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9/5/2008

Lt. Miles Tucker
Wood County Sheriff's Office
P.O. Box 307 Quitman, TX 75783

Re: Taylor Wages & Nicole Payne death investigations
TBI 08-22

Purpose:

An event analysis is an in depth crime scene reconstruction. It uses objective methods to evaluate the physical evidence known to the analyst at the time. Its function is to gain explicit knowledge of the series of event that comprise a given incident and to identify the best explanation for the sequence of those events. The analyst's opinions are based upon the evidence evaluations, scene context, applying the scientific process to investigative questions and rely upon the analyst's education, experience and training. Should additional evidence or information become available, the analyst will consider its importance and may revise portions of the event analysis.

The following information was reviewed:

Recording of the "911" call
Transcript and video recording of interview of JASON PAYNE
Crime scene images recorded by W. Burge

000004	Hand-drawn sketch of first floor
000005-000012	Autopsy report - TAYLOR WAGES
000013-000019	Autopsy report - NICOLE PAYNE
000021-000024	Evidence list
000025-000028	Supplemental Report by W. Burge
000029-000030	Offense Report by Miles Tucker
000031-000032	Supplemental Report by Miles Tucker
000033	Supplemental Report by Miles Tucker
000034	Supplemental Report by Misty Burns
000035	Supplemental Report by Miles Tucker
000036	Supplemental Report by Miles Tucker

9/ (2 & 3)/08 Test fire the .30-.30 rifle for range of fire determinations.

911 Call:

At approximately 0918hrs on December 11, 2007, JASON PAYNE called "911" to report that he had found his wife NICOLE PAYNE and his step-son TAYLOR WAGES dead inside the Payne home at 1146 N Hwy 37, Quitman, Texas. NICOLE and TAYLOR each had died of single gunshot wounds to the head.

HISTORY

Around 2001, JASON and NICOLE married. NICOLE's son TAYLOR WAGES lived with JASON and NICOLE. During this marriage, JASON and NICOLE had two children. JACKSON PAYNE was born around 2002, and REMINGTON was born around 2005. Prior to 2007, JASON was involved in an automobile accident that resulted in a neck injury. Subsequent to that accident, JASON was awarded a \$900,000 judgment in a lawsuit. JASON and NICOLE used that money to pay their debts and to purchase their home near Quitman, Texas. Around June 2007, JASON, NICOLE, TAYLOR, JACKSON, and REMINGTON moved to Quitman. JASON and NICOLE had a small business raising birds. By December 2007, most of the judgment money was gone.

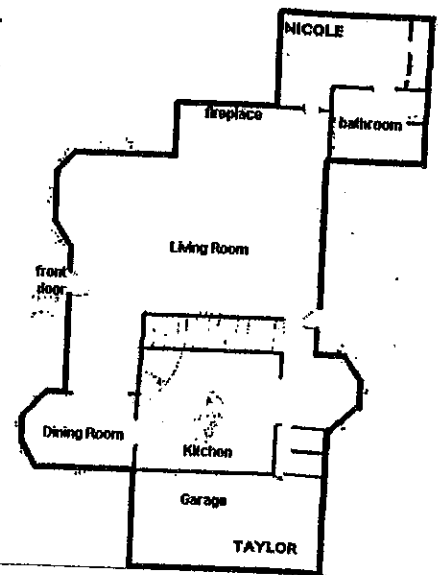
In December 2007 the family was living in the 2-story frame house in Quitman. TAYLOR attended high school, and JACKSON attended elementary school in Quitman. Neither JASON nor NICOLE worked outside the home.

JASON stated that on the morning of December 11, 2007, he took JACKSON and REMINGTON and left the house to take JACKSON to the elementary school in Quitman, arriving at the school about 0800hr. JASON and REMINGTON returned to the home but did not enter the house immediately. JASON stated that when he did enter the house and found the bodies he immediately called "911". That call was received by Wood County Sheriff Office at 0916hrs. The first officer arrived at the scene 2 minutes later.

SCENE

The Payne family lived in a 2-story white frame house. The front door was on the west side of the house. The front door opened into an entry hall. A living room was north of the entry hall, and a dining room was south of the entry hall. The dining room opened to the kitchen, east of the dining room. A dining nook was at the east side of the kitchen. A short hall was north of the dining nook. The living room was at the north end of that hall. The stairs to the upper level was at the west side of that hall.

A door at the east end of the north living room wall opened to the downstairs bedroom. Two closets were east of that bedroom, and a full bathroom was south of those closets.



Tracing over deputy's sketch. annotations added

A laundry room was south of the dining nook, east of the kitchen. The garage was south of the laundry room, and was accessed through the laundry room. Clothes in the dryer were warm to the touch.¹

A landing was at the top of the stairs. The master bedroom was north of the landing. A bathroom was east of that bedroom.²

NICOLE

A bed was at the north wall of the downstairs bedroom. NICOLE was lying on the west side of that bed, with her head to the north and her feet to the south. NICOLE was lying on her right side, facing the west wall. Her head was on a pillow. Her hands were in front of her face. She was wearing a grey t-shirt and grey sweatpants. A yellow-&-white quilted coverlet and a comforter were on top of NICOLE's body.

The top of NICOLE's skull was open. A large mass of brain tissue was on the bed at the west side of the pillow under NICOLE's head, and another large mass of brain tissue was on the floor at the west wall. Blood and tissue spatter were on the headboard above NICOLE's head, on the floor west of the bed, and on the walls north and west of the northwest corner of the room. Bone fragments were on the floor west of the bed. Directional stains on the walls indicated an area of origin consistent with the position of NICOLE's head on the pillow.³

A perforation defect was in the west wall in front of NICOLE. The location of that defect was consistent with a trajectory through the bloodstain area of origin, NICOLE's head on the pillow.

Bloodstains were on the coverlet on top of NICOLE. Those stains included spatter-like stains on the area of the coverlet that was over the back of NICOLE's legs and behind NICOLE's back. A large saturation stain was on the coverlet in the area above NICOLE's left shoulder and left side.



Arrows indicating stains on coverlet, not direction of travel
(Crime 014)

A volume of congealed blood was inside a fold of the coverlet above NICOLE's left side.

*NICOLE's body was warm to the touch. An odor of gun powder was noticeable in the bedroom.*⁴



Arrow indicating coverlet folded over congealed blood

¹ Supplemental Report by W. Burge, document 00002

² Hand-drawn sketch of scene, document 000004

³ Area of origin analysis by Noel Martin.

⁴ Offense Report by Miles Tucker, document 000030

NICOLE had a single perforating back-to-front gunshot wound to the head. The muzzle distance was close/contact range.⁵

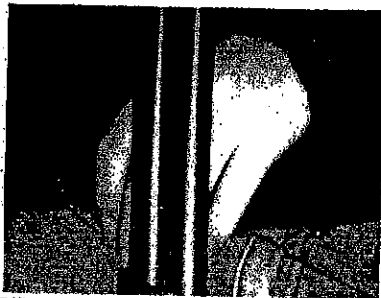
TAYLOR

Curtains hung over the doorway to the garage. Bedding hung along the wall east of that doorway. The east side of the garage was converted to a bedroom. A twin bed was at the east wall.

TAYLOR was lying across the bed near the foot of the bed. His head was to the north, with his face turned toward the footboard of the bed. His legs extended from the south side of the bed. TAYLOR was dressed in a pink shirt, red hooded sweatshirt, blue jeans, and black socks. His right arm was at his right side, with his right hand palm-up on the bed near his right knee. His left arm was along his left side, with his left hand palm-down on his crotch.

Bloodstains were below TAYLOR's left nostril to the corner of his left upper lip. Saturation bloodstains were along TAYLOR's right shoulder and on the bedding under TAYLOR's head. Blood and tissue spatter were on the bed under TAYLOR's right hand and between that hand and the foot of the bed. Blood spatter was on footboard of the bed. Blood and bone/teeth fragments were on top of TAYLOR's right thigh. Blood stains were on the backs of TAYLOR's right fingers and around the base of his right thumb.

A small pool of blood was on the floor below the foot of the bed. That blood pool was below the east end of the bed.



Rifle on TAYLOR's left hand (payne)



Directional bloodstains on rifle barrel Rifle on TAYLOR's left hand (payne 040)

A 30/30 rifle was lying between TAYLOR's legs. The stock of the rifle was covered with buckskin and was resting on the floor. The barrel of the rifle was on the back of TAYLOR's left hand.

Blood was on the end of the rifle barrel.

A fired projectile casing was on the floor south of TAYLOR's feet. A fired projectile was on the floor north of the bed, behind TAYLOR's body.

TAYLOR had a single gunshot entry wound in the left upper lip, and an exit wound in the upper back of the head.

The wound path was front-to-back, upward, and left-to-right. Soot and stippling was on TAYLOR's face.⁶



Directional blood stains on rifle barrel (payne 057)

⁵ Autopsy report, document 000018

⁶ Autopsy report - TAYLOR, document 000010

TAYLOR's body was cold to the touch and in rigor. No odor of gunpowder was noticed in TAYLOR's room.⁷

Test Shots to Identify the Distance Range of Shot to Taylor

On 09-(02 & 03)-08 eleven (11) test shots using the same rifle and ammunition in question was shot from 4" through 16" at 2" intervals. The shots were shot through new white cotton twill material supported by new white poster board.

The results of these shots were compared with the medical examiner's autopsy report describing the stippling and soot to Taylor's entry wound and face as: "A thin layer of soot is eccentrically deposited around the entrance wound, predominantly inferiorly on the lower lip extending up to approximately 1 inch from the center of the entrance wound. Dense stippling surrounds the entrance wound on the neck and face, extending 3-3/4 inches superior, 3 inches left of, 4 inches inferior, and 3 inches right of the center of the entrance wound." "7 3/4 inches in maximum spread of stippling; soot on skin." This description compared to the test shots most closely resembles the 10" distance shot. Allowing for a margin of error of +/- two (2) inches places the end of muzzle 8" or greater from the entry wound on Taylor's face.

Additional stippling beyond the 7 3/4 inch spread seen on TAYLOR'S face is possible due to the curvature of the human head. Additional stippling that went beyond TAYLOR's head would not be seen as it would go into air around TAYLOR's head. This possibility would increase the end of muzzle range to bullet entry.

An average portioned teenager who is 5' 10" was used with the 30/30 in question to determine the maximum distance the end of the muzzle could be from the entry wound and to have the correct projectile trajectory through the head. The trigger could be activated with the end of the left fingers and the correct trajectory through the head up to 8" from the end of muzzle to the entry wound. Beyond 8" the trajectory through the head was not possible.

To reach the 8" distance required the 5' 10" teenage male to stretch as far as possible in order to activate the trigger and to still get the correct trajectory through the head. While it is improbable that in this instance the deceased would stretch out when it would be easier to simply decrease the distance of the muzzle to the entry wound by leaning the head closer, the 8" distance is possible and can't be eliminated.

ANALYSIS

JASON

JASON displayed a flat aspect in his "911" call and in his interview. He was non-responsive to most questions throughout the interview, and refused to describe what he saw when he discovered the bodies. Throughout the interview, JASON sat with his head down. A box of tissues was sitting near JASON during the interview. Although he made crying noises, he only used one tissue at the end of the interview.

⁷ Offense Report by Miles Tucker, document 000029

JASON described TAYLOR's erratic and irrational behavior on the morning of December 11, 2008. JASON alternately described TAYLOR as holding a cell phone or walking by a cell phone that was lying on a table, and complaining that he was not allowed to use the cell phone. JASON stated that TAYLOR was 'ranting and raving' to no one while NICOLE was either asleep or resting in bed in another room and JASON was dressing the two younger children. According to JASON's account, there was no precipitating event either that morning or the previous evening to explain TAYLOR's behavior. TAYLOR refused to go to school, so JASON left without him and did not return to tend to TAYLOR after taking JACKSON to school. Although JASON did not know why TAYLOR refused to go to school and did not know what TAYLOR's activities were, JASON did not return to the house for over an hour and gave no indication of questioning the cause of Taylor's behavior. When JASON did return to the house, it was to ask about bird seed, not to check on his inexplicably errant step-son.

JASON stated that his only activity that morning was dressing the two younger children and taking them to school. Clothing in the dryer was warm, indicative of the dryer having been run that morning.

NICOLE

NICOLE's position on the bed relative to the projectile trajectory and the distribution of blood and tissue indicate that she was lying in the same position on the bed at the time that she received that gunshot wound. Her position is suggestive of sleeping. Someone other than NICOLE fired that shot.

NICOLE's head was not covered when she was shot. Blood and tissue from the gunshot wound struck the headboard, the north and west walls, the pillow, and the floor. The coverlet on Nicole was in a position for a large volume of blood to be deposited and begin to congeal. Then the coverlet was moved, producing a fold over NICOLE's left side. Someone other than NICOLE moved the coverlet.



Arrows indicate blood smearing

Wipe/swipe bloodstains on NICOLE's chin and on the back of each hand could have been produced by the coverlet being moved or by officers moving the bedding to expose her body.

No blood was on one side of NICOLE's right forearm and hand. This area may have been protected by the coverlet. After the coverlet was removed, the right hand was above a portion of blood pooling that was exposed before the coverlet was removed.

The warmth of NICOLE's body indicated that she had been dead a short time before officer's arrived at the scene. The devastating injury with evacuation of the skull was instantly fatal. Therefore, this gunshot wound occurred a short time before the officer arrived.

The odor of gunpowder in the room was indicative of recent gunfire in the room. Assuming the odor was associated with NICOLE's fatal wound, it is consistent with the wound having occurred shortly before the officer arrived at the scene.

JASON said that NICOLE spoke to him before he left to take the children to school. If so, then NICOLE died no earlier than about 0800 hrs.

TAYLOR

TAYLOR was sitting up when the gunshot wound to his face occurred. Blood spattered inside the bed frame, apparent projected bloodstains were across the corner of the mattress next to TAYLOR's right thigh, and a stain of blood and tissue was on top of TAYLOR's right thigh.

The muzzle of the rifle was approximately 8" or more from TAYLOR's face when the gun was fired (see range of fire testing). Stippling was across most of TAYLOR's face. The greater the distance to achieve the stippling pattern, the less likely that TAYLOR's wound was self-inflicted. The barrel length is 20 inches and with the muzzle distance of 8" or greater, then TAYLOR could not have operated the trigger and safety at the same time and obtain the same wound trajectory as described in the autopsy report with out stretching his hand and fingers out to the max to reach the trigger.



Bloodstains inside both sides of bed frame (payne 051)

The onset of rigor mortis and the loss of body heat are measurable indicators of time of death. The description given in the report is insufficient to determine time of death, but is indicative of a time of death greater than one hour. The degree of rigor is not described. Generally, if the jaw and upper body were beginning rigor and the extremities somewhat flaccid, then the time since death was likely 8-10 hours. If rigor was complete, then death had occurred more than 12 hours before the observation. If the ambient temperature and the body temperature were measured, then the approximate time of death could be calculated. Although 'cold to the touch' is a subjective measure, it suggests a period since death greater than 1-2 hours. This observation of cold to the touch is made by both Tucker and Burge. It takes on more meaning when these are the same officers who also noted Nicole's body being "very warm to the touch" as this gives a comparison point.

CONCLUSIONS

Possible scenarios:

1. TAYLOR shot NICOLE, and then shot himself.

The disparities in body temperatures and presence of gun powder and rigor in TAYLOR's body compared to NICOLE'S body indicated that Taylor was dead before NICOLE was shot.

2. TAYLOR shot himself and someone else shot NICOLE.

The evidence indicates that TAYLOR could not reach the trigger without stretching to his maximum to accomplish the same trajectory path. In this situation lowering his head would require less effort and would be the natural and expected movement to occur. It is possible to use his toe, but this requires the lever safety be depressed at the same time the trigger is activated and this is highly improbable to accomplish at the same time with the foot. Someone holding the rifle a distance approximately 8" or more from TAYLOR's face and shooting TAYLOR is a better explanation. The physical evidence is more consistent with TAYLOR being shot before NICOLE.

3. JASON shot TAYLOR and JASON shot NICOLE.

JASON's statement is not consistent with the warm clothes in the dryer, the disparity in body temperatures of TAYLOR and NICOLE, and the disparity in presence of gun powder odor in the two death rooms. The evidence indicates that TAYLOR was dead long before JASON took the children to school. This scenario is consistent with JASON's flat affect in the "911" call, his lack of tears during the interview, and the inconsistencies between his statement and the physical evidence. This scenario would also explain the washcloth in JASON's truck with NICOLE's blood on it.

4. Unknown person(s) shot TAYLOR and shot NICOLE.

No evidence is presented that indicates unknown other persons as the perpetrator(s). It is improbable that unknown perpetrator(s) entered the house on two separate occasions, killing TAYLOR while unnoticed by others in the house, then returning to kill NICOLE during the time that JASON should have been gone to take the children to school. The distance from the scene to the elementary school is about 2 miles. JASON could have returned to the home in 5 minutes. An intruder would have to enter the house, get JASON's rifle, kill NICOLE, place the rifle on TAYLOR's hands, and leave the premises before JASON returned.

The best explanation to comport with all of the physical evidence is scenario #3; JASON shot TAYLOR first and then shot NICOLE.

If you have any questions on this report please contact me at the above listed telephone numbers.

Respectfully,

Tom Bevel

Tom Bevel

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On December 11, 2007 at approximately 9:20 a.m. the wood county sheriff's office responded to a report of a possible shooting located at 1146 state hwy 37. Upon arrival of officers, two victims were located inside the house. Both victims were deceased. Nicole Payne who resides at the residence as well Austin Taylor Wages, Nicole's son, were deceased. Austin Wages is 16 years of age and Nicole Payne is 35. Nicole and Austin resided at the residence with Nicole's husband, Jason Payne, as well as two other young children. Jason Payne is Austin's step dad. The case is still under investigation and no other information will be released pending further information. Both bodies have been sent to South West Institute of Forensic Science in Dallas for autopsy.

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Results Form

Alliance Forensics

General Case Information

Case 2008-1112-CRP-001

Received On: 11/12/2008 4:00:00 PM
 Type of Offense: Double Homicide
 Crime Occured: 12/11/2007 9:00:00 AM
 Location: 1146 Hwy 37 N (Payne Residence)
 City/County: Quitman, TX 75783 (Wood County)
 Method of: Shooting
 Weapon: Winchester Model 94 .30-30 WIN caliber lever-action rifle s/n 5016347

Agency Information

Agency Case #: TBI 08-22 (Taylor Wages & Nicole Payne Death Investigation)
 Agency: Wood County Sheriff's Office
 Agency Case: Lt. Miles Tucker
 Address: P.O. Box 307
 City: Quitman, TX
 Zip Code: 75773-
 Phone Number: (903) 763-2202

Victims

Victim Nicole Payne
 Victim Austin Taylor Wages

Suspects

Suspect Jason Thad Payne

Special Requests

Examination of physical evidence; distance determination tests.

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Results Form

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Alliance Forensics Evidence Submission

Case 2008-1112-CRP-001

Evidence Submitted Shannon Love (#120)
 Evidence Received Amanda A. Flory
 Submission hand-delivered by Shannon Love of Wood Co. S.O.

Submission

11/12/2008 4:00:00 PM

Item 1 Qty: 1

Description:

Sealed cardboard rifle box containing: Item 1A - one (1) Winchester Model 94 .30-30 WIN caliber lever-action rifle s/n 5016347; Item 1B - sealed plastic bag containing two (2) unfired Remington brand 30-30 WIN caliber cartridges.

Item 2 Qty: 1

Description:

Sealed manila envelope containing three (3) empty brown paper bags and Items 2-5; Item 2 - One (1) 20 ct. Remington Express Core-Lokt .30-30 WIN 170 gr rifle cartridge box containing seven (7) fired Remington brand .30-30 WIN cartridge cases.

Item 3 Qty: 1

Description:

Sealed brown paper bag labeled "shell casing in floor...garage...#3" containing one (1) fired Remington brand .30-30 WIN caliber cartridge case.

Item 4 Qty: 1

Description:

Small manila envelope labeled "#4" containing one (1) fired Remington brand .30-30 WIN caliber cartridge case.

Item 5 Qty: 1

Description:

Sealed brown paper bag labeled "Rifle slug (jacket)...floor at victim's head...#2" containing one (1) fired bullet jacket.

Item 6 Qty: 1

Description:

File folders containing case documents: complaint, life insurance info, NPD reports, diagram, criminal histories, statements, offense reports, lab reports, autopsy report (Wages), SCSSO reports, Tom Bevel's report, and ten (10) CDs containing interviews, photos, and 911 call.

Evidence Submitted Lt. Miles Tucker

Evidence Received Amanda A. Flory

Submission via UPS trackin # 1Z 74X 316 A2 5137 462 3

Submission

12/12/2008 9:45:00 AM

Item 7 Qty: 1

Description:

Sealed UPS mailer containing one (1) sealed manila envelope containing the autopsy reports and autopsy photos of Nicole Payne and Taylor Wages.

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Alliance Forensics

Results

Case 2008-1112-CRP-001

Microscopic examination and comparison of the bullet (item # 5) with test bullets fired from the rifle (item # 1A) reveals inconclusive results. The bullet (item # 5) is the same caliber and rifling structure as test bullets fired from the rifle (class characteristics only).

Microscopic examination and comparison of the two fired cartridge cases (item # 3 and 4) with test cartridge cases fired in the rifle (item # 1A) reveals sufficient evidence to conclude that the two fired cartridge cases (items # 3 and 4) were fired in the rifle (item # 1-A).

Examination of the rifle (item # 1-A) reveals that it is in good working condition with no mechanical defects noted during testing.

Distance determination tests were performed in this case using the autopsy report and autopsy photographs of the victim, Austin Taylor Wages, as the basis for the testing. Test patterns were produced using the evidence rifle (item # 1-A) and the same type of ammunition for testing as was used in this case- Remington brand .30-30 WIN caliber, 170 grain SP cartridges. Test patterns were produced at distances of 6", 8", 10", 12", 14", 16" and 18". The test pattern in terms of pattern size and gunpowder particle density at a muzzle to target distance of 12 inches (+ or - 2 inches) most closely approximates the pattern seen on the victim's gunshot wound to the face. It is the opinion of this examiner that given the physical dimensions of this rifle and it's operating characteristics it would be all but impossible to shoot oneself with this particular rifle at a muzzle to target distance of 10 inches or greater.

Respectfully Submitted,

Richard Ernest

12/17/08

Richard N. Ernest - Lab Director - Alliance Forensics Laboratory,

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