

# **INVESTIGATIVE REPORT**

**Client:** City of Alameda

**Subject:** Administrative Investigation  
In Custody Death  
Exhibits to Report

**Investigator:** Renne Public Law Group

**Date:** May 3, 2022

## **EXHIBITS TO REPORT**

**(Redacted based on privacy in conformity with Penal Code section 832.7(b)(6).)**

**BINDER 1: EXHIBITS 1 - 22**



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<b>Ex.</b>	<b>Exhibit Description</b>
<b>1</b>	Alameda Police Department Policy 300 — “Use of Force”
<b>2</b>	Alameda Police Department Policy 306 — “Handcuffs and Restraints”
<b>3</b>	Alameda Police Department Policy 340 — “Standards of Conduct”
<b>4</b>	Alameda Police Department Policy 420 — “Cite and Release Policy”
<b>5</b>	Alameda Police Department Policy 440 — “Contracts and Temporary Detentions
<b>5A</b>	Alameda Police Department Policy 1020 – “Personnel Complaints”
<b>6</b>	911 Call Transcript
<b>7</b>	911 Call Transcript
<b>8</b>	Officer James Fisher Body Worn Camera Transcript
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EXHIBIT 1

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person (Government Code § 7286(a)).

**Force** - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

**Serious bodily injury** - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

**Totality of the circumstances** - All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The [Department/Office] recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

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### **300.2.1 DUTY TO INTERCEDE**

Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede to prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

### **300.2.2 FAIR AND UNBIASED USE OF FORCE**

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

### **300.2.3 DUTY TO REPORT EXCESSIVE FORCE**

Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary shall promptly report these observations to a supervisor as soon as feasible (Government Code § 7286(b)).

## **300.3 USE OF FORCE**

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the [Department/Office]. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

#### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.

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- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

### 300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed [department/office]-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

### 300.3.4 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Alameda Police Department for this specific purpose.

### 300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

APDAs time and circumstances reasonably permit, and when community and officer safety would not be compromised, [officer] should consider actions that may increase officer safety and may decrease the need for using force:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase officer jeopardy.

In addition, when reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative



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tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)(1)). Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

### **300.4 DEADLY FORCE APPLICATIONS**

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a(5)(c)(1)(B)).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

#### **300.4.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of

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its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

### **300.4.2 DISPLAYING OF FIREARMS**

Given that individuals might perceive the display of a firearm as a potential application of force, officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such imminent threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this [department/office] shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the [Department/Office] may require the completion of additional report forms, as specified in [department/office] policy, procedure or law.

#### **300.5.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a [EMDT device] or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.

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- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

### **300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Section Policy.

### **300.6 MEDICAL CONSIDERATION**

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

### **300.7 SUPERVISOR RESPONSIBILITY**

A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to (Government Code § 7286(b)):

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- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
  - 1. The content of the interview should not be summarized or included in any related criminal charges.
  - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
  - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
  - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

### 300.7.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

### 300.8 TRAINING

Officers, investigators, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).

Subject to available resources, the Personnel and Training Sergeant should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (Government Code § 7286(b)):

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- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

### **300.9 USE OF FORCE ANALYSIS**

At least annually, the Operations Bureau Commander should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

### **300.10 USE OF FORCE COMPLAINTS**

The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

### **300.11 POLICY REVIEW**

The Chief of Police or the authorized designee should regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

### **300.12 POLICY AVAILABILITY**

The Chief of Police or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

### **300.13 PUBLIC RECORDS REQUESTS**

Requests for public records involving an officer's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records and Records Maintenance and Release policies (Government Code § 7286(b)).

EXHIBIT 2

## Handcuffing and Restraints

### 306.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

### 306.2 POLICY

The Alameda Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy, and [department/office] training. Restraint devices shall not be used to punish, to display authority, or as a show of force.

### 306.3 USE OF RESTRAINTS

Only members who have successfully completed Alameda Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

#### 306.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

#### 306.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized

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determination that such restraints are necessary for the safety of the arrestee, officers, or others (Penal Code § 3407; Penal Code § 6030).

**306.3.3 RESTRAINT OF JUVENILES**

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer, or damage property.

**306.3.4 NOTIFICATIONS**

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

As part of the intake process at Santa Rita Jail (SRJ), the Alameda County Sheriff's Office will no longer accept arrestees in a WRAP Restraint Device if the arrestee cannot be safely removed from the restraint device and a proper medical assessment can be conducted by their medical staff prior to booking. The sworn staff at SRJ will be made available to assist our officers at the time of intake, but they will not accept arrestees who remain violent while in the WRAP.

If the arrestee is too combative to obtain vital signs and medical staff cannot conduct a thorough medical assessment, the arrestee will be refused and we will need to transport the arrestee to a hospital for evaluation and/or treatment. Upon clearance from the hospital and removal from the WRAP Restraint Device, notwithstanding, any other medical conditions which may preclude acceptance to SRJ, the arrestee can be returned to SRJ for the booking process.

**306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS**

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the [Department/Office]. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.



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### **306.5 APPLICATION OF SPIT HOODS**

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

### **306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES**

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons, and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort, and mobility.

Only [department/office]-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

### **306.7 APPLICATION OF LEG RESTRAINT DEVICES**

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

The approved device is the WRAP Restraint manufactured by Safe Restraints, Inc., Park City, Utah. It is the only restraint authorized by this department. Officers shall only use the WRAP Restraint supplied by the department.

In determining whether to use the leg restraint, officers should consider:

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- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.
- (b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

### **306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

When applying leg restraints, the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Limit the number of officers on top of the subject while in the prone position. Officers should position themselves on the shoulder blades and legs and avoid pressure to the spine.
- (c) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (d) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (e) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (f) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (g) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

### **306.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

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- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

### **306.9 TRAINING**

Subject to available resources, the Personnel and Training Sergeant should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the [Department/Office].
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

EXHIBIT 3

## Standards of Conduct

### 340.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Alameda Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

### 340.2 POLICY

The continued employment or appointment of every member of the Alameda Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

### 340.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

#### 340.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermmanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

### **340.3 SUPERVISOR RESPONSIBILITIES**

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

### **340.4 GENERAL STANDARDS**

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

### **340.5 CAUSES FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

#### **340.5.1 LAWS, RULES AND ORDERS**

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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#### 340.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Alameda Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

#### 340.5.3 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

#### 340.5.4 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.

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- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

#### 340.5.5 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

#### 340.5.6 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration,



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destruction and/or mutilation of any department record, public record, book, paper or document.

- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
  - 1. While on department premises.
  - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
  - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
  - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
  - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (i) Any act on- or off-duty that brings discredit to this department.

### 340.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.

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- (e) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status.

**340.5.8 UNAUTHORIZED ACCESS, DISCLOSURE OR USE**

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Alameda Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

**340.5.9 ATTENDANCE**

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

**340.5.10 RELATIONSHIPS**

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member

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knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

### **340.5.11 DISCRIMINATION, OPPRESSION OR FAVORITISM**

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

### **340.6 FINDINGS**

One of the findings listed below will be included in the report of investigation of an alleged act of misconduct.

**Unfounded:** The investigation indicates that the act or acts complained of did not occur or failed to involve police personnel.

**Exonerated:** Acts did occur but were justified, lawful and proper.

**Not Sustained:** Investigation fails to discover sufficient evidence to clearly prove or disprove the allegations made in the complaint.

**Sustained:** The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

**Not Involved:** Investigation established that the individual indicated in the allegation was not involved in the alleged incident.

### **340.7 PENALTIES**

Subject to the provisions of the Charter of the City of Alameda, the rules of the Civil Service Board, and when necessary, the approval of the City Manager, the following penalties may be assessed against any member or employee of the Department as disciplinary action:

- Counseling
- Training
- Oral reprimand
- Written reprimand
- Suspension
- Fine
- Demotion
- Dismissal

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### 340.7.1 APPEALS

Appeals from penalties imposed as disciplinary action measures may be taken as provided in the Charter of the City of Alameda, Rules and Regulations of the Civil Service Board, Section 3300 of the Government Code, and/or applicable Memoranda of Understanding

### 340.8 EMERGENCY SUSPENSION

The following personnel have the authority to impose an emergency suspension, until the next business day, against any member or employee when it appears that such action is in the best interest of the Department:

- Any Command Officer
- Any Police Sergeant

**Follow-up Action on Emergency Suspension** - A member or employee receiving an emergency suspension shall be required to report to the Chief of Police on the next business day at 0900 unless otherwise directed by a Commanding Officer. The command or supervisory officer imposing or recommending the suspension shall notify the Bureau Commander and complete a written report for the Chief of Police. The written report shall be completed prior to the employee meeting, and the command or supervisory officer shall report to the Chief of Police.

EXHIBIT 4

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## Cite and Release Policy

### 420.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

### 420.2 POLICY

It is the policy of the Alameda Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the [Department/Office]'s mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

### 420.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private persons arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

#### 420.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

#### 420.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Watch Commander or the authorized designee.

### 420.4 NON-RELEASE

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### 420.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
- (b) Felony domestic battery (Penal Code § 273.5)
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
- (d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
- (e) Rape of a spouse (Penal Code § 262)
- (f) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)
- (g) Stalking (Penal Code § 646.9)
- (h) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

### 420.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the [Department/Office] and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

- (a) The person arrested is so intoxicated that he/she could be a danger to him/herself or to others. Release may occur as soon as this condition no longer exists.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety
  1. The Alameda Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.
- (d) The person has been cited, arrested, or convicted for theft from a store or vehicle in the previous six months, or there is probable cause to believe the person is guilty of committing organized retail theft, as defined in Penal Code § 490.4(a).

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- (e) There are one or more outstanding arrest warrants for the person or failures to appear in court on previous misdemeanor citations that have not been resolved (see Misdemeanor Warrants elsewhere in this policy).
- (f) The person could not provide satisfactory evidence of personal identification.
  - 1. If a person released on citation does not have satisfactory identification in his/her possession, a right thumbprint or fingerprint should be obtained on the citation form.
- (g) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.
- (h) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (i) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (j) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. An arrest warrant or failure to appear that is currently pending shall constitute reason to believe that the person will not appear. Other reasons may include:
  - (a) Previous failure to appear is on record
  - (b) The person lacks ties to the area, such as a residence, job, or family
  - (c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Section.

#### **420.5 MISDEMEANOR WARRANTS**

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence.
- (b) The misdemeanor cited in the warrant involves a firearm.
- (c) The misdemeanor cited in the warrant involves resisting arrest.
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer.
- (e) The person arrested is a danger to him/herself or others due to intoxication or being under the influence of drugs or narcotics.



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- (f) The person requires medical examination or medical care or was otherwise unable to care for his/her own safety.
- (g) The person has other ineligible charges pending against him/her.
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.
- (i) The person refuses to sign the notice to appear.
- (j) The person cannot provide satisfactory evidence of personal identification.
- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

### **420.6 JUVENILE CITATIONS**

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Alameda City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Investigations Division for further action including diversion.

EXHIBIT 5

## Contacts and Temporary Detentions

### 440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

#### 440.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

**Field interview** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

**Field photographs** - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

**Reasonable suspicion** - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

**Temporary detention** - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

### 440.2 POLICY

The Alameda Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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**440.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Alameda Police Department to strengthen community involvement, community awareness, and problem identification.

**440.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
- (b) Actions suggesting that he/she is engaged in a criminal activity
- (c) Presence in an area at an inappropriate hour of the day or night
- (d) Presence in a particular area is suspicious
- (e) Carrying of suspicious objects or items
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
- (g) Location in proximate time and place to an alleged crime
- (h) Physical description or clothing worn that matches a suspect in a recent crime
- (i) Prior criminal record or involvement in criminal activity as known by the officer

**440.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.

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- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

**440.5 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

**440.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

**440.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

**440.5.3 SUPERVISOR RESPONSIBILITIES**

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

**440.6 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.

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2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
  - (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Alameda Police Department members.
    1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

### **440.7 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be logged on the patrol camera photo log, with the Field Interview number noted on the log and the Photo Log file number, noted on the Field Interview Card narrative. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the photo will be retained by the Identification Bureau and made available to the appropriate investigative unit.

- (a) If the photo and associated FI or document is relevant to criminal street gang enforcement, a digital copy will be made available to the Special Investigations Unit Supervisor. The Special Investigations Unit Supervisor will ensure the photograph and supporting documents are retained as prescribed by Policy § 442.
- (b) Photographs that do not qualify for Criminal Street Gang file retention or which are not evidence in an investigation with an assigned case number will be maintained by the Identification Bureau. These photographs will be purged as described in Policy § 440.7.1.

When a photograph is taken in association with a particular case, the detective may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be maintained by the Identification Bureau and logged under the corresponding Field Interview, Incident Card or report number.

#### **440.7.1 PURGING THE FIELD PHOTO FILE**

The Identification Bureau Supervisor will be responsible for periodically purging and destroying all such photographs more than one year old. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than one year provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the FI photo file shall be strictly limited to law enforcement purposes.

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**440.8 PHOTO REVIEW POLICY**

Any person who has been the subject of a field photograph or an FI by this agency during any contact other than an arrest may file a written request within 30 days of the contact. The request to review the status of the photograph/FI shall be directed to the office of the Chief of Police.

**440.8.1 REVIEW PROCESS**

Upon receipt of such a written request, the Chief of Police or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph/FI.

Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Alameda Police Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.

If the Chief of Police or his/her designee determines that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Alameda Police Department policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to department policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original FI was not obtained in accordance with established law or Alameda Police Department policy, the original FI may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

If the Chief of Police or his/her designee determines that any involved Alameda Police Department personnel violated existing law or department policy, the Chief of Police or designee shall

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initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employees.

The person photographed/FI'd will be informed in writing within 30 days of the Chief of Police's determination whether or not the photograph/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.



EXHIBIT 5A

## Personnel Complaints

### 1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Alameda Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1020.2 POLICY

The Alameda Police Department takes seriously all complaints regarding the service provided by the [Department/Office] and the conduct of its members.

The [Department/Office] will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this [department/office] to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1020.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of [department/office] policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate [department/office] policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the [Department/Office].

#### 1020.3.1 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any [department/office] member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

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#### 1020.3.2 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the complaining party is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member. Informal complaints need not be documented on a Personnel Complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

**Formal** - A matter in which the complaining party requests further investigation or which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Inspectional Services, depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Inspectional Services, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

#### 1020.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

##### 1020.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the [department/office] website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

##### 1020.4.2 ACCEPTANCE

All complaints will be courteously accepted by any [department/office] member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of his/her statement at the time it is filed with the [Department/Office] (Penal Code § 832.7).

##### 1020.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The [Department/Office] shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

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### **1020.5 DOCUMENTATION**

Supervisors shall ensure that all formal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All formal complaints should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the [Department/Office] should audit the log and send an audit report to the Chief of Police or the authorized designee.

### **1020.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows.

#### **1020.6.1 SUPERVISOR RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  1. The original complaint form will be directed to the Watch Commander of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Bureau Commander or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  1. Follow-up contact with the complainant should be made within 24 hours of the [Department/Office] receiving the complaint.
  2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Watch Commander.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Watch Commander and the Chief of Police are notified via the chain of command as soon as practicable.

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- (e) Promptly contacting the Department of Human Resources and the Watch Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Watch Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Inspectional Services, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Alameda Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators

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should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
  - (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
  - (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  - (j) All members shall provide complete and truthful responses to questions posed during interviews.
  - (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

### 1020.6.3 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

### 1020.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve [department/office] members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

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**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or [department/office] policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### 1020.6.5 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough and complete. The memorandum format should start with a list of pertinent information, including, but not limited to: Dates/Times Occurred, Date/Time Reported, Location of Incident, Complainant, Allegations, Subject Employee(s), Witness Employee(s), Other Witnesses, Attorney(s), and Connected Report. The body of the investigation should essentially follow this format:

**Summary:** Provide a brief summary of the facts giving rise to the investigation.

**Investigation:** Give a detailed, chronological account of the investigative steps taken. Include observations made from evidence examinations and comprehensive summaries from all interviews. Use sub-headings to separate sections of the investigation when appropriate.

**Findings:** For every subject employee, address each allegation separately by assigning an appropriate disposition based on the investigation and evidence. Summarize all evidence relevant to the allegation in support of the disposition.

**Recommendations:** If applicable, and when appropriate, provide a recommendation regarding further action or disposition.

**Attachments:** Provide a list of all exhibits referenced in and attached to the investigation, including documents, photos, recordings, etc.

#### 1020.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

#### 1020.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

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Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

### **1020.7.1 DISCLOSURE OF FINANCIAL INFORMATION**

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties
- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

### **1020.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the [Department/ Office], the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any [department/office] badge, identification, assigned weapons and any other [department/office] equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

### **1020.9 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

### **1020.10 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of



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attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

### **1020.11 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

### **1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

### **1020.13 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

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### **1020.14 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

#### **1020.14.1 CHIEF OF POLICE RESPONSIBILITIES**

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Bureau Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation may be recorded by the [Department/Office]. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

#### **1020.14.2 DIVISION COMMANDER RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Bureau Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Bureau Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

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Prior to forwarding recommendations to the Chief of Police, the Bureau Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Bureau Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

### **1020.14.3 NOTICE REQUIREMENTS**

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

### **1020.14.4 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT**

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

### **1020.15 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Alameda Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

EXHIBIT 6

**RPLG**

Renne Public Law Group®

Transcript of Audio Recording of:  
**911 Calls (04/19/2021)**

**KEY:**

**DI:** Dispatch

**CA:** Caller

DI: Good morning. Alameda Police, Dela Cruz.

CA: Hi, uh, my name is [REDACTED] Um, there's a man, uh, in my front yard kind of talking to himself and no mask and I went out there and the dogs are barking at him and he's, he's talking to us, but he's not making any sense.

DI: Okay. What's the address?

CA: And I don't know what to do. It's, uh, 802 Oak Street.

DI: And what's your phone number?

CA: It's, uh, [REDACTED]

DI: Okay. And what does he look like? Is he white, black, Hispanic, Asian?

CA: I think he's, I think he's Hispanic. He's got, um, like, dark hair down to his shoulders. He's wearing, uh, uh, like, a ski cap. Looks like a --

DI: What color?

CA: . . . brown, furry. Uh, black.

DI: Black cap.

CA: Yeah, he's wearing, like, uh --

DI: What color are his pants?

CA: It's a, it's like a brown hoodie with the arms cut off and he's got, like, a black shirt underneath and he's got black shorts or pants.

DI: Black shorts or -- is it pants or shorts?

CA: I can't tell. Uh, yeah, I think it was pants.

DI: Okay. And he's in your front yard and he's just talking to himself?

CA: Yeah. He's not in the front yard. We have a fence, but it only comes up to, like, I don't know, waist height.

DI: Hm-hmm. [affirmative]

CA: And he's just sitting on the other side of the fence that's facing our yard and then the dogs didn't like him and they were barking.

DI: Okay. And so he's talking to himself? Anything else?

CA: And we have an 8-month old baby. Actually, it's shorts, not pants. Black shorts.

DI: Okay.

CA: No mask.

DI: I know, but he was talking to himself and what else was he doing?

CA: He's just hanging out.

DI: Okay. Do you think he's under the influence of drugs or alcohol?

CA: But I don't think he's actually doing any wrong. He, uh, I mean, he seems like he's tweaking, but he's not doing anything wrong. He's just scaring my wife.

DI: How old does he look?

CA: I don't know, maybe 20,30, something like that. Hard to tell.

DI: Okay. All right. We'll have somebody go by as soon as we can. Okay?

CA: Thank you. Appreciate it.

DI: Hm-hmm. [affirmative] Buh-bye.

[end of audio]

EXHIBIT 7



**RPLG**

Renne Public Law Group®

Transcript of Audio Recording of:  
**911 Call (04/19/2021)**

**Transcribed:** May 18, 2021

**Case:** Audio Transcription re: 911 CALL 2

**Reporter:** Debi Devitt

P.O. BOX 85  
Penn Valley, CA 95946



911 CALL  
(With Alameda Police Dispatch, 1-7)

---

CALL 2  
MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

---

PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946

██████████

██████████

**KEY:**

**DI: Dispatch**

**CA: Caller**

DI: Alameda Police, 1-7. Thank you. Hello.

CA: Hi.

DI: Can I help you?

CA: Hi. There's, um, there's a man at Scout Park. Um, he has two Walgreens basket with some alcohol bottles he looks like he's breaking the security tags off of.

DI: Okay. So he's front of, where's he on Park?

CA: It's at, it's at the corner, it's, uh, Scout's Park, but at the corner of Oak and Powell.

DI: Oh, okay. Okay. What does he look like?

CA: He's about, I'd say 5'6", 250 pounds.

DI: What race is he?

CA: Hispanic.

DI: Hispanic.

CA: Hispanic or Indian.

DI: What kind of, um, clothing?

CA: A, uh, jacket with blue sleeves and a tan part around the vest, a black hat, gray shorts.

DI: Like a tan, like a tan stripe around the jacket?

CA: No. It looks like a, maybe a blue, uh, sweatshirt with a tan vest.

DI: Underneath the, the jacket?

CA: I don't know if it's a jacket or if -- it's just has blue arms and a tan vest part.

DI: Okay. And then what else was the pants?

CA: Uh, the pants are, it's gray shorts with a green stripe.

DI: Okay. And he's, um, he actually has the shopping basket?

CA: Yeah. There's two shopping baskets. I can see at least two, two alcohol bottles and one of them I heard glass smash on the stump that he's standing next to.

DI: Okay. We'll send someone out. Is this [REDACTED]

CA: Yes.

DI: Okay. And your phone number of [REDACTED]

CA: Yes.

DI: Okay. We'll send an officer out. Do you see any weapons on him?

CA: No. He has a comb. It looks like he's been brushing his hair. Um.

DI: Okay. Is he, um, does he appear to be under the influence of drugs or alcohol, if you could tell?

CA: He, he might be. He just kind of has been, uh, kind of loitering around there for probably half an hour now.

DI: Okay. All right. We'll send someone out, sir.

CA: Okay. Thank you.

DI: Thank you. Buh-bye.

[end of audio]

EXHIBIT 8

**RPLG**

Renne Public Law Group®

[REDACTED]  
**Transcript of Body Cam Footage of:  
Officer James Fisher (04/19/2021)**

**Case:** Audio Transcription re: Fisher, James

**Reporter:** Debi Devitt

P.O. BOX 85  
Penn Valley, CA 95946



FISHER BODY CAM FOOTAGE

---

MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

---

PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



00:00:30

MG: So they were telling me, uh, something about stuff, you know, and, hey, I think I seen that somebody let somebody thing, you know.

OM: Okay.

MG: So probably, like, they were, they were telling me that they were going to have, like, something about --

OM: Did you, did you say your name was Mario?

00:01:00

MG: [indiscernible 00:01:03]

OM: Did you say your name was Mario? Yeah? Okay. So there's the plan, Mario.

MG: Hi. Nope. Sorry. It's not that.

OM: Okay. What is your name then?

MG: Uh.

OM: Okay. Here's the plan. Okay. I got to identify you so I know who I'm talking to. Make sure you don't have any warrants or anything like that. Okay?

MG: Oh shoot.

OM: You come up with a plan.

MG: No, it doesn't have that. It's something else.

OM: Let me know that you're not going to be drinking in our parks over here.

00:01:30

MG: Like, you know, stuff like that, yeah.

OM: And then we can be on our merry way, okay?

MG: Merry way?



OM: You have, you have an ID on you?

MG: Merry-go-round?

OM: Yeah, like that. You have an ID on you?

MG: Sure. Like, yesterday?

OM: Okay. If you can't do that, then I'm going to have to take you. Okay?

MG: What? ID?

OM: What do you want to -- yeah, do you have your ID with you?

MG: So I was, like, walking like that a little bit, what, San Jose. I'm sorry. Never mind.

00:01:58

OF: Hey, sir?

MG: Yeah.

OF: We don't want to waste your time. We just want to make sure you're okay. All right? Do you have an ID with you?

MG: Uh, in my jeans.

OF: Okay. Do you have, like, a driver's license or anything? So we just know who we're talking to. That way we can just document that we came out and talked to you.

MG: Document it?

OF: That way we could just, that way we could just write down who we talked to.

MG: Yeah, I seen somebody at the, uh --

OF: Hm-hmm. [affirmative]

00:02:30

MG: I seen somebody, you know, like stuff like that. My purple papers, my cards.

OF: You live here in the City of Alameda?

MG: Well I haven't gotten a house yet.

OF: Okay. Can you just do me one favor?

OM: Just keep your hands out of your pockets, please.

OF: Yeah, can you, can you just keep your hands out of your pockets for us?

MG: [indiscernible 00:02:48]

OF: All right. Mario, right?

OM: Was it Mario?

OF: All right. Hey, do me a favor. Look, we're going to stand over here. Okay.

MG: There's something here. There's something here.

OF: Hey, come over here. Come over here. We don't want you to fall down. Okay?

MG: Yes.

00:02:59

OF: All right. Do me a favor and we're just --

MG: They're getting whipped.

OM: We're just going to put your hands behind your back.

OF: Put your hands behind your back, okay?

MG: I got to, I got to.

OM: What? You got what?

MG: No, wait, wait, wait. Is, wait. What in the heck.

OF: Hey, Mario.

MG: Yeah.

OF: Hey, Mario, walk with me. Okay.

MG: Well it's not that.

OF: Okay. Walk with me. There you go. Thank you. Thank you. Appreciate it.

MG: So I -- no.

OF: Hey, Mario. Please don't do that.

OM: Just relax.

OF: Just relax. Just relax for us, okay?

MG: Okay. [Indiscernible 00:03:23]

OF: I appreciate. Hey, hey, hey.

MG: No, it's not that.

OM: Do me a favor, Mario.

MG: No, I didn't do nothing.

OF: Mario. Please don't resist us. Okay?

MG: I didn't stole nothing.

00:03:30

OF: All right. Mario. Please don't resist us. Okay?

MG: It's not that.

OF: Mario, please do not resist us. Okay. Put your arm behind your back, please.

OM: Put your hands behind your back. Okay?

MG: Please.

OF: Mario.

MG: It's not that.

OF: Put your arm behind your back.

MG: [indiscernible 00:03:43]

OF: Hey, Mario.

MG: I wanted to throw.

OF: Mario.

MG: I wanted to throw this.

OM: That's fine.

MG: Holy smokes.

OM: Yeah, we got this. We got this.

OF: 41, can I get one more unit?

MG: I got it. So I didn't try to do that, okay?

OM: Okay. Hey, Mario, just put your hand behind your back, please?

MG: Sorry, sorry. There.

OF: Mario.

OM: One sec.

OF: Mario. Please put your hand behind your back.

00:04:01

MG: Where.

OM: I think we've talked before, Mario.

MG: No, it's not that.

OM: This is all coming back to me now.

[radio communication]

MG: No, it's not that.

OF: Mario.

MG: Thank you.

OM: It's okay. All right? We're just, we just got to figure out what's going on, all right? So we just get your cooperation real quick here.

MG: No wonder.

OM: Okay.

MG: I got a --

OF: Mario. Put your hand behind your back. Okay? Please. Please put your hand behind your back.

MG: There. There.

OF: Mario.

MG: There. There.

OF: Put your hand behind your back.

MG: [indiscernible 00:04:26]

OF: Mario.

MG: Hands are nothing. Okay? There, I got it.

00:04:30

OF: Mario. Please put your hand behind your back. Okay. Please stop resisting us, okay?

Don't fight us.

MG: It's not that. It's something else, okay.

OF: Yeah.

OM: So you just got to relax, that's all.

OF: Please.

MG: Wait, sir. It's nothing. Like, I do nothing. All right?

OF: Mario.

MG: No, not that.

OF: Mario.

MG: Safe. There. Safe. It's not that. Please stop. What the heck.

OF: Mario, put your hand behind your back. Mario. Put your hand behind your back.

00:05:00

MG: It's not that. There.

OF: You got it? You good?

MG: Oh my Gosh. It's not that. Here. It's not that. Here.

OF: Mario.

MG: There.

OF: Fuck.

OF: We might have to put him on the ground.

OM: Yeah.

OF: All right.

MG: Stop it.

OM: Yeah.

OF: Hey, Mario.

MG: Don't do it.

OF: Do me a favor, okay?

MG: Don't do it. There.

[radio communication]

OF: Can you please put your hand behind your back and stop resisting us?

MG: Oh no wonder. There. I got it. Aye, aye, aye.

00:05:29

OM: What do you have?

MG: Sorry. No, it's not that.

OM: Ready?

MG: No. It wasn't that. No.

OF: Stop. Stop, stop, stop.

MG: No.

OF: Hey.

OF: Mario.

MG: Aye, aye, aye.

OF: Put your hand behind your back.

MG: No, it's not that.

00:06:01

OF: All right. This side. Put your hand behind your back. Put your hand behind your back.

OM: You got his legs?

G: Yeah.

MG: Hey, hey. Hey, stop.

OM: You able to get the arm out?

?: You're resisting me. Hey.

00:06:32

OF: Mario.

MG: Okay. There.

OF: Put your hand behind your back.

MG: There. Hello.

OM?: Relax, bud.

MG: There. There.

OF: Can you give me some space?

OM: Yep.

00:07:04

OF: Okay. Got it. All right.

[radio communication]

OM: 31. Still [indiscernible 00:07:11]

OF: Okay. Mario. We need you to stop resisting us. Okay? Good?



O?: Relax.

OM: Okay.

MG: Ah.

OF: Just hold still. All right. Ready? All right.

00:07:32

OM: All right. What are we going to do? Just keep him pinned down until we get the wrapper?

OF: Yeah. All right. Watch out. Hey, Mario.

MG: Hey. Hey.

OM: It's okay, Mario.

MG: Oh my gosh.

OM: We're going to take care of you. Okay?

00:07:59

MG: Stop.

OM: We're going to take care of you.

MG: I.

OF: Okay.

MG: There. There. Thank you.

OF: He's lifting my whole body weight up.

MG: Hey. I got it. Thank you. Thank you. Hey.

OM: You good?

OM: It's okay. It's okay. What's your name?

MG: Mario.

OM: Mario, what's your last name, Mario?

OF: Hey.

MG: Alberto.

OM: Alberto.

MG: Alberto.

00:08:29

OM: What's your birthday?

[radio communication]

OM: It's all right. We're okay. Okay.

MG: Ugh.

OF: Okay.

OM: Mario.

OL: You can go ahead and get up, Charlie, I got him.

OM: Charlie, can you grab the, the wrap?

OL: Yep.

MG: Ah. Ah.

OL: 50 to 11, code 3 please.

MG: What are you doing?

OF: Mario.

MG: Ugh.

OM: Hey, Mario, what's your birth date?

[radio communication]

00:09:01

MG: No.

OF: Can you fit your forearm? I'm not going to be able to get him.

OF: Okay.

MG: Ugh.

OL: I don't want to lose what I got.

MG: Ah. Ah. Ah.

OM: Hey, Mario, just talk to me, okay?

MG: Yeah.

OM: What's your birth date, Mario?

MG: I'm sorry.

OM: It's okay. I forgive you. It's all right.

MG: 1984.

OM: 1984? What, what month?

00:09:31

MG: '95, 1995 [indiscernible 00:09:31]

OM: Okay. Mario.

MG: [indiscernible 00:09:44]

OM: Mario.

MG: [indiscernible 00:09:50]

OM: I think, I think you just had too much to drink today. That's all.

MG: [indiscernible 00:09:55]

OM: Okay.

MG: Ah.

00:10:02

OF: Mario, calm down, please.

OL: Stop kicking, Mario. Stop, stop kicking.

MG: Ah. Ah.

OF: Think we can roll him on his side?

OL: Uh, I don't want to lose what I got, man.

OF: Okay.

OL: Can you grab the wrap out of 111?

00:10:29

OF: Mario, just please stop fighting us. We have no weight on his chest, nothing.

OL: Can you go around, ma'am?

??:

OL: Yeah, please. Thank you.

OF: No, no. No, no. No weight. No weight. No weight.

[radio communication]

OM: He's going non-responsive.

[radio communication]

OM: Mario.

OF: Mario.

O?: Let's give him a form leg lock. Leg trap, if you can.

OM: Do we have a AFD on the way?

OF: Yeah.

OF?: 41, can we get AFD?

00:11:01

[radio communication]

OM: He stopped talking. You, you got a pulse?

O?: All right. Start CPR. Let's get him on there. Get him out of handcuffs.

OL: We're checking for a pulse.

OM: I can't.

OL: You got a pulse?

OM: No.

O?: Okay. Check for inclu-

OF: He's still holding his head up.

[radio communication]

OM: No pulse. Let's start CPR.

OF: No pulse. Are you sure?

OM: Yeah, for sure.

OL: Go, go. 50, starting CPR.

OF: Go. Go.

00:11:32

[radio communication]

?: My car.

O?: Yeah.

?: Yeah, probably be easier.

OF: Hey, Mario. Mario. Mario.

00:12:02

[radio communication]

OF: Mario. Mario.

OL: Let me know when you want a break, buddy.

OF: He looks like his mouth is opening and closing.

F: Does he have anything in his mouth?

OF: Watch out. Don't let him bite you. Mario. Okay.

OM: Wake up. Wake up.

00:12:30

OF: He's trying to breath, but he's obstructing his mouth with --

O?: Okay. Let's get him -- if he's breathing, lets give him a recovery.

O?: Recover. Recover.

O?: Recover position.

OM: And we have, did he have a pulse?

O?: He's on his side.

OL: Check, yeah, check for a pulse.

OM: Should we get the cuffs off him?

OF: Get him on his side.

O?: Mario.

F: He's breathing.

OF: Mario.

O?: Give me a tube. Give me a tube.

O?: Mario.

O?: He got anything in his mouth?

O?: Do you know any drugs on board or anything?

OM: Alcohol is all I know.

OF: Okay. You got a pulse?

00:13:01

OF: Mario.

OM: Hold him still. Let's have him. I don't have a pulse.

OF: Okay.

F: No pulse?

OF: No pulse.

O?: No pulse secure.

F: All right.

OM: Let's go.

O?: Open the airway.

OF: Got it.

O?: Yeah. Hold his.

F: Let's get somebody to take over for McKinley.

OF: Hold on. He's breathing. Mario.

O?: Let me take over.

O?: Do we have --

OF: Mario.

00:13:31

F: Do we have ID on him at all?

OM: Mario Alberto.

O?: Yeah, just in case.

OL: Did you already take out a dose?

OF: Mario. Come on, Mario.

F: There we go.

OF: Wake up.

F: Good job, Mario.

OF: Wake up.

F: Wake up, Mario.



OF: Wake up, Mario. Mario.

O?: Mario, wake up.

00:14:01

O?: Deep. Another one.

OL: I need another tube. This one only had one in the pack.

OF: Mario.

O?: Mario. Wake up.

F: Cam, let's have you take over Francisco.

O?: All right.

OL: Let me up.

OF: Mario. Wake up, buddy. Can we get an ETA on AFD?

00:14:32

O?: Wake up

OF: Mario, wake up.

O?: Did we already put one up his nose?

OL: Two.

F: Two.

OM: Two.

O?: Okay.

OF: Mario.

F: You want to weigh him down?

00:15:02

OF: All right.

OL: Somebody switch.

OL: Good?

O?: He's in trouble.

O?: Okay.

OF: He's --

O?: Suction his nose.

OF: Mario.

O?: Right here.

OM: We did two already.

O?: You did?

OM: Yeah.

OF: Wake up. Wake up, Mario.

F: Hey George?

G: Yeah.

F:

OL: 50, AFP is 910. We administered Narcan.

[radio communication]

00:15:30

O?: I got a pen.

OF: Mario. Wake up, buddy. Can we get them over here?

O?: Yeah.

F: They're coming.

O?: You got a pulse?

OF: Let me check. No pulse.

00:16:03

[radio communication]

P1: Did you guys check for pulse?

OM: Yeah.

OF: Yes.

F: [indiscernible 00:16:17]

P1: Okay.

OM: He went from combative to non-responsive almost immediately.

P1: Okay.

OM: We started compressions when we checked on pulse.

O?: He already had, like, two Narcans.

P1: You guys went through with Narcan?

OF: Two.

P1: The pulse is light. Usually, uh, [indiscernible 00:16:29] not breathing but still have a pulse, but he has no pulse.

00:16:32

OF: I couldn't feel one.

P1: Uh, this is, uh.

O?: Mario.

P1: High [indiscernible 00:16:43]. Uh, they gave him two things of Narcan. He stopped breathing so they've been doing CPR the whole time.

OF: CPR.

P1: Lucas is [indiscernible 00:16:52] dude.

[radio communication]

00:17:01

O?: Uh, they were, they were with him talking to him and he went down on them, so.

[radio communication]

O?: How long do you think that was? Ten, ten minutes ago?

OM: Uh, maybe 10-15.

OF: I don't even know about that.

OM: Yeah.

O?: That one, huh?

P1: He's got no pulse.

[radio communication]

P1: Oh, that's not going to work, dude.

?: No

?: Nope.

?: Too big.

?: Crack a lung.

OF: Come on, Mario. Mario.

00:17:31

OF: Clear.

?: He's on paddles now. Crash zone.

?: Yeah.

00:18:05

?: Keep going. [Indiscernible 00:18:08]

00:18:31

?: There you go.

?: Yeah, they're talking with him. Um, obviously, went down on him.

OF: Let me know if you need me to switch out.

00:19:02

?: Okay.

OF: What do you need me to do?

?: Um, I'm just going to give him. Put on some of those.

[radio communication]

[indiscernible in background 00:19:28]

00:19:31

?: Front of you guys?

OM: Yeah. We were, we were [indiscernible 00:19:36] being combative.

?: Okay.

OM: He immediately went --

[radio communication]

?: Okay.

P1: Mostly just, uh, every time we've ran it, it's mostly alcohol.

?: Yeah.

?: First response.

[radio communication]

00:20:02

P1: Uh, ventricular.

F: Are you hurt at all?

OF: I'm sorry?

F: Are you hurt at all?

OF: No.

F: Okay.

[radio communication]

00:20:32

?: What's up, Dan?

[Indiscernible in background 00:20:43]

F: James, we're not going to have you, um, doing any of this. Just get you 19-4.

OF: Okay.

F: Um. Get, um, ahold of Kevin.

00:21:00

OF: Okay.

F: Have him come down and meet you at the station.

OF: Okay.

[radio communication]

00:21:30

F: [indiscernible 00:21:32] or you want me to drive you?

OF: No, I'm good. You want me to leave now, Sarge?

F: Yeah.

?: Right now, yeah. Just help Dan get this going. Going.

[radio communication]

00:21:59

[end of audio]

Ofc. Fisher - 2  
Page 1 of 1

F1: Just going to get a couple of pictures of the way everything is before you drive off.

OF: Okay. I lost my nameplate someplace.

F1: Okay. We'll look for it, but if you see it don't pick it up.

OF: Okay.

F1: Just leave it there.

OF: Uh, do you want me to go off or on?

[end of audio]



(background)

OF: Hey, how you doing?

M1: Doing good, man.

OF: Have you recently had anybody come in and take items and leave without paying?

M1: Um, this morning, yeah. Uh.

OF: What time?

M1: Around -- what times was that? -- around 7/7:00?

F1: Yeah.

OF: Seven in the morning. What'd the guy look like, do you remember?

M1: Um, black.

OF: Hm-hmm. [affirmative]

M1: Do you remember what they looked like? The grabbed some, Ensure.

F1: No, the guy -- the one guy that got the two big things of Ensure that was around before [indiscernible 00:01:20] going out.

OF: Can you describe, like, a height or weight?

F1: Around your height. He was wearing --

M1: There was two. The other guy --

OF: Anybody about 250 pounds?

M1: No.

OF: No? All right. Thank you. 41 to 31, negative.

[radio communication]

[end of audio]

EXHIBIT 9

**RPLG**

Renne Public Law Group<sup>®</sup>

PRIVILEGED AND CONFIDENTIAL  
Transcript of Body Cam Footage of:  
**Officer George Koutsoubos (04/19/2021)**

**Case:** Audio Transcription re: Koutsoubos, George

**Reporter: Debi Devitt**

P.O. BOX 85  
Penn Valley, CA 95946



KOUTSOUBOS BODY CAM FOOTAGE

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MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

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PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



JD: Hello.

OK: Hi. How are you?

JD: Good.

OK: I'm George.

JD: How you doing, George?

OK: I'm sure you've been, somebody's probably already talked to you today, right?

JD: Yes.

OK: Um, I haven't though and I'm going to be ultimately writing some stuff so instead of --

JD: Sure.

OK: Listening to a lot of --

JD: You want to come inside or --

OK: Sure, sure.

JD: . . . are you comfortable out there?

OK: Um, hello.

AD: Hi there.

JD: My wife.

OK: Hi, I'm George.

AD: Hi.

OK: So, uh, I came out earlier today. I, I kind of, I was coming from the west end. I'm working, like, the west beat, which is like Webster and that area.

JD: Okay.

OK: So I got here kind of after things unfolded. Um, can you give me a rundown of what you

may have seen and heard or where you might have been or --

JD: Sure. Sure. Sure. Um, so I guess the wife, [REDACTED] was out front with her mom or something. She said, "Hey, there's, like, a weird guy outside."

OK: Did one, did one of you guys call, uh.

JD: I did.

AD: [REDACTED] called.

OK: Okay.

AD: And then I called a second time.

OK: Because I saw on our, uh, MDT's, which our, our screens, um, there was a couple of calls. Uh, one said there was like, uh, a, you know, suspicious person, uh, acting weird, talking to himself. Was, that, like, the call you guys made?

AD: That's --

OK: Or the call you --

JD: Yeah, I guess that's --

AD: Yeah.

OK: And then there was another one saying the same guy, basically, was ripping off, like, security, security, uh, tops of liquor bottles.

JD: Oh, that.

AD: That must have been somebody else. We called in a second time because we said he's smashing something.

JD: No, no, no. The police were already here.

AD: Oh, okay.

JD: I only called once.

AD: Yeah, I know, but I spoke on the phone and I said, you said to me, "Call the police." So I

called them back and I said, "Hi, you haven't arrived yet. And then he's smashing bottles," and then Jeff said, "No, no, no. Tell them that's it's fine. They got here." So I said --

JD: Oh, you were on the phone.

AD: But it wasn't me. I didn't know the tops.

OK: Okay.

AD: So somebody, another neighbor must have called about the tops.

OK: What, so what, uh, what, like, uh, compelled you to call us because, where did you, like, where did he first come into your, your view?

JD: Okay. So he, he was -- see the corner where the fence is right there?

OK: Yeah.

JD: Is the brick.

OK: Hm-hmm. [affirmative]

JD: And then right there there's that pylon?

OK: Right.

JD: He was, like, leaning against our metal of the fence.

OK: Okay.

JD: Right. He was, like, right there, right? And [REDACTED] was sitting outside. She's like, "Hey, this guy's scaring me." I came out and looked at it. The dogs ran out after me, were barking at the guy and I said, "Hey, just so you know these are guard dogs, like, watch out." Right? To try and see if could get him to kind of move along, right? And he just, like, words were coming out of his mouth, but they did not make sentences.

OK: Was he directly talking to you, like, in response or just --

JD: It looked he was looking at me and he was talking to me, but it just, it didn't make sense to me, right? I don't even know what he said. It just didn't make sense. So I said, "All right. Everybody inside." Dogs came inside, [REDACTED] came inside. That's when I called you guys. I said, "Hey, there's this guy out here." Uh, I think I said -- at that point it didn't

look to me like he was doing anything wrong.

OK: Hm-hmm. [affirmative]

JD: He was just being weird.

OK: Right.

JD: Right?

OK: Right.

JD: Probably drunk, you know.

OK: Right.

JD: Things happen, right?

OK: Right.

JD: I've been there myself, okay? And then, you know, he kind of moved to, he moved to the other side of the, of the, away from the fence because maybe he thought, okay, there's dogs and whatever so I want to be safe there.

OK: Right.

JD: And then he had, like, a cart and I think there was some liquor bottles in there and he took one of the bottles and smashed it on one of the pylons there. Hope there's no glass. You know, people go by with kids and dugs and stuff, right?

OK: Right, right.

JD: So that's when I said to the wife, "Hey, this guy is now breaking stuff. We got to call them back." And then that's when I saw the first responding officer. He was standing, uh, at the end of my driveway. The guy was standing right there where you can see that cart. Can kind of see, like, the --

OK: So the first responding officer -- I know who the first responding officer was. Um, what did he look like to you? Because there was one that was taller and thinner.

JD: Yeah. He looked like a tall, thin guy with, like, the faux-hawk, you know, short hair.



OK: Right, right, right.

JD: Right? And he, they were just, you know, talking. I couldn't hear them because I'm in the house, right? And then there was another officer that came from this direction.

OK: Right.

JD: Um, and he had, like, the blue gloves on. And then I, and then I don't know exactly what happened, but I guess they tackled the guy over to the, towards the van.

[radio communication]

JD: And I saw him. They had him on the ground and the guy was resisting. He was, like, yelling. He was saying, I'm sorry, but he kept, like, like, he wasn't following instructions.

OK: Right.

JD: Which, when you're drunk it's probably not going to follow instructions regardless, right?

OK: Yeah.

JD: Um, you know, and then it was, and then, like, everybody showed up. Right?

OK: Where, and while, while this struggle was going on --

JD: Here, let me put my shoes on. I'll show you.

OK: You were, you were outside?

JD: No. I wasn't outside.

OK: Okay.

JD: It was, I was watching from --

OK: I see.

JD: I was watching from here and then, actually, here, come upstairs. I can show you where I was watching from the, from the, uh, vantage point in the bathroom.

OK: I saw that little bubble camera you have outside. Does that thing work?

JD: The hard drive failed in the, in the, um, I've been trying to get the footage all day today. We can check that in a minute. Baby, you in here? He just wants to look out the bathroom window.

AD: Yeah. Oh, yeah, yeah, yeah.

JD: This way, sorry.

OK: Sorry.

AD: Uh, this junk room shows. It's okay. I'm gong to have to spray down the house. I'm sorry. [REDACTED]

OK: I'm sorry.

AD: I'm just -- with all this homeless I'm just afraid of COVID being spread around. It's fine. Just come on in. I will follow you with this so I don't --

OK: Want me to take them off right now?

AD: Yes. If you don't mind. I'm so sorry. I know I'm asking an officer --

OK: That's okay. That's okay.

AD: . . . for something crazy, but --

OK: That's all right.

AD: [REDACTED]

OK: Yeah, no. I get it. [REDACTED]

AD: Got to. Okay. So you got it. Yeah. Thank you.

OK: Sure.

AD: I'm just going to do a little spraying around. Thank you so much.

OK: You're welcome.

AD: I appreciate it.

JD: I didn't think of the shoes. I'm sorry. It's my fault.

OK: No worries.

JD: So I can see from right here. You can even see the guy's hat.

OK: Okay.

JD: Right there. So they went from right over there down onto the ground over there. Not on the pavement, in the mulch.

OK: So the, the heavy-set guy, we'll call him the suspect.

JD: Yeah.

OK: So from where he was, did he walk over on his own or --

JD: I didn't see that whole part of it. I didn't, I didn't see that part. Probably the guy that was coming from this direction came in from behind. They're trying to get him. There's probably a struggle and then they landed here in the mulch.

OK: Hm-hmm. [affirmative]

JD: By the time I was looking out here yelling so I looked out the window and I could see, um, there were two officers on him. And then there was a third random guy. I don't know where that guy came from -- was holding his feet down -- just a civilian.

OK: Hm-hmm. [affirmative]

JD: Like a random guy.

OK: Yeah.

JD: Maybe he was in the Army or something. And then they were trying to get the handcuffs on him. You know, he's yelling at them. They're telling him, "Hey, relax." Like, calm down or whatever, right, but the guy's, like, you know, struggling, trying, he's not listening to instructions.

OK: How would you describe, like, their, the, the actual meet of the altercation? Was it just, like, wrestling, tugging match trying to get arms and stuff? Did you see any, like, punching?

JD: Listen. I'm not an expert, right? I'm not a, you know --

OK: Yeah, right.

JD: I'm not, like, a jujitsu guy or anything like that, but I didn't see anything inappropriate in terms of what the officers were doing. I would say that they were doing, they were doing fine. They were, like, there was no punches. There's no kicking.

OK: Right.

JD: There's no, there weren't chokeholds or anything like that. It's mostly just, like, struggling to get his arms back like this.

OK: Right.

JD: You know. I, I didn't see anything that, you know, I would think inappropriate. I didn't see, like, elbows getting thrown or --

OK: Right.

JD: You know. No punching in the back of the head or any of that kind of stuff. It seemed, like, legit to me.

OK: So, uh, when they were able to get the handcuffs on him, I would imagine he was, like, probably, like, on his --

JD: He's on his stomach.

OK: Okay.

JD: Yeah.

OK: So after they got the handcuffs on, was he still, like, yelling and screaming or anything?

JD: Yeah, yeah. Yeah, he was yelling and screaming and then there was even one point, like, I think, like, his hat was covering his face and one officer checked to see, like, like, hey are you breathing, and like, pulled the, the thing off his face.

OK: When, when --

JD: You could see his face wasn't getting pushed into the mulch. It was, like, to the side. So

he looked like he was okay at that point.

OK: Hm-hmm. [affirmative] After the handcuffs got put on, was he, uh, ever stood up or --

JD: I never, I never saw him stood up. I had my, my office is right here and then my phone rang and so then I came back, you know, and I was talking with work for, I don't know, it must have been 10-15 minutes, maybe 20 minutes, come back out doing chest, chest compressions. So I don't know kind of what happened in between there. I mean, big heavy-set guy. Probably had a heart attack, I don't know. Again, I'm not an expert.

OK: Right.

JD: You know.

OK: Okay.

JD: And if you want, let's go down to the garage and see if I was able to recover the hard drive.

OK: Okay.

JD: It's been a couple hours. Um, maybe I can get the video for you guys. Then you don't have to take my word for it.

OK: That would be, no.

JD: You can see on the video what's happening.

OK: I believe everything you're telling me is probably true. How long have you guys lived here?

JD: Uh, since last July, so less than a year.

OK: Okay.

JD: But this is, like, the first, fourth, this is the fourth time there's been an arrest by this house since we've lived here.

OK: Yeah.

JD: Yeah.

OK: It's just proximity to South Shore.

JD: Oh, yeah. You might want to put your shoes on before coming into the garage.

OK: Okay. All right.

JD: It's dirty. Dogs, cut it out. They're in their crates.

OK: It's okay. I'm a dog guy.

JD: Okay. Cool. They're just going a little bonkers today with all the activity.

OK: In here?

JD: And they, they don't like people walking by the house. [REDACTED] give it a rest.

OK: What's up, guys? What kind of, what kind of dogs?

JD: One's just - [REDACTED] She's a Queensland Heeler. You stay there.

OK: Oh. Hello.

JD: She's a heeler. No. Hey. Hey. [REDACTED] Lay down. [REDACTED] down.

OK: [REDACTED] huh?

JD: Yeah. They're a little anxious today so.

OK: Yeah, I bet.

JD: Let's see. Oh, okay. The drive that, uh, I have too much to do around here. All right. Let's see what happens. Looks like it recovered.

[radio communication]

JD: It's still not working. Come on. I think this thing's messed up. It's not working at all. I don't know. I don't think I have the footage for you guys.

OK: Okay. Uh, when you made your, your first call, did you ultimately end that call?

JD: Yes.

OK: Okay. And then was, then, what's your wife's name again?

JD: [REDACTED]

OK: [REDACTED]

JD: Yeah.

OK: And then did she made a call again?

JD: Yeah. I didn't realize the wife called.

OK: Oh, so she was that second call?

JD: Yeah. I think she was the second call.

OK: About the breaking, I think. I think it was breaking the security labels off the, you know, like, um, for liquor sometimes.

JD: Yeah, yeah.

OK: Sometimes they put, like, the plastic.

JD: Yeah, yeah.

OK: Security things so they can take them off when you purchase it so when you go out it doesn't activate the, uh --

JD: Right.

OK: Okay.

JD: So he didn't actually break a bottle or anything out there?

OK: No. I mean, there's a piece of one of the security tops, which I would imagine --

JD: Plastic.

OK: Which I imagine he might have been breaking the top off.

JD: Oh, okay. That makes sense.

OK: Okay.

JD: We can go back outside instead of standing in this disgusting garage.

OK: No worries. Did you see, uh, the heavy-set guy, like, actually get taken to the ground or -

JD: No. I didn't see him, I didn't see that part of it. Like I said, I saw them talking over there. I, like, walked away. I came back and I saw then they were already, they were down the ground.

OK: And that was from upstairs when you were watching?

JD: Yeah. But they weren't, like, pushing his face in the ground.

OK: Right.

JD: They didn't, you know, it looked legit to me. It did not look inappropriate.

OK: Like trying to just get him in handcuffs.

JD: Yeah.

OK: Um.

JD: And it seemed like the first, the first guy, the first officer looked like he was just trying to talk him down.

OK: Yeah.

JD: Like, you know, like maybe if he just went on his way or something, this wouldn't have happened.

OK: Right.

JD: But, you know, I guess you're also not supposed to drink in public.

OK: Yeah. I mean, it's, I mean, it happens. It's not like the, the crime of the century. It happens.

JD: Right, right.

OK: So I'll chat with people if I see it. Sometimes I issue a citation, have them pour it out, but, you know, because people in public, obviously, not saying that someone's going to get



drunk and act like an idiot, but it can happen.

JD: Oh, yeah. Oh, yeah.

OK: To where they get drunk and then they act like an idiot.

JD: Oh, yeah.

OK: Fighting somebody.

JD: Exactly.

OK: Uh, and what was your first name again?

JD: [REDACTED]

OK: [REDACTED] Is it, uh, short for [REDACTED]

JD: Yes.

OK: Is it, [REDACTED]

JD: Yeah.

OK: Okay. And your last name?

JD: [REDACTED]

OK: [REDACTED]

JD: [REDACTED]

OK: [REDACTED]

JD: [REDACTED]

OK: Okay.

JD: [REDACTED]

OK: Okay. Uh, what's your birthday? I'm sure somebody already got all this information from you.

JD: Yeah, it's fine. Just take it down again. It's, uh, [REDACTED]

OK: How about a good phone number for you?

JD: Uh, [REDACTED]

OK: Hm-hmm. [affirmative]

JD: [REDACTED]

OK: Okay. This is what, uh, 8, uh, 802?

JD: 802, yes, sir. Did the guy make it, or we don't know what happened?

OK: No.

JD: He didn't make it.

OK: No.

JD: Oh, that's terrible.

OK: Yeah. Um, and your wife's name again?

JD: [REDACTED]

OK: [REDACTED]

JD: [REDACTED]

OK: Okay. You know her birthday off-hand? See what kind of husband you are.

JD: Uh. It's 1980. Uh.

AD: [REDACTED]

JD: There we go. Hold on. She --

OK: He was going to get it.

JD: Eventually.

AD: Yeah. Take him a while.

JD: Eventually.

[radio communication]

OK: Okay. Uh, and a phone number for you? You have a cell?

AD: [REDACTED]

OK: Hm-hmm. [affirmative]

AD: [REDACTED]

OK: All right. And as far as, like, you're saying, because you were the first call, um, or the second call, actually.

JD: Yeah.

AD: Yeah. I'm the one that told him and same thing, like, he was -- at first I thought this was a maintenance worker. I didn't want to say anything if there was a maintenance worker. Um, but he was right outside our, our yard and then started, like, babbling and whatnot and I thought, okay, this is not a maintenance worker.

OK: And were you outside at the time?

AD: I just was right here. Like, didn't even to make it -- I was on the phone.

JD: Here, baby, put on a mask.

AD: Yeah. My mom had, yeah, my mom was like, oh there's something. You know, there's a weirdo and I'm on the phone with work and I'm like, mom. She always likes to sit here and the guy's literally at that tree. She's like, [REDACTED] And I'm, like, Mom, "I'm on the phone." And then I go outside to get a sandwich for my son while I'm doing my work call and I'm like, Oh wait a minute. There is a guy right here. She's like, yeah, he's basically in your yard, [REDACTED] I'm like, okay, okay. And then he started talking to us, but I didn't understand a word he was saying and then I called [REDACTED] down and then [REDACTED] like, "No, go inside the house." And then the only part that I saw also when I came out to get the sandwich. I had to go twice because the sandwich wasn't make properly, so I came with the other car, which, by the way, [REDACTED] is parked is parked on the other side of the road.

OK: Yeah, once they bring the tape down we'll go grab it.

AD: Um, so I came outside. I did see the guy was on the ground. And, again, just like [REDACTED] said, seemed, everything seemed --

OK: When you saw him and he was on the ground, was, where --

AD: He was yelling and there were, like, two people. And then as I drove a past a ton of, of police vehicles came.

OK: Oh, you left at some point?

AD: So, yeah, because, so I, I just took the other car and came out of there to go get the, the sandwich that got remade. And the guy at this point, he'd gone over there. They were talking to him. Now he's on the ground, basically in our driveway.

OK: When you came back?

AD: Uh, when I was driving out to go back for the sandwich to remake and I saw him on my left. He was on the ground and there a couple of officers. And then as I was driving down the road I saw all of you guys coming for back up.

OK: Did you hear anything, uh, we were, police officers were saying? I mean, could you hear any, like --

JD: I didn't see anything.

OK: Anything.

JD: The only thing I heard was, was, like, calm down, you know, you know, but I didn't, I couldn't hear what was being said.

OK: Okay.

AD: Yeah, I didn't hear anything either.

OK: All right.

AD: All you could is this guy weird, making weird sounds. That's about it.

OK: Okay. All right.

AD: And he was definitely weird and had all these. At first I thought Oh my God, toolkits. But then I'm like, what is he doing to the tree with the weird comb? So he was doing weird stuff to our tree, that tree --

OK: Yeah. I saw the comb over there.

AD: It was very weird.

OK: Well, if by chance you're able to get that video, uh.

JD: Yeah, I'll keep working on it.

OK: Uh, my, the bold number there is my cell phone.

JD: Okay.

OK: Yeah, hit me up if you're able to get that. Okay?

JD: Okay.

OK: Well thank you both. I appreciate it. Sorry. Sorry this happened in your yard.

AD: We'll probably see you tomorrow with the next [inaudible 00:18:58]. This is just --

OK: All right. Take care.

AD: Nothing can be done to, like, address this. There's always activity out here. Like,

OK: Uh.

AD: Every day. Yesterday was police, if you look at the reports. There was a woman that was crazy that you guys came and picked her up.

OK: Yeah.

AD: Uh, we've had things stolen from our yard. It's constantly.

OK: Yeah. I mean, it's kind of, as you know, you've lived here. It's a busy area. Uh, not only with traffic, but foot traffic too. You can, uh, don't hesitate to call us.

AD: Yeah. There's not much --

Ofc. Koutsoubos (2)

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OK: We can at least come out and find out what's going on, if anything.

JD: Yeah, yeah.

OK: Okay. Thank you both.

JD: Thank you.

AD: Thank you.

OK: You bet.

[end of audio]

EXHIBIT 10



Renne Public Law Group®



**Transcript of Body Cam Footage of:  
Officer Cameron Leahy (04/19/2021)**

**Case:** Audio Transcription re: Leahy, Cameron

**Reporter:** Debi Devitt

P.O. BOX 85  
Penn Valley, CA 95946





LEAHY BODY CAM FOOTAGE

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MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

---

PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



00:00:33

?: I got it.

MG: Ah.

OL: You can go ahead and get up, Charlie, I got him.

OM: Charlie, can you grab --

OL: Yep.

MG: Ah. Ah.

OL: 50 to 11, code 3 please.

MG: What are you doing?

OF: Mario.

MG: Ugh.

OM: What's your birth date?

MG: [indiscernible 00:00:51]

OF: Can you fit your forearm? I'm not going to be able to get him.

MG: Ugh.

OL: I don't want to lose what I got.

00:01:02

MG: Ah. Ah. Ah. [Indiscernible 00:01:07]

OM: Hey, Mario, just talk to me, okay?

MG: Yeah.

OM: What's your birth date, Mario?

MG: February. I'm sorry.

OM: I forgive you.

MG: 1984.

OM: 1984? What, what month?

MG: '95, 1995 [indiscernible 00:01:23]

00:01:31

OM: Mario.

MG: [indiscernible 00:01:36]

OM: I think, I think you just had too much to drink today. That's all.

MG: [indiscernible 00:01:42]

OM: Okay.

M: Ah.

OF: Mario, calm down, please.

OL: Stop kicking, Mario. Stop, stop kicking.

MG: Ah. Ah.

00:02:00

OF: Think we can roll him on his side?

OL: Uh, I don't want to lose what I got, man.

OF: Okay.

OL: Can you grab the wrap out of 111?

OF: Mario, just please stop fighting us.

O?: We have no weight on his chest.

OL: Can you go around, ma'am?

?: [indiscernible 00:02:27]

OL: Yeah, please. Thank you.

00:02:29

OF: No, no. No, no. No weight. No weight. No weight.

[radio communication]

OM: Mario.

[radio communication]

OM: Mario.

O?: Let's give him a [indiscernible 00:02:44] form leg lock. Leg trap if you can.

O?: [indiscernible 00:02:47]

O?: Just hold him right there.

[radio communication]

OL: He stopped talking. You, you got a pulse?

O?: All right. Start CPR. Let's get him on there. Get him out of handcuffs.

00:03:00

OL: We're checking for a pulse.

OM: I can't.

OL: You got a pulse?

OF?: He's still holding his head up.

[radio communication]

OM: No pulse.

OF: Are you sure?

O?: Go, go.

OL: Go, go. 50, starting CPR.

?: Um, someone [indiscernible 00:03:43]

O?: Yeah. They can go on Otis too.

F: Yeah, probably, probably be easier.

OF: Hey, Mario. Mario. Mario.

[radio communication]

OF: Mario. Mario.

OL: Let me know when you want a break, buddy.

00:04:01

OF: He looks like his mouth is opening and closing.

F: Does he have anything in his mouth?

OF: Watch out. Don't let him bite you. Mario. Okay.

OM: Wake up. Wake up.

OF: He's trying to breath, but he's obstructing his mouth.

O?: Okay. Let's get him -- if he's breathing, lets give him a recovery.

OF: Recover. Recover.

O?: Recover position.

OM: Did he have a pulse?

O?: Get him on his, get him on his side. Kick out his legs.

OL: Check, yeah, check for a pulse.

00:04:29

O?: Get him on his side. Yeah.

O?: Mario. Mario.

O?: Give me a tube. Give me a tube.

O?: Mario.

O?: He got anything in his mouth?

O?: Do you know any drugs on board or anything?

OM: Alcohol is all I know.

O?: Okay. You got a pulse?

O?: Mario.

F: No pulse. All right.

00:05:00

O?: Open the airway. Hold his.

F: Let's get somebody to take over for McKinley.

O?: Yeah, I know.

OF: Mario.

O?: Let him take over.

O?: Do we have --

OF: Mario.

F: Do we have ID on him?

OL: Do you want me to pop one of these open?

OM: Mario Alberto.

O?: Yeah, just in case.

[Indiscernible 00:05:28]

OL: Did you already take out a dose?

O?: No.

00:05:31

OF: Mario.

OL: You guys want to do.

F: There we go. Good job, Mario.

O?: Wake up.

OF: Wake up, Mario.

F: Wake up, Mario.

OL: You just pop it like a plunger, right?

O?: Yep.

O?: Mario. Wake up.

OL: George. Step back.

OM: You don't have to go in his nose very far.

O?: About a quarter inch is good. Deep. Another one.

OL: I need another tube. This one only had one in the pack.

O?: Mario. Mario. Wake up.

00:06:01

F: Okay. Let's have you take over Francisco.

O?: All right.

OL: Let me up.

OF: Mario. Wake up, buddy. Can we get an ETA on AFB?

O?: Wake up, Mario.

OF: Mario, wake up.

O?: Did we already put one up his nose?

00:06:30

OL: Two.

F: Two.

OF: Mario.

F: [indiscernible 00:06:44] weighed him down.

OL: All right. Somebody switch. Check for a pulse. Go.

O?: Oh. Check. He's --

00:07:00

O?: Open his mouth.

OF: Mario.

?: I dropped my phone there.



O?: Right here.

OM: We did two already.

OL: Yeah.

O?: You did?

OM: Yeah.

OF: Wake up.

OF: Wake up, Mario.

F: Hey George?

G: Yeah.

OL: 50, AP is 910. We administered Narcan.

OF: Mario. Wake up, buddy.

00:07:29

OF: Can we them over here?

OL: Yeah. Russ is over there. We gave two doses of Narcan.

P1: Narcan.

OL: Yeah.

[radio communication]

00:07:58

P1: You guys check for pulse?

OM: Yeah.

O?: Nothing.

P1: Okay.

OM: He went from combative to non-responsive almost immediately. We started [inaudible  
00:08:12]

F: Let's start doing, let's start doing a neighborhood check.

OL: All right.

F: Um, and then write down every house, even if they're there or not there.

OL: Got you.

F: I know this house has video.

OL: Yeah.

[radio communication]

00:08:30

00:09:01

OL: Hello.

N1: Hi.

OL: How are you?

N1: Good.

OL: So we're dealing with a bit of an incident.

N1: Hm-hmm. [affirmative]

OL: I just wanted to see if you heard or saw anything prior to the police getting here? Once the police got here?

N1: Uh, let me call Jeff. Uh, uh, I think he's the one that called the police.

OL: Okay. Perfect.

N1: [indiscernible 00:09:22]

OL: Perfect. Thank you so much.

N1: Hm-hmm. [affirmative]

00:09:31

N1: [indiscernible 00:09:45]

OL: Thank you so much.

N2: Let me just grab a mask.

OL: Not a problem. Thank you. So were you the one that called?

N2: Yes, sir.

00:09:58

OL: Okay. So what prompted you to call, call the police?

N2: Uh, well he was standing right, right here in the corner --

OL: Okay.

N2: . . . leaning on the, leaning on my fence.

OL: Hm-hmm. [affirmative]

N2: Okay. And my wife was out here. She does her little work out thing.

OL: Hm-hmm. [affirmative]

N2: She said there was a man talking nonsense or whatever.

OL: Okay.

N2: Um, so she said she was scared. So when I went out and looked, the dogs ran out and barked at him.

OL: Okay.

N2: I said, Hey, sir, these are guard dogs.

OL: Hm-hmm. [affirmative]

N2: They're guarding the house.

OL: Hm-hmm. [affirmative]

N2: And he -- nothing he said made sense.

OL: Okay.

N2: So I just said, Hey, everyone come in the house.

00:10:29

OL: Hm-hmm. [affirmative]

N2: And then we --

OL: What kind of stuff was he saying? I mean, if you, if you, if you --

N2: It was, it was words.

OL: Hm-hmm. [affirmative]

N2: But they did not turn into sentences.

OL: Okay.

N2: Right.

OL: Okay.

N2: And then after I called you guys he broke a bottle over there.

OL: Hm-hmm. [affirmative]

N2: And so he had liquor or something.

OL: Okay.

N2: So, I mean, he didn't seem like he was doing anything wrong.

OL: Sure.

N2: He was just, like, the whole [inaudible 00:10:52]

OL: Do you mind, do you mind if we step in?

N2: Yeah.

OL: So we don't have to --

N2: Come on in. It's too loud.

OL: So I can hear you. Thank you.

00:10:59

OL: Um, okay. And then were you outside or did you see anything when the police showed up? When the first two officers got here? Or were you --

N2: Yeah, I saw, I saw one officer, um, was, like, standing in my driveway about, I don't know, six feet from the guy and just talking.

OL: Hm-hmm. [affirmative]

N2: Talking, talking. I couldn't hear what was being said.

OL: Hm-hmm. [affirmative]

N2: And then another guy came from this way. And then they, I think they decided to arrest him.

OL: Okay.

N2: And then he got, he was resisting and he got tackled over into the, uh, to the right side of my van.

OL: Okay.

N2: Over here.

OL: And when you say he was resisting, can you describe that for me?

00:11:30

N2: Uh, yeah, yeah. It was just like, it was just like, like, like --

OL: Okay.

N2: Like trying to get, get --

OL: Trying to break, break free from the officers though?

N2: Yeah, trying --

OL: Was he in handcuffs at that point, do you know?

N2: No, he was not.

OL: He was not. Okay.

N2: He was not in handcuffs.

OL: Okay.

N2: He, he wasn't in handcuffs. Uh, and he was, like, yelling, I'm sorry or something like that.

OL: Hm-hmm. [affirmative]

N2: I mean, he was resisting.

OL: Okay. Were the police officers that were here were they saying anything to him that you heard?

N2: Uh, I think they were saying, like, calm down, relax.

OL: Okay.

N2: That kind of stuff.

OL: Okay.

N2: You know, I don't think, I was looking through the window so I don't think I really heard

much.

00:12:01

OL: Sure. Sure. Um, so after they tackled him on the ground, after he was kind of pulling away and stuff like that, uh, did, what happened then? Did you see?

N2: Uh, some other officers come up.

OL: Hm-hmm. [affirmative]

N2: Whatever. And then I had a work call so I looked away. And then I came back and they were doing chest compressions.

OL: Okay.

N2: But I didn't see any, like, no one was kneeling on necks or anything like that.

OL: Okay.

N2: It didn't look like anything inappropriate to me.

OL: Okay.

N2: I mean, I'm not an expert, right.

OL: Sure. Sure. No, I'm just trying to get a better sense because I was here, uh, relatively late into the whole thing.

00:12:29

N2: Right, right.

OL: So I'm just trying to get a better sense of, you know, what, what was going on.

N2: Yeah.

OL: Um, so I do notice you have a camera in your driveway.

N2: Want to try and see if --

OL: Yeah, yeah. Does, does the camera work?

N2: Yeah.

OL: Okay. Perfect.

N2: We got dogs in here that are going to be barking.

OL: Oh that's okay. I'm used to that.

N2: Kind of a mess in here. All right. All right. All right. Cut it out. Come on. [REDACTED] cut it out. Come on.

OL: Hey, puppy.

N2: Lay down. Come on. [REDACTED] lay down. No. Down.

00:13:02

OL: How do the cats and dogs get along?

N2: They don't.

OL: They don't.

N2: [indiscernible 00:13:10] in here. Kind of a mess.

OL: Sorry to make you move all this.

N2: It's all right.

OL: Uh, while you're doing that, what's your last name, sir?

N2: Uh, [REDACTED]

OL: [REDACTED] And your first name?

N2: [REDACTED]

OL: [REDACTED]

N2: Yes, sir.



OL: And your birth date, please.

N2: [REDACTED]

00:13:31

OL: What's the best phone number for you?

N2: [REDACTED]

OL: Hm-hmm. [affirmative]

N2: [REDACTED]

OL: Hm-hmm. [affirmative]

N2: [REDACTED]

OL: Thank you so much. And this is 802, right? 802 LeVare [phonetic 00:13:41]?

N2: Yes, sir.

OL: Okay. Is that a blue heeler?

N2: Yes.

OL: I want one so bad.

N2: Yeah, they're great dogs.

[radio communication]

N2: Too smart. Okay. Here we go. Got to just remember how this thing works.

OL: Sure.

00:13:59

N2: Uh. It's like this. I don't know how much we're going to see. I think the van was blocking everything.

OL: That's okay.

N2: Come on. This is not working.

OL: Hopefully it is recording and not just live.

N2: Yeah, it is recording. Which camera is this?

00:14:29

OL: Our cameras are always on too, but, you know, any perspective we can get is always helpful.

N2: Yeah, absolutely.

OL: So.

[radio communication]

N2: This is not working. Why is this not working? Come on. This thing.

00:15:02

OL: Right. Is it because it says locked? I don't know if that makes a difference.

N2: Yeah, that might make a difference. Come on.

OL: Uh, if not we can always check back in later. Um. 50, what was the original time of the call?

00:15:32

CO: Time of 10:24.

OL: Copy.

N2: Jesus.

OL: Not wanting to cooperate, huh?

N2: It's not wanting to cooperate. May have to reboot this thing. It's been on the fritz.

00:16:03

OL: It's okay. If I, um.

N2: Hold on. Progress.

OL: What would be more convenient for you? Um, me giving you my phone number to call if you're able to kind of play with this, or the other option is I can also, um, have a link sent to your email so that if you do find footage of this incident.

00:16:40

N2: Send me the link.

OL: And then you can upload, you can upload it directly to us.

N2: Yeah, let me try that.

OL: Does that work?

N2: Yeah, let me try that.

OL: Okay. Let me, uh, create that link right now.

N2: Let me see if I can get this thing to work. I'm sorry.

OL: No, no, no. No need to apologize. Um, just, just so you know, um, uh, since this all happened in front of your house and you were the one that called, um, basically, in the process of trying to get him into custody, um, he did go, experience some sort of medical issue so that's why the fire department's here and --

N2: Right.

00:17:06

OL: And they're going to, obviously, um, get him where he needs to go. But, um, uh, let me get you that link. Uh, let's see here.

N2: Thank you guys for coming out.

OL: No, of course. Of course. Um.

N2: [REDACTED]

OL: Sure.

N2: [REDACTED]

OL: Oh, okay.

N2: So. It's tough being on the corner.

OL: 50, can I have the report number for this?

00:17:30

CO: 50, it will be 17521760.

OL: Copy. Uh, let's see here. And uh, email. What's your email, sir?

N2: [REDACTED]

OL: Hm-hmm. [affirmative]

N2: [REDACTED]

OL: Hm-hmm. [affirmative]

N2: At gmail.com.

00:18:02

OL: Okay. [REDACTED]

N2: No. Uh, yes.

OL: It is.

N2: It is. Yeah.

OL: And, uh, this will act as your password to get in to upload a file. What's your birthday again?

N2: Uh, [REDACTED]

OL: Why is this not working?

N2: [REDACTED]

00:18:31

OL: This thing is not working. Maybe it's my phone. That's not very helpful.

[radio communication]

OL: Okay. Uh, you said [REDACTED]

N2: Yes, sir.

OL: And [REDACTED]

N2: Yes.

OL: Okay. [REDACTED]

N2: This thing is not working.

[radio communication]

00:19:01

OL: Okay. So shortly you should get that email from us.

N2: Okay.

OL: Uh, and basically if you're able, my understanding is that the call into us was about 10:2-, uh, about 10:20 this morning.

N2: Yes, sir.

OL: Um, so what would be helpful, and it should let you upload a pretty big file is if you're able to, whatever footage you have of the driveway from 10:20, uh, until I come and knock on your door.

N2: Yeah.

OL: That would be extremely helpful.

00:19:31

N2: Okay.

OL: Um, and if you have, if you do have the footage, but you're have difficulty uploading it --

N2: Hm-hmm. [affirmative]

OL: Let me know. I can come back and we can try and throw it on a USB.

N2: I got you.

OL: Okay. Um, any questions for me?

N2: No. I think you covered everything very succinctly. Thank you for coming out.

OL: Okay. Yeah, absolutely. Uh, back out this way?

N2: Yeah. Let me just get this out of your way.

OL: No worries. I appreciate your help. Is this your, uh, your only car to get in and out if you needed to?

00:20:00

N2: Uh, no. We have a --

OL: Okay.

N2: My wife is actually out and then --

OL: So this is going to be blocked for a little bit.

N2: Yeah, that's what I figured.

OL: Um, but if we --

N2: There's a driveway just on the other side.

OL: Hm-hmm. [affirmative]

N2: Right.

OL: So we have it blocked off down to your neighbors. A couple of houses down, so.

N2: Okay.

OL: Um, if you absolutely have to get out we will see what we can do.

N2: I think the main concern is my wife was out getting food.

OL: Hm-hmm. [affirmative]

N2: So she has to come back.

OL: Okay.

N2: [REDACTED]

OL: Got it.

N2: I don't where she is and will come back at some point.

OL: Maybe give her, uh, wife a call.

N2: Yeah.

00:20:29

OL: Give the nanny a call and just let them know. Um, the best thing to do would be, um, to maybe come down -- I think the next street over is, uh, Laurel, right?

N2: Yeah. Yeah, yeah.

OL: Have them come down Laurel, wait on the other side of the, other side of the tape here.

N2: Yeah.

OL: Flag one of us down and we can escort them through.

N2: Okay.

OL: Okay. Thank you so much.

Ofc. Leahy  
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N2: Yeah.

00:21:00

[end of audio]



EXHIBIT 11

**RPLG**

Renne Public Law Group®

[REDACTED]  
**Transcript of Body Cam Footage of:  
Officer Eric McKinley (04/19/2021)**

**Case:** Audio Transcription re: McKinley, Eric

**Reporter: Debi Devitt**

P.O. BOX 85  
Penn Valley, CA 95946



MCKINLEY BODY CAM FOOTAGE

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MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

---

PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



00:00:30

OM: 31, 101.

00:01:00

OM: Hey, bud. How's it going?

MG: Hey.

OM: Just coming to check on you. Make sure you're okay. Somebody called and said you were, uh, maybe not feeling so great.

MG: Uh, well I'm feeling all right, I guess.

OM: All right. Okay. What's, what --

MG: It's just that I think I'm being staying here for longer.

OM: Really? I don't think we've met before.

MG: Yeah, maybe. And so [indiscernible 00:01:25]

OM: Okay.

MG: Yep. So now it's probably like my, my, like, I know what's going on.

00:01:34

OM: You're not, you're feeling okay or what?

MG: Yeah, I'm feeling good, like, all right. Like, uh, something happened over there at --

OM: At where?

MG: Okay. So yeah.

OM: Something happened where?

00:01:58

MG: Sounds like something's going on around and everything, like, walking around like

[indiscernible 00:02:04]. You know, today's my, uh, something happened.

OM: Something happened today?

MG: Yeah.

OM: Okay.

MG: Hm-hmm. [affirmative]

OM: So, how --

MG: So.

OM: How might we know each other here? It bounced behind the tree right here.

MG: What, right and [indiscernible 00:02:26] the empty.

OM: I don't know. Okay. Do you, do you feel like hurting yourself?

00:02:32

MG: Hurting myself?

OM: Yeah.

MG: Uh, it's not that.

OM: What, what is it then?

MG: Like, something's going on, like, like, you know, we were close to the, the, the, the --

OM: The what?

MG: Um.

00:02:59

OM: What, what was that?

MG: I was over there, like, um, supposed, like, um, I was, like, doing more bigger, I guess. Something blue.

OM: Blue. Okay.

MG: Um. Uh, so, like --

OM: 31 to 41, can you stop at the Walgreens and see if they have any walk-outs with, uh, his description? About 5'5", probably 250.

00:03:31

MG: Like something. Like babies.

OM: What's that?

MG: Babies.

OM: Babies.

MG: Oh yeah, like, I shouldn't things like that. Oh, and I heard somebody was playing, like, over there. I put a call to police yesterday.

OM: Oh, you.

MG: Yesterday too.

OM: Oh, you called us yesterday?

MG: No, I didn't call you guys.

OM: All right.

MG: I went over there. I was walking around.

CO: Hello.

MG: You know. Stuff like that.

00:04:02

OM: All right.

MG: And, um, stuff like that, you know. So, uh, so I stole my, you know, something happened

and everything and like I've been trying to get calls and they went try to take me to, to, you don't have no Facebook.

OM: How'd you wind up here?

00:04:30

MG: Huh?

OM: How'd you end up right here?

MG: Here?

OM: Yeah.

MG: Well I came walking, like, down over there and first I was walking through here and then over here. How did I ended up over here?

OM: Yeah. You walked over here?

MG: Uh, yeah, probably have, like, a month or so.

OM: A month. Oh, okay. Have you been, like, sleeping back here or what?

MG: A month.

OM: Yeah. What, what's your name?

MG: My name?

OM: Hm-hmm. [affirmative]

MG: Uh, oh this guys we were talking to like there's this guy that's supposed to get something or something.

00:05:04

OM: Okay.

MG: And, like, somebody left and I heard, like, stuff like they were, like, asking for real. Of course, you know, like, yesterday and everything. You know. I'm not sure if I should go up over there and register or something. Um, I haven't done my, my stuff.

OM: Oh, you new to Alameda then?

MG: Well not really. Like, you know, like, they changed and then it changed again. For what?

00:05:32

OM: Yeah. They have been changing a lot. They've been building a lot of houses and all that. So, um, but you're feeling all right? You don't feel like hurting yourself or anyone else?

MG: Um. Um, like, what? Like. Oh, so somebody tried to steal my, you know, like, gears.

OM: Steal your what?

MG: My, my phone, my stuff, my mom.

00:05:59

OF: 41 to 31, negative.

MG: Maybe. Also.

OM: 31, copy. Okay. So where'd you get all this stuff?

MG: This stuff?

OM: Yeah.

MG: Um, I went over there. Well not my [indiscernible 00:06:15], you know. Yeah.

OM: Where, I mean, where did you buy the alcohol from?

MG: Alcohol?

OM: Yeah.

MG: Uh, supposedly this [indiscernible 00:06:26] and something happened.

OM: What's that?

MG: And this one, like --



00:06:28

OF: 41.

[radio communication]

MG: So some were, like.

OM: 31 to 41, you can just park on Otis right here.

OF: Copy.

OM: Okay. So, so I didn't catch your name yet, though. What was your name?

MG: [indiscernible 00:06:55]

OM: What's that?

MG: You're going to --

OM: I just, I just wanted to know your name. I'm Officer McKinley.

00:06:59

MG: McCabe, McKinley?

OM: McKinley, yeah.

MG: [indiscernible 00:07:07]

OM: Yeah, what's your name though? I don't think we've met before. I think it seems like you're trying to, like, rack your brain, like, have we talked before. I don't think we've talked before.

MG: Oh, like, like, like, over, like, they told me to never come back over there.

OM: Over where? At South Shore?

MG: Something like that. Like, I haven't had a phone, like, something happened and everything.

OM: Okay. But, what's your name?

00:07:29

MG: Something Mario. That's it.

OM: Something Mario. Can you keep your hands out of your pockets for me?

MG: I'm good. Well I guess that's it.

OM: Hold on. So we're going to talk because I'm, I'm concerned about this open container and, and everything so just leave that there.

MG: Right.

OM: So what's your name?

MG: Um.

OM: I don't think that goes to that.

00:08:00

MG: So, so they were telling me, uh, something about stuff, you know, and, hey, I think I seen, like, somebody let somebody thing, you know.

OM: Okay.

MG: So probably, like, they were, they were telling me that they were going to have, like, something about --

OM: Did you, did you say your name was Mario?

MG: [indiscernible 00:08:18]

OM: Did you say your name was Mario? Yeah? Okay. So there's the plan, Mario.

MG: Hi. Nope. Sorry. It's not that.

OM: Okay. What is your name then?

MG: Uh.

00:08:30

OM: Okay. Here's the plan. Okay. I got to identify you so I know who I'm talking to. Make sure you don't have any warrants or anything like that. Okay?

MG: Oh shoot.

OM: You come up with a plan.

MG: [indiscernible 00:08:43]

OM: Let me know that you're not going to be drinking in our parks over here.

MG: Like, you know, stuff like that, yeah.

OM: And then we can be on our merry way, okay?

MG: Merry way?

OM: You have, you have an ID on you?

MG: Merry-go-round?

OM: Yeah, like that. You have an ID on you?

MG: Sure. Like, yesterday?

00:08:58

OM: Okay. If you can't do that, then I'm going to have to take you. Okay?

MG: What? ID?

OM: What do you want to -- yeah, do you have your ID with you?

MG: So I was, like, walking like that little bit, what. I'm sorry. Never mind.

OM: Okay.

MG: Uh.

OF: All right. Do you have an ID with you?

MG: [indiscernible 00:09:27]

00:09:30

OF: Okay. Do you have, like, a driver's license or anything? So we just know who we're talking to. [Inaudible 00:09:33] That way we can just write down who we talked to.

MG: I seen somebody, you know, like stuff like that. My purple papers, my cards.

OF: You live here in the City of Alameda?

MG: Well I haven't gotten a house yet.

OF: Okay. Can you do me one favor?

OM: Just keep your hands out of your pockets, please.

00:09:58

MG: [indiscernible 00:09:57]

OF: Keep your hands out of your pockets, for us.

OM: What's this?

OF: Mario, right?

OM: Was it Mario?

OF: Hey, do me a favor.

MG: There's something here. There's something here.

OF: Hey, come over here. Come over here. We don't want you to fall down. Okay? All right?

MG: They're getting whipped.

OM: We're just going to put your hands behind your back.

MG: I got to, I got to.

OM: What? You got what?

MG: No, wait, wait, wait. Is, is wait. What in the heck.

OF: Hey, Mario, walk with me. Okay.

MG: Well it's not that.

OF: Okay. Walk with me. There you go. Thank you. Thank you. Appreciate it.

MG: So I -- no.

00:10:29

OF: Hey, Mario. Please don't do that. Please relax. Just relax. Just relax for us, okay?

MG: [indiscernible 00:10:37]

OF: I appreciate. Hey, hey, hey.

MG: No, it's not that.

OF: Do me a favor, Mario.

MG: No, I didn't do nothing.

OF: Mario. Please don't resist us. Okay?

MG: I didn't stole nothing.

OF: All right. Mario. Please don't resist us. Okay?

MG: It's not that.

OF: Mario, please do not resist us. Okay. Put your arm behind your back, please.

OM: Put your hands behind your back. Okay?

MG: Please.

OM: Mario.

MG: It's not that.

OF: Put your arm behind your back.

MG: [indiscernible 00:10:57]

OM: Hey, Mario.

MG: I wanted to throw.

00:11:00

OF: Mario.

MG: I wanted to throw this.

OM: That's fine.

MG: Holy smokes.

OM: We got this. We got this.

MG: I got it. So I didn't try to do that, okay?

OM: Okay.

OF: Hey, Mario, just put your hand behind your back, please?

MG: Sorry, sorry. There.

OF: Mario.

OM: One sec.

OF: Please put your hand behind your back.

MG: Where.

OM: I think we've talked before, Mario?

MG: No, it's not that.

OM: This is all coming back to me now.

MG: No, it's not that.

OM: Mario.

MG: Thank you.

OM: It's okay. All right? We're just, we just got to figure out what's going on, all right? So we just get your cooperation real quick here.

MG: No wonder.

OM: Okay.

MG: I got a --

00:11:29

OF: Mario. Put your hand behind your back. Okay? Please.

MG: [indiscernible 00:11:35]

OF: Please put your hand behind your back.

MG: There. There.

OF: Mario.

MG: There. There.

OF: Put your hand behind your back.

MG: There.

OF: Mario.

MG: I didn't do nothing, ok?

MG: Hands. There.

OF: Mario. Please put your hand behind your back. Okay. Please stop resisting us, okay? Don't fight us.

MG: It's not that. It's something else, okay.

OM: You just got to relax, that's all.

00:11:59

OF: Please.

MG: Wait, sir. I didn't do nothing.

OF: Mario.

MG: No.

OF: Mario.

MG: Safe. There. Safe. It's not that. Please stop. What the heck?

OF: Mario, put your hand behind your back. Mario, put your hand behind your back.

MG: It's not that. There.

OM: You got it? You good?

MG: Oh my gosh. It's not that. It's not that. Here.

OF: Mario.

MG: There.

OM: What's that?

00:12:32

MG: Stop it.

OM: Yeah.

OF: Hey, Mario.

MG: Don't do it.



OF: Do me a favor, okay?

MG: Don't do it. There.

OF: Can you please put your hand behind your back and stop resisting us?

MG: Oh no wonder. There. I got it. Aye, aye, aye.

OM: What do you have?

MG: Sorry. No, it's not that.

OM: Okay.

MG: No. It wasn't that. Hey. No.

MG: Stop. Stop, stop, stop.

MG: No.

OF: Hey.

OF: Mario.

00:13:00

OF: Put your hands behind your back.

MG: No, it's not that.

OF: All right. This side. Put your hands behind your back. Put your hand behind your back.

MG: [indiscernible 00:13:27] Thank you.

OM: You got his legs?

OF: Yeah.

00:13:29

MG: Hey, hey. Hey.

OM: You able to get the arm out?

MG: You're arresting me? Hey.

MG: Ah. [Indiscernible 00:13:46]

OF: Mario.

MG: Okay. Yeah.

OF: Put your hand behind your back.

MG: Hello.

OF: Relax.

MG: There. There.

00:14:02

OF: Can you give me some space?

OM: Yeah.

MG: That's enough.

[radio communication]

MG: [indiscernible 00:14:19]

OF: Okay. Got it. All right.

OM: 31. [Indiscernible 00:14:23] Still taking a little bit.

OF: Mario.

MG: Ah.

OF: Need you to stop resisting us. Okay/? Good?

00:14:34

OM: Yeah. Think we're going to have to wrap him?

OF: Relax.

OM: Okay.

MG: [indiscernible 00:14:43]

OM: Take that.

OM: Okay. What are we going to do? Just keep him pinned down until we get the wrapper?

OF: Yeah. All right. Watch out. Hey, Mario.

00:15:01

MG: Hey. Hey.

OM: It's okay, Mario.

MG: Oh my gosh.

OM: We're going to take care of you. Okay?

MG: Stop.

OM: We're going to take care of you.

MG: I.

OM: Okay.

MG: There. There. Thank you. Hey. I got it. Thank you. Thank you.

00:15:33

OM: You good?

MG: Okay.

OM: It's okay. It's okay. What's your name?

MG: Mario.

OM: Mario, what's your last name, Mario?

MG: Alberto.

OM: Alberto.

MG: Alberto.

OM: What's your birthday?

OM: We got you. It's okay. It's good.

MG: [indiscernible 00:15:53]

OM: It's all right. We're okay. Okay.

OF: Okay.

OM: Mario.

00:15:59

OL: You can go ahead and get up, Charlie, I got him.

OM: Charlie, can you grab the, the wrap?

MG: Ah. Ah.

[Indiscernible 00:16:09]

OL: Yep.

MG: Ah. Ah.

OL: 50 to 11, code 3 please.

MG:

OF: Mario.

MG: Ugh.

OM: Hey, Mario, what's your birth date?

MG: No.

O?: Can you fit your forearm?

MG: Ugh. (Screaming)

MG: Please don't do it

OM: Please don't do what?

OL: I don't want to lose what I got.

MG: Ah. Ah. Ah. I didn't do nothing. (Screaming)

00:16:31

MG: Please don't [indiscernible] me. I'm sorry.

OM: Hey, Mario, just talk to me, okay?

MG: Yeah.

OM: What's your birth date, Mario?

MG: I'm sorry.

OM: It's okay. I forgive you. It's all right.

MG: 1984.

OM: 1984? What, what month?

MG: No, '95, 1995. I said [indiscernible 00:16:49]

OM: Okay. Mario.

00:17:00

MG: Yeah. [Indiscernible 00:17:02]

OM: I think, I think you just had too much to drink today. That's all.

MG: [indiscernible 00:17:09]

OM: Okay.

MG: Ah.

OF: Mario, calm down, please.

OL: Stop kicking, Mario. Stop, stop kicking.

MG: Ah. Ah.

OF: Think we can roll him on his side?

OL: Uh, I don't want to lose what I got, man.

OF: Okay.

OL: Can you grab the wrap out of 111?

OF: Mario, just please stop fighting us.

O?: It's all right.

OF: We have no weight on his chest.

OL: Can you go around, ma'am?

OL: Yeah, please. Thank you.

OF: No, no. No, no. No weight. No weight. No weight.

00:17:59

[radio communication]

OM: He's going non-responsive

[radio communication]

OF: Mario. Mario.

O?: Let's give him a fore leg lock. Leg trap, if you can.

OM: Do we have AFD on the way?

OF: Yeah.

OM: 41, can we get AFD?

[radio communication]

O?: You, you got a pulse?

O?: All right. Start CPR. Let's get him on there. Get him out of handcuffs.

OL: We're checking for a pulse.

OM: I can't.

OL: You got a pulse?

OM: No.

00:18:29

O?: Okay. Check for inclu-

OF: He's still holding his head up.

[radio communication]

OM: No pulse. Let's start CPR.

OF: Are you sure?

OM: Yeah, for sure.

OL: Go, go. 50, starting CPR.

OF: Go. Go.

00:19:00

[radio communication]

?: My car.

O?: Yeah. You know what? They can go on Otis too.

?: Yeah, probably [indiscernible 00:19:15]

OF: Hey, Mario. Mario. Mario.

[radio communication]

OF: Mario. Mario.

OL: Let me know when you want a break, buddy.

00:19:29

OF: He looks like his mouth is open

F: Does he have anything in his mouth?

OF: Watch out, don't let him bite you. Mario. Okay.

OM: Wake up. Wake up.

OF: He's trying to breath, but he's obstructing his mouth.

O?: Okay. Let's get him -- if he's breathing, lets give him a recovery.

O?: Recover. Recover.

O?: Recover position.

OM: And we have, did he have a pulse?

O?: On his side. Kick out his legs.



OL: Check, yeah, check for a pulse.

OM: Should we get the cuffs off him?

OF: Get him on his side.

OF: Mario.

F: He's breathing.

00:19:59

OF: Mario.

O?: Give me a tube. Give me a tube.

O?: Mario.

O?: He got anything in his mouth?

O?: Do you know of any drugs on board or anything?

OM: Alcohol is all I know.

O?: Okay. Got a pulse?

O?: Mario.

OM: Hold him still. Let's have him. I don't have a pulse.

O?: Okay.

F: No pulse?

OF: No pulse.

O?: No pulse.

F: All right.

OM: Let's go.

O?: Open the airway. Yeah. Hold his.

F: Let's get somebody to take over for McKinley.

00:20:30

OF: Mario.

O?: Let go.

O?: Let me take over.

O?: Do we have --

OF: Mario.

F: Do we have ID on him at all?

OM: Mario Alberto.

O?: Yeah, just in case.

O?: Couple times.

OL: Did you already take out a dose?

OF: Mario.

00:21:01

OL: You guys want to do --

F: There we go. Good job, Mario.

OM: Yeah, let's do Narcan.

OF: Wake up. Wake up, Mario.

F: Wake up, Mario.

OL: You just pop it like a plunger, right?

OM: Yep.

OF: Mario. Wake up.

OM: It doesn't have to go inside his nose very far. Just about a quarter inch is good.

O?: Deep.

O?: Another one.

OL: I need another tube. This one only had one in the pack.

OF: Mario. Mario. Wake up.

00:21:28

F: Cam, let's have you take over Francisco after this round

O?: All right.

OL: Let me up.

OF: Mario. Wake up, buddy.

OM: You said no AD in your car?

F: I don't think I have one. I can hear them coming.

OF: Wake up.

O?: Did we already put one up his nose?

OL: Two.

F: Two.

OM: Two.

O?: Okay.

OM: Mario.

00:22:01

F: [inaudible 00:22:12] him down.

OL: All right. Somebody switch.

OM: Check for a pulse.

OL: Go.

O?: Oh. Check. He's.

O?: Open his mouth.

OF: Mario.

M: I dropped my phone there.

OM: Right here.

00:22:30

OM: We did two already.

O?: You did?

OM: Yeah.

O?: Wake up.

OF: Wake up, Mario.

OM: Yeah. I'll take, I'll take that one.

F: Hey George?

G: Yeah.

F: [inaudible 00:22:38]

OL: 50, AFD is 910. We administered Narcan.

[radio communication]

OF: I got a pen. Mario. Wake up, buddy. Can we get them over here?

OL: Yeah.

F: They're coming.

OL: Truck's over there.

00:23:01

OF: Let me check. No pulse.

[radio communication]

P1: You guys check for pulse?

OM: Yeah.

O?: Nothing.

00:23:31

P1: Okay.

OM: He went from combative to non-responsive almost immediately. We started compressions when we checked on pulse.

F: Let's start doing a neighborhood check.

OM: Yeah. Uh, 4 milligrams each.

F: And then write down every house, even if they're there or not there.

OL: Got you.

F: I know this house has video.

O?: I couldn't feel the pulse.

O?: Mario, yeah.

F: What happened, just real quick?

00:23:55

[end of audio]

EXHIBIT 12

**RPLG**

Renne Public Law Group®

[REDACTED]  
**Transcript of Body Cam Footage of:  
Officer Frank Petersen (04/19/2021)**

**Case:** Audio Transcription re: Petersen, Frank

**Reporter:** Debi Devitt

P.O. BOX 85  
Penn Valley, CA 95946





PETERSEN BODY CAM FOOTAGE

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MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

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PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



**Key:**

**FP: Officer Frank Petersen**  
**FO: Female Officer**  
**MO: Male Officer**  
**CI: Civilian**  
**OM: Officer McKinley**  
**OA: Officer Arredondo**  
**OR: Officer Russell**  
**RM: Radio Male**  
**RF: Radio Female**  
**OT: Officer Tork**  
**AV: Automated Voice**  
**PM: Phone Male**  
**CH: Charlie**

[silence] [engine]

FO1: 5-3.

MO1: We had a time check when it started, time came up.

FO1: I'll let her know.

FP: Yeah. [wind blowing]. Mm-mm [negative]. Sir, where are you headed to?

CI1: South Shore.

FP: South Shore? I would appreciate it if you turned around and you went around the—

CI1: All right. Okay.

FP: ...highway. Sorry about that.

CI1: That's okay.

FP: Do you have another one?

MO2: What?

FP: Tape?

MO2: Have tape? Yes. All this [overlapping 0:02:24].

FP: What is this? That's like literal tape.

MO2: Tape, tape. I guess they stole it already. It was right here?

FP: They're loose?

MO2: There they are.

FP: Hey, throw me the tape.

FO2: [unintelligible 0:04:10].

FP: You said "crime scene." What are you thinking as far as area? Obviously, are we doing this—

MO3: Yeah, right here.

FP: ...whole thing?

MO3: Honestly, I [inaudible 0:04:52] further out so we don't have to [inaudible 0:04:54].

FP: Up to—What's this? Is this included?

MO3: [inaudible 0:04:58].

FP: We might want to expand that, then.

MO3: I can do that, yeah.

FP: Hello. I can't let you in there, sir.

CI2: How you doing?

FP: Good.

CI2: Can I get through?

FP: No. Not right now.

CI2: All right.

FP: It's going be closed off for a little bit. Sorry.

CI2: All right.

FP: I apologize.

CI2: Not a problem.

CI3: Put something like down by that corner. Some people couldn't turn around there.

FP: We're working.

CI3: And something down here.

FP: Yep.

CI3: Yep. No worries.

FP: I'm working on it. We got a couple people in route that's going to help out.

CI3: Okay.

FO3: Frank?

FP: I'm rolling. What do you need?

FO3: I need somebody to take McKinley and Fisher and drive them back to the station.

FP: Yeah, absolutely.

FO3: You could take my car. My car is there.

FP: Okay.

FO3: Fisher's right there. We're going to leave the cars and everything, and Charlie too. I think Charlie, I think Charlie was a witness too.

MO4: Yeah. [inaudible 0:06:19].

MO: Okay.

FP: No, no, no, no. Take Clinton!

FO: Okay.

FP: How you doing?

OM: [overlapping 0:07:01].

FP: Good? Okay. Just get your stuff. Just hang out here for a minute. Then we'll go get out of here. Are you okay?

OM: Yeah, I think so. I wasn't expecting this to happen today, but [overlapping 0:07:11].

FP: I understand. I'm going to go clear—Or, we need another [inaudible 0:07:16] down here. That, let's do a twofer.

MO5: Hey, Serg? Serg? So, we should start a crime scene log, right?

FP: Yes. We already have one. Russ.

MO5: Okay.

FP: Where's your car?

OA: You want me to move it?

FP: Where?

OA: Right [inaudible 0:08:37].

FP: Can you go take where it goes Powell?

OA: Like, right now?

FP: Yes.

OA: Because she wants me to do the crime scene log, Sergeant Murratt [phonetic 0:08:47].

FP: Okay. She can do that as soon as you park your car along there. As it goes, we've already got that started. So, I need you to put your car there so we can keep cars from coming down Powell Street.

OA: Powell's literally right there, right?

FP: Yeah. Just go one block over.

OA: Okay.

FP: And then you park it so that they don't—We want to keep cars from coming this frontage road. Park your car there. I'll tell her. And then once your car is there, come on down.

OA: Okay.

MO6: [inaudible 0:09:31].

FO3: Yeah.

FP: So, you called—

FO3: [overlapping 0:09:34] right now?

FP: Huh?

FO3: Can you take those guys?

FP: I'm going to. Arredondo just came down for the crime scene log. However, I told her to park her car down there so we don't get any cars coming down this frontage.

FO3: Okay.

FP: And then once she goes and parks it, she's going to come help—

FO3: She's going to come down.

FP: ...with the crime scene or whatever.

FO3: All right. Fair enough.

FP: I'll get a car and get them out of here.

FO3: The truck is here.

FP: Huh?

FO3: The truck. My car's in the crime scene.

FP: It's just a matter of getting room. But we'll get it. Aye, Russ?

OR: Hadrick, H-A-D-R-I-C-K. And we got Ecklehopper [phonetic 0:10:03]. It's E-C-K-L-E-H-O-A-R. [phonetic 0:10:07]

MO7: [unintelligible 0:10:10] Station 1?

OR: Yeah, Engine 1, Medic 1.

MO7: Or, sorry, truck.

FP: These are the keys to the truck?

OR: Sorry. Truck 1, Medic 1.

FP: Keys to the truck?

OR: [unintelligible 0:10:19].

FP: I'm going to take the truck.

MO7: [overlapping 0:10:20].

FP: Is there anything in there you need?

OR: No, why?

FP: Okay. I'm just taking them to transport. Why don't we get in the back of the truck?

MO8: I have the keys to my car right here.

FP: Just give them to me. Yeah, just hang out in there for a minute. Take a breather.

MO8: Is it open?

FP: Yeah.

MO8: [overlapping 0:10:58].

CH: I'm going too.

FP: With me?

CH: They said I got to go back too.

FP: McKinley.

OR: I'm on.

FP: I am too.

OR: Okay. Let's go 11:20.

FP: And I highly recommend nobody turns them off.

OR: It's 11—

FP: McKinley, Fisher, and Charlie. Any direction once I get back? We're just taking them back there till—

OR: Yeah, just take them back there. And who else is with you?

FP: Charlie. I'm transporting three people as soon as I get the cars out of the way.

OR: So, you're leaving [unintelligible 0:11:51] 11:20.

FP: Yep. Oh, do you have your phones on you?

OR: 11:09 [overlapping 0:11:56].

FP: You have phones on you?

OR: Yeah, let me grab it.

FP: I'll be right back, guys. I'm going to move some cars out of the way.

MO: Okay.

FP: M6 [unintelligible 0:12:28] advise I'm out on Oak. Are you going to move your car?

MO: Yeah.



FP: Okay. [engine]. [inaudible 0:13:55]. Hey.

CI4: What's going on, man?

FP: You're still doing this?

CI4: Yeah.

FP: Is it yours now?

CI4: No, not yet.

FP: Dennis still?

CI4: Yeah.

FP: Still busy?

CI5: Yeah.

FP: That's the way to do it. Good to see you. How's Dinnette [phonetic 0:14:10]?

CI4: Oh, good, good.

FP: You guys got two now? One?

CI4: Three.

FP: Three?

CI4: Oh, yeah.

FP: You're busy. Going back there. You got [mouth sound].

RM: 5-3.

RF: 5-3.

RM: I think he's leaving a [unintelligible 0:15:40].

FP: Tork [phonetic 0:16:16]?

OT: [unintelligible 0:16:18]?

FP: I've moved your car to the side

OT: All right.

FP: There are the keys. It's here. Russ?

FO: Russell?

FP: Wise?

MO: I'm going to see if I can get a name [overlapping 0:16:35].

FP: Might as well give it to you. [inaudible 0:16:37] 05. I believe it's Fisher, McKinley's keys. But I'm going to transport them back to the station. So, I just want you to have those [siren]. We're almost there, guys. [beeps].

RF: You [unintelligible 0:18:20] down here. [unintelligible 0:18:22].

FP: That's yours?

MO: Yep.

FP: Do you need it, or can I lock it, leave—

MO: Leave it.

FP: Okay. Okay. Let me pull up, make it easier on you.

AV: Alameda Police 1.

MO: [unintelligible 0:19:49].

MO: Thank you, man.

MO: Thank you.

MO: Yep.

FP: Here. Driving.

MO: Apparently, he started trying to walk away up his driveway.

FP: I'm 6-1 in Round 94.

RF: [unintelligible 0:20:45].

MO: Can you see?

FP: Oh, I can see. I just, last thing I want to do is get an enclosure. We're good. I'm just going to go nice and slow.

MO: Is George...

MO: Call George.

FP: What do you need?

MO: [unintelligible 0:21:18].

FP: Just leave it.

MO: Okay. [unintelligible 0:21:20]. Call George.

RM: [unintelligible 0:21:21] 5-3.

RF: 5-3.

RM: And tell me what time 21 left the scene.

RF: 21's in route to ECT at 11:27.

RM: 10-4.

FP: [music radio]. Are you good?

MO9: Yep.

FP: Okay. Do you have to use the restroom, or you have enough water and stuff?

MO9: Yeah. I'm okay.

FP: Okay. You'll be here for a while.

MO9: Okay. Got it.

FP: So, if you need anything, give me a call, okay?

MO9: Okay. Got it.

FP: Bye. [wind blowing].

RM: [inaudible 0:24:30].

RF: [inaudible 0:24:33]. [wind blowing].

FP: Yes. No. Yep. I will once we get there. Yep. Okay. Yep.

PM: [inaudible 0:26:01].

FP: Yes. Yep. I'll get there. And, yeah, let me—Okay. Let me get there and figure that aspect of it out. And then we'll go from there, okay? I'm literally at Oak and Santa Clara, heading northbound, stopped at the light. I can come back as soon as I get somebody there partnered up with each other. Yeah. It'll be a little bit, a while because I don't know exactly who I can find based on just a lack of people right now. So... Okay. Well, I tell you what: I think 10, 15 minutes won't be a big deal. So, why don't you give me 10, 15 minutes, see if I can partner them up with people and separate them. And then I'll come right back just to maintain the integrity for Russ because he started it. Okay. All right. Okay. Sounds good. Bye. [wind blowing]. Okay. Stay here for a minute. Let me make a phone call.

EXHIBIT 13

**RPLG**

Renne Public Law Group®

[REDACTED]  
**Transcript of Body Cam Footage of:  
Officer Russell Wise (04/19/2021)**

**Case:** Audio Transcription re: Wise, Russell

**Reporter:** Debi Devitt

P.O. BOX 85  
Penn Valley, CA 95946



WISE BODY CAM FOOTAGE

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MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

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PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



**Key:**

**OW**   **Officer Wise**  
**CI**   **Civilian**  
**FO**   **Female Officer**  
**M**   **Male**  
**F**   **Female**

[silence]

CI1: May I ask what's going on?

OW: Unfortunately, we can't tell you, sir.

CI1: Can't tell me? All right.

OW: Yep.

CI1: Is it ongoing?

OW: It is ongoing. Are you the media?

CI1: I drop off groceries.

OW: Okay. [engines].

F1: Do you know if one of the captains is in? Is Emmitt here today?

OW: He is.

F1: He is? Okay.

OW: Yep. Yep.

F1: So, I'm going to go grab my stuff and come in.

OW: Okay. I'll see you later.

F1: Cool. See you in a little bit.

OW: [birds chirping] [wind blowing] [engines] [wind chimes] [Velcro] [yawns].



CI2: Something serious happen?

OW: Yeah, I don't know. I just got here, ma'am. Yeah. Sorry [laughs]. [birds chirping] [wind blowing] [engines] [horn] [audible exhale] [horn].

M1: Hey, do you guys need anything?

OW: No, we're good.

M1: You're good?

OW: Yeah. Thank you. [engines] [wind blowing]

M2: Hey, Russ? I'm out here.

OW: [Velcro] [papers rustling] [wind blowing] [grunts] [engines].

F: [inaudible 0:10:19]

OW: [Velcro] [engines] [writing] [faint background voices] [clicking] [wind blowing] [Velcro] [writing] [Velcro] [papers rustling] [faint background voices] [birds chirping].

FO: Morning.

OW: Morning. I'm on.

FO: Well, it's almost afternoon [laughs].

OW: Yeah, yeah [laughs].

FO: How you doing, man?

OW: I'm okay.

FO: [unintelligible 0:13:50]?

OW: Yeah.

FO: [unintelligible 0:13:54] call the county. So...

OW: Yeah. Wait. Let me turn this off.

Ofc. Wise  
Page 3 of 3

FO: [unintelligible 0:13:59]—

**KEY**

**O1: Officer One**

**O2: Officer Two**

**O3: Officer Three**

**O4: Officer Four**

**O5: Officer Five**

**O6: Officer Six**

**O7: Officer Seven**

**OW: Officer Wise**

**M1: Medic One**

**M2: Medic Two**

**M3: Medic Three**

00:00:30

OW: I'm on.

M1: What's up?

OW: Let me get, uh, all your guys' last name.

M1: Yeah, uh, Dutra.

OW: D—how do you spell that?

M1: D-U-T-R-A.

OW: D-U-T—

M1: R-A.

OW: Okay, next.

M1: And then Arai, A-R-A-I.

OW: Next.

M1: Martin, M-A-R-T-I-N, me, Headrick, H-E-A-D-R-I-C-K and we got Ecklehoff, which is E-C-K-L-E-H-O-F.

00:01:02

OW: You guys are at, uh, station one?

M1: Yeah, engine one, medic one.

M2: Our side truck, truck—

P1: Sorry, truck one, medic one.

O1: You say truck? Okay.

OW: Yeah, I'm, I'm gonna take the truck, is there anything in there you need?

M2: Two F's on Ecklehoff

O1: No, why?

M1: Sorry.

M2: It's all right.

O1: I'm just taking him to, uh, transport.

OW: Yeah.

M1: Two F's on Ecklehoff.

OW: On which one? I don't have any information on this guy. Uh, let me—

O2: Yeah, all right, that's fine.

M1: It's Mario—

OW: See which one has it and I'll get it to you.

O2: No problem, yeah.

00:01:30

M1: What do you need so far?

OW: You said station one, medic one and what was the engine?

M1: It's, uh, truck one.

M2: How's he looking?

M3: Asystole still.

M2: All right, let's run him over to Alameda.

M4: Let's just get him over there.

M2: Let's load him up and go, yep, yep.

M3: We got a—

M2: Yep, all right.

M3: Do we have a tarp right there [unintelligible 00:01:48]?

OW: Do we—hey.

00:02:00

OW: Hey, all units on the scene make sure you ta—uh, check in with me before you leave so I can, uh, write it down on the log. Who do you have?

O1: McKinley.

OW: I'm on.

O1: I am too.

OW: Okay, let's go 11:20.

O1: And I highly recommend nobody turns them off.

OW: So, 11—

O1: McKinley.

OW: Hm-hmm [affirmative].

O1: Fisher.

OW: Hm-hmm [affirmative].

O1: And Charlie.

00:02:30

M1: Any direction once I get back?

O1: Um—

M1: We're just taking him aback there to—

O1: Yeah, just take him back there and just—

OW: Who—

O1: Yeah.

OW: ... who else is with you?

O1: Uh, Charlie.

OW: That's it, just those three?

O1: I'm transporting three people as soon as I get the cars out of the way.

OW: Okay, you're leaving the scene at 11:20.

O1: Yep.

OW: Okay, all right. I'm gonna put you down as 11:09, when he came up like—

O1: Do you have phones on you?

OW: Yeah, let me grab 'em.

00:03:00

O1: I'll be right back, guys.

O2: You can still keep me in, I'm gonna—I'll be right back.

OW: Okay.

00:03:30

OW: 1053, what time do we have, uh, AFD on scene? Oh.

00:04:00

OW: I'm on.

O3: Okay. Francisco, let's just leave his car there.

O4: Huh?

O3: We'll leave his car there.

O4: Okay, I'm just gonna put it, uh [unintelligible 00:04:23].

O3: Okay.

O5: Did you—anyone talk about that camera there?

00:04:30

OW: Uh, I don't know.

O3: McKinley, uh, knocked, he already talked to them.

O5: And it's all—

O3: Yeah.

00:05:00

OW: I'm on.

O6: Okay.

OW: Okay. Uh, I'll just hold onto the crime scene for now.

O6: Okay—

Ofc. Wise (2)

Page 6 of 7

OW: And then—

O6: ... she wants me to—if you can transfer everything that you have—

OW: Yeah.

O6: ... into here.

OW: Yeah. Give me a minute, let me get these guys out of here.

O6: Okay. I'll be, I'll be in—let me know though.

OW: Okay. Okay, do me a favor and keep an eye over there, don't let anybody come in. And if anybody leaves let's write down the time they left.

00:05:32

O6: Okay, [unintelligible 00:05:33].

00:06:00

OW: 10-530. Uh, AP is leaving the scene and one to the Alameda Hospital. Let me get a time check. Okay.

00:07:00

OW: Thanks boys.

M1: Not a problem, dude.

M2: Yep, it's all—

M1: Yeah.

M2: Something happened to it.

M1: What is it?

M2: Haven't even opened up the, uh, needles or anything.

M1: Okay.



M2: So—

00:07:30

O7: I was referred to you. Vehicle 105, I believe it's shi—uh, Fisk and McKinley's keys.

OW: Hm-hmm [affirmative].

O7: But I'm gonna transfer them back to the station.

OW: Yep.

O7: I just want you to have those.

OW: Perfect, thank you.

Walking the scene 00:08:00 – 00:10:44

M1: I'm gonna take off.

F1: No.

OW: Okay.

F1: Getting my things from my car.

OW: Okay. You're just in this car?

F1: No, over there.

OW: Uh.

F1: I just left here. I'm the nanny.

OW: Oh, you are?

F1: Yeah.

OW: Okay. Let's -- we can't walk on the dirt. We can just walk this way.

F1: Oh, okay.

OW: Yeah. Just walk with me.

F1: Okay.

OW: Which car do you got to get to?

F1: That one, the gray one in front.

OW: The gray and brown in front? Okay.

F1: Yeah, the gray, the gray in front of this white one.

OW: Okay. No problem. There's two nannies?

F1: Yeah, there's two nannies.

OW: Two nannies. Okay.

F1: There's two nannies.

OW: Did you hear or see anything that happened out here?

F1: No, I didn't. I was in the bathroom, but I didn't hear anything at all.

OW: Okay. Okay.

F1: I'm sorry. I was in the bathroom with the, with the baby.

OW: Yeah, no problem. I apologize. This is an active crime scene so I can't have you walk through the dirt or anything.

F1: Yeah, yeah. No, no problem at all.

OW: Yeah. Actually, is there a way we can go in the backdoor instead of so we're not walking on this?

F1: Uh, I think it's closed and --

OW: It's closed.

F1: They're upstairs.

OW: All right.

F1: I'll make sure next time I come out through the back door.

OW: Yeah, if you could.

F1: We just don't want to walk in front.

OW: Yeah. If -- we're going to clean this up here in a bit, but, yeah, if we could just keep everybody inside just for now. If you got to leave we'll work it out.

F1: Yeah, no. Not right now. We're not leaving.

OW: Thank you.

F1: Thank you.

[end of audio]

Ofc. Wise (3)

Page 1 of 1

[radio communication]

O?: Yeah, they're talking.

[radio communication]

SM: Nothing?

OW: Hmm? Not mine.

SM: Could you, um, do you mind being the kind of [indiscernible 00:01:04] just a little bit?

OW: Yeah, that's fine.

SM: Somebody else. I'll get Clena [phonetic 00:01:06] down here.

OW: Yeah, that's fine. She can just bring the log down.

SM: You can just do it on a piece of paper and transfer it.

OW: Yeah, no. I got it. Ten, 5-3.

CO: 5-3.

OW: Get a time check. Going to start a crime scene log.

[end of audio]

OW: How you doing, sir?

JD: Good. How you doing?

OW: You need something?

JD: Uh, my wife's over there.

OW: Okay.

JD: [REDACTED]

OW: Okay.

JD: [REDACTED]

OW: Yeah. I got you. We'll, we'll, we'll facilitate it.

JD: Thank you.

OW: We'll get you, yeah, no problem.

JD: Thank you.

OW: Sorry about all this. We appreciate your patience.

JD: Yeah. Thank you.

OW: Yeah, no problem.

[Indiscernible 00:00:58]

OW: They're talking to the supervisor right now. They'll, they'll work it out.

JD: Okay. [REDACTED]

OW: Sure. No, I totally get it. Not a problem. Yeah.

[end of audio]

Ofc. Wise (5)

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**KEY:**

**UO:** Unidentified Officer (Wearing body cam)

**UO2:** Unidentified Officer

**UO3:** Unidentified Officer

**UO4:** Unidentified Officer

**FD:** Unidentified Fireman

00:00:00

UO: [Approaches scene in vehicle. Exits vehicle and walks to scene]

00:00:30

UO2: Mario. Mario.

UO: Get him in a figure for a leg block, a leg trap if you can.

UO2: [unintelligible 00:00:40]?

UO: Uh, just hold him right there.

UO3: Uh, he stepped off, he, did you get a pulse?

UO: All right. Start CPR. Let's get him on there. Get him out of the handcuffs.

UO2: Checking for a pulse.

UO3: Yeah.

UO4: You got a pulse?

UO5: What's our FP?

00:01:00

UO3: He's still holding his finger.

UO: Five-three on scene. We need AFD ASAP.

UO2: Are you sure?

UO: Go, go. Go. Go. You have a, you don't carry AB, do you?

[Radio Communication]

00:01:30

UO4: Okay. Let's, um, let's move some of these cars so AFD can get through.

UO: Yeah. Well, you know what? They can go on Otis too.

UO4: Yeah. It's probably, Otis would probably be easier.

UO2: Mario. Mario! Mario!

UO: Yeah. Five-three be right across from Walgreens.

UO2: Mario!

UO: I'm going to move, uh...

UO5: You want me to move this forward, or what?

00:02:00

UO: Yeah. Can you move it just next to that one?

UO5: Yeah.

UO: Yeah.

UO2: Mario! Okay. Wake up. Wake up.

UO3: He's trying to breathe, but he's [unintelligible 00:02:14]—

UO: Okay. Let's get him – if he's breathing, let's get him in recovery.

UO3: Recover. Recover.

UO: Get him on his, get him on his side. Kick out his leg. There we go.

UO3: Did we get something? Get him on his back.

UO: Yep. Okay. He's breathing.

UO2: Mario!

UO: Yeah, no.

UO2: Mario!

00:02:30

UO3: [unintelligible 00:02:30] with me too.

UO2: Mario!

UO: He got anything in his mouth? Do you know any drugs on board or anything?

UO3: Uh, all, all I know.

UO: Okay.

UO4: You got a pulse?

UO2: Mario!

UO3: No pulse?

UO4: [unintelligible 00:02:50].

UO3: All right.

UO4: Open the airway.

UO3: Let's get somebody to take over for [unintelligible 00:02:56] –

UO: Yeah.

UO4: He's breathing.

00:03:00

UO2: Mario!

UO: Switch out with him. All right. Let him take over. If you have –



UO2: Mario!

UO3: Do we have [unintelligible 00:03:14]?

UO4: Do we need to pop one of these open?

UO: Yeah. Just in case. Do we have a breather for him?

UO4: Did you already take out a disk [phonetic 00:03:23]?

UO: No, not yet.

UO2: Mario!

00:03:30

UO3: Here we go. Wake up, Mario!

UO2: Wake up. Wake up.

UO4: Wake up, Mario.

UO2: Wake up, Mario.

UO4: Mario!

UO2: Mario! Wake up!

UO3: Does it have to go inside his nose for [unintelligible 00:03:41]?

UO2: Mario! Mario! Wake up.

00:04:00

UO2: Mario! Wake up, buddy. Can we get an ETA on AFD?

UO3: They're coming.

UO2: Mario, wake up.

UO: Uh, did we already put one up his nose?

UO2: Two.

UO3: Two.

UO: Okay.

UO2: Mario!

00:04:30

UO3: While we're doing this, do you want to wave them down?

UO: Yeah. Get my phone there. [walks to street to wave down firetrucks]

00:05:00

UO2: Wake up! Wake up, Mario!

UO: [Walks down street to fire trucks] Hi. I'm on. High intoxic. Not breathing.

FD: Okay.

UO: They already started CPR. Gave two things of Narcan.

00:05:30

FD: Narcan?

UO: Yep.

FD: [unintelligible 00:05:33].

UO: Yep.

UO4: We gave two doses of Narcan.

UO: Yeah. I already told them. Charlie. Back up the car so we can block the view.

00:06:00

UO: [approaches scene again]

[Radio Communication]

UO2: Mario.

UO3: Mario. Yeah.

UO: High intox. Uh, they gave him two things of Narcan. He stopped breathing. So, they've been doing CPR the entire time.

00:06:31

FD: Lucas. Lucas [unintelligible 00:06:34].

UO: Let's get this out of the way.

[Radio Communication]

UO2: Uh, they, they were with them. [unintelligible 00:06:46]. Come on, Mario! Mario!

[End of video]

**KEY:**

**UO: Unidentified Officer (Wearing bodycam)**

**UO2: Unidentified Officer**

**UO3: Unidentified Officer**

**UO4: Unidentified Officer**

**UM: Unidentified Male**

UO: [Standing with view of trees and sidewalks] One-five-three. Can you tell me what time 21 left the scene? [unintelligible 00:01:41]. Is he leaving? Is he leaving?

UO2: Huh?

UO: Is George leaving?

UO2: Find out. Maybe not. I don't know.

UO: Okay. Can you ask him – just make sure you guys check in with me when you leave.

UO2: Will do.

UM: What [unintelligible 00:02:32]?

UO: I don't know.

UM: That's one of the, one of the biggest responses I've seen.

UO: Yeah.

UM: And, what, what, was it a shooting? Or was it just someone passed out, or?

UO: Couldn't talk about it, sir.

UM: Oh, okay.

UO: Yeah.

UO4: I'm just grabbing my phone out of my car.

UO: I'll keep you in the scene.

UO4: I'll let you know when I'm leaving. Uh, [unintelligible 00:06:21].

Ofc. Wise (6)  
Page 2 of 2

UO: Okay. I appreciate it.

UO4: Yeah.

[End of video]

**Key:**

**RW** Officer Russell Wise  
**FO** Female Officer  
**F** Female  
**M** Male  
**YM** Young Male  
**CI** Civilian

[silence] [birds chirping] [engines] [dog barking] [horn]

RW: [sighs] [engines] [wind blowing] [birds chirping] [faint background voices].

F: Hey.

M: [inaudible 0:03:50].

F: Do you see the crime scene right there?

M: [inaudible 0:03:56].

F: [inaudible 0:04:00].

M: [inaudible 0:04:01]. [wind blowing] [faint background voices] [horn].

FO1: Here they come [laughs].

RW: Yeah, I got my camera on right now [clears throat] [engines] [faint background voices].

YM1: What happened?

YM2: What happened?

YM1: [overlapping 0:05:14].

RW: Can't talk about it, boys.

YM2: Huh?

RW: Can't talk about it.

YM1: Oh.

YM2: Oh, okay.

RW: Yep.

YM2: [overlapping 0:05:20].

RW: Have a good day.

M: [unintelligible 0:05:22]. That's what they thought. I said, "Nah, [inaudible 0:05:26]."  
[brakes squeak] [wind blowing] [birds chirping] [engines].

CI: Should I be worried? [laughs].

RW: No.

CI: No? Okay. Go ahead.

RW: Sure. [engines] [birds chirping] [wind blowing] [horn].

FO1: All done.

RW: Okay. [wind blowing] [birds chirping] [ringtone] [Velcro].

FO2: Russell?! [keys jingling] This is the—And, see, there's a man [inaudible 0:08:40] in—

OW: Hello. Sorry about that.

F1: It's okay.

OW: I know you're busy in there. Hey, so when you saw the --

F1: Yeah.

OW: ... on the ground with them, were they, where were the officers exactly with the suspect?

F1: I don't know. I just saw, I just saw the guy on the ground and maybe somebody just leaning over or something.

OW: Okay. Was he holding him down? Leaning him over? Do you remember?

F1: No. I don't remember.

OW: Okay. That's okay.

F1: It looked perfectly appropriate.

OW: Right. Do you remember how many police officers were there?

F1: No. I'm guessing, I'm guessing two but it's a guess.

OW: Okay.

F1: And that's why there were reinforcements coming.

OW: Right.

F1: Wow, that's a job. Sending reinforcements.

OW: And when the guy was on the ground, was he kicking? Swinging? Pushing? Rolling? Do you remember?

F1: All I could hear is him making some crazy, whiny noises. I just came as fast as possible.

OW: Yeah.

F1: I just thought, what if he's got a gun and we're pulling out of here. So we got clear as fast as possible. So I was more busy, like, let's get out of here.



OW: Right, right.

F1: This guy's dangerous and everything else.

OW: Right. Okay. And as far as you know, the officer just holding him down?

F1: Yes.

OW: They weren't hitting?

F1: There was nothing.

OW: Striking? Kicking?

F1: No, no, no, no. There was nothing inappropriate there going on.

OW: Okay.

F1: I know use of force is . . .

OW: Right, right. Yeah, it's a big deal these days.

F1: It's a big deal these days.

OW: I, yeah. I actually teach it so I just want to --

F1: Yeah, yeah.

OW: Kind of get your --

F1: I did not see anything excessive at all.

OW: Okay. Okay. All right. I thank you for your time.

F1: Yeah. Of course.

OW: Have a great day.

F1: Okay. And then, uh, we were told by some of your colleagues that it is okay for [REDACTED]  
[REDACTED] They have a car out up way.

OW: Yes.

F1: And to come out --

OW: Yeah.

F1: . . . so they can go to the park.

OW: If she can just check in with the, the female sergeant there that would be perfect. Thank you.

F1: [inaudible 00:01:52]

[end of audio]

EXHIBIT 14

**RPLG**

Renne Public Law Group®

[REDACTED]  
**Transcript of Body Cam Footage of:  
Sergeant Emilia Mrak (04/19/2021)**

**Case:** Audio Transcription re: Mrak, Emilia

**Reporter: Debi Devitt**

P.O. BOX 85  
Penn Valley, CA 95946



MRAK BODY CAM FOOTAGE

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MONDAY, APRIL 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

---

PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



[radio communication]

00:01:51

SM: Right here. Here you go. 61, you can stand everybody else down.

OM: Mario. Mario.

O?: Let's give him a form leg lock. [Inaudible 00:02:11]

[Indiscernible 00:02:12]

OF: He stopped talking. You, you got a pulse?

O?: All right. Start CPR. Let's get him on there. Get him out of handcuffs.

OL: We're checking for a pulse.

OM: I can't.

OL: You got a pulse?

O?: [indiscernible 00:02:29] FD?

SM: Yep.

00:02:30

OM: He's still holding his head up.

[radio communication]

OM: No pulse. Let's start CPR.

OF: Are you sure?

O?: Go. Go.

O?: Go. Go.

O?: You have a, you don't happen to carry AD, do you?

SM: Uh-uh. [negative]

00:03:00

SM: Russell, let's, uh, let's move some of these cars so AFD can get through.

O?: Yeah. You know what? They can go on Otis too.

SM: Yeah, probably Otis will probably be easier.

OF: Hey, Mario. Mario. Mario.

[radio communication]

OF: Mario.

OL: Let me know when you want a break, buddy.

OF: He looks like his mouth is open and closing.

SM: Does he have anything in his mouth?

00:03:30

O?: [inaudible 00:03:35]

OF: Watch out. Don't let him bite you. Mario. Okay.

OM: Wake up. Wake up.

OF: He's trying to breath, but he's obstructing his mouth.

O?: Okay. Let's get him -- if he's breathing, lets give him a recovery.

O?: Recover. Recover.

O?: Recover position.

OM: And we have, did he have a pulse?

O?: On his side. Kick out his legs.

OL: Check, yeah, check for a pulse.

OM: Should we get the cuffs off him?

O?: Get him on his side.

SM: Here you go.

O?: Mario.

SM: He's breathing.

00:03:59

OF: Mario.

O?: Give me a tube. Give me a tube.

O?: Mario.

O?: He got anything in his mouth?

O?: Do you know of any drugs on board or anything?

SM: Be careful.

OM: Alcohol is all I know.

O?: Okay. Got a pulse?

O?: Mario.

OM: Hold him still. Let's have him. I don't have a pulse.

SM: No pulse?

OF: No pulse.

SM: Okay.

OM: Let's go.



O?: Open the airway. Yeah. Hold his.

SM: Let's get somebody to take over for McKinley after this round.

O?: He's breathing.

00:04:29

OF: Mario.

O?: Switch out.

O?: Let him take over.

O?: Do we have --

OF: Mario.

SM: Do we have ID on him at all?

OM: Mario Alberto.

SM: Okay.

O?: Yeah, just in case.

O?: Yeah, I've arrested him a couple times.

OL: Did you already take out a dose?

OF: Mario.

00:04:59

OL: You guys want to do --

O?: Come on, Mario.

SM: There we go. Good job, Mario.

OF: Wake up. Wake up, Mario.

SM: Wake up, Mario.

OL: You just pop it like a plunger, right?

OM: Yep.

O?: Mario. Mario. Wake up.

OM: It doesn't have to go inside his nose very far. Just about a quarter inch is good.

O?: Deep.

O?: Another one.

OL: I need another tube. This one only had one in the pack.

OF: Mario. Mario. Wake up.

SM: Cam, let's have you take over Francisco after this round.

00:05:33

OL: Let me up.

OF: Mario. Wake up, buddy.

OM: You said no AD in your car?

SM: I don't think I have one, no.

O?: Can we get an ETA on AFD?

SM: I can hear them coming.

O?: Wake up, Mario.

OF: Wake up.

O?: Did we already put one up his nose?

OL: Two.

SM: Two.

O?: Okay.

OM: Mario.

00:05:59

SM: There we go. Rest. Do you want to wave them down?

OL: All right. Somebody switch.

O?: Good?

O?: Open his mouth.

OM: Mario.

SM: Huh?

M: I dropped my phone there.

O?: Right here.

OM: We did two already.

00:06:29

O?: You did?

OM: Yeah.

O?: Wake up.

O?: Wake up, Mario.

OM: Yeah. I'll take, I'll take that one.

SM: Hey George?

G: Yeah.

SM: We'll have you take over for Francisco.

[radio communication]

OF: I got a pen. Mario. Wake up, buddy. Can we get them over here?

O?: Yeah.

SM: They're coming.

O?: Truck's over there.

O?: Can we get a pulse?

SM: [inaudible 00:07:00]

O?: Let me check.

00:07:00

O?: No pulse.

SM: 61, AFD is 9-10.

[radio communication]

P1: You guys check for pulse?

OM: Yes.

P1: Nothing. Okay.

00:07:29

OM: He went from combative to non-responsive almost immediately.

P1: Okay.

OM: We started compressions when we checked on pulse.

SM: Let's start, uh, let's start doing a neighborhood check.

OM: Yeah. Uh, 4 milligrams each.

SM: Um, and then write down every house, even if they're there or not there.

OL: Got you.

SM: I know this house has video. We've contacted them in the past.

O?: I couldn't feel the pulse.

O?: Mario, yeah.

00:07:50

[end of audio]

EXHIBIT 15

UO: [Driving in vehicle] Most expensive rover ever, or, huh. Rover. Most expensive drone ever.

UO2: Hm-hmm. [affirmative]

UO: We're going to do five more flights or—

UO2: What are we doing here? Someone got pulled over. Five flight-, five more flights?

UO: Yeah. Second might go to 16 feet and then horizontally for a bit.

UO2: Hm. You can come over, buddy. Or not. I need, like, a bumper sticker that says, I'm a bike rider, I'll let you go and be nice to you. Did you hear this guy this morning?

UO: What? The garbage truck?

UO2: Yeah.

UO: Probably.

UO2: I'm going to see if there's street parking.

[End of video]

EXHIBIT 16



**KEY:**

**UO: Unidentified Officer (Wearing body cam)**

**JC:** [REDACTED]

UO: [approaches home and knocks on door]

JC: [opens front door]

UO: ...out here?

JC: Yeah. I was the one that called today.

UO: Okay. What happened?

JC: Um, I saw a man standing at the corner there going through those baskets.

UO: Which ones?

JC: The wall – the, the [unintelligible 00:00:42]—

UO: Oh, yeah, yeah.

JC: ...baskets—

UO: Okay.

JC: ...over there. And I saw him with a big bottle of alcohol with, like, the security tag that he was trying to pull off of it.

UO: Uh, inside the bag?

JC: No. He, he take it – took one out of the, out of the, um, the basket. And he was trying to pull it off on that stump.

UO: Okay.

JC: And then he was just kind of wandering around here for a while. And he went back and tried to do that again. And I heard glass break. So, that's when I decided to call it in because I didn't know if he was going to start throwing bottles or anything.

UO: Okay. But at that point, uh, did you see him doing any drugs or anything like that, or?

JC: I didn't. He just, kind of, seemed slow and was wandering around, like, brushing his hair. And he went across here to the, kind of, leaned up against the tree. And then went back. But he was just, kind of, wandering, standing there brushing, and then looking at the, uh, the, the baskets.

UO: Okay.

JC: The bags, uh, for whatever he had in there.

UO: Okay. Uh, did you talk to him at all?

JC: No.

UO: Did you hear him say anything?

JC: No. I heard, kind of, mumbles to people walking by, but I... I didn't want to draw attention toward me here, so.

UO: Okay. All right. Um, do you mind if I get your information?

JC: Sure.

UO: In-, initially, you called just because you, you were, you thought that he was going to be throwing bottles or something—

JC: Yeah.

UO: ...or, he could.

JC: Yeah.

UO: Okay. What's your last name, sir?

JC: [REDACTED]

UO: [REDACTED]

JC: Yes.

UO: And your first name?

JC: [REDACTED]

UO: What's your date of birth, [REDACTED]

JC: [REDACTED]

UO: And your phone number?

JC: [REDACTED]

UO: And this is [REDACTED]

JC: [REDACTED]

UO: [REDACTED] Do you have a middle name?

JC: [REDACTED]

UO: So, what prompted you to come outside? You heard something?

JC: I didn't come outside. I just looked from the window. I, you know, I had the windows open here. So, I just saw him waiting around. You know, a lot of times people are hanging around the park, and—

UO: Was he just, was he walking up and down?

JC: He – no. He was just standing in that corner where those two baskets were. I don't know where he came from.

UO: Okay.

JC: I don't know if he came from this way, but.

UO: And then, he was getting bottles out of the, the baskets, the two baskets?

JC: Out of that, the old green baskets.

UO: And he was trying to open them on the fence right there?

JC: Yeah. On the, uh, that stump with the concrete on it.

UO: Oh, yeah.

JC: He had—

UO: Yeah, I see it.

JC: ...the bottle and he was trying to pull it off.

UO: Okay.

JC: To, and that didn't work. And then, later, I heard – I, I saw it. I'm like—

UO: Oh, you see, so, you're talking about the little security, uh—

JC: Yeah.

UO: ...thing on the, the – oh, okay. Okay. So, and then, he wasn't, he wasn't able to do that. And then...

JC: And then, he just kind of still wandered around. But then, later he came back and took a bottle. And I heard glass – I thought it was glass break. I don't know if it was the tag or something.

UO: Hm-hmm. [affirmative]

JC: Um, that's when I decided to call.

UO: Okay. Um, and then, uh, but it, it – and you said that after he wasn't able to open the bottles, he was just walking around the, the—

JC: Yeah.

UO: ...little, by—

JC: He stayed by there. He came across here and was leaning up against that tree there. And then went back over there.

UO: Okay.

JC: So, he just kind of stayed in that area there.

UO: That was, uh, the time that you called us.

JC: Yes.

UO: Okay. Okay.

JC: Do you have a card?

UO: Yeah, I do. If you need anything, uh, give me a call. If it – you don't have cameras, do you?

JC: I do have cameras. But not—

UO: Not pointing that way?

JC: ...in that area. It's just directly at the driveway and out front here. So, I—

UO: Can you do me a favor? And, and you think he came from, from Walgreens? From over that way?

JC: I think maybe from that way. But I could go back and check to see if—

UO: Can you do that?

JC: Yeah.

UO: And, uh, if, if you do find anything in there, just, you can just send a text message to that phone right there. That's my work phone.

JC: This one right here?

UO: The one in bold. Yeah.

JC: Okay.

UO: Um, and we'll go from there.

JC: Okay.

UO: Okay?

JC: Yeah. I, I know that there's – this might not be on the camera that I have inside. But –

UO: Okay.

JC: ...I can see if I see anything, if he came—

UO: Okay.

JC: ...down this way or not.

UO: Did you see the, the original, the initial moment where the officers contacted him?

JC: I saw the initial officer and the second officer. Um... And it looked like they were just talk-, the first one was just talking to him. And, I think - I assumed he was waiting for the second officer.

UO: Hm-hmm. [affirmative]

JC: Um, it seemed like they were just trying to talk to him. And then, I don't know, search or put handcuffs on him. But he started to seem to get, um... I heard, like, yelling, or he was trying to, sounded like, resist, so. Um...

UO: And then, what did you hear after that?

JC: And then, I saw them down, kind of, struggling on the side here. And I saw a man walk by to, to help hold him down.

UO: Okay. Like, uh, uh...

JC: It was an older man.

UO: A civilian?

JC: Yeah. An older man with—

UO: Okay.

JC: ...uh, he was bald.

UO: Okay. And then, at that point, you went back inside? Or, or you never came outside?

JC: Yeah. I never came out. I didn't—

UO: Okay.

JC: Let you guys handle it.

UO: Okay. Um... All right. And then, um, did you see anything after that? After the initial contact, you said that, uh, they were trying to talk to him. And then, at one point, he started resisting. And then, did you see - and then, another man try, tried—

JC: And then I—

UO: ...to hold him down?

JC: Yeah. And then, I kept seeing more police—

UO: Police officers.

JC: ...officers show up.

UO: Okay. All right. Anything else you saw? Or you just went back inside and then I, I contacted you?

JC: Yeah.

UO: Okay. Okay, [REDACTED] Thank you. If, like I said, if you review that, that footage and you see anything else, or him going that way, or whatever—

JC: Okay.

UO: ...uh, just send me a text message. We'll go from there.

JC: Okay.

UO: Thank you very much.

JC: Thank you.

[End of video]

EXHIBIT 17



**KEY:**

**UO:** Unidentified Officer (Wearing body cam)

**SK:** [REDACTED]

**MM:** Minor Male

**MF:** Minor Female

UO: Yeah. You're welcome, sir. [Walking down sidewalk and walks up steps to a residence, knocks on door]

[Radio Communication]

SK: [Opens front door]

UO: Hello.

SK: Hi.

UO: How are you?

SK: Good.

UO: Did, uh, an officer already come and talk to you?

SK: No.

UO: Not quite. Um... So, we're investigating a bit of an incident. And I just wanted to see what you might have heard, saw, anything, you know, before the police got here, after the police got here.

SK: Okay. So, let me get my kids—

UO: Sure.

SK: [REDACTED]

UO: Got it.

SK: So, let me see. We, I mean, we just saw this activity, but.

UO: Sure.

SK: Um, and I'm only not opening the door because I don't want my animals to get out.

UO: That's okay. That's all right.

SK: I'll be right back.

UO: Not a problem. Yeah.

SK: [Closes front door]

UO: [sighs] [waits at front door]

SK: We're all vaccinated, so.

UO: So am I.

SK: Okay.

UO: Yes. Hi.

MF: Hi.

UO: Um, so, like I said, we're, we're working on, uh, a bit of an incident. Um, I understand, uh, the reason why we're out here is one of your neighbors called about somebody.

MF: Okay.

UO: Um, we came out and, and, uh, the incident progressed. But I'm just, I'm interested to see, um, if you guys heard or saw anything before the police got here, after the police got here, anything like that?

MM: I didn't.

UO: And if not, that's okay. I don't want you to feel pressured to, you know...

MM: Yeah, no. I think I was the first one that noticed it. I had looked downstairs.

UO: Sure.

MM: And, um, I saw, like, the police lights flashing through my window.

UO: Okay.

MM: Um, and that's when I first noticed something—

UO: Okay.

MM: ...was going on. Um, I didn't notice anything before that—

UO: Before that.

MM: ...unfortunately.

UO: Okay. So, so, when you saw those lights coming by, I mean, what did you see or hear, or?

MM: Uh, all I saw was, like, the blue flashing right there—

UO: Okay.

MM: ...through my window.

UO: Hm-hmm. [affirmative]

MM: And so, I was like, oh. Something's going on. And then, I came upstairs.

UO: Hm-hmm. [affirmative]

MM: And everybody was already around, and...

UO: Okay.

MM: You guys started to put the tape up right as we started to look.

UO: Got it. Okay.

SK: Did you hear anything?

MF: No. I just... Not until, uh, the—

SK: That's amazing because her room is right here.

UO: Yeah, yeah.

SK: And...

UO: Okay. And what about you, ma'am? Were you, were you on Zoom doing your thing, or?

SK: I was on Zoom doing my thing with—

UO: Okay.

SK: ...earphones in.

UO: Got it.

SK: So, he comes in and he's like, they're here. Because something happened here on the corner a couple days ago.

UO: Hm-hmm. [affirmative]

MF: Yeah.

MM: Yeah.

SK: And there was – and we just moved here in January.

UO: Okay.

SK: He's like, we're like, wow, this is action-packed.

UO: Well, I can tell you that it's not... Huh. This isn't the normal for this, this neighborhood right here. So—

SK: Oh.

UO: ...I don't want you to be worried too much.

SK: No, I'm not worried.

UO: Okay.

SK: You know, Alameda is—

UO: Good.

SK: ...still easier than most places in the world to live.

UO: This, this is true.

SK: Yeah.

UO: Um, I notice the camera here. Does it work?

SK: Yes.

UO: Does it record all the time? Or is it motion activated?

SK: Motion activated.

UO: Motion activated. Okay.

SK: Sorry.

UO: No, that's okay.

SK: That would have been good, huh?

UO: Um, well, it, you know, our body cameras are always on.

SK: Okay.

UO: And, uh, you know, it's, it's a great resource and great tool. Um, but as many perspectives as we, as we can get, you know—

SK: Yeah.

UO: ...always tells, tends to tell a more complete story.

SK: Yeah.

MM: Totally.

SK: Yeah.

UO: So, we always look, uh, look for that. But, um, and—

MF: Okay.

UO: ...when it is motion activated, is it typically, like, just if somebody's on your porch?

SK: Yep. Yeah.

UO: Not cars going by, or?

SK: It used to be. But it drove me crazy because everything was vibrating. So—

UO: Yep.

SK: ...I changed it.

UO: Everybody's phones go off, right?

SK: Yeah.

MM: Yeah.

UO: Okay.

SK: I, I changed it.

UO: Um...

SK: Sorry.

UO: Just for my report so I can document I spoke with you—

SK: Yeah, yeah.

UO: ...guys, can I get your name?

SK: Yes.

UO: What's your last name?

SK: [REDACTED]

UO: Hm-hmm. [affirmative]

SK: [REDACTED]

UO: And what's your birthday, please?

SK: [REDACTED]

UO: A best phone number for you, ma'am?

SK: [REDACTED]

UO: Hm-hmm. [affirmative]

SK: [REDACTED]

UO: Hm-hmm. [affirmative]

SK: [REDACTED]

UO: Okay. Um...

SK: Did he survive?

UO: Uh, so, the fire department's, still—

SK: Okay.

UO: ...still helping him out.

SK: All right.

UO: Yeah. Um, let's see. It's, um... I like to be with open and transparent—

SK: Yeah.

UO: ...with people as I can.

SK: Yeah.

UO: But basically, all I know or all I'm able to tell you—

SK: That's all right.

UO: ...at this point is that, um, in the process of him being taken into custody—

SK: Hm-hmm. [affirmative]

UO: ...uh, he started fighting.

SK: Oh.

UO: And, um, and then, at a certain point, he just became unresponsive.

SK: Yeah.

UO: So...

SK: Yeah.

UO: Um... It – you know, there were no, no, no punches or batons, none of that used.

SK: Oh, no, no. No, no, no. We're not—

UO: No, no. I just, I like to, again, be as, as transparent as I can.

SK: Yeah.

UO: Um...

SK: But we, like, we heard nothing. Like, we [unintelligible 00:05:12] you guys showed up.

UO: Right.

MM: Yeah. We thought it was a drug overdose.

UO: Now, there, there was a – well, and it might be. It might be. He's definitely under the influence. Um...

MM: Yeah.

UO: But, uh, but like I said, you know, I, I don't want to hide the fact that there was some sort of physical altercation.

SK: Yeah.

UO: And we're getting him the, the help he needs, so.



SK: Yeah.

UO: Um...

SK: Yeah, but we all, uh, you know, so aware of everything—

UO: Sure.

SK: ...that you guys are facing right now—

UO: Sure.

SK: ...that...

UO: Yeah. But, but I also, you know, it – on the flip end, I'm also understanding to how things might look one way to—

MM: Right.

UO: ...to the public. And, you know what I mean?

SK: Yeah.

UO: So, I see both sides of things.

SK: Yeah.

MM: Hm-hmm. [affirmative]

UO: Which is why I like to just be transparent and communicate.

SK: [REDACTED]

UO: Do you work, uh, at Alameda?

SK: I used to.

UO: Oh, okay.

SK: Now I work in [REDACTED] I work—

UO: Okay.

SK: [REDACTED]

UO: Hm-hmm. [affirmative]

SK: ...really high poverty.

UO: Yep.

SK: And the, it's got high COVID rates.

UO: Yeah.

SK: [REDACTED]

UO: Hm-hmm. [affirmative]

SK: ...no.

UO: Yeah.

SK: [REDACTED]

UO: Sure.

SK: Get back to work.

UO: I feel for you.

SK: Well, no. I'm just saying, we both work in professions—

UO: Yeah.

SK: ...where no matter what we do, it's never good enough.

UO: This is true. [Laughs]

SK: Do you need their qualifications?

UO: No, no, no. I'm good. I'm good with just one.

SK: Okay.

UO: Um, if you guys have any questions later on, don't hesitate to call us.

SK: Okay.

UO: Okay?

MM: Cool.

SK: Thank you.

UO: Thank you so much.

MM: Yeah. Thank you.

MF: Thank you.

MM: Yeah. Sorry we didn't—

UO: Oh. No, no, no, no. No need to apologize. Thanks so much.

MM: Yeah. Have a good one, man.

UO: You too.

[End of video]

EXHIBIT 18

O1: Coming in.

F: So we have [REDACTED]

O1: Okay.

F: ... [REDACTED] That's, um --

O1: Mom.

F: The RP.

O1: Okay.

F: And the mom who saw everything.

O1: Okay.

F: We have [REDACTED]

O1: Okay. Hi.

F: [REDACTED]

O1: All right. Let's, uh, bring them. Yeah, lets just over this way.

F: Let's go in this driveway. Come and follow me, ladies.

O1: Yep.

F: Please. If we could just walk single file and we can just -- kind of, great. Thank you.

[Indiscernible 00:01:04]

F: Oh, even better. That would be perfect. Thank you, ladies.

?: Yeah, no problem.

MM: [REDACTED] I think. I guess there's stuff there.

O1: Is your, uh --

MM: We could leave it here.

O1: [REDACTED]

MB: [REDACTED]

O1: Okay.

MB: [indiscernible 00:01:49] for two hours.

O1: Right, right. Okay.

MB: [indiscernible 00:01:53]

O1: Okay, cool. How about I just talk to you real quick before we go inside, if you don't mind?

MB: [indiscernible 00:01:58]

O1: Can we, can we talk real quick before we go inside? Yeah. Uh, do you have a driver's license on you real quick?

MB: It's in my purse.

O1: Everything's in there.

MB: Yeah.

O1: Okay. So I know that the other person got your name. Do you mind if I shut this just so the dog.

MB: Yeah.

O1: Okay. I already know they got your information, but if I could get it again. Could you spell your last name, please.

MB: Last name?

O1: Yes.

MB: [REDACTED]

O1: Is that it? [REDACTED]

MB: [REDACTED]

O1: Oh, okay. [REDACTED]

MB: No, no, no.

O1: Okay. How about if you write it down?

MB: Yeah.

O1: Actually, you know, I'll just wait until you get a driver's license. Uh, what's your phone number for you, ma'am?

MB: My what?

O1: Phone number. Cell phone number.

MB: Phone number.

O1: Hm-hmm. [affirmative]

MB: [REDACTED]

Hm-hmm. [affirmative]

MB: [REDACTED]

O1: And you're [REDACTED]

MB: Yep.

O1: Okay. Is it your own business?

MB: Yep.

O1: Okay. And you use the same phone number?

MB: Yep.

O1: Okay. Uh, can you tell me if you heard or saw anything with this gentleman outside?

MB: No. I was, uh, outside with [REDACTED]

O1: You were upstairs with [REDACTED]

MB: No. Outside. Outside.

O1: Oh, outside. So you were walking?

MB: Yep.

O1: So you didn't see anything that happened out here?

MB: No. Nope.

O1: Okay. Okay. All right. That's easy enough then.

MB: Yeah. Yeah, I guess that's I am in 9 00:03:13]

O1: Okay. If you wouldn't mind, um, I know because you got to help her, uh, when she's because she's just come out.

MB: Hm-hmm. [affirmative]

O1: If I could just see your driver's license just so I can take a picture of it.

MB: Hm-hmm. [affirmative]

O1: I would appreciate it.

MB: Okay, sure.

O1: Sorry for the inconvenience.

MB: Yeah, it's all right. I just want to [inaudible 00:03:30] every time I get out.

O1: Yeah, what, what time did you leave?

MB: Yeah.

O1: [REDACTED]

MB: I leave, let me see if I texted my friend or something. [Inaudible 00:03:41]. Ten.



O1: Ten.

MB: Yeah.

O1: Okay. And just, just for the report, where'd you go? Just --

MB: To the mall.

O1: To the mall.

MB: [REDACTED]

O1: Got you. I have two kids. I get it. Yeah.

MB: You understand then.

O1: Yep. Mine are all --

MB: Like that. I had to walk. It's good. It's healthy for me.

O1: Right, now, I get it. Yeah.

MB: Yeah. [Inaudible 00:04:09]

O1: My kids are grown so, no, I, I get it.

MB: Yeah.

MM: We can just leave this out.

MB: I'll take it.

MM: No, get back in her, cat.

O1: And then, uh, and then you just returned right now.

MB: Yeah.

O1: Did they call you or anything?

MB: Uh, it's because I tried to come here and she was crying.

O1: Right, right.

MB: And I saw the police.

O1: Okay.

MB: So I, I ask what's going on here.

O1: Okay.

MB: Hm-hmm. [affirmative] Just, yeah.

O1: Okay. Were you here when all this happened?

MM: Okay. I was here. I was outside talking on the phone, like, say, whatever this started.

O1: Okay.

MM: And I just saw this weird guy.

O1: Okay.

MM: So he started talking to me so I went in the house.

O1: Okay. And where'd you see him at exactly?

MM: Um, exactly right, basically right over there where -- and then he came towards the yard.

O1: Okay. So was he in the trees? Was he in this little park?

MM: Yeah. Okay, wait. He was at, at the little, he was, like, at the corner there at the park.

O1: Okay. And what does, ma'am, we got to stay over here. Uh --

MM: I was trying to see to tell you exactly tell you where.

O1: What did this guy look like? What was -- white, black, Hispanic --

MM: Hispanic type.

O1: Hispanic. Okay. Do you remember what color shirt he was wearing?

MM: No, because I just, I could -- there was something that had to do with red, but I don't know.

O1: Okay.

MM: I couldn't tell you because when somebody -- he seemed weird.

O1: Right.

MM: Like, like he was drugged or drunk or something.

O1: Okay. That's what I was going to ask you. What, what do you mean by weird?

MM: Okay. So he said, Can you, can you hear? I was talking to my friend on the phone so that I wouldn't bother my daughter who was working inside.

O1: Was he trying to talk to you?

MM: Yeah.

O1: And where were you at exactly?

MM: I was sitting on the chair. If you look at the park, in our yard.

O1: Hm-hmm. [affirmative]

MM: You see a chair.

O1: Okay.

MM: A tan chair. I was just sitting there. And when I heard somebody you could see that he was weird, so I just in the house.

O1: Okay.

MM: And I started to tell my daughter, look, there's somebody weird there, but she was a work call.

O1: Right.

MM: So basically we didn't communicate. And she got in the car and went -- she had to pick up something she had ordered.

O1: Right.

MM: Then we didn't see anything that was going on because -- so she went.

O1: Hm-hmm. [affirmative]

MM: Came back and we had to go do something else.

O1: Who?

MM: So we took the other car that was here.

O1: Okay. Who, who left? Your daughter?

MM: My daughter, yes. She left.

O1: Okay.

MM: In that car.

O1: About what time?

MM: [REDACTED] what time did you --

AD: She's okay. [REDACTED]

MM: I think. [REDACTED]

O1: Yeah, yeah. Of course. Yeah, no, I totally get it, yeah.

AD: She wasn't involved at all. I'm the one that called.

O1: Yeah, yeah.

AD: Me and my husband.

MM: Okay so --

O1: I know. I got to just ask her a couple of questions.

AD: yeah, of course.

MM: What time did you go to get the, the café stuff, because you went in your car, right? What time was that? I can go look on my phone because when I was talking to my friend.

O1: Right. That'd be great. And you mind just grabbing your driver's license? I just got to take a picture.

MM: They already took it -- the other lady did.

O1: She wrote it down, but I, I'm the one getting the statement. Thank you very much. I appreciate it.

AD: Do I need to get my license again because I don't have it on me.

O1: That's right.

AD: Mom, get my cell phone.

MM: Okay.

AD: Because otherwise I don't have my license on me. It's in the phone.

O1: Okay.

AD: So, yeah.

O1: So kind of start from the, the beginning. What, what happened here this morning?

AD: It was just about before 10 am.

O1: Okay.

AD: I know, yeah, because I have my staff meeting. So it was about just before 10 am.

O1: Hm-hmm. [affirmative]

AD: My son asked for a toast. As I'm, as I got outside my mom's walking in; she was in the yard. She said, [REDACTED] there's something odd going on. I said, "Mom, I'm on the phone with my boss." So she's, like, "I'm sorry." She went upstairs. So I go outside. I'm like, Oh crap, mom was right. There was some, there was somebody right outside. But at first I thought almost like it was a maintenance guy because he was doing something to the tree.

O1: Okay. So he was by the trees right over here in front of your house.

AD: Right at our house.

O1: Okay. Hm-hmm. [affirmative]

AD: And so my sons like, mom go get this thing. I'm like, okay. I'll go get it while I'm on my work call. And I go out again and I'm like, [REDACTED] we got to do something. This man is not normal. It's like he was trying to say something. Now I'm like, okay, this is for sure [inaudible 00:07:59].

O1: Do you remember what he said exactly?

AD: No.

O1: Okay.

AD: He was just talking. I don't know what he was saying.

O1: What did he look like?

AD: He had, like, he was a round guy.

O1: Hm-hmm. [affirmative]

AD: He had, like, brown hair.

O1: Okay. What color shirt was he wearing?

AD: I don't know. He had, like, maybe it was a black shirt.

O1: Hm-hmm. [affirmative]

AD: And then had some weird soft fuzzy thing on top, maybe it was brown or something.

O1: Did you see the color of his pants or anything?

AD: It was shorts, I think.

O1: Okay.

AD: I don't know what color. He looked young, maybe Hispanic.

O1: Okay. About how old, do you think?

AD: Twenties, maybe.

O1: Okay. Do you know, maybe height, weight or anything?

AD: Weight, heavy.

O1: Heavy-set.

AD: Heavy-set guy.

O1: Okay.

AD: Heavy-set guy for sure. And, yeah, and then he had a box, box of tools. And I thought, oh, are we sure this is the, you know, am I sure I'm not getting someone in trouble that's working here?

O1: Right.

AD: And then I saw he had, like, a broken, um, comb.

O1: Right.

AD: That is not a tool.

O1: Right, right, right.

AD: So.

MM: Here's mine and [REDACTED]

O1: Okay. I can just hold onto that just for a second and take -- if I can just talk to your daughter for just a minute longer please.

MM: Yeah, yeah, yeah.

O1: Thank you.

AD: So and I already told him the time because it was ten, mom, I had my staff meeting.

MM: Okay. That's fine.

AD: So you don't have to worry about your, you're done. Yeah, yeah. So, yeah, so then my husband said, [REDACTED] you got to call the police again because he started throwing stuff. He's breaking stuff now."

O1: What was he breaking?

AD: I don't know. I'm guessing beer bottles.

O1: Was he throwing at your house or in the street?

AD: I don't know. [REDACTED] I was on the phone with work and [REDACTED] just said, [REDACTED] he's breaking stuff."

O1: Where were you at when all this was happening?

AD: So I'm downstairs.

O1: Hm-hmm. [affirmative]

AD: A little office is over there.

O1: Hm-hmm. [affirmative]

AD: But I took a peek outside in the yard and I then I was going to go get this, this, uh, coat.

O1: Hm-hmm. [affirmative]

AD: So I literally came from my front yard.

O1: Okay.

AD: And this man is literally at the tree.

O1: We got to stay. We just stay over there. We got a lot -- no, we can walk right here. You can point out where you're at exactly.

AD: So I'm in the yard.

O1: Or where you saw him. Hm-hmm. [affirmative]



AD: He was right at that tree right there.

O1: Okay.

AD: Kind of near this man, but the tree even closer.

O1: Okay. Right there. So you had a clear from your --

AD: Yeah, yeah, yeah.

O1: . . . from your house. I mean, there's -- I know you got plants.

AD: No, I had a clear view.

O1: You had a clear view of him?

AD: Yeah.

O1: Okay. Let's go over here, if you don't mind.

AD: Yeah.

O1: Okay. So you, you called the police and then what happened after that?

AD: At first they didn't come and I thought, wow, typically Alameda is so fast.

O1: Right.

AD: And then my husband said, [REDACTED] he's breaking stuff."

O1: Hm-hmm. [affirmative]

AD: So the moment I called my -- I was literally on the phone with the operator and my husband said, "They're here. They're here." So I said to the operator, "Listen I was just calling because the guy's breaking stuff, but they just arrived."

O1: Okay.

AD: And then I went and got my son, the sandwich for my son.

O1: Okay.

AD: And then when I drove out --

O1: Hm-hmm. [affirmative]

AD: I saw that he was on the ground.

O1: And was, where was the police officers?

AD: The police officers were just, they were trying to restrain him.

O1: Okay. Was he fighting? Was he resisting the officers?

AD: I'm sure he was. I, I didn't see because I was like, get, let me out of here.

O1: Okay.

AD: I had a feeling they were probably going on.

O1: What time was that when you left?

AD: I don't know. At this point probably half an hour later, 40 minutes later. I don't know. It was probably 10:40 again.

O1: 10:40.

AD: Because the sandwich they made it wrong, so I had to go back again.

O1: Okay. All right.

AD: And the only thing to keep in mind, I could see the guy.

O1: Right.

AD: I, I need glasses to see far away or to drive.

O1: Okay.

AD: So didn't see all the details on him, but he's, like, round.

O1: Right.

AD: Hispanic looking guy.

O1: Can you point exactly where you saw the officers?

AD: Oh, the officers were down here with him.

O1: Down here?

AD: Yeah.

O1: Okay. Did you hear the officers give any commands or anything?

AD: No, because I have, my windows were up. I could just hear him screaming.

O1: You could hear him screaming?

AD: Yeah.

O1: And explain what type of screaming was he doing? I mean, was it?

AD: On drugs.

O1: Okay. Do you believe he was under the influence of drugs or alcohol or anything?

AD: I'm sure he was on the influence of something. [Inaudible 00:11:17]

O1: What, what makes you -- and I just, you know, because I have to explain in my report.

AD: Yeah.

O1: What makes you think that? That he was on drugs or alcohol.

AD: Oh, because he was, like, non-, like, with us he was, like, babbling.

O1: Okay.

AD: You couldn't even tell what he was babbling about.

O1: Right, right. Okay.

AD: Talking about the situation.

O1: Sure.

AD: Oh, here's my ID again.

O1: Yeah, okay. Thank you. Sorry we got to do that.

AD: And they were restraining him completely appropriately.

O1: Yeah.

AD: I'm not saying anything about -- I'm saying it was a completely appropriate, and thank God that you guys were so responsive here.

O1: Right, right.

AD: It's just been insane.

O1: Were the officers, you know, again, you couldn't hear commands.

AD: I couldn't.

O1: Could hear where he was at.

AD: It looked all completely appropriate to me.

O1: To everything. Okay. And that's what I'm getting at, okay?

AD: Yeah, completely appropriate.

O1: Didn't excessive?

AD: No, no, no excessive.

O1: Okay. And the guy was --

AD: He was fine to me.

O1: Okay. I don't want to put words in your mouth.

AD: Yeah, yeah.

O1: But to you did it appear that this gentleman was resisting the officers?

AD: Probably that's why they had to restrain him.

O1: Okay.

AD: Sure does, yeah, yeah, no, no, no, absolutely.

O1: Let me go over here.

AD: I've been very satisfied with everything that Alameda Police have been doing.

O1: That's, that's good to hear.

AD: Yeah, and I feel like you guys are so responsive and so fast.

O1: What's, uh, uh, a phone number for you, ma'am?

AD: [REDACTED]

O1: Hm-hmm. [affirmative]

AD: [REDACTED]

O1: Okay. Do you use this for work too?

AD: Most of the time, yeah. I have a work phone, but this is really the one that I always use.

O1: Okay. If you don't mind I'm going to take a picture of it. Just for the report.

AD: Yeah, sure. Whatever you need. Unfortunately, it seems like every day there's a problem here.

O1: Yeah, I'm sorry to hear that.

AD: But you guys are impressive. It's amazing that you guys come fast.

O1: It's good to hear.

AD: There's always enough people it seems like; there's always reinforcements coming in.

O1: Good to know.

AD: Feels very, you know, safe in that sense.

O1: And then let's see. And your mom's phone number. [REDACTED]

AD: [REDACTED]

O1: Oh, that's [REDACTED]

AD: Yeah. My mom just goes by my phone number.

O1: Okay. That one going there. And officers already talked to you, correct?

JD: Yeah.

O1: Okay. Give that one back to you.

AD: Okay.

O1: And by chance, uh, can I get your mom's phone number?

AD: She doesn't really have a phone number. She, what she does is she comes and helps [REDACTED]

O1: Okay.

AD: She, she lives in Italy.

O1: Hm-hmm. [affirmative] Wow. Okay.

AD: Is permanent. And then she comes here and stays two, three months at a time.

O1: Uh, do we mind if we use your phone number for her?

AD: Yes, use mine. That's perfect. Absolutely.

O1: Okay. Thank you.

AD: Yeah, with these kids, um, she stays two, three months and thank God everybody can work from home now so she does her videos.

O1: Right.

AD: Um.

O1: There we go. I really appreciate it.

AD: Yeah, yeah. Of course.

O1: Uh, so again, let me just get this straight. What time did you call the police again?

AD: Before 10.

JD: About 10:20.

O1: 10:20. And she came --

AD: Okay.

O1: And that's when your mom was outside. They were saying --

AD: My mom was outside around 10.

O1: Hm-hmm. [affirmative] Hm-hmm. [affirmative] And saying that there's somebody weird outside.

AD: There's somebody weird and I'm like, "Mom, I'm on my work call. Stop talking." And then I went outside. Wait a minute. I texted [REDACTED] probably 10:05.

JD: Yeah.

AD: Here, we can even see exactly what time I texted you. And then you called the police.

JD: I did.

AD: Yeah, so.

O1: Okay.

AD: Okay.

O1: And then --

AD: Oh, you're right. No, you're right because my [inaudible 00:14:36] was 10:15 this time. You're right. You're right. You're right. It was 10:30.

O1: So that.

AD: Yeah. Because see at 10:12 I'm like, I'm walking to [REDACTED] to get something.

O1: Okay.

AD: No pressure at all. Come with me. And then the moment I went outside someone's almost in our yard.

O1: Right.

AD: Come check it out. I don't think it's a worker. And then crazy reinforcement because thank God there was a lot of people coming to help.

O1: Right. Okay. And --

AD: That was about 10:15.

O1: 10:15. And then how long in between that you left to get your son a sandwich?

AD: I left at probably 10 minutes.

O1: Ten minutes afterwards?

AD: Yeah, 10 minutes after.

O1: Okay.

AD: I went to get the sandwich the first time.

O1: Right.

AD: Then there was another 15 minutes before I went out again for another, for the sandwich because [inaudible 00:15:12]

O1: Were they still out here for that whole time?

AD: Oh, yeah.

O1: So you not just once when you left, you saw them --

AD: I saw them twice.



O1: And then you saw them when you left again.

AD: So I saw them once on the ground here.

O1: Hm-hmm. [affirmative]

AD: And then I saw them outside. They were just coming to help out.

O1: Okay. All right. Okay. Okay.

AD: And they were across the street over there before. Way before.

O1: I'm sorry. Go ahead.

AD: No.

O1: Okay. Have you ever seen this guy here before?

JD: I think I've seen him once before a few months ago.

O1: Hm-hmm. [affirmative]

JD: It was, like, uh, late at night. He was in, uh, the middle of the street just screaming.

AD: That's the guy.

O1: What was he doing there?

JD: He was just, like, there was traffic honking and he was just --

AD: That guy.

JD: . . . like, you know, because I recognized, like, the hair and then he had shorts on.

O1: Hm-hmm. [affirmative]

JD: And I was, like, oh, you know what, I bet that's that same guy. He was just out in the middle of the street screaming.

O1: Right.

JD: We called you guys, but by the time you got here he was gone.

O1: Okay. Okay. All right. Um.

JD: So maybe he's local. I have one more data point for you. I have cameras.

O1: Right.

JD: But the officer asked me, "Can you get the video off of it?" Apparently the hard drive died on this thing.

O1: Okay.

JD: I've been trying really hard to get it back so I don't think I have the footage.

O1: Okay. If you wouldn't mind looking, did he give you a business card?

JD: Yeah, yeah.

O1: Okay.

JD: He gave me a business card and he gave me a link that says, hey, if you get it, upload it to the site.

O1: Right.

JD: I'm going to try and do it.

O1: Okay.

JD: But I apologize. I think it's actually broken.

O1: Okay.

JD: And I don't have the footage.

O1: If you can get it, that'd be great. You know, but if it's broken, it's broken.

JD: Yeah.

O1: Not much we can do about it. Okay. Well I appreciate your time. Sorry for the inconveniences.

AD: No, no.

O1: You know.

AD: Thank you guys.

O1: Yeah.

AD: You do an amazing job. I mean, you guys come [inaudible 00:16:37] to live in Oakland and Oakland is so slow and they're understaffed, but here it's phenomenal.

O1: That's good to hear. Okay.

AD: Your response time is amazing.

O1: You guys ever need anything, give us a call. Thank you very much.

AD: Thank you so much. We'll probably see you tomorrow.

O1: You guys got all their IDs right? I gave them all back to you?

AD: Uh, wait a min-, yes.

O1: Okay.

AD: I got them all.

O1: All right. Thank you for your help.

AD: Thank you.

[end of audio]

EXHIBIT 19

[REDACTED]

City of Alameda – Internal Investigation  
Mario Gonzalez

[REDACTED]

Video Analysis

[REDACTED]

Renne Public Law Group  
Linda Ross

[REDACTED]

Prepared by:  
Lieutenant (Ret) Joseph J. Bressi  
JB Media Services  
July 27,2021

[REDACTED]

**Attachments:**  
**City of Alameda - Renne\_Video Analysis**

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## **Introduction**

This analyst was tasked by Renne Public Law Group to analyze a video involving an internal investigation with the Alameda Police Department. Renne Public Law Group furnished this investigator a Scope of Inquiry with individual questions to be answered.

## **Qualifications**

Joseph J. Bressi | Video Analyst  
Palmyra, PA 17078 [REDACTED]

## **PROFESSIONAL PROFILE**

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Using over 33 years of experience in working with video, audio, and photographs, and 23 years of law enforcement experience, and additional video investigation and software training, I assist in cases by offering services to analyze digital evidence. I create reports documenting the procedures used. Where applicable, I offer written analysis based on what is obtained from the digital media from a law enforcement perspective.

## **SKILLS & ABILITIES**

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- Video acquisition and proper evidence handling procedures
- Video analysis and frame breakdown
- Video enhancement
- Photographic analysis and enhancement
- Audio analysis and transcription
- Report writing

## **Responsibilities**

- Media acquisition, capture, and authentication
- File Metadata analysis, File macroblock analysis
- Video analysis and frame by frame breakdown
- Still photos extraction from video sources
- Enlargement, speed adjustment, color correction, color/brightness adjustments, noise removal, sharpening, video stabilization, and other improvements for demonstrative purposes
- Audio transcription from video footage
- Audio enhancement from video sources including equalization, noise removal, level adjustments
- Audio analysis from non-video sources
- Analysis of photographs from non-video sources
- Photographic processing, clarification, and enhancement
- Process digital media from a variety of sources including videotape, dvr, body cameras, cell phone video, and surveillance footage.
- Generate official reports, documented procedures used, and investigative findings
- Generate official report including opinions where applicable



## EXPERIENCE

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**June 2016 – Present**

### **Video Analyst, Transparency Matters, LLC**

Reporting to the CEO of the company, I acquire and analyze digital media for casework. I verify integrity of the data, analyze the content, make enhancements, if possible, write analysis, and document the procedures used.

I have provided services on numerous cases for this agency. My services have supplemented and successfully contributed to casework investigations.

- **February 2021** - Transparency Matters, LLC - Lawrence v. Village of Newark  
Use of Force incident, Video and Audio Analysis
- **December 2020** - Attorney Andrea E. Hammel, Esq. - Thomas v. Marine Club  
Assault case, Video and Audio Analysis
- **August 2020** - Transparency Matters, LLC - Acquah v. City of Syracuse Police Department  
Use of Force Incident, Video and Audio Analysis
- **October 2019** - Transparency Matters, LLC – Hernandez v. Peoria Police Department Officer  
Involved Shooting
- **October 2018** - Transparency Matters, LLC - Maurice Crawley v. City of Syracuse, Syracuse Police  
Department, Video and Audio Analysis
- **December 2017** - Transparency Matters, LLC - Domestic Violence Investigation, NFL Personal  
Conduct Policy, (NFL Employee) Audio Enhancement
- **November 2017** - Attorney Carol M. Cowhey, Esq. - Bari v. University of Pennsylvania Hospital  
(Slip and Fall Civil Litigation)
- **April 2017** - Attorney Andrea E. Hammel, Esq. - Coletta v. Harrah's (Horse Racing Incident)
- **February 2017** - Transparency Matters, LLC - Officer Wade Bloom, Middletown Police  
Department Crash Investigation, Video and Audio Analysis
- **October 2016** - Transparency Matters, LLC - Alonzo Grant v. City of Syracuse, Syracuse Police  
Department Civil Litigation, Video and Audio Analysis
- **July 2016** - Kroll Associates - Transparency Matters, LLC - University of Cincinnati Police Officer  
Ray Tensing, Officer Involved Fatal Shooting of Samuel DuBose, Independent Internal  
Administrative Investigation

**August 1998 – January 2016**

**Pennsylvania State Police – Pennsylvania State Police Media Unit  
Trooper – Corporal – Sergeant – Lieutenant**

Responsible for all media production for the Department. Produced long and short-term video for training, public relations, broadcast, radio, and internet. Pioneered Academy recruiting website, social media pages, and internal video training via the Enterprise network. Performed video analysis and enhancement, audio analysis and enhancement and still image extraction on a case-by-case basis for the members of the field. Also responsible for administrative side of the Academy functions. Managed budgets, managed supplies, medical office, buildings and grounds, equipment maintenance, and security and safety.

**Responsibilities**

- Acquisition, capture and processing of analog and digital media from a variety of sources including Betacam, VHS video tape, 8mm, DV, Digital Beta, HDDV, DVCam, high definition and standard definition file-based formats, and current HD and 4k file-based formats.
- Video and audio analysis, still photo extraction, standard video enhancements
- Generated official reports and documented investigative findings
- Video production and pre-production duties
- Video shoot procedures, camera operation, audio acquisition, and file management
- Video editing
- Color correction, audio mixing
- Video export including data compression
- Video distribution, (TV, internet,)

Video analysis and evidence highlights:

- Numerous crash video used with Accident Reconstruction
- Officer involved incidents regarding license plates, suspects.
- Arson investigation from surveillance cameras.
- Internal investigations involving video
- Internal investigations involving audio

**EDUCATION & TRAINING**

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**Input Ace Online Video Evidence Training Symposium**

Provided by Input Ace and various agencies  
March 22-25, 2021 (12 hours)

Topics included:

Video Investigation Units	Civilian Oversight
Fusion of 3D Technologies	Advancements in Technology for Calculating Speeds
Video Examination and Admissibility in Court	From Expert to Expert Witness
Defending Challenges to Video Evidence	Emerging Trends in Video Evidence

**Input Ace Video Evidence Symposium Hands-on Workshop**

Provided by Input Ace  
March 18, 2021 (4 hours)  
Input Ace Software Training

**Use of Force Summit**

Provided by Daigle Law Group  
December 1-3, 2020 (18.5 hours)  
Various use of force cases and digital evidence presentations

**Input Ace Online Video Evidence Training Symposium**

Provided by Input Ace and various agencies  
June 1-5, 2020 (15 hours)  
Topics included:

Conducting a Video Centric Investigation	Legal Issues & Trends Related to Video Admissibility
Analysis and Interview for Force Investigations	Digital Evidence Recovery during COVID-19
Calculating Accurate Timing from Video	DVR Evidence Recovery
Photoshop in the Video Analysis Workflow	

**Input Ace Webinar: The Democratization of Video Evidence**

Provided by Mike Burrige and Grant Fredericks Forensic Video Solutions and Input Ace Software  
January 28, 2020 (1.5 hours)

**Input Ace Webinar: A Powerful Approach for Video Evidence: How to Combine Point Clouds and Video for State-of-the-Art Scene Mapping**

Provided by Grant Fredericks, Input Ace Software  
September 11, 2019 (1.5 hours)

**Forensic Video Analysis Workflow Training**

Provided by Mark Andrews, Input Ace Software  
August 12-13, 2019 (16 hours)

**Video Examinations for the Police Investigator**

Provided by Grant Fredericks, Forensic Video Solutions and Input Ace Software  
May 22-23, 2019 (16 hours)

**Input Ace Camera Match Overlay**

Provided by Andrew Fredericks, Input Ace Software  
March, 2019 (1 hour)

**Input-Ace DVR Acquisition and Video Processing**

Provided by Andrew Fredericks, Input Ace Software  
March, 2019 (1 hour)

**Input-Ace Basic HEX Analysis: Extracting Data, Managing Multiple Cameras, and Expediting Casework**

Provided by Andrew Fredericks, Input Ace Software  
February, 2019 (1 hour)

**Input-Ace Getting Started**

Provided by Andrew Fredericks, Input Ace Software  
February, 2019 (1 hour)

**Input-Ace Digital Multimedia Evidence**

Provided by Andrew Fredericks, Input Ace Software  
February, 2019 (1 hour)

**Input-Ace Converting Video: Lossless Transcoding, Codec Recommendations, and Validation Methods**

Provided by Andrew Fredericks, Input Ace Software  
January, 2019 (1 hour)

**Input-Ace Aspect Ratio: Resizing and Interpolation**

Provided by Andrew Fredericks, Input Ace Software  
January, 2019 (1 hour)

**Input-Ace Video Interrogation – Codecs, Containers and Raw Video**

Provided by Andrew Fredericks, Input Ace Software  
January, 2019 (1 hour)

**Software Training**

Input Ace Forensic Video Software

Udemy Online Coursework

- Adobe Premiere Pro CC - Master Class
- Adobe After Effects - Motion Graphics and Data Visualization
- Adobe InDesign Essentials CC
- Photoshop CC
- Photoshop CS6
- Adobe Audition CS6
- Adobe Illustrator CS6
- Adobe Premiere Pro CS6
- Adobe Encore CS6

## **EDUCATION**

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### **Pennsylvania State Police Academy**

- Criminal and Traffic Investigations
- Rules of Evidence
- Investigation procedures

### **Susquehanna University**

Computer Science

### **United States Coast Guard Academy**

Computer Science

### **Teaching Experience**

Pennsylvania State Police Academy, General Instructor and Municipal Police Officer's Education Training Commission Instructor	1998-2016
IACP Leadership Course Instructor	2014-2016
Instructor In-Service Programming unit	1998-2003

### **Primary Equipment and Software Used**

Input Ace 2.7.1

Adobe Premiere CC 2021 (Latest version)

Shutter Encoder v. 15.2

HxD Hex Editor

Microsoft Excel for XML Metadata analysis

Adobe Photoshop CC20201

## **Analysis**

### **1. How long did officers interact/speak with Mario Gonzalez (MG) before making physical contact/going hands on/attempting to arrest him?**

Officer McKinley initiates conversation with MG at 01:04.064, Frame 1921.

Officer Fisher arrives at 08:02.115, Frame 1445.

Officer Fisher initiates contact with MG at 10:08.641, Frame 18242

09:04:577 = 09 minutes 05.7 seconds

### **2. How long was the struggle to get MG to place his hands behind his back before he was taken to the ground?**

Officer Fisher initiates contact with MG at 10:08.641, Frame 18242.

Officer McKinley, Officer Fisher, and MG go to the ground at 12:56.342, Frame 23268.

02:47.701 = 02 minutes 47.7 seconds

### **3. How long (total elapsed time) was MG on the ground before officers rolled him over?**

MG is on the ground in the prone position at 12:57.410, Frame 23300.

Officers roll MG over at 18:01.547, Frame 32415.

05:04.137 = 5 minutes 4.1 seconds

### **4. Which positions were the officers in from the time MG was taken to the ground until he became unresponsive?**

From Officer McKinley's body cam view, Officer McKinley is in some form of contact with MG throughout the incident.

Also from Officer McKinley's body cam view, Officer Fisher is in some form of contact with MG throughout the incident.

Another person "Charly" assists the Officers and is seen controlling MG's legs.

Officer Leahy, when he arrives, relieves Charly and takes control of MG's legs.

##### **5. What were the positions of the officers before MG became unresponsive?**

MG is on the ground at 12:57.410, Frame 23300.

Officer McKinley and Officer Fisher are in some form of contact with MG throughout the incident. It is difficult to determine a total time from the video because of the following:

As seen from Officer McKinley's body cam, Officer Fisher's position changes throughout the incident. Officer Fisher's is in contact with MG but not always on top of him.

Officer Fisher starts on top of MG after they go to the ground at 12:57.410, Frame 23300.

Officer Fisher's position after going to the ground at 13:00.613, Frame 23396.

Officer Fisher's position at 13:08.688, Frame 23638.

Officer Fisher's position at 13:35.481, Frame 24441.

Officer Fisher's position at 13:54.934, Frame 25024.

Officer Fisher's position at 14:06.279, Frame 25364.

Officer Fisher's position at 14:35.375, Frame 26236.

Officer Fisher's position at 15:14.480, Frame 27408.

Officer Fisher's position can be seen in a wider view from Officer Leahy's bodycam view at 15:59.192, Frame 28748.

Officer McKinley's position from Officer Leahy's bodycam at 16:07.066, Frame 28984.

Officer Fisher's position changes when MG is rolled over at 18:01.547, Frame 32415.

Officer Fisher is in this final position for 2 Minutes 47 seconds (15:14.480 - 18:01.547)

Officer McKinley's bodycam view remains relatively the same from the time MG is taken to the ground at 12:57.410, Frame 23300, until the Officers roll MG over at 18:01.547, Frame 32415.

The video does not show Officer McKinley's full body position until Officer Leahy arrives and we see Officer Leahy's bodycam view as he approaches the incident at 16:07.099, Frame 28985.



It is undetermined when "Charly" helps to control MG. The video does not depict visually when he joined to help. We do hear Officer McKinley ask someone "You got his legs?" at 13:28.041, Frame 23218.

Officer Leahy arrives and takes control of MG's legs at 16:07.099, Frame 28985.

Officers roll MG over at 18:01.547, Frame 32415.

**5a. Which body parts did officers use to control MG's body while he was on the ground and for how long?**

**i. Arms?**

Yes

Officer McKinley, Officer Fisher, and MG go to the ground at 12:56.342 Frame 23268.

Officer McKinley's and Officer Fisher's hands and arms are in contact with MG throughout the incident, however their hands and arms positions change throughout the incident.

Officer McKinley and Officer Fisher are using arms to handcuff MG.

Handcuffs are applied at approximately at 14:14.120, Frame 25599.

14:21.027 - 12:56.342 = 1:24.685 = 1 minute 24.7 seconds

Officer Fisher's arms remain in contact with MG as Officer McKinley secures the handcuffs.

Handcuff tool is visible at 14:30.203 Frame 26081

Officer McKinley's hands and arms position changes at 15:05.204, Frame 27130.

Officer Fisher is in contact with MG's handcuffed hand at 15:24.557, Frame 27710.

Officer McKinley's hands and arms position changes at 15:49.882, Frame 28469.

Officer Leahy arrives and uses hands and arms to control MG's legs at 16:07.099, Frame 28985.

Officer McKinley's hand position changes at 16:12.605, Frame 29150.

Officer Fisher's left-hand and right-hand positions at 16:15.775, Frame 28245.

The Officers hands and arms position change at 16:40.633, Frame 29990.

Officer Fisher's hands and arms position at 17:15.301, Frame 31029.

Officer McKinley's hand and arm position at 17:47.199, Frame 31985.

Officer Fisher's hand position at 17:49.602, Frame 32057.

Officers roll MG over at 18:01.547, Frame 32415.

**ii. Knees?**

Yes

Officer Fisher's knee is on MG's back at 13:01.414, Frame 23420.

Officer Fisher's knee is off MG's back at 13:06.653, Frame 23577.

05.239 = 5.2 Seconds

Officer Fisher's knee is on MG's shoulder at 15:09.709, Frame 27265.

Officer Fisher's knee is off MG's shoulder at 18:01.814, Frame 32423.

02:52.105 = 2 minutes 52.1 seconds

Officer McKinley's knee position on MG's back at 17:55.274, Frame 32227.

Officer McKinley's knee removed from MG's back at 17:56.375, Frame 32260.

17:55.274 - 17:56.375 = 1.1 seconds

**iii. Legs?**

Yes

"Charly" can be observed at 15:59.559, Frame 28759 controlling MG's legs with his legs.

Officer Leahy relieves Charly, and takes control of MG's legs using his hands at 16:05.131, Frame 28926.

**iv. Other body parts?**

Not observed.

**6. Did any officers have their knee(s) (specifically) on MG:**

Ofc. Fisher

Ofc. McKinley

**6a. Neck? If so, for how long?**

Not observed

**6b. Back? If so, for how long?**

Officer Fisher's knee is on MG's back at 13:01.414, Frame 23420.

Officer Fisher's knee is off MG's back at 13:06.653, Frame 23577.

05.239 = 5.2 Seconds

Officer McKinley's knee is on MG's back at 17:55.274, Frame 32227.

Officer McKinley's knee is removed from MG's back at 17:56.375, Frame 32260.

17:55.274 - 17:56.375 = 1.1 seconds

**6c. Shoulders? If so, for how long?**

Ofc. Fisher's knee is on MG's shoulder at 15:09.709, Frame 27265.

Officer Fisher's knee is off MG's shoulder at 18:01.814 Frame 32423

02:52.105 2 minutes 52 seconds

**6d. Legs? If so, for how long?**

"Charly" can be observed at 15:59.559, Frame 28759 controlling MG's legs with his legs.

Officer Leahy relieves Charly, and takes control of MG's legs using his hands at 16:07.099, Frame 28985.

**7. How much time elapsed between the time officers discovered MG was non-responsive and the time when officers began CPR/life-saving measures?**

Officer McKinley says "He is going non-responsive." At 18:03.716, Frame 32480.

Officers begin CPR at 18:46.692, Frame 33768.

41.475 = 41.5 seconds

**8. What is the total number of officers/Alameda personnel that were on MG at the same time during the interaction?**

Officer McKinley, Officer Fisher, and Charlie are in control of MG during the initial contact with MG.

Officer Leahy relieves Charlie and takes control of MG's legs until MG becomes non-responsive.

**9. Did MG ever kick any of the officers with his legs?**

The Officer's command "Stop kicking" at 17:19.972, Frame 31169.

Kicking from MG was not observed.

There is movement of MG's left foot in Officer Leahy's Leahy bodycam view during this time.

There is movement of MG's upper body in Officer McKinley's bodycam view during this time.

**10. Did MG ever punch any of the officers?**

Not observed.

**11. How long after MG was on the ground were the handcuffs placed on him?**

MG is on the ground at 12:57.410, Frame 23300.

Officer McKinley is seen with handcuffs in hand at 13:45.958, Frame 24755.

There is a clicking sound consistent with handcuffs heard at 14:13.019 to 14:16.889, Frame 25566 to Frame 25682.

This clicking sound is consistent with a handcuff being applied.  
From Officer McKinley's bodycam view, an unapplied handcuff is visible at 14:14.120, Frame 25599.

Officer Fisher is heard saying "I think I got it", and another clicking sound consistent with handcuffs being applied is heard at 14:21:027, Frame 25806.

14:21.027 - 12:57.410 = 01:23.617 = 1 minute 23.6 seconds

**11a. How long are handcuffs on MG before he goes unresponsive?**

Handcuffs are applied at 14:21.027, Frame 25806.

Officer McKinley says "He is going non-responsive." At 18:03.716, Frame 32480.

18:03.716 - 14:21.027 = 03:42.689 = 3 minutes 43 seconds

**12. Do officers ever turn MG onto his side (recovery position) before he becomes unresponsive?**

MG's lower body is on its side from Officer Fisher's bodycam view at 15:10.877, Frame 27300.

MG's lower body is on its side from Officer Fisher's body cam view at 15:11.077, Frame 27306.

The logo on MG's shorts is visible in these images. I used an image of MG from earlier in the video for a comparison.

**13. Do officers ever attempt to sit MG up after placing handcuffs on him?**

Not observed

**14. What was the position of MG's head while he was on the ground?**

MG is on the ground at 12:57.410, Frame 23300.

His face is not visible until 13:11.624, Frame 23726. His face is off the ground in this frame.

MG's shoulder is off the ground at 13:13.026, Frame 23768.

MG's face is obstructed until 13:33.446, Frame 24380. The back of his head is visible, but not his face position.

MG's face is obstructed again until 13:54.434, Frame 25009. The back of his head is visible.

MG lifts his head up at 13:54.434 to 13:59.639, Frame 25009 – 25165.

MG's face is obstructed at 14:02.975, Frame 25265.

MG's head is visible 14:07.180, Frame 25391. His face position is undetermined.

MG's face is obstructed until 14:40.680, Frame 26395. His face position is undetermined.

MG's face is turned to the right at 15:05.037, Frame 27125.

MG's lower body is on its side from Officer Fisher's bodycam view at 15:10.877, Frame 27300.

MG's lower body is on its side from Officer Fisher's bodycam view at 15:11.077, Frame 27306.

MG is face down, then turns head to left starting at 15:13.012, Frame 27364.

MG lifts his head and then turns his head back to the left at 15:17.617, Frame 27502.

MG turns his head to the right at 15:18.885, Frame 27540.

MG turns his head to the left at 15:20.286, Frame 27582.

MG turns his head to the right at 15:21.621, Frame 27622.

MG turns his head to the left at 15:23.022, Frame 27664.

MG lifts his head and drops his head back down at 15:25.458, Frame 27737.

MG lifts his head at 15:28.996, Frame 27873.

Face down from 15:25.458 to 15:28.996 = 3.538 = 3.6 seconds

MG drops his head down at 15:33.499, Frame 27978.

MG turns his head to the left at 15:34.467, Frame 28007.

Face down from 15:33.499 - 15:34.467 = .968 - 1 second

MG lifts his head and turns slightly to the right at 15:37.270, Frame 28091.

MG's head turns slightly left and drops back down at 15:38.638, Frame 28132.

MG is face down from 15:38.638 - 15:57.957, Frame 28132 - Frame 28711  
19.319 = 19.3 seconds

MG lifts his head and turns to the right at 15:58.391, Frame 28724.

MG turns his head to the left at 16:00.593, Frame 28790.

MG lifts his head and turns his head slightly right at 16:02.762, Frame 28855.

MG lifts his head at 16:11.804, Frame 29126.

MG turns his head to the right at 16:12.104, Frame 29133.

MG turns his head to the left at 16:14.307, Frame 29201.

MG drops his head at 16:17.410, Frame 29294.

MG lifts his head at 16:22.448, Frame 29445.

Face down 16:17.410 - 16:22.448 = 5.038 = 5 seconds

MG drops his head at 16:24.617, Frame 29510.

The view of MG's head is obstructed at 16:29.322, Frame 29651.

Face down 16:24.617 - 16:29.322 = 4.705 = 4.7 seconds

MG's head is visible at 16:31.190, Frame 29707. (Because MG's head does not move, based on frames a few moments later his head is facing left at this point)

MG's head is visible and is turned to the left at 16:36.829, Frame 29876.

MG drops his head at 16:38.464, Frame 29925.

MG lifts his head at 16:44.270, Frame 30099.

Face down 16:38.464 - 16:44.270 = 5.806 = 5.8 seconds

MG drops his head at 16:44.737, Frame 30113.

MG lifts his head at 16:47.640, Frame 30200.

Face down 16:44.737 - 16:47.640 = 2.903 = 2.9 seconds

MG drops his head at 16:49.342, Frame 30251.

MG lifts his head at 16:51.444, Frame 30314.

Face down 16:49.342 - 16:51.444 = 2.102 = 2.1 seconds

MG drops his head at 16:56.916, Frame 30478.

MG lifts his head at 17:02.822, Frame 30655.

Face down 16:56.916 - 17:02.822 = 5.906 = 5.9 seconds

MG drops his head at 17:03.456, Frame 30674.

MG turns his head to the right at 17:06.359, Frame 30761.

Face down 17:03.456 - 17:06.359 = 2.903 = 2.9 seconds

MG turns his head to the middle (face down) at 17:07.226, Frame 30787.

MG lifts his head at 17:09.128, Frame 30844.

Face down 17:07.226 - 17:09.128 = 1.902 = 1.9 seconds

MG drops his head at 17:13.266, Frame 30968.

Officer McKinley's bodycam view changes. MG's head is not visible at 17:13.766, Frame 30983.

MG's head is visible. Unable to determine position at 17:18.070, Frame 31112.

MG's head is visible. MG is looking slight left at 17:22.975, Frame 31259.

MG drops his head at 17:23.242, Frame 31267.

MG lifts up slightly at 17:26.312, Frame 31359.

Face down 17:23.242 - 17:26.312 = 3.070 = 3 seconds

MG's head drops down at 17:26.846, Frame 31375.

MG turns his head to the right at 17:31.317, Frame 31509.

Face down 17:26.846 - 17:31.317 - 4.471 = 4.5 seconds

MG turns his head to the middle at 17:31.851, Frame 31525.

MG lifts up slightly at 17:36.856, Frame 31675.

Face down 17:31.851 - 17:36.856 - 5.005 = 5 seconds

MG's head moves side to side at 17:42.228, Frame 31836.

Officers discover MG non-responsive at 18:05.217, Frame 32525.

I observed MG being face down approximately 67.6 seconds = 1 minute 7.6 seconds



**14a. How many times does MG turn his face from side to side before he becomes unresponsive?**

MG's face is turned to the right at 15:05.037, Frame 27125.

MG is face down, then turns his head to left starting at 15:13.012, Frame 27364.

MG lifts his head and then turns his head back to left at 15:17.617, Frame 27502.

MG turns his head to the right at 15:18.885, Frame 27540.

MG turns his head to the left at 15:20.286, Frame 27582.

MG turns his head to the right at 15:21.621, Frame 27622.

MG turns his head to the left at 15:23.022, Frame 27664.

MG turns his head to the left at 15:34.467, Frame 28007.

MG lifts his head and turns slightly to the right at 15:37.270, Frame 28091.

MG's head turns slightly left and drops back down at 15:38.638, Frame 28132.

MG lifts his head and turns to the right at 15:58.391, Frame 28724.

MG turns his head to the left at 16:00.593, Frame 28790.

MG lifts his head and turns his head slightly right at 16:02.762, Frame 28855.

MG turns his head to the right at 16:12.104, Frame 29133.

MG turns his head to the left at 16:14.307, Frame 29201.

MG's head is turned to the left at 16:36.829, Frame 29876.

MG turns his head to the right at 17:06.359, Frame 30761.

MG's head is visible. MG is looking slightly left at 17:22.975, Frame 31259.

MG turns his head to the right at 17:31.317, Frame 31509.

MG turns his head to the middle at 17:31.851, Frame 31525.

There are portions of the video where MG's head position is not visible. Based on the above marked frames, MG's turns his head from side to side approximately 15 times.

**15. Does video footage ever show officers removing handcuffs from MG after he goes non-responsive?**

Not observed

**16. What is the time of MG's last words before officers rolled him on his side?**

MG's unintelligible word is heard at 17:34.854, Frame 31615. It is heard as soon after Officer Leahy says "I don't want to lose what I got man."

**17. What is the time of MG's last sounds before officers rolled him on his side?**

MG's groan is heard at 17:45.298 Frame 31928

**18. What is the time of MG's last movements before officers rolled him on his side?**

MG movements cease at 17:49.368, Frame 32050.

**19. What is the time that an officer said MG is non-responsive?**

Officer McKinley says "He is going unresponsive.", at 18:03.716, Frame 32480

**Is this the same time as officers rolled MG on his side?**

Officers roll MG over at 18:01.547, Frame 32415.

**20. What is the time that an officer says "I don't want to lose what I've got."**

This is said two times during the incident. Officer Leahy replies to a question by saying "I don't want to lose what I got." at 16:23.216, Frame 29468.

Officer Fisher asks "Think we can roll him on his side." Officer Leahy replies by saying "I don't want to lose what I got", at 17:35.021, Frame 31620.

**21. What is the time an officer said "no weight, no weight."**

Officer Fisher says "We have no weight on his chest." at 17:49.735, Frame 32061.

Officer Fisher then says "No weight, no weight." At 17:55.007, Frame 32219.

## Procedures/Notes

Original Video files were received and working copies were created.

The files come from an Axon Flex 2 body camera.

Files are 1280x720 resolution, 29.97 frames per second, using the h.264 codec.

File is a 15 frame GOP (I,B,B,P,B,B,P,B,B,P,B,B,P,B,B)

Files were analyzed for variable refresh rate.

Files were macroblock analyzed for compression levels, and artifacts.

File were re-wrapped in a mp4 container to eliminate a subtitle track contained in the original file which was incompatible with Input Ace software. A rewrap is simply copying all the data into a new file. This will generate a new file hash, but creates a frame-by-frame pixel by pixel perfect copy for further analysis.

The individual body cameras were not all activated and deactivated at the same time. To create an audio synced view of all three body cameras, these rewrapped files were imported into Adobe Premiere pro CC2021 and synced by using the audio from each Officer's bodycam file.

The synced files were exported from Adobe Premiere into an mxf format which applies minimal compression. This mxf format generates a large file, 105 gigabytes in this example. Using Shutter encoder, a more manageable h.264 file was exported using best compression settings.

The synced camera file goes through two levels of compression, but the quality is maintained, and more importantly the timing of the files is also maintained. This gives us a view of all three cameras at the same moments in time.

I created a third file using Officer McKinley's original body camera file and the synced camera view. Playing them side by side in input ace results in perfect timing of the clips.

Still images are exported natively in an uncompressed format by Input Ace.

Evidence was handled to preserve the best quality, and in accordance with the Scientific Working Group on Digital Evidence (SWGDE), and using the best methods that I have been trained with.



Joseph J. Bressi  
Video Analyst

City of Alameda - Renne\_Video Timeline Chronological order



Officer McKinley starts conversation with MG.

01:04.064

Frame 1921

Top left frame

The top left frame is Officer McKinley's bodycam view.



Officer Fisher arrives.

08:02.115

Frame 14450

Top left frame, foot visible

Top right frame is Officer Fisher's bodycam view.



Officer Fisher initiates contact with MG.

10:08.641

Frame 18242

Top right frame, contact with hand.



Officer McKinley, Officer Fisher, and MG go to the ground.  
12:56:342  
Frame 23268  
Top left frame



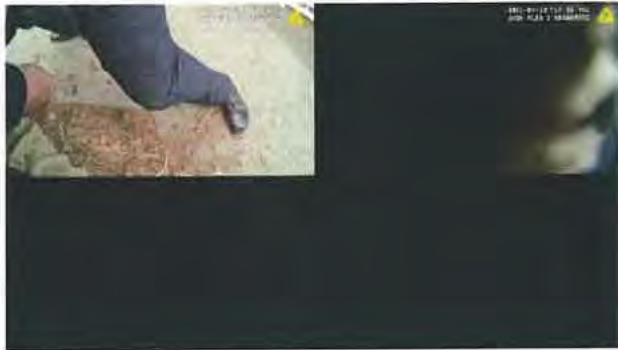
Officer Fisher's position after going to the ground.  
13:00.613  
Frame 23396  
Top left frame



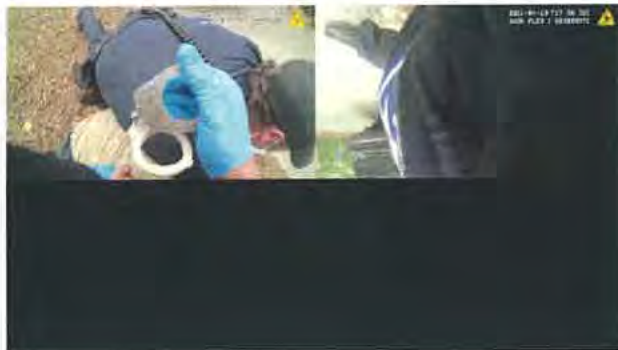
Officer Fisher's knee on MG's back.  
13:01.414  
Frame 23420  
Top left frame



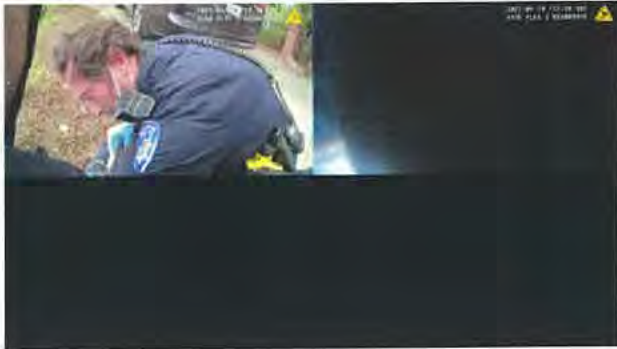
Officer Fisher removes knee from MG's back.  
13:06.653  
Frame 23577  
Top left frame



Officer Fisher moves to a different position.  
13:08.688  
Frame 23638  
Top left frame



Officer McKinley with handcuffs in hand.  
13:45.958  
Frame 24755  
Top left frame

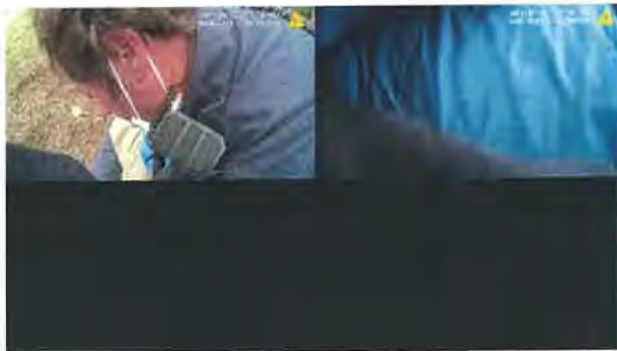


First handcuff applied (unapplied handcuff visible in McKinley bodycam view).

14:14.120

Frame 25599

Top left frame



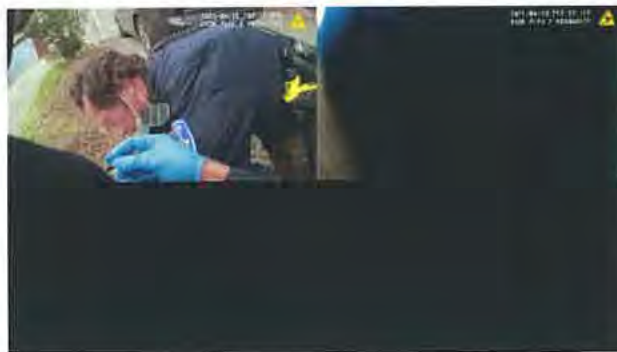
Second handcuff applied, based on clicking sound from video.

14:21:027

Frame 25806

Top left frame

Based on audio from video



Officer Fisher moves to another position.

14:35.375

Frame 26236

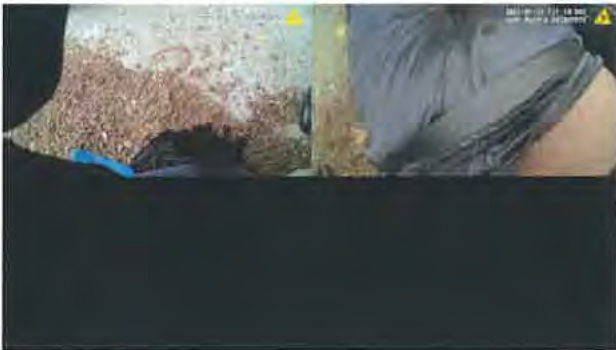
Top left frame



Officer Fisher's knee on MG's shoulder.  
15:09.709  
Frame 27265  
Top left frame



MG's lower body is on its side. Top right frame from  
Officer Fisher's bodycam view.  
15:11.077  
Frame 27306



Officer Fisher says "He's lifing my whole body weight  
up."  
15:23.890  
Frame 27690  
Top left frame, based on audio from video





Officer's positions from Officer Leahy's body camera.  
15:59.158  
Frame 28747  
Bottom center frame



A third person "Charly" assisting.  
15:59.559  
Frame 28759  
Bottom center frame



Officer Leahy arrives and takes control of MG's legs and  
view of Officer McKinley's position.  
16:05.131  
Frame 28926  
Bottom center frame



Officer McKinley's hand position changes.  
16:12.605  
Frame 29150  
Top left frame



Officer Leahy's hands visible securing legs from triple view.  
16:12.738  
Frame 29154  
Bottom center frame



Officer Fisher asks Officer Leahy "Can you figure four him?"  
16:18:344  
Frame 29322  
Based on audio from video



Officer Leahy replies "I don't want to lose what I got."  
16:21.380  
Frame 29413  
Based on audio from video



MG says "No, 95, 1995"  
16:51.511  
Frame 30316  
Based on audio from video



Officer commands "Stop kicking."  
17:19.972  
Frame 31169  
Based on audio from video



MG's unintelligible last word is heard.  
17:34.854  
Frame 31615  
Based on audio from video



Officer Fisher asks a question "Think we can roll him on his side." Officer Leahy replies "I don't want to lose what I got."  
17:35.021  
Frame 31620  
Based on audio from video



MG's last sound is heard.  
17:45.298  
Frame 31928  
Based on audio from video





MG's head and shoulders cease moving.  
17:49.368  
Frame 32050  
Top left frame



Officer Fisher's hand position.  
17:49.602  
Frame 32057  
Top left frame - Officer Fisher's right hand  
Top right frame - Officer Fisher's left hand



Officer McKinley's knee position on MG's lower back.  
17:55.274  
Frame 32227  
Top left frame - top of knee visible



Officer Fisher says "No weight, no weight."  
17:55.007  
Frame 32219  
Based on audio from video



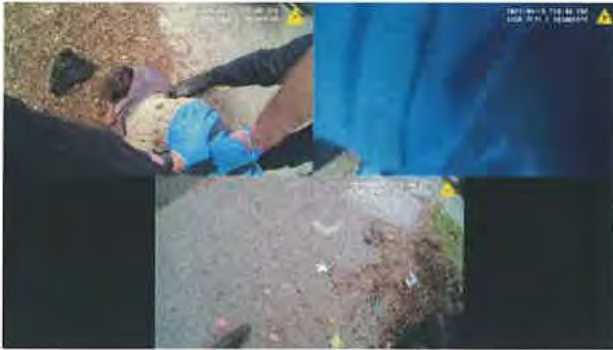
Officer McKinley's knee removed from MG's lower back.  
17:56.375  
Frame 32260  
Top left frame



Officer Fisher's knee off of MG's shoulder, and  
Officers begin to roll MG over.  
18:01.380  
Frame 32410  
Top left frame



Officers roll MG over.  
18:01.547  
Frame 32415  
Top left frame



Officer McKinley says "He is going non-responsive."  
18:03.716  
Frame 32480  
Based on audio from video



Officers check for pulse, rip off jacket.  
18:19.532  
Frame 32954  
Top left frame



Officers begin CPR.  
18:46.692  
Frame 33768  
Top left and top right frames



EXHIBIT 20



Renne Public Law Group®



**Transcript of Audio Recording of:  
Interview of Officer Eric McKinley (08/25/2021)**

**Case:** Audio Transcription re: McKinley, Eric GMT20210825-161439

**Reporter: Debi Devitt**

P.O. BOX 85  
Penn Valley, CA 95946



INTERVIEW OF ERIC MCKINLEY  
(Conducted by Attorney Jamal Anderson)

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GMT20210825-161439  
WEDNESDAY, AUGUST 25, 2021

TRANSCRIBED BY:  
DEBI DEVITT

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PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



JA: Good morning. Today is Wednesday, August 25, 2021. My name is Jamal Anderson. I'm a Senior Associate with the Renne Public Law Group. Our firm has been retained per notice that you received by the City of Alameda to conduct an administrative investigation into the circumstances surrounding the death of Mario Gonzales following contact with the Alameda Police Department on April 19, 2021. The purpose of our investigation is to determine if there were any violations of Alameda Police Department policies. As you know, this is not a criminal investigation and so we will proceed pursuant to the policies promulgated by the Alameda Police Department relative to administrative investigations. This is my colleague Linda Ross who is here, who is a partner of the Renne Public Law Group, also part of the investigative team. I want to provide you with a few admonitions and issue the information that —

EM: It's not clear to me. It looks different than the last time on your recorder here, so I just wanted to —

JA: It is recording.

EM: Oh, it is —

JA: It's just the —

EM: Okay, it was just the "R". Okay. Thank you.

JA: Yeah. Got rid of the Luke Jenson.

EM: Fantastic. I will listen. I apologize for interrupting you. I just wanted to make sure that it was recording.

JA: That's okay. So, you did receive a notice with information about the investigation and what we're going to be doing here today. I want to provide you a few admonitions as we get started and then I'll pause and let you ask any questions that you might have. The first general admonition that we provide to people in the course of the investigations is simply to tell us the truth. That's the best of your recollection. This is not specifically a test of your memory. So, if there's something that you don't remember I would encourage you to just let us know that you don't remember that as opposed to saying something that, you know, you may not necessarily remember definitively. If you think that there's something that might refresh your recollection — obviously, there are videos involved in this particular matter, e-mails, text messages — whatever it is, if you think that that might refresh your recollection and you want to take an opportunity to look at that either during this particular interview or after and supplement what we've talked about here today, by all means feel free to let us know that as well. Generally speaking,

and I'll state this at the top, our purpose here is fact finding. We're simply trying to figure out what happened. And so, I want you encourage you to be as transparent and as candid as you were for the previous interview at the Sheriff's Office and we'll sort of go from there to make a determination about whether or not the policies [inaudible 00:03:06]. This is subject to the relevant statute for the notice that you received, a confidential administration investigation. The laws have changed around this particular issue as it relates to investigations, but subject to those statutes this is a confidential investigation and information will only be shared on a need-to-know basis so that the individuals that have retained us, or the entity I should say, which is the City of Alameda. You are certainly entitled to discuss what we talk about here today in this investigation [unintelligible 00:03:38] with your representative. But we are not really encouraging you not to talk about it but, obviously, to the extent that you need to share information with any parties that are involved or involve any people that are represented or otherwise. And you certainly can feel free to do that as you see fit. Finally, or second to last perhaps, the City of Alameda does have a policy prohibiting retaliation. And so you are not to be retaliated against for your participation in this interview or for providing us with any information. And similarly, you are not to retaliate against anyone else that you may feel has been participating in this investigation. I also want to make a note — and we discussed this during the last interview and I'll provide Alison [phonetic 00:04:22] with an opportunity if you want to put this on the record — it is clear from the notice that you received that we did not denote a specific policies that we are investigating. Obviously, the Alameda Police Department policies are quite long, quite a few pages, and so in a way our investigation is open-ended though clearly it's very narrow just based on the comments issued here. In the last interview Alison put on the record a couple of policies at least that that Officer had an opportunity to review. I don't know if you want to do that now just so that we'll have that just for the purposes of the record. And then we can go ahead and get going.

LR: Yes. Thank you for that opportunity. As I noted in the prior interview there are more of the specific policies identified and some of the policies in the particular regard to the standards of conduct are certainly dense and all encompassing. So, we used our experience to make a reasonable inference that predominantly at issue here are as Policy 300 Use of Force; Policy 306 Handcuffing and Restraint; Policy 308 Controlled Devices and Techniques; and possibly Policy 310 Officer Involved Shootings and Death, but that one really was more germane to the ACSO investigation than necessarily to this one. Beyond that, we haven't focused on any of the other available policies. So, to the degree that there are any questions that implicate other policies we would be grateful if you would alert us so that my client can have an opportunity to review them and likewise if I see any that may be invoked then I would likewise want to give my client the opportunity to review it. So, I thank you for that opportunity just to make sure that we are all on the same page. In addition to reviewing the policies, he also had the opportunity to review

his transcript from the ACSO investigation, and I know we provided it to you are hopeful that that helped to focus this more as a follow up interview than a repeat.

JA: Absolutely. All of that is correct. And so, with that if there is nothing else that you'd like to put on the record I think that we are okay to get started here. Do you have any questions before we get started, Eric?

EM: Not yet.

JA: And are you okay if I call you Eric?

EM: Yes.

JA: — just for ease as we go through here?

EM: Yes.

JA: Okay. Thank you very much. Can you go ahead and state for the record your full name?

EM: Yes. Officer Eric Andrew McKinley.

JA: And where are you currently employed, Eric?

EM: The City of Alameda.

JA: How long have you been an employee there with the City of Alameda?

EM: Just over three years.

JA: And has that entire period of time been with the Alameda Police Department?

EM: Yes.

JA: What is your current role with the Alameda Police?

EM: Patrol Officer.

JA: And have you been in that role of Patrol Officer during the duration of your time with the Police Department?

EM: Yes.

JA: Talk a bit more about your specific role in a moment, but let me ask you prior to joining the Alameda Police Department did you work as a law enforcement officer in any other entity in the State or elsewhere?

EM: No.

JA: What did you do before joining the Alameda Police Department?

EM: Immediately before or do you want the whole, whole background?

JA: We're gonna synthesize a little here because I think you gave a bit of that during the Sheriff's — but let's start with immediately before.

EM: Sure. I was a small business owner. I worked in marine fabrication.

JA: And what kind of training did you receive to prepare you to join the Alameda Police Department?

EM: Well, a lot of life experiences led me up to deciding to become a police officer and having some interactions with the police. But ultimately it was the Police Academy that I attended for six months in 2018 and then the field training once I joined here and started my career at this Department.

JA: And what is your educational background?

EM: I have a Bachelor's Degree in Audio Engineering.

JA: And I assume, and I do know from your records that the small business that you owned dealt with that particular issue. Is that correct? Or involved audio engineering?

EM: No. It was actually a marine fabrication business. So, we built custom boat covers essentially. And other fabric things for boats that were not sails.

JA: All right. Got it. So, you attended the academy for six months? Where was that?

EM: That was the South Bay Academy. San Jose.

JA: Did I get your Badge Number already?

EM: 63.

JA: Thank you. So you indicated that during your time with the Alameda Police Department that you have worked as a Patrol Officer. Can you tell me what your duties are as a Patrol Officer?

EM: Sure. After I log in and go to the morning briefing, I am on patrol. I respond to calls. I am proactive with traffic stops and securing high crime areas, making sure that there's no obvious, uh, crimes about to occur. Identify basically any issues that the City has that they call upon the Police Department for. I'm usually the first response for something like that.

JA: Just to go back for a second. You indicated you've been with the Department for about three years. I have your hire date in July of 2018. Is that correct to the best of your recollection?

EM: Yes. July 9th.

JA: Thank you. Obviously, we're gonna talk quite a bit about the events of April 19, 2021. Let me just ask you some preliminary questions before we get into that so I have better sense of what you reviewed recently. I believe that you've had an opportunity to review your own bodycam footage. Is that correct?

EM: Yes.

JA: How recently did you review that footage?

EM: What, when was that we came here, I came to your office? Was that the —

LR: The week before last?

EM: Think so?

LR: Yeah.

JA: And then have you had an opportunity to review the bodycam footage of any of the other officers that were involved here, specifically, Officers Leahy and Fisher?

EM: Briefly.

JA: And did you do that at the same time that you reviewed your footage?



EM: Yes.

JA: And did you review that footage in its entirety or did you just kind of jump around here?

EM: So, I reviewed my footage in its entirety and the other Officers that just assisted.

JA: Prior to reviewing your footage and the footage from the other Officers a few weeks ago, was the last time that you reviewed that footage the day of your interview the Alameda Sheriff's Office?

EM: Yes.

JA: So, at this point you have reviewed the footage maybe two or so times?

EM: Yes.

LR: Just for clarification it was Friday, August 18, when he reviewed — or 13th, excuse me — when he reviewed them in my office.

JA: Your representative has also indicated that you had an opportunity to review the transcript of your interview with the Sheriff's Office. Is that right?

EM: Yes.

JA: And when did you review that transcript?

EM: The date preceding my meeting with Alison.

JA: And to the best of your recollection and knowledge was the information that was contained in the transcripts accurate?

EM: Yes. With a few exceptions of typos, wrong names for locations.

JA: We're gonna delve into the events of April 19. And as I did with the previous interview I'm going to give you an opportunity to tell me whether there are any topics or anything that you would like to cover during the course of this interview that you feel was not adequately covered during your interview with the Sheriff's Office. You can just give me, if that's the case, just the general topics. I'll jot them down and as we go through, if something comes up, I'll give you an opportunity to [inaudible 00:12:48]. And if there's nothing, then we'll just go ahead and get going.

EM: Okay. Is there...?

LR: None.

EM: You got that I hoped to cover? No. I felt that — or it was my understanding that the initial interview was the summation of interviews and I was comfortable with the statement I gave and I thought it was complete and clear.

JA: Okay, fair enough.

LR: And just for one final clarification I overlooked when I identified where he reviewed in the preparation for the meeting, he did secure a copy of the Use of Force training that occurred back in October or November of 2020 and had the opportunity to review that as well.

JA: And that includes the PowerPoint that you discussed??

EM: Yes.

LR: That is the Power Point that we discussed in Officer Leahy's meeting and that we provided a copy—the copy at that time to you. That was the copy that Officer McKinley had secured.

JA: Okay. Thank you. And we'll discuss the training in a little bit. So, let's go ahead and I'm not going to have you give me a narrative the same way that we did at the Sheriff's Office because, you know, felt pretty complete statement. We'll just kind of walk through some questions that I have and kind of cover anything. We'll go ahead and do that.

EM: Okay.

JA: All right. And so, you were on duty on April 19, 2021, is that right?

EM: Yes.

JA: Can you tell me the shift that you were working at that time?

EM: It was what we call day shift. It's second [unintelligible 00:14:37] so the hours are 7:00 a.m. to 5:00 p.m.

JA: What days of the week?

EM: I word Saturday, Sunday, Monday and Tuesday.

JA: And are you assigned to a particular area of the city to patrol?

EM: Yes. And that assignment is given each morning in the line up. Typically I'm assigned to Sector 3 which includes the location of this incident.

JA: And so, you indicated in your prior interview that you were wearing a standard uniform, is that right?

EM: Yes.

JA: Anything you'd like to supplement to the answer that you gave in terms of what you were wearing specifically?

EM: I think I may have left my police radio when I was detailing my clothes [unintelligible 00:15:36].

JA: And were you driving a marked patrol car?

EM: Yes.

JA: What type of vehicle?

EM: It was a sedan.

JA: Is it the kind of vehicle that you usually drive?

EM: Yes. It's my assigned vehicle.

JA: When you work patrol do you usually have a partner working with you or riding with you in your patrol vehicle?

EM: No.

JA: Have you ever had a partner on patrol at the police department?

EM: Yeah. Occasionally, if staffing permits, or if staffing requires it, depending on the time of day they may, the sergeant may decide to assign two people to one vehicle.

JA: You mentioned the sergeant. Who was your supervisor on the April 19, 2020?

EM: That would be Sergeant Morrack [phonetic 00:16:21].

JA: So, on the date of the incident you were solo patrol. You indicated that I guess it's common for you to work alone, circumstances permitting in terms of staffing. To the best of your recollection though to this particular incident, actually scratch that. Let me go back for a second. Did you start working at 7:00 a.m. you said?

EM: Yes.

JA: How did your morning — how would you describe your morning up to the point of getting the call about this particular incident? Did you have any other calls, any other incidents that morning?

EM: I don't recall. Nothing that stood out to me as being out of the ordinary. But typically, my day would — we would always start with the line up and then I patrol my — prepare my patrol vehicle and log in. So, log in typically happened about 7:15, 7:30 depending on how long line up goes. And then it's just responding to calls for service, you know, being proactive, doing follow-ups, completing reports that if—whatever but I don't — nothing else stands out to me.

JA: And specifically, no recollection of any arrests or detentions or any incidents where you used force on a subject?

EM: That morning?

JA: Yes.

EM: Correct.

JA: Correct?

EM: No. No other, no other uses of force.

JA: Thank you. All right. So, back to the question that I started to ask. To the best of your recollection, what time do you first recall being dispatched on the radio for this particular incident?

EM: I believe it was before 10:30.

JA: And where were you at that time? Were you here at the station? Were you out in the field?

EM: I don't recall.

JA: And to the best of your recollection what information specifically do you recall hearing in that first dispatch on the radio?

EM: So, this incident occurred approximately six months ago and I'm going to do my best to recall what I remember from that brief radio transmission, but it was something to the effect of resident call to report a Hispanic male wearing a tan vest, black shorts, was in the park area at the end of the south end of Oak Street, talking to himself and possibly drinking from open containers.

JA: And so, when you first got that dispatch what were you thinking about in terms of the individual that you perhaps going to—What was going through your head at the point?

EM: Well, first what I try to do when I'm responding to a call is remember the description of the person, because I want to make sure that I'm contacting the right person. So, I remember Hispanic, tan vest, black shorts, a male. So, those are the things that I want to commit to my memory so that I don't need to review that in my EVT [phonetic] and take time to contact that person. So, I commit those to memory. And then decide about the best approach to the location from where I'm at. What the safest approach might be or the fastest approach might be depending on the circumstances. So, that morning my thoughts were, I want to contact this person, make sure that they're safe where they're at to determine if there's any police involvement necessary and then make a determination from there.

JA: And I know it was six months ago and so if don't remember that's fine. We can come back or you can look through the transcripts. But in that first dispatch, do you remember hearing any information about the weight of the subject?

EM: I don't recall.

JA: And in addition, I know that the description was general but you indicated at some point during the interaction — and we'll get to this a little later — you realized that maybe you had had a prior encounter with him. Just based on that first call — it seems like a silly question but I'll ask it anyway — just based on the description from that first call, did you think that you might know this particular subject at all?

EM: No. I, nothing to me stood out as being able to recognize him and part of that was

because I work in that sector frequently and I wasn't aware of anyone matching that description who frequented that park at the time. And we have transients and others that come and go from that small park there. And to the best of knowledge, that description didn't match anyone that I was familiar in that area there recently.

JA: Thank you. You mentioned something a moment ago which is sort of tied to some questions down the road, but we can kind of get into it now. You said one of the things that you were trying to think about before you went was whether police involvement might be necessary. Is that right?

EM: Yes.

JA: And so, that suggests that perhaps there are some instances when perhaps you get dispatched to a scene and police interaction is not necessary. Is that right?

EM: Absolutely.

JA: Do any of those instances, or based on your experiences, having any prior instances that involve an individual that might be experiencing some kind of psychiatric episode or whatnot, have any of those instances have you chosen not to respond or involve the police in any of those prior instances?

EM: So, it's, it's the position of the Alameda Police Department to respond to every call for service. And so, whether or not we decide to take police action is up to us once we're on the scene, but to respond to a call is typically something that we will do unless a sergeant or other supervisor determines based on the call details that we're not to respond to. So, it's not my call to make.

JA: Gotcha. All right. We'll come back to that in a little bit and talk about alternative responses a little later. So, you get this information over the radio and kind of processing the descriptions to remember it so you don't have to look at the on the screen in your car. You then travel to the location? Is that correct?

EM: Yes.

JA: And do you remember the address?

EM: I don't recall the address. It was in the 800 block of Oak Street.

JA: Had you responded to prior calls for service in that area before?

EM: Occasionally, yes.

JA: And had you ever spoken with any of the residents who live in that area of that block?

EM: For? Regarding calls for service?

JA: Yes.

EM: Yes, there have been a few times but nothing that related to this, ah, as far as I can recall, related to this type of call for service.

JA: Any of those instances involve transients or individuals who might be experiencing a psychiatric episode who may potentially be under the influence?

EM: So, to that specific park? Yes. However, the park has sort of two sides to it and to that side of the park, um, I hadn't spoken to any residents that would have called from that side of the park. Typically, when I'm responding to the calls for that park, the transients are located further west along the park on the Otis side and many people are calling as they're driving by and will notice observing the transients, not a neighbor in the area there. It's more people passing by.

JA: How frequently — and I remember asking this question, so let's see if I can get it right. How often in your past would you say, approximately, have you responded to calls for service that involved specific information about someone who may be experiencing a psychiatric episode?

EM: How frequently?

JA: Yes.

EM: Oh, between, um, probably two and five times a month?

JA: And is there a particular protocol that you follow specifically in those instances where you have information prior to traveling to the scene that someone might be experiencing this kind of episode? Is there a protocol that you follow?

EM: Before going to the scene?

JA: Protocol that you follow once you get to the scene.

EM: Once I get to the scene. So, in terms of protocol you're talking about like not necessarily

my habits in policing but more of like what is the Department policy?

JA: Yeah, I'm basically just trying to ask, you know, if you get a call for service and there is a specific mention of someone who might have a psychiatric issue or a mental health episode, if the Department has [unintelligible 00:25:18] of the policy saying, okay, in this instance these are the things that you want to think about doing or that you want to do?

EM: Sure. So, yes. Thank you for clarifying that. So, evaluating someone for a psychiatric hold is part of that and determining if they're safe to be on their own. That's part of the evaluation process.

JA: And in those instances when you do respond to a situation where someone might be experiencing a mental health episode, how frequently do you end up arresting the person?

EM: So, can you define what you mean by arresting?

LR: Because a 5150 hold is not an arrest, so we distinguish it —

JA: So, I'm going to exclude a 5150 from...

EM: Okay. How often, how often to I end up detaining for criminal reasons somebody —

JA: Correct.

EM: — who is an initial call for service is a psychiatric detention?

JA: Right.

EM: I can think of maybe a handful of instances, So not frequently that that is the case.

JA: And so, why don't we just give you this alternative piece now. I know that you talked a bit about this with the Sheriff's Office. But are there alternatives that you are aware of for dealing with individuals who might be experiencing mental health crises or psychiatric episodes?

EM: Yes. There are alternatives. They're availability and effectiveness, I have to weigh each time that I respond to a call like that. And in this instance, I didn't think there were any viable alternatives.

JA: In my recollection from your previous interview was that you have previously utilized this particular service. It's a county service, is that right?



EM: Yes. The Crisis Response Team, I believe. I'm a big proponent of theirs. I've developed a good relationship with the Team that frequents Alameda. And I have their phone number saved to my department cell phone and I've since shared that number with other co-workers because I've appreciated having that resource available.

JA: And is it fair to say that — and you did say this. You articulated it before quite well. The use of this particular service is subject to an officer's discretion. Is that right?

EM: Yes.

JA: You're not mandated to utilize this service if you interact with someone who you believe is experiencing a mental health episode?

EM: Correct.

JA: And in this particular instance you made the determination that it would not be appropriate to utilize this service? Is that fair?

EM: That's one aspect of it. Yes.

JA: Go ahead and tell me again, or tell me for the first time, [inaudible 00:28:13] talk about it a bit, um, why you made that particular determination in this instance?

EM: Sure. So, to my knowledge, the team that is able to serve Alameda works from about 11:00 a.m. to 4:00 p.m. Monday through Friday. And so, they weren't yet available for a call for service. And the other was that I determined that he was, uh, that Mr. Gonzalez was too intoxicated to be able to interact with their staff. To be able to — because their, their service is voluntary. If they show up, most of the time if they're going to provide a service, the individual has to be able to elect to go with them. If they're going to have to be transported to a facility. The exception with that is a 5150 call where they will, they will place them on a hold of our call, Alameda Fire, and they will just basically handle the paperwork. But again, typically I use those, or I utilize that team if I believe that the individual will be able to cooperate with them. That there won't be any need for force or application of restraints.

JA: And just going back for a moment to the prior incidents where you had someone or some individuals who are experiencing a health crisis or a psychiatric break, to your recollection is it common for those individuals to both be exhibiting symptoms that might be related to their mental and potentially related to substance abuse including alcohol consumption?

EM: Yes.

JA: So, how do you, um, how do you sort of draw the line in an instance where, okay, maybe there are, you know, there are multiple things going on so I'm not gonna call. Or there are multiple things going on and I will call? How do you kind of draw the distinction?

EM: Yes. Yeah. So, there are a lot of, a lot of variables there and it's hard for me to have a set of hard rules about whether or not I'm going to make the call. But as I mentioned, one of the considerations is whether or not the person's going to be cooperative. So, are you asking me whether or not I'm going to utilize the Crisis Response Team? Or are you — place them on a psychiatric hold?

JA: I'm mostly asking how you make the determine — so in this particular incident you indicated you made the determination because Mario seemed potentially too intoxicated to cooperate. You weren't going to utilize them. I know from your prior statement that you also had a sense that he's dealing with some mental health issues. I'm just trying to get a better sense of the instances where you notice that there are a couple of things going on and you utilize the services of the County and instances where there are a couple of things going on and you don't utilize the service of the...?

LR: The team; not 5150.

EM: That, that makes sense. Okay. So, if, if there's a circumstance — so, so one example would be if there's a circumstance where I have to take some police action in terms of an investigation for a crime, um, that the, that's most likely not an option unless I'm able to do something like a cite and release before the Team takes over. I haven't explored that opportunity. Usually, I won't involve the Team if there's any criminal behavior involved because I don't want to bring them into a situation where they're having to deal with a crime situation.

JA: And I just want to thank you for asking me to clarify. And I just want to be clear as we go throughout the course of the day, uh, you know, if you don't understand a question, please ask me to clarify, you know, questions are not we gotcha or opaque. We're trying to gather information. So, you know, whatever it is that I can do to help you answer the question accurately please let me know.

EM: Okay.

JA: And I'll, that's —

EM: Thank you.

JA: — that's the goal today. Let me go back for one second to something that you said a moment ago. I asked about police department protocols for dealing with potential individuals experiencing mental health issues. But you also referenced and you asked me whether I was asking you about your own personal customs, practices or habits. So, let me ask, do you have any particular customs, practices or habits that you've developed over the years when you encounter individuals that you believe are experiencing mental health issues? And, if so, what are they?

EM: So, if I'm responding to a call like that, I'm going to start considering the environment and the circumstances that may be causing that person to have, um, a mental health crisis at this point and see if there's something I can do to alleviate that or diminish the, remove the cause for that. And then ultimately determine whether who, what action to take from there. Typically, it's going to be one of three things. Either leave them in a stable situation if I'm able to; call the Crisis Response Team; or place them on a 5150 hold. Or something else that might be like a medical response if, if there's no, you know, criminal investigation that needs to take place.

JA: Let's come back to then the specific incident here. So, you arrive at the event block of Oak. Tell me what is the first thing you observed when you arrive on the scene relating to the subject who was there?

EM: When I arrived on the scene the first thing I could tell, ah, just that he was standing in the park with, um, in the, the northeast corner of the park, um, adjacent to the, the sidewalk that continues past the park there. And he was facing away from me and he appeared to be alone and talking to himself.

JA: And what did you do next on arrival?

EM: So, after I exited my patrol vehicle, I wanted, I advised dispatch so that I was out on one, which means I was out with somebody and I closed my patrol vehicle door quietly and approached quietly, because I wanted to observe him the way that he had been behaving that possibly was the reason for the call in the first place instead of interjecting myself on a situation and only being able to resolve or observe Mr. Gonzalez's reaction to my presence.

JA: And so, based on that window of time what were your initial observations of his demeanor and —

EM: Yeah. It appeared that he was talking to himself, you know, nowadays it's sometimes

hard to figure out if somebody's on the phone with an ear bud in or just talking to themselves. But after observing his behavior it was pretty clear that he wasn't having a conversation with anyone in particular. That he was just talking. He was, he had a comb in one hand and he was trying to comb his hair even though he was wearing a hat. Trying to comb his hair through his hat and, ah, just sort of wandering around within a small area right there.

JA: What observation, if any, did you make about the surroundings, ah, of Mario Gonzalez at that point?

EM: So, as I approached closer, I noticed the two shopping baskets that were full of miscellaneous items that were on the ground next to him. And the area of the park there was a small fence, some stumps that were like cut off the telephone poles. And then immediately adjacent to that maybe 20 feet away is a lagoon that has a short like maybe 2-1/2 foot railing around the perimeter of it with sheer sides on it. So, there's no, there's no easy entry or exit to the lagoon.

JA: Why is that significant to you?

EM: For me it's a water hazard. I mean, we live in Alameda and being mindful of that, any time we that we respond to, for example, a call for service at our marinas, which we have a lot of in town here, it's an important consideration for officer safety and everyone else's safety that the water is potentially a hazard. And, in this instance, even more so because the, this lagoon, this small water feature here, there's no way to, there's no easy way to get out of it if you are to get into it, because of the sheer sides.

JA: Obviously, you know, they have the bodycam footage we know specifically about interaction, what was said, so, let me ask you this. Initially after making observation of the surroundings and making an observation of Mario himself, what was your goal? What was the goal of the initial interaction with Mario Gonzalez at that point?

EM: Yeah, so, my goal changed several times throughout my entire interaction with him, but initially it was to contact him and determine whether or not he was safe to be on his own in the park there. I've had frequent contacts with transients in our parks and having, you know, having no need for police involvement just — we get calls because they're in a park. And, so, if that was the case in this situation my goal was to leave him there. As I began talking with him, I wanted to make sure that he wasn't having a psychiatric emergency, that he didn't need any mental health resources, that he was safe to be there on his own. I determined that he was under the influence of alcohol and so much so that he wasn't safe to, for me to be comfortable with leaving him in the park. I didn't feel like it would be responsible for me to leave him in the state he was in, uh, in the park there.

Just based on his level of intoxication, the availability of additional alcohol that he had, it seemed apparent to me that he would continue drinking and his intoxication would get worse. And that he would potentially be a danger to himself in that way. He wasn't able to care for his own safety.

JA: In that first, you noted initially that sometimes given calls about transients or unhoused people who are in the park, you might have an interaction with them and you may leave them there. How do you make an assessment as to whether or not you might leave someone, specifically, someone's transient or unhoused? How do you make that assessment? Do you get their ID? Do you run an out? What do you — what steps do you take before you sort of say, okay, this person's fine to be where they are? I'm gonna go about my business.

EM: So, for, there's sort of two categories for that. There's transients that I contact frequently that live in the same park that, you know, I may have two or three calls of service a week for that I have relationships with. We're on a first name basis. I can identify them, you know, based on the call details, like, we were alluding to earlier. I would be able to say, oh, that's probably so and so, um, that I am going to contact. Um, and so, because I try to stay abreast of warrant status and probation status of our population in the city here, I'm usually aware of whether or not somebody that I have a relationship with like that has a warrant or not and so there may not be a need for me to necessarily run them out, identify them. I know them already. The latter category is in situations like this where I don't know somebody or I don't recognize somebody and I'm not aware of what status they are. Part of the—if I'm going to contact somebody, part of my training is to determine if they have a warrant. If they're on probation for anything. To determine if they're, you know, what may not be a crime for someone who's not on probation that they're violating and therefore subject to arrest or —

JA: So, — and I appreciate the fact that you said that your goals kind of change so let's do an initial goal here, which I believe you said was, um, contact him. See if he's okay. And then potentially leave him. You didn't know him and so in this particular instance if you were going to do that, um, what would you, what information would you need to gather in order to do that? Obviously, you are asking him for his name. You asked him for his I.D. multiple times. Was the goal to get his name, run him out and then leave him? Can you kind of tell me what that might have looked like?

EM: Yeah. So, so that's the part of it but ultimately having a conversation with somebody is, um, is an effective way of being able to determine their, um, their soundness of mind and their level of intoxication. And it was my hope that if he was able to understand and provide that information to me that that would be an example to me that he still had the mental facility to, um, remain safely in the park there. And so, that was sort of a

qualification that I set that, that morning. If — and I think I verbalized this to him on the bodywear camera, you know, if you can, like, you know, provide me with your information — that was my essential desire there was to get him to show me that he could understand me and give me that information. If that was the case then it would be an example that he was able to care for himself.

JA: Obviously, that didn't happen in this particular instance. So, talk more specifically about how thing progressed. Like what would be the — let me ask about the [inaudible 00:43:00], um, and your observation that he was under the influence? How quickly after interacting with Mario or coming into contact with him did you reach the conclusion or make the determination that he was under the influence to the point that he would not have been able to care for himself or remain where he was?

EM: I have an alarm set.

JA: No problem.

EM: I've just gotta turn the clock so that it doesn't keep bothering us. So, I've got the screen turned off.

LR: It appears the recording on the computer ceased.

JA: Okay, that's not good. Bear with me one second.

LR: Take your time.

EM: Good to go?

JA: Let me pause this.

Recording: Recording stopped. Recording in progress.

JA: All right.

EM: So that I think I caught your question before it turned off but —

JA: If it does that again I'll shoot a text message.

EM: Yeah. But you asked about how quickly after contacting Mr. Gonzalez did I make the determination that he was under the influence of alcohol and unable to care for his own safety.

JA: Correct.

EM: And the answer to that would be that I was making, I was continuing to assess his level of intoxication and whether or not he was able to care for his own safety up until about the point when Officer Fisher arrived. About that time, in my mind I had decided that based on our interaction and my observations of him that he wasn't safe to leave in the park that day.

JA: And so, in terms of specific observation, obviously there are signs and symptoms of intoxication that officers are generally trained on. Were there signs and symptoms that you observed during the interaction with Mario?

EM: Yes. He had the odor of an alcoholic beverage on his breath or at least on his person, red, watery eyes, and slurred speech.

JA: And you had at that point already observed open alcohol containers in the baskets on the ground?

EM: Yes.

JA: I know that you contacted Officer Fisher about going to Walgreens. Is that correct?

EM: Yes.

JA: Can you tell me why you did that?

EM: Yeah. So, to rewind, when I first contacted Mario, um, Mr. Gonzalez, at the scene there, I noticed the two bottles. There could have been more in the baskets. I didn't end up having an opportunity to explore the contents of the baskets beyond what was on top. Two bottles. One was approximately one liter bottle of clear liquor that I believe was vodka. It was open and dented and had about two caps missing. The other was a brown liquor with this, with a store security cap still attached to it. And I realized that in the hand that Mario wasn't holding the comb in, um, he had a handful of plastic bits and I believe that those plastic bits were the broken security cap from that clear liquor bottle. The baskets on the side said *Walgreens* and so I made the association being able to see *Walgreens* from where we were standing that it was possible that Mr. Gonzalez had walked out of the store without paying for those just because the security caps were still attached. And that there was a possibly, you know, a shoplifting crime or some other crime that had occurred that preceded this contact.

JA: So, you asked Officer Fisher to go to the *Walgreens* while you were continuing to interact with Mario. Is that right?

EM: Yes.

JA: What information did you receive back from Officer Fisher about the possibility of a theft or possession of stolen property while you were still speaking with Mario?

EM: That there was somebody that matched that description that had taken anything from the store.

JA: And so, at that point in your mind, were you still intending to investigate a possible crime related to the alcohol?

EM: Yes.

JA: Why is that?

EM: So, we have, there was — well, at the time there were two *Walgreens* in Alameda and others, you know, in Oakland and with a bus route for each, our crime location. It was possible that he had shoplifted from some other *Walgreens* in the area and brought the contents there.

JA: All right. So, you had not dispensed with the idea that there was a possibility of a crime related to the alcohol at that point because there is an additional *Walgreens* that he may have gone to. Is that right?

EM: Yes.

JA: And you are continuing to make observations about potential crime in front of you which might be a violation of PC647 in some way —

EM: Yes.

JA: — being drunk in public. Is that fair?

EM: Yes.

JA: Okay. So, at what point do you recall Officer Fisher arriving? Approximately what time, or to be clear, how long after you first arrived and contacted Mario did Officer Fisher arrive?



EM: I believe it was about seven or eight minutes after I had contacted —

JA: And —

EM: — Mr. Gonzalez and that, that's just a guess on my part.

JA: Sure. Absolutely. And what happened after Officer Fisher arrived?

EM: Officer Fisher approached from where he parked his patrol vehicle on the, ah, so the opposite direction that I approached from. And observed, you know, the scene there and I explained to Officer Fisher, I believe, that I wanted to identify Mr. Gonzalez. And so he began talking to Mr. Gonzalez. And I remember what stood out to me when he first started talking to Mr. Gonzalez was his low, calm voice. For some reason that was just like [chuckles], I just, I was impressed and pleased to hear him, you know, show up and immediately start his interaction with Mr. Gonzalez at, in a, at a low level to keep the situation as calm as possible. As he was talking with Mr. Gonzalez trying to get information from him as I had, I saw the same non-responsiveness that I had been getting from Mr. Gonzalez continue. And so I determined that Officer Fisher wouldn't be successful in getting any information from him, as I had been, because we had, we, he was essentially trying the same approach that I had in the conversation with him and with no effect. At that point Mr. Gonzalez started milling around more in the area and trying to put his hands in his pockets and wasn't following my directions to keep his hands out of his pockets. So, at that point for everyone's safety I indicated to Officer Fisher that we would place him in handcuffs to detain him so that we could continue to be safe while we're contacting him and finishing the investigation on him.

JA: And I understand what you're saying in terms of officer safety but I want you to—I can't just state it more clearly. Why were you concerned about Mario putting his hands in his pockets or not following instructions to not reach into his pockets?

EM: So, based on my training and my experience, um, people we contact if they're not able or willing to follow directions and continue reaching into their pockets, they may be trying to reach for or obtain a weapon or something they can be used as a weapon. Or something that can be used to hurt themselves or us or somebody else. And I wanted to limit that ability.

JA: And to be clear, up to that point had Mr. Gonzalez mentioned anything about having a weapon?

EM: No.

JA: And had you observed any weapons in any of the contents on the ground around him?

EM: Oh, there were plenty of things that could have been used as weapons that I believe that that the brown liquor bottle was a glass bottle, but the larger clear liquor was obviously plastic. But the other bottle could have been glass. And like I said, the baskets were so full, I couldn't determine the complete contents of those. His jacket was covered in his waistband and I couldn't determine if there was anything, you know, tucked into his waist that could have been concealed from me.

JA: And so, based on these observations, um, Mario's unresponsiveness, the fact that he was continuing to put his hands in his pockets, you not knowing if he may have had a weapon on his person or somewhere near him, you made your determination to do what as a result?

EM: So, as I mentioned I made the determination to place him under arrest for 647(f) and being that that detention requires an arrest, it's not a cite and release violation, he was going to have to be placed in handcuffs. It was based on his, based on Mario's actions that I determined to place him in handcuffs at that time.

JA: And I want to ask you a question, a couple of questions that the 647(f), ah, and the arrest. This occurred in April of 2021, obviously in the midst of the COVID. At any point during the COVID crisis were there instructions relative to citing and releasing people who may have been violating the 647(f)?

EM: Not to my knowledge.

JA: And had you previously arrested people for being in violation of Penal Code 647(f)?

EM: Yes.

JA: Is there a specific policy — you mentioned — well, let me say it this way. Is there a specific policy that the Department has about when individuals who are suspected of being drunk in public or sort of [unintelligible 00:55:25] violators are arrested or not arrested?

EM: No.

LR: When you're using the word "policy" are you talking about like a written policy versus a practice?

JA: I'm gonna get to that in just a second.

LR: Okay. I just — I wasn't sure of the —

JA: That's okay.

LR: — meaning of the word policy.

JA: And I'll say by way of background, in some departments some agencies have relationships with other law enforcement entities, district attorney's offices, about when individuals who are suspected of being under 647(f) are arrested or let go based on prior 647(f) convictions or prior 647(f) detentions. Sometimes those policies are formally written down, sometimes they're sort of verbally communicated. You know, someone might say, okay, this is the, you know, wait until the third time, and then we're going to arrest the person. That's basically what I'm trying to get at. So, the first question was any formal policies? You said no. Is that right?

EM: Yes.

JA: Any sort of practices amongst you and the other officers about interacting with people who are suspected of 647(f)? Do you, you know, transport them home on the first time? Do you call a neighbor? Anything along those lines?

EM: Yeah, so, thank you for clarifying that. There are several practices that we have on patrol. One of those is to, you know, try to find the responsible party to, to come care for them. And because I wasn't able to identify Mr. Gonzalez at the time, I wasn't able to identify a responsible party for him. So, I made a determination that an arrest would be the case for today. Another, again another option that is sometimes implemented is to call for Alameda Fire to transport them to a hospital for intoxication. The understanding that I have a 647(f) is that the district attorney has essentially decided that with very few exceptions that that will not be charged. It's still an arrest that we make for the safety of the individual and the public. Basically, it's, some cities have drunk tanks or, you know, separate rooms that are an option for that. And because our city doesn't have that available, the district attorney has decided that we can do 647(f) as a means to bring them to somewhere where they will be monitored and safe.

JA: And so, generally speaking, we won't get into the district attorney's office policies, but generally speaking, though I appreciate it, and that's very helpful. When you've arrested individuals for being in violation 647(f) after what you believe, you then transport them to Santa Rita. Is that right?

EM: Yes.

JA: And how frequently, to more of my question about interacting with people with mental health issues, how frequently would you say you arrest people for violating 647(f)?

EM: It's, uh, not frequent. Probably, maybe ten 647(f) arrests would be my, my guess. Usually, my determination for whether or not to, for example, call for AFD as opposed to make an arrest is just are they ambulatory? Are they able to walk on their own? And Mr. Gonzalez was able to walk on his own and so it was my belief that I'd be able to get him safely to Santa Rita jail as opposed to needing a gurney for transport to a hospital.

JA: I asked about your, the way in which you approach individuals who are potentially experiencing mental health issues. Let me ask the same question about how you approach instances where someone may be intoxicated. And I'll split those, again, in terms of any in terms of any specific policies the Department has? And then second from any of your, you know, personal habits and practices or [inaudible 00:59:33]?

EM: Okay. So, the question is what exactly?

JA: Are there any specific protocols or procedures, in terms of the Department first, for interacting with people or interfacing with individuals who are suspected of being under the influence intoxication in violation of 647(f)?

EM: Other than typical crime investigation, the one exception would be that that — that's one of the misdemeanor crimes that falls under a requirement to make an arrest as opposed to cite and release. Correct.

JA: And then during your own personal practice, habits or customs in terms of interacting with people who are intoxicated in that way?

EM: Yeah. Typically, my preference is to make an arrest as a, as a last resort. For a myriad of reasons, but one of those is I have — I don't want to cause undue legal issues for people that don't need them. And so, it's my desire and my preference to find alternatives to that. And I determined that that morning that I didn't have any other alternatives that were, would be more effective.

JA: So, this decision that you made to place Mario Gonzalez under arrest for violation of 647(f), is that something that you would have verbally communicated to the other officer on the scene, initially, Officer Fisher?

EM: I did not verbally communicate that.

JA: I believe you did at some point, whether it was a communication, that is time to place Mario under, uh, or in handcuffs. Is that right?

EM: Yes. We have a hand sign for that. And I —

JA: What is that hand sign?

EM: So, what we use on patrol that everyone understands is for us to grab one wrist with the other hand, as a mimic of a handcuff. I showed that to him. I made eye contact with him and he gave me a nod.

JA: And just to be clear, you made eye contact with Officer Fisher.

EM: Yes.

JA: And you did that gesture.

EM: Yes.

JA: And your intention of making that gesture was to communicate to him that you were going to place Mario under arrest or place him in handcuffs?

EM: Place him in handcuffs.

JA: Okay. And so, tell me what happened after, after that gesture was made.

EM: So, at that point Mario had stepped up onto one of those small stumps that I had described earlier. Was maybe about a foot tall, the stump that he was standing on. And I approached his left side and Officer Fisher approached his right side. And we both grabbed ahold of his wrists and arms. Myself grabbing his left arm. Officer Fisher grabbing his right arm. And attempted to bring his hands behind his back. I don't know how far—do you want me to, you know, [unintelligible/overtalking 01:02:43] —

JA: I'll just, I'll ask the best questions from preliminary hears that I ever learned as an investigator, which is what happened next?

EM: Yeah. Ah, so, again, this is something that I detailed as much as possible —

JA: Sure. No, you don't have to go into all that detail [unintelligible 01:03:14].

EM: Yeah, so I tried to get Mr. Gonzalez's hand behind his back so that we could place him in handcuffs, and initially met with, like, immediately met with resistance where he was trying to pull up his arm, like keep his arm straight and keeping, keep his elbow from bending around to his front. Because of his size and the layers of clothing he was wearing it was hard for me to gain control of his wrists because his wrists were so large and his clothes were sliding around. There were several layers of clothing around his wrists. He was able to a few times reach to the front, like the center of his jacket and his waistband. He kept trying to grab at those. And I was increasingly concerned that he may have some weapon there that he was trying to reach. And so I continued to try to bring his arms behind his back. At that point, standing next to him there trying to control his arm and realizing that I wasn't able to in that position, I immediately had a flashback to where I was on patrol in the same situation with him. And that's when I made the, the realization that I had been in contact with him before, but it was a very short instance where, as I recall, I just showed up on scene to assist another officer placing him in handcuffs. And there was immediate sustained resistance. I remember that.

JA: Okay.

EM: So, I made that, I made that connection there.

JA: And so, let's take a slight detour. I know that you talked about this very briefly with the Sheriff's Office. Do you have any specific recollection about when that interaction with, the prior interaction with Mario Gonzalez that you were involved in, when did that occur?

EM: As I said, I think it was between, uh, it was sometime within the last year and a half. But I couldn't recall just because I think my interaction with him was so short and brief, I didn't have the, you know, write a report, having a conversation with him or anything like that. It wasn't, I'm not able to recall when that was. But as I mentioned, I'd be able to find that if I reviewed my calls for service and, yeah.

JA: Do you remember whether force was utilized in that prior incident with Mario?

EM: From what I recall, as much force as we used that day was, it was what we call the control techniques with hands. There's no like taser, baton, or [inaudible 01:05:44] or anything like that used.

JA: And did Mario in that prior incident need to be taken to the ground to effect the arrest?

EM: I don't recall.

JA: All right. So, moving forward again to this particular incident, we have this flashback about this prior interaction with Mario, and basically in your statement it sounds like that you conclude in that Mario was going to be resistant. Is that right?

EM: Be resistant to the point that I wouldn't be able to achieve my task of getting his hand behind his back in the position we were in.

JA: And so, did that then lead you to conclude that you were going to need to take him to the ground?

EM: Yes. Based on the resources I had available at the time, that was the only option that I had to resolve that as quickly as possible.

JA: And at this point have you had an opportunity to, well, let me say it this way. What observations up to this point did you make about Mario's physical condition, specifically, his size or his breathing or anything along those lines before, uh, you ultimately ended up going to the ground?

EM: He was stronger than expected. Like his strength was something that I wasn't expecting when we went to place his hands behind his back. And his frame, his stature, because of the size, he was able to move around and about while still being able to maintain his footing. And, you know, being, trying to pull away from us and bend over away from us. Does that answer your question?

JA: Yeah, that's fine. We'll, and we're not hiding the eight ball here. Eventually we're gonna get to a conversation about him being in a prone position, being on his stomach, positional asphyxia, and the relationship between all of that and how large he was. So, I'm just trying to get a sense initially of your observation of whether you were thinking about that prior to him going to the prone positions. So, let me ask you. Based on your observations did you have any concerns about the potential of taking him to the ground and having him possibly be on his stomach at that point?

EM: No. So, based on his physical appearance, no. My concern when I made that determination was our positioning, which was in a way, you know, a location where going off of the curb could have caused anyone of the three of us to sustain an unnecessary injury. So, my goal there was to reposition us before we lowered him to the ground to make sure that that wasn't an issue.

JA: And so, talk with me about the techniques that you utilized then you and Officer Fisher to then bring Mario, uh, to the ground.

EM: So, as I mentioned, we were both still trying to keep his hands behind his back and when we realized that wasn't the case and he kept trying to, to bend and walk away from us, and pull away from us, Officer Fisher said something to the effect of, let's take him to the ground. So, there was a communication, a plan, to do that. And at that point as I had control of his left arm, I placed my right foot in front of his left foot on the ground and tried to push him over that to keep his foot in place so that we could lower him to the ground. He was able to — and it was my understanding that Officer Fisher was performing the same thing on the other side. And somehow Mr. Gonzalez was able to step over that and continue forward to prevent us from lowering him. And that happened three or four times before we were able to get him to the ground. And I think at that point we were all sort of stumbling forward together as we tried to maintain control of him.

JA: Were you injured during the interaction with Mario?

EM: I had a couple of small injuries.

JA: And were those injuries the result of a kick or a punch or just falling on the ground? Or to say it simply, do you know?

EM: I don't know how I sustained injuries. They were both to my hands. And my wrists, I believe. So, I'm not sure just because I was focused on maintaining control and making everybody safe. I don't know where the injuries came from.

JA: Let's see. It is 10:27. So, why don't we take a break at this point. We'll pick up where we left off. So, I will go ahead and stop the recording. Is ten minutes enough for you or do you need fifteen or...?

EM: That's fine.

LR: Ten is fine.

JA: Ten is fine? All right. So, let me hit pause here. And...

Recording: Recording stopped.

JA: Pause here.

JA: All right, let's go ahead and pick up where we left off. It's 10:36. We ended, uh, talking just a bit about what transpired as you brought Mario Gonzalez to the ground. So now we're going to talk a bit specifically about what happened once he is on the ground. So



go ahead and tell me what was the goal in taking Mario, uh, to the ground?

EM: The goal is to be able to detain him in handcuffs and effectively arrest him safely.

JA: And was it your understanding, or did you have a conversation with Officer Fisher about which of you would actually place the handcuffs on Mario?

EM: Not, no. I initially remember either — I believe I heard Officer Fisher remove his cuffs from his pouch initially before we were on the ground. But it was apparent to me once we were on the ground and I was able to control Mr. Gonzalez's left arm that Officer Fisher wasn't in a position to being able to apply the handcuffs. That he was using all of his efforts to merely control that one arm and wouldn't be able to apply the handcuffs.

JA: What pressure did you apply initially on to Mario Gonzalez when you first took him to the ground?

EM: So, when I first, when we first went to the ground, what I recall is Mr. Gonzalez's left arm wound up underneath him and I had to struggle to get that arm out from underneath his body. Once I was able to get that out to his side it's, I wasn't able to push it because I was on the ground next to him. I wasn't able to push that in that position and to keep control of his body in that position because he kept trying to roll over. So, at that point, I straddled him with my knees on the ground and my buttocks against his buttocks to keep his hips pinned to the ground better so that he wouldn't be able to roll over while we were attempting to place the handcuffs on him.

JA: Is this position that you were in that you described it as straddling him? How long do you believe, I recognize you have a video, but I just want to see what your recollection is. How long do you think you were on top of Mario in that way?

EM: I think maybe 30 or 40 seconds? Where it, the goal was to get the handcuffs on him and as soon as I had the handcuffs secured, that's when I dismounted him.

JA: And so, you did actually place the handcuffs on Mario?

EM: Yes.

JA: And once you did that, did you then remove yourself from that position on his body?

EM: Yes.

JA: While you were straddled in that 30 or 40 seconds window or so, on Mario, can you tell

me to the extent that you know what Officer Fisher was doing?

EM: Yeah. So, from what I could tell, it appeared that Mario also had — Mr. Gonzalez also had his right arm pulled against his chest under, underneath him. And Officer Fisher was merely attempting to get that arm out and behind him to where I had his other arm so that we could place the handcuffs on.

JA: Slight detour. You know Charlie Clemmons. Is that right?

EM: Yes.

JA: At what point in this...

EM: Your recording just stopped again.

JA: There we go. Of course. Oh, this is the life.

Recording: Recording in progress.

LR: Beautiful. Looked like it was a connection error.

JA: Sorry about that.

EM: So I got up to Charlie Clemmons?

JA: Yes, okay, so you know Charlie Clemmons. Tell me how you know Charlie.

EM: Charlie works for the department. He's a parking technician. He's worked in various roles in the department for many years. He's worked as a parking technician since I've been employed there. He's frequently around the department. Has good relationships with a lot of the officers. And I know that he, he leads workouts in our department gym.

JA: And so on this particular morning, April 19, 2021, when did you first see him?

EM: I noticed Charlie, Mr. Clemmons was in the front passenger seat of Officer Fisher's car when Officer Fisher pulled up along Otis Drive and parked next to the park there.

JA: And at what point, we know obviously that he came to provide some assistance at some point during the interaction. When do you first recall him coming to lend assistance?

EM: I don't, I don't recall specifically. But I believe it was before we placed the handcuffs on

him. And Mr. Gonzalez's legs were moving around so much. He was using his, his knees, trying to bring his knees up so that he could, could use his legs to roll over, that I realized that having Mr. Clemmons help controlling his legs would be beneficial in controlling the situation.

JA: So did you call out for Charlie to assist?

EM: Yes.

JA: Okay. And first of all, has Charlie ever gone on any ride-alongs with you?

EM: Not with me.

JA: Are you aware that he does that with other officers?

EM: Yes.

JA: Based on your knowledge of departmental policy, was it standard operating procedure for someone in Charlie's position to lend assistance in a situation like this?

EM: Yes, that would be—well, you said department policy and then you said standard. I want to rewind there a little bit. Department policy is...

JA: Let's go with department policy.

EM: Department policy allow sus to request bystanders to assist us in certain situations. Standard, typically the opportunity, it doesn't present itself for that. So this could be the first time that I could recall of needing to do that.

JA: That was going to be my next question. There we go. Okay. So you called out for Charlie, and you specifically asked him to help with Marco Gonzalez's legs, is that right?

EM: Yes.

JA: Okay. And this is before you were able to place handcuffs on Mr. Gonzalez?

EM: That's my recollection.

JA: Okay. And so you straddled Mr. Gonzalez. You were able to place the handcuffs on him. After you got the handcuffs on him, what did you do after that?

- EM: So at that point, I got off of his, his back and moved to his left side. And I, I knelt next to him and held his left elbow down to keep his upper torso from being able to roll over to the right. I just held that to the ground. And then I began talking with Mr. Gonzalez trying to calm him down, trying to get his information. Just trying to deescalate his, his behavior by, by having a conversation with him. I brought my head down to near the ground where he was so that I could observe him and make sure that he was still safe.
- JA: You said that you knelt next to Mr. Gonzalez. Was that with one knee on the ground and the other sort of in the air? Or can you just kind of describe for me the specific positioning next to him?
- EM: Yeah, I think I moved a few times. But for the majority of the time that I was next to him, it was both knees on the ground with my, my buttocks on my heels.
- JA: Okay. Did you ever place a knee on Mr. Gonzalez's back?
- EM: So there was one instance when Officer Fisher was verbalizing, "We don't have any pressure on his back." And my initial thought was because Mr. Gonzalez was still struggling and trying to roll over, trying to get away from us, my initial impression was Officer Fisher was saying that to draw attention to the fact that that was possibly an issue that we weren't able to control him sufficiently. So at that point I brought my right knee up from the ground and placed it on the lower left wrist of Mr. Gonzalez for a short period. The recording stopped again.
- LR: It appears to be a connection issue again. Want to try one more time and then try this mic on?
- JA: Yeah, let's see. I mean, we can try that. Yeah. I think it might be Zoom. All right. Thank you very much. Make sure we are...recording here.
- EM: [unintelligible 01:21:57]
- LR: I can see the red mark.
- EM: So, I was saying that I had placed my right knee on Mr. Gonzalez's lower left rib cage briefly. As soon as Officer Fisher noticed that, which was a matter of maybe four or five seconds, he clarified, he said, "No, like, don't put any weight on his back." I immediately removed my knee and placed it back on the ground.
- JA: And so, when Officer Fisher made the comment about not having any weight on his back was your interpretation that you need, you all needed to put weight on his back and that's

why you —

EM: In order to safely control him, yes.

JA: And so, there is a, it was just, it was a misunderstanding on your part?

EM: Yes.

JA: How long to the extent that you can remember, um, did you actually have your knee on Mario's back before you removed it?

EM: Approximately five seconds.

JA: Other than that particular instance, did you ever place your knee on any other body part belonging to Mr. Gonzalez?

EM: No.

JA: Did you ever place any pressure or any body part on Mario Gonzalez's neck?

EM: No.

JA: Did you place any pressure [unintelligible 01:23:23] of your body parts on Mr. Gonzalez's shoulders?

EM: No.

JA: Now you indicated that you first sort of straddled Mr. Gonzalez, handcuffs were placed on him, then you moved to the side of him where you were sort of kneeling. While you were kneeling on Mr. Gonzalez, or excuse me, while you were kneeling on the ground next to Mr. Gonzalez, where was Officer Fisher?

EM: So, he was on the right side of Mr. Gonzalez in somewhat similar position, well, his entire body was a little closer to the head and he was also on the ground holding, from what I could tell, holding his elbow and upper arm down.

JA: Did you ever observe Officer Fisher place any pressure on Mario Gonzalez's neck?

EM: No.

JA: Did you ever observe Officer Fisher place any pressure on Mario Gonzalez's back or any

parts of his own body?

EM: Briefly, while he was trying to get his, Mr. Gonzalez's arm out from under him.

JA: What about any pressure to Mario Gonzalez's shoulders?

EM: Again, briefly, while he was trying to control the, to gain control of his right arm.

JA: And when you say briefly, do you mean seconds or minutes?

EM: Seconds.

JA: At what point or — let me back up — at any point during this interaction and I'm gonna [unintelligible 01:25:25] and say before there is a sense that perhaps he was becoming unresponsive, at any point prior to that did you yourself believe that Mario was in any kind of distress?

EM: Physical distress?

JA: Yes.

EM: No. No. As I said, he was talking. I was able to kneel next to him, look him in the face. I could see that he was talking. He was, his eyes were open and seemed focused on, you know, whatever they were looking at. He was grunting and groaning but those grunts and groans were associated with his efforts to, to move, to roll over, to lift us up, to struggle, I guess, us. Does that make sense?

JA: Sure. What, whatever your sense is —

EM: Yes.

JA: — what it is.

EM: Yeah.

JA: And so, I want to come back then to positional asphyxia. First of all, are you familiar with the term?

EM: Yes.

JA: Okay. And have you received any specific training from the Department about positional

asphyxia?

EM: Yes.

JA: How recently, how recent prior to this particular incident, um, did you receive any kind of training from the department?

EM: So, as we mentioned earlier, the training in October or November, was —

JA: The PowerPoint?

EM: — yes. It was that. I also believe we had defensive tactics training, a refresher within the previous six months preceding the incident where we talked about the importance of monitoring the subject in the prone position, positional asphyxia, back pressure. Things like that.

JA: Okay, and I'll just say for the record so that we don't really need to dive in. I have your training records. I'm gonna ask you about a couple of the instances and what you remember but don't fill the need to give me specific dates. First, I want to make note of the facts from previous interview we did get a PowerPoint and I did previously receive this PowerPoint, Police Use of Force and 80-392, Department Training from 2020. This does appear on your training record log from October of 2020. Does that sound about right —

EM: Yes.

JA: — in terms of when you might have received that training? And then I also have information in your training record pursuant to your statement about defensive tactics of the training around October, or excuse me, August 31<sup>st</sup> of 2020 defensive tactics use of force. Does that sound about right?

EM: Yes.

JA: So, let's start first with the issue of positional asphyxia. It sounds like the most recent time you received any kind of training information was from this training in October of 2020. What do you recall being discussed and what was your take away from that training on this particular issue?

EM: About positional asphyxia specifically?

JA: Yes. Yes.

EM: That it's a major concern of police departments and their use of force. And that it's one of the requirements of an officer to monitor the potential impacts of any use of force on the subject while the force is being applied.

JA: And while Mari—well, let me ask it this way. If you had to estimate how long do you believe Mario was on the ground in the prone position?

EM: Two or three minutes.

JA: Did you have any concern during those two or three minutes about positional asphyxia or Mario Gonzalez's inability to breathe or anything along those lines?

EM: So, beyond the normal concern of prioritizing that, being able to monitor that and making sure that we weren't applying any unnecessary pressure to his back or neck, no, because I was able to observe that he was talking, breathing normally, you know, given the circumstances of his mental state without issue.

JA: Did you ever or was it ever a goal of yours or you and Officer Fisher to either sit Mario up or stand him up?

EM: Yes. The — Officer Fisher verbalized it at least twice while we had him in a prone position. He asked, can we roll him on his side? And at this point, Mr. Gonzalez was still struggling just as much as he had when we first caught, uh, grabbed his arms. And Officer Leahy's response was, "I don't want to lose what I got. I don't want to give up the position that I have on his legs here because..." my understanding was that Officer Leahy was concerned that his legs would be a risk if they were allowed to, if they were uncontrolled.

JA: And the statement that heard in terms of wanting to roll Mario on his side, was your understanding that that was a question in the sense of can we do it or should we do it because he is experiencing some kind of distress?

EM: Yeah. My, my understanding was it was, it was can we do it? Are we in a safe enough position, do we have enough control over Mario to do that safely?

JA: All right.

EM: As I said in my statement with ACSO, Mario for a large part of the time that he was on the ground and I was next to him, his face was turned a lot towards me and so I was able to monitor him and I didn't believe that Officer Fisher was in a necessarily better position



to monitor that. And so that wasn't a—not what I understood out of his request.

JA: Did you—you've obviously seen the video. Did you see the point in time when Mario's face was sort of intermittently in the ground in the sort of bark, uh, area?

EM: Yes. Yeah. And during that time, as I mentioned from the previous statement, he was still talking. Whether or not his face was forward toward the ground or turned toward the side toward me, he was still talking and breathing. And because of the size of his chest, that elevated his head up from the ground and it wasn't being, it wasn't forced against the ground. It was, if anything, his lips were merely brushing the tan bark that was on the surface there.

JA: What is your understanding of the, the term "recovery position" relative to someone being in the prone position on the ground?

EM: So, the recovery position would typically be the person is rolled to their left or right side and one knee is bent to help prop them in that position.

JA: And is that done, based on your understanding, only if someone is in distress?

EM: No.

JA: When is the recovery position utilized?

EM: If it's an effective position to keep someone in if we're not able to, for example, get them standing up or sitting up, that would be another option to get them in a position where they're not in the prone position.

JA: And did you ever believe in this particular situation that Mr. Gonzalez may have been placed in the recovery position?

EM: Not before he became unresponsive. Your recording is freaking out again.

LR: The Zoom...

Recording: Recording in progress.

LR: There we go. It was the WiFi.

EM: So you asked at any point during this interaction did I believe Mr. Gonzalez needed to be in the recovery position?

JA: Yes.

EM: So, it was my understanding based on...

LR: Can you hold on a second? When we started it said you were in the mute now.

EM: Oh, there we go. Okay.

LR: There we go.

EM: Good. Thank you.

LR: I saw the sign come up, so I [unintelligible 01:34:29]. Thank you. All right.

EM: So I'll repeat that. You asked was there any time during this interaction that I believed Mr. Gonzalez needed to be in the recovery position?

JA: Correct.

EM: So it was, it's my goal whenever we have somebody in, in the prone position to, to get them to the recovery position if not sitting up or standing. However, based on Mr. Gonzalez's continued resistance and struggle, I didn't believe we were in a, at a point where we had enough control to maintain that position safely. The recovery position.

JA: Have you received any specific training on excited delirium?

EM: Yes.

JA: What is your understanding of what excited delirium is, based on [inaudible 01:35:21]?

EM: So, my understanding of excited delirium is that it's a, it's a state, it's a physical state that has several signs of symptoms that if left unaddressed can lead to major medical events and possible death. That some of those signs and symptoms include delirium, um, hyperthermia, what else? Confusion, um, sense of strength — yeah.

JA: Okay. I know, it's not a test. You don't—

LR: And, if, —

JA: — [inaudible/overtalking 01:36:16] you don't have to give me all the [unintelligible

01:36:17]. And so, when do you last recall prior to this incident receiving any kind of training or additional information about excited delirium?

EM: It was at that — the AB 392 training in October.

JA: All right. And so, let me ask just kind of a broad question in terms of those two topics specifically. You know, how, if at all, did your training relative to those two topics inform the way that you approached this particular situation with Mr. Gonzalez?

EM: So, it wasn't, when I initially contacted Mr. Gonzalez and up through us trying to place handcuffs on him, I didn't have an indication that excited delirium was, I don't know, an issue at the time. Because of the struggle that we had with Mr. Gonzalez, he continued to escalate his physical resistance. And my goal at the time was to prioritize placing the handcuffs on him and keeping him and us safe from injury. And part of my training for excited delirium that I recall is that concern needs to be addressed as soon as it's safely possible. And during this incident there wasn't a point until Mr. Gonzalez was unresponsive that we had enough control of his body to safely address any other concerns.

JA: And let me ask you, obviously you received this training about AB 392. Broader context in terms of policing on the heels of George Floyd's murder, which is mentioned here, and I asked the questions about being on Mario Gonzalez's neck or back or what have you. Did any of that training or, well, let me ask that this way. In addition to this particular training, what conversations were had informally from the Department about training relative to position asphyxia, placing weight on people, use of force, etc.?

EM: So, this might, this might be more of an anecdote than you're looking for, but I remember when I watched the video of George Floyd, I was at the same time appalled and very pleased to know that I work for a police department where that would never happen because of our training and our approach to contacting the public. I was confident that there wouldn't be an officer in this Department that would wind up in that situation, that would exert force in that way that would, I mean, just that would be so adversely negligent to wind up with the results that happened that day. Through academy, through my field training and all of the defensive tactics training even before George Floyd, we've consistently been trained about where is safe and not safe to place pressure on the back. How to control somebody through rapid change of position to one that's recovery or sitting up or something like that. That's something that is prioritized at this Department and in every aspect of, like I said, even before this was a larger social political issue.

JA: And so in terms of that specific training — and actually I'm, let me ask you, since you

haven't covered this just yet, you received the, it sounds like it was more of an update around defensive tactics, use of force, is how it's labeled here, in the law in August of 2020. Do you remember what that particular training or refresher was about in general?

EM: Yeah. So, we — excuse me — we covered multiple techniques and practices and policies — excuse me. We practiced things like [unintelligible 01:41:10], just different handcuffing techniques especially in the prone position. And being able to safely control somebody in that position.

JA: And so, I'm gonna ask a global question, um, if you want to [unintelligible 01:41:25] through the Sheriff's Office, but I want to get it on the record here, um, specifically in terms of defensive tactics and use of force, how did the training that you received inform how you were responded in this particular instance in terms of the force that you used or deemed appropriate in this particular situation?

EM: Sure. So, per our policy we're allowed to use force necessary to effect an arrest, prevent escape, or resistance. Our policy also outlines that the force should be as minimal as possible and that it should be proportionate to the crime at hand. And it was my desire and it's been my, my practice that on every response, every call for service, that I use the least amount of force necessary to achieve the goal that I need to achieve. And so, that day I considered other force options to affect the arrest and deemed that they weren't appropriate or wouldn't be effective and, as I mentioned, used the minimal amount of force necessary.

JA: At what point—well, let me just skip around. One of those alternative uses was a taser that you had considered. Is that right?

EM: Yes.

JA: Tell me why, why you felt that wasn't an appropriate use in this instance?

EM: So, at that point, when I was considering the use of a taser, the reason or the purpose for that was to being compliant so that Officer Fisher could gain control of Mr. Gonzalez's right hand. At that point I was straddling Mr. Gonzalez and I had control over his left hand and it was behind his back. But it seemed like Officer Fisher wasn't having the success at getting the right arm out from under him. And so, that was my consideration. However, I realized if I were to remove my taser from my left holster and remove the cartridge from the taser to affect a drive stun, I would have to lose control of his left arm. I didn't want to do that. The other consideration I gave was that due to the layers of clothing and Mr. Gonzalez's build that the drive stun would be negligently — not, not very effective.

JA: I'm going to get to in a moment what transpires after Mario is unresponsive. But I want to talk with you just briefly about the use of the wrap and perhaps the shifting goals you kind of talked about earlier. And so, you've gone through this process. Mr. Gonzalez is in handcuffs and is there a conversation about, or a goal to utilize the wrap at this point?

EM: Yeah. So, when, once we have the handcuffs on, Officer Fisher and I have a conversation about applying the wrap. And so we, we're on the same page and we know that once we get another officer on the scene because none of us are in a position to be able to get up to go get the wrap from one of the patrol vehicles, that the next officer on the scene, we would ask to bring the wrap so that we could apply that and transport him safely.

JA: And what was your, well, you said transfer safely. Let me ask you in terms of another officer arriving on the scene, at what point do you recall Officer Leahy arrive?

EM: So, it was at some point after I had applied the handcuffs, I believe. But I, I don't recall because I was facing towards Mr. Gonzalez's head for this entire interaction while we were on the ground. And so, when Officer Leahy replaced Mr. Clemmons on the feet, I didn't notice when that was.

JA: And have you received specific training on how you utilize the wrap?

EM: Yes.

JA: What is your understanding about the number of officers that are required to effectively deploy the wrap?

EM: So, in my experience, it takes four to five officers to apply a wrap safely. And that could, that number could be increased depending on the subject's resistance and their strength.

JA: And in your experience in utilizing the wrap, is there a point in time at which it is most appropriate to use the wrap on a subject, which is to say, are you waiting for them to sort of calm down or stop resisting? Can you talk with me a bit about what we're looking for before you sort of deploy the wrap?

EM: Yeah. So, the wrap is typically used if there's no other means to transport them safely. And so, if there's any hope of them calming down then the goal then is to not have to use the wrap. So, the wrap can be applied while the person's still struggling and resisting and it takes a lot more work. If they're cooperative then the question arises why are you putting the wrap on. That can be — there are circumstances where that may be the case

if somebody is just sort of escalating and deescalating and escalating and deescalating we might wait for a lull to apply the wrap. But in this instance, the resistance was sustaining constant the entire time, so I don't think that — well, I know that that wasn't a consideration of mine to wait for Mr. Gonzalez to calm down and put a strap on him.

JA: So, was the goal then to keep Mario in the prone position until such time as the wrap could have been deployed.

EM: Or, yes, or that he potentially did stop struggling and kicking and resisting enough for us to get him into the recovery position or seated or standing.

JA: And did you call for the wrap or did another officer?

EM: I don't recall. I just know that it was called for.

JA: At what point do you recall, um, Mario becoming unresponsive? If, if you recall it specifically.

EM: Yeah. So, it was about the time that I believe it was Sergeant Mrak arrived on the scene and I was, again as I mentioned, kneeling next to Mr. Gonzalez, trying to talk to him to calm him down, and as he was talking, he just turned his, just, his face forward and stopped talking. And so, I basically, I saw when he stopped talking and immediately responded to that situation.

JA: What did you do?

EM: So, I told Officer Fisher I think he's gone nonresponsive. Let's roll him to his side. So, we immediately put him in the recovery position. I checked for a pulse but I noticed that the jacket that he was wearing was zipped up and was around his neck area and I wanted to make sure that that wasn't a factor with him not being able to find a pulse or of his loss of apparent consciousness. So, I ripped his jacket open and checked for a pulse again. When I couldn't find that, I rolled him onto his back and began chest compressions.

JA: How long did you perform chest compressions?

EM: I would estimate a minute. Um, possibly a minute.

JA: And then you were relieved by someone else, is that right?

EM: Yes. Officer Garrett.

JA: What did you do at that point?

EM: At that point, I stood up. Officer Garrett made a comment — I believe it was him that made the comment about Narcan? And there was a MedPac already on the scene. Some other officer brought it. The Narcan was opened and used from the MedPac and there didn't seem to be an effect. Based on my training and my experience if one dose of Narcan doesn't have an effect in a short period of time then it's recommended — or if available, that a second dose be administered. I happened to carry one on my person and I provided that to one of the officers to administer that as well. And then I spoke briefly with Officer Mrak, who asked me about the events leading up to the [inaudible 01:50:36].

JA: And at some point, were you instructed to go back to the Department?

EM: Yes.

JA: Okay. Uh, who provided you with that instruction?

EM: I don't recall. It was a supervisor.

JA: And were you transported back to the Department?

EM: Yes.

JA: Once you arrived back at the Department did you speak with anyone about what had transpired, outside of the—I'm not asking about the representative or attorney. Other than the representative or attorney, did you speak with any of the officers about what had transpired that day?

EM: No.

JA: Do you remember — well, let me ask it this way. What type of training, if any, have you received about when handcuffs, um, could or should be removed once someone has become responsive or life saving measures are deployed?

EM: Right. So, based on my training, if it's something that can be done safely and efficiently without cause for concern, the handcuffs can be removed before chest compressions. And that's especially the case if the chest compressions don't appear to be effective. When I noticed that he was unresponsive my desire was to begin chest compressions as quickly as possible, and when I did that and I began the chest compressions, it was apparent to me that they weren't effective and that the handcuffs were not limiting the effectiveness of those chest compressions. So, I considered taking the handcuffs off, but

ultimately decided that continuing the chest compressions would be more valuable given the circumstances.

JA: Were you present when the handcuffs were removed or did you observe anyone remove the handcuffs?

EM: I had stepped back at that point. I believe they were — I don't recall. I would be guessing.

JA: Sure. I want to talk with you about some specific tactics [unintelligible 01:52:56]. We've gone over a few of them. Let me ask you about de-escalation tactics?

EM: Yes.

JA: Can you talk with me about how you utilized any specific de-escalation tactics in this particular incident?

EM: Yeah. So, my goal going into that was to not create an issue. Not to create any exigencies. And so going into that, talking with Mr. Gonzalez, my goal was to keep him calm with the language I was using, with my demeanor, my positioning, my presence, um, just having a comfortable stance with him. That was what I tried to convey to him, that I wasn't a threat, that I was merely contacting him for his own safety at the time during my initial conversation with him. Once we went hands-on with Mr. Gonzalez and I had that recollection of contacting him before, I decided to use that memory because I remember earlier on in our conversation, if we back up a little bit, where I recall a moment where I felt like based on his expression that he was trying to remember me. Like, it was like his, his expression appeared to say, do I know you from somewhere? Or trying to remember the last time we spoke or something like that. And I told him at the time that, you know, I don't think we had spoken before. Because that was my honest belief. I don't think we had met before. Once I did have that recollection, I tried to make that connection with him to either distract him from resisting or to calm him down by building a rapport with him saying, oh yeah, you know, we have, we have met before, like, you know, this is going to be okay. We'll get through this together. Even once we were on the ground just trying to calm him down, telling him that, you know, that he was a, he was apologizing at one point, and I told him I forgave him, using my words to try to calm him down.

JA: And a similar question in terms of specific compliance techniques that you utilized in this incident. Talk with me about that, um, you don't have to go into too much detail, but just —



EM: Yeah. So, so, initially we attempted verbal compliance when I was giving him commands to keep his hands out of his pockets and that based on my interaction with him leading up to that and then even through that, those commands, it was apparent he wasn't able to or willing to, to follow those commands. So, that's when I decided to go to hands-on with him. So, at that point it was just, the intention was to place him in handcuffs and gain compliance that way. When that wasn't effective, as I mentioned, that the taser is an option of gaining compliance, but I ultimately decided that wouldn't be effective in that situation or beneficial. So, when — backing up a little bit before that, trying to use some control techniques like a rear wrist lock, that was my attempt and my goal was to get his left arm to a rear wrist lock so that I could apply the handcuffs. And I wasn't able to do that as I mentioned because of his size and all the layers of clothing.

JA: And I think we have covered force to [unintelligible 01:56:58] and talked about particularly [unintelligible 01:57:02]. But I'll just ask you since we're sort of coming to the end, and we, is it your sense that you utilized the, the least amount of force possible here —

EM: Yes.

JA: — based on the circumstances?

EM: Yes.

JA: And do you feel that the techniques that you utilized in this particular instance in terms of the de-escalation, compliance in force were in a line with the policies as you understand them to be —

EM: Yeah.

JA: — on the P.D. policies, that is?

EM: Yes.

JA: I want to talk generally as we sort of move to the end here, I know that we talked, earlier you mentioned Mario reaching into, um, his waistband. Not necessarily understanding, uh, whether he may have anything on his person and how there may have been a concern about the safety of, uh, the other officers around. Let me ask you how, if at all, did a concern about your safety or the safety of the other officers play into this interaction based on Mario's demeanor or behavior?

EM: So, as I mentioned, the, my initial interaction with him I was, based on his behavior, I

was able to maintain a comfortable, casual stance and distance from him. Once Officer Fisher was on the scene and Mr. Gonzalez started moving around more and trying to put his hands into his pockets, I wasn't able to maintain that level of interaction with him anymore. So, that was the determining factor for placing the handcuffs at that moment. I knew that handcuffs would be applied. That that would be a part of the rest of our interaction with him. But that was the determining for the timing of that.

JA: Particularly, as I understand it, a general concern about your safety and the safety of the other officers on scene potentially, but let me ask specifically, were you in any kind of fear or fearful for your own safety or Mario's safety or the safety of, of the other officers? Or, or afraid at all?

EM: Yes, in the sense that the fear of the unknown or of what potentially could happen if Mario was allowed to continue accessing whatever he may have on his person, yes.

JA: Did Mario ever threaten you or any of the other officers during your interaction with him?

EM: No.

JA: I think we, we got slightly sidetracked. I recall you mentioned that earlier in your interaction with Mario he seemed fairly calm but that there was a change perhaps in his demeanor when Officer Fisher arrived. I think in the previous interview you sort of described him potentially as being a bit more aggressive. Is that a fair characterization? Or I just want to give you an opportunity to expand, because I don't know if we actually delved into that.

EM: I don't know that I would use the word aggressive. I would, my, what I observed when Officer Fisher arrived was it appeared Mr. Gonzalez became more anxious. As I said, he started moving around more and he made some comment about, um, it's time to go or something like that. And tried to put the alcohol cap back on the bottle that was broken as if he was, like, you know, packing up, like, okay, I'm gonna go now. Like, I'm outta here. And so, that's what I, that's the, the demeanor change that I noticed.

JA: And after Mario became unresponsive, did you request an ambulance?

EM: I don't recall if I made the radio traffic but I did verbalize that at some point.

JA: Okay. Do you have any recollection about the amount of time it took for fire and ambulance to respond to the scene? Do you feel like it was pretty lengthy? Pretty quick? Any recollection on that at all?

EM: So, what I remember is as I was performing chest compressions, thinking to myself I just have to keep this up until fire gets here. And I remember having to tell myself that several times because it, it seemed to take so long. And then I was surprised when other officers arrived on scene to relieve me that fire was still not there. Based on our location from the firehouse, the nearest firehouse that I know of, it seemed like the response was extended.

JA: And we kind of talked around this particular question but let me ask it directly. Um, did you believe that, that Mario was experiencing a mental health crisis when you interacted with him?

EM: So, that was one of the concerns that I had when going in to contacting him and I didn't believe based on my interaction with him that he was having a mental health crisis, that he required a psychiatric hold. That was not, not my understanding.

JA: Okay. So, you did not think that he required a psychiatric hold?

EM: Correct.

JA: Fair to say then that your belief was that the behavior that he was exhibiting was more so based on his intoxication? His alcohol intoxication?

EM: I believed that that was the majority of the influence. I, also want to acknowledge that I'm not unfamiliar with those that have both a mental health issue and abuse alcohol. And those, those two components playing into each other to exacerbate a situation. However, I didn't determine — I was, I didn't believe there was a crisis. A mental crisis. So, while mental may have been an issue, I didn't believe that was to that critical component.

JA: In addition to the alcohol intoxication, were there any signs or symptom based on your training experience that there might be other issues or other substances on board, uh, controlled substances specifically?

EM: So, if I were to answer that honestly it would be in retrospect given the circumstances but, so speaking to that considering the things that I observed once we went hands-on with Mr. Gonzalez, my goal was to control the situation and to keep everyone safe and I wasn't able to make the processes considerations.

JA: Okay. So, at the time —

EM: Based on, based on the effort that I had to apply to that situation.

JA: — at the time, though, you didn't necessarily have a belief that there were other controlled substances on board. It was really an alcohol issue from your...?

EM: Yes. Until, like I mentioned, when Officer Garrett suggested the use of Narcan, I didn't believe that there were other substances or hadn't considered that maybe other substances may be at play.

JA: All right. If we can — we're doing pretty good here — take one last break, I'll review my notes here and see if there's anything I also want to cover. And then we'll come back and finish up and we should be done I assume by noon.

LR: Fantastic. I'll have a couple of follow-up questions assuming they're not covered in, in your, um —

JA: Actually, do you want to —

LR: — after you've reviewed your notes.

JA: You want to do them now?

LR: If that's —

JA: Yeah. Why don't you go and do that now so that then I can —

LR: Take better note [unintelligible 02:05:22]?

JA: Yeah. When we take a break.

LR: On the day of the incident, um, there is radio traffic with various call signs -- 31 and 41. Do you know who those belong to?

EM: Yes. So, I was 31. Or 2L31 is the, the longhand of that. And Officer Fisher was 1241.

LR: Thank you. You described in response to, um, Mr. Anderson's question about compliance techniques and tactics used, a rear wrist lock. Is that a technique that you have been trained in by the Department?

EM: Yes.

LR: Were there any compliance techniques that you used in terms of physical control holds that were inconsistent with the training the Department gave you?

EM: No.

LR: Were they all authorized?

EM: Yes.

LR: The same — you had described the technique that you, and it sounded like Officer Fisher as well, used to try to take Mario Gonzalez to the ground, the leg coming forward and around. Is that a technique that is trained by the Department?

EM: Yes.

LR: You were talking about your observations of, um, Mr. Gonzalez and what occurred when he stopped talking and what your conclusion was as a consequence of it. Do you have any special medical or training experience outside of that which you received while employed with the Alameda Police Department?

EM: Yeah. So, prior to my employment here I was a volunteer National Ski Patrol member for eight years and I volunteered regularly for between 25 and 40 days a year at my local resort. And part of that membership and responsibility is training — outdoor emergency care is what it's called. It's very similar to emergency medical technician training. The textbook is similar. With a focus more on the outdoor injuries than gunshot wounds. But that training, we have refresher training with that before each season and that covers all types of medical emergencies including myocardial infarctions or heart attacks. And our response to those situations. Breathing difficulties, assessments of those that are possibly having a medical emergency.

LR: Thank you. In response to Mr. Anderson's question, you discussed how you called out for Charlie Clemens to come and assist in controlling Mr. Gonzalez. When you called out to Charlie, where was he? Was he still in the car? Was he outside of the car?

EM: So, he had exited the car and walked up to us. He was standing next to us, I think. The impression I got was he was there to provide assistance and waiting for direction. And so, instead of maybe a better word or term than calling out would be directed.

LR: And I believe you noted that that was permitted by policy.

EM: Yes.

LR: For bystander involvement.

EM: I was also familiar with Mr. Clemens' training and experience with control tactics.

LR: Okay. That was my next question is did you know if he had any special skills? Thank you. Now, we are at the end of August and this event occurred, um, back in February of 2020. When you gave your interview on —

EM: 2021.

LR: — of 2021, excuse me. When you gave your interview on April 26th, that was obviously closer in time than it is today to the incident. Right?

EM: Yeah, so, the incident occurred April 20th, correct?

JA: 19.

EM: April 19, yes.

LR: 19. Yeah.

EM: So, yes.

LR: Within a week.

EM: Yes.

LR: As opposed to like now several months later.

EM: Yes.

LR: May there have been details that you recounted in your interview back in April that you had overlooked here today just simply due to the passage of time?

EM: Absolutely.

LR: So, have you been as complete as you can with your memories that exist today?

EM: Yes.

LR: You had described the various different kinds of crimes that you were assessing when you first encountered Mr. Gonzalez. You included the potential theft from *Walgreens*, um, 647(f). Would there have been any crimes that you had considered based on his possession of an open container of alcohol?

EM: Yes. So, that park is a city park and open containers in parks is prohibited. It's a, it's an infraction and typically one that resolve rather easily with instructing somebody to, you know, dispose of the alcohol and be on their way. However, based on Mario's behavior it was apparent that he wouldn't be able to or wouldn't do that. So, that would be an ongoing issue if I were to leave the scene.

LR: Was that possibility of the infraction for an open container something that you observed and considered at the time or only thought about after the fact?

EM: At the time.

LR: Thank you. All right, I believe that's all the follow-up questions that I have at this point.

EM: Do you want to talk about his jacket at all?

LR: Oh, thank you very much. There was one of — when you were describing Mario Gonzalez's appearance — thank you for the reminder — when you initially arrived you didn't make any mention about his clothing. Did you make any observations of his clothing and if so, how did those observations play into your assessment of Mr. Gonzalez's status?

EM: So, what I recall being dispatched to was, uh, someone wearing a tan vest or a tan jacket with black sleeves, and when I arrived, I noticed, once I contacted Mr. Gonzalez and began speaking to him, facing him, I realized that his jacket was on inside out and had a fleece lining to it. And the fleece lining was the part that was exposed and had that tan appearance while the sleeves were still black. And I was, I remember being surprised to see that that jacket was zipped up inside out because the zipper was on the inside and just realizing how difficult that may be to do and how, you know, one would realize normally pretty quickly that your, you know, your jacket's on inside out if the zipper tab was on the inside. And just the fact that that was the, that was the state of his dress and also the fact that he at one point was trying to put his hands in his pockets even though the pockets were facing inward. He just repeatedly tried to get those hands in the pockets that weren't there. So, that to me, you know, just added to the observations of about his intoxication level.

LR: Thank you.

JA: All right. I had some thoughts on that but why don't we go ahead and take a break now. It's 11:38. Ten minutes should be fine for me. Does that work for you all?

EM: That's fine with me.

LR: Ample, yes, thank you.

JA: Um, around, just come back at 11:50. I'll stop this here.

JA: All right. We are resuming here at 11:51 to wrap up with some final questions here. Let me ask first, did you ever tell Mario, uh, that he was being placed under arrest?

EM: There wasn't, it, it didn't proceed us going hands-on with him. If there was a mention of that it was just during my conversation with him about explaining what, you know, what we were doing. I don't recall.

JA: And then relatedly, do you ever recall telling him, if you explained to him that he was being arrested, do you ever recall explaining or ever telling him why you were arresting him?

EM: I don't believe so. Oh, yes, yes. I take that back. In a sense, when we were on the ground and I was, I was talking to him, when he was apologizing, my conversation with him was, you know, it's okay, I think you just had too much to drink. And I, if that could be incurred, you know, to explain why he was being arrested. That was...

JA: But no, no specific words along the lines of, you know, we're arresting you because you're drunk in public or what have you?

EM: Correct.

JA: Okay. Fair enough. I want to talk actually a bit more about what you recall discussing with Mario while he was on the ground in the prone position. And, you know, there's a point in the video where as you see Mario is on the ground and the tenor of his voice sort of changes. He starts to make some noises and additions here, um, you know, stating some words. Let me ask you in that period towards the end right before he became unresponsive while you were on the ground, it's in the video. What do you remember him telling you? And what do you remember telling him?

EM: So, just immediately preceding that or sort of the whole conversation we had throughout the [inaudible 02:16:04]?



JA: Why don't you give me the whole conversation to your recollection and recognizing that obviously we have the video, but I just want to get a better sense of what you recall?

EM: So, initially when I was on the ground, when I first started talking to him after we had the handcuffs on and I was able to, you know, to, to speak with him and I, my goal was to calm him down and get his information, because I knew I would have to complete an arrest report to continue with what I was working on. So, I figured I would go ahead and start that now while we were waiting for everyone else to show up to apply the wrap. So, I started asking him, you know, trying to get his name, his full name again. And that's when he told me Mario, and I was trying to get his, his birthdate and he said, give me a year. And I, I said what's your birthdate? He gave me a year. And I believe it was 1984. And I said, okay, what month? And then he said 1995. And I realized, you know, okay, well, maybe this isn't gonna be as productive as I had hoped it would be. Um, and based on how his conversation wandered or his thoughts were so broken up or interrupted, I wasn't, I don't recall precisely what he said, but I do recall at some point he started to say I'm sorry. And he said I'm sorry a couple times and that's when I responded, that's okay, Mario. I, you know, I'm, I forgive you. I just think you've had too much to drink. Just trying to appeal to his humanity, recognizing that, you know, my intention there was to communicate, I don't think you're a bad guy, I think that you just had too much to drink and we're just trying to take care of you here. Does that answer your question?

JA: It does. And towards the end of the interaction before he becomes unresponsive there is a period of time where he appears to be gasping for air or trying to say something but his words are kind of muffled. He's still speaking a little bit but there is sort of a guttural kind of noise that he starts to make. Does that sound familiar to you? Do you recall that at all?

EM: Yes. I recall that. And what I associated that with was the strain that he was using to try to get up and, you know, the same way that if someone was to lift something heavy, they would make a groaning sound. That was what I was equating that with because when I heard him making those noises, I could feel his body moving in response to that.

JA: And I know that we covered it, but I want it to be on the record just because it's an important part of what we're doing here. At no point did you believe that those sounds or [unintelligible 02:19:01] that he was making in that window of time suggested that he was in any kind of distress. Is that right?

EM: Correct.

JA: If you had believed that he was in distress at that point or at any other point when he was

in the prone position, what would you have done?

EM: So, if it was safe to do so, recovery position would have been our first step. Resolve whatever the issue was. If he was having trouble breathing or an obstruction or pressure or something like that, resolve whatever that was.

JA: And that is based on training experience? Training and experience that you received?

EM: Yes.

JA: I have a note here from your prior conversation with the Sheriff's Office that you were a member or were going to be a member of the Crisis Negotiation Team. Is that right?

EM: Correct.

JA: How long were you on that team prior to this particular incident?

EM: So, I was selected for that team within several months preceding this incident. I have yet to attend the training. The training was scheduled and then since has been cancelled because of my administrative leave.

JA: So, no specific training for that particular role prior to this incident?

EM: Correct. Yes.

JA: You mentioned in response to some question by your representative about an open alcohol container, a municipal code violation?

EM: Yes.

JA: That you potentially observed here. Let me just clarify. So, number one, your understanding was that possessing an open alcohol container is a violation of the Municipal Code. Is that right?

EM: In a public park, yes.

JA: Thank you. Do you ever — it's an infraction. But I'll ask the question just so that it's on the record, do you ever arrest people for being in violation of that Code?

EM: So, an arrest in that instance would be a citation and that would be, unless there were some other factors involved, that would be the limit of that arrest.

JA: So, fair to say even though you made an observation that, you know, he was, Mario Gonzalez was likely in violation of this particular Code that the arrest here was attempted based on the violation of Penal Code 647(f)?

EM: The actual physical detention, yes.

JA: Yes.

EM: Yes.

JA: Yes. Okay. And then finally as we conclude here, in your interactions or I should say during the course of this interaction, did you ever observe any conduct on the part of your colleagues, Officer Leahy or Officer Fisher, directed towards Mario Gonzalez that you would construe as being based on any kind of malice that they had towards Mr. Gonzalez?

EM: Absolutely not.

JA: Did you ever hear either of them or did you yourself ever make any derogatory or offensive comments to Mr. Gonzalez?

EM: No.

JA: When you mentioned a moment ago and I was going to ask you this question, you said continue what you were working on. I took that to mean the investigation relative to the [unintelligible/background noise 02:22:25]. I'm not sure if that was what you alluding to so let me just ask a question. Was it your intention to continue to investigate possible crimes related to the alcohol [unintelligible 02:22:45] after Mr. Gonzalez was arrested?

EM: Yes.

JA: Did you in fact do that?

EM: I wasn't, no.

JA: Did you make a phone call to anyone or anyone after Mr. Gonzalez was, became unresponsive about the alcohol containers?

EM: [inaudible 02:23:03]. No.

JA: And your goal — how'd you continued that investigation, what would the goal have been?

EM: To determine if that would be an additional crime that we would be arresting for.

JA: Let me see. Just look here one second. Those are all the questions that I have, so I'll just give you an opportunity to, if there's anything you'd like to add before we formally conclude and then we—Linda?

LR: Before we do that, I did have a couple of follow-ups —

JA: Sure.

LR: — to your follow-ups. You were asked by Mr. Anderson about the open container and indicated that that would be a citable offense, not a physical arrest offense. In your training, according to the policies of the Department or the practices, would the existence of the open container in violation of the Municipal Code while in a public park be a ground on which you could continue to detain Mr. Gonzalez until you issued a citation?

EM: Yes.

LR: You were asked if you ever observed anything in the other officers' conduct that would indicate malice. Did you — likewise, did you ever observe any behavior by the other officers on the scene that would have violated Department policy?

EM: No.

LR: Any behavior that would have involved tactics not authorized?

EM: No.

LR: And then you were asked about whether you continued investigating the *Walgreens* theft after the incident. Was there a reason that you didn't take any further action?

EM: So, because I was directed to leave the scene, I was told to leave items where they were, to leave the scene as it was, and then I was placed in a room for seven hours on my own without contact with anybody. I was told not to talk about the incident with anybody. It was my understanding that I wasn't to investigate that further.

LR: Thank you.

EM: That that would be handled by someone else.

LR: I don't have anything else. I think Mr. Anderson was giving you an opportunity to make any further statements that you wanted. Or did you have a follow-up?

JA: No, actually, I do want you to do that. I just want to ask one question just to have it on the record. Our understanding is that pursuant to Police Department policy an officer that is involved in an incident like this is not to write their own report immediately following the incident, but that the interview that is conducted during the course of an investigation essentially serves as the basis of that report. So, let me just number one, confirm, did you at any point write any formal report as you would if you were the primary officer in an incident? Did you write any formal report in this particular case?

EM: Not other than the statement I provided.

JA: Okay. The statement you provided to the Sheriff's Office?

EM: Correct.

LR: So, you did not write a report but you provided an oral report?

EM: Yes.

JA: Okay.

LR: Just to make it clear for the record.

JA: And your understanding is that that is pursuant to Alameda Police Department policy?

EM: Yes.

JA: All right. That's it. So, you don't have to share anything, but if you have anything that you'd like to add, if you feel that there's anything that I missed or that you would like to elaborate or clarify...

EM: I'm good.

JA: If you do not though, that's your choice.

EM: Thank you.

JA: All right. Well, at that point, this concludes the interview. It's 12:04 p.m. I want to thank you for your time today and we're all done.

LR: All right. Thank you.

EXHIBIT 21

**RPLG**

Renne Public Law Group®

[REDACTED]  
**Transcript of Audio Recording of:  
Interview of Officer Cameron Leahy  
(08/19/2021)**

**Case:** Audio Transcription re: Leahy, Cameron GMT20210819-162259

**Reporter: Debi Devitt**

P.O. BOX 85  
Penn Valley, CA 95946





INTERVIEW OF CAMERON LEAHY  
(Conducted by Attorney Jamal Anderson)

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GMT20210819-162259  
THURSDAY, AUGUST 19, 2021

TRANSCRIBED BY:  
DEBI DEVITT

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PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



JA: [unintelligible 00:00:07]

AW: Yeah, very good. Mine is on. And, Linda, your last name is Ross?

LR: R-O-S-S, yeah.

AW: That's right.

JA: All right, looks like that's going. All right. All right, well, good morning again. We have hit record here. Today is Thursday, August 19. It's 9:23 a.m. My name is Jamal Anderson. I'm a senior associate with the Renne Public Law Group. I'm here this morning with my colleague, Linda Ross, a partner at the Renne Public Law Group. I'll provide both of you an opportunity to introduce yourselves at this point before we get started.

AW: Alison Berry Wilkinson, the representative for Officer Leahy.

CL: Good morning, I'm Officer Cameron Leahy.

JA: Thank you. I'd try to speak up. We're here at City Hall, but we are wearing masks pursuant to the necessary protocol for purposes of this meeting. We are here in the conference room, Room 360. As both of you know, the Renne Public Law Group has been retained by the City of Alameda to conduct an administrative investigation into the circumstances surrounding the detention and subsequent death of Mario Gonzalez. We have been retained for the purposes of conducting what would be internal [unintelligible 00:01:38] investigation, but we are external investigators. Our primary focus here is to determine if there were any violations of Alameda Police Department policies. This is not, as you know, a criminal investigation but instead an administrative investigation.

I want to provide you with a few admonitions that we generally provide through the course of our interviews, at the end of which time, if you have any questions, please feel free to let me know. The first is a general admonition. We just ask that you tell us the truth to the best of your recollection. This is not a specific test of your memory. If there's something that you don't recall, please let me know. I would prefer that you say that you don't know as opposed to saying something that may be incorrect. If at some point there is something that may refresh your memory or something that you'd like to refer to, such as a video, as we discuss, please let me know, and we can make arrangements to [unintelligible 00:02:33]

The second is with regard to confidentiality. There is language in the notice that was provided to you by the City of Alameda with regards to confidentiality. The confidentiality associated with this investigation is subject to the relevant and applicable laws relative to these types of investigations. Those laws or statutes have changed in recent times but generally speaking subject to those statutes for this confidential

investigation, but the information will be shared on any [unintelligible 00:03:01] basis of the City and of course may be subject to public record death requests, at which time the City will make a determination as to what it can issue and would be made public, but that is a determination to be made by the City.

Finally, as also noted in your notes for this particular interview, the City of Alameda does have an antiretaliation policy. You are not to be retaliated against for your participation in this interview or your cooperation. Similarly, to the extent that you are in a position to, you are not to retaliate against anyone else for their participation in this investigation.

Those are my admonitions for the morning. I will pause there and ask if you have any questions before we get started.

AW: Thank you. I appreciate that very much. I did. I just wanted to have a couple of clarifications if you don't mind.

JA: Sure.

AW: The notice that we received indicated that my client was being provided all of his rights under the Public Safety Officers Procedural Bill of Rights Act, which in our view, despite the confidentiality that attaches to these proceedings, does entitle my client to review any materials and investigation that arises out of that, and I just wanted to make sure that the City wasn't of the opinion that the confidentiality meant that he didn't have the right as a part of his personnel record to review the material. I don't know if you...

JA: No, that's not our understanding. Those rules and procedures will be followed pursuant to the law.

AW: Great.

JA: We just have the language to ensure that there is an understanding of the law [unintelligible 00:04:40]

AW: Understood.

JA: But it is not within these guidelines [unintelligible 00:04:44] the previous right to review.

AW: Okay, good.

JA: [unintelligible 00:04:47]

AW: So the existing rights continue to apply. Obviously, the disclosure to the public rights have changed dramatically, and I just want to make sure I understood that. And then the notice also didn't really specify which policies were at issue, and the Alameda Police Department's policy manual is 700-some odd pages, so we discerned just from our

understanding of the events—and we all certainly do recognize and were focused on the events involving Mr. Gonzalez—that Policy 300 Use of Force, Policy 306 Handcuffing and Restraints, Policy 308 Control Devices and Techniques, and Policy 310 Officer-Involved Shootings and the Deaths were likely the policies that you are inquiring into, and so I just wanted to have a sense from you if there were any others, because these are the only ones that we really focused on in our review in anticipation of the interview, and so, if there are any other ones, I'd like my client to have a chance to review them before he comments on them.

JA: Sure. I think that is a fair understanding. Also, I think, as you are aware, this is a bit dissimilar from other types of investigations where there may be a complaint where there are specific policies that are alleged to have been violated. Our intention was broader than that to assess whether there was any violations.

AW: Right.

JA: Of course the violations could be [unintelligible 00:06:26] as a policy. I think it is fair to say that those are the policies that we are focused on. If at any point during the course of the interview, if I make reference to something you think triggers a policy that's not included in those four, I'm happy to take a break, and we can discuss and review them as necessary.

AW: Fantastic. I appreciate that very much.

JA: Okay.

AW: I do. And so, with that, I'm just making sure that we're all on the same page. I don't think I have any further questions. Do you at this time, Cameron?

CL: Questions, no.

JA: Okay. All right, thank you very much, both for being here and being here in person, and we're going to go ahead and get started. First of all, is it okay if I call you Cameron for the purpose of this interview?

CL: Yes, that's fine.

JA: Okay, thank you. I know you stated your name a moment ago, but I'll have you go ahead for the purpose of the record state your full name again, please.

CL: Sure. My name is Cameron Leahy. I'm a fully-sworn officer at the Alameda Police Department.

JA: And when did you begin your employment with the Alameda Police Department?

CL: So, my title has changed since I first began working with the Alameda Police Department. I was first hired as a police recruit in the summer of 2017. I want to say, if I had to pick a month, it would have been June 2017. I worked in the police administration building for a few months prior to attending the police academy, so I was there kind of just buying some time until the academy started, and I was working in the personnel and training department kind of just as an assistant at the time. I attended the police academy from August 2017 and graduated in February 2018. That academy was the basic police academy put on by the Alameda County Sheriff's Office at the time. And I was sworn as a full-sworn police officer on February 12, 2018.

JA: Thank you. And, Cameron, what is [loss of audio 00:08:35]

CL: ...77.

JA: We are going to be talking, as you know, about the events that occurred in April 2021, but prior to that date, what was your assignment?

CL: So, I'm really assigned to patrol. We at the Alameda Police often have ancillary duties, so I'm also assigned to the Crisis Negotiations Team, which falls under the Critical Incident Response Team. We work hand-in-hand with our SWAT team. And at the time I was also part of the Alameda Police Department's recruiting team, but both of those were secondary duties, not my primary role.

JA: And as a patrol officer, are you assigned to a particular sector in the city?

AW: Not [distorted audio 00:09:28] Let me rephrase. We are assigned sectors every day, but those can change day by day, so on the particular date of this incident, I was assigned to Sector 5. My call sign was 2L50, and that's one of the beats that I—or sectors that I work commonly, but like I said, it can change just due to staffing or the needs of the department day by day.

JA: Let me back up for one second. I know that you indicated you started with the department as a recruit. Can you walk me through your educational background?

AW: Absolutely. Thank you for asking. So, I'll go back to high school. I attended high school here in the City of Alameda at the Alameda Science and Technology Institute, which is a relatively small, early college high school located at the College of Alameda, but it does fall under the Alameda Unified School District. I graduated from high school here in 2014. At the time, I actually graduated high school with just under 60 college credits. I then was accepted to the California Maritime Academy, which is a part of the CSU system, located in Vallejo, California. After the Maritime Academy, I studied Global Studies and Maritime Affairs with an emphasis in Maritime Security, and I graduated with honors, my bachelor's degree. In April 2017, I graduated from the Maritime Academy. That's when I was then hired by the Alameda Police Department and worked here, like I mentioned, for a few months before I attended the police

academy. I also think that it is important to mention that during my time at the Maritime Academy in college, I was employed as a student employee with the campus police department, CSU Police, at the Maritime Academy in more of an administrative assistant type of role, but that was really my first introduction to law enforcement as a career.

JA: Okay. You mentioned your employment at the Maritime Academy. Any other prior work experience prior to [unintelligible 00:11:40]

AW: You mean relevant to law enforcement or just in general?

JA: Just in general.

CL: So, no, my employment at the campus police department at the Maritime Academy would have been my first, my first job.

JA: Okay. You talked about your time at the police academy already, so let me ask you, prior to this incident in April 2021, what shift were you working?

CL: I was working day shift. We call that second platoon. The hours are 7:00 in the morning to 5:00 p.m.

JA: All right. And let me ask you, if you know, what is the term probation for a new officer at that department?

CL: Sure. So, it depends on the status which you become employed. That changed recently; I'd say within the last year. For a new officer, new recruit, with no prior sworn law enforcement experience, probationary period is two years. My understanding is that a change, an agreement was reached with the City within the last year or so that for officers who have prior law enforcement experience who come over as a lateral, they reduced the probationary period down to one year. Obviously, that didn't apply to me. I spent two years on probation.

JA: Okay. And so your probationary period ended in February 2020. Is that right?

CL: That is correct.

JA: All right. At the time of this incident in April 2021, who was your supervisor?

CL: So, my assigned supervisor at the time was Sergeant Emilia Mrak, and she was on duty, the on-duty police sergeant on this day.

JA: Let me just ask a couple of preliminary questions before we dive into the date of the incident. I understand, based on conversations with your representative, that you did have an opportunity to review your body cam footage at some point recently. Certainly, nobody saw it in April [unintelligible 00:13:46] by the Sheriff's Office. Let me ask you,

when was the last time you had an opportunity to review your body cam footage?

CL: It would have been just this past Friday when I went and met with Alison at her office.

JA: Okay. Have you had an opportunity to review the body cam footage of any of the other officers who were involved in this incident?

CL: I have, yes.

JA: Okay. Which officers?

CL: Both Officer Eric McKinley and James Fisher.

JA: Okay.

AW: Can we be clear? When did you review...

JA: I was just going to ask that.

AW: Yeah.

JA: That's my next question.

AW: You know, because I don't want—I don't want to mislead, yeah.

JA: Sure.

AW: Thank you, good.

JA: So, my next question is going to be, Did you also review the other officers' footage on last Friday or at some point prior to that?

CL: It was at some point prior to that. It was no time recent. In fact, if my memory serves me correctly, the last time I saw their footage was when I had my interview with ACSO. There were portions, certainly not the entire camera footage because it was about an hour long, but there were snippets that I did see of their footage.

JA: Okay. So that was maybe four months ago for their footage.

CL: Right.

JA: And less than a week ago for your footage.

CL: That would be correct.

- JA: Okay. It's also my understanding, and thanks to your representative for providing us with a transcript of your previous interview—it's my understanding that you had an opportunity to review that transcript as well?
- CL: Yes.
- JA: Okay. When did you have an opportunity to review that transcript?
- CL: Similarly, last Friday. Actually, I believe Alison shared it with me on the day before, which would have been Thursday, and I reviewed it prior to meeting with her.
- JA: Okay. So, I actually wanted to give you an opportunity and ask whether there is anything based on your review of your video or your review of the transcript that you want to clarify or add at this point. I'll certainly give you an opportunity to do that as we go along, but I just want to ask if there's anything top of mind after reading the transcript or looking at the video that you would say, "Oh, I'd like to clarify this before we get started." If not, we'll move on.
- CL: Sure. So, a couple things if I can. Before I actually dive into the—my responses regarding the incident, I just want to preface by saying it was four months ago, in fact four months ago to the day, I believe, and so, you know, going into this I did have a little bit of concern. Just on the back of that, this interview is happening, you know, so far after the fact and that my recollection may not be as fresh as it was, say, when I met with ACSO, you know, a week after the incident. The only thing that I would say in terms of my review of the transcript, nothing in particular caught my eye other than I think there are certain topics that are within that transcript that I might be able to elaborate on a little bit, and just because of the nature of the questioning from ACSO, maybe some of those details didn't come out, but nothing in particular, so I'm sure my responses will just reflect that as you continue your questioning.
- AW: We understand that's one of the reasons for the follow-up interview is to, perhaps, take a deeper dive than ACSO did.
- JA: Correct. Let me do this since we're this [unintelligible 00:17:01] Let me ask you what those topics were, without having to elaborate on them now, and then as you kind of get to that, there will be an opportunity to do so, and I'll just make a list in case we forget.
- CL: Sure. So, in particular, please [unintelligible 00:17:12] so please let me know if I [unintelligible 00:17:14] anything in particular. I think that it's important that I elaborate on my statements twice, and you can see in the video about not wanting to lose what I had. I think it's an important opportunity to explain what was meant by that and kind of why I was using some of that shorthand kind of jargon, police jargon. I think it's also important to get into a little bit more detail specifically about what actions that I was taking during this incident, during the use of force in terms of maintaining control of Mr. Gonzalez during the physical struggle. Again, just some of those specific details didn't



come out in the ACSO's interview.

JA: Anything else?

AW: Yeah, just to clarify and perhaps, you know, elaborate, because he and I have discussed on those. One of—Obviously, the focus of the ACSO investigation was with regard to whether or not any person in connection with the incident had committed a crime. The interview itself did not really—although it touched on, it did not really focus on either policy or training or some of the, as he put it, police jargon that was used that periodically requires someone to, you know, to elaborate on why did you use that particular phrase. In terms of items reviewed for the interview, I did want to note that we did review those policy sections that you talked about, and he also reviewed the training Power Point on police uses of force that was the most recent training associated with Alameda Police Department uses of force, which was back, I believe, in October 2021.

CL: Yes.

AW: Yes. So I just wanted to at least alert you that you had asked him about some specific items that he reviewed, but there were as well those which helped to place a little bit more into context the information that was originally conveyed in the ACSO interview.

JA: Great. And those topics that you have noted for elaboration are included in the topics that I wanted to get to...

AW: We suspected you weren't far off.

CL: I figured.

[Laughter]

JA: ...as well as the October training videos on control techniques [unintelligible 00:20:03] There's one in October and one in November, so we'll kind of get to that as we go through, so thank you for that. That's very helpful.

So, let's just go through some of the basics [unintelligible 00:20:13] the interview in April you were asked to [unintelligible 00:20:19] unless you think of something that would be helpful. Otherwise, I'm just going to go on through some questions, and if I need to have you elaborate, we can do that.

AW: Great.

JA: So, this incident, a critical incident occurred on April 19, 2021. You were on duty on that date. Is that correct?

CL: Yes.

JA: And what time did you start working that day?

CL: I started my shift at 7:00 a.m.

JA: And the call for service in this particular incident came in around 11:00 a.m. What time do you first recall hearing that something was occurring that might be a critical incident, sort of caught your attention?

CL: So, specific times I don't know that I would be able to recall just because of the length of time that has passed, but what I can tell you is that what triggered that for me and really prompted my response in that direction, the direction of the incident, was the radio traffic that I was hearing.

JA: And what about the radio traffic sort of piqued your interest or caused you to think, "Oh, something might be going wrong"?

CL: Sure. So, I guess I'll back up a little bit and say that I knew that there was a call for service already. You know, we have our MDT computer terminals in our vehicles, so I knew that there was a call on the board at that general location. I also heard on the radio Officer McKinley and Fisher be dispatched to the call, so I knew that there was a call happening. The details of the call, initially I had no idea. It wasn't my—I was working the complete opposite side of town, and so I—nothing about the call initially stood out saying, "Hey, let me click on it and see what the details were." It just didn't really strike as a significant incident at first initially. I did hear on the radio that Officer McKinley advised that he arrived on scene, and the terminology that we use is "out on one," meaning I'm out with somebody and contacting somebody, and so I heard that he was out with someone, and then I—What was interesting to me was I had heard that Officer McKinley asked Officer Fisher, "Hey—" basically, "...you're on your way still. Can you stop at the Walgreens across the street to see if there was a report of theft?" And so that made me think, "Oh, maybe he's investigating, you know, a civil [phonetic 00:22:58] 484 or something like that, even though I know he was sent to a suspicious person's call. What stood out in particular about that radio traffic was that he provided a description of the person he was speaking with to Officer Fisher over the radio so that Officer Fisher could ask the employees at Walgreens, "Hey, have you had a theft involving somebody matching this description?" And what stood out was the physical characteristics that Officer McKinley broadcast. I believe—Don't quote me on this, but I believe he described the individual as about 5'5", 5'6", and roughly 250 pounds, and so that stood out just because I know kind of the physical stature of Officer McKinley. He's a good friend of mine, and knowing that he was by himself with somebody, you know, described to be, you know, much larger than him, that stood out.

JA: But let me jump in and ask a question.

CL: Sure.

JA: And we'll get to you in a little bit. During your initial interview, you indicated that— Well, I'm jumping ahead [unintelligible 00:24:10] You indicated that when you arrived on scene you noticed that a scuffle was going on, but you did not know or think that you knew Mario Gonzalez, and I'm paraphrasing, but later, maybe a couple of days later, it jumped out in your memory you thought, "Oh, I think I had prior instances or interactions with him."

CL: Yes.

JA: Let me ask first, based on that description that you initially heard 5'5", 250, did you think that you might have known the person, or was it only after the fact that you thought "I think I have interacted with Mario Gonzalez before"?

CL: So, based off the radio traffic, I had no idea who it was. All I knew was, again, the physical characteristics, the kind of stature, or at least estimated based off of Officer McKinley's radio traffic. And to be completely honest—I know I'm jumping ahead a little bit—but even during the incident I didn't have much of a good look of his face, and it was not until, like you mentioned, a couple of days later, honestly, after seeing some more photos and stuff like that coming out in the media and the news that it kind of—my recollection was sparked.

JA: And so, in the four months since this incident has occurred, have you had an opportunity to reflect any more on any of the interactions that you think you might have had with Mario Gonzalez?

CL: So, I believe I've only met him once prior to this incident, and as I mentioned in the interview with ACSO, I believe that that contact was during a subject stop, I believe, back when I was actually working the midnight shift, and that—If my recollection serves correctly, that subject stop or that encounter did not result in a detention or an arrest. It was more of a field interview, if you will, and I don't believe that I had any interaction with Mr. Gonzalez other than that prior to this incident.

JA: Okay. So, you indicated you were working on the other side of the city. You hear this radio traffic come in. You know the characteristics. You know the characteristics of the officer that's on the scene. In your prior interview, you actually indicated that you were heading back to the station to use the restroom, I believe.

CL: Correct.

JA: But you made a decision to go to the scene of this incident. Why was that?

CL: So, you're correct, I was on my way to actually go back to the police department. Working Sector 5, you know, it takes a little bit to get there. I just decided—I said, hey, you know—I knew that they were on this call, again the physical characteristics that I

heard and whatnot, I figured why don't I just pass by their location kind of on my way, so I picked a route back to the department that was going to—And this is common. We do this often, kind of pass by. It's just one of those things we do, just swing by, kind of make eye contact with your partner, not even necessarily—My intention wasn't even necessarily to get out of the car but make eye contact with your partner. Sometimes we'll throw up a hand signal, you know, four fingers like this [indicating] meaning are you code 4, are you okay, you know, and if they return that signal, then you continue driving, and I was going to go back down, continue my way to the department to use the restroom. Long before I even got anywhere close to where this incident occurred is when the radio traffic I heard started to become a little bit more concerning. So, if now is a good time, I'll get into that.

JA: Yeah, we can do that, and we'll come back to it for some information. So, you decided to respond. The question is, Is that a common practice? You kind of answered that question, so that's helpful. So, yeah, go ahead and tell me what happened next.

CL: So, I specifically remember hearing on the radio Officer Fisher arrived at Walgreens. At the time—I don't know if the investigation later determined otherwise, but at the time, he initially reported from the employees at Walgreens that there was no report of theft, so then he went across the street, almost directly across the street, and responded to the location where Officer McKinley was speaking with Mr. Gonzalez. I heard all this on the radio. After that I heard Officer Fisher on the radio ask for another unit, which was concerning because, particularly because—and I noted this with ACSO's interview. There are certain... Everybody has a slightly different style of policing, and there are some officers that are a little bit more quick to ask for an additional unit. There are some officers that rarely do. And for the latter, the officers that rarely do, when they do, it tends to strike a little bit more of a sense of urgency for the people listening on the radio. Officer Fisher, for me—I've worked with him for a little while now—he's one of those people. He's one of those people that honestly would almost, at least in my assessment of him, would almost prefer to handle a call by himself if he can, so considering the fact that he was there, Officer McKinley was there, there were already two of them and Officer Fisher was the one to get on the radio and ask for another unit, that struck some significance for me. I believe Officer Ketsubis [phonetic 00:29:47]—his call sign was 2L11 that day—was actually the officer that was dispatched by the communication center to provide that extra cover, and so again, that in and of itself I didn't start heading that way quick or anything. You know, there was another unit already on their way, so I was continuing with my original plan, just kind of heading over there on my way to the restroom.

JA: Okay. Let me just ask some background questions.

CL: Sure.

JA: We won't get into too much detail [unintelligible 00:30:17] at this point. I just want to get it on the record. You were wearing a standard uniform at the time, standard issue

APD uniform?

CL: Yes.

JA: Okay. Driving a marked patrol vehicle?

CL: Yes.

JA: It was not, however, the vehicle that you usually drive. Is that right?

CL: That is correct.

JA: What was the difference between the vehicle that you were driving and your usual vehicle?

CL: So, I usually drive a patrol sedan, one of the Ford Taurus vehicles. My—I attempted to take that vehicle on the morning of this incident, but the—I was having issues loading the computer terminal, and so I elected to take a different vehicle. If I'm not mistaken, I took vehicle 102, which is a police SUV, a utility, one of the Explorers, and it is an SUV as opposed to one of the sedans.

JA: Okay. And let me just ask you about the morning of this particular incident. You said maybe the specific times are a little hazy, but prior to responding to this particular incident, how would you characterize your morning? Did you have any arrests, interactions that were unusual, or was it a pretty quiet morning? I just want to get a sense of how you were feeling at the time as you were on your way to respond to this incident.

CL: So, I did have one call prior to this, and I don't know that this actually came up in the interview with ACSO. I had one call prior to this that was a little stressful but nothing—honestly, nothing out of the ordinary in terms of what we deal with on a day-to-day. I assisted as a cover unit to a 5150 call on—I'm trying to remember. I think it was on Westline, and that call Officer Ketsubis was actually the primary officer. He ended up placing the subject that he encountered on a mental health hold because she, according to witness accounts, attempted—She was intoxicated, but she attempted to throw herself in front of several moving vehicles, and she was physically combative with the paramedics who were actually on scene before we were, so that call, if I'm not mistaken, was the only other call that I went to on this day.

JA: Okay. And did you have to assist in restraining her at all?

CL: I did.

JA: Okay. Were you injured in that encounter?

CL: The first incident?

JA: Yes.

CL: Not involving Mario Gonzalez?

JA: No, that incident.

CL: I was not injured in the first incident, no.

JA: Okay. You indicated that that incident was stressful. What about it was stressful for you?

CL: Again, just she was very combative with the paramedics, and we don't want anybody to get hurt, especially not, you know, the fire department. We work very closely with them. And then she was, you know, attempting to hit and strike us as we were assisting with getting her, you know, restrained to the gurney, and then when we—We actually had to follow to Alameda Hospital where the fire department was taking her, and it was a similar struggle, you know, transferring her from the fire department's gurney to the hospital gurney, and then there were moments where she was attempting to strike, you know, the nursing staff and the doctor as well, so, you know, just stressful in the sense that I don't want anybody to get hurt and, you know, including her. We don't want anybody that we're in contact with to get hurt, and so it was just kind of a delicate situation, especially dealing with somebody who, you know, is either unwilling or incapable to follow your commands, and she was definitely one of those people. What I can say is that that incident was resolved without any use of force, and ultimately, she was identified, placed on mental health hold, and both myself and Officer Ketsubis cleared that call and went back in service.

JA: That was actually—Use of force is actually my next question. So, did you have to—You didn't have to take her to the ground or anything, anything like that?

CL: No, no, no. She wasn't taken to the ground. You know, there were moments where she had to be physically restrained to the gurney so she couldn't strike people.

JA: Sure.

CL: But there was no point where I was, you know, using strikes or any police weapons or anything like that upon her, no.

JA: Okay, great. Thank you. That's very helpful.

AW: So physical control holds only.

CL: Physical control holds only, yes.

JA: So, returning to the incident here, you decided to make a pass of the scene, which you indicated a moment ago was very common, check on other officers who might be there, see if everything is okay, and so you traveled to a particular location. Do you recall the address of that location?

CL: Well, if I can back up just a little bit.

JA: Sure.

CL: So, I started—I actually drove down 8th Street down to Westline Avenue, and I made a left on to Otis Drive. I knew that this call was taking place on Oak Street, but I knew that it was kind of a dead end of Oak Street, which is positioned right next to Scout Park, and the easiest way to get there is actually on Otis Drive, not looping around through, you know, into the residential area of Oak Street, so that was my decision-making in terms of, you know, the route that I was taking. At about Westline and Otis is when I heard Officer Fisher call for another unit. I continued on my way, and just before hitting Otis and Grand I heard somebody's police radio mic be cued, meaning that the button to transmit was clicked but no radio traffic was transmitted. That's a huge red flag for us in the way that we are trained because, you know, it could be that "Oh, it was an accident, they don't know that it got pushed," but more often than not it's because an officer is either involved in some sort of physical struggle or they're trying to get to their radio to transmit a need for help or whatever it may be but they just can't get to it or they can't get their words out, so it's very concerning. Dispatch has a protocol. They can see on their computer screens when a radio is cued. It will actually tell them who that radio is assigned to, and so, if I'm not mistaken, they knew that it was Officer Fisher's. And right after that mic being cued and there being no radio traffic, I heard the dispatcher—as I'm continuing down Otis, I heard the dispatcher attempt to reach Officer Fisher on the radio in response to his mic being cued. I believe she did that two times, and there was no response. If I'm not mistaken, she also tried to raise Officer McKinley, knowing that he was with Officer Fisher and maybe he could get some traffic out, radio traffic out, and there was no response from Officer McKinley either, so that's when I, you know, I made the decision, "Okay, I gotta get there." So, I activated my emergency lights and sirens and actually responded code 3. I would say I activated those lights and sirens at about Otis and Grand. And coincidentally, right at the same time that I cued my radio to advise dispatch that I was responding, they were actually dispatching me as well, so I would have—I was actually the fourth unit that was being dispatched. We kind of—we call it stepping on each other. I kind of stepped on dispatch a little bit. We basically were transmitting at the same time. But that was the decision-making. Again, I knew the physical stature of the person that they was contacting, it was a little bit uncharacteristic of Officer Fisher to be asking for another unit, and then the fact that their mic was being cued and there was no response, that led me to believe that there was a physical altercation and they needed help; they couldn't get to their radio.

JA: Okay. All right, so now let's transition. I asked the question about the address that you arrived. Do you recall?

CL: If I'm not mistaken, it's 802 Oak Street.

JA: Okay. So, I want to get into now [unintelligible 00:38:49] some specific details of what you observed when you arrived and obviously what you did. I want to preface really the entire interview by saying that the goal is really to get you to tell us the truth to the best of your recollection. My questions are not intended to be opaque, so if you think that there's something that I am missing in terms of what I'm asking you, I encourage you to just volunteer the information. Interspersed with some of my questions, I'm going to ask you, for example, "What about the training?" "I'd like you to view this" or things like that, and so I want you to just kind of give me all the information that you can. I know that the Sheriff's Office didn't cover as much as maybe they could have, and so I want to gather as much information as I can, so I just want to say that upfront.

So, you arrived on the scene, and I know in your initial interview you indicated, and I know from the video, you weren't necessarily running. You were trying to figure out what was going on when you got there. So, can you tell me when you first saw the other officers on scene with Mario Gonzalez?

CL: Yes. So, I'll back up just slightly. Like you said, when I first got there, I didn't initially see them, but what made me even more worried was I could see—just one or two cars ahead of where I parked I could see Officer Fisher's patrol vehicle with nobody in it and the door open, which was concerning, because it's not common for us to leave our vehicles unsecured let alone, you know, empty and nobody around, and so that made me just kind of take a step back regarding I have to figure where they are, let alone trying to raise them on the radio, but I didn't because—well, for two reasons. One, they already weren't responding to their radio, so I thought the chances of them being able to respond now were slim. Second reason is I didn't want to take up the radio, the air time, in case they needed to get some important radio traffic out, so I just—I took my time a little bit. I got out of the car, I observed, and kind of through the corner of my eye I saw that they were—Officer Fisher, Officer McKinley and Charlie Clemmens were physically controlling somebody on the ground really in between the driveway of 802 Oak Street and the house just—we would say just north of it, kind of in between the two driveways in a landscaped kind of mulched area. What I observed initially was Mario Gonzalez—again, I didn't know who he was at the time—but Mr. Gonzalez on the ground, face down in more of a prone position. I observed Officer McKinley on his left side controlling kind of the upper body, the upper left shoulder area. I observed Officer Fisher doing the same but on the right side. And then I observed Mr. Clemmens controlling Mr. Gonzalez's legs, really with kind of a chest contact to the back of Mr. Gonzalez's knees.

My initial reaction was, you know, there was some level of hesitancy, right? Because the first thing was Charlie is not a sworn officer, so I really wanted to end his involvement in whatever use of force was taking place. I could tell that the struggle was not over, that Mr. Gonzalez was very much attempting to break free from their control. As I approached, I observed two shopping carts, kind of plastic—more like shopping baskets,



but they had wheels, I believe, with many items in it but including several containers of what I believed to be a hard—some sort of hard alcohol, hard liquor, at least one of which was an open container and partially consumed. The baskets did have a Walgreens logo on them, so that kind of put two and two together for me that even if—It's not uncommon for one employee at a business, like Walgreens, to say, "Oh, yeah, I didn't see a theft," but maybe it's because it wasn't seen or not seen by that employee, so to me I was thinking that, you know, the possibility of a 484 was still very much there.

JA: Let me pause for one second here—

CL: Sure.

JA: ...and ask, Are you having all of these thoughts before you go and assist with the scuffle that's occurring, or is this...?

CL: Yes.

JA: Yeah, obviously, it's happening in real-time. I just want to be very clear. You know, are you running towards them and thinking all of this. What's the timing here?

CL: Thank you for clarifying. All of these thoughts are happening kind of in a split second as I'm approaching. It's definitely not a significant distance from where I parked to where they were, but it was definitely enough for me to make these observations. And, you know, we're trained, and just a part of this job we have to make very quick assessments and very quick decisions, so all of these things, yes, are happening before I ever involved myself in any sort of physical contact with Mr. Gonzalez.

JA: Okay.

CL: I also...

AW: No, go ahead.

CL: I also want to note that the—as I'm approaching, I could tell how fatigued they were.

JA: They, the officers?

CL: And Mr. Clemmens. It was obvious to me that whatever physical altercation was occurring and had occurred was not over and that there had been some level of sustained physical exertion on the part of the officers and Mr. Clemmens because of how out of breath they were. I also observed that their uniforms appeared to be disheveled, which is common in any type of, you know, physical altercation, but of note what I noticed was—and again, this is as I'm approaching—I noticed there was somebody's nametag on the ground, had actually been ripped off the uniform.

JA: Somebody? An officer?

CL: An officer's nametag had been ripped off the uniform. I observed that Officer Fisher's camera had actually been dislodged from his shoulder and was kind of swinging back and forth, and I observed an officer's patrol hat, baseball cap, on the ground and in the dirt, as well as some miscellaneous items on the ground. I think there was a cell phone and some keys. I didn't know if those belonged to Mr. Gonzalez at the time or possibly Charlie Clemmens. I wasn't sure, but there were items kind of strewn about, and that furthered my acknowledgment, "Okay, this has been a physical altercation." So, as I'm approaching, I'm also, you know, witnessing what I perceived to be a 148 in progress. They're attempting to take him into custody or physically detain him, and he's resisting, not complying with their commands, so I did observe—Even though I had suspected the 484, I was actually on-viewing a 148 in front of my eyes. And I even further suspected possibly more of a 243(b), assault on an officer type of thing or battery on an officer, just because of how fatigued they were and how disheveled their uniforms were. The last thing that I...

AW: [inaudible 00:46:43]

CL: The last thing that I observed before I took physical control and relieved Mr. Clemmens was that Mr. Gonzalez had already been detained or secured in handcuffs. I had...

JA: Actually, that was going to be my next question.

AW: Before we move on, just so we have a clear record—and I think it's as a consequence of the masks—it sounded as though you said that you thought a possibility of a 44, but did you actually say something different?

JA: 484.

CL: 484.

AW: That's what I thought.

CL: Petty theft.

AW: Yes. I just wanted to make sure because it came out kind of muffled.

CL: Sure. Thank you.

AW: I understood what he meant. I just wanted to...

JA: I only understood what he meant because I was a prosecutor.

AW: Right, right, right.

[Laughter]

AW: So, you know, so I just wanted to make sure that nobody—that the recording got that accurately, because you and I both know sometimes you hear it, you know what it means, but it may not necessarily translate out when someone else is typing it up, so I apologize for interrupting.

JA: No, not at all. I wanted to ask the question about the handcuffs.

AW: Yes.

JA: So, why don't you go and finish what your thought was?

CL: So, through my—You know, tying this back to my training and my experience, I know, again through a classroom setting but as well through my experience out on the field, that just because somebody's handcuffed does not automatically take away their ability to resist or be combative or assault or strike officers. So, although I did observe that he had handcuffs on, I did not—I didn't perceive that to mean that the threat or that the altercation was over. That jogged my memory. Going back to one last thing about the radio traffic prior to me arriving, I did hear Officer McKinley—and I mentioned this in ACSO's interview—Officer McKinley actually advised moments before I arrived that they had one detained but that he was still requesting another unit. That was also uncharacteristic or uncommon because typically in our radio traffic—and every department is a little different with how they communicate on the radio—but for us, typically one detained tends to mean we don't need any more help. It's almost, not quite, but almost synonymous with saying code 4, and so the fact that he said, "We have one detained, but I'll still take another unit" or, you know, "still send another unit" was very concerning. And tying that back into the issue of handcuffing, that was an important part of my thought process. When I arrived on scene and observed that he was in handcuffs, it just furthered that, hey, this isn't over, that the threat is still ongoing.

JA: I'm going to note here, and we'll take a break in a bit, and I will at some point ask you a couple of questions about excited delirium, positional asphyxia. I don't think that you went into too much detail or delved into that too much with the Sheriff's Office.

AW: They asked about it in various interviews, but they did not...

JA: So I just want to say, when we break you might take an opportunity to look at those portions of the policy—they're not very long—that mention that. I won't go into too much now, but we're going to kind of get into areas where I may ask as it relates to training about that and observations. So, we'll put a pin in that for now, and then to the extent you want to review that a little later, you can do that.

Let me go back to a few questions that are raised by a few things that you mentioned.

One thing that you said—and I think you described this, but I'll just give you an opportunity. You said in a previous interview that it was obvious to you that "the fight was still on." Can you just tell me what you meant by that?

CL: Absolutely. So, again, that's one of those kind of police jargon type of things, so I'm happy to elaborate. Really, all I meant by that was that the physical altercation was not over and control of Mr. Gonzalez had not been achieved. The indicators that made me believe that when I arrived on scene were the way that he was moving his body was—made it obvious to me that he was attempting escape, he was attempting to break free of their control, but it also led me to believe that had he actually been successful in breaking free of some of that control, that he would have assaulted or attempted to strike the officers. That feeling was confirmed and only exacerbated once I actually relieved Mr. Clemmens and took an active role in controlling Mr. Gonzalez.

JA: Let me ask, did you observe, or based on what you saw, did you believe that Mr. Gonzalez was in any kind of distress at that point? And I should clarify. Objection.

[Laughter]

JA: [unintelligible 00:52:11]

AW: Everybody does.

[Laughter]

JA: What did he mean at that time [unintelligible 00:52:14] When you were making all these observations about the shopping carts and where the officers are, that this is the time to [unintelligible 00:52:22]

CL: Okay. So, there was nothing that led me to believe that he was in any sort of medical distress. I guess, just being blunt, he obviously wasn't happy to be detained or taken into custody by the officers, but there was nothing that led me to believe that he was experiencing a medical emergency at the time. And one thing I will add is that the minute that I relieved Mr. Clemmens from kind of that leg portion is when I started getting the occasional kind of scent or whiff of some sort of alcoholic beverage coming from his person. Again, I noted in the ACSO interview I can't confirm that that was coming from his breath, but I wasn't anywhere near his head, so I suppose it's possible that it was coming from his clothing. But to your point about his behavior when I initially arrived on scene, that combined with the smell that I was getting led me to believe that he was potentially under the influence.

JA: And you mentioned in possible violations of the penal code that you thought may have either occurred prior to your arrival or that you on-viewed, one of which was a 148, the second of which was a 243. A 484 obviously had occurred prior. In describing those things to me and making those observations, why do you feel that that was significant in

terms of—or did it inform how you responded or approached providing assistance to the officers on scene?

CL: Absolutely.

JA: How so?

CL: So, first and foremost, I mean, these are delicate situations, right? When you're responding to a call for help, you don't have all the information. You weren't there from the moment that the officer arrived on scene, right? To a degree, I know that he's being taken into custody for something, but there's not an opportunity—there's no appropriate moment there for me to hit some magical pause button and say, "Officer McKinley, why are we doing this?" You know, "Let's make sure that everything is kosher here." Right? Or same thing, there was no opportunity for me to consult with Officer Fisher. And so this did inform my decision-making because minimally there were—there was minimally reasonable suspicion to detain Mr. Gonzalez, and, you know, the fact that I'm on-viewing in front of my own eyes a 148 in progress, you know, I think to your point informed the need to assist controlling Mr. Gonzalez and getting him safely into custody, which was definitely my goal, and I think I can speak for my colleagues. That was the ultimate goal was getting him safely in custody. But in terms of that being informed, my observations from the moment I got out of the car to the moment I went hands-on, everything in between there led me to believe that there was a legitimate legal purpose for taking Mr. Gonzalez into custody, which absolutely influenced how I—my participation in this incident.

JA: You indicated in the Sheriff's Office interview that one of the officers, and I just want to be clear, that Officer Fisher was on the right side of Mr. Gonzalez, Officer McKinley was on the left side of him. Prior to you lending assistance or relieving Charlie Clemmens, did you observe either of the officers sitting on top of Mr. Gonzalez?

CL: No. And if I can get in—I'm sure there's going to be questions later about training and techniques that we use, but—so I'll wait for that, but what I will say about that now is that when I arrived on scene, consistent with our training, it appeared that both McKinley and Fisher were bearing the majority of their own body weight, and neither of them appeared to be applying any sort of physical pressure downwards on to the back, neck or spine. My observations were that they were controlling the shoulders and the shoulder blades.

JA: Okay. And so, you then relieved Charlie Clemmens to try to gain control of Mr. Gonzalez's legs, is that right?

CL: That's correct.

JA: Okay. Tell me what happened next.

CL: Yeah, so as soon as Charlie, you know, worked his way upwards and off of—away from

Mr. Gonzalez's legs, I took his place. My goal ultimately was to control basically everything from the hip down to make sure that he wasn't in a position to either strike me or strike Officer McKinley or Officer Fisher or anybody. I was also concerned that if he did break free of what control we had, that that would necessitate the need for a higher level of force, which we all wanted to avoid, so I felt that, given the type of resistance that he was displaying, the most appropriate—the only appropriate type of control for me to maintain was physical control techniques, no weapons or anything like that, so what I did was I—it's kind of a dynamic situation, and this is where maybe if it's appropriate towards the end of things, it's much easier for me to watch the video together and be able to articulate what I was doing in each individual moment, but I—the minute that I took control, I had relatively good control of Mr. Gonzalez's right leg. I used my knee and shin area on the back of his calves, or right calf, to kind of control his right leg from being able to bend at the knee or, you know, bend too much.

There was still a lot of movement happening, very dynamic, but I didn't want him to be able to buck up at the hips because that's an easy way to break free of—In fact, that's kind of part of our training too. If somebody's ever on top of us, if you can kind of bend or quickly thrust up at the hips, it's an easy way to stand up and regain control, so I didn't want that to happen. Controlling his left leg when I first took control was very difficult, and the minute that Charlie got up and I assumed that role, Mr. Gonzalez quickly and violently thrust his left knee upwards almost in attempt to—at least what I perceived as an attempt to strike Officer McKinley possibly, and these are some of the details that didn't get fleshed out in ACSO's interview. And so, in the video you can see that, and it's almost unclear whether or not I moved his leg. That was not the case. I had my left—I believe both hands on Mr. Gonzalez's left leg, one below the knee and one above the knee, and he was able—despite me controlling his other leg with my shins, he was able to thrust that leg upwards very quickly, very violently and with immense strength. The way that I kind of describe his physical abilities, it was almost unnatural or superhuman. It was like he had some unnatural strength just by being in that prone position and having already been in a physical altercation for likely a couple of minutes before I got there.

My goal at that point was, again, make sure that he doesn't gain control of his legs because I don't want him to A) be able to stand up—I don't want him to be able to strike me or any of the other officers in any way. I used the term kick a lot in ACSO's interview. I think that was just more of a generalization, not like a typical, you know, frontal kick. Right? But just any sort of manipulation with his legs that would have resulted in one of us being hit or struck with any portion of his leg below the hip is what I was referring to. I knew that through my defensive tactics training one of the best ways to immobilize a lot of that movement—it's not 100% but a lot of it—is to bring the legs together kind of parallel to each other and then cross the ankles, and that—If you can maintain that position, it becomes a lot easier to control someone who is actively trying to break free, and it's also consistent with the training that we receive with applying the—safely applying the wrap restraint device, which ultimately was the next role once we had another unit who could bring it.

So, it took some time, and again, maintaining control of his right leg with my knees and shins I was able to, with my arms, pull his two legs back together, and eventually, over some length of time, I was able to cross his ankles. Once that happened, it was much, much easier to control him, but I want to be clear that I never gained full control, never gained full control of his lower, lower body.

JA: Let me just ask for the sake of clarity, I know that you said that in the previous interview. When you say "were never able to gain control," is this up then to the point when there's an indication that he had lost consciousness?

CL: That is correct, and I said this in the ACSO's interview as well. There was never a lull in the amount of force that he was giving, up until the point where we perceived him to have lost consciousness, and that was really the indicator, was this was a sustained, high level of exertion that he was exhibiting for several minutes, and then all of a sudden—and the analogy I used in ACSO's interview—it was like a light switch. I truly meant that. It was as if somebody had walked over to, you know, the wall there and clicked the switch, and all of that power and energy and exertion that he was displaying stopped. That was the big indicator that something may be wrong, and that, coupled with the fact that he had stopped talking, those two things happened simultaneously. He stopped physically resisting and he stopped communicating. Even though his statements were not necessarily the most adherent, those two things happened at the same time, but up until that point, even though I was somewhat effective, I would say maybe—I don't know. I think I may have thrown a number out there with ACSO, although I'm not sure—maybe 70%, 60% effective in controlling his legs, it never stopped, and so the whole situation was very dynamic, and that's where it becomes difficult for me to describe exactly what I was doing step by step by step, which is where I think use of kind of narrating the video a little bit becomes incredibly useful.

But what I will say is, once I had the ankles crossed and gained a little bit more control of his legs, although I didn't switch my body positioning, I still maintained—I'm perpendicular to his legs. The position that I was in, I was facing north. What I did do is I shifted even more of my weight to the balls of my heels—or balls of my feet, which is consistent with your training. At no point—Again, I want to emphasize [unintelligible 01:05:14] with my observations of Officer Fisher and Officer McKinley, at no point was I putting 100% of my body weight on Mr. Gonzalez's legs. Throughout the duration of this struggle or throughout the duration of my involvement in the struggle, I was supporting my body weight on the balls of my feet. There may have been moments where, because of his movement at the hips and attempts to bend his legs, that—There were moments, to be completely honest, that I was being lifted off the ground, but when I was in contact with the ground, I was supporting the majority of my weight, and it was just through that dynamic kind of rocking back and forth and manipulation of his hips and knees that I was being lifted off the ground, and that's actually how I sustained the injuries that I sustained.

JA: [unintelligible 01:06:07] your involvement, and we'll come back to—

CL: Yeah, I apologize. I'm kind of all over the place.

JA: No, this is helpful, and we're going to [unintelligible crosstalk 01:06:11]

AW: Yeah. No, it's good. It's, I think, really helpful for him to have, you know, the full set of detailed fact, and as he indicated at the outset, he's really just here to get facts and to supplement since the ACSO interview was not really as detailed.

JA: Let me ask—and obviously we've seen the video, but let me make sure that we have it on the record for this interview. In terms of the physical contact that you made with Mario Gonzalez, is it fair to say that largely the extent of your interaction physically was you trying to control his legs, or at any other point did you have any other parts of your body on Mario Gonzalez's body?

CL: So, the former would have been true. My only involvement in the physical confrontation with Mr. Gonzalez was in efforts to control his legs, everything from the hip down. At no point, other than during some of the lifesaving measures that we took, at no point did I have any other involvement physically when it comes to the use of force. And I'm sure we're going to get to the lifesaving stuff in a minute or maybe later today, but I did perform CPR, so yes, you know, I was—You know, I had contact with his upper body, and I did administer two doses of Narcan nasally, so there were—I was in contact with him at other points, but when it comes to the use of force, I only had contact with his legs.

JA: Okay. I'm just checking to see when it would be a good time to take a break. Let me do a couple of additional questions while we're on this and go from there. One of the areas that you indicated you wanted to elaborate on was the statement about not wanting to lose what we have. You brought up paraphrasing and also sort of [unintelligible 01:08:07]

CL: Sure.

JA: So let me just ask you about that now. You made the statement essentially twice.

CL: Yes.

JA: "I don't want to lose what I've got." You indicated in the previous interview that by that you meant initially you didn't want to lose the control that you had, and then you indicated that you made the statement a second time, and this was after Officer Fisher asked if it made sense to roll Mario over on his side. Let me just give you an open-ended opportunity to clarify or elaborate on those statements, and then, if I have additional questions based on what you said, I'll ask them. So, feel free to add or supplement what you previously said to the extent that you'd like.

CL: Thank you. I thank you for the opportunity to clarify. So, both of my responses,



although almost identical, were in response to two different questions by Officer Fisher. The first one was almost immediately after I took control of the legs and relieved Mr. Clemmens. Mr. Fisher—Excuse me, Officer Fisher asked me—and it's faint, but you can hear it in the video—he asked me, "Can you put him in a figure 4?" A figure 4 leglock or leg trap is a control technique that we are trained on here at Alameda Police. It's one of the approved defensive tactics techniques that we receive training on. It effectively immobilizes someone from the hip down just through basic manipulation of the body's geometry, and it involves—In order to put somebody in that position, it involves a lot of movement. I can't stress that enough, a lot of dynamic movement. It involves essentially bending both of the knees and trapping one ankle into kind of the behind-the-knee portion of the other leg so that neither leg can be bent and the subject can't push back on you. It's incredibly effective if you can successfully implement it. However, because of the amount of strength and resistance that Mr. Gonzalez was exhibiting or providing from the hip down, I did not feel confident that I was going to be able to effectively manipulate his legs in a fashion that would allow me to properly and safely apply that technique. In response to Officer Fisher, I didn't think that it was safe to try and attempt that technique because I was confident that if I tried I was going to lose complete control of his legs.

My fear, as I mentioned earlier, was that if I lost complete control of his legs, that that was going to necessitate the need for a higher level of force, and I did not want to do that. I didn't want to make a decision that was going to create a circumstance where a higher level of force was required, such as a baton or the taser. I didn't think that was appropriate, so I felt that, although I didn't have 100% control of his legs at that moment, maintaining that 60% control that I had was better than risking losing it all. And again, that's where we get into some of that police jargon, right? just some of those kind of slang terminology that we'll throw around with each other. It's almost like writing in shorthand. We know what each other means, and that's why, you know, he didn't ask me again about the figure 4. He understood what I was saying. At least that was my perception. I can't speak for him, but that was my perception.

And, you know, again, I make it a habit in any use-of-force scenario to use the lowest level of force possible. I think my record as an officer here thus far has proven that, and I did the same thing here. I wanted to make sure that, again, there was no scenario—at least that I was not going to create a scenario. Of course, everything you do is based off of the suspect's or the subject's actions, but I didn't want to be responsible for creating a scenario where a higher level of force was needed to, you know, combat whatever resistance was being presented to us because I lost control of the legs. I didn't want the potential for Mr. Gonzalez to be injured. I didn't want the potential for one of us to be injured. So, that was my decision-making in terms of—In hindsight, I wish I would have used different terminology there. I wish I would have said something like "I don't think it's safe to do that" or, you know, "I'm afraid that I'll lose control." Something like that would have been more indicative of what I actually meant, but that sums up the first—my first response.

JA: Okay. And then the second time [unintelligible 01:13:32]

CL: So, the second time was along the same lines of thinking, but the second time was in response to Officer Fisher saying, "Do you think we can roll him on his side?" He was still—Mr. Gonzalez meaning he—was still very much resisting, was still rocking and rolling and bucking upwards at the hip. Again, at that point I had crossed his ankles. Let me go back. The first time that I said that, I didn't have control of the legs by crossing the ankles yet. That hadn't happened. The second time, at that point I actually had control of his ankles being crossed, so it was much easier to control his legs, and we were perfectly set up at that point to begin applying the wrap restraint device, so my thought process in terms of saying, "I don't want to lose what I've got" to Officer Fisher the second time was a couple of things: A] My line of thought remained the same in terms of, if I could lose whatever control I have here, I'm going to have to do—I'm going to have to use a higher level of force to regain it, and I didn't want to do that. The second part of that thought process was I could hear the sirens, because at that point I had already called for another unit to respond to the code 3. I could hear the sirens coming, and they weren't that far away, so I knew that a unit with a wrap wasn't that far away either, and at that point with him facedown, three of us positioned exactly where we needed to be positioned to apply the wrap, and the ankles having already been crossed, the only next step was to begin applying the wrap, and particularly, the first step of the wrap is to apply the ankle strap that keeps those ankles crossed and tied together. The fact that I didn't want to lose control and have to use a higher level of force to regain it and the fact that we were already set up for the wrap and I could hear that it wasn't that far away, that was—those were the two things that influenced my decision-making in saying, "No, I don't want to lose what I've got." You know, let's keep him here.

JA: What did you understand Officer Fisher to be—Why did you understand Officer Fisher to be asking whether it would be appropriate to roll Mario on his side?

CL: Thank you for asking that because I think it ties beautifully into our training on, you know, some of the positional asphyxia awareness and stuff like that.

JA: Exactly what I meant.

CL: So, let me preface by saying that, with any situation that involves the physical control of another person, we are trained to be aware of positional asphyxia as a concern, and in particular, we're trained to monitor things like breathing, monitor things like, you know, the type of resistance that they're displaying, the positions that they're in, that type of thing, and so I was doing that throughout the duration of my involvement in this physical contact. My interpretation of what Officer Fisher was saying was, "Hey, if it's safe to do so, let's get him out of this prone position." Right? That's how I interpreted that.

JA: Into a recovery position or just—

CL: Well, whenever we roll somebody on their side, it's typically in a recovery position, so that's... But I want to be clear that the recovery position tends to be because somebody's

experiencing some sort of emergency, right? and Mr. Gonzalez, at least my observations at that time, was not experiencing any, so I want to be careful throwing around that term of a recovery position because that implies that we would have already observed indicators that he was experiencing something like that.

JA: And that is [unintelligible 01:17:24] That is essentially what I'm trying to get at.

CL: Right.

JA: The ultimate question, and I'll let you continue, is why you or the other officers, but specifically you, did not feel it would be appropriate to put him into a recovery position.

CL: Sure.

JA: What I'm hearing you say is you at that point did not believe that he was in any type of distress such that he needed to be placed into a recovery position. Is that correct?

AW: I think I'd like to just be careful with the terminology—

JA: Sure.

AW: ...because I think, as Officer Leahy has said, using someone on their side—

JA: That's what I was trying to clarify.

AW: ...and in a recovery position, calling it that has a special significance versus simply wanting somebody to be on their side, perhaps, to avoid the necessity of something else coming up.

CL: Right.

JA: That's my specific question.

AW: Oh, okay, so I just wanted—[unintelligible crosstalk 01:18:21]

AW: Yeah, the way it came out though, I just wanted to make sure we were all on the same page.

JA: The end of my question was that you didn't feel it was appropriate to put him in a "recovery position" because the recovery position such—he just indicated that recovery position is generally associated with an observation that someone was in distress.

AW: Right.

JA: And my question was clarifying that, that there was not a belief that he needed to be

placed in this type of position, this stress-related recovery position, because you didn't believe him to be or make any observations that led you to believe that he was in distress. Is that correct?

CL: That's correct. And I'll elaborate a little bit. Officer Fisher—My perception of that question, "Can we roll him on his side?" was, like you said, to make sure that the need for a recovery position wasn't necessitated. Right? We're all aware of the concerns of having people in a prone position, particularly for, you know, an extended period of time, and so my interpretation of Officer Fisher's question was, "Hey, it's just a safer position to have him on his side." Again, particularly that term recovery position, in the way that we're trained, is it's because somebody has stopped breathing or because there's concern of aspiration or airway concerns, stuff like that. None of those indicators were there. And I'm confident that, if they were, one of the two officers who were in a better position to observe those factors—because again, they were closer to the head, right?—they would have said as much, and so I want to be very clear, very clear about that.

JA: Yeah, no, and I just want to again go back to that initial statement. My questions are not intended to be opaque, and I will be very transparent and say that people could look at the video and listen to the statements that the officers made and say, "This individual was in distress, and this officer said, 'I don't want to lose what I've got,' suggesting that he was ignoring the distress that this person may have been in," and what I'm doing is attempting to provide you with an opportunity to explain to me what your observations were and how that may or may not be consistent with that interpretation.

CL: Sure.

JA: And I think I've heard you indicate that when you heard Officer Fisher make this statement about rolling Mario on his side, it was because that was intended to maybe be a safer position, not because there was an indication that he was in any kind of distress. Is that correct?

CL: That is correct, and that was furthered by my observations that he was still very much physically resistant—resistant, excuse me, and the fact that Officer McKinley was still communicating with him. At no point did I hear Mr. Gonzalez say some of those red-flag triggers that would have indicated distress, like "I can't breathe" or, you know, anything like that. I didn't hear any of that. And Officer McKinley was still actively communicating with Mr. Gonzalez, asking him things like—I think he was asking, "What's your birthday?" I think he was asking what his last name was potentially, something like that, but the line of communication was still very much happening and despite Mr. Gonzalez's statements not necessarily being the most coherent, and what I'll attribute it back to is—Again, consistent with our training and policies, even though the physical altercation was still very much ongoing, Officer McKinley was attempting to deescalate by keeping that line of communication open.

And I mentioned this in ACSO's interview, but we're also trained, you know, multiple

people either giving orders or trying to communicate with somebody can often be confusing and lead to, you know, more confusion, and so the fact that Officer McKinley was communicating, I picked up on that and I stayed relatively quiet, you know, during this thing. I think I had told Mr. Gonzalez to stop kicking at one point, again using a more simplified command, something that's easier to understand, rather than saying, "Please stop rocking your hips and bending at your knees." That's kind of confusing, so I used a little bit of a simpler term, "stop kicking," but other than that, I didn't really communicate with Mr. Gonzalez because I know the importance of having one person kind of take the lead there.

I want to stress that even though this physical altercation was happening, deescalation didn't stop, and the only reason why I didn't take more of an active role in that verbal deescalation was because Officer McKinley A] was already doing it, and B] was in a better position in respect to Mr. Gonzalez. Where he was situated, he was in a better position to have that line of communication.

JA: Let me ask one more question. We'll take a break, and then we'll come back, focus it more [unintelligible 01:23:48] on some of the training applicable to what you would do in a situation like this when you arrive, some of the tactics that you use to gain control, some of the tactics the other officers are using, so we'll kind of get into that after the break, but let me finish with this one question, and then if you have anything else [unintelligible 01:24:07] At any point when you started to attempt to gain control of Mario Gonzalez's legs up to the point when it appeared that he lost consciousness or was unresponsive, at any point in that window of time, did you ever observe him to have any difficulty breathing or believe that he was in any type of distress?

CL: No. Like I mentioned before, his statements were incoherent, and I could hear that. He was making certain noises. That's all I can really describe them as, is noises, but to me, they were directly correlated with the physical exertion that he was displaying, so every time he would, you know, try to buck upwards at the hips or bend at the knees or rock his body side to side and break free of our control, he was making certain noises while he did that, and to me, those noises were more indicative of the level of physical exertion that he was exhibiting rather than indicators that he was in distress, if that makes sense.

JA: It does, and I know the noises that you're [unintelligible 01:25:39] the noises that you're referencing. That's a helpful—That's a helpful explanation.

CL: I would have been more concerned if he was completely still laying on the ground and making those noises, if that makes sense. It was, again, very correlated with his attempts to break free from our control. And like I said before, at no point did he—did I hear him make any reference to his ability to breathe. I was even less—It's always a concern, of course, right? But I knew where—I could see where Officer McKinley and Fisher were positioned in respect to his body, so I was aware that pressure on the head, neck, spine or, you know, center of the back was not being given. I knew where they were putting their pressure, and I knew that they were bearing the majority of their own body weight, and so

that got put into that as well—the fact also that he was communicating with Officer McKinley. Again, his statements were not the most coherent, but I attributed that to my perception of his level of intoxication, and he was answering some, not all, of Officer McKinley's questions. So, all of that combined, the fact that there was no reference to his breathing, he made reference to his own breathing, the fact that I knew that no pressure was being placed on those areas I mentioned before, the fact that he was talking and communicating and still exhibiting the level of strength that he was exhibiting, none of those things led me to believe that he was in any medical distress. Again, he was not happy about being taken into custody. That much was obvious. But none of those things led me to believe that he was experiencing a medical emergency.

Now, what I will say, again, consistent with our training, just because I didn't think he was experiencing a medical emergency in those moments didn't mean that I stopped being cognizant of the risks associated with having somebody in the prone position and taking somebody into custody. Of course, we have to be constantly aware and constantly monitor those things, and we did that. That's why—And we'll get into it I think you said after a break, but that's why the minute he stopped exhibiting the physical force and the minute he stopped communicating, I think my verbatim words were, "Hey, he stopped talking. Does he have a pulse?" And that's when I got off his legs. But the minute that I recognized those two things—I mean, I think all three of us recognized those things almost simultaneously, and we immediately switched gears. It went from affecting an arrest to providing aid.

JA: Okay. Why don't we pause there? It's 10:51. I'll stop the recording and pause this here, and let me pause this.

[Recess]

01:28:53

JA: All right, thank you very much, everyone. It's 11:17, continuing with our interview with Officer Cameron Leahy. A couple of points, if we can just go back and clarify some things just so that they're in the record. I know that we tossed around a number of penal code sections. I recognize that we generally know what they are but... [loss of audio]

01:29:50

AW: No, it's a [unintelligible 01:29:53]

JA: All right, here we go. And I think we are back in business. Thank you very much.

AW: Fantastic. I don't know that I see the red sign saying that you're recording. It is there up at the top. Thank you. I didn't know [unintelligible 01:30:12]

JA: There we go. That's that.

AW: Very good.

JA: Thank you very much. [unintelligible 01:30:20] we tossed around some penal code sections, but it probably would be helpful to just [unintelligible 01:30:25] indicate what the sections were, so penal code 647 [unintelligible 01:30:29] mentioned. Can you tell me what that is?

CL: Sure. There's a couple terms for it: public intoxication, drunk and disorderly, you know, basically unable to care for oneself or others due to alcohol intoxication.

JA: Okay. Penal code 484?

CL: 484, petty theft.

JA: Penal code 148(a) subsection 1, I believe it is.

CL: 148, general resisting, obstructing or delaying a police officer in the course of their duties.

JA: Okay. Penal code section 243, I think you said—I think it's sub B.

CL: Yes.

AW: He said B as in boy.

CL: 243(b), as in boy, a battery upon a police officer.

JA: Okay. All right, thank you very much for that.

AW: And I think there was one other thing that he wanted to clarify as well.

JA: [unintelligible 01:31:19] sure.

CL: So I just want to head one more time—I feel like we're beating a dead horse, but I feel like we're 70% of the way there. I just want to make sure that we get to a hundred percent, just revisiting the whole talk of rolling, you know, on—rolling Mr. Gonzalez on his side and, you know, the kind of specific needing for us behind a recovery position and whatnot, right? So, as I indicated before, the recovery position very much being in response to some observed concern for one's, you know, health, really rolling him in that position to recover from something, right? Nothing like that was observed, and nothing like that influenced my decision. Specifically, there are several purposes or reasons why we would roll somebody on their side other than a recovery position, other than an observed medical emergency. Some of those reasons include, like we mentioned before, more as a preventative measure, right? because it, generally speaking, is a safer position,

and so we may make a decision to roll someone on their side, not because we observed any medical concern but to avoid, you know, that potential or at least reduce that potential for a medical concern. The other reason is because it's really the next step in terms of standing someone up and maybe, you know, guiding them to a patrol car. It also would be the next step to just having somebody seated upright, which is a generally even safer position than having somebody laying on their side. So there are several reasons why I think Officer Fisher, you know, could have said, "Hey, can we roll him on his side?" And I think his verbiage there is important and actually draws a distinction because, if I'm not mistaken, in the video he says "can we" rather than, "Hey, we need to because we need to put him in a recovery position" for some observed medical concern. He said, "can we," and I think that's an important distinction to be drawn.

The other thing that I want to note is that I could see how maybe Officer Fisher—maybe there wasn't much resistance on his, you know, the portion that he was controlling at that point, so maybe to him it was, yeah, let's, you know—maybe it's time or it's safe to roll him into that safer position or maybe even start to stand him up and get him into the patrol car, but from where I was situated, the resistance and the active fighting was very much still happening, which influenced my response, "Hey, I'm not in a position to move or to manipulate Mr. Gonzalez's body at all because I'm struggling still to maintain the control that I have."

JA: Thank you for that. Let's dive a little bit into actually what you just talked about and training.

CL: Okay.

JA: You talked quite a bit, I believe, and were very articulate about what you observed on the scene and your general awareness of things as you saw them. You indicated that on the initial call you heard a description of the subject: 250 pounds, 5'5". Obviously, you get to the scene; you see the subject. We now know it's Mario Gonzalez with the officers. At any point after seeing Mario Gonzalez on the scene, did you have any concerns about him being in the prone position for an extended period of time? And I ask this question in the context of any training that you may have received about positional asphyxia. And we'll go into it [unintelligible 01:35:05] arrest and control, so we'll get into that, but start—let's start there. His size, your observations of his size, and any concerns that you had about anything on [unintelligible 01:35:14] in a prone position for an extended period of time.

CL: So, I want to—Before I get into the training, and it's that training specifically that we received in October on use of force, I want to note that, you know, in the Use of Force Policy 300, there are several factors that should be considered when determining the reasonableness of force, and particularly in reference to size. You mentioned that. His size absolutely played a role in that. His apparent strength played a major role in that. The level of fatigue that I observed from Officers McKinley and Fisher played a role in that. Those are all factors that should be considered per Policy 300, among others, but



absolutely those factors were part of my consideration. And the reason why I bring them up in response to your question, because I think they also influence some of the training and concerns around positional asphyxia.

Something that I would highlight in that presentation, there's a specific section in there about positional asphyxiation and those concerns, and one of the things—I believe it's on the slide that is headed or titled Conclusions—it specifically says that, you know, there should always be an awareness or a concern around keeping somebody in a prone position. That awareness was something that I was thinking about throughout my entire involvement in this incident. At no point did I disregard the concerns around positional asphyxia or having somebody in the prone position for a prolonged time. I do want to also note that the amount of time that he was in the prone position when I was on scene was relatively short. I mean, I think we're—I think I estimated in the last interview maybe a minute and a half or so. I think, after reviewing the video, it was closer to two minutes. But given his amount of resistance and continued level of combativeness, you know, it takes time to overcome those things. It takes time to gain control.

That slide in particular also mentions that, you know, as soon as it is safe to do so and somebody has stopped actively resisting, we should remove whatever pressure we have on somebody, you know, particularly in that position. Again, that's also on that slide titled Conclusions. And we did that, because the minute that that resistance stopped 100%, like I said before, we almost simultaneously, you know, removed ourselves from the positions we were in in respect to Mr. Gonzalez and then began rendering aid, so that was an awareness that I know for a fact all three of us had because we responded to that change in behavior almost simultaneously all at the same time. We recognized it at the same time and responded at the same time.

I also think that it's important to note that, you know, and it's referenced in the training as well as in the policy, that there still is a very real risk even though somebody might be handcuffed. I know that's something that the public in particular maybe may not have the most or the best sense of, but that's very real. The policy—or excuse me, the training that we received specifically mentions that we are to monitor things like breathing and behavior throughout the duration of an incident like this, particularly with respect as it may pertain to positional asphyxia, and we did that. Officer McKinley continued to communicate with him up until the point where he stopped communicating, and, you know, the minute that I noticed he stopped talking, which is often also an indicator that somebody has stopped breathing—not always but can be. The minute that I observed that he had stopped talking is the minute that I said, "Hey, he stopped talking. Does he have a pulse?" and I stood up, relieved whatever pressure I had on his legs. So, you know, those three very important points in the training, I believe that we, myself included, but I believe all three of us were aware of and practiced during this incident.

The fourth point is, you know, at any point if it's observed that somebody is in any sort of distress, like they've stopped breathing or are having difficulty breathing or don't have a pulse, to not only render aid but to request for professional medical aid, and we did that.

You know, we all switched gears very quickly in terms of affecting an arrest to providing medical aid, rendering aid. We all took a different role in that rendering of aid, which I'm sure you'll have questions on in a little bit, but Officer Fisher requested on the radio that AFD respond. He wasn't the only officer to do that. Some of the other officers who arrived later did as well, and so I can confidently say that those four very crucial parts of this training were followed.

The other thing that I want to highlight, which I struggled to find it in the slides but I know is common in any classrooms that a teacher or presenter often supplements the slides with, you know, other information—One of the things that I remember was said that really stuck with me during this presentation was that once the indicators or the signs that somebody is experiencing, for example, excited delirium—I know there are sometimes different terms, terminology for that condition, but we often use the term excited delirium. One of the things that the presenter said, and I don't know that it's in there, but was that once it has been observed by an officer that somebody is experiencing that condition, the window of opportunity to get them the medical aid that they would need to be able to—to increase their chances of surviving that condition is a very small window, and I was aware of that. I perceived Officer Fisher to have been aware of that, and I say that because I think just about every officer that was on scene was incredibly frustrated with how long it took paramedics to arrive to provide aid, especially with how close the fire station is in proximity to where this incident occurred, and that—but that ties me back into I think just the general awareness that all of us had that, hey, we've identified that this may be what this person is experiencing. We were cognizant of the possibilities throughout the duration of the incident, but once the need for medical attention was necessitated, the amount of frustration and worry that was—that I shared with many of my colleagues about getting him that aid that he needed, we were doing the best we could, of course, but we're not paramedics.

JA: Let me ask you—And I'll say, just a little background, I do have the log of your training from the department, so I have a sense of some of the specific trainings that you received, and I want to see if I can get a better sense of some of the trainings that you received that are applicable to this particular incident. So, this training, and correct me if I'm wrong, but let me just ask you, When do you recall this training happening?

CL: If I'm not mistaken, October of last year. I can't tell you the date.

JA: Okay.

CL: It may have been in November because I think those training—the training blocks that we had bled into the month of November, and I don't know which block I was assigned to.

JA: I have an indication that in October you attended an arrest and control techniques training. Is that this training, or do you remember receiving a different kind of training on the arrest and control techniques?

CL: So, what I will say is sometimes the way that they're labeled per post is not always the most accurate.

[Laughter]

CL: I don't believe that the arrest and control technique training is this presentation that you have in front you. I believe that that was a different training.

JA: Okay. And obviously, you know, we're all aware that, at least as it relates to this particular training, there were some changes in the law—

CL: Yes.

JA: ...many of which are associated with circumstances involving George Floyd's murder, mandatory training for different departments across the state, so we're just trying to get a better sense of what training people received and when these had occurred prior to this particular incident.

AW: I will say that one of the things that he did not review before coming in was his post-training records.

JA: Perfectly fine. Perfectly fine. So, it's your recollection that there was this training, and it was independent from any training you might have received in October on arrest and control techniques.

CL: I believe so.

JA: Okay.

AW: Do you remember also getting a defensive tactics or arrest and control around that time?

CL: Yes, so I was just going to say that. We kind of refer to arrest and control as defensive tactics.

JA: Okay.

CL: And I know that that's a different class because there's a practical hands-on portion of that where we go to our—We call it the Mack room, but it's basically a padded room where we practice these techniques on each other, and of course we had—that training was different than some of the other ones we had because we had to take COVID precautions, but that's definitely a different course.

JA: Okay. So, let me ask you, as it relates to positional asphyxia, outside of the information contained in this particular training, can you tell me about any other training that you received on this particular subject matter?

CL: Yes. So, I—

JA: That you recall.

CL: That I recall, yes. So, what I will say, especially with how kind of hot of a topic or issue—and understandably so, reasonably so—but as big of an issue as positional asphyxia and excited delirium are these days, the committee [phonetic 01:46:04] kind of incorporated it into many aspects of our training, not just one particular class, but what I can say is we focused on it heavily in the presentation, which you have in front of you. We also focus on it in every defensive tactics course that we have, not just in response to the recent change in the law or, you know, or the ruling in the George Floyd case. We've been talking about this stuff since I became a cop. Of course it's more of a focus now, but particularly, arrest and control or defensive tactics course—and we are practicing these techniques—the instructors were very much, you know, having conversations about "Hey—" you know, to make sure it's applied properly so that it's applied in a safe manner, and these are the things to be aware of and cognizant of as they pertain to positional asphyxia. Excuse me—so, if that answers your question.

JA: Yes.

CL: One thing in particular, and we never got there in this incident, but especially their training when it comes to you applying the wrap, right—We didn't actually get to apply it in this incident but...

JA: Hold off on that.

CL: Okay.

JA: I do have some questions about the wrap, so we'll get to that.

CL: Okay.

JA: But it is definitely on my list.

CL: All I'll say is that—

JA: Go ahead.

CL: ...a large portion of that course or that portion of the training as it pertained to the wrap is awareness around positional asphyxiation.

JA: Okay. Similar question about any training that you received or conversations that you had with superiors or officers relative to excited delirium.

CL: So, this is an interesting one because, you know, we had a case back in 2018 where something, you know, involving that happened. Again, it was part of this class presentation that you have in front of you and—I'm actually a CIT-trained officer. I didn't mention this earlier. I'm sure you're familiar, but it's the Crisis Intervention Training course that's put on by the Oakland Police Department. I have had that training since February—shoot. February of, I want to say, 2020, is when I was sent to that class, so I am certified as a CIT-trained officer, and a large portion of that class revolves around excited delirium. And again, it's been incorporated into defensive tactics. It's been incorporated into presentations like that. It's been incorporated to—It's not uncommon for us to do—we call them lineup trainings, which is basically just, you know, a brief 10-, 15-minute training put on by an officer or the sergeant during the morning briefing right before your shift, so there have been several instances where this is a topic of discussion and something that we need to be aware of.

JA: Okay. [unintelligible 01:49:10] and go through a couple of [unintelligible 01:49:14] the training, and then I'm going to circle back and ask how these trainings informed what actually occurred on the date of this incident. So, let me just start with these two, and I think we maybe already talked about this, so you don't have to, you know, go beyond anything you've already said necessarily, but is there anything you'd like to add about how your training relative to positional asphyxia informed your conduct on the date of this incident with Mario Gonzalez in April 2021?

CL: Well, we are trained, like I said, specifically to avoid, you know, the critical areas: the head, the neck, the spine. We are also trained that if you're going to have physical control, it's going to be on the ground, to avoid having any more than three people involved in that. That also applies to—And I know you're going to have questions about it, but it also applies to the wrap. We're trained to have no more than three people involved in the application of the wrap, and it's because of—The only—The reason why we have those, you know, policies is because we are aware and cognizant of positional asphyxiation, so that absolutely influenced, you know, my thinking on the day of this. One prime example of that is the fact that I relieved, you know, Mr. Clemmens. With the level of resistance that Mr. Gonzalez was displaying, it would have been great to have a fourth person there. You know? We'd have one person controlling each leg, but that wouldn't have been consistent with our training or our policies, and again, having to remain attentive to these concerns as they related to Mr. Gonzalez in the prone position.

I'll also say that, you know, a big part of any use of force, really everything that we do as police officers, is communication and listening to our partners, and I had to—I had put a lot of faith and trust in Officers McKinley and Fisher because they were in a much better position to assess some of those key factors like his, you know, his language, his ability to breathe, you know, where they were positioned in respect to his body, so I knew that my kind of area of responsibility being the lower extremities definitely had different concerns than if I were in a position, you know, taking control of his upper body.

JA: Similar question how, if at all, training relative to excited delirium influenced either your

thinking as you entered this particular situation or what you actually did when you were on scene with Mario Gonzalez.

CL: Sure. So, some of the training that I have, the awareness that I have for excited delirium is just some of those indicators, you know, some of the things that would lead someone to believe that maybe they're—somebody is experiencing excited delirium: irrational language, incoherent language, a heightened sense of agitation for, you know—I won't say no apparent reason because I understand that nobody wants to be arrested and go to jail, but a heightened sense of agitation that's not proportionate to the circumstances. An inability to comprehend or respond to commands is another indicator of excited delirium that we touch on in many of these classes, including the presentation in front of you. Things like sweating, you know, increased or a much heightened internal body temperature, those are all indicators of excited delirium.

And this was a tough one because some of his incoherent statements would have led me to believe that maybe—Let me put it this way. Not necessarily 100—definitively say that is experiencing excited delirium, but just it's one of those indicators in the back of my mind that I know that that's a possibility, but I also know that, you know, again, with excited delirium, you have to be aware of a lot of the same concerns as positional asphyxia, right? because the body—If they are in excited delirium, the body is experiencing an immense amount of stress, and, you know, I did get that alcohol intoxication, which led me to believe, well, maybe there's something else on board, something else in his system that I'm not aware of. Of course, how could we know definitively, right?

The big indicator for me which made me believe that he was intoxicated beyond just alcohol or possibly experiencing excited delirium was, as I described before, this almost superhuman, unnatural strength that he had. Through my training and my experience and training, I know that particularly people who are under the influence of methamphetamine can experience very unnatural strength like that, and that's something that we've covered in classes and it's something that I've experienced in the field. I've experienced people—you know, I'm not a very big guy myself—but half my height, half my weight, you know, who are three times as strong as I am for no good, apparent reason, and that was the sense. In addition to his physical characteristics, his weight and height and stuff like that, all of that made me believe that there was something else happening potentially, which is why I continued to be aware of all of those concerns that I've already touched on.

JA: And so, let me since... I'm going to bounce around a little bit. A lot of these questions are going to be—will come out. Did you actually believe that Mario was under the influence of a controlled substance and/or intoxicated?

CL: I did, minimally alcohol because of the open containers that I observed, the smell of the alcoholic beverage that I was getting during the use of force and how incoherent his statements were, but I also want to say that I also didn't rule out that he might just be

experiencing a mental health crisis. I didn't rule out like a—These situations are so dynamic that all of these possibilities are running through my head, and, you know, they all have kind of their unique considerations, but they also have a lot of similar similarities to them.

JA: That was actually my next question. Let me just clarify. I believe you said this morning, and I know you said during the Alameda County Sheriff's Office interview, that you smelled the odor of alcohol but could not discern to say whether it was coming from his breath or his clothing. Is that right?

CL: That's correct.

JA: Okay. Obviously, as an officer you're trained to recognize the objective signs and symptoms of intoxication: red, watery eyes, odor of alcohol, etc. Which, if any, of those signs and symptoms did you observe?

CL: Sure. So, in terms of the—I think it's important to note the half-consumed container, right? because that influences a lot of my assessment, but he—again, that objective odor of an alcoholic beverage. The only reason why I can't tell you for sure if it was from his breath or not is because I wasn't anywhere near his head at the time, and his—I mean, some of those other signs, the bloodshot, watery eyes and stuff like that, I wasn't in a position to see that, so really, my—that assessment was primarily influenced by the smell and my observation of the open container.

JA: Okay. So, in terms of physical characteristics or manifestations, there was the smell, and obviously that [unintelligible 01:57:34] outside of that, open containers of alcohol.

CL: Right. And then, of course, the issue here is that I guess it's more subjective and not objective signs, but his incoherent statements, kind of slurring of his speech a little bit and the way that he was attempting to communicate with Officer McKinley also seemed indicative of somebody who was under the influence of something, but again, I guess that's more subjective, more of a subjective assessment than it is objective.

JA: Okay. And then you also mentioned, which was my next question, the possibility that he might have been experiencing a mental health crisis. You've talked a bit about your experience. Is it CIT?

AW: CIT.

CL: CIT and CNT, basically, yeah.

JA: What was it about what you observed that led you to believe that perhaps he might have been experiencing a mental health crisis?

CL: Again, tying it back to primarily his statements that he was making, you know, some of

the noises he was making and how he wasn't able to answer questions. He was extremely agitated by our presence and the, you know, attempt to take him into custody. I've experienced that on mental health calls before. Sometimes people who are in crisis who need, you know, professional help can't comprehend, and this is a part of it too, just not being able to comprehend our commands and us pleading with him to stop fighting and stop kicking and whatnot. A lot of the times people experiencing mental health crises similar to intoxication have a difficulty listening and comprehending what you're asking them or what you're telling them, so again, there was nothing definitive for me to say, "Oh, this is 100% a mental health crisis" versus alcohol intoxication, versus some other controlled substance or whatever. There was not one clear indicator that pointed me particularly in one direction. Throughout the duration of this, I was considering all of those possibilities.

JA: Let me ask another question in terms of police department policy, either informal or formal. I know from my own experience working with police departments that sometimes there are policies, informal or otherwise, about, for example, how you interact with people who might be suspected to be under the influence. Maybe you take them to a sobering facility as opposed to transporting them to jail, maybe do that after the second encounter with them as opposed to the first. So, let me ask you, based on your experience, is it the policy and your practice at the department to arrest individuals if they are under the influence and transport them to Santa Rita?

CL: Yes.

JA: Okay.

CL: I don't know the specific policy that states that, but throughout my experience, three-and-half years here on patrol, that has been the practice.

JA: Let me jump in.

CL: No, please, please.

JA: Have you yourself contacted, seen, and subsequently arrested individuals for violations of 647(f)?

CL: Several, yes. In fact, I wouldn't even be able to give you a number.

JA: Okay.

AW: Not infrequently.

CL: No, not infrequently, especially—particularly when I'm working midnights and the bars were still open before COVID, yes.



JA: And you're obviously aware of conversations around this particular incident and others particularly as it relates to reform, police reform, etc. There are people who say, "Well, when you encounter someone who's 647(f), why not leave them where they are?" "Why not not arrest them?" "Perhaps, potentially avoid situations that might go sideways or change?" What type of training have you received associated with making those types of decisions? And has it ever been the case that you would leave an individual who you suspected of being 647(f) where they are as opposed to transporting them either to a hospital or arresting them?

CL: So, of course, every, you know, situation is—We have to treat everything case by case, but in general, there is not a scenario in practice here where we—If we believe that somebody has met the criteria for violation of 647(f), there is not a scenario where we just would leave them unattended, unaccounted for. You know, if we determine that they are so intoxicated that they're not able to care for themselves, there's not a situation where we're going to risk that person getting hurt. So, you know, some of the alternatives that you touched on were, okay, if they are so intoxicated that it becomes a medical emergency, yes, there are scenarios where we call for the fire department or, you know, we'll tell them that we have a highly intoxicated subject and they need to be taken to the hospital. Ultimately, the fire department, of course, makes that determination when they get on scene. That is an alternative but only in cases of extreme intoxication to the point where this person, you know, could have some serious medical consequences if not transported to a hospital.

The other alternative, like we've discussed, is making the arrest. We don't have a sobering facility here in Alameda. My understanding is that we used to before our internal jail closed, but now the only facility that we have when we arrest someone, when we make a physical arrest of somebody who's 647(f), is to Santa Rita in custody.

The third option, which is really the only scenario where we would not take somebody into custody despite them meeting that criteria is if we can find an alternative, meaning, "Hey, let's look at the address on your license. Oh, you live here in town? Okay, we'll send a unit over there, see if mom's home, and if mom's willing to come get you and care for you, great, we found a more reasonable, a more beneficial alternative for you." Right? That's common practice. If we can find an alternative, we will, but in this situation, number one, I wasn't present for the decision-making process behind whether or not to initiate an arrest.

What I can say is, in my recollection of watching Officer McKinley in the video several months back, I think he did that. I mean, I remember watching portions where he was saying, "Hey, is there somebody I can call for you?" you know, that kind of thing, and Mr. Gonzalez wasn't communicating, and we had to articulate some sort of plan to ensure his safety, so I would assume that that's why Officer McKinley made this decision. Those are really the three only scenarios we have here.

JA: Okay. And I'm honestly asking about these because there's [unintelligible 02:04:33]

CL: Please, yeah.

JA: ...what you suggested might have been an issue. Let me turn to then mental health side of this. In your experience, when you encounter individuals who may be experiencing a mental health crisis, is there ability to avoid arresting them and instead have them dealt with by another entity, a county entity or city entity, as opposed to an arrest?

CL: So, I guess what—I'll preface by saying that I like to be careful with calling and placing somebody on a hold, a 5150 hold and arrest.

JA: Sure.

CL: I understand that it is a detention, but I do feel that it's different than a criminal arrest and should be treated so, should be treated differently. In terms of our alternative for resources available to us, honestly that has been a very big source of frustration for those of us on patrol, because by and large, the way that we handle this issue of mental health—and I understand it's changing slowly in response to incidents like this—but the way that we handle mental health here has largely fallen on our shoulders as the patrol officers. Really, our options, we basically have two. We can place somebody on a hold and have the fire department transport them. If they are combative or pose a significant risk to the fire department, then we can self-transport, or we can transport that individual to John George. There's been some issue around that lately as well, so I don't know if that's happening anymore, but in the past we have done that. Really, the only outside resource that is widely available to us on patrol as an alternative to placing somebody on a hold is the Alameda County Crisis Response Team. If available, we can call them, see if they have a team available to respond, and they do have people with specific mental health training and occasionally a mental health provider who can actually place the mental health hold if necessary or provide other resources if the person is in some sort of need but maybe doesn't meet the criteria for a hold. I personally have relied on them a couple of times as an alternative to placing a hold myself. The problem is, is that they're not always available because they are a resource for the entire county and largely—this may have changed too—but by and large, they also don't work weekends. I know this incident didn't occur on a weekend, but in my experience, half the time, even if we want them to respond, they either can't or they're not able to for some reason. Other than those two options, as a city we really don't have a system set in place to more appropriately handle mental health.

JA: And so, the utilization of this county service is subject to an officer's [unintelligible 02:08:00] instructions.

CL: Correct, mm-hmm.

JA: And there is no Alameda PD policy that requires the use of this service if an individual is believed to be experiencing a mental health crisis.

CL: What I will say is that we have officers like myself who have attended the CIT training by Alameda PD and were on our Crisis Negotiations Team, and if we have those officers working, you know, and we identify that this is a more delicate type of mental health call, sometimes we'll tap on those officers to respond and take lead just because of the specific training that they have received.

JA: Okay. We're getting pretty close here, so let's come back. Let me bring up one issue that you raised to make sure we have this on the record. You indicated that you didn't initiate the [unintelligible 02:08:52] arrest in this particular circumstance.

CL: Mm-hmm.

JA: Ultimately, you would categorize yourself as not being the decider in this particular circumstance relative to what ultimately was to happen with Mario.

CL: Absolutely. Yeah, I mean, I was responding to a call for help. That was really my—And obviously a lot happened once I got on scene, but my involvement in this was, you know, the code—We use the code, code 8. I was responding to a code 8, you know, an officer needs help, and my actions were in response to what I observed and what I was faced with once I got there.

JA: I want to come back to training and [unintelligible 02:09:39] officers, and hopefully in that we'll cover the second area that you want to elaborate on in terms of specific action taken to maintain control. So, you indicated that you have previously received training on defensive tactics and arrest and control. Let's take them one at a time. Will you describe for me, to the extent you could recall, what type of training you received and when relative to defensive tactics?

AW: I think he indicated that defensive tactics and arrest and control were interchangeable.

JA: Were synonymous?

AW: Used interchangeably.

CL: Yes.

AW: They meant the same thing.

JA: Then I'm going to—I'm just looking at your log here. Okay, so let's just—We'll talk about them interchangeably then, so I'll just say arrest and control techniques and defensive tactics, that one subsumes the other. Can you talk to me about the training in those areas?

CL: Yeah. So, this is one of those areas that the State considers perishable skills, and so we

are required, actually, to receive continued training on a somewhat regular basis regarding arrest and control or defensive tactics, so, I mean, I guess—I don't know how far I'm going to go, but there's an extensive portion of the police academy on this. My time in the police academy wasn't all that long ago, three-and-a-half years ago, but we have had extensive training in-house as well. So, you know, when you finish the academy, you go through field training. We have a portion of field training which includes your first week at the department and is actually—you're not out on the street, but you're doing in-house training, one of the topics being defensive tactics. And then since finishing my field training—I finished field training in June 2018—I have been to probably, don't quote me on this, but five or six defensive tactics updates. I don't know if all of them are logged in the post-training log because I know that sometimes we had a couple of trainings that the department just decided to put on that wasn't a State requirement, so I don't know if it got logged as a part of my training record, but I would say all together about five or six defensive tactic updates in-house since I finished my field training.

JA: I'm going to ask a broader question and [unintelligible 02:12:17] Fundamentally, the question is, How did this training that you received in defensive tactics, arrest and control—how did that inform your conduct on the day of this incident with Mario Gonzalez?

CL: So, I think I touched on a lot of this already, but I'll try my best to sum it up. Every aspect of what I did has been—In terms of physical control, up until the point where we perceived him to lose consciousness, everything I did was informed and consistent with our training. I mention again, you know, being cognizant that we should have no more than three people applying ground techniques. I made sure of that. Again, otherwise I probably wouldn't have told Charlie to, you know, to get up and basically walk away. I would have said, "Hey, you can help us out too," right? But I didn't do that because I was cognizant of A) the fact that he's non-sworn and B) the fact that we really should limit the number of people on the ground dealing with the subject to three people influenced by the fact that, you know, I knew—A big part of this training, arrest and control and defensive tactics, is understanding what a reasonable level of force is in respect to the level of resistance that you're being faced with. That training absolutely influenced this. All those factors that I mentioned in Policy 300 are going through my brain a million miles a second, which influenced my decision not to use any higher level of force.

What I will say is that that thought actually crossed my mind to deploy my baton, not to deliver strikes, but a part of our defensive tactics training or arrest and control is a technique where you use—elongate the baton, you expand the baton, and then you hook it on the front side of somebody's shins and apply upward pressure because the shin is a very bony area and it's a pain compliance technique. Right? I considered doing that, but again, based off of the level of resistance that I was being met with and my ability to gain about 60% control, I didn't think it was appropriate, but the training that I received in arrest and control techniques and the policies that we have of use of force, I was constantly weighing am I using too much force, am I not using enough force, or can I use

more, or is it to gain the control that I need to be in, and I stand by my decision that physical control was the only appropriate use of force here. Consistent with the training that you're referencing, you know, the decision to cross the ankles and gain more control of his legs and in preparation to apply the wrap restraint device, that was consistent with recent training that I received.

You know, being aware of the pressure that was being placed on Mr. Gonzalez, not just my own physical pressure but the pressure that—We have a duty to intercede, right? We have a duty to intervene and, you know, speak up and say something or potentially do something if we see an officer using excessive force or acting beyond what is reasonable. I was in a great position to see what Officer McKinley and Fisher were doing, where their pressure was being placed, you know, where the majority of their weight was being focused. Like I said, it was on their heels and balls of their feet rather than on Mr. Gonzalez, so that's consistent with the training that I received and our policy. I was being cognizant of those concerns, and had I seen something that was of particular concern, I take my duty to intervene seriously, and I absolutely would have spoken up or said something if I felt that it was necessary. Additionally, I touched on it before, but the training in arrest and control, just because somebody's handcuffed does not mean they're not a threat, and, you know, maintaining control is sometimes necessary beyond handcuffing.

A big part of our arrest and control or defensive tactics training is also focused around what to do if something like this happens, if somebody experiences a medical emergency, not only what indicators to look for but how to react, how to respond, and I think our training—what we did that day, what I did that day, is consistent with that. You know, immediately switching gears, being cognizant and aware of, hey, something's changed, we have to—you know, we have to switch gears here, that was consistent with the arrest and control training that I received. The fact that I was bearing the majority of my own weight on the balls of my feet and not on Mr. Gonzalez, that's consistent with the training we received, and there are several reasons for that particular piece of training. The first one is, of course, we have to be aware of the pressure that we're putting on someone, right? But we also have to be in a position to, you know, to switch positions or take a different technique or not—You can't really do that unless you're in control of your own body weight, and so, you know, for example, had I been in a position to apply the figure 4 leg lock, I wouldn't have been able to do it if all my weight was on Mr. Gonzalez. Right? But I am able to do it if I'm bearing my own weight because then I have the ability to move and shift my weight and react the way I need to. That little piece about bearing the majority of my own body weight, that's consistent with our arrest and control training. I think that this conversation, if we continue it, I'll probably think of a million other ways.

[Laughter]

JA: I'll stop you. Let me ask you—

AW: I think he summed it up when you said it informed everything you did.

JA: One thing that I would like to get to which I was holding was really the conduct of the other officers and your observations of the force utilized by the other officers. You indicated earlier today that when you arrived on scene, one officer was on the right and one officer was on the left. You specifically mentioned that it appeared that the majority of their weight was on both of their feet when you initially arrived. I want you to then sort of walk me through, based on what you recall, based on your independent recollection of review of the videos, how the position of the other officers changed and what body parts you observed the other officers utilized to attempt to maintain control of Mario Gonzalez.

CL: Sure. So, to be completely honest, the—I'll preface by saying I was being faced with so much resistance below the legs, or below the hips, that the majority of my focus was there. There were moments, and this is how I know that, you know, where some of their weight was focused and stuff like that, is there were moments where I would turn my head or, you know, turn my eyes a little bit to—Really, honestly, my biggest concern was to make sure that they were okay, but in the process of that, I was able to see where they were positioned, but by no means... I mean, I just want to make it clear that I wasn't staring at them the whole time observing every moment of what they were doing when I got on scene. With that said, my observations were that their—they, Officer McKinley and Officer Fisher's positions once I arrived on scene and took control of the legs didn't change much.

I was closer to Officer Fisher, and I observed specifically that, again, he was propped up on the balls of both of his feet, and he had—I don't know which leg. I think it was his right leg, but I can't be certain. He had his knee just positioned kind of hovering over his—Mr. Gonzalez's right shoulder blade. Again, consistent with your training, it is away from the head, neck or spine, and honestly, you don't need much pressure to prevent somebody from lifting up their torso or their upper body. You don't need much pressure on the shoulder blade to prevent that from happening. I remember seeing Officer McKinley—At one point I think both of his knees—I think for the majority of the time that I was there, I don't think he had a knee on Mr. Gonzalez at all. Again, things are dynamic and, you know, very dynamic, a lot of movement going on. If I'm not mistaken, Officer McKinley was actually controlling Mr. Gonzalez's shoulder with his forearms and hands, again bearing the majority of his own weight either on the balls of his feet or on his knees on the ground. I really didn't see their positions move much.

There was movement, but it was being caused by Mr. Gonzalez, by his attempts to rock and roll and push upwards and buck us off in an attempt to, you know, break free from our control. That was causing some movement. Some of their movement was causing a lot of my movement, but in terms of their positioning and the techniques that they were applying, I'm pretty sure that [unintelligible 02:22:36] Respectively, the two techniques that I just described were maintained for the duration that I was there up until the point where he lost consciousness, and then, like I said, we were very quick to react.

JA: You talk specifically about Officer McKinley and his positioning relative to his knees and forearms and hands, but what about any observations you may have made about Officer Fisher and his knees or legs or arms or hands?

CL: So, I don't know where his hands were. Honestly, I don't know what he was doing with his hands or his arms. Like I said earlier, he had his—Majority of the weight was being focused on the ground on the balls of his own feet, not on Mr. Gonzalez. My observation was that he had one knee on Mr. Gonzalez's shoulder blade, his right shoulder blade, which is consistent with our training.

AW: I think the phrase you used when you first described it was hovering over. What do you mean by that?

CL: So, because it was obvious to me that Fisher was bearing the majority of his own weight, to me it looked like he was maintaining control of Mr. Gonzalez's upper body, his torso, by applying very little pressure or almost—this is where I used the term—of almost hovering or applying very little pressure to Mr. Gonzalez's right shoulder blade, and I know that because the more pressure you apply to the shoulder blade the more their arm tends to move, right? because everything is kind of connected the way our anatomy works. And although he was in handcuffs, I don't recall his arm being manipulated or moved by the pressure that Officer Fisher had on that right shoulder blade, so that's what led me to believe that pressure was minimal if not kind of hovering over just to make sure he couldn't lift up. That way, if he lifted it up, then he would, you know, be met with that knee and be forced to lay back flat, if that answers your question.

JA: It does. Did you ever observe either Officer McKinley or Officer Fisher place their knee on the neck of Mario Gonzalez?

CL: Never. In fact, I recall specifically Officer Fisher say—and I think he was articulating this more for the camera, but I specifically remember Officer Fisher articulating that specific attention was being paid to avoid pressure to that neck—or excuse me, to the back, kind of spine area.

JA: Right. He made a statement along the lines of "no pressure on the back."

CL: Right.

JA: And so you're interpreting—Do you independently recall him saying that at the time?

CL: I do.

JA: Okay.

CL: Yes.

JA: And what was your interpretation of him making that statement?

CL: Again, at the time—because this is something that we talked about before on patrol is the idea of articulating what you're doing in the moment for the camera just because it provides great context. My interpretation, my assumption, was that that's what he was doing. I knew that there was no pressure on the back because I could see that in the moments that I glanced over. My understanding was that he was just making it very clear for the wonderful things that we carry, and I mean that. I think body cameras are great, and he was articulating it for the camera.

JA: Okay, so just to make sure that we clarify, because it's a very important point, your interpretation of that statement, "no pressure on the back," was not to get another officer to take their knee off of Mario's back but simply to articulate that there was no one placing pressure on his back—

CL: Correct.

JA: ...and that no one should be doing so.

CL: Correct. So, I think he specifically said, "We have no pressure on the back." Now, I do recall, and this is an independent recollection, not just because I've seen the video—I do recall that I think Officer McKinley very momentarily, very briefly misunderstood what Officer Fisher was saying, and for a half second actually brought one knee—I think both of his knees were on the ground at that point and brought one knee and started to place it not on the spine but kind of closer to the outer side of the body, because I think he felt or heard or interpreted—I think he misheard Officer Fisher. I think he thought Officer Fisher was asking him to put a little bit of pressure on the back, and as he started to move his knee to do that, Officer Fisher very quickly said, "No, no, no, no, no; no pressure, no pressure," and Officer McKinley put his knee back down.

JA: And so, outside of that one momentary, brief moment, which we see in the video, did you observe any of the other officers or did you yourself ever place a knee on Mario Gonzalez's back?

CL: Absolutely not.

JA: So, no observations of anyone placing a knee on the neck, no observations of anyone placing a knee on the back. You referenced the utilization of a knee on the right shoulder blade by Officer McKinley.

CL: No, by Officer Fisher, sorry.

JA: By Officer—Let's see. Okay, I have that. Let's see here. All right, by Officer Fisher. Did you ever observe Officer McKinley utilize a knee or place a knee on Mario



Gonzalez's shoulder blade?

CL: No. Like I said, after my arrival, I only observed Officer McKinley using his forearms and hands to apply pressure to that—to the shoulder. The only person—Just to be very clear, the only person I saw with a knee anywhere near Mr. Gonzalez's back was Officer Fisher, and it was specifically positioned over the shoulder blade consistent with our training.

JA: Over the shoulder blade or on the shoulder blade?

CL: So, like I said earlier, it was—it's hard to tell exactly how much pressure, if any, was being placed there, but I know that Officer Fisher was bearing the majority of his own weight, and if any pressure was being placed on the shoulder blade, it was minimal, and I know that because the arm was not being articulated by pressure. Like I said earlier, the more pressure you put on that shoulder blade, it's going to affect the movement of the arm, and when I observed Officer Fisher's knee on that shoulder blade, I observed no movement, no manipulation caused by Officer Fisher of Mario's right arm, none, so that indicated to me that if any actual pressure was being placed at all on that shoulder blade, it was minimal.

JA: And so, training that you received and your understanding of Alameda PD policy—Look, let me ask you, What is your understanding about Alameda PD policy on the use of force in terms of utilizing a knee? Let's just say utilizing a knee generally to bring someone under control.

CL: So I think that's very broad. You mean specifically in the prone position?

JA: Yes.

CL: Okay, because there's knee strikes and there's—you know.

AW: Lots of other techniques that—

CL: So, specifically in the prone position, we are specifically trained in our defensive tactics courses to avoid any pressure whatsoever—whether it's by a knee, by an elbow, it doesn't matter ...any pressure whatsoever to the head, neck or spine. That training has been consistent basically since I started here, and we received recent training on that just this past October/November training block when we went through that defensive tactics course. The only scenario that it is really appropriate for our training to place a knee on somebody face down in the prone position in terms of their upper body is on that shoulder blade, and it's for the reasons that I described earlier. It controls the upper torso, it controls—provides some degree of control to the arm, and it avoids pressure to the head, neck or spine.

JA: And I ask the next question [unintelligible 02:30:53] and all that transpired [unintelligible

02:30:56 ] to this incident. Following the death of George Floyd, what type of training and/or conversations were you a part of? And I'll just focus on trainings, I mean more formal trainings particularly around use of force generally involving the knee, what have you, to gather control of someone if they are in the prone position.

CL: Sure. So, that presentation right there actually has specific slides, actually a slide of that gruesome image of Derek Chauvin, you know, with his knee on George Floyd's neck, so very recent training, October, November. What I will say is particularly we are trained now more than ever, and I think it's in response to the George Floyd case, never to keep somebody in a prone position longer than you have to, and that is something that I was aware of this entire time. Consistent with that training as well, that presentation, you know, it specifically mentions that when somebody stops resisting, stops fighting, stops providing that level of exertion, to switch positions and be cognizant of it, which we were.

But going back to your question, number one, specific training about sometimes being in the prone position is unavoidable. That's just a fact. I can't—To be completely honest, I don't—I think I've only been in one physical altercation, maybe two, as a police officer that didn't end up on the ground somehow. It happens. It's unfortunate. But often you're not on the ground very long, right? This was a little bit different, but we're trained to be aware and cognizant. As soon as it's safe, number one—and not just safe for us. I want to stress this. We're not just trained to consider our own safety. We're trained to very much have a regard for the safety of the suspect as well. So, as soon as it's safe and practical to do so, remove somebody from that prone position, again, that's where the thought process of getting the wrap comes into play in this particular incident. We are—

After George Floyd, we're specifically trained, you know, again to avoid those areas: the head, the neck, the spine. And a lot of that training, again, comes back into the training specifically regarding the wrap, because really, there aren't too many scenarios, at least in my experience and training here, where you're going to be in the that prone position on the ground very long unless you're waiting to apply the wrap, because that's the only safe alternative. Of course there's exceptions to that, but by and large I would say that's true and consistent with our training. We're trained to monitor the breathing, monitor all those concerns of positional asphyxia, and all of those trainings, particularly in regards to your question about what did we receive as it pertains to the George Floyd case—and I think that presentation there does a great job of summing that up—but a lot of the things we learned in that presentation were then incorporated into things like defensive tactics and arrest and control and deescalation. Deescalation has really [unintelligible 02:34:41] on every aspect of our training, not just a specific deescalation class. I mean, a big part of arrest and control—Although it be the physical techniques that we're learning, a big part of that class is, "Hey, how can we do our best to avoid having to use any of these techniques in the first place?" That's a big part of the training so...

JA: I want to leave this area, but before I do, I'll just ask—And we're going to get to the wrap in a second. Let's see, which of these questions—Let me ask this question first, and then

we'll move on. You said earlier that you had an understanding of the duty or responsibility that you [unintelligible 02:35:26] if you observe something and [unintelligible 02:35:30] policies, and I want to make sure I have on the record here. Did you observe any conduct on the part of your fellow officers relative to the use of force here that you believed was not in accordance with the training that you received or the policies as you understand them to be at the police department?

CL: No, I did not, and as I mentioned before, if I had I would have said something.

JA: Okay. Thank you.

AW: Before we leave this topic, and I know you're keeping [unintelligible 02:36:00] the minimum, I did have one follow-up just to keep it all—

JA: Yeah, I was actually going to give him an opportunity to the extent I did not [unintelligible 02:36:10] to elaborate on this other area, but go ahead.

AW: Yeah. So, you had described in some detail the effect of using the knee for pressure on the shoulder, essentially what I would consider to be sort of a cause and effect, right? You put the pressure on and then the arm moves even if it's handcuffed because the anatomy is all connected. I think that's what you were describing.

CL: Yes.

AW: Is that something that you are aware of from both—you know, from doing, from seeing, from training, you know, from other circumstances where that particular thing is, or is that just a theoretical understanding that you have?

CL: No, that's my understanding through my experience and having applied that technique myself in other cases.

JA: So you have actually seen that—

CL: I've observed it, yes.

AW: ...and observed it. So, as you're sitting there, obviously you're not the one putting the pressure on. You're using your prior experience and observations to evaluate your perception of what Officer Fisher's level of force and pressure is.

CL: That's correct.

AW: Okay. I just wanted to make—I think that was—I just wanted to make that clear, that that was an independent knowledge as opposed to just—

CL: Yes.

AW: ...theoretical.

JA: Thank you. Is there anything else that you—I think that probably [unintelligible 02:37:39] just to make sure, and we're just going up until the point where Mario [unintelligible 02:37:44] and I'll ask you about the wrap. Anything else that you'd like to convey about your observations about the conduct of the other officers, particularly as it relates to the force that they used, that we have not already covered?

AW: I'd like to ask, can you characterize—Obviously, we have the video, but in your experience working with McKinley and Fisher, can you characterize for us what your observations were of their, sort of, demeanor, you know whether they were in a heightened state, agitated, calm, that type of thing? I think it would be good to do that. People may make their own independent judgments from the video, but your observations at the time would be useful.

JA: [unintelligible 02:38:31]

AW: Given that—

JA: You're getting to the answer for me, but yes, let's do it.

AW: Okay, yeah.

CL: Absolutely. So, in terms of their demeanor, they were obviously fatigued. I think I stressed that in this interview so far. But they, from my perception, maintained their level of professionalism. Officer Fisher was calm when he was pleading with Mr. Gonzalez to stop fighting, to stop resisting. Other than those moments where he was, like I said, pleading with him to just please stop, Officer Fisher didn't say a whole lot. Again, I think we were all on the same page of terms of, hey, McKinley's got lead here, got point here; he's trying to communicate with Mr. Gonzalez; let him do his thing. And being completely honest, I was impressed with how calm and almost... I don't know what the right word is here—just calm and reassuring he was trying to be with Mario. I mean, I remember him specifically saying, you know, "We're gonna take care of you." People can read into that all they want, but I knew exactly what Eric meant there, and he meant that we're not here to hurt you; we're here to take care of you; and just how calm he was asking, "Hey, what's your birthday?" and stuff like that, talking in a total casual tone of voice as if Eric and I were off duty hanging out. I felt that that was actually really impressive, because having just been in a sustained, physical struggle and being able to ground yourself and try to communicate that way I think really speaks to his ability to try and deescalate. And then going in a—We're not there yet, but getting into the whole rendering of aid...

AW: Yeah, I'm just—I was really just kind of wanting to get your sense of their demeanor up to the point in time when Mr. Gonzalez was observed seeming to be having a medical

emergency because I do think things shift tangibly at that point.

CL: Sure, yep, yep.

AW: And I believe that Mr. Anderson intends to cover some of that, so I don't want to get ahead of his line of questioning.

JA: That's okay. I'm going to pick up this, sort of ask some questions about that. We'll get to the wrap. We'll get to the rendering of the aid. But I want to pick up, actually, on your observations [unintelligible 02:41:06] for a moment. In terms of the demeanor of your fellow officers and statements that they made, at any point—and let's just go up until the point when it seemed that Mario became unresponsive—at any point up until that point, did you hear either Officer McKinley or Officer Fisher make any statements that would suggest that there was any malice that they felt towards Mario Gonzalez, any ill will that they felt towards him, any inappropriate comments or anything else that would suggest a level of intentionality to their conduct?

CL: Absolutely not. In fact, I think the remarks that I just gave prove the contrary. Again, incredibly impressed with Officer McKinley's ability to—You know, the fact that he was just involved in this altercation and fatigued and stressed, put that aside and be calm and try to reassure Mario, try to deescalate, try to build—you know, this might sound almost counterintuitive but still trying to build a rapport with him even after this altercation ended up on the ground and this use of force in place I think proves the exact opposite of your question. I think it proves that there was absolutely no malintent, and that despite Mario's actions, the intention of both Fisher and McKinley to get him safely into custody and thinking of his safety as priority number one, I think that was absolutely the focus, and I think the same thing goes for Officer Fisher. You know, he was still giving commands, as is appropriate to do, you know, in a situation like this, but he wasn't barking orders. He wasn't yelling at Mario. He wasn't—There was no sense of anger to me in his voice when he was, you know, pleading with Mario to please stop kicking—or excuse me, I said that ...to stop fighting or stop resisting. There was no, no point where I felt that there was a sense of anger, and he was genuinely pleading with Mario to do that for his own safety, for his own well-being, and I think that it was genuine, the concern for Mario was genuine, and it was displayed throughout the duration of this, at least my observations while on scene.

JA: Let's talk about the wrap.

CL: Okay.

JA: Let's get to that. So, you asked Sergeant Mrak, who arrived on scene, to retrieve the wrap. Is that right?

CL: Yes.

JA: Okay. Why did you do that, and what was your intent behind asking her to get you that?

CL: Sure. So, my goal from the minute that I took control of his lower body was to make it so that he didn't have to be in that position anymore. My goal was to as quickly, but more importantly as safely as possible, to be able to relinquish that control in the prone position. Again, excuse me, for all the factors that we've already discussed and the concerns that we've already discussed. The wrap to me was the only appropriate and safe way to ensure that we got Mario in a safe position without risking injury to ourselves or further injury to him, because again, my concern throughout that altercation was if we lose even a tenth of the control we have now, I don't want to have to use a higher level of force to get it back, and I did not see—Based off of his behavior, his inability to follow commands, his agitation and strength, I didn't see a scenario where Mario was going to willingly and calmly stand up and walk himself into a patrol car, so with that being said, the wrap seemed like the most appropriate, safe tool, and again, safety—not only our safety but safe for him, and we were already in a position to do it. It wasn't going to require a high level of manipulation of his body, unlike putting him in the figure 4, like Officer Fisher recommended initially. Getting him in the wrap wasn't going to require as much manipulation, and the little manipulation that is required was going to be controlled because you put—There's three components to the wrap, and you put them on one at a time. Each piece immobilizes the body even further, so starting—We were in the perfect position, already prone, only three of us dealing with him and ankles crossed. We were in... [no audio 02:46:20–02:46:30]

AW: Oh, it looks like it came back.

JA: We're back. Let's see if that's still recording.

AW: It's good that you pointed that towards him to continue to monitor.

(Laughter)

AW: You're very good at that.

CL: Thank you. [unintelligible 02:46:44]

JA: There are three components to the...

CL: Yeah, so there are three components to the wrap, and again, my concern with applying any other technique to get Mario from where we were—because our goal is not to stay on the ground in that prone position in control of him indefinitely. Nobody wanted that. I definitely didn't want that. But we have to consider what's the most safe way to get from this position, what's the most safe way to get him into custody and ultimately transported to Santa Rita or to the hospital after a physical altercation, and the concern for me was any significant manipulation of his body, much like what had been required for the figure 4 technique, was going to pose a substantial risk for losing control and then having to use

an elevated level of force to regain it, such as a baton or taser or pepper spray, whatever. So, we were in the perfect position to apply the wrap as it was. Three people, we were positioned properly, one on each side of the shoulders, one on the legs, ankles crossed. And even though the wrap does require some manipulation to put on, with each piece— Like I mentioned, there are three. With each piece of the wrap, you gain more and more control of the of body. You start with the ankle strap. Like I said, again, we were in the perfect position for it with the ankles crossed. Then you put on the leg restraint, which basically prevents the subject from bending at the knees. Then you can roll them into a seated upright position and apply the upper body or the torso portion of the wrap. So, like I said, going from, you know, from toe to head, as you apply that device and you gain more and more control, it becomes safe to manipulate the body to roll, you know, the subject over into ultimately a seated, upright, safe position. That's why ultimately I asked Sergeant Mrak to grab the wrap out of Officer McKinley's car.

JA: And obviously you know something happened in that interim of time. I'll just ask you by way of background. Obviously, you are trained on the use of the wrap. Is that a one-time training, an ongoing training or...

CL: It's an ongoing training. It incorporated into just about every defensive tactic or arrest and control class. And to your question earlier about specific training in regards to the wrap, I'm assuming in regards to the George Floyd case we actually received specific training again, just kind of a revision specifically on the wrap shortly after that case, that incident in Minneapolis had occurred.

JA: How often would you say you have had to use the wrap or just [unintelligible 02:49:38]

CL: That's a difficult question.

JA: Let me say how frequently, you know, would you say...

AW: If it's something, I guess, that you've never used, occasionally used, used a lot, can you quantify it in any way? I don't know that a specific number is...

JA: I know. A number isn't really what I'm trying to get.

CL: Sure.

AW: Yeah.

JA: Just frequency or extent of..

CL: How often?

JA: How often, yes.

CL: Maybe—Honestly, the frequency has changed, because I think policing has changed a little bit and our level of proactivity and stuff like that has changed over the last year, but I guess in the moments leading up to this incident, maybe we've put it on—I personally have put it on maybe once every six weeks, seven weeks roughly.

JA: Okay, that's helpful.

AW: Just to follow up, you said that's when you personally have put it on.

CL: Right.

AW: Have you been present when others have put it on that you're not including in there?

CL: No.

AW: Okay.

CL: No. Typically, if you're present for the application of a wrap, you're involved.

JA: And this was—

CL: Typically.

JA: ...my next question, and I think you maybe alluded to the answer, but how many officers do you generally need to effectively or efficiently apply the wrap?

CL: Three. Well, let me rephrase. We're trained to only ever have three people physically touching the subject. There's typically a fourth officer who is preparing the device for you, but they're not involved whatsoever with its application. So, for example, Sergeant Mrak would have been that fourth officer who retrieved it for me, took every piece out of the bag, and we tend to lay it out kind of in order so that it's just easier for the people who are putting it on to just grab it and know where it's at and that kind of stuff, so I guess in that aspect four, but in terms of physical contact, physical application of the device, we are told no more than three. It's actually prohibited, no more than three people on—and it's for the concerns of positional asphyxiation.

JA: And prior to asking Sergeant Mrak to retrieve the wrap, was there a conversation amongst the officers on scene, McKinley, Fisher and yourself, about the utilization of a wrap, or did you take it upon yourself to decide this is what we are going to do next?

CL: So, I think it was kind of just a unanimous line of thinking but...

JA: Unspoken?

CL: Well, there was not a formal conversation like "Hey, yeah, should we do this?" Okay?



But when I got there, I actually did hear, and I don't know—I don't know why this didn't happen. Maybe Charlie didn't hear McKinley or maybe Charlie was just involved in kind of the use of force too so maybe he was kind of collecting himself, but as soon as I took over for Charlie and Charlie stood up, I remember Eric asking Charlie to grab the wrap out of one of the cars. It didn't happen, and I guess in hindsight we could have maybe followed up with Charlie. I don't honestly—And this could just be because of the adrenaline of the moment and maybe slight tunnel vision, as soon as I relieved Charlie and Eric said, "Hey, can you get it?" I don't remember Charlie being there at all. My interpretation—And I don't know where he actually went. My understanding was that he went back to the car, to the patrol car, to Fisher's patrol car, and so I don't know if he even heard Eric ask, "Hey, can you grab the wrap?" But that solidified my line of thought, which was Eric's thinking about it, I think it's appropriate, you know, let's wait until we can get it here and apply it, but there was no formal conversation about applying the device.

JA: Okay. And so your thinking [unintelligible 02:53:23] was Sergeant Mrak would retrieve the wrap, you would then utilize the wrap to gain control of Mario Gonzalez, obviously then stand him up and get him into a patrol car.

CL: Right, to maintain control, yeah, and safely. I mean, I really want to highlight that. That's why shortly after taking over for Charlie I actually got on the radio and I called for Officer Ketsubis to respond code 3. I said I was 50. My call is 2L50. He was 2L11. I said on the radio, "50 to 11, code 3, please," and the intention of that for me, what that was, because every car—Let me back up. Every patrol car has a wrap in it, so it really didn't matter who got there first. We just needed a car. So my intention with having him respond code 3. Since he was the officer that was originally dispatched to cover McKinley and Fisher, I figured he was probably the closest unit because he was already on his way, so that's why I said, "Can you get here code 3?" The intention was, much like what I did with Sergeant Mrak, the minute he gets on scene, "Hey, George, grab the wrap," but Sergeant Mrak ended up getting there first.

JA: Was this before you relieved Charlie?

CL: When I made the radio call?

JA: Yes.

CL: No, it was once I took control of the legs and realized how much he was resisting and with how much strength, the level of force that he was using. That's why I said we need—Internally I'm thinking we need to get him in the wrap now, and that's when I called for Officer Ketsubis to respond code 3. I didn't put out all that on the radio, "Hey, we're gonna need the wrap because..." blah, blah, blah, just because with any critical situations, the best thing to do is keep the radio free as much as you can, and so, you know, I felt it was okay just saying, "Hey, get here," and then when you get here, I'll explain what you need—what we need from you. But I want to emphasize that my

intention with having him respond to the scene code 3 was not to have somebody else join in on the use of force. That was never the intention.

JA: Okay. Obviously, you asked Sergeant Mrak to get the wrap. The video indicates she goes back to get the wrap. Let me just ask you, while she's away, what's your recollection of what happened?

CL: So, she walked up, and the struggle was not over when she arrived. I mean, he was still very much—This is where kind of narrating along with the video might help later if you feel it's appropriate, but even though I had gained a lot more control of the legs by crossing his ankles, he was still attempting to push my off, roll me off, bend at the knees, buck upwards at the hips. That was all still happening. There's not as much articulation of his body or mine at that point because of how much more control I gained once I crossed the ankles, but it was still very much happening, so when she arrived and that was still happening, I wanted her to go get the wrap. I asked her to get it out of Eric's car. [unintelligible 02:56:37] and as she was walking back is when I noticed that he had stopped talking and he had stopped providing that resistance below the waist, and so I made the statement, "Hey, he stopped talking. Do we have a pulse?" I don't remember specifically if I said, "Is there a pulse?" or "Is he breathing?" I said one of the two, and that's when I stepped off of his legs. And like I said, it was almost simultaneous the three of us kind of backed off. I remember Eric—I think James rolled him on his side. Maybe it took the both of them to do that. The next thing I remember is Eric was ripping off his jacket trying to make sure that there was nothing compressing him, you know, restricting that breathing.

JA: Obviously, I know that you administered, I believe, two doses of Narcan. We don't need to run through all of the details, but I do want to [unintelligible 02:57:33] to add any information that you'd like, so let's ask broadly how were you involved with the lifesaving measures that had been taken, much to say at this point by the Alameda Police Department officers who were on scene when this was happening.

CL: So, the minute that he was rolled over it was determined that he had no pulse, he was not breathing. You know, everybody just kind of assumed some responsibility, and so I was just trying to fill whatever gap that I saw. I think Eric started compressions first, or CPR, and then I remember Officer Fisher made it a point to make sure that there was an airway, so he kind of cradled Mario's—or Mr. Gonzalez's head, you know, making sure that it was tilted at such an angle where there wouldn't be any sort of obstruction in the airway. At that point I remember Officer Gara [phonetic 02:58:38] got there, and he actually brought—I think it was Officer Gara who brought one of our med kids out of one of the patrol vehicles. It may have been Officer Weiss [phonetic 02:58:47] one of the two, I'm not sure, and I was already... My line of thought with the whole Narcan thing was already starting, and that was tying it back to the possibility of excited delirium. I don't know what's in his system. You know, I know excited delirium can cause kind of sudden changes in the body specifically around, you know, those types of vitals, the breathing, the pulse, stuff like that, and so I was already thinking about it, and then I heard Officer

Gara say, "Somebody get a tube." And again, going back to the whole jargon thing for us, I know that means one of the tubes of Narcan, so that just kind of furthered my line of thinking, "Okay, yeah, let's do this."

I am trained by the department's first aid program to administer Narcan and understand when it's appropriate to be used, but I also know through that training that—and I said this with the ACSO's interview—there really is no negative side effect to administering Narcan if it's not needed. There's no harmful side effect on the body if it's given and not needed, so I decided to administer it. I received the first dose from the medical kit. For some reason they only had one in there, and they're supposed to have two doses, but I administered the first one, and, you know, we're trained to observe for any changes, any noticeable changes in the person's medical state. After a few seconds I observed no significant change, so I decided to administer a second dose. I know, again, through the Narcan training, that depending on somebody's drug abuse history, if any, their tolerances to controlled substances, the physical characteristics, their weight, their body composition and stuff like that, that could influence how much—just like with any medication how much is needed, and so, again, that combined with the fact that giving more doesn't really have an adverse effect on the body, I administered a second dose that Officer McKinley was carrying on his person. At that point when I obtained that second dose from him, he had actually been relieved and was no longer doing chest compressions, and so he handed me that dose that he had had in a little medical kit that he carries on himself as part of his uniform. I administered the second dose, again did not notice any change in his breathing or pulse or anything like that.

At some point, I don't know if it was before or after the administration of Narcan, but Officer Gara did kind of a finger-sweep inside of Mr. Gonzalez's mouth to make sure that there was nothing in there possibly obstructing his airway, and nothing was found. After administering the second dose of Narcan, I took over chest compressions for, I would say, maybe 30, 40 seconds, but having been involved in the physical altercation, I recognized my own fatigue, and I wanted to make sure—The whole reason why I said, "Hey, somebody switch with me," is because I wanted to make sure that the lifesaving efforts that we were rendering were effective. I recognized my own fatigue, and once I recognized that I was getting to a point where maybe my chest compressions weren't the most effective, I wanted to bring somebody in who might not be as fatigued as I was at that point, so I believe Officer Ketsubis relieved me doing chest compressions until AFD arrived.

When AFD did arrive, somebody asked me, and I don't know who it was—I have no recollection of who it was, but somebody said, "Somebody go get them," because they had parked and it seemed—Granted, time moves differently in moments like this, but it seemed like a significant amount of time from when they arrived to them getting out of the engine, grabbing the medical kit and walking over. I'll be completely honest, and I mentioned my frustration with that earlier, it seems to me that there was no sense of urgency whatsoever from whoever was working on that fire engine that day, so I ran over to try and get them to hurry on because, again, we're doing everything we can, but we're

not, you know, trained paramedics. Officer Weiss had actually already run over there the minute they arrived and actually helped them carry some of their medical equipment because at the time only one paramedic had actually gotten out of the engine. I still can't comprehend why. And when I ran over, I was trying, you know, in an effort to say, "Come on." I let the paramedic know "Hey, we already administered two doses of Narcan," because I wanted to make sure that that wasn't going to affect or have some sort of contradiction with any medication that they might give, you know, in the course of their lifesaving efforts. So, after I told the paramedic that, I ran back over to Mr. Gonzalez. The paramedic continued to take his time. And then I was tasked with doing a neighborhood check by Sergeant Mrak, so that was really the end of my involvement in the lifesaving efforts.

JA: I know that you indicated earlier the time—you didn't necessarily have a current sense of some periods of time, but I do want to ask you about a particular period of time though. Do you have a recollection of how much time elapsed between the time you first arrived on scene and the time at which Mario appeared to become unresponsive to the point where you said, "Hey, he stopped talking. Does he have a pulse?"

CL: Yes. I'm sorry, I have two answers for that. The first one was my estimation initially when I gave my statement to ACSO, which was about a minute and a half, I believe, I felt that I was involved in the use of force before he went unconscious. I believe after watching the video it was just around two minutes, if I'm not mistaken.

JA: I want to ask you—I know that we talked earlier about defensive tactics and talked a bit about handcuffs. At what point, if any, after Mario became unresponsive were his handcuffs removed?

CL: I don't know.

JA: Did you ever see the handcuffs removed from Mario while you were on scene?

CL: I did not. But with that said, I was inside of the reporting party's house while the fire department was doing their lifesaving efforts, so I'm sure they came off at some point. I just wasn't present for it.

JA: Let me ask you what type of training you have received relative to handcuffing or rule of handcuffs for the purposes of assisting in lifesaving measures, which is to say, if someone goes unresponsive, they're handcuffed, are you supposed to take them off? Do you leave them on? What kind of training, if any, have you received at the department about that?

CL: So, it depends, and the reason why I say that is I'll recall on training that we used to receive in use of the carotid restraint. Obviously, we can't use that technique anymore, but the training on that was, when they go unconscious, apply his handcuffs, right? because in those specific scenarios we know that people who were rendered temporarily unconscious in the use of that technique would often wake up in an agitated state, so the

idea was get them in handcuffs, put them in a recovery position because they had gone unconscious. Obviously, we don't receive training on the carotid restraint hold anymore because it's no longer an approved technique, but in that respect, my training up until six months ago when that technique was banned or [unintelligible 03:07:17] we were trained to apply the handcuffs in those situations. Obviously, this is a little different because he was already in handcuffs, you know, as a result of the use of force and then went unconscious. I don't recall a specific training about whether or not the handcuffs were to be removed before CPR. I don't recall specific training on that.

JA: Okay.

CL: Yeah, I'll leave it at that.

JA: Fair enough. I know that one of the areas that you indicated you wanted to elaborate on was the actions taken during the use of force to maintain control during the struggle and [unintelligible 03:07:58] your actions. Maybe you indicated that the actions of the officers—Let me ask whether you feel like we've covered that or whether there's anything you want to add on that front that you didn't feel like you discussed during your previous interview with the Sheriff's Office.

CL: I don't think I have anything to add just verbally sitting here. I think that I provided some context about what was happening in the video kind of moment by moment—again, if you guys deem that that's useful for you—but in just articulating it, I, I think I did—I guess said what I needed to say there.

JA: I just want to give you the opportunity...

CL: No, I know, and I appreciate it. It's just one of those things where—Like I mentioned throughout this interview, the situations were so dynamic that trying to say I did this and then I did this and then I did this and then I did this, it can get a little, I think, kind of meshed together, which is where being able to watch the video and say, "Okay, well at this point particularly when I observed what appeared to me to be Mario was trying to kick—" or knee, excuse me, "...knee Officer McKinley," it's just useful in frames or portions of the video like that to be able to say, "Hey, that's him thrusting his knee upwards. I'm not manipulating his body in that way." Right? That type of thing. But in terms of, you know, my just articulating my involvement, I think...

AW: I think you've—From articulating the various different techniques you used and the level of force, you certainly gave far more detail because you had the opportunity here to do so, whereas not so much at the ACSO interview, so from my perspective, you know, short of, as you put it, the narrated video, you supplemented with most of the things I think he had identified in advance of the interview is perhaps beneficial from a fact-finding standpoint for a full understanding of what he was doing.

JA: Sure. Let me just turn to a couple of final matters. You indicated that you did, in fact, do

the neighborhood check. You obviously talked about that during the Sheriff's Office interview. You don't need to necessarily recount each of those conversations, but I'll just ask though if there's anything you'd like to add to what you previously indicated about the neighborhood checks that you spoke with or any information that you gathered as a result.

CL: I don't think I have anything to add, just one thing that I'll reiterate, which I'm sure you're already aware of, but I think it's important that, number one, I made it a point to, in my interview with the reporting party, remain very neutral and almost removed even though—And I came into the use of force at the tail end of it, but I made it a point to be open-ended with my questions and really let the reporting party tell me what he observed, making sure that I wasn't asking any leading questions or anything like that, because I wanted to make sure that it was a, you know, useful and true statement from him, and I tried to do that on my, you know, witness statements, but particularly this one. The only other thing that I'll highlight from that was that in the portions of the use of force that he observed, he stated he didn't see anything that was unreasonable based off of, you know, what he saw and what he saw Mr. Gonzalez doing, so I think that that's important.

JA: Okay. What I'd like to do is—I'm pretty much done here, but what I'd like to do is take a brief break, not a lunch break but just a brief break so that Linda and I can just chat. I want to make sure that I covered the things that we wanted to cover. And I [unintelligible 03:12:12] this and I have heard you mention a couple of times that perhaps you might be able to provide some additional detail if you were able to narrate the video. I don't have an objection to that. I want to make sure that we use the time that we have with you, but I don't necessarily feel compelled to have you do that unless you think it would add some value, so I'm going to let you think about that during the break, and then when we come back, you can let me know. We'll talk about it internally. Otherwise, I'll just finish up with my questions and we'll adjourn for the day. How does that sound?

AW: I think that's fair. I'd like to chat with him about that as well.

JA: And if there's anything you feel that we didn't have a chance to cover, you can discuss that as well, and then we can reconvene and we'll wrap things up.

AW: Great, perfect.

JA: Okay?

AW: Thank you.

JA: Let's see, maybe 1:15?

AW: Perfect.

JA: All right, thank you.

(Break)

03:13:11

AW: Great, thank you.

JA: All right, so we are now back for final questions here. It's 1:17 p.m. There are things that I wanted to cover. First, let me ask if there's anything, after having an opportunity to break, that you want to add before I cover some last questions here?

CL: Not at this time.

JA: I want to ask, Generally, in terms of situations like the one that you faced here where you may come upon a scene where there is a struggle of some kind that is underway, have you come across those types of situations previously on the force?

CL: Yes, many times.

JA: Okay. And what does your training suggest that you do in those types of situations, and what particular trainings have you received that are related to how you would deal with a situation like that?

CL: Well, first and foremost, I mean, we're trained to make an assessment. You can't just jump into something without having done a little bit of observation and figuring out is there a need for you to get involved, and if so, how and to what extent, and that's part of the training that you receive is, you know, if there's a need, then fill that need, but if there isn't, be ready to take a step back. Just because you're there doesn't mean that you have to, you know, get involved in the use of force or you have to go hands-on or something like that.

[phone ringing]

JA: Sorry.

AW: That's all right. If you need to take a break, that's fine.

JA: Stand by. This ring is [unintelligible 03:14:48]

[Laughter]

AW: I hear your pain.

CL: I'm just glad it wasn't my phone.

LR: Following you everywhere when you're away.

JA: I apologize.

CL: That's okay.

AW: No worries. At least we weren't in court.

[Laughter]

JA: Okay. I'm sorry. I interrupted you.

CL: That's okay.

JA: Please go ahead.

CL: So, like I was saying, you know, we're trained that if you arrive on scene and there's a need, then fill that need, but if you arrive on scene and based off your observations your assessment is that it wouldn't be appropriate or helpful for you to get involved, then don't get involved, find something else to do, and that's consistent with the training that I received. You know, we're also, I guess, getting more specific training that if you arrive on scene and you see that there's a physical altercation, what type of altercation is it, what type of force is being used and making that assessment, and further to that point, making the assessment if this is something that requires additional officers or is this a situation where maybe you need to intervene and, you know, redirect or pull somebody back or something like that, so again, trained keeping that need to intervene in mind.

But every situation is very, very different, and I want to stress that, and I think I've already stressed that, so it's kind of hard to give a blanket answer because every use of force is different and every physical altercation is different. And the other thing that we are trained on too is just understanding that, like I mentioned before, there isn't a time in an actively evolving situation like this to push the pause button and ask people who were previously there "Why are we here? What's the suspected crimes?" You know, "Why are you using the type of force that you're using?" I mean, we're trained that per policy, and legally as well, I mean, there's a certain level of—I don't know if protection is the right word—

AW: Reliance?

CL: Thank you. ...reliance that we are afforded, relying on the fact that, okay, this is a legitimate arrest for a legitimate purpose, that kind of thing, and that's consistent with how I've been trained as well. I just definitely did that here in this case, you know, relying and trusting on the capabilities and decision-making of my colleagues, but I also on-viewed a couple of things that also legitimized the need to affect the arrest, so on both fronts that was consistent with my training as well. But particularly answering that



question, just understanding that just because you're there doesn't mean that you're required to involve yourself physically, but if there's a need to, then just make sure that it's done appropriately, professionally and responsibly.

JA: And one additional follow-up. You answered the question during the Sheriff's Office interview. I want to just kind of ask you to expand on that or give you an opportunity to add. In terms of officer safety, which certainly can always be an issue in situations where there is resistance, did you have concerns in this particular instance for your safety or the safety of the other officers who were on the scene?

CL: Absolutely. I think I touched on that. Just based off of my observations before, or as I walked up to them, I mean, it was clear that they were involved in a struggle, a physical struggle. The disheveled uniforms, the level of fatigue and how out of breath they were absolutely made me concerned for them. I know what it's like to be in an altercation for several minutes before, you know, a cover officer gets there. Your ability to sustain that level of physical exertion, especially with all the weight of all the gear that we carry and everything, that fatigue is a real thing, and I could see it just in their—an observation when I walked up. I mean, I was concerned for my safety, absolutely. I sustained injuries during this event. You know, I wouldn't categorize them necessarily as serious, but the potential is definitely there, and I sustained injuries nonetheless. I think it's an important thing to mention—and this actually ties back to something I wanted to touch on in the use of force policy about the proximity to weapons—that this individual had not been searched yet, and I have seen it where a suspect pulls something out of their pocket even though they're handcuffed. That's another factor in terms of assessing the reasonableness of force that I meant to touch on earlier is he had not been searched.

JA: But let me just ask, In terms of your knowledge that he had not been searched, is that knowledge that you had at the time or knowledge that you gained after the incident had occurred?

CL: At the time, and I guess I should say that it was more of an assumption, but it was an informed assumption, because typically, common practice, my training and experience, we don't search somebody while the fight's still happening because, again, that requires a lot of articulation of the body, a lot of movement. We tend to search people once we get them up and walking to the patrol car. It's usually the last step before getting them into the patrol car, so I thank you for clarifying. It was more of an assumption, but it was an informed assumption based off of my experience and training.

JA: Okay. Anything else you want to add in terms of your safety or the safety of the other officers that might have informed your conduct here?

CL: I'll stress two more things. Again, the radio traffic, which was very unusual. You know, we get a big sense of officer safety just through the radio traffic. It's huge. And that was incredibly influential before I arrived. Also, the fact that Charlie Clemmens was involved, that said to me that this fight was not just—it wasn't small. It was significant

because—I've known Charlie for a few years now. I know that in his role as a parking technician, the last thing he wants to do is get involved in a situation like this. I've had conversations with him about, you know, about situations like this because it wasn't uncommon for him to ride along with an officer here and there, and I've had conversations with him where he'd be like, "Yeah, sorry, but if I ever see something, I know I gotta stay in the car, right?" So, when I get there and I see that he had done the exact opposite and he was involved in this use of force, I knew that he would not get out of the car and run over to help those guys unless it was absolutely necessary, if the fight was just that significant, so when I got there and I saw that he was on—maintaining control of the legs, that heightened my sense of concern and awareness of officer safety and the risk to us just based off Mr. Clemmens' sheer involvement in this.

JA: I think that is all I have. I'll give you an opportunity to add anything that you feel we didn't cover or wasn't covered in the Sheriff's Office, any details or elaboration, and if not, then we will wrap up, so I'll defer to you and then call it a day.

CL: I don't think I have anything that I want to add for the purpose of the fact-finding. I mean, I do have, you know, a couple of remarks that I'd like to say in closing but...

JA: Sure.

CL: Would now be a good time?

JA: Yes.

AW: Let's hold on for one second.

JA: Oh, go ahead.

AW: Let me check on my notes—

CL: Okay.

AW: ...you know, to make sure. I think we have covered everything that's either in the prior or that's in here, but I just wanted to double-check for a second. Yeah, no, I think we're good. If you have something you want to add in closing, that's fine.

CL: Yeah, nothing long. First and foremost, I just want to thank you both for taking the time. I know that issues surrounding incidents like this are delicate, and I appreciate your time and attention and willingness to let me elaborate and ask, you know, and ask detailed questions like you did. You know, one of my biggest frustrations thus far has been, you know, particularly surrounding views around this and all that, right? Nobody has really taken the time to—other than maybe Alison and my family—to see what my personal thoughts on this were, and without getting into the weeds, I just want to say that none of us wanted this outcome. I would like to think that that would go without saying, but in

today's day and age and the global climate, I don't know that it does. None of us wanted this. This is—I view this as just as much of a tragedy as I think anybody else does, and it's one of those situations where the outcome, which is absolutely unfortunate—I recognize that. I believed that since day one, and I take the matter seriously. I just, again, think it's important that I stress that because there hasn't really been an opportunity for me to do that, at least not officially, since this whole thing started so—And again, that ties into my appreciation for your professionalism and how much time and attention that you've given me today, so thank you.

JA: I appreciate that statement. And actually, I will ask one more question, and it is not necessarily a fact-finding question, but I'll say it this way. Obviously, we're going to assess the facts relative to policies that exist, but there may also be an opportunity for us to have conversations with either the Department or the City about things that could be improved or changed in terms of policies or procedures or training, and so, setting aside your specific role in terms of the facts, I welcome you—you don't have to—but if you have thoughts or anything that you think might have—let's just set aside the previous situation—that might improve outcomes moving forward, I would love for you to make those thoughts.

AW: I think today's probably not the best time for that.

JA: Sure.

AW: I'll point out this is the fact-finding, but I do believe, and I know from Officer Leahy, that the outcome was not what anyone either expected nor desired, and in my experience representing law enforcement, certainly there is something to be learned and improved. Just because something could be done better doesn't mean that it was done wrong, but we should always apply the lessons moving forward so that we can always do it better in the future, and so I do know that each of these officers, you know, certainly would encourage the City, you know, to provide additional resources in these circumstances to them and to define better, you know, what their expectations are, because it does seem that, you know, some of the community or reactionary perceptions or objectives are different from what the training and the expectations of the department are, and everybody just simply wants to do their job well. So, I thank you for the invitation, we may very well participate, but for the moment he is subject in an administrative investigation to determine whether he's engaged in wrongdoing, but I would like to make sure that each of my folks has the opportunity to discuss that, perhaps, after the investigation is concluded.

JA: Perfectly fair.

CL: And I'll just say, again, once it's done, I would happily participate in something like that.

JA: Okay. Actually, let me ask—Setting aside policy for a moment, I'll just ask a question that is relevant. That's a relevant question, but let me ask a specific question that is

relevant. You were asked in the Sheriff's Office interview anything—and I'm paraphrasing—that you might have done differently or changed, if you could have done anything differently in terms of tactics, and so let me ask that question here again in terms of the specific tactics that were used. In the Sheriff's Office interview, you walked through different force options. One of those options was not appropriate, and so let me just ask again for our record whether you believe there's anything that you would have done or could have been done differently in this particular situation.

AW: I think he covered all of the other force options and the reasons for them.

JA: Yeah, and I don't need...

AW: Let me ask you just nothing—Has anything changed about your assessment of those other available options?

CL: No, not since my initial interview.

AW: Yeah, so I think his answer kind of remains consistent with what it was in the original interview.

JA: All right. Then that concludes our interview. It's 1:33 p.m. on Thursday, August 19. Thank you very much to both of you for being here, and if you have any questions or [unintelligible 03:28:54] please feel free to do so.

CL: Thank you.

AW: Great. Thank you very much.

JA: Thank you.

EXHIBIT 22



Renne Public Law Group®



**Transcript of Audio Recording of:  
Interview of Officer James Fisher (09/20/2021)**

**Case:** Audio Transcription re: Fisher, James GMT20210920-160833

**Reporter: Debi Devitt**

P.O. BOX 85  
Penn Valley, CA 95946



INTERVIEW OF JAMES FISHER  
(Conducted by Attorney Jamal Anderson)

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GMT20210920-160833  
MONDAY, SEPTEMBER 20, 2021

TRANSCRIBED BY:  
DEBI DEVITT

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PIONEER TRANSCRIPTION SERVICES

P.O. BOX 85  
PENN VALLEY, CA 95946



JA: All right, so let's begin. Good morning, everyone. Today is Monday, September 20. It is approximately 9:08 AM. My name is Jamal Anderson. I am here with Officer James Fisher with the Alameda Police Department; Alison Berry Wilkinson, his counsel; and Louise Renne with the Renne Public Law Group, as you know. And first of all, let me ask you, is it okay if I call you James throughout the interview?

JF: Yes.

JA: Okay. Thank you. As you know RPLG has been retained by the City of Alameda to conduct an administrative investigation under the circumstances surrounding the detention and subsequent death of Mario Gonzalez from contact with Alameda Police Department officers on April 19, 2021. The purpose of our investigation is to determine what, if any, Alameda Police Department policies were violated and to prepare a report in lieu of an Internal Affairs report prepared by the police department. If you have any concerns during the interview and would like to consult with your representative, please let me know. I'll provide you with a couple of admonitions in a moment, but I want to clarify a few things. First and foremost, as indicated, this is an administrative investigation, not a criminal investigation. I know that you previously participated in an interview with the Alameda County Sheriff's Office. We are working independent of them. And our focus here is really on the policies of the Alameda Police Department.

Let me provide you with a couple of admonitions. And then I'll turn it over to the counsel to put some things on record here. The first admonition that we provide to you and all of the witnesses is that we simply ask you to tell us the truth to the best of your recollection. I understand that some time has passed, obviously, since this interaction in April, and so, if there are things that you don't remember, by all means feel free to say that. If you think there's something that would refresh your recollection, an e-mail, a text message, a bodycam video, by all means, feel free to let us know; we can accommodate you if you need to look at that or would prefer to do that before you answer a particular question. But we're simply asking for the truth as you can best remember it.

The second is that subject to the relevant statutes, which is in your notice, this is a confidential administrative investigation. The information will only be shared on a need-to-know basis with our client in this particular case, which is the city in lieu of the department conducting this investigation.

To maintain the integrity of the investigation, we simply ask that you refrain from discussing the questions or the circumstances of the events with anyone other than your counsel. Obviously, we can't preclude you from talking with anyone, although we would certainly encourage you to, if you have questions or concerns to talk with your counsel or your representative as opposed to discussing it broadly with members of the public.



The third admonition is with regard to retaliation. As I'm sure you know, the city has a policy that prohibits retaliation, and so, you are not to be retaliated against for your participation in this interview or this investigation and similarly to the extent that you are in a position to, you are not to retaliate against anyone else that you may believe is participating in this particular investigation. I may have some things to put on the record, but it's possible that Alison will cover them. So, let me turn it over to you, Alison, to put some things on the record so you could have a bit of a colloquy between our last interviews. And then if I need to add anything, I can do that.

AW: Great. Thank you very much, Jamal. First, the notice that was provided is that we've discussed goals fairly broad in terms of its scope but did not specify any policies specifically that were at issue. So, we used our deductive reasoning skills and evaluated the potential policies as including Policy 310: Officer-Involved Shooting and Deaths; Policy 308: Control Devices and Techniques; Policy 300: Use of Force; and Policy 306: Handcuffing and Restraints. Those are the policies that we reviewed, and we haven't been advised there are other that are at issue here. But if any come up, we would request the opportunity for Officer Fisher to review those before we move forward with any questioning. These have been the primary focus of the other interviews. And so, we're assuming they continue to be the primary focus of this one.

In advance of the interview, we provided to you, and Officer Fisher has had a chance to review the transcript of his interview with the Alameda County Sherriff's Office and the Alameda County District Attorney's Office. He has had a chance to review that, and we have a copy here if he needs reference. And we also provided to you the AB-392 department training that occurred back in October of 2020 just so that we would all be on the same page or at least there will be some document to reference with regard to the most recent training that the officers received on defensive tactics, which were applicable to this particular scenario.

We've had a number of conversations in between the various different interviews, and I just wanted to confirm for the record that Officer Fisher's interview here today is being conducted as were the other two in a compelled fashion that he was ordered and directed by the Human Resources director, Nancy Bronstein to be here, to answer all questions fully, truthfully and candidly that are posed by you, that you are authorized to fulfill that directive, and that it is our understanding that if Officer Fisher fails to participate or fails to answer questions, that he could be subject to disciplinary for insubordination up to and including termination. So, that's my understanding based on some of the communications that have gone back and forth between my office, the city and you. And I just wanted to make sure that I did not misunderstand.

JA: Yeah. I want to confirm that that's correct with regard to that last point about possible discipline. I would note that that language comes from Alameda Police Department policies and not from RPLG specifically. But that is a correct understanding that this interview is being conducted pursuant to the director from the Human Resources department and that there was clarification issue by Nancy Bronstein to you, I believe, less than a week ago by a letter which we were copied on as well at RPLG. And that is how we will proceed with this interview and retroactively how the previous interviews were conducted up to this point.

AW: Thank you. I appreciate that. And I appreciate that. And I appreciate RPLG and the city of Alameda, their thoughtfulness in considering the different perspective, given the policies and procedures that apply within the city to Officer Fisher. And they acknowledge that this is the directive from the city. This is not something that RPLG has imposed on the proceedings.

JA: Correct. Thank you. That is accurate. I believe that is all I have. If there's anything else that you have...?

AW: Not at the moment. Thank you.

JA: Okay. Then why don't we go away and get started. Officer Fisher, if you would, please state your full name.

JF: James Forest Fisher.

JA: And what area are you present?

JF: With the City of Alameda, Alameda Police Department.

JA: And when did you begin your period of employment with Alameda Police Department as a peace officer?

JF: I think it was November 16, 2001.

JA: And what's your badge number?

JF: 49.

JA: I'm sorry?

JF: 49.

JA: 49. Thank you. What is your educational background and what type of education, experience to you have prior to joining the police department here?

JF: Associate's—Oh, high school degree for a high school diploma, and my associate's degree.

JA: And did you serve as a peace officer anywhere else prior to joining the Alameda Police Department?

JF: No.

JA: What type of training did you receive prior to joining Alameda PD?

JF: All of the post requirements through the Napa Valley Police Academy.

JA: How long was the academy?

JF: Six months.

JA: And in terms of prior work experience, did you work anywhere else in law enforcement prior to joining the police department?

JF: No.

JA: Had military service?

JF: Yes.

JA: Can you tell me what that is?

JF: United States Navy, 1998 to 2009.

JA: Obviously, we're going to talk together a lot about the incident that occurred on April 19, 2021. But before we get into the details, I want to just ask you a couple of general questions. Your counsel has indicated that you did have an opportunity to review the transcript of your previous interview from May 26, 2021. Can I ask you how recently you reviewed that?

JF: I just recently skimmed over it this morning.

JA: Okay. Perfect.

JF: So today.

JA: Okay. Great. Thank you.

AW: Just to be clear, he did just skim it over this morning.

JF: Skim it over.

AW: He reviewed it in more detail prior to the first date of our scheduled interviews.

JF: Yes.

AW: So, it's been almost, what, a month?

JF: A month.

JA: Sure, about a month, but it's helpful. And then, in terms of the body camera footage, I'm not sure if your counsel and if you get a chance to review it, but did you have a chance to review any of your bodycam footage between the time of the Alameda County Sherriff's interview and today?

JF: Yes.

JA: Okay. And which body camera footage did you review? Was it just yours or was it other officers?

JF: I reviewed mine up to the point it fell off, and then I reviewed Officer McKinley's, and I think Cameron Leahy's as well, if I'm not mistaken.

JA: Okay. I've asked this of each of the other officers. And so, based on your review of the video and your skimming of the transcript this morning and maybe a more wholesome review before, and you can think about this for a few minutes, is there anything that you want to clarify before we kind of jump into any of the details? And I'll tell by way of reference, one of colleagues, you know, said, "Yes, there are a couple of things that I'd like to make sure we cover." He gave me a list. And then as I went through the questions, if I saw them, I would come back to them. But I just wanted to give you an opportunity to make sure that if there's anything you feel like you didn't get a chance to expound upon or wanted to cover today, that I made a note of it so that we can make sure that we cover it. No need to answer that right now, but just wanted to offer that to you. Okay? All right, so, let's go ahead and turn to April 19.

AW: I think that just before we do that, there was one typographical error in the transcript that he noticed and he wanted to correct. It's at page 16, line 21. It's at the—starts with, "By that time I got there," the word used is "force," F-O-R-C-E, "would have been already in the building."

JA: I saw that.

AW: Yeah. The word he actually used was "fourth," F-O-U-R-T-H, referring to 4<sup>th</sup> Platoon, right, James?

JF: 4<sup>th</sup> Platoon, yes, the platoon.

AW: There may have been other grammatical or typographical errors in the transcript, but that was a substantive correction that we felt necessary to make.

JA: Fair enough. I did see that, and I thought, "Okay. That [overlapping 00:12:34]."

AW: It was an odd phraseology, there. The joy of wearing masks in a recorded interview I'm sure is accounts for the muffled understanding of what word was used.

JA: All right. Thank you very much. I'm going to just say before we kind of dive in, I have, obviously, had a chance to look at your transcript. I certainly took notes from your original interview. I don't intend to go into details in the same way or ask you for full recitation of events. I'll kind of pick some topics here and there. So, that's how I intend to pursue. So, first and foremost, were you on duty on April 19, 2021?

JF: Yes.

JA: And what shift were you working on that day?

JF: That's day shift.

JA: And what are the hours of that shift?

JF: 07 to 1700.

JA: And is that the normal shift that you work?

JF: Yes.

JA: How long had you been working that shift as of April 19, 2021?

JF: Since 7:00 that morning.

JA: And my understanding is that on that particular morning, obviously you were ultimately dispatched to the area of 802 Oak Street. Is that correct?

JF: Yes.

JA: So, I want to talk a bit before about what occurred prior to being dispatched. It sounds like you started your shift at about 7:00 AM or so.

JF: Yeah. We usually have line-up, a briefing at 0700. And then that could go for several minutes, 15, 20, however long the sergeant, whatever information needs to be put out, Alameda history.

JA: Can you tell me what you did between the time that you started your shift and the time that you ultimately dispatched to the area of Oak Street for this incident?

JF: I logged on, went to briefing at 0700, briefing ended. I don't know what time it was. I walked to my car. I got the car ready, the vehicle check, logged on, drove to—I think I called another employee, Charlie. We usually get coffee in the morning. So, we agree to have coffee that morning, and I drove to pick him up there. We drove to the Beanery on Park Street and [unintelligible 00:15:14]. And then from the Beanery, I was working Sector 4. We kind of just drove out to Bay Farm Island and I was just patrolling my beat and driving around, just having a conversation. And we ended up—I realized that I had recently got my authorization letter to get my new body armor, which was over at, it's called Galls now, in Oakland. So, I called my sergeant, and I asked her, I was like, "Hey, do you mind if I come back to the station and get my authorization letter and I'm authorized to get my new body armor and then drive over to Oakland and get fitted for that?"

She told me I think, I'm not sure exactly what time that was at, but she asked me if I could just wait till the 4<sup>th</sup> Platoon logged on so we could have more coverage on the street. And I said okay. At that point, we were, I had parked over at the Oakland, well, I guess the former Oakland Raider training facility. And that's where I made the phone call from. And shortly after we hung up with each other, as it was getting closer, they logged on at 11:30-ish, 11:45. I was like, "Okay. Well, I'm going to, I'm going to head back, and I'm going to"—I was going to drop Charlie off I think at his house or at the station. Sometimes he'll come to the station.

And I was going to head over to Oakland. And it was, it had to have been somewhere close

to Port Sauvignon. I don't know exactly what time it was at. So, I just started driving back towards the police department. That was my goal was to get back, get my authorization letter, and head over the Oakland to get my body armor. But while I was driving, that's when I got dispatched to 802 Oak.

JA: Okay. A couple of questions about that time frame. First of all, with regard to Charlie Clemens, how frequently do you usually have coffee with him?

JF: Oh, we have coffee quite often.

JA: And he, obviously, is an employee of the department. So, would this be considered a ride-along for him or just a friend or another employee that you just get coffee with?

JF: It's more of a—It's not just isolated towards me. He's just, he's kind of a department—He's been with the department for a long, long time. And it's just kind of common for people to pick him up, go grab coffee with him to, you know, kind of spend time with him and just have—You know, he's a good guy.

JA: Have you ever had any conversations with Charlie about the protocol for how he might or might not lend assistance in a situation like the one that you faced?

JF: Absolutely.

JA: What kind of information have you relayed to him about how he should or should not be involved?

JF: Pretty blunt and blatant, and he knows, never get out of the car. No matter what, don't get out of the car. He knew.

JA: And in terms of the rest of that morning, did you have any other calls for services? Do you recall arresting anyone that morning, having any interactions with individuals similar to Mario, people who might've been intoxicated or anything like that?

JF: No.

JA: Any instances where you needed to use force to detain or arrest anyone that morning?

JF: Mm-mm [negative].

JA: Thank you. And so, you are on your way back to the station. Charlie is still in the car with you at this point. And that is when you first get information over the radio, asking you to

go where?

JF: It was to 802 Oak Street as a cover unit.

JA: And what other information other than the address do you recall receiving initially on that first call?

JF: It came out as a, I believe it was a suspicious person who was possibly intoxicated or something to that effect. I don't remember it verbatim.

JA: Had you ever responded to that particular address for similar calls before?

JF: Over the last 10 and a half years, yes. It's a small park there.

JA: And at that point, had you received a physical description of the individual that was involved?

JF: Yes. Hispanic male, approximately 5'5, 250 pounds, something like that.

JA: I know from my own prior experience that sometimes there are frequent flyers, people that we interact with from time to time, such that if you were to get a description on the radio in a particular area, you might say, "I know who this is." When you heard that information about the description 5'5, 250, did you think that you might know the person?

JF: No. That's a very vague description.

JA: And he also said Hispanic male. Is that right?

JF: He did, yeah. I think it was Hispanic.

JA: So, no thinking that you might know who this person is at that point. And to be clear, had you ever had and interactions with Mario Gonzalez prior to this date?

JF: No, not that I recall, no.

JA: Okay. So, you got the call, and then you have the initial information. You then proceed to this area. Is that correct?

JF: Yes, sir.

JA: But while you're on your way to that particular location, you then get a call. Is that right?



JF: That's what I said.

JA: While you're on your way to the 802 Oak Street location, you are redirected. Is that correct?

JF: Yes.

JA: Tell me why you redirected and what information you received.

JF: Officer McKinley broadcast over radio to me to go check Walgreens for a, I believe the words he used was a walkout, which could only mean on thing. And I never heard that term until that day, but I was like, "Okay. Walkout. Probably a theft," possible theft. So, at that point, I was fairly close to—I was on Otis Drive, somewhere near I'm just going to say the general vicinity, somewhere around Broadway, but I'm not 100% clear exactly where it was at that point. And then I made it to Park Street. And then I turned southbound onto Park Street from Otis at a light. And then I came into Walgreens through the, so that would be the east driveway on Park Street there, went around and parked out front of the front doors.

JA: Slight detour. You covered this quite extensively in your previous interview, so we won't go into too much depth. You were driving a standard patrol car. Is that correct?

JF: Yes, sir.

JA: Was it your vehicle that you were driving?

JF: The City of Alameda's, but it was the one that I regularly drive, that's assigned to me but not necessarily mine.

JA: That's what I mean. And a sedan or an SUV?

JF: SUV.

JA: Standard lights, the push bar, and things of that nature?

JF: No push bar, standard bumpers, but you could basically say all the requirements for an emergency vehicle test.

JA: And at that point, as you were in route to Walgreens, you had not actively been in lights or sirens.

JF: No.

JA: You talked extensively about the uniform that you were wearing before, the standard uniform. Is that right?

JF: Yes.

JA: And so, tell me what happened when you arrived at Walgreens?

JF: I arrived. I got out. It was fairly busy at the time, it looked like. I located two employees. I guess you would call it the center, the people—How can I describe this? If you walk in through the front door, there's a register here and there is also it's like a register in front of that one, which there was two employees there. It seemed like they were talking to each other but still helping customers. And I asked them if there was anybody matching the description that was given to me, which was made that could've possibly committed a theft, or if anybody had stole anything matching that description.

He was a taller gentleman. I think it was one male and female. I think the male employee, he told me no, nobody matching that description had stole anything. So, at that point, I know Officer McKinley had been there for quite some time before I got there. You know, he'd been there with Mr. Gonzalez for some time. And being the partner that would be partner covering this responsible to get there and kind of expedite it, and try to get to him as soon as possible, so I broadcast it over the radio, "Negative for the walkout," not necessarily meaning that, you know, it didn't happen. I just, I stopped it there and I wanted to [inaudible 00:24:55].

JA: My understanding is that there are additional Walgreens locations in somewhat close proximity or—

JF: The only other Walgreens is on Webster Street, 1900 block, right there at the intersection of [inaudible 00:25:10] leading into Webster Street. So, that's not close, I guess you could say, but then given the fact they were [inaudible 00:25:21] that [inaudible 00:25:23].

JA: And, you know, with regard to—Do we think that's anyone's car here? No.

F1: I don't think so. But I know Louise was looking out the window. Let's just like double-check, here. It's not mine. And it does not appear to be one in the parking lot. It appears to be on the street.

AW: Is it some place over there?

F1: On the street, yeah. So, if your car is not parked in the street—

LR: Mine's over there.

F1: Excellent. All right. I know she was checking.

JA: I know. That's why I was just—I'm trying to speak up, make sure we kind of capture everything here. Okay. And so, you communicated over the radio that it didn't appear, based on your conversation that anyone matched that description or matching that description had done a walkout, i.e. a theft, I guess as you would understand it.

JF: Nobody had been—Nobody witnessed somebody matching that description committing a theft, according to the employee.

JA: Okay. And so, you then left the Walgreens and headed where?

JF: So, from Walgreens, I got back into my vehicle, and I knew he was at 802 Oak Street, but I didn't know he was right there in the particular area of the park. And I didn't see him because I didn't drive past the park, I came in through the east driveway. So, my intent was to head north through the parking lot, make an eastbound turn onto Park Street and then make a northbound turn onto—I'm sorry, eastbound turn onto Otis Drive, and then a northbound turn onto Oak Street by Park Street to go down, you know, two or three blocks like San Jose, and come around. I would've made a westbound turn on San Jose or San Antonio, then made a southbound turn onto Oak Street to drive up Oak Street to 802. But as I was pulling out of the driveway, the north driveway, he came on the radio and said he could see me. So, I looked across at the park, and I saw where he was standing as I started to kind of—

I'd already made that eastbound turn onto Otis, so I was kind of driving to where I could see through the pathway, and as I looked over, I saw him. At that point, I was able to make a U-turn, park at the medal hand rail.

JA: And so, when you parked your vehicle, Charlie is still in the car at this point. Is that right?

JF: Yes.

JA: When you exit your vehicle, did you say anything to Charlie, you know, "Stay in the car," or, "I'll be back," or anything along those lines?

JF: I don't remember if I said anything to him, maybe, "I'll be back." I don't know what.

JA: And so, at that point, were you in any kind of rush? You know, were you running to meet Officer McKinley? Or you just trying to—

JF: No. There was nothing over the radio that sounded like there was—Everything sounded really normal. So, there was no immediacy for me to run or things like that.

JA: So, you then presumably, and, obviously, we've seen the body camera footage, but you walked to where Officer McKinley is with Mario Gonzalez. Is that right?

JF: Yes.

JA: What observations, if any, are you making about the two of them, their body language, as you initially approach them both?

JF: So, I know there was communication, but I couldn't hear really too much. As I started to get closer, I mean, it was very—Nothing really stuck out, I guess you could say, that it didn't seem like Officer McKinley at any point was at some sort of heightened awareness. It was just very lowkey and just casual. When I started observing Mr. Gonzalez, I kind of noticed that he wasn't really—Once I'd walked up, he kind of focused on me as I began walking. And he kind of—It seemed like he paused momentarily and just kind of fixated on me. And I just didn't say anything. And I just let Officer McKinley, you know, conduct his—just continue with his conversation, trying to accomplish whatever goal he was trying to accomplish at the time.

JA: And so, your goal or role as a cover officer, which is what you were, is that right?

JF: Yes.

JA: Was to lend assistance to Officer McKinley if needed. Is that right?

JF: Yes.

JA: I think you know and we certainly know that you have a bit more experience in terms of length of service on the force than the other officers involved here. Notwithstanding that fact, though, you were going to let him handle the call. Is that right?

JF: Yeah. He's an extremely competent, and he's a really good police officer.

JA: And so, tell me what you started to observe and what you heard initially. And, obviously, I've seen the bodycam footage, and you're sort of watching off to the side.

JF: Hm-hmm [affirmative].

JA: But what do you hearing and what are you observing and, you know, as you're kind of watching interactions between Mario and Officer McKinley.

JF: Well, the first thing I observed was, obviously, that Mario, Mr. Gonzalez and Officer McKinley. But I immediately, as I was walking up, Mr. Gonzalez was pretty much just leaning over, trying to put a, looked like what was a bottle cap on a bottle of alcohol, large bottle of alcohol, which was located in—there was two blue Walgreens baskets sitting on the ground. Both of them—I mean, there was miscellaneous items in there, but I did notice that there was I think two or three large bottles of alcohol in there. The one in which he was, looked like he was trying to put the cap on, it didn't look like a traditional alcohol cap, it looked more—It was larger. I think it was black, if I'm not mistaken. But he was bent over, and that was kind of like I was like, "Okay." There was some alcohol missing out of that bottle, if I'm not mistaken.

And then Officer McKinley would proceed to talk to him, and then, but Mr. Gonzalez, he really wasn't making any sense, or he, he was talking at such a low volume and kind of mumbling. I couldn't really understand what he was saying, and it didn't sound like it was very coherent. It was very incoherent, to me, because I couldn't make out really what he was saying. He was mumbling and it seemed like he was talking off-topic when Officer McKinley would ask him a question. Yeah, I mean, his body, I guess you could say he didn't seem like he was very steady on his feet, because at one point, I approach him, kind of leaned back into a small tree that was behind him, and he kind of bounced kind of like using it as support and then like rocked back. And he kind of kept moving around a little bit. And then he put—At one point, he put his hands in his pocket, and I think I was going to say I said, "Hey, can you please take your hands out of your"—And then I think Officer McKinley also said the same thing at the same time. We asked him to take his hands out of his pocket.

JA: And he did that.

JF: He did do that, yeah. And then Officer McKinley just kept talking to him. He really wouldn't respond with anything that was that I could understand, didn't make any sense. He was talking off-topic. And at one point, I didn't realize this until actually I watched the BWC footage, but he stepped up onto a tree stump, and he was kind of like, you know, wasn't very steady.

And Officer McKinley, you know, we—To me, it was obvious that he—Based off of my observations, it appeared that he was intoxicated. And based off the alcohol that I observed on scene, I didn't think that it was safe for him to be there. I didn't think that he could take

care of himself. Those were my thoughts. And then at one point, you know, Officer McKinley is just trying to get basic information that anybody would be able to provide, which would be a name, date of birth, something to show that this person could actually communicate and care for himself. But he couldn't do that.

And I think at one point, Officer McKinley asked him, "Hey, if you could just provide me with your name and your date of birth, then, you know, that way," again, this isn't verbatim, but—

JA: Sure. I know.

JF: ..."that way I can just make sure, run a check to make sure everything is okay. And then we could send you on your way. If not, you're going to have to basically come with us." So, I take that as, you know, that was his plan regarding the fact that if he can't provide us with the basic information that anybody should be able to provide, then, he can't care for himself. And if we walk away and we're the last people to contact him, and he walks into the street and gets hit by a car or, you know, if something happens, well, that could potentially come back on us.

The safest place for him at that point is to be in a safe environment, meaning that being taken into custody for public intoxication so he could sober up and then be able to make rational decisions for his own safety.

JA: Let me back up and cover a couple of areas here. At what point, if any, if there was a specific point, at what point after you initially arrived did you sort of form the conclusion in your mind whether you verbalized it to Officer McKinley or not, "Hey, I think this guy is intoxicated"?

JF: I never verbalized it to him. But we've dealt with these type of calls so much, you know, the objective signs and symptoms are all pretty similar. So, there doesn't have to be a verbalization between me and Officer McKinley because we both know kind of what we're looking at or what we're observing.

JA: Sure. And I wasn't—I know that you didn't verbalize it. I guess what I was just saying is at what point did you state to yourself, "I think this guy is"—

JF: It was probably—it was very quick. I can't give you an exact time frame, but based off of what I was seeing, the amount of alcohol that was in the Walgreens baskets, his objective signs and that he was showing to me or I should say that I was observing, to me, indicated that he was intoxicated.

JA: I know this is sort of rote, but can you just tell me what were the objective signs and symptoms that you observed?

JF: He was unable to—his mumbling, his speech was incoherent. He was very unsteady or unbalanced on his feet at points where he would lean back and brace himself against objects such as a tree, was unable to answer simple questions, and completely divert to off-topic mumbling, I guess you could say. At that point, it was clear to me that he was probably intoxicated to the point that he couldn't care for himself.

JA: Okay, in violation of which being [overlapping 00:37:35].

JF: In violation of 647f.

JA: Okay. Thank you.

JF: PC.

JA: PC. Yes. Thank you. And did you smell any alcohol on him at that point, or—

JF: So, wearing masks, at the time I had a mask on, I don't have the most sensitive nose. I did not.

JA: Okay. Fair enough. Okay. You mentioned that you and other officers encounter these types of situations within individuals who might be in violation of 647f with some regularity. I'm not asking for a specific number, but how frequently would you say over the course of a month might you sort of run into these types of situations?

JF: I would say on a daily basis.

JA: Yeah?

JF: I mean, you'd have to pull CAD, but or like call histories, but there's quite a few. And it seems like it's a daily, daily call that somebody reports somebody who's intoxicated or under the influence of an unknown substance.

JA: Okay. And in how many of those instances, again, this is an approximation, in how many of those instances do you think that you ultimately have to take someone into custody and transport them, I guess to Santa Rita?

JF: I mean, that's, there's a lot of variables that would—

JA: What are the variables?

JF: I mean, the call might come out the same, but the situation is always different. For instance, if somebody's in front of their house and there's a responsible adult there to take care of them that's sober, you know, we might not take them into custody for public intoxication because that just doesn't make sense. They might be in public, but if we could get them and we have the cooperation of the responsible adult who's sober and say, "Yes, I'm going to care for this person, and I'm going to make sure that they stay without the house or they don't walk away," or they don't do anything that's going to hurt, you know, possibly cause a traffic issue, then, yeah, we might say, "Hey, can you please—You know? Because if we have to come back out here because he's, you know, so intoxicated that he's not listening to you, then maybe it's the safest place for him." But yeah, I mean, a bar, you know, if we get a public intoxication call at a bar where somebody thinks that somebody else is too intoxicated to care for their own safety, but we show up and he's with a group of friends who have a plan, "Hey, this is our designated driver. We'll take him home right now," or, "We have an Uber already on the way for him," we might wait till the Uber gets there, or we will make sure that he goes home with somebody who is sober, and who is responsible, and who's going to care for that individual's safety.

So, we don't always necessarily have to take somebody into custody for public intoxication, but if there's no other solution or no other alternatives for us to turn that person over to somebody who would care for them or they can't care for themselves, then the safest solution is to take them to—take them into custody for the public intoxication and get them into a safe environment than what they're in.

JA: And my understanding at this point is that there is no sober house or sober facility in the city that you transport people to you could partner. Is that correct?

JF: Not within the city of Alameda.

JA: Okay. Is there a location outside of the City of Alameda that you—

JF: There is a detox center in is it San Leandro Cherry Hill?

JA: Have you ever taken people there?

JF: I have.

JA: Under what circumstances?

JF: That they're willing and that they, basically, they say, "Yes, I want help. And this is where



I need to go," because they can't basically keep somebody there.

JA: But otherwise, if someone is taken into custody, they are going to be transported or they are transported to Santa Rita. Is that right?

JF: Yes.

JA: And, you know, obviously, it's subject to an officer's discretion, the circumstances under which someone is going to be taken into custody and transported, but can you tell me, are there any informal policies about when you ultimately detain and/or arrest someone for 647f? And I ask this question, I'll give you an example: When I was a DA, there were certain departments that were kind of looked to us for kind of guidance about when they should arrest someone. You know, among the things, they would say, "Oh, well, you know, do they have a prior conviction for 647f? Is this their first time?" you know, different considerations to kind of say, "Okay, we'll leave this person alone this time, but we're going to take them in the next time"? Do you recall any of those kind of conversations in the department, any kind of informal guidance or practices about, "Okay, we'll give someone a warning the first time. We'll take them in the next time," or anything like that?

JF: No. It's really just officer discretion, discretion of what they observe at the time. And what resources do you have available to get this person into a safe environment? Such as, do we even know who this person is? Can we get this person someplace? So, nothing informal. It's basically, use the best judgment you can to make sure this person is safe again, you know? So, nothing has come down from the top of chain of command, you know, saying, "You must do this. You must do that. Do this. Do that." No.

JA: And so, in this particular instance, your observation, even as a cover officers was this particular individual, Mario Gonzalez, is intoxicated to the point that it does not seem that he can care for himself.

JF: Yes.

JA: And my recollection from the transcript in the interview with the Sherriff's Office was you said something of the effect, and I'm paraphrasing, perhaps, that you were 100% in agreement with the decision of Officer McKinley when he gave the signal, which I believe is sort of a thumbs up or something like that.

JF: Yes, but it wasn't a thumbs up, it was more of a, again—

JA: Oh, it was the—

JF: It—

JA: Yeah.

AW: Handcuffing.

JA: Yeah.

JF: I saw him out of my peripheral, usually the universal sign, like not a verbal gesture would be, hey, this to detain in handcuffs, but I think he did this, after I watched the BWC. He grabbed his wrist. But out of my peripheral, it looked like that. So, okay.

AW: So, just because this is an audio recording, when you say he went like—You're, you refer for like you said you saw him go like this, you crossed both of your wrists and tapped your right wrist on top of your left wrist.

JF: Yes. Or it could be visa versa, whichever, either way. It's more of a crossed hands, wrist-tap, guess you could say.

AW: And that's what you saw. And then you said he—But in actuality, he went like this. And you put your right hand over your left wrist.

JF: Yes.

JA: Thank you. Point being you agreed with the decision that he was to move [unintelligible 00:44:55] to your back; you were going to take Mr. Gonzalez into custody.

JF: Yes.

JA: Before we kind of talk about the circumstance with the situation after that event, let me ask you about one other issue, and that is, you know, mental health. Did you believe in observing Mario Gonzalez at any point prior to getting that signal from Officer McKinley that there may have been any kind of mental health issue going on with Mr. Gonzalez?

JF: No. I mean, basically, my observations to seeing the amount of alcohol, I should say hard liquor, that was in those two baskets, those two Walgreens baskets, everything to me indicated intoxication.

JA: I obviously reviewed your training records, and I know that you have a lot of experience and a lot of training for all sorts of situations. Like me ask about the kind of training that you've received from dealing with people who are facing a mental health episode. What

kind of—I'm going to ask about the training. So, well, let's ask about the training. What kind of training of you received for dealing with people who—

JF: I went through CIT training over at Oakland Police Department, which was a 40-hour class, I believe, which dealt with basically critical incidents having to deal with Mental Health, people who experiencing mental health issues. I would say a lot of the training comes from just doing the job and interacting with people, interacting with people who have mental health issues. You learn a lot just by establishing rapport with people throughout the city who are dealing with serious mental health issues. And there's a range of them. Some of them may exhibit some of the similar behaviors. And some are completely polar opposite. To my recollection, I'm sure there's probably more in-house training that we've had.

JA: Sure. Yeah, and you don't have any of the fact.

JF: I know it was a lot of training comes within the department line-ups as well, especially when critical incidents come out throughout the country. One of them was the San Diego incident, where I think it was the Sheriff's Department responded to a mental health issue. I wasn't sure. I can't—it's been a while.

JA: That's okay.

JF: So, yeah, we talk about that stuff in line-ups when, when significant incidents come up, and we see how we can improve on them. And we have a discussion as a platoon on different ways and different ways to handle these things.

JA: Okay. And so, if you had believed that—Well, I mean, I'd asked about it. When you encounter people that you believe are experiencing a mental health episode, is there a particular protocol that you utilize? I know that—Well, let me leave it there. Is there a particular protocol that you utilize or what is your end goal in sort of interacting with individuals who might be experiencing those types of issues as opposed to someone like Mr. Gonzalez, whom you believed was really sort of dealing with an intoxication issue?

JF: I would say that our main goal when we're dealing with somebody who has mental health issues that we've identified, is to get them into a safe environment, whether that's placing them the 5150 hold, or we also have the options that's not the most—They're very busy, but Oakland has a mobile crisis team that we could call. I've utilized them before.

A lot of the times, they have either a really long delay or you just can't get through to them. Or their employees are tied up with Oakland Police Department on another call. And that could be prolonged throughout the whole day, as it is [inaudible 00:49:11] individuals over the west, who I call Nick. I've had them. I've been successful with them coming over once,

I believe. I think they were able to respond once or twice for me. But they're very limited on resources as well. So, they get spread thin really fast.

JA: And just to clarify, is that a county response or is that an Oakland City response?

JF: I believe it's a county. It's the county mobile crisis team, Alameda County Mobile Crisis Team. But, again, you know, I've utilized them a couple times, but for the most part, they usually never have anybody to send over because they don't have enough people. But yeah, those are your ultimate goals, to get them to talk to somebody, to get them help.

JA: And so, in this particular situation with Mario Gonzalez, if you had believed that he was experiencing a mental health crisis or episode, would you have responded differently, or would you have agreed that it made sense to sort of detain him in handcuffs? Is that something that you would do with someone who was experiencing a mental health crisis?

JF: Again, we're talking about—

JA: Different situations.

JF: ...different scenarios every time. If I believed that he was having a mental health crisis at that point, based off of our interaction with him and especially lack of conversation, would've never detained him in handcuffs, and I would've simply called for Alameda Fire to come and would've turned him over to the Alameda Fire Department to be medically cleared. And then, prior to placing him—well, placing him on a 5150 hold but making sure he got into Alameda Fire's care, to the hospital to get medically cleared to go to John George.

JA: All right. And, obviously, you know, that didn't happen in this particular case. And it sounds like—

JF: No.

JA: ...you agreed with Officer McKinley's decision to kind of proceed with an attempted arrest for, without having verbalized it, potential violation of 647f.

JF: Yeah, and possible theft.

JA: Possible.

JF: That we just never were able to—I was never able to get that, investigate.

JA: Okay. And just to put a pin on the theft, I mean, possible theft, sure. But there were no

observations of him leaving the store with the merchandize. Maybe a 496, potentially, because of the bottles, but in terms of if there was a primary reason for that arrest, it would be the intoxication.

JF: Intoxication, but I still believe that there was probable call and believe that there was a theft. It was committed. I just couldn't get back to review the video or talk to any other employees or have another officer referred to go there.

JA: Fair enough. All right. Before I ask you about the events after the signal that was given by Officer McKinley, if you had to estimate, and I don't anticipate that you have a specific number in your mind, but if you had to estimate the amount of time that elapsed between your arrival and the beginning of your kind interaction with Mario or listening to Officer McKinley, and the time that he gave you the signal that you were going to try to place him in handcuffs, approximately how many minutes or so do you think that was?

JF: Approximately five. [overlapping 00:52:53].

JA: Pretty short amount of time, during which they were obviously having a conversation. And you would occasionally—

JF: Yeah. And Officer McKinley, I believe he was on the scene approximately 10 minutes before I got there, somewhere around there [inaudible 00:53:11].

JA: And in that window of time, you've talked about sort of the non-responsiveness from Mario Gonzalez. Let me ask you, did you observe, in that window of time, approximately five minutes, when you were on the scene, any signs of aggression on his part?

JF: No aggression, nothing, no anger or anything directed towards us, nothing violent I know.

JA: I'll come back to this towards the end, but let's just do a little bit of it now. In terms of the de-escalation, and the training that you and the other officers have received, in that initial window of time, can you identify any tactics that either you or Officer McKinley were utilizing that are consistent with sort of de-escalating a situation or trying to bring someone into compliance?

JF: I would say we treated him with respect. We used, you know, very low tone. We were just talking casually. You know, we just kept asking. Officer McKinley continuously asked [unintelligible 00:54:21]. You know, but it was very lowkey, and there was no like aggression towards him. It was just very respectful, like, "Hey," you know, just normal conversation. There was nothing that escalated, you know, tones, none of our body movements. We weren't physically aggressive towards him as far as our stance. Or it was

just very like, "Hey, you are intoxicated. And we want to help, but you got to help us help you," type of thing. And it was just very lowkey and just we treated him with respect the whole time.

AW: Sorry about that.

JA: It's okay. So, after Officer McKinley gives you the signal, the gesture that you just described a moment ago, what do you recall happening next?

JF: I began walking towards Mario's right arm. And Officer McKinley kind of walked this way, towards his left arm, I guess you could say like towards him but kind of tip of his left side. And at that point, we both, I think, Officer McKinley, I can't remember who—At this point, I can't remember who grabbed what arm first, but at that point, I took control of his right arm and placed him into a rear wristlock. And Officer McKinley grabbed his left arm, but—And we kind of guided him off the tree stump, towards the sidewalk and he would stop walking. I asked him, "Hey, can you please, you know, keep walking. You know, put your arm behind your back," because I noticed that on Officer McKinley's or I should say, Mr Gonzalez' left arm was still kind of like bent and out to his side. And we were just trying to be very cordial, very polite and respectful towards him, just, "Hey, walk this way." You know, "Can you please put your hands behind your back?"

And I was able to get his right arm behind his back. And then I kind of just was just standing there, and I grabbed my handcuffs. And he kept kind of not listening. Or we would give him a direction to place his arm behind his back. But he wouldn't put his left arm behind his back. Officer McKinley tried. He couldn't do it. We asked him multiple times, "Can you please just put your arm behind your back?" And he wouldn't do it. I'm thinking it's when he started, you know, started resisting, I'd say, with his full body.

JA: Is it fair to say, you can correct me if I'm wrong, that the goal initially was to keep him standing and simply put the handcuffs on him, and then, you know, escort him the patrol vehicle?

JF: Absolutely, yes.

JA: Okay. And so, at what point, and, again, this is all approximation because I know time moves pretty quickly, how much time would you say—Well, scratch that. When do you recall him first beginning to resist your attempts, collectively your and Officer McKinley's attempts to place him in handcuffs?

JF: I would say shortly after we kind of guided him off of the tree stump because he stopped walking, which is a form of resisting, when we're asking him to please walk over here to

the safer area by the sidewalk. And then, he was very tense right away. I was able to get him in a rear wristlock pretty fast, and I had pretty good control of him. I think I had a really good solid technique. And what I noticed was that he was tensing. His muscles in his arms and his upper body and basically his whole body, it seemed like it was kind of tensing up, and even like with his shoulders. But Officer McKinley was unable to get his left arm behind his back. That time was—I don't know.

JA: Okay. Do you recall Maio saying anything to you or Officer McKinley as you're trying to get his arms behind his back to situation the handcuffs?

JF: Yeah. So, as time progressed and the resistance came more, there was more resistance from Mr. Gonzalez as far as tensing his muscles and really dictating where he wanted to move, he moved, as I was trying to hold him in one spot. I attempted to—I got my handcuffs out with my right hand. And it was kind of like I remember looking at my handcuffs, and I was watching Officer McKinley. And he just couldn't get his left arm behind his back because Mario was not allowing him to do so, and Mario was very strong. And then it just became more and more of me trying to hold on to him to keep him in one spot so Officer McKinley could get the arm, left arm behind his back in a rear wristlock. But we ended up at some point turning. And I didn't know this until I watched the video you see. But we were facing I would say in a northerly direction or north initially. And then at one point, Mario kind of rotated us, and we were facing more a southernly direction. And at that point, I, you know, we were just—I was holding on, trying to secure rear wristlock just to make sure I didn't lose it. I lost my handcuffs at some point. I don't know where they went. And I was just holding on. And I was just trying to basically have a, I guess, a strong base to keep him from moving. But I couldn't prevent Mr. Gonzalez from moving. And I kept observing Officer McKinley periodically; he just was unable to secure or get the left arm behind his back into a rear risk lock.

And then we kind of turned back towards the southernly direction. And then we kind of went forward. And we just kept struggling and struggling. At one point, I lost my grip, and, again, I didn't realize this until after watching the video you see, but Mario almost elbowed me in the face with his right elbow. I avoided it. And once I lost my grip and he freed his arm, I remember kind of, I felt like I kind of went back and I kind of ducked down. And I was going to come back in to reestablish, try to grab his arm to reestablish it of control and get him back in a rear wristlock. And I was able to get a good grasp on him and kind of control his arm, get it back behind him in a rear wristlock. And we'd just—Officers McKinley just could not get to that arm behind his back. So, I was like, "Hey I think we're going to take him to the group, because just this ain't working. We can't do this standing. He's too strong."

JA: And let me ask you, you mentioned this in your prior interview, and I don't know if you

verbalized it, so you can tell me if you did, you attempted to do a leg sweep. Is that right?

JF: Yeah. So, once I reestablished my grip and I verbalized to Officer McKinley that we need to take him to the ground because I believe that was the most safest and effective way to detain him in handcuffs and to take him into custody, I attempted to do a leg sweep with my left leg, but I didn't move him at all. He basically just kind of stood there. It's like, okay, that didn't work. And then we continue to struggle. And at some point, I don't know how, we just, we all fell.

JA: And so, to clarify, your going to ground with Mr. Gonzalez was not the result of you conducting a leg sweep.

JF: No.

JA: It's the force of the three of you, as is clear in video. The force of the three of you just kind of moving, and then ultimately, you fall.

JF: Yeah, we just fell. I don't know how we fell. I feel like I kind of got dragged down. I feel like Mr. Gonzalez just fell and I fell with him.

AW: That's how it felt to you.

JF: What's that?

AW: That's how it felt to you.

JF: That's how it felt to me, yeah. I felt like I was basically along for a ride, and I fell on my right side. And I think my arm was—When I fell on my right side, I was still trying to reach for his right arm. And I think he was kind of partially like on me, and so, I had to like swing my left leg out a little bit or get it up to kind of scoot my body out. And then, from there, I just kept trying to establish some sort of control over his right arm, trying to grab his right wrist. And I was able to kind of—I got up, and I was able to—Initially I was going to try to pull his arm back with my right arm, like bring my left arm underneath and kind of use in force and leverage to get his arm back, but I think it was too far forward, and [overlapping 01:04:25].

JA: I'm going to just quickly, this is you're on the ground now.

JF: Yeah, this is—Yes.

JA: So, let's kind of migrate to this. First of all, where are your handcuffs at this point?



JF: I have no idea.

JA: Okay. And is Mario handcuffed at this point?

JF: No.

JA: And so, you end up on the ground. Before we get to your positioning, how does Mario go to the ground? Is he on his stomach at that initial point?

JF: It's almost like he may have landed on his stomach, but he kind of, I think he rolled onto his left side, if I'm not mistaken. And then, so as he's on his left side, his arm is kind of like planted, like trying to get up, like if that makes sense.

JA: Which arm?

JF: His right arm. And that's when I'm still on my right side, so I'm trying to, because my body weight is not on him, my complete right side is on the ground. And my left leg, just to kind of scoot away from him to rotate my body away from him, I had to like swing my leg, my left leg up and over his lower back, I guess you could say, to kind of get my hips away from him. And I'm reaching at the same time just to make sure he doesn't like elbow me or trying to also protect my head. And I'm trying to obtain some sort of control.

Once I'm able to kind of rotate my body out, I'm trying to also reach in and kind of use leverage and strength to pull his right arm behind him, but I couldn't, to get him in a rear wrist lock, but I couldn't. And then, at that point, I kind of, I get up on the balls of my toes, and I use my chest as a point of contact. And I'm trying to use force and leverage to pull his arm up, but I can't. And then I just kind of drop to my knees, and I'm just, I'm bearing most of my weight on my knees. I'm still trying to feel because I can't really see. I'm trying to feel and grab his right arm or wrist and still trying to work it to where I can get him in a rear wrist lock. Ultimately, I end up kind of rotating it would've been to my right because I'm like, "Okay, well, the way his arm is positioned, I'm going to perform a 360 arm sweep."

So, I rotate my body to the left. I'm pretty tired at this point. And then I try to rapidly use my momentum and my left arm to underhook his right arm and with momentum, rotate my body to underhook and then force the right arm up. And then that way I could come up into a kneeling position to where I could have a rear wrist hold on him in a kneeling position and basically get him in the handcuffs.

JA: Now, as this is transpiring, where is Officer McKinley, if you were able to observe?

JF: So, he would've been—He was on Mr. Gonzalez's left side. I remember looking up at one point when I'm on my knees and I'm trying to work his right arm out, and I kind of look up because I kind of lost track of Officer McKinley. I looked up. I looked at him, and he was on his left side, and he was on his knees. His knees were on the ground. And it looked like he was trying to do a two-in-one rock-out, where he was trying to force his hands underneath, because I think Mario's arm was underneath his body, his left arm, somehow. And it looked like he was trying to establish some sort of grip to use, again leverage and strength to force the arm out.

And then, when I looked at Officer McKinley, I go, "Okay, he's not hurt. He's still there." And then it was basically, "Okay, he's okay. I need to continue reevaluating and repositioning myself to try to get his right arm behind his back." So, I'm trying to move as much as I can. I'm trying to process as much as I can. And I'm trying to figure out what my next step is going to be in regards to safely getting his arm behind his back using the techniques that we're trained use in defensive tactics.

So, I do the 360 arm sweep, which was, in my opinion, I think, just because I was so tired, it didn't work as well as I wanted it to. And it was almost like hitting a, like I said in my previous interview, it was almost like hitting a very stiff rubber band, with the force coming back. So, it was like force coming back or like you're kind of pushing forward, but you're getting resistance back. Eventually, I was able to get his arm behind, behind his back. And then I got him into a, a, I had him in a rear wristlock in a kneeling position with my right knee would've been on his right shoulder, somewhere around here. I bore most of the weight of my own body weight on the balls of my toes in that position. There's really not a lot of weight, it's more of a point of contact. And if I feel resistance, then I could kind of—You know, I don't act upon, I react to the resistance or the movement, so that way I can react to whomever I'm trying to detain into handcuffs. So, if they try to move up, I could just basically wedge their shoulder, putting minimal force, and they can't move, if that makes—You're kind of trapping their shoulder.

There's a point of contact, so there's pressure, but the body weight that I'm expelling onto the person is very minimum. It's more of a you're pinched. You're not going to—You know, I'm not going to allow you to move. With my knee there, I could prevent them from rolling with putting the pressure, if that makes sense.

JA: Okay. Let's break down a number of things here. Let's start with your body weight and any pressure that you might've utilized to sort of bring Mario under control. And let me preface this line of questioning by saying that I am really focused on the time. You know, from the time that you go to the ground, you, and Officer McKinley, and Mario go the ground, to the time at which he becomes unresponsive. So, I'm just really focusing on that kind of window of attack, if that helps. So, within that time frame, I first want to talk about any

body weight that you placed on him and/or any body parts that you might've utilized to sort of have control. So, first of all, how much do you weigh?

JF: At the time, I was about 185.

JA: Fair enough. And so, when you initially went to the ground, you talked about bearing the weight of your body on the balls or your toes. Is that right?

JF: Initially when we fell to the ground?

JA: Yes.

JF: My body weight was on my right side.

JA: On you right side.

JF: Yeah.

JA: And then, at some point, you indicated you were sort of squatting and bearing the weight on your toes, or did I misunderstand that?

JF: Yeah. That was later on, during the whole struggle.

AW: I think, sequentially, you started on you right side. Then you mentioned you swung your left leg.

JF: Yeah. So, I start off on my—We fell to the ground. I fell onto my right shoulder, and right hip, and right side. At that point, I was kind of, my arm was extended out.

AW: Your right arm?

JF: My right arm was extended out. And I was kind of not even keel, if that makes sense. So, my back was kind of rotated to a point where I needed to rotate to the right towards Mr. Gonzalez to get my body a little—make a little gap or distance away from him. In order for me to do so, I swung my left leg over to kind of scoot my hip to the right. And basically, my leg rested there for a second on his lower back. No weight, and I was on my right side.

AW: So, starting with that, I think what Jamal is interested in is how much body weight was on Mr. Gonzalez at any time?

JA: Yeah. And let me ask it this way, just to clarify so we don't—Basically, what I want to

know, and we can expand this, is when do you recall having any parts of your body on him? So, let's start right there. So, for example, you mentioned, at a certain point you had your right knee in an area of his shoulder. Is that correct?

AW: I think it makes more sense to kind of go sequentially because otherwise it's—

JA: I mean, that's—

AW: ...somewhat difficult to track. So, the first point of contact was when you swung your left leg up, right?

JA: My left leg came up over his lower back. And that was just the weight of my leg in me. It was trying to move, trying to get away [overlapping 01:14:40].

AW: So, are you putting any body pressure on—

JF: There's no pressure, just the weight of my leg is. There's more of a balance thing.

JA: Okay. And we can go sequentially. That's fine. So, initially, left leg over lower back. And then from there.

JF: I was able to get up on the balls of my feet. And I had a point of contact with my chest. And it wasn't—And I guess you could say his back, bearing most of my weight on my lower body because I would drop down to my knees and beared the weight of my body on my knees and essentially hover to try to reach and feel without pressing down against him.

And then, besides the point of contact with my chest and to the point I got to and kind of hovering, but bearing my weight on my knees, when I was able to get to the 360 arm sweep and come up to my feet in a squatting position, I had a point of contact with my right knee on his right shoulder, again, with bearing my body weight on the balls of my toes.

JA: How long, approximately, do you recall that happening, specifically the right knee on his left shoulder?

AW: If you can [overlapping 01:16:20]. It looks like you're struggling.

JF: I mean, from the point of me—I mean, it could've been 30 seconds, a minute. I don't know.

JA: Yeah. Not a trick question, and we have the video. I'm just trying to get your recollection. Okay, so after that, other recollections?

- JF: After that, the only thing I did remember, I dropped down to both my knees, I took my right knee off of him. And I rested—I was trying to keep control of his arms. I think I still had his like wrist at some point, and I was just resting my—Basically, I just had the—basically like I'm doing now, just kind of resting my arm along his, I don't know if it was at an angle, but I guess the right side of his back, my forearm, from my elbow to my wrist.
- JA: Other than those particular points of contact, do you recall any others? [silence] ...some measure of control. Thank you. You gave me a couple of examples, but I just want to, you know, give you the court to make sure I didn't miss anything there.
- JF: No. I think the only thing I would like to clarify is the fact that a lot of the stuff, I'm not observing with my eyes at that point, a lot of it is feeling. Again, I'm acting upon Mr. Gonzalez's—because I'm reacting to his actions, but I'm reacting by feel, and a lot of it's not visual, if that makes sense, because a lot of the times, my head is down. And when my head is down, I'm not observing everything that's going on even with Mr. Gonzalez or my partners, but what I'm doing is, is I'm focused by feel or sensory of touch and basically reacting to his actions, if that makes sense.
- JA: Okay. Let's kind of continue through. I know that we've talked broadly about pressure points and things like that, but let's kind of walk through here. Let me start with this: You mentioned in your previous interview that there was a portion or a point in time, I should say, when you asked your colleagues whether you should roll him, roll him over, is my interpretation. Does that sound familiar to you?
- JF: Yes.
- JA: Can you tell me the point in time at which you remember saying that and what your intent was in asking that question?
- JF: Well, my intent was roll him onto the side.
- JA: And why did you want to do that?
- JF: Because I'm trying to avoid positional asphyxia. I want to make sure that he has a clear airway and he can breathe, without a doubt, nobody stating that we dogpiled him, compressed his lungs with our own body weight, anything. So, I'm trying to avoid that, and I'm very cognizant of that. So, yeah, that was the reason why.
- JA: And the response that you remember receiving to that question was, "I don't want to lose what I've got." Is that right?

JF: Yes.

JA: Do you remember who said that?

JF: Officer Leahy.

JA: Okay. And so, when you heard him say that, and I'm just going based on your transcript, my understanding is that your sense was that there must have—paraphrasing what you said. There must've been something else still going on.

JF: Hm-hmm [affirmative].

JA: Can you tell about your thinking at that point, when you got that response?

JF: So, when I got that response, what was going through my mind was that for him to respond to me and say, "I don't want to lose what I have, that there's still some sort of active resisting, kicking, attempting to bring his knees up to his waistline and attempt to get up or something going on to where he did not feel comfortable essentially giving up his position that he had as far as controlling his legs. So, I felt that there was possibly an officer safety issue, some sort of safety issue as to the reason why he replied in that way. And I have to trust in his judgment.

JA: And when you made the, and I'll call it a suggestion, you could probably correct me if I'm wrong, and maybe it's a question: "Should we roll him?" Is it a question? Is that a fair way to paraphrase that?

JF: Yeah. Is it safe to basically, I didn't verbalize it, but basically, I'm asking, you know, should we, or can we roll him or should—Like, I don't remember exactly verbatim, but it was like, "Hey, are we safe to do this at this point?"

JA: I know it sounds like I'm splitting hairs in kind of trying to distinguish whether it's a question or a comment, but basically needing that because of this question: At the point at which you ask that question, had you observed any signs of distress on Mario Gonzalez's part such that you were saying or asking, "Hey, guys," kind of giving an example here, "oh, you know, it looks like he's in distress. It looks like he's having an issue. We have to roll him." Or was it really just kind of a question out of the blue?

JF: No. It's more or less it's policy because you don't want somebody prone for an extended period of time. So, what you essentially want to do once you get them detained in handcuffs is to not have him in a prone position anymore. But there was also a couple of other pieces to that puzzle going on at the same time because the WRAP was going to be deployed.

Officer Leahy stating that he didn't want to lose what he had, me taking that as, hey, there's something—There's a safety issue down there. There's something going on. I don't know what it is, but I have to trust him.

So, there was a couple different variables in that equation as to the reason why. But yeah, basically, per our policy, you don't want somebody in a prone position for an extended period of time. You want to get them into a recovery position, but it has to be safe to do so.

So, at that point I had to trust that it wasn't safe to do so because my partner was tell me he doesn't to lose his position or his whatever type of control he has. There's a reason why, so...

JA: And just to clarify, other than any generalized concerns about positional asphyxia based on your training and not wanting to have someone in that position, you had not, at that point, observed any distress on Mario's part. Is that right?

JF: No, because it seemed like the whole time, he was talking.

JA: I just wanted to make sure that I—

JF: Yeah.

AW: So, it is correct that this was not based on a physical observation of Mario Gonzalez.

JF: No, it was not based on a physical observation of him being in any type of distress, it was I know per our policy and obviously throughout current events and what's going on, that we don't want somebody in a prolonged prone position because of positional asphyxia.

JA: Got it. All right. And so, you asked this question. You received the response, "I don't want to lose what I've got." You mentioned handcuffs a moment ago. At the point at which you asked the question about rolling Mario over, had he been placed in handcuffs at that point?

JF: He was.

JA: Do you know who placed him in handcuffs?

JF: It would've been me and Officer McKinley, I would assume.

JA: Were these the handcuffs that you had lost before or a different set of handcuffs?

JF: No, I don't think they were my handcuffs. I don't know where my handcuffs were.

JA: Okay. Fair enough. All right. And so, you asked this question about rolling him potentially putting him in a recovery position just based on your general training. He is in handcuffs at this point. Is that right? You get a response from Officer Leahy, "I don't want to lose what I've got." You trust his judgment. Then what happens?

JF: There's Officer McKinley's still talking to Mr. Gonzalez. There's several more people are starting to arrive on scene. I remember, you know, somebody, I think it was Officer McKinley, I think there was a conversation between him and Sergeant Murac [phonetic 01:32:24] about getting a WRAP. There was a lot of different conversations going on. I was really just focused on not keeping weight on him, but keeping control of him. And at that point, I was just kind of over—I don't even think I was—My knee wasn't on him. His shoulder, I was basically just kind of—My right side was pressing against his right side, I guess you could say. We had physical contact. My right knee was on the ground, and that's when I explained to you about my right forearm. And there were just a bunch of different conversations about the WRAP going on.

And I remember Officer McKinley talking to Mr. Gonzalez. And then it just seemed like, boom, and all of a sudden, Officer McKinley said he's lost consciousness. And right away, we roll him over onto his back.

JA: Were you talking to Mario Gonzalez at this point or throughout the struggle there?

JF: I was, but a lot of it was it's just, "Hey, can you please just stop—Can you please stop the fighting us." And, you know, I was more or less trying to de-escalate verbally, like, "Hey, you know, hey Mario"—At one point, I remember I put my right hand on his upper back, and I was like, "Hey Mario, please stop. Just stop fighting us," or kind of even like, "Hey, I'm here, but please stop." And then...

JA: Let me ask a different question. You don't have to lose your train of thought there. I'm going to cut you off. But you can finish, but it sounded like you [overlapping 01:34:07].

JF: A lot of mine was just, "Please sir, stop fighting with us. Please sir, place your—You know, Mario, put your arm behind your back." You know, it was a lot of that just over and over, kind of being repetitive.

JA: You mentioned weight. And I want to ask a specific question about what seemed to be a misunderstanding about something you said about placing weight or not placing the weight on Mario's back. Does that trigger your memory at all?

JF: Uh-huh [affirmative].



JA: Okay. Can you tell me what you remember about that?

JF: I vividly remember at one point verbalizing, "No weight on his back." At that point, I think Officer McKinley started to place weight on his back, and I immediately stopped him. And I was like, "No, no, no." And I put my arm out. And I was like, "No, no, no." And then, he backed off, and he basically just never put weight on him, that I could think of, I imagine.

JA: And your comment about not placing weight and the insistence upon seeing that someone was placing weight, was that consistent with your concern about position asphyxia?

JF: Positional compression, all that. It's all. I mean, how can you not think about it at the time with everything going on throughout the country? So, it was very clear that, and I was being very clear, "Do not place any weight on Mr. Gonzalez's back."

JA: All right. Let's see. Well, let's just dive into that because that's a significant portion. First of all, can you tell me just generally about the kind of training that you received about positional asphyxia and related issues? I know you've been on for 10 years, so I don't [inaudible 01:36:04].

JF: A lot of that is top priority. It's a tactics thing. It was, it's as we are going through our defensive tactics training with our instructors, while they're demonstrating, we're also performing these different ground techniques. They make it very clear, and they point it out with their hands, stay away from their spines, no weight on their back. And, you know, if you have to, then you would make sure that you place the knee on the shoulder if you have to control somebody who's on the ground. In addition to that, we've also had Mike Rains I think it was October. He did a Zoom AB-392 department training course where he covered positional asphyxia and compression, compressional asphyxia as well as like excited delirium, some of the updated that were within that.

JA: And I understand from reviewing your training records that you had also received there was a use of force/defensive tactics training maybe in August of 2020. Does that sound about right?

JF: It does right. It was a mandatory one that we all had to go through because of the pressure.

JA: In terms of defensive tactics trainings, are those yearly trainings or every other year, if there is a cycle?

JF: Usually, or I think post-mandates, by every two years we go through our annual training, which is our department-wide training where we [inaudible 01:38:05] firearms and

defensive tactics and [inaudible 01:38:07], all the things that are required by post.

JA: So, let's dive in here a little bit. Obviously, you've alluded that, you know, this issue with positional asphyxia, and pressure on a body, and things along those lines, it seems that it was sort of top of mind for you throughout this interaction. Is that fair?

JF: Absolutely.

JA: At what point would you say did you begin thinking about this being an issue? Was it when Mario went to the ground in a prone position? Was it a few minutes after that? Can you kind of give me a window as we—

JF: Oh, it was immediate once we hit the ground, immediate. Once my right shoulder hit the ground, it—That's all that was going through my mind.

JA: And what role, if any, did Mario's physical size play into your thinking about this particular issue and how [inaudible 01:39:05] it gets to potentially?

JF: His size?

JA: Yeah, his—

JF: How did it play into it?

JA: 250 pounds.

AW: If it did

JA: If it did, not—

JF: It didn't, because that goes for everybody, it's not just because of the way somebody physically looks, because it don't matter what somebody looks like, you know, how heavy they are, in my opinion. I mean, the bottom line is that we don't want anybody in a prone position, anybody for an extended period of time because of that. So, that was right on my mind. It was, "How can I get this person safely into handcuffs by using the least amount of force necessary and by not placing any weight at any point for an extended period of time?" You know, the least amount of weight is what I should say, for any amount of time in trying to get this done as fast as I can to try to keep my body moving. That way I can isolate my body weight on top and make sure I get to my knees, bear weight on my knees, not the balls on my feet. That's all going through my mind as I'm on the ground struggling.

JA: Yeah, and obviously, you know, this incident occurred within the context of everything that happened with George Floyd, certainly a topic of great conversation in police departments all across the country. To your recollection, in addition to, for example, this type of training, what kind of conversations do you recall occurring formal or informally in, you know, meetings and things along those lines about these types of issues in terms of interactions, and positional asphyxia, and sort of being more aware of what's going on?

JF: Like, private conversations or [overlapping 01:40:52] like—

JA: Not private conversations. I know that—

JF: Training?

JA: ...you meet before a shift. There might be some guidance. I understand from other interviews that perhaps a captain will say, "Hey, you know, here's an article that was in the news about this thing that happened. And it's going to talk about, you know, making sure that you guys are following certain procedures and protocols," if any. It may not have happened.

JF: I don't recall—

AW: I think he's asking in the work context.

JA: Yeah.

JF: Okay.

AW: Not in a—

JF: I mean, a lot of it stems from really current events is what kind of drives us, our conversations about, you know, a multitude of different issues that arise in law enforcement across the country. It's not just—We all know by now the dangers of positional asphyxia and compression, you know, and all that. So, that's why we incorporated it a long time ago to stay away from the spine and the back and to not put weight. You know, I wasn't around during those times, but I guess, you know, there used to be dogpiles where everybody would just jump—We don't do that. It's you have a very specific role if it gets to that point during an incident. And we're trained to know that role. So, if you have one person trying to control an arm or trying to control both arms, and the last things that you want to be able to control to prevent somebody from hurting you or somebody else or getting whatever, you have to control the legs. And there's very specific techniques that we're taught to safely do that.

So, a lot of the conversation is just know your role. If they do come up, know your role, what you need to do, what to look for, look to work. We don't need—If you already see somebody down there and everything, just observe it. So, it's not—You know, stay away from the back. We know that. And I would say, as far as conversations, more or less, it's very plain and simple. If happens this way, don't do this. Stay away from the back. Don't put pressure.

JA: And so, in this particular, between the time that you and Officer McKinley went to the ground with Mario and the time that he became unresponsive, if you're able to estimate how much time was he on the ground in the prone position, you indicated that he kind of started on his side, and he was kind of on his side...

JF: When we talk about prone, are we talking completely flat, laid out prone?

JA: Yes.

JF: With all his weight bearing down on his diaphragm?

JA: Yes.

JF: Oh, it was, he was moving a lot. He was on his left side. He was on his right side. So, it was not all at one time. I mean, there might've been a point in time where he was or appeared to be completely laying flat on his stomach in the prone position, but he wasn't. His body was leaning to the left or the right. So, I guess you would have to go through the video and really diagnose it and see. If I had to estimate the time on the ground, approximately five minutes. Him being completely flat, prone, that's something I think that you would have to go through the video and actually break down by time frame because he's not always flat in the prone position.

JA: And just based on what you're telling me, it sounds like there is a distinction there that might impact how someone physically responds. And if so, can you tell me what that is? You have more of a concern about someone's breathing and issues of positional asphyxia if they're lying flat on their stomach the entire time versus if they are moving up and down, as you sort of described Mario. And I'm not trying to—

JF: Yeah, absolutely, because all that weight's bearing down, and, you know, you have their own body weight bearing down on them, and there's other factors that do play into that, you know, belly size and things like that, that could have a negative effect on. But ultimately, from the day that he—If you had to break it down with the time that was completely laying flat, prone, it would be maybe 20 seconds at this point. And then he

would roll to his side. And then, maybe he would roll back prone, and it'd be another 30 seconds, or you would really have to sit down and go through the video and diagnose it because for five minutes straight, he wasn't completely flat, prone.

JA: You mentioned that shortly before he became unresponsive, he was, based on your observation, kind of talking to one of the other officers. At any point after you made the comment about rolling over, at any point between that point and when he became unresponsive, did you ever have any reason to believe, based on your observations at the time, that he was in any kind of distress? Did you hear him sort of yelling or gasping for air in a way that clued you in or suggested to you that here might be something going on with his breathing?

JF: No. It just sounded like he kept—he was just moving. His body was moving. And then, usually, when you're moving, you're not trying to talk, but nothing, no.

JA: And if you had made such an observation, what would your training have suggested you do?

JF: Oh, if I would've made that observation, it would've mattered what anybody said on the scene, I would've immediately rolled him to the recovery position.

JA: And so, talk to me about the point at which Mario became unresponsive, and then you noted it. And what happened next?

JF: I wasn't observing when he became unresponsive, so I wasn't like physically watching his face or his breathing. I think I had divided attention, and I was looking elsewhere, at other people on the scene, but it seemed immediately, Officer McKinley looked—Well, Officer McKinley had to have been observing because immediately, once he—It felt like he stopped and—How can I explain this? It was almost instantaneous from the time he said, "I think he went unconscious," or, "He's unconscious," to it was instantaneously, boom, roll, assess. And then we started lifesaving measures. It was very fast

JA: And how, if at all, did you participate in those measures?

JF: What I did was I—Officer McKinley checked for a pulse. I double-checked. And then when I didn't feel a pulse, it was, I tried to establish an air way by chin to head chin tilt, and then stabilizing the neck, and Officer McKinley immediately started CPR.

JA: What did you do from that point forward?

JF: I basically—More and more people kept arriving on scene, so it didn't make sense for me

to keep, I should say swa—[unintelligible 01:48:42] with anybody to keep that airway open, since we had more people there that could just relieve other officers during CPR. So, I felt it was better for me, more efficient to stay there and basically to hold the airway open; that way, the other officers could just go around, they could just rotate through, conducting CPR.

JA: How long did you do that for approximately?

JF: I would have to say three to five to eight minutes. Until AFD got there, until the fire department arrived on the scene, I would say. And I think I even held it a little bit after they got there. And they took over lifesaving measures on him.

JA: Did you call for fire?

JF: Yes.

JA: I know other people did, so I was just checking. You mentioned the WRAP earlier and the fact that there were some conversations that had occurred about the utilization of the WRAP. Did you participate in those conversations? Did you suggest to anyone, "Hey, I think we should use a WRAP here"? Can you tell me what conversations you heard?

JR: Yes. It was Officer—I don't know who it was. Somebody said, "Well"—the—What do you—Basically, the conversation went, "Should we keep him in the prone position until we get the WRAP here?" Or somebody asked for the wrap. I think it was Officer McKinley. And I remember looking up, and I saw Sergeant Murak. She was running over. And he asked her to get the wrap out of—I don't remember what vehicle. She went to get the WRAP, and then there was some talk, if I'm not mistaken, of, "Should we just keep him in the prone position until the WRAP gets here?" because that's the position you have to have them in anyways to deploy the WRAP. I don't remember if it was—I'd have to review the video, but somewhere, somebody said, "Should we just basically keep him here in the prone position?" And somebody said, "Yes, till the WRAP gets here," which was like, should've been very fast.

JA: Okay. And so, based on your training and experience, do you feel like the utilization of a WRAP would've been an appropriate measure in this case?

JF: Based off of his level of resistance and his strength, I do. I do believe that the wrap would've been appropriate.

JA: All right. And you've highlighted a number of times your concern about positional asphyxia and so sort of being in the lay flat complete prone position. You mentioned a moment ago

that someone needs to be in that position before you utilize the WRAP. But, you know, there should be a very short window of time between, you know, when the person's in that position and when the WRAP is used. Was the goal here to sort of just keep him in that position for a short amount of time and utilize the WRAP or to keep him there for an extended period of time?

JF: No, it wasn't. For a short period of time because the WRAP is deployed very fast, and once you get the leg strap on and the shoulder harness over his shoulders, you immediately put him in the seated position. So, it happens very fast. And I would say that process could be done within 10 to 15 seconds.

JA: Okay. But before the WRAP could be utilized here, he went unresponsive. Is that correct?

JF: Yes, because the WRAP was never deployed.

JA: Right. In the course of your interaction with Mario, when you were all on the ground, at any point between the time you went to the ground and the time that he became unresponsive, do you ever recall him not resisting, however you would sort of describe that, sort of not kind of arching his back, or moving, or lifting his body up in any way?

JF: It felt like he was moving the whole time. I want to say, at one point, there was kind of like describe it kind of [unintelligible 01:53:13], I guess you could say. And I think that was around the time—I think I heard Officer McKinley ask Mr. Gonzalez what his name or date of birth was. And he said, "Mario." And he gave the last name. And then, if I'm not mistaken, he gave a birthdate. But I would have to review the video. Again, I just, I think he was still moving around, but wasn't—it was more just I think like he was still trying to—He was just getting more tired, I guess you could say. I mean, we were all tired throughout the whole incident. But I think it was more or less he just kind of started to get tired, in my opinion. Muscle fatigue.

JA: Do you remember anyone removing the handcuffs from Mario?

JF: Yes, because we ended up rolling him back into the recovery position to do that, and I believe it was Officer Leahy.

JA: And at what point did that happen?

JF: It was already after Officer McKinley, I think, did a round of CPR. And then it was like "Hey, we need to get these handcuffs off, roll him over on"—I don't remember the side. I think it was his left side into the recovery position. Yeah, it had to have been his left side because I remember still hold his—still trying to called a supine so he didn't have to—just

protect his neck and his airway. Then I think it was, I want to say Officer Leahy, he says something to the effect of, "I need a little bit of room to get them off," or something. And then once they were off, we immediately pulled him back on into the supine position and continued CPR.

JA: What did you do after you were relieved from assisting with the lifesaving measures in your pictures [inaudible 01:55:17] his neck? What did [inaudible 01:55:18] want you to do?

JF: I just kind of walked to the other side of the street.

JA: And at some point, were you directed by the sergeant to head back to the station?

JF: At one point, I was directed to sit in the traffic truck, in the back of the traffic truck.

JA: And then someone transported you to the station.

JF: Yes.

JA: Who was that?

JF: Sergeant Peterson. I believe he was the one who transported us back. It was me, it'd say Officer Leahy, and Officer McKinley. I think that was who was in the back of the truck.

JA: And then, after you arrived back at the police department, did you go into separate rooms from the other officers?

JF: Yes.

JA: Outside of your counsel, and I'm asking for any conversation that you may have had with the counsel and your representative, outside of any one of that variety, did you speak with anyone else about the circumstances of what happened?

JF: No. I was pretty much isolated with another officer on the third floor, the detectives. One of the detective's cubicle was—And random people would just to come and ask [inaudible 01:56:34] with no conversation.

JA: Let's kind of talk through, and we're getting kind of to the end here, let me talk about your training generally. Obviously, you've been an officer for 10 years. At the time this incident occurred, my understanding is that you were on patrol. Is that right?



JF: Yes, sir.

JA: What other assignments in addition to patrol have you had? You don't have to give me all the details, but other than patrol, that else have you done during your time here?

JF: [unintelligible 01:57:08] instructor, SWAT team, and I was on the sniper team.

JA: How long overall would you say that that you have been on patrol?

JF: Ten and a half years.

JA: Well, some places have independent assignments, so I'm just clarifying.

JF: We don't have the staff for that.

JA: Not yet. Hope springs eternal. I talked to you about the training about positional asphyxia, so we don't need to go into that. You mentioned excited delirium. I know that that was also part this section, talked about that. Then the training from the end of 2020, what kind of training did you get about excited delirium? Or what's your understanding about what it is?

JF: A lot of it, excited delirium is usually, I guess it would be associated with more a narcotics user, where they begin, you know, they could be having, going through a serious of I would say emotional, physical, biological changes. And what I mean is like they're usually very hot. Their internal core temperature gets very hot. They usually don't have heavy clothes on. They're sweaty. They're very unpredictable. They're very, very strong. I think they define it as or explain it as superhuman strength, very unpredictable. And there's a lot of precautions that you have to take. And I know there's more objective signs and symptoms to that.

But a lot of the indicators is, you know, they'll strip off their clothes. They're extremely hot. They're almost acting almost like schizophrenia. Like, they're talking and talking to people who aren't there, and you have really—You have to be able to identify that because you got to have medical there right away because most like, if you get into a struggle because their heart is racing so fast, they're most likely going to have a heart attack if you get into any type of use of force with them. So, you need to have medical there right away so that you know that they can be treated on the scene at the time if it does go that way.

But there's a lot more to excited delirium. I just can't think of it off the top. There's more signs and symptoms and behaviors and—

JA: Sure. Did you think that narcotics was involved here with Mario Gonzalez based on your

observations?

JF: No. I mean, the only thing I saw was the alcohol. It was very—You know, it wasn't a beer. It was like liquor. And they were big bottles. There was quite a bit missing out of one, from what it looked like. And the only thing that, based off of what I was observing, it was just alcohol intoxication.

JA: And so, from that, is it fair to say that you did not necessarily think that excited delirium was at play here when you were on scene with Mario? Or was it in the bac of your head at all, or—

JF: No. I mean, again, he wasn't exhibiting any of the objective signs that I would pick up on. He was wearing really heavy clothing. He had a beanie on. You know a lot of it was just indicative of just being not only intoxicated, to me, he's not having [unintelligible 02:01:02] thought, not being able to process or verbalize things. He's going off in different directions.

JA: I want to sort of bring us to a conclusion. And then I'll turn it over to Louise. Just talking specifically about policies here, and we kind of talked a bit over them in a way, so let's just kind of focus it in this way: We talked a bit about de-escalation. We've talked a bit about—Actually, I don't think I've asked you specifically—Actually, I did, about defensive tactics training, so, de-escalation, defensive tactics training. We didn't talk explicitly about use of force generally, so let me just ask you, when do you receive training around use of force or updates around use of force, and specifically, prior to this incident in April, what's your recollection about the last time you received—Obviously, there's this training here. Would this have been the most recent training prior to April, where you have sort of—

JF: We do quarterly range trainings. As range instructor, I always go over Policy 300 with everybody from the department through, which is our Use of Force Deadly course, in addition to several other policies that don't pertain to this, but explicitly like patrol rifle, Policy 355 [phonetic 02:02:34]. So, that was in October of 2020, so our first quarter, I would have to go back and look at our training records, but we had a qualification in the first quarter of this year, 2021. And then I must gone over Policy 300 with every, verbatim with very officer who comes in to qualify [inaudible 02:03:00]. And we go through the whole thing verbatim, top of my head.

JA: Let's start with Policy 300. Based on your training experience in looking at this interaction with Mario Gonzalez, how did your understanding of the Policy 300 inform the force that you utilized in this particular instance with Mario?

JF: I think that it was, there were just controls. It was the lowest level of—I should say at a point it went from a detainment in handcuffs to active resisting that resulted in a use of

force based off of Mr. Gonzalez's actions. And it would've been the lowest level of use of force necessary to safely affect an arrest. I don't think that there was any, really any other options when it comes to use of force that are applicable or within our policy that we could've used besides maybe OC or I don't think taser's applicable because of the heavy clothing he was wearing. I think it would've be negligent in discharging a taser. And I think that there was more of a safety issue with the probe going someplace else than it should've. Or it would've have worked. But Tom, I felt that we utilized the lowest level, and we didn't need to use those tools, and they weren't applicable to the situation. Control holds were the safest way to affectively take Mr. Gonzalez into custody.

JA: What about the policies relative to handcuffing and restraints? Can you talk to me about how that factored into your interaction with Mr. Gonzalez?

JF: Which part, Policy 306?

JA: Yep. And you don't have to get into the weeds. I'm really just trying to get your sense of, "This is what I did."

JF: I think, yeah, you know—

AW: If you want, I know those policies [inaudible 02:05:23].

JA: Yeah. And you can take a look and...

JF: As far as [inaudible 02:05:33], that's just a regular handcuffs.

JA: Just the process. I mean, what I've heard you articulate thus far is that. That was a decision that you were going to try to arrest him. You attempted to utilize your handcuffs. They were lost. At some point, you assisted someone else to place the handcuffs on him. So, I'm really just trying to get your thinking. You know, did you feel like the use of the handcuffs here was perfect. Was it consistent with policy?

JF: Oh, absolutely.

JA: Was there anything out of the ordinary?

JF: It was consistent because handcuffs are used as a means of safety measures, if you think about it. It's to keep him or the person you're taking into custody safe. It's to keep us safe from getting hit, punched kicked or hit, kicked, punched, anything. And as far as the WRAP, are we also going into the WRAP or—

JA: You can talk about the WRAP, sure.

JF: Yeah, you know? It's definitely applicable in this, for our policy in this situation when you have somebody who is actively resisting for that prolonged period of time, and three officers, in essence, are needed to take this person into custody and get them handcuffed, at that point the WRAP is more or less used to immobilize a person for that reason. It's to keep them safe, to keep us safe, and to keep them from essentially hurting themselves, hurting us. We're not trying to do anything other than restrict movement. And those are the two ways that, within our policy, we could do that.

JA: I want to ask you about something that you've mentioned to alluded in your previous interview, and that really has to do with officer safety and concerns, if any, about your safety and the safety of the other officers. Looking back, specifically in a moment when you were interacting with Mr. Gonzalez, you mentioned earlier that you asked him to take his hands out his pockets. And I don't think I like provided you with an opportunity to elaborate on why you did that, though I think I understand. Did you have concerns about your safety and/or the safety of the other officers at any point while you were interacting with Mr. Gonzalez?

JF: I always have concerns about my safety whenever I interact with anybody because I don't know who anybody, you know, is. I don't know who these people are who I am contacting. And I don't know what their background is, you know? And the reason for asking him to take his hands out of his pocket because I'm assuming that he hasn't been searched. I don't know if he does have a weapons in there, as weapons are very dangerous, not to say that he did have one, but it's just it's more about safety issues because we don't know. It's the unknown. And, you know, human beings are unpredictable, right? One person could go from being extremely compliant to extremely violent within a matter of milliseconds.

So, just as a safety precaution for us, it's of a, "Hey, can you please just do that? because we don't know what you are. We don't know what you have in your pockets. And can you just do that more for my safety and your safety because I don't want to get hurt. And if you do have something in there that you pull out, I don't want you to put me in a position to where you could possibly get hurt."

JA: And in this particular piece with Mario Gonzala, though, you indicated that prior to sort of attempting to handcuff him, there were no signs of aggression up to that point. Is that right?

JF: No. The only concern I had was when he was reaching for the bottle and screwing the cap on. That kind of, it's like, okay, that could be used as a weapon. He could just pick it up and throw it at me, and if it gets to my arm, it could break my arm, or like whatever these bones are here, right, blocking. If it hits me in the head, it could knock me out. But I felt

like I had enough safe distance to east be able to avoid it if he did decide to through it at me, because I didn't know who he was or why he was reaching for the bottle.

JA: Any other, outside of what could've been used as a weapon in terms of that bottle, any other observed weapons or other items that caused you concern? Obviously knives or things along those lines. But there's no [inaudible 02:10:21].

JF: As far as visible items, the bottles, but people conceal things on their body all the time. People conceal things. I mean, there's been revolvers recovered out of front pockets for the, you know, derringers, little small, .22-caliber double-shot, whatever, flash shot, pistols, pocket guns. So, there's a lot of dangers that are out there. So, it should always be a concern of a police officer when people are putting their hands in their pocket. It could be a needle. Who knows? You don't show it, that it makes you nervous, but it does make you nervous on the inside because you don't want to get hurt. I don't want to get shot. I don't want to get stabbed. So, yeah, just asking him to remove his hands from his pockets is completely appropriate because I don't know.

JA: Let's bounce around here a little bit. Charlie Clemens, you indicated you didn't know it was Charlie initially. At some point, did you realize it was him?

JF: Not until I was told.

JA: And so, do you remember him and this person that you didn't know at the time, do you remember that person leaving or stopping what they were doing in terms of [overlapping 02:11:49]?

JF: Alls I remember was I heard—I looked over. I saw the back, happened to be Charlie. It was his back. And then at some point after that, I heard Officer Leahy arrive and say, "Charlie, I got it." It didn't register to me because I was still highly involved in the incident. And then at that point, I knew Officer Leahy was there, but it didn't register that Charlie Clemens. And then, I don't know where you're going from there.

JA: Okay. You were not the person that said, "Charlie, go back to the car [overlapping 02:12:28]"—

JF: No. No. I think it was Officer Leah, if I'm not mistaken.

JA: Okay. I got it.

JF: Because when he got there, he was like, "Charlie, I got it."

JA: Okay. Last couple questions here, I'll turn it over to Louise. Number one, at any point during your time interacting with the other officers and Mr. Gonzalez, did you ever observe any conduct on their that suggested to you that they harbored any kind of ill will towards Mr. Gonzalez, any inappropriate language that they used towards him, or anything else that would suggest that they had a specific dislike for Mr. Gonzalez?

JF: Absolutely not. It extremely professional and ordered, start to finished. Everything was, "Please." I didn't hear anybody [inaudible 02:13:24]

JA: And did you observe at any point, and I think I asked you this in another context, but at any point, did you observe any conduct on the part of any of your colleagues that you believe was inconsistent with police department policy?

JF: Everything I observed appeared to be within policy and procedure and within the scope of our training.

JA: I'm going to review my notes, here, to make sure I've covered everything, but I'll turn it over to Louise, who I know has at least one question. And then we will wrap up here.

LR: [inaudible 02:13:54] I gather that you did not know Mr. Gonzalez before this incident.

JF: No, ma'am.

LR: I gather that you think it was appropriate to arrest him.

JF: Yes.

LR: For public intoxication.

JF: Yes, and probable cause to believe that theft may have occurred.

LR: Then that I understand that in going to the ground, you think it was because you all fell rather than anybody bringing Mr. Gonzalez down to the ground.

JF: Yeah. We fell. But I don't know how.

LR: I'm just wondering, is there anything that you could've done differently or have done differently as you think about events of the day?

JF: That's a loaded question, ma'am.

LR: Short of calling it a set. That's a hard question.

AW: Hindsight being 20/20 [inaudible 02:15:12].

JF: I can't say. I don't know.

LR: [inaudible 02:15:15].

JF: I believe everything that we did with them was appropriate within policy and procedure. And given the set of circumstances that we were dealt with that day, I believe that I wouldn't do anything differently.

LR: You've been involved in other circumstances where [inaudible 02:15:37] people involved?

JF: Yes.

LR: Yes.

JF: And that's usually a result of that's the only way to safely detain somebody.

LR: Okay. Thank you, dear.

JA: Let me just ask, and seeing I don't know if I covered this with as much depth as I wanted to. When we were having our conversation about your colleagues and body parts that they may have placed onto Mr. Gonzalez, you mentioned that one of the officers, and I believe you said it was Officer Leahy, who was straddling Mario. Was that right? Or was that—

JF: No. Officer McKinley.

JA: McKinley. Thank you. Other than—Well, actually, can you describe for me a bit more about when you say "straddling," what you observed specifically.

JF: So, Officer McKinley had his waist above Mr. Gonzalez's buttocks, if that's making sense. So there's the left, me was on the ground of Mr. Gonzalez's left side of his body. And his right knee was on the right side of Mr. Gonzalez's body, all of the hip area, within that hip line [inaudible 02:17:04] describe it. And his buttocks was straddling Mr. Gonzalez's buttocks, like if that makes sense. Like—

JA: It does.

JF: Like, not above the waistline but below the waistline, like below the like [inaudible

02:17:21] would say, to of the legs, top of the hamstrings, butt cheeks, that area. And it was just one of those things I just happened to look up and there he was.

JA: And how long do you think Officer McKinley was in that position?

JF: I have no idea because I didn't see him get in that position, and I do not recall him getting out of that position.

JA: Is that tactic that you all are trained to utilize on occasion to render someone into compliance or in control?

JF: I wouldn't say that it's trained, but, and I don't know if Officer—I don't think Officer Leahy was there at the time. To be honest with you, I can't—I don't remember. I'd have to review the video again. But it is not trained as far as I know. I've never been trained to straddle somebody like that.

JA: But it's not a policy, for example, that is explicitly bad, like putting your—

JF: No. There's never been anything that says you cannot do that because I think that you're not placing—You're basically controlling the hips from movement or I guess you would say preventing him, again, from bringing his knees up to his center line of his waist if [unintelligible 02:18:52] managed to get up, like more of a [inaudible 02:18:54]. It would just be another form of controlling hips without putting any weight on his back or chest, or back or spine.

JA: Did you have anything else?

LR: Could we just step outside for one sec?

JA: Yeah. I think let's take a break for just a minute—

LR: [overlapping 02:19:10].

JA: ...and make sure we've covered everything. And then we're still in our time frame. Give us just a second. There's this here. We had a couple of additional questions here. Let me look. Yeah. Let me actually just go back to one that you had mentioned. You had indicated that at some point, one of the officers did a finger sweep of Mario's airway or mouth, is that right?

JF: Yes.



JA: And I'm pretty sure that it's based on previous statements that they didn't locate anything. There was no food or any substances in there?

JF: No. I didn't see anything in the mouth.

JA: At any point, when you were with Mario or observing him during the course of the interaction, did you observe any other issues with his airway, with his neck, with his breathing else that you felt would've been problematic?

AW: I'm not sure I understood you question.

JF: Yeah, I don't understand the question.

JA: Let me ask it this way: Did you make any observations specifically of Mario's neck? Did you see any bruising, any handprints, footprints, or anything along those lines?

JF: No. But I wasn't looking.

JA: And you indicated, obviously, that the officer that did the sweep of his mouth didn't locate anything. Is that right?

JF: Not that I'm aware of.

JA: Did you ever have an opportunity to look in Mario's mouth at all?

JF: I think as he was doing the finger sweep, I was obviously looking. I think at that point, I had his—His face was right in front of mine. A lot of times, I was more or less focused on his forehead and more less listening for breaths. I think, after he did the finger sweep, I may have glanced in there, but I'm not 100% sure. I don't remember. Everything was happening very fast. And I just was calling his name, hoping he would wake up.

JA: And other than the initial period—Well, let me say it this way: You asked the question about whether Mario could be rolled. And the response that you got was, "I don't want to lose what I got." And obviously, there was no attempt to role him at that point. Outside of that particular instance, were there any other efforts to roll him or place him into a recovery position, that you can recall?

JF: No because it was all—It was just, it was so active.

JA: When you say "so active," what do you mean?

JF: There was a lot of movement. Mr. Gonzalez was moving a lot. He wasn't just laying there still, if that makes sense. But no, I think that was the only time I verbalized it, and it wasn't until after he went [inaudible 02:22:36].

JA: Were you on scene when Mario was transported by the ambulance to the hospital? I know I'm making an assumption. You know he went to the hospital, but maybe you didn't know that. But were you on scene when he was loaded into the ambulance and transported from the scene?

JF: If I was, I was sitting in the back of the truck, and I wasn't paying any attention.

JA: So, you weren't present to give an estimation in terms of—

JF: No.

JA: ...how much time it was receiving—

JF: No. They—Yeah. I know he was on the day that the fire department placed the [unintelligible 02:23:13] device on him [inaudible 02:23:14]. No, they didn't. I don't remember.

JA: They didn't?

JR: If he was transferred or transported by ambulance or when he was, if I was on scene, I was [inaudible 02:23:23].

JA: Did that cover?

LR: One question I had that usually officers, if I understand, they're supposed to do a report almost immediately. But your reports were delayed for [inaudible 02:23:42]. Is that correct, my understanding of that?

AW: Yeah. So, they have a policy on officer-involved shootings and deaths. And at that point in our Alameda, typically, and I don't know that—James Fisher knows this because he's—

JF: Yeah.

AW: ...necessarily been involved in one before, but they will do an interview. And then the interview, when that occurs, whether it's the same, another day, or at a later time, is part and parcel of the negotiations here. On that particular day, it was ACSO's call. The Sherriff's Office's call as to when they wanted to reconvene for a interview. So, no written

reports had ever been done by Officer Fisher. Was that right?

JF: No.

AW: But I think the answer to that is it's found in the—

JF: Right here.

AW: ...policy on officer-involved deaths. This is one of those things I get to have the experience of knowing that not necessarily [overlapping 02:24:45] is insufficient.

JF: Everything is policy.

JA: Yeah. Is there anything else that you would like to add, or clarify, or elaborate on that we have covered—

JF: Yes.

JA: ...or anything that I missed?

JF: I would like to clarify, I know we talked about CIT training. It actually stands for Crisis Intervention Training. And I think I refer to it as Critical Incident, something else, but it's Crisis Intervention Training.

AW: And then I had a follow-up question—

JA: Sure.

AW: ...if you don't mind. You mentioned on a couple of occasions that you felt that there was sufficient cause or a reasonable suspicion to investigate further the theft. What was it about what you observed that made you feel there was a sufficient bases on which to continue to investigate a theft versus thinking that these bottles, he had purchased and belonged to—

JF: When I was trying to describe the bottle cap, when I initially got on scene, it was a big black bottle cap, but it was a security cap, not a regular bottle cap, which is indicates that they most likely were not purchased, and they were taken without having the check-out clerk take the actual security cap off.

JA: Did you have anything else?

AW: I have nothing further.

JA: All right. Well, thank you very much.

AW: Thank you.

JA: Let us conclude the interview. It's 11:52 AM. And I will stop recording. Thank you very much for your time.

JF: Thank you, sir, ma'am.

LR: Thank you.

AW: Thank you.