

EXHIBIT D

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; et al.,)
)
 Defendants.)

The deposition of CHRISTOPHER HATFIELD 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 10:29 A.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

I N D E X

<u>Defendants' Witness:</u>	<u>Direct</u>	<u>Cross</u>
Christopher Hatfield	4	54 (Olivio)
	64	--

<u>Defendants' Exhibits:</u>	<u>Marked</u>
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Hatfield Depo. Exhibit No. 1	12
Hatfield Depo. Exhibit No. 2	49

Reporter's Certificate -- Pages 71 & 72

B.R.A.

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B.R.A.

COPY

(Witness Sworn)

1
 2 THEREUPON came,
 3 CHRISTOPHER HATFIELD,
 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 Sir, could you please state your name?
 10 A Chris Hatfield.
 11 Q Mr. Hatfield, what we're doing here
 12 today is called taking your deposition. Have you ever
 13 had a deposition taken before?
 14 A No.
 15 Q Okay. This lady is a court reporter.
 16 She's going to be making a written transcript of
 17 everything that's said here in the room today, so for
 18 that reason there are some rules we have to follow.
 19 Because you've never had a deposition taken before, I'm
 20 going to explain some of those rules to you. The first
 21 one is that you need to answer all my questions out loud
 22 with either a yes or a no, or I don't know is a perfectly
 23 acceptable answer as well, but all of your answers do

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1 need to be out loud. Okay?

2 A Yes.

3 Q You need to avoid things like nods of
4 the head and you need to avoid things like saying uh-huh
5 and huh-uh. In a normal conversation we'd all know what
6 you're talking about, and I would certainly understand
7 what you're saying, however, when you go back and look at
8 those things in writing they don't look -- you can't tell
9 the difference between them two months or three months
10 from now. Okay?

11 A Yes.

12 Q Another thing that we need to do is
13 speak one at a time. That seems a little easier than it
14 is sometimes. You'd be surprised how much in normal
15 conversation I'll ask a question, I'll be halfway through
16 it, you'll know what the question is going to be and
17 you'll be tempted to start answering it. I'd ask you if
18 you'd do me the courtesy of waiting till I've completed
19 my question before you start your answer, I'll always do
20 you the courtesy of waiting till you've completed your
21 answer before I ask you another question. Okay?

22 A Okay.

23 Q That does a couple of things. One, it

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1 ensures that when the transcript comes out, it will read
2 my entire question followed by your entire answer. The
3 other thing it does is ensure that you heard my entire
4 question and that you've understood it. If I ever ask
5 you a question that you don't understand or seems
6 confusing to you, you let me know, I'll be happy to ask
7 the question in a different way. Okay?

8 A Okay.

9 Q If you answer the question, I'm going
10 to assume that you understood the question. Okay?

11 A Okay.

12 Q We shouldn't be in here a real long
13 time, but if for any reason at all you need to take a
14 break, stretch your legs, get something to drink, use the
15 restroom, you let me know, I'll be happy to stop the
16 deposition. Okay?

17 A Okay.

18 Q You do realize that when this procedure
19 started you took an oath to tell the truth?

20 A Yes.

21 Q And you realize that in that respect
22 this is just like testifying in front of a judge?

23 A Yes.

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1 Q Okay. Mr. Hatfield, what is your
2 current address?

3 A It's 229 Cabell Heights Road, Beckley,
4 West Virginia 25801.

5 Q And how long have you lived there at
6 that address?

7 A Twelve years.

8 Q And who resides there at that home with
9 you?

10 A My two sons.

11 Q And how old are your sons?

12 A Ten and 12.

13 Q Where did you go to high school?

14 A I went to Shady.

15 Q And what year did you graduate from
16 Shady?

17 A I didn't graduate, I went and got a
18 GED.

19 Q Okay. What was your last year that you
20 attended high school?

21 A Eighth.

22 Q And then you obtained your GED?

23 A Yes.

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1 Q And what year did you get your GED, if
2 you recall?

3 A I can't recall, it's been a long time.

4 Q Okay. How old are you, sir?

5 A I'm 36.

6 Q What's your date of birth?

7 A 12-26-72.

8 Q Are you currently employed?

9 A I'm self-employed.

10 Q What is your business?

11 A I do landscaping and a tree service.

12 Q And what is the name of that business?

13 A Hatfield Lawn and Land.

14 Q How many employees do you have?

15 A One.

16 Q Just yourself?

17 A No, one other.

18 Q Or yourself and one other?

19 A Yeah.

20 Q Okay. And who is that?

21 A My brother, David Hatfield.

22 Q And is he actually an employee of your
23 company or is it a --

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1 A Yes.

2 Q He's an employee of your company?

3 A Yes.

4 Q Okay. And how long have you had that

5 business?

6 A I've been working, myself, probably

7 14 years, maybe.

8 Q Now, do you do commercial accounts or

9 just private residence?

10 A Both.

11 Q Okay. I don't know if I told you this

12 or not, again, my name is Chip Williams. I represent the

13 Raleigh County Sheriff's Department, as well as Deputy

14 Greg Kade and several other individual defendants in a

15 lawsuit that's been filed against them. It's my under-

16 standing that you live in proximity to where Mary Webb

17 lives. Is that correct?

18 A Neighbor.

19 Q Okay. I'm going to give you a piece of

20 paper, and just, obviously, this is not going to be to

21 scale, could you just sketch out the street and where

22 your house is in relation to where the Webb's home is?

23 A Yes. This is the main street.

Page 10

1 Q Okay.

2 A This is Primrose Lane, this is mine,

3 that's Mary's.

4 Q Okay. When you say main, is that

5 Cabell Heights?

6 A Yes.

7 Q Okay. Write Cabell Heights on there.

8 A And this one is Primrose.

9 Q Okay. And your home actually has a

10 Cabell Heights address. Is that correct?

11 A Correct.

12 Q Okay. And so can I then assume that

13 the front of your home is what is facing Cabell Heights

14 Road?

15 A Yes.

16 Q Okay. Where you've drawn the Webb home

17 there on Primrose, can you put in there somewhere and

18 tell me in relation to the home where the Webb's garage

19 would be in relation on that picture, and then kind of

20 where their driveway is?

21 A It comes right in front of the garage.

22 Q Okay. All right. And then on the

23 picture of where your home is, can you just put an X for

Page 11

1 me where your bedroom, the master bedroom where you

2 sleep, is located in that home?

3 A (Witness complies)

4 Q Okay. And you've X'd on the outside,

5 right in the -- from Primrose, looking at the side of

6 your home, that would be in the right rear corner?

7 A This is Primrose. This would be the

8 back of my house, this would be the left side, I believe.

9 Q Okay. From Cabell Heights, if you're

10 looking at the home from Cabell Heights, that's the left

11 side of your home?

12 A Yeah.

13 Q Correct. So if you're standing and

14 looking at the front of your home, it's the left rear of

15 your home?

16 A Yeah.

17 Q Okay. Got you.

18 MR. WILLIAMS: I'm going to ask that

19 this be marked as Exhibit 1 to the deposition.

20 MR. OLIVIO: Just note the objection

21 that it's not to scale.

22 MR. WILLIAMS: I don't know, it looks

23 pretty close to me.

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1 (WHEREUPON, Hatfield Deposition

2 Exhibit No. 1 was marked for

3 identification purposes)

4 BY MR. WILLIAMS:

5 Q It's my understanding that on the

6 evening, and I'll say the evening because the shooting

7 involving Mr. Webb happened in the morning hours the next

8 day, so I'll say the evening before and that's how we'll

9 reference it. You understand what I'm talking about when

10 I say that?

11 A Yes.

12 Q So it's my understanding that the

13 evening before, which would have been the evening, I

14 believe, of July 3rd, that that evening, at some point,

15 you had been at the Webb's home. Is that correct?

16 A Correct.

17 Q Okay. Approximately what time was it

18 that you were at Robert Webb's home that evening?

19 A It may have been from 9:00 till 10:00,

20 11:00. We were standing in the driveway talking, me and

21 my wife, him and his daughter.

22 Q So you think that approximately be-

23 tween sometime during the time period of 9:00 P.M. and

Page 13

1 11:00 P.M., you would have been in the Webb's driveway
 2 having a conversation with Robert Webb and his daughter?
 3 A Right. Yes.
 4 Q Is that correct? Okay. Let's back up
 5 from that, previous to going over there, what had you and
 6 your wife been doing that evening?
 7 A Probably outside with the kids or
 8 something. I'm not sure, it's been three years.
 9 Q Okay. And I don't want you to guess.
 10 If you don't know --
 11 A I'm sure we were outside doing
 12 something.
 13 Q Okay.
 14 A I'm just not sure.
 15 Q And, again, do you have a specific
 16 recollection of being outside or are you just guessing
 17 that's what you normally would do on an evening like
 18 that?
 19 A That's what we would normally do
 20 outside with the kids.
 21 Q Okay. But as far as having a specific
 22 recollection of the evening of July 3rd, do you have any
 23 specific recollection of what you were doing that evening

Page 14

1 before you went to Robert Webb's home?
 2 A No.
 3 Q Do you have any specific recollection
 4 of whether you were even home before you went over there?
 5 A Oh, we were home. Yes.
 6 Q Do you know approximately what time you
 7 arrived home, and it's my understanding this was a Friday
 8 and so it would have been a workday?
 9 A I'm not sure.
 10 Q Do you know if it was -- because it was
 11 the Friday before 4th of July if you actually worked that
 12 day?
 13 A I'm sure I worked. Yes.
 14 Q And what time do you normally return
 15 home from work in the evening?
 16 A 6:00, around.
 17 Q And on a typical day, again, you can't
 18 recall specifically what you were doing that evening, but
 19 on a typical day, on a Friday evening, when you get home
 20 from work what do you typically do?
 21 A Play with the kids, get a bite to eat,
 22 things outside.
 23 Q Does your wife work?

Page 15

1 A No, she didn't.
 2 Q Okay. She didn't work, so she would
 3 have been home with the kids during the day?
 4 A Yes.
 5 Q Is that correct? And did she normally
 6 cook you dinner or did you guys eat out or?
 7 A Probably would have ate out on Friday.
 8 Q During the time that you were in
 9 Mr. Webb's driveway speaking with him, did you ever see
 10 his wife during that period of time at all?
 11 A No. I can't recall.
 12 Q So as we sit here, you can't recall
 13 whether at some point she was out there or not?
 14 A It's been three years, but I know his
 15 daughter was out there most of the time.
 16 Q Okay. And what was his daughter's
 17 name?
 18 A Amanda.
 19 Q And it's my understanding that Mr. Webb
 20 was working on his truck?
 21 A Yes.
 22 Q Okay. Tell me exactly what was going
 23 on that you recall?

Page 16

1 A I just think he was rotating his tires.
 2 Q And what was Amanda doing?
 3 A Well, after he rotated his tires is
 4 when she came out. He wasn't working on his truck after
 5 that.
 6 Q Okay. So you're over there and did
 7 your wife, that you recall, walk over there with you?
 8 A It may have been a few minutes later.
 9 Q Okay. So at some point you're over
 10 there and when you first get there, Mr. Webb is working
 11 on his truck. Is that correct?
 12 A Correct.
 13 Q Okay. And is it your recollection that
 14 at that point, when he was working on his truck, his
 15 daughter wasn't in the immediate area?
 16 A No.
 17 Q She was not?
 18 A She wasn't, yeah.
 19 Q Okay. And then at some point -- do you
 20 recall how long he was working on his truck when you were
 21 over there?
 22 A Thirty minutes.
 23 Q And during that first 30 minutes when

Page 17

Page 19

1 Mr. Webb was working on his truck and you're over there,
2 were you just standing there speaking with him or were
3 you helping him?

4 A I was probably walking back and forth
5 from his house to mine, maybe.

6 Q But during that first 30 minutes, his
7 daughter, Amanda, was not out there with him?

8 A Yes. Correct.

9 Q And then at some point, what you're
10 guessing or what you believe was approximately 30
11 minutes, at some point he finishes up working on the
12 truck?

13 A Right.

14 Q Okay. And then tell me what happened
15 after that?

16 A We were all just standing around
17 talking and then me and my wife, we were standing there
18 talking to him and then his daughter walked out and got
19 up in the bed of the truck and we just all sat there and
20 talked for an hour or so, I can't remember how long it
21 was.

22 Q Okay. So he finishes working on the
23 truck. At that point, his daughter is present, in the

1 Q What was Mr. Webb wearing, if you
2 recall, when you were over there?

3 A Maybe shorts and a T-shirt.

4 Q Do you remember did he have a shirt on
5 of some sort?

6 A Yes.

7 Q Okay. And you think that he was
8 wearing shorts?

9 A That's what I believe.

10 Q Okay. And while you may not be able to
11 recall specifically what he was wearing, certainly you
12 would recall if he were wearing nothing but underwear?

13 A I would remember that, yes.

14 Q That seems likely. And you do recall
15 that he wasn't just wearing his underwear?

16 A I remember, yes.

17 Q Okay. At any point when you were in
18 Mr. Webb's driveway, did you see him drinking anything at
19 all?

20 A I didn't.

21 Q Okay. And when I say drinking, I'm not
22 just talking about alcohol. I mean, did you see him
23 consuming any kind of beverage?

Page 18

Page 20

1 vicinity. Do you remember if she came out of the house
2 or came from around behind the house?

3 A The house.

4 Q She came from inside the house?

5 A Correct.

6 Q Okay. And do you remember at what
7 point your wife showed up?

8 A My wife, me and my wife, were already
9 out there whenever she came outside.

10 Q Okay. So at the point that Amanda
11 shows up, yourself and Kristi, is it?

12 A Yes.

13 Q Were already present and talking to
14 Robert Webb?

15 A Yes.

16 Q Okay. During that period of time, did
17 you see any firearms in his vicinity or laying around or
18 in his truck?

19 A No.

20 Q During the entire time that you are
21 present in Robert Webb's driveway that evening did you
22 see any firearms?

23 A No.

1 A I can't remember. I didn't see him
2 drinking alcohol, but I can't remember if he was drinking
3 something else. It's been three years, you know.

4 Q Okay. Did he appear at all intoxicated
5 to you?

6 A He seemed like he had been drinking a
7 little bit.

8 Q And what is it that makes you make that
9 statement?

10 A Well, he said he was drinking a little
11 bit because it was his birthday.

12 Q So he actually told you he was drinking
13 a little bit?

14 A Yes.

15 Q But you didn't actually see him
16 drinking?

17 A No, I didn't see him, but he said he
18 had been drinking some.

19 Q Okay. Did you see at all in the truck,
20 or in any vicinity, any beer?

21 A No. I seen an old -- no, no. I was
22 going to say I had seen some old cans in the truck, but I
23 don't know if I did or not. I can't remember that.

Page 21

1 Q Okay. But certainly you didn't see a
2 case of any kind of beer?

3 A No.

4 Q And other than Mr. Webb telling you
5 that he had been drinking a little because it was his
6 birthday, did any of his actions seem impaired to you?

7 A No. He seemed fine.

8 Q Do you remember or have a specific
9 recollection of approximately what time it was when you
10 left Mr. Webb's home to go back over to your home?

11 A Around 10:30, 11:00, maybe.

12 Q Do you have any specific recollection
13 of what you-all were discussing that evening?

14 A Not right off, no.

15 Q Can you describe to me at the time that
16 you left -- well, let me back up. Where were your
17 children that evening?

18 A Probably them and some of the neighbor
19 kids, they were in the yard. Well, at that time, they
20 were probably inside at 10:00 or 11:00, you know, 10:00
21 or so, they were probably inside. But, I mean, there was
22 always kids in our yard on trampolines and everything.

23 Q You had a trampoline in your yard?

Page 22

1 A Yeah.

2 Q Okay. So you think your kids were
3 somewhere playing outside in the vicinity?

4 A At around 10:00, I'm sure they were
5 inside around 10:00.

6 Q Do you remember if you and your wife
7 left the Webb residence at the same time or maybe she
8 left before you?

9 A We left at the same time, I believe.

10 Q Okay. And were your kids ever over
11 there?

12 A They may have walked over and walked
13 back, I'm not sure.

14 Q Okay. Describe to me, at the time
15 that you went back to your house for the evening, what
16 Mr. Webb was doing and where everyone was located?

17 A Well, we all sat at his truck. We was
18 in the driveway talking for the whole time and then we
19 went back to the house. I'm not sure what he did after
20 that.

21 Q Okay. But at the point that you went
22 back to your home, Mr. Webb was still in the driveway
23 where his truck was located?

Page 23

1 A Him and his daughter. Yes.

2 Q Okay. And was there anyone else out
3 there in the general vicinity that you recall?

4 A Just him and his daughter.

5 Q And at that point, certainly, at 10:30,
6 11:00, your children would have been inside the home?

7 A Yes.

8 Q Okay. And then you and your wife went
9 inside your home?

10 A Yes.

11 Q Is that the last time you saw Robert
12 Webb that evening?

13 A That's the last time I seen him.

14 Q Okay. Approximately what time did you
15 go to bed that evening?

16 A It may have been after midnight or so.
17 We were in there laying around watching TV for a while.

18 Q Were you in your bedroom watching TV?

19 A Yes.

20 Q Okay. Do you remember approximately
21 what time that you went to your bedroom?

22 A Probably as soon as we left over there,
23 we probably went in there and was laying around watching

Page 24

1 TV.

2 Q And that would have been in your
3 bedroom?

4 A Correct.

5 Q At any point after you went back into
6 your home, did you hear Robert Webb -- or did you hear
7 anyone fire a weapon?

8 Q I heard weapons whenever he had shot
9 over there. You know, his daughter, him and his
10 daughter, we had heard them out there talking and then
11 later on we heard him shooting.

12 Q Okay. So you could hear Mr. Webb
13 shooting?

14 A Yes.

15 Q Okay. Did you ever get up and go look
16 and see and like actually visually see that it was Robert
17 Webb shooting the weapon?

18 A No, because he had been letting off
19 firecrackers and everything that evening and then I just
20 assumed it was him.

21 Q So when you heard the gun shots, you
22 assumed that it was Robert Webb who was shooting?

23 A Right.

Page 25

1 Q And do you have any way of knowing
2 approximately what time it was that you heard the
3 gunshot?
4 A It was around midnight or so, something
5 like that.
6 Q Okay. And do you remember if they were
7 all together or if there was gunshots and then a break
8 and then gunshots?
9 A Most of them were together, I believe.
10 Q Do you believe that it was possible
11 that Mr. Webb actually emptied a clip and then reloaded
12 it and then shot again, or can you tell by what you
13 recall?
14 A I can't remember.
15 Q Okay. All you know is you heard
16 gunshots?
17 A Yeah.
18 Q Do you recall how many you heard?
19 A Several.
20 Q Okay. When you say several, is that
21 more or less than ten?
22 A Maybe around ten. I mean, like I say,
23 it's been three years, I can't --

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1 Q And I understand, so if you don't know,
2 just tell me you don't know and that's fine. I realize
3 it's been quite some time since this occurred, but I'm
4 just trying to figure out what you do and you don't
5 remember?
6 A Yeah.
7 Q You heard the gunshots, best
8 recollection now is it was around midnight?
9 A That's what I'm -- yes.
10 Q Okay. But at no point did you get up
11 to investigate what it was?
12 A Not at that point, not when he was
13 shooting.
14 Q Okay. And your natural assumption was
15 it was Robert Webb that was shooting?
16 A Yes.
17 Q From the sound of it, could you
18 identify what kind of firearm that Mr. Webb was --
19 A I couldn't.
20 Q But you could differentiate the gunfire
21 from firecrackers?
22 A Oh, yes.
23 Q After you went inside your home, do you

Page 27

1 have any way of knowing whether at any point Mr. Webb
2 left his residence in his truck?
3 A I can't remember him leaving.
4 Q Is it possible that he would have left
5 and you would have not known that he left?
6 A Maybe.
7 Q What kind of heating and cooling do you
8 have in your home?
9 A I have gas heat. Well, the heat
10 wouldn't have been on. We had just air conditioner.
11 Q Okay. What type of air conditioner, do
12 you have window units or?
13 A No, we have central.
14 Q Central air. Okay. And is that the
15 way that you cool your home is through central air?
16 A Yeah.
17 Q Okay. On the evening of July 3rd,
18 2006, do you believe that you would have had any of the
19 windows in your home open?
20 A Yeah, we had our bedroom window opened.
21 Q Okay. And how big a window is it that
22 was opened in your bedroom?
23 A Average window. I mean, it was two

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1 feet by three feet or whatever it is.
2 Q Was that the only window in the home
3 that was open?
4 A In our bedroom that was the only window
5 opened, I believe.
6 Q And when you and your wife go into your
7 bedroom, do you typically leave the door shut or opened?
8 A Door opened.
9 Q Do you believe that there were any
10 other windows in the home opened other than your bedroom
11 window or do you know?
12 A I don't know.
13 Q Do you have any pets?
14 A Yes.
15 Q What kind of pets do you have?
16 A Dogs.
17 Q What kind of dogs, and I'm talking
18 about in July of 2006?
19 A We have a golden retriever and a husky
20 mixed.
21 Q And what's the golden retriever's name?
22 A Bell.
23 Q And how about the husky?

Page 29

1 A Puppy.
 2 Q Puppy?
 3 A Yeah.
 4 Q And in July of 2006, approximately how
 5 old would your dogs have been?
 6 A She was probably seven.
 7 Q The golden retriever?
 8 A Yeah. He was probably a year old.
 9 Q Do you have a fence around your
 10 property?
 11 A Yes.
 12 Q And where do the dogs typically -- are
 13 they confined to one area or can they go anywhere within
 14 your property?
 15 A The dog house is right here below my
 16 bedroom window.
 17 Q And can you just put a mark where the
 18 dog house is?
 19 A (Witness complies)
 20 Q Okay. At night are they confined to
 21 that area where the dog house is, is it any way --
 22 A That's the backyard right here.
 23 Q Just kind of put a dashed line about

Page 30

1 where the fence is where the dogs would have been
 2 confined.
 3 A It comes back around right over near
 4 the road and back to the house.
 5 Q Okay. So the dogs are essentially
 6 confined in your backyard area?
 7 A Backyard.
 8 Q When you heard the gunshots from
 9 Mr. Webb around midnight, did that stir the dogs at all,
 10 if you recall?
 11 A No.
 12 Q Other than the gunshots, did you hear
 13 any other noise or talking or anything coming from
 14 Mr. Webb's residence?
 15 A Like I say, we may have heard him and
 16 his daughter talking some, but then I didn't hear
 17 anything except for the dog barking whenever the police
 18 officers pulled up.
 19 Q You say you may have heard him and his
 20 daughter talking, do you have a specific recollection of
 21 that?
 22 A I probably heard them. I'm saying I
 23 heard them talking over there, but, you know, we had a TV

Page 31

1 on and everything for a little while and then, you know,
 2 we turned the TV off and was going to bed.
 3 Q Okay. At the point where you turned
 4 the TV off and went to bed, did you hear anyone talking
 5 after that?
 6 A Not after that.
 7 Q And do you remember approximately what
 8 time that was?
 9 A It was around midnight or so.
 10 Q Well, let me ask you this. When you
 11 heard the gunshots, were you still watching TV or had you
 12 already gone to bed?
 13 A We had turned the TV off and were
 14 laying there.
 15 Q Okay. But then at the point when you
 16 turned the TV off and you went to bed, you didn't hear
 17 anymore talking out there after that point. Is that
 18 correct?
 19 A No. Correct.
 20 Q I know you said the evening of
 21 July 3rd, 2006, you did not see Robert Webb drinking that
 22 evening. Had you seen Robert Webb drink before?
 23 A Previous. Maybe a long time before

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1 that, but he had quit drinking for quite a while.
 2 Q At some point did he have a problem
 3 with alcohol?
 4 A I wouldn't say it was a problem, he
 5 just drank some.
 6 Q So as far as you knew he never had any
 7 problem with alcohol?
 8 A I don't guess a problem, I wouldn't
 9 call it.
 10 Q Well, did he have any issues with
 11 alcohol?
 12 A He drank. He had had a DUI before
 13 that. That's when he had quit.
 14 Q Do you know if he ever had any issues
 15 -- when he tried to stop drinking, if he had any issues
 16 stopping?
 17 A I can't recall anything.
 18 Q Okay. So if he did have those issues,
 19 it's not something that he discussed with you?
 20 A No.
 21 Q Did you ever see him smoke marijuana?
 22 A No.
 23 Q So you never saw Robert Webb use

Page 33

Page 35

1 marijuana?

2 A No.

3 Q When was the last time, before July
4 3rd, 2006, that you saw Mr. Webb drinking?

5 A It was before he got that DUI, because
6 after he had had the DUI, I think, he quit drinking.

7 Q Were you ever around Mr. Webb when he
8 was intoxicated?

9 A Sometimes. We were neighbors.

10 Q Did his personality change at all when
11 he was intoxicated?

12 A Some. Most people do.

13 Q Did you see him become confrontational
14 after he had been drinking?

15 A No.

16 Q Did he have any issues with the Smiths
17 who lived on that street?

18 A Yes.

19 Q Okay. Tell me what you know about
20 that?

21 A There was a right-of-way there, I
22 think, and he had parked in the grass a few times and
23 they had asked him to quit. I wasn't around most of the

1 with the Smiths?

2 A Yeah.

3 Q What did you know about that?

4 A I think he went in their yard one time
5 and rode the four-wheeler. I'm not sure, I wasn't there.

6 Q So it sounds like most of what you knew
7 about this would have been hearsay through neighbors and
8 secondhand conversations. Is that true?

9 A Yes.

10 Q Let's go back to the evening of
11 July 3rd and into the morning of July 4th, 2006. At any
12 point -- you say you went to bed around midnight, at any
13 point did you actually go to sleep?

14 A No.

15 Q So you were awake in your bed up until
16 the time when you heard the gunshots, what we now know
17 were fired by the Sheriff's Department deputies?

18 A Right.

19 Q Were the gunshots the first indication
20 you had that there were other people or that there was
21 something going on outside?

22 A My dog was barking. I had got up to
23 tell my dog to be quiet.

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Page 36

1 time. If something happened I wasn't around, so I know
2 he was parking in that grass right there and they asked
3 him not to and he said, well, that's a right-of-way.
4 Other than that, I don't know what all happened between
5 them.

6 Q Did you ever witness any confrontations
7 between Robert Webb and the Smiths?

8 A I can't recall.

9 Q Do you have any knowledge about an
10 incident where someone poured nails --

11 A I had heard that. Yeah. They had
12 asked me if I knew anything, I believe.

13 Q The Smiths asked you?

14 A I think.

15 Q Okay. And other than them asking you
16 about it, did you have any other knowledge about that?

17 A No, I didn't.

18 Q Do you know if Mr. Webb had ever had
19 any confrontations with anyone on the street about him
20 riding four-wheelers on their property or ATVs on their
21 property?

22 A No one else.

23 Q You say no one else, you say he did

1 Q When you got up to tell your dog to be
2 quiet, was that before or after the gunshots?

3 A Before.

4 Q Okay. And did you just go to the
5 window to tell the dog to be quiet?

6 A Yes.

7 Q And at that point did you see anything?

8 A I didn't see anything.

9 Q Did you ever see, and I believe I read
10 in one of these statements something about seeing some
11 flashlights, did you ever see that?

12 A I had got up to tell my dog to be quiet
13 because he was over at this part of the fence right here
14 where the officers had parked. And I told him to be
15 quiet because he was standing right there barking and I
16 didn't want him to wake the neighbors up. And then I got
17 back in bed and he just kept barking. And when I got
18 right back up, he was over here at this side of the fence
19 with the officers. And I thought it was Rob shining a
20 flashlight, was making my dog bark and it was two
21 officers over there.

22 Q So the flash that you saw, when you
23 saw it you believed that it was Mr. Webb shining a

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1 flashlight. Now you believe that it was more than likely
2 the officers?
3 A Well, no. When I looked out the
4 window, I was looking at my dog and I was telling him to
5 be quiet and this was after the two shots, because I got
6 back up and I was telling him to be quiet and the lights
7 came over there and I was looking out and I said, well,
8 there's police officers over there. So . . .
9 Q So you saw the flashlights after the
10 shots were fired?
11 A After the shots.
12 Q And, again, other than the shots being
13 -- so the shots being fired were the first indications
14 you had, other than your dog barking, that something was
15 going on outside?
16 A Right.
17 Q Okay. And when you got up to tell your
18 dog to be quiet, could you hear Mr. Webb playing music
19 still at any point?
20 A No.
21 Q When was the last time that you heard
22 Mr. Webb playing his music?
23 A I'm not sure.

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1 Q Okay. Do you know if it was a half an
2 hour before, if it was immediately before your dogs were
3 barking, or you just have no recollection of that?
4 A No recollection. It was -- I'm not
5 sure.
6 Q After you saw that they were officers
7 over there at the Webb residence, what did you do from
8 that point?
9 A We walked straight out on the porch.
10 Q You say we, you're talking about
11 yourself and your wife?
12 A Yes.
13 Q And just tell me what happened from
14 that point forward?
15 A We seen the officer, we walked out on
16 the porch and they were telling us to get back in the
17 house.
18 Q At the time you walked out on the
19 porch, do you have any recollection of where the officers
20 were located at that time?
21 A On Primrose Lane, in the street.
22 Q They were in the street on Primrose?
23 A Right.

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1 Q Okay. And approximately how long after
2 that the gunshots were fired, was it before you walked
3 out on your front porch, if you recall?
4 A Less than a minute. I mean, it was
5 really soon. I mean, because we heard the gunshots and
6 then the dog was still barking, we heard the gunshots and
7 I got straight up to tell the dog to be quiet and that's
8 when I seen the flashlights, and as soon as we seen the
9 officers, we went out on the porch.
10 Q Okay. And do you believe that both
11 officers were standing in Primrose?
12 A Yes, I believe so.
13 Q And do you have any recollection or
14 could you identify which officer was which?
15 A No.
16 Q And you say that one of the officer --
17 was it one or both of them that directed you to go back
18 in your home?
19 A I think just one of them.
20 Q And, again, you have no way of
21 identifying which officer that was?
22 A No.
23 Q Did you comply with that or did you

Page 40

1 stay on your porch?
2 A We stayed on the porch because I had
3 seen Rob laying in the driveway and I was wondering what
4 was going on.
5 Q How many times did the officers direct
6 you to go back into your home?
7 A A few, I can't remember how many.
8 Q Tell me what you witnessed from the
9 time that you came onto your porch as to what actions the
10 officers were taking and how long was it before someone
11 else showed up at the scene?
12 A Well, from the porch, they were telling
13 us to go back inside and we weren't and then, you know,
14 we seen that he was laying over there and had been shot.
15 I think my wife had went around the front of the house
16 and went inside to talk to Mary to, you know, be with
17 her. I think they were just standing in the road. I
18 can't remember, like I say, it's been three years.
19 Q Okay. So your wife actually came out
20 and went into the front of the Webb's home?
21 A Right.
22 Q Okay. And where did she -- put an X
23 where the front of the Webb's home is.

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1 A This is the front.
 2 Q Okay. And where would your wife have
 3 -- did she come out your front door?
 4 A She would have came from -- our porch
 5 was right here and we were standing here and she went out
 6 and down like this.
 7 Q Okay. So it was a back porch that you
 8 were standing on?
 9 A Right.
 10 Q Okay. So she would have come down, if
 11 you're standing looking at the front of your home, she
 12 would have come off the back porch and gone down the
 13 right side of your home to Cabell Heights Road and gone
 14 down Cabell Heights Road to the front of the Webb home?
 15 A Right.
 16 Q And at that point did you stay on the
 17 porch?
 18 A Yes.
 19 Q And other than seeing the officers in
 20 the street, did you see them taking any other actions?
 21 A Whenever she went down to go to Mary's
 22 to talk to her, I went in and called my dad. So I just
 23 went right into the kitchen and called him and came back

Page 42

1 out.
 2 Q Okay. And why was it that you went to
 3 call your father?
 4 A Just to tell him what was going on. He
 5 lives two houses down from us on Primrose Lane.
 6 Q Okay. And at some point, did your
 7 father come to your home?
 8 A After I called him, he came down.
 9 Q And did he come to the back porch where
 10 you were?
 11 A Well, I was standing in the driveway
 12 maybe by then, because he had walked down this way. And
 13 I can't remember if that's when they were putting the
 14 yellow tape or something around. I can't remember
 15 because it was just -- well, I don't guess they had been
 16 doing that yet. He came out and walked straight down and
 17 we were standing in the driveway right there.
 18 Q At the point that your father came
 19 down, were there any other officers on the scene?
 20 A I think it was just the two so far.
 21 Q So still just the two deputies on the
 22 scene?
 23 A I think so.

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1 Q Okay. So at this point -- and, again,
 2 at this point your wife has already come out of the house
 3 and gone into the front of the Webb's home. Is that
 4 correct?
 5 A Yes.
 6 Q And you called your father and he's
 7 come down and you two are standing in the driveway?
 8 A Yes.
 9 Q And you believe that during that period
 10 of time it was still just the two deputies on the scene?
 11 A I believe so.
 12 Q Okay. When you went out there, did you
 13 ever see their patrol cars?
 14 A No, I didn't.
 15 Q So at least from where you were
 16 standing, the two patrol cars were not in your view?
 17 A No, sir.
 18 Q Did you have any conversation at the
 19 point you're in your driveway, other than them telling
 20 you to get back into your house, did you have any
 21 conversation with either of the two deputies?
 22 A I don't think so. No.
 23 Q Do you recall any conversation that the

Page 44

1 two deputies were having?
 2 A No.
 3 Q At any point, do you recall any
 4 conversation between the two deputies?
 5 A They were talking. I don't know what
 6 they were talking about, but they were talking about
 7 something. I'm not sure, we were, you know.
 8 Q So you heard them talking, but you have
 9 no recollection of what that discussion was?
 10 A I seen them talking. Yeah, I didn't
 11 hear them, they were --
 12 Q So you saw them talking, but you didn't
 13 hear the conversation?
 14 A No.
 15 Q So you have no idea about what their
 16 conversation was about?
 17 A No.
 18 Q At any point, did you attempt to go
 19 over into the Webb property?
 20 A I didn't, no.
 21 Q Did your father?
 22 A No, they wouldn't let us over there.
 23 Q And, again, was this the same two

Page 45

1 deputies, or at this point had other people gotten on the
2 scene?
3 A I think it was the same two deputies.
4 It didn't take five minutes maybe for someone else to get
5 there, it wasn't very long.
6 Q And did you stay outside for the
7 duration of what was going on over there?
8 A Yes.
9 Q Okay. So tell me what you remember as
10 far as who was the first person on the -- can you
11 identify who the first person on the scene was, what kind
12 of car they were in?
13 A There were probably 20 police cars that
14 pulled up and, you know, ambulances and things. I'm not
15 for sure who first pulled up.
16 Q Were all those on the scene in a pretty
17 close proximity to one another?
18 A Yeah. They were all on Cabell Heights.
19 They were just lined up everywhere.
20 Q And from the time that you first went
21 out onto your porch, how long do you think it was before
22 all these vehicles started arriving?
23 A Five, ten minutes. One, at least one

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1 or two had pulled up, and then they just kept coming in.
2 I don't know how long, you know, all through the night
3 there was a lot of people there.
4 Q Do you have any recollection of when
5 the first ambulance was on the scene?
6 A Maybe an hour or two. I'm not sure, it
7 was a long time.
8 Q So your testimony is that you believe
9 it was an hour or two before the first ambulance got to
10 the scene?
11 A Maybe an hour, I'm not sure. Like I
12 said, it's three years. It was a while.
13 Q When the ambulance got on the scene,
14 were you observing what the EMTs did when they got there?
15 A They wouldn't let no one around him for
16 a while. It was an hour or so. I don't know, they
17 wouldn't let anyone around him.
18 Q Okay. And what is your basis for
19 making that statement?
20 A Because they had taped it off
21 everywhere and they just didn't let anybody around him.
22 Q Are you saying that they didn't let the
23 EMTs around him?

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1 A They didn't let anybody around him.
2 Q But did you see them specifically deny
3 access to the emergency medical technicians?
4 A No. They was all down in the road.
5 They was all talking down there somewhere.
6 Q So you didn't hear any conversation or
7 you didn't see them specifically deny access to the
8 emergency medical technicians?
9 A No.
10 Q But what you're saying is, from your
11 knowledge, they weren't letting anyone near the body?
12 A They didn't let anyone around him.
13 Q And, again, your recollection is that
14 it was at least an hour before the first ambulance or
15 medical technicians arrived on the scene?
16 A I'm assuming, yes. There was a lot
17 going on that night.
18 Q And I don't need you to assume, I want
19 to know what you remember. I mean, you understand, if
20 you don't know, that's fine, but if you do, I want to
21 hear what you have to say.
22 A It may have been an hour.
23 Q But your recollection is if it wasn't

Page 48

1 an hour, it was some significant period of time?
2 A Yes.
3 Q Do you have a recollection in your mind
4 that it was a significant period of time before the
5 ambulance arrived on the scene?
6 A Yes.
7 Q And it's my understanding from
8 reviewing the statement that you gave that you were
9 actually interviewed that same evening?
10 A Yes.
11 Q And the time on your recorded statement
12 that evening is 2:38 A.M., on the morning of July 4th,
13 2006. Does that seem correct to you?
14 A Yes.
15 Q Again, you had a chance to look over
16 this statement before we began your deposition. Is that
17 true?
18 A Yes.
19 Q Okay. Was there anything in the
20 statement that you believe is incorrect or didn't look
21 right to you or looked like it wasn't --
22 A It seems fine.
23 MR. WILLIAMS: Now, I want to attach

Page 49 1 this statement as Exhibit 2 to Mr. Hatfield's 2 deposition. And it's a three page statement 3 and the pages are numbered one, two and three. 4 (WHEREUPON, Hatfield Deposition 5 Exhibit No. 2 was marked for 6 identification purposes) 7 BY MR. WILLIAMS: 8 Q At any point that evening did you go 9 over into the Webb's home? 10 A I didn't. 11 Q Okay. Approximately how long do you 12 remember your wife being over there? 13 A She may have been over there an hour. 14 Q At the point when you were out in your 15 driveway with your father, where were your kids during 16 this period of time? 17 A They were sleeping. 18 Q They slept through all this? 19 A Yes. 20 Q Where is their bedroom located in the 21 home? 22 A One on the other side of ours, one 23 beside it and one downstairs.	Page 51 1 A Three. 2 Q And what are their ages now? 3 A Eighteen, 12 and 10. 4 Q Eighteen, 12 and 10? 5 A Yes. 6 Q Okay. And what is the 18-year old's 7 name? 8 A Zack. 9 Q How about the 12-year old? 10 A Colton and Austin. 11 Q Okay. And I take it Zack no longer 12 lives in the home? 13 A No longer. I'm divorced, so he lives 14 with his mother. 15 Q Okay. Zack lives with your ex-wife and 16 Colton and Austin still reside with you? 17 A The 10-year old lives with me and the 18 12-year old goes over there a couple days a week. 19 Q Goes over where? 20 A To his mom's. 21 Q Okay. But do you have -- who has 22 primary custody of -- 23 A I do.
Page 50 1 Q You see, put little circles where the 2 kids' bedrooms are? 3 A This one would be there, this one would 4 be here, and then there's one downstairs directly 5 underneath. 6 Q Okay. And is the downstairs area, is 7 that underground? 8 A It's a split foyer. 9 Q Okay. 10 A So half, yeah. 11 Q But are there at least some windows in 12 that downstairs area? 13 A Yes. 14 Q Are they upper, like in the top part of 15 the rooms down there or are they actually full windows? 16 A In the downstairs, they're full 17 windows. There's one in the bedroom and one in the den 18 or whatever it is. 19 Q And you indicated that there were three 20 kids' rooms? 21 A Yes. One beside ours, one beside it 22 and then there's one downstairs. 23 Q Okay. How many children do you have?	Page 52 1 Q So the majority of the time Colton is 2 residing with you? 3 A Yes. 4 Q Zack, who is 18 and free to do what he 5 wants, he lives with his mother? 6 A His mother. 7 Q Okay. And where do they live? 8 A They live in, I think it's MacArthur. 9 Q And not to get too far in to this, is 10 your divorce finalized or is it still in the process? 11 A It's final. 12 Q As far as what you witnessed that 13 evening, I've been through quite a bit, is there anything 14 significant that you believe you witnessed that we 15 haven't discussed? 16 A No. 17 Q One of the issues that's going back and 18 forth is whether or not people discharging firearms is 19 something that occurs in that neighborhood. Have you 20 ever discharged a firearm in area on the 4th of July? 21 A I haven't. 22 Q Can you name me another resident in 23 that neighborhood that has discharged a firearm, an

Page 53 1 actual name of a person? 2 A There's a man that died this summer 3 that lives beside the Smiths or whoever that lady was 4 that lived over here or over here. Now, he'll shoot at 5 crows, he'll shoot all the time. You know, he did. 6 Q And what was his name, if you recall. 7 A I can't remember his name. 8 Q Other than that gentleman, can you 9 point to one other specific person? 10 A And his neighbor shoots sometimes, 11 Eddie Underwood. 12 Q Eddie Underwood. 13 A Then you hear shots through the 14 neighborhood on, like I think that night we had heard 15 some shots somewhere. I mean, just faint shots, you 16 know. 17 Q Off in the distance? 18 A The distance, yeah. 19 MR. WILLIAMS: You got any questions 20 for him? Are you guys going to have questions 21 for him? 22 MR. OLIVIO: Yeah. 23 MR. WILLIAMS: Okay. Because I'm going	Page 55 1 Q Okay. So the transcript that was 2 marked as Exhibit 2, the interview that you gave to the 3 Raleigh County Sheriff's Department, which was 4 approximately three pages, that was the extent of any 5 investigative interview that they conducted with you 6 personally? 7 A Yes. 8 Q Did anybody ever request additional 9 time with you and you turned them down? 10 A No. 11 Q Earlier, I believe, when Mr. Williams 12 was questioning you, you said that your children may have 13 walked over. Were you referencing they may have walked 14 over to where you and your wife were talking with Rob and 15 Amanda? 16 A Yeah. As I recall, I think there's 17 three or four other kids in the neighborhood and they 18 were all playing. They may have walked back and forth, 19 just, you know. 20 Q And you mentioned that you were -- it's 21 your opinion that Rob Webb was drinking that evening? 22 A Yes. 23 Q Were you concerned or did you have any
Page 54 1 to look at my notes. 2 MR. OLIVIO: You want to take a break 3 for a few minutes? 4 MR. WILLIAMS: No. Well, you guys can 5 go ahead. I just didn't want to stop and then 6 you guys not have any questions. 7 MR. OLIVIO: Okay. I've got to use the 8 bathroom anyway, so let's take a break. 9 (WHEREUPON, a short break 10 was taken) 11 <u>CROSS-EXAMINATION</u> 12 BY MR. OLIVIO: 13 Q Chris, my name is Michael Olivio, we 14 have met before. I've got a few follow-up questions for 15 you. After the night of this shooting, did any member of 16 the Raleigh County Sheriff's Department ever contact you 17 again for a follow-up interview? 18 A No. 19 Q Did any person, other than myself, 20 contact you to interview you regarding what you saw or 21 heard that night? 22 A I think the newspaper office, some 23 weeks later or something, tried. That's about it.	Page 56 1 concerns with your children being around Rob Webb while 2 you and your wife were talking with him? 3 A No. 4 Q Did you ever have any concerns with 5 your children being around Rob or Mary Webb or their 6 family? 7 A No. 8 Q I wanted to go back over the time that 9 you were in your bedroom. Did I hear you correctly that 10 you believe you heard Rob speaking with his daughter, 11 Amanda, while your television was on or was that after 12 you turned your television off? 13 A It may have been before the television 14 was off. 15 Q Okay. Can you recall hearing the 16 content of the conversation or was it simply you could 17 hear a conversation, you knew that somebody was talking? 18 A I could just hear. You couldn't tell 19 what was going on, no. 20 Q Okay. Being their neighbor, did you 21 know Robert Webb's voice? 22 A Yes. 23 Q Do you know Amanda's voice?

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1 A Yes.

2 Q Are you certain that that conversation

3 you overheard was Rob and Amanda?

4 A That's the only one's that was out

5 there. Yeah.

6 Q Did it sound like them as far as you

7 can recall?

8 A You could just barely, I mean, we had a

9 TV on. You could just hear every once in a while someone

10 talking.

11 Q Did you ever hear the law enforcement

12 officers announce their presence prior to their shots?

13 A I never heard anything.

14 Q Did you ever hear anyone say police,

15 freeze or let me see your hands or anything like that

16 before the shots were fired?

17 A I never heard anything. I was up

18 telling my dog to be quiet and I would have. I was up.

19 Q Again, I just want to make sure I

20 understand this correctly. Did you hear gunshots both

21 before and after turning your television off?

22 A We heard Rob shooting guns and then we

23 had turned our television off and were laying there and

Page 58

1 it was a little while later we'd heard two more.

2 Q Okay. Do you have any idea how long it

3 was in between those periods, those shots?

4 A An hour.

5 Q Did you ever have any personal

6 conversations with, I believe the woman's name is Amy

7 Smith, the neighbor? I could be mistaken, but the

8 neighbor that Rob had the confrontation with, did you

9 ever have any conversations with her?

10 A After the shooting.

11 Q Do you recall what those were about?

12 A The kids, that right-of-way, that

13 little bit of grass, the kids were going up and down,

14 they'd ride their bike in that grass and then, that guy,

15 her husband, I guess, was mowing grass and he told them,

16 stay off my grass, you know. And we all, Mary and my

17 ex-wife, she was my wife, they started saying something

18 to him, you know, and he was like, you know, he got what

19 he deserved, I think that's what he said. You know, and

20 then we started to say something, I started to say

21 something to him and Mary was like no, just leave it

22 alone, you know.

23 Q When you say he got what he deserved,

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1 did you take that as he was referring to Rob Webb?

2 A Oh, yes. And it was right in front of

3 his girls. That's one reason we didn't -- you know, that

4 wasn't appropriate. Even if he said it, I mean he

5 shouldn't have said it, but when he did, his girls were

6 right there and, you know.

7 Q So you personally heard this man say

8 that Rob got what he deserved in front of Rob's children?

9 A Yes. We were all out there, me, my

10 ex-wife and Mary and all the kids, everyone.

11 Q How did you feel about that?

12 A I didn't like it at all. I started,

13 you know, to say something to him and go over there, but,

14 you know, it was not in the best interest and all the

15 kids were outside and everything. So they went their way

16 and we came back to ours.

17 Q Did you speak with any of the members

18 of the ambulance crew that arrived?

19 A I don't think so, no.

20 Q Do you know Brian Bjork?

21 A I know Brian Bjork.

22 Q Does he live in that area, that

23 neighborhood?

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1 A He lives maybe a mile and a half or so

2 away.

3 Q Did you ever speak with Brian about

4 when he came to the scene that night?

5 A I guess we had talked to him some later

6 that night because my dad had sold him his house and

7 everything.

8 Q Do you recall anything that Brian may

9 have said to you?

10 MR. WILLIAMS: I'm going to object,

11 this is hearsay. You can answer if you can.

12 BY MR. OLIVIO:

13 A I can't remember anything that he was

14 saying. I mean, like I say, it's three years. I can't

15 remember what he was talking.

16 Q Do you recall Brian standing around

17 talking with you, though?

18 A Yeah. He was talking to my dad and

19 Phil Honaker was there.

20 Q And I assume this conversation was not

21 in the immediate vicinity of where Rob's body was laying?

22 A No. It was right up on Primrose Lane,

23 not near the garage. No.

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1 Q Okay. Did you see your wife go over to
2 Mary's house after the shooting?
3 A Yes. She went over and had to crawl
4 over because his front fence had a lock where the gate,
5 and she had to crawl over the fence.
6 Q She climbed over?
7 A She climbed over the fence to go in to
8 talk with Mary.
9 Q And did you actually see her do that?
10 A I didn't see her, but when she came
11 back over, you know, she said, well, I had to climb over
12 the fence because it was locked, you know, and we need to
13 get bolt cutters and get the lock off so that way people
14 can go back and forth through there.
15 Q The officers who were, I believe as you
16 testified, they were standing somewhere on Primrose Lane?
17 A Yes.
18 Q In relation, using Rob's truck where
19 it's parked today, and let me ask you, has that truck
20 ever moved since the day of the shooting?
21 A No.
22 Q It's in the same location?
23 A Yes.

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1 Q Okay. And you have a good vantage
2 point of that truck from your house, don't you?
3 A Yes.
4 Q Using that truck as a reference point,
5 can you give me an idea of where the officers were
6 standing on Primrose in relation to that truck?
7 A One was maybe directly behind his
8 truck, maybe on the right side and the other officer was
9 up in the front of his driveway, maybe 20 feet up or
10 however, you know, far that was.
11 Q When you heard the officers speaking in
12 the road, were they using conversational tones, were they
13 loud, were they whispering? How do you recall that, if
14 you do?
15 A After we had came out on the porch,
16 they were saying get back in your house and like I told
17 him we didn't go back into the house. We were just
18 standing on the porch and my wife had went over to talk
19 to Mary and I went back in to use the phone and then I
20 came right back out and I couldn't hear what they were
21 saying. They were up near his truck right over here and
22 I was still over on my driveway near my porch, so I
23 couldn't hear what they were saying.

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1 Q I've been to that property. That's
2 probably about, would you say 25 yards between the back
3 of the truck and your porch?
4 A Probably, yes.
5 Q And were they talking at that time, you
6 just couldn't hear them or were they not speaking?
7 A I'm trying to think. I remember we
8 came outside, they told us to go back in and we used the
9 phone. They were talking, I just couldn't understand
10 what they were saying or anything, but they had talked
11 after that.
12 Q Did they ever give you a basis for why
13 they were commanding you to go back into your house?
14 A No. And the flashlight thing is
15 whenever I looked out. After the two shots that's when
16 the flashlight was coming over in my yard and that's when
17 I said there's two officers out there and we went outside
18 and they would just say get back in your house.
19 Q They didn't say why?
20 A No. They were just telling us to get
21 back in the house.
22 Q You weren't committing a crime on your
23 porch, were you?

Page 64

1 A No.
2 Q Did they argue with you about whether
3 you should go back in the house?
4 A They told us two or three times to get
5 back in the house, but, you know, I was like, well,
6 what's going on, you know, what's happening and this and
7 that, and they were just telling us to go back in the
8 house.
9 Q Okay. When you said you walked into
10 your house to use the phone, what room is immediately
11 inside your door there to your porch?
12 A Kitchen.
13 Q And is that where your phone was
14 located?
15 A Yes.
16 MR. OLIVIO: Okay. I think that's all
17 I have. Thank you, Chris, for your time today.
18 REDIRECT EXAMINATION
19 BY MR. WILLIAMS:
20 Q I just have a couple follow-up
21 questions for you. I want to be sure I'm clear on the
22 events after you went back inside your home, after you
23 had been talking to Mr. Webb. It's my understanding at

Page 65

1 the point you and your wife went back into your home,
 2 Mr. Webb and his daughter, Amanda, were in the driveway?
 3 A She was up in the back of the truck and
 4 he was standing in the driveway there.
 5 Q And at that point you didn't see any
 6 case of beer anywhere. Is that true?
 7 A I didn't see any beer. Yes.
 8 Q And then you went back over into your
 9 home and around midnight you turned your television off.
 10 Is that correct?
 11 A Around, yes.
 12 Q Around. Before the television was off,
 13 you heard some conversation coming from the Webb
 14 residence?
 15 A It was him and his girl over there and
 16 maybe the radio was on. It was just --
 17 Q You could hear sound?
 18 A Yeah.
 19 Q As we sit here, can you specifically
 20 testify that it was conversation that you heard?
 21 A Him and his daughter was out there
 22 talking, I'm assuming it was conversation. That's what
 23 I'm saying.

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1 Q Again, you're assuming it was conver-
 2 sation. You heard a sound and you said his radio was on?
 3 A Whenever we had went inside, his radio
 4 was on. I forget how much longer it may have been on.
 5 Q Okay. Do you know how long the radio
 6 was on?
 7 A No.
 8 Q Was he playing the radio loud?
 9 A Not real loud, no, just loud enough to
 10 hear it in the driveway and stuff, I guess.
 11 Q Could you hear it from your bedroom?
 12 A Some. We had our TV on there for a
 13 while.
 14 Q But could you hear his radio?
 15 A We could hear something. By the time
 16 we was going inside he was, I think he had had the radio
 17 off whenever we went inside. So I'm assuming it may have
 18 been then.
 19 Q Okay. And, again, it's important that
 20 you not assume.
 21 A Okay.
 22 Q You heard sound over there?
 23 A Yes.

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1 Q As we sit here today, can you testify
 2 under oath that it was either voices in a conversation or
 3 it was radio?
 4 A No. I don't know which one.
 5 Q Okay. You heard a sound?
 6 A Yeah.
 7 Q Okay. Other than to the investigating
 8 officer on the morning of July 4th, 2006, have you given
 9 a statement to anyone else?
 10 A Yes.
 11 Q Okay. You gave a statement to the
 12 Webb's counsel?
 13 A Yes.
 14 Q Okay. Approximately how long ago was
 15 that? Approximately?
 16 A Two months. I don't know, it's been a
 17 few months. I can't remember.
 18 Q Okay. And, again, I know it's easy to
 19 try to look over and get that from them because they're
 20 sitting in the room. But, again, it's your deposition, I
 21 just want to know what you -- I'd ask you just to not
 22 look over there for answers.
 23 A I just can't remember how long ago that

Page 68

1 was. It was a few months.
 2 Q Okay. Other than when you met -- and
 3 did you actually meet with her counsel, with these
 4 gentlemen who are in the room?
 5 A Yeah.
 6 Q With Mr. Olivio?
 7 A Yes.
 8 Q Okay. Since you gave that statement
 9 have you met with anyone since then?
 10 A Not till this morning.
 11 Q Okay. Did you meet with Plaintiff's
 12 counsel this morning?
 13 A Yes.
 14 Q Okay. And where did that meeting take
 15 place?
 16 A Cracker Barrel.
 17 Q Okay. And approximately how long was
 18 that meeting?
 19 A Thirty minutes.
 20 Q Okay. Did you have breakfast?
 21 A They did, I had water.
 22 Q Okay. And what did you discuss during
 23 that meeting?

1 A Just my statement I had gave, they
2 asked if I had went over it. Just, you know, what we may
3 be talking about here.

4 Q Essentially what to expect here today
5 from me?

6 A Yes.

7 MR. WILLIAMS: Let's take a quick
8 break. That might be all I have.

9 (WHEREUPON, a short break
10 was taken)

11 MR. WILLIAMS: I just need to advise
12 you that you have the right to read this depo-
13 sition transcript before it becomes made an
14 official part of the court record or you can
15 simply waive that right. A lot of people waive
16 it. The only reason you would read it would be
17 to ensure that this lady has taken everything
18 down properly. Also, if you read back through
19 it I think you have the right to, if you think
20 you've answered something incorrectly, you can
21 change that on what's called an errata sheet,
22 but then if it's a substantial change, we may
23 drag you back in here to ask you why 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 CHRISTOPHER HATFIELD 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.

1 changed it, but you just need to say on the
2 record whether you will want to read it or
3 whether you will waive that right?

4 THE WITNESS: I'll waive it.

5 MR. WILLIAMS: That's it.

6 (Witness Excused)

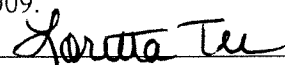
7 (WHEREUPON, the deposition
8 was concluded)

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 12th day of
December, 2009.

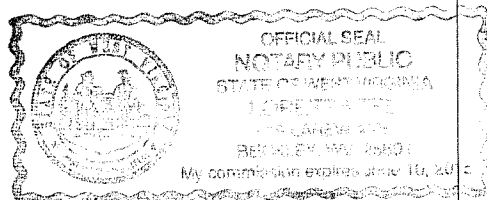


LORETTA TEE, Reporter

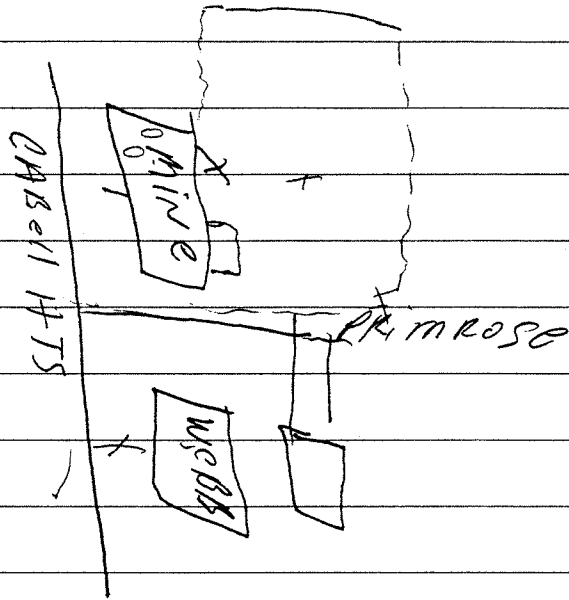
Notary Public

My commission expires June 6, 2015.

B.R.A.



EXHIBITS

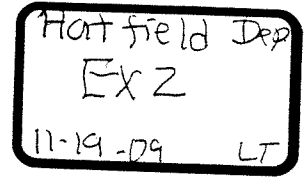


Hotfield Depo.
EX 1
11-19-09 LT

RALEIGH COUNTY SHERIFF'S DEPARTMENT

STATEMENT OF CHRIS HATFIELD

DATE: July 4, 2006
TIME: 2:38 a.m.
PRSENT: Corporal Bare
Chris Hatfield



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

HATFIELD: Right.

BARE: You live right beside of 'em?

HATFIELD: Correct.

BARE: What did you hear tonight?

HATFIELD: I heard him over and there playing his music and let off a few rounds. That's about it, just shooting rounds.

BARE: Did you see him shooting any?

HATFIELD: No. Didn't see him shooting, he was letting off some firecrackers and then shot the gun a few times.

BARE: So, you don't know where he was shooting the gun at?

HATFIELD: No, we was over here.

BARE: Okay. Could you tell if it was behind the house, there in the driveway or what?

HATFIELD: I couldn't tell, I don't, you know --

BARE: That's okay.

HATFIELD: -- I just heard him over here shooting.

BARE: About how many times, do you have any idea?

HATFIELD: Ten, I don't know. I don't know I was half asleep, you know, after we went over there.

BARE: Okay. Now --

RALEIGH COUNTY SHERIFF'S DEPARTMENT

HATFIELD: I didn't know if that was just him or somebody else shooting, you know, it's the 4th of July I don't know.

BARE: That's okay. Did you see anything else; did you hear anything else outside, anybody talking?

HATFIELD: No. We was over here talking to him and then we went inside. He was over there with firecrackers and, you know, he started shooting a gun a few times and that was it.

BARE: When was the last time you talked to him?

HATFIELD: Nine o'clock or ten o'clock, I don't know.

BARE: Nine or ten – he was out there that entire time?

HATFIELD: He was out there rotating his tires, you know, working on his truck.

BARE: Could you tell if he had been drinking?

HATFIELD: I guess so I didn't see him I guess he had been I don't know.

BARE: Well, when you talked to him last?

HATFIELD: I didn't see him drink anything, I just --

BARE: Oh, I see what you're saying.

HATFIELD: -- I didn't, you know.

BARE: Okay.

HATFIELD: I didn't see him drink or anything he acted like he may have been having a few beers or something, I don't know.

BARE: Okay. But I mean, he wasn't acting radical?

HATFIELD: He wasn't all crazy, no, he was just – like I said he was just changing his tires on his truck and everything, he had just got done with that.

BARE: Have you ever had any problems with him or anything?

HATFIELD: No, they've been great neighbors.

BARE: No problems with him drinking or anything?

RALEIGH COUNTY SHERIFF'S DEPARTMENT

HATFIELD: No.

BARE: Get rowdy or anything?

HATFIELD: No, just playing his music every once in a while, you know.

BARE: Okay.

HATFIELD: He hadn't, you know, he hadn't been drinking, that's what I thought -- I don't know if he was or not, because he hadn't been drinking for a long time, you know, he just --

BARE: Oh, really?

HATFIELD: Yeah, he had been quite for a longtime.

BARE: Oh, has he?

HATFIELD: Yeah.

BARE: Okay. So that's about all you heard thought, I mean?

HATFIELD: Yeah, he was letting off firecrackers too, he had been doing that for about a week, you know, just letting a few firecrackers off. I didn't know what all, you know.

BARE: Anything else you can tell me?

HATFIELD: No, that's about it.

BARE: I'll go ahead and end this then at 2:40.

EXHIBIT E

AFFIDAVIT OF MARY WEBB

STATE OF WEST VIRGINIA,

COUNTY OF RALEIGH:

I, Mary Webb, the undersigned being first duly sworn, depose and state as follows:

1. I am a resident of Beckley, Raleigh County, West Virginia. I am the widow of Robert A. Webb, deceased. We were married on September 14, 1991 in Beckley, Raleigh County, West Virginia.
2. We have two daughters, Amanda Webb and Samantha Webb. Amanda was born on June 27, 1995 and Samantha was born on March 8, 1998.
3. On July 3, 2006, we had a cookout as we routinely did in celebration of Robert's birthday and the Fourth of July holiday. Several residents from the neighborhood attended same.
4. It is not uncommon in Raleigh County to discharge a firearm in celebration of the nation's independence. My husband as well as several other neighbors in our area did in fact, discharge a firearm, on that date in the air. At no time was Robert Webb firing his rifle in a threatening manner which would endanger me, our children, or anyone else that evening.
5. On July 4, 2006, Robert Webb was shot and killed by two members of the Raleigh County Sheriff's Department.
6. Robert Webb was left-handed and used his dominate left hand for most tasks.
7. Robert Webb fired a rifle by holding the rifle against his left shoulder and used his left hand to pull the trigger.
8. During the entire time I knew and was married to Robert Webb, I never saw him fire any weapon, rifle or handgun, with his right hand.

9. During the entire time I knew and was married to Robert Webb, I never saw him raise a weapon towards another human being in a threatening manner.

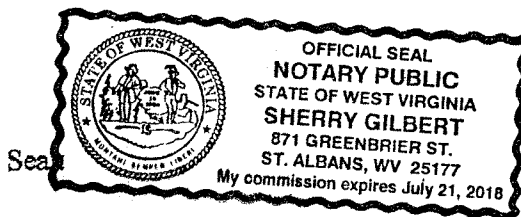
10. I believe the Robert Webb would not knowingly point a weapon at a law enforcement officer.

Mary Webb
MARY WEBB

TAKEN, SUBSCRIBED and SWORN TO before me this 17th day of
September, 2010.

My Commission Expires:

July 21, 2018



Sherry Gilbert
Notary

EXHIBIT F

Emergency Medical Services Form

City: Rocky State: WY Zip: 2501 Phone #: 308-251-1251

Point of Pick Up: 2511 1st St Address: 2501 Location of Patient: 01

Relationship: Spouse Child: 0

Subscriber Name: Wendy Webb Policy/Group #:

Subscriber Name: Policy/Group #:

Agent: Policy #:

Medicare Service Code: Medicare Condition Codes: Medicaid #:

RE LEVEL PROVIDED: ☐ AMT ☐ BLS ☐ ALS Assessment ☐ ALS ☐ ALS 2 ☐ Specialty Care Transport

INCIDENT CAUSE: TRAUMA NATURE OF CALL: 01 TIME OF SYMPTOM ONSET OR INJURY: 01:13

EDICAL: 36 TRAUMA: 36 MOI: 1/2 INJURY DESCRIPTION: 2 INJURY INTENT: 2 # OF MV: 2 MVC IMPACT: 2 MVC SEATING: 2

SAFETY DEVICE: 2 TO: 064

PATIENT TRANSPORTED: 106 DESTINATION DETERMINATION: 10 CALL DISPOSITION: 16 MEDICAL COMMAND: 01

TIME	RESP/ MIN	PULSE/ MIN	BP	GLASGOW COMA SCALE	EYE	VERBAL	MOTOR	CAPILL REFILL	RESP EFFORT	TRAUMA SCORE	SKIN	PUPILS	CARDIAC RHYTHM	SaO ₂	GLUCOSE	CO ₂	TEMP.
24	0	0	0	1	1	1	1				mottled	fixed	Asystole				

TIME	GA#	IV SITE	SOLUTION	CODE #	TIME	GA#	IV SITE 2	SOLUTION	CODE #

PREHOSPITAL CARE (CHECK)

ED ☐ ALS ASSISTED MEDS. ☐ LEADING CONTROL ☐ PR ☐ OLD/HOTPACKS ☐ WOUND CARE ☐ MINUTES ☐ DELIVERY ☐ NASAL AIRWAY ☐ IPRM ☐ NRIB ☐ CANNULA ☐ OTHER ☐ ASG APPLIED ☐ INFLATED ☐ ENTILATION ☐ BAG VALVE MASK ☐ MOUTH TO MASK ☐ DEMAND VALVE ☐ AUTO VENT ☐ PLINT EXTREMITY ☐ FINAL IMMOBILIZATION ☐ ICTION ☐ UCOMETER ☐ ISE OXIMETER ☐ RDIAC MONITOR ☐ LEAD ☐ 4 LEAD ☐ 12 LEAD ☐ RDIORVERSION ☐ FIBRILLATION ☐ PACING ☐ AP ☐ EST DECOMPRESSION ☐ RESUSCITATION ☐ TIDAL CO₂ ☐ ID BOLUS ☐ DOD DRAWN ☐ OG TUBE ☐

ATT: ☒ SUCC. CREW# 1

RICOTHYROTOMY ☐ DMBITUBE ☐ T TUBE ☐ TRAOSSESIOUS ☐ START ☐ OCOL # 9101

SQUAD 7AMP

AGE 44 SEX male CHIEF COMPLAINT 911 Dispatched Immediate Response GSW male down upon arrival to scene pt was found laying supine in driveway Sheriff's Deputy stated pt was shot we were told by Sheriff's Dept not to touch pt until pictures were taken

pt was pulseless + apnoeic had GSW to @ side out chest approx 1 line above to sternum wound to @ cheek area wound to @ forehead there was large amount of blood to scene area there was large pool of blood next to pt's body pt's head was turned to the @ pt was laying wearing Just b.s under wear and T-Shirt monitor showed Asystole

male GSW

Follow TAMP Death in field protocol Contact MCP Control

Patient Condition on Arrival @ ED: ☐ Improved ☐ Unchanged ☐ Worse Patient's Physician 0538 mt 503032

Past Hx: Seizures, Diabetes, Heart Disease, Hypertension, Stroke, COPD, Other:

Pt. Meds:

Allergies: ☐ NKA

NAME	CERTIFICATE	SIGNATURE	DATE
1. <u>Jenkins</u>	<u>AD 35474</u>	<u>med/1/1</u>	<u>7-4-06</u>
2. <u>Burrows</u>	<u>B 55089</u>	<u>med/1/1</u>	<u>7-4-06</u>
3. <u>Deal</u>	<u>C 000</u>	<u>med/1/1</u>	<u>7-4-06</u>

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

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

Plaintiff,)

VS.) CIVIL ACTION NO. 5:09-cv-1253

RALEIGH COUNTY SHERIFF'S)
DEPARTMENT; ET. AL.,)

Defendants.)

The deposition of ROBERT STEVEN TANNER 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 9th day of August, 2010,
commencing at 9:20 A.M., EDST, 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

I N D E X

Plaintiff's Witness: Direct Cross

Robert Steven Tanner 5 --

Plaintiff's Exhibits: Marked

Tanner Depo. Exhibit No. 1 19

Tanner Depo. Exhibit No. 2 30

Reporter's Certificate -- Page 65

Signature Sheet -- Page 66

Errata Sheet -- Page 67

B.R.A.

Page 3

APPEARANCES:

MICHAEL A. OLIVIO, ESQ.
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Charleston, West Virginia 25301
Counsel for Plaintiff

CHIP E. WILLIAMS, ESQ.
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600 Neville Street, Suite 201
Beckley, West Virginia 25801
Counsel for Defendants
Raleigh County Sheriff's Department,
Raleigh County Commission, Sheriff
Danny Moore, Chief Deputy Tanner and
Deputy Greg S. Kade

KERMIT J. MOORE, ESQ.
BREWSTER, MORHOUS, CAMERON, CARUTH,
MOORE, KERSEY & STAFFORD
418 Bland Street
Post Office Box 529
Bluefield, West Virginia 24701
Counsel for Defendant
Deputy John E. Hajash

B.R.A.

Page 2

1 MR. WILLIAMS: Before we get
2 started, I just want to put on the record
3 that previous to this deposition starting,
4 Plaintiff's counsel and myself discussed
5 having a protective order in place con-
6 cerning the Raleigh County Sheriff's
7 Department's policies and procedures manual
8 and we have agreed, tentatively, that, in
9 essence, it won't be disclosed to anyone
10 outside the scope of this case; that meaning
11 potential parties and experts involved,
12 obviously, would have access to it and
13 could be used at trial, but no one outside
14 of that scope. And, then, upon completion of
15 this litigation, the manual would be returned
16 to me. Thank you.

17 MR. OLIVIO: All right. The
18 Plaintiffs, we agree to that statement
19 and we'll work out the agreement in written
20 form.

21 MR. WILLIAMS: Okay.

B.R.A.

Page 4

COPY

RECEIVED
AUG 20 2010

Page 5

1 (Witness Sworn)

2 THEREUPON came,

3 ROBERT STEVEN TANNER,

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?

11 A Robert Steven Tanner.

12 Q And I understand, sir, you are

13 currently the Sheriff of Raleigh County?

14 A Yes, sir.

15 Q Is it okay if I just call you Sheriff

16 Tanner, today?

17 A Anything you like, sir.

18 Q Sheriff Tanner, my name is Michael

19 Olivio, I'm here with Travis Griffith. And we are, as

20 you know, counsel for the Estate of Robert Webb. Before

21 we get started, have you been deposed before?

22 A On this case, no; but, yes, in the past

23 many times.

Page 6

1 Q Okay. You're familiar with the

2 deposition procedures and how this will take place today?

3 A Yes, sir.

4 Q Okay. If at anytime I ask you a

5 question that you're not sure what I'm asking, or if I'm

6 confusing, which I sometimes tend to be, please feel free

7 to interrupt me, stop me and ask me to repeat the

8 question, rephrase the question, whatever I need to do to

9 give you a good question to answer. I don't want you to

10 have to guess what I'm trying to get at.

11 A Thank you.

12 Q If at anytime you need a break, just

13 let us know. It's not going to be as bad as what most

14 people think. I tend not to raise my voice, don't get

15 confrontational that often. I think it will be pretty

16 smooth. But, again, if you need a break for anything,

17 let us know. If you need to talk to your counsel, let us

18 know; otherwise, I'm going to proceed. And if anything

19 comes up that you're unsure, again, please stop me,

20 interrupt me, ask me to give you a good question?

21 A Thank you.

22 Q Let's go over some of your educational

23 background briefly. Are you a Raleigh County native?

Page 7

1 A Yes, sir.

2 Q Where did you go to high school?

3 A Woodrow Wilson, Class of '78.

4 Q Any college after that?

5 A Yes, sir. I have a Bachelor's Degree

6 in Criminal Justice from Bluefield State and two or three

7 Associate Degrees, both from Bluefield State and Beckley

8 College.

9 Q When did you complete your Bachelor's?

10 A In 1981.

11 Q Any postgraduate work after obtaining

12 the degrees that you just referenced?

13 A No, sir.

14 Q How about work experience, when did you

15 first go into law enforcement?

16 A December of '81, and have remained

17 within this department since that time.

18 Q So you first were employed with the

19 Sheriff's Department in '81?

20 A Yes, sir.

21 Q And would I be correct in assuming you

22 were hired in as a patrol officer?

23 A Deputy. Yes, sir.

Page 8

1 Q How long did you serve in that

2 capacity?

3 A I've been a deputy sheriff up until

4 '06, when I was the chief deputy, which is a bit

5 confusing, because that's still a deputy sheriff's

6 position. And then ran for and won the Sheriff's race

7 two years ago.

8 Q I would assume between 1981 and 2006,

9 your responsibilities graduated over time. Can you just

10 kind of give me a summary of your career progression

11 within the Sheriff's Department?

12 A I've served every position that a

13 deputy can serve and I've obtained every rank a deputy

14 can obtain in that time.

15 Q Have you ever served as a detective?

16 A Everything, sir. I've been a bailiff,

17 I've been a detective, I've been a supervisor. I've

18 started out as a field deputy working the jail and

19 finally completed the position of captain, which is the

20 highest rank obtainable as a deputy sheriff.

21 Q How long did you serve as a detective?

22 A Six years. Well, I'm sorry, as chief

23 of detectives for six years. I had been a detective two

Page 9 1 times prior to that and probably a total of two years, 2 approximately. 3 Q And what years did you serve as the 4 chief of detectives? 5 A Working backwards, it would be from 6 2000 until 2006. Yes. 7 Q Did you review any documents in 8 preparation for today's deposition? 9 A I briefly just scanned over a 10 conversation that I'd had with Deputy Hajash in my 11 office, and I also briefly scanned over two separate 12 reports. I believe one was Faulkner, I'm not sure of his 13 name. He was with O'Potter at the Ohio Police Officer's 14 Training Academy, he wrote a report on use of force. 15 And, then, also, briefly scanned over an independent 16 examiner, I guess, a pathologist, perhaps, who examined 17 the firearms and commented somewhat on an autopsy report. 18 Q Would that be the report that talks 19 about the damage on the firearm? 20 A Yes, sir. 21 Q Did you review the Raleigh County 22 Sheriff's Department official investigation report prior 23 to the depo?	Page 11 1 after receiving the call? 2 A I did get dressed and respond to the 3 scene. When they called me, I did advise the caller that 4 I would be responding to the scene. 5 Q Do you have any way of recreating what 6 time you believe that call came in to you? 7 A No, sir. I am quite confident that it 8 did occur very briefly after the shooting had occurred 9 and the dispatcher was notified of the shooting incident. 10 I can't give you any kind of exact time, but I'm sure -- 11 I think, reasonably, minutes after the call, ten minutes, 12 something like that, I would assume. 13 Q Did you go straight to the Cabell 14 Heights location? 15 A Yes, sir. 16 Q How far away do you live from that 17 Cabell Heights home where the shooting took place? 18 A Less than a mile. 19 Q Do you recall how many people from 20 the department were there upon your arrival? 21 A The two deputies involved and, 22 perhaps, two road deputies who were working that night. 23 I don't think there was anymore than four or five.
Page 10 1 A No, sir. I have not. 2 Q Did you speak with Deputy Kade in 3 preparation for this deposition? 4 A No, sir. 5 Q How about former Deputy Hajash? 6 A No, sir. 7 Q How about Officer Canady, who I believe 8 was assigned to do the -- to head the investigation? 9 A No, sir. I have not. 10 Q Okay. How did you first learn about 11 this shooting death? 12 A I received a phone call at my residence 13 shortly after the shooting had occurred, and I responded 14 to the scene. 15 Q Do you recall who made that call to 16 you? 17 A No, sir. I'm fairly confident it 18 could have only been either my office staff; but more 19 than likely the emergency operations center. 20 Q Did you make any notes regarding 21 that initial call? 22 A No, sir. 23 Q Do you recall what action you took	Page 12 1 Q Living that close you probably were 2 among the first to arrive? 3 A Well, I had to get up and get dressed, 4 but it still did put me there rather rapidly. 5 Q When you arrived at the scene, can you 6 tell me who was sort of in charge of the crime scene? 7 A I cannot. I could look at the report 8 and see who the supervisor was, but I can't from memory 9 recall who was -- 10 Q Upon arrival, and based upon your rank 11 at the time as chief deputy, would you have assumed 12 control of the crime scene? 13 A No, sir. 14 Q Describe for me how that control, if 15 that's the correct word, who's in charge of the crime 16 scene and how that may pass from one person to another, 17 as other people arrive? 18 A When someone does arrive, who would 19 be the road supervisor arrives on the scene, they would 20 control it until a detective arrives. When a higher 21 ranking, say captain, chief deputy or sheriff comes in, 22 they do not take over. I don't believe, nor have we 23 ever practiced them taking over that scene. They are

Page 13

1 basically a high ranking support staff.
 2 Q And as far as the assignment of tasks
 3 to personnel who are on scene and arriving, that would
 4 have been the road supervisor until such time as a
 5 detective arrives?
 6 A When the detective arrives, then it
 7 becomes -- normally, the first detective on the scene,
 8 and in this incident with the chief detective being
 9 notified, he would direct who would be in charge.
 10 Q And was that --
 11 A Larry Lilly.
 12 Q Lilly?
 13 A Yes, sir.
 14 Q Would Detective Lilly operate
 15 independent or would he consult with you, after his
 16 arrival, as far as, you know, for example, I'm going to
 17 put these two people on traffic control or those types
 18 of, I'm going to say, administrative decisions, but sort
 19 of task assignments. Would you be involved in those
 20 decisions or would we need to talk to Detective Lilly
 21 about that?
 22 A We have a division here, when you do
 23 talk administrative and reassignment, he would have

Page 14

1 nothing to do with that. But at the scene that night,
 2 he would act independently, he would be in charge. And
 3 unless I would see something that I felt was grossly in
 4 error, I would not exert any authority or step in.
 5 Q Okay. Do you recall seeing anything
 6 that you thought was in error or to the point that you
 7 needed to step in?
 8 A I took no action at all.
 9 Q On arrival, were you able to access
 10 the body of Robert Webb?
 11 A Yes, sir.
 12 Q This will probably make it shorter,
 13 if you could kind of give me a brief summary of your
 14 actions when you first arrived on the scene, and that
 15 will probably cut down on a bunch of my questions?
 16 A Okay. When I arrived on the scene
 17 my first priority was if the scene was secure, that we
 18 don't have civilians and deputies walking through a crime
 19 scene. It had already been secured and being properly
 20 maintained. The crowds were back and the scene was safe.
 21 I checked on the welfare of all the parties that I saw,
 22 my deputies, the family, and at that point, seen that
 23 everything was working. I made a conscious decision to

Page 15

1 step away. I had been the chief of detectives for six
 2 years, up to that very day, that very -- within a 24-hour
 3 period I had become the chief deputy. I, therefore,
 4 decided that the new chief detective needed to handle
 5 this completely on his own. And I felt that unless there
 6 was something grossly negligent, if I stepped in and
 7 directed, then I would give the perception that he was
 8 not in charge of his own men. When I was satisfied,
 9 which I was instantly, that everything was working as it
 10 should, I simply stepped away.
 11 Q Was Detective Lilly on scene before
 12 you or after you?
 13 A I can't independently recall, but
 14 within minutes he was on the scene. Now, I'm not sure
 15 if I arrived a few minutes before him, but it was within
 16 a few minutes. I know that by the time that I was
 17 satisfied the scene was secure and everybody was okay,
 18 within that time frame he was at the scene. So it would
 19 have been within minutes.
 20 Q Okay. Is Detective Lilly still
 21 employed with the Sheriff's Department?
 22 A He's still our chief detective and
 23 he's a sergeant. Yes, sir.

Page 16

1 Q When you arrived on scene, were there
 2 any medical personnel or emergency, ambulance people
 3 already there?
 4 A Yes, sir.
 5 Q Do you know any of those persons?
 6 A I can't say I know many of them. I
 7 know most of them on sight, perhaps. I can't recall who
 8 would have been there, they weren't actively working on
 9 Mr. Webb at the scene. They had already stepped away, so
 10 I didn't engage them directly.
 11 Q Okay. Do you recall where the
 12 ambulance was parked?
 13 A No, sir.
 14 Q Do you recall how many persons were
 15 on the EMT crew?
 16 A Again, we can review the report and
 17 they should be specifically named. My memory seems to be
 18 there may have been two ambulance, but I don't have --
 19 Q I just want to go over your specific
 20 memory.
 21 A Okay.
 22 Q The report speaks for itself and
 23 everyone's documented on that. Do you recall where the

Page 17

1 emergency medical technicians were located at the scene,
 2 you said they had stepped away?
 3 A They weren't physically over his body
 4 at that time, they had stepped out of what was then a
 5 crime scene. Where they were, I could not tell beyond
 6 that.
 7 Q Do you believe that they had already
 8 attempted to render medical aid?
 9 A Yes, sir.
 10 Q And what do you base that on?
 11 A I am trying to independently recall
 12 if he had a medical blanket over him or leads on him, or
 13 something that would have indicated that, and they were
 14 standing there. They weren't obstructed from coming in.
 15 In my almost 30 years, always first priority is to
 16 medical aid. And that's never in question or denied, so
 17 I guess the very body language was that they had done
 18 what they could.
 19 Q Were crime scene photos being taken
 20 when you first arrived?
 21 A Shortly upon my arrival they were.
 22 I can't tell you if they were being taken at that very
 23 moment I arrived.

Page 18

1 Q Do you recall how long it may have
 2 taken to complete crime scene photos?
 3 A No, sir.
 4 Q Do you recall who was doing the crime
 5 scene photos, who was taking those pictures?
 6 A I'm almost certain it was Detective
 7 Canady.
 8 Q Have you ever had the opportunity to
 9 review the entire investigation report after it was
 10 completed?
 11 A I've had the opportunity, I've not
 12 taken advantage of that opportunity.
 13 Q Did you ever have a chance to look at
 14 the autopsy report or have you ever looked at the autopsy
 15 report?
 16 A Not in its entirety. I do recall when
 17 it came in looking at specific parts of the autopsy,
 18 blood alcohol and drug sections. I have not reviewed the
 19 entire report.
 20 Q How about the EMT report?
 21 A Never looked at it.
 22 Q You say first priority at the scene is
 23 rendering medical attention. Does that also include to

Page 19

1 the alleged perpetrator?
 2 A Oh, absolutely.
 3 Q So in this case you believe Robert Webb
 4 should have had medical attention provided to him, if it
 5 was at all available and possible?
 6 A And needed, yes.
 7 MR. OLIVIO: Exhibit 1. Two pages.
 8 (WHEREUPON, Tanner Deposition
 9 Exhibit No. 1 was marked for
 10 identification purposes)
 11 BY MR. OLIVIO:
 12 Q Sheriff Tanner, I've marked Exhibit 1,
 13 which is a somewhat poor quality copy of the EMT report
 14 regarding a response to Mr. Webb's shooting. I'd like
 15 you to take a moment and look that over, if you would,
 16 since you've indicated you haven't seen it before?
 17 A That's a copy. You have two pages, one
 18 page is copied twice.
 19 Q Okay. We'll just take one out then.
 20 Exhibit 1 is two pages. Sheriff, I'd like you to turn
 21 your attention to the first paragraph in the narrative.
 22 Can you read that handwriting?
 23 A Most of it. Yes, sir.

Page 20

1 Q Am I correct in the body of Paragraph 1
 2 states, "Sheriff's deputy stated patient was shot. We
 3 were told by the Sheriff's Department not to touch
 4 patient until pictures were taken."
 5 A That appears that is what he's written.
 6 Q If that statement, written in there by
 7 the EMT crew, is accurate, does that conform with your
 8 policy of the person receiving medical attention is
 9 Priority 1?
 10 A I do not know if they're referencing he
 11 can't be touched at all, or moved when they say touched.
 12 So I would question, if they meant they weren't allowed
 13 to touch him, go to the scene and check him, it would not
 14 be proper. If, as I read that, it meant they weren't
 15 allowed to move his body, then I think that could very
 16 well be appropriate.
 17 Q Do you have any idea whether Mr. Webb
 18 was alive when the EMT crew arrived?
 19 A I could not say, but -- well, I
 20 couldn't say.
 21 Q So you read this statement as they were
 22 instructed not to move the body, because the actual
 23 language is Sheriff's Department, not to touch patient?

Page 21

1 A That's what he has apparently written.
 2 By all experience I have in my life, my assumption is
 3 that he's indicating the removal of the body and not
 4 being allowed to render aid is not what that references.
 5 Q Have you had a chance to speak to any
 6 of the people who served on that crew?
 7 A No, sir.
 8 Q I would represent to you that they were
 9 actually told to get away from the body and not render
 10 aid. Would that conform with the Department's policy?
 11 MR. WILLIAMS: Objection to form. You
 12 can answer.
 13 BY MR. OLIVIO:
 14 Q You can answer.
 15 A That would not conform.
 16 Q And, again, you have no knowledge of
 17 whether Mr. Webb was alive or whether he was already
 18 deceased when the EMT crew arrived?
 19 A Yeah. I couldn't comment before I got
 20 there about anything there.
 21 Q Do you know if this document was made
 22 part of the Department's investigation?
 23 A I hadn't reviewed the report. I would

Page 22

1 assume it should be, I do not know.
 2 Q Do you believe that that statement,
 3 that at least an EMT personnel thought was significant
 4 enough to include in the report, should have been
 5 investigated as part of the formal investigation by the
 6 Department?
 7 A Again, if it's indicating that he was
 8 denied medical aid, probably that should have been
 9 addressed at some point. I'm not sure -- yeah, I'm sure
 10 that it should have been addressed if that is accurate in
 11 what you're reflecting it is.
 12 Q The fact that the report says what it
 13 says, but we're not really sure at this several years
 14 later, does that make you wish somebody would have looked
 15 into that statement whether it's true or not?
 16 A To look back on a sentence several
 17 years later, when the very experience I have goes against
 18 everything ever done, I would really question if that's
 19 what that means. I don't know how to answer your
 20 question several years later.
 21 Q Yeah. Let me try it this way. The
 22 fact that you, as the Sheriff of Raleigh County, do not
 23 know what that sentence means, wouldn't you like to know?

Page 23

1 A It bears probably looking into, if he
 2 can recall why he wrote that and what he was reflecting.
 3 Q Do you know if anybody, as part of the
 4 Department, ever interviewed the EMT crew regarding that
 5 report?
 6 A I do not know. This is the first I've
 7 heard of that sentence.
 8 Q Is it normal procedure for the
 9 Department to perform its own investigations with officer
 10 involved shootings?
 11 A We're very fortunate in that we've had
 12 very few of them. In my time, we've had one where the
 13 State Police was called in by a supervisor at scene.
 14 Without asking further, he just simply chose to call the
 15 State Police. Other than that, we've always handled our
 16 own investigations.
 17 Q Do you know why that supervisor called
 18 the State Police on that one occasion?
 19 A He could not explain that to us when we
 20 asked him, and he had no thought process for that.
 21 Q Is there a policy, one way or the
 22 other, for the Department to perform their own in-house
 23 investigations rather than asking the State Police to get

Page 24

1 involved?
 2 A There's no policy for that, no.
 3 Q Do you think there's a benefit to
 4 having the State Police, an independent agency, perform
 5 the investigations rather than conduct them in-house?
 6 A I do not know of a benefit.
 7 Q Do you know when this investigation was
 8 completed?
 9 A No, sir.
 10 Q Do you know when the results were made
 11 public?
 12 A As far as I know there's not been a
 13 public report by us on any results.
 14 Q I'm going to preface the next series of
 15 questions. I'm going to ask you a bunch of questions of
 16 what you know personally. I think from what you've
 17 already testified that a lot of the answers are going to
 18 be you were not involved and you don't know personally.
 19 So if that's true, just let me know that you personally
 20 were not involved in those decisions, and we'll check off
 21 a bunch of them here. Do you know who made the
 22 assignment on the scene for any deputies to conduct
 23 witness interviews or interviews of the neighbors?

Page 25

1 A It should have been by the detective in
2 charge. Personally, I did not direct anyone.
3 Q Do the names Chris or Christy, formerly
4 Hatfield, I don't know her maiden name now, do those
5 sound familiar to you as witnesses in this case?
6 A Not to me.
7 Q Have you read the deposition
8 transcripts for Chris Hatfield and his now ex-wife
9 Christy?
10 A No.
11 Q Have you read their interviews
12 conducted at the scene on the night of the shooting?
13 A I've read no interviews by anyone on
14 this entire investigation.
15 Q You took about five or six questions
16 off my list for me. During your six years as chief of
17 detectives, you've probably had occasions to assign
18 officers to complete certain interviews as a response to
19 various crime scenes. Am I correct?
20 A Yes, sir.
21 Q If you have neighbors who were
22 witnesses, and who have testified that they are awake at
23 the time of this shooting, or Mr. Webb's death, would you

Page 26

1 think that the interviewer would ask those witnesses what
2 they may have heard and seen that night?
3 MR. WILLIAMS: Objection to the extent
4 it calls for speculation. You can answer.
5 BY MR. OLIVIO:
6 A And if you could clarify. Are you
7 representing they should ask them that night or -- when
8 you say that night, I don't understand if you want the
9 interview done that night or if they should just canvas
10 the neighborhood later and ask.
11 Q As part of the interview of the
12 witnesses, those witnesses have identified that they were
13 awake at the time of this shooting. Would you think it
14 would be reasonable for the interviewer to ask that
15 person what they may have heard and what they may have
16 seen?
17 MR. WILLIAMS: Same objection.
18 BY MR. OLIVIO:
19 Q Go ahead?
20 A It would seem a reasonable question.
21 Q Okay. Are you aware that it is in
22 dispute in this case whether or not Officer Hajash or
23 Officer Kade announced their presence as a law

Page 27

1 enforcement officer prior to discharging their firearms?
2 A I was unaware that was being
3 challenged.
4 Q Okay. Are you aware that two neighbors
5 have testified on multiple occasions that while they were
6 awake they did not hear law enforcement announce their
7 presence prior to discharging their firearms?
8 A I have not heard that.
9 Q Would it surprise you that they were
10 not asked those questions by law enforcement prior --
11 they were in depositions later, but would it surprise you
12 that they weren't asked those questions as part of the
13 investigation?
14 MR. WILLIAMS: Objection to the extent
15 it calls for him to speculate. You can answer.
16 BY MR. OLIVIO:
17 A I have no idea how the interview went
18 and what was asked or if they thought that was covered.
19 I mean, that's a tough --
20 Q I'm trying to get your opinion as prior
21 chief of detectives without putting you on the spot to
22 second guess interviews you didn't read.
23 A Uh-huh, (yes).

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1 Q And I'm not finding a real good way to
2 do that.
3 A And it is difficult, having not read
4 them and seen what the flow is.
5 Q In reviewing the Department's
6 investigation report, and I understand that you do not
7 have the advantage of having read that, so this is more a
8 policy question. Is there a reason that Mr. Webb's prior
9 criminal DUI records would be a part of the investigation
10 report into this shooting event?
11 A In any event like this, any prior
12 criminal record will be looked into to see the totality
13 of those circumstances. Perhaps, interaction with law
14 enforcement or any number of factors would have possible
15 bearing to this instance. So they would be looked into
16 to see if that situation does exist.
17 Q Do you have any knowledge of whether
18 Robert Webb's body or blood was tested for alcohol at the
19 scene?
20 A I do not know.
21 Q Does the Department have any policies
22 regarding drug or alcohol testing officers after a
23 shooting?

Page 29

1 A No, sir.

2 Q Do you know if either officer was

3 tested for any drugs or alcohol after the shooting?

4 A I do not know.

5 Q Would you have had any involvement in

6 the firearm trace report being completed?

7 A No, sir.

8 Q Have you ever had a chance to take a

9 look at that?

10 A Firearm trace report on the AK-47?

11 Q On the weapon that was at the scene?

12 A The only thing I did, as referenced

13 earlier, is read that one opinion on the rifle, I have

14 not had any other.

15 Q Now, I've heard it referenced as an

16 AK-47 several times in this case. You understand an

17 AK-47 is a Kalashnikov brand?

18 A Automatic Kalashnikov 1947, I do,

19 indeed. And that is now used as a general term for 762

20 by 39 semi-automatic rifle imported to this country.

21 Q You know your weapons?

22 A Yes, sir.

23 Q Is this a Kalashnikov model weapon?

Page 30

1 A I do not think it's a Kalashnikov, no.

2 Q Okay. It's a Romar knock-off?

3 A Romanian, yes.

4 Q Right. A Romanian knock-off.

5 MR. OLIVIO: Make this Exhibit 2.

6 (WHEREUPON, Tanner Deposition

7 Exhibit No. 2 was marked for

8 identification purposes)

9 BY MR. OLIVIO:

10 Q Sheriff, does that look like a copy of

11 the report that was done on the firearm involved in the

12 Webb shooting fatality?

13 A It does.

14 Q And I'm going to read this upside down,

15 but if I remember the model number of that particular

16 weapon, is an SAR-1?

17 A Yes, sir.

18 Q Okay. So while it is an AK-47 knock-

19 off, or style, it's actually a Romar SAR-1 weapon.

20 Correct?

21 A Yes, sir.

22 Q Were you involved in any of the final

23 stages of the investigation in making a determination

Page 31

1 whether Officer Kade and Hajash were cleared of any

2 wrongdoing in this event?

3 A No, sir.

4 Q Do you know who made those

5 determinations?

6 A The prosecuting attorney's office.

7 Q How about the internal investigation,

8 was there any conclusory event or any conclusion reached

9 by Detective Lilly?

10 A There would have been an internal

11 review of, I think, three people that would have looked

12 at that and made an internal review and -- I cannot think

13 of the right word. An internal review and decision of

14 whether it fit within our policies with use of force.

15 And that was made, I really can't comment past that.

16 Q You were not a part of that?

17 A No, I was not involved in that.

18 Q Okay. Earlier when I was asking you to

19 describe your actions at the scene, I thought I heard you

20 say that you checked on everybody involved, the officers

21 and the family. Do you recall speaking with Mr. Webb's

22 wife?

23 A No, I did not have direct contact with

Page 32

1 her. I went to see that the family was okay. They were

2 with someone speaking to them, I don't know who that

3 person was. They were together and okay. My only

4 concern was, do we have other people in need of medical

5 attention, is there someone else, whatever would

6 necessitate a need for help. I've never contacted the

7 family personally.

8 Q Do you know where the family was

9 located, were they in the house, outside of the house?

10 A The side of the house, perhaps, or near

11 the door; not physically at the scene, away, detached

12 from the scene, but there by the house.

13 Q Do you recall ever having any direct

14 communication with Mr. Webb's wife, Mary Webb?

15 A I never have. As far as I know, I have

16 never spoken to her.

17 Q How about either of Mr. Webb's

18 daughters at the scene, do you recall ever speaking to

19 them?

20 A As far as I know, to this day, I've

21 never spoken with any of the Webb family.

22 Q Would it have been inappropriate to

23 allow Mrs. Webb outside the house and in the area of the

Page 33

1 scene, considering it was her husband out there?

2 A I'm not sure -- I'm not sure what

3 you're asking, to allow her to --

4 Q Let me summarize and counsel will tell

5 you if they think I'm too far off base. I think she

6 testified at her deposition that it was upsetting to her

7 that she was told to stay inside the house and she knew

8 her husband was lying on the ground outside, and couldn't

9 really get an answer as to what happened to him. Could

10 that be within policy to keep her away and deny her that

11 information?

12 A I think the first priority would be

13 the integrity of the scene. And in that regard, if she

14 were emotionally unable, I would personally be scared she

15 would go to him and disturb evidence at that scene and I

16 would probably deny that, depending on her emotional

17 state.

18 Q Do you know if the Department sent

19 anyone over to the house, or inside the house, to sit

20 with or talk to or communicate with the family?

21 A I know the sheriff was there with the

22 family while I was still at the scene. The sheriff being

23 former Sheriff Danny Moore.

Page 34

1 Q And did you see him interacting with

2 the family members?

3 A I saw him go in to be with the family

4 members, I didn't go with him at that point.

5 Q Are you aware that Deputy Hajash fired

6 a shot into Robert Webb's body after Mr. Webb fell to the

7 ground from Deputy Kade's shot?

8 A I've never understood the exact

9 sequence of shots, when and how they were fired. But the

10 general impression was that when Mr. Webb fell, Hajash

11 did fire one more round.

12 Q Okay. Have you had a chance to read

13 the depositions of Deputy Kade and former Deputy Hajash?

14 A No, sir.

15 Q Do you have any feelings one way or the

16 other whether that final shot from former Deputy Hajash

17 was appropriate?

18 MR. WILLIAMS: Objection to the extent

19 it calls for speculation.

20 BY MR. OLIVIO:

21 Q You can answer if you have an answer.

22 A If he felt Mr. Webb was still a danger,

23 that he had access to his firearm and could engage them,

Page 35

1 it would be appropriate. Yes.

2 Q Did Deputy Hajash ever tell you that he

3 never saw the weapon?

4 A No, sir. Not that I recall.

5 Q I know I've asked this, but I can't

6 remember the answer, have you had a chance to review the

7 autopsy report?

8 A Only bits of it with the blood alcohol

9 and that.

10 Q Blood and drugs. Are you aware of the

11 bullet path or the angles, bullet traveling, the bullets

12 traveling through Robert Webb's body, the piece of the

13 shotgun shell that hit him in the head and Deputy

14 Hajash's 40. caliber shell that went through his chest?

15 Are you aware of the path of those?

16 A Through his body?

17 Q Yes.

18 A No, sir.

19 Q Do you know if anybody within the

20 Department ever examined those actual bullet paths and

21 tried to conform those with the officers' accounts of

22 this?

23 A Do I firsthand know, no, I do not;

Page 36

1 would I assume the detectives would, yes.

2 Q If you were chief of detectives that

3 would be something that you would look into?

4 A Yes, sir.

5 Q The weapon that we spoke of earlier,

6 that Mr. Webb owned that was at the scene, where is that

7 weapon today?

8 A I may assume that it would be in

9 evidence. I don't have firsthand knowledge, not being

10 the evidence officer. But the assumption is that it's

11 still secured in evidence.

12 Q What person within the Department would

13 maintain possession and control of that weapon if it is

14 in evidence, and I think it is?

15 A Yes. And only the evidence officer,

16 in this case it is Sergeant Dustin Joynes.

17 Q Joynes?

18 A J-O-Y-N-E-S.

19 Q And I would assume Sergeant Joynes

20 keeps a log of people who access the evidence locker?

21 A Yes, sir. It's kept on a computer.

22 Q Okay. Is that something that -- that

23 log, is that specifically identifying the piece of

Page 37

1 evidence that any one person wants to go in and see?

2 A Yes, sir.

3 Q Okay. Is that something that could be

4 produced by limiting the people who have access to the

5 weapon in this case? In other words, you wouldn't have

6 to give me a year-long printout, would you, could you

7 access and search that database just for access to this

8 weapon?

9 A We would have to ask Sergeant Joynes

10 about taking the individual weapon and printing an

11 individual history to that unique piece. I would think

12 it can be, but, again, he's the evidence officer and he

13 would be the one to be able to say yes or no.

14 Q Okay. I'm going to ask you, basically

15 indirectly, if you would ask Sergeant Joynes to see if he

16 could do that for us and, if so, can you give a copy of

17 that to your attorney so he can get it to us?

18 A Yes, sir.

19 Q Does the Sheriff's Department require a

20 new deputy to complete the State Police Academy's course

21 prior to taking a position on the road?

22 A No, sir. The law mandates that within

23 a year of the hiring date that they do have to apply for

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1 the State Police Academy. But it is our policy that a

2 deputy, if hiring and the Academy's not available, to

3 ride with a senior partner, and take very limited actions

4 only in the presence of that senior partner until the

5 deputy graduates from the State Police Academy and has

6 further training by our department.

7 Q When you say further training, is there

8 like a core or curriculum or -- you're nodding your head

9 yes. What courses would that consist of?

10 A They're not courses, per se, there is a

11 book that they have to accomplish particular tasks, such

12 as DUI arrests, felony arrests, felony traffic stops.

13 There are a full laundry list of things that they must

14 accomplish. They will ride with a training deputy who

15 trains and teaches them until those tasks are all met and

16 until that training deputy feels that this deputy has

17 learned and matured to the point of being able to work on

18 his own. And then the training deputy will suggest to

19 the supervisor, who will review and then make the

20 determination if that deputy is sufficiently trained and

21 able to work independently.

22 Q Does the Department have sort of an

23 overall training officer?

Page 39

1 A No.

2 Q Who would be the person who maintains

3 control and custody of training records?

4 A Lieutenant Barley keeps records with

5 all the required State maintained in-service hours, and

6 the records of specific training classes that they may

7 attain -- obtain.

8 Q And is there a person other than

9 Lieutenant Barley that may serve as the training

10 coordinator, for example, who says, you know, hey, next

11 month we're going to hold training on this particular

12 topic? Would that be a different person or would that

13 also be within Lieutenant's Barley's --

14 A Lieutenant Barley oversees the entire

15 project. The Sheriff may have specific training, which

16 I've done a number of times, is bring in specific

17 training for the entire department; still Lieutenant

18 Barley keeps the documentation on that.

19 Q Okay. And I understand this is in

20 dispute, but if a judge were to order the training

21 records for these two officers to be disclosed, who would

22 maintain those records, would that simply be Lieutenant

23 Barley?

Page 40

1 A They would be maintained at my office

2 under my tutelage with my secretary, under lock and key,

3 with -- the training is kept in their personnel file.

4 Q Okay. And that would include any in-

5 service training that is provided to the Department as a

6 whole?

7 A Yes, sir.

8 Q Are you aware that former Deputy Hajash

9 recorded some conversations that you were involved in?

10 A Only in the last few hours.

11 Q Okay. Have you been provided the

12 opportunity to review a copy of the audio recording?

13 A Right before we came in I perused

14 through it apparently a 78-page transcription of former

15 Deputy Hajash and me speaking in my office.

16 Q Okay. I'm sure that made you happy?

17 A It's fine.

18 Q Were you aware that former Deputy

19 Hajash was recording those calls?

20 A No.

21 Q Were you aware that he recorded a

22 meeting with then Sheriff Moore?

23 A I actually did hear about the then

Page 41

1 Sheriff's Moore sometime back, I didn't know that he had
 2 recorded both of us, but I had heard that he had recorded
 3 Sheriff Moore.
 4 Q Okay. Do you have any idea why he felt
 5 the need to record any of those conversations?
 6 A None at all.
 7 MR. WILLIAMS: Objection to the extent
 8 it calls for speculation.
 9 BY MR. OLIVIO:
 10 A I apologize. None.
 11 Q I think I knew the answer anyway. I'll
 12 represent to you I've heard the recordings and I've read
 13 the transcripts, but in your words can you tell me what
 14 the purpose of those meetings with Mr. Hajash, why you
 15 were meeting with him?
 16 A I know of but the one and you're
 17 referencing plurals.
 18 Q I think to be fair, I think you're
 19 correct. I think your's was just one recording that
 20 I've got?
 21 A Yes, sir.
 22 Q That I know of. What was the purpose
 23 of that meeting?

Page 42

1 A I had called him in because he was on
 2 the verge of losing his income as a deputy sheriff. He
 3 had used almost all of his sick and his vacation time and
 4 was on the verge of not getting a paycheck. We had
 5 completely lost contact with him for some period of time,
 6 not knowing what he's doing, where he is, what's wrong.
 7 And I made a concerted effort to try to get him in and
 8 find out what's going on with him.
 9 Q Basically, a return-to-work meeting?
 10 A No. Basically, a are-you-okay and
 11 what's-going-on-in-your-world meeting.
 12 Q I think a part of that conversation you
 13 found out that he had actually changed phone numbers and
 14 didn't advise the Department of the new phone number?
 15 A It seems like he had moved, had changed
 16 his phone, had just pretty much severed ties where we had
 17 to literally -- I think we tracked him down through his
 18 mother or father trying to find out where he was to try
 19 to make that contact and speak with him.
 20 Q And I'm just asking from your memory
 21 here, but do you recall how long he was off work at the
 22 time you had that meeting with him?
 23 A I do not. It seems like it was months,

Page 43

1 it may have been a couple of months. I know that he was
 2 on the verge of running out of sick and vacation time
 3 over it. It started out, as I recall, under a doctor's
 4 appointment and from there it just -- we lost him, we
 5 didn't know what was going on, what had happened. I'd
 6 heard everything from he'd had a heart attack to had
 7 heart problems. So we had a real concern about his
 8 welfare.
 9 Q On that tape, I hear reference to a
 10 person by the name of Mike Johnson. Can you tell me who
 11 Mike Johnson is?
 12 A Mike Johnson is a counselor who works
 13 with a psychiatric service and does a lot of -- we have
 14 used Mike in the past under having Mike counsel deputies
 15 who've been under exceptionally traumatic experiences
 16 through the job. That may be a fatality where a child
 17 was killed or particularly a heinous crime. And we have
 18 used him to counsel those deputies to make sure that they
 19 were dealing with that grief and stress properly.
 20 Q Is he a psychiatrist, that you know
 21 of?
 22 A I'm not sure of his credentials. I
 23 think he's a counselor and not a psychiatrist, though he

Page 44

1 works directly with psychiatrists.
 2 Q Do you believe him to be a
 3 psychologist?
 4 A I'm not sure, sir.
 5 Q Okay. Do you know where he's employed?
 6 A No. I know where his office is, but I
 7 would have to reference a phone book to give you the
 8 address or the business name.
 9 Q Do you know who would have made the
 10 arrangements for then Deputy Hajash to meet with Mike
 11 Johnson?
 12 A I believe I did.
 13 Q And do you have any knowledge of
 14 whether Deputy Hajash followed through with those
 15 meetings?
 16 A As I recall, he went to two meetings or
 17 went to one and missed a second meeting, but I think
 18 there were but two meetings before Hajash apparently
 19 decided to not see him anymore.
 20 Q Now, on the tape there's a reference
 21 to Deputy Hajash going to see a Dr. Syed here in Raleigh
 22 County. Why was this a concern to the Department?
 23 A I think he went to the emergency room,

Page 45

1 I think, over having chest pains and Syed simply released
 2 him from work with no date, no explanation, just said
 3 don't go to work, period. And, then, apparently, I'm
 4 assuming that Hajash meant he didn't have to return to
 5 work for whatever period of time, but there was no
 6 follow-up to helping to Hajash to what's the problem,
 7 how do we fix this.

8 Q So you understood it that Dr. Syed may
 9 have given him an indefinite release from work, but you
 10 were unaware of any ongoing treatment or sessions or
 11 anything of that nature?

12 A Or a diagnosis of a problem or anything
 13 else, just simply don't go to work.

14 Q Did then Deputy Hajash ever provide you
 15 or the Department with any medical records from Dr. Syed?

16 MR. WILLIAMS: I'm going to just place
 17 a standing objection to the line of questioning
 18 and the relevance to the lawsuit, but you can
 19 answer. And just so I don't have to keep
 20 interrupting.

21 BY MR. OLIVIO:

22 A I don't recall ever seeing any.

23 Q Do you recall Dr. Syed ever discussing

Page 46

1 with you, or anyone at the Department, then Deputy
 2 Hajash's mental health condition?

3 A No.

4 Q Did Mr. Hajash ever return to work?

5 A No.

6 Q Well, let me ask this, is he still
 7 employed with the Sheriff's Department?

8 A No.

9 Q Describe for me, if you can, his
 10 departure from the Department and how that occurred, was
 11 it his choosing and --

12 A I can't tell you. Sheriff Moore would
 13 have to tell you.

14 Q Okay. You were not involved in any of
 15 those decisions?

16 A Actually, the sheriff and I both spoke
 17 and did everything we could to keep him employed. At
 18 some point, I'm sure the sheriff made a conscious choice
 19 that we had done all we could. My contact was limited to
 20 that interview with him and that was an attempt to help
 21 him keep his job. That was about my entire input.

22 Q You didn't have any other meetings or
 23 discussions with him that were not part of that

Page 47

1 transcript?

2 A We may have met, we may have bumped in
 3 somewhere. I don't recall anything of any relevance
 4 being spoken of.

5 Q Did you ever actually see a report from
 6 Dr. Syed that declared Mr. Hajash unfit to return to
 7 duty?

8 A Again, I've not.

9 Q Okay. You understood that that may be
 10 out there, but you didn't actually see it?

11 A No. I understood there was nothing,
 12 and that's what I was asking him about. The only thing I
 13 had was a note from the emergency room that Syed had
 14 signed with no explanation, no return to work, no cause,
 15 no actions. That's all I'd ever seen.

16 Q Have you had a chance to review the
 17 Emergency Operations Command transcript regarding the
 18 original call for the shooting at the Webb residence?

19 A No.

20 Q Okay. I must admit I did not make a
 21 copy. I'm going to let you read this one and, if you
 22 would, just -- you can see from the highlighted point
 23 what I'm looking for here. Would you read that line, and

Page 48

1 it's indicating female as the caller for the complaint.
 2 Would you read that first line there that's highlighted?

3 A Yes, sir. It says, "Hi, I have a
 4 neighbor who it sounds like he's shooting a gun at his
 5 house."

6 Q Okay. How do you take that statement?

7 MR. WILLIAMS: I'm going to object to
 8 the extent that you're calling him to speculate
 9 and there's no -- on a transcript, no
 10 inflection, no --

11 BY MR. OLIVIO:

12 Q In reading everything and looking at
 13 this case, it seems to me that that sentence was somewhat
 14 key. Would you agree with me that shooting at his house
 15 could mean physically aiming at and firing at the home as
 16 a target, shooting at his house?

17 A I suppose it could mean that.

18 Q Okay. Do you also agree that that same
 19 sentence could mean shooting on his property?

20 MR. WILLIAMS: Objection. It calls for
 21 speculation. You can answer.

22 BY MR. OLIVIO:

23 A I wouldn't pull that from that, that

Page 49

1 he's simply shooting a gun on his property, I would
 2 probably take it at face value. I could only guess is
 3 whether that's a reasonable jump.
 4 Q If you received that call, with that
 5 terminology, in that order, would you read that as the
 6 man was actually firing at his home, meaning the home was
 7 a target?
 8 A I would read that that the man is
 9 shooting into his home.
 10 Q Okay. That's what I was getting at.
 11 You summarized it better than I could ask it. I know
 12 you've already testified that you have not had the
 13 opportunity to review the investigation report, but are
 14 you aware of any evidence, after the fact, that Mr. Webb
 15 ever fired into his home?
 16 A I do not know.
 17 Q Are you aware that Mr. Webb was
 18 discharging a firearm on his property that night?
 19 A Yes.
 20 Q And how do you know that, is it just
 21 kind of common knowledge?
 22 A Well, you had both the report that the
 23 deputies were responding to and at the scene I saw

Page 50

1 numerous pieces of brass in the driveway, in that general
 2 area, that were 762 by 39 fired brass that would fit the
 3 caliber, consistent with the rifle at the scene.
 4 Q Are you aware of the testimony that
 5 Mr. Webb had discharged that firearm several times into
 6 the air earlier that night?
 7 A Testimony, no; that was the nature of
 8 the call. I've not read independent testimony that
 9 confirms that he was shooting the gun.
 10 Q Okay.
 11 A Having not read any of the testimonies,
 12 I don't know.
 13 Q Fair enough.
 14 MR. OLIVIO: Off the record for a
 15 second.
 16 (WHEREUPON, a short break
 17 was taken)
 18 BY MR. OLIVIO:
 19 Q All right. Sheriff Tanner, we are
 20 almost finished. I have a couple questions on the policy
 21 manual?
 22 A Yes, sir.
 23 Q We notice that there is a requirement

Page 51

1 for a post-shooting urinalysis screening anytime an
 2 officer discharges a firearm, on Page 2-35.18. Are you
 3 aware if anyone ordered Deputies Hajash or Kade to submit
 4 to a urinalysis?
 5 A That, by State standard, is not
 6 appropriate, it should have been adjusted. By a State
 7 standard, you have to have a probable cause to test
 8 anyone for a urine for drugs or alcohol. I'm unaware
 9 that that was in there, but that's something that will
 10 have to be addressed.
 11 Q So even though it's in the manual, you
 12 don't believe it would have been permissible?
 13 A Without some indication that they were
 14 under some influence, it would not have been permissible.
 15 Q Can you tell me what State standard
 16 you're referring to?
 17 A Since I've taken over as sheriff, we
 18 implemented a drug policy for random drug testing. And
 19 counsel for the Association of Counties and for Raleigh
 20 County has both addressed these issues with me about
 21 random drug testing. And the standard, I think on the
 22 Federal level, that was addressed to me is that there has
 23 to be some type of probable cause to test a deputy

Page 52

1 sheriff.
 2 Q Okay. But you're speaking of a random
 3 drug test. Correct?
 4 A No. I'm speaking of the court
 5 decisions that our drug test is now based upon.
 6 Q And that is --
 7 A And I can't quote you, I can't cite
 8 you, unfortunately.
 9 Q Okay. But your understanding is there
 10 is a court decision that addresses officers discharging
 11 firearm in the line of duty as opposed to a random drug
 12 test?
 13 A No, sir. My comment is only in that
 14 you can't just simply choose to test a deputy without a
 15 cause that there is some type of indication that they
 16 would be under the influence. That's my understanding of
 17 the court decision which would cover our policy.
 18 Q Do you know who writes your policy and
 19 procedure manual for you, is that done internally?
 20 A It is done internally. I've accepted
 21 the one handed to me when I took over the position as
 22 sheriff, but it is a leading document and needs to be
 23 updated regularly.

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Page 55

1 Q Have there been any changes made to the
2 policy and procedure manual since you became sheriff?

3 A Not in regards to these issues at hand,
4 no.

5 Q Not with the drug test, the mandatory
6 drug test and policy, that hasn't been changed?

7 A Well, we have random drug testing, but
8 not with regards to what you're referencing in the
9 shooting.

10 Q Right. And so I'm clear, this is
11 not -- the page that I'm citing to you, 2-35.18, is not
12 a random drug test, but it says, in the interest --
13 I'll read it, we don't have another copy since we got
14 it this morning, but, "In the interest of the department
15 and for the protection of the individual officer, from
16 the subsequent allegations of impaired performance, the
17 department shall require a urinalysis as soon as possible
18 after any incident in which the officer is involved in --
19 or I'm sorry, is involved concerning Subsection 1, the
20 discharge of a firearm, Subsection 2, a motor vehicle
21 accident causing injury or Subsection 3, a similar
22 serious mishap." So under those specific criteria, it's
23 your understanding, as sheriff, that you cannot enforce

1 Q Wouldn't that phone call have provided
2 information to the police regarding Mr. Webb's confronta-
3 tion or nonconfrontational status?

4 MR. WILLIAMS: Objection. Calls for
5 speculation.

6 BY MR. OLIVIO:

7 A It possibly could have. You have to
8 weigh that against giving up the tactical advantage that
9 you might have had in arriving quietly. And our policy
10 is, on a situation like that, we would not be disregarded
11 by a phone call. So the only thing I would see calling
12 would do was alert him to us responding, with no
13 advantage, because we would have responded regardless.

14 Q Given the understanding that you would
15 have responded, would you agree that oftentimes a phone
16 call or the presence of police can serve as a deterrent
17 factor?

18 A Yes, sir.

19 Q And do you believe it's possible that
20 a phone call to the house may have served as a deterrent
21 in the event that Mr. Webb was not choosing to be con-
22 frontational with officers that night?

23 MR. WILLIAMS: Objection. Calls for

Page 54

Page 56

1 that mandatory drug urinalysis?

2 A Yes, sir. If you look at that
3 document you will find Sheriff Moore signing off. That
4 means he has reviewed that document and updated it. I
5 am suspicious that perhaps Sheriff Lavender had signed
6 that and it had not been reviewed and updated, and I have
7 neglected to review the manual, as well.

8 Q Okay. Do you have a policy to require
9 any type of screening after a motor vehicle accident?

10 A No, sir. We do not.

11 Q Okay. Is there a reason why the
12 officers could not have called the home or requested that
13 dispatch call the home of the Webb residence while they
14 were in route to the scene?

15 MR. WILLIAMS: Objection. Calls for
16 speculation. You can answer.

17 BY MR. OLIVIO:

18 A I don't know why we would call. We
19 wouldn't be disregarded by a phone call on a serious call
20 like that and, tactically speaking, all we would have
21 done is announced our arrival, which tactically is not a
22 sound move. I don't know why we would have called the
23 Webb family.

1 speculation. You can answer.

2 BY MR. OLIVIO:

3 A I don't really. My opinion would be
4 the only thing it would have done was lose the advantage
5 of arriving quietly, having him anticipate us. That's
6 all I think that that phone call would have done is
7 warned him. But if it was his intent at that point, we
8 would have been in a true dire situation; more dire if
9 that's possible.

10 Q Okay. Regarding arriving quietly,
11 looking at the policy and procedure manual, Page 2-9.5,
12 No. 12, indicates that the only time an officer parks his
13 vehicle, his cruiser, at a crime scene, he is required to
14 leave all emergency lights and four-way flashers on. Is
15 that still the policy?

16 A Well, this isn't a crime scene when
17 they arrive. It's only a crime scene after the shooting.

18 Q Is it the policy of the Department that
19 the officers turn all lights and sirens off prior to
20 arriving at the scene?

21 MR. WILLIAMS: Objection to form.

22 BY MR. OLIVIO:

23 A Of any scene?

Page 57

1 Q At any scene?

2 A There's no policy that could control

3 every unique scene, every unique situation. To come up

4 with a policy that you have to leave them on or have to

5 turn them off would be a little difficult to understand.

6 Q Is there any policy specific to an

7 officer arriving at a scene where someone is alleged to

8 be armed with a weapon?

9 A I would have to read the policies and

10 procedures. I've not committed them to memory, I'd have

11 to look and see.

12 Q As we sit here today, are you

13 personally aware of any such policy?

14 A Would you give me that question again?

15 Q As we sit here today, are you

16 personally aware of any policy that would require an

17 officer to turn lights and sirens off prior to arriving

18 at the scene where a suspect is alleged to have a

19 firearm?

20 A I'm not sure if there is a policy,

21 there's certainly training. I'm not sure about a policy.

22 Q Is there a policy in the Department

23 where the officer is to park away from the scene and exit

Page 58

1 and leave their vehicles while approaching a person

2 alleged to have a firearm?

3 A I would have, again, to review policy

4 and procedure to say what's in it. We have training, I

5 would have to review policy and procedure.

6 Q Would you agree with me that a police

7 cruiser can serve as cover for an officer?

8 A In a limited capacity, yes.

9 Q Okay. And what do you mean by a

10 limited capacity?

11 A It would be cover in some situations,

12 and to some, perhaps, firearms; some firearms, it would

13 not be adequate cover. But, yes, generally speaking, it

14 could be considered cover.

15 Q Would you agree with me that the

16 presence of a police cruiser, with or without lights and

17 sirens activated, can often serve as a deterrent?

18 A In some situations, yes.

19 Q And would you agree with me that lights

20 and sirens being activated on a police cruiser can often

21 serve as a deterrent?

22 A In some situations, they can.

23 Q Another section of the policy, Page

Page 59

1 2-6.6, Subsection 2, requires an officer to identify

2 himself or herself and give warning prior to discharging

3 their firearm. Is that still a policy of the Raleigh

4 County Sheriff's Department?

5 A When you can do that, yes.

6 Q Okay. I think we've covered this

7 before, I'm not sure. You weren't aware of it prior to

8 today, but you are now aware that the assertion by

9 Officers Kade and Hajash that they announced their

10 presence prior to discharging their firearm is in dispute

11 in this case?

12 MR. WILLIAMS: Objection to form. You

13 can answer.

14 BY MR. OLIVIO:

15 A You made me aware, yes.

16 Q Okay. But there is sworn testimony to

17 that fact, you are now aware of that?

18 A You have told me that. Yes, sir.

19 Q Given that fact, and knowing now that

20 there is sworn testimony that they did not announce their

21 presence prior to discharging, do you believe that is

22 something the Sheriff's Department should look into

23 further?

Page 60

1 A I've seen nothing and only heard you

2 comment to that. So I would have questions about that.

3 I would not say that we need to look into that till I've

4 seen what's said.

5 Q Okay. I will represent to you that I

6 have the sworn testimony, as does your counsel, and I

7 believe it is readily available. I would be happy to

8 mail you a copy, but I think your counsel should probably

9 provide that. If it is provided to you, do you believe

10 that if what I'm representing is accurate, that that is

11 something that should be looked into by the Department?

12 MR. WILLIAMS: Objection to the extent

13 it calls for speculation and doesn't give a

14 full picture of the testimony. You can answer.

15 BY MR. OLIVIO:

16 A I did not mean to dispute that it was

17 done. What I meant was if they're outside, as opposed to

18 inside, if they don't have doors closed or walls between

19 them, would be my bearing on how I would look into the

20 need to follow-up with that.

21 Q Are you interested in seeing that

22 testimony at this time?

23 A No, sir.

Page 61

1 MR. WILLIAMS: Objection to relevance.

2 BY MR. OLIVIO:

3 Q You're not curious to see if there are

4 people who have sworn under oath that the version of

5 events that your officers have provided is inaccurate?

6 A That's not what I'm saying at all.

7 Q Okay.

8 A What I know is that when we're done I'm

9 going to see that. So to see it now, I don't need to, I

10 will see that.

11 Q Okay. Page 1-9.8, provides authority

12 by the chief deputy or other supervisory personnel to

13 request, or even order, that the officers submit to a

14 polygraph exam. Are you aware of either Officer Hajash

15 or Kade submitting to a polygraph after this shooting

16 event?

17 A I'm not aware of them being required or

18 needed to.

19 Q As chief deputy at the time, you did

20 not order either of them to submit to a polygraph?

21 A I did not.

22 Q Are you aware of anyone requesting or

23 ordering them to do so?

Page 62

1 A I am not.

2 Q If your review of the testimony that I

3 referred to earlier would lead you to believe that some

4 of the statements made by Officers Kade and Hajash are

5 now called into question, would you ask Officer Kade, as

6 a current employee, to submit to a polygraph?

7 MR. WILLIAMS: Objection. Calls for

8 speculation. You can answer.

9 BY MR. OLIVIO:

10 A If I did read and had concern that

11 there is strong indication they did not give a warning

12 when they, in fact, in their statement said they did, I

13 would follow up with that and look into that. And a

14 polygraph is certainly a possibility to looking into

15 that.

16 Q Sheriff Tanner, I'm going to bounce

17 around a little bit to clean up some follow-up questions.

18 I may be done. Going back to your conversation with

19 former Deputy Hajash that he recorded in some fashion,

20 you are aware of at least some indication he may have

21 been declared unfit for duty, but were not provided a

22 report to that effect. Correct?

23 MR. WILLIAMS: Same standing objection

Page 63

1 to relevance. You can answer.

2 BY MR. OLIVIO:

3 A Yeah. My understanding was that he was

4 physically unable to come to work, but why was certainly

5 in question.

6 Q Okay. You would have needed him to be

7 cleared medically in order for him to return to work.

8 Correct?

9 A I would have insisted on him being

10 cleared medically to come back to work. Yes.

11 Q With this sort of gray area of Dr. Syed

12 and what he may or may not have diagnosed, would you have

13 required former Deputy Hajash to provide some record or

14 release from Dr. Syed to put him back out on the street?

15 A It would not have been my

16 responsibility, but the acting sheriff at that time.

17 Q His mental health status would needed

18 to have been cleared up?

19 A I would have been more comfortable that

20 it would be. But, again, I was the chief deputy and the

21 sheriff would be the one who would decide that.

22 Q I understand.

23 MR. OLIVIO: Let's go off the record

Page 64

1 for a second.

2 (WHEREUPON, a short break

3 was taken)

4 MR. OLIVIO: Sheriff Tanner, I think

5 that is all the questions I have. There may be

6 some questions for you from the other lawyers.

7 I thank you for your time today.

8 THE WITNESS: Thank you very much.

9 MR. MOORE: I have no questions.

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

11 (Witness Excused)

12 (WHEREUPON, the deposition

13 was concluded)

B.R.A.

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 ROBERT STEVEN TANNER 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.

interested in the action, or interested, directly or indirectly, in the matter in controversy.

Given under my hand this 15th day of August, 2010.

H. DAVID STANLEY, Reporter
Notary Public

My commission expires April 2, 2018.

STATE OF WEST VIRGINIA
COUNTY OF _____, to-wit:

I, ROBERT STEVEN TANNER, have read the foregoing transcript of my testimony taken on August 9, 2010, and attach my signature in acknowledgment of same.

ROBERT STEVEN TANNER, Deponent

Notary Public

My commission expires: _____

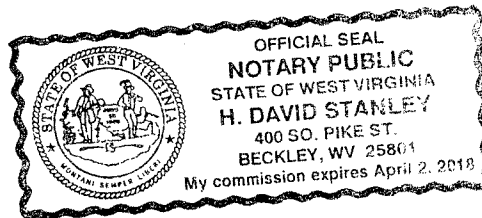
B.R.A.

E R R A T A S H E E T

The following changes and/or corrections are suggested for the deposition of ROBERT STEVEN TANNER, taken on August 9, 2010.

PAGE NO. LINE NO. REFERENCE CORRECTION

B.R.A.



EXHIBITS

Form 100-100 (Rev. 10-1-80) - INCIDENT REPORT

NAME: Robert A. [redacted] DOB: [redacted] RACE: [redacted] SEX: [redacted] AGE: [redacted]

ADDRESS: [redacted] CITY: [redacted] STATE: [redacted] ZIP: [redacted]

PHONE: [redacted] RELATIONSHIP: [redacted] OCCUPATION: [redacted]

INCIDENT CAUSE: [redacted] NATURE OF CALL: [redacted] TIME OF SYMPTOM ONSET OR INJURY: [redacted]

EDICAL: [redacted] TRAUMA: [redacted] MCI: [redacted]

TIME: [redacted] HRS: [redacted] MIN: [redacted] SEC: [redacted]

GA# [redacted] IV SITE [redacted] SOLUTION [redacted] CODE # [redacted]

PREHOSPITAL CARE (CHECK): [redacted]

AGE 44 SEX male CHIEF COMPLAINT (S) 911 Dispatch Immediate response GSW male down upon arrival to scene pt was found laying supine in driveway Sheriff's Deputy stated pt was shot we were told by Sheriff's Dept not to touch pt until pictures were taken

pt was pulseless + apnoeic had GSW to @ Side at chest approx 1 inch above to sternum wound to @ Cheek Area wound to @ forehead there was large amount of blood to scene area there was large pool of blood next to pt's body pt's head was turned to the @ pt was laying wearing Just his underwear green T-Shirt when we showed A systolic

#ATT. / SUCC. CREW: [redacted]

CRICOTHYROTOMY [redacted] COMBITUBE [redacted] E T TUBE [redacted] INTRAOSESIOUS [redacted] IV START [redacted] ROTOCOL # [redacted]

NAME: [redacted] CERTIFICATE: [redacted] SIGNATURE: [redacted] DATE: [redacted]

1. [redacted] 2. [redacted] 3. [redacted]

EXHIBIT

8.9.10 HPS

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER

Phone: (800) 788-7133 Fax: (800) 578-7223

Print Date: July 06, 2006



FIREARMS TRACE SUMMARY

Trace Number: T20060151251

Request Date: July 06, 2006

DET CPL J C CANADAY
 RALEIGH COUNTY SHERIFF OFFICE
 201 SOUTH EISENHOWER DR.
 BECKLEY, WV 25801

Badge No: 130

Investigation No: 200629168

FIREARM INFORMATION

Manufacturer: ROMARM/CUGIR

Model: SAR-1

Caliber: 762

Serial Number: S145986-2001

Type: RIFLE

Country: ROMANIA

Importer: CENTURY ARMS INC (CAI), FAIRFAX,

Obliterated: No

Identifying Marks: MOD=AK-47

NIBIN:

Gang Name:

RECOVERY INFORMATION

Recovery Date: 07/04/2006

Time to Crime:

PURCHASER INFORMATION

Purchase Date:

257 CABELL HEIGHTS RD

BECKLEY, WV 25801

UNITED STATES

Possessor: ROBERT A WEBB

DOB: 07/01/1962

POB:

Height:

Weight:

DEALER INFORMATION

FFL:45534030

BECKLEY PAWN & GUN

152 EAST PRINCE ST

BECKLEY, WV 25801-0000

Phone: (304) 252-7296

Ship Date: 03/04/2002

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THIS TRACE REQUEST HAS BEEN STOPPED AT THE DIRECTION OF THE REQUESTOR. WHEN IT IS APPROPRIATE TO CONTINUE THIS TRACE, OR IF DISPOSITION INFORMATION IS OBTAINED, PLEASE CONTACT THE ATF NATIONAL TRACING CENTER (TOLL FREE 800-788-7133).

Additional Remarks:

BASED ON THE SUBMITTED FIREARM INFORMATION AND SERIALIZATION USED BY ROMARM/CUGIR, THIS FIREARM IS A MODEL SAR-1. MODEL ADDED TO TRACE.

Information in this report must be validated prior to use in any criminal proceedings.

EXHIBIT

2

8-9-10 HDS