

FORCE ANALYSIS

Name of deceased: Cary Ball Jr., B/M, age 25

Department involved: St. Louis Metro Police Department

Shooting location: 732 Carr Street, St. Louis MO

Date of shooting: April 24, 2013

Time of shooting: Approx. 9:30 pm

Professor William Harmening
Washington University in St. Louis
January 12, 2016

Introduction

On April 24, 2013, at approximately 9:30 p.m., SLMPD Officers Martorano and Moton attempted to stop a vehicle driven by a suspect later identified as Carey Ball Jr. at Martin Luther King Drive and Hadley Street. The vehicle sped away and a chase ensued. At the intersection of North 9th and Cole Streets, Ball lost control of his vehicle and struck three parked vehicles. He then abandoned the car by climbing over his passenger in the front seat, later identified as Ernest Robinson, and diving out the passenger-side window. Ball regained his footing and fled the scene on foot with SLMPD Officers Boyce and Chambers in pursuit, first in their vehicle, and then on foot. Both officers stated that Ball was clutching the waistband of his pants while he ran.

Officers' Statements

The purpose of a police report is to provide an objective summary of events and behaviors. Its purpose is not to report an officer's state of mind during an incident, a circumstance that is anything but objective, nor is it to be used to justify an officer's behavior, only to describe it. Whether an officer's actions are justified is a determination made, based on the facts of the case, by management, internal affairs, and/or the Courts. Unfortunately police officers in America have become quite adept at using their reports for ulterior purposes. This case is no different. In the cases involving the use of force, especially deadly force, it is almost guaranteed that the officers involved will include two things in their reports—a probable cause statement over and above a simple description of the suspect's behavior, and a state-of-mind narrative to cast their actions in the most favorable light. Both are present in both of the officers' reports. For example, compare the following:

Officer Chambers: "It is important to note that that as Cary B. ran, I observed him clutching the front right portion of his waistband with his right hand. I immediately recognized this as a characteristic of an armed gunman. It should be noted that based on my training and experience with this department I have learned that subjects who arm themselves must maintain a grip on the concealed firearm to compensate for the lack of a proper retentive holster."

Officer Boyce: "Based on my training and experience as a commissioned police officer, I believed Carey B. bore the characteristics of an individual who may be armed with a deadly weapon; possibly a firearm. This belief stems from the fact that I could observe him clutching his right front waistband with his right hand as he fled."

Also consider...

Officer Chambers: "Corey B. raised his right hand, pointing the pistol at me. In immediate fear for my life, I drew my department issued duty weapon, which was fully loaded, and began firing at Carey B. in a southeastern direction."

Officer Boyce: “Due to the fact that I believed Cary B. was engaging P.O. Chambers with his handgun, I feared for the immediate personal safety of both P.O. Chambers and myself.”

These are two examples of nearly standard language police officers inappropriately put in their reports. It is a failure of the command structure that this is allowed. With regard to the first set of statements, that the officers’ training has taught them that a suspect clutching his waistband is indicative of someone who is armed, one must wonder if their training has also taught them that it is indicative of someone trying to keep their pants up while running. How has their training taught them to recognize the difference?

As to the second set of statements, both officers are describing a consciously processed thought. Research has shown over and over that while under stress and making split second decisions, police officers operate in *experiential thinking mode*,¹ or as some like to describe it, *autopilot*. While operating in this cognitive mode, officers tend to react with little or no conscious thought given to their actions. They simply react, and their actions are influenced heavily by such things as training and internal bias. It is highly unlikely that an officer in a deadly force encounter, even if not justified, would consciously process their level of fear, yet almost all police reports of deadly force encounters will include such statements.

WITNESS STATEMENTS

Numerous individuals witnessed this incident and were interviewed by detectives. Their statements are almost entirely consistent, which is highly unusual for an incident such as this. They are consistent not only with regard to the major details of the incident, but also a number of minor details. Given this high level of consistency, the accounts provided by the witnesses must be considered truthful and accurate. Following are a number of excerpts from the statements:

1. Regarding the foot chase:

Williams: “The cops are running behind him with the guns out. He’s running like an Olympic runner. Like the terror in his face and I’m looking like baby why don’t you just stop. Like so when he runs mind you I’m in the Challenger, he runs around the back of my car “woe”. The cab driver must of pulled right up. He must have saw the cab driver because he hit him or he either ran into the cab or the cab driver hit him.”

Stone: “The street light was on over there. So he came from around this way. When I seen him he was coming this...on the sidewalk over there and he was running like this here. But he was hurt. He was trying to run but he couldn’t get it...he was limping.”

¹ Kitaeff, J. (2011). *Handbook of police psychology*. Routledge: New York, Pgs 298-299.

Huggins: "Uhh, uhh he kind of had a limp. Like he was hurt. Uhhh. Uhhh...Because he kind of fell and stumbled in front of a...Yeah it's a cab across the street. Like a red cab...He kind of fell near there and he got back up."

Osman: "The guy hit the car...then as soon as he hit the car the guy (inaudible) like two officers were like right on him. Like damn, I can't believe I did it. (Officer: Did he look like he was hurt?) Yeah, he had an accident. Of course he was hurt. Then he hit our car...(Officer: How was he running?) like a drunk person."

Wilson: (From police report) "Detective Murphy asked Wilson how the suspect was running. She said he was not running fast and appeared to be hurt. He was running trying to get away. The suspect stumbled onto a taxicab, then got back up, and started running again."

Morgan: (From police report) "She saw the black male lose his balance and fall to the ground near a taxicab parked on the south curb of Carr Street, immediately east of North 9th Street. The black male regained his footing and continued running east."

2. Regarding the moments before the shooting:

Williams: "The guy dropped something and he jumps back and throws his hands in the air and that's when the shots were fired."

"All I seen was something hit the ground. I don't know what it was and he threw his hands up and the shots started and I just got down at that point."

Stone: "Because he turned around. So I told my grandson they fittin' to lock him up. It's going to be alright. He put the gun down. He's looking at me. He moved the gun this way. With his hands up, he surrendered. The next thing I know, I say ahh they done got him."

"I was looking at the gun drop and see the gun drop. The boy had his hands up."

Huggins: "He stopped. He dropped the gun; he put his hands up and he turned around; because he was facing going..."

"He had his hands like this. He just dropped it. He didn't stick it out. He just...yeah, he was putting his hands up and he just dropped it."

Monroe: (So you saw him drop something?) "Yeah, but I didn't know it was a gun. I didn't know what it was."

Wilson: (Officer's report) "Wilson said she thought the suspect had surrendered and thought the suspect put his hands up and got shot."

"It looked like the suspect put his hands up and dropped and the officers shot him."

Morgan: (From police report) "Morgan said at the front door she turned toward the street and observed the black male had stopped running with police officers within close proximity of the black male. She said the black male started turning towards the police officers, raising his hands and lowering his body toward the street. She then heard gunfire and saw the police officers firing their weapons as they moved toward the black male."

INCONSISTENCIES IN OFFICERS' STATEMENTS

There are a number of inconsistencies in the two officers' statements:

1. Both officers indicate in their statements that Ball's gun remained in his waistband until stopping at the location of the shooting and turning toward them.

Officer Boyce: "Carey B. stopped near the intersection of N. 8th St. on the southern side of Carr St. He then pulled a black handgun from his right front waistband, turned around toward P.O. Chambers, and raised the handgun toward P.O. Chambers in a northern direction."

Officer Chambers: "As Cary B. ran down the stairs, I could still observe him clutching the front portion of his waistband as if he was maintaining a hold of a weapon concealed beneath his clothing."

When you consider Ball's actions that night, it would seem to suggest that he had to be holding the gun in his hand. First he dove through the passenger side window of the vehicle to exit, landing on the ground, and then after regaining his footing and continuing to run, witnesses observed him trip and fall near a taxicab with the two officers in close pursuit. If he had to hold onto his waistband to keep the gun from falling out, as reported by both officers, could it possibly have remained in his waistband through all of this running and falling? Neither officer mentions Ball falling by the taxicab in his report. Detectives interviewed a number of adult witnesses who were in close proximity to the incident scene. Regarding the location of Ball's handgun, one of the witnesses stated that as Ball ran from the officers, she could see a dark colored handgun in his right hand. She was on her front porch at the time. Another witness who was on her front steps in the area also saw Ball running with what she described as a "large unusually shaped dark-colored gun" in his right hand. Yet both officers indicate in their reports that the gun remained in his waistband until he stopped, withdrew it, and then pointed it at them.

2. Both officers indicate in their statements that Ball raised the weapon and pointed it at them.

Officer Boyce: *“Carey B. stopped near the intersection of N. 8th St. on the southern side of Carr St. He then pulled a black handgun from his right front waistband, turned around toward P.O. Chambers, and raised the handgun toward P.O. Chambers in a northern direction.”*

Officer Chambers: *“Cary B. raised his right hand, pointing the pistol at me.”*

The statements of the two officers are inconsistent with every eyewitness to the incident. As stated above, six different eyewitnesses told essentially the very same story, that Ball had dropped the gun, raised his hands, and was going down to the ground to surrender. Two eyewitnesses not only observed him drop the gun, but also heard it hit the pavement. Reporting an auditory memory in this manner is indicative of someone who is telling the truth.² If these witnesses were purposely lying in order to cast the officers in the worst possible light, it is doubtful that at least two of them would also have reported seeing a gun in Ball’s hand as he ran by.

THE FEDERAL INVESTIGATION

In November, 2013, Chief Dotson requested that the FBI conduct a review of his department’s investigation. He stated the following:

“There is nothing sinister about this, but I think as chief, I have a responsibility to make sure we are as objective and as thorough as possible, and that we answer any unanswered questions...this is not an allegation officers did anything wrong at this point.”³

In June, 2014, U.S. Attorney Richard Callahan announced that the federal investigation had concluded, and that it was his and the FBI’s final determination that the shooting of Cary Ball Jr. had been justified. While he provided few details in his statement, he seemed to indicate that the basis for their decision were the inconsistencies among the eyewitnesses. He stated the following:

“The number and extent of conflicting witness statements was well beyond what you normally encounter.”⁴

There is simply no basis for the U.S. Attorney making this statement. Because the witness statements, as summarized above, were entirely consistent, the FBI’s investigative file was requested with a Freedom

² Adding additional details of an event like this is indicative of truthfulness. This has been reported in many different forums, including in Clikeman, Paul M. (2012). The ten tell-tale signs of deception. *Fraud Magazine*. Jan/February, 2012.

³ Byers, C. (2013). St. Louis police chief calls for FBI probe into officer-involved shooting. *St. Louis Post-Dispatch*, December 19, 2003 (online edition).

⁴ Currier, J. (2014). Fatal shooting by St. Louis police was justified, federal investigation says. *St. Louis Post-Dispatch*, June 18, 2014 (online edition).

of Information request on October 15, 2015. The intent was to determine if the FBI re-interviewed the eyewitnesses or requested that they submit to polygraph exams. The intent was also to determine if FBI agents interviewed the two officers involved in the shooting, or if they reexamined the incident scene, especially the ballistics evidence. It was confirmed via written correspondence that the FOIA request was received by the FBI and a search for relevant documents begun. No documents were ever provided, and when asked for an explanation in January, 2016, the FBI's FOIA representative provided no response. One can only conclude that there are no relevant documents because there never was a real investigation carried out by the FBI.

SHELL CASING ANALYSIS

No ejection pattern analysis was completed by the SLMPD's evidence technician. Also, no chart was completed showing the location of the shell casings in relation to the body, however they did record the precise location of each casing (as well as the body) by triangulating each using two points of measurement, the west curb line of N. 8th street and the south curb line of Carr Street. Using these measurements, the location of the casings in relation to the deceased's body can be determined and plotted (see exhibit no. 1). A total of twenty-nine (29) shell casings were recovered from the scene, all belonging to the two officers. The distribution of these casings was as follows:

1. Twelve (12) casings were found within a 5-foot radius of Ball's body.
2. Thirteen (13) casings were found within a 10-foot radius of the body.
3. Four (4) casings were found further away than a 10-foot radius of the body.

Once the casings are plotted, then we can tell the approximate location of the weapons when they were fired. Research has shown that when an officer holds their weapon in the manner in which they are trained, then their spent casings will eject to the right and to the rear 97% of the time.⁵ The casings will eject at a mean angle of -48.61 degrees, and at a distance of approximately 2-10 feet from the shooter.

To determine the approximate location of the weapons at the time of each shot, a 45 degree angle was used, with an ejection distance of 4-feet. A triangle was used to determine the locations by simply anchoring one leg of the triangle on the casing, and then pointing the other toward the body (see exhibit no. 2). While this method does not provide an exact measure, it does provide a close approximation. Exhibit no. 3 provides us a picture then of the movement of the officers toward Ball during the incident. It seems clear that the two officers were spaced one north of Ball and one south when the shooting began. It then appears that the officers converged side-by-side to a point directly in front of Ball and within close proximity. Looking at the distribution of the shots in this manner, we see the following:

1. Twenty-five (25) of the shots were taken at a point within 5-feet of Ball, with as many as seventeen (17) while standing directly over top of him.

⁵ Lewinski et al. (2010). Fired cartridge case ejection patterns from semi-automatic firearms. *Investigative Sciences Journal*, vol 2(3).

2. Three (3) of the shots were taken from 5-10 feet away from Ball.
3. One (1) shot was taken from further away than 10 feet from Ball.

AUTOPSY RESULTS

The medical examiner's office refused to respond to a FOIA request for a copy of the autopsy report.

DISPOSITION OF CIVIL CASE

On June 25, 2013, the family of Cary Ball Jr. filed a lawsuit in the Circuit Court for the City of St. Louis against the Board of Police Commissioners and three SLMPD officers identified only as "John Doe." At that time, neither Officer Boyce nor Officer Chambers had been publicly identified. The complaint that was filed alleged, among other things, excessive use of force by the officers. On December 22, 2014, all defendants agreed to settle the matter without admitting guilt by paying the family of Cary Ball Jr. and their attorney a total of \$400,000. Asst. Attorney General Karin Schute signed the agreement on behalf of Officers Boyce and Chambers.

It is unknown to what extent the family's attorney prepared for a potential trial by hiring an expert witness to reconstruct the events of that night and to prepare a detailed report in preparation for testimony. The amount of the settlement would indicate that no expert witness was engaged, and that the plaintiff offered little in the way of hard evidence to leverage their claim. Similar cases have resulted in much larger settlements. For example, New York City has agreed to pay the family of Eric Garner, the victim in a highly publicized police choking case, \$5.6 million.⁶ In Chicago, the family of 17-year-old LaQuan McDonald was paid \$5 million after being shot fifteen times by an officer.⁷ And in Cleveland, a police shooting that took the lives of two unarmed suspects following a high speed chase—a highly publicized case in which one officer stood on the hood of the car and fired multiple times into the vehicle—settled with the two families for \$3 million.⁸ Other cases have settled for as much as \$16.5 million, and even cases where the victim did not die, including cases of false imprisonment where the victim was not physically harmed at all, have settled for significantly more than this case.

On December 1, 2014, Carlos Ball, the brother of Cary Ball Jr., posted the following message on a Facebook page titled, "Justice for Cary Ball Jr. Community:"

"ANYTHING HELPS!!!! We are still fighting and still need help for an independent Autopsy Specialist to rebuild the crime scene as well as Pathologist HIS CASE IS STILL OPEN. We are taking it to a higher authority. AGAIN ANYTHING HELPS!!!!"

⁶ Elinson, Z. and Frosch, D. (2015). Cost of police-misconduct cases soars in big U.S. cities. *Wall Street Journal*, July 15, 2015 (online edition)

⁷ *ibid*

⁸ Palmer, K. (2014). Cleveland settles police chase shooting for \$3 million. *Reuters News Service*, Nov. 18, 2014 (online edition).

This message would seem to confirm that the Ball Family's attorney entered into settlement negotiations without conducting an independent investigation or engaging an expert witness. With little or no leverage in the form of evidence, it is little wonder that the city offered such a minimal settlement amount. One can only assume that the family accepted the settlement on the advice of their attorney.

ISSUES

Specific issues that have been considered in reaching a conclusion in this matter include the following:

1. When did the threat end?

How long can a police officer continue to shoot at a suspect? According to Chief Dotson, police officers are trained to continue shooting until the threat has abated.⁹ While this may be so, neither he nor the officers involved in this case have provided a plausible analysis of when the threat ended. Notwithstanding the fact that six (6) eyewitnesses watched Ball drop the weapon and attempt to surrender, it seems unfathomable that it took 25 rounds of high-velocity 9mm ammunition, shot at near point-blank range, to render Cary Ball Jr. no longer a threat.

Both of the officers are somewhat vague on this critical point. Officer Chambers seems to suggest that he quit firing when Ball released the gun, and that he released the gun when he fell backwards. He stated:

"I fired my department issued firearm twelve times in an eastern direction, walking toward Cary B., as I continued firing my department issued firearm in order to close the gap between us. Cary B. fell backward onto the street and dropped his handgun next to his right-hand side. Once I believed Cary B. was no longer a threat, I secured him in handcuffs. Cary B was, at this point, lying face-down near the address of 732 Carr St."

Not surprisingly, Officer Chambers tells a consistent story:

"Cary B. began to fall backward to the ground. It should be noted, that as I fired I continued forward progression approaching Cary B. I continued firing until Cary B. released the pistol from his hand and allowed it to fall to the ground. After this action I believed the threat ended. It was at this time I ceased firing. I fired a total of 16 shots."

"I maintained cover over Cary B. as PO Boyce approached Cary B. to secure him into handcuffs."

There are a number of problems with these coordinated accounts. First of all, it seems obvious that both are suggesting that they quit firing when Ball finally fell to the ground and released the weapon, and

⁹ St. Louis Public Radio.

that they were firing as they approached. Aside from the fact that it is a bit absurd to suggest that it took 25 bullets to cause Ball to finally fall to the ground (he likely fell after the very first shot to center mass), once again, the eyewitnesses are completely consistent that Ball was not even holding the gun, and further, that the two officers stood over him and shot repeatedly. This is supported by the ballistic evidence (see exhibit no. 3), which shows that most of the shots (25) were fired from a range of 5-feet or less.

This set of circumstances calls into question the officers' account of the threat. It seems irrefutable that they both stood over top of Ball and simply continued firing their weapons, in the case of Officer Chambers, until he was out of ammunition (16 shots). Chambers stated that he quit firing when he thought the threat had ended. No, he quit firing when his slide locked back and he was out of ammunition. He says nothing about reloading his weapon, nor is his empty magazine (if he did reload) indicated anywhere in the incident scene reports. In fact, Chambers stated that once he quit firing, he then provided cover while Boyce retrieved Ball's weapon. If this is so, then he was providing cover with an empty weapon!

The presence of a gun in Ball's hand—let's assume for a moment there was one—is insufficient by itself to be considered a threat unless it is being pointed at the officers. Once Ball fell, again, likely after the first shot to his chest area, then it is unlikely he continued to point the gun while the officers shot him 24 more times. Even a dead person will continue to clutch a weapon. If there was a perceived threat, it is important to consider that the officers took no evasive action whatsoever. This is confirmed by the ballistics evidence (see exhibit no. 3). They simply walked up to the body and unloaded or nearly unloaded their weapons on Ball. If their statements are to be believed, then Ball simply stood in place holding the gun less than five-feet away from the officers while they shot him twenty-five (25) times. A more likely scenario is the one supported by the eyewitnesses. That is, after dropping the weapon and beginning to go down to his knees to surrender, the two officers simply began firing at near point blank range, and didn't stop for a number of seconds while Chambers emptied a full magazine on Ball (16 rounds), with Boyce nearly emptying his magazine (13 rounds). In this scenario, Cary Ball Jr. was NEVER a threat as the officers approached, and even if he did have the gun in his hand, which he obviously had no intention of using, he was no longer a threat after the very first shot to center mass.

2. What was the final location of the gun and body?

Two of the most important pieces of evidence in this matter, Ball's gun and Ball himself, were altered by the officers. You will notice that neither officer says anything in their reports about moving Ball's body after shooting him. They said they shot him and then handcuffed him, and further, that he was laying face-down. The eyewitness accounts dispute this.

Stone: *"The boy was on the ground. They roll the boy over. They put the boy in handcuffs."*

Monroe: *"When they was putting handcuffs on him and they was rolling him over."*

Why the officers chose not to record this action is unknown. It is critical to know in order to record the exact location of the body at the time of the shooting. It is interesting that both officers have perfect memories when it comes to seeing Ball grab his waistband or consciously processing their fear, yet when it comes to Ball falling by the taxicab, limping, and then rolling Ball over after shooting him, their memory seems to fade a bit.

And then there is the issue of Ball's gun. The single most important question in this case is whether Ball was pointing the gun at the officers when they fired. Notwithstanding the huge amount of eyewitness testimony confirming that he had dropped the gun, it is important to analyze the physical evidence to reconstruct the scene just prior to the shooting. Here are the problems:

1. The officers picked up the gun and altered it. By their own accounts, as well as those of the eyewitnesses, they picked up the gun and unloaded it.
2. There is no mention of the gun's location by the incident scene technician, officer King. This is extremely unusual. There is no indication that the two officers even advised King of its location when they picked it up. Every single shell casing was triangulated and recorded by King, yet the gun was not. Was it close to Ball's hand? Was it found on the same side as his shooting hand?
3. Even more unusual, there is no indication that Officer King even completed an incident scene diagram, which would have shown the location not only of Ball's gun, but also Chambers' empty magazine. In response to a Freedom of Information request, the SLMPD did hand over King's work, however there was no diagram. The presumption must be that none was ever completed.

This is why the location of the gun is so important. One of the witnesses (Huggins) stated the following:

"You know what, when he fell to the ground, and the officer (inaudible). He was picking up his weapon; he looked like he had to reach under him."

If in fact the officers had to reach under Ball to retrieve the weapon, then it means he fell on top of it, and that makes the officers' accounts highly unlikely. For their accounts to be true, that they quit shooting when Ball dropped the weapon, and for the gun to have been retrieved from underneath his body, then Ball had to have been shot 25 times before actually dropping the gun and falling on top of it. This is simply not plausible. It would support exactly what the six eyewitnesses stated, that Ball had dropped the weapon, and while going to his knees to surrender, was shot and killed, thus falling on top of the gun in the process.

3. Were the eyewitness accounts credible?

The best method for measuring the credibility of an eyewitness account is to look at its consistency with those of the other eyewitnesses. There are two things to look for when doing this; eyewitness accounts that are significantly different on the major details, as well as eyewitness accounts that are nearly identical on the minor details. Both are called into question and must be explored deeper. In this case there are six eyewitnesses who are almost entirely consistent on the major details, with some variance

on the minor details. This is exactly what you would expect from six truthful eyewitnesses trying to recount a very traumatic event. Once again, if the police had doubts about the witness statements, an option available to them would have been to administer polygraph exams. While such evidence is inadmissible in court, and while such a large number of consistent eyewitness statements should have been accepted on their face, administering these exams, assuming the witnesses were found to have been truthful, would have at least bolstered the decision to impanel a grand jury to hear the case.

CONCLUSIONS

In the end it would appear that everyone involved in this matter failed Cary Ball Jr. and his family. He was a young man with a bright future who was carrying a weapon, albeit illegally, for self-protection after having already been shot once by a former acquaintance of his girlfriend. There is no indication that he had any intention of using it for illegal purposes. Unfortunately though, Cary Ball was a convicted felon, and when police officers attempted to stop his vehicle, he panicked and ran, knowing that to be caught with a weapon would mean having his life turned upside down. That decision cost him his life. Within a few short minutes he died a quick and violent death after being shot twenty-five times (25) by officers Boyce and Chambers at near point-blank range.

The police department certainly failed the Ball family by conducting a substandard investigation. There was no outside agency brought in to do the initial investigation. Surprisingly, there were no interviews of the two officers involved. Both gave a short statement, and that appears to be it. The problem of course is that neither was questioned nor confronted about their actions leading up to and during the incident. This is quite surprising given that a young man's life was taken. It is also surprising that no one questioned them on the record about the large number of shots that were fired. With regard to the physical evidence, there was no ejection pattern analysis completed, and no crime scene diagram showing the location of the casings and the gun in relation to the body. There appears to have been no efforts made to "test" the eyewitness accounts. For example, if Ball did drop the gun to the pavement, were there scuff marks on the gun frame or grips? Also, what efforts were made to reconcile the autopsy results with the officers' statements? Can it be determined how many shots were fired while Ball was on the ground versus how many while standing? Perhaps it would have taken an expert witness pathologist to make these determinations, but there is no evidence one was engaged.

The Circuit Attorney's Office failed the Ball family by not presenting the evidence to a grand jury. There is simply no plausible or justifiable reason for two police officers to shoot twenty-nine (29) times at a suspect who is not shooting back, with most of the shots fired from near point blank range. This fact alone should have caused a grand jury investigation to be initiated. And then there is the issue of the eyewitnesses. There also seems to be no plausible explanation for why the Circuit Attorney chose not to believe the accounts of these six women who placed their privacy at risk by speaking to the police. One can only speculate as to what it was about these particular women that caused the Circuit Attorney to question their credibility. When the Circuit Attorney had the opportunity to impanel a grand jury and allow them to come to an informed conclusion based on the available evidence, she chose not to.

The federal authorities also failed the Ball family. There is no indication that the FBI ever conducted an independent investigation of this matter, as requested by Chief Dotson. Again, no documents were ever provided by the FBI in response to a FOIA request, and when asked for an explanation, the FBI's FOIA representative provided no response. There's no indication that the eyewitnesses were ever re-interviewed or the evidence properly analyzed. Making matters worse, the U.S. Attorney issued a public statement that a federal prosecution would not be pursued because of inconsistent witness statements. This is simply not true, and either the U.S. Attorney was falsely characterizing the eyewitness accounts, or he was basing his position on what he had been told by the FBI.

And finally, the performance of the Ball family's own attorney must be questioned. Their original attorney was disbarred shortly after filing the case, and that attorney's partner took over. There is no indication that an independent investigation by an expert witness was ever requested or contracted for. There is no indication in the court record that depositions were ever completed. It would appear that a very low settlement amount was accepted by the family at a time when their attorney likely had minimal evidence to leverage their negotiations. There is no indication that the settlement was accepted by the family against the advice of their attorney. It must again be pointed out that the family members themselves were found posting on a Facebook account looking for expert assistance.

At the end of the day, Cary Ball Jr. seemed to have few advocates. Even the press reported very little on the case after the initial reports of the shooting. And after the U.S. Attorney issued his statement that there would be no federal prosecution, the press never reported on it again. No one questioned how a young man who was on the path to success could possibly be shot 25 times after six eyewitnesses reported seeing him drop the gun and attempt to surrender. It was business as usual in pre-Ferguson St. Louis.

As to the shooting of Cary Ball Jr. by officers Boyce and Chambers, it is the opinion of this expert witness that both officers used excessive and deadly force when such force was neither reasonable nor justified.

AUTHOR'S NOTE: Upon completion of this report, a copy was forwarded to Rachel Smith, a supervisor in Circuit Attorney's Office. It was sent via email on January 13, 2016. The same day a response was received from Ms. Smith that read:

"This case was handled by the FBI and US Attorney. It was never given to us for review. We are not the appropriate authorities since the federal authorities handled it. Cynthia Copeland should be in touch with you shortly about meeting on the other matter. Thanks for following up."

In response, a copy of a press release was forwarded to Ms. Smith that was found on the Circuit Attorney's very own website. It was a letter from Jennifer Joyce that read: 14

“The death of Cary Ball Jr. was a tragedy and I am sorry for the loss his family has experienced. We recently met with Mr. Ball’s family to share the process by which our office reviews matters like these.

At the St. Louis Circuit Attorney’s Office, we are committed to pursuing justice in all cases brought to us, regardless of a person’s background, economic or social status. We will objectively and thoroughly review the facts surrounding Cary Ball’s death as well as evidence obtained once the investigation is complete. Under our legal system charging decisions are made by objective prosecutors based on the evidence available and the application of the laws of the State of Missouri.

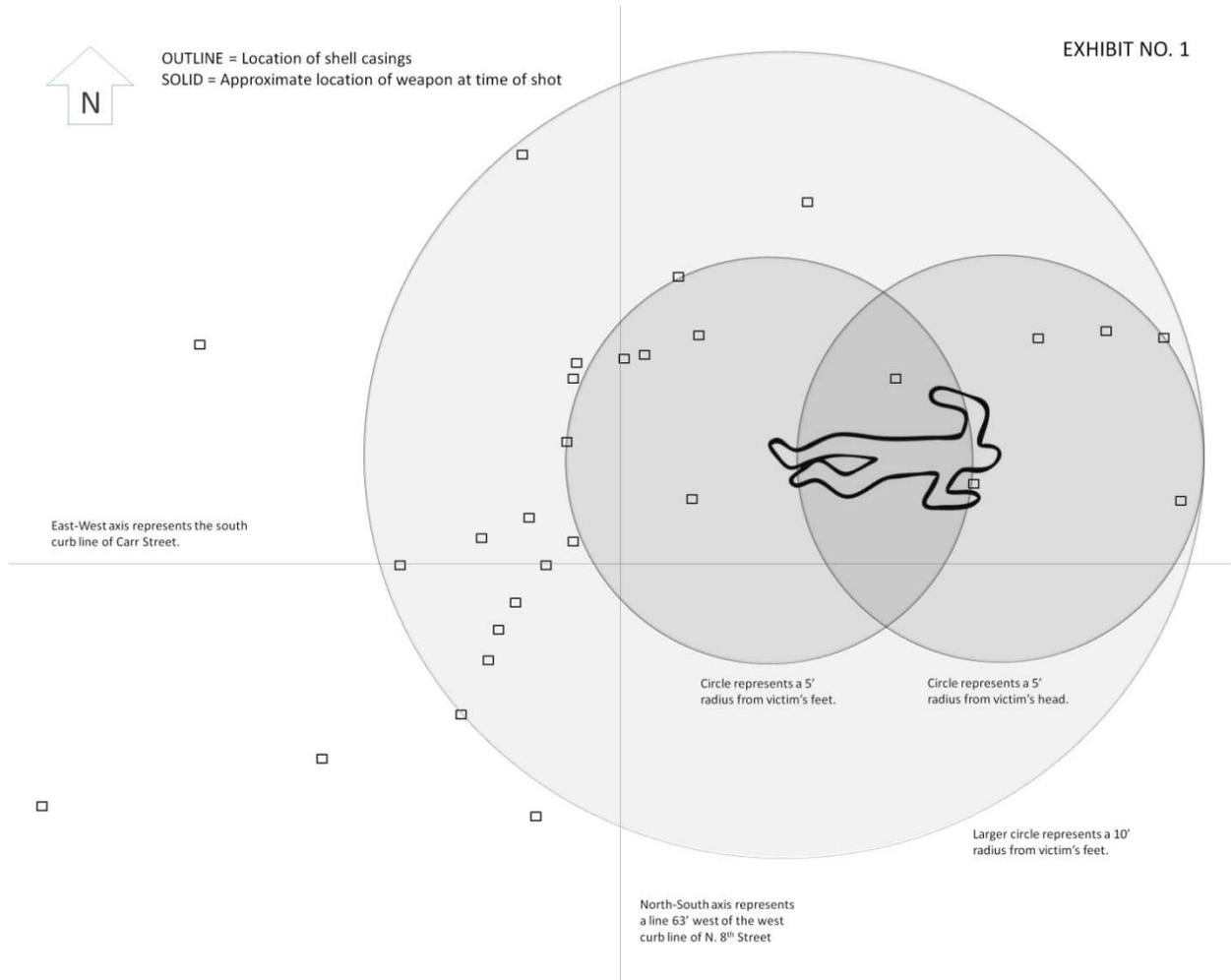
We absolutely respect the First Amendment rights of all citizens who choose to speak out about matters for which they are passionate, such as the circumstances surrounding Mr. Ball’s death. It is very important for everyone to understand that while we will listen closely to the concerns of the family and their supporters, public or political pressure will not impact charging decisions in this matter or any other pending case in our office.

The police investigation is ongoing and may take several more weeks. We urge anyone who witnessed this event to contact the internal affairs division of the SLMPD or my office. As in all cases, public cooperation is essential in ensuring justice is served.”

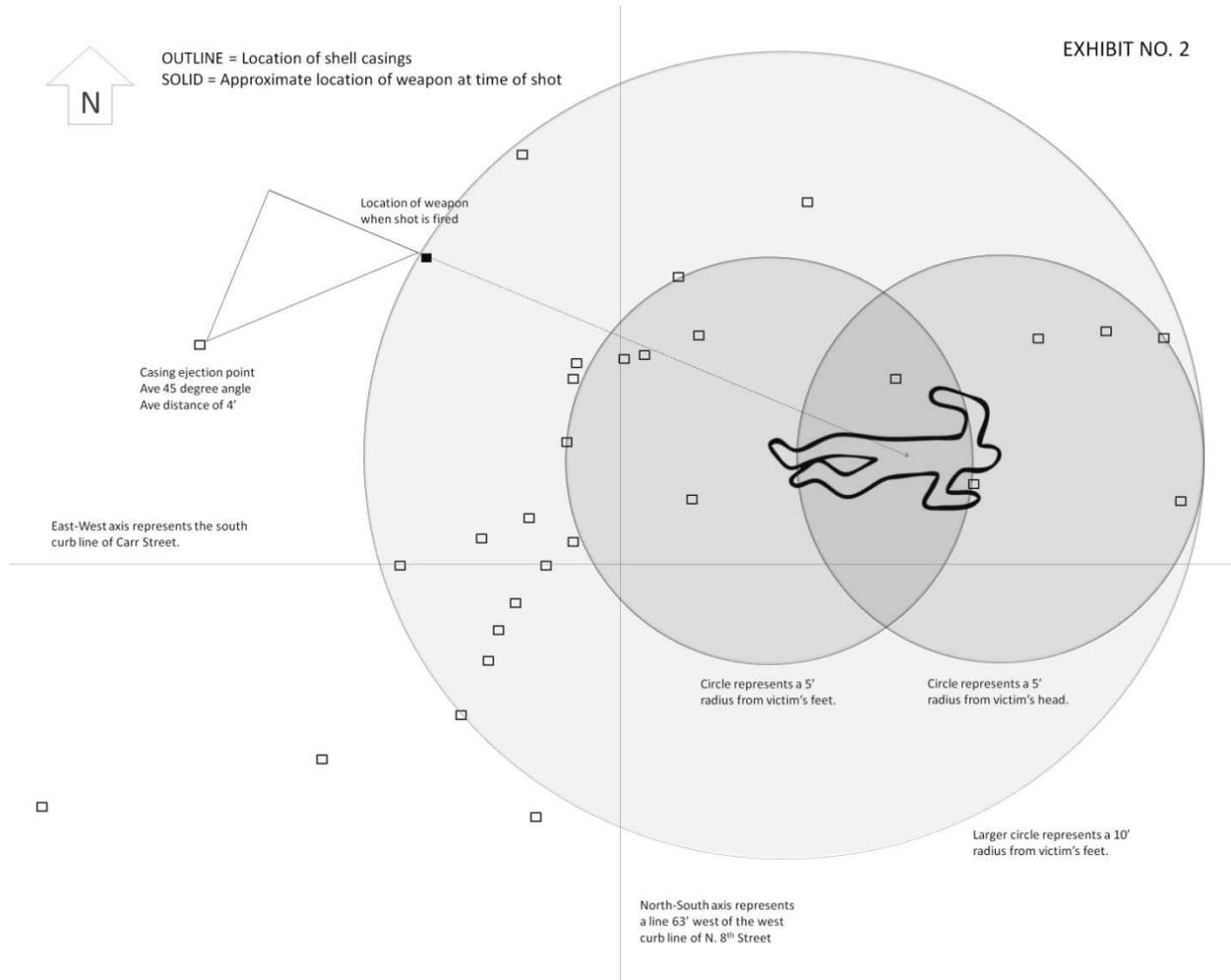
Once again, on the same day, Ms. Smith responded with the following email:

“We never reviewed the case. The process and procedure were not in place for this case. Nothing was ever given to us. It would now be inappropriate to initiate anything light of the work of the federal authorities.”

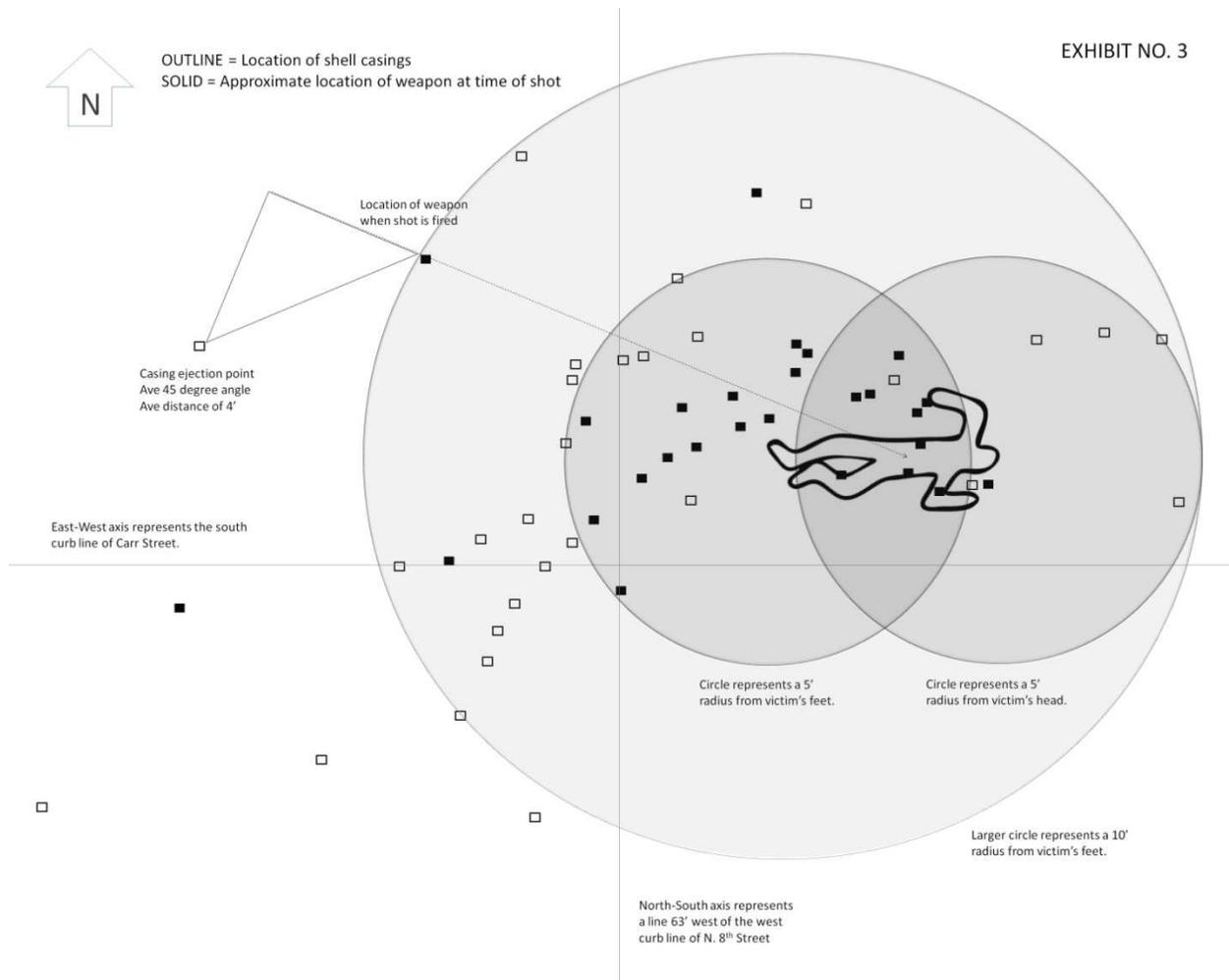
EXHIBITS



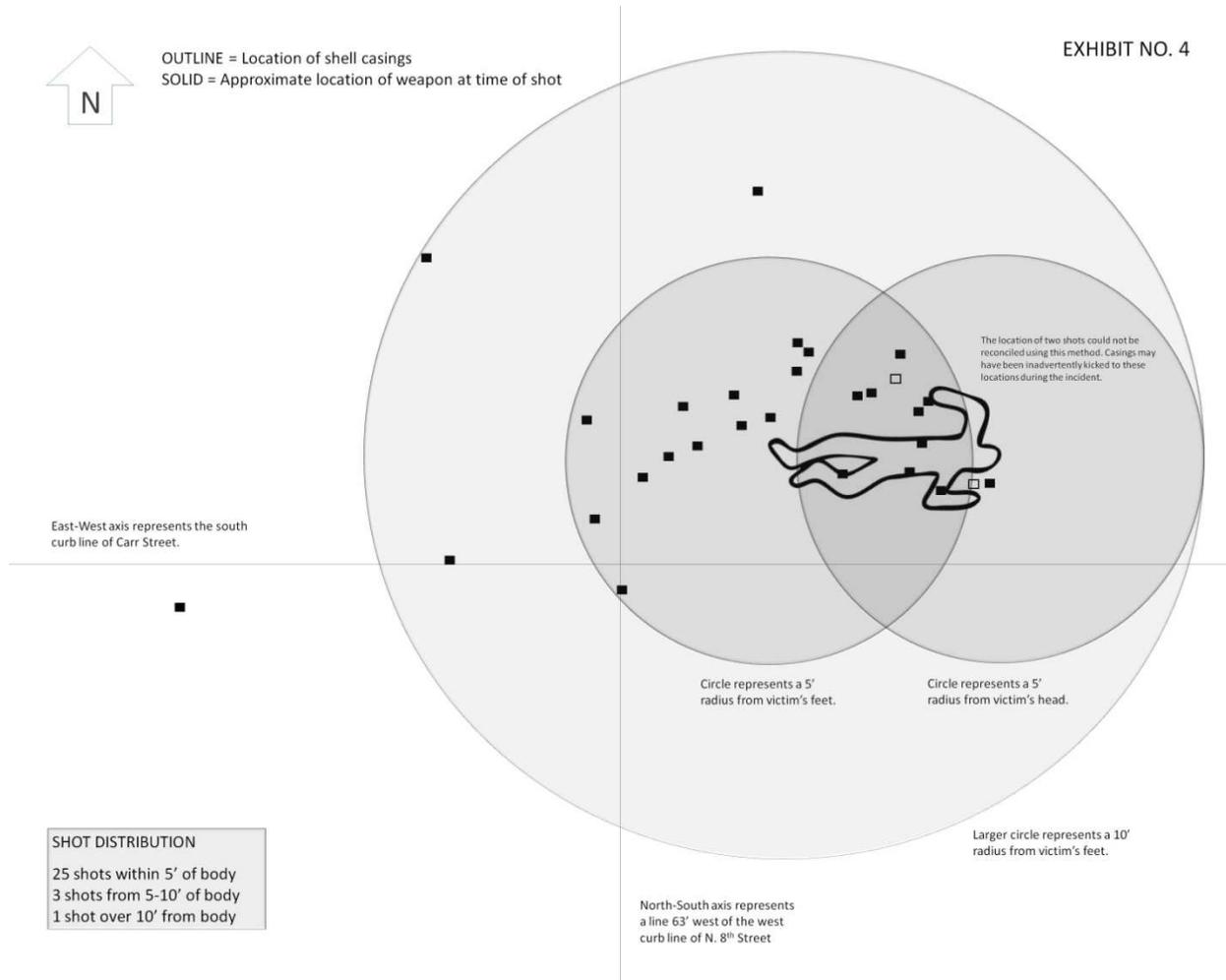
This exhibit shows the placement of the empty shell casings in relation to the body. The SLMPD evidence unit did not create such a chart. If they did, it was withheld when all other reports and documents were released pursuant to a FOIA request. The chart was possible because they did provide triangulated measurements for each of the casings and the body.



This exhibit shows the methodology used for placing the location of the officers' guns based on the empty casings. Assumptions used are that the casings were ejected at a -45 degree angle, and at a distance of 4'. This adjustment was then made for each of the twenty-nine casings found at the scene.



This exhibit shows both the location of the spent casings and the location of the officers' guns when the shots were fired. You can see a clear path of travel by both officers toward the body.



This exhibit shows the location of the officers' guns when the shots were fired. The legend to the left indicates the distance of the shots. Twenty-five (25) of the shots were fired from within 5' of Cary Ball Jr., or near point blank range. Of those, it would appear that at least a dozen of the shots were fired from directly above Ball as he lay on the ground. This chart was created with a conservative ejection distance of 4'. A longer ejection distance would put the guns even closer to the body.