



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

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December 12, 2016

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

Re: Rodney Smith Death Investigation

Dear Chief Putney:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Rodney Smith on June 2, 2016. The case was investigated under complaint number 20160602234800. The purpose of this review was to examine whether the conduct of CMPD Officers Bell and Tryon were unlawful. In this case, the decedent shot a man on a Charlotte Area Transit System (CATS) bus, and when officers approached him moments later, he fired at a police officer. The officers who returned fire and killed Smith were justified in using deadly force in self-defense under the laws of North Carolina.

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

Assistant District Attorney Bill Stetzer, supervisor of my Homicide Team, personally responded to the scene of this incident and watched the interviews of all pertinent witnesses. I personally reviewed the investigative 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. Police 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 529.

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

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

The United States Supreme Court stated, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” Graham v. Connor, 490 U.S. 386, 396 (1989). The Court further explained that “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Id. at 396–97.

### **D. The officer-involved shooting of Rodney Smith**

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

On Tuesday, June 2, 2016, Officers Bell and Tryon were dispatched to a call involving the shooting of a CATS bus passenger. Officers were informed that one passenger on the bus was shot and that the shooter exited the bus. The shooter, who was later identified as Rodney Smith, was described as a black male who had last been seen getting off the bus on North Tryon Street near the Walmart, wearing a red shirt. Smith shot Mr. Thomas, the bus passenger, one time. The shooting resulted from a long-term dispute between the two individuals.

Images from the bus surveillance cameras show Smith (in the red shirt) just prior to the shooting with a firearm in his lap. Please see [exhibit 1](#), which is attached to this letter. A [second image](#) (exhibit 2) from the bus surveillance camera captures Smith with the gun in his hand, standing over Mr. Thomas prior to shooting him.

Officers Tryon and Bell responded to the call in separate, marked patrol cars and proceeded to North Tryon Street. Officer Tryon was wearing a police uniform, and he activated his body-worn camera (BWC). While driving down North Tryon Street, Officer Tryon saw a black male walking down the street and wearing a red shirt. As Officer Tryon drove past the person in the red shirt, he noticed the subject, who was later identified as Smith, holding something in his waistband. Officer Tryon drove approximately 20 feet past the subject and then exited his patrol car to approach Smith.

Officer Tryon told investigators he began walking toward Smith, saying “Show me your hands, show me your hands.”<sup>1</sup> Officer Tryon stated, “that’s when he grabs something out of his waistband, immediately, I couldn’t tell exactly what it was.”<sup>2</sup> Officer Tryon said he then told the

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<sup>1</sup> Recorded interview of Officer Tryon, June 3, 2016 page 8, Attached. (Click here)

<sup>2</sup> Recorded interview of Officer Tryon, June 3, 2016 page 8.

man to drop whatever it was he was holding. Officer Tryon explained that “at some point I determine that it’s a firearm.”<sup>3</sup> As soon as Officer Tryon realized Smith had a gun in his hand, Officer Tryon began retreating while yelling for Smith to drop the gun. This is corroborated by Officer Tryon’s body-worn camera’s video which depicts Officer Tryon walking toward the subject, saying “Show me your hands” and then while the officer is retreating, commanding the subject to drop the gun.

Officer Bell arrived seconds after Officer Tryon. Officer Bell was also wearing a police uniform, and his body-worn camera was activated. Officer Bell pulled up to the incident and saw Officer Tryon stop his car, get out and walk toward a black male wearing red. Officer Bell observed Officer Tryon pointing at a subject and yelling commands. Officer Bell used his spotlight to illuminate the subject and saw Smith pointing a black handgun at Officer Tryon. An [image captured](#) (exhibit 3) from Officer Bell’s BWC shows what Bell saw as he arrived.

Officer Tryon told investigators that Smith fired his gun at him. “I knew it was a gunshot, I didn’t know if it was ricocheting off my car or if it was a muzzle flash,” Officer Tryon said. “After that point I did start firing my . . . my weapon.”<sup>4</sup> Both officers engaged Smith with gunfire. Officer Tryon fired his weapon because he believed Smith shot at him. Officer Bell fired his weapon because he saw Smith pointing a gun at Officer Tryon<sup>5</sup> and believed Smith was going to shoot Officer Tryon.

Officer Bell described his actions as follows:

I got out of the car I went to [a]bout the front bumper of my own car and drew my weapon and focused on him. I took two or three breaths just to gather myself and steady my aim and I remember thinking the whole time, Tryon, if you don’t shoot him you’re gonna die. Um and as I’m getting out of the car I looked at Tryon, Tryon’s pointing at him yelling at him show me your hands.<sup>6</sup>

After the initial gunfire volley, Smith ran up a berm in the direction of a nearby hotel, still with the gun in his hand. He fell to the ground, and officers continued to give him commands to drop the gun. According to Officer Tryon, “at one point [Smith] kind a pushes up and moves his right arm and I knew I had officers to the right hand side of me [ . . . ] so I could see his right hand move just a little bit and I fired three or four more rounds um . . . out . . . out of fear for my life and . . . and my partners lives that were there.”<sup>7</sup>

Later in the interview when he described the second set of shots fired at the subject, Officer Tryon stated:

When he fell on the ground and we’re giving him verbal commands I remember hearing some . . . and I could a just heard

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<sup>3</sup> Recorded interview of Officer Tryon, June 3, 2016 page 9.

<sup>4</sup> Recorded interview of Officer Tryon, June 3, 2016 page 9.

<sup>5</sup> Officer Bell believed that the subject was holding the gun in his left hand.

<sup>6</sup> Recorded interview of Officer Bell, June 3, 2016 page 9, Attached. (Click here)

<sup>7</sup> Recorded interview of Officer Tryon, June 3, 2016 page 11.

this but I remember hey drop the gun um drop the gun ... put your hands up. I remember hearing him say “fuck you”<sup>8</sup> ... and that’s when he went and pushed up and moved his right hand towards us.<sup>9</sup> ...and I knew the gun that was still is in right hand ... I clearly saw it ... and I believe he made some sort of gesture ...<sup>10</sup>

When other officers arrived shortly thereafter, they approached Smith and saw the gun<sup>11</sup> he had fired near his body. A box of 9mm ammunition was located in Smith’s pocket. A 9mm spent shell casing was also found near Smith’s body.<sup>12</sup>

The Medical Examiner concluded that Smith was shot five times. In addition, the Medical Examiner located a spent 9mm shell casing with the decedent’s clothing when the body arrived at the Medical Examiner’s Office. One .40 caliber projectile was recovered from Smith’s body during the autopsy. That projectile was examined and determined to have been fired from Officer Tryon’s gun.

#### **E. Forensic evidence**

The forensic and video evidence in this investigation show that Smith was armed with a firearm and fired at police. Forensic testing on the 9mm casing determined that the casing was fired from the 9mm Makarov handgun found near Smith’s body. An analysis of Smith’s cellphone revealed numerous photographs of the handgun, as well as text messages<sup>13</sup> from Smith prior to the bus shooting in which he indicates his intent to shoot Mr. Thomas.

#### **F. Conclusion**

There is no dispute that Officers Bell and Tryon fired their weapons and killed Rodney Smith. Therefore, the central issue in this review is whether or not the officers were justified under North Carolina law in using deadly force. A police officer – or any other person – is justified in using deadly force if the officer reasonably believed, and in fact believed, that he or another person was in imminent danger of great bodily injury or death from the actions of the person who is shot. In this case, the evidence supports the conclusion that Smith pointed and fired a gun at Officer Tryon and consequently, the officers were justified in using deadly force to stop the attack and defend themselves. Under the law, when using deadly force, the justification of using force includes all force necessary to end the threat. In this case, officers fired a number

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<sup>8</sup> Officer Bell told investigators Smith yelled, “fuck CMPD.” Officer Bell, June 3, 2016 page 11.

<sup>9</sup> Recorded interview of Officer Tryon, June 3, 2016 page 16.

<sup>10</sup> Recorded interview of Officer Tryon, June 3, 2016 page 17.

<sup>11</sup> [Photograph of gun](#) (exhibit 4).

<sup>12</sup> [Photograph of spent shell casing, 9mm](#) (exhibit 5).

<sup>13</sup> In a series of text messages, Smith wrote: “Ok Bae this nigga that robed my grandma house on the same bus with me rn;”“So when I get off the bus u already no what’s gone happen and then I’m gone call u back when I done but u can stay otp rn tho”;“🔫🔫🔫100”

of times and struck Smith five times. The number of shots was not excessive given the clear nature of the threat. Therefore, I have determined that this shooting was justified under the law of North Carolina and agree with your decision not to seek charges against either officer.

If you have any questions, please contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Andrew Murray". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

R. Andrew Murray  
District Attorney

# Attachments

Exhibit 1

[Return to letter](#)



1001-148  
Camera 6

06/02/2016 22:10:23.26  
Surveillance

Exhibit 2

[Return to letter](#)



Exhibit 3

[Return to letter](#)

AXON\_Flex\_Video\_2016-06-02\_2216



Exhibit 4

[Return to letter](#)





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2. Victim Name <b>Rodney Smith</b>			3. Original Offense / Charge <b>OIS</b>		
4. Location Of Offense <b>7700 N. Tryon St.</b>			5. Arrest Number	6. C.R. Number	
7. Original Report Date <b>2 June 2016</b>		8. Supplement Date		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 Tryon</b>	

THIS'LL BE A RECORDED INTERVIEW IN REFERENCE TO CASE NUMBER 20160602234800 IT'S AN OFFICER INVOLVED SHOOTING. IT'S RELATED TO AN ADW CASE NUMBER 20160602221401. CONDUCTING THE INTERVIEW IS N. MCKEE CODE NUMBER 1106 AND SERGEANT S. WINTERHALTER. UM WE'RE GONNA BE TALKING WITH OFFICER GARRETT TRYON, UH HIS CODE NUMBER IS 5111. ALSO PRESENTS GONNA BE HIS ATTORNEY JEREMY SMITH. TODAY'S DATE IS JUNE 3<sup>RD</sup> 2016; THE TIME IS GONNA BE 1530.

**McKee:** Okay Officer Tryon uh we've talked a little bit already uh Sergeant Winterhalter has explained the...the...kind a dual investigation that's going on, the criminal and the administrative uh and, of course, we're doing the criminal part and um at this time you are voluntarily coming down here to provide your statement is that correct?

**Tryon:** Correct.

**McKee:** Okay and you're aware it's being recorded and I've told you we're gonna go over this sheet right? Alright. Um when was your date of hire?

**Tryon:** Uh it was October of 2013...I don't remember the exact day.

**McKee:** Okay do you have any prior law enforcement or military experience?

**Tryon:** I work for the county <inaudible>...about nine months, uh Mecklenburg County. I was a detention officer.

**McKee:** Ah... Okay.

**Tryon:** And I worked or I did a year long academy in California, a post certified academy.

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>N. Mckee 1106</b>	Code <b>Homicide</b>	Assignment <b>6/10/2016</b>	Date
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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McKee: You said detention in Mecklenburg County?

Tryon: Detention officer, correct.

McKee: And what kind of... what kind of academy in California?

Tryon: I m...I mean it's...it's BLET here but it's called Post out there, uh was a year long um bout 1200 hours of training that would include everything that BLET includes.

McKee: Okay um and you're currently assigned to University?

Tryon: Correct.

McKee: Uh what shift?

Tryon: Second shift.

McKee: And what are those hours?

Tryon: It is from 12:45 til 11 at night.

McKee: And what is your call sign?

Tryon: 14-1309-2<sup>nd</sup>.

McKee: And you operate off the University talk group?

Tryon: Correct.

McKee: Who is your supervisor?

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>N. McKee</b>	Code <b>1106</b>	Assignment <b>Homicide</b>	Date <b>6/10/2016</b>
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Tryon: Um night of the...

McKee: When...when you were working last night.

Tryon: Uh it was Sergeant Flagg but I believe he had gone home at that point  
<Talkover - inaudible>

McKee: Is that your...

Tryon: Immediate supervisor?

McKee: Yeah.

Tryon: It would be Sergeant Flagg or Sergeant Sprague...depending on the day.

McKee: But Sergeant Rendon was there?

Tryon: Sergeant Rendon was there.

McKee: Use Rendon?

Winterhalter: Uh um...

McKee: Uh what uniform were you wearing?

Tryon: Uh Class B's.

McKee: Your height and weight?

Tryon: 6'2, 230.

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McKee: Prior to your shift yesterday um how many hours of sleep did you get?

Tryon: Seven or eight.

McKee: And did you have any off duty prior to shift?

Tryon: No.

McKee: What vehicle do you operate?

Tryon: Uh PDA 488...488.

McKee: Uh and you were driving uh no passengers correct?

Tryon: No.

McKee: Uh marked?

Tryon: Correct.

McKee: Uh DMVR was on?

Tryon: Uh no, no DMVR.

McKee: Uh you have a... you have a Smith and Wesson M & P right?

Tryon: Correct.

McKee: Okay and we have that here so we'll be able to...take care of all that. Do you have a secondary issued weapon or a back up weapon that you carry?

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>N. Mckee</b>			<b>1106</b>	<b>Homicide</b>	<b>6/10/2016</b>
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Tryon: No.

McKee: Okay.

Tryon: I mean I used to but I don't currently right now.

McKee: Okay um did you take any notes at all last night?

Tryon: No.

McKee: Okay and that's the end of that. Okay.

Tryon: Okay.

McKee: Um now uh like I...I've said just take a...a deep breath and just try to be calm, that's easy for me to say...not so much for you, but um starting with um when the call went out...

Tryon: Uh huh.

McKee: ...just start telling us what happened.

Tryon: Okay. Um I was at station 27 just kind a coming to the end of my shift um I was getting everything kind a squared away getting everything submitted um I...pulled into the back of station 27 which is at Ken Hoffman and North Tryon.

McKee: Uh huh.

Tryon: And I had just submitted an accident report and made myself available and it was...I couldn't tell you what time, it was after 10 uh and then I

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saw an ADW with injury go out at University Pointe and North Tryon which I knew was right there at Walmart.

McKee: Uh huh.

Tryon: Um so I immediately got on the radio and said add me to that and I...the only thing in the comments was Medic 17 um reference one shot. That was the only thing I saw in the comments and then my computer froze so the only thing I had to look...or go on was what I was hearing on the radio and you can... you can actually see it in the video or hear it in the video that I turned my volume up cause...cause I can't hear it cause of sirens.

McKee: Right.

Tryon: Um so and...and initially it was a bus stop at University Pointe and North Tryon. I knew...generally the busiest bus stop around there is gonna be the one that's right next to 7747 which is the Kangaroo station right there.

McKee: Uh huh.

Tryon: So I went up there and uh I asked if there was anybody shot and everybody looked at me like I was ...a stranger. Uh...so I continued on cause I knew there was another bus stop just adjacent to Walmart on University Pointe Boulevard.

McKee: Okay.

Tryon: Um thinking that...that's...that's a pretty popular one as well, people come and go from Walmart. Um I believe Officer Bell went...I told him to go down there, thinking it was down there...and then it came out on

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the radio that it was across the street from Walmart um... and then I heard the suspect description uh as we were... I was doing that U-turn down on University Pointe Boulevard of a black male, red shirt um was what I picked up on, there's no... no direction of travel at that point um and then it came up later that it was direction of travel was inbound Tryon... so a fire truck had pulled up to the original bus stop that I was at.

McKee: Uh huh.

Tryon: Um so we kind a squeezed by there and I followed an FMT car which is unmarked um car and they pulled over to the right or... I mean sorry, the... the left turn lane on North Tryon and University.

McKee: Uh huh.

Tryon: It was a red light um, I decided to go around them and I just turned on my lights to clear the intersection then I turned 'em off and that's when I saw a black male wearing a red shirt walking inbound on North Tryon which was my suspect description.

McKee: Right.

Tryon: When I saw him he was passing... (Buzzing noise in background) I apologize.

McKee: It's OK...

Tryon: He was passing um... some kind a sign on the street, I couldn't tell you if it was the bus stop sign or there's another sign right there as well.

McKee: Okay.

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Tryon: But he's passing the sign on the... on the... sidewalk. I can see his right hand was on something in his waistband. His shirt was kind a pulled up um you can see that his hand was clearly on something whether it was holding his pants up, whatever. Um I knew at that point that if that was the suspect description that he had already previously just shot somebody.

McKee: Right.

Tryon: Um probably a good guess that he was holding onto a gun so I got out a the car, I... I end... initially I passed him cause I... I didn't put two and two together right away.

McKee: Uh huh.

Tryon: So I passed him and I must a gone... twenty feet past him, put my car in park and I didn't turn my lights on or anything I just... didn't have time for it um and I go to approach him, tell him show me his hands... show me your hands um and that's when he grabs something out of his waistband, immediately, I couldn't tell exactly what it was.

McKee: Uh huh.

Tryon: Um the... the light there was pretty horrible um... that... so I initially told him to drop it, drop whatever it is, drop it... drop it and he's sitting there one handed pointing at me...

McKee: Okay.

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Tryon: Um...and then at some point I determine that it's a firearm and...drop the gun, drop the gun, drop the gun...back up one second. Um so he pulls the gun out but I'm approaching him on foot.

McKee: Uh huh.

Tryon: So I don't have any cover, I don't have any concealment, I don't have anything...I approaching him kind of a...just...voluntary contact at that point. Um then he turns around and points it at me and then I kind a... alright, wow, this is...this just happened, let's go take some cover. Take cover and I'm still giving verbal commands...drop it, drop it, drop it and then I said, at some point, I realized it was a firearm and I said drop the gun, drop the gun...and when the shots actually... That part is kind a blurry but when the...the shots... At some point I see either a spark that was on my car like a...like a spark or it was a muz... muzzle flash from his direction. Not a hundred percent what it was, I knew it was a gunshot I didn't know if it was ricocheting off my car...

McKee: Right.

Tryon: ...or if it was muzzle flash. At that point I did start firing my...my weapon.

McKee: Okay.

Tryon: Um suspect didn't... stood there for a second um I could see the gun clearly in his hand and he starts running um back up towards Inntown Suites which is north bound on Tryon and I mean it was a continuous um firing from me uh and I believe Officer Bell, which was beside me to my right hand side, um see the suspect... he ...he fell and kind of on this berm. Um I initially saw that there was a telephone pole there,

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there's a concrete barrier there and I knew there's some Conex boxes right there as well.

McKee: Uh huh.

Tryon: I initially thought he was gonna go take a place of cover and...and continue his assault so at that point I knew he had already shot somebody, he's already pulled a gun on me, he's already shot at me. I mean this guy means...means business.

McKee: Right.

Tryon: Um I couldn't tell you what he was saying or anything like that. And he's laying there on the ground and his back is kind a turned toward...turned...towards me so he's kind a facing away from me but he's moving around, I keep...I get behind my engine block of my patrol vehicle...

McKee: Uh huh.

Tryon: ...at that time, I'm giving him verbal commands, drop the gun, I can still see the gun in his hand, in his right hand.

McKee: Right.

Tryon: Give him verbal commands, drop the gun, drop the gun...put your hands out, drop your gun um...and I could hear other officers at that time that were around me kind a giving similar commands as well...

McKee: Uh huh.

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Tryon: Um and at one point he kind a pushes up and moves his right arm and knew I had officers to the right hand side of me cause I was the first car in line...

McKee: Right.

Tryon: ...and I knew that there was...so I could see his right hand move just a little bit and I fired three or four more rounds um...out...out of fear for my life and...and my partners lives...

McKee: Right.

Tryon: ...that were there.

McKee: Okay um going back just a little bit and I pulled a couple of uh aerial photos to kind a let you get a reference and kind a draw where you were and where other people were. Um...when you um...when you first turned around, you made your U-turn and pulled up <Inaudible>...look at this one.

Tryon: Okay.

McKee: <Inaudible>get you oriented...this is...this is the Walmart um...

Tryon: <Talkover - inaudible>...Inntown Suites.

McKee: ...that's the Inntown Suites um and I believe the bus stop you went to was initially somewhere up in here is that right?

Tryon: Right here.

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McKee: Okay um and then from there of course we...we watched the video with you um in Sarge's office so we know you went down, back through here.

Tryon: Uh huh.

McKee: And kind a circled around the parking lot, came out um you were behind Greenlees, was anybody else with you when you first pulled up, do you remember?

Tryon: Pulled up where?

McKee: Over here...after you made your U-turn you came up you saw the suspect...um who you thought was a suspect, you stopped...got out...was anyone...do you remember if anyone had pulled up behind...behind you yet?

Tryon: I ...Could I tell you exactly, a hundred percent, no. I felt that...I remember seeing kind...blue lights in my peripherals...

McKee: Okay.

Tryon: ...and I remember seeing like ...having like a presence that there was somebody else there with me.

McKee: Okay.

Tryon: Um but did I actually stop and take my eyes off the suspect and...and look, no.

McKee: Okay so...

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Tryon: I couldn't tell you who was there.

McKee: When you got out a the car um did, did the suspect say anything to you?

Tryon: Uh anything verbal I don't... Yes, I...when he was on the ground at my second shots...

McKee: Okay let's stay... let's not get there yet.

Tryon: Okay.

McKee: Okay? Um so you start approaching him, you're walking toward him is he looking at you at that point, did he turn around; cause he was walking inbound... right?

Tryon: Right he... he started doing that target glancing that they teach ya um kept looking at me, looking at me um and then that's... right when I got out a my car and started walking up towards him that's when he pulled a gun, I'm sorry... I got nervous a little bit but he pulled a gun and started walking towards me.

McKee: Okay.

Tryon: Um...

McKee: So you... At what point did you identify that he had a gun in his hand?

Tryon: He must a been... three to five seconds after he had actually pulled it.

McKee: Okay now of course in the video we see... when you pull your gun.

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Tryon: Uh huh.

McKee: Um is that the point you think you...you recognized it or was that  
<Talkover - inaudible>

Tryon: That's...

McKee: ...still have it here?

Tryon: Nah that's when he actually pulled it...

McKee: Okay.

Tryon: ...and pointed it at me.

McKee: Okay.

Tryon: Um at that time, when I pulled my weapon it was...clearly that's  
why...I knew what had just happened, I knew what was going on...

McKee: Right.

Tryon: ...but I wasn't a hundred percent sure of what he had in his hand at  
that time.

McKee: Okay.

Tryon: Um it was a short couple seconds maybe not even that long that took  
me to...okay yeah that's a firearm.

McKee: Okay.

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Tryon: And that's... took cover, that's when my verbal commands went from drop it to drop the gun, drop the gun.

McKee: Okay perfect. Um and what is he doing, when you're giving verbal commands what is he doing?

Tryon: He's... I mean he's coming towards me, he's taking couple steps towards me. Uh I don't know if he stops at some point cause we weren't that far, I mean if he kept coming towards me...

McKee: Uh huh.

Tryon: ...it would a been completely different but uh he did take a couple steps toward me from what it felt like.

McKee: Okay.

Tryon: Um and he's sitting there pointing it one handed at me and that's when I said I saw that spark or...

McKee: Okay.

Tryon: ...muzzle flash or...or something.

McKee: Okay did you hear anything <Talkover - inaudible>

Tryon: I didn't hear...I didn't even hear my gunshots.

McKee: Okay um and once the shooting started describe to me what happened, what...what were his actions and what were your actions?

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Tryon: Once the shooting started, so he was...still probably about fifteen feet away maybe even a little bit further.

McKee: Uh huh.

Tryon: Uh and he...I don't know if he shot more at us but it seems like it kind a paused for a split second and then he kind a took off back up towards Inntown Suites which is northbound on Tryon.

McKee: Okay.

Tryon: Um but it was kind of...once I started shooting it was a continuous flow until ...and I stopped shortly before he fell <Talkover - inaudible>

McKee: Okay. Um as he was running where was his gun?

Tryon: It was in his right hand.

McKee: Okay um so you get around, he's fallen on the ground...

Tryon: Uh huh.

McKee: Is he saying anything at that point?

Tryon: When he fell on the ground and we're giving him verbal commands I remember hearing some...and I could a just heard this but I remember hey drop the gun, drop the gun...put your hands up. I remember hearing him saying "fuck you"...and that's when he went and pushed up and moved his right hand in towards us.

McKee: Okay.

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Tryon: From what I saw.

McKee: Okay.

Tryon: Um and I knew the gun that was still in his right hand I...I clearly saw it...and...and I believe...he made some kind a gesture, some kind a noise and from...for whatever reason I believe it was fuck you.

McKee: Okay. Uh do you remember anyone that was with you at that point?

Tryon: So right after...so I shot my rounds I did a reload and I'm at the front of my car at this time. Um I don't know who it was but I knew he was wearing a tac vest so it was a K9 officer I have no idea who it was and he just asked me if I was good and I knew I had other officers to the right of me...

McKee: Uh huh.

Tryon: ...I just didn't know exactly who was there at that time. I figured Greenlees was there cause I had passed him at that light and I figured Bell was there cause we were kind a together the whole time.

McKee: Uh huh.

Tryon: Um even from pulling up initially to the first bus stop we were kind of in the same area together.

McKee: Right.

Tryon: Um so I...I...I knew that they were this way uh and the only person I felt that was close to me was the K9 officer.

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McKee: Okay. Um and I think you said you didn't hear any shots...this whole time did you hear anything?

Tryon: <Inaudible>

McKee: Okay.

Tryon: I mean clearly I heard the shots but I didn't necessarily his...hear his shot, it was the muzzle flash or the spark.

McKee: Right.

Tryon: I knew something...a shot was fired.

McKee: Okay.

Tryon: Um I didn't know...

McKee: Okay.

Tryon: I...I think my audio just kind of... And it really only kicked in once it kind a settled down and I heard him um...and then the K9 officer coming over to me.

McKee: Okay and then, at some point, yall...yall made the decision to um approach him and secure everything?

Tryon: Correct.

McKee: Um what happened then?

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Tryon: Um K9 asked me if I was good, kind a gave me a little once over just checked me.

McKee: Uh huh.

Tryon: Um and he was asking, alright, we gotta move on it...and he kind of initiated that and I just said okay cool I'm up...let's go move on it and when we approached K9 officer it was either his left boot or his right boot, he stepped on...the 94 which is still in the guy's hand...

McKee: Okay.

Tryon: ...and stepped on his hand and the 94 and kept his foot there on the 94 while he was taken into custody.

McKee: Okay.

Tryon: At that point I kind a just...covered him um...and once he was in handcuffs holstered my gun and I just...I walked away.

McKee: Okay...did...while you were around the suspect did you hear anything that was being said <Inaudible>...hear him say anything? Okay.

Tryon: When...when they first grabbed him he moved a little bit but that was the only thing I noticed.

McKee: Okay.

Tryon: That was the only thing.

McKee: Sarge?

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Winterhalter: Yeah hang on one one sec, let me... I think your follow up questions helped clear up a few things. Um one thing, going back to the initial sheet, did your vehicle...not have DMVR, is it not equipped with it or did... was it not on?

Tryon: It...it is equipped with DMVR um it's just the card was full and when I got it they were... I just got this take home car a month ago...

Winterhalter: Uh huh.

Tryon: ...um and it's...the card was full and I heard that they weren't doing anything once...once they fill up they're...they're done from what I was... <Inaudible>

Winterhalter: ...cause I thought we had collected the card last night and downloaded it so I thought it was equipped with it but I was just trying to figure out that piece, so...

Tryon: Yeah it doesn't turn or anything um...

Winterhalter: Okay.

Tryon: ...I mean no red light ever comes on since...since I've had it.

Winterhalter: Cause the card is full.

Tryon: Correct, yeah.

Winterhalter: Okay. Okay um...going back to when you um...so you get the description re...initially it's red shirt and then we hear a little further description that he's inbound on Tryon red...red hair and a...a different colored shirt and you...at which point you're coming up on

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him, uh you go past him a few feet and you, you then exit your vehicle, he's still walking in bound at this point?

Tryon: Correct.

Winterhalter: Okay and it sounded like you verbally challenged him like hey can I talk to you, something... voluntary in nature at first is that right?

Tryon: Eh...ye...yes and no.

Winterhalter: Like hey buddy like... let me...

Tryon: Let me see your hands.

Winterhalter: <Talkover - inaudible>... let me see your hands, let me talk to you.

Tryon: That's how initi... Let me see your hands...

Winterhalter: It was to initiate contact with him?

Tryon: Correct.

Winterhalter: And he's still, at that point, walking inbound or he's bladed towards you and turned around or what?

Tryon: He kind a bladed towards me...

Winterhalter: Okay.

Tryon: ...at that point. Once I said something he maybe took maybe... one, two more steps but it was a clear... I got his attention...

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Winterhalter: Uh huh.

Tryon: ...blades towards me and he's still doing that target glance, even when I passed him he did the... <Talkover - inaudible>

Winterhalter: Right.

Tryon: Um so yeah he was bladed from me... and as soon as...

Winterhalter: <Talkover - inaudible>

Tryon: Cause I was walking up towards him...

Winterhalter: Uh huh.

Tryon: ...and that's when he...

Winterhalter: And that's when he produces...

Tryon: Yeah so he blades, turns and... points and then squares off?

Winterhalter: Uh huh. And that's when you um... you've already unholstered because you... you get out and then challenge him with your weapon out is that right?

Tryon: No...no.

Winterhalter: When... you take it out, upon him turning...

Tryon: Turning? Yeah.

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Winterhalter: Okay. Um so once he...once he does that, like you said, you waited three to five seconds somewhere in that vicinity before you readily identify it's a weapon um and then you're giving him an opportunity to drop it with your verbal commands until you see the spark, is that what I'm <Talkover - inaudible>

Tryon: Correct.

Winterhalter: Um how many times do you think you fired in that initial volley? Um...do you know, have any idea?

Tryon: I'm guessing nine to ten times.

Winterhalter: Okay and then the cam...on the camera you see um a magazine reload?

Tryon: Correct.

Winterhalter: Is...did you...had your weapon gone dry at that point or was that a tactical reload?

Tryon: No my weapon had gone dry so total rounds that I fired were sixteen just because I know...I had fifteen in my magazine and one in the chamber. I know my gun ran dry I didn't fire anything after that. I...I did a reload, didn't fire anything after that.

Winterhalter: Okay.

Tryon: So...the second volley of fire was three to four rounds, couldn't tell you how many, it could be two to four rounds...

Winterhalter: Uh huh.

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Tryon: ...so the initial fire has gotta be...the...the most of the rounds  
<Talkover - inaudible>

Winterhalter: Right, okay. Um and after um...you mentioned that he, quote, took off back up North Tryon towards the Innt... Inntown, describe how...describe that action for me um cause when I hear take off I... I feel like he's taking off like running up the street um so explain that piece to me a little bit and then...and describe how he is moving outbound Tryon and his position to you.

Tryon: Okay, can...can I use a...a picture as reference?

McKee: You...and you can write on that.

Tryon: Alright so I was right... This looks totally different than what it is now but... So right here there's um like Conex boxes and whatnot... and then there's like a...there's a concrete thing that has just been posted there, it's in the construction yard.

Winterhalter: Yeah.

Tryon: And there's a telephone pole right here as well. What I initially thought is shots are fired, he was running to some kind of place of cover...

Winterhalter: Uh huh.

Tryon: ...to reengage us...he's already engaged, like I said. When he took off...I say took off running, when he started moving up North Tryon...

Winterhalter: Uh huh.

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Tryon: ... I couldn't tell ya exactly how he was moving, how fit... quick he was moving and what exactly he was doing, he was moving up North Tryon.

Winterhalter: Okay.

Tryon: Um and I saw he was going in the direction of where it would be really bad for me if he got to, um... not just me but the ... many other people that are out there.

Winterhalter: Uh huh.

Tryon: Um...

Smith: And all this is after he's already shot the first time correct?

Tryon: Correct.

Winterhalter: Right.

Tryon: Correct.

Winterhalter: And you've described a continuous...

Tryon: Yeah it was a continuous ...

Winterhalter: ...engagement as he's moved outbound on Tryon Street?

Tryon: Yeah it was a continuous engagement and it stopped and then it was more ver... verbal commands <Inaudible> verbal commands and then it was that...

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Winterhalter: Okay.

Tryon: ...second volley of fire.

Winterhalter: Um once he um...you see him go down on the berm...

Tryon: Uh huh.

Winterhalter: ...and he's still got the gun in his control and you described um...ya know, giving him verbal commands, clearly it was a break in the action, you challenge him...drop the gun, drop the gun and then you feel like he pops himself up and...to make another offensive move towards yall before reengaging. Um when you make an approach on him he's still got the gun in his hand and I thin we hear on the...on the um...you said that K9 stepped on it but then somehow he gets separated from it and treat...he's treated down on the sidewalk and the weapon...how does that se...sequence take place?

Tryon: So when we walk up...

Winterhalter: The handcuffing and separating him from the weapon.

Tryon: Um so when we walk up K9 officer puts his hand on...on the guy's hand. It's still...

Winterhalter: Uh huh.

Tryon: ...wrapped around the gun.

Smith: You mean foot right? <Talkover - inaudible>

Tryon: The K9 unit officer uses his foot on...

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Winterhalter: <Talkover - inaudible>

Tryon: ...on the suspects hand um which still was gripping a... a gun.

Winterhalter: Uh huh.

Tryon: He kept it there and it kind a slid off, his hand kind a slid off or if somebody pulled it off I couldn't see from my vantage point cause I was up towards the head area... and I was on the right side of the K9 officer. Somebody else came up towards my right I believe and they stood there where that firearm was...and there's two other officers that got down there and handcuffed him. I believe...I...I walked away but when I looked back they had rolled...put him on um the...the sidewalk right there on flat ground.

Winterhalter: Right.

Tryon: Um I don't know exactly who and what the transition of that was.

Winterhalter: So he steps on it to make sure there's no further ...he...he's unable to control it, his arm, while...and then as...as he's handcuffed he's separated from the weapon, is that fair to say?

Tryon: Correct, yeah.

McKee: Can...can I clarify something um earlier you...you kept referring to a 94...

Tryon: Yes mam.

McKee: Tell me what you mean by 94.

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Tryon: 94 is...is a firearm, it is a gun um...

McKee: Okay.

Tryon: ...can be, I guess, used as any kind of weapon and as a call or a code...

McKee: Okay.

Tryon: ...but in this specific instance it is a firearm.

McKee: Okay um... Were you done?

Winterhalter: Yeah go ahead.

McKee: Okay I'm just curious, aft...after he was secured and he was...he was brought down to the sidewalk to flat ground um were you there for any search of him for any further weapons or...anything?

Tryon: No.

McKee: Okay.

Winterhalter: What you got?

Smith: <Talkover - inaudible>

Winterhalter: Follow up?

Smith: No...think he's covered everything.

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McKee: Okay. Can you think of anything that we haven't talked about um ...that happened that you saw or heard or did...that you want to add to your statement?

Tryon: As far as my actions or what I saw or what I heard...I mean I watched the video I lived it last night, talked about it with my attorney uh... as far as my actions no. Now clearly people tell you all kinds of things but I haven't talked to anybody, haven't said anything...

McKee: Right.

Tryon: ...so as far as my actions and what I've heardm, there it is...

McKee: Okay.

Tryon: ...I told ya. Now if anything comes up I mean clearly this is all pretty new to me uh I'm sure I can tell you guys ...

McKee: Yeah, by all means, if you think of something later um...yall have my card and just call me, call Sergeant Winterhalter. Um...but if there's...if there's nothing else, at this moment, um I'm gonna conclude the interview ...

Tryon: Uh huh.

McKee: Okay? Time is gonna be ... 3:58.

NM/SW/JS/rge

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Reviewed by N. McKee #1106, 6/7/2016

THIS'LL BE A RECORDED INTERVIEW IN REFERENCE TO CASE NUMBER 20160602234800, IT'S AN OFFICER INVOLVED SHOOTING. UH IT'S GONNA BE RELATED TO AN...AN ADW CASE NUMBER 20160602221401. CONDUCTING THE INTERVIEW IS N. MCKEE CODE NUMBER 1106 AND SERGEANT WINTERHALTER. WE'RE GONNA BE SPEAKING WITH OFFICER MICHAEL BELL, HIS CODE NUMBERS 4431. HIS ATTORNEY IS PRESENT AH...IT'S GONNA BE GEORGE LAUGHRUN. TODAY'S DATE IS JUNE 3<sup>RD</sup> 2016; THE TIME IS 4:26 P.M.

**McKee:** Okay um Sergeant Winterhalter has kind a went over this... the dual investigation, the administrative investigation that IA does and then the criminal investigation that we're doing. Now you're down here today with your attorney to go ahead and give your statement uh voluntarily correct?

**Bell:** Correct.

**McKee:** Okay and I've told you we're gonna go over this sheet and then we're just gonna get down to the meat of what happened.

**Bell:** Okay.

**McKee:** Okay? Um what is your date a hire?

**Bell:** Uh September of 2009.

**McKee:** Do you have prior law enforcement or military experience?

**Bell:** No mam.

**McKee:** And you're assigned to University?

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Reviewed by N. McKee #1106, 6/7/2016

Bell: Yes mam.

McKee: What shift?

Bell: I'm a traffic officer so...I work two days on like a...the old fifth shift and then two days on the old fourth shift.

McKee: Okay so what were your hours last night?

Bell: That night I...I came in at uh 1700 and I was gonna be working til 03.

McKee: Okay. And what is your call sign?

Bell: Uh 14-6157-0.

McKee: And you operate off of University talk group?

Bell: Yes mam.

McKee: Who is your supervisor?

Bell: Uh my direct supervisor is Sergeant Rendon.

McKee: And what uniform were you wearing last night?

Bell: Uh class B...um the tactical.

McKee: Like BDU's.

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Bell: BDU's.

McKee: Okay um your height and weight?

Bell: Uh 6'1 and about 200 pounds.

McKee: Prior to your shift yesterday how many hours of sleep would you estimate you got?

Bell: I slept uh...from 11:30 until about 4 a.m...and then got up and went uh...worked a three hour off duty.

McKee: Okay so...

Bell: <Talkover - inaudible>

McKee: ... 11:30 to 3 a.m.?

Bell: So that'd be...three and a half hours...uh or <Inaudible>...excuse me four and a half hours cause it's til 4 a.m. and then uh after the off duty I came back and slept another two hours so it'd be six...six and a half...total if you add 'em together.

McKee: So there was a four and a half and then a...

Bell: Four and a half and then another two.

McKee: Okay so yes you had off duty and what...what were your off duty hours?

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Reviewed by N. McKee #1106, 6/7/2016

Bell: Uh from 6 a.m. to 9 a.m.

McKee: Okay what vehicle do you drive?

Bell: Uh vehicle number 244.

McKee: Is that marked?

Bell: It is.

McKee: Uh do you have your DMVR, was it on?

Bell: Yes mam.

McKee: You were the driver...

Bell: Yes mam.

McKee: ...you were... No passengers?

Bell: No mam.

McKee: Okay. And your duty weapon is gonna be the Smith & Wesson M and P?

Bell: Uh yes mam.

McKee: Um we've got that so we'll get your...your serial number. Um secondary or backup weapons?

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Reviewed by N. McKee #1106, 6/7/2016

Bell: No.

McKee: Um number of magazines that you normally carry?

Bell: Three, one in the gun and then two in uh my pouch.

McKee: Um your attorney is present. Uh did you take any notes last night?

Bell: No.

McKee: Alright, that does it for that. So now um I just wanna get into basically what you recall about last night and I'm...we're gonna let you tell your story and then we'll...we'll probably come back in with some questions...

Bell: Okay.

McKee: ...just to clarify some things and get a little bit more detail. Okay so just starting from when you started to respond to the call, what you heard...where you went, what you did.

Bell: I was uh ...I had actually just made a traffic stop and we were in the parking lot of...or the entrance to the parking lot for the Inntown Suites.

McKee: Okay.

Bell: Um I heard the call go out, went back to the driver gave her her license told her to slow down and left. I backed out. Um I had heard uh they said the...the...that it was at the bus stop in front of Walmart.

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McKee: Uh huh.

Bell: I assume that it was the one on the Walmart side of North Tryon.

McKee: Okay so the inbound side?

Bell: Correct.

McKee: Okay.

Bell: Uh so uh I backed out and uh as I'm...had to go up to...to that light uh I guess uh University Point.

McKee: Uh huh.

Bell: And make a left, as I did Try...uh Officer Tryon came through and stopped there at the uh bus stop. I pulled in behind him. Um he said it's not this bus stop, it might be the one on University Pointe.

McKee: Uh huh.

Bell: So I turned my siren back on, backed up into the intersection then we went down University Pointe which is going down the hill into uh, like you're going into the Walmart.

McKee: Right.

Bell: Uh and there's a bus stop over on your right. Um saw somebody sitting there uh so I pulled up, stopped...uh asked him if he had called

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Reviewed by N. McKee #1106, 6/7/2016

911, he said no. So I got on the radio, said it's not...the one on uh...uh University Point, I might a called it Shopping Center Drive cause the opposite direction of Shopping Center Drive. Um made a U-turn, went back out to uh...towards uh North Tryon.

McKee: Uh huh.

Bell: Um then uh the Fire Department was coming inbound on North Tryon and as they got to that intersection they cut through the intersection to hit the...the um bus stop on the other side of North Tryon cause they're across from each other.

McKee: Uh huh.

Bell: Um and there was a uh...uh ...a Charger, uh Police car that followed it in. Um so instead of going that way I was in the turn lane, had a car beside me in the straight lane. Officer Tryon and I both mad right turns, went out...or went inbound on North Tryon...

McKee: Uh huh.

Bell: ...all the way up to University City Boulevard. Um I turned my lights off, we got to uh Uni...uh the intersection, University City. I turned my lights on so we make it through the intersection, made a U-turn. Um he's still in front of me. Um I turned my lights off after we made that U-turn, we're headed outbound now on North Tryon.

McKee: Uh huh.

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Bell: Um and we're...there's a...I guess it's like a...dirt lot that...there's some construction equipment and um uh...as we got to that um Tryon's probably five or six car lengths, maybe more, in front of me.

McKee: Uh huh.

Bell: Um he slammed on his brakes suddenly, jumped out of the car and started point...he was pointing at the sidewalk and there's a...there's a bus, another bus stop right there.

McKee: Uh huh.

Bell: He's pointing uh there's one guy there um...uh black male wearing red. Um he's...he...he's pointing at him and he, I can see him yelling...and so I hit my spotlight on him um and I can see just...his...silhouette.

McKee: Uh huh.

Bell: Um but it's... he's pointing with his left hand, he's got a gun...I mean it was clearly...I mean it was a black handgun pointing it at Tryon.

McKee: Uh huh.

Bell: Um I jumped out a my car and I'm thinking <Inaudible>...Tryon's getting ready to shoot this guy um...or needs to. Um I...and in the background I could see the um...the Inntown Suites sign...

McKee: Uh huh.

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Bell: ...the big raised sign.

McKee: Uh huh.

Bell: Is shining so I've got that light and like I said I can't... can't really see details on... on uh the subject but it's lighting him up, it's backlighting him so I've got the silhouette of him. He... it looks like he's holding it with his left hand, he's yelling and as he's yelling he's doing this... <Inaudible> pointing... pointing the gun at Tryon.

McKee: Uh huh.

Bell: Um he never saw ...he didn't see me. Um I got out of my car I went to bout the front bumper of my car um drew my weapon and focused in on him. Um I took two or three breaths just to gather myself and... and steady my aim and I remember thinking, the whole time, Tryon if you don't shoot him you're gonna die. Um and as I'm getting out of the car I looked at Tryon, Tryon's pointing at him yelling at him show me your hands...

McKee: Uh huh.

Bell: Show me your hands, drop the gun and his hands on his gun and I just, ya know, like I said <Inaudible> going through my mind the whole time was you gotta shoot him, you gotta shoot him or you're gonna die and <Inaudible> trying... I mean it... it's... like I was yelling at Tryon but I'm not saying anything.

McKee: Right.

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Bell: Um...

McKee: At that point where were you?

Bell: I was at the front of my car.

McKee: Okay, go ahead.

Bell: Um and then um I fired one shot and it seems like after that it was pop, pop, pop, pop, pop and it see...ya know, I didn't see ...I...I didn't even see my own gun flash. Um but it...it seemed like all three of us were shooting. Um...I don't...I...I don't think the subject <Inaudible>...ever saw me at all. Um I don't think he pointed his weapon at me but I know he was pointing it at Tryon. Um I ...I fired um about three rounds and then started to advance to Tryon's position cause I realized that I'm standing in front of my car, I don't have any cover.

McKee: Uh huh.

Bell: Um so I advanced and as I advanced I...uh shot maybe three or four more shots. I think I...I think I shot six to eight in total, somewhere in there.

McKee: Okay.

Bell: Um...I took cover at Tryon's back wheel uh on the uh driver's side and Tryon is ducked at the uh...uh...front wheel on the driver's side.

McKee: Uh huh.

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Bell: And at this time the subject just fall... um uh but I... I heard him yell fuck CMPD um... I heard him yell like two or... <Inaudible>... I know I heard him say it at least twice.

McKee: Uh huh.

Bell: Um he was yelling other stuff too I'm not... I couldn't... get all but I ... I did hear that. Um then at... at that point while we were, ya know, <Inaudible>... yelling at each other, you know, are you okay <Inaudible>... making sure that ...

McKee: Right.

Bell: ...we're both okay. Um at that point I didn't know how many I had left in my mag. Um I dropped my mag right there at the uh... uh the rear wheel.

McKee: Uh huh.

Bell: Um put a new one in um and then uh there was a... I wanna say it's K9 officer um that ... that showed up. like right then and there was one other officer that I didn't recognize.

McKee: Okay.

Bell: Um that showed up immediately and, again, they made sure that we were okay, we weren't hurt.

McKee: Right.

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Bell: And then it was okay get in a stack, let's go and, ya know, cause he's still laying there he's still got the gun.

McKee: Uh huh.

Bell: Um we went in a stack and for whatever reason they...the three of them went to the front of the car, I went to the back instead of staying in the stack with them I went to the back and uh and covered them from the side and um two officers uh handcuffed him um and then uh at that...the next thing I remember is uh Drew Greenlees uh ...

McKee: Uh huh.

Bell: ...approached me and uh asked me if I was involved, I told him I was. Um he took me to his car which was...he had parked right behind Officer Tryon's car...

McKee: Uh huh.

Bell: ...so he parked in between me and...uh my car and Tryon's car. Um set me down on the front passenger seat um and we talked about whether or not...uh... when to turn my camera off um I ended up turning my camera off and giving it to him.

McKee: Okay.

Bell: Um and said uh ya know <Inaudible>...after that um.

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McKee: Okay. Um I've got a couple pictures <Inaudible>... overview of kind a where you were and...

Bell: Sure.

Laughrun: Is that any better? <Inaudible>

McKee: Okay.

Laughrun: <Inaudible>

McKee: <Inaudible>...big map. Can I keep this if I or he uses it?

Laughrun: <Inaudible>

McKee: Okay.

Laughrun: We marked it a little bit. <Inaudible>...marks we put on here earlier, he can kind a tell where those are.

McKee: Okay so this is the Walmart and here's the Inntown Suites...

Bell: It is.

McKee: So...

Bell: And this is that lot that I was saying that we were driving by.

McKee: Uh huh...uh huh.

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Bell: Um and this... I... I'm prob... I... I'm gonna mark it, I probably marked it just a little bit further up this way than it was cause <Inaudible>... his ... his car was actually a little bit closer down here to this grass area.

McKee: Uh huh.

Bell: Um and the suspect was... was in... was right in here where I've got it marked.

McKee: <Inaudible>... little bit closer. Um this being the Inntown Suites...

Bell: <Talkover - inaudible>

McKee: ...this is inbound.

Bell: Right.

McKee: Um and you... and you can mark on this one too <Talkover - inaudible>

Bell: Okay.

McKee: Um <Inaudible>... that'll show up. Um so after you... you made the initial drive through at Walmart and checked everything out...

Bell: Uh huh.

McKee: ...you... you went down to University and made...

Bell: I went down this way...

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McKee: You made the U-turn and came back up...

Bell: ...came back up...

McKee: ...and Officer Tryon was in front of you, correct?

Bell: That's correct.

McKee: Um approximately, I know this is just approximate...

Bell: Sure.

McKee: ...where...where would you say he was stopped in that?

Bell: He was closer to this...to this area in here.

McKee: Okay and you can...you can mark <Inaudible>

Bell: Okay.

McKee: ...you can just put an X or something just... <Inaudible>

Bell: And we were in this outside...or the...yeah the outside lane.

McKee: Okay and so he was here and you said you were about probably five or six car lengths behind him?

Bell: I was probably...back here.

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McKee: Okay. Um was anybody else with you at that point?

Bell: No and there was...there was...the only person that I saw was the...the subject on the sidewalk.

McKee: Do you recall um what the description was? Who...who you were looking for when yall were...?

Bell: I...I don't recall the...the...the description going across the radio.

McKee: Uh huh.

Bell: I know it did. Um I remember it going across but I don't remember what it was.

McKee: Okay.

Bell: Um...

McKee: And you remember the call that...that you were responding to?

Bell: Yes uh...it was uh...subject had been shot in the ankle and he was at a bus...he was currently at a bus stop.

McKee: Okay um and you heard that there was as suspect and...

Bell: That's correct.

McKee: ...did you know which...which way he had gone?

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Bell: No.

McKee: Okay.

Bell: No.

McKee: Alright so you see Tryon stop his car...

Bell: Correct.

McKee: ...you stop back here...

Bell: Uh huh.

McKee: ...and you...you already saw this person.

Bell: I saw this per...he...he slammed on is brakes...

McKee: Uh huh.

Bell: ...just as he's passing him...

McKee: Uh huh.

Bell: ...and so he stops passed and so the subject is back here.

McKee: Okay just go ahead and mark.

Winterhalter: Put a um...triangle for...or something we can decipher where he was....

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McKee: The suspect, just put a circle.

Bell: <Talkover - inaudible>

McKee: Yeah. Okay and again, this is approximate, so as you pull up you see Officer Tryon get out of his car and start to engage with somebody.

Bell: He's...he's pointing and...and yelling at the guy on the sidewalk.

McKee: Okay. And could you tell what the guy on the sidewalk was doing?

Bell: At...

McKee: Or saying?

Bell: ...at first he's walking, he's walking inbound.

McKee: Okay.

Bell: Um and then when Tryon stopped he stopped and Tryon jumped out of his car, points at him and that's when I ...I didn't see where the gun came from...

McKee: Uh huh.

Bell: ...but when I...I...I...I shined my uh spotlight, the one on the...the A-frame, shined that on him and it was...you know, he had it up here like this.

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McKee: Okay.

Bell: Um. Like I say, I didn't see him draw it but he... he had it, he's pointing it directly at him, yelling at him... like this.

McKee: Okay, how sure are you which hand it was in? Thinking... think back, alright he's walking towards you cause you're basically facing the direction he's facing you... um you see Tryon stop you see him stop... does he turn?

Bell: He turned and he's facing Tryon directly.

McKee: Okay.

Bell: So he's... he's facing away from me.

McKee: Okay.

Bell: Um... I'm ninety percent certain that it was his left hand.

McKee: Okay.

Bell: Um because the way... the way he was backlit...

McKee: Uh huh.

Bell: ...he's kind a at... I'm... I'm looking at... at an angle so I see him here, he's facing this way...

McKee: Uh huh.

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Bell: ...towards Tryon and I can clearly see his arm extended and a black handgun in his hand.

McKee: Okay.

Bell: Um like I said I didn't see him raise it but I clearly saw him...

McKee: Okay.

Bell: ...pointing it at him.

McKee: And you heard um... Officer Tryon tell him to drop it, drop it?

Bell: I...I don't know, he...he was...he was saying drop it or drop the gun um I... He was saying ya know let me see your hands um...

McKee: Okay and at that point you said that you felt like... the...the subject was gonna shoot Officer Tryon?

Bell: I knew he was.

McKee: Okay um is that when, as you were getting out of the car?

Bell: Yeah I...I knew...I...I...I mean I actually, I mean...I don't know if I hesitated, I mean everything was so slow that it felt like I was hesitating...

McKee: uh huh

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Bell: ...um but I remember still being in my car thinking Tryon had better shoot him or he's gonna get shot.

McKee: Okay so as you get out, you've already seen the gun...

Bell: Yes.

McKee: ...so you're already drawing your weapon?

Bell: I'm...I'm drawing on my...on my way out the car.

McKee: Okay.

Bell: Yes.

McKee: Um and then you actually saw Tryon, eventually, pull his gun?

Bell: I...I...I...I didn't.

McKee: Okay.

Bell: Um I, like I said, I heard more shots and I'm assuming that some of 'em were from...for...were from him. Um uh but I, ya know, once...once I got out and I had the susp...the uh...the uh subject in my sights I didn't...I...I didn't look back at Tryon.

McKee: Okay um and you said you fired...you fired at the subject that had the gun...

Bell: Yes.

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McKee: ...pointed at... at... Officer Tryon, had he shot... had he fired his gun at that point?

Bell: No... Nobody had...

McKee: Okay. So you fired, you think, once <Talkover - inaudible>

Bell: I fired... I fired once and then it was... it... it... To me, it almost seemed like it woke everybody up and just everybody started shooting at that point.

McKee: Okay do you ... know or could you guess how many times the... the suspect shot?

Bell: I... I... I didn't see his... you know I <Inaudible> ... he... he was still making the... the... the... the motion um so I'm assuming he was still shooting but I <Inaudible> as far as how many times <Talkover - inaudible>

McKee: Okay did you... did you see any muzzle flash?

Bell: I didn't evens see my own muzzle flash.

McKee: Okay. Um so at what point did you start moving from the front of your car to the back of Tryon's car?

Bell: After um... I fired maybe two or three shots...

McKee: Uh huh.

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Bell: ...there and then as I <Inaudible> as...as I went to Tryon's car I fired...that's when I fired the rest of my shots while I was...going that way.

McKee: Okay and I think you estimated eight or nine you think?

Bell: <Inaudible> six to eight total.

McKee: Okay. Um...

Bell: <Inaudible>

McKee: As you were going toward Tryon's car what was...the guy doing, what was the suspect doing?

Bell: He...at...at one point when...when I got to Tryon's car I did...I...I noticed that he was...he ended up like he...he turned and like...fell toward, you know, I mean he was still like holding his self up but he was on his hands and knees facing away from us...that he still had his...

McKee: Okay so...when you first engaged him, he was back here is that correct?

Bell: Uh huh.

McKee: So at what point did he move...

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Bell: When I got...as I...as I...went this way, he started falling back this way.

McKee: Okay.

Bell: And then as we...and then when we ducked over here, when we popped back up he had crawled further away.

McKee: Okay so...

Bell: So when ...

McKee: ...he...

Bell: ...when we were done here, I'm... I didn't mean to interrupt you...

McKee: No go ahead.

Bell: ...he was actually in front of Tryon's car and after we were <Inaudible>...after I reloaded and he popped up in the...in the stack, he was actually...he had actually moved to the...to the front <Talkover - inaudible>

McKee: So he was still moving <Talkover - inaudible>...yall were up there kind a checking each other and um and you could still see that he had a gun in his hand?

Bell: Yes. He still had the gun in his hands when...when we approached him on <Inaudible>...stack.

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McKee: Okay um so...when you got to Tryon's car it was you, Officer Tryon and who else was with you, do you know?

Bell: Uh it...initially it was just the two of us...

McKee: Uh huh.

Bell: ...and then I had time to drop my <Inaudible>...drop my mag, put a new one in and then it almost seemed immediately I...like I...I'm assuming it was K9, he's wearing a vest on the outside of his...

McKee: Uh huh.

Bell: ...uniform. Um...ya know hit...hit my shoulder and, ya know, hey are you okay?...ya know, um and then the same thing with Tryon...and then there was another officer there and I...I...I...I just...I don't know who that other officer was.

McKee: Okay, that's fine. Uh so...so at the point yall decided that you were gonna approach the suspect to secure him, uh tell me again from there...<Talkover - inaudible>

Bell: From there uh...the three of them I...I...I...I believe that the uh K9 officer led the stack...

McKee: Uh huh.

Bell: ...um and then the other officer and Officer Tryon and then they went around the front ...

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McKee: Uh huh.

Bell: ...of their car uh, of Tryon's car and I went around the back and kind a on the other side...

McKee: Okay.

Bell: ...like I...I...I covered him from the side as they approached.

McKee: Okay and you said you could see the gun still in his hand as yall approached him to...handcuff him?

Bell: Yes.

McKee: Okay um when you saw it in his hand then which hand was it?

Bell: I honestly don't recall.

McKee: Okay.

Bell: He was...he was...he was...he was laying on his back.

McKee: Okay.

Bell: Um...it...it would make sense that it was his right but I'm...I...I'm just guessing.

McKee: Okay, that's fine, and so you didn't actually handcuff him?

Bell: No.

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McKee: You covered. Um after he was handcuffed, he was handcuffed in the back...

Bell: Uh huh.

McKee: ...um, they moved him at some point to the sidewalk, is that correct?

Bell: <Inaudible>...I...I don't know. At that point uh...I had interaction with uh Drew Greenlees...

McKee: Okay.

Bell: ...and he took me to ...to his...to his car which he had parked right behind Officer Tryon and...I...I don't know at that point.

McKee: Okay so and you weren't there when they...they did the...the search of ...of the suspect after...

Bell: No...

McKee: Okay.

Winterhalter: Um just a few questions. <Inaudible> how would you describe the lighting conditions right in that area where you encountered him?

Bell: Dark.

Winterhalter: Dark?

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Bell: Very dark um...really the...I mean the...the light that I ...the light I was using to see the sub...the subject was both um...uh...my spotlight on the car and the light coming from the...the big Inntown Suites sign.

Winterhalter: uh huh

Bell: And that was, like I say, <Inaudible>...especially at my car it just backlit him...

Winterhalter: Right.

Bell: ...perfectly.

Winterhalter: How much time, from the time you pulled up and actually put your spotlight on him...you think had passed...

Bell: I...I mean I...it was...it was instantaneous <Talkover - inaudible>

Winterhalter: Okay so you pulled up, boom...

Bell: <Talkover - inaudible>

Winterhalter: <Talkover - inaudible>

Bell: I'm...I'm hitting the spotlight and...and putting it in park.

Winterhalter: And you identify while still in the car that he's...armed?

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Bell: He...what I noticed when I was still in the car before I...before I got out a the car I knew, ya know, he's pointing a gun at Officer Tryon and Officer Tryon had better shoot him or he's gonna die.

Winterhalter: Alright. Um once you move up to Officer Tryon's car, sounds like he's up towards the um driver's side mirror, engine block area.

Bell: He is.

Winterhalter: And you're towards the rear of the vehicle making a mag change.

Bell: Correct.

Winterhalter: Um can you see the suspect, at this point, on the ground from your position?

Bell: I couldn't um the uh Officer Tryon popped up...

Winterhalter: Uh huh.

Bell: ...and looked at him, he said he's still got it um and that and...and then, ya know, like I said then the other two officers show up and then it went from there.

Winterhalter: Did...did you, once that...one he was um...ya know, went down from the initial volley, did you reengage him, did you ever fire again once you're at the vehicle?

Bell: No...no, once I...once I got to uh Officer Tryon's car and made my mag change I didn't fire another shot.

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Winterhalter: Okay and did you...do you remember hearing gunshots?

Bell: I don't remember hearing anymore shots.

Winterhalter: Once he had been down and...any interaction between you and Tryon about...ya know, he's still got it and then...

Bell: No.

Winterhalter: Okay. Um...other than the Officer Tryon initially challenging him to drop...see his hands and drop the weapon, did you give him any verbal commands? I know you said that he...

Bell: I...I didn't.

Winterhalter: ...he didn't...

Bell: I didn't.

Winterhalter: ...you didn't think he even knew you were there.

Bell: He...he...he wasn't, he was completely focused on Officer Tryon...

Winterhalter: Uh huh.

Bell: ...and at that point, ya know, I...like I said, I moved to the front of my car and I was afraid that, ya know, hey if I say something and he turns and...ya know, I've...I've got less cover than Tryon's got.

Winterhalter: Okay.

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4. Location Of Offense <b>7700 N. Tryon St.</b>			5. Arrest Number	6. C.R. Number	
7. Original Report Date		8. Supplement Date		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 Bell</b>	

Reviewed by N. McKee #1106, 6/7/2016

Bell: Um so I...so that...I...I decided not to.

Winterhalter: And other than the defendant, sorry, the suspect saying um...fuck CMPD, did you hear him say anything ... other than that?

Bell: I heard him...I...I heard him yelling but that was the only thing I...I could make out.

Winterhalter: Okay.

McKee: <Inaudible>... George do you have anything?

Laughrun: <Inaudible>

McKee: Sure.

Laughrun: Mike I wanna ask you to look at this...

Bell: Sure.

Laughrun: ...picture here. You and I went out at the scene this afternoon right?

Bell: That's correct.

Laughrun: Um Detective McKee and Sergeant Winterhalter asked you about the lighting, can you just show us on the picture where you saw the lighting that night?

Bell: Sure...this...this light here ...

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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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Laughrun: Uh huh.

Bell: ...the...

Winterhalter: Uh huh.

Bell: ...the standing...

McKee: Uh huh.

Bell: ...Inntown Suite light and I mean it's so dark here that, I mean, the white light from it just... it lights up everything uh or backlights everything <Talkover - inaudible>

Laughrun: <Talkover - inaudible>

Bell: Yeah there is a billboard there too.

Laughrun: And that's taken from kind of your eye angle <Talkover - inaudible>

Bell: That's... that's... <Inaudible> ...that's very close to where I was.

Laughrun: We took it this afternoon.

Bell: That's correct.

Laughrun: Okay and on that picture <Inaudible>... this other picture too, it appears to be the same <Inaudible> ...that's about where your car was correct?

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Bell: That's correct.

Laughrun: I believe Detective Winterhorse... I mean Sergeant Winterhorse asked you about the number of shots, could you hear anything reflecting off the wall there?

Bell: Uh it... yes.

Laughrun: Okay...

Bell: Um...

Laughrun: ...what do you hear?

Bell: It... well it was just, I mean, the shots are just... it was... It was alm... it was almost like popcorn, it was like boom, boom, boom, boom, boom, boom... and it... sounded, ya know, some of it sounded like it was coming from behind us as the...

McKee: <Talkover - inaudible>

Bell: ...ya know, which... which it makes sense sense the... ya know, the... the concrete walls there um... but it... it... it made it hard to determine where the noise were coming from.

McKee: Right yeah I understand.

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Laughrun: And let me ask you <Inaudible>...when you got out a your car, if you could use Detective McKee's uh chart, could you just show on that picture where you first saw him, the suspect?

Bell: When I first saw him he was...very close to this uh...

Laughrun: Bus stop here?

Bell: ...this bus stop, there's a stool there but the...the bus stop sign, um I...I remember specifically that there was...they're using a section with uh...there was grass between the road and...

McKee: Uh huh.

Bell: ...and the sidewalk. I know it was not up here, he was...he...he was...he was up here, which Tryon's car was up here so he would've...so he was facing back that way...

McKee: right

Bell: ...when Tryon uh engaged him.

Laughrun: You would have been going kind a this way, is that about right?

Bell: That's correct, I was back this way so I was pointing this way towards him.

Laughrun: And one last question uh...Detective McKee asked you about firing once...do you think the first shot... If you need to keep this, that's fine.

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McKee: Okay yeah that's fine.

Laughrun: Uh...if...she said you fired once, do you think your first shot had any effect on the suspect?

Bell: I didn't...I...I didn't see any effect.

Laughrun: Okay.

Bell: I didn't...I didn't notice an effect after the first shot.

Laughrun: Okay. Thank you.

McKee: Okay what...what I did right here...

Bell: Uh huh.

McKee: ...I just put out here, I put a B for Bell... T for Tryon, S for suspect um and since we wrote on that map if I can get you to sign it for me.

Bell: Sure.

McKee: Um...and I can keep this one too?

Laughrun: <Inaudible>...keep this.

McKee: Yeah and with this one, I just want to verify we're gonna put...

Laughrun: <Inaudible>

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McKee: We're gonna put the suspect there. Yeah I'll just use this for a reference, okay.

Bell: Do you want me to sign this one too?

McKee: Yeah just since we used it in here that's... <Inaudible> Um can you think of anything else that we haven't talked about that you may have seen or... or did last night that um you wanna talk about now?

Bell: No um I think we've covered everything.

McKee: Okay and... and again if you... if you think of anything um...

Bell: <Talkover - inaudible>

McKee: ...contact us... ya know, we're not gonna think you're withholding information <Talkover - inaudible>

Bell: Right.

McKee: ...or whatnot, we realize that... ya know, things may not... be completely... back with you but... Um anyway if... if there's nothing else I'm gonna end the interview; times gonna be 4:57 p.m.

NM/SW/GL/rge

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