

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT

D. C. File No. 82-CR-19-2887
C. A. File No. 0410656

State of Minnesota,

Plaintiff,

v.

**AFFIDAVIT OF
RICHARD DUSTERHOFT**

Brian Krook,

Defendant.

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

Your affiant, being first duly sworn and under oath, does declare the following to be true and correct:

1. I am the Criminal Division Director for the Office of the Ramsey County Attorney. I am submitting this affidavit to supplement my testimony given in Washington County on December 9, 2019.

2. The telephone system used by the Ramsey County Attorney's Office maintains a record of telephone calls. Following my testimony on December 9, 2019, I asked for records of telephone calls between my office phone and certain other phone numbers during the period of December 1, 2018 through January 10, 2019 (which was the day that a new Ramsey County Sheriff was sworn in). During this period, Steven Frazer was the Ramsey County Sheriff's Office Chief Deputy. I asked for records of any calls between my office phone number and (1) the office number currently being used by the Chief Deputy, (2) the office number in use by the

Chief Deputy (who at that time was Frazer) between December 1, 2018 and January 10, 2019, and (3) the cell phone number of Frazer.

3. The results of this inquiry are attached. There were no phone calls between my office and an office number for the Chief Deputy of the Ramsey County Sheriff's Office. There were three calls between my office and Frazer's cell phone number.

4. The first call was an outgoing call from me to Frazer's cell phone on December 4, 2018. This call lasted 35 seconds and was most likely a voice mail that I left asking Frazer to call me back.

5. The second call was later on December 4, 2018—an incoming call from Frazer's cell phone to me—and lasted for 17 minutes. This was most likely when I explained to Frazer that we were looking for help from him on getting some names of potential experts on the issue of tactics. John Kelly, the First Assistant to John Choi, may have been part of this conversation as well because he was the one who had initially raised the question about whether the sergeant on the scene had employed the proper tactics. During the call with Frazer, I recall inquiring whether Josh Lego would be someone we could talk to and Frazer said no, that because Lego worked for the Saint Paul Police Department, he would not want to testify. It was after this call that I delivered the investigative file, as it existed at the time, to Frazer.

6. In the meantime, on December 20, 2018, we retained Stuart Robinson as a use-of-force expert. I don't recall Frazer giving us any names of people we should contact on December 4, 2018. Our decision to retain Mr. Robinson was not as a result of any recommendation by Frazer. We knew of Mr. Robinson, had worked with him before on use-of-force matters, and had confidence that he could give us an objective and independent opinion on whether the use of force in this case was reasonable.

7. As the records reflect, the third and last call with Frazer was on January 3, 2019. This was an incoming call from Frazer's cell phone to me, and it lasted for 19 minutes. As I testified, I do not recall reviewing any video with Frazer over the phone and do not know how that would have been possible, because I believe I had delivered the hard drive that we had received from the BCA to him, and had not retained a copy. I do not recall anyone else from my office on the call with him.

8. It was on this call that Frazer provided me with two names of people he recommended we contact to give an opinion on tactics. One of the individuals he recommended was Stuart Robinson, who we had already retained to provide an opinion on the use of force. The other individual recommended by Frazer I did not recognize and knew nothing about. We decided to retain Jeff Noble to provide an opinion on the tactics employed and he ultimately gave us an opinion not only on tactics, but also on the use of force.

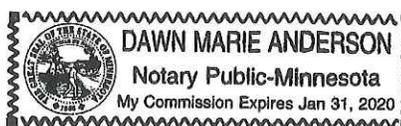
9. In the memo I prepared, and which was sent to the defense before I testified on December 9, 2019, I flipped the names of our experts by mistake. I said in that memo that Noble was hired to provide the use of force opinion and Robinson was hired to provide an opinion on tactics. That was a mistake and it was actually the other way around. As I testified, Robinson was hired first and Noble was hired second.

Dated: 12-31-2019



Richard Dusterhoft
Criminal Division Director
Ramsey County Attorney's Office

Subscribed and sworn to before me
this 31~~st~~ day of Dec, 2019.


Notary Public

Extension Detail**Call Lookup**Ramsey County Metro Square
121 E. 7th Place Suite 2300 St. Paul MN

Report Date Range: 2018-12-01 to 2019-01-10

Print Date: 2019-12-19



Entity: {Unknown}
 Division: {Unknown}
 Department: {Unknown}
 Name:
 Extension: 63055

Email: {none}

Date	Time	Dir	Connected To	Location	Digits	Duration	Cost	Route	Comment
2018/12/04	09:16	Out	T81	TWIN CITIEMN	315-5019	00:00:35	0.00	LOC01	
2018/12/04	11:12	Inc	T66	twin citiemn	651 315-5019	00:17:29	0.00	CLID	
2019/01/03	11:41	Inc	T60	twin citiemn	651 315-5019	00:19:19	0.00	CLID	
Calls:	3					00:37:23	0.00		

Cost	0.00
TAX 1	0.00
TAX 2	0.00
<u>Extension Charges</u>	<u>0.00</u>

<u>Equipment Charges:</u>	<u>0.00</u>
Total Extension Charges	0.00

Extension Detail

Call Lookup

Ramsey County Metro Square
121 E. 7th Place Suite 2300 St. Paul MN

Report Date Range: 2018-12-01 to 2019-01-10

Print Date: 2019-12-19



SUMMARY INFORMATION

Total Calls	3		
		Cost	0.00
		TAX 1	0.00
		<u>Sub-Total</u>	<u>0.00</u>
		Total Equipment Cost	0.00
		<u>Total Charges</u>	<u>0.00</u>