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PORTLAND POLICE BUREAU
INTERNAL AFFAIRS DIVISION
Confidential Taped Statement
Investigator Barry Reyna / DPSST #15038

7 **Interview Date:** 04/23/2010
8 **IAD #:** 2010-B-0004
9 **Complainant:** Portland Police Bureau

12 **Interviewed:** John Birkinbine / DPSST #29351

14 **RENNA:** This is BARRY RENNA, Investigator for the Internal Affairs Units of the Portland Police
15 Bureau. With me is Sergeant CRAIG MORGAN, DPSST #38846. Today is Friday, April 23, 2010. It
16 is approximately 1720 hours. We are in an office within the Internal Affairs Division. Also present is
17 Sergeant JOHN BIRKINBINE, DPSST #29351. Accompanying him is Sergeant DOUG JUSTUS,
18 who is acting as his Portland Police Association representative. We are here to talk with Sergeant
19 BIRKINBINE about IAD Case #2010-B-0004, which is at least partially reflected in PPB incident #10-
20 8352. Sergeant BIRKINBINE has been advised that his conduct and/or the conduct of any other
21 bureau member present on January 29, 2010, at 12800 NE Sandy Blvd. is the subject of this
22 investigation. Sergeant BIRKINBINE has reviewed information necessary to be reasonably apprised of
23 the nature of the allegations and the complaint. Sergeant BIRKINBINE has been informed that he is an
24 involved officer in the case and Captain EDWARD BRUMFIELD is in charge of the investigation. I
25 have advised Sergeant BIRKINBINE that he could have representation present during the interview
26 and Sergeant JUSTUS is here in that capacity. Sergeant BIRKINBINE has been provided a copy of the
27 advanced notice and waiver form and has signed it. Sergeant BIRKINBINE, under the authority of
28 Captain EDWARD BRUMFIELD, I am ordering you answer all of my questions fully and truthfully.
29 If you fail to respond fully and truthfully, you may be disciplined up to and including dismissal. Do
30 you understand that?

31 **BIRKINBINE:** I do.

32 **RENNA:** Okay. I'll begin by asking you how long you've been employed by the Portland Police
33 Bureau.

34 **BIRKINBINE:** Uh, 16 years two days ago.

35 **RENNA:** Okay. Do you have any previous law enforcement experience?

36 **BIRKINBINE:** No.

37 **RENNA:** And can you kind of give us a thumbnail of what kind of assignments you've had since
38 you've been employed by the Portland Police Bureau?

39 **BIRKINBINE:** Uh, I have worked uniform patrol in all of the different precincts. Uh, I was assigned
40 for four years to the Domestic Violence Reduction Unit as an investigator. Uh, I was promoted to
41 sergeant, four years, over four years ago and have been since assigned to north precinct.

42 **RENNA:** Okay, and have you worked any specialty units other than the domestic violence unit, either
43 attached or detached?

44 **BIRKINBINE:** Uh, for two years or a little over I had been a detached sergeant with the hostage
45 negotiation team.

46 **RENNA:** Okay, and what kind of duties do you have in that capacity?

47 **BIRKINBINE:** Uh, as a sergeant, I'm responsible for responding to call-outs, tactical team call-outs
48 and in charge of managing the negotiations during any kind of a crisis. Negotiation includes setting
49 strategy with negotiators and listening to negotiations and apprising CIC commanders of how the

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50 negotiations are going. I am also responsible for taking direction from the commanders in charge of
51 the incident to try to manage the outcome of the incident. We also are responsible for gathering
52 intelligence of all varying kinds in the incident. Two sergeants, myself and one other, will always
53 respond to an incident, and so we work in tandem to accomplish all those goals.

54 **RENNA:** Okay, and you made reference to CIC. For someone that's not familiar with it, that's a
55 Critical Incident Commander?

56 **BIRKINBINE:** Correct.

57 **RENNA:** Okay, and where are you currently assigned?

58 **BIRKINBINE:** Uh, afternoon shift at North Precinct.

59 **RENNA:** And afternoon shift is generally what hours?

60 **BIRKINBINE:** Uh, 1600 to 02000 hours.

61 **RENNA:** Okay, and where were you assigned on January 29th of this year?

62 **BIRKINBINE:** North Precinct.

63 **RENNA:** Okay, and how did you become aware of an incident at 128th & NE Sandy?

64 **BIRKINBINE:** Um, my first knowledge of it came when I logged on to my car. I came in an hour
65 late on vacation and logged on as the incident was in progress and I turned on my car radio and the
66 first, first comment I heard when my radio clicked on was a request by an officer for additional rifles to
67 this incident at 128th & Sandy. And so that's how I originally came aware of it. I didn't hear the
68 original call coming out. I didn't know anything about it, only that there was an officer asking for
69 additional rifles. And so I thought it would be prudent as a sergeant to start going that way until I
70 gathered more information and make sure that they had the resources and the direction and supervision
71 they needed.

72 **RENNA:** And did you go directly to the apartment complex?

73 **BIRKINBINE:** I did.

74 **RENNA:** Okay, and while you were headed up to the call, did you learn anything either via radio or
75 through CAD on what might be involved?

76 **BIRKINBINE:** I did. I, you're a little bit limited on how much information you get from the CAD
77 while you're driving. It's more important that you're driving instead of trying to read the computer.
78 But, over the air I gathered that they were dealing with a subject inside a residence who was potentially
79 suicidal and there were children possibly in the residence and the officers were responding to do a
80 welfare check.

81 **RENNA:** And after you arrived what did you do?

82 **BIRKINBINE:** Uh, when I arrived I took direction from officers who were on the scene directing
83 responses and I parked in a safe location. I asked the first officer I came to where command was. They
84 told me Sergeant REYNA was in charge of the incident and told me where she was and I went to where
85 she was.

86 **RENNA:** Okay. After you got to the area where Sergeant REYNA was, what officers do you
87 remember being present in that immediate vicinity?

88 **BIRKINBINE:** Uh, I remember Sergeant REYNA was there, Officer QUACKENBUSH was there,
89 Officer BOYLAN was there and I remember there was a contact team out in the parking lot. I didn't
90 know at that point if they were a contact team or if they were just a containment team, but they were
91 behind a police car that was out in the parking lot and they were obviously setting containment on a
92 part of the apartment building where we were. When I got there, I saw Officer LEWTON, Officer
93 FRASHOUR, Officer KEMPLE and there was an officer I didn't know at the time who was out there

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94 and that was Officer WILLARD. And I'm trying to remember if there was somebody else out there.
95 Uh, Officer ELIAS I believe and his canine.
96 **RENNA:** Okay. How did, where physically where did you end up?
97 **BIRKINBINE:** I went to an alcove that was north of the target apartment and it was in the same
98 building and it was just a big hallway where the doors to the apartment, four apartments, come into this
99 big hallway. Two of them go upstairs in the upstairs apartments and then the two of them are below.
100 So, I was in the alcove with Sergeant REYNA.
101 **RENNA:** And you had, did you have an opportunity to get briefed by Sergeant REYNA while you
102 were there?
103 **BIRKINBINE:** Well, I arrived, she was giving direction to some of the officers. She was on the
104 radio or giving direction. I think maybe Officer BOCCHINO was there and so I just listened for a
105 couple of minutes until she was, there was a break and I asked her, I just said I'm here to help, what
106 can I do for you? And she said nothing. She said she had it handled and she didn't need me to do any
107 specific assignment, perimeter or resources or...she had no direction for me and she went back to
108 giving direction to officers mentioned in the incident.
109 **RENNA:** Okay. Have you worked with Sergeant REYNA on previous occasions on any incidents that
110 might be similar to this?
111 **BIRKINBINE:** We only share one workday together during our week. I don't recall anything similar
112 to this on this scale, but I have worked with her on varying other incidents where two sergeants are
113 present.
114 **RENNA:** And how did those incidents go?
115 **BIRKINBINE:** Fine.
116 **RENNA:** After you arrived at the scene and you had been there for at least a few moments, what was
117 your assessment of the situation as it was unfolding? And by that were you able to make a judgment
118 on whether it was a hostage situation or a barricaded subject or as you already mentioned a suicidal
119 subject inside of...
120 **BIRKINBINE:** Well, my assessment, I didn't have, I guess I didn't have a lot of information. I
121 knew that we had a subject inside an apartment who we had information that he had had a gun and
122 there were three little kids in the apartment also and that the mother of the little kids was outside
123 talking with the police. But I didn't know, I didn't know if this was a hostage situation because I didn't
124 know if anyone had asked him to release the kids. I didn't know if he, I don't know if anyone had
125 asked him to come out and talk to us. I didn't know if he was barricaded from a standpoint of telling
126 the police, sending a message to the police hey don't come in here. Uh, I didn't know that he even
127 knew that were there. So, I really didn't have a lot of information other than some information about
128 him specifically, but I didn't know about the incident really where we were at that point.
129 **RENNA:** When you let Sergeant REYNA know that you were there, asked is there anything I can do,
130 what would you like me to do, did you find it unusual that she said there's nothing for you to do?
131 **BIRKINBINE:** Um, no not so much unusual because I didn't know what had been done already. I
132 didn't know how far into the call she had gotten and I didn't have a big enough picture as to everything
133 that had been set up. So, I couldn't say there was more outside that needed to be done. So, it didn't seem
134 particularly strange. I just didn't know any, I didn't know any different.
135 **RENNA:** Okay. How busy did she look?
136 **BIRKINBINE:** She looked busy.
137 **RENNA:** Do you remember what other bureau members were in the alcove during that initial, when
138 you went in there and you had this conversation with Sergeant REYNA?

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139 **BIRKINBINE:** Uh, I remember, I remember Officer QUACKENBUSH and Officer BOYLAN and
140 myself. It seems like there's somebody else but I can't remember who. Someone close by but I can't
141 remember specifically. I remember those ones but not anybody else.

142 **RENNA:** All right. At that early stage when you were there in the alcove, were you involved in or did
143 you hear any conversation that involved either SERT or HNT being called out?

144 **BIRKINBINE:** No.

145 **RENNA:** Did you have any thoughts yourself based on what you knew at that point that maybe SERT
146 should be called out?

147 **BIRKINBINE:** I don't think we were at the place yet where SERT needed to be called out.

148 **RENNA:** And at that place, by that you mean what?

149 **BIRKINBINE:** We weren't, we weren't to the place in our call where we needed SERT or HNT. We
150 hadn't, we hadn't even tried to make contact with Mr. CAMPBELL yet. We didn't have him telling us
151 I'm not coming out or you're not coming in. We hadn't even, we weren't there. So, you know, this
152 was no, in my mind when I got there and after I learned a little bit about it, this was really no different
153 than what patrol sergeants and offices do on a daily basis. This was investigating a call, potential
154 weapon, securing a perimeter, being safe, making sure we have all of our pieces in place before we
155 move forward. This was really pretty textbook when it comes to how to run a tactical situation or a
156 potential tactical situation. I didn't feel like there was anything that was missing and I really felt like
157 the situation was progressing down the road that we were gonna make contact or were gonna try to
158 make contact. We were gonna make a determination as to Mr. CAMPBELL's state of mind and as to
159 whether or not we could get those kids out of there and then we were gonna make some decisions
160 based on his responses. Our hope was that the kids were gonna come out, they were gonna be safe, and
161 that we were gonna be able to determine if he was suicidal or if he was depressed or at what level we
162 needed to continue to intervene and there was the possibility of getting the kids out. Getting the kids
163 out was our first and foremost consideration. We had to have those kids out before we could do
164 anything else. But then we had to decide can we walk away from this situation and trust that he'll be
165 okay based on information we received from him or do we need to take it to the next step where it
166 becomes an HNT or SERT call-out.

167 **RENNA:** At that early stage, did the presence of those three children inside the apartment change the
168 complexion of what type of situation you were dealing with?

169 **BIRKINBINE:** Well, based on the preliminary level of information we had and where we were in the
170 process of setting up for the call, I don't think it changed it. It changed it because you're, anytime there
171 are kids of potential hostages or kids as hostages you're obviously concerned and that is your priority.
172 There's officer safety and then there's getting those kids out of there, making sure there is no other, no
173 other potential victims in there and...but in this particular situation, we didn't have anything, I didn't
174 know of anything to say that those kids can't be gotten out of there safely. We hadn't even tried to
175 contact him at that point based on, you know, and so that's what we had.

176 **RENNA:** You mentioned that Officer QUACKENBUSH was one of the people in the alcove. Have
177 you worked with him on prior occasions?

178 **BIRKINBINE:** I have worked with JIM for a long time.

179 **RENNA:** In what kind of situations? Anything like...

180 **BIRKINBINE:** All kinds of situations.

181 **RENNA:** Okay. Had Officer QUACKENBUSH already (indecipherable), at least attempted to try to
182 communicate with Mr. CAMPBELL at the point that you arrived?

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183 **BIRKINBINE:** I'm not sure. He had the phone from the girlfriend. We had gotten the girlfriend's
184 telephone and I don't remember if QUACKENBUSH had tried to communicate with him through our
185 Nextel system or if he...I don't remember. My inclination is to think that he had tried to make a phone
186 call to him. Let me refer to my report here. He was using, he was using the girlfriend's cell phone and
187 that's what we ended using as a medium to try to contact Mr. CAMPBELL. But before we had that
188 cell phone, I don't know if he had tried using his Nextel because I wasn't there at that point.

189 **RENNA:** And you mentioned, pardon me, the girlfriend's cell phone. It's my understanding that there
190 was some interference involved in using that phone.

191 **BIRKINBINE:** Correct.

192 **RENNA:** At any point, and at that, at least during that stage of what you were attempting to do, did
193 you consider, did you try to use any more of what some might say a reliable form of communication,
194 whether it be loud hailing or maybe what's called the throw phone? Where those discussed as opposed
195 to the phone that had the interference on it?

196 **BIRKINBINE:** We didn't discuss a loud hail. We don't have a throw phone. HNT has throw
197 phones and they hadn't been called out. We had, we had the girlfriend's cell phone and I don't know if
198 the reliability problem was interference from the building or the quality of the cell phone or if Mr.
199 CAMPBELL was...the phone would go dead and I don't know if it was the phone making it go dead or
200 Mr. CAMPBELL hanging up on us or both. But there was no other medium discussed because we had
201 the girlfriend's phone and we thought that was probably a pretty good, pretty good use for that.

202 **RENNA:** It is my understanding that you ended up teaming up with Officer QUACKENBUSH in his
203 attempt to communicate with Mr. CAMPBELL.

204 **BIRKINBINE:** Uh-huh.

205 **RENNA:** How did that come about?

206 **BIRKINBINE:** Well, as I was standing in the alcove and watching Sergeant REYNA as she was
207 managing the incident and then I realized that Officer QUACKENBUSH had a cell phone and he had
208 the girlfriend's cell phone and we were gonna try to make contact with him. I know that...with Mr.
209 CAMPBELL. I wanted to make myself available as a resource to Officer QUACKENBUSH. I know
210 that he's not a negotiator. I know he's an excellent police officer and he's a good communicator, but I
211 know that in that situation it was possible for me to bring some expertise to the situation to help him
212 think of things to say or set a strategy or to maybe evaluate information that came back from Mr.
213 CAMPBELL's side of the conversation if there was a conversation. But to in essence be Officer
214 QUACKENBUSH's coach or his second or his support officer in that situation. Whenever we deploy
215 negotiators in an HNT call-out, we always deploy them in twos. There's the primary negotiator and
216 there's always a second we call it and that person's job is to funnel intelligence to the negotiator. It's
217 also to take what the negotiator says and they relay it back to a sergeant. It's also a filter for
218 information coming in to the negotiator and so we always deploy people in the negotiation in twos.
219 And I thought in this situation since I didn't have another assignment from Sergeant REYNA, I would
220 partner myself with Officer QUACKENBUSH and assist him.

221 **RENNA:** After your initial attempt at communication with Sergeant REYNA when you asked if there
222 was anything you could do and things evolved and you ended up going over and teaming up with
223 Officer QUACKENBUSH, did you have any other discussions with Sergeant REYNA specifically?
224 Did you discuss with her the possibility about having HNT respond out to the location?

225 **BIRKINBINE:** I don't remember specifically talking about HNT or having HNT respond.

226 **RENNA:** Did you have any other similar type conversation with her?

227 **BIRKINBINE:** In what...

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228 **RENNA:** I know that this incident covers a period of time and I'm trying to go as chronological as
229 possible so that all of us don't get confused about information that's coming in.

230 **BIRKINBINE:** Uh-huh.

231 **RENNA:** So, at that point, we're close to the point where you are assisting Officer QUACKENBUSH.
232 Did you have any discussions with Sergeant REYNA either A) about HNT or I just noticed you kind of
233 giving that some thought so that led me to think that there may have been some other conversations
234 about something other than HNT that you had discussed with the sergeant that you were trying to
235 clarify in your own mind. So, that's why I asked the question.

236 **BIRKINBINE:** I, I don't remember talking specifically about HNT with her. I was thinking from an
237 HNT standpoint because I'm on HNT and so maybe I had a level of expertise just knowing how
238 communications work effectively within a negotiation or attempted phone call to a subject and there's
239 always that potential when you're at the beginning of a call that it could go to a SERT or HNT call-out.
240 There's always that potential there, part of, I guess part of being an HNT sergeant is thinking on the
241 front end about if this goes that direction I want to be prepared and I want to have as much information
242 as I can so that if it goes to a SERT and HNT call-out when the responding tactical teams arrive I want
243 to have as much information for them as I can give them so that when they get there they have the best
244 most real time information possible. So, I wasn't in my mind thinking we needed to call HNT in the
245 moment, but I was thinking down the road if we get to that point I want to have done things so that we
246 can say we did things in the appropriate order with the appropriate information. Does that answer your
247 question?

248 **RENNA:** Sure. The situation that you were dealing with at that point in time, does HNT respond to
249 those type of situations?

250 **BIRKINBINE:** HNT will respond to most any communication situation that we ask them to come
251 out to. If the uniform officers on scene feel like they have done everything they can do to try to resolve
252 the situation within the resources they have available. HNT is always a resource and we will always
253 come out. We will always attempt to use whatever tools and resources we have to aid uniform.

254 **RENNA:** And does HNT have criteria for being deployed?

255 **BIRKINBINE:** Well...

256 **RENNA:** Is there a checklist that somebody (indecipherable)?

257 **BIRKINBINE:** There's no checklist that I'm aware of. It's a totality of the circumstances kind of a
258 checklist. You talk with the on-scene sergeant and if the on-scene sergeant says to you we have...this
259 is a crime or this is the situation we're dealing with, this is the person we're dealing with and we
260 believe that x number of weapons are present or x number of people are present and we've tried
261 everything we can do to get them to come out and we're not comfortable walking away. We need help
262 and so we determine based on what the situation is whether or not HNT will come out. And most often
263 they are willing to do that.

264 **RENNA:** And if an on-scene sergeant makes that request, who would that call go to?

265 **BIRKINBINE:** It would go to, it would go through radio. Radio would page out a HNT sergeant and
266 the sergeant would call from wherever they are would call that supervisor on-scene directly and have
267 that conversation. And then the HNT sergeant would have the on-scene supervisor send a request for
268 an HNT call-out through BOEC and all the pages would go out from radio.

269 **RENNA:** Okay. Conceivably that request would go through you?

270 **BIRKINBINE:** Well, it would go through the on-scene sergeant in charge. So, it could conceivably
271 yes, but in this particular situation Sergeant REYNA was the on-scene sergeant. If she would have
272 asked me to make that I would have.

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273 **RENNA:** After you arrived, what did you understand your role to be?
274 **BIRKINBINE:** Well, I was there in a support role for Sergeant REYNA. I didn't have a job. I didn't
275 have a function. She didn't give me something she needed me to do. I was there purely to offer my
276 support to her as another sergeant. So, I didn't have a role that was given to me. So, I saw a need what
277 I believe was a need and Officer QUACKENBUSH was gonna make contact with Mr. CAMPBELL
278 and so I just filled in the hole where I thought there was a need and assigned myself to help him.
279 **RENNA:** And did you ever discuss what that was, what you were stepping into with Sergeant
280 REYNA?
281 **BIRKINBINE:** I don't remember ever having that discussion with her.
282 **RENNA:** Did she see you there with...
283 **BIRKINBINE:** Yes.
284 **RENNA:** ...with Officer QUACKENBUSH?
285 **BIRKINBINE:** Yes.
286 **RENNA:** Okay. At that point in time, what was your understanding of who was in charge of the
287 custody team?
288 **BIRKINBINE:** Sergeant REYNA.
289 **RENNA:** Are you aware of a lieutenant or a captain being called and advised of what was transpiring?
290 **BIRKINBINE:** No.
291 **RENNA:** Were there any discussions between yourself and Sergeant REYNA that that would be a
92 course of action to take?
293 **BIRKINBINE:** We did not talk about, no we didn't talk about calling the lieutenant. We were, we
294 were still working through the process of trying to figure out exactly what we had because we still
295 hadn't make contact with Mr. CAMPBELL to determine if he even knew we were there. We hadn't
296 make contact with him to find out will you send the kids out, will you come out. We hadn't talked to
297 anybody yet, so we were still in the process of setting up containment, we were in the process of...I
298 shouldn't say we. Sergeant REYNA was in the process of setting up containment. She was in the
299 process of setting the custody team. I was in the process of talking to Officer QUACKENBUSH. We
300 talked, the two of us, about what our responsibility was in this situation. If we get the kids out, what is
301 our responsibility to the people in the apartment complex, to Mr. CAMPBELL, to the girlfriend. At
302 what point do we decide we can walk away when we're so convinced that he is not a danger to himself
303 or others? We talked about that. We talked about what's our responsibility in this call and, but we
304 didn't, we weren't ever to the place where anybody told us where Mr. CAMPBELL said he was not
305 going to cooperate with us. So, this call that we were on, it took up a lot of resources because it was a
306 big building and it had a lot of areas to contain, but it was no different than something that sergeants do
307 and officers do regularly.
308 **RENNA:** Were you having those discussions with Sergeant REYNA prior to the children coming out?
309 **BIRKINBINE:** Yes, we were having those conversations, referring to my report here.
310 **RENNA:** And just for clarification for the tape, you say you were referring to your report and actually
311 it's a transcript of your interview with Sergeant MCGLATHERY of the Detective Division the night of
312 the shooting, is that correct?
313 **BIRKINBINE:** Yes.
314 **RENNA:** Okay. I think you've already touched on it, but was anyone specifically tasked with
315 communicating with the other officers on the scene any information that was learned through
316 communication with Mr. CAMPBELL?

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317 **BIRKINBINE:** I don't know that anyone was tasked for that. I believe that Sergeant REYNA was
318 putting out broadcasting information. When we had little bits of information to put it she was putting it
319 out

320 **RENNA:** And how did she learn of it?

321 **BIRKINBINE:** She was, she and I were in the same alcove. So, she was hearing me she was, I was
322 telling her what was happening or she was hearing what was happening as I talked with
323 QUACKENBUSH.

324 **RENNA:** Did you do any communication over the air with other officers regarding what was being
325 discussed with Mr. CAMPBELL?

326 **BIRKINBINE:** I don't remember putting information out over the air. Our conversations when we
327 got to actually have a conversation with Mr. CAMPBELL, they were very short and they were very
328 one-sided. Officer QUACKENBUSH did all, and realize I can't hear Mr. CAMPBELL's side of any of
329 the conversation because it's telephone. I'm listening to Officer QUACKENBUSH's side. But the
330 conversations were very, very short and they were, usually consisted of Officer QUACKENBUSH
331 telling him something to the effect of we're not here to hurt you. We want you to be safe. We're
332 worried about those kids in the apartment. We are, we want to resolve this. You know, there is, we
333 don't even know if there's a crime here. He was trying really hard to make Mr. CAMPBELL feel
334 confident that we were not there to hurt him. We really were concerned about his welfare. Officer
335 QUACKENBUSH told him that he was, and this may have actually been in a text message, but told
336 him he was really sorry about the death of his brother and that he felt badly about he lost his brother
337 and so, but the conversations and the communication with Mr. CAMPBELL were very, very limited.
338 And what we could determine from the limited conversation was it was hard to make an accurate
339 assessment of Mr. CAMPBELL because we really had very little information. So, when the call ended,
340 either Mr. CAMPBELL hanging up on us or because the phone had problems, there was very little
341 information to put out on the air. Usually it consisted of, it would have consisted how we put it out, we
342 had a short phone call with Mr. CAMPBELL or we had the short phone call with the subject. That
343 would have been the limited scope of it. There really wasn't very much information to put out.

344 **RENNA:** How was it, how did it come about that the children got released from the apartment?

345 **BIRKINBINE:** We, I'm referring to my report here, we made a phone call into Mr. CAMPBELL and
346 he was able to tell him we're not here to arrest you. We want to make sure that you're okay. Our
347 biggest concern is the kids that are in the house with you. That's what we're really concerned about.
348 We're not gonna be able to leave until we have those kids out of there, something to that effect is what
349 Officer QUACKENBUSH said. And the phone went dead very shortly after him saying we're not
350 gonna be able to leave until we have those kids out of there and within seconds I heard information
351 from the uniform officers out on the perimeter that the kids were out. They had walked down the
352 stairs. There were three little ones. They had obviously been given direction because, from Mr.
353 CAMPBELL, because of the way they came down. They looked immediately for police officers and
354 they walked right to them. And so it was so quick that, and it wasn't a conversation we had with Mr.
355 CAMPBELL, it was information, hey this is, we really need to have those kids out of there and the
356 phone went dead instantly. There was no response back. There was no ability to give a direction of
357 how we would like the kids to come out. There was no ability to have Mr. CAMPBELL say yeah I
358 think that's a good idea. There was nothing and those kids just came out. We weren't prepared for it
359 because usually, in my experience, there is a conversation with the person on the other end of the
360 phone that says okay how would you like them to come out or even no they're not coming out. Usually
361 there's a conversation. There was no conversation. The kids just appeared. So, we were operating, we

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362 weren't prepared for them and we just responded. The officers on the scene did a good job and they
363 just reacted and they just got the kids and they got them out of harms way and they took 'em back to
364 someone who was waiting for them.

365 **RENNA:** Was Sergeant REYNA aware that you were, and Officer QUACKENBUSH, were going to
366 have that conversation with Mr. CAMPBELL?

367 **BIRKINBINE:** I believe so. I believe we were, I believe she and I had talked specifically about
368 needing to get those kids out of there.

369 **RENNA:** Was that immediately before the communication before Officer QUACKENBUSH and Mr.
370 CAMPBELL or was that a discussed part of a generic plan for the incident?

371 **BIRKINBINE:** I think it was part of, just part of a, part of our general discussion.

372 **RENNA:** Okay, and where I'm going with this is just how much Sergeant REYNA could have
373 anticipated the children or the officers out by the patrol car could have anticipated that that was being
374 discussed. Don't know?

375 **BIRKINBINE:** I don't know.

376 **RENNA:** Okay. You were shaking your head like...

377 **BIRKINBINE:** I don't know.

378 **RENNA:** ...you didn't know.

379 **BIRKINBINE:** I'm not exactly sure what response you're asking me for.

380 **RENNA:** Well, just an idea of how long after you had this generic discussion with Sergeant REYNA
381 that it was with the conversation between Officer QUACKENBUSH and Mr. CAMPBELL took place?

382 **BIRKINBINE:** I don't know the answer to that. I can't remember.

383 **RENNA:** Okay. After the children came out, now what was your assessment of the situation or of the
384 incident?

385 **BIRKINBINE:** Well, it had changed. As far as we knew, the only people, and we didn't know for
386 sure, but we believed the only people inside the apartment were Mr. CAMPBELL and the three kids.
387 And so we've gone from having a potential hostage or a potential victim situation to having maybe a
388 suicidal person, maybe with a gun, by themselves in a house. So, it changes dramatically because we
389 maybe don't have innocent victims, especially innocent children inside and that's important. That's a
390 big deal for us. So, we have the ability now to focus on Mr. CAMPBELL and to determine, if we can,
391 what is his state of mind. Can we continue? We had a short conversation with him and he gave us the
392 kids and that was a...we took that as a real positive at the time. And he did it quickly and so we
393 believed well maybe he, maybe he is willing to help us work through this. And so we went back and
394 we, Sergeant REYNA and I we began talking and she started wanting to, she wanted, she started
395 wanting to pull out. She started wanting to get, to determine what his state of mind was and then she
396 was very willing to start to make some kind of a withdrawal, a police withdrawal. And so that was
397 kind of the direction she was hoping to move in from the conversations that we had.

398 **RENNA:** And at that point in time, I realize that there was a significant amount of time between the,
399 when the children walked out and when Mr. CAMPBELL walked out. But at that point in time after
400 the children walked out what were your thoughts on walking away?

401 **BIRKINBINE:** Well, I was willing to, I was willing to walk away and withdraw police presence.
402 But I also felt like we had a responsibility to make sure that we weren't, that we weren't gonna have to
403 come back later. I felt we had a responsibility to make sure that the girlfriend and the three kids had a
404 place to go. This was their house. This wasn't Mr. CAMPBELL's house. So, I was concerned about
405 leaving him and then thinking maybe that this girlfriend and these three kids would walk back into a
406 potentially dangerous situation. It's an apartment building and so I was concerned about neighbors. I

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407 was concerned about the community in general close by. I was concerned about the length of time that
408 Mr. CAMPBELL had been despondent and at the loss that he just suffered in the loss of his brother. I
409 felt like we needed a lot of assurance from Mr. CAMPBELL through a conversation or through a face-
410 to-face conversation or something...I felt like there had to be something pretty significant for us to
411 leave, significant in the way that it allowed us to be very, very confident that he wasn't gonna harm
412 himself or harm other people. I was willing to do, but I thought we had a relatively high threshold
413 before we could just leave as police officers. I thought we had a, I think we have a pretty significant
414 responsibility. And those were conversations that I had with Sergeant REYNA.

415 **REYNA:** Okay, and this is after the children are released or is that just all just a kind of hodgepodge if
416 you will of conversations?

417 **BIRKINBINE:** No, this was, that was pretty specific. After the kids were out, our conversation
418 became pointed around can we, what threshold do we need to achieve for us to withdraw police
419 resources.

420 **REYNA:** During your grand jury testimony, you indicated that you had discussed with Sergeant
421 REYNA on whether, if Mr. CAMPBELL came out of the apartment, whether you would allow him to
422 go back inside. What do you recall of that discussion?

423 **BIRKINBINE:** Uh, I recall having the conversation with her. I'm trying to remember what her, I'm
424 trying to remember what I heard her say about it. I don't recall her specific direction or specific stance
425 on it. And I don't remember that I had, I don't think I had any input specifically into that.

426 **REYNA:** So, you don't recall if there was a conclusion to...

427 **BIRKINBINE:** I don't recall what the conclusion was or what the direction, what her thinking was
428 on it. I don't remember. I don't know if we ever reached a consensus on it.

429 **REYNA:** Okay. Do you have an opinion on it? I mean did you? I don't want you to sit here now...

430 **BIRKINBINE:** (laughter).

431 **REYNA:** ...after this amount of time and do it, but at the time did you have an opinion on, with the
432 circumstances that you were looking at?

433 **BIRKINBINE:** I don't remember my, I don't remember any statements that I made about it either.

434 **REYNA:** Do you recall any officers on scene of the incident being told that if Mr. CAMPBELL came
435 out that he wouldn't be allowed to go back into the apartment?

436 **BIRKINBINE:** I don't remember that. I don't remember hearing that.

437 **REYNA:** It is my understanding that there was a conversation involving the use of the canine as a less
438 lethal tool. Do you recall a conversation between yourself and Sergeant REYNA about that?

439 **BIRKINBINE:** No.

440 **REYNA:** On whether the dog could be used as less lethal if Mr. CAMPBELL came out of the
441 apartment?

442 **BIRKINBINE:** I don't remember. I don't remember that specific, I don't remember having that
443 conversation. Not to say we didn't. I just don't remember it specifically.

444 **REYNA:** Okay. Try to jog your memory a little bit. Do you remember that conversation getting to
445 the point where Officer ELIAS called his sergeant to ask whether the dog could be used in that kind of
446 application?

447 **BIRKINBINE:** No. And much of the, much of the tactical response to this I wasn't, I was maybe
448 listening but I don't remember having a whole lot of discussion from a tactical application or tactical
449 resolution on this because I was talking, because I was with Officer QUACKENBUSH. I remember
450 putting, I remember talking specifically about what our responsibility is to stay and help resolve this

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451 situation. As far as the tactics go, I don't remember a lot of, I don't remember being involved in a lot
452 of those conversations with how, how Mr. CAMPBELL was going to be addressed if he came out.
453 **RENNA:** After the children came out, again and prior to Mr. CAMPBELL came out, there was about
454 30 minutes I believe time span in there. What was going on in that 30 minutes of time?
455 **BIRKINBINE:** Well, I believe that Sergeant REYNA was still managing the perimeter and making
456 some, making sure we had resources covered on the perimeter with the contact team out in the parking
457 lot. There was those discussions about what's the plan. What are we going to do? There was some
458 discussion with, I talked with Officer QUACKENBUSH about, during that first conversation where the
459 kids come out, he and I had conversations about...and seemed to tell me about the demeanor of Mr.
460 CAMPBELL and what that conversation like. I was trying to draw as much information out of him as I
461 could even though the conversation was so limited. So, we talked about Mr. CAMPBELL's demeanor.
462 We talked about how he might be able to engage him in a conversation. What kind of, was there a
463 strategy? Could we develop a strategy? What kind of message do we want to get to Mr. CAMPBELL
464 when and if we have an opportunity to do that? At some point, Sergeant REYNA was pulled out of the
465 alcove where we had all been to brief Captain DAY and Lieutenant RODRIGUES when they arrived
466 on scene.
467 **RENNA:** That's a little bit ahead of where I wanted to get.
468 **BIRKINBINE:** Oh, okay.
469 **RENNA:** But we'll get to that point. While this was going on in the 30 minutes of time, who was in
470 charge of the scene?
471 **BIRKINBINE:** Sergeant REYNA.
472 **RENNA:** Okay. When you were talking with Officer QUACKENBUSH and trying to draw
473 information out, how do you feel that Officer QUACKENBUSH was in communicating what he was
474 learning to you?
475 **BIRKINBINE:** He was effective. There just wasn't very much to communicate.
476 **RENNA:** Okay. So, you think you were getting the information that he was receiving from Mr.
477 CAMPBELL? You felt confident in that?
478 **BIRKINBINE:** Yeah, I felt like it was a fair representation.
479 **RENNA:** You've made a couple references when you talked about this span of time in the alcove
480 about the plan and about discussions that you had. Just to be specific, what was Sergeant REYNA's
481 plan?
482 **BIRKINBINE:** My impression from her was that she wanted to determine if Mr. CAMPBELL, is he
483 suicidal? Is he at a place mentally where we need to continue to have police presence or is he stable
484 enough that we can withdraw? And then her hopes were that he was in a place where if we have the
485 kids out and if he was stable enough, her hope was to withdraw the police resources and leave.
486 **RENNA:** Did that differ from what your plan was?
487 **BIRKINBINE:** No.
488 **RENNA:** Did you have a different threshold?
489 **BIRKINBINE:** Of, different threshold of what?
490 **RENNA:** In order to reach the point where you withdraw?
491 **BIRKINBINE:** I would say my threshold was probably higher where I felt comfortable leaving. My
492 threshold was probably higher.
493 **RENNA:** As Officer QUACKENBUSH was communicating with Mr. CAMPBELL, was that
494 threshold that you had, was that lowering, was it raising or was it staying the same?

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495 **BIRKINBINE:** Uh, my threshold after, after the conversation of where Mr. CAMPBELL sends the
496 kids out immediately and after the couple of text messages we received, I felt like we were getting
497 closer to reaching my comfort level and leaving. So, we were getting there I felt like, but I was, I was
498 still concerned about, I was still concerned about the unknown of the gun that had been pointed at
499 himself and was in that apartment or told to us to be in that apartment. I was concerned for the rest of
500 the...everybody else who lived in the vicinity of that apartment building. I was still concerned that, I
501 was concerned up to a point where we actually got to see him, to physically talk to him. That was one
502 of the things that was really going to make me feel confident in being able to leave was is he willing to
503 come out and talk with us so that we can have a face-to-face conversation so he can tell us, you know,
504 this has been hard a time and I this, you know, there's a lot of drama here but I really am okay. And I
505 felt like that was pretty important in talking to him face-to-face and we regularly, I mean that's a big
506 part of what sergeants and officers do in these situations is we set up a perimeter. We call people on
507 the phone. We ask them to come out and talk to us. We know that it's not safe to just walk up to a
508 door and ask, you know, to somebody who is homicidal or suicidal and may or may not have a gun or
509 information we believe they have a gun. We know that we don't want to, we don't want to push people
510 like that. We don't want to ask people. We don't want to expect that person to know what we're
511 gonna do. If we walked up to the door, we can't expect them to believe that we're not coming in for
512 them. We can't escalate like that. So, we set up as safely as we can. We make a phone call. If it takes
513 a couple of minutes for him to come out or if it takes hours for him to come. And we really want them
514 to come out so we can make sure that that person is safe, that that apartment is safe and that resident is
515 safe. It's a pretty standard thing for us to do.

516 **RENNA:** Did you get the impression in your conversations with Sergeant REYNA that she was hours
517 away from walking away?

518 **BIRKINBINE:** She was hours away?

519 **RENNA:** Well, you just mentioned that sometimes you would have to wait hours in order to leave a
520 scene or that you, to end an incident. I think you were just talking in generic terms.

521 **BIRKINBINE:** I was purely talking in generic terms.

522 **RENNA:** But in this instance, do you, did you get the impression that she was looking at that kind of
523 time frame at where the incident was?

524 **BIRKINBINE:** No. No, I didn't get the...I'm not exactly sure how that...we never talked time. I
525 think she would have stayed as long as it took and I never got the impression from her that she was
526 trying to rush getting out per se.

527 **RENNA:** Do you think she was close to giving the order, the direction to the people on the scene to
528 pull out?

529 **BIRKINBINE:** Uh, yeah I think she was pretty close to her threshold, being confident that she could
530 leave and feel okay about it.

531 **RENNA:** And was she still, had anybody else arrived to take control of the scene at that point?

532 **BIRKINBINE:** No, because she was still with me. As soon as the captain and lieutenant arrived or
533 very shortly after they asked for her to come back to brief them.

534 **RENNA:** So at that point anyway she was still the one that was giving the direction?

535 **BIRKINBINE:** Yes.

536 **RENNA:** In your answer just a little while ago, you made reference to Officer QUACKENBUSH
537 exchanging texts with Mr. CAMPBELL. Um, is that a I want to say common way to communicate
538 with people in apartments? You've been involved in texting other people?

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539 **BIRKINBINE:** It's becoming more and more common with technology developing like it does and
540 the hostage team has taken steps in the last year or so to get a phone...we understand that texting is
541 gonna, is gonna become a bigger and bigger part of negotiation because so many people text and so
542 many text and use the phone less. And so we understand a lot of times that people may not answer a
543 phone call but they will almost always read a text message because there's no commitment in reading a
544 text message. If you answer a phone call, you're a little bit committed to talking to whoever is on the
545 other line. But if you send a text message there's no commitment there. So, you can send a message
546 and almost be guaranteed that whoever is looking at it is going to read it even if they don't know who
547 it's coming from and that's a way for you to start communication. And so that, with a subject who may
548 not answer a phone number he certainly doesn't recognize or may believe that a phone number he does
549 recognize is compromised, he may not answer the phone. So, you're stuck leaving a voice message.
550 But if you sent a text message, you're at least able to get your side of the message out to somebody.
551 You are able to start a one sided dialogue and start to build a rapport hopefully that maybe will lead to
552 a conversation, in all hopes it will lead to a conversation.

553 **RENNA:** I think you've described an effective way it might be used, are there ineffective or
554 downsides to use a text?

555 **BIRKINBINE:** The downside to text is you can't gauge a person's emotion, you can't gauge their
556 tone of voice. We may not know what an abbreviation means if you're not well versed in the language
557 of text messaging. You have to...a text message can be crafted more than a spoke language can so
558 someone can send the exact words that they want you to read and you may not be able to read between
559 the lines so much as you can in an actual conversation. Those are some of the downsides. The other
560 downside is there can be an infinite amount of time between text messages. It's harder to do that by
561 voice.

562 **RENNA:** In any of your conversations with Officer QUACKENBUSH, did you ever ask him to ask
563 Mr. CAMPBELL where the gun was that had been referred to?

564 **BIRKINBINE:** No.

565 **RENNA:** How come?

566 **BIRKINBINE:** Well, we were, we were really just trying to, didn't want to jump straight to the gun. I
567 wanted to try to develop a little bit of, I wanted to try to develop a rapport. So, a little bit of trust. A
568 little bit of something that said that we're not gonna hurt you. We just want to make sure you're okay
569 and I didn't want to rush into where's the gun and just wasn't the direction I thought was prudent.

570 **RENNA:** Was there any direction given to Officer QUACKENBUSH to communicate to Mr.
571 CAMPBELL that if he did come out to leave the gun inside?

572 **BIRKINBINE:** No.

573 **RENNA:** On the calls like, that you were on in this particular instance, have you walked away from
574 calls similar to this?

575 **BIRKINBINE:** Yes.

576 **RENNA:** Without having the people come out?

577 **BIRKINBINE:** I'm sure I have. I can't think of any specific, but I'm sure I have.

578 **RENNA:** And how have those gone? Have there been...

579 **BIRKINBINE:** It could go either way. Sometimes we have to go back, sometimes we don't.

580 **RENNA:** Did you talk with Sergeant REYNA about, did you communicate to her we should ask him
581 to come out?

582 **BIRKINBINE:** I don't remember if I said it that pointedly to her. I'm pretty sure that was part of my,
583 part of our conversation was I'd like to see him. I would like to have him come out so we could

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584 evaluate him, but I don't remember saying to her specifically, I don't remember saying that
585 specifically. But I remember that being part of what I was communicating as my comfort level in this
586 situation, my threshold of feeling confident.

587 **RENNA:** Do you remember what her response was to you on that specific point?

588 **BIRKINBINE:** I don't remember.

589 **RENNA:** We don't need to have him come out. I want him to have him come out.

590 **BIRKINBINE:** I don't remember.

591 **RENNA:** Do you remember if she agreed with you?

592 **BIRKINBINE:** No, I don't remember.

593 **RENNA:** Let me ask you this, on this time that you were spending in the alcove conversations
594 between you and officer, or Sergeant REYNA I'm sorry, how would you characterize and how would
595 you describe them? Were they amicable? Were they tense? Did they get argumentative?

596 **BIRKINBINE:** Um, she and I were...we had different thresholds of...my threshold for leaving was
597 higher than hers my ability to walk away. I think she was frustrated with me at times because she had
598 in her mind a plan and a vision of how this was supposed to go and how it was supposed to happen and
599 for us to be able to withdraw and I was asking her questions and talking about what I thought our
600 responsibility was and what if this and what do we do here and those were things that I think she had
601 already worked out in her own mind and since she was the on-scene supervisor, she was managing
602 those things. But because my, I felt a responsibility to...my threshold was higher and I felt a
603 responsibility to make sure that this was...we weren't gonna have to come back to make sure nobody
604 else was gonna get hurt and I'm not saying she didn't. I just had these things in my head that I wanted
605 to talk it out them with her and so I kept bringing them up. And so I think she was a little frustrated
606 with me because she already knew where she was going with this and I kept almost dragging her back
607 into having those conversations with me when she was already past that. She had already decided how
608 she wanted to get to the end result of this. So, she was, it was never, it was never rude. It was never,
609 we were never fighting. We were never arguing. We just were coming at trying to figure out, trying to
610 communicate. She was very busy and she was running the incident and some information I didn't have
611 that I felt I needed and so it was tense but it was never argumentative. It was never, we were never at
612 the place where we weren't able to get along or communicate. So, does that answer your question?

613 **RENNA:** Sure. I'll ask both of you, we've been at it for about 65 minutes, would you like a break?

614 **BIRKINBINE:** Sure.

615 **RENNA:** Ok, then we'll break and it is 1826. This is BARRY REYNA again. We're back on tape it
616 is 1837 hours and I think we left off, we were just discussing the conversations that you were having
617 with Sergeant REYNA in the alcove. Um, how did it come about that Sergeant REYNA left the
618 alcove?

619 **BIRKINBINE:** Uh, she was asked to leave the alcove when Lieutenant RODRIGUES and Captain
620 DAY arrived on scene because they wanted to be briefed on the incident as it was happening so that
621 they could assume command of the incident.

622 **RENNA:** Do you remember if that request for her to go brief them was done over the radio or was it
623 done on the phone, do you recall how that was communicated?

624 **BIRKINBINE:** I thought it was done over the air, over the radio air. I don't know if the was on a
625 Tac Net or on the Regular Net.

626 **RENNA:** Do you remember if Sergeant REYNA had a reaction to being asked to leave the alcove at
627 that point in time?

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628 **BIRKINBINE:** Um, I think she, I think she felt like she was managing the incident, she was
629 managing the incident and it was gonna be really hard for her to manage the incident without being on
630 scene watching the incident and being involved briefing the captain.

631 **RENNA:** Okay. Did she communicate that to you in some fashion or anybody there in the alcove?
632 **BIRKINBINE:** Uh, I think she just said something to that effect of, you know, I'd like to, you know,
633 I'd like to stay here and manage the incident instead of go back and brief the captain. Something to
634 that effect. I don't remember her exact language on it.

635 **RENNA:** Prior to her leaving the alcove, did she communicate with you that she was prepared to walk
636 away from the apartment complex and just wanted a promise from Mr. CAMPBELL that he wasn't
637 gonna hurt himself?

638 **BIRKINBINE:** She was, she was ready to, she was ready to walk away from the apartment complex
639 as soon as we were confident that Mr. CAMPBELL wasn't going to hurt himself, yes.

640 **RENNA:** Did she say that she only wanted a promise from him that he wasn't going to hurt himself?
641 **BIRKINBINE:** I don't remember specifically. It sounds, I don't remember if she used the word or
642 promise or what, she wanted to hear from Mr. CAMPBELL that he was okay.

643 **RENNA:** Do you recall if Sergeant REYNA wanted that assurance from Mr. CAMPBELL in person
644 outside of the apartment or was she satisfied with a telephone communication?

645 **BIRKINBINE:** She was satisfied. She didn't need to see him. She didn't need to talk to him in
646 person I don't think.

647 **RENNA:** When or just prior to Sergeant REYNA leaving, did she give any directions as the one
648 running the scene on to either you or to anybody else in the alcove prior to leaving, do this, do that.

649 **BIRKINBINE:** I don't remember getting any specific direction.

650 **RENNA:** After Sergeant REYNA left, do you recall Officer QUACKENBUSH asking Mr.
651 CAMPBELL to come outside the apartment to make sure he was okay?

652 **BIRKINBINE:** Yes, and part of that was that we had, part of the discussion that I had with Sergeant
653 REYNA, or part of the plan we were making was to have the kids come out, we have this period of
654 time, this half hour or however long it was and trying to figure out how we were going to get
655 information from Mr. CAMPBELL knowing that the phone call that we'd made into get to the kids out
656 was so short, and so we'd made the decision to try sending a text message. And so we started to get,
657 we sent a text message and we got a text message back and then we got another text message from him
658 that un...not in response to one that we had sent him. So, he sent one on his own and in essence that
659 text message said it's strange that you're texting me and not calling me. And so, Officer
660 QUACKENBUSH showed me that text message and that was when I directed him to make a phone
661 call in to Mr. CAMPBELL. It was, we took that as, because it was an unsolicited text message, we
662 took that as almost him reaching him, him saying, you know, why aren't you trying to call me? Why
663 aren't you having contact with me? And so, that was my direction to QUACKENBUSH. It sounds
664 like he's, I took that as it sounds like he's wanting us to call him and QUACKENBUSH felt the same
665 way. So, I said let's call him. If he wants to talk, let's talk to him.

666 **RENNA:** On that e-mail or that text message that you're talking about, was Sergeant REYNA still in
667 the alcove at that time?

668 **BIRKINBINE:** No.

669 **RENNA:** Okay, and on that text message, was that the same one that he makes reference to kudos to
670 you?

671 **BIRKINBINE:** Different text message.

672 **RENNA:** Different?

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673 **BIRKINBINE:** That was the second one. The first one was Officer QUACKENBUSH sends a
674 message something to the effect of we just want to make sure you're not gonna hurt yourself, kill
675 yourself.

676 **RENNA:** And he responded...

677 **BIRKINBINE:** He responds back to you, you know, I'd never do that. Kudos to you guys you text
678 you text too, something to that effect. We took that as a little bit of humor, a little bit of, at least a
679 willingness to say a little more than the bare minimum. And then the next one was it's strange that
680 you're texting and not calling JIMMY. He refers to Officer QUACKENBUSH as JIMMY. And in my
681 experience I took that as he's reaching out to us. He's reaching out from a standpoint of why is nobody
682 trying to get a hold of me. So, I directed Officer QUACKENBUSH to call him.

683 **RENNA:** When you said that, well we talked about Sergeant REYNA was looking for an assurance
684 from Mr. CAMPBELL prior to walking away. That text message about want to make sure you're not
685 gonna hurt yourself and his response is never, did that reach Sergeant REYNA's threshold for packing
686 up and leaving?

687 **BIRKINBINE:** I don't know

688 **RENNA:** Did she communicate anything along those lines? Did she say we're just about done, we're
689 getting ready to go?

690 **BIRKINBINE:** Uh, I think it was real close.

691 **RENNA:** Did she communicate anything, do you recall?

692 **BIRKINBINE:** I think she felt good about receiving that text message. She felt like she, we had had
693 some positive communication from him and she even put that out on the air we've had positive contact
694 or however it's worded. It's worded in the call here, but she put that saying we had a positive text or
695 positive contact from him. As to whether or not she would say okay let's pack up and go home that's
696 good enough for me, I don't know the answer to that. I just know she felt good about receiving that
697 text message from him that said I'm not gonna hurt myself.

698 **RENNA:** I'm not trying to ask you to get inside her head, I'm just wondering if she said anything prior
699 to walking out of the alcove, you know, we're there, we're gonna go. Do you recall her saying
700 anything like that?

701 **BIRKINBINE:** No.

702 **RENNA:** Okay.

703 **BIRKINBINE:** I don't remember her exact words on that.

704 **RENNA:** When Sergeant REYNA left the alcove to go brief the lieutenant and the captain, who was
705 in charge of the incident?

706 **BIRKINBINE:** Well, it was never handed off per se that she was not in charge any more. Typically,
707 in the ICS model that we operate under, she is still in charge of the incident until she is relieved of
708 command by someone there who can relieve her of command, whether it's a higher ranking person
709 or...she is still in charge of that incident. So, just because she's not present in the alcove it doesn't
710 change the command structure just by her changing locations. So, in my mind I thought she was still in
711 charge of this. She's going to brief the captain and lieutenant. They're gonna get briefed. They're
712 gonna assume command. That's typically what happens.

713 **RENNA:** Okay. After Sergeant REYNA left to do that briefly, did you tell Officer QUACKENBUSH
14 to have Mr. CAMPBELL come out of the apartment?

715 **BIRKINBINE:** What I told Officer QUACKENBUSH on the phone, I told him to talk with Mr...I
716 told him to tell Mr. CAMPBELL we'd like you to come out or are you willing to come out or, you
717 know, if you'll come out and talk to us we can get this thing wrapped up, something to that effect.

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718 **RENNA:** And that was done in the form of a telephone call?
719 **BIRKINBINE:** That was an actual telephone call, yes.
720 **RENNA:** Do you know how Mr. CAMPBELL responded?
721 **BIRKINBINE:** He hung up or the phone went dead. I'm assuming he hung up, the phone went dead.
722 So, there was no, there was no verbal response from Mr. CAMPBELL to my knowledge. There was
723 nothing that said okay I'll come out or nothing to the effect of how would you like me to come out or
724 nothing. It was the exact same pattern that it was when we asked for the kids. It was hey we really, we
725 really need those kids. Phone went dead and the kids came marching out. It was the exact same
726 pattern of, so there was no opportunity to give directions. I was putting it out there or I had Officer
727 QUACKENBUSH put it out there from a standpoint of he has sent us a text message. It sounded like
728 an invitation to call. Let's call and let's just cut to it because we don't know how much time we're
729 really gonna have here. The last conversation was super short and let's just tell him, you know, we're
730 not here to hurt you. This would be a lot easier if you would come out and talk to us. And there was
731 never an opportunity to give directions, to talk about leaving the gun, to come out with your hands up.
732 There was none of that. The phone just went dead after a few seconds. So, there was no indication
733 from him (someone coughing) or there was no indication, there was no response from him.
734 **RENNA:** And my next question was gonna be were you at all concerned about asking Mr.
735 CAMPBELL to come out when he's already been described by several people as being armed?
736 **BIRKINBINE:** Well, in posing it to Mr. CAMPBELL, we'd sure like to talk to you or we'd like to
737 have you come out and talk to us face to face, I was really hoping it would lead to a discussion of how
738 to do that. I was obviously concerned that there had been a gun involved and concerned that he may
739 have the gun on him or the gun may still be there, but I didn't, I felt like we were really limited on time
740 as to what we would say to him. And so I just posed the idea of hey this would be a lot easier if you
741 would come out and talk to us hoping it would lead into some conversation.
742 **RENNA:** Did the information regarding your request to Mr. CAMPBELL to come out, did that ever
743 get communicated to the officers out on the custody team we're about ready to ask him to come out.
744 We're gonna ask him to come out. He's just been asked to come out, anything like that?
745 **BIRKINBINE:** No it didn't, no it didn't.
746 **RENNA:** And how come?
747 **BIRKINBINE:** Well, I wasn't, I wasn't putting it out there asking him to surrender, asking him
748 to...we were putting it out there for discussion. Hey, this would sure be a lot easier if you would come
749 out and talk to us or we'd really like to have you come out hoping it would lead into some discussion.
750 Within just a few seconds he was out the door. So, that's why I didn't put it out because I really didn't
751 know what the end result was gonna be, so I didn't put anything out to the uniform officers because I
752 didn't have an end result, I didn't know what was gonna happen.
753 **RENNA:** With Sergeant REYNA gone, putting out that information, who did, whose responsibility
754 did that become?
755 **BIRKINBINE:** Communicating that information to uniform?
756 **RENNA:** Yes, if something was to have developed.
757 **BIRKINBINE:** Well, it would have been my responsibility. We never talked about it, but I would
758 have taken that on.
759 **RENNA:** When Mr. CAMPBELL came out of the apartment, do you believe from, from things that
760 you observed either hearing or seeing, were the officers out on the custody team surprised by his
761 appearance?
762 **BIRKINBINE:** Yes.

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763 **RENNA:** Your communication to Officer QUACKENBUSH to have him come out, did that, did that
764 run counter to what Sergeant REYNA's goal was this incident?
765 **BIRKINBINE:** The goal that we had talked about in the alcove was we want to make sure, we want
766 to make sure he's okay. So, having him come out to determine that he's okay or not okay I think is a
767 great result to this incident, the ability to determine, talk to him face to face are you okay or Can we do
768 something for you, are you a danger to yourself or others? I think that is, I think that's a good result to
769 have him come out.
770 **RENNA:** But did it run counter to what Sergeant REYNA's goal was?
771 **BIRKINBINE:** No, our goal was to determine, our and hers was to determine is he okay. Is he
772 suicidal or is he not?
773 **RENNA:** Okay. Uh, how quickly did he come out after ending with communication with Officer
774 QUACKENBUSH?
775 **BIRKINBINE:** Seconds.
776 **RENNA:** Okay. Not enough time for another call back?
777 **BIRKINBINE:** No.
778 **RENNA:** And it's my understanding from reading the interview and stuff that because you were in the
779 alcove, you heard the officers indicate that he was out by saying he's out or something similar to that.
780 Now did you reposition yourself in the alcove and move out towards the parking lot in order to see
781 what was going on?
782 **BIRKINBINE:** I stayed in the alcove because I could look out of the alcove and see him for where I
783 was.
784 **RENNA:** You moved from the back of it, I mean...
785 **BIRKINBINE:** I had already moved away from the back closer to the front.
786 **RENNA:** After Sergeant REYNA left?
787 **BIRKINBINE:** Yes.
788 **RENNA:** Okay. So, you could see Mr. CAMPBELL at some point after he came out?
789 **BIRKINBINE:** Yes.
790 **RENNA:** Okay, and he starts backing up. So, you didn't see the very beginning of when he came out.
791 So, he's in the parking lot when you first saw him?
792 **BIRKINBINE:** Yes.
793 **RENNA:** Was he turned away from you?
794 **BIRKINBINE:** Yes.
795 **RENNA:** Okay. So, his back was to you?
796 **BIRKINBINE:** Kind of his right shoulder, back.
797 **RENNA:** Okay. Um, and was he being given directions by the officers that were positioned behind
798 the patrol car?
799 **BIRKINBINE:** Yes.
800 **RENNA:** Okay, and what were the directions that he was being given?
801 **BIRKINBINE:** Um, walk backwards, come backwards towards me. Typical directions when you're
802 taking somebody into the custody, directing them back to you.
803 **RENNA:** Okay. When he was walking backwards, how fast was he coming back towards the
804 officers?
805 **BIRKINBINE:** It seemed like he was moving pretty fast.
806 **RENNA:** Okay.

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807 **BIRKINBINE:** Faster than, a little faster than normal.

808 **RENNA:** Okay. Did that cause you any concerns, the way, the speed he was walking?

809 **BIRKINBINE:** I thought it was odd but I wasn't at that point concerned about it.

810 **RENNA:** Okay. Where were his hands?

811 **BIRKINBINE:** They were behind his head.

812 **RENNA:** Okay, and I think, I don't want to go over stuff or try to extract from you information you've

813 already provided. And my understanding, but correct me if I'm wrong, is his fingertips were touching

814 but his fingers weren't interlaced?

815 **BIRKINBINE:** That's the best yeah, sorry, that's what I saw.

816 **RENNA:** Okay. How about his pants? Do you remember seeing pants, how they were positioned?

817 **BIRKINBINE:** Loose.

818 **RENNA:** Okay. Were they sagging?

819 **BIRKINBINE:** I don't remember specifically his pants.

820 **RENNA:** Okay. His jacket was, because of his hands being on the top of his head, did it raise his

821 jacket up above his belt line?

822 **BIRKINBINE:** Uh, I was looking at his hands so I don't remember seeing how far his jacket was

823 above his belt line.

824 **RENNA:** Okay. Uh, Mr. CAMPBELL gets back to a certain distance, is he told to stop?

825 **BIRKINBINE:** No, I don't hear anybody tell him to stop.

26 **RENNA:** Okay. Does he stop?

827 **BIRKINBINE:** Uh, I looked away from, for a short period where he was coming backwards to say

828 something to Officer QUACKENBUSH and I looked back because the commands escalated and that

829 drew my attention back to what was going on in the parking lot. He was stopped at that point. I don't

830 remember if, I don't know if he stopped on his own or he stopped because the officers told him to stop.

831 **RENNA:** Okay. Still got his back to the officers behind the patrol car?

832 **BIRKINBINE:** Yes.

833 **RENNA:** Okay Does he still have his hands on top of his head?

834 **BIRKINBINE:** Yes.

835 **RENNA:** Okay. Um, now you may have said it and I missed it, but when you said that your attention

836 was diverted, what was it would cause you to divert your attention at that particular time?

837 **BIRKINBINE:** Uh, I don't remember specifically. I was talking to Officer QUACKENBUSH. I

838 don't remember what I said to him or what we were talking about.

839 **RENNA:** In looking at the CAD you came out on the air and broadcast compliant so far, at least that's

840 what's on the printout and I believe what I heard on the recording, of the 911 call. What was it that

841 was going on that prompted you to broadcast that?

842 **BIRKINBINE:** When I first saw him, he, I knew that it had gotten, we had a lot of officers on

843 perimeter positions who couldn't see what was happening and so when I saw him and saw that his

844 hands were behind his head and he was walking backwards, it appeared that the custody was going

845 well. It appeared that he was being cooperative and so I wanted everyone around the building to know

846 that he was being compliant at that point so that everybody who couldn't see what was happening

847 would not wonder what was happening.

848 **RENNA:** Do you, as Mr. CAMPBELL was backing up towards the officers or when he was stopped,

849 did you hear him say anything to the officers?

850 **BIRKINBINE:** No.

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851 **RENNA:** There's approximately 8 seconds from the time that you broadcast compliant so far to the
852 broadcast of beanbags deployed. What is it that happened in that 8 seconds that resulted in a beanbag
853 being fired?

854 **BIRKINBINE:** Well, after I saw that he was walking back and appeared to be, and I broadcast that he
855 was being compliant, I looked back and I talked to Officer QUACKENBUSH or however, whatever I
856 said to him I don't remember what we talked about. And then I heard Officer LEWTON getting
857 different, getting his voice changed, it escalated and was more pointed in commands saying put your
858 hands up, put your hands up, put your hands up. And I looked back and I saw that his hands, I saw that
859 Mr. CAMPBELL 's hands were still behind his head, but I didn't see what happened from that, from
860 the point where I broadcast to the point where Officer LEWTON started giving commands because I
861 had turned over to talk to Officer QUACKENBUSH. So, when I looked back and saw that Mr.
862 CAMPBELL had his hands on top of his head I didn't know if that meant that put your hands up meant
863 Mr. CAMPBELL had dropped his hands and someone was reordering him to put his hands up or if the
864 officers wanted his hands up higher than above his head. So, I don't know what happened specifically
865 that caused the escalation.

866 **RENNA:** The escalation in...

867 **BIRKINBINE:** In Officer LEWTON...

868 **RENNA:** LEWTON'S voice?

869 **BIRKINBINE:** Correct.

70 **RENNA:** In the times that you looked at Mr. CAMPBELL or that you had him in your view, did you
871 ever see him where his hands were not on his head?

872 **BIRKINBINE:** When he was running away from the officers.

873 **RENNA:** After the beanbag was deployed? Up to the point that the beanbag was deployed, did you
874 ever see him when his hands weren't on his head?

875 **BIRKINBINE:** No.

876 **RENNA:** Okay. Did you ever see Mr. CAMPBELL turn towards the officers?

877 **BIRKINBINE:** No.

878 **RENNA:** Okay. Would you, up to the point that the beanbag round was deployed, would you just
879 describe any of Mr. CAMPBELL's action as aggressive, physical resistance?

880 **BIRKINBINE:** Well, I didn't see everything those other officers saw out there in the custody contact
881 team. I was looking away talking to Officer QUACKENBUSH for a few seconds, so I didn't see what
882 they saw.

883 **RENNA:** Did you see anything that would...

884 **BIRKINBINE:** I didn't see anything.

885 **RENNA:** ...that would be, what could be construed as aggressive, physical resistance?

886 **BIRKINBINE:** No.

887 **RENNA:** Did you hear any admonishment or warning given by Officer LEWTON or anybody else
888 that a beanbag round could be deployed if he didn't follow directions?

889 **BIRKINBINE:** No.

890 **RENNA:** Um, did, um, prior to the beanbag round being fired, did you hear anybody give the beanbag
891 warning such as to let other officers know it was a beanbag round as opposed to another type of round
892 being fired?

893 **BIRKINBINE:** No.

894 **RENNA:** Like, such as beanbag, beanbag, beanbag?

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895 **BIRKINBINE:** No.
896 **RENNA:** You never...
897 **BIRKINBINE:** No.
898 **RENNA:** Okay, and I believe in your interview you said you saw the first beanbag strike Mr.
899 **CAMPBELL?**
900 **BIRKINBINE:** Yes.
901 **RENNA:** And where did it strike him?
902 **BIRKINBINE:** It looked like it struck him in the low back/hip area.
903 **RENNA:** Okay. Were you surprised when that round went off?
904 **BIRKINBINE:** No.
905 **RENNA:** Why?
906 **BIRKINBINE:** Because whatever was happening in that instant where Officer LEWTON escalated
907 his voice and Mr. CAMPBELL was noncompliant, given the totality of that there may be a gun
908 involved, that he was not compliant with what was going on it did not surprise me that a beanbag was
909 deployed to gain compliance.
910 **RENNA:** Okay. You said, you indicated that Mr. CAMPBELL was noncompliant.
911 **BIRKINBINE:** With the commands that Officer LEWTON was giving.
912 **RENNA:** Okay, and which commands was he not being compliant about?
913 **BIRKINBINE:** Uh, my assumption was it was put your hands up was the command Officer
14 LEWTON was giving.
915 **RENNA:** So, that, it was your belief that Officer LEWTON was asking him to raise his hands higher
916 than the position on his head?
917 **BIRKINBINE:** He was asking him to do something different that he was doing because he kept
918 asking him to put your hands up, put your hands up and Mr. CAMPBELL was not, he wasn't changing,
919 he wasn't moving so whatever he was asking him to do he wasn't doing?
920 **RENNA:** First round, how quickly did the second round from the beanbag get fired?
921 **BIRKINBINE:** Pretty quickly.
922 **RENNA:** To you, did it appear that Mr. CAMPBELL's initial forward movement was a result of a
923 loss of balance from the beanbag or did it appear that he was running, that there was no hesitation he
924 was running?
925 **BIRKINBINE:** Uh, it appeared that it was a loss of balance.
926 **RENNA:** From the beanbag round striking him?
927 **BIRKINBINE:** Yes.
928 **RENNA:** Uh, how many rounds would you, do you recall striking him before he broke into a run?
929 **BIRKINBINE:** Two.
930 **RENNA:** Did you ever see Mr. CAMPBELL's hands, I think you said that when he was running his
931 hands left his head and they were in front of him.
932 **BIRKINBINE:** Yes.
933 **RENNA:** Okay. When you say in front of him, can you describe that? How were they in front of
934 him?
935 **BIRKINBINE:** Uh, like he was running.
936 **RENNA:** A running motion, a pumping motion with his forearms, the whole arm up and down kind of
937 thing? Did you ever see his arms or his hands go into his waistline?

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938 **BIRKINBINE:** Uh, I didn't see his hands, his hands come down in front of him like he was running
939 but like he was also trying to keep his pants up or something, like he was trying to kind of hold
940 something in front. I don't know if that meant he was trying to hold his pants up and grab his belt or,
941 but he was running but he was also hunched forward a little bit to me as he was running.
942 **RENNA:** Did more beanbag rounds get deployed?
943 **BIRKINBINE:** Yes.
944 **RENNA:** Okay. Uh, and what amount of space? You've got a diagram here and you can certainly
945 refer to that or this photocopy of an aerial photo, but from the point that Mr. CAMPBELL had stopped
946 and the first beanbag was deployed, to the point where he ended up by the, laying in front of the car,
947 um, how much distance do you recall that being?
948 **BIRKINBINE:** From the first round to the last round?
949 **RENNA:** Yeah, yeah.
950 **BIRKINBINE:** Boy I don't know.
951 **RENNA:** Can you give an estimate? And I'll emphasize estimate.
952 **BIRKINBINE:** I really don't know from the point where, uh, feet wise where the point where the
953 first one was deployed to the point the last one was deployed. Um, 35 feet.
954 **RENNA:** Okay, and in the course of that distance, how many more beanbag rounds were deployed?
955 **BIRKINBINE:** I believe I counted maybe five. I believe I heard five or six pops.
956 **RENNA:** Okay.
957 **BIRKINBINE:** So, I'm assuming there were five beanbag rounds and one less lethal round.
958 **RENNA:** Okay. How did, after the first two, so let's say three, how did Mr. CAMPBELL react to
959 those, did those all strike him?
960 **BIRKINBINE:** I don't know. I couldn't see where they struck. He just kept running.
961 **RENNA:** Okay. Did he have a, did you see him move his hands to anyplace that the beanbag might
962 have struck him?
963 **BIRKINBINE:** No.
964 **RENNA:** Okay. Uh, were you concerned about Mr. CAMPBELL making it back to the apartment?
965 **BIRKINBINE:** Yes.
966 **RENNA:** Why?
967 **BIRKINBINE:** Because we still had the unknown of where that gun was and we didn't know if it had
968 been left in the apartment. We didn't know if he had it on his person. I didn't know if he was trying to
969 get back to the car that was parked in the parking lot, if he was just trying to get back to the car. I
970 didn't know if he was running because he was, and decided he really didn't really want to give any
971 more and he wanted to engage the police. I didn't know if he was trying to get back into the apartment
972 because that was a safer place for him and he wanted to engage the police from there. I just didn't
973 know what his motive was. He had made the step to give up by coming out and had come out
974 backwards with his hands up, although he was walking real fast back towards the police. But then
975 something changed and his, he made a different decision but I didn't know what that decision was. So,
976 I was concerned. (beeping sound).
977 **JUSTUS:** Sorry.
978 **BIRKINBINE:** That's okay.
979 **RENNA:** For the tape, that was just a Nextel going off. Anyway, so something had changed. You
980 said Mr. CAMPBELL had made a choice to make a change?
981 **BIRKINBINE:** Yes.

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982 **RENNA:** What was your concern about Mr. CAMPBELL reaching the car?
983 **BIRKINBINE:** He had hard cover and concealment.
984 **RENNA:** And your concern about that was what?
985 **BIRKINBINE:** He has a place to, if he has a gun on him, he has a place to engage the police where
986 he has cover and concealment with a handgun. So, it was, it would have been dangerous to have a
987 gunfight in that parking lot. He was in front of apartments, of windows, people still in apartments. The
988 police had a, the backdrop would have been poor for the police to be able to defend ourselves.
989 **RENNA:** Had those apartments been evacuated?
990 **BIRKINBINE:** Some apartment had been but I don't know which one were. I don't know. I
991 assumed that there was still people in the apartment building. That whole building was not evacuated.
992 **RENNA:** Okay. I'm specifically referring to the apartments directly behind where Mr. CAMPBELL
993 was headed.
994 **BIRKINBINE:** I don't know the answer to that.
995 **RENNA:** At any point while Mr. CAMPBELL was running back to the cars or to the apartment, did
996 you have a sense that the officers behind the car had a tactical advantage with their cover behind the car
997 and AR-15?
998 **BIRKINBINE:** I felt like they had a tactical advantage until he got to a place of cover.
999 **RENNA:** And how would that have changed?
1000 **BIRKINBINE:** Because now he has a place of cover and the officers have a place of cover. There's
01 no advantage. They both have equal cover. There's no advantage.
1002 **RENNA:** Does the AR-15 provide an advantage to the officers?
1003 **BIRKINBINE:** Sure, it does.
1004 **RENNA:** And Mr. CAMPBELL is running back to, in the direction of the apartment, did the
1005 discharge of the AR-15 surprise you?
1006 **BIRKINBINE:** Uh, a little bit.
1007 **RENNA:** Okay, and why was that?
1008 **BIRKINBINE:** I don't know. I just wasn't expecting it.
1009 **RENNA:** Were you anticipating somebody firing a lethal round at that point?
1010 **BIRKINBINE:** Uh, I don't think I had thought that far ahead. I was just watching as it happened and
1011 I was having thoughts in my own mind of why is he running? Is he trying to engage the police? I was
1012 starting to think ahead and starting to have concerns about how we're going to mitigate, how were we
1013 going to manage what happens next. So, I wasn't really thinking about is somebody going to use lethal
1014 force on him.
1015 **RENNA:** At the time Mr. CAMPBELL was running, did you see the canine running towards Mr.
1016 CAMPBELL?
1017 **BIRKINBINE:** No.
1018 **RENNA:** Uh, after the less lethal was discharged, Mr. CAMPBELL fell to the ground. What were
1019 you reactions at that point?
1020 **BIRKINBINE:** I'm sorry ask your question again, please.
1021 **RENNA:** Sure. Uh, the AR-15 was fired and Mr. CAMPBELL fell to the ground.
1022 **BIRKINBINE:** Yes.
1023 **RENNA:** After he fell to the ground, what did you do?
1024 **BIRKINBINE:** Uh, I left the alcove and I went to the contact team, where the officers were out
1025 behind the police car.

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1026 **RENNA:** When you went over there, did, had you already at least in your mind identified that Officer
1027 FRASHOUR was the one that had fired the round?
1028 **BIRKINBINE:** Yes.
1029 **RENNA:** Okay. Did Officer FRASHOUR make any statement to you or did you overhear any
1030 comments made by Officer FRASHOUR comments made by Officer FRASHOUR regarding his
1031 reasons for, reason or reasons for discharging the AR-15?
1032 **BIRKINBINE:** No.
1033 **RENNA:** Okay. Do you remember him saying anything?
1034 **BIRKINBINE:** Uh, he just confirmed that he was the shooter.
1035 **RENNA:** Okay. Did you ask him any questions?
1036 **BIRKINBINE:** I asked him were you the shooter?
1037 **RENNA:** Okay. Did you hear anybody else ask him any questions?
1038 **BIRKINBINE:** No.
1039 **RENNA:** Okay. Did you hear him say anything similar to, uh, I thought he had a gun?
1040 **BIRKINBINE:** No.
1041 **RENNA:** Okay. Did any officers attempt to approach Mr. CAMPBELL after he was shot?
1042 **BIRKINBINE:** SERT did.
1043 **RENNA:** Prior to SERT.
1044 **BIRKINBINE:** No.
45 **RENNA:** Any officers express an interest or a desire to approach Mr. CAMPBELL and provide
1046 medical care?
1047 **BIRKINBINE:** We had a discussion behind the car after we had removed Officer FRASHOUR from
1048 the scene because he was the shooter and replaced him with another AR operator. And I was now in
1049 charge. I put myself in charge of the contact team and was trying to evaluate how each officer was
1050 doing, what's their mental state. And we were talking about how can we approach him. Can we
1051 approach him safely? We didn't have a very good, we'd had very, a very hard, he was in a really hard
1052 place to approach safely for us.
1053 **RENNA:** Did any officers express an interest in going up to him?
1054 **BIRKINBINE:** Uh, there were officers who were willing to go up and try to take him into custody.
1055 **RENNA:** Did anybody say that we should, let's go?
1056 **BIRKINBINE:** I don't remember that. I think Officer ELIAS, I think Officer ELIAS was willing to
1057 go up and do that.
1058 **RENNA:** Okay, and what was your response to that?
1059 **BIRKINBINE:** Uh, my concern was where he fell and the unknown of the gun and we deployed
1060 some people to get a look at him, to try to see if we could get a better visual on him both from the north
1061 and also with binoculars from the east and try to determine can we get there safely. And so that was
1062 my, my response was can we do it safely and if we can we will.
1063 **RENNA:** And obviously you felt that because of his position that it was not a safety, that it was a
1064 safety issue?
1065 **BIRKINBINE:** Right.
56 **RENNA:** Okay.
1067 **BIRKINBINE:** And I had a conversation on the phone with Captain DAY immediately after the shot
1068 was fired and we talked about, I detailed out for him my reasons for not making that approach. And it

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1069 really was all about safety. Can we get there safely. There are these things we don't know and there
1070 were things that (indecipherable) (someone clearing their throat) we weren't able to do it.
1071 **RENNA:** Uh, how about the response or non-response to the canine unit after the dog had gone up to
1072 him? Did that effect the way you were viewing the situation?
1073 **BIRKINBINE:** Well, I didn't, I guess I didn't really think of the canine as a tool for that. So...
1074 **RENNA:** Well, let me ask you, I don't want to interrupt but did you see the canine approach Mr.
1075 **CAMPBELL** after he was shot?
1076 **BIRKINBINE:** I saw the canine, I saw the canine towards Mr. **CAMPBELL**. I saw Officer **ELIAS**
1077 going up I believe to retrieve his dog and we called him back to us.
1078 **RENNA:** Officer **ELIAS**?
1079 **BIRKINBINE:** Officer **ELIAS**.
1080 **RENNA:** Okay. So, was Officer **ELIAS** up by Mr. **CAMPBELL**?
1081 **BIRKINBINE:** Uh, he was, he wasn't close to Mr. **CAMPBELL**. He was, he was in front of us
1082 maybe 15 to 20 feet in front of us but not up to where Mr. **CAMPBELL** was.
1083 **RENNA:** Okay. So, approximately halfway?
1084 **BIRKINBINE:** Perhaps.
1085 **RENNA:** Okay. At the time that this was going on, not a protracted period, but let's say immediately
1086 after the AR-15 was used, were you aware what Sergeant **REYNA** was doing at that time?
1087 **BIRKINBINE:** No.
88 **RENNA:** Okay. Were you aware of what Lieutenant **RODRIGUES** was doing?
1089 **BIRKINBINE:** No.
1090 **RENNA:** Okay. Do you know what Captain **DAY** was doing?
1091 **BIRKINBINE:** No.
1092 **RENNA:** Okay. When, did any of those three come up and become involved in the incident prior to
1093 the arrival of **SERT**?
1094 **BIRKINBINE:** No.
1095 **RENNA:** Okay. Were you getting direction from any of them over the telephone or the radio?
1096 **BIRKINBINE:** Uh, I talked to Captain **DAY**.
1097 **RENNA:** And that was about your opinion on approaching Mr. **CAMPBELL**?
1098 **BIRKINBINE:** Yes.
1099 **RENNA:** Anything after that?
1100 **BIRKINBINE:** Uh, no.
1101 **RENNA:** Okay. Did Captain **DAY** ever announce that he was taking over the scene?
1102 **BIRKINBINE:** Yes.
1103 **RENNA:** And do you remember when about that occurred?
1104 **BIRKINBINE:** No.
1105 **RENNA:** Was it prior to the arrival of **SERT**?
1106 **BIRKINBINE:** Yes.
1107 **RENNA:** Okay. Did you see or hear Officer **FRASHOUR** talking with anyone following his using
1108 the AR-15?
99 **BIRKINBINE:** No.
1110 **RENNA:** After the incident, after **SERT** arrived, did anyone ever have you sign into an incident log
1111 or a crime scene log?
1112 **BIRKINBINE:** I was signed in to one of those?

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1113 **RENNA:** Do you remember who did that?
1114 **BIRKINBINE:** No.
1115 **RENNA:** And you say you were signed in, how do you know that?
1116 **BIRKINBINE:** Uh, I believe somebody asked me for my name and DPPST
1117 **RENNA:** Okay. There's about four questions that at the end here that I'll ask you at the end, but
1118 before I get to those I'll ask if Sergeant MORGAN has any questions for you.
1119 **MORGAN:** Yeah, I just got a few here and I apologize in advance for, we're gong to be jumping
1120 around a bit. Because of just, the stuff that came up as we were going through. The first one was just
1121 did you ever at any point in this call have information that Mr. CAMPBELL had committed a crime?
1122 **BIRKINBINE:** No.
1123 **MORGAN:** Uh, did you ever have any information at any point during the call that he had threatened
1124 anyone other than himself with harm?
1125 **BIRKINBINE:** No.
1126 **MORGAN:** Okay. Um, did you, (indecipherable) did you, did Sergeant REYNA bring up the topic of
1127 possibly having you be the person to be actually on the telephone with Mr. CAMPBELL rather than
1128 Officer QUACKENBUSH because of your HNT experience?
1129 **BIRKINBINE:** No.
1130 **MORGAN:** Okay. Would that have been something you would have been amenable to or is that
1131 something you prefer not to do based on your normal role?
32 **BIRKINBINE:** I would have preferred not to because I'm not a negotiator. So, it's not, it's not my
1133 normal function with HNT and once I put myself on the telephone, it becomes almost impossible for
1134 me to relay information to responding units should it become an HNT or a SERT call-up.
1135 **MORGAN:** Okay, and you mentioned earlier, at least at the outset, that you felt like it was not at the
1136 threshold of a SERT call out. Um, at any point during this call prior to the lethal shot being fired, uh,
1137 did you have any discussions about or did you think about activating SERT?
1138 **BIRKINBINE:** No.
1139 **MORGAN:** Okay. Um, you said a couple times you're not sure if Mr. CAMPBELL hung up on
1140 Officer QUACKENBUSH or it was just phone difficulties. Assuming it could have been hang ups and
1141 those initial efforts on the phone weren't going very well, did that make you at all think more towards
1142 that this might be a SERT call out?
1143 **BIRKINBINE:** I guess I'm not completely sure how you're...
1144 **MORGAN:** If, if Mr. CAMPBELL was hanging up on the officer attempting to make contact with
1145 him, what did that tell you about how things were going at that early stage?
1146 **BIRKINBINE:** Uh, that didn't say to me that this was, that didn't push it towards SERT. That alone
1147 didn't make it a SERT call out in my mind.
1148 **MORGAN:** Okay. Is that unusual for initial attempts to be unsuccessful and then later you'd get more
1149 successful with them?
1150 **BIRKINBINE:** No, it's not unusual.
1151 **MORGAN:** Okay. Um, were you present or did you hear over the radio when Mr. CAMPBELL sent
1152 a text to his girlfriend don't make me get a gun I'm not playing?
53 **BIRKINBINE:** I wasn't present but I heard about it later.
1154 **MORGAN:** Okay. What, how did you interpret that statement?

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1155 **BIRKINBINE:** I interpreted that as dangerous to the police. I interpreted that as a willingness to
1156 engage in violence with a handgun. I took it as meaning he still had the gun close to him or in his
1157 possession.

1158 **MORGAN:** Did all those factors make you feel like this was more likely to be a SERT call out or did
1159 that put the idea of making this a SERT call out in your head?

1160 **BIRKINBINE:** It, that, again that alone that didn't push it toward a SERT call out. I, we took it into
1161 consideration, we took it into consideration. I didn't know if that was sent...because that was sent to
1162 the girlfriend when she still had her phone, so I didn't know if he sent that for the benefit of us or he
1163 knew we were there even. So, I didn't know that. I just took it as he's willing to be violent.

1164 **MORGAN:** And we briefly discussed it that the lieutenant or captain were notified by your or
1165 Sergeant REYNA at least early on in the call. I think we just kind of sidetracked a little bit. I was just
1166 curious if you could clarify what your reasoning was for not making a call to them at any point during
1167 the call. Obviously, they acknowledged it on the road eventually and responded on their own, but...

1168 **BIRKINBINE:** Right. Um, well, I felt like when we got there, when I got there, the call had been,
1169 the situation had been set up and the containment had been set up and we were still working through
1170 trying to figure out exactly what we had because we had to try to make contact with Mr. CAMPBELL.
1171 And with Sergeant REYNA in charge of the incident, I was operating off of her direction and how she
1172 was managing the call. So, typically that's something that gets done at the direction of the sergeant in
1173 charge or the sergeant charged to others. So, I had filled in the hole of helping Officer
74 QUACKENBUSH and didn't make the call.

1175 **MORGAN:** And you mentioned that, uh, Sergeant REYNA had kind of assumed the role of passing
1176 along information gleaned from Officer QUACKENBUSH's conversations to the other officers on the
1177 scene. No one was specifically assigned the role of taking information from team A to team B, is that
1178 correct? There was no one that that was their task?

1179 **BIRKINBINE:** That was not, we hadn't said that you're going to pass information to wherever team
1180 B is.

1181 **MORGAN:** Okay. When you are on an HNT SERT call out is someone given that role?

1182 **BIRKINBINE:** Yes.

1183 **MORGAN:** Okay. Was there a reason you didn't assign someone that role on this call?

1184 **BIRKINBINE:** Uh, on an HNT, now on, on an HNT SERT call out, you know, that's a specific
1185 function and the person knows their function and I just didn't assign somebody because I didn't have
1186 information to pass necessarily and Sergeant REYNA was there and she was sending that information
1187 out.

1188 **MORGAN:** If the conversations with Mr. CAMPBELL had been a little more robust, if these had
1189 been 5 and 10 minute phone conversations with QUACKENBUSH...

1190 **BIRKINBINE:** Uh-huh.

1191 **MORGAN:** ...would you have assigned someone at that point to that role?

1192 **BIRKINBINE:** I probably would have done it myself.

1193 **MORGAN:** Okay. Uh, and then just jumping forward for a little bit you talked about how there was
1194 a conversation about if he came back out not letting him back in and that it was never really resolved
1195 necessarily between you and Sergeant REYNA, speaking about after the kids were out when
1196 presumably he was alone in the apartment...

1197 **BIRKINBINE:** Uh-huh.

1198 **MORGAN:** ...and he, if you were to come out of the apartment and looked to come back in, is there
1199 any reason why you wouldn't have wanted him to do that in your mind?

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1200 **BIRKINBINE:** We were...

1201 **MORGAN:** I realize you may not have discussed it, but in sitting here today is there any reason you
1202 would think on a call like this that you would have a problem with someone coming out and going
1203 back in?

1204 **BIRKINBINE:** Uh, that apartment was completely unsecure and if that person comes out and sees
1205 where, had the opportunity to look at where all of the police officers are located, that gives them the
1206 ability to know where we are so we become a lot more visible to them, more of a target to them should
1207 they chose to make us that way. Um, once they're out and back into the apartment it could strengthen
1208 their resolve to not come out. It would be harder to develop that rapport and communicate with them
1209 that you are safe. We're not gonna hurt you, you can come back out.

1210 **MORGAN:** Okay. Uh, after the conversation with QUACKENBUSH where he brings up we really
1211 want to make sure the kids are okay, CAMPBELL hangs up, the kids come right out. At any point
1212 after that, did those of you in the alcove, did you share with Sergeant REYNA had it had come about
1213 how the kids had come out?

1214 **BIRKINBINE:** Yes.

1215 **MORGAN:** Wow, that was, that was interesting. We brought up the topic and all of a sudden he
1216 followed through. Did that conversation take place?

1217 **BIRKINBINE:** Yes.

1218 **MORGAN:** Okay. Do you know if that information was shared with the other officers on the call?

19 **BIRKINBINE:** No.

1220 **MORGAN:** Okay. No it wasn't or no you don't know?

1221 **BIRKINBINE:** I don't know for sure but I'm pretty sure it wasn't shared.

1222 **MORGAN:** Okay, and you made the comment that his text to QUACKENBUSH, um, it's really
1223 weird that you're not calling, that you're texting me, why aren't you calling me Jimmy, that that was
1224 unsolicited. Um, do you remember in between you guys receiving the text from him saying you guys
1225 text too kudos and that text that QUACKENBUSH actually sent him a text saying I just need you to
1226 promise me that you're not gonna hurt yourself?

1227 **BIRKINBINE:** I didn't remember it, but now that you mention it, I do.

1228 **MORGAN:** Okay. So, it's weird you're not, it's weird that you're texting me and not calling me is it
1229 possible that that was actually in response to...

1230 **BIRKINBINE:** Yeah.

1231 **MORGAN:** ...QUACKENBUSH's request for a promise?

1232 **BIRKINBINE:** Yes.

1233 **MORGAN:** And you said that the conversation about how having him come outside followed the
1234 pattern of the conversation about the kids. Having known how the conversation about the kids went
1235 and that he was so quick to respond to the topic even being broached...

1236 **BIRKINBINE:** Uh-huh.

1237 **MORGAN:** ...did it occur to you that he might have a similar response to the topic of coming out?

1238 **BIRKINBINE:** It didn't really occur to me because, um, I took, I took the kids coming out so quickly
1239 as almost a sense of okay let's get them out of here. Let's just be done with the kids so that they aren't
1240 a part of this any more. Um, I didn't believe with, I didn't believe that was gonna, I didn't believe the
1241 reaction would be the same.

1242 **MORGAN:** Okay. Did you have information not only that Mr. CAMPBELL was suicidal but
1243 specifically that he had made references to suicide by cop?

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1244 **BIRKINBINE:** I believe so.

1245 **MORGAN:** Did the fact that he made reference to suicide by cop effect your weighing of the pluses
1246 and minuses of actually having him come outside? In other words, were you concerned that someone
1247 who had expressed the desire for suicide by cop, did that make you more hesitant to actually have them
1248 exit the apartment and force a forced face to face dialogue with police?

1249 **BIRKINBINE:** I didn't really think, I didn't think about it like that.

1250 **MORGAN:** Okay. Um, almost done I promise here. Um, you said that once the lethal shot was fired
1251 you assumed control of that custody team at the car. At any point prior to that were you in charge of
1252 the call?

1253 **BIRKINBINE:** No.

1254 **MORGAN:** Okay. When Sergeant REYNA left the alcove to go brief Captain DAY and Lieutenant
1255 RODRIGUES, while the briefing was going on in your opinion she was still in charge of the, she was
1256 still the on-scene commander?

1257 **BIRKINBINE:** Yes.

1258 **MORGAN:** At which point, at some point Captain DAY would take over?

1259 **BIRKINBINE:** Yes.

1260 **MORGAN:** And then last question I've got for you. Um, you said that, uh, after Mr. CAMPBELL
1261 comes outside and you have a brief conversation with QUACKENBUSH and you looked back when
1262 you hear the officer's voice is elevated, you said Mr. CAMPBELL at that point is standing still facing
1263 away with his hands on the back of his head and LEWTON is yelling get your hands up, get up hands
1264 up, put your hands up whatever it was, how long of a gap, time gap was there between the time
1265 LEWTON yelled get your hands up, get your hands up and the time the less lethal was deployed?

1266 **BIRKINBINE:** A couple of seconds.

1267 **MORGAN:** Was there enough time for Mr. CAMPBELL to comply with whatever LEWTON was
1268 physically requesting of him in your opinion?

1269 **BIRKINBINE:** Yes.

1270 **MORGAN:** Okay. Did he move at all in those 2 seconds?

1271 **BIRKINBINE:** I didn't see him move.

1272 **MORGAN:** All right, that's all I've got.

1273 **RENNA:** Sergeant JUSTUS. I've got a couple more questions but we'll wrap it up with those.

1274 **JUSTUS:** Okay.

1275 **RENNA:** Is there anything that you would like to ask to add to what we've talked about so far?

1276 **JUSTUS:** No.

1277 **RENNA:** Okay.

1278 **MORGAN:** I'm sorry, I got one more. I just realized. We discussed quite a bit that you had a bit of a
1279 higher threshold than Sergeant REYNA for I guess the willingness to walk away from this call. Um, if
1280 Sergeant REYNA had reached her threshold and made clear to you we've now reached my threshold, I
1281 want to walk away, would you have concurred with that?

1282 **BIRKINBINE:** Yes.

1283 **MORGAN:** Why?

1284 **BIRKINBINE:** It was her call.

1285 **MORGAN:** Now that's really all I've got.

1286 **RENNA:** Uh, did you attend the EAP brief after the incident?

1287 **BIRKINBINE:** Yes.

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1288 **RENNA:** Okay. Have you talked with anyone else about this case or read or heard any news accounts
1289 of this incident that has influenced your perception about what you saw or observed?
1290 **BIRKINBINE:** No.
1291 **RENNA:** Do you have any information that you believe would be relevant to this case which we have
1292 not covered?
1293 **BIRKINBINE:** No.
1294 **RENNA:** Okay. Anything at all related to the call? Anybody you we believe we should talk to about
1295 the incident that may have not been previously identified?
1296 **BIRKINBINE:** No.
1297 **RENNA:** Okay. Keep it in mind that this is an administrative review. If there anything about this
1298 incident that caused you concern or you want to address in an effort to improve future performance?
1299 **BIRKINBINE:** No.
1300 **RENNA:** Okay.
1301 **JUSTUS:** And I do have something to say.
1302 **RENNA:** Sergeant JUSTUS.
1303 **JUSTUS:** Um, I'm just going with the allegations here? I don't think Sergeant BIRKINBINE, he's not
1304 in Officer FRASHOUR's shoes. He's not gonna be able to say it was justified or not because he's
1305 clear across and less lethal force he's not in a position to do that either. And that the third allegation is
1306 was the response by PPB personnel tactically sound, I think he's gone through everything was tactically
07 sound and that he did everything like they've always done at every single time and it works out. And
1308 I'm just going on the allegations and this is what I've listened to tonight, so.
1309 **RENNA:** Okay. Anything else? Then we'll conclude and it is now 1939 hours.
1310
1311
1312 10b0004trs-birkinbine
1313 Transcribed 04/27/10 @ 9:30 a.m., Cathy Daley 0426cd04

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