Suggs knew from dispatch that the subject was unwilling to place the gun down before officers arrived and that the subject claimed the gun had no bullets.
- He learned from a fellow officer that the person they were going to encounter had a previous charge for assault by pointing a gun.
- Based on the nature of the call, the officers decided not to directly approach the door but to instead split up and approach from [different directions](#).
- Officer Suggs expressed his concern that the call for service may in fact be an attempt to ambush the officers. This concern was based on the fact that the caller said he was armed, was refusing to put the gun down before officers arrived, seemed to be in “an abnormal mind state.”
- When he first arrived, he was going to carry his department-issued shotgun from his car to the door of the subject but was told by Officer Guerra not to bring the shotgun so that his hands would be free to detain the subject if necessary.
- Officer Suggs and Officer Batson were further from the subject residence when compared to the other two responding officers at the time Galindo exited the residence courtyard. They were at the far end of the apartment building, about 65 feet from the apartment unit door. Officers Guerra and Tran-Thompson were closest to the subject residence.
- Officer Suggs heard Officer Guerra tell dispatch that the subject had a gun.
- He then heard Officer Guerra say, “drop the gun.”
- From his vantage point, Officer Suggs could see the “subject’s arm was fully extended, his left arm, his back was to myself and Batson, with his attention was completely

focused on Guerra. With his arm extended I saw that he had a black firearm . . . or I'm sorry a dark colored firearm I couldn't exactly tell if it was black at the time."

- During the interview, Officer Suggs recalled that he was concerned that he and Officer Batson did not have adequate cover.
- Officer Suggs relayed that he knew the general area where his fellow officers were but did not know their exact location and could not see them.
- Officer Suggs told the interviewers that he saw the subject's firearm "pointing in the direction of Officers Guerra and Tran-Thompson and heard multiple commands to drop the gun."
- Describing his decision to fire, Officer Suggs stated that he heard a gunshot and believed the subject had fired at the officers, and he therefore fired one time.

#### Officer David Batson

Officer Batson was interviewed on September 7, 2017, by CMPD Homicide Detectives T. Burkard and B. Koll. This officer did not fire his weapon during the encounter. This interview was conducted at the Law Enforcement Center and was video recorded. The interview was transcribed. A copy of that transcription is attached to this report as exhibit 3. During the interview, Officer Batson provided the following relevant information:

- Officer Batson stated he heard the call for service regarding a Spanish speaking male who was armed with a gun and possibly delusional.
- Officer Batson understood that dispatch was trying to get the caller back on the telephone.
- He told the interviewers that he believed he was familiar with the caller from a previous assault by pointing a gun case that occurred five months earlier.
- Officer Batson stated that the officers met together briefly before responding to the address "to make sure this wasn't going to be an ambush."
- Officer Batson learned from dispatch that the dispatcher was able to re-contact the subject with the gun and that the subject was not going to put the gun down.
- As Officer Batson approached the apartment unit from one direction with Officer Suggs, Officers Guerra and Tran-Thompson approached from the other direction and initiated contact with the subject.
- Officer Batson saw the subject standing in the apartment doorway holding a gun in his left hand.
- Officer Batson stated that the subject appeared to be holding the gun in his left hand, saying "it looked like he was holding the grip of the stock of the gun out with his fingers pinched and it looked like the barrel of the gun was upside down, it was pointing towards the other apartment complex."
- At that point, Officer Batson described hearing Officer Guerra give several commands to drop the gun. As stated by Officer Batson, "Um he did not drop the gun and then I heard two shots from the side that Guerra and Tran were standing on."
- Officer Batson also stated he heard a shot fired from Officer Suggs, who was behind Officer Batson.

### Officer Ryan Tran-Thompson

Officer Tran-Thompson was interviewed on September 6, 2017, by CMPD Homicide Detectives T. Burkard and B. Koll. This officer did not fire his weapon during the encounter. This interview was conducted at the Law Enforcement Center and was video recorded. The interview was transcribed. A copy of that transcription is attached to this report as exhibit 4. During the interview, Officer Tran-Thompson provided the following relevant information:

- Officer Tran-Thompson told detectives that he was part of the call to respond to a Hispanic male who was armed with a gun and who wanted police help.
- He stated that he knew dispatchers had been trying to get the subject to put the gun down, stating “as we’re going to the location dispatch was advising us that she got him back on the phone, spoke with him multiple times, told him to go put the gun away, put the gun away . . . multiple times she advised us and she . . . every time she came back to . . . or . . . advised us that he refused to go put it down, he didn’t want to go put it anywhere and he still had it on, he didn’t want to go put it up.”
- He stated that the four officers involved in the call decided to meet briefly before approaching the apartment.
- The officers decided they did not want to pull up directly in front of the apartment “just in case he did decide to maybe ambush and start shooting at us as we pulled up.”
- Therefore, the officers decided to park their cars further away and to split up and approach the apartment from different directions.
- When they approached the apartment, Officer Tran-Thompson stated that he was with Officer Guerra, about 10 feet away from him.
- Officer Guerra yelled out for the subject and heard the subject respond. Then Officer Tran-Thompson heard Guerra yell “manos arriba.”
- Officer Tran-Thompson then saw the subject step out from the doorway and pull a gun out of his left pocket.
- Officer Tran-Thompson said he heard Officer Guerra say “gun” and then say “drop the gun” repeatedly.
- At this point, Officer Tran-Thompson stated, he flipped the safety on his rifle to the fire position.
- Officer Tran-Thompson stated that the subject took a small step toward Officer Guerra, and the subject’s arm was up and started to drop. That is when he heard Officer Guerra fire two shots.

### Officer David Guerra

Officer Guerra was interviewed on September 8, 2017, by CMPD Homicide Detectives T. Burkard and Homicide Unit Sergeant D. Jeter. This officer fired two shots from his patrol rifle, killing the decedent Rueben Galindo. This interview was conducted at the Law Enforcement Center and was video recorded. The interview was transcribed. A copy of that transcription is

attached to this report as exhibit 5. During the interview, Officer Guerra provided the following relevant information:

- Officer Guerra told detectives that he received a call for service to respond to a “Hispanic male advising that he wanted Police to come get him and that he had a gun on him.”
- Officer Guerra contacted dispatch and asked them to try to learn more about the subject.
- Additional initial information provided to Officer Guerra and the other officers included that the subject was intoxicated and that there was at least one other person in the apartment with the subject.
- Officer Guerra stated that he and the other officers began looking into the subject’s criminal history and learned that he had a recent assault by pointing a gun charge.
- Officer Guerra requested a Spanish speaking officer be assigned to the call. But Officer Guerra stated that they knew the subject was armed and that other people were in the apartment so they decided “to continue and proceed with what we had available to us on scene.”
- When Officer Guerra arrived at the correct apartment unit, he told investigators that he called out, “Rueben, Policia.” The subject opened the door, turned toward Officer Guerra and made eye contact.
- Officer Guerra stated he then said, “manos arriba.”
- Officer Guerra recounted that the subject then reached into his pocket and pulled out a firearm.
- Officer Guerra stated that the gun was metallic and “gripped high in the palm of the subject’s hand, the webbing, his fingers were wrapped around the pistol grip just as we’re trained in the Academy or anyone who’s about to fire a pistol.”
- Officer Guerra stated that he immediately began yelling, “drop the gun, drop the gun.”
- He also heard other officers yelling for the subject to drop the gun.
- Officer Guerra stated he then saw the subject’s “elbow pivot backwards and the muzzle raised in my direction.”
- Describing the moment he decided to shoot, Officer Guerra said, “I had the conscious thought of I have to shoot this guy because I immediately felt a threat . . . from him pointing a firearm at me. I didn’t know if it was loaded or not but . . . I recognized immediately as a firearm and it was pointed at me.”
- Officer Guerra described firing his rifle one time at the subject, and when he did not see an immediate change in his physical characteristics, he fired a second time.

## **E. Forensic evidence**

### **Report of the Medical Examiner**

A senior ADA spoke with the Medical Examiner about the injuries suffered by the decedent. The Medical Examiner’s examination found that the injuries are consistent with the physical evidence and the accounts of the officers. The decedent was struck twice with a high velocity projectile. The Medical Examiner noted the presence of a “snowstorm appearance” at the head and chest in the radiographs. This evidence is probative that the decedent was struck

with high velocity rounds from a rifle and is inconsistent with being struck with a projectile fired from a handgun. Both injuries were consistent with a rifle and inconsistent with a handgun. One of the gunshot wounds was to the chest. The other gunshot wound was to the head. From the positioning of both wounds, it is apparent that the first projectile struck the decedent in the chest and the second projectile struck the decedent in the head as he was collapsing from the initial impact.

Results of the examination revealed the presence of ethanol at 230 mg/dl. This equates to a blood alcohol concentration of .23. This is nearly four times the legal limit under North Carolina law and could account for the decedent's behavior.

A copy of the Medical Examiner's report is attached as exhibit 6.

#### Laboratory results

According to the Firearms Section of the CMPD Crime Laboratory, the firearm recovered at the scene, which was held by the decedent when he was shot by Officer Guerra, was a Bryco .380 semiautomatic pistol. When Crime Scene Search Investigators recovered the firearm, which was discovered near Galindo's body, it was not loaded. The magazine for the firearm was also recovered near the body. The magazine did not contain any cartridges. The firearm was examined and found to be in good operating condition. A trace performed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives determined the firearm was first purchased by an individual other than the decedent in 1997. There is no further historical information on the firearm.

#### **F. Mental health records**

The mental health status of this decedent is relevant to the analysis of this incident for two reasons. First, information about the decedent's potential mental infirmity was known to Officer Guerra and the other officers when they encountered the subject. Second, the mental health status may shed some light on why this encounter escalated the way that it did and ended in tragedy.

During the investigation of the shooting, detectives found evidence that the decedent recently received mental health treatment. The detectives investigating this case then obtained a court order for the treatment records. Those records indicate that one month prior to this incident, the decedent was treated for "paranoid ideations" and "unspecified psychosis." The decedent reported audio and visual hallucinations and believed he was being followed. The treatment provider also felt that the decedent's undocumented status and fear of deportation may have been an obstacle to treatment.

The decedent was prescribed Haldol but declined the medication or further treatment. He refused to give the mental health providers his address when offered a cab ride home. Follow-up treatment was recommended, but there are no records to indicate the decedent engaged in the recommended follow-up.

**G. Responsible transparency**

My office routinely provides the public with detailed reports containing analysis and evidence to more effectively communicate the facts of officer-involved shootings and the decision-making process used by this office. Responsible transparency is also the reason why this office has asked that evidence, including police videos, only be released after my prosecutors and I have completed a review of the investigation because we have an obligation to protect the integrity of every investigation and, should someone be charged, preserve the defendant's right to a fair trial. For that reason, this office objected to release of the body-worn camera video prior to our completion of the investigation. In this case, and in many such cases, there were witnesses who refused to speak to the police about the shooting. Releasing video prior to this office having an opportunity to attempt to interview such witnesses allows for the real possibility that witnesses may change their story to comport with evidence released in the media.

**H. Conclusion**

There is no dispute that Officer Guerra fired his weapon and killed Galindo. Therefore, the central issue in this review is whether or not Officer Guerra was justified under North Carolina law in using deadly force. A police officer – or any other person – is justified in using deadly force if he reasonably believed, and in fact believed, that he or another person was in imminent danger of great bodily injury or death from the actions of the person who is shot. In this case, the evidence clearly supports the conclusion that Officer Guerra was facing a mentally unstable, impaired individual armed with a gun and that Galindo failed to properly comply with commands. While it is entirely possible that Galindo's intent was to surrender to police and give them the firearm, other alternatives that could have been lethal to the officers, neighbors in the community or other occupants of the residence were just as likely based on the information available to Officer Guerra in the seconds he had to evaluate the situation. This officer-involved shooting was indisputably tragic, but it was not unlawful. Consequently, I will not be seeking charges related to the death of Rueben Galindo.

If you have any questions, please contact me directly.

Sincerely,

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

R. Andrew Murray  
District Attorney



Exhibits:

Photo

[\(return to text\)](#)





Diagram

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



# **Exhibit 1**

## SECOND CALL - 11.52 MINUTES

RG: Hello?

INT: Sir, you are talking to the Charlotte police department, who am I talking to?

RG: With Ruben.

INT: Ruben, sir you called 911 correct?

RG: Yes

INT: Do you have a fire arm?

RG: Yes.

INT: Where do you have the fire arm?

RG: In my bag if you want I will take it out.

INT: Yes, please can you leave the firearm in a safe I don't know where you can leave it but leave it in a safe place and when you see the officers, show your hands, I don't want you to have the fire arm

RG: Ok, are they on their way or what?

INT: They are on their way sir one moment please.

RG: Hello, hello.

INT: One moment please sir ok.

RG: I don't see them are they on the street?

INT: No, but did you leave the firearm in a safe place?

RG: No I have it with me

INT: No please, no, no please

RG: It doesn't have bullets (giggling)

INT: Ok, I need you to ... are you outside or inside?

RG: Well do you or don't you know where I am?

INT: Ok but, um

RG: I don't have bullets, I don't have bullets, I have the gun in my hand but I don't have bullets

INT: Ok, but please

RG: I will come out with my hands up but I don't have bullets

INT: But please leave it

RG: How will I leave it if I don't know where it is?

INT: Ok I understand sir But for your safety and of everyone's

RG: And for yours as well but I ask you to tell me where are they (giggling)

INT: They are almost there

RG: Well if they are almost here, tell me where they are? How do you want me to show a firearm?

INT: They are almost there, they are on your street but I need you to assure me that you will leave the gun please

RG: No, well if they get here, as long as they don't shoot me I will throw them the gun

INT: They are there to help you

RG: I don't have bullets, I don't have bullets, I don't have bullets, I don't have bullets

INT: Ok, sir I understand that you are saying that but

RG: I don't have bullets, I telling you initially and clearly that I don't have bullets

INT: Ok, I understand and we are here to help you, um

RG: I am also helping, (giggling) I am also helping or is it that you can't or what?

INT: I need you to please put that gun somewhere please

RG: No, Well if you are not helping me, I can I help you I am telling you I don't have bullets or anything

INT: Well do you have the gun on you?

RG: Yes.

INT: Ok, Ruben, look, my name is Jessica ok and I work for the charlotte police department

RG: Look I know that you are nervous, and all of that, I know, well me too

RG: Can you help me or not?

### **Shots fired in the background and screaming**

Woman in background screaming saying the asshole police

**FIRST CALL - 18.54 MINUTES**

INT: Do you need the police, the fire department or the ambulance?

RG: The police.

INT: At what address do you need the police sir?

RG: No I only need to know if they can help me or not.

INT: You need to tell us with what you need help.

RG: Well the police know what I have and this is my address, and I don't know.

INT; Sir, you need to tell us what type of help you need, you have to tell me.

RG: I need them to come get me, I don't know well, for them to come and I will meet with them.

INT: You need them to come get you?

RG; I need them to come pick me up.

INT: If you want the police to go sir, you need to give us your address.

RG: 1918

INT: What else?

RG: 1918 Prospect Avenue Drive 28213.

INT: Repeat the address to verify that I have it correct.

***He is asking someone in the background the address***

RG; 1918 Prospect Drive, Apartment E, Charlotte, NC 28213.

INT: From what phone number are you calling?

***Asking someone in background***

RG: What is this phone number?

RG: I don't know the phone number

INT: Tell me clearly so that I can understand, what is going on and why you want the police to go over.

RG; Because I have a gun in my hand.

INT: What are you going to do with the gun?

RG: Are you going to help me or are you not going to help me?

INT; I need to know what type of help you need, are you suicidal? What do you plan on doing with the gun? What type of help do you need?

RG: Can you or can't you?

INT: Can you tell me your name?

RG: Yes.

INT: What is your name?

RG: Well they know me, tell me are they coming or not?

INT: Look sir, you need to answer the questions we are asking, we will send an officer there but we need to know what is going on and what they are going there for.

RG: You tell me if they are coming or not so that I can put my firearm there in the front or whatever because I need to know if they are coming or not because I can't.

INT: You can't what?

RG: Just tell me if they are coming or not?

INT: Sir, I already told you, the police will be there, like I previously told you that the police will be there, but we want to know what you are planning on doing with the gun, are you trying to kill someone do you want to kill yourself what do you want to do, what is going on?

RG: I want to turn myself in.

INT: Do you have a warrant for your arrest?

RG: I have court on Sept 9<sup>th</sup>.

INT: Do you have a warrant for your arrest?

RG: No.

INT: What is your name?

RG: 10 Star

INT: Ok, I understood star.

INT: What is your first name?

RG: 10 Star they are looking for me.

INT: 10 star is your name?

RG: God star.

INT: God?

RG: Star.

INT: Ok. Is that your name or nick name?

RG: That is what you call me.

***The interpreter spelled it this way***

EL Dios Estrella

The Star God

INT: What is your real name?

RG: Ruben Galindo. Are they coming or are they not coming because I can't?

INT: Yes they are coming I have already told you that 4 times.

RG: Well they don't get here, I need them to get here, I am going crazy.

INT: Have you been drinking or using drugs today?

RG: No, I have only been drinking.

INT: Have you used drugs, or only drinking?

RG: Well yes, I used drugs a while ago, a lot of drugs so that I can call you I think.

INT: What did you use today?

RG: Well beer, do you not understand me or what?

INT: Well sir, you first told me that you didn't use drugs then you told me yes and we need to know, the police are on the way and the questions I am asking you will not delay them, I need to know how many people are in the house with you?

RG: Look, I only need them to come for me, It's only for me I will be outside of the apartment I have a court date and I can't take it any longer, for people to be following me or the police to be following me I don't know who is following me, or if I need to talk to someone else, I have a court date September 9<sup>th</sup> I can't no longer.

INT: Do you also need an ambulance?

RG: No, I only need the police to come for me, for them to take me, Officer Hernandez or someone that speaks Spanish and that's all.

INT: Why do you want them to pick you up? because they can't take you to court.

RG: Because they are following me.

INT: Who is following you?

RG: Are they coming or not?

INT: Sir this is the 5<sup>th</sup> time I have told you they are on the way.

RG: No, this is the 4th time, it's the 4th, it's the 4<sup>th</sup> time..

INT: Give me your description, are you Black, White, Hispanic what clothes are you wearing?

RG: Hispanic, White shirt, blue pants.

INT: How old are you?

RG: 30.

INT: I want to confirm, are you outside?

RG: Are they outside already?

INT: No, I am asking you if you are outside.

RG: No, but if they are outside, I will go outside, I can't no longer, I am fed up, that's it, I prefer for them to lock me up.

INT: Are you thinking of harming the officers when they arrive or to hurt anyone in your house?

RG: No, I just want them to come for me, I want to turn myself in.

INT: We have your call, the officers are in route, they are on their way and they will be there as soon as possible, thank you.

RG: Are they coming or not because i can't take it anymore.



# **Exhibit 2**




9/7/2017 20140906-211005- Saps in sw F.O.

1918 Prospect Dr - Google Maps

C.A





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(Part 1)

THIS DETECTIVE T. BURKARD CHARLOTTE MECKLENBURG POLICE DEPARTMENT TAKE A RECORDED STATEMENT REFERENCE OFFICER INVOLVED SHOOTING; COMPLAINT NUMBERS 20170906211005, TODAY'S DATES FRIDAY SEPTEMBER 8<sup>TH</sup> 2017. CURRENTLY IN ROOM 2001, GONNA BE MY SELF, SERGEANT JETER, ATTORNEY MIKE GREENE, AND OFFICER COURTNEY SUGGS. THE TIME NOW IS 1230 HOURS.

Burkard: Okay. Couple of different things. I don't know if you've ever been involved in some this and we'll get to those questions <Talkover - inaudible>...in a minute and a couple other things worth going over. Um so just like I told you before I'm Detective Burkard, Sergeant Jeter um... because you're involved in an officer involved shooting, Sergeant Jeter and I would like to speak to you about your involvement with this case. At this time we'd like to also note that per your request, your attorney, Mike Greene, is present with you. As part of this investigation our interviews are recorded and we want you to make sure that you know that the interview is being recorded. Um you okay with it being recorded?

SUGGS: Yes sir.


Burkard: This a voluntary interview you're free to leave at any time, you understand that?

SUGGS: Yes sir.

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

SUGGS: Yes sir.

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Burkard: We also wanna inform you that there are two parallel investigations... Can you get that door and tell 'em to stop please? Two parallel investigations which are occurring... um we're in the Homicide unit and we're conducting the obviously the criminal part of the investigation. Um you don't have to speak with us but we'd like to speak with you to gain your perspective and assist the investigation. The second investigation is internal inves... administrative investigation which is being investigated by Internal Affairs. Um they may, may not, speak with you it just depends on how they decide. But you understand that part of it, there's two different <Inaudible>

SUGGS: Yes sir.

Burkard: Okay. Obviously we're doing the criminal investigation, we take this interview, we give it to Internal Affairs, they review it. If they decide that they have additional questions then they will contact you and work it out with that, it's completely separate.

SUGGS: Yes sir.

Burkard: Oh okay. And you know whatever happens Internal Affairs that's... even though it's a criminal investigation they can't share it with us.


SUGGS: Okay.

Burkard: Just so you know that. Alright so that, all that knowing that, you're willing to talk with us Mike present?

SUGGS: Yes sir.

Burkard: Suggs what's your code number?

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SUGGS: 5259.

Burkard: And your date of hire?

SUGGS: Believe its 12/15...December 2014.

Burkard: 2014?

SUGGS: Correct.

Burkard: Okay. Do you have any prior military or law enforcement experience?

SUGGS: No sir.

Burkard: And currently assigned division?

SUGGS: North Tryon division, response area.

Burkard: And your shift?

SUGGS: Third shift.

Burkard: Third? What time is third shift?


SUGGS: Our roll call is 8:15 p.m....2015 hours.

Burkard: To what time?

SUGGS: 0630 a.m.

Burkard: And your call sign?

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SUGGS: Uh 07-1303.

Burkard: Is that 1303-3<sup>rd</sup>?

SUGGS: 1303-3<sup>rd</sup> correct.

Burkard: Talk group is North Tryon?

SUGGS: Correct.

Burkard: And your supervisor?

SUGGS: Uh should be Sergeant Randall Baker.

Burkard: How tall are you?

SUGGS: About 5 foot 9.

Burkard: How much do you weigh?


SUGGS: Uh roughly 140 pounds.

Burkard: Before your shift, the night before or day before, however you try to work it out there of the shooting, did you... how much sleep do you get, do you remember?

SUGGS: About seven hours.

Burkard: Okay. Sarge could you tell them with the vacuum, to vacuum later? Did you work off duty prior to your shift?

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SUGGS: I did not.

Burkard: What vehicle are you driving?

SUGGS: Uh PDA912.

Burkard: <Inaudible>... 912?

SUGGS: 912, 9 1 2.

Burkard: Marked vehicle?

SUGGS: Yes sir.

Burkard: DMVR in that car or no?

SUGGS: No sir.

Burkard: Is there anyone else with you in the car?


SUGGS: No sir.

Burkard: And your duty weapon already collected. Are you issued any other weapons?

SUGGS: Have I been issued <Inaudible>

Burkard: Are you issued any other weapons, like you carry a patrol rifle or anything else?

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SUGGS: Oh no sir...no sir.

Burkard: Did you carry a back up weapon that day or anything?

SUGGS: No sir.

Burkard: Okay. Did you take any notes while you were out there?

SUGGS: No sir.

Burkard: Anything written down or anything?

SUGGS: No sir.

Burkard: Get all that kind of stuff out a the way. Okay, we have a map for you. It might help you explain a few things, you don't have to use it, it's completely up to you.

SUGGS: Okay.

Burkard: If you wanna start when you got the call for service okay?

SUGGS: Okay


Burkard: Um I will tell you this it's really easy especially when you're talking to other Police to be able to say things that I'll understand, but others don't understand cause of the lingo.

SUGGS: Correct.

Burkard: If you can try to avoid that as much as possible...

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SUGGS: Okay.

Burkard: ...pretend like I know nothing about Police work.

SUGGS: Okay.

Burkard: Don't worry about it though if you say oh yeah I was 10-23 or whatever...we'll go back and clarify <Talkover - inaudible>

SUGGS: Okay.

Burkard: <Inaudible>...let you know that and then move along from there but try to... I'll try to not without interrupting you...

SUGGS: Yes sir.

Burkard: ...and get everything out and then we'll go back and ask questions.

SUGGS: Yes sir.


Burkard: Alright? So is anything else... question's anything else?

Jeter: No.

Burkard: You good? Okay so where ever you wanna start with that call for service.

SUGGS: Okay um...I was at the North Tryon division team office um when the call for service came out. Um I'm not quite sure priority the call came out as, but I know it was not a priority one call for service.

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Burkard: Okay.

SUGGS: Um it came out roughly between 9 p.m. and 9:10 p.m.


Burkard: Uh huh.

SUGGS: Um the way the call came out was that it was an armed person call for sergis...service, I'm sorry, there was a subject that was calling in to 911 stating that he had a uh...a firearm and that he needed help from Police. Um I heard the call for service go out at 1900 or the 1900 block, I believe it was 1918 Prospect Drive.

Burkard: Okay.

SUGGS: Um I knew that was my assigned response area. Um, so I radioed to dispatch to add me to that call for service. Um I got into my patrol vehicle um PDA912, I uh looked at the unit summary to see who was also on the call for service with me, um I saw that Officer David Guerra was on the call for service um and Officer Ryan Tran was on the call for service already as well. Um I was still located at the team office at the time, um and at that time we radioed um to each other while we were there to see each other's location. Um we were all...myself um Officer Tran and Officer Guerra were all located at the team office at the time. Um we stated to each other on air or Guer...Officer Guerra said to us on air that um we should meet behind the team office at the Sugar Creek Charter School parking lot to kind a discuss our approach um do some research um with the name provided in the call for service from dispatch. Um so we all um... At this time, I believe, Officer Batson added his self to the call for service as well. Um the same information was relayed to him um that we're gonna meet behind the uh team office um to kind a discuss our approach to um to the home with the knowledge that dispatch had provided that he's armed. Um...so we uh...we


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all exited the um ...exited the uh team office met there um and we...I got out a my vehicle, Officer Guerra got out a his vehicle, Officer Tran got out a his...out of his vehicle. Um in reading the call for service um dispatch had provided a name for the subject uh...I believe it was Rueben Galindo, if I can recall correctly um... at this time Officer Batson stated that he was gonna do some research on the name of the subject to see if he had any prior history or was in the system or anything. Um Officer Batson did this research and was able to locate a subject that matched the description um...dispatch had provided in the call that the subject was a uh... a Hispanic male um gave us the name, stated that he told them that he was armed and wanted Police to come help him. Um...I thought this was odd that a subject who was...who was armed would call us to come help him um at the time. Um so we um...we kind a... with that information being provided, I'm reading the call for service that it said that he wanted to turn himself in um...so we wanted to check him to see if he had any prior criminal history or criminal involvement. Um Officer Batson did this research on this uh laptop in his vehicle, he pulled up a picture of a subject that...that...that had the same name um as the name provided in the call. Um the subject was a Hispanic male um I didn't get to see his uh measurements as far as height and weight or anything. Um we looked at the picture, call for service um I was able to get familiar with the picture. Officer Batson stated that um he had a prior charge for assault by pointing a gun um on his record. Um Officer Batson also stated that he believed he had previous...a previous encounter with this um subject. He stated that um earlier in the year there was a situation where um this subject was detained and frisked um and he located cartridges in his pocket but no weapon. Um so that information being provided we hadn't made it out to the scene to be able...uh to see if we could, ya know, hundred percent say that was the same guy that we had looked up but ...


Burkard: Understand.

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SUGGS: ...with that information being provided those were some of the things that we were taking in consideration with it being a armed person call for service, um with that subject that we had found, having a previous conviction or, I'm sorry, a previous charge for assault by pointing a gun. Um also uh dispatch advised that the um subject seemed to be in an impaired state um I'm not sure uh ya know what...what it was but um they said that it was abnormal when they are speaking to him. Um they...they said that they were speaking to him, I believe they advised through the Spanish language... Language Line um and they also stated that they would request a Spanish speaking officer to um switch over to our channel in order to assist us if...if it was necessary. Um at that time, um while we're still talking about, speaking about our approach um we went through the remarks in the call to make sure that we were aware of the totality of the circumstances and how we were gonna handle um the situation. We spoke about how we would all park uh...park a distance away and approach on foot so that if he did have a firearm we wouldn't just.. we would not just drive up to uh ...to his home or his location um just in case. Um...we spoke that um... we spoke about... I'm sorry, while I was out there I personally um radioed to dispatch to see if they could call the um complainant back, um the subject, and see if he'd be willing to put down the firearm before we went and spoke with him also to advise us his current location of where he was located and proximity to his home. Um and also to see where...if he did place the firearm down, where the firearm was located before we were able ...before we ever um left the parking lot and made our approach to his um home address. Um so we all um agreed that we would approach on foot uh we would have officers, ya know, address accordingly depending on what...what he presented to us. Um with the call for service we...we already had the knowledge that he stated he had a firearm. Um we didn't know what type of firearm or if it was in his hand or, ya know, on his person at the time but he stated that um he did have it, he wanted officers to come out there and help him. Um we

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provided with a name uh we did research on that name. Um with the name provided we found that, ya know, there was a previous assault by pointing a gun charge with a name associated with the subject that dispatch had provided us so we stated that we were gonna leave that...that area at that time. Um I can't recall exactly the time we left the parking lot uh but we all got in our vehicles and left the parking lot after the um speaking with each other and doing some research and we began to make our approach to um the 19 um hundred block of Prospect Drive. Um it took us roughly about five minutes to um get there, we travelled down Sugar Creek, West Sugar Creek, to Reagan Drive, Reagan Drive to Prospect Drive. Um when we ...when we got to uh...to the entrance of Prospect Drive um the entrance of Prospect...Prospect Drive is well lit um a few street lights and such on the side, on each side so you could pretty much see when you're pulling directly into the um...to the parking lot. Um I guess for the...for the sake of um  
<Talkover - inaudible>

Burkard: <Talkover - inaudible>...here's Reagan Drive, here's 85...

SUGGS: Correct.

Burkard: ...here's Prospect, here's the Prospect Drive loop...


SUGGS: Okay.

Burkard: ...with the apartment complex. If you write anything down, this pen will work easier on the color part...

SUGGS: Okay.

Burkard: ...um obviously <Inaudible>...you wanna just show...

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SUGGS: Correct.

Burkard: <Inaudible>

SUGGS: Right.

Burkard: <Inaudible>...just show me with... <Talkover - inaudible>

SUGGS: Um...

Burkard: <Talkover - inaudible>...the lighting at the entrance.

SUGGS: So if this is the entrance right here...

Burkard: Uh huh.

SUGGS: ...Prospect Drive, this area here...

Burkard: Uh huh.


SUGGS: ...is pretty well lit...

Burkard: Okay.

SUGGS: ...um coming into the...into the entrance. Um Officer Guerra was ahead of me in his patrol vehicle, he...he made entry first, I followed behind him secondly.

Burkard: Okay.

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SUGGS: Third followed by Officer Tran and fourth by Officer Batson. Um Officer Guerra made his approach through here. Um from here we went straight um to this side of Prospect Drive um and stopped roughly around ...around the corner just before you get to the bend...

Burkard: Okay.

SUGGS: ...um...

Burkard: If you don't mind can you just put a little rectangle where your car was?

SUGGS: Okay absolutely.

Burkard: Thank you.

SUGGS: Um my car was about right here...

Burkard: Okay.


SUGGS: ...in Prospect. Um Officer Guerra's car is in front of me, Officer's Tran's car was behind me; Officer Batson came behind uh myself and he parked over here and I believe it was one of these parking spaces over here so his car was parked uh, pretty much, parallel to where we were at.

Burkard: In the parking space?

SUGGS: Um yes sir.

Burkard: Okay.

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SUGGS: Um this area here is not well lit um once we turned off headlights to our patrol vehicle um the only light...lighting that we had was coming from this walkway here currently.

Burkard: Okay.

SUGGS: Um so um... we all exited our vehicles. Um when I exited my vehicle um I activated my body camera I believe. Um when I did that um I saw that Officer Guerra had exited his vehicle as well, when he exited his vehicle he had his uh patrol rifle um in his hand out. Um I initially grabbed the um shotgun...

Burkard: Uh huh.


SUGGS: ...that was mounted in my vehicle. Um I grabbed it out, um and Officer Guerra saw that I had did that. Um he relayed to me that it probably bet...be best if I didn't bring the shotgun just in case someone had to um go hands on with the subject in order to detain him for maybe a weapons frisk just due to the nature of the call and that it is a armed person call for service for the safety of officers the uh subject and everyone else around in the...in the immediate area. Um so I placed the shotgun back into my patrol vehicle, back into the shotgun holder um... secured it, I closed my vehicle, I believe I locked my vehicle at the time. Um Officer Tran, once I did that, Officer Tran was exiting his vehicle um behind me he's um a patrol rifle officer as well ...

Burkard: Uh huh.

SUGGS: ...so he exited his vehicle with his patrol rifle in hand. Um at this time dispatch had gotten back to me on the radio with the question I asked about if she could ask the uh subject to place his firearm down before we made our approach to come speak with him. Um she stated to us that on the main

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channel that he stated that he would not be placing his firearm down that um he stated that he did not have any bullets in his firearm but he would not place it down um as we had asked dispatch to ask him to before officer's made their approach. Um at the time we uh...well I heard this information um there was no way to verify if he did or did not have um bullets inside of the gun um but with the information that I was just provided he stated that he did have the gun on his person and that he would not put it down um upon the arrival of officers um as we had asked dispatch to ask him to. Um with this information being provided officer's um on scene we knew that um... so the...the approach that we stated that we were gonna use was I'm not sure exactly what...what building numbers these are but we stated that we were gonna walk through um...through this building.

Burkard: Okay.

SUGGS: Um this, this area here is uh pretty well lit, about...I believe two street lights on each side um Officer Batson, before we made our approach, Officer Batson exited his vehicle, he's also a patrol rifle officer um but for the sake of our discussion he stated that he would keep his um patrol rifle in the vehicle just in case we also had detained the subject so that it can be two officer's making the approach to detain the subject for safety reasons. Um so, at the time, it was officer Guerra, Officer Tran with patrol rifles and myself and Officer Batson with our um...our on duty firearms. Um before making our approach there was a young lady, excuse me, that walked up to where we were standing at the time um this young lady was about 5...5 foot 3 in stature, she was walking a dog. Um I didn't say anything to her, I didn't hear her say anything um she was closer to Officer Tran than I was. Um I'm not sure if he relayed any information to her about be careful or watch out or whatever the case was but um the uh young woman that walked through the path um that we were getting ready to take um once he...she disappeared from my line of sight I didn't see her anymore for the...the remainder of um

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this call for service. Um once she walked through we uh kind a, ya know, we...we...we stood there for a second make sure we had all the information about the uh...the call for service down pat. Um also dispatch relayed to us, I guess, um... that it sounded like he was opening and closing doors so she couldn't tell um what...where his location was in proximity to his home. Um if he was inside the house or if he was walking outside the house so with that information and the fact that he said that he had a firearm and he would not be placing it down we wanted to be um alert as to the fact that he could be maybe be outside in the surrounding or immediate area with a firearm. The area currently where we were standing wasn't well lit so we began to um advance through uh this pathway here...

Burkard: Uh huh.

SUGGS: ...um to make our approach. Um once we begin walking through this pathway um Officer Guerra was in front of me about ten feet maybe um on the right side. Officer Tran was parallel to him also about ten feet on the left side. Um we were clearing their bushes and stuff here and other apartment homes we were just making sure that the subject wasn't located in any of these and there are also no other people outside at the time. Um I was behind Officer Guerra on the right side about ten feet.


Burkard: Excuse me one second.

SUGGS: Yes sir.

Burkard: Could you tell me your mindset as to why you were checking bushes?

SUGGS: Um with the...with the call for service and there being a uh...a armed subject um there's a possibility that he may be lying in wait or hiding behind the bushes um with the firearm and waiting for officer's to walk past for any

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um, ya know, for any reason. We wanted to make sure that we had officer safety issues um we wanted to make sure that all officer's were safe and due to the nature of the call um this area is also a um a high crime area. Um we've been to, I myself personally, have been to multiple calls here in reference to a number of... variety of situations um from homicides in this particular apartment complex to breaking and entering so with that being said we know that it's a high crime area, wanted to keep ourselves safe um as well as any...any one else in the public safe so we wanted to make sure that we checked all the...all the um...corners behind all the bushes to make sure that this subject in particular or no one else was um waiting on us to uh ...to uh walk through to harm us or anything of that nature.

Burkard: Sorry to interrupt ya, so you're walking through here trying to <Talkover - inaudible>

SUGGS: Yes sir. Um as we're walking through here, like I said, Officer Guerra's about I guess ten feet ahead of me, Officer Tran's parallel to him, both of them have their rifles out um they're clearing and checking behind the bushes in the front of them and um clearing their corners and stuff for offer... officer safety reasons. Um I, myself, would do a double check behind those officers on my side to ...to do the same type um of issue. Officer Batson was on the left hand...left hand side behind Officer Tran, he was off behind me about five feet um on the left hand side. So we made our approach, um this area here is well lit um we cleared our corners um meaning we just checked the... the...the corners of the building to make sure that there were no people or, ya know, things there that could harm us or anybody else. Um we saw that this area here was clear. Um all four of us made our approach through um I believe this area here on the left side of this building. Um this area still here is um...um somewhat a lighted area, we're still checking ya know all our surrounding and immediate areas to make sure that we're safe and...and, ya know, there...there aren't people

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waiting on us to...to come around the corner or anything or <Inaudible> in particular this subject who stated that he had a firearm and he wasn't gonna put it down upon officers arrival. Also with the information that dispatch had provided us that he seemed to be in an abnormal mind state, we're not a hundred percent sure what he would do with that firearm if he did see officer's...

Burkard: Okay.

SUGGS: ...um as well as there just being other people, civilians that'll be outside. Um it is about 9 p.m. um at night at this time, it's a week day, there are...ya know, people that have work and school, but there's also ...it's about...I guess two hundred to four hundred people in this apartment complex so there's a...a chance that it's not too late for people to be outside doing whatever it is that they may be doing at the time.

Burkard: Okay.


SUGGS: Um we made our approach here, once we got to this building um next to the uh... the 1918 building um Officer ...Officer's Tran and um Officer Guerra they went to the left side of the building um to make the approach to the 1918 building from the left side. Myself and Officer Batson went to the right side of the building um to make our approach from that side.

Burkard: Okay.

SUGGS: Um I...I don't think it was any particular reason why we...we didn't convey this, we didn't convey this before we said it but we just, ya know, spread out to kind a cover both sides of the building...

Burkard: Uh huh.

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SUGGS: ...to make sure. Um for safety reasons we kept two officer's in pairs um, once again, Officer Guerra and Officer Tran went to the left side of the building, myself and Officer Batson went to the right side of the building um...

Burkard: And just... you're referring to this one here, not the <Talkover - inaudible>

SUGGS: Correct, correct.

Burkard: <Talkover - inaudible>...building the one <Talkover - inaudible>

SUGGS: Yes sir.


Burkard: Okay.

SUGGS: Yes sir.

Burkard: Thank you.

SUGGS: Um we went through the...through the walkway, still checking our immediate surroundings to make sure that no one was outside lying in wait or anybody was there waiting for us or the subject wasn't there waiting for us with the...with the firearm he stated he had. Um we got to the parking lot and we walked behind some vehicles um I can't recall exactly what the color of the vehicles were or how many vehicles but we walked behind the vehicles to check in between the vehicles to make sure that the subject wasn't there waiting in between the vehicles because we're approaching closer to the...the house to the um...the...the house listed in the call for service...

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Burkard: Uh huh.

SUGGS: ...so we wanted to be more aware just in case the subject was closer to his home where he stated that he was located. Um we begin... myself and Officer um Batson began looking through the uh vehicles um and upon making it about halfway down the row um Officer Guerra came over the radio and stated to...for...for our headquarters, our dispatch, to close the channel meaning that no one else was allowed to speak over the radio. Um he told them to close the channel because they had a... approached, I guess, the um... I can't remember exactly what part...exactly what part in the building, but once they got to the building where the subject stated he was located they saw the...the subject and they stated that he had a firearm, for them to close the channel. At this time, myself and Officer Batson um were about halfway down the row um of cars. We um ran through the vehicles and made it to the corner of uh this building here currently and took up positions on the corner of the...uh corner of the building. Um at this area here is a ...uh not a well lit area so it's...it's fairly dark here um but when looking down towards the...the...to where the subject was located there was a lighting, there was lighting um around this area here. Um I believe the subject was located in the last...the last building on the end.


Burkard: Okay.

SUGGS: Um <Talkover - inaudible>

Burkard: Excuse me one second just wanna clarify...if you could put a mark where you guys were at this end of the building.

SUGGS: Okay um Officer Batson was right on the corner of the building in front of me...

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Burkard: Okay.

SUGGS: ...um uh...

Burkard: Put a little dot or whatever where...

SUGGS: Yeah.

Burkard: ...and label it B for Batson...

SUGGS: Right.

Burkard: ...so... there you go <Talkover - inaudible>

SUGGS: Um...and I was about a foot off to the right of him...

Burkard: Uh huh.

SUGGS: ...and a foot back um so I was about here um...

Burkard: Okay so just make than an S or you can leave it a C whatever you're more comfortable with.


SUGGS: Okay.

Burkard: And just so I understand that you're saying this area is dark here...

SUGGS: Correct.

Burkard: ...and this area is lit...

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SUGGS: Correct.

Burkard: ...down here.

SUGGS: Correct.

Burkard: And we're referring to that ...this 1918...

SUGGS: 1918 building.

Burkard: Okay.

SUGGS: Um so the area here is pretty well lit.

Burkard: Okay.


SUGGS: Um... I could hear, upon approaching this side of the building I could hear Officer Tran ...I'm sorry, Officer Guerra's voices...voice...um on this side of the building giving loud verbal commands to drop the firearm, to drop the weapon.

Burkard: Okay.

SUGGS: Um before I...before um Officer Batson and I made it to the corner of this building I believe I heard Guerra say twice um to drop the weapon. Um with taking in the totality of ...of everything that we've known so far with him stating that he had a firearm that he would not be putting it down um upon the arrival of Officers ...Officer Guerra stating that he identifies um...he's able to identify that there's a firearm located with the subject, um I didn't see Officer...Officer Guerra or Officer Tran at all so I wasn't sure of what type of

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cover that they had, if any. Um all I could see um was the subject located at the end residence here um when um...when I was looking down towards where he was uh located there was a uh slight elevation from where Officer Batson and I were located to where the subject was located.

Burkard: Uh huh.


SUGGS: Um when looking...when looking down at the uh subject um he appeared to be about a 5 foot 7 man in stature, um medium build, I would say approx... approximately 140 to 160 pounds. Um he had on a dark colored shirt um he was ...he...he was standing outside of a... um...he had a... he had a screen door open, a patio door, the uh...the door was mesh um metal but you could see right through it, was a white door. Um most of the apartment complexes...I mean I'm sorry, most of the apartment homes in this building have a uh...a... a patio that you have to enter...

Burkard: Uh huh.

SUGGS: ...before getting to the primary door of the residence um so with this patio door um subject had the door open um with his back to myself and Officer Batson um focused...his...his attention was focused completely on Officer Tran and Officer Guerra's location um I could hear them, like I said, giving loud...hear Guerra particularly giving loud verbal commands um to drop the firearm. He gave those commands multiple times. Um when I was looking down I could see that the uh subject's...the subject...subject's arm was fully extended um his left arm, his back was to myself and um Officer Batson with his attention completely focused on Officer Guerra um with his arm extended I saw that he had a uh... black firearm, or I'm sorry, a dark color firearm, I couldn't tell exactly if it was black at the time.

Burkard: Okay.

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SUGGS: Um it seemed to be a pistol. Um... he also was wearing a dark colored shirt um I couldn't see what type of ...of uh...pants or anything that he had on, um but I could see that his arm was fully extended um with the firearm in his hand. Um I began to give a loud, verb... loud verbal commands to drop the weapon. Um Officer Batson, I heard him give a loud verbal command to drop the weapon um and we continued to do this I would say... approximately um five...I've heard...I heard approximately five to six loud verbal commands of drop the firearm or drop the weapon.

Burkard: How many times did you say it?

SUGGS: I believe I...I ...I know I said it, I'm sorry, I believe I said it once.

Burkard: Okay.

SUGGS: I'm not sure how many more times I did or did not say it...


Burkard: Okay.

SUGGS: ...there. I'm still not a hundred percent sure but I believe I did say it once.

Burkard: Okay.


SUGGS: Um at this time, not knowing um what type of cover or concealment that Officer Guerra and Officer Tran have, myself and Officer Batson didn't have great cover concealment as well um I was...I was off of the building about a foot um and I was partially or mostly exposed but only with small amounts of cover. Officer Batson only...also had a small amount of cover, um I had to extend myself outward a little more um just due to the fact that Officer Batson was in my line of sight um and for officer safety reasons, I didn't

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wanna be directly behind him with my firearm pointed out um at...where the uh subject was located. Um the subject was...I could see him um...fully in a fully erect position um with his arm fully extended, firearm in his hand pointing in the direction of Officer Guerra and Officer Tran. Um at no point in time did I hear the uh subject say anything um to officers. Um I also uh... took in consideration that this is a uh...a school night as well as a work night that there are um other ...other um people that may be located in these residence. Um I was perceiving and inti...uh imminent threat of danger, death or bodily harm to myself um Officer Batson, Officer Tran, Officer Guerra and the uh surrounding um and neighboring homes. Um at that point in time it would've been easy for him to uh focus his attention on myself and Officer Batson who were exposed at the time. Um at no point did it seem ...the subject seem to pay any atten...any attention to myself and Officer Batson even after we began giving him the verbal commands to drop the weapon. Um with myself being exposed, also with Officer Batson behind exposed, he was at a uh slight incline to where we were located. Um I still feel great danger to myself and Officer Batson that if he decided to turn his weapon and focus his attention on myself or Officer Batson that we would be fully exposed um or partially exposed and if he were to open fire um that we wouldn't have much cover to get behind. Um and at this time we were still giving uh the verbal commands to drop the weapon, the um subject seemed to ignore those...those commands, still standing in the fully erect position with his arm, left arm fully extended. Um dark colored firearm in hand, I was...I was able to see that a hundred percent, it was a um...firearm. Um I had a...I had a clear backdrop, there was no people or persons located in between myself and the subject. Um behind the subject he was on the end apartment so I believe there's only a...a bush um and then there was the end of the apartment complex. The door, the patio door, that he had open you could see completely through it because it was mesh so you could see his figure. I could tell that there was no person standing with him at the door um that it was only him. Um we're about, I would say,

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maybe fifteen yards ... fifteen to twenty yards from where he's located, myself and Officer Batson. Um with him having the firearm in his hand already, as well there's no way for us to know if he maybe had other firearms located on the patio with him or if there were other persons there with him that had other firearms at that time. Um at this time, like I said, he's presenting an imminent threat of danger, death or bodily... serious bodily injury to myself, Officer Batson, um... Officer Guerra and Officer Tran and I did not know if Officer Guerra and Officer Tran had cover themselves and I could see that the subjects attention was fully affixed on them even after myself and Officer Batson had given him commands to drop the weapon. Um I say about ten, fifteen seconds upon us giving him the commands to um drop his weapon I heard the first shot being fired. Um I wasn't a hundred percent sure where the shot came from but it was in the direction of where the subject was located as well as Officer Guerra and Officer Tran were... were located. Um at this point in time the uh... I knew that there were shots being fired um my backdrop was clear, I had a... a clear line a sight to where the subject was. Again, I was approximately fifteen yards to twenty yards of where the subject was located. Um I was partially off of cover at this time um there's a imminent threat of danger and death being presented to us from this subject who stated that he had a firearm, dispatch provided us that he was in an abnormal mental state, there was no way for us to verify his state of mind, there was no way for us to verify if he did have bullets in this gun. Um we had asked dispatch to ask him to place the gun down before officer's arrived. Um he stated that he would not do so and that he would keep it upon officer's arriving. Um Officer Guerra initially gave him two verbal commands before Officer Batson and I ever made the approach. Um with there being um possibly being other people located in these residences right across from where he is um if he were to take the firearm and start firing into these residences um there was... there was no way to tell that if he was able to strike an innocent bystander or anything um with

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that being said there's about two hundred to four hundred people that live in this apartment complex, it's 9...9...between 9 and 10 p.m. at night.

Burkard: Uh huh.


SUGGS: Um school night as well as a work night um for some people um... uh with dispatch also staying...also us looking at the uh ...the history of this subject um that it could possibly be him already having a previous charge on his record for assault by pointing a gun. Um Officer Batson saying to us that he had a...may have had a previous encounter with this subject to where he located cartridges on the person of this subject. Um taking all ...the totality of the um circumstances into account um after hearing the uh first shot being fired um at that point um I perceive this...you know, I...I...I had already perceived this to be a...a deadly force situation um once he fired ...once I heard the first shot being fired um I believed, honestly, that it was the subject firing his weapon at Officer Guerra and Officer Tran. Um at this point in time I discharged my firearm once um aiming center mass where the subject was located um at the door where I could see clearly through um I discharged my firearm once. Um like approximately a second after hearing the uh ...the first shot um upon discharging my firearm within a second I heard a uh third shot and the subject fell to the ground. Um like I said I...I discharged my firearm one time and aimed center mass um as I was trained to do in the...in the Academy. Um just because it was the...the...the most surface area for the subject at the time. Um the subject, after the uh second and third shot the subject immediately fell to the ground um he fell forward. At this time I was unable to see his hands um I wasn't able to see if he had a firearm...the firearm still located in his hands. Um the subject was not moving at the time, um but the uh...the...there's still uncertainty. Um upon the subject falling to the ground I heard Officer Guerra get on the radio and advise dispatch that shots had been fired to send more units and within moments um to request Medic as well. Um I be...I begin to hear Police

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sirens off in the distance, I was still focused on where the uh subject was located again, not being able to see his hands, um not knowing if he still had the firearm in his hands um or if he would...if he had indeed fired the shots or if he had fired any shots. Um...um I only discharged my firearm once um after that was done I perceived a threat um the...the subject to be down and um the threat level, I still felt was high, but I didn't feel the need to discharge my firearm any more just due to the subject being on the ground and not moving. Um he was no longer pointing the firearm, from what I could see, at officers um he was laying on the ground but I could not see the firearm. Um Officer Batson, Officer Guerra and myself we uh were focused, I'm sorry, Officer Batson and I...I could see that we... our attention was focused on the subject and I still could not see Officer Guerra and Officer uh Batson. Um I still had not heard if...if they were okay. Um I don't know if they said it on the radio or not but I hadn't heard it. Um about five to ten seconds had passed I could hear um our helicopter coming in the distance um that Officer Batson and I then uh relayed to each other asked if...if we were okay um confirm that with each other and Officer Batson stated to me that we needed to get a 360 view on our...of our immediate area just because shots had just been fired. Um again there's two hundred to three hundred people in this apartment complex um so there's no way to tell ...tell if people are coming outside to see what was going on or if there were people behind us um at the time. So for officer safety, Officer Batson stated that he would continue to focus on the subject that was lying on the ground. He asked me to, basically, get the 360 view on where, where we were located so at that time um I brought my reppen... my weapon to a uh... a tucked position, meaning I brought my weapon in closer to my body um pointed, angled slightly um down at the ground, not uh pointing it at anybody or anything at this point in time. I um... got myself back behind cover slightly more so that my back and I...I wouldn't be ex...exposed to the subject that was laying on the ground um with my back turned. Um I had taken a knee at this point in time to uh change my level of um elevation and I began to survey the area

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that was behind us. Um I begin to turn around and look directly behind us at this area in particular um to give about I guess this much ...this...this much um view to where we're located. I saw that there were...there was two people um located here um I can't describe them in particular, I can tell they were African American. Um I looked down here and there were two people standing here that were looking at myself and Officer Batson, I stated to them to go back into their residence um that it wasn't safe. They immediately returned to...to this walkway and I didn't see them again.


Burkard: And I'm sorry, just to clarify, you're talking about this side where the car parking lot is right?

SUGGS: Yes sir where the car parking lot is.

Burkard: Alright.

SUGGS: Um I also looked to my...my um immediate front left and saw that there was subjects or a subject um that was a lighter...a lighter skin color uh seemed to be a male that was walking down to where we were located um to where, I assume, he had heard the shots had came from um he or she. Once they reached in my line of vision I stated to them to back up that it wasn't safe um for them to uh... to return to whatever location it was they immediately did that. Um about five to sev... I'm sorry, five to ten seconds had passed from there and I began to see officers coming from this direction. Um it's approximately about five to six officers that came from this direction. Um at this time um I believe it was Officer Robinson, Dave Robinson, asked me um what did we need, I said to him that um I just saw subjects, or I'm sorry, just saw people or subjects um that were behind us and also a individual that was to my immediate front left so I stated to him that we needed scene security to make sure that there weren't any other persons that were armed or that heard this incident that were trying to um provide harm to anyone

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else or any of us that were on the scene. Um officers went uh past myself and Officer Batson to this location here um to see if they could make sure that there were no people or persons or any more threats of danger on this side. Um there also more officers coming up from the rear um and once those officer's returned, at that time, I was still surveying the area to make sure that there were no...no more people coming into this um ...into...into the...our immediate area. Um I could hear on...on dispatch, I'm not sure who advised, but they said that officers were making approach, were making an approach to the subject. At this time I stood up, um I turn around uh kept my firearm out um I brought it to a uh...a low ready position meaning it was pointing at the ground, my arms are fully extended. I was uh walking toward the um...the...the uh...where the subject was lying on the ground. Um upon reaching this location I saw Officer Guerra who's... who um stated that he had located um the firearm and that he was standing over it. Um I also saw that the subject was lying on the ground um upon approaching the uh...the residence. Um I could hear officers telling other individuals to um...to come out of the house. Um if I may, I'm a back up um just...

Burkard: Uh huh.

SUGGS: ...just a little bit, um once the uh shots were fired...


Burkard: Yes.

SUGGS: ...I could um hear individuals inside the house screaming.

Burkard: Okay.

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SUGGS: Um it sound like a female voice from what I could tell. Um I could tell that the language that was being spoken was um...was not English um but I couldn't tell exactly what language it was. I um...

Burkard: Okay.

SUGGS: ...but I could hear yelling, I could hear screaming so at that point in time I knew there were...there were other individuals located inside of this residence. Um there was still no way for us to know if... if they were armed also um...

Burkard: <Talkover - inaudible>

SUGGS: ...of if anybody in that...in that um area was harmed as well. Excuse me, coming back to um where we had made our approach Officer Guerra was standing over where he stated that he located the weapon. Um at no point in time did I see that weapon after um ...after I witnessed it in his hand. Um I didn't see Officer Guerra standing over the weapon <Talkover - inaudible>

Burkard: Uh, I'm sorry, in whose hand?

SUGGS: In, I'm sorry, in the subjects hand...in the subjects hand so the only time that I...I saw the um the dark colored pistol...


Burkard: Uh huh.

SUGGS: ...was in the subjects hand while it was fully extended...

Burkard: Okay.

SUGGS: ...pointed in the direction of Officer Tran and Officer Guerra.

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Burkard: Okay but Guerra say's he has the firearm?

SUGGS: Guerra say's...

Burkard: Okay.

SUGGS: ...he's located the firearm and he's...he's standing over it currently um...

Burkard: But you did not see it at that point?

SUGGS: I did not see it at that point.


Burkard: Okay.

SUGGS: Um once that happened um ...I'm sorry, also the...I would say the reason I didn't see it I didn't look in that general direction.

Burkard: Okay.

SUGGS: Um... at that point they begin to call um other subjects out a the house, um upon my approach um there were three subjects that exited um two females and a male um the first female seemed to be of adult age, second female to uh and seemed to be of a teenage or uh teenage age and there was a third male that exited to seemed, that also seemed to be around the teenage years of age. Um they all came out compliant. Um some of them were crying um from what I can remember... and you, we could see their hands clearly. They um did exactly what officers asked 'em to do. Um at this time there were multiple officers that had arrived on scene um our helicopter had also arrived on scene. There were officers that were already inside of the um... the uh...a house. Um I could hear officers stating that we needed

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more officers to enter the...the residence to clear to make sure that there were no more persons located inside also no more weapons located inside of um this area. Um I began to make my approach towards the house, when I got to the front door I immediately saw three officers in front of me, Officer um John Michael was in the front, I believe, Officer Brett Helms was second and Officer um Vaught was third. Um I could hear them saying they needed more officers in order to clear the house.

Burkard: Uh huh.


SUGGS: Um I got behind Officer Vaught I believe, um I could hear other voices off to my right and left in the downstairs portion of the house. On the downstairs portion of the house there were...I could see that uh a Police uniform, I couldn't identify who the person was, but I could see a Police uniform located there, they were um... they seemed to be uh sweeping the...the right side of the house in the bottom level looking for any other persons harmed or any other subjects. The door on the residence was also opened and there was a room behind the door, I couldn't see in that room but I could hear voices from that room as well. Um at this time Officer, believe, Michael stated that he wanted one more person to um ...to go up with us to ...to check the upper part of the residence to make sure that there were no more people located upstairs that were harmed or could may possibly be a threat to the endangerment of anybody located on scene. Um we started making our approach up the steps. Um the uh part... the...the hallway, I'm sorry, the...the walk...the walkway from the steps... and uh up to the top, the width I would say um its only about five feet wide so officers walked in a straight line up the steps. Um when we got up to the top of the steps Officer John Michael and Officer Brett Helms went to the left where they saw an uh...an open door. Um Officer Vaught went to the right and noticed that there was a closed door. I was behind Officer Vaught, I went to the right with Officer Vaught and stayed with Officer Vaught until we were notified that the

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room behind us was clear and that there were no people located inside of that room. Um the uh...when we got to the top of the steps it wasn't a lot of room um we stood, pretty much, in a single file line one person behind the other um staggered slightly. Um once we were notified that the room behind us was...was clear Officer Vaught then opened the door to the uh...the room, the bedroom that was on the top on the right hand side. Um upon opening the room he immed... he went to his immediate left to begin to look for persons or firearms or any threats of danger. Um I went to my immediate right or straight ahead and I began to do the same thing um begin to go in the opposite directions, there were other officers that come...that came behind us, I didn't see exactly which officers it was. Um from what I could tell there was no other people, persons, located in that room. Um I made it to the end of the room, looked um in all...in both directions, also kneeled down looked under the bed, there was no person located under the bed, no weapons located um and that was our main concern, at that point. Um once we notified that that room... notified everyone that room was clear we begin to make our descent back down the steps. After we had made sure that the...the top of the residence had no more people um that were harmed or...or um presenting any threats or dangers to officers or any persons that were located on scene um we begin to make our descent back down...down the steps. Um at this point in time, I holstered my weapon um upon, holstering my weapon um my body camera was activated during this entire um ordeal. Um I holstered my weapon, I walked back out side onto the patio area um I heard an officer say, I'm not particularly sure which officer it was, they asked ...um there was a...there's a closet or another door that was located off to the right as we were exiting um... exiting the patio and they asked had anyone checked it. No one responded so I...I went to the um door with the uh...that particular officer in front of me. Um I opened the door the officer cleared that um particular area of space, um making sure that there was no persons or uh...and weapons located in there.

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Burkard: Uh huh.

SUGGS: Um he stated that that area was clear, free of those items so I made my way back outside um to...outside the patio. Um also if...if I may back up, upon approaching...

Burkard: Uh huh.

SUGGS: ...the um the residence before I ever made entry um Fire was actually located as I was approaching...Fire was actually located on scene rendering aid to the subject. Um as we were making our appro... as I was making my approach, excuse me.

Burkard: I'm sorry. Fire was... the Fire department?

SUGGS: The Fire department, I'm sorry.

Burkard: Fire department personnel was rendering aid...

SUGGS: Correct to...

Burkard: ...to?


SUGGS: ...the subject.

Burkard: Okay.

SUGGS: Um...

Burkard: That was on the ground?

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SUGGS: Correct.

Burkard: Okay.

SUGGS: Um upon doing so, once they um...once I looked at the subject, I was able to identify that it was indeed um the same subject that we had saw before um ever leaving the uh...the parking lot at the team office that we had um ...that we had did our research on so I was able to confirm that, at that time, it was indeed Mr. Galindo um the individual that we had um did the...the research...that Officer Batson, I'm sorry, that did the research the background check on before ...

Burkard: Okay.


SUGGS: ...we um left the uh area of the team office. Upon exiting um ...upon exiting the uh the house um I saw my Sergeant um Sergeant Baker...

Burkard: Uh huh.

SUGGS: ...um he was there. Um he...I believe someone asked if...or asked who shot um or who discharged their weapon um I stated that I had discharged my weapon. Um I believe I heard Officer Guerra state he had dis...discharged his weapon. Um at that point um I was taken by Officer Baker and immediately separated from everyone else located on scene, immediately separated from Officer Guerra. Um at that point in time I could feel that my heart rate was elevated um I could feel, basically, my...my...my adrenaline...

Burkard: Excuse me.

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SUGGS: Excuse me sir. Um my adrenaline was very high, my heart rate was very high. Um at this time I requested Medic to...just to...to make sure that everything was okay with uh my well being. Um I checked myself and I was checked by other officers to make sure that I wasn't struck by any ...any bullets or harmed in any way. Um saw that I was okay and I was ...I went um to walk through, I'm sorry, I walked through um this area through building 1918 to the parking lot where there were multiple Police vehicles located. Um I was...I stood by near a um a patrol...a patrol SUV um I sat down in the...the rear of it with the door open um I stayed there and waited until Medic arrive. Once Medic arrived I was placed into the rear of the...the Medic...Medic truck. Um upon exiting the uh ...the...the residence and meeting with Sergeant Baker um I deactivated my body camera at that point before I walked over to um...to the uh patrol vehicle. Um and, once again, from, from that point I stood by the patrol vehicle, waited till Medic arrived, once Medic arrived they stated that they would be transporting myself and Officer Guerra to CMC University Hospital. Um and from there we...we left the scene and went to the hospital.

Burkard: Okay. Anything else?

SUGGS: Uh...

Burkard: It's okay I've got questions so...

SUGGS: Okay <Talkover - inaudible>


Burkard: ...if you can't think of anything right off hand.

SUGGS: Yes sir <Talkover - inaudible>

Burkard: I know it's kind a like...

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SUGGS: Yeah.

Burkard: So when you went to the hospital everything okay?

SUGGS: Yes sir um...

Burkard: Alright.

SUGGS: They say that I just...um the diagnosis was palpation... a pal...palpation...

Burkard: Okay.

SUGGS: ...which, I guess, they told me it meant an abnormal heartbeat.

Burkard: Okay.

SUGGS: Um they did a EKG test on me they stated that everything was normal ...


Burkard: Okay.

SUGGS: ...with my heart. Um they said everything was fine that um, ya know, just because of the high stress situation um that was probably why everything was so elevated, but within in the next coming hours and days that everything should return to normal.

Burkard: Okay feeling better now?

SUGGS: Yes sir.

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Burkard: Okay. So it's the high heart rate, adrenaline, that's why you called for...  
<Talkover - inaudible>

SUGGS: Correct.

Burkard: You weren't feeling the same or normal as... you generally feel or would expect to feel during a high stress situation?

SUGGS: Um as...as far as it being expecting to feel that way I...I would expect to feel that my heart rate would be elevated...

Burkard: Uh huh.

SUGGS: ...during a high stress situation like that. Um but I just wanted to...to make sure just due to that being a situation that I had never dealt with before.

Burkard: Okay.

SUGGS: Um I wanted to make sure that ...to be certain that everything was okay.

Burkard: Um I know I forgot to ask you earlier...you were in uni...were you in uniform at the time?


SUGGS: Correct.

Burkard: Short sleeve or long sleeve?

SUGGS: Long sleeve.

Burkard: Okay and when you were out there and you see the guys back to you do you identify yourself as the Police?

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SUGGS: Correct.

Burkard: How did you do that?

SUGGS: Um I said from...fr...from my knowledge, I said "Police...

Burkard: Okay.

SUGGS: ...drop the gun."

Burkard: Alright, do you know if your um partner's with you, Batson, said Police?

SUGGS: I'm not a hundred percent sure sir?

Burkard: Okay. And you mentioned you said you've been there before in that apartment complex.

SUGGS: Correct <Inaudible>...correct sir.

Burkard: Have you ever been to that specific apartment before...that you know of?


SUGGS: Not...no not that specific apartment <Talkover - inaudible>

Burkard: Okay.

SUGGS: No sir.

Burkard: And I know you said you saw the picture and you recognized him when he was down...did you...when you saw him and you realized the same person do you remember ever having an interaction with that person before...

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SUGGS: No sir.

Burkard: ...that day?

SUGGS: No sir.

Burkard: Alright. Are you right handed or left handed?

SUGGS: I'm right handed.

Burkard: Okay. You shoot right handed?

SUGGS: Yes sir.

Burkard: Alright. And I know you described when you guys were, for lack of a better term, briefing and doing research.

SUGGS: Correct.

Burkard: Um about how long did that take cause I know we've been talking for a while...


SUGGS: Correct.

Burkard: ...and sometimes when you hear things can be kind of a different perspective...

SUGGS: Correct.

Burkard: ...when you're actually there.

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SUGGS: Um while we're on scene, I'm sorry, while we're there located behind the team office ...

Burkard: Uh huh.

SUGGS: ...uh I guess doing the brief, I would say it lasted about five to ten minutes um just because we wanted to gather as much information as we could, give the uh subject as much time as we could to put down the firearm before we ever decided to even make a...an approach.

Burkard: Okay.

SUGGS: Wanted to get as much information as we could possible obtain on the area, the subject and his history to see maybe why he was calling us stating that he needed help from officers but had a firearm.

Burkard: Okay.

SUGGS: Um and, yes sir, I would say about five to ten minutes.

Burkard: Okay. Do you speak any other languages?


SUGGS: No sir.

Burkard: Alright, Spanish?

SUGGS: No sir.

Burkard: Okay. Did you...when you were there, did you hear the subject that had the firearm, did you hear him say anything?

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SUGGS: No sir.

Burkard: Make any sounds, yells?

SUGGS: No sir.

Burkard: Can you explain to me cover, for someone that doesn't know, what is cover?

SUGGS: Cover would be um standing behind an object that if you were in a deadly force situation to where someone is firing bullets at you, you would be able to stand behind an object that would prevent you from being struck by those ...those objects or those bullets that that suspect or person is shooting at you. Um so to stand behind that would mean you have a less chance of...of... of harm or bodily injury by standing behind whatever item it is that you are standing behind.

Burkard: So there's nothing specific it's just anything that...

SUGGS: Anything that would ...that would provide safety for you in the event that someone would be attempting to harm you and uh...


Burkard: So if you're being shot at...

SUGGS: Correct.

Burkard: And correct me if I'm wrong, when ,if, I'm not summarizing this the right way.

SUGGS: Okay.

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Burkard: You're being shot at cover is some sort of object that would make it more difficult or stop a bullet from striking you?

SUGGS: Correct.

Burkard: Other than, whatever that object may be, a solid brick wall, rock?

SUGGS: Correct.

Burkard: And you said there's a bout ten to fifteen seconds of commands.

SUGGS: Correct.

Burkard: Is that your best estimation?

SUGGS: Yes sir.

Burkard: And your perc...what was your perception of time during that time?

SUGGS: I mean it seemed to be no different than any other, seemed to be moving...

Burkard: Okay.


SUGGS: ...at...at...at the same rate. I...I would say the ten, fifteen seconds came from after I had arrived at the corner of the house.

Burkard: Okay.

SUGGS: Um before I arrived at the corner of the house I can't gauge how long that Officer Guerra and Officer Tran were given commands to the subject to drop the firearm.

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Burkard: And you said you could not see Officer Guerra or Officer Tran which was on the other side of the building which...

SUGGS: Correct, I could hear <Talkover - inaudible>

Burkard: ...would a been over here is that correct?

SUGGS: Correct.

Burkard: <Talkover - inaudible>...like this part or this part?

SUGGS: Correct I could...I could hear them, I knew that they had walked to the left side of the building...

Burkard: Uh huh.

SUGGS: ...which was the opposite side of the ...the building that myself and Officer Tran, I'm sorry, Officer Batson had walked.


Burkard: Okay.

SUGGS: Um but I could hear them clearly, I could identify um that it was Officer Guerra's voice, um but I could not see where he was located nor Officer Tran so I was unaware if they had any type of cover or any type of protection from the subject who was pointing the firearm in their direction.

Burkard: Okay you perceived, I'm sorry, say that again the last part, you perceived that the firearm was pointed where?

SUGGS: In the direction of Officer Guerra and Officer Tran.

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Burkard: Okay, even though you didn't know where they are?

SUGGS: Correct, I could hear their voices.

Burkard: So you knew the general area but not specifically where?

SUGGS: Correct.

Burkard: Okay but you perceived that firearm being pointed...

SUGGS: In their direction yes sir.

Burkard: Okay, and you explained that his back was to you...

SUGGS: Correct.

Burkard: ...behind a door.

SUGGS: Correct.

Burkard: Like a mesh, metal mesh door?


SUGGS: Correct.

Burkard: But you also said that you felt threatened...

SUGGS: Correct.

Burkard: ...were in imminent threat.

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SUGGS: Correct with um...with him having his arm fully extended...

Burkard: Uh huh.

SUGGS: ...um he had about ...from his shoulder out past the um...past the end of the door you could also see part of his, his face pass in the door so if he decided that he wanted to pivot to his left all he had to do was basically take half a step forward and he would easily be able to point his gun directly where myself and Officer um Batson were standing um within seconds, within a second to be aiming directly in our direction.

Burkard: And that's the location you said you did not have good cover?

SUGGS: Correct.

Burkard: Did you have any cover?

SUGGS: If...at...at that time no. I was exposed um because I...I took a...an extra step out...


Burkard: Okay.

SUGGS: ...because I was behind Officer Batson, and again, I didn't wanna have my firearm pointed even close at the back of um Officer Batson.

Burkard: Okay. And after you had discharged your firearm and you assist with clearing the apartment or making sure that nobody else is in there no one else is a threat, no one else is a victim, you immediately told your supervisor that you discharge your firearm correct?

SUGGS: Correct.

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Burkard: I know we talked about the lighting.

SUGGS: Okay.

Burkard: Um do you have any vision problems?

SUGGS: No sir.

Burkard: Wear contacts, glasses any sort of problem seeing things or...

SUGGS: No sir.

Burkard: ...determining objects?

SUGGS: I have before as a younger, younger child but...

Burkard: Okay.

SUGGS: ...as of being um coming into the Police department, having my vision checked...


Burkard: Okay.

SUGGS: ...they told me I didn't need it, wasn't necessary so I had no vision problems.

Burkard: So even as a child you were concerned so you had it checked and... <Talkover - inaudible>

SUGGS: Correct.

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Burkard: ...and there were never no problems? You don't...

SUGGS: I...

Burkard: Do you feel that you have any problems...

SUGGS: No.

Burkard: ...now or then?

SUGGS: No.

Burkard: Okay. Do you remember if dis...dispatch saying if the uh subject had been drinking?

SUGGS: I can't... I can't recall.

Burkard: Okay.

SUGGS: Um I can't recall.


Burkard: Do you remember if anything saying that he sounded delusional or I know you said ...

SUGGS: I...I...

Burkard: ...and I forget exact...I'm sorry, and I apologize forget exactly how you termed it.

SUGGS: Abnormal?

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Burkard: Yes <Talkover - inaudible>

SUGGS: Um I do believe dispatch did advise that or it was either in the remarks of the call...

Burkard: Uh huh.

SUGGS: ...that he subject sounded delusional...

Burkard: Alright.

SUGGS: I be...I believe that was the specific word that was used.

Burkard: Alright. And you had said that dispatch had told you there was no bullets in the gun is that correct?

SUGGS: The information that they stated the um subject relayed to them, the subject stated to them that he had no bullets in his firearm.


Burkard: Okay.

SUGGS: And that was the information that dispatch relayed to us.

Burkard: Okay and have you ever been on a call for service where the information that you had gotten from dispatch which you assume gotten through 911, was completely untrue?

SUGGS: Um yes.

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Burkard: Okay. Have you ever had a call for service where the information you received was completely true?

SUGGS: Yes.

Burkard: Okay. Are you able to tell the difference if that information is gonna be true or false when you get there if you don't have any sort of... conversation with anyone or any sort of evidence to go by, do you have any way of knowing whether that information's gonna be true or false when you first show up to the call?

SUGGS: No sir.

Burkard: Alright. <Inaudible>...think of anything else. Sarge can you think of anything else?

Jeter: Yes, this is Sergeant Jeter speaking. Do you train with the officer's that you responding to the call with like your in service training, the officers that you responded to this particular call with...

SUGGS: Um...


Jeter: ...do you attend training with them?

SUGGS: I have attended uh training with Officer Batson before.

Jeter: Okay.

SUGGS: Um...Officer Guerra and Officer Tran I cannot recall attending same training with them before.

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Jeter: And um the briefing as we called it before you...and research you did on the subject in the uh...the area in which he was calling from, is that something that you all typically do...

SUGGS: Yes sir.

Jeter: ...um in patrol?

SUGGS: Yes sir.

Burkard: On every call?

SUGGS: Not...not every call.

Burkard: Okay.

SUGGS: Um calls where we feel there...there may be an, an high, a higher level of danger just due to there being a firearm in that nature um... we would...we wanted to gather as much information as we could before we made our approach so that we could prevent any harm from ourselves or to anyone else.


Burkard: Okay.

Jeter: Um one last thing, I'm a give you three stages of...of this particular call and if you could just describe your uh your emotional state or your heightened sense, emotional...

SUGGS: Okay.

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Jeter: Um so when you received the call and you all go to the uh... the place behind the team office, and you're having uh that briefing and you describe your emotional state, your level of an... anxiety.

SUGGS: Okay um that moment it was only slightly... slightly elevated um above normal.

Jeter: Uh for what reason?

SUGGS: Um just due to this being a situation where a subject is calling and stating to Police that he has a gun and he wants officers to come out to him while he has this um... this firearm. Um, again, I thought it was odd that the subject would call Police to come to him while he had a firearm. Um I'm not saying that, ya know, it was wrong in any way, but I found it odd and... and that's why my senses were slightly, elevated.


Jeter: Alright when you arrived on scene and you exit uh... you exited your vehicle and your uh actively looking for this individual who has called that you um believe to be armed, your emotional state?

SUGGS: Um it's a little more elevated at this time um just due to we're now being closer in proximity to where this subject is being located and also we had just been advised that dispatch was able to speak with him and he stated that he would not be putting the firearm down as we had asked dispatch to ask him to do...

Jeter: Okay.

SUGGS: ...before we made our approach to his residence. Also with the, with the unknown of them stating to us, they didn't know if he was inside of a building or outside of a building um and we're in a area where some parts

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are well lit, some parts aren't lit, um aren't well lit, so we wanted to make sure that we were keeping ourselves as safe as possible with the subject who stated that he had a firearm that he would not be putting down.

Jeter: Uh and you stated you heard uh...did you hear a shot fired before you...

SUGGS: Correct.

Jeter: ...fired? So at the moment you heard that first shot fired uh, if you can recall, uh your state of anxiety.

SUGGS: Um at that moment it was heightened, I don't think to extreme levels. I was um...I would say I was more so focused at that point than anxious.

Jeter: And afterwards when you were <Inaudible> uh or waiting at the patrol car waiting for Medic to arrive.

SUGGS: Um that's...that would probably be the...at the most anxious um during that entire time uh where I was. Um... I...I would consider it...it would be...an adrenaline rush.


Burkard: Okay, I'm sorry got a couple things.

SUGGS: Yes sir.

Burkard: Have you ever been involved in a deadly force situation um and or shooting before?

SUGGS: No sir.

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Burkard: Okay. And if you could please mark on here which part was where the subject was standing, where you saw him.

SUGGS: Um I believe it was this area here.

Burkard: And you said you hear the shots and you believe that that person was shooting at the officers...

SUGGS: Correct.

Burkard: ...in their direction?

SUGGS: Correct.

Burkard: Okay. Did you see him shooting a gun?

SUGGS: I didn't...

Burkard: Okay.


SUGGS: I didn't see the flash of any gun.

Burkard: Alright. And describe if you can describe a little more like what...why do you believe he was the one shooting when you heard that shot?

SUGGS: He's the only person that I saw um...he was the only person that I was focused on at that time.

Burkard: Uh huh.

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SUGGS: Um he had his firearm fully extended taking in the totality of the circumstances with him stating that he was not gonna put the firearm down upon officer's request, calling officer's to the scene stating that he had a firearm, and wanted help from officers um stating... us doing research beforehand um us doing research beforehand and knowing that this is possibly the subject who has a previous assault by pointing a gun...

Burkard: Uh huh.

SUGGS: ...charge um and also with me not knowing if Officer Guerra and... or Officer Tran have any type of cover or protection from, from this um that's why I perceived it to be an...

Burkard: Perceived it to be?

SUGGS: I'm sorry, perceived it...perceived that the subject was firing at officers.

Burkard: Okay but you couldn't see him firing a gun...

SUGGS: Correct.

Burkard: ...muzzle flash or...


SUGGS: No muzzle flash.

Burkard: ...uh arm actions or recoil or anything else?

SUGGS: No sir I wasn't uh...

Burkard: Did you see the gun in his hand at this time?

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>T. Burkard</b>		Code <b>2703</b>	Assignment <b>Homicide</b>	Date <b>09/08/2017</b>
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SUGGS: I did.

Burkard: Okay but you didn't see a shoot?

SUGGS: I did not.

Burkard: Okay. Um... real quick, you said that...said he wanted help, was it ever rel... relayed to you, you aware of what kind a help he was asking for?

SUGGS: No sir.

Burkard: Okay. Anything else you can think of that we haven't asked that you need to say, want to say?

SUGGS: No sir.

Burkard: Okay. If there is, we're gonna step out okay um...

Greene: I...I have a few questions.

Burkard: Okay, yeah.


Greene: ...if I could. You um... when the...the detective asked you about your...your vision, do you have any restrictions on your license?

SUGGS: No restrictions on my license.

Greene: So you could...you're clear to drive without contacts or...

SUGGS: Correct.

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>T. Burkard</b>	Code <b>2703 Homicide</b>	Assignment <b>09/08/2017</b>	Date
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Greene: ...glasses anything like that?

SUGGS: Correct.

Greene: And um and said that he was...there was some...there was somebody on a Spanish speaking channel, is that correct?

SUGGS: Correct.

Greene: And you called, specifically, to ask that he put the gun down before you even arrived?

SUGGS: Correct.

Greene: So you knew he wasn't compliant at that point?

SUGGS: Correct.

Greene: And then, you further knew he wasn't complying when he...when you arrived on the scene and he was being given commands, is that right?

SUGGS: Correct.


Greene: And even given those commands, ya know, even if he um...didn't understand English um did you see him put down the gun?

SUGGS: No sir.

Greene: Did you ever see him put down the gun?

SUGGS: No sir.

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>T. Burkard</b>	Code <b>2703</b>	Assignment <b>Homicide</b>	Date <b>09/08/2017</b>
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Greene: Okay. And ...and they were saying, they were asking you about your levels of an...an...anxiety and you said you...you...you were focused um your anxiety didn't result your...your anxiety didn't lead you to fire that weapon did it?

SUGGS: It did not.

Greene: Okay and you um... had he put his gun down and complied would you have felt the need to fire a weapon?

SUGGS: I would not.

Greene: Did you watch or...did you watch the body worn camera at all?

SUGGS: I did not.

Greene: So everything that you've said today and everything that you... the statement that you've given today has been from your recollection, uh to the best of your recollection and not from what you saw from the video?


SUGGS: Yes sir.

Greene: That's all I have.

Burkard: Okay. Alright we're gonna step out just go over a few things if we had some more questions for you may not um... If you don't mind could you just please initial up here...

SUGGS: Yes sir.

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Burkard: ...<Inaudible>...so we know this is yours.

SUGGS: I'm sorry.

Burkard: <Inaudible>...use a pen on that one part <Inaudible>...never shows up well. Um if there's anything you guys wanna discuss, if you feel free you need to step out please go right ahead and do so and discuss whatever you need okay.

SUGGS: Yes sir.

Burkard: Anything else for right now that you can think of sir?

SUGGS: No sir.

Burkard: Okay. This'll conclude the recorded session, the time now is 1349.

(Part 2)

Burkard: This gonna be a continuation of the interview with Officer Suggs. Just wanna go over a couple things real quick...


SUGGS: Yes sir.

Burkard: <Inaudible>... wrapped up. Um I know you had talked before about being on the main channel discussing a few things, did you guys ever switch over to another channel to discuss anything?

SUGGS: Um at the very beginning...

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Burkard: Uh huh.

SUGGS: ...um before anyone um ...before we met the debriefing um I asked Officer Guerra and Officer Tran to go to conference, um the conference channel. Once they switched over to the conference channel, um I stated to them um I wanted to know their location, where they were at. They stated that they were right behind me...

Burkard: Okay.

SUGGS: ...at the team office um and they said okay. We...there's no more contact on conference from there.

Burkard: Okay.

SUGGS: Um that's when Officer Guerra came over the main channel and stated that we all would meet behind the team office.

Burkard: Okay.

SUGGS: Um other than that, no switching to any other channel?


Burkard: Okay so from the time you arrived on scene, time you left on scene all communications were done over the main North Tryon...

SUGGS: Correct.

Burkard: ...North Tryon division channel?

SUGGS: Correct.

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Burkard: Did you hear anyone talking or giving any commands in Spanish?

SUGGS: No sir.

Burkard: Okay.

SUGGS: No.

Burkard: When they asked if he was gonna put the gun down, the dispatcher communications would all say that he did...said he was not gonna put the gun down at all or he just was not gonna put it down before you guys got there? Is there any sort of...initial information other than he wasn't putting it down, like was anything more specific <Talkover - inaudible>

SUGGS: No sir from my recollection it was just... he was not gonna put the gun down.

Burkard: Okay so you didn't know what meant as far as not putting it down before you get there or not gonna put it down at all?

SUGGS: Correct.


Burkard: And, if you can, if you don't mind, I've got a blue gun, if you can kind a stand and show how he was holding the gun, which way he was holding the gun...

SUGGS: Okay.

Burkard: ...from the way you perceived it.

SUGGS: Okay.

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Burkard: So I'm gonna stand, I'm a be on obviously this side...

SUGGS: Okay.

Burkard: ...and you said his back was faced to you?

SUGGS: Correct.

Burkard: Is that correct?

SUGGS: Correct.

Burkard: Okay. <Inaudible>

SUGGS: Um from where you're stand... <Talkover>

Burkard: From where I'm ... so I'm sitting right here.

SUGGS: Okay.

Burkard: Yeah and I be... what your position is.


SUGGS: Okay.

Burkard: Uh huh.

SUGGS: Um from where I'm... where you're standing he's... arm is slightly outside of the um... outside of the uh... the door.

Burkard: Okay.

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SUGGS: Um I'm about this, this angle, um he's aiming with the gun.

Burkard: Uh huh.

SUGGS: This way, I can't tell whether his finger is on the trigger or off the trigger. I can see it clearly in his hand. Um his left hand moves back angled towards me, um he seemed to be fully erect.

Burkard: Okay.

SUGGS: Um I couldn't tell whether he was ...

Burkard: So this is the awkward part okay, the way I look at you, more bladed ...

SUGGS: <Talkover - inaudible>

Burkard: ...was that how he was, and I know it's hard talking to someone and not facing them...

SUGGS: <Talkover - inaudible>

Burkard: ...and so it's okay I'm not gonna think it's rude if you just... whatever the best cause you said before his back was to you...


SUGGS: Correct.

Burkard: ...but the way you were standing you're more sideways like that.

SUGGS: I...I apologize.

Burkard: It's okay, wanna make sure I have it correct, position.

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SUGGS: It was...it was like this.

Burkard: Okay.

SUGGS: So I can see mostly his back...

Burkard: Okay.

SUGGS: ...and his hand was not angled in my direction.

Burkard: Okay.

SUGGS: Um with his arm being outside of the door from the shoulders down and his face being slightly in front of the door.

Burkard: Okay.

SUGGS: Um it was with his back.

Burkard: And that's the way he was holding the gun?

SUGGS: Uh correct it was in his hand...


Burkard: Okay.

SUGGS: ...I can...I can...with...without my finger being...

Burkard: You don't know if his finger was on the trigger or not?

SUGGS: I do not sir.

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Burkard: Okay.

SUGGS: Um...

Burkard: And...is that because of the distance or lighting or both or?

SUGGS: Um both distance and lighting ...

Burkard: Okay.

SUGGS: ...I...I...I couldn't tell whether his finger was on or off of the trigger I could just clearly see that in his left and there was a dark colored firearm...

Burkard: Okay.

SUGGS: ...and I knew that ...that <Talkover - inaudible>

Burkard: Alright thank you.

SUGGS: Yes sir.

Burkard: And where was that gun pointed, was it pointing...


SUGGS: <Inaudible>

Burkard: You said believe it was pointing towards the officers?

SUGGS: Correct, in the direction.

Burkard: Um that side of...from where he's standing that's the...

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SUGGS: That would be his...his right side.

Burkard: His, I'm sorry, his left side with the gun in his hand, guns in his left hand.

SUGGS: Correct.

Burkard: And that area where the gun is pointed is to where you believe officers could be or you heard officers in that general area is that correct?

SUGGS: Correct, correct.

Burkard: Okay. And you didn't see officers, did you see anybody else?

SUGGS: No sir <Talkover - inaudible>

Burkard: Do you know if anybody else was in that area from where you heard the officers?

SUGGS: I do not.

Burkard: Okay. Alright. Think that's it, that. Anything else, that we need to know about that we should know about you wanna get out anything at all?


SUGGS: No, no sir...not...not that I can recall.

Burkard: Okay. Anything else?

Jeter: No.

Burkard: You?

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Greene: I'm good.

Burkard: Alright. Thank you very much. Conclude recording time is 1408.

Reviewed for accuracy by Det. T. Burkard.

TB/DJ/rge

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# Exhibit 3

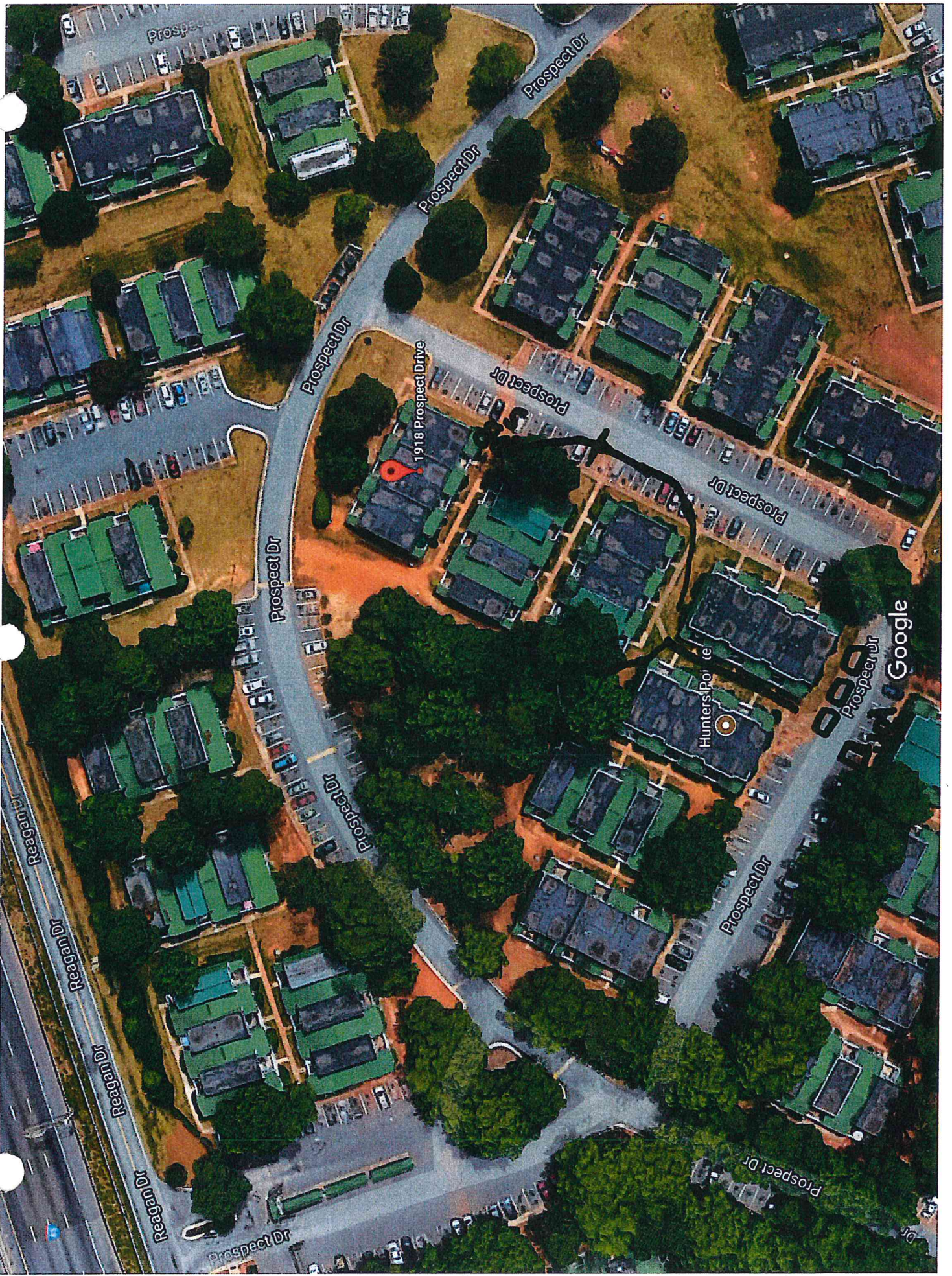


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Batson interview TB

9/7/2017

1918 Prospect Dr - Google Maps





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REVIEWED BY: BKoll #3803

THIS DETECTIVE KOLL WITH THE CHARLOTTE MECKLENBURG POLICE DEPARTMENT, TODAY IS THURSDAY SEPTEMBER 7, 2017; THE TIME IS 12:20 A.M. I'M IN INTERVIEW ROOM 2005 AT THE LEC WITH DETECTIVE BURKARD TALKING WITH OFFICER DAVID BATSON CODE NUMBER 5345 IN REFERENCE TO OFFICER INVOLVED SHOOTING 20170906211005.

Koll: Um so I'm gonna kind a turn it over to Todd real quick and he's gonna go over some...some basic questions okay.

BATSON: Alright.

Burkard: Few things, what's your date a hire?

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

Burkard: Prior law enforcement or military experience?

BATSON: No.

Burkard: Current division assigned?

BATSON: North Tryon.


Burkard: What shift?

BATSON: Second.

Burkard: And what are those hours?

BATSON: Uh 1:15 to 11:30.

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Burkard: What's your call sign?

BATSON: 7-1308-2<sup>nd</sup>.

Burkard: Talk group North Tryon?

BATSON: Yes sir.

Burkard: And who's your supervisor?

BATSON: Uh today it was Sergeant Phelps.

Burkard: And how tall are you?

BATSON: 6'2.

Burkard: How much do you weigh?

BATSON: 200.

Burkard: How much sleep'd you get the night before?

BATSON: Six hours.


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

BATSON: No.

Burkard: What vehicle you driving?

BATSON: PDA401.

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Burkard: Is that a marked car?

BATSON: Yes.

Burkard: DMVR in it or no?

BATSON: No.

Burkard: You had your body worn camera?

BATSON: I do.

Burkard: Was it on?

BATSON: It was.

Burkard: You driving 401?

BATSON: Uh huh.

Burkard: No one else was with you?


BATSON: No.

Burkard: Your duty weapon, want you take out and your spare mag's just unload it and put it on the table. Do you carry any back up weapons?

BATSON: I don't...well knives... no firearms.

Burkard: No back up firearms? Are you issued any other weapons, firearms at all?

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BATSON: Uh patrol rifle.

Burkard: You do have patrol rifle... did you deploy that?

BATSON: I did not.

Burkard: Okay. Is that currently in your car now?

BATSON: It is.

Burkard: <Inaudible>

BATSON: Oh did you want me to unload it?

Koll: <Talkover - inaudible>

BATSON: <Talkover - inaudible>

Koll: And we'll let you reload that if you don't mind.

BATSON: Okay.

Burkard: Fifteen and two.


Koll: <Talkover - inaudible>

Burkard: <Talkover - inaudible>

Koll: Plus one loose.

Burkard: Did you take any hand written notes at all? Anything on a little note pad with a name, numbers, anything else at all?

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BATSON: No.

Koll: So I'll let you get loaded back up and while you're loading up um once you uh reholster and all that um essentially just uh start off with uh where you were, the call um...try and keep in mind cause I know it's easy talking with Police to use lingo, Police lingo, and jargon um...try to talk like you're talking to some random person at Walmart...

BATSON: Okay.

Koll: ...who may not know about Police or tactics or um phrases that we may use um and just try to uh...ya know, go through everything the best you can okay.

BATSON: Okay.


Koll: Alright. So whenever you just kind a wanna start out about the call.

BATSON: Um so we...I'm at the office with Suggs, Tran, Guerra...uh I had just eaten dinner, get a call for service about uh an armed person uh I believe it came through Spanish Language Line. Um said that he had a weapon and he wanted to turn himself in. Uh the comments on the call said something about the complainant was delusional or um...wasn't making sense. Um said uh...I think...I believe hung up the phone and they couldn't get back in touch with him uh and then possibly gave a name of ...of Manuel uh...I forget the last name.

Koll: Uh huh.

BATSON: Um so I added myself to the call myself, Suggs, Guerra and Tran-Thompson um we met behind our team office and basically tried to do some

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research about who this guy was. Uh ...uh I personally looked up the name given in the call on CJ Leads and in KB Cops um I found a guy who um, by that name, from...had...had a incident on Perth Court back in April um that I was familiar with cause I was out there um assault by pointing a gun uh he matched the description and he had an address off Milton Road so um...we uh came up with a game plan that there was four of us gonna go out there uh we would assess what we had we were gonna park at the pool behind the apartment complex and walk our way in to make sure that this wasn't gonna be an ambush. Um so we got to... we go to Prospect we park all of our patrol cars uh at the pool um...I don't know if it'd help to point it out on a map or not but...

Burkard: It will we just wanna go through everything and then we'll go through questions...


BATSON: Okay.

Burkard: ...and clarify a few things from there.

BATSON: Um so we parked...we parked our cars by the pool uh Guerra and Tran deployed their rifles. Um I didn't grab my rifle because uh I figured if we were gonna have two knock the door and then two cover that I didn't wanna...we didn't wanna be standing out there with three rifles when we're trying to knock the door so I didn't grab my rifle. Um we approached through the complex, walk through um Guerra and Tran once we got closer to the building split off to the left. Um myself and Suggs split to the right um as we were one apartment complex before we got to the target apartment complex. Um around that time I remember dispatch saying that they had uh gotten back in contact with the complainant and he said that he didn't wanna drop...that he didn't wanna put his gun away um because he didn't wanna leave it...he didn't feel comfortable leaving it or dropping it um then I remember hearing that. Um I approach from the...from the parking lot, from

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the PV...from the uh where the cars were parked using them as cover as Officer Suggs walking behind me um my gun was out during that point cause he was potentially armed. Um around that time I heard uh Guerra say that to hold the channel that they were making contact with one on the front porch. Um by that time I had...I...we didn't have eyes on the...the um...target...the...the...on the suspect or on the apartment um so we both sprinted up to the corner of the apartment um and when I sprinted up I took cover behind the uh corner of the apartment directly behind it uh with my gun pointed at the uh...at the subject. At that time uh I saw the subject was standing in the doorway um of the patio uh that leads out to the steps, the door was open and it appeared that the subjects back was towards me. Um I saw his, what I'm...what I think is his left hand um holding the gun, it was ...I could distinguish it as a gun uh and it looked like he was holding it upside down to me. It looked like the um...it looked like he was holding the uh grip or the stock of the gun um out with his fingers pinched and it looked like the barrel of the gun was upside down, it was pointing um towards the other apartment complex. It was pointed the opposite direction of him.

Burkard: Okay.

BATSON: Um at that point I heard Officer Guerra give him several commands to drop the gun I remember saying drop the gun twice. Um at this time myself and Officer Suggs were probably 20 to 25 yards away. Um he did not drop the gun and then I heard two shots from the side that uh Guerra and Tran were standing on. Um I ...I was watching the gun the whole time so I know it didn't...that those two shots did not come from him, from the suspect. Um after I heard those two shots uh I heard Officer Suggs...well I heard a shot come from behind me um which was Officer Suggs. Uh at that point um I remember the suspect going down, he landed on the steps right outside the patio um I remember seeing the gun drop. Um at that point we, obviously, heard Officer Guerra say shots fired...um no one moved, we all stayed still. Um at that point I remember two um Hispanic women uh exiting the patio uh

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screaming hysterically and then they ran back inside the apartment. Um I remember Gue...uh Guerra asking for 33 traffic. Um we continued to...to hold what we had because we couldn't...I couldn't see his hands, I couldn't see the gun and um I remember Off...um...I...I remember seeing two people walk up from the parking lot and telling Suggs to watch 360, I remember advising that on the radio. Uh once we got enough units there I...I stayed in my position with Suggs uh once enough people arrived I saw probably eight to ten people getting in a stack ready to clear the apartment so I joined them in this...the...stack. Um they went inside and I actually ended up staying outside because people started running out so I helped get people out to the side and then rejoin the stack inside to help clear the apartment. Um I went back out uh and located Of...at that point uh... or Suggs had already advised me that he had...that he had shot one and uh I went to try to find his shell casing and just stood by, basically, until other officers arrived and supervisors showed up and stuff.

Koll: Okay were you able to find any shell casings?

BATSON: Yeah, yeah I found...I found a shell casing uh standing right next to where we were.

Koll: Did you mark 'em in any way or...?

BATSON: I put my card over it and um another officer was standing by me with...


Koll: One a your business cards?

BATSON: Yeah.

Koll: Okay. So it's a lot a information um...

BATSON: Yeah.

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Koll: ...we're gonna try and go over it in sections...

BATSON: Yeah.

Koll: ...so um just the first section is, the call, when you're at the office...

BATSON: Uh huh.

Koll: ...um I know you...you talked a little bit about um the information you were given and then I kind a wanna get into the briefing um that you guys had there...behind the office, what information was exchanged a little bit more and just make sure we have everything that you guys um...talked about anything else that may jog your memory as you're going back through it again and then obviously we'll go into um using the map when you arrived on scene and the actions you and everybody else took okay.

BATSON: Okay.

Koll: Okay so you're at the office, you hear a call go out...do you get dispatched originally, you add yourself right?


BATSON: Yeah I add myself.

Koll: Okay um the information in that call um I know you...you...didn't sound like they gave you much, you remember exactly what...

BATSON: Yeah, like I said, I ...I don't remember much I remember it was an armed person call for service.

Koll: Uh huh.

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BATSON: I remember um...I remember it being through Spanish Language Line.

Koll: Okay.

BATSON: I remember that uh ...that the complainant said he wanted to turn himself in.

Koll: Okay.

BATSON: I remember him saying that he had a... he had a weapon, it's a gun.

Koll: Okay. Now do you guys um hold a kind a little briefing before you go, actually go to the scene.

BATSON: Yes.

Koll: Why'd you guys hold a briefing? Do you do that normally on every call before you go to a call or ...?


BATSON: No um since it was a... someone with...a subject with a weapon who was being ...who wasn't being very clear, who we didn't have a lot a information from uh we decided that we were gonna... and since this apartment complex is set up the way it is there's one way in and one way out it'd be a perfect situation for an ambush so we wanted to make sure we were all on the same page before we rolled in there separately. We all wanted to go in there together.

Koll: Okay.

BATSON: Um so that was one, we all wanted to meet up so we could caravan in there together.

Koll: Okay.

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BATSON: Um two uh we just wanted to do more research on potentially this address and the subject.

Koll: Okay so you do that research and you say you actually look at KB Cops report and you...you said something about an assault by pointing a gun report.

BATSON: Yeah.

Koll: Can you tell me about that and anything else you remember about the information you had prior to showing up on scene?

BATSON: Yeah again... I looked...the...the name that...that dispatch gave us in the call was Man...Manuel something I...I forget what it was but I looked that name up in KB Cops found a guy who had a prior weapon charge um and I saw that he had an address on Milton Road. Um I remember going out in April to do, on Perth Court, doing a...Officer Boyott did a uh...assault by pointing a gun and he was the suspect, I remember him because I uh...we ended up um searching him uh located some cartridges in his pockets and then we did a consent search of his house too, I don't think they ever <Inaudible> located a firearm.

Burkard: Do you remember what he was like on your previous interaction with him?


BATSON: I don't.

Burkard: Okay.

BATSON: I don't.

Burkard: Did you recognize him as the same person that was at the apartments?

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BATSON: I did...I didn't get a good look <Talkover - inaudible>

Burkard: <Talkover - inaudible>

Koll: Okay and that was on Milton and Perth is that...then you guys were going to Prospect did you...is that connected in any other way, I'm not familiar with the...?

BATSON: No it's...it's all North Tryon Division so I saw the guy with a similar name who had a North Tryon address as well...

Koll: Okay.

BATSON: ...and I...I figured...<Talkover - inaudible>

Koll: Same area?

BATSON: <Talkover - inaudible>... this might be our guy so...

Burkard: Okay.


Koll: Okay.

BATSON: Yeah.

Koll: Okay um any other information as you're kind a going back through that you guys shared or anything...anything else dispatch advise you, any other comments that popped up as you're driving you remember?

BATSON: At that time that was all we had.

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Koll: Okay.

BATSON: Um we had just gotten the name and that's why we're doing the research um at that time that's all we had and we basically made a game plan that two were gonna cover the house and then two were gonna try to uh knock it once we assess what we had when we went in.

Koll: Okay who were the two that were gonna knock and who were <Talkover - inaudible>

BATSON: We...we <Talkover - inaudible>...we hadn't done that yet, we hadn't decided that yet.

Koll: That was gonna be a game day...

BATSON: Yeah.

Koll: ...as you're there kind a...whatever position was better would take that?

BATSON: Right, we basically say we're gonna...we're gonna try to walk in from the back, we'll assess what we have and then we'll...we'll do two knock and two contained.


Koll: Okay um so you guys pull up and you guys...and now it may be helpful to start looking at the map.

BATSON: <Talkover - inaudible>

Burkard: <Talkover - inaudible>

Koll: Um...

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Burkard: Just so you know here's Reagan Drive, here's Prospect... this goes around and this right here is 85 so you kind a figure out where you're at.

BATSON: Okay.

Burkard: This marker is...it's a little flat but the pens don't show up too well on the color so...

BATSON: Okay.

Burkard: <Talkover - inaudible>...use that.

BATSON: So I was actually the last one in because I got stuck at a light. Uh I actually went down ...we...we made a plan to meet by the pool...

Burkard: Uh huh.

BATSON: ...so there...I guess there's a...there used to be a pool over here so I went down this way to...to meet at this pool and realized they weren't there and turned back around to come this way. They had parked their patrol cars along...

Koll: Can you just... yeah...

Burkard: Just make a rectangle <Inaudible>


BATSON: Three patrol cars right here.

Burkard: Uh huh.

BATSON: Um and I didn't wanna block these people in so I ended up pulling in a parking space right here.

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Burkard: Okay.

Koll: Okay.

BATSON: Um...

Burkard: You can just put like your initial... car number, your car number right there just so we know which one you're

BATSON: Yeah.

Burkard: ...referring to. Thank you.

BATSON: Um I heard Guerra and Tran say they had deployed their rifles, I went to grab mine and then thought if we were gonna have two to knock though I'd leave it in the car so I left it in the car. Um we... all four of us begin to walk up this sidewalk right here.

Burkard: Uh huh.


BATSON: Um since we weren't... since I didn't wanna be four ducks in a row um uh myself and Officer Suggs split to go this way and I stayed along these cars.

Burkard: Okay.

BATSON: Um and then I saw Guerra and Tran go this way and I'm not sure where they went from there.

Burkard: Okay.

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Koll: Okay. Where do you end up when um, I guess you first see or hear contact being made?

BATSON: Yeah so I'm probably right here.

Koll: Uh huh.

BATSON: Uh by that time uh I hear that Guerra said close the channel he's on the porch, we're making contact.

Koll: Okay.

BATSON: Uh at that point I sprint up uh...

Koll: Just put like a little X where you...

BATSON: Yeah so... <Talkover - inaudible>

Koll: ...bout where you were.

BATSON: ...the...the uh...

Burkard: Okay.


BATSON: ... the contact.

Koll: Uh huh.

BATSON: Uh at that point I sprint up to the corner of this house.

Koll: Okay.

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BATSON: Or the corner of this apartment right here um and from this ...from this uh angle I'll be able to slice the pie and I'm able to see the um subject standing in the doorway right here.

Koll: Okay what do you mean slice the pie?

BATSON: Uh I...I was able to stay off my cover and to use...use the...the wall of the apartment complex uh as a cover between myself and the subject.

Koll: Okay.

Burkard: Uh huh.

Koll: Alright.

Burkard: And this is where you were?

BATSON: Right, yeah so I was right here and Officer Suggs was maybe three to four feet <Talkover - inaudible>

Burkard: Can you just put your initials up there <Talkover - inaudible>

BATSON: Yeah.


Burkard: <Talkover - inaudible>...where you were. And Suggs is behind you?

BATSON: And Suggs is right behind me.

Burkard: Okay.

Koll: Can you just put an S or something there? Um so as you're looking down this way can you describe the lighting conditions?

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BATSON: Yeah, I remember ...the... like the faces of the apartments are pretty black, it's pretty dark. I...I do remember there was a light, I don't remember if it was on the sidewalk itself but I remember the fronts of the apartments being pretty dark.

Koll: Okay.

BATSON: From what I can remember.

Burkard: Was there light in the area?

BATSON: Yeah, there was light in the area...

Burkard: Okay.

BATSON: ...I just don't remember where it's coming from.

Burkard: Alright.

Koll: Um so when you're here...

BATSON: I...I was also shining my flashlight on the door...


Burkard: Okay.

BATSON: ...at that time.

Burkard: Alright and that's when you were able to see that subject in the doorway?

BATSON: Yeah.

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Burkard: Okay.

Koll: Is that the first thing you three as...as you slice the pie and you start to get a vantage and a view of this front area, what's the first thing you see?

BATSON: The fir...the first thing I see is the um... The first thing I see is the subject.

Koll: Okay.

BATSON: Uh I see a...a body standing in the doorway...

Koll: Okay.

BATSON: ...with the door open. Um and I don't...I don't remember if he had already raised the gun or if um he raised the gun but once I saw him then I remember focusing on the...the gun.

Koll: Okay.

BATSON: So I don't remember if he raised it or not...

Koll: Okay.

BATSON: ...I just remember seeing that next.


Koll: Okay. Um and do you see any other officers at that point?

BATSON: No.

Koll: No?

BATSON: No.

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Koll: Okay do you hear any other officers <Talkover - inaudible>

BATSON: Yeah I hear...

Koll: <Talkover - inaudible>...talking to <Talkover - inaudible>

BATSON: ...I hear Guerra.

Koll: Okay and what do you hear Guerra saying?

BATSON: I hear Guerra say something to the effect of drop the gun, drop the gun.

Koll: Okay.

BATSON: Um after the...after Guerra gives that first verbal command uh I remember that's around the time that I saw the gun...

Koll: Okay.

BATSON: ...and I remember saying drop the gun, drop the gun twice.

Koll: Okay and you... can you describe the gun and then how um...


BATSON: Small frame...

Koll: Okay.

BATSON: ...and it wasn't a revolver, it was a semi automatic.

Koll: Okay.

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BATSON: Um...

Koll: Remember what color?

BATSON: I wanna say silver but uh I'm not...

Koll: Okay that's fine.

BATSON: ...positive <Talkover - inaudible>...hundred percent.

Koll: That's fine um and can you go over how you...you believed in his left hand. You were holding your left hand up.

BATSON: Yeah so he... yeah...um so if... Trying to think if... So he's uh... If the doorway's here...

Koll: Uh huh.

BATSON: ...and uh...and the doorway opens this way so he's facing towards Prospect this way.

Koll: Okay.

BATSON: He's in the doorway and he's basically right here.


Koll: Okay.

Burkard: He's... his back is towards you?

BATSON: Back is <Talkover - inaudible> toward me.

Burkard: Okay <Talkover - inaudible>

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Koll: Your vantage point would be kind a where I am?

BATSON: Yeah...yep...

Koll: ...back...back behind the <Talkover - inaudible>

BATSON: ...his back is towards...towards me.

Koll: Okay.

Burkard: And I know you said <Inaudible>... you were talking about pinching the gun handle where it was facing... Describe how he was holding the gun please...if you could go over that again.

BATSON: Yeah.

Burkard: Like the manner in which he was holding the gun.

BATSON: Um I mean his arm was locked out...

Burkard: Uh huh.

BATSON: ...his... It appeared to me... He wasn't...he wasn't holding um... he wasn't holding it like this...


Burkard: Okay.

BATSON: ...it was more of a pinch.

Burkard: Okay.

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BATSON: Um and it...the gun was...he's holding the stock and the gun dir...

Koll: Let me make...I just...wanna make sure <Talkover - inaudible>

Burkard: <Talkover - inaudible> Let's get a blue gun...

Koll: You have one?

Burkard: Yeah <Talkover - inaudible>

Koll: I'm gonna ...I was gonna disarm it.

Burkard: <Inaudible>

Koll: <Inaudible>...cause I just wanna make sure that what I'm hearing is exactly what you're describing um, holding the same location okay. So um while we're working on getting that in here um... Do you hear the subject say anything back?

BATSON: No.

Koll: No?


BATSON: Uh uh.

Koll: Okay.

BATSON: But I...I mean I...no I don't hear him say anything.

Koll: Okay. Um and bout...what happens from there? He's holding it and his backs to you and then take me from there.

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BATSON: Um after I give the...the verb... After I yell drop the gun, drop the gun um I then hear two shots and uh I see him fall on the steps. Uh I also see the...the gun drop.

Koll: Okay.

BATSON: I'm sorry, I'm sorry...let me back up. I...I hear two shots...

Koll: Okay. There we go...

Burkard: <Inaudible>...keep going with <Inaudible>

BATSON: Sometime after I hear that first shot I hear Officer Suggs shot.

Koll: Okay.


BATSON: That hap...that happened so Suggs and ...and Guerra shots happen simultaneously almost that he fell after all three.

Burkard: Okay.

BATSON: Um... so he...he...he falls um basically from that point it's radio traffic we're <Inaudible> requesting... Guerra said shots fired, shots fired request 33 traffic. Uh he advised all officer's 10-4 or all officers are okay and uh I told everybody watch 360. At that point while we're talking on the radio um two...two ladies run out of the...two Hispanic females run out of the patio area um onto the steps to see...to see him laying there to see the suspect laying there and then run back inside.

Burkard: <Inaudible>...when you say 33 what is that?

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10. Juvenile Case <b>No</b>		11. Multiple Case Clearance <b>No</b>		12. Supplement Confidential <b>Yes</b>		13. Purpose Of Supplement <b>Interview with Officer Batson</b>		

BATSON: That's emergency traffic, officer down or shots fired or...it's uh officer potentially in trouble.

Burkard: And why did you call for emergency traffic?

BATSON: Uh Officer Guerra did um...

Burkard: Okay.

BATSON: ...I...I didn't call for emergency traffic.

Burkard: And... but you said , yeah that's right...you said watch 360.

BATSON: I said watch the 360.

Burkard: And if somebody doesn't know what 360 degrees is...how would you explain that to 'em what you mean by watch 360 although we may understand but somebody listening may not understand what that means.


BATSON: Yeah so we...we tend to get drawn in so much with somebody who has a gun and rightfully so that all our attention's focused on that when um there could be threats other places hiding in cars, coming up to us since shots have just been fired um so we're all focusing on the subject and nobody else was watching what was going on around us.

Burkard: So it'd be to make <Inaudible> look...behind you, to your sides, make sure nothing else is around?

BATSON: Correct.

Burkard: Um do you have any vision problems, wear glasses <Talkover - inaudible>

21. UCR Clearance Status				23. Reporting Officer		Code	Assignment	Date
<input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				<b>B. Koll</b>		<b>3803</b>	<b>Homicide</b>	<b>9/7/2017</b>
22. Investigative Status				25. Case Referred To		26. Reviewing Supervisor, Code, Date		
<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative								

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BATSON: I wear contacts.

Burkard: You wear contacts, you wearing them now?

BATSON: I...I...am.

Burkard: Alright were you wearing 'em at the time that everything that occurred?

BATSON: I...I was.

Burkard: Okay. So you wear, I'm sorry, you... always when you're on shift?

BATSON: Yeah I always wear 'em.

Burkard: Okay, alright. Um any trouble with your contacts, any reason why you wouldn't be able to see things or things would be blurry, out of focus?

BATSON: No.

Burkard: Uh you said you found casings and you put your card over them?

BATSON: Yeah I found a single casing and put my card over it.


Burkard: Okay. And why'd you put a card over the casing?

BATSON: Uh put a card over to mark...mark it so Crime Scene would be able to find it...

Burkard: Okay.

BATSON: ...and to preserve that evidence.

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>B. Koll</b>		Code Assignment <b>3803 Homicide</b>		Date <b>9/7/2017</b>	
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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Burkard: And I know you're saying he was facing towards the other officers, back was towards you so on the right and left to him...these were...he's kind a the right and left... his right and left side were the buildings?

BATSON: Correct.

Burkard: Okay so he's facing this way?

BATSON: Correct.

Burkard: Towards the wooded area right here?

BATSON: Yeah.

Burkard: Okay so your backdrop behind there would be the buildings? If...<Talkover - inaudible>

BATSON: <Inaudible>...if I were to take a shot?

Burkard: Yeah cause you're off on an angle <Talkover - inaudible>...

BATSON: My...my backdrop is uh... would be this tree or the corner of this building <Inaudible>


Burkard: Alright. Before we get back to the gun position again, is there anything else you can think of, anything else that's significant?

BATSON: During that period <Talkover - inaudible>

Burkard: Anytime of it.

BATSON: ...not off the top of my head no, not right now.

21. UCR Clearance Status				23. Reporting Officer		Code		Assignment		Date	
<input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				<b>B. Koll</b>		<b>3803</b>		<b>Homicide</b>		<b>9/7/2017</b>	
22. Investigative Status				25. Case Referred To		26. Reviewing Supervisor, Code, Date					
<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative											

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Koll: So when you went in to, I guess, help clear um...did you have any interaction with the subject who was shot?

BATSON: No uh by the...by...

Koll: Give first aid, talk to 'em at all...

BATSON: No.

Koll: ...anything like that?

BATSON: No.

Koll: Did you see any weapons or anything when you went up there?

BATSON: Yeah I saw...I saw a gun.

Koll: Okay.

BATSON: I don't remember ...so...so I don't even remember what it looked like but I remember seeing it.


Koll: Okay.

BATSON: There was a small frame semi automatic I...I think it was silver but I couldn't tell.

Koll: Okay did you touch or manipulate the gun in any way?

BATSON: No.

UCR Clearance Status				23. Reporting Officer		Code	Assignment	Date
<input type="checkbox"/> Open	<input type="checkbox"/> By Arrest	<input type="checkbox"/> Exceptional	<input type="checkbox"/> Unfounded	<b>B. Koll</b>		<b>3803</b>	<b>Homicide</b>	<b>9/7/2017</b>
22. Investigative Status				25. Case Referred To		26. Reviewing Supervisor, Code, Date		
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Koll: Touch or manipulate him, give him first aid...

BATSON: No.

Koll: ...checking him for weapons, anything like that?

BATSON: No.

Koll: No? Okay.

BATSON: Uh another significant thing I remember uh the call for service said that uh...something about the...that he didn't have bullets for the gun.

Burkard: Okay.

BATSON: Um and then I...I remember seeing when we went in, I remember seeing a magazine laying um on the steps.

Burkard: Okay.

BATSON: Didn't see any bullets in it but I remember seeing that magazine laying on the steps as well.

Burkard: Okay. Anything else you can think of?


Koll: <Talkover - inaudible>

Burkard: Did you call for Medic?

BATSON: I didn't call for Medic no.

Burkard: Do you know if Medic was called?

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>B. Koll</b>	Code <b>3803</b>	Assignment <b>Homicide</b>	Date <b>9/7/2017</b>
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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10. Juvenile Case <b>No</b>	11. Multiple Case Clearance <b>No</b>	12. Supplement Confidential <b>Yes</b>	13. Purpose Of Supplement <b>Interview with Officer Batson</b>		

BATSON: Um...

Burkard: You're not... <Talkover - inaudible>

BATSON: I don't...I don't remember.

Burkard: That's fine, okay. Um any... Okay let's get to the...so obviously just like that <Inaudible>...remember, best way you can describe it how he's holding that gun?

BATSON: Thi...this is what it looked like, it looked like he was standing up and uh it looked like he was holding it like this.

Koll: Okay.

BATSON: Um, again, I'm from this way and the apartment complex is where <Talkover - inaudible>

Burkard: If you don't mind could you turn... or stand...cause I wanna get an idea from my perspective, if I was you... just turn around and hold it out...

Koll: Do the same thing, but... <Talkover - inaudible>


Burkard: Yeah just so I can see it.

BATSON: He was coming out a the doorway and his arm was locked out he was basically like this.

Burkard: Okay. Alright. Thank you. And you did not fire your handgun and your rifle was not deployed, is that correct?

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>B. Koll</b>	Code <b>3803</b>	Assignment <b>Homicide</b>	Date <b>9/7/2017</b>
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BATSON: That's correct.

Burkard: Alright. Think of anything else?

Koll: Um...

Burkard: Do me a favor, could you just put your initials at the top up here please.  
<Inaudible>... parts, not the color parts <Inaudible>

Koll: There was a uh...I know you said the 911 call, you believe, came in through a Spanish Language line?

BATSON: Yes.

Koll: Do you know if anyone <Inaudible>... any of the officers or anybody out there um had a conversation with him in Spanish or give commands or do you remember hearing anything other than drop the gun in English?

BATSON: Um no I can't say I did.

Koll: Okay. Alright.


Burkard: When you said drop the gun did you say...did you say drop the gun, did you yell it, were you loud enough <Inaudible>...hear like <Talkover - inaudible>

BATSON: Yeah it was...it was loud it was, I mean...with...with our training and when we get stressed, it was loud.

Burkard: Okay.

BATSON: Yeah.

1. UCR Clearance Status		23. Reporting Officer	Code	Assignment	Date
<input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		<b>B. Koll</b>	<b>3803</b>	<b>Homicide</b>	<b>9/7/2017</b>
22. Investigative Status		25. Case Referred To	26. Reviewing Supervisor, Code, Date		
<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative					

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Burkard: Like when you say when you get stressed is it a stressful situation?

BATSON: Yeah it was a stressful situation, definitely, with the information that we knew going in...

Burkard: Uh huh.

BATSON: ...with the um the call for service, with everything happening around the country with Police officers getting killed, ambushed... um it was stressful and with Guerra making contact and um it happened fast and split second decision, yeah it was stressful.

Burkard: <Inaudible> Thank you very much.

BATSON: Okay.

Burkard: Um so this will count as your statement, you don't have to go write up a whole narrative supplement <Inaudible> report or anything like that. If you have no notes you don't have to worry about scanning in or anything like that. Now if anything else comes up let us know, any questions or... concerns or anything or something else pops in your mind just let us know um but other than that you should be all set.


BATSON: Okay.

Burkard: Alright man. Thank you very much.

BATSON: Alright.

Burkard: Just hang tight for just a minute, let's check and make sure there's nothing else that we need to go over with you or anything else and we're gonna get ya out then okay.

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>B. Koll</b>		Code <b>3803</b>		Assignment <b>Homicide</b>		Date <b>9/7/2017</b>	
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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BATSON: Okay.

Burkard: Alright <Talkover - inaudible>

BATSON: Sounds good.

Koll: I'm a end this statement, 0052 hours.

JK/TB/rge

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>B. Koll</b>	Code <b>3803</b>	Assignment <b>Homicide</b>	Date <b>9/7/2017</b>
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		

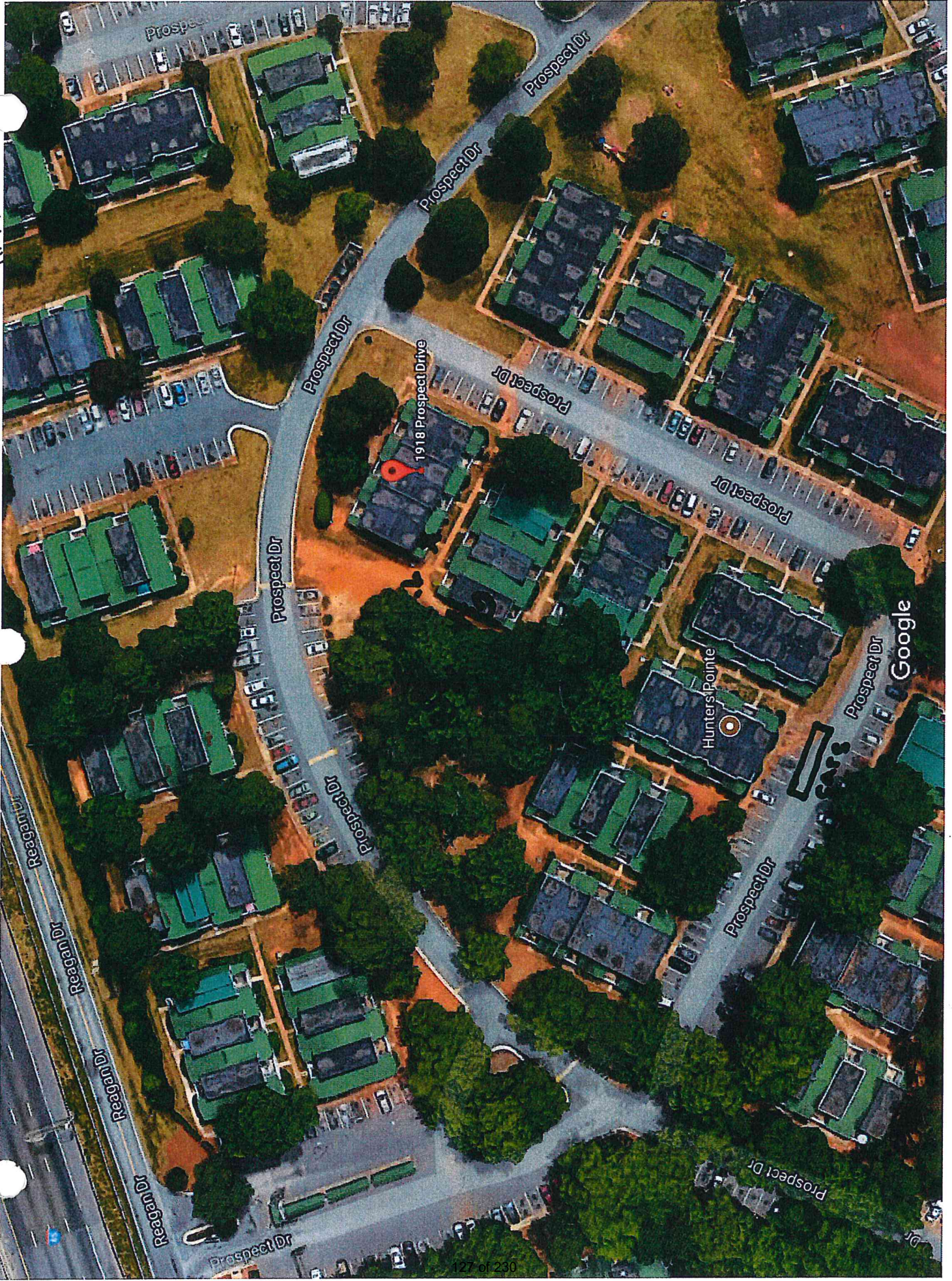
# Exhibit 4




9/7/2017

20170906-211005 Interview Tran-Thuy 1918 Prospect Dr - Google Maps

RMT





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(Part 1)

DETECTIVE T. BURKARD, CHARLOTTE MECKLENBURG POLICE DEPARTMENT GONNA TAKE A RECORDED STATEMENT REFERENCE OFFICER INVOLVED SHOOTING UNDER COMPLAINT NUMBERS 20170906211005. TODAY'S DATES WEDNESDAY SEPTEMBER 16<sup>TH</sup> 2017 CURRENTLY IN ROOM 2003. MY SELF AND DETECTIVE KOLL WILL BE CONDUCTING THIS INTERVIEW; TIME NOW IS 2335 HOURS.

Burkard: Alright. You good ... Bathroom? All set?

TRAN-THOMPSON: Nah I went before I stepped in here.

Burkard: Alright. Start off with some general information...

TRAN-THOMPSON: Okay.

Burkard: ...and then we'll go from there okay. And uh it's Trans-Thompson, Tran-Thompson?

TRAN-THOMPSON: Yeah Tran-Thompson... little hyphen.

Koll: What's your first initial?


TRAN-THOMPSON: Ryan.

Koll: Ryan?

TRAN-THOMPSON: R.

Burkard: What's your code number?

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>T. Burkard</b>		Code <b>2703</b>	Assignment <b>Homicide</b>	Date <b>09/06/2017</b>
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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TRAN-THOMPSON: 5440.

Burkard: Date of hire?

TRAN-THOMPSON: Uh its October 26<sup>th</sup> I believe...2016... Yeah 10/26 of 15.

Burkard: Any prior law enforcement or military experience?

TRAN-THOMPSON: No.

Burkard: What current...what division are you assigned?

TRAN-THOMPSON: North Tryon.

Burkard: What shift?

TRAN-THOMPSON: Second.

Burkard: What are your hours on second today?

TRAN-THOMPSON: It's um 1:15 to 11:30.


Burkard: To 11:30?

TRAN-THOMPSON: Yes sir.

Burkard: What's your call sign?

TRAN-THOMPSON: 7-1312-2<sup>nd</sup>.

1. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer <b>T. Burkard</b>	Code Assignment Date <b>2703 Homicide 09/06/2017</b>
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Burkard: 7...

TRAN-THOMPSON: 1312-2<sup>nd</sup>.

Burkard: Talk groups North Tryon?

TRAN-THOMPSON: Yep.

Burkard: Who's your supervisor?

TRAN-THOMPSON: Today it was uh Robert Phelps.

Burkard: How tall are you?

TRAN-THOMPSON: Six foot.

Burkard: How much you weigh?

TRAN-THOMPSON: Uh about 225.

Burkard: How much sleep did you get the night before, last night?

TRAN-THOMPSON: Uh maybe six, seven hours.

Burkard: And do you have any off duty prior to your shift?


TRAN-THOMPSON: No.

Burkard: What vehicle are you driving?

TRAN-THOMPSON: Uh PDA752.

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>T. Burkard</b>		Code <b>2703</b>	Assignment <b>Homicide</b>	Date <b>09/06/2017</b>
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Burkard: That a marked car?

TRAN-THOMPSON: Yes.

Burkard: You have DMVR on there or no?

TRAN-THOMPSON: No.

Burkard: Was anyone with you or you the only one?

TRAN-THOMPSON: I was the only one in the car.

Burkard: Do you have... your body cam was already taken right?

TRAN-THOMPSON: Yes.

Burkard: Was it turned on?

TRAN-THOMPSON: Yes.


Burkard: Alright and you take out your duty weapon, unload it, and your spare magazine and put it on the counter please...table. Carry any back up, secondary weapons?

TRAN-THOMPSON: No.

Burkard: You have any... <Talkover - inaudible>

TRAN-THOMPSON: <Talkover - inaudible>

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Burkard: <Talkover - inaudible>...weapons, rifles or anything in your car  
<Talkover - inaudible>

TRAN-THOMPSON: <Talkover - inaudible>...patrol rifle in <Talkover - inaudible>

Burkard: Patrol rifle? Is that still in the car?

TRAN-THOMPSON: It is.

Burkard: Okay.

TRAN-THOMPSON: You want the firearm up here too or just <Inaudible>

Burkard: Yes firearm unload it and put it up there please. And your patrol rifle was that deployed?

TRAN-THOMPSON: It was.

Burkard: It was? Okay.

Koll: Henry...Henry, Tom, John 1636.

Burkard: 1636.


Koll: Yeah Henry, Tom, John 1636.

Burkard: Okay.

<Talkover - inaudible>

Koll: Fifteen in this one. You mind if I load it?

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TRAN-THOMPSON: No, go ahead.

Koll: Okay cool <Inaudible>...thirteen, fourteen, fifteen.

Burkard: <Inaudible> Did you take any notes, write anything down at all or anything?

TRAN-THOMPSON: I did not.

Burkard: Okay.

Koll: And you can load back up <Talkover - inaudible>

TRAN-THOMPSON: Yes sir, thank you.

Burkard: So if you wanna start from the beginning of the call for service or when you first ...your attention was called out there on Prospect.

TRAN-THOMPSON: Okay.


Burkard: Um this...mind you, it's really easy when you're talking to two officers to say things and we'll understand what you're saying...

TRAN-THOMPSON: Okay.

Burkard: ...but pretend like we have no idea about Police work.

TRAN-THOMPSON: Okay.

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Burkard: <Talkover - inaudible>...explain things cause a lot a times people will say stuff like, ya know...ya know I was 10-17...we know what that is but other people may not. So if you try to stay away from ten codes. If you uh say it don't worry we'll go back and clarify, but just try to remember that and try to be as clear as everything...as you can.

TRAN-THOMPSON: Okay, alright. Um so sitting at the North Tryon team office at a computer um just finished a report um clear myself went 10-8 or had dispatch clear me went 10-8... or excuse me, um in service.

Burkard: Uh huh.

TRAN-THOMPSON: Um was probably there for maybe five minutes before got the call for service um dispatch advised that a Hispanic male had a gun or it was an armed person call said Hispanic male had a weapon and that he wanted Police help and that's all they had.

Burkard: Okay.

TRAN-THOMPSON: Um so I get up from the office start to walk out um Officer Guerra also adds himself starts to walk out of the office...


Burkard: I'm sorry, Officer who?

TRAN-THOMPSON: Guerra.

Burkard: Guerra?

TRAN-THOMPSON: Yes sir. Um...Officer Suggs and Officer Batson also add themselves so we had four. Um we all leave the team office we

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go to the Charter School that's right behind us uh behind our team office, we just get together in PVA kind a come up with a plan. Um we do some research, trying to do some research on the phone number, the calls for service from that number. Um we try to find a name for the subject in the call. Uh we found a name, I don't recall the name now...


Burkard:

Okay.

TRAN-THOMPSON:

...um that we believe the subject was. Um came up with a plan that we were all gonna go into together, go straight ahead, and there is a ...if you go straight into the apartment complex there's like an L of the parking lot, we were gonna park on that side so we were out a view where this possible armed subject was. Um we parked all four of our cars on that side. I grabbed my rifle, Guerra had his rifle deployed as well. Um we then walked through the complex to this ...to the address. Um I think it was when we got to complexes away from the actual address uh my self and Guerra went to the left, Suggs and Batson went off to the right side try to get views on it from both sides. Um Guerra's kind of hugging the complex; I go out a little bit wider to, cause I, the cover with the trees. Um I tell Guerra to stop once we get to the corner of the complex across from me because I could see the shadow of the gentleman in the um iron gate where the porch is, I could see him standing there at the gate so I tell Guerra stop right there at the corner. Um I get positioned to a tree, I don't like where I'm at so I move back to a bigger tree for better cover. Uh Guerra then calls out the name of the subject that we found, after doing our research before we went to the call. All I hear is a reply is yeah and then the gate comes open the male steps out. Um <Inaudible>...believe at that time I know

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he had one hand...his right hand in his pocket and his left hand was also down by his pocket, don't know if it was in it...in the jacket.


Burkard:

Okay.

TRAN-THOMPSON:

He um...I believe Guerra said um manos ariba, hands up. Um he pulled his left hand out of the pocket and I see a like what looked, from where my distance, was a silver metallic object. Then I hear Guerra say gun, drop the gun, drop the gun, drop the gun. Um I don't know how many times he said it, but he said it numerous times. Um at that point, he's still standing on the small patch of concrete that comes from his porch. Um he takes like a small step towards the dirt patch which is in our direction off the concrete then I see...he still has his arm up like this and then I see his arm start to drop um as Guerra's trying to give him commands and then that's when I hear the two shots ring out, he crumpled...or falls down. We hold our positions, um wait for more officers. Um we have a Spanish speaking officer that arrived, starts calling out the females that had ...or initially ran out the door at first when they heard the shots and we told everybody stay inside cause we weren't sure who was all in there. Um so once we start...we get those two...or we get, I believe it was one female the Spanish officer is able to get out. We wait for enough officers to get a team together. I um shoulder my rifle get ready to go clear the residence. Um... I believe it was Wiggins and Guerra who were in front of me and then I was first into the residence. Um Guerra...or excuse me, I think Wiggins is the one that secured the weapon from the subject. Go to the house um... and start calling multiple subjects out, some of 'em were kids and some were most of adults. We

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just had them all stepping out and I'm trying to feel around their waist as they're coming out make sure nobody is armed. After we get everybody out that we can the last subject that uh I met at the door said there was a small child upstairs. So we go in the house we start to clear. Um...I went to the right cleared the kitchen first then we worked our way through a bathroom opening back to the, I guess, family room um then came back around and then went upstairs with the rest of the officers who were already starting to clear upstairs and then we came back out and uh stood by on scene until I was told to um go stand by with the Sergeant or the Peer Support or whoever was out there.

Burkard: Okay. Couple things we need to go over um...your first said you were coming up with a plan...

TRAN-THOMPSON: Uh huh.

Burkard: You guys met behind...

TRAN-THOMPSON: Uh huh.

Burkard: ...the charter school behind the team office?


TRAN-THOMPSON: Yeah...yeah, in the parking lot.

Burkard: And then your plan, describe that plan, did you guys all talk about it and agree with this like...

TRAN-THOMPSON: Um...

Burkard: ...like what was the purpose of that plan?

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TRAN-THOMPSON: Well we did the research we tried to find possibly who we're talking to.

Burkard: We're gonna get to the research in a second.

TRAN-THOMPSON: Okay um...

Burkard: ...I'm gonna ask a few things about that but first I want you to tell me about this plan...

TRAN-THOMPSON: So...

Burkard: ...like why did you guys decide to have a plan like could...  
<Talkover - inaudible>


TRAN-THOMPSON: Our plan was cause when the call came out it was kind of...we all kind a...our hairs kind a stood up like...all he's saying he's armed with a gun and he wants Police...that he wants Police all...and that's all we could get <Inaudible> and uh dispatchers was trying to get call back on...so our plan was to go away from the residence with our cars so he doesn't see our cars just pulling up.

Burkard: Okay.

TRAN-THOMPSON: We didn't wanna pull up straight in front of the residence just in case he did decide to maybe ambush and start shooting at us as we pulled up. Um we wanted to pull out there so we can get on foot and then walk so we have a little bit more covering to see anyone in between the complexes...

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Burkard: Okay.

TRAN-THOMPSON: ...and just didn't have a direct line a sight on us.

Burkard: And you guys all discuss this and agreed to this plan?

TRAN-THOMPSON: Yeah we um... so before we left <Inaudible> we all got in our cars, I believe Batson and Guerra talked about it first and then we all switched over to conference...

Burkard: Uh huh.

TRAN-THOMPSON: ...and then we...they told us the plan as we're going up there and we all agreed.

Burkard: Okay.

TRAN-THOMPSON: That we would park there and then we'll go on foot towards the residence.


Burkard: Is that North Tryon conference?

TRAN-THOMPSON: Yes.

Burkard: And we'll talk about the research, said you were doing research, what do you mean by that like what kind of stuff were you looking up and why were you trying to look closer <Talkover - inaudible>

TRAN-THOMPSON: Um Guerra and Batson were looking up the phone number...

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Burkard: Uh huh.

TRAN-THOMPSON: ...got the call from see if we can find anything to get an idea he's called Police and this has been a repeat call for service see if he's done this before. Um... try to find <Inaudible> we found him or Officer Batson found a name, I can't recall the name, but he found what he believed... what... who he believed the subject was in CJLEADS... we all looked at the picture, was a Hispanic male.

Burkard: Okay.

TRAN-THOMPSON: Um we believe that was him, um and that was just to give us an idea of who we were gonna go meet to talk to and um kind a give us a background on him.

Burkard: And that's just based upon the phone number and location search?

TRAN-THOMPSON: Um location, I believe it was Guerra and them... uh Guerra and Batson searched the location, phone number, and the name. Um...


Burkard: In the, you, I'm sorry you said the name was in the call.

TRAN-THOMPSON: The...there was a name in the call.

Burkard: Okay. You guys pull up you're in marked Police cars?

TRAN-THOMPSON: All of us are marked.

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Burkard: Now is it cars or SUV's?

TRAN-THOMPSON: Um I know my self and Batson were driving SUV's I'm not sure about the other two.

Burkard: Okay and you're in that uniform?

TRAN-THOMPSON: Correct.

Burkard: Can you describe the lighting conditions of the area at the time?

TRAN-THOMPSON: Um it was dark with I guess, intermittent light there was a couple street lights in the parking lot, couple posts that had lights in between the complexes.

Burkard: Okay. When you say complex you're not... are you referring to the whole area or are you referring to <Talkover - inaudible>

TRAN-THOMPSON: Uh no I'm sorry I'm referring to...uh referring to each building.

Burkard: Okay. It's multiple buildings within this complex?


TRAN-THOMPSON: Yes.

Burkard: So there's lighting between them and in the <Talkover - inaudible>

TRAN-THOMPSON: And some in the parking lot and then some in between 'em.

Burkard: Okay did you have flashlight on?

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TRAN-THOMPSON: I did.

Burkard: Alright were you using it or no?

TRAN-THOMPSON: Um I was as we were walking up I had it in my hand...

Burkard: Uh huh.

TRAN-THOMPSON: ...but once we got to the incident location there's a big uh... street lamp or a street light right there right by the location so... and that gave me lighting that I didn't need to use my flashlight.

Burkard: Okay. And you said that one of the officers, Guerra, that was saying something in Spanish put your hands up?

TRAN-THOMPSON: Uh yes cause before we actually left I said do you know how to say put your hands up in Spanish?

Burkard: Uh huh.


TRAN-THOMPSON: And he said manos arriba.

Burkard: Okay. And you go to the target location where you guys are called to.

TRAN-THOMPSON: Correct.

Burkard: You see someone coming out the front or back door?

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TRAN-THOMPSON: Um it should be the front door cause I think there's only one entrance in...

Burkard: Okay.

TRAN-THOMPSON: ...through that uh metal gate.

Burkard: We're gonna get a map in a second but if you could...

TRAN-THOMPSON: Okay.

Burkard: ...just describe it is, as best as you can, I don't know how familiar you are with the area that's <Talkover - inaudible>

TRAN-THOMPSON: Um...

Burkard: ...but that would be <Talkover - inaudible>

TRAN-THOMPSON: ...so it would be building...


Burkard: Uh huh.

TRAN-THOMPSON: ...uh believe each building either has three or four individual units to it, apartments to it. Um each unit has a porch area...

Burkard: Uh huh.

TRAN-THOMPSON: ...that is um kind a fenced off or part of building fenced off um and each of those porches has a metal gate that's almost like a mesh you can see through.

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Burkard: Okay.

TRAN-THOMPSON: Um and it's that met...mesh gate and then the porch and then get to the door of the residence.

Burkard: Okay. And you see this subject come to that mesh door?

TRAN-THOMPSON: Um as we're...I was coming I went a little bit wider so I had a better view then um Officer Guerra.

Burkard: Uh huh.

TRAN-THOMPSON: I could see his silhouette standing behind that mesh metal gate.

Burkard: Okay and at some point does he come out of that gate?

TRAN-THOMPSON: He does when Guerra calls the name...

Burkard: Okay.

TRAN-THOMPSON: ...and he say's yeah and then opens the gate and comes out.


Burkard: And you see the metal object in which hand, I'm sorry?

TRAN-THOMPSON: Um...from should be his left he was facing us.

Burkard: Could you tell that was that object was or you just knew it was metal?

TRAN-THOMPSON: I knew it was like a...had a metallic look to it.

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Burkard: Uh huh.

TRAN-THOMPSON: And then I heard Officer Guerra say gun.

Burkard: Okay. And when he said gun did he say it in English or Spanish? Did he say drop...

TRAN-THOMPSON: English.

Burkard: Did he say drop the gun in English or Spanish?

TRAN-THOMPSON: Um, I believe it was English.

Burkard: Okay. And you said you only heard two shots, is that correct?

TRAN-THOMPSON: Correct.

Burkard: Alright do you know who fired their weapon?

TRAN-THOMPSON: I know Officer Guerra did.

Burkard: You know Officer Guerra did, how do you know he did?


TRAN-THOMPSON: Um cause I was maybe ten feet away from him.

Burkard: Okay.

TRAN-THOMPSON: And I heard just uh...how close I was it...cause I knew I didn't shoot and how close the sound was I knew it was him that shot.

Burkard: Okay and you didn't fire your patrol rifle?

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TRAN-THOMPSON: I did not.

Burkard: Your handgun?

TRAN-THOMPSON: I did not.

Burkard: Okay. Um did he say anything after the shots were fired?

TRAN-THOMPSON: Um he put it out on the radio shots fired, shots fired.

Burkard: Okay.

TRAN-THOMPSON: Um and then he continued to cover the door cause those two Hispanic females came running out.

Burkard: Uh huh.

TRAN-THOMPSON: And he was telling 'em go back inside, go back inside um and I got on the radio and I said give us 10-33 traffic, we got people coming outside of the residence.

Burkard: And what's 10-33 traffic?


TRAN-THOMPSON: Oh sorry um...

Burkard: That's okay.

TRAN-THOMPSON: Emergency traffic um... I guess the best way to explain it is like get here yesterday.

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Burkard: Okay. And emergency traffic and why did you request emergency traffic?

TRAN-THOMPSON: Um cause the officer...we just had an officer involved shooting...

Burkard: Okay.

TRAN-THOMPSON: ...um we had as suspect down um we need officers there to secure the scene, get the house cleared and attempt to get a medical attention to the individual we just shot.

Burkard: You need more assistance?

TRAN-THOMPSON: We need more assistance.

Burkard: Did you call for Medic?

TRAN-THOMPSON: Um I did not.

Burkard: Okay.


TRAN-THOMPSON: I'm not...I don't know if it went out over the radio.

Burkard: Okay. And you said you secured the weapon?

TRAN-THOMPSON: Uh no I did not, I think it was Officer Wiggins who secured it.

Burkard: Did you see the weapon on him at all?

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TRAN-THOMPSON: No...no only thing I saw was the magazine sitting next to his feet...

Burkard: Okay.

TRAN-THOMPSON: ...for the...a weapon.

Burkard: Was that similar to the Police magazines or did it look...

TRAN-THOMPSON: It looked smaller.

Burkard: Smaller?

TRAN-THOMPSON: Yeah.

Burkard: So it wasn't like one of ours that you're familiar with?

TRAN-THOMPSON: No it didn't look like our magazine <Talkover - inaudible>

Burkard: Down by the victims feet?

TRAN-THOMPSON: Um yes cause it was laying on the concrete portion...


Burkard: Okay.

TRAN-THOMPSON: ...of the steps.

Burkard: Alright. Afterwards you hung, you were waiting around, secure the area, secure the...

TRAN-THOMPSON: Uh huh.

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Burkard: ...weapons and then waited to come down here is that correct?

TRAN-THOMPSON: Uh correct, I stood on scene, um so I came out a the house there were multiple officers standing around uh I tried to direct 'em since I was on scene to push 'em out further away cause there were multiple officers around where the... <Inaudible> where I knew Officer Guerra was when he shot um so I told him to start to moving out and I'll walk this way and then um I don't know who the officer was, he's from a different division, he located two casings and put cards next to 'em and then they stood by there on the scene so nobody walked that way.

Burkard: Is there anything else you can think of that's important? Anything we need to go over?


TRAN-THOMPSON: Um other than before we actually got out or made contact with him dispatch, as we're going to the location dispatch was advising us um that she had got him back on the phone, spoke with him multiple times, told him to go put the gun away, put the gun away...multiple times she advised us and she <Inaudible> every time she came back to...or... advised us that he refused to go put it down, he didn't wanna go put it anywhere and he...he still had it on, he didn't wanna go put it up.

Burkard: Okay. Koll you think of anything else?

Koll: Yeah um one second... You guys said you...you briefed behind the office before you went?

TRAN-THOMPSON: Uh huh.

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Koll: Um do you typically brief before you go to every call?

TRAN-THOMPSON: Um not every single call...

Koll: Okay.

TRAN-THOMPSON: ...it kind a depends um if it's gonna be a...do we find that it's gonna be a potential for danger, a high risk...

Koll: Okay.

TRAN-THOMPSON: ...um is it a armed person?

Koll: Uh huh.

TRAN-THOMPSON: Um if we have calls normally with <Inaudible>...armed person walking around with a gun <Inaudible>...kind a came up with a game plan like hey you come from this, we'll come from this side...um sometimes we'll brief before we go try to serve warrants about who's going to the back, who's going to the front.


Koll: Okay.

TRAN-THOMPSON: Stuff like that.

Koll: Okay but... for the majority of Police calls you get dispatched, you guys don't meet up before <Talkover - inaudible>

TRAN-THOMPSON: No we don't meet <Talkover - inaudible>

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Koll: <Talkover - inaudible>

TRAN-THOMPSON: No.

Koll: Um but based on the circumstances in this call...

TRAN-THOMPSON: Uh huh.

Koll: ...thought that it was necessary to...

TRAN-THOMPSON: Based on...

Koll: ...to gather and...

TRAN-THOMPSON: ...all the information we had was a male subject called said he had a gun and wanted Police help...

Koll: Okay.

TRAN-THOMPSON: ...and that was it and...we decided to come up with a plan...


Koll: Okay.

TRAN-THOMPSON: ... before we approached.

Koll: Um you said earlier your body camera was on was it uh turned on, was it recording as well?

TRAN-THOMPSON: Yes.

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Koll: You <Inaudible>...do you remember when that started recording?

TRAN-THOMPSON: Um I believe when we arrived as soon as I got my rifle out and loaded I um... I hit it as soon as I pulled the rifle out shouldered it or... put the sling on, I hit it to turn it on...

Koll: Okay.

TRAN-THOMPSON: <Talkover - inaudible>...so...

Koll: Prior to walking up?

TRAN-THOMPSON: ...it should be like right when I'm behind my car.

Koll: Okay.

TRAN-THOMPSON: <Inaudible>

Koll: Um you said you deployed a rifle you...who else did you say had a rifle?


TRAN-THOMPSON: Uh Guerra.

Koll: Guerra? Okay um do you know if...I know you said Guerra shot, do you know if Guerra shot with a rifle or if he shot with uh his handgun?

TRAN-THOMPSON: I believe it was rifle...

Koll: Okay.

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TRAN-THOMPSON: ...because the whole time when I could see him out of the corner of my eye, my peripheral I saw him had the rifle shouldered...

Koll: Okay.

TRAN-THOMPSON: ...and then after the ...I heard the shots I still saw his rifle shouldered.

Koll: Okay. Um and I guess you're a rifle officer with uh...

TRAN-THOMPSON: Yes sir.

Koll: ...CMPD? Okay. Um...so you never actually saw the weapon, but uh I guess you were told that Wiggins was securing ya?

TRAN-THOMPSON: After the shooting or before?

Koll: Aft...after the shooting.


TRAN-THOMPSON: Um no I didn't...cause we were...when we were stacked up, um Guerra and Wiggins were gonna keep cover with rifles outside...

Koll: Uh huh.

TRAN-THOMPSON: ...so they couldn't...they can't go and clear so I shouldered my rifle up behind my back.

Koll: Okay.

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TRAN-THOMPSON: Um before we started approach and I said Guerra... I believe it was addressed to Guerra I said did you see where that 94 fell?

Koll: Okay.

TRAN-THOMPSON: And he said it... I believe he said it's right next to him. Um as we're going, walking out the door Wiggins kind a breaks off to the left and he's standing by the 94 so I believe it's Wiggins who secured it.

Koll: Okay. Um can you tell me about your thought process and your feelings on scene throughout this encounter?

TRAN-THOMPSON: Um as far as... <Talkover - inaudible>

Koll: Everything just from going on scene, encountering...

TRAN-THOMPSON: Um...

Koll: ...when commands are being given, what's going through your mind what are you thinking?


TRAN-THOMPSON: So my thinking is before we even got there I was like this call is a little weird. That someone call and say I have a gun I want Police help.

Koll: Okay.

TRAN-THOMPSON: My mind it kind a goes to is he trying to ambush us, just trying to get whatever officers he can there, to ambush. Um... and he starts to step out he has his hands in his jacket and then say

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um... Guerra gives him command, his hands come up and he just kind a...dangling that metallic object in his left hand that I can see.

Koll: Uh huh.

TRAN-THOMPSON: Or not dangling, but he has it up here and just kind a hanging kind a waving around then. Guerra's still giving commands um ...uh I hear him say it's a gun so I'm thinking okay either he's gonna listen or he's not.

Koll: Okay.

TRAN-THOMPSON: Um he doesn't, he takes just like a small step and then his arm starts to come down a little bit and then I hear the two shots.

Koll: Okay.

TRAN-THOMPSON: Um so after that it kind a...it surprised me I was...okay kind a trying to catch up in my mind okay that was one of us that just shot so I'm trying to run through my head what I was trained to do, get more officers out there, get the scene secured.


Koll: Okay.

TRAN-THOMPSON: <Inaudible>

Koll: Where were you when, and we're gonna try and get a map and it may be easier to explain there but where were... <Inaudible>

Burkard: We're gonna get a map <Talkover - inaudible>

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Koll: Okay.

Burkard: ...the layout <Talkover - inaudible>

Koll: Yean I don't wanna confuse you without a map so we'll wait. Um... okay and then I'll get into all that when we get to that.

TRAN-THOMPSON: Okay.

Koll: Okay?

TRAN-THOMPSON: Yep.

Burkard: Is anything else you can think of that's important?


TRAN-THOMPSON: Um only thing else...else I could say is I think when he...when Guerra's giving commands and he took that step and his arm started to come down I did flip my rifle off from safe to fire.

Burkard: Okay.

TRAN-THOMPSON: Cause when his arm started to come down I... thought he was gonna make a movement to just punch it out. Um and then I flipped it to fire but my finger never touched the trigger. Um cause it happened so quick when I flipped I heard the shots then I flipped it back to safe.

Burkard: Can you just describe what...if someone wouldn't know what the term punch it out means.

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TRAN-THOMPSON: Um...

Burkard: <Talkover - inaudible>

TRAN-THOMPSON: ...so when he...he had his arm <Inaudible> up kind of angled...

Burkard: Uh huh.

TRAN-THOMPSON: ...with that metallic object that Guerra identified as a weapon um when I mean punch it out. I thought when he took that step and his arm started to come down he was gonna extend that arm fully, kind of to give the support to shoot like we're trained when we're shooting at the Academy, you lock arm straight out so the gun, we try to minimize the movement of the gun when we fire the weapon.


Burkard: Okay and that's what you thought he was gonna do next, the very next thing he was gonna do is punch it out as you described the first time?

TRAN-THOMPSON: Yeah when he had the gun up took a step and the arm started to come down I believe that he was gonna um...he was gonna extend his arm with that weapon um so I flipped my rifle off or...I switched my safety mechanism to fire, that's on my rifle and then I heard the two shots and realized that was Officer Guerra who shot.

Burkard: Okay. Did you hear that subject say anything at all?

TRAN-THOMPSON: Um the only thing I could hear him say is when Officer Guerra called that name that we found in in CJLEADS and he said yeah

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and opened the gate and then ...I didn't hear anything from the...in between when he pulled out the gun and had his hand up...cause of the commands.

Burkard: Do you have any vision problems?

TRAN-THOMPSON: No.

Burkard: Do you wear glasses?

TRAN-THOMPSON: No.

Burkard: Contacts?

TRAN-THOMPSON: No.

Burkard: Okay...nothing, obscured vision or anything like that...

TRAN-THOMPSON: No.

Burkard: ...when you were on scene?

TRAN-THOMPSON: No.


Burkard: Okay. Alright let's get a map...

TRAN-THOMPSON: Okay.

Burkard: ...and then we'll go from there okay.

TRAN-THOMPSON: Okay.

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Burkard: Alright thank you... We're gonna step out, the time is two minutes after midnight.

(Part 2)

Burkard: Time now is 0009 hours, continuation of the interview, Officer Tran-Thompson. Alright we were talking about the map. So let me get this pen so it'll be easier... so it's kind a got big tip so if you write...it's not gonna be as fine as <Talkover - inaudible>

TRAN-THOMPSON: Okay.

Burkard: <Inaudible>...but pen won't show up as well. So here's Prospect Drive's apartment complex, here's Reagan and here's the entrance to Prospect, here is 85.

TRAN-THOMPSON: Okay.


Burkard: So kind a give you a reference...know where everything is. On here it says 1918 Prospect Drive, that was the call for service.

TRAN-THOMPSON: Uh huh.

Burkard: Um if you <Inaudible>...multiple locations of...as far as which is...do you know which area the building was ...where the subject was coming out of the door?

TRAN-THOMPSON: Yeah um... so it'd be... You want me to mark it?

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Burkard: Please, yes.

TRAN-THOMPSON: So if this is the entrance for the last one...

Burkard: Okay.

TRAN-THOMPSON: ... on the left, that's where he was coming out...

Burkard: Okay.

TRAN-THOMPSON: ...or he was standing and then came out of.

Burkard: And could you draw the little square or rectangle where your cars was parked, where you guys parked...you guys make an approach <Talkover - inaudible>

TRAN-THOMPSON: Um yeah we were... along here.

Burkard: Okay and do me a favor, if you just put like cars or something like that right below the box so we understand what that is.

TRAN-THOMPSON: Okay.


Burkard: And this is where you guys walk from correct?

TRAN-THOMPSON: Um, yeah we were parked somewhere along here on the side so we either walked right through here and...

Burkard: Uh huh.

TRAN-THOMPSON: ...or on this side.

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Burkard: Okay.

TRAN-THOMPSON: I think it was... we walked here because I think, at this point, me and Guerra split off here and then Suggs and Batson are on this side so I believe this is the... point that we walked through.

Burkard: Okay. Could you show me where you were when you observed this subject coming to the door?

TRAN-THOMPSON: Um I was around in here like in these trees.

Burkard: Okay could you put like your initials or code number there so we know that's you? And where was Guerra?

TRAN-THOMPSON: Um Guerra was along here.

Burkard: <Talkover - inaudible>

TRAN-THOMPSON: <Talkover - inaudible>...put like a G?


Burkard: Yeah that's fine so we'll know. Alright and the other two officers who were...

TRAN-THOMPSON: Um...

Burkard: ...with you...were?

TRAN-THOMPSON: I...believe they were here, I'm not...Suggs and Batson were somewhere in here.

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Burkard: Suggs and Batson that's correct. <Talkover - inaudible>

TRAN-THOMPSON: <Talkover - inaudible>

Koll: <Inaudible>... somewhere to the right?

TRAN-THOMPSON: Yeah <Talkover - inaudible>

Koll: <Talkover - inaudible>

Burkard: In this area right here?

TRAN-THOMPSON: Yeah they...they should've been on this side somewhere.

Burkard: You can't say exactly where <Talkover - inaudible>

TRAN-THOMPSON: No cause I did not see them.

Burkard: I understand. And could...the lighting that you were talking about.

TRAN-THOMPSON: Um...


Burkard: Which... Is this area darker or lighter where the trees are?

TRAN-THOMPSON: The trees are dark...

Burkard: Okay.

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TRAN-THOMPSON: ...but there, I believe, is a light post...it's either connected to this building or it's like right in the middle that illuminated the entire here to right here and his door.

Burkard: Okay um if you could just put like a little dot or something like that and put a L or light. Okay that's gonna be the light post there. Alright. Okay. <Inaudible>

Koll: Um <Talkover - inaudible>

Burkard: <Talkover - inaudible>

Koll: I have a few questions, so your rifle...when you're observing, are you looking just through your eyes, the red dot on your scope, I mean how are you observing this subject?

TRAN-THOMPSON: Um so I'm...both eyes through the um mounted aim point...

Koll: Okay.


TRAN-THOMPSON: ... red dot sight, I have both eyes open but I'm using my right eye to focus on that dot.

Koll: Okay and can you explain to me what that is and is that zoom or...?

TRAN-THOMPSON: Um <Talkover - inaudible>

Koll: Is there any magnification to it or...?

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TRAN-THOMPSON: I believe it's... I don't wanna say cause I'm not sure, a hundred percent sure but...

Koll: Okay.

TRAN-THOMPSON: <Talkover - inaudible>... magnified or not, but just a red dot... <Talkover - inaudible>

Koll: Okay.

TRAN-THOMPSON: ...pinpoint.

Koll: Okay. And where is your rifle now, I mean at some point you...

TRAN-THOMPSON: Um...

Koll: ...put it back in the case or...?

TRAN-THOMPSON: Correct uh had... um once I was relieved by another officer to go um down my rifle in my vehicle...

Koll: Uh huh.


TRAN-THOMPSON: ...put it in the case and that's where it was left when we were told that we needed to come to LEC.

Koll: Uh huh.

TRAN-THOMPSON: Um...

Koll: And what car number is that?

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TRAN-THOMPSON: 752 is where my rifle is.

Koll: 752.

TRAN-THOMPSON: And then um it was either Sergeant Phelps or Sergeant Baker who had the officers go secure uh my vehicle and Batson's vehicle cause both our rifles were in there.

Koll: Okay. How um...uh...

Burkard: Just put your initials up here real quick. <Inaudible>

Koll: And...and I know time is kind of...uh...hard to go especially in your memory and stuff, do you remember um was it a long encounter, short encounter, were you guys giving commands back and forth for a while um...


TRAN-THOMPSON: Um...

Koll: ...before he...he took actions to come out and step out or I mean...?

TRAN-THOMPSON: No it was...so when he came around Guerra's right here I go to a tree that's probably closer to <Inaudible>....I didn't have very ...I had line a sight on the door but not very good.

Koll: Uh huh.

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TRAN-THOMPSON: After I saw him in there and I didn't like the tree cause it was too small so I moved back to a thicker tree which is about right here where I was positioned.

Koll: Okay.

TRAN-THOMPSON: Um and then that's when Guerra, I believe is when Guerra said uh the name that we found and um...and all I hear is yeah and then the door opens, he comes out.

Koll: Okay so he...he...he responded at least to his name pretty quickly?

TRAN-THOMPSON: Yes.

Koll: Okay. Um... and then do you hear anyone else give commands other than Guerra?

TRAN-THOMPSON: Um I hear Guerra and then I give a command as well.

Koll: Okay, what did you say?


TRAN-THOMPSON: I believe I said drop the gun...

Koll: Okay.

TRAN-THOMPSON: Um I'm not sure how many times I said it um... but then I believe I just kind a stopped cause I knew Guerra was giving commands.

Koll: Uh huh.

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TRAN-THOMPSON: For us to be yelling over each other isn't gonna help anything.

Koll: Okay.

Burkard: Anything else you can think of?

Koll: Did you see anyone else out there?

TRAN-THOMPSON: Um just peo... some people walking their dogs before we actually got up there.

Koll: Okay and then other than the female that came out of the house that I know you cleared...

TRAN-THOMPSON: Yeah the...there was the two females that ran out.

Koll: Uh huh.


TRAN-THOMPSON: Um...and then went back inside and then the Span...the Spanish speaking officer was able to get one of the females to come out and then we went back to clear and I...I can't tell you how many people came out but there was multiple subjects in there.

Koll: Okay.

Burkard: And you said you didn't write any notes, anything on your note pad or <Inaudible>

TRAN-THOMPSON: No.

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10. Juvenile Case <b>No</b>	11. Multiple Case Clearance <b>No</b>	12. Supplement Confidential <b>Yes</b>	13. Purpose Of Supplement <b>Interview with Officer Tran-Thompson pt. 1 and pt. 2</b>			

Burkard: Um this is gonna count as your statement.

TRAN-THOMPSON: Okay.

Burkard: So you don't have to go back to the office and type up a whole nother statement. If, for whatever reason, someone say's you do you tell them the homicide detectives told you you don't have to.

TRAN-THOMPSON: Okay.

Burkard: Um there should be, you don't need to do that okay.

TRAN-THOMPSON: Okay.

Burkard: Um we'll go take over from there.

TRAN-THOMPSON: Uh huh.


Burkard: Alright? Alright. Anything else you can think of, anything else you need to add, anything else you feel is important?

TRAN-THOMPSON: Um... no I ...I think I said...mentioned about dispatch and telling them to put the gun down multiple times and he refused and everything. I don't think so, not right now.

Burkard: Alright. Thank you very much.

Koll: Thank you.

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Burkard: We appreciate it. This'll conclude the recorded section of the interview; time is 0016.

Reviewed for accuracy by Det. T. Burkard.

TB/BK/rge

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>T. Burkard</b>		Code <b>2703</b>	Assignment <b>Homicide</b>	Date <b>09/06/2017</b>
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# Exhibit 5



9/7/2017


2010906-11205-78

DJK

1918 Prospect Dr - Google Maps





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(Part 1)

THIS IS DETECTIVE T. BURKARD OF CHARLOTTE MECKLENBURG POLICE DEPARTMENT GONNA TAKE A RECORDED STATEMENT REFERENCE OFFICER INVOLVED SHOOTING UNDER COMPLAINT NUMBERS 20170906211005. TODAY'S DATES FRIDAY SEPTEMBER 8<sup>TH</sup> 2017. CURRENT ROOM 2003 IS MY SELF, SERGEANT JETER TAKING A RECORDED STATEMENT FROM OFFICER GUERRA, HIS ATTORNEY GEORGE LAUGHRUN'S ALSO GONNA BE PRESENT. THE TIME NOW IS 1537 HOURS.

Burkard: Alright Officer Guerra, just gonna read this off to you so you just make sure you understand what's going on and all that stuff.

GUERRA: Okay.

Burkard: Get it knocked out so... obviously you know who I am. Um do to your involvement in this officer involved shooting, Sergeant Jeter and I would like to speak to you about your involvement in this case. At this time I'd like to also note that per your request, your attorney, George Laughrun, is present with you. As part of this investigation our interviews recorded and make sure you know it's being recorded, are you okay with the interview being recorded?


GUERRA: Yes.

Burkard: This a voluntary interview, you're free to leave at any time, do you understand this?

GUERRA: Yes.

Burkard: You're not under arrest do you understand this?

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GUERRA: Yes.

Burkard: Wanna inform you there are also two parallel investigations occurring right now, the first investigation is the criminal investigation which, Homicide unit is doing and you don't have to speak with us, we'd like to gain your perspective and assistance with the investigation. The second investigation is the internal administrative investigation which is being done by IA. They will speak...they may speak with you about this investigation, you understand that?

GUERRA: Yes.

Burkard: Okay. The criminal investigation's lead by the Homicide unit, including this interview, will be shared with Internal Affairs and they're conducting their separate investigation. So to let you know that whatever information's obtained by Internal Affairs are separate, they can't give it to us cause we're doing the criminal part, does that make sense?

GUERRA: Yes.


Burkard: Alright um knowing all that you're willing to speak with us?

GUERRA: Yes.

Burkard: Okay. Internal Affairs may or may not come talk to you.

GUERRA: Okay.

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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		

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Burkard: If they review the video and they have policy questions they may and they may not it's... couldn't guess, its kind a up to them. That make sense?

GUERRA: Uh huh.

Burkard: Alright. Guerra what's your code number?

GUERRA: 4992.

Burkard: And date a hire?

GUERRA: 4/29/2013.

Burkard: Prior law enforcement experience?

GUERRA: None.

Burkard: Military?

GUERRA: Yes.

Burkard: What branch of Military?


GUERRA: United States Marine Corp. 2004 to 2008, honorable discharge.

Burkard: 2008 to...

GUERRA: Yes.

Burkard: I'm sorry?

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GUERRA: 2004 to 2008.

Burkard: Oh okay. And I forget the exact term but what was your job, your  
<Talkover - inaudible>

GUERRA: Amphibious assault vehicle crewman...

Burkard: Okay.

GUERRA: ...is a armored personnel carrier.

Burkard: Okay. Current division you're assigned?

GUERRA: North Tryon Division...third shift, response area three.

Burkard: What are you hours for third shift then?

GUERRA: 2015 to 0630.

Burkard: Call sign?

GUERRA: 07-1319-3.


Burkard: Talk group's North Tryon?

GUERRA: Yes.

Burkard: Who's your supervisor?

GUERRA: That night was Sergeant Baker.

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Burkard: That night, wearing your uniform...

GUERRA: Yes.

Burkard: ...short sleeve, long sleeves class?

GUERRA: Long sleeve, class B.

Burkard: Okay. How tall are you?

GUERRA: Six foot... 193.

Burkard: Thank you. How much sleep'd you get the night before?

GUERRA: Uh from 8:30 to about 4...

Burkard: Alright.

GUERRA: ...so 8:30 a.m. till just before 4 p.m.

Burkard: And did you work off duty prior to your shift?


GUERRA: No.

Burkard: Okay. What vehicle number you driving?

GUERRA: 496, my assigned vehicle.

Burkard: Is that marked car?

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GUERRA: Yes marked Explorer, does not have a DMVR.

Burkard: Perfect. And anyone else riding with you?

GUERRA: No.

Burkard: Alright and you had your body worn camera...

GUERRA: Yes.

Burkard: ...on? That was already taken, collected...

GUERRA: Yes.

Burkard: ...you had that on during the time?

GUERRA: Yes. I'd pre-shift test and this was my first call.

Burkard: Okay and I know they already took your uh... your...you have your duty weapon, not with you, that was already marked and documented early and you're also assigned an AR-15 is that correct?


GUERRA: Yeah my... you talking in my uh <Talkover - inaudible>

Burkard: <Talkover - inaudible>...patrol rifle?

GUERRA: Patrol, yes. It's not assigned to me there's just they have it in the gun closet, I take what's available.

Burkard: Uh huh. But you're qualified and?

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GUERRA: Yes I qualified this year.

Burkard: Okay and you carry any back up weapons?

GUERRA: No.

Burkard: Okay. And you take any notes, anything written down at all that night?

GUERRA: No.

Burkard: Okay. So when we start...if you wanna start from when you received the call for service. I got a map here that may help out.

GUERRA: Okay.

Burkard: My suggestion, if you want to, try to talk like we don't know anything about Police work. It's real easy when we're talking especially to other officers and I'll get what you're saying, I'll know what's going on um but sometimes <Talkover - inaudible>

GUERRA: <Talkover - inaudible>

Burkard: ...can make it more clear.


GUERRA: Okay.

Burkard: If you mess up and you say like I was 17 or something like that it's alright we'll go back and go over it it's not a huge deal but if you try to remember that it will make things a little more...

GUERRA: Okay.

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Burkard: Alright? If you want to start? <Talkover - inaudible>

GUERRA: Where do you want me to start from like...?

Burkard: If you wanna start when you first got that call for service...

GUERRA: Okay.

Burkard: ...unless there was anything significant that happened beforehand um we'll just start with uh...when you received the call for service.

GUERRA: Okay well uh... whenever I get my rifle I function check it...

Burkard: Okay <Talkover - inaudible>

GUERRA: ...so um we had roll call at 2015.

Burkard: Okay.

GUERRA: After roll call we did a CEU inspection gear check cause we're required to. I had Sergeant Baker inspect my CEU gear...


Burkard: Uh huh.

GUERRA: ...put my CEU gear away.

Burkard: Okay.

GUERRA: Uh then I went to the gun closet, got my rifle. I function checked, it as we're instructed to when we go to rifle school, make sure it was clear,

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make sure the safety worked, made sure the sights were functional, make sure my magazines were full. Put my uh... the case away, took the rifle and two magazines. I have a rifle mount in my car, I mounted the rifle, inspected my vehicle before my shift. I logged on as my call sign.

Burkard: Okay.

GUERRA: Uh I went out a service follow up because I had some follow up's to do.

Burkard: Excuse me one second real quick.

GUERRA: Um...

Burkard: We just wanna clarify one thing.

GUERRA: I'm sorry.

Burkard: When you say function check, are you actually shooting this weapon?


GUERRA: No.

Burkard: Okay.

GUERRA: No. Want me to start what a function check is?

Burkard: How...well describe the function...function check so it's <Talkover - inaudible>

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GUERRA: Uh you physi...you physically and visually inspect the weapon make sure it's clear...

Burkard: Uh huh.

GUERRA: ...make sure there's no ammunition in the chamber or in the magazine well. I'm sorry, it's just the magazine well...

Burkard: Okay.

GUERRA: ...it's uh muscle memory. Um you put the weapon on safe and the bolt forward, you pull the trigger to the rear make sure it doesn't fire, the hammer doesn't fall. You then place the selector on fire, pull the trigger to the rear, use your other hammer fall, holding the trigger to the rear you charge the weapon, bolt all the way back, all the way forward let it go naturally. You look...you look through before you hear a click that's the fire mechanism re-engaging. You pull the trigger to the rear, make sure the hammer falls. Pull the trigger to the rear you make... have...rear rack it again, bolt back, bolt forward and then you let the...the trigger forward to the sear sets again. At that point you put the weapon on safe, you pull the trigger to the rear, hammer should not fall; it did not fall. At that point the function check is complete.


Burkard: Okay, thank you very much. So I'm sorry to interrupt on that.

GUERRA: No.

Burkard: Go ahead.

GUERRA: Absolutely...happy to. Uh... Where was I? Oh I...I uh... I logged on under my call sign on CAD, I went out of service follow up, follow up is

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when we check on previous reports that we've taken over the course of our shift. I went out of service, I checked out of service in my car, I went inside the team office at 4045 North Tryon Street, checked my e-mail, my e-mail was checked, uh there's a lot a people talking so I went to go somewhere else to do my follow up's and when I was walking through the team office, I saw Officer Tran-Thompson and Officer Batson uh at the property computers turning in property from something. They work second shift so I don't know exactly what they were doing. And then I heard Officer Batson, 07-138... 1308 second shift uh receive a call for service. The call for service was through Language Line, Hispanic male advising that he wanted Police to come get him and that he had a gun on him. Uh the fact that he had a gun on him uh caught my attention and they asked for uh...units to clear to back Officer Batson. I waited a second or two, no one advised that they were gonna back Officer Batson so I keyed up on the radio, I said 7-1319-3<sup>rd</sup> show me 10-8 which makes me available...it takes me out a the out of service state puts me in service. I said add me to that call so I added to the call to back Officer Batson. Uh Officer Batson's junior to me, I'm senior to him uh I have more years on I'm also a Police Training Officer and with my experience I kind a took charge of the call just to help make sure that he was safe. Officer... at some point, Officer Suggs 7...07-1308-3<sup>rd</sup> and uh Officer Tran-Thompson 7-1312-2<sup>nd</sup> add to the call as well. Uh while I was walking and that's all the information that we had that I could recall at that time, a Hispanic male with a gun said he want the police to come get him. We didn't have a name or anything else just the address.

Burkard: Uh huh.

GUERRA: Uh while walking to my car, I asked headquarters if they could go ahead and check that previous...that call for previous calls for service,

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see if we could find a name of it's some sort of history of false calls or anything like that. Uh she advised that no calls were received in the past year. Uh Suggs uh was...was leaving the team office and I...I...he said uh to meet up somewhere, uh everyone was already at the team office so we met up behind the team office which is like a big PVA for a school. Uh I said to meet up we were uh, I said meet up there so we could look up the phone number and any information we had in KBCOPS and try and get some sort a history or information that we had about him that could help us before we arrived so we go in with as much information as possible. So we all meet up uh, by this point they're adding names to the call, they were also adding uh I believe they had information saying that he sounded intoxicated and that there was a female voice in the background. So looking up the names that we had on the call I don't recall one of the names but this...one of the names that was added was Rueben Gilliard or Gileand or something to that effect.

Burkard: Uh huh.

GUERRA: Uh I start searching in locals, NCIC, I don't think I searched NCIC, local arrests, I couldn't find anything under the Rueben name and I looked up in KBCOPS, I couldn't find anything on the Rueben name. I looked up the phone number in KBCOPS, I couldn't find anything. Uh Officer Batson advised that under a different spelling of the name Rueben he located uh the subject in KBCOPS and he advised that him and Officer Bojaj interacted with the subject uh previously on a unrelated call for service on Perth Court which is in my division off Milton Road, that he was a suspect in assault by pointing a gun report, that they searched him during that call, couldn't find any weapons, but they found ammunition on him and Officer Batson was able to pull up a picture of the subject, it was Hispanic male, medium dark skin some

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facial hair and short black hair above his ears. Uh at that point we uh we requested a Spanish speaking officer and we had a picture, we had location and we...that's all the information we had at that time. So I came up with the plan to go from the team office for uh as, as, convoy like. We uh went behind the team office up to Glory, turned left...turned right onto Glory, turned left onto West Sugar Creek, took Sugar Creek to Reagan, turn right onto Reagan and we pulled in the only entrance to the parking lot here. I came up with a plan to pull up here because in case of an ambush we didn't want to pull up to right in front of his apartment cause we weren't sure which one was E.

Burkard: Uh huh.

GUERRA: I've worked there for four years I can't memorize every apartment complex and there's no rhyme or reason to where they place their apartments and they don't have labels as to where the apartments are you have to walk by the door to see the letter or the number. So I came up the...the idea to park here, I'm gonna approach on foot for office safety. I was the first car in, I parked... You have a pen  
<Talkover - inaudible>


Burkard: Yeah so this won't be able to mark on the color part cause it doesn't work well with a pen, you show me where you're parked put a little rectangle, what have you.

GUERRA: Okay...uh...

Burkard: <Talkover - inaudible>...car.

GUERRA: I parked here, I'll put G for me uh Suggs was behind me, Officer Tran was here and then Officer Batson pulled into a parking spot here.

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Burkard: Okay.

GUERRA: Alright uh due to the nature of the call... Oh at some point either when we arrived, or prior to our arrival, Officer Suggs had headquarters call back the complaint which is a Hispanic male with a firearm <Inaudible> told him hey have him put down the firearm before we arrive, and headquarters called him and advised that he refused to put the firearm down, that he put the firearm down when officers got there and that it was unloaded, but he refused to put down the firearm. So I arrived on scene, I activated my body camera; I uh retrieved my rifle from the rifle mount inside the car. I slung my rifle, uh Officer Suggs was getting his shotgun out, I told him to put his shotgun up in case we need to go hands on we can't have everybody with uh something obtrusive in their hands in case <Inaudible>. Uh I'm rifle certified, Officer Tran-Thompson's rifle certified, Officer Batson is also rifle certified. Uh Officer Tran uh got his rifle from the car Officer Batson decided to stay hands free, in case we had to go hands on. Uh I advised over the radio my rifle deployed, I heard Officer Tran-Thompson advise the radio that uh his rifle was deployed. I charged my weapon placing a round in the chamber, weapon was still on safe. I did a press check, I pulled the charging handle slightly back with my flashlight visually inspected the chamber, watched the, my view the chamber, a round in the chamber, let the bolt go forward make sure <Inaudible> was on safe. Uh at this point we kind a met up here by our vehicles and I told everybody since it was the last building that instead of going down here where there's...it's...a pretty bad area or ambush <Inaudible>...this was all full of cars.

Burkard: When you talking about going down here that's the parking lot here correct?

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GUERRA: Yeah going down Prospect Drive towards the incident location.

Burkard: Alright.

GUERRA: So I just...I made a plan since I was still the senior man on scene with the most training experience and being the only PTO...

Burkard: Uh huh.

GUERRA: ...I told everybody we're gonna proceed on foot down here, at this point uh Officer Tran-Thompson and I did the little cross cover which is basically since he has see this way, I could be more this way we made sure we were safe.

Burkard: Okay.


GUERRA: At some point either here or up here Officer Suggs and Batson, unbeknownst to me told Tran that they were gonna go to the right uh so at some point they broke off to the right and proceeded up that way, I don't exactly when it happened, I don't know which route they took.

Burkard: Okay.

GUERRA: Officer Tran-Thompson and I proceeded this way and we bounded up here...well we didn't bound we...we...we tactically, safely moved up here. At first I thought this was our target building uh but I...on the map I could...I saw on CAD that it was the last building so we paused here for a second and then we proceeded here. I noticed the...the E here signifying in, in a call, we were 1918 Prospect apartment E so I

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saw that that was our incident location. I'm maintained cover behind this building as I'm trained to do so I was about more than arms distance from the building kind a pieing the corner. Officer Tran-Thompson decided to take cover in the tree's here. When we arrived there, uh I didn't know where Officer Batson or Suggs were in their progression to there, whether they decided to go I didn't ...I wasn't aware of that. Whenever we arrived there uh the apartments to Prospect um I'm sure you've been out there you've seen um...

Burkard: <Talkover - inaudible>

GUERRA: ...they have, say like this is the patio area they have outside walls...

Burkard: Uh huh.

GUERRA: ...and a heavy security or storm door with a very thick uh wire in front and then they have like a cement patio and then a window, sliding glass door or interior door. Uh through... from where I was standing here we're approximately ten yards away, twelve yards away from the door I could see a figure behind the door. I couldn't tell who it was, but I saw a figure. Uh at that point uh... Well let me back up, we... oh...I'll...never mind. Alright so I saw the figure behind the door.


Burkard: Real quick, you can take your time, if you wanna go back that's fine.

GUERRA: Okay.

Burkard: This is all...take your time, as much time as you need so...

GUERRA: Okay I'll...

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Burkard: ...just letting you know.

GUERRA: We felt the need to proceed to the incident location due to him being intoxicated, refusing to put a firearm down, and there being other people in the home with him.

Burkard: Okay.

GUERRA: So for the people in the home's safety we felt the need to continue and proceed with what we had available to us on scene.

Burkard: Alright.

GUERRA: So we get there, I see a figure behind the door and I called out to 'em... I forget if I said his last name or not, I said uh... "Rueben Policia"... and subject opened the door and from the picture Officer Batson found, um the, I believe KB Cops or a local, I don't know where he found the photo, um it was him, it was the subject in the photo.

Burkard: The one at the door, same...


GUERRA: Yes.

Burkard: ...as the one you saw in the photo?

GUERRA: Yes.

Burkard: Okay.

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GUERRA: The same facial hair, same skin tone uh wearing the white shirt that he described he was wearing, same hair.

Burkard: Uh huh.

GUERRA: Um can I mar...can I physically show you what he was doing to be clear?

Burkard: Absolutely.

GUERRA: Okay. Okay so he opened the door and he had his phone, my phones off...

Burkard: Okay.

GUERRA: Uh he had phone he turned to face me and the door was open behind him.


Burkard: Uh huh.

GUERRA: And I said "manos arriba" I don't...I'm not certified for Spanish that, that being North Tryon division we have a heavy Hispanic population the manos has worked before it means "put your hands up"...manos arriba means put them up now.

Burkard: Okay.

GUERRA: So that's what I told to do. I've used it multiple times and it's always had the same result of someone putting their hands up. I said he came to the door like this, I said "manos arriba" and he went like this.

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Burkard: Uh huh.

GUERRA: And then I said it twice to him I believe, and then he...he was making eye contact with me, I saw he acknowledged me, I'm not sure if he saw Officer Tran but he saw me and I could see eye contact. He looked down and folded his arm like this and then I started saying in English put your hands up, put your hands up and he was nodding...put his hand completely in his pocket and then pulled out what I recognized as a firearm immediately. Uh the firearm I could see there was a metallic shine to it uh it wasn't a plastic shine it was absolutely metallic, I saw the front sight some serrations on the top, I saw the rear sight and he turned in such a way that I was able to also see the ejection port cover. He was uh gripped high in the palm of the hand, the webbing, his fingers were wrapped around the pistol grip just as we're trained in the Academy or anyone who's about to fire a pistol. So the second I see the firearm come up, as soon as I recognize it's a firearm I immediately start yelling "drop the gun, drop the gun."


Burkard: Okay.

GUERRA: As I'm doing that other officers uh, at this time, start joining me in verbal commands saying ...I hear multiple officers say "drop the gun, drop the gun."

Burkard: Just for clarification you're...are showing me what the guy in the doorway was doing, but you're describing what you said and what you had heard is that correct?

GUERRA: Yes, I apologize.

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Burkard: You're fine, just want to make sure.

GUERRA: So as...as...as he was doing...as he ...as he pulled the...the firearm from his pocket...

Burkard: Uh huh.

GUERRA: ...I recognize immediately a firearm and I started yelling at him drop the gun...drop the gun. As I did that my uh as well when he exited the door, I...I apologize for going back and forth.

Burkard: It's okay I'm following you.

GUERRA: When he...when he first exited the door uh my rifle was pointed at his feet, cause I wanted to see his whole person. Whenever he pulled the firearm out of his pocket I raised my rifle up to his waist because we're trained to always be able to view the hands.


Burkard: Uh huh.

GUERRA: I don't want my rifle to block what he was doing with the firearm. So my rifle I could see from here up, so if him like this I could see the gun, I could see his whole upper body. Then I said... I bel...I believe I said twice, I said drop the gun, drop the gun and I saw his elbow pivot backwards and the muzzle raised in my direction. It wasn't a drop it wasn't a push out it was a pivot towards me.

Burkard: Okay.

GUERRA: When <Inaudible>...my sights at his waist, I'm sorry to point at you...

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Burkard: You're fine, it's okay, don't worry.

GUERRA: With my...with my sights at his waist when I note...when I immediately observe and recognize him pivoting the firearm towards me and the muzzle raising in my direction I had the conscious thought of I have to shoot this guy because I immediately felt a threat, death serious bodily injury from him pointing a firearm at me. I didn't know if the firearm was loaded or not but <Inaudible> I recognized immediately as a firearm and it was pointed at me. At that point, when I raised my rifle with the meaty part of my pointer finger I engage the safety selector from safe to fire, I grab the pistol grip, my rifle's equipped with red dot optic, It's just a little dot it shows you where your rounds supposed to go. I held the center mass uh hold on his chest and his upper third and I believe my dot was pointing right here. I with a firm trigger pressed to the rear my weapon fired, the bolt cycled felt the recoiled...in the recoil I later see that his tee shirt seemed to move like the wind hit it, but I noticed uh no change in his physical characteristics, how he was standing. Without... still perceiving a deadly threat because he had I, I didn't know if I hit him or not uh I re-engage with a follow up shot, the same hold, center mass, and then he immediately collapsed and...in place and fell over. Uh... sorry.

Burkard: It's okay, take your time.

GUERRA: Whenever he uh collapsed in place it was just straight down and then when his body would hit the ground he rolled forward. Uh when he did that I followed him down... uh I noticed that he was not moving at all. Uh two Hispanic females came to the doorway that, the same doorway in the patio and they started yelling. I placed, at some point, I placed my weapon on safe. I started yelling at them get back inside, get back inside cause I...I did not want them to pick up the gun. I

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yelled get back inside, get back inside, she was yelling Rueben, Rueben... I don't speak Spanish, she's speaking a lot a Spanish. Uh I think before that or during that I uh...with my support hand I keyed up the radio saying shots fired, shots fired, suspect down, and I put my head back on my forehead then I let everybody else handle the radio, I knew my dispatcher was great...she was gonna get me my resources and that the other officers that were around.

Burkard: Uh huh.

GUERRA: Um, I apologize...let me go back. I shot and then I heard what I thought was an echo of my second shot but apparently, I believe, that was Officer Suggs shooting his pistol but I wasn't sure if anyone else had shot at the time. So I shot...

Burkard: Uh huh, let me stop you real quick.

GUERRA: Yes sir.

Burkard: So you hear this echo...at the time?

GUERRA: Yes.


Burkard: You did not know... or did you know if it was Officer Suggs that shot?

GUERRA: I do not know...I do not know that until um we've cleared the house.

Burkard: Okay <Talkover - inaudible>

GUERRA: I had no idea that anyone had shot besides me.

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Burkard: And that was afterwards that you had learned that Officer Suggs may have shot?

GUERRA: Yes.

Burkard: Okay.

GUERRA: So I...I...cause the apartment com...apartments are real close...

Burkard: Uh huh.


GUERRA: ...and with the open spaces and trees...

Burkard: I understand.

GUERRA: ...sound can do weird things. Um... so I keyed up shots fired, shots fired, suspect down... I maintain cover on him, cause I don't know his state. Uh I also did not notice where the firearm went to, he could've been on top of it, he could've dropped it or he could've thrown it or it could've somehow magically bounced back inside the apartment complex and back inside his patio, I don't know. I maintain cover on him I put out the radio traffic uh the Hispanic females came to the door, I was yelling get back inside, get back inside, get back inside for felt like a while. Uh they eventually went back inside, they were very upset. An officer in Crown Vic pulled up and he got to me and then some order everybody came cause I believe when that was 33 traffic but 33 means uh immediate assistance, officer fighting for his life, something like that...gonna send not really protocol its just neighboring divisions, everybody blue lights and sirens as fast as you can get there and safely. Uh 455 was overhead I'm not sure exactly when they got there. Um... Officer Wiggins uh was the first one to

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actually talk to me. Um I was...at this whole time I was still maintaining my position to cover here. Officer Wiggins got to me uh they formed a stack which is basically like a line of officers to approach the house. Um at that time a Spanish speaking officer was able to call out. Uh one Hispanic female, she came out uh verbally and she was very upset and we were able to get her to safe location. Officer Wiggins came up with a plan, I didn't agree with it at the time, but I wasn't gonna argue because it was very uh intense situation, to move from my point of cover with them to the corner of the apartment complex building, which there was satellite dish that was there. Maintaining cover on the suspect, I moved with them in the stack and then I pied the corn...pied the door, basically what a pieing is...is you take sec...section at a time, instead of walking up to the door and just turning and facing everything at the same time you take sections so I view this little area, this little area, I...I transition from my left shoulder to my right shoulder because I'm left handed...to this area, to this area, to this area, seeing as much as possible to make sure there wasn't a second suspect or a third suspect with a firearm.


Burkard: Is there a reason why you do that versus just going into the doorway?

GUERRA: Uh I'm...all my training with CMPD uh high risk warrant school and I've been to the first week of SWAT school...

Burkard: Uh huh.

GUERRA: ...and the old process, they've changed it now but I've <Inaudible>...high risk warrant school and SWAT school and all of our in uh...uh micro training that we do uh it's always been the pie uh you always take uh...<Inaudible>...area's.

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Burkard: I understand that.

GUERRA: Uh huh.

Burkard: Do you... Are you aware of the reason why, you would enter... do that when you enter a door verses just walking right through?

GUERRA: For officer safety.

Burkard: Okay. Okay move on.

GUERRA: Okay um yeah but uh we didn't have all the information, we didn't know if there was other people <Inaudible> that could be armed.

Burkard: Are you able to see more people with maintain some time of ...type of cover?

GUERRA: Yes.

Burkard: While doing...slicing the pie?


GUERRA: Yes.

Burkard: Okay.

GUERRA: I mean it's safer for...for us to do that.

Burkard: Okay.

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GUERRA: Um I pie the doorway and then uh officers with pistols because uh Officer Wiggins had a rifle out and I believe another officer had a rifle out.

Burkard: Uh huh.


GUERRA: Um it's not standard for us, unless it's like a...like a active shooter situation to clear a structure with a rifle so officer's with pistols went into the home. Uh they hold the...there's a storm door where I was, there was cement stairs uh and there was Ru...Rueben was laying there. Upon me arriving officers pushed past me and as I was taking my final position holding the storm door I saw the silver pistol that I recognize as the one that Rueben had in his hand uh that uh he pulled from his pocket and I stood over it just like those handcuff keys here I stood directly over it not touching it. I also notice there's a magazine which is the device that holds the rounds inside the pistol, it was laying more in the doorway of the storm door, I'm not sure where that came from. Uh officers went to the main door of the apartment and start calling out for people. Uh ...uh at some point the...the second Hispanic female I observed after the shooting took place was there in about... uh a handful five, six, seven people came down the stairs mostly under the age of 18 and I told 'em to go left, they went left. Uh... and then uh I was... Then officer's entered the home. Officer Suggs was to my right and I believe I told him to go into the home because I at the time wasn't aware that he had shot but he had a pistol out and I was two story apartment, many rooms so I just need everybody that was there with uh, that could clear the house, to clear the house. I believe he went inside I'm not sure. Uh officer said the house were clear I was still standing with a firearm uh Sergeant Baker came up and he said uh "Who shot?" and I raised my hand said "I shot" and that's when Officer Suggs advised that he had shot as well

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and that was the first time I knew that he had discharged his weapon. And uh CFD arrive an uh arrived and I saw them uh pull Rueben over he was kind of on like uh...on his knees and on his face and they pulled him over and uh I noticed they did not start treating him, at that point I believe that he was uh deceased and then uh, from there, uh Officer Suggs and I were brought by Sergeant Baker over to, I guess uh <Inaudible>...impromptu staging area to get away from the scene, I still had my rifle on me, it was on safe, there was still a round in the chamber. Um... let me back up once...two things I forgot. Um while I was still here um with that female that came over I believe she told the Spanish speaking officer that there were five people ...they have children inside the home, I remember I put that out over the radio, and then uh... <Inaudible> um before when I was standing there I was advising everyone over here because the family was still right here where I shot and I saw Officer Robinson, Rozell and a few other people standing there, I told 'em to get the family back to the street cause that's a crime scene cause I adv...I acknowledged that discharging my weapon, I'm subject of investigation so I knew that that was considered a crime scene. So I was like get back, get back, that's a crime scene get back. Uh... Sergeant Baker brought ...Sergeant Baker and Ser...<Inaudible>...Sergeant Baker and Wiggins brought us back over here. Uh they got me my peer support immediately, there was a Sergeant for the second shift at Eastway that ...that got with me. Uh I request an ambulance because my adrenaline dump, my heart rate was elevated I could feel tingness in my hands at this point, that was the first time I ever noticed any physical change in my body as far as heart rate or nerves or excitement. Uh and <Inaudible>...once uh the situation slowed down I was able to process what happened and I request an ambulance to get evaluated at any of the CMC's or Novants. We went to CMC University and that was my last time being on scene.

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Burkard: Okay.

GUERRA: Is there anything else that...

Burkard: Couple things that we'll go over...

GUERRA: Yes sir.

Burkard: ...to clarify. A few questions for you.

GUERRA: Absolutely.

Burkard: Start with the ambulance ride to...

GUERRA: I'm sorry?

Burkard: You... Start with the ambulance ride.

GUERRA: Okay.


Burkard: You said this is the first time you felt that before a change in your body.

GUERRA: On that, in this night.

Burkard: Uh huh. Uh huh I understand and that's...is that why you called the ambulance cause you noticed your heart rate was going up and you said tingling in your hands is that correct?

GUERRA: Yes.

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Burkard: Okay. You okay now?

GUERRA: Yes. Um... <Inaudible> with the totality of the situation I'm a little bit nervous but I'm okay.

Burkard: I understand <Talkover - inaudible>

GUERRA: <Talkover - inaudible>

Burkard: Your anxiety did that cause you, at the time, to make any rash decisions or anything like that...

GUERRA: No.

Burkard: ...that night? Um you mentioned he was intoxicated, how were you aware that he was intoxicated?

GUERRA: The dispatcher advised that.

Burkard: Okay. When you saw... were standing over the gun where was the gun?


GUERRA: Alright um say this...say where Sergeant is...is the door...

Burkard: Uh huh.

GUERRA: ...there is a cement pathway with two stairs that leads to a walkway.

Burkard: Yes.

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GUERRA: Uh there's grass on either side where you two were sitting uh...uh the suspect was here and there was a grassy area I believe ...I'm trying to remember. I only looked down twice I believe, it was either on the step or on the grass next to the step and yeah it was ejection port side up ...

Burkard: Okay.

GUERRA: ...and facing towards him.

Burkard: Alright and did you pick that gun up, make it safe, touch the gun, do anything with the gun?

GUERRA: No I put my left foot on the left side of it, I put my right foot on the right side of it and I did not move.

Burkard: And you noticed the magazine was by where?

GUERRA: I noticed a magazine...

Burkard: Uh huh.


GUERRA: ...I'm not sure if it was the magazine...

Burkard: Okay.

GUERRA: ...uh if it was inside the gun or not.

Burkard: Okay.

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GUERRA: I couldn't tell by the way he was holding it, obviously, um it's a pretty small firearm, but the magazine say this is the door way and this is the stairs...

Burkard: Uh huh.

GUERRA: ...or the walk way, the magazine was somewhere in this area.

Burkard: Okay. Alright. And did...did you say...you said... Um I think you said it, but I'm not sure, you identify yourself as a Police Officer?

GUERRA: Yes I said Policia.

Burkard: Policia? Okay.

GUERRA: And we made eye contact and I was like I said before I'm full uniform.

Burkard: And you mentioned about an ambush, like what was your mindset going to the call I think you said an ambush.

GUERRA: When...

Burkard: What's your reasoning or what was your mindset as to that idea?


GUERRA: The reason why my mind went to that is because uh whenever he said uh I have a gun on me and I want the cops to come take me.

Burkard: Uh huh.

GUERRA: Uh and then whenever we found him in locals because Officer Batson was able to find his real name he had no warrants.

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Burkard: Uh huh.

GUERRA: Couldn't find any IVC or any unserved summonses or anything so why would he want us to take him. Uh so that made me concerned for uh attempted ambush or something of that sit, uh that nature.

Burkard: Okay.

GUERRA: Also it was 930ish at night, it was very dark, um he refused to put the gun down, so just with officer safety in mind, because I have... I'm in charge...

Burkard: Uh huh.

GUERRA: ...I have three officers I'm responsible for, I just wanna be as safe as possible.


Burkard: Okay. And what were the lighting conditions in the area where you were when you said you were over here in that area?

GUERRA: It was actually very good um there was a street light typical Mecklenburg County street light ya know...

Burkard: Uh huh.

GUERRA: ...yellowy orangey tinge, but still very bright. Uh I at no point felt any need to operate my rifle with my personal flashlight at all, uh I felt very adequate in lighting conditions.

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Burkard: Okay. Do you have any vision problems, wear glasses, contacts, anything like?

GUERRA: 20/20 my whole life.

Burkard: Alright. What made you choose that weapon verses your issued handgun?

GUERRA: Uh the rifle uh affords, affords us uh tactical advantage with standoff distance.

Burkard: Okay.

GUERRA: Uh a pistol is the least accurate and hardest to fire weapon that we are ever shoot. Uh you hold it you have only one point a contact with your hands and you hold it as far away from you as possible.


Burkard: Uh huh.

GUERRA: Uh with him stating that he had a gun on him uh do you wanna try... as we're trained, meet with a higher level of force for officer safety. Uh and so it's having carried it for four years in the Marine Corp. and other jobs and owning one personally I felt extremely comfortable and confident in my abilities with the rifle and to be accurate up to hundreds of yards if need be.

Burkard: You mentioned you're left handed, do you also shoot left handed?

GUERRA: Yes with my left eye.

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Burkard: Okay. And I know its kind a jumping around a little bit so just bare with me.

GUERRA: That's fine.

Burkard: The uh... you identified yourself immediately when asked... to your supervisor that you fired your weapon is that correct?

GUERRA: I announced it over the radio shots fired, shots fired. I didn't say my call sign.

Burkard: I understand... I understand that, when your supervisor asked who shot...

GUERRA: Oh yes... yeah.

Burkard: ...you identified yourself immediately as one of the shooters.

GUERRA: Yeah I... he was... he was on this side of the suspect from me I turned and said I did...

Burkard: Okay.


GUERRA: ...and then Suggs was to my right and I heard him say that he did as well and that's when I looked back at him and... surprise.

Burkard: Have you ever been to that complex before for calls for service?

GUERRA: Many times.

Burkard: Okay.

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GUERRA: If not <Talkover - inaudible>

Burkard: Even...<Talkover - inaudible>

GUERRA: I'm sorry. Zone checks, ride through's, citizen contact  
<Inaudible>...routinely there it's my response area.

Burkard: Have you ever been to that specific apartment before?

GUERRA: Not that I could recall.

Burkard: Okay. And you mentioned you were able to say put your hands up in Spanish.

GUERRA: Yes.

Burkard: Are you bilingual, do you know any other languages?

GUERRA: No.

Burkard: Alright is this just couple words to help you on the street?


GUERRA: Correct.

Burkard: Okay.

GUERRA: I've used them before in similar situations where people have been armed or similar calls for service and...

Burkard: But you're not fluent Spanish or?

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GUERRA: I am not fluid, I'm not uh certified through the department, I do not get five percent it's just something I've learned from people who speak Spanish that has always worked to get that result of someone put, keeping their hands in the air.

Burkard: Have you watched any of the footage from your body camera...

GUERRA: No.

Burkard: ...before today? Alright. Um you mentioned that he put ...I forget exactly how it was worded, but that headquarters dispatch told you that he wasn't gonna put the fire...firearm down until officer's got there, could you rem... do you remember how that was... what's the... Let me stop here. Headquarters tells you the firearms... he's not putting the firearm down?

GUERRA: Uh huh.


Burkard: Did he say or did the dispatch say he was not putting it down till you got there, was he not gonna put down at all, was there any more clarification to it or is he just not gonna put the firearm down or away or...

GUERRA: If I'm trying to recall what headquarters announced on the radio it said, something to the effect of, he'll put it down officer's get there.

Burkard: He'll put it down when officer's get there?

GUERRA: Yes.

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Burkard: Okay.

GUERRA: That's...that's I, I can recall.

Burkard: Alright. Do you remember dispatch telling you the gun had no bullets?

GUERRA: Yes.

Burkard: Okay. Have you ever had a call for service where the in...initial information turned out to be completely untrue?

GUERRA: Yes.

Burkard: Okay. You ever had a call for service where the information turned out to be completely true, just the initial information you received?

GUERRA: Yes.


Burkard: Okay. Do you have any way of telling the difference if that information is true or false before you get there if...without...in the absence of any sort of physical evidence or talking to anyone, any information like that, do you have any way of knowing if that information is true or false?

GUERRA: No.

Burkard: Okay.

GUERRA: And uh, with our firearm's training we receive at the Academy every weapon is considered loaded until you visually inspect it.

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Burkard: Okay. Do you remember if dispatch told you that he was delusional or acting delusional?

GUERRA: I can't recall that just the intoxicated part.

Burkard: Alright. When you told him put his hands up and drop the weapon...if you could describe like what kind a time frame from the giving him commands to the time you fired your weapon?

GUERRA: Um... it felt like a while uh...the second he started even the slightest motion down...

Burkard: Uh huh.

GUERRA: <Inaudible>...I at least, put your hands up, put your hand...and I was...I was yelling, I was absolutely clear, I was like put your hands up, put your hands up. I think I said it three times and the second I saw the firearm I immediately yelled out "drop the gun, drop the gun, drop the gun" and then he started pivoting the weapon towards me...

Burkard: Okay.


GUERRA: ... the muzzle at me.

Burkard: Do you feel like you gave him enough time to hear your commands and follow through with your commands?

GUERRA: Yes.

Burkard: So it wasn't drop the gun and shoot?

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GUERRA: Correct.

Burkard: Okay so this was...

GUERRA: Was not that. >

Burkard: ...more than once and do you believe you gave him enough time to follow the commands?

GUERRA: Absolutely, before he did...action ...we're also trained action beats reaction ...

Burkard: Uh huh.

GUERRA: ...I felt that with... Officer Tran-Thompson to my left and me directly in front of him that we were both at risk of him firing upon us.

Burkard: Okay. And I know you did it very well, I just wanna go over it one more time.

GUERRA: <Talkover - inaudible>

Burkard: His actions when he's standing up there, you said he's reaching in his pocket...


GUERRA: Uh huh.

Burkard: ...and...

GUERRA: Hand completely went to the pocket.

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Burkard: ...and when he comes out he has a firearm in his hand?

GUERRA: Uh huh.

Burkard: And you don't shoot at that point?

GUERRA: No.

Burkard: Okay. And where does he do... you said he's on the phone or what was he do? You, you, show me hands again how he <Talkover - inaudible>

GUERRA: Yeah absolutely. <Talkover - inaudible>

Burkard: <Talkover - inaudible>...if you don't mind...

GUERRA: Oh <Talkover - inaudible>

Burkard: <Talkover - inaudible>...be a little more <Talkover - inaudible>

GUERRA: <Talkover - inaudible>...I was hoping you'd have that it...it was a compact <Talkover - inaudible>


Burkard: Yeah I know it was that that size <Talkover - inaudible>...

GUERRA: Yeah.

Burkard: <Talkover - inaudible>...it was not that color, I understand.

GUERRA: So whenever I say, ya know, he comes out and he's looking at me like eye contact I go manos arriba...

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Burkard: Uh huh.

GUERRA: ...and he goes immediately and then he looks down and then he starts going, I go, put your hands up, put your hands up, he starts nodding...I say put your hands up. He puts his hand all the way in his pocket and he's gripping the pistol, I'm uh my force of habit is to put my finger straight on the slide, I'm not sure exactly where his trigger finger was.

Burkard: Okay.

GUERRA: So but it's high in the pistol grip behind the webbing in hand, fingers wrapped around the pistol grip and I immediately <Inaudible> when he pulled the gun out like this and that's when I'm able to see the front sight, back sight and the ejection port cover, or ejection part of the barrel. The second he completely clears his pocket, I recognize the shine and the silhouette and the shape of the firearm I start yelling...

Burkard: I understand.

GUERRA: ... "drop the gun, drop the gun"... and then I see this.


Burkard: Okay.

GUERRA: And that's when I...that's when I raised my weapon up, and get uh... select lever to fire,...

Burkard: Okay.

GUERRA: ...center mass, and I fired.

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Burkard: Okay. Thank you.

GUERRA: I...I've been in almost an identical situation before and I was able to recognize how the subject was holding the firearm.

Burkard: Uh huh.

GUERRA: And he went to jail for CCW.

Burkard: Okay and you're saying... identical, have you ever been in a lethal, use of force, situation where you had to discharge any of your firearms before?

GUERRA: No.

Burkard: Okay.

GUERRA: But if you wanna go in detail the identical situation I'll be happy to If you have...

Burkard: That's okay.


GUERRA: Okay.

Burkard: I'm alright. Nothing else I can think of off hand, sir do you have any questions? Anything else you wanna go over?

Laughrun: May I?

Burkard: Please.

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Laughrun: David when you decided to make the firing shot did you look to see what your backdrop was?

GUERRA: Yes uh... alright this is the... well alright, so he was facing me uh <Inaudible>... okay there was a wall out, outside exterior wall of the apartment complex, that was very thick, this exterior wall, the siding and uh all that... has a metal frame where the security door is. This... he was standing out a little ways, the thick metal security door with the heavy mesh was behind him and open... and then behind him right where that... where that door pivots out it was another thick outside exterior wall to that, that blocks off the next apartment and then there was another thick exterior wall that goes down that way so my backstop was... well first was him and then if I went left it was this wall and if it went through it was the metal security door, if I went left it was the wall.

Burkard: Okay.

Laughrun: Alright.


GUERRA: And the security walls or the patio doors I believe are at least eight feet roughly.

Burkard: Okay.

Laughrun: And the security doors are, my words, burglar type doors...

GUERRA: Yes.

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Laughrun: ...they're...they're metal but they got <Inaudible>...ornate designs on 'em is that correct?

GUERRA: Yes.

Laughrun: You can still see part of the way through but they're not a clear door is that correct?

GUERRA: Yeah, they've been painted over a lot so they're kind a hard to see through.

Laughrun: Okay the last thing I wanna ask you is, and you may have mentioned this, when you... when you took your...your rifle out of the patrol car...

GUERRA: Uh huh.

Laughrun: ...why did you notify dispatch of that?

GUERRA: Per policy, we have to make sure that we advise over the radio so dispatch can be aware and also our supervisor be aware that our patrol rifle is deployed.

Laughrun: Okay and one other thing I forgot...sorry.


GUERRA: Uh huh.

Laughrun: You told uh Detective Burkard that you were FTO?

GUERRA: Yes, PTO...<Talkover - inaudible>

Laughrun: <Talkover - inaudible>...PTO, I'm sorry, PTO.

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GUERRA: Alternate but I regularly perform...

Laughrun: Got ya... And SWAT trained as...as well <Talkover - inaudible>

GUERRA: I've been to the SWAT school, I am not a SWAT officer.

Laughrun: Right...

GUERRA: Um...

Laughrun: <Talkover - inaudible>...a one week class correct?

GUERRA: Yes.

Laughrun: Okay.

GUERRA: And I've been to high risk warrant school as well.

Laughrun: Okay.

GUERRA: And I'm also a member of the Dignitary Protection Unit and we do firearm's training every other month.


Laughrun: That's Sergeant Wood's unit, Sergeant Jessie Woods?

GUERRA: Yes and Lieutenant Mitchell.

Laughrun: Okay. Is that Shawn Mitchell?

GUERRA: Yes.

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10. Juvenile Case <b>No</b>	11. Multiple Case Clearance <b>No</b>	12. Supplement Confidential <b>Yes</b>	13. Purpose Of Supplement <b>Interview with Officer Guerra – Part 1 and Part 2</b>					

Laughrun: Okay. Thank you detective that's all.

Burkard: Okay. If you don't mind we are gonna step out, see if there's anything else we need to go over okay.

GUERRA: <Talkover - inaudible>

Burkard: Um, if you don't mind, could you put your initials on here?  
<Inaudible>...put your initial to know it's yours. Okay. Excellent.  
Obviously if you need a drink, you can get up go, whatever else you need to do...

GUERRA: Yeah, I'm thirsty.

Burkard: ...um we just wanna make sure that we've gone over everything else and go from there.

GUERRA: Okay.

Burkard: Thanks. The time now is 1916.


(Part 2)

GUERRA: I understand this is going to be a recorded statement.

Burkard: Got ya. Okay I know we were talking about slicing the pie, you explained that quite well um...

GUERRA: Okay.

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>T. Burkard</b>		Code <b>2703</b>	Assignment <b>Homicide</b>	Date <b>09/08/2017</b>
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		

<b>Charlotte Mecklenburg Police Department</b> <i>Supplement Report @</i>				COMPLAINT NUMBER <b>20170906-211005</b>	Page # 47 of 51
2. Victim Name <b>Rueben Galindo</b>			3. Original Offense / Charge <b>Homicide</b>		
4. Location Of Offense <b>1918 Prospect Dr.</b>			5. Arrest Number	6. C.R. Number	
7. Original Report Date <b>09/06/2017</b>	8. Supplement Date <b>09/08/2017</b>		9. Correct Incident Classification		
10. Juvenile Case <b>No</b>	11. Multiple Case Clearance <b>No</b>	12. Supplement Confidential <b>Yes</b>	13. Purpose Of Supplement <b>Interview with Officer Guerra – Part 1 and Part 2</b>		

Burkard: ...and you're having cover and you're standing behind something of cover could you describe either your body position or your relation to that cover? I know you said you were arm length away.

GUERRA: I was uh little bit more than arm lengths away from the wall...

Burkard: Uh huh.

GUERRA: ...that I took the cover behind initially uh due to the suspects position whenever I was slicing the pie on the patio I was maybe five or six feet away from the wall...

Burkard: Alright.

GUERRA: ...and then there's the stairs and the walkway uh so I was a little farther away from the structure, at that point.

Burkard: Okay were you positioned where you were at the end of the building when you fired your weapon?

GUERRA: Yes.

Burkard: Were you all the way away from the corner or you kind a... leaning out a little bit, were you using like part of that wall as cover?


GUERRA: I uh...I was not using any support it was all from me, I wasn't ...

Burkard: Uh huh.

GUERRA: ...like leaning against the building like holding the rifle up I was...

UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer <b>T. Burkard</b>	Code Assignment <b>2703 Homicide</b>	Date <b>09/08/2017</b>
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	



<b>Charlotte Mecklenburg Police Department</b> <i>Supplement Report @</i>					COMPLAINT NUMBER <b>20170906-211005</b>	Page # 48 of 51
2. Victim Name <b>Rueben Galindo</b>				3. Original Offense / Charge <b>Homicide</b>		
4. Location Of Offense <b>1918 Prospect Dr.</b>				5. Arrest Number		6. C.R. Number
7. Original Report Date <b>09/06/2017</b>		8. Supplement Date <b>09/08/2017</b>		9. Correct Incident Classification		
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Burkard: Were you using part of that wall as cover?

GUERRA: Yes...yes.

Burkard: <Talkover - inaudible>

GUERRA: Um I was farther away than this uh...

Burkard: I understand.

GUERRA: Yeah uh...

Burkard: But you're not... here's what I'm trying to get at, you're not sitting there in the wide open...

GUERRA: No.

Burkard: ...you're using part of that wall as cover so your body's not as exposed?

GUERRA: Correct.


Burkard: Is that correct?

GUERRA: Yes.

Burkard: Okay so you're kind of leaning over?

GUERRA: Yeah uh I was probably actually too far out...

UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer <b>T. Burkard</b>	Code Assignment <b>2703 Homicide</b>	Date <b>09/08/2017</b>
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	

<b>Charlotte Mecklenburg Police Department</b> Supplement Report @					COMPLAINT NUMBER <b>20170906-211005</b>	Page # 49 of 51
2. Victim Name <b>Rueben Galindo</b>				3. Original Offense / Charge <b>Homicide</b>		
4. Location Of Offense <b>1918 Prospect Dr.</b>				5. Arrest Number		6. C.R. Number
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Burkard: Okay.

GUERRA: ...to be honest with you, I was thinking about it, obviously, a lot after the fact...

Burkard: I understand.

GUERRA: ...and I don't remember being like this like... so you could only see my eye in the rifle like I should be...

Burkard: Okay.

GUERRA: ... I was more like out farther, I was standing just square A frame.

Burkard: Okay. Were you out enough where you could see visually his whole body?

GUERRA: Oh yeah head to toe, left right I had... I probably saw like cause I was at a angle so if he was here I... I saw almost the whole side of the building.


Burkard: Okay. Alright. And on your weapon there's a... you said... described a red dot sight.

GUERRA: Yes sir.

Burkard: Did it have any magnification to it where things will look larger, you can see farther or anything like that?

GUERRA: No it is zero magnification, it's just the little dot and a piece of glass.

UCR Clearance Status <input checked="" type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer <b>T. Burkard</b>	Code <b>2703</b>	Assignment <b>Homicide</b>	Date <b>09/08/2017</b>
22. Investigative Status <input checked="" type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

<b>Charlotte Mecklenburg Police Department</b>					<b>COMPLAINT NUMBER</b> <b>20170906-211005</b>		<b>Page #</b> <b>50 of 51</b>	
<b>Supplement Report @</b>								
2. Victim Name <b>Rueben Galindo</b>				3. Original Offense / Charge <b>Homicide</b>				
4. Location Of Offense <b>1918 Prospect Dr.</b>				5. Arrest Number		6. C.R. Number		
7. Original Report Date <b>09/06/2017</b>		8. Supplement Date <b>09/08/2017</b>		9. Correct Incident Classification				
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Laughrun: It's not a laser sight is it?

GUERRA: Correct, there's no projection of any beam or light it's... only for my eyes.

Burkard: Okay.

GUERRA: Or the person operating the rifle.

Burkard: Alright. Anything?

Laughrun: Could I ask him one detective <Talkover - inaudible>

Burkard: Absolutely, that's what I was going to ask.

Laughrun: Um David when you were...as detective asked you, you not looking around the corner, was there anything keeping the suspect from seeing you in full Police, Class B, uniform?

GUERRA: No there was no bushes or trees or tall grass or anything.


Laughrun: Okay. Okay.

GUERRA: And he made direct eye contact when he first came out. <Talkover - inaudible>

Laughrun: Anything between the two of yall, any barrier that he couldn't see who you were as far as with the badge and <Inaudible>

GUERRA: Not to my knowledge.

UCR Clearance Status		23. Reporting Officer		Code	Assignment	Date
<input type="checkbox"/> Open	<input type="checkbox"/> By Arrest	<input type="checkbox"/> Exceptional	<input type="checkbox"/> Unfounded	<b>T. Burkard</b>	<b>2703 Homicide</b>	<b>09/08/2017</b>
22. Investigative Status		25. Case Referred To		26. Reviewing Supervisor, Code, Date		
<input type="checkbox"/> Active	<input type="checkbox"/> Inactive	<input type="checkbox"/> Closed	<input type="checkbox"/> Administrative			

<b>Charlotte Mecklenburg Police Department</b> Supplement Report @					COMPLAINT NUMBER <b>20170906-211005</b>	Page # 51 of 51
2. Victim Name <b>Rueben Galindo</b>				3. Original Offense / Charge <b>Homicide</b>		
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7. Original Report Date <b>09/06/2017</b>		8. Supplement Date <b>09/08/2017</b>		9. Correct Incident Classification		
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Laughrun: Okay. Thank you <Talkover - inaudible>

Burkard: <Inaudible>...nothing more. Is there anything else that you need to say, we haven't asked, anything you need to get out cause you wanna get out...

GUERRA: Um...

Burkard: ...and clarify, anything else?

GUERRA: I... I wish it didn't have to end like this.

Burkard: Okay.

GUERRA: That's it. Honestly, that's... I'd rather just arrested him for CCW and gone to the next call, or taken him to involuntary commitment, or whatever.

Burkard: Well thank you, thank you for coming in. <Talkover - inaudible>

Laughrun: <Talkover - inaudible>

<Talkover - inaudible>

Burkard: Yes absolutely. End the recording at 1625.

Reviewed for accuracy by Det. T. Burkard

TB/DJ/rge

UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer <b>T. Burkard</b>	Code Assignment <b>2703 Homicide</b>	Date <b>09/08/2017</b>
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	

# Exhibit 6



12017-07843

REPORT OF INVESTIGATION BY MEDICAL EXAMINER

OCME USE ONLY	DECEDENT: Ruben	GERARDO	Galindo	CHAVEZ	
Case Number	First	Middle	Last	Suffix	
F17-07381	RESIDENCE: 1918 Prospect Dr Apt E	Charlotte, NC	Mecklenburg		
Date Received	Number and Street	City, State	County		
9-7-17	AGE: 29	SEX: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unknown			
<input type="checkbox"/> Res <input type="checkbox"/> NR	RACE: <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> White <input checked="" type="checkbox"/> Other				
	HISPANIC ORIGIN: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown				

INFORMATION ABOUT OCCURRENCE

	DATE	TIME	ADDRESS OR FACILITY	COUNTY
ONSET OF INJURY OR ILLNESS	9/6/2017	2110	1918 Prospect Dr Apt E Charlotte, NC	Mecklenburg
DEATH	9/6/2017	2146	1918 Prospect Dr Apt E Charlotte, NC	Mecklenburg
VIEW OF BODY	9/7/2017	0900	<input type="checkbox"/> Scene of Death <input type="checkbox"/> Hospital <input type="checkbox"/> Funeral Home	
ME NOTIFIED	9/6/2017	0028	<input checked="" type="checkbox"/> Morgue MCMEQ <input type="checkbox"/> Not Viewed	
LAST KNOWN TO BE ALIVE	9/6/2017	2145	LAW ENFORCEMENT AGENCY: CMPD	
			OFFICER: TELEPHONE:	

AUTOPSY: ☐ None ☒ M.E. Authorized ☐ Non-M.E./Private-Facility Name:

BLOOD SAMPLE: Mailed by: ☐ ME after External ☒ Pathologist after Autopsy ☐ Reason not obtained:

IF CLINICAL ALCOHOL PERFORMED, RESULT:

Where:

PROBABLE CAUSE OF DEATH:

☐ Pending

1. Multiple Gunshot Wounds

DUE TO

2.

DUE TO

3.

DUE TO

4.

This section "OCME REVIEW ONLY"

SDC

1.

DUE TO

☒ None

2.

DUE TO

☐ AL

3.

DUE TO

☐ Dictated

4.

☐ COG

CONTRIBUTING CONDITIONS

CONTRIBUTING CONDITIONS

MANNER OF DEATH:

MANNER OF DEATH:

☐ Natural ☐ Accident ☒ Homicide ☐ Suicide ☐ Pending

☐ Natural ☐ Accident ☐ Homicide ☐ Suicide ☐ Undetermined

I hereby certify that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause of death in accordance with Article 16 of Chapter 130A of the N.C. General Statutes and the information contained herein regarding such death is true and correct to the best of my knowledge and belief.

Reviewer:

Date:

11-3-12

Information in this block supersedes that contained in space at left.

Signature of Medical Examiner

9/7/2017

Date

MECKLENBURG  
County of Appointment

Jonathan Privette MD, MS

Print Name of Medical Examiner

DHHS 1114 (Revised 2013)

# Mecklenburg County M E Office

3440 Reno Avenue, Charlotte, NC 28216

Telephone 7043362005

Fax 7043368353

## REPORT OF AUTOPSY EXAMINATION

### DECEDENT

**Document Identifier** B201704016  
**Autopsy Type** ME Autopsy  
**Name** Ruben Gerardo Galindo Chavez  
**Age** 29 yrs  
**Race** Unknown  
**Sex** M

### AUTHORIZATION

**Authorized By** Jonathan Privette MD **Received From** Mecklenburg

### ENVIRONMENT

**Date of Exam** 09/07/2017 **Time of Exam** 09:00  
**Autopsy Facility** Mecklenburg County M E Office **Persons Present** Ms. Elizabeth Fisher

### CERTIFICATION

**Cause of Death**  
Multiple Gunshot Wounds

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

**Digitally signed by**  
Jonathan Privette MD 13 November 2017 10:17

### DIAGNOSES

Gunshot wound of the anterior left chest (A), exiting the posterior left chest  
    Ribs fractures  
    Left lung lacerations  
    Left hemothorax  
Gunshot wound of the head (B), exiting  
    Skull fractures  
    Brain lacerations and avulsion

### IDENTIFICATION

**Body Identified By**  
Papers/ID Tag

### EXTERNAL DESCRIPTION

**Length** 69 inches  
**Weight** 157 pounds  
**Body Condition** Intact  
**Rigor** 3+  
**Livor** Posterior, dependent  
**Hair** Black, with a normal pattern of distribution  
**Eyes** Brown  
**Teeth** Natural, in fair repair

Received is the body of a well-developed, well-nourished adult male appearing compatible with the reported age. The body is clad in a jacket, tee shirt, pants with belt, underwear and a left shoe. A yellow metal necklace with pendant, two yellow metal earrings with clear stones accompany the body. Identifying marks consist of tattoos and scar as diagrammed. There is no evidence of medical intervention.

### INJURIES

The following gunshot wounds are lettered for convenience of description. The lettering is not intended to indicate the order of which the injuries occurred.

#### **GUNSHOT WOUND "A":**

Located on the left anterior chest at a point 52¼" above the heel and 5¼" left of anterior midline is an entrance gunshot wound with a hole that measures ¼" and exhibits 3/8" circumferential marginal abrasion predominantly at the medial aspect. Soot and/or stippling are not grossly identified in association with this injury.

The wound track lacerates the skin and soft tissue of the left anterior chest, fractures left rib #3, lacerates the upper and lower lobes of the left lung, fractures left ribs #7 and #8 posteriorly. Associated injuries include left hemothorax.

Located on the posterior left chest at a point 50¼" above the heel and 3¼" left of posterior midline is an exit gunshot wound with a hole that measures ¾" and exhibits irregular borders.

In the anatomical position, the projectile travels front-to-back, left-to-right, and downward.

#### **GUNSHOT WOUND "B":**

Located at the top of the head at midline moving leftward is a large gaping defect that measures 4½" x 3½".

Located at the posterior left head at a point 60½" above the heel and 1" left of posterior midline is a gaping defect that measures 1½" x 1½".

Soot and/or stippling are not grossly identified in association with these injuries. The direction of projectile travel is difficult to assess due to the loss of soft tissue and skull fragments at these two locations.

The wound track lacerates the brain with partial avulsion. There is extensive fracturing of the calvarium and skull base with loss of bone fragments.

#### **DISPOSITION OF PERSONAL EFFECTS AND EVIDENCE**

**The following items are released with the body**

None

**The following items are preserved as evidence**

The following items are released to Detective Burkard of the Charlotte-Mecklenburg Police Department on September 11, 2017:

CLOTHING  
JEWELRY  
BLOOD CARD

#### **PROCEDURES**

##### **Radiographs**

Radiographs reveal a snowstorm appearance at the head and chest.

#### **INTERNAL EXAMINATION**

##### **Body Cavities**

The organs are in their normal anatomic positions.

##### **Cardiovascular System**

**Heart Weight** 340 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 chambers and valves bear the usual size-position relationships and are unremarkable. The myocardium shows no evidence of acute infarction, scarring or focal lesions. The aorta and its major branches are intact without significant atherosclerosis.

##### **Respiratory System**

**Right Lung Weight** 440 grams

**Left Lung Weight** 340 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 lingual mucosa is intact; the underlying musculature is devoid of hemorrhage. The upper and lower airways are free of debris and foreign material. The lungs are normally formed. The parenchyma of the right lung shows moderate congestion without obvious consolidation or focal lesions. The pulmonary arteries are free of thrombi or emboli.



## **Gastrointestinal System**

The gastrointestinal tract is intact throughout its length and is unremarkable.

## **Liver**

**Liver Weight** 1480 grams

The capsule is intact and the parenchyma is unremarkable.

## **Spleen**

**Spleen Weight** 100 grams

The spleen is normally formed; no focal lesions are present.

## **Pancreas**

The pancreas is of normal size, shape and consistency without focal lesions.

## **Urinary**

**Right Kidney Weight** 130 grams

**Left Kidney Weight** 120 grams

The kidneys are of normal size and shape. The capsules strip with ease from the underlying smooth cortical surfaces.

The renal architecture is intact without focal lesions.

## **Reproductive**

Grossly unremarkable.

## **Endocrine**

The thyroid gland and bilateral adrenal glands are grossly unremarkable.

## **Neurologic**

**Brain Weight** 990 grams

Please see INJURIES section.

## **Skin**

Except as previously noted, grossly unremarkable.

## **Immunologic System**

Grossly unremarkable.

## **Musculoskeletal System**

Except as previously noted, grossly unremarkable.

## **MICROSCOPIC EXAMINATION**

### **Microscopic Comment**

Histologic examination is not performed.

## **SUMMARY AND INTERPRETATION**

The decedent is a 29-year-old male who was shot by law enforcement.

Autopsy examination reveals gunshot wounds of the head and chest.

Please see separate report for toxicology details.

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

## **DIAGRAMS**

1. BODY DIAGRAM: ADULT (FRONT/BACK)
2. BODY DIAGRAM: NECK AND SHOULDERS

State of North Carolina

Name of Decedent:

Ruben Galindo

Office of the Chief Medical Examiner

Autopsy #

B17-466

Chapel Hill, North Carolina 27599-7580

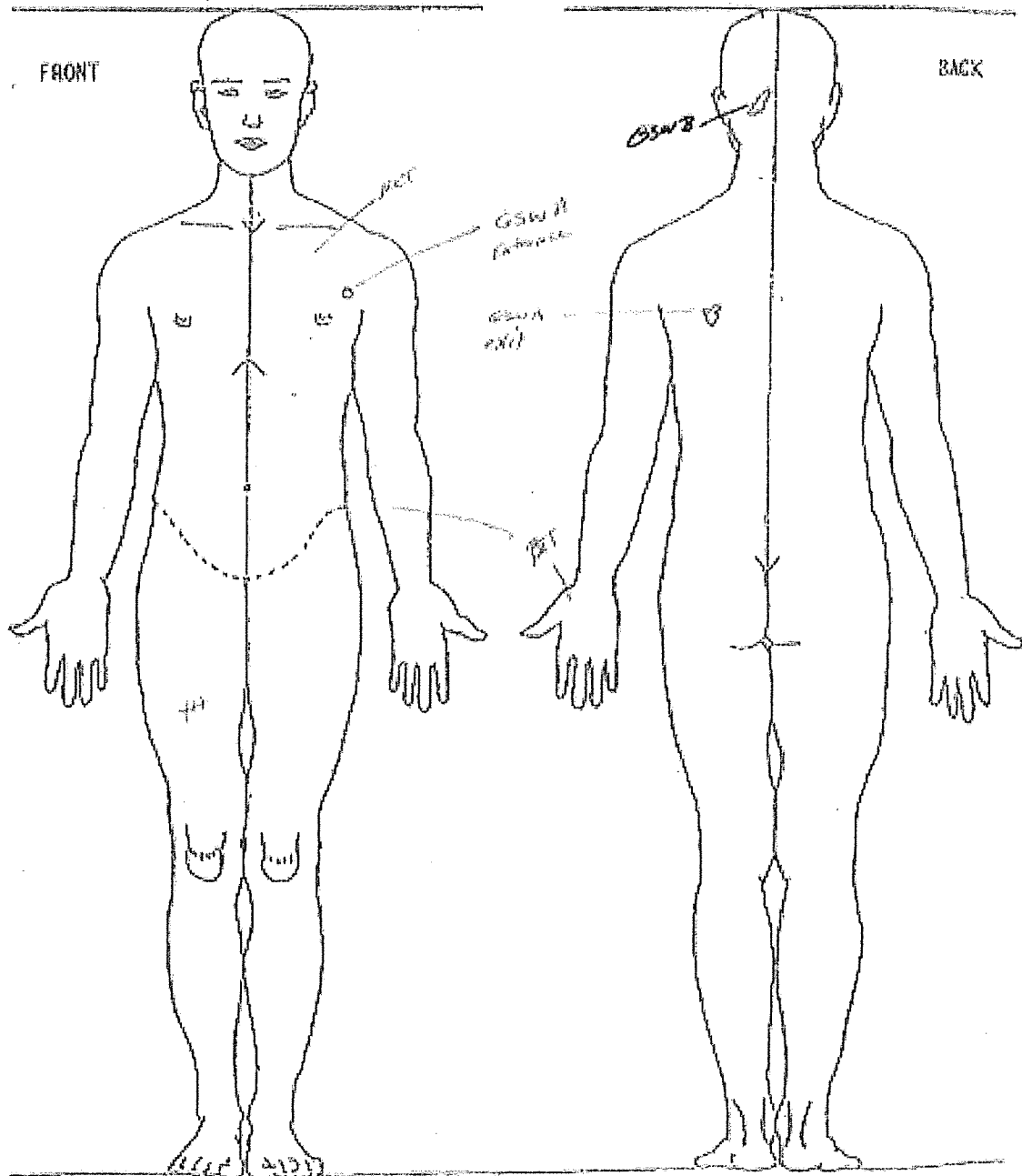
Examined By:

[Signature]

Date:

9-7-17

**BODY DIAGRAM: ADULT (Front/Back)**



DEFORM 1517 (4/97)  
Medical Examiner

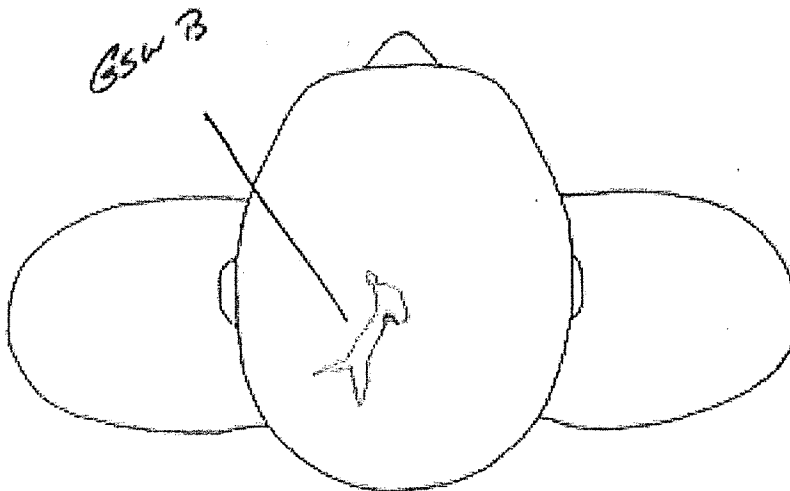
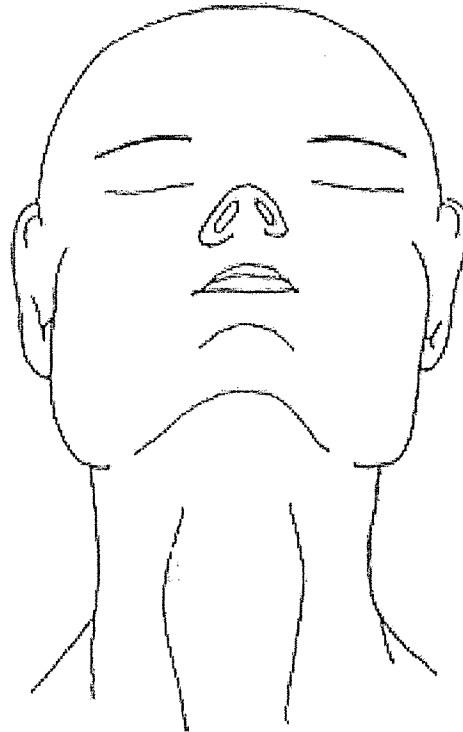
This form may be photocopied.

PAGE 1 OF 2

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

Name of Decedent: Ruben Galindo  
Autopsy # B17-4016  
Examined By: [Signature] Date: 9-1-17

**BODY DIAGRAM: NECK & SHOULDERS**



DEHNK 3243 (4/07)  
Medical Examiner

This form may be photocopied.

PAGE 2 OF 2

## 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: T201709037  
Case Folder: F201707381  
Date of Report: 16-oct-2017  
Page: 1

DECEDENT: Ruben Gerardo Galindo Chavez  
Status of Report: Approved  
Report Electronically Approved By: Ruth Winecker, Ph.D.  
\* \* \*

=====

SPECIMENS received from Jonathan Privette on 15-sep-2017  
S170026696: 20.0 ml Blood                      CONDITION: Postmortem  
SOURCE: Heart                                      OBTAINED: 07-sep-2017

Ethanol ----- 230                      mg/dL                      10/14/2017  
Organic Acids/Neutrals ----- None Detected                      10/14/2017  
\*\* Comments Concerning This Result \*\*

Organic Acids/Neutrals, Organic Bases and Drugs of Abuse  
Screen was performed by NMS Labs.  
\*\* End of Comments Concerning This Result \*\*

Organic Bases ----- None Detected                      10/14/2017

---

S170026697: 15.0 ml Blood                      CONDITION: Postmortem  
SOURCE: Vena Cava                                      OBTAINED: 07-sep-2017

---

Accredited by the American Board of Forensic Toxicology, Inc.

111417 07:15                      \* \* \*   E N D   O F   R E P O R T   \* \* \*                      B201704016