

Statement of BENJAMIN [REDACTED] HARTY, DOB [REDACTED], taken at 1020 hours on 11/15/2017 in Suite 500, 701 Fourth Avenue South, Hennepin County Sheriff's Office, Minneapolis, MN. Questioned by Detective(s) Lisa Kasperek and Christofer Nybeck. Also present Eric Nelson, Attorney with the MPPOA Legal Defense Fund. Steno Jackie Fallon typing. Hennepin County Sheriff's Office Case No. 17014746.

ADVISORY

Before we start, I want to make it clear to you that this is a voluntary statement. This is an investigation into the death of RONALD LEE KLITZKA, DOB 11/20/1954. This investigation is being conducted by the Hennepin County Sheriff's Office, and the information gathered will be presented to the Hennepin County Attorney. The County Attorney may, and usually does, review for any criminal charges that are justified under the law.

Q Do you understand that this is a death investigation and that you are free to give or not to give a statement?

A Yes.

Q The information you have may be important to this investigation, but a decision not to talk to me today cannot be used against you in any City of New Hope employment matter. Do you understand that?

A Yes.

Q With that in mind, are you willing to provide us with a statement?

A Yes.

Q What is your full name, age and badge number?

A Benjamin [REDACTED] Harty, 36, Badge #80.

Q Are you currently employed as a licensed City of New Hope police officer?

A Yes.

Q How long have you been a licensed police officer with the City of New Hope?

A Almost nine years.

Q Do you have any prior law enforcement or military experience?

A I was a community service officer for the Bloomington Police Department for approximately three years. Prior to that I have five years of military experience with the United States Army. I was deployed to Iraq and Kosovo.

Q What is your educational background?

A I obtained a Master of Arts in Public Safety Administration in 2013 from St. Mary's University of Minnesota. I also have Bachelor of Science in Law Enforcement from 2008 at Metropolitan State University. I attended the Minnesota POST Certification Skills Program through the Center for Criminal Justice and Law Enforcement (CCJLE).

Q Are you currently employed full or part time with another police department?

A Yes. Annandale Police, part-time, and the University of Minnesota, part-time.

Q What shift are you assigned to work and what are the hours for the City of New Hope Police Department?

A Day Shift, 7:00 a.m. to 7:00 p.m., three days on three days off year round.

Q Were you working on 11/10/2017?

A Yes.

Q What were your hours that shift?

A 7:00 a.m. to 7:00 p.m.

Q What was your call number?

A 4126.

Q Were you in a fully marked squad car and wearing a standard issued New Hope Police uniform?

A Yes. I was wearing my regular duty uniform including a winter jacket, hat, and search gloves.

Q Do you have any other specialized duties with New Hope Police Department?

A SWAT. I've been a member of the SWAT team for over four years.

Q What is your specialty as related to your SWAT responsibilities?

A I am a sniper and an entry operator. I obtained my sniper certification through Snipercraft in August of 2016 in St. Cloud. I shoot at a rifle range monthly to maintain proficiency with my assigned rifle. I record each of those shots with a sniper log. I also have monthly entry training with the SWAT team. The SWAT team shoots three or four times annually, including qualifications. I also complete all continuing education requirements to maintain POST licensure, including firearms qualifications through the police department.

Q In that capacity are you issued any special equipment? If so, what equipment?

A Yes. Specific to sniper, I have a Remington 700, .308 caliber rifle, and it has a scope on it with a 4-12 power, as well as other equipment used for

surveillance including a range finder. And then entry equipment, I have an AR-15 as well as tactical gear including a tactical ballistic vest.

Q Where is that equipment stored?

A At the West Metro Fire Station #3 in the SWAT truck.

Q What is your department's policy on carrying your SWAT gear to include sniper rifle in your squad while on duty but not on an active SWAT CALL out?

A We don't have a written policy on any of that. I'm aware that we can carry it if we choose to.

Q At some time did you respond to a call in Crystal at the address 5128 Angeline Avenue North?

A Yes.

Q Is that typical that you would respond to assist another police agency even though you are employed by New Hope Police?

A Yes, very frequently. Larger scale incidents require multiple officers which is usually requested by the originating agency to assist. This is spelled out in mutual aid agreements between departments. The SWAT team is comprised of New Hope, Crystal, and Robbinsdale Police Departments to respond to any circumstances that rise to the necessity of SWAT.

Q What was the call to which you responded?

A Initially it was dispatched as a suicidal party with two guns to his head. At the time the call first aired I was processing an arrest for meth possession from an individual I arrested earlier in my shift. So, I didn't initially respond because I was completing the inventory and paperwork involved with that arrest. But I was still monitoring the call.

Q What did you hear via dispatch or radio?

A At the time I heard there was a history of suicidal calls or mental health calls related to this person. There was an alert already on file for that house.

Q You were aware of an "alert" being on the address of the call from prior incidents?

A Yes.

Q What was your understanding from that evening on what information was contained within the alert?

A I was unsure about what was contained in the alert but Sergeant Dorr did air that this individual has a past history of suicidal ideations, and we could consider this a legitimate threat. Sergeant Dorr aired on the radio to start notifying responding officers to take cover or approach slowly. I heard that he

wanted to either kill himself or he wanted the police to kill him. At one point it was aired that the suspect stated that he had a larger arsenal than the police. While I was listening to the call, Sgt. Brunner asked me on Channel 2 to get my sniper rifle and gear ready as I was likely going to be needed at this call. The SWAT team members have also previously discussed wanting SWAT officers to respond to large scale incidents where the SWAT team may be activated. This is in an effort to assist in determining at which scale the team needs to be requested, as well as offer any assistance where needed.

Q What happened next?

A When I completed my paperwork from the previous arrest, I went to the fire station and retrieved my sniper rifle and my AR-15. Then from there I just put those in the back seat of the squad car that I was using and responded routine to the incident.

Q While en route what did you hear from dispatch?

A We were getting updates from the sergeant on scene as well as assisting officers on an inner perimeter. We received an update that if the police came up to his house he was going to start shooting them and that he was going to blow the place up. While en route I also heard Officer Landherr air that the individual was now walking outside from the garage. He began airing that he could see the individual with a laser in his hand turning it off and on. He walked to the end of the driveway and then walked back up to the house. While he was walking back to the house, Officer Landherr aired over the radio that he could still see the laser being turned on and off and then suddenly aired that a shot had been fired by the suspect. In my training and experience, there are many weapons systems where lasers are attached to increase accuracy in shooting, and that could be both rifle and pistol. Over the radio I heard a shot fired. Officer Landherr then stated that the suspect went back into the residence. At or around that time, I asked Sergeant Dorr, who is a SWAT operator, if he wanted .308 support. His response was yes. He went further to tell me where to respond to by taking a walking path from Quail Avenue and Angeline Avenue south to the railroad tracks. He stated to travel west following the railroad tracks where I could meet up with the Robbinsdale officers who were directly south of the target address. Sergeant Dorr aired that he was preparing a team to approach to try a less lethal opportunity, however, also articulated that if we were confronted with a deadly force situation that we would still need to be prepared to do so if necessary. Sergeant Dorr was working with assisting agencies and assisting officers in setting up a perimeter and evacuating houses or asking the residents to shelter in the basement. And at some point during that time I stepped up from a routine response to using my lights to get to the scene quicker.

Q At what time did you approximately arrive on scene?

A Approximately 1800 or 1810.

Q: What equipment did you take with you when you got out of your squad?

A I immediately grabbed the sniper rifle case and removed my sniper rifle. Attached to it were several rounds and then I left the case and the night scope in the back of the squad car. I also had a backpack that contains other sniper equipment including my laser finder, sniper log, and some camo. Then I started walking down where Sergeant Dorr told me to go.

Q What happened next?

A I walked following the railroad tracks west behind the residence on the south side of Angeline Drive until I was able to locate the Robbinsdale officers that I was instructed to meet up with. And then I approached him and determined that his position would not be an ideal spot for me to observe or potentially shoot from. There was a 4' chain link fence around the yard that Officer Landherr was currently set up in which would've obstructed my view as well as making it difficult to shoot through if necessary. During a quick debrief with him he stated that he physically saw the male suspect shoot a round prior to my arrival from the garage.

Q What happened next?

A I went back to the end of the yard and jumped the fence into the next yard so I was out of sight of the suspect's view. I then took up a position approximately 10 or 15' west of where Officer Landherr still was, leaving the fence in between us. There was an air conditioner unit on the side of the house that I took cover behind which gave me a view of the entire front side of the suspect's house including the garage. This new location was directly south of the suspect's house.

Q What happened next?

A From there I gave Officer Landherr my laser range finder to get the distance between us and the target house while I got my rifle set up. In setting up my rifle I placed four rounds in my magazine and then chambered one round leaving the bolt up but forward, which means the rifle is in safe mode but still ready to fire when I drop the bolt.

Q What did you observe when you were at this position?

A I could see the whole front of the house but I had a tree blocking a partial view of the garage. That tree was in the yard I currently was in. Even though the tree was there I still had a clear view of the whole front of the house and garage. The attached garage was open with the light on and a red SUV in the left stall. The right stall was empty and I believe the driveway was empty. The front of the house had a large bay window with the lights on inside the residence. The window did not have any obstructions leaving a clear view into the house from my vantage point. From this view I couldn't see any other officers directly in front of the house or anywhere in my view. Over the radio I asked for clarification to make sure that I was viewing the correct house and

that was confirmed by Officer Landherr who was still to my right. Then Officer Landherr informed me that the distance from our location to the rear right tire of the vehicle in the garage was approximately 65 yards. Officer Landherr was using my laser range finder that I had previously given him.

Q Were you aware of the location of other officers?

A I was generally aware of where everybody was positioned. I believe the reaction team was to the east of the address. Officer Black was one or two houses to the west of my location on the south side of the street. I also knew of a perimeter officer west of the target address on the north side of the road. And Officer Landherr was directly to the right of me. There were also officers at the staging area.

Q At what point did you see the suspect?

A A couple minutes after getting the rifle ready and looking down the scope at the house, I saw the male suspect walking from west to east through the bay window. Officer Landherr confirmed that that was the suspect and then aired his observations. Sergeant Dorr also asked if the sniper was in position yet. And then Officer Landherr advised that the sniper was in position.

Q What was the suspect doing?

A He was just walking from west to east in the living room while talking to an unknown individual on his cell phone. He disappeared out of view to the right or east side of the residence in an unknown room. A short period of time later he re-emerged and stood directly in front of the bay window. He appeared to be holding a cell phone in his left hand. During the time he stood in the front window it appeared as though he was waving a laser device in his right hand. The laser light came on and off several times while he was standing in the window. Based upon the totality of the circumstances, I believed the suspect had a gun. At the time he appeared as though he was staring directly at Officer Landherr and my position. He stood there for what seemed like a minute staring straight forward with the phone up to his ear continuously waving that laser on and off. It was then aired that the suspect was threatening to shoot at the neighboring houses. I was concerned because some of the houses were not completely evacuated and there were occupants who were still in danger.

Q What did you hear over the radio at this time?

A While I was making my observations, I heard on the radio as Sergeant Dorr was requesting a Robbinsdale officer respond with the SWAT armored vehicle. During this time I believe Sergeant Dorr or another supervisor asked for a SWAT page out.

Q What happened next?

A I began to worry that he was getting ready to shoot in our direction so I shifted my position slightly left so that I was behind the air conditioner unit. Because he had already shot his gun once, and was threatening to shoot officers, I was fearful that he was going to shoot again in my direction based on where I was positioned. I was also not in a good position of cover or concealment if any rounds were fired in my direction. I advised Officer Landherr that I no longer had a visual of the garage and to notify me if he sees the suspect go into the garage. The suspect then walked back into the east side of the residence and shut the inside light off. At that point I could no longer see into the residence and determine if the party was there or not. I continued to monitor the front bay window and saw what I thought to be a shadow moving in the darkness. I relayed to Officer Landherr and he aired that information.

Q What happened next?

A Officer Landherr notified over the air that the suspect was now back in the garage. I adjusted my position where I could again see the entire front of the house. Because I could not find a position that allowed adequate cover with a clear line of sight, I had to place myself in a position with no cover or concealment. I chose this location as it was the most advantageous position available at the time. I was able to locate the male suspect in the garage as he was walking from the northeast corner to the southwest corner behind where the car was parked. It appeared as though the suspect had his left hand up to his ear and appeared as though his right arm was downward. During this time the suspect activated the laser several times.

Q What happened next?

A As soon as he reached the southwest corner of the garage, he turned around and walked back towards the northeast corner. As he began to walk back, I heard a loud crack that I knew to be a gunshot. During the time of the shot the suspect was obstructed by the tree so I didn't have a visual of where the suspect shot but I was confident it was him and not any of my officers due to the sound echoing from the garage, and all of the other officers were further away. This was also aired by assisting officers over the radio that the suspect had fired another shot. The suspect then came into view to the right of the tree and then I lost visual of him again while he was in the northeast corner presumably at the garage access to the home.

Q What happened next?

A I told Officer Landherr that I no longer have a visual of the suspect because he was in that corner. Officer Landherr aired that I did not have a shot. While the suspect was standing in that corner I could hear him screaming erratically. It sounded like he was screaming in an agitated and high pitched tone but I was unable to discern what was being said. I was not sure if he was screaming into the phone, however, another officer aired that he believed the suspect was screaming to himself. I could see his arms come into view

several times, however, I still did not have a full visual of the suspect while he stood in that corner.

Q What happened next?

A The suspect then began walking southwest towards the center of the garage at the apron where the concrete meets the asphalt. While he was walking the suspect continued to turn the laser on and off. He stopped right in the middle of the garage at that apron and appeared to still be talking on the phone in his left hand. His right hand was down at his side and he continued turning the laser on and off. About two to three seconds after the laser light was on, the suspect raised his right arm up to shoulder level and appeared to be pointing in my direction. I believed that the individual was now going to take a shot in my direction which could possibly strike myself, Officer Landherr, or any of the neighboring houses in the area which I was not sure if anybody was occupying at the time. I was also concerned that he may be turning to shoot at officers that were positioned directly to his left. With the laser sight attached, the suspect would have an easier time quickly locating a target to shoot at. Based on my training and experience I believed the suspect was holding a handgun because I had heard two separate gunshots, I had seen what looked like a laser sight, and he had made multiple threats to shoot officers and neighbors and also indicated that he had several weapons. After evaluating my backdrop for safety purposes and in order to stop the suspect from being able to shoot his gun, I squeezed the trigger on the sniper rifle taking a shot at his head.

Q Why did you choose that shot placement?

A In sniper training we are instructed to aim for the forehead in order to shoot the 4" cranial vault. This immediately immobilizes the suspect. Based on the power of my scope, I had the clearest view of the suspect and shot at immobilizing the threat. My optics on the scope enlarge the field of vision allowing me to have a better view of my target. My weapons system is better equipped to view the suspect's actions than any of the weapons systems the patrol officers had. I knew that there were no other snipers on scene.

Q What happened next?

A Once the rifle settled back into a stable platform I could see through the scope that the suspect was now laying on his back in the garage and was not moving. I then cycled the rifle and reloaded a second round.

Q What happened next?

A Somebody aired shots fired. At that time I aired over the radio twice, [REDACTED]. And then I said the suspect is down. At that time Sergeant Dorr acknowledged [REDACTED] and articulated what it meant over the radio. [REDACTED] is an operational term that our SWAT team uses when an officers fires his weapon to indicated that the shots were from a

police officer and not the suspect. At that time the team to the east walked up to the garage and began yelling commands, however, I could not determine what they were saying. I was still monitoring through my scope as they approached and observed the shirt of the suspect fly upward at the same time I heard another shot from the direction of the garage. It was quickly aired by Sergeant Brunner that it was a less lethal shot by another officer. Once the officers were in the garage, I lifted the bolt on the rifle placing it back into a safe mode.

Q What happened next?

A When the team advised they were Code 4 and asked for an ambulance, I aired that I would be standing by in my location. Once I saw the ambulance leave, I aired that I was going to make my way towards the street and that I needed somebody to sit with my equipment. Lt. Underthun approached me as I began walking into the front yard of my location. He coordinated somebody sitting with my equipment and escorted me east on Angeline towards the staging location. On the way to the staging location I was met with my SWAT commander and he stayed with me until I was able to get legal representation as well as my union rep.

Q What happened next?

A I was transported by my SWAT commander to the Crystal Police Department where I met with my attorney. The Hennepin County Sheriff's Crime Lab arrived and took photographs of my person as well as an inventory of what was on my belt. I was then escorted by Hennepin County investigators and a New Hope union rep and my attorney to North Memorial Medical Center where a blood sample was taken. And then I was released from the hospital by Hennepin County investigators pending a statement to be given a later date.

Q How many shots did you fire?

A A single shot.

Q Are you aware of any other officers who fired their weapons?

A Only one, less lethal.

Q: What did you do when you concluded your shift?

A I was escorted by Officer TenEyck to the New Hope Police Department where I removed my uniform and went home.

Q Is there anything else that you can think of that we need to know about this incident?

A Not at this time.

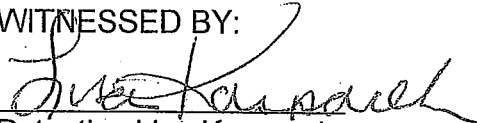
Q Is this statement true and correct to the best of your knowledge?

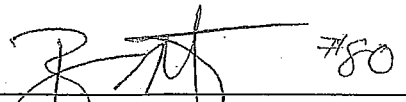
A Yes.

Q After reading this statement and finding it to be true and correct, are you willing to sign it?

A Yes.

WITNESSED BY:


Detective Lisa Kasperek


Officer Benjamin Harty

I hereby certify that I have received a true, full, and exact copy of the foregoing statement consisting of 10 pages.


Officer Benjamin Harty