



San Diego County Sheriff's Department Crime/Incident Report

Case No. **10064025**CAD Event No.: **S8708726**Case Disposition: **Active**Primary Victim: **(b)(5)(B)**Report No. **10064025.1****1**

Page 1 of 6

GENERAL CASE INFORMATION

Primary Charge: 245 (A)(2) - PC - ADW:ASSAULT WITH FIREARM ON PERS (F)			
Special Studies:		Related Cases:	
Location, City, State, ZIP: (b)(5)(B) Japatul Rd, Alpine, CA 91901		Occurred On: 10/19/2010 03:00:00 (Tuesday)	
Jurisdiction: Alpine - ALPINE	Beat: 563	Call Source: ANI/ALI	(and Between): 10/19/2010 08:20:00 (Tuesday)
Means: 13 - Suspect Fired Weapon 16 - Victim forced to floor 31 - Suspect Pushed/Shoved Victim		Motives:	

VICTIM/S**Victim #1**

Person Code: <input type="checkbox"/> Secured Premise <input type="checkbox"/> Discovered Crime <input type="checkbox"/> Reporting Party <input type="checkbox"/> Law Enforcement Officer			
Name: (b)(5)(B)		Victim Type: I - Individual	Interpreter Language:
ALIAS / AKA / NICKNAME / MONIKER:			
Name Type:	First:	Middle:	Last:
Suffix:			
Victim Of: 245 (A)(2) - PC - ADW:ASSAULT WITH FIREARM ON PERS (F) 236 - PC - FALSE IMPRISON W/VIOL/MENACE/FRAUD/DECEIT (F)			County Residence: R - Resident
Home Address, City, State, ZIP: (b)(5)(B)		Res. Country: US	Place of Birth:
Race: (b)(5)(B)	Sex: (b)(5)(B)	Date of Birth / Age: (b)(5)(B)	Height: (b)(5)(B)
Weight: (b)(5)(B)	Hair Color: (b)(5)(B)	Eye Color: (b)(5)(B)	Facial Hair: (b)(5)(B)
Complexion: (b)(5)(B)	Employment Status:		
Occupation/Grade:	Employer/School:		Employer Address, City, State, ZIP:
CONTACT INFORMATION:			
Type: MP - Mobile Phone	Number/Address: (b)(5)(B)		
IDENTIFICATION:			
Type: SSN - SSN	Number: (b)(5)(B)	State:	Country:
Attire:	Injury: N - None	Extent of Treatment:	Violent Crime Circumstances: 09 - Other Circumstances
LAW ENFORCEMENT OFFICER KILLED OR ASSAULTED INFORMATION	Type:	Type Activity:	Type Assignment:
VICTIM OFFENDER RELATIONSHIPS	Offender: Foster, Michael Allen	Relationship: SE - Victim Was Spouse	

IBR/UCR OFFENSE/S

Offense Description: 245 (A)(2) - PC - ADW:ASSAULT WITH FIREARM ON PERS (F)	Level: F	Against: PE	Completed?: Yes	Counts	Using: A - Alcohol
Location Type: 204 - Single Detached Home	Hate/Bias: 88 - None (No Bias)	Domestic Violence: Yes			
Criminal Activity:	Type Security:	Gang Related:	Entry:	Point of Entry:	
Weapons/Force: 12 - Handgun	Tools:	Targets: RES11 - Person			
Offense Description: 236 - PC - FALSE IMPRISON W/VIOL/MENACE/FRAUD/DECEIT (F)	Level: F	Against: PE	Completed?: Yes	Counts	Using:
Location Type: 204 - Single Detached Home	Hate/Bias: 88 - None (No Bias)	Domestic Violence: Yes			
Criminal Activity:	Type Security:	Gang Related:	Entry:	Point of Entry:	

Reporting Officer: SH2170 - BARNES, DAN	Division / Organization: Alpine Station ALPINE PATROL	Reviewed By: SH1672 - WALKER, JAMES
Report Date: 10/19/2010 5:20:55 PM	Detective Assigned: HILLEN, DAVID	Reviewed Date: 10/19/2010 20:54:04



San Diego County Sheriff's Department Crime/Incident Report

CAD Event No.: **S8708726**Case No. **10064025**Case Disposition: **Active**Primary Victim: **(b)(5)(B)**Report No. **10064025.1****2**
Page 2 of 6

Weapons/Force: 12 - Handgun		Tools:		Targets: RES11 - Person			
Offense Description: 246.3 (A) - PC - WILLFUL DISCHARGE OF FIREARM IN A GROSSLY NEGLIGENT MANNER (F)			Level: F	Against: SO	Completed? Yes	Counts	Using: A - Alcohol
Location Type: 061 - Construction Site - Structure		Hate/Bias: 88 - None (No Bias)			Domestic Violence: Yes		
Criminal Activity: U - Using/Consuming		Type Security:		Gang Related:	Entry:	Point of Entry:	
Weapons/Force: 12 - Handgun		Tools:		Targets:			

ARRESTEE/S

SUSPECT/S (Not Yet Arrested)**Suspect #1**

Name: Foster, Michael Allen				County Residence: R - Resident		Interpreter Language:			
ALIAS / AKA / NICKNAME / MONIKER:									
Name Type:		First:		Middle:		Last:		Suffix:	
Home Address, City, State, ZIP: (b)(5)(B)				Res. Country: US		Place of Birth: California		Undocumented: No	
Race: W	Sex: M	Date of Birth / Age: (b)(5)(B) - 38	Height: 5' 9"	Weight: 280	Hair Color: BRO	Eye Color: BRO	Facial Hair: 03 - Full Beard and Mustache		Complexion:
Hair Style: S - Straight		Hair Length: S - Short		Build: FAT - Heavy		Teeth:		Suspected User:	
Employment Status:		Occupation/Grade:		Employer/School:		Employer Address, City, State, ZIP:			
CONTACT INFORMATION:									
Type: HP - Home Phone				Number/Address: (b)(5)(B)					
IDENTIFICATION:									
Type: DLN - Drivers License Number		Number: (b)(5)(B)		State: CA		Country: US			
Type: SSN - SSN		Number: (b)(5)(B)		State:		Country:			
SCARS, MARKS, TATTOOS, ODDITIES:									
Attire:				Suspect Actions:					

WITNESSES**Witness #1**

Person Code:	<input type="checkbox"/> Secured Premise	<input type="checkbox"/> Discovered Crime	<input type="checkbox"/> Reporting Party	<input type="checkbox"/> Law Enforcement Officer					
Witness Type Code:	<input type="checkbox"/> 01-Arresting Officer	<input type="checkbox"/> 06-Other Lay Witness	<input type="checkbox"/> 07-Narc Chemist	<input type="checkbox"/> 12-Other Expert	<input type="checkbox"/> 13-Investigator	<input type="checkbox"/> 14-Other			
Name: Fuhr, P				Person Code:	County Residence:				
ALIAS / AKA / NICKNAME / MONIKER:									
Name Type:		First:		Middle:		Last:		Suffix:	
Home Address, City, State, ZIP:				Res. Country:		Place of Birth:		Undocumented:	
Race:	Sex:	Date of Birth / Age:	Height:	Weight:	Hair Color:	Eye Color:	Facial Hair:		Complexion:
Employment Status: E - Employed	Occupation/Grade: Deputy		Employer/School: SDSO		Employer Address, City, State, ZIP: 2751 Alpine Blvd, Alpine, CA 91901				
CONTACT INFORMATION:									
Type: WP - Work Phone				Number/Address: (b)(5)(B)					

Reporting Officer SH2170 - BARNES, DAN	Division / Organization Alpine Station ALPINE PATROL	Reviewed By SH1672 - WALKER, JAMES
Report Date 10/19/2010 5:20:55 PM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/19/2010 20:54:04



San Diego County Sheriff's Department Crime/Incident Report

Case No. **10064025**CAD Event No.: **S8708726**Case Disposition: **Active**Primary Victim: **(b)(5)(B)**Report No. **10064025.1****3**

Page 3 of 6

IDENTIFICATION:			
Type: SH - Sheriff ID	Number: 6655	State:	Country:
Injury:		Extent of Treatment:	

Witness #2

Person Code: <input type="checkbox"/> Secured Premise <input type="checkbox"/> Discovered Crime <input type="checkbox"/> Reporting Party <input type="checkbox"/> Law Enforcement Officer		
Witness Type Code: <input type="checkbox"/> 01-Arresting Officer <input type="checkbox"/> 06-Other Lay Witness <input type="checkbox"/> 07-Narc Chemist <input type="checkbox"/> 12-Other Expert <input type="checkbox"/> 13-Investigator <input type="checkbox"/> 14-Other		
Name: Mcfarland, W	Person Code:	County Residence:

ALIAS / AKA / NICKNAME / MONIKER:									
Name Type:		First:		Middle:		Last:		Suffix:	
Home Address, City, State, ZIP:				Res. Country:		Place of Birth:		Undocumented:	
Race:	Sex:	Date of Birth / Age:	Height:	Weight:	Hair Color:	Eye Color:	Facial Hair:	Complexion:	
Employment Status: E - Employed		Occupation/Grade: Deputy		Employer/School: SDSO		Employer Address, City, State, ZIP: 2751 Alpine Blvd, Alpine, CA 91901			

CONTACT INFORMATION:			
Type: WP - Work Phone		Number/Address: (b)(5)(B)	
IDENTIFICATION:			
Type: SH - Sheriff ID	Number: 2066	State:	Country:
Injury:		Extent of Treatment:	

OTHER ENTITIES

PROPERTY

REPORT NARRATIVE

Synopsis:

On 101910 (b)(5)(B) reported that her husband, Michael Foster, had pointed a gun at her head and discharged the gun, narrowly missing her head. Michael fired the gun several times during a five hour ordeal at their residence. During this time, Michael put the gun to the back of (b)(5)(B) head and ordered her to her knees. He then used the barrel of the gun against the back of her head to push her all the way on to the floor, to a prone position.

Origin:

On 101910, at 0823 hours, I received a radio call, (CAD#8708726), to investigate a 245PC at (b)(5)(B) Japatul Rd, in Alpine. The victim, (b)(5)(B) stated her husband, Michael Foster, had been pointing a gun at her head for hours and had fired the gun, missing her head. (b)(5)(B) said she had fled the house and would meet us up at the road. (b)(5)(B) said Michael suffered from post traumatic stress disorder from combat while serving in the Army.

Investigation:

Deputy Fuhr and I arrived at 0836 hours. Deputy McFarland was already on scene. I spoke with the victim, (b)(5)(B) and she told me the following:

Background:

Reporting Officer SH2170 - BARNES, DAN	Division / Organization Alpine Station ALPINE PATROL	Reviewed By SH1672 - WALKER, JAMES
Report Date 10/19/2010 5:20:55 PM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/19/2010 20:54:04



San Diego County Sheriff's Department Crime/Incident Report

Case No. **10064025**

CAD Event No.: **S8708726**

Case Disposition: **Active**

Primary Victim: **(b)(5)(B)**

Report No. **10064025.1**

4

Page 4 of 6

None.

Statements:

Statement of Victim **(b)(5)(B)** **(b)(5)(B)**

(b)(5)(B) said she was sleeping in bed when Michael came in the room and woke her up around 0300 hours. **(b)(5)(B)** said Michael was "Ranting and raving" about making a bomb. **(b)(5)(B)** said this was not the first time Michael had acted this way. **(b)(5)(B)** said she was upset with Michael for waking her up so she left the room and lay down on the couch in the living room. **(b)(5)(B)** said within a minute Michael exited the bedroom and had a handgun in his hand. **(b)(5)(B)** described the gun as large, black, with wood grips. **(b)(5)(B)** said she thought it might be a revolver. **(b)(5)(B)** said again this was not the first time Michael had done this so she attempted to ignore him and walked into the bathroom.

(b)(5)(B) said Michael began pounding on the door and demanding she come out. **(b)(5)(B)** said when she opened the door, Michael was standing there with the gun pointed at her head. I asked **(b)(5)(B)** how far away was Michael from her. **(b)(5)(B)** stepped back from me and raised her hand to simulate Michael pointing the gun. **(b)(5)(B)** was approximately three to four feet away from me. **(b)(5)(B)** said Michael said, "Who's side are you on" as he continued to point the gun at her head. Michael then moved the gun slightly to one side and fired one round, narrowly missing her head.

(b)(5)(B) said Michael then walked outside and fired several more rounds. **(b)(5)(B)** said one round went through the sliding glass door of the main house next door and another through their glass patio table.

(b)(5)(B) said Michael fired two or three more rounds into the canyon. **(b)(5)(B)** said Michael was "Rambling" about the CIA and extraction teams.

(b)(5)(B) said Michael came back inside the house and asked her to help him find more bullets. **(b)(5)(B)** said she told Michael there was no way she was going to help him find more bullets. **(b)(5)(B)** said Michael put the gun to the back of her head and said, "Get on your knees". **(b)(5)(B)** said she complied and got on her knees. **(b)(5)(B)** said Michael held the gun to the back of her head and used it to push her all the way to the floor. **(b)(5)(B)** said she was lying on the floor, on her stomach. **(b)(5)(B)** said Michael was on top of her, holding her down, as he pulled things out of the closet, looking for more bullets.

(b)(5)(B) said Michael would move the gun away and then put it back against the back of her head as he continued to search the closet. While **(b)(5)(B)** was telling me this she kept saying, "I shouldn't be telling you this. I don't want him to get in trouble".

(b)(5)(B) said Michael finally let her up. **(b)(5)(B)** said Michael had found an ammunition belt in the closet. **(b)(5)(B)** said she did not know how many rounds were in the belt. **(b)(5)(B)** said Michael lay on the floor of the bedroom, on his back, in the middle of all of the items he had pulled out of the closet. **(b)(5)(B)** said Michael put a towel over his head and was holding the gun under his chin. **(b)(5)(B)** said Michael said, "Go, get out, save yourself". **(b)(5)(B)** said she exited the residence and went to the neighbors house to call 911.

Reporting Officer SH2170 - BARNES, DAN	Division / Organization Alpine Station ALPINE PATROL	Reviewed By SH1672 - WALKER, JAMES
Report Date 10/19/2010 5:20:55 PM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/19/2010 20:54:04



San Diego County Sheriff's Department Crime/Incident Report

Case No. **10064025**

CAD Event No.: **S8708726**

Case Disposition: **Active**

Primary Victim: **(b)(5)(B)**

Report No. **10064025.1**

5

Page 5 of 6

(b)(5)(B) said she had removed the guns from the house several months ago. (b)(5)(B) said she was afraid what Michael might do because he was suffering from post traumatic stress disorder. (b)(5)(B) said an old friend had "bequeathed" a pistol and rifle to Michael. (b)(5)(B) said she gave the guns to a friend to hold. I asked (b)(5)(B) if she had seen the rifle today or if she knew if Michael had it or not. (b)(5)(B) said she hadn't seen the rifle, but she hadn't seen the pistol until this morning. I asked (b)(5)(B) to call the friend and ask about the guns. (b)(5)(B) made a call and advised me the friend had given Michael the pistol a couple months ago but not the rifle.

I asked (b)(5)(B) if Michael had been getting treatment for his PTSD. (b)(5)(B) said not recently but he had been seen in the past by a doctor in San Bernadino named (b)(5)(B). (b)(5)(B) said Michael was currently taking Adavan, Trazadon and Paxal. (b)(5)(B) said she thought Michael had been taking his medications.

(b)(5)(B) said Michael had talked about suicide in the past and had talked about suicide by cop. (b)(5)(B) said she was afraid Michael was going to come out of the house with the gun and make us shoot him.

Investigation Cont'd:

Deputy Fuhr and Deputy McFarland approached the residence and set up a perimeter. I requested a PERT unit telephone me to get some more information on Michael's condition and treatment. I was told a SDPD PERT unit was going to call but I never received the call.

At 0903 hours Sgt. Browning responded to the scene. I briefed him on the situation. At 0919 hours Sgt. Browning and I approached the front of the residence and made several announcements for Michael to exit the residence. We did not get any response. I held the perimeter position at the front of the residence and Sgt. Browning returned to the road. At 0958 hours I heard the radio transmission advising the incident had turned into a code 11 - SED Swat call out.

At approximately 1245 hours I was relieved from my perimeter position by SED personnel. I returned to the command post.

At approximately 1400 hours Det Bolter and I were instructed to return to the scene and secure it. Det Bolter and I took up a position in the driveway, approximately 100 feet east of the residence. At 1700 hours homicide Sgt. D. Martinez released me from the scene.

Evidence:

None.

Injuries:

None.

Property Damage:

None.

Reporting Officer SH2170 - BARNES, DAN	Division / Organization Alpine Station ALPINE PATROL	Reviewed By SH1672 - WALKER, JAMES
Report Date 10/19/2010 5:20:55 PM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/19/2010 20:54:04



San Diego County Sheriff's Department Crime/Incident Report

Case No. **10064025**

CAD Event No.: **S8708726**

Case Disposition: **Active**

Primary Victim: **(b)(5)(B)**

Report No. **10064025.1**

6

Page 6 of 6

Follow-up:
Homicide investigators to handle.

Related Reports:
None.

Reporting Officer SH2170 - BARNES, DAN	Division / Organization Alpine Station ALPINE PATROL	Reviewed By SH1672 - WALKER, JAMES
Report Date 10/19/2010 5:20:55 PM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/19/2010 20:54:04



San Diego County Sheriff's Department Arrest/Juvenile Contact Report

Case No. **10064025**CAD Event No.: **S8708726**Case Disposition: **Arrest**Primary Victim: **(b)(5)(B)**Report No. **10064025.2****1**
Page 1 of 6**ARREST REPORT****JUVENILE CONTACT REPORT**WARRANT: ☐ LOCAL ☐ OUT**GENERAL CASE INFORMATION**

Primary Charge: 245 (D)(1) - PC - ASSAULT W/FIREARM ON PEACE OFFICER/FIREFIGHTER (F)			
Special Studies: OIS - Officer Involved Shooting		Related Cases:	
Location, City, State, ZIP: (b)(5)(B) Japatul Rd, Alpine, CA 91901		Occurred On: 10/19/2010 03:00:00 (Tuesday)	
Jurisdiction: Alpine - ALPINE	Beat: 563	Call Source: ANI/ALI	(and Between): 10/19/2010 08:20:00 (Tuesday)
Means: 13 - Suspect Fired Weapon 16 - Victim forced to floor 31 - Suspect Pushed/Shoved Victim		Motives:	

VICTIM/S**Victim #1**

Person Code: <input type="checkbox"/> Secured Premise <input type="checkbox"/> Discovered Crime <input type="checkbox"/> Reporting Party <input type="checkbox"/> Law Enforcement Officer			
Name: (b)(5)(B)		Victim Type: I - Individual	Interpreter Language:
ALIAS / AKA / NICKNAME / MONIKER:			
Name Type:	First: (b)(5)(B)	Middle:	Last:
Suffix:			
Victim Of: 245 (A)(2) - PC - ADW:ASSAULT WITH FIREARM ON PERS (F) 236 - PC - FALSE IMPRISON W/VIOLENT MENACE/FRAUD/DECEIT (F)			County Residence: R - Resident
Home Address, City, State, ZIP: (b)(5)(B)		Res. Country: US	Place of Birth:
Race: (b)(5)(B)	Sex: (b)(5)(B)	Date of Birth / Age: 0	Height:
Weight:	Hair Color:	Eye Color:	Facial Hair:
Complexion:			
Employment Status:	Occupation/Grade: (b)(5)(B)	Employer/School:	Employer Address, City, State, ZIP:
CONTACT INFORMATION:			
Type: MP - Mobile Phone	Number/Address: (b)(5)(B)		
Type: WP - Work Phone	Number/Address: (b)(5)(B)		
IDENTIFICATION:			
Type: SSN - SSN	Number: (b)(5)(B)	State:	Country:
Type: DLN - Drivers License Number	Number: (b)(5)(B)	State: CA	Country:
Attire:	Injury: N - None	Extent of Treatment:	Violent Crime Circumstances: 09 - Other Circumstances
LAW ENFORCEMENT OFFICER KILLED OR ASSAULTED INFORMATION	Type:	Type Activity:	Type Assignment:
VICTIM OFFENDER RELATIONSHIPS	Offender: Foster, Michael Allen	Relationship: SE - Victim Was Spouse	

Victim #2

Person Code: <input type="checkbox"/> Secured Premise <input type="checkbox"/> Discovered Crime <input type="checkbox"/> Reporting Party <input type="checkbox"/> Law Enforcement Officer			
Name: Olin, Kevin		Victim Type: L - Law Enforcement Officer	Interpreter Language:
ALIAS / AKA / NICKNAME / MONIKER:			
Name Type:	First:	Middle:	Last:
Suffix:			

Reporting Officer HILLEN, DAVID	Division / Organization Homicide Unit	Reviewed By SH1136 - MARTINEZ, DAVE
Report Date 10/20/2010 12:03:48 AM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/21/2010 08:17:44



San Diego County Sheriff's Department

Arrest/Juvenile Contact Report

CAD Event No.: **S8708726**Case No. **10064025**Case Disposition: **Arrest**Primary Victim: **(b)(5)(B)**Report No. **10064025.2****2**

Page 2 of 6

Victim Of: 245 (D)(1) - PC - ASSAULT W/FIREARM ON PEACE OFFICER/FIREFIGHTER (F)								County Residence: N - Nonresident									
Home Address, City, State, ZIP:						Res. Country:		Place of Birth:		Undocumented: No							
Race: W		Sex: M		Date of Birth / Age: 43		Height:		Weight:		Hair Color:		Eye Color:		Facial Hair:		Complexion:	
Employment Status: E - Employed				Occupation/Grade: Deputy				Employer/School: San Diego County Sheriff's Dept.				Employer Address, City, State, ZIP: 1745 N Marshall Ave, El Cajon, CA 92020					
CONTACT INFORMATION:																	
Type: WP - Work Phone										Number/Address: (b)(5)(B)							
IDENTIFICATION:																	
Type: SH - Sheriff ID						Number: SH5523				State:				Country:			
Attire:						Injury: N - None				Extent of Treatment:				Violent Crime Circumstances: 02 - Assault On Law Enforcement Officer(s) 08 - Other Felony Involved			
LAW ENFORCEMENT OFFICER KILLED OR ASSAULTED INFORMATION						Type: A - Assaulted				Type Activity: 04 - Attempting Other Arrests				Type Assignment: J - Detective or Special Assignment - Assisted			
VICTIM OFFENDER RELATIONSHIPS						Offender: Foster, Michael Allen						Relationship: ST - Victim Was Stranger					

Victim #3

Person Code:		<input type="checkbox"/> Secured Premise	<input type="checkbox"/> Discovered Crime	<input type="checkbox"/> Reporting Party	<input type="checkbox"/> Law Enforcement Officer	
Name: Phillips, Jason					Victim Type: L - Law Enforcement Officer	Interpreter Language:

ALIAS / AKA / NICKNAME / MONIKER:				
Name Type:	First:	Middle:	Last:	Suffix:

Victim Of: 245 (D)(1) - PC - ASSAULT W/FIREARM ON PEACE OFFICER/FIREFIGHTER (F)								County Residence: N - Nonresident									
Home Address, City, State, ZIP:						Res. Country:		Place of Birth:		Undocumented: No							
Race: W		Sex: M		Date of Birth / Age: 35		Height:		Weight:		Hair Color:		Eye Color:		Facial Hair:		Complexion:	
Employment Status: E - Employed				Occupation/Grade: Deputy				Employer/School: San Diego Sheriff's Department				Employer Address, City, State, ZIP: 1745 N Marshall Ave, El Cajon, CA 92020					
CONTACT INFORMATION:																	
Type: WP - Work Phone										Number/Address: (b)(5)(B)							
IDENTIFICATION:																	
Type: SH - Sheriff ID						Number: SH4874				State:				Country:			
Attire:						Injury: N - None				Extent of Treatment:				Violent Crime Circumstances: 02 - Assault On Law Enforcement Officer(s) 08 - Other Felony Involved			
LAW ENFORCEMENT OFFICER KILLED OR ASSAULTED INFORMATION						Type: A - Assaulted				Type Activity: 04 - Attempting Other Arrests				Type Assignment: J - Detective or Special Assignment - Assisted			
VICTIM OFFENDER RELATIONSHIPS						Offender: Foster, Michael Allen						Relationship: ST - Victim Was Stranger					

IBR/UCR OFFENSE/S

Offense Description: 245 (D)(1) - PC - ASSAULT W/FIREARM ON PEACE OFFICER/FIREFIGHTER (F)				Level: F		Against: PE		Completed?: Yes		Counts		Using:	
Location Type: 102 - Lot/Park/Yard				Hate/Bias: 88 - None (No Bias)				Domestic Violence: No					

Reporting Officer HILLEN, DAVID		Division / Organization Homicide Unit		Reviewed By SH1136 - MARTINEZ, DAVE	
Report Date 10/20/2010 12:03:48 AM		Detective Assigned HILLEN, DAVID		Reviewed Date 10/21/2010 08:17:44	



San Diego County Sheriff's Department

Arrest/Juvenile Contact Report

Case No. **10064025**CAD Event No.: **S8708726**Case Disposition: **Arrest**Primary Victim: **(b)(5)(B)**Report No. **10064025.2****3**

Page 3 of 6

Criminal Activity:	Type Security:	Gang Related:	Entry:	Point of Entry:
Weapons/Force: 12 - Handgun	Tools:		Targets:	
Offense Description: 245 (A)(2) - PC - ADW:ASSAULT WITH FIREARM ON PERS (F)	Level: F	Against: PE	Completed? Yes	Counts A - Alcohol
Location Type: 204 - Single Detached Home	Hate/Bias: 88 - None (No Bias)	Domestic Violence: Yes		
Criminal Activity:	Type Security:	Gang Related:	Entry:	Point of Entry:
Weapons/Force: 12 - Handgun	Tools:		Targets: RES11 - Person	
Offense Description: 236 - PC - FALSE IMPRISON W/VIO/MENACE/FRAUD/DECEIT (F)	Level: F	Against: PE	Completed? Yes	Counts A - Alcohol
Location Type: 204 - Single Detached Home	Hate/Bias: 88 - None (No Bias)	Domestic Violence: Yes		
Criminal Activity:	Type Security:	Gang Related:	Entry:	Point of Entry:
Weapons/Force: 12 - Handgun	Tools:		Targets: RES11 - Person	
Offense Description: 246.3 (A) - PC - WILLFUL DISCHARGE OF FIREARM IN A GROSSLY NEGLIGENT MANNER (F)	Level: F	Against: SO	Completed? Yes	Counts A - Alcohol
Location Type: 204 - Single Detached Home	Hate/Bias: 88 - None (No Bias)	Domestic Violence: Yes		
Criminal Activity: P - Possessing/Concealing U - Using/Consuming	Type Security:	Gang Related: No	Entry:	Point of Entry:
Weapons/Force: 12 - Handgun	Tools:		Targets: RES99 - Residential Other	

ARRESTEE/S

Arrestee #1

Name: Foster, Michael Allen	County Residence: R - Resident	Interpreter Language:
---------------------------------------	--	-----------------------

ALIAS / AKA / NICKNAME / MONIKER:									
Name Type:	First:	Middle:	Last:	Suffix:					
Home Address, City, State, ZIP: (b)(5)(B)					Res. Country: US	Place of Birth: California	Undocumented: No		
Race: W	Sex: M	Date of Birth / Age: (b)(5)(B) - 38	Height: 5' 9"	Weight: 280	Hair Color: BRO	Eye Color: BRO	Facial Hair: 03 - Full Beard and Mustache	Complexion:	
Hair Style: S - Straight	Hair Length: S - Short	Build: FAT - Heavy	Teeth:	Suspected User:					
Employment Status: U - Unemployed	Occupation/Grade:	Employer/School:	Employer Address, City, State, ZIP:						
CONTACT INFORMATION:									
Type: HP - Home Phone	Number/Address: (b)(5)(B)								
IDENTIFICATION:									
Type: DLN - Drivers License Number	Number: (b)(5)(B)		State: CA		Country: US				
Type: SSN - SSN	Number: (b)(5)(B)		State:		Country:				
SCARS, MARKS, TATTOOS, ODDITIES:									
Attire:					Suspect Actions: 06 - Ate/drank On Premises 03 - Suspect Armed,				

Reporting Officer HILLEN, DAVID	Division / Organization Homicide Unit	Reviewed By SH1136 - MARTINEZ, DAVE
Report Date 10/20/2010 12:03:48 AM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/21/2010 08:17:44



San Diego County Sheriff's Department

Arrest/Juvenile Contact Report

Case No. **10064025**CAD Event No.: **S8708726**Case Disposition: **Arrest**Primary Victim: **(b)(5)(B)**Report No. **10064025.2****4**

Page 4 of 6

ARREST INFORMATION

Arrest Type:	LE Disposition:	JUS 750 Type:	Citation No.:	Booking No.:
O - Probable Cause Arrest - New Case	4 - Felony (Adult Only)	2 - Booked		
Arrested For:	Level:	Completed:	Counts:	
245 (A)(2) - PC - ADW:ASSAULT WITH FIREARM ON PERS (F)	F	Yes		
245 (D)(1) - PC - ASSAULT W/FIREARM ON PEACE OFFICER/FIREFIGHTER (F)	F	Yes		
236 - PC - FALSE IMPRISON W/VIOL/MENACE/FRAUD/DECEIT (F)	F	Yes		
246.3 (A) - PC - WILLFUL DISCHARGE OF FIREARM IN A GROSSLY NEGLIGENT MANNER (F)	F	Yes		
Arrested By:	Arrest Date and Time:	Arrest Location, City, State, ZIP:	Beat:	
HILLEN, DAVID	10/19/2010 13:31:00	(b)(5)(B) Japatul Rd, Pine Valley, CA 91962	563	
Arrest Assisted By:	Transported By:			
HALL, LESLEE				
Miranda Read:	Admonished By:	Miranda Response:	Jail Billing Code:	Booked Location:
Yes	HALL, LESLEE	"I need a lawyer present"	SD Sheriff's Office	
Armed With:	Use of Force to effect Arrest:			
12 - Handgun	Yes			

JUVENILES

Adult Present:	Person Notified:	Juvenile Disposition:	Detention Name:
Parents Notified By:	Notification Method:	Date and Time Notified:	Juvenile Released To:

RELEASE INFORMATION

Released Location:	Released On:	Released By:	Release Reason:

SUSPECT/S (Not Yet Arrested)**WITNESSES****Witness #3**

Person Code:	<input type="checkbox"/> Secured Premise	<input type="checkbox"/> Discovered Crime	<input type="checkbox"/> Reporting Party	<input type="checkbox"/> Law Enforcement Officer		
Witness Type Code:	<input type="checkbox"/> 01-Arresting Officer	<input type="checkbox"/> 06-Other Lay Witness	<input type="checkbox"/> 07-Narc Chemist	<input type="checkbox"/> 12-Other Expert	<input type="checkbox"/> 13-Investigator	<input type="checkbox"/> 14-Other
Name:	Person Code:	County Residence:				
Kerr, William		N - Nonresident				

ALIAS / AKA / NICKNAME / MONIKER:

Name Type:	First:	Middle:	Last:	Suffix:				
Home Address, City, State, ZIP:	Res. Country:	Place of Birth:	Undocumented:					
			No					
Race:	Sex:	Date of Birth / Age:	Height:	Weight:	Hair Color:	Eye Color:	Facial Hair:	Complexion:
W	M	35						
Employment Status:	Occupation/Grade:	Employer/School:	Employer Address, City, State, ZIP:					
E - Employed	Deputy	San Diego Sheriff's Department	1745 N Marshall Ave, El Cajon, CA 92020					

CONTACT INFORMATION:

Type:	Number/Address:		
WP - Work Phone	(b)(5)(B)		
Type:	Number:	State:	Country:
SH - Sheriff ID	SH2623		
Injury:	Extent of Treatment:		

Witness #4

Person Code:	<input type="checkbox"/> Secured Premise	<input type="checkbox"/> Discovered Crime	<input type="checkbox"/> Reporting Party	<input type="checkbox"/> Law Enforcement Officer		
Witness Type Code:	<input type="checkbox"/> 01-Arresting Officer	<input type="checkbox"/> 06-Other Lay Witness	<input type="checkbox"/> 07-Narc Chemist	<input type="checkbox"/> 12-Other Expert	<input type="checkbox"/> 13-Investigator	<input type="checkbox"/> 14-Other
Name:	Person Code:	County Residence:				
Gavin, Brandon		N - Nonresident				

ALIAS / AKA / NICKNAME / MONIKER:

Name Type:	First:	Middle:	Last:	Suffix:
Home Address, City, State, ZIP:	Res. Country:	Place of Birth:	Undocumented:	
			No	

Reporting Officer	Division / Organization	Reviewed By
HILLEN, DAVID	Homicide Unit	SH1136 - MARTINEZ, DAVE
Report Date	Detective Assigned	Reviewed Date
10/20/2010 12:03:48 AM	HILLEN, DAVID	10/21/2010 08:17:44



San Diego County Sheriff's Department Arrest/Juvenile Contact Report

Case No. **10064025**CAD Event No.: **S8708726**Case Disposition: **Arrest**Primary Victim: **(b)(5)(B)**Report No. **10064025.2****5**

Page 5 of 6

Race: W	Sex: M	Date of Birth / Age: 35	Height:	Weight:	Hair Color:	Eye Color:	Facial Hair:	Complexion:
Employment Status: E - Employed		Occupation/Grade: Deputy		Employer/School: San Diego Sheriff's Department		Employer Address, City, State, ZIP: 1745 N Marshall Ave, El Cajon, CA 92020		
CONTACT INFORMATION:								
Type: WP - Work Phone						Number/Address: (b)(5)(B)		
IDENTIFICATION:								
Type: SH - Sheriff ID			Number: SH2649			State:		Country:
Injury:						Extent of Treatment:		

Witness #5

Person Code: <input type="checkbox"/> Secured Premise <input type="checkbox"/> Discovered Crime <input type="checkbox"/> Reporting Party <input type="checkbox"/> Law Enforcement Officer		
Witness Type Code: <input type="checkbox"/> 01-Arresting Officer <input type="checkbox"/> 06-Other Lay Witness <input type="checkbox"/> 07-Narc Chemist <input type="checkbox"/> 12-Other Expert <input type="checkbox"/> 13-Investigator <input type="checkbox"/> 14-Other		
Name: Farr, Bradley	Person Code:	County Residence: N - Nonresident

ALIAS / AKA / NICKNAME / MONIKER:								
Name Type:		First:		Middle:		Last:		Suffix:
Home Address, City, State, ZIP:				Res. Country:		Place of Birth:		Undocumented: No
Race: W	Sex: M	Date of Birth / Age: 35	Height:	Weight:	Hair Color:	Eye Color:	Facial Hair:	Complexion:
Employment Status: E - Employed		Occupation/Grade: Deputy		Employer/School: San Diego Sheriff's Department		Employer Address, City, State, ZIP: 1745 N Marshall Ave, El Cajon, CA 92020		
CONTACT INFORMATION:								
Type: WP - Work Phone						Number/Address: (b)(5)(B)		
IDENTIFICATION:								
Type: SH - Sheriff ID			Number: SH2618			State:		Country:
Injury:						Extent of Treatment:		

OTHER ENTITIES

PROPERTY

REPORT NARRATIVE

On October 19, 2010, at about 0823 hours, the San Diego Sheriff's Communication Center received a 9-1-1 call from a woman identified as (b)(5)(B), regarding her husband holding a gun to her head. Deputy McFarland (2066), responded and arrived on scene at about 0836 hours. Upon his arrival, he contacted (b)(5)(B) at the top of her driveway. (b)(5)(B) told Deputy McFarland that her husband, Michael Foster, had pointed a revolver against her head, and then fired several shots randomly throughout the guest house that they reside in at (b)(5)(B) Japatul Road (b)(5)(B) in Alpine. One of the rounds Michael fired went right by (b)(5)(B) head, and another went through the sliding glass door of the main residence and into the main residence. This was confirmed by the shattered sliding glass door seen by deputies who arrived on scene. Detective Fran Passalacqua (2204) arrived on scene and continued to interview (b)(5)(B). (b)(5)(B) told Detective Passalacqua that Michael woke her up at about 0300 hours this morning, grabbed her by the hair, asked her for ID, and asked what her mission was. After Michael fired all of the rounds in the revolver, he asked (b)(5)(B) to help him find more ammunition, which she refused to do. Michael held (b)(5)(B) captive and would not let her leave their home. At about 0810 hours, Michael was on his bed when he placed the barrel of the gun to his chin and put a towel over his head. Michael told (b)(5)(B) to get out of the house. Before (b)(5)(B) left the house to seek

Reporting Officer HILLEN, DAVID	Division / Organization Homicide Unit	Reviewed By SH1136 - MARTINEZ, DAVE
Report Date 10/20/2010 12:03:48 AM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/21/2010 08:17:44



San Diego County Sheriff's Department Arrest/Juvenile Contact Report

Case No. **10064025**

CAD Event No.: **S8708726**

Case Disposition: **Arrest**

Primary Victim: **(b)(5)(B)**

Report No. **10064025.2**

6

Page 6 of 6

help, Michael made a comment to her about getting into a shoot out with the police. **(b)(5)(B)** told Detective Passalacqua that Michael had been drinking beer this morning and was suffering from post traumatic stress disorder. **(b)(5)(B)** also said Michael was taking three different types of psychiatric medications.

Sheriff's personnel on scene unsuccessfully attempted to communicate with Michael by yelling and utilizing a PA system. At about 1008 hours, this incident was deemed a Special Enforcement Detail (S.E.D.) call out. At about 1231 hours, Sheriff's Deputies from the S.E.D. unit surrounded the house. At about 1240 hours, an armored vehicle containing Sheriff's Department S.E.D. and Hostage Negotiation Team personnel approached the residence and unsuccessfully attempted to communicate with Michael.

At about 1321 hours, Michael exited the front of the guest house, threw shell casings onto the ground, and went back into the house. At about 1323 hours, Michael exited the rear of the guest house with a revolver in his hand. When Michael pointed the revolver at deputies, three S.E.D. deputies shot at him. Michael was taken into custody at about 1331 hours, and then transported by paramedics to Sharp Memorial hospital where he remains hospitalized.

SEE FOLLOW UP REPORTS FOR NARRATIVE.

Reporting Officer HILLEN, DAVID	Division / Organization Homicide Unit	Reviewed By SH1136 - MARTINEZ, DAVE
Report Date 10/20/2010 12:03:48 AM	Detective Assigned HILLEN, DAVID	Reviewed Date 10/21/2010 08:17:44

PROPERTY/EVIDENCE FORM

San Diego Sheriff's Department

PAGE

1 OF 1

SDSO CASE NUMBER

10064025

SEIZURE DATE 10/22/10	INCIDENT TYPE 245(a)(2) PC	DIVISION Homicide	BILLING CODE	JUVENILE CASE ? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
CRIME DATE 10/19/10	INCIDENT LOCATION (b)(5)(B) Japatul Road, Alpine CA			KEY CASE NUMBER
REPORTING OFFICER D. Hillen	ID 1635	ASSIGNED DETECTIVE D. Hillen	ID 1635	STATION/UNIT Homicide
PERSON SUBMITTING (OTHER THAN ABOVE)		OUTSIDE AGENCY	OUTSIDE AGENCY CASE#	PHONE NUMBER
MAIL STOP O-41		DETECTIVES PHONE NUMBER (b)(5)(B)		

HAS OTHER EVIDENCE BEEN PREVIOUSLY SUBMITTED ON THIS CASE? ☒ Y ☐ N

LAB SERVICE?
☐ Y ☐ N

DATE NEEDED

PEOPLE AFFILIATED WITH THE LISTED PROPERTY

AFFILIATE TYPE VIC	NAME (LAST, FIRST, MIDDLE) Phillips, Jason	RACE	SEX M	DOB	AGE
HOME ADDRESS, CITY, STATE, ZIP			HOME PHONE		
EMPLOYER/SCHOOL INFORMATION (RANK IF MILITARY) SD Sheriff's Dept.		BUSINESS OR MILITARY ADDRESS, CITY, STATE, ZIP 2751 Alpine Blvd. Alpine CA 91901		BUSINESS PHONE (b)(5)(B)	
AFFILIATE TYPE VIC	NAME (LAST, FIRST, MIDDLE) Olin, Kevin	RACE	SEX M	DOB 01/01/01	AGE
HOME ADDRESS, CITY, STATE, ZIP			HOME PHONE		
EMPLOYER/SCHOOL INFORMATION (RANK IF MILITARY) SD Sheriff's Dept.		BUSINESS OR MILITARY ADDRESS, CITY, STATE, ZIP 2751 Alpine Blvd. Alpine CA 91901		BUSINESS PHONE (619) 659-2600	
AFFILIATE TYPE SUS	NAME (LAST, FIRST, MIDDLE) Foster, Michael	RACE White	SEX M	DOB (b)(5)(A)	AGE 37
HOME ADDRESS, CITY, STATE, ZIP (b)(5)(A)			HOME PHONE		
EMPLOYER/SCHOOL INFORMATION (RANK IF MILITARY) Unemployed		BUSINESS OR MILITARY ADDRESS, CITY, STATE, ZIP		BUSINESS PHONE	

EVIDENCE INFORMATION SECTION

ITEM# 43	LAB SERVICE? <input type="checkbox"/> Y <input type="checkbox"/> N	ITEM DESCRIPTION Bullet Fragments	QUANTITY 2	PLACE BAR CODE LABEL HERE
MAKE	MODEL	CALIBER	VALUE	
ID/SERIAL NUMBER	EVIDENCE TYPE CRIME	FILE CONTROL #		
PROP. AFFILIATION SUSPECT	NAME Foster, Michael	SEARCH WARRANT? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	FINDER WISHES TO CLAIM? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	
LAB REQUEST / COMMENT Fragments removed from Michael Foster during surgery on Oct. 21, 2010				

ITEM#	LAB SERVICE? <input type="checkbox"/> Y <input type="checkbox"/> N	ITEM DESCRIPTION	QUANTITY	PLACE BAR CODE LABEL HERE
MAKE	MODEL	CALIBER	VALUE	
ID/SERIAL NUMBER	EVIDENCE TYPE	FILE CONTROL #		
PROP. AFFILIATION	NAME	SEARCH WARRANT? <input type="checkbox"/> Y <input type="checkbox"/> N	FINDER WISHES TO CLAIM? <input type="checkbox"/> Y <input type="checkbox"/> N	
LAB REQUEST / COMMENT				

ITEM#	LAB SERVICE? <input type="checkbox"/> Y <input type="checkbox"/> N	ITEM DESCRIPTION	QUANTITY	PLACE BAR CODE LABEL HERE
MAKE	MODEL	CALIBER	VALUE	
ID/SERIAL NUMBER	EVIDENCE TYPE	FILE CONTROL #		
PROP. AFFILIATION	NAME	SEARCH WARRANT? <input type="checkbox"/> Y <input type="checkbox"/> N	FINDER WISHES TO CLAIM? <input type="checkbox"/> Y <input type="checkbox"/> N	
LAB REQUEST / COMMENT				

PROPERTY/EVIDENCE FORM San Diego Sheriff's Department				PAGE 1 OF 1		SDSO CASE NUMBER 10064025	
SEIZURE DATE 10/22/10		INCIDENT TYPE 245(a)(2) PC		DIVISION Homicide		BILLING CODE	
CRIME DATE 10/19/10		INCIDENT LOCATION (b)(5)(B) Japatul Road, Alpine CA					KEY CASE NUMBER
REPORTING OFFICER D. Hillen		ID 1635	ASSIGNED DETECTIVE D. Hillen	ID 1635	STATION/UNIT Homicide	MAIL STOP O-41	DETECTIVES PHONE NUMBER (b)(5)(B)
PERSON SUBMITTING (OTHER THAN ABOVE)			OUTSIDE AGENCY		OUTSIDE AGENCY CASE#		PHONE NUMBER
HAS OTHER EVIDENCE BEEN PREVIOUSLY SUBMITTED ON THIS CASE? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N						LAB SERVICE? <input type="checkbox"/> Y <input type="checkbox"/> N	DATE NEEDED
PEOPLE AFFILIATED WITH THE LISTED PROPERTY							
AFFILIATE TYPE VIC		NAME (LAST, FIRST, MIDDLE) Phillips, Jason				RACE	SEX M
		HOME ADDRESS, CITY, STATE, ZIP				DOB	AGE
		HOME PHONE					
EMPLOYER/SCHOOL INFORMATION (RANK IF MILITARY) SD Sheriff's Dept.			BUSINESS OR MILITARY ADDRESS, CITY, STATE, ZIP 2751 Alpine Blvd. Alpine CA 91901			BUSINESS PHONE (b)(5)(B)	
AFFILIATE TYPE VIC		NAME (LAST, FIRST, MIDDLE) Olin, Kevin				RACE	SEX M
		HOME ADDRESS, CITY, STATE, ZIP				DOB 01/01/01	AGE
		HOME PHONE					
EMPLOYER/SCHOOL INFORMATION (RANK IF MILITARY) SD Sheriff's Dept.			BUSINESS OR MILITARY ADDRESS, CITY, STATE, ZIP 2751 Alpine Blvd. Alpine CA 91901			BUSINESS PHONE (b)(5)(B)	
AFFILIATE TYPE SUS		NAME (LAST, FIRST, MIDDLE) Foster, Michael				RACE White	SEX M
		HOME ADDRESS, CITY, STATE, ZIP (b)(5)(A)				DOB (b)(5)(A)	AGE 37
		HOME PHONE					
EMPLOYER/SCHOOL INFORMATION (RANK IF MILITARY) Unemployed			BUSINESS OR MILITARY ADDRESS, CITY, STATE, ZIP			BUSINESS PHONE	
EVIDENCE INFORMATION SECTION							
ITEM# 46	LAB SERVICE? <input type="checkbox"/> Y <input type="checkbox"/> N		ITEM DESCRIPTION Compact Discs			QUANTITY 10	
MAKE			MODEL	CALIBER	VALUE		
ID/SERIAL NUMBER			EVIDENCE TYPE CRIME		FILE CONTROL #		
PROP. AFFILIATION SUSPECT		NAME Foster, Michael			SEARCH WARRANT? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N		FINDER WISHES TO CLAIM? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
LAB REQUEST / COMMENT Photo's and audio files							
ITEM#	LAB SERVICE? <input type="checkbox"/> Y <input type="checkbox"/> N		ITEM DESCRIPTION			QUANTITY	
MAKE			MODEL	CALIBER	VALUE		
ID/SERIAL NUMBER			EVIDENCE TYPE		FILE CONTROL #		
PROP. AFFILIATION		NAME			SEARCH WARRANT? <input type="checkbox"/> Y <input type="checkbox"/> N		FINDER WISHES TO CLAIM? <input type="checkbox"/> Y <input type="checkbox"/> N
LAB REQUEST / COMMENT							
ITEM#	LAB SERVICE? <input type="checkbox"/> Y <input type="checkbox"/> N		ITEM DESCRIPTION			QUANTITY	
MAKE			MODEL	CALIBER	VALUE		
ID/SERIAL NUMBER			EVIDENCE TYPE		FILE CONTROL #		
PROP. AFFILIATION		NAME			SEARCH WARRANT? <input type="checkbox"/> Y <input type="checkbox"/> N		FINDER WISHES TO CLAIM? <input type="checkbox"/> Y <input type="checkbox"/> N
LAB REQUEST / COMMENT							

LABORATORY REQUEST FORM
San Diego Sheriff's Department

SDSO Case # 10064025



AN INCIDENT REPORT MUST ACCOMPANY THIS FORM FOR TRACE AND DNA CASES

PRIORITY: (CHOOSE FROM DROP DOWN MENU, THEN FILL IN COURT DATE)

1 - OIS

DATE:

TODAY'S DATE 10/26/2010	CRIME DATE 10/19/10	INCIDENT TYPE 187 PC	DIVISION / OUTSIDE AGENCY Homicide	KEY CASE NUMBER / OUTSIDE AGENCY CASE #
-----------------------------------	-------------------------------	--------------------------------	--	---

INCIDENT LOCATION
(b)(5)(B) Japatul Road, Alpine, CA

REPORTING OFFICER D. Hillen	ID 1635	ASSIGNED DETECTIVE D. Hillen	ID 1635	PHONE # (b)(5)(B)
---------------------------------------	-------------------	--	-------------------	-----------------------------

E-MAIL david.hillen@sdsheriff.org	FAX (b)(5)(B)	MAIL STOP O-41
---	-------------------------	--------------------------

HAS OTHER EVIDENCE BEEN PREVIOUSLY SUBMITTED ON THIS CASE?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	RELATED CASE # (IF ANY)
--	--	-------------------------

PEOPLE AFFILIATED WITH THE LISTED PROPERTY

VIC	NAME (LAST, FIRST, MIDDLE) Phillips, Jason			
	RACE w	SEX M	DOB	AGE
VIC	NAME (LAST, FIRST, MIDDLE) Olin, Kevin			
	RACE w	SEX M	DOB	AGE
SUS	NAME (LAST, FIRST, MIDDLE) Foster, Michael			
	RACE W	SEX M	DOB (b)(5)(B)	AGE 37

Item#	Affiliation	SDSO Bar Code#								Item Description	Returned to P/E (lab use only)
	SUS	I	1	1	2	9	7	9	7	Envelope-Bac/Tox, Call slip #29	
	---	I									
	---	I									
	---	I									
	---	I									
	---	I									
	---	I									
	---	I									

EXAMINATIONS REQUESTED :
Analyze suspect sample for blood alcohol content and opiates.

LABORATORY REQUEST FORM
San Diego Sheriff's Department

SDSO Case # 10064025



AN INCIDENT REPORT MUST ACCOMPANY THIS FORM FOR TRACE AND DNA CASES

PRIORITY: (CHOOSE FROM DROP DOWN MENU, THEN FILL IN COURT DATE)

1 - OIS

DATE:

TODAY'S DATE 10/26/2010	CRIME DATE 10/19/10	INCIDENT TYPE 187 PC	DIVISION / OUTSIDE AGENCY Homicide	KEY CASE NUMBER / OUTSIDE AGENCY CASE #
INCIDENT LOCATION (b)(5)(B) Japatul Road, Alpine, CA				
REPORTING OFFICER D. Hillen	ID 1635	ASSIGNED DETECTIVE D. Hillen	ID 1635	PHONE # (b)(5)(B)
E-MAIL david.hillen@sdsheriff.org		FAX (b)(5)(B)	MAIL STOP O-41	

HAS OTHER EVIDENCE BEEN PREVIOUSLY SUBMITTED ON THIS CASE? ☒ **Y** ☐ **N** RELATED CASE # (IF ANY)

PEOPLE AFFILIATED WITH THE LISTED PROPERTY

VIC	NAME (LAST, FIRST, MIDDLE) Phillips, Jason			
	RACE w	SEX M	DOB	AGE
VIC	NAME (LAST, FIRST, MIDDLE) Olin, Kevin			
	RACE w	SEX M	DOB	AGE
SUS	NAME (LAST, FIRST, MIDDLE) Foster, Michael			
	RACE w	SEX M	DOB (b)(5)(B)	AGE 37

Item#	Affiliation	SDSO Bar Code#								Item Description	Returned to P/E (lab use only)
32	VIC	I	1	1	2	9	7	2	0	Firearm & Magazine; #32 Colt M4 Carbine .223 Rifle	
33	VIC	I	1	1	2	9	7	2	5	Firearm & Magazine; #33 Colt M4 Carbine .223 Rifle	
34	VIC	I	1	1	2	9	7	2	9	Firearm; #34 Remington 700 .308 Rifle	
	VIC	I								Deputy's casings item #'s 6, 7, 8, 9, 10,11, 12, 13, 14, 15, 16, 17, 18, 19	
32.01	VIC	I	1	1	2	9	7	2	1	Cartridge #32.01 "Fc 04" Cartridge	
32.02	VIC	I	1	1	2	9	7	2	2	Cartridge #32.02 "Fc 04" Cartridge	
32.03	VIC	I	1	1	2	9	7	2	3	Cartridge #32.03 "Fc 04" Cartridge	
32.04	VIC	I	1	1	2	9	7	2	4	Cartridge #32.04 "Fc 04" Cartridge	

EXAMINATIONS REQUESTED :

Examine Deputies weapons for 1. Weapon Operability, 2. Expanded casing comparison, 3. Expanded bullet comparison.

Per **(b)(5)(B)** just list all casings on one line with Item numbers.

ATTN **(b)(5)(B)**

LABORATORY REQUEST FORM
San Diego Sheriff's Department

SDSO Case # 10064025



AN INCIDENT REPORT MUST ACCOMPANY THIS FORM FOR TRACE AND DNA CASES

PRIORITY: (CHOOSE FROM DROP DOWN MENU, THEN FILL IN COURT DATE)

1 - OIS

DATE:

TODAY'S DATE 10/26/2010	CRIME DATE 10/19/10	INCIDENT TYPE 187 PC	DIVISION / OUTSIDE AGENCY Homicide	KEY CASE NUMBER / OUTSIDE AGENCY CASE #
-----------------------------------	-------------------------------	--------------------------------	--	---

INCIDENT LOCATION
(b)(5)(B) Japatul Road, Alpine, CA

REPORTING OFFICER D. Hillen	ID 1635	ASSIGNED DETECTIVE D. Hillen	ID 1635	PHONE # (b)(5)(B)
---------------------------------------	-------------------	--	-------------------	-----------------------------

E-MAIL david.hillen@sdsheriff.org	FAX (b)(5)(B)	MAIL STOP O-41
---	-------------------------	--------------------------

HAS OTHER EVIDENCE BEEN PREVIOUSLY SUBMITTED ON THIS CASE? ☒ **Y** ☐ **N** RELATED CASE # (IF ANY)

PEOPLE AFFILIATED WITH THE LISTED PROPERTY

VIC	NAME (LAST, FIRST, MIDDLE) Phillips, Jason			
	RACE w	SEX M	DOB	AGE
VIC	NAME (LAST, FIRST, MIDDLE) Olin, Kevin			
	RACE w	SEX M	DOB	AGE
SUS	NAME (LAST, FIRST, MIDDLE) Foster, Michael			
	RACE w	SEX M	DOB (b)(5)(B)	AGE 37

Item#	Affiliation	SDSO Bar Code#								Item Description	Returned to P/E (lab use only)
33.01	VIC	I	1	1	2	9	7	2	6	Cartridge #33.01 "Fc 04" Cartridge	
33.02	VIC	I	1	1	2	9	7	2	7	Cartridge #33.01 "Fc 04" Cartridge	
33.03	VIC	I	1	1	2	9	7	2	8	Cartridge #32.03 "38 short colt" Less Lethal cartridge	
35	VIC	I	1	1	2	9	7	3	0	Cartridges & casing; #35 3 Fc 308 Winchester cartridge & 1 Fc 308 Winchester Casing	
	---	I									
	---	I									
	---	I									
	---	I									

EXAMINATIONS REQUESTED :
Examine Deputies weapons for 1. Weapon Operability, 2. Expanded casing comparison, 3. Expanded bullet comparison.

Per **(b)(5)(B)** just list all casings on one line with Item numbers.

ATTN **(b)(5)(B)**

LABORATORY REQUEST FORM
San Diego Sheriff's Department

SDSO Case # 10064025



AN INCIDENT REPORT MUST ACCOMPANY THIS FORM FOR TRACE AND DNA CASES

PRIORITY: (CHOOSE FROM DROP DOWN MENU, THEN FILL IN COURT DATE)

1 - OIS

DATE:

TODAY'S DATE 10/26/2010	CRIME DATE 10/19/10	INCIDENT TYPE 187 PC	DIVISION / OUTSIDE AGENCY Homicide	KEY CASE NUMBER / OUTSIDE AGENCY CASE #
-----------------------------------	-------------------------------	--------------------------------	--	---

INCIDENT LOCATION
(b)(5)(B) Japatul Road, Alpine, CA

REPORTING OFFICER D. Hillen	ID 1635	ASSIGNED DETECTIVE D. Hillen	ID 1635	PHONE # (b)(5)(B)
---------------------------------------	-------------------	--	-------------------	-----------------------------

E-MAIL david.hillen@sdsheriff.org	FAX (b)(5)(B)	MAIL STOP O-41
---	-------------------------	--------------------------

HAS OTHER EVIDENCE BEEN PREVIOUSLY SUBMITTED ON THIS CASE?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	RELATED CASE # (IF ANY)
--	--	-------------------------

PEOPLE AFFILIATED WITH THE LISTED PROPERTY

VIC	NAME (LAST, FIRST, MIDDLE) Phillips, Jason			
	RACE w	SEX M	DOB	AGE
VIC	NAME (LAST, FIRST, MIDDLE) Olin, Kevin			
	RACE w	SEX M	DOB	AGE
SUS	NAME (LAST, FIRST, MIDDLE) Foster, Michael			
	RACE W	SEX M	DOB (b)(5)(B)	AGE 37

Item#	Affiliation	SDSO Bar Code#	Item Description	Returned to P/E (lab use only)
43	SUS	I	Bullet fragment removed from suspect during surgery on October 21, 2010	
---	---	I		
---	---	I		
---	---	I		
---	---	I		
---	---	I		
---	---	I		
---	---	I		

EXAMINATIONS REQUESTED :
Examine for bullet comparison from Deputies weapons.

ATTN **(b)(5)(B)**

LABORATORY REQUEST FORM
San Diego Sheriff's Department

SDSO Case # 10064025



AN INCIDENT REPORT MUST ACCOMPANY THIS FORM FOR TRACE AND DNA CASES

PRIORITY: (CHOOSE FROM DROP DOWN MENU, THEN FILL IN COURT DATE)

1 - OIS

DATE:

TODAY'S DATE 10/26/2010	CRIME DATE 10/19/10	INCIDENT TYPE 187 PC	DIVISION / OUTSIDE AGENCY Homicide	KEY CASE NUMBER / OUTSIDE AGENCY CASE #
-----------------------------------	-------------------------------	--------------------------------	--	---

INCIDENT LOCATION
(b)(5)(B) Japatul Road, Alpine, CA

REPORTING OFFICER D. Hillen	ID 1635	ASSIGNED DETECTIVE D. Hillen	ID 1635	PHONE # (b)(5)(B)
---------------------------------------	-------------------	--	-------------------	-----------------------------

E-MAIL david.hillen@sdsheriff.org	FAX (b)(5)(B)	MAIL STOP O-41
---	-------------------------	--------------------------

HAS OTHER EVIDENCE BEEN PREVIOUSLY SUBMITTED ON THIS CASE?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	RELATED CASE # (IF ANY)
--	--	-------------------------

PEOPLE AFFILIATED WITH THE LISTED PROPERTY

VIC	NAME (LAST, FIRST, MIDDLE) Phillips, Jason			
	RACE W	SEX M	DOB	AGE
VIC	NAME (LAST, FIRST, MIDDLE) Olin, Kevin			
	RACE W	SEX M	DOB	AGE
SUS	NAME (LAST, FIRST, MIDDLE) Foster, Michael			
	RACE W	SEX M	DOB (b)(5)(B)	AGE 37

Item#	Affiliation	SDSO Bar Code#								Item Description	Returned to P/E (lab use only)
	SUS	I	1	1	2	9	7	7	0	Firearm - Taurus .357 Revolver	
	SUS	I	1	1	2	9	7	8	9	5 casings found in kitchen sink	
	SUS	I	1	1	2	9	7	9	6	1 projectile from wall	
	SUS	I	1	1	2	9	7	6	7	Casing from front yard	
	SUS	I	1	1	2	9	7	6	8	Casing from front yard	
	SUS	I	1	1	2	9	7	7	3	Cartridge found near gate	
	SUS	I	1	1	2	9	7	9	5	casing found on bedroom floor	
	---	I									

EXAMINATIONS REQUESTED :

Examine suspect firearm, casings, and cartridges
for 1. weapon operability, 2. expended casing comparison, 3. expanded bullet exam, 4. IBIS

ATTN **(b)(5)(B)**

1 CASE NO.: 10064025

2 CRIME: 245 P.C., ASSAULT WITH A DEADLY WEAPON

3 VICTIM: (b)(5)(B)

4
5
6 INTERVIEW OF:
7 MICHAEL FOSTER

8
9
10
11 AT:
12 SHARP MEMORIAL HOSPITAL ROOM # 219
13 SAN DIEGO, CALIFORNIA

14
15
16 ON:
17 OCTOBER 19, 2010

18
19
20
21 BY:
22 LESLEE HALL, DETECTIVE
23 SUZANNE FISKE, DETECTIVE
24 SHERIFF'S HOMICIDE DETAIL

25
26
27 INTERVIEW BEGAN: 2159 HOURS

28 TRANSCRIBED BY: (b)(5)(B)

EDITED By
DET. L. Hall

1 Q HALL, Leslee, Detective
2 Q* FISKE, Suzanne, Detective
3 A FOSTER, Michael
4 A1 UNKNOWN FEMALE MEDICAL STAFF
5 A2 UNKNOWN MEDICAL STAFF

6 Q It's twenty-one-fifty-nine hours. October nineteenth, twenty-ten at Sharp's Hospital in room
7 two-one-nine. How are you feelin'?
8 A NO VERBAL RESPONSE.
9 Q Pretty good?
10 A Not good at all.
11 Q Not good at all?
12 A Um-um.
13 Q See the other side. (b)(5)(B)
14 Q* That's his...
15 (PHONE RINGING)
16 Q* (UNIN).
17 A No, I'm Michael FOSTER.
18 Q Who's (b)(5)(B)
19 A NO VERBAL RESPONSE.
20 Q That's your doctor, right?
21 A What are you guys doing?
22 Q Isn't that your doctor. I was looking at your tag to see if your name was on it.
23 A (UNIN) six-six-five-three-seven. Get this tag off me please.
24 Q Oh, those things are important Michael.
25 A I, I'm not (b)(5)(B)
26 Q No, no, no. That says your doctor's name.
27 A I'm paranoid.
28 Q You are?

1 A Yes.

2 Q* (UNIN).

3 Q I'm Leslee. Is it okay if I call you Michael or Mike?

4 A Mike.

5 Q How do you feel about that, Mike? Is that okay?

6 A Yeah.

7 Q Okay.

8 A They keep telling me.

9 Q I, I don't think you are. The doctors are saying you're looking pretty good and you look
10 pretty good to me. Your...

11 A They're lies.

12 Q eyes are looking pretty good. But that may not be permanent, right?

13 A I wouldn't say that. Too risky to go in and take out.

14 Q Okay.

15 A And I said "What about the other bullets or" I don't know.

16 Q Okay.

17 Q* That's just.

18 Q Heh Michael, would you please tell me what your middle name is?

19 A Allen.

20 Q Is it A-L-A-N? Can you spell it for me?

21 A A-L-L-E.

22 Q Oh, two Ls, huh?

23 A NO VERBAL RESPONSE.

24 Q Is it A-L-L-E-N?

25 A NO VERBAL RESPONSE.

26 Q Yes?

27 A NO VERBAL RESPONSE.

28 Q Okay. How old are you?

1 A NO VERBAL RESPONSE.

2 Q I'm sorry. I can't hear you.

3 A Thirty-eight.

4 Q Thirty-eight?

5 A NO VERBAL RESPONSE.

6 Q What's your date of birth?

7 A NO VERBAL RESPONSE.

8 Q Heh Michael? Do you remember what I told you my name is?

9 A Michael.

10 Q No, it's Leslee. Would you be so kind as to tell me the things rather than doing the sign
11 language because I'm ashamed to say I don't know sign language.

12 A And neither do I.

13 Q Oh, I'm sorry. I thought you knew sign language. You're moving your hands around.
14 Okay. Heh Michael, I just need to know some information from you. Do you think you can
15 share that with me?

16 A Do I need a lawyer?

17 Q Well, I don't know that you do but I just need the information to know who you are and for
18 that we don't need to worry about a lawyer. Okay? Can you please tell me your date of
19 birth?

20 A (UNIN) (b)(5)(B)

21 Q (b)(5)(B) And I'm sorry. I didn't hear the month and the day.

22 A (b)(5)(B)

23 Q Oh (b)(5)(B) A (b)(5)(B) And where were you born.

24 A Naval Hospital.

25 Q Okay. So you're a native like me, huh? How tall are ya'?

26 A Five-nine.

27 Q Five-eleven?

28 A Nine.

1 Q Oh, five-nine. And what would you guess your weight to be?

2 A About two-eighty maybe. Yeah.

3 Q Two-eighty? You...

4 A Two-eighty-nine.

5 Q Two-eighty-nine. Okay. And you got brown hair and brown eyes? What is your home

6 address?

7 A P.O. box.

8 Q Pardon?

9 A P.O. box. P.O. box.

10 Q Oh, you have a P.O. box? Now where do you lay your head at night?

11 A **(b)(5)(A)**

12 Q **(b)(5)(A)**

13 A **(b)(5)(A)**

14 Q It's an apartment then, huh? **(b)(5)(B)**

15 A No, **(b)(5)(A)** is the front house.

16 Q Oh, okay. Do you have a cell phone or do you have a house phone there?

17 A Cell.

18 Q Cell phone? And could you tell me what that number is?

19 A **(b)(5)(A)**

20 Q Uh-huh.

21 A **(b)(5)(A)**

22 Q **(b)(5)(A)**

23 A **(b)(5)(A)**

24 Q **(b)(5)(A)**

25 A **(b)(5)(A)**

26 Q **(b)(5)(A)** Thank you.

27 A And they put it in the evidence bag.

28 Q Okay. The; your property bag?

1 A NO VERBAL RESPONSE.

2 Q Okay, so we got...

3 A Not the...

4 Q it with all your stuff then?

5 A Um-hmm.

6 Q We're not leaving it at the hospital for you.

7 A Yeah but...

8 Q Make sure it goes with you.

9 A I don't know why you can't see the (UNIN).

10 Q No, it; what; actually what it says is your doctor's name; is the doctor that saw you earlier?

11 A NO VERBAL RESPONSE.

12 Q The one that admitted you.

13 A Um-hmm.

14 Q Yeah. They like to know who saw you so if they need to go talk to your doctor, they know

15 who it should be. Make sense, right?

16 A NO VERBAL RESPONSE.

17 Q What do you do for a living?

18 A Help veterans.

19 Q Fantastic. Where do you do that?

20 A At the V-F-W.

21 Q V-F-W?

22 A NO VERBAL RESPONSE.

23 Q And what's your wife's name?

24 A (b)(5)(B)

25 Q [REDACTED]

26 A NO VERBAL RESPONSE.

27 Q Is she also a (b)(5)(B)

28 A NO VERBAL RESPONSE.

1 Q Okay?

2 (LOUD NOISE)

3 Q Careful, you're goin' roll outta bed. You roll over right on top of us.

4 Q* Do you need us to move you Mister FOSTER?

5 A (Yelling) Ahhhh-ahhh.

6 A1 What's up?

7 Q You're...

8 Q* Your...

9 Q strong.

10 Q* your nurse is here. She's just gonna help you here.

11 A1 Where do you wanna be?

12 (LOUD SOUND OF MOVEMENT)

13 Q* Let him know what position you wanna be in or most comfortable for you.

14 A I need to uh, move more this way.

15 A2 Oh you're on that way all ready.

16 A1 You're, you're already on your left side.

17 A I know. I need to move more that way.

18 A1 Well...

19 A And...

20 A1 Over to.

21 Q Okay.

22 Q* Okay.

23 A2 There ya' go. Does that help?

24 A1 Good.

25 A And I don't understand why they're not taking that bullet out.

26 Q Well I think that they're gonna wait to talk to the doctors to see how you're feeling in a little

27 bit.

28 A No, that's not what it is.

1 Q Okay.

2 A He said the fragments, the casings are too small around the spinal cord to go ahead and
3 remove. To remove it, it would cause more; could cause more further damage. Well, when I
4 was in the Army, we removed them immediately so (UNIN) swelling and nothing moved
5 and no secondary infection got involved.

6 Q Okay. Were you a medic?

7 A Oh yes.

8 Q Excellent. Did you say (b)(5)(B) is your wife's last name?

9 A NO VERBAL RESPONSE.

10 Q (b)(5)(B) last name? I'm assuming you folks are married, right?

11 A Yes, that's right.

12 Q Married. Okay.

13 A She'd; she never changed her last name on her I-D to (b)(5)(B) Only...

14 Q Okay.

15 A (b)(5)(B)

16 Q Okay, so she's says (b)(5)(B) but she's a (b)(5)(B)

17 A Um-hmm.

18 Q Thank you. Does she have a different house number or a different cell phone number than
19 what you gave me?

20 A NO VERBAL RESPONSE.

21 Q The same?

22 A NO VERBAL RESPONSE.

23 Q Okay. How are you feeling now?

24 A Like shit.

25 Q Like shit?

26 A NO VERBAL RESPONSE.

27 Q Painful isn't it?

28 A Yeah.

1 Q Yeah. Hopefully that morphine'll kinda help you out. Do you know which hospital you're
2 in?

3 A The one by Rady Children's.

4 Q By Rady Children.

5 A Yes.

6 Q It's a nice one.

7 A Um-hmm.

8 Q Without a doubt. It's called Sharp?

9 A Um-hmm.

10 Q But you'd rather be at the V-A Hospital?

11 A Um-hmm.

12 Q Why do you feel that way?

13 A It's for the veterans.

14 Q Better intervention?

15 A For their veterans.

16 Q Oh, for veterans. Okay. That makes sense. They may move you there because you are a
17 veteran. That just might happen. Do you know what day today is?

18 A It's Tuesday.

19 Q Tuesday? I don't; what day of the month is it? What's the date?

20 A The ninth.

21 Q Ninth?

22 A (MUMBLING - UNIN)

23 Q What month?

24 A (UNIN).

25 Q October?

26 A NO VERBAL RESPONSE.

27 Q So you think it's October ninth?

28 A Or twelfth.

1 Q Or the twelfth?

2 A (UNIN) my stomach's moving.

3 Q Where is it moving to?

4 A I don't know but I; it may actually come back in here.

5 Q Okay. Do you know what you were doing today?

6 A NO VERBAL REPSONSE.

7 Q Were you at work or anything like that?

8 A I stayed home all day.

9 Q Okay. So if I told you today is actually October nineteenth not the ninth, would that make
10 sense to you?

11 A It's Tuesday.

12 Q It's Tuesday? Okay.

13 A No, it isn't Tuesday.

14 Q* Yes, yes it is Tuesday. It's still Tuesday. Um-hmm. Do you know what year it is then
15 Mister FOSTER?

16 A Twenty-ten.

17 Q Twenty-ten? Yup. Correct. And what city do you live in?

18 A (b)(5)(B)

19 Q Okay.

20 A Um.

21 Q Mike, I know that you have a lot of pain right now from all of that but I'm hoping that
22 you're able to tell me from; in your words what happened. Do you think you would be able
23 to do that?

24 A NO VERBAL RESPONSE.

25 Q Heh Michael? Can you look at me please?

26 A I'm trying.

27 Q Okay. I'm right here. Okay? Because it's important that you understand this at this point.

28 A H-.

1 Q My job is to write down your story and to write down the story of your wife and to see
2 exactly what happened. Okay? And I would like to be able to hear your side of the story
3 and make sure that I documented it properly. But I can only do that if I hear it from you
4 because I don't like to hear it from other people. I think they get the story wrong. I think
5 only you have the truth.

6 A I was just saying that.

7 Q Pardon?

8 A I was just saying that the other day.

9 Q You were saying that the other day?

10 A NO VERBAL RESPONSE.

11 Q Okay. Would you like to tell me the truth about what happened?

12 A NO VERBAL RESPONSE.

13 Q Excellent. Would you like to do it in a different position or are you comfortable?

14 A Different position.

15 Q Okay. Do you want maybe to raise your bed up a little bit?

16 A Yes.

17 Q Okay.

18 A Tilt it.

19 Q Tilt you up just a little bit.

20 A No, I can't even; I wanna move over onto my back. Trying to...

21 Q Oh, you wanna be on your back uh-huh? How's that?

22 A A little bit, little bit, little.

23 Q Is that okay?

24 A Down, down.

25 Q Pardon?

26 A NO VERBAL RESPONSE.

27 Q Down?

28 A A little b-; ah, ah, ah, ah.

1 Q Up?

2 A NO VERBAL RESPONSE.

3 Q Is that...

4 A I want it moved up.

5 Q Huh?

6 A I wanna roll over.

7 Q You want; oh, you wanna roll. Okay, well the nurses have to do those things. That I can't

8 do for you.

9 (BACKGROUND CONVERSATION)

10 A1 Which side do you want to be (UNIN) Mister Michael?

11 Q* Let me get outta the way so.

12 A1 On this side?

13 (SOUNDS LIKE TWO DIFFERENT CONVERSATIONS BETWEEN A AND A2 AND Q

14 AND Q*)

15 A I wanna be on the...

16 A1 You wanna be on your back? On your back?

17 A NO VERBAL RESPONSE.

18 A1 Okay.

19 A Ah-ah.

20 A1 Okay.

21 A Can I just take this...

22 Q (UNIN). Yeah.

23 Q* He's pretty soft-spoken that's why I kept doing that and...

24 A1 Take...

25 Q* with all the machines and everything I was gonna start...

26 A Get rid of...

27 Q* I...

28 A this stuff. I don't need...

1 Q* I (UNIN).
2 A1 There you go.
3 Q We might be able to move that (UNIN). Okay.
4 Q* Well, I'm...
5 Q (UNIN). Thank you.
6 (SIDE CONVERSATION BETWEEN Q AND Q*).
7 Q How's it feel now Michael? A little bit better?
8 A (UNIN).
9 Q Well,yeah. You definitely gonna feel hurt. I agree. The important thing now is you're alive,
10 right?
11 (BACKGROUND WHISPERING)
12 A I (UNIN) yes.
13 Q* If you don't mind. He's okay...
14 Q He's gonna move you down so I can sit down too. Would that be okay?
15 A Yes.
16 A1 No, you're not.
17 A It's okay.
18 Q Just like straight down.
19 A1 Just the bed; the whole bed will go...
20 A Okay, right, right. I know. Can, can I come up a little bit.
21 A1 You're up there all ready.
22 A No, a little bit more.
23 A1 No, cause if we do that, your head's gonna fall off the bed.
24 A (GETS LOUDER) No.
25 A1 Oh, you want your head up?
26 A NO VERBAL RESPONSE.
27 A1 Okay.
28 Q There we go.

1 A1 More?

2 A NO VERBAL RESPONSE.

3 A1 There ya' go.

4 A Um-hmm.

5 A1 More?

6 A No.

7 A1 Twenty degrees is what the doctor wants you to be on which...

8 A And he said I could have a drink of water and you guys haven't given me one.

9 A1 You can have a sip of water not a drink. Okay? I'll get you...

10 A I have to...

11 A1 something.

12 Q So you remember what he said, huh?

13 A NO VERBAL RESPONSE.

14 Q Okay. Okay, so it's important for you to understand who I am and the purpose of me being

15 here, right?

16 A Give me a card.

17 Q Yeah. I will definitely give you a card 'cause I won't be staying all that long. Okay?

18 A Do it now so I...

19 Q Sure. Do you wear glasses?

20 A NO VERBAL RESPONSE.

21 Q No?

22 A NO VERBAL RESPONSE.

23 Q There ya' go.(PAUSE) I use to work Domestic Violence so I understand a lot about cases

24 related to husbands and wives not getting...

25 A Homicide.

26 Q along. Uh-hmm. That's where I work now.

27 A My wife's not dead is she?

28 Q No. No, she's not.

1 A Is she hurt?

2 Q* No. Part; Mister FOSTER; part of our job is when anyone gets shot by fellow deputies. It's
3 our job to investigate how and why that happened. So we need to understand how and why
4 that happened to you. No one is dead.

5 ? Is that?

6 Q* Thankfully. Okay? Okay.

7 Q Here's your drink of water.

8 Q* That looks good.

9 A2 How 'bout that? Okay.

10 Q Now that your w-; you have a wet whistle, right? Okay, so, our, our job is to hear your story
11 and understand exactly what happened. Okay? Somebody else is talking to your wife right
12 now so that they can get her information as well. Okay? So, it's important that I get a
13 chance to hear your complete story, I would like to give you that opportunity. Okay? Okay?

14 A NO VERBAL RESPONSE.

15 Q So, in order to do that because you're lying here in this bed and because you, you're
16 surrounded with law enforcement and you are under arrest. Okay? I'm gonna read you your
17 rights but I still feel that it's very important that we get...

18 A What am I under arrest for?

19 Q your side...

20 A under...

21 Q of the...

22 A arrest...

23 Q story.

24 A for?

25 Q Domestic violence.

26 A H-hmm. Why?

27 Q Well you guys apparently had some sort of a beef today but I don't know any of the
28 specifics. I haven't talk to her. You were the only person I've talked to and I haven't heard

1 anything yet. Okay? So my job today is to hear your side of the story and I literally have not
2 heard anything from your wife at all so it's important to at least hear your side of it. Is that
3 possible?

4 A Yes, it's (UNIN)

5 Q Okay. So, you, you understand that you have the right to remain silent, right?

6 A NO VERBAL RESPONSE.

7 Q Yes or no?

8 A Yes.

9 Q Okay. If you give up the right to remain silent, anything you do say can and will be used in
10 court against you. Do you understand that?

11 A Yes.

12 Q Okay. You have the right to speak with an attorney of your choice before questioning and
13 to have the attorney present during questioning. Do you understand that?

14 A Yes.

15 Q Yes?

16 A (UNIN)

17 Q I'm sorry. I didn't hear you.

18 A Yeah.

19 Q Yes. Okay. If you cannot afford an attorney, one will be appointed for you by the court... .

20 (PHONE RINGING)

21 Q prior to any questioning if you so desire. The attorney will not cost you anything and the
22 services are free. Do you understand that?

23 A Um-hmm.

24 Q Yes?

25 A NO VERBAL RESPONSE.

26 Q Okay. Do you? Uh, having in mind and understanding your rights as I have told you, are
27 you willing to talk to me?

28 A Yes.

1 Q Excellent. Okay. Um, I, I don't know what led up to today so I'm hoping you can just tell
2 me when you got up this morning, what was going on?

3 A NO VERBAL RESPONSE.

4 Q Okay? Can you do that for me please?

5 A I need to talk to a lawyer first.

6 Q Pardon me?

7 A I need a lawyer present.

8 Q You need a lawyer present? Okay.

9 A Because I, I just wanna know that my wife is okay. She's not hurt at all. Correct?

10 Q That's correct. She is not hurt.

11 A Okay. Um, no one else is hurt?

12 Q No one else is hurt.

13 A Okay. Well. Then everything else can wait till later. (PAUSE) And it can. (PAUSE) I'm
14 paralyzed. (PAUSE) I'll never walk again.

15 Q* I don't think they know that for sure.

16 A That's exactly what the doctor told me.

17 Q* Well I can tell you.

18 (PHONE RINGING)

19 A What good is it if I'm walking in jail? They should have just killed me. Why'd they shoot me
20 in my back like that? Why'd they even shoot me? I made no aggressive attempts. And I
21 didn't point my weapon. Nothin'. And after I got; I was laying in the bed when I heard on
22 the phone. Not on the phone; the, the microphone, uh, "Michael FOSTER this is the crisis
23 team. We're to help you." Uh-ha-ha-ha-ha-ha. And so we; I went and I was just closing the
24 (PAUSE) the blinds and they said "We have (b)(5)(B) (PAUSE) or my brother there. Me
25 and my brother and I said "Let me talk to him." And they said "We will. Just walk outside
26 to this." And I was like "Oh, no" because I didn't know what was going on so like a dumb
27 ass, I walked outside and around the back just to close the, the gutters. These things. I said
28 "Heh guys hiding in the bushes. How ya' doin'?" That's when they shot me in my back.

1 Took me for a second to realize I was shot. This isn't the first time I had problems with the
2 Sheriff. One time we got pulled over. I admit it, I was drunk and when I'm drunk I
3 shouldn't be driving. They didn't let me call my lawyer and this one sheriff just grabbed me.
4 Do you work with the Alpine Sheriff's Department?

5 Q NO VERBAL RESPONSE.

6 A Do you?

7 Q NO VERBAL RESPONSE.

8 A You're not answering so I suppose you do.

9 Q* Would you like our business card?

10 A NO VERBAL RESPONSE.

11 Q* You can see in our business our address. There ya' go.

12 Q* I understand.

13 A Anyways he beat the shit outta me pretty good. They got (UNIN) over that. They were
14 tasing me and laughing about it. Then the report they wrote they tased me twice. And we
15 counted over thirty-two taser marks side-by-side around my back and my front and
16 everything. There's good cause. Was somebody killed?

17 Q* Um-um. (PAUSE) No. No one was killed.

18 Q What we do is we investigate....

19 Q* (UNIN) talking (UNIN).

20 (KNOCK ON DOOR. SIDE CONVERSATION)

21 A1 Mister FOSTER I'm gonna give you a tetanus shot. Okay? Have you ever had a tetanus
22 shot before? Did you have any before? Tetanus shot?

23 A (UNIN).

24 A1 Oh. When was the last time?

25 A (UNIN).

26 A1 Oh, okay and then you need it because of the; all the wounds that you have right now and
27 I'm gonna do it right here. It's gonna be on your muscle. It's that. Does that hurt?

28 A NO VERBAL RESPONSE. Now you guys go out and talk to someone somewhere else.

1 Q Pardon me?

2 A You can go out and talk to someone somewhere else.

3 Q Please understand that we're investigators for Homicide because we handle all officer-

4 involved shootings. That's our job. Okay? And my purpose here is to talk to you but when

5 you say that you need your lawyer present, I can't talk to you.

6 A I'm scared because I don't trust the Sheriffs.

7 Q Okay, I respect that so but...

8 A I mean, I was in friggin' war.

9 Q Uh-huh.

10 A and we knew that if somebody had their back turned to you (PAUSE) you know what I

11 mean?

12 Q I understand but as much as you wanna talk to me when you say that you want to talk to

13 your lawyer, I'm gonna respect that. And that means that...

14 A I know...

15 Q I'm not gonna...

16 A I don't...

17 Q ask...

18 A have a lawyer.

19 Q you anything. So understand that...

20 A Ow, oh, ow, oh...

21 Q you have the option...

22 A Can you help me turn?

23 Q I, I'm not allowed to do that. That; there's; that's up to the nurses to do for you. Okay?

24 A My leg don't work anymore.

25 Q Yeah, I know. That's....

26 A I...

27 Q what you're telling me. Okay so Mister FOSTER do you want to have your attorney present

28 or do you want to talk to me without your attorney present?

1 A I'll talk to you about some things.

2 Q Okay. You can always do it that way. So I'm gonna read to you your rights again. Okay?

3 So we start all over.

4 A I know my Miranda rights and I have the right to remain silent. The right to have an

5 attorney present during questioning and to have; I don't want it.

6 Q Well, you're pretty close to it. You forgot the one about that anything you say can and will

7 be used in court against you.

8 A Yeah, that one.

9 Q Okay.

10 A Um-hmm.

11 Q Okay. And you already said the one about you have the right to have an attorney present

12 during any questioning.

13 A Um-hmm.

14 Q Right? And that the court will appoint one to you prior to any questioning if you so desire.

15 Right? You know that one too?

16 A NO VERBAL RESPONSE.

17 Q Okay. Now, but I need to know do you understand all those rights?

18 A Yeah.

19 Q Okay. Having in mind those rights, are you willing...

20 A Can you help me...

21 Q to talk to me?

22 A turn please?

23 A1 Okay where do you wanna be turned?

24 A To the left. My legs are spasing. And I also don't understand why I can't talk to my brother.

25 Q I don't know who your brother is.

26 A Well, he called here and they're told that I can't speak with him.

27 A1 What's your brother's name?

28 A (b)(5)(B)

1 Q (b)(5)(B)

2 A We have different fathers.

3 Q He's gonna ask you.

4 A1 You wanna be turned this way?

5 A NO VERBAL RESPONSE.

6 A1 Okay, I'm gonna put a pillow on your back. Okay? Okay.

7 A What I mean all the way on my side. I gotta grab my leg and.

8 A1 All the way on your side? 'Cause that's the way where you are just a while ago.

9 A (YELLING) I know. You don't...

10 A1 You...

11 A understand. I have back problems already prior to this.

12 A1 Okay.

13 A I know. This is spasing and it hurts like hell.

14 A1 Okay let me get somebody to help me. Okay?

15 A You don't need no help. I'll pull myself and you just pull my legs for me.

16 A1 You can do that? Okay.

17 A Ow, ow, oh.

18 A1 Do it again.

19 A Ow! Ow! Ah. Whoops. Ah-ah-oh-oh. Ow.

20 A1 There ya' go. Lift your head up so I can; just a little bit. Okay? How 'bout that?

21 A Can we bend my legs please?

22 A1 Um-hmm.

23 A Can't even feel nothing. It's weird. You know it's; it's that. Great and I'm not.

24 A1 It's bent all ready. Here. Let me have those. There ya' go.

25 Q How's that Mister FOSTER? That feel better?

26 A NO VERBAL RESPONSE.

27 Q Probably for five minutes, huh?

28 A It's tough.

1 Q Okay. So what's your thought? Do you wanna give me a statement or not?

2 A NO VERBAL RESPONSE.

3 Q I know you said you wanted an attorney but then you kept talking to me and I just need to

4 understand what it is that you want.

5 A I don't know. (PAUSE) You know a wise man once said the truth will set you free.

6 Q I have heard that.

7 A And I don't (UNIN). Can't get a witness. It's simple.

8 Q Who said "Can't get a witness"?

9 A Can I get a witness.

10 Q Who said that?

11 A Jesus Christ, can I get a witness.

12 Q Um-hmm.

13 A And they (UNIN).

14 Q Um-hmm. Okay.

15 A (MUMBLING - UNIN) One shot real late.

16 Q What do you mean one shot real late?

17 A It's a (UNIN) because when I first got hit it was like hmm. I had enough time to look back

18 over my shoulder and I saw the muzzle flash. So I'd already been shot on this side.

19 Q And it's (UNIN). Sir, you're a vet, right? And you've dealt with cops enough. You

20 understand your rights and you understand that you have the right to have an attorney and

21 you also have the right to speak to us.

22 A Yeah. I'm not laughing like...

23 Q No.

24 A she thought. I'm just...

25 Q I understand...

26 A pushing with my hand.

27 Q that. I...

28 A Oh.

1 Q just need to...

2 Q* I don't think you're laughing.

3 Q I just need to understand what it is that you would like.

4 A I wanna know...

5 Q Because I...

6 A I, I wanna know what I'm charged with.

7 Q Okay.

8 Q* It's...

9 Q Assault with a deadly weapon.

10 A On who?

11 Q On your wife.

12 A (PAUSE) Okay, what else?

13 Q I believe that's the only thing. It's your choice. You can either give us a statement or not.

14 I'm gonna respect whatever it is you want to do.

15 A I wanna give you a statement but I want it to be as true as possible without fading in and

16 out.

17 Q Okay. How shall we accomplish that? Do you wanna...

18 A I...

19 Q just tell me your story?

20 A I can give you a general (UNIN). It's not gonna be full of facts.

21 Q It's not gonna be full of facts?

22 A I mean, it'd be (PAUSE) you know what I mean? The facts would change because I'm s-; on

23 medication right now.

24 Q Okay.

25 A You know, not the same as would change for like better or, or worse but it'll be.

26 Q All right. Would you want me to come and talk to you tomorrow? And let you get some

27 sleep and I'll come see you tomorrow?

28 A NO VERBAL RESPONSE.

1 Q Okay. I can do that.

2 A I guess someone's trying to kill me.

3 Q Okay. Well, tomorrow you can tell me all about that. How's that? Does that work for you?

4 A Yeah and if you can stop this damn back pain.

5 Q Okay.

6 A I never hurt a fuckin' strand on that woman's head. Never. (UNIN).

7 Q It's twenty-two-forty-one hours.

8 A Now, seeing (PAUSE) you guys get this from my ex-wife?

9 Q* Do you want this off?

10 Q No, not yet.

11 Q* Okay.

12 A I; seeing her; she was just here and that's like I won't. Even though I don't (UNIN). When

13 she met she was (UNIN). That's not (UNIN). And so therefore, I gotta kind of history of

14 being bla, bla, bla. Well, I'm not. All the (UNIN). I'm paying child support like she

15 (UNIN). That's a; you see the kids and an agreement. My ex; she took off with the kids.

16 But I'm looking at it going boy is this my son and girl who you took from me on the

17 (UNIN). Yup, I'm through. Yeah, I'm finished. I did it (UNIN). And you know it; she got

18 up and slapped me in my face last night. You're just (UNIN) you always hated me. So, so

19 she's; I have to trust her. What's the matter? She's pissed. I think she's getting ready to, to

20 leave me or something. Tshu. I need to sleep. I'd rather. I'm paranoid. I don't believe I'm

21 in a U-S hospital. You look familiar. Couldn't see (UNIN).

22 Q I'll come back and see you tomorrow. Okay, after you've had some sleep?

23 A Can you push my bed up a little bit.

24 Q Sure.

25 Q I'll actually let him do it. I wasn't very good at driving it the last time. Okay?

26 A Thank you.

27 Q It is twenty-two-forty-four hours. End of this recording.

28

END OF INTERVIEW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CASE NO.: 10064025

CRIME: 245(A)(2) ASSAULT WITH A DEADLY WEAPON

VICTIM: (b)(5)(B)

INTERVIEW OF:
DEPUTY BRADLEY FARR

AT:
ALPINE SHERIFF'S STATION
2751 ALPINE BOULEVARD
ALPINE, CALIFORNIA

ON:
OCTOBER 19, 2010

BY:
TROY DUGAL, DETECTIVE
MARK PALMER, DETECTIVE
SHERIFF'S HOMICIDE DETAIL

INTERVIEW BEGAN: 1925 HOURS

TRANSCRIBED BY: (b)(5)(B)

Q DUGAL, Troy, Detective

Q* PALMER, Mark, Detective

A FARR, Bradley, Deputy

A* (b)(5)(B)

Q Today is October nineteenth, two-thousand-ten. It is nineteen-twenty-five hours. We are still at the Alpine, uh, Patrol Station. Uh, we are conducting interviews for the shooting incident that happened on Japatul Road. We're interviewing; it's Bradley, right?

A Yes.

Q Bradley FARR?

A Um-hmm.

Q F-A-R-R?

A Yes.

Q (CLEARS THROAT) In the room with me is Detective Mark PALMER and Attorney (b)(5)(B). We have; prior to the recording, we briefly told, uh, Deputy FARR exactly what to expect for the Use of Force Questions Guideline that we would be utilizing but we also wanted to hear the story, uh, from his own words when we get to that point in the interview. Okay. From the, uh, guideline, when were you hired by the Sheriff's Department?

A July of ninety-eight.

Q What's your ARJIS number?

A Two-six-one-eight.

Q Assignments since you were hired? Start with jails or whatever it is.

A Vista Detention Facility, East Mesa Deten; Detention Facility. I was T-A-D to the JIMS team while I was assigned to East Mesa. Um, Lemon Grove Patrol, Lemon Grove Detectives, S-E-D, Lemon Grove Patrol...

Q* Um-hmm.

A uh Boulevard Patrol where I'm currently assigned.

Q And Boulevard Patrol?

1 A Um-hmm.

2 Q I didn't know there...

3 A Boulevard everything.

4 Q So you're Rural?

5 A Rural

6 A1 Yeah.

7 A Rural Patrol out of the Boulevard Office and still obviously doing S-E-D.

8 Q* Full-time S-E-D or?

9 A Uh, yeah. I was full-time S-E-D for about eight months before the budget crisis and that's

10 when I ended up back at Lemon Grove Patrol.

11 Q So now you're S-R-T?

12 A Yeah. And then S-R-T, uh; it was six years in May. So it'll be seven years this May.

13 Q Okay.

14 A During the Lemon Grove; the first Lemon Grove Patrol was when I made S-R-T the first

15 time.

16 Q The first Lemon Grove Patrol?

17 A Yeah.

18 Q To S-R-T. Any previous law enforcement experience?

19 A No.

20 Q What are your normal working hours?

21 A Zero-six-thirty to seventeen-hundred. Sunday through Wednesday.

22 Q What time did you report to work today?

23 A Zero-six-thirty.

24 Q Like you're the (LAUGHING) he's the first one who came...

25 Q* (LAUGHING)

26 Q on time.

27 Q* (LAUGHING).

28 Q (LAUGHING)

1 A (LAUGHING).
2 Q Oh, that was on tape, wasn't it?
3 A (LAUGHING).
4 Q When did you last sleep?
5 A* (LAUGHING).
6 A Last night.
7 Q And how many hours did you get?
8 A Uh, seven-and-a-half, eight.
9 Q Did you have any injuries before this incident?
10 A No.
11 Q How would you generally describe your physical health?
12 A Very good.
13 Q How old are you?
14 A Thirty-five for another week-and-a-half.
15 Q And how tall are you?
16 A Five-ten.
17 Q How much do you weigh?
18 A One-seventy-five.
19 Q* Uh-huh.
20 A* Yeah.
21 Q I can; could never get down again in my life (LAUGHING)
22 Q* (LAUGHING).
23 Q Do you wear eye glasses or contacts?
24 A No.
25 Q Do you have any hearing loss?
26 A Uh, no
27 Q Right-handed or left-handed?
28 A Right-handed. But I shoot a long gun left-handed.

1 Q* I was gonna ask that.
2 A (UNIN).
3 Q I do the same thing. I bet you you shoot better than me though. (GIGGLING). What was
4 your unit designator today?
5 A Ten-Edward-eleven.
6 Q What area does that cover? That's an S-E-D...
7 A Yeah, that's an...
8 Q nomenclature?
9 A S-E-D number.
10 Q Covers the entire county when you're in an S-E-D status?
11 A Yes.
12 Q Okay. Um, when you came to work today, did you respond to Boulevard at six-thirty?
13 A Yes. I was Eighty-four-R-nine.
14 Q Okay, so you went from Eighty-four-R-nine early and then about what time did you change
15 over to Ten-Edward-eleven because of the call-out?
16 A When we got the page, it was somewhere around ten, ten-fifteen somewhere around there I
17 believe.
18 Q And when you responded to the call-out, where; do you remember where you responded to
19 and what you were driving?
20 A What? Where I responded? I responded to the T-S-A in my S-E-D issued silver
21 Expedition. The T-S-A tactical staging area at; I don't know the address but it was on
22 Japatul Valley Road.
23 Q Okay.
24 A Just south or west of the scene of code-eleven.
25 Q And, uh, we've gone through; you're the third one to go through this so this makes it easier
26 for us. Describe just; they; step outta yourself and take a look at the way you were dressed
27 and what you were carrying. Just start head to foot and talk about your uniform from even
28 hats and face paint, shirts, pants, boots, etcetera, etcetera and then go through your, um, all

1 your weapons; everything that you got on your person.

2 A Okay. At the time of the shooting?

3 Q Yeah.

4 Q* Um-hmm.

5 A Okay. Um, I had a digital camouflage Woodland booney hat. Um, then I had a, a
6 Woodland-type camouflage balaclava. I had green face paint base with some other black,
7 brown different colored green on top of that on the face paint covering what was exposed
8 outside the balaclava. Uh, for a shirt I had my regular patrol vest on underneath then I had
9 my S-E-D B-D-U. It's an olive jack green B-D-U with, uh, Sheriff's patches on the arms
10 and Sheriff patch I think over the left breast. Over that I had an H harness which is
11 basically a gun belt.

12 Q* Load-bearing.

13 A Yeah, it's a load-bearing harness attached to a gun belt. Uh, I had two on my; the chest
14 strap of the load-bearing harness. I had two forty-caliber magazines on the belt. I had a
15 radio, a couple sleeves of, uh, specialty three-o-eight ammo in case you need to punch
16 through like thick glass or something. Uh, my duty; my S-E-D issued forty-caliber Glock,
17 radio. I think that's all I had on the load-bearing belt. Um, I had green O-D, B-D-U pants
18 on.

19 Q* O-D?

20 A O-D green.

21 Q* Okay.

22 A Uh, B-D-U pants on, uh, black socks, black boots. Over that I had Woodland cammo
23 gortex pants and then I had a Woodland camouflage gortex jacket over the whole thing. And
24 then I was laying on a; like a close-cell olive green mat with my sniper rifle which is; it's a
25 three-o-eight rifle. It's a; has a Remington seven-hundred bolt. The rest of the rifle is
26 entirely customized by the Department. So it's not really recognizable as a Remington
27 seven-hundred but it's a; it's a bolt-action rifle with a scope painted a; like a, like a green
28 forest-color camouflage pattern. Uh, and then I was laying on the mat and over that I had a;

1 like a gilly suit kind of a mesh tarp kinda thing over for camouflage purposes.

2 Q And that's the same thing and when we photographed you that you had placed around

3 your...

4 A Yes.

5 Q person?

6 A Yes, the same...

7 Q Well...

8 A thing.

9 Q in your photo, that's, that's depicted.

10 A Um-hmm.

11 Q (CLEARs THROAT) Okay and is that everything?

12 A I had a black t-shirt on underneath and that's; yeah, that's it.

13 Q Have you received training on the gear and weapons at all; and I'm talking now inclusive of

14 everything you had today?

15 A Yes.

16 Q And when was the last time that you qualified and I'm gonna; broke this down. I'm gonna

17 break this into leth-, lethal and less-lethal. Your lethal weapons; you said you had a Glock?

18 A I had it on me; my person. Yes.

19 Q On your person?

20 A Um-hmm.

21 Q So your lethal is your Glock and your three-o-eight or Remington seven-hundred...

22 A Yes.

23 Q is that what you call it?

24 A Um-hmm.

25 Q Um, any other lethal weapons?

26 A No.

27 Q When's the last time you qualified with both of those?

28 A The Remington seven-hundred I; training; we had a training day; I think it'll be two weeks

1 this Friday and I qualified then. So two weeks ago this Friday we had a training day I
2 believe.

3 Q Okay. What about with your duty, uh, patrol...

4 A This...

5 Q pistol?

6 A Glock, uh, we do our S-E-D quals quarterly and we just did them (SIGH) within the past
7 month, month-and-a-half I believe but I'd have to look at the training schedule to tell you
8 exactly when I qualified with it.

9 Q* Were you also issued the M-four?

10 A Yes, I have; it, it was; I just didn't; it was in my car.

11 Q* Okay. Um...

12 Q That's a good question.

13 Q* and when you, when you arrived, they designated you as sniper or is sniper your primary
14 function on these types of S-E-D, uh...?

15 A Sniper is my primary function. I could do either sniper or be a perimeter just like, uh, Gavin
16 or Bill.

17 Q* Okay.

18 A But for this, I was; usually, I'd be a sniper 'cause we don't have a lot of us.

19 Q* Okay.

20 A And generally I would have a M-four with me as a primary weapon while I'm getting into
21 position but because I drove up to my position and got outta my car, it was in the back seat
22 of the car the whole time.

23 Q* Okay.

24 Q Okay, now less lethal weapons. What did you have; did you have any?

25 A No.

26 Q I didn't think you discussed any.

27 A No, I had none.

28 Q So on this Remington seven-hundred, there is no fixture for a forty-millimeter launcher or

1 anything?

2 A No.

3 (BRIEF EXCHANGE OF WORDS BETWEEN Q AND Q*)

4 A It's primarily a long-distance rifle and that's all it's used for.

5 (BRIEF EXCHANGE OF WORDS BETWEEN Q AND Q*)

6 Q Uh, was the gear; all your gear and all your weapons operational at the beginning of your

7 shift?

8 A Yes.

9 Q At the beginning of your shift, do you do a safety check, an operational check with your

10 weapons? Obviously you can't fire 'em but do you know what I mean?

11 A Um-hmm.

12 Q Take, look at 'em, make sure they're...

13 A Yeah, before you deploy on a S-E-D mission, you obviously gonna check and make sure the

14 bolt works properly and you can see through the scope. All that kinda good stuff.

15 Q And, go ahead.

16 Q* And your bolted rifle is one round? It's not; you don't carry a; it's not; you; magazine-fed?

17 It's...

18 A There's an internal magazine that holds four total rounds.

19 Q* Okay.

20 A So, but you load those in through; you open the bolt. You load those in through...

21 Q* Yes.

22 A the...

23 Q* Okay...

24 A chamber down in...

25 Q* Gotcha.

26 A and then you close the bolt on a round.

27 Q* Okay.

28 A So but there are four total rounds in the gun which I gave to the (UNIN).

1 Q* Okay.

2 Q And just for the record, when we took your photograph, all the clothing you displayed was

3 the clothing that you were wearing at the time of the incident?

4 A Yes.

5 Q And you already described this. When you turned over your, um, Remington seven-

6 hundred, is that what you call it or do you call it the three-o-eight?

7 A Either or.

8 Q Either?

9 A It's both.

10 Q Well, who took it from you? What condition was it in? Who directed it? And who took it

11 from you?

12 A Uh, John DEBUS, the sniper; the Sniper Team leader because they were bringing me here

13 took control of the rifle. Um, it was unloaded. I unloaded it when the entry team started

14 going to contact the suspect 'cause there's no reason for me to have rounds in it and it was

15 pointed in their direction so. Uh, he took it. It was unloaded and in the exact condition as

16 when I shot it except no rounds in it.

17 Q How many; uh, this is a little premature but just so I can get this straight, the, the internal

18 magazine holds four rounds.

19 A Yes.

20 Q And then you got one in the chamber so a total of five?

21 A You can but I only did four.

22 Q So you have four?

23 A Um-hmm.

24 Q And you fired one?

25 A I fired one.

26 Q So there was three that you unloaded?

27 A Right.

28 Q Is; that's why we got that call and (b)(5)(B) collected the other three rounds from you?

1 A I gave him ex-; un; the expended cartridge as well.

2 Q And you had the expended cartridge?

3 A Yes.

4 Q So, three unexpended rounds and an expended cartridge...

5 A Correct.

6 Q that you had in your possession here in the building that you carried with you?

7 A Correct.

8 Q So 'cause this is gonna...

9 A* That accounts for it.

10 A Yeah.

11 Q So the weapon went from where you; where you were at when you shot it...

12 A Um-hmm.

13 Q you carried that down to the tactical staging area.

14 A Um-hmm.

15 Q You handed the weapon over to, uh, DEBUS.

16 A It was in my car. I gave him my car keys.

17 Q Okay.

18 A* And you (UNIN)...

19 Q And then he got it?

20 A Yeah.

21 Q* He collected the weapon but you maintained the, the actual, um, rounds?

22 A I put the rounds; actually I left 'em in my car in the little map door pocket on the side...

23 Q* Yeah...

24 A of the driver's door.

25 Q* Um-hmm.

26 A And that's where they were when I walked away from the car and that's where they were

27 when I...

28 Q* When you drove?

1 A Well, I didn't drive the car here. Somebody else drove it here.

2 Q* Okay.

3 A But when I took the F-E-T guy out, that's where they were.

4 Q* That's where they were.

5 Q It's right where you had put 'em?

6 A Right where I had put 'em.

7 Q Three unexpended rounds...

8 A And one...

9 Q* And one...

10 A expended round.

11 Q Casing.

12 A Correct.

13 Q Or cartridge whatever. Your nomenclature is.

14 Q* And is that; is the, uh, the three-o-eight round, is that a; was it a special three-o-eight round,

15 uh, or is it something that the Department or your Department; your, uh, S-E-D unit; is that

16 a normal three-o-eight round that they issued to people that are qualified as a, as snipers?

17 A Yes it is.

18 Q Does every weapon you had on your person issued to you by the Sheriff's Department as a

19 duty-weapon?

20 A Yes.

21 Q And the weapon that you used is the issued three-o-eight that you used during the shooting

22 incident?

23 A Yes.

24 Q All the ammo that you had on your person, was it issued by the Department?

25 A Yes.

26 Q And you had no outside influences of magazines or ammunition that are personally used?

27 A No. None.

28 Q* (UNIN) doesn't (UNIN).

1 Q And you described how your weapon was loaded. I already got that. Is that always how you
2 load and carry your weapon; your three-o-eight before and, uh?

3 A Yes.

4 Q And we talked about where you weapon land and where your rounds went. Okay. Easy
5 part. Your turn to tell me the story. Start with the beginning of your shift and take me
6 through the day. You know, whatever that; whatever time. Six-thirty in the morning I go to
7 Boulevard. Boom.

8 A I...

9 Q Nice day in Boulevard?

10 A Yeah. A little rainy. Yeah, I woke up, got ready. Six-thirty logged-on. Uh, shortly after that
11 left my residence. Drove down to the Campo pumps. Got some gas. Then I drove to the
12 Pine Valley Office. Um, I had to talk to the clerk there for a minute or two. From there I
13 left. I drove out to Boulevard. I cruised down a little bit. Went to the office. It was, uh, it
14 was raining and miserable so I was just gonna log-on and or write a report I needed to write.
15 Uh, Sean AKIN, a guy from S-E-D sent me a text message. Uh, um, like early on asking me
16 if I was involved in the, the two-forty-five out here. Well, I think he actually meant out in
17 rural. And I had just heard on the radio that Ten-Edward-eighty or something enroute to
18 Santee. So I assumed that's what he was talking about so I told him "No, I think that's
19 Alpine." So I went out and got my S-E-D radio and switched it to the Santee dispatch
20 hoping I could listen in and find out what was going on. They didn't say a whole lot on the
21 radio. Um, I think at nine-thirty I think they cleared E-T and I checked CAD and there
22 really wasn't a lot of information as to what was going on after nine-thirty. Uh, so I just
23 kinda hung-out. I was working on a report waiting to see what was gonna happen. Then I
24 heard on the radio, uh, I think Sergeant BROWNING said, uh, you know, we're requesting
25 a code eleven. Uh, thirty seconds later, I; my pager went off so send some text messages out
26 to the some of the guys and make sure they got the page. I left Boulevard in my black and
27 white. Drove to Lake Morena where S-E-D vehicle was. I switched out some gear out, uh,
28 from the black and white to the Expedition. Left there, drove down to Eight. Um, went to

1 the T-S-A, checked in. Uh, they told me to get out as a sniper. To gear-up as a sniper. So I
2 did. Um, went down to where they, they had the T-S-A actually set-up 'cause we were
3 parked a little ways away. Some of the other guys, some of the other guys had made it there
4 sooner so they already got paired-up as snipers and I was just kinda hanging out at the T-S-A
5 waiting for a partner or an assignment. So I was hanging out in the armored car for what
6 felt like hours but it was probably fifteen, twenty, thirty minutes somewhere around there.
7 And I called on the radio by DEBUS, John DEBUS, told me to go meet him on the road;
8 on Japatul Valley Road and he would direct me to a spot where I would be working alone as
9 a sniper. So I carried all my gear out to my car. I got in and drove up and met DEBUS. He
10 showed me the house. Um, the road is significantly higher than the house. Um, he told me
11 just to set-up somewhere on the road; off the road and parked so no one ran me over. So I
12 did that. I got all set-up. Set-up my sniper rifle, got eyes on, side three; the back side and
13 most of side four of the little granny flat where he was at.

14 Q* Up side three of the granny flat and not three of, of the residence; the main residence?

15 A Uh, it's the same thing.

16 Q* All right.

17 A They're; 'cause they're all; they're right next to each other so side three is the same.

18 Q* The same? Okay.

19 A But I can; I mean the granny flat is where we thought he was at that point so that was my
20 primary focus. I, I was also watching the house at that...

21 Q* Okay.

22 A point 'cause we weren't a hundred-percent sure where he was 'cause I don't think anyone
23 had seen him for several hours.

24 Q* Okay.

25 A Um, so I was watching side three and then what I could see inside four. Uh-huh. Sometime
26 after that; I don't know; ten minutes maybe, the, uh, armored car drove by me and went
27 down to the front of the building; side one. And the Santee started to do their calls on the,
28 the P-A and I could him 'em telling him what? You know "Come on out. We need to talk

1 to you.” All that sort of nice stuff. Very soon after they started talking to him, the snipers
2 on the front side saw; they said the suspect, um, in the, the front. I guess there’s a sliding
3 glass door on the front. They saw him in the sliding glass door moving the, the, the blinds
4 back and forth and they could see him and he was shouting something but no one could
5 really say what he was shouting.

6 Q* Could you actually hear that; the...

7 A Oh...

8 Q* shouting?

9 A No, I couldn’t hear a thing.

10 Q* Okay.

11 A I mean, I was;; when I was setting up, I used my range finder and ranged the distance so I
12 could change the, uh, the settings on my scope and it was about a hundred-and-sixty yards
13 give or take. I think my range finder was jumping around from one-fifty-six to one-fifty-
14 nine or fifty-eight; somewhere in there so. It was called at one-sixty; called it good so I
15 couldn’t hear anyone except I could hear the P-A. So they’re talking to him and he’s back
16 and forth to the window. Uh, at some point snipers from side one, uh, John WEST and
17 Mike FORBES saw him put something up against the front of the, uh, of the sliding glass
18 door; possibly some kind of a barricade to block it off. They couldn’t tell what it was. Uh,
19 and then more shouting out the glass window. It was put out that he shouted something
20 about give me my phone back or something. Uh, and then at some point he actually opened
21 the sliding glass door a few inches and threw something unknown out. Um, nobody could
22 tell what it was. We had gotten some information that; during the briefing before we
23 deployed that he, uh, he was armed with a three-fifty-seven handgun. He had pointed it at,
24 at his wife and actually shot a couple of rounds either at or very near her head. It didn’t
25 injure her though. Um, and that he; on previous residences he liked to booby-trap his
26 residences usually with like lights or whistles or noise makers or stuff like that. But there was
27 also something put out about he might possibly be trying to make a bomb or an explosive
28 device. So that was kinda concerning. He was throwing stuff out the, the sliding glass door

1 that we didn't know.

2 Q* And, and the information that you just discussed right now was information that you
3 received during the briefing?

4 A Yes. B-; yeah I skipped that part.

5 Q* You did.

6 A Before I got deployed...

7 Q All three of you did

8 Q* (LAUGHING)

9 Q (LAUGHING).

10 A Yeah, well. (LAUGHING).

11 A* They didn't with me. (LAUGHING).

12 A Before we got deployed it's very important that you get a briefing so you know what you're
13 dealing with so they showed up a picture of; his physical description. He's five-nine, two-
14 ten, two-twenty although he looked quite a bit heavier than that. Big bushy beard, black; or
15 dark brown hair. Um, showed us a picture of him. Showed us a; I think like a Google Earth
16 picture of the, the, the complex basically. Um, told us that he'd been arrested recently
17 within the past couple days or week at a b-; a local bar and he fought the deputies there. So,
18 he seems to like to fight with deputies. Um, and something was said at the briefing about he
19 wants to; he's gonna fight it out with the police and have a shoot-out. We weren't gonna
20 take him. So all that's going through my head as he's throwing stuff out the, the window.
21 You know don't know what it is. They couldn't tell what it was. Um, he, he shut the
22 window. Uh, the entry team and Santee they were preparing and Bomb Arson were
23 preparing to deploy a throw phone which is just; it's a phone that Santee uses so that they
24 can get some two-way communication with him using the robot so the bearcats was
25 maneuvering in front of the house, um, trying to get in a position where they could dump
26 off the robot and the phone so that they could move the robot on up. I think they'd actually
27 dumped the robot off and they were starting to maneuver it when I was watching the side
28 three and side four of the granny flat 'cause that's; we knew he was there for sure now. I

1 thought I saw some movement in the one window on side three so I zoomed in just a little
2 bit with the scope to get a better look and, of course, as soon as I did that I think it was
3 KERR who put out on the radio "He's coming out on side three." So I was like "Oh" so I
4 quickly zoomed back out. I saw him walking out on the back patio. No shirt, shorts and,
5 you know, hair and beard just like (PAUSE) the picture. Uh, and then I saw (PAUSE) him;
6 I think it was a right hand but I, I, I'm not a-hundred-percent sure. I saw him pointing a
7 gun. It was obviously a big looking Dirty Harry type revolver gun.

8 Q What color? If you remember.

9 A It; I; gray or silver I would say but it was kinda hard. Um, pointed in the direction that
10 DEBUS had told me "Heh, we've got some perimeter guys over here by that area. There's
11 some guys over there." He pointed it in the direction of where those guys were. I didn't
12 know exactly where they were 'cause they were doing a good job of hiding in the bushes.

13 Q* And given your knowledge of the tactical, you know, uh, uh, uh, nomenclature of the
14 building...

15 A Um-hmm.

16 Q* one, two, three, four, five or whatever...

17 A Um-hmm.

18 Q* would, uh, he explained to you that there were people at the two, three corner; three, four
19 corners, is that the way he put it or?

20 A Uh-hmm. Well we were up above so he actually pointed and said "Heh, over in that area.
21 See those"...

22 Q* Okay.

23 A 'Cause see where those bushes over there, they're in that area somewhere. There's some
24 guy. And, and he; I'm sure he did say "Two, three corner over there." You know, three or
25 four...

26 Q* Okay.

27 A corner but he pointed and showed a general location of where they were.

28 Q* Where they were.

1 A So I, I, I mean, I, I couldn't see him 'cause they were doing a good job of hiding in the bush
2 but I knew they were in that general location.

3 Q* Okay.

4 A Uh, he pointed the gun in that general location. Uh, I assumed that he was pointed at the
5 gun at my partners 'cause they were the only ones out there and maybe he saw them. About
6 that same time I heard one shot and then I shot and then I thought I heard one more shot
7 and that's all I heard but um, I shot. He went down. Um, he was lying on the cement patio
8 just, if I'm looking at the house just to the right of the, the chair. There's some chairs and a
9 table out on the patio, on his back. Uh, didn't see the gun anywhere. I didn't see where it
10 went. Um, he was obviously a live 'cause his head was moving and he was moving his
11 hands. I didn't see anything in his hands. Uh, several people put out that shots were fired.
12 Um, then one of the guys either KERR or GAVIN, I 'm not sure who put out they didn't
13 have obs where; they couldn't see the suspect anymore. So I put out I had obs at least on
14 his upper half. The; his lower half was kind of behind the chairs and table so I couldn't
15 really see it that good. Then they were talking about sending in a robot out to, to look at
16 him. To, to see if; keep an eye on him. Then I; someone at the T-S-A or somewhere
17 decided that since I had a good visual on him I could tell them "His hands are empty. He's
18 still on his back" while the entry team, uh, advanced on him. So that's what I did. I kept
19 obs on him. Um, and somewhere in there I thought "Oh, I need to reload in case I need a
20 follow-up shot" but apparently I had already done that 'cause when I did that, uh, a live
21 round came out of the chamber. I was like "Oh, okay, well, so." I reloaded anyway and put
22 in a fresh round in the chamber and just kept eyes on him. I had KERR 'cause KERR could
23 talk to him. He was close enough. Well, I; KERR's the one that was talking on the radio. I
24 don't know who was talking to him. Just told him "Keep your hands above your head"
25 'cause when he put his hands down around his waist, I would lose sight of him so he, he did.
26 He pretty much kept his hands up around his head and his head was moving side-to-side but
27 nothing else on his body was moving and I just watched him and reported every few
28 seconds "His hands are still out. His hands are still empty." The entry team came around

1 the corner of the; it would've been the two, three corner of the house. And at that point, I
2 didn't need a gun on him anymore. They were taking him into custody so that's when I;
3 there's a hit; a release button. I opened the bolt. A round popped out and I hit the release
4 on the bottom to expend the last round out of the chamber so that it was empty when they
5 were down there working and then I just watched with the naked eye for the rest of the
6 time. And that was pretty much it.

7 Q Did after briefing do you know who was the reporting party for the; you said there was, um,
8 a round fired at a female. Is that what you had told me?

9 A The wife, yes.

10 Q Do, do you know who the R-P was for that?

11 A I believe the wife. She, at some point left the residence. Um, when she left the revident;
12 residence, she went to a neighbor's. Uh, I don't know which neighbors. I'm, I'm assuming
13 it was the neighbor that was right next door in the actual house and that's when they called
14 nine-one-one.

15 Q So when you were briefed on this information, did you find that to be credible
16 information...

17 A Yes.

18 Q of the assault on the wife?

19 A Yes.

20 Q Credible one. And then, um, when you, uh, set your position and you had the negotiation
21 team talking and him opening sliders, via radio your hearing this? Am I correct?

22 A Yeah, I, yeah I could hear; obviously I could hear the P-A system. I could hear her talking.
23 There are C-N-T stuff but then yeah, I could hear the snipers through the radio or I; and the
24 entry; whoever, I could hear them through the radio "Heh, he's out the window." "He's
25 shouting." You know, all that was through the radio.

26 Q Okay. And then when he presented the gun, wha-, what went through your mind from
27 where you were at?

28 A Well, I obviously wasn't in any danger. Um, but I guess I; DEBUS had told me that some of

1 my partners were in that general area where he was pointing the gun at and I thought maybe
2 he saw them and was gonna try to shoot them and...

3 Q And this was with...

4 A kill them.

5 Q high-powered scope? That you...

6 A Yes.

7 Q could see him?

8 A* From a-hundred-and-sixty yards away?

9 A Um-hmm. I'm at a hundred-sixty yards away.

10 Q Where, what part of his body did you target?

11 A The center mass.

12 Q And what was his body presentation to you? I'm lookin'; if I'm, if I'm you and I'm lookin' at
13 the suspect, what were you seeing? What did, what was his body position?

14 A Kind of like; almost like a forty-five degree off his right side. So I could see like, like what
15 I'm showing you basically right now.

16 Q* Somewhat bladed?

17 A Yes, some; just a little bit bladed. I mean, I could see his, his belly but I could also see his
18 side right here so...

19 Q Is...

20 A I targeted the center mass area somewhere in here.

21 Q And you're rubbing on your chest and your belly area.

22 A Yeah. The chest and the stomach area.

23 Q And; but off to the...

24 A Oh, off to the right side.

25 Q right side?

26 A Yes.

27 Q In his armpit so you believe his right arm was up? Like could it have been his left arm?

28 A I mean, it could have been but I think it was his right but I, I'm not a-hundred-percent sure.

1 Q Okay. That's fine.

2 Q* Um, do you know if your round impacted were you were aiming?

3 A Uh, it should've but I have no; um, no, I don't know.

4 Q* Heh, I, I don't know if I misheard but if you; during your narration that you said, uh,

5 something about that he shot the window. Did I just mishear that or?

6 A I think you misheard.

7 Q You misheard it. I heard it too.

8 Q* Oh, okay.

9 Q And then he continued and he was talking about...

10 A I said he shut the...

11 Q He shut...

12 Q* Or he shut.

13 A the sliding glass door.

14 Q* Oh, okay.

15 A After...

16 Q* Okay.

17 A he threw the whatever he threw out.

18 Q* Okay.

19 A He shut.

20 Q I heard the same thing though and as he continued I went "Oh, I know what he said."

21 Q* Okay.

22 Q Okay. Have you been in many calls of this nature?

23 A Uh, SWAT like code-eleven?

24 Q Yeah.

25 A Yeah, I've been to several.

26 Q Lethal force type scenarios?

27 A Yes. Never when we've used lethal force but.

28 Q Uh, do you have any initial safety concerns regarding the call? It's kind of a weird question

1 for this format but I'll let you answer it if you can.

2 A Any initial; like...

3 Q Safety concerns. When you were headed for the, uh, when you go from T-S-A to the scene
4 and you're gonna be setting up as a sniper, what are your safety concerns?

5 A Well, I mean, there's several. There's obviously; I have an armed suspect somewhere. We
6 don't really know where he was when I was enroute. Um, he's already shot a couple rounds
7 either at or near his wife and threatened to shoot it out with the cops so that's obviously in
8 your mind. Um, he's got a t-; according to this wife, he has a history of setting booby traps
9 although, you know, noise makers and stuff but there's also some info that maybe he has
10 been trying to figure out how to make an explosive devise. So that's huge in my mind. Um,
11 also in the briefing, he had several other weapons that his wife had given to the neighbor. I
12 don't know which neighbor. One of 'em included a; I believe it was a twenty-two-two-fifty
13 rifle which, uh, DEBUS put out on the radio is a big-game high-powered rifle. So...

14 Q* Do you know anything about that type of weapon personally?

15 A No. Nothing at all. Nothing at all. Um, so, I mean, that's in my mind if I have a high-
16 powered rifle and I can see and shoot him. If he has that, he can see and shoot me. So
17 that's definitely a safety concern. Um, he's an Army medic so who knows what kind of
18 tactical knowledge or experience he has. Um, he's been to Bosnia and he's actually seen or
19 been in a combat region area so, you know, suffering from possibly post-traumatic stress
20 disorder and on psych meds and drunk is what they also put out at the briefing that I didn't
21 tell you earlier (LAUGHING).

22 Q* (LAUGHING).

23 A So, you know, put all those things together. Um, and, so there's that and then there's
24 obviously the other stuff not getting run-over and hypothermia; all that other personal safety
25 stuff.

26 Q* Um-hmm.

27 A So, yeah, there's all that going through your mind as you're going there.

28 Q Okay. Do you; did you or your cover deputy stage before arriving on the scene?

1 A Yes.

2 Q (CLEAR THROAT) Did you formulate a plan of action before contacting; before you went
3 to the; where you staged? And I already know the answer. You described that. You were
4 assigned to be at that place after scouts took a look and etcetera, etcetera.

5 A Um-hmm.

6 Q What did you determine was actually occurring with this incident after arriving on scene and
7 you described that. Was a crime likely in progress and had a crime had occurred.

8 A A crime had definitely occurred. I mean, at the point. Yeah, I guess a crime; he's not
9 following our instructions but like we were told he's gonna be arrested for attempt one-
10 eighty-seven which...

11 Q On his...

12 A happened be-; on his wife.

13 Q On his wife.

14 A Which had happened before we got there.

15 Q* Um-hmm.

16 A When we got there, we didn't even know where he was really so.

17 Q Was there probable cause for an arrest?

18 A Yes.

19 Q Did you give any verbal warnings to the suspect?

20 A No.

21 Q Do you think that's logical from a-hundred-and-sixty yards away but, um, and it says "Did
22 you consider any other weapons?" Your assignment was sniper. From that distance you
23 kinda need to use a sniper rifle. Is that right?

24 A Oh yeah.

25 Q I don't wanna put the words in your mouth.

26 A But I, I could've used a M-four pretty, pretty well; pretty easily but sniper rifles that much
27 more accurate.

28 Q* Um-hmm.

1 A So, the tool for that distance is definitely a sniper rifle.

2 Q What were thinking when you fired your weapon? What ran through your mind? And what
3 lit off the lethal force?

4 A You know, as I, you mean as I fired?

5 Q NO VERBAL RESPONSE.

6 A Um, like I explained, he's pointing the gun in the general direction of my partners. I think
7 maybe he sees them and maybe he's gonna try to shoot them. So I wanted to stop him
8 before he could hurt whoever he was pointing the gun at.

9 Q And you said after you deployed force, he went down and you could see his hands and...

10 A Um-hmm.

11 Q you directed others by what your observations were?

12 A Yes.

13 Q And you just described what you had thought would happen if the subject's actions were not
14 stopped and was medical aid given to the subject?

15 A Yes.

16 Q Do you know who provided that?

17 A I know Sycuan Fire Department was there with their medics. Um, and we had tactical
18 medics. I don't know who actually was there but there were definitely medics there giving
19 him aid and they transported him to the hospital in an ambulance.

20 Q Do you know if you have ever contacted this subject before?

21 A Not to my knowledge, no.

22 Q And were you injured in the incident?

23 A No.

24 Q And do you have any other questions for me; any statements you wanna make; anything?

25 A No. Um, do you guys have the sniper rifle?

26 Q* We don't but.

27 A Homicide has it?

28 Q* Yeah.

1 A Okay.

2 Q The Crime Lab has it.

3 Q* Well...

4 Q We're in, we're in control of it.

5 A Right.

6 Q* Right.

7 Q The Crime Lab...

8 Q* Right.

9 Q possesses it.

10 A How long 'cause, I mean, normally you get in a shooting him with your Glock, you give me

11 a Glock. I give you...

12 Q* Uh-huh...

13 A my Glock.

14 Q* Yeah, we've been presented with that...

15 Q I don't know.

16 A Okay.

17 Q* with the...

18 Q We're finding out.

19 Q* for, for...

20 A Okay.

21 Q* understanding, um, you know, the need and understanding how S-E-D's positioning on

22 this...

23 A Um-hmm.

24 Q* we'll find out the information and give it to you and, um, and, you know, obviously...

25 A Okay.

26 Q* do what we can to expedite...

27 A Yeah.

28 Q* getting you your equipment.

1 A I just didn't know how that worked (LAUGHING).

2 Q I'm not sure we know because it's...

3 A* (UNIN).

4 Q* Yeah, that's true.

5 Q Usually everybody hears, hears (UNIN).

6 Q* (UNIN) Absolutely.

7 Q So, okay that ends this interview . It is twenty-zero-six.

8 **END OF INTERVIEW**

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

CASE NO.: 10064025

CRIME: 245(A)(2) ASSAULT WITH A DEADLY WEAPON

VICTIM: (b)(5)(B)

INTERVIEW OF:
DEPUTY BRANDON GAVIN

AT:
ALPINE SHERIFF'S STATION
2751 ALPINE BOULEVARD
ALPINE, CALIFORNIA

ON:
OCTOBER 19, 2010

BY:
TROY DUGAL, DETECTIVE
MARK PALMER, DETECTIVE
SHERIFF'S HOMICIDE DETAIL

INTERVIEW BEGAN: 1843 HOURS

TRANSCRIBED BY: (b)(5)(B)

Q DUGAL, Troy, Detective

Q* PALMER, Mark, Detective

A GAVIN, Brandon, Deputy

A* (b)(5)(B)

Q Okay. Today is October nineteenth, two-thousand-ten. It is presently eighteen-forty-three hours. That's what time I'll make that; eighteen-forty-three. We are still at the Alpine Patrol Station. Uh, we are conducting interviews with deputies who were involved in the officer-involved shooting, um, on Japatul. In the room with me is Detective Mark PALMER and Attorney (b)(5)(B) and we are inter-, interviewing Brandon GAVIN. Um, Brandon, just spell your first name. Is this right B-R-A-N-D-O...

A D-O...

Q N?

A N.

Q GAVIN. G-A-V-I-N?

A Yes, sir.

Q Perfect. Okay and you're a, uh; when you're S-R-T or you're S-E-D? You just go deputy? Is that right?

A Yes.

Q Deputy.

A Deputy Sheriff.

Q Huh?

A Yes, Deputy Sheriff.

Q Deputy Sheriff, sure.

A Yes.

Q Okay, when you were hired by the Sheriff's Department?

A Um, December of nineteen-ninety-eight.

(SIDE CONVERSATION BETWEEN Q AND UNKNOWN MALE)

Q What's your ARJIS number?

1 A Two-six-four-nine.

2 Q Assignments since you've been hired with the Sheriff's Department?

3 A All of 'em?

4 Q Yeah.

5 A Uh, I worked at the jails.

6 Q Which jail?

7 A Uh, Vista Jail, Las Colinas, Descanso...

8 Q Um-hmm

9 A Lemon Grove Patrol...

10 Q Um-hmm.

11 A the Academy and S-E-D.

12 Q Any previous law enforcement experience?

13 A I was a probation officer for five years.

14 Q I didn't know that. (CLEARS THROAT) What are your; what are your normal working

15 hours?

16 A Um, six to five.

17 Q Six to five Monday through Friday?

18 A Um, Monday it's like four-tens Monday through Thursday.

19 Q Monday through Thursday and it's...

20 A It's...

21 Q it's basically six...

22 A (UNIN)...

23 Q to-five?

24 A Yes.

25 Q And then you got that one day that's weird in there. A longer day or something?

26 A NO VERBAL RESPONSE.

27 Q What time did you report for work today?

28 A Uh, today unfortunately was suppose to be changed. I was suppose to be directing patrol in

1 Lemon Grove at four and I was given a call to like; I think I talked to Sergeant STRONG at
2 nine-fifteen and he said "Change of plans. That cancelled. Come in. We might have a
3 possible code eleven." By the time I got to the office it was like nine-forty-five I think.

4 Q This morning at zero-nine-forty-five?

5 A Yes.

6 Q (CLEARS THROAT) When did you last sleep?

7 A Last night.

8 Q And how much sleep did you get?

9 A* (CHUCKLING)

10 A I am...

11 A* I've been laughing about this

12 A Yeah. I'd say six hours; five or six hours.

13 A* He has two minor...

14 A Yeah....

15 A* children.

16 A two young kids that...

17 A* (LAUGHING).

18 Q* (LAUGHING)

19 Q (LAUGHING)

20 A sleep (UNIN).

21 Q Did you have any injuries before this incident?

22 A No.

23 Q How would you generally describe your physical health?

24 A Good.

25 Q How old are you?

26 A Thirty-seven.

27 Q How tall are you?

28 A Six-one.

1 Q And what is your weight?

2 A Two-ten.

3 Q Do you wear eye glasses or contacts?

4 A No.

5 Q Do you have any hearing loss?

6 A None.

7 Q Are you right or left-handed?

8 A Right.

9 Q What was your unit designator today?

10 A Um, Ten-Edward-Twenty-Eight.

11 Q And what area does that cover? That's an S-E-D designator, right?

12 A Correct. It's full-time S-E-D.

13 Q That's the whole county?

14 A Yes, sir.

15 Q (CLEARS THROAT) Um, when you reported; you said at zero-nine-forty-five?

16 A Yes, this morning.

17 Q And that was a S-E-D call-out?

18 A Yes. Oh, I drove to the office 'cause he told me to make it an office day instead of, uh,

19 directing patrol and then by the time I got into the (UNIN) at the office, the page went up

20 and it was code-eleven. So I turned around and left the office and came out here.

21 Q Okay and from the office, how do you get to the scene?

22 A* For...

23 A Drove.

24 Q What kind of vehicle? Sorry.

25 A My car. (LAUGHING).

26 Q No, I'm reading it here.

27 A (LAUGHING) My...

28 Q Well I know that's a confusing question. I'm one...

1 A (LAUGHING)

2 Q The questions I'm...

3 A (UNIN)

4 Q suppose to ask you is "Were you driving a marked patrol vehicle?" What was...

5 A Oh, I'm sorry.

6 Q the unit number?

7 A No, it was a, a County issued, uh, Crown Victoria...

8 Q It's my fault.

9 A Unmarked. Is that a little better?

10 Q That's...

11 A (LAUGHING)

12 Q good.

13 A Okay.

14 Q* Do you know the equipment number by heart?

15 A I; it's a brand new car and I wanna; two-zero-seven-nine-four I think. My keys are in the

16 other room.

17 Q (WHISPERING - UNIN). Two-zero-seven-nine-four vehicle. We won't hold you to it.

18 A Thank you.

19 Q What safety gear or weapons other than firearms did you have with you today? Let's do it

20 this way.

21 A (LAUGHING).

22 Q And did you...

23 A (UNIN) Yeah.

24 Q No. Kind of; we have to get a description; a verbal description of what you were wearing

25 during the incident...

26 A (UNIN)...

27 Q and it's gonna be easier even for these questions for you...

28 A Okay.

1 Q just to go through there and say "This is what I was wearing clothing-wise."

2 A Um-hmm.

3 Q "This is what I was carrying."

4 A Gotcha.

5 Q And then just.

6 A Okay.

7 Q Go ahead and...

8 A All right.

9 Q shoot (UNIN) do it.

10 A I; my, uh, uniform of the day was, uh, B-D-U green, uh, blouse. I had my, uh, Department-

11 issued vest; light vest underneath that. Black S-E-D t-shirt with green B-D-U pants and my

12 boots. I may, I mean, I was wearing my, uh, load-bearing vest that had, uh, extra handgun

13 magazines, extra rifle magazines, uh, gas...

14 Q When you say "extra handgun magazines" for which gun?

15 A Uh, I had both handgun and rifle magazines.

16 Q And what is your handgun?

17 A A Glock twenty-two, uh, pistol; forty-cal and then I had extra magazines for my rifle which

18 is an M-four. Um, and gas mask, gloves, knife, uh, gas rounds.

19 Q What kind of knife is yours? Same as Bill KERR's; a big...

20 A (LAUGHING)

21 Q tactical knife?

22 A No, it's a, a small, uh, Strider knife. Um, I had gas rounds for my two-o-three, uh, launcher.

23 Um, balaclava to go over, over my head. A boonie cover over that, gloves and then I carried

24 my, uh, uh, gear bag with me. I had, um, knee pads and a night-vision goggles, extra

25 handgun and rifle magazines, more gas rounds. Um, flash bangs, food. That's it.

26 Q Okay, just for me. To make it simple for me. Lethal weapons. You have the Glock...

27 A Right.

28 Q forty-cal.

1 A Glock forty-caliber handgun...

2 Q M-four.

3 A M-four rifle.

4 Q That's it? "lethal".

5 A Um, right because the two-o-three underneath on the bottom side of the tape; of the rifle is

6 gas rounds and less-lethal.

7 Q And then on the less-lethal side is the two-o-three. That's an attached fixture to the M-four

8 rifle?

9 A Correct.

10 Q That shoots forty-millimeter something.

11 A Sponge rounds...

12 Q Whatever.

13 A (UNIN) have, yes.

14 Q And you had sponge rounds. Did you have sponge...

15 A Um-hmm.

16 Q rounds?

17 A Yes.

18 Q And what other kind of rounds did you have?

19 A I had gas rounds also.

20 Q Okay. And then, uh, any other less-lethal besides that?

21 A No.

22 Q* Taser?

23 A NO VERBAL RESPONSE.

24 Q* None of that.

25 Q All right. Let's make sure we covered these. I think that's (UNIN). That was quicker too.

26 A (UNIN).

27 Q Yeah, you like that. Oh yeah, have you received training on all of the gears and all the

28 weapons we just spoke of?

1 A Yes.

2 Q When was the last time you qualified with lethal; the, the Glock? When's the last time you

3 qualified with the Glock?

4 A I don't remember the date. It was our last, uh, um, unit quals.

5 Q Unit qual or Department qual?

6 A Uh, unit quals 'cause those, those are more often.

7 Q Do...

8 A I don't know the exact dates we...

9 Q Do you know the month?

10 A No.

11 Q (LAUGHING) Do you know the year?

12 A (LAUGHING) This year.

13 Q (LAUGHING) All right. Good.

14 A (LAUGHING).

15 Q Okay, so sometime this year you qualified....

16 A Yes.

17 Q with the Glock forty. How 'bout the, uh...

18 A Same thing with the rifle.

19 Q Same time?

20 A Um-hmm.

21 Q And that's documented though through S-E-D?

22 A Correct.

23 Q Your last qual?

24 A Yes.

25 Q Okay. Uh, less-lethal of whatever you call, the two-o-three?

26 A Right.

27 Q* M-two-o-three.

28 A That's; the M-Two-o-three is also training through S-E-D is all documented.

1 Q It's the same qual time for the less-lethal?

2 A No, the less-lethal is different. I don't know when we did that one. I'd have to check our
3 records.

4 Q This year?

5 A I think so.

6 Q Okay. Probably gonna have to, to Dave Hillen, you're gonna have to check those records.

7 A Yes, yeah.

8 Q (CHUCKLE)

9 A Sorry.

10 Q That's all right. Was the gear or weapon; all of your gear and all of your weapons
11 operational at the beginning of your shift?

12 A Yes.

13 Q Did you do a safety check or equipment check on every piece of gear that you had prior to
14 today's shift?

15 A Yes.

16 Q (CLEARS THROAT) And just for the record, um, we talked about it and I asked you to get
17 in exactly the same clothing you were wearing at the scene as you did for your photographs.
18 That is; this is for the record, same clothing...

19 A Correct.

20 Q the way you are when you were at the scene...

21 A Yes.

22 Q during the shooting. And you...

23 Q* No face paint?

24 A None 'cause I had the balc; balaclava on.

25 Q* Okay.

26 Q The weapons you carry, are those issued to you?

27 A Yes, just to me.

28 Q And the M-four that you used in the incident...

1 A Um-hmm.

2 Q where did it go and who directed it?

3 A It was handed over to, uh, Deputy DEBUS at the T-S-A.

4 Q And who directed that?

5 A Uh, he came up...

6 Q It's okay...

7 A he asked me...

8 Q by the way (CHUCKLE)

9 A Naw, I think he; well he came up and asked me for it. I don't know if someone told me to
10 give it to him. I don't remember who it was.

11 Q Okay.

12 A And actually Sergeant STRONG told me to give it to him because they were standing right
13 there.

14 Q Okay. Is the ammo used during this incdi-; incident your issued ammunition?

15 A Yes.

16 Q Is the ammunition in your magazines your issued ammunition?

17 A Yes.

18 Q There's nothing in there that's store-bought that you brought in?

19 A No.

20 Q Okay. How was your weapon loaded?

21 A NO VERBAL RESPONSE.

22 Q Your; and we're talking specifically the M-four.

23 A That was loaded as in; like you mean a round in the chamber with the full magazine in the
24 magazine well?

25 Q Yeah, how ma-; how many rounds does a magazine hold?

26 A It holds thirty. Um, but I typically load it with one or two less just to make sure there isn't
27 too much pressure in there and cause jams. So I think I had twenty-eight.

28 Q Okay. And that was the only weapon you used during the shooting incident?

1 A Correct.

2 Q The Glock...

3 A The rifle.

4 Q was never used?

5 A No.

6 Q Okay.

7 Q* Are those rounds; your M-four rounds the same rounds that the Department issues to every
8 rifle-bearing deputy or detective on the Department?

9 A Yes.

10 Q* Okay.

11 Q And that twenty-eight to twenty-nine rounds, is that how you always load and carry your
12 weapon...

13 A Yes.

14 Q on a normal shift? Uh, (CLEARS THROAT) when you turned your weapon over, had you
15 altered the condition of your weapon? In other words, did you take the magazine out,
16 unload...

17 A No.

18 Q anything; eject anything?

19 A After the shooting simply put it on safe and left it as is and then gave it to, uh, Deputy
20 DEBUS.

21 Q Okay. What occurred on; during, during your shift before this incident? So this is where
22 we; this is where I get to quit taking notes, take my glasses off and listen...

23 A (CHUCKLE)

24 Q to your story.

25 Q (CHUCKLE). Just start. Really, just start with today. Like you were telling, uh, telling a
26 loved one. You can pretend I'm a loved one.

27 A Ha-ha, thank you.

28 Q (UNIN).

1 A Yes, this'll be easy.

2 Q Okay.

3 A Um, I woke up, took the kids to school. I went to the gym. As I was heading to the gym I
4 got a call from Sergeant STRONG saying, uh, "Directing patrol in Lemon Grove at four was
5 cancelled." That it's gonna be a normal office day. That, uh, four scouts were sent out to
6 Alpine? And that there could be possibly a code-eleven. So I went home, I showered and
7 shaved. I drove to the office and then as I pulled into the office, I got the page that it's a,
8 um, true code-eleven. So I turned around and started heading out here to Alpine. I get
9 here, meet up with, uh, LOZOYA at the...

10 Q Where'd you, where'd you get here? Where in Alpine were you headed?

11 A Um, to Japatul Valley Road near mile marker, uh, thirteen. That's where the T-S-A was
12 being, uh, uh...

13 Q The tactical staging area for the lady who's gonna be typing this.

14 A Right forgot my loved ones wouldn't know that.

15 Q (CHUCKLING) Right.

16 A Um, so the tactical staging area, uh, I went to where Deputy LOZOYA was at. Uh, he told
17 me to gear-up for a scout meaning I would go and check the residence in order to describe it
18 and relate that to my partners. So, I parked, geared-up, got all of my Department-issued
19 equipment on me and then, uh, Deputy KERR and I were teamed up as scouts. We used
20 my vehicle to drive from the tactical staging area over to the incident command.

21 Q You can say T-S-A now.

22 A Incident command, the I-C...

23 Q (CHUCKLE)

24 A and then from there drove down to meet up with the other scouts, um, Phil BEAUMONT
25 and John DEBUS.

26 Q Um-hmm.

27 A They had finished it so they needed our help so we went back up to identify, you know,
28 positions for everyone to be in. They, of course, did that back at T-S-A. Once everyone

1 was done, everyone in all those positions were delegated to everybody that came to us and
2 then we went back down towards the residence and were put in our positions. DEBUS took
3 half one way, BEAUMONT took half the other way which is on my side. And I was in the
4 position of three-four corner with Deputy KERR. And just keep going?

5 Q Um-hmm.

6 A Um...

7 Q You're doing great.

8 A Thank you.

9 Q (CHUCKLE).

10 A Uh, from there when we got full containment meaning all the positions were set around the
11 residence to where we'd be able to do the next assignment that we were given. Um, from
12 where we were, they were dealing with, uh, the front of the residence. The suspect kept
13 coming to the front door. I guess he was yelling. They were telling us that over the air but,
14 uh, I never heard him yell or anything from the front. They were dealing with trying to get a
15 robot in place to bring in a phone. Uh, we had a; the crisis negotiation team inside doing the
16 announcements, uh, so that that's they had first got the communication going with him.
17 They wanted to use the throw phone in order to hopefully get better communication going
18 with him. From back there we heard, uh, sound of things dropping or maybe just doors
19 closing so we're guessing it's the slider opening and closing while they're dealing with him up
20 front. Uh, shak-, uh, I need to actually go back. Should I tell my brief on what LOZOYA
21 gave...

22 Q Yes.

23 A me at the T-S-A?

24 A* E-...

25 A What I was going to...

26 A* (UNIN) like FARR or; you guys are partners...

27 A (LAUGHING)

28 Q (LAUGHING).

1 A Wait a minute. You don't know why I'm there.

2 Q (LAUGHING).

3 A I just went in some stranger's house. No, um, I met up with LOZOYA. He told us we were
4 gonna be scouts and to gear-up. Once we were ready to go, he came; we came to him and
5 he gave us a debrief on; or a brief on what was going on today. Uh, Michael FOSTER was
6 at this residence earlier today. Had a three-fifty-seven handgun and put it to his wife's head
7 and said he was gonna kill her. Somehow she managed to get away. He fired at her once,
8 missed and then as she was running, he fired at her again and barely missed her head. She
9 was able to leave and call nine-one-one but before she left that scene, I guess she last saw,
10 uh, Michael FOSTER put the gun into his mouth. That was the last time she saw him. Not
11 that he pulled the trigger or anything; just that he had put the gun in his mouth at one point.
12 Um, LOZOYA also told us that he was a former Army medic. So he's; all the way in the
13 back of my mind based on his training and experience, it's not an easy job. Combat
14 experience maybe so worried about, you know, a lot of going up against a lot of experience
15 on top of that. Um, we knew that he had the handguns; possibly other guns unknown and
16 at some point I remember hearing something about, uh, medications or drugs or something.
17 I don't know. I don't remember the details on that. I just remember something about
18 medications. Um, so then fast forward back up to the entry team...

19 Q Do you know who the reporting party was to that sh-...

20 A The wife.

21 Q Okay.

22 A The wife got away, called nine-one-one. She's the one who was telling us all the details of
23 him shooting at her and putting the gun in his mouth and she was still on scene is my
24 understanding. I didn't; I don't remember seeing her. Uh, then from there back to where
25 the deputies up front. The entry team's dealing with him at the front door. He was yelling
26 stuff out. He threw something out. I don't know if it was ever identified what that was.

27 Q How do you know that?

28 A Uh, through, uh, communications over our radios.

1 Q How, how do you hear your radio? Is it...

2 A A ear...

3 Q an...

4 A an ear-wire...

5 Q Okay.

6 A um, just so I can hear and other people can't. Um, over the radio, they were telling us
7 everything that was going up front 'cause we couldn't see or hear him sliding the door open
8 and throwing things out, yelling and stuff. Uh, and then it kinda went quiet for a minute or
9 two and while we were laying; we're on the three-four corner so it was a; we were laying here
10 more at an angle to the residence. Uh, actually the diagram that we were told...

11 Q Um-hmm.

12 A based on the scout is from where we were positioned on three-four corner. That was the
13 main residence. Then to the right of that was a granny flat and then to the right of that was
14 a garage. From where I was sitting, um, couldn't see the garage at all. We could see the
15 main residence and just a bit; a portion of the granny flat where we said that's where the
16 whole incident occurred between husband and wife and then that's where he was actually
17 positioned because that's the door he kept going in and out of or sliding open.

18 Q* Let me make sure it's clear in my head. So the three-four position that you took up was on
19 the main residence or on the granny flat?

20 A It's uh, it was on far end of the whole thing. So, it's; really be on the main residence.

21 Q* Okay.

22 A And that, um, and there wasn't really much of a separation between the two. It's more like a
23 overhang that separated the two. Like a patio kinda thing.

24 Q* Um-hmm.

25 A Um, so like I said, it kinda went quiet for a minute and then he came out one of the doors
26 there; out, out of the granny flat and started coming around and we were looking up and I
27 barely saw like his hair. So we started calling out to our partners so everyone could see that
28 he was coming outside. "Okay, he's coming out." He started going to the right so I got up

1 on my knees and then that's when I saw him, uh, raise the black revolver. And it looked like
2 he was pointing towards the two-three corner where I thought my partners were and based
3 on all the trees and shrubs and everything, I wasn't sure if they could actually see him
4 coming so I was fearful that he may get a good shot on them without them even knowing.
5 Um, plus of course, I feared for my own safety 'cause he wasn't that far and could easily
6 move towards myself or Deputy KERR and at that point, I fired. Well, excuse me. I yelled
7 out, uh; I heard someone yell out "He's coming out the back". He comes out. I yell out, uh,
8 "He's got a gun." I hear one gunshot and then I fired. I fired two rounds and then I didn't
9 see him anymore. He went down and then, uh, we started talking to ourselves; just making
10 sure everybody was okay. Um, making sure nobody was hit. Then I started talking to
11 KERR "Should we go up and check?" And then all of a sudden someone got on the radio
12 saying "I see him. He's laying face up. Nothin' in his hands." So at that point, we knew
13 someone had a visual on him so we didn't have to worry about well, is he gonna get the
14 jump on us and start shooting again. They could see him. Uh, so at that point, we just held
15 position and the next thing I remember is the entry team coming around from the front;
16 from the far side coming to the left dealing with the suspect.

17 Q Okay, did; on your weapon, do you have optics? Are there sights?

18 A I have a hard sights and then I've got a, um, (UNIN) point. It's like a, a red dot in the; I
19 think it's a; you know, I guess it's a scope.

20 Q Which one were you using?

21 A I use my hard sights.

22 Q And where on the suspect were you targeting?

23 A On center mass.

24 Q And do you know if you struck the sus-, uh, suspect?

25 A I think I did.

26 Q Okay.

27 Q* But you mentioned that you were out and you, uh, you fired two rounds. Was that two
28 rounds actual or was that your perception? Did you confirm it afterwards by counting your

1 expended brass at the...

2 A It, it naturally felt like two rounds but then afterwards I looked down and I only saw two,
3 two rounds on the ground.

4 Q* Okay.

5 Q Two casings?

6 A Two casings.

7 Q* Uh, one more question. When, um, from your po-; when you deployed, you deployed
8 straight to the three-four corner?

9 A NO VERBAL RESPONSE.

10 Q* So you didn't know what the two-three position could see?

11 A No.

12 Q* (UNIN).

13 A Um-hmm.

14 Q* Okay.

15 Q When you saw the suspect hold; did; when he came out, you talked about seeing the top of
16 his head and then you talked about him raising his hand. Did you actually see him raise the
17 gun or did he walk out with the gun already in the raised position?

18 A When he; it actually happened really quickly. He came out of the residence and he was
19 moving with a purpose. So I saw his; saw the top of his head. Based on the angle and as he
20 approached the end of this; the patio or porch would be, it looked like his arm was out so,
21 yeah, I don't think; I never saw it actually come up. The only thing I saw was it straight out
22 so by the time I could see the rest of his body, it was already out.

23 Q And this is your view if you're the suspect? This is your view of the suspect? Almost...?

24 A Straight-on?

25 Q Straight-on?

26 A No. Um, like I said I was; we were at an angle like this towards the residence and I saw his
27 back and the gun pointed in that direction.

28 Q Okay. Okay so when you...

1 A (UNIN).
2 Q say; yeah, kinda; but when you say "center mass" what is center mass to what he's presenting
3 you?
4 A To his back.
5 Q Okay.
6 A So like, uh, shoulder blades...
7 Q We have to try to figure out which projectiles went where on...
8 A Right.
9 Q him.
10 A The picture that I saw of him; can I stand up...
11 Q Sure...
12 Q* Show us...
13 Q Absolutely. I've got...
14 A So...
15 Q to try to explain this to my partners so...
16 A I know.
17 Q Ha-ha-ha.
18 A Say you were in my position?
19 Q Yeah, let me...
20 A And you...
21 Q Okay.
22 A just see the top of my head as I'm walking out this way? By the time I come here, the gun's
23 out and this is what you saw with no shirt on.
24 Q Okay.
25 Q* Okay. You...
26 A So I aim center mass right here.
27 Q On his back.
28 A So, about mid-back to shoulder blades.

1 Q And for the recording, what he's showing me is, uh almost a perfect back view with the right
2 arm extended out towards your partners; aimed in the direction of your partners.

3 A Correct.

4 Q And, uh, presenting his back to you and center mass would've been in the center of his back.

5 A Yes.

6 Q Okay. On; I should've, I, I should have had KERR clarify this. Wha-, and, and I'm
7 probably gonna have to have KERR eventually clarify but would KERR's vision be the back
8 or would it be the front?

9 A Uh, his would be the back also.

10 Q His would be the back also?

11 A NO VERBAL RESPONSE.

12 Q Okay.

13 Q* Were you firing from the prone position?

14 A On my knees.

15 Q* On your knees?

16 A I was, I was prone first when I saw the top of his hair...

17 Q* Um-hmm.

18 A and then as he was going, I got up to my knees. That's when I saw...

19 Q* The full...

20 A basically the torso with the gun straight-out. It looked like he was going at, at my partners so
21 I fired.

22 Q Which partners were in danger? The direction of the pointed weapon.

23 A I don't remember the; I don't know who was specifically there. I just know someone was on
24 the two-three corner.

25 Q Okay.

26 A Two people were assigned to the two-three corner.

27 Q Fair enough. Any more questions before I go into the nitty-gritties?

28 Q* Just real clear; uh, real quick. You said that you were as-, uh, initially assigned just directing

1 patrol at four o'clock; and it's sixteen-hundred?

2 A Correct.

3 Q* Okay. All right. No further questions.

4 Q All right. Uh, some of these we're gonna go over real fast but some of 'em I want you to
5 reiterate. You may have covered it but I want it more detailed or to say it again.

6 A Okay.

7 Q On this one's one of those. What were you thinking when you first received this call? When
8 you were first briefed, what was in your head?

9 A First briefed back with, uh, Deputy LOZOYA?

10 Q Uh-huh.

11 A Um, we were dealing with somebody that was already willing to kill somebody 'cause he
12 attempted to kill his wife. He was willing to kill himself 'cause she last saw him with the gun
13 in his mouth. Um, with his military training, both in he as a soldier and as an medic, he's
14 puttin' things to a very critical situations that pushes him kinda to the limits so he's gotta be
15 pretty well trained. So I realized I was going up against somebody that wasn't mentally
16 stable; that was willing to hurt others. I, I didn't feel that I was gonna be a major threat to
17 him so I think he, he would've probably come after me at any given time. So, I feared for
18 my safety and my partners (UNIN) next to me at the time and then once he came out, he, he
19 went to the opposite corner. I, I worried about them too 'cause like I said, I don't know if
20 their vision; their position they would've seen him coming.

21 Q Okay. Have you been to many calls of this nature?

22 A Um.

23 Q (CLEARS THROAT). How many code elevens have you; code-eleven is a...

24 A I...

25 Q S-E-D call-out.

26 A Five maybe seven?

27 Q And with the potential for deadly force?

28 A Yeah.

1 Q Okay. Uh, um, I'll read some of these. Did you have any contact with your cover units
2 before arriving on scene? You've discussed that. Yes. Did you or your cover deputies stage
3 before arriving on scene? Yes. Of course you did. You did the...

4 A I got the whole...

5 Q The whole thing.

6 Q* Um-hmm.

7 Q Did you formulate a plan of action? That's part of the S-E-D briefing. You covered that.
8 Uh, what did you determine was actually occurring with this incident after arriving on scene?
9 And you covered that. The sounds, the noises, the radio transmissions, the moves,
10 something coming out. Was a crime likely in progress?

11 A Yes.

12 Q Had a crime occurred?

13 A Yes.

14 Q Tell me what crimes; just from a cop's point-of-view, what crimes had occurred and what
15 crimes were occurring?

16 A Um, he attempted to kill his wife. Um, he verbally threatened her so, uh, criminal threats.
17 Um, discharging a firearm in a public place. Um, I, I don't know his history in regards to
18 criminal history so possibly a felon with a firearm. Uh, maybe those weapons aren't
19 registered to him. Um, of course, as it unfolded coming out and displaying a firearm at, at
20 an officer so attempt, uh, murder towards one of the officers that was in my area.

21 Q That's good. You're doing good. Now you got; ha, uh, was there probable cause for an
22 arrest?

23 A Definitely.

24 Q Oh, and...

25 A And attempt...

26 Q just give me...

27 A murder for his wife.

28 Q There ya' go.

1 A Ha.

2 Q That one, that one starts it. Put that it in there.

3 Q* Yeah.

4 A That's what it brought us...

5 Q Pile...

6 A there.

7 Q 'em on. Give you give any verbal warnings to the suspect?

8 A No.

9 Q Uh, was; did you hear anyone else give a verbal warning?

10 A NO VERBAL RESPONSE.

11 Q You said that you never heard him yelling. You heard radio transmissions that he was

12 yelling.

13 A Out the front door.

14 Q But you never heard him yelling?

15 A NO VERBAL RESPONSE.

16 Q Did you, uh, hear anybody else give him any warnings?

17 A No.

18 Q Did you hear the S-E-D armor car when it arrived? Give...

19 A In the beginning I told you that the S-E-D; the armored car was in front doing

20 announcements from the P-A trying to, uh, develop communication with him and that's

21 when they started, uh, talking back and forth and he was sliding open the front door. Um,

22 she was constantly trying to get him to come out, answer the door, answer the phone,

23 whatever and then that's we, uh, tried to get the robot with the throw phone to have a better

24 communication with him all towards the front side of the residence. I was in the...

25 Q When...

26 A back.

27 Q say "She" could hear her verbalizing?

28 A Yes. The C-N-T person in the armored car...

1 Q Do you know who that is?

2 A I; she said her name, I think was Amber at the beginning of the whole thing when she
3 started talking to Mike FOSTER.

4 Q Do you know her?

5 A I know of her. I don't know her that well.

6 Q Okay. Uh, it says "Was there any reaction from the suspect?" You covered that. Did you
7 consider which weapons; less-lethal weapons. Less-lethal equipment was available to you
8 when you contacted the subject? Did you consider that? You had less-lethal.

9 A I had less-lethal on me. I did not consider that because the minute I saw a handgun, I'm not
10 gonna use a less-lethal on a lethal situation.

11 Q Okay. Uh, it says "What did you consider when you realized force was necessary?" You
12 talked about that. Friends or your partners being in danger. And what were you thinking
13 when you fired your weapon? Same thing. What happened after you deployed force?
14 When you d-; when you shot, what happened? What's happens to him?

15 A Like I said, I fired two rounds and then he disappeared. I didn't see anymore so I assumed
16 he, he went down to the ground. Um, the last...

17 Q Or what blocks your vision?

18 A Based on the elevate; 'cause the residence was, was in an elevated position.

19 Q* Um-hmm.

20 A So there was a cinder block wall up to the level ground that he was at plus he was a little
21 further back from the edge of it so he had the highest point. So from my position, I was
22 looking up at a cinder block wall.

23 Q (COUGHING)

24 A That's why I never say anything below his waist based on the position at an angle.

25 Q Okay.

26 Q* What about the distance of your, uh, from your position to the target position?

27 A To the target, um, about thirty yards.

28 Q (CLEARS THROAT) What do you think would've happened if the subject's actions were

1 not stopped? And you did cover this but I wanna hear it again.

2 A He ultimately would've ended up shooting somebody. He tried it earlier with his wife and
3 possibly himself and then we were on scene and it looked like he was going directly at one of
4 my partners.

5 Q Was the subject restrained after forced was used? And it says "How and with what?" Do
6 you know what happened after you guys shot?

7 A From my position, uh, of course, like I said, there was somebody who had a visual on him
8 could see that he wasn't moving. Um, Deputy KERR was giving him verbal commands to,
9 uh, not move "Put your hands up above your head." Uh, I saw the entry team from the
10 right come in and once they; I heard them, um, "Move the gun" or "Secure the gun outta
11 the way" and then the, uh, medics; the tactical medics came in and they started addressing
12 his injuries.

13 Q And that was the next question. Was medical aid given? And you said "Yes." Do you
14 know if you have ever contacted this subject before?

15 A Not that I'm remember.

16 Q Were you shown a picture of him at the briefing?

17 A Yes.

18 Q Did you recognize him?

19 A No.

20 Q And were you injured in this incident?

21 A No. Uh, something (UNIN) in regards to, to being shown the photograph back up, up front
22 when they were dealing with him; opening the door and yelling out, uh, over the radio one
23 of the deputies up front of the residence said that, uh, he matches identical to the photo we
24 were shown at the beginning; at the brief. The hair, the full beard, everything but now he's
25 wearing no shirt. So we knew; someone got confirmation that he matched the photo that
26 we were all shown in the brief in the beginning.

27 Q Okay. Anything else?

28 Q* No.

1 Q You got any questions for us; any additional statements?

2 A NO VERBAL RESPONSE.

3 Q* Any questions that we didn't ask that you want to, uh, regarding with issues that you; need
4 or want to address?

5 A No.

6 Q All right. Nineteen-sixteen.

7 **END OF INTERVIEW**

CASE NO.: 10064025

CRIME: 245(A)(2) ASSAULT WITH A DEADLY WEAPON

VICTIM: (b)(5)(B)

INTERVIEW OF:
DEPUTY WILLIAM KERR

AT:
ALPINE SHERIFF'S STATION
2751 ALPINE BOULEVARD
ALPINE, CALIFORNIA

ON:
OCTOBER 19, 2010

BY:
TROY DUGAL, DETECTIVE
MARK PALMER, DETECTIVE
SHERIFF'S HOMICIDE DETAIL

INTERVIEW BEGAN: 1713 HOURS

TRANSCRIBED BY: (b)(5)(B)

Q DUGAL, Troy, Detective

Q* PALMER, Mark, Detective

A KERR, William, Deputy

A* (b)(5)(B)

Q Okay, today is October nineteenth, two-thousand-ten. It is seventeen-thirteen hours. I am at the Alpine Patrol Station. We are in the upstairs, uh, I guess this would be called a conference room. It's myself, Detective Mark PALMER and Attorney (b)(5)(B)

A* (b)(5)(B)

Q Oh, (b)(5)(B). I'm sorry (b)(5)(B). And, uh, thanks, and, uh, Deputy Bill KERR; William KERR. And we gave a quick brief about what we're gonna discuss and that there's officer-involved shooting questionnaire that we're gonna, uh, review and go over every question and also get, uh, Deputy KERR's statement. I'm gonna start right with the first question. Uh, let's see if they even ask your name through here. Let's start with that one. Full name?

A Detective William KERR. W-I-L-L-I-A-M. K-E-R-R.

Q And when were you hired by the Sheriff's Department?

A Uh, as a Reserve in May of ninety-six. As a full-time paid employee in July of ninety-eight.

Q May of ninety-eight? Is that what you said?

A July of ninety-eight.

Q Oh, I'm sorry.

A For pay.

Q July of ninety-eight. And was that a law enforcement deputy?

A It was.

Q Your ARJIS number?

A Two-six-two-three.

Q And your assignments since you've been hired.

A Vista Detention, East Mesa Detention, Work Release, Santee Patrol, Lemon Grove Patrol, uh, GST, Lemon Grove GST, Lemon Grove Detectives, Collaterally S-R-T S-E-D.

1 Q Was that? When did you pick that up; S-R-T S-E-D?
2 A January of this year.
3 Q Any previous law enforcement experience prior to being hired by the Department?
4 A Just the two years as a Reserve for this Department.
5 Q What are your normal working hours?
6 A Monday through Thursday seven A.M. to six P.M.
7 Q What time did you report to work today?
8 A About seven-fifteen.
9 Q And was that at Lemon Grove Detectives?
10 A It was.
11 Q When did you last sleep?
12 A Last night.
13 Q And how many hours did you get?
14 A About eight-and-a-half.
15 Q Do you have any injuries before this incident?
16 A I do not.
17 Q How would you generally describe your physical health?
18 A Good.
19 Q How old are you?
20 A Forty-one.
21 Q How tall are you?
22 A Six-foot-three.
23 Q What is your weight?
24 A Two-o-five.
25 Q Do you wear eyeglasses or contacts?
26 A I do not.
27 Q Any hearing loss?
28 A No.

1 Q Are you right or left-handed?

2 A Right-handed.

3 Q What was your unit designator today both prior to the incident and after?

4 A Prior? Sixty-Ida-fourteen. During Ten-Edward-eight.

5 Q What area does that cover? I know the first one is Lemon Grove Detective.

6 A Correct and that's my S-E-D number.

7 Q And that's the whole County?

8 A Correct.

9 Q Were you a one-person or two-person? That doesn't matter. Uh, that's; well it asks if you're

10 a one-person or two-person vehicle. You're actually responded to the S-R-T call-out?

11 A I did.

12 Q Okay.

13 A Sing, single person.

14 Q And when you responded to the S-R-T call-out, were you driving a marked patrol vehicle?

15 A I was not.

16 Q It doesn't matter what's your unit. It doesn't matter for (UNIN). Uh, what safety gear or

17 weapons other than firearms did you have with you today?

18 A During the S-R-T?

19 Q During the S-R-T.

20 A Uh, the S-E-D standard olive green tactical uniform.

21 Q And what, what is on there 'cause I definitely don't know.

22 A Uh, green battle-dress uniform pants, a cargo-style multiple pockets, a green tactical blouse

23 which includes low visibility Sheriff's patches on both the right and the left shoulders. Uh, I

24 have a duty belt; an S-E-D style duty belt which includes a drop-down Glock, twenty-two

25 forty caliber handgun holster. Uh, in this case I have two magazines for my issued rifle.

26 Q What's the right; what's the size of the...

27 A Two...

28 Q caliber?

1 A two; uh, two-two-three point two-two-three.

2 Q Okay.

3 A I have handcuffs, I have a gas mask, I have a radio and radio holder. I have a second
4 magazine for the two-two-three. I should say a third magazine for the two-two-three,
5 however this carries special ammunition. It's basically armor-piercing ammunition for
6 specific scenarios.

7 Q And that is two-two-three caliber?

8 A Correct.

9 Q Armored-piercing.

10 A Correct. I have (SIGH) a, uh, trauma equipment bag and various utility patches on my belt.

11 Q Okay, what about standard stuff; tasers and all that?

12 A I did not have my taser on this belt, however, as you come up my body, I would have had
13 my issued ballistic soft body armor and if you wouldn't mind, I'll grab my tactical vest so I
14 can actually look at it so I don't forget anything else.

15 Q It sounds good.

16 A (CLEARS THROAT) I have my load-bearing tactical vest.

17 Q Tact vest.

18 A In which I have four additional magazines for the two-two-three rifle.

19 Q Okay.

20 A Two...

21 Q* Are those, um, twen-, tw-, uh, thirty round mags?

22 A They are yes, sir.

23 Q* All of 'em are thirty rounds?

24 A I believe we go twenty-eight or twenty-nine rounds in each just to prevent jamming.

25 Q* Okay.

26 A Let me know when you're ready to.

27 Q Go ahead.

28 Q* Sorry.

1 A Two flash bag grenades. Three forty millimeter (UNIN) chemical agent rounds. Two forty
2 millimeter sponge less-lethal rounds or they're also known as flexible baton rounds.

3 Q* And those are forty millimeter?

4 A Yes sir.

5 Q* Okay.

6 A One sponge round that also carries, um, pepper spray in it so it's a; ca-; baton round with
7 pepper spray. A utility pouch with pen, paper, flashlight, some first aid materials. The vest
8 itself has Sheriff on the right breast; the word. Sheriff's star on the left breast. Sheriff in
9 large black letters on the back panel. All of this. I had Nomex tactical gloves on. Nomex
10 balaclava.

11 Q That's a hoodie for when I'm listening to this tape. (LAUGHING).

12 A (LAUGHING).

13 Q* (LAUGHING).

14 A Correct, a hoodie. Uh, a field hat or a boonie hat. Shooting glasses or safety glasses. Face
15 paint; camouflage paint and does my foot, foot wear matter? I; standard patrol boots and a
16 (UNIN).

17 Q* You didn't mention the, uh...

18 Q A knife.

19 Q* the knife.

20 A Oh, uh, however you would describe this fixed-blade tactical knife. I think that's it
21 gentlemen.

22 Q Have you received training on the gear or weapons you just showed us?

23 A I have.

24 Q And

25 (UNIN).

26 Q when it says "When" and "Where" but in general I'm gonna make an interjection here and;
27 by, because I've been through patrol training and I don't know what half that stuff is you
28 told me about. I would assume this was all S-R-T training; S-E-D training and when did that

1 happen? When did S-R-T and S-E-D training begin?

2 A In July of two-thousand-four, I attended the Sheriff's Department S-E-D Academy. Uh...

3 Q And from that point on is when you got outside of the Glock, I recognize the Glock.

4 A Uh, the patrol rifle or the rifle that we use in S-E-D is almost identical to the patrol rifle so
5 I've had patrol rifle training in patrol. I'm also a certified weapons instructor so I, I've had
6 that training for both the Glock and the rifle. Um, post-certified. Um, in January of this
7 year I came on to S-E-D as a member and received monthly or excuse me, weekly training
8 since on, on all these platforms.

9 Q And you p-; on your...

10 A Yes...

11 Q S-R-T?

12 A S-R-T. That's right.

13 Q Was the gear or weapon operational at the beginning of your shift?

14 A Yes.

15 Q All of the; everything you showed me?

16 A Yes.

17 Q And what? It says "What less-lethal equipment did you have? Did you have any?"

18 A Forty-millimeter...

19 Q* (UNIN)

20 Q All you had...

21 A Sponge rounds.

22 Q was sponge round?

23 A And the chemical agents are both less-lethal platforms.

24 Q Okay and have you received training with that equipment?

25 A I have.

26 Q And when did you last qualify with that equipment?

27 A We just had quals; I wanna say it was two or three weeks ago. Of course I can provide
28 documentation once I can get a hold of it.

1 Q And did you test or check the equipment before beginning your shift?

2 A Uh, safety checks, yes. I didn't fire them.

3 Q And it says "What firearms did you have with you?" You had; when you were at the scene,

4 you had more than what you just gave us, right?

5 A I had everything with me at the scene and included in that I had a; uh, it's called a, a Colt M-

6 four rifle, two-two-three caliber. Attached to it was a forty-millimeter launching platform.

7 Q And this one's for me. Can you, uh: I think I'd seen 'em but...

8 A The launching platform is...

9 Q No, what is? Just describe the weapon. The, the M-four rifle is a; it's semi-automatic or...

10 A It's...

11 Q (UNIN)...

12 A both semi-automatic and automatic. We have a selector switch.

13 Q Okay.

14 A It, it looks very similar to the patrol rifle that you're familiar with.

15 Q Um-hmm.

16 A The R; A-R fifteen?

17 Q Um-hmm.

18 A Um, what gives it a different des-; designator based on the M-four is the capability of it

19 being automatic. Uh, I did not use an automatic mode today. Our S-E-D weapons are also

20 capable of being fitted with that less-lethal platform. It's one piece on the gun. That

21 launching platform can launch gas, less-lethal baton rounds, high-energy explosives if need

22 be although I didn't have those on my person. Um, lots of different types of platforms.

23 Q And that's actually affixed to the...

24 A It's affixed to the front of the M-four. Yes.

25 Q Uh, have you received training for this; this was the only other weapon other than what

26 you've told me here?

27 A The, the Glock, the knife, the, the rifle. That's it.

28 Q Okay. But then, out, outside of the equipment that's right here; your M-four...

1 A The M-four is outstanding.

2 Q Is still out there?

3 A Yes.

4 Q And that's being collected somewhere else?

5 A NO VERBAL RESPONSE (CLEARS THROAT).

6 Q And that's the only other piece of equipment that you had...

7 A Correct.

8 Q other than what's in this room?

9 A NO VERBAL RESPONSE.

10 Q When did you last qualify with the M-four?

11 A That was the two or three weeks ago we, we did...

12 Q And that...

13 A all of our qualifications.

14 Q And again, did you test or check the equipment before beginning your shift?

15 A I did.

16 Q Um, in here they talked about the; that we took your photograph prior to the interview. We

17 don't have a F-E-T here so we're going to do that and when we do that, we're gonna ask you

18 to get fully dressed the way you were at the scene. Um, and we'll, we'll discuss that then but

19 you; were you wearing every piece of equipment that you've just identified?

20 A Yes.

21 Q You did and you're already explained what you were wearing.

22 (BRIEF SIDE CONVERSATION)

23 Q And you know that they...

24 (BRIEF SIDE CONVERSATION)

25 Q when they collect your M-four, um, usually if you use your patrol weapon, we do an

26 exchange. I don't know how they're gonna do that out there. I wish I could tell you but

27 Suzanne FISKE is collecting your M-four and I'm sure S-E-D'll just give you another M-

28 four through Weapons Training. I don't know.

1 A I, I asked the question.

2 Q* I (UNIN).

3 A Um, and my understanding; thank you sir. My understanding is that that has to be expedited
4 because we don't have proper replacements for all the guns that are involved.

5 Q Oh, so you know more than I know. But I just wanted you to know that's...

6 A I understand.

7 Q where I'm coming from.

8 A I understand. Like I said...

9 Q* (UNIN)...

10 A that; sometimes...

11 Q* unique.

12 A I understand sometimes weapons are gone for up to a year for testing.

13 Q* Um-hmm.

14 A I was told that that can't happen in this case.

15 Q Yeah. All right. Um, the; let's talk about the M-four. Is the M-four the weapon you actually
16 fired...

17 A It is.

18 Q at the scene?

19 A NO VERBAL RESPONSE.

20 Q Did you fire any other weapon?

21 A I did not.

22 Q Okay. So we're gonna discuss the M-four. Is that your issued duty weapon based on the S-
23 R-T call-out?

24 A It is.

25 Q Is that the weapon you used during the shooting?

26 A NO VERBAL RESPONSE.

27 Q The shooting...

28 A Yes.

1 Q incident? Is the ammo used during, during the incident your issued ammunition?

2 A It is.

3 Q Is the ammo in your magazines your issued ammunition?

4 A It is.

5 Q How is your weapon loaded? Your M-four?

6 A Uh, I have a side-by-side double-stacked magazine in which I insert one into the magazine
7 well of the rifle. I chamber the round. I put the r-, the weapon on safe, assume my position
8 on the perimeter until need be.

9 Q Do you know how many rounds are in your magazine? Did; does that go; pull back to the
10 twenty-eight, twenty-nine?

11 A Yeah, they're capable of carrying thirty. I typically load twenty or twenty-nine so that the
12 weapon doesn't jam. A fully...

13 Q Do you know specifically what you had?

14 A I do not.

15 Q Okay. Is that how you always load and carry your weapon; that weapon?

16 A Yes.

17 Q Since the shooting incident, have you maintained custody of the weapon? We already know
18 that it's...

19 A No.

20 Q no. You have relinquished custody of the weapon to, uh; do you remember who?

21 A I do. Sergeant STRONG ordered me to release to Corporal DEBUS.

22 Q Okay. And was that at the staging area where S-E-D was set-up on Japatul?

23 A The T-S-A. Uh...

24 Q At T-S-A; the Tactical Staging Area.

25 A Correct.

26 Q All right. Have you or anyone else altered the condition of your weapon since the shooting
27 incident? As far as you know when you turned it over was it as it was after the shooting
28 incident?

1 A Loaded on safe.

2 Q Okay. And what occurred during your shift before this incident? This is where we get into
3 and this is where I actually enjoy it. So, I'll try not to take too many notes too. Go ahead
4 and just start with, um, start with your work day. I came to work and this is what I do and.

5 A I came to work. Arrived at the Lemon Grove Station at about seven-fifteen hours. Uh, I
6 was scheduled for (CLEAR THROATS) testimony in a civil trial Downtown, San Diego
7 Department Charles Seventy-two regarding an arrest I made in March of two-thousand-eight
8 at a business, El Cajon Ford, for four-twenty-two of the California Penal Code. The arrestee
9 was suing El Cajon Ford for something that transpired related to that arrest. I have no idea
10 what the actual case involves. They called me as a witness. Uh, I testified. I got off the
11 stand I wanna say about ten A-M. Uh, while I was on the stand, I felt my phone and my
12 pager vibrating. Uh, as I walked out the courtroom, I noticed that Deputy FARR had sent
13 me a text saying that scouts; meaning S-E-D scouts, were enroute to Alpine for a two-forty-
14 five. Uh...

15 Q Were you a scout?

16 A I am. I can be. I was not at that moment in time.

17 Q Okay.

18 A We, we can all be scouts. Uh, I got into my assigned vehicle at the Downtown Court. Uh,
19 while enroute to the call, I notified my Lemon Grove partners that I was enroute an S-E-D
20 call and will not be back to the station. Uh, by the time I reached Grossmont Summit, the
21 official call for all of us to respond to the Alpine code-eleven had occurred. I got onto S-O
22 Admin frequency. Notified the Comm Center with my radio number and that I was
23 enroute. I responded to the assigned location. I was the first S-R-T member to arrive.

24 Q Was this the T-S-A?

25 A The T-S-A. Uh, about nineteen-thousand-six-hundred Japatul Road I believe is the address.
26 Uh, as I said I was the first S-R-T person to arrive. Corporal LOZOYA who is a full-term
27 S-E-D member; not S-R-T; full-time S-E-D, uh, was there and, and instructing us where to
28 go and what to do as the first person there, he ordered me to; or, or instructed me to suit up

1 as a scout. Um, our uniform changes slightly if we're gonna scout versus up standard
2 perimeter position. Mainly we go in a little lighter. Uh, a hat versus a, a tactical helmet.
3 Um, we, we wouldn't typically carry a big backpack; things like that. Just a little bit lighter so
4 we can move more than efficiently. Um, I suited up as instructed. By the time I was about
5 half-way dressed removing my suit and putting on my tactical equipment, Brandon GAVIN,
6 uh, pulled up next to my car and said he and I had been partnered up as scouts and that we
7 would respond to the target location in his assigned S-E-D vehicle. We did that shortly
8 thereafter.

9 Q What is his vehicle?

10 A It's a silver Crown Victoria.

11 Q Okay.

12 A And most of our vehicles are silver Crown Victorias; uh, varying shades. We responded to
13 the target which, which was just a little further down the road to Japatul; a little further east.
14 We went into the mouth of the driveway and pulled up behind a Sheriff's marked K-9
15 vehicle and contacted uh, Corporal DEBUS and Deputy BEAUMONT via radio; S-E-D
16 two frequency because they had been prior assigned as scouts and we were suppose to link-
17 up with, with them. We contacted them on the radio and said "We're ninety-seven. We're
18 available to you." They said "Stand-by". A few minutes later they approached us and then
19 informed; physically approached us and informed us they had completed the scouting
20 mission and that our assistant wasn't; our assistance wasn't needed. We walked back up to
21 the mouth of the driveway where the actual driveway meets Japatul Road and we stood by
22 with them as Corporal DEBUS contacted the T-S-A and relayed all of the evolved
23 information with scouting and the next step involved in the process which is, uh, essentially
24 containment and a perimeter around the target. I overheard much of that conversation
25 because I was there with Corporal DEBUS. I also heard the responding conversation on my
26 radio on the frequencies. Uh, I understood that Corporal DEBUS had volunteered Deputy
27 GAVIN and I to just immediately fall into a perimeter position from our location without
28 returning to the T-S-A. He also requested some other S-E-D units to move into perimeter

1 positions. We stood by for several minutes while that occurred. Shortly thereafter, we were
2 joined by a large portion of the team who had all been assigned various perimeter positions
3 around the target location. The specific location that Deputy GAVIN and I were assigned
4 was the three-four corner of the target location. I assume you guys recall how we number
5 buildings?

6 Q I do but just for the tape...

7 A* But go over...

8 Q The number one side is the primary; you guys say that's the primary side of the residence
9 where?

10 A Typ-, typically...

11 Q Front door, most action, highest threat.

12 A Absolutely. Typically the first person on scene will s-, will establish what they believe is to
13 be the main entrance; the front of the location and that's given a designation of one and
14 then moving in a clock-wise movement, we number the next side two, the next side three,
15 the next side four. So, in this case, when we were given the three-four corner, we were
16 giving the back and right side as you face the building...

17 Q Um-hmm.

18 A corner as an area of responsibility in a perimeter sense. Uh, Deputy BEAUMONT having
19 been part of the scouting team escorted a portion of the team members into the assigned
20 locations because he had been there and pointed out where he thought the best deployment
21 was. Corporal DEBUS took the other portion of the team. I was included in Deputy
22 BEAUMONT's group, uh; along with the deputies assigned the one-four corner and I
23 believe that was it. So it would've been five of us total moving into position. Led by
24 Deputy BEAUMONT, Deputy GAVIN and myself and the folks on the one-four corner
25 who, their names escape me at this point. We all look the same. Uh, we made a tactical
26 approach of course using concealment and cover through the bushes as much as we could.
27 We set up in a position where we felt we had, um, as much concealment and cover as
28 possible yet maintained our position on the three-four corner. We estimated our position as

1 is our training and protocol, um, to be about forty-five degrees off of that three-four corner
2 and about thirty yards out. We radioed that position back into the T-S-A so that they could
3 also map our location. Deputy GAVIN and I, uh, separated ourselves behind two separate
4 trees with a distance of maybe ten or fifteen feet between us. I was, uh, on Deputy
5 GAVIN's right which put me more on the three side of the target. He was to my left pull;
6 putting him more on the four side of the target. We discussed our positioning. We
7 discussed, uh, what happens if a suspect comes out as far as if he runs, if he fights, uh, who's
8 responsibility it's gonna be depending on where he's standing geographically. If he leaves
9 three side, my responsibility. If he leaves the four side, Deputy GAVIN's responsibility. We
10 discussed, uh, line of sights, what he could see on the target location versus what I could see
11 and so on just so that our communication was clear and we maintain a; our, our safety and
12 our positions of advantage. Um, we assumed; we each assumed prone positions laying down
13 on our bellies, uh, with our rifles forward pointing towards the targets and we endured the
14 conditions; raining....

15 Q May I ask you this? Target. When you say "targets" or "target", what is your target at that
16 point? Is that the entire three-four corner or the residence itself or did you have a window, a
17 door or?

18 A All the above. Uh, the; we had received briefing about the target location which I probably
19 should have mentioned.

20 Q Well, I was gonna ask you but...

21 A Okay.

22 Q I was lettin' you roll.

23 A (SIGH) Prior to being assigned, we received, uh, a briefing from Corporal LOZOYA
24 regarding the suspect. Also prior to moving into the, uh, perimeter position, we received
25 further briefing from Corporal DEBUS. In each briefing we, we learned pretty much the
26 following. The suspect was armed with a three-fifty-seven handgun. He was a White male
27 by the name of Michael FOSTER, uh, approximately five-foot-nine, two-hundred-plus
28 pounds, brown hair, beard. Uh, I even saw his JIMS booking photo, uh, sheet and, and

1 photographed it with my phone so that I would have that with me in the field. If you'd like
2 to see that...

3 Q Yeah, just...

4 A it's on my phone.

5 Q bring it up so I can say that I've seen it.

6 A Let me fire it up this way and not. Uh, we were, we were told that he fired one round at his
7 wife. She fled the residence as he put the gun to his own head and made some kind of
8 threat about suicide.

9 Q Do you know...

10 A She...

11 Q who the reporting party of that story was?

12 A Uh, from what I understood, it was his wife. Uh, we were told that he had, uh, been a prior
13 Army medic so therefore, we knew, uh, that he had all those experiences; camouflage-cover
14 weapons, those kinds of things; tactics. Uh, we also had heard he knew and was in the
15 process of either making, possessing or building improvising explosives devices. And we
16 understood that the Bomb Arson Units were enroute due to that, uh, probability. See if
17 that's ready to go for you.

18 Q Is this a County issued phone or is this...?

19 A This is my private phone.

20 Q (CLEARS THROAT)

21 A As you could see in the photograph, there's a hand. It was Corporal LOZOYA's hand
22 holding the JIMS photograph for purposes of just making sure I knew who the suspect was
23 and having it at my, my fingertips, I took a photo of that with my phone and went into the
24 field with my phone.

25 Q And what I'm observing is on his Blackberry cellular phone. Is a, uh, picture taken with the
26 phone of the; it looks like it's a; is it a JIMS booking sheet?

27 A It is.

28 Q A JIMS booking sheet of the male that I also saw of the booking photo during our briefing

1 which matched that photo being, uh, the same subject he spoke of. Okay.

2 A So, uh, Deputy GAVIN and I were in our positions. As the situation evolved, we, uh,
3 continually received updates via radio, uh, via voice contact with other positions. We knew,
4 uh, that we had perimeter positions on the two-three corner. We knew that Deputy
5 BEAUMONT was singularly in a position in the three side; basically dead-center in the three
6 side. We knew that Deputy FARR had achieved a sniper position on a roadway three-four
7 corner and he reported that he was about a-hundred-and-sixty yards out. That was all
8 broadcast via radio. Um, we, we understand that Deputy FARR's an assigned sniper and he
9 has the assigned equipment which includes a, a telescoped rifle. So we understand he has
10 better vision that we do at that point. Um, we heard continuing radio traffic from both the
11 command post and T-S-A that the owners of the home; the main home; the proper home
12 had communicated in some way, shape or fashion that there were other weapons present
13 scattered throughout the home. I think scattered was the word used which included other
14 handguns, a twenty-two-two-fifty rifle, uh, which I understood immediately to be a high-
15 powered, uh, rifle and Corporal DEBUS broadcast on the radio that it was a very serious
16 high-powered, uh, highly-capable rifle. Um, I think I heard something about a over-under
17 shotgun; sev-, several different types of guns. So...

18 Q May I interject? Uh, when you're listening to the radio, how was the transmission coming?
19 Do you have your; did everyone have ear pieces or do you have...

20 A I can't speak for everyone but I, I have a shadow wire with an earpiece and a concealed mic
21 so all the traffic coming into my ear can't be heard by anyone ne-, next to me.

22 Q Okay.

23 A I know that, that; well, I shouldn't say. No, I believe Deputy GAVIN had the same
24 arrangement. We typically all do but I can't speak for everyone. Uh, so that information is,
25 is out there. We'd also received information in the initial brief and corresponding radio
26 traffic continually being broadcast that while we suspect the suspect was in the granny flat,
27 the main home was, in fact, open, unoccupied and he had access to it. So therefore, we
28 know he had access to all of the other weapons. Um, we also understood from the layout

1 and the photographs that we've seen at; of the target, that there was a detached garage, um,
2 and a breeze-way between the granny flat and main home. I think that covers that. So
3 again, we, we laid in position for a considerable amount of time. Um, while the situation
4 evolved, I heard engine sounds that I'm familiar with from my training experience of the
5 armored vehicle approaching. We, uh, heard corresponding radio traffic that both the
6 bearcat and the armored car which are assigned S-E-D vehicles armored to prevent gunfire
7 had approached the front of the target.

8 Q The number one side?

9 A The number one side and that, uh, the entry team or, or other members of S-E-D, um, were
10 in position in those vehicles to take down the suspect if in fact he came out the number one
11 side. And that members of the C-N-T, uh, Crisis Negotiations Team, was present in the
12 vehicle. Shortly thereafter we heard a female voice on a P-A announce herself, uh, to
13 Michael, the suspect. Uh, I; something to the degree of "Michael, this is Amber. I want to
14 help you."

15 Q Do you know who that is?

16 A I know Amber LEVITT. She's a deputy, uh, that I've worked with as a beat partner and I
17 know she's assigned to the C-N-T. I did recognize the voice as, as hers. Her dialogue
18 through the P-A went on for a considerable amount of time. I couldn't tell you minutes but,
19 uh, I guess it was a long dialogue. Uh, while I listened to her P-A announcements, I also
20 heard radio traffic continually updated from multiple sources. Uh, one that sticks out in my
21 mind is I heard Deputy FORBES who is an assigned sniper. I knew him to be assigned to
22 the number one side because of the radio traffic. Uh, I heard him broadcast that there was
23 movement at the front of the blin-; the front number one side blinds in the granny flat.
24 From prior briefings, of course, I knew that the home was suppose to be unoccupied except
25 for the suspect so therefore, we all understood very rapidly that the suspect had not taken
26 his own life. He was, in fact, alive and he was in fact in the granny flat. Of course, I didn't
27 preclude the possibility that other suspects were there but it, it kinda tied things together for
28 us to a degree. That went on for a while. There was movement. I believe he was trying to

1 shout through the door. We heard radio traffic of him trying to communicate as Amber
2 continued to communicate. Uh...

3 Q Did you hear him?

4 A I heard shouts. I couldn't tell you what the words were. We heard muffled responses. Um,
5 while that dialogue continued, we heard continued radio broadcast. Again, I, I remember
6 specifically Deputy FORBES and Deputy WEST who, uh, from what I understood on
7 traffic, they were partners in a sniper position talk about something was being placed against
8 the windows of the granny flat and it was suspected that he was barricading the location.
9 Um, we heard banging and thuds inside. I reported once on the radio that I had heard a
10 scraping sound from my position that sounded as if a door or window had been dragged
11 closed or, or, or rapidly closed. You know like grinding sound of a window frame? Um, I
12 heard some more yelling and screaming from inside that you just couldn't make out. It
13 wasn't audible to us. Uh, that went on for, for a time. Simultaneously radio traffic had
14 broadcast that, uh, a mixture of S-E-D units, Bomb Arson Units and C-N-T units were
15 working together to send robots towards the suspect's location with a throw phone; a, a
16 means of communicating by phone with the suspect and that was being facilitated. We
17 heard, uh, Deputy AITKEN broadcast that he was moving the bearcat closer to the target as
18 instructed to facilitate the robot picking up a phone and deploying it.

19 Q (CLEARS THROAT)

20 A Right around that time or just, just (PAUSE) minutes after seemed very close together to
21 me. Um, let me take one step back. At one time the suspect, in fact, opened that front
22 sliding glass door, shouted something at the C-N-T armored car folks and actually threw
23 something and there was some radio traffic about trying to decide, heh, what did he throw?
24 We were all concerned because of the previous discussions of I-E-Ds.

25 Q Did you see that or did you just...

26 A I was not...

27 Q hear this?

28 A in a position to see. I only heard the radio traffic. Um, at some point in time when he

1 reached that door and presented himself enough to the, the people on the number one side,
2 it was clear that somebody got enough of the view of him to describe him because I heard a
3 voice on the radio that I couldn't identify say "He looks a lot like his booking photograph.
4 Brown hair, beard, no shirt, heavy set" and so they, they gave a description of the suspect
5 over the radio that matched the, the picture that I showed you gentlemen. I didn't bring my
6 water in, did I? (CLEARS THROAT). That's okay. I, I'll make it. Um....

7 A* Are you sure?

8 A I'm good.

9 Q* (UNIN).

10 A Uh, so we all had that in mind what he looked like currently.

11 (SOUND OF DOOR OPENING AND CLOSING)

12 A As that progressed, as I said, they, they were trying to get a phone to him. Minutes
13 thereafter, as I'm still prone in my position on the three-four corner (CLEARS THROAT) I
14 heard, an...

15 Q* (UNIN)

16 A an, another sound that sounded like a door or window either opening or closing and almost
17 immediately on top of that sound I saw a White male, shirtless, that I recognized
18 immediately as the suspect coming out of the breezeway between the granny flat and the
19 main home. I again, as, as quickly as I can perceive seeing him I saw a gun come up in his
20 right hand. It looked to be like a black handgun. Uh, I didn't reach for my radio, however, I
21 shouted as, as loudly as I could "Suspect side three" while at the same time bringing my rifle
22 up removing the, the safety and aiming at the suspect. As I said, his (COUGHS) his right
23 hand was up. I believe he said something to the degree of "Get off my property" and he
24 aimed or was aiming the handgun towards the two-three corner where my partners were
25 setup on their perimeter position. And as I said, I knew this to be true because of the radio
26 traffic about reporting positions and such. I immediately feared that he was gonna kill my
27 partners with that handgun. He had already shown himself to be willing to shoot at people.
28 Um, he had already established of the fact it was real gun. I knew he had access to the real

1 guns and I was, I was convinced he was trying to kill one of us. Um, so as I said I brought
2 my gun up, took the safety off and I pulled the trigger, uh, aiming at the suspect. I fired, uh,
3 I would've told you six or seven times but as trained like I am, I was smart enough to count
4 my brass after the incident and I found nine pieces of brass which I didn't move. I just
5 counted. Um, so I, I'm convinced at this point that I fired nine times. After that ninth
6 round or what I perceived as my sixth or seventh round, the suspect dropped and because of
7 my line of sight with him, the angle; the way of the geographically location; a, a, a block wall
8 that's; I'm sure you've seen or will see, that was between me and him, I lost sight of him
9 when he dropped. While this went on and I'm talking immediately simultaneously, I also
10 heard Deputy GAVIN scream "Gun". I knew exactly what he's talking about 'cause I was
11 watching this myself. I heard gunfire to my left which I felt comfortable with because I
12 assumed it was Deputy GAVIN returning or firing on the suspect because he had perceived
13 a gun as well. Uh, as I said, the suspect dropped out of sight, I got on the radio. Of course
14 there was a lot of radio traffic. I think I got blocked from (UNIN) on the radio once. The
15 second time I was successful. I can't tell you exactly what I broadcast but something to the
16 degree of "Shots fired. Side three. Suspect down". And I believe I said something about
17 my position meaning my partner and I being okay. The other perimeters units and I are in
18 ear shot. That's how we lay it out. So I verbally turned to my; or I turned to my right and
19 verbally yelled "BEAUMONT, DEBUS are you code four?" I heard affirmative responses
20 from them. I couldn't tell you the exact words they used but I, I understood them to be and
21 they were code four. In turn I heard them shout to their right to assure that their partners
22 were, were safe. I heard those responses in an affirmative manner. (SIGH) I heard
23 something to the one-four side meaning to my left further away than Deputy GAVIN. I
24 took that to mean that those, those units were also okay. I got on the radio and I let the T-
25 S-A know that, in fact, the suspect was down, there were shots fired. Everyone that I was
26 able to get in contact with had no injuries to report. Obviously was more animated than
27 that. Um, there was a p-; bit a lull at that point. Uh, it probably only seconds but perception
28 is probably skewed and I heard radio traffic from Deputy FARR whose voice I recognized

1 say that he did have view of the suspect through his; I, eh, well, I shouldn't say. I know how
2 he did it but I assumed because of the distance that it was through his scoped rifle that the
3 suspect was in fact downed. I believe he said "laying on his back with his hands out" and
4 that nothing was in his hands. Deputy FARR received lots of instruction from T-S-A,
5 command post and everyone else to maintain that observation. Uh, a, a bit more time went
6 on as this evolved and I thought it was necessary to give the suspect some voice commands.
7 I couldn't see him. I couldn't hear him. I didn't know his status. I only knew that Deputy
8 FARR could see him but wasn't in voice range. I asked the T-S-A if that's what they desired.
9 They said "Affirm. If you can establish voice contact with the suspect, do so." I repeatedly
10 yelled "Michael, do not move. Put your hands above your head. Put your hands above your
11 head. Do not move." I probably yelled that six, seven times. The first one or two yells I
12 got groaning in response. The next couple yells I got; I believe he said "I'm dying. Help
13 me." I broadcast that. "I get groans from the suspect. He's asking for help. He says he's
14 dying." I again said "Put your hands above your head. Do not move." In response to the
15 fifth or sixth yell, he said "I'm not moving. You idiot. I'm dying." And the whole while
16 Deputy FARR is broadcasting on the radio "His hands are empty. His hands are at his side.
17 The gun is x" so on and so forth. So I, so I knew him to be following the instructions.

18 Q Do you remember where the gun was; what the direction was?

19 A I couldn't see it and I don't think it was reported.

20 Q Okay.

21 A Again I, I, I had no visual. I was giving voice commands and relying on Deputy FARR to
22 tell me if he was responding or not. Um, that continued until; I wanna say it was Sergeant
23 BUTTERFIELD but I'm not sure. I heard on the radio a voice that I thought I recognized
24 as Sergeant BUTTERFIELD make a decision that the entry team; meaning the people in the
25 armored cars on side one, were gonna make some kind of a, a approach to take the suspect
26 into custody and to render aid. I heard Deputy FARR get instructions to maintain that
27 contact and, and give a running update as far as the suspect's actions obviously to protect
28 everyone because he was more than willing to kill us. (SIGH) Um, some amount of time

1 thereafter we heard that a corresponding radio traffic of (CLEAR THROAT) the guys
2 moving out of the armored car and reporting that and moving around the building and
3 reporting that and ultimately coming into contact with the suspect and reporting that on the
4 radio. Uh, shortly thereafter, I believe again was Sergeant BUTTERFIELD's voice asked for
5 the tactical medics to respond and for an eleven-forty-one ambulance to respond. Um, I
6 understood that the suspect was in fact injured but conscious and, and talking. Uh, I could
7 see now was with people standing at that position, I can see them working on something on
8 the ground. I assume that was the suspect. Um, I heard them giving him commands, I
9 heard the medics talking to him about where he was hurt and how he was hurt. Um, and I
10 saw in an evacuation by the medics take place. We held our positions. Um, some radio
11 traffic confirmed that we are in fact suppose to hold our positions and we did. And it
12 seemed like a long time. It seems like we were out there a long time. Um, and ultimately a
13 decision was made that we would mark our locations for further investigation to preserve
14 the, the evidence. Um, and Corporal LOZOYA brought a white roll of duct tape that he
15 had secured from the medics to that patio where I had initially seen the suspect. I walked
16 towards that, that patio that raised; elevated patio. Took the, uh, the duct tape from him and
17 returned back down, uh, marked my position the best I could by stringing duct tape in this;
18 the trees and everything where I had been laying. Gave that duct tape to Deputy GAVIN
19 who I watched do the same thing with the duct tape as far as marking his positions. We
20 were told to meet up at the armored car or bearcat. (SNEEZE) Excuse me. I met up with
21 Sergeant BUTTERFIELD. He insured that we were okay. I asked Sergeant
22 BUTTERFIELD, um, because of my prior knowledge of how shooting investigations go
23 what he wanted us to do with our weapons; if he wanted us to, to maintain them as they
24 were loaded on safe, um, as apposed to how we would typically do it after a SWAT
25 operation which is we, we would download them completely and store them. He didn't
26 want us to store them how we typically would. He wanted us to maintain them as they were
27 for, for their investigation. I did not manipulate my weapon at all. I kept it loaded with a
28 forty millimeter less-lethal round. I kept it loaded with the two-two-three ammunition and

1 on safe. I loaded up in the bearcat with, uh, tactical medics, other members of S-E-D and
2 Deputy GAVIN and I was driven to the T-S-A where I met with Sergeant STRONG who
3 instructed me to release my weapon to Corporal DEBUS. I was then assigned to a Fugitive
4 Task Force deputy that I know only as Randy and Randy drove me here where I've waited
5 for you.

6 Q Okay.

7 A (CLEARS THROAT)

8 Q A few questions before we get into the detailed questions from the, uh, sheet. During your
9 initial briefings, were you told whether or not the suspect had fired a gun?

10 A We were.

11 Q Do you know how many times that suspect had fired a gun?

12 A It was my understanding that he fired one round at his wife.

13 Q Okay and do you know who reported that?

14 A My understanding at the time that his wife reported that.

15 Q Okay. Um, then when you said you're; when you were in a prone position on your
16 perimeter, do you have any idea how long you were there before you s-, saw the suspect and
17 ended up in a shooting engagement with him?

18 A Hour, hour-and-a-half but you know, when you're cold and wet and miserable, it...

19 Q* Yeah. It was raining.

20 A* Might've been much shorter.

21 A It was pouring.

22 Q Just for the record...

23 A And nasty.

24 Q it is cold, rainy and nasty today.

25 A Yeah. And, I mean, obviously. Uh, so we were pretty miserable. So it could've been a
26 much shorter amount of time. It just seemed like a long time. In fact, I, I, I remember
27 thinking to myself that it was gonna be a really long miserable night.

28 Q Yeah. When the suspect, um, came out and you said he did; you saw that; when you first

1 saw the gun, was he raising it or did he come out with the gun out?

2 A I couldn't tell you. Um, because of the angle of the terrain, I was much, much lower down
3 the hill than the suspect was. So as he walked (COUGHING) I guess, I guess forward or
4 towards the number three side and, and my position, my view started with just initially the
5 top of his head and every inch he stepped forward or every little bit he stepped forward, I
6 got more and more of a view. So by the time I was able to perceive his body from about; I
7 don't know. Waist, crotch level up I also noted that he in fact had the gun. Whether he had
8 the gun raised prior to fully exposing himself or, or, you know, partially exposing himself or
9 not, I, I just couldn't tell you. I just know that by the time I saw the shoulder and the arm
10 and the gun my percep-, perception was it was already raised.

11 Q That gun never pointed at you?

12 A It was not.

13 Q Was the gun ever pointed at your partners?

14 A It was.

15 Q Okay and that you had already made a, a comment that you perceived the suspect to be a
16 threat towards your partners...

17 A Absolutely.

18 Q primarily?

19 A Absolutely.

20 Q Immediate threat towards your partners?

21 A H-, he aimed the gun directly at the position I knew my partners to be in.

22 A* What position was that Bill?

23 A It would've been the two-three side. The two-three corner of the, of the granny flat.

24 Q Two-three. Okay.

25 A So, di-, directly to my right. And, and as I said, uh, Deputy BEAUMONT was at the three
26 position. Um, and in fact this; by that point in time and the evolution he had actually been
27 joined by Corporal DEBUS in the three position. And I knew that there were two other
28 deputies to their right. So there was at least six of us back there and four of us directly

1 exposed to him coming across with that gun and there was no doubt in my mind especially
2 with the prior knowledge he had already shot at his own wife...

3 Q* Sure.

4 A that he was gonna shoot at us. And as I said as he presented this or as he presented himself
5 with that gun in his hand and aimed and ready, he would shout something about get off his
6 property. Um, I should also note; one other thing I forgot. I did hear radio traffic
7 immediately following the incident that someone reported that he had, in fact, had fired that
8 gun. I did not see that. I did not perceive that. I don't know that to be true. I heard radio
9 traffic that that was the case.

10 Q And when you started shooting, you shot nine times. Were those consecutive or was it?
11 Describe the pattern of shooting.

12 A Rapid, semi-automatic shooting at center mass.

13 Q And what's the purpose?

14 A To end it; end the threat; neutralize the threat. I, I didn't want him to kill my partners. I
15 didn't want him to have that millisecond needed to turn and point the gun at me. I didn't
16 want him to, to kill me or to kill GAVIN. Um, and that just wasn't gonna happen.

17 Q Do you have any idea how many of your rounds actually hit your target?

18 A No. Not at all. I, I, I assume based on my training and experience that that; some did.

19 Q Go.

20 Q* Heh, are you; is your M-four a; fitted with, uh, optics or it is straight iron sights?

21 A It is.

22 Q* Okay.

23 A It has a; I believe it's called aim-point...

24 Q* Okay.

25 A red dots site. Uh, I'm not the most qualified to tell you how that works though.

26 Q* Oh, no problem.

27 Q And where were you sighting on his body?

28 A Center mass. Uh, like I said, he, he had about waist to crotch level up exposed to me. I

1 would say that I was aiming for his upper stomach, mm-mm, low chest.

2 Q* And, uh, the aim-point doesn't project a beam but it does have a aim-point within the scope
3 itself?

4 A Correct, the, the red dot would not be visible to the suspect.

5 Q* Okay.

6 A But as I looked through the device, it allows me to see a....

7 Q* See...

8 A red dot on the suspect.

9 Q* Okay. Gotcha.

10 Q And you said that you heard, uh, rounds coming from your right?

11 A Left.

12 Q From your left? And that's where GAVIN was?

13 A Correct.

14 Q And do you know if any other persons shot or do you know if GAVIN shot?

15 A I do know that GAVIN shot, um, because I heard it. Because I asked him if he was okay
16 and what was goin' on and he said "Yes. I fired" and I heard radio traffic that Deputy
17 FARR had fired one sniper shot is what he called it and that was radio traffic.

18 Q* And your approximate distance to, uh, target?

19 A Thirty yards to the house. Uh, he, he had left the curtilage of the house I would say twenty-
20 eight yards.

21 Q And this is a breezeway between the main house and the granny flat is you first see him and
22 he steps out from that and then when you fired, he falls back into that breezeway area?

23 A I did not see him fall. I just saw he was there standing and pointing the gun one moment...

24 Q* And then he wasn't.

25 A and gone the next. Um...

26 Q Okay.

27 A so it would only be an assumption on my part.

28 Q All right. A few more questions before I get into this. Once again, we're gonna cover and

1 make sure that we got everything covered. Tell me what occurred during the incident. You
2 have. What were you thinking when you first received the call? You have. Have you been
3 to many calls of this nature?

4 A Many? No. Half a dozen? Sure.

5 Q That's a lot to us ordinary homicide guys.

6 A (CHUCKLE)

7 Q Ha-ha.

8 A I wouldn't say you're ordinary there....

9 Q* (LAUGHING)

10 A Detective DUGAL.

11 Q Do you have any initial safety concerns regarding the call? Uh, I think you co-...

12 Q* Um-hmm.

13 Q I, I know you covered that. Did you have any contact with your cover units before arriving?
14 You've covered that.

15 Q* Yeah.

16 Q Did you or your cover deputy stage before arriving on scene? You did. Why? Did you
17 formulate a plan? Yes. Uh...

18 Q* (CLEARS THROAT)

19 Q what did you determine was actually occurring with this incident after arriving on scene?
20 You were briefed by S-E-T or S-E-D. Was a crime likely in progress?

21 A Absolutely.

22 Q What crime do you believe was in progress?

23 A At the moment of the shooting?

24 Q Uh, prior to...

25 Q* Prior to.

26 A Uh, he had attempted to kill his wife.

27 Q Yeah. Okay. And how that crime occurred? What safety concerns do you have? You had
28 expressed that yourself. You're a victim.

1 Q* Um-hmm.

2 Q Your partners. Was there probable cause for an arrest?

3 A Absolutely.

4 Q Did you give verbal warnings to the suspect?

5 A I did not. Not prior to the shooting; following the shooting.

6 Q* And that's a tactical decision?

7 A Absolutely.

8 Q Did you hear anybody give a verbal warning to the suspect?

9 A As discussed, Amber gave continual announcements about "Please just come out. Nobody
10 wants to hurt you. We're trying to work with you. Whatever you need." I mean, that went
11 on for a considerable amount of time.

12 Q And then it says "Was there a reaction?" and you discussed that already. Did you consider
13 which weapon was, uh, less-lethal was available to you when you contacted the suspect?
14 And th-, I'm gonna cover this. It sounds ridiculous but I just wanna touch on it. Forty-eight
15 millimeters on your weapon. You have the option to use a Forty-millimeter. Why didn't
16 you use less-lethal?

17 A Because he presented deadly force and I did not wanna die.

18 Q What did you consider when you realized it wasn't necessary? Um, training and experience.
19 You did. (UNIN) training. Tactical and (UNIN) You just discussed firearms. Um, we've
20 discussed all those. What happened after you deployed force? You talked about it.

21 Q* Talked about it.

22 Q What were you thinking when you deployed force again? You never did, right? Once?
23 Once those...

24 Q* Once...

25 Q nine consecutive bang, bang, bang, bang, bang. No more force...

26 A No.

27 Q from you?

28 A Only verbal commands.

1 Q What did you think would happen if the suspect's ac-, actions were not stopped? You talked
2 about it but I'd like to hear it again?

3 A He was gonna kill one of us and clearly. I mean, you don't present a loaded handgun at a
4 SWAT team unless you intent to kill somebody. I mean, that's just foolish.

5 Q* Especially a guy with prior military background.

6 A Absolutely. I mean, mil-, military and you're talking bombs and I-E-Ds. He had already shot
7 at his own wife. And clearly this guy was motivated to kill one of us.

8 Q Was medical aid given to the subject? I think you've learned that. Right or didn't you...?

9 A I, I've actually saw that. Uh, I saw medics arrive and begin treating somebody down there or
10 something on the ground which I later learned was, in fact, where the suspect fell.

11 Q And do you know if you have contacted, uh, this subject before; this suspect?

12 A I don't believe so. Uh, but I've been a cop in East County for a while so it's possible.

13 Q And were you injured in the incident?

14 A I was not. Well, I; my ears are ringing from the gun fire but.

15 Q Okay. And do you have anything you wanna include in the interview; any statements,
16 questions?

17 A I'm wet. I'm cold. I'm miserable and I'd like you to photograph me so I can change clothes.

18 Q* (CHUCKLE)

19 Q (CHUCKLE) Okay. We...

20 Q* When we're done here, we'll; I'll go out and see if there's an F-E-T on...

21 A And, and I'm sure my partners are in the same boat.

22 Q I, uh...

23 Q* And you know we...

24 A I know buddy. I know.

25 Q Okay. That ends this interview. It is eighteen-eleven.

26 **END OF INTERVIEW**

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine

Page 1 of 1

Investigation:

On 10-19-10 at about 2159 hours, Detective S. Fiske #1918 and I contacted Michael Foster at Sharp Memorial Hospital at 7901 Frost Street, San Diego, for the purpose of evidence collection and an interview. Foster was a patient in room #219 and was guarded by Deputy Michael Spears. The interview was recorded with my Olympus DS-2 digital recorder. Please refer to the transcript and recording for details.

At about 2219 hours, I read the Miranda admonishment verbatim from my deputy note pad. Michael Foster said he understood his rights and he needed a lawyer present. Foster made the following spontaneous statement.


What good is it if I'm walking in jail? They should have just killed me. Why'd they shoot me in my back like that? Why'd they even shoot me? I made no aggressive attempts, and I didn't point my weapon. Nothin'.

And after I got...I was laying in the bed when I heard on the phone. Not on the phone, the microphone, "Michael FOSTER this is the crisis team. We're to help you." And so I went and I was just closing the blinds. They said "We have (b)(5)(B) or my brother there. I said "Let me talk to him." And they said "We will. Just walk outside to this." And I was like "Oh, no" because I didn't know what was going on.

So like a dumb ass, I walked outside and around the back just to close the, the gutters, these things. I said "Hey guys hiding in the bushes. How ya' doin'?" That's when they shot me in my back. Took me for a second to realize I was shot. This isn't the first time I had problems with the Sheriff. One time we got pulled over. I admit it, I was drunk and when I'm drunk I shouldn't be driving. They didn't let me call my lawyer and this one sheriff just grabbed me. Do you work with the Alpine Sheriff's Department?

At this point, the spontaneous statement ended.

At about 2244 hours, I ended the recording. Detective Fiske and I left the hospital shortly thereafter.

Reporting Officer: Det. L. Hall  ID# 1083 CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136  10/25/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 4

Investigation:

On 10-19-10 at about 1402 hours, Detective Sergeant D. Martinez briefed the Homicide Detail regarding an officer involved shooting at (b)(5)(B) Japatul Road in the City of Alpine. At about 1425 hours, I responded to the 19500 block of Japatul Road, Alpine, and arrived at approximately 1515 hours.

At approximately 1550 hours, I attended a patrol briefing conducted by Alpine Patrol Sergeant Browning #2569, Crisis Negotiation Team Sergeant Moore #0754, and Special Enforcement Detail Corporal Debus #1843. Homicide Detective Hillen #1635 was the assigned case agent. Briefing ended at approximately 1620 hours. For details of the briefing, see Detective Hillen's scene report.

At the conclusion of the briefing, Detective D. Hillen directed Detective Fiske #1918 and me to contact SED Corporal J. Debus who was in possession of the rifles used by the three involved SED deputies. We were also tasked with contacting the suspect, Michael Foster, at Sharp Memorial Hospital at 7901 Frost Street, San Diego, for the purpose of evidence collection and an interview.

At about 1633 hours, I contacted Sheriff's Communications to request a phlebotomist respond to Sharp Memorial Hospital with instructions to contact Deputy Fuhr to facilitate a blood draw from Michael Foster. Please see Deputy Fuhr's report for further details.

At about 1658 hours, Detective Fiske and I were present while F.E.T. (b)(5)(B) and Criminalist (b)(5)(B) received the three rifles from SED Corporal Debus which he identified as rifles belonging to SED Deputies Kerr #2623, Gavin #2649, and Farr #2618. We concluded this process at about 1743 hours. Please refer to Detective Fiske's report for details.

At approximately 1800 hours, Corporal Debus pointed out the area where SED Deputy Farr had taken a position along Japatul Road. At 1812 hours, Sergeant Martinez escorted Detective Fiske and me to (b)(5)(B) Japatul Road to view the scene. I viewed the scene from the patio area, but did not enter the residence. Detective Fiske and I cleared the scene at 1837 hours and left the area at approximately 1843 hours.

At about 2030 hours, Detective Fiske and I met Criminalist (b)(5)(B) at Sharp Memorial Hospital located at 7901 Frost Street, San Diego. At approximately 2040 hours, we arrived at Surgery Intensive Care Unit room #219 and met with Deputy

Reporting Officer: Det. L. Hall

ID# 1083

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 4

Michael Spears#5632. Deputy Spears advised me he had relieved Deputy Fuhr at about 1903 hours. Deputy Fuhr retained the blood sample drawn by the phlebotomist and suspect Michael Foster's boxer shorts. Please see Deputy Fuhr's report for details.

Detective Fiske telephoned Homicide Sergeants R. Frank and D. Martinez to confirm what clothing Foster was wearing when SED made contact with him. Sergeant Martinez reported back that Foster was only wearing boxers at the time.

I observed a white male adult, previously identified as Michael Foster, lying on his right side in the hospital bed. Foster was dressed in a hospital gown with a blanket over his legs. Detective Fiske and I introduced ourselves to Foster and the nursing staff.

Attending Registered Nurse (b)(5)(B) was present in the room. Nurse (b)(5)(B) advised us that Foster was admitted in the Emergency Room at 1435 hours. At the time of admission, Foster tested positive for ethanol, opiates, and benzodiazepine. Since his admission and up to approximately 2035 hours, Foster had received 16 mg. Morphine. Foster's current diagnosis stated he was paralyzed from the waist down. It was not known if this was a permanent condition and he may undergo surgery at a later time.

I read notes written on a white board mounted on the wall of room #219. Foster had the following injuries:

- #1) Left scapula
- #2) Right upper back
- #3) Left lateral back (kidney level)
- #4) Lower middle back
- #5) Right hip

Michael Foster volunteered, "Doctor feels too dangerous to take out shrapnel from my back. I have spinal shock."

Criminalist (b)(5)(B) obtained a DNA reference sample from Foster's mouth. She also collected hair samples and conducted a gun shot residue (GSR) collection swab. Foster stated he was right handed. Criminalist (b)(5)(B) next obtained photographs of Foster and his injuries. Each of the bandages were labeled in black with a number and date which corresponded to the numbered injuries on the patient information board. Nurse (b)(5)(B) exposed each injury to allow (b)(5)(B) to photograph them. (b)(5)(B) also photographed a mark near bandage #2, as well as a minor discolored spot on Foster's right abdomen, marks to his right arm and right hand, and a scrape to his top right shoulder.

Reporting Officer: Det. L. Hall

ID# 1083

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 4

Detective Fiske asked Nurse (b)(5)(B) to flag Foster's medical chart with a notation that any projectiles or foreign objects retrieved from Foster be retained as evidence. At about 2157 hours, Criminalist (b)(5)(B) completed her duties with the evidence collection and left the scene.

At about 2200 hours, I began to ask Foster his personal information to complete the arrest report face sheet and the booking information. Foster provided the information and appeared to be oriented. I recorded our conversation with my Olympus DS-2 digital recorder. At about eight minutes into our conversation, Foster asked the nurse to reposition him in the bed. I paused the recorder while the two nurses worked with Foster, and then resumed my recording. After I completed the necessary information for the booking records, I asked Foster if he wanted to provide a statement.

At about 2219 hours, I read the Miranda admonishment verbatim from my deputy note pad. Michael Foster said he needed a lawyer present. Foster made a spontaneous statement. Please refer to statement of Michael Foster for details.

At about 2244 hours, I ended the recording. At about 2251 hours, Detective Fiske and I left the hospital and returned to the Homicide Detail office. At about 0118 hours, I sent a facsimile to San Diego Central Jail requesting a booking in abstencia be completed for Michael Foster.


On 10-20-10 at about 0150 hours, Detective Fiske and I returned to Sharp Memorial Hospital to give Deputy Spear the original booking documents along with the original Medical Records Release form. Since Foster was asleep, I asked Deputy Spear to retain the form with instructions to ask Foster to sign it when he awoke. Detective Fiske and I left the hospital at approximately 0210 hours.

At about 0248 hours, I returned to the scene in Alpine to assist Detective Hillen. At approximately 0355 hours, I attended the debriefing along with other Homicide Detail personnel and Crime Laboratory personnel. I cleared the scene at approximately 0430 hours.

Between the hours of about 0828 and 0945 hours, Detective Fiske, FET (b)(5)(B) and I went to the Emergency Services Office at 1745 Marshall Avenue in El Cajon where we met with SED Sergeant Strong and SED Armorer Juan Lozoya. Please see Detective Fiske's report for details.


On 10-21-10, between 1000 and 1100 hours, I attended a meeting at the El Cajon District Attorney's Office located at 250 E. Main Street, El Cajon, regarding this case.

Reporting Officer: Det. L. Hall

ID# 1083 

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 4 of 4

Between about 1511 and 1533 hours, Detective Fiske and I returned to Sharp Memorial Hospital at 7901 Frost Street in San Diego where we contacted Deputy Casey James (7815) and Deputy Alexander Cortez (4953). I explained the Medical Records Release Form to Michael Foster. Foster signed the form and gave us consent to obtain his medical records. At about 1530 hours, Detective Fiske and I took a copy of this form to the Medical Records Office inside Sharp Memorial Hospital. I requested the records be sent to San Diego County Sheriff's Department Homicide Detail attention Detective Hillen. I later provided the original signed Medical Records Release form to Detective Hillen.

On 10-25-10, at about 0815 hours, Detective Fiske and I went to the Emergency Services Office at 1745 Marshall Avenue in El Cajon where we met with SED Corporal Debus. Debus gave us twenty duty rounds of Federal brand .308, 168 grain, rifle ammunition. Around 0900 hours, Detective Fiske and I went to the Miramar Range in San Diego where we met with Sheriff's Office Support Specialist (b)(5)(B). (b)(5)(B) provided us with forty duty rounds of Federal brand .223, 55 grain, Nosler, ballistic tip, rifle ammunition.

At about 0944 hours, Detective Fiske and I went to the Sheriff's Crime Laboratory at 5255 Mt. Etna Drive in San Diego where we met with Firearms Criminalist (b)(5)(B) (2904). Detective Fiske gave Criminalist (b)(5)(B) the .308 rounds from Debus and the .223 rounds from (b)(5)(B). See the report by Criminalist (b)(5)(B) for more information.

This concluded my duties related to this case.

Reporting Officer: Det. L. Hall

ID# 1083

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 4

Investigation:

On Tuesday, October 19, 2010, at about 2020 hours, Deputy Fuhr #6655 handed Detective T. DuGal #2425 a white plastic bag with a Sharp Memorial Hospital logo. Inside the bag was a pair of shorts Michael Foster had been wearing during this incident. Deputy Fuhr also handed Detective DuGal a sealed evidence envelope, which contained (2) vials of Michael Foster's blood, which had been drawn at the hospital.

On Tuesday, October 19, 2010, at about 2030 hours, Detectives S. Fiske #1918 and L. Hall #1083, and Forensic Evidence Technician (F.E.T.) (b)(5)(B) arrived at the Sharp Memorial Hospital at 7901 Frost Street, to process Michael Foster.

On Tuesday, October 19, 2010, at about 0150 hours, Detectives S. Fiske and L. Hall, returned to Sharp Memorial Hospital to provide Deputy Michael Spears #5632 with booking documents for Michael Foster.

On Tuesday, October 19, 2010, at about 2330 hours, Detective DuGal handed the packaged shorts and vials of blood over to F.E.T. (b)(5)(B) to log into evidence.

On Wednesday, October 20, 2010, at about 0828 hours, Detectives S. Fiske and L. Hall, and F.E.T. (b)(5)(B) arrived at the Emergency Services Office at 1745 Marshall Avenue in El Cajon. It was here that they received photographs Deputy Debus #1843 had taken at the scene, as well as information as to where the Special Enforcement Detail (S.E.D.) deputies were positioned during this officer involved shooting. F.E.T. (b)(5)(B) took photographs of the white boards used by S.E.D. during this incident.

On Wednesday, October 20, 2010, at about 1405 hours, I received a phone call from Sgt. D. Martinez #1136. He told had informed me that the two S.E.D. deputy's that were on the 2-3 side of the perimeter were Jason Phillips #4874 and Kevin Olin #5523. These were the deputies that Michael Foster had pointed his handgun at, and are the victim's of 245(D)(1) ADW on peace officer. Sgt. Martinez received this information from Detective S. Fiske.

On Wednesday, October 20, 2010, at about 1613 hours, I received a phone call from Detective A. Tsuida #2099. She essentially told me Michael Foster had sustained (5) gunshot wounds to the back, was paralyzed from the waist down, and had a collapsed lung. The Doctors were deciding whether or not to perform surgery in an attempt to get some mobility back. There was also a possibility that Foster would be transferred to U.C.S.D. Medical Center.

Reporting Officer: Det. D. Hillen

ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 4

On Thursday, October 21, 2010, at 1000 hours, Homicide team 1 presented this case to the District Attorney at the El Cajon District Attorney's Office. It was during this meeting that I learned that Michael Foster had "ripped" the phone cord out of the wall in the main residence to prevent (b)(5)(B) (b)(5)(B) from calling the police. I did not have this information during the execution of the telephonic search warrant.

On Thursday, October 21, 2010, at about 1230 hours, I assigned Detectives T. DuGal and H. Lebitski #2079 to interview (b)(5)(B) at her residence. I also asked Detective DuGal to ask about the phone cord in the main residence. He later told me that the phone cord was not "ripped" from the wall, but was unplugged from the wall by Michael Foster, while (b)(5)(B) tried to call for help. See Detective DuGal and Lebitski's respective reports for details.

On Thursday, October 21, 2010, at about 1600 hours, I received a medical records release form signed by Michael Foster, from Detective L. Hall.

On Thursday, October 21, 2010, at about 2206 hours, I recieved a phone call from Detective Fiske. She essentially stated she received a phone call from a jail deputy at Sharp Memorial Hospital who told her Michael Foster was about to go into surgery and they were going to remove the fragments from his body. Detective Fiske told me these fragments needed to be picked up in the morning at Sharp Hospital and logged into evidence.

On Friday, October 22, 2010, at about 0712 hours, I recieved a phone call from Correctional Deputy LaLanne #7174. Deputy LaLanne told me he had the evidence (fragments) and that I could pick them up from him at the hospital in room #420.

On Friday, October 22, 2010, at about 0815 hours, I spoke with Detective DuGal who told me he would go to the hospital and pick up the evidence.

On Friday, October 22, 2010, at about 1051 hours, Detective DuGal handed me two plastic bags. Each bag contained a plastic cup. One cup contained (2) fragments, and the other cup contained (1) fragment. I placed these items in a clear evidence package and sealed it.

On Tuesday, October 26, 2010, at about 0900 hours, Homicide team 1, and members from the Sheriff's Crime Lab had a meeting at the Sheriff's Homicide Office to discuss laboratory service reports and coordinate a deputy walkthrough of the crime scene with the deputies involved in the officer involved shooting. In attendance at the meeting were Homicide Sgt. D. Martinez, Homicide Detectives S. Fiske, T. DuGal, L. Hall, and me (D.

Reporting Officer: Det. D. Hillen

ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 4

Hillen), Crime Lab personnel present were Criminalists (b)(5)(B) and (b)(5)(B) (b)(5)(B), Field Evidence Technicians (b)(5)(B). Border Patrol M. Esparza was also present.

On Tuesday, October 26, 2010, I received an email from Deputy Tim Chantler #2305 stating Deputies Farr #2618 and Kerr #2623 qualified with their M-4, pistol, and shotgun on September 11, 2010. Deputy Gavin #2649 qualified with his M-4, pistol, and shotgun on June 19, 2010, he was on military leave during the September qualification.

On Tuesday, October 26, 2010, I received an email from Captain Todd Frank #1845 stating Deputies Kerr, Gavin and Farr, had requalified with their replacement weapons and passed.

On Wednesday, October 27, 2010, at about 0900 hours, I handed Detective Fiske the packaged fragments I received from Detective DuGal on October 22, 2010, as well as lab service requests to have evidence in this case processed. Detective Fiske took these items to the San Diego County Sheriff Crime Laboratory and submitted them.

On Wednesday, October 27, 2010, at about 1000 hours, I returned the telephonic search warrant to the San Diego County Court House.

On Wednesday, October 27, 2010, at about 1500 hours, I received a phone call from (b)(5)(B) (b)(5)(B) of Sharp Memorial Hospital who told me Michael Foster was going to be transferred to the VA Hospital at 3350 La Jolla Village Drive, on Thursday, October 28, 2010, at 1000 hours. At this time he was a full parapalegic and was being transferred to the VA Hospital for spinal cord rehab. His case manager at the VA Hospital will be (b)(5)(B).

On Thursday, October 28, 2010, at about 1300 hours, the following people met at the Sheriff's Alpine Patrol Station, Sheriff's Homicide Personnel included Captain T. Curran, Lieutenant D. Brugos, Sergeant D. Martinez, Detectives S. Fiske, T. DuGal, L. Hall, and me (D. Hillen), Sheriff's Crime Lab personnel included Criminalists (b)(5)(B) and (b)(5)(B), FET (b)(5)(B), SED Deputies W. Kerr, B. Gavin, B. Farr, J. Phillips, and K. Olin, Border Patrol Agent M. Esparza, Deputy District Attorney T. Campen, and Attorney (b)(5)(B). (b)(5)(B) was there to represent the S.E.D. deputies. After a quick briefing we all went to (b)(5)(B) Japatul Road for a walkthrough of the officer involved shooting with the SED deputies. Deputy DuGal told me he had received verbal consent from (b)(5)(B) (b)(5)(B) and the home owners of (b)(5)(B) Japatul Road, (b)(5)(B), to return to the scene for the walkthrough.

Reporting Officer: Det. D. Hillen

ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 4 of 4

During the walkthrough I had Border Patrol Agent M. Esparza stand in a position where the deputies said they saw Michael Foster during their encounter. I had FET (b)(5)(B) and FET (b)(5)(B) (who was in a Sheriff's helicopter) take photographs during the walkthrough. Detective DuGal audio recorded the walkthrough with all 5 deputies. See Detective DuGal's report for details.

On Tuesday, November 9, 2010, I telephoned Michael Foster's case manager at the VA Hospital, (b)(5)(B). She told me Michael is in stable condition and participating in spinal cord rehabilitation. He is a paraplegic with zero percent chance of recovery. (b)(5)(B) said Michael would be at the VA Hospital through the end of December.

Investigation ongoing.....

Reporting Officer: Det. D. Hillen

ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

AGENCY SH -	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY TUESDAY	DATE 10/19/2010	TIME 08:22
OFFICER'S REPORT ONLY <input checked="" type="checkbox"/>				THROUGH DAY	DATE	TIME
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 245 PC; Assault with a Deadly Weapon , OIS						
LOCATION OF INCIDENT (b)(5)(B) Japatul Road				BEAT 563		
REPORTING OFFICER S. Aitken	ARJIS 2632	DIVISION SED	DATE OF REPORT 10/19/2010		TIME 13:27	
PRIMARY VICTIM'S NAME		PRIMARY SUSPECT'S NAME Foster, Michael		SUSPECT'S DOB (b)(5)(A)	AGE RING 38	

Origin:

On 10/19/10, at about 0930 hours, I was requested to assist Deputies with the apprehension of a felony suspect located at **(b)(5)(B) Japatul Road** in the unincorporated area of San Diego.

Investigation:

I arrived on scene at about 1045 hours. I was wearing the standard SWAT uniform with subdued "Sheriff" markings on the front, back and sides.

I was assigned to ride in the SWAT BearCat Armored Car. Also riding in the BearCat Armored Car were Tactical Medics and my partner.

At about 1300 hours, I was given the mission to deliver a "throw phone" utilizing the Bear Cat Armored Car. This was to be accomplished by picking up the phone from the Crisis Negotiation Team, who were at a safe location, and driving the phone to the front structure, where the suspect was last seen occupying.

At about 1327 hours, the BearCat Armored Car was in front of the structure where the suspect was and in the process of delivering the phone. At that time, I heard several loud noises that sounded like gunshots. It is unknown exactly how many sounds were heard. Within seconds, information was relayed on the radio that the sounds were, in fact, gunfire. The gunfire was coming from the opposite side of the building in which we were located.

I held my position in the BearCat Armored Car. A few minutes later, I was instructed to assist other Deputies to ensure there were not any other people within the suspects' house.

I returned to the BearCat Armored Car. I remained at the vehicle until instructed to return to the Tactical Staging Area.

REPORTING OFFICER S. Aitken	ID # 2632	DIVISION SED	REVIEWED BY <i>Sgt. M. J. [Signature]</i>	DATE REVIEWED 10/20/10	TIME REVIEWED 1030
---------------------------------------	---------------------	------------------------	--	----------------------------------	------------------------------

SAN DIEGO REGIONAL DEPUTY'S REPORT NARRATIVE

CONTINUED ☐ ARR./JCR ☐ MISC. CITE
FROM: ☒ CRIME ☐ OTHER

CASE NUMBER 10064025			Page 1 of 1	
MONTH 10	DAY 19	YEAR 10	DAY OF WEEK TUE	TIME 0930
LOCATION OF INCIDENT (b)(5)(B) Japatual Road			CITY Alpine	
PERSON(S) INVOLVED: VICTIM			BEAT 563	
SUSPECT (IF NAMED) Michael Foster			PROPERTY TAG NO. (S) N/A	

ORIGIN:

On 10-19-10, I was assigned as the Detective/Admin/Patrol Sergeant for the Ramona Station. At about 0930 hours, Sergeant Russ Moore contacted me and asked me to respond to **(b)(5)(B)** Japatual Road in Alpine for a Crisis Negotiations Team (CNT) callout. I arrived on scene about a half hour later and was briefed by Sergeant C. Browning, the Incident Commander, and Detective F. Passalacqua.

INVESTIGATION:

The information I was given at the time was **(b)(5)(B)** Michael's wife, was woken up by Michael at about 0300 hours. He was armed with a handgun and he pointed it at **(b)(5)(B)** before discharging it several times throughout the house. One of the discharges was done in close proximity to **(b)(5)(B)** head. **(b)(5)(B)** was scared and she fled the home to call for help. When she left the home, Michael was laying on the bed, with the handgun pointed under his chin and a towel was covering his head. There was no phone in the home because **(b)(5)(B)** took the cell phone with her. She did not have cell phone service there, so she went to neighbor's house to call for help.

When patrol arrived they tried to communicate with Michael by yelling into the home and using the PA system on the patrol vehicles. There was no response from Michael.

Sergeant Moore, the Acting Team Commander advised me I was going to be the CNT Team Leader for this callout.

While other members of CNT were responding, I spoke with **(b)(5)(B)** and obtained some other personal and background information about Michael. She told me he suffered from Post Traumatic Stress Disorder (PTSD). She explained that he also suffered from other medical ailments. She said he often would wake up in the middle of the night and grabbed her and tell her to identify herself. **(b)(5)(B)** said they had an appointment for Michael to get some help, but he was not looking forward to it. She gave us other background information about weapons he might have, family issues and information, and possible contacts that might be able to help us.

I assigned CNT members as they arrived, to contact family members and friends of Michael and obtain Third Party Intermediary (TPI's) recordings of them in case we needed to use them to encourage Michael to come out.

When most of CNT had arrived, I conducted a briefing on the information we had about the incident. We talked about possible methods of communicating with Michael since there weren't any phones in the home.

I was advised by Sgt. Moore that our mission was going to be to attempt to communicate with Michael through the PA system on the Bomb/Arson robot. In addition, a plan was devised where we would give SED our throw phone. The Bomb/Arson robot would take the phone to the home and deliver the phone in hopes that Michael would accept the phone and we would be able to communicate with him. Once we were able to establish communication with Michael, our mission was to have him exit the home where an arrest team would take him into custody.

I assigned Deputy W. Voth and Deputy A. Leavitt to deploy on the armored car with SED. Deputy Leavitt was the primary negotiator and Deputy Voth was be the secondary negotiator. At about 1250 hours, they deployed with SED in the armored car. I assigned Deputy M. Rand and Deputy S. Dayrit as the primary and secondary negotiators, respectively, inside the CNT van. They would be utilizing the throw phone if it was able to deployed. When SED deployed, the remainder of the team, in the CNT van, was moved to an area closer to the home, adjacent to where Bomb/Arson personnel were.

REPORTING OFFICER C. Bawenoff	ARJIS # 2027	DIVISION Det/Admin	APPROVED BY:	DATE OF REPORT:	MONTH 11	DAY 10	YEAR 10	TIME 1220
---	------------------------	------------------------------	--------------	-----------------	--------------------	------------------	-------------------	---------------------

ARJIS-SC REV 6/01

SAN DIEGO REGIONAL DEPUTY'S REPORT / NARRATIVE

Page ___ of

Once the Bomb/Arson robot was deployed closer to the home, Deputy Leavitt began speaking to Michael through the PA system. Deputy Voth communicated to me via radio and advised me what they were doing. After a few minutes of utilizing the PA, Deputy Voth advised me that the the blinds in the home were moved and a few minutes later, Michael began yelling out of the home. Soon after, Deputy Voth advised that a "pop" sound was heard coming from the home.

Deputy Leavitt continued to make announcement into the home and after several more minutes, Michael moved the blinds again, yelled out of the home about wanting his phone back, and slammed the sliding glass door. Deputy Voth also advised at one point that Michael opened the sliding glass door and threw something out of the door.

During this time, Michael was given instructions via PA by Deputy Leavitt, to exit the home but he did not comply.

While the above communication was going on, I was assisting my team in transferring the throw phone to SED so they could deploy it. At about 1323 hours, I heard several popping sounds that I believed to be gun shots coming from the area of the home. At some point I was advised that SED had exchanged gunfire with the suspect, injuring him.

I saw medical staff being deployed to the scene. I was advised by Sgt. Moore to stand by with the team in the CNT van. Eventually, I was advised my Sgt. Moore to back up the CNT van and return to the Command Post. CNT debriefed the incident and was released from the scene

REPORTING OFFICER <i>C. Barenft</i>	ARJIS # <i>2227</i>	DIVISION <i>Det/Admin</i>	APPROVED BY:	DATE OF REPORT:	MONTH <i>11</i>	DAY <i>10</i>	YEAR <i>10</i>	TIME <i>1220</i>
--	------------------------	------------------------------	--------------	-----------------	--------------------	------------------	-------------------	---------------------

ARJIS-SC REV 8/01

AGENCY SH -	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY TUESDAY	DATE 10/19/2010	TIME 08:22
OFFICER'S REPORT ONLY <input checked="" type="checkbox"/>				THROUGH DAY	DATE	TIME
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report OIS, Attempted Murder 664/187 P.C.						
LOCATION OF INCIDENT (b)(5)(B) Japatul Road, Alpine CA				BEAT 563		
REPORTING OFFICER P. Beaumont	ARJIS 2635	DIVISION SED	DATE OF REPORT 10/19/2010		TIME	
PRIMARY VICTIM'S NAME (b)(5)(B)		PRIMARY SUSPECT'S NAME Foster, Michael		SUSPECT'S DOB (b)(5)(A)	AGE RING 38	

ORIGIN:

On 10-19-10, at about 0908 hours, I received a telephone call from Deputy Lozoya #2190 directing me to respond to **(b)(5)(B)** Japatul Road in Alpine to assist with a tactical mission. (CAD# S8708726).

DEPUTY'S OBSERVATIONS AND ACTIONS:

I arrived at the above location at about 1005 hours and contacted Deputies Lozoya and Chantler #2305. Deputy Chantler directed me to gear up for a scouting mission. Shortly thereafter, Deputy Chantler told me the suspect, Michael Foster **(b)(5)(A)** was last seen in the granny flat of the above address. Deputy Chantler explained the suspect was wanted for attempted murder on his wife, **(b)(5)(B)**. Deputy Chantler explained the suspect had held a .357 magnum revolver to the victims head, threatened to kill the victim, and then fired his revolver into the interior of his residence. With this information and a map of the property, Deputy Debus #1843 and I began a scout of the property.

After Deputy Debus and I scouted the target, we began placing perimeter containment teams around the residence. I placed two perimeter teams on the property's perimeter at about 1205 hours. I placed Deputies Ladieu #4812 and Gale #4869 near the ¼ corner of the residence and placed Deputies Kerr #2623 and Gavin #2649 near the ¾ corner of the residence. Shortly thereafter, I took up a containment position on side 3 of the residence, approximately 40 yards from the residence. Side 3 of the residence had a steep hill flowing down from the residence with tall brush and trees that blocked my ability to see the residence.

While at my containment position, I could hear the public address (PA) announcements from the armored car to the suspect. The armored car was located on the front side, side 1, of the residence which was situated on the opposite side from my location. Shortly thereafter, Deputy Debus joined me at my position and together we moved further back off of side three.

At about 1320 hours, I heard one of the perimeter containment team's radio traffic that stated the suspect was coming out of the residence from side 3, the rear of the residence. I scanned the rear area of the residence looking for the suspect, but was not able to see him. My view was blocked by all the high vegetation. After the radio traffic, I heard several sounds of gunfire and determined some of the gunfire was coming from Deputies Kerr and Gavin's position. After the gunfire stopped, I heard via the radio the suspect was on his back on the patio at the rear of the residence. I was never able to see the suspect.

I held my position at the rear of the residence until I was told to meet the rest of the team back at the Tactical Staging Area (TSA).

REPORTING OFFICER P. Beaumont	ID # 2635	DIVISION SED	REVIEWED BY <i>SGT. M. J. [Signature]</i>	DATE REVIEWED 10/20/2010	TIME REVIEWED 1124
---	---------------------	------------------------	--	------------------------------------	------------------------------



San Diego County SHERIFF'S DEPARTMENT

PROBABLE CAUSE DECLARATION FOR WARRANTLESS ARREST

SUSPECT NAME : Foster, Michael, Allen			DOB: (b)(5)(B)
STATION: Homicide	FAX: (b)(5)(B)	CASE #: 10064025	BOOKING #:
CHARGE(S): 245(a)(2) PC ADW w/gun			
ARREST LOCATION: (b)(5)(B) Japatul Road, Alpine		DATE OF ARREST: 10/19/2010	TIME OF ARREST: 1331
ARRESTING DEPUTY: D. S. Hillen			ARJIS: 1635

FACTS ESTABLISHING ELEMENT(S) OF THE MOST SERIOUS OFFENSE AND IDENTIFICATION OF SUSPECT:

On October 19, 2010, at about 0823 hours, the San Diego Sheriff's Communication Center received a 9-1-1 call from a woman identified as (b)(5)(B) regarding her husband holding a gun to her head. Deputy McFarland (2066), responded and arrived on scene at about 0836 hours. Upon his arrival, he contacted (b)(5)(B) at the top of her driveway. (b)(5)(B) told Deputy McFarland that her husband, Michael Foster, had pointed a revolver against her head, and then fired several shots randomly throughout the guest house that they reside in at (b)(5)(B) Japatul Road (b)(5)(B) in Alpine. One of the rounds Michael fired went right by (b)(5)(B) head, and another went through the sliding glass door of the main residence and into the main residence. This was confirmed by the shattered sliding glass door seen by deputies who arrived on scene. Detective Fran Passalacqua (2204) arrived on scene and continued to interview (b)(5)(B). (b)(5)(B) told Detective Passalacqua that Michael woke her up at about 0300 hours this morning, grabbed her by the hair, asked her for ID, and asked what her mission was. After Michael fired all of the rounds in the revolver, he asked (b)(5)(B) to help him find more ammunition, which she refused to do. Michael held (b)(5)(B) captive and would not let her leave their home. At about 0810 hours, Michael was on his bed when he placed the barrel of the gun to his chin and put a towel over his head. Michael told (b)(5)(B) to get out of the house. Before (b)(5)(B) left the house to seek help, Michael made a comment to her about getting into a shoot out with the police. (b)(5)(B) told Detective Passalacqua that Michael had been drinking beer this morning and was suffering from post traumatic stress disorder. (b)(5)(B) also said Michael was taking three different types of psychiatric medications.

Sheriff's personnel on scene unsuccessfully attempted to communicate with Michael by yelling and utilizing a PA system. At about 1008 hours, this incident was deemed a Special Enforcement Detail (S.E.D.) call out. At about 1231 hours, Sheriff's Deputies from the S.E.D. unit surrounded the house. At about 1240 hours, an armored vehicle containing Sheriff's Department S.E.D. and Hostage Negotiation Team personnel approached the residence and unsuccessfully attempted to communicate with Michael.

At about 1321 hours, Michael exited the front of the guest house, threw shell casings onto the ground, and went back into the house. At about 1323 hours, Michael exited the rear of the guest house with a revolver in his hand. When Michael pointed the revolver at deputies, three S.E.D. deputies shot at him. Michael was taken into custody at about 1331 hours, and then transported by paramedics to Sharp Memorial hospital where he remains hospitalized.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Executed on: 10-19-10 in the County of San Diego, State of California by: S. FREE - 1918 For
D. Hillen + 1635
(SIGNATURE)

JUDICIAL REVIEW:

On the basis of the foregoing declaration and attached reports, I hereby determine that there ☐ IS ☐ IS NOT probable cause to believe this defendant has committed a crime.

(DATE) (TIME) (MAGISTRATE'S SIGNATURE) BY: (FOR TELEPHONIC APPROVAL)



San Diego County Sheriff's Department

BOOKING INTAKE / PERSONAL PROPERTY INVENTORY

Jail Booking Number:

Case No. 10064025

1

Page 1 of 1

PERSONAL INFORMATION				PROPER COMPLETION OF THIS FORM WILL EXPEDITE YOUR BOOKING			
Name (Last, First, Middle): Foster, Michael Allen		Race White	Sex Male	Age 38	Date of Birth (b)(5)(A)		
Alias Names:	Height 5' 9"	Weight 280 lbs	Hair Brown	Eyes Brown	Place of Birth		
Home Address, City, State, ZIP: (b)(5)(B) Japatul Rd, Alpine, CA 91901					Res. Country: UNITED STATES		
Employment Type:	Occupation/Grade:	Employer/School:	Employer Address:				
CONTACT DETAILS:							
Type Home Phone	Number/Address (b)(5)(A)						
IDENTIFICATION:							
Type Drivers License Number	Number (b)(5)(A)		State California	Country UNITED STATES			
Type SSN	Number (b)(5)(A)		State	Country			
ARREST INFORMATION							
Billing Code SD Sheriff's Office		Jurisdiction of Arrest Alpine - ALPINE			Arresting Agency SH - Sheriff		
Arrest Date / Time 10/19/2010 1:31:00 PM	Arrest Location (b)(5)(B) Japatul Rd, Alpine, CA 91901			Court Destination			
Arresting Officer (Name and ID) SH1635 - HILLEN, DAVID SH1635	Transporting Officer		Vehicle Location		Total Bail Amount		
Charge(s)					Completed?	Counts	
245 (D)(1) - PC - ASSAULT W/FIREARM ON PEACE OFFICER/FIREFIGHTER (F)					Yes	1	
245 (A)(2) - PC - ADW:ASSAULT WITH FIREARM ON PERS (F)					Yes	1	
236 - PC - FALSE IMPRISON W/VIOL/MENACE/FRAUD/DECEIT (F)					Yes	1	
246.3 (A) - PC - WILLFUL DISCHARGE OF FIREARM IN A GROSSLY NEGLIGENT MANNER (F)					Yes	1	
Pre-Intake ARJIS		Pre-Book ARJIS		Book ARJIS			
PERSONAL PROPERTY INVENTORY							
Sealed Bag w/Inmate Property Delivered to Jail <input type="checkbox"/> Yes <input type="checkbox"/> No		Possession Additional Property →					
CASH ACCOUNTING (USA Currency Only)							
	x \$1						
	x\$2						
	x\$5						
	x\$10	Additional Property Remarks →		NO Property			
	x\$20						
	x\$50						
	x\$100						
TOTAL AMOUNT = \$							

Arrest Notes:

SUSPECT IS 10-16 AT SHARP MEMORIAL HOSP Room 219 SFCU
Presently GUARDED BY PATROL DEPUTY

Inmate's Signature

UN AVAILABLE

Arresting Officer's Signature

S. FRIE - 1918 FOR D. HILLEN +1635

AGENCY SH -	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY TUESDAY	DATE 10/19/2010	TIME 08:22
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 245 PC; Assault with a Deadly Weapon , OIS				THROUGH DAY	DATE	TIME
LOCATION OF INCIDENT (b)(5)(B) Japatul Road					BEAT 563	
REPORTING OFFICER R. Borges	ARJIS 8102	DIVISION SED	DATE OF REPORT 10/19/2010		TIME 13:27	
PRIMARY VICTIM'S NAME			PRIMARY SUSPECT'S NAME Foster, Michael		SUSPECT'S DOB (b)(5)(A)	AGE RNG 38

Origin:

On 10/19/10, at about 1100 hours, I was requested to assist Deputies with the apprehension of a felony suspect located at **(b)(5)(B) Japatul Road** in the unincorporated area of San Diego.

Investigation:

I arrived on scene at about 1130 hours. I was wearing the standard SWAT uniform with subdued "Sheriff" markings on the front, back and sides.

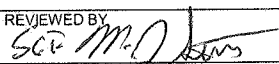
I was assigned to drive the SWAT BearCat Armored Car. Also riding in the BearCat Armored Car were Tactical Medics and my partner.

At about 1300 hours, I was given the mission to deliver a "throw phone" utilizing the Bear Cat Armored Car. This was to be accomplished by picking up the phone from the Crisis Negotiation Team, who were at a safe location, and driving the phone to the front structure, where the suspect was last seen occupying.

At about 1327 hours, the BearCat Armored Car was in front of the structure where the suspect was and in the process of delivering the phone. At that time, I heard several loud noises that sounded like gunshots. It is unknown exactly how many sounds were heard. Within seconds, information was relayed on the radio that the sounds were, in fact, gunfire. The gunfire was coming from the opposite side of the building in which we were located.

I held my position in the BearCat Armored Car. A few minutes later, I was instructed to assist other Deputies to ensure there were not any other people within the suspects' garage.

I returned to the BearCat Armored Car. I remained at the vehicle until instructed to return to the Tactical Staging Area.

REPORTING OFFICER R. Borges	ID # 8102	DIVISION SED	REVIEWED BY 	DATE REVIEWED 10/21/2010	TIME REVIEWED 1020
---------------------------------------	---------------------	------------------------	---	------------------------------------	------------------------------

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

CONTINUED ☐ ARR./JCR ☐ MISC. CITE
FROM: ☐ CRIME ☒ OTHER

CASE NUMBER 10064025			Page 1 of 1	
MONTH 10	DAY 19	YEAR 10	DAY OF WEEK TUE	TIME 1500
LOCATION OF INCIDENT (b)(5)(B) Japatul Road			CITY Alpine	
PERSON(S) INVOLVED: VICTIM (b)(5)(B)			SUSPECT (IF NAMED) Michael Foster	
			PROPERTY TAG NO. (S) 563	

ORIGIN:

On 10/19/2010 at approximately 0802 hours, Alpine Sheriff's Deputies received a radio call to investigate a report of an assault with a deadly weapon, specifically a firearm. The location of the assault was **(b)(5)(B) Japatul Road** in the City of Alpine. **(b)(5)(B)** reported her husband, Michael Foster, had fired several rounds and held her against her will. **(b)(5)(B)** was able to get out of the house and call for help, while Michael remained inside their residence with the firearm. I arrived on scene at approximately 1100 hours as a part of the San Diego Sheriff's Crisis Negotiations Team.

INVESTIGATION:

On 10/19/2010 at approximately 1100 hours, I arrived at **(b)(5)(B) Japatul Road**, in the City of Alpine. I was called to assist as a San Diego Sheriff's Crisis Negotiator for a domestic violence incident involving a male who shot at his wife, **(b)(5)(B)**. **(b)(5)(B)** Deputies were on scene and had spoken to **(b)(5)(B)** advised her husband, Michael Foster, was a war veteran who suffered from Post Traumatic Stress Disorder (PTSD) and is still inside the residence with a firearm.

The Crisis Negotiation Team (CNT) had a team briefing and assigned duties to each team member. I was assigned to gather intelligence and assist in logistics. I assisted with obtaining Third Party Interviews (TPI). I spoke to **(b)(5)(B)** and asked if she was willing to provide a recording we could possibly play for Michael to listen to if we contacted him. **(b)(5)(B)** voluntarily made a recording for her husband. The recording was given to the primary negotiators, Deputy A. Leavitt (2720) and Deputy W. Voth (2633).

After I spoke to **(b)(5)(B)** I spoke to **(b)(5)(B)** is a friend of Michael's from the military. I spoke to **(b)(5)(B)** and asked if he was willing to provide a recording we could possibly play for Michael to listen to if we contacted him. **(b)(5)(B)** voluntarily made two recordings for Michael to listen to if we contacted him. The recordings were given to the primary negotiators, Deputy A. Leavitt (2720) and Detective W. Voth (2633).

After making the TPI recordings, I entered the CNT duty vehicle. At approximately 1240 hours, the CNT vehicle followed the Special Enforcement Detail (SED) armored vehicles to park near the residence to attempt negotiating with Michael. Deputy Leavitt and Deputy Voth were with SED in their vehicle and were closer to the residence. I remained in the CNT vehicle and became one of the recorders for significant events during the negotiation. I did not have visual of the SED vehicle or the residence. I was advised of events over the radio and recorded that information. Negotiations were attempted via the blow horn by Deputy Leavitt and Deputy Voth.

At approximately 1304 hours, while I was writing times and events that happened, I heard a loud "pop" which I believed to be a single gunshot. It was unknown what the sound was at that time and I was advised negotiations were continuing. I was advised there were noises coming from the residence that sounded like furniture moving and Michael had yelled something from inside his residence.

At approximately 1324 hours, I heard one "pop" which I believed to be a single gunshot. Shortly after the "pop" sound, I heard four similar sounding "pops" which I believed to be gunfire. I was advised a male came outside the residence and may have been shot. At that point SED had taken over negotiations. I had no further involvement with this incident.

INJURIES: None.

PROPERTY DAMAGE: None

FOLLOW-UP: None.

REPORTING OFFICER <i>K. Breyman</i>	ARJIS # 4750	DIVISION CNT	APPROVED BY: <i>[Signature]</i> 0759	DATE OF REPORT:	MONTH 11	DAY 11	YEAR 10	TIME 1500
--	------------------------	------------------------	--	-----------------	--------------------	------------------	-------------------	---------------------

RELATED REPORTS:

See Arrest Report/Crime Report written by Deputy Barnes (2170), CN 10064025.

REPORTING OFFICER	ARJIS #	DIVISION	APPROVED BY:	DATE OF REPORT:	MONTH	DAY	YEAR	TIME
-------------------	---------	----------	--------------	-----------------	-------	-----	------	------

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE		CASE NUMBER			Page 1 of 1	
FROM: <input type="checkbox"/> CRIME <input type="checkbox"/> OTHER		10064025				
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY)		MONTH	DAY	YEAR	DAY OF WEEK	TIME
Deputy's report for officer involved shooting		10	19	10	TUE	1300
LOCATION OF INCIDENT		CITY			BEAT	
(b)(5)(B) Japatul Valley Rd.		Alpine			563	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED)			PROPERTY TAG NO. (S)	
		Foster, Michael				

SYNOPSIS:

This is a narrative for my personal accounting of the occurrences surrounding the officer involved shooting at (b)(5)(B) Japatul Valley Rd., on 10-19-10.

ORIGIN:

I responded to a SWAT callout (Code-11) on the morning of 10-19-10 at about 1100 hours. See CAD No: s8708726.

INVESTIGATION:

After I arrived, was sufficiently briefed, and geared up, I was deployed in the Bear Cat armored vehicle with Deputy Aitken, Reserve Deputy Borges, and two Tactical Medics. Sometime around 1245 hours, our vehicle and personnel were tasked with delivering the CNT (Crisis Negotiations Team) throw phone to a pre-designated location for the Bomb/Arson robot.

As we were paying out the hard line for the throw phone from the rear of the Bear Cat, I heard what sounded like four or five quick bursts of gunfire from the nearby target structure approximately 30 yards away. I could only hear the sound of gunfire, but did not see anything.

EVIDENCE:

None

INJURIES:

See subsequent case written.

PROPERTY DAMAGE:

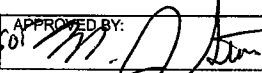
None

FOLLOW-UP:

As needed

RELATED REPORTS:

Case number 10064025

REPORTING OFFICER	ARJIS #	DIVISION	APPROVED BY:	DATE OF REPORT:	MONTH	DAY	YEAR	TIME
D. BUETHER	2419	SOSM			10	20	10	1045

SAN DIEGO REGIONAL DEPUTY'S REPORT NARRATIVE

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE FROM: <input type="checkbox"/> CRIME <input checked="" type="checkbox"/> OTHER			CASE NUMBER			Page of	
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report			MONTH 10	DAY 19	YEAR 10	DAY OF WEEK TUE	TIME 1000
LOCATION OF INCIDENT (b)(5)(B) Japatul Road			CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM			SUSPECT (IF NAMED) Foster, Michael			PROPERTY TAG NO. (S)	

ORIGIN:

On 10-19 -10 at about 1000 hours, I was advised of a Code-11 (SWAT activation) in Alpine.

DEPUTY'S OBSERVATIONS AND ACTIONS:

I responded to the staging area located at about the 13 mile marker on Japatul Road in Alpine and was briefed reference the incident by Sergeant Strong and Deputy Lozoya. I was informed Michael Foster (DOB: **(b)(5)(A)**) was the suspect in a 245, 664/187 PC incident involving his wife and was possibly barricaded inside the residence. Foster was described as a recent war veteran with mental/ emotional issues and possible suffering from Post-Traumatic Stress Disorder. Foster reportedly held his wife against her will for several hours and fired at least one round from a handgun very close to her head. Foster's wife was able to leave the residence and call the Sheriff's Department.

I responded to the front of the residence at **(b)(5)(B)** Japatul Road in the Armored Car. The plan was to have CNT negotiators, also in the Armored Car, attempt to make contact with Foster using the vehicle PA. CNT Deputy Leavitt began using the PA in an attempt to contact Foster. Movement from inside the residence was confirmed by containment positions and within a few minutes I heard a male yell out of the residence asking about the location of his phone. Deputy Leavitt continuously asked Foster to exit the front of the residence and told him we were there to help him.

While we were in the process of delivering a phone to Foster with a robot, I heard an advisement over the radio he had exited the residence from the back door (side 3). Shortly after exiting the residence, I heard what sounded like several gunshots. I then heard via the radio Foster was laying on his back on the patio area to the rear of the residence (side 3).

I was able to confirm via the radio Foster's hands were empty and he remained on his back. The Entry Team then moved on foot to Foster. I observed Foster lying on his back with a revolver a few feet from his left hand. Deputy Lozoya guarded Foster while Deputy Chantler secured the weapon. The remainder of the Entry Team checked the interior of the buildings.

I had the San Miguel Tactical Medics respond to provide medical care to Foster. They began assisting Foster who was then transported from the scene by medical personnel.

I remained at the property until relieved by Detective Bolter.

REPORTING OFFICER B. BUTTERFIELD, SGT	ARJIS # 1454	DIVISION ESD	APPROVED BY:	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 10	TIME 1200 hrs
---	------------------------	------------------------	--------------	-----------------	--------------------	------------------	-------------------	-------------------------

SAN DIEGO REGIONAL DEPUTY' S REPORT NARRATIVE

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE FROM: <input type="checkbox"/> CRIME <input checked="" type="checkbox"/> OTHER		CASE NUMBER			Page of	
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY)		MONTH	DAY	YEAR	DAY OF WEEK	TIME
Deputy's Report		10	19	10	TUE	0900
LOCATION OF INCIDENT		CITY			BEAT	
(b)(5)(B) Japatul Road		Alpine				
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED)			PROPERTY TAG NO. (S)	
		Foster, Micheal				

ORIGIN:

On 10-19-10 at approximately 0900 hours, I arrived at Emergency Services Division office and was informed by Sgt. Strong (#1997) that Alpine Patrol units were dealing with an armed suspect who was barricaded in his house. Sgt. Strong then directed Deputy Lozoya (#2190) and I to respond to (b)(5)(B) Japatul Road, Alpine and make contact with Sgt. Browning (#2565) in order to evaluate the situation and conduct a scout of the area in case a Code 11 was requested. At approximately 0930 hours, I arrived at the above location and contacted Sgt. Browning.

Deputy's Observations & Origins:

Sgt. Browning informed me that Michael Foster ((b)(5)(A)) was believed to be barricaded in the granny flat on the property with a pistol. He also informed me of the location of the patrol Deputies on scene. After discussing the situation with Sgt. Browning he informed me that he was requesting SED to respond to the scene.

I then contacted the victim, (b)(5)(B) along with Sgt. Moore of CNT. (b)(5)(B) informed me that her husband Michael had woken her up at approximately 0300 hours and was talking about making a bomb. He then produced a .357 revolver and during the next few hours fired it several times in the residence, including firing one round just past her head. At approximately 0730 hours, she left the residence and had last seen Foster lying on the bed with the pistol pointed at his head. (b)(5)(B) also informed me that Foster was former Army medic who had combat experience in Bosnia, Somalia and Afghanistan. She also stated that Foster has been prescribed several physiological medications, but she was unaware if he had been taking them. She also informed me that a few days earlier Foster had started a fight at a local bar and then fought the Deputies that had arrived on scene. (b)(5)(B) stated that since that incident Foster had made statements about committing "suicide by cop".

I relayed all of this information first to Deputies Debus (#1843) and Beaumont (#2635) who arrived to conduct a scout of the location. I then relayed the information to Deputy Lozoya at the Tactical Staging Area (TSA) by and radio and telephone. Deputies Kerr (#2623) and Gavin (#2649) then arrived at the location to assist with the scout and I directed them to the residence and instructed them to coordinate their scout with Debus and Beaumont. Sometime after this I was informed by a Deputy from CNT that (b)(5)(B) had informed them that in the past, Foster had set up "trip wires" around their property that were attached to whistles and lights. I relayed this information to the scouts and the TSA by radio. When Lt. Brust (#1723) arrived on scene he took over as the SED liaison at the Command Post. I drove to the TSA and was assigned to the entry team for the operation.

I was in the Armored Car when it deployed to the residence and parked on side 1 of the granny flat. While at the Armored Car I heard one loud pop coming from the residence that may have been a gun shot. Later I saw Foster open the front sliding glass door and throw something out of the residence. A few minutes later I heard several guns shots on side 3 of the residence and was informed that the suspect was down on side 3. After a movement plan was discussed, the entry team moved to side 3 and I observed Foster lying on the patio. He was bleeding and appeared to have suffered multiple gunshot wounds. A black revolver with the hammer in the cocked position was lying to the left of Foster. I moved the pistol approximately two to three feet to the left – away from Foster to further insure he would not be able to access the pistol. Deputy Lozoya took a position between Foster and the pistol and I went to clear the residence. After the residence was cleared and Foster was transported by the fire department I returned to the Armored Car and then to the TSA.

REPORTING OFFICER	ARJIS #	DIVISION	APPROVED BY:	DATE OF REPORT:	MONTH	DAY	YEAR	TIME
I. CHANTLER	2305	SED	<i>[Signature]</i>		10	20	2010	1239



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

Thomas J. Cooke, Undersheriff

October 21, 2010

California Highway Patrol

Attn: (b)(5)(B)

(b)(5)(B) fax

Re: Communication Center Tape Request

Ref: SDSD CN#10064025

Dear (b)(5)(B)

Our agency is investigating the Officer Involved Shooting incident that occurred on Tuesday, October 19, 2010 @ about 1330 hours at (b)(5)(B) Japatul Road in Alpine. The incident actually began with a cell phone call from the reporting party at approximately 0825 hours.

As part of our comprehensive investigation, we would like to request copies of your agency's phone communications related to these calls.

Please contact (b)(5)(B) when the tapes are ready to be picked up from your office.

Thank you for your timely assistance responding to our request.

Sincerely,

WILLIAM D. GORE, SHERIFF

(b)(5)(B)

Dennis J. Brugos, Lieutenant
Homicide Detail

WDG: DJB/ssc

"Keeping the Peace Since 1850"



**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
BORDER COMMUNICATIONS CENTER**

7183 Opportunity Road
San Diego, California 92111



(b)(5)(B)
(TT/TDD)
(Voice)

October 28, 2010

File No.: 618.A08884.T618-10-888

SUBJECT: REQUEST FOR RECORDS

San Diego Sheriff's Department
Homicide Detail
P.O. Box 939062
San Diego, CA 92193-9062

Attn: Dennis J. Brugos, Lieutenant

I, (b)(5)(B) declare as follows:

I am a custodian of records for the California Highway Patrol and have the authority to certify the enclosed records. After careful review of our records there were no cellular 9-1-1 calls from your reporting party at approximately 0825 hours on October 19, 2010. Enclosed is a true CHP CAD log of your incident for October 19, 2010 at 1330 hours at (b)(5)(B) Japatul Road in Alpine. If you have any further question concerning your request, please call (b)(5)(B)

I declare under penalty that the above is true and correct. Executed this 28th day of October, 2010, at San Diego, California.

Prepared by: (b)(5)(B)
Print Name

(b)(5)(B)

(b)(5)(B)

H. PAREDES, Lieutenant
Commander
Border Communications Center

Enclosures

California Highway Patrol - Centralized Cad Journaling System

Completed Incident Search

[Back](#)

Log: 0443 PRI: P3 Type: SWAT CB: Beat: 108-34
LOC: (b)(5)(B) JAPATUL CS: SDCO SDCO
ORI: 002 (b)(5)(B) 10/19/2010 DISP: (b)(5)(B) X:
ORI Action: Filed: D R/S: DUP: CBT: Z: N

DETAIL

Pos	ID #	Time	Line #	Detail
002	(b)(5)(B)	10:32:20	1	JAPATUL RD MM 13 00
002	(b)(5)(B)	10:32:20	2	DV W/245 GUN
002	(b)(5)(B)	10:32:20	3	MALE HELD AN XRAY W/A GUN TO HER HEAD
002	(b)(5)(B)	10:32:20	4	MALE IS EX MIL W/MULTI GUNS AND AMMO
002	(b)(5)(B)	10:32:32	5	BOMB AND SWAT ER TO THIS 1020
002	(b)(5)(B)	10:33:57	6	THIS IS INFO ONLY
009	(b)(5)(B)	10:34:18	7	1039 PSDS1
009	(b)(5)(B)	10:55:30	8	STAM IS REQ UNITS FOR 1184 TO CLOSE RDWY TAVERN/DEHESA JEO OF MM 14
009	(b)(5)(B)	10:56:01	9	TAVERN/DEHESA AND JEO MM 14
002	(b)(5)(B)	11:22:54	10	83; 97 AT TAVERN AT DEHESA, SO HAS A VOLUNTEER 97 WHO IS UNSURE OF WHICH WAY TRFC SHOULD BE DIVERTED POSS BLOCKING JAPATUL AT DEHESA
002	(b)(5)(B)	11:23:37	11	PLZ INQ W/SDSO IF OUR UNITS AREA STILL NEEDED AND EXACTLY WHAT THEY WANT BLOCKED OFF, REGARDING LINE 10
009	(b)(5)(B)	11:25:02	12	CHECKING W/STAM
009	(b)(5)(B)	11:25:38	13	STAM STILL CHECKING
009	(b)(5)(B)	11:27:03	14	STILL NEED CLOSURE AT TAVERN/DEHESA AND JEO MM 14 AND MM 13B. THEY ARE GETTING READY TO BRING THEIR EQUIP UP, NEED RD CL BOTH DIRECTIONS, ETA
002	(b)(5)(B)	11:29:17	15	83; PLZ INQ W/DEPUTY BOST IF HE REQ A (b)(5)(B) TO RESPOND
002	(b)(5)(B)	11:29:17	16	1039 SDSO
002	(b)(5)(B)	11:29:47	17	83; 1022 LAST SO DEPUTY ON SCENE, LETTING PTY THRU

I declare under penalty of perjury that the documents, consisting of 7 pages, to which this is affixed, are true and correct copies of the original documents on file with the Department of

(b)(5)(B)

Title

Date

002 (b)(5)(B) 11:35:52 18 IS THERE A PLACE FOR THE MEDIA TO SET UP AT
 002 11:38:07 19 STAM WILL ADV
 019 11:41:57 20 STAM REQ A SGT 1021 LT HAYLEY AT (b)(5)(B)
 002 11:46:04 21 L3 COPIES
 096 12:01:13 22 (b)(5)(B) 216 FU
 009 12:04:33 23 STAM, ALPINE STN, REQ THAT OUR OFFICERS GO TO LE S TAC 1 AND ID TO STAM
 002 12:06:04 24 PATCHED ON LE S TAC 1
 013 12:07:34 25 STA M REQ CHP SGT 1021 LT HALEY ASAP AT (b)(5)(B) - REF THIS INC
 002 12:18:32 26 CLOSURE AT TAVERN/DEHESA/JAPATUL
 002 13:26:55 27 PER S10 STAM ADV SHOTSF SUBJ DWN, NO OFCR INJURED
 002 13:34:05 28 1039 PSDS (b)(5)(B)
 009 13:49:03 29 JAPUTUL CLOSED B/T 14 MM AND TAVERN - STAM ISSUING SIGALERT
 029 13:50:48 30 MIO CPYZ
 002 14:14:41 31 CONTACT CORDS / NEED A CREW FOR A HARD CLOSURE TAVERN AT JAPATUL AND AT 15600 JAPATUL VALLEY RD TIL 10 OR 11PM TONIGHT
 002 14:16:28 32 CLOSURE NEEDED EB FOR TAVERN AT JAPATUL AND FOR WB LANES AT 15600 JAPATUL VALLEY - JWO OF THE COMMAND POST
 013 14:25:02 33 1039 COUNTY RDS - COPIES LINE 31-32
 002 14:54:45 34 CORDS 1097 TAVERN/DEHESA
 002 15:21:54 35 PLS ISSUE A SIGALERT OR T/ADV FOR PEOPLE THAT LIVE JEO DEHESA , THEY WILL HAVE TO TAKE SR79 AS A DETOUR
 009 15:24:50 36 REFERENCE DUPLICATE INCIDENT 0981D1019
 002 18:58:02 37 16C ADV R4 WILL BE ANOTHER 20 AND STAM WILL RELIEVE HIM
 002 18:58:02 38 R4 CPZ
 009 19:05:59 39 PER STAM ; WE CAN RELEASE ALL UNITS FROM THIS LOG, THEY CAN ALL GO 98
 009 19:08:27 40 SHOOOOOOT
 002 19:13:05 41 SIGNS WILL BE ON RHS FOR CORDS
 002 19:22:40 42 CORDS SIGNS ARE S/E TAVERN AND JAPATUL

UNITS ASSIGNED

Pos	Time	Unit	Misc
002	13:17:43	A108- S3	
002	14:49:32	A108- V2	
002	15:18:14	A108- V1	
002	16:19:20	B108- S10 ,B108- S8	

002 (b)(5)(B) 17:02:41 A108- S3
 002 17:37:33 A108-083
 002 19:10:03 *108- R4
 002 19:16:14 B108- V3
 002 19:21:35 B108- V4

UNIT HISTORY

Pos	Time	Unit	Status	Misc
002	10:56:41	A108-083	ASSGND	
002	10:56:56	A108-083	ENRT	FRM A STOP ALPINE/TAVERN RD
002	10:57:10	A108- V2	ENRT	
002	10:57:25	A108- V2	ENRT	FRM TAVERN
002	10:57:56	A108- V1	ENRT	
002	10:58:06	A108- V1	ENRT	FRM EUCALYPTUS HILLS
002	11:02:35	A108-083		T/STOP L/TAVE AT AL
002	11:02:35	A108-083		T/STOP L/TAVE AT AL
002	11:11:51	A108-083	ENRT	
002	11:21:51	A108- V2	1097	LOVELAND RES PNR
002	11:23:44	A108- V1	1097	
002	11:24:05	A108- V1	1097	
002	11:45:23	A108-083	1097	
096	12:01:12	A108-083		
096	12:01:13	A108-083	1097	
002	12:11:39	A108- V1	1097	
002	12:11:59	A108- V1	1097	ON THE EAST END OF THE CLOSURE
002	12:18:47	B108- S10	ENRT	
002	12:35:40	B108- S8	ENRT	
002	12:54:06	A108- S3	1097	
002	13:17:43	A108- S3	1022	
002	13:22:04	A108- S3	ENRT	
002	13:34:15	A108- S3 ,B108- S8 ,B108- S10	1097	
002	14:49:32	A108- V2	1098	
002	14:49:59	B108- V4 ,B108- V3	ENRT	
002	15:18:14	A108- V1	1098	
002	16:19:20	B108- S10 ,B108- S8	1098	
002	17:02:41	A108- S3	1098	

002	(b)(5)(B)	17:08:48	*108- R4	ENRT
002		17:17:28	B108- V4 ,B108- V3	ENRT
002		17:33:11	*108- R4	1097
002		17:37:33	A108-083	1098
002		19:10:03	*108- R4	1098
002		19:13:57	B108- V4 ,B108- V3	1097
002		19:16:14	B108- V3	1098
002		19:21:35	B108- V4	1098

WITNESS

Pos	ID #	Time	Name	Phone	Phone	Address
002	(b)(5)(B)	10:32:20	SDSO			

COMPREHENSIVE DETAIL

Pos	ID #	Time	Detail
002	(b)(5)(B)	10:32:20	.NI.D/1:JAPATUL RD MM 13 00.W/SDSO.T/245.D/2:DV W/245 GUN.D/3:MALE HELD AN XRAY W/A GUN TO HER HEAD.D/4:MALE IS EX MIL W/MULTI GUNS AND AMMO.L/(b)(5)(B)JAPATUL[P/2][.Z/N][.DSP/A12005][GEO.GL/(b)(5)(B)JAPATUL RD.TBM/ 1254 H7.XY/6425461:1858929.CROSS ST1/HIDDEN GLEN.CROSS ST2/CARVEACRE.CITY/SDCO.CNTY/SDCO.B/108-34][.IST/0443D1019,I]
002		10:32:22	.[NIMASK].T/245[.RL/2.][.P/2][.IST/0443D1019,P]
002		10:32:32	.UI.D/5:BOMB AND SWAT ER TO THIS 1020.R/9[.RL/9.]
002		10:33:57	.UI.443.D/6:THIS IS INFO ONLY
009		10:34:18	.UI.443.D/7:1039 PSDS1[.R/N
002		10:40:27	.UI.443.T/SWAT.R/N[.P/3]
009		10:55:30	.UI.D/8:STAM IS REQ UNITS FOR 1184 TO CLOSE RDWY TAVERN/DEHESA JEO OF MM 14 .R/C[.RL/2.]
009		10:56:01	.UI.D/9:TAVERN/DEHESA AND JEO MM 14.R/N
002		10:56:41	.108-83[.MDU/A108-083][.IST/0443D1019,A][.UNT/A108-083][.STA/ASSGND]
002		10:56:56	.108-83.M/FRM A STOP ALPINE/TAVERN RD.S/ENRT[.UNT/A108-083][.STA/ENRT]
002		10:57:10	.108-V2[.UNT/A108- V2][.STA/ENRT]
002		10:57:25	.108-V2.M/FRM TAVERN[.UNT/A108- V2][.STA/ENRT]
002		10:57:56	.108-V1[.UNT/A108- V1][.STA/ENRT]
002		10:58:06	.108-V1.M/FRM EUCALYPTUS HILLS[.UNT/A108- V1][.STA/ENRT]
002		11:02:35	.US.A108-083.M/T/STOP L/TAVE AT AL[3BCCBD0533 *A12005 IA QV CA0379900 LIC/3MON736][.UNT/A108-083]
002		11:02:35	.US.A108-083.M/T/STOP L/TAVE AT AL[3BCCBD0533 *A12005 IV 4 3MON736] [.UNT/A108-083]

002 (b)(5)(B) 11:11:51 .108-83.M/[.UNT/A108-083][.STA/ENRT]
002 11:21:51 .108-V2.M/LOVELAND RES PNR[.UNT/A108- V2][.STA/1097]
002 11:22:54 .UI.108-83.D/10:83; 97 AT TAVERN AT DEHESA,SO HAS A VOLUNTEER 97 WHO IS
UNSURE OF WHICH WAY TRFC SHOULD BE DIVERTED POSS BLOCKING JAPATUL
AT DEHESA
002 11:23:37 .UI.443.D/11:PLZ INQ W/SDSO IF OUR UNITS AREA STILL NEEDED AND EXACTLY
WHAT THEY WANT BLOCKED OFF,REGARDING LINE 10.R/9[.RL/9.]
002 11:23:44 .108-V1[.UNT/A108- V1][.STA/1097]
002 11:24:05 .108-V1.M/[.UNT/A108- V1][.STA/1097]
009 11:25:02 .UI.443.D/12:[CHECKING W/STAM.R/N
009 11:25:38 .UI.443.D/13:STAM STILL CHECKING[.R/N
009 11:27:03 .UI.443.D/14:STILL NEED CLOSURE AT TAVERN/DEHESA AND JEO MM 14 AND MM
13PT 5, THEY ARE GETTING READY TO BRING THEIR EQUIP UP, NEED RD CLOSED
BOTH DIRECTIONS, ETA
002 11:29:17 .UI.108-83.D/15:83; PLZ INQ W/DEPUTY BOST IF HE REQ A (b)(5)(B) TO
RESPOND.D/16:1039 SDSO
002 11:29:47 .UI.108-83.D/17:83; 1022 LAST SO DEPUTY ON SCENE,LETTING PTY THRU
002 11:35:52 .UI.108-83.D/18:IS THERE A PLACE FOR THE MEDIA TO SET UP AT
002 11:37:27 .TO.ELES [.RL/ELES.]
002 11:37:28 .CONTINUATION OF LOG ENTRY
002 11:38:07 .UI.D/19:STAM WILL ADV
019 11:41:57 .UI.D/20:STAM REQ A SGT 1021 LT HAYLEY AT (b)(5)(B)
002 11:45:23 .108-83[.UNT/A108-083][.STA/1097]
002 11:46:04 .UI.D/21:L3 COPIES
096 12:01:12 .US.A108-083.M/[3ZGDHD0089 *019418 IN L1(b)(5)(B)
[.UNT/A108-083]
096 (b)(5)(B) 12:01:13 .UI.0443D1019.33.U/A108-83.D/22:[(b)(5)(B) 216 FU.R/N[.UNT/A108-083]
[.STA/1097]
009 12:04:33 .UI.443.D/23:[STAM, ALPINE STN, REQ THAT OUR OFFICERS GO TO LE S TAC 1 AND
ID TO STAM
002 12:06:04 .UI.108-V2.D/24:PATCHED ON LE S TAC 1
013 12:07:34 .UI.D/25:STA M REQ CHP SGT 1021 LT HALEY ASAP AT (b)(5)(B) - REF THIS
INC.R/C[.RL/2.]
002 12:11:39 .108-V1[.UNT/A108- V1][.STA/1097]
002 12:11:59 .108-V1.M/ON THE EAST END OF THE CLOSURE[.UNT/A108- V1][.STA/1097]
002 12:18:32 .UI.443.D/26:CLOSURE AT TAVERN/DEHESA/JAPATUL
002 12:18:47 .108-S10.I/443[.UNT/B108- S10][.STA/ENRT]

002 (b)(5)(B) 12:35:40 .108-S8.I/443[.UNT/B108- S8][.STA/ENRT]
002 12:54:06 .108-S3.I/443.S/1097[.UNT/A108- S3][.STA/1097]
002 13:17:43 .A108- S3 [REASSIGNED TO LOG: 0700D1019][.UNT/A108- S3][.STA/1022]
002 13:22:04 .108-S3.I/443[.UNT/A108- S3][.STA/ENRT]
002 13:26:55 .UI.443.D/27:PER S10 STAM ADV SHOTSF SUBJ DWN, NO OFCR INJURED
002 13:34:05 .UI.D/28:1039 PSDS (b)(5)(B)
002 13:34:15 .108-S10,108-S8,108-S3[.UNT/A108- S3 ,B108- S8 ,B108- S10][.STA/1097]
009 13:49:03 .UI.443.D/29:JAPUTUL CLOSED B/T 14 MM AND TAVERN - STAM ISSUING
SIGALERT.R/29[.RL/29.]
029 13:50:48 .UI.D/30:[MIO CPYZ.R/N
002 14:14:41 .UI.108-S10 .D/31: CONTACT CORDS / NEED A CREW FOR A HARD CLOSURE
TAVERN AT JAPATUL AND AT 15600 JAPATUL VALLEY RD TIL 10 OR 11PM
TONIGHT .R/S[.R/S=013][.RL/13.]
002 14:16:28 .UI.D/32:CLOSURE NEEDED EB FOR TAVERN AT JAPATUL AND FOR WB LANES AT
15600 JAPATUL VALLEY - JWO OF THE COMMAND POST .R/ S[.R/S=013][.RL/13.]
013 14:25:02 .UI.D/33:1039 COUNTY RDS - COPIES LINE 31-32.R/C[.RL/2.]
002 14:49:32 .108-V2[.UNT/A108- V2][.STA/1098]
002 14:49:59 .108-V3,108-V4.I/108-S3[.UNT/B108- V4 ,B108- V3][.STA/ENRT]
002 14:54:45 .UI.443.D/34:CORDS 1097 TAVERN/DEHESA
002 15:18:14 .108-V1[.UNT/A108- V1][.STA/1098]
002 15:21:54 .UI.443.D/35:PLS ISSUE A SIGALERT OR T/ADV FOR PEOPLE THAT LIVE JEO
DEHESA , THEY WILL HAVE TO TAKE SR79 AS A DETOUR.R/9[.RL/9.]
009 (b)(5)(B) 15:24:50 [.D/36:REFERENCE DUPLICATE INCIDENT 0981D1019]
002 16:19:20 .108-S8,108-S10.F/UA[.UNT/B108- S10 ,B108- S8][.STA/1098]
002 17:02:41 .108-S3[.UNT/A108- S3][.STA/1098]
002 17:08:48 .108-R4.I/443[.UNT/*108- R4][.STA/ENRT]
002 17:15:22 .TO.ELES [.RL/ELES.]
002 17:15:23 .CONTINUATION OF LOG ENTRY
002 17:15:23 .CONTINUATION OF LOG ENTRY
002 17:15:24 .CONTINUATION OF LOG ENTRY
002 17:17:28 .108-V3,108-V4.M[.UNT/B108- V4 ,B108- V3][.STA/ENRT]
002 17:33:11 .108-R4[.UNT/*108- R4][.STA/1097]
002 17:37:33 .108-83.F/UA[.UNT/A108-083][.STA/1098]
002 18:58:02 .UI.D/37:16C ADV R4 WILL BE ANOTHER 20 AND STAM WILL RELIEVE HIM.D/38:R4
CPZ
009 19:05:59 .UI.D/39:PER STAM ; WE CAN RELEASE ALL UNITS FROM THIS LOG, THEY CAN ALL

GO 98

009 (b)(5)(B) 19:08:27 .TO.2.M/SHOOOOOOOT [.RL/2.]
009 19:08:27 .[.D/40:SHOOOOOOOT]
009 19:09:32 .MI.443.40[.D/40:SHOOOOOOOT]
002 19:10:03 .108-R4,[.UNT/*108- R4][.STA/1098]
002 19:13:05 .UI.D/41:SIGNS WILL BE ON RHS FOR CORDS
002 19:13:57 .108-V3,V4[.UNT/B108- V4 ,B108- V3][.STA/1097]
002 19:16:14 .108-V3[.UNT/B108- V3][.STA/1098]
002 19:21:35 .108-V4[.IST/0443D1019,F][.UNT/B108- V4][.STA/1098]
002 19:22:40 .UI.I/R.F/D .D/42:CORDS SIGNS ARE S/E TAVERN AND JAPATUL
04:13:43 ..IPD/102010 .IPT/041343[.IST/0443D1019,]

Back

California Highway Patrol - Centralized Cad Journaling System

Completed Incident Search

[Back](#)

Log: 0981 PRI: P3 Type: SIGALERT CB: Beat: 108-34
 LOC: (b)(5)(B) JAPATUL, JEO DEHESA CS: SDCO SDCO
 ORI: 009 (b)(5)(B) 10/19/2010 DISP: (b)(5)(B) X:
 ORI Action: Filed: D R/S: DUP: 443 CBT: Z: Y

DETAIL

Pos	ID #	Time	Line #	Detail
009	(b)(5)(B)	15:24:40	1	DETOUR SR 79
009	(b)(5)(B)	15:24:40	2	REF L443
009	(b)(5)(B)	15:24:50	3	DUPLICATE OF INCIDENT 0443D1019
009	(b)(5)(B)	15:25:22	4	BCAST CO CALL

COMPREHENSIVE DETAIL

Pos	ID #	Time	Detail
009	(b)(5)(B)	15:24:40	.NI.L/19515 JAPATUL, JEO DEHESA .T/SIGALERT.D/1:DETOUR SR 79 .D/2:REF L443 [.P/3][.Z/Y][.DSP/A12005][GEO.GL (b)(5)(B) JAPATUL RD.TBM/ 1254 H7.XY/6425461:1858929.CROSS ST1/HIDDEN GLEN.CROSS ST2/CARVEACRE.CITY/SDCO.CNTY/SDCO.B/108-34][.IST/0981D1019,I] 009 15:24:50 .UI.K/443.F/D[.K/0443D1019][.D/3:DUPLICATE OF INCIDENT 0443D1019] [.IST/0981D1019,F] 009 15:25:22 .UI.D/4:BCAST CO CALL.I/U 04:14:03 ..IPD/102010 .IPT/041403[.IST/0981D1019,]

[Back](#)

"I declare under penalty of perjury that
 the documents, consisting of 1 pages,
 to which this is affixed, are true and
 correct copies of the original.

(b)(5)(B)

Title

Date

AGENCY SH - 30	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY TUESDAY	DATE 10/20/2010	TIME 11:07
OFFICER'S REPORT ONLY <input type="checkbox"/>				THROUGH DAY	DATE	TIME
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report						
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd. Alpine				BEAT 563		
REPORTING OFFICER J. Collis	ARJIS 3306	DIVISION PATROL		DATE OF REPORT 11/20/2010		TIME 09:00
PRIMARY VICTIM'S NAME		PRIMARY SUSPECT'S NAME Michael Foster		SUSPECT'S DOB (b)(5)(A)	AGE RING 38	

ORIGIN:

On 10-19-10, at about 1005 hours, I received a page to respond, as a part of the Sheriff's Department Special Response Team, to **(b)(5)(B) Japatul Rd., Alpine**, for a barricaded suspect. (Event #S8708726).

DEPUTY'S OBSERVATIONS AND ACTIONS:

I arrived at the tactical staging area at 1107 hours and prepared for a perimeter position. I, along with other perimeter deputies, were briefed on the incident. Deputy Lanning #3841 and I were paired up and took up a position on the south east corner of the perimeter, about 40 feet from the garage of the residence. From my position I could see the garage, a portion of the front (southeast) side of the guest house and the roof of the main house. I could not see the side sliding glass door of the guest house, located on the front side of the house. The view of the sliding door was blocked by the garage.

During the initial briefing we were advised that the suspect, later identified as Michael Foster, was possibly armed with a handgun and had access to other weapons in the home. Prior to Sheriff's Department response, Foster had fired rounds from his handgun, near his wife, and made statements to "shoot it out with police." Because of the statements and the possibility of Foster being armed with a firearm, I trained my department issued M4 rifle towards the one side of the guest house.

Soon after containment was set, the armored car arrived and was positioned in front of the residence. Crisis Negotiation Team personnel began public address system announcements from the armored car, in an attempt to communicate with Foster. Soon after announcements were made, perimeter personnel advised, over the radio, that they could see Foster in the guest house at the front side sliding glass door. While in place I heard, what I believed to be, one round being fired inside of the residence, although, the sound was muffled. As CNT continued to attempt communications with Foster, I could hear the sliding glass door open and heard Foster yell, "What kind of car is that?" Then I heard the sliding glass door slam shut. A short time later I heard the sliding glass door open again and Foster yell, "Give me my phone!"

At about 1324 hours I heard perimeter personnel advise over the radio, "suspect coming out," followed by a volley of shots being fired. I could not tell how many shots were fired but did hear different types of weapons being fired. Over the radio, I heard a perimeter position say that the suspect had pointed a weapon towards deputies or that the suspect had fired his weapon at deputies.

REPORTING OFFICER J. Collis	ID # 3306	DIVISION PATROL	REVIEWED BY <i>SGT. M. J. [Signature]</i>	DATE REVIEWED 10/20/2010	TIME REVIEWED 1422
---------------------------------------	---------------------	---------------------------	--	------------------------------------	------------------------------

NARRATIVE

Page 2 of 2

CODE SECTION:	Deputy's Report	CASE NUMBER:	10064025
		REPORT DATE:	11/20/2010

Deputy Lanning and I maintained our positions while the entry team made their way from the armored car, through the gate in front of my position, and took Foster into custody out of view of my position. Shortly after Foster was taken into custody tactical medics arrived at the 1/2 corner. An ambulance also arrived and I directed the ambulance to the 1/2 corner. Medics loaded Foster into the ambulance and transported him from the scene. Deputy Lanning and I were relieved from our perimeter position at about 1425 hours.

Evidence: None

References: None

REPORTING OFFICER	ID #	DIVISION	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
J. Collis	3306	PATROL	SGT. M. J. Lewis	10/20/2010	1422

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine

Page 1 of 3

ORIGIN:

On 10-19-10, at about 0915 hours, I was notified by Sgt. Moore (0754) of a developing incident at (b)(5)(B) Japatul Valley Rd. in Alpine. Sgt. Moore advised me that patrol deputies on scene had requested the assistance of the Sheriff's Crisis Negotiations Team and asked me to respond to the location to assist.

INVESTIGATION:

I arrived on scene at about 1015 hours and met with Sgt. Moore at the intersection of Japatul Valley Road and the dirt road leading to the residence in question. Sgt. Moore introduced me to (b)(5)(B) who is the wife of Michael Foster.

Statement of (b)(5)(B)

On 10-19-10, at about 1025 hours, I met with (b)(5)(B). She told me the following: (b)(5)(B) said she last saw Michael inside their residence with a gun pointed to the side of his face with a towel draped over his head. (b)(5)(B) advised me that Michael is feeling suicidal, and she felt he was going to commit suicide either self-inflicted or suicide by cop.

(b)(5)(B) stated Michael suffers from Post-Traumatic Stress Disorder (PTSD), survivor's guilt and chronic depression escalated by his increased gain in weight.

She said when she went to bed that night he seemed fine. She noticed he took his evening medication without her reminding him. At approximately 0300 hours, she woke up to him talking to himself and pacing. She believed he was having a "flash back," and he felt the "enemy" was outside. For the next several hours, she said he continued to become more paranoid. He fired the gun in her direction several times throughout the early morning hours. She stated, when he finally realized what he had done to her, he sat down and pointed the gun to one side of his face. At that time, she took their cell phone, left their house to call 911.

Based on Michaels' military background, I asked (b)(5)(B) the following questions: If Michael had any other weapons, had set up any booby traps in or around their home, and if he had any excessive chemical/corrosive materials. She stated, they had a rifle, but Michael gave it to their neighbor to hold several days ago. In their prior home, he had set booby traps, noise-indicator type, but did not believe he had placed any around this house. He does have a lot of stored medication but no chemical/corrosive materials.

Reporting Officer: Det. S. Dayrit
Approved By: Sgt. D. Martinez

ID# 1217
ID# 1136

CSB-SB
11/15/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 3

Family/Friends;

She and Michael have been married for 7 years. They have no children together. He does have 2 children from a previous marriage. He has not had contact with his children for years due to his estranged relationship with his ex-wife. He has a close relationship with his brother who lives near by. He has several friends at the VFW and American Legion Auxiliary who possibly could provide assistance. Audio tapes were made by Michael's friends asking him to surrender. Copies of those tapes accompanied the after action report.

Job History;

Michael is currently unemployed. He did serve in the Army as a combat medic in Bosnia and Somalia. He was injured by shrapnel to his lower body during a deployment and was given an honorable medical discharge 13 years ago.

Medical/Mental History;

Michael is currently taking Trazodone, Ativan and Paxil prescribed to him for depression, PTSD, survivor's guilt and insomnia.

In the past year, he has "self committed" himself into the VA Hospital in La Jolla for depression.

According to (b)(5)(B) he is an alcoholic and consumes beer daily.

Hobbies;

He is active member at the Alpine VFW as well as American Legion Auxiliary.

After speaking with (b)(5)(B) I met with Sgt. Bavencoff (2227) and Sgt. Moore to discuss the situation. Ultimately, other members of CNT arrived and a plan was established to attempt to contact Michael.

My particular assignment was to assist the primary negotiator, M. Rand (4713), with Michael if contact was established via the "throw phone" which was to be deployed to the residence Michael was in. I rode in the CNT van with other CNT members to a closer position to the residence and began the process of deploying the throw phone with the assistance of the Sheriff's Special Enforcement Detail (SED). During this process, I heard five gunshots from the area of the residence and was later advised that Michael had been shot in an exchange of gunfire with SED deputies.


A short time after hearing the gunshots, CNT members began collecting the throw phone and securing the van for the ride back to the command post. Upon arriving at the command post, we de-briefed momentarily before leaving the scene.

Reporting Officer: Det. S. Dayrit

ID# 1217

CSB-SB

Approved By: Sgt. D. Martinez

ID# 1136 

11/15/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine
Page 3 of 3


REFERENCE:

See Scene/Investigative report by Detective D. Hillen.

EVIDENCE:

None.

Reporting Officer: Det. S. Dayrit
Approved By: Sgt. D. Martinez

ID# 1217
ID# 1136 

CSB-SB
11/15/2010

SAN DIEGO REGIONAL DEPUTY'S REPORT NARRATIVE

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE FROM: <input type="checkbox"/> CRIME <input checked="" type="checkbox"/> OTHER			CASE NUMBER 10064025		Page 1 of 2		
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report			MONTH 10	DAY 19	YEAR 10	DAY OF WEEK TUE	TIME 0822
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd.			CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM			SUSPECT (IF NAMED) Michael Foster ((b)(5)(A))			PROPERTY TAG NO. (S)	

ORIGIN:

On 10/19/2010, at 0912 Hrs, I returned a cell phone call from Deputy Juan Lozoya (2190). I was told to respond to (b)(5)(B) Japatul Rd. in Alpine reference a potential SWAT Call-Out. I was told that it involved a 245 PC with a weapon, with the suspect possibly barricaded inside a residence (CAD S8708726). I was to respond to the location and start planning for a SWAT activation.


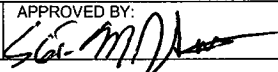
DEPUTY'S OBS/ACTIONS:

While enroute to the location I heard via radio traffic that the call had been declared a Code-11 or SWAT activation. I was told via radio traffic that I and Deputy Beaumont (2635) were to begin a scout upon arrival. I arrived on scene at 1009 Hrs and met with Deputy Chantler (2305). Deputy Chantler gave me a "Google Earth" photo of the property and told me that the suspect was last seen in the "granny flat". He told me that the suspect had assaulted his wife with a handgun, and had fired a round near her head, in addition to other shots inside the residence. Although he was last seen by the victim lying on a bed inside the flat, he could possibly have moved into the nearby main residence.

Deputy Beaumont and I began a scout of the property and structures at 1025 Hrs. During the scout, we were advised via radio that the suspect's wife had relayed that he was known to set up "trip wires" around the property, that could be used with IED's or signaling devices. After completion of the scout, we were met by SED containment personnel. We briefed them on the scout information, and then began moving them into positions around the target. I placed a sniper team consisting of Deputies West (2686) and M. Forbes (2401) off of Side 1 of the target at about 1205 Hrs. I then placed the 1/2 Containment team of Deputies Lanning (3841) and Collis (3306). I then placed the 2/3 Containment team of Deputies Phillips (4874) and Olin (5523). I then placed Deputy Farr (2618) into a sniper position deep off the 3/4 corner of the property, near a guard rail on Japatul Rd. While setting containment, I heard via the radio that the suspect may have access to a .22-250 caliber rifle and shotgun, in addition to the handgun that he was known to have.

After setting containment teams, I returned to the TSA and met with the Entry team. Once they were prepared, I directed the large Armored Vehicle into its position directly off of Side 1 of the granny flat. I then returned to my vehicle and changed clothing and retrieved equipment to assume a containment position. During the time that Crisis Negotiators where attempting contact with the suspect, there was discussion on the radio that the suspect may have fired shots inside the granny flat. After retrieving containment gear, I met with Deputy Beaumont at Side 3 of the target to assist him with containment. After meeting with Deputy Beaumont, we moved to a new location further back on Side 3 from the target. From our new position we could not see the target due to heavy foliage, but we could assist with containment in the event the suspect attempted to flee in our direction. I was in the process of trying to notify the TSA of our new location, when I heard yelling from a containment position near us.

I associated the yelling with typical containment directions when addressing a suspect. During the directions I heard a voice say "I don't want to hurt you" or "I don't really want to hurt you". I do not know who said this, but it had a tone of gravity, or demand to it. Immediately after, I heard a series of about 10 shots. I associated a lower tone to the initial shot, and then perceived a series of higher pitch, rapid cracks, which I also saw out of my periphery, as being fired from an M4 Carbine from the 3/4 Containment team. During this volley, I also perceived a lower pitch shot further off of the 3/4 corner, which I associated with a .308 rifle. I could hear the suspect moaning and saying "I'm dying". The 3/4 Containment, 2/3 Containment, and Deputy Beaumont and I established verbal contact with each other confirming that we were all uninjured. I remained in my position until the suspect had been taken into custody and the residence cleared.

REPORTING OFFICER  J. Debus	ARJIS # 1843	DIVISION SED	APPROVED BY: 	DATE OF REPORT: 10/20/2010	MONTH 10	DAY 20	YEAR 2010	TIME 1300
--	------------------------	------------------------	---	--------------------------------------	--------------------	------------------	---------------------	---------------------

DEPUTY'S OBS/ACTIONS: (continued)

Once the scene was secure, I walked to Deputy Farr's position to check on his status, and remained with him until we began marking team positions. I took several digital photos of Deputy Farr's position and condition of his rifle. Deputy Farr had already unloaded and placed his rifle in a safe/storage condition. I then marked his location with a piece of yellow crime scene tape on the guard rail.

All SED personnel returned to the TSA for de-brief. Upon Sgt. Strong's (1997) request, I took custody of Deputy Kerr's (2623) M4 Carbine and placed it in my department vehicle with the heater on so that it could dry. Deputy Kerr told me that it was in the same condition as when he left his containment position; that it was on "safe" with a round in the chamber and a less-lethal round in the M203 launcher. I confirmed that the M4 and M203 were on "safe" and placed the weapon in my vehicle. I did the same for Deputy Gavin's (2649) M4 Carbine. I took notice that Deputy Kerr's M4 had a "fastex clip" type release, and that he retained the strap that the weapon attaches to; therefore, his M4 had no sling with it. Deputy Gavin's M4 had a different type sling which does not separate from the weapon; thus, his M4 had an attached 3 point sling. I knew that Deputy Farr's rifle was inside his department vehicle. I turned his vehicle on and left the heater running so that his rifle would dry. I later put his rifle in my vehicle as well.

As the SED team de-brief was finishing, I responded to the Homicide team briefing. I gave a synopsis of SED involvement in the incident. Afterward, Homicide detectives and Evidence technicians took all three weapons from my vehicle. I assisted in answering questions on how the weapons functioned, make/model, etc. I then showed detectives where Deputy Farr's location had been.

2d

REPORTING OFFICER J. DEBUS	ARJIS # 1843	DIVISION SED	APPROVED BY: Sgt M. [Signature]	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 2010	TIME 1300
-------------------------------	-----------------	-----------------	------------------------------------	-----------------	-------------	-----------	--------------	--------------

ARJIS-9C REV 8/01

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Deputy Bradley Farr

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 3

Origin:

On October 19th, 2010 at about 1925 hours, Detective Palmer and I interviewed Deputy Farr in the conference room on the second floor of the Alpine Sheriff's Station. Attorney (b)(5)(B) represented Deputy Farr and he was also present throughout the interview. Attorney (b)(5)(B) used a handheld voice recorder to record the interview. I used my handheld digital recorder to record the interview.

The following is a summary of Deputy Farr's statement. For specific details of his complete statement see the transcript for Deputy Farr's interview.

Investigation:

Deputy Farr was assigned as a rural patrol deputy who works in the Boulevard area of San Diego County. He was also assigned to the "Secondary Response Team (SRT)" for the Sheriff's Department "Special Enforcement Detail (SED)". His primary duty on SED was as a sniper. His sniper rifle was a .308 caliber Remington 700 long rifle that has been customized by the Sheriff's Department. During this event, the rifle was loaded with four rounds of .308 ammunition.

On October 19th, 2010 at about 1000-1015 hours, Deputy Farr received a call out by SED to respond to Japatul Road as a function of his SRT duties. Deputy Farr attended a SED briefing where he received specific information pertaining to the mornings events related to the Foster's residence.

Deputy Farr was told the suspect, Michael Foster, had armed himself with a .357 handgun. (b)(5)(B) Michael's wife, had reported that Michael had pointed the gun at her. She also reported that Michael had fired a couple of rounds at or near her person. Deputy Farr was shown a booking photograph of Michael during the SED briefing to familiarize himself with Michael's physical appearance. Deputy Farr was told Michael was suffering from possible post-traumatic stress disorder and he took "psych meds." It was also believed that Michael had been drinking an alcoholic beverage and he may be drunk.

Deputy Farr understood there was probable cause to arrest Michael Foster for the attempt murder of his wife, (b)(5)(B). He also understood Michael was possibly suicidal and he remained armed with the revolver. He received information that Michael had previous military training and Michael could possibly be making or utilizing explosive devices. He was also briefed that Michael had been arrested the prior week and during

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Deputy Bradley Farr

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 3

that arrest, Michael fought with deputies. He learned from the briefing that Michael made a statement to an unknown source that he was willing to fight it out with police or shoot it out with police. Michael claimed he would not be arrested again.

After the briefing, Deputy Farr was assigned to a sniper position on Japatul Road that overlooked the rear area of the main house and granny flat on the property. Deputy Farr referred to his position as the 3-4 side with a better view of the 3 side (rear) of both residences.

Deputy Farr took his sniper position on Japatul Road. He used a range finder to determine he was about 160 yards away from the rear of the granny flat. He maintained his position and never changed his location throughout the event. Deputy Farr was listening to his Sheriff's Department issued radio for updated information at the scene. He knew the armored vehicle arrived in front of the residence and someone in the armored vehicle made negotiation efforts with Michael to have Michael leave the residence peacefully. He could actually hear a female's voice talking on the loud speaker from the armored vehicle. He heard over the radio that the suspect had opened the sliding glass door to the front of the granny flat and the suspect threw an unknown item from inside the granny flat.

Deputy Farr heard Deputy Kerr put out a radio transmission indicating Michael was coming out of the granny flat. Deputy Farr used his scope to sight in on Michael's location. He saw Michael walk out onto the back patio area. Michael was wearing shorts and no shirt. Michael was pointing a gun. The gun was a large "Dirty Harry" type revolver. Deputy Farr was not sure of the color of the revolver.

When Deputy Farr initially took his sniper position Deputy Debus had told him, "Heh, we've got some perimeter guys over here by that area. There's some guys over there. Deputy Debus pointed in the direction of where those guys were. I didn't know exactly where they were 'cause they were doing a good job of hiding in the bushes." When Deputy Farr saw Michael coming out of the residence with the gun he saw Michael pointing his weapon in the same location that Deputy Debus had pointed out as the position of the other deputies. Deputy Farr feared that Michael was targeting the deputies hiding in the brush. Deputy Farr feared for the lives of his SED partners on the perimeter. Deputy Farr determined lethal force was necessary to stop the threat to his partners.

Deputy Farr told us he heard one gunshot and then he fired his weapon at Michael. He heard another gunshot and observed Michael fall to the ground. Through his scope,

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Deputy Bradley Farr

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 3

Deputy Farr could see Michael lying on his back on the patio with his arms above his head. Michael was no longer armed with the gun. Deputy Farr informed his partners on the radio that Michael did not have a weapon in his hands but he did not know where the gun was. Deputy Farr verbally guided in the arrest team and tactical medics to Michael's location. He observed Michael receiving medical attention as he secured from his position as a sniper.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Deputy Brandon Gavin

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 2

Origin:

On October 19th, 2010 at about 1843 hours, Detective Palmer and I interviewed Deputy Gavin in the conference room on the second floor of the Alpine Sheriff's Station. Attorney (b)(5)(B) was also present throughout the interview. Attorney (b)(5)(B) used a handheld voice recorder to record the interview. I used my handheld digital recorder to record the interview.

The following is a summary of Deputy Gavin's statement. For specific details of his complete statement see the transcript for Deputy Gavin's interview.

Investigation:

Deputy Gavin was assigned as a "Special Enforcement Detail (SED)" deputy. His primary weapon during this incident was a .223 caliber Colt M-4 rifle with an attached 40mm launching platform.

On October 19th, 2010 at about 0945 hours, Deputy Gavin arrived at the SED office. He received a page as he pulled into the office area indicating there was a "Code 11" call out. Deputy Gavin responded to Japatul Road and he arrived at the Tactical Staging Area (TSA). He attended the SED briefing where he received specific information pertaining to the mornings events related to the Foster's residence.

Deputy Gavin was told the suspect was a white male by the name of Michael Foster. Michael had armed himself with a .357 handgun. He understood Michael had put the gun to his wife's head and Michael threatened to kill his wife. During the confrontation, Michael's wife was able to get away from Michael but Michael fired one shot at her. He was told one of the shots nearly missed her head. At one point in the confrontation, Michael put the gun into his mouth. He also understood that Michael had prior military experience as a combat medic. Deputy Gavin believed there was probable cause to arrest Michael for the attempt murder of his wife.

After the briefing, Deputy Gavin was initially assigned to a scout by Deputy Lozoya. Deputy Gavin was teamed up with Deputy Kerr on the scout assignment. They were later tasked to take a perimeter position on the 3-4 side of the property. He responded to his perimeter position with Deputy Kerr. He was also aware that there were additional deputies in perimeter positions around the rest of the property and specifically deputies in position on the 2-3 corner.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Deputy Brandon Gavin

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 2

Deputy Gavin was aware that the SED vehicle arrived in the front of the residence. He could hear a female who identified herself as “Amber” attempt to negotiate with the suspect and get the suspect to come out of the residence peacefully.

Deputy Gavin was in a prone position on the perimeter watching the residence when he heard radio traffic which described possible suspect movement at the front of the granny flat. He was informed on the radio that the suspect had thrown an unknown item from the sliding glass door in the front of the residence.

Deputy Gavin described how it went quite for a minute and then the suspect came out of the granny flat. He estimated his position to the suspect was about 30 yards. He first noticed the suspect's hair coming from an area near the granny flat in the breeze way area. The suspect held a revolver in his right hand. The suspect was pointing the revolver in the direction of his partners located on the 2-3 corner. He believed the suspect was “Moving with a purpose.”

Deputy Gavin feared for the safety of his partners as well as his own safety as the suspect could easily transition to point the weapon in his direction. Deputy Gavin yelled, “Gun” to alert his partners. Deputy Gavin heard the sound of one gun shot as he rose to a kneeling position. Deputy Gavin fired two rounds at the suspect. Deputy Gavin determined he fired only twice by counting the casings on the ground after the shooting. The suspect went down and Deputy Gavin could not see the suspect anymore. Deputy Gavin was concerned the suspect may still be armed and the suspect could get up. A short time later, the arrest team approached the suspect.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report
Deputy William Kerr

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 3

Origin:

On October 19th, 2010 at about 1713 hours, Detective Palmer and I interviewed Deputy Kerr in the conference room on the second floor of the Alpine Sheriff's Station. Attorney (b)(5)(B) represented Deputy Kerr and he was also present throughout the interview. Attorney (b)(5)(B) used a handheld voice recorder to record the interview. I used my handheld digital recorder to record the interview.

The following is a summary of Deputy Kerr's statement. For specific details of his complete statement see the transcript for Deputy Kerr's interview.

Investigation:

Deputy Kerr was assigned as an area detective who works in the City of Lemon Grove. He was also assigned to the "Secondary Response Team (SRT)" for the Sheriff's Department "Special Enforcement Detail (SED)". His primary weapon during this incident was a .223 caliber Colt M-4 rifle with an attached 40mm launching platform.

On October 19th, 2010 at about 1000 hours, Deputy Kerr received a text from Deputy Farr reference a call out by SED to respond to Japatul Road as a function of his SRT duties. Deputy Kerr responded to the location and on his way to the call out he received the official SED call out. He arrived at the Tactical Staging Area (TSA) and he attended the SED briefing where he received specific information pertaining to the mornings events related to the Foster's residence.

Deputy Kerr was told the suspect was a white male by the name of Michael Foster. Michael had armed himself with a .357 handgun. Michael was approximately 5'09", 200+ pounds, with brown hair with a beard. He understood Michael had shot one round at his wife and that she fled the residence as he put the gun to his own head and threatened suicide. Deputy Kerr believed there was probable cause to arrest Michael for the attempt murder of his wife. He also understood that Michael had prior military combat experience and Michael may be capable of making and deploying explosive devices. He was shown a previous booking photograph of Michael at the TSA where he used his own cellular telephone to take a photograph of the booking photo for reference.

After the briefing, Deputy Kerr was initially assigned to a scout. He was later tasked to take a perimeter position on the 3-4 side of the property. He responded to his perimeter position with Deputy Gavin. Deputy Gavin was at a location with in eyesight of his position on the 3-4 corner of the property. He was aware that Deputy Farr had a sniper

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report
Deputy William Kerr

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 3

position on the 3-4 corner of the property from a further distance near the roadway on Japatul Road. He was also aware that there were additional deputies in perimeter positions around the rest of the property and specifically deputies in position on the 2-3 corner.

Deputy Kerr was in position on the perimeter watching the residence when he recognized the sound of the SED armored vehicle coming from the front side of the residence. He heard subsequent radio traffic that confirmed the SED armored vehicle was in position on the 1 side. He also heard a female voice on a PA that identified herself as “Amber.” He recognized this voice as Amber Levitt, a deputy. He recognized that Amber was announcing in her role as a crisis negotiation team (CNT) member. During Amber’s PA announcements he also heard radio transmission coming from Deputy Forbes indicating there was movement from inside of the granny flat near the front of the granny flat. Deputy Kerr heard radio transmissions that indicated someone in the granny flat was positioning items against the entry ways to the residence indicating a possible barricade attempt. There were additional radio transmissions that indicated Michael was seen inside the granny flat and his appearance was just like the booking photograph. The radio transmission indicated Michael did not have a shirt on his body.

Deputy Kerr heard the sound of a door or window opening or closing. He immediately saw a white male with no shirt on walking out of the breezeway of the residence between the main house and the granny flat. Deputy Kerr recognized this individual as Michael Foster. Deputy Kerr next noticed Michael’s right hand came up with a black handgun in his right hand. Deputy Kerr shouted, “Suspect side 3.” Deputy Kerr sighted in on Michael. Deputy Kerr heard Micheal yell, “Get off my property” as Michael pointed the handgun in the direction of deputies who were in a perimeter position on the 2-3 corner. Deputy Kerr immediately feared that Michael would kill his partners with the handgun. Deputy Kerr took the safety off of his weapon and pulled the trigger, firing several rounds at Michael’s center of mass. Deputy Kerr continued to fire until Michael dropped out of view. Deputy Kerr believed he fired 6-7 times. He later counted the brass casings near his location and he then believed he fired his weapon about 9 times.

At the same time, Deputy Kerr heard Deputy Gavin yell, “Gun.” Deputy Kerr heard the sound of gunfire coming from his left which he recognized as Deputy Gavin firing his weapon. Deputy Kerr heard radio transmission referencing the “Shots fired.” Deputy Kerr called out to his right to check the status of his perimeter partners. He determined Deputy Beaumont and Deputy Debus were fine. He waited to hear them call out to partners further to their right. He heard on the radio that the suspect was down on his back with his hands up. He knew Deputy Farr was relaying his observations over the

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Deputy William Kerr

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 3

radio reference his view of Michael's position. Deputy Kerr could not see Michael but he continued to call out orders to Michael. Deputy Kerr told Michael to put his hands above his head and not move. Michael called out, "I'm not moving you idiot. I'm dying."

Deputy Kerr held his perimeter position as he watched the entry team and medics arrive at Michael's location. The medics provided Michael with medical assistance.

Deputy Kerr estimated the overall duration of the time he held this perimeter position to be an hour to an hour and a half. He told me it was cold and raining throughout the event and his perception of time could have been skewed by the extreme weather conditions.

Deputy Kerr told me he used his M-4 rifle in the semi-automatic mode. He continued to shoot until the threat was over. He estimated his distance to the house was about 30 yards.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report
Deputy walk through with Attorney and DA

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 4

Origin:

On October 28th, 2010 at about 1300 hours, I met with Detective Hillen and the investigative team related to a follow up on this case at the Alpine Sheriff's Station. The purpose of the meeting was to stage for a "Walk through" with the three deputies involved in the shooting and the two deputies who were victims in this case.

I met with Deputy Farr, Deputy Kerr, Deputy Gavin, Deputy Olin, Deputy Phillips and Attorney (b)(5)(B). Detective Hillen requested each deputy involved in the incident be brought back to the original locations for photography purposes. Detective Hillen informed me Forensic Evidence Technician (FET) (b)(5)(B) would be with me as I interviewed each deputy at the scene. FET (b)(5)(B) was directed to take appropriate photographs of each of the locations where the deputies were at the time of the shooting. She was also tasked with taking photographs of the deputy locations from the perspective of the suspect's location when the suspect was shot. Detective Hillen also told me FET (b)(5)(B) would be taking aerial photographs of the overall scene when all deputies were placed in the appropriate positions.

At about 1320 hours, all involved parties changed location to the scene of the shooting.

Attorney (b)(5)(B) and I both had handheld digital voice recorders that we used during each interview. My recordings were downloaded to the case file and provided to Detective Hillen.

Investigation:

At about 1330 hours, I arrived at the location and began the walk through with Deputy Farr. Deputy Farr, Attorney (b)(5)(B), FET (b)(5)(B), Criminalist (b)(5)(B), Criminalist (b)(5)(B) and Sergeant Martinez were also present at the sniper location where Deputy Farr was located at the time of his shooting.

Statement of witness, Deputy Farr:

Deputy Farr confirmed his actual location and position during the shooting. He took his prone position as he was on the day of the shooting while FET (b)(5)(B) took photographs of his location and position for documentation. FET (b)(5)(B) also took photographs of Deputy Farr's view of the suspect location from Deputy Farr's location.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report
Deputy walk through with Attorney and DA

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 4

Deputy Farr confirmed that just prior to the shooting; he heard over his radio, a transmission indicating the suspect was coming out of the residence. Deputy Farr acquired a view of the suspect through his scope.

I contacted Detective Hillen on my cellular telephone. Throughout this walk through, Detective Hillen used Agent M. Esparza as a role player for the suspect for photography purposes. I asked Deputy Farr to tell me what he remembered from that day and to direct the suspect location and physical appearance. See FET (b)(5)(B) photographs for documentation of Deputy Farr's observations.

Investigation (con't):

At about 1400 hours, I changed my location to conduct the witness interview with Deputy Gavin at his position. Attorney (b)(5)(B) FET (b)(5)(B) Criminalist (b)(5)(B) Criminalist (b)(5)(B) Deputy Kerr, and District Attorney Campen were also present throughout this interview.

Statement of witness, Deputy Gavin:

Deputy Gavin confirmed his actual location and position during the shooting. He took his prone position as he was on the day of the shooting while FET (b)(5)(B) took photographs of his location and position for documentation. Just prior to the actual shooting, Deputy Gavin came to a kneeling position. I had Deputy Gavin get into both positions for photography and documentation. FET (b)(5)(B) also took photographs of Deputy Gavin's view of the suspect location from Deputy Gavin's location.

I asked Deputy Gavin to tell me what he remembered from that day and to direct the suspect location and physical appearance. Deputy Gavin was able to show me divot marks in the mud where his feet were initially burrowed into the ground on the day of the shooting. See FET (b)(5)(B) photographs for documentation of Deputy Gavin's observations.

Deputy Gavin described how he initially observed only the suspect's head as the suspect walked out onto the rear patio area. The suspect had his right arm in a horizontal position. The suspect was holding a gun. The suspect was pointing the gun in the direction of Deputy Gavin's partners on the 2-3 side. The gun appeared to be a black revolver with a wooden handle.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report
Deputy walk through with Attorney and DA

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 4

Investigation (con't):

At about 1410 hours, I changed my location to conduct the witness interview with Deputy Kerr at his position. Attorney (b)(5)(B) FET (b)(5)(B) Criminalist (b)(5)(B) Criminalist (b)(5)(B) Deputy Gavin, and District Attorney Campen were also present throughout this interview.

Statement of witness, Deputy Kerr:

Deputy Kerr confirmed his actual location and position during the shooting. He took his prone position as he was on the day of the shooting while FET (b)(5)(B) took photographs of his location and position for documentation. FET (b)(5)(B) also took photographs of Deputy Kerr's view of the suspect location from Deputy Kerr's location.

I asked Deputy Kerr to tell me what he remembered from that day and to direct the suspect location and physical appearance. Deputy Kerr was able to show me divot marks in the mud where his feet were initially burrowed into the ground on the day of the shooting. Deputy Kerr described how he used small tree branches as concealment in front of his location. See FET (b)(5)(B) photographs for documentation of Deputy Kerr's observations.

Deputy Kerr described how he initially saw only the top of Michael Foster's head when he first observed the suspect. As the suspect came into view he noticed the suspect's arm was horizontal and the suspect was holding a gun. Deputy Kerr sighted in on the suspect and began shooting when he perceived the suspect was aiming at Deputy Kerr's partners who were staged on the 2-3 side. Deputy Kerr tracked the suspect as he fired his weapon several times. The suspect dropped out of his view and Deputy Kerr stopped shooting.

Deputy Kerr told me there used to be an electrical fence near his shooting location. On the day of the shooting, Deputy Kerr cut away the electrical fence to allow them access to the property.

Investigation (con't):

At about 1425 hours, I changed my location to conduct the victim interviews with Deputy Olin and Deputy Phillips at the "2-3" corner position. Attorney (b)(5)(B) FET (b)(5)(B) Criminalist (b)(5)(B) Criminalist (b)(5)(B) Deputy Gavin, Deputy Kerr, and District Attorney Campen were also present. I was informed that ASTREA was overhead and

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report
Deputy walk through with Attorney and DA

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 4 of 4

that FET (b)(5)(B) was prepared to take the overall photographs of the scene. I directed all deputies back to their original positions for photography and documentation.

At about 1445 hours, I took statements from Deputy Olin and Deputy Phillips at their location on the 2-3 corner. Attorney (b)(5)(B) FET (b)(5)(B) Criminalist (b)(5)(B) Criminalist (b)(5)(B) Deputy Gavin, Deputy Kerr, and District Attorney Campen were also present. Both Deputy Olin and Deputy Phillips confirmed that at no time did they observe the suspect prior to or during the shooting incident. See FET (b)(5)(B) photographs for documentation of Deputy Olin's and Deputy Phillips' position during the shooting.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) ADW
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road - Alpine
Date Occurred: October 19, 2010

Case Number: 10064025
City: Unincorporated
Page 1 of 2

Notification:

On 10-19-2010, at approximately 1430 hours, I received a call on my cell phone from Sheriff's Homicide Detective H. Lebitski (#2079), regarding an Officer Involved Shooting (OIS) that occurred at (b)(5)(B) Japatul Road, in the unincorporated community of Alpine, CA. Detective Lebitski informed me that three members of the Sheriff's Special Enforcement Detail (SED) were involved in the incident and the suspect was not expected to survive his wounds. Detective Lebitski requested that I respond to the scene to assist with the investigation. I arrived at approximately 1520 hours.

Investigation:

At approximately 1550 hours, Sheriff's Homicide Sergeant D. Martinez (#1136) announced the commencement of the incident briefing. The briefing was given by Sergeant Browning (#2565) from the Sheriff's Alpine Substation, SED Corporal J. Debus (#1843) and Sergeant Moore (#0754) from the Sheriff's Crisis Negotiations Team (CNT). Detective Hillen (#1635) was designated as the Lead Investigator.

During the briefing, the Reporting Party was identified as (b)(5)(B). The suspect was identified as (b)(5)(B) husband, Michael Foster (b)(5)(B). The involved deputies were identified as Deputy W. Kerr (#2623), Deputy B. Gavin (#2649) and Deputy B. Farr (#2618). For further briefing details refer to Detective Hillen's Scene Report.

At the conclusion of the briefing Detective DuGal and I were assigned to interview the shooting deputies who were at the Sheriff's Alpine Substation. I departed the scene at approximately 1635 hours and arrived at the station at approximately 1651 hours.

The deputies were represented by Attorney (b)(5)(B). Attorney (b)(5)(B) was present during each of the interviews. For each interview Detective Dugal and I used the Sheriff Department's Officer Involved Shooting – Use Of Force questions as a guideline. The interviews were recorded using a digital voice recorder. The recordings were subsequently transferred to an access controlled server on the Sheriff Department's computer network. During the course of our contact with the shooting deputies, Forensic Evidence Technician (FET) (b)(5)(B) from the Sheriff's Crime Laboratory photographed them clad in the same manner as they were during the shooting incident. For further details, see FET (b)(5)(B) Evidence Report.

Reporting Officer: Det. M. Palmer ID# 1817

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) ADW
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road - Alpine
Date Occurred: October 19, 2010

Case Number: 10064025
City: Unincorporated

Page 2 of 2

At approximately 1713 hours, Detective DuGal and I interviewed Deputy Kerr. The interview concluded at approximately 1811 hours. Detective DuGal later prepared a report that synthesizes the interview. For details of the interview refer to Detective Dugal's Interview Report or to the Digital Recording.

At approximately 1843 hours, Detective DuGal and I interviewed Deputy Gavin. The interview concluded at approximately 1916 hours. For details Deputy Gavin's statement, refer to Detective Dugal's Interview Report or to the digital recording.

At approximately 1925 hours, Detective DuGal and I interviewed Deputy Gavin. The interview concluded at approximately 2006 hours. For details Deputy Gavin's statement, refer to Detective Dugal's Interview Report or to the digital recording.

By approximately 2130 hours, I had completed my investigative assignments and subsequently secured from the Alpine Substation.

Related Reports:

SDSO Crime Report #10064025
Investigative Report by Detective Hillen
Investigative Report by Detective DuGal

Reporting Officer: Det. M. Palmer ID# 1817

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 3

Origin:

On October 19th, 2010 at about 1405 hours, Sergeant D. Martinez (1136) briefed Homicide team #1, including myself, reference a pending "Officer Involved Shooting" (OIS) investigation. Sergeant Martinez told us the incident occurred at (b)(5)(B) Japatul Road in the community of Alpine. Prior to the shooting, the suspect had been drinking 6-8 beers and he was allegedly taking psychiatric medication. The reporting party was the suspect's wife who reported the suspect was armed with a gun. The suspect assaulted the wife with the gun by pointing it at her head and firing a round near her head. The OIS occurred at about 1327 hours and there were three deputies involved in the shooting. The suspect was still alive and he had been transferred to the Sharp Memorial Hospital in San Diego. Sergeant Martinez assigned Detective D. Hillen (1635) as the case agent in this OIS investigation.

Detective S. Fiske (1918) brought a CAD printout of the incident to the briefing. She read the printed information for all briefing participants. She advised us that the suspect's name was Michael Foster. Michael is 38 years old and he has brown hair. Michael is an ex-Army member who has a history of flashbacks. Michael fired numerous rounds in and near the residence. The suspect held a gun to his wife's head during the incident.

Investigative Specialist (b)(5)(B) also attended the briefing and she brought a copy of Michael's criminal history to the briefing. She advised us that Michael had recently been arrested on October 10th, 2010 and charged with battery on a person and battery on a peace officer.

Investigation:

On October 19th, 2010 at about 1525 hours, I arrived at the Command Post for this incident. The Command Post had been set up at the 13.5 mile marker on Japatul Road. I was advised the three deputies involved in the shooting were; Deputy William Kerr, Deputy Brandon Gavin and Deputy Bradley Farr. I was also informed the three deputies were not injured and they were transported to the Alpine Patrol Station.

On October 19th, 2010 at about 1550 hours, the Homicide briefing commenced with Sergeant C. Browning (2565), Deputy J. Debus (1843) and Sergeant R. Moore (0754) providing the briefing information. See Detective Hillen's briefing report for details of the briefed information.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 3

On October 19th, 2010 at about 1620 hours, Detective Hillen assigned Detective M. Palmer (1817) and me to interview the three deputies involved in the shooting.

On October 19th, 2010 at about 1651 hours, I arrived at the Alpine Patrol Station. Detective Palmer and I contacted and spoke to Attorney (b)(5)(B). Attorney (b)(5)(B) is employed with the (b)(5)(B) law firm. Attorney (b)(5)(B) was representing all three deputies involved in the shooting.

On October 19th, 2010 at about 1713 hours, Detective Palmer and I interviewed Deputy Kerr in the conference room on the second floor of the Alpine Sheriff's Station. Attorney (b)(5)(B) was also present throughout the interview. Attorney (b)(5)(B) used a handheld voice recorder to record the interview. I used my handheld digital recorder to record the interview. See Deputy Kerr's witness statement and transcript for details of his statement.

On October 19th, 2010 at about 1825 hours, FET (b)(5)(B) took photographs of Deputy Kerr in his issued Sheriff's department uniform as he was dressed at the scene.

On October 19th, 2010 at about 1830 hours, FET (b)(5)(B) took photographs of Deputy Gavin in his issued Sheriff's department uniform as he was dressed at the scene.

On October 19th, 2010 at about 1835 hours, FET (b)(5)(B) took photographs of Deputy Farr in his issued Sheriff's department uniform as he was dressed at the scene.

On October 19th, 2010 at about 1843 hours, Detective Palmer and I interviewed Deputy Gavin in the conference room on the second floor of the Alpine Sheriff's Station. Attorney (b)(5)(B) was also present throughout the interview. Attorney (b)(5)(B) used a handheld voice recorder to record the interview. I used my handheld digital recorder to record the interview. See Deputy Gavin's witness statement and transcript for details of his statement.

On October 19th, 2010 at about 1925 hours, Detective Palmer and I interviewed Deputy Farr in the conference room on the second floor of the Alpine Sheriff's Station. Attorney (b)(5)(B) was also present throughout the interview. Attorney (b)(5)(B) used a handheld voice recorder to record the interview. I used my handheld digital recorder to record the interview. See Deputy Farr's witness statement and transcript for details of his statement.

On October 19th, 2010 at about 2020 hours, Deputy Fuhr (6655) contacted me at the Alpine Sheriff's Station. Deputy Fuhr told me he had just returned from Sharp Memorial Hospital where he was with the suspect in this case. Deputy Fuhr handed me a white plastic bag that was labeled with the Sharp Memorial logo. Deputy Fuhr told me the bag

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 3

contained a pair of shorts that were taken from the suspect at the hospital. Deputy Fuhr also handed me a sealed evidence envelope which was labeled as containing two vials of the suspect's blood. I maintained custody of these evidence items until 2333 hours when I turned the evidence over to FET (b)(5)(B)

On October 19th, 2010 at about 2242 hours, I arrived at the crime scene to assist Detective Hillen with the service of the search warrant.

On October 19th, 2010 at about 2345 hours, Detective Hillen served the search warrant at the residence. I assisted in the search of the residence. I specifically searched the bedroom and kitchen areas of the granny flat where the Foster's live. I located a shell casing on the floor in the bedroom. I located dominion and control items on the dresser in the bedroom belonging to both Michael and (b)(5)(B). I located two gun cleaning kits in the bedroom. I located shell casings in the kitchen sink of the residence. I observed numerous open Budweiser beer cans throughout the residence. I advised Detective Hillen of the aforementioned for documentation and collection.

On October 20th, 2010 at about 0110 hours, FET (b)(5)(B) requested my assistance with the collection of a Taurus Brazil .357 Magnum pistol as evidence. The weapon was lying on the rear patio area of the residence. The hammer on the weapon was cocked and in the rear position. The weapon had six live 38 special ammunition rounds in the cylinder. I wore latex gloves during the handling and collection of the weapon. After making the weapon safe and packaging the evidence, FET (b)(5)(B) took custody of the evidence.

On October 20th, 2010 at about 0345 hours, I secured from the search warrant service in the residence.

On October 20th, 2010 at about 0355 hours, I participated in the debriefing of the case in the Sheriff's Department motor home.

On October 21st, 2010 at about 1400 hours, Detective H. Leibitski and I met with (b)(5)(B) at her residence to conduct a follow-up interview and victim walk through of the crime scene. During this follow-up, Detective Leibitski and I took a total of 13 digital photographs to assist in the documentation of (b)(5)(B) statement. See (b)(5)(B) witness report for details of her statement. I provided Detective Hillen with the photographic images which show the approximate location of Michael Foster as he held a weapon pointed at (b)(5)(B) and several photographs showing the view from the rear kitchen window of the canyon area where several deputies were positioned during the standoff.

Reporting Officer: Det. T. DuGal

ID# 2425

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 2

ORIGIN:

On Tuesday, October 19, 2010, at approximately 1405 hours, I attended a briefing in the homicide unit conference room regarding an “Officer Involved Shooting” (OIS) investigation. Sergeant D. Martinez (1136) and Detective S. Fiske (1918) briefed Homicide team #1, in reference to the events leading to the shooting. The suspect was identified as Michael Foster, a former U.S. Army soldier, who suffers from combat flashbacks. The incident occurred at (b)(5)(B) Japatul Road in the community of Alpine. I went in route at approximately 1424 hours.

INVESTIGATION:

On Tuesday, October 19, 2010, at approximately 1509 hours, I arrived at the Command Post located at about the 13.5 mile marker on Japatul Road.

At approximately 1550 hours, I attended the OIS briefing. Sergeant Martinez informed all the briefing attendees that Detective D. Hillen (1635) would be the lead investigator in this case. Sergeant C. Browning (2565), Deputy J. Debus (1843) and Sergeant R. Moore (0754) briefed all attendees on the events that took place prior to the shooting. Briefing concluded at 1620 hours. See Detective Hillen’s briefing report for details of the briefed information.

At approximately 1624 hours, Detective Hillen assigned Special Agent Supervisor T. Burtis (8227) and I to contact and interview Michael Foster’s friend (b)(5)(B) who apparently gave Foster a handgun about a month ago, and to canvas the neighborhood for any possible witnesses.

At approximately 1700 hours, I drove to Foster’s residence and I observed the area around the residence. Later, I checked an abandon white mobile home parked near the Foster residence, with negative results for any inhabitants

At approximately 1816 hours, Agent Burtis and I interviewed (b)(5)(B) at his residence located at (b)(5)(B). The interview was conducted in the dining room area and was recorded utilizing a handheld digital voice recorder. (b)(5)(B) did not know anything about the events leading to the shooting. See my witness report for details of (b)(5)(B) statement.

Reporting Officer: Det. M. Esparza

ID# 1071

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 2

At approximately 1857 hours, Agent Burtis and I interviewed (b)(5)(B) at his residence, located at (b)(5)(B). The interview was conducted in the living room and was recorded utilizing a handheld digital voice recorder. See my witness report for details of (b)(5)(B) statement.

At approximately 1930 hours, Agent Burtis and I left the residence and drove to the Mobile Command Post. I briefed Sergeant Martinez regarding (b)(5)(B) and (b)(5)(B) interviews. I further stated that (b)(5)(B) had a rifle (for safekeeping purposes) that belongs to Foster. That information was relayed to Detective Hillen, who requested to have the Forensic Evidence Technicians (FET's) collect the rifle as evidence.

At approximately 2023 hours, I drove FET's (b)(5)(B) and (b)(5)(B) to (b)(5)(B) residence. (b)(5)(B) photographed and collected Michael's rifle from under (b)(5)(B) bed. We left the residence at about 2035 hours.

At approximately 2130 hours, I left the scene.

On Thursday, October 28th, 2010 at approximately 1250 hours, I arrived at the San Diego Sheriff's Alpine Station located at 2751 Alpine Boulevard, Alpine, CA 91901. Detective Hillen briefed all attendees regarding the deputy walk-through. At about 1300 hours, I left the station and went to (b)(5)(B) Japatul Road in Alpine.

At approximately 1320 hours, I arrived at (b)(5)(B) Japatul Road and participated in the walk-through. At approximately 1550 hours, I left the scene.

Reporting Officer: Det. M. Esparza

ID# 1071

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

1/16/2020



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 1

Crime: OIS

Event Date: 10/19/2010

Time Notified: 2:25 PM

By whom: (b)(5)(B)

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 3:26 PM

Time Of Departure: 4:30 AM

Name/Title: (b)(5)(B) FORENSIC EVIDENCE TECHNICIAN/ARJIS (b)(5)(B)

Detective: D. HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: DEPUTIES KEVIN OLIN AND JASON PHILLIPS

Suspect: MICHAEL ALAN FOSTER

Service Requested: FIELD CALL-SCENE PROCESSING

Narrative:

On Tuesday, 10/19/10, at approximately 1425 hours, I was contacted by Forensic Evidence Technician (b)(5)(B) and asked to respond to (b)(5)(B) Japatul Road in Alpine for the scene of an officer involved shooting.

I arrived at approximately 1526 hours. I met with Homicide Division Personnel and San Diego Sheriff's Crime Lab Personnel.

After the briefing, I took photographs of the scene, and with the assistance of Forensic Intern (b)(5)(B) I collected items of evidence from the scene (see attached evidence list). I took photographs of observation areas at the direction of Criminalist (b)(5)(B).

At the request of California Department of Justice Sergeant T. Burtis, I departed the scene at approximately 2015 hours and arrived at (b)(5)(B) at approximately 2020 hours. I took photographs of a "Marlin CAL 30-30 Win" rifle (S/N: (b)(5)(B)). I departed (b)(5)(B) at approximately 2022 hours and arrived back at the scene at approximately 2026 hours.

I received items of evidence from Detective DuGal at the scene (see attached evidence list).

I finished this assignment and departed at approximately 0430 hours on 10/20/10. When I arrived at the San Diego Sheriff's Crime Lab after the scene, I took photographs of a pair of shorts that I received from Detective DuGal.

All photographs were taken with a Nikon D200 digital camera. A total of 689 digital images were taken.

(b)(5)(B)
FORENSIC EVIDENCE TECHNICIAN

(b)(5)(B)
10/22/10

Page 1 of 4



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 1

Reported By:

(b)(5)(B)

Technical Review

(b)(5)(B)

10/22/10

Report Date: 10/22/2010

10/22/10

Administrative Review

(b)(5)(B)

10/22/10

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report
Evidence List



Suspect(s): MICHAEL ALAN FOSTER

Victim(s): DEPUTIES KEVIN OLIN AND JASON PHILLIPS

Crime: OIS

Name/Title: (b)(5)(B)

Event Date: 10/19/2010

Case # 10064025

Item	Item Description	Location/Source	Submitted By
1	(1) "Winchester 38 SPL + P" casing	Ground south of guest house sliding glass door, south of item #2	(b)(5)(B)
2	(1) "Winchester 38 SPL + P" casing	Ground south of guest house sliding glass door, north of item #1	
3	(1) metal fragment	Ground, north of guest house	
4	(1) "Taurus CAL 357 Magnum" revolver (S/N (b)(5)(B))	Ground, north of guest house	
4.01	(1) "Winchester 38 SPL + P" cartridge	From position 1 (under hammer) of revolver	
4.02	(5) "Winchester 38 SPL + P" cartridges	From positions 2-6 of revolver	
5	(1) "Winchester 38 SPL + P" cartridge	From ground, north of house near metal gate	
6	(1) "F C 04" casing	From brush area, north of house	
7	(1) "F C 04" casing	From brush area, north of house	
8	(1) "F C 04" casing	From brush area, north of house	
9	(1) "F C 04" casing	From brush area, north of house	
10	(1) "F C 04" casing	From brush area, north of house	
11	(1) "F C 04" casing	From brush area, north of house	
12	(1) "F C 04" casing	From brush area, north of house	
13	(1) "F C 04" casing	From brush area, north of house	
14	(1) "F C 04" casing	From brush area, north of house	
15	(1) "F C 04" casing	From brush area, north of house	
16	(1) "F C 04" casing	From brush area, north of house	
17	(1) "F C 06" casing	From brush area, north of house	
18	(1) "F C 05" casing	From brush area, north of house	
19	(1) "F C 04" casing	From brush area, north of house	
20	(1) "Marlin CAL 30-30 Win" rifle (S/N (b)(5)(B))	From under bed of (b)(5)(B)	
21	(5) "Winchester 38 SPL + P" casings	From kitchen sink of guest house	
22	(1) "Speer 38 Special" cartridge	From guest house living room table	

Reported By

(b)(5)(B)

Reviewed By

(b)(5)(B)

10/22/10

Report Date: 10/22/2010

10/22/10

Page 3 of 4

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN

Item	Item Description	Location/Source	Submitted By
23	(1) gun holster / belt containing (2) "Speer 38 Special" and (1) "Winchester 38 SPL + P" cartridges	From guest house living room table	(b)(5)(B)
24	(1) "Dissolution Packet" document	From guest house living room floor	
25	(1) "Winchester Gun Cleaning Toolset"	From guest house bedroom bed	
26	(1) "Hoppe's Rod End Accessories"	From guest house bedroom floor	
27	(1) "Speer 38 Special" casing	From guest house bedroom floor	
28	(1) projectile	From wall, north of front door of main house	
29	(1) sealed manila envelope labeled "BAC/TOX" and (1) "Call Slip"	Received from Detective DuGal at the scene on 10/19/10 at approximately 2333 hours	
30	(1) unsealed plastic bag containing (1) pair of "Tap Out" shorts (cut) Size 44	Received from Detective DuGal at the scene on 10/19/10 at approximately 2333 hours	
31	(1) "Master" DVD-R containing 689 digital images of the scene	(b)(5)(B) Japatul Road, Alpine	
31.01	(1) "Working" DVD-R containing 689 digital images of the scene	Japatul Road, Alpine	

Reported By

(b)(5)(B)

Report Date: 10/22/2010

10/22/10

(b)(5)(B)

Reviewed By

(b)(5)(B)

10/22/10

Page 4 of 4

FORENSIC EVIDENCE TECHNICIAN

(b)(5)(B)

San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Property/Evidence - Bar Code Form

Submitted By

(b)(5)(B)

DATE: 10/22/2010

Submitted By: (b)(5)(B)

Victim: DEPUTIES KEVIN OLIN AND JASON P Event Date: 10/19/2010

Detective: D. HILLEN

Suspect: MICHAEL ALAN FOSTER

Location Code:

Address: (b)(5)(B) JAPATUL ROAD

ALPINE

Crime: OIS

Case #: 10064025

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 1 S.D. SHERIFF P&E

(1) "Winchester 38 SPL + P" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129767

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 2 S.D. SHERIFF P&E

(1) "Winchester 38 SPL + P" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129768

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 3 S.D. SHERIFF P&E

(1) metal fragment

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129769

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 4 S.D. SHERIFF P&E

(1) "Taurus CAL 357 Magnum" revolver (S/N-(b)(5)(B))

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129770

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 4.01 S.D. SHERIFF P&E

(1) "Winchester 38 SPL + P" cartridge

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129771

Lab request

Item Description: Quantity: 5 Refrig?: No Freeze?: No Item #: 4.02 S.D. SHERIFF P&E

(5) "Winchester 38 SPL + P" cartridges

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129772

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 5 S.D. SHERIFF P&E

(1) "Winchester 38 SPL + P" cartridge

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129773

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 6 S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129774

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 7

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129775

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 8

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129776

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 9

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129777

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 10

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129778

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 11

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129779

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 12

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129780

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 13

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

I1129781

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 14 S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:



I1129782

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 15

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:



I1129783

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 16

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:



I1129784

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 17

S.D. SHERIFF P&E

(1) "F C 06" casing

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:



I1129785

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 18

S.D. SHERIFF P&E

(1) "F C 05" casing

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:



I1129786

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 19

S.D. SHERIFF P&E

(1) "F C 04" casing

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:



I1129787

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 20

S.D. SHERIFF P&E

(1) "Marlin CAL 30-30 Win" rifle (S/N-^{(b)(5)(B)})

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:



I1129788

Lab request

Item Description: Quantity: 5 Refrig?: No Freeze?: No

Item #: 21

S.D. SHERIFF P&E

(5) "Winchester 38 SPL + P" casings

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:




I1129789

Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 22 S.D. SHERIFF P&E


(1) "Speer 38 Special" cartridge

Make: Model: 10/20/10 Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #: *I11129790*

Lab request

Item Description: Quantity: 3 Refrig?: No Freeze?: No Item #: 23

(1) gun holster / belt containing (2) "Speer 38 Special" and (1) "Winchester 38 SPL + P" S.D. SHERIFF P&E
cartridges

Make: Model: 10/20/10 Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #: *I11129791*


Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 24

S.D. SHERIFF P&E

(1) "Dissolution Packet" document

Make: Model: Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #: *I11129792*


Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 25

S.D. SHERIFF P&E

(1) "Winchester Gun Cleaning Toolset"

Make: Model: Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #: *I11129793*


Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 26

S.D. SHERIFF P&E

(1) "Hoppe's Rod End Accessories"

Make: Model: Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #: *I11129794*


Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 27

S.D. SHERIFF P&E

(1) "Speer 38 Special" casing

Make: Model: Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #: *I11129795*


Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No

Item #: 28

S.D. SHERIFF P&E

(1) projectile

Make: Model: Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #: *I11129796*


Lab request

Item Description: Quantity: 2 Refrig?: Yes Freeze?: No

Item #: 29

S.D. SHERIFF P&E

(1) sealed manila envelope labeled "BAC/TOX" and (1) "Call Slip"

Make: Model: Caliber: 
Search Warrant: No Value: \$0.00 Hold for Prints: No 10/19/10 Serial #: *I11129797*

Lab request

Case #: 10064025

Item Description: Quantity: 2 Refrig?: No Freeze?: No Item #: 30

S.D. SHERIFF P&E

(1) unsealed plastic bag containing (1) pair of "Tap Out" shorts (cut) Size 44

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No 10/19/10 Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 31

S.D. SHERIFF P&E

(1) "Master" DVD-R containing 689 digital images of the scene

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No 10/19/10 - 10/20/10 Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 31.01

S.D. SHERIFF P&E

(1) "Working" DVD-R containing 689 digital images of the scene

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No 10/19/10 - 10/20/10 Serial #:



Lab request



San Diego Sheriff's Department
CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117
(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE # _____

Crime 015 Lab Event Number 1
Event Date 10/19/10 Time Notified 1425 hrs Notified By FET (b)(5)(B)
Event Address (b)(5)(B) Japantown Rd. General Location Alpine
Arrival Time 1526 hrs Departure Time 0430 hours
Lead Detective D. Hillen Detail/Team Hom/1 Agency SDSO
Primary FET at Scene (b)(5)(B) Secondary FET at Scene (b)(5)(B)
Primary Criminalist at Scene (b)(5)(B) Secondary Criminalist at Scene (b)(5)(B)
Forensic Intern (b)(5)(B) Additional Lab Personnel (b)(5)(B)
Victim(s) SED Deputies Kevin Olin + Jason Phillips
Suspect(s) Foster, Michael Alan Altamirano (b)(5)(A)

Notes Arrived @ scene @ approx 1526 hours w/ (b)(5)(B) met w/ homicide
Division personnel & SDSO Crime Lab personnel.
1550 hrs briefing: Depo Sgt. Browning #2565, SED Dep. Davis
Deavus #1843, & Moore #0754

Browning - call came in female saying husband holding her @ gun point.
Deputies arrive contact wife of suspect (b)(5)(B)
(b)(5)(B) says (S) has revolver & was pointing @ his head & away from his head.
He fired a couple rounds in house & canyon nearby. (1) round fired
near her head. (S) former military w/ flashbacks & PTSD. Fired rounds
through bedroom door, glass door, into canyon, glass table. Asked
for more ammo, went to closet & found more ammo. Layed on bed
gun on chin, covered face w/ towel & said get out. Ran to neighbor's
house called 911.

Moore #0754 - 1017 @ 0920 hrs. (S) on meds. (S) made suicide by cop comments
to (b)(5)(B) (S) throw something into the yard from sliding glass door.

Deavus #1843 SED - Established containment 1231 hrs. Armored truck
moves in.

PREPARED BY

(b)(5)(B)

Reviewed by (b)(5)(B) 10/22/10

DATE 10/19/10

(5) ~~Scream~~ (b)(5)(B) Says "I don't want to hurt you" Comes out w/ revolver, shoots around, possibly a second. Bill Ken Brandon Gavin both shot suspect possibly 8-9's using M-4. Brad Farr shot (1) time (Sniper) in body area. All 3 shooters were SET.

(5) @ Sharp Memorial

Took photos (exterior) of scene

3 casings found by one tree (Items # 6-8)

11 casings found by another tree west of other tree (Items # 9-19)

At Burt's request, Departed scene @ approx 2015 hrs.

Arrived @ (b)(5)(B) w/ Sgt. Tyler Burtis (CAL DOJ)

photod + collected a ~~both~~ ^{(b)(5)(B)} ~~actor~~ ^{long} rifle @ 2020 hrs. (#20)

Departed @ approx 2022 hrs.

Arrived back @ scene @ approx 2026 hrs.

Took photos of scene + collected items of evidence w/ assistance of Intern (b)(5)(B) Received items of evidence from DuGal.

Took photos of observation areas @ direction of criminalist (b)(5)(B)

Departed @ approx. 0430 hours on 10/20/10.

Took photos of shorts received from DuGal. Photos taken @ the S (b)(5)(B) SDSO lab on 10/20/10.

All photos taken w/ a Nikon D200 digital camera total of 689 digital images.

SAN DIEGO COUNTY SHERIFF'S CRIME LABORATORY
CRIME SCENE INVESTIGATION -- EVIDENCE LIST FORM

PAGE 3 OF 7
SDSO # 10064025
DATE 10-20-10
INITS (b)(5)(B)

ITEM No.	COC BOX	PAGE	DESCRIPTION	QUANT.	LOCATION	DATE	TIME	FREEZE	REFRIG
1			(1) casing "Winchester 38 SPL+P"	1	from ground south of guest house sliding glass door, south of item #2	10/20/10	0021		
2			(1) casing "Winchester 38 SPL+P"	1	from ground south of guest house sliding glass door, north of item #1		0023		
3			(1) metal fragment	1	from ground, north of guest house		0025		
4			(1) revolver "Taurus CAL 357 Magnum" S/N- (b)(5)(B)	1	from ground, north of guest house		0108		
4.01			(1) cartridge "Winchester 38 SPL+P"	1	from position 1 (under hammer) of revolver		0108		
4.02			(5) cartridges "Winchester 38 SPL+P"	5	from position 2-6 of revolver		0108		
5			(1) cartridge "Winchester 38 SPL+P"	1	from ground, north of house near metal gate		0028		
6			(1) casing "FC 04"	1	from brush area, north of house		0031		
7			(1) casing "FC 04"	1	from brush area, north of house		0033		
8			(1) casing "FC 04"	1	from brush area, north of house		0034		
9			(1) casing "FC 04"	1	from brush area, north of house		0046		
10			(1) casing "FC 04"	1	from brush area, north of house		0048		
11			(1) casing "FC 04"	1	from brush area, north of house		0048		
12			(1) casing "FC 04"	1	from brush area, north of house		0050		
13			(1) casing "FC 04"	1	from brush area, north of house	✓	0051		

ITEM NUMBERS	COC BOX	PAGE	NAME	ID NUMBER	SIGNATURE	DATE	TIME	ITEM NUMBERS	COC BOX	PAGE	NAME	ID NUMBER	SIGNATURE	DATE	TIME
1								4							
2								5							
3								6							

SAN DIEGO COUNTY SHERIFF'S CRIME LABORATORY
CRIME SCENE INVESTIGATION -- EVIDENCE LIST FORM

PAGE 4 OF 7
SDSO # 10064025
DATE 10-20-10 10/19/10
INITS (b)(5)(B)

ITEM No.	COC BOX	PAGE	DESCRIPTION	QUANT.	LOCATION	DATE	TIME	FREEZE	REFRIG
14			(1) Casing "FC 04"	1	from brush area, north of house	10/20/10	0052		
15			(1) Casing "FC 04"	1	" "		0053		
16			(1) Casing "FC 04"	1	" "		0054		
17			(1) Casing "FC 06"	1	" "		0055		
18			(1) Casing "FC 05"	1	" "		0055		
19			(1) casing "FC 04"	1	" "	↓	0056		
20			(1) "Marlin CAL 30-30 Win" rifle	1	from under bed of (b)(5)(B)	10/19/10	2020		
			(S/N - (b)(5)(B))		(b)(5)(B)				
21			(5) "Winchester 38 SPL+P" Casings	5	From kitchen sink of guest house	10/20/10	0130		
22			(1) "Speer 38 Special" Cartridge	1	From guest house living room table		0132		
23			(1) gun holster / belt containing (2) "Speer 38 Special" + (1) "Winchester 38 SPL+P" Cartridges	3	" "		0135		
24			(1) "Dissolution packet" document	1	From guest house living room floor		0138		
25			(1) "Winchester Gun cleaning Toolset"	1	From guest house bedroom bed		0141		
26			(1) "Hoppe's Rod End Accessories"	1	From guest house bedroom floor	↓	0145		

ITEM NUMBERS	COC BOX	REL'D	REC'D	NAME	ID NUMBER	SIGNATURE	DATE	TIME	ITEM NUMBERS	COC BOX	REL'D	REC'D	NAME	ID NUMBER	SIGNATURE	DATE	TIME
1									4								
2									5								
3									6								

CRIME SCENE INVESTIGATION -- EVIDENCE LIST FORM

INITIALS (b)(5)(B)

(b)(5)(B)

[illegible]

SAN DIEGO COUNTY SHERIFF'S CRIME LABORATORY
CRIME SCENE INVESTIGATION -- EVIDENCE LIST FORM

PAGE 6 OF 7
SDSO # 10064025
DATE 10-19-10
INITS (b)(5)(B)

ITEM No.	COC BOX	PAGE	DESCRIPTION	QUANT.	LOCATION	DATE	TIME	FREEZE	REFRIG																																																												
29			(1) Sealed manila envelope labeled "BAC/TOX" ↓ (1) "CAX Slip"	2	Received from Detective DuGul @ the scene	10/19/10	2333		✓																																																												
30			(1) Unsealed plastic bag containing (1) pair of "Tap Out" shorts (cut) size 44 (green + white)	2	" "	10/19/10	2333																																																														
31			(1) "Master" DVD-R containing 689 digitl images of the scene	1	(b)(5)(B) Japaterl Rd., Alpine	10/19/10 - 10/20/10																																																															
31.01			(1) "Working" DVD-R containing 689 digitl images of the scene	1	" "	10/19/10 - 10/20/10																																																															
<table border="1"> <thead> <tr> <th>ITEM NUMBERS</th> <th>COC BOX</th> <th>REF</th> <th>NAME</th> <th>ID NUMBER</th> <th>DATE</th> <th>TIME</th> <th>ITEM NUMBERS</th> <th>COC BOX</th> <th>REF</th> <th>NAME</th> <th>ID NUMBER</th> <th>SIGNATURE</th> <th>DATE</th> <th>TIME</th> </tr> </thead> <tbody> <tr> <td>29-30</td> <td>1</td> <td>✓</td> <td>Det. DuGul</td> <td>2425</td> <td>10/19/10</td> <td>2333</td> <td></td> <td>4</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>2</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>5</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>3</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>6</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>										ITEM NUMBERS	COC BOX	REF	NAME	ID NUMBER	DATE	TIME	ITEM NUMBERS	COC BOX	REF	NAME	ID NUMBER	SIGNATURE	DATE	TIME	29-30	1	✓	Det. DuGul	2425	10/19/10	2333		4								2							5								3							6						
ITEM NUMBERS	COC BOX	REF	NAME	ID NUMBER	DATE	TIME	ITEM NUMBERS	COC BOX	REF	NAME	ID NUMBER	SIGNATURE	DATE	TIME																																																							
29-30	1	✓	Det. DuGul	2425	10/19/10	2333		4																																																													
	2							5																																																													
	3							6																																																													

DATE: 10/20/10 COLLECTED BY: (b)(5)(B) CASE #: 10064025
ITEM #: 4 ID #: (b)(5)(B)

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This Is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10/19/10	10/20/10	3.0	13.0
42		10/19/10	10/22/10	8.0	0

COMMENTS:

Chemical Analysis	11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers	Firearms	51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration	SDO CASE # 10064025
Physiological Analysis	21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 25 DNA Swabbing	Latent Prints	61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations	
Physical Analysis	31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics	Alcohol Toxicology	71 Alcohol 74 Blood Drawing 75 Toxicology 76 Pruno/Unk Liquid	
Field Calls	41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction	Documents	91 Document Examination	
		Date Request Received: By:		



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 2

Crime: OFFICER INVOLVED SHOOTING

Event Date: 10/19/2010

Time Notified: 2:30 PM

By whom: COMMUNICATIONS CENTER

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 3:30 PM

Time Of Departure: 7:00 PM

Name/Title: (b)(5)(B) FORENSIC EVIDENCE TECHNICIAN/ARJIS (b)(5)(B)

Detective: DAVE HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: OLIN, KEVIN/PHILLIPS, JASON (SDSO DEPUTIES)

Suspect: FOSTER, MICHAEL

Service Requested: CRIME SCENE INVESTIGATION

Narrative:

On Tuesday, 10/19/2010, at approximately 1430 hours the Sheriff's Communications Center called me and told me to go to (b)(5)(B) Japatul Road in Alpine. I arrived at the scene at approximately 1530 hours and met with Sheriff's Deputies, Sheriff's Homicide personnel and Sheriff's Crime Lab personnel. We were then briefed at the scene by Sheriff's Deputies.

I then began to take digital photographs of weapons that I collected from the scene. At approximately 1800 hours I left the scene to go to the Alpine Sheriff's Station.

I arrived at the Alpine Sheriff's Station at approximately 1821 hours and met with Sheriff's Homicide personnel. I then began to take digital photographs of Sheriff's Special Enforcement Detail Deputies at the station. I also collected an item of evidence.

I took a total of 167 digital photographs of items of evidence that I collected at of Sheriff's Deputies at the Alpine Station. I used a Nikon D-200 digital camera with a 24-85mm lens.

I finished my assignment and left the Alpine Station at approximately 1900 hours.

Reported By:

(b)(5)(B)

10-20-2010

Technical Review:

(b)(5)(B)

10/21/10

Report Date:

(b)(5)(B)

Administrative Review:

10/21/10

FORENSIC EVIDENCE TECHNICIAN



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report
Evidence List



Suspect(s): FOSTER, MICHAEL

Victim(s): OLIN, KEVIN/PHILLIPS, JASON (SDSO DEPUTIES)

Crime: OFFICER INVOLVED SH

Name/Title: (b)(5)(B)

Event Date: 10/19/2010

Case # 10064025

Item	Item Description	Location/Source	Submitted By
32	"Colt M4 Carbine" .223 rifle. (2) ammunition magazines (attached to each other) from the rifle.	Received from Deputy John Debus at (b)(5)(B) Japatul Road, collected from inside his truck.	(b)(5)(B)
32.01	"FC 04" cartridge.	From the chamber of the M4 Carbine rifle.	(b)(5)(B)
32.02	(17) "FC 04" cartridges.	From the seated magazine taken out of the M4 Carbine rifle.	(b)(5)(B)
32.03	(28) "FC 04" cartridges.	From the spare magazine attached to the seated magazine in the M4 Carbine rifle.	(b)(5)(B)
32.04	"38 S&W" less lethal cartridge.	From the barrel of the 40mm grenade launcher attached to the M4 Carbine rifle.	(b)(5)(B)
33	"Colt M4 Carbine" .223 rifle. (1) ammunition magazine from the rifle.	Received from Deputy John Debus at (b)(5)(B) Japatul Road, collected from inside his truck.	(b)(5)(B)
33.01	"FC 04" cartridge.	From the chamber of the M4 Carbine rifle.	(b)(5)(B)
33.02	(25) "FC 04" cartridges.	From the magazine taken out of the M4 Carbine rifle.	(b)(5)(B)
33.03	"38 Short Colt" less lethal cartridge.	From the barrel of the 40mm grenade launcher attached to the M4 Carbine rifle.	(b)(5)(B)
34	"Remington 700 .308" rifle.	Received from Deputy John Debus, collected from inside his truck.	(b)(5)(B)
35	(3) "FC 308 WIN" cartridges. (1) "FC 308 WIN" casing.	Received from Deputy Bradley Farr at the Alpine Sheriff's Station.	(b)(5)(B)
36	CD-R containing 167 digital photographs. (MASTER CD)	Photos of weapon collection at (b)(5)(B) Japatul Road, Alpine. Photos of Deputy processing at the Alpine Station.	(b)(5)(B)
36.01	CD-R containing 167 digital photographs. (WORKING CD)	Photos of weapon collection at (b)(5)(B) Japatul Road, Alpine. Photos of Deputy processing at the Alpine Station.	(b)(5)(B)

Reported By

(b)(5)(B)

10-20-2010

Reviewed By

(b)(5)(B)

10/21/10

Report Date: 10/20/2010

(b)(5)(B)

Page 2 of 2

FORENSIC EVIDENCE TECHNICIAN

(b)(5)(B)

San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Property/Evidence - Bar Code Form

Submitted By

(b)(5)(B)

DATE: 10/20/2010

Submitted By: (b)(5)(B)

Victim: OLIN, KEVIN/PHILLIPS, JASON (SDSO) Event Date: 10/19/2010

Detective: DAVE HILLEN Suspect: FOSTER, MICHAEL

Location Code:

Address: (b)(5)(B) JAPATUL ROAD

ALPINE

Crime: OFFICER INVOLVED SH

Case #: 10064025

Item Description: Quantity: 2 Refrig?: No Freeze?: No Item #: 32

"Colt M4 Carbine" .223 rifle. (2) ammunition magazines (attached to each other) from the rifle.

Make: Colt

Model: M4 Carbine

Caliber: .223

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #: A0154088

Lab request

S.D. SHERIFF P&E



Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 32.01

"FC 04" cartridge.

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

S.D. SHERIFF P&E



Item Description: Quantity: 17 Refrig?: No Freeze?: No Item #: 32.02

(17) "FC 04" cartridges.

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

S.D. SHERIFF P&E



Item Description: Quantity: 28 Refrig?: No Freeze?: No Item #: 32.03

(28) "FC 04" cartridges.

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

S.D. SHERIFF P&E



Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 32.04

"38 S&W" less lethal cartridge.

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

S.D. SHERIFF P&E



Item Description: Quantity: 2 Refrig?: No Freeze?: No Item #: 33

"Colt M4 Carbine" .223 rifle. (1) ammunition magazine from the rifle.

Make: Colt

Model: M4 Carbine

Caliber: .223

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #: A0154112

Lab request

S.D. SHERIFF P&E



Case #: 10064025 (b)(5)(B)

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 33.01

"FC 04" cartridge.

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

I1129726

Item Description: Quantity: 25 Refrig?: No Freeze?: No Item #: 33.02

(25) "FC 04" cartridges.

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

I1129727

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 33.03

"38 Short Colt" less lethal cartridge.

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

I1129728

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 34

"Remington 700 .308" rifle.

S.D. SHERIFF P&E

Make: Remington

Model: 700

Caliber: .308

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #: Unknown

Lab request

I1129729

Item Description: Quantity: 4 Refrig?: No Freeze?: No Item #: 35

(3) "FC 308 WIN" cartridges. (1) "FC 308 WIN" casing.

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

I1129730

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 36

CD-R containing 167 digital photographs. (MASTER CD)

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

I1129731

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 36.01

CD-R containing 167 digital photographs. (WORKING CD)

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00

Hold for Prints: No

Serial #:

Lab request

I1129732



San Diego Sheriff's Department
CRIME LABORATORY
5255 Mt. Etna Dr., San Diego, CA 92117

(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE #

8708726

Lab Event Number

2

Crime 015

Event Date 10-19-10

Time Notified 2:30 PM

Notified By COMM CENTER

Event Address (b)(5)(B) JAPATUL ROAD

General Location ALPINE

Arrival Time 3:30 PM

Departure Time 7:00 PM

Lead Detective DAVE HILLEN

Detail/Team Team 1

Agency SDSO

Primary FET at Scene (b)(5)(B)

Secondary FET at Scene (b)(5)(B)

Primary Criminalist at Scene (b)(5)(B)

Secondary Criminalist at Scene (b)(5)(B)

Forensic Intern (b)(5)(B)

Additional Lab Personnel (b)(5)(B)

Victim(s) KERR, BILL | GAVIN, BRANDON | FARR, BRADLEY (SDSO DEPS) ULIN, KEVIN #5525 (SDSO DEPS) PHILLIPS, JASON #2617 (SDSO DEPS)

Suspect(s) MICHAEL FOSTER. (b)(5)(A)

Notes 10-97 SCENE @ 1530 HRS. 10-87 w/ SHERIFF'S DEPS, TEAM DEPS.
& CRIME LAB DEPS.

BRIEF @ 1550 HRS. SGT. BROWNING 0823 CALL OF MUSB. HOLDING
WIFE HOSTAGE @ GUN ROOM. 0836 DEP MC FARLAND IS 97.
CONTACT w/ WIFE. WIFE SAYS MUSB POINTING REVOLVER AT HIS
HEAD & HER HEAD. SHOTS INSIDE HOUSE & NEARBY LOC. ONE SHOT
NEAR HER HEAD MUSB IS FORMER MILITARY PSI (b)(5)(B) PTSD. HAVING
FLASHBACKS.

COLLECTED S.E.I. WEAPONS @ THE SCENE. (2) M4 RIFLES (1)
SNIPER RIFLE.

10-98 FROM SCENE @ 1800 HRS. E.A. TO ALPINE STN NIKON D-200 CAMERA
10-97 ALPINE STN. @ 1821 HRS 10-87 w/ TEAM DEPS 24-80MM LENS

PROCESS DEP. BILL KERR - PHOTOS
BRANDON GAVIN - PHOTOS.
BRADLEY FARR - PHOTOS & REC'D EVID ITEMS

10-98 FROM ALPINE STN @ 1900 HRS. Reviewed on 1-5

PREPARED BY

(b)(5)(B)

(b)(5)(B)

10/21/10

DATE 10-19-2010

PAGE 1 OF 5

32-76

SAN DIEGO COUNTY SHERIFF'S CRIME LABORATORY

CRIME SCENE INVESTIGATION -- EVIDENCE LIST FORM

PAGE 2 OF 5
 SDO # 100640-5
 DATE 10-19-10
 INITS (b)(5)(B)

ITEM No.	COC BOX	PAGE	DESCRIPTION	QUANT.	LOCATION	DATE	TIME	FREEZE	REFRIG
32			"COLT M4 CARBINE" RIFLE .223 S/N: A0154083 (2) MAGAZINES (ATTACHED TO EACH OTHER) FROM THE RIFLE.	2	REC'D FROM DEP. JOHN DEBUS AT (b)(5)(B) JAPANESE ROAD. FROM INSIDE HIS TRUCK.	10-19-10			
32.01			(1) "FC 04" CARTRIDGE.	1	FROM THE CHAMBER OF THE M4 CARBINE RIFLE.				
32.02			(17) "FC 04" CARTRIDGES.	17	FROM THE SEATED MAGAZINE OF THE M4 CARBINE RIFLE.				
32.03			(28) "FC 04" CARTRIDGES.	28	FROM THE SPARE MAGAZINE ATTACHED TO THE SEATED MAGAZINE IN THE M4 CARBINE RIFLE.				
32.04			(1) "38 S&W" LESS LETHAL PUMP CARTRIDGE	1	FROM THE BARREL OF THE 40MM GRENADE LAUNCHER ATTACHED TO THE M4 CARBINE RIFLE.				
33			"COLT M4 CARBINE" RIFLE .223 S/N: A0154112 (1) AMMO MAGAZINE FROM THE RIFLE.	2	REC'D FROM DEP. JOHN DEBUS AT (b)(5)(B) JAPANESE ROAD. FROM INSIDE HIS TRUCK.				
33.01			(1) "FC 04" CARTRIDGE.	1	FROM THE CHAMBER OF THE M4 CARBINE RIFLE.				
33.02			(25) "FC 04" CARTRIDGES.	25	FROM THE MAGAZINE TAKEN OUT OF THE M4 RIFLE CARBINE RIFLE.				
33.03			(1) "38 SHORT COLT" LESS LETHAL CARTRIDGE.	1	FROM THE BARREL OF THE 40MM GRENADE LAUNCHER ATTACHED TO THE M4 CARBINE RIFLE.				
34			(1) "REMINGTON 700 .308" RIFLE. S/N: UNK.	1	REC'D FROM DEP. JOHN DEBUS AT (b)(5)(B) JAPANESE ROAD. FROM INSIDE HIS TRUCK.				
35			(3) "FC 308 WIN" CARTRIDGES (1) "FC 308 WIN" CASING.	4	REC'D FROM DEP. B. FAIR AT THE ALPINE STATION		1830		
36			CD-R CONT. 167 DIGITAL PHOTOS. (MASTER CD)	1	WEAPON COLLECTION AT (b)(5)(B) JAPANESE ROAD. DEPUTY PROCESSING AT ALPINE STATION.				
36.01			↓ (WORKING CD)	1	↓				

ITEM NUMBERS	COC BOX	REL'D	REC'D	NAME	ID NUMBER	SIGNATURE	DATE	TIME	ITEM NUMBERS	COC BOX	REL'D	REC'D	NAME	ID NUMBER	SIGNATURE	DATE	TIME
1									4								
2									5								
3									6								

SAN DIEGO SHERIFF'S CRIME LABORATORY: FIREARM COLLECTION WORKSHEET

DATE: 10/19/10 COLLECTED BY: (b)(5)(B) CASE #: 10064025
 ITEM #: 32 ID #: [REDACTED] KERR'S RIFLE

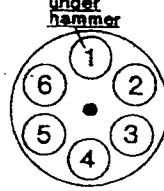
CIRCLE OR FILL IN APPROPRIATE RESPONSE - SUBMIT COPY WITH FIREARM

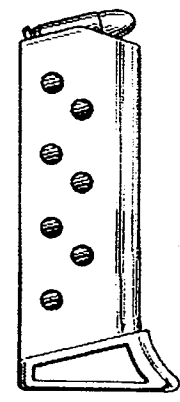
TYPE OF FIREARM: REVOLVER PISTOL (RIFLE) SHOTGUN OTHER: _____
 MAKE: COLT MODEL: M4 CALIBER: .223 SERIAL #: A0154088
 PHOTOGRAPHED AT SCENE (BOTH SIDES, CLOSE UPS, ETC.): (YES) NO

CONDITION AT SCENE:

LOADED: (YES) NO HAMMER: COCKED UNCOCKED UNABLE TO DETERMINE
 SLIDE: OPEN CLOSED MANUAL SAFETY: (ON) OFF NONE MAGAZINE SEATED: (YES) NO
 CYLINDER CAPACITY: _____ MAGAZINE CAPACITY: _____ NUMBER OF CTGS IN MAGAZINE: _____
 COMMENTS: _____

POSITION	HEADSTAMP	CONDITION	ITEM #
1*	FC 04	UNFIRED	32.01
2-18	FC 04	↓	32.02
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			



#2 → 

#3 →

#4 →

#5 →

#6 →

#7 →

#8 →

#9 →

Position 1:
 Single barrel firearms - chamber.
 Revolvers - chamber under hammer.
 - mark cylinder to indicate chamber under hmr.
 Multi-barrel - upper left as viewed from rear. (Numbering sequence is left to right, top to bottom.)

Tubular magazines : as ctgs come out of tube beginning with # 2. Indicate removal end. See above.

Condition: FIRED UNFIRED EMPTY

NUMBER OF SPARE MAGAZINES: 1 NUMBER OF CTGS IN MAGAZINES: 28 ← ITEM # 32.03 3A

HOW FIREARM LOADED: _____ POSSIBLE NUMBER OF SHOTS FIRED: _____

TRACE EVIDENCE PRESENT: (b)(5)(B) SUREFIRE LIGHT ATTACHED TO RIFLE

(b)(5)(B) RIBE: AIMPOINT COMP M SIGHT ATTACHED TO RIFLE

ADDITIONAL COMMENTS: 2 MAGAZINES. ONE ATTACHED TO RIFLE AND ONE IN MAG. WELL
COMMANDER BARREL - 40MM LAUNCHER W/ 1 LESS
LETHAL ROUND IN LAUNCHER (S/N A11722) ← ITEM # 32.04

UNLOADED AT SCENE: (YES) NO UNLOADED BY: (b)(5)(B)

SHEET FILLED OUT (b)(5)(B) 3 of 6

SAN DIEGO SHERIFF'S CRIME LABORATORY: FIREARM COLLECTION WORKSHEET

DATE: 10/19/10 1719 HRS COLLECTED BY: (b)(5)(B) CASE #: 10064025
 ITEM #: 33 ID #: (b)(5)(B) GAVIN'S RIFLE

CIRCLE OR FILL IN APPROPRIATE RESPONSE - SUBMIT COPY WITH FIREARM

TYPE OF FIREARM: REVOLVER PISTOL (RIFLE) SHOTGUN OTHER: _____

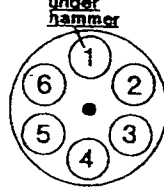
MAKE: COLT MODEL: M4 CALIBER: .223 SERIAL #: A0154112

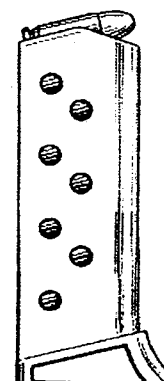
PHOTOGRAPHED AT SCENE (BOTH SIDES, CLOSE UPS, ETC.): (YES) NO

CONDITION AT SCENE:

LOADED: (YES) NO HAMMER: COCKED UNCOCKED UNABLE TO DETERMINE
 SLIDE: OPEN CLOSED MANUAL SAFETY: (ON) OFF NONE MAGAZINE SEATED: YES NO
 CYLINDER CAPACITY: _____ MAGAZINE CAPACITY: _____ NUMBER OF CTGS IN MAGAZINE: _____
 COMMENTS: _____

POSITION	HEADSTAMP	CONDITION	ITEM #
1*	FC 04	UNFIRED	33.01
2-26	FC 04	↓	33.02
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			



#2 → 

#3 →

#4 →

#5 →

#6 →

#7 →

#8 →

#9 →

Position 1:
 Single barrel firearms – chamber.
 Revolvers – chamber under hammer.
 – mark cylinder to indicate chamber under hmr.
 Multi-barrel – upper left as viewed from rear. (Numbering sequence is left to right, top to bottom.)

Tubular magazines : as ctgs come out of tube beginning with # 2. Indicate removal end. See above.

Condition: FIRED UNFIRED EMPTY

NUMBER OF SPARE MAGAZINES: 0 NUMBER OF CTGS IN MAGAZINES: _____

HOW FIREARM LOADED: _____ POSSIBLE NUMBER OF SHOTS FIRED: _____

TRACE EVIDENCE PRESENT: YES NO

DESCRIBE: _____

ATTACH'D TO RIFLE:
 ADDITIONAL COMMENTS: SUREFIRE LIGHT w/ IR COVER. AIMPOINT COMP M
SIGHT. COMMANDO BARREL

40MM LAUNCHER S/N E19132 (SAFETY ON) w/ ONE

UNLOADED AT SCENE: (YES) NO UNLOADED BY: _____

SHEET FILLED OUT BY

(b)(5)(B)

SAN DIEGO SHERIFF'S CRIME LABORATORY: FIREARM COLLECTION WORKSHEET

DATE: 10/9/10 COLLECTED BY: (b)(5)(B) CASE #: 10064025
 ITEM #: 34 ID #: [REDACTED] FARR'S RIFLE

CIRCLE OR FILL IN APPROPRIATE RESPONSE - SUBMIT COPY WITH FIREARM

TYPE OF FIREARM: REVOLVER PISTOL RIFLE SHOTGUN OTHER: _____

MAKE: REMINGTON MODEL: 700 CALIBER: .308 SERIAL #: 324740

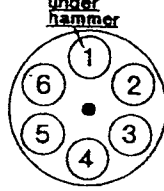
PHOTOGRAPHED AT SCENE (BOTH SIDES, CLOSE UPS, ETC.): YES NO
 COUNTY: 7 S/N

CONDITION AT SCENE:

LOADED: YES NO HAMMER: COCKED UNCOCKED UNABLE TO DETERMINE
 SLIDE: OPEN CLOSED MANUAL SAFETY: ON OFF NONE MAGAZINE SEATED: YES NO
 CYLINDER CAPACITY: _____ MAGAZINE CAPACITY: _____ NUMBER OF CTGS IN MAGAZINE: _____

COMMENTS: _____

POSITION	HEADSTAMP	CONDITION	ITEM #
1*			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			



2 →

3 →

4 →

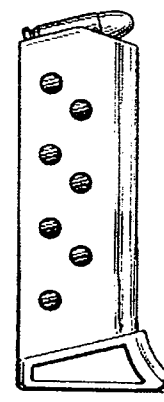
5 →

6 →

7 →

8 →

9 →



Position 1:
 Single barrel firearms – chamber.
 Revolvers – chamber under hammer.
 – mark cylinder to indicate chamber under hmr.
 Multi-barrel – upper left as viewed from rear. (Numbering sequence is left to right, top to bottom.)

Tubular magazines : as ctgs come out of tube beginning with # 2. Indicate removal end. See above.

Condition: FIRED UNFIRED EMPTY

NUMBER OF SPARE MAGAZINES: _____ NUMBER OF CTGS IN MAGAZINES: _____

HOW FIREARM LOADED: _____ POSSIBLE NUMBER OF SHOTS FIRED: _____

TRACE EVIDENCE PRESENT: YES NO

DESCRIBE: _____

ADDITIONAL COMMENTS: SIGHT HAD "ILLUMINATED RETICLE" SET TO 4.
"LEOPOLD" SCOPE.

UNLOADED AT SCENE: YES NO NOT LOADED UNLOADED BY: (b)(5)(B)
 SHEET FILLED OUT BY: (b)(5)(B)
 9.6.13.7 Firearm Collection Worksheet.doc Page 1 of 1

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10-19-10	10-19-10	2.5	3.5
42		10-19-10	10-20-10	3.0	

COMMENTS:

<p>Chemical Analysis</p> <ul style="list-style-type: none"> 11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers 	<p>Firearms</p> <ul style="list-style-type: none"> 51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration 	<p>SDSO CASE #</p> <p style="font-size: 2em; margin-top: 10px;">10064025</p>
<p>Physiological Analysis</p> <ul style="list-style-type: none"> 21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 25 DNA Swabbing 	<p>Latent Prints</p> <ul style="list-style-type: none"> 61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations 	
<p>Physical Analysis</p> <ul style="list-style-type: none"> 31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics 	<p>Alcohol Toxicology</p> <ul style="list-style-type: none"> 71 Alcohol 74 Blood Drawing 75 Toxicology 76 Pruno/Unk Liquid 	
<p>Field Calls</p> <ul style="list-style-type: none"> 41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction 	<p>Documents</p> <ul style="list-style-type: none"> 91 Document Examination 	

<p>Date Request Received:</p>	<p>By:</p>
-------------------------------	------------



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 3

Crime: OIS

Event Date: 10/19/2010

Time Notified: 2:35 PM

By whom: FET (b)(5)(B)

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 3:30 PM

Time Of Departure: 10:13 PM

Name/Title: (b)(5)(B) FORENSIC EVIDENCE TECHNICIAN/ARJIS (b)(5)(B)

Detective: HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: OLIN, KEVIN #5523 & PHILLIPS, JASON #4874 (SDSO DEPUTIES)

Suspect: FOSTER, MICHAEL A.

Service Requested: FIELD CALL - PHOTOGRAPH SUSPECT AT HOSPITAL

Narrative:

On Tuesday, October 19, 2010, at 1435 hours, Forensic Evidence Technician (b)(5)(B) asked me to go to (b)(5)(B) Japatul Road, Alpine, for an investigation.

I arrived at (b)(5)(B) Japatul Road at 1530 hours and met with Homicide and Crime Laboratory personnel.

At 1755 hours, Detective FISKE asked me to go to Sharp Memorial Hospital to photograph the suspect. I arrived at Sharp Memorial Hospital at 1900 hours. I met with Detective FISKE and Detective HALL.

I took photographs of the suspect, Michael A. FOSTER, and I collected items of evidence from FOSTER.

I left the hospital at 2213 hours and took the evidence to the SDSO Crime Laboratory.

I placed the forty-six photographs of FOSTER, taken at the hospital, on a CD-R.

Reported By

(b)(5)(B)

10/20/10

Technical Review:

(b)(5)(B)

Report Date: 10/20/2010

Administrative Review:

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN

Page 1 of 2



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report
Evidence List



Suspect(s): FOSTER, MICHAEL A.

Victim(s): OLIN, KEVIN #5523 & PHILLIPS, JASON #4874 (SDSO Crime: OIS DEPUTIES)

Name/Title: (b)(5)(B)

Event Date: 10/19/2010

Case # 10064025

Item	Item Description	Location/Source	Submitted By
37	Reference Oral Swab Kit collected from (S) Michael A. FOSTER [10/19/10]	7901 Frost St., San Diego / Sharp Memorial Hosp.	(b)(5)(B)
38	Gunshot Residue Kit collected from (S) Michael A. FOSTER [10/19/10]	7901 Frost St., San Diego / Sharp Memorial Hosp.	
39	Plucked Head Hair Sample Kit collected from (S) Michael A. FOSTER [10/19/10]	7901 Frost St., San Diego / Sharp Memorial Hosp.	
40	Master Copy. CD-R containing 46 photos of (S) Michael A. FOSTER at Sharp Memorial Hospital [10/19/10]	7901 Frost St., San Diego / Sharp Memorial Hosp.	
40.01	Working Copy. CD-R containing 46 photos of (S) Michael A. FOSTER at Sharp Memorial Hospital [10/19/10]	7901 Frost St., San Diego / Sharp Memorial Hosp.	

Reported By

(b)(5)(B)

10/20/10

Reviewed By

10

(b)(5)(B)

Report Date: 10/20/2010

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN

(b)(5)(B)

San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Property/Evidence - Bar Code Form

Submitted By

(b)(5)(B)

DATE: 10/20/2010

Submitted By: (b)(5)(B)

Victim: OLIN, KEVIN #5523 & PHILLIPS, JASO Event Date: 10/19/2010

Detective: HILLEN

Suspect: FOSTER, MICHAEL A.

Location Code:

Address: (b)(5)(B) JAPATUL ROAD

ALPINE

Crime: OIS

Case #: 10064025

Item Description: Quantity: 1 Refrig?: No Freeze?: Yes Item #: 37

Reference Oral Swab Kit collected from (S) Michael A. FOSTER [10/19/10]

S.D. SHERIFF P&E

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 38

Gunshot Residue Kit collected from (S) Michael A. FOSTER [10/19/10]

S.D. SHERIFF P&E

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: Yes Item #: 39

Plucked Head Hair Sample Kit collected from (S) Michael A. FOSTER [10/19/10]

S.D. SHERIFF P&E

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 40

Master Copy. CD-R containing 46 photos of (S) Michael A. FOSTER at Sharp Memorial Hospital [10/19/10]

S.D. SHERIFF P&E

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 40.01

Working Copy. CD-R containing 46 photos of (S) Michael A. FOSTER at Sharp Memorial Hospital [10/19/10]

S.D. SHERIFF P&E

Make: Model: Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No Serial #:



Lab request

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117
(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025
S 8708726
OUTSIDE AGENCY CASE #

Crime 015 Event Number 3
Event Date 10/19/10 Time Notified 1435 Notified By FET (b)(5)(B)
Event Address 19515 JAPATUL RD General Location ALPINE
Arrival Time 1530 Departure Time 2213
Lead Detective HILLEN #1635 Detail/Team HOM / 1 Agency SDSO
Primary FET at Scene (b)(5)(B) Secondary FET at Scene (b)(5)(B)
Primary Criminalist at (b)(5)(B) Secondary Criminalist (b)(5)(B)
Forensic Intern (b)(5)(B) Additional Lab Personnel (b)(5)(B)
Victim(s) DEPUTIES OLIN, KEVIN + PHILLIPS, JASON #4874 (PER ADAM HONG)
Suspect(s) FOSTER, MICHAEL A. DOB (b)(5)(A)

Notes BRIEFING - 1550

SGT. BROWNING - STARTED 0823. DEP ARRVD 0836.
WIFE IS (b)(5)(B). (S) FORMER MILITARY. WIFE SAID
HE SUFFERS FROM PTSD(?). THIS A.M. (S) FIRED IN + OUT OF HOUSE.
HE POINTED GUN @ HER HEAD. (S) ON TRAMADOL, ATIVAN, PAXIL (PER
ANOTHER DEP. (SWAT). DEP. PDSA... (?) - CONTAINMENT AFT
12. DEP FIR WENT TO SHARP HOSP W/ (S)

ASST (b)(5)(B) BY FILLING OUT FIREARM WORKSHEETS

PER DET. FISKE - GO TO SHARP MEMORIAL HOSP 1901
FROST ST. (b)(5)(B)
SAN DIEGO

LEFT SCENE - 1755

ARRVD SHARP - 1900 MET W/ DETS FISKE + HALL
WHEN THEY ARRIVED
PHOTO'D + COLLECT'D EVID FROM (S) FOSTER

LEFT HOSP - 2213

ARRVD CRIME LAB - 2225

ALL PHOTOS W/ NIKON D200 + 18-200 + 24-85 46 PHOTOS

PREPARED BY

(b)(5)(B)

REVIEWED P. 1-2
(b)(5)(B) 10/26/10

DATE 10/19/10

PAGE 1 OF 2



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 5

Crime: OIS

Event Date: 10/19/2010

Time Notified: 2:30 PM

By whom: (b)(5)(B)

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 3:28 PM

Time Of Departure: 4:40 AM

Name/Title: CRIMINALIST (b)(5)(B)

Detective: HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: KEVIN OLIN; JASON PHILLIPS

Suspect: MICHAEL ALLEN FOSTER

Service Requested: SCENE INVESTIGATION

Narrative:

At approximately 1430 hours on October 19, 2010, I was notified by Forensic Evidence Technician (b)(5)(B) of a field call. I arrived on scene at approximately 1528 hours and various Sheriff's personnel were present. A briefing was conducted at 1550 hours.

The scene was located over the property of (b)(5)(B) Japatul Road. The scene included the main house, guest house, patio, and yard at the address. Following the incident, the suspect was transported from the scene to the hospital by paramedics.

While on scene, I took notes of my observations and measurements for a rough scene diagram. I departed the scene at approximately 0440 hours on October 20, 2010.

Reported By:

(b)(5)(B)

Technical Review:

(b)(5)(B)

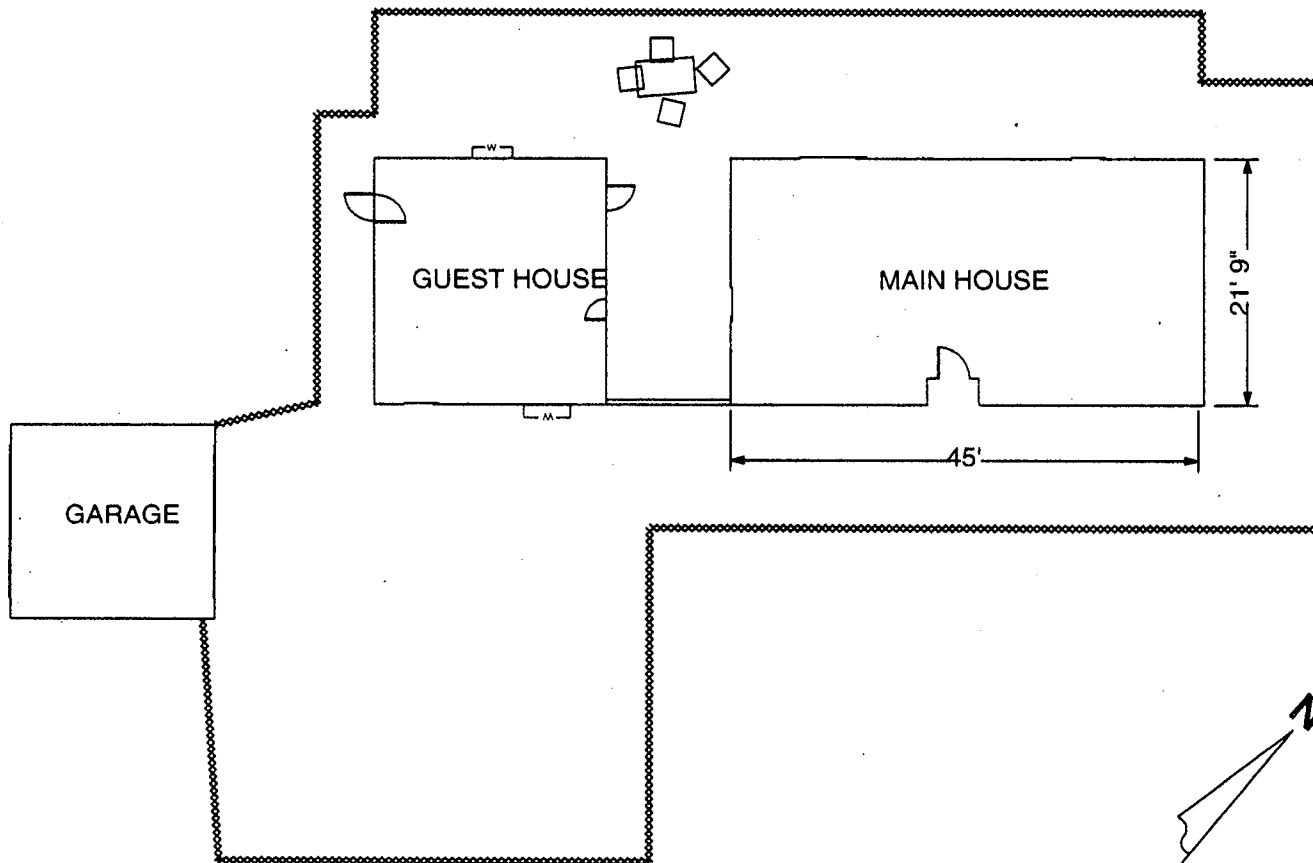
12-3-10

Report Date: 12/2/2010

Administrative Review

Case No: 10064025
File Name: 10064025OA.czd
Address: (b)(5)(B) JAPATUL RD.
Prepared by: CRIMINALIST (b)(5)(B)
Scene Date: 10-28-2010
Approximate Scale: 1" = 18 ft
ALL MEASUREMENTS ARE APPROXIMATE

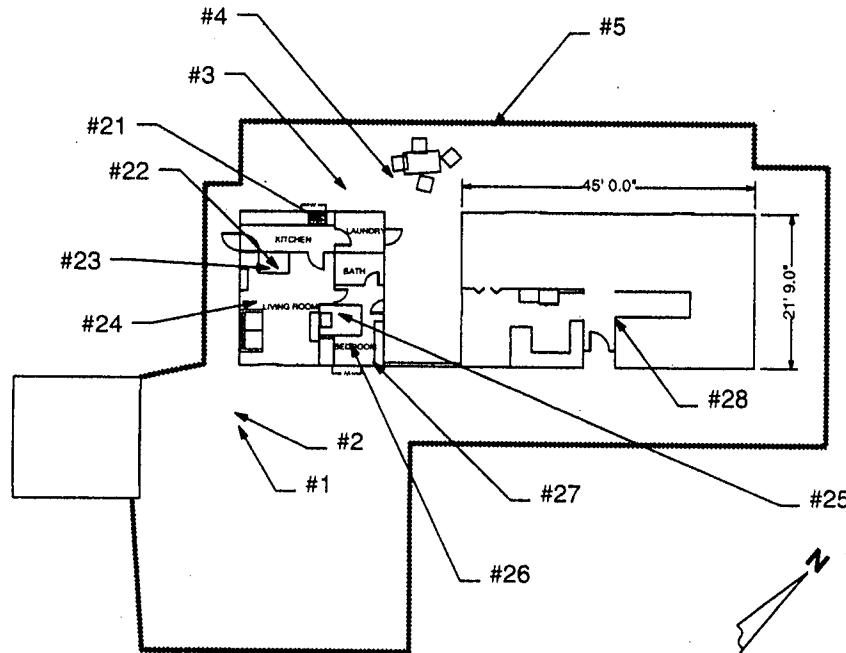
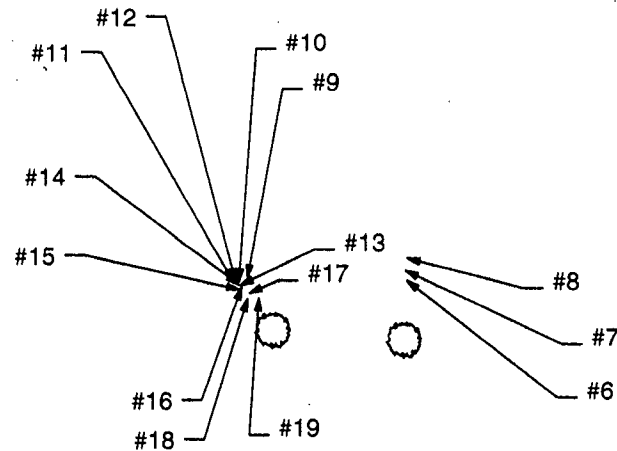
OVERALL VIEW



(b)(5)(B)

10-28-10
2/6

EVIDENCE ITEMS



- EVIDENCE ITEMS:
1. CASING
 2. CASING
 3. METAL FRAGMENT
 4. FIREARM
 5. CARTRIDGE
 6. CASING
 7. CASING
 8. CASING
 9. CASING
 10. CASING
 11. CASING
 12. CASING
 13. CASING
 14. CASING
 15. CASING
 16. CASING
 17. CASING
 18. CASING
 19. CASING
 21. 5 CASINGS
 22. CARTRIDGE
 23. HOLSTER
 24. VARIOUS PAPERS
 25. CLEANING KIT
 26. CLEANING KIT
 27. CASING
 28. METAL FRAGMENT

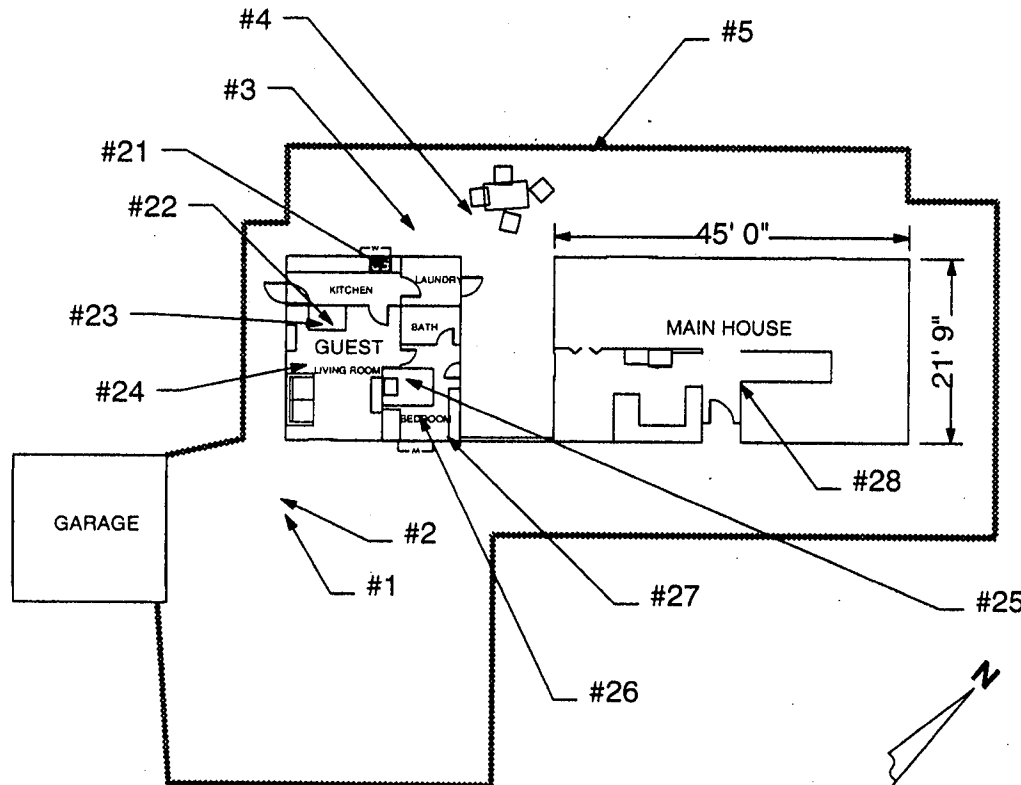
Case No: 10064025
 File Name: 10064025EVI.czd
 Address: (b)(5)(B) JAPATUL RD
 Prepared by: CRIMINALIST (b)(5)(B)
 Scene Date: 10-28-2010
 Approximate Scale: 1" = 29 ft
 ALL MEASUREMENTS ARE APPROXIMATE

(b)(5)(B)

3/5

12-2-10

EVIDENCE ITEMS: HOUSE AND PATIO ONLY



EVIDENCE ITEMS:

1. CASING
2. CASING
3. METAL FRAGMENT
4. FIREARM
5. CARTRIDGE
21. 5 CAINGS
22. CARTRIDGE
23. HOLSTER
24. VARIOUS PAPERS
25. CLEANING KIT
26. CLEANING KIT
27. CASING
28. METAL FRAGMENT

(b)(5)(B)

4/5
11-22-10

Case No: 10064025

File Name: 10064025-GH.czd

Address: (b)(5)(B) JAPATUL RD

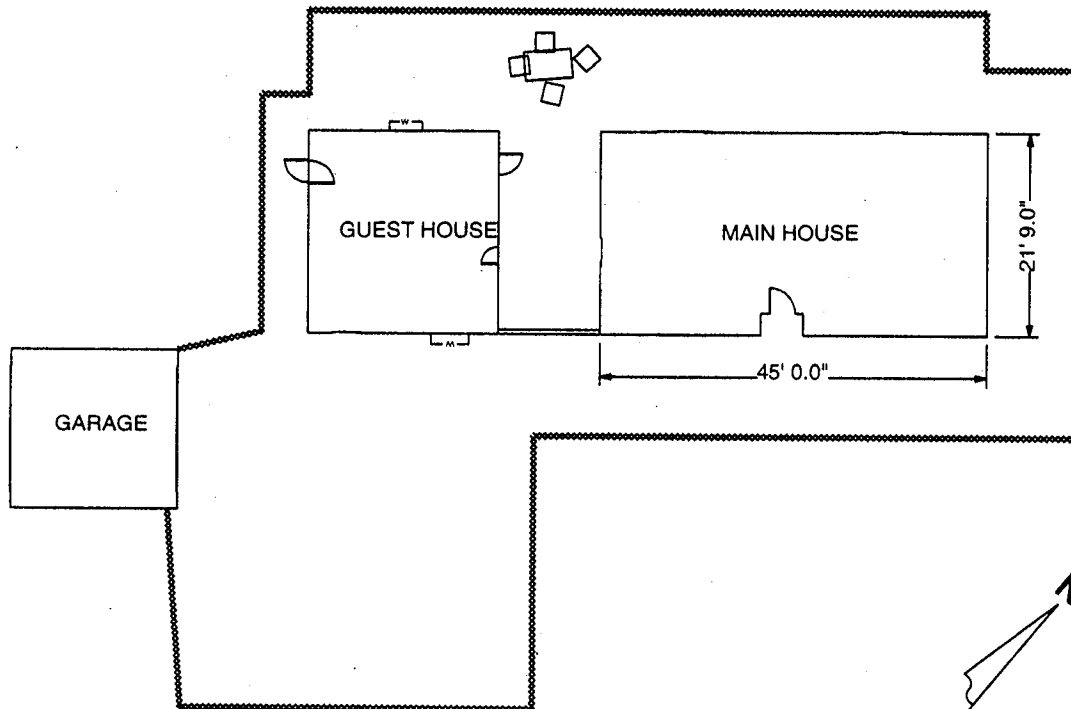
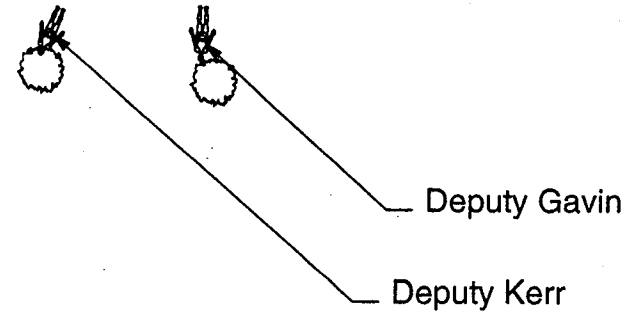
Prepared by: CRIMINALIST (b)(5)(B)

Scene Date: 10-28-2010

All measurements are approximate.

Approximate Scale: 1" = 24 ft

DEPUTY POSITIONS



Case No: 10064025

File Name: 10064025DEPS.czd

Address: (b)(5)(B) JAPATUL RD.

Prepared by: CRIMINALIST (b)(5)(B)

Scene Date: 10-28-2010

Approximate Scale: 1" = 22 ft

ALL MEASUREMENTS ARE APPROXIMATE

11-22-10

5/5



San Diego Sheriff's Department
CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117

(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE #

Crime 015

Event Date 10-19-10 Time Notified 1430

Notified By (b)(5)(B)

Lab Event Number 5

Event Address (b)(5)(B) Japantul Rd.

General Location ALPINE

Arrival Time 1528

Departure Time 0440

Lead Detective HILLEN

Detail/Team HOMI

Agency SDSO

Primary FET at Scene (b)(5)(B)

Secondary FET at Scene (b)(5)(B)

Primary Criminalist at Scene (b)(5)(B)

Secondary Criminalist at Scene (b)(5)(B)

Forensic Inter (b)(5)(B)

Additional Lab Personnel (b)(5)(B)

Victim(s) Kevin Olin

Jason Phillips

Suspect(s) Michael Allen Foster

Notes Briefing 1550

DEP DEBUS SJD

SGT BROWNING SGT MOORE NEGOTIATIONS

0823 CAL RECD - F SAYING HUSB HOLDING GUNPOINT

(3) DEPS AOS 0836 CONTACTED F (b)(5)(B)

BARNES MCFARLAND FIR

HUSBAND HAD FA POINTED AT SELF ALTERNATING
F SAID HUSB HAD FIRED IN HOUSE, NEAR HEAD IN
CANYON.

BARNES TALKED TO F

DET PASALUQUA ASSISTED F STATEMENT FM F

HUSB FORMER MILITARY F FLASHBACKS PTSD.

3AM F WOKEN BY HUSB. FIRED ROUNDS THROUGH (b)(5)(B)
GLASS DOOR + INTO CANYON.

KEPT F @ GUNPOINT + WENT THROUGH CLOSET FOUND AMMO,
FIRED ROUND AWAY FM F.

(4) COVERED HEAD F TOWEL LAID ON BED - TOLD F
TO LEAVE HOUSE.

F LEFT TO NEIGHBOR'S HOME TO CALL 911.

PREPARED BY

(b)(5)(B)

REVIEWED P. 1-13
(b)(5)(B) 12-3-10

DATE 10-19-10

PAGE 1 OF 13

SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER

10064025

EXAMINER

(b)(5)(B)

SUSPECT/VICTIM

DATE

10-19-10

SGT AOS ~ 9 AM
SED CALLED.

(b)(5)(B)

~ 915 THE SGT MADE ANNOUNCEMENTS TO ATTEMPT CONTACT.
NO RESPONSE FM INSIDE HOUSE.
~ 1000 B. SGT AOS.

(b)(5)(B)

TEL MOORE CNT: 0900 RECD CALL AOS 0920.

(b)(5)(B)

BRIEFING FM ♀: UNDER PSYCH CARE.

TRAZADONE ATTIVAN PAXIL UNK IF TAKING MEDS

⑤ YELLED OUT FM HOUSE WHEN CNT IN SED VAN
PULLED UP. ⑤ CAME OUT OF DOOR. THROUGH SOME-
THING OUTSIDE DOOR (UNK) WENT BACK IN. EXITED
HOUSE & ENGAGED SED - WAS (b)(5)(B)

SED DEMOS:

(b)(5)(B)

HANTED STAGING AREA ESTABLISHED.

SLOUT STARTED SED CONTAINMENT.

ENTRY TEAM + CNT IN VEHICLE.

CONTAINMENT 1231

VEHICLE @ SIDE 1.

① SNIPER TEAM ON FRONT OF HOUSE.

① SNIPER ON 3/4 CORNER. BACK PORCH.

MAY (b)(5)(B) ENT OBSVD IN FRONT OF HOUSE @ 1300.
OBJECTS (b)(5)(B) THROWN OUT OF FRONT DOOR (SLIDING)

MAY BE CASINGS.

1305 "POP" HEARD FM INSIDE HOUSE.

1324 ① (b)(5)(B) EXITED BACK SIDE OF HOUSE.

⑤ YELLED SHOTS FIRED.

⑤ HAD REVOLVER IN HAND. MAY HAVE FIRED 1-2
ROUNDS.

② DEPS FIRED @ ⑤. c M4. SNIPER DEP ALSO
FIRED.

SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER

10064028

EXAMINER

(b)(5)(B)

SUSPECT/VICTIM

DATE

10-19-10

(b)(5)(B)

(5) SUPINE 2 HANDS ABOVE HEAD

(5) IN CUSTODY. MEDICS SAN MIGUEL ED,

(b)(5)(B)

233 - MEDICS SAID (3) CONSCIOUS.

(5) TX TO SHARP.

HOUSE CLEARED EXCEPT (1) RM WHERE DOGS ARE. ALSO CLEARED GRANNY FLAT.

(3) ONLY HAD REVOLVER IN HOUSE

FA IS WHERE (3) WAS TAKEN INTO CUSTODY.

SCENE WALKTHROUGH - OUTSIDE, GARAGE, MAIN + GUEST HOUSE

(2) CASINGS OBSVD ON (b)(5)(B) PATIO UPON APPROACH

ON REAR SIDE (1) FA ON GROUND (HAMMER COCKED)

(POSS. BULLET STRIKES ON) STUCCO. SHATTERED WINDOW NORTH WALL.

(1) CARTRIDGE LOCATED ON GROUND.

TABLE (SHATTERED GLASS) + CHAIRS -

CHAIRS HAVE DEFECTS IN MATERIAL
POSS BULLET HOLES.

(b)(5)(B)

(1) DEFECT IN DOOR OF GUEST HOUSE

(1) SHATTERED GLASS DOOR (W) SIDE OF MAIN HOUSE.

REAR (S) WALL OF GUEST HOUSE - DEFECT IN WALL

(14) CASINGS LOCATED IN TREES MARKED & TAPE BY DEPS.

SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER 10064025

EXAMINER (b)(5)(B)

SUSPECT/VICTIM

DATE 10-19-10

GUEST HOUSE - SE (b)(5)(B) DISHEVELED GENERALLY
DEFECTS IN WALL IN KITCHEN (S) WALL
LIVING ROOM BEER CANS ORSD, CIGARETTE BUTTS,
CLOTHING ITEMS, ETC. ID FOR MICHAEL FOSTER,
BED ROOM: MATTRESS ON FLOOR, MEDS IN ROOM
HYDROCODONE / ACETAMINOPHEN
IBUPROFEN HYDROCHLOROTHIAZIDE TRAZADONE
PAROXETINE GEMFIBROZIL HYDROCHLORIDE (b)(5)(B)
IDENTIFICATION FOR (b)(5)(B) LOCATED
CLOTHING + VARIOUS ITEMS ON FLOOR.
(b)(5)(B) BATH - NO NOTABLE DISRUPTION, VARIOUS
ITEMS OF SOAP SHAMPOO ETC.

DEFECTS IN (N) WALL OF LIVING ROOM. ALSO (W) WALL
ALSO (S) WALL

DEFECT IN DOOR OF BEDROOM (TO OUTSIDE)

(21) (5) CASINGS IN SINK.

(22) CARTRIDGE ON TABLE.

(23) HOLSTER ON TABLE

(b)(5)(B) (24) DISOLUTION PACKET ON FLOOR

(25) GUN CLEANING KIT ON BED.

(26) GUN CLEANING KIT ON FLOOR

(27) EXPENDED CASING ON FLOOR

(28) Metal fragment (b)(5)(B) (Guest Main House).

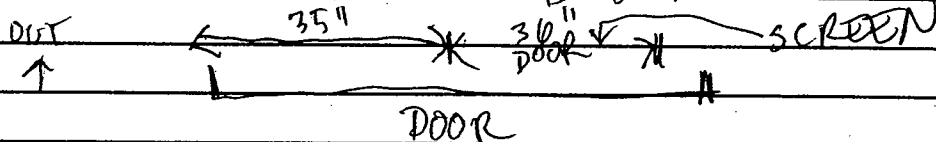
SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER 10064025
EXAMINER (b)(5)(B)
DATE 10-20-10

SUSPECT/VICTIM

MAIN HOUSE: DEFECT OBSVD IN WALL IN HALLWAY
OUTSIDE KITCHEN.

SCREEN OUTSIDE SLIDER ON (W) SIDE: ON OFF TRACKS.
LEANING ON DOOR. HAS DEFECT.



GPS Pole E 11 South 0525081

3627806

Corner pole North East 11 S 0525092

3627022

SLIPPER Position (Kerr)

11 S 0525079

3627947

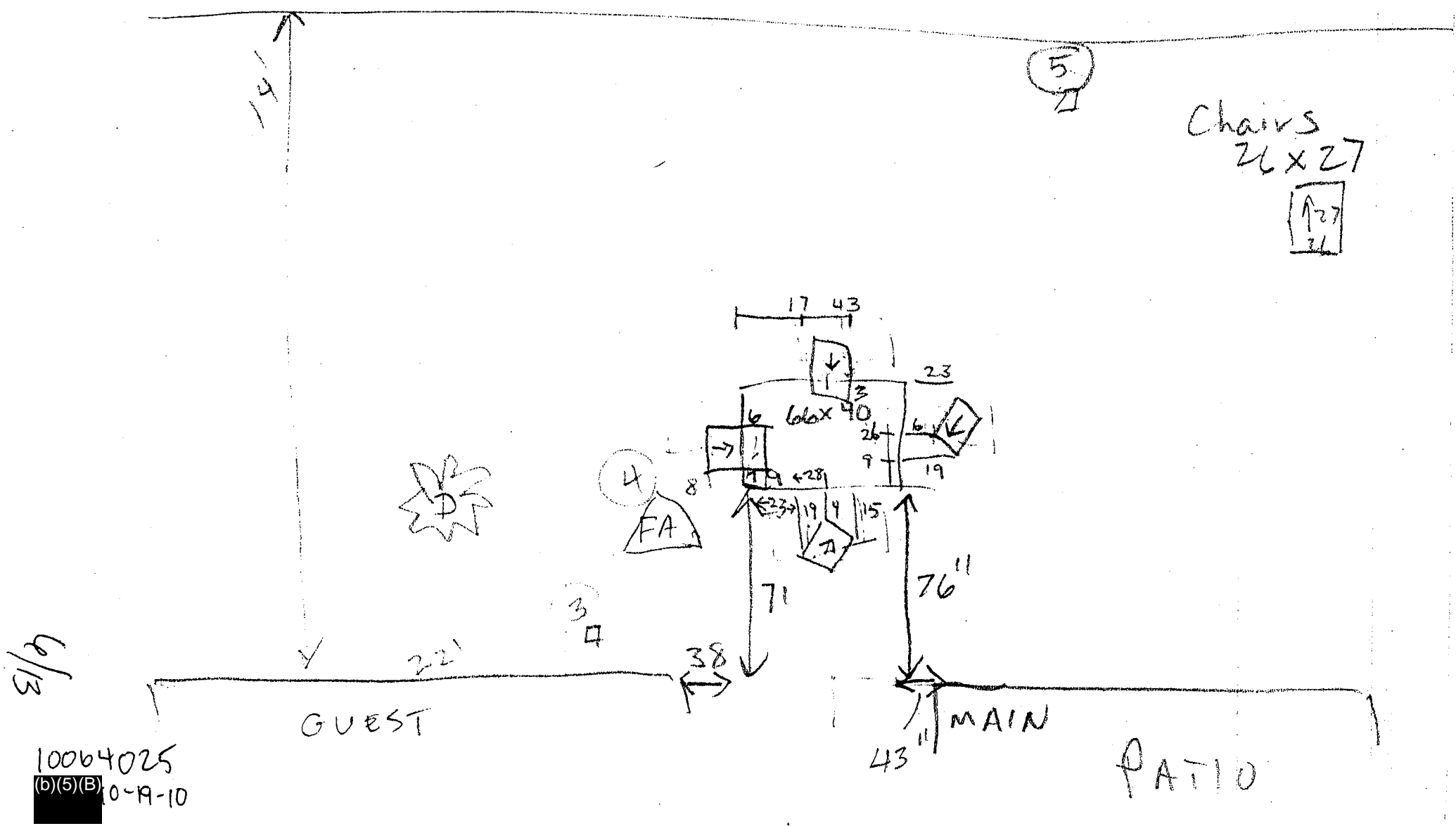
LOS 530

10-20-10

	FM	IN		GUEST	MAIN
Metal Fragment	3	212"	6'(W) ✓		
Stream	4	65"	15'(E) ✓		
Cartridge	5	13 1/2"	57'(W) ✓		
Debris	5'		4'(E) ✓		

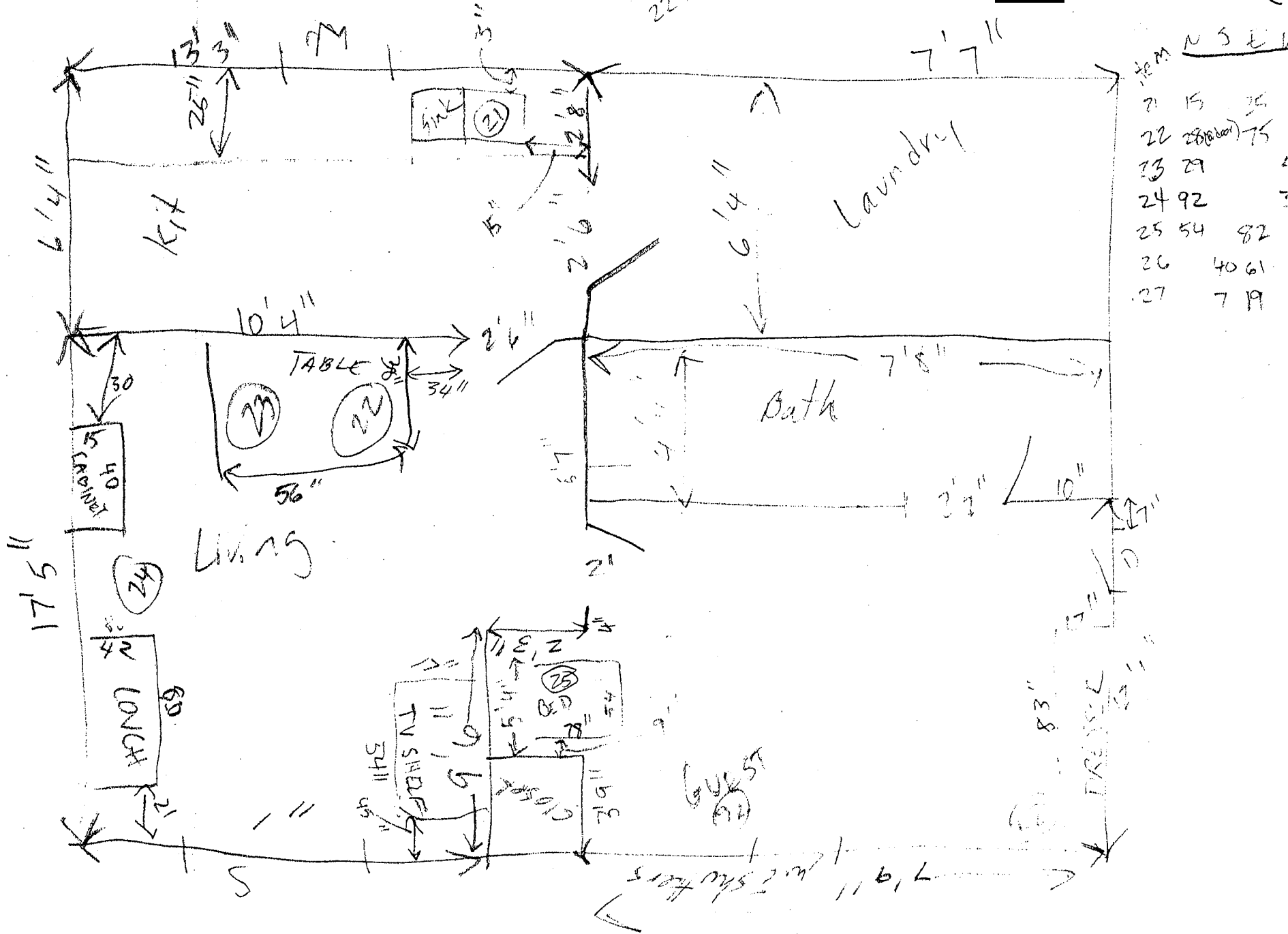
N 91

CHAIRS (1) (2) (3) (4)



(20) IS RIFLE COLLECTED FM NEIGHBOR

10064025
(b)(5)(B) 10-19-10 7/3



10064028
(b)(5)(B) 10-19-10

N ↑

8/12

LEICAP'S
3-13

Items

(9-19)



0
tree
14

LEICAP'S
16-18

Items

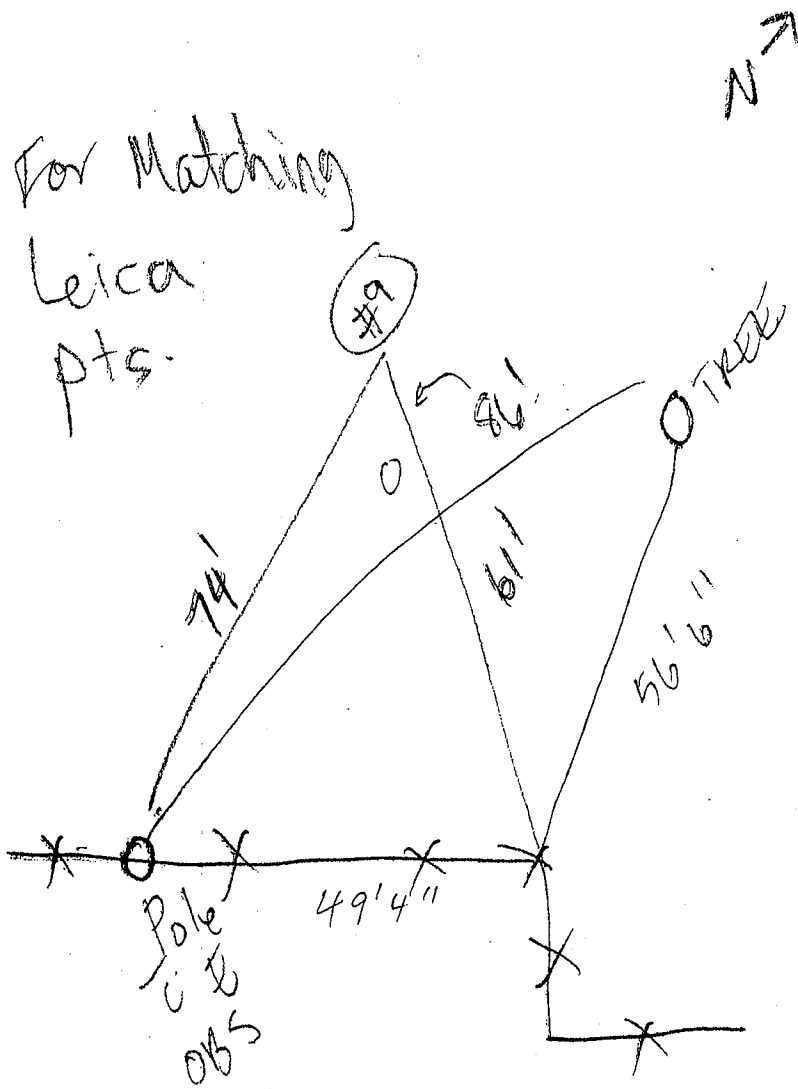
(6-8)



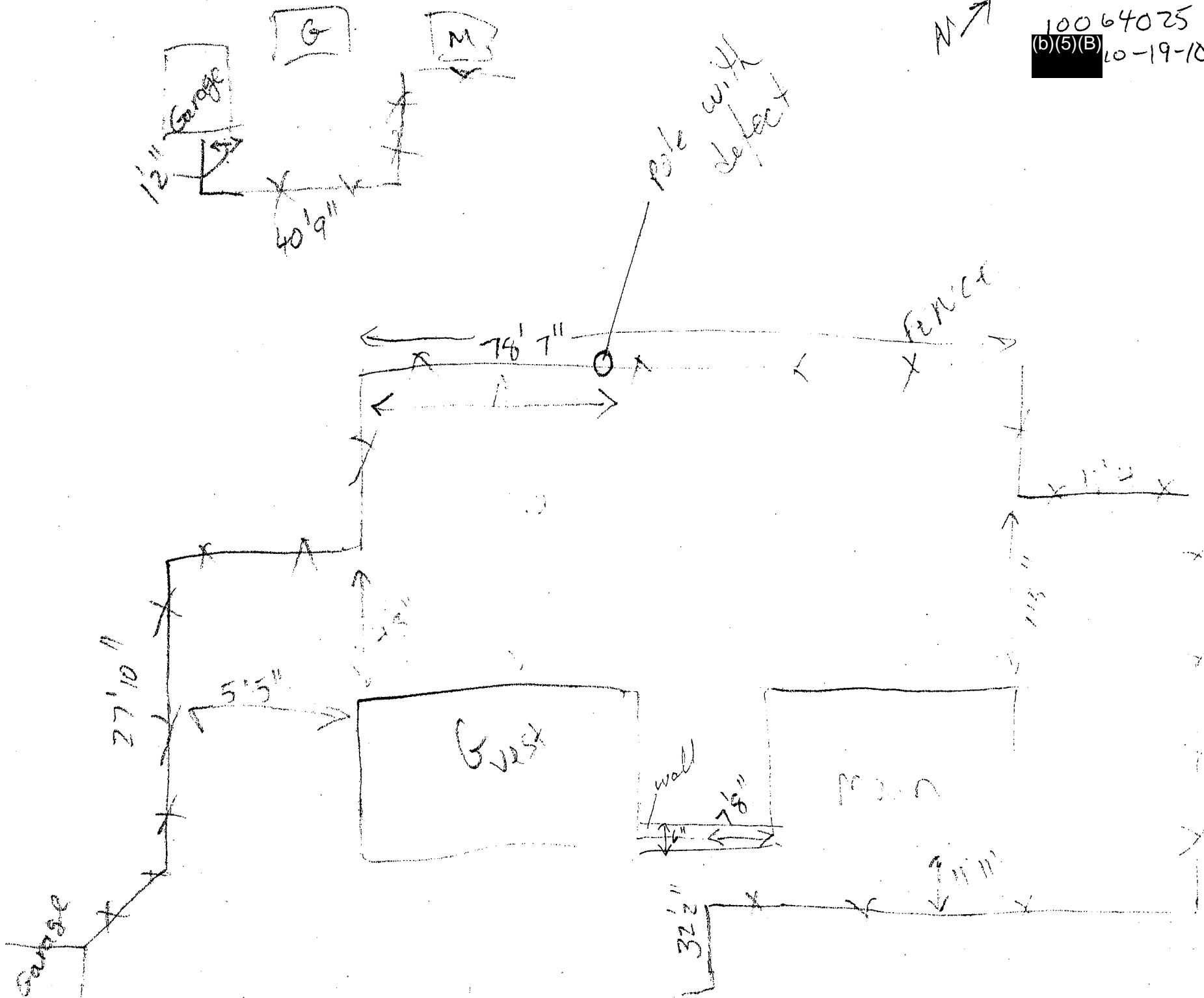
0
15

Items 6-19 = casing.

PATIO



N ↗



SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER

10064026

EXAMINER

(b)(5)(B)

SUSPECT/VICTIM

DATE

11-10-10

AP- Acid phosphatase

AOS- Arrived on scene

BLU- Blue

BLK- Black

BFT- Blunt force trauma

BR or BROOM - Bedroom

BILAT- Bilaterally.

BTWN- Between.

CA - California

CTA- Cotton tipped applicator

Doc(S)- Document(s)

DR - Door.

DVR - Driver

Env- Envelope.

ESL- Electrostatic dust lift.

Elim(S)- Elimination(s)

FD - Fire Department

FM - From

FP(S)- fingerprint(s)

INT- Interior

KIT- Kitchen.

LR- Living Room

MEDS- Medications

OBS/OBSVD- Observed Observation

POSS - Possible

RP- Reporting party.

STN- Station.

VIN- Vehicle Identification Number.

C - with

S - without

P - after

(L) - Left

(R) - Right

F - Female

M - Male

(+) - positive.

- - negative

(S) - South / Suspect

(V) - Victim

(N) - North

(W) - West

(E) - East

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ABJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10-19-10	10-20-10	2.5 HRS	12.5 HRS
43		10-19-10	10-11-10-10	40 HRS	—

COMMENTS:

Chemical Analysis	11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers	Firearms	51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration	SDSO CASE # 10064025
Physiological Analysis	21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 25 DNA Swabbing	Latent Prints	61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations	
Physical Analysis	31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics	Alcohol Toxicology	71 Alcohol 74 Blood Drawing 75 Toxicology 76 Pruno/Unk Liquid	
		Documents	91 Document Examination	
Field Calls		Date Request Received:		
41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction		By:		



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 6

Crime: 245

Event Date: 10/19/2010

Time Notified: 2:26 PM

By whom: (b)(5)(B)

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 3:25 PM

Time Of Departure: 4:30 AM

Name/Title: (b)(5)(B) / CRIMINALIST

Detective: HILLEN

Detail: HOM

Team: 1

Agency: SDSO

Victim: OLIN, KEVIN; PHILLIPS, JASON

Suspect: FOSTER, MICHAEL (b)(5)(A)

Service Requested: FIELD CALL - FIREARMS

Narrative:

At approximately 1426 hours on 10/19/10, I was notified by Forensic Evidence Technician (b)(5)(B) that crime laboratory personnel were responding to a shooting scene at (b)(5)(B) Japatul Road. I arrived at the scene at approximately 1525 hours.

While at the scene, I assisted the crime laboratory response team (Criminalist (b)(5)(B) Forensic Evidence Technicians (b)(5)(B) Forensic Intern (b)(5)(B) and Sheriff's Homicide detectives with the location and documentation of firearm-related evidence.

Thirty-three defects were documented and evaluated as potential bullet defects. Seven specific trajectory measurements were recorded.

I departed the Japatul Road scene at approximately 0430 hours on 10/20/10.

Reported By

(b)(5)(B)

Technical Review:

(b)(5)(B)

Report Date: 10/21/2010

Administrative Review



San Diego Sheriff's Department
CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117

(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE # -

Crime 245
Event Date 10/19/10 Time Notified 1426 Notified By (b)(5)(B) Lab Event Number ✓
Event Address (b)(5)(B) Japantul Road General Location Alpine
Arrival Time 325 525 Departure Time 0430 (10/20)
Lead Detective D. Hillen Detail/Team Ham / 1 Agency Swifff
Primary FET at Scene (b)(5)(B) Secondary FET at Scene (b)(5)(B)
Primary Criminalist at (b)(5)(B) Secondary Criminalist at Scene (b)(5)(B)
Forensic Intern (b)(5)(B) Additional Lab Personnel (b)(5)(B)
Victim(s) Oh, Kevin, Phillips, Jason
Suspect(s) Foster, Michael

Notes Assisted with the location and documentation of firearm-related evidence @ scene.

See following note pages for data collected

33 defects³ evaluated as potential bullet defects

(b)(5)(B)

(b)(5)(B)

7 trajectory measurements recorded: E(-G), T, S, I, K, V, W
(specific)

@ De-brief in main home before departing. I was notified that SED does not have rifles to replace those collected for this investigation. I was asked by Ham Sgt. Martinez if I could process these firearms with (b)(5)(B) as quickly as possible. Will perform operability exam as soon as possible even if lab request has not been processed.
per (b)(5)(B) and 2010 items 32, 33, 34 assigned to rifles.

PREPARED BY

(b)(5)(B)

DATE 10/20/10

(b)(5)(B)

14:26

(b)(5)(B)

Tapa/1 Road

@ 13.5 mi Mkr.

10-97

3:23pm

Meeting

Ssp. Foster, Michael

(b)(5)(B)

(b)(5)(B)

@ sliding glass door - threw something very soft
 (DSS of glass) Exit on other door - engaged FBI

2 M4s, one rifle
 ier, Braun sniper rifle?

Foster assault on 2
 depicts not shots
 shots / 7 victims

Chair 1 3 defects (major) some minor
 possible fragments from pole of
 fence

Chair 2 3 major defects, add'l minor

Chair 3 NO bullet defects observed
 wa. @ 2 front seat. doors not appear fresh

Chair 4 NO bullet defects observed

Table top shattered
 looked for bullet in glass - not located

3 chg cases @ Etna 1 chg case @ West tree. Reported 1 shot fired by
 Sniper @ road - 15 shots fired

Copy # 0430

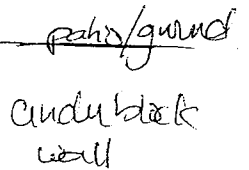
home 0520

work in vehicle drying items 0530

(b)(5)(B)

10/17/10

2 of 9



~~Ver~~ (b)(5)(B)

Wd = 5" above
float
down.

in angles

$N \rightarrow S$ possible defect

vertical - 110°

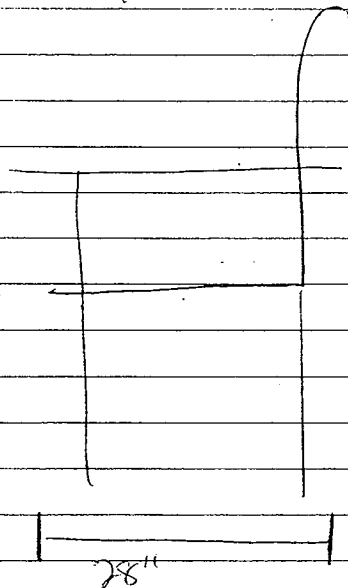
1. Chlorophyll
 2. Starch ☐
 3. Glucose

NE to SW direction of flow

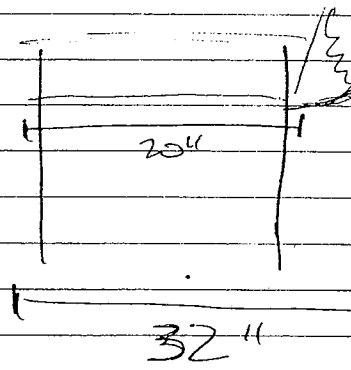
Aligns well with defect G - additional small holes in chain -
 may indicate fragmenting or downrange projectiles from
 pole.

@ 43' @ surface, add 1 rock digitally,
comp. dated unrelated, but by fresh
wall fragments found below it. measure!
not required (a scene).

@glass table on patio



Chairs
2 & 4



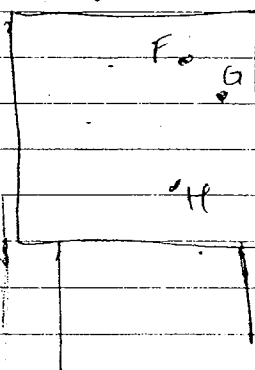
Chairs
1 & 3

front of chair to
rear of seat

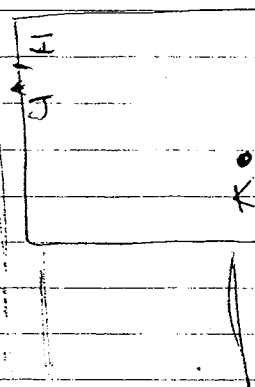
front of chair to
back of seat back
(as set)
1 & 3 on tallest
rug

Chair	W	H	from front back
F top	34	8 1/2	26
	1/2 x 1/2		
G middle	31	17 1/2	25
	1/8 x 1/4		
H bottom	23	16	22
	1/2 x 1/2		

additional seat defects

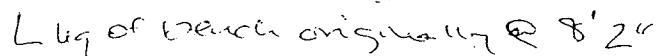


Chair	W	H	from front back
I top	31 3/8 x 1/4	34 3/4 x 1/2	26
	1/2 x 1/2		
J middle	31 3/8 x 1/4	32 3/4 x 1/2	25
	1 x 1/2		
K bottom	24 1/2	18	23 1/2
	1/4 x 1/2		



A → D, E, F, G, H, I, J, K all traveling N to S

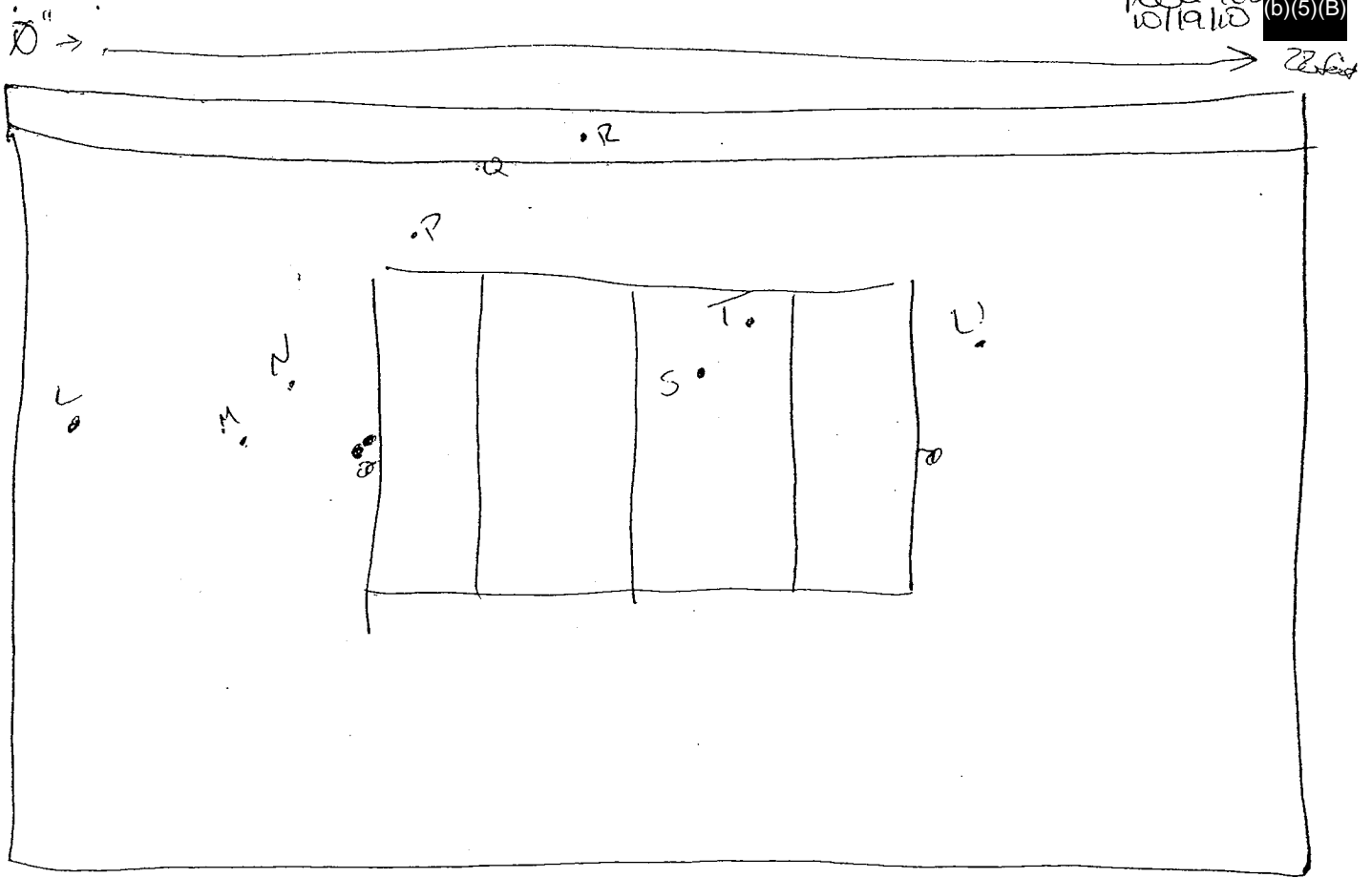
Per wife
some rounds fired door, glass door, glass table
revolver, add 1 ammo in belt from closet.



Joint measured - destroyed large holes about 123 or
appears consistent (similar) to I & K (direction, elevation)
K 100° N 35° NE 105W

K 10° ↑ 35° NE 12 SW

\vec{T} , K were \perp perpendicular K will (a \perp to K and \vec{T})

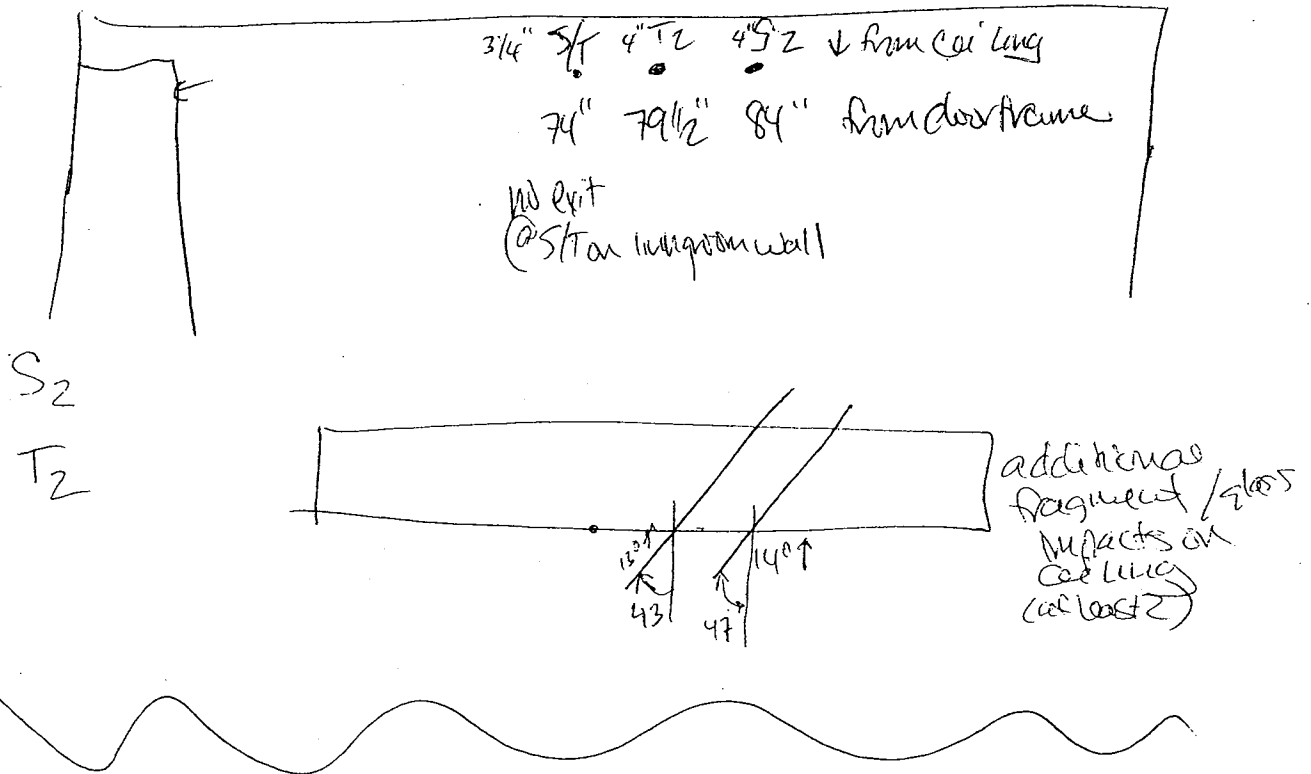


N wall of guest house:

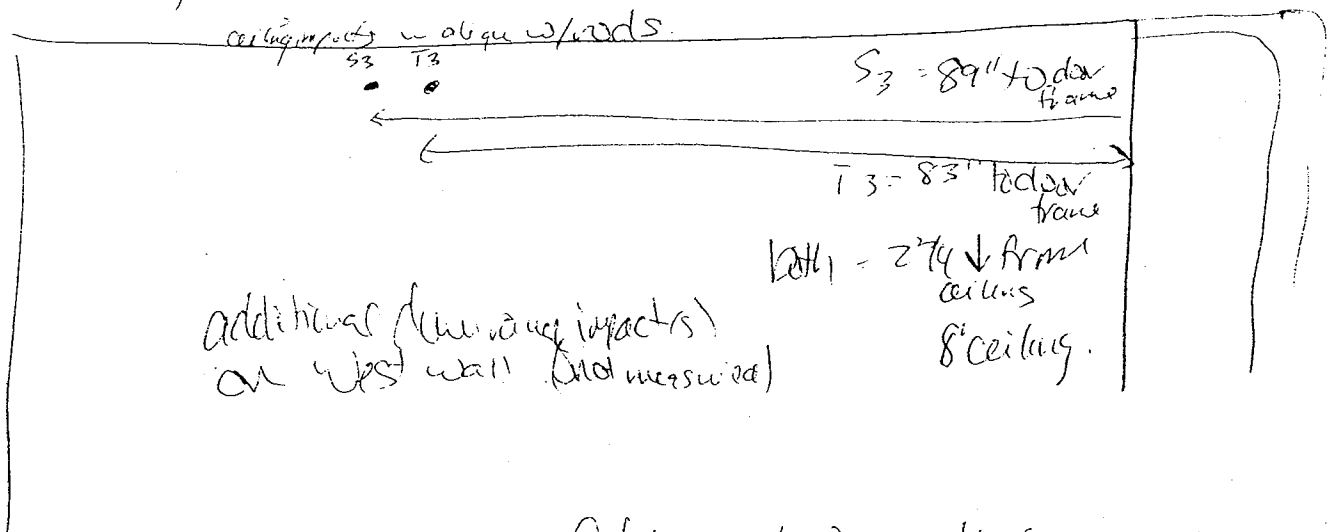
	#	✓	Vertical	Horizontal	Dimensions	
L	14"	73"	(N to S)		1/2 x 3/4	L → Q
M	60"	71"			1 x 1	large catwalk shed P, Q perched in D wall
N	108"	74 1/2"			1 x 1	
O _L	83" 61"	43" 2"			1 1/4 x 1	
R	84" 7"	64"			1 x 1	R = small hole in q. hole pulled out left edge (door)
P	88" 74"	88 1/4"	N to S, slightly E to W		1 1/2 x 1 1/4	
Q	88" 78"	98 1/2"	N to S,		2 x 1 1/2	
R	101" 94"	102 1/2"	Not measured N to S, slightly E to W		1/4 x 1/4	too high - not cast L measured cast L measured no hole in wall
S	137" 117"	70 3/4"	N to S		1/2 x 1	S & T broken glass creating a window looking out to in
T	147" 123"	82 1/2"	N to S, elongation E to W, upward		1 x 1/2	
U	170" 142"	89 1/2"	(N to S)		1 1/2 x 1	U large catwalk shed

Box L o/a

Kitchen interior wall

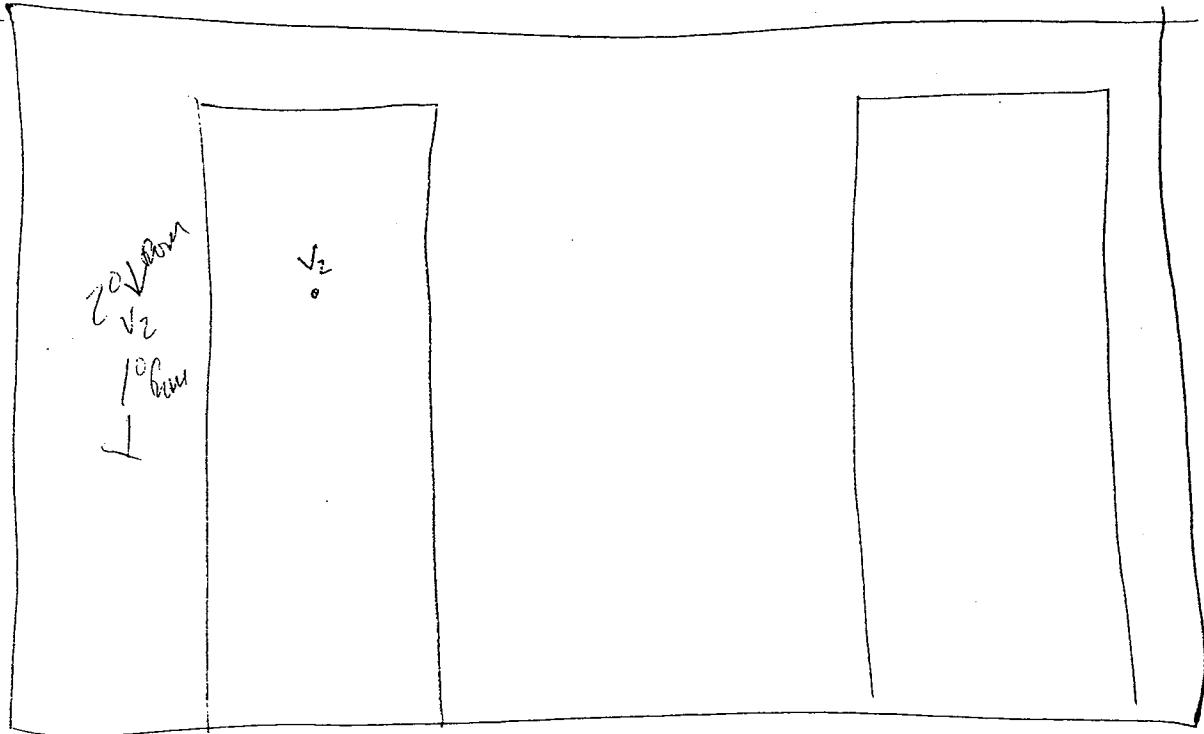


Living room interior wall



Obstruct to Ref. "T" also has poss. frag. damage not in defect, and not perforate cabinet wall.

10064025
10/20/10 EEB



E wall of guesthouse (exterior)

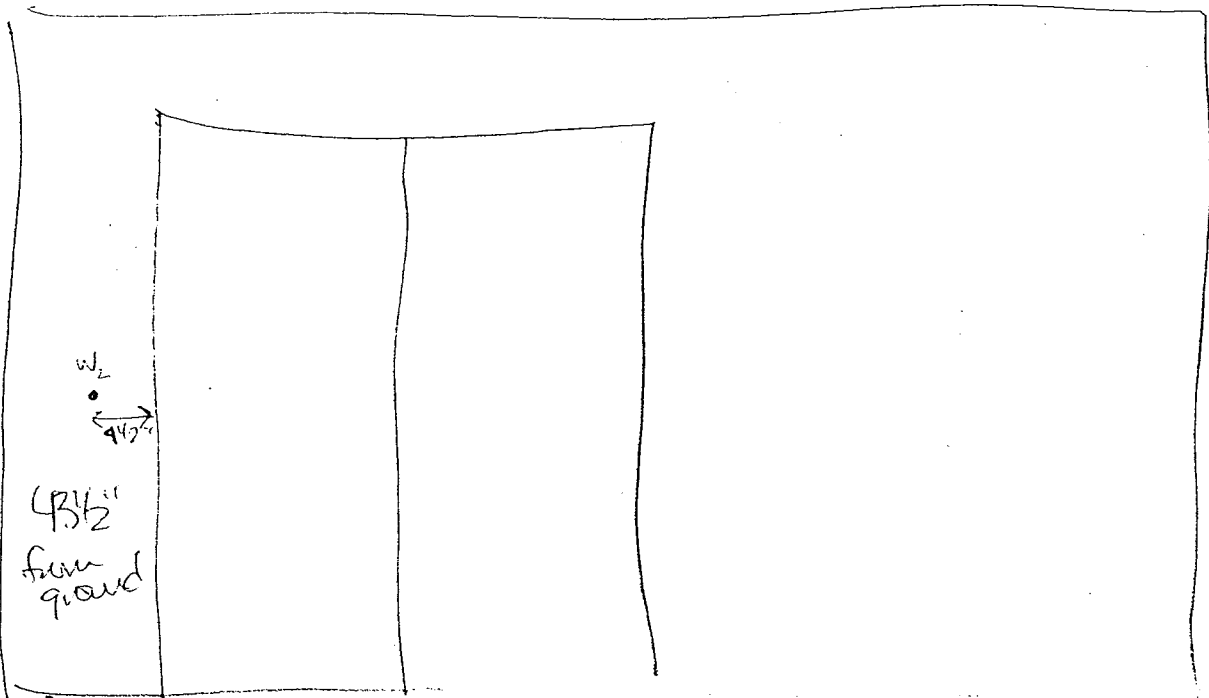
V2 exit bedroom (exterior)

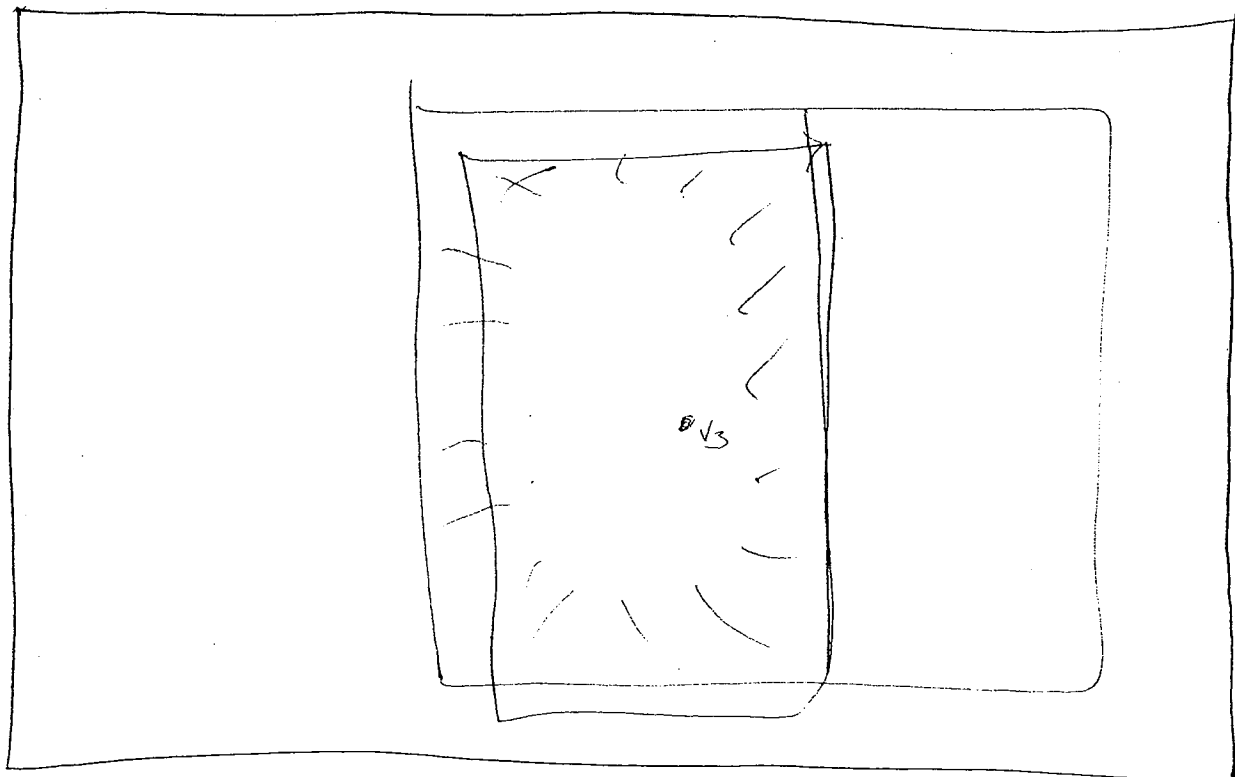
V1 interior 59 1/2" from floor, ~ 3/8" diam
(bedroom of guesthouse)



W2 exit living room wall (exterior)
9 1/2" from floor

W1 interior living room wall, 45" from floor, ~ 3/8" diam, 5 1/2" from
S wall of guest house (exterior) such as door frame





W wall of main house

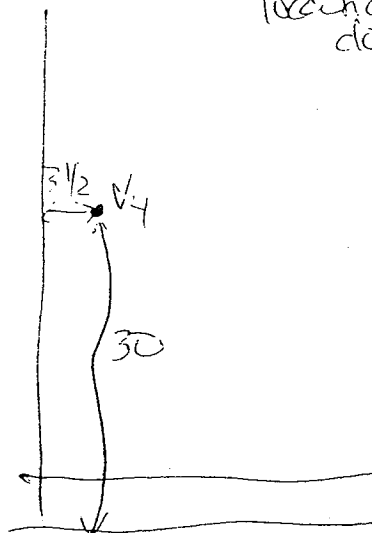
V₃ in screen door, glass door broken
V₄ in hallway of main house (2 panes)
dimensions

V₃ H
4 24" 2 48" ✓
screen resting on ground, leaning against wall
Screen 36" wide

4x12

V₃ defect appears
lower than fracture
lines origin approx
location. Screen
door on track @
impact?

V₄ (bullet)
lodged in wall
± 128



CASE ASSIGNMENT WORKSHEET - Lab Use Only

This is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10/19/10	10/20/10	3.0	12.0

COMMENTS:

<p>Chemical Analysis</p> <p>11 Narcotics</p> <p>12 Arson</p> <p>13 Explosives</p> <p>14 GSR Kit</p> <p>15 Paint</p> <p>16 Misc. Chemical</p> <p>17 Trace</p> <p>18 Fibers</p>	<p>Firearms</p> <p>51 GSR Pattern</p> <p>52 Weapon Operability</p> <p>53 Cartridge Cases</p> <p>54 Weapon Identification</p> <p>55 IBIS</p> <p>56 Bullet Exam</p> <p>57 Firearms Send Out</p> <p>58 Trajectory</p> <p>59 Serial # Restoration</p>	<p>SDSO CASE #</p> <p style="font-size: 2em;">1006425</p>
<p>Physiological Analysis</p> <p>21 Serology</p> <p>22 DNA</p> <p>23 Sexual Assault</p> <p>24 Bloodstain Pattern</p> <p>25 DNA Swabbing</p>	<p>Latent Prints</p> <p>61 LP Development</p> <p>62 CAL-ID</p> <p>63 Comparison</p> <p>64 Eliminations</p> <p>65 Confirmations</p>	
<p>Physical Analysis</p> <p>31 Hairs</p> <p>32 Impression Evidence</p> <p>33 Toolmarks</p> <p>36 Audio-Visual</p> <p>37 Physical Match</p> <p>38 Photography</p> <p>39 Computer Forensics</p>	<p>Alcohol Toxicology</p> <p>71 Alcohol</p> <p>74 Blood Drawing</p> <p>75 Toxicology</p> <p>76 Pruno/Unk Liquid</p>	
<p>Field Calls</p> <p>41 Time In Field</p> <p>42 Evidence Processing</p> <p>43 Crime Scene Sketch</p> <p>44 Vehicle Processing</p> <p>45 Crime Scene Reconstruction</p>	<p>Documents</p> <p>91 Document Examination</p>	
<p><i>Date Request Received:</i></p> <p> </p> <p><i>By:</i></p> <p> </p>		



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 7

Crime: OFFICER INVOLVED SHOOTING

Event Date: 10/20/2010

Time Notified: 7:45 AM

By whom: SUZANNE FISKE

Event Address: 1745 NORTH MARSHALL AVENUE (S.E.D. OFFICE)

General Location: EL CAJON

Time Arrived: 8:30 AM

Time Of Departure: 9:45 AM

Name/Title: (b)(5)(B) FORENSIC EVIDENCE TECHNICIAN/ARJIS (b)(5)(B)

Detective: DAVE HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: OLIN, KEVIN/PHILLIPS, JASON

Suspect: FOSTER, MICHAEL

Service Requested: PHOTOGRAPHY

Narrative:

On Wednesday, 10/20/2010, at approximately 0745 hours Homicide Team 1 Detective Suzanne Fiske called me and asked me to meet her at the Special Enforcement Detail (S.E.D.) Office located at 1745 North Marshall Avenue in El Cajon. I arrived at the S.E.D. office at approximately 0830 hours and met with Detective Suzanne Fiske, Detective Leslee Hall and S.E.D. personnel.

I then began to take digital photographs of a white dry erase board with S.E.D. drawings of information regarding the scene located at (b)(5)(B) Japatul Road in Alpine. I also copied photographs from Deputy John Debus's computer at the S.E.D. office.

I took a total of 21 digital photographs. I used a Nikon D-200 digital camera with a 24-85mm lens.

I finished my assignment and left the S.E.D. office at approximately 0945 hours.

Reported By:

(b)(5)(B)

11-290

Technical Review:

(b)(5)(B)

10/22/10

Report Date:

Administrative Review

10/22/10

FORENSIC EVIDENCE TECHNICIAN



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report
Evidence List



Suspect(s): FOSTER, MICHAEL

Victim(s): OLIN, KEVIN/PHILLIPS, JASON

Name/Title: (b)(5)(B)

Crime: OFFICER INVOLVED SH

Event Date: 10/20/2010

Case # 10064025

Item	Item Description	Location/Source	Submitted By
41	CD-R containing 21 digital photographs. (MASTER CD)	Photos of white dry erase boards at S.E.D. office.	(b)(5)(B)
41.01	CD-R containing 21 digital photographs. (WORKING CD)	Photos of white dry erase boards at S.E.D. office.	
42	CD-R containing 9 digital photographs. (MASTER CD)	Photos copied from Deputy John Debus at the S.E.D. office.	
42.01	CD-R containing 9 digital photographs. (WORKING CD)	Photos copied from Deputy John Debus at the S.E.D. office.	

Reported By

(b)(5)(B)

11/20/10

Report Date

Reviewed By

(b)(5)(B)

10/22/10

Page 2 of 2

FORENSIC EVIDENCE TECHNICIAN

10/21/10 @ 1010 (b)(5)(B)

San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Property/Evidence - Bar Code Form

Submitted By

(b)(5)(B)

DATE: 10/21/2010

Submitted By: (b)(5)(B)

Victim: OLIN, KEVIN/PHILLIPS, JASON

Event Date: 10/20/2010

Detective: DAVE HILLEN Suspect: FOSTER, MICHAEL

Location Code:

Address: 1745 NORTH MARSHALL AVENUE (S.E.D. EL CAJON OFFICE)

Crime: OFFICER INVOLVED SH

Case #: 10064025

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 41

CD-R containing 21 digital photographs. (MASTER CD)

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No

Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 41.01

CD-R containing 21 digital photographs. (WORKING CD)

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No

Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 42

CD-R containing 9 digital photographs. (MASTER CD)

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No

Serial #:



Lab request

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 42.01

CD-R containing 9 digital photographs. (WORKING CD)

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No Value: \$0.00 Hold for Prints: No

Serial #:



Lab request



San Diego Sheriff's Department
CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117
(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE # _____

Crime O.I.S. Lab Event Number 7
Event Date 10-20-2010 Time Notified 7:45am Notified By SUZANNE FISKE
Event Address 1745 N. MARSHALL AVE. (S.E.D. OFFICE) General Location EL CAJON
Arrival Time 8:30am Departure Time 9:45am
Lead Detective DAVE HILLEN Detail/Team Hom 1 Agency SDSO
Primary FET at Scene (b)(5)(B) Secondary FET at Scene _____
Primary Criminalist at Scene _____ Secondary Criminalist at Scene _____
Forensic Intern _____ Additional Lab Personnel _____
Victim(s) OLIN, KEVIN #5523 | PHILLIPS, JASON #2627
Suspect(s) FOSTER, MICHAEL

Notes 10-97 S.E.D. OFFICE @ 0830 HRS. 10-87 w/ DET. S. FISKE & L. HALL ;
S.E.D. PERS.

PHOTO'D DAY ERASE BOARDS w/ DRAWINGS OF INFO REGARDING
THE SCENE. → (b)(5)(B) JAPANESE ROAD, ALPINE

COPIED PHOTOS FROM DEP. JOHN DEBUS @ S.E.D. OFFICE. BURNED
(2) CO'S CONT. THE PHOTOS.

NIKON D-200 DIGITAL CAMERA
24-85mm LENS.

10-98 @ 0945 HRS.

PREPARED BY

(b)(5)(B)

Reviewed/Per 1-2
(b)(5)(B) 10/22/10

DATE 10-20-2010

CSI Notes.doc (7/26/06)

FORENSIC EVIDENCE TECHNICIAN

PAGE 1 OF 2

PAGE 2 OF 2
SDSO # 10064025
DATE 10-20-2012
INITS (b)(5)(B)

REVIEWS: Tech _____ Date _____
Adm _____ Date _____

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10-20-10	10-20-10	2.0	
42	(b)(5)(B)	10-20-10	10-21-10	.5	

COMMENTS:

<p>Chemical Analysis</p> <ul style="list-style-type: none"> 11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers 	<p>Firearms</p> <ul style="list-style-type: none"> 51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration 	<p>SDSO CASE #</p> <p style="font-size: 2em;">10064025</p>
<p>Physiological Analysis</p> <ul style="list-style-type: none"> 21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 25 DNA Swabbing 	<p>Latent Prints</p> <ul style="list-style-type: none"> 61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations 	
<p>Physical Analysis</p> <ul style="list-style-type: none"> 31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics 	<p>Alcohol Toxicology</p> <ul style="list-style-type: none"> 71 Alcohol 74 Blood Drawing 75 Toxicology 76 Pruno/Unk Liquid 	
	<p>Documents</p> <ul style="list-style-type: none"> 91 Document Examination 	
<p>Field Calls</p> <ul style="list-style-type: none"> 41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction 	<p>Date Request Received:</p> <p>By:</p>	



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 8

Crime: OIS

Event Date: 10/28/2010

Time Notified: 8:00 AM

By whom: DETECTIVE HILLEN

Event Address: ASTREA BASE

General Location: EL CAJON

Time Arrived: 1:30 PM

Time Of Departure: 3:00 PM

Name/Title: (b)(5)(B) FORENSIC EVIDENCE TECHNICIAN/ARJIS (b)(5)(B)

Detective: HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: SDSO DEPUTIES KEVIN OLIN AND JASON PHILLIPS

Suspect: MICHAEL ALAN FOSTER

Service Requested: AERIAL PHOTOGRAPHS

Narrative:

On Thursday, 10/28/10, at approximately 0800 hours, I was contacted by Detective Hillen and asked to take aerial photographs of (b)(5)(B) Japatul Road in Alpine at approximately 1430 hours.

Forensic Intern (b)(5)(B) and I arrived at the ASTREA Base at approximately 1330 hours where we met with ASTREA pilots.

After a short flight to Alpine, I took aerial photographs of (b)(5)(B) Japatul Road and surrounding areas.

I finished this assignment and departed at approximately 1500 hours.

All photographs were taken with a Nikon D200 digital camera. A total of 248 digital images were taken.

Reported By:

(b)(5)(B)

Technical Review:

(b)(5)(B)

11/2/10

Report Date: 11/2/2010

11/2/10

Administrative Review

11/2/10

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN

Page 1 of 2



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report
Evidence List



Suspect(s): MICHAEL ALAN FOSTER

Victim(s): SDSO DEPUTIES KEVIN OLIN AND JASON PHILLIPS Crime: OIS

Name/Title: (b)(5)(B)

Event Date: 10/28/2010

Case # 10064025

Item	Item Description	Location/Source	Submitted By
44	(1) "Master" DVD-R containing 248 digital images of aerial photographs	(b)(5)(B) Japatul Road, Alpine	(b)(5)(B)
44.01	(1) "Working" DVD-R containing 248 digital images of aerial photographs	(b)(5)(B) Japatul Road, Alpine	(b)(5)(B)

Reported By

(b)(5)(B)

Reviewed By

(b)(5)(B)

11/2/10

Report Date: 11/2/2010

11/2/10

Page 2 of 2

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN

11-2-10 @ 1004

(b)(5)(B)

San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Property/Evidence - Bar Code Form

Submitted By

(b)(5)(B)

DATE: 11/2/2010

Submitted By: (b)(5)(B)

Victim: SDSO DEPUTIES KEVIN OLIN AND JA Event Date: 10/28/2010

Detective: HILLEN

Suspect: MICHAEL ALAN FOSTER

Location Code:

Address: ASTREA BASE

EL CAJON

Crime: OIS

Case #: 10064025

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 44

(1) "Master" DVD-R containing 248 digital images of aerial photographs

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

10/28/10

Serial #:

Lab request



Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 44.01

(1) "Working" DVD-R containing 248 digital images of aerial photographs

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

10/28/10

Serial #:

Lab request





San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117



(b)(5)(B)

CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE # _____

Crime OIS Lab Event Number 8
Event Date 10/28/10 Time Notified 0800 hours Notified By Det. Hillen
Event Address ASTREA Base General Location El Cajon
Arrival Time 1330 hours Departure Time 1500 hours
Lead Detective D. Hillen Detail/Team Horn/1 Agency SDSO
Primary FET at Scene (b)(5)(B) Secondary FET at Scene _____
Primary Criminalist at Scene _____ Secondary Criminalist at Scene _____
Forensic Intern (b)(5)(B) Additional Lab Personnel _____
Victim(s) SDSO Deputy Kevin Olin, SDSO Deputy Jason Phillips
Suspect(s) Michael Alan Foster

Notes
Arrived @ ASTREA Base w/ Forensic Intern (b)(5)(B)
@ approx. 1330 hours. Met w/ ASTREA pilots.
After a short flight to Alpine, I took aerial photographs
of (b)(5)(B) Japantul Road in Alpine + surrounding areas.
Departed @ approx. 1500 hours.
All photos taken w/ a Nikon D200 digital camera. Total
of 248 digital images.

PREPARED BY

(b)(5)(B)

Reviewed by (b)(5)(B) 11/2/10

DATE 10/28/10

SAN DIEGO COUNTY SHERIFF'S CRIME LABORATORY

CRIME SCENE INVESTIGATION -- EVIDENCE LIST FORM

PAGE 2 OF 2

SDSO # 10064025

DATE 10-28-10

INITS (b)(5)(B)

[illegible]

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This Is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10/28/10	10/28/10	2.0	0
42	(b)(5)(B)	10/28/10	11/2/10	1.0	0

COMMENTS:

Chemical Analysis	11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers	Firearms	51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration	SDO CASE # <div style="font-size: 2em; margin-top: 10px;">10064025</div>
Physiological Analysis	21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 25 DNA Swabbing	Latent Prints	61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations	
Physical Analysis	31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics	Alcohol Toxicology	71 Alcohol 74 Blood Drawing 75 Toxicology 76 Pruno/Unk Liquid	
		Documents	91 Document Examination	
Field Calls	41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction	Date Request Received: _____ By: _____		



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 9

Crime: OIS

Event Date: 10/28/2010

Time Notified: 8:00 AM

By whom: F.E.T. (b)(5)(B)

Event Address: ASTREA BASE

General Location: EL CAJON

Time Arrived: 1:30 PM

Time Of Departure: 3:00 PM

Name/Title: (b)(5)(B) FORENSIC INTERN/ARJIS (b)(5)(B)

Detective: DAVE HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: OLIN, KEVIN; PHILLIPS, JASON

Suspect: FOSTER, MICHAEL ALAN

Service Requested: FIELD CALL- ASTREA BASE

Narrative:

At approximately 8:00AM on Thursday, October 28th, 2010, Forensic Evidence Technician (b)(5)(B) called me and asked me to respond to ASTREA base in El Cajon.

I arrived at ASTREA base at approximately 1:30PM and met with Forensic Evidence Technician (b)(5)(B)

I observed Forensic Evidence Technician (b)(5)(B) take aerial photographs of the scene at (b)(5)(B) Japatul Rd. in Alpine.

I left at approximately 3:00PM.

(b)(5)(B)

11/16/2010

Technical Review:

(b)(5)(B)

11/17/10

Administrative Review:

(b)(5)(B)

11/17/10



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117
(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE # _____

Crime OIS

Event Number 9

Event Date 10/28/2010 Time Notified 8:00am Notified By F.E.T. (b)(5)(B)

Event Address Astrea base General Location El Cajon

Arrival Time 1:30pm Departure Time 3:00pm

Lead Detective Dave Hillen Detail/Team Homicide/Team 1 Agency SDSO

Primary FET at Scene (b)(5)(B) Secondary FET at Scene _____

Primary Criminalist at Scene _____ Secondary Criminalist at Scene _____

Forensic Intern (b)(5)(B) Additional Lab Personnel _____

Victim(s) Oliver, Kevin, Phillips, Jason

Suspect(s) Foster, Michael Alan

Notes At approximately 8:00am on Thursday, October 28th, 2010,
Forensic Evidence Technician (b)(5)(B) called me and asked
me to respond to Astrea base in El Cajon.

I arrived at Astrea base at approximately 1:30pm and met with
Forensic Evidence Technician (b)(5)(B)

I observed Forensic Evidence Technician (b)(5)(B) take aerial
photographs of the scene at (b)(5)(B) Japantown Rd in Alpine.

I left at approximately 3:00pm.

PREPARED BY _____

(b)(5)(B)

(b)(5)(B)

(b)(5)(B)

Tech. Forensic

10/28/2010

DATE 10/28/2010

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10/28/200	10/28/200	2.5 hrs.	
42		11/05/2010	11/05/2010	1.0 hr.	

COMMENTS:

<p>Chemical Analysis</p> <ul style="list-style-type: none"> 11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers 	<p>Firearms</p> <ul style="list-style-type: none"> 51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration 	<p>SDSO CASE #</p> <p style="font-size: 2em; margin-top: 10px;">10064025</p>
<p>Physiological Analysis</p> <ul style="list-style-type: none"> 21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 	<p>Latent Prints</p> <ul style="list-style-type: none"> 61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations 66 Evaluations 	
<p>Physical Analysis</p> <ul style="list-style-type: none"> 31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics 	<p>Alcohol Toxicology</p> <ul style="list-style-type: none"> 71 Alcohol 74 Blood Drawing 75 Toxicology 	
<p>Field Calls</p> <ul style="list-style-type: none"> 41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction 	<p>Documents</p> <ul style="list-style-type: none"> 91 Document Examination 	
<p>Date Request Received:</p> <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div> <p>By:</p>		



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 10

Crime: OIS

Event Date: 10/28/2010

Time Notified: 7:30 AM

By whom: DETECTIVE FISKE

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 10:30 AM

Time Of Departure: 4:00 PM

Name/Title: (b)(5)(B) /FORENSIC EVIDENCE TECHNICIAN/ARJIS (b)(5)(B)

Detective: HILLEN

Detail: HOMICIDE

Team: 2

Agency: SDSO

Victim: OLIN, KEVIN #5523 & PHILLIPS, JASON #4874 (SDSO DEPUTIES)

Suspect: FOSTER, MICHAEL A.

Service Requested: FIELD CALL - RETURN TO SCENE (WITH DEPUTIES, ETC.)

Narrative:

On Thursday, October 28, 2010, at 0730 hours, Detective FISKE asked me to meet at (b)(5)(B) Japatul Road, Alpine, at 1030 hours, for further investigation.

I arrived at Japatul Road at 1030 hours and met with Detective FISKE and Detective HALL. I took photographs.

I left the scene at 1140 hours and returned at 1316 hours. I met with Homicide, Crime Laboratory, and other personnel. I took photographs.

I left the scene at 1600 hours.

I placed the one hundred and ninety-nine photographs, taken at Japatul Road, on a DVD-R.

Reported By

(b)(5)(B)

10/31/10

Technical Review:

(b)(5)(B)

2-10

Report Date: 10/31/2010

Administrative Review

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report
Evidence List



Suspect(s): FOSTER, MICHAEL A.

Victim(s): OLIN, KEVIN #5523 & PHILLIPS, JASON #4874 (SDSO Crime: OIS
DEPUTIES)

Name/Title: (b)(5)(B)

Event Date: 10/28/2010

Case # 10064025

Item	Item Description	Location/Source	Submitted By
45	Master Copy. DVD-R containing 199 photos taken during the return to the scene (with Deputies, etc.) [10/28/10]	(b)(5)(B) Japatul Road, Alpine	(b)(5)(B)
45.01	Working Copy. DVD-R containing 199 photos taken during the return to the scene (with Deputies, etc.) [10/28/10]	Japatul Road, Alpine	

Reported By

(b)(5)(B)

10/31/10

Reviewed By

(b)(5)(B)

Report Date: 10/31/2010

(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN

(b)(5)(B)

11-2-10 0810

San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Property/Evidence - Bar Code Form

Submitted By

(b)(5)(B)

DATE: 10/31/2010

Submitted By: (b)(5)(B)

Victim: OLIN, KEVIN #5523 & PHILLIPS, JASO Event Date: 10/28/2010

Detective: HILLEN

Suspect: FOSTER, MICHAEL A.

Location Code:

Address: (b)(5)(B) JAPATUL ROAD

ALPINE

Crime: OIS

Case #: 10064025

Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 45

Master Copy. DVD-R containing 199 photos taken during the return to the scene (with
Deputies, etc.) [10/28/10]

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

Lab request



Item Description: Quantity: 1 Refrig?: No Freeze?: No Item #: 45.01

Working Copy. DVD-R containing 199 photos taken during the return to the scene (with
Deputies, etc.) [10/28/10]

S.D. SHERIFF P&E

Make:

Model:

Caliber:

Search Warrant: No

Value: \$0.00

Hold for Prints: No

Serial #:

Lab request



(b)(5)(B)

FORENSIC EVIDENCE TECHNICIAN



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117
(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE #

Crime 015 Event Number (b)(5)(B) 10
Event Date 10/28/10 Time Notified 0730 Notified By DET. FISKE
Event Address (b)(5)(B) JAPATUL RD General Location ALPINE
Arrival Time 1030 Departure Time 1600
Lead Detective HILLEN Detail/Team HOM/2 Agency SDSO
Primary FET at Scene (b)(5)(B) Secondary FET at Scene (b)(5)(B)
Primary Criminalist at (b)(5)(B) Secondary Criminalist (b)(5)(B)
Forensic Intern (b)(5)(B) Additional Lab Personnel (b)(5)(B)
Victim(s) OLIN, KEVIN #5523 + PHILLIPS, JASON #4874 (SDSO DEPUTIES)
Suspect(s) FOSTER, MICHAEL A.

Notes ARRVD - 1030 + met w/Dets. Fiske + Hall
marked one area w/paint + took photos.

Took a lunch break @ 1140. After lunch,
met @ Alpine Str.

ARRVD - ALPINE SDSO Str. 1250 met w/Hom/1
+ Crime Lab personnel

LEFT STR

ARRVD SCENE - 1316 ¹⁹⁹ MET W/HOM + LAB PERSONNEL
TOOK PHOTOS (200) + DEPUTIES + OTHERS.
ALL PHOTOS W/NIKON D200 + 18-200MM

LEFT - 1600

PREPARED BY

(b)(5)(B)

REVIEWED P. 1-2
(b)(5)(B) 11-2-10

DATE

10/28/10

PAGE

1 OF 2

SAN DIEGO COUNTY SHERIFF'S REGIONAL CRIME LABORATORY
CRIME SCENE INVESTIGATION -- EVIDENCE LIST FORM

PAGE 2 OF 2
SDSO # 10064025
DATE 10/28/10
INITS (b)(5)(B)

[illegible]



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 11

Crime: 245

Event Date: 10/28/2010

Time Notified: 9:30 AM

By whom: D. HILLEN

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 12:55 PM

Time Of Departure: 3:55 PM

Name/Title: (b)(5)(B) / CRIMINALIST

Detective: HILLEN

Detail: HOM

Team: 1

Agency: SDSO

Victim: OLIN, KEVIN; PHILLIPS, JASON

Suspect: FOSTER, MICHAEL

Service Requested: FIELD CALL - FIREARMS

Narrative:

At approximately 0930 hours on October 26, 2010, Homicide Detective Dave Hillen notified me that a walkthrough of the Japatul Road scene had been scheduled for 1300 hours on October 28, 2010. Homicide and laboratory personnel were requested to meet at the Sheriff's Alpine Substation at 1300 hours, then travel together to (b)(5)(B) Japatul Road. I arrived at the substation at approximately 1255 hours and relocated with the group to the Japatul Road address a short time later.

While at the scene, I answered questions about my observations and work while processing the original scene, I observed and listened as the SED deputies were questioned about the events of October 19, 2010, and I asked follow-up questions regarding the firearms used and techniques and procedures used by the SED deputies. I recorded one additional measurement at the scene to supplement my original scene notes.

I departed the Japatul Road address at approximately 1555 hours on 10/28/10.

Reported By

(b)(5)(B)

(b)(5)(B)
Criminalist

Technical Review:

Report Date: 11/2/2010

Administrative Review:

(b)(5)(B)



San Diego Sheriff's Department
CRIME LABORATORY
 5255 Mt. Etna Dr. San Diego, CA 92117
 (b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 1006 4025

OUTSIDE AGENCY CASE # _____

Crime 245 Lab Event Number 11
 Event Date 10/28/10 Time Notified ~0930 10/26/10 Notified By D. Hillen
 Event Address Alpine Substation / (b)(5)(B) Japani Road General Location Alpine
 Arrival Time 1255 Departure Time 1555
 Lead Detective D. Hillen Detail/Team HOM 11 Agency SDSD
 Primary FET at Scene (b)(5)(B) Secondary FET at Scene (b)(5)(B)
 Primary Criminalist at Scene (b)(5)(B) Secondary Criminalist at Scene (b)(5)(B)
 Forensic Intern (b)(5)(B) (aerials) Additional Lab Personnel _____
 Victim(s) Olin, Kevin, Phillips, Jason
 Suspect(s) Foster, Michael

Notes On Oct. 26 2010 during a meeting w/ homicide investigators
about this case I was notified by Det. D. Hillen that
a walk through of the Japani Road scene by involved
deputies and homicide investigators was occurring at
1300 hours on Oct. 28 2010. Crime Lab personnel (me
included) were asked to attend. At approximately 1255 pm, I
arrived at the Sheriff's Alpine Substation. Shortly thereafter,
we relocated to the scene @ (b)(5)(B) Japani Road. While at the
scene - I answered questions about my observations and work
while at the scene, and asked follow-up questions regarding
the firearms used and the (b)(5)(B) techniques / procedures used by
the deputies that had fired their weapons @ the scene. Also I
answered (b)(5)(B) while (b)(5)(B) Det. Debal's questions the deputies about the events of 10/19/10.
I departed the scene ~ 1555 pm.

PREPARED BY (b)(5)(B)

DATE 10/28/10

SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER 100604025

EXAMINER (b)(5)(B)

DATE 10/28/10

SUSPECT/VICTIM

Farr ~ 159 yards (poss. meters)
from site

both shooters of M4s on semi auto

Kerr - rotates onto R & elbow, (b)(5)(B) aims rifle
toward ground to the (R)

penmeter ~ setup @ 50 yds est. ~ 35 → 40 to target
Ampoints ~ 50 yds in M4s

lower windowsill S/T 4' 4" - measured idz, not measured
on 10/19.

Assisted E Williams ~~during~~ (b)(5)(B) as she also took supplemental measurements

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10/26/10	10/28/10	4.0	

COMMENTS:

<p>Chemical Analysis</p> <ul style="list-style-type: none"> 11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers 	<p>Firearms</p> <ul style="list-style-type: none"> 51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration 	<p>SDSO CASE #</p> <p style="font-size: 2em; font-family: cursive;">10004025</p>
<p>Physiological Analysis</p> <ul style="list-style-type: none"> 21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 25 DNA Swabbing 	<p>Latent Prints</p> <ul style="list-style-type: none"> 61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations 	
<p>Physical Analysis</p> <ul style="list-style-type: none"> 31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics 	<p>Alcohol Toxicology</p> <ul style="list-style-type: none"> 71 Alcohol 74 Blood Drawing 75 Toxicology 76 Pruno/Unk Liquid 	
<p>Field Calls</p> <ul style="list-style-type: none"> 41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction 	<p>Documents</p> <ul style="list-style-type: none"> 91 Document Examination 	

Date Request Received: _____

By: _____



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
Crime Scene Report



Case #: 10064025

Event #: 12

Crime: OIS

Event Date: 10/28/2010

Time Notified: 9:00 AM

By whom: DET. HILLEN

Event Address: (b)(5)(B) JAPATUL ROAD

General Location: ALPINE

Time Arrived: 12:53 PM

Time Of Departure: 3:54 PM

Name/Title: CRIMINALIST (b)(5)(B)

Detective: HILLEN

Detail: HOMICIDE

Team: 1

Agency: SDSO

Victim: KEVIN OLIN; JASON PHILLIPS

Suspect: MICHAEL ALEEN FOSTER

Service Requested: DEPUTY WALK-THROUGH

Narrative:

At approximately 0900 hours on October 26, 2010, I was notified by Detective Hillen of a scheduled walk-through of the scene with the deputies involved in the incident. I arrived on scene at the Alpine SDSO sub-station at approximately 1253 hours. Various Sheriff's personnel were present. I then proceeded to 19515 Japatul road with the various sheriff's personnel.

While on scene, I took additional notes of my observations of the scene and measurements for an additional rough scene diagram. I departed the scene at approximately 1554 hours.

Reported By:

(b)(5)(B)

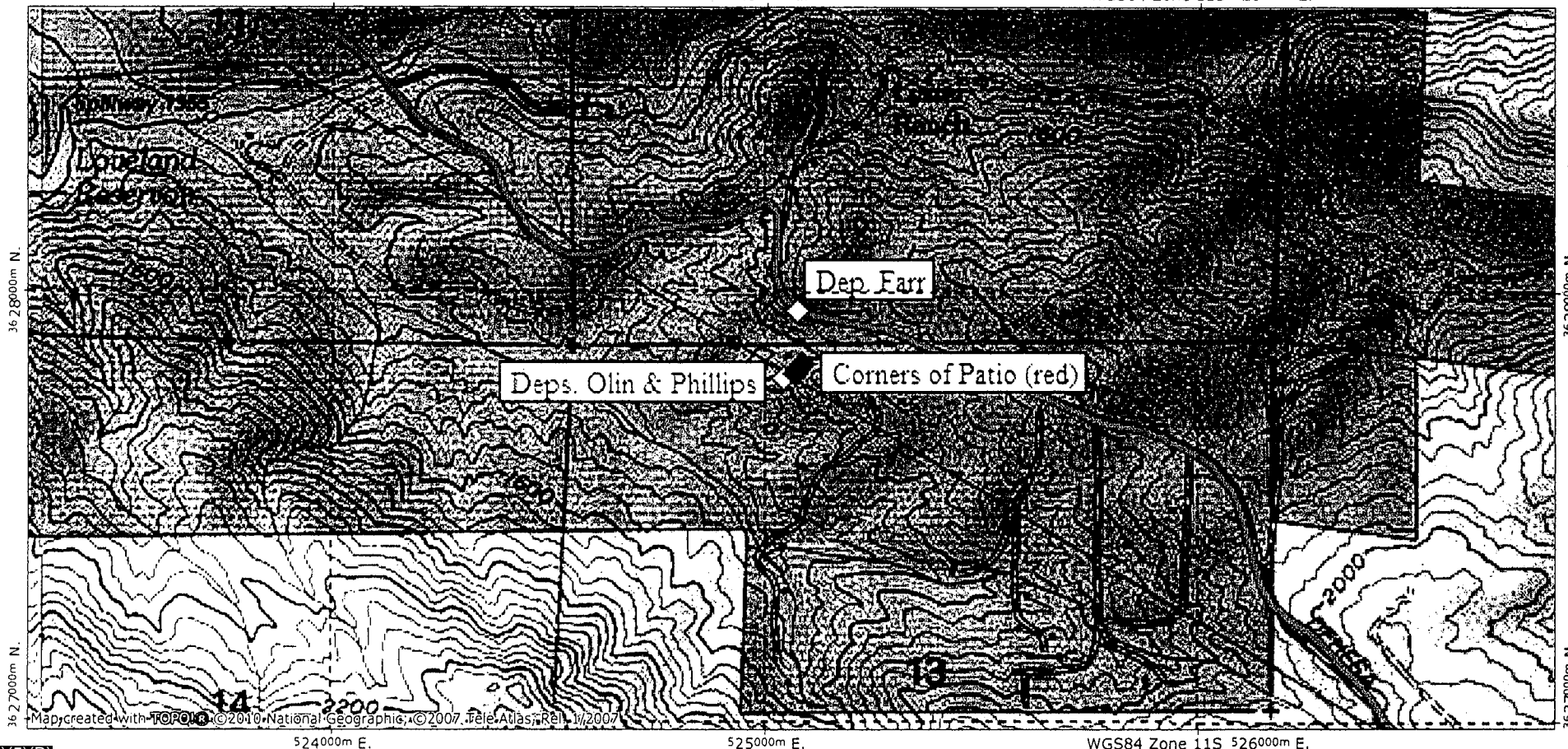
Technical Review:

(b)(5)(B)

Report Date: 12/2/2010

Administrative Review:

525059mE 3627819mN Zone 11S WGS84 TOPO! map printed on 11/17/10 from "Test 2010a.tpo"
 524000m E. 525000m E. WGS84 Zone 11S 526000m E.



(b)(5)(B)

NATIONAL
GEOGRAPHIC

0.0 0.1 0.2 0.3 0.4 miles
 0.0 0.1 0.2 0.3 0.4 0.5 0.6 0.7 km

TN* MN
 12°
 11/17/10

10064025
 11-17-10 (b)(5)(B)

11-23-10
 2/2



San Diego Sheriff's Department
CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117
(b)(5)(B)



CRIME SCENE INVESTIGATION NOTES

SDSO CASE # 10064025

OUTSIDE AGENCY CASE #

Crime 019 Lab Event Number 12
Event Date 10-28-10 Time Notified 102610 9AM Notified By Det. HILLEN
Event Address (b)(5)(B) JAPATUL RD General Location Alpine
Arrival Time 1253 Departure Time 1554
Lead Detective Det. HILLEN Detail/Team HOW 1 Agency SDSO
(b)(5)(B) FET at Scene (b)(5)(B) FET at Scene (b)(5)(B)
Primary Criminalist at Scene Secondary Criminalist
Forensic Intern N/A Additional Lab Personnel
Victim(s) KEVIN OLIN, JASON PHILLIPS
Suspect(s) FOSTER, MICHAEL

Notes AOS 1253 (b)(5)(B) SDSO, DA ATTORNEY'S DEPS AT ALPINE SIN.
PROCEED (b)(5)(B) JAPATUL RD.
Dep Fox (SWIPER) POSITIONED LAYING DOWN
ON JAPATUL RD LOOKING TOWARD HOUSE.
Range ~159 YDS

Dep Gavin - Prone on ground LOOKING TOWARD
HOUSE WHEN SHOOTING, DEP WAS KNEELING
BY TREE (2)

Dep Kerr - Prone on ground by tree (1)
Dep Kerr SHOWED ME SOME BRANCHES
HE BROKE FROM THE TREE TO PROVIDE
ADDL COVER. ~6' 3" HEIGHT

Dep Olin - IN POSITION BEHIND ROCK.

Dep PHILLIPS - BEHIND ROCK (1) OF OLIN.

PREPARED BY

(b)(5)(B)

REVIEWED P. 6-6
(b)(5)(B) 11-23-10

DATE 10-28-10

PAGE 1 OF 6

SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER

10064 025

EXAMINER

(b)(5)(B)

DATE

10-26-10

SUSPECT/VICTIM

Dep Gavin

Dep Kerr

House ↑
← N

SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER 10064025
 EXAMINER (b)(5)(B)
 DATE 10-28-10

SUSPECT/VICTIM

GPS PHILLIPS

1150525051
 3627792

= 10'

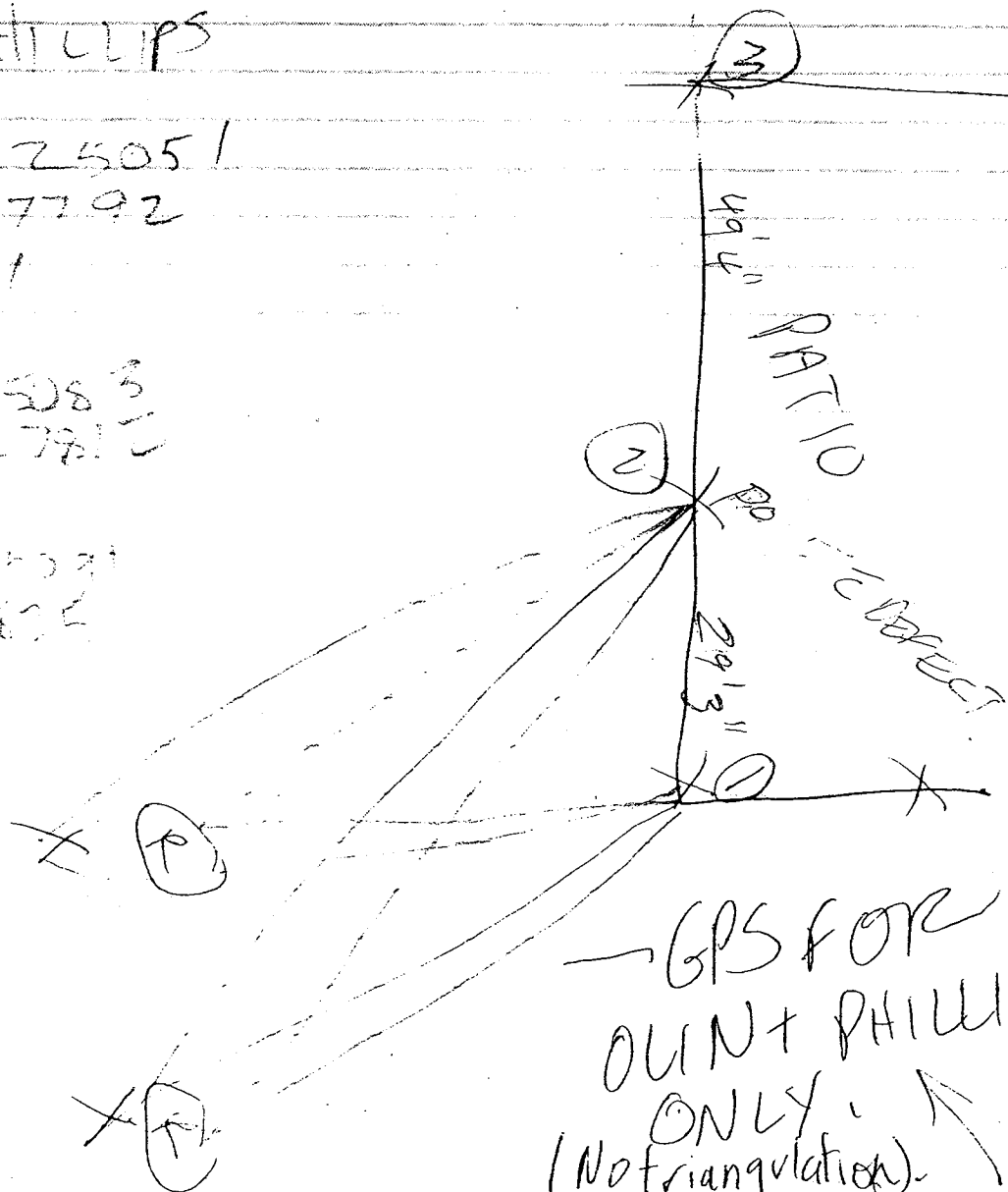
(2) 1150525083
 3627812
 ± 5'

(3) 1150525091
 3627835
 ± 10'

OWN

PHILLIPS

(1) 1150525015
 3627751
 ± 10'



GPS FOR
 OWN + PHILLIPS
 ONLY.
 (Not triangulation)
 measurements

GPS OWN
 1150525050 ± 12'
 3627773

SAN DIEGO SHERIFF'S CRIME LABORATORY

Forensic Biology Information Sheet

Page _____ of _____

Case # 10064025 Analyst (b)(5)(B) Date 10-26-10

10/26/10 Home Mtg.

(b)(5)(B)

Det Fiske
Det Dugal
Det Hillen

(b)(5)(B)

12pm Walk through scene @ alpine stn.
ASTREA @ 2pm (b)(5)(B) 2:30

Im Notes in Report dated 11-10-10:
GPS Kerr: 1150525079
3627947

516

SHERIFF'S CRIME LAB - CASE NOTES

CASE NUMBER 10064025

EXAMIN (b)(5)(B)

SUSPECT/VICTIM

DATE 7-10

AP- Acid phosphatase

AOS- Arrived on scene

BLU- Blue

BLK- Black

BFT- Blunt force trauma

BR or BROOM- Bedroom

BILAT- Bilaterally.

BTWN- Between.

CA- California

CTA- Cotton tipped applicator

Doc(S)- Document(s)

DR- Door.

DVR- Driver

ENV- Envelope.

ESDL- Electrostatic dust Lift.

Elim(S)- Elimination(s)

FD- Fire Department

FM- From

FL(S)- Finger print(s)

INT- Interior

KIT- Kitchen.

LR- Living Room

MEDS- Medications

OBS/OBSVD- Observed Observation

POSS- Possible

RP- Reporting party.

STN- Station.

VIN- Vehicle Identification Number.

C- with

S- without

P- after

(L)- Left

(R)- Right

♀- Female

♂- Male

(+) - Positive.

(-) - negative

(S)- South / Suspect

(V)- Victim

(N)- North

(W)- West

(E)- East

CASE ASSIGNMENT WORKSHEET - Lab Use Only

This is an ADMINISTRATIVE DOCUMENT

ANALYSIS TYPE	PERSON ASSIGNED/ ARJIS NUMBER	DATE ASSIGNED	DATE COMPLETED	REGULAR TIME	OVERTIME
41	(b)(5)(B)	10-26-10	10-28-10	3 HRS	—
43		10-28-10	11-17-10	10 HRS	—

COMMENTS:

Chemical Analysis	11 Narcotics 12 Arson 13 Explosives 14 GSR Kit 15 Paint 16 Misc. Chemical 17 Trace 18 Fibers	Firearms	51 GSR Pattern 52 Weapon Operability 53 Cartridge Cases 54 Weapon Identification 55 IBIS 56 Bullet Exam 57 Firearms Send Out 58 Trajectory 59 Serial # Restoration	SDSO CASE # <div style="font-size: 2em; font-family: cursive;">10024025</div>
Physiological Analysis	21 Serology 22 DNA 23 Sexual Assault 24 Bloodstain Pattern 25 DNA Swabbing	Latent Prints	61 LP Development 62 CAL-ID 63 Comparison 64 Eliminations 65 Confirmations	
Physical Analysis	31 Hairs 32 Impression Evidence 33 Toolmarks 36 Audio-Visual 37 Physical Match 38 Photography 39 Computer Forensics	Alcohol Toxicology	71 Alcohol 74 Blood Drawing 75 Toxicology 76 Pruno/Unk Liquid	
		Documents	91 Document Examination	
Field Calls	41 Time In Field 42 Evidence Processing 43 Crime Scene Sketch 44 Vehicle Processing 45 Crime Scene Reconstruction	Date Request Received: <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div>		
		By: <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div>		



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117 (b)(5)(B)



SUPPLEMENTAL
LABORATORY SERVICE REPORT
FIREARMS ANALYSIS UNIT

REQUESTED BY:	Hillen #1635	SDSD #:	10064025
AGENCY / DIVISION:	SDSD / Homicide	AGENCY #:	n/a
SUSPECT (S):	Foster, Michael	INCIDENT:	245 PC
VICTIM (S):	Phillips, Jason; Olin, Kevin	INCIDENT DATE:	10/19/2010

See also: Laboratory Service Report dated 11/15/2010

SERVICES REQUESTED:

Weapon Operability
Cartridge Case Examination
Bullet Examination

EVIDENCE:

Item 1	One fired Winchester 38 Special +P cartridge case
Item 2	One fired Winchester 38 Special +P cartridge case
Item 4	One Taurus model 689 revolver, caliber 357 Magnum, serial # (b)(5)(B)
Item 5	One unfired Winchester 38 Special +P cartridge
Item 6	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 7	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 8	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 9	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 10	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 11	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 12	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 13	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 14	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 15	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 16	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 17	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 18	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 19	One fired Federal 223 Rem/5.56 NATO cartridge case
Item 21	Five fired Winchester 38 Special +P cartridge cases
Item 27	One fired Speer 38 Special cartridge case
Item 28	One fired bullet
Item 43	Two containers of metal fragments (three fragments total)

(b)(5)(B)

San Diego County Sheriff's Department Regional Crime Laboratory
Firearms Analysis Unit
Case Number 10064025
(continued)

EXAMINATION:

- Item 1 The fired cartridge case is nickel-plated with a nickel-plated primer, a hemispherical firing pin impression, and parallel breechface marks. The headstamp is "WINCHESTER 38 SPL+P". Green and brown materials were observed on the cartridge case. This item was compared to other evidence cartridge cases and cartridge cases fired in the Taurus revolver (Item 4).
- Item 2 The fired cartridge case is nickel-plated with a nickel-plated primer, a hemispherical firing pin impression, and parallel breechface marks. The headstamp is "WINCHESTER 38 SPL+P". Green material was observed on the cartridge case. This item was compared to other evidence cartridge cases and cartridge cases fired in the Taurus revolver (Item 4).
- Item 4 The Taurus model 689 revolver, caliber 357 Magnum, serial # (b)(5)(B) was examined for operability and test fired to obtain fired components. No malfunctions were observed. An apparent hair was removed from the revolver's hammer and repackaged with Item 4. The measured trigger pull values for the revolver were a minimum of 3½ pounds in single action and 10¾ pounds in double action. The cylinder capacity of the revolver is six cartridges. Test-fired components were designated Item 4.03.
- Item 5 The unfired cartridge has a nickel-plated case with a nickel-plated primer, and an aluminum-jacketed hollow point bullet, typical of Winchester Silver-Tip ammunition. The headstamp is "WINCHESTER 38 SPL+P". Green and brown materials were observed on the cartridge.
- Item 6 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and smooth breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 7 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and smooth breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 8 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other

(b)(5)(B)

San Diego County Sheriff's Department Regional Crime Laboratory
Firearms Analysis Unit
Case Number 10064025
(continued)

evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).

- Item 9 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 10 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 11 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 12 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 13 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 14 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 15 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).

San Diego County Sheriff's Department Regional Crime Laboratory
Firearms Analysis Unit
Case Number 10064025
(continued)

- Item 16 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 17 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 06". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 18 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 05". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 19 The fired 223 Rem/5.56 NATO cartridge case is brass with a nickel-plated primer, a hemispherical firing pin impression, and irregular breechface marks. The headstamp is "FC 04". This item was compared to other evidence cartridge cases and cartridge cases fired in the Colt M4 Carbines (Items 32 and 33).
- Item 21 The five fired cartridge cases are all nickel-plated with nickel-plated primers, and have hemispherical firing pin impressions and parallel breechface marks. The headstamps are all "WINCHESTER 38 SPL+P". The cartridge cases were designated Items 21A – 21E for documentation. Green and brown materials were observed on each cartridge case. Items 21A – 21E were compared to other evidence cartridge cases and cartridge cases fired in the Taurus revolver (Item 4).
- Item 27 The fired cartridge case is nickel-plated with a nickel-plated primer, a hemispherical firing pin impression, and parallel breechface marks. The headstamp is "SPEER 38 SPECIAL". Apparent hairs or fibers were removed from the side of the cartridge case and repackaged with Item 27. Green and brown materials were observed on the cartridge case. This item was compared to other evidence cartridge cases and cartridge cases fired in the Taurus revolver (Item 4).
- Item 28 The fired semijacketed hollow point bullet is damaged, weighs 123.9 grains, and has an approximate diameter of 0.30 to 0.38 inch. The projectile has five conventional rifling impressions with right twist. White powdery debris

San Diego County Sheriff's Department Regional Crime Laboratory
Firearms Analysis Unit
Case Number 10064025
(continued)

was observed on the bullet. This item was compared to bullets test-fired from the Taurus revolver (Item 4).

Item 43 Item 43 consists of two medical containers (designated 43A and 43B for documentation) containing metal fragments.
Item 43A consists of two lead fragments with apparent biological material and impact damage. The fragments weighed 11.2 and 4.1 grains. No rifling marks were observed on these fragments.
Item 43B consists of one heavily damaged and distorted copper bullet jacket fragment. The fragment weighs 9.8 grains. Apparent biological material was observed on the fragment. This item was compared to bullets test-fired from the Remington 700 rifle (Item 34) and the Colt M4 Carbines (Items 32 and 33).

CONCLUSIONS:

The Taurus revolver (Item 4) is operable.

The unfired Winchester cartridge (Item 5) is correct for the Taurus revolver (Item 4).

Eight cartridge cases (Items 1, 2, 21A, 21B, 21C, 21D, 21E, and 27) were identified as having been fired in the Taurus revolver (Item 4).

The fired bullet (Item 28) was identified as having been fired from the Taurus revolver (Item 4).

Three cartridge cases (Items 6, 7 and 8) were identified as having been fired in Item 33 (Colt M4 Carbine – Gavin). Item 33 was previously examined and described in a Laboratory Service Report dated 11/15/2010.

Eleven cartridge cases (Items 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19) were identified as having been fired in Item 32 (Colt M4 Carbine – Kerr). Item 32 was previously examined and described in a Laboratory Service Report dated 11/15/2010.

The lead fragments (Item 43A) are not suitable for comparison.

The copper bullet jacket fragment (Item 43B) has different class characteristics than the the Colt M4 Carbines (Items 32 and 33). Therefore, it was not fired from Item 32 or 33. Item 43B has similar class characteristics to the Remington 700 rifle (Item 34). However, due to the limited size and severe damage to the jacket fragment, insufficient individual detail was present to conclusively identify or eliminate Item 43B as having been fired from the Remington 700 rifle (Item 34).

**San Diego County Sheriff's Department Regional Crime Laboratory
Firearms Analysis Unit
Case Number 10064025
(continued)**

DISPOSITION OF EVIDENCE:

All items were submitted to the Sheriff's Property and Evidence Unit.

Examination notes are maintained at the Sheriff's Regional Crime Laboratory and are available upon request.

(b)(5)(B)



5/12/11

Date

05/13/2011

Date

5/13/11

Date

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 6

Origin:

On 10-19-10, at about 1404 hours, Sgt. David Martinez (1136) asked me to attend a meeting regarding a call out of a deputy involved shooting at (b)(5)(B) Japatul Road in Alpine. Sgt. Martinez told me that the incident had a CAD (computer aided dispatch) number of 8708726. I printed the CAD information. During the meeting, I read information from the CAD. See the printed CAD documents for more details. I then responded to (b)(5)(B) Japatul Road in Alpine.

Investigation:

I arrived on scene at about 1510 hours. The following personnel conducted briefing between about 1550 and 1620 hours: Alpine Patrol Sgt. Charles Browning (2565), Crisis Negotiations Sgt. Russell Moore (0754) and Special Enforcement Detail (SED) Corporal John Debus (1843). I was advised that three deputies from SED were involved in the shooting. These three deputies were: William Kerr (2623), Brandon Gavin (2649) and Bradley Farr (2618). I was told that Corporal Debus had secured the three firearms used in the shooting in his county vehicle. I was advised that the suspect had been identified as Michael Foster. Foster had been transported to Sharp Memorial Hospital by tactical paramedics for injuries sustained during the shooting. Detective David Hillen (1635) was assigned as the case agent. Detective Hillen asked Detective Leslee Hall (1083) and me to process and collect the firearms used by the SED deputies during the shooting and to review and photograph diagrams used by SED during the incident. Detective Hillen also asked Detective Hall and me to respond to Sharp Memorial Hospital to process and interview suspect Michael Foster. Sgt. Martinez (1136) asked Detective Hall and me to meet with SED Sgt. Michael Strong (1997) prior to our other assignments. See Detective Hillen's report for more information regarding the briefing.

Sgt. Strong advised us that the front of the residence, granny flat and garage at (b)(5)(B) Japatul Road in Alpine had been designated as side one. The sides of the structures as one moved clockwise from the front were designated as side two, side three and side four. Sgt. Strong said that he would document a chronology of the operation the following day. Sgt. Strong provided us with the following times until the written documentation was completed:

1321 hours - Michael Foster was seen throwing an unknown object out of the sliding glass door on side one

1322 hours - Michael Foster was seen exiting side three of the granny flat

Reporting Officer: Det. S. Fiske

ID# 1918

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/21/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 2 of 6

1323 hours – Michael Foster pointed a gun at SED deputies and SED deputies fired shots at Michael Foster

1323 hours – Michael Foster was seen lying face up and moving his empty right hand

1324 hours – A robot moved in towards Michael Foster's location

1325 hours – Michael Foster yelled, "I'm dying" and asked for help

1327 hours – The entry team moved in

1331 hours – Michael Foster was arrested

See the SED Code 11 documents by Sgt. Strong for additional information.

Sgt. Strong told Detective Hall and me that the white boards used during the SED briefing had been moved to the Emergency Services office in El Cajon so the rain did not destroy the diagrams. Sgt. Strong agreed to meet Detective Hall and me on the morning of the next day (10-20-10) at the Emergency Services office so that we could photograph and review these boards.

Sgt. Strong advised us that the following tactical paramedics from the San Miguel Fire Department responded and treated Michael Foster: Supervisor (b)(5)(B) with telephone number (b)(5)(B) Paramedic (b)(5)(B) with telephone number (b)(5)(B) and Paramedic (b)(5)(B) with telephone number (b)(5)(B)

Between about 1658 and 1743 hours, Forensic Evidence Technician (FET) (b)(5)(B) (b)(5)(B) photographed and collected the three firearms used in this incident from Corporal John Debus. FET (b)(5)(B) assisted (b)(5)(B) Corporal Debus described the firearms to us as they were being collected. Corporal Debus also advised us which deputy was assigned to which firearm. Corporal Debus was told and confirmed that the firearms were safe; but, he did not change the condition of the weapons. SED Armorer Juan Lozoya (2190) later assisted me with the proper terminology of these firearms as documented below.

Gun #1 Collected (William Kerr - Perimeter)

- Colt M-4 Carbine Rifle
- .223 Caliber
- Commando Barrel (Cut Down)
- M-203 System Mounted to M-4
- With Less Lethal 40mm Launcher (with trigger)
 - Sponge Round in Less Lethal Chamber
- Double Magazine

Reporting Officer: Det. S. Fiske

ID# 1918

CID - HOMICIDE

Approved By:

Sgt. D. Martinez

ID# 1136

10/21/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 6

-
- (1) Magazine in Magazine Well
 - “Kerr” on Magazine
 - (1) Extra Magazine
 - Aim Point Comp M-2 Sight
 - Holographic Sight (red dot)
 - Attached Sure Fire Light
 - Plastic Black Clip for Sling
 - (28) .223 Rounds in Extra Magazine
 - (17) .223 Rounds in Magazine in Magazine Well
 - (1) .223 Round in Chamber
 - Total of 46 Rounds Recovered
 - Plastic Black Clip for Sling
 - At Collection Weapon Had Safety on both Lethal and Less Lethal
 - Serial Number A0154088
 - Less Lethal Launcher Serial Number A11722

Prior to photographing gun #2, FET (b)(5)(B) took one photograph of Corporal Debus' M-4 rifle because he believed this was one of the firearms used in the shooting. The photograph of Corporal Debus' rifle can be differentiated from the photographs of the evidentiary rifles because it did not have a less lethal round.

Gun #2 Collected (Brandon Gavin - Perimeter)

- Colt M-4 Carbine Rifle
- .223 Caliber
- Commando Barrel (Cut Down)
- M-203 System Mounted to M-4
- With Less Lethal 40mm Launcher (with trigger)
 - O.C. Powder Round in Less Lethal Chamber
- (1) Magazine in Magazine Well
 - “10E2” on Magazine
- Aim Point Comp M-2 Sight
 - Holographic Sight (red dot)
- Attached Sure Fire Light
 - Infrared Cover on Light
- Black Cloth Sling Attached
- (25) .223 Rounds in Magazine in Magazine Well
- (1) .223 Round in Chamber
- Total of 26 Rounds Recovered

Reporting Officer: Det. S. Fiske

ID# 1918



CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136



10/21/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 4 of 6

-
- At Collection Weapon Had Safety on both Lethal and Less Lethal
 - Serial Number A0154112
 - Less Lethal Launcher Serial Number E19132

Per FET (b)(5)(B)

- .223 Rounds imprinted with "FC 04"

Per Corporal Debus:

- Magazines for M-4 Rifles have 30 round capacity
- Typically Load M-4 Rifles with 28 to 29 rounds
- M-4's capable of semi-auto or full auto
- Typically shoot on semi-auto from perimeter position
- Typically round not stored in Chamber
 - (Made "hot" on arrival similarly to shotgun)


Gun #3 Collected (Bradley Farr - Long Rifle Operator / Sniper)

- Remington 700 .308 Rifle
- Remington Action
- Custom Barrel & Stock
- Leopold Scope
- Empty Weapon with Bolt Down (when given to Debus)
- Illuminated Reticle (on 4)
 - (Illuminates Cross-Hairs on Scope)
- Internal Magazine Capacity of (4) Rounds
- Per Debus: .308 Federal Rounds, 168 Grain Gold Metal Rounds
- Per Debus: Had been Cleared with Bolt Down (Storing Position)
- County #324740
- Serial # Painted Over
- Corporal Debus advised (1) Expended and (3) Live Rounds were secured in Farr's Vehicle
 - Later Collected at Alpine Substation

During the processing of these firearms, I called Sgt. Martinez and asked him to notify detectives at the Alpine Sheriff's Station that one expended and three live rounds had been secured in Farr's vehicle and these needed to be collected as evidence.


See the photographs by FET (b)(5)(B) and the reports by FET (b)(5)(B) and FET (b)(5)(B) for more information regarding the firearms and rounds collected.

Reporting Officer: Det. S. Fiske

ID# 1918 

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 

10/21/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 5 of 6

On 10-19-10, at about 1800 hours, Corporal Debus showed us the approximate location where Deputy Bradley Farr (2618) had been positioned on Japatul Road. On 10-19-10, between about 1812 and 1837 hours, Sgt. David Martinez showed Detective Hall and me the scene prior to our interview with Michael Foster. It was raining heavily. At about 1845 hours, Detective Hall and I left the scene.

On 10-19-10, between about 2030 and 2251 hours, Detective Hall, FET (b)(5)(B) and I went to Sharp Memorial Hospital at 7901 Frost Street in San Diego where we contacted and processed Michael Foster with the assistance of Nurse (b)(5)(B). See the photographs and report by FET (b)(5)(B) and the report by Detective Hall for more information.

On 10-20-10, between about 0150 and 0210 hours, Detective Hall and I returned to Sharp Memorial Hospital to provide Deputy Michael Spears (5632) with booking documents for Michael Foster.


On 10-20-10, between about 0248 and 0348 hours, I returned to the scene in Alpine in order to assist Detective Hillen. On 10-20-10, between about 0355 and 0425 hours, a debriefing was conducted with Sheriff's Homicide and Laboratory personnel. I left the scene at about 0430 hours.

On 10-20-10, between about 0828 and 0945 hours, Detective Hall, FET (b)(5)(B) and I went to the Emergency Services Office at 1745 Marshall Avenue in El Cajon where we met with Sgt. Strong and SED Armorer Juan Lozoya. Corporal Debus gave FET (b)(5)(B) photographs he took of Deputy Farr's position and the condition of Farr's rifle on the day of the incident.

FET (b)(5)(B) took photographs of the white boards used by SED during the incident. Sgt. Strong showed us that one of the boards had a hand drawn diagram of the target house and surrounding area. This diagram also showed approximate positions of SED deputies around the perimeter. There was an aerial view of the target house and surrounding area that had been printed from the Internet and affixed to one of the white boards. Sgt. Strong explained that the red X's on this print out designated approximate locations of containment positions suggested by the SED deputies who scouted the area. There was a description and photograph of Michael Foster attached to one of the white boards.


Sgt. Strong reiterated that the front of the residence, granny flat and garage at 19515 Japatul Road in Alpine had been designated as side one. The sides of the structures as one moved clockwise from the front were designated as side two, side three and side four.

Reporting Officer: Det. S. Fiske

ID# 1918 

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 

10/21/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 6 of 6


Sgt. Strong told us that the Sheriff's personnel listed and hand written on the white board diagram reported being in the following approximate perimeter locations. Deputy Kevin Olin (5523) and Deputy Jason Phillips (4874) were about 45 degrees and 35 yards off the 2/3 corner of the garage. Deputy Brandon Gavin (2649) and Deputy William Kerr (2623) were about 45 degrees and 30 yards off of the 3/4 corner of the house. Deputy Phillip Beaumont (2635) and Deputy John Debus (1843) were about one half-way down and 40 yards out from the rear (side 3) of the granny flat. Deputy Bradley Farr (2618) was a sniper who covered the 3/4 corner from about 160 yards away on Japatul Road. Deputy Richard Gale (4869) and Deputy David Ladieu (4812) were about 45 degrees and 30 yards off of the 1/4 corner. Deputy John West (2686) and Deputy Michael Forbes (2401) were about one half-way down and 40 yards off from the front (side 1) of the granny flat. Deputy Gavin Lanning (3841) and Deputy Jeremy Collis (3306) were about 45 degrees and 20 yards off of the 1/2 corner. Sgt. Strong told me that TSA represented Tactical Staging Area while B/A designated Bomb / Arson. See FET (b)(5)(B) photographs and report for more information. Refer to the SED Code 11 documents and the report by Sgt. Strong for more details.

On 10-21-10, between about 1000 and 1110 hours, I attended a meeting at the El Cajon District Attorney's Office, 250 E. Main Street in El Cajon regarding this case.

On 10-21-10, between about 1511 and 1533 hours, Detective Hall and I returned to Sharp Memorial Hospital at 7901 Frost Street in San Diego where we contacted Deputy Casey James (7815) and Deputy Alexander Cortez (4953). Detective Hall explained the Medical Records Release Form to Michael Foster. Foster signed the form and gave us consent to obtain his medical records. At about 1530 hours, Detective Hall and I took a copy of this form to the Medical Records Office inside Sharp Memorial Hospital. See the report by Detective Hall for more information.


On 10-25-10, at about 0815 hours, Detective Hall and I went to the Emergency Services Office at 1745 Marshall Avenue in El Cajon where we met with SED Corporal Debus. Debus gave us twenty, .308, Federal, 168 grain, rifle, duty rounds. Around 0900 hours, Detective Hall and I went to the Miramar Range in San Diego where we met with Sheriff's Office Support Specialist (b)(5)(B) provided us with forty, .223, Federal, 55 grain, Nosler, ballistic tip, rifle, duty rounds. At around 0944 hours, Detective Hall and I went to the Sheriff's Crime Laboratory at 5255 Mt. Etna Drive in San Diego where we met with Firearm's Criminalist (b)(5)(B). Detective Hall and I gave Criminalist (b)(5)(B) the .308 rounds from Debus and the .223 rounds from (b)(5)(B). See the report by Criminalist (b)(5)(B) for more information.

Reporting Officer: Det. S. Fiske

ID# 1918 

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 

10/25/2010

CASE # 10064025

**SAN DIEGO SHERIFF'S DEPARTMENT
SPECIAL ENFORCEMENT DETAIL
10/19/10 CODE-11
(b)(5)(B) JAPATUL ROAD, ALPINE**

1 OF 3

TSA Event Timeline: (Times Approximate)

- 0859 52IS Sgt. Chuck Browning from the Alpine Sheriff's Station requests SED sergeant to call him regarding CAD #S8708726.
- 0900 SED Sergeant Strong contacts Sgt. Browning regarding incident.
- 0916 SED scouts Lozoya, Chantler, Debus and Beaumont respond to location.
- 1008 52IS requests CODE-11
- 1148 SED perimeter containment teams moving into position.
- 1203 1 / 4 containment team in position. Ladieu/Gale, 45 degrees, 30 yards out.
- 1205 3 / 4 containment team in position. Gavin/Kerr, 45 degrees, 30 yards out.
- 1207 1 / 2 containment team in position. Lanning/Collis, 45 degrees, 20 yards out.
- 1209 2 / 3 containment team in position. Phillips/Olin, 45 degrees, 35 yards off of the garage.
- 1217 Sniper team West/M. Forbes in position. ½ way down Side 1 of the "Granny flat", 40 yards out.
- 1231 Side 3 containment Beaumont in position, waiting for partner Debus to be delivered via armored vehicle.
- 1232 Perimeter containment set.
- 1236 Sniper Farr in position. 3 / 4 corner, on road, 45 degrees, 160 yards out.
- 1238 Entry team moving in armored car from TSA to target position.
- 1245 TOC personnel advise main house contains several unsecured weapons, rifle, .22 pistol, .38 revolver, Browning shotgun.
- 1255 CNT personnel began PA announcements from armored car.
- 1257 Perimeter position advises blinds in sliding glass door just closed on Side 1.

- 1258 Suspect yelling (inaudible) from inside "Granny flat" Side 1.
- 1302 PA announcement from armored car for suspect to walk out Side 1 towards Jetta.
- 1304 2 / 3 perimeter position reports "thump" from "Granny flat", scraping sound.
- 1307 Blinds on glass door moving on Side 1.
- 1310 Perimeter position reports unknown object pressed against blinds on sliding glass door Side 1.
- 1314 Bearcat en route with robot for telephone delivery system.
- 1318 Suspect looking thru door and yelling at cops.
- 1319 Suspect looks identical to TSA photograph, no shirt.
- 1321 Suspect threw unknown object out slider on Side 1 then closed door.
- 1322 Suspect exits Side 3 of "Granny flat".
- 1323 "Shots fired". Suspect pointed gun at SED deputies, SED deputies fired shots at suspect.
- 1323 Suspect lying face up, not moving, right hand empty.
- 1324 Moving robot to suspect's location.
- 1324 Suspect moaning, crying out for help.
- 1325 Suspect yelling "I'm dying", asking for help, Suspect on back, hands empty.
- 1327 Entry team moving up to suspect's location. Suspect's hands still free and on back, near garage and breezeway of main house.
- 1328 11-52 on deputies checks ok. Suspect's hands still in view and empty. Entry team moving to suspect's location.
- 1329 Entry team moving towards garage, suspect hands up and empty.
- 1330 Suspect's hands still empty, request tactical medics to stage near the garage.
- 1331 Suspect in custody, gun retrieved. Tactical medics request ambulance near armored car for suspect, medics en route.
- 1332 Tactical medics with suspect, conscious. Entry team clearing house.

- 1334 Incident Command notifying homicide units.
- 1338 Tactical medics advise possible fatal wounds to suspect.
- 1341 SED shooters: Kerr, Farr, Gavin.
- 1344 Sycuan medics (M-6391) leaving scene with suspect to Sharps Hospital.
- 1408 Marking shooters positions.
- 1425 Farr en route Alpine Station, driven by Deputy Calvert.
- 1430 Kerr en route Alpine Station, driven by Deputy Chase.
- 1431 Gavin en route Alpine Station, driven by Deputy Akers.
- 1432 Farr, Gavin, Kerr: weapons secured by Debus.
- 1500 SED releases scene to investigators.

Tactical Staging Area: Sergeant Michael Strong #1997
Scribe: Detective Monica Sanchez #2458

CASE 10064025 / 1 OF 4

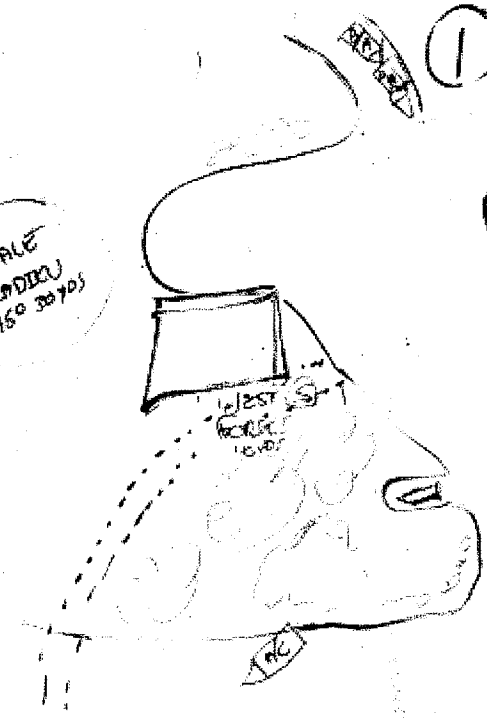
TO 7A

4

CALF
LADDER
450 30705

CAVIL
450 KOLQ
30705

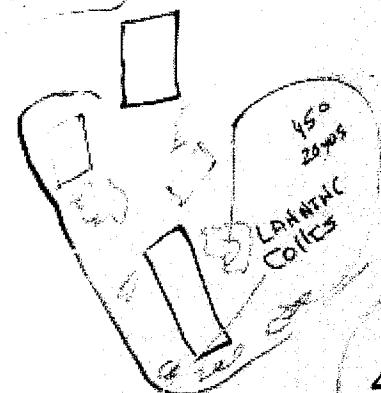
450
120705
FRANC



GOVERNMENT
MILITARY
X

3
1/2 way
40 MRS
POMER
MORRIS

1



450
20705
LANTHC
COLICS

2

OLEN
PHILLOS
450
30705



SED

ALBERT T. BARNETT
SR. REPORT

ALBERT T. BARNETT
SR. REPORT

ALBERT T. BARNETT
SR. REPORT

ALBERT T. BARNETT
SR. REPORT

ALBERT T. BARNETT
SR. REPORT

CASE # 10064025

2 OF 4

SED PERSONNEL STATUS BOARD

CONTAINMENT TEAM

CONTAINMENT TEAMS

COLLES > 1/2 ✓
LANNING

OLIN > 2/3 ✓
PHILLIPS

GALE > 1/4 ✓
LADDER

GANTW > 3/4 ✓
KATZ

DEBOW >
BONIMONT

SNIPER TEAM

SNIPER TEAMS

WEST > 1
M. FORBES

FAYR

REACT TEAM

REACT TEAM

AITKEN/BURTON
TAC MIDS

ENTRY TEAM

ENTRY TEAM

BUTTS
LOZDA

CHARTER

CHAVE

HOWARD

M. BOY

FORBES

INCIDENT COMMANDER
SGT PRANDE

SWAT COMMANDER
LT. BLUTZ

TSA
STRUC

CNT LIAISON

SCOUTS

SCOUT TEAMS

BONIMONT
DEBOW
KATZ
CAVEN

TAC

MEDICS

3 of 4
/ 10064025
CAB

SITUATION:

SOLO BARRICADE
664-187 SUSP.

MISSION:

CONFINEMENT
DOWN THRU-PISTON

CNT STATUS:

SETTING UP

HAZARDS:

FOSS BROSURES

TARGET LOCATION:

(b)(5)(B) JAPATUL RD.
ALPINE

TARGET DESCRIPT:

GRANNY FLAT on
LARGE PROPERTY

TARGET PHONE #:

UTILITIES:

SUSPECT(S) INFO:

FOSTER MICHAEL
(b)(5)(B) 38 YRS

WMA, 5-9" 210 LBS
BORN/BORN.

CHARGERS JERSEY, CREP BEXGAS
EX-ARMY MEDIC
PTSD

WEAPONS:

357 MOR. HANDGUN
POSS. EXPLOSIVES
(HANDMADE)

HOSTAGES:

NONE KNOWN

SUSP. CRIMINAL HX:

40F4

CASE # 10064025

2-18-75

Chief
Criminology
100-100000

4

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a Gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine
Page 1 of 1

Investigation:

On 10-26-10, at about 0900 hours, I attended a meeting with Sheriff's Crime Laboratory Personnel at the Sheriff's Main Office, 9621 Ridgehaven Court in San Diego in order to discuss the evidence in this case. See the lab requests by Detective Hillen for more information. On 10-28-10, at about 0755 hours, I met with Detectives Hillen, DuGal and Hall regarding follow-up planned for later that morning.

On 10-28-10, at about 1030 hours, Forensic Evidence Technician (FET) (b)(5)(B) (0099) and I went to (b)(5)(B) Japatul Road in Alpine. Detective Hall arrived a short time later. FET (b)(5)(B) painted a yellowish orange colored rectangle with "SDSO" in the middle in the approximate location of Deputy Bradley Farr's position at the time of the shooting. This was done in order to enhance the visibility of aerial photographs scheduled for later that day.

At Detective Hillen's request, FET (b)(5)(B) took additional overall scene photographs from Japatul Road, the hill to the north of Deputy Farr's position and the driveway which led to (b)(5)(B) Japatul Road. FET (b)(5)(B) also took exterior photographs of the house, guest house and garage at (b)(5)(B) Japatul Road. At about 1135 hours, Detective Hall, FET (b)(5)(B) and I left the area. See the photographs and report by FET (b)(5)(B) for more information.

On 10-28-10, between about 1255 hours and 1305 hours, Detective Hall and I attended a briefing led by Detective Hillen at the Alpine Sheriff's Station, 2751 Alpine Road in Alpine. See the report by Detective Hillen for more information.

On 10-28-10, at about 1320 hours, Detective Hall and I returned to (b)(5)(B) Japatul Road in Alpine where we assisted Detective Hillen and Detective DuGal. Around 1610 hours, I transported Deputy District Attorney Timothy Campen from the scene to the District Attorney's Family Protection Office in El Cajon. I dropped Campen off at about 1645 hours.

See the reports and photographs by Sheriff's Crime Laboratory personnel and the reports by Detective Hillen and Detective DuGal for additional information.

Reporting Officer: Det. S. Fiske	ID# 1918	CID - HOMICIDE
Approved By: Sgt. D. Martinez	ID# 1136	1/16/2020

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED ☐ ARR./JCR ☐ MISC. CITE

FROM: ☐ CRIME ☒ OTHER

CASE NUMBER

10064025

CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tues	TIME 0822
LOCATION OF INCIDENT (b)(5)(B) Japatul Road		CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED) Foster, Michael				

Deputy's Observations and actions:


On 10-19-10, at approximately 1000 hours, SED was requested to assist the Alpine patrol Deputies with barricaded subject, Michael Foster. Foster was at his residence located at (b)(5)(B) Japatul Road in Alpine.

I arrived at the tactical staging area and met with S.E.D. personnel. S.E.D. was given the mission to set containment around the property at (b)(5)(B) Japatul Road. I was assigned the perimeter position at the 1/4 corner of the property. I was partnered up with Deputy Ladieu.

Once S.E.D. set containment the Crisis Negotiation Team arrived in the armored car. I could hear the crisis negotiator speaking through the public address (PA) system, attempting to make contact with Foster. I could hear Foster yelling from the direction of the front door. I was unable to understand what Foster was saying.

At about 1324 hours, I heard S.E.D. personnel broadcast over the radio that Foster had come out the rear of the house, on side 3. Around 20 to 30 seconds after that I heard multiple gun shots. I was unable to see side 3 of the house, the suspect or any of my S.E.D. partners. Shortly after, I heard via radio that the suspect had been shot and was seen lying on his back on the patio located on side 3 of the property. I could hear S.E.D. personnel telling Foster "do not move, keep your hands above your head". Deputy Ladieu and I maintained our positions at the 1/4 corner.

S.E.D personnel located Foster and detained him while paramedics treated Foster and transported him to the ambulance.

REPORTING OFFICER R. Gale	ARJIS # 4869	DIVISION SED	APPROVER 	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 10	TIME 1100
------------------------------	-----------------	-----------------	---	-----------------	-------------	-----------	------------	--------------

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

CONTINUED <input type="checkbox"/> ARR./JCR <input checked="" type="checkbox"/> MISC. CITE		CASE NUMBER 10064025		Page 1 of 1	
FROM: <input type="checkbox"/> CRIME <input type="checkbox"/> OTHER		MONTH 10		DAY 19	YEAR 10
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 245 PC Assault with Deadly Weapon		DAY OF WEEK TUE		TIME 1320	
LOCATION OF INCIDENT (b)(5)(B) Japatul Road. Alpine, California 91901		CITY Alpine		BEAT 563	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED) Michael Foster (DOB (b)(5)(A))		PROPERTY TAG NO. (S)	

ORIGIN:

On 10-19-10, at about 1130 hours, I was working as part of the San Diego Sheriff's Special Enforcement Detail Special Weapons and Tactics (SWAT) team. I responded to (b)(5)(B) Japatul Road in Alpine to assist with a potentially armed suspect refusing to come out of his house.

DEPUTY'S OBSERVATIONS AND ACTIONS:

I arrived on scene and was briefed reference the incident. I was informed a white male adult by the name of Michael Foster (DOB (b)(5)(A)) was a recent war veteran with possible mental and/or emotional issues. Several hours prior to my arrival, Foster reportedly held his wife against her will for several hours before firing at least one round from a handgun close to her head. Foster then continued to fire rounds from inside his house into the surrounding areas. Foster then reportedly became very depressed and held the handgun to his head. Foster's wife took this opportunity to leave the house and call the Sheriff's Department for assistance.

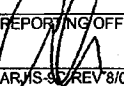
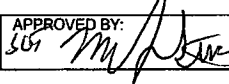
During the incident briefing I was informed Foster was possibly emotionally unstable and was reportedly armed with a handgun. I was told Foster possibly had access to more powerful weapons in the residence next to where he was staying. I was also told Foster had prior military experience and has been in combat situations overseas. According to Foster's wife he also made statements of committing suicide by cop and trying to make a bomb. Foster's wife also told investigators he has a history of placing "trip wires" around his residence to alert him to intruders.

I was told Foster was staying in a granny flat or garage type structure on the south side of the property approximately 15 feet from the main residence which was believed to contain high caliber firearms. After the incident briefing I was assigned to the Entry team and deployed to the scene in an armored car. I arrived on the east side of the granny flat approximately 20 yards away at about 1300 hours. I remained behind the armored car for cover in the event Foster decided to shoot at deputies. As I was staged at the armored car I listened as the Crisis Negotiations Team (CNT) attempted to call Foster out of his house using the armored cars public address system.

I was able to hear a male yell out of the residence asking for his phone. CNT continued to attempt to contact the male via the PA. At about 1322 hours I heard a deputy on the west side of the property state via the radio he observed a male come outside with a handgun. I then heard several gun shots fired. I was on the east side of the property and did not see anything. I then heard a deputy state via the radio that the male who came outside was now on his back on the ground. The deputy then stated he saw a handgun next to the male's hand.

Another deputy on the east side of the property stated he could hear the male asking for help. The decision was made to approach the male, make the scene safe and call in medical personnel to treat his injuries. Myself and several other deputies walked around the residence and approached the male. I observed a white male adult laying on his back moving around and asking for help. The male fit the description of Michael Foster. I also observed a black and brown handgun laying right next the male's hand. The male did not have a shirt on and was bleeding from several holes on his body. I assisted several other deputies with clearing the remaining structures on the property to make sure there were no other individuals inside who posed a threat to law enforcement. As I was clearing the structures I heard via the radio deputies requesting medical aid for the male. I spent approximately three minutes clearing the structures and when I returned medical personnel were providing first aid to the male.

At this point I returned to the armored car to await further instructions. While walking back to the armored car I observed 2-3 spent handgun casings on the front porch. I did not touch the casings. I had no further contact with the scene at this point.

REPORTING OFFICER 	ARIIS # 2096	DIVISION S&T	APPROVED BY: 	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 2010	TIME 1035
--	-----------------	-----------------	---	-----------------	-------------	-----------	--------------	--------------

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

Page 1 of 2

CONTINUED ☐ ARR./JCR ☐ MISC. CITE

FROM: ☐ CRIME ☐ OTHER

CASE NUMBER

CAD 8708726

CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 245 PC; Assault with a Deadly Weapon, OIS		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tuesday	TIME 1100
LOCATION OF INCIDENT (b)(5)(B) Japatul Road		CITY Alpine				BEAT
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED) Foster, Michael				

ORIGIN:

On 10/19/10, at about 1010 hours, I was requested to drive the Armored Car to a Special Enforcement Detail callout on Japatul Road. I was told the callout was for a barricaded suspect.

SYNOPSIS:

I arrived on scene driving the Armored Car at about 1145 hours. It was lightly raining at that time. I was wearing the standard olive drab SED uniform with subdued Sheriff patches. I was assigned the job of driving the Armored Car during the incident.

At that time, I observed the operations at the Tactical Staging Area. Sergeant Mike Strong was coordinating the deployment of perimeter positions and marking their position on a whiteboard map. At or about 1220 hours, I received a briefing with Sergeant Mike Strong who showed me an aerial picture of the property, including the "main house", the "granny flat", and the garage. I was told the suspect, Michael Foster, was thought to be in the "granny flat". I was shown where to drive and position the Armored Car. I was briefed that the suspect was considered armed and dangerous due to his firing of a handgun inside the residence the night before. Additionally, I was told the suspect was upset at law enforcement due to an incident about a week before, when the suspect resisted arrest. I was told he would not be cooperative and would fire on deputies that tried to arrest him.

Due to the rain, I then took refuge in the cab of the Armored Car to await deployment.

At or about 1240, the Special Enforcement Detail entry team and other perimeter personnel loaded up in the Armored Car and the Bearcat for a mission to assist the Crisis Negotiating Team in making contact with the suspect. The two car caravan drove south on Japatul Road the short distance to the driveway entrance for the property and picked up two Crisis Negotiating Team members. I overheard the name of the primary negotiator to be Amber and do not know the name of the secondary negotiator.


At or about 1245, I drove the Armored Car down the driveway and was instructed by Deputy John DeBus on how to position the vehicle on side 1, the side with the sliding glass door. The Armored Car was approximately 25-30 yards from the sliding glass door. My view was partially obstructed by a palm tree. I stopped the engine and was given the task of observing the sliding glass door area for movement. I prepared the radio for PA announcements. Amber received instructions from Sergeant Brad Butterfield on where the suspect should exit and which direction he should proceed, which was towards the white VW Jetta in the driveway.

At or about 1250, Amber began to make announcements towards the "granny flat" to the suspect Michael Foster. Amber asked Michael Foster to turn on a light or make some movements so that she knew he was okay. At or about 1300, the blinds of the sliding glass door began to sway from side to side and I called that out to the deputies in the back of the Armored Car. Amber asked repeatedly for the suspect to come out and told him that everything would be okay, that we were there to help him.

During the PA announcements, the suspect repeatedly returned to the sliding glass door and moved the blinds. Since it was a one sided conversation and we could not hear a yelled out comment by the suspect, the mission was given to the Special Enforcement Detail to deliver a throw phone. The mission was to deliver the phone via robot, so that the Crisis Negotiating Team could establish a dialogue with the suspect.

At or about 1320, the Bearcat drove down the driveway with the robot and the throw phone.

At or about 1325, I heard radio traffic indicating the suspect was exiting the "granny flat" on side 3, which was the back side of the house from me. After a very short pause, I heard what sounded like gunfire. Radio traffic then indicated that

REPORTING OFFICER E. Hanigan	ARJIS # 8132	DIVISION SED	APPROVER 	DATE OF REPORT:	MONTH 10	DAY 21	YEAR 10	TIME 1635
---------------------------------	-----------------	-----------------	---	-----------------	-------------	-----------	------------	--------------

ARJIS-9C REV 12/07

shots were fired. I do not know how many shots were fired. Radio traffic indicated that the suspect was down on his back. The entry team then moved up on the left side of the "granny flat" to the rear of the structure to make the area safe for the medics to provide first aid. The medics then moved to side 3 out of my view. Radio traffic indicated that ALS was on the way.

After a short time, the ALS ambulance came down the driveway past my position and then backed up to the garage. They went around the "granny flat" to side 3. I then backed the Armored Car out of the way of the driveway so that the ambulance could leave quicker. After probably 10 minutes, the suspect was moved by gurney to the ambulance. I observed the suspect lying on his right side, away from me, and I saw several wounds on his back. He was probably 30 yards from me.

The ambulance then transported the suspect. I remained with the Armored Car until all the Special Enforcement Detail deputies were done with their assignments and then we returned to the Tactical Staging Area. I was within the Armored Car during the whole incident.

REPORTING OFFICER E. Hanigan	ARJIS # 8132	DIVISION SED	APPROVER 2305	DATE OF REPORT:	MONTH 10	DAY 21	YEAR 10	TIME 1635
---------------------------------	-----------------	-----------------	------------------	--------------------	-------------	-----------	------------	--------------

ARJIS-9C REV 12/07

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 1 of 9

ORIGIN:

On Tuesday, October 19, 2010, at approximately 1720 hours, Detective Tsuida # 2099 and I interviewed (b)(5)(B) at the San Diego County Sheriff's Alpine Substation, located at 2751 Alpine Boulevard, Alpine, Ca, in regards to the Officer Involved Shooting of suspect Michael Foster. The following is a synopsis of our conversation. A digital recording was made of the conversation. The compact disc was later placed into evidence.

STATEMENT OF (b)(5)(B)

(b)(5)(B)

(b)(5)(B) stated that she lives at (b)(5)(B) Japatul Road, Alpine, Ca. She lives there with her husband Michael Foster. The property which she lives on has two dwellings. The property owners and landlords, (b)(5)(B) live in the main house. (b)(5)(B) and Michael live in a granny flat off of the main house. (b)(5)(B) and Michael have lived there for approximately two and a half years.

(b)(5)(B) and Michael have been married for about six and half years. She met him when he first got out of the military and she worked for a staffing office that employed nurses for hospitals. He got employment as a nurse working for her company.

When he was in the military he was a Combat Medic in the United States Army. She stated that Michael often served in a combat capacity while on active duty. He served in Bosnia, Somalia, Afghanistan, Desert Shield and a few other places that she was not familiar with. He was in the military for approximately fourteen and half to fifteen years. When he was discharged, he was discharged honorably but medically. While serving he was injured; his unit had been ambushed. During the ambush, the flash of a grenade going off blinded him for three days, he received shrapnel in his leg, he blew his knee out and he was later diagnosed with having post traumatic stress disorder (PTSD).

Michael gets treated for PTSD at the VA in La Jolla, Ca and he is on medication. (b)(5)(B) doesn't know the name of his current Doctor, but she believes the social workers name is (b)(5)(B). She stated that he has been going for treatment, on and off, for the last couple of years. Prior to meeting him, Michael had been receiving

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *Ruf* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japantul Road, Alpine

Date Occurred: October 19th, 2010

Page 2 of 9

treatment for PTSD at Loma Linda Hospital in San Bernardino, Ca. There she believes that his Doctor's name was (b)(5)(B)

(b)(5)(B) stated that he takes three types of medication. He takes Trazodone, Adavan and Paxil. She believes that he takes 125 mg of Trazodone. This medication prevents him from having nightmares and helps him sleep. She doesn't know how many milligrams of Adavan or Paxil he takes. She said that the Adavan is an anti psychotic medication which prevents him from having flashback type episodes and the Paxil is a mood stabilizer.

(b)(5)(B) stated that he suffers from survivor guilt nightmares over men he lost during combat. During normal sleep he rambles, talks and wrestles. The talking and wrestling around is a daily activity. Every few months he will grab her by the hair during a nightmare and he will ask her questions saying things like, "Identify yourself". She stated that Michael occasionally suffers from bouts of depression. When he is depressed he doesn't go out of the house, he becomes reclusive, he sleeps a lot and he isolates himself. When this happens, it exacerbates his feelings of survivor guilt which makes his nightmares worse. When he gets depressed, he makes comments saying things like, "It's not worth it, you would be better off with out me". She stated that he has never had a suicidal plan nor has he ever drawn a picture or written a note.

(b)(5)(B) stated that Michael had two brothers and two sisters. His sisters have not shown any signs of mental illness; however both of his brothers have been diagnosed as bi-polar, they have received treatment and are on medication. Both brothers were diagnosed in their twenties. Michael's mother has been diagnosed with Schizophrenia and Michael's father is not in the picture. He has not seen his father since he was small. (b)(5)(B) believes that his father is retired from the military and possibly working with Homeland Security.

(b)(5)(B) stated that Michael didn't have psychological problems as a child; he developed the problems after he was discharged from the military. (b)(5)(B) stated that when she first met him, he had been out of the military for about six months. He did not discuss his problems with her initially. She saw some behavior prior to them being married and his illness seemed more manageable when they were dating. He wasn't receiving treatment while they were dating. When they got married he got progressively worse so he went to the VA. While at the VA, he was reluctant to speak with the Doctors about his problems. (b)(5)(B) stated that he did speak enough for them to realize what was what going on. Once diagnosed, they treated him. It took a while for them to find the correct dose of medicine to get him balanced. (b)(5)(B) described it as being "Real rocky there for a while". The dose of medicine that he has been currently taking for that last few years has been working. (b)(5)(B) wasn't sure what year that Michael began getting

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *DF* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 3 of 9

treatment. He began receiving his treatment at Loma Linda. She was married to him already when he began getting progressively worse. The changes that she saw she believes were because the medication he was on was the wrong medication. He would get tired from the medication, so in order to get things done and function, he would stop taking his medication. He would stay off of his medication for a few days and then he would have some type of episode. She stated that it doesn't help that Michael is an alcoholic. She stated that before he received help he would medicate himself with alcohol. Michael has never stopped drinking even after receiving treatment.

Once Michael got on his current medication, he started showing improvement. He would go much longer periods of time without having an episode. He has been on his current medication for approximately three years. (b)(5)(B) stated that when Michael drinks, what she described as "Hard alcohol", his episodes are worse. (b)(5)(B) stated that Michael drinks beer regularly, he will usually have a few beers a night and then he'll go to bed. She stated that she was fine with that; however she believes that he shouldn't be drinking at all with the medication that he is on.

(b)(5)(B) stated that Michael does not have a driver's license, his license is suspended, but he continues to drive his vehicle. The night he was arrested, Sunday, October 10th, 2010 he had been driving. He lost his license because he wasn't making child support payments.

On Sunday, October 10th, 2010 at about 1730 hours Michael called (b)(5)(B). He told her that he was at the American Legion; he told her that he would be leaving in about three minutes. He was going to stop at the store and he would be heading home. Michael did not come home that night. (b)(5)(B) assumed that he went out with his friends so she went to bed. The next day, Monday, October 11th, 2010 she called the San Diego Central Detention Facility and found out that he had been arrested. She stated that he had been arrested on an assault on a peace officer, assault on a person and being drunk in public. She did not talk with any deputies about the arrest. She did hear rumors from Alpine citizens. She heard that Michael was in the Casino Inn parking lot, he was screaming about a car being on fire. He began pulling strangers out of their car, A woman was scared so she maced him. He approached the bartender's husband; they got into an argument and Michael punched him.

(b)(5)(B) stated that this is the behavior that he exhibits when he is having an episode. The difference she noticed this time was that Michael doesn't remember the incident. On previous occasions he usually remembers what happened. (b)(5)(B) stated that Michael doesn't remember anything from that night. Prior to that night he was not having episodes. (b)(5)(B) stated that she was completely blindsided by the incident. (b)(5)(B)

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *WR* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 4 of 9

stated she could usually see an episode coming, because she can sense it and she sees changes in his behavior. On Sunday, October 10th, 2010 she did not see an episode coming.

Michael was bailed out of jail on Monday, October 11th, 2010. He was a complete mess, he was delusional, he had no idea where he was, his clothing was disheveled, he had no shoes and he was limping. (b)(5)(B) stated that he has not used any drugs other than alcohol since she has known him.

On Monday, October 11th, 2010 Michael took his medication. (b)(5)(B) was sure he took it because he took in front of her. On Tuesday, October 12, 2010 he slept the whole day. He woke up on Tuesday evening. He was remorseful, he was fearful that he may have hurt someone because he couldn't remember the incident. He asked that (b)(5)(B) drive him to the American Legion so he could resign his post as the Post Service Officer. Members of the American Legion refused his resignation and said they supported him telling him that they would help him through this. This was a boost for Michael.

Michael helps Veterans with their veteran packets. He came home from the American Legion and he began working on a couple of unfinished veteran packets that he had. Upon completing them, he was going to check himself into the Psych ward at the VA in La Jolla. (b)(5)(B) believed Michael when he told her this, however, he never turned himself in to the VA; (b)(5)(B) stated that she should have just brought him right over to the VA instead.

Things seemed a little better, things were looking up and she thought they had a plan. From Monday, October 11th, 2010 through the evening of Monday, October 18th, 2010 Michael was taking his medicine and his behavior was good. They talked about the strategies on how they would try and get him to be able to go to a lock down treatment facility rather than having to do jail time. Michael brought up the idea of running away, but (b)(5)(B) explained to him that he needed to face it and deal with the situation. She stated that Michael is scared to death of going to jail.

During the day Michael was busy and didn't dwell on the incident. At night time, he had more time to think about it. During their night time conversations, he spoke of his fears of being incarcerated, however, they worked on getting a VA lawyer and Michael said that he was prepared to go to his arraignment.

(b)(5)(B) stated that between Monday, October 11, 2010 and Monday, October 18, 2010, Michael was scared but he was making plans to face his problems. During this time, he

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *RF* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 5 of 9

never spoke about committing suicide nor did he leave any notes. He did make comments saying things like, "I should just take off and leave, so you wouldn't have to deal with it".

(b)(5)(B) stated that on Sunday, October 17th, 2010, Michael ran into his next door neighbors (b)(5)(B) and (b)(5)(B) live next door to (b)(5)(B) and Michael. They share a driveway but live on another parcel of land. (b)(5)(B) described (b)(5)(B) as Michael's best friend. He ran into them at the American Legion. Michael walked up to them and asked (b)(5)(B) for a hug. (b)(5)(B) said, "Don't talk to me, don't ever talk to us again, come on (b)(5)(B) we're leaving". (b)(5)(B) stated that Michael was hurt and he didn't want to live at his residence anymore. He told the landlord that he maybe moving within the next fifteen days, because he couldn't live next door to people who feel that way about him. (b)(5)(B) was not with Michael when this happened she was at work.

The following day, Michael commented to (b)(5)(B) about the incident. He told her that he was going to go over to (b)(5)(B) residence and get belongings of his that was left over (b)(5)(B) house. (b)(5)(B) told him that he was not going over to (b)(5)(B) residence alone. As far as (b)(5)(B) knows, Michael never went back over to (b)(5)(B) to retrieve any of his property.

(b)(5)(B) stated that Michael slept most of Monday, October 18, 2010; he woke up when she got home from work. They had dinner, everything was fine, he took his medication early and she eventually went to bed at approximately 2330 hours.

On Sunday, October 18th, 2010, at approximately 0300 hours, Michael woke up ranting and raving, this woke (b)(5)(B) up. She described him as rambling and having a full blown episode. He was talking about bombs. He was saying things like, "Three parts hydrogen, bombs and chemicals". When (b)(5)(B) heard this she was half asleep, but she believed he was having a flashback episode. She got up and she went and laid down on the couch in the living room.

Michael began yelling for her to get in the bedroom. She stormed in the room and said, "What". Michael responded by saying, "What side are you on". (b)(5)(B) then went into the bathroom and shut the door. He hadn't been physical with her to this point; he was yelling and accusing her of being the enemy. There was the smell of an alcoholic beverage on his breath and she stated that he had been drinking.

She came out of the bathroom and reentered the bedroom. Michael had the mattress pulled back and he had a gun. The gun was a .357 revolver; it was dark with a wooden handle. The gun had a cylinder. Michael has no other weapons in the house. He had two

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *mk* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 6 of 9

guns the revolver and a rifle. (b)(5)(B) thought both of the guns were at (b)(5)(B) residence. When he initially received the weapons he took them out of the house and stored them at (b)(5)(B) residence. The guns had been stored at (b)(5)(B) residence months ago. Michael got the guns from a military veteran who passed away.

(b)(5)(B) stated that when she entered the bedroom from the bathroom, Michael was holding the gun. Michael was asking her, "Who's side are you on" and he was pointing the gun at her. The first time he pointed the gun at her, the hammer of the gun was not cocked back. Michael then cocked the hammer of the gun. He was holding the gun in his right hand; he pointed the gun over her right shoulder and fired it. The bullet went right passed her head and it lodged into the door behind her. (b)(5)(B) said the pop sound from the gun was real loud and then there was ringing in her ears. She thought that there was a definite possibility that she was going to be shot. This scared her and she began to cry.

Prior to aiming the gun at her and shooting it over her shoulder, Michael did not make any threats that he was going to kill her. (b)(5)(B) stated that she thought he shot the gun as a scare tactic. She further stated that this was not the first time he has pointed a gun at her. At the time that he shot the gun at her, he was standing two feet from her.

(b)(5)(B) stated that she found it difficult to remember everything that happened prior to leaving the house. She remembered that he guided her to a chair in the living room and he told her to stay put. He was holding the gun and he verbally demanded that she stay. He told her not to move; he went outside between their residence and the main residence, where (b)(5)(B) believed he was checking the perimeter. He then came back inside, he checked to see if she was still there. He again went outside and he was still holding the gun. (b)(5)(B) stated that she then heard the gun go off. She stated that now it was between 0330 hours and 0400 hours. (b)(5)(B) ran outside when she heard the gunshot. She stated that Michael had shot the stationary window of the sliding glass door at the neighbor's residence. The window was a double paned window and now there was glass everywhere.

(b)(5)(B) stated that Michael was definitely having an episode, he could hear what she was saying but he couldn't process it in a logical manner. She further stated that he could hear her but he seemed to have an agenda and she didn't know what his agenda was. The agenda seemed to have changed from moment to moment. He then began talking about killing himself. This way everyone would be rid of the problem. (b)(5)(B) went inside, Michael then shot off another round into a big glass table outside on the back patio.

(b)(5)(B) dog ran out of the residence because the dog was scared. Her dog is a medium sized dog. (b)(5)(B) ran over to the landlord's house to check on their animals.

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *AK* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 7 of 9

Michael believed that she was going over to that house to get to the telephone. Michael followed her over and he ripped the telephone out of the wall. The telephone was the landlord's home phone. As this was going on it was pitch black outside, there were no lights on outside and (b)(5)(B) said that she is familiar with the property. She stated that she was barefoot but she did not step in any glass going over to the landlord's property.

She stated that she checked on the landlords animals. Upon checking on the animals, Michael made her sit in a chair in the landlord's residence. He sat in a chair across from her; he was holding the gun the whole time. She stated that this lasted a long time. During this time, the wind would blow and the glass from the sliding glass door would tinkle down. Michael would hear the glass, he would jump up thinking that someone was coming. He could see car lights from vehicles on Japatul road and he thought that theses lights were police cars. He would then do a perimeter check, waiving the gun, because he thought someone heard the gunshots and called the police. While he did this he was not making any verbal threats.

He came back and he sat in the living for a while; (b)(5)(B) didn't say anything. She stated that she could tell that he was not as manic, his motions were slower, he was slumped as he sat in the chair and he wasn't on guard. (b)(5)(B) then began begged him to leave. She said that she would give him a head start, maybe an hour head start before she called the police. She stated that he never let go of the gun, she thought that remorse may have hit him because something changed his mind. He left the landlord's residence and he went back to their residence.

(b)(5)(B) followed him into their residence and Michael went into their bedroom. She told him that she needed to go and get help. He grabbed a towel and put it around his head, he laid on the bed, he had a blanket up around him and he had the gun under his chin. (b)(5)(B) said that she needed to get help and she left him. She was not sure whether or not if he was going to shoot himself in the face.

She went to another neighbor's residence. The neighbors are (b)(5)(B). The time now was approximately 0730 hours. When she got to the (b)(5)(B) was taking her children to school. (b)(5)(B) called 911; (b)(5)(B) then drove (b)(5)(B) up to Japatul road so she could flag down the police. The (b)(5)(B) did not hear the gunshots coming from (b)(5)(B) residence.

(b)(5)(B) stated, in the past, Michael had discussed that he couldn't be incarcerated. He told her that he didn't know if he had it in himself to kill himself. He told her, what she described as "Suicide by cop", would be an option. (b)(5)(B) couldn't remember if he

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *RF* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 8 of 9

used that term on this particular evening. She stated that she heard the suicide by cop term more than once. This term was used during the course of previous episodes.

While up on the road, she awaited the Sheriff's Department's arrival. (b)(5)(B) waited with her. She stated that to this point she doesn't think anyone has been injured. When the Sheriff's department arrived, they had her stay there with them until approximately 1300 hours. She stated that if she needed anything within the time she was with the Sheriff's deputies, they would have provided it for her.

(b)(5)(B) stated that she knows what Sheriff's deputies look like and she is familiar with their uniforms. Responding deputies were in full uniform. She stated that the SWAT team showed up later, they wore hats, and military type camouflage uniforms, their faces were masked up and they had rifles. She stated that there were no questions in her mind that they were SWAT members, she knew who they were.

Initially a detective went to (b)(5)(B) and told her that they were making announcements to Michael, however Michael didn't respond. (b)(5)(B) did not hear those announcements. A few hours later, approximately 1200 hours, (b)(5)(B) said a big vehicle went to the road near her residence. Announcements were made on a PA system. (b)(5)(B) was about one half mile from the vehicle and she clearly heard the announcements. She stated that the vehicle was closer to her residence than they were to where she was on the road. She further stated that if she heard the announcements, Michael heard the announcements. She didn't hear every announcement, but she did hear deputies announce themselves, they asked Michael to turn on a light and make contact with the deputies.

(b)(5)(B) stated that two women from the Crisis Negotiation Team had both her and a friend named (b)(5)(B) make a taped message for Michael. They asked (b)(5)(B) to make the taped message so they could try and have a non violent outcome to the situation. They essentially told her that they wanted Michael to come out on his own with no weapons; they did not want to shoot it out. She was asked to make a tape which was positive; they didn't want her to talk about any negative outcomes. They asked her to let him know that he had a lot to live for and that she both needed and depended on him.

She was unsure if the tapes were ever played.

There was a long wait and then she heard gunshots. She heard approximately five or six gunshots, they were quick. She was then escorted to the Sheriff's Alpine Substation with (b)(5)(B)

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *[Signature]* ID# 1704

10/26/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Follow-up Investigative Report

Crime:

Case Number: 10064025

Victim:

City: Unincorporated

Location: (b)(5)(B) Japatul Road, Alpine

Date Occurred: October 19th, 2010

Page 9 of 9

(b)(5)(B) stated that after the gunshots happened, the ambulance went to her residence.

(b)(5)(B) stated that Michael has had contacts with the police in the past. Michael felt like when he was contacted by the police he was in a prisoner of war situation and it was his instinct to fight. Anytime he was arrested he always resisted the police. Michael had a negative experience with the Sheriff's department once. They stopped him in his vehicle while they were looking for a suspect. They thought Michael was the suspect they were looking for; (b)(5)(B) stated that it was a mistaken identity. However, during the stop Michael was shot with a Deputy's Taser.

(b)(5)(B) stated that everyone on scene took great care in learning about Michael's background, they were thorough. She stated that it was everyone's main goal to get Michael out of the residence safely. They did not want to harm him or others. They went as far as calling the VA and (b)(5)(B) of the American Legion. They had a well thought out process and they tried to defuse the situation. She stated that they were remarkable; they went above and beyond her expectations.

Reporting Officer: Det. H. Lebitski ID# 2079

CID - HOMICIDE

Approved By: Sgt. R. Frank *fr* ID# 1704

10/26/2010

CASE NO.: 10064025
CRIME: 245(A) P.C., ASSAULT WITH A DEADLY WEAPON
VICTIM: (b)(5)(B)

INTERVIEW OF:

(b)(5)(B)

AT:

ALPINE SHERIFF'S STATION
2751 ALPINE BOULEVARD
ALPINE, CALIFORNIA

ON:

OCTOBER 19, 2010

BY:

HENRY LEBITSKI, DETECTIVE
ANGELA TSUIDA, DETECTIVE
SHERIFF'S HOMICIDE DETAIL

INTERVIEW BEGAN: 1720 HOURS

TRANSCRIBED BY: (b)(5)(B)

1 Q LEBITSKI, Henry, Detective

2 Q* TSUIDA, Angela, Detective

3 A (b)(5)(B)

4 Q My name's Henry LEBITSKI. I'm a detective with San Diego County Sheriff's Department.
5 Today is October nineteenth, two-thousand-and-ten. My ARJIS is two-zero-seven-nine.
6 I'm with my partner, Angie TSUIDA, two-zero-nine-nine. We're at the Alpine Sheriff's
7 Station at Two-seven-five-one Alpine Boulevard, Alpine, California, nine-one-nine-zero-one
8 and we're speaking with (b)(5)(B) we spoke a little bit off tape and I
9 briefly discussed, that we had; we were gonna interview you regarding, uh, the incident that
10 occurred at your house this morning.

11 A That's right.

12 Q Um, did; obviously you're name is (b)(5)(B)?

13 A Yes.

14 Q What's your date of birth?

15 A (b)(5)(B)

16 Q Okay and, uh, what's your, uh, address currently where you're living?

17 A (b)(5)(B).

18 Q And do you live there with your husband?

19 A Yes.

20 Q And what's his name?

21 A Michael FOSTER.

22 Q Do you know his date of birth?

23 A (b)(5)(B)

24 Q The property that you live on is, uh, there more than one dwellings on that property?

25 A Yes, sir.

26 Q What's the other dwelling?

27 A Um, my landlord, uh, is; lives in the main house and I rent the granny flat from her.

28 Q Okay. What's your landlord's name?

1 A (b)(5)(B)

2 Q And is she married?

3 A Yes.

4 Q Does she live with her husband?

5 A Yes.

6 Q What's his name?

7 A (b)(5)(B)

8 Q Is his name; last name (b)(5)(B) as well?

9 A Yes.

10 Q Okay. How long have you been in (UNIN) in that property?

11 A Approximately two-and-a-half years.

12 Q Two-and-a-half years. And where, where were you living prior to this property?

13 A Um, Pine Valley.

14 Q Pine Valley?

15 A Yeah.

16 Q How long were you there for?

17 A Six months.

18 Q Six months? You guys; you originally from California?

19 A My husband is. I'm; I moved here when I was about twenty. I've been here for twenty

20 years.

21 Q And how long have you guys been, been married?

22 A Um, six-and-a-half years.

23 Q Six-and-a-half years? The whole six-and-a-half years have you lived in California?

24 A Yes.

25 Q Okay. When you met him, um, how did you; how did you end up meeting him? Was he in

26 the military?

27 A Oh, he had just gotten out of the military and, um, I was working at a staffing, um, office

28 that gets; finds work for nurses and things for hospitals and he had; he was a combat medic

1 when he was in so he; it had transferred over to being an L-V-N so he came in as a; like a
2 temp agency to work, um, for me; for my agency and that's how we met.

3 Q And what branch of the military was he in? Was he...

4 A Army.

5 Q in? Army? Did he, uh, when he was in the military, did he serve in any kind of a combat...

6 A A lot.

7 Q areas?

8 A Yes. Often.

9 Q Where, where was he; where did he serve at?

10 A Uh, Bosnia, um; I can't even; he was been to s-; in Somalia, Bosnia, Afghanistan, um, Desert
11 Shield; uh, bert-, Desert. Not Desert Storm but Desert Shield and, um, I have a few other
12 places. I, I, I don't know. I can tell you where he was stationed. He was stationed in
13 Germany. He was in Fort Campbell, Kentucky and Fort Carson, Colorado.

14 Q So the time he was in the military, he saw combat then?

15 A Absolutely.

16 Q Okay and how long did he spend in the military?

17 A Uh, fourteen-and-a-half years or fifteen years. I'm just; I think; I wasn't his wife when he
18 was in the military so I'm not real clear on that but he, um, was honorably discharged but
19 medically discharged.

20 Q Okay and what was the reason why he was discharged?

21 A Um, well, he was blown-up. He has shrapnel in his leg and, um, and other problems. Uh,
22 he has P-T-S-D, um...

23 Q Post Traumatic Stress Disorder?

24 A Yes.

25 Q Okay. Um, that; and I think he blew-out his knee as well. Um, he was; I mean, he had; they
26 had been ambushed so he was blinded for three days from the, the flash of the grenades and;
27 or, the bombs or I'm not sure exactly but, but yeah, he has; he got a medical discharge
28 because of the shrapnel and the being shot.

1 Q Okay. So, uh, does, does he get treated for, for the P-T-S-D currently?

2 A He, uh, he's on medication.

3 Q Okay. and, uh, where does he get treatment?

4 A The V-A La Jolla.

5 Q In La Jolla?

6 A NO VERBAL RESPONSE.

7 Q Do you know the name of his doctor that he sees?

8 A No, I don't. I, I, it's changed. I, I don't know his most recent doctor so, um, he usually goes

9 with his veteran buddies to the doctor so I'm not even sure what his doctor's name is.

10 Q Okay and how long has he been going there for this treatment?

11 A Um, off and on for the past few years at this one. And then, um, I think it at San Bernadaro;

12 San Bernardino, he was, he was seeing; I remember that doctor, Doctor (b)(5)(B) um,

13 but that was probably about five or six years ago.

14 Q (b)(5)(B)

15 A R-; I think it's (b)(5)(B) I'm not...

16 Q And that was in San...

17 A quite sure.

18 Q Bernardino?

19 A Um-hmm.

20 Q Is that the V-A.

21 A V-A. Yeah, Loma Linda.

22 Q Loma Linda. Okay.

23 A Yeah.

24 Q And he was being seen for the same thing; P-T-S-D?

25 A Yes.

26 Q As he's being seen here in La Jolla?

27 A Um-hmm.

28 Q Okay. What kind of medications does he take?

1 A He takes, um, Trazodone um, to help him sleep. There's, there's...

2 Q Is that...?

3 A T-R-A-Z-A-D-O-N-E.

4 Q Okay. That's to help him sleep?

5 A And, and help with the nightmares.

6 Q Okay.

7 A Um, he takes Adavan. It's an anti-psychotic.

8 Q Adavan.

9 A Yeah.

10 Q And what does that do for him?

11 A Um, helps this not to happen (LAUGHING). It's an anti-psychotic so it's, um...

12 Q Is it to prevent like episodes?

13 A Yes, it helps.

14 Q And...

15 A Um, he's also on...

16 Q (UNIN) so it's like whenever these episodes as far as it helps him as far as...?

17 A Flashback-type, battle-type episodes.

18 Q Okay. Seeing things that maybe aren't there?

19 A Sensing danger that isn't there; delusional danger, um, feeling like people are in trouble or in

20 peril, um, wanting to save them from burning buildings or fires or that aren't there

21 sometimes. I mean, he, he has actually saved someone from a burning...

22 Q Sure but...

23 A um, here on the same property just a couple years ago and it was a actual fire but he does

24 have those flashbacks too which actually they get a little worse after he did that too. Um,

25 just mostly because he was a combat medic, it's mostly trying to save people from danger.

26 Q Okay. Now, you said, uh...

27 A Trazadone...

28 Q Trazadone...

1 A Adavan...

2 Q Adavan...

3 A and...

4 Q and...

5 A Paxil.

6 Q Paxil.

7 A Mood stabilizer.

8 Q Mood stabilizer? Do you know, um, the milligrams that...

9 A I don't...

10 Q of Trazadone?

11 A But one of the detectives did call the social worker at the V-A and they were able to give

12 him; give her the, the milligrams for everything. I think Trazadone it was one-twenty-five

13 milligrams. I don't know any of the others.

14 Q Okay. And who's the social worker they spoke to? Do you know?

15 A Well, uh, (b)(5)(B) called me from the V-A, um, E-R. (b)(5)(B) her name

16 was, yeah, so-, social worker from the V-A La Jolla so I'm assuming that that's probably who

17 they contacted.

18 Q Do you have a phone number they (UNIN)?

19 A Uh, no but I can; let me see. Hold on.

20 Q Is this one of the cards from the V-A?

21 A No, that's one of the cards here. Hold on let me see. Uh, no, it just says V-A La Jolla.

22 Q Okay.

23 A If that; if it says that; hold on one second I've; it must be on my contacts or his contacts.

24 This is his phone. (WHISPERING) V-A La Jolla. (b)(5)(B)

25

26 Q Okay. Got it. This; and, um (PAUSE) and you mentioned that he takes, um, medication

27 for, uh, nightmares?

28 A Yes.

1 Q Okay, what kind of nightmares does he suffer from?

2 A Mostly survivor, um, survivor-guilt. Um, the men he has lost in, in combat come back to
3 haunt him.

4 Q Okay. Does, does he wake up from a sound sleep? Does he have trouble...

5 A Yes.

6 Q sleeping?

7 A He, I mean, his; even when he's sleeping, it's trouble. I mean, he, he rambles and talks and
8 wrestles in his sleep. I mean, I've woken up where he's got a hold of my hair saying
9 "Identify yourself" you know, things like that. I mean the; and that's, that's on the
10 medication. So (SOBBING).

11 Q And how often does this happen in a seven-day week?

12 A Um, well the talking and the, the wrestling around and everything is a daily thing but the, the
13 kind of identify-yourself-type of thing is maybe every few months.

14 Q Okay. Um, how about, um, he; the psychotic behavior or like mood stabilizers; what's his
15 mood like or does he show; if you; when he's not sleeping and he's awake, how's his moods?
16 Does, does he have mood swing problems?

17 A No...

18 Q Is there...?

19 A um, no, he's usually pretty good. He does have, um, depression. He, he, he'll, he'll get into
20 a, a rut of depression.

21 Q Okay.

22 A Um.

23 Q And what happens when he's depressed?

24 A He sleeps a lot. He, um, doesn't really go outta the house. He becomes reclusive, isolative.
25 Um, which exacerbates the situation of him feeling survivor's guilt and, and, and then
26 sometimes it makes the nightmares worse.

27 Q Okay. What about the, uh, when he's feeling depressed like that, does he ever; does he ever
28 talk about harming himself or anything like that?

1 A He has commented on, you know, how it's not worth it and I'd be better off without him.
2 That type of, you know, end stuff but he's never had any suicide ideations with a plan. He's
3 never, you know, said "I'm gonna do this" or "I'm gonna, you know, I'm gonna do that."
4 It's been more whoa is me. You should leave me. I'm, I'm no good. You know that kind
5 of stuff but, but...

6 Q Is he...

7 A not, but not "I'm gonna kill myself". No.

8 Q Okay, never drew a picture or a note? Nothing like that?

9 A No.

10 Q Has; prior to the military or since he's been in the military have you ever spoken to his
11 family? Does he have any family that's alive?

12 A NO VERBAL RESPONSE.

13 Q No brothers or sisters...

14 A It's, oh, I'm sorry. He had a brother. I was thinking parents but yes he has; he has brothers
15 and sisters. He has two brothers and two sisters.

16 Q Has, have you ever spoken to them about, about your husband?

17 A No, they all know.

18 Q And, and, and; well what I mean; would; have you ever spoke to them about maybe his, his
19 childhood growing up? Has he ever...

20 A Well, I know...

21 Q shown and his...

22 A his mother...

23 Q behavior prior to...

24 A his mother...

25 Q joining the military?

26 A has schizo-; has schizophrenia or had schizophrenia. Um, and his brother has bi-polar, uh,
27 disease. I don't know. Uh, I, I believe the other brother's bi-polar as well.

28 Q Okay.

1 A So...

2 Q Do you know...

3 A it's a (UNIN).

4 Q if they're being treated for it?

5 A Um, the one on-and-off when he; he does have medication. The other one definitely. He's,

6 he's on medication. He's been in-and-out of psych hospitals in San Diego. Um, the sisters

7 seem fine. They don't show any, any type of psychiatric issues. It...

8 Q Okay.

9 A just seems like the boys have it.

10 Q Okay, so he has two brothers.

11 A And they're both bi-polar.

12 Q Okay. And mom...

13 A One is worse. Mom was schizophrenic.

14 Q Was schizophrenic so she's no longer alive? I'm taking it?

15 A NO VERBAL RESPONSE.

16 Q Okay. And what about; how many sisters?

17 A Two.

18 Q Two sisters. Are they local?

19 A One. Well, one now. She's in Oceanside. She was in, um, Navy housing in Tierra Santa but

20 she's moved to Oceanside, so.

21 Q And what's her first and last name?

22 A (b)(5)(B)

23 Q Is it (b)(5)(B)

24 A (b)(5)(B)

25 Q Oh, (b)(5)(B)

26 A (b)(5)(B)

27 Q (b)(5)(B)

28 A Yeah, (b)(5)(B)

1 Q And do you know how old she is?

2 A I'm not sure. Um, probably; let's see. If he's; she's the baby. Sh-; I'm not sure. Maybe

3 (b)(5)(B)

4 Q Okay. What about his, uh, his brothers?

5 A Well, actually (b)(5)(B) the baby; she's the baby sister. Um, (b)(5)(B) is probably (b)(5)(B)
6 or (b)(5)(B) Some; or, (b)(5)(B) probably about (b)(5)(B) and (b)(5)(B) is probably about
7 (PAUSE) (WHISPERING) let's see. I'm not real sure. Um, maybe (b)(5)(B)

8 Q Are they FOSTERS as well?

9 A No. They're (b)(5)(B).

10 Q So, it's (b)(5)(B)?

11 A NO VERBAL RESPONSE.

12 Q Different dads, same mom?

13 A Um-hmm.

14 Q What about the sister? Is she a FOSTER or was she a FOSTER?

15 A No, she was a, um, a (b)(5)(B). Now a...

16 Q (b)(5)(B)...

17 A a, uh, married to (b)(5)(B) She was (b)(5)(B) as well. He was, um, yeah, he was the
18 FOSTER and then there's (b)(5)(B) who I've never met or seen or heard. She lives on the
19 East Coast. I don't know anything about her. I'm not even sure if she's a FOSTER or a
20 (b)(5)(B)

21 Q Okay. And this is Michael's sister as well?

22 A Yes.

23 Q Okay. Um, dad's in the picture?

24 A No. Not since Michael was real small. I mean, I think he saw him once a few years back but
25 it was; I don't know but he's in the military. His name is (b)(5)(B).

26 Q But he's outta the military?

27 A I'm not sure if he's still in, um, like Homeland Security type but not like active-military but
28 like I think Homeland Security.

1 Q Working for the Federal Government possibly?

2 A Yes.

3 Q Okay. Um, now did he; did, did Michael ever talk about any, any problems psychologically

4 prior to the military? I mean, you said...

5 A No.

6 Q it runs in his family; the history.

7 A No.

8 Q He didn't talk about it?

9 A No. But both of the brothers, they didn't show signs of it until their early twenties and by

10 that time, Michael was already in the military at that age.

11 Q Okay. Did...

12 A That's usually when Schizophrenia or anything comes up mostly.

13 Q Did he ever, did he discuss with you when he started having problems psychologically? Was

14 it after he got in the military or was it while he was in the military?

15 A After he got out of the military.

16 Q After he got outta the military?

17 A NO VERBAL RESPONSE.

18 Q Um, when he first got out, and, uh; let me ask you this. When he first got out, you guys

19 were not together? Is that correct?

20 A Right.

21 Q Okay so you...

22 A I can't answer any thing...

23 Q so then you met him after he had been out for how long?

24 A Probably, um, six months to a year.

25 Q So...

26 A I mean, that's a gray. I'm not real sure.

27 Q When you, when you met him, did he discuss the problems he was having psychologically or

28 did that come...

1 A Not at first.

2 Q Not at first.

3 A It came later.

4 Q Okay. Did you see anything while you were dating?

5 A Not really. Not like I've seen while we've been married.

6 Q Okay.

7 A It was, it was, um, much more mild.

8 Q Did he...

9 A It seemed han-, you know, manageable.

10 Q Okay. Did he discuss with you if he was receiving treatment at that time?

11 A No, he wasn't.

12 Q Not at all?

13 A Um-um.

14 Q Okay. How did it come about that he started receiving treatment?

15 A He got progressively worse and, um, and so he, he went to the V-A and, and, he; I mean, he

16 wouldn't really talk to the psych doctors but he talked; I guess he told them enough to let

17 them know what was; you know, that they got an idea what was goin' on so for a long time

18 they've been trying to find the right dose of medicine; the right balance and it was real rocky

19 there for a while. You know, not having the right things but this bit of medicine that he's

20 been on for the past couple years has been working pretty well.

21 Q Yeah and what year was it that he started getting treatment?

22 A I, I'm not sure. I really am not; um, he, he; yeah, I think he first started gettin' treatment at

23 Loma Linda so that would be; um, they'd be able to tell you when he started. I'm; I can't

24 remember the years or, or, or, or when it was. I'm sorry.

25 Q It's okay. All right so you said they were trying to get a balance on his medication to

26 stabilize him.

27 A Yeah.

28 Q And you said he was starting to get progressively worse.

1 A Well, because...

2 Q (UNIN)...

3 A in that...

4 Q Let me ask this. From, from the beginning, when you started seeing him progressively
5 getting worse, were you already married then or was it while you were still in the dating
6 phase?

7 A We were already married.

8 Q You were married? Okay and what were the changes you started to see in him?

9 A Well, I think it was; I mean, he, he was on medication but then because it wasn't the right
10 balance, he would be too tired. You know, it was off like too much medication so in order
11 for him to get things done around the house or whatever, he would stop taking his
12 medication so that he would be awake enough to be able to function and then, you know,
13 instead of only taking a little bit or something and then he would be off of his meds for a
14 few days and then he would have some sort of episode. Um, it, it also doesn't help that he's
15 an alcoholic because that's how he was medicating himself before he got help and he's, he
16 never stopped.

17 Q And, uh, how long did it take him to get on the medication that he's on now where you start
18 seeing some; I'm, I'm guessing that he; who was it; is it fair to say that he was startin' to
19 show some improvement?

20 A Yes.

21 Q Okay.

22 A I mean, he, he was going much longer, uh, without any incidents or episodes or...

23 Q Uh-huh.

24 A you know, so, um; when was that? That, that was (PAUSE) probably about three years
25 ago...

26 Q When?

27 A where he was get-; you know, 'cause they were few and far in between.

28 Q Okay. So between three years ago up until this point, has he started to recently; starting to

1 have problems again?

2 A Well, I; or he's found that drinking hard alcohol as opposed to just beer makes it worse.

3 Last week he was drinking hard alcohol. He was in the public. It's, you know, I've; I don't

4 mind so much if he drinks beer at home but when he goes out, that's when he's not under

5 (GIGGLING) supervision.

6 Q Sure.

7 A You know.

8 Q Sure.

9 A Um, and I; he had a, a black-out episode. He doesn't remember anything but he was trying

10 to pull people out of a car. He ended up punching someone in the face at a local bar.

11 Q Are we talk-; are we talking about on the tenth; October tenth...

12 A Yes.

13 Q when he got arrested...

14 A Yes.

15 Q at the Casino Inn...

16 A Right.

17 Q (UNIN)?

18 A Yes.

19 Q Okay.

20 A Um, that came outta nowhere. I mean, he was doing great and for a long time.

21 Q Now, why don't we stop there for a second? Prior to ten-ten, was he startin' to have some

22 problems or he was...

23 A No.

24 Q good up until that point?

25 A I was completely blind sight. Usually I can sense or at least and not that surprised if

26 something happens because I've seen changes.

27 Q Sure.

28 A But I didn't see any changes this time. None at all.

1 Q And prior to that, had he been drinking beer at the house? Not, no, no, in the (UNIN)...

2 A It's no; yes, no, he drinks beer regularly.

3 Q But the beer you saw him with?

4 A Yeah.

5 Q Doesn't really...

6 A The beer is fine.

7 Q give him problems. Okay.

8 A It's once he changes to; I mean, he needs to not drink at all with the meds he's on...

9 Q That's...

10 A obviously but he was able to; I mean, his baseline was a few beers at night. No big deal.

11 Q Okay.

12 A No issues. After that arrest, he's been in a spiral...

13 Q Okay.

14 A from there. Um...

15 Q Let, let's go back to that arrest for a second.

16 A Okay.

17 Q The night that he went out, had he been drinking in the house prior to leaving?

18 A No.

19 Q Okay. Let me ask you this. Does he have a driver's license?

20 A No.

21 Q Okay. Does he drive?

22 A Yes.

23 Q Okay. Um, did he drive that night?

24 A (PAUSE) Um (PAUSE) yes.

25 Q Okay. He's not gonna get in trouble for driving...

26 A Okay (LOUD SIGH).

27 Q I'm just concerned...

28 A I don't wanna lie but...

1 Q No, no, no. I want you to be honest with me. He's not in trouble for that.

2 A Okay.

3 Q I just wanna and I'm just trying to get a picture as to what...

4 A Right.

5 Q happened that night.

6 A His, his license was suspended due to child, um, child, uh, support issues.

7 Q Okay.

8 A So, that's; I mean, it's, it's in the courts so it's; that's, I mean, he has a valid license. It wasn't

9 revoked or anything for any...

10 Q It's (UNIN)...

11 A driving type of situation.

12 Q Right.

13 A Right.

14 Q You don't pay child support, they'll take your...

15 A Right.

16 Q license.

17 A And it got suspended.

18 Q Okay. So that night on the tenth, um, did he plan on going to the Casino Inn or he just go

19 to the Casino Inn or just...

20 A Yeah.

21 Q did he go somewhere else prior?

22 A He's not even sure how he ended up there. I mean, I talked to him at five-thirty in the

23 evening. He's like "Okay, honey, I'm leavin' here in three minutes." He was at the, the Post

24 doing, and, doing his job.

25 Q You mean the Post at the...

26 A A-, American Legion.

27 Q Okay and where were you when he called?

28 A At home.

1 Q Okay.

2 A I...

3 Q Had he been drinking up there, do you know?

4 A He, he just sounded totally sober. I think maybe he had one. I mean, with; not for; I mean,

5 he was sober for him completely. He's like "I'm on my way home. I'm stopping at the

6 store." And he gave; he rattled off the list of what he was gettin' and he's like "I'll see you in

7 a little while."

8 Q 'Kay.

9 A And he never came home. So, um.

10 Q Now when was; then; let me ask you this. He didn't come home and when was the next

11 time you heard from him?

12 A The next time I heard from him was Monday. I didn't actually hear from him. I, um, well,

13 the; immediately in the morning. Well, I ended up; I thought he was just out with his friends

14 so I just went to bed and, um, 'cause he has come home late at night.

15 Q So the tenth is Sunday?

16 A When; right.

17 Q Okay.

18 A So that morning my first call was the jail. The next would've been the hospitals and he was

19 in jail.

20 Q He was locked up?

21 A Yeah.

22 Q And what'd he get arrested for?

23 A Uh, assault on a peace officer, assault on a person, and disorderly conduct; drunk in

24 public...

25 Q Okay.

26 A were the three charges.

27 Q Okay. Did you talk to anybody about what happened? Did you talk to any, any of the...

28 A After...

1 Q deputies or did...

2 A No, no, none of any deputies. I've heard lots of rumors from Alpine citizens

3 (LAUGHING).

4 Q What's your understanding of what happened?

5 A Um, that he was, um, screaming about the car being on fire. He was trying to pull complete

6 strangers outta their car and, of course, they didn't know what the hell was going. I mean, I;

7 the girl maced him and (LAUGHING). Um...

8 Q Was she from the bar?

9 A I gu-; I'd; a, a...

10 Q Employee?

11 A No, a customer.

12 Q Okay just a patron of the bar?

13 A Yeah. Uh, I guess he approached, um, the bartender's husband as he was coming to pick

14 her up and, and they got into an altercation where they punched each other. I'm, I'm not

15 sure. He doesn't remember anything. This is just all hearsay from other people. So, I, I

16 don't know. Um, yeah, he was, he, he remembers nothing.

17 Q Okay. Now, let me ask you this. Does this sound like behavior that he's having those

18 episodes?

19 A Yes.

20 Q Okay.

21 A But usually he remembers. That's the only difference is, I mean, usually he; after a day or

22 two it starts piecing together. He, you know, he remembers but this time he, he claims not

23 to have; remember at all.

24 Q Okay. So on Monday you call the jail. He's in jail. When, when did he get out?

25 A Um, actually Sunday morning I called the jail. It was; yeah, it was Sunday, um, morning that

26 I called. They had him.

27 Q Okay.

28 A He hadn't been booked. He didn't get bailed out until Monday...

1 Q Okay.

2 A um, afternoon. The veterans, um, bailed him out.

3 Q All right so he comes home or you pick him up; whichever.

4 A Yeah. I; we picked him up. I had a friend drive me down to pick him up.

5 Q What jail was he in?

6 A The Central.

7 Q Okay, downtown?

8 A Um-hmm.

9 Q So you picked him up and obviously you talked to him.

10 A Yeah.

11 Q And?

12 A He, uh, he was a complete mess at that point. I mean, he, he was so delusional. He, I mean,

13 he didn't know where he was. He had no orientation whatsoever. I mean, he's been to that

14 jail before so being outside if he was if he was of sound mind, he would've known where he

15 was. He was calling on the phone s-; you know, crying which; that is not what he does.

16 Q Okay.

17 A I don't know where I am. I don't have these shoes. I'm, I'm scared. So, I mean, I'm trying

18 to race there as soon; as fast I can and, and he was; I mean, he was a complete mess.

19 Q Okay. Was this; was he disheveled. Like, was his clothes a mess?

20 A Oh, yeah, well, from; 'cause the clothes that he obviously had; the huge altercation in the bar

21 parking lot. He was; he had no shoes. He was; he, he was...

22 Q Did he...

23 A limping.

24 Q did he smell like alcohol?

25 A He smelt horrible but I don't know if it was necessarily alcohol or it was from three days. I

26 don't know.

27 Q Let me ask you this. Has he ever used any other drugs other than alcohol?

28 A Not to, to my knowledge. No.

1 Q Okay. So no meth use. No heroin use. Nothing like that?

2 A No.

3 Q Okay. Did he ever...?

4 A Alcohol's bad enough.

5 Q So you got home on Monday and...

6 A I wanted to put him right into the hospital then.

7 Q Did? Well, let me ask you. Did he take his medication on Monday?

8 A Yes.

9 Q Okay.

10 A In front of me that time.

11 Q Okay and after he took it?

12 A Um, well he slept the whole next day.

13 Q The whole next day being Monday or Tuesday?

14 A Tuesday. Yeah.

15 Q That's seven days ago today so it being Tuesday the nineteenth?

16 A Right.

17 Q We're talking about the twelfth though.

18 A Right.

19 Q Okay, so he slept all on Tuesday?

20 A Yes.

21 Q And does he wake up on Tuesday night or Wednesday?

22 A At Tuesday evening when I come home...

23 Q Okay.

24 A he kinda wakes up. He's still kind of groggy and sorrowful and I don't know what happened

25 and trying, you know, um.

26 Q What's his mood like now? Has he mellowed out?

27 A Yeah, he's...

28 Q And...

1 A mellow.

2 Q episodes?

3 A He's remorseful. He's, he, he's scared that he hurt people. He's like "Oh, my God, what
4 have I done to who? Did I hurt anybody?" You know...

5 Q Gotcha.

6 A very fearful of, of what he did because he can't remember.

7 Q Right.

8 A (SIGH).

9 Q And that's Wednesday? Right or was that Tuesday?

10 A No, that's Tuesday.

11 Q Tuesday?

12 A Tuesday, yeah.

13 Q Okay.

14 A Um...

15 Q How did Tuesday night go?

16 A Well, Tuesday, he asked, he asked me to drive him to, uh, to the American Legion to, um; so
17 he could resign his position as Post, um, Service Officer and, um, that's when everybody
18 there gave him, you know, showed him support and said that they were behind him and that
19 they would help write letters for his character and, and stand in court with him and, you
20 know, not to...

21 Q This is huge.

22 A Yeah, I mean, it was huge especially for his; as crippled as he was at that time.

23 Q Okay.

24 A Um, so, you know, that gave him hope. Um.

25 Q Did he resign or did they say "No, don't do it."

26 A No, they didn't take his resignation.

27 Q Okay.

28 A So he came home with the hopes. He's like "Okay, I'm gonna"; 'cause he has; he helps

1 veterans get their benefits.

2 Q Sure.

3 A And so each person has a packet. Well, he's gotta a few unfinished packets and so he
4 decided that he's gonna finish their packets this week and then he was going to; he asked me
5 to go with him to walk himself into the V-A La Jolla; into the psych ward but he didn't
6 wanna do it until he finished everybody's packets so that they wouldn't have to be hindered
7 by his mistakes and I went for it. I should've just put him in the hospital right away but
8 hindsight is twenty-twenty so.

9 Q You're trying to help.

10 A So, um, yeah, it was planned for Monday that we were gonna go to the V-A.

11 Q Okay. But we're on Wednesday still.

12 A Yeah.

13 Q I just wanna walk you through the days up until tonight.

14 A Okay.

15 Q So just...

16 A No problem. So in this time he's actually, he's doing great. He's, he's going to the, you
17 know, he's not drinking at the Legion. He's doing the packets. He's, you know; 'cause I
18 told him. I'm like "You cannot drink. Zero tolerance. You; not even one."

19 Q Right.

20 A And, uh, so he's, he's finishing up business. He's comin' home; you know, he's at home.
21 He's (PAUSE) he's on his best behavior at this point.

22 Q Not all gloom and doom at this point?

23 A Right.

24 Q He's a little bit better...

25 A We're, we're taking care of business and then we're gonna go; you know, we had, we had a
26 plan. (GIGGLE).

27 Q Okay.

28 A Um, we had a wonderful night last night. I mean, it was fine. We were wa-; at home, um,

1 watching T-V. I mean, a totally boring night. Um, I actually gave him compliments of, you
2 know, taking his medication early 'cause I'm like "Did you take your medication?" And he's
3 like "Yeah, I already took it." And usually he doesn't take it till like ten or ten-thirty but he
4 had taken it at, at; around nine o'clock and I was like "Oh, all right. Cool."

5 Q Well (UNIN). You just went from Wednesday to last night being.

6 A Yeah, it was the same.

7 Q How'd, how'd it go the other nights or...?

8 A Oh, the same. Everything....

9 Q Good.

10 A was good. Home, not drinking in public yet he was having a few beers at home but it wasn't
11 hindering.

12 Q Because initially you said to me on the tenth after that arrest, he started spirering, spiraling.

13 A Well, yes. He was doing good. I mean, we still had the discussions. He was, he was scared
14 to death of jail.

15 Q Um-hmm.

16 A I'm sorry. I should; yeah, I forgot about; I mean, we've had; we had long discussions. I
17 mean, you know, everything came up whether, you know, we should run or you know, he
18 was coming up with everything and I'm, you know, I'm like "We can't. Where are we gonna
19 go?" and we, you know, we have to face the music. You have to face the music and what
20 you've done.

21 Q Sure.

22 A And, you know, I was trying to explain to him that once we get him in the hospital, if, you
23 know, we can get the psychiatrist to come on the stand and explain what he was going
24 through and all his veterans...

25 Q Backing him.

26 A you know, backing him up that there's a chance that we can get him into a locked psych
27 facility as opposed to a ja-; a detention facility. So that...

28 Q Okay.

1 A that was my argument for him.

2 Q Okay, let me ask you this. Is he on probation for anything?

3 A I don't believe so. Um.

4 Q So that's not an issue either?

5 A Right.

6 (VIBRATING SOUND AS IF A PHONE)

7 A Um. Sorry.

8 Q Not a problem.

9 A Um, I mean, he's still doing good but in the meantime, um, you know, we are, of course,
10 talking about the fears...

11 Q Fears?

12 A of jail time and, you know, and incarceration and, and st-; you know, calling around for a
13 good veteran lawyer and, and, and things of this nature but, um, those; that; those
14 conversations usually came later in the evening. You know, once he was home and we got,
15 you know, he was, you know, worried about it; thinking about it more than, you know, when
16 you're busy during the day you don't dwell on it as apposed to being at home at night
17 thinking about it. So; but it was, it was conversations. I mean, he had told me that he was
18 prepared to go to, you know, to his arraignment and, and that we were gonna get letters
19 from everybody. I mean, he, he was making plans to take care of it.

20 Q Okay. Any time between Wednesday and last night when things were good still, obviously
21 he was making some plans but scared.

22 A Absolutely.

23 Q Within any of those times, did he make any suicidal threats then?

24 A No.

25 Q Did he say he wants to hurt himself, you'd be better off without him?

26 A Um, no.

27 Q Did he make any threats like; any threats of maybe harming himself or having anybody harm
28 him?

1 A No, he had made comments of like; you know, he should just take off and leave and, you
2 know, so that I wouldn't have to deal with that or whatever but, but he wasn't really
3 planning to go. I mean, that was just him talking out loud. Um.

4 (VIBRATING SOUND – POSSIBLY A CELL PHONE).

5 Q The, the rest of the week from Wednesday on?

6 A There was one, um, thing of our friends who also live on the property but farther down; not
7 actually on our property but the property next door. It's one...

8 Q It's on...

9 A of...

10 Q same parcel or is it...

11 A Yes.

12 Q different (UNIN)?

13 A It, I mean it's in the same; off the same driveway but it's a different person owns the
14 property.

15 Q Okay, so you have the granny flat you live on?

16 A Right and the house.

17 Q The owner has her own house?

18 A And she has her eight acres.

19 Q Okay.

20 A The next parcel of pro-, property that this guy owns....

21 Q Okay.

22 A they rent from.

23 Q I gotcha.

24 A Okay. It's like his best friend that they, you know, they spend the most time with.

25 Q What's his name?

26 A Uh, (b)(5)(B).

27 Q It is, uh, with a (b)(5) or a (b)(5)?

28 A (b)(5) (b)(5)(B) Um, I guess at the American Legion, his girlfriend; they live together.

1 You know, he, he walked up to her; (b)(5)(B) and she's like "Oh" and he's all "Oh, can I get a
2 hug from (b)(5)(B) And in front of everybody, she's like "Don't talk to me. Don't ever talk
3 to us again. (b)(5)(B) we're leaving." Like she was completely; because I, I assume...

4 Q (UNIN) it up (UNIN).

5 A Right. Exactly.

6 Q Okay.

7 A And that gave him a blow. Um, I mean it really; it was like full betrayal.

8 Q What?

9 A Well, he was shocked at the time but when he came home, I mean, he was discussing how
10 hurt he was and how he didn't even wanna live here anymore by them and he'd even gone
11 next door to the landlord and said "I may be moving in fifteen days. I can't you know be by
12 someone who feels that way about him. Bla, bla, bla.

13 Q What day was this?

14 A (SIGH) Um (PAUSE) if today is (PAUSE) Sunday?

15 Q Sunday.

16 A I'm not, I'm not positive but I think it's...

17 Q (UNIN).

18 A Yeah. Um, I was at work so...

19 Q So you didn't witness the?

20 A No. I didn't witness the, the...

21 Q Don't touch me.

22 A Don't touch me, yeah. Um, and, uh, you know, my landlord; our friends said, you know
23 "I'm sure that'll blow over. We don't" you know "We don't feel that way" you know type of
24 thing. Um, or (b)(5)(B) get over it. What have you. But, um, so then that was Sunday.
25 Today, you know, so over this next day he's still commenting on it. And, uh, and not talk to,
26 you know, and he was like "Well, I'm gonna get all my stuff from over there." And I'm like
27 "Well, you're not gonna go over there by yourself." You know, so as far as I know, he
28 didn't go over there. Um, I think...

1 Q Okay.

2 A um, I think he slept most of, uh, let's see. What day is? Today's Tuesday, correct?

3 Q* Um-hmm.

4 Q Today is Tuesday.

5 A Okay, he slept most of Monday. Um, he got up when I came home and we; you know, we

6 had dinner fine. Everything was fine. He took his meds early and then I, I went to bed

7 about eleven-thirty and I woke up to him at; around three o'clock...

8 Q And it's Tuesday...

9 A ranting and raving.

10 Q Tuesday morning?

11 A Right.

12 Q So everything's good. Monday he takes his meds?

13 A Right. I mean, he did; he had the, the, the tenth; the bar thing and then the betrayal thing

14 so...

15 Q Sunday. The betrayal with the friend?

16 A Right.

17 Q Gotcha.

18 A So, um, so then, uh...

19 Q Three and he wakes up?

20 A And he's just rambling in a full-blown episode which....

21 Q What...?

22 A has happened before.

23 Q What's he saying?

24 A Um, well, what; kinda; I thought he was talking on the phone 'cause he was talking fast.

25 Um, but he was talking about bombs; the three parts; hydrogen, for; I; you know, I don't

26 know exactly what he was saying but he was...

27 Q Like yes...

28 A saying things about chemicals or something which I don't even know. I don't know if that

1 was actually real things. You know, I mean, he was just talking about bombs and, and...

2 Q Is this a flashback episode?

3 A I don't.

4 Q Or was he was just talking?

5 A I don't know. I; he's; and I'm half asleep when I wake up to this and he's; I'm, I'm thinking
6 it's a flashback episode because when I got up, you know, I started to yell at him because he
7 had woken me up and, uh, and I went; 'cause he was looking for something on the dresser
8 or he's ra-, rouning around so I went and laid on the couch. And, uh, then he yelled for me
9 to come in there and he just kept yelling for me to come in there so I was like; I had stormed
10 in there and I'm like "What!" and he started asking what side I was on. And that's when I
11 went into the bathroom and I shut the door. And...

12 Q And what do you mean by that?

13 A What side I was?

14 Q He just said "What side are you on?"

15 A "Whose side are you on?" That's what he said.

16 Q Okay.

17 A What side are you on? Who's side? I'm not sure.

18 Q Has he; was he? Now...

19 A He's done that before.

20 Q Is he physical with you at this point or is he just...

21 A No...

22 Q talking?

23 A he's just yelling.

24 Q Yelling.

25 A He's yelling like accusing me.

26 Q Any al-....

27 A Like being an enemy kinda thing. You know, like, like I betrayed him too.

28 Q Okay.

1 A Um...

2 Q Any alcohol on his breath?

3 A Yeah, he had been drinking.

4 Q Okay.

5 A Um, when I came out of the bathroom the mattress was pulled back from the, the wall and

6 he had a gun.

7 Q Okay. What kind of gun was it?

8 A It was a, uh, a three-fifty-seven revolver?

9 Q Okay. Are you sure about the caliber?

10 A Um, only because I've heard him say it.

11 Q Um-hmm.

12 A And also the neighbor said that that's what it was and I, I have no knowledge of guns so I,

13 I'm believing them.

14 Q Okay.

15 A It was big and it was like this big.

16 Q Is it silver or blue?

17 A It was dark. I don't think...

18 Q Not...

19 A it's silver. Yeah. I thought it was black but it could be a dark blue.

20 Q They call that a bluing.

21 A Okay...

22 Q* (UNIN).

23 A and it had like a wooden finished type of handle.

24 Q Okay. Does it have a cylinder type?

25 A Yes.

26 Q Okay.

27 A That I know for sure. I'm sorry. Um...

28 Q I'm gonna ask you this. Does he have any other weapons in the house?

1 A No.

2 Q Okay and had he in the past?

3 A Yes.

4 Q Okay and where are those weapons at?

5 A They're at the neighbors where I thought this one was.

6 Q When you say the neighbor is that the friend (b)(5)(B)

7 A The friend (b)(5)(B) yes.

8 Q And (b)(5)(B)

9 A Um-hmm.

10 Q Okay. And...

11 A He was holding them. See he was the bequeathed them from a veteran that had passed.

12 And when he brought them home, I adamantly refused them in the house and I was; ha.

13 Q How many weapons are we talking about?

14 A Two.

15 Q Two, okay.

16 A The...

17 Q Is there a revolver?

18 A And then a rifle.

19 Q Okay.

20 A I don't even know if that one shoots so; I, um...

21 Q It could be a revolver. It could be a rifle (UNIN).

22 A Yeah, I have no idea.

23 Q Okay. Now, I, and, I'm just; I'm just trying to get a gauge for; you said the weapon were

24 outta the house. Weapons...

25 A Yes.

26 Q both of 'em were outta the house?

27 A Yes.

28 Q When were they taken outta the house?

1 A Um, at; as soon as he got 'em. Right after he got 'em; about a week after he got 'em.

2 Q How long ago was that?

3 A Oh, um, (MUMBLING – UNIN) Months. Um, six, eight months. I can't...

4 Q No, that's...

5 A I really...

6 Q (UNIN) the guns...

7 A can't remember.

8 Q and you don't notice any guns in the house?

9 A Right.

10 Q So this morning at three o'clock in the morning?

11 A Yeah. That's a shocker.

12 Q He's holding a gun.

13 A Yeah.

14 Q Now what is he saying to you?

15 A (PAUSE) Um (PAUSE) he's still asking me whose side I'm on.

16 Q Okay. Is he pointing a gun at you?

17 A Yes.

18 Q Is he pointing it down at the ground?

19 A No. He's pointing it at me.

20 Q Is it cocked?

21 A NO VERBAL RESPONSE.

22 Q When I say cocked, I mean the hammer...

23 A Yeah.

24 Q pulled back?

25 A Um, not the first couple times but, um, now I think; not when he was pointing it directly at

26 my forehead but then he cocked it and he shot it like right there.

27 Q Okay.

28 A Right past my head.

1 Q Did you hear anything go by you?

2 A Oh yeah. I; well, it popped so loud and then all I could hear was ringing. I've, I.

3 Q Did you feel like you were gonna be shot?

4 A (PAUSE) I felt like it was a definite possibility.

5 Q What happened after the, that gun went off? What did you do?

6 A (SNIFFLE) I...

7 Q Were you scared?

8 A started to cry.

9 Q Were you scared?

10 A NO VERBAL RESPONSE.

11 Q Okay. Were you in fear for your life at that time?

12 A (PAUSE) Can I go on record? I don't want to in any way press charges against my husband.

13 Q I understand that.

14 A Okay, so and even, I mean, I, I do not want to press; I; he's got enough charges with what

15 he's done...

16 Q I totally understand.

17 A is, uh.

18 Q We just have; we have to; when we; when we're interviewing you we just have to get an idea

19 of what happened.

20 A I understand but anything I say on tape I don't want you to decide later well, if you don't

21 want to press charges, the City will or the State will press charges and that's; I don't want

22 that.

23 Q I understand this.

24 A So I, I will; I don't wanna say that I feared for my life if that's the case.

25 Q You; I; you fearing for your life or the fact that he shot around doesn't change anything. I'm

26 just kinda curious where your mindset was. If you were...

27 Q* Yeah, it won't.

28 Q in fear for your life.

1 Q* Yeah.

2 Q I know I'd fear for my life if someone shot a gun at me. So. Is this the first time he's ever

3 pointed a gun at you?

4 A No.

5 Q Okay.

6 A And that's why I didn't want to (UNIN).

7 Q Did he say anything prior to shooting the gun at you?

8 A NO VERBAL RESPONSE.

9 Q Say "I'm gonna kill you" "What side are you on?"

10 A No.

11 Q Or he just...

12 A He didn't...

13 Q "What side...

14 A he didn't...

15 Q are you on?"

16 A threaten to kill me.

17 Q Okay.

18 A And at that point I don't think (PAUSE) he had any; I think it was a scare tactic at; if

19 anything at that point.

20 Q And how far is he from you when this happens? Where; see this is my...

21 A Probably...

22 Q thinking...

23 A about two feet from me.

24 Q The, the barrel of the guns is about two feet from you?

25 A And this is about as far as it.

26 Q Okay. So he shot at you but he was trying to scare you; maybe shooting it like above right

27 or left shoulder?

28 A Right here.

1 Q Your right shoulder?

2 A Yeah.

3 Q Okay, do you know where the bullet hit? Hear anything?

4 A Right behind me in the door.

5 Q It hit the door? Okay. And what did you say to him after that? Did he say anything to you?

6 A Like, yeah, see that's what I was telling the deputy. The; with all that happened; once

7 everybody got there, I'm finding it difficult to piece together exactly what happened before I

8 got outta the house.

9 Q Okay. Okay, that's completely understandable.

10 A I mean and (PAUSE) he told me to; he guided me to a chair in the living room and told me

11 to stay put.

12 Q Did he say "Go over there and sit down and stay...

13 A Yeah.

14 Q put" or he grabbed you and physically moved you over there?

15 A No, he just; he had the gun in his hand and demanded verbally. He didn't...

16 Q Okay.

17 A he never physically...

18 Q Okay so you gotta listen.

19 A And, um, uh, he did; he told me not to move and he went outside. He was gone for a

20 couple minutes.

21 Q At the front, the back?

22 A The, the door in between the two houses.

23 Q And is it a slider or is it a regular door?

24 A Regular door.

25 Q Okay.

26 A Um, I really don't remember how (PAUSE) he came back and then...

27 Q Do you know what he did outside?

28 A I think he was just checking the perimeter but that's...

1 Q Okay.

2 A speculation.

3 Q Okay.

4 A He came back in to check to see if I was see in the chair. He still had the gun and he went

5 back outside; the same door.

6 Q 'Kay.

7 A I heard the gun go off.

8 Q 'Kay and is it still within like the three o'clock, three-thirty timeframe...

9 A It's...

10 Q or is it...

11 A Yeah, maybe...

12 Q maybe later?

13 A Maybe four.

14 Q Or is it...

15 A At; somewhere in between three-thirty and four 'cause we yelled out for a little bit before I

16 slammed the bathroom door and the gun came out so. Um, when I heard the gun shot and

17 I; that he obviously hit something. It wasn't just into the canyon.

18 Q 'Cause he went outside and now he shot the gun again?

19 A Yes.

20 Q 'Kay.

21 A I ran outside to see what he had shot and he had shot the glass. Well, I mean, it's a glass

22 door but it's the wall part of the door. Not that part that moves.

23 Q Okay.

24 A You know, it's like a glass door but...

25 Q I understand.

26 A the stationary part.

27 Q The stationary part of the slider.

28 A Right. Exactly. Double pane glass. Glass everywhere. Now I'm freaking out because he's

1 now shot our landlord's house.

2 Q Okay.

3 A You know, it's one thing I can, you know, try to talk him down and wait till he crashes...

4 Q Um-hmm.

5 A when he's that manic and then I can take him to the hospital the next day but, you know, if

6 he doesn't do any damage but this; it's; it'll; you can't go back now.

7 Q Let me ask you this. During this time are you thinking to yourself "He's having an episode"

8 or is he...?

9 A Yes. Absolutely.

10 Q Can you talk to him? Is he coherent?

11 A He's hearing me but he's not processing what he's hearing in, in a logical manner.

12 Q He's inside of his body?

13 A Yeah. He, he's...

14 Q Like a...

15 A hearing me but he's got an agenda going on and here that I have no idea and it, and it

16 changes from moment to moment. Um.

17 Q Is he yelling anything at this point?

18 A That's the thing I'm trying to remember the things he was yelling. At this point, he was

19 talking about how he should just kill himself and, um, and everybody would just be rid of the

20 problem and, and, h-; you know, and then (SIGH) God (PAUSE) I'm not even sure. I went

21 back in the house and he shot off another round into the patio table. It was a big glass table

22 on the, on the back patio.

23 Q Okay.

24 A I'm not even sure what happened in between there. I really am not.

25 Q Okay.

26 A I can't; um.

27 Q You're doing fine.

28 A (SIGH). At this point, my dog's taken off 'cause she's scared to death. I run over to the

1 other; 'cause I'm now taking; my neighbors are outta town. They had just left that day.

2 Q These are the (b)(5)(B)

3 A Yes.

4 Q Okay. Let me ask this real quick. Did the (b)(5)(B) have any children in the house?

5 A No.

6 Q Is there any children in your home?

7 A No.

8 Q It's just you and your husband and your dog?

9 A Yes.

10 Q What kind?

11 A Um, half, uh, poodle; half, uh, (UNIN).

12 Q A small dog?

13 A Uh, medium size.

14 Q So the dog took off outta the house?

15 A Yeah.

16 Q Scared?

17 A Yeah.

18 Q 'Kay.

19 A Um, I ran over to the other house to check on the animals but he thought I was trying to get

20 to the phone.

21 Q Sure.

22 A That's when he ripped the phone outta the wall.

23 Q Your phone outta the wall...

24 A No...

25 Q or their's?

26 A their phone. Their home phone.

27 Q (UNIN)?

28 A Yeah.

1 Q Let me ask you something. When you ran across the field, gettin' light out or is it still dark?

2 A No, it's pitch black.

3 Q But you know the property fair to say?

4 A Yeah. And enough to get to the door, yeah.

5 Q Okay. Any lighting on any of these properties?

6 A Not at that time.

7 Q Okay. Did you step on any glass going across?

8 A Uh, no because it was still just a hole like this at the time. Well, it was; it started there but

9 then some glass kinda went out.

10 Q Do you have shoes on at that time?

11 A No.

12 Q Okay.

13 A Um, I checked on the animals. He had me, uh, sitting on the couch for a long time. This is

14 where it goes for a long time. He was sitting in the chair across from me in their house.

15 Q Okay.

16 A With the gun in his hand or in his lap. (SIGH) And then the wind would blow and the glass

17 would tinkle down from where he shot and he would jump up thinking someone was

18 coming. He thought and also you could see Japatul Road. You know, 'cause it's still dark.

19 You could see lights coming from the cars that he was thinking that those were cops. He

20 was thinking that with; you know, somebody heard the gunfire and called. So every set of

21 headlights that were coming by, he would run outside, you know, and do like a perimeter

22 check...

23 Q Was he saying anything

24 A waving the gun. No.

25 Q Threaten anybody that comes on the property; anything like that?

26 A Not verbally.

27 Q Okay.

28 A Um, (SIGH).

1 Q So what'd he do after the perimeter...

2 A So...

3 Q checks?

4 A he started; uh, he finally came back and he sat there for a while and I didn't say anything and

5 he wasn't saying anything and I could tell he was not as manic. Um, 'cause of his; he, he, his

6 motions were slower; more slumped when he sat in the chair; was slumped. It wasn't on

7 guard. And I told him; I'm like "What are we gonna do?" I, I, you know, I even begged

8 him. You know, 'cause he's still has the gun. I begged him. I'm like "Go. Uh, get a head

9 start. I won't call the police for an hour." Something. I just wanted to...

10 Q It's preservation of life at this point. I understand.

11 A (CRYING) So, I think either remorse hit him. I'm not sure what changed his mind. He

12 never let go of the gun but he went into the, uh; our bedroom at, at our place.

13 Q So he walked out of their place into your's?

14 A Yeah.

15 Q What did you do? Did you stay there or go...

16 A I followed him.

17 Q Okay.

18 A I said "I am; I've gotta go. I've gotta, I've gotta call help..."

19 Q Okay.

20 A for both of us." And at that point, he grabbed a towel, laid down on the bed that was

21 scattered. I mean, he had pulled everything out of the closet. I forgot that part. He pulled

22 everything out of the closet looking for bullets...

23 Q Okay.

24 A that were in the closet. Uh...

25 Q How; let me ask this. How many rounds had he shot at this point? Did you count by

26 chance or did you?

27 A Two...

28 Q You said once...

1 A at least five or six because he reloaded the...

2 Q Okay, so was it just like he shot one past your head in the bedroom...

3 A He shot...

4 Q and shot one...

5 A one past the head. Shot one...

6 Q at the glass door.

7 A at the glass doors.

8 Q The glass table...

9 A Shot one at the glass table...

10 Q straight...

11 A and at least, at least three at nothing at the perimeter. You know...

12 Q Was this when cars are going by?

13 A Yeah.

14 Q Okay.

15 A I mean just that way and then also the other way; not where cars were because that was the

16 direction from where he was sitting. The direction of the noise of the glass...

17 Q Gotcha.

18 A falling so he shot just in that general...

19 Q Towards the...

20 A direction.

21 Q noise?

22 A Yeah.

23 Q I gotcha. Was he saying...

24 A But...

25 Q anything (UNIN) this?

26 A outside. He; the; I'm not sure exactly what he was saying but he felt like someone was

27 coming for him or some; you know.

28 Q Okay.

1 A It was more like deterrent gunfire...

2 Q Okay.

3 A to keep 'em away.

4 Q Okay. Then he goes back to the house and you follow him.

5 A Um.

6 Q He goes to the bed. You said...

7 A Yeah.

8 Q you had followed him.

9 A And by the time I come back in because I, I was delayed. When he didn't come back, I went
10 in. He was already laying down amongst everything that he pulled out. He's pulled a
11 blanket up on him and has a towel around his head with the gun; he's kinda laying on the
12 bed and the gun's just like right there.

13 Q Yeah.

14 A And, uh, and I'm like "I've gotta; I gotta get help." And I, I basically apologized profusely a
15 few times and said I had to leave him (VOICE CRACKS) to get help and to not do
16 anything. (CRYING) Stupid and then I left him. And then I left him not knowing whether
17 or not he was gonna shoot himself in the face. (CRYING) And I ran over to the neighbors
18 and I called nine-one-one.

19 Q Did you go to the (b)(5)(B) residence?

20 A No. They weren't there. No, I had to...

21 Q (b)(5)(B) and (b)(5)(B)?

22 A No, the one in between. I didn't wanna go there. I didn't know how...

23 Q I gotcha.

24 A they felt. My God.

25 Q Do you know their...

26 A The other neighbors.

27 Q Do you know?

28 A (b)(5)(B) I (SNIFFLING) Hold on. It's H (PAUSE) (SIGH). (b)(5)(B)

1 and (UNIN). Once again. (b)(5)(B)

2 Q (b)(5)(B)

3 A (b)(5)(B)

4 Q It's (b)(5)(B) you said?

5 A (b)(5)(B) yes.

6 Q Is (b)(5)(B) married?

7 A Uh, yes.

8 Q What's was the phone number in there?

9 A Oh, uh, um, I only have it here 'cause I wrote it down on my num-; phone dis. (b)(5)(B)

10 (b)(5)(B)

11 Q Um-hmm.

12 A (b)(5)(B)

13 Q And, I'm sorry. You said he's married.

14 A To (b)(5)(B)

15 Q And the same last name?

16 A Yes.

17 Q (b)(5)(B)

18 A I'm not sure.

19 Q (b)(5)(B); And do you know the physical address they live at?

20 A No. It's (b)(5)(B) It's on the; it's basically sort of the same property next

21 door kind of but.

22 Q Next door to the east or west do you know?

23 A Ohhh. (LAUGHING)

24 Q What it is?

25 A I'm not sure where east or west is right now. It's...

26 Q When you walk out of...

27 A If we're here...

28 Q your house...

1 A they're here. If I'm facing; I'm facing the west so they're west.

2 Q The west side. So they're west of your house.

3 A So southwest.

4 Q Southwest of your house. Okay. All right so you went over there to call nine-one-one?

5 A Yes. I mean I, I grabbed a cell phone as I ran out of the house.

6 Q Your cell phone?

7 A Yes.

8 Q Okay.

9 A But I didn't wanna call from just outside our house. I wanted to get as far away...

10 Q Sure.

11 A as I could so I called. I; and I also wanted to; someone else besides. I needed to see

12 someone else so I ran to their house.

13 Q And (b)(5)(B) you needed to protect yourself to. That's very understandable.

14 A I (CRYING) just feel like I abandoned him. I (CRYING).

15 Q You didn't abandon him...

16 A I couldn't talk him down from (CRYING – UNIN). I love my husband. He's a; he's a

17 wonderful man. He just needs psychiatric help. He needs to be in a locked psychiatric ward

18 where he can get some; the medications and the group therapy and the alcohol abuse

19 program that he needs.

20 Q Running to get help's not abandoning him. It's helping him. You guys are out there. I

21 mean, no one's hearing...

22 A It's...

23 Q what's goin' on.

24 A so scary out there with (CRYING).

25 Q Okay.

26 A That's about it and I called nine-one-one and they kept me on the phone until; well, because

27 it's such a rural place, I, I had (b)(5)(B) drive me up to the road; Japatul Road where our

28 driveway is so that they know where we were.

1 Q Let me ask you this. When you went to (b)(5)(B) house, did you knock on the door or did you
2 just walk in?

3 A Well as I was coming this way, (b)(5)(B) was taking her kids to the bus stop.

4 Q Okay.

5 A And I didn't wanna; I was hysterical and...

6 Q Was it light out now?

7 A Yes, it's about...

8 Q This was going on...

9 A seven-thirty.

10 Q like...

11 A Yeah.

12 Q This was going on for a few hours? So you're; we're talking through it fast but...

13 A Yeah.

14 Q it's a few hours into this?

15 A NO VERBAL RESPONSE.

16 Q Okay.

17 A Um...

18 Q So she was taking the kids to the bus stop.

19 A Yeah, and, and I said; and I didn't wanna say anything in front of the kids and she said
20 "Well, (b)(5)(B) down at the house" you know "I'll be right back once the kids are on the bus."
21 So I, I went onto the house and (b)(5)(B) was asleep so I mean, the door was open like this much
22 and I was yelling in there and I kinda stepped. I'm like (b)(5)(B) I'm in your house"
23 (LAUGHING) you know and he came out and then he stood there while I called nine-one-
24 one and they...

25 Q Did they hear anything, did they say?

26 A No.

27 Q (UNIN).

28 A That's why I was worried because when the detectives asked me h-; once I left the house had

1 I heard a gunshot and I, I said "No." You know, he didn't hear the six that had gone off
2 and so...

3 Q Yes.

4 A I didn't know if he was laying in there.

5 Q Gotcha. Let me ask this. In the whole time; in those few hours before you went to (b)(5)(B)
6 house did he make any threats about killing any police officers?

7 A No.

8 Q Killing himself? Saying that he wanted the cops to kill him, anything like that?

9 A (SIGH) He had, uh, he had discussed that in prior times.

10 Q And not good.

11 A Not; I, I'm not really sure if he specifically did this time but he, he had discussed the fact that
12 he could not be incarcerated.

13 Q Okay.

14 A And that he didn't, he didn't feel that he had in him to kill himself.

15 Q Okay.

16 A So his term suicide-by-cop would be his only option.

17 Q And has he made that; did, did he say more than once?

18 A NO VERBAL RESPONSE.

19 Q Did you hear it once?

20 A More than once.

21 Q More than once?

22 A NO VERBAL RESPONSE.

23 Q And did he talk about it like matter-of-factly or when he was having an episodes?

24 A Uh, more; not like adamantly matter-of-factly but more like resigned matter-of-factly. Like
25 he wouldn't have any other choice not "bring 'em on" you know and try.

26 Q So it wasn't during an episode?

27 A Right.

28 Q He was talking to you. He's just discussing it.

1 A Yeah.

2 Q Okay. Now did he; was this recently he said this or was it just throughout the course of the

3 months...

4 A Just.

5 Q years?

6 A It was throughout the course of, of different times that he had episodes not recently. 'Cause

7 he was doing really well.

8 Q Till last night.

9 A Yeah. Or this week with the; you gotta count...

10 Q The arrest.

11 A the tenth.

12 Q Right. So after you go over to (b)(5)(B) and you use the phone and you called nine-one-one.

13 A Um-hmm.

14 Q What did you guys do? He drove; you said (b)(5)(B) drove you to the; up the street.

15 A Up to the street so that the Sheriffs that, that were coming could know where the; 'cause I

16 couldn't, I couldn't describe to the nine-one-one operator the; if you knew the layout of this

17 place, it; you just can't say...

18 Q (UNIN)...

19 A you know "take a left..."

20 Q at the rock.

21 A Yeah, I...

22 Q (UNIN).

23 A it's just easier. I'm like "I'm driving up to the road.

24 Q Sure.

25 A I'm just gonna meet you there."

26 Q That makes sense. That's actually real smart.

27 A So I stood there until they showed up.

28 Q It's helpful too. Um, so when they get there. Let me ask you this. Did (b)(5)(B) and the kids

1 leave their house also?

2 A Yeah.

3 Q (UNIN) they're off to school?

4 A They were with me. Yeah, the kids were already at school.

5 Q And there's nobody in their house?

6 A And nobody's in their house.

7 Q Nobody's injured in their house?

8 A No.

9 Q And you're not injured at this point?

10 A No.

11 Q Okay. So you're out in the street and the deputies show up?

12 A Yeah. And (b)(5)(B) and (b)(5)(B) are still with me. Um, I mean, they had to leave right after that

13 but they stayed with me until there were, there was help there.

14 Q Okay. And what kind of; when, what, what happened after that?

15 A (SIGH).

16 Q And you told the deputies what's going on?

17 A Yeah.

18 Q Okay

19 A Um, fire truck and an ambulance showed up but everything was; because he had the gun...

20 Q Sure.

21 A everything was, of course...

22 Q It's a standstill.

23 A Exactly. Until all; everybody showed up.

24 Q Okay. And did they bring you back to the station immediately?

25 A No. I...

26 Q Where did they?

27 A was out there in the rain up until about one o'clock, one, one...

28 Q In the...

1 A thirty.

2 Q afternoon?

3 A Um-hmm.

4 Q Were you out there for, uh, in a patrol car or were gettin' wet?

5 A Uh, well, I mean, they offered to put; I couldn't sit still. I was too nervous. Um, so yeah, I

6 was soaking wet.

7 Q All right but they wouldn't let you get back on that property?

8 A No, no.

9 Q Okay.

10 A I didn't even ask to.

11 Q And if you needed something, they would provide it for you?

12 A Yes.

13 Q Apparently. Okay. Um, did you hear; when you were there out on the street, did you see

14 any, uh, any; you know what Sheriff's Deputies look like in patrol uniforms?

15 A Yes.

16 Q Tan uniform and green pants...

17 A Yes.

18 Q they look like officers or Sheriff's Deputies. Did you see anybody that looked more like;

19 more a military-type uniform show up?

20 A The SWAT team?

21 Q The SWAT guys?

22 A Yes.

23 Q Yes.

24 A The sniper guys? Yes.

25 Q Okay. What were they wearing?

26 A Um, they were wearing full camouflage with their little vests and everything. They had their

27 face masked-up and it; um, they had the boonie hats. I don't know what those are.

28 Q Exactly.

1 A Um, and...

2 Q Distinguished patches?

3 A Yeah and their rifles and much bigger guns than...

4 Q Anything...

5 A than...

6 Q Let me ask you this.

7 A (UNIN).

8 Q Were there any questions in your mind that they were a SWAT units?

9 A No.

10 Q You knew exactly who they were?

11 A Yes.

12 Q Okay. During the time that they were on scene did any big vehicles show up to the front of

13 your house?

14 A To the front of my d-; on the road? Yes.

15 Q All I know is...

16 A Yes. Oh yes.

17 Q Did you hear anybody make any announcements while you were on road...

18 A Yes.

19 Q to your house? What kind of announcements did you hear?

20 A Um, they, uh, they first went down in the very beginning and made; I didn't actually hear this

21 but the detective told me that they did a; the megaphone or whatever on. They had

22 someone of this side and someone of this side to make sure that they could hear on the

23 other side; to see if he could hear...

24 Q Okay.

25 A asking him to, you know, announced herself or, you know, talk to them or whatever;

26 anything and he didn't respond at all and then later I heard myself; them doing the same

27 thing. "Michael it's" you know "it's, it's the Sheriff's Department. We're here to talk" I

28 mean all the...

1 Q Sounds like on a P-A "Come out"?

2 A Yes.

3 Q Okay and how long did that go on?

4 A Oh, the first time I'm not and since I didn't hear it, I don't know how long they, they did it.

5 But then hours later they did it again when they had a lot more people and they, they had

6 gone down there with more support. Um, that was probably around twelvish.

7 Q Okay. Let me ask you this. That vehicle was close to the house?

8 A The vehicle?

9 Q The vehicle that the P-A announcements on?

10 A Oh, yeah, there were cop cars by the house and all the way up the driveway. I'm not sure. I

11 was all the way up and we're talking about a half a mile away.

12 Q You were half a mile away?

13 A Yeah. I...

14 Q And you could hear...

15 A think it's about...

16 Q it?

17 A a quar-; yes.

18 Q Okay.

19 A Yes, he could hear it.

20 Q So those vehicles...

21 A Hear it.

22 Q were closer than; you were closer to the house...

23 A Yes closer than I was.

24 Q Than you were.

25 A Closer to him than I was to them. Yes.

26 Q So if you heard...

27 A And I heard it.

28 Q that far away, he heard the announcements...

1 A Yes.

2 Q clearly?

3 A Um-hmm.

4 Q Okay. Um, and then what happened after the announcements were being made?

5 A Had a long; another long wait and then, um, gunshots (VOICE CRACKS).

6 Q Okay.

7 A Maybe (PAUSE) five or six. I don't know. (CRYING) And then, then all it's; was really fast

8 all at the same time within a couple seconds and then I was escorted away from the scene by

9 the police; by the Sheriff (UNIN) who brought myself and (b)(5)(B) back to the station

10 and I've been here ever since.

11 Q Okay. Um, before the gunshots went off, did you hear any; uh, like; did, did you hear

12 anyone say anything?

13 A I, I only heard parts when I was across the street smoking a cigarette when I was back under

14 the canopy because it was really raining. I couldn't hear anything 'cause the engine of the,

15 the ambulance. They...

16 Q Uh-huh.

17 A had a, like a canopy thing and we were in the back of it so I couldn't hear anything then but

18 when I was across the street I heard them announcing themselves and asking them to; or

19 asking Michael to make contact. You know to speak up; "turn a light on." That's what they

20 asked him to do to show that he heard them or, or that there was sort of response of some

21 sort. You know, since he didn't have a phone but they, I heard them say "Turn a light on"

22 to show that; I'm not sure. I heard light on. Turn a light on.

23 Q Sure. Did anybody ask you to make a recording with your voice on it...

24 A Yes.

25 Q up to now?

26 A Yes.

27 Q And...

28 A Of me and (b)(5)(B).

1 Q And...

2 A They had recordings with the C-N-T; C-N...

3 Q C-N team?

4 A Yeah.

5 Q House Negotiation Team?

6 A Yeah.

7 Q Crisis Negotiation Team. Um, was that Sergeant MOORE; Russ MOORE?

8 A No, it was two females. (b)(5)(B)

9 Q Okay.

10 A And, um, I can't remember her name. Blonde hair; wavy. Um, not (b)(5)(B) I don't; I'm not

11 sure.

12 Q It's okay. What did they ask you to do?

13 A Um, they asked me to, um, you know, be myself and try to talk Michael through; their main

14 goal was to have an outcome of non-violence.

15 Q Absolutely.

16 A For him to come out on his own with no weapons or, you know, so that they, you know, it

17 wasn't about trying to shoot him out or anything like that.

18 Q No, it's not.

19 A And they didn't want me to talk about any negative outcomes. Just to use my voice and to

20 try to plead with him and remind him of what he had to live for.

21 Q Sure.

22 A And, uh, and that we needed him and that we did; you know, that I depended on him.

23 Things that he would seek to try to do as apposed to...

24 Q To harm himself.

25 A Yeah.

26 Q Absolutely. Okay. Do you know if they played those announcements?

27 A I'm not sure.

28 Q Okay.

1 A I couldn't hear that if they did.

2 Q And, uh, (b)(5)(B) right?

3 A Um-hmm.

4 Q He...

5 A (b)(5)(B)

6 Q That's right, (b)(5)(B) He made, he made his recordings as well?

7 A Um-hmm.

8 Q Okay. Anybody else make recordings?

9 A No.

10 Q Okay. Um, do you need a break?

11 A Yes. (LAUGHING). Ready for a cigarette.

12 Q (UNIN). Okay. We're gonna take a break right now. It is, uh, eighteen-twenty-four hours
13 and it's still October nineteenth.

14 **BREAK IN INTERVIEW**

15 Q It's Henry LEBITSKI, ARJIS two-zero-seven-nine. I'm with Angie TSUIDA, two-zero-
16 nine-nine and we are speaking with (b)(5)(B). We're continuing the conversation
17 that we're having at the Alpine Substation, Alpine, California. Um, current time is eighteen-
18 twenty-seven hours. (b)(5)(B) just had a break and, um, we're back on tape. Um, we just
19 got done talking and you were telling me about, um, how there's some announcements that
20 were made and that, um, you had made some recordings and then, uh, shortly thereafter the
21 announcements were made, you heard some gunfire and then, uh; did the; and did
22 ambulances go to your, your property after that? Did you see...

23 A Yes.

24 Q that or did they take away from the area?

25 A No, they immediately; well, they had actually mobilized closer before the gunshots but then
26 they moved quickly when gunshots happened or about two minutes after that is when I was.

27 Q Okay.

28 A And they pulled; they brought a squad car to take me back to the Station.

1 Q And you've been at the Alpine Station since?

2 A Yes.

3 Q Okay. Um, and...

4 Q* Yeah.

5 Q Do you have questions? Do you have questions?

6 Q* Um-hmm, I do. Real quick. Just because, um, as you know, when you're doing a digital

7 recording, you don't; you're making a lot of hand gestures and we can't document that...

8 A Right, right...

9 Q* But I just wanna...

10 A Yeah.

11 Q* clarify a couple of things in your statement.

12 A I talk with my hands anyways.

13 Q* Yeah and (UNIN)...

14 A (LAUGHING).

15 Q* I do the same thing. Trust me. Um, first of all, is, is your husband right or left handed?

16 A Right handed.

17 Q* Right handed?

18 A Um-hmm.

19 Q* And did he have the gun in his right hand the whole time?

20 A NO VERBAL RESPONSE.

21 Q* Is that a yes. I'm sorry.

22 A Yeah, I'm, I'm thinking a...

23 Q* Oh...

24 A little bit. Yes. Yes.

25 Q* Okay.

26 A And you said the whole time so I wanted to try.

27 Q* (UNIN).

28 A As far as I know, yes.

1 Q* Okay. I'm sorry. I saw you nodding your head...

2 A Yeah I was...

3 Q* like you were...

4 A kinda; I'm like all the different hands and some.

5 Q* Okay and then when you motioned; when you were just; um, kinda demonstrating earlier

6 when he was laying down on his bed, see, you kinda...

7 A Oh.

8 Q* The way you, you were holding your hand, it was almost like he had the gun right up next to

9 the side of his head almost pointing in an upward direction. Is that...

10 A Yes.

11 Q* how it was?

12 A Yes. At, at first and then he did place it under his chin.

13 Q* Okay. So initially it was just like...

14 A Not, not hard against his chin just; he was laying down so he laid it, um, gently beside him

15 but it was underneath his chin.

16 Q* Okay and again your motioning like he was laying on his right side?

17 A Yes.

18 Q* Okay.

19 A His right side facing away from me.

20 Q* Okay and then so how long did he have it just like on the side of his face before he moved it

21 to underneath his chin?

22 A A minute.

23 Q* And was he saying anything during that time?

24 A That it would be best if I go now.

25 Q* And is that when he put in under the chin?

26 A Yes.

27 Q* Okay, did, did you; I, I know you probably didn't notice this but I have to ask. Did you see

28 if he had his, his finger on the trigger at any point or?

1 A When it was laying beside him he, he didn't. He just had his hand on the, the butt part of
2 the gun kinda over the whole thing but when he moved it to under his chin, he had his, his
3 finger through the trigger but not tightly.

4 Q* Um-hmm. Okay.

5 A Just kinda let loose but still through the little hole...

6 Q The trigger guard.

7 A part.

8 Q* Part of the trigger

9 Q Part of the trigger.

10 A Yeah.

11 Q* Yeah.

12 A That.

13 Q* Okay. And then initially when, when he first was pointing the gun at you and then you said
14 he kinda moved the gun off to the side and fired off a round that actually went right past
15 your head. What side of your head was that on?

16 A My right side.

17 Q* On the right side of your head?

18 A NO VERBAL RESPONSE.

19 Q* Okay. So if he's right-handed and he's pointing towards the right side of your head that; he
20 was being kinda at a...

21 A More like...

22 Q* diagonal?

23 A Yes.

24 Q* Okay. I just wanna make sure I have it right. Let me (UNIN) it all. Sorry. (PAUSE) Okay
25 and to your knowledge has he ever had any bad experiences with law enforcement; with
26 cops or anything?

27 A Yes. Oh.

28 Q* When?

1 A This last week, he; when, whenever he becomes involved with police, he feels that it's like a
2 P-O-W type of situation. He doesn't feel that you could; you guys I; meaning police or like a
3 civilian situation. It's more of a battle type of thing that he's being taken as a prisoner of war
4 and it's his instinct to automatically fight regardless. At any time he's come into contact with
5 being arrested, he resists.

6 Q* Okay. Do you; so; and he's been arrested a couple times?

7 A Yes.

8 Q* And he's fought every single time?

9 A NO VERBAL RESPONSE.

10 Q* Um, do you know...

11 A He has.

12 Q* if that; if there's any underlying factors like has he ever had a negative experience with the
13 police or do you think it's just all from the whole war, um, trauma and stuff that he's dealing
14 with?

15 A Well, he had a negative experience here, um, two years ago, um, where he was tased and, uh;
16 here in Alpine, um, repeatedly and, uh, he was behind the wheel and he was; and the car was
17 still running and he was tased. He wasn't; he didn't have any weapons and they, they still
18 tased him pretty much at point-blank range so he's real taser gun-shy.

19 Q* Uh-huh.

20 A Um.

21 Q It was from deputies or was it C-H-P?

22 A Deputies.

23 Q Okay.

24 Q* What, what were the circumstances of that contact?

25 A Um, I'm not sure if it was mistaken identity or they had; I don't know why they had him;
26 had him. He was at a stop sign. When they pulled up, they were responding to a call and
27 they felt that it was him and, and he was like "Wait, I, you know, I don't know what" I can't
28 really say. I'm not; I wasn't there so and I don't wanna say anything negative against...

1 Q* Yeah.

2 A (SIGH).

3 Q* No, I understand. I mean...

4 A (SIGH).

5 Q* I, I know earlier you had some concerns about what, what you're telling us because you're

6 afraid of, of charges being filed and stuff like that and to be honest with you, right now

7 that's the least of our concerns. What we wanna do; I mean, we have; we have deputies that

8 were involved in this shooting and involved in it that wounded your husband. So what we;

9 what we're trying to do is find out all the facts of what happened and with that comes the

10 emotions and whether it's a; it's a positive or a negative for your husband, we need to know

11 the truth. You know what I mean?

12 A Yeah, I do.

13 Q* And we're not; we're not...

14 A I know.

15 Q* we're not doing this because we're trying to build more things against him. It's just we need

16 that for our investigation. That's part of us...

17 A I understand.

18 Q* being thorough, you know. And, and if the tables were turned, you know, we would think

19 you would expect the same thing from us doing that to...

20 A No, I, I, and I, I completely understand. I just; I, I wanted to go on record that I do not

21 wanna press charges against my husband. He has got enough charges I'm sure on his plate

22 to deal with...

23 Q (UNIN).

24 A and um, and anything. I, I mean, I wanna be truthful but I also don't, you know, wanna

25 have; but I have; I've been truthful. It's probably hindered his case but I have been truthful

26 about what happened.

27 Q* No, and you know and that's all that we can ask for and you know in the end the, the truth

28 is, the truth is always gonna come out in the end anyways and I mean, this; by you being

1 honest with us, this might be the help that he needs. I mean because if you, if you're not
2 completely honest with us that can actually hinder things for him because we don't have the
3 full background and we don't know what was going through his head and...

4 Q Right.

5 Q* the thought process...

6 A I tried...

7 Q* (UNIN).

8 A to; I mean, I; they were, uh, actually everybody took great care in getting the background,
9 um, (PAUSE) up to why, you know, of; maybe why and, and, and his support group of his
10 top ten people of who would be good, you know. They were, they were really great at...

11 Q You said "They"...

12 A being thorough...

13 Q you mean the deputies on scene today?

14 A Yes, the deputies on scene, the, uh, the Crisis Negotiator; Crisis Negotiation Team, everyone
15 was; that they expressed to me their main goal was to get him out safely without any harm to
16 himself or others.

17 Q Appreciate...

18 A That was his, his; their major goal.

19 Q* That's always our main goal.

20 A Right and, and that's...

21 Q* Yeah.

22 A but I mean they went to; they really did go to great lengths. They called the, the V-A to find
23 his medications. They; we got (b)(5)(B) in to make a tape. I mean, it was a well laid-out
24 plan; thought-out process.

25 Q* Uh-huh.

26 A The, the Sheriffs did a really good job at doing everything they could to (PAUSE) (SIGH),
27 uh-ha, what's the word and not alleviate but to...

28 Q* To diffuse the situation.

1 A Yeah without gunfire I'm sure.

2 Q* That's why, of course, when something does happen like this, we're trying to find out what
3 happened.

4 A Right.

5 Q* And, you know, we're...

6 A See, I wasn't down there for that.

7 Q* Yeah.

8 A Everything I saw up until then was, I mean...

9 Q You were...

10 A remarkable.

11 Q Would it be; okay and this; would it be safe to say they went up...

12 A Above and beyond...

13 Q above and beyond what you expected?

14 A They really did.

15 Q* Um, other than that, I mean, you've given us a really good background on your husband and
16 what's been going on with him and that's gonna help us in our investigation. Um, is there
17 anything else that you can think of that we haven't talk about or that we haven't asked that
18 you think we need to know as investigators in regards...

19 A Well I...

20 Q* to this?

21 A I think that's everything. Um, yes, I really do.

22 Q* Well, we'll give you our business cards. If you think of anything else 'cause sometimes, I
23 mean, you've been through a lot today and...

24 A Yeah, I know.

25 Q* I'm sure the emotions...

26 A The longer...

27 Q* are...

28 A I was sitting...

1 Q* going wild.

2 A here, the more I was worried that I wouldn't re-; all I could think about what was; what

3 happened once the emergency services arrived and I was starting to get fuzzy on...

4 Q* Um-hmm.

5 A what before I left the house.

6 Q* Yeah.

7 A (SIGH).

8 Q* Okay, and, um, and you understand that you're not in; under arrest and you're not in any

9 trouble or...

10 A That's good.

11 Q* anything like that, right?

12 A (LAUGHING).

13 Q You're not in trouble.

14 Q* Okay. I just wanna make sure 'cause sometimes people, you know...

15 A No, I; well, maybe if I felt like I did something but...

16 Q* I know.

17 A I; the only person I think I failed is...

18 Q* No.

19 A my...

20 Q No.

21 A husband.

22 Q No, I don't think you did.

23 Q* You didn't. You didn't fail your husband.

24 Q I think you went out of your way to try to help him today and, (UNIN) the life that you guys

25 had...

26 A (VOICE CRACKS) I...

27 Q together.

28 A (CRYING) I've never left him before.

1 Q* Yeah but you have to, you have to think of what's best for you...

2 A I know.

3 Q* and everyone else.

4 A I know.

5 Q* You see what I mean?

6 A I came to that realization finally and I had to (SIGH).

7 Q* The only last thing unless you've have anything else?

8 Q No. Done

9 Q* The only last thing I have is, um, obviously because you know that your husband was

10 transported to the hospital, right?

11 A Yes.

12 Q* Okay.

13 A Do you know where he was sent?

14 Q* I don't. You know, I, I'm sorry; I don't have any of that information. Um...

15 A (SIGH).

16 Q* I'm sure...

17 A Just; I mean, all I heard was that he was shot and he's conscious but that, that leaves a lot of

18 gray area. I mean, I don't know how severe.

19 Q* No, I...

20 A Or...

21 Q* didn't...

22 Q I didn't hear (UNIN).

23 Q* I didn't even hear.

24 A 'Kay.

25 Q* And I, I apologize but we basically got on scene...

26 A No, I understand...

27 Q* and they told us...

28 A that you weren't there. I...

1 Q* Yeah.

2 A I know.

3 Q* Whatever information we can find out for you before you leave here tonight we will but I, I

4 don't have any answers...

5 A Okay.

6 Q* right now. What I'd like you to do if you don't mind, um...?

7 A I filled out one of those out already.

8 Q* Oh, you did already? You filled out a medical release form?

9 A Oh, for, I'm sorry. No.

10 Q* No, that's okay.

11 A Sorry, I...

12 Q* What this is, this allows us to get the, um, medical records for all the treatment that he's

13 getting at the hospital.

14 A Oh, yeah.

15 Q* Because obviously, he's...

16 A Yeah.

17 Q* Um, can't sign this for us right now. Being his wife...

18 Q Do you...

19 A Yes. It's right in here. Just, yeah. Okay.

20 Q* But if you just sign beyond here. Um and that'll let us get his medical records from the

21 hospital.

22 Q Do you have any more questions?

23 Q* NO VERBAL RESPONSE.

24 Q Okay. It's uh; the current time is eighteen-thirty-nine hours and it's (UNIN).

25 **END OF INTERVIEW**

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SAN DIEGO REGIONAL
DEPUTY' S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE		CASE NUMBER				
FROM: <input type="checkbox"/> CRIME <input checked="" type="checkbox"/> OTHER		10064025				
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) SED Code- 11, Alpine		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tue	TIME 10:09
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd		CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED) Foster, Michael				

ORIGIN:

On 10-19-10, at approximately 1000 hours, I received an electronic page reference a Code- 11 (SWAT Call) in the area of (b)(5)(B) Japatul Road in Alpine.

DEPUTY'S OBSERVATIONS AND ACTIONS:

Upon arrival I was instructed to deploy to the ¼ corner of the main residence with Deputy Gale #4869. Before leaving the tactical staging area I received a briefing about the suspect. I was told his name was Michael Foster, he weighed approximately 200 pounds, was a white male adult, and I was shown a picture of him. I was told SED was called out because Foster allegedly held a pistol to his wife's head and fired numerous rounds into the residence on 10-18-10. The firearm was suspected to be a .357 caliber weapon. Foster was a combat veteran in the US Army and possibly suffered from PTSD (Post Traumatic Stress Syndrome). Foster was known to set up trip wires around his residence, it was unknown if there were explosives set up on the trip wires or not. It was also possible the trip wires were connected to chimes or whistles.

As we arrived to the prescribed location we took up a position approximately 20 yards away from the main residence.

Some time later I heard over the radio the suspect exited the residence on side three (The back side of the residence). I then heard numerous gunshots.

I did not see the suspect at any time.

FOLLOW-UP:

To be determined by Detectives

RELATED REPORTS:

See SED Deputies Reports

REPORTING OFFICER Ladieu	ARJIS # 4812	DIVISION SED	APPROVER <i>Sgt M J Ladieu</i>	DATE OF REPORT:	MONTH 10	DAY 19	YEAR 10	TIME 1610
-----------------------------	-----------------	-----------------	-----------------------------------	-----------------	-------------	-----------	------------	--------------

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE		CASE NUMBER 10064025				
FROM: <input type="checkbox"/> CRIME <input checked="" type="checkbox"/> OTHER						
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Code 11 Alpine		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tues	TIME 1004
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd		CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED) Michael Foster (b)(5)(A)				

ORIGIN:

On 10/19/2010, at about 1004 hours, I received a pager activation reference a Code-11 (SWAT Callout) of a barricaded suspect at **(b)(5)(B) Japatul Road** in Alpine.

DEPUTY'S OBSERVATIONS AND ACTIONS:

I responded to the Tactical Staging Area (TSA) and was briefed on the incident. We were advised the suspect, Michael Foster, was a combat veteran. He was in possession of a handgun and had threatened to "...shoot it out with the cops." We were advised he had assaulted his wife and had kept her against her will for many hours. We were also told he had a history of setting trip wires and booby traps around the location.

I was paired up with Deputy Collis (#3306) and we were assigned to a perimeter position on the ½ corner of the location. Deputy Collis and I set up a position behind a large rock and tree on the south side of the garage. There was a white VW Jetta between our position and the garage.

The entry team element arrived on scene in the armored truck. A member of the Crisis Negotiation Team (CNT) began making announcements to Michael Foster inside the residence. Shortly after announcements began, I heard via the radio that someone was seen near the sliding glass door on the front (Side 1) of the residence. I heard the sliding glass door open and then saw something being thrown from the residence. I then heard Foster yell, "Give me back my phone!" Foster went back inside and closed the sliding glass door.

After a few minutes, I heard via the radio that Foster was exiting the rear of the residence. I then heard multiple gunshots from the rear of the residence. I heard via the radio that Foster was lying on his back behind the residence. The entry team began moving toward the residence to secure Foster.

I directed the tactical medics and EMS personnel to the location of Foster. I assisted with getting the ambulance into position for extricating Foster. Deputy Collis and I waited at our position until the order was given to break down and return to the TSA.

REPORTING OFFICER G. Lanning	ARJIS # 3841	DIVISION Border Crimes	APPROVER <i>SGT M. [Signature]</i>	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 2010	TIME 0945
--	------------------------	----------------------------------	---------------------------------------	-----------------	--------------------	------------------	---------------------	---------------------



San Diego County Sheriff's Department Deputy's Report

CAD Event No.: **S8708726**

Case No. **10064025**

Suspect: **Foster, Michael**

Report No.

1

Page 1 of 1

REPORT NARRATIVE

Origin:

On 10/19/10, at approximately 0802 hours, Alpine Sheriff's Deputies received a radio call to investigate a report of an assault with a deadly weapon, specifically a firearm. The location of the assault was (b)(5)(B) Japatul Road in Alpine. (b)(5)(B) reported her husband Michael Foster had fired several rounds and held her against her will. (b)(5)(B) was able to get out of the house and call for help, while Michael remained inside their residence with the firearm. I responded to the scene at about 1045 hours as a part of the Crisis Negotiations Team.

Deputy's Observations and Actions:

Upon arrival to the scene, CNT was briefed on the incident and I was assigned to be Primary Negotiator and Deputy Voth was assigned to be Secondary Negotiator. Our mission was to establish communication with Michael Foster and negotiate a peaceful surrender.

At about 1240 hours, Deputy Voth and I entered the armored SED vehicle and rode with SED deputies down to the front of the residence. At about 1250 hours, the SED armored vehicle was positioned in front of the house about 25-40 yards away. Deputy Voth and I waited for a few minutes to make contact, so SED deputies had time to exit the armored vehicle and move to a perimeter position.

At about 1255 hours, I began making PA announcements from the armored SED vehicle in effort to make contact with Michael. I few moments later, Michael moved the blinds at the sliding glass door. I told Michael I cared about him, was worried about him, and was there to help him. I told Michael I wanted to make sure he was not injured and asked him to move the blinds again to ensure he could hear me. I repeated reassuring statements to Michael and asked him to exit his home through the sliding glass door and to walk on the pathway towards the white Volkswagon Jetta that was parked outside. I repeated these instructions numerous times over the PA and continued to reassure Michael we were there to help him and wanted to make sure he was okay. I told Michael his wife (b)(5)(B) and friend (b)(5)(B) were outside waiting for him. I told Michael how I learned of all the good service he had done for his community and how his family, friends, and community still needed him.

As I made these announcements, Michael yelled something from inside the residence, but I was unable to verify what he said. At about 1304 hours, I heard a single "pop" noise and thought Michael had shot himself. I told Michael I was worried about him and said I had heard the noise. I asked Michael to move the blinds again so I knew he was okay. At about 1308 hours, Michael moved the blinds again indicating he was okay. I continued the same reassuring announcements and continued to ask Michael to exit the sliding glass door. At 1318 hours, Michael moved the blinds again and yelled something, which I could not understand. Michael then opened the sliding glass door, yelled, "I want my phone back!" and then closed the door again. A few minutes later, Michael opened the glass door again and threw something outside. I was unable to recognize what the item was.

At 1323 hours, I heard about 5-10 gunshots coming from Michael's residence. I was unable to determine the actual number of rounds that were fired because the sounds were overlapping each other. SED assembled and entered the residence. Within a few minutes, paramedics arrived at the residence. A short time later, I saw Michael exiting the residence on a gurney. Michael was lying on his side and appeared to have four wounds on his back.

I was released from the scene and concluded my involvement.

Injuries: None.

Property Damage: None

Follow-up: None.

Related Reports: Crime/Arrest Report (same case #)

Reporting Deputy A. Leavitt #2720	Division Santee COPPS	Reviewed By
Report Date 10-21-10	Detective Assigned	Reviewed Date

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B) [REDACTED]

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 1

INVESTIGATION Cont:

On Thursday, October 21, 2010 Detective Hillen requested that Detective DuGal #2425 and I re-interview (b)(5)(B) [REDACTED] is the wife of suspect Michael Foster. (b)(5)(B) [REDACTED] was interviewed by Detective Tsuida #2099 and I on Tuesday, October, 19th, 2010.

At 1400 hours we arrived at her residence, (b)(5)(B) [REDACTED] Japatul Road, Alpine, Ca. There Detective DuGal and I interviewed her. During the interview she had nothing further to add from the first interview. A digital recording was made of the interview; it was later transferred on a CD-Rom and placed into evidence. The interview began at approximately 1418 hours and was completed at approximately 1448 hours.

Reporting Officer: Det. H. Lebitski

ID# 2079

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

11/2/2010

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE		CASE NUMBER				
FROM: <input type="checkbox"/> CRIME <input checked="" type="checkbox"/> OTHER		10064025A				
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 664-187 P.C.		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tue	TIME 0823
LOCATION OF INCIDENT (b)(5)(B) Japatul Road		CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM (b)(5)(B)		SUSPECT (IF NAMED) Foster, Michael				


ORIGIN:

On 10/19/10 at about 0900 hours, I was informed by Sgt. Strong (1997) that an incident was taking place at (b)(5)(B) Japatul Road in Alpine which might require a response from the Special Enforcement Detail. That event number is 8708726. After getting directions to the location and obtaining information from C.A.D., I responded to look for the incident command post.

DEPUTY'S OBSERVATIONS AND ACTIONS:

I arrived at the incident command post and obtained some preliminary information about the incident. I then proceeded to locate a staging area for other responding S.E.D. units. I established a staging area at a private driveway along Japatul Road at mile marker #13.

At about 1238 hours, I deployed along with the other members of S.E.D.'s entry team in the armored car to the front of the residence at (b)(5)(B) Japatul Road. After about an hour, I heard a radio transmission that the suspect was seen coming out the back of the residence. I next heard several shots being fired. When this happened, I could not see the suspect from my location.

REPORTING OFFICER J. Lozoya	ARJIS # 2190	DIVISION S.E.D.	APPROVER 	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 10	TIME 0800
--------------------------------	-----------------	--------------------	--	-----------------	-------------	-----------	------------	--------------



San Diego Sheriff's Department
REGIONAL CRIME LABORATORY
5255 Mt. Etna Dr. San Diego, CA 92117 (b)(5)(B)



LABORATORY SERVICE REPORT
FIREARMS ANALYSIS UNIT

REQUESTED BY: Det. Hillen, ID #1635 SDSO #: 10064025
AGENCY / DIVISION: SDSO / Homicide AGENCY #: N/A
SUSPECT (S): None listed CRIME: 245 PC (OIS)
VICTIM (S): None listed CRIME DATE: 10/19/2010

SERVICE REQUESTED:

Enter into IBIS (Integrated Ballistics Identification System)

ITEM #	EVIDENCE SUBMITTED	ENTERED:		COMMENTS
4.03	Twelve test fire components from item #4 (Taurus 689 .357 Magnum revolver)	Casing	<input checked="" type="checkbox"/>	
		None	<input type="checkbox"/>	

CONCLUSIONS:

A search of the database did not result in a current association. In the event a firearms examiner links this evidence to another shooting investigation in the future, you will be contacted.

DISPOSITION OF EVIDENCE:

All evidence items were submitted to the SDSO Property and Evidence unit. Detailed notes of the examination are maintained at the Sheriff's Crime Laboratory and are available upon request.

(b)(5)(B)

7/14/11
Date

7/15/11
Date

TECHNICAL / ADMINISTRATIVE REVIEW

AGENCY SH - 52	CAD INCIDENT NUMBER	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY TUESDAY	DATE 10/19/2010	TIME 10:01
OFFICER'S REPORT ONLY <input checked="" type="checkbox"/>				THROUGH DAY	DATE	TIME
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report						
LOCATION OF INCIDENT (b)(5)(B) Japitul Road				BEAT 563		
REPORTING OFFICER M. Forbes	ARJIS 2401	DIVISION SED	DATE OF REPORT 10/19/2010		TIME 10:01	
PRIMARY VICTIM'S NAME		PRIMARY SUSPECT'S NAME Michael Foster		SUSPECT'S DOB	AGE RNG	

ORIGIN:

On 10-19-10, at about 10:01 hours, I was dispatched to a SED callout at (b)(5)(B) Japitul Road in Alpine. I arrived at the tactical staging area near that address at about 1107 hours.

DEPUTY'S OBSERVATIONS AND ACTIONS:

Upon arrival, I prepared my equipment for assignment as a sniper. I was briefed on the situation before I left the tactical staging area. I learned that Michael Foster and his wife lived in a granny flat at (b)(5)(B) Japitul Road. Last night, Foster had fired several rounds inside the residence and forced his wife to stay in the residence with him. Foster's wife had escaped this morning and Foster was supposed to be the only person left at the property. Foster had prior military experience and a history of mental illness. Foster had recently been arrested and fought with Deputies during that arrest. Foster had also threatened to shoot at law enforcement. I saw a recent booking photo of Foster.

Deputy West and I took a sniper position on top of a trailer about 40 yards away from the granny flat that Michael Foster lived in. Deputy West and I were on side one of the property. From this position, there were two trees between me and the structure. I had a view of part of the sliding glass door leading into the structure. Part of my view of the door was blocked by the two trees.

Once in position, I kept an eye on the entire area but focused my attention on the sliding glass door. There was reflection from the glass and I had a very limited view inside the residence. I saw no movement inside the granny flat until the SED armored car drove into position on side one of the granny flat and a negotiator began making announcements using the PA loudspeaker on the armored car. Approximately one minute after the announcements started, I saw the interior blinds covering the sliding glass door close. I could hear muffled yelling from the residence several times. I could not make out the words. The negotiator asked Foster to exit the residence through the sliding glass door.

A short time later, Foster opened the sliding glass door just far enough for his head to fit through and yelled, "What kind of truck is that?" Right after yelling this, Foster closed the door and went back inside. The negotiator continued to talk to Foster using the PA but he was unresponsive. A couple of minutes later, Foster opened the sliding glass door just far enough to put his head through and yelled, "Give me back my phone." As soon as Foster yelled this, he closed the door and stayed inside the residence. I recognized Foster as the same person in the picture I had seen when I was briefed.

The blinds were pushed up against the door as if someone leaned something against them. I heard a pop that sounded like a gunshot round going off inside the residence. There was no response from

REPORTING OFFICER M. Forbes	ID # 2401	DIVISION SED	REVIEWED BY <i>Sgt. M. J. [Signature]</i>	DATE REVIEWED 10/20/10	TIME REVIEWED 1215
---------------------------------------	---------------------	------------------------	--	----------------------------------	------------------------------

NARRATIVE

Page 2 of 2

CODE SECTION:	Deputy's Report	CASE NUMBER:	10064025
		REPORT DATE:	10/19/2010

Foster after this sound. The negotiator continued talking to Foster using the PA and after a couple of minutes, I could see the blinds covering the sliding glass door move. A short time later, Foster opened the sliding glass door and threw something out. I could not see what he threw out. Foster closed the door and went back inside. About a minute later, I heard Deputy Kerr on the radio saying the suspect was on side three. Seconds later, I heard approximately ten gunshots. I could not see what happened on side three from my position.

Deputy Kerr said on the radio that the suspect pointed a gun at Deputies and Deputies fired but had now lost sight of the suspect. Deputy Farr was in a sniper position on side three. Deputy Farr broadcast over the radio that he could see the suspect lying on his back on side three.

The entry team approached the suspect from the armored vehicle and got medics to the suspect to treat him.

REPORTING OFFICER	ID #	DIVISION	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
M. Forbes	2401	SED	SGT-M J [Signature]	10/20/10	1215

AGENCY SH - 52	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY TUESDAY	DATE 10/19/2010	TIME 10:04
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy Involved Shooting				THROUGH DAY TUESDAY	DATE 10/19/2010	TIME 14:00
LOCATION OF INCIDENT (b)(5)(B) Japatul Road; Alpine				BEAT 563		
REPORTING OFFICER P. McEvoy	ARJIS 2625	DIVISION BCST	DATE OF REPORT 10/19/2010		TIME 17:00	
PRIMARY VICTIM'S NAME		PRIMARY SUSPECT'S NAME Michael Foster		SUSPECT'S DOB (b)(5)(B)	AGE RING	

ORIGIN:

On 10/19/2010, at about 10:04 hours, I received a pager activation reference a Code-11 (SWAT callout) on a barricaded 245 PC suspect off Japatul Road in the unincorporated community of Alpine.

DEPUTY'S OBSERVATIONS AND ACTIONS:

I responded to the Tactical Staging Area (TSA) and was briefed on the incident. I then joined the entry team element and responded to (b)(5)(B) Japatul Road via the S.E.D. Armored Car. I was assigned as the less-lethal operator for suspect take-down.

I remained behind the cover of the S.E.D. Armored Car while the Crisis Negotiations Team was attempting to make contact with Michael Foster via P.A. system. At one point, I could hear muffled yelling coming from inside the residence. I then heard Foster yell that he wanted a phone. As arrangements were being made for a portable phone to be delivered to Foster via a robot, I heard an advisement via radio that Foster was coming out a back door ("side 3") of the residence. Within seconds of hearing that radio transmission, I could hear what sounded like a single gunshot coming from the back side of the residence. Almost immediately following, I could hear the report of several rifle rounds being fired. I remained behind the cover of the S.E.D. Armored Car during the gunfire and was unable to see anything.

Shortly after the gunfire stopped, I heard via radio that Foster was lying on his back on the back patio area of the residence. I moved with the entry team up to Foster. When I rounded the corner to where Foster was laying on his back, other deputies of the entry team were contacting him. Foster was looking up and said that he felt like he was going to throw up. I saw that Foster was bleeding from wounds on his back. I noticed that on the ground, next to Foster, was a revolver. I could not tell the make, model, or caliber of the revolver and I did not touch it.

I stepped around Foster and made entry into both Foster's residence and to the main residence adjacent to his residence. Once ensuring that there were no other persons in either residence, I returned to the patio where Foster was laying. At this point, paramedics were treating Foster's injuries. I returned to the S.E.D. Armored Car and awaited further instructions.

REPORTING OFFICER P. McEvoy	ID # 2625	DIVISION BCST	REVIEWED BY <i>Sgt M. J. [Signature]</i>	DATE REVIEWED 10/20/10	TIME REVIEWED 1100
---------------------------------------	---------------------	-------------------------	---	----------------------------------	------------------------------

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE		CASE NUMBER				
FROM: <input type="checkbox"/> CRIME <input type="checkbox"/> OTHER		10064025				
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY)		MONTH	DAY	YEAR	DAY OF WEEK	TIME
245(a)(1)PC- Assault with a Deadly Weapon		10	19	10	Tues	0822
LOCATION OF INCIDENT		CITY			BEAT	
(b)(5)(B) Japatul Rd		Alpine			563	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED)				
(b)(5)(B)		FOSTER, Michael				

ORIGIN:

On 10-19-10, at about 0920 hours, I was notified by Sgt. Browning of a developing incident at (b)(5)(B) Japatul Valley Rd. in Alpine. Sgt. Browning advised me that patrol deputies on scene had requested the assistance of the Sheriff's Crisis Negotiations Team and asked me to respond to the location to assist.

INVESTIGATION:

I arrived on scene at about 0945 hours and met with Sgt. Browning at the intersection of Japatul Valley Road and the dirt road leading to the residence in question. Sgt. Browning introduced me to (b)(5)(B) who was the wife of Michael Foster. (b)(5)(B) reported that Michael was inside their residence and was armed with a revolver. (b)(5)(B) advised me that Michael was feeling suicidal and that she felt he was going to commit suicide, if he had not already done so. (b)(5)(B) stated that she had called 911 because Michael had pointed a gun at her and had fired the gun several times during the night. (b)(5)(B) additionally advised me that Michael was suffering from Post-Traumatic Stress Disorder (PTSD) due to having served in the Army in the Iraq war. (b)(5)(B) also told me Michael had told her he planned on having a "shoot out" with the police (Suicide by Cop).

After speaking briefly with (b)(5)(B) I met with Sgt. Bavencoff (2227). I assumed the role of CNT Commander and she assumed the role of Team Leader. My primary function was to be the CNT representative at the Command Post and interface with the SED and Alpine Incident Commander (now Lt. R. Haley).

Because there was no telephone in the home, I requested SED deliver the CNT throw phone to establish communications with Michael (approved by Haley). While this plan was being formulated, CNT personnel were deployed with SED in the armored vehicle and were attempting to contact Michael by loudspeaker.

At the Command Post we were told Michael was yelling out the home's windows and moving about the home's interior. Shortly after CNT began the loudspeaker announcements, Michael exited the rear door of the home and was shot by SED personnel.

All CNT personnel were debriefed at the scene and prepared written reports. I remained at the scene and participated in the Homicide Briefing, providing the CNT actions.

I left the scene at approx. 1630 hrs.

REPORTING OFFICER	ARJIS #	DIVISION	APPROVER	DATE OF REPORT	MONTH	DAY	YEAR	TIME
<i>R. M. Moore</i>	0734	CNT	<i>[Signature]</i>		11	15	10	1100



**SAN DIEGO COUNTY
SHERIFF'S DEPARTMENT
NARRATIVE**

Case No. **10064025**

Page 1 of 1

CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) O.I.S.			INCIDENT DATE: 10-19-10	
LOCATION OF INCIDENT (b)(5)(B) Japatul Road Alpine, CA			BEAT 563	
DETECTIVE ASSIGNED D. Murtaugh	ARJIS 2445	STATION / DIVISION Santee Station / Detective Division		DATE OF FOLLOW-UP 10-19-10
PRIMARY VICTIM'S NAME		PRIMARY SUSPECT'S NAME		SUSPECT'S DOB / AGE RANGE

Investigation:

On 10-19-10 at approximately 1401 hours, Sgt. T. Poulin #1097 requested that Detective Patterson # 2658, Detective Thygessen #1861, Detective Brambilla #4387 and I assist sheriff's units with an O.I.S., Officer Involved Shooting, incident at **(b)(5)(B) Japatul Road** in Alpine, SDSO Incident #8708726. We drove to the scene.

At approximately 1456 hours, I contacted Sgt. Varnau #1642 at the Sheriff's Command Post on Japatul Road. Sgt. Varnau requested that Detective Patterson, Detective Thygessen, Detective Brambilla and I contact the Sheriff's S.E.D., Special Enforcement Detail, personnel that were currently securing the shooting scene at the residence and relieve the S.E.D. units at the location.

Detective Patterson, Detective Thygessen, Detective Brambilla and I contacted Sgt. Butterfield #1454 and Deputy Lozoya #2190 at the shooting scene, the residence located at **(b)(5)(B) Japatul Road**. Sgt. Butterfield briefed us on the shooting and the location of evidence on the exterior perimeter of the residence.

Detective Patterson, Detective Thygessen, Detective Brambilla and I maintained security around the exterior perimeter of the residence.

At approximately 1757 hours, Lt. Haley #1095 requested that Detective Thygessen and I clear from the scene. Detective Thygessen and I left the location. Detective Patterson and Detective Brambilla remained on scene.

Related Reports:

SDSO Case #10064025

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE		CASE NUMBER 10064025				
FROM: <input type="checkbox"/> CRIME <input type="checkbox"/> OTHER						
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK TUE	TIME 1005
LOCATION OF INCIDENT (b)(5)(B) JAPATUL RD.		CITY ALPINE			BEAT 563	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED) FOSTER, MICHAEL (b)(5)(B)				

ORIGIN:

On 10-19-10, at approximately 1005 hours, I received a pager call out from SED of a barricaded suspect at **(b)(5)(B)** Japatul Road in Alpine.

DEPUTY'S OBSERVATIONS AND ACTIONS:

I responded to the tactical staging area near the location and was briefed on the incident. I also received information of the suspect (Michael Foster **(b)(5)(B)**) along with his criminal history and background. I then responded to **(b)(5)(B)** Japatul Road in the armored car with the entry team element.

The armored car and entry team was posted near the garage and "granny flat" side of the main residence. I remained behind the armored car with the entry team while the Crisis Negotiations Team (CNT) attempted to call Foster out. I could hear the suspect yelling out of the window asking for something. I also heard on the radio later on that the suspect had thrown something out of the window.

There were reports of the suspect moving around the windows and opening and closing doors. Finally I heard on the radio that the suspect was coming out of the residence on side 3. Within seconds I heard several shots fired from the direction of side 3. I did not see anything from where I was at. Shortly afterward, I heard on the radio that the suspect was on the ground in the back patio of the residence. The suspect was calling for help and moving his arms around.

A decision was made to move up to where the suspect was at. I moved up with the entry team toward where the suspect was last seen. On side 3 where the back patio was at, I could see the suspect on the ground bleeding and a black revolver lying nearby on the ground. The suspect fit the description of Michael Foster. The suspect did not have a shirt on and I could see a couple of holes on his body.

I assisted the entry team with clearing the remaining structures on the property. As I was coming out, I could see medical personnel were treating the suspect on the ground. I returned to the armored car and had no further contact with the suspect.

REPORTING OFFICER M. NGUYEN	ARJIS # 2259	DIVISION BCST	APPROVER 	DATE OF REPORT: 10 20 2010 1218	MONTH 10	DAY 20	YEAR 2010	TIME 1218
---------------------------------------	------------------------	-------------------------	---	---	--------------------	------------------	---------------------	---------------------

**SAN DIEGO REGIONAL
DEPUTY' S REPORT
NARRATIVE**

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE		CASE NUMBER			Page of	
FROM: <input type="checkbox"/> CRIME <input checked="" type="checkbox"/> OTHER		MONTH	DAY	YEAR	DAY OF WEEK	TIME
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy Report		10	19	10	TUE	1000
LOCATION OF INCIDENT (b)(5)(B) Japatul Road				CITY Alpine		BEAT 563
PERSON(S) INVOLVED: VICTIM			SUSPECT (IF NAMED) Foster, Michael		PROPERTY TAG NO. (S)	

Origin:

On 10-19-10, at about 1000 hours, I received a SWAT callout and requested to respond to the 19000 block of Japatul Road in Alpine, located in San Diego County.

DEPUTY'S OBSERVATIONS AND ACTIONS:

Once I arrived at the Tactical Staging Area I was informed that the suspect, Michael Foster, had held his wife against her will with the use of a hand gun, which he had fired several shots inside and outside of the residence. Information from the wife indicated that some of the shots Foster had fired inside the residence narrowly missed her. I was advised that Foster had possible set up trip wires around his property. Foster was taking medication for Post Traumatic Stress Disorder and wanted to have a "Shoot out with the police." Foster was last seen in the granny flat by the wife. The granny flat is inline with the main residence and located on the south side.

I as well as Deputy Jason Phillips were assigned to the 2/3 corner of the granny flat. Once in position we were approximately 30 yards away at about a 45 degree angle. From my position I was unable to see the granny flat as it was blocked by dense vegetation that was close to the granny flat.

The SED armored vehicle pulled up to the front of the granny flat. From my position I could hear Deputy Leavitt from Crisis Negotiations Unit talking over the loud speaker asking Foster to come out. I did hear Foster yell something but unknown what. While Deputy Leavitt continued to try to get Foster to talk I could hear noises like something heavy was being placed up against something inside the granny flat.

Over the radio I heard "Suspect coming out on side 3." I heard voices coming from the perimeter deputies and Foster and then heard 5 to 8 shots fired. From my view I was unable to see the suspect. I heard Foster crying and saying "I'm Sorry." The entry team contacted Foster and secured the area.

REPORTING OFFICER K. OLIN	ARJIS # 5523	DIVISION BCST	APPROVED BY SG. M. [Signature]	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 2010	TIME 1308
------------------------------	-----------------	------------------	-----------------------------------	-----------------	-------------	-----------	--------------	--------------

AGENCY SH - 52	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM	DAY	DATE
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Follow Up Investigation				THROUGH DAY TUESDAY	DATE 10/19/2010	TIME 08:30
LOCATION OF INCIDENT (b)(5)(B) Japatul Road, Alpine CA 91901						BEAT 563
REPORTING OFFICER F. Passalacqua	ARJIS 2204	DIVISION SH52 INV			DATE OF REPORT 10/20/2010	TIME 10:00
PRIMARY VICTIM'S NAME (b)(5)(B)			PRIMARY SUSPECT'S NAME Foster, Michael		SUSPECT'S DOB (b)(5)(A)	AGE RING

INVESTIGATION:

On 10/19/2010 at about 0825 hours, I heard a call dispatched over the Sheriff's radio of an assault with a deadly weapon on **(b)(5)(B)** Japatul Road in Alpine. Being the detective assigned to that area, I decided to respond to the scene in order to assist the patrol deputies.

I arrived at the location at about 0854 hours. I saw Deputy Barnes speaking to a woman, later identified as **(b)(5)(B)**. I spoke with **(b)(5)(B)** and she told me the following:

Victim Statement: **(b)(5)(B)**

(b)(5)(B) told me her husband, Michael Foster, was suffering from Post Traumatic Stress Disorder. He was a veteran of Desert Storm and served in Bosnia. He was a medic and was having problems. On several occasions in the recent past, Michael has woken her up yelling at her asking her who she was and to identify herself. She knew he was suffering from flashbacks. She has always been able to "talk him down" and get him to "come back." He had agreed to go get mental health treatment next Monday (10/25) after he completed his case files for other veterans he was helping.

Michael is on medication but sometimes he does not take it. She does not like to "hound" him about it because he becomes angry stating he is not a child and should not be treated like one. **(b)(5)(B)** said Michael took his medication the evening before.

At about 0300 hours, **(b)(5)(B)** awoke to Michael grabbing her hair yelling at her and asking her who she was, to identify herself and what side she was on. Michael was in possession of a large hand gun, a revolver type. She knew he had inherited two firearms recently, a revolver and a rifle. **(b)(5)(B)** had taken the guns away from Michael and given them to a neighbor to hold. She did not know Michael had the revolver until this morning. **(b)(5)(B)** called the neighbor who confirmed that Michael got the gun about a month prior. The neighbor would not give him the rifle.

After being awoken, **(b)(5)(B)** tried to "talk him down" but he was extremely agitated. **(b)(5)(B)** said he fired a shot through a bedroom door, through the sliding glass door, a glass table top on the patio as well as fired several shots into the canyon out behind the house. I asked **(b)(5)(B)** if Michael had tried to shoot her. **(b)(5)(B)** began to cry and nodded her head.

REPORTING OFFICER F. Passalacqua	ID # 2204	DIVISION SH52 INV	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
--	---------------------	-----------------------------	-------------	---------------	---------------

NARRATIVE

Page 2 of 2

CODE SECTION: Follow Up Investigation

CASE NUMBER: 10064025

REPORT DATE: 10/20/2010

(b)(5)(B) told me she opened her eyes to Michael pointing the hand gun right at her head with the barrel pressed up to her forehead. He asked her what side she was on. She tried to calm him and stated she was, of course, on his side. Michael pointed the gun slightly off and fired one shot. The bullet "whizzed" by her head.

After a while Michael lay down on the bed and put a towel over his face. He had the gun in his hand. He would raise it to his chin and then back down. He told her to run and call the police so "they could take care of it." (b)(5)(B) ran out of the house trying to call 9-1-1. She was unable to get reception, so she went to a neighbor's house to call the police.

Sgt. Browning responded and advised Sgt. Moore from the Hostage Negotiation Team was responding as was a Special Enforcement Detail scout team, to assess the situation. Once a course of action was determined I was assigned to be the scribe for the incident.

For scribe notes see additional Deputy's Report, written by me.

REPORTING OFFICER	ID #	DIVISION	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
F. Passalacqua	2204	SH52 INV			

AGENCY SH - 52	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY	DATE	TIME
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Follow Up Investigation				THROUGH DAY TUESDAY	DATE 10/19/2010	TIME 08:22
LOCATION OF INCIDENT (b)(5)(B) Japatul Road, Alpine CA 91901						BEAT 563
REPORTING OFFICER F. Passalacqua	ARJIS 2204	DIVISION SH52 INV	DATE OF REPORT 10/20/2010		TIME 10:00	
PRIMARY VICTIM'S NAME (b)(5)(B)			PRIMARY SUSPECT'S NAME Foster, Michael		SUSPECT'S DOB (b)(5)(A)	

INVESTIGATION:

Incident number: S8708726

Case Number: 10064025

0822 hours: Call came into Communication Center
 0823 hours: Call dispatched to 52K1A – Deputy Barnes #2170
 0825 hours: Sycuan fire department received call to standby for an assault, Medic unit M6391
 0834 hours: 52IS, Sgt. Browning #2565, advised and acknowledged the call
 0836 hours: First unit on scene, 52P5A – Deputy McFarland #2066
 0840 hours: 52K1A on scene
 0843 hours: 52P3A – Deputy Fuhr #6655, on scene
 0854 hours: 52I1 – Deputy Passalacqua #2204 on scene
 0859 hours: 52IS requested on call Special Enforcement Detail (SED) to contact him
 0900 hours: 52K1A requested PERT
 0903 hours: SED on phone with 52IS – confirmed en route
 0905 hours: 52IS and 52I3 – Deputy Blanton #1974 – on scene
 0910 hours: 52P5A and 52P3A on perimeter of residence
 0914 hours: Sgt. Moore (Hostage Negotiation Team – HNT) advised of incident and en route
 0924 hours: 52IS and 52K1A attempt to make voice contact - no response
 0930 hours: Sgt. Moore and HNT team began arriving
 1000 hours: Deputy Chantler (SED) arrived on scene
 1008 hours: 52IS requested Code 11 – SED already notified
 1017 hours: 52L Haley advised and en route
 1021 hours: TSA (Tactical Staging Area) set at 13 mile marker in Japatul Road
 1040 hours: PIO (Public Information Officer) requested – voicemail left for Sgt. Crist
 1045 hours: 52L arrived on scene – new incident commander
 1055 hours: CHP and Senior Volunteer requested and en route for traffic control
 1057 hours: 50C Musgrove notified
 1105 hours: Mobile Command en route
 1107 hours: Media on scene
 1110 hours: Home owner – **(b)(5)(B)** on scene
 1110 hours: Media helicopter on scene, low flying. ASTREA requested to contact and ask to leave area or gain altitude

REPORTING OFFICER F. Passalacqua	ID # 2204	DIVISION SH52 INV	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
--	---------------------	-----------------------------	-------------	---------------	---------------

NARRATIVE

Page 2 of 4

CODE SECTION: Follow Up Investigation

CASE NUMBER: **10064025**

REPORT DATE: 10/20/2010

1111 hours: SED Captain Frank on scene
1112 hours: Media asked to relocate to Loveland Reservoir parking lot
1115 hours: SED LT. Brust on scene
1115 hours: Media helicopter left area
Media left to relocate
5213 dispatched to Loveland Reservoir
1116 hours: HNT briefing
1117 hours: SED Captain, SED LT, SED Sgt, 52L and 52IS briefing
1125 hours: CHP road closure requested
1125 hours: Second Mobile Command requested and en route
1130 hours: CHP supervisor on scene
1130 hours: Notified MC5 en route to scene
MC4 en route to TSA
1133 hours: Emergency Planning Sgt. Salazar on scene and briefed
Incident Command set up
1135 hours: Senior Volunteer complete road closure east and west bound
1150 hours: ERAT trailer en route
1150 hours: Mobile Command 5 for SED and Mobile Command 2 for command post on scene
1150 hours: Request all vehicles parked on west side of scene to be moved to east side of driveway
Fire personnel moved vehicles out of driveway
1155 hours: SED moved in for containment
1200 hours: Red Cross asking if their assistance was needed – advised not needed at this time
1201 hours: CHP units on scene as well as Senior Volunteer units
1203 hours: Request radio frequency patch with CHP
LESTAC1 designated as patched frequency
1204 hours: 10ES6 on scene at TSA
1205 hours: LE South TAC1 patched
1207 hours: Road closure at Tavern Road and Japatul
Road closure at 20000 block Japatul
1208 hours: Advised to allow media through road closure to Loveland Reservoir
1210 hours: 52PS relieved
1211 hours: HNT ready to deploy phone
1220 hours: Mobile Command on scene
1231 hours: SED has full containment
1237 hours: Pick up three (3) HNT to drive to target
Followed by SED, Bomb/Arson and HNT
PA announcements for about 10 minutes
Plan to deploy two (2) robots and one (1) phone
1240 hours: Deploying and en route to target
FD following
1250 hours: Sgt. Varnau # 1642 with ERAT trailer on scene
Requesting additional personnel

REPORTING OFFICER
F. PassalacquaID #
2204DIVISION
SH52 INV

REVIEWED BY

DATE REVIEWED

TIME REVIEWED

NARRATIVE

Page 3 of 4

CODE SECTION:	Follow Up Investigation	CASE NUMBER:	10064025
		REPORT DATE:	10/20/2010

1254 hours: Arrived at target

1255 hours: PA announcements commence
Announce until 1305 hours

1300 hours: Subject in granny flat house yelling out through blinds

1305 hours: Loud "Pop" heard from inside house

1307 hours: Preparing robot for entry

1310 hours: SED still seeing movement from inside

1316 hours: HNT with wife in a car

1317 hours: Robot en route to the house

1320 hours: 52X – Deputy Kusler #7711 – taking family to Station 52
Communication Center LT. Garmo contacting local schools re: road closures
: Subject opened door, yelled out and closed door

1321 hours: Subject heard requesting phone

1323 hours: Subject seen throwing unknown object out of house

1324 hours: Shots fired
Possible SED shots
Subject pointed gun at side 2 perimeter – SED shot
Subject on back, face up on the back patio

1325 hours: Advised 52X to silence air

1325 hours: Sending robot to check condition of subject
Disregard sending robot

1326 hours: Subject heard yelling, "I'm shot, please help me."

1327 hours: Request for Mercy Air

1328 hours: SED approaching to check subject condition

1329 hours: Homicide 10-4 per 52C

1330 hours: Subject still alive
Subject on his back with hands clear
SED approaching

1331 hours: Medics on stand-by at garage
Subject still on patio, hands empty
SED approaching

1332 hours: Have subject and gun
In custody
Send in TAC medics and ambulance

1332 hours: Mercy Air unavailable due to weather

1333 hours: Subject conscious
Medics with subject

1335 hours: Advised to freeze scene
Leave all equipment for investigation

1336 hours: Homicide Captain Curran updated on status

1337 hours: Subject awaiting transport

1338 hours: Peer support advised and en route Station 52

1339 hours: Per Medics potential fatal wounds

REPORTING OFFICER F. Passalacqua	ID # 2204	DIVISION SH52 INV	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
-------------------------------------	--------------	----------------------	-------------	---------------	---------------

NARRATIVE

Page 4 of 4

CODE SECTION:	Follow Up Investigation	CASE NUMBER:	10064025
		REPORT DATE:	10/20/2010

1340 hours: 52P3A will be en route to hospital with subject
52IS sent scribe to scene

1341 hours: Advised three (3) shooters, Farr, Kerr, Gavin
Homicide advised briefing at their office then en route

1344 hours: Sycuan Medics leaving with subject
Confirmed 52P3A with subject

1347 hours: Advised to re route school buses
Sig-Alert sent for Japatul Road

1345 hours: Santee Detectives, 50I9, 50I11, 50I12 and 50I3 en route to assist at scene

1348 hours: 52X arrived at Station 52 with family and placed in community room

1350 hours: Subject en route to Sharp Memorial

1351 hours: 52K1A assigned to command post security

1400 hours: Bomb/Arson and HNT began to remove equipment from scene

1401 hours: Begin transition to crime scene

1402 hours: Request Deputy's Report from all HNT "talkers"

1403 hours: Shooters en route to TSA with Rep.

1404 hours: Confirmed two (2) "talkers"

1405 hours: 52K1A en route Station 52 for report writing
52I5 on scene to cover 52K1A

1408 hours: Lemon Grove units assisting in radio calls in Alpine
60P1, 60P13 and 60P17 responding
60P1 and 60P13 taking calls in Alpine
60P17 – Deputy Suenishi #2783 – scene protection

1410 hours: Advised Station 52 to contact TIPS for the family

1413 hours: Notified PERT already en route for family
Advised to wait for Homicide

1415 hours: CHP set up signs for road closures
All units responding told to report to staging area and contact Sgt. Varnau

1423 hours: SVP shift change

1435 hours: SED being called for weapons exchange

1450 hours: 50I4a units on scene and set to relieve SED perimeter units
50I9 – Deputy Murtaugh #2445
50I11 – Deputy Thygesen #1861
50I12 – Deputy Brambila #4387
50I13 – Deputy Patterson #2658

1550 hours: Homicide briefing

1620 hours: Homicide briefing ended
Scene now criminal investigation

REPORTING OFFICER	ID #	DIVISION	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
F. Passalacqua	2204	SH52 INV			



**SAN DIEGO COUNTY
SHERIFF'S DEPARTMENT
FOLLOW-UP INVESTIGATION**

Page 1 of 2

CASE NUMBER:	10064025
BEAT NUMBER	563
CITY:	Alpine

CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Officer Involved Shooting			INCIDENT DATE: 10/19/2010	
LOCATION OF INCIDENT: (b)(5)(B) Japatul Road, Alpine CA 91901				
DETECTIVE Patterson, B.	ARJIS 2658	STATION/DIVISION SAN/DET	DATE OF FOLLOW-UP 10/19/2010	
PRIMARY VICTIM'S NAME (b)(5)(B)		PRIMARY SUSPECT'S NAME Foster, Michael		SUSPECT'S DOB / AGE RANGE (b)(5)(A)

Origin:

On October 19th, 2010, I was assigned to the Santee Detective Unit and was working as an area investigator.

At approximately 1325 hours, there was an officer involved shooting in the town of Alpine located in the county of San Diego. The shooting occurred at (b)(5)(B) Japatul Road, also in the town of Alpine.

At approximately 1345 hours, the Alpine Sheriff's Station requested assistance from the Santee Sheriff Station's area investigators. Detectives Murtaugh, Brambila, Thygesen and I responded to the command post which was located near where the shooting occurred.

Observations and actions:

Upon our arrival at about 1450 hours, the four of us checked in at the command post and were given an assignment. Our assignment was to relieve the Special Enforcement Detail (SED) Deputies who were still on scene and were providing crime scene security.

We contacted SED Sergeant Butterfield who was approximately half way down a long driveway which led to the crime scene (residence located at (b)(5)(B) Japatul Road). We walked with Sergeant Butterfield to the residence.

As we approached the residence he pointed out vehicle tire tracks in the mud at the base of the driveway. Sergeant Butterfield told us this is where the SED vehicles were parked when the shooting occurred. The vehicles were no longer in place.

Sergeant Butterfield also pointed out several spent cartridges which were lying on the cement patio. This patio was on the east side of the house (number one side). Sergeant Butterfield was unsure if they were related to this day's event.

Sergeant Butterfield led us to the rear of the residence which faced to the west. Deputy Lozoya (2190) was currently positioned on the rear deck providing security for the crime scene. Sergeant Butterfield pointed out where the suspect was lying when they contacted him, the position of the gun which had not been moved and the location where two of the SED Deputies were when they fired their weapons. The deputy locations were to the northwest of the house and marked with pieces of tape.

REPORTING DETECTIVE Patterson, B.	ID # 2658	DIVISION SAN/DET	DATE OF FOLLOW-UP 10/19/2010	REVIEWED BY <i>[Signature]</i>	DATE REVIEWED 11/15/10
--------------------------------------	--------------	---------------------	---------------------------------	-----------------------------------	---------------------------

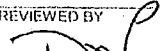
FOLLOW-UP INVESTIGATION

Page 2 of 2

CODE SECTION:	Officer Involved Shooting	CASE NUMBER:	10064025
		INCIDENT DATE:	10/19/2010

After relieving Deputy Lozoya I took up a position at the southwest corner of the residence. I maintained security around the residence until the Homicide unit arrived along with the crime scene investigators. No one other than the four Deputies assigned to relieve SED ever entered the crime scene. Nor did anything ever get moved.

Once the crime scene investigators arrived I assisted them in processing the crime scene. It rained throughout the day and during the processing of the crime scene. Therefore, I assisted by providing shelter from the rain. At approximately 2300 hours I was no longer needed and left the crime scene.

REPORTING DETECTIVE	ID #	DIVISION	DATE OF FOLLOW-UP	REVIEWED BY	DATE REVIEWED
Patterson, B.	2658	SAN/DET	10/19/2010		

AGENCY SH-SED	CAD INCIDENT NUMBER S8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER		
RELATED CASE NUMBER (KEY CASE)				FROM Tues	DAY 10-19-10	DATE 1006
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report/ SED Code-11 Alpine				THROUGH DAY	DATE	TIME
LOCATION OF INCIDENT (b)(5)(B) Japatul Road, Alpine CA 91901						BEAT
REPORTING OFFICER Phillips, Jason	ARJIS 4874	DIVISION SED	DATE OF REPORT 10-19-10		TIME 1800	
PRIMARY VICTIM'S NAME			PRIMARY SUSPECT'S NAME Foster, Michael		SUSPECT'S DOB AGE RING	

ORIGIN:

On 10-19-10, at about 1006 hours, members of the San Diego County Sheriff's Special Enforcement Detail responded to a barricaded subject at (b)(5)(B) Japatul Road in the Alpine area of San Diego County (CAD# S).

DEPUTY'S OBSERVATIONS AND ACTIONS:

On 10-19-10, at about 1006 hours, members of the Special Enforcement Detail were requested to respond to the area of (b)(5)(B) Japatul Road in the Alpine area of San Diego County in response to a barricaded subject.

All the below referenced times are approximate. Please refer to the tactical staging area scribe log for exact times.

I arrived at the tactical staging area (TSA) located near the 12 mile marker of Japatul Road. I was provided an overview of the target address and a briefing regarding the subject who had barricaded himself within the residence. I was told his name was Michael Foster, he weighed approximately 200 pounds, a white male adult, with a full beard, and I was shown a picture of him. I was told SED was called out because Foster allegedly held a pistol to his wife's head and fired numerous rounds into the residence on 10-18-10. The firearm was reported to be a .357 caliber pistol. Foster was a combat veteran in the US Army and possibly suffered from mental illness. Foster also had been known to set up trip wires around his residence, it was unknown if there were explosives attached to any trip wires.

Deputy Olin (#5523) and I were assigned a perimeter position on the 2/3 corner of the target address. Deputy Olin and I along with other perimeter and sniper teams deployed to our positions around the target property. Deputy Olin and I were positioned behind a small rock pile on the 2/3 corner at a 45 degree angle from the property at a distance of about 35 yards.

A short time later contact was made with the subject inside the residence. Sniper positions on the front side of the house observed a shirtless male subject matching the description of the suspect covered in the pre-deployment briefing. After initial contact with the subject by CNT, he began displaying non-compliant behavior. The suspect could be heard screaming and moving unknown items around within the structure. The suspect reportedly threw an unknown item out of the front door and began screaming unintelligibly about a phone. A short time later I heard a loud "thud" type sound

REPORTING OFFICER Phillips, Jason	ID # 4874	DIVISION SED	REVIEWED BY SGT M. J. Jones	DATE REVIEWED 10/20/10	TIME REVIEWED 1328
--------------------------------------	--------------	-----------------	--------------------------------	---------------------------	-----------------------

NARRATIVE

Page 2 of 2

CODE SECTION:	Deputy's Report	CASE NUMBER:	
		REPORT DATE:	

from within the residence. I believed the sound to be a muffled gunshot and other perimeter positions reported the same to the TSA.


Other perimeter positions reported via both the radio and by shouting that the subject had exited the residence and was on side 3 of the structure. I immediately accessed and chambered my beanbag shotgun while Deputy Olin provided lethal cover. I expected the suspect to challenge our position or attempt to break the perimeter. As I shouldered my beanbag shotgun I heard a loud barrage of gunfire from immediately in front of my position. I dropped my beanbag shotgun and scanned the brush in front of my position with my M4 carbine where I had heard the gunfire. The gunfire seemed to be coming from area in front of the side 3 breezeway of the residence between the tall trees and the patio umbrella beneath the white lattice.

The gunfire was unique because I heard two distinctly different sounding gunshots. The first shots I heard were much louder than the following shots. I assumed the first shots were of a different caliber and were much closer to me than the following shots. The second group of shots I recognized as M4 rifle fire at more distance from me. Both series of gunshots were rapid and continuous. I estimated a total of six to eight gunshots.

After the gunfire ceased, Deputy Kerr (#2623) reported that he and his partner (Deputy Gavin #2649) had engaged the suspect from the 3/4 corner when he pointed a handgun at perimeter positions.

Deputy Farr (#2618) was positioned as a sniper on Japatul Road with a view of side 3 of the residence. Deputy Farr reported via the radio that the suspect was lying prone on the 3 side of the residence with nothing in his hands. I clearly heard the suspect moaning, screaming, laughing, speaking unintelligibly, and asking for medical attention. I never observed the subject during the entire incident.

After the entry team took the subject into custody, I eventually returned to the TSA to download my gear and debrief the incident.

REPORTING OFFICER	ID #	DIVISION	REVIEWED BY	DATE REVIEWED	TIME REVIEWED
Phillips, Jason	4874	SED		10/20/10	1328

AGENCY SH - 30	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY Tuesday	DATE 10/19/10	TIME 08:22
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 245(a)(1) PC -- Assault With a Deadly Weapon				THROUGH DAY	DATE	TIME
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd. Alpine Ca. 91901				BEAT 563		
REPORTING OFFICER M Proffitt	ARJIS 6978	DIVISION PATROL	DATE OF REPORT 11/12/10		TIME 0130:	
PRIMARY VICTIM'S NAME (b)(5)(B)			PRIMARY SUSPECT'S NAME Foster, Michael Allen		SUSPECT'S DOB (b)(5)(A)	
					AGE RING	

ORIGIN:

On 10-19-10, at about 0945 hours, I was notified by Sgt. Moore #0754 of a possible standoff incident at **(b)(5)(B)** Japatul Valley Rd. in Alpine. Sgt. Moore advised me that patrol deputies on scene had requested the assistance of the Sheriff's Crisis Negotiations Team (CNT) and asked me to respond to the location to assist.

INVESTIGATION:

I arrived on scene at about 1040 hours and met with Sgt. Moore and Sgt Bavencoff #2227 at the intersection of Japatul Valley Road and the dirt road leading to the residence in question. Once additional members of CNT arrived on scene, Sgt Bavencoff and Moore briefed us of the situation and gave assignments to each of the team members. It was reported that Michael Foster was barricaded and armed inside the residence. Foster was wanted for attempted murder on his wife, **(b)(5)(B)** CNT had been tasked with making contact with Foster and negotiating his peaceful surrender.

I was assigned to assist in the CNT van with the deployment of the "throw phone" and assist the lead negotiators in any way. I rode in the CNT van with other CNT members to a closer position to the residence and began the process of deploying the throw phone with the assistance of the Sheriff's Special Enforcement Detail (SED). While waiting in the CNT van for the completed deployment of the throw phone, I heard several gunshots from the area of the residence and was later advised that Foster had been shot in an exchange of gunfire with SED deputies.

A short time after hearing the gunshots, I began collecting the throw phone and securing the van for the ride back to the command post. I retrieved the throw phone from SED near Foster's residence and walked it back to where the CNT van was parked. Once the van was secured we returned to the command post. Upon arriving at the command post, we de-briefed momentarily before leaving the scene.

This ended my assistance with this incident.

RELATED REPORTS:

See Crime Report by Deputy Barnes #2170 SDSO case number 10064025, and all related deputy's reports.

REPORTING OFFICER M Proffitt	ID # 6978	DIVISION PATROL	REVIEWED BY <i>[Signature]</i> #2525	DATE REVIEWED 11/12/10	TIME REVIEWED 0149 Hrs
--	---------------------	---------------------------	--	----------------------------------	----------------------------------

AGENCY SH - 60	CAD INCIDENT NUMBER 8708726	SAN DIEGO REGIONAL NARRATIVE		AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)				FROM DAY TUESDAY	DATE 10/19/2010	TIME 08:22
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 245(a)(1) PC -- Assault With a Deadly Weapon				THROUGH DAY	DATE	TIME
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd. Alpine Ca. 91901				BEAT 563		
REPORTING OFFICER M. Rand	ARJIS 4713	DIVISION LGS-DET		DATE OF REPORT 11/10/2010		TIME 07:40
PRIMARY VICTIM'S NAME (b)(5)(B)		PRIMARY SUSPECT'S NAME Foster, Michael Allen		SUSPECT'S DOB (b)(5)(B)		AGE RNG

ORIGIN:

On 10-19-10, at about 0920 hours, I was notified by Sgt. Moore (0754) of a developing incident at **(b)(5)(B) Japatul Valley Rd. in Alpine.** Sgt. Moore advised me that patrol deputies on scene had requested the assistance of the Sheriff's Crisis Negotiations Team and asked me to respond to the location to assist.

INVESTIGATION:

I arrived on scene at about 1000 hours and met with Sgt. Moore at the intersection of Japatul Valley Road and the dirt road leading to the residence in question. Sgt. Moore introduced me to **(b)(5)(B)** who was the wife of Michael Foster. **(b)(5)(B)** reported that Michael was inside their residence and was armed with a revolver. **(b)(5)(B)** advised me that Michael was feeling suicidal and that she felt he was going to commit suicide, if he had not already done so. **(b)(5)(B)** stated that she had called 911 because Michael had pointed a gun at her and had fired the gun several times during the night. **(b)(5)(B)** additionally advised me that Michael was suffering from Post-Traumatic Stress Disorder (PTSD) due to having served in the Army in the Iraq war.

After speaking briefly with **(b)(5)(B)** I met with Sgt. Bavencoff (2227) and Sgt. Moore to discuss the situation. Ultimately, other members of CNT arrived and a plan was established to attempt to contact Michael. My particular assignment was to be the primary negotiator with Michael if contact was established via the "throw phone" which was to be deployed to the residence Michael was in. I rode in the CNT van with other CNT members to a closer position to the residence and began the process of deploying the throw phone with the assistance of the Sheriff's Special Enforcement Detail (SED). During this process, I heard several gunshots from the area of the residence and was later advised that Michael had been shot in an exchange of gunfire with SED deputies.

A short time after hearing the gunshots, CNT members began collecting the throw phone and securing the van for the ride back to the command post. Upon arriving at the command post, we debriefed momentarily before leaving the scene.

This ended my assistance with this incident.

RELATED REPORTS:

Crime Report by Deputy Barnes (2170) under Sheriff's case number 10064025.

REPORTING OFFICER M. Rand	ID # 4713	DIVISION LGS-DET	REVIEWED BY <i>[Signature]</i>	DATE REVIEWED 11-10-10	TIME REVIEWED 0840
-------------------------------------	---------------------	----------------------------	-----------------------------------	----------------------------------	------------------------------

AGENCY SH - 52	CAD INCIDENT NUMBER		SAN DIEGO REGIONAL NARRATIVE			AGENCY CASE NUMBER 10064025		
RELATED CASE NUMBER (KEY CASE)		OFFICER'S REPORT ONLY <input checked="" type="checkbox"/>				FROM DAY TUESDAY	DATE 10/19/2010	TIME 10:01
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report						THROUGH DAY	DATE	TIME
LOCATION OF INCIDENT (b)(5)(B) Japitul Road						BEAT 563		
REPORTING OFFICER R. Forbes	ARJIS 2402	DIVISION SED				DATE OF REPORT 10/19/2010		TIME 10:01
PRIMARY VICTIM'S NAME State of California			PRIMARY SUSPECT'S NAME Foster, Michael			SUSPECT'S DOB	AGE RING	

ORIGIN:

On 10-19-10, at about 1001 hours, I was dispatched to a SED callout at **(b)(5)(B)** Japitul Road in Alpine. I arrived at the Tactical Staging Area (TSA) at approximately 1115 hours.

DEPUTY'S OBSERVATIONS AND ACTIONS:

When I arrived, I put on my equipment and received a briefing at the TSA. I learned that Michael Foster lived in the granny flat at **(b)(5)(B)** Japitul Road with his wife. The previous night, Foster had fired shots inside the residence and forced his wife to stay there with him until the morning. The best information available indicated that Foster was probably at that residence by himself and could be armed with a 357 caliber handgun. Foster's history included a recent arrest after getting into a fight at a bar. During that arrest he fought with Deputies. Foster also had military training and experience.

I was assigned as a member of the entry team. After a perimeter was established around the residence, the entry team drove to the front of the granny flat in the armored vehicle. We positioned the armored vehicle in front of the granny flat and the garage and waited there, ready to safely take Foster into custody when he came out of the granny flat. As a negotiator from the Sheriff's Crisis Negotiation Team (CNT) spoke to Foster through the public address system on the armored vehicle, Deputy M. Forbes #2401 saw the blinds moving at the sliding glass door on the front side of the granny flat and broadcast that information on the radio. Foster did not comply with instructions to come out of the door. A few minutes later Deputy West #2686 broadcast information that he had seen Foster inside the residence and confirmed Foster's identity based on the photograph he had seen when he was briefed about the incident. Deputy West was in a position on the front side of the residence. He also broadcast information that Foster had thrown something out the sliding glass door on the front of the granny flat and closed the door again. I was in a position of cover behind the armored vehicle and did not ever observe Foster at the front of the granny flat.

A few minutes later, I heard a broadcast on the radio that Foster had come out on the back side of the granny flat. A short time after that, I heard several gunshots. I heard Deputy Kerr broadcast on the radio that the suspect had fired a gun at Deputies and the suspect was now out of his view. A short time later, Deputy Farr broadcast that he could see Foster lying on the back patio with nothing in his hands. Another Deputy broadcast that Foster was yelling for help.

I was assigned to hold a shield as the entry team approached Foster. A short time later, the entry team moved from the back of the armored vehicle to the garage. Deputy Galve and I each had a shield and we were at the front of the team providing cover for the remaining team members. When we reached the walkway on the front of the garage it was too narrow for Deputy Galve and I to walk side by side. At the direction of the team leader, I moved up the walkway without Deputy Galve beside me. I continued moving between the garage and the granny flat toward the area where Foster was lying. Deputy Chantler was moving with me in a position where the shield provided cover to him. Deputy Farr continued to broadcast information that Foster was on the ground and the gun was not in his hand. As Deputy Chantler and I moved around the corner of the granny flat, I could see Foster lying on the ground. I opened a wire gate at the corner of the granny flat and Deputy Chantler and I approached Foster. I could see a Foster lying on his back on the ground. He did not have anything in his hands, but there was a handgun on the ground a few feet away from him.

Other members of the entry team began checking the interior of the guest house and the main house to ensure no one else was inside. I waited near Foster. Medics arrived quickly and began to treat Foster. Medics placed Foster on a

REPORTING OFFICER R. Forbes	ID # 2402	DIVISION SED	REVIEWED BY [Signature]	DATE REVIEWED 10/20/10	TIME REVIEWED 1820
---------------------------------------	---------------------	------------------------	-----------------------------------	----------------------------------	------------------------------

NARRATIVE

Page 2 of 2

CODE SECTION: Deputy's Report	CASE NUMBER: 10064025 REPORT DATE: 10/19/2010
-------------------------------	---

stretcher and wheeled him to the ambulance which had driven into the driveway in front of the garage. I walked near the stretcher with Foster and the medics and waited as they loaded him into the ambulance. I got into the ambulance with them and stayed in the ambulance as medics drove him up the driveway of the residence toward Japitul Road. While I was inside the ambulance, the medics were treating Foster and he was speaking to them about his treatment. He asked them to move him up on the stretcher (moving his head closer to the end of the stretcher) and they complied with his request. I did not speak to Foster and he did not speak to me. Before we reached Japitul Road, a patrol Deputy relieved me in the back of the ambulance. I returned to the armored vehicle and later left the scene.

REPORTING OFFICER R. Forbes <i>[Signature]</i>	ID # 2402	DIVISION SED	REVIEWED BY <i>[Signature]</i>	DATE REVIEWED 10/20/10	TIME REVIEWED 1820
---	--------------	-----------------	-----------------------------------	---------------------------	-----------------------

SAN DIEGO SHERIFF'S DEPARTMENT

**Follow-up Investigative Report
Robert Heilig Witness Statement**

Crime: 245(a)(2) PC - ADW With a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19, 2010

Page 1 of 4

ORIGIN:

On Tuesday, October 19, 2010, at approximately 1806 hours, I, Special Agent (SA) Katie Viorel, along with SA Stephen Duncan, interviewed (b)(5)(B) at his residence, (b)(5)(B). Also present during the interview was (b)(5)(B) wife, (b)(5)(B).

The interview was digitally recorded. I subsequently copied the interview onto a secured computer server at the San Diego Sheriff's Department Homicide Office. A copy of the recording was downloaded onto a CD-ROM and later given to Detective Dave Hillen. The following is a synopsis of the interview.

WITNESS INFORMATION:

(b)(5)(B)

SYNOPSIS:

(b)(5)(B) and (b)(5)(B) have been residing at (b)(5)(B) for approximately five years. They reside in a trailer located near a small dirt road west of Japatul Road. They have known their neighbors, Michael Foster and (b)(5)(B) for approximately two and a half years.

Earlier that morning at approximately 0815 hours, (b)(5)(B) recalled seeing (b)(5)(B) driving toward their house. (b)(5)(B) described she was hysterical, crying and had ordered (b)(5)(B) to stop. Once (b)(5)(B) stopped, (b)(5)(B) proceeded to tell her Foster had a gun and was shooting

Reporting Officer: SA K. Viorel

ID# 4290

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/22/2010

SAN DIEGO SHERIFF'S DEPARTMENT

**Follow-up Investigative Report
Robert Heilig Witness Statement**

Crime: 245(a)(2) PC - ADW With a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19, 2010

Page 2 of 4

it. (b)(5)(B) then asked her about taking her children to school and (b)(5)(B) instructed her to continue driving to her home as (b)(5)(B) was there. (b)(5)(B) stated (b)(5)(B) was hesitant about contacting the police.

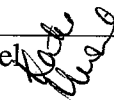
(b)(5)(B) recalled he was in his bedroom resting when (b)(5)(B) yelled to him she was in his house. Once he heard this, he walked from his bedroom into the front area family room and observed (b)(5)(B) dialing 911 on her cell phone. Each time she attempted to contact an emergency operator, the phone made a beeping noise and the call was dropped. After several tries, (b)(5)(B) finally made contact with the operator and notified them her husband had a gun, was shooting and was possibly having flashbacks.

When (b)(5)(B) heard (b)(5)(B) representation to the operator, he immediately left the residence on foot to check on his wife who, minutes earlier, left their home to drive their children to the school bus stop at the top of the street. As he left the residence, (b)(5)(B) walked outside but remained on the phone with the operator.

As soon as (b)(5)(B) discovered his children were fine and on the bus to school, he and (b)(5)(B) returned to their residence where they observed (b)(5)(B) walking in the opposite direction on her cell phone. At the time, (b)(5)(B) and (b)(5)(B) discovered she was communicating with the operator and informing them of her location. (b)(5)(B) then entered their vehicle and they drove together to Japatul Road to wait for the SDSD deputies to arrive. Once the deputies arrived, (b)(5)(B) remained with them while (b)(5)(B) and (b)(5)(B) drove to (b)(5)(B) parent's home located "up the road." They stayed at the residence for about 45 minutes before returning home where they were instructed by deputies to remain.


Between 1400 and 1500 hours, (b)(5)(B) and (b)(5)(B) heard hostage negotiators speaking to Foster, and when they heard this, they were assured he was alive. (b)(5)(B) heard the negotiator telling Foster he had family and friends who cared for him. In addition, he heard the negotiator talk to Foster about some of the good things he had done. At one point, they heard the negotiator tell Foster they could not hear what he was saying due to the rain.

After about five minutes of listening to the negotiator from their home, (b)(5)(B) and (b)(5)(B) walked up the street where they observed (b)(5)(B) waiting with the deputies. The three of them continued to listen to the negotiations for an additional 10 or 15 minutes before they heard multiple rounds fired along with some booming noises. Upon hearing this, (b)(5)(B) gave (b)(5)(B) a hug and they both cried. Shortly thereafter, they understood the deputies drove (b)(5)(B) to the SDSD Station and they returned to their home.

Reporting Officer: SA K. Viorel  ID# 4290

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 

10/22/2010

SAN DIEGO SHERIFF'S DEPARTMENT

**Follow-up Investigative Report
Robert Heilig Witness Statement**

Crime: 245(a)(2) PC - ADW With a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19, 2010

Page 3 of 4

(b)(5)(B) described his relationship with Foster and (b)(5)(B) as a friendship. He stated they occasionally came to their home to visit and have a couple beers. (b)(5)(B) described Foster as a very caring and generous man who was always helping others. Foster gave them a van he had no use for and he brought them food during hard times. In 2008, Foster saved a woman who resided in a nearby trailer from a fire her partner started in an attempt to kill her. According to (b)(5)(B) Foster was honorably discharged from the military where he previously worked as an Emergency Medical Technician (EMT) and satellite technician. (b)(5)(B) understood Foster was working at the Veterans of Foreign Wars (VFW) in Alpine near the Forestry Station.

(b)(5)(B) was under the impression Foster was previously hospitalized after being severely injured in an explosion and recalled Foster telling him he occasionally had flashbacks due to stress he endured during his time in the military. (b)(5)(B) stated he never witnessed one of Foster's flashbacks, however, according to Foster, (b)(5)(B) was the only person who could calm him when they occurred. Foster never described to him what would happen if he had a flashback. (b)(5)(B) thought Foster was taking medication but he did not know what type of medication and was unaware of Foster's health issues. Foster never mentioned being depressed or schizophrenic.

(b)(5)(B) and (b)(5)(B) felt Foster drank excessively and Foster may have told (b)(5)(B) he had been beat up and harassed by police. He described during the weekend of October 8th, Foster telephoned (b)(5)(B) from the Casino Inn in Alpine at about 2AM. Foster left (b)(5)(B) a message on her cell phone with regard to being assaulted by police officers. As a result of the incident Foster spent three days in county jail.

When Foster was released, he initially expressed to (b)(5)(B) he had a flashback at the Casino Inn as he thought he was saving a girl from a fire. Foster later told (b)(5)(B) he saw a girl at the Casino Inn with a group of men. He walked over to her, asked if she was okay and then made a comment to one of the men about his height. Following the comment, the man punched him, Foster threw him and the fight escalated from there. Foster had asked (b)(5)(B) about the cell phone message in an attempt to piece the night together. (b)(5)(B) had erased the message so he requested she write down what she remembered. In addition, Foster related to him another incident when he was tased by law enforcement.

(b)(5)(B) and (b)(5)(B) stated Foster and (b)(5)(B) seemed to be happy and had not witnessed any domestic violence between them. They knew Foster and (b)(5)(B) had been attempting to

Reporting Officer: SA K. Viorel

ID# 4290

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/22/2010

SAN DIEGO SHERIFF'S DEPARTMENT

**Follow-up Investigative Report
Robert Heilig Witness Statement**

Crime: 245(a)(2) PC - ADW With a Gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19, 2010

Page 4 of 4

conceive which was causing some stress on the relationship. According to (b)(5)(B) worked at a mental hospital along with her landlord.

During the course of the interview, (b)(5)(B) white vehicle, plate (b)(5)(B) was parked at the (b)(5)(B) trailer just next to (b)(5)(B) red vehicle, plate (b)(5)(B)

(b)(5)(B) had no further information and the interview was concluded at approximately 1906 hours.

Reporting Officer: SA K. Viorel *K. Viorel* ID# 4290

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *[Signature]*

10/22/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 21

Origin:

On Tuesday, October 19th, 2010, at 1402 hours, Sergeant Dave Martinez #1136, of the San Diego County Sheriff's Homicide Detail, briefed myself and other detectives of an officer involved shooting that occurred behind the residence of (b)(5)(B) Japatul Road in the City of Alpine. The following Sheriff's personnel from the Homicide Detail attended the briefing, Lieutenant Dennis Brugos #1134, Investigative Specialist (b)(5)(B), Sergeants Roy Frank #1704, and David Nemeth #1804, Detectives Troy DuGal #2425, Suzanne Fiske #1918, Leslie Hall #1083, Angela Tsuida #2099, Henry Lebitski #2079, Border Patrol Agent Manny Esparza and me (David Hillen #1635).

During the briefing Sgt. Martinez told us that at about 0822 hours, the Sheriff's Communication Center received a 911 call at (b)(5)(B) Japatul Road, in the city of Alpine. A female at this residence reported her husband had drank between 6-8 beers and is currently on psychiatric medication. He had held her against her will in their home, placed a gun to her head, and had fired the handgun with one of the rounds just missing her head. She was able to flee the residence and call 911.


On Tuesday, October 19th, 2010, at about 1327 hours, the suspect, Michael Foster, was shot by three S.E.D. Deputies. It was added during the briefing that Michael Foster suffers from Post Trumatic Stress Disorder (P.T.S.D.) and is an ex-combat army soldier, and had been suffering from "flashbacks." Michael Foster had been arrested on October 10, 2010 at 0200 hours, at the Casino Inn bar in Alpine. The case number for this incident is #10064025 and CAD #S8708726.

On Tuesday, October 19th, 2010, at 1420 hours, I left the Sheriff's Homicide Office and responded to the scene.


On Tuesday, October 19th, 2010, at 1516 hours, I arrived on scene. I noticed a marked partol unit was parked on Japatul Road and was blocking the driveway leading from the road to (b)(5)(B) Japatul Road. The weather in Apline was cloudy, raining, and approximately 60 degrees.

Patrol Briefing:

On Tuesday, October 19th, 2010, at 1550 hours, I attended the officer involved shooting briefing for this case. The briefing took place at the Command Post, which was set up at the 13.5 mile marker on Japatul Road. The briefing was conducted by Sgt. Charles Browning #2569, Sgt. Russell Moore #0754, and Deputy John Debus #1843. Sheriff's Homicide personnel at the breifing included Captain T. Curran #2051, Lt. D. Brugos

Reporting Officer: Det. D. Hillen  ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine

Page 2 of 21

#1134, Sgt. D. Martinez #1136, Sgt. D. Nemeth #1804, Detectives T. DuGal #2425, S. Fiske #1918, L. Hall #1083, A. Tsuida #2099, H. Lebitski #2079, M. Palmer #1817, Investigative Specialist (b)(5)(B) and me (David Hillen #1635). Sheriff's Crime Laboratory personnel at the briefing were Criminalists (b)(5)(B) and (b)(5)(B) (b)(5)(B) Forensic Evidence Technicians (FET) (b)(5)(B) (b)(5)(B) Intern (b)(5)(B). Also included in the briefing were Capt. E. Musgrove #1812 (Santee Station), Capt. T. Frank #1845 (S.E.D.), Lt. R. Haley #1095 (Alpine Station), Lt. P. Brust (S.E.D.), Sgt. M. Wood (Internal Affairs), Sgt. D. Brislin (Internal Affairs), Sgt. K. Stuart (Internal Affairs), Sgt. M. Varnau (E.R.A.T.), Sgt. D. Gilmore #2519 (D.I.S.), Agent T. Burtis #8227 (DOJ), M. Esparza (Border Patrol), Det. F. Passalacqua #2204 (Alpine Station), Dep. J. Suenishi #2783 (Lemon Grove Station), Attorney (b)(5)(B) B. Dean #85 and M. Finch #26 (SDDA Spec Ops).

Sgt. Browning said that on October 19, 2010, at about 0822 hours, the Sheriff's Communications Center received a call of a 245 PC (with a handgun) at (b)(5)(B) Japatul Road, in the city of Alpine, CAD #S8708726. Patrol units were dispatched at about 0823 hours. Deputies Barnes #2170 (52K2A), Fuhr #665 (52P3A), and McFarland #2066 (52P5A), responded to the call, with Deputy Barnes being the primary deputy. At 0836 hours, Deputy McFarland arrived on scene and contacted the reporting party, (b)(5)(B) at the top of the driveway of (b)(5)(B) Japatul Road. She told Deputy McFarland that her husband, Michael Foster, had pointed a revolver at her head, fired a couple of rounds in the house and a couple into the canyon at the rear of the residence. One of the rounds he fired in the house went right by her head.

Deputy Barnes arrived on scene at about 0840 hours, and Deputy Fuhr arrived on scene at about 0843 hours. Deputies McFarland and Fuhr went to the residence to establish a perimeter while Deputy Barnes stayed with the victim. It was about this time that Detective F. Passalacqua #2204 arrived on scene and assisted Deputy Barnes in obtaining a statement from (b)(5)(B).

(b)(5)(B) told Detective Passalacqua that Michael Foster is former military and that he has been suffering from P.T.S.D. and had been having flashbacks recently. At about 0300 hours this morning, Michael woke her up by grabbing her by the hair and was armed with a handgun. He asked her for her identification and asked her what her mission was. (b)(5)(B) stated he fired a round through their bedroom door, through a glass table in the backyard, and through a glass door to the main residence. After firing the rounds he asked her to help him find additional ammunition. (b)(5)(B) told Michael she was not going to help him find and ammunition. Michael searched the closet and found some ammunition in a bandoleer. She was unsure if the ammunition he found would fit the handgun. It was at this time Michael pointed the gun to (b)(5)(B) head and said "who's

Reporting Officer: Det. D. Hillen *DSX* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *DS*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 21

side are you on?" She told him "yours." he moved the gun away from her head and fired a round. At some point Michael laid down on their bed, put the barrel of the gun to his chin, placed a towel over his head, and told (b)(5)(B) "get out of the house." (b)(5)(B) ran out of the house and tried to call 911 on her cellular phone but could not get reception. She ran to a neighbors house and called 911. After placing the phone call to 911 she ran to the top of the driveway and waited for the deputies arrival.

On Tuesday, October 19th, 2010, at about 0855 hours, Sgt. Browning arrived on scene, and met with Deputy Barnes and Detective Passalacqua. While he was in route the radio call he telephoned S.E.D. Sgt. M. Strong #1997, and advised him of the situation. He also received a phone call from Sgt. R. Moore 0754, and advised him of the situation.

On Tuesday, October 19th, 2010, at about 0915 hours, Deputy Barnes and Sgt. Browning went within shouting distance of (b)(5)(B) Japatul Road and made announcements asking Michael to come out of the residence unarmed, with negative results. The Deputies on the perimeter (McFarland and Fuhr) informed Sgt. Browning that they could hear his commands. Sgt. Browning went back to his patrol vehicle and used his PA system to make the same announcements, with negative results.

On Tuesday, October 19th, 2010. at about 1000 hours, Deputy Chantler #2305, arrived on scene to scout the area for S.E.D.

On Tuesday, October 19th, 2010, at about 1008 hours, Sgt. Browning called for a S.E.D call out for an armed barricaded suspect.

At the conclusion of Sgt. Browning's briefing Sgt. R. Moore briefed us. He essentially stated that at about 0900 hours, he received a phone call from S.E.D. Sgt. B. Butterfield #1454, who informed him of this radio call. Sgt. Moore went in route the scene to head up C.N.T. (Crisis Negotiation Team), and arrived on scene at about 0920 hours. He interviewed (b)(5)(B) and during the interview she told him that before she left the residence Michael stated "he wanted to get in a shootout with police." Sgt. Moore found out that Michael frequently attends the VFW (Veterans of Foreign Wars), and contacted VFW Commander (b)(5)(B) Sgt. Moore said they recorded Commander (b)(5)(B) and (b)(5)(B) separately, asking Michael to exit the residence peaceably. Sgt. Moore stated he played these messages over a loud speaker, with negative results. Deputies Amber Leavitt #2720 and Warren Voth #2633, both of C.N.T. went with S.E.D. deputies in the armored vehicle and approached the residence. At about 1255 hours, Deputy Leavitt began making PA Announcements in an effort to contact Michael Foster. As they started this, they saw Michael looking out the window and yelling something. Deputies on scene said they heard a "pop" from inside the residence, but were not sure if it was a

Reporting Officer: Det. D. Hillen *DSK* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 *DM*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010


Page 4 of 21

gunshot. Michael was then seen exiting out of a sliding glass door located in the front of the guest house, and was seen throwing something on the ground. Michael went back inside the guest house and approximately 30 seconds later he exited out the rear of the guest house, where he was shot by S.E.D. deputies.

It was at his time that Deputy Debus #1843 of S.E.D. briefed us. Deputy Debus essentially stated That S.E.D. Deputies Chantler #2305 and J. Lozoya #2190 arrived on scene to set-up a tactical staging area. About 30-35 minutes later Deputy Debus and Deputy Beaumont #2635 arrived on scene and began scouting the target ((b)(5)(B) Japatul Road), which included drawing a sketch of the surrounding area. S.E.D. was able to get containment on the residence at about 1231 hours. It was at this time all patrol deputies on the perimeter were relieved of their posts. At about 1240 hours, the S.E.D. entry team and Crisis Negotiation Team drove down towards the residence in an armored vehicle. At about 1255 hours announcements began in an attempt to communicate with Michael. At about 1300 hours, deputies at the front of the residence reported movement. At about 1305 hours, deputies reported hearing a "pop" noise coming from inside the residence, it was unknown if it was a gunshot. At 1310 hours, movement was still being reported.. At about 1323 hours, deputies saw Michael exit out of a slinding glass door at the front of the residence, and throw something on the ground, it was believed to be shell casings, but no one was sure at the time, what it actually was. At about 1324 hours, Michael exited out the rear of the residence, armed with a handgun, and was shot multiple times by S.E.D. Deputies.

Deputy Debus said it is possible the suspect may have said something when he exited the residence and may have fired a round from his handgun, but he was not positive on those facts. Deputy Debus told us that the weapons used by the (3) S.E.D. deputies were collected at the scene, and were ready to be turned over to Homicide.

Deputy DeBus said Deputies B. Kerr #2623 and B. Gavin #2649 were on the (3/4) side of the residence (North/East side). Both engaged Michael and fired 8-10 shots from their M-4, issued weapons. Deputy B. Farr #2618, who was in a sniper position on the same side, about 160 yards away fired (1) shot. Deputy Farr observed Michael land on the ground, on his back, with his hands above his head, moaning "I'm dying." Deputy Farr also noticed the handgun had fallen out of Michael's hand. At about 1332 hours, the S.E.D. entry team from the armored vehicle took Michael Foster into custody. At about 1333 hours, Tactical Medics from San Miguel Fire rendered first aid to Michael. At about 1340 hours, Michael was loaded into an ambulance and transported to Sharp Memorial Hospital, with Deputy Fuhr in the ambulance with Foster. The residence was cleared by S.E.D. for other suspects and or victims. No safety statement was needed nor provided.

Reporting Officer: Det. D. Hillen  ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 5 of 21

Prior to the end of the patrol briefing we were informed that (b)(5)(B) and Michael Foster rent a guest house at (b)(5)(B) Japatul Road and that the home owners who reside in the main house were on vacation. We were also told that in addition to the handgun Michael was in possession of there was an outstanding long rifle that belonged to him at a neighbors house. Detectives R. Bolter #1371, M. Thygesen #1861, D. Murtaugh #2445, F. Brambila #4387, and B. Patterson #2658, were standing by outside the residence, providing security and waiting to be relieved. The briefing concluded at about 1620 hours.

Investigation:

At the conclusion of the briefing I assigned Detective's T. DuGal and M. Palmer to conduct the interviews with Deputies B. Kerr, B. Gavin, and B. Farr, who were standing by at the Alpine Station.

I assigned Detectives S. Fiske and L. Hall with contacting S.E.D. to get all of their information as to what they did during this operation and to obtain the firearms used in this officer involved shooting. At the conclusion of that task I assigned them to interview Michael Foster at the hospital and to process him for evidence.

I assigned Detectives A. Tsuida and H. Lebitski with interviewing (b)(5)(B) who was standing by at the Alpine Station.

I assigned DOJ Agents T. Burtis #8227, K. Viorel #4290, and S. Duncan #3859, as well as Border Patrol Agent M. Esparza to conduct a neighborhood canvass and interview any witnesses they encounter.

On Tuesday, October 19th, 2010, at about 1651 hours. Sgt. Martinez, Field Evidence Tech (FET) (b)(5)(B) Criminalists (b)(5)(B) Intern (b)(5)(B) and I went to (b)(5)(B) Japatul Road to get a description of the residence for a telephonic search warrant. Detective Brambila was standing by to the rear of the residence, and Detectives Patterson and Thygeson were standing by in the front of the residence. FET (b)(5)(B) began taking overall photographs of the exterior of the residence while Detective Thygeson pointed out various articles of evidence on the outside of the residence. This evidence included the spect casings Foster had thrown out of the guest house, the handgun Foster was carrying, and two strips of white tape hanging from a tree in the canyon in the direction of the northeast of the residence. He said it was there that Deputies Kerr and Gavin had fired their weapons. I left the scene at about 1725 hours.

Reporting Officer: Det. D. Hillen *DX* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 *De*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 6 of 21

On Tuesday, October 19th, 2010, at about 1950 hours, Deputy Debus showed me where Deputy Farr was located when he deployed his sniper rifle. The guard rail was marked with a piece of yellow crime tape. It was estimated he was approximately 160 yards from the northeast side of the residence.

On Tuesday, October 19th, 2010, at about 1800 hours, I went in route the Alpine Patrol Station, arriving at about 1813 hours.


At about 1944 hours, Sgt. Martinez advised me that DOJ Agent Burtis and Border Patrol Agent Esparza had recovered the outstanding long rifle at a neighbors house and had FET (b)(5)(B) collect it.

On Tuesday, October 19th, 2010, at about 2201 hours, I obtained the telephonic search warrant for address (b)(5)(B) Japatul Road, for both the guest house and the main residence.


Crime Scene:

The scene was located at (b)(5)(B) Japatul Road, city of Alpine, county of San Diego. The scene included the guest house, the main residence, as well as the rear yard at this address. Japatul Road is to the north of the residence. There is a dirt easment road off of Japatul Road leading to the residence. There are only a couple of other residences off of this easment and they are quite a distance from each other. There was a marked patrol vehicle manned by Deputy Suenishi blocking off the easment road.

The residence is described as a single story residence with an unattached garage and guest house; primarily constructed of tan colored stucco, with blue wood accents, and red ceramic tile roof. The residence is located primarily to the south of Japatul Road with the front door of the residence facing primarily southeast. The residence lies in a rural area of Alpine with neighboring residents quite a distance from each other. Arabian Avenue appears to be the closest residential street and is located to the east of the residence. The residence is surrounded by vegetation and canyons, and sits at the end of a long dirt easment and dirt driveway. At the top of the driveway is a man made address sign consisting of purple piping. The piping is in the shape of a upside down "U" with each end of the piping stuck in the ground. There are two black placards with white lettering hanging from the piping. On the side of the sign as you enter the driveway the top placard reads (b)(5)(B) and the bottom placard reads (b)(5)(B). On the side of the sign as you exit the driveway the top placard reads "Bye" and the bottom placard reads "Happy Trails."

Reporting Officer: Det. D. Hillen  ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

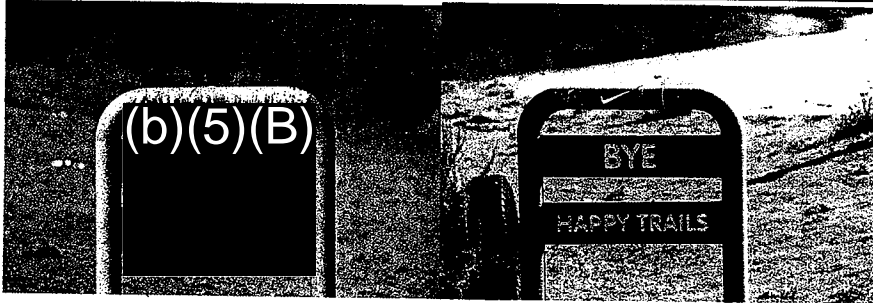
Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 7 of 21



Japatul Road is primarily traversed from the northwest to southeast, it consists of two lanes with one lane traveling in each direction. Interstate 8 is located primarily to the north of Japatul Road. There are a row of mailboxes located at the top of the easment road on Japatul Road, and to the west of the easment road.

Reporting Officer: Det. D. Hillen *[Signature]* **ID#** 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez **ID#** 1136 *[Signature]*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

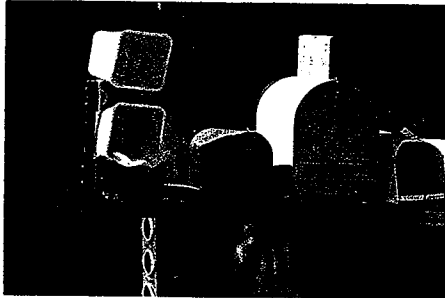
Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 8 of 21



The main residence has three windows (all were closed) and a main entry door, (found closed but unlocked). As you are facing the front of the house one window is located to the left of the front door and looks into the kitchen. The other two windows are located to the right of the main door. The two windows on the right have blue wood shutters attached to them. The window closest to the door looks into a bathroom and the other looks into a bedroom. The front door is blue in color and has a white metal screen door attached in front of the wood door.



Reporting Officer: Det. D. Hillen *DM* **ID#** 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *DM*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 9 of 21

On the southwest side of the main residence is a sliding glass door and screen (the sliding door had been shattered and had been opened from the right to the left. The screen door was off its track and sat in front of the shattered sliding glass door. The screen had a hole or defect in it.)



Reporting Officer: Det. D. Hillen *DSH* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 *DM*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

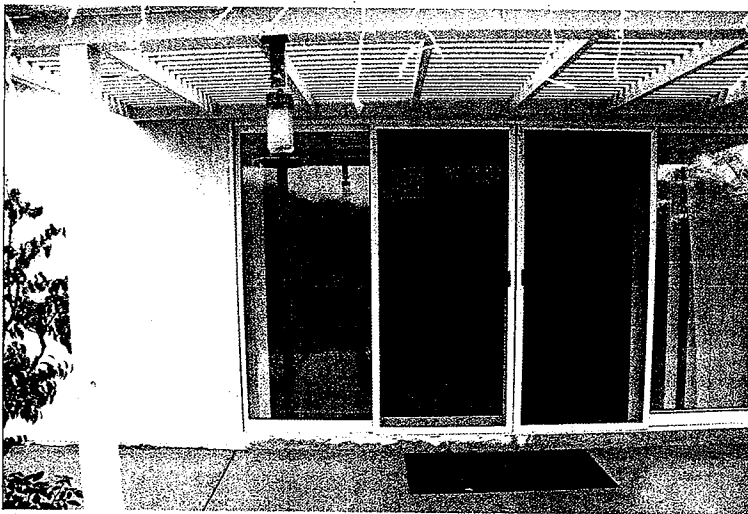
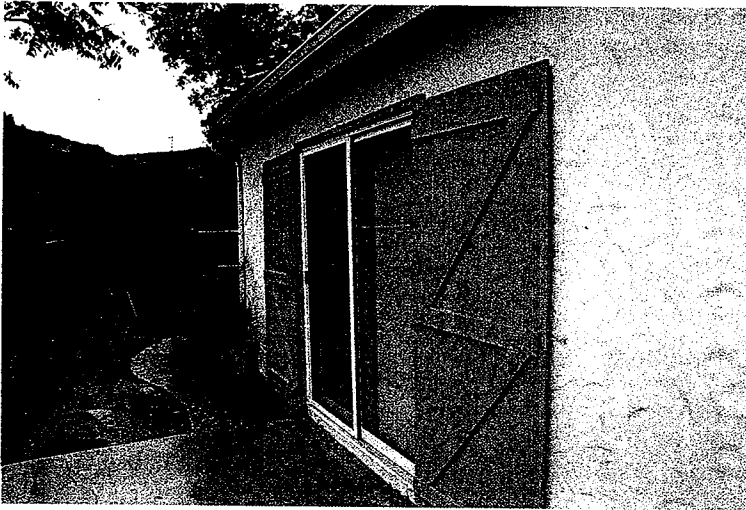
City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 10 of 21

On the northwest side of the main residence are two sliding glass doors with screens. When facing the residence the sliding glass door on the left has blue wood shutters attached to it. There is a white arbor in front of the sliding glass door to the right.



On the northeast side of the residence is an air conditioning unit.

The residence has a detached one car garage located on the southwest side of the guest house. The garage has two roll up style doors located on the southeast and northeast side of the garage. Upon my arrival the door on the northeast side was in the up position.

Reporting Officer: Det. D. Hillen *[Signature]* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *[Signature]*

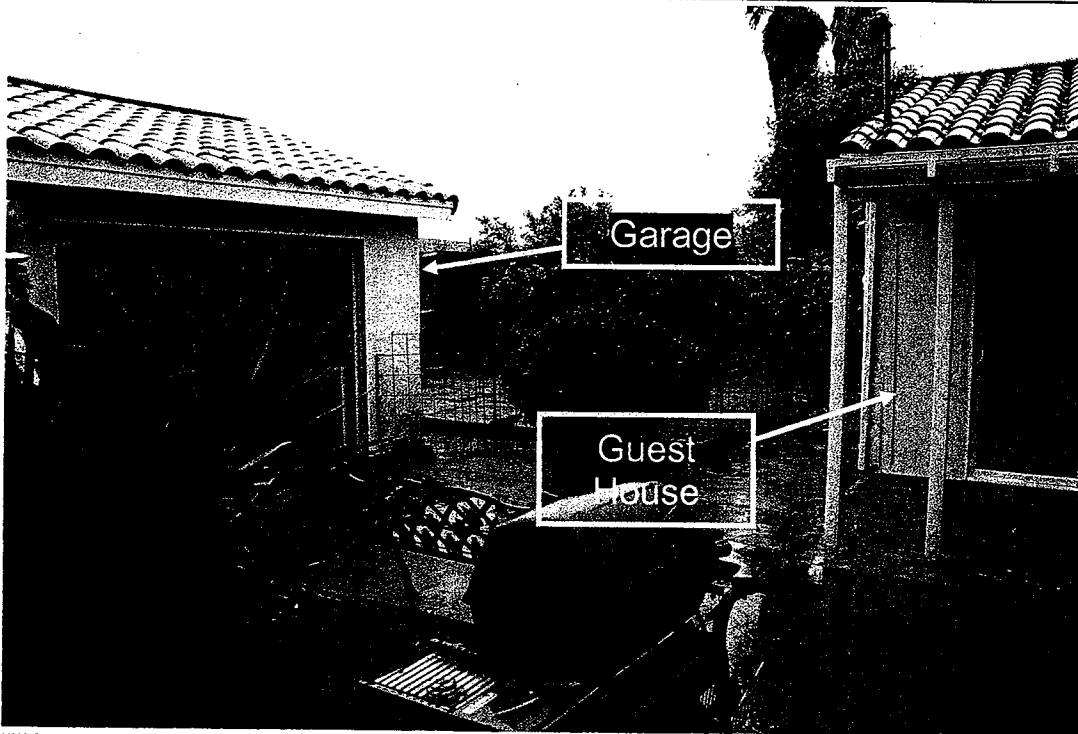
11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine

Page 11 of 21



When facing the front of the main residence the guest house is located to the left (southwest) and sits between the main residence and garage. This side of the guest house faces southeast and has a sliding glass door and window. The sliding glass door is located to the left when facing the house and lead into the living room. The window is to the right and looks into the bedroom. A couple inches to the left of the sliding glass door and about waist high was a hole or defect. There were two shell casings found on the ground in front of the sliding glass door. The window has blue wood shutters that were closed so that you could not see in or out of the window.



Reporting Officer: Det. D. Hillen *DH* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 *[Signature]*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 12 of 21

On the southwest side of the guest house was a blue wood door (unlocked), and an attached screen door. There is a red, white, and blue heart hanging on the door. To the right of the door is an air conditioning unit.



On the northwest side of the guest house is a window (closed) with blue wood shutters attached to it. There were two defects or holes in the window and about 8 other holes of defect around the window.



Reporting Officer: Det. D. Hillen *[Signature]* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *[Signature]*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 13 of 21

On the northeast side of the guest house were two blue wooden doors located near each end of the guest house. The door (locked) to the southeast side had a hole or defect in it that lined up with the shattered sliding glass door of the main residence. The door to the northwest side was unlocked and open.



To the southwest of the guest house and northwest of the garage is a fenced in area with live chickens; also in the fenced in area are a white storage shed and a wooden chicken coop that sit northwest of the garage.



Reporting Officer: Det. D. Hillen *OK* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *[Signature]*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

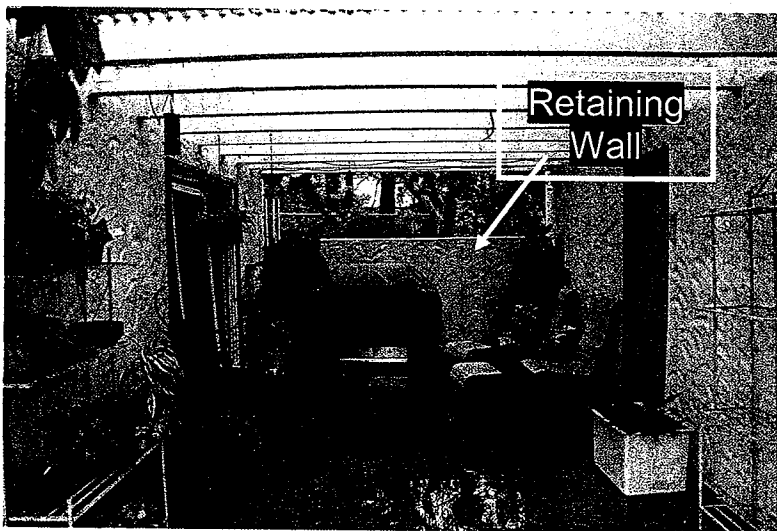
City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 14 of 21

There is concrete patios and walkways located on the northeast side of the garage, southwest side of the guest house, along the front of the residence and, and in the rear of the residence. There is a retaining wall approximately 5 feet tall located in the breezeway between the main residence and guest house. This retaining wall is tan in color, and constructed of concrete and stucco. It is attached to front of the main residence and to the front of the guest house.



To the rear of the main residence and guest house was patio furniture. One set was located in the southwest corner of the yard and was a bar style set up with 4 chairs, bar and umbrella all primarily brown in color.

In front of the breeze way in between the main residence and guest house was a glass top table, with umbrella in the center, and 4 chairs around the table. The glass top was shattered and a few of the chairs had holes or defects in them.

Laying a couple of feet from the table and to the southwest was a blue steel Taurus .357 black metal revolver with brown wooden grips on the ground, with the hammer in the cocked position. (it was later determined that the handgun had (6) live rounds of Winchester .38 special loaded into it.) The barrel was generally pointing in a northeastern direction.

Reporting Officer: Det. D. Hillen *DSN* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 *[Signature]*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

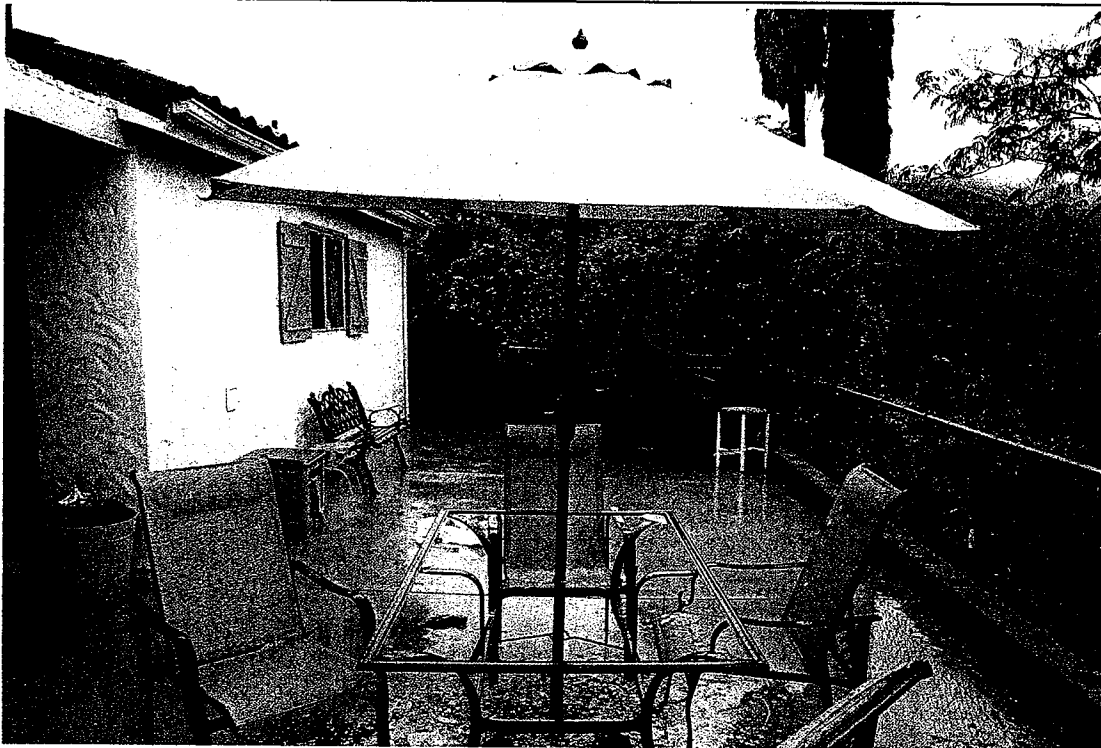
Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 15 of 21



There is a chain link fence that sits on top of a brick retaining wall, that separates the back yard from the canyon. There were defects in the retaining wall and a hole or defect in one of the chain link posts.

On Tuesday, October 19th, 2010, at about 2345 hours, after complying with knock and notice, I served the search warrant on the main residence. All of the interior lights were off, I had FET (b)(5)(B) photograph the interior of the residence. Once he had completed the photographs Criminalists (b)(5)(B) Intern (b)(5)(B) Detective T. DuGal, and I entered the residence through the open sliding glass door that was shattered. The only thing of note was in the entry way, near the front door, there was a hole or defect that was in line of the shattered sliding glass door. This defect was noted with the letter "V" by Criminalist (b)(5)(B) as was the defect in the screen door of the shattered sliding glass door. A projectile was later removed from this defect by FET (b)(5)(B) and listed as Evidence item #28. There was a closed door to the rear of the residence that had a barking dog inside, we did not enter this room. The sliding glass door to the rear of the residence on the southwest side was unlocked and open, all windows were closed and locked.

Reporting Officer: Det. D. Hillen *DSN* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 *DM*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 16 of 21



On Tuesday, October 20th, 2010, at about 0001 hours, after complying with knock and notice, I served the search warrant on the guest house. I had FET (b)(5)(B) photograph the interior of the residence. There was an interior light on in the kitchen. Once he had completed the photographs Criminalists (b)(5)(B) Intern (b)(5)(B) Detective T. DuGal, and I entered the guest house through the open door, on the northwest side. We entered the laundry room area. There was a washer, dryer, and water heater along the northwest wall, and shelving along the southeast wall.



Reporting Officer: Det. D. Hillen *[Signature]* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *[Signature]*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

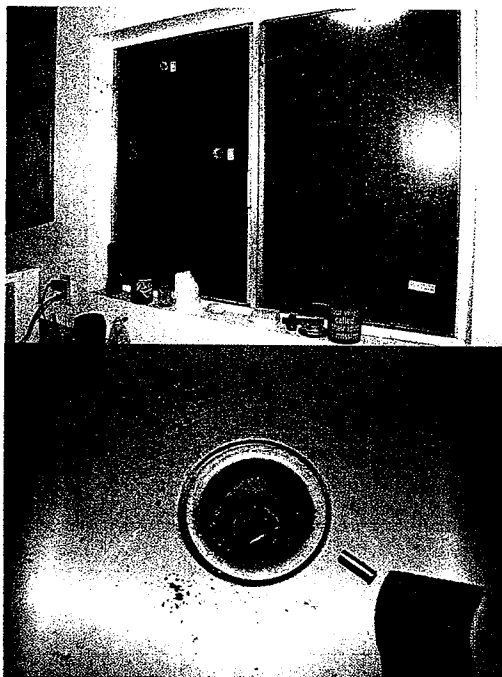
City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 17 of 21

We continued walking through an open door into the kitchen. The kitchen had a window located along the northwest wall. The window was shut and had (2) defects in it. These defects were marked by Crimalist (b)(5)(B) with the letters "S" and "T." The kitchen sink and stove were along this same wall. Inside the sink were "5" shell casings, these were marked as evidence item #21. up high on the southeast wall of the kitchen were two defects. These defects were marked by Crimalist (b)(5)(B) with the letters "S" and "T."



We entered the living room area through an open doorway. The living room lights were off. There was a couch along the southwest wall, a curio cabinet along the southwest wall to the northwest of the couch. There was a sliding glass door along the southeast wall, with a defect just to the right of the door that matched up with the defect on the outside of the guest house. This defect was marked by Crimalist (b)(5)(B) with the letter "W." The sliding glass door was closed and locked and the window blinds were closed. There was a defect up high on the northwest wall that was marked by Crimalist (b)(5)(B) with letter "T", underneath this defect, was a large dining table, that had miscellaneous items stacked on it. Among these items I found a Speer .38 caliber cartridge, this was marked as item #22, and a black basket weave holster and belt, marked with evidence item #23. The belt held ammunition rounds, some of the ammunition holes were empty and some contained live rounds, of which (2) were Speer .38 caliber cartridges and (1) was a Winchester .38 caliber special +p cartridge. To the northwest of the couch was small coffee table. Under the table I found a dissolution of marriage package, marked as

Reporting Officer: Det. D. Hillen *CH* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *g*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

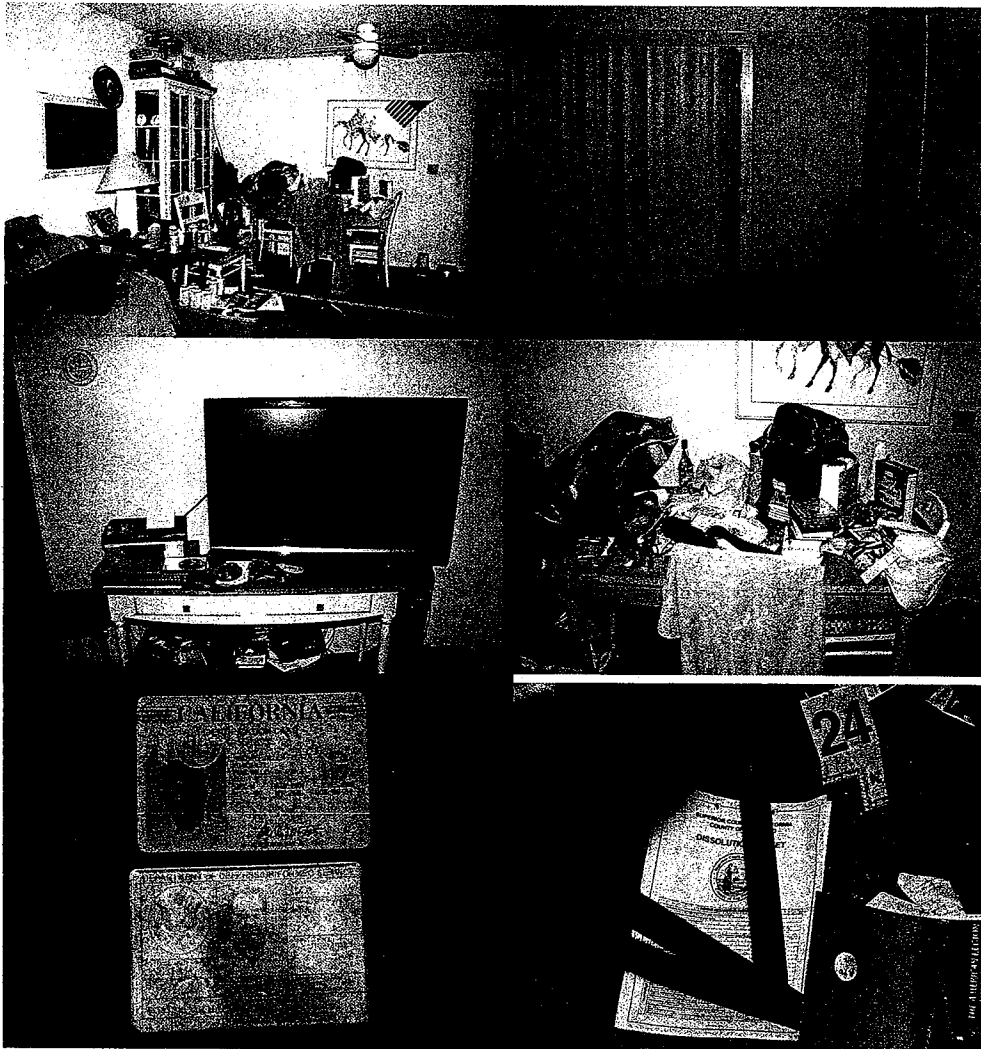
City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 18 of 21

evidence item #24. On top of the table was a brown wallet. Inside the wallet I found a California driver's license and military identification card for Michael Foster, which I had FET (b)(5)(B) photograph. There was a large flat screen television on a stand along the northeast wall.



Reporting Officer: Det. D. Hillen *[Signature]* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 *[Signature]*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 19 of 21

We entered the bedroom through an open doorway. The bedroom lights were off. This doorway was in alignment with the door that had a defect in it, and the door opened up to the breezeway. This door was along the northeast wall. This defect was marked by Crimalist (b)(5)(B) with the letter "V." There was a dresser to the southeast of this door. On top of the dresser were medication bottles for Michael Foster. I had FET (b)(5)(B) photograph these bottles, which consisted of Trazodone, Gemfibrozil, Hydro Chlorothiazide, and Paroxetine. Detective DuGal found a shell casing in front of the dresser marked as evidence item #27. There is a window along the southeast wall the window was open but the wood shutters on the outside were closed. There is a closet and bed along the southwest wall. Detective DuGal found a Hoppes gun cleaning kit on the bedroom floor in front of the closet marked as evidence item #26, and a Winchester gun cleaning tool set in the bed marked as evidence item #25. Along the northwest wall was a door leading to the bathroom.



Reporting Officer: Det. D. Hillen *DN* ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 *D*

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010


Page 20 of 21

Evidence collected and marked on the outside of the residence is as follows. Fet (b)(5)(B) had marked and photographed all evidence prior to its collection. All items were found by Criminalists (b)(5)(B) and FET (b)(5)(B)

Item #	Item Description	Where Found
1	Shell Casing	Outside of G.H. slider
2	Shell Casing	Outside of G.H. slider
3	Metal Fragment	Ground northwest of house
4	Revolver	Ground rear yard
4.01	Cartridge inside revolver under hammer Pos #1	In revolver
4.02	Cartridge inside revolver Pos #2	In revolver
5	Cartridge on ground	North side of house near gate
6	Casing on ground	North side of house near gate
7	Casing from where Kerr and Gavin were standing	See description column
8	Casing from where Kerr and Gavin were standing	See description column
9	Casing from where Kerr and Gavin were standing	See description column
10	Casing from where Kerr and Gavin were standing	See description column
11	Casing from where Kerr and Gavin were standing	See description column
12	Casing from where Kerr and Gavin were standing	See description column
13	Casing from where Kerr and Gavin were standing	See description column
14	Casing from where Kerr and Gavin were standing	See description column
15	Casing from where Kerr and Gavin were standing	See description column
16	Casing from where Kerr and Gavin were standing	See description column
17	Casing from where Kerr and Gavin were standing	See description column
18	Casing from where Kerr and Gavin were standing	See description column
19	Casing from where Kerr and Gavin were standing	See description column
20	Bolt action rifle from (b)(5)(B)	Under bed


Evidence items already in text of report are as follows

Item #	Item description	Where found
21	5 casings	Kitchen sink
22	Cartridge	Table in living room
23	Black basket weave belt	Table in living room
24	Dissolution paperwork	Living room floor
25	Winchester gun cleaning	Bed in bedroom
26	Hoppes gun cleaning	Bedroom floor
27	Casing	Bedroom floor
28	Projectile	Wall of main house

Reporting Officer: Det. D. Hillen  ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136 

11/10/2010

SAN DIEGO SHERIFF'S DEPARTMENT

Scene Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road


Date Occurred: October 19th, 2010

Page 21 of 21

The following letters correspond to defects found at the scene and marked by criminalist (b)(5)(B)

Letter	Location
A	Defect in the retaining wall
B	Defect in the retaining wall
C	Defect in the retaining wall
D	Defect in the retaining wall
E	Defect in fence post
F	Defect in patio chair 1
G	Defect in patio chair 1
H	Defect in patio chair 1
I	Defect in patio chair 2
J	Defect in patio chair 2
K	Defect in patio chair 2
L	Defect on wall of guest house
M	Defect on wall of guest house
N	Defect on wall of guest house
O	Defect on wall of guest house
P	Defect on wall of guest house
Q	Defect on wall of guest house
R	Defect on rain gutter above window of guest house
S	Defect on kitchen window of guest house
S	Defect on kitchen wall
S	Defect on living room wall
T	Defect on kitchen window of guest house
T	Defect on kitchen wall
T	Defect on living room wall
U	Defect on wall of guest house
V	Defect guest house bedroom door
V	Defect on screen to main house sliding glass door
V	Defect on wall inside main house entry way
W	Defect on living room wall inside guest house
W	Defect on outer wall of living room guest house

On October 20, 2010, at about 0415 hours, I ended my shift. All reports from here on will be labeled as a follow-up investigation.

Reporting Officer: Det. D. Hillen  ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez ID# 1136 

11/10/2010

**SAN DIEGO REGIONAL
DEPUTY' S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED ☒ARR./JCR ☐MISC. CITE

FROM: ☐CRIME ☐OTHER

CASE NUMBER

10064025

CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) OIS		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tuesday	TIME 1411
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd		CITY Alpine			BEAT 556	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED)				

ORIGIN:

On 10-19-2010, at about 1411 hours, I was dispatched to assist Alpine units on an Officer Involved Shooting call at (b)(5)(B) Japatul Road in Alpine.

INVESTIGATION:

At about 1446 hours I arrived at the command post which was about 100 yards east of the driveway to (b)(5)(B) Japatul Road. I was then assigned to guard the entrance of the driveway of (b)(5)(B) Japatul Road with orders to let only authorized personnel enter the driveway. At about 1828 hours I was relieved by an Alpine "C" shift unit. I did not observe anything of significance while there.

RELATED REPORTS:

Arrest Report CN 10064025.

REPORTING OFFICER Suenishi	ARJIS # 2783	DIVISION LGS-Patrol	APPROVER	DATE OF REPORT:	MONTH	DAY	YEAR	TIME
-------------------------------	-----------------	------------------------	----------	-----------------	-------	-----	------	------

SAN DIEGO SHERIFF'S DEPARTMENT

Synopsis

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 1 of 1

Synopsis:

On October 19, 2010, at about 0823 hours, the San Diego Sheriff's Communication Center received a 9-1-1 call from a woman identified as (b)(5)(B) regarding her husband holding a gun to her head. Deputy McFarland, ID number 2066, responded and arrived on scene at about 0836 hours. Upon his arrival he contacted (b)(5)(B) at the top of her driveway. (b)(5)(B) told Deputy McFarland that her husband, Michael Foster, had pointed a revolver against her head, and then fired several shots randomly throughout the guest house that they reside in at (b)(5)(B) Japatul Road. One of the rounds he fired went right by (b)(5)(B) head, and another went through the main residence's sliding glass door and into the main residence. This was confirmed by the shattered sliding glass door upon our arrival. Detective Passalacqua, ID number 2204, arrived on scene and continued to interview (b)(5)(B). (b)(5)(B) told Detective Passalacqua that Michael woke her up at about 0300 hours, by grabbing her by the hair, asked her for her ID, and asked her what her mission was. After Michael fired all of the rounds in the revolver he asked (b)(5)(B) to help him find more ammunition, which she refused to do. At about 0810 hours, Michael lay down on the bed, placed the barrel of the gun to his chin, placed a towel over his head, and told her to get out of the house. Before she left the house Michael made a comment to her about getting into a shoot out with the police. (b)(5)(B) told Detective Passalacqua that Michael had been drinking beer this morning, and is suffering from post traumatic stress disorder, and is currently taking three different types of psychiatric medications.

Sheriff personnel on scene attempted to communicate with Michael utilizing a PA system, but were unsuccessful. At about 1008 hours this call was deemed a Special Enforcement Detail call out. At about 1231 hours, Sheriff Deputies from the S.E.D. unit surrounded the house. At about 1240 hours, an armored vehicle containing Sheriff Department personnel from the Hostage Negotiation Team approached the residence in an attempt to communicate with Michael with negative results.

At about 1323 hours, Michael exited the front of the guest house, threw shell casings onto the ground, and went back into the house. About a minute later Michael exited the rear of the guest house with revolver in hand, pointed the revolver at deputies, and was shot by three S.E.D. deputies. Michael was taken into custody, and transported by paramedics to Sharp Memorial hospital at 1344 hours.

Reporting Officer: Det. D. Hillen

ID# 1635

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/22/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: Officer involved shooting
Victim:
Location: (b)(5)(B) Japatul Rd
Date Occurred: 10/19/2010

Case Number: 10064025
City: Alpine

Page 1 of 1

INVESTIGATION:

On 10/19/2010, at about 1404 hours I along with Detective Patterson, Detective Brambila and Detective Murtaugh responded to (b)(5)(B) Japatul Rd in Alpine to assist Alpine and SED (Special Enforcement Detail) units at an officer involved shooting.

Upon our arrival at the location we were assigned by Sergeant Varnau #1642 to relieve SED units that were securing the crime scene. When we got to the crime scene we were met by the SED Sergeant B. Butterfield #1454. Sergeant Butterfield walked into the crime scene and briefed us as to where we needed to position ourselves in order to protect the crime scene.

Detective Patterson and Detective Brambila took up a position in the rear of the residence and Detective Murtaugh and I were assigned the front of the residence. We stood by until Homicide Detective Sergeant Martinez #1136 and Detective Hillen #1635 arrived. We briefed Sergeant Martinez and Detective Hillen along with the crime lab personnel on what Sergeant Butterfield told us about the crime scene.

Sergeant Martinez relieved Detective Murtaugh and I from our assignment, Detective Patterson and Detective Brambila stayed to assist with the processing of the scene.

REFERENCE:

None

Reporting Officer: Thygesen, M. ID# 1861 SPS – Detective Division

Approved By: *Paul Scott* ID# 1097

11/09/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine

Page 1 of 3

Synopsis:

On October 19, 2010, between the hours of 0300 and 0823 hours, (b)(5)(B) was detained against her will by her husband, Michael Foster, inside their residence located at (b)(5)(B) Japatul Road in Alpine, CA (an unincorporated area in San Diego County). During this time, Michael fired several rounds within and outside of the residence. At one point, Michael fired towards (b)(5)(B) and barely missed shooting her in the head. (b)(5)(B) was eventually able to flee the residence and call the Sheriff's Department.

Deputies arrived on scene and established a perimeter around the residence. Numerous attempts were made to initiate negotiations with Michael with negative results. At approximately 1324 hours, Michael exited the rear of the residence and confronted Deputies from the Sheriff's Department Special Enforcement Detail (SED). Michael was armed with a revolver, which he pointed in the direction of Deputies, and was subsequently shot.

Investigation:

On October 19, 2010, at about 1335 hours, Sergeant D. Martinez #1136 requested assistance with an Officer Involved Shooting that occurred at (b)(5)(B) Japatul Road in Alpine, CA. At approximately 1402 hours, Sergeant Martinez briefed us on the facts of the case known to that point.

Michael is a former Army combat soldier who suffers from Post Traumatic Stress Disorder (PTSD) and flashbacks. He has been prescribed several types of medication for his psychological issues and was under the influence of alcohol at the time of this incident. (b)(5)(B) believed Michael was suicidal.

At the conclusion of the briefing, I responded to the scene pending further assignment. I arrived on scene at about 1507 hours.

At approximately 1550 hours, I attended a briefing where Sergeant C. Browning #2565, Sergeant R. Moore #0754 and Deputy J. Debus # 1843 presented us with the facts of the case known to that point.

Sergeant Browning advised that at about 0823 hours, the Sheriff's Communications Center received a radio call that a husband had been holding his wife hostage for several hours. Deputies were dispatched and contacted the reporting party, (b)(5)(B) near the residence. (b)(5)(B) told Deputies that her husband, Michael Foster, had fired

Reporting Officer: Det. A. Tsuida

ID# 2099

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/27/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19th, 2010

Case Number: 10064025
City: Alpine

Page 2 of 3

several rounds inside the residence and into the nearby canyon. She said that Michael fired one round near her head, but she was not injured. She said Michael is former military and suffering from PTSD and flashbacks.

She said at about 0300 hours, Michael woke her up and he was armed with a revolver. He fired rounds through the bedroom door, the glass slider and the glass table on the rear patio. She said Michael also held her at gunpoint as he looked through the closet. Michael found an "ammo belt (belt containing several rounds of ammunition)" then pointed the gun at her head and asked, "Whose side are you on?" He then pointed the gun away from but still in close proximity of her head and fired one shot.

Michael then lied down on top of the bed, held the gun under his chin, placed a towel over his head and told her to get out of the house. She immediately fled to the neighbor's house and called 911.

At about 0915 hours, Sergeant Browning and Deputy D. Barnes #2170 approached the residence and attempted to call out the suspect with negative results. At about 1008 hours, Sergeant Browning requested SED respond to the scene.

Sergeant Moore is the Sheriff's Crisis Negotiations Team (CNT) Team Leader. He arrived on scene at about 0920 hours and debriefed (b)(5)(B). She advised Michael was under the care of a Psychiatrist, but doesn't know if Michael is taking his medication as prescribed. She said as she left the residence she heard Michael say he "wanted the police to respond so he could have a shoot out with them." Michael exited the residence and confronted Deputies before negotiators were able to establish communication with him.

Deputy Debus is a member of the Sheriff's SED team. At about 1255 hours, negotiators started making announcements, but got no response from Michael. At about 1305 hours, SED team members heard a possible gunshot come from inside the residence. At about 1310 hours, SED team members observed movement inside the residence. At about 1323 hours, Michael opened the door and threw something towards the SED armored vehicle. At about 1324 hours, Michael exited the rear of the residence and was yelling "I don't really want to hurt you." Michael was armed with a revolver and subsequently shot.

See follow-up report by Detective D. Hillen #1635 for complete details of the briefing.

At the conclusion of the briefing, Detective H. Lebitski #2079 and I were assigned to interview (b)(5)(B) at the Alpine Sheriff's Station, located at 2751 Alpine

Reporting Officer: Det. A. Tsuida

ID# 2099

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/27/2010

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – A.D.W. with a gun

Case Number: 10064025

Victim: (b)(5)(B)

City: Alpine

Location: (b)(5)(B) Japatul Road

Date Occurred: October 19th, 2010

Page 3 of 3

Boulevard in Alpine, CA. I cleared the scene and arrived at the Alpine Sheriff's Station at about 1700 hours.

At approximately 1720 hours, Detective Lebitski and I interviewed (b)(5)(B) in a conference room at the Alpine Sheriff's Station. See statement of (b)(5)(B) for complete details. At the conclusion of the interview, (b)(5)(B) signed a Medical Release Form for medical records pertaining to Michael. I subsequently gave this signed form to Detective Hillen.

I was not tasked with any other assignment and cleared from the Alpine Sheriff's Station at about 1945 hours.

On October 20, 2010, Detective T. Norton #2333 and I were assigned to respond to Sharp Memorial Hospital, located at 7901 Frost Street in San Diego, to get a status on Michael's condition. We arrived on scene at about 1520 hours and spoke to Nurse (b)(5)(B). Nurse (b)(5)(B) advised Michael was in stable condition and currently paralyzed from the waist down. She could not provide specific detail about Michael's injuries, but believes in addition to the paralysis Michael had a collapsed lung and multiple metal fragments lodged in his spine. She said Michael has a chest tube inserted, but is able to talk. I relayed this information to Detective Hillen.

I was not tasked with any other assignments. Any additional reports will be labeled as a "Supplemental Report."

Reporting Officer: Det. A. Tsuida

ID# 2099

CID - HOMICIDE

Approved By: Sgt. D. Martinez

ID# 1136

10/27/2010



San Diego County SHERIFF'S DEPARTMENT

USE OF FORCE SUPPLEMENTAL REPORT FORM

DATE: 10-19-10	TIME: 1324	OFFENSE/CHARGES: 245(D)(1)PC	INCIDENT NUMBER: S8708726	CASE, DR OR BKG NUMBER: 10064025	STATION/FACILITY: S.E.D																																
SUBJECT'S NAME: Last, First, MI Foster, Michael, Allen		DATE OF BIRTH: (b)(5)(A)		ARRESTED: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DATE/TIME SUPERVISOR NOTIFIED: 10-19-10 / 1324																																
PRIMARY REASON FOR USING FORCE: <table border="0"><tr><td><input type="checkbox"/> Necessary to effect an arrest</td><td><input checked="" type="checkbox"/> Necessary to defend self or another</td><td><input type="checkbox"/> Necessary to prevent escape/evasion</td><td><input type="checkbox"/> Necessary to effect a lawful detention</td></tr><tr><td><input type="checkbox"/> Necessary to prevent a violent forcible felony</td><td><input type="checkbox"/> Necessary to restrain for subject's safety</td><td><input type="checkbox"/> Necessary during high-risk incident</td><td><input type="checkbox"/> Necessary during riot</td></tr></table>						<input type="checkbox"/> Necessary to effect an arrest	<input checked="" type="checkbox"/> Necessary to defend self or another	<input type="checkbox"/> Necessary to prevent escape/evasion	<input type="checkbox"/> Necessary to effect a lawful detention	<input type="checkbox"/> Necessary to prevent a violent forcible felony	<input type="checkbox"/> Necessary to restrain for subject's safety	<input type="checkbox"/> Necessary during high-risk incident	<input type="checkbox"/> Necessary during riot																								
<input type="checkbox"/> Necessary to effect an arrest	<input checked="" type="checkbox"/> Necessary to defend self or another	<input type="checkbox"/> Necessary to prevent escape/evasion	<input type="checkbox"/> Necessary to effect a lawful detention																																		
<input type="checkbox"/> Necessary to prevent a violent forcible felony	<input type="checkbox"/> Necessary to restrain for subject's safety	<input type="checkbox"/> Necessary during high-risk incident	<input type="checkbox"/> Necessary during riot																																		
SUBJECT APPEARED TO BE: <input checked="" type="checkbox"/> Under the influence of alcohol and/or drugs <input type="checkbox"/> Mentally impaired		NUMBER OF DEPUTIES ON SCENE: 5		NUMBER OF DEPUTIES USING FORCE: 3																																	
LEVEL(S) OF RESISTANCE ENCOUNTERED: <table border="0"><tr><td><input type="checkbox"/> NONE (subject cooperated/complied)</td><td><input checked="" type="checkbox"/> PASSIVE RESISTANCE (represents by a refusal to respond to verbal commands but also offers no form of physical resistance)</td></tr><tr><td><input type="checkbox"/> PSYCHOLOGICAL INTIMIDATION (non-verbal cues indicating subject's attitude or physical readiness to resist)</td><td><input type="checkbox"/> ACTIVE RESISTANCE (pushing, pulling or running away from the deputy to avoid control; not attempting to harm the deputy)</td></tr><tr><td><input checked="" type="checkbox"/> VERBAL NON-COMPLIANCE (subject's expressed unwillingness to comply with the deputy's commands)</td><td><input type="checkbox"/> ASSAULTIVE BEHAVIOR (physical actions of assault)</td></tr><tr><td></td><td><input checked="" type="checkbox"/> AGGRAVATED ACTIVE AGGRESSION (assaults with weapons)</td></tr></table>						<input type="checkbox"/> NONE (subject cooperated/complied)	<input checked="" type="checkbox"/> PASSIVE RESISTANCE (represents by a refusal to respond to verbal commands but also offers no form of physical resistance)	<input type="checkbox"/> PSYCHOLOGICAL INTIMIDATION (non-verbal cues indicating subject's attitude or physical readiness to resist)	<input type="checkbox"/> ACTIVE RESISTANCE (pushing, pulling or running away from the deputy to avoid control; not attempting to harm the deputy)	<input checked="" type="checkbox"/> VERBAL NON-COMPLIANCE (subject's expressed unwillingness to comply with the deputy's commands)	<input type="checkbox"/> ASSAULTIVE BEHAVIOR (physical actions of assault)		<input checked="" type="checkbox"/> AGGRAVATED ACTIVE AGGRESSION (assaults with weapons)																								
<input type="checkbox"/> NONE (subject cooperated/complied)	<input checked="" type="checkbox"/> PASSIVE RESISTANCE (represents by a refusal to respond to verbal commands but also offers no form of physical resistance)																																				
<input type="checkbox"/> PSYCHOLOGICAL INTIMIDATION (non-verbal cues indicating subject's attitude or physical readiness to resist)	<input type="checkbox"/> ACTIVE RESISTANCE (pushing, pulling or running away from the deputy to avoid control; not attempting to harm the deputy)																																				
<input checked="" type="checkbox"/> VERBAL NON-COMPLIANCE (subject's expressed unwillingness to comply with the deputy's commands)	<input type="checkbox"/> ASSAULTIVE BEHAVIOR (physical actions of assault)																																				
	<input checked="" type="checkbox"/> AGGRAVATED ACTIVE AGGRESSION (assaults with weapons)																																				
LAW ENFORCEMENT TOOL/TECHNIQUE USED TO GAIN COMPLIANCE OR OVERCOME RESISTANCE (CHECK ALL THAT APPLY)																																					
<input type="checkbox"/> Verbal Commands:																																					
<input type="checkbox"/> Empty Hand Control: <table border="0"><tr><td><input type="checkbox"/> Grab, Push, or Pull</td><td rowspan="5"><input type="checkbox"/> Less-Lethal Weapon System: <table border="0"><tr><td><input type="checkbox"/> PepperBall Launcher</td><td rowspan="2">Discharges</td><td rowspan="2">Number of Contacts</td></tr><tr><td><input type="checkbox"/> OC Powder <input type="checkbox"/> Water</td></tr><tr><td><input type="checkbox"/> Pressure Point (Duration: _____) (Number of Contacts: _____)</td><td><input type="checkbox"/> 37 mm Rifle</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Strike (Specify body part used) (Number of Contacts: _____)</td><td><input type="checkbox"/> Standard <input type="checkbox"/> Low Energy</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Takedown Type: _____</td><td><input type="checkbox"/> 40 mm Rifle</td><td></td><td></td></tr></table></td></tr><tr><td><input type="checkbox"/> Carotid (Rendered Unconscious? <input type="checkbox"/> Yes <input type="checkbox"/> No) (Duration: _____)</td><td><input type="checkbox"/> Bean Bag <input type="checkbox"/> Sponge</td><td></td><td></td></tr><tr><td></td><td><input type="checkbox"/> Taser</td><td></td><td></td></tr><tr><td></td><td><input type="checkbox"/> Probes <input type="checkbox"/> Drive Stuns</td><td></td><td></td></tr></table>						<input type="checkbox"/> Grab, Push, or Pull	<input type="checkbox"/> Less-Lethal Weapon System: <table border="0"><tr><td><input type="checkbox"/> PepperBall Launcher</td><td rowspan="2">Discharges</td><td rowspan="2">Number of Contacts</td></tr><tr><td><input type="checkbox"/> OC Powder <input type="checkbox"/> Water</td></tr><tr><td><input type="checkbox"/> Pressure Point (Duration: _____) (Number of Contacts: _____)</td><td><input type="checkbox"/> 37 mm Rifle</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Strike (Specify body part used) (Number of Contacts: _____)</td><td><input type="checkbox"/> Standard <input type="checkbox"/> Low Energy</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Takedown Type: _____</td><td><input type="checkbox"/> 40 mm Rifle</td><td></td><td></td></tr></table>	<input type="checkbox"/> PepperBall Launcher	Discharges	Number of Contacts	<input type="checkbox"/> OC Powder <input type="checkbox"/> Water	<input type="checkbox"/> Pressure Point (Duration: _____) (Number of Contacts: _____)	<input type="checkbox"/> 37 mm Rifle			<input type="checkbox"/> Strike (Specify body part used) (Number of Contacts: _____)	<input type="checkbox"/> Standard <input type="checkbox"/> Low Energy			<input type="checkbox"/> Takedown Type: _____	<input type="checkbox"/> 40 mm Rifle			<input type="checkbox"/> Carotid (Rendered Unconscious? <input type="checkbox"/> Yes <input type="checkbox"/> No) (Duration: _____)	<input type="checkbox"/> Bean Bag <input type="checkbox"/> Sponge				<input type="checkbox"/> Taser				<input type="checkbox"/> Probes <input type="checkbox"/> Drive Stuns				
<input type="checkbox"/> Grab, Push, or Pull	<input type="checkbox"/> Less-Lethal Weapon System: <table border="0"><tr><td><input type="checkbox"/> PepperBall Launcher</td><td rowspan="2">Discharges</td><td rowspan="2">Number of Contacts</td></tr><tr><td><input type="checkbox"/> OC Powder <input type="checkbox"/> Water</td></tr><tr><td><input type="checkbox"/> Pressure Point (Duration: _____) (Number of Contacts: _____)</td><td><input type="checkbox"/> 37 mm Rifle</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Strike (Specify body part used) (Number of Contacts: _____)</td><td><input type="checkbox"/> Standard <input type="checkbox"/> Low Energy</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Takedown Type: _____</td><td><input type="checkbox"/> 40 mm Rifle</td><td></td><td></td></tr></table>	<input type="checkbox"/> PepperBall Launcher	Discharges	Number of Contacts	<input type="checkbox"/> OC Powder <input type="checkbox"/> Water	<input type="checkbox"/> Pressure Point (Duration: _____) (Number of Contacts: _____)		<input type="checkbox"/> 37 mm Rifle					<input type="checkbox"/> Strike (Specify body part used) (Number of Contacts: _____)	<input type="checkbox"/> Standard <input type="checkbox"/> Low Energy			<input type="checkbox"/> Takedown Type: _____	<input type="checkbox"/> 40 mm Rifle																			
<input type="checkbox"/> PepperBall Launcher		Discharges			Number of Contacts																																
<input type="checkbox"/> OC Powder <input type="checkbox"/> Water																																					
<input type="checkbox"/> Pressure Point (Duration: _____) (Number of Contacts: _____)		<input type="checkbox"/> 37 mm Rifle																																			
<input type="checkbox"/> Strike (Specify body part used) (Number of Contacts: _____)		<input type="checkbox"/> Standard <input type="checkbox"/> Low Energy																																			
<input type="checkbox"/> Takedown Type: _____	<input type="checkbox"/> 40 mm Rifle																																				
<input type="checkbox"/> Carotid (Rendered Unconscious? <input type="checkbox"/> Yes <input type="checkbox"/> No) (Duration: _____)	<input type="checkbox"/> Bean Bag <input type="checkbox"/> Sponge																																				
	<input type="checkbox"/> Taser																																				
	<input type="checkbox"/> Probes <input type="checkbox"/> Drive Stuns																																				
<input type="checkbox"/> Tool/Device/Weapon: <table border="0"><tr><td><input type="checkbox"/> OC Agent (Duration: _____) (Number of Contacts: _____) <input type="checkbox"/> Decontaminated <input type="checkbox"/> Yes <input type="checkbox"/> No</td><td><input type="checkbox"/> Stingball Grenade</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Cord Cuff Restraint Device (Duration: _____)</td><td><input type="checkbox"/> Sound/Light device</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Impact Weapon (Number of Contacts: _____) Type: _____</td><td><input type="checkbox"/> 12-Gauge Super Sock</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Canine (Duration: _____) (Number of Contacts: _____)</td><td><input type="checkbox"/> Ultron/NOVA Shield</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Vehicle/Forcible Stop</td><td><input type="checkbox"/> REACT Belt</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Weapon pointed at Subject (Duration: _____) Type: _____</td><td><input checked="" type="checkbox"/> Firearm: <input checked="" type="checkbox"/> Type: M4 .223 / Long Rifle .308 15 5</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Spit Sock (Duration: _____)</td><td><input type="checkbox"/> Other: _____</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Pro-strait Chair</td><td></td><td></td><td></td></tr></table>						<input type="checkbox"/> OC Agent (Duration: _____) (Number of Contacts: _____) <input type="checkbox"/> Decontaminated <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Stingball Grenade			<input type="checkbox"/> Cord Cuff Restraint Device (Duration: _____)	<input type="checkbox"/> Sound/Light device			<input type="checkbox"/> Impact Weapon (Number of Contacts: _____) Type: _____	<input type="checkbox"/> 12-Gauge Super Sock			<input type="checkbox"/> Canine (Duration: _____) (Number of Contacts: _____)	<input type="checkbox"/> Ultron/NOVA Shield			<input type="checkbox"/> Vehicle/Forcible Stop	<input type="checkbox"/> REACT Belt			<input type="checkbox"/> Weapon pointed at Subject (Duration: _____) Type: _____	<input checked="" type="checkbox"/> Firearm: <input checked="" type="checkbox"/> Type: M4 .223 / Long Rifle .308 15 5			<input type="checkbox"/> Spit Sock (Duration: _____)	<input type="checkbox"/> Other: _____			<input type="checkbox"/> Pro-strait Chair			
<input type="checkbox"/> OC Agent (Duration: _____) (Number of Contacts: _____) <input type="checkbox"/> Decontaminated <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Stingball Grenade																																				
<input type="checkbox"/> Cord Cuff Restraint Device (Duration: _____)	<input type="checkbox"/> Sound/Light device																																				
<input type="checkbox"/> Impact Weapon (Number of Contacts: _____) Type: _____	<input type="checkbox"/> 12-Gauge Super Sock																																				
<input type="checkbox"/> Canine (Duration: _____) (Number of Contacts: _____)	<input type="checkbox"/> Ultron/NOVA Shield																																				
<input type="checkbox"/> Vehicle/Forcible Stop	<input type="checkbox"/> REACT Belt																																				
<input type="checkbox"/> Weapon pointed at Subject (Duration: _____) Type: _____	<input checked="" type="checkbox"/> Firearm: <input checked="" type="checkbox"/> Type: M4 .223 / Long Rifle .308 15 5																																				
<input type="checkbox"/> Spit Sock (Duration: _____)	<input type="checkbox"/> Other: _____																																				
<input type="checkbox"/> Pro-strait Chair																																					

WAS INITIAL USE OF FORCE EFFECTIVE? ☒ Yes ☐ No		WAS ADDITIONAL CONTROL OR FORCE NEEDED? ☐ Yes ☒ No		TARGET DISTANCE: 30 & 160 yds.																																				
SUBJECT INJURED: ☒ Yes ☐ No		EXTENT OF TREATMENT: ☐ None ☐ Treated at Scene ☐ Treated at Hospital ☒ Hospitalized		DEPUTY(S) INJURED: ☐ Yes ☒ No																																				
		EXTENT OF TREATMENT: ☒ None ☐ Treated at Scene ☐ Treated at Hospital ☐ Hospitalized																																						
SUPERVISOR PRESENT? ☒ Yes ☐ No																																								
OTHER FORCE USED/COMMENTS/EQUIPMENT PERFORMANCE:																																								
								------------	--------------------	--------	------	-------	----------		SERGEANT	<i>J. Martinez</i>	ARJIS:	1136	DATE:	11/09/10		LIEUTENANT	<i>BRUGOS</i>	ARJIS:	1134	DATE:	11-09-10		CAPTAIN	<i>CORRAN</i>	ARJIS:	2051	DATE:	11-09-10						
MARK FIGURE TO INDICATE CONTACT POINT(S)																																								

SO-120 Use of Force Supplemental Instructions

Lines 1 and 2: Fill in the blanks.

Primary Reason for Using Force: Check appropriate box(s).

Subject Appeared To Be: Check if applicable.

Number of Deputies on Scene: List number of deputies present.

Number of Deputies Using Force: List number of deputies that used force.

Level(s) of Resistance Encountered: Check appropriate box(s).

L.E. Tool/Technique Used: Check appropriate box(s). If known and/or applicable, include duration (approximate length of time) tool/technique was used. If known and/or applicable, include the number of contacts (approximate number of strikes, impacts, etc.) when requested on form.

Was Initial Use of Force Effective? If initial force used was effective, check "Yes." If initial force used was ineffective and additional force was necessary, check "No."

Was Additional Control or Force Needed: If initial force used was ineffective and additional force was necessary, check "Yes." If initial force used was effective, check "No."

Target Distance: If applicable (refers primarily to less lethal weapon systems), approximate distance or provide range (i.e. 7-15 feet, 15-20 yards, etc.) from subject during application of force.

Subject Injured: Check "Yes" if medically treated for injury sustained as a possible result of force applied by a deputy(s) – does not include previous injuries suffered prior to deputy contact. Check "No" if subject was not injured or simply complains of injury/pain suffered as a result of force applied by a deputy(s) and refuses medical attention. Any complaints of pain shall be documented in the use of force report narrative (whenever any physical force used by a deputy results in a complaint of injury or an injury that necessitates medical treatment of a subject, a supervisor will be notified immediately).

Extent of Treatment: Check appropriate box. Check none if subject was evaluated and no treatment was required. Specifically, check "Treated at Scene" if subject was treated at scene by EMS for injuries that may have resulted due to force applied by deputy(s). Check "Treated at Hospital" if subject was transported to hospital for treatment of injuries that may have been sustained as an apparent result of force applied by deputy(s). Check "Hospitalized" if subject was admitted to the Hospital as a result of injuries that were sustained as a result of force applied by deputy(s).

Deputy Injured: Check appropriate box (see above).

Extent of Treatment: Check appropriate box. Check none if deputy was evaluated and no treatment was required. Specifically, check "Treated at Scene" if deputy was treated at scene by EMS for injuries. Check "Treated at Hospital" if deputy was transported to hospital for treatment of injuries. Check "Hospitalized" if deputy was admitted to the Hospital as a result of injuries.

Other Force Used/Comments/Equipment Performance: This section can be used to document other force options not listed on SO-120; relevant comments about the incident such as complaints of pain/injury (room permitting) and negative/positive comments regarding equipment performance.

Mark Figure to Indicate Contact Points: When applicable, mark the areas on the figure where applied force contacted the subject's body.

Sergeant: Sign, list ARJIS number and date reviewed.

Lieutenant: Sign, list ARJIS number and date reviewed.

Captain: Sign, list ARJIS number and date reviewed.

SAN DIEGO SHERIFF'S DEPARTMENT
Follow-up Investigative Report

Crime: 245(a)(2) PC – ADW With a Gun
Victim: (b)(5)(B)
Location: (b)(5)(B) Japatul Road
Date Occurred: October 19, 2010

Case Number: 10064025
City: Alpine

Page 1 of 1

ORIGIN:

On Tuesday, October 19, 2010, at approximately 1600 hours, I, California Department of Justice, Major Crimes Team, Special Agent (SA) Katie Viorel, was telephoned by Special Agent Supervisor (SAS) Tyler Burtis. SAS Burtis requested I respond to a staging location just north of (b)(5)(B) Japatul Road in Alpine, California, as an officer involved shooting (OIS) investigation was being conducted by the San Diego County Sheriff's Department (SDSD).

INVESTIGATION:

At 1727 hours, I arrived at the staging location and was briefed by SA Manny Esparza. During the briefing, I was advised the officer involved shooting occurred at (b)(5)(B) Japatul Road and the suspect in the case was believed to be Michael Foster. Sheriff's Homicide Team One Detective Dave Hillen (1635) was assigned the Lead Detective of the investigation. Following the briefing, I was assigned to conduct interviews of Foster's neighbors along with SA Stephen Duncan (3859). For details of the briefing refer to SDSD investigation #10064025.

Between 1803 and 1906 hours, I, along with SA Duncan interviewed (b)(5)(B) and his wife, (b)(5)(B) at their residence, (b)(5)(B). The interview was digitally recorded. For further information regarding the interview, refer to the Heilig's witness interview statement.

After concluding the interview of (b)(5)(B) I returned to the SDSD Command Post located just north of the Foster residence and debriefed Sergeant Dave Martinez with regard to the details of the interview. At 2000 hours, I left the SDSD Command post as I was not tasked with any further assignments.

On Thursday, October 21, 2010, at approximately 1000 hours, I attended the Deputy Attorney (DA) issuance conference at the El Cajon Courthouse, 250 E. Main Street in El Cajon, California. The conference concluded at 1100 hours.

I have not been tasked with any other assignments pertaining to this case.

Reporting Officer: SA K. Viorel *Katie Viorel* ID# 4290

CID - HOMICIDE

Approved By: Sgt. D. Martinez *D. Martinez* ID# 1136

10/22/2010

**SAN DIEGO REGIONAL
DEPUTY'S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED ☐ ARR./JCR ☐ MISC. CITE

FROM: ☒ CRIME ☐ OTHER

CASE NUMBER
10064025

CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report		MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tues	TIME 0802
LOCATION OF INCIDENT (b)(5)(B) Japatul Road		CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM (b)(5)(B)		SUSPECT (IF NAMED) Michael Foster				

SYNOPSIS:

Sheriff's Homicide Detectives investigated a Deputy involved shooting. I assisted with the investigation in the following manner.

ORIGIN:

On 10/19/10 at about 1010 hours, the Sheriff's Crisis Negotiations Team (CNT) had been called to **(b)(5)(B)** Japatul Road in Alpine to assist with a subject refusing to exit his home after discharging a firearm inside while holding his wife inside (CAD#S8708726).

INVESTIGATION:


I arrived at the above location at about 1050 hours and met with additional CNT members. CNT Team Leader, Sergeant Bavencoff, directed me to interview the reporting party and victim **(b)(5)(B)** in an attempt to obtain information to be later used for a negotiation with her husband, Michael.

After speaking with **(b)(5)(B)** CNT, in conjunction with the Special Enforcement Detail (SED), devised a plan to attempt communications with Michael via a public address (PA) system, incorporated into the SED armored vehicle. Deputy Leavitt (Santee COPPS Deputy) and I rode to the house with SED. Upon arrival at the home, Deputy Leavitt began calling out to Michael via the PA. Michael was instructed to exit the house and walk toward a white Volkswagen sedan, parked in the driveway. At that point, Michael was to be met by SED and taken into custody.

Michael refused to exit the house as instructed. Instead, he exited the house on the south side while holding a firearm in his hand. I could not see Michael, but I did hear several gun shots. Seconds later, I learned Michael had displayed a firearm and was shot by members of Sheriff's SED.

I remained on scene for about half an hour, never leaving the confines of the SED armored vehicle. At about 1350 hours, I exited the SED armored vehicle and walked up the driveway to Japatul Road.

I concluded my investigation.

REPORTING OFFICER Voth, Warren	ARJIS # 2633	DIVISION Poway Detective	APPROVER 	DATE OF REPORT:	MONTH 10	DAY 19	YEAR 10	TIME 1400
--	------------------------	------------------------------------	---	-----------------	--------------------	------------------	-------------------	---------------------

**SAN DIEGO REGIONAL
DEPUTY' S REPORT
NARRATIVE**

Page 1 of 2

CONTINUED <input type="checkbox"/> ARR./JCR <input type="checkbox"/> MISC. CITE				CASE NUMBER 10064025				
FROM: <input type="checkbox"/> CRIME <input type="checkbox"/> OTHER								
CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) 245PC				MONTH 10	DAY 19	YEAR 10	DAY OF WEEK Tues	TIME 1004
LOCATION OF INCIDENT (b)(5)(B) Japatul Rd				CITY Alpine			BEAT 563	
PERSON(S) INVOLVED: VICTIM				SUSPECT (IF NAMED) Michael Foster (b)(5)(B)				

ORIGIN:

On 10/19/2010, at about 1004 hours, I received a page for a SWAT callout at **(b)(5)(B) Japatul Rd.** in Alpine. I am currently assigned to SED/SRT as a sniper.

DEPUTIES OBSERVATIONS AND ACTIONS:

I was working on another detail in the Imperial Beach area so it took me about 40 minutes to get to the staging area on Japatul Rd. I checked in at the tactical staging area (TSA) and was told to suit up for a sniper mission. I donned my sniper gear and was partnered up with Deputy Mike Forbes. Deputy Lozoya informed me that Michael Foster had taken his wife hostage the night before. He would not let her leave the house and he had fired several rounds from a .357 magnum handgun inside the house. Foster's wife had escaped earlier that morning and was no longer in the house. Foster was former military, he knew how to use weapons and he had a history of mental illness. I was shown a recent photo of Foster from his last booking in county jail. Patrol deputies had a perimeter set on the house and Foster was not responding to their commands to exit the residence.

Deputy Forbes and I were assigned to take a sniper position on Side 1 of the property. The last known location for Foster was inside the granny flat. Deputy Forbes and I took a position about 37 yards off of Side 1 of the granny flat. We were on top of a trailer about 10 feet high. I had a clear view of the sliding glass door on Side 1 of the granny flat, and a partial view of the top portion of a door on Side 1 of the main house. A short time after we were in position we received more information from the TSA that there were more firearms in the house, one of which was a high powered hunting rifle.

The armored vehicle pulled into position on Side 1 a little while later. Deputy Leavitt, from the Crisis negotiations team (CNT), started making announcements, via PA, for Foster to come to the sliding door on Side 1. Initially there was no response from Foster. Suddenly I saw the vertical blinds on the sliding glass door slam shut. Deputy Leavitt continued to try and communicate with Foster via PA. A little while later, Foster opened the sliding glass door and yelled, "What kind of truck is that?" Foster slammed the door and went back inside. Deputy Leavitt continued to try and communicate with Foster but he was unresponsive. A while later, Foster opened the sliding glass door again and yelled, "Give me back my phone", then slammed the door again.

I could see the vertical blinds being pressed up against the sliding glass door. It appeared that Foster was pushing things against the door, possibly to barricade it. A little while later, I heard a muffled "Pop" sound come from inside the house. It sounded like a gunshot from a handgun. There was no response from Foster for some time after the shot was heard, despite repeated attempts from Deputy Leavitt to communicate with Foster. After a period of no response, I could see the vertical blinds moving again. A short time after that, Foster opened the sliding glass door and threw something out. I heard something metallic hit the concrete outside the door. It sounded like brass bullet casings hitting the concrete. I relayed the information to the entry team at the armored vehicle and the TSA.

REPORTING OFFICER J. West	ARJIS # 2686	DIVISION SED	APPROVER <i>Sgt. M. J. [Signature]</i>	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 2010	TIME 1105
-------------------------------------	------------------------	------------------------	---	-----------------	--------------------	------------------	---------------------	---------------------

About one minute later, I heard Deputy Kerr broadcast over the radio that the suspect was on Side 3. About two seconds after the broadcast, I heard several gunshots come from Side 3. The first shot I heard was a "Pop" sound from what I thought to be a handgun, then I heard one or two "Crack" sounds from a rifle, then another "Pop", then several more "Crack" sounds. I heard a total of 10 to 12 shots. A few seconds later, someone broadcast that there were shots fired on Side 3. Deputy Kerr advised that the suspect came out and pointed a gun at deputies, deputies fired and he lost sight of the suspect. Deputy Kerr was not sure if the suspect was hit. Deputy Farr, who was in a sniper position on Side 3 advised that the suspect was laying on his back on Side 3.

The entry team quickly formulated a plan, and was moving toward the suspect from the armored vehicle within a couple of minutes. A few moments later the entry team advised they were with the suspect and they needed paramedics. The paramedics were on scene very quickly tending to the suspects injuries. I was unable to see anything that occurred on Side 3 from my position.

REPORTING OFFICER J. West	ARJIS # 2686	DIVISION SED	APPROVER SGT. M. D. [Signature]	DATE OF REPORT:	MONTH 10	DAY 20	YEAR 2010	TIME 1105
------------------------------	-----------------	-----------------	------------------------------------	--------------------	-------------	-----------	--------------	--------------

**SAN DIEGO REGIONAL
DEPUTY' S REPORT
NARRATIVE**

Page 1 of 1

CONTINUED ☐ ARR./JCR ☐ MISC. CITE

FROM: ☐ CRIME ☒ OTHER

CASE NUMBER

CODE SECTION AND DESCRIPTION (ONE INCIDENT ONLY) Deputy's Report		MONTH 10	DAY 20	YEAR 10	DAY OF WEEK WED	TIME 2030
LOCATION OF INCIDENT San Diego Central Jail		CITY San Diego			BEAT 21	
PERSON(S) INVOLVED: VICTIM		SUSPECT (IF NAMED) Foster BN 10781069				

ORIGIN:

On 10-20-10, at approximately 2030 hours, I was working the Hospital Guard Deputy position at the San Diego Central Jail when the following incident occurred.

DEPUTY'S OBSERVATIONS AND ACTIONS:

I was assigned to stand guard over inmate Foster BN. 10781069 at Sharp's Memorial Hospital in Kearny Mesa. At approximately 2030 hours, while I was standing guard over Foster, two people walked into the hospital room, later identified as Foster's wife and brother in law. I asked them who they were, and they identified themselves to me by their relation to Foster. I immediately told them they could not be in the room for a visit unless it was an authorized visit with a form signed by the on-duty Watch Commander. Since they did not have that paperwork, and it was outside the normal visiting hours, I instructed them to leave the room immediately.

They asked me if they could still have a visit. I denied their visit a second time, and instructed them to leave the room. The wife asked me if she could just stand off to the side for a while. I informed her that would not be allowed because they did not have a signed visit slip. After some more discussion, they finally stepped out of the room.

I followed them out of the room and informed them of the correct procedure on how to obtain a visit. The wife asked me if she could just stay outside the room. I informed her she would have to leave the premises, along with the brother in law.

At this point, the brother in law asked the wife to walk away so he could speak to me. The wife walked to the nurse's station, and I spoke with the brother in law. I asked him his name, and he told me his name was (b)(5)(B) told me, "Look dude, if she wasn't married to this fucking guy, he'd be dead right now." (b)(5)(B) rolled back both of his sleeves of his shirt and showed me the tattoos on his forearms. On the left was a red star, and on the right was a circle with a Celtic pattern on it. (b)(5)(B) said, "Hey, come on, you know where I come from." (b)(5)(B) also asked me where Foster would be housed, and what his housing status would be. I said I didn't know. (b)(5)(B) said, "Well, it doesn't matter. As soon as he gets to prison he's dead anyways."

I spoke with (b)(5)(B) for only a few minutes more until he and Foster's wife finally left the hospital. I informed Sergeant Andrzejewski of the incident immediately.

REPORTING OFFICER WILCOX J.	ARJIS # 3297	DIVISION SDCT	APPROVER	DATE OF REPORT:	MONTH	DAY	YEAR	TIME
--------------------------------	-----------------	------------------	----------	-----------------	-------	-----	------	------