

EXHIBIT B

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

MARY WEBB, individually,)
 and in her capacity as)
 Administratrix of the)
 Estate of Robert A. Webb,)
 Plaintiff,)

VS.) CIVIL ACTION NO. 08-C-406-H

RALEIGH COUNTY SHERIFF'S)
 DEPARTMENT; RALEIGH COUNTY)
 COMMISSION; SHERIFF DANNY)
 MOORE, individually, and in)
 his official capacity; CHIEF)
 DEPUTY STEVE TANNER,)
 individually, and in his)
 official capacity; DEPUTY)
 GREG S. KADE, individually)
 and in his official capacity;)
 and DEPUTY JOHN E. HAJASH,)
 individually, and in his)
 official capacity,)
 Defendants.)

(Deposition of Gregory S. Kade)

BROWN REPORTING AGENCY
 P.O. Box 5473
 Beckley, West Virginia 25801-7508
 304/252-4106

APPEARANCES:

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 Raleigh County Commission, Sheriff
 Danny Moore, Chief Deputy Steve
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 Counsel for Defendant
 Deputy John E. Hajash

B.R.A.

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The deposition of GREGORY S. KADE, in the above-

styled matter was taken pursuant to notice for discovery

and/or evidentiary purposes, before H. David Stanley, a

Notary Public within and for the State of West Virginia

at Large, on the 19th day of June, 2009, commencing at

1:42 P.M., EDST, at the law offices of Pullin, Fowler

Flanagan, Brown and Poe, PLLC, 600 Neville Street,

Beckley, West Virginia.

I N D E X

<u>Plaintiff's Witness:</u>	<u>Direct</u>	<u>Cross</u>
Gregory S. Kade	4	--
<u>Plaintiff's Exhibits:</u>	<u>Marked</u>	
Kade Depo. Exhibit No. 1	63	
Kade Depo. Exhibit No. 2	102	
Reporter's Certificate -- Page 109		
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Signature Sheet -- Page 111		

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1 (Witness Sworn)

2 THEREUPON came,

3 GREGORY S. KADE,

4 called as a witness on behalf of the Plaintiff herein,

5 who, having been first duly sworn according to law,

6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. OLIVIO:

9 Q Sir, would you please state your full

10 name for the record?

11 A Gregory Sean Kade.

12 Q Deputy Kade, you were present for John

13 Hajash's deposition earlier today. Is that correct?

14 A That's correct.

15 Q And I assume during that 3 to 3 1/2

16 hours of questioning you got a pretty good idea of the

17 procedures that we follow today?

18 A Yes, sir.

19 Q Okay. You understand that if you need

20 a break for any reason, just speak up and let us know.

21 A Yes, sir.

Q If I ask you any question today that

you're not sure of what I'm asking and you want me to

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1 rephrase and repeat it, by all means, feel free to ask me
 2 to do so. I will do my best to give you a good question
 3 to answer. You know we have a court reporter here so
 4 let's try -- and I'll do this as well -- but let's try to
 5 let the other finish before we speak. It makes his life
 6 a lot easier.
 7 A Okay.
 8 Q Have you ever had your deposition taken
 9 before?
 10 A Years ago, I had one taken over a
 11 vehicle accident.
 12 Q Were you the responding officer to that
 13 accident?
 14 A No. I was involved in a crash. I was
 15 still in high school.
 16 Q Oh, okay. Before your days as a law
 17 enforcement officer. Were you an officer at the time of
 18 that deposition?
 19 A No, sir.
 20 Q Okay. It had nothing to do with law
 21 enforcement?
 22 A No, sir.
 23 Q Okay. Let me back up, do you have any

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1 questions before we get started?
 2 A No, sir.
 3 Q Okay. Are you married?
 4 A Yes, sir.
 5 Q Do you have any children?
 6 A I have two.
 7 Q How long have you been married?
 8 A Let's see. A little over five years.
 9 Q Just curious on the auto accident
 10 that you had a prior deposition on, were you a party to
 11 litigation in that or were you a passenger in one of
 12 the vehicles?
 13 A Yeah. I was a driver of the vehicle.
 14 Q And were you the Defendant or the
 15 Plaintiff in that case?
 16 A The Defendant.
 17 Q Where'd you go to high school?
 18 A Woodrow Wilson High School.
 19 Q What year did you graduate or finish
 20 there?
 21 A In 1993.
 22 Q Any college?
 23 A No, sir.

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1 Q Any military experience, National
 2 Guard, reserves or anything like that?
 3 A No, sir.
 4 Q What county was that auto accident in?
 5 Was it here in Raleigh County?
 6 A Yes, sir.
 7 Q Did that go to trial or did it settle?
 8 A A trial.
 9 Q Did you have to testify at trial?
 10 A Yes.
 11 Q Okay. I want to briefly go through
 12 some of the background stuff that you heard us go through
 13 this morning. Following high school, where did you first
 14 seek employment or what was your first job after high
 15 school?
 16 A I think it was with Lowe's at the Home
 17 Center.
 18 Q What year did you first get into law
 19 enforcement?
 20 A In 2002, I was hired at the Raleigh
 21 County Sheriff's Department.
 22 Q How long did you work at Lowe's, from
 23 '93 until -- and when I ask you these dates, I'm asking

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1 best estimate.
 2 A I wouldn't even begin to know, sir.
 3 Q Okay. Other than Lowe's, do you have
 4 any other employment between Lowe's and the Raleigh
 5 County Sheriff's Department?
 6 A Yes. I used to do construction work
 7 and I was a welder.
 8 Q For the nine years between '93 and
 9 2002, what would you say you spent the most of the time
 10 at, Lowe's or in the construction contracting?
 11 A Construction.
 12 Q Was most of that work here in Raleigh
 13 County or this area and the surrounding counties?
 14 A For the most part, yes.
 15 Q Did you ever do any larger contracts
 16 like hospitals or buildings or anything outside of West
 17 Virginia?
 18 A I had lived in North Carolina.
 19 Q Where'd you live down there?
 20 A In Charlotte. Well, in Huntersville.
 21 Q Were you doing construction work down
 22 there?
 23 A I was welding.

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1 Q Welding. What brought you back to West
2 Virginia?
3 A I had left the Charlotte area and lived
4 in New York and then I come back because my father became
5 ill.
6 Q Were you involved in the same type of
7 work in New York?
8 A As welding?
9 Q Yes.
10 A Yes, sir.
11 Q Now, when you say New York, New York
12 State, New York City?
13 A New York City.
14 Q How long were you able to take that?
15 A Two years.
16 Q I'm usually done in about a weekend and
17 I'm ready to come home. Were you married when you moved
18 to North Carolina?
19 A I was.
20 Q And your wife also moved to New York
21 with you?
22 A No. I was married once before.
23 Q Okay. Are you presently married?

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1 A I am.
2 Q So you're on your second marriage?
3 A That's correct.
4 Q Okay. Your marriage, your present
5 marriage, when were you married this time? And your wife
6 will not see a copy of this transcript.
7 A Let's see, June the 28th of '02.
8 Q The year would have been?
9 A In '02.
10 Q Okay. I didn't mean to put you on the
11 spot there.
12 A I'm sorry. That's totally wrong. I
13 just gave you the wrong date anyway. That's my wife's
14 birthday. Actually, I'll tell you, this July the 5th is
15 my anniversary.
16 Q Okay. So you moved back to West
17 Virginia. You left New York and moved back to West
18 Virginia. What year was that?
19 A I think it was either the end of '01 or
20 the beginning of '02.
21 Q Okay. And did you seek out the law
22 enforcement job as soon as you came back or did you start
23 into something else beforehand?

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1 A Actually, when I was in New York, I had
2 applied with NYPD. I was going through that process.
3 And then I just moved back here because my father became
4 ill.
5 Q Okay. How did you go about -- was it
6 just a blind application to Raleigh County or did you
7 hear that there were openings, that there were hirings
8 coming up? How did that match come about?
9 A I think it was just a blind applica-
10 tion. I remember just picking up that application and
11 filling it in and submitting it.
12 Q Did you know anyone on the force when
13 you were hired?
14 A No. I just knew of people. I didn't
15 know anybody personally or anything like that.
16 Q No family or close friends help you get
17 in or anything?
18 A No. I just knew a gentleman. The
19 only person I really knew was one gentleman that was a
20 sergeant there or, actually, was a corporal at the time
21 and I just knew of him.
22 Q What's your date of birth?
23 A March the 28th of 1974.

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1 Q Have you been employed with the Raleigh
2 County Sheriff's Department without any breaks in service
3 since 2002?
4 A That's correct.
5 Q And what is your current rank? Is it
6 deputy or do you have a rank structure within?
7 A We do but my rank is deputy.
8 Q Now, I'm not that familiar with the
9 Raleigh County Sheriff's Department. Do you have
10 divisions within the Department such as patrol officers
11 or do you mix it up? Do you do a rotation with court
12 security?
13 A If we need to fill in, we do. You
14 know, they'll pull someone from the road if there's extra
15 and, normally, that's not the case, though.
16 Q Okay.
17 A But we do have divisions.
18 Q If you're a patrol officer, you're just
19 a patrol officer?
20 A Yes.
21 Q Okay. Have you ever worked court
22 security here in Raleigh County?
23 A Just a few days.

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1 Q You never served as a regular bailiff
 2 to any of the judges?
 3 A No, sir.
 4 Q Have you ever applied for a law
 5 enforcement position here in West Virginia other than
 6 the Raleigh County Sheriff's Department?
 7 A Yes. I applied once with the State
 8 Police and once with Beckley PD.
 9 Q Was that before or after you were hired
 10 on with the County?
 11 A Before.
 12 Q And how did -- I'll take them one at a
 13 time -- the Beckley PD application, how did that resolve
 14 itself? Did you get this job first and then --
 15 A No.
 16 Q -- were disinterested in the Beckley
 17 PD?
 18 A They got up to my name and they
 19 had filled the slots. So there wasn't enough slots
 20 available. I think I placed, like, 17th on the test or
 21 something.
 22 Q How about the State Police, did you
 23 ever have a final resolution of that application?

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1 A I ended up failing the physical agility
 2 on that. That was in 1993, I think.
 3 Q That was before you moved away then?
 4 A Oh, yeah.
 5 Q How about Beckley PD, what year did you
 6 apply there?
 7 A I don't remember.
 8 Q Was it in -- been before or after you
 9 moved to North Carolina?
 10 A Before.
 11 Q Okay. Have you been to the State
 12 Police Academy's Basic Law Enforcement course?
 13 A I have.
 14 Q What year did you complete that?
 15 A In 2003.
 16 Q Can you recall how soon after being
 17 hired you went to the Academy?
 18 A I don't. I think my Academy date was
 19 possibly in the end of February.
 20 Q Other than the basic course, have you
 21 completed any other law enforcement training courses such
 22 as the accident reconstruction course or any other
 23 advanced courses?

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1 A While being a police officer?
 2 Q Yes.
 3 A Just the in-service and the classes
 4 that I have been sent to from the Sheriff's Department.
 5 Q Let's talk about the in-service
 6 training. You've got a training officer or several
 7 training officers within the Department I would assume?
 8 A Yes.
 9 Q Have you had in-service training
 10 conducted by anyone other than the in-house officer?
 11 A Yes.
 12 Q First, let's start with the Raleigh
 13 County Sheriff's Department. Who has been your training
 14 officers during your employment?
 15 A My training officer was Larry Lilly.
 16 Q Is Larry still with the Department?
 17 A Yes.
 18 Q Now, when you say your training
 19 officer, was he the one specifically assigned to you?
 20 A Yes.
 21 Q Have you done any other, like, seminars
 22 or training sessions within the Department where Larry or
 23 another training officer -- and not specific to you but

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1 like group setting in-service training?
 2 A For any type of training?
 3 Q Yes.
 4 A Yes.
 5 Q Did any of that in-service training
 6 within the Department ever involve patrol car usage?
 7 A No, not that I recall.
 8 Q Is there any ongoing in-service
 9 training on the use of firearms?
 10 A Yes.
 11 Q And I would assume at least on an
 12 annual or semiannual basis, you've got a qualification
 13 requirement. Correct?
 14 A Yes.
 15 Q Have you received any in-service
 16 training from within the Department on tactics or
 17 tactical use of firearms?
 18 A Yes.
 19 Q And who would have conducted those
 20 courses?
 21 A Kevin Hopkins.
 22 Q Is Kevin still with the Department?
 23 A Yes.

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1 Q Is he specialized in firearm and
2 tactics or does he do other types of training also?
3 A I know he specializes in firearms. He
4 taught a combat tactics course.
5 Q And did you complete that course?
6 A Yes.
7 Q Can you recall when that might have
8 been?
9 A No.
10 Q Would you have any way of knowing if it
11 was before or after this incident at the Webb residence?
12 A Before.
13 Q How about any in-service training
14 within the Department on cover and concealment and use of
15 a vehicle for cover and those types of subjects?
16 A That's touched on quite a bit in, you
17 know, regular training. I don't think I've ever been to
18 a course geared directly for cover and concealment but
19 it's touched upon during firearms training and things
20 like that.
21 Q Now, let's switch gears outside of the
22 realm of in-house, within the Department. Okay? What
23 other agencies have you personally attended in-service

1 sent several officers to or did you go, were you the only
2 one?
3 A Two of us.
4 Q Other than that course at the State
5 Police Academy, are there any other agencies that have
6 provided any in-service training to you outside of the
7 Department?
8 A Yes, there's been several of them.
9 Caliber Press. Practical Firearms Training is the name
10 of another company.
11 Q What is Caliber Press? What type of
12 training do they do?
13 A I think it's actually termed Street
14 Survival or Officer Survival.
15 Q Would that be a tactics oriented
16 course?
17 A I don't know if you would classified it
18 as tactics. Actually, what the class was about was just
19 watching things that happened to other police officers
20 and scenarios.
21 Q Okay. Kind of real-life examples and
22 scenario based training?
23 A No. It was real life examples but it

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1 training or received in-service training from?
2 A In relation to anything or firearms?
3 Q Anything.
4 A Oh, my goodness, we're talking almost
5 seven years worth.
6 Q Let me break it down then. Does the
7 West Virginia State Police send anybody down here for,
8 like, Department training, department level training
9 where you're in a group where you attend a certain a
10 seminar or something of that nature?
11 A Are you asking me if the State Police
12 comes and trains us --
13 Q Yeah.
14 A -- in in-service? I've been to one
15 class at the Academy since I graduated and it was a
16 ground fighting class.
17 Q Ground fighting?
18 A Yes.
19 Q Hand-to-hand maneuvers?
20 A Yes. As far as it dealt with the State
21 Police and, actually, it was at their location but they
22 had different instructors.
23 Q Was that something that the Department

1 was actually on film.
2 Q Can you recall when you would have
3 attended that course?
4 A I just attended that course maybe two
5 weeks ago if that.
6 Q How about the practical firearms
7 training that you mentioned?
8 A I believe it was 2004.
9 Q And was that a firearms tactics course
10 or a marksmanship-based course?
11 A That was when the Sheriff's Department
12 had instituted an SRT Team and they had a gentleman come
13 in and qualify us and put us through SRT Training.
14 Q Are you on that team? Are you
15 qualified to be on that team?
16 A I was when it was in-service. Since
17 then, it's been disbanded basically. It's no longer in
18 use.
19 Q When did that special team dissolve or
20 disband?
21 A I couldn't really answer that. I don't
22 know the date when that occurred.
23 Q Would you have gone through that

Page 21

1 qualification before or after the incident at the Webb
 2 residence?
 3 A That was before.
 4 Q During your time with the Department,
 5 have you ever maintained any positions other than patrol
 6 officer?
 7 A No.
 8 Q Have you ever had any demotions in rank
 9 since employment in 2002?
 10 A No.
 11 Q Any promotions in rank since 2002?
 12 A No.
 13 Q Any disciplinary actions against you
 14 since 2002?
 15 A Once. I can only think of one time.
 16 Q Do you want to tell me what that's
 17 about?
 18 A That was over a minor vehicle accident.
 19 Q Were you in a Department cruiser?
 20 A I was.
 21 Q And involved in an accident with
 22 another vehicle?
 23 A No. It was a single vehicle.

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1 Q A single vehicle?
 2 A Uh-huh, (yes).
 3 Q Were you injured in that?
 4 A No.
 5 Q Were you in response to a pursuit or
 6 emergency call?
 7 A Emergency call.
 8 Q Prior to today's deposition -- I'm
 9 going to go through the background and preparation
 10 questions. Before I ask any of these, I don't want
 11 you to tell me anything that you may have talked to
 12 Mr. Williams about either getting ready for this or at
 13 anytime since this started. Did you review any documents
 14 in preparation before today?
 15 A Before today?
 16 Q Yes, preparing for today's deposition.
 17 A I did today.
 18 Q This morning?
 19 A Yes, sir.
 20 Q Did you look at your statement that
 21 you gave to the investigation team in-house at the
 22 Department?
 23 A I did.

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1 Q Did you look at any other documents
 2 other than your statement?
 3 A The 911 Log.
 4 Q When you say the 911 Log, do you mean
 5 the Call Log or the actual transcript of what was said?
 6 A The transcript.
 7 Q Okay. I may accidentally say Deputy
 8 Hajash because I'm used to reading that, Mr. Hajash now.
 9 Did you read his statement by any chance?
 10 A No.
 11 Q Have you ever read his statement?
 12 A I'm not sure. I don't know. I don't
 13 recall. I haven't looked at anything for a very long
 14 time until recently.
 15 Q Have you talked to Mr. Hajash about the
 16 depositions today, say, during the Calendar Year 2009?
 17 A Maybe other than the fact that they
 18 were coming up and that would be it.
 19 Q Are the two of you personal friends?
 20 A We've lost contact with each other
 21 since he's not at the Department anymore.
 22 Q Is it fair to say you had a better
 23 friendship with him when you worked with him?

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1 A It's not that we're, I would say, not
 2 friends but there's just no contact.
 3 Q You just don't see each other any more?
 4 A Yeah. Or talk.
 5 Q Did you have any conversations with
 6 Danny Moore, former Sheriff Danny Moore, about this
 7 deposition or preparing for this deposition?
 8 A No, other than they were coming up.
 9 Q Have you had any conversations with now
 10 Chief Tanner about these depositions today?
 11 A No.
 12 Q Other than maybe just scheduling that
 13 you had to be here?
 14 A Yes.
 15 Q Can you think of anybody in the
 16 Department that you would have had conversations with
 17 recently about the content of these depositions?
 18 A No, no content.
 19 Q Did you ever have a chance to look over
 20 the entire investigation file on this incident, meaning
 21 the entire report that the Department prepared?
 22 A I don't believe I have actually.
 23 Q Never have?

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1 A I don't think so. I've seen different
 2 parts of it but I don't think I've seen the whole entire
 3 report.
 4 Q Did you know Robert Webb?
 5 A No.
 6 Q In a personal way at all before this
 7 incident?
 8 A No.
 9 Q Do you know if you ever met the man?
 10 A I'm pretty sure I can say I've never
 11 met him.
 12 Q You may or may not know Mr. Webb had a
 13 couple of prior DUI's from my recollection. To the best
 14 of your knowledge, you were never involved in any of
 15 those stops or arrests?
 16 A No.
 17 Q Do you have a specific recollection of
 18 most of or any of the events that day before this call
 19 came in?
 20 A I'm not sure of what you're asking me?
 21 Q Do you recall what you did during the
 22 daytime hours on that July 3rd?
 23 A I don't.

1 on an four hour or an eight hour shift?
 2 A I don't recall.
 3 Q Was that a regularly scheduled day off
 4 from your normal Department duties as a patrol officer?
 5 A Yes. I was off duty through road
 6 patrol.
 7 Q Do you recall if you worked the day
 8 before July 3rd?
 9 A I don't recall.
 10 Q Have you ever gone back to look at
 11 payroll records or schedule records or anything?
 12 A No.
 13 Q Do you recall what time your shift
 14 started that day or evening?
 15 A At the hotel?
 16 Q Yes.
 17 A I don't. I don't.
 18 Q Do you know if you were planning on
 19 being there most of the night? Was it a night rotation
 20 for you?
 21 A Night rotation? What do you mean?
 22 Q The hotel security job on July 3, were
 23 you going to be there the rest of the evening?

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1 Q You heard Mr. Hajash this morning
 2 talking about the security job over at the Holiday Inn
 3 Express. I'm going to ask you some questions about that.
 4 How long had you been working that security position?
 5 A Not very long. I'm not sure.
 6 Q From what I understood this morning,
 7 was that a Department sanctioned job?
 8 A It was paid through the Department.
 9 Q It wasn't a moonlighting job that the
 10 Department didn't know about?
 11 A Oh, no.
 12 Q You were there wearing your uniform and
 13 with a cruiser on site. Am I correct?
 14 A That's correct.
 15 Q So in essence, the Department was okay
 16 with showing a law enforcement presence over at the
 17 Holiday Inn Express?
 18 A Yes.
 19 Q How long would your shift there
 20 typically be?
 21 A I think sometimes we split it up into
 22 four hour blocks and sometimes it was eight.
 23 Q Do you recall on July 3rd if you were

1 A I don't remember if it was a full shift
 2 or not. I know it would have been at least four hours.
 3 Q Without pinning you down to a time, can
 4 you recall if it was daylight or dark when you started
 5 that security job?
 6 A I'm not sure.
 7 Q Okay. Do you recall if you were close
 8 to the end of the shift when this call comes in sometime
 9 after midnight?
 10 A It possibly could have been close if it
 11 was a four-hour block.
 12 Q Did you have any active responsibil-
 13 ities at the hotel security job other than just be a
 14 presence there?
 15 A Just maintain the security and that's
 16 it.
 17 Q Was it something where you had to make
 18 rounds every so often and make sure doors were locked or
 19 you know, things weren't being tampered with?
 20 A You really couldn't make rounds, no,
 21 because it was a construction area.
 22 Q Just your presence there --
 23 A Just your presence and just try to see

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1 around the building as much as possible.
 2 Q Do you remember what time then Deputy
 3 Hajash arrived at the hotel site and began a conversation
 4 with you that evening?
 5 A I don't.
 6 Q Can you give us an idea how long you
 7 believe he was there before the call came in from
 8 dispatch?
 9 A Maybe 30 minutes or so. That's just an
 10 approximate.
 11 Q And was he on road patrol duty that
 12 night?
 13 A Yes.
 14 Q That's your understanding?
 15 A Yes, for the Sheriff's Department.
 16 Q Up to that point, was it a fairly quiet
 17 evening at least at the hotel site?
 18 A Yes.
 19 Q Are you a lifelong resident of Raleigh
 20 County? Or, I'm sorry, did you grow up here in Raleigh
 21 County?
 22 A Yes.
 23 Q Did you live anywhere close to downtown

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1 or were you more out in the rural areas?
 2 A No. I lived across town. I didn't
 3 live near the construction site.
 4 Q During your time growing up here or as
 5 a police officer here, is it unusual to hear firearms
 6 discharged?
 7 A Where I live at, yes.
 8 Q How about in the outlying areas from
 9 your experience as a patrol officer?
 10 A Is it unusual? I would say so.
 11 Q As part of the Department or at least
 12 the night of this incident, did you have radio
 13 communication that was mobile on your uniform?
 14 A Are you saying did I have a portable
 15 hand-held radio?
 16 Q Yes.
 17 A Yes.
 18 Q And you weren't bound to the radio in
 19 the car?
 20 A No.
 21 Q Okay. I'm not sure when the different
 22 Departments upgraded those technologies so I didn't want
 23 to assume that. Were you wearing one that night?

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1 A A portable radio?
 2 Q Yes.
 3 A Yes.
 4 Q Did you hear the call come in to Deputy
 5 Hajash?
 6 A I did.
 7 Q Was he in your presence when that call
 8 came in?
 9 A Yes.
 10 Q So you both heard it on each of your
 11 portable radios?
 12 A Well, actually, if I remember
 13 correctly, we were standing beside our cars and just
 14 heard it over the radio.
 15 Q Did the call come in to Deputy Hajash
 16 specifically?
 17 A I think it did. I can't say for sure
 18 but I think it did.
 19 Q Obviously, at some point, a decision
 20 was made that you would join him in responding to this
 21 call. Correct?
 22 A Yes.
 23 Q Who made that decision?

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1 A That I respond?
 2 Q Yes.
 3 A I did.
 4 Q And was that something you had
 5 discretionary authority to do?
 6 A Yes.
 7 Q Did you have to get approval from
 8 anyone to say, hey, I'm logging on to patrol duty to go
 9 with him?
 10 A No.
 11 Q What do you remember specifically about
 12 that call that came in over the radio?
 13 A The way it was dispatched?
 14 Q Yes, sir.
 15 A It was dispatched that there was a man
 16 standing outside shooting a gun at his residence.
 17 Q And I'm not asking you to quote it;
 18 obviously, it's in the transcript. But that's pretty
 19 much how you remember the call?
 20 A Yes.
 21 Q And was it the language that was
 22 dispatched to then Deputy Hajash that gave you concern
 23 that maybe you should attend with him?

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1 A Just the type of call involving a
2 firearm.

3 Q Was any of your analysis of that
4 situation based upon his at least compared to you,
5 relative lack of experience or less experience than what
6 you had?

7 A I think it was based more upon he would
8 have more than likely been by himself.

9 Q So not necessarily his age or
10 experience but you may have gone with any officer just
11 so they don't go by themselves?

12 A Yes.

13 Q Had you had a chance to work with
14 Deputy Hajash before this?

15 A Yes.

16 Q Did his age give you any concern with
17 him going on this call?

18 A On this call?

19 Q Yes.

20 A At the time, I can't say.

21 Q One of the things I would have prefaced
22 if you didn't sit in this morning, I don't want you to
23 guess. If you're not sure, just tell me you're not sure.

1 longer.

2 Q Okay. All right. Was yours equipped
3 with anything like a laser sight or the flashlight that
4 rides under the triggerwell and the frame?

5 A It had the capability to be equipped
6 with a flashlight.

7 Q But it did not have that on it?

8 A No. And to answer your question, no
9 laser.

10 Q Okay. Was that a Department issue gun?

11 A My 35?

12 Q Yes.

13 A No, sir.

14 Q That was a personal weapon?

15 A Yes.

16 Q Were you authorized to carry that
17 sidearm while in uniform?

18 A Yes, sir.

19 Q Are you right-handed or left-handed?

20 A Right-handed.

21 Q Holster on right hip?

22 A That's correct.

23 Q Who made the decision -- well, who took

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1 Were you wearing the uniform, the full uniform?

2 A Yes.

3 Q Okay. So it wasn't a matter you didn't
4 have to change or anything like that? You were prepared
5 to go after logging in?

6 A Yes, sir.

7 Q On the hotel security job, did you
8 carry a firearm?

9 A Yes.

10 Q And was it the Glock handgun?

11 A Yes.

12 Q Was yours also a 23, 40 caliber?

13 A No.

14 Q What did you carry?

15 A I carried a Glock 35 in a 40 caliber.

16 Q Okay. Help me with the numbers. The
17 Glock 22 is the full-sized 40. Correct?

18 A Yes.

19 Q The 35 is a compact?

20 A That's correct.

21 Q Is the 35 a subcompact?

22 A The 35 is the same frame as the Model
23 22, just an extended -- the barrel is just a little

1 lead when you left the hotel and headed out to the Webb
2 residence?

3 A Deputy Hajash.

4 Q Was there a reason that he took lead as
5 opposed to you?

6 A I just let him take lead because it was
7 his call and I wasn't very familiar with the area where
8 we were going.

9 Q Okay. Do you know after having been
10 there, was it an area that you had been to before?

11 A In the general area?

12 Q Uh-huh, (yes).

13 A Yes.

14 Q Is it an area that you at that time had
15 any particular impression of? Is it a high trouble area?

16 Do you have a lot of calls in that area? Is it a
17 relatively quiet area?

18 A Nothing sticks out in my mind now. You
19 know, nothing that I can think of.

20 Q In most Departments, the officers know
21 if you get a lot of calls from certain areas, any
22 troubles.

23 A Uh-huh, (yes).

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1 Q That's not what you recall as this
2 area?

3 A No.

4 Q One of the things that I caught this
5 morning was Mr. Hajash used much the same language that
6 there was a man shooting at his residence or at his own
7 residence and I let that kick around in my head a little
8 bit. Did you understand that to mean he was shooting in
9 the direction of his home?

10 A Yes. That's the way I took it.

11 Q Now, the sentence shooting at his
12 residence could also mean he was discharging a firearm on
13 his property. Do you agree with that?

14 MR. WILLIAMS: Objection to form.

15 BY MR. OLIVIO:

16 A Would I agree with that?

17 Q I could say to you, I'm shooting a gun
18 at my house. That doesn't mean I'm targeting my house.
19 I'm shooting while I'm at home at my house. Could you
20 interpret that sentence that way?

21 A I wouldn't.

22 Q Have you read the transcript of the 911
23 call from the person who originally made the call?

1 firearm and loud music but I still also took it that he
2 was -- reading the transcript, he was shooting at his
3 residence.

4 Q And you understood that to mean he was
5 targeting his residence?

6 A Yes.

7 Q Okay. And when you left the hotel, do
8 you recall having lights and sirens on, lights and/or
9 sirens?

10 A Yes.

11 Q And under Department policy, would that
12 by definition mean that you were responding to an
13 emergency call?

14 A Yes.

15 Q If it's a nonemergency call, you don't
16 go with lights and sirens?

17 A That's correct.

18 Q Have you received any training specific
19 to the use of lights, the use of a siren when you are
20 approaching the immediate area that you're responding to?

21 A In a hazardous situation?

22 Q Yes.

23 A I've always been instructed to shut it

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1 A Yes, I did.

2 Q And I know this is hindsight, but after
3 reading that, did you get the impression that she was
4 calling on a noise and nuisance call or that he was
5 actually shooting at the house or endangering someone as
6 far as targeting a person?

7 A Can you say that again?

8 Q Yes. The woman who placed the call to
9 I think it's the Emergency Operation Center, your EOC as
10 it's referred to.

11 A Okay.

12 Q Did you see anything in that transcript
13 where she was reporting this man with a gun was targeting
14 someone or that he was shooting a gun and playing loud
15 music, it's after midnight and we're trying to sleep?

16 A Now, this is after the incident and I
17 read the report?

18 Q Yes. Not what you knew then but after
19 reading that report?

20 MR. WILLIAMS: Objection to form and
21 relevance.

22 BY MR. OLIVIO:

23 A I took it as someone was discharging a

1 down. That's something that's an officer safety concern.
2 Now, something like a car wreck, no.

3 Q Let me back up then. Was that training
4 offered at the State Police Academy for the basic course?

5 A For responding?

6 Q Yes.

7 A Yes.

8 Q And their teaching there is that you
9 shut down lights and sirens when you get to the immediate
10 area that you're responding to?

11 A Yes, I do believe.

12 Q Okay. And did you receive consistent
13 training with the Department or did you receive any
14 training different than that with the Department?

15 A I received training at the Department
16 but I do not remember it being any different.

17 Q Do you know if the Raleigh County
18 Sheriff's Department has a specific policy or procedure
19 on approaching the scene whether it's an emergency or
20 nonemergency call?

21 A On which manner it should be
22 approached?

23 Q Yes. Can I find that in a written

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1 document anywhere that you know of?
 2 A I don't recall.
 3 Q Who made the decision where to park
 4 your vehicles?
 5 A Either myself or Deputy Hajash. I
 6 don't remember. I do remember there being a wide spot
 7 right there at the beginning of the road.
 8 Q And that's where you parked, at the
 9 wide spot?
 10 A Yes.
 11 Q Okay. Did you know what house you were
 12 going to when you parked your vehicles?
 13 A I did not.
 14 Q Were you relying on just finding it on
 15 foot or were you relying on dispatch to talk you to the
 16 house at that point?
 17 A From where we parked?
 18 Q Yes.
 19 A I was relying on both.
 20 Q Were you still in communication with
 21 dispatch by portable radio?
 22 A Yes. Also, Deputy Hajash was in
 23 communication as well.

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1 Q Now that you know where the house is
 2 located, how far would you estimate you ended up parking
 3 the two respective vehicles from that home?
 4 A You know, I'm not sure if I've ever
 5 clocked it but it was probably a quarter of a mile.
 6 Q And when you left the vehicles, did you
 7 immediately know what direction to travel in?
 8 A As in direction -- now, the road turns
 9 so I'm not quite sure I understand.
 10 Q Well, you left the cars and you had to
 11 walk on foot. Did you know where you were walking to?
 12 A We were walking down on Cabell Heights
 13 Road in hopes to find the residence.
 14 Q Okay. Were you familiar with the
 15 intersection of Cabell Heights Road and Primrose Lane?
 16 A No.
 17 Q Do you recall walking on a gradual
 18 upslope or a gradual downhill as you were approaching the
 19 house?
 20 A Down.
 21 Q At anytime did you move your cars to
 22 another location later that evening? Let me clarify that
 23 a little bit, that's a little sloppy. Before you left

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1 the scene finally, did you move your car from where you
 2 originally parked it?
 3 A I believe that's after we went back to
 4 our vehicles and we come back towards the scene some. I
 5 didn't respond all the way back.
 6 Q Did you give any consideration to
 7 remaining with your vehicle and approaching the scene in
 8 the vehicle?
 9 A When I first arrived on the scene?
 10 Q Yes.
 11 A No.
 12 Q And why not?
 13 A Because I didn't want to be inside of
 14 my vehicle trying to get out of my car if something
 15 happened.
 16 Q Have you ever received any training to
 17 use the car as a form of cover?
 18 A Not a class devoted just to that. Just
 19 as I said earlier, just touched on.
 20 Q I may have already asked this, I'm not
 21 sure, have you ever been specifically trained to park a
 22 car and approach on foot so as to not use the car as a
 23 form of cover?

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1 A Yes. I have been instructed to
 2 approach on foot.
 3 Q Who provided that instruction or that
 4 training?
 5 A That would have been if I can remember
 6 correctly, some of the training I received at the
 7 Academy.
 8 Q Have you ever been instructed or taught
 9 that the sight of a police cruiser can also serve as a
 10 deterrent?
 11 A It can. I have been.
 12 Q Have you been taught or instructed that
 13 the emergency warning devices, the lights and siren, can
 14 serve as a deterrent?
 15 A I don't recall anything being specific.
 16 Q Earlier in Mr. Hajash's deposition,
 17 there was some questioning about did the two of you take
 18 the longer way to the scene. Were you familiar with the
 19 shorter way coming off Harper Road down by the Wendy's?
 20 A I've probably been that way before but
 21 I did not recall that way.
 22 Q Do you have an estimate how many times
 23 you may have been in communication back and forth with

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1 dispatch while you were en route after leaving the hotel
 2 and prior to exiting your car?
 3 A I don't have a number.
 4 Q Was it pretty open communication,
 5 though?
 6 A As far as open as in?
 7 Q Were you ever trying to reach dispatch
 8 and they were unavailable?
 9 A I don't recall.
 10 Q Do you recall receiving numerous
 11 updates?
 12 A Yes.
 13 Q Did you ever give any consideration to
 14 asking dispatch to call the residence for a status, the
 15 people who were actually living there?
 16 A Are you saying did I ask or did I think
 17 about asking them to call?
 18 Q Yeah.
 19 A I don't recall.
 20 Q Have you ever been trained, advised,
 21 instructed, whatever you were, that that is an option to
 22 ask someone to call the residence so that you have a
 23 better idea of what you're walking into?

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1 A Well, mostly for businesses, like if
 2 there's a panic alarm.
 3 Q Okay. What about domestic violence
 4 situations in the home? The reason I'm asking is a
 5 retired officer asked did they do this because it was his
 6 pattern to ask dispatch to call a residence before he
 7 walked up and knocked on the door. I'm just curious if
 8 anybody's ever taught you-all or talked about that?
 9 A Sometimes only to get an update, not to
 10 see -- because no matter, even if they try to disregard
 11 us on a domestic, we still have to respond.
 12 Q Right. You're still going. If I
 13 understood it correctly, though, you haven't received
 14 training on that or have been instructed that that's an
 15 option for you to have someone call the house and ask is
 16 this a violent situation or not?
 17 A Have I been instructed?
 18 Q Yes.
 19 A I've done that. I don't know that I
 20 was instructed. I can't say. I mean, just to get an
 21 update to see if the violence has escalated or not.
 22 Q Would that have been something you
 23 think you just picked up from other officers on the job?

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1 A I can't say. I don't recall.
 2 Q But you, yourself, have done that in
 3 other occasions?
 4 A Yes.
 5 Q Have you ever been instructed not to do
 6 that?
 7 A Not that I recall.
 8 Q Did dispatch give a description at all
 9 of what Mr. Webb may have looked like, his physical
 10 appearance?
 11 A If I remember correctly, it was a tall
 12 male with long hair. As far as the clothing description,
 13 I don't recall.
 14 Q Were you wearing a protective vest when
 15 you arrived at the scene or did you retrieve that from
 16 your vehicle?
 17 A I had one on but I don't know if I
 18 retrieved it when I arrived or before I left the hotel.
 19 Q And, obviously, we understand that
 20 your car did have a shotgun in it somewhere.
 21 A That's correct.
 22 Q Was that secured in the trunk?
 23 A I think it was in the rack up front.

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1 Q Did you access the shotgun before
 2 leaving or upon getting out of the car at the scene or
 3 near the scene?
 4 A Before leaving.
 5 Q Before leaving the hotel?
 6 A No. I waited till I arrived on the
 7 scene.
 8 Q Just out of curiosity, is there a
 9 reason you chose to take the shotgun and not rely on the
 10 Glock 35?
 11 A I took the shotgun because it's another
 12 tool that we have issued.
 13 Q From the time you arrived at the scene,
 14 did you hear any gunshots or discharge of firearms in the
 15 area?
 16 A No.
 17 Q At anytime until after Mr. Webb was
 18 hit, did he discharge that weapon or any weapon that you
 19 know of?
 20 A Can you say that again?
 21 Q From the time you arrived until
 22 Mr. Webb was shot, do you know or can you say that he
 23 discharged a firearm at all?

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1 A No. I did not hear a round go off.
 2 Q As you were walking down Cabell
 3 Heights, was the house on your right or on your left?
 4 A On the right.
 5 Q And how did you first attempt to gain
 6 access to the house?
 7 A Through the gate, the fence gate.
 8 Q Would that be the one out on Cabell
 9 Heights or on Primrose?
 10 A The fence facing Cabell Heights.
 11 Q And were you able to get in that gate?
 12 A No.
 13 Q Do you recall why?
 14 A There was a lock, like a padlock
 15 through the hole where the hasp closes.
 16 Q Were you able to observe anyone outside
 17 the home from that location from the front gate?
 18 A I don't recall from that location, from
 19 the gate.
 20 Q At that point when you're standing at
 21 the gate, were you aware of the intersection of Primrose?
 22 Could you see it at that point?
 23 A I believe so. Could see the

1 that we were going to get between him and his residence.
 2 And that's why we were going to go through the gate and
 3 split off and go around each side of the house and where
 4 he was on past us.
 5 Q Did you consider going over the chain
 6 link fence at that point or was it just a matter that
 7 it's easier to walk up Primrose Lane?
 8 A I did but I chose not to do that.
 9 Q Why is that?
 10 A Because it would have made too much
 11 noise.
 12 Q So then if I recall correctly, you
 13 would have continued walking on a slight downhill grade
 14 to reach the intersection of Primrose?
 15 A I'm not sure if it leveled out there or
 16 not. I can't recall at that point if it was downhill or
 17 not.
 18 Q And how much were you able to observe
 19 Mr. Webb from the time you left the front gate as you
 20 then made the right-hand turn and began walking down
 21 Primrose?
 22 A If I recall correctly, I couldn't
 23 really observe him from my point because there was a

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1 intersection of the road?
 2 Q Yes.
 3 A I believe so.
 4 Q When you were standing at that front
 5 gate, were you able to determine if there was anyone
 6 outside the house at all?
 7 A I determined before we got to the gate.
 8 Before coming down the road at the edge of the property,
 9 at the boundary, you could see someone going in and out
 10 of the tree line.
 11 Q Okay. And was the music still on at
 12 that point?
 13 A When we got to the gate?
 14 Q Yes.
 15 A It had stopped right there in that
 16 general time frame when we were at the gate.
 17 Q Did you have any discussion with Deputy
 18 Hajash at that point about how you were going to approach
 19 the person that you just previously observed?
 20 A While we were at the gate?
 21 Q Yes.
 22 A If I remember correctly, my intentions
 23 were since I understood that he was firing at his house,

1 large shrub in front of us.
 2 Q Was the music still playing at that
 3 point?
 4 A No. After it initially stopped, no.
 5 Q As you made the turn and began walking
 6 down Primrose, did you come to a stop or were you in
 7 constant motion until reaching him?
 8 A That I don't recall.
 9 Q Do you have any recollection of finding
 10 a vantage point between the hedges where you could
 11 observe him visually?
 12 A Before coming down the street in front
 13 of the house?
 14 Q Yes. At this point, I'm at the point
 15 where you and Deputy Hajash were walking down Primrose.
 16 Do you recall finding a vantage point where you could see
 17 him between the hedges?
 18 A No. Where I observed him between
 19 anything was on Cabell Heights before we got to Primrose.
 20 Q I know I'm probably getting pretty
 21 technical here but when you left the front gate and you
 22 walked to the intersection of Primrose and Cabell
 23 Heights, were you able to see him in between Primrose and

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1 the house in that distance? Were you able to observe him
 2 at all?
 3 A I don't think I had contact with him
 4 visually once I hit the intersection. I don't remember
 5 having contact after we left the gate. I don't recall.
 6 Q Earlier than that, at the point that
 7 you were able to observe him, did you have any visual-
 8 ization of him being armed with a weapon?
 9 A Did I have a visualization?
 10 Q Yes.
 11 A Are you saying did I see him with a
 12 weapon before that?
 13 Q Yes.
 14 A No. But it was a good distance away.
 15 I could just see an outline going through the trees.
 16 Q Okay. Now, back to after you left the
 17 gate and began walking or to close the gap between where
 18 the gate is and where he was, the music was off at that
 19 point. Correct?
 20 A Yes.
 21 Q Could you hear him moving around?
 22 A I don't think so because there was a
 23 dog across the street that I heard more than anything. I

1 at?
 2 Q Yes.
 3 A Yes.
 4 Q Can you recall how close you were to
 5 Mr. Webb at the point that you were able to see him?
 6 A I know how far the distance was because
 7 I asked but if I had to guess, I wouldn't be able to tell
 8 you.
 9 Q Do you know how far it is today?
 10 A I think it was 31 feet if I'm correct.
 11 I'm not sure.
 12 Q And what do you recall about the
 13 lighting in that area that evening?
 14 A That there was a light, like a dusk-to-
 15 dawn light.
 16 Q Where was that placed?
 17 A It was either on a utility pole or it
 18 was on maybe the garage. I'm not sure.
 19 Q Was visibility to the point that you
 20 had a good view of the driveway area?
 21 A At what point?
 22 Q Once you were able to see Mr. Webb.
 23 Once you passed that shrub row, was visibility pretty

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1 don't recall if I did.
 2 Q Did you either see or hear anything
 3 while walking along Primrose that led you to believe he
 4 was armed?
 5 A Before he presented the weapon?
 6 Q Yes.
 7 A Once I made eye contact, all I could
 8 see was him standing at the truck. I didn't see anything
 9 until he presented it.
 10 Q Okay. Do you recall what the distance
 11 is between the intersection of Cabell Heights and
 12 Primrose as you walk down that lane to his driveway?
 13 A I don't know.
 14 Q And I know I'm beating a dead horse but
 15 if I understand you correctly, until you got past that
 16 line of shrubs, you didn't have a position where you
 17 could observe him?
 18 A I don't recall being able to see him
 19 then, no.
 20 Q Okay. Is it fair to say then when you
 21 walked past the end of that shrub row, suddenly, there he
 22 was?
 23 A On the end of the shrub row where he's

1 good in the driveway?
 2 A Yes.
 3 Q Were you able to identify him once you
 4 had a clear line of sight?
 5 A I didn't know Mr. Webb. I mean, I seen
 6 a male.
 7 Q Okay. When I say that, you were able
 8 to identify a man in the driveway once you had a line of
 9 sight to him?
 10 A That's correct.
 11 Q You were no longer obstructed by the
 12 shrubs?
 13 A No.
 14 Q What else do you recall about the
 15 driveway? Were there vehicles there?
 16 A Were there vehicles there?
 17 Q Vehicles in the driveway?
 18 A I think just the one that he was
 19 standing next to or leaning in.
 20 Q Was the front of the vehicle facing
 21 toward the garage or away from the garage?
 22 A I don't remember in relation to -- it
 23 would be a guess to try remember where the garage was. I

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1 know the vehicle was pulled in. So exactly where it was
 2 in relation to the garage, I'm not sure.
 3 Q Where do you recall Mr. Webb standing
 4 or where was he located when you first were able to
 5 observe him clearly?
 6 A When I made visual contact when I was
 7 on Primrose, he was standing with the door open in
 8 between the door and like the entry of the truck, you
 9 know, on the driver's side.
 10 Q Were you able to identify what he was
 11 doing, what activity he was engaged in?
 12 A No. He was doing something inside the
 13 truck.
 14 Q Earlier, you heard Mr. Hajash say that
 15 he thought maybe he was messing with the radio. Do you
 16 agree, disagree or have no opinion about that?
 17 A An opinion, I would have to agree
 18 because when the radio stopped, it was a surprise to him.
 19 Q Did you also hear him say something
 20 when the music stopped?
 21 A I did.
 22 Q What do you recall him saying?
 23 A He said, What the hell?

1 began walking down Primrose, how were you carrying the
 2 shotgun?
 3 A At a low ready.
 4 Q And low ready, would that be both hands
 5 on the gun at waist level?
 6 A The weapon at waist level?
 7 Q Yes.
 8 A The butt of the weapon is into your
 9 shoulder and it's --
 10 Q Muzzle down?
 11 A Yes.
 12 Q Okay. At what point, if any, did you
 13 raise the muzzle in a targeting fashion?
 14 A When I observed Mr. Webb and gave
 15 verbal commands.
 16 Q Do you recall if you had the muzzle
 17 targeted before or after giving the verbal command?
 18 A Probably about the same time because
 19 when I stepped out, that's when I observed him and gave
 20 the verbal command.
 21 Q I bounce around a fair amount in my
 22 questioning. Back at the front gate, when you were at
 23 the front gate, did Deputy Hajash have his weapon drawn

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1 Q Were you able to clearly hear him say
 2 that?
 3 A Yes, I could hear that.
 4 Q Was there anything about the way he
 5 said it that caught your attention?
 6 A Like it was a surprise.
 7 Q Was it an angry tone? Did it sound
 8 like an angry tone to you?
 9 A It was loud. It sounded like he -- I
 10 mean, it was loud and definite.
 11 Q As you were walking down Primrose, did
 12 you see or hear anything that led you to believe Mr. Webb
 13 was aware of your presence?
 14 A No, not until I made contact with him.
 15 Q Was that contact, was it to the best of
 16 your recollection simultaneous? Do you think he noticed
 17 you at the same time you saw him?
 18 A Oh, do I think he visibly observed me
 19 when I see him?
 20 Q Uh-huh, (yes).
 21 A No. I would say my contact -- I had
 22 visual on him first.
 23 Q Okay. When you left the front gate and

1 from its holster at that point?
 2 A I don't know.
 3 Q Were you able to identify at any point
 4 when Deputy Hajash drew his weapon? Either by sight or
 5 by sound, were you able to identify when he did that?
 6 A No.
 7 Q Did you know that his weapon was drawn
 8 at the time you raised the muzzle of the shotgun in a
 9 targeting manner?
 10 A Did I know?
 11 Q Yes.
 12 A I don't ever remember looking over to
 13 see. I can't say that I know for sure.
 14 Q Okay. Were you aware of his location
 15 in relation to yours?
 16 A The general location, yes.
 17 Q And where was he in relation to where
 18 you were?
 19 A Off to my right, my right.
 20 Q Would he have been basically even with
 21 you, ahead of or behind you, if you recall?
 22 A I don't recall. I would say -- well,
 23 that would just be a guess.

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1 Q I'm going to ask you to draw us a
2 diagram if you would.
3 A Well, a diagram of?
4 Q How about starting with just drawing an
5 intersection of Cabell Heights and Primrose and then
6 we'll put the house in after that and then we can kind of
7 draw the driveway in and then put the people last.
8 A (Witness complies) Okay. The
9 intersection and then -- what do you want next?
10 Q The location of the Webb house in
11 relation to the intersection.
12 A (Witness complies)
13 Q Okay. And then the driveway where
14 Mr. Webb was located.
15 A (Witness complies)
16 Q Okay. If you would, just however you
17 want to draw it but put in something to indicate where
18 the shrubs that we've been referring to. Where are they
19 located as they were obstructing your view?
20 A To the best of my memory.
21 Q Okay. Would you put an "S" or "Sh" or
22 something there by that?
23 A (Witness complies)

1 Hajash.
2 A He was off to my right.
3 MR. WILLIAMS: And when you say he,
4 you're talking about Hajash?
5 THE WITNESS: I'm sorry. Yes, Deputy
6 Hajash.
7 BY MR. OLIVIO:
8 Q Would you please put an "H" to identify
9 Hajash and "K".
10 A (Witness complies)
11 Q Thank you. Okay. Let me mark that as
12 Exhibit 1 and later, I'm going to ask you to do one more
13 drawing but we'll put them both on the same --
14 (WHEREUPON, Kade Deposition
15 Exhibit No. 1 was marked for
16 identification purposes)
17 MR. WILLIAMS: And, again, my only --
18 not really an objection but just clarification
19 that he's drawing that strictly from memory not
20 having been to or reviewed any layout or map of
21 that area in quite sometime and it's obviously
22 as we've discussed not to any reasonable scale.
23 THE WITNESS: My memory is pretty good

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1 Q Okay. The scale on this is probably
2 going to get a little small but can you draw in relation
3 to the best of your memory your location, the location of
4 Mr. Webb and the location of Mr. Hajash at the time that
5 you announced your presence as law enforcement?
6 A Yeah. That is going to be kind of
7 small, isn't it?
8 Q Yeah. Feel free to expand this
9 driveway over. We're not holding this to scale. However
10 you want to draw it.
11 A Okay. The location of myself, Hajash
12 and Webb?
13 Q Yes.
14 A Somewhere, you know, in the driveway --
15 we'll just use this as the pickup. You know, like I
16 said, I don't have exact --
17 Q I know. We're not holding you to scale
18 or measurements there.
19 A Okay. And this would be the opening of
20 the truck and he was standing approximately somewhere
21 here and I had stepped out and something like this. You
22 know, I can't guess where he was but --
23 Q Somewhere to your right was Deputy

1 of the location and everything as I remember.
2 BY MR. OLIVIO:
3 Q Okay. As Mr. Webb is standing at the
4 truck, just so I'm clear, was he facing inside the
5 vehicle?
6 A That's correct.
7 Q And in relation to his direction, you
8 would have been to his right primarily?
9 A In relation to?
10 Q To his point of view. As he's reaching
11 inside his vehicle, you would have been behind the
12 vehicle so basically to his right?
13 A Somewhat, yes.
14 Q Okay. What do you specifically recall
15 announcing to let him know that you were there?
16 A Police, let us or let me see your
17 hands.
18 Q Is that a standard line that you use?
19 A Somewhat. Because when you're in a
20 stressful, dangerous situation, the more you have to
21 blurt out, like, Sheriff's Department and Deputy Sheriff,
22 so, police, let me see your hands.
23 Q At what volume level would you do this?

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1 A Very good. I mean a high volume level.
2 Q If someone were within 20-25 yards,
3 would it be at a sufficient volume that they would hear
4 it clearly?
5 A Yes.
6 Q How did Mr. Webb respond when you
7 announced your presence?
8 A That is when he stepped away from, out
9 from leaning in the vehicle and presented a firearm.
10 Q Okay. And I'm going to slow this down
11 and take small questions and small steps here. First,
12 did he appear startled or surprised that you were there?
13 A Probably surprised.
14 Q Did he make any movements with his body
15 either forward, backward or to the side to change his
16 physical location from where he was when you announced?
17 A Possibly, a step or two and a turn.
18 Q When you say a step or two, can you
19 describe for me --
20 A Like, stepping back.
21 Q Stepped back away from the vehicle?
22 A Yes. Or out of the pocket per se.
23 Q The door pocket where the door was

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1 open.
2 A (Witness nods head yes)
3 Q As you are viewing and you indicated he
4 turned, did he turn clockwise to his right or counter-
5 clockwise to his left?
6 A He turned to his right towards us.
7 Q So you're to my right and you're
8 indicating my right arm here. He turned this way into
9 you and not turning so that his back was to you?
10 A That's correct. Turned in to us.
11 Q That would be in a clockwise fashion.
12 A Towards his right.
13 Q Did you have an unobstructed view of
14 his body from where you were standing, a head-to-toe
15 view?
16 A At first, I had perceived that I could
17 only see, like, from the waist up but I seen him falling
18 and I was able to see a whole view. So I think in my
19 memory I had a complete view and I don't know if that's
20 because I was sidestepping or what.
21 Q Deputy Hajash testified this morning
22 that he only had a partial view because the truck was
23 obstructing part of his field of vision of Mr. Webb.

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1 That's not your recollection of your perspective of where
2 you were standing?
3 A Of me, not him. Correct?
4 Q Of you?
5 A Of Deputy Hajash?
6 Q Of you?
7 A Yes. I stepped out and I was able to
8 see him clearly.
9 Q Okay. When you were able to see him
10 clearly, can you describe for me where his weapon was
11 when you first saw it?
12 A When I first saw it, it was in his
13 hands.
14 Q In both hands?
15 A Yes.
16 Q At what level of his body?
17 A It was a motion of coming up.
18 Q So as your recollection is, did he have
19 both hands on the weapon so they were positioned as they
20 would be if he were to raise the gun and fire?
21 A Yes.
22 Q He didn't have to move his hands from a
23 more carrying position to a firing position?

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1 A No.
2 Q Okay. And you say he was raising the
3 weapon, did you observe the butt of the weapon against
4 his shoulder or was it down, completely down and he was
5 raising the entire weapon?
6 A From what I remember, it was up. It
7 was just up, coming up. Now, whether the butt was in the
8 toe of this pocket, the pocket of the shoulder, I know
9 the weapon was coming up.
10 Q Did you get a good observation of the
11 weapon after everything was over?
12 A No.
13 Q Did you look at the weapon after he was
14 on the ground?
15 A I did not walk up on him to see him or
16 the weapon. I was able to identify the weapon when he
17 had it. I mean, I could see it on the ground from where
18 I was at.
19 Q Was the weapon equipped with a sling?
20 A I don't recall.
21 Q At anytime, did you observe a sling or
22 any other mechanism holding the weapon onto Mr. Webb's
23 person other than his hands?

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1 A At anytime before the shot was fired --
 2 Q Yes.
 3 A -- did I observe him -- can you ask
 4 that again?
 5 Q I'm trying to make sure that the weapon
 6 wasn't suspended like a tactical harness or something.
 7 A No.
 8 Q It was in his hands?
 9 A It was in his hands.
 10 Q And you don't recall him having to
 11 reposition the hands to put the weapon into a firing
 12 position?
 13 A No.
 14 Q Okay. How did he raise the weapon as
 15 you recall to present it in a threatening manner?
 16 A With both hands on the weapon.
 17 Q Did he do this as he was turning or did
 18 he complete his turn and then begin to raise the weapon?
 19 A I'm not sure. If I remember correctly,
 20 he may have turned with it and then raised it. I don't
 21 recall whether it was simultaneous or whether it was
 22 after.
 23 Q Did he ever get the weapon all the way

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1 up to the right shoulder pocket and level?
 2 A From what I recall, yes. Yes.
 3 Q So you perceived the weapon was
 4 shouldered and aimed at you or Deputy Hajash?
 5 A I perceived it aimed in our direction,
 6 aimed at me because there wasn't a whole lot of room
 7 between us.
 8 Q You believe he had the weapon leveled
 9 at the time you fired or did you fire before he got it
 10 all the way up?
 11 A From what I remember, he was bringing
 12 it up. I can't say if it was up up or if it was just
 13 slightly before being in a position of what you're
 14 calling up.
 15 Q So your recollection of this is
 16 Mr. Webb takes a step backwards and turns to his right
 17 while raising -- well, perhaps completing the turn and
 18 perhaps simultaneous raising the weapon to his right
 19 shoulder while turn to his right?
 20 A Are you saying that he turned to his
 21 right and raised the weapon?
 22 Q Yes.
 23 A He either raised it up at the same time

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1 or he turned and raised it up.
 2 Q Okay. Do you know specifically if you
 3 fired first or if Deputy Hajash fired first?
 4 A If it wasn't close to being simul-
 5 taneous, then it was just very little delay between both.
 6 Q What model of shotgun did you carry?
 7 A A Remington 870.
 8 Q A pump or an autofeeder?
 9 A A pump.
 10 Q Do you know what kind of rounds you had
 11 in it?
 12 A I think Remington Express 2 3/4 00
 13 buckshot.
 14 Q Could you tell from the reaction if the
 15 shot from the shotgun hit Mr. Webb?
 16 A Yes.
 17 Q You believe it hit him?
 18 A Yes.
 19 Q Do you have any knowledge if whether
 20 Deputy Hajash hit Mr. Webb with any of his shots?
 21 A Yes.
 22 Q Do you know how many shots Deputy
 23 Hajash fired?

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1 A I believe it to be three.
 2 Q And you were here when he gave us the
 3 description of two initial shots and then a third shot.
 4 Do you agree with that?
 5 A I perceived them as being in succession
 6 of boom, boom, boom. I don't recall a boom, boom and a
 7 boom.
 8 Q Okay. Were you able to observe
 9 Mr. Webb fall to the ground?
 10 A Yes.
 11 Q Did he go down immediately from the
 12 impact of the shotgun, when the shot hit him?
 13 A I perceived that he fell down
 14 immediately.
 15 Q Do you recall his body rolling over as
 16 Deputy Hajash described this morning?
 17 A Yeah, he did roll.
 18 Q Did he roll towards you or away from
 19 you if you recall?
 20 A I think towards us.
 21 Q At anytime after he hit the ground, did
 22 you observe the weapon still in his hand?
 23 A No, no.

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1 Q Do you recall telling Deputy Hajash to
2 cease firing?
3 A I said, he's down and stop firing.
4 Q Did you say that because you were
5 concerned that he was continuing to fire beyond when he
6 didn't need to?
7 A No. I guess I automatically said it,
8 you know. I couldn't tell you why.
9 Q Do you agree with Deputy Hajash that
10 the third shot from his Glock likely was made after
11 Mr. Webb was already down?
12 A I can't say.
13 Q Did you observe that third shell
14 impacting Mr. Webb in any way?
15 A I couldn't tell that at all.
16 Q Once he was down in the roll that you
17 have described, did it appear to you that he was rolling
18 under his own power or was he rolling as a result of
19 being hit and falling to the ground?
20 A I perceived it as him falling to the
21 ground.
22 Q Did you perceive that as an ongoing
23 threat that he was rolling to put himself into a firing

1 for the next person whether it be the Sheriff's
2 Department, law enforcement or Emergency Medical Services
3 to arrive on scene?
4 A I don't have a time but I can tell you
5 like he did. It seemed like forever just because of the
6 severity of the circumstance.
7 Q During that time, tell me what steps
8 each of you took after Mr. Webb went down to secure the
9 scene?
10 A Are you talking about before anybody
11 arrived on scene?
12 Q Yes. After the shots were fired and
13 before the next person whomever that was arrived on
14 scene.
15 A I remember telling Deputy Hajash that
16 we needed to try to find some type of cover in case there
17 was family that was going to come out of the house.
18 Q Did you have any specific reason to be
19 concerned that you might be attacked by family in the
20 house?
21 A One time, it hadn't been very long
22 before this, Deputy Hajash and I had a court order that
23 we had to go take possession of a juvenile female that

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1 position on you?
2 A No.
3 Q Okay. After he went down, did he make
4 any movements to indicate to you that he may be still
5 alive?
6 A I did not walk up to him. I did not
7 step any further up than I was after I fired my weapon
8 towards Mr. Webb.
9 Q Did Mr. Hajash step up to the body?
10 A He did.
11 Q Did he make any attempt to determine
12 whether Mr. Webb was alive or dead?
13 A As far as feeling for signs of life?
14 Q Yes.
15 A No.
16 Q How quickly was a call made on either
17 radio to call for medical assistance?
18 A Immediately.
19 Q And who made that call?
20 A We both actually did. Deputy Hajash
21 made it first and I don't know if it was just out of
22 instinct or not, I said it again.
23 Q And how long do you recall it taking

1 was in her father's care and once we got there and we
2 tried to take possession of this young girl, the whole
3 neighborhood was family and everybody just emptied out on
4 us. We probably had 15 or 20 people, you know, trying to
5 keep us from taking this girl. And I was worried that
6 that possibly could happen again.
7 Q How many shots did you fire with the
8 Remington?
9 A One.
10 Q Do you recall chambering a second round
11 after discharge?
12 A Not the second round, I don't.
13 Q Do you know if you did without
14 knowledge?
15 A I didn't know it until I was told.
16 Q Okay. Do you remember ever clearing
17 your weapon at the scene?
18 A Clearing as to give to someone?
19 Q Clearing as to take all shells out of
20 it before handing it to someone or securing it back in a
21 vehicle or anything?
22 A I don't remember if I cleared it or not
23 before.

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1 Q Okay. How did you learn later that you
2 -- I think it is in the report that you did, in fact,
3 cycle that pump and chamber a second round.

4 A How did I learn that the second cycle
5 had taken place?

6 Q Yes.

7 A I was asked to explain how the live
8 cartridge was on the ground.

9 Q And you just don't remember that?

10 A I don't recall cycling the weapon at
11 all after I fired the round until I told Deputy Hajash we
12 need to take cover and then I thought in my mind, you
13 know what, I didn't cycle a round. I didn't put another
14 round in and that's when I did that.

15 Q Between the time the shots were fired
16 and the next person arrived on scene, did either of you
17 make any attempt to render medical aid to Mr. Webb?

18 A No.

19 Q Did either of you make any attempt to
20 determine whether he had a pulse?

21 A Physically, no.

22 Q When both of you placed the calls to
23 911, did you report his condition in any way, dead,

1 Q Did you take cover behind anything, a
2 tree, a building, anything at all?

3 A There were some trees there. There
4 wasn't really any cover or -- out in the roadway, we were
5 -- no concealment.

6 Q Do you recall whether Mr. Hajash
7 secured the weapon?

8 A Are you talking about Mr. Webb's?

9 Q Mr. Webb's weapon?

10 A No.

11 Q And you, yourself, did not secure his
12 weapon?

13 A No. Are you talking about when he was
14 down?

15 Q Yes.

16 A No. We didn't touch anything.

17 Q Did either of you make any attempt to
18 determine whether the weapon was on safe or fire mode?

19 A No.

20 Q Can you tell me why you didn't walk up
21 any closer to where Mr. Webb fell?

22 A Because I didn't want that image burned
23 in my mind forever. I mean, it was already enough to

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1 alive?

2 A I think I remember saying that shots
3 fired, subject down, we need EMS, something to that --

4 Q Did you observe Deputy Hajash go into
5 the garage area?

6 A I don't recall that.

7 Q Did you hear him testify to that this
8 morning?

9 A I did.

10 Q If he did that, do you think that would
11 be something you would have provided cover for him?

12 A When he cleared the garage? No. I was
13 providing cover or looking around worrying about somebody
14 coming out of the residence on us.

15 Q Okay.

16 A I wasn't concerned with the garage.

17 Q What position did you take up when you
18 were at that stage of being concerned about maybe people
19 coming from the residence?

20 A I don't know how far or how many steps
21 I took but I went up Primrose just a little bit more, if
22 I remember correctly, and just kind of staged waiting on
23 help.

1 wonder --

2 Q Do you want to take a break for a few
3 minutes?

4 A No.

5 Q If you do, just let us know. Who do
6 you recall being the next person to arrive on scene?

7 A I think it was Deputy Bircham.

8 Q And how quickly did EMS arrive after
9 Deputy Bircham?

10 A I don't know.

11 MR. WILLIAMS: Do you want to take a
12 few?

13 (WHEREUPON, there was a short
14 break in the proceeding)

15 BY MR. OLIVIO:

16 Q Deputy Kade, did any of the relatives
17 in the Webb house or any of the neighbors come out of the
18 house afterwards?

19 A The female did that was identified as
20 Mary, Mary Webb.

21 Q Okay. Did you personally speak with
22 her or do you recall speaking with her?

23 A I did.

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1 Q Do you know if Deputy Hajash also spoke
2 with her?
3 A I think he did also.
4 Q Do you remember what the content of
5 those conversations were however brief they might have
6 been?
7 A What I said was just, ma'am, go back
8 in the house, or, you know, something like, please, go
9 back in the house and I believe he basically just
10 reiterated what I said.
11 Q Do you recall either of you making any
12 statements about obstruction of justice or anything like
13 that?
14 A No.
15 Q Do you recall if Mr. Hajash did?
16 A No. I know I didn't and I don't recall
17 him saying anything.
18 Q How about any of the neighbors, do you
19 remember anyone else coming out?
20 A The gentleman that lives if you're
21 directly across the street from the driveway, he came out
22 and he went back in the house.
23 Q Did you ever speak with that gentleman?

1 correctly so they would know where to turn at. And I
2 believe after that, I left.
3 Q Then I followed up with the question,
4 were you involved in taking the crime scene photographs?
5 A No.
6 Q Do you know who did that?
7 A I know the detectives were on scene. I
8 don't know who took the photos.
9 Q And when you say detectives, can you
10 identify by name who that would be?
11 A Yes, sir. That was Detective Lilly and
12 Detective Canaday.
13 Q Were you present to witness the EMS or
14 EMT personnel arrive at Mr. Webb's?
15 A I don't recall.
16 Q Who would have been in charge of the
17 scene at that time?
18 A Lieutenant Williams.
19 Q And if anyone from the Department
20 denied EMS access to Mr. Webb immediately, do you know
21 who that would have been?
22 A I heard Deputy Hajash's statement
23 earlier but I don't remember anything about them being

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1 A I don't think I did. I don't recall.
2 I remember him coming out, though.
3 Q We've heard from Mr. Hajash that maybe
4 ten or as many as 11 people arrived on scene at various
5 times. Is that basically consistent with your
6 recollection?
7 A It would be roughly a guess. I don't
8 remember exactly how many people were on scene.
9 Q Can you identify for me those that you
10 know for sure were there like Sheriff Moore?
11 A And Deputy Bircham, Lieutenant
12 Williams, Sheriff Moore, Steve Tanner, Larry Lilly, Jimmy
13 Canaday and Jim Bare. As far as the EMS, I'm not sure.
14 Q Do you remember EMS arriving at the
15 scene?
16 A I think that I had already been
17 relieved or you know, told to back away from the scene.
18 Q Were you involved in any way of taking
19 crime scene photographs?
20 A On your first, the other question.
21 Q Go ahead and finish.
22 A I believe that I had actually went down
23 to the intersection to flag down the EMS if I remember

1 denied.
2 Q Did you ever have any specific
3 conversations with any of the people on the ambulance
4 crew?
5 A Not that I recall, no.
6 Q Do you know any of those people who
7 came personally? Do you know them outside of work or
8 neighbors or anything like that?
9 A No. I can't even remember who it was.
10 Q Okay. Did you play any active role in
11 the investigation after this incident?
12 A As in? I don't understand.
13 Q You didn't gather evidence?
14 A No.
15 Q You gave a report to one of the other
16 officers?
17 A Actually, I think it was Lieutenant
18 Williams whenever I was on the scene. I don't remember
19 if he or Bircham who made it there first. I think it was
20 Bircham. I'm not sure. And they asked us if we were all
21 right and then -- I mean, I didn't want to be there.
22 Q They separated you from it and took
23 a --

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1 A Yes.

2 Q Did they ever bring you back in and say

3 we need your help on this investigation?

4 A I don't remember that. No, I don't

5 think they did. I mean, I don't remember.

6 Q They just asked you to give us a

7 statement at some point?

8 A Yes, when we got back to the office. I

9 mean, we briefly told what happened there and then left.

10 The next time we talked about it was at the Sheriff's

11 office.

12 Q Did the Department require you to

13 submit to any drug or alcohol screening after the

14 shooting?

15 A No.

16 Q Is there policy on anything like that?

17 A I don't know.

18 Q If I ask you, I know your answer is

19 going to be you didn't consume alcohol or drugs?

20 A No.

21 Q Any prescription meds?

22 A No.

23 Q Over-the-counter meds?

1 Q And did you choose that person or did

2 the Department set you up with someone that they have in

3 place for that?

4 A The Department set it up.

5 Q And was that Mike Johnson?

6 A I think that's his name.

7 Q Did you go through whatever it was

8 Mr. Johnson wanted you to do?

9 A Yes. I had to meet with him and

10 discuss it with him.

11 Q Was that a mandatory meeting or was

12 that optional on your part?

13 A That was mandatory.

14 Q Were you ever placed on administrative

15 leave after this shooting even if for a brief period of

16 time?

17 A Yes. Until we met with Mr. Johnson and

18 was cleared to come back to work.

19 Q How long were you on leave for that?

20 A I think two or three days.

21 Q Have you ever applied for any type of

22 Workers' Compensation or disability rating as a result of

23 this incident?

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1 A No, other than a vitamin, a multi-

2 vitamin.

3 Q Are you taking, like, allergy

4 medications or anything like that?

5 A Occasionally.

6 Q What do you take if you take something?

7 A Just something over-the-counter like

8 Tylenol Sinus or something like that you can get from

9 just like a Wal-Mart.

10 Q I'm going to go through a couple of

11 questions on the requirements for what you had to go

12 through to get back to work. I'm going to try to skirt

13 the objections but let me finish my question and pause a

14 second because Chip may want to lodge an objection to

15 some of these questions. It's my understand that the

16 Sheriff's Department has a policy on shooting cases and

17 some may or may not be mandatory. Tell me what process

18 you had to go through without the specifics in any

19 counseling but the process you had to go through to be

20 cleared to return to work.

21 A I had to go to speak to someone whether

22 it was a counselor or a psychologist or whatever to make

23 sure I was fit for duty.

1 A No.

2 Q Have you ever applied for a disability

3 rating for anything at all?

4 A A disability rating?

5 Q Yes. Disability benefits.

6 A Like, you mean -- now, I got hurt at

7 work after this and it was work-related.

8 Q Was it a Workers' Comp claim?

9 A Yes.

10 Q What happened there?

11 A I tore my bicep tendon loose from the

12 bone.

13 Q Lifting?

14 A I was arresting a gentleman.

15 Q Okay. Did you have to have surgery on

16 that?

17 A I did.

18 Q How long were you out for that?

19 A I think close to eight months.

20 Q Did you make a full recovery?

21 A Yes and no. They said the most I'd get

22 back is 80 percent of the strength that I had.

23 Q Are you on any restricted duties now?

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1 A No.

2 Q Back to full duty?

3 A Yes, sir.

4 Q If I understood you correctly then,

5 were you cleared to return to duty about two or three

6 days after the shooting or after the meeting with

7 Mr. Johnson?

8 A I think after the shooting. I'm not

9 for sure. I think it was two or three days after the

10 shooting. That's just a guess but I'm not for sure.

11 Q Have you ever been back on admin leave

12 or had to go back and see Mr. Johnson for anything

13 related to this Webb incident since that first visit

14 that you had to go to that was mandatory?

15 A I don't think I ever went back to

16 Mr. Johnson but I do see someone else.

17 Q Is that something that is required by

18 the Department or is that something of your choosing?

19 A My choosing.

20 Q Is that covered through the Department

21 or do you pay for that separate?

22 A Actually, there's no cost either way.

23 Q Okay. Was it medical or is it pastoral

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1 services?

2 A Actually, it's a little bit of both.

3 There's a gentleman from the Huntington area that that's

4 what he does.

5 Q Is this something available to every-

6 body or to officers involved in these types of incidents?

7 A I know it's available to officers. I

8 would assume it's probably available to the community.

9 Q Might I ask what his name is?

10 A Gary Patton.

11 Q And is that something ongoing, you're

12 still doing?

13 A Yes.

14 Q Did anyone ever advise you why

15 Mr. Hajash was let go from the Department?

16 A No, not really.

17 Q Did you ever talk to him about it?

18 A I didn't really ask and he wouldn't

19 talk about it.

20 Q Did you ever work with him again after

21 the Webb incident?

22 A I don't recall anything major. I mean,

23 we may have worked some shifts together but, you know, I

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1 don't recall anything big happening. So how long it was,

2 I don't know.

3 Q Okay. Did he ever discuss the

4 difficulties he was having coping with you?

5 A At first. It wasn't long after, you

6 know, he was talking to the administration or whatever.

7 He just quit talking about it.

8 Q Anybody at the Department ever tell you

9 why he was let go or was there any scuttlebutt around the

10 office or water cooler talk?

11 A No, not really. I know I don't know.

12 I don't know if he left on his own or I don't know if he

13 was terminated. I don't know.

14 Q Did you have any knowledge that he

15 recorded those conversations with then Sheriff Moore and

16 Chief Tanner?

17 A Not until sometime after the fact.

18 Q Have you ever had the opportunity to

19 listen those tapes?

20 A I didn't know there was two. I only

21 listened to one.

22 Q How did you come to have that

23 opportunity?

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1 A To listen to the tape?

2 Q Did Mr. Hajash --

3 A Yes.

4 Q -- present it to you?

5 A Yes.

6 Q Was that before or after the lawsuit

7 started?

8 A Are you talking about --

9 Q When you listened to the tapes?

10 A This lawsuit?

11 Q Yes.

12 A It was after, after this started.

13 Q How did that come about? Did he call

14 you and say, I've got these tapes you ought to hear or a

15 tape made?

16 A No. I had been told that there was

17 tape and that he had it in his possession or had a copy

18 of it or whatever and so I called him and he gave me a

19 copy of it. And before I listened to it, I went to

20 Detective Canaday and I gave it to him and then we

21 listened to it.

22 Q Jointly?

23 A Yes.

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1 Q For the first time you heard it in the
2 presence of Detective Canaday?
3 A Yes.
4 Q Was that tape the recording with
5 Sheriff Moore or Chief Tanner?
6 A Sheriff Moore.
7 Q Do you recall having any specific
8 objections to anything on that tape or any of the events
9 relayed on that tape?
10 A I know you could barely hear it because
11 of the, I guess, maybe the quality of the tape and we
12 just had a microcassette recorder and everything wasn't
13 audible from what I remember.
14 Q Did you know Mary Webb before this
15 incident?
16 A No.
17 Q Do you know a guy named Bob McComas?
18 A I do.
19 Q Did you know him before this incident?
20 A I did.
21 Q Did you have a personal friendship with
22 him or an acquaintance with him being a former officer?
23 A An acquaintance.

1 A No.
2 Q Okay. During the time that you worked
3 with Hajash, did you ever participate in any evaluations
4 of him being a junior officer to you?
5 A Are you talking about when he was going
6 through his --
7 Q At anytime.
8 A I don't recall any.
9 Q Do you ever recall serving as his
10 rating officer or anything like that?
11 A Rating as in performance?
12 Q Annual evaluations, performance.
13 A No, no, no.
14 Q Fitness, anything like that?
15 A No.
16 Q The SRT Team that you told us you went
17 through the qualifications for, tell us a little about
18 what the purpose of that was. Was it just to basically
19 bring a SWAT type unit to Raleigh County as an asset?
20 A Yes.
21 Q How long did that stay viable? How
22 long was that active?
23 A Maybe a year and a half, two years,

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1 Q Do you know if he and Deputy Hajash had
2 a friendship?
3 A I think they did.
4 Q Did Deputy Hajash ever say anything to
5 you about why he would have gone to Mr. McComas with
6 these audio recordings?
7 A No. Not that I recall, he didn't.
8 Q Did Detective Canaday ever say anything
9 to you about what you should or should not do with the
10 audio recording that you gained possession of?
11 A No. I turned it over to him as far as
12 an investigating officer.
13 Q Do you still have it or does he have
14 it?
15 A I don't have it. I'm sure it's in the
16 file.
17 Q Okay.
18 A I would assume it's in the file. I
19 don't know.
20 Q All right. We're really going to
21 bounce around now. Were you a member of any welder's
22 union or an associated trade union or anything when you
23 were in the welding profession?

1 something. This is a guess.
2 Q And you said you went through the
3 training to be qualified. Did you actually ever get
4 called out or have to serve in that capacity?
5 A We did just a couple of times because
6 mostly when something happens, we just acted on it. You
7 know, there was not a lot of, you know, getting together
8 and calling out a team. It just took too much time. But
9 just once or twice, there was something organized where
10 we acted on it that we created such as, like, warrant
11 details and things like that.
12 Q Have you ever had to take any periods
13 of personal or medical leave as a result of the Webb
14 incident other than the two to three days of admin leave
15 we've talked about?
16 A I use a lot of sick days just calling
17 in and not wanting to go to work.
18 Q Related to that incident or --
19 A Do I think because of that?
20 Q Yeah.
21 A Yeah.
22 Q Not illness or something. You just
23 have a bad day on that and use a day or something?

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1 A Basically.
 2 Q The rack of the shotgun in your
 3 cruiser, where is that located?
 4 A Between the seats up front.
 5 Q The front seats?
 6 A Yes.
 7 Q I'm assuming that your gun is secured
 8 by some type of lock?
 9 A That's correct.
 10 Q And how is that secured in there?
 11 A How was the gun placed in there?
 12 Q Yeah.
 13 A In a vertical position.
 14 Q And there's some type of security lock
 15 on it?
 16 A Yes. It actually kind of looks like
 17 your hand, it's cupped. It comes around and locks around
 18 the weapon. You know, you'd have to hit the release to
 19 take it out.
 20 Q Do you-all carry those loaded or do you
 21 load them as you unsecure it from the vehicle?
 22 A You carry it loaded but not in the
 23 chamber. You carry the magazine loaded but nothing in

1 A No.
 2 MR. OLIVIO: Let's go off the record
 3 for a second.
 4 (WHEREUPON, there was a short
 5 break in the proceeding)
 6 BY MR. OLIVIO:
 7 Q Is this the only time that you've had
 8 to discharge a weapon in the line of duty?
 9 A Yes.
 10 Q Have you ever had other instances where
 11 you had to draw a weapon?
 12 A Yes.
 13 Q What type of situations were those,
 14 domestic --
 15 A Yes. But there's too many to even
 16 begin to put a number on.
 17 Q Okay. Were those other times, were you
 18 drawing more in anticipating a problem or was it as a
 19 result of actually being presented with a problem?
 20 A Both. Well, I would have been
 21 presented with a problem in order to draw my weapon.
 22 Q How were you able to de-escalate those
 23 situations so that discharging wasn't necessary?

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1 the chamber on a long gun.
 2 Q Let me see, is it a Remington 870?
 3 A Yes, sir.
 4 Q How many does that hold, six?
 5 A There's five or six in the chamber. I
 6 can't remember. Actually, in the magazine too.
 7 Q As you chamber a round, would you load
 8 another one or would you just go with what you had in
 9 there?
 10 A No. If I had time, I would always top
 11 it off.
 12 Q After you fired the shot, did you see
 13 Mr. Webb's weapon fall? Do you have a recollection of
 14 that?
 15 A Yes. In my mind, I perceived it to
 16 fall.
 17 Q Okay. Can you tell me where it fell in
 18 relation to him?
 19 A I couldn't tell you where it fell but I
 20 can tell you it's the loudest noise I ever heard when it
 21 hit the ground.
 22 Q I'm assuming no discharge of ammo when
 23 it hit?

1 A Well, exactly one year from the day
 2 that this incident happened, my wife tried to -- she
 3 didn't want me to go to work and I had to go to work or I
 4 probably would have never worked another 4th of July.
 5 And almost within minutes of the time this happened,
 6 there was a guy that -- or the call came across the radio
 7 that he had his family in the house and discharged a
 8 weapon and they were still inside. So Brian Stump got
 9 the call, Deputy Stump. And myself and Deputy Hall were
 10 the only three that were practically on duty and we went
 11 to the scene and I -- because I told EOC to tell the
 12 family to try to get out of the house if they could if
 13 they felt they could do it safely. And once we got on
 14 scene, he was still in the house. You know, we took up a
 15 position in different locations. We weren't all three
 16 together and I was able to talk him out of the house
 17 without any incident and he surrendered with no further
 18 incident.
 19 Q On that example you just gave us, did
 20 you approach that scene in the same manner you did the
 21 Webb scene, meaning, lights and sirens off as you came up
 22 close on the scene?
 23 A Yes. And, actually, the lights and

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1 sirens were off but we actually drove up in there further
2 than we wanted to because we weren't sure where the house
3 was and we happened upon it much further than I would
4 have like to have drove in there but we were still I
5 would say a hundred yards from the house if not more and
6 we were able to talk him out.
7 Q He was still in the house when he
8 became aware of your presence at the scene?
9 A Yes.
10 Q Deputy Kade, I'm going to hand you what
11 I believe is a copy of your statement given to -- is it
12 Detective Canaday or Lieutenant Canaday?
13 A It's Detective.
14 Q Detective. Well, let me give it to
15 your lawyer first. I'll ask you to take a few minutes
16 and take a look at that and just let me know when you're
17 ready.
18 A Go ahead.
19 Q Okay. Does that appear to be a copy
20 of the statement that you gave as a result of the
21 investigation after the shooting?
22 A Yes.
23 Q And is this also the same statement

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1 that you reviewed in preparation for today's deposition?
2 A Yes.
3 Q Is there anything in this statement
4 today that you would update, change or revise after
5 further review?
6 A No.
7 MR. WILLIAMS: Objection to form of the
8 question.
9 BY MR. OLIVIO:
10 Q In short, this is your best accounting
11 of it or --
12 A Yes.
13 Q You wouldn't disagree with anything you
14 put in here back then?
15 A No.
16 Q Okay.
17 MR. OLIVIO: And I'll attach that as
18 two, please.
19 (WHEREUPON, Kade Deposition
20 Exhibit No. 2 was marked for
21 identification purposes)
22 BY MR. OLIVIO:
23 Q When you became an officer, did you

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1 receive a copy of the Policies and Procedure Manuals from
2 Raleigh County?
3 A I did.
4 Q You were here for Deputy Hajash when he
5 was talking to us about having to review those with a
6 superior. Did you have to do that as well?
7 A Yes. When they had updates or we
8 changed a policy, we would review it, you know, and sign
9 off that we read it and we got a copy.
10 Q Okay. Does the Department have any
11 type of testing or anything of that nature to show that
12 the officer has actually read it and understands the
13 material in the policies or is it that you just sign it
14 that you're accepting possession of it?
15 A Signed that you were accepting
16 possession. I don't remember. It says, you know, you
17 signed that you read it and accepting possession but
18 testing, I don't recall anything about testing, though.
19 Q Okay. Did you give an initial
20 statement the evening of the incident?
21 A The morning that it happened?
22 Q Uh-huh, (yes).
23 A I know we went back to the Sheriff's

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1 Office after it happened. I don't remember if it was
2 recorded or not. I remember just telling what had
3 happened.
4 Q And then when do you believe it was
5 that you gave the more detailed statement that I gave you
6 a copy of here today?
7 A Possibly, the next day, maybe, the day
8 after.
9 Q Was the second statement more thorough?
10 Was it lengthier or was it about the same as the first
11 evening?
12 A I don't remember.
13 Q Okay.
14 A Because it was so late into the
15 morning, I don't remember.
16 Q Have you ever seen a copy of the first
17 one?
18 A No.
19 Q Like a document or --
20 A No.
21 Q I don't want to go back to this subject
22 for too long but when Mr. Webb fell, if I understood you
23 correctly, neither you or Mr. Hajash moved him in any

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1 way?

2 A No. No.

3 Q Okay. Do you recall how he was

4 positioned in relation to, say, his truck?

5 A I'm trying to recall. I'm thinking it

6 was kind of almost somewhat in line with his truck to the

7 side.

8 Q Head or feet closer to the vehicle?

9 A I don't remember.

10 Q There are some photos in the investi-

11 gation report of him on the ground. Do you have any

12 reason to believe that he was moved in any way before

13 those photos were taken?

14 A Only if it would have been by EMS.

15 Q To make sure I'm not confused. Were

16 you present when the crime scene photos were being taken?

17 A No. I'm pretty sure I wasn't.

18 Q I think Mr. Hajash said maybe he was

19 but you were not present when those were taken?

20 A No.

21 Q Okay.

22 A I know up until when I left the scene,

23 he had not been touched.

1 that I had under arrest and he made allegations that he

2 was beaten but, you know, it was unfounded completely

3 how he was struck.

4 Q How so?

5 A Directly in the face by me.

6 Q And why was that?

7 A Because he attacked me when I was

8 putting him in a holding cell.

9 Q Was he restrained in any way?

10 A No. I was taking the handcuffs off him

11 when he did it. He struck me in my face.

12 Q He struck you first?

13 A Yes.

14 Q Is that the only one you can recall?

15 A Yes. Like a formal complaint?

16 Q Uh-huh, (yes).

17 A That's the only thing I can think of.

18 Q Any informal ones?

19 A Just other than, you know, he hit me or

20 he handcuffed me too tight and people just -- not really

21 a complaint, just saying it to another officer or some-

22 thing like that, upset because they were arrested.

23 MR. GRIFFITH: Deputy Kade, I think

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1 Q Do you know who took possession of the

2 weapon that he had?

3 A I don't.

4 Q Were you present when either Mary Webb

5 or the neighbors were interviewed that evening?

6 A You mean on scene?

7 Q Yes.

8 A No.

9 Q Have you ever had any conversations

10 with Mary Webb?

11 A No, not directly. No conversations but

12 you know -- no.

13 Q Okay. Have you ever had any other

14 claims of excessive force made while you were a law

15 enforcement officer?

16 A Yes.

17 Q What was that?

18 A There was a gentleman by the name of

19 Mike Johnson.

20 Q A different Mike Johnson?

21 A Yes.

22 Q Okay.

23 A Yeah. No. There was another gentleman

1 that's all the questions I have today for you.

2 I thank you for your time and Kermit may have

3 something.

4 MR. MOORE: I don't have any questions.

5 MR. WILLIAMS: We'll read and sign.

6 (Witness Excused)

7 (WHEREUPON, the deposition

8 was concluded)

B.R.A.

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REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF RALEIGH, to-wit:

I, H. DAVID STANLEY, a Notary Public within and for the State aforesaid, duly commissioned and qualified, do hereby certify that the foregoing deposition of GREGORY S. KADE was duly taken by and before me at the time and place and for the purpose specified in the caption thereof, the said witness having been first duly sworn by me to testify the whole truth and nothing but the truth concerning the matter in controversy.

I do further certify that the said deposition was taken by means of a Stenomask and transcribed under my supervision.

I further certify that I am not connected by blood or marriage with any of the parties to this action, am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, or financially

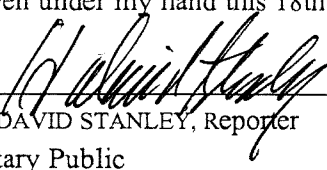
B.R.A.

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interested in the action, or interested, directly or

indirectly, in the matter in controversy.

Given under my hand this 18th day of June, 2009.


H. DAVID STANLEY, Reporter

Notary Public

My commission expires April 2, 2018

STATE OF WEST VIRGINIA

COUNTY OF _____, to-wit:

I, GREGORY S. KADE, have read the foregoing transcript of my testimony taken on June 19, 2009, and attach my signature in acknowledgment of same.

GREGORY S. KADE, Deponent

Notary Public

My commission expires: _____

B.R.A.

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ERRATA SHEET

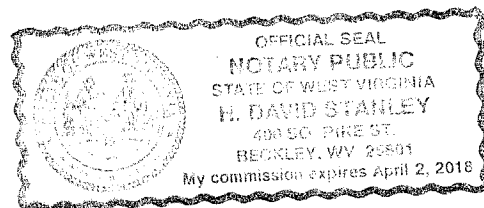
The following changes and/or corrections are

suggested for the deposition of GREGORY S. KADE, taken on

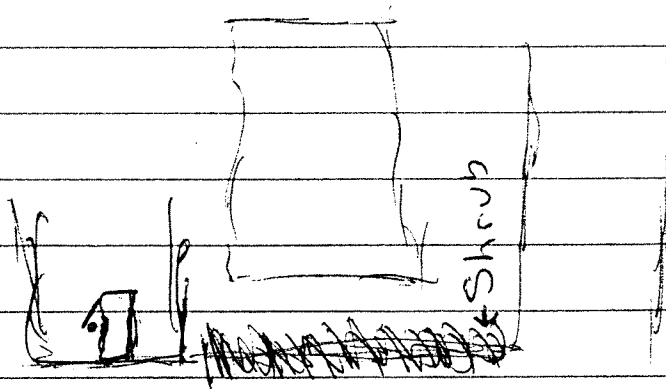
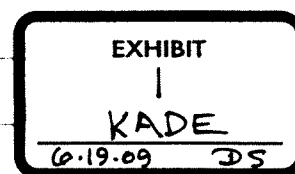
June 19, 2009.

PAGE NO. LINE NO. REFERENCE CORRECTION

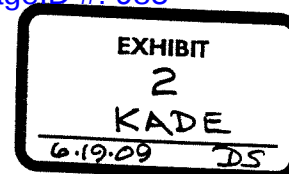
B.R.A.



EXHIBITS



K H

**RALEIGH COUNTY SHERIFF'S OFFICE
DETECTIVE BUREAU****STATEMENT OF DEPUTY G.S. KADE**

PRESENT: This is Detective Canaday with the Raleigh County Sheriff's Office. Present with me for this interview is Sgt. Lilly and Deputy Kade.

REF: We're going to be talking about an officer involved shooting that occurred on July 4th. The service number is 2006-29168.

CANADAY: Deputy Kade, we spoke, I guess kind of a field interview the other day just so I could get a grasp on what was going on. This is going to be your formal statement, it is being recorded and you do know that. What I'll ask you to do now is just recount for me what happen that night. You can start from – I understand that you were working off duty and were talking to Deputy Hajash. You can start there and just walk us through the scenario.

KADE: Okay. I was working off duty at the, I believe it's going to be Holliday Express on Harper Road. I had started my shift at midnight, which would have been, you know the 4th, and Deputy Hajash had just answered – whether he had assisted or answered a call at Beckley West I'm not sure, but he come back through there and he had stopped and was speaking to me – we were just outside talking had been outside of our vehicles talking and while we were talking a call came out of shots fired on Cabell Heights and that a gentleman was shooting a handgun towards his residence. Deputy Hajash took the call and I advised EOC that I would be on duty and that I would be en-route to assist him. So I get behind following Deputy Hajash, we get on the Interstate there and get off at MacArthur and we turn up Old Eccles Road and that's how we, you know, we come in on the Old Eccles Road into Cabell Heights. But while we were en-route I asked EOC if there was any family in the residence and they said yes there was, I think they said two children and a wife. I asked 'em what kind of weapon he had and they said they thought he had a handgun. And then I believe the final question was about how far from the intersection of Cabell Heights on Old Eccles Road and they advised it was approximately two blocks. So, Deputy Hajash and I parked at the entrance – excuse me, intersection of Cabell Heights and Old Eccles Road. When we got out of the vehicle I asked John, I said are you taking anything and he said no I'm just going to take my handgun, so I decided to take a shotgun. We started walking down the road, and you know, we walked a little bit further than we thought two blocks was. So Deputy Hajash asked EOC a little bit better directions and, you know, they were trying to give us a housing description I believe. As we kept walking we heard – we started hearing music playing and, you know, which would have been, you know, we could tell it was very loud. So Deputy Hajash asked EOC to ask the caller if the music was where the suspect was and they advised it was. So we keep walking down Cabell Heights Road and the music is very loud. We get to the neighbors house – we get to the house beside of the suspect and there's a large tree in the front yard so we kind of staged behind the tree

**RALEIGH COUNTY SHERIFF'S OFFICE
DETECTIVE BUREAU**

and we was trying to observe if he was outside or not. I noticed that there was like some lights on in the back of the suspects house, or excuse me, the back - like would have been the garage light and possibly an outside light. I just set there for a minute or so and I could see someone walking through the tree line there in the backyard because I could see his shadow breaking in and out of the light. So I advised Deputy Hajash that was the suspect more than likely. He had a large chain-link fence I guess was about 5 feet tall, so we started making our way down the chain-link fence and we was going to go through the front gate and come around the side of the house and engage the suspect there. Once we got about halfway down the chain-link fence the music stopped. I remember hearing the suspect say "what the hell" like he was surprised that the music had stopped playing. Well, once we get up to the chain-link fence the gate - excuse me, once we get to the gate there's a padlock in the gate and it was locked. I told Hajash, I said with the music stopped I said, you know, we can't climb the fence because he will hear the fence rattling on the poles. So, we walked on down to the corner of the house - we're still out in the roadway - and we turn up Primrose Lane, which is the road that goes up the side of the house. There's a large shrub - a large hedge on the side of the house and we started, you know, making our way up by the shrub, and we could see Mr. Webb at his truck. The cab light inside of the truck was on and it appeared that he had the door open looking - he was standing at the truck with the door open. So, I had a weapons light on my shotgun and I took a couple of steps out from behind the shrub - we was out in the roadway and there was no cover or anything, and I identified myself as saying - myself and Deputy Hajash as saying "police, let me see your hands". At that point the suspect raised a weapon, it was not a pistol it was - I immediately identified it as an AK-47, because you could tell, I mean, that's a very distinct weapon and the magazine hanging out of the bottom of it. He pointed the weapon directly at me and at this point I fired my weapon and pretty much simultaneously Deputy Hajash fired his handgun. I seen the suspect fall and at that point I side stepped I guess two or three steps there, I don't know how many, to make sure that the offender was on the ground. I didn't even realize I had already cleared my shotgun and chambered another round - I don't even remember doing it. Deputy Hajash walked up to the offender and, you know, within - not right up on top of him or anything but he was making sure the weapon was on the ground and then he backed off. I take that back, before he walked up he got on the radio and yelled at EOC and told 'em shots were fired that we needed help and we needed EMS, we had one man down. I think they didn't hear us or either they said they couldn't hear us I don't remember, and then he tried it again and then I got on the radio and said the same thing. I think I told John that we needed to find some cover because there was no cover right there just in case the family was going to come out of the house on us, because we didn't know if there was family

**RALEIGH COUNTY SHERIFF'S OFFICE
DETECTIVE BUREAU**

that lived around him or anything. So I guess while I was in the street – stepping up the street there to try to find some cover I immediately thought I had better chamber another round, and then I chambered – that's when I cycled my shotgun, that's when pretty much we waited on help to get there. While we were waiting a female come out of the house, out of Mr. Webb's house, it appeared to be his wife. She looked – the first thing I remember her saying, she looked at us and said who shot who, and that's when I looked at her, I said, ma'am, you need to go back inside. She just stood there and then Deputy Hajash said, you know, ma'am, go inside we're talk to you a little bit. Then she walked inside and then Deputy Bircham arrived on the scene. Immediately after he arrived on the scene it seemed like EMS arrived on the scene. When they got there I walked down to the intersection of Primrose and Cabell Heights, and then Lt. Williams arrived on the scene and I put my shotgun in the back of his vehicle and he told me to walk up and get my car at the intersection of Cabell Heights. So I walked back up the road and got my car. I kind of stayed there because I really didn't want to go back to the scene, because I knew there was already enough people down there on the scene, you know, they really didn't need any help, and that's when I think the Sheriff drove by and talked to us – he come up and talked to us. By that point Deputy Hajash come up and the Sheriff told us to just hang out up there. Chief Tanner and Detective Lilly come up to check on us there and I think then they wanted us to come back to the scene, well, not at the scene but in a general area so that's when I went back to the area.

CANADAY: Whenever you engaged the suspect, I guess verbally the first time you said there was music playing and it stopped, was there music playing at the time you engaged the suspect?

KADE: No. The music had stopped playing when we were in front of the house making our way down to the house and it never started back up after – like I said, it stopped while we were in front of the house. And from the time we were in front of the house to the time we engaged the suspect there was no music playing.

CANADAY: I guess proportionate, if you can remember back to that night your position and there was also a truck setting in the driveway and the suspects position, where was your position generally speaking in relation to the suspect and this truck?

KADE: Roughly speaking, I was at the left rear of the truck. Not up against it, further back out in the roadway and Deputy Hajash was off to my right, that would have put him somewhere towards the middle of the truck, the middle of the tailgate.

**RALEIGH COUNTY SHERIFF'S OFFICE
DETECTIVE BUREAU**

- CANADAY: Okay. Deputy Hajash shot – you said they happened pretty much simultaneously with yours. Was there ever a pause in his shot or were they relatively speaking pretty rapid in succession
- KADE: In my mind I thought they were in succession. I don't remember a pause, but it's possible there could have been I'm not 100% sure.
- CANADAY: If there was a pause it wasn't for any – it was for a negligible amount of time, it wasn't, you know, shot twice and then moved around and then shot again or shot twice and then waited 5 or 10 seconds and shot again, it wasn't anything like that was it?
- KADE: No, no, they were pretty much within succession of each other. If anything it couldn't have been no more than a second.
- CANADAY: Okay. I don't think I have any other questions right now. Sgt. Lilly, do you have anything?
- LILLY: You may have already said this, I just want to clarify it, how many rounds did you fire?
- KADE: I fired one round from my shotgun.
- LILLY: Just one round?
- KADE: Yes, sir.
- LILLY: And then you said that you wanted to cycle another round, I guess in case there was another threat. Is that correct?
- KADE: Yes, sir.
- LILLY: Apparently you did that twice?
- KADE: Apparently, because – apparently right after I shot I cycled a round, I didn't realize it and then after the shots were fired, Deputy Hajash and I were looking for cover then it automatically in my mind it hit me to cycle another round, and apparently that's where a live round I cycled and a live round had hit the ground unknowing to me I had already done it, I had already cycled a round.
- CANADAY: Did you have any conversation with Deputy Hajash right after the shooting?

**RALEIGH COUNTY SHERIFF'S OFFICE
DETECTIVE BUREAU**

KADE: I remember looking at him and telling him that **the offender was down**. That was right after the shots were fired from both deputies, I advised Hajash the offender was down.

CANADAY: Was there any other shots fired after you guys seen he was down?

KADE: No, sir.

CANADAY: I don't think I have anything else. We'll conclude the interview.

EXHIBIT C

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

MARY WEBB, Individually,
and in her capacity as
Administratrix of the Estate
of Robert A. Webb,

Plaintiff,

VS.

RALEIGH COUNTY SHERIFF'S
DEPARTMENT; et al.,

Defendants.

CIVIL ACTION NO. 08-C-406-H

The deposition of KRISTI RICHMOND in the above-styled matter was taken pursuant to notice for discovery and/or evidentiary purposes, before Loretta Tee, a Notary Public within and for the State of West Virginia at large, on the 19th day of November, 2009, commencing at 12:02 P.M., EST, at Pullin, Fowler, Flanagan, Brown & Poe, 600 Neville Street, Suite 201, Beckley, West Virginia.

BROWN REPORTING AGENCY
P.O. Box 5473
Beckley, West Virginia 25801-7508
304/252-4106

INDEX

Defendants' Witness:

Direct Cross

Kristi Richmond

4 57 (Griffith)

67 70 (Griffith)

73 --

Defendants' Exhibits:

Marked

Richmond Depo. Exhibit No. 1

8

Reporter's Certificate -- Pages 75 & 76

B.R.A.

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BY: _____

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Bluefield, West Virginia 24701
Counsel for Deputy John E. Hajash

B.R.A.

COPY

Page 2

Page 4

1 (Witness Sworn)

2 THEREUPON came,

3 KRISTI RICHMOND,

4 called as a witness on behalf of the Defendants, herein,
5 who, having been first duly sworn according to law,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. WILLIAMS:

9 Q Ma'am, could you please state your full
10 name for me?

11 A Kristi Dawn Richmond.

12 Q Ms. Richmond, my name is Chip Williams,
13 I'm an attorney. I represent the Raleigh County
14 Sheriff's Department as well as Deputy Greg Kade and
15 several other individuals from the Sheriff's Department
16 in a lawsuit that's been filed against them by the Webbs.
17 What we're doing here today is called taking your
18 deposition. Have you ever had a deposition taken before?

19 A No.

20 Q Okay. Let me explain some ground rules
21 to you. Most of these are for the court reporters
22 benefit. When all of this is finished, there will be a
23 written transcript of this entire proceeding. For that

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1 reason, there are some rules we have to follow, and the
2 first one is you have answer all my questions out loud
3 with either a yes or a no or I don't know is a perfectly
4 acceptable answer as well. Okay?

5 A Okay.

6 Q And then you can explain yourself as
7 much as you'd like for any given question, but we do need
8 to speak one at a time. That sounds easier than it is.
9 You'd be surprised how much in normal conversation we
10 talk over top of one another. There will be times when
11 I'll be halfway through a question and you'll know
12 exactly what the question is going to be, you'll be
13 tempted to start answering it. I ask that if you could
14 wait till I ask my entire question before you start your
15 answer, I'll always wait until you've completed your
16 answer before I ask you another question. Okay?

17 A Okay.

18 Q And, again, that does a couple things;
19 one, it ensures that when the transcript comes out, it
20 reads my entire question followed by your entire answer,
21 rather than it being broken up in there. The other thing
22 it does is it ensures that you have heard and understood
23 my entire question. If I ever ask you something that is

Page 6

1 confusing to you or I may just ask a bad question, you
2 let me know. I'll be happy to ask it another way. Okay?

3 A Okay.

4 Q If you need to take a break at anytime
5 to use the restroom, get something to drink or you just
6 may want to take a break just because you want to take a
7 break, let me know, I'll be happy to stop the deposition.
8 Okay?

9 A Okay.

10 Q You do realize that when this procedure
11 started, you took an oath to tell the truth?

12 A Yes.

13 Q And you realize that in that respect
14 this is just like giving testimony in a court of law?

15 A Yes.

16 Q Okay. Ma'am, what is your current
17 address?

18 A It is 509 Old Eccles Road and that is
19 Beckley.

20 Q And who resides there at that residence
21 with you?

22 A That's actually a mailing address.

23 Q Okay.

Page 7

1 A But my older son and I.

2 Q And is that Zack?

3 A Zack, yes.

4 Q And how long have you resided there at
5 that residence?

6 A Two years.

7 Q And when you say that that's actually a
8 mailing --

9 A That's just a mailing address. Do you
10 want my physical address, too?

11 Q Yes.

12 A It's 131 Adina Street, and that is
13 MacArthur.

14 Q And is that the physical location where
15 you reside with your son?

16 A Yes, yes.

17 Q Before we began the deposition I gave
18 you a chance to read over a statement that you had given
19 to Corporal Bare who was with the Raleigh County
20 Sheriff's Department and that statement was given early
21 in the morning of July 4th, 2006. You did have a chance
22 to look over that. Correct?

23 A Yes.

Page 8

1 Q Okay.

2 MR. WILLIAMS: And that is a four page
3 statement, although there's nothing on the last
4 page, and it's numbered one, two, three and
5 four and I want to introduce that as Exhibit 1
6 to Ms. Richmond's deposition.

7 (WHEREUPON, Richmond Deposition
8 Exhibit No. 1 was marked for
9 identification purposes)

10 BY MR. WILLIAMS:

11 Q On the top of that statement, it says
12 statement of Kristi Hatfield. It's my understanding that
13 since the time that statement was given that you've gone
14 through a divorce?

15 A Yes.

16 Q Is that correct and is that why the
17 name on the top of it is different than your name here at
18 the deposition today?

19 A Yes.

20 Q Okay. But that is in fact your
21 statement?

22 A Yes.

23 Q Let me get some brief background

Page 9

1 information from you. Where did you grow up?
2 A In Beckley.
3 Q Okay. And where did you go to high
4 school?
5 A Woodrow.
6 Q And what was the last grade you
7 completed?
8 A Twelfth grade.
9 Q And what year did you graduate?
10 A Ninety-two.
11 Q And how old are you?
12 A Thirty-five.
13 Q Are you currently employed?
14 A Yes.
15 Q Where do you work?
16 A West Virginia Soccer Association.
17 Q And what do you do there?
18 A I'm the executive secretary.
19 Q And where is that, is that located here
20 in Beckley?
21 A Out in the complex, uh-huh.
22 Q That's at the YMCA soccer complex?
23 A Yes.

Page 10

1 Q And how long have you worked there?
2 A Two and a half years.
3 Q Previous to working with the West
4 Virginia Soccer Association were you employed?
5 A No. I was a mommy.
6 Q Okay. How long were you a house
7 mother?
8 A Ten years.
9 Q Ma'am, this lawsuit revolves around
10 events that happened the evening of July 3rd and going
11 into the morning of July 4th, 2006. And it's my
12 understanding that at that time you were neighbors with
13 Robert and Mary Webb. Is that correct?
14 A Yes.
15 Q How long were you neighbors with Robert
16 and Mary Webb?
17 A I think about nine years. I think
18 that's what we figured out.
19 Q During that period of time, aside from
20 being neighbors, were you also friends? Did you also
21 spend time at the Webb's home and they spent time at your
22 home?
23 A Yes.

Page 11

1 Q Were your children friends and
2 playmates?
3 A Yes.
4 Q Had you ever seen Robert Webb drink
5 around his family?
6 A Yes.
7 Q And on what occasion or what types of
8 situations would he be drinking?
9 A Probably mostly in the summertime. You
10 know, if he came home from work, he would have, you know,
11 a beer or two or if we had a cookout or something, he
12 would have a couple drinks or something.
13 Q Okay. And not to imply that it was in
14 excess, but you did see him consume alcohol in and around
15 his family?
16 A Yes.
17 Q And that would include his wife and
18 children?
19 A Yes.
20 Q Did it ever appear to you that he ever
21 made any attempt to conceal the fact that he was
22 consuming alcohol during these cookouts?
23 A No.

Page 12

1 Q Do you have any knowledge about whether
2 at one time or another Mr. Webb had any issues or
3 drinking problems?
4 A Define a drinking problem. I mean, you
5 know, he drank more than I do. I mean, more than I
6 would, that I would tolerate, but there was times when he
7 would get pretty drunk, but not all the time and, you
8 know, not that often, so . . .
9 Q Okay. And when you say more than you
10 would tolerate, you mean more than you would tolerate out
11 of your spouse?
12 A Yes.
13 Q So there were times when you saw
14 Mr. Webb at least drink more excessively than what you
15 would like out of your spouse?
16 A Yes.
17 Q And on those occasions, would he be
18 around his wife and family on those occasions?
19 A Yeah.
20 Q Do you know if at any point Mr. Webb
21 tried to stop drinking alcohol?
22 A He would go, I mean, there would be
23 periods of times that he would go, you know, for six

Page 13

1 months or, you know, at a time and not have anything to
2 drink. Yeah.

3 Q Do you know if he ever had any issues
4 when he attempted to stop drinking?

5 A No.

6 Q Is that no you don't know or no you
7 don't think he did have any?

8 A Not that I know of, not that I'm aware
9 of.

10 Q So if he did have any issues with
11 trying to quit, it was something that you don't know
12 about?

13 A Correct.

14 Q Okay. Did you ever see him use any
15 illegal drugs including marijuana?

16 A No.

17 Q Do you know if he had any problems or,
18 for lack of a better term, feuds with any of the
19 neighbors in the neighborhood?

20 A Just the one up behind him.

21 Q Is that the Smith family?

22 A I don't know their name. I don't even
23 remember her name.

Page 14

1 Q Did you have any firsthand knowledge of
2 that situation or was that just something that you heard
3 other people talking about?

4 A No, I had witnessed some.

5 Q Okay. Tell me what you had witnessed?

6 A They were a little difficult to get
7 along with. I think everybody had a problem with them,
8 it wasn't just him. They didn't like the kids riding in
9 their driveway, and would complain. He did play loud
10 music at times, especially if he was working and it was
11 summertime on his vehicle or at times he worked on my
12 vehicle and had the garage door up and you could hear his
13 music and she'd complain about that. Just noise and she
14 just didn't like him, in general.

15 Q Okay.

16 A And they would drive too fast up and
17 down the road and he did stop them the first couple times
18 when they first moved there, so that kind of started
19 everything.

20 Q And did you actually witness the
21 driving too fast?

22 A Yes.

23 Q Okay. Other than the issues with the

Page 15

1 loud music and the kids in the driveway area, do you know
2 of any other issues that the Webbs and the Smiths had
3 with one another?

4 A Not that I'm aware of.

5 Q Do you know anything about any event
6 where a box of nails was put near the Smith's driveway,
7 have you ever heard anything about that?

8 A No. He mentioned that there -- I mean,
9 was some suspicion that that had happened. I never saw
10 any nails, I never heard anything else about it. I do
11 remember talk about it, but I don't know.

12 Q You don't have any firsthand knowledge
13 about it?

14 A No.

15 Q Did you ever see any verbal confron-
16 tations between the Smiths and Mr. Webb?

17 A Yes.

18 Q Okay. Tell me about those?

19 A Just when they were driving too fast.
20 I was outside with the kids and he stopped. I don't know
21 if it was him and her, but he stopped them and asked them
22 to slow down. I know that they had just different little
23 verbal words, you know, across from yard to yard to each

Page 16

1 other about the kids in the driveway and things like
2 that, but nothing, you know.

3 Q Did you ever witness Mr. Webb at
4 anytime make a verbal threat to the Smiths about having a
5 firearm?

6 A No.

7 Q When we're talking about July 3rd/
8 July 4th, I'm going to refer to July 3rd as the evening
9 of July 3rd, and after midnight I will refer to as the
10 morning of July 4th?

11 A Okay.

12 Q And it's my understanding that the
13 evening of July 3rd was a Friday evening going into the
14 morning of the 4th of July, which would have been
15 Saturday. Does that sound correct to you?

16 A Yeah.

17 Q Okay. And am I correct, during that
18 period of time you were working in the home?

19 A Yes.

20 Q Do you have any specific recollection
21 about July 3rd, 2006, about what time your husband
22 arrived home that evening?

23 A I have no idea. I mean, it was my

Page 17

1 birthday, so I think we went out to eat that evening and
 2 then came home, but I couldn't tell you times.
 3 Q So is July 3rd your actual date of
 4 birth?
 5 A Yeah.
 6 Q Okay. So July 3rd was your birthday,
 7 so you think that you would have gone out to eat?
 8 A I better have.
 9 Q Okay. All right. That's what was
 10 supposed to happen. And do you have a specific
 11 recollection of that happening or do you think just
 12 because --
 13 A I know we went out because when we came
 14 back home, he was in his driveway with the kids and so we
 15 went over there to talk to him. So I know we had been
 16 out.
 17 Q Okay. And when you went out to eat,
 18 did you have your kids with you?
 19 A Yes.
 20 Q Okay. So when you arrived home,
 21 Mr. Webb was out in his driveway?
 22 A Yes.
 23 Q Okay. And do you recall who else was

Page 18

1 out there?
 2 A I know his older daughter, Samantha,
 3 was. I think Mary and the older daughter, Amanda, was.
 4 I think the younger one and Mary came out and then went
 5 back inside, but we did to speak to all of them that
 6 evening.
 7 Q And do you recall approximately what
 8 time that would have been?
 9 A It wasn't quite dark yet. I'm going
 10 to say probably -- I don't know, I really don't. I know
 11 we stayed out there for quite a while and talked to him
 12 until around 10:00, 10:30, 11:00, something like that,
 13 but I don't know what time we actually got there.
 14 Q So when you arrived home from eating
 15 out, you went over and talked with Robert at that point
 16 or did you go in the house and then come back?
 17 A We may have, you know -- I know that my
 18 husband went immediately over there. I probably went
 19 inside and then came back out.
 20 Q Okay. And that's consistent with what
 21 he testified, that he thought he may have gone over there
 22 a little before you. Does that sound consistent?
 23 A Yeah. Yes.

Page 19

1 Q Okay. And do you recall if when you
 2 got home, if Robert was working on his truck at that
 3 time?
 4 A I think he was. I think he was putting
 5 a tire or something on his truck. I know he -- yeah.
 6 I'm pretty sure he was. She was sitting in the back of
 7 the truck and I think he was working on the tire or
 8 something.
 9 Q When you say she, you're referring to
 10 Amanda?
 11 A Amanda.
 12 Q By the time that you got over there, do
 13 you remember if he was still working on his truck at that
 14 time or had he already finished?
 15 A He was still working on it.
 16 Q And was Chris helping him or was he
 17 just talking to him?
 18 A Just talking.
 19 Q And then when you came over, do you
 20 recall approximately how long it was before Robert
 21 finished working on his truck?
 22 A I really don't. I don't know that he
 23 got it on -- I don't know if he even got his tire on by

Page 20

1 the time we left or not. I really don't recall.
 2 Q At some point did he stop working on
 3 the truck to talk to you and your husband?
 4 A Oh, yeah.
 5 Q While you were there, did you see him
 6 drinking, and I'm not going to limit this to alcohol, did
 7 you see him drinking anything?
 8 A Yes.
 9 Q Okay. And what did you see him
 10 drinking?
 11 A He had a cup. I didn't know at the
 12 time what was in it. I think later on he had a cooler
 13 and he had -- I think he had some Jack Daniels or
 14 something in it, but I know he had a cup. I don't know
 15 what was in it.
 16 Q When you say there was a cooler with
 17 some Jack Daniels, at what point did you see that.
 18 A We had been there for a little while
 19 talking; I mean, probably maybe 30 minutes, an hour,
 20 something like that.
 21 Q Did you ever actually witness him
 22 pouring or mixing or doing anything with that or you just
 23 saw that there later?

Page 21

1 A Not that I can recall.

2 Q Did you ever see any beer cans or beer

3 or a case of beer anywhere?

4 A No.

5 Q So you saw him drinking out of a cup

6 and later you saw a cooler with Jack Daniels, but you

7 never personally witnessed him pouring that Jack Daniels

8 into the cup or anything like that. Is that correct

9 A That's correct.

10 Q Now, I believe in your statement that

11 you had given to the deputy that evening, you said that

12 he may have been a little tipsy. Does that sound correct

13 to you?

14 A He was happy, yeah.

15 Q Okay. So I take it, through his

16 actions, you could at least tell he was somewhat

17 intoxicated?

18 A Yeah.

19 Q But you say he was happy. I take it to

20 mean he wasn't acting angry or violent or anything like

21 that, he was just a little drunk?

22 A Right.

23 Q When you were over at Mr. Webb's

Page 22

1 residence, did you witness him at anytime setting off any

2 fireworks?

3 A Yes.

4 Q And was that taking place in his

5 driveway?

6 A Yes.

7 Q And do you recall, if you know, what

8 kind of fireworks they were?

9 A They were just firecrackers.

10 Q Just the little ones that you light and

11 they go bang?

12 A Yeah, because he was playing with them

13 with my kids.

14 q Okay. So at some point your kids were

15 over there, as well?

16 A Yeah.

17 Q Were they over there the whole time

18 that you and your husband were over there?

19 A I would say yes. I mean, they probably

20 were probably riding bikes with his girls at some point,

21 too, during the evening, so . . .

22 Q Other than Amanda, do you recall seeing

23 any of the other Webb children outside?

Page 23

1 A Samantha had come out, I'm pretty sure,

2 and Mary, but they weren't out long.

3 Q Do you specifically recall seeing Mary

4 at some point?

5 A I'm trying to think. At one point she

6 did come out to the truck and then she went back in. She

7 didn't stay out there very long.

8 Q Do you recall how long you had been

9 over there before Mary had come out?

10 A No.

11 Q At anytime while you were over in

12 Robert Webb's driveway, did you see him with a firearm?

13 A I don't remember.

14 Q Okay. And, again, I'm limiting this to

15 the time when you were over in the driveway, and you're

16 saying you don't have any recollection of whether he had

17 a firearm or not?

18 A Today I can't remember. That's been

19 a while back ago and I couldn't say yes or no and be

20 positive about that.

21 Q Okay. I have asked you generally, I'm

22 going to ask, even though you said you don't remember,

23 but I'm going to ask you these questions specifically.

Page 24

1 Do you remember him with any type -- do you know what an

2 AK47 is?

3 A Yes.

4 Q With a curved clip?

5 A Yes.

6 Q Did you ever see him with that weapon?

7 A No.

8 Q Had you ever seen that weapon before,

9 did you know he owned it?

10 A No, I didn't.

11 Q Okay. And did you ever see him with a

12 pistol or a small firearm that evening?

13 A Not that I can recall. I mean, I

14 remember reading in my statement that I did see it, but

15 today I can't sit here and say, yes, I remember seeing

16 it.

17 Q Okay. So when you gave your statement

18 to the deputy the morning of July 4th, and it's in the

19 statement that you witnessed him shoot off rounds out of

20 a pistol, but as you sit here today, you don't have any

21 recollection of that?

22 A That's right.

23 Q Okay. When you gave your statement to

Page 25

1 the deputy, I mean, you wouldn't have had any reason to
 2 be untruthful with him, would you?
 3 A No.
 4 Q Okay. And did you do your best to be
 5 accurate about what you were telling him?
 6 A Yes.
 7 Q You testified that at some point you
 8 went back to your residence?
 9 A Correct.
 10 Q And you think that could have been
 11 anywhere between 10:00 and 11:00?
 12 A It was probably closer to 10:30, 11:00.
 13 It was pretty late.
 14 Q Do you have any recollection at all,
 15 and I realize it's been a long time ago, about what were
 16 you talking about when you were standing over there
 17 talking with Mr. Webb?
 18 A Our birthdays. His is the 1st of July
 19 and mine is the 3rd. We always plan to do something and
 20 we were going to go to the racetrack the next day, my
 21 family was, we were talking about that. I think he was
 22 going to work on my vehicle that week, we were talking
 23 about that. Beyond that I have no idea.

Page 26

1 Q You say go to the racetrack, are you
 2 talking about the Beckley?
 3 A No, the one in Summersville.
 4 Q Okay. And was that that you and your
 5 husband were planning to go there?
 6 A And the kids, yes.
 7 Q But not with the Webbs?
 8 A We had talked about it. I don't know
 9 if they were going to actually do that or not, but we had
 10 invited them, so.
 11 Q At the time that you left the Webb's
 12 property and were going back to your home, do you
 13 remember who was present there at the Webb's house out
 14 in the driveway?
 15 A Rob and Amanda.
 16 Q Do you recall how long it had been
 17 since Mary had been out?
 18 A No, I don't.
 19 Q When you went into your home, did your
 20 kids go in at that same time or had they gone in before?
 21 A They probably had gone in before.
 22 Q But at the time that you and your
 23 husband went in, at that point, your family was inside

Page 27

1 the home?
 2 A Yes.
 3 Q And were all three of your children
 4 residing at the residence at that time?
 5 A Yes.
 6 Q Okay. After you went inside, what did
 7 you do?
 8 A Probably about that time we had
 9 probably just got ready and went to bed.
 10 Q I'm going to show you an exhibit from
 11 Chris Hatfield's deposition and this isn't to scale,
 12 obviously, and it's just meant to be a general descrip-
 13 tion of where things are. And rather than having you
 14 draw all this out again, I'm just going to ask you if
 15 this seems correct to you. You can see he's indicated at
 16 that time that your home was here, this is Primrose Lane
 17 and this is the Webb's home, this represents their garage
 18 and driveway. Does that look correct to you?
 19 A Yes.
 20 Q Okay. He's indicated that from Cabell
 21 Heights Road that your bedroom was located in the back
 22 left corner of the home. Is that correct?
 23 A Yes.

Page 28

1 Q Okay. So at the point that you came in
 2 from the Webb's home, and when you came in, did you use
 3 your front or back door to go in and out when you were
 4 going to the Webbs?
 5 A The back door.
 6 Q So you would have come up onto the
 7 driveway, come out of their driveway, and this dash line
 8 is a fence around your-all's yard. Is there a gate there
 9 in that fence somewhere where you can go in and out or
 10 how do you get inside that fence?
 11 A No, we would have gone straight from
 12 his driveway to our driveway and onto the porch to the
 13 backyard.
 14 Q Okay. And where is your driveway
 15 located?
 16 A Right about here. I mean, it didn't
 17 quite come over, it didn't overlap his, but it kind of
 18 did.
 19 Q Okay. So the driveway is not inside
 20 the fence. Is that correct?
 21 A That's correct.
 22 Q Okay. So you don't have to go in any
 23 gate to get to your driveway and up to your back porch?

Page 29

1 A Correct.

2 Q Does that back porch go into the

3 kitchen?

4 A Yes.

5 Q Okay. And is there a sliding glass

6 door there?

7 A There's just a back door.

8 Q Just a back door?

9 A Yeah.

10 Q So you think that you went inside and

11 then got ready and went to bed?

12 A Correct. We were probably watching TV.

13 You know, we were probably up for a little while.

14 Q Okay. And so would it be typical for

15 you and your husband to watch TV in the bedroom?

16 A Yes.

17 Q How do you cool your home, do you have

18 window units?

19 A Yeah, we do.

20 Q You have window units or air --

21 A No, I'm sorry. We have a heat pump.

22 Q Okay. So you've got central air?

23 A Correct.

Page 30

1 Q Do you remember on this evening, which

2 would have been the evening of July 3rd, 2006, if you had

3 any windows open?

4 A Our bathroom window and our bedroom

5 window were open.

6 Q And, again, that bedroom window, is

7 that located on the side of the house that faces the

8 backyard or that faces what would be the left side of the

9 house?

10 A It faces the backyard, both the

11 bathroom and our bedroom window.

12 Q Okay. Is the bathroom between the

13 kitchen and the bedroom?

14 A Yes.

15 Q Okay. After you went inside, do you

16 recall, could you still hear anything coming from the

17 Webb's residence?

18 A Yes.

19 Q And what could you hear?

20 A You could hear music, you could hear

21 Amanda and Rob talking.

22 Q So you heard music coming from the

23 Webb's residence?

Page 31

1 A Uh-huh, (yes).

2 Q How loud was Robert playing his music?

3 A We could make out what song was on. I

4 mean, he always plays it like that, so . . .

5 Q Okay. Do you have recollection of what

6 he was listening to that evening?

7 A No. It was something over and over and

8 over, though.

9 Q Okay. He kept playing the same song

10 over and over?

11 A Yeah.

12 Q And was that coming from his truck

13 stereo?

14 A Yes.

15 Q And at some point you were hearing

16 conversation between he and Amanda?

17 A Yes.

18 Q Do you have specific recollection of

19 hearing he and Amanda talking?

20 A Yes.

21 Q Okay. Could you make out what they

22 were talking about?

23 A No. I could just hear voices.

Page 32

1 Q And was this when you were still

2 watching TV or after?

3 A After. I remember hearing them talking

4 after the TV was off. Yeah.

5 Q Do you know approximately what time you

6 turned off your television?

7 A No.

8 Q Do you know approximately what time --

9 did you ever fall to sleep?

10 A No.

11 Q So at the time that all of the events

12 went down between Mr. Webb and the sheriff's deputies,

13 you were still awake?

14 A Yes.

15 Q You had at no point dozed off?

16 A No.

17 Q Okay. Do you recall how long it was

18 between the time that you turned your TV off and the time

19 that you became aware that there was a problem going on

20 outside?

21 A No, I don't.

22 Q Can you put into perspective as in half

23 an hour, five minutes, an hour, or do you just have no

Page 33

1 recollection?

2 A No, it had been a while because I know

3 we were laying there in bed and we were, of course,

4 talking and we could hear them, so, I mean, it'd probably

5 been about 30 minutes. It had been a little while.

6 Q Okay. At some point did you hear

7 Robert Webb discharge a firearm?

8 A I wouldn't have been able to

9 distinguish between that and the fireworks, but I know

10 from my statement, at the time, yes, I did, but today I

11 don't remember.

12 Q Okay. So as far as what you witnessed

13 and what you saw with the firearm, are you willing to

14 defer to what you put in your statement on that evening?

15 A Yes.

16 Q Okay. So then in your statement you

17 say that you had seen him shoot a gun a couple of times,

18 and I believe you said that he may have discharged maybe

19 five rounds and then reloaded and put five --

20 A Yeah. I mean, it doesn't --

21 Q You read all that in the statement?

22 a Yeah, I did.

23 Q But again, that's not helping you

Page 34

1 remember anything here today?

2 A No.

3 Q Okay. Fair enough. At the time that

4 you heard those noises, did you just assume that that was

5 Robert out there?

6 A Yeah. It's pretty common for that area

7 for people to do that 4th of July and stuff, so . . .

8 Q You mean to discharge firearms?

9 A In the air on 4th, yeah.

10 Q Okay. Can you specifically tell me

11 another person in the neighborhood who you've witnessed

12 do that?

13 A I've lived there my entire life. My

14 dad did it, my uncles, you know, did it.

15 Q Okay. And what is your dad's name?

16 A Johnny Richmond.

17 Q And your uncles live in the

18 neighborhood?

19 A Yes.

20 Q And what are their names?

21 A Morrison Plumley.

22 Q Is that Morrison?

23 A Morrison, M-O-R-R --

Page 35

1 Q Okay. Plumley and what else?

2 A My brother did it, Brian Richmond. I

3 can't think of any more specific names, but, I mean you

4 could hear them.

5 Q Okay. Specifically, that evening did

6 you have any recollection of hearing anyone else

7 discharging a firearm?

8 A Not that I can recall.

9 Q Okay. Has your ex-husband ever done

10 that, that you recall?

11 A Not that I would recall. I'm sure that

12 he has and it's not -- it's just what they do.

13 Q You don't have any specific

14 recollection of him?

15 A No.

16 Q Do you recall how long a period of time

17 it was between when you stopped hearing conversation

18 between Robert and Amanda and then became aware of the

19 incident?

20 A No. It hadn't been long. It might

21 have been, I don't know, maybe 15, 20 minutes. I guess

22 she went back in the house, I don't think it had been

23 long.

Page 36

1 Q Do you remember ever hearing Mr. Webb

2 leave in his truck that evening?

3 A Yes.

4 Q Okay. And when was that?

5 A I don't know what point it was from the

6 time we went in, but I know he -- I don't know. He was

7 going to go up to the gas station. I don't know what he

8 was going get, whether he was going to get cigarettes or

9 whatever, but I know he did leave and come back.

10 Q Okay. Do you have any knowledge about

11 whether Amanda went with him?

12 A No, I don't.

13 Q Did you hear conversation between he

14 and Amanda after he returned?

15 A Yes, because I think he left shortly

16 after we came in and then she came back out.

17 Q When you say she came back out, are you

18 just guessing that?

19 A I'm guessing, yeah.

20 Q Okay. Because potentially she could

21 have gone with him, she could have stayed out there, you

22 just don't know. Is that fair?

23 A That's correct. Yes.

Page 37

1 Q So at some point you believe shortly
2 after you went in Mr. Webb left in his truck and came
3 back?
4 A Yes.
5 Q You have no idea where he went?
6 A He went up to the gas station, I do
7 know that.
8 Q Did he tell you, did he say he was
9 going to do that before?
10 A Yes.
11 Q And did he tell you what he was going
12 to get?
13 A I know he was going to get cigarettes
14 at the time, but I don't know, you know, what all he
15 actually went to get.
16 Q And that's just from what he told you.
17 You never witnessed him after he got back from the gas
18 station?
19 A No.
20 Q When was the first time you became
21 aware that there was a problem going on outside?
22 A The dogs had been barking. They were
23 actually barking, I think, on the far side of our house,

Page 38

1 would have been like right in this area of the fence.
2 Q And just for the record, because that
3 won't come across --
4 A I'm sorry.
5 Q You pointed to -- if I'm standing
6 looking at the front of your house, you pointed to the
7 fence that's on the left side?
8 A Far left side. Yes.
9 Q Far left side of the house. That's
10 where you first heard the dogs barking?
11 A Correct. They were barking there. He
12 went out to shut them up and then he walked over to the
13 other window because they were walking around and he saw
14 flashlights over in Rob's driveway.
15 Q Do you remember why he went to that
16 side of the house to begin with?
17 A On the left side?
18 A Well, now on the right side?
19 A The dogs had walked around and he was
20 just making sure they were going to lay down and shut up
21 and be quiet.
22 Q Did the dogs start barking over there
23 on the right side of the house, as well, or do you

Page 39

1 remember?
2 A I don't remember.
3 Q Okay. Do you remember after your
4 husband at the time tried to get the dogs to be quiet on
5 the left side of the home, did he get back into bed
6 before he went over to check on them on the right side of
7 the house?
8 A Not that I can recall, no.
9 Q Do you recall at what point you and
10 your husband heard the gunshots?
11 A No.
12 Q Do you recall if that was before or
13 after your husband got up to have the dogs be quiet?
14 A Today, no, I don't.
15 Q So as far as the timeline, the
16 proximity with when he saw the flashlights and when the
17 guns went off, you don't have any recollection of that
18 here today?
19 A No. The gunshots, from what I can
20 remember, were before we saw the flashlights and stuff,
21 though. So I would assume that it was while we were
22 laying in the bed.
23 Q You do recall gunshots before you saw

Page 40

1 the flashlights?
2 A Yes.
3 Q Okay. But you just can't put into
4 context --
5 A The timeline, I don't know.
6 Q Okay. But you can say you heard
7 gunshots before your husband says he sees the
8 flashlights?
9 A Correct.
10 Q At the point that your husband sees the
11 flashlights, tell me what happened from that point?
12 A We both got up. He was actually at the
13 bedroom window, I went to the bathroom window to look to
14 see if I could see better and then we did see the two
15 deputies over there. I then went into the kitchen
16 because you can see better from the kitchen, and at that
17 time Mary called and said what's going on. And then I
18 said, well, there's, you know, deputies in your driveway.
19 And she's like, well, what are they doing. And I said,
20 well, I'm assuming that they have him down on the ground
21 because we thought they just had him down on the ground.
22 And she said, are sure and then, you know, I saw blood
23 and, you know, yelled for my husband and got off the

Page 41

1 phone with her and we went outside.
 2 Q Tell me what you saw. Approximately
 3 how long were you on the phone with Mary?
 4 A Maybe less than five minutes.
 5 Q During that period of time was your
 6 husband already outside?
 7 A I don't think so. I think we went out
 8 at the same time.
 9 Q Okay. So did you say you called her or
 10 she called you?
 11 A She called me.
 12 Q Okay. When she called you -- and was
 13 that on your home phone?
 14 A Yes.
 15 Q When she called you on your home phone,
 16 she was asking you what was going on?
 17 A Yes.
 18 Q And where is that phone located that
 19 you were talking to her on?
 20 A I think it was a cordless.
 21 Q Okay. Do you remember where you were
 22 located in the home when you were talking to her?
 23 A At the kitchen window. I think I might

Page 42

1 have been in the bedroom or the bathroom when she
 2 initially called and then moved to the kitchen where you
 3 could see better. She couldn't see because of his truck
 4 was parked, there was no way she could have seen much.
 5 Q The first time that you saw, actually
 6 you saw the two deputies, where were you located?
 7 A In the kitchen. Well, no, the first
 8 time I saw them would have been when I went to the
 9 bathroom window.
 10 Q And were you already on the phone with
 11 Mary Webb when you went to the bathroom window or was
 12 that before she called?
 13 A I am fairly certain it was before she
 14 called.
 15 Q Okay. The first time you saw the two
 16 deputies, where do you remember them being located, if
 17 you remember?
 18 A The first thought that comes in is that
 19 they were kind of walking around the garage door with the
 20 flashlight.
 21 Q Okay. In the Webb garage?
 22 A Yes.
 23 Q Okay. So they were near the entrance

Page 43

1 to the Webb garage with flashlights?
 2 A From what I can remember, yes. That's
 3 my first recollection of them.
 4 Q Okay. And, again, that's when you were
 5 looking out your bathroom window?
 6 A Yes.
 7 Q Approximately how long did you have
 8 them in your view when you were in the bathroom window?
 9 A I don't know. I wasn't there too long
 10 before I moved to the kitchen.
 11 Q Do you think the phone call is what
 12 caused you to move or do you remember that?
 13 A I don't know. The view from the
 14 kitchen window is better than the bathroom window. I
 15 don't know what prompted that.
 16 Q Okay. The bathroom window is closer to
 17 your bedroom?
 18 A Yes.
 19 Q So that's probably logically the first
 20 window you could get to where you thought you might be
 21 able to see them?
 22 A Yes.
 23 Q Okay. And then you moved from there to

Page 44

1 the kitchen, which you feel like has a better view of the
 2 Webb residence?
 3 A Yes.
 4 Q When you got to the kitchen window, do
 5 you have any recollection of where the deputies were
 6 located?
 7 A They were in the driveway, that's all I
 8 can remember.
 9 Q Okay. So you remember them being in
 10 the driveway when you were at the kitchen window, and I'm
 11 assuming at some point the phone rings and it's Mary
 12 Webb?
 13 A Either there or the bathroom. I'm not
 14 exactly certain when she called, but yes.
 15 Q Okay. And then you're having a conver-
 16 sation with her and then at some point you go out onto
 17 the porch?
 18 A Correct.
 19 A With your husband?
 20 A Yes.
 21 Q At the point when you went onto the
 22 porch, where were the deputies located?
 23 A They were in the driveway.

Page 45

1 Q They were still in the driveway?

2 A Yes.

3 Q Were your dogs still barking?

4 A I don't remember. I mean, I don't

5 know. The fact that there were strange people in the

6 neighborhood, I would say yes, but we were also there,

7 too. I don't recall, I don't know.

8 Q Do you recall did the deputies say

9 anything to you and your husband?

10 A Yes.

11 Q Okay. What did they say to you?

12 A They told us to get back in the house.

13 Q Okay. And did you do that?

14 A No.

15 Q Okay. How many times did they tell you

16 to get back in the house?

17 A Several.

18 Q Okay. And I take it you did not do

19 that.

20 A We were on the porch, no, we did not go

21 back in.

22 Q At that point, when they had directed

23 you to go back into the house, where were they located?

Page 46

1 A One of them was still in the driveway,

2 the other one was coming into our driveway to talk to us.

3 Q Do you have any way to distinguish or

4 to identify which deputy was which?

5 A I have no idea.

6 Q Do you even know the names of the

7 deputies that were there and involved with this?

8 A I can recall one of them, I don't know

9 the other one.

10 Q Okay. Why is it that you can --

11 A I don't know. It's just an easier

12 name.

13 Q Just because the name sticks in your

14 head?

15 A Yes.

16 Q Did you know either of the deputies

17 before this?

18 A No, I did not.

19 Q Okay. Have you had any contact with

20 them since this?

21 A Never.

22 Q Do you remember, again, was one of them

23 taller than the other one, or you just have --

Page 47

1 A One of them was taller than the other,

2 I mean, that's all I know. The one the sticks in my head

3 I know some of his relatives.

4 Q Okay. And which one is that?

5 A Kade.

6 Q Okay. And you know some of his

7 relatives?

8 A Yes.

9 Q Do you recall which one of them was

10 taller?

11 A No.

12 Q Okay. Do you have any recollection of

13 which one directed you to get back into your house?

14 A I think it was the smaller one, the

15 shorter one.

16 Q Okay.

17 A But I have no idea.

18 Q But at that point one of them was in

19 the driveway, one of them was in the road?

20 A Correct.

21 Q How long was it between the time you

22 were out there on your porch and other officers arrived

23 on the scene?

Page 48

1 A Timeline, I don't know, because I, of

2 course, didn't listen and went to the Webbs because Mary

3 was freaking out, so I went over, jumped the fence on

4 their front yard and went in the yard. So I really don't

5 remember seeing when else somebody pulled up.

6 Q Okay. Had anyone else gotten to the

7 scene before you went into the Webb's home?

8 A No.

9 Q Okay. So the time that you go and go

10 over the fence and go into the home, it's still just

11 those two deputies on the scene?

12 A Correct.

13 Q Okay. And so from that point you're

14 inside the Webb's home with --

15 A I think we were in the backyard at the

16 time. I had to go through the front of the house because

17 they wouldn't let me go through the driveway, so we went

18 to the backyard there and was out on the back porch.

19 Q Okay. Once you got into the Webb's

20 home, did you have any interaction with the deputies, did

21 they give you any instruction from that point?

22 A Once I was in the house, no.

23 Q Before you got into the house?

Page 49

1 A They kept trying to get us to go back
2 in and I said, no, I'm going to go over there. And we
3 asked him, you know, is he dead and he said, yes,
4 probably or something like that. And then I told him
5 that I was going to go over there.
6 Q Okay. So you spoke -- you at least
7 told the deputies you were going over there?
8 A Yes, yes.
9 Q Okay. That was probably a good idea.
10 A Yeah.
11 Q So you had this conversation with them.
12 You asked them is Mr. Webb is dead, they say -- do you
13 remember exactly what they said?
14 A No. I don't know if one -- I think
15 both of us asked him is he okay, is he dead, and the one
16 of them said yeah, probably or something to that effect.
17 Q And at that point you decide you're
18 going to go --
19 A Yes.
20 Q -- into the Webb home?
21 A Correct.
22 Q To see about Mary?
23 A Yes.

Page 50

1 Q And after that conversation, after you
2 went over there, at least within that next little bit of
3 time, you didn't have anymore interaction with the two
4 deputies who were on the scene?
5 A I don't think I spoke to them the rest
6 of the night.
7 Q Okay. At any point, other than giving
8 this statement to Corporal Bare, did you speak with any
9 of the other deputies who were on the scene?
10 A Not that I can recall, no.
11 Q Okay. Did you witness any interaction
12 between Mary Webb and any of the deputies who were on the
13 scene?
14 A Not that I can recall.
15 Q Do you have any knowledge about at what
16 point the ambulance arrived on the scene?
17 A I don't, but I do remember it took a
18 while for somebody to get there.
19 Q Did you witness any of the deputies
20 interact with any of the emergency personnel?
21 A When they got there, yeah, they talked
22 because we were outside the whole time.
23 Q When you say you were outside, where

Page 51

1 were you standing at that point, on this diagram?
2 A In the Webb's backyard.
3 Q Okay. And that's between the back of
4 the house and the garage. Is that correct?
5 A The garage is more to the right.
6 Q Okay.
7 A So their driveway is right here,
8 there's a sidewalk up through there.
9 Q Okay. And is the truck parked
10 somewhere in that --
11 A Right here.
12 Q Okay. And was it kind of blocking the
13 view of where Mr. Webb was located?
14 A You couldn't see a clear view. We
15 would walk up to the fence line, you know, and you could
16 see a little bit. That's as far as they would let us go
17 and then they hung a sheet up, so, yeah.
18 Q To restrict your view?
19 A Correct. Yes.
20 Q Okay. And, again, did you ever witness
21 any deputy or officer restrict access from the EMTs to
22 where Mr. Webb was located?
23 A Not that I can recall.

Page 52

1 Q At any point was Mrs. Webb trying to go
2 out to where her husband was located?
3 A She never went, from what I can recall,
4 as far as the fence line there.
5 Q And, again, you don't recall any
6 conversation between Mrs. Webb and any of the deputies?
7 A No.
8 Q Okay. How long were you at the Webb
9 residence before you went back over to your property?
10 A I don't think we went back home until
11 like 3:00 or 4:00 that morning.
12 Q So were you with Mary that entire time?
13 A Yes.
14 Q Do you have any recollection of any
15 conversations she had with anybody who would have been in
16 some sort of an official capacity?
17 A Yes. Yeah. I don't remember who, but
18 I know she had conversations with other officers, not
19 those two, though, from what I can recall.
20 Q Okay. Do you have any specific
21 recollection of the content of any of that conversation?
22 A Just basic questioning her about the
23 night and prior to what happened and everything else, but

Page 53

1 that's about it.

2 Q Okay. Did you ever witness any

3 deputies or anyone who you assume was an officer act in

4 any way inappropriate toward Mary Webb?

5 A They were a little crass, they were a

6 little harsh. They weren't very sympathetic. They could

7 have been nicer, yes.

8 Q Okay. And realizing that they weren't

9 necessarily sympathetic, I mean, were they in anyway

10 belligerent or in anyway did you hear them say anything

11 to her that was, you know, something that you just deemed

12 to be excessive or inappropriate?

13 A Not that I can recall, no.

14 Q Were there others who came to the Webb

15 residence during this period of time, as well?

16 A Yes.

17 Q And who else arrived there?

18 A We had one of our other neighbors,

19 Missy Campbell. She actually helped me jump the fence

20 because they have a lock on their fence.

21 Q On that evening, you can testify

22 specifically that the front fence was locked?

23 A Yes.

Page 54

1 Q Because you had to climb it?

2 A I had to climb it.

3 Q Is there any other gate to get in that

4 fence?

5 A Just the back where the driveway is.

6 Q Do you recall if that was opened or

7 closed?

8 A I don't.

9 Q Okay. I interrupted you. Missy

10 Campbell?

11 A Missy Campbell, Elmer Redden, my

12 father-in-law at the time, Phil Honaker, J. R. Ellison

13 and then there were multiple members of her family that

14 were there. I know her brother, I don't know his name,

15 and his wife and there was a lot of family members that

16 came.

17 Q Did you have any conversation with

18 Amanda that evening?

19 A Afterwards?

20 Q Afterwards.

21 A No. I think the girls were asleep

22 pretty much the whole time. I can't be 100 percent

23 positive about that, but they were asleep quite awhile.

Page 55

1 Q Did you ever see Amanda at anytime when

2 you were over there?

3 A Yes. They were asleep.

4 Q I mean, you witnessed them asleep.

5 A Yes.

6 Q And did Mary tell you whether they had

7 ever been awake or whether they had slept through the

8 whole thing?

9 A I don't remember.

10 Q Okay. At the time you got to the home

11 were the girls asleep?

12 A Yes. I think they woke up at some

13 point, but they had no idea what was going on outside.

14 Q And so their mom put them back to bed,

15 or do you remember?

16 A I don't remember.

17 Q I don't want to put words in your

18 mouth.

19 A I really don't remember.

20 Q Okay. You just remember when you got

21 there, they were asleep?

22 A Yes.

23 Q At some point they may have been awake,

Page 56

1 but they went back to sleep?

2 A From what I can recall, yes.

3 Q When you gave this statement to

4 Corporal Bare, do you remember where you were located

5 when you gave this statement?

6 A I was in the Webb's backyard.

7 Q I'm going to jump spaces here on you?

8 A Okay.

9 Q I'm going to go back to the time before

10 you became aware that there was a problem outside. Do

11 you recall hearing Mr. Webb playing that music

12 continuously up until the time that your husband had to

13 get up to check on the dogs or do you have any

14 recollection?

15 A I don't remember when he turned it off.

16 I don't remember. I know the music was not on when we

17 went out on the porch after, when we saw the deputies.

18 There was not any music.

19 Q Other than being able to place it as

20 not being on at that point, do you know at what point

21 that the music stopped?

22 A I don't remember.

23 Q And do you remember, even though it was

Page 57

1 typical for Mr. Webb to listen to music like that, that
 2 it was at least at a pretty loud level?
 3 A It was where we could make out what was
 4 playing, yes.
 5 Q Is there any way for you to identify or
 6 put any kind of a time stamp on when the last time you
 7 heard Robert Webb and Amanda talking?
 8 A No. I mean, I know she hadn't -- like
 9 I said, I'm assuming she went inside. It hadn't been
 10 very long, maybe 30 minutes or so, really, because that's
 11 what I think scared us the most that she was just out
 12 there and that's why I recall that, because she had not
 13 been -- he had not by himself very long.
 14 MR. WILLIAMS: Let's take a quick
 15 break.
 16 (WHEREUPON, a short break
 17 was taken)
 18 CROSS-EXAMINATION
 19 BY MR. GRIFFITH:
 20 Q Ms. Richmond, my name is Travis
 21 Griffith. I introduced myself before we started this
 22 deposition. I have very few follow-up questions with you
 23 and I'm just going to try to -- it might be some

Page 58

1 repetitive stuff that you've already answered and I
 2 apologize in advance for that.
 3 A Okay.
 4 Q You said that you and your ex-husband
 5 had gone to sleep and you were watching TV, and at some
 6 point you turned off the TV?
 7 A We hadn't been asleep.
 8 Q Okay.
 9 A I'm fairly certain the TV was on and
 10 then we turned the TV off and we were still awake.
 11 Q Did you hear Robert Webb and Amanda
 12 speaking after you turned the television off?
 13 A Yes.
 14 Q Okay. And you know their voices.
 15 Could you hear them laughing, what could you hear that
 16 you knew if was them?
 17 A I could recognize the voices.
 18 Q Okay.
 19 A I mean, it's not uncommon for them to
 20 be out there talking like that.
 21 Q Okay. Previous to turning the
 22 television off, had you heard anybody shoot any weapons
 23 at all?

Page 59

1 A Not that I can recall. Not that I
 2 remember.
 3 Q After you turned off the television, at
 4 some point Robert Webb and Amanda, they stopped talking,
 5 you stopped hearing their voices?
 6 A At some point, yes.
 7 Q Okay. And do you know about how long
 8 it was after you stopped hearing their voices to when the
 9 dog started barking?
 10 A No.
 11 Q Do you have any idea how much time
 12 passed between when you stopped the voices and you heard
 13 the shots?
 14 A No.
 15 Q Okay. Did you ever hear anything else
 16 other than the shots after you turned the television off?
 17 A Besides him and her talking and the
 18 music, no.
 19 Q Okay. Were they talking while the
 20 music was playing?
 21 A I don't recall. I know at some point
 22 the music had been on and off all evening, so it wasn't
 23 like constant on the entire time.

Page 60

1 Q Okay.
 2 Q At some point after you turned the
 3 television off, did you hear them talking without music
 4 playing?
 5 A Yes. From what I can recall, yeah.
 6 Q Okay. After you got out of bed, after
 7 the shots had been fired, do you know how long it was
 8 before you looked out the bathroom window?
 9 A No, I don't. The only reason I got up
 10 to look out was because, you know, my husband said that
 11 there were flashlights in their driveway.
 12 Q Okay. Did he tell you there were
 13 police officers out there or did you actually see them?
 14 A At the time we didn't realize that they
 15 were police officers, we just saw flashlights.
 16 Q Okay. Do you know if there'd been any
 17 robberies or anything in the Primrose, Cabell Heights
 18 area?
 19 A There have been a couple buildings
 20 broken into, some four-wheelers stolen, things like that.
 21 Q Okay. How long ago was that prior to
 22 this incident?
 23 A It might have been that spring, that

Page 61

1 summer. I mean, it was probably -- yeah, I think it was
2 pretty current.
3 Q Was it all in one night or was it on a
4 series of nights?
5 A There were a couple different ones over
6 several months.
7 Q Did they ever catch anybody for those?
8 A I think eventually, yes.
9 Q Okay. Did you ever speak to any of the
10 EMTs after they arrived?
11 A No.
12 Q At any point did you leave Mary Webb's
13 home and go back to your home?
14 A Not until about 4:00 that morning.
15 Q Okay. Did you talk to your husband at
16 all between the time that you got to Mary's and the time
17 you went back in the wee hours of the morning?
18 A Maybe -- I mean, I didn't talk to him
19 for a while. Probably not until -- I really don't
20 remember. He was not over there with me.
21 Q Okay. At anytime did he ever come to
22 the Webb's house?
23 A Not that I can recall. He was more in

Page 62

1 the road at that time.
2 Q Okay. You said at some point you were
3 in the backyard with Mrs. Webb and some other people?
4 A Yes.
5 Q Do you know how long you were back
6 there before they draped the sheet over the fence line?
7 A Quite awhile because you could see Rob.
8 If you sat on their porch, you could actually see under-
9 neath the truck.
10 Q I suppose people were bending down to
11 look and see?
12 A Yes.
13 Q Okay. You were also interviewed in the
14 backyard by a deputy?
15 A Correct.
16 Q When you were interviewed, obviously it
17 was tape recorded. Correct?
18 A Correct.
19 Q Were you standing with anybody else
20 when you were interviewed?
21 A There was several people back there,
22 but we were off to the side.
23 Q Okay. When the officer interviewed

Page 63

1 people, did he interview them with other people or did he
2 pull them over somewhere?
3 A From what I can recall he pulled them
4 away.
5 Q Okay. Did you actually see him
6 interview Mary Webb and other people?
7 A Yes.
8 Q Okay. Do you remember who was
9 interviewed first?
10 A I don't.
11 Q You said you didn't speak to Amanda
12 that night?
13 A No.
14 Q Have you ever spoken to her about the
15 death of her father?
16 A No.
17 Q Okay. Have you ever tried?
18 A No.
19 Q Has Mary ever talked to you about the
20 shooting?
21 A Yes.
22 Q Has she talked to you about Amanda?
23 A Yes.

Page 64

1 Q Okay. Do you remember the substance of
2 those conversations?
3 A Probably just in general talking about,
4 you know, who she got as far as lawyers were and the
5 proceedings and everything that was going on. I would,
6 you know, inquire about the girls and how they were doing
7 and I know that they were in counseling, I do believe, at
8 some point and just, in general, inquiring how they were
9 doing.
10 Q Okay. The evening/morning, July 3rd,
11 4th, you were interviewed by the officer, were you ever
12 contacted by any member of the Raleigh County Sheriff's
13 Department after that for a follow-up?
14 A Not that I can recall, no.
15 Q Were you ever contacted by any
16 individual from the time of that interview till today
17 regarding the shooting of Robert Webb?
18 A Besides the newspapers and then Mary's
19 lawyers, no.
20 Q Okay. You said your kids played with
21 Rob's kids?
22 A Yes.
23 Q Was it frequent then for them to be

Page 65

1 around the Webbs?

2 A Yes. Every summer day they were always

3 together.

4 Q Did you ever have any problems with

5 your children being around Rob or Mary Webb?

6 A He just had to watch his mouth, but

7 other than that, no.

8 Q Actually, I remember listening to

9 something like that. I mean, Rob wasn't the type of guy

10 who didn't mind speaking his mind?

11 A He did not mind speaking his mind and

12 it didn't matter what word came out.

13 Q I think you said at one point that you

14 are the same way, that'd you'd give it right back to him?

15 A Oh, I gave it right back to him, yes.

16 Q But you were friendly neighbors?

17 A Yes.

18 Q When you would give it to each other

19 like that --

20 A We had kind of a love/hate relationship

21 and he knew I'd give it back to him, so he picked at me.

22 Q Was he ever violent with you?

23 A Never. I was never afraid of him,

Page 66

1 ever.

2 Q Never threatening with you?

3 A Never.

4 Q I can't remember, did you ever see him

5 with a pistol in the area of Primrose, Cabell Heights?

6 A Are you talking about that day or in

7 general while we lived there?

8 Q In general?

9 A Yeah, he hunted, so, and my husband

10 hunted, so.

11 Q It wasn't rare to see him with a

12 hunting rifle?

13 A No, not at all.

14 Q Or your husband with a hunting rifle?

15 A No, not at all.

16 Q Okay. The neighbors that we refer to

17 as the Smiths, the ones who lived in the house, I guess,

18 that was beside Rob Webb's house?

19 A Yes.

20 Q You said they had issues with your

21 children at some point riding their bicycles in the

22 driveway?

23 A Correct.

Page 67

1 Q Or through their lawn?

2 A Just the driveway.

3 Q Okay. And had you or your husband ever

4 gotten into altercations with them about that?

5 A I had had words with them, I don't know

6 that Chris did, but, I mean, just, you know.

7 Q I mean, I'm assuming that they

8 witnessed your children ride their bikes through grass,

9 what was said?

10 A Yeah. The kids would turn around in

11 their driveway and the man, at one point, screamed at the

12 kids and I went over and just, you know, asked what his

13 problem was and we kind of had words and just walked off.

14 I had had a conversation with her, too, before about it.

15 Q Okay. And this was about three years

16 ago, so your sons would have been six or seven --

17 A Yeah.

18 Q -- and nine years old?

19 A Yeah.

20 MR. GRIFFITH: That's all I have.

21 REDIRECT EXAMINATION

22 BY MR. WILLIAMS:

23 Q Ma'am, I just have a couple follow-ups

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1 for you. Getting back to the music and the talk, and I

2 understand you can't put any exact time stamps on it.

3 Could you hear the conversation going on while the music

4 was playing or was it just at the point that the music

5 would stop that you could hear the conversation?

6 A I don't recall. I really don't know.

7 I know that the music was off and on and the conver-

8 sation, of course, was off and on, but whether the two

9 coincided and we heard it, I really couldn't tell you.

10 Q So you don't have any specific

11 recollection about whether you could hear their

12 conversation while that music was playing?

13 A Correct.

14 Q Just so the record is clear, you were

15 talking about people you had spoken with about this case.

16 You gave a statement to an investigator not too long ago?

17 A Yes, I did. Yeah, I had a pre-

18 deposition like a week or so ago.

19 Q Right.

20 A Yeah, I did.

21 Q And, again, all that came about after

22 the issues you brought up with you and your ex-husband?

23 A Correct.

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1 Q And that investigator was somebody that
2 we had sent to talk to you?
3 A Right.
4 Q As far as any conversation that you and
5 Mary Webb have had about Amanda, it seemed like they were
6 in the context of how she's dealing with all this?
7 A Correct. Yes.
8 Q Has Mary Webb ever told you anything
9 about Amanda's whereabouts or information that Amanda has
10 with regard to the events of July 3rd/4th 2006?
11 A I know she had a really hard time at
12 first. I haven't spoken with Mary for quite a while, but
13 right afterwards she was having a very difficult time
14 with school and just dealing with -- her and her father
15 were very close.
16 Q And I understand about the stuff about
17 how she's -- I just want to know has Mary Webb ever told
18 you anything about information or knowledge that Amanda
19 has about the evening?
20 A Oh. No. Well, she did discuss
21 something about it, but I don't remember exactly what
22 Amanda had said about it. At one point, she did say that
23 Amanda -- but it was several months after that she did

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1 come out and say something to her mom and would talk to
2 her about it, but specifics, I don't know.
3 Q Okay.
4 MR. WILLIAMS: I don't have anything
5 else.
6 RECROSS EXAMINATION
7 BY MR. GRIFFITH:
8 Q Just a couple quick follow-up. You and
9 an investigator that was hired by Pullin, Fowler,
10 Flanagan, Brown and Poe came to speak to you?
11 A Yes.
12 Q Did that investigator come to your
13 home, call you on the phone?
14 A He came to my home to serve me the
15 papers and then he called me to ask if he could do a pre-
16 deposition, and I said yes, and he actually came to my
17 office.
18 Q Okay. And this is at the Soccer
19 Association?
20 A Yes.
21 Q Do you remember the name of that
22 investigator?
23 MR. WILLIAMS: Greg Bishop.

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1 BY MR. GRIFFITH:
2 A Greg Bishop.
3 Q And was that interview recorded?
4 A Yes.
5 Q Okay. He had a tape recorder?
6 A Yes.
7 Q Okay. And you said that was a couple
8 of weeks ago?
9 A Yes.
10 Q Did you tell that investigator anything
11 when you spoke to him different than your testimony has
12 been today?
13 A No.
14 Q There was a couple other things that I
15 realized that I needed to follow up on that I'm going to
16 ask you real quick. When you had gone into your bedroom
17 and you did not go to sleep, but you were laying down,
18 you said that the dogs had barked?
19 A Uh-huh, (yes).
20 Q And that your ex-husband had gone to
21 the window?
22 A Right.
23 Q And then sometime after that he was

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1 yelling at the dogs to be quiet from another side of the
2 window?
3 A No. I guess it would have been if
4 you're facing the house, the left-hand side, there was a
5 window there, too. That's where he went because they
6 were at that gate -- I mean, at that fence line right
7 there barking. We realized later on why they were on
8 that fence line barking, but that's --
9 Q And why was that?
10 A That's where the deputies had parked --
11 Q Okay.
12 A -- and were coming up and around.
13 Q Okay. And then when the dogs went to
14 the other side of the yard, when you're facing your home
15 to the right side, they were barking again?
16 A I don't recall that, but I know that
17 they walked around towards the backyard because that's
18 why he went to the other window to make sure they were
19 going and settling down.
20 Q Okay. At some point after that, you
21 heard the shots fired?
22 A No, that was -- no, not that I recall.
23 I think the shots were actually before that.

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1 Q Okay.
2 A I don't know. I don't know.
3 Q Okay. At any point during that time,
4 did you hear any officers announce their presence,
5 police, show us your hands, freeze?

6 A No.
7 Q Anything like that?
8 A Never heard anything.

9 Q Okay.
10 MR. GRIFFITH: I'm done.

11 REDIRECT EXAMINATION

12 BY MR. WILLIAMS:

13 Q You said on that evening that Mr. Webb
14 was quite happy. Did you ever see him become angry or
15 violent when he was drinking or consuming alcohol?

16 A Never.

17 Q Did Mary ever talk to you about that?

18 A No.

19 MR. WILLIAMS: Nothing else. Ma'am,
20 you have the right to read your deposition
21 before it becomes made an official part of the
22 record or you can simply waive that right.
23 Most people waive it, but the reason that you

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF RALEIGH, to-wit:

I, LORETTA TEE, a Notary Public within
and for the State aforesaid, duly commissioned and
qualified, do hereby certify that the foregoing deposi-
tion of KRISTI RICHMOND was duly taken by and before me
at the time and place and for the purpose specified in
the caption thereof, the said witness having been first
duly sworn by me to testify the whole truth and nothing
but the truth concerning the matter in controversy.

I do further certify that the said
deposition was taken by means of a Stenomask and tran-
scribed under my supervision; that the reading and
signing of said deposition were waived by the witness
and by agreement by and between counsel for the parties
after taking of said deposition.

B.R.A.

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1 would read it is one, to make sure that the
2 court reporter has transcribed everything
3 correctly, but, also, you have the right to
4 change testimony if you think something was
5 answered incorrectly, but then you have to
6 explain why you've done that then we'll
7 probably call you back in here to do this
8 again. But you just need to say on the record
9 whether or not you want to read or waive.

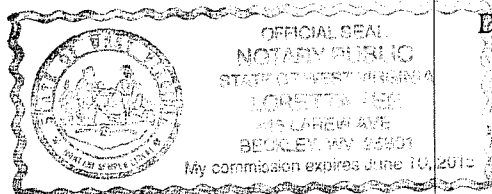
10 THE WITNESS: I'll waive it.

11 MR. WILLIAMS: Okay. That's it.

12 (Witness Excused)

13 (WHEREUPON, the deposition
14 was concluded)

B.R.A.



I further certify that I am not con-
nected by blood or marriage with any of the parties to
this action, am not a relative or employee or attorney
or counsel of any of the parties, nor am I a relative
or employee of such attorney or counsel, or financially
interested in the action, or interested, directly or
indirectly, in the matter in controversy.

Given under my hand this 13th day of
December, 2009.

Loretta Tee

LORETTA TEE, Reporter

Notary Public

My commission expires June 6, 2015.

B.R.A.

EXHIBITS

RALEIGH COUNTY SHERIFF'S DEPARTMENT

STATEMENT OF KRISTI HATFIELD

DATE: July 4, 2006
TIME: 2:32 A.M.
PRESENT: Corporal Bare
Kristi Hatfield (K-r-i-s-t-i)

BARE: Ms. Hatfield, you're neighbors with the Webb's here. Is that correct?

HATFIELD: Yes.

BARE: What went on tonight?

HATFIELD: He had been drinking a little bit and had been --

BARE: Let me try that again. Okay. I'm sorry, go ahead Ms. Hatfield.

HATFIELD: He had been drinking and shot off a couple of rounds. He had firecrackers too that he had shot off but we didn't think anything of it. The dogs were barking so I told my husband he needed to shut the dogs up and we saw a flashlight moving and thought that Rob was over there just messing with the dogs and then he saw you all over there.

BARE: Did you guys see what happen?

HATFIELD: No. We just heard some gunshots, but we thought it was him.

BARE: Okay. Was your husband outside when the shots were fired?

HATFIELD: No.

BARE: So you had heard just him firing up firecrackers and --

HATFIELD: Uh-huh, firecrackers and we had seen him shoot a couple of times. He was shooting up in the air, but the last 30 minutes or so we were in the bed we didn't see him -- we didn't see anything.

BARE: What was he shooting up in the air, do you know what it was?

HATFIELD: I don't know what it was I just saw him with a gun shooting up in the air, I don't know what kind it was.

BARE: Was it a pistol like this or a long gun?

HATFIELD: I was thinking he had a pistol, but I don't know.

K. Hatfield
Ex 1
11-19-09 LT

RALEIGH COUNTY SHERIFF'S DEPARTMENT

BARE: That's okay, if you don't know that's okay.

HATFIELD: I just know he was shooting up in the air.

BARE: About how many rounds do you know, how many times did he fire?

HATFIELD: He fired five times – five rounds three times – about fifteen times. But they weren't like one right after another, it's been over in like the last two or three hours he had done that.

BARE: Okay.

HATFIELD: Does that make sense, five rounds, three times?

BARE: Yes. So you think he might have fired fifteen rounds?

HATFIELD: I'm thinking probably about that, that's how many I can remember hearing because I remember thinking he is going to reload. It took him a while so it was like I said it was over two or three hours.

BARE: Okay. Did you by chance hear anything prior to that; prior to the officer's getting here?

HATFIELD: No. We were actually over here talking to him probably about 10 or 10:30 or 11 o'clock. We were over in the driveway talking to him – didn't hear anything.

BARE: Okay. What condition was he in?

HATFIELD: He was a little --

BARE: A little tipsy?

HATFIELD: He was a little tipsy, yeah.

BARE: Okay.

HATFIELD: Just a little bit. He was talking, his daughter was outside with us. He was putting the tire back on his truck.

BARE: Has he ever been known to be a problem when he gets drunk?

HATFIELD: He can be a little rowdy, just loud music, firecrackers, you know, just being loud, but no, nothing.

BARE: No altercations with your husband or anything?

RALEIGH COUNTY SHERIFF'S DEPARTMENT

HATFIELD: No. No, never --

BARE: Okay.

HATFIELD: -- with me or his wife or anything like that.

BARE: Okay. Prior to -- you say there was flashlights, you saw flashlights?

HATFIELD: Uh-huh (yes). Yeah, my husband saw flashlights so we thought Rob was messing with the dog just making him bark.

BARE: What, did he see this through the window or something?

HATFIELD: Through our window, through our bedroom window which is on the backside of the house.

BARE: Okay. And then there was I guess some more shots after that?

HATFIELD: No. We didn't even get up. I remember hearing the two shots, but we just thought it was him and we didn't -- he just happen to get up to shut the dogs up because they had been barking for about 30 minutes and he saw the flashlights.

BARE: Did you hear anybody say anything outside or anything?

HATFIELD: No.

BARE: How far -- I guess you were in bed?

HATFIELD: Yes. Our window is on the far side, but it's on this back side of the house.

BARE: So it's on the opposite side?

HATFIELD: Uh-huh (yes).

BARE: Okay. Anything else you can tell me?

HATFIELD: No, I think that's it.

BARE: Okay.

HATFIELD: Do you need me to go get my husband; do you need to talk to him?

BARE: Yeah. I'll go ahead and end this at 2:36.

RALEIGH COUNTY SHERIFF'S DEPARTMENT