

NARRATIVE OF INCIDENT OCCURRING APRIL 2, 2015 AT
2000 N. HARVARD BY TCSO RESERVE DEPUTY
ROBERT C. BATES

PERTINENT BACKGROUND INFORMATION:

Full name: Robert Charles Bates

Age: 73

Rank: Reserve Deputy

Badge number: 629

Previous law enforcement employment: Tulsa Police Department 1964-1965

Law enforcement experience and training: I attended the Tulsa Police Department Academy in 1964 and worked there until the end of 1965. I became an advanced TCSO Reserve Deputy in 2007. I began working with the TCSO Violent Crimes & Narcotics Task Force in 2008. I have attended numerous schools and seminars related to drug investigations and the tactical operations associated with the apprehension of suspects involved in drug trafficking. I have also attended a 5 day homicide investigation school in Dallas, Texas, as well as received training by the Maricopa County Arizona Sheriff's Department on response to active shooters.

Medications: Edarbyclor 40 mg. and Metoprolol 100 mg., once a day at bedtime for control of blood pressure.

Weapon: Smith and Wesson .357 Air weight 5 shot revolver. It is a personally owned weapon. It has a laser sight which illuminates when the handle is gripped. The ammunition I carry in the gun is Federal Premium .38 Special, 110 grain. I last qualified at the range in the fall of 2014.

Less Lethal: Model X26 Taser with a laser sight. I have been Taser certified for at least 3 or 4 years. My training records would indicate the exact date of my certification. I also had a pepper ball launcher with me as well.

The number of the unit I was driving on the date of the incident was 1038. My radio designator is X-Ray 33.

NARRATIVE REGARDING INCIDENT:

On the evening of April 1, 2015, I called Task Force member Lance Ramsey to see if there was a pending operation where my services would be needed. He advised that the Task Force would have three operations the next day; one buy bust of a gun and ammunition followed by two search warrants to serve the next morning. One of the search warrants would be at Eric Harris' apartment and the second one on another suspect named Kilmer. Deputy Ramsey told me to be at a briefing which would take place at about 0830 on April 2, 2015, in the Task Force office at the Faulkner Building. That evening I retired to bed between 2200 and 2230 hours, and woke up the next morning at 0615. That is my normal sleep pattern. Prior to going to bed I took my prescribed blood pressure medicine.

On the morning of April 2, 2015, I got up and ate breakfast, got dressed and arrived at the Sheriff's office at about 0825. Shortly thereafter Deputy Lance Ramsey gave an operational briefing for the three tasks we had that day. The first one he discussed was regarding the suspect named Eric Harris. Deputy Ramsey had a picture of Harris, which was passed around the room for all of us to look at. I remember Ramsey advising Harris was a convicted felon and described him as a "bad son of a bitch." Ramsey also mentioned that Harris had gang affiliations. Ramsey also said Harris was

known to carry a gun and should be considered armed and dangerous. Ramsey reported that he had bought ICE from Harris on two occasions in the last few days. Since Harris had offered to sell Ramsey a gun, it was determined it would be safer if Ramsey bought the gun from Harris first and then arrest him, so that Harris would not be at home with the gun when the search warrant was served. Ramsey advised he was going to meet Harris in the parking lot of the Dollar Store. There was a diagram of the area on the marker board and everyone was given predetermined locations to wait at while Ramsey made the purchase of the gun. Then, after Ramsey gave a signal that the purchase had been made, a nearby arrest team would move in on Ramsey's car and take Harris into custody.

I drove my unit to a location on Harvard further north from the Dollar Store at 1900 N. Harvard, at a Sinclair gas station between Woodrow and Xyler streets. I was in my unit by myself. Also at my location were two other units. One was K-9 officer Evan Foster and the other was a two person unit with Miranda Munson driving and Ricardo Vaca in the front passenger seat.

A short time later I heard over the radio that the arrest team was moving in, so I and the other two units at my location started to drive slowly south towards the Dollar Store parking lot. Foster was in the lead, Munson and Vaca were next, and I was the last vehicle. As I drove closer I could see the suspect running eastbound out onto Harvard and saw Foster use his unit to block his escape path to the east. Harris then turned and began running northbound on Harvard. Munson and Vaca came to a stop just as Harris was running full speed past their unit. At that time I noticed that Harris was running in an unusual way because as he ran he repeatedly touched his right hand to his waistband

area on his right side. Based on my past experience, primarily with the task force, and my past training, I believed that Harris might be carrying a gun, which would be consistent with what Deputy Ramsey had said in the briefing.

Deputy Vaca jumped out of the passenger side of the unit he was in and began sprinting after Harris. Harris had moved to the sidewalk on the west side of the road and continued to run north. As I brought my unit to a stop Harris ran past my location with Vaca in hot pursuit. Not knowing whether the suspect would be caught by Vaca as I got out of my vehicle, I grabbed my pepper ball launcher. As I turned to look north I could see Vaca had finally gotten close enough to reach out and grab Harris by the shoulders and try to pull him to the ground. Harris resisted Vaca's efforts and was staying on his feet. As I approached their location by moving to the north I held the handle of my pepper ball launcher in my left hand and used my right hand to open up the gas valve. (I shoot long guns left handed and handguns right handed.) My intention in selecting the pepper ball launcher was to be able to try and contain the fleeing suspect and perhaps slow him down so the pursuing deputies could catch him. As I got closer, it appeared Harris, who was now on the pavement, pulled his arms underneath him away from the grasp of the deputies fighting with him. It appeared his left hand was near his waist area, but Harris was still trying to get up to his feet. There were now at least two other deputies trying to get control of Harris. It appeared to me that there was a very brief opening which would allow me to tase the suspect on the back near his right shoulder. I then decided to utilize my TASER and remember thinking I have to deploy it rapidly, as I still thought there was a strong possibility Harris had a gun on him. I then drew what I thought was my TASER and announced "Taser! Taser!" I recall Deputy Layman Boyd,

who was on his knees and engaged with Harris, leaning back away from Harris after I made my Taser announcement. I pointed at his right upper back/shoulder area and deployed. I suddenly felt a strong recoil which was totally unexpected and startled me and caused my right hand to loose its grip. I then realized what had happened and immediately uttered "I shot him! I am sorry!" I also made an additional comment which I cannot recall at this time. I was told later, and confirmed by the Vaca recording, that I reached down quickly to pick up my gun off of the pavement and placed it in my holster on the right side. I have no recollection of dropping my gun or picking it up. I then began asking for someone to call for an ambulance, and backed up a few more feet to get out of the way of additional deputies arriving at the scene of the struggle. Harris continued to resist and try and get away. The other deputies were finally able to get handcuffs on him. From the time Deputy Vaca pulled Harris down to the street after chasing him, until I attempted to tase Harris, only about 5 to 10 seconds passed. The incident was rapidly evolving and my decision to use my Taser was a split second one. My training on ground fighting, even going back to when I was on the Tulsa Police Department, has been that it is one of the most dangerous situations an officer can experience. Even if a suspect is not armed himself, his close proximity to a deputy's gun while fighting on the ground makes the suspect a potentially armed suspect. All of this made my effort to get Harris subdued by using my Taser of the utmost urgency.

After realizing what had happened I was in a state of shock and disbelief.

After about 10 minutes or so, EMSA arrived on the scene and one of the paramedics kept asking Harris what he had been taking. Initially Harris did not say anything, until one of the firemen on the scene emphasized the importance of the

information since they were trying to help him. Harris finally said "PCP." I personally heard this conversation myself. PCP is the street name for phencyclidine, a hallucinogenic drug that can cause people to be psychotic and allow the person to display tremendous strength and resistance to pain.

Sgt. Dave Roberts then took me to his unit and placed me inside. A short time later David Kerpon from TCSO Internal Affairs Division transported me to the Faulkner building. The next thing I recall, my lawyer, Scott Wood, arrived. After consulting with him he advised investigators that I would be giving a statement at a later time due to my being so upset and distraught over this incident.

My intention was to deploy a less lethal device, a Taser, to end the struggle and resistance by Harris and remove the threat posed by Harris possibly being armed with a deadly weapon. The urgency to get Harris under control and restrained cannot be overstated. But never did I intend to use any force above the intermediate force level at that instant to aid in taking Harris into custody. Despite the fact that I thought Harris might have a gun, by both the information from Ramsey, but also the way I saw him run down the street, along with my knowledge of the one plus rule, I never intended at that moment to use deadly force. I believed that I was acting appropriately and in a reasonable manner by deploying my Taser to end Harris' resistance and preclude anyone from having to resort to great force. This tragic incident was a critical incident for me and the other deputies.

During my service with the TCSO Violent Crimes/Narcotics Task Force I have been involved in similar assignments as I was on April 2, 2015, on at least 100 other occasions.

This statement contains what I am able to recall at the present time.

Robert C Bates 4/6/15
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10:30 AM