

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

THERESA LEWIS, Individually
And as administrator upon behalf
Of the Estate of Everett Lewis,
Deceased

Plaintiff

v.

Case No. 1:04 CV 301
Judge: Weber

ADAMS COUNTYT, et al.

Defendants

COUNTY OF CHAMPAIGN
STATE OF OHIO

PRELIMINARY EXPERT REPORT OF SAMUEL D. FAULKNER

I, Samuel D. Faulkner do depose and say the following:

I am a former Deputy Sheriff, commissioned with Portage County Sheriff's Office, in Ohio, a former City of Kent, Ohio Police Officer. I currently hold a commission with Mechanicsburg Police Department and work uniform patrol duties on almost a weekly basis. My full time employment is with the Ohio Peace Officer Training Academy, a section of the Ohio Attorney General's Office. My job title is a Law Enforcement Training Specialist, in what is probably the most active training academy in the nation.

My primary areas of instruction include:

- * Use of Force
- * Defensive Tactics Instructor Course
- * ASP Baton Instructor Course
- * Fitness Specialist Course
- * Peace Officer Survival Training
- * Police Officer Tactical Awareness and Response Course
- * Introduction to Fitness and Survival Course
- * Tactical Vehicle "S.T.O.P.S." Course
- * Defensive Driving
- * Weapon Retention / Shot Avoidance
- * Developing A Winning Attitude
- * Developing A Street Ready Mind
- * Communications Response Tactics
- * Becoming A Leader Your Officers Want To Follow



- * State Discipline Chairperson in Defensive Tactics for Basic Peace Officer Training, State of Ohio
- * State Discipline Chairperson in Physical Conditioning for Basic Peace Officer Training, State of Ohio

The following is a partial listing of the organizations or institutions I have instructed:

- * Ohio Department of Natural Resources
- * Ohio Bureau of Criminal Identification and Investigation
- * Ohio State Highway Patrol
- * Kentucky Office of the Governor Criminal Justice Training
- * West Virginia State Police
- * Montana Attorney General's Office
- * Montana State Police
- * Federal IRS Investigators
- * State of Ohio Department of Rehabilitation and Corrections
- * Ohio Military Police
- * USMC Military Police
- * US Navy Military Police
- * International Association of Firearms Instructors (IALEFI)
- * Georgia Association of Firearms Instructors (GALEFI)
- * Maryland State Police
- * Michigan State Police
- * Personnel from a majority of the Police Departments and Sheriff's Offices throughout Ohio

The following is a partial listing of my publications:

- * Ohio Police Magazine
- * The Defensive Tactics News Letter
- * The State of Ohio Basic Training Curriculum for Defensive Tactics
- * The Action - Response Continuum
- * Law and Order Magazine
- * National Sheriff's Magazine
- * Tactical Edge Magazine
- * Police Science
- * The Buckeye Badge
- * Training Aids Digest
- * FBI Law Enforcement Bulletin
- * FBI Journal
- * American Journal of Criminal Justice Sciences
- * Numerous programs on the Law Enforcement Television Network
- * *Reasonable Force Defined*, a book published through the Ohio Attorney General's Office
- * The BACKUP
- * POLICE.Com1
- * National CALEA publication

The following are additional facts, honors, or works that are offered for the Court's consideration:

- * Author of the Force Model adopted for Advanced Peace Officer Training, Basic Peace Officer Training, Corrections Training, Private Security Training, and Bailiff's Training for the 'State of Ohio
- * Author of the force model adopted by the State of Ohio Department of Rehabilitation and Corrections
- * Expert Witness for the Ohio Peace Officer Training Commission, and the State of Ohio Attorney General's Office
- * Presenter/Discussant for the 1992, 1993, and 1997 Annual Meeting of the Academy of Criminal Justice Sciences
- * 1997 Research project with the U.S. Justice Department, National Institute of Justice defining reasonable responses for law enforcement to resistance, assault and aggression
- * Consultant to National Institute of Justice on Force Issues
- * Consultant to Calibre Press, Street Survival on Use of Force and Control Tactics
- * 1998 Research project with Stephen T. Holmes, Ph.D., University of Central Florida Department of Criminal Justice and Legal Services and the Ohio Department of Youth Services defining reasonable responses to juvenile resistance/aggression
- * Presented the force model to the United States National Standards in Training Association 2001 annual meeting
- * Presented the force model to the 2001 National Association of Attorney Generals (NAAG)
- * Presented the force model to CALEA, the Commission on Accreditation for Law Enforcement Agencies National Conference in 2001
- * Presented the force model to IPAC, CALEA in for Midwestern states
- * Presented the force model to the National Major Gang Taskforce Annual Conference

I have been retained in over 250 police related cases, providing case analysis, development, and expert witness testimony. I have been qualified as an expert in State and Federal Courts, in Defensive Tactics/Subject Control, and Police Procedures.

In formulating my opinions I have reviewed the following documents and materials:

1. Prosecutor's Investigative Summary conducted by BCI, July 31, 2002, Case Agent S/A Robert Beedy, File No. SI-01-02-01-1017;
2. Ohio Bureau of Criminal Identification & Investigation Investigative Report, File No. SI-01-02-01-1017;
3. Radio Log 2, Starting 8:00 on 07/09/20, ending 23:54;
4. Radio Log 1, Starting 16:00 on 07/09/20, ending 23:49;
5. Adams County EMS Run Report on 7/9/02;
6. Adams County EMS Services Addendum Sheet, Squad #2, 7/9/02;
7. Ohio BCI&I Investigative Report, Letter of Request, 07/11/02;

8. Adams County Prosecuting Attorney, David Kelly's letter to BCI&I Superintendent, Ted Almay, Re: Special Investigations Unit Review of Shooting Incident;
9. BCI&I Request for Assistance Form;
10. BCI&I Investigative Report, 07-12-2, Case Opening;
11. Letter on 7/12/02 from SAS John Perry regarding review of investigation;
12. BCI&I Evidence Submission Sheet, Lab Number 02-12859;
13. BCI&I Laboratory Report on evidence bag containing clothing from Everett Lewis, #12;
14. BCI&I Laboratory Report on evidence items #2-10, & 12, with Firearms and cartridge locations;
15. BCI&I Laboratory Report on item #9;
16. BCI&I Case Status Report by John Beedy stating "no information or evidence was found that would indicate the officers violated any criminal statute as a result of their actions";
17. BCI&I Case Status Report stating, "the Grand Jury returned a No Bill. At the request of the Prosecutor, this case is closed";
18. Exhibit Serial/Assignment SI-01-02-01-1017;
19. BCI&I Subject Data Sheets;
20. BCI&I Preliminary Autopsy Report, 09-25-02;
21. Report from James H. Davis, M.D., Coroner, Montgomery County, Ohio, July 11, 2002;
22. BCI&I CCH Request;
23. Personal interviews with Deputy Demint, Deputy McCarthy; Deputy Cooley, and Deputy Sheeley at Adams Co. S.O. on 08/31/04;
24. Personal inspection of the scene of the shooting on 08/31/04.
25. Incident report of David Copher;
26. Adams County S.O. Standard Operating Procedure;
27. Adams County S.O. Incident Report;
28. Clermont County S.O. review of this incident;
29. Prosecutors Investigative Summary;
30. Coroner Report;
31. Don Adams Information;
32. Employment file for Shawn Cooley;
33. Employment file for Richard DeMint;
34. Employment file for Ben Mathias;
35. Employment file for Jeff McCarthy;
36. Employment file for Jonathan Sheeley;
37. Transcribed Deposition of Don Lewis, Sr.;
38. Transcribed Deposition of Don Lewis, Jr.;
39. Transcribed Deposition of Diane Lewis;
40. Transcribed Deposition of Larry Dehus, with exhibits;
41. Affidavit of W. Ken Katsaris, with exhibits;
42. Transcribed Deposition of David Copher;
43. Transcribed Deposition of Shawn Cooley;
44. Transcribed Deposition of Sheriff Kermit Howard;
45. Transcribed Deposition of Ray Pendell;

- 46. Transcribed Deposition of Jonathan Sheeley;
- 47. Transcribed Deposition of Jeffrey McCarthy;
- 48. Transcribed Deposition of Etta Sparks;
- 49. Transcribed Deposition of Richard DeMint, Feb. 10, 2005;
- 50. Transcribed Deposition of Richard DeMint, Feb. 11, 2005.

— BRIEF OVERVIEW OF EVENTS —

Teresa Lewis had moved out of the residence with Everett Lewis due to marital difficulties. On Sunday, July 7, 2002 Mr. Lewis got into a disagreement with his oldest daughter and told her to leave. Mr. Lewis then spoke with Teresa and told her that if she wanted the girls, she could take them. Mr. Lewis alleged that while he was at work, Mrs. Lewis returned to the residence and removed property, which angered Mr. Lewis. On Monday, July 8, 2002, Mr. Lewis went to the Adam's County Sheriff's Office to inquire if the Sheriff's Office could stop Mrs. Lewis from removing property from the residence. Deputies informed Mr. Lewis that it was a civil matter and there was nothing that the deputies could do at that time. Mr. Lewis was directed upstairs to the civil division to assist with his problem. It is unknown to the deputies if Mr. Lewis sought help from the civil division or not. Later that day Mr. Lewis called his parent's home and spoke with his mother. Mr. Lewis wanted to speak with his father but his father was not available. Mr. Lewis went to First Stop in Seaman where Mrs. Lewis worked. Mr. Lewis spoke with Donya Sorenson trying to find out if Mrs. Lewis was having an affair and if she was working as late as she had been telling Mr. Lewis.

On Tuesday, July 8, 2002, Mr. Lewis went to a friend's house, Mr. Copher and asked him to tell his employer that Mr. Lewis was not coming to work. Mr. Lewis told Mr. Copher that he had to go to the Sheriff's Office to get a restraining order against his wife. A short while later, Mr. Lewis went to Bolte's Grocery and Carryout in Belfast and purchased a bottle of diluted whiskey from the drive up window. Mr. Lewis then went to his parent's home to speak with his father but he was not there. Mr. Lewis then went to First Stop and spoke with Misty Moor the manager. Ms. Moor stated that she tried to tell Mr. Lewis that his wife was not having an affair. Mr. Lewis would not listen and told Ms. Moor that he had proof that Mrs. Lewis was going with Clark. Ms. Moor said that Mr. Lewis did not seem upset when he left the store, but another employee; Ms. Sorenson stated that Mr. Lewis was very angry and upset.

A little over one hour later Mr. Lewis returned to the Copher residence. Mr. Copher said that Mr. Lewis came up the driveway pretty fast. Mr. Lewis told Mr. Copher to call 911 because "he had just shot two mother fuckers and they were laying in the yard." Mr. Lewis then got back in his truck and left. Mr. Copher called 911 and relayed to them what Mr. Lewis had told him. A short time later dispatch called Mr. Copher to see if there was any additional information that Mr. Copher could offer. While they were on the phone Mr. Lewis returned to the Copher residence and stated that he had three hostages and not to come within 100 yards of the house. Mr. Copher stated that Mr. Lewis was really angry and agitated when he left.

Deputies Demint and McCarty were serving a search warrant about a thirty-minute drive from the Lewis residence. The deputies were dispatched on this call to back up

another deputy who was in a one-man car. Deputy Sheeley was the closest to the call and arrived first. He was told by Deputy McCarty to wait until other units could get there. Deputy Sheeley parked some distance away from the Lewis driveway and saw Mr. Lewis drive back to his residence. Deputy Sheeley relayed that information to other responding deputies. A short while later Deputies Demit, McCarty, Cooley, Mathias, Chief Deputy Bowman and Sheriff Howard all arrived. The plan was to stage at the end of the driveway and wait for the hostage negotiator, k-9 unit and SRT team to arrive. All of their special units had been called and were mobilizing. Also Emergency Medical Services had been called and requested to stand by.

Deputy Sheeley was sent to an adjoining property to observe the scene. The deputy climbed up onto a fence and with binoculars and observed the Lewis residence. Deputy Sheeley said that he could just see the top and part of the hood of Mr. Lewis's pickup truck. Before any of the specialty units could arrive, Deputy Sheeley saw Mr. Lewis get into his truck, spin three donuts in the yard and start down the driveway at a high rate of speed. Deputy Sheeley got on the radio and informed the deputies at the end of the driveway that Mr. Lewis was coming. Mr. Lewis crested the hill in the driveway and stopped more than one hundred yards from the deputies. The deputies could see that Mr. Lewis had a rifle over the door of the truck. Mr. Lewis got out of the truck, raised the rifle and pointed it in the direction of the deputies. The deputies ran for cover and yelled for Mr. Lewis to drop the gun. When asked why the deputies did not fire at that point they replied that it was too long of a shot for a handgun but the deputies knew that they were definitely at great risk from a rifle. The deputies further said that they had no idea what caliber the rifle was. Deputy Cooley stated that he thought Mr. Lewis was going to shoot Deputy McCarty who was standing in the open. Deputy Cooley was considering shooting at the door of Mr. Lewis's truck to distract the subject long enough for Deputy McCarty to get to cover. Mr. Lewis was yelling at the deputies but they could not hear what was being said. The deputies said that due to the confusion they could not remember exactly what they had said, other than "drop the gun, drop the gun" repeatedly. The deputies could not say how long Mr. Lewis was outside of his truck. They said it seemed like an eternity although it probably was only a couple of seconds. Mr. Lewis then got back into his truck with the rifle still pointing out of the window in the direction of the deputies and backed up the driveway at a high rate of speed.

As Mr. Lewis backed up the driveway, Deputies Demint and McCarty got into a cruiser and started after him. Deputies Cooley and Mathias got into another vehicle and followed also. Cooley tried to get Demint to let them around so Cooley could use the heavier push bumper on his vehicle to hit the Lewis truck and put it into a ditch before it could get to the house. There was so much dust coming from the vehicles moving up the driveway the deputies lost sight of the truck. They were afraid that they might drive right into an ambush. The next thing that the deputies could see clearly was the Lewis truck parked in front of the porch of the residence. Deputy Demint stopped his cruiser thirty yards or more from the residence and Deputy Cooley pulled his vehicle to the left of left of Deputy Demint's vehicle.

Mr. Lewis got out of his truck, held his rifle in the general direction of the deputies and began walking backward, or "crab" walking up the stairs, onto the porch and toward the door. The deputies repeatedly yelled and ordered Mr. Lewis to drop the

gun but he refused to comply with the deputy's commands. When Mr. Lewis got to the door, he looked backward momentarily to locate the doorknob and reached for it with his left hand. Mr. Lewis then refocused his attention toward the deputies, raised the rifle that was in his right hand to a one-hand point toward the deputies and extended his rifle away from his body. The deputies do not know for sure who fired first, or second but all deputies perceived the threat that Mr. Lewis presented as being life threatening. The processing of the crime scene after the fact revealed that a total of nineteen rounds were fired from four separate firearms. Although right handed, Deputy Demint was forced to fire using his left hand, shooting from the driver's seat of his cruiser. All of the deputies believed that if Mr. Lewis went back into the house he would kill the subjects the deputies believed were held hostage.

After the initial shots were fired, Mr. Lewis dropped to his knees still, holding the rifle. One deputy went onto the porch, grabbed Mr. Lewis by the shirt collar and pulled him on to the porch. Two deputies opened the door and immediately went into the house to check on the condition of the hostages. Two deputies remained on the porch, one to cover Mr. Lewis and one to begin treatment. As soon as the scene was secure, emergency medical services, which had been standing by were summoned. After a search of the premises, no hostages or bodies were discovered. The scene was set up as a crime scene and processed accordingly. Sheriff Howard called BCI&I and requested agents to investigate the situation. The prosecutors Office, BCI&I and Claremont County Sheriff's Office all did independent investigations of the shooting. After a thorough investigation BCI&I concluded, "No information or evidence was found that would indicate the officers violated any criminal statute as a result of their actions." The Prosecutor's Office determined that not only were there no criminal violations, there were also no violations of Adams County Policies or Procedures. The facts and results of the investigation "were presented to a Special Grand Jury and after carefully considering the evidence, the Grand Jury returned a No Bill."

— STATEMENT OF OPINIONS —

1. The Adams County Deputies had a duty to respond as they did to a call for service.
2. The tactics employed by the Adams County Deputies were reasonable and in compliance with training guidelines.
3. Mr. Lewis forced the confrontation between himself and the deputies.
4. The Adams County Deputies used reasonable responses in relation to the life-threatening actions of Mr. Lewis.
5. The Adams County Deputies de-escalated appropriately once the life-threatening situation was over.
6. The Deputies acted in compliance with national training guidelines by removing the rifle from the reach of Mr. Lewis and rendering the scene of the shooting safe.
7. Attempting to determine an officer's shooting location from the final resting position of spent shell casings is junk science and has been proven to be completely unreliable.

8. The threat that a subject presented causing an officer to fire cannot be determined by the location of a subject's subsequent wound with any degree of accuracy.
9. The actions of Mr. Lewis demonstrate numerous factors associated with "Police Assisted Suicide."
10. It was the life threatening actions of Mr. Lewis that initiated, escalated and dictated the scope of events in this citizen/law enforcement contact.

— BASIS FOR OPINIONS —

1. The deputies of the Adams County Sheriff's Office have taken an oath to uphold the laws of Adams County and of the State of Ohio. A call alleging that people have been killed and others are being held hostage is certainly a high-risk call for any law enforcement officer. Especially for the first officer who arrives as Deputy Sheeley did. Other deputies had to leave the scene of a search warrant that they were executing and travel over thirty miles at high speeds to back up a fellow deputy. Some of the deputies had left some equipment, including a ballistic vest at the scene of the search warrant in their haste to support another deputy. The job of a law enforcement officer is to protect and serve. It is my opinion that the Adams County Deputies exercised their duty correctly by responding as they did to this high-risk call for service.

2. Any time a law enforcement officer receives a dispatch reporting that shots have been fired and subjects have been injured or killed, it is always preferable to have a multi-officer response. Deputy Sheeley arrived first on scene but he was directed to wait and observe until other units could arrive. Even when other deputies, including the Chief Deputy and the Sheriff himself, they did not rush into this situation. A call was made for the SRT Team, a hostage negotiator and a k-9 unit. When a department has specially trained personnel, it is always a good idea that whenever possible they utilize the talents of these individuals. The plan that was communicated at the scene was to establish a staging area and wait for the special units to arrive. One deputy was sent to a safe area to establish an observation post. The dispatch that was communicated to the deputies was that there were two subjects that had been killed on the property and three hostages inside of the house. The deputies were instructed not to come within one hundred yards of the residence. The deputies wisely complied with that stipulation so as not to initiate a confrontation and place any hostages at greater risk. It is my opinion that the Adams County Deputies responded reasonably and in compliance with training guidelines concerning high-risk, hostage situations.

3. Mr. Lewis purposefully forced a confrontation with the Adams County Sheriff Department. Mr. Lewis told Mr. Copher to make a 911 call stating that Mr. Lewis had shot two "mother-fuckers" and they were lying in the yard. Mr. Lewis knew that the Sheriff's Office would have to respond and send deputies. Mr. Lewis then got tired of waiting, went back to Mr. Copher's house and had him inform 911 that there were three hostages being held in the Lewis residence. Back at his home, Mr. Lewis again

became impatient and sped down his driveway to force a confrontation with the deputies. Mr. Lewis drove toward the deputies pointing a rifle at them from the window of his truck. Then Mr. Lewis stopped, got out of his truck and again pointed his rifle at the deputies. Instead of firing, the deputies moved to cover and issued loud repeated verbal commands for Mr. Lewis to drop the gun.

Not being successful in instigating a confrontation, Mr. Lewis got back into his truck and backed up at a high rate of speed toward his house. Mr. Lewis had planned the information given to the 911 dispatcher well. His initial statement that there were subjects lying in the yard might not have drawn in the deputies. Mr. Lewis's second statement that there were hostages in the residence was assured to prompt the deputies to move in to attempt to keep Mr. Lewis from returning into the house to kill the hostages. Mr. Lewis tried to initiate a confrontation near the end of the driveway by pointing a rifle at the deputies. Mr. Lewis again attempted to initiate a confrontation at the residence by pointing his rifle in the direction of the deputies. Again failing to draw the deputy's fire, Mr. Lewis raised his rifle and pointed at the deputies while trying to enter the house. It was that combinations of threats that finally prompted the deputies to fire. The deputies stated their reason for firing was primarily in an attempt to keep Mr. Lewis from killing any hostages and secondarily to protect themselves and their fellow deputies. It is my opinion that Mr. Lewis forced this confrontation between himself and the Adams County Deputies and Mr. Lewis was not going to stop until he forced the deputies into firing.

4. Millions of federal research dollars have been spent over the past few years to better understand how police use and implement force. This cost outlay actually has produced little useful information to explain the dynamics of police and citizen confrontations. One reason for this failure is that the number of encounters in which law enforcement officers use force is rare. It is believed that force is used in fewer than 3 percent of all police-citizen encounters (Friedrich, 1997; Fife, 1995; Garner, 1995; Klockers, 1995; Reiss, 1967, Worden, 1995). The *Police-Public Contact Survey*, of 1996 found that out of the estimated 45 million face-to-face contacts between police and the public, only 1 percent of those contacts resulted in force being threatened or used by the police (Greenfield, Langan, and Smith, 1997).

The standard that all law enforcement officers must follow in the use of any type of force against a citizen is derived from the Supreme Court case *Graham v. Connor*, 490 U.S. 386, 104 L.Ed 2d 443, 190 S.Ct. 1865 (1989). As the Supreme Court stated, "all claims that law enforcement officers have used excessive force - deadly or not- in the course of an arrest, investigatory stop, or other 'seizure' of a free citizen should be analyzed under the Fourth Amendment and its 'reasonableness' approach." The "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. The calculus of reasonableness must embody an 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. For the past fifteen years, I have conducted a series of national research projects to determine what law enforcement officers, as well as civilians and corrections officers, consider to be reasonable responses to the types of resistance, aggression and assaults officers must face. I

have conducted another similar study with the U.S. Justice Department, National Institute of Justice on this topic. Most recently I have completed a research project involving the Ohio Department of Youth services in which we surveyed juvenile correction officers, juvenile probation and parole officers, law enforcement officers, and juvenile judges in order to ascertain what they felt were reasonable responses to resistance, aggression and assault by juvenile offenders. The end result of these research projects is the Action - Response Use of Force Continuum, a copy of which is included with this report. This continuum has become the recommended model for Basic Peace Officer Training, Advanced Peace Officer Training, Corrections Training, Private Security Training, and Bailiffs Training for the State of Ohio. Numerous Police departments and Sheriff's Offices throughout the United States also use it. The Ohio Attorney General's Office has published my research in a book titled, *USE OF FORCE, DECISION MAKING AND LEGAL PRECEDENCE*. The book has been distributed throughout Ohio, as well as the rest of the nation. I will use the Action - Response Use of Force Continuum to analyze the actions of Mr. Lewis and the responses of the Adams County Deputies.

This situation is quite unusual because it starts out in the RED area of the continuum and remains there throughout. As soon as Mr. Lewis drove toward the deputies with a rifle out of the window of his truck, it was a deadly force encounter. It continued to be a deadly force situation from there until the point where Mr. Lewis had been shot, fell to his knees and a deputy could pull Mr. Lewis to his back and secure the rifle. Only at that point did this deadly force encounter de-escalate. Not only was a firearm response by the deputies reasonable but also it was the only logical and practical option that the deputies had at their disposal. The Action - Response Continuum database shows that 99.98% of law enforcement officers surveyed and 99.59% of non-law enforcement individuals surveyed said it was reasonable and not excessive for any officer to employ a firearms response to the type of threat that Mr. Lewis presented. It is my opinion that the Adams County Deputies were reasonable in using a firearm in response to the life threatening actions demonstrated by Mr. Lewis.

The bright-line case that all law enforcement firearms policy and training is derived from is Tennessee v. Garner, 471 U.S. 1, 105 S.Ct. 1694, 85 L.Ed. 2d (1985). It is historically significant for abolishing the fleeing felon rule, but also offers guidelines on when it is reasonable for a law enforcement officer to reasonably use a firearms response. The language of the guideline regarding when an officer should not shoot is as follows: "It is not constitutionally reasonable to prevent escape of an unarmed fleeing felon who poses no danger to others. The words or phrases in the previous sentence are the qualifiers that the Court enumerated. This situation had nothing to do with escape, being unarmed, dealing with a fleeing felon, or posing no danger. There are no factors in this situation that would not authorize a law enforcement officer to shoot. The case offers the following guidelines on when it would be appropriate for a law enforcement officer to shoot.

- The suspect poses a threat of serious physical harm to the officer or others.
- The suspect threatens the officer with a weapon, and
- Where feasible, some warning should be given.

From the deputy's statements there is no question that Mr. Lewis posed the threat of serious physical harm to the deputies and the hostages the deputies believed to be

in the residence. The statements and the evidence show that Mr. Lewis did repeatedly and continually threaten the deputies with a rifle. Furthermore, the deputies did yell continual warnings telling Mr. Lewis to, "Drop the gun." The Adams County Deputies were in compliance with all of the guidelines offered by the Supreme Court, with the training they had been given and with their departmental policy. It is my opinion that the Adams County Deputies were in compliance with their training and the legal guidelines relating to a firearms response.

The case of *Martinez v. County of Los Angeles*, 47 Cal. App. 4th 334 (1996), illuminates the factors to be considered by the court in an easily understood manner. "An officer is reasonable in using deadly force when he/she, (1) confronts an armed subject, (2) in close proximity, (3) whose actions indicate an intent to attack. In these circumstances the courts cannot ask an officer to hold fire in order to ascertain whether the subject will, in fact, injure or murder the officer." This wording has already become a part of many law enforcement agencies departmental policies and it is certainly applicable in this situation. The Adams County Deputies were definitely confronting a subject armed with a deadly weapon. Mr. Lewis was in close proximity to the officers and the deputies believed to hostages. Finally, Mr. Lewis raising his rifle and extending it toward the deputies most definitely indicated intent to attack. We will never know what was actually in Mr. Lewis's mind at the time he forced the deputies to shoot. We cannot however, ask the deputies to hold fire; placing themselves and the hostages they believed to be inside of the residence at risk of death.

After Mr. Lewis had forced the deputies to shoot him, a search of the property revealed that there were no bodies, there were no hostages discovered in the residence and the rifle that Mr. Lewis brandished was not loaded. The fact is that it would have impossible for the Adams County Deputies to have known any of this information at the time of the shooting. It would not be reasonable to expect deputies to know what it was impossible for them to know. We are instructed by the courts to put ourselves in the footprints of the officers and base our decisions only on what the officer could have known at the time of the incident.

Saucier v. Katz, 533 U.S. 199(1999), is the leading recent proclamation by the Court. This case restated the wording in the *Graham* decision that an officer must act "reasonably." Katz states, "The relevant dispositive inquiry in determining whether a right is clearly established is whether it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted." It goes on to say that objective reasonableness is based on the information the officers had when the conduct occurred, and that qualified immunity can apply in the event the mistaken belief was reasonable. One of the factors of objective reasonableness to consider in *Graham* is the apparent threat. The deputies saw the rifle in Mr. Lewis's hand and were cognizant of the threat that was presented. From Mr. Lewis's own statements and the information that was dispatched any reasonable officer would have believed that Mr. Lewis represented a lethal threat to the deputies as well as the hostages that Mr. Lewis stated he held. It is my opinion that the Adams County Deputies responses were reasonable in relation to the life threatening actions of Mr. Lewis.

5. Once Mr. Lewis lowered the rifle that he was pointing at the deputies, they ceased firing. Mr. Lewis went to his knees but was still holding his weapon. The deputies moved forward and one deputy pulled Mr. Lewis onto his back and took the rifle. Mr. Lewis was covered while the house was checked for bodies and/or hostages. Emergency medical services that had been standing by were summoned as soon as the scene was stabilized. It is my opinion that the Adams County Deputies de-escalated appropriately once the deadly force threat that Mr. Lewis presented was brought under control.

6. Plaintiff's expert, David Dehus is critical of the deputies removing the rifle from Mr. Lewis after he had been shot. I do agree that removing the rifle makes it impossible to determine the exact position of the rifle when Mr. Lewis fell but that has nothing to do with the reasonableness of the deputy's response to a life threatening situation. National training guidelines state that officers should remove the deadly threat from an individual and to secure the scene. The deputies had no way of knowing if the threat that Mr. Lewis presented was over or if he was only temporarily incapacitated and could again resume his threatening actions. Officers are also trained to secure weapons at a scene because it is unknown if there are any other individuals in the area who could pick up the weapon and create another situation. Additionally weapons need to be secured so it is safe when paramedics arrive to help the wounded individual. It is my opinion that the Adams County Deputies acted in compliance with national training guidelines by securing the weapon that Mr. Lewis had attempted to use against them.

7. Plaintiff's expert Dehus is also critical of Adams County for not marking the exact locations of the fired cartridge casings. The movement of the deputies, the arrival of the emergency vehicle and the movement of the paramedics all contaminated the shooting scene, potentially moving the resting place of any spent casings. There has been significant new research done on the total unreliability of using the resting place of spent casings to determine the position of the officer at the time of the shooting. An article from the Force Science Research Center, June 15, 2005, is included in the exhibits of this paper. It states that findings are now firm, ejected shell casings can't reliably tell much about a shooter's location.

Forty-eight Los Angeles County Deputies fired a total of 7,920 rounds over a period of two weeks in a closely monitored study. With the same gun, held by the same shooter in identical shooting positions it was discovered that shell casings fell as far as ten feet apart. That was found with the same grip and the same ammunition. When shooters manipulated their firearms as they would in a real world situation, it was found that, "the placement of ejected shell casings changed across the broad range - from 12 feet to a shooter's right rear to 12 feet to his left front, a total span of 24 feet." Later in the article Tom Aveni, an internationally known firearms authority stated that challenging an officer's decision-making in a deadly force confrontation on the basis of ejected shell casings is, "bad science and misplaced faith." It is my opinion that the location of the shell casings had absolutely no bearing as to the reasonableness of the Adams County Deputies response to a life threatening threat.

8. Both Plaintiffs' experts Dehus and Katsaris opine that the wounds sustained by Mr. Lewis were not consistent with the threat the deputies documented. Here again, modern research has totally disproved that wound placement can determine the threat that officers were encountering. Mr. Lewis was moving and the deputies were moving in a tense, rapidly evolving situation. Mr. Lewis was entering a residence that the deputies believed held hostages. Mr. Lewis had stated that he had already killed some individuals and that he would also kill the hostages. On top of all of this, Mr. Lewis raised the rifle that he was holding in the direction of the deputies. Responding to all of these threats, the deputies fired. Mr. Lewis was shot once in the side, slightly anterior and once in the buttocks.

Mr. Lewis was moving and once gunfire erupted, anyone would have a natural flinch response. Two articles, *Reaction Times In Lethal Force Encounters*, and *How Did I Shoot Him In The Back*, are included with the exhibits of this paper. The first article demonstrates the normal human reaction time between perception of a threat and response. A human being is not a machine that can initiate an instant response. There is a definite, measurable lag time between perception of a threat and reaction to it. There is similarly a normal human lag time between the cessation of a threat and an officer's ability to stop his/her response to that threat. The second article shows that even under ideal conditions, it takes an officer with finger on the trigger .365 of a second to fire. It has also been proven that a subject can turn 90 degrees in .310 of a second. The deputies were not facing a static threat, moving slowly in a frame-by-frame progression. The situation was fluid, instantaneous, emotionally charged and rapidly evolving. It is my opinion that it is impossible to accurately establish the position of Mr. Lewis, or the threat that he was demonstrating to the officers from the location of the wounds that he received.

9. It is my opinion that the actions of Mr. Lewis demonstrate numerous factors associated with "Police Assisted Suicide." According to recent studies, police-assisted suicide or "suicide by cop" occurs in 10-15% of officer involved shootings. Studies by Dr. Karl Harris, former Deputy Medical Examiner of Los Angeles County, Richard Brian Parent of Simon Fraser University and Dr. H. Range Huston of Harvard University School of Medicine show similar results. Dr. Vivian Lord of the University of North Carolina - Charlotte conducted a study of 54 cases in which people attempted "suicide by cop" in North Carolina between 1992 and 1997. Her findings, as in the other studies, reveal numerous factors in common with this incident:

- 94% were male
- 63% were armed with guns
- More than 50% were under the influence of alcohol
- 45% were experiencing family problems or at the end of a relationship
- Almost 40% talked about homicide and suicide with officers involved
- In 46% of the cases, the incident began as a domestic argument
- Two-thirds appeared unplanned

One plausible explanation of why this occurs is simply one of convenience. Most suicidal people know that officers: (1) are only a phone call away; (2) they possess guns; (3) they are capable of using their guns, and (4) if forced to shoot, officers are trained to shoot to center mass until the threat ceases. Sgt. Perrou, commander of LASD's hostage negotiation unit, who has dealt personally with many of these

scenarios, cites numerous potential indicators, the more of which are present, the greater the chance there is of suicide by cop. Of the indicators listed by Perrou, the following are similar to these circumstances:

- Has the subject been drinking today?
- Has he been violent today or yesterday?
- Does he have guns or knives on them now?
- Has he pointed a weapon at anyone today?
- Has he made a threat to kill the police or be killed by the police?
- Are there any family problems that he is feeling sad about?
- Has he been screaming or yelling with extended rage during this situation?
- The subject in a barricaded situation and refuses to negotiate.
- Has he recently experienced one or more traumatic events in his life that affect him, his family or his career.
- He presents no demands that include his escape or freedom.
- He appears to be looking for a manly or macho way to die.
- He indicated he wants to go out in a "big way."
- He expresses feelings of hopelessness and helplessness.
- He demands to be killed by officers, and
- He sets a deadline for authorities to kill him.

It is my belief that a great number of indicators were either expressly or implicitly given by Mr. Lewis that go far beyond mere coincidence.

10. For whatever reason, due to personal problems in his own life Mr. Lewis was set on forcing a confrontation with the Adams County Sheriff's Office. He had a friend make a 911 call regarding bodies lying in the yard knowing that deputies would be forced to respond. Mr. Lewis then went home and waited. He became impatient, went to the same neighbor and gave additional information regarding hostages to speed the deputies' response and heighten the gravity of the situation. When the deputies did not charge up to the residence, Mr. Lewis, impatient again, got into his truck and forced contact demonstrating actions that could reasonably cause a deputy to fire. Not being successful in forcing the deputies to fire, Mr. Lewis got back in his truck and backed toward the residence at a high rate of speed. Since Mr. Lewis had stated that he had hostages, he knew that the deputies would not want to allow Mr. Lewis to return to the residence. At the residence, Mr. Lewis continued to demonstrate life-threatening actions in an attempt to draw fire from the deputies. The combination of raising the rifle, aiming at the deputies and retreating into the house elicited the response Mr. Lewis was seeking. This situation was planned and choreographed by Mr. Lewis. It is my opinion that it was the life threatening actions of Mr. Lewis that initiated, escalated and dictated the scope of events in this citizen/law enforcement contact.

It is my understanding that additional information may be ordered and produced in this case. Therefore I respectfully request that this be considered a preliminary account of my opinions based on the materials that I have reviewed. If any additional

information is provided that materially alters any of the above opinions I will either make a written supplement to this paper, or make myself available to respond to the newly produced information during any scheduled deposition.

My fees for working on this case are a \$2,000.00 retainer to be used against the first ten hours of case work, \$200.00 per hour for all time spent past the initial ten hours, plus \$.36 per mile travel expense, and any actual lodging, food or other travel expenses. There is a deposition fee to the Plaintiff of \$1,000.00 based on a four-hour allotment of my time, plus the same travel fee schedule that is listed above.

Exhibits and demonstrative materials

1. Personal resume;
2. Listing of the cases in which I have consulted or testified within the last four years;
3. Action - Response Continuum;
4. *Force Science News, Transmission #21*, Force Science Research Center, Wednesday, June 15, 2005;
5. *How Did I Shoot Him In The Back*, The Law Enforcement Trainer, November/December, 1998;
6. *Reaction Time In Lethal Force Encounters, Time to START Shooting? Time to STOP Shooting, The Tempe Study*, by Dr. Bill Lewinski and Bill Hudson, The Police Marksman, September/October, 2003;
7. Street Survival Newslane No. 217, *Protecting Yourself In "Suicide-By-Cop Encounters"*;
8. The Police Policy Studies Council, *Suicide by Cop - The Ultimate "Trap"* (Article published in the July/August, 2001 issue of the FBI National Academy Associates Magazine, Volume 3, No. 4);
9. Law and Order magazine, June 1999, *Suicide By Cop Revisited*.


Samuel D. Faulkner
December 7, 2005

PERSONAL RESUME

Samuel D. Faulkner
8865 Davisson Road
Mechanicsburg, OH 43044
W – 740-845-2714
H - 937-834-7002

Employer: Ohio Peace Officer Training Academy
P.O. Box 309
London, OH 43140

Education:

Ridgewood High School, New Jersey, June 1967
Hiram College, Hiram, OH; Bachelor of Arts in Education, June 1971;
Major: Health, Physical Education and Biology;
Phi Beta Kappa Educational Honor Fraternity;
Taught Martial Arts and Self-Defense for the P.E. Department
Kent State University, Kent, OH;
Masters Degree in Physical Education, Exercise Physiology area of Concentration,
August, 1997;
Instituted and Instructed Martial Arts and Self-Defense Programs;
Led KSU Noon Exercise Program for local businessman and professors, which was part
of a 20-year fitness study initiated by Dr. Larry Golding;
Conducted fitness testing for KSU Athletic Department for cardiovascular fitness,
strength, flexibility, and body composition
Also taught at Hiram College and Ursuline College
Wright State University, Post-masters work and study in the Department of Adult
Education, 1991 -
Northwestern University, Center for Public Safety/Traffic Institute, College of Staff and
Command

Law Enforcement Teaching Experience

State Discipline Chairperson in Defensive Tactics for Basic Peace Officer Training, State
of Ohio;

State Discipline Chairperson in Physical Conditioning for Basic Peace Officer Training,
State of Ohio;

Ohio Peace Officer Training Academy, Commander for Basic Peace Officer Training;

FitForce Instructor/Trainer

Areas of Instruction

Defensive Tactics Instructor Course;
Baton Instructor Course;
ASP Expandable Instructor Course;
Fitness Specialist Course;
Fitness Assessment and Programming Course;
Response to Resistance Liability Reduction Course;
Peace Officer Survival Training;
Police Officer Tactical Awareness and Response Course;
Defensive Tactics for Female Officers;
Defensive Driving;
Communications Response Tactics;
Developing a Winning Attitude;
Developing a Street Ready Mind and Survival Fitness Training;
Becoming A Leader Your Officers Want To Follow;
Aerosol Agent Instructor Course;
How To Conduct A Female Self-Protection Clinic;
Weapon Retention/Shot Avoidance;
Deadly Force n Force Scenario Training;
Tactical Restraint Instructor Course

Prior Teaching Experience

Ohio Department of Natural Resources;
Bureau of Criminal Identification and Investigation;
Ohio State Capital Guards;
Ohio State Highway patrol;
Lexington, Kentucky SWAT Team and Riot Squad;
Lexington, Kentucky Street Officers;
Miami Valley Joint Force SWAT Team;
Oho Women in Policing Seminar;
Miami Valley Correction Officers;
City Center Security Guards, Columbus, Ohio;
W.O.R.T.H. Correctional Facility , Lima, Ohio;
Holzer Medical Center;
Guest Lecturer in Use of Force for the Kentucky Office of the Governor Criminal Justice Training;
Train the Trainers Course for the State of West Virginia in Defensive Tactics;
Train the Trainers Course for the Commonwealth of Kentucky;
Consultant to State of Ohio Department of Rehabilitation and Corrections on Response to Resistance;
Ohio Military Reserve
Montana Attorney General's Office;
Montana State Police;
West Virginia State Police;

Michigan State Police;
Virginia State Police;
International Association of Law Enforcement Firearms Instructors;
The majority of law enforcement agencies throughout the State of Ohio
Adjunct Professor – Clark State University;
Instructor at:
Muskingum Technical School;
Montgomery County Joint Vocational School;
Akron University;
Kent State University;
Sinclair Community College;
University of Rio Grande;
University of Illinois at Chicago

Educational Work Related Experience

320 Hour Academy Police Basic Training;
Certified Police Academy Instructor, State of Ohio;
Active Countermeasures Instructor;
Pressure Point Control Tactics Instructor;
Baton Instructor;
Defensive Tactics Instructor/Trainer
Instructor/Trainer in Defensive Tactics for PPCT Management Systems;
Physical Crisis Intervention;
Officer Tactics and Advanced Field Tactics;
PR-24 and Kubaton Instructor;
State Certified Semi-Automatic Firearms Instructor;
RIPP Restraint Instructor;
CAP-STUN Aerosol Spray Instructor;
Hand Held Aerosol Agent Instructor/Trainer;
ASP Expandable Baton Instructor;
ASP Expandable Baton Instructor/Trainer
Board of Examiners for ASP Baton and ASP Tactical Restraint
Close Quarter Personal Control Instructor;
Vehicle S.T.O.P.S. Instructor;
Defensive Driving Instructor;
Principle Based Response Tactics Instructor
Principle Based Response Tactics Instructor/Trainer;
Master Ground Defense Instructor

Court recognized expert witness in Use of Force, Response to Resistance, Defensive Tactics, Subject Control and Police Procedures in both criminal and civil cases.

Author of Action – Response Model adopted by Advanced Police Training, Basic Peace Officer Training, Corrections Training, Private Security Training and Bailiff's Training for the State of Ohio.

Expert advisor and witness for the Ohio Peace Officer Training Commission and the State of Ohio Attorney General.

Member of the Governor's Office of Criminal Justice Services Law Enforcement Use of Force Liaison Committee.

Presenter/Discussant for the 1992, 1993, and 1997 Annual Meeting of the Academy of Criminal Justice Sciences.

Instructor in Forum For Comparative Program, Topic: Use of Force in the Correctional Environment;

Instructor at the 1992, 1993, 1996, 1997, 1998 and 2000 Attorney General's Conference on Law Enforcement, Topics: Use of Force and Leadership;

Instructor at the 1994, and 1999 American Society of Law Enforcement Trainers Annual Conference, Topic: Use of Force and Action-Response Continuum;

Instructor at Regional and National AFSCME Corrections United Seminars, Topic: Use of Force in a Correctional Environment;

Research Project in 1997 with the U.S. Justice Department, National Institute of Justice defining reasonable responses for law enforcement;

Research Project in 1998 with Ohio Department of Youth Service developing a Use of Force Model for control of juvenile violence;

Consultant to U.S. Justice Department, National Institute of Justice on Use of Force issues;

Consultant to Calibre Press, Street Survival Seminars on Use of Force, and Control Tactics;

Presented Action-Response Model to the National Major Gang Taskforce;

Consultant to hundreds of Police Departments and Sheriff's Offices on Response to Resistance Policies or Action-Response Policies;

Presented the Action-Response Continuum Model to the 2001 National Association of Attorney Generals (NAAG) Conference in San Diego, CA;

Presented the Action-Response Continuum Model to the 2005 National Association of Attorney Generals (NAAG) Conference in Washington, DC

Presenter and Discussant at Ohio Chief's Of Police, Electro-Muscular Disruption Technology Symposium in Columbus, Ohio, November 2-3, 2005

Publications in:

Ohio Police magazine;
The Defensive Tactics News Letter;
Working the Streets, Mid-West D.T. News Letter;
The State of Ohio Basic Training Curriculum for Basic Peace Officer Training, Basic
Correctional Officer Training, Basic Private Security Training and Basic Bailiff's
Training;
The Action-Response Continuum;
Law and Order Magazine;
National Sheriff's Magazine;
Tactical Edge Magazine;
Police Science;
POLICE Magazine;
The Buckeye Badge;
Training aids Digest;
Close Quarter Personal Control Basic and Instructor manual;
Strategies & Tactics of Patrol Stops (S.T.O.P.S.O Basic and Instructor manual;
FBI Law Enforcement Bulletin;
FBI Journal;
American Journal of Criminal Justice;
Numerous programs on the Law Enforcement Television Network (LETN);
Author of a book published by the Ohio Attorney General's Office,
USE OF FORCE, DECISION MAKING AND LEGAL PRECEDENCE;
2001 Ohio Chief's of Police Magazine on writing Response to Resistance Policies;
Commission for Accreditation of Law Enforcement Agencies (CALEA) National
Journal. October, 2004

Honors and Other Activities

Speaker at Ohio Chiefs of Police Fitness Seminar, 1989;
Helped establish and perform initial fitness assessment for Richland County ASORT
Team;
Speaker at seminar for Safety and Security Officers in health care organizations;
Elected by Buckeye State Sheriff's Association to establish a defensive tactics curriculum
for statewide mandated correctional officers training program, and to teach the train the
trainers course in same;
Medalist in the 1985 Ohio Law Enforcement Olympics in Martial Arts;
Double Gold Medalist in the 1986 Ohio Law Enforcement Olympics;
Participant in the 1986 International Law Enforcement Olympics;
Honorary Kentucky Coronal;
1997 Ohio Attorney General's Office Attorney General's Professional Award

Military Background

USMC Basic Training at Paris Island

PFC Meritoriously;

Platoon Dress Blue Honor Man

National Spirit Honor Medal from Congress awarded to 1 in 10,000 Marines;

First person in the history of Marine Corp Boot Camp to graduate with perfect

Proficiency and Conduct evaluation marks;

USMCR Instructor in hand-to-hand combat and physical training;

Honorably discharged with the rank of sergeant.

**CASES IN WHICH SAMUEL D. FAULKNER HAS CONSULTED, OR
TESTIFIED AT TRIAL OR DEPOSITION THE PAST FOUR YEARS**

1. Jill Farris v. Jeffrey L Robinson, et al., Case No. 1:01CV1787,
United States District Court, Northern District of Ohio, Eastern Division
2. State of Ohio vs. Theodore Wynn Hodge, Case No. 2001-CR-1415,
Montgomery County Court Of Common Pleas
3. Hatim Damara, et al., vs. Lt. Officer Kim Cornachio, Case No. 1:00 CV 2009,
United States District Court, Northern District Of Ohio, Eastern Division
4. Thomas William Browning v. Kanawah County Sheriff=s Office et al., Civil Action No.
2:00-0619, United States District Court, Southern District of West Virginia, Charleston
5. Donald Maclay, et ux. V. Ronald C. Jones, et al., Case No, 99-CV-266-F,
In The Circuit Court Of Mercer County, West Virginia
6. Mary Watkins, et al. v. Sgt. Shearer, et al., Case No. C-1-01-624,
United States District Court, Southern District Of Ohio, Western Division
7. McGhee v. City of South Charleston, et al., Civil Action No. 2:01-1308
8. D. Bumgardner v. Rodighiero, et al., Civil Action No. 2:01-0685
9. Eddie Bryan Blanenship v. G.A. Syres, T.A. Bailey, and The City Of Princeton,
Civil Action No. 1:00-1146, United States District Court,
Southern District Of West Virginia At Bluefield
10. Dennis J. Milko v. City of Weirton, et al., Civil Action No. 5:01CV28,
United States District Court, Northern District of West Virginia
11. Annie Bradberry et al. v. Madison Township, et al., Case No. 01CVC12 12903
Franklin County Court Of Common Pleas, Franklin County, Columbus, Ohio
12. John C. Sconish, et al. V Robert K. Lane, et al., Civil Action No. 01-C-170,
Circuit Court of Marion County, West Virginia
13. Fred Johnson v. Ohio Division of Natural Resources, Division of Wildlife, et al.,
Case No. C 3 01- 414, United States District Court, Southern District Of Ohio,
Western Division
14. Kenneth Marcus vs. City Of Hazelton, et al., Civil Action No. CV 01-1444,
United States District Court For The Middle District Of Pennsylvania

15. Calvin H. Thorne v. West Virginia Department Of Public Safety, et al., Civil Action 2:01-CV-481, United States District Court, Southern District Of West Virginia At Charleston
16. Rodney Eads v. The West Virginia State Police, et al., Civil Action No. 00-C-2508, Kanawha County Circuit Court, West Virginia
17. State Of Ohio v. Sgt. James Zimomra, Trumbull City Case
18. Patricia Carter, et al. v. Daniel W. Beck, et al., Case No.: 3:01 CV 7437, U. S. District Court, Northern District of Ohio, Western Division
19. Ptl. Frank Steven Lesinski v. State of Ohio
20. Heston Cuffy v. Maj. Larry A. Van Horn, et al., Case No.: 3:99CV7726, U.S. District Court, Northern District of Ohio, Western Division
21. Billy J. Dunfee v. Ronald J. Greenwood, et al., Case No.: C2-02-315, U.S. District Court, Southern District, Eastern Division
22. Kim D. Hickson v. Kevin L. Sawyers, et al., Civil Action 2:02-C4-41, U.S. District Court, Northern District of West Virginia, Elkins Division
23. Dennis Williby and Rebecca Mae Willby v. City Of Princeton, et al., Civil Action No 00-C-278-K, Circuit Court Of McDowell County, West Virginia
24. Amanda Carnes v. Coshocton County Sheriff's Department, et al., Case No.: C2-02-062, U.S. District Court, Eastern Division
25. Christopher C. Hanson v. The City Of Parkersburg, et al., Civil Action No.: 01-C-524, Circuit Court Of Wood County, West Virginia
26. Theresa Sheets, et al. vs. Sergeant Howard Mullins, et al., Case No. 00 CV 158, Gallia County Common Pleas Court, Ohio
27. State of Ohio v. Jameel Talley, Case No.: 430942, Court of Common Pleas, Ohio
28. Carolyn E. Houchins, Personal Representative for the Estate of Joseph Houchins v. City of South Charleston, and J. A. Compton, Case No. 03-C-1037, Circuit Court Of Kanawha County, West Virginia
29. Mark A. DiBlasio v. John P. Shoopman, et al., Case No. C2-02-349, United States District Court, Southern District of Ohio, Eastern Division
30. Robert A. Hunter v. Village of Attica Police Department, et al., Case No. 54838, Court Of Common Pleas, Seneca County, Ohio

31. Vincent Darling v. Dick Clark's American Bandstand Grill, Case No. 02CV11-13346,
Court Of Common Pleas, Franklin County, Ohio
32. Michael A. Ferrante, et al. v. George M. Peters, et al., Case No. 1:02 CV 1333,
United States District Court, Northern District Of Ohio, Eastern Division
33. Nicholas Sargent v. City of Toledo Police Department, et al., Case No. 3:03CV7261,
United States District Court
34. Steven Fryer v. Jeffrey Woofert, Sheriff, Case No.: 01-C228-R,
Circuit Court of Hancock County, West Virginia
35. Georgia Bickerstaff v. Edward Lohn, et al., Case No. 1:03CV240,
United States District Court, Northern District of Ohio, Eastern Division
36. Bonnie Prater, Administratrix of the Estate of Alexander L. Wright, Jr. v Town Of Was.
and Scott Dingus, Civil Action No. 02-C-247-S, Circuit Court of McDowell County,
West Virginia
37. Estate of Willian J. Bing v. City of Whitehall, Ohio, Case No. C-2-03-510
38. Martin Morelock and Brian Lunsford v. C/O Watlet Bender, Case No. C-1-03-047
39. Sharon I. Helriggle, et al. v. Det. George Pettit, et al., Case No. C3:03-336,
United States District Court, Southern District Of Ohio, Western Division
40. Michael Keith Golden, et al., v. Troopers Kozik, Barger and Boring, et al.,
Case No. 1:03 CV-46, United States District Court, Northern District of West Virginia,
at Clarksburg
41. Sharon Carr v. T.D. Bradley, et al., Case No. 5:03-0543,
United States District Court, Southern District of West Virginia
42. Vanessa Jean Pruitt, et al. v. West Virginia State Police, et al., Case No. 03-C-136
43. Gay Grafton v. SCMA, INC, et al., Case No. 02CV1131D,
Court Of Common Pleas, Richland County, Ohio
44. Dennis Williby, et al., vs. City Of Princeton, West Virginia, et al., Case No.00-C-278-K,
Circuit Court of McDowell County, West Virginia
45. Scott Magrum v. Chris Meinke, Case No. :3-03CV7306,
United States District Court, Northern District Of Ohio, Western Division

46. Lojowsky v. Tower City Developers, Case No. 460753,
Cuyahoga County Court Of Common Pleas
47. Penny Martin, Representative of the Estate of Billy Martin, Deceased, v Michael D. Magers, et al., Case No. 3:04cv7124, United States District Court - Northern District of Ohio - Western Division
48. Loretta Norman v. City of Lorain, Ohio, et al., Case No. 1:04 CV 0913,
United States District Court – Northern District of Ohio – Eastern Division
49. Hartsook v. Miller, Case No. C2 03 1137, United States District Court,
Southern District of Ohio, Eastern Division
50. Kevin T. Weaverling, et al. v. West Virginia State Police, Et al., Case No. 03-C-438,
Circuit Court of Berkley County, West Virginia
51. Teresa Lewis v. Adams County et al., Case No. 1:04 CV 301,
United States District Court, Southern District of Ohio, Western Division
52. Amanda Morrison v. Board Of Trustees Of Green Township, et al., Case No. C-1-03-775,
U.S. District Court, Southern District Of Ohio, Western Division
53. Jordan v. Lambert, Case No 5:02-0488
United States District Court, Southern District Of West Virginia
54. David Nelson, et al. v. M.M. Kingery, et al., Civil Action No: 02-C-465,
Circuit Court Of Berkeley County, West Virginia
55. Yusef Ali v. City Of Louisville and Louisville-Jefferson County Metro Government,
Civil Action No. 3:03CV-427-R, U.S. District Court, Western District Of Kentucky,
Louisville Division
56. Barry Mershon, v. Jason Langley, et al., Case No. 2:04-CV-478,
U.S. District Court, Southern District Of Ohio, Eastern Division
57. Hellen N. Hines, Administratrix of the Estate of Terry L. Hines, Deceased, v. City Of Louisville, Case No. 03-CI-02830, Jefferson Circuit Court, Division (11), Kentucky
58. Loretta Norman v. City Of Lorain, Ohio, et al., Case No. 1:04 CV 0913,
U.S. District Court, Northern District Of Ohio, Eastern Division
59. Penny Martin v. Michael D. Magers, et al., Case No. 3:04cv7124,
U.S. District Court, Northern District Of Ohio, Western Division

60. Rhonda Cox v. Brian Hammontree and Michael Feltner, Case No. 5:04-0421,
U.S. District Court, southern District of West Virginia
61. FOP v. Forrest Park Police Department, Arbitration, August, 2005
62. Thomas N. Taneff, Administrator for The Estate of Kevon Matthews, Deceased v. David Burks and City of Reynoldsburg, Ohio et al., Case No. 03CVC 12-13326 and Case No. 04-CVC 12-12782, Court of Common Pleas, Franklin County, Ohio
63. State Of Ohio v. Keith Carroll, Case o. 05-CRB 00026, Fairfield County Municipal Court
64. Patrick Rumer v. The Kroger Co. et al., Case No. 05CVC-01-1041, Franklin County
Common Pleas Court
65. Michael A. Wilhelm, Individually, etc. v. Chief George Clemens, III, et al., Case No. 3:04CV7562, U.S. District Court, Northern District of Ohio, Western Division
66. Shane Bucerl v. Allen County Sheriff's Department, et al., Case No. 3:04CV7353,
U.S. District Court, Northern District of Ohio, Western Division
67. Bobbie Jo Cundiff v. David Michael Mueller, et al., Case No. C-1-03-88,
U.S. District Court, Southern District of Ohio,
68. Christopher N. Estok, Administrator of the Estate of Eric J. Estok, Deceased v. City Of Ashtabula, et al., Case No. 05-CV-147, Court Of Common Pleas, Ashtabula County, Ohio