



State of North Carolina
General Court of Justice
Twenty-Sixth Prosecutorial District
MECKLENBURG COUNTY

SPENCER B. MERRIWEATHER III
DISTRICT ATTORNEY

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March 26, 2019

Chief Kerr Putney
Charlotte-Mecklenburg Police Department
601 East Trade Street, 3rd floor
Charlotte, NC 28202

Re: Michael Daniel Kelley Death Investigation

Dear Chief Putney:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Michael Daniel Kelley on January 16, 2019. The case was investigated under complaint number 20190116162206. The purpose of this review was to examine whether the conduct of CMPD Officer Timothy Keifer was unlawful when he shot and killed the decedent.

The review of the evidence in this matter reveals that CMPD officers responded to a call for service in reference to an armed robbery at 335 Freeland Lane. In that incident, a suspect whose description was similar to the decedent assaulted an individual with a box cutter, cutting him twice in the face before taking the individual's keys, phone, wallet, and vehicle. The vehicle was a gray Infiniti G35. At 1:57 p.m., approximately 10 minutes after the Freeland Lane incident, CMPD officers responded to a call for service in reference to an armed robbery at the Family Dollar store at 4611 W. Tyvola Road. In that incident, a suspect whose description was similar to the decedent purchased an item. Once the register was open, the clerk reported, the suspect pointed a small, silver gun at the clerk, demanding everything in the register and telling the clerk that he would kill her if she caused a scene. The suspect was last seen leaving the scene in a gray Infiniti. A [photo](#) of the suspect in the Family Dollar robbery was circulated to CMPD officers. Around 2:40 p.m., the Infiniti taken in the Freeland Lane robbery was recovered behind 1500 West Boulevard.

At approximately 4:22 p.m., Officer Keifer was patrolling West Boulevard and spotted a subject matching the description from the previous robbery incidents standing on the sidewalk near where the Infiniti had been recovered earlier. Officer Keifer turned his vehicle around to make contact with the subject. After turning his vehicle around, civilians pointed Officer Keifer in the direction of 1540 West Boulevard, indicating the subject was running. Officer Keifer

pulled into the parking lot of 1540 West Boulevard and exited his vehicle. He encountered two females sitting in a vehicle and pointing toward the dumpsters in the parking lot. The decedent then stepped out from behind the dumpsters holding his right hand behind his back. The incident was captured by Officer Keifer's body-worn camera (BWC), which shows the decedent emerging from behind the dumpsters with his left arm pointed toward Officer Keifer and his right arm behind his back. Officer Keifer commanded the decedent to get on the ground and remove his hand from behind his back. That is when the decedent stated, "I'll shoot you." The decedent then began to run toward Officer Keifer. Officer Keifer fired several shots while the decedent continued to run toward Officer Keifer. Officer Keifer then retreated around the rear of his vehicle, up the passenger side, and then across the front of his vehicle with the decedent still chasing after him. Officer Keifer then fired three additional shots, and the impacts of those shots can be seen striking the decedent. The decedent then fell, dropping an item later identified as a [knife](#) on the ground. Crime Scene Investigators located 13 spent Winchester .40 caliber nickel shell casings: 10 next to Officer Keifer's patrol vehicle and three in the area where the decedent fell.

As you know, this letter specifically does not address issues relating to tactics, or whether officers followed correct police procedures or CMPD Directives.

I personally responded to the scene of this incident and monitored the investigation along with another senior Assistant District Attorney (ADA). I reviewed the investigative file as provided by CMPD. Finally, consistent with the District Attorney's Office Officer-Involved Shooting Protocol, this case was presented to the District Attorney's Homicide Team, which is comprised of the office's most experienced prosecutors.

A. The role of the District Attorney under North Carolina law

The District Attorney (DA) for the 26th Prosecutorial District is a state official and, as such, does not answer to city or county governments within the prosecutorial district. The District Attorney is the chief law enforcement official of the 26th Judicial District, the boundaries of which are the same as the County of Mecklenburg. The District Attorney has no administrative authority or control over the personnel of CMPD or other police agencies within the jurisdiction. That authority and control resides with each city or county government.

Pursuant to North Carolina statute, one of the District Attorney's obligations is to advise law enforcement agencies within the prosecutorial district. The DA does not arrest people or charge people with crimes. When the police charge a person with a crime, the DA decides whether or not to prosecute the charged crime. Generally, the DA does not review police decisions not to charge an individual with a crime. However, in officer-involved shooting cases, the DA reviews the complete investigative file of the investigating agency. The DA then decides whether he agrees or disagrees with the charging decision made by the police. If the DA concludes that uncharged conduct should be prosecuted, the case will be submitted to a Grand Jury.

If no criminal charges are filed, that does not mean the District Attorney's Office believes the matter was in all respects handled appropriately from an administrative or tactical viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt unanimously to a jury. This is the limit of the DA's statutory

authority in these matters. The fact that a shooting may be controversial does not mean that criminal prosecution is warranted. Even if the District Attorney believes a shooting was avoidable or an officer did not follow expected procedures or norms, this does not necessarily amount to a violation of criminal law. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The District Attorney has no administrative or civil authority in these matters. Those remedies are primarily in the purview of city and county governments, police departments and private civil attorneys.

B. Legal standards

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to “self-defense.” A police officer does not lose the right to self-defense by virtue of becoming a police officer. Officers are entitled to the same protections of the law as every other individual. An imminent threat to the life of a police officer entitles the officer to respond in such a way as to stop that threat.

Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in State v. Norris, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appeared to a person that it was necessary to kill in order to save himself or another from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. Id. at 530.

C. Use of deadly force by a law enforcement officer

The same legal standards apply to law enforcement officers and private citizens alike. However, officers fulfilling their sworn duty to enforce the laws of this State are often placed in situations in which they are required to confront rather than avoid potentially dangerous people and situations.

The United States Supreme Court stated, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” Graham v. Connor, 490 U.S. 386, 396 (1989). The Court further explained that “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Id. at 396–97. A situation in which an officer is confronting an armed person with uncertain motives is by definition dangerous, and such a circumstance will almost always be tense, uncertain and rapidly evolving. In these circumstances, we are not deciding whether the officer’s belief in the need to use deadly force was correct but only whether his belief in the necessity of such force was reasonable.

In conducting a legal analysis, this office must take its guidance from the law, and a decision must not be based upon public sentiment or outcry. The obligation of a District Attorney is clear; he must simply apply the law to the known facts.

What the law demands is an evaluation of the reasonableness of the officer's decision at the moment he fired the shot. The Supreme Court of the United States has provided guidance on what is objectively reasonable and how such an analysis should be conducted. That guidance indicates that it is inappropriate to employ "the 20/20 vision of hindsight," and an analysis must make "allowance for the fact that police officers are often forced to make split-second judgments." See Graham v. Connor, 490 U.S. at 396. The Court suggests that when reviewing use of force cases, caution should be used to avoid analysis "more reflective of the 'peace of a judge's chambers' than of a dangerous and threatening situation on the street." Elliot v. Leavitt, 99 F.3d. 640, 643 (4th Cir. 1996).

D. The officer-involved shooting of Michael Daniel Kelley

Prior calls for service

At 1:56 p.m., CMPD received a call for service in reference to an armed robbery at 335 Freeland Lane. The victim of that robbery stated that the incident occurred approximately 10 minutes prior to his calling 911. The victim said the suspect demanded his keys, and he refused, at which point the suspect assaulted him with a box cutter. The victim struggled with the suspect, and during the struggle, he was cut twice in the face. The suspect then took his keys, phone, wallet, and gray Infiniti G35. The victim described the suspect as a white male in his early 30s, approximately 6'1" tall and 220 pounds with a medium build and hair shorter than collar length.

At 1:57 p.m., CMPD received a call for service in reference to an armed robbery at the Family Dollar store at 4611 Tyvola Road. This location is approximately 2.8 miles from 335 Freeland Lane. The suspect was described as a white male with his hair shaved on the sides and a ponytail on top. He had dark brown hair, dark brown eyes, and a dark brown beard. He was described as approximately 6' to 6'1" tall. In that incident, the suspect purchased an item. Once the register was open, the clerk reported, the suspect pointed a small, silver gun at the clerk, demanding everything in the register and telling the clerk that he would kill her if she caused a scene. The suspect was last seen leaving the scene in a gray Infiniti heading inbound on West Boulevard. A [photo](#) of the suspect in the Family Dollar robbery was circulated to CMPD officers. The Infiniti taken in the Freeland Lane robbery was recovered behind 1500 West Boulevard around 2:40 p.m.

Officer Timothy Keifer

Officer Timothy Keifer was interviewed at the Law Enforcement Center on January 18, 2019. Officer Keifer stated that he is a member of the Special Operations Division's Canine Unit.¹ He was accompanied on duty by his Canine Unit with whom he has worked for three years.² During the incident, he was wearing his Canine duty uniform, which is a green uniform with an outer vest.³ Earlier in the day, he had responded to the 1500 West Boulevard location, where the gray Infiniti had been recovered.⁴ He later learned that the suspect in the Freeland Lane robbery was the same person suspected in the Family Dollar robbery.⁵ Officer Keifer said

¹ Keifer Transcript p.3.

² Keifer Transcript p.6.

³ Keifer Transcript p.5.

⁴ Keifer Transcript p.8, 9.

⁵ Keifer Transcript p.8

he saw on his patrol vehicle computer that the suspect in the Freeland Lane robbery was armed with a blade and that the victim had been assaulted. He was also aware that a gun was believed to be involved in the Family Dollar robbery.⁶ Officer Keifer recalled that he viewed a surveillance photo of the suspect in the Family Dollar robbery on Sgt. Kimble's phone.⁷ His recalls the subject being described to him as 6'3" with a very distinct beard and hair pulled back in a ponytail or a bun.⁸

Officer Keifer recounted that he was driving on West Boulevard and saw the suspect standing on the sidewalk near where the gray Infiniti had been found.⁹ He then advised officers over the radio that he had spotted the suspect from the two earlier armed robberies.¹⁰ Officer Keifer said he planned to pull up and watch the suspect, but as he pulled up, he saw people on the sidewalk start pointing across the street, so he believed the subject was running and shared that information over the radio.¹¹ Officer Keifer recalled that he pulled into the parking lot to look for the suspect.¹² When he pulled into the parking lot, he saw two females in a red car backed into a parking spot. They were pointing in the direction of the suspect.¹³ Officer Keifer stated that he exited his patrol car and walked over to the females briefly and then returned to his patrol car. That is when he saw the decedent step out from behind the dumpster and onto the sidewalk.¹⁴ He recognized the decedent as the suspect from the earlier robberies.¹⁵

Officer Keifer recalled that the suspect was holding his right hand behind his back.¹⁶ Officer Keifer stated that the suspect had "the thousand yard stare."¹⁷ Officer Keifer recounted that he drew his pistol and gave the decedent orders to take his hand out from behind his back.¹⁸ Officer Keifer recalled that the decedent stated, "I'm going to shoot you."¹⁹ Officer Keifer said he backed up and got on the radio as he gave commands so that other officers would know he was in a situation. He recalled that he tried to mention that the decedent threatened to shoot him.²⁰ Officer Keifer then backed up to his patrol car and let his dog out.²¹ Officer Keifer estimated that the decedent was approximately 20 yards from him at this point and too far to deploy his Taser.²² Officer Keifer stated that before he could get his dog focused on the decedent, the decedent pulled his arm from behind his back and "punched out" like one would hold a handgun.²³ The decedent had something in his hands. Officer Keifer stated that he could not tell whether it was a gun or a knife, but he knew that it was not a phone or keys because the

⁶ Keifer Transcript p.8.

⁷ Keifer Transcript p.10.

⁸ Keifer Transcript p.10.

⁹ Keifer Transcript p.12.

¹⁰ Keifer Transcript p.13-14.

¹¹ Keifer Transcript p.13-14.

¹² Keifer Transcript p.14.

¹³ Keifer Transcript p.15-16.

¹⁴ Keifer Transcript p.17.

¹⁵ Keifer Transcript p.43.

¹⁶ Keifer Transcript p.17.

¹⁷ Keifer Transcript p.22.

¹⁸ Keifer Transcript p.17.

¹⁹ Keifer Transcript p.17, 21, 29.

²⁰ Keifer Transcript p.18.

²¹ Keifer Transcript p.18.

²² Keifer Transcript p.19.

²³ Keifer Transcript p.20, 22.

decedent was holding it with a close grip like one would have on the butt of a gun or a knife.²⁴ Officer Keifer said the decedent then charged toward him and was closing the distance rapidly.²⁵ Officer Keifer recalled that he began to shoot as the decedent was charging.²⁶ Officer Keifer said he could tell the item in the decedent's hand was a weapon and, at some point during the encounter, deciphered that it was a knife.²⁷ Officer Keifer stated that he believed the decedent was charging him with the intent to kill him and that the decedent could have run in any other direction but chose to run directly at Officer Keifer.²⁸ Officer Keifer recalled that the decedent was still "punched out" as the decedent charged toward him.²⁹

Officer Keifer recounted that he fired an initial burst of five to six shots, but the shots were not effective in halting the decedent's progress toward Officer Keifer.³⁰ Officer Keifer stated that he retreated around his car.³¹ He briefly lost site of the decedent as the decedent went behind Officer Keifer's car.³² The decedent then reappeared around the front of Officer Keifer's car. Officer Keifer stated that he allowed the decedent to get closer than he felt comfortable because Officer Keifer believed he needed to make his shots count.³³ At this time, Officer Keifer recalled, he was 100 percent sure the item in the decedent's hand was a knife.³⁴ Officer Keifer stated that, until this point, the decedent had not slowed down at all.³⁵ Officer Keifer said he fired three more times, and the decedent began to stumble and slow, and he fell to the ground.³⁶ Officer Keifer said his canine then engaged the decedent while the decedent was on the ground.³⁷ The knife that was in the decedent's hand then fell to the ground just outside of arm's reach.³⁸ Officer Keifer recalled that Officers Walker and Regan arrived after the shooting.³⁹ Officer Keifer put his dog back into his patrol car and tended to the two women who had been in the red car. The women were now hiding under the rear of the red car.⁴⁰ Officer Keifer stated that he believed he had no other option but to defend himself.⁴¹

A round count was conducted on Officer Keifer's service weapon and magazine. His service weapon contained one live round in the chamber and two live rounds in the magazine, indicating that he had fired 13 rounds. His two spare magazines were full, each containing 15 live rounds.

²⁴ Keifer Transcript p.20-21.

²⁵ Keifer Transcript p.21-22.

²⁶ Keifer Transcript p.22.

²⁷ Keifer Transcript p.22.

²⁸ Keifer Transcript p. 23.

²⁹ Keifer Transcript p.23.

³⁰ Keifer Transcript p.23.

³¹ Keifer Transcript p.24.

³² Keifer Transcript p.25.

³³ Keifer Transcript p.26.

³⁴ Keifer Transcript p.26.

³⁵ Keifer Transcript p.38.

³⁶ Keifer Transcript p.26.

³⁷ Keifer Transcript p.27.

³⁸ Keifer Transcript p.27.

³⁹ Keifer Transcript p.27.

⁴⁰ Keifer Transcript p.27.

⁴¹ Keifer Transcript p.30.

Civilian witness #1

Civilian witness #1 (CW1) was interviewed at the Law Enforcement Center on January 16, 2019. CW1 was one of the females Officer Keifer saw sitting in the red car after he pulled into the parking lot at 1540 West Boulevard. CW1 stated that she was with her friend in the car when they saw the decedent walking in the parking lot with something in his left hand and hiding his right hand behind his back. CW1 stated that the decedent was acting suspicious and looking around, watching police activity across the street. CW1 assumed the decedent was the person the police were looking for because of the way he was acting, the fact that he had something behind his back, and the fact that he walked over to and hid behind the dumpsters. CW1 recalled that a police SUV pulled into the parking lot and approached their vehicle. CW1 said she pointed the officer in the SUV in the direction of the suspect, who was hiding behind the dumpsters. CW1 stated that the officer got out of his patrol car, and the suspect immediately came walking from behind the dumpsters with his right hand behind his back and left arm extended toward the officer. The officer yelled at the suspect to show his right hand, but the suspect refused and kept walking toward the officer. CW1 said the decedent then quickly pulled his right hand from behind his back and started shooting at the officer, and the officer was forced to return fire. CW1 stated that she never actually saw the decedent holding a gun. She said the decedent was holding his right hand behind his back and pulled it out quickly toward the officer when she heard shots, so she believed the suspect started firing at the officer first and that the officer had to return fire in self-defense. CW1 stated that when the gunshots started, she and her friend immediately got on the ground and crawled under the car. The physical evidence does not support the assertion that the decedent shot first.

Civilian witness #2

Civilian witness #2 (CW2) was the second female sitting in the red car in the parking lot of 1540 West Boulevard. CMPD detectives attempted to interview CW2 at the Law Enforcement Center on January 16, 2019, but she was not cooperative.

Civilian witness #3

Civilian witness #3 (CW3) was interviewed on scene by CMPD detectives. CW3 stated that he was standing by his car in the parking lot of the Westover Hills Coin Laundry. He recalled that he observed a police vehicle turn into the lot from West Boulevard and then turn right once inside the parking lot and stop. CW3 said the officer exited his vehicle and immediately drew his weapon and pointed it toward some dumpsters to his left. CW3 stated that he heard the officer saying, "come out," a couple of times. CW3 advised that the decedent emerged into his view from around the dumpsters with his right hand tucked behind his back and not visible to the officer. CW3 heard the officer give commands for the decedent to show his hands. CW3 said the decedent began walking toward the officer and pointed his right hand directly at the officer. CW3 saw something in the decedent's hand but could not tell what it was. CW3 stated that the item was pointed at the officer like he had a weapon. CW3 recalled that the officer began to walk backward to maintain distance while the decedent kept walking toward him with his arm still extended, holding the unknown object. CW3 saw the officer shoot approximately three times. The officer continued to back up, eventually going around the rear of his police vehicle and back around the front – all while the suspect continually advanced on him and still pointed the object at him. CW3 reported that he then heard three to four additional

gunshots. CW3 stated that, at some point, the officer let the canine out of the car, but instead of attacking the suspect, the canine was jumping on the officer as if he was playing. CW3 stated that no other officers were present when the shooting occurred. He advised that when additional officers arrived, he observed officers put gloves on and check the victim.

E. Video evidence

Footage capturing the incident was obtained from Officer Keifer's BWC. Officer Keifer's BWC shows the decedent [emerging from behind the dumpsters](#). The decedent is then shown with his [right arm behind his back and his left arm extended outward](#). The decedent then runs toward Officer Keifer [\(1\) \(2\)](#). Officer Keifer then fires a volley of shots. The decedent [follows Officer Keifer as he retreats around his vehicle](#) and [emerges, continuing to chase Officer Keifer as he retreats backward](#). Officer Keifer then fires three more rounds, which obviously strike the decedent. As the decedent falls, the knife he was holding falls to the ground [\(1\) \(2\)](#). It is later [moved by first responders](#).

F. Autopsy report

The Mecklenburg County Medical Examiner's Office performed an autopsy on Michael Daniel Kelley on January 17, 2019. According to the autopsy report dated March 18, 2019, the decedent suffered three gunshot wounds: one to the right anterior abdomen, one to the left neck, and one to the left anterior chest, all entering the front of the decedent and travelling from front to back. Cocaine and cocaine metabolites were present in the decedent's blood.

A copy of the Medical Examiner's report is attached as an exhibit to this report.

H. Responsible transparency

My office routinely provides the public with detailed reports containing analysis and evidence to more effectively communicate the facts of officer-involved shootings and the decision-making process used by this office. Responsible transparency is also the basis upon which I have asked that evidence, including police videos, only be released after my prosecutors and I have completed a review of the investigation, in light of our obligation to protect the integrity of every investigation and to preserve, should someone be charged, the defendant's right to a fair trial. For that reason, this office objected to release of the body-worn camera video prior to our completion of the investigation. The Court denied that petition. *Subsequent to the release of this report, my office will inform the media outlet that petitioned for the release of the body-worn camera footage that my office no longer objects to the release of the body-worn camera footage so that the matter can be readdressed by the Court if the media outlet so desires.*

I. Conclusion

It is undisputed that Officer Keifer fired his weapon multiple times, striking the decedent. Therefore, the central issue in this review is whether or not Officer Keifer was justified under North Carolina law in using deadly force. A police officer – or any other person – is justified in using deadly force if he in fact believed that he or another person was in imminent danger of great bodily harm or death from the actions of the person who was shot and if his belief was reasonable. The statements of the civilian witnesses and BWC footage corroborate Officer

Keifer's account of the events in which the decedent emerged from behind the dumpster with one arm behind his back and one raised at Officer Keifer while stating, "I'm going to shoot you," and then running toward Officer Keifer and pursuing him around his vehicle. As such, Officer Keifer faced an imminent threat of great bodily harm or death, and it would be impossible for the State to prove Officer Keifer did not act in self-defense when he fired at the decedent. Consequently, I will not be seeking charges related to the death of Michael Daniel Kelley.

If you have any questions, please contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Spencer B. Merriweather III".

Spencer B. Merriweather III
District Attorney

Exhibits:

A photo of the suspect from the Family Dollar robbery circulated to CMPD officers.

[Return](#)



The decedent emerges from behind the dumpsters in the top left of the photo.

[Return](#)



The decedent has his right arm behind his back and his left arm extended forward. [Return](#)



The decedent begins to run toward Officer Keifer.

[Return](#)



The decedent continues running toward Officer Keifer.

[Return](#)



The decedent follows Officer Keifer around the vehicle as Officer Keifer retreats.

[Return](#)



The decedent continues to advance on Officer Keifer.

[Return](#)



The decedent continues to advance on Officer Keifer.

[Return](#)



The knife as it falls from the decedent.

[Return](#)



The resting place of the knife dropped by the decedent as he fell.

[Return](#)



The knife dropped by the decedent after it was moved by first responders.

[Return](#)



Exhibit 1

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 1 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

THIS IS IN REFERENCE TO CASE NUMBER 20190116-162206. TODAY'S DATE IS 1-18-2019; TIME NOW IS 1537 HOURS, AND WE ARE IN ROOM 2226 AT THE LAW ENFORCEMENT CENTER. THIS IS DETECTIVE J. B. HELMS, ALSO PRESENT IS DETEC- [S/C], OR, EXCUSE ME, SERGEANT MCSWAIN, AND WE'RE IN, CONDUCTING AN INTERVIEW OF TIMOTHY KIEFER, CODE NUMBER IS 3961. ALSO, PRESENT IS HIS ATTORNEY, UH, GEORGE LAUGHRUN.

HELMS: Alright, Tim. Real quick, I'm just gonna read this form to you and just a couple of responses, um, that you'll need to make when, as I go do [sic] this. So, it says, 'I am Detective J. B. Helms, and assisting me with this interview is Sergeant, um, McSwain. Today's date is 1-18-2019, time now is 1537 hours. This interview is being conducted at the Law Enforcement, uh, Center in intervene [sic], in interview room number 2226. <clears throat> Due to your involvement in an officer-involved shooting, Sergeant McSwain and I will like to question you, um, about your involvement in this case. At this time, I will like to also note that at your request your attorney, uh, George Laughrun, is present. As part of this investigation, our interviews are recorded and I want to ensure that you know that this interview is being recorded. Are you okay with proceeding with this interview and it being recorded?

KIEFER: Yes.

HELMS: Okay. This is a voluntary interview and you are free to leave at any time. Do you understand that?

KIEFER: I do.

HELMS: Okay. You are not under arrest; do you understand this?

KIEFER: Yes.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code Assignment 2445 Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 2 of 60
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HELMS: Alright. I also want to inform you that there are two parallel investigations occurring right now. The first investigation is the criminal investigation, which is what we, the Homicide Unit, are conducting. You do now have to speak with us, but we would like to speak to you to gain your perspective and to assist us in our investigation. The second investigation is the internal administrative investigation, which is being investigated by Internal Affairs. They will speak with you about their investigation. Do you understand this?

KIEFER: I do.

HELMS: Alright. The criminal investigation being led by the Homicide Unit, including this interview, will be shared with Internal Affairs as they conduct their separate but parallel investigation. However, it is important to note the information obtained by Internal Affairs during this separate but parallel investigation cannot be shared with the criminal investigators in the Homicide Unit. Do you understand that?

KIEFER: I understand.

HELMS: Alright. With that said, are you willing to speak with us at this time?

KIEFER: Yes, sir, I am.

HELMS: Alright. Alright, first of all, I'm gonna finish, uh, filling out this Officer-Involved, uh, Incident Sheet. I've got some time on, or some information on there already. Um ...

<DEAD AIR SPACE>

HELMS: Officer Kiefer, what is your date of hire?

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded			23. Reporting Officer Det. J.B. Helms			Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative			25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 3 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
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KIEFER: January 22nd, 2007.

HELMS: Alright. Do you have any prior law enforcement for C-M-P-D or any military experience?

KIEFER: No prior law enforcement. I was in the Army.

HELMS: Okay.

<DEAD AIR SPACE>

HELMS: When were you, uh, or just what's your, what was your time in the Army and ... prior to law enforcement?

KIEFER: Uh, prior in law enforcement, I was active duty.

HELMS: Okay.

KIEFER: Um, with the Third Infantry Division from 2002 to 2006.

HELMS: Alright.

<DEAD AIR SPACE>

HELMS: What is your current assignment?

KIEFER: Uh, Special Operations Division, K-9 Unit.

HELMS: Alright.

<DEAD AIR SPACE>

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded			23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019		
22. Investigative Status] Active] Inactive] Closed] Administrative			25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 4 of 60
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HELMS: Do you have a, uh, I'm not sure how K-9 works; do y'all have shifts, set shifts or?

KIEFER: Yeah, yeah.

HELMS: What, what is your shift?

KIEFER: I'm on 5th shift.

HELMS: Okay. And what are those times?

KIEFER: From 11 to 1800.

HELMS: Okay. And what is your call sign?

KIEFER: 59-4053-0.

HELMS: Alright. I know with K-9 y'all typically bounce around channels. Is there a primary channel or a talk group that y'all work off of on a regular basis?

KIEFER: We, we, we dispatch out for Air Ops.

HELMS: Okay.

<DEAD AIR SPACE>

HELMS: And who is your supervisor?

KIEFER: Sergeant Brian Russell.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms			Code 2445	Assignment Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 5 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Alright.

<DEAD AIR SPACE>

HELMS: On the date of this incident, um, what, uh, uniform were you wearing?

KIEFER: I was wearing the ... K-9 duty uniform. It's, uh, green with an outer vest.

<DEAD AIR SPACE>

HELMS: And how tall are you?

KIEFER: Five-ten.

HELMS: And how much do you weigh?

KIEFER: One-ninety.

HELMS: Prior to your shift on the 16th, um, you know how much schlep [sic] you got, how much sleep you got?

KIEFER: Yeah, it was proly [sic] 7 to 8 hours.

HELMS: Okay.

KIEFER: Thanks to recently being moved to fifth shift.

HELMS: Alright. Uh, any off-duty prior to your shift on the 16th?

KIEFER: No.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms			Code Assignment 2445 Homicide		Date 01/18/2019	
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To			26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report ©				COMPLAINT NUMBER 20190116162206	Page # 6 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Okay. What is your marked vehicle number?

KIEFER: 290.

HELMS: Alright.

<DEAD AIR SPACE>

HELMS: Anybody riding with you that day?

KIEFER: No.

HELMS: Alright. And it's just, uh, some information that's not on this form, but I was gonna ask. Um, what is your, I know you're a K-9 handler, what is your dog's name?

KIEFER: Baco, B-a-c-o.

HELMS: And how long have you had him?

KIEFER: Three years?

HELMS: Okay.

<DEAD AIR SPACE>

HELMS: Alright. The rest of the information on here is from the ammo count that we did the other night. I just, I completed it, um, based on the information I gathered ...

KIEFER: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 7 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMMS: ... the other night, okay? Alright, uh ... uh, you may be a little nervous, but try to relax.

KIEFER: <chuckles>

HELMMS: I mean, we're just gonna talk through, uh ... what happened the other day on the 16th. Um, I have some maps here, if they will help you, um, explain what was going on, and then I have a marker here that we can use.

KIEFER: Okay.

HELMMS: And we like to use gray because it stands out a little bit better ...

KIEFER: Okay.

HELMMS: ... when, uh, cause we make copies of it, but, um. So, if you can ... just take us through the 16th, uh, the start of your shift, what was going on, just kinda walk us through the day, um, to ... to where the incident happened.

KIEFER: Okay. Um ... so, I checked on-duty 11:00. Um ... wasn't much going on that day. Um, at 2:00 training starts for, uh, you know, we do, uh, K-9 training.

HELMMS: Okay.

KIEFER: Um, I was having to cover the road and do training cause, uh, Cory Milbourn was doing SWAT training.

HELMMS: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report ©			COMPLAINT NUMBER 20190116162206	Page # 8 of 60
2. Victim Name Michael D. Kelley		3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd		5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019	8. Supplement Date 01/18/2019	9. Correct Incident Classification		
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Um, so I was doing training that Tuesday so he could do it next Tuesday. So, I was basically bouncing between calls for service and K-9 training. Uh ...

HELMS: What is that K-9 training, is that, like, at the Academy or is it some'um y'all kinda, you just ...

KIEFER: We do it both at the Academy when off-site.

HELMS: Okay.

KIEFER: So, we were at the K-9 field, um, most of training day.

HELMS: Okay.

KIEFER: Um ... so, not, not much is going on, it's a normal day. Um, I was asked to respond to Westover, um, when they found ... um, a vehicle that was used; it was taken, an armed carjacking.

HELMS: Okay.

KIEFER: Um, that same suspect and that same vehicle, um, I later learn is this guy, um, did a [*sic*] armed robbery at Family Dollar not long after the carjacking.

HELMS: Alright.

KIEFER: Um, I saw the comments in the carjacking that he was armed with a blade and that the victim that was assaulted. I saw in the comments of the Family Dollar robbery that they believed he was armed with a gun.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 9 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Right.

KIEFER: Um, I was aware that the car was recovered behind ... um, one of the businesses, you know, near the West Boulevard shop, which is at the 1500 block of West Boulevard.

HELMS: Right.

KIEFER: So, I respond to that area, um ... you know, they, they were looking possibly for a potential track of the suspect. Um, I worked Westover Division for 8-1/2 years prior to my assignment at K-9.

HELMS: Right.

KIEFER: Um, due to ... being amount of foot traffic in that area, um, the wooded area behind that; it's not very large and there's a large homeless population, as well, um, and people who are just on foot. It's not a good tracking environment for the dog. Um, so we did not deploy the dog to attempt to track.

HELMS: Okay.

KIEFER: So I circulated the area at that time. Um ... during this initial investigation when the car is first found, it's around 2:00. Um, the helicopter, uh, I think it's probably Officer Baswell is the, T-F-O, uh, the guy who normally talks to us on the radio. Saw a white male, um, with a beard when they searched. The suspect was described as a white male with a beard.

HELMS: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 10 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Uh, walk into an apartment and I think it's called Cityview now used to be Sandhurst.

HELMS: Right.

KIEFER: Uh, 1723 block of West Boulevard, roughly. So, myself, Sergeant Kimble, uh, Sergeant Sullivan, and I think, um ... Officer Adams went out there. I helped conduct a knock and talk. We saw the sus-, uh, the white male there. Uh, Officer Baswell had observed. Quickly, we realize it's not the same guy, and the way I know it wasn't the same guy is prior to conducting that knock and talk, uh, Sergeant Kimble had a picture, he, he actually had a picture on his phone, I think from the Family Dollar robbery ...

HELMS: Okay.

KIEFER: ... of the suspect, so I was able to look at, look at his face.

HELMS: Right.

KIEFER: He was described as being 6, 6 foot 3, which is, you know, a decent bit taller than myself, so, a pretty big guy; and, uh, he had a very, very distinct beard with his, uh, almost like shaved on the side.

HELMS: Uh-huh.

KIEFER: ... and, uh, hair pulled back in a, a ponytail or a bun, so very, very easily recognized.

HELMS: Right.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms			Code Assignment 2445 Homicide		Date 01/18/2019	
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date				

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 11 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: So, we did not locate him at that time. Um, the officers, the, the division officers were in and out of a lot of stores in that area, uh, thinking maybe he was on foot in the area. Um, I guess when they ran the video back ...

HELMS: <coughs>

KIEFER: ... they realized the car had been there for about 45 minutes.

HELMS: Okay.

KIEFER: And, um, I cleared from that. I started to return towards training

HELMS: <coughs>

KIEFER: ... um ...

<DEAD AIR SPACE>

KIEFER: And, uh ... just trying to get my timeframes right.

HELMS: Oh, you're fine, take your time.

<DEAD AIR SPACE>

KIEFER: And the, and ... in all, well, maybe that was prior to 2:00. Then again, my timeframes are a little bit off. There, there, cause there's a, there's a period of time between when this, when that happened and then when, obviously, I, I saw this guy.

HELMS: Uh-huh.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 12 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: And, so I'm bouncing back and forth between training cause I'm trying to help, trying to get my training done and, and trying to cover the road. But, um, so I clear, uh, at any rate, I cleared from that scene, um, never deployed my dog; suspect's not located. Um, we're in the process of doing an investigation, we're recovering the car or what have you. I returned to training, um, and then, uh, sometime after that there is a call for service for a stolen vehicle in Hickory Grove, so, I began to go to that. They were able to get that stopped, I began to return to training again.

HELMS: <coughs>

KIEFER: Um, at which point, there was a ... call for service for a stolen vehicle in the North Tryon Division.

HELMS: Okay.

KIEFER: Um, the helicopter was tied up with the Hickory Grove call, they were finishing that up as people were taken into custody, and I was driving down West Boulevard on my, uh, towards, as I'm gonna go towards the North Tryon Division.

HELMS: Uh-huh.

KIEFER: ... and go down 77, 85, what have you. Um, I was on the North Tryon Division talk group on my handheld radio, my car radio was on Air Ops. As I'm driving past West Boulevard shop in that series is a strip mall, um ... I saw standing on the sidewalk, the suspect, uh, a white male standing on the sidewalk basically in front of the store, um ... in which the car was found behind.

HELMS: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms		Code Assignment 2445 Homicide		Date 01/18/2019	
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report ©				COMPLAINT NUMBER 20190116162206	Page # 13 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: As, as <chuckles>, it's one of those things like, like, seeing a ghost, like, you've gotta be kidding me.

HELMS: Right.

KIEFER: Like, you've got, I can't believe, this is ... you know, an hour and at least an hour later ...

HELMS: Uh-huh.

KIEFER: ... from when the car was found, anything like that is, you know.

HELMS: Uh-huh.

KIEFER: So, um ... I down a little bit further, I try to be casual; I didn't wanna ... spook him, so to speak. Switch my handheld radio to the Westover talk group, I advise them over the radio that I believe I've just sighted the suspect from the two armed robberies. Um, asked for officers to start that way so we can try to P-I-D him, get a couple of officers and get out with him. I went down to Fordham Road, which would be the next, uh, road, it heads into a neighborhood; I did a U-turn. As I drove back up, my, my plan was to pull up, pull in the, uh, opp- [sic], opposite side of the road in the, uh, parking lot; there I just sit and, and watch him, um.

HELMS: Right.

KIEFER: Uh, however, as I started to pull back up, uh, people were now on the sidewalk that were near him started pointing acr- [sic], the citizen started pointing across the street just doing that.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 14 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Okay.

KIEFER: Um, so, I knew that he was running.

HELMS: Right.

KIEFER: Um, I got on the radio, I said, hey, I got the, you know, the suspect, uh, is running back towards the old Adam-2 team office because thats where the Westover team office used to be.

HELMS: Right.

KIEFER: So, I pulled, uh, I pulled in the parking lot there, um ... and really with the map it's easier to describe, but as you pull in I could see ...

HELMS: I'll let you use this.

KIEFER: Yeah.

HELMS: I've got one that's kinda zoomed out and then this is a little more ...

KIEFER: Okay.

HELMS: ... closer to the area, so whichever one helps you better.

KIEFER: So, I'll use this one for, for now.

HELMS: Right.

KIEFER: Um ...

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded				23. Reporting Officer Det. J.B. Helms		Code Assignment 2445 Homicide		Date 01/18/2019	
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 15 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: First thing, can you, can you point out the Adam-2 team office on there?

KIEFER: Yeah, right here.

MCSWAIN: Okay, cool.

KIEFER: 1540 West Boulevard. Um, so, I pulled in here. He was ... when I first saw him he was further down this way on, he was on the opposite side of West Boulevard on the sidewalk there. Um, as I came up, as I stated, he, he apparently had run across; he was no longer there, and citizens were pointing in the direction that he, he left.

HELMS: Okay.

KIEFER: Um ... I pull into the parking lot through here expecting to get to here and I'm hoping to see him, you know, running across this way, fleeing.

HELMS: Right.

KIEFER: Um, however, and from here, I have a clear vantage point all the way up to Remount Road. It was just pretty wide open.

HELMS: Okay.

KIEFER: So, I can see, and he's not there. I look to my right and there is a car backed into a parking spot with two female occupants.

HELMS: Okay.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 16 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Um, and they're kind of giving me one of these to the window.

HELMS: Okay.

KIEFER: Um.

MCSWAIN: Do you remember what color car it was?

KIEFER: It's a red car.

MCSWAIN: Red car, okay.

KIEFER: Um.

LAUGHRUN: It's in front of a karate studio wasn't it?

KIEFER: Yes. Um, so I made the right-hand turn, I turn my patrol car down to here and I parked approximately here.

HELMS: Okay.

KIEFER: The car, um, with the two female occupants was parked approximately here, and I may be off a space or two.

HELMS: Okay.

KIEFER: Um ... I exited my patrol car and I walked over to them briefly and they were, they were giving me the 'he's over there ...

HELMS: Uh-huh.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 17 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: ... he's over there.' So, you know, at this point, I, I don't, I don't see him on, this is me looking for this suspect.

HELMS: Uh-huh.

KIEFER: Um, I walk back over to my patrol car at which time I see a shadow behind the dumpster back here.

HELMS: Okay.

KIEFER: I could see the shadow of a person.

HELMS: Right.

KIEFER: Clearly of a person, not of a, anything else. And, about the time I, I realize, hey, that's a person, the shadow of a person, he steps out from behind the dumpster, down onto the sidewalk, and as he does so, he's holding his right hand behind his back.

HELMS: Okay.

KIEFER: Um, I draw my pistol, I began giving him verbal orders to take his hand out from behind his back.

HELMS: Right.

KIEFER: As I'm doing that, he yells back, "I am going to shoot you, I'm going to shoot you."

HELMS: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code Assignment 2445 Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 18 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Um, I start to, I'm, um, I'm a few steps away from my patrol car. I begin to back up and I'm now on the radio, um, if I can demonstrate, well, when my radio is down here, um, so, I'm just clicking on my radio, holding, uh, cover on him, and I'm verbalize, I'm giving verbal commands and also verbalizing on the radio so people kinda know, hey, this is, this is not a good situation I'm in. That his hands behind his back and he's, you know, I don't know if I say he's gonna shoot me at this point, but ...

HELMS: Uh-huh.

KIEFER: ... I, I think that, I try to make mention he was making a threat of shooting me.

HELMS: Okay.

KIEFER: I back up to the rear door of my patrol car where my, where my dog is.

HELMS: Uh-huh.

KIEFER: Um, because with his hand behind his back, um, obviously, I, obviously, I have in mind that he was armed in two robberies, um, and he's assaulted one person ... but he has his hand behind his back and, um, so I'm still hoping to use a less lethal force option to end this situation. I back up to my patrol car, um, and I get my dog, I open the door and I get my dog out.

HELMS: Okay.

KIEFER: Um ... from the distance I was away from him, I didn't have any other less lethal force options. I couldn't deploy a taser on him, uh.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded			23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019		
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative			25. Case Referred To 26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 19 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Do, do you know what that distance was?

KIEFER: I, I'd approximate it uh, 20 yards.

HELMS: Okay.

KIEFER: Uh, keep in mind that my distance approximation is not good, um ...

HELMS: Okay.

KIEFER: I'd say about 20 yards outside of taser range for sure, um, but, in addition to that, I don't have, there's nothing else there; I don't have any lethal force coverage, uh, to cover me while I, I try to deploy a less lethal force option.

HELMS: Right.

KIEFER: So, the only option I'm left with is that can cover that distance, uh, potentially, um, and allowing me to keep lethal force coverage for myself is my dog. Um, I get my dog out, um ... and ... so this is, this is kind of a hard part explaining about dogs. My dog doesn't have any context of the situation at this point. Um, he doesn't know, hey, there's a bad guy out there, he doesn't know that there's been two robberies. It, there's no context for a dog.

HELMS: Uh-huh.

KIEFER: Um, and my, our dogs don't just come out of a car looking to indiscriminately bite people, um, they have to put into a task. Um, so as I do so, I get him out, my dog's, as I recall, he's looking back up at me, like, hey, what's going on, Dad? Um, and I'm trying to get him

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 20 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

focused, but before I can, uh, before I can get him trained on this guy that's 20 yards ahead of me, um ...

HELMS: Uh-huh.

KIEFER: ... also keep in mind that dogs' depth perception isn't great, so, you know, 20 yards to me, it might be hard for him to see.

HELMS: Uh-huh.

KIEFER: Um, the guy takes his arm from behind his back, he punches out ...

HELMS: Okay.

KIEFER: ... like, like you would with a handgun.

HELMS: Alright.

KIEFER: Um, at this point, this is a game changer for me. Uh, the, the total dynamics of the situation, which were already bad, have, have changed.

HELMS: Uh-huh.

KIEFER: Um, because I can see in his hand, um, why, at that point, I couldn't tell you that that was a gun or a knife necessarily; I can tell 100 percent what it was and I knew it wasn't a cellphone.

HELMS: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 21 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: And it wasn't a set of keys, and I could tell that by the way he's holding it. Um, he's holding it with a really close grip, like you would have on the, the butt of a gun ...

HELMS: Uh-huh.

KIEFER: ... or on a knife, um, and he's pointed directly at this. I can see about, essentially down the barrel of this object.

HELMS: Right.

KIEFER: Um ... at that time, um, I did not immediately shoot because I'm still trying to ascertain what the full level of the threat is.

HELMS: Uh-huh.

KIEFER: I let my dog go, um, I give him a command, um, but essentially that's white noise because he, he still doesn't know this guy's down there, he just doesn't ...

HELMS: Right.

KIEFER: ... realize it yet and because ... this is all happening super dynamic and it's a matter of, we're talking 5 seconds probably all of this stuff is going on. Um, and the guy charges me, um ...

HELMS: Uh-huh.

KIEFER: You know, so, at this point he's ... you know, he's come out from behind the dumpster with his hand behind his back. Um, when told to show me his hands, um, he eventually complies after threatening to shoot me.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 22 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Uh-huh.

KIEFER: But punches out in a fighting stance, like you would with a gun. A, a basically a really good Isosceles Stance is what he had.

HELMS: Right.

KIEFER: Um, punches out after making threat of shooting me with this object in his hand that, uh, again, I know what it's not, but I'm still trying to ascertain the level of the threat ... but then he starts to charge me, um, and he's closing the distance very rapidly. I can tell as he's getting closer that the, the thing in his hand is a weapon.

HELMS: Uh-huh.

KIEFER: Um, at some point I'm able to ver, decipher that it, that it's in fact a knife, um ... and as he's charging me I started to shoot.

HELMS: Okay.

KIEFER: Um, I felt ... if I go back a little bit further, um, just to set it up from, from my perspective, when he stepped out from behind that dumpster with his hand behind his back and made those threats, he had the, he had the thousand-yard stare.

HELMS: Okay.

KIEFER: Um, it was one of those looks that, you know, he's looking through me, he's looking to ... destroy you; um, and again, all that stuff was a, was a game changer. Uh, I, I wanted to deploy a less lethal force option but I, I just wasn't able to. Um, so he charges at me at that

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 23 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

point, you know, I'm, I'm in a fight for my life. He's, he's charging me with intent, in my mind, to kill me. Um, he's not ... running at me to get away, he, he, he had options to run ...

HELMS: Right.

KIEFER: ... in, in, in many different directions, which he didn't choose; he ran directly at me. He didn't walk at me, he didn't jog at me, he, he charged me, um, still pointed out like this.

HELMS: Okay.

KIEFER: Um ... so I began to, to shoot to try to stop that. Um, I took ... and, uh, my initial burst of fire, I'd say I took a quick, a really quick 5 or 6 shots.

HELMS: Okay.

KIEFER: I didn't get a change of behavior from him, um, meaning that ... I was noticing my shots were not effective for, for whatever reason. Took a couple of steps back as he's really, um, closing ground on me quick. Leveled off, got into my front side post, um, obviously, I mean, there's, there's auditory exclusion, there's all sorts of stuff during these types of events, but, um, you know, I couldn't see, I can't do sight align or sight picture in that dynamic a situation. But, I was able to take a moment, look into my front sight post, take one or tw- [sic], or I take two to three additional shots and I'm about at the rr- [sic], directly behind my car.

HELMS: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms			Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report @			COMPLAINT NUMBER 20190116162206	Page # 24 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge	
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes	13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: ... at this point, I, I believe ... and he's probably close to approaching where this tree is here at this point. Um ... that's when I have an oh, shit moment. Um ... <chuckles> ...

HELMS: <chuckles> Right.

KIEFER: ... if I can be candid, where I still realize I'm not gonna change behavior.

HELMS: Right.

KIEFER: Either my rounds are, my rounds are ineffective and this guy's still charging me punched out ... looking to kill. Um, so ... I displaced, um, I moved ... from around the car here back up over to here. So, as I'm shooting this way the, the really positive thing, um, uh, I, I hate to say really positive, but the, the really good thing for me is my back, my backdrop here is, is awesome.

HELMS: Okay.

KIEFER: I couldn't, in an urban environment, I couldn't ask for a better backdrop. I got a, probably a 4-to-6-foot, uh, brick wall before a 6-foot fence.

HELMS: Okay.

KIEFER: Uh, dumpsters, empty building, this is all abandoned.

HELMS: Okay.

KIEFER: Um ... so I really wish the situation could have been ended here. Um, obviously, I wish the situation could've been different but ...

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 25 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

wasn't my choice. So, at any rate, I displace, I realize my shots are ineffective, I come around the car here. Uh, these two women are still in their car, well, I know the car is here.

HELMS: Uh-huh.

KIEFER: So, I'm super cognizant ... that I can't ... you know, I can't fight him here.

HELMS: Uh-huh.

KIEFER: Um, he, he's chose this as where the fight's gonna happen and I'm trying to do the best I can. Um ... I know that I can't fight him here because I can't, you know, I, I can't, I can't any shots there, I can't, you know, it's, you know, uh, I, I have that responsibility. I can't take any shots going this way because there's, there's people over here.

HELMS: Uh-huh.

KIEFER: Um, so, to me, my only option is to draw him, I got over to this side of my car, um, and I lost sight of him.

HELMS: Right.

KIEFER: I, I, I, I don't see him at all, so I'm, I'm looking for him to either come out this way from either side of my car ...

HELMS: Uh-huh.

KIEFER: ... towards me. Um, and he does, he comes around this way. Um, there is a karate studio there, there's a building there, a business that I believe to be abandoned, um, and then there's ... you know, a tax

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded			23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019		
22. Investigative Status] Active] Inactive] Closed] Administrative			25. Case Referred To		26. Reviewing Supervisor, Code, Date

Charlotte-Mecklenburg Police Department Supplement Report ©				COMPLAINT NUMBER 20190116162206	Page # 26 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

service business down here. As he's coming around the car, I waited for him to get closer than I would feel comfortable doing, uh, because I just wanted to make my shots count. He was still charging me, still had what now I ... a 100% know is a knife in his hand.

HELMMS: Okay.

KIEFER: ... uh, cause he was that, he's *that* close. Um, and I take an additional, I believe, three shots.

HELMMS: Okay.

KIEFER: Uh, finally, I get the change of behavior, he begins to stumble, he begins to slow and he falls to the ground. Um ... also <clears throat>, um, so as I get over to here ... I'm back, I'm backing up, I'm creating distance, um, because there's a guy coming to me. I don't have ... and I had my car for cover, but I need, I need distance.

HELMMS: Uh-huh.

KIEFER: If he's able to close that gap obviously he can do some real harm to me. Um, my dog came around, still really just confused as to what the situation is. My dog came around first, he bit me in my lower, like, on my shin.

HELMMS: Uh-huh.

KIEFER: I told him no, or, or something. He immediately spit it out, no big deal. Um, because, again, he just doesn't realize what's going on, um, and as the guy came around, I engage him with what I believe is three additional shots. And as he fell or went to the ground, my dog

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 27 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

realizes, oh, there's, you know, there's, there's the guy, um, and engaged him on the arm.

HELMS: Okay.

LAUGHRUN You said engaged, what do you mean?

KIEFER: He, he bit him on the arm.

HELMS: Okay.

KIEFER: Yeah.

HELMS: Alright.

KIEFER: Um, so that was ... that was the dynamics of the encounter there. When he went down to the ground, um, he was on his belly, um, he was bleeding profusely. I could see the knife, um, you know, probably still within arm's reach, just outside of arm's reach. Um, he had labored breathing. Um ... Officer Walker showed up really quick after that, um, and then, uh, Detective Regan, both from the Westover Division.

HELMS: Okay.

KIEFER: I remove my dog from the bite. Um, I instructed them to handcuff him and then said, you know, soon as you get the chance we got, we gotta treat this guy. Um, I kinda, they got him handcuffed, um, so I, I walked away from that. I put my dog up and I went back here with the car with these two ladies were expecting to find 'em in the car. Um, I wanted to make sure they were okay and they were actually, they were actually hiding underneath the car. Um ... I felt really,

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 28 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

really bad about that, I felt just horrible that they, they had to see that. Um, so I tried to do the best I could to help them up. Um, I was able to get 'em out from underneath the car, tried to reassure 'em that everything is over, um, it's, it's done and over with, everything's okay. Um ... there were a couple of people here that, that started to gather in the sidewalk and they said they knew her, um, so I went and made contact with one guy in particular. He say [sic] he's related to her. I asked him to stay on the sidewalk, come down cause, you know, to let him comfort her. I, I told him this, this is a crime scene, please don't come into this, but stay with her, you know, console her; and, um, I started trying to do scene management at that point to ... basically block off the scene and get, uh, you know, I've asked for MEDIC, obviously, at this point, too, and to get the resource in there. We cleared for scene security and to get him treated.

HELMs: Right.

<DEAD AIR SPACE>

HELMs: Alright. When, uh, so when you initially see him you said he, he came out, his arm was, right hand was behind his back?

KIEFER: Yes, sir.

HELMs: Alright. And you perceived a threat; you said he came out with something in his hand?

KIEFER: Yes, so, he ...

HELMs: Oh, <unintelligible>.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code Assignment 2445 Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 29 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: He came, he comes out from behind the dumpster there, um, steps onto, as I recall, he steps onto the pavement, and he's saying, "I'm going to shoot you."

HELMS: Okay.

KIEFER: I mean, uh, I mean clear as day, I'm, I'm gonna shoot you.

HELMS: Did you have any reason not to believe that?

KIEFER: No, not based off the two previous crimes he's committed.

HELMS: <unintelligible, talkover>

KIEFER: Um, yeah, he was already showing propensity for violence and the second one they, they said he thought he was armed with a gun, um, uh, at the Family Dollar; um, that's the information I had at, at that time. So, he says, I'm gonna shoot you; um, again I ... based off that I, I had my lethal force covering with my, my pistol, um, and then, as I got my dog out, you know, before I could try to use the less, less lethal force option, um, he punched out with that object in his hand, which, you know, I, I quickly determined to be a knife, but at, at, at the time he initially did it, from the distance I was at, I didn't know that necessarily was a knife or that it was a, a gun. I just knew you know, if I could use your cellphone.

HELMS: Yeah, absolutely.

KIEFER: That's great. I mean this grip is, you know, doing this even from 20 yards I could tell, like, this isn't, this isn't how you hold a gun, this isn't how you hold a knife, you know. It was way too small to be a pen.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded			23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019		
22. Investigative Status] Active] Inactive] Closed] Administrative			25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 30 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Okay.

KIEFER: You know, a set of keys. Um ... right or wrong, I still gave the benefit of the doubt initially.

HELMS: Okay.

KIEFER: Um, until he started to charge me.

HELMS: Okay.

KIEFER: At which point, I felt that I had no other option but to defend myself.

HELMS: Okay. Uh, how many total years of law enforcement experience have you had, do you have?

KIEFER: Twelve.

HELMS: Okay. And you've been on K-9 for how many years?

KIEFER: Uh, three years, I meant, yeah, about three, three and a half maybe.

HELMS: So, as a K-9 officer I, I know you have other ... responsibilities and missing persons and things like that, but mostly dealing with just apprehension of the suspects, correct?

KIEFER: Yes.

HELMS: Alright. How many, uh, how, uh ...

KIEFER: <unintelligible>

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms			Code 2445	Assignment Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report ©				COMPLAINT NUMBER 20190116162206	Page # 31 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: How many arrests or apprehensions do you feel like you've made in your career?

KIEFER: In my K-9 career?

HELMS: Say your whole police career?

KIEFER: Wooo.

HELMS: If you had, if you can estimate that?

KIEFER: Man, uh, so ... it's hard to say on patrol. I, you know, I was a patrol officer and I also did FMT, now C-R-U. Uh, shoo, if you say ...

HELMS: Do you know your K-9 number?

KIEFER: Uh, I got a better estimate of that.

HELMS: Okay.

KIEFER: I mean, I, I upper, I've made upwards of easily a thousand arrests in my career.

HELMS: Okay.

KIEFER: Um, in K-9 with my dog, we've tracked we've caught, building searches, what have you, but we've, we're responsible for I'd say approximately 60 apprehensions.

HELMS: Okay.

KIEFER: And I'd say 90% of those are violent felons.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019	
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 32 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Alright. In those experiences, um, in similar situations you, you've got somebody at gunpoint, what is, what kind of reactions do you, or how does the suspect usually respond, or what's a response that you get from them?

KIEFER: Um, compliance especially when you, when you bring a dog out typically that dog is, you, you get compliance.

HELMS: Okay.

KIEFER: Um, most people if they don't want to comply they, they turn and run.

HELMS: Alright.

KIEFER: Um.

HELMS: Okay.

KIEFER: But, yeah, and they don't charge you by pointing a weapon at you.

HELMS: Okay. Have you ever had anybody charge you before? When you're making arrest you've got somebody at gunpoint?

KIEFER: No.

HELMS: Okay.

KIEFER: No, never had anybody charge at me.

HELMS: Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 33 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

LAUGHRUN Tim why wouldn't the dog attacked and you said basically whatever word you used, why wouldn't he attack the suspect?

KIEFER: Um, so the words I used are just get 'em, get him. I, I use English commands, it's nothing fancy.

HELMS: Uh-huh.

KIEFER: Um ... but I knew, you kinda get into the science of dogs, but the, the basics of it is the dog actually put on to a task, um, and he just didn't have the time to acquire what that task was. He has to be lined up with the suspect, realize, hey, this is the guy out here, this is the guy I'm supposed to attack, yeah.

HELMS: Uh-huh.

KIEFER: I won't say attack, but this is the guy I'm supposed to apprehend.

HELMS: Right.

KIEFER: Um ... the dynamics of the, just didn't have the time to do that. Um, you know, dogs ... they get lateral movement better than they get this movement.

HELMS: Okay.

KIEFER: Um, so if he was moving laterally a dog proly [sic] would've fixate on that much more quickly. You know, most people run, the dog catches onto that, um, it's what we call a prey drive.

HELMS: Okay.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 34 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Um, but they're just, the, the time didn't allow it, so the dogs had no ...

HELMS: <coughs>

KIEFER: The dog, I mean I don't wanna say the dog was set up for failure. I, I tried it, essentially, I tried to deploy a less lethal force option and it just, time did not permit it to be deployed effectively.

HELMS: And I don't wanna put words in your mouth or, or direct in any way but, if you had time, if you'd gotten the dog out and had time to stand there with him, if the, if the gentleman would've stayed where he was, and you would have had time to direct attention towards him.

KIEFER: Mm.

HELMS: Then what, what would've happened, do you feel like just on your training experience ...

KIEFER: The...

HELMS: ... with the K-9?

KIEFER: Even if he would've charged me the dog would've charged back and hit him.

HELMS: Okay.

KIEFER: We, you know, that's, um, it's called a courage test we do that, we go with blank fire, the gunfire had zero to do with anything to do with the dog, it's, um ... but we do courage test our dogs and, I mean my, my dog's physically apprehended ... 25 people.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019	
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 35 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

HELMS: Uh-huh.

KIEFER: Um, you know, um, hell, just a few weeks ago after a, after a, a chase, officers were taking a guy into custody, this is a carjacking, taking a guy into custody in the back yard. Um, I deployed my dog for further search of suspects and he located a guy under a car that I had no idea he was there that was armed with a gun. Um, These officers back were to this guy, not because they did anything wrong, but just cause, you know, they're in the midst of doing what they're doing. So, I have no doubt that my dog ... given, given, uh, 5 more seconds and able to get him on that task would've, would've done absolutely what, what, you know.

HELMS: And what prevented that from happening?

KIEFER: He changed the dynamic of the situation by charging me.

HELMS: Okay.

KIEFER: Um, I, he did not allow the time for me to get my dog fixated on, onto him.

HELMS: Right. And then you talk about you, you move around, uh, around the car?

KIEFER: Yeah.

HELMS: Around your car and, and you're running, um ... are you trained as law enforcement, are you trained to run away from something or are you already trained to keep your eye on the target and, and keep your eyes forward and ...?

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms			Code	Assignment	Date
				2445 Homicide			01/18/2019		
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date			

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 36 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Well, I, I, obviously the situation depended, um, I have tons of training with, as far as, you know, all warrant school and stuff like that where you're taught, you know, taking to the threat and advance on it. But that's for, that's for a closed quarters battle.

HELMS: Uh-huh.

KIEFER: Uh, I mean this is, this, this is closed quarters ... but space is more my friend than closing a distance with this guy.

HELMS: Right.

KIEFER: Which is why, when I realized my rounds aren't effective, my best thing to do is to displace and choose a better vantage point to, to fight from.

HELMS: Okay.

KIEFER: Uh, that, that space and that time is [sic], uh, I think ultimately what, what kept me safe.

HELMS: And are you moving, are you running backwards at this point, are you moving backwards and?

KIEFER: No, uh, from, from here, uh, when I did move I just, yeah, I, I turned, I ran, I got to here, and I turned back around so I can get my, my plates [sic] up front.

HELMS: Uh-huh.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @			COMPLAINT NUMBER 20190116162206	Page # 37 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge	
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer

KIEFER: Um ... but, you know, there's, there's ... like I said, I, I couldn't, I can't fight from ... from this way. I, I don't have any shots this way.

HELMS: Yeah.

KIEFER: That's not, that's not a good backdrop for me, so I had to get back in here and the best way to do that was to go as fast as possible.

HELMS: Okay.

KIEFER: And, that means turn around and just running.

HELMS: What's in your area, in this area right here; is there ... are you, do you know, is anywhere for you to seek cover at that point?

KIEFER: No, I'm in, I'm, you know, I've, I've got, to, to some extent, I have, you know ... the, the front of my patrol car.

HELMS: Uh-huh.

KIEFER: Um ... but if he comes back at me from this way, um, you know, these cars are not there, there's nothing back here. Um, you know, so I didn't, I didn't have a ton of cover options, I don't believe.

HELMS: Okay.

MCSWAIN: Well, let me ask you this, does cover help you when someone's charging?

KIEFER: It does until they come around it.

HELMS: Mm.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 38 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Yeah, I mean, uh ... obviously, obviously we'd always want to fight from cover, um, and just, you know, well, well, when he stepped out from behind the dumpster, you know, at that point I'm kinda, I don't wanna say I'm fixated at one spot, but you are where you are when, when the fight starts and that's where I was, unfortunately, because I'm looking for him; I don't know where he's at and he stepped out. Um ... but, you know, he ... I don't wanna say, he chased me, he, he came around to continue to fight. You know, he, he still could've stopped at any point but he, he chose to continue to fight, um ... on that side.

MCSWAIN: When you go around your car, right; at any point when, um, the white male with the long beard, when he starts running does he ever slow down?

KIEFER: No.

MCSWAIN: He never slowed down?

KIEFER: Not for my vantage point, no.

MCSWAIN: So, when you go around your car and he pops out the same way you went around, what does that tell you?

KIEFER: That he's still coming to kill me. The only time that he began to slow down is when my, I could tell my rounds were having some sort of effect.

HELMS: Okay.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 39 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

LAUGHRUN So, let me ask you. That's a view from the suspect, right? Where he was, is that about right?

KIEFER: Yes.

LAUGHRUN Looking about where you were?

KIEFER: Yep.

LAUGHRUN Okay. If the tree looks like it's a big tree, it's not a big tree, is it?

KIEFER: Big tree, no.

LAUGHRUN Right, okay. That's, that's a different, that's downhill, is it not, from where he was to where you were, too, right?

KIEFER: Yeah, there's a level change.

LAUGHRUN Okay. It's not straight is it?

KIEFER: No.

LAUGHRUN He didn't run uphill, he's running downhill, isn't he?

KIEFER: Yes.

LAUGHRUN Okay. And that shows about where he would've been, is that about right, that you and I went out there today and took that, is that right?

KIEFER: Yeah.

LAUGHRUN Okay.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report ©				COMPLAINT NUMBER 20190116162206	Page # 40 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: I'mmon [sic], I'mmon [sic] back up, I'mmon [sic] jump in here ...

KIEFER: Yeah.

MCSWAIN: ... with, uh, a few questions. Um, I believe, if memory serve [sic], you indicated that you saw a shadow behind the dumpsters initially?

KIEFER: Yes.

MCSWAIN: Is that correct?

KIEFER: Yes.

MCSWAIN: Alright, uh, so what are the, like, what's the weather look like? What, what, what, um, what, uh, like, how much light do you have, uh, basically what time of day is it?

KIEFER: It was afternoon, it was ... and then, yeah, I've lost all track of time, but it, it was the afternoon; it was after 2:00, his training was essentially they were finishing. Oh, I'm sorry, it was around 4:00, um ... it was about 4:00, overcast but enough sunlight, uh, that there was a shadow.

MCSWAIN: Enough sunlight, there was a shadow?

KIEFER: Yeah.

MCSWAIN: So, no issues being able to see the guy?

KIEFER: No.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 41 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: Oh, okay. Um, so I just wanna go over *all* of your knowledge prior to contact, alright? I believe you indicated earlier that you, um, uh, did some reading about what had happ- [sic], what had occurred. Where did you do that reading at?

KIEFER: On the, the CAD, the calls for service.

MCSWAIN: The, the calls for service?

KIEFER: <unintelligible>

MCSWAIN: Pull up both of 'em or just one?

KIEFER: I glanced at both.

MCSWAIN: Both of 'em?

KIEFER: Yeah.

MCSWAIN: Okay. Um, did, uh, so you, you respond to West Boulevard, what are the conversations that you are having, uh, with any supervisors or officers on scene, uh, aside from the, the photograph on the phone?

KIEFER: Um, my initial response, I actually came to this area, um, I went into this coin laundry over here. I asked if they'd seen a, uh, Sergeant Sullivan was there with me watching, as well. I asked if they'd seen a, a white male, um, with a, with a beard, tall, in the area, um, they had not. Um, drove around for a couple of minutes, um ... again, 455, saw the, the white male going into Sandhurst Apartments. They were able to figure out what apartment he went into. The, I saw the picture that Sergeant Kimble had and, and the conversation was, you know, you know, we don't have a ton, it's just knock and talk, um,

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 42 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

you know, see if this is the guy. Turned out not to be, I cleared from the scene.

MCSWAIN: Are y'all, are y'all taking any, uh, tactical precautions, uh, based on the previous knowledge?

KIEFER: Um, for that particular one, um, I don't think we were overly concerned that that was the guy.

MCSWAIN: Okay.

KIEFER: Uh, there was a [sic] Officer, uh, Margery Adams there.

MCSWAIN: Yep.

KIEFER: And she seemed to know who, who lived in that apartment.

MCSWAIN: Okay.

KIEFER: So, she like at least the description but it's not, you know, she's like, I really don't think that's the guy.

MCSWAIN: Okay.

KIEFER: I think it's a, a drunk guy. Um, we did have people at the back. Um, I knocked on the door, um, you know, you know, a little bit of space, what have you.

MCSWAIN: Uh.

KIEFER: No, we weren't overly tactical for that situation.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445	Assignment Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 43 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: So, when you saw the photograph on the phone, um, you, you, um ... is the guy you saw on the phone the guy you encountered the dumpster?

KIEFER: Yes.

MCSWAIN: Okay. Um, alright, I, I noticed, I know you said you were, uh, have been with K-9 three years. Have you had Baco three years?

KIEFER: I have.

MCSWAIN: Alright, so that's your only dog?

KIEFER: That's my only dog?

MCSWAIN: So, you're intimately familiar with Baco, what he does and all? Okay. Um, um, you indicated earlier that you got bit.

KIEFER: Yes.

MCSWAIN: Um, have you ever been bit before?

KIEFER: Yes.

MCSWAIN: So, that is not unusual for your K-9 to bite you?

KIEFER: No, so it's a, it's frustration, um, if we track a suspect and, you know, we are able to see up ahead or he complies, he yells out, hey, don't let the dog, whatever the situation is, the, the dog is gonna bark, he's gonna be amped up because he's, you know, he's followed the odor, you know, he's close to the guy, he sees the guy, he knows he's out

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code Assignment 2445 Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 44 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

there. Um, so there's a couple of situation [sic] ... if I hold him back he's gonna get frustrated, the dog will nip at me. Um, he'll turn around, he'll bite me in the wrist or something.

MCSWAIN: Okay.

KIEFER: Um, you know, it's what it is. If a dog physically apprehends a person and I remove him from that bite, I've taken something away from him, he will get frustrated, he'll turn, he'll nip me. Um, if, and this, this has happened a couple of times and this, this is what we try to warn officers about when they come through, um, patrol rifle school and the tracking part, if we are tracking somebody or there's a foot chase and my dog now and you start giving verbal orders to a guy that my dog doesn't see him, he doesn't realize he's out there, the dog is gonna get frustrated and he's gonna, there's a potential for him to, to nip them. Um, it's not a full-out bite, it's not, he doesn't bite and hold, it's just, it's a frustration thing; he's just, it's a way to release essentially en- [sic], energy for him. Uh, and, and that's what happened here, he's, he was confused.

MCSWAIN: Okay. Um, so, there's the, I just wanna focus solely on your dog cause there's gon' be some questions about your dog and, and his behavior. Uh, when you, do you recall, when you let your dog out, where, uh, where does your dog go ... as soon as you let him out?

KIEFER: I have him in my left hand.

MCSWAIN: Uh-huh.

KIEFER: I was holding him.

MCSWAIN: Oh, so, so you're holding the dog?

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445	Assignment Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 45 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Yeah.

MCSWAIN: Okay. Um, so you're holding the dog one hand, you're, you're, um?

KIEFER: Holding cover with the other.

MCSWAIN: Okay then, alright. Um, at what point do you let go of the dog?

KIEFER: In my memory, it's, I get the dog out ... uh, it's within in, by, by, just by my memory it's only two seconds. The, I get the dog out, I'm holding cover and then the guy starts to charge, and, you know, it's just, wasn't enough time to focus the dog on what that task was.

MCSWAIN: Okay.

KIEFER: Um, so ... you know, it's either stand in the pocket and hope, hope and pray for the best and wait for the dog to pick up that or let the dog go and engage in a fight, which was my best chance for my own safety.

MCSWAIN: Okay. When you let the dog go do you know where he goes or what he does at that point?

KIEFER: No idea.

MCSWAIN: No idea, okay.

KIEFER: Not, not until he came around the, the car when I was on the other side.

MCSWAIN: Alright. So, you're going around the car, you pick the dog up ...

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019	
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 46 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Yeah.

MCSWAIN: ... there? Uh, what does the dog do then; is he following you?

KIEFER: I, uh, based on my memory, he came around prior to the suspect, um, coming around. He came around, comes up to me, like I said, he, he, I say he bites, he nips me in the leg.

MCSWAIN: Okay.

KIEFER: Um, I'm able to tell him no. He turns around, the suspect's still coming, um, I engage the suspect and he goes down. He finally realizes, oh, you know ...

MCSWAIN: Okay.

KIEFER: ... this, this is the guy.

MCSWAIN: Alright. Um, so in ... is your dog intimately familiar, uh, did you believe that Baco ever caught an eye on the suspect and, uh, but prior to him going down?

<DEAD AIR SPACE>

KIEFER: I'm, I'm sure at some point, I mean, obviously, I, I can't ask him.

MCSWAIN: Right, no, no, I'm ...

KIEFER: I feel at some point, yeah, he probably had to see him, uh, because in the same area; however, uh, I go back to our dogs don't necessarily

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 47 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

just indiscriminately bite people. I mean, he's gotta be, which is, I mean that's a huge plus for us, that's what allows us to work in urban environments with apprehension dogs is that ...

MCSWAIN: Okay.

KIEFER: ... they don't indiscriminately bite. Um, so even though I gave him the command of 'get him', I mean I assume, that's essentially white noise cause he doesn't know who 'him' is or what's going on. Um ...

MCSWAIN: But, but does the word 'get him' put him in a, uh, a certain type of mode, a certain of, of, of mind frame?

KIEFER: It, it doesn't if there's nothing out there.

MCSWAIN: Okay.

KIEFER: Um, yeah, I mean, there has to be something out ...

MCSWAIN: Okay.

KIEFER: I mean, and obviously, there, uh, and obviously, there was, but he has to know there's something out there, too.

MCSWAIN: Okay.

KIEFER: I go back to, I think, the big difference to me is, and I mean, obviously, there's a ton of science that goes into, into dogs and why they act a certain way, but ... you know, at the, just use a 43 as an example of a chase, um, if you're in a chase and you're in a chase even if its three minutes, your light's going, your siren's going, the dog's like, okay, hey, some'um's [*sic*] on, you hop out the car, a guy

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code Assignment 2445 Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 48 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

comes running across, you open the door. You know, if, you know, if it's, you know, something that rise [sic] to that level and the dog's like, man, this is it, all this makes sense, you know? But the dog doesn't have the context of two previous calls for service, there was no lights, there was no sirens.

HELMS: Right.

KIEFER: It's me getting out a car, which is unusual, talking to a person in a car briefly, walking back over and then I find myself in this altercation while I'm trying to get my dog and quickly deploy him. He just doesn't have the context to ... put all that together without; he needs the time to be put on the task and he, I, I just don't have the time to put him on that task.

MCSWAIN: And the task being, uh, the ...

KIEFER: That ...

MCSWAIN: ... the suspect?

KIEFER: Yeah, the suspect.

MCSWAIN: Okay.

KIEFER: Yeah.

MCSWAIN: So, uh, my original question was, do you, let me, let me rephrase my original question. Um ... the dog never, never saw the, the suspect, uh, as a task?

KIEFER: No, I don't believe so.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report ©				COMPLAINT NUMBER 20190116162206	Page # 49 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: Okay.

KIEFER: Yeah.

MCSWAIN: Until he goes down?

KIEFER: Right.

MCSWAIN: Alright, that, that's, that's what I was getting at. Um, so ... um ...

KIEFER: He, he ...

MCSWAIN: You elaborated on the dog a lot there. I wanna, I wanna go back to a comment you made earlier. Um, you initially responded to, uh, the area for the, uh, the abandoned carjacked vehicle?

KIEFER: Yes.

MCSWAIN: Okay. Um, you indicated, uh, that this was not a good tracking environment for the dog. If you would, um, first question is why and, second, uh, what are your concerns?

KIEFER: So, my dog doesn't do hard surface tracking, uh, meaning that we can't ... we, we don't track over concrete. Obviously, in an urban environment we cause [sic], cross concrete all the time, yes, we do. Can he work some level of odor on concrete? Yes, he can, but it has to be really fresh, uh, for, for a patrol dog. Um, essentially, he does not have the capability to track down a sidewalk on West Boulevard, uh, which is everything in front of that shop is all paved concrete. Behind it is a ... is a line of woods, um, but it's not dense, it's ... again, you know, distance perception is not my thing. You know, 20

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code Assignment 2445 Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 50 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential. Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

yards wide, 30 yards wide at its widest point. Um, there's places where it is very dense, but it's just, it's over grown stuff, there are trails there, there's a ton of trash, um, drug users go back there to smoke drugs, it's, it's been that way ever since I worked in A2. There's, uh, a large homeless population, um, and my dog doesn't scent discriminate meaning I can't ... I can't take him and put him inside of that car or take some, some piece of clothing that maybe he left in the car, and I don't know that he did or didn't. Had my dog smell it in then track, that's not how he tracks. Um ... so, there, he, he doesn't have the ability to track through that amount of contamination, that amount of people, plus ... you know, I did not drive out back there, um, and I would say I'm, I'm somewhat making the assumption, but my assumption is there were people back there, there were people on trails. Those trails get used all the time. Um ... and the next place we're going to come out is on Brentwood Place, um, which is, it's residential, but again, there's a ton of foot traffic, um, there's really no, there's really nowhere for me to go further with the dog.

MCSWAIN: Okay. Are you concerned that, uh, an innocent person, uh, might be mistaken and you don't want you to put your dog in that spot?

KIEFER: Yes, absolutely.

MCSWAIN: Alright. Um, okay. So, now I'mmon [sic] switch back to you. Uh, I'm, I'm, I think I've covered enough questions about the dog. Um ... you indicated that you fired your initial fire burst, you in, you stated 5 to 6 shots, alright? You, you did a great job, uh, talking about your backdrop, the cement, uh, fence above ...

KIEFER: Uh-huh.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 51 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: ... a fence above it. Um, you indicated, and I want you to expound on this just a tad; you indicated that your shots, um, after you fired your shot, you said there was no change in behavior from the bad guy. Please expound on that and do you think that, uh, one of those rounds hit the suspect?

KIEFER: Um, so ... when you're in a [sic] encounter like this, obviously, all you're looking to do is stop the threat, you know? Um ... and what I mean by no change in behavior, you know, somebody can fight through being shot once, somebody can fight through being shot 10 times depending on what the situation is potentially, you know? Um ... so you're just looking for that change in behavior, either, oh, shit, this guy's shooting at me, I give up; that'd be a change of behavior that woulda [sic] ended the situation. I, I'm getting knocked, you know, obviously we don't get knocked backwards like in the movies, but, you know, if you're being shot you're probably <unintelligible>, you're slowing down, you're, you're doing something different than continuing to charge at me punched out with a knife. Um, he did none of those things.

MCSWAIN: Well, I want, I wanna, I wanna caution you right there for a second. You indicated earlier when he first initially started charging, uh, what was in his hand?

KIEFER: The, well, I know now that it's a knife.

MCSWAIN: Right, okay.

KIEFER: <unintelligible, talkover>

MCSWAIN: But then when he first starts initially charging, I think you indicated you could not decipher?

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445 Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 52 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Uh, yeah.

MCSWAIN: I, I, I don't wanna, you, we broke, you, the way you broke, uh, the way you, uh, the way you told your story, you broke it up into several sections.

KIEFER: Yeah.

MCSWAIN: I'm just talking about him by the dumpster right now, your first initial 5 to 6 shot [sic]. Uh, don't assume at that point that we're talking about a knife, okay?

KIEFER: Okay.

MCSWAIN: I, I just want you to stay in that particular moment because I'm gonna move around the car.

KIEFER: Okay.

MCSWAIN: And talk about that scene ...

KIEFER: Right.

MCSWAIN: ... there, okay?

KIEFER: So ... yeah, I don't, based on my memory, I don't believe I began to shoot until he started to charge me.

MCSWAIN: Okay.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 53 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: Um, yeah. So, yeah, if we're talking about when he's charging me, um, still punched out with the object in his hand, I got no change in behavior.

MCSWAIN: Uh, and, and that's, uh, his behavior is punched out and running at you?

KIEFER: Yes.

MCSWAIN: Okay. Um, obviously, you don't know this person from Adam, but if you would, is, I mean, I think you said he wasn't walking, he wasn't jogging. I mean, is, does it look like he's coming at you full steam?

KIEFER: Yes.

MCSWAIN: Okay. So, I, um, so now I wanna, I wanna move around the car.

KIEFER: Okay.

MCSWAIN: You, you have come around the car, you picked up your dog, uh, your dog had nipped you, uh, the suspect has come around the car, right? Talk to me, if you would, that backdrop.

KIEFER: Um, so I'm really, that, that backdrop, you know, is not as good as the backdrop I had previously. Um ... but I [*sic*] still really cognizant what my backdrop was, which is why I chose, as I moved around, why I chose this area, um, to kinda stay in. But, um, you know, I knew that I can't, again, knew I couldn't stay here and shoot this way. I know, you know, I know I can't, you know, back this way, um, uh, I'd be fine, there's, there's nothing there. Um ... this backdrop I had to be aware of the ...

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 54 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: Hold on one second, you were pointing on there, uh, on the, the map, the, the, the recorder can't ...

KIEFER: Okay.

MCSWAIN: ... pick up. I, I believe and for recorder purposes, the motion that you made was back toward the old Adam-2 office?

KIEFER: Right.

MCSWAIN: Which you indicated earlier was abandoned?

KIEFER: Abandoned, yeah.

MCSWAIN: If you would, put a 'A-2' up there, um, somewhere just so that someone looking at this map later, okay.

KIEFER: Yeah, <unintelligible, talkover>.

MCSWAIN: Alright, so, just to pick back up where you said you pointed there, that was okay, alright, now I think you were coming back this way.

KIEFER: Um, so I was super aware of, um, um, the two females that were in this car here, so I knew, yeah, this isn't, this is not an option for me. Um, but as he comes around, he comes around the car, you know, I have, um, a backdrop that to me is an abandoned building. Um ...

LAUGHRUN Back here, right?

KIEFER: Yes. Um ... so, you know, I let him, in all honesty, you know, I, I probably let him closer than what I would've liked to, but, you know, you kinda make a conscious choice that, you know, I don't wanna

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code Assignment 2445 Homicide	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date	

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 55 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

miss, um, at this point, you know, because of my backdrop is not as good as what it was previously.

MCSWAIN: Okay.

LAUGHRUN Can I follow up on one of your questions?

MCSWAIN: Yeah, absolutely.

LAUGHRUN Tim, you had mentioned, Sergeant McSwain asked you what you knew about the suspect and you mentioned about the <unintelligible>, did you know anything about what type of weapons, if any, he might've had?

KIEFER: No.

LAUGHRUN Based on even the ca..., the CAD or the radio traffic or anything like that?

KIEFER: I knew that the victim in the ... carjacking was cut, um, believe the call say boxcutter. Um, and I knew that the victims within the Family Dollar said they believed he was armed with a gun.

LAUGHRUN And, that's the Family Dollar not in this shopping center, correct?

KIEFER: Correct.

LAUGHRUN The Family Dollar that's right across from the new Adam-2, Westover Division ...

KIEFER: Yeah.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 56 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

LAUGHRUN ... team office, correct?

KIEFER: Yeah, on West Tyvola.

LAUGHRUN Okay.

MCSWAIN: So how it's just prior knowledge is important. Had you ever respond to the Family Dollar that was robbed?

KIEFER: No.

MCSWAIN: Did you ever respond to the church where that gentleman was cut?

KIEFER: I did not.

MCSWAIN: Okay. So, as far as you know at this point, when you are driving down West Boulevard on your way to North Tryon and see the suspect, alright; um, let me just pause for a second. The guy you saw on the street, is that, that's the same guy you saw on the phone?

KIEFER: Yeah, he wasn't on the phone, he was just ...

MCSWAIN: No-no-no-no, the photograph that you saw?

KIEFER: Oh, yes.

MCSWAIN: Yes.

KIEFER: Correct.

MCSWAIN: Any doubt in your mind?

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date 01/18/2019
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 57 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

KIEFER: No, no doubt whatsoever.

MCSWAIN: Okay. So, you're on the way to North Tryon Street, you see, um ... uh, the, the, the suspect, alright? You've heard that he may be armed with, uh, a gun. You have no knowledge that that is incorrect?

KIEFER: Correct.

MCSWAIN: Okay.

<DEAD AIR SPACE>

MCSWAIN: One question, um ... initially when you, uh, went to West Boulevard for the abandoned vehicle, you indicated that you left and returned to training, where was that at? Where did you go back to training at?

KIEFER: Still at the K-9 field, um ...

MCSWAIN: At the Academy?

KIEFER: Yeah, at the Academy.

MCSWAIN: Okay.

<DEAD AIR SPACE>

MCSWAIN: And, I just wanna make sure that I'm ... that, that I'm, I am, um, getting this right. You saw the, a picture on the phone, who showed that to you again?

KIEFER: Sergeant Kimble.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded			23. Reporting Officer Code Assignment Date Det. J.B. Helms 2445 Homicide 01/18/2019		
22. Investigative Status] Active] Inactive] Closed] Administrative			25. Case Referred To		26. Reviewing Supervisor, Code, Date

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 58 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: Sergeant Kimble? Um ... alright. The guy you saw on the street, um, on the way to North Tryon, same guy?

KIEFER: Yes.

MCSWAIN: And the guy that popped out behind the dumpster is the same guy you saw on the street?

KIEFER: Yes.

MCSWAIN: Okay.

KIEFER: The ... and as I'm, as I'm coming back <unintelligible> after I make the turn on Fordham and I waited around for somebody to come down there and, you know, I was still asking the assistance with the P-I-D, um, before he ran; they said, hey, Sergeant Scharf just sent out an email if you have your email up. I did have my email up ... I cannot recall if I was able to click on and see that or not.

MCSWAIN: Okay.

KIEFER: But, I, I later did and it's the same picture that Sergeant Kimble showed me.

MCSWAIN: Okay.

KIEFER: Um.

MCSWAIN: Um, who, who put the dog back in the car?

KIEFER: I did.

21. UCR Clearance Status <input type="checkbox"/> Open <input type="checkbox"/> By Arrest <input type="checkbox"/> Exceptional <input type="checkbox"/> Unfounded		23. Reporting Officer Det. J.B. Helms	Code 2445 Homicide	Assignment 01/18/2019	Date
22. Investigative Status <input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Closed <input type="checkbox"/> Administrative		25. Case Referred To	26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 59 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

MCSWAIN: 'kay.

<DEAD AIR SPACE>

MCSWAIN: That's all the questions I have at this time.

<DEAD AIR SPACE>

HELMS: Can't think of anything else <clears throat>.

MCSWAIN: You got anything at this point?

LAUGHRUN I don't think so, Sergeant.

MCSWAIN: Alright. It's, uh, tell you what, we're gonna step out, um, and, uh, confer and see if there's [sic] any follow-up questions we, to ask. Uh, just wanna remind the two of ya that this room is recorded.

LAUGHRUN <inaudible>

MCSWAIN: Um.

KIEFER: Thanks.

MCSWAIN: Uh, across the hall is not...

KIEFER: Okay.

MCSWAIN: Okay?

KIEFER: Thank you, thank you, Sergeant.

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded				23. Reporting Officer Det. J.B. Helms		Code 2445	Assignment Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative				25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Charlotte-Mecklenburg Police Department Supplement Report @				COMPLAINT NUMBER 20190116162206	Page # 60 of 60
2. Victim Name Michael D. Kelley			3. Original Offense / Charge		
4. Location of Offense 1540 West Blvd			5. Arrest Number	6. C.R. Number	
7. Original Report Date 01/16/2019		8. Supplement Date 01/18/2019		9. Correct Incident Classification	
10. Juvenile Case No	11. Multiple Case Clearance No	12. Supplement Confidential Yes		13. Purpose of Supplement Interview with Officer Timothy Kiefer	

JBH/HBM/GVL/olw

Reviewed by J.B. Helms #2445 02/06/2019

21. UCR Clearance Status] Open] By Arrest] Exceptional] Unfounded		23. Reporting Officer Det. J.B. Helms		Code 2445	Assignment Homicide	Date 01/18/2019
22. Investigative Status] Active] Inactive] Closed] Administrative		25. Case Referred To		26. Reviewing Supervisor, Code, Date		

Exhibit 2

Mecklenburg County M E Office

3440 Reno Avenue, Charlotte, NC 28216

Telephone 7043362005

Fax 7043368353

REPORT OF AUTOPSY EXAMINATION

DECEDENT

Document Identifier B201900108

Autopsy Type ME Autopsy

Name Michael Daniel Kelley

Age 32 yrs

Race White

Sex M

AUTHORIZATION

Authorized By Jonathan Privette MD

Received From Mecklenburg

ENVIRONMENT

Date of Exam 01/17/2019

Time of Exam 09:00

Autopsy Facility Mecklenburg County M E Office **Persons Present** Ms. Elizabeth Fisher

CERTIFICATION

Cause of Death

Multiple Gunshot Wounds

The facts stated herein are correct to the best of my knowledge and belief.

Digitally signed by

Jonathan Privette MD 18 March 2019 11:16

DIAGNOSES

Gunshot wound of the right anterior abdomen (A), non-exiting

Small bowel laceration

Gunshot wound of the left neck (B), non-exiting

Ribs fractures

Pulmonary contusion

Gunshot wound of the left anterior chest (C), non-exiting

Heart, liver, stomach, duodenum lacerations

Bilateral hemothoraces, hemoperitoneum

Blunt force injuries, minor

IDENTIFICATION

Body Identified By

Papers/ID Tag

EXTERNAL DESCRIPTION

Length 74 inches

Weight 220 pounds

Body Condition Intact

Rigor 3+

Livor Posterior, dependent

Hair Black, with a normal pattern of distribution

Eyes Brown

Teeth Natural, in fair repair

Received is the body of a well-developed, well-nourished adult male appearing compatible with the reported age. The body is unclad. A black cord necklace with a gray metal charm accompanies the body. Identifying marks consist of

multiple tattoos and scars as diagrammed. Evidence of medical intervention includes nasal trumpet, endotracheal tube, intraosseous access, sutured thoracotomy incision, chest tube incision, catheter in the right inguinal area.

INJURIES

The following gunshot wounds are lettered for convenience of description. The lettering is not intended to indicate the order of which the injuries occurred.

GUNSHOT WOUND "A":

Located on the anterior right abdomen at a point 46³/₄" above the heel and 3¹/₄" right of anterior midline is an entrance gunshot wound with a hole that measures 3/8" and exhibits 1/2" circumferential marginal abrasion. Soot and/or stippling are not grossly identified in association with this injury.

The wound track lacerates the skin and soft tissue of the right anterior abdomen, lacerates the small bowel, the right psoas muscle and terminates its course in the soft tissue of the right posterior abdomen from where a partially deformed projectile is recovered.

Located at the posterior right abdomen at a point 41¹/₂" above the heel 1³/₄" right of posterior midline is a palpable foreign object subjacent to the skin.

In the anatomical position, the projectile travels front-to-back, right-to-left and downward.

GUNSHOT WOUND "B":

Located on the left neck at a point 66" above the heel and 2³/₄" left of anterior midline is an entrance gunshot wound with a hole that measures 3/8" and exhibits 1" circumferential marginal abrasion and beveling predominantly at a 10 o'clock position. Soot and/or stippling are not grossly identified in association with this injury. There is abrasion/contusion adjacent and inferior to this injury.

The wound track lacerates the skin and soft tissue of the left neck, fractures left ribs #1 and #2 posteriorly and lacerates the soft tissue of the posterior chest from where a partially deformed projectile is recovered. Associated injuries include left pulmonary contusion.

Located at the left posterior chest at a point 56" above the heel and 1¹/₂" left of posterior midline is a palpable foreign object subjacent to the skin.

In the anatomical position, the projectile travels downward, slightly front-to-back, and slight right-to-left.

GUNSHOT WOUND "C":

Located at the anterior left chest at a point 59" above the heel and 5¹/₄" left of anterior midline is an entrance gunshot wound with a hole that measures 3/8" and exhibits 1/2" circumferential marginal abrasion. Soot and/or stippling are not grossly identified in association with this injury.

The wound track lacerates the skin and soft tissue of the left anterior chest, enters the body cavity between left ribs #4 and #5, lacerates the right ventricle of the heart (suture material present), the liver, stomach, and retroperitoneal duodenum from where a partially deformed projectile is recovered. Associated injuries include bilateral hemothoraces and hemoperitoneum.

In the anatomical position the projectile travels front-to-back, left-to-right and downward.

OTHER INJURIES:

There are abrasions and contusions scattered across the face. There are linear and irregular abrasions at the right thigh. There is 2" laceration at the left axilla.

DISPOSITION OF PERSONAL EFFECTS AND EVIDENCE

The following items are released with the body

None

The following items are preserved as evidence

PROJECTILES (3)

NECKLACE

BLOOD CARD

PROCEDURES

Radiographs

Radiographs reveal radiopaque objects at the chest and abdomen. There is surgical hardware at the left arm.

INTERNAL EXAMINATION

Body Cavities

The organs are in their normal anatomic positions.

Cardiovascular System

Heart Weight 490 grams

The coronary arteries arise normally, follow the usual distribution and are widely patent without evidence of significant atherosclerosis or thrombosis. The chambers and valves bear the usual size-position relationships. The myocardium shows no evidence of acute infarction or scarring. The aorta and its major branches are intact without significant atherosclerosis.

Respiratory System

Right Lung Weight 510 grams

Left Lung Weight 450 grams

Examination of the soft tissues of the neck including the strap muscles and large vessels reveals no abnormalities. The hyoid bone and laryngeal cartilages are intact. The larynx is clear. The upper and lower airways are free of debris and foreign material. The lungs are normally formed. The pulmonary arteries are free of thrombi or emboli.

Gastrointestinal System

Except as previously noted, grossly unremarkable.

Liver

Liver Weight 1970 grams

Except as previously noted, grossly unremarkable. The gallbladder contains bile.

Spleen

Spleen Weight 130 grams

The spleen is normally formed; no focal lesions are present.

Pancreas

The pancreas is of normal size, shape and consistency without focal lesions.

Urinary

Right Kidney Weight 190 grams

Left Kidney Weight 190 grams

The kidneys are of normal size and shape. The capsules strip with ease from the underlying smooth cortical surfaces. The renal architecture is intact without focal lesions. The bladder contains urine.

Reproductive

Grossly unremarkable.

Endocrine

The thyroid gland and bilateral adrenal glands are grossly unremarkable.

Neurologic

Brain Weight 1630 grams

Reflection of the scalp reveals no evidence of injury. There are no skull fractures identified. The leptomeninges are thin, delicate and congested. The cerebral hemispheres are unremarkable. The vasculature at the base of the brain is intact without significant atherosclerosis. Coronal sections reveal normal architecture without focal lesions.

Skin

Except as previously noted, grossly unremarkable.

Immunologic System

Grossly unremarkable.

Musculoskeletal System

Except as previously noted, grossly unremarkable.

MICROSCOPIC EXAMINATION

Microscopic Comment

Histologic examination is not performed.

SUMMARY AND INTERPRETATION

The decedent is a 32-year-old male who was shot by law enforcement.

Autopsy examination reveals multiple gunshot wounds and minor blunt force injuries.

Please see separate report for toxicology details.

Based on the history and autopsy findings, it is my opinion that the cause of death in this case is multiple gunshot wounds.

DIAGRAMS

1. BODY DIAGRAM: ADULT (FRONT/BACK)
 2. BODY DIAGRAM: ADULT (FRONT/BACK)
- BODY DIAGRAM: ADULT (FRONT/BACK)
BODY DIAGRAM: ADULT (FRONT/BACK)

Balcome, Kelly E.

From: noreply@dhhs.nc.gov
Sent: Monday, March 18, 2019 12:03 PM
To: Balcome, Kelly E.
Subject: No Reply: OCME Toxicology F201900098

T O X I C O L O G Y R E P O R T

Office of the Chief Medical Examiner
Raleigh, NC 27699-3025

Toxicology Folder: T201900717
Case Folder: F201900098
Date of Report: 18-mar-2019
Page: 1

Spencer B. Merriweather
District Attorney's Office
720 E. 4th Street Suite 403
Charlotte, NC 28202-3016

DECEDENT: Michael Daniel Kelley

Status of Report: Approved
Report Electronically Approved By: Justin Brower, PhD

* * *

=====

SPECIMENS received from Jonathan Privette on 25-jan-2019

S190002189: 15.0 ml Blood CONDITION: Postmortem
 SOURCE: Other OBTAINED: 17-jan-2019

** Comments Concerning This Specimen **
 Anatomic source identified as pericardium.
** End of Comments Concerning This Specimen **

Benzodiazepines -----	None Detected	LCMS		03/18/2019
Benzoyllecgonine -----	1.5	mg/L		03/18/2019
Caffeine -----	Present			03/18/2019
Cocaethylene-----	Less than	0.010	mg/L	03/18/2019
Cocaine -----	0.10	mg/L		03/18/2019
Ethanol -----	None Detected			03/18/2019
Gabapentin/Pregabalin -----	None Detected	LCMS		03/18/2019
Levamisole -----	Present			03/18/2019
Nicotine -----	Present			03/18/2019
Opiates/Opioids -----	None Detected	LCMS		03/18/2019
Organic Acids/Neutrals -----	None Detected			03/18/2019

Other Organic Bases ----- None Detected

03/18/2019

S190002190: 15.0 ml Urine
SOURCE:

CONDITION: Postmortem
OBTAINED: 17-jan-2019

T O X I C O L O G Y R E P O R T

Office of the Chief Medical Examiner
Raleigh, NC 27699-3025

Toxicology Folder: T201900717
Case Folder: F201900098
Date of Report: 18-mar-2019
Page: 2

Decedent: Michael Daniel Kelley

* * *

Accredited by the American Board of Forensic Toxicology, Inc.

031819 12:03

* * * E N D O F R E P O R T * * *

B201900108



12019-00055

REPORT OF INVESTIGATION BY MEDICAL EXAMINER

OCME USE ONLY	DECEDENT: Michael Daniel Kelley		
Case Number F19.00098	First POPPY	Middle	Last
Date Received JAN 17 2019	RESIDENCE: 6760 Happy Hills Rd Apt 614		Charlotte NC
<input type="checkbox"/> Res <input type="checkbox"/> NR	Number and Street SA 3-18-19	City, State	County Mecklenburg
AGE: 32	SEX: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unknown		
RACE: <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input checked="" type="checkbox"/> White <input type="checkbox"/> Other			
HISPANIC ORIGIN: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown			

INFORMATION ABOUT OCCURRENCE

	DATE	TIME	ADDRESS OR FACILITY	COUNTY
ONSET OF INJURY OR ILLNESS	1/16/2019	1625	1533 West Blvd Charlotte NC	Mecklenburg
DEATH	1/16/2019	1655	CMC Main ED Charlotte NC	Mecklenburg
VIEW OF BODY	1/17/2019	0900	<input type="checkbox"/> Scene of Death <input type="checkbox"/> Hospital <input type="checkbox"/> Funeral Home <input checked="" type="checkbox"/> Morgue MCMEO <input type="checkbox"/> Not Viewed	
ME NOTIFIED	1/16/2019	1805	LAW ENFORCEMENT AGENCY:	
LAST KNOWN TO BE ALIVE	1/16/2019	1654	OFFICER:	TELEPHONE:

AUTOPSY: None M.E. Authorized Non-M.E./Private-Facility Name:

BLOOD SAMPLE: Mailed by: ME after External Pathologist after Autopsy Reason not obtained:

IF CLINICAL ALCOHOL PERFORMED, RESULT:

Where:

PROBABLE CAUSE OF DEATH: Pending

1. Multiple Gunshot Wounds
DUE TO
2.
DUE TO
3.
DUE TO
4.
DUE TO

This section "OCME REVIEW ONLY"	SDC
1. DUE TO	<input checked="" type="checkbox"/> None
2. DUE TO	<input type="checkbox"/> AL
3. DUE TO	<input type="checkbox"/> Dictated
4. DUE TO	<input type="checkbox"/> COG
CONTRIBUTING CONDITIONS	
MANNER OF DEATH:	
<input type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Homicide <input type="checkbox"/> Suicide <input type="checkbox"/> Undetermined	
Reviewer:	Date: 3/18/19
<i>Information in this block supersedes that contained in space at left.</i>	

CONTRIBUTING CONDITIONS

MANNER OF DEATH:

Natural Accident Homicide Suicide Pending

I hereby certify that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause of death in accordance with Article 16 of Chapter 130A of the N.C. General Statutes and the information contained herein regarding such death is true and correct to the best of my knowledge and belief.

Signature of Medical Examiner
Jonathan Privette MD
Print Name of Medical Examiner

1/17/2019
Date

MECKLENBURG
County of Appointment

MEDICAL HISTORY

- Alcoholism, Cancer, Depression, Diabetes, Hypertension, Ischemic Heart Disease, Seizure Disorder, Smoking, Substance Abuse, Other

Physician: City

MEANS OF DEATH

- VEHICLE: Type of vehicle associated with this decedent: Number of Units Involved:
ATV, Bicycle, Farm Equipment, Moped, Motorcycle, Passenger Car, Pickup Truck, Truck - more than 2 axle, SUV, Other
Position: Driver, Passenger, Pedestrian, Unknown
Devices: Seat Restraints, Airbag, Helmet, Child Restraint, None, Unknown
GUN: Rifle - Caliber, Handgun - Caliber .40, Shotgun - Gauge, Unknown
INSTRUMENT: Asphyxial, Blunt, Sharp Description:
TOXIC AGENT(S) SUSPECTED: Alcohol, Others: Noted in Summary (Pg 4)
DROWNING: Bathtub, Lake, Ocean, Pond, Pool, River, Other
Life Preserver: Yes, No, Unknown
Able to Swim: Yes, No, Unknown
Activity:
FIRE: Suspected Cause: Smoke Detector: Yes, No, Unknown
FALL: From: Sitting, Standing, Other
Approximate Distance: (Feet)

ACTIVITY OF DECEDENT AND PREMISES

Work Related:

- Fatal Injury or Illness Occurred on a Job*: Yes, No, Unknown
If Yes, was employment: Primary Job, Secondary Job, Volunteer Work, Unknown
Name of this employing firm or agency:
Type of business or industry: Decedent's occupation:

*activity on a job that is income generating regardless of age of decedent including farming or part-time work; also include non-income generating volunteer or charity work.

Non-Work Related: (See Examples Below)

- FATAL INJURY OR ILLNESS: Activity: altercation with police
Unknown
Type of Place: retail store
Specific location: parking lot
DEATH: Type of place: hospital
Specific location: CMC Main ED
Death occurred while in custody: Yes, No, Unknown
If yes, was in: County Jail, State Prison, Federal Prison, Police Presence
Death occurred in State Operated Facility: Yes, No

DESCRIPTION OF BODY

For Pathologists Only: Refer to Autopsy Report

CONDITION:

- Intact, Decomposed, Fragmented, Skeletonized, Embalmed, Charred, Prolonged Immersion
RIGOR: None, 1+, 2+, 3+
LIVOR: None, Anterior, Posterior, Lateral
Color:
LENGTH: Estimate
WEIGHT: Estimate
BODY TEMPERATURE: Warm, Cool, Cold
HAIR: Color: Facial:
EYES: Color: Abnormalities:
TEETH: LOWER: Natural, Dentures, None
UPPER: Natural, Dentures, None
PHOTOGRAPHS: Yes, No
RADIOGRAPHS: Yes, No

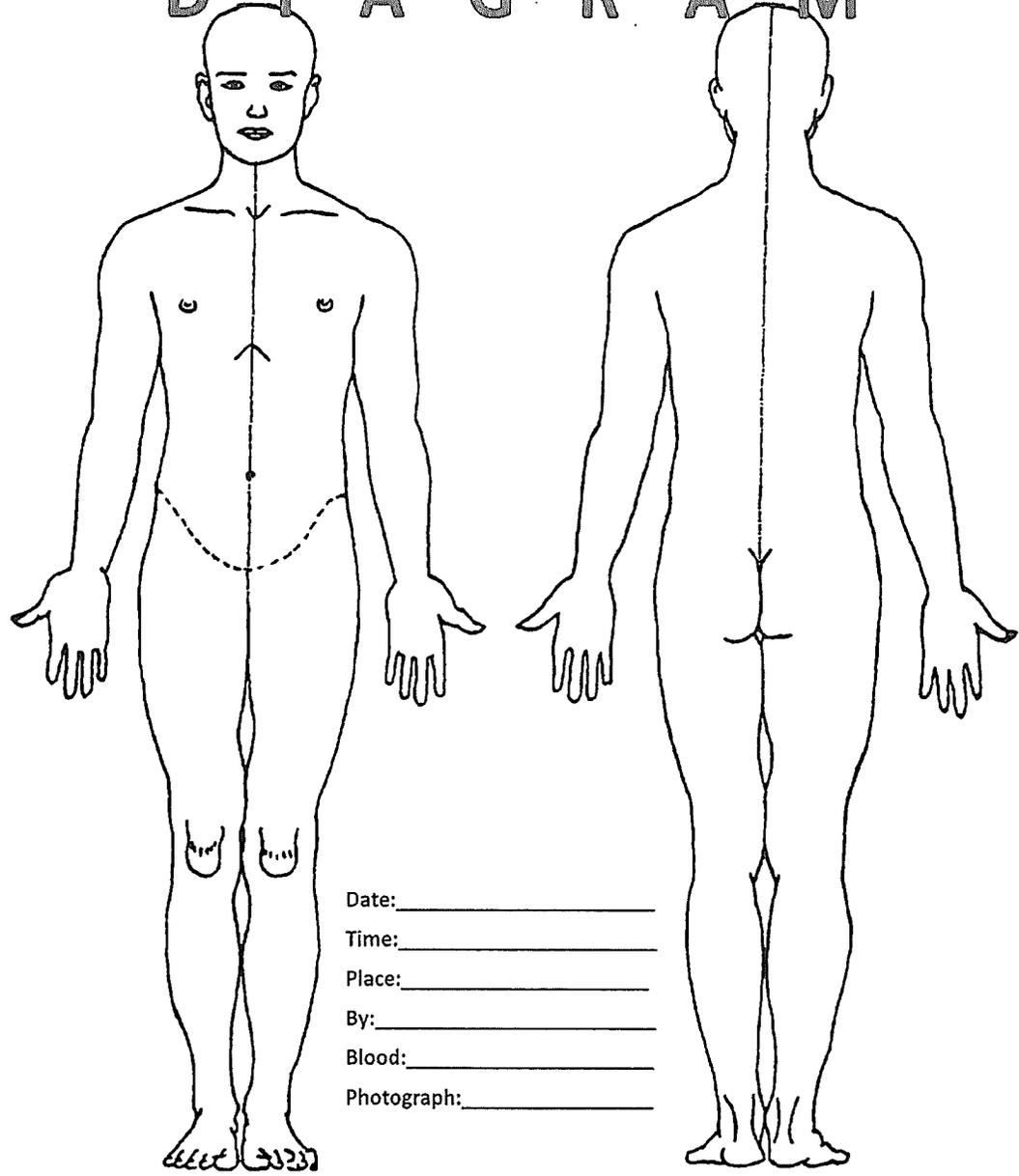
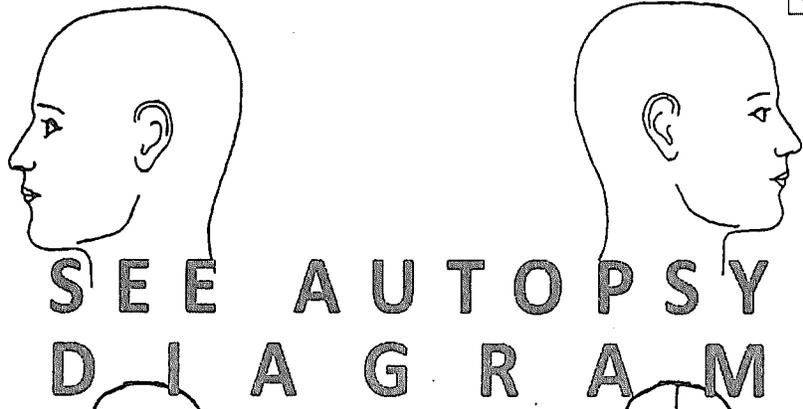
CLOTHING: Not Clothed

VALUABLES: No Valuables

B# _____

BODY DIAGRAMS

Legend:
A= Abrasion G= Gunshot
B= Burn L= Laceration
C= Contusion S= Stab



Date: _____
Time: _____
Place: _____
By: _____
Blood: _____
Photograph: _____

Indicate nature, location and measurements of wounds and other lesions (scars, tattoos, medical therapy, etc.) on these diagrams
(Not to scale)

MEDICAL EXAMINER PRELIMINARY SUMMARY OF CIRCUMSTANCES SURROUNDING DEATH*

32 YOM shot by LE.

PURPOSE: To document the findings of a Medical Examiner Investigation. *This is not an autopsy report. When completed, this form constitutes a report to the Chief Medical Examiner as required by G.S. 130A-385(a); within fourteen (14) days of Medical Examiner's examination.

PREPARATION: The investigating Medical Examiner completes all appropriate information, and signs the certification statement on the front of this form.

DISTRIBUTION: Mail original copy to the Office of the Chief Medical Examiner, 3025 Mail Service Center, Raleigh, NC 27699-3025

DISPOSITION: This form is maintained by the Chief Medical Examiner in accordance with the current records disposition schedule published by the N.C. Division of Archives and History.

COPIES: Additional copies may be ordered from the Office of the Chief Medical Examiner, Raleigh, NC 27699-3025

State of North Carolina

Name of Decedent: Michael Kelley

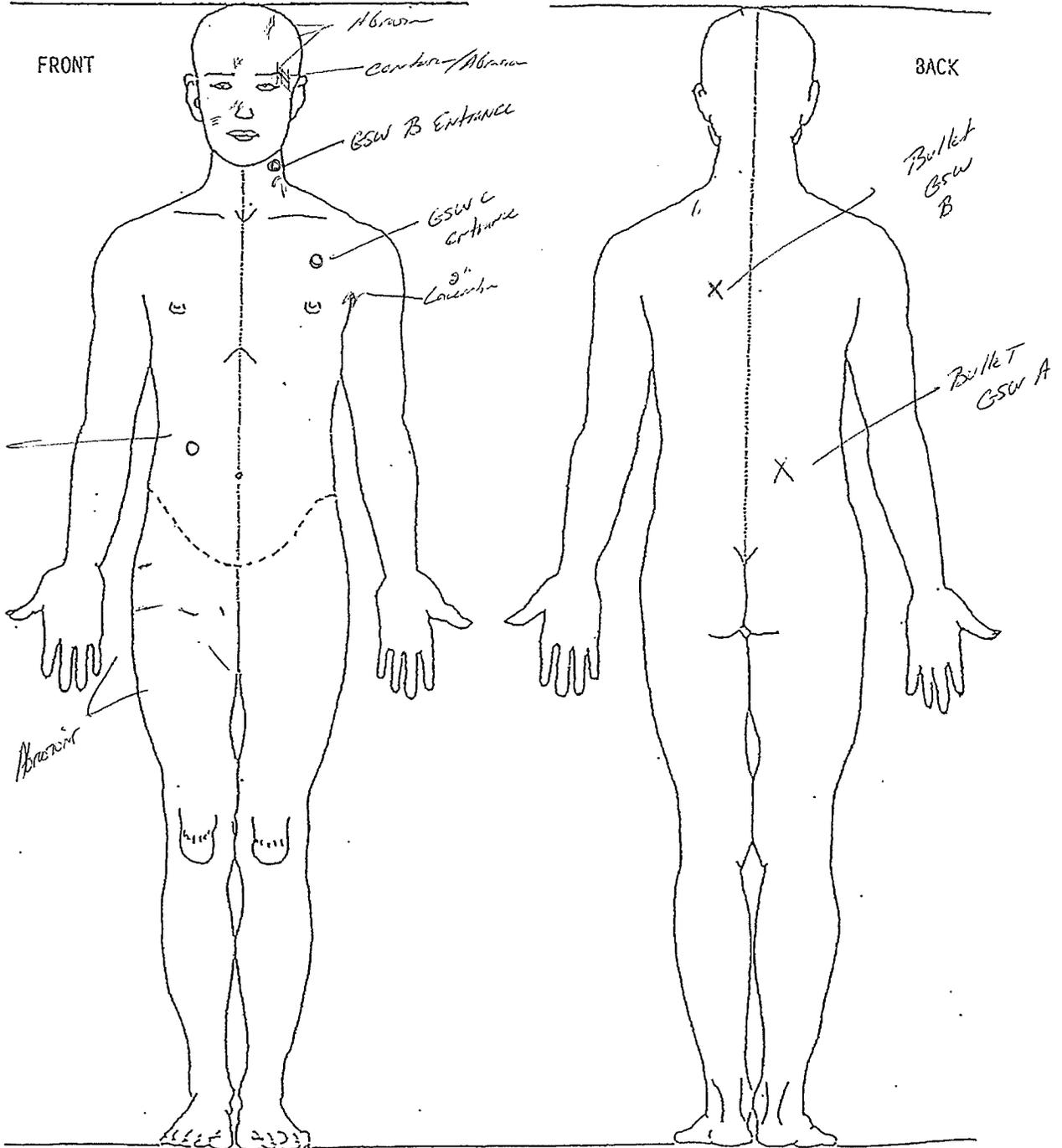
Office of the Chief Medical Examiner

Autopsy # B19-108

Chapel Hill, North Carolina 27599-7580

Examined By: [Signature] Date: 1-17-19

BODY DIAGRAM: ADULT (Front/Back)



*Back view
of hands*

DEHR 1917 (4/97)
Medical Examiner

This form may be photocopied.

State of North Carolina

Name of Decedent: Michael O. Kelley

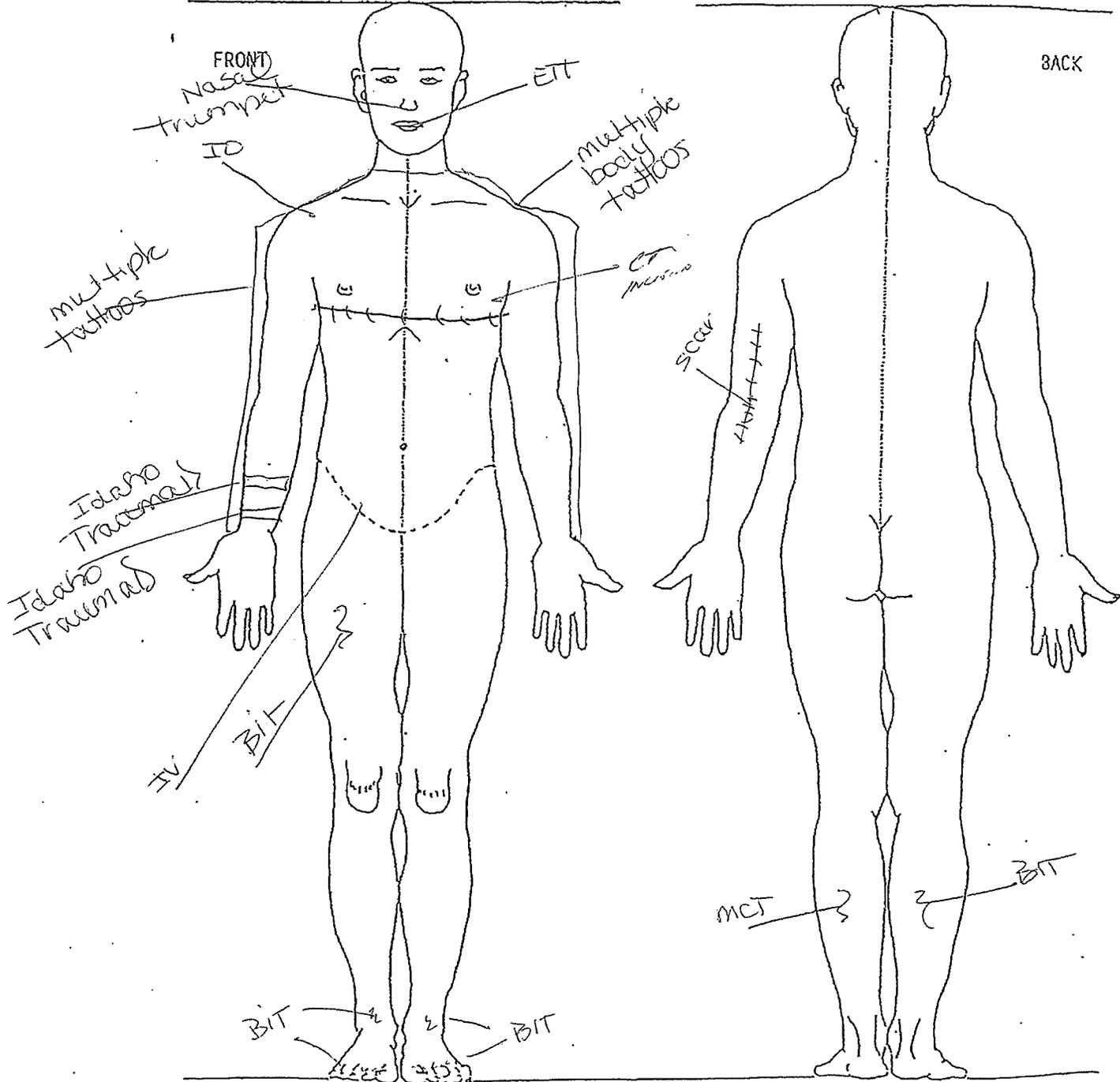
Office of the Chief Medical Examiner

Autopsy # B19-108

Chapel Hill, North Carolina 27599-7580

Examined By: LP Date: 1.17.19

BODY DIAGRAM: ADULT (Front/Back)



DEHR 1917 (4/97)
Medical Examiner

This form may be photocopied.

Office of Mecklenburg County Medical Examiner

DICTATION TEMPLATE

Autopsy Barcode B19-108

Name Michael Kelley

Age 32 Race W Sex M

Authorized By JDP

County Meck

Date of Autopsy 1-17-19

Time of Autopsy 0900

Persons Present LF

Body identified by [Papers/ID Tag, Visual, Circumstances, Radiographs, Dental Exam, DNA, Fingerprints]

Cause of Death

DIAGNOSES:

EXTERNAL DESCRIPTION

Length 74 [inches, cm]

Weight 920 [pounds, kg]

Body Condition [Intact, Decomposed, Charred, Embalmed, Skeletonized, Prolonged Immersion, Exhumed]

Rigor 3+

Livor posterior

Hair black

Eyes brown

Teeth used ↑ ↓

Narrative

black cord necklace
grey metal charm
no clothing

INJURIES

$\frac{3}{8}$ " $\frac{1}{2}$ " cont

A
3 1/4 SB
46 3/4 ST
R Lower Back

B
3 1/4 C 102 ft Bone
1" cont Body L full cont
10 outside ST spine
2 3/4
66

C
S 1/4
S 9

Below C 405
R heart subc
Liver
Stomach
Refr: closed (+)

DISPOSITION OF CLOTHING AND PERSONAL EFFECTS

Released with the body:

B x Chest 1 1/2 Copm
SGT ↓ Slight F → B

Preserved as evidence:

A x R L Arm 1 3/4 R Copm
4 1/2 ↓ F → B
R → L

F → B ↓ L → R

PROCEDURES (all optional)

- Radiographs *Chest & Abd* *5H @ AMR*
- Microbiology
- Chemistry
- Identification
- Special Evidence Collection

INTERNAL EXAMINATION

Body Cavities

Cardiovascular System Heart Weight *490*

Respiratory System Right Lung Weight *570* grams Left Lung Weight *450* grams

Gastrointestinal System *φ*

Liver Weight *1970* g

Spleen Weight *130*

Pancreas

Urinary Right Kidney Weight *190* grams Left Kidney Weight *190* grams

Uterus: Weight grams

Reproductive:

Endocrine Thyroid Weight grams Adrenals Combined Weight grams

Neurologic Brain Weight *1630* grams

Integument

Immunologic System Thymus Weight grams

Musculoskeletal System

SUMMARY AND INTERPRETATION



12019 - 00055

REPORT OF INVESTIGATION BY MEDICAL EXAMINER

OCME USE ONLY	DECEDENT: Michael Daniel Kelley
Case Number F19.00098	RESIDENCE: 6760 ^{POPPY} Hoppy Hills Rd Apt 614 Charlotte NC Mecklenburg
Date Received JAN 17 2019	AGE: 32 SEX: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unknown
<input type="checkbox"/> Res <input type="checkbox"/> NR	RACE: <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input checked="" type="checkbox"/> White <input type="checkbox"/> Other
	HISPANIC ORIGIN: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown

INFORMATION ABOUT OCCURRENCE

	DATE	TIME	ADDRESS OR FACILITY	COUNTY
ONSET OF INJURY OR ILLNESS	1/16/2019	1625	1533 West Blvd Charlotte NC	Mecklenburg
DEATH	1/16/2019	1655	CMC Main ED Charlotte NC	Mecklenburg
VIEW OF BODY	1/17/2019	0900	<input type="checkbox"/> Scene of Death <input type="checkbox"/> Hospital <input type="checkbox"/> Funeral Home <input checked="" type="checkbox"/> Morgue MCMEO <input type="checkbox"/> Not Viewed	
ME NOTIFIED	1/16/2019	1805	LAW ENFORCEMENT AGENCY:	
LAST KNOWN TO BE ALIVE	1/16/2019	1654	OFFICER: TELEPHONE:	

AUTOPSY: None M.E. Authorized Non-M.E./Private-Facility Name:

BLOOD SAMPLE: Mailed by: ME after External Pathologist after Autopsy Reason not obtained:

IF CLINICAL ALCOHOL PERFORMED, RESULT:

PROBABLE CAUSE OF DEATH: Pending

1. Multiple Gunshot Wounds
DUE TO
2. DUE TO
3. DUE TO
4. DUE TO

Where:

This section "OCME REVIEW ONLY"		SDC
1. DUE TO	<input checked="" type="checkbox"/>	None
2. DUE TO	<input type="checkbox"/>	AL
3. DUE TO	<input type="checkbox"/>	Dictated
4. DUE TO	<input type="checkbox"/>	COG

CONTRIBUTING CONDITIONS
MANNER OF DEATH:
 Natural Accident Homicide Suicide Undetermined
 Reviewer: Date: 3/18/19
Information in this block supersedes that contained in space at left.

CONTRIBUTING CONDITIONS
MANNER OF DEATH:
 Natural Accident Homicide Suicide Pending
 I hereby certify that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause of death in accordance with Article 16 of Chapter 130A of the N.C. General Statutes and the information contained herein regarding such death is true and correct to the best of my knowledge and belief.

Signature of Medical Examiner
Jonathan Privette MD
Print Name of Medical Examiner

1/17/2019
Date

MECKLENBURG
County of Appointment

MEDICAL HISTORY

- Alcoholism Cancer Depression Diabetes Hypertension
 Ischemic Heart Disease Seizure Disorder Smoking Substance Abuse
 Other _____ Physician: _____ City: _____

MEANS OF DEATH

- VEHICLE: Type of vehicle associated with this decedent: *Number of Units Involved:*
 ATV Bicycle Farm Equipment Moped Motorcycle Passenger Car
 Pickup Truck Truck - more than 2 axle SUV Other
 Position: Driver Passenger Pedestrian Unknown
 Devices: Seat Restraints Airbag Helmet Child Restraint None Unknown
 GUN: Rifle - Caliber _____ Handgun - Caliber .40 Shotgun - Gauge _____ Unknown
 INSTRUMENT: Asphyxial Blunt Sharp Description: _____
 TOXIC AGENT(S) SUSPECTED: Alcohol Others: _____ Noted in Summary (Pg 4)
 DROWNING: Bathtub Lake Ocean Pond Pool River Other _____
 Life Preserver: Yes No Unknown Able to Swim: Yes No Unknown
 Activity: _____
 FIRE: Suspected Cause: _____ Smoke Detector: Yes No Unknown
 FALL: From: Sitting Standing Other _____ Approximate Distance: _____ (Feet)

ACTIVITY OF DECEDENT AND PREMISES

Work Related:

- Fatal Injury or Illness Occurred on a Job*: Yes No Unknown
 If Yes, was employment: Primary Job Secondary Job Volunteer Work Unknown

Name of this employing firm or agency:

Type of business or industry:

Decedent's occupation:

*activity on a job that is income generating regardless of age of decedent including farming or part-time work; also include non-income generating volunteer or charity work.

Non-Work Related: (See Examples Below)

FATAL INJURY OR ILLNESS: Activity: altercation with police Unknown

Type of Place: retail store Specific location: parking lot

DEATH: Type of place: hospital Specific location: CMC Main ED

Death occurred while in custody: Yes No Unknown

If yes, was in: County Jail State Prison Federal Prison Police Presence

Death occurred in State Operated Facility: Yes No

DESCRIPTION OF BODY

For Pathologists Only:
Refer to Autopsy Report

CONDITION:

Intact Decomposed Fragmented Skeletonized Embalmed Charred Prolonged Immersion

RIGOR: None 1+ 2+ 3+

LIVOR: None Anterior Posterior Lateral Color: _____

LENGTH: Estimate WEIGHT: Estimate

BODY TEMPERATURE: Warm Cool Cold HAIR: Color: _____ Facial: _____

EYES: Color: _____ Abnormalities: _____

TEETH: LOWER: Natural Dentures None UPPER: Natural Dentures None

PHOTOGRAPHS: Yes No RADIOGRAPHS: Yes No

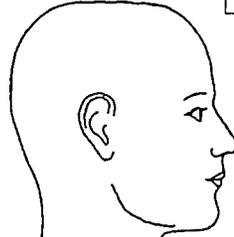
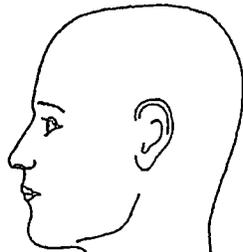
CLOTHING: Not Clothed

VALUABLES: No Valuables

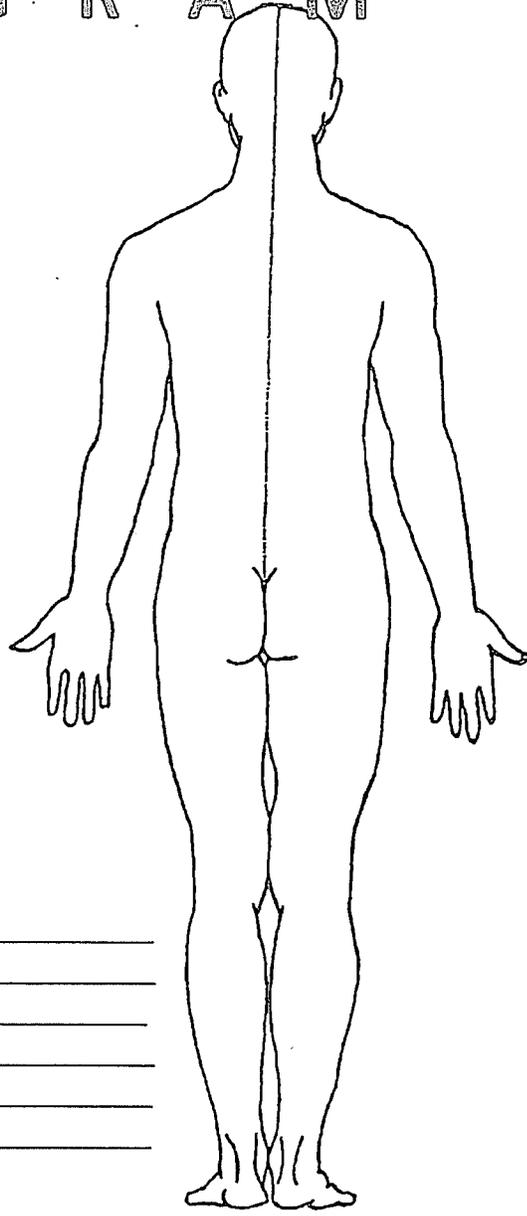
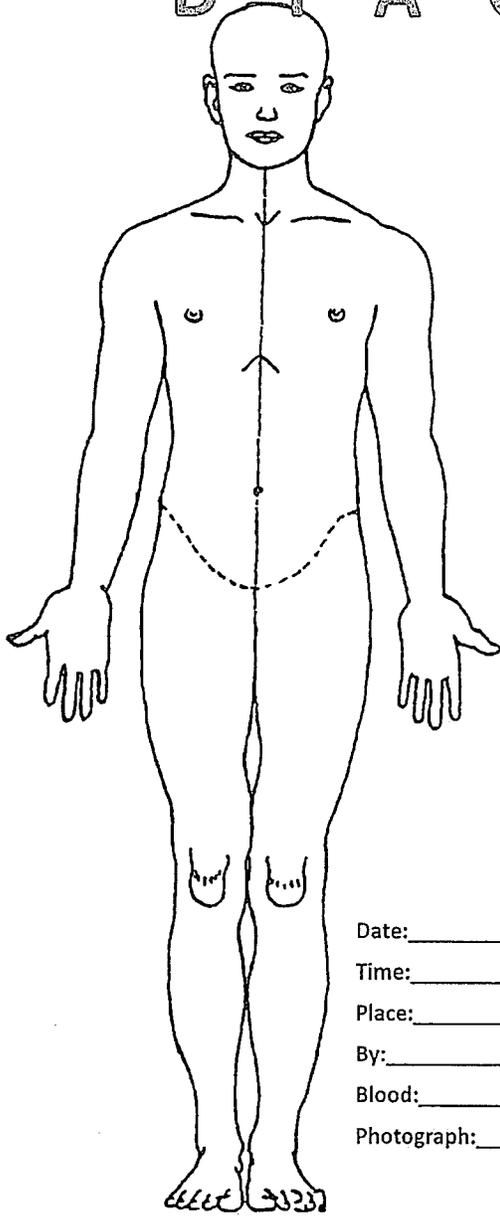
B# _____

BODY DIAGRAMS

A= Abrasion	G= Gunshot
B= Burn	L= Laceration
C= Contusion	S= Stab



SEE AUTOPSY
DIAGRAM



Date: _____

Time: _____

Place: _____

By: _____

Blood: _____

Photograph: _____

Indicate nature, location and measurements of wounds and other lesions (scars, tattoos, medical therapy, etc.) on these diagrams
(Not to scale)

32 YOM shot by LE.

PURPOSE: To document the findings of a Medical Examiner Investigation. *This is not an autopsy report. When completed, this form constitutes a report to the Chief Medical Examiner as required by G.S. 130A-385(a); within fourteen (14) days of Medical Examiner's examination.

PREPARATION: The investigating Medical Examiner completes all appropriate information, and signs the certification statement on the front of this form.

DISTRIBUTION: Mail original copy to the Office of the Chief Medical Examiner, 3025 Mail Service Center, Raleigh, NC 27699-3025

DISPOSITION: This form is maintained by the Chief Medical Examiner in accordance with the current records disposition schedule published by the N.C. Division of Archives and History.

COPIES: Additional copies may be ordered from the Office of the Chief Medical Examiner, Raleigh, NC 27699-3025

State of North Carolina

Name of Decedent: Michael Kelley

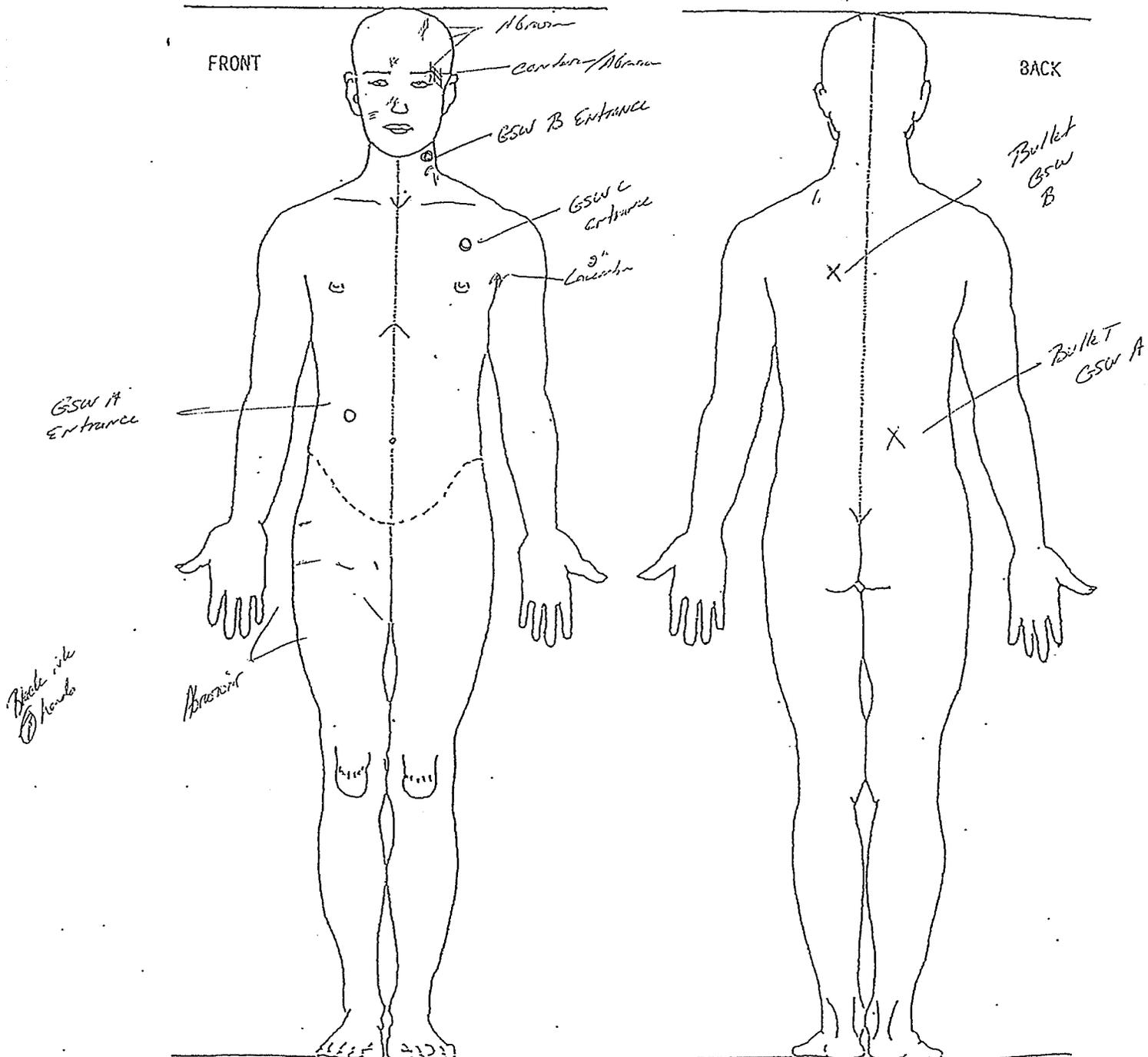
Office of the Chief Medical Examiner

Autopsy # B19-108

Chapel Hill, North Carolina 27599-7580

Examined By: [Signature] Date: 1-17-19

BODY DIAGRAM: ADULT (Front/Back)



DEENR 1917 (4/97)
Medical Examiner

This form may be photocopied.

State of North Carolina

Name of Decedent: Michael O. Kelley

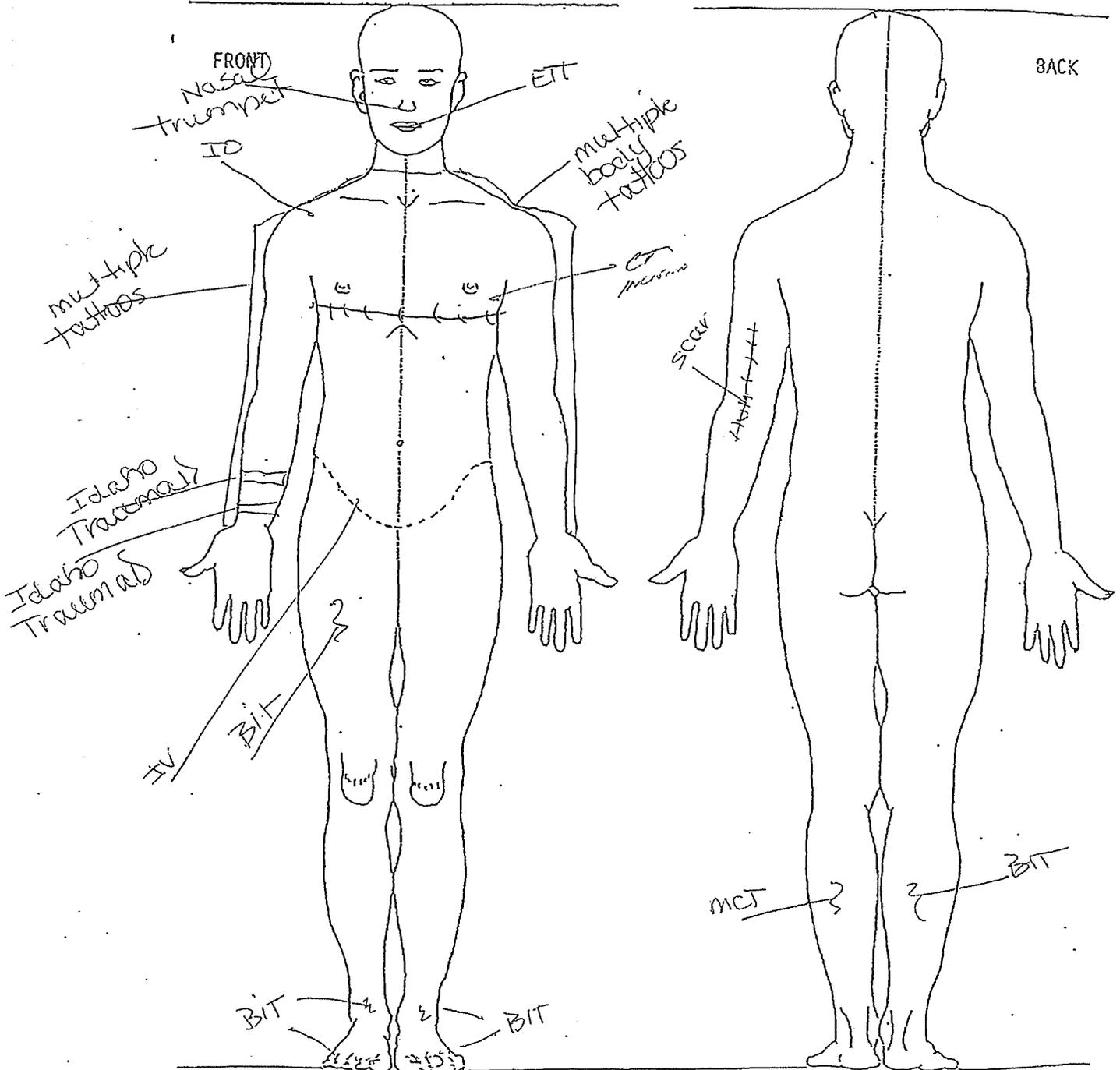
Office of the Chief Medical Examiner

Autopsy # B19-108

Chapel Hill, North Carolina 27599-7580

Examined By: LP Date: 1.17.19

BODY DIAGRAM: ADULT (Front/Back)



DEHR 1917 (4/97)
Medical Examiner

This form may be photocopied.

Office of Mecklenburg County Medical Examiner

DICTATION TEMPLATE

Autopsy Barcode B19-108

Name Michael Kelley

Age 32 Race W Sex M

Authorized By JDP

County Meck

Date of Autopsy 1-17-19

Time of Autopsy 0900

Persons Present UF

Body identified by [Papers/ID Tag, Visual, Circumstances, Radiographs, Dental Exam, DNA, Fingerprints]

Cause of Death

DIAGNOSES:

EXTERNAL DESCRIPTION

Length 44 [inches, cm]

Weight 920 [pounds, kg]

Body Condition [Intact, Decomposed, Charred, Embalmed, Skeletonized, Prolonged Immersion, Exhumed]

Rigor 3+

Livor posterior

Hair black

Eyes brown

Teeth used ↑ ↓

Narrative

• black cord necklace
grey metal charm

no clothing

INJURIES

$\frac{3}{8}$ " $\frac{1}{2}$ " $\frac{1}{2}$ " $\frac{1}{2}$ "

A
3 1/4 SB
ST
46 3/4 R lower back

B
3 1/4 L 102 lb part
L Pul cont
1" comp brachy
10 ribcage ST part
2 3/4
66

C
S 1/4
S 9
Below L 4th
RV heart suture
Linn
Stomach
Retro dorsal (+)

DISPOSITION OF CLOTHING AND PERSONAL EFFECTS

Released with the body:

B x Chest 1 1/2 L apr
SGT ↓ slight F → B

Preserved as evidence:

A x 1 3/4 R apr
4 1/2 ↓ F → B
R → L

F → B ↓ L → R

PROCEDURES (all optional)

Radiographs Chest & Abdominal SH @ Mer
Microbiology
Chemistry
Identification
Special Evidence Collection

INTERNAL EXAMINATION

Body Cavities

Cardiovascular System Heart Weight 490

Respiratory System Right Lung Weight 570 grams Left Lung Weight 450 grams

Gastrointestinal System φ

Liver Weight 1970 g

Spleen Weight 130

Pancreas

Urinary Right Kidney Weight 190 grams Left Kidney Weight 190 grams

Uterus: Weight grams

Reproductive:

Endocrine Thyroid Weight grams Adrenals Combined Weight grams

Neurologic Brain Weight 1630 grams

Integument

Immunologic System Thymus Weight grams

Musculoskeletal System

SUMMARY AND INTERPRETATION