

Transcript of First Taped Interview - David Benson

2/9/2003

9:02 AM

Karen Smith: Today is February 9, 2003, the time is 09:02 hours, present with me is detective Tom Hokit, detective John Soliz, this is detective Karen Smith. Also present is deputy David Benson, and we are conducting an interview with officer, question, deputy Benson regarding an incident that happened earlier this morning in where he had drawn his duty weapon and subject was shot. Deputy Benson can you state your full name and your badge number, please?

Benson: David Wayne Benson, badge number 876.

Smith: Okay. And can you describe what you're wearing to me?

Benson: I'm in full deputy uniform with 2 red patches on each shoulder, and my badge says Kern County Sheriff's Department on it, my badge number 876, and a khaki tan shirt with green pants.

Smith: Okay. I see you have a gun belt on.

Benson: Yes, my issued Glock 22 with my other issued equipment from the department.

Smith: Okay, so that is a county issued Glock 22, and the caliber of your gun?

Benson: 40 caliber.

Smith: Okay. All right, and how many mag, how many bullets do you normally carry in your gun?

Benson: Uh, 14.

Smith: Okay. And when you have, that is inside the magazine, is that correct?

Benson: Yes, and one, the one round is in the gun but 14 in the magazine. I always keep it one less than the mag.

Smith: Okay, so the magazine will carry 15 rounds?

Benson: Yeah.

Smith: Okay. All right. Now what time did you report to work this morning? Or last night?

Benson: I came in, my duty time was 22:00.

Smith: Okay, and that was on February 8th?

Benson: Yes, on the 8th.

Smith: Okay, and what are your duties?

Benson: I'm a deputy for the sheriff's department assigned to the Frazier Park sub-station. My duties are answer calls that I'm given, make traffic stops, investigate crimes, and respond to any emergency during my...(inaudible).

Smith: Okay, how long have you been assigned to the sub-station?

Benson: I've been here a little over a year. My first day was around January 13 of 2002.

Smith: And what is your hire date with the sheriff's department?

Benson: As a deputy, it is October, I believe it's the 16th or 18th of 2001. And prior to that, from October of '95 until January of 2000, I was a detention officer.

Smith: Okay, and was that for this department?

Benson: Yeah, the sheriff's department, yes.

Smith: Okay. And when you responded on the call this morning, are you wearing the same clothing that you described to me?

Benson: *Yes, I am.*

Smith: Okay. And were you in a vehicle?

Benson: *Yes, a marked Kern County Sheriff's Department vehicle. It's white with markings on the sides, says Sheriff's Department, with overhead emergency lights.*

Smith: Okay, and what is your vehicle number?

Benson: *Uh, 7336.*

Smith: Okay. Now do you carry extra magazines with you?

Benson: *Yes, 2 extra magazines.*

Smith: And, how many rounds do you carry in those, or do you know?

Benson: *There's 14.*

Smith: In each?

Benson: *Yes, in each one.*

Smith: Okay. Okay, what I'd like for you to do is start from the beginning, uh, how you were advised of a situation and what prompted you to go to the area of San Carlos and Piru Way this morning.

Benson: *Okay, uh, when I first received the call I was on Park Drive and Monterey Trail when I received the call. I responded to Piru, it was unknown problem, I was told there was a subject on the front porch at 925 Piru that was bleeding from the face. As I was approaching from San Carlos onto Piru, there I saw a Toyota 4Runner which I recognized as the paper delivery for the Bakersfield Californian. I see them every morning, they were directly in front of me, they were on San Carlos, and they turned on Piru, the same direction I was going to.*

Smith: And what direction was that?

Benson: That would be northbound on Piru.

Smith: Okay, what time did you get the call?

Benson: I believe it was around 1:30, I think.

Smith: Okay.

Benson: From there they were maybe, maybe 3 houses in front of me, maybe 4. I was looking for the address, I know the address it was an odd number, so it's gonna be on the west side of the road of Piru. As I was checking, I saw a subject, he was illuminated by the headlights of the Toyota 4Runner, and then, again, I was still looking, and then I was focusing forward because I didn't know if the person was hit, and the next thing I knew there was a subject up on top of this 4Runner. I stopped just to see what was happening and the next thing I saw was him hit the ground, and then I lost sight of him. The Toyota continued to go northbound, and he turned around, and when he turned around his headlights were facing me. He had his bright lights on, I couldn't see anything, I couldn't see which direction the subject ran to, or if he rolled, or if he got hit. I was yelling at them to turn down their lights so I could see. Again, I didn't see anybody. There was a Ford, 4-wheel drive, I think it was brown in color, that was maybe 30-50 feet in front of me, it was on the west side and it was parked in front of 925 Piru. I saw the subject come up, I saw his face, and then that's when I said, I instructed "sheriff's department" and he ducked and hid from me, and then I didn't see him. I got out of the car, I was out of the car when I said "sheriff's department", had my spotlight focused on the side of the car, I got out, started to look and I couldn't see anybody, and then from the distance I heard "he may have a gun". I put it out over the radio, "subject may be armed" and I asked for my partner to roll code to my location. I heard screaming from the side of the truck. I went to the side of the truck, illuminated the area with my flashlight, couldn't see anything. Then, I heard the person scream and he rolled his body underneath the truck, and then the next time I saw him he was on the roadway all proned out, laying on his back, not moving, not saying anything. And that was maybe a couple of minutes, it seemed like it was a long time, but maybe a couple of minutes. The next thing I saw, the person bounce to his feet, took maybe

1-2, 3 steps forward and then started and charged me. When he was running at me his fists were doubled up and I had him illuminated the area where he was laying down with my spotlight. He ran directly at me, in my spotlight I could see his face, it was rigid, his eyes were, they looked like they were bugged out, it reminded me of someone under the influence of PCP. I yelled "stop, stop, stop" and when I was doing this I was behind the door of my car. He kept coming so I wasn't in a good position, I didn't want him to hit the door and knock me into my car, so I backed up. When he got approximately right even with my door, again I was yelling to "stop, stop, stop", he kept coming and he started to lunge at me, I got to the back of my vehicle and that's when I fired the 2 rounds.

Smith: Okay. Could you tell where you hit him with the 2 rounds?

Benson: The first one I thought I hit him in the chest somewhere because he did this and he started to fall forward, and then I'm not sure exactly where the second round, uh, the EMT said that he was hit in the head.

Smith: Okay. You just folded your hands in front of your chest?

Benson: Yes.

Smith: About breast level?

Benson: Yes, like right in here.

Smith: Okay. And that's you have one hand over the other hand with your elbows folded which appears that you may be clenching your chest area?

Benson: Correct.

Smith: Okay. And you were later told he was struck in the head?

Benson: Yes, by the EMT, because I asked the EMT people where he was hit, they said he had been hit once in the upper chest and they think another in the forehead.

Smith: Okay.

Benson: They said they could see a wound but they didn't know if it was a gunshot wound or not.

Smith: Okay. All right, what I'd like to do is go over a few things, and just for clarification, I do have a few questions. Now when you told me you turned off of, is it, Santa...

Benson: San Carlos.

Smith: San Carlos onto Piru, which direction were you driving?

Benson: On San Carlos is west, and then Piru you could only turn to the right which would be north, I believe.

Smith: Okay, so you were going north. And you say the white Toyota was in front of you?

Benson: Yes, maybe 3 or 4 houses in front of me.

Smith: Okay, and you know these people to be who?

Benson: The delivery people for the Bakersfield Californian.

Smith: Okay.

Benson: When they first took over the route, we were getting complaints that people were shining lights in their windows, and I first made contact with them up in Pinon Pines, realized, they said hey no, we're just, we're new, I said okay, I told them what was going on, and like I said, I see them, I work our graveyard shift, I see them every morning at the store, we wave, so I knew it was them.

Smith: Okay. And you are assigned to the Frazier Park sub-station, correct?

Benson: Correct.

Smith: Okay. Now when you said the Toyota was driving in front of you, it was approximately 3 car lengths or 3 houses ahead of you, is that correct?

Benson: Correct.

Smith: Okay. At that point what were you doing when they were driving ahead of you?

Benson: I was looking for the address, for 925, and then I saw a subject come out of the shadows, he was illuminated by their headlights.

Smith: Could you tell which house he came out of?

Benson: No.

Smith: Okay. So you saw him in front of their vehicle, correct?

Benson: Yes.

Smith: All right, and what did you see him do?

Benson: He ran, like, when he ran out of the shadows when he was illuminated, I could see his feet underneath the 4Runner and the next thing I saw he was on top, then I couldn't tell if he had jumped on top or if he had gotten hit and he was thrown over, but when he was up on top I saw him come up and over the top.

Smith: Okay. Could you hear any, hear him saying anything?

Benson: No, I don't think I heard him say anything at all.

Smith: Okay. So then after he came over the top of the 4Runner, could you see if he was, how he was on top of the vehicle?

Benson: I could see his hands were up on top of the roof and I don't know if he got hit and he rolled that way, or if he had jumped up. At first, my first impression was that this person came out of the shadows, they didn't see him and he got hit.

Smith: Okay. And then from there, after he went off of the roof, what happened, which position did he, uh...

Benson: He rolled off of the, off of the driver's side and then once he hit the ground I lost track of him.

Smith: Okay. So you lost him at that point?

Benson: Yes.

Smith: When did you see him again? Well, let me ask you this first, what did the Toyota do when he came off of their vehicle?

Benson: From my position it looked like they had stopped.

Smith: Okay. Could you see brake lights?

Benson: Yes.

Smith: Okay. And did they in fact stop?

Benson: Yeah, they stopped and then they turned completely around and then they were facing my direction.

Smith: Did they have to drive forward after that?

Benson: Ummm, I would think yes because they may not have been in a position to turn around right there, but they moved forward a little bit and I noticed the driver jockeying position toward, he was, the headlights and the front of the vehicle was pointed in my direction.

Smith: Okay. And did you see the subject again, then?

Benson: Once he hit the ground after he came off the Toyota, I lost sight of him.

Smith: And what was the, let me back up. You said the lights on the Toyota were at this point facing you, so they were southbound?

Benson: Yes, they would have been southbound, yes, with the brights on.

Smith: Okay. What did you do in reference to that?

Benson: I was out of my car, I said “turn off your lights, I can’t see”. I was blinded, I couldn’t see anything and that’s when I lost track of the subject. And then eventually, the lights went down, I was able to have a clear path and that’s when I heard “he may have a gun” from that direction. I don’t know where it came from, um, and then that’s when I put over the radio “subject may have a gun”, and about that time that’s when he came up from the side of the Toyota, or excuse me, he came up from the side of the Ford truck and I was able to see probably about the shoulder up.

Smith: Which side of the Ford truck was that?

Benson: He was on the driver’s side.

Smith: And the voice that you heard saying that “he may have a gun”, could you tell if it was a male or female voice?

Benson: I could not tell, no.

Smith: Okay. And what were you thinking at that point?

Benson: My main focus was, I knew that they were up there, to try to locate that person. Whether he was armed or not, I lost sight of him, I had no idea where he went, I knew the last time I saw him he was coming off the driver’s side of the Toyota and went towards the houses, and that was the last time I saw him.

Smith: Okay. When did you see him again?

Benson: When he came up from the side of the Ford truck.

Smith: And which side was that?

Benson: The driver’s side.

Smith: You saw him on the driver's side of the truck and what did he do?

Benson: He poked up, I identified myself, and he went down and hid and I couldn't see him. I stepped away from my vehicle to try to shine him with my light and I couldn't see anything, I couldn't see any feet, couldn't see lower body or upper, couldn't see anything.

Smith: How far would you estimate that you were away from that Ford truck?

Benson: Maybe 50 feet. There was,...(inaudible)...to the houses. The address that I was going to, 925, I believe I was one house south of that, and the Ford truck was parked, excuse me, I was two houses south, the Ford truck was parked the first house to the south, at 925 Piru.

Smith: Okay. And did you later discover what that address was where the Ford truck was?

Benson: You know, I did not look, no, I did not look.

Smith: That's fine. Okay, so after, what happened, what did you do after that?

Benson: At which point?

Smith: From you lost sight of him.

Benson: When he ducked down, I stepped away from my vehicle to try to find him because where I was at I couldn't see.

Smith: How far away did you step from your vehicle?

Benson: Maybe 2 or 3 steps away from the outside part of my door, the door was open, I was at the inside of the door. I stepped away from the door because I couldn't see the side of the truck because the last time I saw him, that's where he was.

Smith: Did you have your headlights on?

Benson: *Yes.*

Smith: Did you have any other...?

Benson: *My spotlight.*

Smith: Okay. And where was your spotlight looking?

Benson: *I had it focused on the driver's side of the Ford truck. I was using it to move around, I couldn't see anything, so I moved away from my spotlight, couldn't see anything and that's when I heard the yelling, and that's when he rolled from underneath the truck back into the street. I went over to my spotlight and focused it on him.*

Smith: What was he doing at that point?

Benson: *From underneath the truck he was screaming and then he just, as soon as he went on the ground on his back in the middle of the road, he did not say anything.*

Smith: Okay. Can you describe him to me?

Benson: *The first thing that caught my eye was no shoes, no socks, nothing. Being very cold, something was wrong here. Dark bushy hair, he had pants on and a long sleeve shirt or sweater.*

Smith: Okay, but you noticed there was no shoes on his feet?

Benson: *Yes.*

Smith: Okay.

Benson: *That was the first thing I noticed, he had no shoes.*

Smith: And, do you know what the weather is outside?

Benson: *At the time it was probably anywhere from probably 12 to 18 degrees or so. There wasn't much wind, so it probably was anywhere from 12 to 18.*

Smith: And, is this common practice for people to run around with no shoes on at this date and time of the year?

Benson: No, it's very unusual.

Smith: Okay. And, so you made a mental note of that, what were you thinking at the time?

Benson: Where did he come from, why is he out here barefooted, and originally we got the call somebody bleeding on the front porch, trying to find out if this is the person that got assaulted. I was just trying, a lot of things were running through my mind, and then when he just rolled out in the middle of the road and just laid prone, I didn't know if he was hurt or what. Again, I got on the radio and asked for my partner to roll code. I didn't want to approach him until I had back up because I didn't know if he was waiting for me to get close, if he was gonna attack me or what, so the best thing I thought was, I knew the highway patrol were en route because my dispatch had told me that, and I knew my partner was en route because I heard him saying he was en route from the Grapevine.

Smith: And, who is your partner?

Benson: Richard Anderson.

Smith: And, he's a deputy?

Benson: Yes, he is.

Smith: Okay.

Benson: So my biggest thing was put myself in a position of advantage, put something in between me and him, and again, I was using my door of my vehicle to do that, and I was just waiting for other officers to arrive before I can approach.

Smith: Okay, and why was it that you had asked for your partner to roll code?

Benson: The way he was acting, he popped up and when I saw the shoulders up, you could see big huge eyes that looked like they were bugging out, and he just had this look on his face like he was mad and his face was very rigid and thin, and my first thought was could this person be on PCP.

Smith: And, you had made mention that somebody had said that “he may have a gun or a weapon”?

Benson: Yes, from the distance somebody said “he may have a gun”.

Smith: Okay, did that, did you think about that also?

Benson: Yeah, I was trying, I can’t see his hands, you know, I’m not going to do anything until I get back up, you know, and keep myself where I, if he comes out from behind the truck where I can, you know, see him fully, which I could, and still I had the door in between me and him.

Smith: Okay. Now, When you saw him laying on the ground prone, could you see his hands at that point?

Benson: Uh, yeah. He was, I believe his body was laying east and west, so I could see, I guess that would be his right hand and he was out, he was like this with both fists clenched.

Smith: And you had both arms extended to the outside of your body, is that correct?

Benson: Yes, I did.

Smith: And was he face up or face down?

Benson: He was on his back.

Smith: Okay.

Benson: So he would have been face up.

Smith: Okay...(pause)...so you couldn't see his left hand?

Benson: No, I could not see his left hand.

Smith: Okay. And then what happened next?

Benson: As I was waiting for other officers to arrive, I was seeing, looking around to make sure he wasn't with anybody else, and then I checked that out with my flashlight, and then, like I said, I don't know how long he laid on the ground, but the next thing I knew he took a couple of steps towards me and then it was just a dead sprint.

Smith: Okay. How did he take a couple of steps toward you?

Benson: He got up, he looked in my direction, he took 2 steps, and then started running at me.

Smith: Okay, and were you saying anything to him at this point?

Benson: I was telling him to stop, I said I identified myself, and he didn't look like that he needed help, he looked like he was mad and he was, and he was coming at to attack me.

Smith: Okay, and how did you identify yourself?

Benson: Uh, sheriff's department.

Smith: Okay. And do you remember how many times you ordered him to stop?

Benson: When he first popped up from the side of the truck that was the very first, the first time that I had seen him, I identified myself there. And I think, everything happened so fast, I think one or two times when he was approaching me, and I continued to, you know, "stop, stop, stop, stop, stop", and when he got to my door I was backing up to the rear of my car, and then when he got to the door I could see his face. I had my mag, actually it's a stream light flashlight, in my left hand and I, cuz he was running like this, and I went up with my light to see his hands and I could

see his face. And this is a person that I thought, again, was under PCP and this person was getting ready to attack me.

Smith: Okay, at what point did you draw your weapon?

Benson: When he was face down in the middle, or face up in the middle of the road I had it down and it was, this is my, let's see, this is my car, my right hand is my car, my left hand is my door, I had my gun at the ready position when he was on the ground because as soon as I heard that "he may have a gun" that's when I drew my weapon.

Smith: Okay. And, you drew your weapon when you heard "he had a gun", why did you draw your weapon?

Benson: For my own safety. If he had a gun and he was going to shoot me, hopefully I could see his hands first to where if he started to raise it toward me that would give me a better position and an advantage because hopefully, if I illuminate with that spotlight, if he's illuminated, hopefully he doesn't see me, and that way I have an advantage over him.

Smith: Now, at this point he's approaching your car, correct?

Benson: Yes.

Smith: And, he is not obeying the orders that you're giving him?

Benson: No, he's not.

Smith: Okay. You said you were backing up, how far do you think you backed up from your vehicle?

Benson: Um, when he got to my door, I was to the rear of my vehicle, that's when I fired the first round.

Smith: Okay, let me stop you there. He was at your car door?

Benson: Yes.

Smith: Was your car door open or closed?

Benson: It was open.

Smith: Okay. And, where was he in relationship to that car door?

Benson: Right next to it.

Smith: Okay. Would that be to the side of it?

Benson: Yes, it would.

Smith: How far open was the car door?

Benson: I believe it was open all the way.

Smith: Okay. And, you say you were at the back of your patrol car?

Benson: Yes, I was right to the rear of my patrol car, um, I had my lower body protected by the rear of the vehicle, and I had my gun pointed at him up over the rear of the trunk on the driver's side.

Smith: Okay, and then what happened?

Benson: Again I was telling him to "stop, stop, stop". I illuminated his hands up to his face, and I could...(inaudible)...he wasn't coming, I was in fear this guy's gonna attack me and that's when I fired the first round, and I believe I took one more step backwards when I fired the second round because he was still coming.

Smith: Okay. Why did you stop shooting?

Benson: When he hit the ground, I was, when he clenched like, after the first round, he clenched his chest, I fired another round, and then once he was on the ground I backed up further and then I stood, and then I could, in the distance I could hear sirens coming. I didn't want to approach him because I didn't know what was, if he had a gun or not, I was gonna wait again for back up to where we could approach him safely.

Smith: Okay. Could you see anything in his hands when you had him illuminated?

Benson: At the time, no.

Smith: Okay. You couldn't, could you see his hands clearly?

Benson: Uh, yeah. He was, he had his fists clenched like this, and he was, like I said, he was running at me and when I illuminated his face, he had this look on him that he was just ready to attack somebody and his face was very rigid.

Smith: Okay. And what was, at that point, he's charging at you, did you have a baton available?

Benson: My baton was in my ring, uh, but at that point it was, I didn't feel that that was going to stop him. It was just the look on his face, the way he was coming, um, I felt my only option was to fire.

Smith: Were you afraid?

Benson: Oh yeah, I was afraid.

Smith: What were you afraid of at that point?

Benson: Just as this person is getting ready to attack me, I've got to defend myself, you know, if I get hurt, you know, if he takes me down, I'm not gonna be able to get on my radio, nobody's gonna know where I'm at, so when it got to the point to where, you know, I was scared, he wasn't gonna stop, he was there, he was gonna attack me. And, as soon as I thought that, and he got, he just kept getting closer and closer and closer, and I just thought to my mind if he gets any closer, you know, I'm not going to have any options. You know, he's putting, he's putting himself and myself in a bad position, and I felt the only way from not being attacked was to fire my service weapon, that's what I did.

Smith: Okay. So did you feel you had any other options?

Benson: At the time, no.

Smith: Okay. What about, what was your consideration as far as shooting, could you see your background?

Benson: I could see the back of the truck. There was nobody, there was nobody on the house where the truck was, and I knew that the people, the 2 people in the 4Runner, were the opposite, they were still, when I fired he was this way, the truck, if the tape recorder is the truck, my, the first thing I saw was the tailgate.

Smith: The tailgate of the...?

Benson: Of the Ford truck.

Smith: Okay.

Benson: And I knew the other 2 people in the 4Runner, they were in this position.

Smith: And they would have been what position from that truck?

Benson: They would have been, they would have been north.

Smith: Okay.

Benson: At north, I guess at an angle. And then...

Smith: Would it be on the same side that the truck was on?

Benson: They were in the middle, I believe they were in the middle of the street.

Smith: Okay.

Benson: Uh, and I knew, there was, I knew there was houses behind the truck, but when I looked and visually saw him, my background was the tailgate of the Ford truck because I remember seeing "Ford" across the tailgate.

Smith: All right, so when you shot and if you missed, where did you think the bullets may go?

Benson: Into the truck.

Smith: Okay. Now you said that you'd heard some screaming or yelling, could you describe that to me?

Benson: It was in the spot where he had ducked up and then ducked down, and it was just "aaaaahhhhhh", and then he rolled, he was rolling his whole body sideways underneath the truck and then in the middle of the road and then he laid on his back and he was face up.

Smith: Okay. Do you think that might be....?

Smith: We just turned over the tape, we're on side 2, okay, go head.

Benson: When I illuminated him with my light and also with the spotlight, I couldn't see if he was bleeding at all. The report came as the person is bleeding from the face, and I couldn't see anything from where I was.

Smith: Okay. Did he say anything to you?

Benson: He didn't say anything. He was, he screamed from the point that he rolled underneath the truck and then when he was face up and proned out in the middle of the road, he was dead silent, didn't say a word. He didn't acknowledge me, he just laid there. And then, again, I was waiting for my other officers to get there, and then he just bounced to his feet, he just got straight up on his feet, took 2 steps I believe, and then it was a mad dash for me.

Smith: Okay. When he was prone or laying on the ground, you were giving him orders at that point?

Benson: I just told him, I said, again I said "sheriff's department, stay", and then when he popped up that's when I told him to "stop, stop", and then I was yelling "stop" as he came to the vehicle when he approached me.

Smith: Okay. Now when he approached you, how fast would you say he was coming? Was he walking or...?

Benson: *He was in a dead run, probably running as fast as he could.*

Smith: Okay. Uh, another question. Did you put over the radio the suspect had a weapon, or did you mention that?

Benson: *I said that "suspect may have a weapon".*

Smith: Okay.

Benson: *And then it came, there was somebody, somebody had their mike keyed, and they were, you could hear somebody talking, it wasn't me, uh, and I was, it came out "subject may be, is armed in the house", and I put, "no, subject may be armed and nobody was in the house".*

Smith: Okay. And, how long after the shots, the subject was shot and down, did the, your back up arrive?

Benson: *Um, it seemed like it took forever. Uh, the first people on scene was the paramedic and the fire department.*

Smith: They were the first ones, before your back up?

Benson: *Before, yes. And then the next to arrive was the highway patrol officers and then my partner.*

Smith: Which medical...?

Benson: *You know, I believe it was Hall Ambulance, I know they're the ambulance service up here.*

Smith: Okay.

Benson: *And as far as time element on my partner, I don't know, maybe 5 minutes.*

Smith: Okay.

Benson: I'm not sure, again it just, it just seemed like it was forever.

Smith: Did you say fire department came?

Benson: Um, I don't know, I don't remember if I said medical aids 97 or fire is 97.

Smith: Okay. Was fire 97, was fire on scene also?

Benson: Yes, the first vehicle that was behind me was the ambulance, and then it was the fire department. Ambulance service, there was 2 people that I saw, they jumped out, I told them to get behind their vehicle. And the next thing I saw, there was a highway patrol running, one on the driver's side of the ambulance and then one on the passenger.

Smith: Okay. Are they a 2-man unit or a 1-man unit?

Benson: I know since the higher elevation of the national security has moved up, they're on 12 hour shifts till Monday cuz we were talking about it on that Chevron when I was getting gas and I got something to drink and they were in there. I know there was one 2-man unit, and then I know that John Navarez, I think, I don't know if he was by himself at the Chevron, but he had a partner, and his partner was doing paperwork at their station. I know, I believe there was 4, 4 highway patrolmen that showed up.

Smith: Okay, then after your partner arrived, what did you guys do then?

Benson: The highway patrol asked me, you know, what, what do you need, and I said we need to go contact the 4Runner and I pointed in the direction they were in. I said they had contact with the person I had shot. So, I know one of them went in that direction, I don't know if it was two, and then another one stayed with me in case, you know, I'll just follow you. If you need anything, you know, he was, he stayed with me the whole time.

Smith: Okay. Now there were two casings, two shell casings, is that correct?

Benson: Correct.

Smith: Okay, did you do anything with those?

Benson: I, I didn't do anything with them. Once the ambulance service, you know, they were there, they went up checked the guy out, they said he was not alive, and they put, I believe, it was a yellow blanket over him, and then Cmdr. Turman was the next to show up. And then he asked, he asked me where were you standing when you fired the rounds. I told him where I was, where I was standing, and then me, Cmdr. Turman and CHP officer Bey we started looking with our flashlights. Bey found one, I think Bey found both of them, or Bey found one and Cmdr. Turman found the other one.

Smith: Okay, and did anybody touch those to your knowledge?

Benson: No, I said I had FI cards, and I think it was CHP officer Bey, he folded them in half and then Cmdr. just told him just to place them directly over the top of them so we know where they're at, where nobody is going to step on them.

Smith: Okay.

Benson: The CHP officer asked if we wanted spray paint next to them and Cmdr. Turman said no, that the FI cards over would be sufficient.

Smith: Okay. Did you move the body at any point?

Benson: No, I never touched him.

Smith: Okay.

Benson: Well, let me backtrack. I went up, after they were on scene, we went up, I got a hold of his hand, I also went to his feet and touched his feet with my, with my boot, with the front of my boot to see if he was going to jump up. There was no movement, that's when I grabbed his hand and

then as soon as I did that the medical staff came up and then they took it, they took it from there. They began to work on him, and then they said that he was already dead.

Smith: Which hand did you touch?

Benson: (Sigh) He was rolled over on his back, I believe it was his left hand.

Smith: Okay. Now when you shot him the first time, did it appear the bullet had any effect on him?

Benson: The only thing I saw was, he took his hands, his arms went to his chest, and again he took maybe two steps, and that's when I fired the second round.

Smith: Okay.

Benson: And I couldn't tell where the second round hit, and again, he was, um, again when he clenched he was like this, when he clenched his hands to his chest he was falling and he took maybe, like I said, 1 or 2 steps, and from where I was at it looked like he was still coming at me, and that's when I fired the second round.

Smith: Okay, so you shot the second time because you thought he was still coming at you?

Benson: Yes.

Smith: Okay.

Benson: And that was maybe, it was very fast, maybe a couple of seconds.

Smith: Okay. You said your car door was open, do you remember him, if he touched your car at all?

Benson: Um, I don't think he did, um, I knew that he didn't touch the front of it from the angle that he was at when he came by. I don't know if

he had touched the door coming by or not, I don't remember, I don't think he did, but I'm not sure.

Smith: Okay. Now after the suspect is down on the ground, and you've waited sufficient time and obviously he's not getting up, what was the position of your car door then?

Benson: It was still open.

Smith: Okay.

Benson: It was still open.

Smith: And did you close it at some point?

Benson: Yes, I went around my car, around the passenger side, went to the front because there was a CHP officer that was covering him from the front because I didn't want to go up near his head or his arms, so I went around to his feet because if he was gonna raise up that would be the direction he would come, and it would be, I just felt it was better if I went to his feet first.

Smith: Okay, and how did you go around your car, which side of your car did you go on?

Benson: I went around the passenger side.

Smith: Okay.

Benson: Cuz I was, again, I was using my car as a shield. Maybe he, if the person was still, you know, mad or whatever, he would think that whoever was going to approach him was gonna be direct, that's why I went around the other side and touched his feet.

Smith: Now, when he went down, was he face up or face down?

Benson: Um, he was, he went face down, and then he rolled, and then he was on his back.

Smith: Okay.

Benson: Cuz when I grabbed his hand, he was on his back with his arms laying out.

Smith: Both arms were out?

Benson: Yeah, they were out and then he took a couple of breaths and then his arms came up, and then that's when, you know, when his arm was up, that's when I grabbed it.

Smith: Okay, so he was still alive then?

Benson: I believe so, yeah.

Smith: Were you giving him any directions at that point?

Benson: You know, I don't think I was saying anything. I don't, I don't think I was telling him anything.

Smith: Okay, so then when you touched his, or grabbed his left hand, what did you do with it?

Benson: I grabbed it and put it in a wrist, I just grabbed his hand and just put it in a wristlock and that's when I called for the medical aid.

Smith: Okay.

Benson: And then, uh, I put down my glove a little bit to see if I could feel a pulse, I probably felt my pulse more than anything else, um, and then the medical staff got there and I don't know if they said, you know, "we got him, let go" or what. I just let go of his hand and I backed away, and that's when they started to work on him.

Smith: Okay. Could you see what they were doing?

Benson: Um, they had a little, I think it was an EKG machine because it was printing out something on paper.

Smith: Okay, and did they move, they didn't have to roll him over, is that correct?

Benson: No, they didn't.

Smith: And, which way was his feet facing?

Benson: North, like a northeast direction. Like if the road is running north, his body was slanted just a little bit, so it was more of a northeast.

Smith: Okay, and then his...

Benson: With his feet were pointing to the northeast.

Smith: Okay, and his head would be?

Benson: Would be south, a southward direction.

Smith: Okay. And about how far away from your patrol car was he?

Benson: Oh, less than 5 feet.

Smith: Okay, and how far back did you estimate you had gone behind your patrol car?

Benson: Maybe 5 feet, 3 feet, a couple, maybe a couple of steps.

Smith: Okay, and the first shot was where?

Benson: When I fired the first round, I was, I had my lower body covered with the trunk of the car, and I was maybe, I don't know, maybe a foot behind it.

Smith: Okay, and how far away was the suspect?

Benson: Less than 5 feet.

Smith: Okay, and the second shot?

Benson: I took maybe another step backwards and that's when I fired the second round.

Smith: Okay, and how far was the suspect then?

Benson: Maybe 7 feet.

Smith: All right. Do you think there's anything you could have done differently?

Benson: At the time, no, no. I was weighing my options, I was hoping that the person was going to stay on the ground, and then when he jumped to his feet, you know, I thought maybe, I didn't, you know, what's he gonna, what's he doing, and then when he started running at me that's when what's he doing, and the closer he got and then when I hit him with my flashlight you could tell that, I mean I felt fear for my life that this person was getting ready to attack me and I had no option.

Smith: Okay. And what race was this person?

Benson: I believe he was a white male.

Smith: Okay.

Benson: He was light, lighter color.

Smith: Okay. Had you ever seen him before?

Benson: I had never seen him before, and Sgt. Barker also mentioned that he'd never seen him.

Smith: Okay, so you didn't know who he was?

Benson: Had no idea who he was, no.

Smith: Did you check to see if he had any identification?

Benson: Yes, we checked his pockets, and I checked, the medical aid checked and we could not find anything.

Smith: Okay.

Benson: And when he was laying on the ground, the thing I noticed that the top of his feet were bloody. It looked like that maybe he had ran through something because you could see a little bit of blood on the top of his feet.

Smith: Okay. Had you received any other calls prior to going up there regarding any person in the area?

Benson: No, that was the first call I had. I had made a traffic stop down in Lebec earlier, and then I was just in Frazier Park. Me and my partner, Anderson, were over here at the park talking. It was getting close for him to go home, he gets off at 2 o'clock. We were just discussing, uh, I, we're having a problem with a certain individual with narcotics and stuff. He was saying an informant had told him that the guy is dealing, and we were there and checked the welfare on a little girl and there was a room that had scales in it and a little straw, and I talked to the guy. We ran him, he didn't have anything, no warrant, wasn't on probation or parole, and then deputy Anderson said "hey, somebody told me that he's selling to the kids and he's keeping his drugs in that room that you checked, in a duffel bag." And we were just discussing about that, and then he looked at his watch, "okay, you know, it's getting close for me to go, I'm gonna do my patrol checks down at the end at the Grapevine". And then, that's when we both took off, I took off maybe 30 seconds after he did, and I got the call just as I was turning on to Monterey from Park.

Smith: Okay.

Benson: I believe maybe it took me maybe 2 minutes, if that.

Smith: All right. Do either of you have any questions that I haven't covered at this point?

Hokit: Going back to where you said you heard in the distance somebody say something about "he may have a gun".

Benson: Right, "he may have a gun". It came from the direction of the Toyota truck, it was off in the distance.

Hokit: Okay. Could you tell if it was male or female?

Benson: You know, I couldn't. It sounded like a male, to be completely honest, I wouldn't, it would have been hard to tell because, like I said, it came from the distance, so I was unsure if it was a male or female.

Smith: Now you got on your radio, is that correct?

Benson: Yes, I did.

Smith: What did you tell the dispatchers?

Benson: I said that "the subject may be armed with a gun".

Smith: Okay, and then after that?

Benson: After that I heard, you know, somebody talking like their mike was accidentally keyed, and that's when, as soon as I heard that, that's when I got on the radio to have Frank-3 respond code. As soon as I released my mike, that's when he popped up, and then the spotlight got him and that's when I noticed his face was rigid and his eyes were bugged out, and the first thing that came to my mind, the person is under the influence of PCP.

Smith: And have you dealt with people under the influence of PCP in the past?

Benson: Yes, I have.

Smith: And what do you know about them?

Benson: Uh, very bizarre behavior, very violent. I dealt with them when I worked in the jail, and then from March of '94 until January 2000 I was also a reserve with Delano PD. Then in January of 2000, I went, Delano put me through the sheriff's department academy and then I dealt with it,

PCP, people being under the influence of PCP while in Delano as a reserve and a full-time officer.

Smith: And are these people easy to deal with?

Benson: Not at all.

Smith: And why is that?

Benson: They're very strong, they feel no pain and they tend to be extremely violent, um, and the thing that put in my mind that my light hit his eyes, and then from that point on, that's when he went to the ground and he screamed, and that was the first, that was the thing that stuck in my mind, this person is under the influence of PCP just the way he reacted.

Smith: Okay. And what is your call sign?

Benson: Frank-4.

Hokit: It's typical of someone that's on PCP to react like that?

Benson: Everybody that I've dealt with and the training I've had, um, they say when you're talking to a person, you don't want to shine the light in their eyes because just for some reason it triggers something inside that just makes them mad and they tend to go off a lot easier. And then, also, you want to not scream and yell, you want to talk, you know, like a regular conversation to them, you don't want to get their, uh, I don't know the best way to say it, their attitude levels, I guess, maybe? I don't know if that's the right word, but you want to keep them calm and not turn in the opposite direction to be mad, and then all of a sudden turn on you.

Hokit: Okay. You put your light on him after he stood back up? After he rolled out from beneath the truck and he was laying here on his back?

Benson: My spotlight was on him then.

Hokit: Okay.

Benson: Uh, when he got, when he got to his feet, when he ran to me, when he got to the front of my car, the position of my spotlight, he was out

of there, so he was in the shadows, so that's when I hit him. When he got to the front of my vehicle that's when I got him with my flashlight. My flashlight was in my left hand.

Hokit: And how far away were you at that point, do you think?

Benson: At that point I was probably real close to the rear of my vehicle when he, when he got to the front of my car I was probably maybe in between the door and the rear of the car, not exactly sure, but I was in the parameters of my vehicle.

Smith: I don't know if I asked you or not, how far was the Ford truck away from your vehicle?

Benson: Maybe 20 feet, maybe.

Hokit: Which way was the Ford truck...?

Benson: The truck was pointing to the north because what I saw was the tailgate of the Ford truck, so it would have been pointing, I guess to the north if I'm remembering how San Car..., or I mean how Piru goes, I believe it's to the north. The Ford truck was in the same direction my patrol car was.

Hokit: And you said he rolled out from under the passenger side?

Benson: Yeah, he came, he was on the driver's side when he came up, and then he ducked when I lost complete sight of him. He rolled completely on his side, tumbling this way from underneath the truck in the middle of the road, and that's when he laid flat on his back.

Smith: Okay, so if the Ford truck is pointed north, and that is north of your vehicle, you said about 20 feet away, you had described him as rolling under the vehicle, but you said he was laying across the roadway in an easter east-west direction, is that correct?

Benson, He was, if the truck, the truck's, here's the truck and then my vehicle, he rolled this way with his head pointing towards me and his feet away from me. And then when he came to a stop on his back, I believe he

was like this, so he would have been pointing I guess like a north, northeast, I guess that would be...

Smith: With his head where?

Benson: His head was in my direction.

Smith: Okay.

Benson: His head was, the first thing I saw was his head was laying this way towards the front of my car and his feet were away from it.

Smith: Okay, so he wasn't directly laying across the roadway?

Benson: No, he was at an angle.

Smith: Okay. Detective Soliz?

Soliz: Yeah, I got a few questions. Did you interview anybody at the scene?

Benson: I did not interview anybody at the scene.

Soliz: You didn't make contact with the reporting party?

Benson: No, the CHP officers they were doing that along with my partner. Um, I vaguely spoke to the neighbor that owns the truck where the house is parked in front. They had asked what was going on and the CHP officer that was with me said there was a shooting here, and uh, that was basically about it. And then I heard a conversation between the CHP officer and the, and the husband and wife, or the male and female at 925 Piru because I see, their house is a 2-story and there's stairs that lead to the top story, I guess that's where their living quarters is, and I saw them walk down together to the bottom.

Smith: What was the lighting like on the street?

Benson: Uh, I, the only lighting I believe was my headlights, maybe the, the light was on at 925, there was no light on where the Ford, in front of

the house where the Ford truck was, and then the headlights of the Toyota 4Runner.

Soliz: Are you right-handed or left-handed?

Benson: I'm right-handed.

Soliz: Do you recall the last time you qualified with your handgun?

Benson: Oh, a couple of months ago. In fact, I have qualifications on this coming Friday, I was on vacation all last week.

Soliz: Okay, are you injured in any way?

Benson: Not at all, sir, no, just shaken up.

Soliz: Yeah.

Smith: That was a couple of months ago?

Benson: The last time we had, we had qualifications, yeah.

Smith: Okay.

Soliz: How tall do you think this guy was?

Benson: I would say he's pretty close to my height. I'm 5'11", give or take an inch or so, I believe he was the same height as I was.

Soliz: Okay, and what about the weight?

Benson: Um, with the clothing on I really couldn't tell, maybe 180. The only thing I could see was his face, his hands and his feet. And like I said, the biggest thing that got my attention, why is this person barefooted.

Soliz: Did you move your patrol car at all after this guy was shot?

Benson: No, no I did not move the patrol car, did not touch him.

Soliz: Okay.

Benson: *But the only thing I did do is I shut the driver's side door.*

Soliz: Okay. You turned the engine off on your car?

Benson: *No, somebody else did that for me, and off the top of my head, I don't know who it was, but they handed me the keys.*

Soliz: Okay, it was probably one of the officers that was at the scene?

Benson: *Yes, it was, yeah.*

Smith: How was your mirror on your door, do you know?

Benson: *On the driver's side door?*

Smith: Yes.

Benson: *My door was open and it would have been facing, more, I guess, south.*

Smith: Was there any damage to your mirror prior to going to this call?

Benson: *Uh, no, no. I make a habit, um, of every time I walk out of my house to get into my car, check my tires, make sure there's no dents, I check the back seat. When I start my car I let it warm up and that's when I do all that.*

Soliz: We could, bouncing back and forth...(inaudible).

Smith: Sorry.

Benson: *That's fine, that's fine.*

Soliz: Okay, yeah, just a couple more questions. Did you handcuff the subject that you shot?

Benson: *No, I did not.*

Soliz: Did any other officers handcuff him?

Benson: To my knowledge, no. Once the medical staff said he was deceased, I just left him alone, I didn't want to move his body. The only thing that, when the medical staff was checking him out, I asked "does he have any ID". They couldn't find any, and then after that, once they said he was deceased, they put the blanket over him. And after that went on, I didn't touch him, didn't move my car.

Soliz: Was this a yellow blanket they put over him?

Benson: Yeah, I think it was, yeah.

Soliz: Okay, did the paramedics or the medical staff, as you referred to, other than just touching the body to see if there was a pulse or whatever, and putting the EKG attach on him, did they move the body any distance at all from where he fell?

Benson: No.

Soliz: So, where we found the body after we arrived like an hour and a half later or whatever, to your knowledge that's where he fell when you shot him?

Benson: Yes, yeah. Once other people were on scene, like Cmdr. Turman said, come on you go for a walk, you know, we've got plenty of people to take care of it, you know, my main concern is you, let's go. You know, cuz I, I was breathing hard, and you know, you know it's like (laughing and inaudible comment from someone), yeah exactly, and I was telling myself "you gotta slow down, take a deep breath". You know, and the CHP officer, I don't remember who it was, but he was helping me out a lot with that, "you gotta calm down, everything's going to be fine" (more laughing), and when the commander got there he said "come on, let's go for a walk". Then we went and sat in his car, uh, and he goes, you know "just basically tell me what happened". We went over it and Sgt. Barker came and then Sgt. Barker, I was sitting in Cmdr. Turman's passenger seat, Sgt. Barker got in the rear and we just talked, and then he goes okay, then commander ran everything over to Sarge, said this is what's going on. And then after a short period of time Sgt. Barker said, well, you know,

these guys got it, detectives en route, TI's en route, let's take you back to the sub and get you out of here to where you can calm down, think about what happened, you know, walk around (giggle) outside, start thinking about exactly what happened from the time you got the call, from the first time that you came onto San Carlos and Piru what did you see, and just try to break it down, you know, just a little piece at a time and then try to get everything together.

Soliz: Who transported you to the sub-station?

Benson: Sgt. Barker did.

Smith: We just replaced, this will be tape 2.

Soliz: Sgt. Barker transported you over here, and uh, after that I asked you about the weapon. And the question that I asked is, uh, the magazine that you have in your Glock at this moment, is it the same one that you had prior to this...?

Benson: Yes it is.

Soliz: Occurrence?

Benson: Yes it is.

Soliz: Did you put any fresh bullets or new bullets in your magazine?

Benson: No, not at all.

Soliz: Has, other than yourself, has any other officer handled your handgun?

Benson: No, just me.

Soliz: You already answered this, but I'll word it a little differently. After you shot the subject, did he say anything at all?

Benson: He did not say anything, uh, the only, he took a couple of deep breaths, and, I said, when he first hit the ground, he hit face first and he

rolled over, his hands were at his side, and then, his, when he took a couple of deep breaths, his hands rose up, and when I made contact with his left hand his hands were maybe 6 inches above his body, I don't know maybe like this, his eyes were open, I looked at his eyes, and he just, and again he reminded me of somebody under the influence.

Soliz: And again, David, I believe you already answered this next few questions, but I'll ask it again. When you fired the first shot at the subject, you actually aimed for the chest area?

Benson: Yes, I did.

Soliz: Center mass?

Benson: Yes I did.

Soliz: Okay, and you were positioned behind your car, patrol car, towards the driver's side, right?

Benson: Correct.

Soliz: And if I recall correctly, you said that you had a flashlight in one hand?

Benson: Yes, I had my flashlight...

Soliz: In your left hand?

Benson: Was in my left hand, yes.

Soliz: And you had the gun in your right hand?

Benson: Yes.

Soliz: And did, uh, did you bring them together?

Benson: Yes, they were together...

Soliz: Across?

Benson: Yes, across with my flashlight under the gun.

Soliz: Okay, and the distance between the subject and yourself when you fired the first shot was approximately what?

Benson: 5 feet.

Soliz: Okay, and then after that you retreated away from your car which would be further back?

Benson: Yes, it would be further south.

Soliz: South, okay, from your car. Uh, how many feet approximately did you...?

Benson: When I, when I fired the second round, I had taken, I think, maybe 1 or 2 steps, if that.

Soliz: And the subject's still coming at you?

Benson: Yeah.

Soliz: When you fired your second shot approximately how far was he from you? How close was he?

Benson: Maybe 5, 7 feet. I just remember that he was still coming and I was, I was moving backwards.

Soliz: And as far as him coming, was he still a threat to you?

Benson: Yes he was.

Soliz: At any point in time, David, if you can remember, you have your driver's door open to your patrol unit, and you're trying to keep your distance from this guy as he's approaching you. And at one point in your interview you said that you left the door open so it kind of acted like a barrier or something between you and him, right?

Benson: Correct.

Soliz: Okay. At any point, well first of all, the 2 shots that you fired, had the subject already crossed this barrier?

Benson: Yes, he was, he was at, beyond the door, maybe, maybe a step, right at the door, but he was right, right with my door.

Soliz: And at that point, is your spotlight still on?

Benson: Yes, it was on.

Soliz: It was on, okay. So, and your headlamps are on from your patrol car?

Benson: Yes they were.

Soliz: Okay. So there's plenty of light in the immediate area of your car between you and the subject, right?

Benson: Yeah, from, I, from the windshield forward.

Soliz: Okay. At no point did the door obstruct your view of this guy?

Benson: No, not at all.

Hokit: Was he standing beside the door the first time you shot him?

Benson: Yes, he was, if the tape recorder is the door, he was standing right here which would be right even with it or maybe a step beyond the door.

Hokit: And he had focused on you?

Benson: Oh yeah, oh yeah. Like I said, when I, when I illuminated him when he moved beyond the spotlight and the headlights, that's when I illuminated him with my flashlight, and when I went to his hands to his middle section to his, up to where his hand was because he was like this, his hands were about chest level, and then I went up to his face and that's

when I noticed his face was just sunken in, it was rigid, and his eyes just seemed like they wanted to come out of his head. And then first, I mean what I thought is like this guy is gonna attack me.

Hokit: He wasn't saying anything at that point?

Benson: He didn't, he didn't say anything from the time when he got up off the ground until I fired, and then even on the ground, he did not say anything.

Hokit: And you were, at that point when you fired your first round, he was standing beside the door, you were at the rear?

Benson: Correct, the rear of my vehicle on the driver's side.

Hokit: And about how far behind your vehicle?

Benson: I was, I was almost leaning right up, I was right next to it.

Hokit: Because I remember earlier you said that the trunk was kind of protecting you?

Benson: Right. If, if the tape recorder, if this is the driver's side and this is the trunk, I was probably standing right here so where both my legs would have been covered by the rear bumper part and a portion of the trunk.

Smith: Do you think the bullet, the first bullet would have gone in straight or possibly at an angle?

(long pause and shuffling of papers)

Benson: Where he was coming, I was com., maybe at an angle?

Smith: Okay. And how 'bout the second bullet?

Benson: The second bullet, would have been, would have been straight on.

Smith: Okay. And who was it that put the blanket on him?

Benson: I believe it was the medical staff in the ambulance that was there.

Smith: Um, have you ever been involved in an officer involved shooting before?

Benson: Uh, personally, no. I was a witness in one when I was a reserve in Delano, uh, where I was a witness to it, uh, before there was a pursuit. In fact, senior deputy Burnett was working in McFarland at the time and she was there also because Air One responded and so did other deputies in McFarland and Wasco, and I believe CHP was there, too. The officer, Minny (sp), that actually shot the guy, Minny (sp) and Kathy were actually having a conversation and I was, it was right around, I believe it was around Christmas time cuz I was taking a report and I was parked just doing the (inaudible) sheet when he put out he was in pursuit. The vehicle crashed, the vehicle got lodged in a chain link fence. Uh, in Delano he was on Albany and he ran into County Line Road, County Line Road only runs east and west, and Albany deadends into County Line Road. He ran into Delano Box Farms into their chain link fence and he was hung up with the bumper. He was working his way trying to get himself loose of the fence, he hit the patrol car 3 times, and on one of the times that he hit the car, it knocked officer Minny (sp) back and he shot one round.

Smith: Okay.

Benson: And then, again, I was, I was interviewed by the DA and then I did a report because their investigators came out, and then sheriff's department TI came out and processed the scene because I was the one who actually found, he fired one round, found the shell casing. And then I was interviewed, and then I went through a deposition.

Smith: Is there anything that you can think of that we didn't ask you that would be very relevant to this case, uh, that thinking back now that maybe you forgot to mention, or maybe something has jogged your memory since we've been talking about this that might be relevant to this case?

Benson: No, I've, you know, played it over and over, I've thought about it for awhile, and then I got up and I was getting hot, and I was cold, and I was getting nervous again, so I went outside got some cold air, came back. Okay, let's start from when I turned onto Piru from San Carlos, what was the first thing I saw, and the first thing I saw was the Toyota 4Runner going down the road. I saw, the next thing I saw was the subject come from the shadows in front of the Toyota because the headlights illuminated the subject and I remember seeing his feet because the Toyota was off the ground a little bit, and Piru Trail has a little bit of elevation to it. So, I could see his feet as soon as I turned when I started coming up, and the next thing I know, I saw him on top of the 4Runner and then he came off the driver's side, and once he hit the ground, I had no idea where he went. And the next time I saw him is when he popped up on the side of the Ford truck.

Hokit: How did he approach the 4Runner? Did he just walk out in front of it, or...?

Benson: He moved, he moved from the shadows into where the front of the 4Runner, was very quickly. It's not like he was just walking, it looked like that he had ran from in front of it. I said my first impression was maybe they didn't see him, he walked out, and they had hit him. That was the first thing that ran through my mind.

Smith: I don't have any other questions, um, do you have any of us?

Benson: What's next, ah?

Smith: What's next?

Benson: Yeah.

Smith: Basically, you'll be placed on administrative leave until the shooting review board meets, and uh, then you'll be able to return back to duty.

Benson: Okay.

Smith: You know, so make it a...

Benson: The sooner the better (laughing).

Smith: ...a week off, sure, sure. Okay, the time is 10:23.