

A Shot in the Woods

Robert Borland Mystery #7

Early on a Tuesday morning I leaned back in my recliner, a cup of coffee on the table beside me, and fired up the laptop. It was time to do some serious research. The night before Robert and I had been discussing an unusually dry stretch of weather. Robert had said something about the Glacial-Interglacial cycles affecting La Niña. I disagreed, saying that would increase the rainfall rather than bring a dry spell. Robert dismissed that idea, saying I didn't know what I was talking about. It was a classic case of two people arguing about something of which neither one was an expert, but both were convinced the other was wrong. My wife and I used to have such discussions, before she died, and we would both go into research mode to prove we were right. I guess the dynamics between two geezers who share a house for economic reasons aren't much different. Except Robert never took any steps to prove he was right because he never doubted it.

Robert wasn't up yet (he rarely stumbled out of his room before 10 am) so I had plenty of time to marshal my facts. I was frustrated that I couldn't find the article I thought I remembered reading a few weeks ago. The one that cited new research into the drought conditions. As I skimmed the articles I found while searching for it I became more and more convinced, to my growing dismay, that I had confused La Niña with El Niño. Could it be that Robert was right? Could I face the horror of telling him I was wrong? Maybe if I didn't say anything he'd forget all about it. I slammed the laptop shut with disgust, pulled on a pair of shoes, and went for a walk.

It was a clear, sunny, California morning. Ordinarily the weather would have cheered me up, but in this case it just made me think of El Niño. Or La Niña. I still couldn't remember which was which. I must have walked a couple of miles before I cheered up and headed back to the house. I'd worked up an appetite in the process, so I stopped at a little shop that had great breakfast bagels on the way home.

When I got to the house I was surprised to see a car in the driveway. I stepped inside and saw Phil Martin, an FBI agent Robert and I had worked with in the past, talking to Robert. With him was a short, pudgy man. Phil's head was wrapped in a bandage. He and Robert were dressed in button shirts and khakis. The pudgy man was wearing a suit. I was wearing battered jeans, a dirty gray sweat shirt, and broken down sneakers.

"Oh, there you are!" said Robert. "This is Matthew Thackery."

Mr. Thackery stuck out his hand and said "How do you do." I quickly placed my bag of bagels on the coffee table and shook hands. "I'm Bill Downing," I said.

"Mr. Thackery is an attorney hired by Phil," Robert said. "Phil's been accused of shooting the police officer in Santa Clarita last week."

"A charge which we strongly dispute" Mr. Thackery added.

“Knowing Phil, I would be very much surprised if it was true,” Robert said. “But it is a serious charge, and Phil has asked us to help him refute it. He was just about to tell us what happened when you walked in. Why don’t we all sit down, so Phil can tell us what he remembers.”

We sat down in the living room. I had heard something on the news about a shooting in Santa Clarita, but I hadn’t paid attention because I didn’t realize it involved anyone I knew. I was very interested to hear what Phil had to say.

“There’s not a whole lot I can tell you,” Phil said. “It wasn’t actually in Santa Clarita. It was in Castell, a little town northeast of Santa Clarita. Anyway the sheriff there got a call from an anonymous tipster that classified research information was being stolen. It sounded like a wild goose chase to them, but since it concerned classified information they called the FBI. The Bureau thought it was probably bogus too, but just to be certain they assigned me to follow up. The message left by the tipster said we should meet him Thursday night, in a small wooded park. He said to use the north entrance.”

Robert was taking notes as Phil talked. Not having paper or a pen there was nothing I could do except listen.

“I drove to Castell on Thursday and met with Officer Larry Birdwell of the Castell County Sheriff’s Department. He didn’t know any more than I did, but he guessed the tipster was from the local area because no one else would even know the park existed. He also said the tipster apparently knew that the south entrance to the park was a popular parking spot for couples at night, but the north entrance was usually deserted. That night we drove his patrol car to the north entrance and waited in the parking lot. We had just about given up on him when a man on a bicycle whizzed through the parking lot and took a trail into the woods. ‘Think that’s him?’ I asked. ‘I don’t know, but who else it would be?’ Larry replied. ‘When he said to meet in the park, I thought he meant in the parking lot.’”

“We jumped out of the car and ran down the trail the bike had just taken. There was a full moon, so we could see where we were going. The trail split, so Larry took the branch to the left and I took the branch to the right.”

Phil stopped for a moment, closed his eyes, and cradled his face in his right hand. Then he straightened back up. “The next thing I remember, someone was shining a flashlight in my face while a medic was bandaging my head. They said someone shot me, but it just grazed my skull. They also said Officer Birdwell was dead, and they found me with a pistol in my hand. I don’t remember anything between starting down the trail and waking up with the medics. The doctors say I might recover my memory in time, but I shouldn’t be surprised if it never returns. Something about short term memory not being transferred to long term due to a concussion.”

“So, the police think you shot Officer Birdwell?” Robert asked.

Phil nodded yes. “But I’m positive I didn’t,” he added. “I can’t remember the event, but he was in uniform, I could have seen that in the moonlight, and we weren’t expecting trouble. My gun was in my holster. I wouldn’t have pulled it out and fired at a police officer in uniform.”

Mr. Thackery pulled a thick folder out of his briefcase and handed it to Robert. "The evidence against him is pretty strong. The bullet that killed Officer Birdwell went completely through his body. They found the bullet embedded in a tree behind him. They've matched the bullet to Agent Martin's gun. Officer Birdwell fired his gun, also. They think that's what injured Agent Martin, but they couldn't find the bullet. Not surprising in a woods like that. I advised Agent Martin that there are clear indications of self-defense, but he doesn't want to take that approach. He insists he didn't shoot Officer Birdwell, and he thinks you can prove that."

Robert started flipping through the papers in the folder. "Did they test for gunshot residue?" he asked.

"Yes," Mr. Thackery replied. "Agent Martin's right hand tested positive. It's in the folder. There are also photos of the scene, interviews with the responders, and diagrams showing the position of the victims. A map of the park shows the paths followed by Agent Martin and Officer Birdwell are actually part of a circular trail that runs through the park. The paths they took would have eventually brought them face to face, and the police believe that's when mistaken identity in the dark caused them to shoot at each other."

"It wasn't that dark!" Phil insisted. "I wouldn't have shot a uniformed police officer. Especially not one I knew was in the same woods."

Robert started going through the papers again, looking at them in more detail this time. Phil leaned forward on the couch, braced his elbows against his legs, and cradled his face in his hands.

"It's going to take me some time to go through these," Robert said. Looking at Phil he added "You'd better go home and get some rest. A head wound like that is nothing to mess with."

Phil nodded his head in acceptance and stood up. "I've got plenty of time to rest," he said. "I'm on administrative leave until this is resolved. Do you think you can prove I didn't shoot him?"

"I'll do my best," Robert said. "It's going to take me several days to go through these papers and check things out, though. In the meantime, you might want to look into the self-defense possibilities."

Phil sagged a bit and said "OK." Then he and Mr. Thackery walked to the car and drove off. I noticed Mr. Thackery was driving.

After they were gone, I turned to Robert and said "You didn't sound very hopeful when you told Phil you'd look into it."

"At the moment, I don't see much reason to give him hope" Robert responded.

Robert spent the next two days studying the documents in the folder. I looked through them too, but I didn't study them like Robert did. It took me about two hours to go through them. A man who lived near the park called 911 to report hearing gunshots. Police Sergeant Ryan Comstock was patrolling

near the park and responded. He found the victims and called for an ambulance. Officer Birdwell was pronounced dead at the scene, and Agent Martin was taken to the hospital. Crime scene investigators found that both men had fired their weapons. They found a bullet embedded in a tree behind Officer Birdwell which, although badly deformed, they matched to Phil's .45 caliber Glock pistol. The bullet fired from Officer Birdwell's 9mm Beretta was never found. They theorized that the slug had been fired at an upward angle, glanced off Phil's head, and followed an unknown trajectory, possibly for a great distance. There were multiple crime scene photos, including a particularly gruesome one of Officer Birdwell's back taken after they rolled him over. There was a gaping hole in his uniform where the bullet exited. The back of his uniform was soaked in blood, and dead leaves from the ground were stuck to it. The autopsy report stated that the bullet had perforated his aorta and severely damaged his heart. Death would have been nearly instantaneous.

After going through the folder, I could see why Robert didn't want to give Phil false hope. The police logs, parked patrol car, and location of the shooting were all consistent with Phil's story. The position of the victim relative to Phil's unconscious body, autopsy report, and ballistics report on the bullet found in the tree seemed like pretty damning evidence. Against that there was only Phil's conviction that he would not have fired at a uniformed police officer, a position that was weakened by the fact that he could not remember the event and therefore did not know what the circumstances were.

Wednesday morning Robert called the Castell County Sheriff's Department and asked to speak with Sgt. Comstock. Sgt. Comstock was out on patrol, but he called back a few minutes later. He suggested we meet him for lunch at restaurant in downtown Castell. When we got there, he was already seated in a booth. We introduced ourselves and sat down.

"As I explained on the phone, we're acting as consultants to the lawyer who's representing Agent Martin," Robert said. "I know there are procedures for formal interviews, but if it's OK with you I thought it would be easier to talk without getting the lawyers involved. I'm just trying to figure out what happened that night."

"I've got no problem with that," Sgt. Comstock replied. "I think what happened was a terrible mistake, but a lot of the guys down at the station don't see it that way. They're mad as hell that an FBI agent shot one of our own, and they certainly don't want to cooperate with anyone who's trying to defend him. That's why I suggested we meet here instead of at the station."

The waitress took our orders and Robert began going through his list of questions.

"You were the first person on the scene, correct?"

Sgt. Comstock nodded yes.

"Where were you when you got the call?"

"I was making a routine patrol in Brandon Heights," Sgt. Comstock answered. "There have been a few break-ins there, so we try to cruise through the neighborhood every now and then. It's near the

park, so when the dispatcher said someone reported hearing gunshots coming from the direction of the park I said I'd check it out."

"Do people often report hearing gunshots?"

"It's not common, but we get those calls every now and then," said the sergeant. "We usually don't find anything, but occasionally we'll find a poacher or someone doing target practice. There are a lot of ranches and open land around here. Night calls almost always turn out to be some clown setting off fireworks."

"When you got the call, did you go directly to the park, or did you go first to . . .," Robert looked at his notes, "Mr. Clarence Swanson, who reported the shots?"

"I went to the park first. I figured if there was something going on I needed to be at the scene. I interviewed Mr. Swanson later, as part of the investigation."

"And what did you find when you got there?"

"I didn't see anything in the parking lot. Once in a while kids park there, but it's usually pretty quiet on Wednesday nights. I called dispatch to let them know everything was quiet, and that I was going to take a quick walk through the park to see if anything was wrong. That's when I found Larry and the FBI agent. I thought they were both dead, but I'm not a doctor so I called for an ambulance. Turns out it was a good thing I did. I knew the medics would arrive before the crime scene investigators, so I took several pictures with my cell phone, to record the scene before the medics started moving things."

"So you took the photos in the file that show both men lying on the ground. It looks like they both fell backward. Their guns were still in their hands and they were maybe 50 feet apart?"

"Thirty seven feet, according to the crime scene investigators," Sgt. Comstock said. "Definitely close range. The bullet went clear through poor Larry."

"And lodged itself in a tree behind him. Did you find the bullet?"

"No, the investigation team found that."

"Was there anything that struck you as unusual about the scene? Anything out of place or confusing?"

"No. I mean, it was pretty unsettling to see a man you worked with every day lying dead on the ground, but the scene itself looked like other shootings I've responded to. Once the ambulance took the FBI guy away and the crime scene investigators arrived I went back to the station and wrote my report while everything was still fresh in my mind."

“Agent Martin said he was there with Officer Birdwell to meet with a man who rode a bicycle into the woods. They were searching for him when the shooting took place. Did you see any evidence of that man?”

“You mean the wacko who said there were foreign spies in a research project?” Sgt. Comstock seemed to be suppressing a smile when he said this. “No, I didn’t see anybody. As I said, it was a quiet Wednesday night and the park was empty.”

“So you knew why Officer Birdwell was there?”

“Everybody in the station knew about it. I mean, we get a lot of strange calls, but it’s not every day that we get a spy report. Nobody took it seriously, but we had to follow up on it just the same.”

“Did anyone trace the 911 call?”

“The investigators tried to, but there was no record of the number or the phone. They also called it but there was no answer. Probably a burn phone. Drug dealers use them all the time.”

The waitress brought our food, and we talked about other things as we ate. Robert said that was all the questions he had. He said we’d probably go to the park after lunch, just to get a feel for the place. Sgt. Comstock offered to show it to us, so when we finished our lunch we followed him to the park.

The park was located a few miles north of town, although like most towns it was hard to say where the town ended. We drove from the business district through a commercial strip, then housing developments interspersed with shopping centers, pecan groves, and open pastures before reaching a rolling wooded area. We turned off the main road onto an access road that led to the park’s south parking lot.

“You parked here when you entered the park that night?” Robert asked. Sgt. Comstock nodded yes.

The trail leading into the woods was easy to spot. It was wide enough to support two-lane bicycle traffic. A chain across the entrance and a sign stated that motorized vehicles were prohibited, with paths on either side of the chain for hikers and bikers. Several other trails intersected the trail we were on. Sometimes it was hard to tell the main trail from a side trail. Wooden signposts with trail names carved into the post gave directions, but Officer Comstock didn’t bother to look at them. He knew where he was going.

It was a beautiful fall day. The trail was covered with a carpet of fallen leaves. A few leaves still clung to the trees, and through them I could see blue sky dotted with white puffy clouds. I could believe that, with a full moon, there would be enough light to see the trail and people at night.

“This is where I found the bodies,” Sgt. Comstock announced as we rounded a bend in the trail. The woods opened into a small clearing, and the trail ran through the center of it. “The FBI agent was lying here.” He pointed to a spot on the trail at the far end of the clearing as he said this. “And Larry was

lying here.” He pointed to a spot just to the left of where we were standing, about ten feet into the clearing.

“Looks like everything is pretty much cleaned up,” Robert said.

The sergeant nodded. “We closed the entire park for the crime scene investigation,” he said. Once the team finished its work the park department gathered up the bloodstained leaves and scattered clean leaves in their place. This is a public park, after all. There really wasn’t much else that needed to be done.”

Robert got down on one knee and cleared the leaves away from the ground where Phil had fallen. Then he replaced the leaves and did the same thing where Officer Birdwell had fallen.

“The ground looks undisturbed,” he said as he stood back up. “Didn’t they have to remove any of the dirt?”

Sgt. Comstock shook his head. “No, there was a thick layer of leaves and that caught all the blood. Larry was shot through the heart, you know, so nothing was pumping out of him.”

Robert walked through the trees behind where Officer Birdwell had fallen until he found one that had a deep hole carved into it. “Is this where they found the spent bullet?” he asked.

“Yes,” said Sgt. Comstock. “That was the bullet that killed Larry. They searched high and low for the bullet that bounced off the FBI agent’s head, but they couldn’t find any sign of that one.”

“That’s quite a hole,” Robert said. They had to do a lot of digging to pull that slug out!”

Robert walked back into the clearing and surveyed the skyline. “I imagine it was pretty bright in here with a full moon.”

“It was,” Sgt. Comstock replied. “I used my flashlight to make certain I didn’t miss anything, but I didn’t have any trouble seeing without it.”

Robert surveyed the clearing for a bit and then said “Well, I think I’ve seen everything I needed to see. The investigation report gave me a pretty good idea of what to expect, but there’s no substitute for seeing it in person. We need to head back to L.A. if we’re going to beat the traffic, and I suspect there are a lot of things you need to be doing, too. Thank you very much for taking the time to talk to us and to show us around.”

We walked back to the cars in the parking lot. As we were saying our good-byes, Robert asked “Is it OK if I call you if I think of any additional questions?”

“No problem” Sgt. Comstock replied, handing Robert a business card. “Only please call me on my cell phone. That way you won’t stir people up at the station.”

As Sgt. Comstock drove off, Robert turned to me and said “Let’s take a look at the north end of the parking lot. I want to check out the trails that Phil and Officer Birdwell followed.”

It took us about a half hour to circle around the park on public roads and get to the north entrance. The north parking lot was smaller than the one at the south entrance, and it didn’t have the trail maps and wildlife posters that adorned the south entrance. It was obvious that this wasn’t the main entrance to the park. There was only one trail leading into the woods, so that was where Phil and Officer Birdwell had followed the bicycle. About an eighth of a mile into the woods the path split into a right and left trail. I knew from the map in the investigation folder that these were actually part of the same trail, a loop around the center of the park with smaller trails branching off of the loop, but of course Phil hadn’t known that at the time. Whether or not Officer Birdwell knew was anybody’s guess.

We took the right hand trail, the one Phil had followed that night. There were a few smaller trails meandering off to the right and left of this trail, but the loop trail was wider so it was easy to follow. In about a quarter mile we came to the clearing where Sgt. Comstock had found the bodies. Robert spent a lot more time examining the clearing this time than he had when we were with the sergeant. He cleared the leaves from more areas, looking for disturbed soil. He wandered far into the woods, looking for traces of the shot that had glanced off Phil’s head. And he paced off the distance between several spots in the clearing. Finally satisfied, we walked back to the spot where the trail split and we explored the trail to the left.

This trail also had several trails leading off to the left or the right. In some cases the other trails split off in a “Y” and we had to look at the trail markers to see which was the loop trail and which was a secondary path. To my frustration, Robert insisted on exploring every trail that branched off to the right until it came to a dead end, intersected the right-hand branch of the loop, or circled back to the left branch of the loop. It took us over two hours to get to the clearing where the shooting took place. Then we turned around and retraced our steps until we got back to the north parking lot. The return hike didn’t take as long, because we didn’t take any side trails, but the sun was low on the horizon when we got back to our car.

Under other circumstances, I would have enjoyed the hike. It was a beautiful park. The trails led through hilly terrain, and through groves of different kinds of trees. Sometimes there was thick underbrush, and sometimes the trees blocked the sun so the undergrowth was sparse. There were markers describing the fauna and local micro-environments, but of course we didn’t stop to look at any of these. Robert was intent on his observations and wasn’t in the mood to explain what he was doing. I was left to wonder why we seemed to be wandering aimlessly, and to fret about the traffic that would greet us when we got back to L.A.

As it turned out, by the time we got to the city the traffic had already peaked and was beginning to thin out. It was still pretty heavy, though, and of course it was dark. When we finally got home I heated a couple of frozen burritos in the microwave, had a very unsatisfactory dinner, and went to bed.

Robert spent Thursday in his room, poring through the investigation report, and pondering the case. Occasionally he came out to verify something with me – the wording of one of Sgt. Comstock’s

statements, how wide I thought the trail was, etc. – but it was obvious he was frustrated and searching for answers.

On Friday we drove back to Castell to look at the evidence in the police locker. This was not something we could do casually. We had to go with Mr. Thackery, who as the legal representative of Agent Martin had the right to look at the evidence, and he had to certify that we were expert consultants hired by him. The hostility in the room was evident. A short, heavysset civilian managed the evidence locker. He led us into a locked room, flanked by two uniformed guards, and placed a box with the requested articles on a table. Sgt. Comstock was in the room too, but it was obvious he wasn't happy to be there.

Robert looked at Officer Birdwell's gun first. The clip had been removed, and the bullets had been removed from the clip. Robert counted fourteen bullets. A separate evidence bag contained an empty shell casing found at the scene. Robert compared it to the bullets from the clip and seemed satisfied. "Officer Birdwell's hand tested positive for gunshot residue, correct?" he asked to the room in general.

Sgt. Comstock nodded yes. "It's in the report," he said tersely.

Next Robert examined Agent Martin's gun, the clip, the bullets, and a spent cartridge found at the scene.

"There are eleven rounds here, plus a spent round. The clip holds thirteen. Where's the missing round?"

Sgt. Comstock shrugged. "You'll have to ask Agent Martin that question," he said. "That's what we found at the scene. For some reason he only had twelve rounds in his clip."

"I've already asked Agent Martin, and he said he always carries a full clip."

"And if you asked me, I'd say I do too," Sgt. Comstock replied. "But I could only answer with 99% certainty. You fire your gun on the range. You reload. You take it apart to clean it. You reload. Your life depends upon your piece. You'd like to think you never make a mistake, but if you do anything often enough it becomes a habit. You don't focus on it. If a round fell into the couch while you're cleaning your gun at home, you might not notice it."

"Agent Martin isn't someone I'd expect to make a mistake like that."

"Prove it." Sgt. Comstock glared at Robert when he said this.

The two men stared at each other for a moment. Then Robert put the gun and the bullets back in the evidence box and took out Officer Birdwell's cell phone.

"Do you have the password for this?" he asked.

The man who ran the evidence locker looked at Sgt. Comstock. Sgt. Comstock nodded, and the man gave Robert the password. "We got the password from his widow," he added icily.

Robert spent a long time examining the phone, scrolling through pages, and studying some in detail.

"There are no texts or emails that have any bearing on this case," Sgt. Comstock said with obvious irritation. "That's documented in the case file."

"I know," Robert said without looking up from the phone. "I just like to check things out for myself." He studied the phone for a while longer, and then put it back in the evidence box with a look of defeat. He gave the box back to the man who ran the evidence locker. "Thank you for your cooperation," he said.

"Did you find anything?" Mr. Thackery asked when we were back in our car.

"No," Robert said dejectedly. "I was hoping to find something on the phone, but no luck there. I already knew about the missing round from Phil's gun because the investigation report listed the evidence found at the scene. I asked the question because I was hoping to catch them off guard and maybe learn something new, but Sgt. Comstock was prepared for that. I don't buy his explanation, but I couldn't prove it was wrong in court."

Robert spent that night and all day Saturday in his room. He apparently got something to eat in the middle of the night because I found toast crumbs and empty microwave dinner wrappers in the kitchen the next morning, but he spent the day in his room staring at the case files. Around noon on Sunday he shuffled into the living room in a bathrobe and slippers to tell me Phil and Mr. Thackery were coming over to discuss the case. Then he went back to his room to clean up and shave.

"I wish I could tell you something definite," Robert told Phil when we were gathered in the living room, "but right now all I have are questions. I don't have answers. The conclusions in the investigation report don't ring true to me, but I can't prove they're wrong. They think Officer Birdwell followed the main loop around until you met face to face, or he followed one of the cross trails that put him back on the main loop headed toward you. Either way you unexpectedly stumbled into each other in the dark. One of you drew his weapon, which prompted the other to draw his weapon, and you shot each other."

"It wasn't that dark," Phil insisted.

"I know," Robert answered. "And I agree. But you don't remember what happened, so we can't prove you recognized each other. Bill and I walked that trail. It should have taken you ten minutes to reach the clearing, and if Officer Birdwell went around the loop it would have taken him over thirty minutes. There are cross trails that he could have used as a shortcut, but even so I don't think he could have run fast enough to reach the clearing at the same time you did. Unless you stopped, for some reason. And since you don't remember what happened, we can't prove you didn't stop."

Phil nodded in reluctant agreement.

“Then there’s Sgt. Comstock’s investigation of the woods. Police logs show he called from the south entrance to the park ten minutes after they told him about the report of gunshots. He could have driven from Brandon Heights to the park in ten minutes. Barely. Why did he walk into the woods alone, instead of waiting for backup? I know he said gunshot reports at night are usually fireworks, but still. If I was investigating gunshots, I wouldn’t follow a narrow path through the woods at night by myself. He did. And fifteen minutes later he called to report finding two bodies. Bill and I followed him along that trail, walking at a brisk pace, and it took us fourteen minutes to reach the clearing. In broad daylight. When we knew where we were going. He walks down that path at night, presumably searching right and left with his flashlight, not knowing if the shooter was on the main path or one of the side paths, not knowing for certain if there even was a shooter, and he reaches the clearing, finds the bodies, and calls for an ambulance in fifteen minutes. No wrong turns. No exploration of side trails. No stopping to listen for noises. And no walking carefully and slowly because you’re looking for an armed man. Can I prove it was impossible for him to reach the clearing in fifteen minutes? No. But to me, his story doesn’t ring true.”

“Sgt. Comstock was investigating a report of gunshots. The man who reported the shots, who lives over two miles away, reported hearing two shots. I’m not an acoustics expert, but I would think that to hear two distinct shots they would have had to have occurred, say, half a second apart? A quarter of a second? I think that the further away you are, the less distinct the sound and the greater the separation needed to hear two distinct shots. Phil, you supposedly shot Officer Birdwell through the heart. Do you think you could have done that after being shot in the head? Even a quarter second after? Even if you’d drawn a bead on him before being hit and squeezed the trigger by reflex, would it have been a controlled squeeze that put the round on target? Or a reflexive jerk that threw off your aim?”

“I’ve never heard of anyone making a controlled shot immediately after being hit,” Phil said.

“Right,” said Robert. “And the same logic applies to Officer Birdwell. He probably wasn’t aiming at your head so his aim might have been thrown off a little, but still. He was shot through the heart. Chances are he couldn’t have made a shot like that after being hit. So, both shots must have occurred at the same time. Or at least, before either of you were hit. Which, since you were standing less than forty feet apart, means they were practically simultaneous. Yet a witness two miles away heard two distinct shots. Again, I can’t prove it didn’t happen, but the odds would seem to be against it.”

“And then there’s the physical evidence,” Robert continued. “Photos taken by Sgt. Comstock show both of you still had your weapons in your hands. You were shot in the head and crumpled backwards onto the ground, but you hung on to your weapon. Birdwell was shot through the heart and did the same thing. Not impossible, but it seems that at least one of you would have loosened your grip enough so that the fall would have knocked a gun out of your hand. And there was no blood on the ground. You were shot in the head. Scalp wounds usually bleed a lot, but not always. Maybe the leaves on the ground would have caught all the blood from your wound. But Birdwell? He was shot through the heart. The exit wound looks like someone punched a fist out the back of his uniform. And there wasn’t enough blood to soak through a few layers of leaves? The slug that supposedly made that wound buried

itself an inch and a half, maybe two inches into a tree behind him. I know a .45 is powerful, but to go clear through Officer Birdwell, grazing a rib according to the autopsy report, flattening out enough to make a huge exit wound, and still bury itself that deeply into a tree? And, of course, there's still one bullet from your gun that's missing from the accident scene."

Robert paused for a moment. He had become more and more animated as he listed the things that bothered him about this case. Then he seemed to sag in resignation. "But this is all just my conjecture," he said. "Things that don't 'feel' right to me. They've got concrete evidence and the ballistics report on their side. I'm convinced you didn't shoot Officer Birdwell, but I can't prove it. Yet. There's something I'm overlooking, or something that's not in the report. I feel like there's a major piece missing from this puzzle. I haven't found it yet, but I won't stop until I do."

Phil and Mr. Thackery tried to hide their disappointment as they left, but it showed. Robert simply looked dejected, like he'd just let down his best friend. We ordered carry-out Chinese that night and ate in silence. Robert disappeared into his room after that. I tried to watch a detective movie on TV but couldn't follow the plot. My thoughts kept returning to the questions Robert raised about the Birdwell shooting. I was convinced Phil hadn't shot the officer, but I couldn't think of any other scenario that explained the evidence. I finally gave up and went to bed, but I lay awake for a long time trying to solve the mystery.

I was jolted awake by Robert pounding on my door, calling my name, and shouting "I found something!" I dragged myself out of bed and opened the door.

"Look at this!" Robert shouted, shoving the grisly crime scene photo of Officer Birdwell's back in my face. "Do you see it?" he asked. It was not the kind of photo you want to wake up to.

"Yes," I replied, somewhat testily. "I saw it last week, when I went through the folder."

"I looked at it then, too, but it wasn't until tonight that I realized what was wrong with it. Look at what's stuck to his back."

"It's a bunch of dead leaves," I said, "covered in blood."

"Yes!" Robert said with excitement. "But what kind of leaves?"

I looked closely at the photo. I couldn't find anything unusual about the leaves. Robert was waiting for an answer. I'm no expert on leaves, but I thought I saw mostly maple leaves, with maybe a few oak leaves as well. Then again, those are the only two kinds of leaves I can recognize.

I hazarded a guess. "Tree leaves, I guess. Maybe maple, with a few oak leaves as well?"

"Exactly!" Robert exclaimed. "The oak leaves are stuck to his uniform, and the maple leaves are stuck to the oak leaves. Do you know what that means?"

I stared at him, probably with a clueless expression on my face. I couldn't think of anything to say, so I just shrugged my shoulders.

"Somebody moved the body." Robert announced.

"I don't see how you can be certain about that," I said. "I mean, there were all kinds of trees in the woods."

"Yes, but there were different trees in different places," Robert said. "Did you see any oak trees near the clearing?"

"I didn't really notice," I admitted. "There were trees all around, but I didn't pay any attention to them."

"I didn't pay as much attention as I should have," Robert said, but I don't see any oak leaves in the crime scene photos. We need to go back to see for certain, but I don't remember any oak trees there."

"But the wind blows dead leaves around," I argued. "The oak leaves could have come from anywhere."

"The wind blows leaves around in our yard, or in a field," Robert said. "It doesn't blow them far in a forest, where there are plants and bushes blocking the wind at ground level. A leaf may travel a short distance, but pretty soon it gets blocked by the underbrush. Get dressed and we'll go take a look."

I looked at the clock beside my bed. "It's two-thirty in the morning!" I said. "It's dark out. We won't be able to see the trees or the leaves."

Robert looked at his wrist watch. "Oh," he said with disappointment. "I guess you're right. Well, go back to bed and we'll check it out in the morning."

It took me a long time to fall back asleep.

At 6:00 am Robert woke me by knocking on my door and calling "It's daylight now. Let's go to the park."

I staggered out of my room and was surprised to find that Robert had made coffee. He almost never does that, not because he doesn't want to but because I'm always the first one up. The pot was over half empty, and it occurred to me that he might have stayed up all night. I poured some coffee into a travel mug, grabbed a bagel, and we left for the park.

Traffic was the usual morning nightmare, and by the time we got to Castell the morning joggers had long since finished their routines. There was one car in the parking lot, which we assumed belonged to an elderly couple we saw strolling toward the parking lot shortly after we entered the woods. Other than them, we had the park to ourselves.

We spent a long time examining the ground in the clearing, but didn't find a single oak leaf. The ground was primarily covered with maple leaves – not surprising as the clearing was surrounded by maple trees – along with a few leaves which I didn't recognize and which I assumed came from nearby bushes. We then set out to look for oak trees.

It turned out there were a lot of oak trees in the park. Robert insisted on exploring every trail in the park, and we found dozens of areas where the ground was covered in oak leaves. We couldn't sift through all the leaves looking for signs of a shooting, but we did walk slowly through every patch of oak leaves we found, staring at the ground and looking for anything unusual, but we found nothing. It was mid-afternoon before we returned to our car. I was exhausted and ready to go home, but Robert was still keyed up.

"You know," he said, "I think I've double checked everything in the report except the witness who heard the gunshots. Let me call Mr. Swanson and see if he'll talk to us."

As it turned out, Mr. Swanson was retired and had time to talk to us that afternoon. He lived with his wife in a ranch house just north of the park. He invited us in for coffee, and insisted we call him "Clarence." His wife joined us in the kitchen, where we sat around a granite topped island.

"So, you called to report hearing two gunshots at about 9:30 that night, correct?" Robert asked.

"Yes," Clarence replied. "I didn't look at the clock but it was probably around 9:30."

"Were the two shots close together, like 'pow-pow'?" Robert asked.

"They were close together, but not that close. I'd say maybe two or three seconds apart."

"Longer than that, honey," his wife said. "Four or five seconds at least."

"She's usually right," Clarence conceded.

"But definitely not one right after another," Robert said. "The police report didn't say how far apart they were. So you heard one shot and a few seconds you heard another, and this was around 9:30."

"That's right," Clarence said.

"But the two shots were earlier than that," his wife said.

"Yes, but we called the police around 9:30," Clarence said. "That's what they were asking about."

"I'm trying to understand what happened in the park that night," Robert said, "so I'm interested in anything you can tell me about it. The police log shows a call came in at 9:32 pm reporting gunshots in the park, but it didn't say what time the shots occurred. How long before the call did you hear the shots?"

“Well, we were sitting in the living room, watching the news,” Clarence said. “That ended at eight thirty, so we turned off the television. I read a book and Susan was knitting. I’d say it was, maybe fifteen minutes later that we heard the shots.”

“Longer than that, dear,” his wife said. “I finished two rows. It was probably closer to nine.”

“Could be,” Clarence said.

“Why did you wait to call the police?” Robert asked.

“Well, we weren’t certain it was gunshots,” Clarence said.

“I told you it sounded like gunshots,” his wife added.

“Yes, but you weren’t certain. I thought maybe it was our neighbor setting off firecrackers. His daughter lives in Tennessee, and he brings back fireworks every time he visits her.”

“He does tend to set them off at odd times,” his wife conceded.

“Anyway, we didn’t want to call in a false alarm,” Clarence explained. “But when we heard the three additional shots we decided to call.”

“The police report didn’t mention three additional shots,” Robert said with interest. “Tell me about them.”

“Well, the policeman who came to ask us about the shots said they probably weren’t related,” Clarence said. “That must be why he didn’t put it in the report.”

“He was a nice man,” his wife added.

Clarence continued. “We heard them, well, I guess it must have been about a half-hour later if we called at 9:30. They weren’t together. They were two, maybe three minutes apart. This time we could tell they were coming from the direction of the park because we were paying attention. The definitely weren’t coming from our neighbors.”

“When we heard about the shooting on the news the next day we understood why the policeman was only interested in the first two shots,” his wife added.

We talked to them for a while longer, but they had no additional information to report.

I drove back to L.A. while Robert sat absorbed in his thoughts. When we got back to the house I suddenly realized I was famished. Robert wanted to make some phone calls, so I drove to a local pizza parlor while he made his calls. When I came back with a pizza he was just finishing a call.

“Perfect timing!” he said. I want you to witness this next call, but keep quiet.” He switched his phone to speaker and placed a call.

“Hey, this is Ryan,” a voice said.

“Sergeant Comstock. This is Robert Borland. I hate to disturb you, but I want to call the evidence locker and I can’t find their number. Do you have it?”

“Sorry, but I don’t have their number.” Sgt. Comstock’s voice didn’t sound as friendly as when he answered. “They’re closed now anyway. They close at five.”

“Damn.” Robert said. “I wanted to check something out tonight, but I guess I’ll have to wait until morning.”

“Have you found anything new about Larry’s death?” Sgt. Comstock asked.

“Nothing definite,” Robert said. “But I’m beginning to suspect his body was moved before you found it. I wanted to check his phone, as he’s got one of those phones that tracks your location. If he was moved, that will show me where he was moved from so we can search that area for evidence.”

“I really doubt that his body was moved,” Sgt. Comstock said, “but in any event you’ll have to wait until morning to look at his phone. Also, his lawyer will have to make the request, as he’s the only one who’s officially representing the defendant.”

“That’s right,” Robert said. “I’ll give him a call now and get things set up for tomorrow morning. Thanks for the information.”

“Glad I could help.” They hung up.

“Bad luck about the locker being closed,” I said.

“I knew they closed at five,” Robert said. “I waited until after they closed to make the call. Officer Birdwell’s phone wouldn’t have helped us, anyway. I looked at it when we were in the locker. He had his location services turned ‘off.’ The most his phone would tell us was that he was somewhere in the park.”

“Then why did you tell Sgt. Comstock you wanted the phone?” I asked.

“Because he doesn’t know the location services were turned off,” Robert answered.

The moon was waning, so there wasn’t as much light as there had been the night Officer Birdwell was shot. There was still enough moonlight for Sgt. Comstock to find his way, though. The parking lots

were empty, but he didn't want to use a flashlight just in case there were still hikers or bicyclists in the park. When he got to the spot he was looking for he knelt down, put his hand over his flashlight, turned it on, and spread two fingers to let a tiny shaft of light shine on the ground. He brushed the top layer of leaves away, and the leaves underneath were dry. He moved a little to one side and tried again with the same result. On his third try he found bloodstained leaves underneath the top layer. He turned off the flashlight and began to scoop the leaves into a plastic bag. Suddenly he was blinded by a ring of flashlights around him.

"Please don't destroy any more evidence," said Detective Aguayo of the California Bureau of Investigation.

The next day Detective Aguayo, Mr. Thackery, and Phil Martin came to our house to discuss the case with Robert and me.

"We searched the park at daybreak and collected samples of the bloodstained leaves and soil underneath," Detective Aguayo said. "They're at the lab being analyzed now, but I'll bet they find it's Officer Birdwell's blood. We also found a spent 7.62 cartridge, probably from an AK-47. We suspect that's the round that killed Officer Birdwell, but without the slug we can't prove it. We searched high and low for the slug, but with no luck. It's a big woods. We also searched the area where the body was found, in case the Castell sheriff overlooked anything, but with no luck."

"By the time they moved the body there they were thinking clearly enough to police their brass," Robert suggested.

"You think there were more people than just Sgt. Comstock involved?" asked Detective Aguayo.

Robert nodded. "He couldn't have carried the body that far by himself, and if he dragged it he wouldn't have had time to cover his tracks. Plus, Phil was shot at almost the same time as Officer Birdwell, but at a different location. There must have been several people involved."

"Makes sense," said Detective Aguayo. "Any idea who these people were?"

Robert shook his head. "I have a theory about what happened, but I don't know who did it or why. Something nefarious was going on in the woods that night which involved armed men, probably some of whom acted as lookouts. Sgt. Comstock was probably involved in it. Phil and Officer Birdwell stumbled into them and were ambushed. Those were the first two gunshots the Swansons heard. The fact that Phil's wound looked worse than it was probably saved his life, as they thought he was dead. They knew there was going to be a very thorough investigation into the killing of a police officer, so they tried to make it look as though Phil had shot him. They carried Officer Birdwell's body to the clearing where Phil was lying, took Phil's gun, and fired it into a tree behind Officer Birdwell. They knew the spent slug could be traced to Phil's gun, and they hoped that would prove that Phil had killed the policeman. They picked up the spent casing from that shot, and that may be what prompted them to search for the spent brass from the shot that hit Phil. Then they put the gun into Phil's hand, wrapped his finger around the trigger, and fired a round into the air. They did the same with Officer Birdwell and his gun. That way

there would be gunpowder residue on their hands, a spent casing would be found near each body, and it would appear that they had shot each other. That also explains the three rounds heard by the Swansons after the two initial rounds.”

“Sounds like maybe they stumbled into a drug deal,” Detective Aguayo suggested. We know fentanyl is being smuggled into the country through Los Angeles, and it’s being distributed to other cities. We suspect local law enforcement agencies have been paid to look the other way, as none of the shipments have ever been intercepted. Castell County would be along the route to Bakersfield, Fresno, and Las Vegas. Sgt. Comstock has hired a lawyer and is refusing to talk, but if the lab tests pan out we’ve got him dead to rights on accessory after the fact and attempted destruction of evidence. That might be enough to justify a warrant to search his bank records for any unusual deposits. This is still mostly based on conjecture, though. It would be better if we had a witness.”

“It’s possible there is one,” Robert said.

“Who?” asked Detective Aguayo.

“The man Phil and Officer Birdwell were trying to meet,” Robert said. “The man who rode a bicycle into the park.”

“The anonymous source with the untraceable burn phone?” I asked. “How are we going to find him?”

“Sgt. Comstock said it was a burn phone,” Robert answered, “and he’s not exactly a reliable source at this point. It was probably an unregistered prepaid phone, but those aren’t uncommon and they’re certainly not all used as burn phones. Many people who can’t afford a phone contract use prepaid phones, and the stores that sell them don’t always register them. Plus, the government has handed out so many for free that they’re often sold on the street for less than it would cost to buy one in a store.”

“He said they called the phone and there was no answer,” I said. “Was he lying about that to cover his involvement in the shooting?”

“Maybe, maybe not,” Robert said. “Lots of people don’t answer calls from numbers they don’t recognize, especially on a prepaid phone where answering burns up minutes. Put yourself in the witness’s position. You’ve just seen a murder and are probably scared out of your wits. Would you answer a call from a stranger?”

“Probably not,” I admitted. “So there’s no way to contact him?”

“He might answer a text,” Robert said. “Especially if the text said the policeman who was involved in the shooting was in jail, and the authorities needed his help to keep him there and to free an innocent man who was being blamed for the murder.”

I thought about this for a bit. "It's worth a try," I said. "What do you think the odds are that it will succeed?"

"Pretty good, I'd say." Robert looked at his watch. "Especially since the man is due here any minute now."

As if on cue the doorbell rang. Robert opened the door and a short, nervous looking man stepped inside. He appeared to be of Latino descent, with thinning hair and a dark moustache.

Robert waved him to a chair. "Please, sit down and relax. This is Detective Aguayo of the California Bureau of Investigation, Phil Martin of the FBI, Phil's lawyer Mr. Thackery, and Bill Downing. Bill and I are trying to help with the investigation, just like you are."

"Thank you," the man said. "I am Carlos Castillo. I want to help."

"Can you please tell us what you saw in the park?"

"I go to park to meet with policeman. I am frightened because I do not want the people I work for to know I am there. I see a light, so I put my bicycle in the trees and walk through trees to look without being seen. I see some men with guns. I see such men in Columbia. They are bad men. They are shining light on a box with money. A policeman is counting the money. Then another policeman walk in from woods. At first he is happy to see other policeman. Then he is angry. 'What the hell is going on' he say. Then they shoot him. The first policeman starts yelling. I hear another shot, not from these men, from somewhere else, and I run away."

"Who shot the policeman?" Detective Aguayo asked. "The other policeman?"

"No," Carlos replied. "A bad man. With gun." He held his hands up as though he was holding a rifle. "The first policeman yell at man who shot."

"Would you be willing to testify to this in court?" Mr. Thackery asked.

Carlos hesitated a moment before he answered. "Yes," he said. "If it helps put bad policeman in jail."

"Thank you very much for coming here to tell your story," Detective Aguayo said. "I know that took a lot of courage, but you're doing the right thing. I want to ask you to do one more thing. Would you come to my office with me and tell your story to people who will write it down so you can sign it?"

Carlos nodded. "Yes," he said. "I will do that."

Detective Aguayo stood up to leave, and Carlos started to follow him. Phil spoke up.

“Before you leave,” he said, “I’d like to ask one more question. I was in the woods that night looking for you because you wanted to report a spy. Can you tell me about that now?”

“I work as janitor at Inyo Cyber,” Carlos said. “I do not know what they do, but I know it is very secret. Sometimes soldiers with many medals come to look at what they do. Many rooms are locked and you need a number to go in. I can not clean those rooms. I polish floors on Sunday because nobody works. One Sunday I couldn’t sleep so I go in very early, to polish floors before church. I was surprised to see car in parking lot. When I go in I see open door on locked room. Inside man is taking pictures of papers. I know this not right. He does not see me so I go where he can not hear me and call my boss. My boss say to hide and wait until he gets there. Man leaves after I call my boss. My boss comes and say I do the right thing to call him. He say he will take care of everything. I ask how man get into building and into room without numbers. My boss say to let him worry about that. I say we should call police and my boss gets angry. He say police will cause big problems for company. He will take care of it and if I tell anyone I lose my job. I know this is not right. This country has been very good to me and I don’t want bad people to hurt it. I tell police in secret.”

“Thank you very much,” Phil said. “You did the right thing. It would be best if you didn’t tell your boss you talked to the police. It sounds like bad men are stealing secrets from your company, and he may be working with them. I will look into it and get back to you.”

“Thank you,” Carlos said. He shook hands and left with Detective Aguayo.

“So that’s what led to the death of Officer Birdwell, and nearly led to Phil’s death,” Mr. Thackery said after they left.

“It also led to the exposure of drug smuggling and a crooked cop,” Robert added.

“Don’t ignore the spy report,” Phil said. “I’m definitely going to look into that. I don’t know much about Inyo Cyber, but I do know they’re working on hardening the electrical grid against cyber-attacks. They’re probably also involved in defense contracts. The ‘soldiers with many medals’ are probably high ranking officers overseeing those contracts. It definitely sounds like espionage, and it sounds like they have at least one contact inside the company. Carlos is a smart man. How did they get the combinations to the outside door and the locked rooms inside? Why did they leave right after he called his boss? This may turn out to be a bigger bombshell than the smuggling ring.”