

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF MISSOURI
3 WESTERN DIVISION

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6 DAMONE HARRIS,
7 Plaintiff,
8 vs. No. 02-0546-CV-W-HFS
9 DENNIS ECKOLD, et al.,
10 Defendants.

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14 DEPOSITION OF POLICE OFFICER BONITA CANNON, a
15 witness, taken on behalf of the Plaintiff, pursuant
16 to Notice, on the 14th day of July, 2003, at the
17 Kansas City Missouri Police Department, 1125 Locust,
18 Fifth Floor, Kansas City, Missouri, before

19

20 ANGIE SHERWOOD, RPR, CRR, CCR,
21
22 of Hostetler & Associates, authorized by law to
23 take depositions anywhere in the State of
24 Missouri.

25

1 APPEARANCES

2 Appearing for the Plaintiff was
3 MR. ARTHUR BENSON of ARTHUR BENSON & ASSOCIATES,
4 4006 Central, Kansas City, Missouri 64111.

5 Appearing for the Defendants was
6 MR. DALE H. CLOSE, 14315 East 97th Terrace,
7 Kansas City, Missouri 64139.

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1 (Whereupon, the deposition
2 commenced at 9:50 a.m.)
3 POLICE OFFICER BONITA CANNON,
4 a witness, being first duly sworn, testified
5 under oath as follows:
6 EXAMINATION
7 BY MR. BENSON:
8 Q. Please state your name.
9 A. Bonita Cannon.
10 Q. How are you employed?
11 A. Police officer.
12 Q. For the Kansas City Missouri Police
13 Department?
14 A. Yes.
15 Q. How long have you been an officer?
16 A. About five years now for Kansas City.
17 Q. What is your rank?
18 A. Police officer.
19 Q. And where are you assigned?
20 A. East Patrol.
21 Q. How long have you been assigned to
22 East Patrol?
23 A. Since I got out of the academy. About
24 five years.
25 Q. Have you given a deposition before?

1 A. Yes.

2 Q. So you understand you're under oath?

3 A. Yes.

4 Q. If at any time you do not understand
5 my question, would you be sure to indicate so I
6 can rephrase it?

7 A. Okay.

8 Q. Otherwise I'll assume you understand
9 the question and that's the one you're
10 answering. All right?

11 A. Okay.

12 Q. If at any time during the deposition
13 you think of something that should be a
14 different answer or an expanded answer to a
15 question I asked earlier in the deposition,
16 would you just kind of stop us and say excuse
17 me, I need to add to a previous question? Would
18 you do that?

19 A. Okay.

20 Q. Do you understand that you are here in
21 a case which Damone Harris has brought a lawsuit
22 against certain individuals in the police
23 department and the Board of Police
24 Commissioners?

25 A. Okay.

1 Q. Do you recall if there was an incident
2 on June 7, 2000 in the 3700 block of South
3 Benton that you came to?

4 A. Yes.

5 Q. All right. In preparation for this
6 deposition have you had an opportunity to look
7 at either your report or your statement given in
8 the investigation of that incident?

9 A. No.

10 Q. Have you had an opportunity to look at
11 any documents to refresh your recollection about
12 what happened on June 7, 2000?

13 A. No.

14 Q. Have you talked to anyone about it in
15 the last -- about the details or the facts of
16 what happened on June 7 in the last few months?

17 A. No.

18 (Whereupon, Cannon Deposition
19 Exhibit 1 was marked by the reporter for
20 identification.)

21 Q. (By Mr. Benson) I'm going to show you
22 what we have marked as Deposition Exhibit 1.
23 Can you identify that.

24 A. That's a 191 or interdepartment
25 communication form I wrote to my sergeant.

1 Q. Your sergeant listed there is Robert
2 Hargarten?

3 A. Yes.

4 Q. Did he request that you write this?

5 A. No. I believe it was another sergeant
6 requested this because my sergeant was not there
7 yet.

8 Q. Do you know what sergeant requested
9 it? Was it Cooley?

10 A. Yes, Sergeant Cooley.

11 Q. The date of this at the top is June 7;
12 is that correct?

13 A. Yes.

14 Q. And in the first sentence it says that
15 on June 7 you were instructed to recall the
16 events. Do you see that? It refers to June 7
17 also.

18 A. I may have meant June 8. I know I was
19 instructed to write it the next day. I didn't
20 realize I made the mistake.

21 Q. That's what I was going to ask you.
22 This memo was written the next day?

23 A. It was written when I come on duty
24 that morning.

25 Q. So it probably should be dated --

1 A. Well, actually it would be the same
2 day because it occurred after midnight on June
3 7.

4 Q. Okay.

5 A. The same day.

6 Q. It says that events transpired at
7 approximately 00:51 hours?

8 A. That's almost one o'clock in the
9 morning on June the 7th. I came back in at two
10 o'clock that next day.

11 Q. Two o'clock in the afternoon?

12 A. Yes.

13 Q. Is that right?

14 A. Yes.

15 Q. The events were still fresh in your
16 mind when you wrote this?

17 A. Yes.

18 Q. Did you have a partner that night?

19 A. Yes.

20 Q. Who was your partner?

21 A. Officer Curley.

22 Q. It says that you were working
23 buyback. What is buyback?

24 A. Manpower shortage all the time.

25 Q. They buy back your time?

1 A. That's what they call it. I guess
2 that's the term for it.

3 Q. And what were you assigned to do that
4 evening?

5 A. Patrol.

6 Q. What caused you to be in the area of
7 37th and South Benton?

8 A. A policeman put out a foot chase with
9 a stolen auto in that area. Some other
10 officers.

11 Q. Do you know whether the suspect in
12 that foot chase was ever apprehended?

13 A. That I don't know. We got there and
14 everybody was around so we left.

15 Q. Do you know where that area was where
16 you say everybody else was around?

17 A. They were at the -- if I can refer to
18 my 191?

19 Q. Whatever you need to refer to to
20 refresh your recollection.

21 A. We were at 37th and South Benton.

22 Q. Okay.

23 A. We were in that area. I don't know
24 the exact address of their foot chase.

25 Q. You were within a block or so of 37th

1 and South Benton. Is that what you mean or at
2 that intersection?

3 A. I believe we were at the intersection
4 but I'm not really sure. We were just there in
5 that area.

6 Q. Is South Benton at that location a
7 one-way street if you recall?

8 A. I believe, but I'm not positive
9 because I don't patrol that area, I believe it's
10 one way north maybe but I'm not really sure.

11 Q. And you write here that you observed
12 Police Officer Cherry get into his patrol
13 vehicle and drive toward Agnes Street.

14 Did Officer Cherry at that time have a
15 partner with him?

16 A. No. He was one person.

17 Q. So he would have been driving
18 eastbound on 37th Street? Is that what you're
19 saying?

20 A. Yes, eastbound on 37th Street from
21 South Benton to Agnes.

22 Q. When he got to Agnes you saw him turn
23 to the south?

24 A. Yes.

25 Q. And in your report you say Police

1 Officer Cherry R #335. Was Cherry Radio 335
2 that night?

3 A. Yes.

4 Q. It says he then relayed that he had a
5 vehicle eluding him. What do you mean by relay?

6 A. He gave the off air for the officers
7 and dispatch to know that he had a vehicle.

8 Q. How long after you saw him turn
9 southbound on Agnes did you hear him say he had
10 a vehicle eluding him?

11 A. I don't recall. It wasn't that long.

12 Q. Seconds or minutes? Was it a minute
13 or two?

14 A. It was longer than a few seconds
15 because he was out of our sight. We were still
16 sitting there at 37th and South Benton.

17 Q. You and Officer Curley were in your
18 vehicle?

19 A. Yes, when he walked back towards our
20 vehicle.

21 Q. Who was driving?

22 A. Officer Curley was driving.

23 Q. You write that we then went in the
24 direction he had gone. Headed eastbound on
25 37th?

1 A. Yes.

2 Q. When you got -- where did you first
3 turn after you went eastbound?

4 A. We turned south on Agnes.

5 Q. And where were you when Cherry relayed
6 that he had a car check?

7 A. We were not quite at 38th and Agnes
8 and I believe it's like one block. It's South
9 Benton and then there is Agnes. I don't believe
10 there is a block between the two.

11 Q. Cherry relayed that he had a car check
12 in the 3800 block of South Benton. Do you
13 recall what he said on that radio broadcast?

14 A. That he had a car check and to hold
15 the air.

16 Q. What does hold the air mean?

17 A. For no one else to transmit traffic,
18 air traffic but him.

19 Q. In your training under what
20 circumstances are you trained to request the
21 other officers to hold the air?

22 A. For the dispatcher to hold the air?

23 Q. Yes.

24 A. In a situation where in case you need
25 to get on the air immediately you want the air

1 clear so you can talk on it because there is
2 usually a lot of traffic on the air.

3 Q. When the air is held, how long is it
4 held?

5 A. For however long the officer deems it
6 necessary to be held.

7 Q. What if another officer has something
8 urgent?

9 A. If they have something urgent they get
10 on to give location or whatever is going on.
11 Sometimes the air is held simultaneously for
12 more than one officer.

13 Q. When Officer Cherry told the
14 dispatcher to hold the air, did he say why he
15 needed the air held?

16 A. No.

17 Q. And it says in your report that at the
18 time Cherry asked the dispatcher to hold the
19 air, you and Officer Curley were at 38th Street
20 turning northbound on to South Benton; is that
21 correct?

22 A. By the time the air was held we had
23 gotten -- we had gotten to 38th Street and we
24 were attempting to turn northbound, yes.

25 Q. And what did you see as you came

1 around the corner?

2 A. When we started to turn?

3 Q. Yes.

4 A. They were struggling. There was one
5 or two officers. Can I refer to the 191 because
6 this is like three years.

7 Q. Yes, you may.

8 A. There was two officers and a black
9 male. They were standing in the street. Looked
10 like -- I don't know. It looked like they were
11 struggling. I'm not really sure what they were
12 doing.

13 Q. At that point did you see Officer
14 Cherry's vehicle?

15 A. I don't know. I don't recall where
16 his vehicle was. I don't know. I wasn't
17 looking at the vehicle. I was looking at the
18 officers.

19 Q. Prior to that point had you heard a
20 police siren?

21 A. I don't recall hearing a siren.

22 Q. Do you recall whether or not Officer
23 Cherry's flashing lights on the roof of his car
24 were on or off?

25 A. I don't recall about it. I was just

1 focusing on them when we turned.

2 Q. I believe you said earlier that
3 Officer Cherry was driving alone and did not
4 have a partner. You saw two officers when you
5 came around the corner at 38th and Benton?

6 A. Yes.

7 Q. Were there two police cars there? Do
8 you recall seeing two cars?

9 A. I don't recall seeing two police cars.

10 Q. Do you recall seeing a police car?

11 A. Yes, and then one had approached. One
12 had went northbound before we made our turn. A
13 patrol car went and stopped at the scene.

14 Q. All right. So you were on 38th about
15 to turn north to South Benton; is that correct?

16 A. Uh-huh.

17 Q. Is that a yes or no?

18 A. Yes. I'm sorry.

19 Q. And a police officer already on Benton
20 went past you before you were able to make your
21 turn?

22 A. Yes.

23 Q. Did that car have its siren or lights
24 on?

25 A. I don't recall.

1 Q. And at that point as you were coming
2 around the corner you were in the passenger seat
3 so you can see out your window northbound on
4 38th?

5 A. Yes.

6 Q. I mean northbound on South Benton.
7 Excuse me.

8 A. Yes.

9 Q. This is where you see one black male
10 and two police officers struggling; is that
11 correct?

12 A. Yes.

13 Q. What details do you recall about that
14 struggle?

15 A. That they were all standing. When we
16 were approaching they were all standing.
17 Another officer approached and then they were
18 all on the ground. I went over there and asked
19 if anyone had tried to handcuff him.

20 Q. You're getting ahead.

21 A. I'm sorry.

22 Q. That's all right. You're doing fine.
23 When you first observed the struggle
24 they were on their feet. Let's talk about that
25 before they go to the ground. What did the

1 struggle consist of?

2 A. No one had ahold of the black male.

3 They didn't have ahold of him. He was like
4 going in a circle back and forth.

5 Q. And were officers trying to grab him?

6 A. Yes. They were yelling. I don't know
7 what they were yelling but they were yelling.
8 Everybody was yelling, all of them were yelling.

9 Q. While they are still on their feet did
10 you see any fists or punches thrown or kicks
11 made?

12 A. No.

13 Q. At some point did one of the officers
14 manage to get his arms around the black male
15 subject?

16 A. Yes.

17 Q. And then did another officer come to
18 tackle them or knock them over?

19 A. Yes.

20 Q. You saw that?

21 A. Yes.

22 Q. And so one police officer and the
23 black male suspect were locked in the officer's
24 arm when the second officer tackled them? Is
25 that what you recall?

1 A. I don't know how many officers had
2 ahold of him.

3 Q. At least one?

4 A. At least one.

5 Q. And then another officer who had not
6 been involved in the struggle before that you
7 had seen, is that right, came --

8 A. Right.

9 Q. -- and approached them and appeared to
10 tackle them?

11 A. Well, they all went to the ground. I
12 don't know what he did. They all went to the
13 ground.

14 Q. Just after he approached them?

15 A. Yes.

16 Q. Instantly within seconds; is that
17 right?

18 A. Well, at the time that I saw him
19 running toward them I had gotten out of the car
20 and I got out and I was looking back behind me.
21 I turned back around and everybody was on the
22 ground. It was all three officers and that
23 male.

24 Q. And when you got out of your vehicle,
25 your vehicle was right behind Officer Cherry's

1 vehicle?

2 A. As we approached we stopped our patrol
3 car behind Police Officer Cherry's vehicle, yes.

4 Q. Do you recall now whether or not the
5 flashing lights on the roof were on?

6 A. I don't remember, sir. I don't
7 recall.

8 Q. Was Police Officer Smith the officer
9 who had driven in front of you as you were
10 turning from 38th on to South Benton?

11 A. Yes.

12 Q. After you got out of the car it says
13 here "I ran up to them and asked if anyone was
14 attempting to handcuff the suspect."

15 How far did you have to run from the
16 car to where they were? Three or four steps?
17 Ten steps?

18 A. No. It was over two car lengths. It
19 was just over two car lengths.

20 Q. Were they in the street?

21 A. In the street.

22 Q. Did you see what later was identified
23 as the black male subject's vehicle?

24 A. I believe it was brown, some type of
25 vehicle, two-door vehicle.

1 Q. And where was this pile of officers
2 and the subject on the ground when you ran up to
3 them relating to either the subject's brown
4 vehicle or Officer Cherry's vehicle?

5 A. In relation to the black male's
6 vehicle and Officer Cherry's vehicle between the
7 vehicle and on the ground like in front of the
8 patrol car in that area, kind of off to the side
9 a little bit and behind. Like the patrol car is
10 behind and then the brown car would be in the
11 front. They are off to the side here in the
12 middle.

13 Q. In the middle of the street?

14 A. No. Between the two cars. Not in the
15 middle of the street but not on the curb but
16 two, three feet maybe.

17 Q. About what distance separated Officer
18 Cherry's car from the black male subject's
19 vehicle? A car length or more?

20 A. I want to say about a car length. I'm
21 not really sure.

22 Q. Was the black male subject's brown
23 vehicle parked at the curb?

24 A. Yes, it was parked at the curb. Yes.

25 Q. And was Officer Cherry's car parked at

1 the curb or was it some distance from the curb?

2 A. I don't recall if it was right on the
3 curb or where but it was behind that vehicle.

4 Q. About a car length behind the
5 subject's vehicle approximately?

6 A. Not quite a patrol car length but it
7 was like seven feet or so, seven, eight feet.

8 Q. Behind the subject's car?

9 A. Yes.

10 Q. So somewhere between Officer Cherry's
11 car's grill and the trunk of the subject's car
12 they were on the male in the pile?

13 A. Yes, off to the side.

14 Q. Off to the side toward the street or
15 toward the curb?

16 A. Toward the street.

17 Q. So if you draw a line from Officer
18 Cherry's right headlight to the subject's right
19 rear would that line go through where they were
20 struggling?

21 A. The subject's taillight, right
22 taillight. No. Those cars were not even. I
23 don't believe they were even, no.

24 Q. Because Cherry's car was more out in
25 the street a bit?

1 A. Yes.

2 Q. So if you drew this imaginary line
3 starting with Cherry's right headlight going to
4 the subject's right rear, where were they in
5 relation to that line? Where were the officers?

6 A. Just off to the side.

7 Q. Towards the center of the street, just
8 off that line?

9 A. Uh-huh.

10 Q. Is that right? You need to say yes or
11 no.

12 A. I'm sorry. Yes.

13 Q. Okay. Great. Now, as you went up to
14 them you said is anyone attempting to handcuff
15 the suspect. Do you remember what words you
16 used?

17 A. Had anyone attempted to handcuff him.
18 In the position they were all in it didn't
19 appear that you could get in to get the cuffs,
20 the position that the subject was in.

21 Q. Was the subject face down?

22 A. At that time?

23 Q. Yes.

24 A. Yes, he was face down.

25 Q. And where was Officer Cherry in

1 relation to the subject?

2 A. I remember Cherry he was talking on

3 the radio and he was off on one knee.

4 Q. By off on one knee --

5 A. He was on one knee.

6 Q. Cherry was down on one knee?

7 A. Right.

8 Q. What was that knee on?

9 A. Off to the subject's right side.

10 Q. Was it Cherry's left knee or right
11 knee?

12 A. That I don't remember.

13 Q. And do you know what Cherry was saying
14 when he was radioing?

15 A. That he wasn't in custody I believe.

16 Q. What was Officer Smith doing when you
17 came up and asked if anyone was attempting to
18 handcuff the subject?

19 A. Trying to get the subject's hand out.

20 Q. The subject's hand was underneath the
21 subject's body?

22 A. Uh-huh.

23 Q. Is that yes?

24 A. Yes.

25 Q. What was Officer Webb doing?

1 A. I don't recall what Officer Webb was
2 doing. I'm sorry. I don't recall what he was
3 doing when I first got there.

4 Q. When you asked if anyone was
5 attempting to handcuff the suspect did Cherry
6 answer?

7 A. Say that again, sir.

8 Q. You wrote in here "Cherry stated no."
9 Do you see where you've written that?

10 A. Yes.

11 Q. Was that Cherry's answer to your
12 question if anyone was attempting to handcuff
13 the --

14 A. Right.

15 Q. When Cherry said that his knee was on
16 the subject's right side?

17 A. No. He had stood up. When I
18 approached he stood up.

19 Q. And he stood up and Webb and Smith are
20 still there with the subject. Are they on the
21 ground?

22 A. I don't recall. They are still on the
23 ground. I don't recall what Webb was doing at
24 that point when I approached. I don't recall
25 what he was doing because there was a large

1 crowd gathering.

2 Q. At the point where Cherry answered no
3 to your question about attempting to handcuff,
4 were there any other officers there besides you,
5 Cherry, Webb and Smith?

6 A. Curley had went off to the crowd so we
7 were the only ones there.

8 Q. And at that point Cherry stood up and
9 radioed to the dispatcher that the party was not
10 in custody?

11 A. Yes.

12 Q. You wrote "I yelled for some handcuffs
13 and was thrown a pair by an unknown officer."

14 A. Correct.

15 Q. Did you just yell -- do you recall
16 what you said?

17 A. I said give me some handcuffs.

18 Q. You didn't have handcuffs?

19 A. I had them. We lose handcuffs.

20 Handcuffs grow feet and they walk. I didn't
21 want to leave my handcuffs there. I wanted
22 handcuffs of those involved. I was going to try
23 to handcuff him.

24 Q. And somebody threw you a pair through
25 the air?

1 A. Handed. It was tossed to me.

2 Q. Do you remember who tossed them to
3 you?

4 A. I don't have any idea.

5 Q. Had some other officer besides the
6 ones we've named arrived at that point?

7 A. I don't know.

8 Q. Is it your best estimate now that
9 those handcuffs came from either Cherry, Curley,
10 Webb or Smith?

11 MR. CLOSE: Don't guess if you
12 don't know.

13 THE WITNESS: I don't know. I
14 don't know whose cuffs they were.

15 Q. (By Mr. Benson) Was there any other
16 officer from whom they could have come other
17 than those four?

18 A. I don't know who was there. I don't
19 know who had arrived.

20 Q. You caught the pair of handcuffs?

21 A. Yes.

22 Q. Then what did you do?

23 A. I put my hand up and there were
24 handcuffs.

25 Q. And then what did you do?

- 1 A. I went down to try to handcuff him.
- 2 Q. What was going on when you went down
- 3 to handcuff him? What attitude was the
- 4 subject's body?
- 5 A. What do you mean what attitude?
- 6 Q. Face up? Face down? On his side?
- 7 A. Can I refer to my 191?
- 8 Q. Yes, you may.
- 9 A. You said you want to know how the --
- 10 Q. You get the handcuffs and you go down
- 11 to try to put the handcuffs on. Where was the
- 12 subject at that point?
- 13 A. He was on his back.
- 14 Q. Somebody had turned him over?
- 15 A. I'm sorry. He was on his chest. He
- 16 was face down.
- 17 Q. Face down, and are his arms underneath
- 18 him still?
- 19 A. Yes. I'm asking for his hands and he
- 20 won't give them to me.
- 21 Q. He is like holding his arms under his
- 22 chest?
- 23 A. I don't know if he's holding them
- 24 there. He wouldn't give me his hands. He was
- 25 kicking his feet.

1 Q. What are Officers Webb and Smith
2 doing?

3 A. I know Webb was doing the LVNR. I
4 don't know what Smith was doing at that time.

5 Q. How was Webb situated so he could do
6 the LVNR?

7 A. He was on the subject's back.

8 Q. Straddling him?

9 A. No. He was kind of like off to one
10 side, off to the left side of the subject.

11 Q. Was he on his knees?

12 A. I don't recall if he was on his
13 knees. I don't think he was because I got in
14 between up underneath between Webb and the
15 subject to get his arm.

16 Q. And LVNR is lateral vascular neck
17 restraint?

18 A. Yes.

19 Q. Was Webb applying that by bending
20 over?

21 A. No. Webb was lying down on the
22 ground.

23 Q. He's laying down on top of or
24 partially on the back of the subject?

25 A. Yes.

1 Q. So we have the subject's arms are on
2 the pavement, then the subject, then on top of
3 the subject partially is Officer Webb; is that
4 correct?

5 A. Yes.

6 Q. Where is Officer Smith at this point?

7 A. I don't know where Smith was.

8 Q. Were you able to get ahold of the
9 subject's arms or hands when Webb is performing
10 the LVNR? Were you able then to get ahold of
11 the subject's arms?

12 A. I got ahold of his right arm.

13 Q. And you write that the suspect was
14 actively resisting at this time. You say he's
15 resisting with his feet?

16 A. He's kicking his feet and he was not
17 complying to me to giving his hands.

18 Q. Are you saying give me your hands?

19 A. I'm asking for his hands.

20 Q. What are you saying?

21 A. Put his hands behind his back.

22 Q. Were other officers yelling at him or
23 saying anything?

24 A. Webb was repeating stop resisting over
25 and over again. I don't know what anybody else

1 was doing. At some point in time we were the
2 only two there.

3 Q. And you write in your report that "I
4 observed Webb administering the lateral vascular
5 neck restraint on the suspect. The suspect was
6 actively resisting at this time. Police Officer
7 Webb was doing this as he was on the suspect's
8 back and the suspect was down lying in the
9 street."

10 MR. CLOSE: You left out the word
11 "face."

12 Q. (By Mr. Benson) "The suspect was face
13 down lying in the street."

14 Then you write "Police Officer Cherry
15 was kneeling on one knee with one knee in the
16 area of the suspect's side."

17 Is this the second time Cherry has
18 gone down? He stood up to radio and then he
19 went back down on his knee?

20 A. No. I'm sorry. When I first got
21 there this is the position that I recall the
22 officers being in at the time.

23 Q. At the time the LVNR is being
24 administered?

25 A. Yes.

1 Q. So earlier when you said when you were
2 asking for the handcuffs that Cherry was down on
3 one knee on the suspect's right side, that's not
4 correct? Cherry had his knee down one time
5 then?

6 A. Yes.

7 Q. And the time that Cherry had his knee
8 on the subject was the time Webb was applying
9 the LVNR; is that correct?

10 A. Yes.

11 Q. You write "I proceeded to handcuff the
12 suspect. I was successful with the suspect's
13 right hand."

14 How did you get the right hand?

15 A. I got on my knees and I was reaching
16 up underneath him and was pulling it out and I
17 partially got it out and I handcuffed it as best
18 I could.

19 Q. Did you try to reach the left hand?

20 A. I couldn't get his left hand.

21 Q. Were you on his right side?

22 A. Yes.

23 Q. So in order to get the left hand Webb
24 was partially lying on him at this point on the
25 left side?

1 A. Right. Originally I tried for the
2 left hand and I couldn't get it so I got the
3 right hand.

4 Q. At some point someone yelled "Gun,
5 he's got a gun"?

6 A. Yes.

7 Q. You had just gotten the cuffs on the
8 right hand; is that correct?

9 A. Yes.

10 Q. And you were unable to get the left
11 hand when you heard someone yell "Gun or he's
12 got a gun"?

13 A. Yes.

14 Q. To this day do you know who yelled
15 that?

16 A. I don't have any idea.

17 Q. You write then "At that time all
18 officers except Webb and I got up off the
19 ground"?

20 A. Yes.

21 Q. Is that correct? Was it Webb or was
22 it Curley?

23 A. Curley was not involved in this.

24 Q. Okay. You write "I was struck in the
25 left side of my face by an unknown officer

1 during the time the officer got up and assisted
2 with a second suspect."

3 Do you know who hit you in the left
4 side of your face?

5 A. I don't have any idea. To this day I
6 don't know what I was hit with and I don't know
7 with what or who.

8 Q. You know it was by another officer?

9 A. I know it wasn't the suspect, the
10 subject on the ground, no.

11 Q. All right. And by this time had Webb
12 administered the LVNR?

13 A. Excuse me?

14 Q. When somebody said "Gun, he's got a
15 gun," had the LVNR been administered to the
16 subject?

17 A. Yes. Webb was doing the LVNR or
18 utilizing the LVNR on the subject.

19 Q. And had the subject gone still at the
20 time someone yelled "Gun, he's got a gun"?

21 A. During the time when someone yelled
22 "gun" and the time that I had -- somehow or
23 another, I don't recall, Webb ended up
24 underneath the guy and the guy was over on top
25 of Webb. I had his right arm out.

1 Q. And at that point had the LVNR taken
2 effect and caused the subject to stop moving?

3 A. I don't know. No. At that point when
4 he was turned over to his back, I don't recall
5 if he was moving or not.

6 Q. Okay. Now, at that time when the
7 subject rolled over to his back with Webb
8 underneath him, had you lost hold or given up
9 the hold of the right hand?

10 A. No. That's when I was hit. When they
11 yelled out everybody went running. I know there
12 was a third officer there with Webb and Cherry
13 was standing there. There was a third officer.
14 Don't know who it was. And he was trying to
15 help me get the subject in position where we
16 could handcuff him. I don't know who it was.
17 Then I think they yelled "gun." That third
18 officer I believe is when I got struck because
19 he was bending over. When he turned he turned
20 to go that way.

21 Q. Turned and rose up?

22 A. Yes. I lost my grip and I was trying
23 to hold to the wrist because there was a loose
24 handcuff there.

25 Q. And then when you looked back the

1 subject had rolled over on to his back with Webb
2 underneath him; is that correct?

3 A. Yes.

4 Q. And you then tried to get ahold of the
5 handcuffed right hand again?

6 A. I didn't completely lose hold. I had
7 his wrist but I didn't have the cuff the way I
8 was trained to hold on to when you are
9 handcuffing someone. I had his arm but I didn't
10 have the cuff.

11 Q. So what did you try to do first? Get
12 ahold of the cuff or the left hand?

13 A. I was trying to get back to the cuff
14 and then I was trying to get to his left hand.

15 Q. And at that point Webb is still
16 administering the lateral vascular neck
17 restraint?

18 A. He still is in that position, yes.

19 Q. But he's doing it from underneath the
20 subject; is that correct?

21 A. Yes.

22 Q. And then two black male police
23 officers approached?

24 A. Yes.

25 Q. Do you know who they were?

- 1 A. I don't know who they were.
- 2 Q. Did you later find out who they were?
- 3 A. No, I did not.
- 4 Q. One of those officers went to the
5 subject's head and the other to your side. What
6 do you mean he went to the subject's head?
- 7 A. Excuse me. The subject was on his
8 back and the other officer -- his arm was
9 raised.
- 10 Q. The right arm?
- 11 A. The right arm was up and I was trying
12 to get to that one. I had ahold of his arm.
- 13 Q. Trying to pull his arm down?
- 14 A. Then during the struggle he was -- his
15 arm was going further up in the air and that's
16 when the black officer approached and grabbed
17 ahold of that arm.
- 18 Q. The right arm?
- 19 A. He got ahold of the right arm, yes.
- 20 Q. He is doing it from above the
21 subject's head?
- 22 A. It looks like he's trying to do a
23 wrist lock, to do a wrist lock on the subject.
24 He had his wrist bent with the handcuff and he
25 was getting ahold of the other cuff.

1 Q. And then you say the other black
2 officer then went to your side?

3 A. Right. During that is when I got
4 knocked away from the guy completely.

5 Q. How did you get knocked away?

6 A. When he was twisting.

7 Q. When who was twisting?

8 A. I don't know. Either the subject was
9 twisting or the officer was twisting. I mean
10 not twisting but turning him. I got knocked
11 away from him.

12 Q. Turning the subject?

13 A. Yes.

14 Q. So you got knocked away by some action
15 of one of the two black officers?

16 A. I don't know it was them or who. When
17 they approached that's when I lost my hold of
18 the subject at all.

19 Q. And one of the two black officers
20 yelled at the subject "You got a gun, mother
21 fucker;" is that correct?

22 A. Yes.

23 Q. Was it asked as a question or a
24 statement?

25 A. I took it as a question.

1 Q. The subject is not saying or speaking
2 at this point?

3 A. No.

4 Q. So he didn't answer that if it was a
5 question?

6 A. He didn't say. The subject was not
7 speaking at that time.

8 Q. In fact, clear up to this point you
9 haven't heard the subject say anything, have
10 you?

11 A. He was yelling let me up, get off of
12 me and kicking his feet when I got there.

13 Q. And as the struggle ensued did he
14 continue saying get off or let me up or did he
15 stop saying anything?

16 A. At some point he stopped saying
17 anything.

18 Q. Do you remember what that point was?

19 A. I don't.

20 Q. When you asked for cuffs?

21 A. He was talking.

22 Q. He was still saying let me up or leave
23 me alone?

24 A. Yes.

25 Q. When he rolled over on to his back

1 with Webb underneath him applying the LVNR was
2 he still talking at that point?

3 A. I don't recall.

4 Q. Okay. When one of the black officers
5 yelled "You got a gun, mother fucker," how many
6 times did he yell that?

7 A. Just once.

8 Q. Then you write the two of them began
9 pulling and pushing on the subject. Are you
10 talking about the two black officers?

11 A. Uh-huh.

12 Q. Is that a yes?

13 A. Yes.

14 Q. How were they pulling and pushing on
15 the subject?

16 A. Well, they weren't going the same
17 direction with him. One was trying to go back
18 to the ground, turn him back on to his chest to
19 handcuff him. The other was going in the
20 direction that Webb had him which was on his
21 back with Webb underneath him.

22 Q. And you were still holding on to his
23 cuffed right hand?

24 A. I was trying and he grabbed my lapel
25 mike.

1 Q. The subject did?

2 A. Yes.

3 Q. So he was reaching up grabbing and
4 what he grabbed was your lapel mike?

5 A. Yes.

6 Q. What happened when he grabbed your
7 lapel mike?

8 A. It just come loose from my shirt. I
9 was, I don't know by what or whom, pushed or I
10 lost my grip and I went off to the right. It
11 came loose.

12 Q. The radio did?

13 A. It was just there. The cord is kind
14 of long and it was just stretched out.

15 Q. So the cord was still attached to the
16 radio transmitter on your belt?

17 A. Yes.

18 Q. But the mike itself had come detached
19 from your collar?

20 A. It had come unattached because I had
21 it here on the center. I had it here.

22 Q. You are indicating over your right
23 shoulder right here down under your chin?

24 A. Yes.

25 Q. And as the subject grabbed ahold of

1 your lapel mike that's when you were knocked
2 face first into the ground by one of the two
3 black officers?

4 A. Yes.

5 Q. When you were knocked face down to the
6 ground did you let go of the subject's right
7 hand?

8 A. Yes.

9 Q. You say at that point "I realized that
10 this situation was out of control and needed to
11 be secured due to a large number of people
12 gathering."

13 What caused you to realize that?

14 A. Because I had stood up and looked
15 around. I stood up and turned around to get
16 back over there and when I turned right I don't
17 know, I turned and saw all those people up
18 there. And it was a lot of people out there.

19 Q. These are people standing in the area
20 of the sidewalk and back up towards their
21 houses?

22 A. Yes, standing on the wall, standing on
23 the yards.

24 Q. Are we talking about 30 or 40 people?

25 A. It may have been more than that. I

1 don't know. It was a lot of people.

2 Q. When you got up at that point you
3 write "I observed Police Officer Henderson
4 attempting to calm down an upset citizen."

5 A. Yes.

6 Q. Do you know who that citizen was?

7 A. It was a taller black gentleman is all
8 I remember.

9 Q. About how old?

10 A. Maybe 40s, if not older.

11 Q. Thin? Heavy? Medium build?

12 A. Medium. He was much, much taller than
13 her.

14 Q. At that point you say "I turned back
15 around toward the officers and observed Police
16 Officer Cherry punching the original suspect in
17 the groin area with both fists as he is saying
18 mother fucker."

19 A. Yes.

20 Q. So by both fists you mean he is kind
21 of doing a pumping action with his hands?

22 A. Yes.

23 Q. Were his fists palm up or palm down?

24 A. His fists were palm down.

25 Q. Left, right, left, right or both at

1 the same time?

2 A. Left, right, left, right.

3 Q. How many times did he do this left,
4 right, left, right?

5 A. I didn't count.

6 Q. Was it three or four times that you
7 saw?

8 A. Maybe three or four times. As soon as
9 I saw him doing it I pushed him.

10 Q. You say he was saying mother fucker.
11 How many times did you hear him say mother
12 fucker as he was punching the subject in the
13 groin?

14 A. I only heard it one time and I yelled
15 for him to cut it out.

16 Q. Do you recall what words you used to
17 Cherry? Did you shout? Did you say it loudly?

18 A. Yes. I yelled at him.

19 Q. And it says you pushed him out of the
20 way. Did you use both hands?

21 A. Yes.

22 Q. And what part of the body did you push
23 him on?

24 A. Because he was kneeling and I was
25 standing I pushed him in the area of his right

1 shoulder and his back and pushed him aside.

2 Q. He is kneeling and the subject is
3 standing up at that point?

4 A. No. The subject is in the same
5 position.

6 Q. He is on his back with Webb underneath
7 him?

8 A. Yes.

9 Q. And so Cherry is on his knees punching
10 down and his fists are going down to the groin
11 area. Back up. Is the subject on his side or
12 on his back?

13 A. He's on his back.

14 Q. And Cherry is kneeling right next to
15 his hip area?

16 A. He is in between his legs.

17 Q. So the subject's legs are spread; is
18 that correct?

19 A. Yes.

20 Q. And Cherry is down on both knees?

21 A. I don't recall if he was on both
22 knees.

23 Q. One or both knees?

24 A. Yes.

25 Q. And then he is then punching the

1 subject in the groin area?

2 A. Yes.

3 Q. What other officers were there? Webb
4 is underneath him still; is that correct?

5 A. Yes.

6 Q. Is he still applying the LVNR?

7 A. I don't know.

8 Q. The subject stopped moving sometime
9 before, had he not?

10 A. He grabbed my lapel mike. I don't
11 know what point he stopped moving.

12 Q. At the time Cherry is punching the
13 subject in the groin area is the subject moving?

14 A. I don't recall.

15 Q. Wasn't kicking at that point? His
16 legs weren't kicking?

17 A. No.

18 Q. As he is being punched in the groin
19 area the subject doesn't pull his legs up or
20 raise his knees up or anything, correct?

21 A. I don't recall.

22 Q. So all you recall was that the
23 subject's legs were out straight?

24 A. They were kind of bent, slightly bent
25 at the knees.

1 Q. And not moving?

2 A. I don't recall if they were moving at
3 all. I had focused on Cherry when I pushed him.

4 Q. You wrote that you pushed Cherry out
5 of the way and once again attempted to finish
6 handcuffing the original suspect, how did you go
7 about attempting to handcuff him?

8 A. I went back to the right arm and the
9 other officer -- there was an officer standing
10 there. I don't know who it was. I didn't push
11 him but I stepped in between there, got him
12 turned back over on to his chest.

13 Q. You stepped between the other officer
14 and the subject who was lying down?

15 A. Yes.

16 Q. And you turned the subject over on to
17 his chest?

18 A. I put him on to his chest to finish
19 handcuffing him.

20 Q. Did that roll him off of Webb?

21 A. Somehow or another, I don't know how
22 Webb did it, Webb ended up on his knees with his
23 arm still around the subject's neck.

24 Q. And when you rolled the subject over
25 on to his chest were you able to get his left

1 hand?

2 A. Yes.

3 Q. Were you able to finish cuffing him?

4 A. No, not immediately. When Webb let go
5 I was able to get him handcuffed.

6 Q. Okay. And here you wrote "I observed
7 a black male officer with the original suspect
8 in a wrist lock on the left hand"?

9 A. Yes.

10 Q. Is this the second attempt to wrist
11 lock him?

12 A. I don't know it was the same officer
13 or not. His left hand was out so I got him back
14 to his chest and I handcuffed him. That's when
15 I took that hand and handcuffed him.

16 Q. You took the left hand from that
17 officer?

18 A. Yes, and I handcuffed him.

19 Q. At that point the suspect was then
20 handcuffed with his hands behind his back?

21 A. Yes.

22 Q. And he's lying on his chest, correct?

23 A. Say that again.

24 Q. He's lying on his chest?

25 A. Yes.

1 Q. And not moving at that point?

2 A. No.

3 Q. Is that correct?

4 A. No. Correct, he is not moving.

5 Q. And you say "I told Police Officer
6 Webb that if he would get up I could finish
7 handcuffing the original suspect."

8 You asked Webb to leave before you
9 finished handcuffing him?

10 A. The position that Webb was in, Webb
11 was in the way of my finishing handcuffing him.

12 Q. But he couldn't get out of the way
13 because he was trapped under this subject?

14 A. Somehow or another before I turned him
15 back over Webb was underneath him and then Webb
16 had gotten in some position and couldn't free
17 his arm. I asked someone else to help Webb get
18 his arm out of the way so I could handcuff the
19 subject.

20 Q. That was Police Officer White who
21 assisted?

22 A. Jason White. I don't know the
23 officer.

24 Q. You wrote Police Officer White
25 assisted Police Officer Webb?

1 A. Yes, that's who it was. Because White
2 was with the crowd and I yelled for an officer
3 and White walked over and helped free Webb's
4 arms and then I handcuffed him.

5 Q. And you write that when you completed
6 handcuffing the original suspect "I observed the
7 original suspect to be bleeding from the area of
8 his face."

9 Was that the first time you had seen
10 blood on the suspect?

11 A. Yes. I hadn't seen his face the
12 entire incident.

13 Q. You write you also observed blood on
14 the ground. Where on the ground was it?

15 A. Next to the subject.

16 Q. Next to the subject's face?

17 A. Uh-huh.

18 Q. To where the face had been before he
19 was turned over?

20 A. No. His face may have been there at
21 some point, but there was the blood just off to
22 the left of the subject.

23 Q. At head or shoulder level when he was
24 lying down?

25 A. Head.

1 Q. And you also noticed you write "blood
2 on my broken glasses." When had your glasses
3 got broken?

4 A. When I was knocked face first.

5 Q. By one of the police officers?

6 A. Whoever, however, I was knocked off of
7 him away from him.

8 Q. And were they broken apart or lenses
9 came out?

10 A. The lens was broken out.

11 Q. And you found them I guess and found
12 blood on them?

13 A. Part of them, yes.

14 Q. Did you have trouble -- are you
15 nearsighted or farsighted?

16 A. I mainly use them for reading but I'm
17 forever reading so I just wear them. I don't
18 need to see them to see to drive or anything.

19 Q. At that point when you noticed the
20 blood on the subject's face on the ground on
21 your glasses, is the subject still lying down
22 now handcuffed?

23 A. Yes, he is face down.

24 Q. And when you saw the blood you radioed
25 for the dispatcher to send an ambulance?

1 A. Yes. I saw the blood. I asked for an
2 ambulance.

3 Q. And you say "I observed the original
4 suspect to still be face down and appeared to be
5 unconscious."

6 He was not moving I take it?

7 A. No.

8 Q. Could you tell whether he was
9 breathing?

10 A. I was standing up because I had
11 handcuffed him and then I stepped back and
12 that's when I went and looked for my glasses,
13 saw the blood, saw his face, and then I ordered
14 an ambulance. He wasn't saying anything or
15 wasn't moving at all.

16 Q. And were other police officers in
17 bodily contact with him at that point or was he
18 just lying there?

19 A. No. No one was in contact with him at
20 that point.

21 Q. Webb had gone somewhere?

22 A. Webb had stood up. This was like a
23 couple of seconds that I looked around and saw
24 that and ordered an ambulance and then asked for
25 an officer to come over and help me.

1 Q. The officer who came over and helped
2 you was Curley?

3 A. I yelled for Curley to come over. He
4 was my partner. I said Curley, come over here.

5 Q. Did he come?

6 A. Yes.

7 Q. What did he do?

8 A. We turned him over, put him in the
9 seated position, and Curley using the palm of
10 his hand struck him in the small of his back at
11 which time the party started talking to us.

12 Q. He regained consciousness?

13 A. You can say that, yes. I'm not
14 certain that he was unconscious. I just know
15 that he was laying there very still and not
16 saying a word. Then Curley came over, we sat
17 him up and he applied the palm to his back and
18 that's when he started talking.

19 Q. Are you trained that is how to revive
20 somebody that may be unconscious from an LVNR?

21 A. Yes.

22 Q. And when Curley did that the subject
23 responded by coming to or whatever fairly
24 quickly?

25 A. Yes.

1 Q. And at that point he is seated on the
2 pavement with his handcuffed behind him?

3 A. Yes.

4 Q. And then you write that he is then
5 turned over to his side and we then sat him up.
6 So maybe the palm was applied by Curley while he
7 was lying down. Do you remember?

8 A. I thought it was when he was seated.
9 He did it pretty quick. He may have been on his
10 side.

11 Q. And so at the point where the subject
12 has come back to consciousness and he is now
13 talking and sitting, you write "I then walked
14 over to Police Officer Cherry and asked him what
15 happened."

16 Do you recall what words you used?

17 A. I asked him what happened. I was a
18 little bit upset. I said what just happened.

19 Q. Why were you happened?

20 A. Oh, because of my glasses. Mainly
21 because of the entire situation. There was a
22 lot of people out there. It was out of control
23 and the subject himself. I don't know.

24 Q. The subject was hurt?

25 A. Yes. The subject was hurt. There was

1 blood. Cherry had been punching him in the
2 groin. That pissed me off more than anything.
3 Excuse my language. That upset me more than
4 anything.

5 Q. What did Police Officer Cherry say?

6 A. He said I went to get him out of the
7 car and he punched me.

8 Q. Did you believe him?

9 A. At that point I didn't know what to
10 believe. I was upset.

11 Q. You write "I then turned and walked
12 away from him."

13 Did you say anything back to him when
14 he said I went to get him out of the car and he
15 punched me?

16 A. No. I just turned around and walked
17 away from him.

18 Q. You observed a cellular phone on the
19 ground. You asked the subject if it belonged to
20 him; is that correct?

21 A. Uh-huh. First I thought it was mine.
22 Then I saw it wasn't mine.

23 Q. All right. Then your sergeant said to
24 move the incident to 35th and Prospect. What do
25 you mean by move the incident?

1 A. A patrol wagon. I believe the subject
2 was put into the patrol wagon and the vehicle
3 and all the officers left that area because it
4 was too many people out there and we went to
5 35th and Prospect where the old Piggly Wiggly
6 is.

7 Q. And what did you do there?

8 A. Me and Curley were in the car and I
9 was like wow and he's like yeah. That's all we
10 said. It wasn't that far. We drove. We spoke
11 with a sergeant at the scene there. He was like
12 that wasn't good.

13 Q. Which sergeant was this?

14 A. I don't know which sergeant. I want
15 to say it was McHale.

16 Q. You said to the sergeant that wasn't
17 good?

18 A. Right.

19 Q. And what did the sergeant say?

20 A. He was like I'll talk to you in a
21 little bit. I need to talk to the officer
22 involved right here.

23 Q. Did you wait there?

24 A. No. He told us to leave. He said to
25 get back in service. We went and got back in

1 service.

2 Q. Did that sergeant come back and talk
3 to you again about the incident?

4 A. No. I believe he was on dog watch and
5 the next day I came in. We come in early and I
6 was contacted by Jason Cherry's immediate
7 sergeant which is Cooley and was instructed to
8 write the 191.

9 Q. Your sergeant was Hargarten?

10 A. Yes.

11 Q. This particular event that we've just
12 gone through in great detail, at any time did
13 you see how the subject came to have blood on
14 his face?

15 A. No, I didn't.

16 Q. At any point did you see the subject
17 punch or hit anybody?

18 A. No, I didn't.

19 Q. Didn't you see the subject try to
20 shove a police officer with his hands?

21 A. No, I didn't.

22 Q. I believe you said there a couple of
23 occasions when the subject was down that he was
24 flailing his feet.

25 A. Right.

- 1 Q. Was he kicking at anybody in
2 particular that you could tell or just trying --
3 A. No. It was his feet.
4 Q. Just trying to get free?
5 A. He was like let me up. His elbows
6 were out like this.
7 Q. He had his hands out underneath him
8 but his elbows were out?
9 A. Yes.
10 Q. Did you at any time see any officer
11 other than Cherry strike the subject with a fist
12 or hit him in any way?
13 A. No.
14 Q. Had you ever had any occasion to be on
15 patrol with Cherry before?
16 A. No.
17 Q. Did you know him before? Did you know
18 who he was?
19 A. He was in my academy class.
20 Q. Other than that, did you know him?
21 A. No.
22 Q. Just know him to see him?
23 A. He was in my academy class. I might
24 see him occasionally.
25 Q. Had you been involved in any kind of

1 incident with him in which there were any
2 injuries?

3 A. No.

4 Q. Had you been involved in any incident
5 in which it seemed to you that Officer Cherry
6 was not telling the truth or had not told the
7 truth?

8 A. No. That was my being there with
9 Officer Cherry.

10 Q. I guess it would be about ten months
11 later you gave a statement to Internal Affairs,
12 did you not?

13 A. Yes.

14 (Whereupon, Cannon Deposition
15 Exhibit 2 was marked by the reporter for
16 identification.)

17 Q. (By Mr. Benson) I show you what we
18 have marked as Cannon Exhibit 2 and ask if you
19 can identify that.

20 A. It is a typed statement that I had
21 given to the detective.

22 Q. Was this statement tape-recorded?

23 A. Yes.

24 Q. And then afterwards the tape-recording
25 was used to prepare this transcript?

- 1 A. Yes.
- 2 Q. And then they had you come in and sign
3 it?
- 4 A. I read it and signed it, yes.
- 5 Q. When you read it were there any
6 corrections to make?
- 7 A. I don't recall.
- 8 Q. The statement we referred to was
9 tape-recorded on March 21, 2001; is that
10 correct?
- 11 A. Yes.
- 12 Q. It appears it's about 17 pages long?
- 13 A. Yes.
- 14 Q. And you initialed each page?
- 15 A. Yes.
- 16 Q. And then later that year on November 8
17 did you give a supplemental statement?
- 18 A. Yes.
- 19 (Whereupon, Cannon Deposition
20 Exhibit 3 was marked by the reporter for
21 identification.)
- 22 Q. (By Mr. Benson) We've marked this
23 supplemental statement as Exhibit 3; is that
24 correct?
- 25 A. Yes.

1 Q. And it was tape-recorded?

2 A. Yes.

3 Q. Transcribed?

4 A. Yes.

5 Q. And then initialed and signed by you,
6 correct?

7 A. Yes.

8 Q. And it looks like this one is about
9 four pages, five pages. To your knowledge have
10 you given any other statements or written any
11 reports other than these three exhibits we have
12 here today, Exhibits 1, 2 and 3 --

13 A. No.

14 Q. -- concerning this event?

15 A. No, sir.

16 Q. Were you questioned about this
17 incident by any superior officers after you
18 wrote your 191 which is Exhibit 1?

19 MR. CLOSE: These are after the 191.

20 Q. (By Mr. Benson) Say in the month after
21 this incident on June 7, were you questioned about
22 that by any other police officers?

23 A. No.

24 Q. Once you turned your 191 in to the
25 officer who asked for this which was --

1 A. Sergeant Hargarten.

2 Q. Were you questioned by any other
3 police officer?

4 A. No.

5 Q. Did you make any comments to any other
6 police officers in the days or weeks following
7 this incident concerning Officer Cherry?

8 A. Not that I recall.

9 Q. I take it, it was your view that when
10 he was striking the subject in the groin that he
11 was using either excessive or unauthorized force?

12 A. Yes.

13 Q. And that you had a duty to stop him
14 from doing that?

15 A. Yes.

16 Q. And you did that?

17 A. Yes.

18 Q. Did you receive any letters or
19 commendations thanking you for having done this?

20 A. No.

21 Q. When the incident occurred -- in the
22 hours, days or weeks after this incident
23 occurred, did any other officer say anything to
24 you about Cherry or any experiences they have
25 had with Cherry?

1 A. I don't recall any specifics. People
2 talked about him, the wagon officer. I don't
3 remember specifics on what he was doing.

4 Q. The wagon officer talked about him?

5 A. No. He was on the patrol wagon a few
6 times. I never had an opportunity to ride with
7 him or work with him.

8 Q. And then about two weeks after this
9 incident he resigned from the force?

10 A. I wasn't there at the time.

11 Q. When the -- at or around the time of
12 this incident and the days following, did you
13 learn whether or not Cherry had been involved in
14 any prior incidents that involved black males?

15 A. No.

16 Q. Did you hear of any Office of Citizens
17 complaints that had been filed against Cherry by
18 black males in the months preceding this incident?

19 A. No.

20 MR. BENSON: No further questions.

21 MR. CLOSE: I have no questions.

22 MR. BENSON: Officer, thank you
23 very much.

24 (Whereupon, the deposition
25 adjourned at 10:55 a.m.)

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POLICE OFFICER BONITA CANNON

Subscribed and Sworn to before me
this _____ day of _____ 2003.

Notary Public

County of _____

State of _____

