

# Thomas Carter Case

## Police Investigation

July 6-7, 200\*

Investigating Officer

Lieutenant Tony Jackson

## Crime Description

At approximately 7:00 pm on Tuesday, July 6, 200\*, Joyce Ann Miller, age 4, was hit in the head and chest by a shotgun blast at a range of about 10 yards. The victim was killed instantly.

## Arrest

At 11:45 pm on July 7, 200\*, I arrested Thomas Wade Carter and booked him for murder in the first degree.

## Report of Investigation

1. On Monday evening, July 5, 200\*, the arrestee, Thomas Wade Carter, age 18, went to a party at the home of his girlfriend, Gail Duran. Witnesses at the party report that almost every one there, including the suspect, had consumed a lot of beer. A fight broke out at about 3:00 am. Witnesses were not sure about everyone who was involved in the fight, but told me that suspect Carter was clubbed over the head with a beer bottle by another guest named Oscar Hanks. Friends took Carter to the hospital for treatment. Five stitches were required to close the wound.
2. On Tuesday, July 6, at about 5:00pm, Carter visited the apartment of a friend, Joel Washington. Washington stated that Carter was still angry about being hit during the fight the night before. Washington also said that Carter remarked, "I'm going to get that guy once and for all. That man is going to pay in a big way." Carter also asked Washington how to work one of his shotguns. Washington is a hunter who owns several guns.
3. At about 6:30 pm on July 6, Carter visited the home of Gail Duran. Ms. Duran told me that Carter was still angry about what had happened the night before. She also said that Carter told her he knew who had hit him. Carter invited Duran to go for a ride with him and she agreed. He asked Duran to drive his car while he sat in the back seat giving her directions. Duran stated that Carter directed her to Fourth Street. When he spotted a red Toyota truck parked in front of one of the houses, he told her to slow down. At this point, Duran told me, she noticed for the first time that Carter was handling a shotgun. She said she became very nervous. Suddenly, according to Duran, there was a loud explosion inside the car. Startled, Duran stepped on the gas pedal and quickly drove away. She stopped on a quiet street nearby. Carter then got into the driver's seat and took her home.

Duran stated that Carter told her on the drive back to her home that all of a sudden the shotgun had gone off by itself. He also stated that he did not think he had hit anything.

4. The only eyewitness to the shooting of Joyce Ann Miller was her mother, Ms. Karen Miller. At about 7:00 pm on July 6, 200\*, Ms. Miller told her daughter to close the front gate to the yard. Ms. Miller watched as her daughter went to close the gate. At this point, Ms. Miller noticed a black car driving slowly on the street in front of her house. She also saw a long gun barrel pointing out of its rear window right at her daughter. Before she could say or do anything, Ms. Miller stated, there was a loud blast and Joyce Ann collapsed. Ms. Miller and her neighbors rushed to help Joyce Ann. Paramedics were called, but Joyce Ann was pronounced dead on arrival at Central Receiving Hospital. Ms. Miller stated that she had no idea who killed her daughter and could offer no description of the occupants of the black car except that she thought the driver was a young woman.
5. The Miller residence is located three doors to the east of Oscar Hanks' residence on Fourth Street.
6. That evening at 10:05 pm, I received an anonymous phone call at the police station. The caller said, "If you want to know who murdered that little girl, you better check out what happened at Gail Duran's party last night." After interviewing a number of witnesses at the party, including Joel Washington and Gail Duran, I arrested Thomas Wade Carter at 11:45 pm on July 7, 200\*. I read the suspect his *Miranda* rights and booked him for the first-degree murder of Joyce Ann Miller.

## The charge in this Case: Second Degree Murder

*If you find beyond a reasonable doubt by the evidence presented in this trial that Thomas Wade Carter intended to fire the shotgun that killed Joyce Ann Miller, and that the act involved a high degree of probability that death would result, and that it was done with wanton disregard for human life, you shall return a verdict of second degree murder.*

- ?? Thomas Wade Carter has been charged with second-degree murder. Murder is the unlawful killing of a human being with malice aforethought.
- ?? Malice Aforethought- *Malice* may be either express or implied. Malice is express when there is manifested an intention unlawfully to kill a human being.
- ?? Malice is implied when the killing results from an act involving a high degree of probability that it will result in death, when the act is done for a base, anti-social purpose and with a wanton disregard for human life.
- ?? Malice does not necessarily require any ill will or hatred of the person killed.
- ?? *Aforethought* does not imply deliberation or the lapse of considerable time. It only means that the required mental state must come before rather than follow the act.

## *Witness Statements*

### Statement of Ms. Karen Miller (Prosecution Witness)

“My name is Karen Miller. I am 25 years old and divorced. I was home on the evening of July 6, 200\*. Around 7:00 pm Joyce was playing in the front yard. I asked her to close the front gate and come inside the house, since it was her bath time. As I watched her go to the gate, a black car slowly drove down the block. I think it was a late model Pontiac, but I’m not really sure. Suddenly, the barrel of a rifle or shotgun was pointing from the car window right at Joyce. Before I could say or do anything, there was an explosion, and the car took off quickly.”

“At that instant I looked at Joyce and saw her fall to the ground. Horrified, I ran to her and saw blood all over her face and body. She died in my arms before the paramedics arrived. I can’t describe the occupants of the black Pontiac. Still, I think the driver was a young woman. A red Toyota truck was parked in front of my house that evening. I believe it belonged to a teenager named Oscar who lives across the street.”

### Statement of Gail Duran (Defense Witness)

“My name is Gail Duran. I am 17. I have been dating Tom Carter for about a year. On the evening of July 5, 200\*, I had a party for about 50 of my friends while my parents were away on vacation. During the party a lot of people got drunk on beer. Sometime around 3:00 am a fight broke out involving about a dozen guys. Tom was hit on the head with a beer bottle. There was blood all over the place. I asked Joel Washington and some others to take Tom to the hospital while I tried to get everybody out of the house before the police came.”

“The next day Tom called me to say he was all right, and would be over to see me later on. Around 6:30 pm, Tom arrived at my place. He was very upset about being hit the night before. He said he thought he knew who had hit him with the bottle. He said it was Oscar Hanks. Tom then asked me to go for a ride with him. I agreed to go with him.”

“At this point I really got scared, and began to swerve down the street. I had never seen Tom act this way before. Then there was a loud bang, and Tom yelled to me, ‘Get us out of here, fast!’ I managed to drive out of the neighborhood and then stopped on a quiet street. Tom got into the driver’s seat and took me home.”

“On the way home, Tom told me that the shotgun just went off by itself, but he did not think he had hit anything. I did not actually see the shotgun discharge, but I believe that the swerving motion of the car must have caused Tom to accidentally pull the trigger. Tom would never intentionally shoot anyone. He’s always been a sensitive and gentle guy. Sure, he had a few fistfights when we were in high school, but he didn’t mean anything by it. He’s basically a great guy.”

## Activity

For the purposes of this activity you will prepare direct and cross-examination of the two witnesses. Your goal will be to probe the question of whether the gun was fired accidentally, as claimed by the defense or intentionally as asserted by the prosecution.

**Direct Examination:** This is the first questioning of the witness. Counsel who called the witness to the stand conducts the examination. Questions must be open ended and allow the witness to testify in response to a series of questions.

**Cross Examination:** Conducted by the counsel for the party opposed to the one who produced the witness and occurs after direct examination. During cross-examination counsel usually asks leading questions.

### **Objections:**

?? Leading question (except during the cross examination)

?? Narrative

?? Calls for speculation or a conclusion

?? Lack of foundation

?? Irrelevant

?? Vague