

How did they kill Terrance Franklin
BY ED FELIEN

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May 10, 2013. At about 1:30 pm Terrance Franklin and his friend, Anquanette Hollman, were sitting in a 2002 blue Chrysler PT Cruiser at the back of the apartment building at 2743 Lyndale Avenue South. He was fixing a blunt (a hollowed out cigar filled with marijuana). Her two small children were in the back seat. They had just gone into the building and caught the attention of the maintenance person who checks the video surveillance cameras. He recognized the couple as the couple that had been suspected of a burglary in the building a couple of months before. He called 911 and told the police the two were on the property. He then carried a box outside to another car in the lot so he could write down the license number of the PT Cruiser, came back into the building and called 911 with a description of the car.

The couple probably smoked most of the blunt (the autopsy tested positive for marijuana) when suddenly they were surrounded by police pointing guns at them telling them to put their hands on the dashboard and throw the car keys out the window. Anquanette Hollman did as she was told, but Franklin just sat there. After a couple of minutes he started up the car and started to drive out of the parking lot. There was a police car in front of him with its door open. He drove past it and bumped the door, closing it. There was no dent in the police car just a paint transfer, but police radio reports said he “rammed” the police car. Anquanette screamed, “Don’t shoot. There’s kids in back.”

Franklin drove the car about two blocks and parked it in back of another apartment building, jumped out and started running through the neighborhood. He ran into Flanders Bike Shop at 2707 Lyndale, looked around nervously, checked the windows, ran to the back, leapt over a half door to the back repair room, couldn’t find an open door, ran back to the front of the store and out the door. He ran across Lyndale, cut through yards and across Aldrich to the back door of 2717 Bryant.

He broke the window in the door to gain entrance. In the kitchen he took some knives out of a butcher block knife holder, laid them on the counter and went upstairs, went through some dresser drawers, found about \$200 dollars and put it in his billfold, found a terry cloth bathrobe

and put it on. At some point he heard Sgt. Stender scream at the back door that he was a member of the Minneapolis Police K9 Unit and that whoever was inside should announce themselves or they would get bit. Franklin ran downstairs into the basement and hid behind a water heater in a closet under the stairs.

From the voluntary statement by Sgt. Stender: "When I came back [after getting his K9 partner, Nash] to the rear door of 2717 Bryant, 1280 [SWAT Team] members (Officer Peterson, Officer Durand, Officer Meath, Officer Muro) were standing and ready. I approached the door with K9 Nash and observed that the door was shut and not standing open. As I looked closer, I saw the hole in the glass and I also saw damage to the door and to the frame. One of the officers pushed the door open and we stopped. Inside on the floor, I saw broken glass and the locking mechanism for the door lying on the floor.

"Believing that this was a good burglary and before deploying my dog, I gave a loud verbal K9 announcement. I received no response and I again gave the same announcement. Again no response. I then released my dog into the residence and myself and team members started searching for the burglar. As we moved throughout the main floor, I continually identified ourselves as a police K9 unit and told whoever was inside to come or they would get bit."

They searched the main floor and the second floor and found nothing but a cat that ran past them into the basement.

"I then released K9 Nash downstairs and he started to search. I then heard a commotion in the southwest corner of the basement. As I approached, I saw that Nash had a cat in his mouth, and I told him to drop it. He dropped the cat and the cat ran past us to the main floor."

After searching the entire basement they finally came to the small storage area under the stairs: "He [Nash] quickly turned to the left, which was an open storage area directly under the stairway, but he did not find anything. I then stepped back as far as I could and also did not see anything under the stairs or anybody in the room. I then backed out but Nash would not come with me. He continued to air scent, stand with his head and nose up in the air attempting to locate the source of the scent. He then went back under the stairs and quickly came out and went to the area behind the water heater. Here he stuck his nose directly behind the water heater and hesitated. He then took his paw and moved something and then growled as

he was pulling something out. A black male wearing a black t-shirt then stood up, knocking stuff over, as Nash continued to hold onto a sweatshirt [probably the terry cloth robe] that he had in his mouth. Nash pulled the suspect out of his hiding spot, the suspect stood up and he then kicked at Nash. I then told the suspect that I needed to see his hands. Both of his hands were behind his back in the area of the small of his back. I could see that Nash had a hold of his sweatshirt causing his elbows to be pulled down and back. The suspect just stared at me. I then said, "Show me your f**king hands," and again the suspect just stared at me. Again I told him to show me his hands, and this time he twisted a little bit from side to side. Thinking that he might have a gun in his hand, I went farther into the room and punched him in the face as hard as I could. The suspect just stood there and looked at me with a vacant deep stare and did not respond to my commands. I was especially concerned because I had punched him very hard in the face and received no reaction from him. I then took my flashlight and struck him over his right eye as hard as I could. Once again the suspect just stood and stared at me with a deep vacant stare.

"I went deeper into the closet, grabbed the suspect by the head, and started to pull him out with a headlock while Nash was still on the suspect. I started to get him out of the closet as he continued to resist and attempt to pull away from me. Officer Meath then assisted me with getting him completely out of the closet and into the laundry room area. Officer Peterson then stepped in and I gave up my head position to him. I then heard an officer holler, "Don't be grabbing for my gun. Are you grabbing for my gun?" I then directed my attention down to Nash and saw that he had readjusted from the sweatshirt and now had the pants leg of the suspect. I then heard an officer holler, "He's got a gun. He's got a gun." And then I heard two separate gunshots. Officer Muro then told me that he'd been shot in the leg.

He dragged Muro out of the laundry room, saw that the door to laundry room had closed, cutting off almost all the natural light, and then decided the best thing he could do was take Nash up to the cruiser because he was a "huge distraction."

This report seems inconsistent and contradictory to Officers Meath and Durand's account of the incident.

Officer Meath: "As I made my way back into the cubby hole area to assist Sgt Stender as he was struggling with the suspect and attempting to

handle K9 Nash I did this as I feared for Sgt Stender's safety as he had no weapon drawn and I could not see both of the suspect's hands as they appeared to be behind his body. I immediately grabbed the suspect around his upper shoulders and attempted to pull his body towards my location and out of the cubby hole area. Once I grabbed a hold of the suspect he immediately started thrashing his upper body left to right using his elbows in an attempt to strike me. While I was holding him by his upper shoulders I attempted to deliver 2 to 3 knee strikes with my right knee into his stomach and chest area. On my last knee strike the suspect used my pulling momentum against me and exploded forward, pushing me backwards to the point where I lost a hold of his shoulders."

"Q. What do you mean when you say he exploded towards you?"

"A. As I was pulling his upper body forward towards my knee, he planted his feet and lunged forward as a football player would position himself for a tackle. I was slightly off balance as I was pulling the suspect in towards my body when he exploded into me, pushing me backwards. His actions caused me to lose my grip around his upper shoulders and I fell backwards into the wall area behind me."

Officer Durand's report: "As the suspect was nearly out of the space, he exploded out with force, striking me backwards into the laundry room. The suspect slammed me against the dryer which I hit with my back. He landed on top of me in front of the dryer and I was able to roll to my right where he was laying across me. As I'm knocked backwards, I take my right hand from the pistol grip of the MP5 [a machine gun pistol] to brace from the fall and double check my handgun, that it was still in its holster. As I was falling, I looked down and I could see that his finger was now inside the trigger well on my MP 5. I took my left hand and attempted to push the muzzle of the barrel down and away towards my left. I screamed, 'He's got a gun. He's got a gun.' And then two shots went off. And as I looked to my left I could see officers entering the room. I felt the recoil of the gun as it went off, with a short pause and a second shot. The suspect continued to hold onto my MP 5 as I struggled to maintain control. At this point I put both hands on top of the barrel in an attempt to bring it down, and I yelled again, 'He's got a gun. He's got a gun.'

"As I'm attempting to push the barrel down, the flashlight mounted to it is turned on and Officer Peterson was able to visually see what was going on and comes in close proximity to me and fires his weapon at the suspect

several times. Officer Peterson had taken a position partially straddling me putting the muzzle of my MP 5 in close proximity to his body armor to prevent anyone else from being shot. He did this as he fired his weapon.

“Q. So to be clear, can you describe the suspect’s position in relation to your position and then later Officer Peterson’s position?”

“A. As I was going down from being tackled, the shots were fired. I ended up with the suspect laying across part of my legs with his head near my right shoulder and Officer Peterson came in from the left, straddling over me and suspect.”

The next question and answer are very interesting:

“Q. At any time during this event did you pull the trigger on your MP 5?”

“A. No. During our training we index our finger along the selector out of the trigger well so that accidental discharges do not happen. The finger is indexed running parallel to the muzzle.”

Clearly this question was asked to allow Durand to counter the theory that many critics have about the conduct of officers during this event. Some people believe it is more likely that Officer Durand was firing his MP 5 at Terrance Franklin and missed and hit Officers Meath and Muro, and that Franklin came in close to Durand and used his body to keep the MP 5 pointed down at the floor rather than at him.

“Q. Can you describe how your MP 5 was secured on your body during this incident?”

“A. I use a single point sling that goes around my neck and left shoulder.”

So, according to Officer Durand, Terrance Franklin runs at him, pushing him back against the dryer in the laundry room, grabs his gun (while still attached to the sling), turns around and fires at two other officers, hitting them both in their legs. That would have been an amazing feat for someone with no training in firing an MP 5 and shooting in almost total darkness. And it raises the question of why he didn’t shoot Durand and gain complete control of the MP 5?

A more likely scenario would be that Durand was pushed back against the dryer and fired off two rounds while still in command of his MP 5 and that Terrance Franklin then rushed at him to keep the gun from being pointed at him.

Officer Peterson was standing just behind Sgt. Stender when he was trying to pull Terrance Franklin out of the cubby hole. Peterson: "Then the suspect started to wildly throw punches as he drove himself out of his utility closet with his head down. The suspect punched me in the side of the face with a wild swing, which caused my sunglasses that were on top of my head to fly off. The suspect was charging at me with his head down like a bull and hit me full force, knocking me to the wall. At this time I remember attempting to control his head by grabbing it and wrapping his long dreadlocks in my fingers. I then attempted to pull him down to the ground, but he began to thrash his head left and right to free himself from my grasp. All of a sudden the suspect was free from my grasp and I remember looking and seeing his hair that had been ripped from his head in my hands. The suspect then hit Officer Durand, who was to my right and the suspect's left. The suspect struck him like a football player tackles someone with their head down. I remember seeing the suspect take Officer Durand off his feet and he drove him into the darkness of the laundry room."

"Q. What did you hear next?"

"A. I heard a loud collision with what I knew to be the dryer. It sounded like a loud metal bang that had been caused by the force of an impact. I knew that it was the dryer because I had remembered the layout of the room and knew that the dryer was on the northeast side of the laundry room. I entered the dark room and tried to locate both Officer Durand and the suspect."

"Q. Could you hear Officer Durand and the suspect wrestling around?"

"A. I don't hear the fight that had ensued but I did hear Officer Muro begin to scream that he had been shot. I also remember hearing Officer Heath screaming that he had been shot as well."

"Q. When these officers were shot, where were they in relation to you?"

"A. Officer Muro was directly behind me and I knew this from his initial screams. Officer Meath was to my left and slightly behind me as I could hear his screaming as well."

"Q. Knowing that two officers had been shot, what did you do next?"

"A. The suspect was going to continue to shoot at us so I collapsed into the submachine gun. I did this because my brain told me to trap the barrel of the gun with my bullet proof vest. I instinctively knew I would survive gunshot rounds to my vest and I also knew that by doing this it would prevent officers behind me from taking additional gunshots. I used myself

and vest essentially as a body bunker for the officers behind me and to prevent the suspect from shooting me in the head.

“I could feel the submachine gun being worked by the suspect against my body weight, so I reached out in the darkness and felt for his head. I need to do this because the light was either trapped by my body or had shut off. The barrel of the submachine gun was still trapped by my midsection and I could feel that the suspect was still trying to work the weapon and was in control of it. I remember feeling the dreadlocks in the suspect’s hair again and knew in the darkness where he was at. I also knew that Officer Durand was close to the suspect’s head so I brought my handgun close to me and at a different angle as to not shoot Officer Durand. I knew that I had to kill the suspect to prevent getting shot so I shot him.”

“I believe I shot two to four times.”

According to the Hennepin County Medical Examiner’s Report, Terrance Franklin was shot seven times in the head, all the bullets entering from the right side. Assuming Peterson held Franklin’s head in his left hand and shot him with his right hand, then Franklin had to be facing away from him and facing Durand. So Franklin could not have been firing the MP 5 at Muro and Heath. It seems more likely Durand fired the two rounds and hit Muro and Heath accidentally, and that Franklin then tried to deflect the gun’s aim away from him.

Officer Heath also claimed to have fired at Franklin at this time. Peterson said, “Officer Heath’s shots were in such close succession to mine that I believe that is why I did not hear the gunshots.” According to police testimony, Peterson was lying on Franklin who was lying on Durand. The three bodies were on top of each other in a tight sandwich. Heath says, “I remember I could see the silhouette of the suspect’s dreadlocks from his head and his upper shoulder area. I remember firing in this direction as it was the only area that I knew I wouldn’t strike Officer Peterson. As I observed Officer Peterson was directly on top of the suspect’s chest area and struggling over what I believed to be a firearm between their bodies.” But this is impossible. How could Peterson from that position reach up, grab Franklin by the dreadlocks and shoot him? If Peterson is right that Heath shot at the same time he did, then it is difficult to see how he could have had a clear shot at Franklin. There are so many inconsistencies and

contradictions in the testimony of the officers that it calls into question the truthfulness of the report.

A more plausible scenario is that Franklin head-butted Durand into the laundry room. Durand got off two shots in the general direction of Franklin before Franklin got to him and struggled for the gun to point it away from him. Peterson came up behind him, grabbed him by the hair and shot him seven times in the head. Heath may have shot Franklin three more times as he lay on the floor dead or dying.

We will probably never really know what happened in the basement of 2717 Bryant Avenue South on May 10. The testimonies of Stender, Peterson and Durand were not taken until May 13, and the testimonies of Muro and Heath were taken on May 24. That's plenty of time for the officers to get together and come up with a plausible tale they could all agree to. When police officers collaborate to tell a tall tale to the Grand Jury, former Minneapolis Police Chief Tony Bouza calls it testi-lying.

What do we learn from this?

Isn't it customary procedure in a civilian homicide to interview the principals immediately and separately? Why did the MPD allow three days before taking statements from the five officers involved in the homicide?

Is it MPD protocol when confronting a burglary suspect to scream at him, swear at him, slug him as hard as you can and then hit him across the eye with your flashlight? Or, does that protocol only apply to black suspects?

Does it really make sense for the Hennepin County Attorney to investigate homicides in which MPD officers are involved? The Hennepin County Attorney maintains a close working relationship with the MPD which means there is an inherent conflict of interest in the County Attorney's office investigating possible criminal actions by the MPD. Shouldn't MPD homicides be referred to the U S District Attorney (as a possible violation of civil rights) and be investigated by the F B I?

Finally, why weren't the people in charge who were responsible for reading the Police Report outraged by the inconsistencies, contradictions and obvious police misconduct in the murder of Terrance Franklin?

How could Chief Janee Harteau pass on this police report without firing Sgt. Stender and investigating the obvious contradictions and inconsistencies in Officers Peterson and Durand's testimony?

How could Hennepin County Attorney Mike Freeman allow such a flawed report serve as a whitewash of the actions of the SWAT Team Unit 1280 before the Grand Jury?

Mayor Rybak has primary responsibility for civilian oversight of the police. Why has he been silent?

As Chair of the City Council's Public Safety Committee, Don Samuels has the primary City Council responsibility to monitor police behavior and guard the public interest. Why hasn't he spoken out?

What has been lost?

Terrance Franklin was not a model citizen. He was a misdemeanor outlaw involved in petty crimes, didn't have a job, wasn't interested in an education, probably lived off the generosity of women who loved him, and probably was stoned most of the time. But he didn't deserve to be beaten and murdered in the basement at 2717 Bryant.

Officer Meath almost lost his life and will probably walk with a limp for the rest of his life.

The bullet that hit Officer Ricardo Muro did even more damage: "The round struck the upper part of my femur, which ended up shattering it in about three different places. I ended up having to get several blood transfusions during surgery and another one a couple of days later due to the fact that I had lost so much blood. I also ended up having to go through an approximately 5-hour surgery where a titanium rod was inserted into my femur. The rod is also being held by four screws, two by my knee and another two by my hip."

"Q. Were the doctors able to completely reconstruct your femur bone?"

"A. No they were not. Some of my femur is missing and at this point it is unknown if I will be able to go back to 100-percent status as I was before the incident."

"Q. Are you currently on any medications to control the pain from this gunshot wound?"

"A. I am. I take one Percocet at night just to help me sleep because of the pain caused by the injury. I am also on a blood thinner, which is an injection that I have to give myself in the stomach area every day since the doctors are worried of blood clots in my leg since I am unable to move it."

This is a tragedy that didn't have to happen. And you can point to the one exact moment when it all went bad. When Nash had found Terrance

Franklin and he stood up, Sgt. Stender came over to him and began screaming and swearing at him. The only response from Franklin was a blank stare. He hit Franklin and again the only response was a blank stare. He hit him as hard as he could across his eye with his flashlight, and all he got was a blank stare.

Wouldn't it have been much better when Franklin stood up for Sgt. Stender to back off and calmly explain the situation to him. It's possible Franklin might still have resisted arrest, but Terrance Franklin was 5' 10" tall and weighed 173 pounds. There were five police officers in the basement with machine gun pistols pointed at him and a police dog biting him on the leg. There was no real indication that Franklin was armed. None of the people who had seen him said he was carrying a gun, and if he did have a gun behind his back it would have been suicide by cop to pull it out and start shooting. Rather than escalate this event into the tragedy it became, this would have been the moment to calm things down.

Is that asking too much of the police? Is asking them to be calm, cool and professional in their official conduct asking too much?

There are 2,800 Crisis Intervention Teams (CIT) operating in 45 states. These are teams of police working with community resources in mental health. Mental health professionals accompany police on calls where there is a possibly mentally disturbed suspect. There is a training program for CIT in Minnesota. Almost ten years ago, I wrote that the well-respected black poet, "Gregory Samples was driving his car erratically and ended up ramming a police car. Barbara Schneider was playing her radio too loud and was chased by the MPD into her bedroom where she was defending herself with a butter knife. Abu Jeilani was walking up Franklin Avenue whacking cars with a machete and a crow bar. Granted, they all should have been restrained, but there was no credible justification for killing these three disturbed individuals. The fault for the use of excessive force can only be attributed to improper training."

Nothing has changed with the MPD. It's time for the public to demand that the MPD institute CIT training. It's way past time for our elected officials to hold our police department to the highest possible professional standards. To continue on the path we're on will lead us to more violence, chaos and self-destruction.

The MPD would do well to think about their own motto: "To protect with courage. To serve with compassion." Courage doesn't mean macho

bravado fueled by adrenalin. Hemingway said courage meant grace under pressure. And compassion means reaching out to everyone in our community even if they are poor, or minorities, or obviously troubled. If you're not capable of that kind of compassion, then you're not worthy to wear the uniform.

Afterthoughts:

The 228-page police report of the killing of Terrance Franklin has contradictions and inconsistencies that should have set off alarms for Police Chief Janee Harteau, Mayor Rybak, County Attorney Mike Freeman and Minneapolis City Council Chair of the Public Safety Committee Don Samuels. There are clear and arrogant admissions of the use of excessive force. There are serious questions as to whether Terrance Franklin was in control of a weapon or was simply executed. An analysis of the police report is available on the Southside Pride website. Go to www.southsidepride.com and type in Terrance Franklin in the search window at the top of the page. Former Minneapolis police chief and author of "Expert Witness," a catalog of 20 years of testifying against police misconduct, Tony Bouza reacts to my analysis and summary:

How to respond.

A tangled and confused scene.

Franklin did not help his cause by smoking marijuana and fleeing. The cops, appropriately, did not shoot at the fleeing car—but the flight itself was a serious mistake by Franklin.

The cops had an affirmative responsibility to respond and investigate.

This is the key point—once contained and secured they should have backed off and negotiated. The cops have a lot of experience with this and I always made it an imperative that negotiations follow the securing of the area. This could have been done easily, given the circumstances.

I tend to agree that Franklin probably shot the cops and they shot him. Honest folks can differ on this but the salient feature is that the officer lost control of his weapon. "Failing to safeguard" is the operative phrase. The vulnerability of the police version lies in the use of really poor tactics.

I need to address the issues you raised because they deserve attention. Using the dog, striking Franklin and trying to subdue him make a measure

of sense, and I can understand the hesitancy of officialdom to criticize—especially given the nature of the cops’ wounds.

The fact that Franklin had no firearm is central.

What I finally concluded—without hubris—is that it is a tangled web. They have training in negotiations, containment, etc., and they failed to employ them. Changing tactics is not the issue in this case. The fault lies in not employing them.

What then is the remedy?

1. a tough reform chief, which is a clear lack here;
2. media exposure—which you’ve done with distinction—but it requires broader coverage;
3. FBI investigation, which you describe. Good luck with that one;
4. and, probably the best bet in this case, a civil suit. It cries out for that sort of examination and scrutiny, and it holds the promise for a chastening lesson for city officials.

Sooner or later the public is going to awaken to the fact that their pockets are being picked. An onerous and unnecessary additional tax.

Indemnification is tantamount to impunity. I know we’ve all broken our lances on this particular windmill, but that is what we do—right?

Tilt away!

Godspeed!

Ed Felien responds:

I respectfully disagree with Tony Bouza’s assessment of what happened in the basement at 2717 Bryant Ave. S. on May 10, 2013. According to police statements, when Sgt. Stender and Officer Meath pulled Franklin out of the cubby hole he at first resisted, then using their force against them, Franklin catapulted past them knocking Officer Durand into the dryer in the next room. Officer Durand had an MP 5 automatic pistol on a shoulder strap that went over his head. It seems possible that Officer Durand could have lost control of this weapon, but it seems highly improbable that Franklin could have gained enough control of the weapon to turn around and point it at approaching officers. It seems much more likely that Durand got off two rounds, striking Officers Muro and Meath, before Franklin laid across him preventing him from lifting the gun up and firing it directly at him.

Assuming Officer Peterson fired his pistol with his right hand, and from the medical examiner's report we learn that Franklin was shot seven times in the right temple, we have to conclude that Peterson came up behind Franklin, grabbed him by his dreadlocks in his left hand and shot him with his right. And, it seems reasonable to conclude, if Franklin was facing Durand he couldn't have fired the two shots at Officers Muro and Meath. Officer Meath claims to have shot Franklin three times while he was sandwiched in between Officers Durand and Peterson. This seems an improbable feat for a man slipping in and out of consciousness to be able to hit so small a target in a dark basement. It seems more likely that Meath shot Franklin while he was lying on the basement floor. The police and city officials should have raised questions about the police report. The case should never have been sent to the county attorney, who has to maintain a working relationship with the Minneapolis Police Department, but should have been sent to the FBI and the federal district attorney.

Tony Bouza is probably correct when he says probably the only remedy, and the only way we will ever reach an approximation of the truth in this matter, is for the parents of Terrance Franklin to bring a civil suit against the city.

Until this matter is publicly and fairly dealt with, there is blood on everyone's hands: on the mayor's and the City Council's, on the chief of police's, on the County Attorney's Office's and on the media's, whose silence makes them complicit in the continued abuse and murder of young black men by the Minneapolis Police Department.