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INTERVIEW WITH DEP. DEVIN FONTANA

Q=Sgt. Paula McAllister

Q1=Sgt. (Omey)

A=Dep. Devin Fontana

A1=

A: Yeah, okay.

Q: You did get dressed up for us.

Q1: All right.

A1: He did.

A: Well, he asked if I could come right away, so...

Q: No, you're fine. Don't worry about it. You're good.

A: I woulda put on my classy tie. It's (Unintelligible)...

Q: That's what everybody else wore, but whatever.

A1: You shoulda said, where are you?

A: It's a new day.

A1: I'll be right down.

Q1: All right. Ah, uh, today's date, August 6, 2010, uh, the time is 1055 hours. Sergeant (Omey) and Sergeant McAllister, here, uh, asking some follow-up questions with, uh, Deputy, uh, Fontana. Present with Deputy Fontana is his attorney, uh...

A1:

43 Q1: Uh, e- uh, Devin, uh, you had time to, uh, talk to your, uh,
44 counselor, your attorney about this?
45
46 A: I have.
47
48 Q1: About talkin' to us and...
49
50 A: Yeah.
51
52 Q1: ...you're comfortable talking with us?
53
54 A: Yes.
55
56 Q1: Okay. Um, you know, unfortunately, we do have just a few more questions to
57 ask you. Um, and one question we wanna know is, uh, how your weapon and
58 magazine was loaded that day and how many rounds you put - put in, uh, and
59 so forth?
60
61 A: Um, so my rifle was, uh, had one in - one in the chamber.
62
63 Q1: Okay.
64
65 A: Um, the magazines were actually loaded by, uh, other people at the last
66 SWAT training. Um, I was, uh, o- occupied, doing something else. And some
67 of my partners decided to help me out and load the magazines to, uh, expedite,
68 uh, my return to training. Um, so what I can tell you is that, uh, I had an even
69 number of rounds in my magazine and that it felt full, but I don't recall, or I
70 don't know for sure if there were 28 or 30 rounds in it...
71
72 Q: Okay.
73
74 A: ...um, or 26.
75
76 Q1: Okay. And you're not sure, ah, which partners, ah, helped load it?
77
78 A: No, I'm not.
79
80 Q1: Okay. So, normally, it would be either 28 or 30?
81
82 A: Normally, it would be 30, and I'm pretty sure it was 30. That's standard.
83
84 Q1: Okay.

85
86 A: Um, and I, uh, I always confirm, when I load my weapon, that I did chamber a
87 round and I do that by removing the magazine and feeling, um, what side the,
88 uh, the, uh, top round is - is on the inside of the magazine, right or left. So,
89 um, I know for sure that I had a, uh, an even number of rounds in the
90 magazine. It felt full, um, but, uh, I'm not positive if I had 30 rounds or not. It
91 shoulda been 30.
92
93 Q1: Okay.
94
95 Q: Okay.
96
97 A: That's al- (all-wee) - always, every - every single time is - is 30 rounds. So...
98
99 Q1: Okay. All right. Now, the other question I have for you is, uh, when you fired
100 your weapon, do you remember, ah, what position you were? Were you
101 standing, kneeling?
102
103 A: I was standing.
104
105 Q1: Okay.
106
107 A: Uh, unsupported.
108
109 Q1: Okay.
110
111 A: Which means I didn't have anything to place my weapon on or support my
112 arms or anything like that. Just basically standing under my own power.
113
114 Q1: Okay. Now, when you fired your weapon, did you see any of your rounds, uh,
115 impact on the suspect?
116
117 A: No.
118
119 Q1: No? Okay.
120
121 Q: Did you notice any, um, movement from him or anything that - that showed
122 that maybe there was impact, any rounds impacted him when you were
123 looking at him?
124
125 A: Um, he fell down.
126

127 Q: Okay.
128
129 A: That's all.
130
131 Q: Okay.
132
133 Q1: You know, I think last time, uh, when, eh, when we interviewed you, you
134 mentioned that he was, uh, muttering, you might've heard him murmuring or
135 makin' some kind of sound. Does that ring a bell to you at all? Do you
136 remember that?
137
138 A: Um, I remember when he was out of - I couldn't - I could no longer see him.
139 He...
140
141 Q1: Okay.
142
143 A: ...was out of my sight. I could hear some moaning.
144
145 Q1: Okay.
146
147 A: And that's it.
148
149 Q: When you say he was out of your sight, where - when was that during the
150 incident?
151
152 A: It - after he, uh, after I fired my weapon and he...
153
154 Q: Okay.
155
156 A: ...fell.
157
158 Q: Okay.
159
160 A: Um, I lost sight of him.
161
162 Q: Mm-hm.
163
164 A: And uh, um, there was a lot of yelling goin' on. I was yelling, you know, but,
165 uh, I could - I - I heard some moaning.
166
167 Q: Okay.
168

169 Q1: Do you remember w- ah, when you stopped hearing any sound coming from
170 him?
171
172 A: No, I don't.
173
174 Q1: No? Okay. Now, regarding, uh, the weapon you used, uh, have any
175 modifications been made to it?
176
177 A: Um, as far as, uh, from a - from a basic, uh, AR-15? 'Cause, um...
178
179 Q: When you were issued it?
180
181 A: Yeah, um yeah. Um, Sergeant Spagnola and the range master put on the
182 weapon, uh, a flashlight, uh, a scope, uh, four-powered scope, a collapsible
183 stock, um, and uh, a foregrip, if you'd - it's - it's a - a grip on the front of the
184 rifle that, uh, points down at the ground. Um, and also I - I painted the rifle.
185
186 Q1: I'm sorry, what was that?
187
188 A: I painted the rifle.
189
190 Q1: Painted it?
191
192 A: Uh, yeah.
193
194 Q1: All right.
195
196 Q: What color?
197
198 A: Um, green and tan and...
199
200 Q1: Camouflage-type thing?
201
202 A: ...and brown.
203
204 Q1: Yeah. okay. Any more questions?
205
206 Q: Terry? No?
207
208 Q: That was it.
209
210 Q1: That's...

211
212 Q: It's just that easy. A- actually, I'm sorry. Just one clarification. When was your
213 last training that someone else, um, loaded your magazines for you? When
214 was that training? Do you know?
215
216 A: It'd be about a month ago.
217
218 Q: Okay.
219
220 A: I'm not sure of the exact date.
221
222 Q: Okay - okay. Cool.
223
224 Q1: Bet you're glad you dressed up now, right?
225
226 A1: We were gonna wait - yeah.
227
228 Q: You goin' runnin'?
229
230 A: I - I would have loaded my own mags if I knew, um - um, yeah, I was gonna
231 work out. I was gonna stay back.
232
233 Q: Is it your first...
234
235 A: The recruit - the recruits are all occupied with, uh...
236
237 Q: There you go.
238
239 A: ...with Benner and Smith, doin' arrest and control, so...
240
241 Q: Oh.
242
243 A: ...I was gonna go work out and maybe run through the (damper), you know?
244
245 Q: Oh. Is it a good run?
246
247 A: Yeah. It's a per- one of the perks of the assignment.
248
249 Q: Yeah, that would be nice.
250
251 A1: Yeah, I wish I had the perk. I guess you can run down 1st Street, it's not the
252 same.

253
254 A: Do you guys realize that...
255
256 Q: Yeah.
257
258 A: ...when - when the TOs run with the recruits, that I can't sweat, I can't
259 breathe...
260
261 Q1: Oh, no.
262
263 A:hard?
264
265 A1: Really?
266
267 A: You understand that, right?
268
269 A1: Okay, so...
270
271 A: I - I have to be...
272
273 A1: Ah...
274
275 A: ...stone-faced, like...
276
277 Q: My (peg) officer used to, uh, like, ride her bike or the car.
278
279 A: No.
280
281 A1: Oh, really?
282
283 A: We...
284
285 Q: Yeah.
286
287 A: Yeah.
288
289 Q: Mm-hm.
290
291 A: No, that doesn't happen anymore.
292
293 Q: No. Yeah.
294

295 Q1: Mine didn't run with us.
296
297 A: Really?
298
299 Q: The - towards the last month, actually, ours never showed up.
300
301 Q1: Yeah. They didn't run with us.
302
303 A1: How much...
304
305 Q1: (Unintelligible).
306
307 A1: ...running is involved, then, for the academy?
308
309 A: Well, I make sure they run at least a hundred miles during the course of the
310 academy...
311
312 Q1: Yeah.
313
314 A: ...so they can say...
315
316 A1: Really?
317
318 A: ...'cause they ran a hundred miles for that in their...
319
320 A1: Wow.
321
322 A: Yeah.
323
324 A1: So what does that factor in? Five a day or something?
325
326 A: No, it's - it's not that many, but uh, um, they have about 50 sessions of PT,
327 physical training there.
328
329 A1: Oh.
330
331 A: So, we used to run, like, two to three miles, I think, when - every time we run.
332
333 Q: Oh.
334
335 Man: (Unintelligible).
336

337 Q: As a cadet.
338
339 A: But it was all hills, though, so it's harder.
340
341 A1: Oh, yeah.
342
343 Q: Uh-huh. We did the - I know I went down to Gavilan...
344
345 A: That's where we go.
346
347 Q: ...and we had a hill. It's a mountain.
348
349 Q1: Mm-hm.
350
351 Q: Yeah, the hill we used to climb.
352
353 Q1: Or we're tryin' to refill uphill.
354
355 Q: Mm-hm. Yeah. That wasn't so bad. I like to have - I liked it better than when
356 we ran on (cantries). It's nicer.
357
358 A: Yeah. See, the recruits can't ever see their - they can't see anyone from the c-
359 the academy staff, or...
360
361 A1: Really?
362
363 A: ...anyone from our department show any weakness. So that's the...
364
365 Q: That's why I don't go to the academy.
366
367 Q1: But it'll ask me to go to (Unintelligible).
368
369 Q: Actually, the (van), it's all good, you know? No, I didn't know that.
370
371 A: So...
372
373 Q: See, yeah, I'm not a runner.
374
375 A: I hate running, too.
376
377 Q: Yeah. I - I'm just not very fast. So, like, when I ran in the academy, right, you
378 had the three groups.

379
380 A: Mm-hm.
381
382 Q: So I was always Group 3, which was the slow group. And, uh, but I actually,
383 purposely went to Group 3. I'm like, ah, so then by the end, right, I went up
384 and I moved into Group2, 'cause I was so much faster. And they went, "Wow,
385 you did great."
386
387 A: And you were saying, "What are you...
388
389 Q: I worked hard.
390
391 A: Yeah.
392
393 Q: I told you, yeah.
394
395 Q1: That's great.
396
397 Q: 'Cause that's what e- what the majority of the academy was like. I was back
398 with, like, (Jim) Cardenas and (Thad) Phillips and Steve Emehiser.
399
400 Woman: Yeah.
401
402 Q1: Phillips was in your academy?
403
404 Q: He wa- his first academy, yeah.
405
406 Q1: Wow. Okay.
407
408 Q: Yeah. He...
409
410 Q1: Wow.
411
412 Q: ...ended up passing...
413
414 Q1: Oh, okay.
415
416 Q: ...that one.
417
418 Q1: Okay.
419
420 Q: And then he went back through and - and he did make it.

421
422 A: I just have to run as fast as the, you know, like, the three slowest recruits so I
423 can scream at 'em the whole time. But...
424
425 Q: Right.
426
427 A: ...that's the stuff they have to run.
428
429 Q: Do you scream?
430
431 A: Oh, yeah.
432
433 Q: You seem like such a pleasant young man.
434
435 A: Oh, not at the academy, I'm not.
436
437 Q: Oh, now, let me see a preview.
438
439 A1: He's a hard-head...
440
441 A: I can't. I'd get (Unintelligible). I'd have to be mo- especially motivated by a
442 lazy recruit to get...
443
444 A1: Oh, right.
445
446 A: ...to get anything...
447
448 A1: Yeah. But we had, like, lazy recruits. Do you have lazy recruits?
449
450 Q: Uh, some of them, yeah.
451
452 A: Oh, yeah.
453
454 Q: Yeah. My - now, but I had an academy with the ultra-marathoner in our
455 academy who, we'd run, like, 50-mile marathons. I mean, that's what he did
456 for fun. Total freak. And...
457
458 A1: Yeah.
459
460 Q: ...was all upset because while he was in the academy, he was actually losing...
461
462 A: Oh.

463
464 Q: ...ability. Like he's like, "I'm, like, not keeping up with my ex-" I'm like,
465 "Okay, so everyone else here hates you, by the way."
466
467 A: Right.
468
469 Q: But he would run the hill twice, like, basically, circle it. And then he would
470 still run back through the town. I'm like, "Yeah, I actually hate you." But he
471 was, like, the nicest guy. And he ran, like, probably - God, he ran, like, a five-
472 minute mile.
473
474 A: Not one of ours, to confirm?
475
476 Q: Mm-mm. No. He was out of (Spakken).
477
478 A: Okay.
479
480 Q: Um, which was good, 'cause I think he was gonna need to run - run through to
481 work. So it's good that he was a runner. Um, but no, he did - he ran, like, a
482 five-minute mile and he just - he did the mile and a half in, like, seven
483 minutes.
484
485 A: Mmm.
486
487 A1: Wow.
488
489 Q: Cleaned it. I was like, it...
490
491 A: Wow.
492
493 Q: Stay away from him. Yeah, it was crazy. He was really good.
494
495 A: That's what I'm tryin' to do for the recruits, make it a memorable kind of, you
496 know...
497
498 A1: Yeah.
499
500 A: I mean, it was never boring. We all remember those days.
501
502 Q: Oh, yeah. Mm-hm.
503
504 A: So it needs to be that for them.

505
506 Q: It wasn't?
507
508 A: So yeah.
509
510 Q: That's good. But you can't turn it on and off, huh?
511
512 A: No, like...
513
514 Q: Yeah, come on. (Unintelligible) you.
515
516 A: It's not hard enough at the academy. It's not hard enough. It should be harder.
517
518 Q: Really?
519
520 A: Yeah.
521
522 Q: Hm.
523
524 A1: And you say, well, peep-...
525
526 Q: Do you mind working hard?
527
528 A1: ...people are passing that have no business being peace officers or...?
529
530 A: Um, ah, it's happened in the past, yeah, but not anymore.
531
532 A1: Ro- do you think they're gonna fail FTO?
533
534 A: Yeah, you...
535
536 Q: They're like, "Not on my route."
537
538 A: Not in my - not when I'm not there.
539
540 Q: Not my academy.
541
542 A: Yeah.
543
544 A1: Well, you know...
545
546 Q: How many have washed out so far? I heard a lot.

547
548 A: We started with 35 and we have 22 left.
549
550 Q: That's what I heard.
551
552 A1: And so what's making them wash out?
553
554 Q: Yeah.
555
556 A: Um, a lot of, uh, we had a lot of people that, um, we've had a few failures, but,
557 uh, most of the people resigned. Um, we had one guy, you know, after they
558 showed all the autopsy and child...
559
560 A1: Mmm.
561
562 A: ...abuse-type stuff, he quit the next day.
563
564 A1: Oh.
565
566 A: You know, when he saw that sick stuff that most people don't think about, you
567 know, cops have to see.
568
569 A1: Right.
570
571 A: We had another guy, like, we showed the Columbine-type stuff...
572
573 A1: Mm-hm.
574
575 A: ...you know, where you have to go in and do your thing right?
576
577 A1: Mm-hm.
578
579 A: We had another guy quit the day after that. He ne- he...
580
581 A1: What do they think they're signing up for?
582
583 A: He s- said straight up, "I didn't know I'd have to put myself at risk. I didn't - I
584 don't wanna do that. I don't..." And, ah...
585
586 A1: It ain't Mayberry.
587
588 Q: No, you're not Barney Fife, all right?

589

590 A1: Yeah.

591

592 Q: Wow.

593

594 A: We had one guy who, uh, I guess the - the physical stuff in - in the beginning
595 of the academy, it's pretty easy, right?

596

597 Q: Yeah, it gets harder.

598

599 A: And we kinda work our...

600

601 A1: Mm-hm.

602

603 A: ...way up. It was the first, uh, se- second or third week, maybe the fourth
604 week, um, he apparently was so tired when he got home that he could not stay
605 awake to study. He couldn't walk up the stairs to his bedroom. He couldn't
606 walk back down the stairs, he was so sore when comin' back home. And, uh,
607 he came in and just told us, like, "I - I keep failing every test because I can't
608 study because I can't stay awake."

609

610 A1: Are you kidding me? Wow.

611

612 A: Yeah.

613

614 A1: But you know what? I mean, I have had those jobs, though. I mean...

615

616

617 This transcript has been reviewed with the audio recording submitted and it is an accurate
618 transcription.

619 Signed _____