

STATEMENT OF: Brian Hirzel Statement

RPT#: 10-283126

Taken By: Det. Brian Hamond  
Transcribed from Tape: Suzette Charbonneau  
Date Taken: 9/3/10  
Time Taken: 1117 hours  
Place Taken: Spokane Valley Police Precinct

Hamond: This will be the tape recorded statement of Officer, it is officer?

Hirzel: Deputy, yes.

Hamond: Deputy Brian Hirzel in reference to the shooting investigation that took place on the evening of August 25<sup>th</sup>, 2010. And I believe the location was 14208 E. 4<sup>th</sup>, Spokane Valley, WA. This statement is being taken at the Spokane Valley Police Precinct. Brian are you aware that this interview is being tape recorded?

Hirzel: Yes.

Hamond: Do I have your permission to record this interview?

Hirzel: Yes.

Hamond: Okay. You understand that this is a voluntary interview?

Hirzel: Yes.

Hamond: Okay. With me is my assisting detective, Spokane County Det. Lyle Johnston and Association Representative Dave Skogen. So with that all, that all being said, just kind of a little bit of ice breaking stuff Brian, before we get into this. When we're finished with this statement, would you be willing to read it over and make any corrections necessary and sign it as a true and correct document?

Hirzel: Yes.

Hamond: Okay. Brian, how long have you been in law enforcement?

Hirzel: Since September 1991.

Hamond: Okay. And just so you know, I'm, not only are we audio and video recording, I'm going to be taking notes...

Hirzel: Sure.

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Hamond: Of everything that you say and that's all to be compared. Lyle's just, Lyle's just going to take you know little side notes as to whether or not a question needs to be asked. You said September ...

Hirzel: 1991.

Hamond: Where did you start?

Hirzel: Cathedral City, California.

Hamond: How long did you work there?

Hirzel: About 14 years, until August of 2004 I believe it was.

Hamond: About, you said about 13 years?

Hirzel: 14 years.

Hamond: 14 years.

Hirzel: Yeah.

Hamond: Until August of 2004?

Hirzel: Yeah, I believe that was about the right time.

Hamond: What did you do after that?

Hirzel: Moved to Idaho and I went to Kootenai County as a deputy.

Hamond: To Kootenai County as a deputy?

Hirzel: Yes.

Hamond: Did you have to go through additional training for that, changing state?

Hirzel: Yeah, it was the, I believe it was like a 52 law week class they called it. Similar to the, what is it, equivalency academy here.

Hamond: A 52 hour, what'd they call it?

Hirzel: Course, I believe the course is called Law Week.

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Hamond: Law Week?

Hirzel: Yeah.

Hamond: Like an equivalency?

Hirzel: Yeah, kind of like a challenge type course.

Hamond: And how long were you there?

Hirzel: Roughly three years, until June of, well, June of 2008, at which time I came here to Spokane County.

Hamond: So roughly how many years?

Hirzel: Three.

Hamond: Until June of 2008?

Hirzel: Yeah, I believe that's about right

Hamond: So you have been a deputy all the time in Spokane Valley?

Hirzel: With the exception of about the first six, seven months. You know going through training and my first rotation was assigned downtown.

Hamond: Assigned downtown?

Hirzel: Yeah.

Hamond: Oh.

Hirzel: Downtown precinct, I'm sorry.

Hamond: Okay. Did you have to do the same equivalency test or training here?

Hirzel: Yes, it was a two week course here at the Academy.

Hamond: You, any specialty units Brian?

Hirzel: I worked motors, SWAT, narcotics detective, traffic investigations and FTO.

Hamond: Where were these all at?

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Hirzel: All those at Cathedral City and at Kootenai I did traffic investigations as a collateral duty to patrol.

Hamond: Okay. How old are you Brian?

Hirzel: 42, starting to forget my age. It's pretty sad when I got to stop and think. Yeah, 42, yeah.

Hamond: I'm not going to get into your educational history at this point, I don't, I don't believe, so I think what I'd like to do is go ahead and talk about the evening of August 8<sup>th</sup>, 2010 and I'd like to begin...

Hirzel: August 8<sup>th</sup>?

Hamond: I'm sorry, August 25<sup>th</sup>, 2010. And I'd like to begin with you coming on shift. And just kind of give me an idea of how your evening went and what you did. As you're talking I'm going to be trying to write...

Hirzel: Okay.

Hamond: So I might say, give me a sec, let me catch up, I'll give you one of these and when I'm ready I'll say, keep coming....

Hirzel: Sure.

Hamond: Okay. So. So go ahead and tell me about the first part of your shift.

Hirzel: Nothing unusual, it was just, I mean typical shift, attended briefing.

Hamond: That's, hopefully we can slow down a little bit.

Hirzel: Yeah, I tend to talk fast.

Hamond: Nothing unusual.

Hirzel: Attended briefing with nothing unusual there.

Hamond: Okay.

Hirzel: There was, my Friday before my scheduled vacation was supposed to start so I was hoping for an uneventful day. And I, I just, it was just your basic, hate to call it routine shift, but I just handled my calls and no major incidents before this.

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Hamond: You said no major ....

Hirzel: Incidents or major calls prior to this incident.

Hamond: Okay.

Hirzel: I mean that's pretty much it. It was just an uneventful shift up until this point.

Hamond: Okay.

Hirzel: Really not much else to report on the shift beyond I mean this...

Hamond: Okay.

Hirzel: Not much happened, a couple accidents, that was it.

Hamond: Well, then whose, okay. Okay, let's, let's go ahead into the major portion of the incident and you going to the scene.

Hirzel: Okay.

Hamond: And you going to the business and take, take me through what happened.

Hirzel: All right. I, I don't know what time the prowl check request came out, but the resident at, and I believe it was [REDACTED] you know I might have the address wrong. But anyways the resident of 4<sup>th</sup> St. requested prowl checks.

Hamond: So you don't know what time the prowl check came out?

Hirzel: Yeah, the request for it just came out.

Hamond: Okay. The resident...

Hirzel: Yeah, I believe it was [REDACTED] or maybe [REDACTED] but I, I'm just going off my memory here.

Hamond: Okay.

Hirzel: In which she requested prowl checks because of problems between her kid and a group of kids that I guess were arrested together and she had a concern that they may come back and create some problems.

Hamond: Because of a problem... You said cause or create?

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Hirzel: Yeah, I'm going off memory as to what she said, she had concern about the other kids coming back and I believe starting problems with her kid.

Hamond: Okay.

Hirzel: So my, you know my plan was to prowl check in that location throughout the evening. Plus it, plus that to prowl check 4<sup>th</sup> St. we, 4<sup>th</sup> St.'s one of our big crime areas right now. So I've been trying to give as much attention to I can as that area.

Hamond: You said 4<sup>th</sup> St is what, your big...

Hirzel: Yeah, it's one of our big crime areas for vehicle prowls and burglaries.

Hamond: So your trying to give that some attention?

Hirzel: Yes.

Hamond: Okay.

Hirzel: So I checked out on a prowl check at the, the address. And I don't recall the time, I mean so much happened so quick. The best I can say is between 11 and 11:30.

Hamond: You said so much happened.

Hirzel: Yeah, I mean, you know involved in this whole incident....

Hamond: (unintelligible) (Mixed voices)

Hirzel: I mean I wasn't looking at the clock when I checked out there, I put it on my terminal that I would prowl check that area.

Hamond: I'm just making sure that I try to get your statement the same as, as the...

Hirzel: (unintelligible)

Hamond: (unintelligible) you said, (unintelligible) it happens so fast. Okay.

Hirzel: So one, once I logged the prowl check on my computer I drove by the house, the lady that requested the prowl check.

Hamond: Okay.

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Hirzel: Looked at the house, didn't see anybody out. Everything looked fine.

Hamond: Okay.

Hirzel: So I continued a little bit east and I saw the parking lot of the nursery.

Hamond: Okay.

Hirzel: I decided to pull into the parking lot and, for two reasons pretty much, one...oh sorry. I always do that.

Hamond: Okay.

Hirzel: Oh, I'm sorry.

For two reasons, one to park there and you know monitor traffic on 4<sup>th</sup> to see if I saw anybody walking or suspicious people, anything like that. And the second was to write some reports, I had an accident report that, or ticket connected to a report that I had to put my notes on.

Hamond: Okay.

Hirzel: So I backed into the parking lot, began to write my notes for my ticket. I was still sittid, still seated in the car, obviously drivers seat. When I was writing my notes a light off to my left caught my attention.

Hamond: Okay.

Hirzel: So I looked outside my drivers side window to my left and I saw a gentleman, Mr. Creach. He was walking, I think the best way to explain it, he was like, when I first saw him he was walking straight, like a 90 degree angle, I'll wait till you're caught up.

He was walking towards the back of my car when I first saw him, like at a straight angle towards the back. I looked at him, he looked at me and then he kind of diverted and started like walking at an angle towards me, towards the drivers door. Right when he made that you know pivot turn, I saw that he had a gun in his right hand. It was down at his side, pointed down. I immediately took my gun from the holster while I was still sitting in the car. Through my window, which was down, pointed it at Mr. Creach.

Hamond: Could I confirm that that is running?

Unknown: Yes.

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Hamond: We're just confirming that the tape recorder, the small tape recorder is running. Okay. We'll go back. Through my window which was pointed, through my window which was down, pointed it at Mr. Creach.

Hirzel: Yes. I said, police, drop the gun. He continued walking towards me. He didn't, didn't stop or he just continued at his steady pace. I continued to say, I said at least five or six times "drop the gun, drop the gun" repeatedly. When I was telling him to drop the gun, he was saying, "I don't have to", something to the effect of he's had things stolen.

I'm sorry.

And that he's not going to drop it. I continued to tell him drop the gun, stay back, stay back. I told him at least two times.

Hamond: Okay.

Hirzel: And by this point, he continued walking and he got up to the drivers side door.

Oh, sorry.

Unknown: (Unintelligible)

Hamond: Right up to the drivers side door.

Hirzel: And he was standing right next to the door, I mean right along side me. You know where you're, I don't want to say face to face but we were directly in view of each other.

Hamond: Standing right up to the door. Continue I, that's where I stopped.

Hirzel: Oh.

Hamond: Right up to the door.

Hirzel: Yeah, you know right next to each other. I mean I would, I would estimate two, two and a half feet away maybe. He still had the gun in his right hand.

Hamond: - Okay. -

Hirzel: And its still down at his side, pointed down. -

Hamond: Okay.



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Hirzel: I continued to tell him drop the gun, back away, or back up. Something to that effect, but step away from the car. I'm sorry, that's what I said, "Step away from the car."

Hamond: Okay.

Hirzel: I told him that at least, at least five times. His response was that he didn't have to drop it. And, um, that he wasn't going to back up.

Hamond: Okay.

Hirzel: I continued telling him, "Drop the gun, step away from the car."

Hamond: Okay.

Hirzel: And he, with his right hand, he took the gun and put it in his back waistband.

Hamond: Okay.

Hirzel: I again told him to back up.

Hamond: Okay.

Hirzel: And he, he did, he kind of walked backwards, still facing me, but he did back up.

Hamond: Okay.

Hirzel: I got out of the car. When I got out I told him never walk up on a police officer with a gun in your hand.

Hamond: Okay.

Hirzel: I stepped away, it would have been my right, I was walking, I guess it'd be generally north west.

Hamond: Okay. Okay. I'm sorry, start again.

Hirzel: I stepped away from the car, it would have been to my right.

Hamond: And I believe you said just before that, generally to my north west.

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Hirzel: Yeah,

Hamond: Generally.

Hirzel: If I'm facing south it would have been...

Hamond: I just want to make sure that that's what you said.

Okay.

Hirzel: I told him, "Keep your hands where I can see them." while I was still stepping.

Hamond: Okay.

Hirzel: Followed by several, several times of "Get on the ground, get on the ground."

Hamond: Okay.

Hirzel: When I told him to get on the ground...

Hamond: Okay.

Hirzel: He said that he didn't have to or that he wasn't going to. I mean he said both of those things, not or, but both of them.

Hamond: Okay.

Hirzel: Think where I was, at that point my gun was still pointed at him. It had been since I got out of the car.

Hamond: Okay.

Hirzel: And you know we're standing there pretty much face to face.

Hamond: Okay.

Hirzel: With my left hand I took out my baton.

Hamond: Okay.

Hirzel: Again told him to get on the ground.

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Hamond: Okay.

Hirzel: He didn't. I believe he said something, but I don't remember what he said. It was something along, I don't want to quote him but it, again, something along the lines of he didn't have or he wasn't going to, or...

Hamond: Okay.

Okay.

Hirzel: I administ...I gave him one baton strike to the outer left knee.

Hamond: Okay.

Hirzel: It, it buckled him, his left knee a little bit. He kind of buckled down to his left a little.

Hamond: Okay.

Hirzel: At that point, my gun was still in my right hand.

Hamond: Okay.

Hirzel: And looked, the baton was still in my left hand.

Hamond: Okay.

Hirzel: I put my baton away.

Hamond: Okay.

Hirzel: And just to kind of back up real quick, I, I don't remember exactly what point I called out code 6. I know it was sometime either before or right after the baton strike.

Hamond: Okay, hold up.

Okay.

Hirzel: After the baton strike, when it buckled him, he stood up.

Hamond: Okay.

Hirzel: I again told him to get on the ground.

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Hamond: - Okay.

Hirzel: And he, he just stared at me.

Hamond: Okay.

Hirzel: And he took his right hand, reached behind his waist band area, or behind his back I should say.

Hamond: Okay.

Hirzel: I knew that's where the gun was, he put it there, so I knew the gun was where his hand was going.

Hamond: Okay.

Hirzel: I saw his hand come, I don't want to say forward, but come out from his behind his back.

Hamond: Okay.

Hirzel: And as soon as it, his hand broke I guess the plane of his side where I could see it.

Hamond: Okay.

Hirzel: I saw the grip of the gun in his hand.

Hamond: Okay.

Hirzel: And that's when I fired one round.

Hamond: Okay.

Hirzel: I immediately called shots fired, shots fired.

Hamond: Okay.

Hirzel: I know I requested medics at least twice.

Hamond: Okay.

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Hirzel: I first time I requested them, there was a lot going on. If dispatchers responded I didn't hear it so I didn't think that they were my first request.

Hamond: Okay.

Hirzel: Put out the address where I was. I just looked up and it was on the sign so I knew the exact address.

Hamond: Okay.

Hirzel: Then I just stood by until other units got there.

Hamond: All right. Okay.

Hirzel: The first, the first deputy that I saw was Deputy Speer. I don't know if someone was there before him, but he was the first one I saw.

Hamond: Okay.

Hirzel: When he walked up, I, I told him, "There's a gun over there." Just made him aware of it.

Hamond: Okay.

Hirzel: About that time, bunch of other people started arriving, I don't know who or in what order. I wasn't paying attention to who was coming up.

Hamond: Okay.

Hirzel: I approached Mr. Creach, he was on the ground obviously.

Hamond: Okay.

Hirzel: I didn't see any movement, no stomach raising or anything like that.

Hamond: Okay.

Hirzel: Told the guys that were behind me that we needed to do CPR, if somebody had a mask, a CPR mask.

Hamond: Okay.

Hirzel: I didn't recall anybody speaking up that they had one, so I went to my trunk.

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Hamond: Okay.

Hirzel: I grabbed out a pair of gloves and put them on.

Hamond: Okay.

Hirzel: Then I went to the front passenger seat of my car where the bag was on the seat, my gear bag.

Hamond: Okay.

Hirzel: And I keep a CPR mask attached to the bag. I grabbed that.

Hamond: Okay.

Hirzel: I walked around the car toward Mr. Creach.

Hamond: Okay.

Hirzel: And while at the same time I was trying to figure out how to put the mask together. I wasn't familiar with that one.

Hamond: Okay.

Hirzel: And about that time Deputy Olson, he approached me.

Hamond: Okay.

Hirzel: And, and pulled me to the side and said hey, since it was me involved that they should take me from the scene and let the other guys handle it.

Hamond: Okay.

Hirzel: That was it. Ruston Olson drove me to the station and I didn't have any other involvement with the scene.

Hamond: Okay. Anything else to add?

Hirzel: No, I just came to the station and waited for the process.

Hamond: Prior to this interview, I put together some questions. So I wouldn't forget anything. So if you wouldn't mind? Some of these you may have already answered. I just want to clarify a little bit.

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Hirzel: Sure.

Hamond: Okay. Regarding the baton strike, what was your intention with that?

Hirzel: To get him to comply, get on the ground.

Hamond: And your taser was on the, on the seat of the vehicle?

Hirzel: Yeah.

Hamond: Can you tell me about that?

Hirzel: You know, normally I don't you know carry it with me or you know or at least on my person unless I'm I guess going to a call where it sounds like its going to be needed. In most cases I just leave it on the seat.

Hamond: Are you qualified with it?

Hirzel: Yes.

Hamond: Did Mr. Creach make any statements to you, say anything to you that indicated he knew you were a, an officer?

Hirzel: No.

Hamond: You said you saw the flash, a light out to your left?

Hirzel: Yes.

Hamond: I'm going to kind of start from that point.

Hirzel: Okay.

Hamond: At the car, you pulled into the parking lot and do you recall how you pulled in?

Hirzel: Well I drove from the west, I drove east bound and I, I don't know, I don't know if I, I don't know which side, from my car I would have went and turned around. Does that make sense?

Hamond: You don't know which side from your car you turned around?

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Hirzel: Yeah. An example, I don't remember if I went like, east to my car into the lot and turned around and backed up, I don't recall which side I would have come in from.

Hamond: Okay. And you backed into that position?

Hirzel: Yes.

Hamond: Why, why did you take that position?

Hirzel: I had a couple reasons, or you mean the position or the parking lot?

Hamond: Well, both.

Hirzel: Couple reasons. I mean there was, there was some light there. It gave me a good...oh.

Hamond: I just want to record this...

Hirzel: Sure.

Hamond: Because I want to make sure that if anything's unintelligible on the tape...

Hirzel: Okay.

Hamond: That, that I know what, what it was.

Hirzel: Okay.

Hamond: So. So you said two reasons.

Hirzel: Or several reasons.

Hamond: Oh, several reasons.

Hirzel: There was some light in the parking lot.

Hamond: Okay.

Hirzel: It was a wide open space so, a little safer for me.

Hamond: Okay.



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Hirzel: It gave me the chance to monitor what was going on, on 4<sup>th</sup> St. I could see traffic and people coming and going.

Hamond: Okay.

Hirzel: Plus it was real close to the lady that requested the prowl check.

Hamond: Okay. You said it was a little safer for you, what do you mean?

Hirzel: Well, you know it's, it's a wide open space. It's easier for me to see if somebody's approaching me instead of jumping out from a bush next to me or from behind a car or something.

Hamond: Is that common for you to position yourself like that?

Hirzel: Yeah, I mean you know when I'm writing reports or parked some place if I'm not trying to be I guess covert.

Hamond: You said you had your window down. Was your vehicle running?

Hirzel: I believe it was. I don't want to say for certain, but I'm pretty sure it was.

Hamond: Was your radio on?

Hirzel: Like the am fm radio or the police radio?

Hamond: Police radio.

Hirzel: Yes.

Hamond: Was the am fm on?

Hirzel: It might have been, I, I don't remember, but it, good chance it was.

Hamond: What lights did you have on your vehicle, or if any?

Hirzel: What lights? I believe my parking lights were on. I think I turned off my headlights and left the parking lights on if I remember correctly.

Hamond: Do you recall hearing any radio traffic while you were there?

Hirzel: Yeah, I'm, I'm sure there was. I don't remember who or what was said or anything. I, I don't know. I'm not sure, there's always something usually going on.

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Hamond: Do you know what channel or channels you were monitoring.

Hirzel: Just my own. I don't scan other channels.

Hamond: Do you know what interior lighting might have been on in your vehicle?

Hirzel: I don't. I know my computer screen was on, and I don't remember if I had any dome lights on or not.

Hamond: You were working on a ticket or the narrative for a ticket, were you doing that on the computer or were you doing that...

Hirzel: Computer.

Hamond: So you stated that your first, or you stated that you saw a light, where did you see the light?

Hirzel: It would have been off to my left and a little bit behind me.

Hamond: Was the light, where was it pointed?

Hirzel: I don't know, I just, just off my peripheral vision just caught a, a quick glimpse of a light movement. I can't say it was pointed at me or anywhere else, I just, just a white movement caught my attention.

Hamond: How did you, did that make you think of anything or feel anyway or?

Hirzel: The light?

Hamond: Yeah.

Hirzel: No, it, it just, caught my attention...

Hamond: Sure.

Hirzel: To the point that I looked over to see what that was.

Hamond: Did the light stay on, was it short bursts?

Hirzel: Just real quick.

Hamond: Have you, remember hearing anything prior to seeing the light or?

Hirzel: No.

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Hamond: Did you happen to, when you first arrived, did you pay any attention to the house to the west?

Hirzel: You mean west of the nursery?

Hamond: Yes.

Hirzel: No, I didn't, I just saw the nursery business parking, I didn't even realize that there was a house associated with the nursery. I just thought it was a business.

Hamond: When you first pulled up, how did you put yourself at the scene?

Hirzel: Before I, or, or maybe right around the time I got to 4<sup>th</sup> St. or maybe just a little bit before, I believe I put myself out on a prowl check and I gave the address of the lady that called. On my computer terminal, I'm sorry.

Hamond: How long do you think you were there before you saw that flash of light?

Hirzel: From the time I put myself on the prowl check or actually parked?

Hamond: Actually parked.

Hirzel: It, I'm only going to guess a couple minutes, I mean, it, a lot of things happened so quick, I'm just going to say, couple minutes.

Hamond: When you first, when you first saw Mr. Creach, you said he was walking at a 90 degree angle, right to the car?

Hirzel: Yeah towards...

Hamond: Is that correct?

Hirzel: Yeah, as my car is facing north, he would have been like walking directly east towards the back of my car.

Hamond: How far away was he when you first saw him?

Hirzel: Wow, my best guess I'm going to say, 30 feet. My best estimate.

Hirzel: Is it okay to use the rest room real quick?

Hamond: Yes.

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Hirzel: Too many sodas.

Hamond: We'll keep the recording equipment on and we're going to take a break to use the restroom. What time do you have?

Unknown: 12:29

Hamond: 12:29.

Hirzel: I shall make it quick.

Background noise

Hamond: Okay, we'll resume the interview. The time is 12:33-pm. Ofc. Hirzel and Det. Johnston stepped out to use the restroom and we left the recording equipment on. I just want to confirm that there was no questions asked while in the hallway...

Hirzel: Correct, no.

Hamond: I have gone through the list of prepared questions and we have the majority of them taken care of so far. How much distance did Mr. Creach cover from the time that you saw him and the time that he turned and angled toward your drivers door?

Hirzel: I, I don't want to say distance but I say one maybe two steps.

Hamond: Did you get a sense of the speed of his approach, did you...?

Hirzel: I'd describe it as just as a normal walking pace.

Hamond: Did you get any sense of demeanor?

Hirzel: Not until I was giving him commands and he was saying no he wasn't going to drop it, at that point I got a sense, yeah. After the verbal exchange between us I guess I would call it.

Hamond: Can you describe his demeanor?

Hirzel: Yeah, I guess I'd best describe it as very defiant and angry. I mean that's, that's how he struck me.

Hamond: Tell me again how, tell me again at what point you saw the, the firearm in his hand.

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Hirzel: It was right about the time when he, when he was walking straight and he turned, he, we both looked at each other and he turned and started to come, more of an angle towards my car. And when he turned, that gave me a...

Sorry. I always talk fast.

Hamond: So, tell me that again a little bit so, I didn't catch up on that recording there.

Hirzel: Right about when he turned and started to walk at an angle towards my door.

Hamond: Do you recall what he, how he was dressed?

Hirzel: I believe he just had shorts on. I know he didn't have a shirt and I believe it was just shorts. I don't recall what he was wearing on his feet.

Hamond: How well could you see him and, let me put it this way, when you first saw him, when you first saw the light and saw him, how well could you see him?

Hirzel: Pretty well.

Hamond: So at the point that he started to, he angle toward you, he was just, you told me if I, I'm just clarifying, at first he was about 30 feet away, is that what you said?

Hirzel: Just my best guess, yeah.

Hamond: Okay. And he made a couple steps and then turned and that's when you saw the firearm?

Hirzel: Correct.

Hamond: Let me clarify, and that's when you drew your firearm?

Hirzel: Yeah.

Hamond: Describe for me the level that you gave these commands.

Hirzel: You mean like the voice level?

Hamond: Yes.

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Hirzel: It wasn't, I mean it was screaming or chaotic. It was assertive, my voice was raised you know somewhat but I mean it wasn't screaming, chaotic, it was, it was assertive. Just firm, police drop the gun.

Hamond: You just used the term please.

Hirzel: No, no, police, drop the gun.

Hamond: Oh police. Okay. You think that was easy for Mr. Creach to hear?

Hirzel: Oh, yeah. Absolutely.

Hamond: Think anybody else could have heard it?

Hirzel: I don't know, it was kind of late at night so I, I don't know if there was anybody else out that would have heard it.

Hamond: Did you engage the vehicle's spot light?

Hirzel: No.

Hamond: Do you know how it came to be on?

Hirzel: No, I don't.

Hamond: Did you use your flashlight?

Hirzel: No.

Hamond: When you saw Mr. Creach, did you know, did you, (unintelligible) do you recall seeing anything else about your surroundings?

Hirzel: You mean people or...?

Hamond: Anything.

Hirzel: No it was just the parking lot and just him walking, no, I didn't see anything else that jumped out at me.

- Hamond: After the initial quick blast of light, did Mr. Creach use his flashlight any more after that?

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Hirzel: Yeah, I, I didn't, just to kind of clarify. You know when I saw him, I don't even remember seeing a flashlight in his hands or, or where it was, it was just the light that caught my attention.

Hamond: Okay.

Hirzel: Before looking at him, I'm sorry.

Hamond: Did he use the flashlight anytime after that when you first saw him?

Hirzel: I don't recall him using it, no, I mean.

Hamond: He came up to your doorway and you were sitting in the patrol vehicle with, with your weapon drawn...

Hirzel: Yes.

Hamond: And directing it at him right?

Hirzel: Yes.

Hamond: Okay. He came about two and a half to three feet.

Hirzel: I would say about two and a half feet, yeah.

Hamond: Okay. And then he finally backed away, put the weapon behind his, in his back of his pants, is that correct?

Hirzel: After numerous commands and his no, I'm not going to back away. After many commands, yes.

Hamond: And then you exited your vehicle?

Hirzel: Yes.

Hamond: And went a little bit to the north west you said, a few feet?

Hirzel: Yes, I would have stepped to my right.

Hamond: At this point, how far away were you from Mr. Creach?

Hirzel: Yeah, I, I'm just going to estimate and, six feet.

Hamond: Did he take any more steps toward you?

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Hirzel: No, he stood I believe in one spot.

Hamond: Did you continue to order him to the ground?

Hirzel: Correct.

Hamond: So when the baton strike was given, it wasn't him approaching, you had to close distance with him to strike, is that correct?

Hirzel: I did, yes.

Hamond: You said he reached around with his right hand towards his back.

Hirzel: Correct.

Hamond: Do you recall anything happening with his left hand?

Hirzel: Not, you know, when I saw his right hand move towards his back, I focused that, I don't, I don't know what happened with his left hand.

Hamond: Were there any other hands on between you and Mr. Creach?

Hirzel: No, just the baton strike.

Hamond: Did you get the impression, uh let me see this, let me write this down before I ask it. Did you get the impression at any time that he was having difficulty seeing?

Hirzel: No.

Hamond: Immediately after find, firing that shot, describe what Mr. Creach did.

Hirzel: I, I just, things kind of got into slow motion. I just recall seeing the, you know the, the wound appearing and the expression on his face. If I remember correctly, again, I mean I, I kind of focused on those two things. If I remember correctly, he hunched over...

Oh, sorry.

Hamond: Okay.

Hirzel: He leaned forward and rolled onto his back at the ground, or on the ground.



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Hamond: How far away was Mr. Creach when you fired?

Hirzel: You know, my mind tells me one thing but you know for me to have done the baton strike I would have had to have been within, I mean, three, four feet. But my mind seems to remember it being about six. But I would say less than six feet.

Hamond: Your mind tells you what?

Hirzel: You know, it, I remember it being about six week, six, six feet, you know but I don't think that that would have been correct for me to have given him a baton strike and wouldn't have been able to do it from that far, so...

Hamond: What was your position with the firearm, what type of stance, can you describe your stance?

Hirzel: I don't remember if I was bladed off or not. But I believe it was a two handed grip because I, I knew that I holstered my baton before I shot.

Hamond: Did Mr. Creach say anything after he was wounded?

Hirzel: No.

Hamond: Do you recall any odor of alcoholic beverages or anything like that on his breath?

Hirzel: No.

Skogen: I just heard a beep, is that recording equipment?

Johnston: We got 20 more minutes.

Skogen: Okay, sorry. I just didn't know if I was the only one that heard it.

Hamond: Were you previously familiar with the Creach business?

Hirzel: No, it was my first time there.

Hamond: Was it your first time on that particular prowl check?

Hirzel: For that, the residence?

Hamond: Yes, for, for that, yeah for that shift, or prior to that shift.

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Hirzel: I believe, oh yeah, I believe I did one other prowl check earlier in the shift of the lady that called and that this was I'm pretty sure my second one of the shift.

Hamond: That wasn't your normal car to drive was it?

Hirzel: No.

Hamond: Okay. What, why were you not in your normal car?

Hirzel: Actually I started my shift in my normal car, but I, I'm not kidding on this, it stunk so bad it smelled like somebody put a bag of manure in there, somebody left some tobacco chewing and I, it, it stunk horrendously bad, I couldn't drive it.

Hamond: Let's go back to when you first saw Mr. Creach.

Hirzel: Uh huh.

Hamond: Okay. At what point during that encounter did you feel or did you feel that your life was in danger?

Hirzel: As soon as I recognized he was walking at me with a gun.

Hamond: How much time do we have left?

Unknown: 15 minutes on the recording.

Hamond: So your decision to fire, was at what point for you?

Hirzel: When I saw him coming back out from behind his back with the gun.

Hamond: Between the time of the incident and this interview, was there anything that you recalled while you were gone that maybe, that you didn't recall the night of the incident?

Hirzel: Uh.

Hamond: In other words, as you played it through your mind was there something like, oh yeah, you know.

Hirzel: Yeah, not that I can think of. I mean I've replayed it in my mind everyday but I don't think there's anything new.

Hamond: When this occurred, where was your flashlight?

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Hirzel: You know I honestly don't remember, normally I can tell you where I normally keep it but I don't remember.

Hamond: Where do you normally keep it?

Hirzel: The front, well if it's not on the charger, but the front seat bag, there's a pocket on the front of it.

Hamond: I think I'm going to stop at this point and Lt. or Det. Johnston will step outside...

Hirzel: Okay.

Hamond: And confer a little bit. I think we're probably going to have to change the tape because we're going to have to confer a little bit and maybe come back in with maybe one or two more questions. I'm sure there won't be a lot.

Hirzel: Okay.

Hamond: I don't know if the tape's run out of, on us and in the meantime, so I think what we'll do, since that portable recorder right there continues to record, but we're going to have a break in the recording equipment...

Hirzel: Sure.

Hamond: We're going to go ahead and step out. We'll go ahead and change the recording equipment. We'll leave this tape running so that there's no true break. You know if you, if you two want to converse, you know, you're, you're welcome to do that, just understand that the tape recording is still on.

Hirzel: I need to use the restroom again.

Unknown: I was just going to say it's my turn to use the restroom now.

Hamond: Okay. We'll all go and do those tasks but we're still going to leave the tape recorder, the portable tape recorder on. And I'll give a time here just as soon as my phone warms up. Okay the time is 1305 hours or 1:05pm.

(Recording ends)

Hamond: Okay, are you ready to continue?

Hirzel: Yes.

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Hamond: And the time is 1:10pm or 1310 hours. We're going to continue with a few more questions. Brian how did, how did you receive the prowler check information?

Hirzel: On my car computer. When I look up pending calls, it was on there.

Hamond: Did anybody ever give you any verbal information about it?

Hirzel: No, it was just what was in the call notes, the call screen.

Hamond: So it was never verbally passed on?

Hirzel: No.

I'm sorry.

Hamond: Is it common for you to do prowler checks during your duties?

Hirzel: Very common.

Hamond: The ticket, had you begun writing the ticket?

Hirzel: The ticket was written earlier, but I didn't put notes on the back. It was a traffic collision and the sergeant kicked it back and said I've got to put notes on the back as well.

Hamond: Had you begun that process?

Hirzel: I believe I did. I believe I was in the process of cutting and pasting my narrative into the ticket narrative.

Hamond: Do you recall if you completed it?

Hirzel: I don't think I did. I think I was just at the beginning of that portion.

Hamond: Remember what the weather was like that day, or what, that evening, the atmospheric conditions were?

Hirzel: I believe it was just dry, a little cool. I don't recall cloudy or not.

Hamond: So it really didn't have anything to do with your choice of how you parked, the weather, whatsoever?

Hirzel: No.

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Hamond: After Mr. Creach fell, record this first.....After Mr. Creach fell, did you move, change, touch or alter anything?

Hirzel: No, I believe I just, I stood in the same position and just maintained a, a, I guess position of cover on him with my firearm.

Hamond: How near to your vehicle were you when the shot was fired?

Hirzel: You know, I'm trying to think here. I'm going to guess about 12, 14 feet.

Hamond: (Unintelligible) I might have already asked this, have you ever had any other dealings or were you ever given any information as, regarding Mr. Creach, or the Plant Farm?

Hirzel: No, I knew nothing about them until after this incident.

Hamond: Do you recall, why you remained in your car when you first saw him?

Hirzel: You know, things were happening kind of quick. I didn't think that there was time for me to get out, you know, and, and you know still get my gun up and, and be in a safe position and my car gave me some cover.

Hamond: Did Mr. Creach ever ask you to leave or go away?

Hirzel: No.

Hamond: Did he ever say that was his business or property?

Hirzel: No.

Hamond: Did you ever get the feeling it was?

Hirzel: I didn't know. All I knew was a guy was walking up behind me with a gun and I didn't know who he was or why he was there.

Hamond: Would you say that Mr. Creach, can you tell me what his voice level was when you were giving commands and he was responding?

Hirzel: We were speaking at about the same voice level. I mean it wasn't, no shouting, no yelling, not chaotic, but both of us I'd say would be assertive and maybe slightly louder than normal.

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Hamond: So after you delivered the bon... baton strike and that kind of buckled him, you again told him to get on the ground, is that right?

Hirzel: Yes.

Hamond: You just, did he say anything to you between the baton strike and, your firing? Do you recall?

Hirzel: As best I recall, it was, I told him to get on the ground and he said I'm not going to or I don't have to, something to that effect.

Hamond: Do you recall what happened to your gloves or your CPR mask?

Hirzel: Yeah, I, I kept them with me when I was with Deputy Olson, then he took me to the station, I took them with me and I believe I just threw them in the trash back here by the backdoor. I didn't actually use them on him so I just threw them away. But the empty case is still on the bag that you guys have.

Hamond: I noticed in the photograph of you here, that you had your shoulder mike here at your stomach.

Hirzel: Uh huh.

Hamond: Is that where you were wearing it at the time?

Hirzel: No, it was up here, I just put it down here, just comfortable here at the station.

Hamond: Can you think of anything else?

Unknown: No.

Hamond: Do you have anything else you want to add, Brian?

Hirzel: You know not right now, I'm going to, I'm sure as I go through the next couple days, things will pop in my mind that (unintelligible)

Hamond: If something does pop in your mind and for, and you want to add something or make any other type of statement, make sure that you don't just make it me or don't just make to Lyle. Let us know that you have something else to add...

Hirzel: Okay.

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Hamond: So that we can get together in a similar format and we can go ahead and hear what you have to say.

Hirzel: Sure.

Hamond: Would you be willing, if we have additional questions, to meet with us again?

Hirzel: Sure.

Hamond: We'll go through the last part of this format. Can you direct your, let's see, that's not right. Has this been a truthful statement, Brian?

Hirzel: Yes.

Hamond: Okay. Have any promises or threats been made to you to give you, to get you to give me this statement?

Hirzel: No.

Hamond: Okay and again, once this statement has been typed, would you be willing to read it over and make any corrections necessary and sign it as a true and correct statement?

Hirzel: Yes.

Hamond: Now we have to wait for my phone to warm back up so I can give a good time.

Hirzel: (unintelligible) hitting somebody's feet.

Hamond: We're going to conclude the interview at 1328 hours, 1:29pm. Have you already turned off the recorder?

Johnston: It is off now. (unintelligible)

(Recording ends)

I, BRIAN HIRZEL have read and reviewed this statement and find it to be true and accurate.

09/5/10  
Brian Hirzel/Date

**FORMAT FOR TAPED STATEMENT**

1. This is Detective \_\_\_\_\_
2. Today's date is \_\_\_\_\_, The Time is \_\_\_\_\_.
3. This will be the tape recorded statement of \_\_\_\_\_  
reference the crime of \_\_\_\_\_.
4. This statement is being taken at \_\_\_\_\_ (location.)
5. Are you aware this interview is being tape recorded?
6. Do I have your permission to record this interview?
7. Advise subject of constitutional rights .
8. Directing your attention to.....(take statement)
9. Has this been a truthful statement?
10. Have any promises or threats been made to you to get you to give me this statement?
11. Once this statement has been typed, would you be willing to read it over and make any corrections necessary, and sign it as a true and correct statement?
12. Give time at conclusion of statement.



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Taken By: SPD Detective Brian Hamond  
Transcribed from Tape: Betty Bischoff  
Date Taken: 9/09/10  
Time Taken: 1406 hours  
Place Taken:

Hamond: In the room is myself, Detective Hamond, Deputy Hirzel, WSP Detective (what's your last name? Morrison) Morrison, Deputy Keyser and SCSO Detective Dave Skogen. Deputy Keyser and Detective Skogen are both off camera. We've already, we also we're going to use a digital recorder at the same time. I'm going to go through the format for the taped statement form again if that's all right Brian?

This is Detective Hamond. Today's date is 9/09/10. I've already covered the time. I think I said 1306 no, now it's 1407. This will be the tape recorded statement of a Deputy Brian Hirzel regarding the shooting that took place at 14208 E. 4<sup>th</sup> on 8/25/10. This statement is being taken at the Spokane Valley Police Precinct (SVPP). Brian are you aware this interview is being tape recorded?

Hirzel: Yes.

Hamond: Do I have your permission to record this interview?

Hirzel: Yes.

Hamond: Okay. One thing we didn't cover last time that we will cover this time is we did cover that it was a voluntary interview and you understand this time is a voluntary interview?

Hirzel: Yes.

Hamond: We didn't cover last time your understanding that this was, that you could stop the interview at any time you wanted to and that you're free to leave at any time you wanted to. Do you have that understanding at this time?

Hirzel: Yes.

Hamond: Okay. Did you have that understanding during our first interview?

Hirzel: Yes.

Hamond: Okay and there is no attorney present during the last statement nor during this statement and that's, that's basically at your request. You didn't request one is that correct?

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Hirzel: Correct.

Hamond: Okay. You've already reviewed the transcribed copy from the last interview that we had and made some corrections so we'll have those corrections made and then you can sign that copy and when we're done with this interview, we'll ask you to do the same if that's okay?

Hirzel: Sure.

Hamond: Okay. We're going to go over a little bit in more a little bit more fine detail some of your statement from last time. I'm not going to take notes verbatim like I did last time. I'm just gonna, we're gonna just have a conversation about it....

Hirzel: Yeah.

Hamond: as questions pop up, Detective Morrison will ask questions or I'll give him an opportunity to ask questions and Detective Keyser as well, okay?

Hirzel: Okay.

Hamond: So, let's start, first I'll ask a couple, a couple questions about your day. You know how that went. How long had you been on shift that day?

Hirzel: I started at 5:30.

Hamond: You started at 5:30.

Hirzel: Yah, briefing.

Hamond: Okay. And when did you actually hit the field?

Hirzel: approximately 6:00.

Hamond: Okay. You recall how much sleep you got the night before?

Hirzel: No I don't. I can tell you what my general practice is but I, I don't know the number of hours but I can tell you, you know I'm pretty consistent on my days.

Hamond: Okay what would that be?

Hirzel: Normally I get home about 6:15, 6:30. Go straight to bed. Wake up around 10:30, 11:00. Then I'll go back to sleep from about 12 to 1:30 or so, 1:30 or 2:00. Depends if I have to pick up the kids, but they were out of school so....

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Hamond: What time do you normally get off shift?

Hirzel: 5:30.

Hamond: In the morning?

Hirzel: Yeah.

Hamond: And had you worked the night before?

Hirzel: I don't remember if, yeah, I believe I did, yeah.

Hamond: Okay so you got off at 5:30 did your normal practices to do....

Hirzel: It, it takes me about 30 minutes to get home.

Hamond: Okay.

Hirzel: Normally I'm in bed about 6:15 to 6:30.

Hamond: Okay.

Hirzel: Uh wake up generally around 11. Stay up for a little bit, then I'll go back to sleep probably about 12 or 1 and, and sleep for about an hour or so.

Hamond: Okay. And this is like a graveyard shift schedule?

Hirzel: Yeah at work, yes.

Hamond: Yeah, okay. Remember what, how many days a week do you work?

Hirzel: 3 normally.

Hamond: 3? Where was this in the rotation?

Hirzel: This was my second work day.

Hamond: Your second work day. Okay had, so you had, had you engaged in kind of additional work or anything during your time off?

Hirzel: No.

Hamond: Okay.

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Hirzel: Yeah, no dur, during my, my work days, my, my days off or, or my time off during my work days I just stay at home and sleep unless, you know, I gotta pickup the kids, that's the only thing I'll do. I plan it that way.

Hamond: You remember having any medications taking any medications for illnesses or.....

Hirzel: No.

Hamond: you just ate and.... Did you eat at all?

Hirzel: When I got home?

Hamond: Yeah.

Hirzel: I don't remember.....

Hamond: During your day?

Hirzel: During my shift, I'm, I'm sure I did. I don't, I don't remember, but I'm sure I did.

Hamond: Okay. You recall that you might used any alcohol or anything like that prior to your shift?

Hirzel: No.

Hamond: Do you recall having any interaction with any of the other deputies on your shift after you got out into field?

Hirzel: I don't remember. Normally a couple of us try to meet up around 10, grab a bite to eat. We meet at the CV Scope office. I don't know if I did it that night, but it would be in my traffic if I did and I check out at the Scope office.

Hamond: You mentioned in your previous statement having knowledge as to reason of the request for the prowl check on, on E. 4<sup>th</sup>?

Hirzel: Yes.

Hamond: Do you recall what that reason was?

Hirzel: Yeah, the um I, I believe it was it a female and she called and requested prowl checks of her property. Because her son was arrested with somebody else and

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she thought that the other person was going to come back and having some problems with her kid, if I remember it correctly.

Hamond: How did you get that information?

Hirzel: Uh, it, it was in the pending calls. Um, I always check pending calls regularly throughout the shift and I saw that there was a pending call so I handled that one.

Hamond: Was it a narrative pending call?

Hirzel: Yes.

Hamond: Okay so that information wasn't passed on to you or....

Hirzel: No it just in the call notes on the screen.

Hamond: Okay. Have you ever been to The Plant Farm before pri....off duty or not, ever bought anything from them?

Hirzel: No.

Hamond: Okay. No business there?

Hirzel: Never, have never done any business there, no.

Hamond: You also mentioned that it was a high crime area.

Hirzel: Correct.

Hamond: Explain that a little bit for me.

Hirzel: Especially lately we've getting hit real hard for vehicle burgs, residential or vehicle prowls, residential burglary, things like that. In particular on 4<sup>th</sup> St. around Sullivan so I've been trying to monitor that area as much as I can.

Hamond: Do you recall having any particular requests of the prowl check requests for that area because of that problem?

Hirzel: Yeah, I know that they've come out. I don't recall the specific ones, but we've talked about the area in briefing several times. Myself and other deputies have, have talked about that area at certain or several times about working it. It, it, it's a hot spot. It's one of our biggest hot spots in the Valley.

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Hamond: Okay. And we kinda went over this before when you went to do that prowling check, you logged yourself out on the prowling check.

Hirzel: Yes for the house down the street of the lady that called.

Hamond: Do you have any more recollection about the time that you actually logged yourself off on that prowling check?

Hirzel: No it would have been a matter, I believe, minutes before this incident happened. I mean it wasn't that long. I, you might have checked out, I didn't pay attention to the time. I just checked out on it and went about my business.

Hamond: I guess what I'm why I'm curious if you recall if you had checked out before he actually got there or if he didn't check until you got there?

Hirzel: I think it was probably within a minute before I got there. I, I think right before I turned onto 4<sup>th</sup> St. if I remember correctly.

Hamond: You've been in law enforcement for 18 years?

Hirzel: That's correct.

Hamond: During those 18 years, you've, you conducted probably several prowling checks right?

Hirzel: Yes.

Hamond: Describe to me what in your mind a, a prowling check is?

Hirzel: I guess it depends on what the nature of the, the prowling check is but in this case I was just driving by to make sure you know there's nothing occurring at the property of the lady that called, making sure there wasn't a group of kids that were out there that like she described that might have been coming to correct problems. That's at least this specific example.

Hamond: Okay. Has it ever been your practice to contact a homeowner or business and let them know that you're going to be in the area conducting the prowling check or that you're at their property conducting a prowling check?

Hirzel: It kinda depends if they're request contact. Some you just requesting that we drive by and check on it you know and, and they don't request contact, no I don't, especially if it's a late hour. You know, there's, you know so we don't disturb them. But you know there's some people that do call request prowling checks and they request

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contact and we'll do it then, yeah. It, it really depends on them, you know if they want contact or not and the hour.

Hamond: Okay. If you weren't, if you actually were not on an assigned prowler check, but you pulled in to a say a business parking lot, would you contact that business owner? And let them know you were parking in the parking lot.

Hirzel: No, no generally no.

Hamond: Let's actually go to the time when a (unint) go over some of the occurrences that were taking place once you got there.

Hirzel: Sure.

Hamond: Initially during your first statement you said that you were working on your ticket and this was a ticket that had been kicked back?

Hirzel: Correct.

Hamond: Right. Was it a traffic ticket from the previous, from that evening or was it from a previous day?

Hirzel: It was from an accident that evening.

Hamond: Okay.

Hirzel: I turned a report along with a ticket. Sgt. Lawson kicked it back and told me to put notes on the ticket as well as the report so that's I was trying to cut and paste (unint) at that time.

Hamond: Do you recall exactly how that process took place for you when you accessed that ticket? Did you immediately start working on it? Did you do other tasks before you started working on it? Was there a time lag?

Hirzel: I don't recall doing anything before. My, my process for tickets, is what I'll do is I'll, well what I did in this case was I took my traffic collision narrative, which is already save in my computer, I pulled up the ticket narrative that's in my computer, I cut and pasted my narrative from the collision report into the ticket and I think that's as far as I got. I don't, even think I got to making changes or dates and times at the top of the ticket. I think I just put my narrative in and was going to go through it and eliminate what didn't need for a ticket.

Hamond: You just took the whole narrative and put it here, put it here and then you were going to repair it?

STATEMENT OF: Brian Hirzel

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Hirzel: I'm, I'm pretty sure that yeah I don't remember making any deletions or anything. I think that's as far as I got.

Hamond: You know it was about at that time then that you something got your attention to your left?

Hirzel: Yes.

Hamond: Okay. Do you have any more recollection about using your spotlight?

Hirzel: No I as a matter of fact you mentioned that before and you found the spotlight. I, I don't know how it got found on.

Hamond: And you saw this individual who was later you know identified as Mr. Creach and he's, you said that you saw the gun in his hand?

Hirzel: Well yeah at that point as he pivoted towards me yeah, that's when I saw it.

Hamond: Explain to me how you felt at that time.

Hirzel: I mean it, it definitely raised my alertness. It, it concerned me greatly that there's a guy walking to me at night with a gun in his hand, walking towards my car. That caused me a lot of concern especially, you know, if you look at the things that on the West side, the ambush situations, that was, that caused me a lot of concern.

Hamond: Did you get any indication just from a direction he was coming from or his demeanor or, or how he was approaching you that he might have been associated with that business at all?

Hirzel: No, I, I didn't know who he was. That he was associated with the business. The business was closed. So that's I mean that's another thing that kind of concerned me. That you got a guy popping out from a closed business. I didn't know where this guy came from. I didn't know.

Hamond: In your experience, do you recall that ever happening before?

Hirzel: A man, a person walked up to me with a gun? No, that was the first time.

Hamond: How do you, (unintel) dealt with somebody who has a gun?

Hirzel: Sure.



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Hamond: What's your common experience with, with people like that?

Hirzel: What do you mean? How do I respond or....?

Hamond: Yes. How do you, how do you respond, how does it generally, how does it generally unfold for you?

Hirzel: I've given a response similar to this. If there's somebody with a weapon, I, I direct them to put the gun down and still use my gun pointed at them. I mean, I, you know, my safety is my #1 thing going home alive. So I would respond in the same way. I have numerous times. If it turns out it's the business owner or somebody or they have the legal right to have it, fine, I'll apologize and send them on their way, but I'd respond the same way.

Hamond: Has it ever happened?

Hirzel: Oh yes, yeah.

Hamond: Do you recall anything like that that you can tell me about?

Hirzel: Um, yeah I can't recall specific ones, but there has been times where we've went to house and you know people have grabbed a gun to you know maybe there was a prowler or whatever. You know once they put the gun down, they explain it to us, we'll apologize and you know appreciate your putting the gun down and so it's, yeah.

Hamond: Okay. I'm just kind of going over your thought process a little bit. Did you get, did you have an opinion when you saw that...did you have an idea of what maybe he wanted from you or?

Hirzel: I had no idea. All I knew was he was walking at me with a gun and, and he wasn't listening to my commands. I was telling him you know drop the gun and he wasn't and that as he continued to come towards me that caused me a lot of concern. I didn't know what he wanted. He didn't, he didn't say what he wanted.

Hamond: At what, did you make any kind of radio transmissions at that point or attempt to make any radio transmissions?

Hirzel: Trust me. I was trying to. I was thinking about it. If there was a way for me to get to my radio, but both hands were on my gun. My mic was over here. There was no way for me to, you know, take a hand from the gun and either take my attention off him without getting to the radio. So yeah it was going through my mind that yeah I needed to get on the radio and tell someone, but I mean attention's on him at that time.

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Hamond: Why do you think that the person wasn't following your commands?

Hirzel: I have no idea. I've, I've ran this through my head a thousand trying to figure out why he did what he did. I don't know. I mean I was convinced that he heard me. You know he respond to what I was saying, but I don't know why he did what he did and trust me I've asked myself that every day and that, that bugs me to this time.

Hamond: At what point do you think, well let me ask you this. Do you think he knew that you were a law enforcement officer?

Hirzel: Um, yeah, I don't want to speculate, but I, I, can say this. The car I was driving, any reasonable person could look at it and recognize it as a police car. And then especially when he got up to my door, I mean there's no way not to see my uniform were, were just like me and you are maybe even a little closer. Um we had a conversation. I said police. I don't see how he could not have seen me as a police officer. Especially once I got out of the car, we're face to face. I don't see how it's possible he didn't know.

Hamond: You, you were mentioning that you had identified yourself as a police officer, what was your title in California?

Hirzel: Police Officer. Yeah, I, I say police just out of habit, you know, never deputy. I was a police officer, so I say police. Not that's mean Sheriff's Dept.

Hamond: What do you think, what do you think caused this guy to back up when he did?

Hirzel: I don't know. I, I mean I know I gave him numerous several commands to back up and at first he wouldn't, eventually he did. I don't know, I don't what he was thinking. I mean I don't want speculate. There's I feel there's a lot of questions about what he did or didn't do as well so I don't know.

Hamond: When you were in the, when you were seated in your vehicle, how far was your baton?

Hirzel: In my ring, my holster, baton ring. It, it always stays there. I just run it across my lap when I'm sitting.

Hamond: Are you able to seat belt....

Hirzel: Yeah.

Hamond: properly and....

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Hirzel: Yeah.

Hamond: so it just sits across the front of your lap?

Hirzel: Yeah just in the ring. Just sits across my legs.

Hamond: You, do you remember, you said something about you shouldn't walk up police officer with a gun?

Hirzel: Yeah when I was getting out of the car, yeah I don't, I don't remember if it was when I was stepping over, but as I was getting out of my car, that's when I told him never to walk up on police with a gun in your hand or gun in hand something along that line.

Hamond: Do you recall at all what he said or how he reacted?

Hirzel: I don't think he responded to that statement. I, I just, I told him that, but I don't think he made any response back to that.

Hamond: Describe a little bit, well let me ask you this, how long have you had that particular baton?

Hirzel: Since the academy, '89.

Hamond: In California?

Hirzel: Yeah.

Hamond: So you've had it for almost 18 years?

Hirzel: Yeah.

Hamond: Okay (unintel)

Hirzel: Well, (unintel) since 1989 yeah.

Hamond: Okay. Where did you receive your baton training.

Hirzel: The first was Riverside County Sheriff's Academy in California.

Hamond: Okay and you said the first, when was the other?

Hirzel: I believe I've had recertification trainings throughout the year with my dept. in Cathedral City and then Kootenai County and I believe even some recertifications here.

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Hamond: Okay. Can you describe for me how you drew the baton? How did you draw it from your belt?

Hirzel: Just grabbed the top portion from my left hand and pull it out, straight out.

Hamond: And was the strike to Mr. Creach?

Hirzel: It, it wasn't a very good one. I had my gun in my right hand and I with my left hand had my baton. I reached under my gun and I guess I'd call it a back hand strike or back swing, whatever, like this to his left knee. It wasn't a very solid hit. I mean it, it, from a tactical point it wasn't good. I mean, I've got two weapons and I'm still trying to look at him and when I did that.

Hamond: What was the purpose of using a baton strike on, on, on Mr. Creach?

Hirzel: I could get him to go onto the ground. I, I told him several times to get on the ground, he wouldn't. I knew he still had the gun on him and I was trying to get him to get down to the ground.

Hamond: Once he, once he had put the gun behind him...

Hirzel: Uh huh.

Hamond: was there a reason to put him on the ground?

Hirzel: Yeah at that point the guy, I mean he still caused me a lot of concern. I still considered him a threat. He walked up on me at 11:00 at night with a gun in his hand. He wouldn't drop it when I told to several times. I get out of my car. There's no doubt it's a police officer. He's still a step away, still has a gun. I told him to drop the gun. He wouldn't. The most he did was put it in his waistband. Yeah, that's, that's a scary guy. I mean that guy is a threat.

Hamond: How did you reholster your baton?

Hirzel: I just, when I grabbed it I just put it back in my ring. My ring's on my side of my belt.

Hamond: Was that, is that training you had received to do that and any particular kind of training that to reholster it?

Hirzel: I don't know if I was trained to reholster, but that's I mean I reholster it that way all the time.

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Hamond: Do you recall him crying out at all from the strike?

Hirzel: No he didn't. He didn't say anything verbal. No, there was no comments, no words, no nothing.

Hamond: Immediately after the shot

(I'm going to silence this real quick) (cell phone vibrating. I'm sorry)

Hamond: Immediately after the shot, what was your level of hearing?

Hirzel: What do, do you mean could I hear?

Hamond: Yeah.

Hirzel: I was, I would consider it good. I've got good hearing. I, I don't know how else to respond to that.

Hamond: Okay. Well, I was just curious as to whether the loudness affected your hearing.

Hirzel: Oh, no I didn't hear any ringing or anything like that if that's what you meant.

Hamond: Okay. You, you stepped out of your car and positioned yourself correctly, I mean correct?

Hirzel: Yeah.

Hamond: Describe your position again for me.

Hirzel: When I stepped out of the car, I was generally facing more south, but southwest and I stepped over to my right and I'm kind away from the car. Mr. Creach was directly to my south.

Hamond: Would you say you were parallel to the door, parallel to the front bumper?

Hirzel: As I remember probably would have been somewhere the front tire. I, I really wasn't paying attention, I mean you know exactly my distance from the car or I mean I just know I generally went a little bit forward of it.

Hamond: What was your thought when you saw him begin to pull his hand out? What was your thought process, what were you thinking he was doing?

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Hirzel: He was going to shoot me. When, when I saw his hand go behind his back and come out with a gun, or the grip of the gun that I saw, there wasn't a doubt in my mind that he was going to shoot me. I, I don't know why, but that's what I was thinking.

Hamond: You mentioned during the first interview that one of the things that you recalled was the look on his face.

Hirzel: Yes.

Hamond: (unintel) Can you describe the look on his face?

Hirzel: Well, I, I recall the look on his face after I shot him and that's when I just kind of focused in his face and the wound. Everything was kind of slowing down and I saw. I don't even know if I can describe it other than it, just the look is telling me that there is no more threat, that it was over. That's the best way I can describe it: It, it, it just kind of reminded me of he got the wind knocked out of him. That's about all I can relate. That, that sticks with me.

Hamond: Eric can you think of anything you want to ask?

Morrison: You've been telling Mr. Creach to get down, get on the down multiple times you said, did he ever say anything along the lines that he couldn't go to the ground either because of his age or because of any type of ailments or being sick...?

Hirzel: No.

Morrison: anything like that?

Hirzel: No.

Morrison: Okay. In your first statement you mentioned that this is after the shooting took place that you just stood by until other units got there. What were doing, what were you doing during the time that you were waiting? I guess explain what you were doing waiting for the units?

Hirzel: Just standing there with my gun directed towards him. Just, just waiting for additional units to get there. I, I didn't know exactly what his status was at that time, but I'm just maintaining a cover on him until someone got there.

Morrison: Okay. And then Detective Hamond mentioned this a little bit earlier, but if, if this is your patrol car.....

Hirzel: Uh huh.

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Morrison: this is the front of it, you said you stepped to the right and then you mentioned about the front tire, so you are more, again if this was the front of the car, you stepped this way rather than stepping at an angle away from the front of your car...

Hirzel: Here I'll, like if here's my door, right here.....

Hamond: Hold on.

Hirzel: Do you want me to write it on....

Hamond: If, if you're going to draw a diagram...

Hirzel: Okay.

Hamond: it will be entered onto property so....

Hirzel: There's north up there. Here's my car directing north. As, as best that I recall I stepped out and kind of at an angle, like that way. I don't recall exactly where my body was I guess parallel to. I was looking at him. I mean I wasn't focused on how far away from my car I moved, but I kind of stepped out at an angle like that.

Hamond: Did you kind of stood up and opened instead of taking cover, that, off of the front of your car, your thought process there.

Hirzel: Just, just, just to be away from my car. At that time the gun was in his waistband. There's really nothing for cover around there except my car, but just to kind of get out of my car so it affords me some, you know, movement and mobility and I could give him directions.

Hamond: Could you date and sign and put a time of 1433 on that please?

Hirzel: The 9<sup>th</sup>?

Hamond: The 9<sup>th</sup>.

Hirzel: You said 1433?

Hamond: Right.

Hirzel: Here you go.

Morrison: You'd talked about too the way that Mr. Creach initially started walking towards the back of your car kind of in a straight line...

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Hirzel: Uh huh.

Morrison: when you noticed him, you took a couple of steps and then angled towards you, you discussed how once he got up to the car there's no way he could've not seen that you were a police officer, plus you've been telling him that. When he actually got up to the car or once you got out of the car, if I'm not mistaken you were in the tan shirt and khaki or green pants, correct?

Hirzel: Yes.

Morrison: When he saw the uniform, did you notice any change in his demeanor at that time realizing okay this guy is, in fact, a police officer, he's not just telling me from inside a dark car.

Hirzel: No. He never said anything that, that would, you know, lead me to believe that.... Well, let me back up. He never said I recognize you're a cop or anything at that point. His demeanor at the time was still the same. He wasn't following commands and didn't drop his gun like I told him before and wouldn't get on the ground so his demeanor I'd say would be pretty consistent.

Morrison: Okay. That's all I've got.

Hamond: What would you've, what would you've done if he would've dropped the gun?

Hirzel: Nothing. Just get out of my car and spoke to him and you know, once he would have told me hey this is my property and I'm coming out to check, great my apologies for treating you the way I did, you know, but next time don't come up on a cop with a gun and I would have explained that to him, but nothing. He would, we wouldn't be here today.

Hamond: Detective Keyser do you have anything?

Keyser: I have a couple of questions to clarify. Detective Hamond asked you if you recalled having any alcohol that day and you said no. Do you not recall having alcohol or did you not have any alcohol?

Hirzel: I didn't drink no.

Keyser: Okay. So you think, you referred to yourself as a police officer, your commissioned with the City of the Valley, correct, through the Sheriff's Dept.?

Hirzel: Yes.



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Keyser: What is your title with the city unit?

Hirzel: Police officer.

Keyser: Detective Hamond asked you about the noise and the hearing after your shot, in your estimation, if your, you've been out to the range before and shot without earmuffs on correct?

Hirzel: Yes.

Keyser: Would the sound you heard similar in your hearing or do you recall the sound of your gunshot being any different?

Hirzel: I remember hearing the gunshot. It, it seemed a little bit quieter this time. I mean, you know out at the range how you're expecting it, you know, so you're, your pre...you know it's coming. For some reason it seemed a little bit quieter this time, but I mean I heard it. I heard the radio transmissions going on. Does that make sense?

Keyser: Yep, yep. Getting follow-up to that right?

Hamond: No, I just have a few other.....

Keyser: I, I have a couple of more questions if I can continue?

Hamond: Sure.

Keyser: You said that when you saw the, and I may be using the incorrect term, you can correct me, when you saw the butt of the pistol coming out from behind him, you don't know why you thought, you thought he was going to shoot you. Was there any, did, did those actions lead you to believe that? Is that, is that, what made you, you said you don't know why, is there a reason that would make you think that he was going to shoot you?

Hirzel: Yeah, yeah, I guess kind of starting from the, the whole beginning of this, you know, he's walked up on, you know, what to most reasonable people is a police car with a gun in his hand. He wouldn't listen to my commands, he wouldn't drop the gun, I mean he refused to put the gun down. So yeah at that point he was defiant, no cooperative and there was no reason for him to grab the gun unless he had it behind except in my mind he's doing it to shoot me.

Keyser: Last question. When he's on the ground after he fired his shot, you explained that you stood over him and covered him until the other units got there, why did you do so? What, what was your reasoning for standing over him and covering him?

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Hirzel: What, um, um, it wasn't standing over...um, I didn't move from where I was.....

Keyser: Okay.

Hirzel: when I fired the shot. I just kept my gun pointed at him. I didn't know his status, if he has a weapons, you know, I wanted somebody else there with me before I approached him. That, that was pretty much it. I was waiting there and units from the Valley get there pretty quick so I knew it wasn't be long so.

Hamond: Are you currently taking any medication that might affect your judgment?

Hirzel: No.

Hamond: Do you, during the first interview, you couldn't recall if you went code 6 before or after you used the baton. Can you clarify that now?

Hirzel: No, I still don't know. I know it was some time around there, but I don't remember if it was before or after. I, I don't know.

Hamond: What was your thought process regarding not firing as he was approaching?

Hirzel: You know, I, I kind of questioned myself that, you know, that I let him get too close. I, I guess, I second guess that judgment, not doing that.

Hamond: Did he at anytime during that approach appear to be raising the gun to you or anything like that?

Hirzel: No. He kept it down at his leg.

Hamond: And again what, just, just to clarify, what were the commands given to him and what were his responses?

Hirzel: Again, police drop the gun. Something along the lines of stay back or something like that. Drop the gun, several times. His responses were that he wasn't going to. That he didn't have to. When I told him to get on the ground, he said he didn't have to and he wasn't going to. Things along that line.

Hamond: Any other questions?

Morrison: I have one. Was there any time prior to the actual shooting that Mr. Creach went down to his knees. You said that when you did the baton strike, he buckled somewhat. Did he actually buckle to the point he went all the way to his knees and then got back up?

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Hirzel: No.

Morrison: So the only time he went to his knees was once the shooting had occurred?

Hirzel: Yes.

Morrison: Okay.

Hamond: Do you have anything else to add Brian that might...(unintel)

Hirzel: Yeah. You know the one thing that I made mistake of watching the media and one thing that kind of bugs me is the family making a big deal that they couldn't find any evidence of a baton strike. Well, like I've explained, it wasn't a good strike just the way that it came across. If you check my baton for DNA, he had shorts. I don't know a lot about the transfer DNA, but I'm assuming his DNA would be on the baton, but it wasn't in terms, it was a pretty poor strike, just having to reach across and under my gun, so I, I wouldn't expect there to be a lot of injury if any, but I'm sure that his DNA would be on the baton if something like that would transfer during that, I don't know.

Hamond: Maybe I've forgotten and I probably already covered this and so if I did, I did forget, but why the baton strike.....on him?

Hirzel: Again just, just to get him to comply. He wasn't doing it. I felt that the baton strike was okay, you know, the gun was still in the back waistband, his hands are visible at that time, so I felt it was safe to do that while still keeping his covered with my gun. I just wanted him to get on the ground till I figured out what was going on and why he was coming up on me with a gun.

Hamond: Okay. I think at this point we'll, the detectives and I'll step out in the hallway, just to confer for a moment?

Hirzel: Sure.

Hamond: I'll caution you that the tape is still running. So any comments you make are going to be (unintel) recorded. Time's 1442 hours. We'll be right back...

Hirzel: Okay.

Hamond: We just have to make some clarifying (unintel). (Sound of door closing.)

Hirzel: I need to stop drinking sodas. That's my weakness.

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Skogen: Well, at least (unintel)...

Hirzel: I try its just not the same. I, Coke is, I don't know if I'm addicted to Coke or...(laughter)

Skoen: That's a bad thing to say.

Hirzel: Yeah.

Skogen: Coke Cola.

Hirzel: Yeah there we go.

Skogen: Well, I like Diet Pepsi. I limit myself to one a day.

Hirzel: I guess that's what I need to do.

Skogen: Too much soda is not good for ya...I suppose.

Hirzel: What is now days?

Skogen: It's been that way all along. Not just now days.

Hirzel: (unintel) talked to a guy from Spokane PD the other day and had their meeting, I guess, their taking like an 8.25% budget cut across the boards for the PD? That's insane.

Skogen: Yeah the news said that something about 40, 40 people?

Hirzel: Yeah.

Skogen: That's crazy. Spokane economy is always behind the rest of the nation. We were doing better at the beginning of the bad times for everybody else so we're taking us longer to get off (unintel). The economy here is always behind the rest of the country. Fixing all the economist troubles while you were gone.

Hamond: Okay. 1442 hours. Just a few more clarifying questions I guess. Do you recall when you, can you demonstrate again how you drew the baton and, and made the strike?

Hirzel: Yeah, just grab the top portion and just pull it out of the ring and my gun was in my right hand, still pointed at him, and I brought it around to my right side and swung towards his knee.

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Hamond: Okay. I just wanted to clarify because I thought when you first described it, you described (unintel) in toward your body, pulling it straight out.

Hirzel: Oh.

Hamond: So which, which way was it.

Hirzel: Normally like this. I don't remember exactly what the grip was, but I would grab it like, in that case I would grab it like this. It definitely wouldn't have been palm-out 'cause I wouldn't be able to manipulate it. It would be pointing straight down when I pulled it out so it would be like this.

Hamond: Do you remember how your baton reacted when you made contact?

Hirzel: What do you mean?

Hamond: Did it, did it continue through, did it bounce back, did it just stop?

Hirzel: If, if I remember right, it just stopped. I mean it wasn't, it wasn't a continuing blow, it stopped.

Hamond: Have you ever used your baton in that manner before?

Hirzel: Yes.

Hamond: Is it generally effective?

Hirzel: No, it's a pretty lightweight baton so it, it depends on, on the, I guess, quality of the strike.

Hamond: Have you, have you actually used it using that type of strike before?

Hirzel: Not that one a whole lot just given the circumstances of you know gun in one hand and baton in the other. That's not a very common time to strike. I've used the baton before, but not a whole lot in that type of situation.

Hamond: Can you guys think of anything else?

Keyser?: I've got one more question. You've been through several classes I assume for baton strikes and baton training...?

Hirzel: Yeah.

Keyser?: Are you familiar with the term sweet spot?

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Hirzel: Yes. Well, assume (unintel) the same as in this as in this state, I mean....

Keyser?: This sweet spot would be the impact portion of the baton 2 inches below the tip where general impact is made?

Hirzel: Yeah, I mean we, we call it something a little bit different, but yeah general.

Keyser?: Can you give any estimation where at on your baton you connected with him? If it was towards the tip, towards the handle in the middle?

Hirzel: As best my memory, towards the middle and the tip. I mean it wouldn't have been towards the, the 2 inches of the tip like you said. I don't think it was that good of a hit, so I would put it somewhere between the middle and the tip.

Hamond: What was your general feeling during the entire contact with Mr., Mr. Creach? What was your internal feeling? What was going on?

Hirzel: You know, just it, it, I mean, it caused me a lot of concern when he, when I first saw him walking up with the gun.

Hamond: Tell me more about concern. What do you mean concern?

Hirzel: Yeah I've got a guy walking up, you know, behind me at night with a gun in his hand, you know, that's, that's threatening to me. I, I took this guy very serious as a threat and was concerned about his attentions and why he was coming up on me like that and my first, I guess, goal was that, you know, get the gun secured until I figured out what was going on. I see someone walking up behind me at night with a gun in their hand, that's, that's threat, it's a major threat.

Hamond: Did you feel, did it make you angry, fear....?

Hirzel: Fear, not angry. I wasn't angry just, just (unintel) fearful.

Hamond: Did anything during your shift that evening make you angry?

Hirzel: No.

Hamond: No citizen contacts that, that made you angry, no supervisors make angry anything like that?

Hirzel: Nah, I think the biggest deal I had was a couple of accident reports and that's it.

Hamond: Anything else?

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Keyser: At the point that you see the handle coming out from behind his back after he's been struck and you see the firearm handle start coming up, what are your feeling at that time, feelings, if you were? Same thing he just asked you, that you were explaining what you felt as somebody's walking up towards you, what were you feeling after you make impact? What were thought processes?

Hirzel: That this guy's going to kill me. He's going to shoot me. I mean, I saw no other reason for him to get that gun except to shoot me. There wasn't a doubt in my mind he wasn't going to.

Hamond: I think there's been some question, I just want to ask this question just to clarify. I don't even recall who, who brought up the possibility. There was, was there ever any kind of a possibility that you could have fired from the seat position in the car?

Hirzel: I could have yes.

Hamond: Okay, but that didn't happen?

Hirzel: Correct.

Hamond: That's what you're telling us?

Hirzel: Yeah.

Hamond: Okay. Have you received any kind of training along these lines?

Hirzel: Yes, as a matter of fact our last in service covered just about an identical scenario somebody approaching you with a gun when you're sitting in your car.

Hamond: What was different?

Hirzel: Not....in terms of the way it played out, it, it was pretty much identical. We did our last in service just a few months ago, I believe, and we were sitting in a police car and a subject from, you know, one side or the other, they would vary, would shoot at you with air soft guns and it was, it was the same thing. I shot from inside the car at that time. Given just the way it played out and so we, we've received training very sim....nearly identical to this.

Hamond: Was that a, did you have time to interact with the person shooting at you and give commands prior to shooting?

Hirzel: No in my scenario case and again they mixed it up with different people, the person was just shooting at me when I was sitting there doing my thing in the car,

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just, just shots started coming out. There was no, no time to interact or respond or nothing. Just felt get peppered.

Hamond: You just were suddenly being shot at?

Hirzel: Yes.

Hamond: Okay. So this difference if I understand right is this time you had a chance to interact?

Hirzel: Correct.

Hamond: Okay. Anything else? Okay. I can't think of anything else. With the second line of questioning can you think of anything else that you would like to add?

Hirzel: No, I just clarified the issue on the baton that I heard in the news report and that, that, that kind of disturbed me, that bugged me a lot, but no I think I got nothing else.

Hamond: And when you fired your weapon, he was in what type of position?

Hirzel: We were standing face to face. I don't think, I think he was a straight, I don't recall him being bladed or angled, but face to face and reaching back with his right hand.

Hamond: Did he okay. I think we'll end the interview, unless anybody has anything else? Brian has this been a truthful statement?

Hirzel: Yes.

Hamond: Have any promises or threats been made to you to get you to give me this statement?

Hirzel: No.

Hamond: Once this statement has been typed, would you be willing to read it over and make any corrections necessary and sign it as a true and correct statement?

Hirzel: Yes.




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Hamond: Okay we'll end at 1452 hours. I'm going to turn off the recorder, however, I have to turn off the taping (unintel).

(RECORDING ENDS)

I, Brian Hirzel have read and reviewed this statement and find it to be true and accurate.

 091510  
Brian Hirzel/Date