

SUPPLEMENTAL REPORT

Date Prepared: 1/4/14

1. Original File No. P13-186428	2.	3. Off ID 260	4. Dist. C	5. Crime-Ct.	6. Crime-Ct.	7. Crime-Ct.	8. Date/Time Occurred	9. Day				
10. Date/Time Assigned	11. Date/Time Inv. Start		12. Date/Time Inv. Term.		13. Type Clr. Exc	14. Type Cont. Rec	15. Additional Adults Arr.	16. Additional Juv. Arr.				
17. Address of Occurrence (Street No. - Name - City) 3860 Van Buren Blvd. Riverside, CA							18. Type of Place Arlington Park					
For ID USE: V = Victim, I = Informant, W = Witness, O = Other												
19. ID: V-1	20. Last Name - First - Middle (Firm Name if Business) Officer Asbury, Nathan (ID 1368)					21. Race - Sex W / M		22. DOB				
23. Residence Address			24. Business or School Address Riverside PD			25. Home Phone		26. Bus. Phone				
27. V-2	28. Last Name - First - Middle (Firm Name if Business) Officer Miranda, Paul (ID 1501)					29. Race - Sex H / M		30. DOB				
31. Residence Address			32. Business or School Address Riverside PD			33. Home Phone		34. Bus. Phone				
S U S P E C T	35. LAST Name - First - Middle Hayes, Dontae Daveon Lewis			36. Race - Sex B / M	37. Age 20	38. Ht. 511	39. Wt. 140	40. Hr Bro	41. Eyes Bro	42. DOB or ID 4/27/93	43. Arrested <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	44. Address - Clothing - Other Marks or Identifying Characteristics DECEASED											
45. Juv: Other Disp: Juris. <input type="checkbox"/> 2		Juv. Ct. Prob. <input type="checkbox"/> 5		Within Dept. <input type="checkbox"/> 6		Detained <input type="checkbox"/> 1		Not Detained <input type="checkbox"/> 2				
S U S P E C T	46. LAST Name - First - Middle			47. Race - Sex	48. Age	49. Ht.	50. Wt.	51. Hr	52. Eyes	53. DOB or ID	54. Arrested <input type="checkbox"/> Yes <input type="checkbox"/> No	
	55. Address - Clothing - Other Marks or Identifying Characteristics Clothing, other marks or identifying characteristics											
56. Juv: Other Disp: Juris. <input type="checkbox"/> 2		Juv. Ct. Prob. <input type="checkbox"/> 5		Within Dept. <input type="checkbox"/> 6		Detained <input type="checkbox"/> 1		Not Detained <input type="checkbox"/> 2				

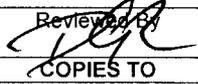
ORIGINALLY REPORTED DOLLAR VALUES ARE CHANGED AS SHOWN BELOW

C:	A	B	C	E	F	G	H	I	J	K
	Currency Notes	Jewelry Prec. Met.	Clothing Furs	Office Equip.	T.V.-Radio Cameras	Firearms	Household Goods	Consum. Goods	Livestock	Misc.
PS	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
57										
PR	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

60. Originally Reported Offenses (Code - Crime) (1) 664/187 PC - Attempt Murder of a P.O. (2)	61. Original Offenses Changed to (Code - Crime) (1) (2)	58. Stolen Auto Value ASP: \$
		59. Recovered Auto Value A2 \$

62. Narrative of Supplemental Report
Witness / 

-INTERVIEW OF OFFICER ASBURY-

Reporting Officer
Det Rick Cobb
Reviewed By

COPIES TO

VCLO ()

ACTIONS

APR Sent
APR Cncl.
APB Sent
APB Cncld

DOJ-NCIC
Entered _____
Cncl. _____

ENTERED

Stats	ARBK	ANK
-------	------	-----

Riverside Police Department
Continuation Sheet

Page 2
1/4/14

664/187 PC

File #P13-186428
Det Rick Cobb #260

On 12/31/13, at 1536 hours, Detective Sanfilippo and I interviewed Officer Asbury regarding this case. The interview was conducted at the Magnolia Station. The interview was digitally recorded on my recorder and later downloaded to the department server.

Also present during the interview was Officer Asbury's attorney Saku Ethir, Deputy District Attorney Elan Zektzer and District Attorney Investigator Scott Michaels.

Interview with Officer Nathan Asbury

Prior to the interview I advised Officer Asbury that per Riverside Department Policy 4.8 he was required to provide a written statement or interview. He said he wished to provide an interview. His attorney, Saku Ethir, also stated that Officer Asbury was complying with Riverside Department Policy 4.8 by providing an interview.

I asked Officer Asbury to describe what happened prior to, during, and after the shooting.

Officer Asbury said he was partners with Officer Miranda and they were assigned designator "Paul-45". He said they were patrolling Arlington Park as part of their regular duty.

Officer Asbury said he saw a male and female (later identified as S-Hayes and W-██████████), sitting on a bench near the playground. As he and Officer Miranda walked towards S-Hayes and W-██████████ he smelled Marijuana coming from the area where they were sitting. When they approached S-Hayes and W-██████████ he asked S-Hayes if they were smoking Marijuana. S-Hayes told him they were not smoking Marijuana, but he came to the park to roll it. He asked S-Hayes where the Marijuana was, and S-Hayes held both of his hands open and showed him a white plastic bag. He said S-Hayes told him the Marijuana was in the bag. He said S-Hayes offered to throw the Marijuana in the trash but he told him not to do that. S-Hayes then put the bag on the bench. He said the bag was a white plastic grocery bag shaped like a bowl. He said he did not inspect the bag for the Marijuana, but Officer Miranda did.

Officer Asbury asked S-Hayes for his name and date of birth, which he provided. When he asked W-██████████ for her name and date of birth, she would not give him her date of birth. He said he believed W-██████████ may have been lying about her name and date of birth. W-██████████ then gave a date of birth in 1995.

Officer Asbury said S-Hayes and W-██████████ were run through the computer for warrants and S-Hayes was found to have a felony warrant. Officer Asbury said that due to S-Hayes' calmness, he and Officer Miranda were not positive that S-Hayes did have a warrant. He said Dispatch advised that there were no tattoos listed in their warrant information, and S-Hayes had tattoos. He said that Dispatch provided the California ID number from the warrant and Officer Miranda decided to check the computer in their police unit for a photo of the subject with the warrant. Officer Miranda started walking towards their police unit.

Officer Asbury said that when Officer Miranda started walking towards their unit, he decided to place S-Hayes in handcuffs. He told S-Hayes to stand up and put his hands behind his back. He said S-Hayes stood up and put his back to him and placed his left hand behind his back. He said S-Hayes was facing Magnolia Avenue. He said he grabbed S-Hayes' left hand with his left hand and secured it behind S-Hayes' back. He said S-Hayes would not put his right hand behind his back. He said he reached for S-Hayes' right hand which was in front of him, and S-

Riverside Police Department
Continuation Sheet

Page 3
1/4/14

664/187 PC

File #P13-186428
Det Rick Cobb #260

Hayes started to pull away from him. He said he did not have his handcuffs in his hand at the time.

Officer Asbury said he thought S-Hayes was going to run from him. For a split second he said he thought about tackling S-Hayes so he would not run from him. He said that S-Hayes then quickly took a step to his right and spun to his left. He then saw that S-Hayes had a handgun in his right hand. He said he let go of S-Hayes' hand. He said S-Hayes pointed the handgun right at his face. He said he tried to deflect the gun from his face with his left hand, but he did not remember if he was able to hit the gun. He said he began to draw his gun from his holster when S-Hayes shot at him. He said, "I remember seeing smoke and flame flash in my face. It scared me to say the least". He said he could have sworn that S-Hayes had shot him in the face. He said he was literally looking down the barrel when S-Hayes shot at him. He said he was scared to death. He said he could not get his gun out of his holster fast enough. He said he realized that S-Hayes was trying to kill him.

Officer Asbury said that he then pulled his gun from his holster and disengaged the safety. He then fired one shot from his hip at S-Hayes' chest using one hand. He said he shot S-Hayes in the chest. He said S-Hayes was still standing with the gun in his hand so he continued to raise his gun towards S-Hayes and held the gun with two hands and fired another round at S-Hayes, hitting him again in the chest. He said S-Hayes was still standing with the gun in his hand, so he raised his gun towards S-Hayes' head and fired another round. He said he believes he shot S-Hayes in the head. He said all three shots were in quick succession and he fired his gun like he was trained. He said he is not sure if S-Hayes fired a second shot.

Officer Asbury said that when he was shooting, he heard Officer Miranda also shooting. He said he did not see Officer Miranda shoot, but heard it. He said that at some point, S-Hayes pointed his gun at Officer Miranda who was at the police unit. He said he did not remember exactly when this happened, but said S-Hayes did point his gun at Officer Miranda.

Officer Asbury said that after he fired three rounds, S-Hayes fell to the ground and dropped the gun. He said he did not shoot at S-Hayes while he was on the ground. He said he radioed "shots fired" and a suspect down. He said he requested medical aid.

Officer Asbury said that S-Hayes was still moving while he was on the ground, and the gun was next to his hand. He said that for safety reasons he kicked the gun away from S-Hayes. He said he kicked it a few feet away. He said assisting officers then arrived.

Officer Asbury said he was then transported to the Magnolia Station.

INTERVIEW WITH OFC. NATHAN ASBURY

Q=Det. Rick Cobb

Q1=Det. Ron Sanfilippo

Q2=Saku Ethir

A=Ofc. Nathan Asbury

1
2
3
4
5
6
7
8
9
10
11
12
13
14 Q: This is, uh, Det. Rick Cobb. This is an interview with Officer Nathan Asbury,
15 um, regarding Riverside, uh, Police case number P13-186428. It is
16 approximately, uh, 3:36 pm on, uh, December 31, 2013. Also present is, uh,
17 partner Detective Ron Sanfilippo, uh, Deputy District Attorney (Elon
18 Zetsger), uh, D.A. Investigator Scott Michaels and Officer Asbury's
19 attorney...

20
21 Q2: Saku Ethir.

22
23 Q: Thank you.

24
25 Q2: You're welcome.

26
27 Q: Before we get started, I just want to clarify that, um, for Department Policy,
28 4.A, after an officer involved shooting, you are required to either write a
29 report or give a statement, uh, I understand that you would like to give a
30 statement?

31
32 A: Yes.

33
34 Q: Okay and I think you attorney would like to say something real fast.

35
36 Q2: Basically the same thing that was just said, that Officer Asbury's here because
37 under 4.A is required prior to statement, which is what he's gonna do today
38 and of course, answer questions that are asked.

39
40 Q: Okay, thank you. Before we start, what's your ID number?

41
42 A: 1368.

43
44 Q: Okay and what were you working today - your call sign?
45

46 A: Paul 45.
47
48 Q: I'm sorry?
49
50 A: Paul 45.
51
52 Q: 45 - thank you. And who was your partner today?
53
54 A: Officer Miranda.
55
56 Q: Do you guys normally work partners together?
57
58 A: Uh, pretty often. He's west POP and I'm central POP - but his partner is out
59 on injury so we ride together pretty often.
60
61 Q: Okay. All right, um, regarding the incident that occurred today, can you just
62 take me from the beginning on, uh, the first initiation in the park and go all the
63 way through?
64
65 A: Sure. Um, I was in the passenger's seat. Officer Miranda was driving. I, uh,
66 we saw two people, a female sitting on the back of a bench, uh, facing south
67 and then we saw a male facing north, sitting on the bench. I didn't really see
68 him at all. We saw the female. Didn't recognize em so we decided to go up
69 and talk to em. We came up on the - it was like a little roadway through the
70 park, there at the bench to the front of a playground. So we drive up the
71 roadway, parked maybe 10 or 15 feet away from them. We both got out of the
72 car and contacted them. Um, at initial contact, we both immediately smelled
73 marijuana. It was, like, they were smoking marijuana or they had it out,
74 something with marijuana. So the conversation immediately went toward
75 that. I believe Officer Miranda began, as a contact officer, began speaking
76 with them, asking them why they were there. Explaining to them that as POP
77 officers, we go to the park frequently and just kinda basic conversation. Um,
78 at which point we told them they were also in violation of the way she was
79 sitting on the bench and, uh, marijuana that he was in possession of. Um,
80 through our conversation, we got to the point where we needed to ID them.
81 So, I then began speaking with them about names and date of births. While I
82 did that, Officer Miranda walked around to the backside of the bench. So I
83 was in front. They were facing me, uh, the male was at least. The female,
84 like I said was kinda on the - at the point she was on the side of the bench just
85 kinda fiddling with sticks and bugs, just not really paying attention. So he
86 walks around to the back of the bench, seeing exactly what she was doing, be
87 able to see her hands. While they're doing that, I did the basic name and date
88 of birth, got his information. When I went to get hers, she hesitated on her
89 birthday. Originally told me, I was born in '92 or '93 and, um, I told her I
90 thought that was weird she doesn't know her birthday. She said, well I do I

91 just don't want to give it to you. So I explained to her again that she was, you
92 know, why we were talking to her for sitting on the bench wrong. That we
93 just need her information, it wasn't a big deal. So then she gave me the
94 birthday of, um, '95. We ran their names. When we ran it, he came back with
95 a Felony warrant, uh, to that name and she came back with nothing at all. So
96 we were - we thought that - at least I thought at the time she was probably
97 lying about her name and the entire conversation was very nonchalant, um,
98 they didn't seem nervous at all. And so, since we didn't have photo ID on
99 him, at first I thought maybe that Dispatch made a mistake or he was using
100 somebody else's name and that random person he used came up to be a
101 warrant. So we had Dispatch double check it and give us a description. He
102 did match the description of the subject with the warrant but he didn't have,
103 again, no ID, no way to really confirm - he had several tattoos and Dispatch
104 didn't have any tattoos on file. So we asked the Dispatch for his ID card
105 number. He didn't know that either, the ID card number of the wanted
106 subject. When we got that, Officer Miranda offered to go pull it up on Cal ID
107 in the car. So he got the ID and went in there. As he was walking to the car,
108 decided to play it safe, say hey, even if it is him or not, it's not gonna hurt to
109 put him in handcuffs. So I asked him to turn around and put his hands behind
110 his back. He complied, stood up and began to put his hands behind his back
111 and when he did so, I grabbed his left hand with my left arm or his left hand
112 with my left hand and his right arm never came back. So as I went to reach
113 for it, I felt him pull away. I immediately thought he was gonna run. So I
114 went to go put all my weight and tackle him to the ground, kinda like lean
115 forward, like, I was gonna lunge towards him - but as I did that, he spun
116 around and I saw he had a handgun in his right hand. When he did that, I just
117 completed disconnected with him. I let go of his other arm, created a little bit
118 of distance between us, maybe three feet. Um, as he was spinning around, as
119 this was happening, he brought the gun up, pointed it directly at my face. Um,
120 I came up with my left hand and tried to - with - I was within arm distance to
121 knock the gun off my face, while I was drawing my gun. When I did that, um,
122 I was getting my gun out of the holster, he fired a round, uh, distinctively
123 remember the smoke, the flame, everything flash right in my face. Um,
124 scared - scared me, to say the least. Um, at which point I realized that he's
125 really trying to kill me. Um, you know, it's weird to say but yeah, I thought
126 he was gonna kill me, scary. Pull out my gun, um, got the safety off, dropped
127 the first round before I could get it all the way on my side, so I just did a - uh,
128 whatever you want to call it, but as I'm bringing the gun up, I took the first
129 shot. Hit him once in the chest and then I believe I fired two additional
130 rounds. It's kinda fuzzy at that point. I know all the rounds I shot. He was
131 standing in front of me still, had the gun in his hand, um, so I came up, took
132 the best shots I could on target. At which point, I heard Officer Miranda
133 shooting as well. I heard shots fired - I - I never actually saw Officer Miranda
4 shoot, but I could hear it distinctively in - coming from my right, which was
135 where our car was parked. Um, he then fell on the ground, dropped the gun.

136 The gun fell above his head and I kept - kept my gun pointed at him - but once
137 he had fallin, I didn't take any additional shots, um, kept lethal coverage on
138 him. Um, while I did that, I kinda lost sight of the female. I could hear her
139 screaming but Officer Miranda started giving her commands to get on the
140 ground, separate, you know. He was - he mainly had control of her and I had
141 control of the suspect. At that point, I believe, is when I put out over the
142 radio, shots were fired, Officers were code four. Um, just confirmed where
143 we were at, told them to start another unit. Um, the suspect was still moving
144 around. His hands were right by the gun. So I made the decision to go and
145 kick the gun away from him. So I walked up, kicked the gun out of his reach,
146 came back. We held cover on them until additional units arrived. Um, I don't
147 remember who it was but somebody first handcuffed the female and then, at
148 that point there was enough cops there where I was relieved. Somebody kept
149 lethal coverage on the suspect when he was handcuffed.

150
151 Q: Okay. Um, okay. I just like to go back and kinda just ask just a couple of
152 specific questions.

153
154 A: Absolutely.

155
156 Q: If that's all right? Okay.

157
158 A:

159
160 Q: Um, prior to the shooting, um, you mentioned that they - they were calm.
161 There was no issues at all?

162
163 A: Correct.

164
165 Q: And they weren't being belligerent. They weren't...

166
167 A: No. They only - the only problem at all was, um, the names, you know, her
168 lying about her birthday and us not sure of his name was his right name with
169 his ID - but they were very compliant. Um, which is why I think we had such
170 a - I wouldn't say we put our guard down by any means but, you know, we
171 weren't commanding them to cross their ankles, we weren't sitting them on
172 the ground. They were still sitting on the bench. It was a - it was a normal
173 conversation. It wasn't a yelling match. It wasn't anything like that.

174
175 Q: Okay. And then when you got word from the Dispatch that he had a Felony
176 warrant, um, did you still have him sit there for a moment or did you pretty
177 much immediately decide to go ahead and handcuff him.

178
179 A: No. He sat there for a minute. Once we heard that he did, um, I was actually
180 further away from him then Officer Miranda was. At that point, Officer

181 Miranda came back out front. He was standing in front of the male, I was
182 standing in front of the female and he was kinda talking to the male while I
183 stepped back to run them. So when they - when I found out he was Frank, I
184 made sure Officer Miranda heard. Um, I told him, hey he's Frank - he's
185 Frank. Um, he told - he recognized - I don't know what he said but he
186 confirmed that he heard what I said but again, just because of how - no ID and
187 the fact that the guy wasn't nervous at all. We thought well, maybe we ran
188 him wrong. So that's when Paul began asking hey, did you lie about your
189 name. Um, you know, I asked him again as well, I think. Hey, you know,
190 what's your name, confirm it, ask for a description. They didn't have any
191 tattoos on file. After that conversation is when Paul went back to his car and I
192 went to go place him in handcuffs.
193

194 Q: Okay. Was, uh, Officer Miranda already kinda in the car checking on the
195 computer when you decided to handcuff him - or was he still walking back to
196 the car?
197

198 A: I think he was walking to the car.
199

200 Q: Okay.
201

202 A: I'm - I'm not sure if he was sitting down or - it - it was a small time delay but
203 not - not long.
204

205 Q: What did you tell the suspect when you were gonna do that?
206

207 A: I believe my exact words were, uh, you know, I can't even tell you my exact
208 words but, um, something along the lines of hey, just do me a favor and turn
209 around, put your hands behind your back.
210

211 Q: Okay. When, uh, obviously you're behind him, he's facing away from you.
212 Which way are you both facing?
213

214 A: We were facing Magnolia, so south.
215

216 Q: Okay, um, and you took hold of him, uh, with your left hand on to his left
217 hand. Did you have it - was - was his hand behind his head or behind his
218 back?
219

220 A: Behind his back.
221

222 Q: Okay. You had a hold of his wrist then?
223

224 A: Yes.
225

226 Q: Did you have your handcuffs out or anything at that point?
227
228 A: No.
229
230 Q: Okay. And he never put his right hand behind his back at all...
231
232 A: No.
233
234 Q: It was in the front?
235
236 A: Correct. And that's - that's when I - obviously it's weird. You put your one
237 hand behind your back and I could tell he was kinda hunching forward with
238 his right hand. That's when I went to grab him, he spun loose.
239
240 Q: First you thought he was gonna...
241
242 A: At first I thought...
243
244 Q: ...run?
245
246 A: ...he was gonna bolt, yeah.
247
248 Q: Okay. And then which way did he spin - if - if - did he spin to his right or to
249 his left?
250
251 A: We were facing south and I think he - I'm not completely positive but I think
252 is what happened was he took a - a step to his right and so we were now kinda
253 facing west, (Roosevelt) Street. And he spun to his left.
254
255 Q: Okay, so he spins to his left and when he's spinning, did he break free of his
256 left hand, from you?
257
258 A: At - at the first point, no. At first, I had that left hand but as he was spinning
259 is when I saw the gun come up toward me and so it was kinda one quick
260 motion. I saw a gun, I let go as he pulled away.
261
262 Q: Okay and he immediately put it right at your face.
263
264 A: Correct.
265
266 Q: Okay. Were you - you mentioned that you took - was it your left hand when
267 you tried to block it?
268
269 A: Yes.
270

271 Q: Okay. Did you actually, physically block the gun and touch the gun - do you
272 remember?
273
274 A: I don't remember.
275
276 Q: Okay.
277
278 A: I know - I know for sure that's what my head was thinking.
279
280 Q: Uh-huh.
281
282 A: I know I stepped to the right a little bit and came up to do that as I was
283 drawing my weapon. I don't remember if I actually hit the gun or if I didn't.
284
285 Q: Okay. Um, then did he fire at you before you fired at him, from what you
286 remember?
287
288 A: Yeah. From what I remember, it was at that point where I was trying to get
289 the gun away from my face and his gun went off and then I took a shot - a
290 round at his chest.
291
292 Q: Did it just miss, going off to the left side of your...
293
294 A: I could have sworn it shot me right in the face. I - I know it sounds, like, and I
295 was literary looking down the barrel when the thing went off. Somehow -
296 how it didn't shoot.
297
298 Q: Okay and you mentioned you - you basically did basically a quick draw and
299 fired from the hip?
300
301 A: Correct.
302
303 Q: Okay. Like - like you're trained to do?
304
305 A: Yes.
306
307 Q: Okay. So you fired your first shot - do you believe your first round did hit his
308 chest?
309
310 A: Yes.
311
312 Q: Is that what you said?
313
314 A: Yes.
315

316 Q: Okay. Do you know if he was able to get off any more rounds?
317
318 A: I - I don't remember if he did an additional round, um, but I know he shot that
319 one and I think maybe another one but I - I just don't remember.
320
321 Q: When he - when he had the gun in his hand and he's pointing it at your face,
322 did you remember how he was holding it? Was it straight, was it to the side,
323 tilted, do you remember anything about it at all?
324
325 A: I don't remember but the tip was, you know, just this barrel in my face, yeah.
326
327 Q: Okay, um, lost my train of thought for a sec. Um, you fired one round - did
328 you push him forward. Did he fall back? Did you step back? Do you
329 remember after your first round that you fired?
330
331 A: I know after my first round, I came up and held my gun in a normal position.
332 My first round was one handed, um, canted from the chest. Then it went up to
333 a full, you know, regular extension. Then I don't remember - this is where -
334 that's the part for me right now where it's the fuzziest.
335
336 Q: Did - did you immediately fire once you got in this (unintelligible).
337
338 A: I believe so, yes.
339
340 Q: All right. Do you remember what - where you shot him? Did you - do you
341 think you shot him again?
342
343 A: I do.
344
345 Q: Okay. Do you know where?
346
347 A: I do. I think it was still chest and - and then - I believe I went chest and
348 started going up. So if anything, it was chest and then head.
349
350 Q: Like you're trained to do?
351
352 A: Correct.
353
354 Q: Okay and if - if I remember right during this time, you never saw, um, Officer
355 Miranda shoot but you did hear him fire?
356
357 A: I heard the shots.
358
359 Q: Okay. Was it pretty much right after you fired?
360

406
407 Q1: Six years RPD only.
408
409 A: Yes.
410
411 Q1: Okay. That's all I got.
412
413 Q: Okay, um, I think we covered it. Is there anything that you think that I might
414 have missed that you think is important that...
415
416 A: Um, no. I mean at the time I didn't - there were kids there originally, which
417 was a big deal to me. There were two kids playing in the playground but that
418 was during the initial contact. When it came to the time of the shooting, I
419 looked around and I didn't see anybody else there. I didn't see kids there at
420 the time.
421
422 Q: Okay.
423
424 A: I - I didn't' really see anybody else but...
425
426 Q: When you said kids, so were they like young - young or...
427
428 A: Like eight and five.
429
430 Q: Where were they at?
431
432 A: They were on the playground.
433
434 Q: The same playground where you guys were?
435
436 A: Yeah. So there's a - the bench where they were sitting is the bench where
437 normally parents watch their kids.
438
439 Q: Right.
440
441 A: Have them play on the playground it's right next to it. So, and that was kinda
442 at the point we were talking to them about, you can't be smoking weed at a
443 park where kids are playing at the park. Um, and I remember seeing the kids
444 there and asking them, hey are those your kids and they said no but at some
445 point through that contact, um, they left.
446
447 Q: Were these kids white, black, Hispanic?
448
449 A: Hispanic.
450

451 Q: Hispanic?
452
453 A: They were there - there was a Hispanic guy sitting on - there was a curb. It's
454 kinda, like, a curb that wraps around the playground.
455
456 Q: Right.
457
458 A: The Hispanic guy's sitting there. Um, I know he saw us because we made
459 contact, um, before the - the whole shooting, just while we were doing the
460 contact.
461
462 Q: Little - how many - how many kids?
463
464 A: Two kids, is what I saw.
465
466 Q: Boy and girl - two boys?
467
468 A: I think a boy and a girl but I know for sure, at least one was a boy.
469
470 Q: Okay. All right.
471
472 Q: When the, um, when you finally were gonna put cuffs on him, where was he
473 standing at that point? Was he just right in front of the bench there?
474
475 A: No. When I was gonna put cuffs on him, I was standing, um, probably 45
476 degree angle in front of him. He was sitting on the bench still.
477
478 Q: Okay.
479
480 A: So he was sitting there, you can see his hands, um, I told him to stand up, turn
481 - turn around and put your hands behind your back. So he stood up, faced
482 away from me and the left hand went behind his back - but the right never did.
483 So he was - he was facing the bench. If he would have ran forward, he would
484 have ran into the bench.
485
486 Q: Okay and would you know where she was at this point in time?
487
488 A: She was still on the bench to the right of him.
489
490 Q: Was she facing Magnolia?
491
492 A: She was facing, no. She was facing Garfield.
493
494 Q: Okay. So she was - she could witness everything that was happening?
495

496 A: Absolutely.
497
498 Q: She could see him pulling a gun on you?
499
500 A: Absolutely. At some point during our contact I asked her to sit on the bench
501 normal.
502
503 Q: Okay.
504
505 A: As - as opposed to how she was.
506
507 Q: Okay and then during that time, was there any conversation while you were
508 starting to cuff him or anything? Did he say anything to you?
509
510 A: Yeah - yeah. He yelled something at me. Um, when he turned around with
511 the gun, he yelled and it's weird because I - when he yelled it, I remembered
512 exactly what he said. I heard it and I can't tell you what he said. I can't
513 remember now but he said something. I just, in my mind couldn't believe that
514 was happening.
515
516 Q1: Was that at the time, maybe the shot went off and he yelled - or was is before
517 that?
518
519 A: No. That was - that was when he was pointing at my face. Like, as he was
520 turning - he was yelling and it came right up to my face and that's when I
521 just...
522
523 Q1: What kinda timeframe are we talking about? When he pulled it out and put it
524 to your face, till the time the shot went off?
525
526 A: Less than a second.
527
528 Q1: Okay. So we're talking really quick?
529
530 A: Yeah.
531
532 Q1: Everything was quick?
533
534 A: Yeah.
535
536 Q1: Okay. And then at that point, you had your - you were going for your gun?
537 You fired. Do you know what your timeframe was, your shots - where they
538 pretty much continuous, like, you would fire...
539
540 A: I believe so, yeah because I know that all my shots were at one point.

541
542 Q1: Okay.
543
544 A: When he - after getting hit, he fell. I never shot any - I didn't shoot any while
545 he was falling or when he was on the ground. He was standing for my shots.
546
547 Q1: Okay. And when you cuff somebody, do you usually pat them down first or...
548
549 A: Absolutely.
550
551 Q1: Okay.
552
553 A: Well - I guess - I guess it depends.
554
555 Q1: Right.
556
557 A: In this - in some situations, I'll bring their hands back and get the hands quick.
558
559 Q1: Okay.
560
561 A: Um, especially and - and that would have been in this situation is I had to
562 brought his hands back and cuffed him.
563
564 Q1: Okay.
565
566 A: I believe.
567
568 A2: And - and when you guys - when you go to cuff, do you guys usually do it
569 when you're both up there or is it - something you usually do where one
570 officer will be walking away while you cuff him - or is it a situation where
571 you just - you feel a situation and that's how you work it?
572
573 A: N- normally it's a contact cover, um, while I'm doing that, Paul would be
574 beside me or go - go one side or the other. Um, I think that, is what happened
575 here was when Paul left, we were not going to handcuff him.
576
577 Q1: Okay.
578
579 A: I'm assuming that's what it was - but at that point I realized, why in the world
580 wouldn't I handcuff him. They come off just as easily as they go on.
581
582 A2: Uh-huh.
583
584 A: So I said, you know, I'll just cuff him and, uh, that's when we did that.
585

586 Q1: Okay.
587
588 Q: Just real quick. When - when he fired at you, what direction was he firing?
589
590 A: He shot toward Magnolia, south.
591
592 Q: Kinda towards Ma- kinda towards Mag or Van Buren or...
593
594 A: Yeah, I think it would be, yeah Van Buren or...
595
596 Q: Towards the corner? Just in-case - we - we...
597
598 A: Yeah - yeah.
599
600 Q: ...in-case we wanted to find out the directory.
601
602 A: Yeah.
603
604 Q: Okay.
605
606 A: I would look near, not as far as, like, Joe Sushi.
607
608 Q: Okay.
609
610 A: Not that far west from there to Van Buren in that - I know it's a huge area but
611 in that - in that space.
612
613 Q: Okay. So he's facing south originally and then he gets turned all the way
614 around, facing to fire back toward...
615
616 A: Toward me.
617
618 Q: So, Southeast?
619
620 A: Yeah. So he's facing south.
621
622 Q: Okay.
623
624 A: And I have his hand. He takes a big step to the right.
625
626 Q: Okay.
627
628 A: And I'm kinda following with him and now he's facing this way. He's
629 facing...
630

631 Q: So facing west.
632
633 A: Right and then he spins around and as he spins, the gun comes up and now
634 he's facing south again.
635
636 Q1: And he's spun it just, like, he pointed - he spun it to his left?
637
638 A: Correct.
639
640 Q: Okay. So he did spin to his left?
641
642 A: Yeah, I believe it was his left.
643
644 Q: He came around with his right hand?
645
646 A: Correct.
647
648 Q: Okay. Okay.
649
650 Q1: Now when he fired, did he have, like, two hands on it - do you remember or...
651
652 A: I- I think it was just one hand.
653
654 Q1: One hand, okay.
655
656 Q: Okay. I think that will conclude the interview.
657
658 Q2: Just briefly. I know it's probably because I know Nathan's already told me he
659 doesn't have any injuries - but I know he mentioned to me when we were
660 talking that he felt some tingling or some sort of pain in - on - in the arm area
661 as if something may have...
662
663 Q: Yeah.
664
665 Q2: ...a shot had brushed by.
666
667 A: Yeah. I'd - I'd mentioned to her. I didn't know what it was. I don't know if
668 it was from the blast, the gun or the bullet that went by but there was just a
669 line on my arm that just felt warm. I - I looked...
670
671 Q1: Did you - did you (unintelligible).
672
673 A: I looked at it and there was no - no wound.
674
675 Q2: He said there was nothing.

676
677 A: It didn't look red but it definitely felt warm and I checked it like four times to
678 make sure I wasn't in shock.
679
680 Q1: Did you - you wore another shirt over that?
681
682 A: Uh, a vest.
683
684 Q2: Yeah.
685
686 Q1: Just a vest? And you checked everything? Nothings on your...
687
688 A: Yeah. I didn't notice anything.
689
690 Q: Okay.
691
692 Q2: That's it.
693
694 Q: All right.

695
696
7 This transcript has been reviewed with the audio recording submitted and it is an accurate
698 transcription.

699 Signed Nathan Asbury

Nathan Asbury 3-18-14

RIVERSIDE POLICE DEPT - Restricted Information
Public Records Act Request
ANGIE 6/2/2015 2:56:27PM Unauthorized Release PROHIBITED

INTERVIEW WITH OFC. NATHAN ASBURY

Q=Det. Rick Cobb

Q1=Det. Ron Sanfilippo

A=Ofc. Nathan Asbury

A1=Saku Ethir

1
2
3
4
5
6
7
8
9
10
11
12
13
14 Q: Okay. This is uh, Detective Rick Cobb. This is a follow up interview with
15 Officer Nathan Asbury. It is approximately 4:35 pm on December 31, 2013.
16 Uh, also present is my partner, Detective Ron Sanfilippo and Officer Asbury's
17 attorney...

18
19 A1: Saku Ethir.

20
21 Q: Thank you. Um, briefly like we discussed just a couple minutes ago um, after
22 reviewing the uh, Officer Miranda's recording there was some mention of
23 some marijuana that may have been possibly found on a suspects during the
24 course of your investigation. Can you elaborate on that and tell me what
25 happened?
26

27 A: Yes. When we first made contact with him, I believe I mentioned the smell of
28 marijuana.
29

30 Q: You did.
31

32 A: So we asked him about the marijuana. Um, I asked him if they were smoking
33 marijuana. And the male told me that he was not smoking marijuana but he
34 had gone to the park to roll marijuana. I asked him where the marijuana was
35 and he lifted up his hands with - with both hands open. Inside of it he had a
36 white plastic bag. I couldn't see in it. But he said the marijuana was inside
37 the bag.
38

39 Q: Okay. So he just offered it up and said.
40

41 A: Yeah, right off the bat. He said this is uh...

42
43 Q: I was here to ro- I was here to roll it and here it is?
44

45 A: Yes.

361 A: Yeah. It was pretty - I - I can't remember exactly but I - I remember just
362 hearing the shots. I know it sounds weird to say it but right after I was
363 shooting then I was hearing pops.
364

365 Q: Okay. At any point do you - do you remember seeing the suspect, uh, turn his
366 weapon towards Officer Miranda at all?
367

368 A: I do and I - I'm just sitting here trying to remember it but I don't remember at
369 what point.
370

371 Q: Okay.
372

373 A: I - I can kinda remember him moving and looking around but I don't
374 remember if it was after I shot him once in the chest. I think it was but I'm
375 not sure. I don't know if - you know, like, I said, I'm spec - I don't know if I
376 shot him and he was looking around at what hit him and that's when he ended
377 up at Officer Miranda - but at some point, I remember him turning toward our
378 car.
379

380 Q: Okay. Um, needless to say, um, tell - tell me how you felt when that gun was
381 pointed at your face?
382

383 A: Um, scared to death, like, this is a - this - absolutely I thought he was gonna
384 kill me, um, scared. I couldn't - I couldn't get my gun off safe - quick
385 enough.
386

387 Q: Okay. Got anything off that?
388

389 Q1: Um, just a couple quick things. I - I, um, when you first pulled it out, was it
390 from your hip or from - you said you canted it from the bottom. Was it from
391 your hip or from your - from your chest area? Do you remember?
392

393 A: Um, I was bringing it up.
394

395 Q1: Do you...
396

397 A: So it was somewhere from the hostler...
398

399 Q1: Okay.
400

401 A: ...till before I became fully extended.
402

403 Q1: Okay and then, how long have you been on?
4
405 A: Uh, coming up on six years.

46
47 Q: Did he hand it to you or did he say...
48
49 A: No, he showed it to me uh, and then he actually - he offered to throw it away
50 in the trashcan. Uh, we told him that we didn't want to do that um, and then
51 he set it next to him on the bench.
52
53 Q: Okay. Did you actually physically examine it and look at it yourself?
54
55 A: I never touched it or looked in it.
56
57 Q: Okay. So you - you didn't even get to look at it to tell if it was marijuana?
58
59 A: Correct.
60
61 Q: Okay. Uh, who did that?
62
63 A: I believe Officer Miranda did.
64
65 Q: Okay. Um, so now it's on the bench. Is that when you just - now you go to
66 conduct your investigation like we spoke about earlier and then the shooting
67 occurs?
68
69 A: Correct. And that - that was where the - the conversation built from there.
70 That's when we talked to him about smoking marijuana, having marijuana at
71 the park and everything occurred after that.
72
73 Q: Okay. So the last time you saw this little baggie or bag of marijuana, it was...
74
75 A: It was...
76
77 Q: ...sitting there.
78
79 A: It was sitting there throughout the whole conversation.
80
81 Q: Can you describe the bag to me?
82
83 A: White, plastic um, it was actually kind of almost looked like a bowl the way
84 he had it crumpled up. Um, and nothing more to it. Maybe like uh, you go to
85 Stater Brothers and they bag your groceries with it. Something like that.
86
87 Q: Okay. So more like a grocery sack type thing?
88
89 A: Correct.
90

91

92 Q: Okay. Um, anything else?

93

94 Q1: Nope.

95

96 Q: No? Okay.

97

98 A1: Nope.

99

100 Q: I'm gonna conclude the interview. It is approximately 4:37.

101

102

103 This transcript has been reviewed with the audio recording submitted and it is an accurate

104 transcription

105 Signed

N. Asbury

Nathan Asbury

3-18-14

RIVERSIDE POLICE DEPARTMENT - Restricted Information
Public Records Act Request
ANGIE 6/2/2015 2:56:31 PM Unauthorized Release PROHIBITED