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Q. (DENNLER) Alright. Ahm, and you just kinda list those, ah, kinda describe the, the weapon for us?

A. Yeah, it's, the only modifications, again, that we're allowed to even do is external, it's stippling on the grip...

Q. (DENNLER) Okay.

A. ...and then it's front slide serrations.

Q. (DENNLER) Right.

A. Just to help for reload situations.

Q. (DENNLER) Okay. Ahm, does it have a, are you running one of the, the red dot optics on it?

A. I am not.

Q. (DENNLER) Okay, so you're running standard sights...

A. Yep.

Q. (DENNLER) Is there any other accessories? Do you have a, a weapon mounted light on that as well?

A. I also have a weapon mounted light.

Q. (DENNLER) Okay. Ahm, and as a Glock 17, ahm, are you familiar with the, the capacity of a standard weapon and standard magazines with that?

A. Yeah, 17 rounds.

Q. (DENNLER) Okay and s-s, you have added the, the floor plate extensions...

A. Yes.

Q. (DENNLER) ...for the magazines to allow, a...

A. Higher round capacity.

Q. (DENNLER) ...higher round capacity?

A. Yes.

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Q. (DENNLER) Okay. Ahm, and you max those out, I know we talked about, just now, about 19 or 20 rounds, do you max those magazines out to the, the maximum capacity or do you download by one round?

A. I, I think I downloaded by one round because I didn't actually have enough rounds issued to me by the department to fill all of em.

Q. (DENNLER) Okay. And, sounds weird to ask, but, when you carry that sidearm in it's holster, is that sidearm loaded with a round in the chamber, were you...

A. Yes.

Q. (DENNLER) ...were you ready to engage a threat if need be?

A. Yes.

Q. (DENNLER) Okay. Do you carry a backup weapon?

A. I do not. Well, no, I do not.

Q. (DENNLER) Okay.

A. Does...

Q. (DENNLER) So the on...

A. ...a rifle count?

Q. No.

A. (UNINTELLIGIBLE) Oh, on my person?

Q. (DENNLER) On your person.

A. No.

Q. (DENNLER) Okay. So that's the only, only firearm you carry on your person.

A. That's the only firearm I carry.

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Q. (DENNLER) Okay. And then you mentioned, ah, you carry a department issued Taser?

A. Yes.

Q. (DENNLER) Okay. And where do you carry that on your person?

A. Right on my left side of my vest.

Q. (DENNLER) Okay. Any other intermediate weapons or other weapons that you carry as, as part of your standard...

A. No.

Q. (DENNLER) ...gear? Okay.

Q. Okay. Ahm, the only other thing I, I would dovetail onto that is, ahm, did you have your rifle available to you?

A. Yes.

Q. That night? Okay. And this is a personally owned rifle?

A. Yes.

Q. Okay. Is your car also equipped with a shotgun?

A. It is.

Q. Okay. Get that out of the way. So, jumping back to that night, you said you'd gone on a suspicious vehicle, an alarm call...

A. Yes.

Q. ...and you covered Grommes on one of them...

A. Both of em.

Q. Both of em?

A. Grommes and I went to both calls.

Q. Both calls. Okay. Ahm, so, been on shift maybe, 30 minutes or so?

A. Yeah. About that. I mean, yeah.

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- Q. Okay, so we're gonna jump to the call, ah, on Avenue C. Now tell me about this call, how you were dispatched to it and what information you had.
- A. It came in as a suspicious vehicle / person, they might've been syphoning gas, ahm, I thought I was close enough. I, I know they had 2 officers going, but I just self-dispatched to it.
- Q. Now explain to me self-dispatching.
- A. Self-dispatching is basically you, let dispatch and the call board know that you're going, but you don't actually have to tie up radio traffic.
- Q. Okay, so this is, this is a call that you have not been sent to by dispatch?
- A. Yes.
- Q. Okay. And you are electing to go...
- A. Yes.
- Q. ...and, okay.
- Q. (DENNLER) Why did you decide to do that?
- A. Ah, I mean I, I do it constantly throughout the shift. I mean, you, you can never, you never know when you need more officers on scene and it never hurts, you never know how far away the other guys is, so if you're reasonably close, I like to just go and if they don't need me, they don't need me.
- Q. (DENNLER) Okay.
- Q. Ahm, is there a specific reason that you do that?
- A. Officer safety.
- Q. Okay.
- A. I always have, as many cops as you can.

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- Q. Okay. So with this suspicious call, what was the information that you had about it?
- A. That they gave the address and then it was under a parking awning, I think it was B-4, is where they said that they were parked at roughly.
- Q. Okay. And did they describe any suspects to you?
- A. Ah, yeah, I believed that they said there was 2 cars that were pushed up together under that awning...
- Q. Uh Huh (Affirmative)
- A. ...ahm, and that's really all I remember. I just remember the B-4.
- Q. Okay. So you get, you hear this call, you self-dispatch...
- A. Yes.
- Q. ...how do you approach?
- A. Ahm, I drove past the address on Avenue C and then I came in from the east up the alley.
- Q. Okay. So when you say the east, what street is that?
- A. 20th?
- Q. Okay. So you've come into the alley from the east...
- A. Yes. Heading west.
- Q. Okay. Is anybody else on scene at this point?
- A. Ah, there's another patrol car pulling right behind me.
- Q. Okay.
- A. I, I think it was Vladic.
- Q. Okay. So you, you're the first one in the alley, is that correct?
- A. Yes.
- Q. Okay. And then there's another car behind you...
- A. Yes.

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- Q. ...and that's Vladic?
- A. I believe, believe so, yeah.
- Q. Tell me what you're seeing from there.
- A. So I'm driving and I look at the, I'm looking at the little numbers above the parking thing. I see I'm close and then I recognize the red car that's bumpered up to a spray painted white Impala.
- Q. And how did you recognize that red car?
- A. I have dealt with that car twice in a some stressful situations.
- Q. Hmm. Exp, explain the stressful situations.
- A. Ahm, one of the times I was following it, cuz I, they kept stopping at cars and, I was following it and had a US Marshal call me and tell me to back off of that vehicle.
- Q. Uh Huh (Affirmative)
- A. So I did. Ahm, the 2nd time I saw it a week after the incident with the Marshals and I pulled it over, I got out, the vehicle took off from me, ahm, I attempted ta, make a traffic stop on it for, a few blocks and they ended up getting away from me, they foot bailed, we lost the foot pursuit and we ended up having to get the vehicle towed.
- Q. So...
- Q. (DENNLER) And as we're talking about those previous encounters with that vehicle and now you, recognize that vehicle on scene at this call you're on, eh, you know, if we're not, all peace officers in this room, can you explain what, what's the significance of that?
- A. It gives you a heightened sense of, heightened sense of alertness I guess, you're, you wanna make sure you're being

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very careful, so, and I knew it had ran from me before so I made sure I positioned my car where it couldn't back out and take off on me and I wanted to get outta my car as fast as possible in case something bad happened or they had a weapon or something like that. So I blocked it in and I jumped outta that car and instead of walking up on the red car, I made sure to go around so I could kinda, make sure I could see what was going on before they could see me.

Q. Okay. So you talked about the red car and how, how you positioned that...

A. Yes.

Q. ...ahm, and you'd said in the dispatch that 2 cars were close together.

A. Yes.

Q. Ah, so there's another car there.

A. There's a spray painted, I guess it's white and spray painted black with the hood popped.

Q. Okay.

A. And I saw somebody standing by the hood, but I couldn't see.

Q. Okay. So, I have some paper here. I'm gonna have you just kind of roughly draw, both the positioning of your car, the 2 cars and then kind of how you approached.

A. Okay, so, we have Nicole Half's vehicle and parked at an angle.

Q. And which car is that?

A. That's the red one that I've dealt with.

Q. Okay.

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- A. And this is the spray painted car, the hoods up right here, I come in and park right here. I hop outta my car, come this way and then approached from here so I could have ah, cover between me and the, the male.
- Q. Okay. So where's the male at?
- A. The male is standing right here.
- Q. Okay. And so you mentioned Nicole Half, is she present?
- A. I wasn't sure. I'd...
- Q. Okay.
- A. ...there was people in the red car, I, was focused on the guy outside.
- Q. Okay. So you're at, approximately the A-Pillar or the driver's side door of this...
- A. About, about the tire.
- Q. About the tire?
- A. At the front tire.
- Q. Okay. And where is Officer Vladic at this point?
- A. I, I honestly don't know. I just know at some point I told him to go deal with the females in the car. So then he went over and started talking to them.
- Q. Okay. So you were, you're here at about the tire you said?
- A. Yeah.
- Q. The guy's up here at the front.
- A. Yeah.
- Q. Now where is the, the Avenue C apartment building at?
- A. (NO VERBAL RESPONSE)
- Q. Okay. Alright. And where's Tate's vehicle?

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- A. (NO VERBAL RESPONSE)
- Q. Alright.
- Q. (DENNLER) And as we, talk about this too, what, describe your environment.
- A. So we have the overhang, ahm, there's obviously the parking structure, there's the sidewalk and then there's the grass.
- Q. (DENNLER) Okay.
- A. Up to the building.
- Q. (DENNLER) And this is roughly 10:30 at night?
- A. Yes.
- Q. (DENNLER) Okay. Is there artificial lighting?
- A. There is.
- Q. (DENNLER) Okay. How would you, describe your ability to, to see what was going on? See into the vehicles and, and see who you're dealing with?
- A. So, the windows are pretty tinted on the red car, so, not great on them, ahm, there was not tinting on these windows, ahm, I believe the door was open as well on this car. Ahm, and the lighting was decent. I could see him very well.
- Q. (DENNLER) Okay.
- Q. Okay. So, you're dealing with the male sus, suspect or talking with him...
- A. Just talking with him. I just said 'hey we're here for a suspicious call'.
- Q. Uh Huh (Affirmative)
- A. You know. 'What's going on?'
- Q. Okay, did you see anything in his hands?

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- A. Ah, I think he had a cell phone.
- Q. Okay. And you th, you think he had a cell phone in his hand?
- A. Yeah.
- Q. And so as you're talking to this male, is he saying anything to you?
- A. Oh, his, something about his friend asked him to come fix up a vehicle for him.
- Q. Okay. Ahm, did he provide any other information to you?
- A. Ah, I asked him for an ID.
- Q. Uh Huh (Affirmative)
- A. And he said 'No, no, it's in the apartment. I'll just go grab it real quick. I'll go grab it. You want me to go grab it?' And I said 'absolutely not' 'you can just give it to me and I'll write it down'.
- Q. What name did he give you?
- A. John Collins I believe. I think he said September 1st for his birthday.
- Q. Okay. So he provided the name of John Collins? Or...
- A. Yes.
- Q. Okay.
- A. Or something close to that. I wrote it down in my notebook.
- Q. And he gave you a date of birth with it?
- A. Yes.
- Q. Okay. So he gives you this name...
- A. Yes.
- Q.ahm, what do you do with that information?
- A. I ran it over Channel 2 and Dispatch said 'I'm super backed up, it's gonna be a little bit.' So at this point Bickford had walked up

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and I said 'Hey, can you go run this guy's name and get me and MDT photo?'

Q. Okay. So you're gesturing that you gave him something, what did you give him?

A. I gave him my notebook.

Q. Okay. So, Bickford had arrived by this point?

A. Yes. And Grommes had.

Q. And where was Grommes?

A. Grommes was checking out the, the white Impala.

Q. So where's, can you kinda point out where he's at as all this is playing out?

A. Ahm, I don't exactly, I know at one point he came over to check the VIN here and then he tried to look at the VIN here and, ahm, roughly about that time is when he said that, both VINs seemed to be covered up or scraped off or 1 of the 2. Ahm, and, the suspect is on the phone at this point with his buddy saying 'Hey I'm out with the cops, you gonna get out here?'

Q. So, when, when Grommes has told you that the VINs obscured, what does that tell you?

A. Based on my training and experience, when people are covering up a VIN, it means it's a stolen vehicle. Which again, heightens your level of awareness in thinking that maybe there's a bigger crime going on here than what we know is going on so we need to be extra precautionous when dealing with this suspect.

Q. Okay. Were there any other indicators from the vehicle that you had that heightened your awareness?

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A. Spray painting. When people try to change the color of the vehicle, because they know that officers recognize white Impala and if we're not paying close enough attention and a black Impala rolls by us, we don't even look twice at it. Unless it's a really bad spray paint job, which, this was.

Q. Okay. So when you say it was, it was spray painted, what color was the original paint?

A. I believe white.

Q. Okay, and then there was paint that had been placed over that?

A. Black.

Q. Black.

A. Black spray paint.

Q. Okay. Okay. Did it appear to be factory black paint?

A. No.

Q. Okay. Alright. Ahm, was there any other information concerning that vehicle?

A. The white Impala?

Q. Yes.

A. The, the door was open. Ahm, but other than that.

Q. Anything from dispatch?

A. Not that I can remember.

Q. Okay. So at this point Grommes has told you that the, the VIN is obscured.

A. Uh Huh (Affirmative)

Q. He was giving you a name, he's been on the phone...

A. Yeah.

Q. Ahm, and Bickford is checking his name in the car?

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A. Yes.

Q. Okay. How are you feeling about this subject at this point?

A. I'm starting to get a little nervous. He's on the phone, he's starting to pace around a lot, he's moving more than I would like him to. And, honestly right about the time that Grommes says 'Hey both the VINs are obscured', Dispatch is coming back over the radio saying we're not getting a return.

Q. And what does that mean? 'Not getting a return'?

A. He's lying about his name.

Q. So, what does that tell you about the situation?

A. It is time for him to get detained until we can figure out who he is.

Q. Okay.

Q. (DENNLER) And when ya talk about watching, watching him, as you're getting all this information and, again, we all know this is a fluid and dynamic, multiple things happening at once, so it's kinda hard to step, step, step through, through this sequentially. Ahm, and you keep mentioning, you know training and experience and whatnot, what is his body language and what is his behavior that you're observing and how, how is that important to you?

A. Usually, based on my training and experience, when people get, start getting fidgety and start looking around, they're either gonna run, they're gonna fight or they're gonna try to do something dumb.

Q. Okay.

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A. So, like I had mentioned earlier, when you start to see that escalation, that's when I decided to get him in cuffs so you can stop that from them (UNINTELLIGIBLE) all the way up and then it turns into a situation that you don't want.

Q. So the determination based on everything you see has been that he is going to get placed in handcuffs?

A. Yes.

Q. Okay. What actions do you take after you make that determination?

A. So, Grommes comes behind him, I came around to assist, ahm, and we were staying in kind of an 'L' and we gave him a command to put his hands behind his back, I don't remember if it was me or Grommes saying 'Hey, you need to go in handcuffs till we figure out what's going on.' Ahm, Grommes grabs him and he yelled something and started to yank away so Grommes dumps him on the ground, this direction, ahm, and at this point I jump on to help assist to get control of his hands.

Q. (DENNLER) Keep going.

A. Ahm, so, I jump on to get control of his hands, I'm fighting over his hands. I know Grommes was off to my right, ahm, and I'm fighting with his hands and he keeps doing this, well I guess I should probably say it, he keeps yanking his arms in and down.

Q. So when you say in and down I'm just, articulating the movement that you're making, you're bringing them into your, center of your torso...

A. He's bringing em in to the center of his torso and I've got, I don't know which wrist it was and he starts shoving his hand down,

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towards his waistband. I'm letting em know, I'm like, 'hey he's reaching'. You know we're giving commands. 'Stop, stop' And he's reaching and we get down here and I'm fighting with his wrist right around his beltline and I, eh, I hit something hard, again, based on my training and experience, that's usually where people conceal weapons, is in their waistband.

Q. Uh Huh (Affirmative)

A. So I hit something hard and like, 'I feel something, he's reaching, he's reaching' I'm like, 'Somebody tase him. Somebody just tase him.' And I hear a taser go crack and my hand slips off and he reaches down, pulls out a black handgun and turns and rotates it right at Bickford, I just yell, 'He's got a gun, he's got a gun' and I'm still kinda kneeling on him and I draw and I see like, blue right here, so I know that's my co-workers; and I look down and I can just see that, this is my only clear shot. I punch my gun out and start pulling the trigger.

Q. Okay. When you say 'this is your only clear shot' w-what portion of this subject is...

A. Oh, like if this, kinda the side of his stomach.

Q. Okay.

A. The, the midsection on his side.

Q. Okay. And how far away from him would you say that you are at this point?

A. Me? I was still kneeling on him.

Q. Okay.

Q. (DENNLER) And then after, after you engage, okay...

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- A. I, I also forgot something. So as we're fighting over this, he looks, I don't even know who he looked at and just says 'I'm gonna shoot you'. And that's when the gun finally came out. I don't know who he was screaming it at, but you, he said 'I'm gonna shoot you'.
- Q. (DENNLER) Then ah, you know, after, after you engaged, just, walk...
- A. So, I...
- Q. (DENNLER) ...through what happens from, from there?
- A. I pull the trigger, I, honestly don't even know the number of times and as I'm doing that I'm slowly creating distance and I keep shooting and then I st- backed up to, again, about the front of that white Impala, put my gun (UNINTELLIGIBLE) and I remember that he was on the phone, with somebody, I'm like, 'Hey we need to get eyes outward in case his buddy shows up and starts causing problems.' And, I just sat there like that and I called for medical.
- Q. Uh Huh (Affirmative)
- A. And, I mean that ah I pretty much didn't move until Officer Schultz arrived and I said 'Am I good to holster?' and he said 'yes'. I put my gun (UNINTELLIGIBLE).
- Q. Okay. So you held your position roughly around the front of the, the white Impala.
- A. I moved backed to about right here.
- Q. Okay. So, from the time you fired until the time you stopped fired, did the subject do anything else after that, that is in, in your mind?
- A. Ahm, so once we finally backed up, the gun was still in his hand...

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Q. Okay.

A. ...his finger was literally in the trigger well and it was pointed to the west.

Q. Okay.

A. And I told, I don't know if I told Bickford to kick it or he just went up and kicked it. Out of his hand. But we, Bickford was the one that went and kicked the gun out of his hand.

Q. Okay.

A. I don't think I moved.

Q. (DENNLER) And as you engaged him, and then you said you backed off...

A. Yeah.

Q. (DENNLER) ...what, what signified you, to you the, that you, you could disengage, that you didn't need ta, ta continue to fire or, or use force?

A. Ahm, I just, he kinda went limp and was just. He just went from tense just (MAKES NOISE).

Q. Okay. Alright. So, you just engaged him with gunfire, do you know anything else that was happening while you were doing that?

A. I know as I was backing up I remember out of the corner of my eye, I think I saw a muzzle flash from Bickford. As he was backing up too, cuz we backed up in kind of an 'L' and just held that 'L' but I, other than that, other than, once I finally kinda came to again, and just telling them (UNINTELLIGIBLE) cuz he was on the phone with somebody. I had no idea where Grommes and Vladic had gone. I, I'm standing there and I probably asked

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Bickford 8 times, I said 'Hey are you good?' cuz, you know, he said he was gonna shoot and pulled a gun out. I didn't know if Bickford had gotten shot or anything.

Q. Uh Huh (Affirmative)

A. I asked him, I don't know how many times and at one point Bickford checks his leg and I'm like, oh shit he got shot. 'Hey are you good?' he's like, 'No, I'm good, I'm good' and I probably asked him another 6 times. And he just kept saying he was good.

Q. Alright. At, at the time that you were firing, did you know that Bickford was firing?

A. No. Not at first.

Q. Okay.

A. I just saw the gun come up, saw it pointed towards Bickford, I think, yeah and then I just, I didn't know. I didn't know if he was shooting or not. I just knew I needed to shoot because if I didn't, he was gonna kill somebody.

Q. So, was it seeing that gun that prompted you to fire?

A. It was seeing the gun pointed at Bickford and obviously him saying 'I'm gonna shoot you.' It was a pretty clear indication that I need to be worried.

Q. Okay.

A. And scared.

Q. So, we didn't, really touch on it, we, we kinda got in here, but I just wanna clarify, when you say that you were on top of him, trying to control his hands, how were you on top of him?

A. So, he was kind of on his side, facing to the west and I have my knee like, kind of on his, like his leg and his hip a little bit, like,

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- kinda more of his legs. And I'm over the top of him like, grabbing his hands and then it slipped.
- Q. Okay, so is, is he, like laying out stretched where you, you...
- A. He, he's, like kinda curled up, like his torso's kind of extended...
- Q. Uh Huh (Affirmative)
- A. ...a little bit and his legs are kinda, like this.
- Q. Almost a, fetal position is what you're describing or?
- A. Kind, kind of, yeah.
- Q. Okay, but not completely stretched out linear?
- A. Not completely linear, but...
- Q. Okay.
- A. ...definitely not like curled up in a ball.
- Q. Alright.
- Q. (DENNLER) Is he, more on his, his right side? Or is he kinda rotated so that his, his back is flat and he can look up at you guys?
- A. Yeah, I mean he's, eh, cuz it started like this and he was, he was definitely rolling onto his back.
- Q. (DENNLER) Okay.
- Q. Okay. Okay. And this is, so it was from this position that you drew your handgun...
- A. Yeah I just drew it...
- Q. ...and then, backed off.
- A. Yeah.
- Q. Now, did you fire and then back off, or are you backing off as you're firing?
- A. Backing off as I'm firing.

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Q. Okay. Alright. So then you've positioned yourself over here, the radio call's been made and then you said Schultz was the one that came up to you and told you, you could holster?

A. Yes, I, Schultz, I, remember Schultz coming up to me on this, 'hey man, am I good to holster?' he goes 'Yeah, I got you' and I holstered.

Q. Okay. What happened after you holstered?

A. I came back to here and there was a million police cars and I just stood there.

Q. Okay.

A. And got told what to do.

Q. Alright. You touched on this briefly, but I just, I just wanna circle back for one second. When you saw the gun, you said that, you thought that if you didn't shoot him he was going to kill somebody.

A. I was 100% positive he would.

Q. Okay.

A. He said 'I'm gonna shoot you' and then pulls a gun out.

Q. Okay.

A. I mean that's about as clear of an indication to me, personally, I could think of. And when you point the gun, you know, my friend and one of my co-workers, you threaten to kill him, I, I'm in fear for his safety, I'm in fear for my safety and everybody else's around. I'm not gonna wait to wait for him to shoot.

Q. Okay. Ahm, up until that point had you considered using deadly force?

A. No.

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- Q. Okay.
- Q. (DENNLER) Ahm, hitting back on, you know, right when you feel something hard, the hard object, you lose control...
- A. Yeah.
- Q. (DENNLER) ...of, of his arm, is he controlled at all at that point?
- A. No.
- Q. (DENNLER) For, for hands and arms?
- A. No.
- Q. (DENNLER) So he's freely able ta...
- A. Yeah.
- Q. (DENNLER) ...ta move his hands, ahm, and when he starts ta, ta draw that, that firearm, is there any other reason that you can think of, why someone would begin ta, ta draw a firearm, while police are tryin' ta, ta take him into custody?
- A. I can't think of a single reason.
- Q. (DENNLER) Okay. What would the, the one reason to you be that someone would draw that firearm?
- A. To shoot.
- Q. (DENNLER) Okay. Ahm, and then we touched on, you know, your concerns for your, your coworkers being present...
- A. Yep.
- Q. (DENNLER) ...ah, of them being shot, ahm, speaking to you, how did that make you, how'd that make you feel? What's going on in your head, what emotions are you feeling as, as that gun's startin' ta, ta present itself?
- A. That I'm absolutely terrified. I, I mean I don't know if he's gonna crank a round off and then be able to turn and get it on everybody

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else, I, I'm terrified that I'm gonna have to stare at the ground and see one of my friend's dead.

Q. (DENNLER) Okay.

A. I'm terrified that I'm gonna get hurt.

Q. So, when you, when you made the decision, the action to fire on him, why did you make that action?

A. To stop people from dying.

Q. Okay. Alright. One, one more thing that I kind of glassed over, ahm, you mentioned that a taser, or you called for a taser and you heard a taser pop...

A. Yeah.

Q. ...did that taser seem to have any affect on him?

A. No. No. Not at all.

Q. Okay.

Q. (DENNLER) And then we'll, I think we're at a good point just to touch on as we're, we're going through the actual, ah, use of force here, ahm, have you received Use of Force Training? Or ah pertinent ta, ta the State Statute in Montana?

A. Yes.

Q. (DENNLER) Ohm, just in your own words, I'm not looking for verbatim by any means for ya, you know, what's your understanding of, of, the ability ta, ta use force.

A. The necessary force to effectuate an arrest.

Q. (DENNLER) Okay. And, ta, to use deadly force? Ahm, what, what's your understand of the, the statue for someone to be able to use deadly force?

A. Ahm, fear of serious bodily injury or death.

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- Q. (DENNLER) Okay. Ahm, and you as a peace officer in this situation, ahm, how do you feel that applied?
- A. Ahm, I thought he was going to, shoot, you know one of my co-workers which, has the potential ta, kill them right there or seriously injure em or a number of things.
- Q. (DENNLER) Okay.
- Q. Alright. I think we're probably at a good spot to take a quick break.
- A. Okay.
- Q. Okay, so we're gonna pause the recording, time is 14:55.
(RECORDING PAUSED)
- Q. We are continuing recording at 15:02 hours. You had a question?
- Q. (DENNLER) Yeah I was ah, just gonna go back as, we kinda get back to the point of, you know we're talking kinda specifically about when, when force was used. Ahm, on Mr. Stump. When you are engaging with, with deadly force, ahm, was there anything else that, at that point that you think you could have done ta, ta defend yourself?
- A. No. At that point, that, I saw that as my only option.
- Q. (DENNLER) Okay. And, again if we weren't all cops sitting in here, what's the, what's your goal when, when you deploy, you know force likely ta, ta cause death or serious bodily injury, what's the what's the goal of that?
- A. Stop the threat.
- Q. (DENNLER) Okay. And, when, when you fired your weapon, and you described him going limp and that's when you decided, you

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know, made that decision that you no longer needed ta, ta engage, ahm, why was that?

A. Ah, ahm, again, because I thought the threat was stopped but I was also not comfortable enough to put my gun away because the gun was still in his hand.

Q. (DENNLER) Okay.

A. And I didn't know, I mean, if he was gonna tense back up and pull the gun back up and continue to shoot. So, I believe that the threat had stopped enough to the point where I felt comfortable to stop shooting, but not enough to holster my gun.

Q. (DENNLER) Okay. And then from, from there you said, Schultz...

A. Sch...

Q. (DENNLER) ...arrives...

A. ...Schultz arrives...

Q. (DENNLER) ...and, and gives you that confirmation, you know as other officers are getting there that...

A. Yeah.

Q. (DENNLER) ...the scene's safe enough that, that you can, can holster, what do you remember happening from, from that point? What are you observing and seeing occur? And what, what happens with you?

A. Ahm, I got walked back ta, by a patrol car, ahm, people started asking me if I was okay. I saw an ambulance show up and they started doing CPR on the suspect and, yeah.

Q. (DENNLER) Did you remain on scene the whole night or?

A. No, no, I...

Q. (DENNLER) Did you...

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A. ...I stood there and probably another 4 minutes and then, ahm, I went Diercks, Officer Diercks and he gave me a ride to the station where I sat and waited.

Q. (DENNLER) Okay.

Q. Okay. I think the last thing I've got for you is, going back to, when you're in the struggle over his hands, and, you said that you could feel something in his waistband...

A. Yeah.

Q. ...ahm, you felt that this was a hard object, correct?

A. Yes.

Q. Okay. Now in your mind at that time, did you believe that that was a weapon?

A. Yes.

Q. Okay.

A. Well I, I believed it was, but I wasn't, you know, I wasn't 100% sure. You know what I'm saying? You, you feel something hard right there, you're like, that's probably a gun...

Q. Uh Huh (Affirmative)

A. ...but you, you're not 100% sure.

Q. Ahm, at that point, when you're in a fight with somebody, they may or may not have a gun, you've called for the taser, the taser's ineffective, do you feel that you could have fired before the gun came out?

A. (PAUSES) I honestly don't know. I mean, I, when I felt something hard and he said 'I'm gonna shoot you' (PAUSES) I don't think I would've, but, I don't.

Q. Okay.

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A. I, I don't know.

Q. So you waited until you saw that it was a firearm...

A. I, I waited until I lost control of his hand...

Q. Okay.

A. ...and saw the firearm starting to come out.

Q. Okay.

A. Cuz at the point where I've had, felt the hard thing, I still had a hold of his hand, but we were still fighting over that.

Q. Okay.

Q. (DENNLER) And as you, you kinda do the, the gesture in your, your chair, and like we talked about, he was starting to roll over onto his back, even with you kinda pinning his hips with your knees and, and whatnot, what hand does he draw with?

A. (PAUSES) I, I think his right hand.

Q. (DENNLER) Okay.

A. (PAUSES) I think it was his right hand.

Q. (DENNLER) Okay. And, as he's pulling the weapon out, you, you referred to it pointed at Bickford...

A. Uh Huh (Affirmative)

Q. (DENNLER) ...and where was Bickford positioned?

A. To the west.

Q. (DENNLER) To the west. What, what part of the, the suspect's body, Mr. Stump...

A. That would've been like his head.

Q. (DENNLER) His head? Okay and then you're still kinda by his hips?

A. Uh Huh (Affirmative)

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- Q. (DENNLER) And does the weapon get pointed at you?
- A. No.
- Q. (DENNLER) Okay. Goes to Bickford?
- A. Yeah, just comes out (UNINTELLIGIBLE) just comes out and he goes (UNINTELLIGIBLE) west.
- Q. (DENNLER) Sounds weird ta, ta ask as you just described that, how close are you? How, what is that distance from, from you to that firearm and then from Bickford to that firearm?
- A. I mean I, probably could've reached out and touched it.
- Q. (DENNLER) Okay.
- A. Ahm, same thing with Bickford, I mean, we, on top of each of other, about as close as you can be.
- Q. (DENNLER) So, in that, what they call, in that intimate space.
- A. Yes.
- Q. (DENNLER) You are, are basically in contact with, with him and that weapon is inches from you?
- A. Yes.
- Q. (DENNLER) Okay. And as you guys were trying to take him into custody, you described you know, using force ta, ta effect arrest down in Big Horn County...
- A. Yes.
- Q. (DENNLER) ...you, had to use force, I'm assuming in Billings too effect arrests...
- A. Yes.
- Q. (DENNLER) ...ahm, so based off your experience, was this an abnormal amount of resistance for, for this gentleman to be able ta, ta display? Were you having, to you, more trouble taking him

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into custody? Did he seem stronger? Weaker? More motivated ta, ta fight?

A. I mean, I've had a lot of use of forces where guys are very, very motivated, so I guess I don't understand your question.

Q. (DENNLER) Okay. Ahm, eh, was it harder ta, ta try and control him than other uses of force that you've been in?

A. Yeah, I mean, yes. And ah, again, it depends on which use of force, I mean. Some, some people that go on the fight with you ah, they're super easy to control and like him, you know you're, you're fighting with everything you have to hold onto that hand and it, it gets away from ya and he was, he was hard to control.

Q. (DENNLER) Okay.

A. He was extremely hard to control. I mean there was, what? 3 or 4 of us on top of him and we were all struggling.

Q. (DENNLER) Is that normal?

A. I mean, again, eh, case by case basis, I mean, sometimes, super easy to control people, you know, they're, you're a lot stronger than them and sometimes you're just, not or they're way stronger than you.

Q. Hmm. Okay.

A. And you have to have, what is it, 2 or 3 times the amount of force that someone's putting out to control em?

Q. Often, yeah. Anything else you can think of at this point?

Q. (DENNLER) I don't think so. I, nothing's coming to mind.

Q. Alright.

Q. (DENNLER) So.

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Q. Ahm, is there anything that we have not asked you about or talked to you about that you think is vitally important here ta...

A. No. I don't think so.

Q. Okay. Ahm, I think we'll go ahead and conclude at this point. The time is 15:10 hours.

(END OF TAPED INTERVIEW)

D.R. / ty

BILLINGS POLICE DEPARTMENT

WITNESS STATEMENT HEADING

WITNESS: Dawn Miller

C & O NUMBER: 20-76444

DETECTIVE: David Raschkow #383

PLACE: Residence at:
2290 Avenue C #3
Billings, Montana 59102

START TIME: 15:27 Hours

END TIME: 15:41 Hours

DATE: January 7, 2021

This is Detective Raschkow with the Billings Police Department referencing case number 20-76444. Today's date is January 7th, 2021. The time by my watch is 15:27 hours. I'm currently at 2290 Avenue C #3, here in Billings and I'm speaking with Miss Dawn Miller.

- Q. Dawn can I have you say and spell your first and last name for the recording?
- A. Ah, it's Dawn Miller. D-A-W-N, M-I-L-L-E-R.
- Q. Okay. Dawn I have your date of birth as [REDACTED] [REDACTED] [REDACTED] is that...
- A. Yes sir.
- Q. ...correct? Okay. And you're a guest of your mother...