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MONTGOMERY COUNTY SHERIFF'S OFFICE
INSPECTIONAL SERVICES INVESTIGATION

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#13-047

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This photograph, found by utilizing the Bing Maps website, was utilized throughout the interviews conducted for this investigation. Please note the addresses as they appear on this map were not on the maps used during the interviews and were added for this final report. Please refer to this and the following maps and diagrams to understand the placement of officers and descriptions used during the investigation.



This shows the approximate positions of Major Spicer's car,  Deputy Wical's car 14 

Greene County Sheriff's car #04 

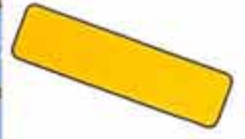
Yellow Springs car 



- This represents the approximate position of Major Spicer as he fired at the suspect.



This object encompasses the area referred to as the "alley" or "long drive way" where Major Spicer directed Beaver-creek Officers, Xenia Officers with the Greene County Regional SWAT team and members of the RERT.



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6

**MONTGOMERY COUNTY SHERIFF'S OFFICE
INSPECTIONAL SERVICES INVESTIGATION**

7
8
9

REPORT

#13-047

10

EMPLOYEE

11 Major Eric Spicer

Operations Division

12 Deputy James Hughes

Jail Division

13
14
15
16

COMPLAINANT

17 Sheriff Gene Fischer
18 Greene County Sheriff's Office
19 120 East Main Street
20 Xenia, Ohio 45385
21 937-562-4800

22
23

SYNOPSIS

24 On Tuesday, July 30, 2013, deputies from the Greene County Sheriff's Office
25 responded to assist Yellow Springs Police Officers with the report of an individual
26 shooting at them (Yellow Springs Officers). Deputies from Greene County and many
27 different law enforcement agencies responded to assist the Yellow Springs Officers.
28 Eventually elements from three different SWAT teams responded to assist as well.

29 During the incident, the suspect, Paul E. Schenck, confronted and shot at deputies and
30 officers over a three hour period of time. Both Major Eric Spicer and Deputy James
31 Hughes of the Greene County Sheriff's Office discharged their weapons in response
32 to Mr. Schenck's actions. This investigation is to review the shooting actions of
33 Deputy Hughes and Major Spicer. Additionally, it is alleged during the incident,
34 Major Spicer misidentified the structure Mr. Schenck was located, causing elements
of the three different SWAT teams to deploy in the wrong location. Furthermore,
Major Spicer allegedly failed to respond to orders from Sheriff Gene Fischer to report
back to the command post. Major Spicer also allegedly failed to notify any of the
commanders he discharged his firearm at Mr. Schenck.

1 On Wednesday, August 7, 2013, Major Spicer completed a written report of his
2 actions. Major Spicer allegedly deleted all reports associated with the incident from
3 the New World report management system utilized by the Greene County Sheriff's
4 Office. This deleted all of the reports from the "merged" reports system, the reports
5 were still available from the mobile side and from back-up.

6
7 **INVESTIGATION**

8 On Thursday, August 8, 2013, Sheriff Phil Plummer contacted me and advised we
9 would conduct an administrative investigation into an officer involved shooting for
10 the Greene County Sheriff's Office. Sheriff Plummer provided me with contact
11 information for Sheriff Gene Fischer to begin the investigation.

12
13 On Tuesday, August 13, 2013, Chief Deputy Mike Brown from the Greene County
14 Sheriff's Office appeared at the Montgomery County Sheriff's Office Administration
15 building to discuss the investigation. Chief Deputy Brown explained, on Tuesday,
16 July 30, 2013, deputies from the Greene County Sheriff's Office responded to Yellow
17 Springs, Ohio to assist Yellow Springs Police Officers with a subject shooting at them
18 from his house. Chief Deputy Brown said during the course of the incident, Major
19 Eric Spicer and Deputy James Hughes discharged their weapons at the suspect.

20
21 Additionally, Chief Deputy Brown, explained several allegations of misconduct
22 relating to Major Eric Spicer's actions during the incident which were reported to
23 Sheriff Fischer. Chief Deputy Brown advised Sheriff Fischer would also like an
24 investigation in to the allegations of misconduct by Major Spicer during the event.

25
26 Chief Deputy Brown provided me with a document titled *AIC 2013-21* which he
27 prepared detailing the allegations. Chief Deputy Brown also gave me a copy of a
28 memorandum from Major Kirk Keller to Sheriff Fischer also documenting alleged
29 misconduct by Major Spicer during the incident. Chief Deputy Brown provided
30 copies of *Greene County Sheriff's Office Ohio Uniform Incident Report 2013-*
31 *00021393* prepared by Sergeant Michael "Shawn" Prall, Deputy Dennis Nipper,
32 Deputy Duane Gilbert, Deputy Sean Kessel, Deputy David Wical, Deputy Glen

1 McKinney and *Supplemental Report 2013-021393* prepared by Major Spicer. Chief
2 Deputy Brown also provided me with copies of the Greene County Sheriff's Office
3 General Orders Manual, SWAT Manual, Training Records of Major Spicer and
4 Deputy Hughes, geographical information for 280 North High Street in Yellow
5 Springs, Ohio, a list of potential witnesses for the investigation. Chief Brown
6 provided copies of the dispatch traffic from the Greene County Regional Dispatch
7 Center during the incident.

8
9 Chief Deputy Brown stated agents from the Ohio Bureau of Criminal Identification
10 and Investigation (BCI) responded to the scene the night of the incident and are
11 investigating the criminal aspect of the incident. Chief Deputy Brown advised
12 investigators from BCI processed the crime scene, conducted interviews with the
13 involved officers from multiple jurisdictions and residents in the area. Chief Deputy
14 Brown provided me with contact information for the BCI investigators.

15
16 I reviewed the documents Chief Deputy Brown provided me from the incident. The
17 allegations of misconduct by Major Spicer are detailed in a memorandum from Major
18 Kirk Keller to Sheriff Fischer dated August 4, 2013. The allegations listed in Major
19 Keller's memo are:

- 20 1. *Upon his arrival, his (Major Spicer) responsibility was to set up command and*
21 *prepare for responding resources; he should have checked the status of inner*
22 *perimeter units and assess needs. Instead, he inserted himself into the inner*
23 *perimeter and left others to perform his assigned responsibilities.*
- 24 2. *Took long gun from Deputy (David) Wical at scene.*
- 25 3. *He had not completed the most recent firearms qualification; although this does not*
26 *necessarily prevent him from using deadly force action in a situation where his life is*
27 *in jeopardy, there were other alternatives to his using deadly force options. He did*
28 *not need to put himself in a situation where liability issues could be raised regarding*
29 *training documentation.*
- 30 4. *He fired a weapon at the scene with no communication that this action was taken.*
- 31 5. *He fired the weapon at the scene without any target acquisition of the suspect. He*
32 *made a statement to Deputy Wical that the reason for shooting the weapon was*
33 *merely suppression fire to keep suspect in place.*
- 34 6. *He fired the weapon at the wrong house which put innocent lives at risk. He has*
35 *identified this mistake to multiple people.*

- 1 7. He moved from a position of cover to a house south of the suspect property and
2 attempted to enter the house; there was no radio communication of this action with
3 dispatch or others present at the scene. Dispatch advised a citizen in the area of the
4 incident called to report someone trying to break into their home. With no
5 communication from Major Spicer about his actions, even after dispatch's notification
6 to units on scene about the neighbor's complaint, those hearing the transmissions
7 were left to deduce that the suspect may be mobile. Even those officers on the front
8 lines were not aware of the Major's actions. The deputies on scene reported they
9 heard glass breaking after Major Spicer left their position. It is believed this was a
10 light on the neighbor's house, but this has not been confirmed at the time of this
11 report.
12
- 13 8. Multiple agency resources were arriving at the scene that units knew would be turned
14 over to Greene County SWAT. Although it was Yellow Springs PD's scene, Greene
15 County Deputies were on the front lines and SWAT had been called. Major Spicer
16 should have pulled himself back from the inner perimeter to secure an outer
17 perimeter around the scene and coordinate the responding agencies, media
18 presence, and medical units. That task was left to others.
- 19 9. It was Major Spicer's responsibility to take command from the supervisor on scene
20 upon his arrival. Instead, he made the decision to insert himself into the inner
21 perimeter and take unreported actions. The supervisor on scene advised dispatch
22 that unit 12 was on scene and that all communications should go through him.
23
- 24 10. After several hours on scene, Major Spicer arrived at the command post and was
25 arguing with the scene commanders about the location of the suspect house. He
26 was arguing that they were targeting a "wrong" house north of what he believed was
27 the suspect house. While I can appreciate the need to identify the suspect house,
28 Major Spicer was not present for any of the intel gathering, otherwise it would have
29 been very clear which was the suspect house and location.
30
- 31
- 32 11. After Deputy Hughes advised command that he had returned fire on the suspect,
33 Team Commander Lane inquired from units if anyone else had fired shots. Major
34 Spicer advised at that time, while standing at the rear of the command vehicle, and
35 after arguing his viewpoint of the suspect's location, that he had fired his weapon as
36 well. (At this time I first notified Unit 1 that we had a problem with Major Spicer
37 because he fired his weapon and did not have the accurate location of the suspect).
38
- 39 12. While the command team was discussing alternatives to breaching the residence for
40 inserting the robot, Team Leader Lane received a text message from SWAT
41 members that Major Spicer needed to be removed from the scene. I again notified
42 Unit 1 that Major Spicer needed to be called out of the inner perimeter. Unit 1 sent a
43 text to Spicer advising him to return to the Command post; to my knowledge, Major
44 Spicer did not return until after the scene was secure. He was not seen by
45 Command personnel until the conclusion of the callout.
46
- 47
- 48 13. Major Spicer entered the crime scene after team members announced that the
49 suspect was down. He had no business entering the crime scene and potentially
50 contaminating the scene.
51

52 I reviewed AIC 2013-21 which gives a very brief account of the actions taken in the
53 investigation up to August 5, 2013. In this document Chief Deputy Brown

1 documents he served Major Spicer with notice of the investigation and identified a
2 list of potential witnesses to be interviewed.

3
4 I reviewed *Greene County Sheriff's Office Ohio Uniform Incident Report 2013-*
5 *000021393* with narratives completed by Sergeant Prall, Deputy Nipper, Deputy
6 Gilbert, Deputy Kessel, Deputy Wical, and Deputy McKinney. These were the first
7 responding Greene County deputies to the scene to assist the Yellow Spring Police
8 Officers with the incident. Please see attached report for full details.

9
10 Major Spicer completed a supplement to this report on August 7, 2013. Major
11 Spicer's narrative details his actions during the event to include: responding to the
12 scene, moving to the forward location on North High Street, discharging his weapon
13 at the suspect, moving back to a position near 234 North High Street, placing four
14 Clark County deputies to support Sergeant Prall's position, placing two Beaver Creek
15 Officers facing the direction of the suspect's house, hearing gunfire from the suspect
16 leading him (Spicer) to believe the suspect was moving through back yards and may
17 have entered the house next to the one they were at, meeting and explaining to the
18 SWAT team members who arrived his fears of the suspect being mobile and possibly
19 in the adjacent homes, his radio becoming inoperable, and a plan to enter the house
20 they were at, which was the same house he (Spicer) had cut open a screen to unplug a
21 lamp 246 North High Street, reporting to the command post, meeting with Sheriff
22 Fischer and Chief Deputy Brown, reporting to the SWAT command, advising he fired
23 a round, debating the location of the suspect as represented on the board in the SWAT
24 truck, and then returning to the location of the SWAT members he left to assist with a
25 plan to evacuate a house. Please see Major Spicer's attached report for full details.

26
27 I also received and reviewed the training records maintained by The Greene County
28 Sheriff's Office for Major Spicer and Deputy Hughes. Deputy Hughes completed
29 and passed the State of Ohio mandated firearms qualification courses with the Greene
30 County Sheriff's Office in 2013.

31

1 Major Spicer's records show he did not complete his State of Ohio mandated firearms
2 qualification course with the Greene County Sheriff's Office in 2013. I received and
3 reviewed Major Spicer's 2012 training records which show Major Spicer completed
4 and passed all mandated firearms qualification training on May 3, 2012.

5
6 I reviewed Ohio Revised Code administrative section **109:2-13-02 Firearms re-**
7 **qualification program**, which describes the firearms re-qualification program and
8 requirements for law enforcement officers in the State of Ohio as defined by ORC
9 **109.801.**

10
11 Paragraph (D) describes the frequency of the re-qualification program stating:

12
13 D. All persons required to successfully complete a firearms re-qualification program
14 shall do so once each calendar year.

15
16 Qualifying once each calendar year means when an officer qualifies, for instance in
17 2012, the qualification is good until the end of the next calendar year, December
18 2013. As long as another qualification occurs sometime within 2013, then the officer
19 is re-qualified through the end of 2014.

20
21 I reviewed the dispatch recordings provided by Chief Deputy Brown regarding the
22 radio traffic during the incident. There are a total of 441 Waveform Audio File
23 Format (WAV) files recorded from the Greene County Dispatch Center along with
24 Excel spreadsheets with information for each of the WAV files.

25
26 The first recorded file, the initial 911 call, was recorded on Tuesday, July 30, 2013, at
27 22:55:31 hours and lasted for eight seconds. The last recorded transmission was on
28 Wednesday, July 31, 2013 at 07:02:51 hours.

29
30 Some of the transmissions pertinent to this investigation are included below. The
31 dispatch recordings as provided to me are included with this report.

32

- 1 • On July 30, 2013, from 2301 to 2305 hours, Greene County Sheriff's Office
2 deputies arrived in Yellow Springs to assist the Yellow Springs Police
3 Department.
- 4 • At 2305 hours, Unit 12 (Major Spicer) authorized the deployment of SWAT
5 units to the incident.
- 6 • At 2314 hours, broadcast, "Whoever's in that car, stop! Stop! Stop! Stop!"
7 (Central State Officers arriving on scene)
- 8 • At 2320 hours, Major Spicer reports he is in the Village.
- 9 • At 2322 hours, Unit 16 (Sergeant Prall) telling unit to stop now. (Major
10 Spicer arriving on scene).
- 11 • 2323 hours, Sergeant Prall advising dispatch to tell responding Clark County
12 Deputies to not respond to the address but to a staging area that needs to be set
13 up.
- 14 • 2324 hours, "16 to 12, you copy?" (Sergeant Prall to Major Spicer) "Barely,
15 go ahead." "I'm pinned down. You're going to need to set up a staging area
16 for Clark and SWAT."
- 17 • 2326 hours, Sergeant Prall advised the suspect is known to Yellow Springs
18 and has multiple firearms including pistols, shotguns and rifles.
- 19 • 2329 hours Unit 60 calls Unit 12 (Major Spicer) and asks where they can
20 meet.
- 21 • 2330 hours, Major Spicer advises he is, "actively involved right now."
- 22 • 2331 hours, Major Spicer advises everyone Dayton and North High Streets is
23 the staging area.
- 24 • 2335 hours, lengthy broadcast between Major Spicer and Chief Deputy Brown
25 regarding staging area being Dayton and North High. Chief Deputy Brown
26 advises Sheriff Fischer is on the way and he will be on the way when he is
27 finished.
- 28 • 2337 hours, Chief Deputy Brown advised Major Spicer there are several OSP
29 Units responding to Dayton Street and North High. Major Spicer advises to
30 have them stay there until further notice.

- 1 • 2341 hours, Major Spicer advising dispatch to send five OSP units down
2 North High Street and stop at the black unmarked Impala for directions. Unit
3 60 advising he has Clark County Units with him.
- 4 • 2343 hours, Major Spicer advising to send the Clark County Deputies to his
5 Impala approximately 200 yards past the medic.
- 6 • 2349 hours, a series of broadcasts between Major Spicer, Major Keller and
7 Captain Tidd. Major Keller advising the SWAT team is on the way and will
8 be responding to Dayton and North High Street.
- 9 • 2350 hours, another series of transmissions, Sergeant Lane advises Major
10 Keller the Xenia members of SWAT are on the way. Sergeant Prall advises
11 there have been no shots for about ten minutes. Someone asks Major Spicer if
12 he needs more units to his location. Major Spicer advises he does not, hold
13 them at the staging area until he places the units he has and he will respond to
14 command post. Major Spicer said the only thing he was expecting to come to
15 him were five OSP Units. Someone responds, "Right, we're standing by on
16 High."
- 17 • 2354 hours, Major Spicer is requesting five OSP units to respond to him,
18 Dispatch relays the information, someone at the command post said they are
19 standing by at the command post. (Apparent confusion about where OSP is
20 supposed to go, Major Spicer is expecting them to come to him, Command
21 Post is expecting Major Spicer to go to them)
- 22 • 2357 hours, Sergeant Prall said the shots from the suspect are coming from
23 around the house, unknown if inside or outside.
- 24 • 0000 hours, Major Spicer is asking for the five OSP units to respond to him.
25 He is told they will be coming his way. Sergeant Lane advises Major Keller
26 the Xenia portion of SWAT has arrived.
- 27 • 0002 hours, Major Spicer is told Sheriff Fischer wants him at the command
28 post to brief the SWAT team on what he knows. Major Spicer said he is
29 unable to respond because he is still placing units on an exposed side of the
30 structure. Major Spicer advises he needs four units.
- 31 • 0004 hours, Major Spicer is advised they are sending four SWAT members to
32 him. (Lon Etchison, Fred Barker, Doug Sparks and Dean Margioras)

- 1 • 0011 hours, Sergeant Prall advises another gunshot from suspect location.
- 2 • 0012 hours, Major Spicer was advised two Beavercreek Officers were being
- 3 sent to him to be deployed to the back side of the residence where he needs
- 4 them to avoid a cross fire. Major Spicer was asked if he will meet them by his
- 5 (Spicer's) car. Major Spicer said, "Yes, been here twenty minutes."
- 6 • 0013 hours, Major Spicer requests OSP helicopter, advises additional shots
- 7 fired, sounds like they are coming from behind the fence in the backyard.
- 8 • 0017 hours, Fairborn Police armored vehicle is on scene.
- 9 • 0020 hours, resident at 234 High Street advises someone is pulling on the
- 10 back door trying to get in.
- 11 • 0021 hours, Major Spicer advises Sergeant Prall, "I just placed two
- 12 Beavercreek units at the house east of the suspect's house. They're on the
- 13 corner of the house behind cover until we can get SWAT there."
- 14 • 0023 hours, command post advises Sergeant Prall to tell Major Spicer there
- 15 are five SWAT guys heading his way.
- 16 • 0025 hours, Sergeant Prall advises they are still taking shots from the original
- 17 suspect location.
- 18 • 0027 hours, Hughes and Matheson are heading through woods to the back of
- 19 the suspect's house.
- 20 • 0028 hours, unknown unit advises more shots fired, another unknown unit
- 21 asks if those are all from the suspect or law enforcement. First unknown unit
- 22 responds as far as he knew all from suspect no one from law enforcement has
- 23 fired.

24

25 *For the next hour and a half the radio traffic is primarily SWAT movements. Of note*

26 *is a transmission between Officer Matheson and Sergeant Lane at 0056 hours where*

27 *Officer Matheson advises he and Deputy Hughes are at the end of the long*

28 *driveway/alley moving into the woods and ask how many houses north they need to*

29 *go. Sergeant Lane responds two houses north from the long drive, and asks if anyone*

30 *knows any different. No one responded differently.*

31

- 1 • 0159 hours, Dayton and Fairborn armored vehicles start moving. (Dayton's
2 armored vehicle is going up the alley and then behind 246 North High Street
3 while Fairborn's armored vehicle is heading north on high street to approach
4 from the suspect driveway)
- 5 • 0202 hours, lengthy file with several different officers talking, Officer
6 Etchison advises he does not think the Fairborn vehicle is at the right house
7 and is advising them to come back one house (250 North High Street) to the
8 small white house with the porch light.
- 9 • 0204 hours, is another lengthy file with several different officers talking.
10 Sergeant Lane advises Officer Roegner is with Fairborn armor and they are at
11 the correct house.
- 12 • 0205 hours, another lengthy broadcast from multiple officers, Officer Sparks
13 advises the Dayton armored vehicle is returning to original location because
14 their path was blocked. Someone advises the suspect is talking to the Fairborn
15 vehicle, using a lot of profanity.
- 16 • 0209 hours, Officer Wilson advised the suspect is yelling profanities and
17 threatening to kill them all.
- 18 • 0210 hours, someone is advising they can see movement inside the suspect
19 garage (280 North high) from the "3/4" corner (this is the position of Deputy
20 Hughes and Officer Matheson)
- 21 • 0213 hours, Officer Sparks radios Officer Etchison advising to move up one
22 house. Suspect starts shooting again.
- 23 • 0215 hours, suspect is shooting at Dayton's armored vehicle.
- 24 • 0216 hours, shots are coming from the suspect garage area.
- 25 • 0218 hours, Deputy Hughes advises he was just shot at from the back window
26 and returned fire.
- 27 • 0237 to 0242 hours, Deputy Coe calls Officer Barker on the radio advising
28 Major Spicer has told them they, Barker, Etchison and Margioras, are directly
29 in front of the suspect's house. The officers request the address of the
30 suspect's house and are told 280 with the parent's house being 310. Officer
31 Etchison advises there were no shots from the house they are in front of.
32

1 The rest of the dispatch recordings relay the movements of the swat team and units
2 around the suspect house until eventual entry was made and the suspect was located
3 by a remote controlled robot with a fatal gunshot wound at 0446 hours.
4

5 ADDITIONAL INVESTIGATION

6 During the last week of August I started to receive summaries of the Bureau of
7 Criminal Identification and Investigation (BCI) investigation of the shooting in
8 Yellow Springs, from Special Agent Supervisor Benjamin Suver from BCI. Over the
9 weeks until the completed report was released, I obtained updates from Special Agent
10 Suver. When the report was completed by Special Agent Karen Rebori, I received
11 and reviewed the entire investigation.
12

13 The report includes crime scene photographs, diagrams, reports from evidence
14 processing and summaries of interviews conducted during the course of the
15 investigation.
16

17 During the course of this investigation, I utilized the photographs taken by the BCI
18 crime scene investigators to document the scene following the incident. Except as
19 specifically included in this report, all photographs, reports, and documents utilized or
20 completed by BCI are maintained by BCI and can be obtained from them via public
21 records request.
22

23 I reviewed the summary Special Agent Rebori completed following her interview
24 with Officer Harold Matheson of the Xenia Police Department who is also a member
25 of the Greene County Regional SWAT team. Following is a summary:
26

27 On July 30, 2013, Officer Matheson responded as a member of the SWAT team to
28 Yellow Springs. Officer Matheson is one of the "precision riflemen" assigned to the
29 team. Shortly after arriving at the command post on, Lincoln Street, Sergeant Steve
30 Lane and Deputy Jamie Coe provided information about the incident and suspect
31 location. Sergeant Lane told them they did not know if the suspect was contained and
32 a neighbor of the suspect called saying someone was pulling on her door.

1 Sergeant Lane assigned four officers to act as the emergency reaction team. Sergeant
2 Lane then showed Officer Matheson and Deputy James "Jimmy" Hughes (also a
3 member of the SWAT team and a precision rifleman) a map and told them to get to
4 the "3" side and cover it. After looking at the map, Officer Matheson and Deputy
5 Hughes decided the best way to get to the "3" side of the suspect's house was to go
6 down a dead end street and cut through the woods.

7
8 As they moved through the woods, which were dense and difficult to navigate
9 because they could not use lights to navigate, they could hear rapid bursts of gunfire
10 while they were moving. The gunfire assisted them to locate the general location of
11 the suspect.

12
13 When they got to an area where they could see what they thought was the back or "3"
14 side of the suspect's house they saw two structures. They attempted to verify the
15 suspect's location by having Deputy Hughes remain where they could see the first
16 structure and Officer Matheson scouted a little further north to observe the second
17 structure. Officer Matheson then heard gunfire coming from the structure Deputy
18 Hughes was watching, so he hurried back to Deputy Hughes, knowing the suspect
19 was in the first structure.

20
21 Officer Matheson and Deputy Hughes were positioned about 30 to 35 yards from the
22 3/4 corner of the suspect's house. They did not have any cover, but were well
23 concealed in the surrounding vegetation. Officer Matheson could see one window on
24 the back of the house where the blinds were pulled back. Officer Matheson and
25 Deputy Hughes could hear the suspect shooting out of the front of the house as
26 negotiators tried to talk to him. Officer Matheson said he could see smoke from the
27 suspect's rifle blasts floating over the roof of the house as the suspect fired out the
28 front. Officer Matheson heard the suspect yelling at the negotiators threatening to kill
29 them.

30

1 Officer Matheson had his .308 precision rifle deployed and Deputy Hughes was
2 observing with his AR-15. Due to the close distance of the house, Officer Matheson
3 advised Deputy Hughes to utilize his AR-15 instead of deploying his precision rifle.
4

5 Officer Matheson said Deputy Hughes reported he could see the suspect moving back
6 and forth. Officer Matheson said he could not see the suspect from his vantage point,
7 although he was close to Deputy Hughes. Officer Matheson said he felt personally
8 threatened and felt all of the officers in the area were in danger. Officer Matheson
9 said if he could have seen the suspect he would have shot him to stop him from firing.
10

11 Officer Matheson moved about ten feet forward and five feet to the left of Deputy
12 Hughes to try and gain a better perspective. Officer Matheson could not see the
13 suspect, but heard a burst of gunfire which sounded like they were coming at him.
14 Officer Matheson sought cover by pressing himself into the ground as the rounds
15 were directed toward him and Deputy Hughes. Officer Matheson said he heard
16 Deputy Hughes return fire while the suspect fired. Officer Matheson returned to
17 Deputy Hughes who told him he (Hughes) thought he shot the suspect. Deputy
18 Hughes told Officer Matheson he saw the suspect in the window, muzzle flash and,
19 returned fire. Deputy Hughes said he thought the suspect dropped but was not sure.
20

21 Officer Matheson said following the shooting, Sergeant Lane sent some Fairborn
22 officers to their location to help them cover the back of the suspect's house.
23

24 Officer Matheson said they remained at their location until the suspect house was
25 eventually cleared.
26

27 I reviewed the summary Special Agent Rebori completed following her interview
28 with Deputy James "Jimmy" Hughes of the Greene County Sheriff's Office who is
29 also a member of the Greene County Regional SWAT team. Following is a
30 summary:
31

1 On July 30, 2013, Deputy Hughes responded as a member of the SWAT team to
2 Yellow Springs. Deputy Hughes is one of the "precision riflemen" assigned to the
3 team. Shortly after arriving at the command post, he saw an aerial view of the area
4 on an iPad. Sergeant Lane assigned Deputy Hughes and Officer Matheson, both
5 "precision riflemen," to go to the "3" side of the suspect's house. Deputy Hughes and
6 Officer Matheson were both dressed in their SWAT issued uniforms and gear.
7 Deputy Hughes had his precision rifle in a backpack and was carrying an AR-15.
8 Officer Matheson was also carrying his precision rifle in a backpack and was armed
9 with his issued pistol.

10
11 Deputy Hughes said they moved through yards, over fences, through thickets and
12 thick brush to get to the "3" side of the suspect's house. When they got to a house
13 with a long driveway running toward North High Street, Officer Matheson radioed
14 the command post to verify the location of the suspect's house in relation to their
15 position. Deputy Hughes said they continued to move through densely wooded area
16 before reaching the rear of what they believed was the suspect's house. Deputy
17 Hughes said he could hear the suspect yelling and gunshots leading him to believe he
18 was looking at the correct house.

19
20 Deputy Hughes took a position he estimated to be 45 yards from the house in line
21 with the back porch. Deputy Hughes did not have cover but was well concealed in
22 the weeds. Deputy Hughes is left handed and was positioned with the left side of his
23 body in the weeds. Deputy Hughes was confident that he was concealed from the
24 view of the suspect. Deputy Hughes said as the suspect fired, based on the sound
25 and rate of the rounds, he felt the suspect was armed with a semi-automatic rifle.

26
27 Deputy Hughes said Officer Matheson moved to his left approximately eight feet to
28 get a better view. Deputy Hughes said he was looking at the "3/4" corner and could
29 see most of the way down the "4" side of the house which was partially illuminated
30 by a light on the back porch of the main house.

31

1 Deputy Hughes saw the blinds covering the farther window on the "3" side move as if
2 someone was looking out. Deputy Hughes told Officer Matheson about the
3 movement as he (Hughes) saw a silhouette and further movement in the window.
4 Deputy Hughes broadcast on the radio he could see movement on the "3/4" corner.
5 Officer Matheson could not see any of the movement from his location.
6

7 Deputy Hughes said he heard the suspect fire multiple rounds at an armored vehicle
8 in the front of the house that was lighting the interior of the suspect's house allowing
9 Deputy Hughes to see the silhouette better. Deputy Hughes said he could hear the
10 negotiators trying to talk to the suspect. Deputy Hughes said he heard the suspect
11 yelling back at the negotiators saying, "I don't have a fucking phone," and, "I am
12 going to fucking kill you guys."
13

14 Deputy Hughes said he saw movement inside the house toward another location and
15 heard Officer Lon Etchison report on the radio the suspect was firing at the Dayton
16 armored vehicle. Deputy Hughes then saw the silhouetted subject move to the back
17 window on the "3" side again. Deputy Hughes saw muzzle flash from the window as
18 the suspect began shooting out of the back of the house. Deputy Hughes felt debris
19 from the rounds being fired from the back of the house in his direction, striking his
20 face, hands and arms. Deputy Hughes then removed the safety from his rifle and as
21 he saw another flash from the window, fearing for his live and the live of Officer
22 Matheson, he fired 3 controlled, but fast shots. Deputy Hughes aimed at the window
23 from which the flashes from the suspect's gun were. Deputy Hughes aimed at the
24 area where he perceived the suspect's chin to be. Deputy Hughes radioed he had
25 returned fire at the suspect, but was not certain the suspect was down.
26

27 Deputy Hughes said after he fired he did not hear any more gunshots or see any more
28 muzzle flash. Deputy Hughes said he remained on the back side of the house,
29 watching for the suspect until the house was eventually cleared by SWAT team
30 members. Deputy Hughes said when the house was cleared, he and Officer Matheson
31 walked to the back of the house where he met Deputy Jamie Coe. Deputy Hughes
32 said he showed Deputy Coe where he was when he fired the shot. Deputy Coe told

1 Deputy Hughes to take his backpack but leave his spent shell casings where they
2 were. Deputy Hughes said he then went back to the command post where he turned
3 the AR-15 he fired over to Deputy Coe who then gave it to investigators.
4

5 Deputy Hughes then left the scene with members of the SWAT team.
6

7 **INTERVIEW WITH VANDALIA POLICE OFFICER DOUGLAS NAGEL**

8 On Thursday, September 26, 2013, at approximately 1035 hours, Detective
9 Sollenberger and I met with Vandalia Police Officer Douglas Nagel at the Vandalia
10 Police Department, 245 James Bohannon Drive as a witness in an administrative
11 investigation. Officer Nagel, Detective Sollenberger and I were present for the
12 recorded interview.
13

14 Officer Nagel has been employed by the Vandalia Police Department for six years.
15 Officer Nagel is currently assigned as the Crime Prevention Officer for the Vandalia
16 Police Department. Officer Nagel is also a member of the Regional Emergency
17 Response Team (RERT) which is comprised of officers from Vandalia, Huber
18 Heights, Fairborn and Beavercreek Police Departments. Officer Nagel has been a
19 member of the RERT for two years.
20

21 Officer Nagel said he was at home when he received a telephone call informing him
22 the RERT was called out to Yellow Springs because shots had been fired and officers
23 were pinned down. Officer Nagel said he met fellow team member, Vandalia
24 Detective Robert Brazel, at the Vandalia Police Department. They responded to
25 Yellow Springs together driving the Vandalia RERT truck.
26

27 Officer Nagel said they parked the truck on Dayton Street at North High Street and
28 walked to the command post which was located at the intersection of North High
29 Street and Lincoln Court. Once at the command post, Officer Nagel said Vandalia
30 Police Lieutenant Harry Busse advised them the incident started as a domestic
31 violence call between the suspect Paul E. Schenck and his son, Max Schenck.
32 Lieutenant Busse told Officer Nagel and Detective Brazel to advance to the "two"

1 (south) side of the suspect's house and relieve some patrol officers that were stationed
2 there. Officer Nagel said he and Detective Brazel were assigned to move up with
3 several Huber Heights RERT members, however, the Huber Heights members had to
4 retrieve equipment so Officer Nagel and Detective Brazel moved forward without
5 them.

6
7 Officer Nagel said, as they moved north on North High Street toward the suspect's
8 house, they heard several shots fired. Officer Nagel said they were several houses
9 away and took cover until the shots ended. Officer Nagel said they continued toward
10 the suspect's location when they encountered Major Eric Spicer from the Greene
11 County Sheriff's Office around 246 North High Street. Officer Nagel said he asked
12 Major Spicer what he needed. Officer Nagel said Major Spicer told him he (Spicer)
13 needed Officer Nagel to relieve a Beavercreek Patrol Officer, who was positioned
14 behind a Saturn vehicle in the driveway of 250 North High Street.

15
16 Officer Nagel said he moved to the officer's position, behind the front wheels and
17 engine block of the Saturn, and relieved him. Officer Nagel said the suspect then
18 fired several more rounds, which sounded to Officer Nagel as if they were directed
19 towards his (Nagel's) location. Officer Nagel said after this barrage of fire, he looked
20 around his position and noticed there were three members of the Greene County
21 SWAT team positioned to the rear of the car also. Officer Nagel said these were the
22 last gunshots fired during the event.

23
24 I asked Officer Nagel if he knew or had been told at this point where the suspect was
25 located. Officer Nagel said he had not been told where the suspect was, and
26 perceived the suspect to be somewhere in the area in or around the addresses of 250
27 and 310 North High Street. Officer Nagel said the area was very dark and due to the
28 number of trees it was difficult to precisely locate the suspect's location.

29
30 Officer Nagel said when he noticed the three Greene County SWAT team members
31 behind the car he asked them if they needed anything and they said they did not.
32 Officer Nagel said because the Greene County SWAT team members were there, he

1 went back to join his team members and assist them. Officer Nagel said he spoke to
2 Major Spicer again in front of 246 North High Street. Officer Nagel said Major
3 Spicer told him the suspect was located in a detached garage behind 310 North High
4 Street. Officer Nagel said he then told Major Spicer, he (Spicer) could head back to
5 the command post. Major Spicer told Officer Nagel he (Spicer) was "forward
6 command."

7
8 Officer Nagel said he had never heard the term "forward command" and did not know
9 what it meant. Officer Nagel said he assumed it was a military term. When Major
10 Spicer said he was "forward command" Officer Nagel said he relieved the other
11 Beavercreek Officer posted on the side of 246 North High Street.

12
13 Officer Nagel said he rejoined Detective Brazel and the Huber Heights RERT team
14 members Sergeant Tony Ashley, Officer Ed Savard, and Officer Mike Hawley. They
15 covered the south and west sides of 246 North High Street utilizing the unlocked
16 detached garage behind this house for cover as they attempted to gain a better view of
17 the suspect's location.

18
19 Officer Nagel said he did not have any further personal contact with Major Spicer for
20 the rest of the incident. Officer Nagel said he was not told, and did not believe the
21 suspect was ever located in 246 North High Street. Officer Nagel said he not enter or
22 attempt to enter the main residence at 246 North High Street. Officer Nagel said he
23 did not see anyone attempt to enter the house at 246 North High Street.

24
25 Officer Nagel said he and his team members remained around the detached garage of
26 246 North High Street for the remainder of the incident. Officer Nagel said a couple
27 of hours after the last barrage of gunfire, the Dayton SWAT armored vehicle broke
28 through the front of the suspect's house (the modified detached garage that is 280
29 North High Street). Shortly after that, Officer Nagel said they heard the suspect had
30 been located, deceased in 280 North High Street.

31

1 Officer Nagel said he did not fire his weapon during the incident and did not see any
2 other officers fire their weapons during this incident. Officer Nagel said he did not
3 have any further information regarding this investigation. I ended the interview at
4 1105 hours.

5
6 **INTERVIEW WITH VANDALIA POLICE DETECTIVE ROBERT BRAZEL**

7 On Thursday, September 26, 2013, at approximately 1120 hours, Detective
8 Sollenberger and I met with Vandalia Police Detective Robert Brazel at the Vandalia
9 Police Department, 245 James Bohannon Drive as a witness in an administrative
10 investigation. Detective Brazel, Detective Sollenberger and I were present for the
11 recorded interview.

12
13 Detective Brazel has been employed by the Vandalia Police Department for nine
14 years. Detective Brazel is currently assigned to the detective section of the Vandalia
15 Police Department. Detective Brazel is also a member of the Regional Emergency
16 Response Team (RERT) which is comprised of officers from Vandalia, Huber
17 Heights, Fairborn and Beavercreek Police Departments. Detective Brazel has been a
18 member of the RERT for three years.

19
20 Detective Brazel said he was working at his second job when he received a telephone
21 page informing him RERT was called out to Yellow Springs because shots had been
22 fired and officers were pinned down. Detective Brazel said he met fellow team
23 member, Vandalia Officer Doug Nagel, at the Vandalia Police Department, and they
24 responded to Yellow Springs together, driving the Vandalia RERT truck.

25
26 Detective Brazel said when he and Officer Nagel arrived in Yellow Springs they met
27 with Huber Heights or Fairborn members of RERT and drove with them down North
28 High Street to the command post. Detective Brazel said Lieutenant Harry Busse
29 arrived and told him and Officer Nagel to take some supplies to the Fairborn armored
30 car located on North High Street. Detective Brazel said they delivered the supplies to
31 the armored vehicle which was parked somewhere around 246 North High Street.
32

1 Detective Brazel said as they delivered the supplies to the armored vehicle, they were
2 unsure of the suspect's location and did not know which house he was in. Detective
3 Brazel said they saw "tactical officers" outside of the armored vehicle so they
4 assumed it was safe to move up to their location. Detective Brazel said when they
5 arrived at the armored vehicle, they were able to speak with some of the officers there
6 who told them the suspect's house was on the west side of North High Street and was
7 further north from where they were.

8
9 Detective Brazel said he and Officer Nagel returned to the command post where
10 Lieutenant Busse then assigned them to relieve a Greene County Deputy from the "2"
11 side of the house next door to the "target" house. Detective Brazel said as he and
12 Officer Nagel were advancing north on North High Street they could see the Dayton
13 armored vehicle angled off the road in front of and just to the north of a white house
14 (250 North High Street). Detective Brazel said he and Officer Nagel were going to
15 go to the armored vehicle to find out where the Greene County deputy who needed
16 relieved was because they were unsure.

17
18 Detective Brazel said as they were moving past a series of cars parked in front of a
19 purple house (234 North High Street) a series of gunshots were fired (these were the
20 last shots Detective Brazel heard during the incident). Detective Brazel said they
21 took cover behind one of the cars. Detective Brazel said while there, they heard
22 someone yell at them from the area of 246 North High Street. Detective Brazel said
23 they did not know where the suspect was as there were reports the suspect was
24 moving around, so they ordered the person to identify themselves. The individual
25 identified himself as Major Spicer.

26
27 Detective Brazel said he asked Major Spicer if he needed to be relieved. Detective
28 Brazel said Major Spicer told them (Brazel and Nagel) he (Spicer) needed them to
29 cover the area where he (Spicer) was. Detective Brazel said Major Spicer was on the
30 south side of 246 North High Street by a section of the wall that resembled a
31 chimney. Detective Brazel said he asked Major Spicer, "Where are we at in relation
32 to the suspect's house? He (Spicer) says, 'It's right on the other side of this.'"

1 Detective Brazel said he asked Major Spicer if the rear of the property had been
2 cleared and Major Spicer told him no. Detective Brazel said he asked Major Spicer if
3 anyone else was behind the property (indicating the rear of 246 North High Street)
4 and Major Spicer said he did not think so.

5
6 Detective Brazel said Major Spicer was dressed in a regular deputy uniform with a
7 tactical vest. Detective Brazel said he posted in front of Major Spicer and covered
8 down the alley or driveway to the west. Detective Brazel said Officer Nagel was with
9 him. Detective Brazel said he was aware of some other officers around the house
10 also. Detective Brazel said Major Spicer told him (Brazel) he (Spicer) had "taken
11 out" some lights around the "purple house" (234 North High Street).

12
13 Detective Brazel said Huber Heights RERT members Ashley, Savard, Blair and
14 Hawley showed up and they "stacked up" on the "2" side of 246 North High Street to
15 determine what to do next. Detective Brazel said the Dayton SWAT vehicle had
16 breached the fence leading to the back yard of 246 North High Street earlier, so they
17 searched the rear yard and detached garage behind 246 North High Street to ensure
18 the suspect had not moved there. Detective Brazel said they were still under the
19 impression the suspect was in the house right next door at 250 North High Street.
20 Detective Brazel said after they cleared the back yard and detached garage they were
21 able to look over the privacy fence and saw there was a detached garage (280 North
22 High Street) to the north of the property at 250 North High Street, which was lit up by
23 police vehicles and realized that was the suspect's house. Detective Brazel said he
24 and his team remained in the backyard of 246 North High Street, utilizing the
25 detached garage to monitor the south "2" side of the illuminated detached garage (280
26 North High Street) where the suspect was, for the rest of the evening.

27
28 Detective Brazel said he did not see or speak to Major Spicer after leaving Major
29 Spicer to clear the rear yard of 246 North High Street. Detective Brazel said he did
30 not attempt to enter the main residence at 246 North High Street during the incident.
31 Detective Brazel said he asked either Major Spicer, or one of the other officers, if the
32 house had been "cleared," and was told they attempted to make contact with the

1 residents. Detective Brazel said he did not remove the screen from the window at 246
2 North High Street. Detective Brazel said the screen had already been removed when
3 he arrived at the house.
4

5 Detective Brazel said communications throughout the incident were poor. Detective
6 Brazel said they could not communicate with the Greene County SWAT team, and
7 the channel they were using, Montgomery County LE1, was not performing well.
8 Detective Brazel said they received sporadic information relayed from Lieutenant
9 Busse. Detective Brazel said there was not a clear chain of command for the incident,
10 leading to a lot of confusion as they attempted to move into their position. Detective
11 Brazel said they had no idea where anyone else was deployed during the incident or
12 what was going on.
13

14 Detective Brazel said the radio communications were so bad, team members with
15 cellular telephones resorted to calling other team members to find out where they
16 were and to receive orders from Lieutenant Busse. Detective Brazel said he did not
17 have his cellular telephone with him that evening. Detective Brazel said he did not
18 take any photographs or video during the incident.
19

20 Detective Brazel said in his opinion "Major Spicer neither helped nor hindered his
21 mission during the evening." Detective Brazel said his mission was to relieve the
22 Greene County deputy and he did.
23

24 Detective Brazel said he and his team remained in the backyard of 246 North High
25 Street for the remainder of the incident until other tactical officers eventually made
26 entry into the suspect's house and found the suspect deceased. Detective Brazel said
27 he did not fire a weapon during the incident.
28

29 Detective Brazel said he did not have any further information regarding this
30 investigation. I ended the interview at 1156 hours.
31
32

1 **ADDITIONAL INVESTIGATION**

2 On Monday, September 30, 2013, Detective Sollenberger and I met with Chief
3 Deputy Mike Brown and Sheriff Gene Fischer at the Greene County Sheriff's Office.
4 During this meeting we discussed the logistics of the investigation. At the conclusion
5 of the meeting, Chief Deputy Brown provided me with a copy of the *Post Mortem*
6 *Examination* report case number 13-3027, Paul E. Schenck, completed by the
7 Montgomery County Coroner's Office.

8
9 I reviewed the report completed by Doctor Lee D. Lehman, Ph.D., M.D., Forensic
10 Pathologist, Chief Deputy Coroner, Montgomery County, Ohio, who concluded "Mr.
11 Paul E. Schenck, 42 year old white male, died of a gunshot wound to the head."
12 Attached with the *Post Mortem Examination Report* is the *Toxicology Laboratory*
13 *Report* completed by the Montgomery County Coroner's Office, which shows at the
14 time of his death, "Mr. Paul E. Schenck had antidepressant drugs and alcohol in his
15 system."

16
17 Attached to the two reports from the Montgomery County Coroner's Office is the
18 Greene County Coroner's verdict case number AC-360-13. Kevin D. Sharrett, M.D.,
19 Coroner concludes, "The cause of death of Paul E. Schenck on Tuesday, July 31,
20 2013, at 280 North High Street in Yellow Springs, OH, was Acute Ventricular
21 Dysrhythmia from a Distant-Range Gunshot Wound Of The Head with Alcohol
22 Intoxication present."

23
24 **INTERVIEW WITH GREENE COUNTY DEPUTY DUANE GILBERT**

25 On Monday, September 30, 2013, at approximately 1202 hours, Deputy Duane
26 Gilbert and his representative Ms. Christine Kyle appeared at the Greene County
27 Sheriff's Office, 120 East Main Street in Xenia, Ohio as a **witness** in an
28 administrative investigation. Deputy Gilbert, his representative Ms. Kyle, Detective
29 Michael Sollenberger and I were present during the interview. I reviewed the *Greene*
30 *County Sheriff's Office Garrity and Piper Warnings* form with Deputy Gilbert.
31 Deputy Gilbert said he understood the warnings and signed the form.
32

1 Deputy Gilbert has been employed with the Greene County Sheriff's Office for over
2 thirteen years and is currently assigned to road patrol, on day watch.

3
4 Deputy Gilbert said he was working the night shift on Tuesday, July 30, 2013,
5 assigned to District 4, the south east quadrant of Greene County. Deputy Gilbert said
6 this was the same week as the Greene County Fair, and part of his duties was to report
7 to the fairgrounds with the other night shift deputies to assist with closing the Fair.
8 Deputy Gilbert said he was at the fairgrounds when dispatch notified them there were
9 shots fired in Yellow Springs. Deputy Gilbert said within a minute they were notified
10 by dispatch the Yellow Springs Officers had "dropped a signal 99" (officer needs
11 emergency assistance).

12
13 Deputy Gilbert said he responded from the fairgrounds with, Sergeant Michael Prall,
14 Deputies Dennis Nipper, David Wical, Glen McKinney and Sean Kessel. Deputy
15 Gilbert said he responded directly to North High Street, following Deputy Nipper,
16 and parked a couple of houses to the north of 310 North High Street by the Yellow
17 Springs cruisers. Deputy Gilbert said when they arrived, a Yellow Springs Officer
18 was near one of the Yellow Springs cruisers directing them to continue down the
19 road.

20
21 Deputy Gilbert said he parked, armed himself with his patrol rifle and responded to
22 the Yellow Springs Officer who told him there were shots being fired as he pointed to
23 the direction of the detached garage (280 North High Street) behind 310 North High
24 Street. Deputy Gilbert said there were more shots fired from the location and he took
25 cover behind the Yellow Springs cruiser with Deputies Nipper and McKinney.
26 Deputy Gilbert said he remained at this location for approximately five hours
27 covering the front of the house.

28
29 Deputy Gilbert said shortly after he arrived, Sergeant Prall, Deputy Wical and Deputy
30 Kessel arrived. Deputy Gilbert said they initially parked close to the Yellow Springs
31 cruisers, but then moved their cruisers back toward the suspect house and used the
32 spot lights to try to illuminate the suspect's house. Deputy Gilbert said Sergeant

1 Prall, Deputy Kessel and Deputy Wical remained behind the cover of their cruisers
2 and a small wooded area directly across from the driveway of the suspect's house.
3 Deputy Gilbert said he was aware of a Cedarville police officer near his location and
4 Sergeant Randy Estep from the Jamestown Police Department near them, covering
5 the house.

6
7 Deputy Gilbert said he did not see Major Eric Spicer arrive at the scene and did not
8 speak to him or receive any direct orders from him. Deputy Gilbert said Sergeant
9 Prall checked on them from time to time and told them to hold their perimeter
10 position until relieved by SWAT. Deputy Gilbert said throughout the night, he heard
11 several barrages of gunfire coming from the suspect's location, with several rounds
12 directed close to his location. Deputy Gilbert said he heard rounds hitting the Greene
13 County cars that were illuminating the suspect's house. Deputy Gilbert said during
14 the night he could tell the suspect was shooting different types of weapons based on
15 the different sounds, including pistol, rifle, and shotgun rounds. Deputy Gilbert said
16 the majority of the gunfire seemed to be sporadic through the night. However, the
17 suspect did specifically shoot at the negotiator in the SWAT armored vehicle.
18 Deputy Gilbert said he heard one round that sounded like it was fired toward the
19 suspect south east of his (Gilbert's) location. Deputy Gilbert said he later heard
20 Major Spicer fired a round and Deputy James Hughes also fired at the suspect.
21 Deputy Gilbert said he was relieved from his position around 0430 hours and reported
22 to the command post, where he told Major Kirk Keller where he had been located and
23 who was around his location. Deputy Gilbert said he did not fire his weapon during
24 the incident and did not see anyone fire their weapon during the incident.

25
26 Deputy Gilbert said during the incident he knew Sergeant Prall was in command
27 initially, but did not know who assumed command after SWAT personnel arrived.
28 Deputy Gilbert said according to Greene County Sheriff's Office Policy, in a situation
29 where SWAT is going to respond, the initial responding deputies are responsible for
30 setting up a perimeter to contain the incident, and remain until relieved by members
31 of SWAT.
32

1 Deputy Gilbert said he did not have any further information regarding this incident. I
2 ended the interview at 1240 hours.

3
4 **INTERVIEW WITH YELLOW SPRINGS OFFICER PATRICK ROEGNER**

5 On Monday, September 30, 2013, at approximately 1723 hours, Detective Michael
6 Sollenberger and I met with Yellow Springs Police Officer Patrick Roegner at the
7 Yellow Springs Police Department, 100 Dayton Street, Yellow Springs, as a witness
8 in an administrative investigation. Officer Roegner, Detective Sollenberger and I
9 were present for the recorded interview.

10
11 Officer Roegner has been employed by the Yellow Springs Police Department for
12 over seven years. Officer Roegner joined the Greene County SWAT team in 2013.
13 Officer Roegner is currently assigned to road patrol on evenings, 1700 to 0300 hours.

14
15 Officer Roegner said on Tuesday, July 30, 2013, he was dispatched to 310 North
16 High Street because of a "911 call with an open line." Officer Roegner said he was
17 the first car on the scene and was backed up by Officers Joshua Knapp and Luciana
18 Lieff.

19
20 Officer Roegner said he was familiar with the residents, the Schenck family, who
21 reside at 310 North High Street and 280 North High Street, because he has responded
22 to several calls for service at the residences. Officer Roegner said he has responded
23 to calls of domestic violence and disturbances between different members of the
24 households. Officer Roegner said in 2009, Mr. Paul E. Schenck pointed a firearm at
25 his (Roegner's) Field Training Officer during a call, which resulted in the ACE Task
26 Force obtaining a search warrant and confiscating numerous firearms from Mr. Paul
27 E. Schenck.

28
29 Officer Roegner said he is familiar with the layout of the houses at 280 and 310 North
30 High Street. Officer Roegner said he was at the house early this year or late last year
31 to handle a dispute between Mr. Paul E. Schenck's son, Max, and Max's girlfriend.

1 Officer Roegner said on July 30, 2013, he responded to the rear of 310 North High
2 Street, and spoke with Mr. Paul Schenck Sr. who was outside. Mr. Schenck said his
3 wife, Uta Schenck, was "handling the situation" and she was inside. Officer Roegner
4 said he went to the front door of Paul E. Schenck's house with Officer Knapp to
5 contact Paul E. Schenck.
6

7 Officer Roegner said Paul E. Schenck spoke to them behind the closed storm door
8 and glass of the closed main door. Officer Roegner said Paul E. Schenck never
9 opened the door while speaking with them. Officer Roegner said Paul E. Schenck had
10 an injury to one of his hands and to his forehead. Officer Roegner said they tried to
11 get Paul E. Schenck to open the door and let them in so they could find out what was
12 going on. Officer Roegner said Paul E. Schenck was upset and refused to come
13 outside or let them in. Officer Roegner said after a short time, Paul E. Schenck told
14 them, "Well I'm just gonna kill myself then."
15

16 Officer Roegner said the storm door was reinforced with some type of steel and he
17 spoke briefly to Officer Knapp about trying to get into the house. Officer Roegner
18 said he attempted to pull the door open so they could get in to aid Paul E. Schenck.
19 Officer Roegner said when he attempted to pull the door open, two to three gunshots
20 were fired from inside the house toward the front door. Officer Roegner said he did
21 not see where the rounds went because he was moving away from the door to find
22 cover. Officer Roegner said he and Officer Knapp got behind a car parked in the
23 driveway to the south of the front door.
24

25 Officer Roegner said he radioed his dispatch for assistance, notifying them shots had
26 been fired. Officer Knapp also radioed for assistance calling for a "Signal 99,"
27 officer needs emergency assistance. Officer Roegner said he was able to contact
28 Officer Lieff, who was still in the main residence of 310 North High Street with Max
29 Schenck, Paul Schenck Sr. and Uta Schenck. Officer Roegner said he told Officer
30 Lieff to stay down and get the family out of the house through the front door and take
31 them to the north to where the medics were staged.
32

1 Officer Roegner said when Paul E. Schenck first started shooting, it sounded like he
2 was shooting a pistol. Officer Roegner said he thought Paul E. Schenck must have
3 emptied the pistol because after a short pause there was more gunfire. Officer
4 Roegner said this sounded louder and thought they were fired from a rifle.

5
6 Officer Roegner said he and Officer Knapp were able to retreat to their cruisers and
7 obtained their rifles. Officer Roegner said officers from surrounding agencies were
8 now arriving on the scene. Officer Roegner said he told dispatch to have the
9 responding officers park near the Yellow Springs cruisers, but realized as the officers
10 were showing up Paul E. Schenck was still shooting toward the street. Officer
11 Roegner said he directed responding officers to park further down North High Street.

12
13 Officer Roegner said he met with several of the responding officers but does not
14 recall who they were due to the chaotic scene. Officer Roegner said as the officers
15 started to set up a perimeter on North High Street, around the area of Paul E.
16 Schenck's house, he moved to different locations until he was behind a Greene
17 County Sheriff's Cruiser, parked directly across the driveway from Paul E. Schenck's
18 house.

19
20 Officer Roegner explained Yellow Springs has a different radio frequency from the
21 Greene County Sheriff's Office. Officer Roegner said he coordinated his officers
22 with Greene County Sheriff's Office Sergeant Shawn Prall, who was in the wood line
23 close to the car Officer Roegner was behind. Officer Roegner said he was able to tell
24 Sergeant Prall the general area Paul E. Schenck was and suggest a staging area for
25 more officers. Officer Roegner said he was under the impression a Major from the
26 Greene County Sheriff Office was setting up the staging area.

27
28 Officer Roegner said he was behind the Greene County cruiser when he saw Major
29 Eric Spicer come running up to them from the south without his gun out. Officer
30 Roegner said Deputy Wical was beside him. Officer Roegner said Major Spicer came
31 running up and said, "Give me a gun." Officer Roegner told him, "no," and Deputy

1 Wical gave Major Spicer his rifle, then Deputy Wical got a shotgun from the front of
2 the cruiser they were behind.

3
4 Officer Roegner said he was seated with his back to the front wheel of the Greene
5 County cruiser and Deputy Wical was toward the back wheel and Major Spicer was
6 looking over the trunk with the rifle. Officer Roegner said he had just finished a
7 transmission to his dispatcher when there was another barrage of gun fire from Paul
8 E. Schenck's house. Officer Roegner said he then he heard one shot come from
9 Major Spicer. Officer Roegner said he asked Major Spicer, "What are you shooting
10 at?" Officer Roegner said Major Spicer did not say anything. Officer Roegner said
11 he made another transmission to his dispatcher, looked back to where Major Spicer
12 was, and saw Major Spicer was gone. Officer Roegner said he did not see Major
13 Spicer for the rest of the incident.

14
15 Officer Roegner said he did not really speak to Major Spicer while he was behind the
16 car. Officer Roegner said he did not tell Major Spicer where Paul E. Schenck was.
17 Officer Roegner said he thought Major Spicer was judging the location of Paul E.
18 Schenck based on the direction the other officers were looking.

19
20 Officer Roegner said shortly after Major Spicer left, he asked Sergeant Prall if the
21 command post was set up at North High and Union Streets. Officer Roegner said
22 Sergeant Prall told him it was. Officer Roegner said he then made his way to the
23 command post where he met with Major Kirk Keller, Sergeant Steve Lane and
24 Deputy Jamie Coe and relayed all the information he had about Paul E. Schenck and
25 the location of the house he was in.

26
27 Officer Roegner said he had to explain to Major Keller, Sergeant Lane and Deputy
28 Coe that the address, 280 North High Street, is actually a detached garaged behind
29 310 North High Street. Officer Roegner said he pointed to the detached garage on a
30 map and explained the detached garage was modified into a residence where Paul E.
31 Schenck resides.

32

1 I asked Officer Roegner if there was any confusion between the small white house
2 that is 250 North High Street (the house immediately to the south of the Scheck's
3 house at 310 North High Street) and the detached garage where Paul E. Schenck lives
4 (280 North High Street) which sits behind and between 250 North High and 310
5 North High. Officer Roegner said, "Not from where I pointed out on the map. But
6 whether there was confusion before I got there, there could have been. Because they
7 were confused that 310 was still attached to 280."
8

9 Officer Roegner said after he gave his briefing to the SWAT commanders, he
10 received a dispatch advising the residents at 234 North High Street heard someone
11 trying to break into their house. Officer Roegner said the SWAT commanders told
12 him to take four SWAT members, Officer Lon Etchison, Officer Fred Barker, Officer
13 Doug Sparks and Officer Dean Margioras, to 246 North High Street. Officer Roegner
14 said he took them to the house, but does not recall if they knew someone was
15 reportedly trying to break into the house or if they were responding to cover the south
16 side of the suspect house.
17

18 Officer Roegner said after he led the SWAT members to the house, he responded
19 back to the command post to change into his SWAT uniform and assist with whatever
20 needed to be done.
21

22 Officer Roegner said he was assigned to provide security for the robot operator.
23 Officer Roegner said he and Officer David Wilson brought the robot to the Fairborn
24 armored vehicle that was located somewhere around 246 North High Street.
25

26 Officer Roegner said he remained around the Fairborn armored vehicle while the
27 negotiator attempted to contact the suspect. Officer Roegner said while he was with
28 the armored vehicle, the suspect continued to shoot out of the house. Officer Roegner
29 said at some point he heard one of the SWAT team members had shot at the suspect.
30 Officer Roegner said after that he did not hear any more shots and things started to
31 slow down as they waited for a search warrant to be written.
32

1 Officer Roegner said sometime around 0500 hours, Dayton's armored vehicle
2 breached the front of the suspect house allowing for the robot to be placed inside.
3 They were able to determine the suspect was down and not responsive due to a
4 gunshot wound to the head.

5
6 Officer Roegner said after the house was cleared, he went into the house to make a
7 positive identification on Paul E Schenck. Officer Roegner said he positively
8 identified Paul E. Schenck.

9
10 Officer Roegner said they remained on scene for security until they were relieved by
11 the Bureau of Criminal Investigation investigators.

12
13 Officer Roegner said he did not have any further information regarding this
14 investigation. I ended the interview at 1801 hours.

15
16 **ADDITIONAL INVESTIGATION**

17 On Wednesday, October 2, 2013, I received a copy of *Yellow Springs Ohio Uniform*
18 *Incident Report 2013-00003347, Detail Call For Service Report* from the Yellow
19 Spring Dispatch Center for CFS Number 384, along with dispatch recordings, a
20 memorandum listing the responding agencies and officers compiled from the event
21 and other miscellaneous documents associated with the incident that occurred at 280
22 North High Street on Tuesday, July 30, 2013. Please see reports for complete details

23
24 I reviewed the *Detail Call For Service Report #384* a summary of the pertinent
25 entries are as follows:

- 26
27
- 28 • On July 30, 2013, at 2250 hours, Yellow Spring Officers arrived on the
29 original call.
 - 30 • At 2254 hours, shots were reported as being fired.
 - 31 • At 2256 hour, a Signal 99 (Officers need immediate assistance).
 - 32 • At 2258 hours, Greene County Deputies were responding to the Signal 99.
 - At 2304 hours, a SWAT response was requested by Officer Patrick Roegner.

- 1 • At 2326 hours, the address and suspect information was updated to show 310
- 2 North High Street with Paul E. Schenck listed as the person.
- 3 • On July 31, 2013, at 0000 hours, SWAT units were staging on Union Street at
- 4 North High Street.
- 5 • At 0025 hours, residents at 234 North High Street (Purple House) reported
- 6 someone trying to enter back door.
- 7 • At 0034 hours, maps of high street were delivered to the SWAT team.
- 8 • At 0055 hours, resident from 245 North High Street reported an unmarked car
- 9 parked in front of his house with a man standing at the trunk (Major Spicer's
- 10 car). Caller not sure if man is with law enforcement or not.
- 11 • At 0138 hours, a notation was made showing at least 58 units (officers) on the
- 12 scene.
- 13 • At 0158 hours, notation SWAT is rolling up to the suspect's house.
- 14 • At 0210 hours, Officer Roegner reports negotiators have made contact with
- 15 suspect. Suspect has yelled obscenities at officers and threatened to shoot
- 16 them all.
- 17 • At 0220 hours, notation of possible suspect shot.
- 18 • At 0447 hours, visual made of suspect - he is down and not moving.
- 19

20 INTERVIEW WITH GREENE COUNTY MAJOR KIRK KELLER

21 On Thursday, October 3, 2013, at approximately 1313 hours, Major Kirk Keller
22 appeared at the Greene County Sheriff's Office, 120 East Main Street in Xenia, Ohio
23 as a **witness** in an administrative investigation. Major Keller, Detective Michael
24 Sollenberger and I were present during the interview. I reviewed the *Greene County*
25 *Sheriff's Office Garrity and Piper Warnings* form with Major Keller. Major Keller
26 said he understood the warnings and signed the form.

27
28 Major Keller has been employed with the Greene County Sheriff's Office for over
29 twenty-two years. Major Keller said he is the Greene County Jail Administrator.
30 Major Keller has been a member of the Greene County SWAT team since it was
31 formed thirteen years ago. Major Keller is the Greene County SWAT Team Special
32 Operations Commander.

1 Major Keller said he was assigned as the Incident Commander for the Greene County
2 Fair on Tuesday, July 30, 2013. Major Keller said he was arriving at the command
3 post at the Greene County Fairgrounds when he saw several deputies leave the
4 fairgrounds on an emergency run. Major Keller said he was told there had been shots
5 fired at Yellow Springs Police Officers and they had requested emergency assistance.
6 Major Keller said a short time later he was advised Yellow Springs requested a
7 SWAT response due to the active shooting situation.

8
9 Major Keller said Chief Deputy Mike Brown relieved him of his duties at the
10 Fairground and he responded directly to Yellow Springs. Major Keller said when he
11 arrived, there were numerous cars parked on, and around, North High Street. Major
12 Keller said he parked on Dayton Street and walked to the intersection of North High
13 and Union Streets where he saw Sheriff Gene Fischer and a large number of officers.

14
15 Major Keller said when he arrived, there was very limited information regarding the
16 location of the suspect. Major Keller said Sheriff Fischer and several of the officers
17 were looking at a map trying to establish where the suspect was located and the best
18 response for the assisting officers. Major Keller said as he was approaching the area,
19 he heard a radio broadcast advising a resident close to the suspect's house reported
20 someone was trying to get into their house. Major Keller said this broadcast led to
21 the impression the suspect had left the original incident location and was moving.
22 Major Keller said his first thought was they needed to establish a good perimeter
23 around the suspect to prevent him from moving.

24
25 Major Keller said he saw Greene County Sheriff's Office Detective Chris Moore and
26 told him to collect the names of officers and agencies of all the officers in the
27 immediate location so they could be deployed to specific location to set up a
28 definitive perimeter around the suspect. Major Keller said Sheriff Fischer had
29 advised him there were a couple of cars to the west of the suspect's house on King
30 Street. Major Keller said after looking at the map he saw there was a large wooded
31 area behind the suspect's house extending west to King Street. Major Keller said he
32 was concerned if the suspect was able to get into the woods he would be able to

1 escape without them knowing. Major Keller said he sent five more officers to King
2 Street to shut down the street and establish a barrier to prevent the suspect from
3 escaping the area. Major Keller said he could still hear shots being fired from the
4 suspect so he was confident he had not been able to move far and they still had time
5 to get officers to close King Street.

6
7 I asked Major Keller if he had any radio communications with any of the first
8 responding units as he was organizing the response from the officers around him.
9 Major Keller said he recalled hearing radio traffic from Sergeant Shawn Prall, who
10 was the supervisor of the platoon who immediately responded to the initial call from
11 the Greene County Fair. Major Keller said he heard Sergeant Prall advise dispatch to
12 have media respond to Dayton Street and not move down North High Street. Major
13 Keller said he also heard Sergeant Prall notify dispatch that Major Spicer was on-
14 scene and radio communications should go through him.

15
16 Major Keller said after the SWAT team arrived, and they established a better
17 command post, Detective Moore responded back with the list of names and locations
18 of everyone on scene. Major Keller provided that information to the SWAT Assistant
19 Incident Commander Deputy Jamie Coe.

20
21 Major Keller explained the structure of the Greene County Regional SWAT team.
22 Major Keller said there are two main components of the team, Xenia Police "City
23 Team" component and the Sheriff's Office "County Team" component. Major Keller
24 explained the two components train and respond to calls together and work as one
25 team. Major Keller said the difference in leadership is to allow Xenia Police
26 Department to control and command incidents that occur within the city of Xenia, and
27 the Sheriff's Office controls and commands incident that occur outside the city of
28 Xenia. Major Keller said this allows for two Special Operations Commanders and
29 two SWAT Commanders providing back-up and assistance as the need should arise.
30 Major Keller explained the "County Team" has gone through a complete turnover of
31 command structure over the past year. Major Keller said he has moved from an
32 operator position, to the SWAT Commander, to the Special Operations Commander,

1 within a short time. Major Keller said Deputy Jamie Coe was selected as the SWAT
2 Commander and has been attending command schools as he learns his role as
3 commander. Major Keller said the night of the incident, Sergeant Steve Lane, the
4 "City Team" SWAT Commander, was the primary commander and Deputy Coe was
5 assisting him. Major Keller said he (Keller) was the Special Operations Commander
6 for the incident.

7
8 Major Keller said Major Spicer requested the Dayton SWAT armored vehicle, the
9 Regional Emergency Response Team (Vandalia, Huber Heights, Fairborn and
10 Beavercreek) and Ohio State Highway Patrol helicopter to assist with the incident.
11 Major Keller said this request was made before he arrived on scene.

12
13 Major Keller said he spoke to Yellow Springs Officer Patrick Roegner before the
14 Greene County SWAT team arrived. Major Keller said Officer Roegner described
15 the location of Paul E. Schenck's house, as a detached garage, 280 North High Street,
16 immediately behind and to the south of the main residence, 310 North High Street.
17 Major Keller said Paul Schenck Sr. (Paul E. Schenck's father) who lives at the main
18 residence, 310 North High Street, was also present. Major Keller said they looked at
19 a map, drawn by Paul Schenck Sr., detailing the location of the detached garage in
20 relation to the main residence, with interior layout, including doors that may be
21 blocked by clutter. Major Keller said there was no confusion at the command post as
22 to the location of the detached garage, where Paul E. Schenck's house was located,
23 because Officer Roegner told Major Keller where he (Schenck) was when Paul E.
24 Schenck shot at Officer Roegner.

25
26 Major Keller said the only confusion about the location of the suspect was when team
27 members were setting up, they could not determine where the shots were coming
28 from because they could not see muzzle flash from the suspect's gun. Major Keller
29 said the physical location of the garage/house caused the sounds of the gunfire to
30 echo from the wooded area, privacy fences and other residences in the area. With the
31 absence of muzzle flash and the echoes of the rounds, the officers in the immediate
32 area could not determine if the rounds were being fired from inside or outside the

1 garage/house or if the suspect was moving between the garage and the main
2 residence.

3
4 Major Keller said Sergeant Lane arrived while he was speaking to Officer Roegner.
5 Major Keller said he relayed the information to Sergeant Lane who assumed
6 command of the SWAT members and started an operations plan.

7
8 Major Keller said he did not have any direct communication with Major Spicer until
9 he saw Major Spicer much later in the incident. Major Keller said he was in the
10 command truck when he heard Major Spicer telling Deputy Coe, "they (SWAT) were
11 on the wrong house." Major Keller said he heard Deputy Coe explain to Major
12 Spicer the information they had and how they got the information. Major Keller said
13 Major Spicer's information did not change the SWAT Commander's information
14 regarding the suspect house.

15
16 Major Keller said he did not speak with Major Spicer directly because Deputy Coe
17 and Sergeant Lane were effectively explaining the situation to Major Spicer. Major
18 Keller said a short time later, he heard Deputy James Hughes broadcast over the
19 radio, he had fired a round and thought he hit the suspect. Sergeant Lane radioed to
20 all of the SWAT members asking if anyone else had fired. Major Spicer, standing
21 outside the command vehicle said, "I fired a shot."

22
23 Major Keller said he went to Sheriff Gene Fischer and told Sheriff Fischer about
24 Major Spicer's confusion over the location of the suspect's house and that Major
25 Spicer said he had fired a shot. Major Keller said he was concerned and wondered
26 what Major Spicer was shooting at, or when he fired the shot. Major Keller said
27 when he returned to the command vehicle, Major Spicer was no longer there.

28
29 Major Keller said they continued to make contingency plans for breaching the house,
30 the pros and cons of utilizing gas munitions in the house to try to force the suspect
31 out, and the possibility of using Dayton's armored vehicle to drive through the house
32 to make entry.

1 Major Keller said after Deputy Hughes' shot, there were no further shots fired from
2 the suspect. Major Keller said Sergeant Lane received a text message from Officer
3 Fred Barker and Officer Lon Etchison advising Major Spicer was "interfering with
4 their mission and needed to be removed." Major Keller said he relayed the
5 information to Sheriff Fischer. Major Keller said he did not see, or have any further
6 contact, with Major Spicer until the incident was over.

7
8 I asked Major Keller what he expected a command officer to do when arriving on the
9 scene of an incident like this in preparation for SWAT to arrive. Major Keller said he
10 expected the ranking officer to take command of his troops, assess the situation and
11 make command decisions based on the situation. Major Keller said based on the
12 radio traffic he heard when he arrived, Sergeant Prall was the initial commander and
13 did a good job of guiding his troops and initially organizing the incident.

14
15 Major Keller said based on Major Spicer's radio traffic when he arrived, it was
16 evident he attempted to exert some control and organize the scene by, advising media
17 personnel to meet at a location away from the immediate area of the incident.
18 However, Major Keller said as the event continued, Major Spicer's involvement
19 became a hindrance to the SWAT team. Major Keller said Major Spicer apparently
20 gave orders to SWAT team members that were contrary to the information being put
21 out from the command post, he argued at the command post over the suspect house
22 location, attempting to change the suspect's location from the known information of
23 the detached garage to a house next door. Major Keller said Major Spicer told them,
24 while at the command post, he (Spicer) had taken a shot earlier in the incident without
25 telling anyone at the command post.

26
27 Major Keller said he did not fire his weapon during this incident and did not enter the
28 suspect's house at 280 North High Street.

29
30 Major Keller said he did not have any further information regarding this
31 investigation. I ended the interview at 1412 hours.

32

1 **INTERVIEW WITH GREENE COUNTY DEPUTY JAMES HUGHES**

2 On Thursday, October 3, 2013, at approximately 1431 hours, Deputy James Hughes
3 appeared at the Greene County Sheriff's Office, 120 East Main Street in Xenia, Ohio
4 as a **focus** in an administrative investigation. Deputy Hughes, Detective Michael
5 Sollenberger and I were present during the interview. I reviewed the *Greene County*
6 *Sheriff's Office Garrity and Piper Warnings* form with Deputy Hughes. Deputy
7 Hughes said he understood the warnings and signed the form.

8
9 Deputy Hughes has been employed with the Greene County Sheriff's Office for over
10 ten years. Deputy Hughes is currently assigned to the County Jail. Deputy Hughes
11 has been a member of the Greene County Regional SWAT Team for seven years and
12 is currently assigned as one of the precision riflemen for the team.

13
14 Prior to going on record with Deputy Hughes, I provided him with a written summary
15 of his interview with BCI Special Agent Karen Rebori conducted on August 2, 2013.
16 I asked Deputy Hughes if the summary of his interview was accurate and complete
17 concerning his response to the incident in Yellow Springs on July 30, 2013. Deputy
18 Hughes said the summary of the interview was accurate and he did not have any
19 corrections to make other than approximately one week ago, he learned he actually
20 fired five rounds during the incident when he initially perceived firing three rounds.
21 Deputy Hughes said the misjudgment in rounds was based on the activity of the
22 incident.

23
24 Deputy Hughes said several days after the incident, he was at Detective Beth Prall's
25 office in the Greene County Sheriff's Office to review the photos taken at the crime
26 scene. Deputy Hughes said there were satellite photo maps of North High Street
27 (similar to the ones I used during the interview) on Detective Prall's desk as he was
28 looking through the photographs.

29
30 Deputy Hughes said while he was looking at the photographs, Major Eric Spicer
31 walked into the office and asked if he could see the photos when Deputy Hughes was
32 finished. Major Spicer then asked Deputy Hughes how he was doing and Deputy

1 Hughes told him, "Hanging in there." Deputy Hughes said he asked Major Spicer
2 how he was doing and Major Spicer said, "I'm doing great. That was good stuff."

3
4 Deputy Hughes said when he finished looking through the photographs, he handed
5 them to Major Spicer. Deputy Hughes said he then started looking at satellite photo
6 maps on Detective Prall's desk. Deputy Hughes said he was talking to Detective
7 Prall looking at the maps trying to determine where he (Hughes) was located during
8 the incident. Deputy Hughes said it was difficult to determine because the map they
9 were looking at was obscured due to the dense foliage.

10
11 Deputy Hughes said Major Spicer pointed to a house and said, "It was this house,
12 right?" Deputy Hughes said his attention was elsewhere at the time and did not see
13 which house Major Spicer pointed to, but heard Detective Prall say, "No, it was this
14 one." Deputy Hughes said Major Spicer then said, "That was my biggest mistake of
15 the night." Deputy Hughes said Major Spicer then asked if any bullets were
16 recovered from any of the surrounding houses.

17
18 I asked Deputy Hughes what he thought Major Spicer's comments meant. Deputy
19 Hughes said he thought Major Spicer was saying he (Spicer) was mistaken on which
20 house was the target house. I asked Deputy Hughes if he knows which house Major
21 Spicer mistakenly thought was the target house. Deputy Hughes said he thought
22 Major Spicer was referring to 250 North High Street.

23
24 Deputy Hughes said after he was done looking at the photographs he told Chief
25 Deputy Mike Brown about the statements he heard Major Spicer make and his
26 concerns about Major Spicer having mistaken which house was the target house.
27 Deputy Hughes said Detective Prall, Major Spicer and himself were the only persons
28 present for the conversation in Detective Prall's office.

29
30 Deputy Hughes said he did not have any further information regarding this
31 investigation. I ended the interview at 1442 hours.

32

1 **INTERVIEW WITH GREENE COUNTY DETECTIVE BETH PRALL**

2 On Thursday, October 3, 2013, at approximately 1505 hours, Detective Beth Prall
3 appeared at the Greene County Sheriff's Office, 120 East Main Street in Xenia, Ohio
4 as a **witness** in an administrative investigation. Detective Prall, Detective Michael
5 Sollenberger and I were present during the interview. I reviewed the *Greene County*
6 *Sheriff's Office Garrity and Piper Warnings* form with Detective Prall. Detective
7 Prall said she understood the warnings and signed the form.

8
9 Detective Prall has been employed with the Greene County Sheriff's Office for
10 fifteen years. Detective Prall said she is currently assigned as a detective and
11 primarily works days, but is subject to call out at any time.

12
13 Detective Prall said her husband, Sergeant Michael "Shawn" Prall, also works for the
14 Sheriff's Office as a Road Patrol Supervisor. Detective Prall said she was at home on
15 the evening of the incident and Sergeant Prall was working. Detective Prall said she
16 received a telephone call from a friend asking her what was going on in Yellow
17 Springs. When Detective Prall said she had not heard of anything, her friend told her
18 there was a "signal 99" (officer needs emergency assistance) regarding a shooting.

19
20 Detective Prall said she attempted to call Sergeant Prall but did not receive an answer.
21 Detective Prall said she attempted to call a couple of other people she knew were
22 working but did not receive an answer from any of them. Detective Prall said she
23 then called the Dispatch Center who advised her of the on-going incident in Yellow
24 Springs. Detective Prall said she knew, due to the size and limited resources of the
25 Yellow Springs Police Department, the Sheriff's Office would probably handle the
26 investigation of the incident, so she responded to Yellow Springs.

27
28 Detective Prall said she arrived in Yellow Springs sometime around midnight and
29 reported to the command post. Detective Prall said she and Detective Chris Moore
30 started talking to witnesses and family members of Paul E. Schenck trying to
31 determine his current mental status and the potential weaponry he had available.

1 Detective Prall said she spoke on the telephone with Max Schenck, who was at the
2 hospital, about what happened with his dad that evening.

3
4 I asked Detective Prall where she believed Paul E. Schenck was located, based on the
5 conversations she had with people at the command post, witnesses and family
6 members. Detective Prall said everyone told her he was in a detached garage, which
7 had been converted into a separate residence, behind his parent's house at 310 North
8 High Street.

9
10 Detective Prall said Sheriff Gene Fischer advised her the Sheriff's Office would be
11 handling the investigation for the Yellow Springs Police Department. Detective Prall
12 said she started organizing her notes for the investigation and waited for the incident
13 to be resolved.

14
15 Detective Prall said her husband, and his platoon, were pinned down for several hours
16 on the perimeter until relieved by the SWAT team. Detective Prall said when
17 Sergeant Prall and his platoon responded back to the command post she started
18 talking to them to gather further information for her investigation. Detective Prall
19 said they told her Major Eric Spicer fired a round earlier. Detective Prall said she
20 asked what Major Spicer fired at and they replied they did not know. Detective Prall
21 said she asked why none of them fired and they told her they did not have a target.

22
23 Detective Prall said Sergeant Prall said they never saw a muzzle flash or a silhouette
24 of the suspect and they did not have any target to shoot at although they were directly
25 across the street from the suspect house and receiving gunfire. Detective Prall said
26 she spoke with Deputy David Wical who confirmed Major Spicer had fired a round
27 from the rifle assigned to Deputy Wical's patrol vehicle.

28
29 Detective Prall said after she heard about Major Spicer firing a round, she informed
30 Chief Deputy Mike Brown, and told Chief Deputy Brown they were going to need to
31 collect the gun Major Spicer fired as evidence.
32

1 Detective Prall said when the incident was over and the house was cleared, she
2 collected the rifles fired during the incident from Deputy James Hughes and Major
3 Spicer and secured them in her car.
4

5 Detective Prall said Major Spicer told her he wanted to show her where he was
6 located when he fired his shot. Detective Prall said Major Spicer took her to Greene
7 County Sheriff's Office marked cruiser #14 and told her he was posted on the back of
8 the car. Detective Prall said she asked Major Spicer what he shot at and he told her
9 he returned fire to a muzzle flash. Detective Prall said Major Spicer then left and she
10 was later told he was sent home. Detective Prall said she did not speak with Major
11 Spicer anymore that day.
12

13 Detective Prall said sometime around 0800 hours, it was decided to have the Bureau
14 of Criminal Identification and Investigation (BCI) conduct the investigation due to
15 the involvement of the Greene County Sheriff's Office Deputies in the shooting.
16 Detective Prall said she waited at the scene until the BCI investigators arrived.
17 Detective Prall said she only took photographs at the scene and did not process any
18 evidence. Detective Prall said she turned the two rifles over to the BCI investigators
19 when they arrived.
20

21 Detective Prall said a few days after the incident Deputy Hughes came to her office to
22 look at the photographs of the scene. Detective Prall said while Deputy Hughes was
23 looking through the scene photographs, Major Spicer came into her office. Detective
24 Prall said she was surprised because Major Spicer was on administrative leave from
25 the incident. Detective Prall said Major Spicer was talking a little to them and when
26 Deputy Hughes was finished looking at the photographs, Major Spicer asked to look
27 at them.
28

29 Detective Prall said as Major Spicer looked through the photographs she had a
30 satellite photo map of the area around 310 North High Street (similar to the ones used
31 during my interviews) on her desk. Detective Prall said Major Spicer looked at the
32 map on her desk and asked, "Which house is it?" Detective Prall said she avoided

1 answering because she did not know what Major Spicer's "status" was because of the
2 administrative leave.

3
4 Detective Prall said as Major Spice asked, "Which house is it?" he (Spicer) pointed to
5 250 North High Street. Detective Prall said she then told him, "No, it's here (pointing
6 to the detached garage 280 North High Street). I said it. It's this garage back here.
7 And he, he just goes, 'This is the biggest mistake of my night. This was the biggest
8 mistake of my night.' (pointing at 250 North High Street)." Detective Prall said
9 Major Spicer then asked if they found any fired rounds out of any of the surrounding
10 houses. Detective Prall said she avoided answering the question until Major Spicer
11 asked again and she told him there were a number of fired rounds removed from
12 several houses but she did not know specifically which houses.

13
14 Detective Prall said Major Spicer left when Chief Deputy Brown stepped into her
15 office and asked Deputy Hughes to see him before leaving. Detective Prall said
16 Major Spicer told Chief Deputy Brown he needed to talk first and left. Detective
17 Prall said she has received a couple of text messages from Major Spicer since then
18 but has not seen him.

19
20 Detective Prall said she did not have any further information regarding this
21 investigation. I ended the interview at 1535 hours.

22
23 **INTERVIEW WITH GREENE COUNTY SERGEANT SHAWN PRALL**

24 On Thursday, October 3, 2013, at approximately 1631 hours, Sergeant Michael
25 "Shawn" Prall appeared at the Greene County Sheriff's Office, 120 East Main Street
26 in Xenia, Ohio as a witness in an administrative investigation. Sergeant Prall,
27 Detective Michael Sollenberger and I were present during the interview. I reviewed
28 the *Greene County Sheriff's Office Garrity and Piper Warnings* form with Sergeant
29 Prall. Sergeant Prall said he understood the warnings and signed the form.

30
31 Sergeant Prall has been employed by the Greene County Sheriff's Office for nineteen
32 years. Sergeant Prall is currently assigned as the road patrol supervisor for Platoon

1 A2, working 1800 to 0600 hours. Sergeant Prall has been a supervisor for over three
2 years.

3
4 Sergeant Prall said he was supervising Deputies Dennis Nipper, Duane Gilbert, David
5 Wical, Sean Kessel and Glen McKinney on Tuesday, July 30, 2013. Sergeant Prall
6 said they were at the Greene County Fairgrounds to assist with closing the Fair for the
7 night when Dispatch advised there was a shooting in Yellow Springs. Sergeant Prall
8 said the dispatcher said Yellow Springs was not asking for assistance at the time.

9 Sergeant Prall said within a minute the dispatcher came back and said Yellow Springs
10 had a "signal 99" (officer needs emergency assistance). Sergeant Prall said he and his
11 platoon got in their cars and started towards Yellow Springs.

12
13 Sergeant Prall said when they arrived they proceeded down High Street to the Yellow
14 Spring's police cars. Sergeant Prall said they unknowingly drove by the suspect
15 house, as rounds were being fired, and were directed by the Yellow Springs Officers
16 on the scene to keep driving until they were out of the line of fire. Sergeant Prall said
17 Deputies McKinney, Gilbert and Nipper were already on scene. Sergeant Prall said
18 Deputy Kessel and Deputy Wical parked behind him. Sergeant Prall said he and his
19 deputies retrieved their patrol rifles and started to get organized to address the
20 situation.

21
22 Sergeant Prall said they were receiving sporadic heavy gunfire. Sergeant Prall said
23 due to the darkness, it was not immediately known where the shots were coming
24 from. Sergeant Prall said somebody said, "Spotlight the house." Sergeant Prall said
25 he activated the spot light on his car and illuminated the house at 310 North High
26 Street. Sergeant Prall said someone said, "That's not it, it's the one next to it."
27 Sergeant Prall said he turned his spotlight off and conferred with the officers on the
28 scene as he "got his bearings." Sergeant Prall said Deputy Kessel then backed his car
29 (Greene County marked Dodge Charger, cruiser 04) so it was positioned at the
30 driveway to 310 North High Street and activated his spotlight, illuminating the
31 suspect house (a detached garage behind and south of 310 North High Street).
32 Sergeant Prall said Deputy Kessel took immediate fire from the suspect so he

1 (Kessel) was unable to retrieve his patrol rifle from the trunk. Deputy Kessel
2 retreated to the front of his car to take cover.

3
4 Sergeant Prall said after the suspect house was illuminated, the Yellow Springs
5 Officers were asking for more light. The light was causing more shots to be fired
6 from the suspect and during this time, Sergeant Prall said a round from the suspect
7 ricocheted off the barrel of his (Prall) rifle. Sergeant Prall said he knew at that point
8 they were not going to be able to advance on the house due to the amount of gunfire
9 directed toward them. Sergeant Prall said he told his deputies to, "take cover and
10 contain the suspect from being able to move." Sergeant Prall said they did not know
11 specifically where the suspect was located, but knew the shots were coming from the
12 area of the detached garage and rear of the main house.

13
14 Sergeant Prall said he was behind a wood pile behind Greene County cruiser 04.
15 Sergeant Prall said he had a clear view up the driveway to the detached garage.
16 Sergeant Prall said Deputy Kessel was next to him, and Sergeant Randy Estep, from
17 the Jamestown Police Department, was nearby in the trees.

18
19 Sergeant Prall said Deputy Wical was a little further south, taking cover behind his
20 cruiser, Greene County marked cruiser 14 with four Central State University Officers
21 close to him. Sergeant Prall described their positioning as a "U" shape along North
22 High Street extending from just north of 310 North High Street to 250 North High
23 Street. Sergeant Prall said the front side was well covered with his deputies and the
24 officers on the scene.

25
26 Sergeant Prall said Yellow Springs Officer Roegner wound up positioned behind
27 Greene County car 14 with Deputy Wical. Sergeant Prall said he communicated with
28 Officer Roegner by yelling back and forth with him. Sergeant Prall said he asked
29 Officer Roegner if any citizens had been evacuated. Officer Roegner said that was
30 done and they were either evacuated or had refused. Sergeant Prall asked where the
31 shooter was and Officer Roegner said the detached garage (apartment) or the general
32 area toward the rear of 310 North High Street. Sergeant Prall said he continued

1 yelling back and forth with Officer Roegner, asking if there were any other people in
2 the suspect house. Sergeant Prall said due to the noise level they was not able to
3 easily communicate. Sergeant Prall said Officer Roegner advised he was on SWAT
4 and needed to report and left the area.

5
6 Sergeant Prall said during this same time he communicated with Major Eric Spicer
7 over the radio. Sergeant Prall said at some point Major Spicer yelled at him (Prall).
8 Sergeant Prall saw Major Spicer was next to Deputy Wical. Sergeant Prall said after
9 Major Spicer arrived he heard a single shot come from their side of the street.
10 Sergeant Prall said he yelled, "Who shot? What's the target?" several times but did
11 not receive an answer. Sergeant Prall said he yelled to Sergeant Estep and asked,
12 "Randy, who shot on your end?" Sergeant Prall said Sergeant Estep said, "Nobody."
13 Sergeant Prall said he yelled to Deputy Wical's location, "Anybody shoot? And
14 nobody was answering and then the guy started shooting at us again so, you know, I
15 let it be at that point."

16
17 Sergeant Prall explained he felt a tremendous sense of responsibility for the welfare
18 and conduct of his deputies during this incident. Sergeant Prall said when the round
19 was fired from "their side" he initially thought he had accidentally fired his weapon
20 because the sound of the shot was very loud and close. Sergeant Prall said he looked
21 at his rifle and saw his finger was not on the trigger and knew he did not shoot.
22 Sergeant Prall said he told all of his deputies to maintain their perimeter positions and
23 wait for SWAT. Sergeant Prall said after each volley of fire from the suspect, he
24 would do a roll-call of the people around him to ensure they were okay. Sergeant
25 Prall said he did not find out who fired the shot until several hours later.

26
27 I asked Sergeant Prall what his expectations of Major Spicer were as he
28 communicated with him before and after Major Spicer arrived on the scene. Sergeant
29 Prall said, he gave Major Spicer the recommendation of Dayton Avenue and North
30 High Street as a staging and command center location. Sergeant Prall explained this
31 saying the street was flooded with police cars and cops, and due to the way
32 responding officers abandoned their cars to take cover, any car coming down the

1 street would be funneled to the front of the suspect location where the majority of the
2 rounds were being fired. Sergeant Prall said he wanted to prevent any responding
3 officers from becoming trapped in this funnel. Sergeant Prall said his expectation of
4 Major Spicer and the command staff was to set up a command center to organize,
5 control and direct responding officers where they were needed and prepare for
6 SWAT's arrival.

7
8 Sergeant Prall said he was not familiar with the area and asked Officer Roegner what
9 street was behind the suspect's house. Officer Roegner told him "King Street" but
10 then explained there is a large wooded area between the suspect's house and King
11 Street. Sergeant Prall said he radioed, ordering crews to King Street to ensure the
12 suspect could not flee through the woods.

13
14 Sergeant Prall said his expectations for Major Spicer were to assess the situation, pass
15 on their locations (suspect and law enforcement on-scene) and assist SWAT with
16 maps and locations.

17
18 Sergeant Prall said he was surprised when Major Spicer yelled at him from Deputy
19 Wical's position. Sergeant Prall said he had a brief exchange of information with
20 Major Spicer but does not recall the specifics of it. Sergeant Prall said Major Spicer
21 was there for what seemed a short time and then was gone. Sergeant Prall said he did
22 not hear Major Spicer give any orders while he was at Deputy Wical's car. Sergeant
23 Prall said he did not see Deputy Wical give his rifle to Major Spicer, and did not hear
24 Major Spicer ask for a rifle. Sergeant Prall said he did not see Major Spicer fire the
25 rifle.

26
27 Sergeant Prall said after several hours of holding his position, his radio battery and
28 cellphone battery were dead and he did not have any communications with the
29 command post or an understanding of any tactical plan being implemented. Sergeant
30 Prall said he was very concerned because he knew SWAT was doing something, but
31 they were not aware of what it was. Sergeant Prall said he was concerned that SWAT

1 may have someone moving into their (Prall's) perimeter without their knowledge
2 which could provoke an unintended shot from the perimeter.

3
4 Sergeant Prall said an armored vehicle drove down North High Street toward the
5 suspect house with SWAT members behind it. Sergeant Prall said he heard a
6 negotiator from inside the armored vehicle telling the suspect to answer his phone,
7 and the suspect responding, "I don't have a fucking phone." Sergeant Prall said the
8 negotiator continued to tell the suspect to pick up his phone. Sergeant Prall said he
9 told the SWAT members the suspect did not have a phone, because it appeared the
10 negotiator could not hear the suspect's responses and Sergeant Prall thought the
11 suspect was becoming agitated.

12
13 Sergeant Prall said a short time later two members of SWAT came to their position
14 and told them to move back because they were setting up in the location. Sergeant
15 Prall said he was able to pull Deputy Wical and Deputy Kessel back with him.

16
17 Sergeant Prall said while they were walking back to the command post he noticed
18 Deputy Wical was carrying a shotgun. Sergeant Prall asked Deputy Wical why he
19 did not have his rifle and Deputy Wical told him because Major Spicer took his rifle.
20 While they continued walking to the command post Deputy Wical also told Sergeant
21 Prall that Major Spicer had fired a round from his rifle. Sergeant Prall said this was
22 when he became aware that Major Spicer had fired the shot he heard earlier in the
23 incident.

24
25 Sergeant Prall said when he got back to the command post he reported to Deputy Coe
26 and reviewed the "grease board" with him and updated the positions of people listed
27 on the board. Sergeant Prall said he assisted at the command post and then drove
28 Greene County Assistant Prosecutor Stephanie Hayden to the Yellow Springs
29 Government Center. Sergeant Prall said he was on the scene for the rest of the event.
30 Sergeant Prall said he saw Major Spicer while at the command post but did not speak
31 to him.

32

1 Sergeant Prall said he did not take any photos or video during the incident. Sergeant
2 Prall said he did not fire a weapon during the incident.

3
4 I asked Sergeant Prall, as a supervisor, what his immediate responsibilities when
5 responding to the scene of a critical incident are. Sergeant Prall said, "Secure the
6 scene. I mean if it's still active, you got to, I mean. If lives are in danger you take
7 action to protect lives. No matter, you know, what, what it takes. So, once I was
8 given the assurance from Yellow Springs that evacuations had been done, and if they
9 are in their houses it was because they refused to go. I felt like we had moved past
10 that stage. At that point we didn't, I did not feel like, I felt like it was. The
11 percentage of dying was close to one hundred percent if anyone stood up and started,
12 no matter how they tried to approach that house. I didn't think there was any way to
13 get close to that house. And I felt that we were in a position to contain him within
14 that house so there's no need to risk putting guys out in the open to try to neutralize
15 the threat, or stop the threat. But, on-scene, we, you know, if this, you know, if the
16 guy is not presenting any hope of quitting the shooting, we got to use any force
17 necessary to stop the shooting, but."

18
19 I asked Sergeant Prall after he arrived on the scene and notified his superior what was
20 going on, what he expected the next senior person arriving on scene to do, or what
21 their responsibilities were. Sergeant Prall said, "My idea of their responsibilities is
22 provide any resources needed. Um, not be in the combat or hot zone. But be outside
23 to organize reinforcements, resources, and uh, relay any pertinent information to
24 responding SWAT and other tactical units, you know, maybe dispatched to assist."

25
26 Sergeant Prall said his responsibilities were to the members of his team, being the
27 officers and deputies from all of the agencies that were assisting him in covering the
28 front of the suspect's location and ensure the suspect did not leave the house.
29 Sergeant Prall said at one point dispatch advised there was breaking glass that was
30 coming from area away from the suspect's house. Sergeant Prall said there was a
31 report from one of the residents, about the time they heard breaking glass, that
32 someone was breaking into their house. Sergeant Prall said he was trying to figure

1 out where the house was in relation to the suspect's house. Sergeant Prall said no one
2 was answering dispatch on the radio who was asking if there were any officers around
3 that house. Sergeant Prall said one of the Central State Officers said they saw an
4 officer at that location. Sergeant Prall said the suspect began shooting again and they
5 knew he was still in the same location.

6
7 Sergeant Prall said Major Spicer hindered the situation during the event by not
8 providing any of the administrative support, intelligence and assistance he expected.
9 Sergeant Prall said he expected Major Spicer to collect resources such as maps and
10 sketches to give to the SWAT team when they arrived on scene so they could deploy
11 efficiently.

12
13 Sergeant Prall said Major Spicer did not give any commands to him or any of the
14 officers at the scene. Sergeant Prall said Major Spicer was at Deputy Wical's car for
15 about five to ten minutes before moving away.

16
17 Sergeant Prall said he did not have any further information regarding this
18 investigation. I ended the interview at 1717 hours.

19
20 **ADDITIONAL INVESTIGATION**

21 Following the interview with Sergeant Shawn Prall, he suggested we speak with
22 Deputy Dennis Nipper, Deputy Sean Kessel and Deputy Glen McKinney. Sergeant
23 Prall explained these three deputies responded with him to Yellow Spring and were
24 among the first units arriving on the scene.

25
26 I met with Deputy Nipper, Deputy Kessel and Deputy McKinney in the Greene
27 County Sheriff's Office conference room with Detective Michael Sollenberger. This
28 meeting was informal and not recorded. I explained to the three deputies Sheriff
29 Fischer requested an administrative investigation into the incident occurring at 280
30 North High Street in Yellow Springs on Tuesday, July 30, 2013. Deputies Nipper,
31 Kessel and McKinney looked through the maps and scene photographs regarding the
32 incident. They explained they were pinned down together on the east side of North

1 High Street directly across the street from the detached garage/converted house from
2 where the suspect was shooting. All three deputies said they took cover near Greene
3 County marked car 04 (a Dodge Charger) and were near officers from the Yellow
4 Springs and Cedarville Police Departments.

5
6 Deputies Nipper, Kessel and McKinney said they did not fire any rounds during the
7 incident. They further said they did not see the suspect or any muzzle flash from the
8 suspect during the incident. All three deputies reported hearing one shot fired from
9 their side of the street towards the suspect, but, because of their position did not see
10 who fired the shot or where it was fired.

11
12 All three deputies described a chaotic dangerous situation where their safety and the
13 safety of the public were at great risk. During the evening they endured several
14 volleys of gunfire, some directed towards them, with rounds striking the vehicle and
15 ground in front of them.

16
17 This meeting was concluded at approximately 1910 hours.

18
19 **INTERVIEW WITH GREENE COUNTY DEPUTY DAVID WICAL**

20 On Thursday, October 3, 2013, at approximately 1930 hours, Deputy David Wical
21 appeared at the Greene County Sheriff's Office, 120 East Main Street in Xenia, Ohio
22 as a **witness** in an administrative investigation. Deputy Wical, Detective Michael
23 Sollenberger and I were present during the interview. I reviewed the *Greene County*
24 *Sheriff's Office Garrity and Piper Warnings* form with Deputy Wical. Deputy Wical
25 said he understood the warnings and signed the form.

26
27 Deputy Wical has been employed with the Greene County Sheriff's Office for
28 thirteen years. Deputy Wical said he was a member of the Greene County Regional
29 SWAT team from 2003 to 2010. Deputy Wical is currently assigned to road patrol on
30 evenings patrolling Beaver Creek Township.

31

1 Deputy Wical said he was at the Greene County Fair where he was assisting the rest
2 of the evening shift close the fair when he heard a radio dispatch advising Yellow
3 Springs Police had a shooting and were requesting assistance. Deputy Wical said he
4 responded from the Greene County Fairgrounds with the rest of the evening shift.
5

6 Deputy Wical said when he arrived there were several Yellow Springs Police Officers
7 on the scene. Deputy Wical said he arrived just after Deputies Sean Kessel, Glen
8 McKinney, Duane Gilbert, Dennis Nipper and Sergeant Shawn Prall. Deputy Wical
9 said two Central State Police Officers arrived just behind him.

10 Deputy Wical said he initially parked in front of 310 North High Street. Deputy
11 Wical said the officers on scene said they needed to light up the garage behind 310
12 North High Street, so Deputy Wical backed his cruiser, Greene County Marked car
13 14, parking it just to the south of the driveway entrance to 310 North High Street.
14 Deputy Wical said he illuminated the detached garage with his spot light retrieved his
15 patrol rifle and took cover behind his car.
16

17 Deputy Wical said Yellow Springs Police Officer Patrick Roegner moved beside him
18 (Wical) and also utilized his car for cover. Deputy Wical said there was sporadic
19 gunfire coming from the area of the detached garage so his attention was primarily
20 focused there trying to find the location of the shooter. Deputy Wical said Officer
21 Roegner was trying to relay information to his officers and dispatch because he was
22 the officer in charge for the evening. Deputy Wical said Officer Roegner was
23 attempting to direct officers to the street behind the suspect's location, King Street, to
24 prevent the suspect's escape should he attempt to flee through the large wooded area
25 behind the garage/house to the west.
26

27 Deputy Wical said he could tell the gunfire was coming from the detached garage, he
28 later learned had been converted into a residence, numbered 280 North High Street.
29

30 Deputy Wical said Major Eric Spicer arrived at his location ten to fifteen minutes
31 after he (Wical) was on-scene. Deputy Wical said Major Spicer ran up from the south
32 and took cover behind Deputy Wical's car. Deputy Wical said the first thing Major

1 Spicer said was, "I need a long gun." Deputy Wical said he had his rifle from the car
2 so he handed the rifle to Major Spicer and then opened the passenger door to his car
3 and removed the shotgun from the rack and armed himself with the shotgun. Deputy
4 Wical said the shotguns are loaded with #4 buckshot. Deputy Wical said he did not
5 hear Major Spicer ask anyone else for a long gun.

6
7 Deputy Wical said they also have rifled deer slugs for the shotguns, but they are kept
8 in the glove compartment. Deputy Wical said he thought the gun being fired at them
9 was a rifle due to the sound of the shots. Deputy Wical said he could see the rounds
10 impacting the street and area around him. Deputy Wical said he tried to maintain
11 cover behind the rear axle of his car to provide the maximum amount of cover from
12 the rifle rounds. Deputy Wical said he did not retrieve the deer slugs because that
13 would have taken him from his cover.

14
15 I asked Deputy Wical if Major Spicer asked him where the shots were coming from
16 or what was happening. Deputy Wical said they were taking cover and based on the
17 circumstances as they were happening and the direction of his activated spotlight on
18 the detached garage, it was apparent where the shots were coming from. Deputy
19 Wical said Major Spicer spoke briefly with Officer Roegner concerning where
20 officers were located. Deputy Wical said his attention was primarily focused on the
21 area of where the shots were coming from trying to locate the suspect, and not on the
22 conversation between Major Spicer and Officer Roegner.

23
24 Deputy Wical said he did not see Major Spicer fire the rifle but heard the fire.
25 Deputy Wical showed us a picture, taken by a BCI crime scene investigator, of car 14
26 and said Officer Roegner was behind the front wheel and engine block. Deputy
27 Wical said he was behind the rear wheel and Major Spicer was in the area of the
28 trunk. Deputy Wical said at the end of a string of fire from the suspect he (Wical)
29 heard a loud "boom." Deputy Wical said his head was down and he was looking
30 north, toward Officer Roegner's location when he heard the shot. Deputy Wical said
31 he thought a round from the suspect had hit the car and said, "Damn! That was loud."
32 Deputy Wical said Major Spicer said, "I shot." Deputy Wical said based on the

1 timing of the shot fired by Major Spicer coming right after a string of fire from the
2 suspect, he (Wical) felt the shot was in response to the suspect's shots.

3
4 Deputy Wical said after Major Spicer said, "I shot." he (Wical) asked Major Spicer,
5 "Did you see him?" Deputy Wical said Major Spicer paused and said, "Well, we
6 need to make sure he stays contained in that, in the house."

7
8 Detective Sollenberger asked Deputy Wical what he felt Major Spicer meant by
9 saying that. Deputy Wical said, "I think if he (Spicer) had saw him (suspect) then he
10 (Spicer) would have said, 'Yes, he was,' you know, 'at this door or at this window or
11 he's,' you know, something like that. But, you know, just in my personal opinion,
12 you know, when someone says, 'Well it, it's,' you know, 'It's important that we keep
13 him inside. Inside the house.'"

14
15 Deputy Wical said he did not see the suspect, or see the suspect move in the house or
16 in front of windows. Deputy Wical said his view of the garage was limited and he
17 was only able to see the entry door on the north side. Deputy Wical said at the end of
18 one of the strings of fire from the suspect he saw a muzzle flash come from the door.
19 Deputy Wical said he saw the muzzle flash an hour to an hour and a half after Major
20 Spicer had fired his shot, but before Fairborn arrived with their armored vehicle.

21
22 Deputy Wical said Major Spicer did not broadcast over the radio he fired a shot.
23 Deputy Wical said he did not think Major Spicer told anyone else he fired a shot.

24
25 Deputy Wical said Major Spicer did not have any further conversations with him after
26 firing the shot. Deputy Wical said Major Spicer remained at the location for about
27 five minutes and then left to the south toward Union Street with the rifle. Deputy
28 Wical said he thought Major Spicer was going to the command post to assist in
29 directing units into the area.

30
31 Deputy Wical said before Major Spicer left, Officer Roegner left toward Union
32 Street. Deputy Wical said Officer Roegner was trying to get officers behind the

1 suspect's house on King Street. Deputy Wical said he maintained his position until
2 approximately 0330 hours, when a two person sniper team arrived and asked which
3 structure they were focused on. The team then told Deputy Wical he needed to move
4 due to where they were setting up. Deputy Wical said he took cover behind a wood
5 pile toward the rear of a house on the east side of North High Street. Deputy Wical
6 said a short time later, Sergeant Prall and Deputy Kessel were pulled back. Deputy
7 Wical said they then made their way to North Stafford Street and then to the
8 command post at Union Street and North High Street.

9
10 Deputy Wical said he did not see Major Spicer until after the incident was over and
11 the scene was being secured. Deputy Wical said he did not take any photographs or
12 video during the incident.

13
14 I asked Deputy Wical if he held any specific position with the SWAT team while he
15 was a member. Deputy Wical said he was a general operator for the first five years
16 and for the last two year he was one of the team's "snipers." I asked Deputy Wical
17 based on experience with SWAT and the road patrol, who was in command when
18 SWAT is called to a scene. Deputy Wical said until SWAT arrives the highest
19 ranking patrol supervisor is the commander until SWAT arrives and then the SWAT
20 commander assumes command of the scene. Deputy Wical said he did not think
21 there was a smooth transition of command during this incident because for the
22 majority of the time he did not know who was in charge and who was directing the
23 response.

24
25 Deputy Wical said he did not have any further information regarding this
26 investigation. I ended the interview at 2001 hours.

27
28 **INTERVIEW WITH CLARK COUNTY SERGEANT CHAD BROWN**

29 On Tuesday, October 8, 2013, at approximately 1150 hours, Detective Michael
30 Sollenberger and I met with Clark County Sheriff's Office Sergeant Chad Brown at
31 the Enon Police Department, 363 East Main Street, Enon, Ohio, as a witness in an

1 administrative investigation. Sergeant Brown, Detective Sollenberger and I were
2 present for the recorded interview.

3
4 Sergeant Brown has been employed by the Clark County Sheriff's Office for
5 seventeen years. Sergeant Brown has been a supervisor for one year and is currently
6 assigned as the Patrol first shift supervisor.

7
8 Sergeant Brown said on Tuesday, July 30, 2013, he was assigned as the third shift
9 patrol supervisor and was conducting roll-call when he received a telephone call from
10 his dispatch center advising Greene County Sheriff's Office was calling for assistance
11 due to an active shooting in Yellow Springs and officers were pinned down.

12
13 Sergeant Brown said he responded to the area of North High Street and Dayton Street
14 in Yellow Springs with Clark County Deputies John Snyder, Denise Jones, Jason
15 Patton and Joe Johnson. Sergeant Brown said they parked on Dayton Street and
16 walked north on North High Street for about two blocks toward the scene. Sergeant
17 Brown said they encountered Major Eric Spicer of the Green County Sheriff's Office.
18 Sergeant Brown said, "He (Spicer) pointed on down the road, it was a couple
19 hundred yards. Um, and we could see some cruisers down the road. There was no
20 lights on, but you could see cars parked in the roadway. Um, he explained that he had
21 a couple officers that were behind the cars, and um, that he had asked us to go down
22 that area. He described the house, um, being the smaller blue home that was closer to
23 the road. Ah, he advised that at one point a male had come out from the door and that
24 he had fired at him." Sergeant Brown clarified saying Major Spicer told him he
25 (Spicer) had fired a round at the subject.

26
27 I asked Sergeant Brown how Major Spicer described the suspect's house. Sergeant
28 Brown said, "I'm wanting to say he said it was the smaller blue house, there was a
29 light, um, he said it was where the, the light pole was. I believe that light was still
30 on." Sergeant Brown clarified saying the light pole was a large street light. Sergeant
31 Brown said he asked Major Spicer if there was anyone (law enforcement) in the back
32 of the house, Major Spicer told him there was not. Sergeant Brown said Major Spicer

1 told him he was waiting for troopers from Ohio State Highway Patrol to arrive to
2 position them to the rear.

3
4 Sergeant Brown said he asked Major Spicer if the Clark County radios and Greene
5 County radios were compatible or had a common channel for the incident. Sergeant
6 Brown said they quickly discovered the radios were not compatible so he directed
7 Deputy Johnson to remain with Major Spicer to coordinate communications between
8 Major Spicer and the Clark County Deputies.

9
10 Sergeant Brown said he and Deputies Snyder, Patton and Jones proceeded down the
11 road and took position behind what he thought was a Yellow Springs cruiser where a
12 Central State University Police Officer was stationed. Sergeant Brown showed on the
13 map I provided where he was stationed, which was directly across from 250 North
14 High Street. Sergeant Brown said this is the house Major Spicer told him the suspect
15 emerged from when he fired.

16
17 I asked Sergeant Brown if they heard where the rounds were being fired from.

18 Sergeant Brown said, "In the beginning we could hear some gunfire, um, we couldn't
19 really figure out where it was coming from at that point, if it was on the back of the
20 house or not. Um, and then at one point, ah, we saw some movement. You could,
21 where we were at, there was a, there was a vehicle, somewhere, maybe two vehicles
22 in this driveway (indicating 310 North High Street on the map) and then there was a
23 fence right about here, and the garage back. And we saw some movement in a very
24 small area where we could see. Um, and then we seen him moving around, and then
25 at one point, me and Jason, uh, I mean he, the gunfire was sounding completely
26 different and, uh, me and Jason both ducked right behind the car and we felt the same
27 thing, 'that was just at us.'"

28
29 Sergeant Brown explained there were two cars parked in the driveway to the north of
30 250 North High Street. Sergeant Brown explained he could see a fence and just a
31 small area between the detached garage at 280 North High and the main house of 310.
32 Sergeant Brown said he saw movement in that area and then gunfire, which sounded

1 different, seemed to be directed toward them causing Sergeant Brown to duck for
2 cover. Sergeant Brown said he radioed Deputy Johnson advising the subject was
3 north of the original reported location (being 250 North High Street) and was mobile
4 behind the house to the north (280/310 North High Street).

5
6 Sergeant Brown said Deputy Jones was only at the scene for a short time until he
7 (Sergeant Brown) directed her to report back to Clark County to handle calls.

8 Sergeant Brown said at some time Deputy Johnson left Major Spicer and came to
9 their (Sergeant Brown, Deputy Snyder and Deputy Patton's) location. Sergeant
10 Brown said there were periods of silence broken by gunfire. Sergeant Brown said
11 after the SWAT vehicles arrived, the perimeter officers were slowly relieved.
12 Sergeant Brown said he and his deputies were eventually relieved by SWAT
13 members.

14
15 Sergeant Brown said when they were relieved, they made their way back to the
16 command post. Sergeant Brown said they were asked to go to a house somewhere
17 across the street from where a bus was parked and advise the residents, who were
18 sitting on their front porch smoking and watching the incident, to go back into the
19 house until the incident was over. Sergeant Brown said they returned to the
20 command post and they left, returning to Clark County, a short time later.

21
22 Sergeant Brown said he did not see Major Spicer or any other law enforcement
23 officer fire a weapon during this incident. Sergeant Brown said he did not fire a
24 weapon during this incident. Sergeant Brown said he did not take any photographs or
25 video during the incident.

26 Sergeant Brown said he did not have any further information regarding this
27 investigation. I ended the interview at 1205 hours.

28
29 **INTERVIEW WITH HUBER HEIGHTS OFFICER ED SAVARD**

30 On Tuesday, October 8, 2013, at approximately 1315 hours, I met with Huber
31 Heights Police Officer Ed Savard at the Huber Heights Police Department, 6121

1 Taylorsville Road, Huber Heights, Ohio, as a witness in an administrative
2 investigation. Officer Savard and I were present for the recorded interview.

3
4 Officer Savard has been employed with the Huber Heights Police Department for
5 eighteen years. Officer Savard said he is a member of the Regional Emergency
6 Response Team (RERT) for fifteen years. Officer Savard is an assistant team leader
7 and one of the instructors. Officer Savard said he is currently a K-9 handler assigned
8 to the relief shift for the Huber Heights Police Department.

9
10 Officer Savard said he was at home on Tuesday, July 30, 2013, when he received a
11 text message for a RERT call out to assist Greene County Sheriff's Office with a
12 barricaded subject in Yellow Springs, Ohio, who was shooting at officers. Officer
13 Savard said he responded to the Huber Heights Police Department and met fellow
14 Huber Heights RERT members, Sergeant Tony Ashley, Officer Mike Hawley,
15 Officer Matthew Blair and Officer Shawn Waller. Officer Savard said they loaded
16 their equipment truck, which was driven to the incident by the other officers, and he
17 followed in his cruiser with his K-9 partner.

18
19 Officer Savard said they initially responded to North High and Dayton Streets but
20 moved to the intersection of North High Street and Lincoln Court to the command
21 post. Officer Savard said Sergeant Ashley went to the command post with Vandalia
22 Police Lieutenant Harry Busse to receive their assignment while Officer Savard and
23 the rest of the team donned their equipment. Officer Savard said Sergeant Ashley
24 told them they were to respond to the "2/3" corner (South/West) of the suspect house
25 to establish an inner perimeter and relieve any road patrol personnel. Officer Savard
26 said Sergeant Ashley told them there were several Greene County SWAT members
27 around the suspect house. However, they (Greene County SWAT) did not have
28 containment around the "1/2" and "2/3" corners of the suspect house.

29
30 Officer Savard said they moved toward the suspect's location. When at they arrived
31 in the area where a bus is parked on the street, they started to hear shots being fired
32 from the suspect. As they continued to move forward, Officer Savard said he saw

1 rounds striking the Dayton SWAT armored vehicle that was on North High Street
2 between the addresses of 250 and 280 North High Street. Officer Savard he could not
3 tell where the suspect was firing from. Officer Savard said they continued to move
4 forward until they got to the brown house, 246 North High Street, where they met up
5 with RERT members Officers Douglas Nagel and Robert Brazel from Vandalia
6 Police Department, Major Eric Spicer from the Greene County Sheriff's Office and
7 Officers Justin Tolley and Keith Duncan from Beavercreek Police patrol officers.
8

9 Officer Savard said when they got to the house they talked to the four officers and
10 Major Spicer to try to determine where the suspect was. Officer Savard said he
11 recognized Major Spicer from when he (Spicer) worked for the Huber Heights Police
12 Department. Officer Savard said he told Major Spicer and the two Beavercreek
13 Officers they could return to the command post. Officer Savard said they did not
14 immediately leave.
15

16 Officer Savard said he then saw a group of Greene County SWAT members behind a
17 car in the driveway between 246 and 250 North High Street. Officer Savard said he
18 recognized one of the officers as Xenia Police Officer Lon. Officer Savard said
19 Officer Etchison told him the suspect was located in the detached garage to the north
20 west of the small white house at 250 North High Street. Officer Etchison told him the
21 suspect was not in the house at 250 North High Street.
22

23 Officer Savard said after scouting the area they set up around the detached garage
24 behind 246 North High Street looking at the south side of the suspect's location one
25 yard to the north. Officer Savard said he and his team did not attempt to enter the
26 main house at 246 North High Street. Officer Savard said the detached garage behind
27 246 was open and they utilized the garage as an observation post for the rest of the
28 evening.
29

30 Officer Savard said he did not have any further information regarding this
31 investigation. I ended the interview at 1333 hours.
32

1 **INTERVIEW WITH HUBER HEIGHTS OFFICER MIKE HAWLEY**

2 On Tuesday, October 8, 2013, at approximately 1315 hours, I met with Huber
3 Heights Police Officer Mike Hawley at the Huber Heights Police Department, 6121
4 Taylorsville Road, Huber Heights, Ohio, as a witness in an administrative
5 investigation. Officer Hawley and I were present for the recorded interview.
6

7 Officer Hawley has been employed by the Huber Heights Police Department for
8 eleven years. Before working at the Huber Heights Police Department, Officer
9 Hawley was employed as a police officer with the Centerville Police Department for
10 fourteen years. Officer Hawley is currently assigned as a patrol officer with the
11 Huber Heights Police Department on the relief shift. Officer Hawley is also a
12 member of the Regional Emergency Response Team (RERT), where he is assigned as
13 an operator. Officer Hawley has been a member of RERT for eight years.
14

15 Officer Hawley said he responded to the Huber Heights Police Department on
16 Tuesday, July 30, 2013, because of a RERT text regarding an active shooting incident
17 in Yellow Springs. Officer Hawley said he is responsible for the Huber Heights
18 response van and met with Officers Shawn Waler, Matthew Blair, Ed Savard and
19 Sergeant Tony Ashley at the police department. Officer Hawley said he drove the
20 van to the incident with Officers Waller, Blair and Sergeant Ashley. Officer Savard
21 responded in his assigned vehicle.
22

23 Officer Hawley said they responded to the area of Dayton Street and North High
24 Street and then walked to the command post that was set up on North High Street.
25 Officer Hawley said Vandalia Police Lieutenant Harry Busse (RERT commander)
26 was already on scene and had met with the Greene County SWAT incident
27 commanders at the command post to receive the assignments for RERT. Officer
28 Hawley said Lieutenant Busse instructed them to retrieve any gear they would need
29 from the truck and respond to the suspect's house to assist with securing an inner
30 perimeter.
31

1 Officer Hawley said they retrieved their gear and proceeded north on North High
2 Street toward the area of the suspect's house. Officer Hawley said the general area of
3 the incident was obvious because of the large number of police vehicles. Officer
4 Hawley said as they walked toward the incident they heard and saw shots being fired.
5 Officer Hawley said they were passing an old bus parked on the side of the street
6 when they heard and saw rounds striking the Dayton SWAT armored vehicle that was
7 on North High Street several houses north of them. Officer Hawley said they
8 immediately sought cover behind some trees.

9
10 Officer Hawley said they moved further north where they met up with RERT
11 members, Vandalia Police Officers Nagel and Brazel on the south side of 246 North
12 High Street. Officer Hawley said in addition to the two RERT members he saw
13 Greene County Sheriff's Office Major Eric Spicer and Beavercreek Police Officers
14 Justin Tolley and Keith Duncan.

15
16 Officer Hawley said Sergeant Ashley and Officer Savard spoke with Major Spicer
17 about the incident, so he spoke with Officers Nagel and Brazel who were holding a
18 position on the south side of 246 North High Street. Officer Hawley said he could
19 see the broken fence to the rear of the house where the Dayton armored vehicle had
20 previously driven through in an attempt to observe the suspect house.

21
22 Officer Hawley said after a while, he was told to take some equipment to the RERT
23 armored vehicle, which was parked on North High Street. Officer Hawley said after
24 he took the equipment there, he teamed up with the officers inside the Dayton SWAT
25 armored truck and was present when the Dayton SWAT truck breached the suspect
26 house later in the event. Officer Hawley remained with the officers in the Dayton
27 SWAT truck until the suspect house was cleared and the incident was over.

28
29 Officer Hawley said after the initial gunshots he heard when he was first moving
30 toward the suspect house, there was no other gunfire. Officer Hawley said he did not
31 fire his weapon, and did not see anyone fire a weapon. Officer Hawley said he did
32 not speak to Major Spicer other than to say hello when he initially saw him. I asked

1 Officer Hawley if he or any of his team members attempted to enter the main
2 residence located at 246 North High Street. Officer Hawley said, "No."

3
4 Officer Hawley said he did not have any further information regarding this
5 investigation. I ended the interview at 1422 hours.

6
7 **INTERVIEW WITH HUBER HEIGHTS SERGEANT TONY ASHLEY**

8 On Tuesday, October 8, 2013, at approximately 1444 hours, I met with Huber
9 Heights Police Sergeant Tony Ashley, at the Huber Heights Police Department, 6121
10 Taylorsville Road, Huber Heights, Ohio, as a **witness** in an administrative
11 investigation. Sergeant Ashley and I were present for the recorded interview.

12
13 Sergeant Ashley has been employed by the Huber Heights Police Department for over
14 ten years. Sergeant Ashley was promoted to Sergeant over five years ago and is
15 currently assigned as a patrol supervisor working evenings. Sergeant Ashley has
16 been a member of the Regional Emergency Response Team (RERT) for nine years
17 and has been the Huber Heights' contingent team leader for the last five years.

18
19 On July 30, 2013, Sergeant Ashley said he responded to the Huber Heights Police
20 Department because of a RERT text he received regarding an active shooting incident
21 occurring in Yellow Springs, Ohio. Sergeant Ashley said he responded with the
22 Huber Heights officers of the RERT, Officers Shawn Waler, Matthew Blair, Michael
23 Hawley and Ed Savard.

24
25 Sergeant Ashley said when they arrived in Yellow Springs, they walked to the
26 command post located on North High Street, where he met up with RERT Team
27 Leader, Vandalia Lieutenant Harry Busse. Sergeant Ashley said Lieutenant Busse
28 told him the situation was confusing due to the number of officers in the area and the
29 unknown location of the suspect who had fired a number of rounds throughout the
30 night. Sergeant Ashley said Lieutenant Busse assigned him to lead a group of RERT
31 members consisting of Officers Savard, Blair, and Hawley from Huber Heights and
32 Officer Brazel and Nagel from Vandalia. Sergeant Ashley said they were assigned to

1 relieve some Greene County patrol deputies and cover the "2/3" corner of the
2 suspect's house.

3
4 Sergeant Ashley said he was told there was a RERT sniper team observing the "1"
5 side of the suspect's house and a Greene County SWAT sniper team observing the
6 "3" side of the suspect's house. However, Sergeant Ashley said he did not know
7 where those two teams were, and did not know the exact structure the suspect was
8 located.

9
10 Sergeant Ashley said Lieutenant Busse told him it was important to get some of his
11 team to the location quickly, so they could relieve the uniformed officers who were
12 there. Sergeant Ashley said he directed Officers Nagel and Brazel to move forward
13 to relieve the patrol officers while they retrieved equipment from the truck.

14
15 Sergeant Ashley said after they retrieved their equipment, they moved north on North
16 High Street toward the location of the suspect. Sergeant Ashley said as they got
17 closer, he had Officers Nagel and Brazel signal them with a flashlight so he knew
18 where to go. Sergeant Ashley said they received the signal as they were around the
19 old bus parked along the west side of the street. Sergeant Ashley said shortly after
20 the flashlight signal there was a barrage of gunfire from the suspect. Sergeant Ashley
21 said he could hear and see rounds striking the Dayton SWAT armored vehicle which
22 was parked a couple of houses further north on High Street facing a structure on the
23 west side of the street. Sergeant Ashley said the rounds appeared to be coming from
24 an area around 250 North High Street; however, he later learned they were actually
25 coming from the detached garage to the north west of 250 North High Street.
26 Sergeant Ashley said he could not see any muzzle flash from where the rounds were
27 being fired due to houses, trees, fences and other objects obstructing his view.

28
29 Sergeant Ashley said shortly after the gunfire, there was a radio transmission saying
30 one of the Greene County Snipers had taken a shot at the suspect, but could not
31 confirm if the suspect was hit.
32

1 Sergeant Ashely said as they met up with Officer Nagel and Brazel, they were
2 covering a driveway or alley which was immediately to the south side of 246 North
3 High Street. Sergeant Ashley said as he walked up, he could see the damaged privacy
4 fence enclosing the rear yard of 246 North High Street where Dayton's SWAT
5 vehicle had broken through in an attempt to observe the suspect location. Sergeant
6 Ashley said he did not know where the suspect was at this time and there were reports
7 the suspect may have changed locations or gone mobile.

8
9 Sergeant Ashley said the lighting conditions were poor and the area was heavily
10 wooded and overgrown. Sergeant Ashely said as they approached Officers Nagel and
11 Brazel, he saw Major Eric Spicer standing in front of 246 North High Street.

12
13 Sergeant Ashley said Officer Nagel was upset because when he (Nagel) arrived at the
14 location he (Nagel) told Major Spicer and two Beaver creek Officers he was there to
15 relieve them and told them to return to the command post. Sergeant Ashley said
16 Officer Nagel told him (Ashley) Major Spicer said he (Spicer) was not going to leave.
17 Officer Nagel was also upset because there were three tactical officers from the
18 Greene County SWAT team that he did not know were there.

19
20 Sergeant Ashley said he talked to Major Spicer who was by the front door of 246
21 North High Street. Sergeant Ashley said, "I can't remember for sure if, if I asked
22 Eric, or told Eric again, I said, 'Hey Eric, You know I got plenty of guys here, You
23 know you and whoever else you got, you know, can head back to the command post.'
24 Something to those words. And, and, uh, he said, what Nagel said was, he said, he
25 was, you know, 'I'm forward command. I'm not leaving.' Um, you know it being
26 Greene County's call you know, I, you know, I didn't argue with him or anything, I
27 said, I said, 'Ok.' Um, I said, 'Well.' You know I." Sergeant Ashley said about this
28 time he saw a Beaver creek patrol officer on the south side of the house and went over
29 to him and told him he could leave. Sergeant Ashley said the Beaver creek officer
30 then moved back to the command post.

31

1 Sergeant Ashley said he then positioned his team to cover to the west, down the long
2 driveway or alley that was on the south side of 246 North High Street. Sergeant
3 Ashley said since there were tactical officers on the "1/4" corner of the house he
4 figured he should cover the back side and try to work around and cover the back
5 yards.

6
7 Sergeant Ashley said all of this occurred very quickly when he arrived at 246 North
8 High Street. He said Major Spicer did not give him any orders or information, just
9 remained where he was. Sergeant Ashley said he then attempted to ask Lieutenant
10 Busse if he could find out if Greene County had anyone covering the "2/3" corner of
11 the suspect house, which they now figured was most likely the detached garage to the
12 north west of 250 North High Street. Sergeant Ashley said Lieutenant Busse could
13 only say the "3" side of the suspect location was covered.

14
15 Sergeant Ashley said he sent Officer Savard and a couple of other officers to scout
16 the wooded area behind the house to see if they could move to a position to observe
17 the "2/3" corner of the suspect house. Sergeant Ashley said Officer Savard returned a
18 short time later and advised they were not going to be able to move through the
19 wooded area because it was too dense.

20
21 Sergeant Ashley said a short time later, he learned the remote robot needed to be
22 delivered to the RERT armored vehicle. Sergeant Ashley said Officer Hawley left to
23 assist with the robot. Sergeant Ashley said Officer Hawley stayed with the Dayton
24 SWAT armored vehicle for the rest of the incident.

25
26 Sergeant Ashley said he and his team remained at the detached garage behind 246
27 North High Street for the remainder of the incident observing the south and west sides
28 "2/3" corner of the suspect's house. Sergeant Ashley said during the incident he saw
29 Major Spicer leave and return from the front of 246 North High Street several times.

30
31 Sergeant Ashley said during the incident neither he nor any of his team members fired
32 a weapon and he did not see anyone fire a weapon. Sergeant Ashley said he and his

1 team members did not try to enter the residence at 246 North High Street. Sergeant
2 Ashely said the incident concluded after the Dayton SWAT armored vehicle breached
3 the front of the suspect's house.

4
5 Sergeant Ashley said he did not have any further information regarding his
6 investigation. I ended the interview at 1514 hours.

7
8 **INTERVIEW WITH CLARK COUNTY DEPUTY JOE JOHNSON**

9 On Tuesday, October 8, 2013, at approximately 1619 hours, I met with Clark County
10 Deputy Joe Johnson at the Clark County Sheriff's Office East Patrol Headquarters,
11 3130 East Main Street, Springfield, Ohio, as a **witness** in an administrative
12 investigation. Deputy Johnson and I were present for the recorded interview.

13
14 Deputy Johnson has been employed by the Clark County Sheriff's Office for over six
15 years. Deputy Johnson is currently assigned to the Uniformed Patrol Division on
16 second shift working from 1500 to 2300 hours.

17
18 Deputy Johnson said he was working overtime on Tuesday, July 30, 2013. Deputy
19 Johnson said he was sitting in roll call at the East Patrol Headquarters when Sergeant
20 Chad Brown, received a telephone call from the Clark County Dispatch Center
21 advising Greene County was requesting assistance with a incident in Yellow Springs,
22 Ohio, where officers were being shot at and were pinned down.

23
24 Deputy Johnson said he responded to the incident with Deputies Jason Patton, Denise
25 Jones, John Snyder and Sergeant Brown. Deputy Johnson said when they got to
26 Yellow Springs, they parked on Dayton Street and walked down North High Street
27 toward the incident. Deputy Johnson said as they walked toward the incident they
28 found Major Eric Spicer from the Greene County Sheriff's Office standing next to an
29 unmarked patrol car parked in the middle of the street near an old bus parked on the
30 side of the street.

31

1 Deputy Johnson said Major Spicer told Sergeant Brown where he wanted the Clark
2 County deputies to set up. Deputy Johnson said Sergeant Brown was trying to
3 determine which house the suspect was in. As they were standing by the unmarked
4 patrol car, Deputy Johnson said, "And he (Spicer) kind of pointed in the direction
5 over this way (Deputy Johnson pointed to the area of 250 North High Street on the
6 map) and, he said he, had fired a round. One round. To that direction because the
7 guy came out shooting and he fired a round at, towards that house, to get him to go
8 back in."

9
10 Deputy Johnson said Sergeant Brown and Deputies Patton, Snyder, and Jones took a
11 perimeter position and he remained with Major Spicer to be a communications link
12 between Greene and Clark Counties' radio systems. Deputy Johnson said while he
13 was with Major Spicer, he (Johnson) remained around the unmarked cruiser so he
14 could keep an eye on the Clark County deputies' positions. Deputy Johnson said he
15 relayed information to the Clark County Dispatch Center as to what was happening
16 particularly when additional shots were being fired.

17
18 Deputy Johnson said some time later, several (3-5) officers showed up and Major
19 Spicer told them to deploy behind 246 North High Street. Deputy Johnson said there
20 was a lot of light from the porch lights of a purple house just to the south of 246
21 North High Street. Deputy Johnson said he saw Major Spicer break out the porch
22 lights with his rifle.

23
24 Deputy Johnson said shortly after that, Major Spicer suddenly left and started walking
25 down North High Street toward the command post. Deputy Johnson said after Major
26 Spicer left, he (Johnson) moved to where Sergeant Brown and the other Clark County
27 deputies were.

28
29 Deputy Johnson said when he got to Sergeant Brown he heard Deputy Jones had been
30 sent back to Clark County to patrol. Deputy Johnson said when he got to Sergeant
31 Brown's location he could see through some trees the detached garage (280 North
32 High) and the main residence (310 North High) where the suspect was reportedly

1 located. Deputy Johnson said it was not apparent this detached garage was there until
2 you moved beyond 250 North High Street.

3
4 Deputy Johnson said he never saw the suspect or the suspect firing. Deputy Johnson
5 said at approximately 0200 hours, the RERT armored vehicle dropped off two snipers
6 at their location. Deputy Johnson said the snipers asked if they were wearing tactical
7 armor. When the Clark County deputies said they were not, Deputy Johnson said the
8 snipers advised them to pull back to the command post.

9
10 Deputy Johnson said they moved to the command post where they remained until the
11 incident was over. Deputy Johnson said during the incident he did not fire a weapon
12 and he did not see any law enforcement officers fire a weapon.

13
14 Deputy Johnson said he did not have any further information regarding this
15 investigation. I ended the interview at 1642 hours.

16
17 **INTERVIEW WITH CLARK COUNTY DEPUTY JOHN SNYDER**

18 On Tuesday, October 8, 2013, at approximately 1720 hours, I met with Clark County
19 Deputy John Snyder at the Clark County Sheriff's Office East Patrol Headquarters,
20 3130 East Main Street, Springfield, Ohio, as a **witness** in an administrative
21 investigation. Deputy Snyder and I were present for the recorded interview.

22
23 Deputy Snyder has been employed by the Clark County Sheriff's Office for eleven
24 years. Deputy Snyder is currently assigned to the Uniformed Patrol Division on
25 second shift working from 1500 to 2300 hours.

26
27 Deputy Snyder said he was finishing his shift on Tuesday, July 30, 2013, and was at
28 the East Patrol Headquarters while third shift was in roll call. Deputy Snyder said
29 Sergeant Chad Brown, received a telephone call from the Clark County Dispatch
30 Center advising Greene County was requesting assistance with an incident in Yellow
31 Springs, Ohio, where officers were being shot at and were pinned down.

32

1 Deputy Snyder said he responded to the incident with Deputies Jason Patton, Denise
2 Jones, Joe Johnson and Sergeant Brown. Deputy Snyder said when they got to
3 Yellow Springs, they parked on Dayton Street and walked down North High Street
4 toward the incident. Deputy Snyder said as they walked toward the incident they
5 found Major Eric Spicer from the Greene County Sheriff's Office standing next to an
6 unmarked patrol car parked in the middle of the street near Union Street.

7 Deputy Snyder said Sergeant Brown met with Major Spicer who told Sergeant Brown
8 the incident started with officer responding to a domestic dispute, shots were fired
9 from the suspect in the domestic. According to Deputy Snyder, Major Spicer told
10 Sergeant Brown the suspect was heavily armed and asked them (Clark County
11 deputies) to assist deputies and officers already on the scene with perimeter positions
12 to the front of the suspect's house.

13
14 Deputy Snyder said Major Spicer directed them to move up the street (north) to where
15 a number of police cars were parked. I asked Deputy Snyder if Major Spicer
16 described the suspect's house or told them which house the suspect was in. Deputy
17 Snyder said he (Spicer), "Indicated the, from what he was speaking, was this house
18 (pointing to 250 North High Street on map) next door to where he (Spicer) was, the
19 suspect was actually at." I asked Deputy Snyder if he was talking about the small
20 white house at 250 North High Street. Deputy Snyder said, "Yes. The reason, he
21 mentioned that one to us is the simple fact that had the front porch light on, and it was
22 the only one with street light up that way."

23
24 Deputy Snyder said he went up North High Street to set up perimeter positions with
25 Deputies Patton, Jones and Sergeant Brown. Deputy Snyder said Deputy Johnson
26 stayed with Major Spicer to assist with communications between Greene County and
27 Clark County units. Deputy Snyder said shortly after arriving at their perimeter
28 position Deputy Jones was sent back to Clark County to cover patrol responsibilities.

29
30 I asked Deputy Snyder when he became aware the suspect was not at 250 North High
31 Street. Deputy Snyder said he saw muzzle flash from the first shots fired by the
32 suspect after they arrived at their perimeter position. Deputy Johnson said the muzzle

1 flash was "moving up" giving him (Snyder) the impression the suspect was firing in
2 the air. Deputy Snyder said the muzzle flashes were coming from the rear of 310
3 North High Street. Deputy Snyder said from his position he could not see the
4 detached garage that is 280 North High Street.

5
6 Deputy Snyder said the suspect fired sporadically throughout the night. Deputy
7 Snyder said in the beginning the suspect did not seem to be firing anything specific.
8 However, Deputy Snyder said as the event progressed, he could hear rounds striking
9 the pavement in front of the cars they were using for cover.

10
11 Deputy Snyder said he never saw the suspect during the incident, just the muzzle
12 flashes that gave him the impression the suspect was outside for a time. Deputy
13 Snyder said he did not see any law enforcement officers fire a weapon during the
14 incident.

15
16 Deputy Snyder said he did not have any further information regarding this
17 investigation. I ended the interview at 1730 hours.

18
19 **INTERVIEW WITH XENIA OFFICER FRED BARKER**

20 On Thursday, October 10, 2013, at approximately 0933 hours, I met with Xenia
21 Police Officer Fred Barker at the Greene County Common Pleas Court, 45 North
22 Detroit Street, Xenia, Ohio, as a **witness** in an administrative investigation. Officer
23 Barker, Detective Michael Sollenberger and I were present for the recorded interview.

24
25 Officer Barker has been employed by the Xenia Police Department for over twenty-
26 three years. Officer Barker has been a member of the Greene County Regional
27 SWAT team for over eighteen years. Officer Barker is currently assigned to patrol on
28 day shift.

29
30 Officer Barker said he received a text message on his telephone advising the SWAT
31 team was to respond to Yellow Springs, Ohio, for an incident where someone was
32 shooting at police officers. Officer Barker said he responded to the SWAT equipment

1 garage, where he met with several other team members, loaded their gear and
2 responded to the incident.

3
4 Officer Barker said when he arrived in Yellow Springs he met with Greene County
5 Deputy Jamie Coe and Xenia Sergeant Steve Lane, the incident commanders. Officer
6 Barker said as he was meeting with Sergeant Lane, he could here sporadic gunfire
7 coming from the north on North High Street. Officer Barker said Sergeant Lane was
8 able to show an overhead map (Google map) giving the general layout of the area.
9 Officer Barker said they did not know specifically where the suspect was.

10
11 Sergeant Lane then instructed Officer Barker to lead an "emergency reaction" team
12 toward the suspect location to determine perimeter needs, and verify suspect's
13 location. Officer Barker said he was to find the suspect, and if the suspect left the
14 house, to either take him in to custody or prevent him from fleeing. Officer Barker
15 said he formed a team consisting of Xenia Officers Dean Margioras, Doug Sparks,
16 and Lon Etchison.

17
18 Officer Barker said Yellow Springs Officer Patrick Roegner, who was the first officer
19 on the scene of the original call, lead them down the street toward the suspect's
20 house. Officer Barker said Officer Roegner described the suspect's house as a
21 detached garage that carries its own address and had been converted into an
22 apartment. Officer Barker said when they got to a long driveway just south of 246
23 North High Street, Officer Roegner said the suspect's house was to the northwest.
24 Officer Barker said they met up with Greene County Major Eric Spicer in the long
25 driveway. Officer Barker said Major Spicer immediately started telling them the
26 suspect was in the next house and he had a good spot for them to observe the house
27 and to take the suspect into custody should he attempt to leave.

28
29 Officer Barker said they went to the "1/4" corner of 246 North High Street and started
30 watching the front door of the white house next door, 250 North High Street. Officer
31 Barker said Major Spicer pointed at 250 North High Street and told them, "That's
32 your target house, if we set up on this corner here (1/4) of 246, we've got a good view

1 of the target house if he comes out we can, you know, we can take him down.”
2 Officer Barker said when Major Spicer told them 250 North High was the target
3 house, he (Barker) immediately assumed the garage was to the rear of the house and
4 not visible from the front where they were.

5
6 Officer Barker said he verified with Major Spicer 250 North High Street was the
7 suspect’s house by identifying the front door with the lights on, and Major Spicer told
8 Officer Barker that was correct. Officer Barker said there were a couple of
9 Beavercreek uniformed officers, who were watching 250 North High Street also.

10
11 Officer Barker said he and Officer Etchison started formulating a plan of how to take
12 the suspect into custody should he come out the front door. Officer Barker said they
13 discussed what they knew of the placement of officers behind them and to the sides
14 so they could avoid a crossfire situation should they need to react to shots being fired
15 at them.

16
17 As they were talking, Officer Barker said Major Spicer told them he wanted to make
18 entry into 246 North High Street so they could use it as concealment and cover while
19 observing the south side of what they believed was the suspect’s house at 250 North
20 High Street. Officer Barker said Major Spicer wanted to make entry into 246 North
21 High Street through a partially opened window located on the south side of the house.

22
23 Detective Sollenberger asked Officer Barker what he thought of Major Spicer’s plan
24 to use 246 North High Street as an observation post. Officer Barker said he was not
25 comfortable with the idea because it was not their primary objective of containing the
26 suspect and being able to immediate react should the suspect attempt to surrender or
27 try to move from the house. Officer Barker said going inside the house would have
28 taken away his ability to move and react.

29
30 As Officer Barker was explaining Major Spicer’s plans, Detective Sollenberger asked
31 if Major Spicer was part of the SWAT team or was part of the command structure of
32 the SWAT team. Officer Barker said Major Spicer is not part of the command

1 structure of the SWAT team. However, Officer Barker continued saying, "But, he is
2 a major with the County, and we're in the County."
3

4 I showed Officer Barker a photograph of a window where the screen had been broken
5 out on the south side of the house at 246 North High Street. Officer Barker said
6 Major Spicer removed the screen and wanted him (Barker) to enter the house through
7 the window. After removing the screen, Officer Barker said they found the window
8 opening was too small to enter the house and the plan was abandoned.
9

10 Officer Barker said they remained at the "1/4" corner of 246 North High Street
11 watching 250 North High Street. Officer Barker said he sent a couple of his team
12 members down the long driveway on the south side of 246 North High Street to scout
13 behind 246 and 250 North High Street. Officer Barker said as they moved down the
14 driveway, the suspect fired another burst of gunfire. Officer Barker said the rounds
15 sounded very close, as if they were coming from outside the rear of 250 North High
16 Street. Officer Barker said when they got to the end of the privacy fence of 246
17 North High Street they encountered very dense brush preventing them from moving
18 around the back of the house.
19

20 Officer Barker said throughout the event they experienced a number of
21 communications problems. Officer Barker explained that due to the location of the
22 event in Yellow Springs, Ohio, which has historically been problematic for radio
23 transmissions due to the terrain of the area, and the number of officers utilizing
24 several different frequencies. Officer Barker said there was no common channel for
25 everyone to communicate.
26

27 Officer Barker said while he and Officer Etchison remained at the "1/4" corner
28 observing what they still believed to be the suspect's location at 250 North high
29 Street, Major Spicer was with them some of the time, would then leave and return.
30 Officer Barker said he did not know where Major Spicer was going when he left.
31 Officer Barker said when Major Spicer would come back he would discuss different
32 plans with Officer Barker. Officer Barker said he realized Major Spicer was not

1 relaying instructions for the incident commanders. Officer Barker said Major Spicer
2 became a distraction to him and his team.

3
4 Officer Barker said he did not find out that 250 North High Street was not the
5 suspect's house until the Dayton SWAT armored vehicle breached the privacy fence
6 behind 246 North High Street. Officer Barker explained Dayton's armored vehicle
7 drove through the fence and into the backyard of 246 North High Street to try and
8 obtain a view of the suspect's house. Officer Barker said at the same time, Fairborn's
9 armored vehicle approached the front of the suspect's house to shine light on the front
10 of the house. Officer Barker said when the Fairborn armored vehicle drove past 250
11 North High Street and entered the driveway one house to the north, (common
12 driveway for 280 and 310 North High Street) he thought they (Fairborn) had gone to
13 the wrong house and radioed for them to come back. Officer Barker said he heard the
14 suspect start shooting, and saw rounds strike around the Fairborn armored vehicle.
15 Officer Barker then realized he and his team were watching the wrong house.

16
17 Officer Barker said he sent Officer Margioras to stop Dayton's armored vehicle from
18 going further and to explain they had the wrong house. Officer Barker said he moved
19 his team forward to the driveway of 250 North High Street where he could then see
20 the front of 280 North High Street. Officer Barker said Dayton's armored vehicle
21 moved to the front of 280 North High Street where it began to take fire from the
22 suspect. Officer Barker said during this volley of gunfire from the suspect, he heard
23 someone announce over the radio they had fired at the suspect, but could not confirm
24 if the suspect was hit. Officer Barker said this was the last gunfire he heard during
25 the incident.

26
27 Officer Barker said throughout the incident, Major Spicer never told him he (Spicer)
28 fired a round at the suspect.

29
30 I asked Officer Barker what he thought of the SWAT team's response during the
31 incident. He said in reviewing the incident he felt the response was good. They

1 contained the scene and were able to eventually resolve the incident with no injuries
2 to law enforcement or civilians.

3
4 I asked Officer Barker if there was anything else he would like to add. He said,
5 "Being told that that (250 North High) was our target house. Um. The, the saying is,
6 ah, 'go ahead and accept,' or is it, 'accept but verify,' um, the ah. We should have
7 verified further that that was in fact our target house. The level of, ah, not trying to
8 slam Major Spicer, but the level of energy he was displaying that, 'That's your house,
9 that's your house!' I think influenced both me and Lon (Etchison) into thinking,
10 'Well he can't be wrong, this is the house.' Um, I'm still am not. To this day I'm not
11 sure why he thought that was the house. I'm not sure, I haven't talked to Eric
12 (Spicer). I don't know why that was the house, or how he got that confused. I have
13 no idea. Um., I have had conversations with Pat (Roegner) from Yellow Springs.
14 Um, obviously he was right in front of the door when he got fired at, so, I mean he's,
15 he knows where the target house is. So, um, but, not realizing where we were, you
16 know, because Pat would be immediately, if he'd known we, that's where we
17 stationed up and that's where, you know, Pat would have said, 'Hey, you guys are on
18 the wrong house, that's not it.'"

19
20 Officer Barker said he did not have any further information regarding this
21 investigation. I ended the interview at 1010 hours.

22
23 **INTERVIEW WITH XENIA OFFICER LON ETCHISON**

24 On Thursday, October 10, 2013, at approximately 1045 hours, I met with Xenia
25 Police Officer Lon Etchison at the Greene County Common Pleas Court, 45 North
26 Detroit Street, Xenia, Ohio, as a witness in an administrative investigation. Officer
27 Etchison, Detective Michael Sollenberger and I were present for the recorded
28 interview.

29
30 Officer Etchison has been employed by the Xenia Police Department for over
31 fourteen years and is currently assigned to road patrol on day shift. Officer Etchison
32 has been a member of the Greene County Regional SWAT team for over ten years.

1 Officer Etchison is one of their primary instructors and is also an operator on call
2 outs.

3
4 Officer Etchison said he was at home when he received a message notifying him of
5 the SWAT callout. Officer Etchison said he responded to the SWAT garage, met
6 with the Xenia members of the Greene County Regional SWAT team where they
7 gathered their gear and responded to Yellow Springs on the reported barricaded
8 subject who was firing rounds at officers.

9
10 Officer Etchison said they met the rest of the SWAT team at Dayton and North High
11 Streets in Yellow Springs, Ohio. Officer Etchison said the team then moved to North
12 High and Union Streets where they established SWAT command post. Officer
13 Etchison said Sergeant Steve Lane told Officer Fred Barker and himself to form an
14 immediate reaction team to respond as close to the suspect's house as possible to
15 observe the suspect's actions, keep him contained to the house he was in, and to be
16 able to react to the suspect's actions quickly should he decide to surrender. Officer
17 Etchison said they were also to check a report of someone banging on the back door
18 of one of the neighbor's houses several houses south of the suspect's house.

19
20 Officer Etchison said he was told the incident began when officers from Yellow
21 Springs responded to a domestic violence call. When the officers attempted to
22 contact the suspect he started firing at them. Officer Etchison said they were told the
23 suspect has continued to shoot from the residence sporadically since the incident
24 started. Officer Etchison said he heard several shots fired after he had arrived on the
25 scene.

26
27 Officer Etchison said the suspect was in a white building that was set off the road.
28 Officer Etchison said he did not see a picture of the building or know the exact
29 location.

30
31 Officer Etchison said he and Officers Barker, Dean Margioras and Doug Sparks
32 formed the immediate reaction team and were led toward the suspect's location by

1 Officer Patrick Roegner of the Yellow Springs Police Department. As they
2 approached the area, they were met by Major Eric Spicer somewhere between
3 Lincoln Court and 246 North High Street. Major Spicer said he would take them
4 where they needed to go. Officer Roegner handed the team off to Major Spicer and
5 returned to the command post. Officer Etchison said he asked about someone
6 banging on the back door of one of the houses, and Major Spicer told him he (Spicer)
7 was the one knocking on the back door.

8
9 Officer Etchison said Major Spicer then led them to the "1/2" corner of 246 North
10 High Street. Officer Etchison said there were two Beaver Creek uniformed patrol
11 officers in the long driveway that runs on that south side of 246 North High Street.
12 Officer Etchison said Major Spicer told them the suspect was located in the white
13 house next door to where they were. Officer Etchison said based on Major Spicer's
14 information, they focused their attention on 250 North High Street for the next two
15 hours believing it was the suspect's house.

16
17 Officer Etchison said they set up observation of 250 North High Street by taking a
18 position on the "1/2" corner of 246 North High Street and looking to the north.
19 Officer Etchison said Major Spicer was with them the majority of the time they were
20 there. Officer Etchison said during one of the volleys of fire, the shots sounded like
21 they were coming from the rear yards of 250 and 246 North High Streets. Officer
22 Etchison said due to the limited information, they did not know the layout of the back
23 yards, and were unaware the back yard of 246 North High Street was enclosed with a
24 privacy fence. During this volley of fire they thought, because of the sound of the
25 rounds, the suspect had left the house and was in the back yard of 250 North High
26 Street, so they were covering the area down the long driveway expecting the suspect
27 to come from that direction. Officer Etchison said as the volley ended, they assumed
28 he had returned to the house so he and Officer Barker moved up to the "1/4" corner of
29 246 North High to get a better view of 250 North High.

30
31 Officer Etchison said while they were observing 250 North High Street, they
32 discussed a variety of contingency plans. Officer Etchison said Major Spicer

1 approached him and Officer Barker at some point wanting to put an officer inside 246
2 North High Street. Officer Etchison said Major Spicer's logic was if the event
3 extended beyond into daylight, they would have an officer in place to observe 250
4 North High Street.

5
6 Officer Etchison said there is no doubt in his mind Major Spicer was telling them the
7 suspect was in the white house at 250 North High Street because Major Spicer was
8 standing directly behind him looking at 250 North High Street as they discussed
9 contingency plans for the event. Officer Etchison said they did not realize they were
10 looking at the wrong house until the Fairborn Police armored vehicle drove past 250
11 North High Street and pulled into the driveway for 310 North High Street. Officer
12 Etchison said heard the suspect start shooting at the armored vehicle and saw the
13 rounds striking the armored vehicle. Officer Etchison said it was then obvious the
14 suspect was not in 250 North High Street.

15
16 Officer Etchison said as Fairborn's armored vehicle was traveling north on North
17 High Street, Dayton's armored vehicle drove up the driveway (alley) to the
18 immediate south of 246 North High Street (same driveway/alley Officer Etchison's
19 team was covering earlier). Officer Etchison said Dayton's armored vehicle drove
20 through the privacy fence behind 246 North High attempting to drive through the
21 back yard and into the backyard of 250 North High in order to light up the suspect's
22 house and get a better view. Officer Etchison said Dayton's armored vehicle stopped
23 when they encountered a parked car and low hanging electrical lines within the
24 fenced backyard of 246 North High Street.

25
26 Officer Etchison said when they realized they were at the wrong house, Officer
27 Margioras ran back to Dayton's armored vehicle to stop it and tell them they were at
28 the wrong house. Officer Etchison said Dayton's armored vehicle then backed out
29 and drove to the front yard area between 250 and 310 North High Street. Officer
30 Etchison said he and Officer Barker then moved up to the driveway of 250 North
31 High Street and took cover behind a car parked in the driveway.
32

1 I asked Officer Etchison if they knew whether anyone was home at 246 North High
2 Street while they were discussing and eventually tried to enter the residence. Officer
3 Etchison said they were not sure, they attempted to make contact with anyone that
4 may be in the house by knocking on the windows. Officer Etchison said he removed
5 one window screen so he could knock on the window. Officer Etchison said Major
6 Spicer used a knife to cut the other screen out. Officer Etchison said they called into
7 the house several times announcing they were the police; however, they never got a
8 response. Officer Etchison said they did not know if the residents evacuated from 246
9 North High Street or not.

10
11 Officer Etchison said when they first were sent up the street from the command post,
12 one of the issues they were sent to address was a report, from the residents of one of
13 the houses south of 246 North High Street that someone was banging on their
14 backdoor. When they met up with Major Spicer they told him of the report and
15 Major Spicer advised he had been the person knocking on the backdoor.

16 I asked Officer Etchison if his team was in contact with the command post and other
17 teams throughout the event. Officer Etchison said the radio communications in
18 Yellow Springs are historically poor, and the functioning of the radio during the event
19 was poor. Officer Etchison said he was aware of a rough layout of officers to the
20 front and to the north of the suspect house, and a couple of officers in the woods
21 behind the suspect house, but he was unaware of an exact location of the suspect
22 house and where those officers were in relation to his team or how many officers
23 were on the scene.

24
25 Officer Etchison said as they moved from 246 North High Street to a car parked in
26 the driveway of 250 North High Street to place themselves closer to where they now
27 knew the suspect was, the suspect continued to fire toward Fairborn and then
28 Dayton's armored vehicles. Officer Etchison said he saw one round travel through a
29 pickup truck parked in the driveway of 310 North High Street and strike Fairborn's
30 armored vehicle. Officer Etchison said he then saw several rounds strike Dayton's
31 armored vehicle which was now in the front yard between 250 and 310 North High
32 Street. Officer Etchison said debris from the rounds striking Dayton's armored

1 vehicle ricocheted past his head. Officer Etchison said the suspect then started firing
2 out of the back of the house. Officer Etchison said at this time Deputy James Hughes,
3 advised over the radio, he had fired at the suspect but did not know if the suspect was
4 hit. Officer Etchison said this was the last shots fired during the incident.

5 Following the last barrage of fire from the suspect, Officer Etchison said they
6 remained in their position behind the vehicle for a couple of hours. Officer Etchison
7 said Major Spicer left for a while then returned. Officer Etchison said after they
8 moved forward, they had a lengthy conversation with the command post over the
9 radio clarifying their position as being one house south of the suspect's location.

10
11 Officer Etchison said after a couple of hours the decision was made to have the
12 armored vehicles move up to the suspect's house, breach the front, and place a remote
13 controlled robot into the house to assess if the suspect had been struck by gunfire.
14 Officer Etchison said he and Officer Barker with Major Spicer, who had returned,
15 moved to the "1/4" corner of 250 North High Street to be able to respond if needed as
16 the armored vehicles breached the suspect's house.

17
18 I asked if Major Spicer was continuing to give suggestions to them as they waited for
19 the armored vehicle to breach the suspect's house. Officer Etchison said, "Yes, he
20 kept coming up with ridiculous ideas, he wanted us to, to just go up there and charge
21 the house and just. It got to the point where I finally sent a text message back to the
22 command post asking that he (Spicer) be recalled back to the command post.

23 Because not only was he coming up with these stupid suggestions, um, I had actually
24 knocked out the light over the door, next to the door of the house (250 North High
25 Street) because it was casting a shadow and it was throwing our shadows out. So I
26 didn't want those shadows so that he (suspect) could tell, if he was still alive because
27 we didn't know if he was alive or dead at that point. So I knocked that light out.

28 Well, we're peeking around the corner and I see a light shining over my head and
29 he's (Spicer) standing behind us with the flashlight shining right over our head
30 shinning in front of the house stepping out. And it was at the point that I was like I,
31 I've had enough. So I got my phone out and sent a text back to the command post

1 saying, 'Get him outta here.' And I don't know that he ever did leave and go back to
2 the command post. Not that I recall him ever leaving, he stayed with us."

3
4 Officer Etchison said after the armored vehicles were able to breach the front of the
5 house and insert the robot, the robot operator saw the suspect was down due to an
6 apparent gunshot wound and was not responsive. Officer Etchison said he and
7 Officers Barker and Sparks entered the house to check the suspect and clear the
8 house. Officer Etchison said when they made entry into the house and saw the
9 suspect lying on the ground, they could see the suspect was deceased. Officer
10 Etchison said they made the decision to not handcuff the suspect and to call for the
11 medic to check him. Officer Etchison said the medic came into the house and
12 checked the suspect and pronounced him deceased.

13
14 Officer Etchison said he, Officer Barker and Officer Jim Hardman from the RERT
15 cleared the rest of the suspect's house to ensure there were no "booby traps" and the
16 scene was safe. Officer Etchison said while they were checking the house he
17 witnessed several firearms, a large amount of ammunition and "survivalist gear."
18 After clearing the house, Officer Etchison said he stayed at the front door until
19 investigators took over the scene.

20
21 Officer Etchison said he did not see Major Spicer or Deputy Hughes fire their
22 weapons during the incident. Officer Etchison said Major Spicer never told him he
23 had fired his weapon during the incident. Officer Etchison said he was not aware
24 another deputy, other than Deputy Hughes, had fired during the incident until
25 watching the news the day after the event. Officer Etchison said he did not fire his
26 weapon during the incident.

27
28 Officer Etchison said Major Spicer is not a member of the Greene County Regional
29 SWAT team and is not part of the command structure of the SWAT team operations.
30 Detective Sollenberger asked Officer Etchison if Major Spicer helped or hindered his
31 (Etchison's) mission during the incident. Officer Etchison said, "He hindered us.
32 The thing that concerned me most was, he was so adamant that this was the house,

1 this being 250, that Officer Barker and I had, had talked about, 'Ok if he comes out,'
2 We had specific plans, we weren't going to let him go mobile. If somebody would
3 have come out of that house, and didn't listen to what we told them immediately bad
4 things would have happened. We would have used some sort of force on them to
5 immediately make them comply. Depending on what they did, who knows what
6 would have happened. We may have shot someone that we shouldn't have. Because
7 this is the house he told us he was in." Officer Etchison said he later found out there
8 was a family inside 250 North High Street. Officer Etchison further said Major
9 Spicer definitely hindered his team.

10
11 Officer Etchison said he did not have any further information regarding this
12 investigation. I ended the interview at 1115 hours.

13
14 **INTERVIEW WITH XENIA OFFICER DEAN MARGIORAS**

15 On Thursday, October 10, 2013, at approximately 1150 hours, I met with Xenia
16 Police Officer Dean Margioras at the Greene County Common Pleas Court, 45 North
17 Detroit Street, Xenia, Ohio, as a witness in an administrative investigation. Officer
18 Margioras, Detective Michael Sollenberger and I were present for the recorded
19 interview.

20
21 Officer Margioras has been employed by the Xenia Police Department for eighteen
22 years. Officer Margioras is currently assigned as a School Resource Officer on
23 dayshift. Officer Margioras has also been a member of the Greene County Regional
24 SWAT team for fourteen years where he is assigned as an entry team member.
25 Officer Margioras said he responded to Yellow Springs with other members of the
26 Greene County Regional SWAT team after receiving a text and meeting with the
27 other team members at the "SWAT garage."

28
29 Officer Margioras said when they arrived in Yellow Springs they responded to the
30 command post where he was assigned to the immediate reaction team with Officers
31 Fred Barker, Lon Etchison and Doug Sparks. They were advised there was a male in

1 a house shooting a rifle toward officers. Officer Margioras said while they were
2 being briefed he could hear gunfire from the suspect.

3
4 Officer Margioras said after being briefed, they were led toward the suspect's house
5 by Yellow Springs Officer Patrick Roegner. Officer Margioras said they could hear
6 shots continue to be fired as they moved. Officer Margioras said they were led to 246
7 North High Street where they met with Major Spicer who advised the suspect was
8 located in the house next door, which Officer Margioras identified on the map as 250
9 North High Street. Officer Margioras said he was immediately concerned when told
10 the suspect was immediately next door because the shots being fired were rifle
11 rounds.

12
13 Officer Margioras said while he was positioned on the south side of 246 North High
14 Street, Major Spicer devised a plan to have him (Margioras) enter 246 North High
15 Street by breaking through a glass door while Dayton's armored vehicle drove
16 through the backyard of 246 North High Street. Officer Margioras said he had
17 concerns about entering the house because he did not know if anyone was home, or if
18 the suspect had moved into the house because there was a door the was visibly ajar on
19 the north side of the house, facing 250 North High Street, where they believed the
20 suspect to be.

21
22 Officer Margioras said, "The plan was, I guess when they heard the RVs (armored
23 vehicles) were going to make, you know, one was going to try to go through the
24 backyards, through the privacy fence and then was was going to come up front. Um,
25 the plan was at the same time when they're making this noise, is to break into 246
26 through, through a door on the one side mainly glass, uh you, you know he had this,
27 devised a plan to, to, for me to pop the glass and get in, and take a position inside the
28 house. So." Detective Sollenberger asked Officer Margioras who devised the plan.
29 Officer Margioras said, "Um, Spicer brought that up. Spicer brought that up about
30 getting into this house and." I asked if Major Spicer wanted to use the cover of the
31 sound of the armored vehicles to cover the sound of getting into 246 North high
32 Street. Officer Margioras said, "Get into 246 to have, I guess, more of a vantage

1 point or get, you know, we can see some. Yah, I, I uh, you know you're in that
2 situation and, you know I probably should have been more vocal, looking back now
3 as far as me doing that. But, um, you know he's a superior officer you know of his,
4 you know we're all in this together and um. You know I was going to slide in there
5 get, low crawl across and, and um, you know. Try to get a decent position in that
6 house. So anyway, that, that was the initial plan, and again in the middle of that.
7 Right before we were going to knock in that door we found out that was not the target
8 house," pointing at 250 North High Street.

9
10 Officer Margioras said when they discovered 250 North High Street was not the
11 suspect's house; Dayton's armored vehicle was preparing to drive through the privacy
12 fence into the backyard of 246 North High Street. Officer Margioras said he and
13 Officers Barker and Etchison moved up to a car parked in front of 250 North High
14 Street. Officer Margioras said the communications were very poor during the
15 incident, and the Dayton Officers must not have received the information 250 North
16 High was not the correct address, because they drove through the privacy fence into
17 the backyard of 246 North High Street.

18
19 Officer Margioras said he ran to the back yard to stop the Dayton armored vehicle.
20 Officer Margioras said he was able to go to the back of the armored vehicle and tell
21 them they had the wrong house. So they backed out and went back to North High
22 Street.

23
24 Officer Margioras said while he was on the south side of 246 North High Street the
25 rounds being fired from the suspect sounded very close, as if they were coming from
26 the back yard of 250 North High Street.

27
28 After stopping Dayton's armored vehicle, Officer Margioras said he went back to
29 Officers Barker and Etchison. Officer Margioras said they attempted to move to the
30 back of 250 North High Street to get a better view of the suspect's location, but due to
31 trees and other obstacles in the back yard of 250 North High Street, they determined
32 the best place to observe was from the front of 250 North High Street.

1
2 Officer Margioras said as soon as both armored vehicles moved in front of the
3 suspect's house, the suspect started firing at them. Officer Margioras said he could
4 see sparks flying off of the armored vehicles from where bullets were impacting and
5 ricocheting off the armor. Officer Margioras said they remained behind the vehicle
6 parked in front of 250 North High Street to protect them from the ricochet debris.
7

8 Officer Margioras said Major Spicer left them around the time they discovered 250
9 North High Street was the wrong house and he returned before the last barrage of
10 gunfire. Officer Margioras said, "Again, when he left us, when we were. It was
11 almost like when we found out that it was, it was around that same time frame when
12 we found out the new, the new target house, then he had, he had gone somewhere. He
13 just disappeared, and I, I had no idea where he went, had no clue. Then things
14 happened there with the gunshots. And I believe. I don't want to say 120 percent.
15 But I believe that's when he came back and linked back up with us, he said he had
16 taken a shot. 'Hey I took a shot.' I'm like, 'Oh you did?' what, you know. And I
17 think I asked him, 'Did you see him? Or did you,' and I can't remember his response
18 to that to be honest with you." Officer Margioras said Major Spicer's statement was
19 confusing because he did not hear anyone else take a shot from the "1" side and knew
20 there were several officers there.
21

22 Officer Margioras said he did not see Major Spicer fire his weapon. Officer
23 Margioras said he did not see Deputy James Hughes fire his weapon. Officer
24 Margioras said he did not see any officer fire their weapon.
25

26 Officer Margioras said it was odd to have an administrative officer with their team
27 during the incident. Officer Margioras said he does not believe Major Spicer is a
28 member of the SWAT team nor has any type of involvement with the SWAT team's
29 administration, training or operations.
30

31 I asked Officer Margioras if Major Spicer helped or hindered his team's mission that
32 night. Officer Margioras said, "Um. I, I mean, I think he hindered it. I mean, in a

1 way, I mean kind of was telling, telling officers to put themselves a little bit into
2 harm's way by breaking into that house. I wasn't comfortable with that. I mean, I
3 knew I could get in quickly and per my skills or whatever, you know I'm not a huge
4 guy. I mean I can move pretty quick but. I mean I'll do anything to protect the
5 public. And you know at that point yeah, he was throwing rounds out of the house,
6 other people were in danger you know. Ah, I thought too that I, I being in there if he
7 tries to come into the house, and there, are people in the basement, I'm protecting
8 them. And I'm putting myself in harm's way, but, again, with him (Spicer) giving us
9 that information maybe not knowing fully where this house was. Yeah, I mean that,
10 we had, you know we have the wrong focus. You know we had the wrong, we did
11 anyway. As an emergency response team that, I think, that was not good. Um, so.
12 And again, everything was pretty chaotic we got on scene and we moved in there
13 pretty quick. We didn't waste time cause we had officers that were taking rounds
14 and you could hear David Wilson saying, he was on King I believe, behind the
15 wooded area. He was behind there saying they were taking rounds. I mean we just
16 want to get there and. And then we're given information we're given and, you know,
17 um. But um, yeah I mean that, that's, that could be an issue if we have the wrong
18 target house."

19
20 Officer Margioras said he did not have any further information regarding this
21 investigation. I ended the interview at 1215 hours.

22
23 **INTERVIEW WITH XENIA SERGEANT STEVE LANE**

24 On Thursday, October 10, 2013, at approximately 1225 hours, I met with Xenia
25 Police Sergeant Steve Lane at the Greene County Common Pleas Court, 45 North
26 Detroit Street, Xenia, Ohio, as a witness in an administrative investigation. Sergeant
27 Lane, Detective Michael Sollenberger and I were present for the recorded interview.
28 During the interview the digital recorder I was using ran out of recording space. Only
29 the first fifteen minutes of the interview was recorded.

30
31 Sergeant lane has been employed by the Xenia Police department for twenty years
32 and has been a supervisor for twelve years. Sergeant Lane is currently assigned as a

1 patrol supervisor on day watch. Sergeant Lane is a member of the Greene County
2 Regional SWAT Team where he is the SWAT Commander for the Xenia Police
3 contingent.

4
5 Sergeant Lane said he received the text regarding the SWAT call out in Yellow
6 Springs on Tuesday, July 30, 2013, and responded to the scene with several members
7 of the Xenia Police contingent of the Green County Regional SWAT team.

8
9 Sergeant Lane said they responded to the original staging area of Dayton and North
10 High Streets. Sergeant Lane said there was some radio traffic that indicated the
11 suspect was mobile and the scene was still very active. Sergeant Lane said they
12 moved the command post to the intersection of North High and Union Streets to be
13 closer to the units on the scene.

14
15 Sergeant Lane said once the command post was moved, they could hear shots being
16 fired from the suspect. Sergeant Lane formed an emergency action team consisting of
17 Xenia Police Officers Fred Barker, Lon Etchison, Dean Margioras and Doug Sparks.
18 Sergeant Lane said he told the emergency reaction team officers the limited
19 information he had which was, "There's a house, there's a, a, separate ah, I believe a
20 garage converted into an apartment. It's behind the house. Um, and he may not be in
21 it anymore. And we, we're hearing things like there are shots that sound like they
22 may be originating from inside the woods. We're hearing, I believe it was dispatch
23 tell us they received a 911 call that there was a subject pulling on the door, trying to
24 get in the backdoor several doors away." Sergeant Lane said he provided the team
25 with the information telling them it sounded as if the suspect was mobile and told
26 them to find him, contain and control him as best they could focusing on the south
27 side ("2" side) of the suspect's house.

28
29 Sergeant Lane said he then told Xenia Police Officer Harold Matheson and Deputy
30 James Hughes (precision rifle men) the same information and sent them toward the
31 woods on the west "3" side of the suspect's house.
32

1 Sergeant Lane said he formed a third team with the same information consisting of
2 Deputy Daniel Funk, Wright State University Police Officer Chad Oleyar, Kettering
3 Health Network Officer Michael Mulchan and Xenia Police Officer Matt Dray to
4 secure the north "4" side of the suspect's house.

5
6 I asked Sergeant Lane if he had a photograph or map of the suspect's location to
7 provide information to the teams he was sending out. Sergeant Lane said he had a
8 small black and white Greene County "GIS" photo of the property.

9
10 Sergeant Lane said during the event he spoke with Paul Schenck Sr. (the suspect's
11 father) who advised the suspect, Paul E. Schenck, had a history of mental illness, was
12 bi-polar and had a number of guns that he had re-acquired after they had been
13 removed by police. Sergeant Lane said Mr. Schenck lead him to believe Paul E.
14 Schenck was a survivalist and heavily armed.

15
16 I asked Officer Lane if he had an idea of how many patrol officer had initially
17 responded to the incident and where they were located. Sergeant Lane said he knew
18 he had several patrol officers to the front of the house on North High Street and more
19 officers on the street to the west, King Street.

20
21 Sergeant Lane said he received information from the teams he sent out that the
22 suspect was firing from one of the two target structures (being either 280 North High
23 Street or 310 North High Street). Sergeant Lane said they were unsure if the suspect
24 was in 310 or 280 North High Street. Sergeant Lane described the property as being
25 essentially the same address with two separate structures where Paul E. Schenck lived
26 in the detached garage and Paul Schenck Sr. and Uta Schenck lived in the main
27 house.

28
29 Sergeant Lane said based on that information, the commanders believed the suspect
30 was not mobile, but confined to one of the original two structures from the original
31 call.

32

1 Sergeant Lane said he spoke to Yellow Springs Officer Patrick Roegner, who was the
2 first responding officer on the original domestic violence call. Sergeant Lane said
3 Officer Roegner told him they responded to a call for domestic violence, suspect was
4 mentally ill and shot directly at them. Sergeant Lane said Officer Roegner told him
5 the suspect was in 280 North High Street the detached garage behind 310 North High
6 Street.

7
8 Sergeant Lane said he assigned Officer Roegner to the Fairborn armored vehicle to
9 pinpoint the location of the suspect house. Sergeant Lane said, in hind sight, he
10 should have sent the armored vehicle forward quicker so the exact location of the
11 suspect was evident to all of the teams deployed. Sergeant Lane said the original
12 deployment of Fairborn's armored vehicle was more of a stand-off, officer rescue
13 response instead of being deployed forward.

14
15 I asked Sergeant Lane if at any time during the event he received information about
16 the suspect being in 250 North High Street. Sergeant Lane said he does not recall the
17 exact time, but during the event, Major Eric Spicer came to the command post and
18 told Sergeant Lane, "Your guys are looking at the wrong place." Sergeant Lane said
19 Major Spicer was excited and adamant.

20
21 Sergeant Lane said he had Major Spicer come into the command post where they had
22 a sketch on a grease board of three houses, 250, 280 and 310 North High Street, with
23 the location of the team members deployed around the house. Sergeant Lane said he
24 had Officer Barker's team listed as being on the corner of 250 North High Street
25 because their information was he was one house south of the suspect's house.

26
27 Sergeant Lane said Major Spicer told him they were looking at the wrong house.
28 Sergeant Lane said they had some discussion to make sure they were talking about
29 the same thing and Major Spicer erased the "T," marking 280 North High Street as
30 the suspect location, and put it on 250 North High Street. Sergeant Lane said, "I said,
31 'Here I don't think we're going to agree. Let, let's, just tell me what the other issue is
32 then. Let's just assume we're both talking about the same, just for a minute, just

1 assume were both talking about the same house what adjustment do we need to make.
2 And, and that was, that was kind of the end of it, there wasn't any more real
3 conversation about it. So we, we took the "T" down and put where, where we heard
4 for everybody else that, that was the target location." Sergeant Lane said this
5 conversation was before Fairborn's armored vehicle approached the front of 280
6 North High Street.

7
8 At this point in the interview, the recording stopped due to exceeding the storage
9 space on the media.

10
11 The interview continued for approximately ten more minutes where Sergeant Lane
12 explained the rest of the event to include the decision to obtain a search warrant to
13 enter the house, having Dayton's armored vehicle forcibly breach the house and
14 finding the suspect mortally wounded. Sergeant Lane said they secured the house
15 until a search for booby traps was completed and turned the scene over to
16 investigators.

17
18 I ended the interview at approximately 1250 hours.

19
20 **ADDITIONAL INVESTIGATION**

21 On Friday, October 11, 2013, Detective Michael Sollenberger and I went to the Clark
22 County Sheriff's Office and obtained Clark County Dispatch recordings for Tuesday,
23 July 30 and Wednesday, July 31, 2013, regarding the dispatch and response of
24 deputies from the Clark County Sheriff's Office to assist Yellow Springs Police at 310
25 North High Street in Yellow Springs, Ohio.

26
27 I reviewed the recordings which shows the Clark County Deputies (Deputies Jason
28 Patton, John Snyder, Denise Jones, Joe Johnson and Sergeant Chad Brown) arrived in
29 Yellow Springs at approximately 2336 hours. At 2346 hours, the Clark County
30 Deputies had met with Major Eric Spicer south of the suspect's location. See *Clark*
31 *County Sheriff's Office Detail Call Sheet* for Call Number 13 0000041379 and *Clark*
32 *County Sheriff's Office Ohio Uniform Incident Report 13-3794* for full details.

1 Deputy Johnson remained with Major Spicer to assist with radio communications. At
2 2359 hours, Deputy Johnson broadcast that Major Spicer advised there was
3 movement on the north side in the back of the house.
4

5 At 0012 hours, Deputy Patton observed a shot from behind a fence behind a house.
6

7 At 0016 hours a single shot was reported by Sergeant Brown to have come from over
8 the fence behind the garage.
9

10 At 0017 hours, Deputy Johnson reported Major Spicer and two officers, Beavercreek
11 Officers Justin Tolley and Keith Duncan, were making their way across the street to
12 take some lights out.
13

14 There is very little radio traffic from Clark County over the next hour other than
15 check-ups.
16

17 At 0116 hours, Sergeant Brown advised he was with the team leader from the
18 Fairborn armored vehicle discussing where the Clark County deputies should go.
19

20 At 0119 hours, the Clark County deputies reported they were moving back to the
21 command post.
22

23 **INTERVIEW WITH CENTRAL STATE OFFICER JESSE RUBIO**

24 On Friday, October 11, 2013, at approximately 1705 hours, I met with Central State
25 University Police Officer Jesse Rubio in the Simpson Building on the Campus of
26 Central State University, 1400 Brush Row Road, Wilberforce, Ohio, as a witness in
27 an administrative investigation. Officer Rubio and I were present for the recorded
28 interview.
29

30 Officer Rubio has been employed by the Central State University Police Department
31 for over three years. Officer Rubio is assigned to patrol on second shift, 1600 to 0200
32 hours.

1 Officer Rubio said he was working on Tuesday, July 30, 2013, when he responded to
2 a "signal 99" (officer needs assistance) in Yellow Springs. Officer Rubio said he was
3 driving with Officer Terrence Sanders and responded to North High Street and parked
4 behind a marked Sheriff's Office cruiser parked on the street. Officer Rubio said he
5 discovered he parked in front of the suspect's house when the suspect started shooting
6 at them within a minute of parking and getting out of the car. Officer Rubio said he
7 and Officer Sanders took cover on the east side of North High Street behind their car.
8

9 Officer Rubio said the shots were coming from the west side of North High Street
10 somewhere from the area of 250, 280 and 310 North High Street. Officer Rubio said
11 it was not immediately apparent where the shots were coming from. Officer Rubio
12 said Deputy Wical was taking cover behind his (Wical's) car. Officer Rubio said he
13 remained behind his (Rubio's) car during the event.
14

15 Officer Rubio said Central State University Police Officers Jacob Sharrett and
16 Thomas Sanders showed up about four to five minutes later and parked behind them.
17 Officer Rubio said some time later a deputy (Major Eric Spicer), who Officer Rubio
18 did not know at the time, showed up and pulled up in front of them in an unmarked
19 car. Officer Rubio said they waved him back, and he pulled his car back, parked in
20 the street and then ran to their position. Officer Rubio said Major Spicer asked if they
21 had a rifle and they told him no. Officer Rubio said Major Spicer then ran up to
22 Deputy Wical and asked if Deputy Wical had a rifle. Officer Rubio said either
23 Deputy Wical or Deputy Kessel gave Major Spicer a rifle. Officer Rubio said Deputy
24 Wical then had a shotgun for the rest of the event.
25

26 Officer Rubio described what happened next saying, "The man (suspect) started
27 shooting rounds. We hear them in the trees. Hitting the ground, you know, you could
28 hear them. You couldn't see from, from where we were at, 'cause here in front there
29 was uh, bushes and trees. Where we were at, I could see this here driveway, this here
30 house, this house and this house (indicating 250, 280 and 310 North High Street).
31 But, but, all this up front is bushes. So he (Major Spicer) asked for it (rifle) locks and
32 loads. He's sitting there. He (suspect) starts shooting, boom, boom, boom, boom,

1 boom. The Major, just stands up, not, you know, nothing, you know tactical, you
2 know, he didn't take cover, he didn't, he didn't look, you know, he just stood up, and
3 shot, pow. And went down. You know, so I asked my friends, you know, I asked
4 them what he (Major Spicer) shot at. If, if anyone saw, you know, muzzle flash or
5 anything, and, nobody did. He just, he just stood up, shot, and squatted down. After
6 a bit, he (Major Spicer) left.

7
8 Officer Rubio said Major Spicer did not say anything after he fired the shot. Officer
9 Rubio said he did not hear anything over the radio about Major Spicer shooting.
10 Officer Rubio said Major Spicer remained behind the car for no more than five
11 minutes after shooting before he left. Officer Rubio described Major Spicer by
12 saying, "You could tell he was, you know, he was really amped up, you know. He,
13 he had no regard for his, his safety when he fired. He didn't cover there was nothing
14 you know tactical, he just stood up and just fired." Officer Rubio said Major Spicer
15 did not call out what he saw or tell anyone else to fire.

16
17 Officer Rubio said when Major Spicer left, he ran behind them and went south on
18 North High Street. Officer Rubio said he was angered by Major Spicer's actions
19 because Major Spicer left Deputy Wical by himself behind the car. Officer Rubio
20 said after Major Spicer left he did not see him again for the remainder of the event.

21
22 Officer Rubio said the car Deputy Wical was taking cover behind was eventually
23 struck by gunfire from the suspect.

24
25 Officer Rubio said after a couple of hours, armored vehicles from Dayton SWAT and
26 Fairborn approached the house. Officer Rubio said Dayton's armored vehicle crashed
27 through a fence behind 246 North High Street trying to get to the suspect's house.
28 Officer Rubio said the armored vehicles approached the suspect's house from the
29 front and took fire from the suspect. Officer Rubio said he could hear someone from
30 inside Fairborn's armored vehicle telling the suspect to pick up a phone and talk to
31 them. Officer Rubio said after a while he heard several more shots, some coming
32 from the back of the house, and then there were no more shots. Officer Rubio said a

1 couple of hours later a robot was put into the house and found the suspect with a
2 mortal gunshot wound.

3
4 Officer Rubio said other than Major Spicer, he did not see any other law enforcement
5 officers fire at the suspect. Officer Rubio said throughout the night, based on the
6 sounds of the gunshots, he thought the suspect was in 310 North High Street, but
7 never saw him.

8
9 Officer Rubio said he did not have any further information regarding this
10 investigation. I ended the interview at 1725 hours.

11
12 **INTERVIEW WITH CENTRAL STATE OFFICER JACOB SHARRETT**

13 On Friday, October 11, 2013, at approximately 1800 hours, I met with Central State
14 University Police Officer Jacob Sharrett in the Simpson Building on the Campus of
15 Central State University, 1400 Brush Row Road, Wilberforce, Ohio, as a witness in
16 an administrative investigation. Officer Sharrett and I were present for the recorded
17 interview.

18
19 Officer Sharrett has been employed by the Central State University Police
20 Department for over three years. Officer Sharrett said he is assigned to patrol on
21 second shift.

22
23 Officer Sharrett said he was working on Tuesday, July 30, 2013, when he responded
24 to a "signal 99" (officer needs assistance) in Yellow Springs. Officer Sharrett said he
25 drove with Officer Thomas Sanders and parked across the street from 250 North High
26 Street behind Officer Jesse Rubio's car. Officer Sharrett said when they showed up,
27 Officers Rubio and Terrence Sanders were already behind their car taking cover, and
28 looking at one of the houses on the west side of the street. Officer Sharrett said as he
29 started to get out of the driver's side door, Officers Rubio and Sanders yelled at him
30 to get out of the passenger side and take cover. Officer Sharrett said as he took cover
31 on the passenger side the suspect started shooting toward the officers on the east side
32 of the street.

1 Officer Sharrett said he moved up to Officer Rubio's car and the suspect fired another
2 barrage of gunfire from what sounded like different types of guns, handgun, shotgun
3 and rifle.

4
5 I asked Officer Sharrett if he knew where the shots were coming from. He said he did
6 not know exactly where the suspect was, but knew the general direction the rounds
7 were coming, was from the area of 280/310 North High Street. Officer Sharrett said
8 there was a large shrub blocking their view so they could not see the suspect shooting
9 or determine exactly where he was. Officer Sharrett said they were told the suspect
10 was in 310 North High Street, but did not know which house 310 North High Street
11 was.

12
13 I asked Officer Sharrett if there were any other officers around other than the three
14 Central State University Officers. Officer Sharrett said there was one deputy, Deputy
15 David Wical, behind Sheriff's Office car 14. Officer Sharrett said another deputy,
16 Major Eric Spicer, came up and asked them (Central State Officers) if they had rifles.
17 Officer Sharrett said they told him no, so Major Spicer then went to Deputy Wical
18 and asked if he had his rifle. Officer Sharrett said he saw Deputy Wical give his rifle
19 to Major Spicer. Officer Sharrett said the suspect fired another barrage of gunfire and
20 Major Spicer then fired a round in the general direction of the suspect. Officer
21 Sharrett said, "In my opinion there is no way he could have saw where the shooter
22 was or where the rounds were coming from. Because A. of how dark it was and 2.
23 because of that bush. 'Cause we didn't, we didn't see anything."

24
25 Officer Sharrett said Major Spicer did not say anything to anyone before or after he
26 fired the round. Officer Sharrett said Major Spicer fired the round and then a few
27 minutes later left the area. Officer Sharrett said he did not see Major Spicer again
28 throughout the event.

29
30 Officer Sharrett said he did not see any other law enforcement officers fire any shots
31 during the incident. Officer Sharrett said eventually the two armored vehicles
32 showed up, and then someone announced over the radio they had fired and thought

1 the suspect was down. Officer Sharrett said they were eventually relieved by SWAT
2 team members. Officer Sharrett said eventually he heard a robot was placed into the
3 suspect's house and found the suspect had been mortally wounded.
4

5 Officer Sharrett said he did not have any further information regarding this
6 investigation. I ended the interview at 1817 hours.
7

8 ADDITIONAL INVESTIGATION

9 On Tuesday, October, 15, 2013, at approximately 1045 hours, Detective Michael
10 Sollenberger, Montgomery County Sheriff's Office Information Technology
11 Specialist James Fisher and I met with Greene County Sheriff Gene Fischer and
12 Greene County Chief Deputy Mike Brown regarding an additional allegation of
13 misconduct by Major Eric Spicer concerning the incident at 310 North High Street in
14 Xenia, Ohio, on Tuesday, July 30, 2013 and Wednesday, July 31, 2013.
15

16 Chief Deputy Brown explained sometime around September 13, 2013, Detective Beth
17 Prall attempted to print a copy of incident report 2013-00021393, from the New
18 World records management system for the Greene County Coroner. Detective Prall
19 discovered the report did not exist in the New World system. New World is the
20 system the Greene County Sheriff's Office utilizes with numerous other agencies in
21 Greene County for report management and storage.
22

23 Detective Prall asked Records Clerk Amy O'Brien if she could locate the report in the
24 New World system or make a copy of the original printed copy of the report. Records
25 Clerk O'Brien found the original printed file for report 13-00021393 was missing
26 from the records storage area and she could not locate the file in the New World
27 system.
28

29 Chief Deputy Brown explained, on September 16, 2013, Records Clerk O'Brien went
30 to Greene County Sheriff's Office employee Debbie Moyer, who is one of the System
31 Administrators for the New World records management system, and asked if she
32 could locate any information for report 2013-00021393 in the New World system.

1 Chief Deputy Brown advised he and Sheriff Fischer were told about the missing
2 report from New World and the records section. Chief Deputy Brown advised he
3 provided a copy of the report he retained for the administrative investigation (a copy
4 of which he provided to me on Monday, August 13, 2013). Sheriff Fischer said he
5 ordered Ms. Moyer to de-activate Major Spicer's accounts to the New World system
6 and had Chief Deputy Brown retrieve Major Spicer's assigned mobile computer.
7

8 At this time Sheriff Fischer requested I also investigate Major Spicer's involvement
9 with the missing printed report and the missing file from the New World system as
10 part of the on-going investigation. Sheriff Fischer then left the meeting and Ms.
11 Moyer joined the meeting and provided me with a report she compiled (six pages in
12 length dated 9/16/13, with a series of computer "screen shots").
13

14 Ms. Moyer explained on September 16, 2013, she was asked by Records Clerk
15 O'Brien if she could determine what happened with report 2013-00021393 in the
16 New World System. Ms. Moyer said she contacted New World technical support
17 regarding the report number. Ms. Moyer advised she was able to determine with New
18 World Support the last time the merged report was accessed was on August 7, 2013,
19 at 1815 hours, by user espicer (Major Spicer) from workstation LAW023 (the
20 computer located in Major Spicer's office).
21

22 Ms. Moyer said she recalled Major Spicer attempting to access the New World
23 system on August 7, 2013, around 1500 hours. Ms. Moyer said she received two
24 automated e-mails regarding Major Spicer attempting to access the New World
25 system but was not able to because his password had expired. Ms. Moyer said Major
26 Spicer came to her office to request she reset his password. Ms. Moyer reset Major
27 Spicer's password at 1514 hours.
28

29 Ms. Moyer said she ran a report regarding the activity for Report 2013-00021393 and
30 found Major Spicer "view" the report at 1519 hours, 1526 hours and 1528 hours on
31 August 7, 2013. The report also shows Major Spicer "change" the report at 1526
32 hours and "delete" the report at 1815 hours, on August 7, 2013. Ms. Moyer said

1 following the 1815 hours "delete" action by Major Spicer on August 7, 2013, there is
2 no further information concerning the report in the "merged" section of the New
3 World System.

4
5 Ms. Moyer explained she questioned the technical support personnel at New World
6 asking if the "delete" action meant the report was deleted by Major Spicer. Ms.
7 Moyer said they told her some part or all of the report was deleted but they could not
8 determine how much was deleted by that action without restoring the entire database
9 from the back-up tape which was running scheduled back-up over the dates August 6,
10 7 and 8, 2013.

11
12 Chief Deputy Brown said August 7, 2013, was the date Major Spicer was ordered to
13 complete a supplement to report 2013-00021393, and was in the office. Chief Deputy
14 Brown told us Major Spicer submitted his supplement to the report by sliding what
15 appears to be a non-standard (not a Greene County Sheriff's Office New World
16 system) report under Sheriff Fischer's office door.

17
18 I asked Ms. Moyer to provide a list of system administrators for the New World
19 System and a list of Agency Administrators for the New World System for the Greene
20 County Sheriff's Office. (System Administrators have the ability to alter or delete
21 "merged" reports throughout the system. Agency Administrators have the ability to
22 alter or delete merged reports from the originating agency). I also asked Ms. Moyer
23 to provide a "screen shot" of the warning box that appears before a report or file is
24 deleted. Ms. Moyer provided the requested documents to me before I left the
25 Sheriff's Office.

26
27 I then spoke to Records Clerk O'Brien who explained the management and security
28 for the original printed reports for the Greene County Sheriff's Office. Ms. O'Brien
29 explained the files are her responsibility and are unlocked at 0700 and locked at 1500
30 during her workdays. Ms. O'Brien additionally said she maintains the keys to the
31 files in her desk drawer. Ms. Obrien said before this incident (the missing file) she
32 typically left the drawer unlocked so the detectives could access the files when she

1 was not in the office. Ms. Obrien said after this incident she now locks her desk to
2 prevent unauthorized access to the files.

3
4 Ms. Obrien said she is responsible for creating the original reports and recalls making
5 the file for this case and placing it in the secure file storage area. Ms. Obrien said in
6 addition to herself, Major Spicer, Captain Tidd and Cheryl Bullen also have access to
7 either her desk or the file storage area.

8 This meeting was not recorded. All documents provided are included in this report.
9 The meeting was concluded at approximately 1150 hours.

10
11 **INTERVIEW WITH BEAVERCREEK OFFICER KEITH DUNCAN**

12 On Wednesday, October 16, 2013, at 2225 hours, I met with Beaver creek Police
13 Officer Keith Duncan at the Beaver creek Police Department, 1388 Research Park
14 Drive in Beaver creek, Ohio, as a **witness** in an administrative investigation. Officer
15 Duncan and I were present during the recorded interview.

16
17 Officer Duncan has been employed with the Beaver creek Police Department for six
18 years. Officer Duncan is currently assigned to patrol during the hours of 1900 to
19 0700.

20
21 Wednesday, July 30, 2013, he was working patrol in Beaver creek when he and
22 Officer Justin Tolley received a call from Sergeant Shawn Sumner to meet with him.
23 Officer Duncan said when they met with Sergeant Sumner, he told them there was an
24 active shooting occurring in Yellow Springs, a signal "99" had been announced and
25 officers were pinned down. Officer Duncan said Sergeant Sumner told them to
26 respond to Yellow Springs and render assistance.

27
28 Officer Duncan said he and Officer Tolley responded to the area of Dayton Street
29 near North High Street. Officer Duncan said he and Officer Tolley walked to the
30 command post where there were a large number of police officers from many
31 different jurisdictions. Officer Duncan said they were briefed on the situation and he
32 could hear shots being fired. Officer Duncan said a Yellow Springs Officer ran up to

1 them from the area of the shots and told them, "Shots were being fired, and he said
2 that the subject was a known person they have dealt with before in their city, and that
3 he is known to have several firearms. The firearms were took, taken away from them
4 at one po-, from him at one point in time. At some point in time the courts returned
5 his weapons back to him. Um and he said that you know, he is actively firing shots
6 now." Officer Duncan said he does not recall the Yellow Springs officer telling him
7 an address, but just pointed north on North High Street.

8
9 Officer Duncan said Captain David Tidd and Sheriff Gene Fischer from the Greene
10 County Sheriff's Office were there with a map along with another officer who was
11 taking the names of officers showing up. Officer Duncan said the Sheriff told them to
12 walk north on North High Street and meet with Major Spicer and he would show
13 them where to go.

14
15 Officer Duncan said the Beavercreek radio system does not allow them to
16 communicate with other agencies so someone radioed to Major Spicer advising they
17 were on the way.

18
19 I asked Officer Duncan if he could refer to the map I provided him (Bing® satellite
20 map of North High Street) and tell me where he met with Major Spicer. Officer
21 Duncan said, "Yes sir. Um, as we were walking up the street, you could hear the
22 gunfire. Um, I did not know the actual house that it was at. Ah, there was Major
23 Spicer and another deputy, that it appeared to be, did not know him. Ah, he pointed
24 over to a house, where the suspect house was at. And he said we were going to try to
25 get a perimeter, uh, get a better vantage point to kind of set up a perimeter."

26
27 I asked Officer Duncan which house Major Spicer identified as the suspect's house
28 and Officer Duncan identified 250 North High Street on the map. Officer Duncan
29 said they encountered Major Spicer in the street near an old bus parked on the side of
30 the street. Officer Duncan said Major Spicer led them to the west side of the street to
31 a blue/purple house where Major Spicer then broke out two porch lights to prevent
32 them from being back lit. Officer Duncan said he and Officer Tolley were at the front

1 of the blue house behind some cars. Officer Duncan said they moved across the yard
2 with Major Spicer. Officer Duncan said Officer Tolley took a position on the "1/2"
3 corner of 246 North High Street and he took a position on the "2" side of 246
4 covering to the west down the long driveway.

5
6 Officer Duncan said he remained at this position until several SWAT team members
7 arrived. Officer Duncan said when the SWAT team members arrived, Major Spicer
8 told them he wanted to ensure there was no one inside the house (246 North High
9 Street). Officer Tolley said he could hear screens being removed from the house and
10 someone yelling into the house, "Police, Police," but there was no response from
11 inside.

12
13 Officer Duncan said from the time he met Major Spicer and took a position on the "2"
14 side of 246 North High Street, until the SWAT team members arrived was about
15 fifteen minutes. Officer Tolley said about fifteen to thirty minutes after the SWAT
16 team members arrived they were yelling into 246 North High Street.

17
18 Officer Duncan said as the incident moved on, Major Spicer had a plan for him
19 (Duncan) and a SWAT team member to enter 246 North High Street and move to the
20 north-west corner of the house. Officer Duncan said just before they were getting
21 ready to enter the house for some reason the plan changed and they moved forward to
22 the "1/4" corner of 246 North High Street where they learned the suspect house was
23 280 North High Street and not 250 North High Street. Officer Duncan said they
24 moved forward behind a vehicle in the driveway of 250 North High Street where he
25 took a position behind the left front corner of the car. Officer Duncan said the
26 suspect was shooting and seemed to increase intensity.

27
28 Officer Duncan said while he was behind the car, he heard Dayton's armored vehicle
29 crash through the fence behind 246 North High Street. Officer Duncan said Dayton's
30 armored vehicle lit up the area behind 250 North High Street toward the suspect's
31 location at 280 North High Street. Officer Duncan said Dayton's armored vehicle
32 then came around to the front of 280 North High Street. Officer Duncan said he

1 could hear shots being fired again and heard negotiators trying to talk to suspect.
2 Officer Tolley said he could hear the suspect yelling profanities and saying he was
3 not coming out and then fire more rounds. Officer Duncan said at this time one of the
4 rounds fired from the suspect hit the armored vehicle and ricocheted causing debris to
5 hit him (Duncan) in the head.
6

7 Officer Duncan said more SWAT officers arrived and relieved him. Officer Duncan
8 said he went back to 246 North High Street where Major Spicer was. Officer Duncan
9 said members from RERT showed up and Major Spicer started briefing them. Officer
10 Duncan said there was some confusion where the suspect was and he (Duncan) told
11 one of the SWAT members they initially thought the suspect was in 250 North High
12 Street but they now believed the suspect was in 280 North High Street.
13

14 Officer Duncan said he does not know when or how the suspect's location was
15 clarified. Officer Duncan said he then found Officer Tolley on the "2" side of the
16 house and they walked back to the command post with Major Spicer. Officer Duncan
17 said their assistance was no longer needed so they went back to Beavercreek and
18 completed their shift.
19

20 Officer Duncan said while he was on scene during the incident he did not see any law
21 enforcement officers fire a weapon. Officer Duncan said he never saw the suspect or
22 any muzzle flash from where the suspect was firing. Officer Duncan said at some
23 time during the incident, Major Spicer told him he had fired a round. Officer Duncan
24 said Major Spicer did not elaborate, but only told him he (Spicer) had fired a round.
25

26 Officer Duncan said he did not have any further information regarding this
27 investigation. I ended the interview at 2200 hours.
28

29 **INTERVIEW WITH BEAVERCREEK OFFICER JUSTIN TOLLEY**

30 On Wednesday, October 16, 2013, at 2225 hours, I met with Beavercreek Police
31 Officer Justin Tolley at the Beavercreek Police Department, 1388 Research Park

1 Drive in Beavercreek, Ohio, as a witness in an administrative investigation. Officer
2 Tolley and I were present during the recorded interview.

3
4 Officer Tolley has been employed with the Beavercreek Police Department for over
5 three years. Officer Tolley is currently assigned as a patrol officer working nights.

6
7 Officer Tolley said he was working on Tuesday, July 30, 2013, when he and Officer
8 Keith Duncan were notified by their supervisor, Sergeant Sumner, advising there had
9 been a shooting in Yellow Springs, where officers were pinned down and a signal
10 "99" (officer needs assistance) had been requested. Officer Tolley said his Sergeant
11 Sumner told him and Officer Duncan to respond to Yellow Springs and assist with the
12 incident.

13
14 Officer Tolley said he and Officer Duncan responded to the area of Dayton Street and
15 North High Street in Yellow Springs where they walked to the command post located
16 on North High Street. Officer Tolley said when they got to the command post there
17 were several Ohio State Highway Patrol troopers, and two officers from either
18 Sugarcreek Township Police or Bellbrook Police Departments. Officer Tolley said
19 Sheriff Gene Fischer was at the command post with a Captain David Tidd from the
20 Sheriff's Office and a Yellow Springs Police Officer who was one of the first
21 responding officers (Officer Patrick Roegner) on the original call

22
23 Officer Tolley said they were briefed on the original call. Officer Tolley said they
24 were told Yellow Springs Officers were shot at from a suspect of a domestic violence,
25 causing them to retreat from the house and take cover behind their cruisers. Officer
26 Tolley said he and Officer Duncan asked what they could do to assist and Sheriff
27 Fischer directed them to assist with establishing a perimeter. Officer Tolley said they
28 were told to head toward the suspect location on North High Street and report to
29 Sheriff's Office Major Eric Spicer.

30
31 I asked Officer Tolley if they were given a description of the suspect's house or
32 location. Officer Tolley said, "He gave us a general idea of where it was. He stated

1 that they were directly in front of a house. The suspect was in a, he believed, at that
2 time, was in a garage, behind a house, that also had an apartment at the, on the second
3 floor. So it, it, wouldn't, wouldn't have been the house directly facing the street,
4 there was a garage behind that house, with a, with an apartment on the second floor,
5 and he believed that's where the suspect was at that time."
6

7 Officer Tolley said they were not shown the house on a map. Officer Tolley said they
8 could look down the street and see where all of the police cars were, and walked that
9 way to meet Major Spicer. Officer Tolley said they encountered Major Spicer
10 somewhere around the purple house (referring to the Bing® map I provided him).
11 Officer Tolley said Major Spicer knew they were coming, and he briefed them saying
12 Yellow Springs officers responded to a domestic violence and were fired upon.
13 Officer Tolley said Major Spicer also told them he (Spicer) had returned fire.
14

15 Officer Tolley said Major Spicer told them they were going to move to a brown brick
16 ranch (246 North High Street) and that the suspect was directly to the north of that
17 house. Officer Tolley said Major Spicer went to the purple house, knocked out a
18 couple of light bulbs, and they moved to 246 North High Street. Officer Tolley said
19 Officer Duncan took up a position on the "2" side of the house where a brick
20 outcropping was and he (Tolley) took a position back off the "1/2" corner behind
21 some landscaping so he could see 250 North High Street.
22

23 Officer Tolley said some Xenia SWAT members showed up and the SWAT members
24 with Major Spicer tried to determine if anyone was inside 246 North High Street.
25 Officer Duncan said they tried to yell through a window on the "2" side, but did not
26 receive a response. Officer Tolley said he does not believe anyone ever entered the
27 house.
28

29 Officer Tolley said he never learned, or was told, the suspect was not in 250 North
30 High Street. Officer Tolley said he did not learn he was looking at the wrong house
31 until after the incident was over.
32

1 Officer Tolley said Officer Duncan moved behind a car in the driveway of 250 North
2 High Street and he took officer Duncan's position covering west on the "2" side of
3 246 North High Street. Officer Duncan said he was covering this side when Dayton's
4 armored vehicle drove the driveway, turned, and drove through the privacy fence
5 behind 246 North High Street, shined a light, then backed out and moved back out to
6 North High Street.

7
8 Officer Tolley said after Dayton's armored vehicle left, some Vandalia members of
9 RERT arrived. Officer Tolley said a short time later some more RERT members
10 arrived and he and Officer Duncan were relieved of their positions and walked back
11 to the command post with Major Spicer.

12
13 Officer Tolley said during the incident he never saw any law enforcement officers fire
14 a weapon. Officer Tolley said he never saw the suspect or could tell where the suspect
15 was firing from. Officer Tolley said when they returned to the command post they
16 were instructed they could leave and return to Beavercreek.

17
18 Officer Tolley said he did not have any further information regarding this
19 investigation. I ended the interview at 2245 hours.

20
21 **INTERVIEW WITH GREENE COUNTY MAJOR ERIC SPICER**

22 On Tuesday, November 5, 2013, at 1010 hours, Greene County Sheriff's Office
23 Major, Eric Spicer appeared at the Inspectional Services Unit, 345 West Second Street
24 Dayton, Ohio, as a focus in an administrative interview. Major Spicer, Detective
25 Michael Sollenberger and I were present during the interview. I reviewed the *Greene*
26 *County Sheriff's Office Garrity and Piper Warnings* form with Major Spicer. Major
27 Spicer said he understood the warnings and signed the form.

28
29 Major Spicer has been employed by the Greene County Sheriff's Office for nine
30 years. Major Spicer was promoted to Major in June of 2012 and is assigned as the
31 Greene County Sheriff's Office Law Enforcement Division Commander. Before
32 being employed with the Greene County Sheriff's Office, Major Spicer worked for

1 the Huber Heights police department for eight years as a patrol officer and detective.
2 Before being employed with the Huber Heights Police Department, Major Spicer
3 worked for the Xenia Police Department seven years as a patrol officer. Major Spicer
4 said between the three agencies he has 24 years of law enforcement experience.
5 Major Spicer said he has attended several first line supervision schools and has
6 graduated from the Northwestern University Police Staff and Command school and
7 has graduated from the Federal Bureau of Investigations (FBI) National Academy.
8 Major Spicer said he is not a member or commander of the Greene County Regional
9 Swat Team. Major Spicer said while he was employed with the Xenia Police
10 Department he was a member of their "special events" team for about the last year he
11 was employed at the Xenia Police Department.

12
13 Major Spicer said since he has been promoted to Major he has not participated in any
14 SWAT call outs for an emergency response.

15
16 Major Spicer said on Tuesday, July 30, 2013, at approximately 1745 hours he arrived
17 at the Fairgrounds to work his shift at the fair. Major Spicer said he had returned
18 from a vacation in Alaska earlier that day so he did not work in the office. Major
19 Spicer said he traveled all night back from Alaska and took a short nap before
20 reporting to the fairgrounds. Major Spicer said he was up for a "considerable"
21 amount of time but could not say how many hours he was up.

22
23 Major Spicer said when he heard about the incident in Yellow Springs the fair was
24 getting ready to end and there were several Sheriff's Office road patrol units at the
25 fair to assist with closing the fair. Major Spicer said, as the units became aware of the
26 incident occurring in Yellow Springs, they started to immediately respond from the
27 fairgrounds.

28
29 As the Road Patrol Deputies were starting to respond to Yellow Springs, Major Spicer
30 said he heard Yellow Springs Police had, "dropped a signal 99," (Officer needs
31 immediate assistance). Major Spicer said he remained at the Fairgrounds to assist
32 with closing the Fair. Major Spicer said he received notification deputies had arrived

1 on scene in Yellow Springs and were requesting the SWAT team to respond. Major
2 Spicer said he authorized the call out of the SWAT team.

3
4 Major Spicer said he could not hear the radio transmissions coming from Yellow
5 Springs so he was relying on the dispatch center to relay information to him. Major
6 Spicer said the radio signals are historically poor in Yellow Springs due to the natural
7 geography of the area.

8
9 Major Spicer said he notified Chief Deputy Mike Brown and informed him of the
10 incident in Yellow Springs. Major Spicer said he then went to the administrative
11 offices at the Fairgrounds and personally informed Sheriff Fischer of the incident in
12 Yellow Springs. Major Spicer said he told the Sheriff he was heading toward Yellow
13 Springs and would likely need some assistance at the scene.

14
15 Major Spicer said he then responded to Yellow Springs in his vehicle. Major Spicer
16 said the radio traffic out of Yellow Springs was very chaotic and difficult to follow.
17 Major Spicer said he ordered a restriction on the radio channel for emergency traffic
18 only.

19
20 Major Spicer said while he was en-route, he called Sheriff Fischer and asked him to
21 respond to the scene because he (Spicer) was planning on moving forward to assist
22 the deputies who were "pinned down."

23
24 Major Spicer said when he arrived at North High and Dayton Streets, he was briefly
25 stopped by a fire department vehicle blocking the street. Major Spicer said he
26 identified himself as law enforcement and drove down North High Street. Major
27 Spicer said he had his windows down and could hear gunshots being fired. Major
28 Spicer said he continued down the street, and saw in his headlights, officers taking
29 cover behind their cars. Major Spicer said he turned his lights off, backed and parked
30 blocking the street.

1 Major Spicer said he put on his vest and ran to the cruisers parked directly across 280
2 North High Street. Major Spicer said he talked to Deputy David Wical and Yellow
3 Springs Officer Patrick Roegner. Major Spicer said he asked where the other deputies
4 and officers were located and was told they were within the tree line with Sergeant
5 Michael "Shawn" Prall

6
7 Major Spicer said he yelled to Sergeant Prall asking if everyone was okay. Major
8 Spicer said he asked if they knew where the suspect was, but all he was told was the
9 suspect was somewhere in the area (indicating on the map the area around 280 North
10 High Street) but they did not know where exactly he was because the rounds being
11 fired appeared to be coming from different directions.

12
13 I asked Major Spicer, while he was yelling back and forth to Sergeant Prall, if he was
14 able to receive a roll call of officers and where they were positioned. Major Spicer
15 said, "There was a bit of that, yeah. There was a bit of that. I was asking him, I was
16 trying to find out with him what kind of a perimeter do we have. I remember asking,
17 'Do we have anyone in the back? Do we have anyone on the other side?' uh, 'Do we
18 have anyone on the, the uh, this side?' which would be this is north, would be the
19 south side."

20
21 I asked Major Spicer when he responded and went to the officers that were pinned
22 down, what his plan was, or what he intended to do. Major Spicer said, "There
23 wasn't much of a plan. Um, it was clearly an active shooter situation with a mobile
24 suspect with automatic fire capabilities. My plan was to do, control, contain and go
25 from there and hopefully capture or take this guy out. He was going to obviously kill
26 someone and it was what he was uh wanting to do, and um. So my first uh, goal by
27 determining locations and where people were. Was to see what ability we had to
28 contain and, and we were we doing it safely. Were my guys and others from being
29 killed. Um, and ah they were not. No one was."

1 Major Spicer said while he was talking to Sergeant Prall and assessing the situation,
2 he knew there were other officers from many different departments responding to the
3 area to assist.
4

5 I asked Major Spicer if he took control of the scene when he arrived. Major Spicer
6 replied saying, "Uh, really, I mean there was not a formal exchange of authority or
7 anything like that. Um, I was now the senior ranking person besides the acting chief
8 (Officer Roegner of Yellow Springs Police Department) um, and it's his Village um.
9 But, ah, there was a little bit of a conversation of that effect, um, as ah, the time went
10 on within that, within that probably half hour, forty-five minutes or so, um there was
11 a conversation between myself and Roegner just about that. Um, initially that
12 conversation sort of took place, um, while he was lying on his back behind one of the
13 cars. Um, and then next to me, you know, uh I remember telling him, 'Yeah we do
14 have SWAT coming, we got, we are going to try to, um get, deploy some of those
15 kind of weaponry.' Obviously we needed to try and match what we were up against.
16 It did sound like uh. I wasn't convinced that this guy was alone, but they were saying
17 he was alone, but we kept hearing different types of fire. Um which sug-, there were
18 at least multiple types of weapons if not, uh, multiple suspects. And I wasn't sure,
19 you know, you are always taught to assume when there's one gunman there's two,
20 when there's one gun there's two. So that's kind of what my mind set was."
21

22 Major Spicer identified his position as being behind the rear door looking over the
23 trunk of Sheriff's Office Car #14 with Deputy Wical kneeling in the middle of the car
24 and Officer Roegner toward the front of the car taking cover on the ground. Major
25 Spicer said he was laying across the trunk looking toward the area where the sounds
26 of the gunshots were coming from.
27

28 I showed Major Spicer a photograph of Sheriff's Office Car #14 and he identified the
29 car and the driveway adjacent to the car as where he was at the time.



1
2 I asked Major Spicer where he was looking for the suspect and where the gunshots
3 were coming from. Major Spicer said, "Oh, I was looking, searching all over this
4 area (indicating an area encompassing 250, 280 and 310 North High Street). It was
5 very difficult to get a bearing on where anyone was. No one knew. Anyone I asked,
6 'Where is this guy?' no one could say with certainty. 'We don't know.' 'He's up
7 there.' We, you know, and then you'd hear gunshots and it would sound like he was
8 here, you'd hear, you'd hear some yelling it would sound like he was here. Um,
9 various things like that, so you, it was very, uh, I hate to be cliché or goofy but it's uh,
10 it's like one of the horror movies where it was like, 'My God' you start to do this, you
11 start to jump to your left, um when you hear something. Or take a different round, or
12 you hear ah, a shotgun blast, or what I thought was a shotgun blast, next thing you
13 hear automatic fire. Um, and when I say you hear it, I'm hearing it in the trees over
14 our heads, hearing it on the street in front of us. Um, hearing it in this direction, you
15 know going out this way."

16
17 Major Spicer said he was scanning the entire area on the west side of North High
18 Street looking for any sign of the suspect or where he was shooting from. Major
19 Spicer said he eventually saw a muzzle flash from the suspect. Major Spicer said,
20 "Later, as time went, I did see, um, some movement in this area (indicating the area
21 between 310 and 280 North High Street) here, um some movement in this area here,
22 and I saw, there was a bit of a light on, uh, see the trouble with this incident, a lot of
23 this now is speaking of what I know from later knowledge, but at the moment, so it
24 taking place, um there was a bit of a light back here, and I remember seeing, a
25 movement immediately in front of that light. Um and then there was muzzle flash,

1 um, and I, based on what we're doing here, I believe this is where I was looking at
2 (indicating the area at 280 North High Street). Um, somewhere in front of here
3 there's, there was a light, and I don't know if it was a porch light or a window. I'm
4 trying to recall from what I saw later in the evening after the, after it was uh, secure,
5 but, um, but there was a light and I saw movement and directly in front of that and as
6 I was able to determine that to be a person, um there was muzzle flash, there was, um,
7 little bit of. See everybody was kind of. When the gunfire would start, obviously
8 people are going to do, take cover, you know there wasn't just like stand behind the
9 house and wait. This type of taking cover was taking cover for your life depends on it
10 kind of taking cover. Um, to just kind of give you a little bit of color there. Um, and
11 so everybody would do their best to, uh get small, and try to get behind this car, or
12 behind the tire, really. And I remember even saying to Deputy Wical, 'Stay behind
13 this tire.' because I can hear gun shots bouncing in front of us. Um, you know all
14 over us, and then certainly over these trees. It was like, It was like the guy was firing
15 all over the place but then he started to focus his fire where we were. It was like he
16 some now, was cruisers, or from earlier from the fir- initial incident. Um, he was now
17 in a location that he could, uh he was in front of this and, and, uh that lined him up
18 with us. Um, that gunfire got extremely loud, and none of us were watching, or
19 looking. Because you couldn't, you couldn't do both. Um, I felt, that the guy was
20 actually coming at us. That's my perception was. Because how the sounds changed.
21 The echoing and everything in this area made it, to me, make a judgment in my mind
22 that this guy was coming at us and now we were just sitting here waiting on his
23 arrival. You know. So I stood up, just for a quick look, to see if that was the case,
24 and I couldn't tell, I didn't know, and I don't think it was the case because when I saw
25 that movement, as I would make those little peephole maneuvers, when I stood up
26 that time, um, I brought the rifle over the top of the car and was looking now that
27 way. Um, and then I saw this, what I had just described, and immediately just took a
28 quick fire shot um, at that muzzle blast, and this uh feature that was responsible for
29 firing at us. Um, and then I, that was also about the same time of be, uh, we took a
30 round I think in this car. Or it certainly sounded like it, I don't know if that's when
31 that one actually occurred or not, but that's what it sounded like. Cause it was like a
32 very loud 'thud' and as soon as I fired, that firing stopped. Um, and I couldn't see

1 any more movement or anything. I kind of got down, but then began to look a little
2 bit more. We then started yelling to each other, 'Is everybody okay?' because we just
3 took a big barrage, um, you know, 'That was loud!' there was some comments, 'God,
4 that was very close!' Um, 'Where is he at?' Those kinds of comments, it was very
5 excited, um, and, there was an exchange I think there was a Yellow Springs Officer
6 somebody here who said, 'Did you fire?' yelling at, uh I think the other units or
7 something. I said, 'No, I fired.' Um, I said 'He's right up front of this, uh, right
8 where directly across from us. Where I last saw him.' Um, and there was a bit of
9 exchange for that, and I said, 'Get ready, I think he's on foot.' Um, but I remember
10 there was some ah, um, just an old ah, exchanges of that nature, some of that nature
11 with myself and uh those that were hiding behind the trees up here. Um, and, uh,
12 then it was quiet, didn't hear much out of anyone, the suspect I mean, uh, for a few
13 minutes, and in maybe five or ten minutes, you heard some yelling, and only yelling.
14 Um, I don't recall any other gunshots there for maybe another fifteen minutes or so."

16 Major Spicer said when he initially arrived on scene he did not have a rifle. Major
17 Spicer described the incident saying, "When I arrived at the back of this car (Car 14) I
18 asked, I pounded the top of this car and asked Wical, I said, 'Does this car have two
19 long guns in it?' Because, we, most of our cars have two long guns, a shotgun and a
20 uh, and a uh AR-15 type rifle. Um and uh he said, 'Yeah shotgun.' Or something to
21 the effect I think it was. I said, 'Ok, I'm going to need one.' And, uh, he, he says,
22 'Well here take this.' Hands me his AR-15 and, uh. I said, 'Well get it, make sure
23 you're safe. Stay safe.' You know, or some things like that. He's moving around, I
24 didn't even really pay attention to him doing it, next thing I know he's got his ah,
25 other long gun in his hand. So now that we both had a long gun."

27 Major Spicer said he was not aware of any officers present who did not have long
28 guns. I asked Major Spicer how long he felt he was at Car 14 with Deputy Wical and
29 Officer Roegner before leaving the area. Major Spicer said it seemed like he was
30 there for quite a while however, it was probably fifteen to twenty minutes. Major
31 Spicer said after he fired the shot he remained where he was for ten to fifteen minutes

1 longer. Major Spicer said there was some radio traffic between himself and some of
2 the units responding to the scene including Chief Deputy Mike Brown.

3
4 I asked Major Spicer what his understanding of the Command Structure for the event
5 was at that time and if a Command Post was established. Major Spicer said, "Oh
6 there was, there was not. There, uh, uh, the command post at that point would have
7 probably just been me, myself, and the Chief there of, Officer Roegner. Um, behind
8 that tire, was the closest thing, um, and really it is just kind of a uh. Uh, you know
9 things were on the fly, people were en-route, uh, I had a perception, in my mind now,
10 because of the radio transmissions that, Chief Brown was on-scene. Um, because
11 there was some radio traffic between myself and him, about uh some OSP (Ohio State
12 Highway Patrol) units that were supposed to be coming to, to our assistance. Um,
13 and we desperately needed them. Um, so there was um, I was directing a lot of my
14 attention to that. While lying here and getting situated in some of those initial
15 conversations that I had described, you triggered a memory that there was a
16 conversation between myself and Roegner about a staging area. And where we would
17 put a staging area, he says, he had asked me, 'Where do you want the staging area?
18 Where do you want the staging area?' And I said, 'Listen, I don't know. It's your
19 Village. What's the best thing. What do you recommend? I need to know what you
20 think is a good staging area.' And he gave me this street here that was immediately
21 ah, what is the next street here?" Major Spicer and I reviewed the map and he said the
22 staging area was around Dayton Street. Major Spicer that was what he then
23 broadcasted on the radio as the staging area for responding officers.

24
25 I asked Major Spicer what his responsibilities are, according to the Greene County
26 Sheriff's Office Policy, when responding to a critical incident such as the one in
27 Yellow Springs. Major Spicer said, "Regardless of rank, authority or position when
28 showing up to an active shooter situation, you are going to engage the shooter. Um,
29 regardless of what your position. It doesn't matter who has any sort of tactical
30 command. If there is an active shooter, on the loose, it is, we had just put every
31 officer in Greene County, made available to them training on this very policy. And

1 we have shifted to that, when it's an active shooter, um, you are to go to the shooter
2 and engage.”

3
4 I asked Major Spicer, “When do you move from engaging the subject in an active
5 shooter, to organizing and directing people who are showing up after you?” Major
6 Spicer said, “Never. If you have an active shooter you deal with the active shooter.
7 You don't have the luxury of worrying about, uh, anything else, while this man is
8 putting other lives, innocent lives in danger. Police officer's lives in danger. You do
9 not, those are, those responsibilities are left to those that are responding and arriving
10 that aren't engaging the suspect. Those that are engaging, deal with the engagement,
11 those that are responding during the later stages deal with the uh, and assume those
12 commands, until a tactical command is levied. And a tactical command might be
13 levied regardless of rank or position, um it might be extended to somebody at the
14 deputy rank, who might have tactical command. And even as a command officer, I
15 would then take orders from him, if he has tactical command of a uh responsive
16 incident. But there is no direct protocol, that at thirty minutes into an incident you lay
17 down your rifle and you leave an engagement that is life threatening to uh, everybody
18 within a half a mile radius of this, to go and take on different responsibilities. I can
19 tell you that throughout the incident as a ranking officer you also have responsibility
20 as people look towards you, um, for decisions, or guidance or leadership, or all those,
21 or all of those kinds of things. So yes, you do have a role to play within those, that
22 don't leave you from any other, uh, other responsibilities. And that's exactly why I
23 had a conversation with Sheriff Fischer, en-route through the cell phone and it was
24 decided with the highest authority that I would be moving forward and engaging in a
25 tactical mode. That we still had people pinned down and that we were taking
26 automatic gunfire and that we don't know where he is at. Um, and I needed his help
27 to come to the scene for that back command and help organize assets. There's also
28 radio transmissions between myself and Chief Brown on that very topic, that I needed
29 him to do the same. And he, he agreed with that, through his acknowledgement of the
30 transmission. And carried that out.”

31

1 I asked Major Spicer what caused him to leave the position behind Deputy Wical's
2 car after he (Spicer) fired the shot. Major Spicer said, "There was, some of those
3 transmissions my, between myself and um Brown and others that were, um, there.
4 That the OSP units were going to be coming down to me. They're on-scene and
5 they're coming down. And I was trying to, patch our holes in a perimeter based on
6 where the different yelling was, was being, uh heard from. Um, and the yelling, was
7 just uh, you know it was dark, and this is you know a daylight photograph (referring
8 to large Bing® Map he was writing on during the interview) but the yelling was just
9 back here (circling an area on the map encompassing an area around 310, 280 and
10 250 North High Street, the circle around the blue dot and surrounding houses) ok.



11
12 "Couldn't really tell where it was coming from on the property. But it was at least in
13 this area, so you want to try to get a perimeter around that. Um, And that is what I
14 did. I moved up here (indicating purple house and green bus) to try to get a little bit
15 of an idea of what the terrain. I had no idea this was here, this was here, this was
16 here, none of this, you would just, you know, anybody, you can't base, if, you got to
17 go out there and walk up there and see it, or run up and see it. Um, and so I was
18 trying to get a little bit lay of the land to try to kind of guide people to it. Um, there
19 were also other officers arriving and I was trying to, um, locate safe places to try to
20 uh, put together a perimeter and, and pinch our suspect. Until we could get, um, with

1 the anticipation of eventually a SWAT situation might occur or a barricaded subject
2 might occur, but uh, you know we, it's kind of have a different tactical mode, but uh,
3 you know never did occur. Um, but we, um, so that's what I did, so that's kind of
4 what pulled me away. And I started down the street to go towards the command."

5
6 Major Spicer indicated on the map his car was parked somewhere around the area of
7 the green bus located on the map. Major Spicer said he moved from position to
8 position going back toward the command post. Major Spicer said as he was moving
9 south he saw Officer Roegner was following him.

10
11 Major Spicer continued saying he spoke to Officer Roegner briefly about if Officer
12 Roegner was going to the command post. Major Spicer said Officer Roegner said he
13 was going with him (Spicer). Major Spicer told Officer Roegner to go to the
14 command post and he (Spicer) would stay and direct the additional responding
15 officers.

16
17 Major Spicer said he waited and listened and moved around (indicating the cars in
18 front of the purple house) to try to figure out where the suspect was. Major Spicer
19 said the sound of the suspect yelling made it sound to Major Spicer as if the suspect
20 was in the wooded area behind the properties to the west. Major Spicer said he told
21 some residents in the area to go back in their houses because it was not safe.

22
23 Major Spicer said after some time, he decided to go to the command post. Major
24 Spicer said as he moved toward the command post he encountered several deputies
25 from the Clark County Sheriff's Office. Major Spicer said the deputies asked if he
26 was Major Spicer and said they were to report to him. Major Spicer said when he
27 initially spoke to Sergeant Prall, he knew that Sergeant Prall needed some additional
28 support, so he sent the Clark County Deputies down the east side of North High Street
29 toward Sergeant Prall. Major Spicer said one of the Clark County Deputies remained
30 with him for a short time to relay radio traffic since the Clark County Deputies did
31 not have a common channel to speak to the other officers on the scene.
32

1 Major Spicer said he does not know how long he remained around his car, but said it
2 was the impromptu command post for a while until everything else was able to be set
3 up. Major Spicer said after a time he heard additional gunshots that seemed to be
4 further away.

5
6 Major Spicer said at some point two Beaver Creek Patrol Officers arrived (Keith
7 Duncan and Justin Tolley). Major Spicer said they asked if he was the Major. Major
8 Spicer said he was around the purple house looking at the outdoor lighting that was
9 silhouetting the area. Major Spicer said he was concerned about the lights revealing
10 his position. Major Spicer said the Clark County Deputy was still in the area close to
11 the street. Major Spicer said he was "bouncing around" trying to find out what was
12 around.

13
14 Major Spicer said around this time he spoke with Chief Deputy Brown, over the
15 radio, about five responding Ohio State Highway Patrol Troopers and where they
16 needed to go. Major Spicer said he told Chief Deputy Brown to keep the troopers at
17 the command post until they could figure out where they needed to be deployed.

18
19 Major Spicer said he took the two Beaver Creek Officers through the front yard of the
20 purple house. Major Spicer said he broke out the porch lights on the front porch with
21 his flashlight.

22
23 Major Spicer said he then took the two Beaver Creek Officers to the "alley" driveway
24 on the south side of 246 North High Street. Major Spicer said he deployed them so
25 that one was covering around the front of the house and one was covering to the west,
26 down the driveway. Major Spicer said while he was deploying the Beaver Creek
27 Officers, there was a lot of heavy gunfire that sounded like it was coming from
28 northwest of their location. Major Spicer said at times, the suspect sounded as if he
29 was firing from west of the alleyway and coming down the driveway. Major Spicer
30 said it then sounded like the suspect was yelling from two houses to the north. Major
31 Spicer said his impression was the suspect was moving around behind the houses.
32

1 Major Spicer said he called on the radio to Captain Tidd and asked where the OSP
2 units were that were supposed to be coming to him (same units he told Chief Brown
3 to hold). Major Spicer estimated he was with the Beavercreek officers for forty-five
4 minutes. Major Spicer said he knew there was now a definitive command post
5 established because units were being sent to him. Major Spicer said the scene was
6 not contained and controlled because he still had the impression the suspect was in
7 different locations based on the sounds of the gunfire and yelling.

8
9 Major Spicer said at one point he told the Beavercreek Officers to hold their position
10 and he was going to go to the command post. Major Spicer said as he started towards
11 the command post, he encountered members of the Greene County Regional SWAT
12 team, Xenia Police Officers Fred Barker, Lon Etchison, Dean Margioras and Doug
13 Sparks. Major Spicer said they told him they were to meet with him and deploy as an
14 emergency reaction team.

15
16 Major Spicer said he led them to 246 North High Street where the two Beavercreek
17 Officers were. Major Spicer explained to the SWAT members, they were using the
18 brick wall on the south side of 246 North High Street as cover because they did not
19 know which way the suspect was going to be coming. Major Spicer said he told them
20 the suspect would be coming from the direction of the house next door, based on the
21 sounds and where the suspect was earlier.

22
23 At this point Detective Sollenberger asked Major Spicer if he knew who the suspect
24 was or which house he originated from. Major Spicer said, "Uh, when I was, going
25 way back to all these first conversations up here right. There was some talk about,
26 they were here on a domestic, you know, it was kind of give me the rundown what do
27 we got, you know. And there was a little bit of things that is, you know and there was
28 other talks about his parents. No one else is in the house we believe, it was a
29 domestic situation. Um, and what not, um, is that what you mean?"
30

1 Detective Sollenberger clarified saying, "What I'm saying is, were you able like
2 they're, 'Hey what's going on?' 'Ok, well two houses down is where Paulie Schenck
3 is, and he's the one that's been firing at us, that's, that's his house where he resides.'" 4

5 Major Spicer said, "There might have been some conversations throughout the night.
6 I can't speak of anything specific right now. It might pop into my head. But, yeah,
7 there was some things that I'd heard about this guy being in, in this house, uh, he's
8 been staying at his parent's house. They've been fighting so he's moved to the
9 garage. I remember hearing, you know, the intelligence that would get passed along
10 some of it word of mouth, when the Beavercreek Officers arrived they might have
11 showed up with a bit of information, when Xenia Officers arrive they show up with
12 little bits of information. And so the intelligence and those dynamics with that, yes.
13 It changed at various points, and things that I heard five minutes ago could seem to
14 contradict with this guy was saying. He bought the house next door I heard. And
15 he's living in the house next door. Um, then I hear 'No, he's living in the garage.'
16 Um, things of that nature. So as you're, and it's total darkness. I don't have a damn
17 clue what the house next door is. And I think in hindsight, as I start to think about
18 what people are doing and human nature, the house next door is the garage. It's not
19 the house next door in the simplest terms. You, know." Major Spicer continued,
20 "Yes, I did hear at points, that yes, he was in and out of this house, I remember them
21 saying um, up here (indicating Deputy Wical's car) that, I said 'How did this get
22 started? How did this get kicked off?' And they said, 'Well, when they arrived he
23 came out of the house and fired at them.' Well, that to me put, yeah at some point
24 he's in this house. Well now which house, they didn't say, 'That house.' They didn't
25 say 'That house.' That didn't say 'This house.'" 26

27 Detective Sollenberger asked how much of that information was being relayed back
28 to the command post and the responding officers, and Major Spicer said, "Oh, very
29 little was getting back." Major Spicer said this was due to the poor radio
30 communications.
31

1 Major Spicer said one of the reasons he wanted the Clark County Deputies to report
2 to Sergeant Prall was so Sergeant Prall could then report back from his location to the
3 command post and relay what he knew was going on with the incident. Major Spicer
4 said that was his thought, but they were never able to make that happen, because of
5 the nature of the incident.
6

7 Major Spicer admitted the communications was very flawed during the incident
8 because of the poor radio capabilities and the dynamic nature of the incident.
9

10 Major Spicer gave an example of the communication flaws around his group by
11 saying, "There, like I said, I will give you an example, we, later talking about, uh, I
12 said, 'You think now that we have, we basically are more confident that he is here
13 (indicating 280 North High Street on map) and maybe even in this garage that he's
14 popping in and out or out the windows.' You know we're having a conversation up
15 here (indicating the 1/4 corner of 246 North High Street). I said, 'You guys think it's
16 going to be safer, we can maybe move up to either these cars (indicating the cars in
17 the driveway of 250 North High Street) and instead of using this house in that manner
18 (246 North High Street) we use either these cars or this here.' 'Cause without him
19 being able to get over and then spray, you know before he even realizes somebody's
20 on this side you know, you'd have a shot at him, is what I'm thinking. So I said, you,
21 I make that suggestion and I remember one of them saying, 'I thought you said it was
22 that house?' I said, 'Well I never, no, it's the house past it.' Uh, is the, what I believe
23 the house to be. Because then at some point the armored, one of the armored vehicles
24 moves down the street and there making, you know, trying to make voice commands,
25 and I remember there, they came, they overshot it, um, and obviously you know they
26 visually made a mistake or they were not having good information. I'm just sitting
27 here today, I've never talked to any of these people. Um, but, then they start shining
28 a light and they're lighting up this, like part of this house and this house (indicating
29 the house to the north of 310 North High Street), at least that's what it looks like from
30 here, 'cause were standing here because we started saying, 'No the wrong house,
31 they've got the wrong house. Well then he moved up here and then started to shine and
32 that, that stopped the Xenia Officers from saying, yelling on the radio, 'Hey you got

1 the wrong house, you go the wrong house.' But that goes to the point of how fluid
2 and. A fluid situation with poor communication is uh, given this very challenging, to
3 say the least I guess to make your point there."
4

5 Major Spicer said he remained with the Xenia Officers when they arrived and
6 explained there was an open door on the north side of 246 North High Street (right
7 next to 250 North High Street). Major Spicer said he started talking to Officer
8 Margioras about where the suspect could be. Major Spicer indicated they talked
9 about 250 and 246 North High Street and said he did not know if the suspect was in
10 either one. Major Spicer said, as they were talking, they saw the open door on the
11 north side of 246 North High Street and wondered if the suspect could have been in
12 the house at some point. Major Spicer said as their conversations continued they
13 thought there could be somebody injured inside the house, because they had not had
14 any contact with the residents. Major Spicer said they decided to try to check the
15 inside of the house while they had some additional people with them.
16

17 Major Spicer said Officer Etchison told him Dayton's armored vehicle was going to
18 drive around the back of 246 North High Street. Major Spicer said at this time he had
19 no radio communications with anyone. Major Spicer said his radio battery died and
20 his earpiece was malfunctioning.
21

22 Major Spicer said, as they were preparing to make entry into 246 North High Street,
23 he asked Officer Etchison if he was sure he still wanted to go into the house. Major
24 Spicer explained they were unsure how long this event was going to continue, and
25 they were trying to decide where to conceal themselves when the sun rose. Major
26 Spicer said Officer Etchison told him he was going to have to make entry with Officer
27 Margioras because Officer Sparks had gone with Dayton's SWAT team. Major Spicer
28 said this "tied" him to the team even further.
29

30 Major Spicer said they eventually planned on entering the housing while Dayton's
31 armored vehicle drove around the backside of the house. Major Spicer said they were
32 going to use the sound of the armored vehicle to cover the sound of their entry into

1 the house. Major Spicer said he did not have a whole lot of involvement with the
2 plan to enter the house and was following the recommendations of Officer Etchison.
3 I asked Major Spicer if the plan to enter the house was Officer Etchison's. Major
4 Spicer said, "I can't say that it was directly his plan, or it was just kind of like a
5 consensus that was built. Um, I might have initiated that by saying, 'Do you think it
6 would be a good idea that we go in there and check this?' I know other people said it.
7 I know Dean (Margioras) uh, said things to the effect. And you know, we really
8 thought we should do that." Major Spicer said the conversation continued for some
9 time and eventually he asked Officer Etchison if he still wanted to enter the house,
10 and Officer Etchison told him no. Major Spicer said Officer Etchison told him
11 (Spicer) one of the Greene County guys may have just seen the suspect. Major Spicer
12 said the plan to enter 246 North High Street was abandoned.

13
14 Major Spicer said Dayton's armored vehicle then drove through the fence behind 246
15 North High Street. Major Spicer said they still did not know where the suspect was
16 and part of the plan was to agitate the suspect into revealing his location. Major
17 Spicer said when the armored vehicle pulled down North High Street you could see
18 rounds striking and hitting the vehicle, but not where the rounds were coming from.

19
20 Major Spicer said he remembered leaving some point after the Xenia Officers moved
21 up to the cars in the driveway of 250 North High Street. Major Spicer said as he was
22 leaving he encountered members of the RERT including Officer Ed Savard and
23 Sergeant Tony Ashley. Major Spicer said he had a conversation with them about the
24 situation. Major Spicer said he told the RERT team to check with the Xenia Officers
25 to see if they needed any relief.

26
27 Major Spicer said, one of the Beavercreek Officers told him he had been hit in the
28 head with some debris from a ricochet off of one of the armored vehicles that had
29 been shot at by the suspect. Major Spicer said he the Beavercreek Officers it was a
30 good time to report back to the command post since the SWAT team had arrived.

31

1 I asked Major Spicer if he had been to the command post at this time yet. He said,
2 "Ah, there was, when I, when I put the Vandalia guys uh, up here, they went up here.
3 One of them I think relieved somebody, or kind of helped with them, the other kind of
4 came back and says, 'They say they don't need any help. They're good to go. They
5 want to stay. What else should we do?' I said, 'Well, I don't know.' I said, 'I'm not
6 sure what the other street are or the other perimeter, or what's. What they've got in
7 store. I don't know what they're doing.' And they're asking me. And I'm like, 'I
8 don't know, um.' I, I really didn't have anything I said, I said, 'You can kind of here,
9 here, I'm going to kick these guys out.' And that's when I had sent the Beaver creek
10 guys out. And I said, 'You might want to help cover this back. And, you know, we
11 had some conversations about like that. And they more or less just kind of hung out
12 here from what I remember, and I remember leaving them. But I, that's when I felt it
13 was a good time for me to try again to leave and go back to the command post and I
14 did."

15
16 Major Spicer said when he arrived at the command post, he spoke to Chief Deputy
17 Brown and Sheriff Fischer and asked them what was going on with the incident.
18 Major Spicer said they told him to check in with the command post to see if anything
19 needed to be done.

20
21 Major Spicer described reporting to the command post saying, "Um, went into the uh,
22 went into the truck said, 'Hey what's going on? What are we doing?' And, uh, I
23 engaged Jamie Coe. I was surprised to find him, he's a deputy in the uh, Jail
24 Division, um. But he is sitting, he has incident command, okay. Um."

25
26 Detective Sollenberger asked Major Spicer why he was surprised to find Deputy Coe.
27 Major Spicer said, "Because there was a Sheriff, a Chief, a Captain from another
28 agency, um, Lieutenants from other departments, um the Major of the Division and
29 the Major in charge of the SWAT team was not who they directed me to as the
30 command post. I was expecting. Um. I was expecting someone else. So, I was,
31 went in and spoke to him. Um, and ah, 'What's going on?' Well, and then he just
32 kind of tells me. Said. (Spicer saying) 'What do you need me (Spicer) to do?' 'Do

1 you need me (Spicer) to do anything?' And he says, 'Well this is what we are kind of
2 doing Major.' And all of this stuff, and he kind of just kind of, giving me thing.' I
3 said, 'Well I'm, I'm going to get with Major Keller and all that.' And I looked at the
4 board and I said, 'Now what is this? What, what do you got here? Tell me what this
5 is?' And it was the dry erase board in the truck and it had various depictions of the
6 incident. And it had a, uh, um, "T" on a house which I would say was this house.
7 Um, and I said, 'What does that, what does that "T" mean?' And I knew in my head
8 that it, what he was getting ready to tell me. 'That's the target house.' I said, 'Why is
9 that the target house? Why? What do you know that I don't know?' And he says,
10 'Well we're told that he had bought the house next door and that's where he lives
11 now.' And I said, 'No, I said I just came from there and this is, I'm telling you this
12 guy is up back here further. He is not in that house. This house is locked up tight,
13 and he's not in this house, I know he is not in that house. That is not the target
14 house.' He said, 'Yeah Major that is the target house.' Uh, 'The suspect's dad was in
15 this truck and helped draw that. And he's saying that's the, that's where he's at.' And
16 I said, 'That does not match that scene up there. There is a structure in between these
17 two houses.' And I'm referring to this garage as being the structure that I'm saying is
18 in-between. And it is in-between, it's set back further, but it's, what I'm talking
19 about. 'So that, that needs to be, what your. Do not brief people on this. You need
20 another structure in here and the "T" needs to be moved because when they move up
21 forward, they're going to think that's the target house.'"

22
23 I asked Major Spicer how many structures were depicted on the grease board and he
24 said he did not know. Major Spicer explained, by showing on the map I provided
25 him, the grease board in the SWAT truck depicted 250 North High Street as being the
26 house with the "T" on it.

27
28 Major Spicer said, "While I'm still having that conversation (about the target house)
29 the back doors of the truck are open. People are listening. Um, I think the Sheriff
30 moved up, I think Brown moved up, uh, and um, Keller moved up. And I think also
31 present might have been, um, was uh, Sergeant um Steve Lane from the Xenia Police
32 Division. Um, who is one of their SWAT team leaders, um, in a supervisory role. He,

1 um, is kind of, they were all kind of moving around, a lot of movement I can't really
2 know. But I know at some point Kirk Keller gets in the truck with his iPad, and I
3 brought mine with me. Um, we have the same app and ah, I think you mentioned you
4 had a picture that was taken from his thing."
5

6 I explained to Major Spicer I had a similar picture and showed him the large Google®
7 Map of the immediate area around 280 North High Street. Major Spicer looked at the
8 map and said it was similar to the one Major Keller showed him.
9

10 Major Spicer continued, "Um, but anyhow, he (Keller) jumps in the truck and says,
11 and pulls it up and says, 'Show me on what you're talking about.' Show me what
12 you're talking about.' And I said, 'You see this house, you see this house, that is
13 where you have your "T" (indicating 250 North High Street) that does not match what
14 you're showing me.' He says, 'Well which are you talking about?' Then, and then
15 we kind of, I said, 'There is this, you see this, this is where we are talking about.' He
16 goes, 'Ok, ok, well that is what we're talking about too, it's just a poorly drawn
17 picture.' And I said, 'As long as you are explaining that, fine.' Because part of that
18 conversation is I thought I was learning, like you're talking about earlier, I thought I
19 was now learning for the first time that we had been based on flawed information this
20 whole time, and this guy has bouncing in and out of the house he had bought next
21 door. And he, and I was like, 'We have just moved guys up right in front of this
22 house, we've got to get them the hell out of there now. Get on the radio right now
23 and get their asses out of there and move them back until we can have this
24 conversation. We can't have this conversation and then move them back. Get them
25 out now.' And, and, and then that's when Kirk Keller saw that I was a little excited
26 about their safety. And he pulled out the picture and we had that conversation. 'No,
27 no, no, they're aware, they're aware, everybody's aware.' I said, 'Ok, fine, they can
28 stay there. I just wanted to make sure, that you're not telling me that there is, a, you
29 have a reason, since I have kind of this or whatever, that this guy is in here.' And if
30 that's if that and so we were, I was satisfied, they were satisfied that we were talking
31 about it but their diagram sucked. Quite frankly."
32

1 Major Spicer said the conversations around the command center continued, and
2 Major Keller and Sergeant Lane moved in and out. Major Spicer said as he was
3 looking at the board, he thought about people maybe being in 250, North High Street
4 and the possibility of the incident continuing for a longer period of time. Major
5 Spicer said he asked Sergeant Lane what he thought about moving one of the armored
6 vehicles along the "4" side of 250 North High Street to provide additional cover the
7 SWAT officers there and able to assist from that corner. Major Spicer said Sergeant
8 Lane did not respond and then started to leave the truck, so Major Spicer asked
9 Sergeant Lane again about it. Major Spicer said Sergeant Lane told him he was
10 thinking and then said he liked the idea. Major Spicer said he told Sergeant Lane he
11 (Spicer) could return to the SWAT team members (Etchison, Barker and Margioras) to
12 ensure there was no confusion of where they were. Major Spicer said Sergeant Lane
13 told him he was going to brief his guys.

14
15 Major Spicer said he told Sheriff Fischer, Chief Deputy Brown and Major Keller he
16 was going to move back to where he was and help place one of the trucks. Major
17 Spicer said he replaced the battery from his radio with one that was charging in the
18 SWAT truck. Major Spicer said he told Sheriff Fischer again he was going to move
19 back to help place one of the armored truck and then he would return to the command
20 post.

21
22 Major Spicer said as he was walking back up North High Street, he stopped by his
23 car. He said his phone died so he plugged his phone into the charger in his car.
24 Major Spicer said he realized his radio was still not working. Major Spicer said he
25 saw some residents across the street outside and told them to go back inside. Major
26 Spicer said he moved up and told the SWAT team members, (Barker, Etchison and
27 Margioras) about the armored truck moving to them. Major Spicer said they waited
28 for twenty to thirty minutes. Major Spicer said he asked Officer Etchison several
29 times what was going on, had the plan changed. Major Spicer said he got the
30 impression he was starting to irritate Officer Etchison.

31

1 Major Spicer said Officer Etchison went back and got some water for the rest of his
2 team. Major Spicer said he assisted with giving them breaks. Major Spicer said after
3 about an hour he (Spicer) asked Officer Etchison where the armored truck was.
4 Major Spicer said Officer Etchison told him it was not coming because one of the
5 Greene County Snipers reported seeing and shooting at the suspect and the suspect
6 was thought to be down. Major Spicer said Officer Etchison told him they were
7 trying to figure out what to do, but nothing was going to happen right then.

8
9 Major Spicer said eventually Dayton's armored vehicle was brought forward with the
10 battering ram attached and started punching holes into the suspect's house. Major
11 Spicer said they moved back to the "1/4" corner of 250 North High Street. Major
12 Spicer said he remained with Officers Barker and Etchison to provide rear security
13 because Officer Margioras had been called away to relieve someone else.

14
15 Major Spicer said after the suspect's house was breached, they located the suspect
16 deceased. Major Spicer said a lot of people started going into, and out of, the
17 suspect's house. Major Spicer said he told Sergeant Lane they had to transition to a
18 crime scene and remove everyone.

19
20 Major Spicer said he walked back to his car, retrieved his cell phone, and took off his
21 uniform shirt, because it was "soaked." Major Spicer said he walked back to the
22 command post and reported to the Sheriff. Major Spicer said they started to talk
23 about the investigation responsibilities. Major Spicer said he was told they would
24 need to place him (Spicer) and Deputy Jimmy Hughes on administrative leave.

25
26 Major Spicer said he told the Sheriff he needed to turn his rifle over to whoever is
27 investigating the incident. Major Spicer said he moved back toward the suspect's
28 house and saw Detective Beth Prall around the area of Car 14. Major Spicer said he
29 told Detective Prall he was turning his rifle over to her for evidence. Major Spicer
30 said he told Detective Prall he was going to give it to her in the condition it was
31 currently in which was with a round chambered and the magazine inserted. Major
32 Spicer said he placed the rifle in Detective Prall's car and Deputy Coe brought

1 Deputy Hughes' rifle to the car as well. Major Spicer said that was the end of his
2 involvement with the incident.

3
4 I asked Major Spicer when he notified the Sheriff he had fired a round during the
5 incident. Major Spicer said it was while he was at the command post. Major Spicer
6 said it was part of the conversations he had in and around the command post while he
7 was there. Major Spicer said he did not recall exactly what he said, and said it was
8 not the focal point of the conversations he had at the time.

9
10 Major Spicer said he drove Greene County Assistant Prosecutor Stephanie Hayden to
11 her car, which was parked at the Sheriff's Office Head Quarters in Xenia and then
12 drove home. Major Spicer said he completed his Use of Force Report and narrative
13 supplement on August 7, 2013. I asked Major Spicer if he entered the report into the
14 Sheriff's Office reporting system (New World) and he said he did.

15 I asked Major Spicer if he had any problems completing his report in the New World
16 system. Major Spicer said his log in would not allow him into the system so he saw
17 Ms. Debbie Moyer and asked her to reset the password.

18
19 Major Spicer said while he was at the Sheriff's Office on August 7, he saw Deputy
20 Hughes in Detective Prall's office looking at some photographs from the scene.
21 Major Spicer said he stopped in and asked Deputy Hughes how he was doing, and
22 asked to look at the photographs.

23
24 I asked Major Spicer, if while he was in Detective Prall's office, he looked at a map
25 and mentioned any mistakes during the incident. Major Spicer said, "Oh yeah, I
26 know, I know what you're referring to. The um. I did talk about, um, um, where we
27 at again? I remember telling her, I said, 'That was my biggest of the evening
28 (pointing at 250 North High Street) I really wish we had done more to get this family
29 out of that house.' I think about those kids, because I had talked to Tidd, hunkering
30 down in that bathtub. And I am like, 'We had left them there for four hours. We, we
31 should have done more. That was my biggest mistake of the evening, not pushing
32 that issue, with the decision makers.' I remember saying that."

1 I asked Major Spicer if that is what he said. He said that is what he said and he was
2 well aware of what Detective Prall was saying he said. I asked Major Spicer what he
3 heard. He said, "I am aware of, that she has left the second part of that conver,
4 statement out to purposely, and has said that I shot at the wrong house. I am aware of
5 that. I am aware of, that she has said I re-loaded my weapon uh, with rounds and that
6 have uh, lied about the number of rounds I fired. I am aware of her saying that."
7

8 I asked Major Spicer how he became aware of the statements Detective Prall
9 allegedly made. Major Spicer said, "Various people in the uh, Detective Section have
10 expressed to me and others on the agency have expressed to me that uh, that she is uh,
11 out of control and on some vendetta to make sure her husband is rising and has
12 expressed he is the only one, um, qualified to be the Chief Deputy, the only one
13 qualified to run my Division, and if every, if he wasn't on-scene that night we would
14 be burying at least ten cops. And that I purposely put her officer in, or her husband in
15 danger. Um, I first kind of got wind or was able to see her um, um, emotion rising
16 when I left that scene for the last time, or for the first time um, before going back to
17 uh, for that plan for the placement of that vehicle. Shawn Prall had kind of spoke a
18 little bit to his demeanor. I thought him to be shook, if you will. He did not go
19 directly to the command post, he bypassed those two courts and continued to walk,
20 um, and he looked, appeared to be somebody that was blowing of steam, um, a little
21 bit. Nothing inappropriate, fully understandable. She went to him, um, and her
22 demeanor after being with him completely seemed to uh, take on a um, and
23 aggressive posture. Something we are familiar with in the agency."
24

25 Major Spicer said he talked to Sergeant Prall and asked him if he was ok while he
26 was at the command post during the incident. Major Spicer said Sergeant Prall was
27 concerned about getting road patrol duties covered and calling in the next shift to
28 cover calls. Major Spicer said he told him that was being covered and not to worry
29 about it. Major Spicer described Sergeant Prall at the time as being emotionally
30 exhausted and Detective Prall seemed to be agitated and defensive.
31

1 Major Spicer said he remembered he did have a problem with entering his report into
2 the computer system. Major Spicer said this was the first report he ever entered into
3 the system, and the system created two entries for the report he was entering. Major
4 Spicer said he deleted the first entry from the system. Major Spicer said he closed
5 everything down and decided he wanted to print a copy of the entire report. Major
6 Spicer said he could not find the report. Major Spicer said he began to get worried
7 thinking he deleted the entire report. Major Spicer said he called Ms. Moyer, who
8 was not at home. Major Spicer said he called Chief Brown and told him, they have a
9 problem with the system. Major Spicer said he told Chief Deputy Brown to have Ms.
10 Moyer try to find the report and if she could not find it, to restore it from the system.

11
12 Major Spicer said he knows they have the ability to restore the files if deleted from
13 the New World system, saying, "I know we have the ability to restore these things.
14 I've designed and I'm in charge of this project. So I know it intimately."

15 Major Spicer said he does not know where the working file is and has not seen the
16 working file since he saw it on Detective Prall's desk on August 7, 2013.

17
18 Major Spicer said during the incident he fired one round at the person who was firing
19 at him. Major Spicer said he did not reload his rifle and the rifle remained with him
20 the entire time during the incident. Major Spicer said he did not purposely delete the
21 New World report form the computer system. Major Spicer said he did not have
22 possession of the working file of the case at any time and does not know where it is.

23
24 Major Spicer said he would not change a thing he did that night. Major Spicer said he
25 did not have any further information regarding this investigation. I ended the
26 interview at 1250 hours.

27
28 **INTERVIEW WITH GREENE COUNTY DETECTIVE CHRIS MOORE**

29 On Thursday, November 7, 2013, at approximately 1004 hours, Detective Chris
30 Moore appeared at the Inspectional Service Unit, 345 West Second Street as a
31 **witness** in an administrative investigation. Detective Moore, Detective Michael
32 Sollenberger and I were present during the interview. I reviewed the *Greene County*

1 *Sheriff's Office Garrity and Piper Warnings* form with Detective Moore. Detective
2 Moore said he understood the warnings and signed the form.

3
4 Detective Moore has been employed by the Greene County Sheriff's Office for
5 fourteen years. Detective Moore said currently assigned as a detective working
6 Monday through Friday.

7
8 Detective Moore said he was working at the Greene County Fair on the evening of
9 Tuesday, July 30, 2013. Detective Moore said towards the end of the fair, something
10 caused him to switch to the primary radio channel and he heard there had been a
11 shooting in Yellow Springs and a signal "99" had been broadcast.

12
13 Detective Moore said Captain David Tidd, the Captain in charge of investigations,
14 called him and told Detective Moore to respond to Yellow Springs to assist with the
15 incident. Detective Moore said he responded to Yellow Springs from the
16 Fairgrounds.

17
18 Detective Moore said he arrived in Yellow Springs about the same time as some of
19 the Clark County Deputies and Ohio State Highway Patrol Troopers. Detective
20 Moore said when he arrived at the command post he believed Sheriff Gene Fischer
21 was there helping to organize the event.

22
23 Detective Moore said Major Kirk Keller assigned him (Moore) to make a roll call of
24 officers on scene. Detective Moore said he compiled a list of officers known to be
25 on the scene and responding.

26
27 Detective Moore said the reports from the scene were that officers could not see the
28 suspect. Detective Moore said one of Major Keller's goals was to establish a large
29 perimeter to confine the suspect. Detective Moore said they sent several units one
30 street to the west, on King Street, to prevent the suspect from escaping through a large
31 wooded area to the rear of the suspect's house.

32

1 Detective Moore said he had his iPhone and Major Keller had his iPad and they were
2 trying to pinpoint the suspect's house by looking at maps from these devices.
3 Detective Moore said they were talking to one of the original officers on the scene (he
4 thought it could have been a Yellow Springs officer) while looking at the maps.
5 Detective Moore said that was when he learned the suspect was in a converted
6 garage.

7
8 Detective Moore said while there were several conversations about making an all call
9 to the residents in the area about the incident, calling in the next Sheriff's Office
10 watch to cover calls, and trying to find an airplane or helicopter to try to determine if
11 the suspect was in the woods or still in the house.

12
13 Detective Moore said he also talked to the suspects father, Paul Schenck Sr., and
14 gathered information about the weapons available to the suspect and that the garage
15 was converted to a residence.

16
17 Detective Moore said after some time, he was told to write a search warrant for the
18 suspect's house. Detective Moore said he wrote the warrant with Greene County
19 Assistant Prosecutor Stephanie Hayden and took it to Judge Wooliver's house, who
20 signed the warrant.

21
22 Detective Moore said, at this time in the event, there had been a long "lull" in the
23 action following the report from Deputy James Hughes that he had fired at the
24 suspect. Detective Moore said it was theorized the suspect had been struck by the
25 gunfire and they were awaiting the warrant to force entry into the house.

26
27 Detective Moore said by the time he got back on the scene, SWAT was starting to
28 leave and several of the other people were starting to leave as well. Detective Moore
29 said he asked Captain Tidd, who was investigating the incident. Detective Moore
30 said Captain Tidd assigned the investigation to him.

31

1 Detective Moore said he ensured the scene was secured and tried to gather as much
2 information from the various SWAT units before they left. Detective Moore said
3 Deputy Hughes had already left the scene.
4

5 Detective Moore said he realized the scene was very large and requested Captain Tidd
6 call Ohio Bureau of Criminal Identification and Investigation (BCI) to assist.

7 Detective Moore said he reviewed the scene and started taking some photographs.

8 Detective Moore said he was told BCI would come and process the crime scene but
9 he would investigate the incident. Detective Moore said he took some photos of the
10 scene and areas, and they were waiting for the BCI agents to process the scene.
11

12 Detective Moore said when the BCI agents arrived to process the crime scene they
13 advised they had agents on the way to investigate incident. Detective Moore said the
14 Yellow Springs Officers requested BCI investigate the incident, and the investigation
15 was eventually turned over to BCI.
16

17 Detective Moore said when the decision was made that BCI was going to conduct the
18 criminal investigation, he turned the scene over to their agents and left.
19

20 Detective Moore said following the incident he learned there was some controversy
21 surrounding the investigation. Detective Moore said he called Deputy Hughes and
22 Major Spicer to check on them and see if they needed anything. Detective Moore
23 said he spoke to Deputy Hughes on two different occasions and spoke to Major
24 Spicer four to five times.
25

26 Detective Moore said he had one conversation with Major Spicer where Major Spicer
27 was asking questions about the investigation. Detective Moore said during one
28 conversation with Major Spicer, Major Spicer was telling him (Moore) about a
29 conversation he (Spicer) had with Detective Prall in her office about a map.

30 Detective Moore said Major Spicer told him (Moore) Detective Prall was not telling
31 all of the conversation, was taking parts out of context, and spreading rumors around

1 the office. Detective Moore said he did not know why Major Spicer was telling him
2 this information.

3
4 I asked Detective Moore if that was out of character for Major Spicer to confide
5 information in him. Detective Moore said Major Spicer's questions about the
6 investigation, in looking back, were somewhat probing and a bit out of character.

7
8 I asked Detective Moore if there were other questions Major Spicer asked him that he
9 (Moore) felt uncomfortable about. Detective Moore said Major Spicer asked him if
10 he saw Chief Deputy Brown betting on horses while at the fair. I asked Detective
11 Moore if it was odd for Major Spicer to ask him questions about Chief Deputy
12 Brown. Detective Moore said, "At the time he asked me that. The way I, the way I
13 felt, at that time is I, I know that the, the Chief and him don't get along. And, you
14 don't need. I don't think you also need to be in the inner circle to know that either. I,
15 I think a lot of people know that. Um. At the time he asked that I think he, I, I didn't
16 take that as he was gathering, he, he was in. I told you earlier there was a time that I
17 felt that I felt weird when he was asking. I know that the time he asked that, I didn't,
18 I didn't feel it was weird. I think it was just maybe him, kind of blowing off steam
19 like. I don't know. I didn't think anything of that at that time. But, he ah, he asked
20 me that."

21
22 Detective Moore said Detective Prall has been very vocal about the incident and her
23 feelings of the incident since June 30, 2013. Detective Moore said Detective Prall has
24 said she feels Major Spicer placed her husband, Sergeant Shawn Prall, in danger
25 during the incident and miss handled the incident.

26
27 Detective Moore said he never compiled a physical report or investigative file for the
28 incident. Detective Moore said he never completed a narrative for the incident
29 because BCI took over the investigation. Detective Moore said he does not know if a
30 physical file was generated for the investigation. Detective Moore said Major Spicer
31 has never asked him for a copy of the investigation file.
32

1 Detective Moore said one of the last conversations he had with Major Spicer, Major
2 Spicer asked him if anyone ever found the file. Detective Moore said he did not
3 know what Major Spicer was talking about and told him so.
4

5 Detective Moore said he did not know of any specific action from Deputy Hughes or
6 Major Spicer during the event that violated Greene County Sheriff's Office Policy.
7 Detective Moore said he did not have any further information regarding this
8 investigation. I ended the interview at 1055 hours.
9

10 **INTERVIEW WITH GREENE COUNTY DEPUTY JAMIE COE**

11 On Thursday, November 7, 2013, at approximately 1130 hours, Deputy Jamie Coe
12 appeared at the Inspectional Service Unit, 345 West Second Street as a witness in an
13 administrative investigation. Deputy Coe, Detective Michael Sollenberger and I
14 were present during the interview. I reviewed the *Greene County Sheriff's Office*
15 *Garrity and Piper Warnings* form with Deputy Coe. Deputy Coe said he understood
16 the warnings and signed the form.
17

18 Deputy Coe has been employed with the Greene County Sheriff's Office for over ten
19 years. Deputy Coe is currently assigned to the Greene County Common Pleas Court.
20 Deputy Coe has been a member of the Greene County Regional SWAT team for the
21 past six years and is currently assigned as the commander of the county side of the
22 SWAT team.
23

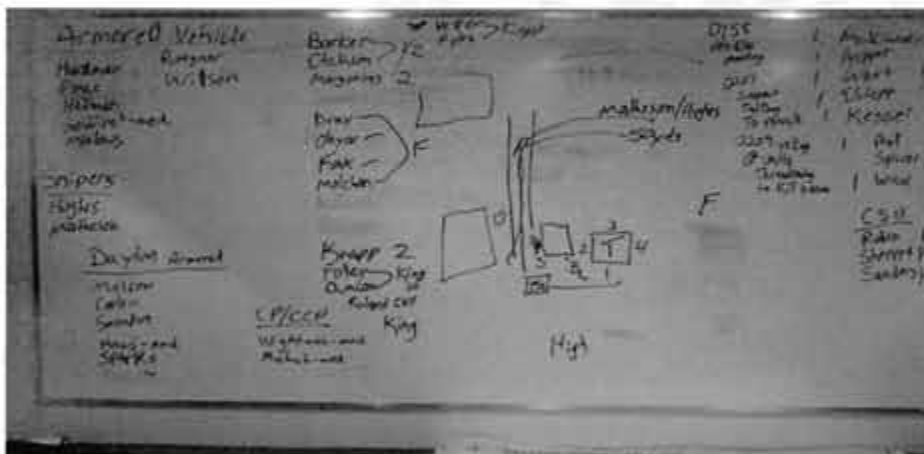
24 Deputy Coe said he became aware of the incident while he was working the fair on
25 the night of the incident. Deputy Coe said he heard the request for SWAT. Deputy
26 Coe said he left the fairgrounds, reported to the Sheriff's Office, met up with other
27 members of the team and responded to Yellow Springs with their equipment.
28

29 Deputy Coe said when they arrived in Yellow Springs, the Xenia half of the team was
30 already there. Deputy Coe said his counterpart on the Xenia side, Sergeant Steve
31 Lane, was organizing the initial response and had a location to set up a command
32 post.

1 Deputy Coe talked with Sergeant Lane about establishing a perimeter and containing
2 the suspect. Deputy Coe said the biggest challenge they faced, when they first
3 arrived, was trying to determine who was on-scene, where they were and how to
4 communicate with them.

5
6 I asked Deputy Coe what his understanding of the suspect's location was when he
7 arrived on the scene. Deputy Coe said, "My understanding was, he was in the
8 residence that almost paralleled High Street. Um, and I say that because we had a
9 drawing from his father. Of the kind of the layout of the land, if you will." Deputy
10 Coe said the suspect's father made a sketch on a piece of paper and then he (Coe)
11 drew it on the grease board in the SWAT truck.

12 I asked Deputy Coe to explain the diagram of the grease board to me. Deputy Coe
13 said it was a diagram of the target location so they knew where everyone was located
14 for SWAT deployment.



15 Deputy Coe said he had pictures of the grease board on his phone and showed them to
16 us. Deputy Coe explained the series of five pictures on his phone, showing the
17 location of the suspect's house with a "T." Deputy Coe said there was an alley
18 depicted to the south of the suspect's house, and a listing of the SWAT units on the
19 board with their reported locations in relation to the suspect's house.
20

21 After viewing the photos Deputy Coe had on his phone, I asked Deputy Coe if that
22 appeared to be an accurate depiction of the suspect's house in relation to the "alley"
23 in comparison to the satellite map I was using. Deputy Coe said, "It is not an
24 accurate depiction from the map and the grease board. Um, and the fact that uh, on

1 the grease board I had one house, um, I had the alley one house closer than what was,
2 what it actually was.”

3
4 Deputy Coe said later on in the event Major Eric Spicer came into the SWAT truck
5 and was asking about the location of the suspect. Deputy Coe said he explained to
6 Major Spicer the suspect was in a structure that was a garage, or used to be the garage
7 and runs horizontal to High Street. Deputy Coe said Major Spicer told him he had the
8 wrong location, and said it was the structure to the south. Deputy Coe said he showed
9 Major Spicer the map provided by the Yellow Spring Fire Department,



10
11 which shows the location of the suspect's parent's house (310 North High Street) and
12 a detached garage structure to the south west of the main residence. Deputy Coe said
13 the map does not show an alley, but lists the address of the parent's house with an un-
14 numbered structure on the same property. Deputy Coe showed Major Spicer the
15 orientation of the structures to the street was correct as explained by the suspect's
16 parents. Deputy Coe further told Major Spicer they did not know exactly where the
17 alley was because it was not depicted on the map, but knew there was at least one
18 house in between the suspect's structure and the alley.

19
20 Deputy Coe said while Major Spicer was in the truck, Major Spicer made the
21 statement that he had, "shot his weapon." Deputy Coe said he does not recall Major
22 Spicer saying what he fired at or any further descriptions of the incident.
23

1 I asked Deputy Coe about Dayton's armored vehicle and how it was directed through
2 the fence into the backyard of 246 North High Street. Deputy Coe initially said
3 Major Spicer directed the Dayton armored vehicle to the rear of 246 North High
4 Street. After talking about the incident further, Deputy Coe said the Dayton armored
5 vehicle was directed to go behind 246 North High Street through the backyard from
6 the alley from the command post based upon the information received from Officers
7 Lon Etchison and Fred Barker. Deputy Coe said Officers Etchison and Barker
8 advised they were in an alley which was right next door to the suspect's house.
9

10 Deputy Coe said he did not have any direct communication with Major Spicer other
11 than when Major Spicer was at the command post. Deputy Coe said he did not know
12 Major Spicer was anywhere within their perimeter until Major Spicer came back to
13 the SWAT truck.
14

15 I asked Deputy Coe, based on the information he had about this incident, if the
16 response of the road patrol units should have been to an active shooter situation where
17 they would immediately gather officers and assault the structure where the shooter
18 was. Deputy Coe described the incident saying, "No, 'cause to, as far as all, all the
19 intel was from the, from the parents and the initial call was that he was in there by
20 himself shooting out at police. That was the whole reason why he was shooting. Was
21 when the police come knock on the door that's when he started shooting." Deputy
22 Coe further said he never thought the suspect had left the house based on the
23 information provided to him from all sources. Deputy Coe further said there was a
24 thought he could have been moving, but when the suspect was shooting, it was
25 evident to the various groups of officers around the perimeter, that he was confined to
26 one location.
27

28 Deputy Coe said Major Spicer should not have been in the inner perimeter with the
29 SWAT team. Deputy Coe further said Major Spicer's responsibility as the Division
30 Commander of the Road Patrol was to manage and supervise the outer perimeter
31 units.
32

1 Deputy Coe said following the incident he went to the suspect's house with Sergeant
2 Lane, but never went inside. Deputy Coe said he went to Deputy Hughes and walked
3 with him back to the command center to make sure he was all right following the
4 incident.

5
6 Deputy Coe said he did not have any further information regarding the incident. I
7 ended the interview at 1202 hours.

8
9 **INTERVIEW WITH GREENE COUNTY CHIEF DEPUTY MIKE BROWN**

10 On Wednesday, November 20, 2013, at approximately 1329 hours, Chief Deputy
11 Mike Brown appeared at the Inspectional Service Unit, 345 West Second Street as a
12 **witness** in an administrative investigation. Chief Deputy Brown, Detective Michael
13 Sollenberger and I were present during the interview. I reviewed the *Greene County*
14 *Sheriff's Office Garrity and Piper Warnings* form with Chief Deputy Brown. Chief
15 Deputy Brown said he understood the warnings and signed the form.

16
17 Chief Deputy Brown has been employed by the Greene County Sheriff's Office for
18 thirty five years. Chief Deputy Brown was appointed to the position of Chief Deputy
19 in April of 2012. Chief Deputy Brown said his responsibilities are to run the day to
20 day operations of the Sheriff's Office for Sheriff Gene Fischer.

21
22 Chief Deputy Brown said he was working the Greene County Fair when he heard the
23 radio traffic from Yellow Springs about the incident. Chief Deputy Brown said when
24 the call for assistance came from Yellow Springs Police, there were four cruisers lined
25 up behind the grand stands waiting to close the fair. Chief Deputy Brown said when
26 the call came in, those cars immediately responded to Yellow Springs.

27
28 Chief Deputy Brown said the Yellow Springs Officers were asking for a SWAT
29 response and Major Eric Spicer approved the request. Chief Deputy Brown said he
30 had a short conversation with Sheriff Gene Fischer and Major Kirk Keller about the
31 incident unfolding in Yellow Springs. Chief Deputy Brown said someone had to stay
32 at the fairgrounds, so he advised the Sheriff he would stay so that he (Sheriff) and

1 Major Keller could respond to Yellow Springs and assist with the establishment of the
2 command post and directing units.

3
4 Chief Deputy Brown said he arrived in Yellow Springs at approximately 0015 hours.
5 Chief Deputy Brown said when he arrived, there were a lot of cars parked in the area
6 from a number of responding agencies. He said he responded to the Sheriff and
7 remained with him to assist with whatever needed to be done. Chief Deputy Brown
8 said SWAT was on scene and deploying units.

9
10 Chief Deputy Brown said when he arrived he heard radio traffic, to Major Spicer,
11 requesting him to report to the command post and brief the Sheriff on the incident.
12 Chief Deputy Brown heard Major Spicer respond that he could not come back
13 because he was deploying units.

14
15 Chief Deputy Brown said he was in contact with the negotiation team that was on
16 scene attempting to make contact with the suspect. Chief Deputy Brown said he
17 checked with them throughout the incident and they were never able to get the
18 suspect to answer the phone in the house.

19
20 I asked Chief Deputy Brown about Major Spicer's demeanor while working at the fair
21 before the incident started. Chief Deputy Brown said Major Spicer had just returned
22 from a vacation in Alaska and this was his first duty day back from the trip. Chief
23 Deputy Brown said Major Spicer appeared normal, did not appear to be excessively
24 tired or unfit for duty.

25
26 Chief Deputy Brown said the first he saw Major Spicer in Yellow Springs was
27 sometime around 0215 hours, when Major Spicer showed up at the command post.
28 Chief Deputy Brown said Major Spicer was in the SWAT truck debating the location
29 of the suspect with Deputy Jamie Coe and Major Keller. During this debate, Chief
30 Deputy Brown said he heard Major Spicer say he fired his weapon at the suspect.
31 Chief Deputy Brown said Major Spicer then said something about his radio battery

1 being dead and replaced the battery. Chief Deputy Brown said the next thing he knew
2 Major Spicer had left the command post.

3
4 Chief Deputy Brown said he did not give Major Spicer an assignment when he left
5 and to the best of his knowledge, no one had given Major Spicer an assignment, he
6 just left. I asked Chief Deputy Brown if he and any conversation with Major Spicer
7 about the round he fired. Chief Deputy Brown said, "It was shortly after a burst from
8 the suspect in the house, and he fired one round at that time is what he advised."

9
10 Major Spicer said after Major Spicer left the command post Sheriff Fischer sent a text
11 to him (Spicer) telling him (Spicer) to return. Chief Deputy Brown said to his
12 knowledge Major Spicer did not respond to the Sheriff's text.

13
14 Chief Deputy Brown said he and Captain Tidd met with Major Spicer outside of the
15 suspect's house and accompanied him (Spicer) to Detective Beth Prall where he
16 (Spicer) turned his rifle over to.

17
18 Chief Deputy Brown said at the command post he had a discussion with the Sheriff
19 and Major Spicer about placing Major Spicer on administrative leave because he had
20 fired a shot. Chief Deputy Brown said the Sheriff then placed Major Spicer on
21 administrative leave pending completion of the investigation into firing his weapon.

22
23 Chief Deputy Brown said approximately one week later, August 7, 2013, Major
24 Spicer completed a narrative of his actions from the night of the incident. Chief
25 Deputy Brown said Major Spicer completed a statement which he (Spicer) printed out
26 and left for the Sheriff. Chief Deputy Brown said the report Major Spicer completed
27 was not completed in the New World report management system the Greene County
28 Sheriff's Office uses for reporting incidents.

29
30 Chief Deputy Brown said after Major Spicer completed his report he (Spicer) called
31 him around 1845 hours asking where he should put the report. Chief Deputy Brown

1 said he told Major Spicer to slide it under the door to Cheryl Boles' door in a brown
2 envelope.

3
4 Major Spicer said several weeks later it was discovered, at 1815 hours, on
5 Wednesday, August 7, 2013, the reports for the Yellow Springs incident, Case
6 Number 2103-00021393, had been deleted by user "espicer." I asked Chief Deputy
7 Brown if Major Spicer told him, during the telephone call on August 7, he had
8 accidentally deleted the report and it needed to be recovered. Chief Deputy Brown
9 said he has reviewed the conversation in his head several times and does not recall
10 Major Spicer saying anything about the report being deleted. I asked if it was
11 possible Major Spicer mentioned deleting it and just not recalling it. Chief Deputy
12 Brown said, "No. If I was told that he would have deleted a report of such
13 magnitude, for our agency, being a much smaller department than yours, I would have
14 probably been highly upset. To be quite honest with you, and I would probably have
15 called the Sheriff and informed him first thing."

16
17 Chief Deputy Brown said he had no further information regarding this investigation.
18 I ended the interview at 1400 hours.

19
20 **INTERVIEW WITH GREENE COUNTY MAJOR KIRK KELLER**

21 On Wednesday, November 20, 2013 at approximately 1420 hours, Major Kirk Keller
22 appeared at the Inspectional Service Unit, 345 West Second Street, as a **witness** in an
23 administrative investigation. Major Keller, Detective Michael Sollenberger and I
24 were present during the interview. I reviewed the *Greene County Sheriff's Office*
25 *Garrity and Piper Warnings* form with Major Keller. Major Keller said he
26 understood the warnings and signed the form. This was the second interview with
27 Major Keller to clarify some questions regarding the investigation.

28
29 Major Keller said he arrived in Yellow Springs as the SWAT Operations Commander
30 around 2345 hours, on Tuesday, July 30, 2013. I asked Major Keller, when he arrived
31 on scene, based on the information he was receiving and hearing, what he thought the
32 situation was. I continued asking if it was an "active shooter situation" where

1 someone was actively shooting and killing people in a confined area that needed to be
2 immediately hunted down and stopped, or was this a barricaded subject. Major
3 Keller said, "Initial information he was from within a house. Um, later information
4 we knew he was by the house, maybe standing next to it or between that house and
5 the 310 address. But he was right there around that house."
6

7 I asked Major Keller if their tactics with responding to this incident was to treat it as a
8 barricaded subject. Major Keller said, "Yes, with, with a small caveat. Typically, ah,
9 we, the SWAT team operations, um, on a barricaded subject we know there's
10 containment. We, we weren't sure about containment. So, um, from my perspective
11 one of the first things that I was concerned with when I got there, was to make sure
12 he's contained."
13

14 Major Keller said when he arrived on scene Major Eric Spicer was already on the
15 scene. Major Keller said Major Spicer was around the perimeter. Major Keller said
16 he heard some information from Major Spicer as he was putting information out on
17 the radio, but did not have any direct communications with him.
18

19 Major Keller said sometime around 0215 hours, shortly before Deputy James Hughes
20 engaged the suspect, Major Spicer was at the SWAT truck for the first time and was
21 having a conversation with Deputy Jamie Coe. Major Keller said that was the first
22 time he had seen Major Spicer during the event. Major Keller said the conversation
23 or debate was over what was the location of 280 North High Street.
24

25 Major Keller explained the suspect's location saying, "Uh, we knew 310 because
26 there were numbers there. I say we knew, uh, from the time we had been on that
27 scene for over two hours there was, there was no con-confusion amongst the team
28 members I had contact with, the negotiators, ah, ah, Pat Roegner who was, you know,
29 Yellow Springs, in charge. We all knew what the garage was. The, everybody was
30 calling the garage. And I think I remember telling you previous, I knew it, it may
31 have been a garage, but that was a residence. And I did not interrupt the
32 communication to cause any confusion with people, 'It's not a garage it's a house.'

1 They knew what the garage was they were talking about. It was 280 North High. So,
2 when I look at the conversation going on I, I remember Major Spicer was arguing
3 with Commander Coe about what the target location is. Where this guy is shooting
4 from. And, um, I think I told you before, I thought about interrupting, interjecting,
5 my commander was doing a fine job of explaining, this, this is the house. And, ah,
6 you know whether, whether or not Major Spicer, the conclusion of that was that he
7 had agreed or whatever, I thought that Commander Coe did a pretty good job of
8 saying 'This is, this is where he is, this is 280 North High.' Um, from their
9 conversation on that board. Um, and so, that, that was the extent of that conversation.
10 He had gotten out of the truck at that point and uh, not too long after that was when
11 the communications came that, uh, Jimmie had fired, returned fire. And that was the
12 first firepower that had been returned that uh, we knew of."

13
14 I asked if that was when Major Spicer announced he had fired at the suspect. Major
15 Keller responded, "Well he was prompted to that. Because, the Sheriff had asked me
16 uh, maybe, fifteen, twenty minutes previous to all of that, he was concerned that this
17 guy keeps shooting at us, you know. Can you get him to stop shooting at us. And
18 during that conversation he asked me, 'Are, are, is some of that firepower, is that our
19 guys? Are we returning fire?' And I told him, 'No, Sheriff.' I said, 'If our guys
20 return fire we're going to know about it.' Well, Steve Lane is on the radio after the
21 communication from both Deputy Hughes and Officer Matheson that shots have been
22 fired. And Matheson repeating Jimmy's traffic, uh radio traffic. And Commander
23 Lane gets on and, and asks, 'Has anybody else fired shots? Has anybody else taken
24 any shots?' And it was that point that I remember Spicer turning and saying, 'Yeah, I
25 fired a shot.' And at that moment, putting two and two together I'm like, 'Wait a
26 minute.' Because I had just heard him in a discussion about us being on the wrong
27 house. That we've got the wrong house targeted. And now he announces he fired a
28 shot. I had no idea the time frame as to when he fired that shot. Was it while we
29 were on the scene? When was a, a shot fired by him? But my concern was that we
30 fired a shot and, and, we're targeting, you know, Spicer's targeting the wrong house
31 and took a shot. So, I went immediately to the Sheriff and said, 'I've got a concern.'"

1 Major Keller said when he returned to the command post after telling the Sheriff
2 Major Spicer had fired a round, Major Spicer was no longer there. Major Keller said
3 he did not see Major Spicer for the rest of the event. Major Keller said he assumed
4 Major Spicer had returned to the perimeter position he had left. Major Keller said he
5 did not give Major Spicer any assignments to cause him to leave.

6
7 Major Keller said he was not aware of any plans involving Major Spicer moving an
8 armored vehicle to 250 North High Street to remove the residents from that house.
9 Major Keller said there was no communication from the team that was there (Officers
10 Lon Etchison and Fred Barker) or from Major Spicer about having an armored
11 vehicle moved to that location.

12
13 Detective Sollenberger asked Major Keller, following the incident, after debriefing
14 everyone, if Major Spicer's actions during the incident helped or hindered the SWAT
15 team's mission. Major Keller said, "What I know of his actions that night. Now.
16 That night from the beginning to the conclusion of. The conclusion of the incident.
17 There were only a couple things that I was really aware of, that were bothersome.
18 But we, we had a successful SWAT overall operation. What I know post incident.
19 Total cluster around him. And, pardon my anger, but it's total cluster around him.
20 Uh, but. Fired a shot no, communications. I knew that early on that night, or when
21 that was announced. Bad. Not, not being present with us, uh, bad. Um, and, and
22 then as the other information started filtering in, you know, uh towards the of it or just
23 post, and you know, like, you know, not good."

24
25 I asked Major Keller if he had any further information regarding this investigation I
26 would need to know. Major Keller said, "I, I think you've got it covered. I mean,
27 now that BCI has finished their review of it. And I was able to read Major Spicer's
28 comments about how we were in confusion in the command post about the location of
29 the house. And how he was able to clear that up. That is absolute misdirection. If
30 not out absolute lie. There was no confusion with the team, other than the couple that
31 were with him. There was no confusion as to the target location. Um, and so you
32 know based on their report and what your, and how that ties in with you. I, I mean

1 that was the only thing I wanted to point out cause that was kind of new information
2 that I realize now he has said that there was confusion with us as far as the house.
3 And that his information helped us clear that up.”
4

5 I asked Major Keller if there were any other conflicts he saw, while reviewing the
6 BCI report, from any of the other witnesses to the event. Major Keller said no.
7 Major Keller said the conclusions from the BCI report, other than Major Spicer’s
8 statements, portrayed an accurate account of the events that occurred during the
9 incident.
10

11 Major Keller said he did not have any other information regarding this investigation.
12 I ended the interview at 1440 hours.
13

14 **INTERVIEW WITH GREENE COUNTY MAJOR ERIC SPICER**

15 On Friday, December 20, 2013, at 1030 hours, Greene County Sheriff’s Major Eric
16 Spicer appeared at the Inspectional Services Unit, 345 West Second Street Dayton,
17 Ohio, as the **focus** in an administrative interview. Major Spicer, Detective Michael
18 Sollenberger and I were present during the interview. I reviewed the *Greene County*
19 *Sheriff’s Office Garrity and Piper Warnings* form with Major Spicer. Major Spicer
20 said he understood the warnings and signed the form.
21

22 Major Spicer contacted me and requested he be able to clarify some issues regarding
23 this investigation following the release of the investigative report completed by the
24 Ohio Bureau of Identification and Investigation (BCI).
25

26 Major Spicer said during his first interview, while answering questions about a
27 conversation he had with Detective Beth Prall and Deputy James Hughes, he left the
28 impression it was the same date that he was at the Sheriff’s Office to complete his
29 narrative of the incident. Major Spicer said when he left, he realized the conversation
30 with Detective Prall and Deputy Hughes occurred on a different day from when he
31 completed his report.
32

1 I asked Major Spicer if there was anything else he wanted to clarify. He said, "Um,
2 just uh, I saw a couple of things, uh in the media, that um, brought me some concern,
3 um. About, um, the, uh, the spotlighting of a house um, that I wanted to clarify that
4 um. There was some interaction between myself, Sergeant Prall and deputies that,
5 um, and Yellow Springs Officers asking if had ever tried to spotlight or if we would.
6 It was clear we did not know where the suspect was. No one knew where he was, if
7 he was in the house, out of the house, in the woods or what not. And we were trying
8 to uh, do what we could to light them without getting in the line of fire of, uh
9 someone with a rifle. Um, and one common tactic is used when trying to surround a
10 barricaded subject is to use spotlights on cruisers and what not from distance, if you
11 can do so safely without drawing fire upon yourself. And, before we did that, I asked,
12 um, if we had done it, if we could do it, and if, uh if we could do that safely. Um, and
13 while trying to get those answers and trying to get that information apparently
14 someone took that measure and did so. And took that question for more information,
15 as uh, I guess there uh, reason to uh, make that maneuver. Um, but there was,
16 should be radio traffic and, uh, I know there was certainly conversation as we're
17 yelling between myself and, um, um Sergeant Prall and others there in that immediate
18 area about trying to locate this guy."

19
20 I asked Major Spicer if he was talking about the time he was behind Deputy Wical's
21 car and he said, yes. I asked Major Spicer who lit up the area, and Major Spicer said
22 he did not know. I asked Major Spicer, while he was with Deputy Wical, did
23 somebody light up the house? Major Spicer said, "I, I didn't see, I don't recall ever
24 seeing any lighting or anything from my location." Major Spicer talked for several
25 minutes more about how he did not see anyone light up the area where the suspect
26 was believed to be, but if someone did it was several hundred yards to the north on
27 High Street and was not under his direct orders.

28
29 I asked Major Spicer if there was anything else he wished to clarify. "Um, well,
30 speaking about that while we're in that position, um, one of the issues that has been a,
31 alleged um, through rumor and innuendo, and it's kind of been commonly said um, is
32 that I fired at the wrong house. Um, I don't know if anyone's made that direct

1 accusation in this arena or not, but, uh. Um, there was a Yellow Springs Officer to
2 my left. And when I fired at the suspect, um, in front of his bungalow, garage, or
3 whatever. Um, I would have done so at a slight angle to my right. Like if I'm at the
4 rear, if this is a cruiser. I'm at the rear wheel. And I'm shooting at that trunk lid
5 where the window goes down. I'm almost at a curve of that window. All right, it was
6 partially for cover, but that's the natural angle in which that is going. There is a
7 Yellow Springs Officer lying on the ground, to my right. If I would have been
8 shooting at that other location, I would have actually have been turned over top of
9 him, and would have shot a rifle over top of him. I think he would have noticed that.
10 Um, the distance in, in where the cruisers are located it's just not logically possible."

11
12 I asked Major Spicer if there was anything else he wished to clarify. Major Spicer
13 said, "Um, we talked, and also in the uh report, we talked about the wrong house.
14 Um, officer being taken to the wrong house. Um, ah, to follow up to what the
15 Attorney General had said in his summation, um, to the public that I led a team of
16 investigators to the wrong house. Attempted to gain entry and stayed there for two
17 and a half hours. And, um, that had an impact on the incident. Well, it didn't have an
18 impact on the incident. And it didn't place anyone in harm's way. And it didn't quite
19 occur the way that it was described by the, uh, Mr. DeWine. Um, first, I was on my
20 way over to the command post and was approached by the Xenia Officers. Um, who
21 said they were moving up to take a reactionary team. To react to any, um, anything
22 that might just quickly go bad on us."

23
24 I asked Major Spicer who the Xenia Officers were. Major Spicer said, "Um, it was
25 Lon Etchison, Dean Margioras, Fred Barker and uh, the fourth one, I uh, his name
26 escapes me. Um, he was only with that group for a short time before, um, uh doing
27 something else. Um, but, they approached me, uh wanted to, I asked them if they
28 knew where they were going. They weren't clear, 'Where is everyone at?' And I
29 said, 'Let me take you up to where I had just been standing.' And I took them up to
30 the position that they assumed. And from that position I was able to show where I
31 believed different people to be on this, um, very sketchy and uh porous. Um, uh
32 perimeter. Um, that was forever changing. And, that um, position I showed them,

1 also included, um, the areas to both sides of the house that would be in-between me
2 and the suspect's bun, bungalow. Um, that, ah, conversation and discussion was, uh,
3 short and very brief. And it was kind of a moving conversation as we're walking and
4 I'm pointing out things. It wasn't more of a, uh, set tactical conversation. Um, or
5 anything like that. At no time did I tell that this guy was in that house. Um, it was a,
6 described to them as a possibility, and that, they, uh, uh. I said I took this position
7 because if he came this way, I could see him, if he came that way, you could see him.
8 And we could use this house as a pie, uh, protective. Hopefully it would help you.
9 Turns out the rounds that he was firing was going right through these walls. But, uh,
10 we didn't know that at the time. Um, during that maneuver they chose, on their point,
11 own to stand there. Uh, they went past me and took that point, uh, Lon Etchison kind
12 of taking the lead, uh, for that group, and, uh. And, Fred Barker as well. They stood
13 there, um, shortly after standing there was gunfire upon the armored vehicles. While
14 they were standing in there, we observed it."

15
16 I asked Major Spicer where the armored vehicles were. Major Spicer said, "The
17 armored vehicle would have moved up in front of the suspect's bungalow and that
18 house, in-between the two residences on the street, and the yard, and the driveway, it
19 was doing different maneuvers the entire time. It's almost under the impression, after
20 just a few minutes, that they were in front of the wrong house at a later time and that
21 gunfire that they watched now, they would have very clearly have seen that that
22 gunfire was not coming out of the house that they were staring at. Um, and then to
23 post and take a position that they stood there believing that that suspect was in that
24 house for the next two hours would be completely erroneous and impossible. Um,
25 anybody that's been in law enforcement that long, um, any, any citizen with two eyes
26 would know that the house they are staring at is not where the gunfire's coming from
27 when the vehicle past it is being shot at and watching sparks fly off of it. It doesn't
28 make sense. It doesn't logically match what happened."

29
30 Major Spicer continued, "Um the other issue then is, at one point we discussed, that
31 those same officers, um, after some other conversation that we, uh, we felt now that
32 the guy is more into a residence, and not mobile on the property, that it would be

1 better to move up to the vehicles. I think I introduced that idea, and then there was
2 some conversation, and this is long after the armored vehicle had driven back and did
3 quite a number of damage , um, on its maneuver to some property trying to get up
4 towards where the suspect would be. Um, they moved up to that vehicle. And then I
5 went to the command post. While at the command post, they left that position and
6 went back to the same position that they had had previously. The one that I alleged to
7 have led them to in the wrong house. If they were under the belief that that was the
8 wrong location to be the entire time. Now they have made a second decision to go
9 back to that same spot. Why would they did, it doesn't logically match, the uh, what I
10 would characterize, quite frankly, as someone, um, covering their own ass about the
11 decisions to drive that vehicle back through those yards. Um, I don't know if that's
12 the case, but it certainly appears that, uh, what logically occurred during that period
13 of time, and what the facts are, and what, what occurred during those points don't
14 match up, uh, to what. Uh, the other thing Attorney General brought out in that
15 discussion that, that house was attempted to get into. But then he speaks of the lady
16 calling 911. That 911 call, there were two different houses that I approached. Um,
17 during this event. It would've be the house that we're just now speaking of, and then
18 the house, prior to it, um, on High Street. Um, where we knocked on the door,
19 banged on the door, could not get anybody."

20
21 I asked if that was the purple house. Major Spicer said, "Yes, uh, like a purple like
22 barn looking home. Where we knocked out some light bulbs to keep the silhouette on
23 those forward. Um, so I don't know if that's the house that the lady called from or if
24 it's the other house. Now, if it's the other house, there was an attempt to get in that
25 house. And that was done um, by reaching through the window to try to pull the plug
26 out of the lamp. Because the door on this side of the house was locked. If we were
27 really wanting to get into the house, in order to extricate the suspect or, or someone,
28 there was another door that was standing wide open the entire time. You could see it.
29 But it just wasn't safe to go to. If that maneuver as the Attorney General described it,
30 was to go after the suspect, um, we wouldn't have been doing what we were doing.
31 Probably left the light on and just gone through the open door. But, that's not what it
32 was, it's not accurate I don't know where that information comes from, but it, um

1 they never discussed in detail that with me at all. Um, thought I'd point that out.
2 Um, I would also say that if it was the wrong house, and if I was a, going back to my
3 point with the, um the Xenia SWAT members. If I was under the impression that
4 there was a man in the house twenty feet from me, with a automatic weapon, firing, I
5 would not go to the corner of this house. Stand at the corner of this house. While this
6 person has direct fire on me, from an uncovered position and stand there with my
7 hands in my pockets for long periods of time. I don't think it would occur. Um, I
8 have never seen anybody take such a tactical error. And if I had seen that, I would
9 have had something to say about it. But that's not what was going on. So, those are
10 the that things I would address."

11
12 Major Spicer said he did not have any other information regarding this investigation.
13 I ended the interview at 1047 hours.

14
15 **ADDITIONAL INVESTIGATION**

16 Throughout this investigation I received and reviewed updates to the Ohio Bureau of
17 Criminal Identification and Investigation (BCI) inquiry completed by Special Agent
18 Karen Rebori. I reviewed the entire report, case # SI-29-13-82-0937, from BCI and
19 found the facts as stated in the report completed by Special Agent Rebori accurate and
20 complete.

21
22 The investigation completed by Special Agent Rebori was reviewed by Greene
23 County Prosecutor Stephen Haller and the facts were then presented to the Greene
24 County Grand Jury on Monday, December 30, 2013. The Grand Jury found the use
25 of force by Greene County Deputies during the incident was appropriate given the
26 facts and circumstances.

27
28 The Greene County Grand Jury found Greene County Deputy James Hughes and
29 Major Eric Spicer acted legally in their separate uses of force against Mr. Paul E.
30 Schenck.

1 **CONCLUSION OF FACT**

2 On Tuesday, July 30, 2013, at approximately, 2256 hours, Yellow Springs Police
3 Officers Patrick Roegner, Joshua Knapp and Luciana Lieff responded to 310 and 280
4 North High Street on the report of a 911 hang up call. The addresses were known to
5 the Yellow Springs Officers as the residence of the Schenck's, where they had
6 responded to reports of domestic violence in the past.

7
8 Paul and Uta Schenck reside at 310 North High Street which is the main residence on
9 the single lot which comprises both the 310 and 280 addresses. 310 is the original
10 house built on the lot and 280 was built as a detached garage for the residence and
11 was not separately numbered. Several years ago the detached garage was converted
12 into a separate residence so Paul and Uta's son Paul E. Schenck could live there.

13 When the detached garage was converted to a home, the Village of Yellow Springs
14 addressed it as 280 North High Street. The only street marker was 310, and there is
15 one driveway that is used for both addresses.

16
17 The Yellow Springs Officers knew of the configuration of the Schenck's property, and
18 the practice of properties in the Village of Yellow Springs being divided in half-lots
19 and given distinct addresses. However, the responding outside agencies were
20 unaware of this practice, initially creating some confusion as the event continued.
21 The address 280 North High Street does not accurately appear on either Google®
22 Maps or Bing® Maps. The address 280 was not listed on the Yellow Springs map
23 provided by the fire department that evening, however the structure is depicted.

24
25 As Officers Roegner and Knapp began talking to Paul E. Schenck, through the front
26 door of 280 North High Street, he (Schenck) refused to leave his house, became more
27 upset and eventually threatened suicide. As the Yellow Springs Officers tried to pull
28 the outer door of his house open, which Paul E. Schenck had reinforced, Paul E.
29 Schenck left the front door area and fired several gunshots through the house toward
30 the officers.

31

1 Officers Roegner and Knapp immediately sought cover and radioed for assistance by
2 announcing "shots fired" over the radio and broadcasting a "Signal 99" (officer needs
3 emergency assistance) to their location.
4

5 Officer Lieff was inside the residence at 310 North High Street talking with Paul and
6 Uta Schenck and Paul E. Schenck's son, Max. Before the shots were fired, Officer
7 Lieff learned Paul E. Schenck had assaulted his son by hitting him with a pistol and a
8 cane. Officers Roegner and Knapp communicated with Officer Lieff while they were
9 taking cover and retreating to their cars. Officer Lieff was able to lock the door to
10 310 North High Street and move Paul, Uta, and Max out of the house and eventually
11 to a medic parked further north on North High Street.
12

13 Officers Roegner and Knapp were able to take cover behind their cruisers as Paul E.
14 Schenck started firing weapons from inside the house, through the walls, toward the
15 officers.
16

17 Between the hours of 2301 to 2305 deputies from the Greene County Sheriff's Office
18 arrived on scene to assist the Yellow Springs Officers. Sergeant Michael "Shawn"
19 Prall, Deputy David Wical, Deputy Duane Gilbert, Deputy Dennis Nipper, Deputy
20 Sean Kessel and Deputy Glen McKinney all responded to aid the Yellow Springs
21 Officers. In addition to the deputies, Officers from Jamestown Police Department,
22 Cedarville Police Department, and Central State University Police Department also
23 arrived within a short span of time.
24

25 As the deputies and officers arrived, they quickly organized in positions to the front
26 of 280 North High Street, behind cover, to attempt to observe the actions of the
27 suspect and contain him to one location. This collection of officers was arranged in a
28 loose semicircle on the east side of North High Street from 318 North High Street to
29 the north, to 250 North High Street to the south.
30

31 Officer Roegner was the Officer in Charge (OIC) for the Yellow Springs Police
32 Department that night, he and Sergeant Prall exchanged information and Officer

1 Roegner requested a SWAT response. At 2305 hours a Greene County Regional
2 SWAT Team response was requested and Major Eric Spicer approved the call out of
3 SWAT as he was responding to Yellow Springs from the Greene County Fairgrounds.
4

5 Between Sergeant Prall and Officer Roegner, they were able to organize their line of
6 officers. During this time two of the deputies backed their cars to position them
7 directly across from the suspect's house and illuminated the house with spotlights
8 from the cars. The suspect immediately started shooting at the lights on the cars.
9

10 At 2322 hours, there was a radio broadcast of Sergeant Prall telling a car to stop, this
11 was Major Spicer arriving on the scene. At 2324 hours, Sergeant Prall calls Major
12 Spicer on the radio and tells him, "I'm (Prall) pinned down. You're going to need to
13 set up a staging area for Clark (Clark County Deputies) and SWAT." Sergeant Prall
14 knew there were a lot of officers responding to this incident that needed to be
15 directed. Sergeant Prall told Major Spicer of the situation and the immediate need to
16 establish a command and staging area for the additional units responding.
17

18 In Major Spicer's interview he said he made the decision to go to the scene
19 immediately and told the Sheriff he would need help. Major Spicer admitted when he
20 drove up to the scene in his car, he drove too far into the scene to the suspect's
21 location, and had to back-up. Major Spicer said he blocked the street with his car so
22 anyone else responding would not make the same mistake he did.
23

24 **Greene County Sheriff's Office Policy 11.3.1 Responsibility and Accountability,**
25 **paragraph A. Delegation of Authority and Responsibility** states:
26

- 27 1. All delegated command/supervisory responsibility shall be accompanied by the
28 requisite authority to carry out the duties of the Office.
- 29 2. This responsibility with authority extends to any person, whether temporarily or fully
30 assigned, to carry out the specific task or duty involved.
- 31 3. Whenever a question arises in a specific, special or emergency situation, where a
32 command officer is not at the scene the senior deputy will be in charge; unless that
33 deputy relinquishes control to a more capable individual who has specialized training
34 in the situation at hand.
- 35 4. Any and all employees will be held fully accountable for delegated or failure to
36 exercise such authority.
37

1 Major Spicer failed to follow his responsibility to organize and create a staging and
2 command area that was needed and requested by Sergeant Prall, who was the
3 immediate ranking officer on the scene and had the most knowledge of the facts and
4 circumstances of the incident at the time.

5
6 Major Spicer failed to establish a command area for responding officers he knew
7 were coming. Major Spicer's actions in failing to take the information Sergeant Prall
8 gave him and act on it is inconsistent with Greene County Sheriff Office Policy. The
9 allegation Major Spicer failed to set up a command post, and instead inserted himself
10 into the inner perimeter is **sustained**. Major Spicer's actions are declared **improper**
11 **conduct**. Major Spicer violated the following Greene County Sheriff's Office
12 General Rules and Regulations:

13
14 **Rule 1 Violation of Rules**

15 Employees shall not commit any acts or omit any acts which constitute a violation of
16 any of the rules, regulations, directives or orders of the Sheriff's Office, whether stated
17 in this General Order or elsewhere.
18
19

20 When Major Spicer arrived at Deputy Wical's position, Major Spicer did not have a
21 rifle or shotgun with him. During their interviews, Central State Officers Jesse Rubio
22 and Jacob Sharrett both said Major Spicer asked them if they had "long guns" and
23 they told him no. Major Spicer then went to Deputy Wical and asked if he had a rifle.
24 Deputy Wical gave the rifle he was carrying to Major Spicer and armed himself with
25 a shotgun from his car.

26
27 During Deputy Wical's interview, Deputy Wical said Major Spicer told him, "he
28 needed a long gun." Deputy Wical said he provided his rifle to Major Spicer, and
29 retrieved his shotgun loaded with #4 buckshot from the car. Major Spicer, in his
30 interview, said he told Deputy Wical he needed one of the long guns from his car.

31
32 The allegation Major Spicer took a long gun from Deputy Wical is true. However,
33 Deputy Wical was not compelled to provide the rifle to Major Spicer therefore this
34 allegation is **not sustained**. Major Spicer's actions are declared **unfounded**.

35

1 Major Spicer, upon receiving the rifle from Deputy Wical, started scanning the area
2 for the suspect. In Major Spicer's interview, Major Spicer said he scanned all around
3 the area from 250 North High Street to 310 North High Street looking for a sign of
4 the suspect because he did not know where the suspect was. Major Spicer said as the
5 suspect was firing rounds, the intensity, direction and sound seemed to change
6 indicating to Major Spicer the rounds were being directed toward his location. Major
7 Spicer said he heard and saw rounds impacting the ground and car directly in front of
8 him. Major Spicer said he then saw a flash and perceived movement of a round being
9 fired at him. Major Spicer said he fired one round back at the movement and flash he
10 observed. In his interview, Major Spicer said he fired the round toward the area
11 where 310 and 280 North High Street are closest.

12
13 **Greene County Sheriff's Officer Policy 1.3.2 Use of Deadly Force paragraph 1.**

14 States:

- 15 1. Employees are authorized to use deadly force to protect the employee or other from
16 what is reasonably believed to be a threat of death or serious physical injury.
17

18 Although the other officers I interviewed who were present with Major Spicer at the
19 time all report they did not see muzzle flash or movement of the suspect, none of the
20 officers were at the same location as Major Spicer and did not have the same visual
21 field of view as Major Spicer. Major Spicer clearly believed the deputies and officers
22 around him were in immediate threat of death or serious physical injury as a result of
23 the suspect shooting at them. Additionally, evidence located at the scene shows the
24 car was shot by the suspect at some point during the incident supporting Major
25 Spicer's actions.

26
27 The allegation Major Spicer fired a weapon during the event is true, however the
28 allegation Major Spicer did not have target acquisition is **not sustained**. Major
29 Spicer's actions of firing at the suspect who was firing at him are declared **proper**
30 **conduct**.

31
32 It is alleged Major Spicer did not complete the most recent firearms qualification. I
33 reviewed Major Spicer's training records and found Major Spicer completed a re-

1 qualification for firearms, pistol, shotgun, less lethal, AR-15 and submachine gun on
2 May 3, 2012.

3
4 Major Spicer had not completed a re-qualification in 2013 at the time of this incident.
5 However, **Ohio Revised Code 109:2-13-02**, individuals who meet the ORC
6 definition for "*law enforcement officer*" are required to complete a firearms re-
7 qualification for the firearm's they are authorized to carry, "once each calendar year."
8 Meaning Major Spicer had until the end of 2013 to re-qualify and his qualification
9 from 2012 is valid.

10
11 The allegation Major Spicer was not qualified to fire a weapon during the incident is
12 **not sustained**. Major Spicer's actions are declared **proper conduct**.

13
14 Following firing the round, Major Spicer allegedly did not communicate to the other
15 officers and deputies, or his supervisor that he had fired at the suspect. I reviewed the
16 recordings from the Greene County Dispatch Center and Yellow Springs Dispatch
17 Center and did not find any recordings of Major Spicer advising he had fired a round
18 at the suspect.

19
20 Deputy Wical, in his interview said Major Spicer did not have any conversations with
21 him about the shot he fired. Officer Roegner during his interview said he asked
22 Major Spicer what he was shooting at, but Major Spicer did not answer him.
23 Additionally Officers Sharrett and Rubio both said Major Spicer did not say anything
24 following the shot he fired.

25
26 Major Spicer said in his interview when he reported to the SWAT command truck
27 approximately two hours later he notified Sheriff Gene Fischer, Chief Deputy Brown
28 and Major Kirk Keller he had discharged his weapon earlier in the event. Throughout
29 the interviews with many of the officers, Major Spicer did tell several different people
30 at several different times during the event he had fired a shot. However, he did not
31 notify any of his superiors until much later. When Major Spicer reported to the
32 command post he did not immediately report his use of force to his superiors, but

1 only advised of his use of force after Deputy James Hughes reported firing at the
2 suspect and Sergeant Steve Lane asked if anyone else had fired.

3
4 Major Spicer had numerous radio communications with Captain Tidd, and other
5 individuals at the Command Post following the firing of his shot. During one
6 broadcast Major Spicer was advised Sheriff Fischer wanted him at the command post
7 to brief SWAT. However, Major Spicer said he was unable to go because he needed
8 to place more officers.

9
10 During the majority of the time before Major Spicer reported to the command post, he
11 had a functional radio and cellular telephone. Major Spicer could have advised the
12 command post and his supervisors of the force he used but did not.

13
14 **Greene County Sheriff's Office Policy 1.3, Use of Force, section 1.3.6, Reporting**
15 **Response to Resistance, paragraph A, Requirement to File Report on Discharge**
16 **of a Firearm number 2 states:**

- 17
18 2. When a Deputy discharges a firearm on-duty, other than for training, he/she
19 immediately notifies his/her supervisor by the most direct means. The Deputy
20 completes a written report and submits it to his/her supervisor before the end of
21 watch.

22
23 Not only did Major Spicer have a duty to report his firing of the weapon to his
24 supervisor, there was an inherent responsibility to notify the officers and deputies in
25 his immediate area as to the threat and location of the threat he perceived.

26
27 The allegation Major Spicer did not notify the deputies and officers immediately
28 around him of the circumstances prompting him to shoot his weapon and did not
29 notify his superiors until two hours after firing is **sustained**. Major Spicer's actions
30 are declared **improper conduct**. Major Spicer violated the following Greene County
31 Sheriff's Office Rules and Regulations:

32
33 **Rule 1 Violation of Rules**

34 Employees shall not commit any acts or omit any acts which constitute a violation of
35 any of the rules, regulations, directives or orders of the Sheriff's Office, whether stated
36 in this General Order or elsewhere.

1
2 There is a further allegation Major Spicer fired at the wrong house when he fired at
3 the suspect. This allegation is based on an assumption from several different officers
4 on the scene that the house Major Spicer later identified as being where the suspect
5 was (250 North High Street) was the same place he fired at the suspect. There is no
6 physical evidence or eyewitness testimony to support this allegation. The allegation
7 Major Spicer fired at the wrong house is **not sustained**. Major Spicer's actions are
8 declared **unfounded**.

9
10 From the time Major Spicer was told by Sergeant Prall to set up command post to the
11 time Major Spicer told Captain Tidd to send Clark County Deputies to his (Spicer's)
12 car, seventeen minutes elapsed. During that time, Major Spicer ran up to Deputy
13 Wical, was given Deputy Wical's rifle and fired a shot at the suspect.

14
15 In their interviews, Deputy Wical, Officers Roegner, Rubio and Sharrett all reported
16 Major Spicer was with them for an additional five to ten minutes following the shot
17 he fired and then left suddenly, moving south on North High Street toward the
18 perceived location of the command post.

19
20 Major Spicer returned to the area of his car and was approached by Yellow Springs
21 Officer Roegner. According to Major Spicer, he (Spicer) had a brief conversation
22 with Officer Roegner about reporting to the command post. When Officer Roegner
23 advised Major Spicer he was heading to the command post, Major Spicer said he
24 (Spicer) would remain in the area to direct other officers responding.

25
26 At 2346 hours, Major Spicer met with Clark County Sergeant Chad Brown and Clark
27 County Deputies Denise Jones, Joe Johnson, Jason Patton and Jonathan Snyder.
28 According to Sergeant Brown, Major Spicer indicated the suspect was moving and
29 was in the area of 250 North High Street. Major Spicer directed them to move up to
30 the location of Sergeant Prall. Deputy Johnson remained with Major Spicer for a
31 communication link between the Greene and Clark County deputies.
32

1 Sergeant Brown and Deputies Patton, Jones and Snyder moved to a position just
2 south of the Central State University Officers. Sergeant Brown said within a short
3 period of time, the suspect was shooting and it became obvious to them the suspect
4 was located in or around a structure further north than 250 North High Street.
5 Sergeant Brown further said, while he was posted at this position, he saw some
6 movement around the area between 280 and 310 North High Streets.
7

8 At approximately 0013 hours, Major Spicer was advised two Beavercreek Officers
9 were being sent to the location of his (Spicer's) car to be "deployed." At
10 approximately 0020 hours, there was the sound of breaking glass and a 911 call from
11 the resident at 234 North High Street advising someone was pulling on one of their
12 doors trying to get in.
13

14 234 North High Street is a large two story house that is purple in color. It sits just to
15 the south of the long driveway that was referred to by the officers during the incident
16 as an alley. Major Spicer, Deputy Johnson, and Beavercreek Officers Justin Tolley
17 and Keith Duncan all stated in their interviews Major Spicer knocked out lights at this
18 house just before the Beavercreek Officers were deployed by Major Spicer.
19

20 Major Spicer said he broke out the lights to prevent the suspect from being able to see
21 them as they moved and to prevent their shadows from being casted. Officers Tolley
22 and Duncan both agreed the lighting was detrimental to their safe movement.
23

24 Although the lighting needed to be removed from 234 North High Street, Major
25 Spicer did not notify dispatch or the command post of his actions. This caused
26 concern in the command post and amongst the officers to the front of the suspect's
27 house, leading those officers to believe the suspect went mobile. There were several
28 transmissions between Sergeant Prall and the dispatch center trying to determine the
29 location of 234 North High Street in relation to 280/310 North High Street.

30 At 0023 hours, the dispatcher advised Sergeant Prall to tell Major Spicer there are
31 five SWAT members heading to him (Spicer) to be placed. This group was actually
32 four members of SWAT, Xenia Officers Lon Etchison, Fred Barker, Doug Sparks and

1 Dean Margioras, that were formed as an emergency reaction team. This team was led
2 to Major Spicer by Officer Roegner who had briefed the SWAT team commanders on
3 the location of the suspect. Officer Roegner, knew of the report from 234 North High
4 Street and was under the impression the suspect may have gone mobile.

5
6 At 0025 hours, Sergeant Prall reported they were receiving fire from the suspect again
7 from the suspect's original location.

8
9 Major Spicer actions of breaking out the lights at 234 North High Street were
10 tactically sound and necessary as he was moving the officers sent to him. However,
11 the manner in which he did it, without notifying the dispatch or the command center
12 of his actions caused alarm to the resident inside the house, prompting them to call
13 911 and report the incident. When the dispatch center attempted to find out if one of
14 the officers on the scene was around 234 North High Street no one answered.

15 Although Officers Tolley and Duncan and Deputy Johnson were with Major Spicer,
16 none of them had access to the Greene County Primary radio channel. Major Spicer
17 was the only person with a radio that had access to the Greene County Primary radio
18 channel at the time. Although he made transmissions with the radio before and after
19 breaking out the lights, he never notified dispatch or the command post of his actions.
20 Additionally, Major Spicer never answered dispatch when asked or the broadcast was
21 made concerning the breaking glass and report from the neighbor.

22
23 The actions of Major Spicer breaking out the lights of 234 North High Street, without
24 notifying the dispatch or command center of his actions caused alarm to the residents
25 and the officers posted around the suspect's location and the officers at the command
26 center. This caused the officers on the perimeter and the tactical units preparing to
27 deploy to believe the suspect was now mobile and not confined to the original house.
28 The allegation Major Spicer broke out lights without notifying the dispatch or
29 command center is **sustained**. Major Spicer actions are declared **improper conduct**.
30 Major Spicer violated the following Greene County Sheriff's Office Rules and
31 Regulations:

32
33

1 **Rule 25 – Use of Radio communications**

2 Employees shall maintain a high degree of professional standards when using Sheriff's
3 Office radio broadcasting equipment. The broadcast of vulgarity, false information or
4 non-law enforcement business material is prohibited.
5

6 Employees shall communicate with each other and Communications Center personnel
7 in a professional and courteous manner, and provide required information in an
8 accurate and timely manner consistent with Sheriff's Office procedures. Unless
9 conditions warrant, deputies shall not fail to communicate or remain in communication.
10

11 After Major Spicer broke out the lights on the house at 234 North High Street, he led
12 Officers Tolley and Duncan across the long driveway to the house immediately next
13 door. The house next door is numbered 246 North High Street, which is a brown
14 house with a privacy fence enclosing the back yard. In his first interview Major
15 Spicer said he felt the suspect was "mobile" and may be behind the house or in the
16 house next door, which is 250 North High Street.
17

18 Officers Duncan and Tolley both said in their interviews Major Spicer told them the
19 suspect was one house to the north of where he led them. Officer Duncan said Major
20 Spicer had him cover the alley facing west, away from North High Street, and Officer
21 Tolley took a position behind a tree on the "1/2" corner of 246 North High Street
22 watching 250 North High Street for the suspect.
23

24 After placing the two Beavercreek Officers, Major Spicer met the four Xenia Officers
25 who are Greene County Regional SWAT team members. I interviewed three of the
26 four officers, and all four were interviewed during the BCI investigation. All four
27 officers have repeatedly stated Major Spicer was very animated during the incident
28 and told them the suspect was located next door to the brown house.
29

30 For approximately the next ninety minutes, Major Spicer remained with the team of
31 Xenia Officers. During this time, Major Spicer initiated a plan to enter the house at
32 246 North High Street so the officers would have a good vantage point should the
33 event move into the daylight. Major Spicer cut one of the screens out from one of the
34 windows of 246 North High Street during this time. Right before the team was
35 prepared to make entry into the house, the plan was called off by Officer Etchison.
36

1 Although Major Spicer in his second interview insisted he did not lead officers to the
2 wrong house, he also said the suspect may be mobile and could have moved to that
3 house.

4
5 The statements Major Spicer made in his first interview with the statements from the
6 interviews with Deputies from Clark County, Officers from Beavercreek, Officers
7 from Xenia, Officers from Vandalia and Officers from Huber Heights all show Major
8 Spicer either directly told or described the suspect's location as being the house next
9 door to 246 North High Street.

10
11 The actions of Major Spicer viewed with the actions, statements and radio traffic of
12 the officers Major Spicer had contact with, while around 246 North High Street on
13 the night of the incident, show they all believed, based on information from Major
14 Spicer, the suspect was located in the house at 250 North High Street. Further, all of
15 the officers who believed the suspect was located at 250 North High Street received
16 the information either directly or indirectly from Major Spicer. All of the officers
17 influenced by Major Spicer, during their interviews, identified the same house, 250
18 North High Street, on satellite maps and photographs taken after the incident as the
19 house Major Spicer told them the suspect was located.

20
21 The allegations Major Spicer led several officers to and identified the suspect as being
22 in 250 North High Street are **sustained**. Major Spicer's actions are declared
23 **improper conduct**. Major Spicer violated the following Greene County Sheriff's
24 Office Rules and Regulations:

25
26 **Rule 15 - Unsatisfactory Performance**

27 Employees shall maintain sufficient competency to properly perform their duties in a
28 manner which will maintain the highest standards of efficiency in carrying out their
29 functions and meeting the goals and objectives of the Sheriff's Office

30
31 Unsatisfactory performance is demonstrated by, but not limited to, a lack of knowledge
32 of the laws and ordinances required to be enforced and the application of the same; a
33 lack of the knowledge of Sheriff's Office procedures; an unwillingness or inability to
34 perform assigned tasks; the failure to conform to work standards established for the
35 employee's rank, grade or position; the failure to take appropriate action on the
36 occasion of a crime, accident, disorder or other condition deserving law enforcement
37 attention, or absence without leave.
38

1 In addition to other indicators of unsatisfactory performance, the following will be
2 considered prima facie evidence of unsatisfactory performance: reported poor
3 evaluations or a written record of repeated infractions of procedures, regulations or
4 orders of the Sheriff's Office.
5

6 Between 0205 hours, when Dayton's armored vehicle breached the privacy fence
7 behind 246 North High Street and then backed out to North High Street, and 0218
8 hours, when Deputy James Hughes returned fire at the suspect, Major Spicer reported
9 to the command post. Major Spicer first briefed Sheriff Fischer and Chief Deputy
10 Brown about the incident. After speaking to Sheriff Fischer and Chief Deputy
11 Brown, they told him to check in with the SWAT command truck to see if they
12 needed any assistance.
13

14 Major Spicer reported to the SWAT command truck where he encountered Deputy
15 Coe as the scene commander with Sergeant Lane. In his interview Major Spicer said
16 this "surprised" him because Deputy Coe is a deputy in the Jail Division. Major
17 Spicer said he expected to see someone else commanding the operations of the SWAT
18 team, indicating the Sheriff was at the incident along with the Chief Deputy, Majors,
19 Captains and Lieutenants, implying someone else would be more qualified to
20 command the incident.
21

22 According to Major Spicer, he looked at the dry erase board and saw a "T" on what
23 he believed to be 250 North High Street. Upon looking at the board, Major Spicer
24 started questioning the location of the suspect's house. Major Spicer argued, the team
25 he was with had just moved to the location labeled with the "T." While Major Spicer
26 was with them, Officers Etchison, Barker and Margioras received information from
27 units in Fairborn's armored vehicle advising the suspect was in the structure north of
28 250 North High Street, so they moved forward to the cars parked in the driveway of
29 250 North High Street.
30

31 Major Spicer continued to argue over the sketch on the dry erase board and the
32 suspect's location. Major Spicer insisted Officers Barker, Etchison and Margioras
33 were in danger, according to the sketch. Deputy Coe and Sergeant Lane showed a
34 map of the village to Major Spicer and explained the location of the detached garage.

1 After listening to the explanation, Major Spicer still insisted, according to the sketch
2 on the board, the commanders had the wrong house and needed to move Officers
3 Etchison, Barker and Margioras. Deputy Coe made a radio broadcast to Officers
4 Etchison, Barker and Margioras about their location in relation to the suspect's house
5 and they reported no one had fired from the house they were in front of.
6

7 The allegation Major Spicer arrived at the command post and argued with the scene
8 commanders about the location of the suspect house is true. Major Spicer genuinely
9 feared for the safety of the members he left and upon seeing the sketch on the grease
10 board, which was a hand drawn representation of a combination of the information
11 they were receiving from the teams, the maps of the area they viewed, and hand
12 drawings and information received from the suspect's father. The drawing, for
13 someone who was not present during the gathering of information, could be viewed
14 as inaccurate and confusing. Major Spicer's actions in the command post did not
15 alter the SWAT commander's actions or plans for the team's response to the suspect's
16 actions. Further, the SWAT commanders were able to quickly verify and eliminate
17 the confusion by speaking with Officer Etchison on the radio and verifying he was
18 not in front of the house the suspect was firing from.
19

20 The allegation Major Spicer was arguing over the location of the suspect's house as
21 depicted on the board is **sustained**. However, Major Spicer's actions were not
22 inconsistent with Greene County Sheriff's Office Policy and declared **proper**
23 **conduct**.
24

25 Sometime after Deputy Hughes returned fire at the suspect, Sergeant Lane asked if
26 anyone else fired. At this time, Major Spicer advised he had fired a shot earlier in the
27 incident.
28

29 Major Spicer replaced the battery in his radio and notified Sheriff Fischer he was
30 going forward again to place an armored vehicle. Major Spicer had discussed a plan
31 with Sergeant Lane to move one of the armored vehicles to the side of 250 North
32 High Street to provide cover, when needed, to advance to the suspect's house. As

1 Major Spicer moved back to Officers Etchison and Barker, he stopped by his parked
2 car and plugged his cellular telephone in because the battery was dying.

3
4 When Major Spicer returned to the area, he found Officers Etchison and Barker had
5 pulled back slightly to the "1/4" corner of 246 North High Street. Major Spicer said
6 as he was moving forward, he noticed his radio was still not operational and may
7 have been damaged at some point during the event.

8
9 Major Spicer explained the plan with Officers Etchison and Barker. Major Spicer
10 then remained with them for the remainder of the event. While with Officers Barker
11 and Etchison, Major Spicer made several suggestions that Officer Etchison
12 characterized in his interview as "stupid." Officer Etchison said Major Spicer's
13 suggestions became so distracting he sent a text to the command post requesting
14 Major Spicer be "recalled."

15
16 Upon hearing the request to recall Major Spicer, Sheriff Fischer sent a text to Major
17 Spicer ordering him to return to the command post. However, Major Spicer's cellular
18 telephone was in his car and Major Spicer stated in his interview he did not see the
19 text until after the event. Major Spicer was not recalled over the radio. The
20 allegation Major Spicer disobeyed the texted order from Sheriff Fischer is **not**
21 **sustained**. There is **insufficient evidence** to prove or refute the allegation Major
22 Spicer received an order from Sheriff Fischer to return to command post, and failed to
23 follow it.

24
25 After a search warrant for the suspect's house was obtained, elements from the three
26 SWAT teams present, breached the house and were able to insert a remote controlled
27 robot into the scene. After the robot located the suspect, who was lying motionless
28 from an apparent gunshot wound to the head, Officers Etchison and Barker and
29 Fairborn Police Officer Jim Hardman, entered the suspect house and cleared the
30 residence.

31

1 After the suspect's house was cleared, there is an allegation Major Spicer entered the
2 crime scene. During his interview, Major Spicer said he spoke with Sergeant Lane at
3 or in the suspect house and advised Sergeant Lane this was a crime scene and needed
4 to be secured and transitioned to detectives. Major Spicer is the commander of the
5 Operations Division and part of his responsibilities is the detective section. Although
6 there were plenty of people on scene that could have assisted in securing the scene,
7 having Major Spicer there at that time did not negatively impact the investigation and
8 is documented.

9
10 The allegation Major Spicer entered the crime scene potentially contaminating the
11 scene is **not sustained**. Major Spicer's actions in being in or around the suspect's
12 location are declared **proper conduct**.

13
14 Major Spicer turned the rifle he fired over to Detective Beth Prall who was initially
15 assigned to assist with the investigation. Major Spicer was then placed on
16 administrative leave pending review of the incident and left the scene.

17
18 During the incident, Deputy James Hughes was assigned as one of the precision
19 riflemen and teamed with Xenia Officer Harold Matheson. Before interviewing
20 Officer Hughes, I reviewed with him his interview with BCI Special Agent Rebori.
21 When I interviewed Deputy Hughes I asked if the information he gave Special Agent
22 Rebori was true and accurate. Deputy Hughes said the only thing he found different
23 after the fact was he perceived he fired three rounds when he actually fired five
24 rounds.

25
26 Deputy Hughes was assigned with Officer Matheson to move to the "3" side of the
27 suspect's house by moving behind the houses on North High Street through the
28 wooded area to try and get a vantage point of the house. By reviewing dispatch
29 recordings, Deputy Hughes and Officer Matheson left the command post with their
30 precision rifles, gear and AR-15's at approximately 0027 hours. By crossing through
31 backyards and over fences, Deputy Hughes and Officer Matheson worked their way
32 toward the suspect's location.

1 At 0056 hours, Deputy Hughes and Officer Matheson arrived at the long driveway
2 that was referred to as an alley during the incident and radioed the command post to
3 verify the suspect's location. They were told to move two houses to the north.
4 Deputy Hughes and Officer Matheson then entered the wooded area and made their
5 way north toward the suspect's house. They knew they were at the correct house
6 because they could hear the suspect yelling and heard him shooting. The house was
7 approximately 45 yards in front of them. Deputy Hughes and Officer Matheson were
8 concealed in vegetation in an open area that afforded them a view of the "3/4" corner
9 of the suspect house. Although they were concealed, Deputy Hughes and Officer
10 Matheson did not have cover to protect them from gunfire.

11
12 Deputy Hughes and Officer Matheson continued observing the suspect from this
13 location as different SWAT elements were moved around the house. The armored
14 vehicles approached the suspect's house at approximately 0200 hours. At 0210 hours
15 Deputy Hughes advised he could see movement inside the house at the "3/4" corner.

16
17 At approximately 0213 hours, the suspect started shooting again and at 0215 hours
18 there was a report the suspect was shooting at the Dayton armored vehicle from the
19 garage area.

20
21 At 0218 hours, Deputy Hughes advised the suspect shot at him from the back window
22 of the house and he returned fire and possibly struck the suspect.

23
24 Special Agent Robori's investigation showed physical evidence of the suspect firing
25 at Deputy Hughes' position. Deputy Hughes said he felt debris from the rounds
26 impacting the ground and trees right around him and saw flashes from the suspect's
27 gun as he fired. Deputy Hughes felt he and Officer Matheson's lives were in
28 immediate peril from the rounds being fired at them by the suspect. Deputy Hughes
29 fired a total of five rounds at the suspect to end Paul E. Schenck's life threatening
30 assault on them.

31

1 Deputy Hughes immediately reported he was under fire and that he returned fire to all
2 of the deputies and officers in the area by radioing the information over the primary
3 channel for the incident. Deputy Hughes and Officer Matheson remained in their
4 concealed location until the suspect's house was secured and cleared at approximately
5 0500 hours. Deputy Hughes showed Deputy Coe where he was positioned when he
6 fired at the suspect and submitted his rifle to investigators before leaving the scene.

7
8 Deputy Hughes completed a Greene County Use of Force Report documenting his
9 actions following the incident.

10
11 Greene County Sheriff's Officer Policy 1.3.2 Use of Deadly Force paragraph 1.

12 States:

- 13
14 1. Employees are authorized to use deadly force to protect the employee or other from
15 what is reasonably believed to be a threat of death or serious physical injury.
16

17 Greene County Sheriff's Office Policy 1.3, Use of Force, section 1.3.6, Reporting
18 Response to Resistance, paragraph A, Requirement to File Report on Discharge
19 of a Firearm number 2 states:

- 20
21 2. When a Deputy discharges s firearm on-duty, other than for training, he/she
22 immediately notifies his/her supervisor by the most direct means. The Deputy
23 completes a written report and submits it to his/her supervisor before the end of
24 watch.
25

26 The allegation Deputy Hughes used deadly force against Paul E. Schecnk are
27 **sustained**. Deputy Hughes' actions in firing at and shooting Paul E. Schenck to
28 defend his and Officer Matheson's lives in the early morning hours of July 31, 2013,
29 are consistent with Greene County Sheriff's Office Policy. Deputy Hughes' actions
30 are declared **Proper Conduct**.

31
32 On September 13, 2013, Detective Prall attempted to print a copy of incident report
33 2013-00021393 for the Greene County Coroner. Detective Prall could not locate the
34 report within the New World system and asked Greene County Records Clerk Amy
35 O'Brien if she could find the report within the New World system or make a copy of

1 the original printed report. Records Clerk O'Brien was unable to locate the report
2 within the New World System and found the printed file was not in the records
3 storage area.
4

5 On September 16, 2013, Records Clerk O'Brien met with Ms. Debbie Moyer, who is
6 employed by the Greene County Sheriff's Office as one of the System Administrators
7 of the New World system, and advised her of the missing report. Sheriff Fischer and
8 Chief Deputy Brown were also notified of the missing reports. Chief Deputy Brown
9 made copies of the report he maintained as part of the on-going administrative
10 investigation so a paper file could be re-created.
11

12 Ms. Moyer contacted New World technical support and was able to determine the last
13 time the merged report was accessed was on August 7, 2013, at 1815 hours by user
14 "espicer" (Major Spicer) from workstation LAW023 which is located in Major
15 Spicer's office
16

17 Ms. Moyer ran an activity report for 2013-00021393. The report shows on August 7,
18 2013, Major Spicer "view" the report at three times: at 1519 hours, 1526 hours and
19 1528 hours. The report shows on the same date Major Spicer "change" the report at
20 1526 hours and "delete" the report at 1815 hours. Ms. Moyer found following the
21 "delete" action executed by Major Spicer on August 7, 2013, at 1815 hours there is no
22 further information concerning the report in the "merged" section of the New World
23 System.
24

25 Ms. Moyer provided a list of the four individuals in the Greene County Sheriff's
26 Office who have the authority within the New World system to delete merged report.
27 Major Spicer is one of the four. Additionally, Ms. Moyer showed us a warning screen
28 that comes up after a delete command is given. The warning screen says, "Are you
29 sure you want to delete this record?" In order to complete the command you have to
30 select "yes."
31

1 During his first interview Major Spicer said, on August 7, 2013, he completed his
2 written reports from the incident on July 30, 2013. Major Spicer said he could not
3 access the New World system and had Ms. Moyer reset his password.
4

5 Major Spicer said this was the first report he "ever" entered into the New World
6 system and the system created two entries for his report. Major Spicer said he deleted
7 the first entry from the system. Major Spicer said he closed out of the system and
8 then decided he wanted to print a copy of the entire report. When Major Spicer
9 searched for the report he could not find it. Major Spicer said he became concerned
10 he may have deleted the report from the system and attempted to call Ms. Moyer.
11 Major Spicer said Ms. Moyer did not answer so he called Chief Deputy Mike Brown
12 and told him they may have a problem with the system and to have Ms. Moyer
13 attempt to locate the report in the system or restore the system.
14

15 During Chief Deputy Brown's interview, he said he recalled Major Spicer calling him
16 on the evening he (Spicer) completed the report asking where he (Spicer) should put
17 the copy for the Sheriff. Chief Deputy Brown said he does not recall Major Spicer
18 saying anything about accidentally deleting the report or any problems with the New
19 World system. Chief Deputy Brown said with the magnitude of the report he would
20 have been very upset about the information and would have called Sheriff Fischer
21 about the information.
22

23 The allegation Major Spicer deleted report 2013-00021393 from the New World
24 system is **sustained**. Whether Major Spicer's actions were accidental or purposeful
25 are inconsequential. The fact is Major Spicer deleted the report from the New World
26 system.
27

28 Major Spicer said in his interview he helped "design" the New World report
29 management system had an "intimate" knowledge of how the system worked. During
30 the investigation, I learned Major Spicer is one of only four administrators who have
31 delete privileges for merged reports.
32

1 Major Spicer's actions in deleting report 2013-00021393 from the New World system
2 are declared **improper conduct**. Major Spicer violated the following Greene County
3 Sheriff's Office Policies:

4
5 **Rule 15 - Unsatisfactory Performance**

6 Employees shall maintain sufficient competency to properly perform their duties in a
7 manner which will maintain the highest standards of efficiency in carrying out their
8 functions and meeting the goals and objectives of the Sheriff's Office
9

10 Unsatisfactory performance is demonstrated by, but not limited to, a lack of knowledge
11 of the laws and ordinances required to be enforced and the application of the same; a
12 lack of the knowledge of Sheriff's Office procedures; an unwillingness or inability to
13 perform assigned tasks; the failure to conform to work standards established for the
14 employee's rank, grade or position; the failure to take appropriate action on the
15 occasion of a crime, accident, disorder or other condition deserving law enforcement
16 attention, or absence without leave.
17

18 In addition to other indicators of unsatisfactory performance, the following will be
19 considered prima facie evidence of unsatisfactory performance: reported poor
20 evaluations or a written record of repeated infractions of procedures, regulations or
21 orders of the Sheriff's Office.
22

23 At the same time Detective Prall found the incident report missing from the New
24 World System, Records Clerk O'Brien discovered the printed working file for report
25 2013-00021393 was missing from the records files. During his interview Major
26 Spicer said he did not take the printed "working" file and never used the file. Major
27 Spicer said the only time he saw the file was in Detective Prall's office sometime
28 around August 2, 2013.
29

30 Records Clerk O'Brien said the files are typically locked in the file room, but are
31 accessible by the detectives in the section. Records Clerk O'Brien said she unlocks
32 the files at 0700 and re-locks them at 1500 hours daily. Records Clerk O'Brien
33 additionally said before this incident she kept the key to the files in her unlocked desk
34 so detectives could have access to the files.
35

36 Due to the marginal security practice for locking the files in place when the file went
37 missing and Major Spicer's denial of having, using or seeing the report, the allegation
38 Major Spicer took the working file from the Records section is **not sustained**. There
39 is **insufficient evidence** to prove or refute the allegation.
40

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9



Sergeant David Parin #198

February 14, 2014