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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No 0916088

Brandon Bentley, Appellant,

v

Spartanburg County, Employer, and
S C Association of Counties SIF, Respondents

RECORD ON APPEAL

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APPELLATE PANEL

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W C C FILE NO 0916088

BRANDON BENTLEY,

CLAIMANT-APPELLANT,

vs-

SPARTANBURG COUNTY,
AND S C ASSOCIATION OF COUNTIES SIF,

DEFENDANTS RESPONDENTS

Appellate Panel Review held in Columbia, South Carolina on October 26, 2010, per notices timely and properly served upon all parties of interest.

Appellate Panel Decision & Order, filed 1-13, 2014

APPEARANCES

Claimant Appellant represented by Jeremy Dantin, Esquire, of Spartanburg, South Carolina

Defendants-Respondents represented by Richard B Kale, Jr, Esquire of Greenville, South Carolina

STATEMENT OF THE CASE

The parties were heard by Commissioner Derrick L Williams on May 26, 2010, in Spartanburg, South Carolina. On July 13, 2010, Commissioner Williams issued the following Order:

> **IT IS, THEREFORE, ORDERED** that the claim of Brandon T Bentley be, and hereby is, denied
>
> AND IT IS SO ORDERED

Within the statutory period, counsel for Claimant filed an application for review in the case setting forth his grounds for review, copies of which were furnished to all interested parties prior to oral argument presented by the Appellate Panel on October 26, 2010 All proffered testimony has been taken Such, together with all documentary evidence has been delivered by oral argument to the individual members of the Appellate Panel and have since been under study and consideration. By appeal, Claimant submitted the following grounds for review:

1 That the Single Commissioner erred in finding as fact that the event occurring on October 21, 2009, was not an extraordinary or unusual event (or was not an extraordinary or unusual condition of Claimant's work as a police officer)

2 That the Single Commissioner erred in failing to find as fact or conclude as a matter of law that Claimant suffered a mental injury by accident arising out of and in the course of his employment with Spartanburg County

3 That the Single Commissioner erred in failing to find as fact that the event occurring on October 21, 2009, was extraordinary and unusual in comparison to Claimant normal conditions of employment as a Deputy with the Spartanburg County Sheriff's Department.

4 That the Single Commissioner erred in failing to conclude as a matter of law that the event occurring on October 21, 2009, was extraordinary and unusual in comparison to

Claimant's normal conditions of employment as a Deputy with the Spartanburg County Sheriff's Department.

5 That the Single Commissioner erred in failing to apply the correct legal standard to the facts of this case – namely, § 42-1-160(B)(1) (whether employee's employment conditions causing the stress, mental injury, or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment)

6 That the Single Commissioner erred in admitting into evidence Defendants' Exhibit #9 (SLED Statistics), as such evidence was not relevant to the issues in this case, and the prejudicial effect of this evidence outweighed its probative value

In an appellate review, the Appellate Panel shall, pursuant to S C Code Ann. Section 42-17-50 (1985), review the Award, weigh the evidence as presented at the initial hearing, and, if good grounds be shown therefore, make its own Findings of Fact and reach its own Conclusions of Law consistent with or inconsistent with those of the Single Commissioner After careful review in the instant case the Appellate Panel, by unanimous vote, has determined that all of the Single Commissioner s findings of fact and conclusions of law are correct as stated. As such, the Appellate Panel of the South Carolina Workers' Compensation Commission, by unanimous vote issues the following Findings of Fact and Conclusions of Law, which shall become, and hereby are, the law of the case

FINDINGS OF FACT

IT IS FOUND AS A FACT

1 That all parties to this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers Compensation Act, as amended, with Spartanburg County as the employer, and the S C Association of Counties SIF, as the carrier

2 That Claimant's average weekly wage was $591 31, making the compensation rate of $394 23 applicable in this case

3 That on October 21, 2009, the Claimant was dispatched on a call for a disturbance between neighbors When the Claimant arrived at the scene he was confronted by the suspect causing the disturbance As a result of the confrontation, Claimant fatally shot the suspect, who had failed to heed Claimant's instructions

4 That Spartanburg County Sheriff's Office General Order 5201 provides guidelines for the use of deadly force by deputies in the Sheriff's office Specifically, the General Order provides

> Deadly force may be used by officers only when they reasonably believe the action is in defense of human life (the officer's or others), or in defense of any person in immediate danger of serious physical injury Each decision to use deadly force must be justified within the framework of this policy and the laws of our state and nation These mandates, in combination with training and experience, provide the foundation upon which proper responses are formulated. Our emphasis is on planning and effecting arrests in such a manner to employ adequate support and bring maximum pressure on the arrestee in order to deny that person the opportunity or desire to resist or flee <u>When any arrestee initiates action to cause physical harm, there should be no hesitancy in using such force as necessary to bring that person under control</u> Defendants' Exhibit #1 (Emphasis added)

5 That deputies with the Spartanburg County Sheriff's Office are required to attend a basic course at the South Carolina Criminal Justice Academy At the Academy, deputies are instructed on the proper use of firearms and on the proper use of force and deadly force Instruction not only includes classroom instruction but also actual instruction on use of firearms Also, the Academy uses a FATS machine which simulates different scenarios in which a police officer may be involved and provides actual training on how to respond to the different scenarios

4

6 That in addition to the training at the Criminal Justice Academy, deputies in the Spartanburg County Sheriff's Office receive annual training not only on firing their weapons, but also on the use of deadly force The Sheriff's Department has an Emergency Services Academy (ESA) in Duncan, S C which has a "shoot house" to provide officers training on shoot/don't shoot situations

7 That the testimony of Spartanburg County Sheriff Charles L Wright was credible and helpful in establishing the scope of the training which Spartanburg County deputies undergo

8 That based on the record as a whole, including the testimony of the Claimant, the testimony of Sheriff Wright, the applicable case law, we do find that Claimant has not met his burden of proof in establishing a compensable mental injury by accident arising out of and in the course of his employment We find that the event that occurred on October 21, 2009 was not an unusual or extraordinary condition of the Claimant s work as a police officer in comparison to the normal conditions of his employment. The training from the Criminal Justice Academy, as well as General Order 520 1, and the testimony of Sheriff Wright confirm the scope of training that is provided to deputies and that use of deadly force is required and necessary in certain situations

9 Though this clearly was an unfortunate and tragic event, for which the Claimant clearly still suffers mental anguish, the issue is whether or not the incident was an unusual or extraordinary condition for a police officer in Spartanburg County to have to use deadly force in the course and scope of his employment. We find that it is neither unusual nor extraordinary Claimant himself, upon direct questioning from the undersigned, confirmed that he knew that he would sometimes have to use deadly force in his job as a police officer Sheriff Wright confirmed this in his testimony as well It is immaterial the frequency of the number of fatalities

when deadly force is used, the issue is whether or not this is a standard or necessary part of an officer's job We find that it is It is certainly contemplated in an officer's training at the Criminal Justice Academy and in the training provided at the Spartanburg County Sheriff's Office that in some instances deadly force may be necessary and used The medical evidence and psychiatric and psychological reports have been reviewed and considered, however, the ultimate finding in this case is that the incident that occurred on October 21, 2009 was not an unusual or extraordinary condition of employment

10 That the surveillance video neither enhances nor detracts from anything in the case It is not overwhelmingly useful in rendering a decision in this matter

CONCLUSIONS OF LAW

Accordingly, as provided in Section 42-17-50, S C Code Ann. (1976), it is the determination of the Appellate Panel that:

1 Under Section ~~42-1-130, S C~~ Code Ann. (1976), Brandon T Bentley was a covered employee at the time in question, and under Section 42-1-140, S C Code Ann. (1976), Spartanburg County was a covered employer

2 Under Section 42-1-160, S C Code Ann. (1976), the term "accident" is as an unlooked for and untoward event which is not expected or designed by the person who suffers the injury *See* Lanford v Clinton Cotton Mills, 204 S C 423, 30 S E.2d 36 (1944)

3 Under Section 42-1-160, S C Code Ann. (1976), Claimant did not suffer a mental injury by accident arising out of and in the course of his employment with Spartanburg County

4 Under Section 42-1-160, S C Code Ann. (1976), Claimant's employment conditions causing the stress, mental injury, or mental illness were not extraordinary and unusual in comparison to the normal conditions of the particular employment.

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Single Commissioner filed in the above-captioned matter on July 13, 2010, is hereby affirmed by the Panel, and the above Findings of Fact and Conclusions of Law shall constitute the Decision and Order of the Appellate Panel

IT IS FURTHER ORDERED that the claim of Brandon T Bentley be, and hereby is denied

AND IT IS SO ORDERED

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

BY _____
Andrea C Roche, Commissioner

FULL AFFIRMATION

CONCUR

_____
G Bryan Lindon, Commissioner

_____
David W Hufftetter, Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof postage paid in the United States mail addressed to the attorney or attorneys of said parties

This 13 day of January, 2011

By _____
Administrative Assistant to the Commissioner

Jeremy Dantzler
Richard B. Kale

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DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W C C FILE NO 0916088

Brandon T Bentley, Employee, Claimant, vs- Spartanburg County, Employer, and S C Association of Counties SIF, Carrier Defendants	)

HEARING	Held in Spartanburg, South Carolina on May 26, 2010
APPEARANCES.	Claimant represented by Jeremy A. Dantin, Esquire of Harrison, White, Smith & Coggins, P C Defendants represented by Richard B Kale, Jr, Esquire of Willson Jones Carter & Baxley, P.A
PURPOSE OF HEARING	To determine issues as set forth on Forms 50 and 51
DECISION AND ORDER	DERRICK L WILLIAMS, COMMISSIONER
FILED	July 13, 2010

STIPULATIONS

Counsel for the parties stipulated at the time of the hearing to the following

1 That the South Carolina Workers' Compensation Commission has jurisdiction of the parties and issues involved

2 That venue in Spartanburg County was proper

3 That Claimant's average weekly wage was $591 31, making the compensation rate of $394.23 applicable in this case

4 That notice of the hearing was timely and properly served upon all parties of interest

APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence at the time of the hearing

BY THE CLAIMANT

APA #1 – Reports of Dr Lawrence Bergmann, dated November 16, 2009 to May 4, 2010, consisting of 13 pages

APA #2 – Reports of Dr Roger Deal dated December 16, 2009 to January 20, 2010, consisting of 3 pages

Supplemental APA #3 – Statement of Dr Lawrence Bergmann dated May 24, 2010, consisting of 1 page

Exhibit A – Claimant's biographical information, consisting of 1 page.

In addition, Claimant's counsel submitted the depositions of Sheriff Charles L Wright, Jr and Phillip D Hice. (APA Exhibits B and C) Objections were made by Defendants' counsel

to the submission of these depositions since both Sheriff Wright and Private Investigator Hice were present and did testify at the hearing Claimant's counsel subsequently withdrew the two depositions as evidence in this case (Tr 89)

BY THE DEFENDANTS

APA #3 – Report of Joel B Leonard, CRC, CVE, dated January 31, 2010, consisting of 2 pages

APA #4 – Reports of Lawrence Bergmann, LPC, dated November 16, 2009 to February 24, 2010, consisting of 4 pages

APA #5 – Reports of Dr Roger Deal, dated January 26, 2010 to April 14, 2010, consisting of 4 pages

APA #6 – Report of Clinton Family Practice, dated January 4, 2010, consisting of 4 pages

Exhibit #1 – General Order 520 1, consisting of 20 pages

Exhibit #2 – Claimant's voluntary statement, dated October 21, 2009 consisting of 4 pages

Exhibit #3 – Employee time records, dated October 10 2009 to January 15, 2010, consisting of 8 pages

Exhibit #4 – Letter from Jeremy Dantin Harrison, White Smith & Coggins, P C., dated November 9, 2009, consisting of 3 pages.

Exhibit #5 – Letter of January 28, 2010 from Chief Deputy William Paris, dated January 28, 2010, consisting of 1 page

Exhibit #6 – Letter of Officer Tony Ivey, dated January 29, 2010, consisting of 1 page.

Exhibit #9 – SLED Statistics consisting of 9 pages

In addition, Defendants submitted as Exhibit #7 a surveillance investigation report, dated January 11, 2010, Exhibit #8 a surveillance investigation report, dated April 3 2010, and Exhibit #10, a surveillance investigation report, dated March 20, 2010 An objection was made by Claimant s counsel to these reports, which objection was sustained by the undersigned Thereafter, Defendants' counsel requested that Exhibit #7, 8, and 10 be marked for identification purposes

STATEMENT OF THE CASE

This hearing took place in Spartanburg, South Carolina on May 26, 2010 Deputy Brandon T Bentley ("Claimant") was employed as a deputy sheriff in the Spartanburg County Sheriff's Department. On October 21, 2009 while on road patrol, he was dispatched to a disturbance between neighbors at 331 Harold Drive, Spartanburg, South Carolina. After arriving at that address, Claimant requested that the suspect come talk with him According to Claimant, the suspect started toward him with a golf umbrella. After commands by the Claimant, the suspect dropped the umbrella but continued toward the Claimant with his hands raised in an offensive position at chest level and threatening to take the officer's gun from him and kill him When the suspect was approximately four feet away, Claimant fired one shot hitting the suspect in the chest. The suspect subsequently died from the gunshot wound. (See Defendants' Exhibit #2)

The issue before the undersigned is whether this incident constituted an "unusual or extraordinary condition of employment" for Claimant. The Claimant contended, inter alia, that this incident was unusual, because incidents in which Spartanburg County deputies have fatally

shot suspects were infrequent, occurring only six times in six years He further contended that this incident was extraordinary because it involved the killing of another human being

The Defendants denied that a police officer shooting and killing a suspect was an unusual or extraordinary condition of employment. Defendants argued that an "unusual or extraordinary condition of employment" was a condition which ordinary experience would indicate would not be foreseen, anticipated, or provided for in the employment. In that regard Defendants argued that Spartanburg County deputies receive training at the South Carolina Criminal Justice Academy regarding the use of deadly force and that the Spartanburg County Sheriff's Department provided yearly training for all of its officers in the use of firearms and the use of deadly force Therefore, it was foreseen or anticipated that law enforcement officers may have to shoot and kill a suspect while performing their duties

The Commission's file, except for unstipulated medical reports and self-serving declarations, was made a part of the record in this case

EVIDENCE OF THE CASE

Sheriff Chuck Wright was called as a witness on behalf of the Claimant. Sheriff Wright has been the Sheriff in Spartanburg County since 2005 Prior to that, he worked as a patrol officer for 17½ years Sheriff Wright testified that during the time that he has been employed by the Sheriff's office, he has never had to shoot anyone in the line of duty Sheriff Wright further testified that most deputies go through their entire career without having to kill anyone Sheriff Wright was asked by Claimant's counsel whether he believed that the shooting and killing of another human being by a deputy sheriff was a rare or unusual event Defendants counsel objected to the question as going to the ultimate issue in the case The objection was overruled

Sheriff Wright testified that a deputy shooting and killing a human being was not something that happened everyday Therefore, by that definition, he believed it would be unusual Sheriff Wright was then asked by Claimant's counsel whether he could think of anything more extreme or extraordinary than a deputy killing another human being An objection was made by the Defendants' counsel that the questions went to the ultimate issue in the case Defendants' objection was again overruled Sheriff Wright testified that killing another human being was one of the worst things that a deputy would have to do as an officer Sheriff Wright testified that it was his department s goal to avoid the use of deadly force at all costs and that he views his department's role as preserving life at all costs Sheriff Wright further testified that he has never known Deputy Bentley to be dishonest.

On cross examination, Sheriff Wright testified that he had 291 deputies under his command. His deputies, as well as all certified law enforcement officers in South Carolina, are required to complete the basic course at the South Carolina Criminal Justice Academy As a part of that course, officers are taught how to use firearms and when to use deadly force Officers in Spartanburg County are armed with a Glock 40 Officers carry this weapon loaded, and it is contemplated that an officer may have to use his weapon. Sheriff Wright testified that Spartanburg County had in the past used a FATS machine to simulate various shoot/don't shoot situations The officer carries a weapon with a light source similar to his own weapon, and goes through a room in which good guys and bad guys are simulated pointing weapons and shooting at the officer In other words, the officer gets to act like he is shooting bad guys while defending himself In addition, Spartanburg County provides mandatory special training as to when to use deadly force and when not to This training is given at the County's Emergency Service

Academy facility in Duncan, S C In this training, various scenes are created, and targets pop out when officers go through the scenes This program also teaches them when to shoot Also the County has a training program called "Active Shooter" Officers are required to go into buildings and search for the "bad guys" using paintball guns rather than real weapons This exercise puts officers in really tough situations and shows them how easily things can happen The paintball guns use a plastic projectile that hurts Therefore, when an officer is not tucking in his elbow as he goes around a corner, he will get shot in the elbow which teaches him a lesson Sheriff Wright testified that his Department trains officers to be in the right position in case they have to use their weapon He acknowledged that unfortunately it does happen that officers have to use their weapon, especially if an officer's or someone else s life is in danger

Sheriff Wright identified General Order 520 01 as his department's policy regarding use of force Section I C provides

> Deputies are often confronted with situations where control is necessary to affect an arrest or to protect public safety If possible, attempts will be made to gain control through the use [of] advice, warnings, persuasion, and verbal encounters However, in situations where resistance, a threat to life or a threat of physical force towards deputies or others is encountered and verbal persuasion has not been effective, it is not feasible, or would appear to be ineffective, deputies may use objectively reasonable force

Section II Purpose provides

> This order establishes guidelines for the use of force by the Spartanburg County Sheriff's Office Knowing when to use force and how much to use when it becomes necessary is an <u>integral part of a law enforcement officer's job</u> (Emphasis added)

The General Order further provides under Section VI Use of Deadly Force

> a. Deadly force may be used by officers only when they reasonably believe that the action is in defense of human life (the officer's or others) or in the defense of any person in immediate danger of serious physical injury
>
> b Reasonable belief When facts or circumstances that the officer knows, or should know, are such as to cause an ordinary and prudent person to act in a similar way under similar circumstances

Sheriff Wright testified that this General Order was created, because it was contemplated that at some point in time a police officer would have to shoot a suspect Sheriff Wright testified that Spartanburg County provides training on the use of force and the use of deadly force on an annual basis This topic is incorporated in every training session In order to serve on the road patrol, an officer must show proficiency in those policies and at the firing range He acknowledged that knowing when to use deadly force was an integral part of law enforcement. Sheriff Wright further testified that there are three elements – opportunity, ability and jeopardy – that police officers should consider in determining whether to use their weapon. Sheriff Wright testified that his department puts in a lot of training of deputy sheriffs as to when they should shoot a suspect and when not to shoot The reason they put so much time on this subject is that it is part of the job of a police officer

Defendants' Exhibit #5 is a letter from Chief Deputy William Parris to the Claimant's attorney dated January 28, 2010 In this letter Chief Deputy Parris advises that there have been eight incidents involving the firing of gunshots by deputies in the line of duty On April 13 2006 a suspect was wounded by gunfire in the line of duty In addition, there were incidents in 2005 2006, 2007, 2008, and 2009 in which deputies killed a suspect by a gunshot. Also, gunshots were fired at suspects during two other incidents in 2009 but the suspects were not hit.

Sheriff Wright also testified that there was another incident of a fatal shooting of a suspect that occurred on January 28, 2010 The officer involved was Officer Jeff Strickland Sheriff Wright testified that Officer Strickland has returned to work full time at his regular duties Sheriff Wright advised that the statistics that were given in Chief Deputy Parris' letter did not include incidences where deputies had drawn their weapons but did not actually fire the weapon Sheriff Wright acknowledged that when a deputy draws his weapon, he does so with the possibility of having to shoot the suspect.

Sheriff Wright testified that when he became a deputy sheriff, he was aware of the possibility that he would have to fire his weapon and shoot somebody or even kill somebody Deputies are made aware of this possibility through training at the Academy and through training at the Spartanburg County Sheriff's Department. Sheriff Wright testified that having to shoot a suspect is within the course and scope of the duties of a deputy sheriff when the situation poses itself When an officer does shoot a suspect, the Spartanburg County Sheriff's Department performs an internal investigation to make sure policies were followed. In addition the South Carolina Law Enforcement Division conducts an independent investigation

On redirect examination, Sheriff Wright testified that although the use of deadly force was a part of the job of a deputy sheriff, it was not an everyday occurrence He testified that officers are not trained to kill a suspect but rather to shoot until the threat is gone Finally, Sheriff Wright testified that when he referred to an 'unusual event', he meant that it was unusual because it did not happen everyday

In response to questions by the undersigned, Sheriff Wright testified that his officers are trained on different methods for dealing with [conflicts] He testified that when deputy sheriffs

for Spartanburg County are put in patrol cars on their own, they are trained to satisfy the law and to be ready to handle whatever comes their way Sheriff Wright acknowledged that depending upon whether the situation requires the use of deadly force, use of a taser, or use of pepper spray, officers had the knowledge and the tools to use whatever force was necessary to end the conflict While use of deadly force does not happen all the time, it does occur sometimes, and officers are trained on the use of deadly force Sheriff Wright testified that when an incident of deadly force occurs there is a protocol which is followed. First, the first supervisor or person at the scene, who is not involved in the shooting, will trade guns with the shooter so that the gun can be preserved as evidence. The weapon is then given to SLED The weapon is examined to determine how many rounds were fired The deputy will also get an attorney if he needs one Then, the officer will go to the Sheriff's office and talk with SLED and then write a statement with the advice of the attorney

The Claimant testified on his own behalf. Mr Bentley is 31 years of age married with two daughters, ages 6 and 9 Officer Bentley lives with his family in Clinton, South Carolina. Prior to working for the Spartanburg County Sheriff's Department, he had worked for the City of Laurens Police Department, the Laurens County Sheriff's Department, and the City of Clinton Police Department. He had worked a total of 10 years in law enforcement Claimant started with the Spartanburg County Sheriff's Department on November 7 2005 He testified that he had gone through the training at the South Carolina Criminal Justice Academy and the training at the Spartanburg County Sheriff's Department as described by Sheriff Wright in his testimony Claimant testified that while he did have the shoot/don't shoot training and the simulation training at the Spartanburg County Sheriff's Department, he only received firing range training at

his other law enforcement jobs Claimant acknowledged that he knew that the gun that he wore on his hip was not just for decoration

Claimant testified that prior to October 21, 2009 he had never had to shoot and kill a suspect, or shoot and wound a suspect, or shoot his gun without hitting anyone The claimant testified that he had only taken his gun out of its holster on three previous occasions The Claimant testified as to what occurred on October 21 2009 When the Claimant first arrived at the scene the suspect was standing in the entrance of his carport Claimant testified that he stepped out of his patrol car and asked the suspect to walk toward him so he could speak with him The suspect responded "I'm going to kill you " The Claimant then testified that the suspect came running toward him saying that he was going to take away the Claimant's gun and kill him with it. When the suspect was four feet from the Claimant, the Claimant shot the suspect in center mass Claimant testified that he kept the suspect covered with his weapon until assistance arrived on the scene and did not render First Aid, because he did not know if the suspect had any weapons Claimant testified that he did fear for his safety when he shot the suspect but he did not intend to kill him Claimant testified that the suspect did not die immediately, and he did not learn of the suspect's death until the next day

The Claimant testified that since learning of the suspect's death, he has suffered from depression, anxiety, hypervigilance, nightmares, and inability to sleep According to the Claimant, on at least 2-3 occasions he has had nightmares and urinated on himself in bed. Claimant testified that he does not go anywhere alone. He likes to be with his family He does go to some familiar places in Clinton for short periods of time Claimant testified that he has lost 70 pounds since the incident on October 21, 2009 He denied having any prior psychological

problems or psychological treatment. He testified that he has been unable to get back to work and the incident has impacted his ability to enjoy his time with his wife and daughters Claimant testified that he seldom went out in public, although sometimes he does go places with his wife and kids He does go alone to a store down the street from his house and to the grocery store early in the morning However, at other times he goes with his wife The Claimant is presently treating with a counselor, Dr Bergmann, and a psychiatrist, Dr Deal He receives counseling once a week and takes Effexor, Geodon, Trazadole, and Ativan Claimant testified that the counseling does help some and the medication helps to a certain extent However, he still has good and bad days Claimant testified that his "safe zone" is inside his yard and inside his vehicle Claimant testified that he does not feel safe inside his home and he is constantly checking the doors and windows to make sure they are locked. The Claimant testified that he does not believe that he will be able to go back to his law enforcement job He now has his house for sale and will be moving to Myrtle Beach, where his in laws reside Claimant testified that since he has lived in Clinton for his whole life, everywhere he goes someone will bring up the shooting The Claimant testified that prior to the incident on October 21, 2009, he enjoyed spending time at home with his family and spending time with his father while fishing and hunting Since the incident, his therapy is cooking barbeque He does not fish or hunt anymore He will sit in the backyard with his daughters and his wife

On cross-examination, the Claimant testified that he studied criminal justice at Piedmont Tec for approximately 60 hours of credit. He also attended the South Carolina Criminal Justice Academy He acknowledged that he was taught regarding the use of force at the Criminal Justice Academy The Claimant testified that he was familiar with the elements needed to be

able to use force – ability, opportunity, and jeopardy With regard to the three elements, the Claimant testified

> I know that you have got to have the ability, the opportunity, and the jeopardy to be able to shoot and kill someone At the end of the day, I'm going home That's the way I was trained That's the way my Sheriff trained me. I would rather be, you know, tried by 12 than carried by 6 (Tr 43)

The Claimant testified that each law enforcement office where he had worked had a use of force policy, which he was required to know He testified that on some occasions when he was firing his weapon at a firing range, the targets were made in the shape of a human. The Claimant testified that during his annual training at the Spartanburg County Sheriff's Department, he went through simulations that would expose him to different circumstances, and he would have to determine whether to shoot or not shoot Claimant testified that in 2000 he trained on a FATS machine while attending the Criminal Justice Academy He testified that the simulations put on by the Spartanburg County Sheriff's Department were held at some large plant, and the Department would set up a hostage situation. Teams of four people would try to get the hostages out without any of the officers being shot. The officers would try to eliminate any threat. During this training, the officers would have to fire their weapons The Claimant agreed that it was not unexpected or unforeseen that a police officer might have to use force including deadly force, in carrying out his duties The Claimant acknowledged that he has had to draw his weapon in the performance of his duties He testified that in addition to the simulation training, he has also watched videos in the classroom concerning use of firearms and had done the paintball exercise described by Sheriff Wright. He testified that officers do shoot people in the paintball simulation

The Claimant testified that he hired Attorney Dantin to represent him in this workers' compensation case on or before November 9 2009, approximately 19 days after the incident. He also acknowledged that on December 3, 2009, approximately six weeks after the shooting, he signed an authorization to release his medical records in conjunction with his application for Social Security disability In addition, the Claimant applied for disability under the South Carolina Police Officer's Retirement System and for long term disability through Spartanburg County The Claimant testified that he is receiving benefits under the Police Officer's Retirement System and through long term disability His application for Social Security disability is still pending The Claimant testified that when he sells his house in Clinton and moves to Myrtle Beach, he intends to live off his disability benefits

Upon examination by the undersigned, the Claimant testified that when he finished his training as a police officer, he did realize that sometimes he would have to draw his weapon and maybe even fire it.

On behalf of the Defendants, Phillip Hice, a private investigator, testified regarding his surveillance of the Claimant. Mr Hice is a private investigator and owns Hice Investigations LLC He has been licensed by the South Carolina Law Enforcement Division since August of 2006 Prior to becoming a private investigator, Mr Hice was employed from 1990 to October 2005 by the Spartanburg County Sheriff's Department He started with the Sheriff's Department as a patrol deputy and was subsequently promoted to detective and then to senior investigator After seven years, he was promoted to the position of lieutenant in administration. Prior to working at the Spartanburg County Sheriff's Department, he was employed by the City of Simpsonville Police Department and the City of Greer Police Department He had

approximately 25 years of experience in law enforcement prior to becoming a private investigator

Mr Hice conducted video surveillance on the Claimant on March 20, April 11 and April 30, 2010 His surveillance video was admitted into evidence He testified that the Claimant lived in downtown Clinton in an area that was heavily travelled Mr Hice testified that when the Claimant was outside with his children, he did not appear to be looking around. Mr Hice described the Claimant's activities outside of his home on March 20 and testified that Claimant did not appear to have any fear about being outside in the public He testified that Claimant did not look around a lot as to what was happening around him

On April 11, 2010, Mr Hice observed the Claimant walking his dog along Elizabeth Street Mr Hice testified that during the period that he was walking his dog, he did not appear to be afraid and was not looking around to see if anybody was nearby At approximately 11 40 a.m. on April 11th, Claimant again emerged from his residence with his dog He walked the dog briefly on the side street while talking on a cell phone Claimant again did not appear to have any fear or to be looking around to see if anyone was nearby In fact, on several occasions, he turned his back to the street. Mr Hice further testified that Claimant drove to a gas station and put gas in his car On this occasion, he did not appear to be in fear or to be looking around.

On April 30, 2010, the Claimant emerged from his residence early in the morning and drove his two daughters to the Clinton Elementary School before returning to his residence At 9 55 a.m., the Claimant exited his residence and drove alone to an Ingles grocery store He entered the grocery store and made a purchase before returning to his vehicle and driving back to his residence Again, the Claimant did not appear to have any fear while in the parking lot or in

the grocery store On several other occasions that day, the Claimant emerged from his residence to perform small tasks around his backyard and in his vehicle Later, he walked his dog down the street. In the afternoon, he returned to the school to pick up his children When he arrived home, a male subject arrived at Claimant's home The Claimant subsequently departed his residence with the male subject in a truck. At no time did he appear to be afraid of anything that was going on around him

On cross-examination, Mr Hice testified that he did not have a college degree and was not a psychologist or a psychiatrist He admitted that he had no expertise in human behavior other than what he had learned through law enforcement training He admitted that he had never been qualified as an expert in family counseling or in any other field He admitted he has no knowledge of psychiatric medications or therapy, and has no experience diagnosing psychiatric issues Mr Hice conceded that his job was basically to observe and report He acknowledged that he had never met Brandon Bentley prior to this surveillance and had never spoken with him Mr Hice further testified that during the surveillance, he never got closer to the Claimant than 50 yards, and he never heard anything that the Claimant said

Regarding the March 20 2010, surveillance wherein he discussed the Claimant's behavior while pumping gas, Mr Hice admitted he did not know what a person who is uncomfortable in crowds acts like when they are on psychiatric medications, that he did not know what was normal or comfortable behavior for the Claimant, and that he did not believe everyone reacts the same way when they are uncomfortable or stressed Regarding the April 11, 2010, surveillance, Mr Hice admitted that other than one time when he was in his yard (or within 25 yards of it) and while pumping gas on one occasion, the Claimant was either in his

house or in his car Regarding the April 30, 2010, surveillance, Mr Hice testified that he had no knowledge of the identity of the lady that the Claimant talked to in the Ingles parking lot or the identity of the male who drove up to the Claimant's residence in a truck Mr Hice testified that he never saw the Claimant smiling laughing or expressing any outward emotion. Mr Hice testified that he attempted to video the Claimant every time that he saw him He acknowledged that any other things that he observed were less compelling than what was shown on the video

Numerous medical reports were submitted into evidence and have been thoroughly reviewed by the undersigned. Following the fatal shooting, the Claimant was seen by Lawrence Bergmann Ph.D of Post Trauma Resources Dr Bergmann took a history that Claimant had shot and killed a suspect while on duty at the Spartanburg County Sheriff's Department Claimant reported that the legal process was continuing but that he had been told by several people that he was in no danger of legal problems Claimant denied any significant concerns about the legal process The Claimant advised Dr Bergmann that he had developed psychological symptoms after the incident, that he was unable to return to work, and that he has decided not to return to law enforcement Claimant reported symptoms of hypervigilance, sleep disruption, and not feeling comfortable in public by himself. It was Dr Bergmann's diagnosis that the Claimant had acute stress disorder and mental status examination revealed that Claimant was well oriented in all spheres, appeared alert, but his effect was blunted and his mood was depressed. Dr Bergmann further noted that recent memory appeared normal, remote memory appeared normal but that psychomotor activity appeared retarded. There was no conceptual disorganization Claimant's thought content was not characterized by significant preoccupations and his attitude appeared "o.k." The Claimant denied hallucinations Claimant's judgment was

fan and he appeared to have the ability to attend and maintain focus and to resist urges Dr Bergmann recommended psychotherapy and use of psychotropic medications for treatment of the Claimant's Acute Stress Disorder The Claimant returned to Dr Bergmann on November 25 2009 continuing to complain of sleep disturbance, hypervigilance and depression. Dr Bergmann noted that the Claimant's response to proposed interventions was good On December 29, 2009, the Claimant reported to Dr Bergmann that he continued to have intrusive thoughts during periods when he was alone and that he was working on distraction techniques The Claimant continued to advise that he was unable to work in law enforcement Dr Bergmann noted at the time that the Claimant s response to interventions was good and somewhat improved

On December 16, 2009, the Claimant was seen by Dr Roger Deal, a psychiatrist at Post Trauma Resources Dr Deal noted that the Claimant had very little relief of his insomnia and continued to have high levels of anxiety, marked depression, and reliving of his experience Dr Deal continued the Claimant on Trazadone, increased his dosage of Ativan, and advised him to start taking Effexor the following week. On January 13, 2010, the Claimant was evaluated by both Dr Bergmann and Dr Deal Dr Bergmann noted that the Claimant had had improvement in his symptoms Dr Bergmann stated that Claimant's response to interventions was okay but he needed to focus more on the actual problem solving and change Dr Deal stated that despite his medications, Claimant was still having disruptive sleep and nightmares Dr Deal added the medication Geodon to help with Claimant's symptoms

The Claimant was seen again by Dr Deal on January 26, 2010 Dr Deal noted that the Claimant was fearful of getting over sedated with the Geodon so he had not yet tried that medication It was noted that the Claimant was sleeping better with the Trazadone and Ativan

Dr Deal discussed the advantages of taking the Geodon, and the Claimant should start taking the medication

The Claimant was seen for further follow-up by Dr Deal on March 9, 2010 It was noted that the Claimant was feeling better in many respects as a result of the therapy he was receiving from Dr Bergmann and his medications. Claimant advised that he was finding things of interest to occupy his mind but that he was still having some ' break downs " Dr Deal noted that Claimant's response to interventions was improving though he was still very vulnerable to high anxiety with triggers On March 24, 2010, Dr Deal noted that Claimant had experienced several events which triggered more anxiety so he had used extra Ativan Dr Deal recommended that the Claimant take less Ativan on days when his anxiety was lower so that he would not develop a tolerance to the medication Dr Deal noted that Claimant was improving but was still very vulnerable to anxiety triggers On April 14, 2010, Dr Deal noted that the Claimant appeared brighter in affect and that he had reported that he planned to move to another town in the near future Claimant noted that general experiences with people who had inquired about the shooting caused him to want to stay at home as much as possible Again Dr Deal noted that the Claimant was improved but remained avoidant due to triggers of anxiety around people

The Claimant was also seen by Dr Bergmann on January 26, 2010 through May 4, 2010 During these visits, the Claimant indicated that his sleep was much improved, that he continued to experience hypervigilance, difficulty being alone in traveling and continued intrusive thoughts and nightmares On April 14, 2010 the Claimant advised that he and his family were likely moving to the coast, because of the way he was being treated in his community Dr Bergmann discussed the pros and cons of this move On May 4, 2010, Claimant advised Dr

Bergmann of his continued difficulties with staying alone, traveling, and continuing to want to leave his hometown Dr Bergmann again noted during these sessions that the Claimant s response to interventions had been good

Claimant's attorney also submitted prepared statements from Dr Bergmann and Dr Deal Dr Bergmann in his statement of November 9, 2010 advised that law enforcement officers involved in shootings that resulted in the death of a suspect have a higher incidence of serious psychological difficulties compared to other potentially traumatic experiences He advised that the primary reason was that it was not the role and job of a law enforcement officer to take lives, but rather to assist the community and save lives Dr Bergmann stated that killing a suspect was an extremely uncommon event in law enforcement. Furthermore, Dr Bergmann stated that in his professional opinion, the incident in which Claimant shot and killed a suspect on October 21, 2009, was the cause of his current psychological difficulties which has required psychotherapy and use of psychotropic medications The Claimant's attorney also submitted a similar statement from Dr Deal, dated January 20, 2010 The Claimant's attorney also submitted a letter which he received from Dr Bergmann dated May 24 2010 in which he advised that he had reviewed the surveillance materials which Claimant's attorney had sent to him and that those materials had not changed his opinion concerning the Claimant's condition

On behalf of the Defendants, a report was submitted from Joel D Leonard, a certified vocational evaluator and rehabilitation counselor Mr Leonard stated that after reviewing the vocational issues, it was his professional opinion that the use of deadly force was not an "unusual or extraordinary" condition of employment for a deputy sheriff Rather it was his opinion that the likely potential to engage in events and circumstances that require use of deadly force was a

bona fide realistic expectation that is specifically germane to the job of deputy sheriff as well as other public safety officers Mr Leonard stated.

> At its most finite level, the actual legal authority and capacity to implore the use of deadly force is quite possibly the most defining component of a public safety officer's job As such, public safety officers are provided various forms of training concerning the physical, legal and competency-based factors associated with such actions

A record such as was necessary was made of the proceedings in this matter, and after careful consideration and study of all the evidence, the following findings of fact are accordingly made

FINDINGS OF FACT

IT IS FOUND AS A FACT

1 That all parties to this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Spartanburg County as the employer, and the S C Association of Counties SIF as the carrier

2 That Claimant's average weekly wage was $591 31 making the compensation rate of $394 23 applicable in this case

3 That on October 21, 2009, the Claimant was dispatched on a call for a disturbance between neighbors When the Claimant arrived at the scene, he was confronted by the suspect causing the disturbance As a result of the confrontation, Claimant fatally shot the suspect, who had failed to heed Claimant's instructions

4 That Spartanburg County Sheriff's Office General Order 520 1 provides guidelines for the use of deadly force by deputies in the Sheriff's office Specifically, the General Order provides

> Deadly force may be used by officers only when they reasonably believe the action is in defense of human life (the officer's or others), or in defense of any person in immediate danger of serious physical injury Each decision to use deadly force must be justified within the framework of this policy and the laws of our state and nation These mandates, in combination with training and experience, provide the foundation upon which proper responses are formulated. Our emphasis is on planning and effecting arrests in such a manner to employ adequate support and bring maximum pressure on the arrestee in order to deny that person the opportunity or desire to resist or flee When any arrestee initiates action to cause physical harm, there should be no hesitancy in using such force as necessary to bring that person under control Defendants' Exhibit #1 (Emphasis added)

5 That deputies with the Spartanburg County Sheriff's Office are required to attend a basic course at the South Carolina Criminal Justice Academy At the Academy, deputies are instructed on the proper use of firearms and on the proper use of force and deadly force Instruction not only includes classroom instruction but also actual instruction on use of firearms Also, the Academy uses a FATS machine which simulates different scenarios in which a police officer may be involved and provides actual training on how to respond to the different scenarios

6 That in addition to the training at the Criminal Justice Academy, deputies in the Spartanburg County Sheriff's Office receive annual training not only on firing their weapons, but also on the use of deadly force The Sheriff's Department has an Emergency Services Academy (ESA) in Duncan, S C which has a "shoot house" to provide officers training on shoot/don't shoot situations

7 That the testimony of Spartanburg County Sheriff Charles L Wright was credible and helpful in establishing the scope of the training which Spartanburg County deputies undergo

8 That based on the record as a whole, including the testimony of the Claimant, the testimony of Sheriff Wright, the applicable case law I do find that Claimant has not met his burden of proof in establishing a compensable mental injury by accident arising out of and in the course of his employment. I find that the event that occurred on October 21, 2009 was not an unusual or extraordinary condition of the Claimant's work as a police officer The training from the Criminal Justice Academy, as well as General Order 520 1, and the testimony of Sheriff Wright confirm the scope of training that is provided to deputies and that use of deadly force is required and necessary in certain situations

9 That the Claimant was a pleasant witness and obviously depressed and flat in his testimony Though this clearly was an unfortunate and tragic event, for which the Claimant clearly still suffers mental anguish, the issue is whether or not the incident was an unusual or extraordinary condition for an officer to have to use deadly force in the course and scope of his employment. I find that it is neither unusual or extraordinary Claimant himself, upon direct questioning from the undersigned, confirmed that he knew that he would sometimes have to use deadly force in his job as a police officer Sheriff Wright confirmed this in his testimony as well It is immaterial the frequency of the number of fatalities when deadly force is used, the issue is whether or not this is a standard or necessary part of an officer's job I find that it is It is certainly contemplated in an officer's training at the Criminal Justice Academy and in the training provided at the Spartanburg County Sheriff's Office that in some instances deadly force may be necessary and used The medical evidence and psychiatric and psychological reports have been reviewed and considered, however, the ultimate finding in this case is that the incident that occurred on October 21, 2009 was not an unusual or extraordinary condition of employment.

10 That the surveillance video neither enhances or detracts from anything in the case It is not overwhelmingly useful in rendering a decision in this matter

CONCLUSIONS OF LAW

Accordingly, as provided in Section 42-17-40, S C Code Ann. (1976), it is the determination of this Commissioner that-

1 Under Section 42-1-130, S C Code Ann (1976), Brandon T Bentley was a covered employee at the time in question, and under Section 42-1-140, S C Code Ann. (1976), Spartanburg County was a covered employer

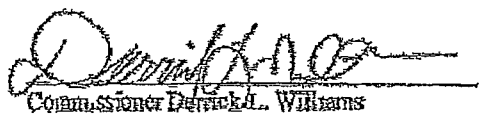
2 Under Section 42-1-160, S C Code Ann (1976), Claimant did not suffer a mental injury by accident arising out of and in the course of his employment with Spartanburg County

ORDER

IT IS, THEREFORE, ORDERED that the claim of Brandon T Bentley be, and hereby is, denied

AND IT IS SO ORDERED

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION



Commissioner Derrick L. Williams

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party
July 15, 2010

By Renee Smith, Administrative Assistant to Commissioner Williams

South Carolina Workers Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202 1715
(803) 737 5723
www.wcc.sc.gov

WCC File # 0916088
Carrier File # 580000228866
Carrier Code #
Employer FEIN #

Claimant's Name Brandon Bentley SSN 251-69-9125 Employer's Name Spartanburg County Sheriff's Department
Address 202 Academy Street Address P.O. Box 771
City Clinton State SC Zip 29325 City Spartanburg State SC Zip 29304
Home Phone (864) 547 1451 Work Phone. ( ) - Insurance Carrier* SC Association of Counties SIF
Preparer's Name Jeremy A. Danbo Law Firm Harrison, White, Smith & Coggins, P.C. Preparer's Phone #* (864) 585 5100

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate

A claim for workers' compensation benefits is made based on the following grounds Date of Injury or Illness. October 21 2009
☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to Psychological, PTSD and depression (Part(s) of Body Injured) on 10/21/09 (Month/Day/Year) in Spartanburg county, state of
1b South Carolina
Body part(s) affected are. Psychological, PTSD and depression
Briefly describe how the accident occurred Deputy shot and killed a man that tried to attack him

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury
3 The relationship of employer and employee existed at the time of injury
4 At the time of the injury the claimant was performing services arising out of and in the course of employment.
5 Notice of the accidental injury was given to the Employer on 10/21/09 (Month/Day/Year) in the following manner*
Verbal to supervisor

☒ 6 Due to injury the claimant is in need of (check one)
☒ (a) medical examination and treatment for* psychological, PTSD and depression
☐ (b) additional medical examination and treatment for* ____

☒ 7 Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of*
TBD

☐ 8 Due to the injury, the Claimant has permanent disability of the following nature and extent (check one) *Premature at this time*
☐ (1) General Disability ☐ Total ☐ (2) Specific Disability ☐ Total
☐ (3) Wage Loss ☐ Partial ☐ Partial

☐ 9 Due to the injury the Claimant has a serious bodily disfigurement consisting of
____

10a At the time of the injury, the Claimant was paid weekly wages of $TBD, and demands accounting of days worked and wages earned as provided by law
10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident None
11a Further grounds or unusual aspects of claim None
11b List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident*
Post Trauma Resources, 1709 Laurel Street, Columbia, SC 29201
11c To the best of your knowledge, did you have any prior permanent disability? No
If yes describe. ____
12 Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper

☐ 13a I am filing a claim I am not requesting a hearing at this time
☒ 13b I am requesting a hearing. A $25 fee is required
14 Estimated time needed for hearing 3 hour

I verify the contents of this form are accurate and true to the best of my knowledge

Preparer's Signature Title jdanbo@spartanlaw.com Email 5/10/10 Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615 Questions about the use of this form may be directed to the Commission's Claims Department

WCC Form # 50
Revised 9/07

50

Employee's Notice of Claim and/or Request for Hearing

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	WORKERS' COMPENSATION COMMISSION
COUNTY OF SPARTANBURG	)	WCC F ILE NO 0916088
	)	
Brandon Bentley	)	
Claimant,	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
Spartanburg County Sheriff's Dept.	)	
	)	
Employer,	)	
	)	
SC Association of Counties SIF	)	
	)	
Carrier,	)	
	)	
Defendants	)	
	)	

The undersigned hereby certifies that she is employed in the law office of Harrison, White, Smith & Coggins 178 West Main Street, Spartanburg, South Carolina, and is a person of such age and discretion as to be competent to serve papers

That on March 10, 2010, she served a copy of the Form 50 (Employee's Notice of Claim and/or Request for Hearing) on the Defendants by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place and address stated below, by depositing said envelope and contents in the United States mail at Spartanburg, South Carolina.

ADDRESSEE

Ms Virginia Crocker, Judicial Director
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

Mr Richard B Kale Jr
Willson, Jones, Carter & Baxley
872 S Pleasantburg Drive
Greenville, South Carolina 29607

_____
Nikki M Phillips
Paralegal to Jeremy A Dantin

South Carolina Workers Compensation Commission
P O Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0916088
Carrier File # 58 228866
Carrier Code # 930
Employer FEIN 576000401

Brandon Bentley — 251-69-9125
Claimant's Name — SSN

Spartanburg County
Employer's Name

202 Academy Street, Clinton, SC 29325
Address — City — State — Zip

P O Box 5666 Spartanburg SC 29304
Address — City — State — Zip

Home Phone — Work Phone

S C Association of Counties SIF
Insurance Carrier

Richard B Kale, Jr — (864) 527-3272
Preparer's Name — Phone #

Complete each information blank Specify clearly when contentions are admitted in part and denied in part.
The employer insurance carrier in answer to the claim, respectfully shows

1 It is (denied) that the employee sustained an injury on or about the date set forth in the application The reasons for denial are No injury by accident arising out of and in the course of employment

2 It is (admitted) that both the employer and employee were subject to the Workers Compensation Act at the time in question The reasons for denial are But see #1

3 It is (admitted) that the relationship of employer and employee existed at the time in question The reasons for denial are But see #1

4 It is (denied) that at the time in question the employee was performing services arising out of and in the course of employment The reasons for denial are See #1

5 It is (denied) that notice of injury was given the employer The reasons for denial are See #1

6. It is (denied) that the employee needs or is entitled to additional medical care as a result of injury The reasons for denial are See #1 No medical evidence.

7 It is (denied) that the employee is entitled to temporary total disability for the period(s) of

8 It is (denied) that the employee is permanently disabled The reasons for denial are See #1 No medical evidence

9 It is (denied) that the employee has a serious disfigurement

10 It is contended that an average weekly wage of $ 591.31 applies according to attached accounting of employee's earnings as provided by law

11 Further contentions or grounds of defense are Defendants reserve the right to amend

Certify that I have served this document pursuant to R.67-212 by delivering a copy to Jeremy Dantin Esquire
Name

P O Box 3547 Spartanburg SC 29304
Address

on the 5th day of April 2010 by ☒ first class mail ☐ personal service ☐ certified mail

I verify the contents of this form are accurate and true to the best of my knowledge

Richard B Kale — Jane C Watkins — April 5 2010

Preparer's Signature Attorney for Defendants — Jane C Watkins Certifier — Date

Richard B Kale Jr
Willson Jones Carter & Baxley P.A.
872 S Pleasantburg Drive
Greenville SC 29607

Refer to R.67 205 and R.67 601 through R.67-615 Questions about the use of this form may be directed to the Commission's Judical Department. Pursuant to R.67-606 a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P O BOX 1715
Columbia, SC 29202 1715
803 737 5673

WCC File # 0916088
Carrier File # 580000228866
Carrier Code # 00930
Employer FEIN # 576000401

Claimant's Name Brandon Bentley SSN 251 69 9125 Employer's Name Spartanburg County
Address 202 Academy Street Address P O Box 5666
City Clinton State SC Zip 29325 City Spartanburg State SC Zip 29304
Home Phone (864) 547 - 1451 Work Phone ( ) - Insurance Carrier S C Association of Counties SIF
Preparer's Name Jeremy A Dantin Law Firm Harrison White, Smith & Coggins, P.C. Preparer's Phone # (864) 585 - 5100

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ claimant ☐ employer (check one) Date of injury 10/21/2009 (m/d/yyyy)

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case The request for review is based on the following grounds (State the grounds of your appeal in the form of questions presented Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number Use additional pages if necessary)

See attachment

(check one) Oral argument ☒ is ☐ is not requested Appellant's request for oral argument is waived if not indicated on this form.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Richard B Kale Jr, Esq
Name

872 S. Pleasantburg Drive Greenville, SC 29607
Address

on the 16th day of July, 2010 by ☐ first class mail ☐ personal service ☒ certified mail

Preparer's Signature Attorney for the Claimant Title Date 7/16/10

Check this box if you are not represented by an attorney ☐

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party R.67-701B Otherwise, file the original and four copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision R.67 701 and R.67 205 Attach the filing fee to this form Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67 711 for additional information

WCC Form # 30
Rev 3/97

30

REQUEST FOR COMMISSION REVIEW

IT IS RESPECTFULLY SUBMITTED that the Single Commissioner erred as follows

1) In finding as fact that the event occurring on October 21, 2009 was not an extraordinary or unusual event (or was not an extraordinary or unusual condition of Claimant's work as a police officer), the error being that such a finding was not supported by the greater weight of the evidence

2) In failing to find as fact or conclude as a matter of law that Claimant suffered a mental injury by accident arising out of and in the course of his employment with Spartanburg County, the error being that such a finding is supported by the greater weight of the evidence and law

3) In failing to find as fact that the event occurring on October 21, 2009, was extraordinary and unusual in comparison to Claimant's normal conditions of employment as a Deputy with the Spartanburg County Sheriff's Department, the error being such a finding is supported by the greater weight of the evidence

4) In failing to conclude as a matter of law that the event occurring on October 21, 2009, was extraordinary and unusual in comparison to Claimant's normal conditions of employment as a Deputy with the Spartanburg County Sheriff's Department.

5) In failing to apply the correct legal standard to the facts of this case – namely, § 42-1-160(B)(1) (whether employee's employment conditions causing the stress, mental injury, or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment)

6) In admitting into evidence Defendant's Exhibit #9 (SLED Statistics), as such evidence was not relevant to the issues in this case, and the prejudicial effect of this evidence outweighed its probative value

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	WORKERS' COMPENSATION COMMISSION
COUNTY OF Spartanburg	)	WCC FILE NO 0916088
	)	
Brandon Bentley	)	
	)	
Claimant,	)	
vs	)	
	)	AFFIDAVIT OF SERVICE BY MAIL
Spartanburg County	)	
	)	
Employer	)	
	)	
	)	
SC Association of Counties SIF	)	
	)	
	)	
Defendants	)	
	)	

The undersigned hereby certifies that she is employed in the law office of Harrison, White, Smith & Coggins, 178 West Main Street, Spartanburg South Carolina, and is a person of such age and discretion as to be competent to serve papers

That on July 16, 2010, I served a copy of the Form 30 (Request for Commission Review) by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place and address stated below, by depositing said envelope and contents in the United States mail at Spartanburg, South Carolina.

ADDRESSEE

Virginia Crocker
South Carolina Workers' Compensation Commission
P O Box 1715
Columbia, SC 29202-1715

Richard B Kale, Jr Esq
Willson, Jones, Carter & Baxley
872 S Pleasantburg Drive
Greenville, SC 29607

_____
Nikki M. Phillips Paralegal to
Jeremy A. Dantin
Attorney for Employee
Post Office Box 3547
Spartanburg, South Carolina 29304
(864) 585-5100

Spartanburg, South Carolina
July 16, 2010

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No 0916088

Brandon T Bentley, Employee — Appellant,

v

Spartanburg County, Employer, and
S C Association of Counties SIF, Carrier, — Respondents

NOTICE OF APPEAL

Brandon T Bentley appeals the decision of the Workers' Compensation Commission dated January 13, 2011 Appellant received a copy of this decision on January 14 2011 Further, Appellant is already in possession of transcripts from the proceedings below

January 19, 2011

Jeremy A. Dantin
Harrison, White, Smith & Coggins, P C,
P O Box 3547
Spartanburg, S C 29304
(864) 585-5100
Attorney for Appellant

Other Counsel of Record.
Richard B Kale, Jr
Willson, Jones, Carter & Baxley, P.A.
872 S Pleasantburg Drive
Greenville, SC 29607
(864) 527-3280
Attorney for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No 0916088

Brandon T Bentley, Employee, Appellant,

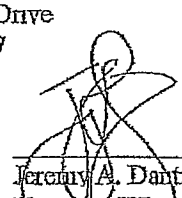
v

Spartanburg County, Employer, and
S C Association of Counties SIF, Carrier, Respondents

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the above-named Respondents, Spartanburg County and S C. Association of Counties SIF, this 19th day of January 2011, by depositing the same in the United States Mail, first class postage prepaid, addressed to their attorney of record, as follows

Richard B Kale, Jr
Willson, Jones, Carter & Baxley, P.A.
872 S Pleasantburg Drive
Greenville, SC 29607



Jeremy A. Dantin
Harrison, White, Smith & Coggins, P C
P O. Box 3547
Spartanburg, S C 29304
(864) 585-5100
Attorney for Appellant

1 THE COURT Today's date is May 26, 2010 This
2 is the Workers' Compensation case of Mr Brandon
3 Bentley versus Spartanburg County South Carolina
4 Association of Counties is the Carrier WCC File No.
5 0916088 Date of accident alleged as October 21,
6 2009
7 Present for the Claimant is Attorney Jeremy
8 Dantin Present for the Employer and Carrier is
9 Attorney Dick Kale.
10 This hearing is set on the Forms 50 and 51.
11 I have an average weekly wage of $591 31 with a
12 corresponding comp rate of $394 23
13 I have the APA submissions handed up from both
14 parties We had a prehearing conference where we
15 talked about several issues The Claimant had
16 objected to Defendants' exhibits 7, 8, and 10 Those
17 dealt with the surveillance that was done in this
18 case I have - we have taken out exhibits 7, 8, and
19 10 I do have surveillance videotape They also
20 objected to exhibit 9, which were some documents
21 showing from SLED I had left those in, as I can take
22 judicial notice of those documents
23 Outside of that, any objections to jurisdiction,
24 venue or the APA submissions? Mr Dantin?
25 MR DANTIN: None, Your Honor.

1 THE COURT Mr Kale?

2 MR KALE None from the Defendants

3 THE COURT Then the Commission File is part of

4 the record with the exception of any self-serving

5 declarations or any unstipulated medical reports

6 This is a denied claim.

7 The Claimant alleges a mental injury, post

8 traumatic stress disorder as well as anxiety, and

9 depression occurring on October 21, 2009 He would

10 seek further medical treatment and temporary total

11 from February 20, 2010 to the present

12 The Employer/Carrier does not believe the

13 Claimant can meet his burden of proving a compensable

14 injury by accident

15 This is an unusual type case, but the issue is

16 whether or not the Claimant's employment or the event

17 surrounding this accident was an unusual or

18 extraordinary event under the statute, under our case

19 law

20 That being stated, do the parties want to state

21 anything else, Mr Dantin?

22 MR DANTIN I have nothing further at this

23 point

24 THE COURT All right Mr Kale?

25 MR KALE Nothing further, Your Honor

1 THE COURT All right We have Sheriff Wright in
2 the witness chair We can swear him in
3 SHERRIFF CHUCK WRIGHT,
4 having been first duly sworn, testified as follows
5 THE COURT All right Thank you, Sheriff
6 Mr Dantin?
7 DIRECT EXAMINATION
8 BY MR. DANTIN
9 Q Thank you, Sheriff Now you have been sheriff in
10 Spartanburg County since 2005, correct?
11 A Yes, sir
12 Q Prior to that time, you were on patrol for about 17
13 and a half years?
14 A Yes, sir
15 Q And how many times did you shoot someone in the line
16 of duty during that time?
17 A None that I'm aware of
18 Q Now, do most deputies make it through their entire
19 careers without ever having to kill another human
20 being in the line of duty?
21 MR KALE Object to what is most deputies, Your
22 honor That would be hearsay
23 THE COURT I will let him answer that
24 THE WITNESS Yes
25 ///

1 BY MR DANTIN

2 Q I asked you in your deposition whether you believed

3 one of your deputies shooting and killing another

4 human being was a rare or unusual event And you said

5 –

6 MR KALE Your Honor, that's leading It's his

7 witness

8 THE COURT Okay Can you –

9 MR DANTIN He's a Defense witness

10 MR KALE He's a Claimant's witness. He's

11 listed on their prehearing brief as a witness. He

12 called him and it's his witness

13 THE COURT I think both of you had him listed

14 Can you rephrase your question?

15 MR DANTIN Well –

16 THE COURT He's on direct You have him in

17 direct In most cases, he would be a party witness,

18 but both of you all have listed him

19 MR DANTIN Okay

20 THE COURT Can you rephrase it?

21 MR DANTIN I can

22 BY MR. DANTIN

23 Q Do you believe one of your deputies shooting and

24 killing another human being is a rare or unusual

25 event?

1 MP KALE Youi Honor, I'm going to object
2 That goes to the ultimate issue of unusual or
3 extraordinary That's a decision for you to make We
4 have a dispute in this case as to what is the meaning
5 of unusual or extraordinary So, for him to say it's
6 unusual depends on what he means by that I think
7 that's the ultimate issue and he sroulc not be
8 testifying to that
9 MR DANTIN It wasn't objected to at the
10 deposition
11 MR KALE· The deposition isn't in
12 THE COURT· That's certainly noted, Mr Kale
13 Ultimately, I tell the parties - because that issue is
14 going to come up over and over again I'm going to
15 decide, obviously, under the statute and the case law
16 what it is I will let him answer that, based on his
17 experience and his training
18 MR. KALE Your Honor, can I ask, did he submit
19 the deposition of -
20 MR DANTIN I do have the depositions here to
21 submit
22 MR KALE. I'm going to object to it being
23 submitted. It's his witness He can't submit a
24 deposition, unless it's for impeachment purposes And
25 we haven't gotten - I just wanted to make sure he

1 hadn't already handed it up

2 MR DANTIN I won't need it in all likelihood

3 THE COURT I think it's already in the

4 submission

5 MR KALE His deposition?

6 THE COURT Sheriff Chuck Wright

7 MR DANTIN We have his original here

8 MR KALE Your Honor, I did not realize he had

9 handed up that

10 THE COURT That's in there And then Phillip P

11 Hice

12 MR KALE. I object to that being in there

13 MR. DANTIN Hice is the investigator

14 THE COURT He's the investigator

15 MR KALE You know, under the Rules of Civil

16 Procedure, depositions come in only if it's for

17 impeachment purposes So, I didn't realize he had

18 submitted those depositions I thought he had just

19 admitted them as being exhibits

20 THE COURT Okay

21 MR. KALE I would object to those being in

22 evidence

23 THE COURT Let's leave it in for now I may

24 take it out Let's just leave it in for this moment

25 I will note that, though

1 All right Go ahead I will let him answer that
2 question
3 MR KALE Again, I apologize for that
4 THE WITNESS· What did you ask me?
5 BY MR DANTIN
6 Q The question is, do you believe one of your deputies
7 shooting and killing a human being is a rare and
8 unusual event?
9 A I think I answered that in my deposition like I will
10 answer today It doesn't happen every day So, I
11 guess in its definition, yeah, I guess
12 Q Can you think of anything one of your deputies could
13 do more extreme or extraordinary than killing another
14 human being?
15 MR KALE Again, Your Honor, let me object
16 He's asking extraordinary and that's what's the
17 ultimate issue in this case, what is the meaning of
18 extraordinary
19 THE COURT That is certainly noted He can
20 answer it if he can
21 THE WITNESS In my humble opinion, that's one of
22 the bad things that you do as an officer, one of the
23 worse things, I guess you would say
24 BY MR DANTIN
25 Q Is it your department's goal to avoid the use of

1 deadly force at all cost?

2 A Yes, sir

3 Q Do you view your department's role as assisting the

4 community and saving lives?

5 MR KALE Again, Your Honor, he is leading

6 THE COURT Can you rephrase your question?

7 MR DANTIN I don't know that that was a leading

8 question there

9 MR KALE He's telling him what the department's

10 -

11 BY MR DANTIN

12 Q How do you view your department's role?

13 A We certainly are to preserve life at all cost We are

14 to, you know, prevent crime from running rampant And

15 we do the best we can with the tools that we have

16 available So, yeah, preservation of life is always

17 our first objective

18 Q You know Deputy Bertley?

19 A I do

20 Q Have you ever known him to be dishonest?

21 A No, sir I can't say that I have No, sir

22 MR DANTIN I don't think I have any further

23 questions

24 THE COURT All right Mr Kale

25 ///

1 CROSS EXAMINATION

2 BY MR KALE

3 Q Sheriff Wright, how many deputies do you have under

4 your command?

5 A Two hundred ninety one

6 Q In order to be a deputy sheriff, is there a

7 requirement that you go through, a basic course that's

8 given at the criminal justice academy?

9 A Yes, sir

10 Q And that's required of every deputy sheriff?

11 A Every certified law enforcement officer in the State

12 of South Carolina Yes, sir

13 Q Did you take that course?

14 A I did And I passed

15 Q Okay Good And as a part of that course, are

16 officers taught how to use firearms?

17 A Yes, sir

18 Q Okay And as a part of that course, are they taught

19 when to use force and when to use deadly force?

20 A That comes under the legal parts. But yes, sir It's

21 incorporated on the shooting range as well

22 Q Now, are the officers, the deputy sheriffs, in

23 Spartanburg County armed?

24 A Yes, sir

25 Q And what kind of weapon do they have?

1 A We carry the Glock 40 and a model 22 and a 23 It
2 depends on what division you're in If you're in
3 investigation, it's a smaller Glock Uniform patrols,
4 a larger 22
5 Q And are these weapons normally loaded?
6 A Yes, sir They better be
7 Q So, I assume that by having to have a weapon and
8 having ammunition, that it is contemplated that he may
9 have to use that weapon
10 A Yes, sir. It's a tool.
11 Q Now, what's a FATS machine? That's F-A-T-S
12 A I can speak to that, because I've actually
13 participated in one of those It is a simulation
14 through a DVD I don't know the technology But we
15 had a light source in a predetermined weapon that
16 didn't function as ours do on the street It's made
17 specifically for training purposes It has got the
18 same weight, length, the same feel as the weapon that
19 you carry It's a scenario based thing You have to
20 go through this room and it simulates good guys, bad
21 guys pointing weapons at you, shooting at you You
22 get to act like you are shooting bad guys and
23 defending yourself You are trying to figure out -
24 you have instructors in there to see if you are behind
25 the proper cover, if you are - you know, shoot/don't

1 shoot situations
2 Q Okay And when you say shoot/don't shoot situations,
3 does that mean when you should use force and when you
4 should not use force?
5 A Yes, sir
6 Q So, that's given at the criminal justice academy?
7 A No, sir That was done in house at the sheriff's
8 department actually before I took over as sheriff I
9 don't know if they do that at the academy now or not
10 They didn't do it back in 1988, when I went through
11 there It was a live fire on the range
12 Q Now, does Spartanburg county have training - special
13 training on shoot/don't shoot or when to use force and
14 when to use deadly force?
15 A Yes, sir We have in-house training annually It's
16 not an option You have to go to it We go through
17 all of those situations pertaining to policy,
18 certainly shoot/don't shoot situations Yes, sir
19 Q Do you have a facility, a training facility that you
20 carry that out?
21 A Yes, sir The ESA out at Duncan That's the
22 Emergency Services Academy I'm sorry
23 Q Do you actually create sort of streets and buildings
24 and things of that nature?
25 A Kind of sort of. I mean, we don't have the resources

1 to build corners and stuff like that out of bricks
2 But we try to simulate - you know, we tell the deputy
3 what they are going to do when they go up there, what
4 the objective is And if a certain target pops out of
5 there, they are taught to make a decision at that
6 point to shoot or don't shoot It's about getting
7 them behind cover and getting them in good positions
8 Q What type of weapon did they use in that exercise?
9 A Their duty weapons, sir, the 40 Glock.
10 Q Is there some type of exercise they do with paintball
11 instead of real ammunition?
12 A Yeah They call that the active shooter That is
13 when you have to go into a building, search for bad
14 guys as hold up We put them in a really tough
15 situation to really win, to show them how easy it is
16 that things can happen We use paintball guns And
17 they call it a FX round I believe it is, just a
18 plastic projectile that hurts So, when you are not
19 tucking your elbow in when you are going around the
20 corner, they will shoot your elbow with a paintball
21 gun or an FX round to teach you to keep that elbow
22 tucked in. It's good training.
23 Q And I assume that the reason you do that training is
24 because there's an expectation that an officer is
25 going to have to use his weapon to shoot somebody and

1 possibly kill him

2 A Well, I don't know if that's an expectation I do

3 know that we try to train to be in a right position to

4 prevent that stuff.

5 Q Okay And would it be fair that that does happening

6 in reality?

7 A Unfortunately, yes, it does happen

8 Q And the reason you have a weapon is to be able to use

9 it if somebody's life is in danger or the officer's

10 life is in danger?

11 A Yes, sir

12 Q Now, does your office have a policy regarding use of

13 force?

14 A Yes, sir.

15 Q And I believe that's general order 520 01, is it not?

16 A Yes, sir

17 MR KALE Your Honor, that would be Defendants'

18 exhibit number 1

19 THE COURT Okay.

20 BY MR KALE:

21 Q Let me hand you a copy of that

22 A Yes, sir

23 Q Now, in that policy does it tell when you are to use

24 force?

25 A Yes, sir

1 Q Does it tell you when to use deadly force?
2 A I believe in section 6, page 3 of the policy it talks
3 about deadly force It goes through and it's all
4 based on, you know, what the legal system says we can
5 and can't do Yes, it does
6 Q So, I assume that the reason you have done this policy
7 is to give some guidance and direction to your
8 officers as to when they should fire their weapon,
9 when they should shoot someone, and when not to shoot
10 someone?
11 A Yes, sir
12 Q And the reason you do that is because, as a part of
13 police law enforcement profession you do have to
14 occasionally shoot people in your duty?
15 MR DANTIN· Your Honor, I would object to some
16 of the leading now
17 THE COURT Okay
18 MR KALE Well, it's his witness I m in cross
19 examination
20 MR DANTIN You can't have it both ways
21 THE COURT He's both of your witnesses Try not
22 to lead him You both listed him He did call him
23 first Can you repnrase, Mr Kale?
24 BY MR KALE
25 Q Is it contemplated and the reason that when you - let

1 me rephrase When you put in that general order, was
2 it the contemplation of the sheriff at that point in
3 time and you, as you continued it, that there's going
4 to be an occasion when a police officer would have to
5 shoot a suspect or someone else?
6 MR DANTIN Same objection
7 THE COURT All right That's noted I will let
8 him answer that
9 THE WITNESS Yes, sir
10 BY MR KALE
11 Q How often do you give training for use of force and
12 use of deadly force?
13 A It's annual based. Each year officers have, depending
14 on their schedule, a schedule they have to go out to
15 the ESA and train It is incorporated in every
16 training session that they hold if you are going to
17 come back and work on the road with the Spartanburg
18 County Sheriffs' Department, you must show proficiency
19 in those policies and the firing range
20 Q Okay And is knowing when to use or not to use deadly
21 force an integral part of law enforcement?
22 A Yes, sir I believe as boring as it sounds, we do go
23 over the entire use of force policy
24 Q You mentioned in your deposition there are three
25 elements I think you called it a matrix or a

1 triangle What is that?

2 A Opportunity, ability, and jeopardy

3 Q Are those criteria that the police officers should

4 consider in determining when to shoot his weapon?

5 A Yes, sir

6 Q Now, in your training do you set up various scenarios,

7 such as when a suspect is 50 feet away with a knife,

8 whether you should shoot or not shoot?

9 A Yes, sir

10 Q And does that progress and you teach him as it

11 progresses, as it get closer, the different standards?

12 A Yes, sir

13 Q So, you put in a lot of training for the deputy

14 sheriffs in Spartanburg County as to when they should

15 shoot a suspect and when not to shoot a suspect?

16 A Yes, sir

17 Q And the reason you do that is why?

18 A This is a part of our job It happens

19 Q That you have to shoot someone?

20 A That you may have to use deadly force, whether it's

21 with a weapon or a car or whatever

22 Q Now, there have been other instances, other than with

23 Brandon Bentley, where officers have shot and killed

24 suspects, is it not?

25 A Yes, sir

1 Q Is that not true?

2 A Yes, sir

3 Q And Williams Paris, and I believe he is your chief

4 deputy

5 A Yes, sir

6 Q Wrote a letter to Mr Dantin under his Freedom of

7 Information request on January 28 Have you seen

8 that?

9 A No, sir I haven't seen it

10 Q Let me show you that

11 A If I have, I don't remember Let me say that for the

12 record I have seen this Yes, sir.

13 Q Okay. And those are instances in the past where there

14 have been shooting of suspects, fatal shootings of

15 suspects?

16 A I can t answer whether it was fatal or not I know

17 the incident - I know there's been at least eight

18 instances where we've had had to shoot someone But I

19 can't verify the outcome of whether the suspect

20 survived or not

21 Q Well, let me let you read this

22 MR DANTIN If it helps, we will stipulate that

23 it's happened six times in the last six years

24 MR KALE Starting right there

25 THE COURT Okay

1 BY MR KALE

2 Q Read that, if you would

3 A "On April 13, 2006' -

4 Q No, the next one

5 A The instance where a deputy has killed a suspect and

6 gunshots occurred on the dates, February, September,

7 February, December, and October

8 Q Basically, about every year there's a fatal shooting,

9 isn't that correct?

10 A Unfortunately Yes, sir.

11 Q And since that letter was written, there's been

12 another incident in 2010 where an officer shot and

13 killed a suspect

14 A When was that letter, sir?

15 Q January 28, 2010

16 A Yes, sir

17 Q Who was the officer involved in that shooting?

18 A I believe it was Jeff Strickland

19 Q And is he back at work?

20 A He is

21 Q Full time?

22 A Yes, sir

23 Q Regular duties?

24 A No, sir

25 Q What's he doing?

1 A He had another incident where a suspect stuck a gun
2 at his neck By the grace of God and a good citizen,
3 he wasn't shot He is on light duty trying to get
4 well with that But the other incident where he shot
5 and killed a suspect that was pointing a gun at him,
6 yeah, he was back from that
7 Q How long was he out?
8 A Sir, I'm going to guesstimate about a week And it's
9 only because we made him stay out that long It
10 wasn't long
11 Q In fact, after such a shooting, you all require them
12 to go on administrative leave, do you not?
13 A Yes, sir We also make them go see our psychologist
14 We worry about the holistic health as well
15 Q Okay These statistics don't include statistics as to
16 officers having to draw their weapons, does it?
17 A No, sir
18 Q When an officer draws his weapon, does he do so with
19 the possibilities he is going to have to fire that
20 weapon?
21 A With the possibility, yes, sir
22 Q So, when you pull a weapon, do you teach them, say, be
23 prepared to shoot if you are going to pull a weapon?
24 A We try to teach them whatever situation that may come
25 up over the past history, you know, good positioning,

1 commands, the whole deal But yeah, we try to teach
2 them the best we can Every situation is different,
3 but we try to teach them what we know
4 Q When you teach them to shoot, where do you teach them
5 to shoot at?
6 A The center of mass, wherever that is.
7 Q Okay
8 A Understand that a center of mass could be a bad guy
9 pointing a gun around a corner and we get about a foot
10 worth of center mass
11 Q If an individual is fully exposed, where would -
12 A Center mass
13 Q Where would that be?
14 A It just depends on where he is It depends on what is
15 in his way I guess the chest area I guess is what
16 you are looking for, center mass
17 Q When you shoot, you don't shoot to wing a person
18 A No, sir
19 Q Shoot their hand?
20 A No, sir We don't teach that because we just don't
21 Q You shoot to stop?
22 A Yes, sir Just to stop a threat
23 Q Okay Now, when you became a deputy sheriff, were you
24 aware of the possibility that you might have to fire
25 your weapon and shoot somebody or even kill somebody?

1 A Yes, sir I was

2 Q And do most deputies - do all deputies realize that?

3 A Through our training and through the academy training,

4 yes

5 Q Is having to shoot a suspect within the course and

6 scope of the duties of a deputy sheriff?

7 A Yes, sir If that situation poses itself, yes, sir

8 Q Now, once an officer shoots a suspect, is there an

9 investigation done as to the shooting?

10 A We do our in-house investigation to make sure the

11 policies were followed And plus we call an outside

12 source, the South Carolina Law Enforcement Division,

13 to see if a charge needs to be brought against the

14 officer, if we did anything wrong, or if we were

15 justified in our shootings

16 Q And SLED does an investigation and determines -

17 A A thorough investigation

18 Q This has been in place, this procedure where you do an

19 internal and SLED - how long has that been in place?

20 A It's been in place ever since I've been a deputy

21 sheriff, since 1986

22 Q And the fact that you have this procedure set up

23 contemplates that there are going to be instances

24 where police officers fire their weapons, shoot a

25 suspect or kill a suspect?

1 A I suppose Yes, sir

2 MR KALE That's all I have, Your Honor

3 THE COURT All right Any redirect, Mr Dantin?

4 MR DANTIN. I do, Your Honor

5 REDIRECT EXAMINATION

6 BY MR DANTIN.

7 Q You testified earlier, Sheriff, that part of the job

8 is that you may have to use deadly force at some time?

9 A Yes sir

10 Q But do your deputies rarely have to use deadly force?

11 A It is not an everyday occurrence That's the best way

12 I can answer it, sir It's not an everyday

13 occurrence, thank God It is not an everyday

14 occurrence

15 Q And in fact for your department, it's happened only

16 six times in the last 1,971 days

17 A Is that about six years?

18 Q Yeah

19 A Yes, sir

20 Q Okay You mentioned earlier that when deputies are

21 trained they are trained to - when they are shooting

22 at a suspect, they are trained to stop Are they

23 trained to kill?

24 A No, sir We train to stop the threat, sir If it

25 winds up that that's what happens, then that's the way

1 it plays out We certainly don't train them to kill
2 We train them to shoot until the threat is gone
3 Q And finally, sheriff, you were just discussing with
4 Mr Kale how there is a SLED investigation whenever
5 one of your deputies shoots and kills a suspect Is
6 there a SLED investigation any time a deputy arrests
7 someone?
8 A No, sir
9 Q Is there a SLED investigation after a speeding ticket?
10 A No, sir
11 MR DANTIN No further questions
12 THE COURT. Okay
13 RE-CROSS EXAMINATION
14 BY MR KALE
15 Q How about after a motor vehicle accident involving a
16 police car is there a South Carolina Highway Patrol
17 investigation?
18 A Typically, if we call them Yes, sir
19 Q Now, previously Mr Dantin asked you a question about
20 whether it was - fatally shooting a suspect was a rare
21 and unusual event. When you are saying unusual there,
22 you are talking about the frequency
23 MR DANTIN I object to leading
24 THE COURT Can you rephrase that?
25 ///

1 BY MR KALE

2 Q Were you referring to the frequency?

3 MR DANTIN I object to the leading again

4 MR KALE That's not leading.

5 THE COURT Sheriff, whenever you said this is an

6 unusual event, what do you mean by that?

7 THE WITNESS The best way I know to answer that,

8 sir, is it just don't happen every day That's about

9 the only way I really know to explain it

10 THE COURT That's fair

11 MR KALE That's all I have.

12 THE COURT Mr Dantin?

13 MR DANTIN Nothing further

14 THE COURT Sheriff, just a couple of questions.

15 EXAMINATION

16 BY THE COURT

17 Q It appears, based on the general order that your

18 officers - not only this general order 520 1, but from

19 the deputies or the officers training, they train on

20 different methods or different avenues for dealing

21 with convicts?

22 A Yes, sir

23 Q Is that fair?

24 A That's very fair We take a lot of training time for

25 those

1 Q When a deputy leaves the station house - I'm sure I'm
2 using the wrong terminology I watch too much Law and
3 Order and that stuff Are they equipped, are they
4 trained to use whatever method would best suit the
5 situation, whether it's deadly force, whether it's a
6 Taser, I'm not sure what other -
7 A Pepper spray or baton
8 Q Okay
9 A May I interrupt? I think I know what you are asking
10 Q Yeah, go ahead
11 A When the deputy sheriff for Spartanburg County is put
12 in a patrol car on their own, they are trained to
13 satisfy the law in our department on every aspect we
14 can train them on
15 Q Okay
16 A To be ready to handle whatever comes their way
17 Q That's the point that I am getting at Depending on
18 whatever situation happens, whether it's using deadly
19 force, using a Taser, squeezing the pepper spray,
20 officers have the knowledge and the tools to use those
21 type - whatever forces is necessary to end the
22 conflict
23 A Yes, sir
24 Q Okay Certainly would you agree the use of deadly
25 force, I think you said, doesn't happen all the time?

1 A Thank God, no It don't happen all the time
2 Q Does it happen sometimes?
3 A Yes, sir, it does
4 Q Is that part of the training that the officers or the
5 deputies are trained on, to use deadly force?
6 A Yes, sir, it is We have to talk about that quite
7 frequently because of the implications and the
8 importance of not being too quick about the situation
9 because we certainly don't want to train a deputy to
10 act too quickly It's almost at the peril of the
11 officer, to be honest with you
12 Q When those unfortunate circumstances happen and you
13 have to use deadly force, there's a protocol for that
14 as well?
15 A Yes, sir
16 Q All right And that protocol is followed in all those
17 different situations?
18 A Yes, sir We will go out and the first supervisor or
19 the first person on the scene that is not involved in
20 the shooting trades guns with the shooter so that we
21 can preserve evidence That weapon is given to SLED
22 at that point It's not bothered by anybody else so
23 we can count the rounds We try to find, you know,
24 how many rounds were fired The deputy gets an
25 attorney if he needs one And I always encourage him

1 to do it, because it's a situation where sometimes
2 you are not thinking And they will go to the office
3 and talk to SLED and their attorney and write a
4 statement at that point or the next day or whatever
5 their attorney tells them to do And we just proceed
6 through the investigation from there and make sure we
7 haven't missed anything The Spartanburg County
8 Sheriffs' Department specifically ropes off the area
9 and keeps everybody else out, because I'm not going to
10 investigate my own department That doesn't do too
11 well with the public.
12 Q I know you have been sheriff here since 2005
13 A Yes, sir
14 Q And you worked here for 17 and a half years total?
15 A Yes, sir
16 Q Did you work anywhere else?
17 A No, sir
18 THE COURT Okay Mr Dantin, any other
19 questions for the sheriff?
20 MR DANTIN Just one very brief follow up,
21 Commissioner.
22 REDIRECT EXAMINATION
23 BY MR DANTIN.
24 Q Sheriff, why don't you want your deputies to act too
25 quickly with regard to the use of deadly force?

1 A To protect human life

2 MR DANTIN No further questions

3 THE COURT. Mr Kale, any other questions for the

4 sheriff?

5 MR KALE Nothing further

6 THE COURT Thank you, sir

7 MR DANTIN. Commissioner, with your permission,

8 Mr Bentley needs to go to the restroom

9 THE COURT: Sure Let's take a little break

10 (OFF THE RECORD,

11 THE COURT We can swear Mr Bentley in

12 BRANDON BENTLEY,

13 having been first duly sworn, testified as follows·

14 THE COURT Mr Dantin.

15 MR. DANTIN Commissioner, as per our custom,

16 we've handed up a biographical information sheet So,

17 I'll dispense with those things

18 THE COURT Thank you

19 DIRECT EXAMINATION

20 BY MR. DANTIN

21 Q Brandon, how old are you?

22 A Thirty-one years old

23 Q And you're married and have two daughters?

24 A Yes, sir.

25 Q And now old are your daughters?

1 A Six and nine

2 Q And you live in Clinton?

3 A Yes, sir

4 Q How long have you lived there?

5 A Thirty one years

6 Q Your whole life?

7 A Yes, sir

8 Q Now, basically all the work you've done in your adult

9 life has been in law enforcement?

10 A Yes, sir

11 Q Where have you worked?

12 A Laurens City Police Department, Laurens County

13 Sherriff's Office, City of Clinton Police Department,

14 and Spartanburg County Sherriff's Department.

15 Q And over all that time, does that total about ten

16 years?

17 A Yes, sir

18 Q When did you start with the Spartanburg County

19 Sheriff's Department?

20 A November 7, 2005

21 Q Now, you were in here when Sheriff Wright was

22 testifying earlier and you heard him talk about the

23 different types of training that deputies go through

24 in terms of weapons training and firearms training.

25 Did you go through all that type training?

1 A Yes, sir

2 Q You went through training at the academy?

3 A Yes, sir

4 Q And did you do the shooting simulations yearly that

5 Sheriff Wright was describing?

6 A Yes, sir I did

7 Q Okay And did you actually have that type of weapons

8 training with each of the departments where you work?

9 A No, sir

10 Q What differences in training have you had with the

11 different departments?

12 A When I was in Spartanburg, we had the shoot/don't

13 shoot situations and also the simunition training

14 The other departments I was with, it was just

15 qualification every year

16 Q Okay

17 A Shooting at a still target

18 Q Have you undergone instruction on the use of deadly

19 force?

20 A Yes, sir

21 Q And as a sheriff's deputy, were you aware that you

22 might someday be involved in a situation where you

23 might have to shoot someone?

24 A Yes, sir

25 Q You knew that gun on your hip wasn't just there for

1 decoration?
2 A Yes sir
3 Q Now, with all your training and considering the fact
4 that you wore a gun on your hip every day for ten
5 years, how many times prior to October 21, 2009 did
6 you shoot and kill a suspect?
7 A None
8 Q How many times did you shoot and wound a suspect prior
9 to that date?
10 A None, sir
11 Q How many times did you shoot your gun without hitting
12 anyone prior to October 21, 2009?
13 A None.
14 Q In ten years, how many times do you even recall taking
15 your gun out of the holster when confronting a
16 suspect?
17 A Three times, sir
18 Q We are here today because of an incident that occurred
19 obviously on October 21, 2009 where you shot and
20 killed a suspect Would you just briefly describe
21 what happened when you arrived on the scene that day?
22 A The suspect was standing in the entrance of a carport
23 As I arrived on the scene, I stepped out of the patrol
24 car and asked the suspect to come walking towards me,
25 I needed to speak with him He told me, "Fuck you,

1 you son of a bitch I'm going to kill you ' He come
2 running towards me At that time I un-haltered my
3 weapon, pointed my weapon at the subject, the subject
4 got within four feet from me and I shot the subject
5 center mass I did not render first aid at that time
6 because the subject was rolling around on the ground
7 still telling me that he was going to kill me Also,
8 to back up a little bit, Commissioner, as the suspect
9 was running towards me, he told me that he was going
10 to take my gun away from me and kill me with it
11 After the suspect hit the ground, the suspect unzipped
12 his pants and unbuttoned his pants. And at that time
13 I kept my subject covered with my weapon until further
14 assistance got on the scene, because I did not know if
15 he had any other weapons on him at that time
16 Q Brandon, did you fear for your safety when you shot
17 the guy?
18 A Yes, sir
19 Q Did you intend to kill him?
20 A No, sir
21 Q As you just eluded to, he didn't die immediately, did
22 he?
23 A No, sir He did not
24 Q When did you learn he had died?
25 A On October 22nd

1 Q The next day?
2 A Yes, sir
3 Q Brandon, since the shooting and the subsequent
4 learning about this subject's death, the suspect's
5 death, how have you been doing?
6 A Depression, anxiety, hyper vigilance, nightmares,
7 can't sleep at night, at least two to three times a
8 week I'm still having nightmares, urinating on myself
9 in bed I don't like to go nowhere alone I like to
10 be with my family I do go some places there in town
11 that I'm familiar with for a short brief of time.
12 Q How have you been eating?
13 A I've lost 70 pounds since October, sir
14 Q What was your waist size at the time of the shooting?
15 A Two seventy two
16 Q What was your waist size?
17 A Forty-four inches
18 Q What is it now?
19 A Thirty-eight inches, sir
20 Q Have you ever had psychological problems like this
21 before this incident?
22 A No, sir
23 Q Have you ever had any psychological treatment before
24 this incident?
25 A No, sir

1 Q Have you been able to go back to work?
2 A No, sir
3 Q Has this impacted your ability to enjoy the time you
4 spend with your wife and young daughters?
5 A Yes, sir Every day
6 Q Does that bother you?
7 A Yes, sir, it does
8 Q You mentioned a little bit about going out in public
9 Do you go out in public some?
10 A Yes, sir By myself Is that what you are asking?
11 Q Well, in general, do you go out with your family in
12 public?
13 A Very seldom do I go anywhere Sometimes I do go
14 places with my wife and kids I do go to the store
15 right down the street from me and then go to the
16 grocery store if it's early in the morning by myself
17 Other than that, it's with my wife
18 Q You are currently treating with post trauma resources
19 And you are actually being seen by a psychologist,
20 Dr Bergman, and a psychiatrist, Dr Deal
21 MR KALE Your Honor, I'm going to object
22 Dr Bergman is not a psychologist He is not licensed
23 as a psychologist He is a licensed professional
24 counselor
25 ///

1 BY MR DANTIN

2 Q Sir, are you being seen by a counselor, Dr Bergman?

3 A Yes, sir

4 Q Okay And a psychiatrist, Dr Deal?

5 A Yes, sir

6 Q Okay When did you start seeing them?

7 A Back in November

8 Q November 2009?

9 A Yes, sir

10 Q And are you receiving counseling from them?

11 A Yes, sir Once a week I'm on a weekly schedule with

12 them. I've been on a weekly schedule since November

13 Q Are you receiving any medications from them?

14 A Yes, sir, I am

15 Q What medications are you taking currently?

16 A I'm taking Effexor, which is - I'm taking 75

17 milligrams of Effexor two times a day, 20 milligrams

18 of Geodon one time a day, 300 milligrams of Trazadole

19 three times a day so I can sleep, and Ativan, two

20 milligrams three to four times a day

21 Q Do you feel like the counseling is helpful?

22 A Yes, sir It does help some

23 Q What about the medications? Do they help you at all?

24 A To a certain extent, I still have good days and bad

25 days I still have days that I want to - that I feel

1 like I don't even need to be here, that I feel like I
2 would be better off if I wasn't alive because I'm
3 putting my wife and family through so much
4 Q Since the time of the shooting, since you have been
5 undergoing the counseling and taking the medication,
6 has it helped you to be able to do some more things by
7 yourself?
8 A Yes, sir Going to the store by myself, which I still
9 early in the morning when the store it not busy or
10 going to the gas station, which is a hundred yards
11 from my house to buy tobacco products
12 Q You are a smoker?
13 A Yes, sir
14 Q And you are a dipper?
15 A Yes, sir
16 Q I've seen you do both
17 A Yes, sir
18 Q You've mentioned before that you have safe zones
19 It's something that came up in counseling What is a
20 safe zone for you?
21 A My doctors explained to me that -
22 MR KALE Your Honor, I object to what the
23 doctors explained to him
24 THE COURT Sustained
25 ///

1 BY MR DANTIN

2 Q You can just tell us, what is your understanding of

3 what a safe zone is for you?

4 A My home, my yard, being inside my vehicle And when I

5 say my home, I want to rephrase that, outside of my

6 home When I am inside my home, I don't feel safe

7 because I am constantly checking the doors and windows

8 to make sure they are locked, to make sure somebody's

9 not going to be there to kill me I can't stay at

10 home by myself I've tried that and I can't do that

11 MR DANTIN. Just take a second

12 THE COURT Do you need a break or something?

13 THE WITNESS No, sir

14 THE COURT. All right

15 MR DANTIN Take a breath

16 BY MR DANTIN

17 Q Brandon, do you feel like you are worse during the day

18 or at night?

19 A It just depends on what day it is, sir I had an

20 episode Thursday and Friday where I was very

21 depressed, I wanted to kill myself I realize that's

22 not what I want to do I have a huge support system

23 with my wife and my brother-in-law

24 Q And your father who is actually here?

25 A And my father And, Commissioner, just - if it

1 wouldn't have been for my doctors and a close support
2 system, I wouldn't be here I would be done killed
3 myself
4 Q Is it safe to assume you want to continue your
5 treatment with Dr Bergman and Dr Deal?
6 A Yes, sir I have an appointment - the next
7 appointment with them is June 1st
8 Q All you have ever really done in your life is law
9 enforcement Do you think you will be able to go back
10 and do that again?
11 A No, sir
12 Q Brandon, I understand your house if for sale Where
13 are you moving?
14 A Myrtle Beach, South Carolina
15 Q Do you know anyone in Myrtle Beach?
16 A My mother-in-law and father-in-law and brother-in-law
17 Q Why are you moving to Myrtle Beach?
18 A I grew up in Clinton I've been there my whole life
19 Everywhere I go, someone brings up the situation about
20 the shooting or, "What's it feel like to shoot
21 somebody?" "How does it feel to kill somebody?" Even
22 doing it in front of my wife and doing it in front of
23 my kids My wife can't even go somewhere without
24 somebody bringing up about the shooting So, that's
25 one reason that we are moving We've got the house up

1 for sale and we already made an offer on the house in
2 Myrtle Beach
3 Q Did you ever think you would move away from Clinton?
4 A No, sir
5 Q How do you view yourself after this incident compared
6 to how you were before?
7 A I enjoyed time at home, enjoyed spending time with my
8 family, my kids, my wife, spending time with my dad
9 fishing and hunting I don't hunt no more I don't
10 have no desire to hunt I sold every one of my guns
11 that I owned Now, I cook barbecue for myself.
12 That's a way of therapy for me, is I will get my wife
13 or I will buy a piece of chicken or buy a whole
14 chicken at the grocery store and put it on the smoker
15 and smoke it and give it away Besides that, that's
16 really all I do. I mean, I don't do no fishing I
17 don't do no hunting no more I sit in the back yard
18 with the girls and my wife when the girls play
19 That's it I mean, I don't have no - when this
20 happened, everything was stripped away from me. I
21 guess the best way to describe it is if you take a
22 snow globe and you turn a snow globe upside down My
23 life has been turned upside down My family's life
24 has been turned upside down
25 MR DANTIN I have no further questions

1 THE COURT Mr Kale

2 CROSS EXAMINATION

3 BY MR KALE

4 Q Mr Bentley, when you went through - when you became a

5 police officer, were you required to complete the

6 basic law enforcement courses at the Criminal Justice

7 Academy?

8 A Yes, sir

9 Q And I believe in addition to that, you actually took

10 two years of criminal justice at Piedmont Tech

11 A No, sir, I didn't

12 Q You never did take that?

13 A Yes, sir, I did

14 Q Okay I'm sorry I thought you said -

15 A But I did not take a full two years, sir

16 Q Okay How long did you take it?

17 A I had 60 something hours, sir I did not graduate

18 Q When you were at the criminal justice academy, did

19 they teach you about the use of force?

20 A Yes, sir

21 Q And you heard Sheriff Wright talk about the three

22 elements Are you familiar with those?

23 A Yes, sir

24 Q What are they?

25 A Ability, opportunity, and jeopardy

1 Q What do they mean?
2 A That you have to have those three elements to be able
3 to use use of force, the ability, opportunity, and the
4 jeopardy
5 Q Does the ability mean that you have enough power or
6 skill to do a particular thing?
7 A If that's what you say, sir
8 Q You don't know what they mean?
9 A Sir, I'm going to tell you this, okay And,
10 Commissioner, with all due respect, I know that you
11 have got to have the ability, the opportunity, and the
12 jeopardy to be able to shoot and kill someone At the
13 end of the day, I'm going home That's the way I was
14 trained That's the way my sheriff trained me I
15 would rather be, you know, tried by twelve than
16 carried by six The opportunity is the opportunity
17 has to be available for me to use that use of force
18 And jeopardy is I have to be in jeopardy of my own -
19 jeopardy means there has to be jeopardy there for me
20 to be able to use the use of force
21 Q Jeopardy means great danger?
22 A Yes, sir
23 Q Okay Now, at each of the law enforcement departments
24 where you worked, and that's the City of Laurens, the
25 City of Clinton, Laurens County, and Spartanburg

1 County, did each of those have a use of force policy?
2 A Yes, sir
3 Q Did they give you copies of the use of force policy
4 and require you to be familiar with it?
5 A Yes, sir
6 Q And that would include use of deadly force?
7 A Yes, sir
8 Q Now, you mentioned that, other than Spartanburg
9 County, your firearms training was basically yearly
10 certification When you say certification, what do
11 you mean?
12 A Shooting my weapon, sir.
13 Q Did you shoot your weapons at a range where you had
14 targets?
15 A Yes, sir.
16 Q Did they use a human figure as the target that you
17 would shoot at?
18 A It depended on what agency I was with at the time,
19 sir
20 Q Some of them did?
21 A Some of them did Some of them didn't
22 Q And basically, what you would aim at would be center
23 mass, is that correct?
24 A Yes, sir
25 Q Now, at Spartanburg County, the five years you were

1 there, they had yearly training, did they not?
2 A Yes, sir
3 Q They went through the simulations where they would
4 give you, expose you to different circumstances and
5 you had to determine whether to shoot or not shoot in
6 those circumstances, is that correct?
7 A Yes, sir
8 Q And I believe you indicated in your direct testimony
9 that you went through this MAT *(sic)* machine, which is
10 a similar thing but it's basically automated?
11 A It's called a FATS machine
12 Q FATS machine, excuse me
13 A I went through it in 2000 at the police academy It's
14 the only time I've been through it
15 Q The difference between what you go through annually at
16 Spartanburg County is they use live people and set up
17 various scerarios versus doing it on a computer driven
18 type of device, correct?
19 A Sir, the way they did it here at the sheriff's office,
20 they would be - we would go to the Middleton Plant or
21 a big plant and it would be set up as like a hostage
22 situation They would send a team in of four people
23 to try to get the hostages out without any of the
24 officers getting shot and us trying to eliminate any
25 threat, not kill the subject, but eliminate the

1 threat

2 Q Were there occasions in that type of training where

3 you had to fire your weapon?

4 A Sir?

5 Q During that training, did you have to fire your

6 weapon?

7 A Yes, sir

8 Q So, you would concede that it was not unexpected and

9 was not unforeseen that a police officer might have to

10 use force, including deadly force, in carrying out his

11 duties?

12 A No, sir

13 Q Do you agree with that?

14 A Yes, sir

15 Q Now, do police officers often have to draw their

16 weapons to effect an arrest?

17 A No, sir

18 Q They do not ever?

19 A You did not ask that, sir You asked if they often

20 Q Well let me ask you, do they occasionally?

21 A Have you ever been a police officer, sir?

22 MR DANTIN He asks the questions

23 THE WITNESS Commissioner -

24 THE COURT I know Let's go off the record one

25 second

1 (OFF THE RECORD)

2 THE COURT Go ahead, Mr Kale

3 BY MR KALE

4 Q Let me rephrase my question Do police officers

5 occasionally have to draw their weapons to effect an

6 arrest?

7 A No, sir

8 Q Not even occasionally?

9 A No, sir

10 Q Never?

11 A I didn't say never, sir

12 Q What is your -

13 A It depends or the officer, the way the officer carries

14 himself

15 Q Okay.

16 A There are situations that I car go into and if you as

17 a police officer that you may have to draw your

18 weapon, where I may not have to draw my weapon It

19 depends on how the officer carries himself and talks

20 to the person If you talk to the person like a human

21 being, the way they should be talked to, no, most of

22 the time you are not going to have to draw your

23 weapon If you are the one saying, "I'm on scene

24 I'm the one that's controlling this scene," yeah, more

25 than likely you are going to have to draw your weapon

1 I took down some of the biggest suspects that you
2 could even imagine and never had to draw my weapon I
3 was able to do it by speaking
4 Q At least on three occasions you had to draw your
5 weapon, didn't you?
6 A Yes, sir
7 Q And that's not including the incident that occurred in
8 October It's three times prior to the incident in
9 October
10 A Yes sir.
11 Q So, you pulled your weapon four times altogether?
12 A Yes, sir
13 Q Now, in addition to your police training, you have had
14 a long experience using firearms, have you not?
15 A Yes, sir I have
16 Q In fact, you do a lot of deer and turkey hunting, do
17 you not?
18 A No, sir, I don't.
19 Q You have never done that?
20 A Yes, sir, I did
21 Q At what age did you start doing deer and turkey and
22 duck hunting?
23 A Six years old
24 Q And how many deer do you think you have shot?
25 MR DANTIN Your Honor, I'm going to object I

1 mean, this can't possibly be relevant, talking about
2 killing deer and turkey versus killing human beings
3 I mean -
4 MR KALE It's experience with firearms, Your
5 Honor
6 THE COURT. I think he's already acknowledged he
7 used firearms Sustained You can move on from that,
8 Mr Kale
9 BY MR KALE
10 Q Now, now often are you required to get certified on
11 your weapon?
12 A Once a year
13 Q In addition to that firearm training and in addition
14 to these setup scenarios where you go into a building
15 for hostages and so forth, do you also watch videos
16 and get classroom training?
17 A Yes, sir. But that's not all firearms, sir
18 Q Do you get it on firearms, though? Some of it
19 firearms?
20 A Yes, sir Some of it is firearms, but not all of it
21 Q Have you ever done one of these exercises where you
22 use asammunition gun, which I think is the paintballs
23 that Sheriff Wright referred to?
24 A Yes, sir That's wl at I explained to you earlier
25 Q And you shoot at other people in that simulation?

1 A Yes, sir You do

2 Q And these simulations you have done since 2005, when

3 you started with the sheriff's department?

4 A No, sir I've done two since I've been with the

5 sheriff's office in Spartanburg

6 Q Do the scenarios change each year?

7 A No, sir The two scenarios that I've done was the

8 same two It was just in different buildings

9 Q You receive a lot of training, do you not, as far as

10 use of firearms and when you discharge your firearm?

11 MR DANTIN. Commissioner, I mean I think we've

12 beat this to death We've even admitted it in direct

13 and we will even stipulate that he has received lots

14 of training on firearms and the use of deadly force.

15 MR KALE That's fine I will go on

16 THE COURT All right

17 BY MR KALE

18 Q Now, the incident that occurred and I'm not going to

19 go into it at any depth, but it involved more than

20 just the person running at you I mean, there were

21 some other activities prior to that, were there not,

22 before he actually came out of the carport?

23 A No, sir, it wasn't

24 Q You have done a statement, did you not, after this

25 incident?

1 A Yes, sir I've done a statement with SLED

2 Q And that statement, did that completely give all the

3 facts of the incident?

4 A Yes, sir It did

5 MR KALE Your Honor, it's in the record

6 THE COURT I have the record

7 BY MR KALE-

8 Q Now, after this incident, did you get an attorney to

9 represent you with regard to the incident and having

10 to give a statement to SLED?

11 A Yes, sir, I did

12 Q And did you also retain an attorney to represent you

13 in the Workers' Comp case?

14 A Yes, sir, I did.

15 Q And so, it looks like Mr. Dantin's representation

16 letter was mailed out on November 9, 2009 So, you

17 would have retained him before November 9, 2009?

18 A I would assume so, sir

19 Q Okay

20 A It was in November or the latter part of October

21 Q So, that would have been about 19 days after this

22 incident you had hired an attorney for a Workers' Comp

23 claim

24 A Yes, sir

25 Q And that was before you actually ever saw Dr Bergman?

1 A Yes, sir And am I free to speak, sir?

2 THE COURT Yeah You can answer his question

3 You can explain it Go ahead

4 THE WITNESS I was having problems with the

5 sheriff's office trying to get help Five days after

6 the shooting is when my life was turned upside down

7 and -

8 BY MR KALE

9 Q Okay And we also have -

10 A Sir, I'm not done answering your question.

11 Q Go ahead

12 THE COURT Take your time

13 THE WITNESS: Me and my wife, just after the

14 shooting, carried the kids downtown to a downtown

15 festival in Clinton and there was a balloon that

16 popped close by and I fell to the ground At that

17 time I knew there was something wrong I began having

18 the nightmares And that's when I contacted

19 Mr Dantin And the reason I did contact Mr Dantin

20 is, and Mr Dantin can verify this, is because me and

21 my wife was having problems trying to find me help

22 because the sheriff's office wasn't helping me

23 Q Is that all of your answer? I don't want to cut you

24 off.

25 A Yes, sir

1 Q On December 3, 2009, and this is in your family
2 doctor's records, you signed an authorization to
3 Social Security to get your medical records from
4 Clinton Family Practice Do you recall doing that?
5 A Yes, sir
6 Q So, that was - you did that authorization in
7 conjunction with applying for Social Security
8 Disability?
9 A I don't understand what you are asking, sir
10 Q You signed the authorization to the Social Security
11 Administration to get your records I'm asking you is
12 that in conjunction to you applying for Social
13 Security Disability?
14 A Yes, sir
15 Q Okay So, within six weeks of this incident, you had
16 applied for Social Security Disability?
17 A Yes, sir.
18 Q Now, have you also applied for disability under the
19 Law Officers Retirement System?
20 A Yes, sir, I have.
21 Q Have you gotten that?
22 A Yes, sir, I did
23 Q Have you applied for long term disability through
24 Spartanburg County?
25 A Yes, sir

1 Q Have you gotten that?
2 A Yes, sir
3 Q What's the status on your Social Security Disability?
4 A I don't have a status on it It's pending, sir
5 Q Now, you mentioned that the reason you are moving is
6 because some people or everyone in Clinton knows about
7 this incident?
8 A Yes, sir
9 Q Did you tell them about the incident?
10 A No, sir
11 Q How far is Clinton from Spartanburg?
12 A Maybe 28 minutes I'm not sure how many miles
13 Q Would you say it's 40 or 50 miles?
14 A I don't know, sir I've never - I don't know how many
15 miles it is
16 Q And do you - were you going out regularly where you
17 would meet these people that would talk about this
18 incident?
19 A No, sir I've tried to go places where I would be
20 able to go with my wife, to try to go to places. And
21 people would see me and bring the situation up I've
22 had people stop by my house and knock on my door and
23 ask me
24 Q Were these people you knew?
25 A No, sir I've had people walk up in my yard while my

1 kids were playing basketball and tell me, "Hey,
2 what's it feel like to shoot somebody," with my kids
3 there
4 Q So, this was a big event in Clinton about your
5 shooting?
6 MR DANTIN. I object He can't possibly testify
7 to that
8 THE COURT. Can you rephrase your question?
9 BY MR KALE
10 Q Was this something that was readily known around
11 Clinton?
12 A Sir, listen Okay.
13 MR DANTIN I'm going to make an objection
14 first. My objection is, I think he can testify about
15 people asking him about it But whether it was a big
16 event in the minds of other people or whether it was
17 important to other people is beyond his capacity
18 THE COURT Okay Mr Kale any -
19 MR KALE Pardon me?
20 THE COURT Any response to his -
21 MR KALE Yes, sir It's cross examination
22 It's going into some things he says about how people
23 have been bothering him
24 THE COURT I will let him answer that
25 ///

1 BY MR KALE

2 Q Go ahead

3 A I'm 31 years old My dad is a retired fire chief from

4 the City of Clinton He had 28 years with the City of

5 Clinton The City of Clinton is a small town

6 Everybody in the City of Clinton knows who I am or

7 knows who my dad is If you go to Clinton and you

8 ask, I don't care who you stop, "Where does Brandon

9 Bentley live at," I bet you $1,000 they can tell you

10 where I live at

11 Q You live downtown, don't you?

12 A Yes, sir

13 Q Right in the heart of Clinton?

14 A Yes, sir

15 Q Heavily traveled area?

16 A No, sir

17 Q It's not heavily traveled?

18 A No, sir

19 Q You don't think Elizabeth Avenue is heavily traveled?

20 A It's not Elizabeth Avenue, sir It's Elizabeth

21 Street

22 Q Okay Elizabeth Street Do you think that's not

23 heavily traveled?

24 A It's coming from the school But the main traffic is

25 coming from the post office

1 Q My question is, is it not heavily traveled?
2 A What do you constitute heavily traveled? What
3 constitutes heavily traveled?
4 Q Well -
5 A What I say would be heavily traveled might not be what
6 you say is heavily traveled, sir
7 Q You tell me what you say is heavily traveled
8 A I don't think it's heavily traveled Heavily traveled
9 would be East Main Street at 5 00 in the afternoon in
10 Spartanburg.
11 Q Well, Clinton is not as big a town as Spartanburg, is
12 it?
13 A No, sir
14 Q Now, as far as your problem, you have a problem you
15 say with hyper vigilance?
16 A Sometimes Not all the time, sir
17 Q Okay
18 A And the problem occurs mostly when I'm inside, when
19 I'm indoors because I can't - when I'm outside, I can
20 see what's going on around me When I'm inside the
21 house is when I get more scared because I don't know
22 what's around the next corner I don't - and for some
23 reason, even though I know this guy is dead, I feel as
24 though he is going to kill me I can't explain that
25 Q When you go outside, are you constantly looking around

1 to see –

2 A At times I was But Dr Deal, the proper medication

3 they have put me on that has helped me with that

4 Q So, now when you go outside, you don't constantly look

5 around to see –

6 A Not all the time, sir I don't.

7 Q But when you are inside your house, you are constantly

8 looking around?

9 A I wouldn't say constantly looking around But at

10 night I check the doors five or six times. I check on

11 my girls five or six times Last night I laid down in

12 bed and before I went to sleep, after taking 300

13 milligrams of Trazadone, I got up and checked the

14 doors four more times and the windows And that's

15 every night

16 Q Let me read you what you said in your deposition It

17 says, "I try to be normal for my two girls And even

18 if I do go somewhere with my wife, when I do go

19 somewhere with my wife, because I don't stay at home

20 by myself, because I'm scared to stay at home by

21 myself If I stayed home by myself, the reason I

22 stayed at home by myself one time, I'm scared because

23 it's close quarters Even though I know the subject

24 is dead, I'm scared he's right around the corner, that

25 he's going to kill me So, I'm going to go outside so

1 I can see what's going on around me When I try to
2 be normal and go somewhere with my wife and kids, I'm
3 not with them I'm constantly looking around to see
4 where he's at, constantly looking around to see if
5 someone else is going to hurt me or if someone else is
6 going to hurt my family, constantly hyper vigilant
7 Four or five times at night I go to my daughter's
8 bedrooms to make sure they are okay And I check the
9 front door and the back door all the time and make
10 sure the doors are locked " Now -
11 A I think I answered half of that, sir. And since that
12 deposition I am on medication
13 Q You have seen the surveillance tape, have you not?
14 A Yes, sir I have
15 Q And it doesn't show you being hyper vigilant and
16 looking around, does it?
17 A And I told you earlier, I think Mr Dantin said that I
18 have to have a safe zone Mentally, I have to be able
19 to be somewhere where I can be in a safe area And
20 those - the tapes does not show me being hyper
21 vigilant. Should I have to be hyper vigilant when I'm
22 in my yard? I don't think so, sir
23 Q How about when you crossed Elizabeth Street with your
24 dog to the other side of the street? Were you being
25 hyper vigilant to look around to see other cars or

1 people that are passing by?
2 A Sir, Commissioner, with all due respect, as a police
3 officer I can tell you things that's going on that you
4 may not even pick up on I'm not going to be
5 constantly doing this right here. Just because I walk
6 beside a car, yeah, I can tell you if somebody is
7 sitting in that car I may not even look in that car
8 But across the street is 20 feet from my back door
9 And I've got to carry my dog across the street to use
10 the restroom
11 Q And you have to go to the grocery store, do you not?
12 A Yes, sir. Sometimes I do
13 Q And you go in the grocery store by yourself?
14 A Yes, sir
15 Q And you go into a convenience store?
16 A Yes, sir The Gate Station
17 Q And there are lots of people around there, are there
18 not?
19 A No, sir I don't recall there is
20 Q There's no one but you there when you go in the
21 convenience store?
22 A No, sir I didn't say that You said there was lots
23 of people there And I said no, sir, there's not
24 Q Well, are there a few people there?
25 A There's some people there

1 Q That doesn't bother you?

2 A I was with my - which time? The time that I was with

3 my wife and kids or the time I was by myself?

4 Q The time you were by yourself

5 A No, sir Because I was at the Gate Station The Gate

6 Station is less than 50 yards from my residence

7 Q You had gone into a Sonic restaurant and ordered?

8 A No, sir, I have not.

9 MR DANTIN Object to the form. He didn't go

10 into any restaurant that's on the video

11 MR KALE Well, he's driven into -

12 MR DANTIN He's gone through the drive thru

13 THE WITNESS I was inside my vehicle, sir

14 THE COURT I obviously haven't seen it Just

15 try to characterize whatever the tape shows

16 BY MR. KALE.

17 Q Now, your testimony is you're going to move to Myrtle

18 Beach

19 A Yes, sir

20 Q And you are going to live off the disability payments

21 that you get in Myrtle Beach?

22 A Yes, sir

23 MR KALE That's all I have, Your Honor

24 THE COURT Mr Dantin, any redirect?

25 MR DANTIN I don't have anything further, Your

1 Honor

2 THE COURT. Okay

3 EXAMINATION

4 BY THE COURT

5 Q Mr Bentley, just one question Let me preface this

6 by saying that obviously this is a tragic incident,

7 not only for the suspect, but also for you One

8 question that I have, though When you finished with

9 your training as an officer, did you realize that

10 there would be sometimes that you would have to draw

11 your weapon and maybe even fire it?

12 A Yes, sir

13 Q Okay

14 A May I speak for -

15 Q All right Go ahead What else do you need to tell

16 me about your claim?

17 A Sir?

18 Q What else do you need to tell me about your claim?

19 A I was just wanting to finish up on something if that's

20 okay with my attorney

21 MR DANTIN Go ahead

22 THE COURT- Go ahead

23 THE WITNESS I knew my whole life I wanted to be

24 a police officer I made that dream come true But

25 that dream has been ripped from me I'm not denying

1 none of the training I'm not denying that I shot
2 and killed a guy But I never knew how it was going
3 to affect me mentally I'm not denying that But
4 that's been ripped from me And that's something I
5 can't never put back It's just like I said earlier,
6 it's like taking a snow globe and turning it upside
7 down That's the best way I know how to describe it
8 And yes, sir I do go places by myself, whether it be
9 the gas station or the grocery store But I am
10 constantly aware of what's going on around me And I
11 am on my medication I try to be noble around my
12 kids But I can't describe what I go through on a
13 day-to-day basis
14 THE COURT Okay That's enough You can step
15 down Any other witnesses for the Claimant?
16 MR DANTIN I have none
17 THE COURT Mr Kale, do you have any witnesses?
18 I know we have the surveillance tape.
19 MR KALE. Yes
20 THE COURT. I know you want to ask -
21 MR KALE Yes Just the private investigator,
22 Your Honor
23 THE COURT Go ahead and call him This is
24 Mr Hice, right, H-I-C-E?
25 MR. HIC Yes, sir

1 THE COURT We can swear him in

2 PHILLIP HICE,

3 having been first duly sworn, testified as follows

4 THE COURT Mr Kale

5 DIRECT EXAMINATION

6 BY MR KALE

7 Q Mr Hice, give me your full name for the record,

8 please

9 A My name is Phillip Dale Hice, more commonly known as

10 Pete Hice

11 Q And your profession is private investigator?

12 A Yes, sir, it is

13 Q What is the name of your company?

14 A It's Hice Investigations, LLC

15 Q Are you licensed by SLED as a private investigator?

16 A Yes, sir. Licensed under 2338

17 Q And when did you become licensed for the first time?

18 A August of '06

19 Q Prior to being a private investigator, where did you

20 work?

21 A For the Spartanburg County Sheriff's office

22 Q How long were you with the Spartanburg County

23 Sheriff's Department?

24 A From 1990 to October of 2005

25 Q Okay And kind of give us a brief synopsis of your

1 career with the Spartanburg County Sheriff's
2 department
3 A Yes, sir. I started at Spartanburg county sheriff's
4 office as a patrol deputy on third shift I moved to
5 second shift briefly After several years, was
6 promoted to civil division I worked there for a
7 couple of years Then I received a promotion to
8 detective. Within two to three years - somewhere
9 between two and three years I was promoted to senior
10 investigator and still a detective And then after
11 seven years I was promoted to lieutenant in
12 administration I spent almost four years as an
13 administrative lieutenant at the sheriff's office
14 until I retired
15 Q When did you retire?
16 A October of 2005
17 Q Prior to the Spartanburg Sheriff's Department, had you
18 worked at other law enforcement departments?
19 A Yes, sir I worked for slightly less than two years
20 at Simpsonville Police Department where I was a patrol
21 deputy - or a patrol officer and a field training
22 officer Prior to that I worked for approximately
23 five years for the Greer Police Department where I was
24 a patrol officer, a field training officer And prior
25 to that I was with United States Air Force

1 Q How much time all together do you have as a law
2 enforcement officer?
3 A Twenty-five years and three months
4 Q Now, were you retained to perform some surveillance on
5 Mr Bentley?
6 A Yes, sir, I was
7 Q Basically, what dates did you do that surveillance?
8 A My first meeting with Terry Booker or his manger here
9 was on March 16th And I actually conducted the first
10 surveillance on March 20th
11 Q And the other two dates?
12 A The other two dates were April 11th and April 30th
13 Q Do police -
14 THE COURT Is that 2010?
15 THE WITNESS Yes, sir.
16 BY MR KALE
17 Q Do police officers and did you specifically during
18 your training and years in law enforcement, were you
19 trained about observing the public, a person's
20 movements, his facial expressions, and that type of
21 thing when you were out in public?
22 A Yes, sir You receive various forms of training
23 throughout You are basically in training all the
24 time you are in law enforcement But, yes, I was
25 trained in the observation of individuals Yes, sir

1 Q Now, what did you do on March 20, 2010 per your
2 investigation?
3 A I left and traveled to 202 Academy Street. This is
4 the first time I had been to this residence I
5 observed the residence I observed one vehicle at the
6 residence, an open-air barbecue style trailer was
7 there No one was in the yard, in the front or the
8 rear
9 Q Okay And where was this residence located in
10 conjunction with some of the major buildings in
11 Clinton, such as City Hall and the post office and so
12 forth?
13 A The residence actually sits catty-cornered from the
14 post office It's approximately 150 yards or so from
15 the police department, fire department And I guess
16 those are the city offices there.
17 Q And that address, by the way, is Mr Bentley's
18 residence, is that not true?
19 A Yes, sir, it is
20 Q 202 Academy?
21 A 202 Academy
22 Q So, basically Mr Bentley - does Mr Bentley live in
23 downtown Clinton?
24 A Well, if I had to describe downtown, he's very, very
25 close When you go out to the end of his street, you

1 are looking at downtown Clinton
2 Q He's not out in the country?
3 A No, sir
4 Q Is this a heavily traveled area around his house?
5 A From my observations, yes, sir
6 Q When you did the surveillance on March 20th, did you
7 have occasions to see Mr Bentley?
8 A Yes, sir, I did
9 Q What were those times that you saw him? Tell me what
10 you saw
11 A The first time I actually saw Mr Bentley, he came out
12 on his front porch The time I had was 8 55 a m. He
13 appeared from the distance that I was at, he was - he
14 came out on the front porch, sat in a swing, and
15 smoked briefly and then went back inside the house
16 Q And the next time?
17 A The next time was around 9 44 a m He had exited -
18 I'm sorry. Back that up. It was 9 34 a m He came
19 out the rear of the house He appeared to be taking
20 trash to the curb and that sort of thing and then
21 returned to the residence again
22 Q And the next time?
23 A And then that would be 9 44 when he exited the
24 residence with two small female children He was
25 working in and around his car It appeared that they

1 were placing things in the trunk of the car, inside
2 the vehicle, that sort of thing
3 Q During any of these sightings, did Mr Bentley appear
4 to be in fear or to be hyper vigilant or concerned
5 with his safety in the surrounding area?
6 MR DANTIN Obviously, we are going to object to
7 that because we feel that calls for the kinds of
8 psychological, psychiatric conclusions that Mr Hice
9 simply is not qualified to make.
10 THE COURT Mr. Kale
11 MR KALE Your Honor, I would cite - give me one
12 minute
13 THE COURT All right
14 MR KALE I would cite the case of State versus
15 Bottoms And in that case, and I will hand it up, it
16 says, "The weight of authority appears to be to the
17 effect that a layman is perfectly competent to express
18 an opinion as to fear on the part of another, provided
19 the opinion is predicated upon observation of
20 appearance or conduct, not merely upon statements of
21 the party "
22 THE COURT Let me see that
23 MR DANTIN Do you have a copy of that that I
24 can see?
25 MR KALE Sure Your Honor, that appears on the

1 last page, Page 5, midway down the second full
2 paragraph
3 THE COURT Go ahead. I will let him answer
4 that.
5 MR KALE Okay
6 MR DANTIN If I could, it appears that this
7 case only addresses the issue of fear I would say to
8 specific psychological things such as hyper vigilance,
9 things like that -
10 THE COURT Sure Certainly
11 MR KALE I don't think hyper vigilance is a
12 psychological thing I think that's basically a
13 person looking around
14 THE COURT Okay How about he testifies to what
15 his observation were Obviously I have the
16 surveillance tape
17 MR KALE Okay
18 THE COURT He's not going to opine to me his own
19 personal feelings or what the Claimant felt, but he
20 can tell me what he saw
21 BY MR KALE.
22 Q Tell us during that time what you saw Mr. Bentley
23 doing
24 A As I stated before he was with his two children He
25 had the trunk of the vehicle open They were loading

1 back and forth

2 Q I'm talking about all three incidences during that

3 time

4 A As far as looking behind objects, looking afraid or in

5 fear, I didn't see that No, sir

6 Q Okay

7 A He appeared to be normally going about his business

8 Q Did he appear to be looking around constantly at

9 things going on around him as if he was looking to see

10 if somebody was out there?

11 MR DANTIN. I object to the leading

12 THE COURT Can you rephrase, Mr Kale?

13 BY MR KALE

14 Q Did he appear to be looking around at anything?

15 A No, sir

16 Q Now, what happened after they were doing - putting

17 things in the car? What happened?

18 A Shortly thereafter a female, adult female, appeared

19 from the rear of the residence and walked over to the

20 car and had a brief conversation with Mr Bentley at

21 the rear of the car next to the trunk After this

22 brief conversation she got into the passenger side

23 front Mr Bentley and the children were going back

24 and forth to the rear of the door I couldn't see it

25 from this angle, but it was apparent they would come

1 back and put small items in the rear of the car and
2 that sort - it appeared they were prepared to leave
3 Q Did they depart the residence?
4 A Yes, sir, they did
5 Q Where did they drive to?
6 A At 9 52 I observed them pull out of the driveway,
7 proceed to Broad Street, North Broad Street, take a
8 right and then travel to a drive-in restaurant
9 Q Do you remember the name of it?
10 A Yes, sir It's Whiteford's Drive-In
11 Q What did he do?
12 A I was a good distance behind at that time and could
13 see the vehicle pull in the parking lot
14 Q Did he go through the drive-in?
15 A Yes, sir, he did
16 Q He placed an order and went through the drive-in?
17 A As far as I know, yes, sir He went behind the
18 building That's where the speaker for the drive thru
19 is
20 Q After that, where did they go?
21 A They pulled up to the take-out window, sat there
22 briefly, and then left the restaurant and took a left
23 back onto Broad Street for Z's Food Mart
24 Q Did they drive to Z's Food Mart?
25 A Yes, sir Mr Bentley was driving the vehicle

1 Q What did they do at Z's Food Mart?
2 A When they pulled into the parking lot, naturally I'm a
3 good distance away again, I observed Mr Bentley exit
4 the vehicle and go inside the convenience store No
5 one else exited the vehicle at this point A short
6 time later, he comes back out with a green bottled
7 soda I couldn't tell you the brand So, he had
8 actually made a purchase inside, but I didn't see the
9 purchase He came back to the vehicle and started up
10 gassing up the vehicle at this point, standing at the
11 back of the vehicle working the pumps.
12 Q Did it appear that Mr Bentley was afraid or had fear
13 about being outside in the public?
14 A Not from my observations, sir
15 Q Did you see him looking around a lot as to what was
16 going on around him?
17 A No, sir Especially when he reached the vehicle
18 Q What happened after he filled his car with gas?
19 A After he filled his car with gas, by this time the
20 female in the vehicle had gotten out and walked
21 around I believe she was speaking with the children
22 through a window in the back of the car She got in
23 the driver's side And upon completion of, I guess,
24 his gas purchase, Mr Bentley got into the passenger
25 side of the vehicle

1 Q Did the car leave Z's Food Mart?

2 A Yes, sir

3 Q And did you follow it?

4 A Yes, sir I followed it a short distance, toward the

5 intersection of Charlotte's - I'm sorry I believe

6 it's Charlotte's Road Then when it made the right,

7 that's a two lane road There were several vehicles

8 between me and it and I could no longer keep up with

9 the vehicle

10 Q When was the next day that you did surveillance?

11 A That would have been April 11th

12 Q Did you, again, travel to Clinton?

13 A Yes, sir, I did

14 Q What did you observe when you got to Clinton?

15 A This time the barbecue trailer had been moved in the

16 driveway Still in the driveway, but moved to another

17 location The family vehicle was parked in the

18 driveway in a different location Beside the barbecue

19 trailer there were approximately seven, eight bags of

20 some type of mulch, from what I could see. No one was

21 in the back yard or the front yard at this point

22 Q When did you first see Mr Bentley?

23 A The first time I saw Mr Bentley was at 9 40 a m.

24 Q What was he doing at that time?

25 A He exited the rear of the residence He had what I

1 would describe as a large canine on a leash. He
2 walked the dog to just an area that's kind of catty-
3 cornered across the street there Real briefly, came
4 back -
5 Q This was across Elizabeth Street?
6 A Yes, sir The side street there
7 Q Then what did he do?
8 A He returned to his residency and reentered the
9 residence
10 Q Okay During the time that he was walking the dog,
11 did he appear to be in any fear or be looking around
12 watching to see if anybody was around?
13 A No, sir In fact, he heads back to the street on
14 several occasions
15 Q When was the next time that you saw him?
16 A I have it listed as 11 40. He again emerged from the
17 rear of the residence with a canine He walked the
18 dog briefly there, this time on his side of the
19 street He appeared to be talking on some type of
20 cell phone or wireless phone and smoking
21 Q Did he appear in this occasion to be in any fear or
22 looking around to see if there was anyone around him?
23 A No, sir Once again, on several occasions he turns
24 his back to the street
25 Q When was the next occasion that you saw him?

1 A At 11 40 he exited the rear of the residence and
2 entered his vehicle alone
3 Q Where did he drive to?
4 A He drove a short distance on Academy to the Ganesh
5 Texaco Food Mart It's located at 401 North Broad
6 Street
7 Q What did he do at the Food Mart?
8 A Got in the vehicle, started gassing the vehicle at
9 this point Then after the completion of gassing his
10 vehicle he walked to the convenience store and went
11 into the front
12 Q Did he return to his car?
13 A Yes, sir, he did.
14 Q Now, during the time that he was gassing the car, did
15 he appear to be in any fear or looking around to see
16 if there was anyone around?
17 A No, sir In fact the photography shows him actually
18 bent down the gas tank on numerous occasions
19 Q Where did he drive after he left the Texaco?
20 A He drove to the Sonic Drive-In, which is - it's
21 actually through town on what I would consider the
22 busier part, past the busier part of town It's
23 located at 925 South Broad Street He pulled up to
24 one of the speakers there and placed an order I
25 couldn't tell you what that was

1 Q And after he got his order, what happened?
2 A He returned home
3 Q Was that the last time you saw him on April 11th?
4 A When he exited his vehicle and went in the rear of his
5 residence, that's the last time I saw him
6 Q When was the next day of surveillance?
7 A That would have been on April 30th
8 Q And did you again travel to his residence in Clinton?
9 A Yes, sir, I did.
10 Q And when you got there, what did you observe?
11 A This was the first weekday The other two
12 surveillances were for weekends Definitely this was
13 a weekday. It was Friday And when I got there, I
14 did the normal cursory of looking at the residence
15 The biggest difference I saw was there was a for sale
16 sign taped to the front porch of his residence and
17 also there was only one bag of mulch left beside the
18 barbecue trailer that I could see
19 Q When was the first time that you saw Mr Bentley?
20 A That would have been at 7 22 Approximately 7 22 I
21 observed Mr Bentley exit the rear of his residence
22 He performed several small tasks around the car, in
23 the driveway area there, and then returned to his
24 residence. It let me know that he was actually at
25 home

1 Q And when was the next occasion you saw him?
2 A At 7·27 he emerged from the residence with his two
3 children and entered the vehicle At this point, I
4 made a note that I didn't observe Ms Bentley
5 Q Where did he drive to?
6 A He actually drove to Clinton Elementary School He
7 left the driveway at about 7.29 with his two children
8 and traveled directly to the preschool He dropped
9 his children off and returned home
10 Q When was the next time that you saw him?
11 A At 9 55 I noted that he exited the residence, enters
12 his vehicle alone, takes the same route as earlier
13 mentioned to take the children to school, but this
14 time he turns left through a - it looked like he was
15 pulling into the Bi-Lo but keep in mind I'm a distance
16 behind Mr Bentley He proceeded through that lot and
17 wound up at the Ingles that's actually located at 312
18 Jacobs Highway which is beyond the Bi-Lo and parked at
19 the parking lot
20 Q Did he go into the Ingles at that time?
21 A Yes, sir Even though I didn't see him walk into the
22 Ingles I was, like I said, that far behind When I
23 pulled up I parked, photographed the car and I
24 prepared to get out of the vehicle
25 Q Did you go into the Ingles?

1 A Yes, sir I did

2 Q Did you see him inside?

3 A Yes, sir I did

4 Q And after he had purchased whatever he purchased, what

5 did he do?

6 A When he picked up his items, he came back through the

7 cash registers there and paid for his items and then

8 exited the store and walked back to his vehicle

9 Q On the way back to the vehicle, did he stop for

10 anything?

11 A There was a lady in the parking lot, a black female

12 who I noted was operating a light colored Lincoln Town

13 Car He carried on a brief conversation with her,

14 very brief No items were exchanged between the two,

15 what have you She basically pulls off and he gets in

16 his car to leave

17 Q During that time that you observed him at the Ingles

18 parking lot and inside the Ingles, did it appear that

19 he was in fear or that he was looking around worried

20 about what might be going on around him?

21 A No, sir Not from my observation

22 Q Did you see him on another occasion?

23 A Yes, sir. After arriving home and going back inside,

24 at 10 37 he emerged again from the residence He

25 appeared to be cleaning items out of the trunk or the

1 interior of the vehicle and placing them in the
2 garbage cans near the sidewalk Basically doing just
3 menial, little small tasks around in his back yard
4 there around the vehicle and in the driveway
5 Q During that time did it appear that he was looking
6 around to see what activity was going on around him?
7 A No, sir Not from my observation
8 Q What was the next occasion?
9 A At 10 17 he exited the rear of the residence with a
10 dog again He walked the dog slightly down the street
11 within 25 yards or so
12 Q You say at 10-17. Was it 11 17?
13 A It was 11 17 I'm sorry He walked the dog within 25
14 yards of the residence and went back inside
15 Q What was the next occasion?
16 A The next occasion was around 1-41 p m He comes
17 outside, does, like I said, other little menial tasks
18 in the driveway He appears to be working around a
19 kettle cooker type barbecue and then reenters the
20 residence
21 Q And then what was the next occasion?
22 A At 1 57 p.m he exits his residence again He's on a
23 wireless cell phone He walks just a short distance
24 from the driveway, still talking on the phone, on the
25 sidewalk area there beside the house And when he

1 gets ready to go back into the residence after
2 walking around in the back, he stops on the stair and
3 basically looks at my direction, which is up Academy
4 Street toward the police and fire department But at
5 that time there were sirens, and what have you, going
6 off at the fire department And, like I said, it's
7 only 150 - about 150 yards away. They were pretty
8 loud So, he paused there briefly looking in that
9 direction at then entered the residence
10 Q When was the next time you saw him?
11 A It would have been 2 15. He emerged from the rear of
12 the residence He gets into his vehicle and returns
13 to his school to pick his children up
14 Q When was the next time?
15 A At 3 01 he arrives back at home He and the two
16 children exit the vehicle Right as he is pulling
17 into the driveway, there is a club cab Chevrolet GM
18 product truck pulls in right behind the family vehicle
19 length ways with one individual in it
20 Q Was this a male or female in the truck?
21 A It was a male subject
22 Q Did they have any conversation between Mr Bentley and
23 this male?
24 A Yes, sir They appeared to know each other, from what
25 I was able to gather And they again started walking

1 around in the driveway area there and around this
2 kettle cooker type barbecue
3 Q And did Mr Bentley depart the residence?
4 A Later he did Yes, sir
5 Q Who did he part the residence with?
6 A With this unknown white male subject in the truck
7 Q It was in the truck?
8 A Yes, sir
9 Q During any of those times did Mr Bentley appear to be
10 afraid, in fear or be looking around to see if there
11 was anything going on around him?
12 A Not from my observation, sir
13 MR KALE That's all the questions I have, Your
14 Honor
15 THE COURT All right
16 MR KALE I would like to go ahead and mark for
17 identification the three investigation reports I
18 understand they are not going to be in evidence, but
19 just for identification
20 (WHEREUPON Defendant's No 1 was marked for
21 identification)
22 THE COURT: Okay Mr Dantin
23 CROSS EXAMINATION
24 BY MR DANTIN
25 Q Mr Hice, you took some college classes in accounting,

1 correct?

2 A Yes, sir, I did

3 Q You don't have a college degree?

4 A No, sir, I don't.

5 Q Again, you are not a psychologist?

6 A No, sir

7 Q You are not a psychiatrist?

8 A No, sir

9 Q You don't have any training or expertise in human

10 behavior?

11 A Other than what's stated before through law

12 enforcement training on watching body movement, that

13 sort of thing, no, sir.

14 Q Okay You have never been qualified as an expert or

15 had any training in family counsel?

16 A No, sir

17 Q Have you ever been qualified as an expert in any

18 field?

19 A No, sir

20 Q You don't have any knowledge regarding psychiatric

21 medications?

22 A No, sir

23 Q You don't have any knowledge regarding psychiatric

24 therapy?

25 A No, sir

1 Q You have no experience diagnosing psychiatric issues
2 in patients?
3 A No, sir
4 Q You don't have any experience as a psychological
5 counselor?
6 A No, sir
7 Q Now, or your assignments, it's basically your job to
8 observe and report?
9 A Yes, sir, it is
10 Q And that was true with this assignment regarding
11 Brandon Bentley, correct?
12 A Yes, sir
13 Q And you never met Brandon Bentley prior to your
14 surveillance?
15 A No, sir
16 Q You never spoke with him before?
17 A No, sir
18 Q You never saw him before your surveillance in March
19 2010?
20 A No, sir
21 Q During your surveillance you told me in your
22 deposition that you never got closer than 50 yards
23 from Brandon Bentley?
24 A About 50 yards Yes, sir
25 Q You never talked directly to Brandon Bentley during

1 your surveillance?
2 A No, sir
3 Q In fact, you never heard anything that he said at any
4 point during your surveillance?
5 A No, sir The first time I saw his voice was today
6 Q Briefly, regarding the surveillance you performed on
7 March 20, 2010, when you saw Mr Bentley and his
8 family go to Whiteford's Drive-In did they ever get
9 out of the car?
10 A No, sir Not to my knowledge
11 Q You have no idea what he said at the drive thru?
12 A No, sir
13 Q You couldn't even see his face?
14 A No, sir
15 Q You couldn't hear?
16 A No, sir
17 Q Now, that day you also talked about observing Brandon
18 Bentley pumping gas. Do you know what a person who is
19 uncomfortable in crowds acts like when they are on
20 psychiatric medications?
21 A No, sir
22 Q Do you believe everyone reacts exactly the same way
23 when they are uncomfortable or stressed?
24 A No, sir, they do not
25 Q Do you have any idea what is normal or comfortable

1 behavior for Brandon Bentley specifically?
2 A No, sir
3 Q On April 11, 2010, the only time you saw Brandon
4 Bentley outside of his house or car is when he was in
5 his yard, or within 25 yards of it, and once when he
6 was pumping gas Other than that, he was in his house
7 or in his car, correct?
8 A Other than the trip to the restaurant But no, he
9 didn't get out of the car
10 Q So, he was either in his house or in his car?
11 A Yes, sir
12 Q Now, on April 30, 2010, you talked about seeing
13 Brandon go to Ingles and then come out and have a
14 brief conversation with a lady in the parking lot
15 A Yes, sir
16 Q You don't know if he knew that woman?
17 A No, sir
18 Q And you don't have any idea what he said?
19 A No, sir I have no idea who she is. No
20 Q And likewise, regarding the guy that drove up in the
21 pickup truck to his house, you don't know if they were
22 related or anything else, correct?
23 A No, sir
24 Q And you have no idea what was said between them?
25 A No, sir

1 Q And this is something that we talked about in your
2 deposition Did you ever observe Brandon Bentley
3 smiling or laughing at anytime during your
4 surveillance?
5 A No, sir No outward emotion I didn't observe any
6 outward emotion I went over that in the deposition,
7 even an angry outburst, anything like that was not
8 observed
9 Q Is it your normal practice to only video the most
10 provocative and relevant things you observe?
11 A No Normal is I video everything I can in regards to
12 the subject as quickly as I can with the camera
13 equipment.
14 Q Do you try to capture the things that you think are
15 going to be of interest or do you try to capture every
16 single thing that you observe
17 A I try to capture each time the subject is in my view
18 Q And that's what you did in this case?
19 A Yes, sir
20 Q We talked about this some in your deposition, what I'm
21 about to mention. But according to the video that I
22 was supplied and I assume that's the one that is
23 evidence, there's 16 minutes and 14 seconds of footage
24 on March 20th That is a Saturday, by the way It
25 appeared that you were surveilling Mr Bentley for

1 about two and a half hours that day Does that sound
2 about right?
3 A Approximately, sir
4 Q Okay And then on April 11th, which is the second
5 time, that's a Sunday by the way, you have 14 minutes
6 and 38 seconds of footage out of about six hours of
7 surveillance Does that sound about right?
8 A It sounds right, sir, but I'm not sure of the exact
9 figures
10 Q Okay And then finally on April 30th, which was a
11 Friday, you have four minutes and 57 seconds of
12 footage out of what appears to be about eight and a
13 half hours of surveillance
14 A That's including travel time, I would imagine, but
15 yes, sir Like I said, I don't know the exact
16 figures
17 Q Okay And the Commissioner will see this on the
18 video, there are times actually on the video where the
19 video actually rewinds And so, the actual total
20 footage is a little less because some of it is
21 actually looped
22 A Yes, sir
23 Q As I add it up, it's about 30 minutes of footage out
24 of roughly about 1,000 minutes of surveillance
25 A I'm not familiar, but, yes, sir

1 Q Okay Can we assume that the other things you
2 observed were even less compelling than the footage on
3 the video?
4 A Much less compelling It probably wouldn't have been
5 Brandon Bentley
6 MR DANTIN No further questions
7 THE COURT: Any redirect?
8 MR KALE Nothing further
9 THE COURT Thank you, sir Any other witnesses
10 for the Employer and Carrier?
11 MR KALE No, Your Honor But I would like to
12 renew my objection to the depositions of Sheriff
13 Wright and Mr Rice, because there was no impeachment
14 in either one of theirs There's no basis for that
15 coming in
16 MR DANTIN We will withdraw
17 MR KALE Okay
18 THE COURT That being the case, that'll conclude
19 this hearing
20 (THE HEARING CONCLUDED AT 4:18 PM)

Statement of Lawrence H. Bergmann, Ph.D., LPC, LPC/S

BRANDON BENTLEY

DOB 4/24/79

SSN 251-69-9125

I am the President and Founder of Post Trauma Resources Post Trauma Resources began when the Veterans' Administration awarded me a contract to provide mental health services to Vietnam veterans and their families Until 1985, the firm focused on its work with veterans and also provided training in stress disorders throughout South Carolina. The firm later expanded its services to non-combat survivors Over the years, contracts and referral agreements were signed with local solicitors and victim service agencies to provide mental health services to survivors of crime. Public safety departments (law enforcement, fire service, corrections and emergency medical services) began asking for assistance after major disasters and other incidents (police shootings, child victimization, etc) As a result, the staff developed an innovative approach for trauma response and humanitarian assistance programs

As referenced above, my career working with survivors of trauma began with Vietnam veterans in the late 1970's Since that time. I have provided psychotherapy to hundreds of trauma survivors and their families, and have worked with business, industry and the public sector to coordinate and provide trauma response efforts after natural, industrial and manmade disasters I coordinate the clinical, trauma response and training efforts of Post Trauma Resources

I have been treating Brandon Bentley since November 16, 2009 As per the history I took from this patient. he is a deputy with the Spartanburg County Sheriff's Department, and was involved in an incident where he shot and killed a suspect while on duty on October 21, 2009 Since the time of this incident, this patient has developed Posttraumatic Stress Disorder. At this time, his symptoms include hypervigilance, sleep disruption, fear of being alone in public, diminished interest in activities, dissociative episodes (flashbacks), distressing and intrusive memories of trauma, exaggerated startle response, feelings of detachment from others Irritable mood, and depression This patient reported no prior history of psychological problems

In my professional experience, law enforcement involved shootings that result in the death of a suspect have a have a higher incidence of serious psychological difficulties for the law enforcement officers involved than other potentially traumatic experiences The primary reason for this is that it is not the role and job of a law enforcement officer to take lives, but rather to assist the community and save lives Killing a suspect is not only an extremely uncommon event in law enforcement, but an experience that is inconsistent with the goals of every law enforcement department and officer

7

I believe to a reasonable degree of professional certainty that the incident where this patient shot and killed a suspect while on duty on October 21, 2009, is the cause of his current psychological difficulties, as described above I further believe this patient requires psychotherapy, which I am currently providing Additionally, this patient requires the use of psychotropic medication prescribed by a psychiatrist To this end, I have referred this patient to our medical director, Roger M Deal, M.D , psychiatrist, who is also currently treating this patient.

Based upon his severe psychological symptoms, this patient is unable to work, and it is unknown at this time as to when he will be able to return to work in any capacity

Lawrence H Bergmann, Ph.D , LPC, LPC/S

11/9/10
Date

Statement of Roger M. Deal, M D.

BRANDON BENTLEY

DOB 4/24/79

SSN 251-69-9125

I am the medical director of Post Trauma Resources In this capacity, I provide consultation to the staff as well as direct services to survivors of trauma. I specialize in workers' compensation issues for Post Trauma Resources

I began my work in the post trauma field while serving as a medical officer in the U.S Army in the 1970's, treating military victims of various trauma. I later spent several years working at the Medical College of Georgia and the VA Hospital in Augusta where I treated Vietnam-era veterans and long-held prisoners of war suffering from more chronic PTSD I later began an association with Post Trauma Resources, becoming Medical Director in 1995

I am currently treating Brandon Bentley. As per the history I took from this patient (as well as that taken by Dr Bergmann), he is a deputy with the Spartanburg County Sheriff's Department, and was unfortunately involved in an incident where he shot and killed a suspect while on duty on October 21 2009 Since the time of this incident, this patient has developed Acute Stress Disorder At this time, his symptoms include hypervigilance, sleep disruption, fear of being alone in public, diminished interest in activities, dissociative episodes (flashbacks), distressing and intrusive memories of trauma, exaggerated startle response, feelings of detachment from others, irritable mood, and depression This patient has no prior history of psychological problems

In my experience as a treating psychiatrist, law enforcement involved shootings that result in the death of a suspect have a higher incidence of serious psychological difficulties for the law enforcement officers involved than other potentially traumatic experiences The primary reason is that it is not the role and job of a law enforcement officer to take lives, but rather to assist the community and save lives. Killing a suspect is not only an extremely uncommon event in law enforcement but an experience that is inconsistent with the goals of every law enforcement officer and department

I believe to a reasonable degree of medical certainty that the incident where this patient shot and killed a suspect while on duty on October 21, 2009, is the cause of his current psychological difficulties, as described above. I further believe this patient requires psychotherapy, which Dr Bergmann is currently providing Additionally, this patient requires the use of psychotropic medication and medication management – I am currently prescribing for him Ativan, Trazadone, and Effexor

Based upon his severe psychological symptoms, this patient is unable to work, and it is unknown at this time as to when he will be able to return to work in any capacity

RDeal

Roger M. Deal, M.D

1/20/10

Date

Spartanburg County Sheriff's Office
General Order 520 1
Use of Force

I Policy

A. It is the policy of the Spartanburg County Sheriff's Office to employ only the objectively reasonable force necessary to accomplish lawful objectives, to affect an arrest and to overcome any resistance The Sheriff's Office recognizes that the use of unnecessary force will only erode the public's confidence and support, therefore, in the long run damaging the effective delivery of law enforcement services

B Deadly force may be used by officers only when they reasonably believe that the action is in defense of human life (the officers', or others), or in defense of any person in immediate danger of serious physical injury Each decision to use deadly force must be justified within the framework of this policy and the laws of our state and nation These mandates, in combination with training and experience, provide the foundation upon which proper responses are formulated Our emphasis is on planning and effecting arrests in such a manner as to employ adequate support and bring maximum pressure on the arrestee in order to deny that person the opportunity or desire to resist or flee When any arrestee initiates action to cause physical harm. there should be no hesitancy in using such force as necessary to bring that person under control Federal Appeals Courts and The United States Supreme Court have clearly established that a law enforcement officer is not required by the Constitution to use the least intrusive force alternative, only a "reasonable one " (Illinois v LaFayette, 462 U S 840 (1983) Likewise, in Cole v Bone, 993 F 2d 1328 (8th Cir 1993), the 8th Circuit United States Court of Appeals stated, "The Constitution requires only that the seizure be objectively reasonable not that the officer pursue the most prudent course of action judged by 20/20 hindsight.' Additionally, there is no Constitutional requirement for an officer to use non deadly alternatives first, or to use all feasible alternatives to avoid a situation where deadly force can be justifiably used (Plakas v Drinski, 19 F 3d 1143 (7th Cir 1994)

C Deputies are often confronted with situations where control is necessary to affect an arrest or to protect public safety If possible, attempts will be made to gain control through the use advice, warnings, persuasion, and verbal encounters However, in situations where resistance, a threat to life, or a threat of physical force towards deputies or others is encountered and verbal persuasion has not been effective, is not feasible, or would appear to be ineffective, deputies may use objectively reasonable force

II Purpose

This order establishes guidelines for the use of force by the Spartanburg County Sheriff's Office Knowing when to use force and how much to use when it becomes necessary is an integral part of a law enforcement officer's job The officer must always remember that the use of force to detain any person is a seizure and is consequently governed by the Fourth Amendment of the Constitution of the United States of America As such, that seizure must be reasonable, that is, the governmental interests served by it must outweigh the interest of the individual who has been seized. The use of excessive force, in any degree, in any situation, regardless of the provocation or action of the offender, may result in disciplinary action and criminal prosecution

III. Legal Disclaimer

A. This policy is for internal use only and is not intended to enlarge the officer's civil or criminal liability in any way This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims, insofar as the officer s legal duty is imposed by law

B Non-compliance with this policy constitutes a violation of an employment duty only, except in such case as non-compliance is also a violation of the laws of our state and nation Therefore, violations of this policy shall only form the basis of disciplinary action within the Spartanburg County Sheriff's Office

C In the event that a violation of the duties imposed by this policy also constitutes a breach of the duties imposed by the laws of our state and nation, nothing herein shall be construed to relieve personnel from that legal duty or from any action resulting from a breach in that legal duty

IV Definitions

A. *Force* Conduct on the part of a Sheriff's Office employee that is designed to assist the employee in controlling a situation or the actions or behavior of a person or persons

B *Serious Physical Injury* A bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement or results in long-term loss or impairment of the function of any body member or organ

C *Deadly Force* Any force which carries a substantial risk that it will result in the death, or serious, permanent disfigurement or long term impairment of any person.

D **Supervisor** Any officer holding the rank of Master Deputy or higher and serving in the capacity of acting supervisor

E *Less-than-lethal Weapon* Any weapon other than a firearm which is used to control persons or defend an employee from harm. Examples of less-than-lethal weapons are the ASP expandable baton, VEXOR, and Taser

F **Objectively Reasonable Force** That level of force which is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who has applied force Objectively reasonable force is not judged with hindsight and will take into account, where appropriate, the fact that officers must make rapid decisions regarding the amount of force to be used in tense, uncertain and rapidly evolving situations

V Procedure

A. Use of Verbal Force

1 In dealing with people, each employee must attempt to inspire respect and generate cooperation and approval from the public All Sheriff's Office employees will be courteous and civil in their relationships with the public

2 The manner in which an employee speaks can be an effective means of exerting verbal force in order to control a situation

a. Verbal force may be in the form of warnings, advice, and persuasion Volume and tone control may in and of itself be progressive in nature, depending on the circumstances

b By using reasonable and necessary verbal force, employees may not have to resort to the use of other forms of force

B Use of Physical Force

1 Physical force involves actual bodily contact with a person, forcibly subduing that individual until resistance is overcome Physical force excludes the use of weapons or objects which could be used as weapons such as batons, flashlights and the like

2 Under no circumstance will deputies use force in excess of that which is reasonable and necessary to lawfully and properly neutralize an unlawful assault or overcome resistance by a person being taken into custody

C Intermediate Force

1 Intermediate force involves the use of less than-lethal weapons against a person and forcibly subduing that individual with the assistance of these weapons until resistance is overcome

2 Any other less-than-lethal object used to assist in subduing an individual will for the purpose of this order be considered intermediate force Examples include, but are not limited to, walkie-talkie, a rock, a stick and the like

3 The use of intermediate force will be restricted to quelling physical confrontations where lesser verbal or physical force would be, or has been, ineffective or inappropriate

VI Use of Deadly Force

A. Deadly force may be used by officers only when they reasonably believe that the action is in defense of human life (the officers, or others), or in defense of any person in immediate danger of serious physical injury

B ***Reasonable Belief*** When facts or circumstances that the officer knows, or should know, are such as to cause an ordinary and prudent person to act in a similar way under similar circumstances

VII. Use of Deadly Force to Apprehend a Fleeing Felon

The use of deadly force to apprehend a fleeing felon must meet the same conditions as stated above (RE Tennessee v Gardner)

VIII. Policy Training

All deputies shall be issued a copy of this General Order and receive instructions on its contents prior to being authorized to carry a weapon

IX. Restrictions on the Use of Firearms/ Deadly Force

A. Restrictions

1 Deputies shall avoid the use of deadly force against perpetrators when less force can be used to apprehend or constrain.

2 *Warning* When deputies are about to evoke deadly force, they will, when possible or practical, issue a verbal warning to the suspect In this warning, officers will identify themselves as Deputy Sheriffs and instruct the suspect to stop whatever action the suspect is doing to cause the officer to consider the use of deadly force

3 *Shoot to Stop* Deputies will fire their weapons not to kill, but rather to *stop* and incapacitate an assailant from completing a potentially deadly act as described in this order For maximum stopping effectiveness and minimal danger to innocent bystanders, officers should shoot at the center of mass of the target

4 Deputies should not discharge a firearm at or from a moving vehicle except when all other means have been exhausted and it is necessary for the defense of the deputy's life or the life of another person or the officer has reasonable cause to believe the suspect poses a significant threat of death or serious physical injury to the deputy or others

5 *Risk to Innocent Bystanders* When deputies are about to discharge their firearms they will be cognizant of their field of fire and will not unnecessarily create a substantial risk of harm to innocent people

6 *Warning Shots* Deputies will not discharge their firearm for the purpose of a warning shot.

7 Deputies may not use or carry any firearm or dangerous ordnance while under the influence of alcohol or drugs

8 Destruction of Animals

a. Deputies may use firearms to destroy severely injured, vicious or rabid animals which are menacing persons or other domestic animals, provided other reasonable means of apprehension are not available or feasible Such destruction requires that it can be accomplished in complete safety with regard to other persons and property Domestic animals are, in reality, the personal property of another Therefore, in instances where it is feasible a written request and/or waiver for the destruction of the animal should be obtained and maintained as a part of the incident report.

b Should a deputy, during arrests, searches or while on other official duty, come under attack by an animal, a firearm may be used in self defense provided

1 Reasonable means of escape does not exist or have been exhausted.

2 The risk of death or serious injury exceeds the risk inherent in the use of firearms

3 A reasonable shooting background and line of-sight exists to avoid death or injury to others

c A deputy using a firearm to destroy an animal will, before going off-duty, prepare an incident report detailing the circumstances A *Use of Force* report will accompany the incident report so that each discharge of a firearm in the line of duty may be recorded.

d. Deputies may discharge their weapon to give alarm or call for assistance when no other means is available

B Safe Handling of Firearms

1 Deputies of the Spartanburg County Sheriff's Office are expected to use good judgment while carrying, handling, storing or using a firearm on duty or off

2 Review, *Inspection and Approval of Weapons*

a. No firearm, whether owned by the Sheriff's Office or personally-owned, shall be carried until it has been inspected and approved by the Special Services Training Officer Only firearms listed in this General Order will be approved for on-duty use Off-duty firearms will be approved as described below·

b Deputies will not perform maintenance upon or modify any firearm approved for use Disassembly is restricted to field stripping for cleaning

c Supervisors shall conduct frequent inspections to insure firearms are clean and in good operating order All firearms, both departmentally owned and personally-owned, will be inspected by the training officer annually

d Weapons found to be unsafe or defective during the supervisory inspections will be immediately removed from service until restored to a proper operating condition.

X. Deadly Force Other Than Firearms

Deadly force may constitute the use of items, articles, instruments, or equipment other than firearms which are designed, intended, and routinely utilized for other legitimate law enforcement purposes (vehicles batons, flashlights, etc) Deliberate use of any such item, article, instrument, or equipment, for any purpose other than that for which is designed and intended, or in a potentially deadly manner (i e as a club), is prohibited except in cases where the use of deadly force is authorized by this order

XI. Display of Firearms

A. Firearms may be displayed in the following situations

1 Where the use of force is authorized by this order

2 Where the person to be apprehended has committed, or there is probable cause to believe the person to be apprehended has committed a felony and the possibility of confrontation with deadly force exists based upon.

a. Severity of the offense

b Individual or number of individuals to be apprehended

c Credible information received concerning weapons and/or the propensity for violence

d Other circumstances under which a felony arrest may occur which renders the drawing or display of a firearm a reasonable precaution.

B The display of firearms situations are governed by the following

1 Conditions are such that drawing or displaying the firearm can be accomplished without unreasonable risk of accidental discharge

2 The display of firearms, like all use of force governed by this policy, must meet be objectively reasonable

XII. Surrender of Firearms

A. No deputy shall ever display or provide any weapon to a citizen to inspect, examine, or otherwise handle

B No deputy shall ever furnish his or her firearm to any citizen or civilian enlisting his or her assistance in any way

C No deputy shall surrender his or her weapon in the face of criminal action since affirmative acts to maintain a weapon, utilizing defensive tactics disarming tactics and techniques affords the best survival strategy

XIII. Off-Duty/ Secondary Weapons

A. Deputies of the Spartanburg County Sheriff's Office are encouraged to carry a firearm while off-duty, but that decision shall remain the officer's No disciplinary action will be taken against an employee if an occasion arises in which action could have been taken, but was not because the officer was unarmed The recommended off-duty weapon is the Glock 22/23, issued by the Sheriff's Office If a deputy elects to carry any other weapon while off-duty, it must be in accordance with the following

1 The weapon is of smaller frame than the Glock 22/23 and is either 38 caliber, 380 caliber, 9mm, or 40 caliber

2 Request is made, in writing, to the Division Commander explaining the need for the weapon

3 With the division commander's approval, the officer qualifies with the weapon, firing at least 80% of the total possible score, under a certified firearms instructor from the Sheriff's Office Deputies must re-qualify with the off-duty weapon at least annually Qualification is at the officer's expense

4 The request, along with all qualification information will be forwarded to the Firearms Review Committee, which will make recommendations to the Sheriff, or in his absence the Chief Deputy, for final approval or disapproval.

5 All off-duty ammunition will be factory loaded and departmentally-approved. Approved ammunition for off-duty carry is expandable point ammunition

6 A copy of all approved off-duty weapons, ammunition and qualifying scores shall be maintained in the Training Section.

7 When a deputy anticipates that s/he will consume alcoholic beverages in an off-duty situation, s/he shall not carry a firearm on his/ her person. If the need for police services arises, the deputy will call communications and request an on-duty officer to respond

8 Deputies engaged in off-duty employment requiring the performance of law enforcement related duties shall be armed with the issue sidearm

9 Off-duty deputies, while operating a county vehicle, will be armed with the issue firearm.

B Off-duty deputies who elect to carry a sidearm shall also have their police badge and credentials on their person Off-duty weapons shall be carried in a concealed and safe manner and shall not unnecessarily display the weapon to the public

C Secondary Weapons On-duty officers will only carry their issued weapon. Secondary weapons are prohibited

XIV **Less-than-Lethal Weapons**

A The ASP expandable baton VEXOR Taser and the flashlight are less-than-lethal weapons available to officers to use at their discretion, provided the officer is trained in the proper use of the less-than-lethal weapon carried

1 The ASP expandable baton may be used by officers trained in its use by a certified weapons instructor Qualification is under the auspices of the South Carolina Criminal Justice Academy and must be updated at least annually

2 VEXOR is issued by the Spartanburg County Sheriff's Office and may be carried by officers trained by a certified weapons instructor No other chemical agent may be carried or used by members of the Sheriff's Office Deputies must maintain certification to carry VEXOR and must re-certify at least annually, generally during in service training.

3 The Taser is issued by the Spartanburg County Sheriff's Office and may be used by officers trained in its use by a certified weapons instructor Certification is under the recommendation of Taser International and the Training Unit of the Spartanburg County Sheriff's Office and must be updated annually

4 The flashlight is not a weapon by design, but may, if the situation warrants, be used as a defensive weapon with applications similar to the straight baton

5 The use of all force by Sheriff's Office employees will objectively reasonable and based upon the amount of resistance from the suspect. As a general rule, the following guidelines apply to the use of authorized less than-lethal weapons

a Attempt to persuade by a show of authority of an officer in uniform or by communicating with verbal and non-verbal dialog Verbal and non verbal dialog commands must be given to direct and let the subject know what you expect of him. The subject must know by what authority you have to detain/ arrest and what he must do to comply with your instructions

b Seek compliance by unarmed tactics This technique is used when a subject is a passive resistor and needs prompting to comply by physical means The use of pain compliance, escort positions, pressure point control tactics could be used depending upon the level of resistance

c Impede the subject's actions with an impact weapon (ASP baton) Impact weapons are used when a person becomes an aggressor and attacks an officer without a weapon and there is a fear for the safety of the officer or others Note an impact weapon should not be used to strike a subject in the head, spine, sternum, or groin. Strikes to these areas may produce injuries which are eventually fatal while not effectively terminating assailant resistance These areas should be struck only in an effort to prevent great bodily harm or death to an officer or others

B Prohibited Weapons

1 Brass knuckles, slappers, slap gloves, billies and blackjacks are prohibited non-lethal weapons and will not be carried.

2 Any other weapon not specified which could be considered a less than-lethal weapon is prohibited.

XV Authorized Firearms and Ammunition

A Only weapons and ammunition meeting departmentally authorized specification as determined by the Sheriff shall be used in the performance of duty Current departmental-approved ammunition for the model 22/23 Glock is the Winchester SXT Ranger 40 caliber 165 grain round The Remington 870 shotgun will use 2 3/4 inch 12 gauge, PolyShok Impact Reactive Projectile (I.R.P) The Bushmaster XM15E2S M4A3 (rifle issued to SWAT team) will use Winchester 223, 55 grain pointed soft point ammunition The 9mm Carbine (issued only to SWAT team) uses Winchester 9mm, 127-grain Ranger SXT

B Full-time and reserve officers

1 Full-time and reserve officers are permitted to carry the issued semi automatic sidearm of the Spartanburg County Sheriff's Office This weapon is currently the Glock Model 22 or 23, 40 caliber semi automatic All officers full and part-time must successfully complete the qualification course as outlined in General Order 520 3

2 Newly-hired officers who have not qualified with the Glock 22/23 will not be issued the weapon and may not carry a weapon until qualified to do so

3 No officer will carry more than one weapon at a time while on-duty (shotgun excluded) S W A.T members are also excluded from this prohibition

4 Reserve officers who choose to carry a firearm while not in the performance of their official duties must do so in accordance with applicable South Carolina State law (Section 16-23-20, Section 16-23-420, Section 16-23-430, Section 16 23-460, Section 16-23-465, Section 23-31 210, Section 23-31-215, Section 23-31-216, Section 23-31-217, Section 23 31-220, Section 23-31-225, Section 23-31-230 Section 23-31-235, Section 23-31-240, Section 23-31-400, Section 23-31-410, Section 23-31-415, Section 23-31-420, Section-23 31-510, Section 23 31-520, and Section 51-3-145) Also, refer to section XIII above All guidelines apply

C Officers will use only the ammunition issued by the Sheriff's Office Alterations of any kind to the issued ammunition are strictly prohibited,

D Care and maintenance all weapons will be issued by the Administrative Section The Training Officer, in coordination with the supply officer and under the direction of the Administrative Services Captain, shall establish and maintain a record on all weapons approved for official use All maintenance requests and problems encountered with issued weapons shall be directed to the Training Officer in writing, giving as much detail as possible about the problem or request All requests shall be made part of the record of the weapon

E Each deputy is responsible to keep any firearm carried in the line of duty clean and in good working order

1 Should the issued weapon become lost, stolen, damaged, or in any way rendered inoperable, it shall be reported through the chain of command to the Sheriff immediately and in writing

2 All servicing of issued weapons will be provided by the Special Services Training Section and a record of such servicing shall be maintained by the Training Officer

XVI Reporting Use of Force Incidents

A. Since the use of force should never occur unless absolutely necessary, proper reporting and follow-up actions are critical Whenever force is used by a member of the Spartanburg County Sheriff's Office, it shall be immediately reported to a supervisor The use of deadly force shall be immediately reported to the Sheriff and the Chief Deputy by telephone, in person, or through the most expeditious means possible

B In all cases in which force is used, a Use of Force report shall be submitted through the chain of command to the Sheriff and Chief Deputy This statement shall briefly outline the type of force used, the reason for its use, and the date and time of the occurrence Failure to report the use of force shall be cause for disciplinary action regardless of whether or not the use of force was justified

XVII Firearms Discharge Report

A. On each and every occurrence that an officer discharges a firearm in the line of duty, he or she shall submit a detailed report through the chain of command to the Chief Deputy and the Sheriff. The report shall be submitted prior to going off-duty and shall include

1 Name and rank of Officer

2 Date and time of occurrence

3 Location of occurrence

4 Make, model, caliber, and serial number of firearm used

5 Type and caliber of ammunition fired

6 Number of shots fired and the direction in which they were fired

7 Description of person fired at to include name sex, race. and date of birth (if known) If fired at an animal, briefly describe the animal

8 Whether or not the object fired at was moving, barricaded, concealed, covered, or standing

9 If a suspect vehicle is involved, a description, tag number, etc

10 Results of the shots fired. (i e , missed, extent of wounds, other objects hit, etc)

11 Reason for using firearm.

12 Name of supervisor and investigators who responded to the scene

13 Any other information the officer believes to be pertinent to the investigation

XVIII Investigating Use of Force Incidents

A. A Firearms Discharge Review Board consisting of the Chief Deputy, the Sheriff's Office Captains and currently certified departmental firearms instructors will investigate all incidents in which a firearm is discharged

B The Firearms Discharge Review Board shall

1 Hear and review all reports, testimony, physical evidence and other pertinent data relating to the discharge of a firearm by an officer acting in the line of duty, whether, in fact, he/she was on duty at the time or not

2 Submit recommendations to the Sheriff after hearing the evidence, indicating whether or not the officer was justified or negligent in discharging the weapon, and whether or not the board is unanimous in this recommendation

C In any instance where death or injury occurs from an officer's actions while in the performance of law enforcement duties, the following procedures shall apply

1 A comprehensive investigation of the incident will be conducted immediately by the Spartanburg County Sheriff's Office The investigation shall take place regardless of whether the officer was on or off duty at the time of the incident. The investigation shall also be in addition to any investigation made by any other agency

2 The officer involved in the incident shall be relieved from duty by his commanding officer pending investigation of the incident in accordance with procedures outlined for administrative post-shooting handling of officers (XIX below) Relief from duty shall be with pay

3 The officer involved in the incident shall not discuss the case with anyone except his attorney, the county attorney, the prosecuting attorney, and appropriate law enforcement personnel

4 Psychological counseling shall be arranged for the officer involved in the shooting with the South Carolina Criminal Justice Academy psychologist.

5 As soon as possible after the shooting, members of the Sheriff's Office shall be briefed by their division commander on the significant releasable details of the shooting Special emphasis will be given to lesson learned from the incident.

XIX. Administrative Post-Shooting Handling of Officers

A Whenever a law enforcement officer is left with no alternative but to use deadly force to control a situation, the experience is traumatic It is the policy of this Sheriff's Office to minimize as much as possible the traumatic experiences of the officer(s) involved in duty-related use of force

B Review of Sheriff's Office Procedures

1 All deputies shall be aware of the administrative procedures involved with duty-related use of deadly force so that should any officer be involved in such an incident, he/she will understand all subsequent departmental actions as a matter of procedure and not as isolated actions designed to punish the officer

2 Sheriff's Office procedure, psychological reactions and legal transactions associated with duty-related use of force shall be made part of new employee orientation and regular in-service training programs

3 All deputies shall be provided this review at least annually

4 As incidents of use of force occur, the Chief Deputy will conduct a review of all Use of Force reports to determine if

a. Force is being properly used,

b Training in use of force is adequate,

c A deputy has developed a psychological hair trigger

5 The Sheriff's Office will adjust its training in use of force and general patrol tactics as necessary based upon this analysis Additionally psychological counseling will be arranged for officers who are identified as needing such assistance

C Use of Deadly Force Scene Actions

1 Responding supervisors and officers should show concern for the officer (s) involved.

2 The officer(s) involved should be escorted away from the body and some distance from the scene The officer(s) should be with a supportive peer or supervisor and be allowed to return to the scene only if necessary

3 This is a psychological break from the scene and should be non-stimulating in nature, with discretionary use of caffeinated drinks

4 The officer(s) should be advised that what will happen administratively during the next few hours, and why it should not be regarded as a personal attack.

5 The officer's weapon shall be taken as evidence, and it shall be immediately replaced, or when appropriate, depending upon the circumstances of the incident and the psychological condition of the officer (i e , agitated, very depressed, suicidal, etc)

D The Interview Process

1 As soon as practical, the officer(s) should be advised to think about retaining an attorney to assure that his/her interests are given every consideration

2 The officer(s) shall have some recovery time (1-2 hours at least) before being interviewed in detail Although the officer may give an initial statement, before a detailed statement is taken from the officer s/he should be allowed to complete at least one complete sleep cycle The officer(s) shall be in a secret setting, insulated from the media and curious officers

3 Totally isolating the officer(s) is not recommended, since this can breed feelings of resentment and alienation The officer(s) can be with a supportive friend or peer who has been through a similar experience To avoid legal complications the situation should not be talked about prior to the preliminary investigation

4 If the officer is uninjured, the officer or the Sheriff's Office shall contact the officer's family (by phone or personal visit) and let them know what has happened before rumors are heard and other phone calls are received. If the officer is injured, a Sheriff's Office officer known to the family shall pick up the family and drive them to the hospital. Make sure the family has support (friends, chaplain, pastor, etc)

5 The Sheriff, Chief Deputy, or their appointee shall provide face-to-face communication with the officer as soon as practical

E Other Administrative Actions

1 Officers may be given administrative leave (as the situation dictates) once the preliminary investigation has been completed Depending on the circumstances, light duty may be substituted for leave

2 All deputies involved in duty-related use of deadly force shall be de briefed by a knowledgeable mental health professional prior to returning to duty and/or as soon as possible after the incident Follow-up and/or return to duty sessions shall be determined by the mental health professional

3 All personnel involved with the incident, including the dispatcher, shall be de-briefed as a group by a knowledgeable mental health professional within 72 hours of the incident. The officer actually involved in the use of deadly force may or may not be present for this session

4 Family counseling shall be made available, if requested.

5 As soon as practical, a supervisor shall inform all officers of the facts surrounding the incident

6 All administrative and criminal investigations, if required, shall be expedited and the involved officer(s) advised of the outcome as soon as possible Barring unforeseen or extenuating circumstances, an administrative investigation should be completed within 10 days, and a criminal investigation should be completed within 21 days from the date of inception.

6 The Chief Deputy of the Spartanburg County Sheriff's Office will conduct an annual analysis of all use of-force incidents

General.

Members of the Sheriff's Office are not authorized to draw or display the TASER except for training under the auspices of a certified TASER instructor, unless the circumstances create a reasonable belief that it may be necessary to use it The TASER will be handled in the same manner as a firearm and will be secured prior to entering any detention facility.

There are three separate types of reportable TASER applications

1 Spark Display – A non-contact demonstration of the TASER s ability to discharge electricity This is conducted only when the cartridge has been removed from the weapon The purpose of this display is to convince the subject to comply with a lawful order and avoid the TASER being deployed in the Drive Stun or Probe mode
2 Drive Stun – Contact is made by pressing the front of the TASER (cartridge removed) into the body of a subject resisting lawful orders, and activating the TASER. The Drive Stun causes significant localized pain in the area touched by the TASER but does not have a significant effect on the central nervous system The Drive Stun does not incapacitate a subject, but may assist in taking a subject into custody If a TASER is fired using the cartridge at a distance of less than three feet, the effect will be very similar to a Drive Stun.
3 Probe – The TASER is most effective when the cartridge is fired and the probes make direct contact with the subject. Proper application will result in temporary immobilization of the subject and provide the officer a "window of opportunity" in which to take the subject safely into custody Optimum range for probe deployment is 7 to 10 feet with a 21 foot maximum distance Deployment of the TASER cartridge at distances of less than three feet will not result in temporary immobilization or central nervous system disruption

The TASER is one of the options available to officers The TASER, like the baton, OC spray or empty hand control techniques may not be effective in every situation Officers must assess the effectiveness of each application and determine whether further applications are warranted or a different tactic should be employed. The decision to use the TASER will be dependant upon the actions of the subject, the threat facing the officer, and the totality of circumstances surrounding the incident

The TASER may be used when the subject is displaying active, aggressive or aggravated aggressive resistance to an officer attempting to conduct legal law enforcement activities Officers should only apply the number or TASER cycles reasonably necessary to bring the subject under control

The TASER will not be used.

1 when *the officer knows* a subject has come in contact with flammable liquids or is in a flammable atmosphere
2 When the subject is in a position where a fall may cause substantial injury or death,
3 *punitively for purposes of coercion, or in an unjustified manner;*
4 *when a prisoner is handcuffed secure, and properly in custody;*
5 to escort of jab individuals
6 to awaken unconscious or intoxicated individuals, or
7 *when the subject is pregnant, unless deadly force is the only other option*

The TASER should not be used in the following circumstances (unless there are compelling reasons to do so which can be clearly articulated)

1 when the subject is operating a motor vehicle,
2 when the subject is holding a firearm,
3 when the subject is *at the extremes of age or physically disabled*, or
4 *in a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officers and/or civilians as necessary*

Training and Certification

Instructors who have been certified as TASER instructors will be the only authorized persons to instruct on the TASER. Training will be conducted in accordance with department protocols Deputies authorized to use a TASER must successfully complete an initial certification-training course, to include written and practical tests Once certified, deputies must attend annual re certification training

Equipment Care and Handling

Officers will use only authorized TASER equipment issued by the Sheriff's Office Supply Section The TASER will be inspected daily for damage and cleanliness, and batteries and cartridges replaced when required by the officer The battery display will be checked on the CID at the beginning of each shift A reading of 20% or less will require the DPM/battery pack be changed The DPM/battery pack will not be removed from the TASERS except when the reading is 20% or less or to conduct a data download The TASER will never be stored more than 48 hours without the DPM/battery pack attached. When off duty, TASERS must be stored and secured in a climate-controlled area, not in a vehicle

Officers must conduct a spark check at the beginning of each shift to ensure the TASE will function properly A spark check is an equipment check conducted outside of public view to ensure the TASER is operable It is conducted by removing the cartridge, test firing the weapon and observing the electrical arc This spark check does not require completion of a use of force report

Uniformed officers will carry the TASER in a department issued holster The holster will be carried on the duty belt, on the side opposite the duty firearm. Non-uniformed deputies will carry the TASER in a n approved holster on the side opposite the duty firearm.

Deployment of the TASER.

Deputy Responsibilities

1 Gives a warning, when possible or practical, to the subject and other officers before firing the TASER at the subject
2 Center mass of body should be the primary target area, particularly the center mass of the back , as clothing tends to be tighter on this part of the body
3 When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered as a target.
4 Attempts to avoid hitting the subject in sensitive tissue areas such as head, face, neck, groin, or female breast area, however probes penetrating these areas will be removed by medical personnel only at a medical facility
5 Ensures the probes are removed from the subject s skin only by a TASER certified officer utilizing established blood borne pathogens protocol (Gloves)
6 Use of the "drive stun" is discouraged except in situations where the "probe' deployment is not possible and the immediate application of the "Drive Stun" will bring a subject displaying active, aggressive or active aggressive resistance safely under control Multiple "Drive Stuns" are discouraged and must be justified and articulated on the Use of Force form If initial application is ineffective, officer will reassess situation and consider other available options
7 Transports subject to Spartanburg Regional Healthcare Center for examination to determine whether the individual has suffered any injury, either directly from the TASER discharge or indirectly, such as falling after incapacitation
8 Makes notification to immediate supervisor whenever the TASER has been used (Drive Stun and/or probe deployment)

Communications
9 Makes notifications as requested

Immediate Supervisor
10 Responds to the scene when a TASER has been used
11 Notifies shift Lieutenant when a TASER has been used
12 Ensures photographs are taken of the site of the probe impact areas and any related injuries

Shift Lieutenants
13 Responds to the scene if serious bodily injury resulted from the use of the TASER or other circumstances dictate

Post-Deployment

Deputy Responsibilities
1) Handles the probes the same as contaminated needles and sharps in accordance with Sheriff's Office Blood Borne Pathogens procedures
2) Collects and places the expended TASER cartridge into evidence bag and completes all necessary paperwork for entry into evidence
3) Completes a Use of Force Report whenever the TASER is fired, whether the subject is struck or not, when the Drive Stun mode is used on a subject or when a spark display is conducted
4) Presents TASER to evidence for data download if a reported use of force with the TASER occurs by the next working day
5) Forwards Use of Force Report with all other appropriate paperwork to a Shift Supervisor for approval prior to end of tour of duty

Supervisor Responsibilities
6) Ensures the deputy has completed reports and that required photographs are taken
7) Verifies the probes are disposed of properly
8) Verifies that deputy has presented TASER to Evidence for data download.
9) Ensures that Incident Report and Use of Force Report is complete and accurate
10) Ensures that the expended TASER cartridge is collected and placed into evidence and all necessary evidence paperwork completed

XXIII Special Weapons

A. Only officers demonstrating a proficiency in the use of issued, authorized weapons are permitted to carry and use such weapons Demonstrating proficiency will include minimum scores on prescribed courses, attaining and demonstrating knowledge of the laws concerning the use of firearms, and being familiar with the recognized safe handling procedures for the use of these weapons Proficiency courses will be determined by the Training Officer, the Sheriff, and the South Carolina Criminal Justice Academy as outlined in General Order 520 3

B Shotguns The issued shotgun for the Spartanburg County Sheriff's Office is the Remington Model 870, 12 gauge pump shotgun. The Special Weapons and Tactics Team shotgun is the Benelli Super 90 Shotguns, unless otherwise ordered, will be loaded with four rounds of 2 3/4 inch 12 gauge, PolyShok Impact Reactive Projectile (I.R.P) in the magazine none in the chamber, with the safety on.

1 Shotguns will be secured by electric, permanently mounted gun racks in the patrol vehicle Weapons will be periodically checked and oiled as needed to prevent rust

2 Shotgun familiarization and qualification training will be conducted at least annually Course content and qualifications requirements will be established by the Training Officer, the Sheriff and the requirements of the South Carolina Criminal Justice Academy

3 Shotguns will be removed from their carry positions only for the following reasons

a Inspection and cleaning by the officer

b Authorization by members of the command staff to use the guns for law enforcement purposes

c Self-defense as required and in accordance with the use of force requirements outlined above

C Rifles/ Carbines The issued select-fire rifle for the Spartanburg County Sheriff's Office is the Bushmaster XM15E2S M-4 A3, 5 56mm and the Colt/ Rock River Arms 9mm carbine These rifles will be issued to only the SWAT team. Unless otherwise authorized, these rifles will be in the trunk of the vehicle, unloaded

1 Rifles should be kept in the trunk of the vehicle unless removed for one of the following reasons

a Inspection, cleaning and storage by the deputy or his/her supervisor
b Authorization by members of the Command Staff to use the rifles for law enforcement purposes
c Self-defense as required in accordance with the Sheriff's Office Use of Force policy as outlined above

2 When a deputy who carries a rifle on duty is off-duty, the weapon will be removed from the patrol vehicle and secured in the deputy s residence Great care and consideration will be exercised with the stipulation to limit the potential for injury to a deputy s family from an improperly secured weapon *The only exception to this requirement is SWAT vehicle with alarms*

XXIV Rendering Aid after Use of Force

A. It is the duty of every officer to render, or arrange for, the immediate, appropriate and necessary medical aid for any person upon whom force has been used Such aid shall be rendered without delay and will be documented in the incident report The officer utilizing force shall notify his immediate superior that the use of force resulted in injury

D The procedure for rendering aid shall be that Spartanburg Communications will be notified and an ambulance will be dispatched. The officer, within individual capabilities, will render first aid as appropriate until the arrival of the ambulance In the case of the use of VEXOR and the use of the straight baton, the victim will be transported by the officer to the nearest medical treatment facility where the chemical agent will be neutralized, and the suspects injuries IF ANY, can be evaluated and treated.

By Order of

Chuck Wright, Sheriff

SLED
CF001 5/95

VOLUNTARY STATEMENT

STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

PERSONALLY appeared before me Brandon T. Bentley, who states

My name is Brandon T. Bentley My address is 8076 Howard St.

Date of Birth 4-24-79 Social Security Number Phone Number 668-4527

I completed the 12th grade in school, and (can) cannot read and write

Before answering any questions or making any statements

a person who identified himself as Special Agent Joshua Lindsey

duly warned and advised me, and I know and understand that I have the following rights That I have the right to remain silent and I do not have to answer any questions or make any statements at all that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made, that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make, that if I cannot afford to hire a lawyer I may request and have a lawyer appointed for me by the proper authority before or at anytime during any questioning or statements that I make without cost or expense to me, that I can stop answering any questions or making any statements at any time that I choose and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent and my right to have a lawyer present as I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements if I choose to do so

I declare that the following voluntary statement is made of my own free will without promise or hope of reward without fear or threat of physical harm, without coercion, favor, without leniency or offer of leniency by any person or persons whomsoever

XBT I left the Sheriff's Office going toward the City of Spartanburg on Church St. Dispatch advised Deputy Pennington that there was a disturbance between neighbors at 331 Harrell Drive. After dispatch had given Deputy Pennington the call they advised me to be en route to be secondary officer on the scene. I proceeded toward 331 Harrell Drive without lights and siren as a normal response. At the intersection of North Church and Kennedy Street dispatch advised that the call had been upgraded to a disturbance with a weapon, the weapon being a shovel and that the subject was trying to gain entry into the victims home. I call Dep. Pennington by direct contact to ask how close he was to the scene. Dep. Pennington responded that he was on route via Hwy 221. I proceeded toward 331 Harrell Drive with lights and siren having been informed that the call had been upgraded. Once I turned on East Main Street onto Zion Hill Road I turned off my lights and siren. I turned left from Zion Hill onto Harrell Drive. I realized I was on the 300 Blocks

I have read each page of this statement consisting of Four (4) page(s), each page of which bears my signature, and corrections if any bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 330 PM on the 21 day of October, 20 09

X BT Bentley
Signature of person giving voluntary statement

WORN TO AND SUBSCRIBED TO BEFORE ME THIS _____ DAY OF _____ 20___

WITNESS John Z. Zeis, SLED

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires _____

2 WITNESS _____

I certify that I have been given a copy of this statement consisting of _____ pages BT Bentley

SLED
CF003 5/95

VOLUNTARY STATEMENT
SUPPLEMENTAL

Statement of Continued

of Harrell Drive and then informed Dep Pennington that 331 would be on the left hand side of Harrell Drive

I then asked dispatch for Channel Four (4) secure channel. I relayed I had driven past 331 Harrell and noticed a black male on the front porch running to me. I backed my vehicle (1848) up and pulled into the driveway of 331 Harrell Drive by I pulled in to the driveway the black male standing on the front porch motioned with his hands toward the left I then saw the subject (a white male) standing just outside the carport on the adjoining property. I confirmed with dispatch the description of the subject being a white male with khaki (brown) shorts.

I stepped out of car and started walking toward the front of my car asking the subject to come talk with me I motioned for him with my hand while asking him to come to the front of my vehicle to talk with me. At that time the subject in an agitated manner looked directly at me standing in front of my car and told me that "if you want to talk to me mother fucker you will come in here!" The subject was standing in front of the carport in front of a wooden steps ladder and turned "inside" the car port toward the house. While the subject was walking through the carport he was talking to himself and throwing his hands up in the air as he walked. I could not understand what he was saying while he was in the carport

The subject walked past the drivers side of the Ford Explorer in the carport turned right in front of the Explorer and went up to the house door. As the subject walked through the carport I moved to the passenger side of my car so that I could maintain sight of the subject. At that time a small white dog wearing a red leash jumped from the drivers door of the Explorer in the carport and walked down the drive way. The subject yelled to me "Kill that dog". I told the subject I was just going to get the dog and that he needed to keep out of the carport and talk with me. I had been telling the subject while he was walking into and through

22 R.T Rentz
Signature of person giving voluntary statement

Person giving statement to place initials behind last word of statement as appears on last page

SLED
CF003 5/95

VOLUNTARY STATEMENT

SUPPLEMENTAL

Statement of Continued

BB the carport that he needed to come and talk with me.

At that point the subject reached onto the screen door and grabbed something hanging on the door of his unable at that time to identify what the object was that the subject grabbed. The subject then came back around to the driver side of the Ford Explorer parked in the carport with what I then identified as a umbrella. Subject had the umbrella in his right hand raised up in an offensive manner walking. Heard me standing beside my vehicle. Seeing the subject coming toward me with the umbrella raised in an offensive manner I unholstered my duty weapon pointing it at subject advising him forth loud verbal commands to drop the umbrella. The umbrella was a golf type umbrella approximately 3-3½ in length.

After giving the subject several loud verbal commands he dropped the umbrella before exiting the carport. After dropping the umbrella the subject exited the carport from the drivers side of the Explorer. Subject was approaching my position in a hurried quick step with hands raised in an offensive position at chest level.

I am constantly telling the subject to stop. Subject yelled at me while coming toward me in his offensive posture that "Mother fucker I am going to take that gun away from you and kill you." I am continuing to give the subject verbal commands to stop as I back away. Subject continues to approach me in an offensive posture with hands up. At that point I was in fear of my safety based upon subjects manner and continuing to approach me and his threats to kill me. I discharged one round from my duty weapon toward subject striking subject in chest. Subject fell to the ground. I continued to cover the subject with my BB

23 BT

Person giving statement to place initials behind last word of statement as appears on last page

Signature of person giving voluntary statement

SLED
CF003 5/95

VOLUNTARY STATEMENT
SUPPLEMENTAL

Statement of Continued

BB duty weapon and looked off to BB my left and asked the victim (black male) if he was alright. He answered "yes." I scanned the area to secure my safety to insure no one was coming from the subjects home. Upon looking to my right and back I noticed a black four (4) door vehicle parked at the stop sign of Harrell Drive and the intersecting road. I advised dispatch that a shot BB had been fired and requested a supervisor and EMS. Moments later Dep Pennington arrived on scene and we secured subject by placing him in handcuffs while attempting to place subject in handcuffs he was combative and resisted BB

24 B. T. Berta
Signature of person giving voluntary statement

Person giving statement to place initials behind last word of statement as appears on last page

Spartanburg County Employee Time Record

EMPLOYEE NAME	No	DEPARTMENT NAME	DEPT No.	BEGINNING	ENDING	STAT
BENTLEY BRANDON T	5778	SHERIFF	000300	10/10/09	10/23/09	F

84.00

Description	WEEK ONE SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	WEEK TWO SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	Grand Total
Regular			12.25	12.25			12.25	37.75	12	12			12.25	12		48.25	86.0
Vacation																	
Sick leave																	
Holiday																	
Military																	
Jury duty																	
Admin leave																	
Funeral																	
Relationship: _____ Name. _____								37.75	← TOTAL REGULAR TIME →							48.25	86.0
OVERTIME:																	
Time & 1/2												4				4.0	4.0
Straight time																	
LEAVE WITHOUT PAY																	
TOTALS			12.25	12.25			12.25	37.75	12	12		4	12.25	12		52.25	90

BT Bentley
EMPLOYEE SIGNATURE

SUPERVISOR SIGNATURE

DEPARTMENT HEAD SIGNATURE

The Grand Total column must be filled in and must total correctly to the bi-weekly hours

25

154

Bentley #5778

CONVERSION TABLE MINUTES TO HUNDREDS			
Minutes	Hundreds	Minutes	Hundreds
1	0.02	31	0.52
2	0.03	32	0.53
3	0.05	33	0.55
4	0.07	34	0.57
5	0.08	35	0.58
6	0.10	36	0.60
7	0.12	37	0.62
8	0.13	38	0.63
9	0.15	39	0.65
10	0.17	40	0.67
11	0.18	41	0.68
12	0.20	42	0.70
13	0.22	43	0.72
14	0.23	44	0.73
15	0.25	45	0.75
16	0.27	46	0.77
17	0.28	47	0.78
18	0.30	48	0.80
19	0.32	49	0.82
20	0.33	50	0.83
21	0.35	51	0.85
22	0.37	52	0.87
23	0.38	53	0.88
24	0.40	54	0.90
25	0.42	55	0.92
26	0.43	56	0.93
27	0.45	57	0.95
28	0.47	58	0.97
29	0.48	59	0.98
30	0.50		

OVERTIME EXPLANATION

DATE	TIME IN	TIME OUT	REMARKS
10-20-09	0800	1030	Court
10-20-09	1700	2000	Finish Burglary and Nebo
10-20-09	1200	1330	Court

Spartanburg County Employee Time Record

EMPLOYEE NAME	No	DEPARTMENT NAME	DEPT No.	BEGINNING	ENDING	STAT
BENTLEY BRANDON T	5778	SHERIFF	000300	10/24/09	11/06/09	F

84 00

Description	WEEK ONE SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	WEEK TWO SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	Grand Total
Regular	off	off	12	12	off	off	12	36	12	12	off	off	12	12	off	48	84
Vacation																	
Sick leave																	
Holiday																	
Military																	
Jury duty																	
Admin leave																	
Funeral																	
Relationship ____ Name: ____								36	← TOTAL REGULAR TIME →							48	84
OVERTIME																	
Time & 1/2																	
Straight time																	
LEAVE WITHOUT PAY																	
TOTALS	off	off	12	12	off	off	12	36	12	12	off	off	12	12	off	48	84

B. Bentley — EMPLOYEE SIGNATURE

Sgt Quinn Blank — SUPERVISOR SIGNATURE

DEPARTMENT HEAD SIGNATURE

The Grand Total column must be filled in and must total correctly to the bi-weekly hours

Amended

Spartanburg County Employee Time Record

EMPLOYEE NAME	SS	DEPARTMENT NAME	DEPT No.	BEGINNING	ENDING	STAT
BENTLEY BRANDON T	5770	SHERIFF	000300	11/07/09	11/20/09	F

84 00

Description	WEEK ONE SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	WEEK TWO SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	Grand Total
Regular			12	12			12	36	12	12			12	12		48	84
Vacation																	
Sick leave																	
Holiday																	
Military																	
Jury duty																	
Admin leave			12	12			12	36	12	12			12	12		48	84
Funeral																	
Relationship ——— Name ———								36	← TOTAL REGULAR TIME →							48	84
OVERTIME:																	
Time & 1/2																	
Straight time																	
LEAVE WITHOUT PAY																	
TOTALS			12	12			12	36	12	12			12	12		48	84

B. T. Bentley — EMPLOYEE SIGNATURE

SUPERVISOR SIGNATURE

Steve Clevenger — DEPARTMENT HEAD SIGNATURE

The Grand Total entered must be filled in and total correctly to the nearest hour.

Spartanburg County Employee Time Record

EMPLOYEE NAME	No.	DEPARTMENT NAME	DEPT No	BEGINNING	ENDING	STAT
Bentley, Brandon	5778	SHERIFF	000300	11/21/09	12/04/09	F

84

Description	WEEK ONE SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	WEEK TWO SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	Grand Total
Regular			12	12			12	36	12	12			12	12		48	84
Vacation																	
Sick leave																	
Holiday																	
Military																	
Jury duty																	
Funeral																	
Relationship:	Name								TOTAL REGULAR TIME								
OVERTIME																	
Time & 1/2																	
Straight time																	
LEAVE WITHOUT PAY																	
TOTALS			12	12			12	36	12	12			12	12		48	84

EMPLOYEE SIGNATURE

SUPERVISOR SIGNATURE

DEPARTMENT HEAD SIGNATURE

The Grand Total column must be filled in and must total correctly to the bi-weekly hours

158

Spartanburg County Employee Time Record

EMPLOYEE NAME	EE No.	DEPARTMENT NAME	DEPT No	BEGINNING	ENDING	STATUS
Bentley, Brandon	5778	Sheriff	800	12/05/2009	12/18/2009	F

DESCRIPTION	WEEK ONE SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	WEEK TWO SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	GRAND TOTAL	
REGULAR	/	/	12	12	/	/	12	36.00	12	12	/	/	12	12	/	48.00	84.00	R
VACATION								0.00								0.00	0.00	V
HOLIDAY								0.00								0.00	0.00	H
SICK LEAVE								0.00								0.00	0.00	SL
FLOATING HOLIDAY								0.00								0.00	0.00	FH
MILITARY LEAVE								0.00								0.00	0.00	M
ADMINISTRATIVE LEAVE			12	12			12	36.00	12	12			12	12		48.00	84.00	AL
JURY DUTY								0.00								0.00	0.00	JD
FUNERAL LEAVE								0.00								0.00	0.00	FL
Relationship	Name:							0.00	TOTAL REGULAR TIME							0.00	0.00	
OVERTIME																		
Time & 1/2								0.00								0.00	0.00	OT
Straight time								0.00								0.00	0.00	ST
[illegible]								0.00								0.00	0.00	
TOTALS	0.00	0.00	12 0.00	12 0.00	0.00	0.00	12 0.00	36 0.00	12 0.00	12 0.00	0.00	0.00	12 0.00	12 0.00	0.00	48 0.00	84 0.00	

B. J. Bentley
EMPLOYEE SIGNATURE

SUPERVISOR SIGNATURE

DEPARTMENT HEAD SIGNATURE

The Grand Total column must be filled in and must total correctly to the bi-weekly hours

Spartanburg County Employee Time Record

EMPLOYEE NAME	EE No	DEPARTMENT NAME	DEPT NO	BEGINNING	ENDING	STATUS	
BENTLEY BRANDON T	5778	SHERIFF	000300	12/19/09	01/01/10	F	84.00

DESCRIPTION	WEEK ONE								WEEK TWO									GRAND TOTAL	
	SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL			
REGULAR																			R
VACATION														12		12		12	V
HOLIDAY																			H
SICK LEAVE																			SL
FLOATING HOLIDAY																			FH
MILITARY LEAVE																			M
ADMINISTRATIVE LEAVE			12	12			12	36	12	12			12			36		72	AL
JURY DUTY																			JD
FUNERAL LEAVE																			FL
Relationship _____ Name _____								36	<------TOTAL REGULAR TIME --->							48		84	
OVERTIME																			
Time & 1/2																			OT
Straight time																			ST
LEAVE WITHOUT PAY																			
TOTALS								36								48		84	

31

Sheriff Chuck Wright

EMPLOYEE SIGNATURE | SUPERVISOR SIGNATURE | DEPARTMENT HEAD SIGNATURE

The Grand Total column must be filled in and must total correctly to the bi weekly hours

Spartanburg County Employee Time Record

EMPLOYEE NAME	EE No	DEPARTMENT NAME	DEPT NO	BEGINNING	ENDING	STATUS
BENTLEY BRANDON T	5778	SHERIFF	000300	01/02/10	01/15/10	F

84 00

DESCRIPTION	WEEK ONE SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	WEEK TWO SAT	SUN	MON	TUE	WED	THR	FRI	TOTAL	GRAND TOTAL	
REGULAR																		R
VACATION										9			12	12		~~33.5~~ 33	~~33.5~~ 33	V
HOLIDAY																		H
SICK LEAVE							11	11	12	2.5						14.5	15.5	SL
FLOATING HOLIDAY			12					12									12.	FH
MILITARY LEAVE																		M
ADMINISTRATIVE LEAVE				12			1.	13									13	AL
JURY DUTY																		JD
FUNERAL LEAVE																		FL
Relationship _____ Name _____								36	<-- TOTAL REGULAR TIME -->							~~48~~	~~84~~	
OVERTIME																		
Time & 1/2																		OT
Straight time																		ST
LEAVE WITHOUT PAY										5							5	
TOTALS								36		5						48	84	

EMPLOYEE SIGNATURE

SUPERVISOR SIGNATURE

Sheriff Chuck Wright
DEPARTMENT HEAD SIGNATURE

The Grand Total column must be filled in and must total correctly to the bi-weekly hours

HWS&C
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TELEPHONE 864-585 5100
TOLL FREE 800 543 2990
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FEIN 57 1088154

* also licensed in GA, NC IL
also licensed in GA
^ also licensed in FL

November 9, 2009

CERTIFIED MAIL RETURN RECEIPT REQUESTED
SC Workers' Compensation Commission
Claims Department
P O Box 1715
Columbia, SC 29202-1715
ATTN GREG LINE

RE WCC File No	Pending
Employee	Brandon Bentley
Employee's Address	202 Academy Street Clinton, SC 29325
Telephone No	547-1451
Social Security No	251-69-9125
Date of Injury	10/21/09
Type of Injury/Part of Body	Ps yeh/PTSD
Description of Accident	Deputy shot and killed a man that attacked him
Geographic Loc Where Accident Occurred (County)	Spartanburg
Employer	Spartanburg County Sheriff's Department
Address	P O Box 771 Spartanburg, SC 29304
Telephone No	503-4500
Insurance Carrier	SC Association of Counties Self Insurance Fund P O Box 100159 Columbia, SC 29202

RECEIVED
NOV 11 2009
COMPANION P&C GROUP

Dear Mr Line

The injured employee has retained me for representation in a claim for injuries covered by the Workers' Compensation Act and to establish a claim prior to the expiration of the statute of limitations

I am requesting the following documents if a file has been established

(XXX)	First Report of Injury	12-A
(XXX)	Physician's Report	14
(XXX)	Agreement as to Compensation	15
( )	Supplemental Agreement for Compensation	16
( )	Application to Stop Pymt of Compensation	21
( )	Any other information contained in the file	

A check in the amount of $20 00 is enclosed herewith for the above requested information

With best regards I am

Yours very truly,

Jeremy A. Dahlin

JAD/nmp
Enclosure

cc Brandon Bentley

Spartanburg County Sheriff's Department

SC Association of Counties Self Insurance Fund

RECEIVED
NOV 11 2009
COMPANION P&C GROUP

Litigation

HWS&C

HARRISON, WHITE, SMITH & COGGINS, P C
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November 9, 2009

SC Association of Counties Self Insurance Fund
P O Box 100159
Columbia, SC 29202

Re Brandon Bentley
WCC File No Pending

Dear Sir or Madam

Please be advised that our firm represents Brandon Bentley for work related injuries of 10/21/09 A letter of representation submitted to the South Carolina Workers Compensation Commission is enclosed

We would appreciate a copy of the first report of injury and Form 20 regarding Mr Bentley

If you have any questions, please feel free to contact our office

Very truly yours,

Nikki M. Phillips

Nikki M Phillips
Paralegal to Jeremy A. Dantin

/nmp

Enclosure as stated

RECEIVED
NOV 11 2009
COMPANION P&C GROUP

SPARTANBURG COUNTY SHERIFF'S OFFICE
CHUCK WRIGHT, SHERIFF

January 28, 2010

Mr Jeremy Dantin
178 West Main Street
Spartanburg, S C 29304

Chief Deputy William Parris
Spartanburg County Sheriff's Office
8045 Howard Street
Spartanburg, S C 29303

Dear Sir

Here is the information concerning your FOIA request:

There have been eight (8) incidents involving gunshots by deputies in the line of duty during the reporting period.
On April 13, 2006 a suspect was wounded by gunfire in the line of duty
The incidents where a deputy/deputies killed a suspect by gunshots occurred on these dates February 10, 2005, September 21, 2006, February 27, 2007, December 6, 2008, and October 21, 2009
A vehicle collision on August 27, 2007 resulted in the death of the other party involved
The collision was the result of the civilian failing to yield right-of way and turning in front of the deputy
Shots were fired at suspects during two other incidents dated September 1, 2009 and November 24, 2009 In both of these incidents the suspects were not struck
Should you have any questions about this information I can be reached either thru e-mail or at (864) 503 4506

Sincerely,

William Parris
Chief Deputy

An Accredited Law Enforcement Agency
P O BOX 771 • SPARTANBURG, SOUTH CAROLINA 29304 • (864) 503-4500

SPARTANBURG COUNTY SHERIFF'S OFFICE
CHUCK WRIGHT, SHERIFF

January 29, 2010

Mr Terry Booker
Risk Management Office
366 North Church Street
Spartanburg SC 29301

Master Deputy Tony Ivey
Spartanburg County Sheriff's Office
8045 Howard Street
Spartanburg, SC 29303

Dear Sir

There has been one (1) incident involving gunshots by deputies in the line of duty from January 2, 2010 through January 28, 2010

A deputy killed a suspect by gunshots on January 10, 2010 Should you have any questions about this information I can be reached either through email or at (864) 503-4505

Sincerely,

Tony Ivey
Public Information Officer

An Accredited Law Enforcement Agency
P O BOX 771 • SPARTANBURG, SOUTH CAROLINA 29304 • (864) 503-4500

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor

REGINALD I LLOYD
Director

April 5, 2010

Mr Richard B Kale, Jr
Willson, Jones, Carter & Baxley, P A
872 S Pleasantburg Dr
Greenville, SC 29607

RE Freedom of Information Act Request
Statistics regarding officer involved shootings

Dear Mr Kale

Please find the enclosed information available to you under the Freedom of Information Act

Listed below is a breakdown of the charges associated with this request An invoice will be sent to you by our Finance Department in the next few weeks

8 pages @ $ 30	-	$2 40
Research & Copying time		30 00
TOTAL	-	$32 40

If you have any additional questions you may contact me at (803) 896 7136

Sincerely,

Margaret Knox

Margaret Knox
Office of General Counsel

MAK/FOI2010-130

An Accredited Law Enforcement Agency
PO Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

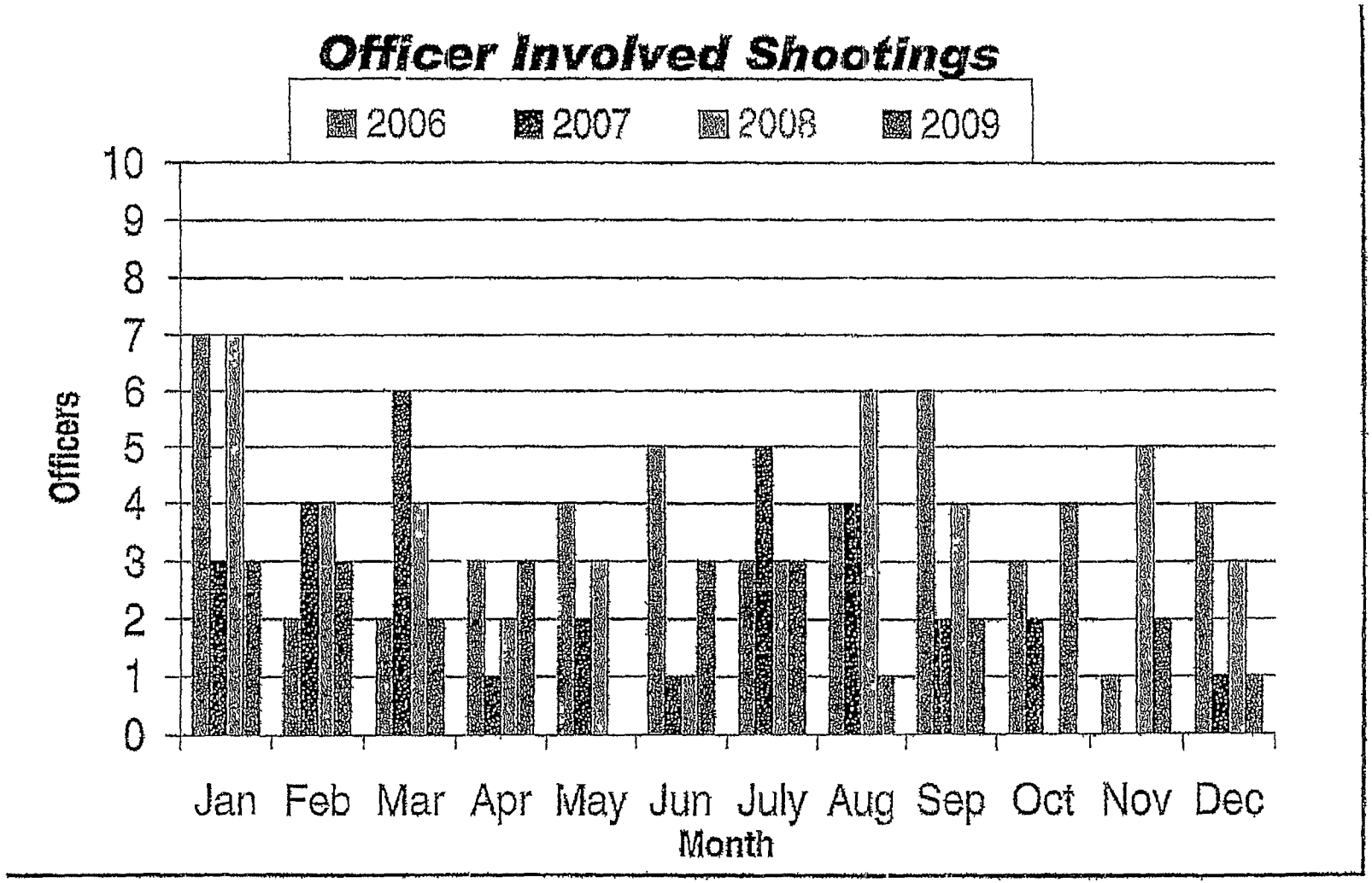
	South Carolina			
	All Types of Weapon/Force Involved			
	Officer attack-killed by that officer	Attacked officer killed by other officer	Killed committing crime	Killed resisting arrest
Incident Date	Criminal Killed by Law Enforcement Officer			
2000	6			1
2001	5	1		
2002	3			
2003	1			1
2004	3		2	
2005	1			
2006	2	1		
2007	2			
2008	1		1	

	South Carolina			
	Firearm			
	Attacked officer/killed by that officer	Attacked officer/killed by other officer	Killed committing crime	Killed resisting arrest
Incident Date	Criminal Killed by Law Enforcement Officer			
2000	6			1
2001	5	1		
2002	3			
2003	1			1
2004	3		2	
2005	1			
2006	2	1		
2007	2			
2008	1		1	

Officer Involved Shootings by Counties (In descending order of population)

County	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	OIS
Horry	5	3	1	[illegible]	[illegible]	1	[illegible]	4	2	2	[illegible]	28
Richland	1	2	4	2	5	1		4	3	4	1	27
Charleston	2	3	3	2	5	4	2	4	3	5	3	37
Spartanburg	2	2	3	2	3	4	2	3	1	2	1	25
York	[illegible]	[illegible]	[illegible]	1	2	1	1	3	3	[illegible]	2	15
Lexington	1	5	3	2	2	1	1	1	2	4	3	25
Greenville	[illegible]	[illegible]	[illegible]	2	1	[illegible]	3	[illegible]	[illegible]	[illegible]	[illegible]	9
Anderson	1	4	1	1	1	2		3	1	1		15
Berkeley	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2	[illegible]	[illegible]	[illegible]	8
Aiken						1			1		4	6
Beaufort	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	5
Florence		2			2		1	2	1	1		9
Laurens	[illegible]	2	[illegible]	[illegible]	2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	12
Pickens				1				1	3	1		6
Sumter	[illegible]	[illegible]	[illegible]	2	[illegible]	[illegible]	[illegible]	1	[illegible]	2	[illegible]	9
Orangeburg	3	4	3	1		1	1	3		5	1	22
Lee	[illegible]	[illegible]	[illegible]	[illegible]	2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2
Oconee		1			1		2					4
Lexington	[illegible]	1	[illegible]	1	1	2	[illegible]	2	[illegible]	[illegible]	[illegible]	10
Greenwood		1					1	2				4
Darlington	[illegible]	[illegible]	[illegible]	[illegible]	2	2	[illegible]	[illegible]	[illegible]	2	[illegible]	10
Georgetown		1	1			1				1		4
Kershaw	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	13
Cherokee					1	1	2			1	1	6
Marlboro	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	6
Colleton				1	1		3	2		2		9
Newberry	[illegible]	[illegible]	[illegible]	[illegible]	2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2
Williamsburg					1	1	1		1			4
Marion	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2
Clarendon	1		1									2
Chesterfield	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2
Dillon							2				1	3
McBee Pickens	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	3
Union		1			1							2
Abbeville	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1
Edgefield												0
Fairfield	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1
Barnwell					2							2
Jasper	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2
Hampton	1							1		1	1	4
Lee	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1
Saluda						1						1
Barnwell	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2
Calhoun					1							1
Allendale	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2
McCormick											1	1
Total	23	[illegible]	19	25	[illegible]	29	23	44	[illegible]	42	27	354

Statistics from Investigations department


Officer Involved Shootings
2006
2007
2008
2009
Officers
10
9
8
7
6
5
4
3
2
1
0
Jan
Feb
Mar
Apr
May
Jun
July
Aug
Sep
Oct
Nov
Dec
Month

2009 OFFICER INVOLVED SHOOTINGS

DATE	DEPARTMENT	OFFICER INJURED	OFFICER KILLED	SUSPECT INJURED	SUSPECT KILLED
1/1/2009	CHARLESTON COUNTY SO	0	0	0	0
1/6/2009	DILLON COUNTY SO	0	0	1	0
1/23/2009	AIKEN COUNTY SO	1	0	0	1
2/3/2009	CAYCE PD	0	0	1	0
2/5/2009	RIDGELAND PD	0	0	0	0
2/26/2009	CHARLESTON COUNTY SO	1	0	1	0
3/7/2009	MYRTLE BEACH PD	1	0	1	0
3/16/2009	SC HIGHWAY PATROL	0	0	1	0
4/10/2009	HAMPTON COUNTY SO	1	0	1	0
4/13/2009	DPS TRANSPORT POLICE	0	0	1	0
4/26/2009	BERKELEY COUNTY SO	0	0	1	0
6/3/2009	NORTH AUGUSTA PS	1	0	0	0
6/4/2009	ROCK HILL PD	0	0	0	1
6/27/2009	WILLISTON PS	1	0	0	0
7/1/2009	JACKSON PD	0	0	0	1
7/10/2009	CHARLESTON PD	0	0	0	1
7/18/2009	CHEROKEE COUNTY SO	1	0	1	0
8/12/2009	CHARLESTON PD	0	0	1	0
9/9/2009	COLUMBIA PD	0	0	1	0
9/16/2009	LEXINGTON CO SO	0	0	0	0
10/3/2009	SUMMERVILLE PD	0	0	1	0
10/16/2009	HORRY COUNTY PD	1	0	0	1
10/21/2009	SPARTANBURG CO SO	0	0	1	0
10/31/2009	TRAVELERS REST	0	0	1	0
11/16/2009	MCCORMICK CO	1	0	0	0
11/30/2009	ORANGEBURG CO SO	0	0	0	0
12/16/2009	CHARLESTON COUNTY SO	0	0	0	0
TOTAL 27		9	0	14	5
	LOW COUNTRY REGION 9				
	PEE DEE REGION - 3				
	PIEDMONT REGION 5				
	MIDLANDS REGION 10				

2008 OFFICER INVOLVED SHOOTINGS

DATE	DEPARTMENT	OFFICER INJURED	OFFICER KILLED	SUSPECT INJURED	SUSPECT KILLED
1/5/2008	CHARLESTON COUNTY SO				1
1/6/2008	ALLENDALE PD				
1/7/2008	IVA PD				1
1/10/2008	ORANGEBURG COUNTY SO				
1/19/2008	HORRY COUNTY PD				1
1/25/2008	LAURENS COUNTY SO				
1/28/2008	GOOSE CREEK PD			1	
2/9/2008	HARTSVILLE PD			1	
2/21/2008	COLLETON COUNTY SO	1			
2/26/2008	NORTH CHARLESTON PD			1	
2/28/2008	DORCHESTER COUNTY SO	1			
3/1/2008	SPARTANBURG COUNTY SO				1
3/12/2008	DARLINGTON COUNTY SO				
3/20/2008	GREENVILLE COUNTY SO			1	
3/26/2008	RICHLAND COUNTY SO	1			1
4/19/2008	GEORGETOWN COUNTY SO				1
4/21/2008	KERSHAW COUNTY SO/DNR				1
5/3/2008	ORANGEBURG COUNTY SO		1		1
5/4/2008	SC HIGHWAY PATROL	1			
5/21/2008	ORANGEBURG DPS				1
6/27/2008	LEXINGTON COUNTY SO			1	
7/3/2008	RICHLAND COUNTY SO				
7/9/2008	LANCASTER COUNTY SO				1
7/10/2008	LEXINGTON COUNTY SO				1
8/4/2008	FLORENCE CO SO				1
8/6/2008	COLLETON COUNTY SO		1		
8/10/2008	FOLLY BEACH PD				
8/16/2008	HAMPTON COUNTY SO				
8/29/2008	SUMTER COUNTY SO			1	
8/31/2008	ORANGEBURG DPS				
9/4/2008	BERKELLY COUNTY SO			1	
9/11/2008	MAYESVILLE PD				

2008 OFFICER INVOLVED SHOOTINGS

9/14/2008	NORTH CHARLESTON PD				
9/19/2008	RICHLAND COUNTY SO			1	
11/5/2008	IMMIGRATION & CUSTOM (ICE)			1	1
11/6/2008	PROBATION PAROLE PARDON				
11/12/2008	CHAPIN PD				
11/28/2008	RICHLAND COUNTY SO			1	
11/29/2008	CHEROKEE COUNTY SO				1
12/6/2008	SPARTANBURG COUNTY SO				1
12/10/2008	GREENVILLE COUNTY SO			1	
12/15/2008	PICKENS COUNTY SO			1	
TOTAL 22				11	5
	LOW COUNTRY REGION - 17				
	PEE DEE REGION - 7				
	PIEDMONT REGION 8				
	MIDLANDS REGION - 10				

2007 OFFICER INVOLVED SHOOTINGS

DATE		DEPARTMENT	OFFICER INJURED	OFFICER KILLED	SUSPECT INJURED	SUSPECT KILLED	
1/8/2007	1	BISHOPVILLE PD					
1/23/2007	2	LEXINGTON COUNTY SO	1			1	
1/24/2007	3	FLORENCE COUNTY SO					
2/12/2007	4	BERKELY COUNTY SO					
2/18/2007	5	PICKENS PD					
2/24/2007	6	HORRY COUNTY PD	1				
2/27/2007	7	SPARTANBURG COUNTY SO		1		1	
3/1/2007	8	DORCHESTER COUNTY SO			1		
3/9/2007	9	PICKENS COUNTY SO					
3/9/2007	10	HORRY COUNTY PD					
3/14/2007	11	LEXINGTON COUNTY SO		1			
3/15/2007	12	ANDERSON COUNTY SO					
3/25/2007	13	BERKLEY COUNTY SO		2		1	
4/19/2007	14	SC HIGHWAY PATROL	1		1		
5/14/2007	15	DARLINGTON COUNTY SO				1	
5/14/2007	16	CHARLESTON COUNTY SO		1			
6/17/2007	17	KINGSTREE PD					
7/6/2007	18	CHARLESTON COUNTY SO			1		
7/7/2007	19	NEWBERRY COUNTY SO					
7/13/2007	20	RICHLAND COUNTY SO			1		
7/22/2007	21	RICHLAND CO/ COLUMBIA PD				1	
7/26/2007	22	SUMMERVILLE PD				1	
8/11/2007	23	DORCHESTER COUNTY SO			1		
8/13/2007	24	RICHLAND COUNTY SO			1		
8/30/2007	25	AIKEN COUNTY SO	1		1		
8/31/2007	26	GREENVILLE PD				1	
9/10/2007	27	CHARLESTON PD				1	
9/10/2007	28	DARLINGTON COUNTY SO			1		
10/1/2007	29	NORTH CHARLESTON PD	1		1		
10/25/07	30	BEAUFORT COUNTY SO			1		
12/26/07	31	PICKENS COUNTY SO			1		
TOTAL	31		5	5	11	7	

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No 0916088

Brandon Bentley — Appellant

v

Spartanburg County Employer and
S C Association of Counties SIF, — Respondents

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all materials proposed to be included by any of the parties and not any other material

May 6 2011

Jeremy A Dantin
Harrison White Smith & Coggins P C
P O Box 3547
Spartanburg S C 29304
(864) 585 5100
Attorney for Appellant