

SUPPLEMENTAL REPORT

1. Original File No. P08-157587		2. [Redacted]		3. Off ID 203		4. Dist. W		5. Crime-Ct.		6. Crime-Ct.		7. Crime-Ct.		8. Date/Time Occurred 10-31-08/ 2145		9. Day 7					
10. Date/Time Assigned		11. Date/Time Inv. Start				12. Date/Time Inv. Term.				13. Type Clr. Arr		14. Type Cont. Rec		15. Additional Adults Arr.		16. Additional Juv. Arr.					
17. Address of Occurrence (Street No. - Name - City) 7800 Cypress Avenue, Riverside													18. Type of Place Street								
For ID USE: V = Victim, I = Informant, W = Witness, O = Other																					
19. ID: V		20. Last Name - First - Middle (Firm Name if Business) Officer D. Koehler (RPD)										21. Race - Sex		22. DOB							
23. Residence Address								24. Business or School Address						25. Home Phone		26. Bus. Phone					
27. V		28. Last Name - First - Middle (Firm Name if Business) Officer J. Ratkovich (RPD)										29. Race - Sex		30. DOB							
31. Residence Address								32. Business or School Address						33. Home Phone		34. Bus. Phone					
SUSPECT	35. LAST Name - First - Middle Acevedo, Marlon (Deceased)						36. Race - Sex H/M		37. Age 35		38. Ht.	39. Wt.	40. Hr.	41. Eyes	42. DOB or ID [Redacted]		43. Arrested <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
	44. Address - Clothing - Other Marks or Identifying Characteristics 7857 Cypress Avenue, Riverside																				
45. Juv: Other Disp: Juris. <input type="checkbox"/> 2				Juv. Ct. Prob. <input type="checkbox"/> 5				Within Dept. <input type="checkbox"/> 6				Detained <input type="checkbox"/> 1				Not Detained <input type="checkbox"/> 2					
SUSPECT	46. LAST Name - First - Middle						47. Race - Sex		48. Age		49. Ht.	50. Wt.	51. Hr.	52. Eyes	53. DOB or ID		54. Arrested <input type="checkbox"/> Yes <input type="checkbox"/> No				
	45. Address - Clothing - Other Marks or Identifying Characteristics Clothing, other marks or identifying characteristics																				
56. Juv: Other Disp: Juris. <input type="checkbox"/> 2				Juv. Ct. Prob. <input type="checkbox"/> 5				Within Dept. <input type="checkbox"/> 6				Detained <input type="checkbox"/> 1				Not Detained <input type="checkbox"/> 2					
ORIGINALLY REPORTED DOLLAR VALUES ARE CHANGED AS SHOWN BELOW																					
PS 57 PR	A Currency Notes	B Jewelry Prec. Met.	C Clothing Furs	E Office Equip.	F T.V.-Radio Cameras	G Firearms	H Household Goods	I Consum. Goods	J Livestock	K Misc.											
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$											
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$											
60. Originally Reported Offenses (Code - Crime) (1) 69PC Assault on a Peace Officer (2)										61. Original Offenses Changed to (Code - Crime) (1) (2)										58. Stolen Auto Value ASP: \$	
62. Narrative of Supplemental Report See page two for a summary of Officer Koehler's interview.																				59. Recovered Auto Value A2 \$	
																				Reporting Officer Det. Medici	
																				Reviewed By M. [Signature]	
																				COPIES TO	
																				VCLO ()	
																				ACTIONS	
																				APR Sent	
																				APR Cncl.	
																				APB Sent	
																				APB Cncl.	
																				DOJ-NCIC	
																				Entered _____	
																				Cancl. _____	
																				ENTERED	
																				Stats ARBK ANK	

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File #P08-157587
Det. Medici #203

Notification:

On 10-31-08 at approximately 2245 hours, I was notified at home by Sergeant M. Rossi and asked to assist on an investigation involving an in custody death incident. I responded to the 7800 block of Cypress Avenue in the city of Riverside and I arrived at approximately 2320 hours. Patrol Sergeant B. Blomdahl briefed all investigative personnel upon their arrival. Detective R. Sanfilippo was assigned as Case Agent and I was assigned to assist him with the investigation.

Detective Sanfilippo and I conducted interviews with the involved officers at the Magnolia Street Police Station. All of the officer interviews were recorded and then transcribed. The following is a brief synopsis of my interview with Officer D. Koehler. The interview took place in the Conference Room at the Magnolia Station on 11-01-08 at approximately 0355 hours and it was audio recorded. For complete details of Officer Koehler's interview refer to the transcript included in the casebook.

Officer Dan Koehler #1538:

Designator on 11-01-08 – (Charles) C-420
Shift Start: 1500
Shift End: 0100

Injuries:

Officer Koehler complained of pain to both of his legs, his face, and his collarbone. Officer Koehler had visible redness and abrasions to his face. Officer Koehler's uniform appeared to be disheveled and dirty. His nametag was hanging off of his breast pocket by just one fastener.

Interview with Officer D. Koehler: (Audio recorded)

On 11-01-08 at approximately 0358 hours, I conducted an interview with Officer Koehler in the conference room at the Magnolia Street Police Station in Riverside. Detective R. Sanfilippo assisted me with Officer Koehler's interview. Riverside District Attorney Michelle Paradise was present representing the Riverside DA's Office and Attorney Suka Ethir from the law offices of Lackie, Dammeier, and McGill was present representing Officer Koehler.

Officer Koehler said that on 10-31-08, he was riding partners with Officer Ratkovich under the call sign of C-420. At approximately 1700 hours, Officer Koehler and Officer Ratkovich were patrolling in the 7800 block of Cypress Avenue when they came upon a M/H standing in the middle of the street on Cypress Avenue. The man later identified as Marlon Acevedo said something (Unk) to the officers prompting them to turn around and pulled up next to him. Officer Koehler said that Acevedo told them that he was keeping the streets safe and for them to do the same. Officer Koehler said that at the time he didn't think anything about it and they continued their patrol duties.

Officer Koehler said that on 10-31-08 at approximately 2145 hours, he and Officer Ratkovich monitored a dispatched call of a 5150 subject walking in the middle of the street on Cypress Avenue attacking cars. By description, Officer Koehler believed that it was Acevedo again so he and Officer Ratkovich responded to the call.

Officer Koehler said that when they arrived on scene, he saw Acevedo standing in the middle of the street making grunting noises. Officer Koehler exited the patrol car and told Acevedo to get

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out of the street because he was holding up traffic. Acevedo immediately directed his attention towards Officer Koehler and took a fighting stance. Acevedo held up both of his arms and clenched both of his fists as he faced Officer Koehler.

Officer Koehler said that Acevedo was ready to throw a punch so he struck Acevedo in the leg with his Asp Baton. The baton had no effect on Acevedo who then threw a punch striking Officer Koehler in the face. Acevedo continued throwing punches and fighting with Officer Koehler. Officer Koehler yelled for Officer Ratkovich to deploy his taser on Acevedo. Officer Ratkovich deployed the taser but according to Officer Koehler, it too had little effect.

Officer Koehler said that eventually they were able to place Acevedo in handcuffs. Officer Koehler said he placed Acevedo onto his left side. Medical aid arrived seconds after Acevedo was placed in the handcuffs. Officer Koehler was not aware that Acevedo was in medical distress until the paramedics said he did not appear to be breathing. Paramedics began CPR and transported Acevedo to the hospital.

FOR THE COMPLETE INTERVIEW WITH OFFICER KOEHLER, REFER TO THE TRANSCRIPT INCLUDED IN THE CASE BOOK.

RIVERSIDE POLICE DEPARTMENT
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INTERVIEW WITH OFC. DAN KOEHLER

Q=Det. Ron Sanfilippo

Q1=Det. Mike Medici

Q2=(Ricky) Fuentes

Q3=Will Robinson

Q4=(Michelle Paradise)

A=Ofc. Dan Koehler

A1=Saku Ethir

17 A: You guys (unintelligible).

19 Q1: Okay. Um, we're on tape right now. It's uh, about 3:58 I have in the morning.

21 A: I'm gonna turn this off.

23 Q1: Absolutely. Let me know when you're ready. You doing okay? You need anything? You had coffee, water?

26 A: I'm gonna grab a donut on my way out the door.

28 Q1: Okay. All right, I'm Mike Medici. Uh, Detective Ron Sanfilippo is the case agent. Uh, we're here with Officer Dan Koehler. Is it Koehler?

31 A: Koehler.

33 Q1: Okay. It's just spelled K-O-E-H-L-E-R?

35 A: Correct.

37 Q1: Okay. Um, we've got members of the DA's office here with us, Riverside DA's office. We have uh, attorneys from (Lackey, Demire) and (Miguel) here. And I think we'll do what we did before, huh? And just put everybody on tape.

41 Man: Mm-hm.

43 Q1: Let's go ahead and introduce our self.

45 Q3: Will Robinson, DA's office.

46
47 Q2: (Rick) Fuentes from the DA's office.
48
49 A1: Saku Ethir with (Lackey, Demire) and (Miguel).
50
51 Q4: (Michelle Paradise) with the DA's office.
52
53 Q: I'm Ron Sanfilippo, RPD.
54
55 Q1: Okay. Um, Dan obviously we're gonna talk about this incident. I'm gonna ask
56 you a couple questions related to the job right now. And then I'll just kind of
57 let you tell us what happened out there. And Ron and I will fill in gaps that we
58 need filled in, okay?
59
60 A1: If- if I could before we get started...
61
62 Q1: Absolutely.
63
64 A1: ...um, (unintelligible) as I stated before um, we're here today um, because
65 under the Riverside Police Department policies and procedures manual um,
66 section 4.8 um, uh, this officer is um, required under that policy to uh,
67 cooperate with any criminal investigation that's being conducted. It's our
68 understanding this is a criminal investigation as a result of an incident which
69 occurred today. Um, and as a result uh, this officer uh, should he fail to
70 cooperate and provide a statement here today, it is our understanding that he
71 could be uh, punished or punitive action could be imposed against him. And
72 because of that um, threat of discipline he's here today to answer the questions
73 uh, uh, posed by the investigators. Um, the other thing I wanted to make sure
74 was on tape uh, it is our understanding um, from the department that video
75 and/or audio of this incident or all of the incident or a portion of the in-
76 incident may have been captured. Um, the officer and obviously myself have
77 not had an opportunity to review that video. It's our understanding they're in
78 the process of uploading it uh, but we've been told at a later date we may have
79 the opportunity to review it. But we just want it clear that uh, we have not
80 reviewed it prior to this interview.
81
82 Q1: Okay. Dan, let's uh, get this little information out of the way. Your ID number
83 is what?
84
85 A: 1538.
86
87 Q1: What was your designator tonight?
88
89 A: Four twenty, Charles 4-20.
90

91 Q1: And it's Charles watch, What shift is that?
92
93 A: It's uh, 1500 to 0100 nights or evenings.
94
95 Q1: Were you a two-man ride tonight?
96
97 A: Yes.
98
99 Q1: Who did you ride with?
100
101 A: Officer (Jeff) Ratkovich.
102
103 Q1: Okay.
104
105 A: R-A-T - do you need the spelling?
106
107 Q1: Uh, I - we've got it. That's fine. And when you were actually hired by
108 Riverside PD?
109
110 A: August 11 of '06.
111
112 Q1: Where'd you work before that?
113
114 A: Started in Indio, went to Oceanside uh, Riverside Sheriff to Cal State
115 University.
116
117 Q1: So what kind of total time do you have in law enforcement?
118
119 A: Twenty years in April.
120
121 Q1: All right. Let me ask you, since it's noticeable right now, tell me about your
122 uniform and your patch. This I take it is not the way you always come to
123 work?
124
125 A: No. I like to take pride in my uniform.
126
127 Q1: Okay. Um, your nametag is hanging off your shirt basically. And - and
128 obviously I can see the scuffmarks with what I can see you sitting there. Is this
129 part of tonight? Is this what happened?
130
131 A: Yes.
132
133 Q1: Okay. Um, how about injuries? Tell me about your injuries.
134

135 A: Um, well my knee, my left knee is swollen up like a grapefruit. And my
136 collarbone is killing me. Uh, I had a bloody face but I - I just - blood was
137 making me sick so I cleaned it up.
138
139 Q1: Okay. Well what kind of injuries to your face did you...
140
141 A: Um, the fat lip in here. That was what was bleeding. And I got um, my glasses
142 I guess may have done this when I got punched. And...
143
144 Q1: Okay. Um, and your collarbone, it - it - you talking about your right
145 collarbone?
146
147 A: Yes. Right above - yeah right above my right.
148
149 Q1: Is it cut or just sore?
150
151 A: It just - it just hurts.
152
153 Q1: Okay. All right. And these injuries, how did they occur?
154
155 A: During my uh, uh, scuffle with the uh, suspect.
156
157 Q1: Okay. Well that's obviously what we're here to talk about so um, just relax
158 and take your time and - and tell us from the time you got the call to the time
159 it all ended and we'll kind of fill in some questions as - as they come.
160
161 A1: Um, just - just uh, for clarification purposes and - and you guys may not be
162 privy to this um, prior to the actual dispatched call that uh, he responded to
163 they had contact with this individual. And so I guess I know he's gonna want
164 clarification, do you guys want him to start from the previous contact?
165
166 Q1: Absolutely.
167
168 A1: All the way through...
169
170 Q: Yeah we're gonna get into that. Yeah we're gonna...
171
172 A1: Okay.
173
174 Q: ...get into that. (Unintelligible)...
175
176 A1: You want him to start from the very beginning then? Or just...
177
178 Q1: I think since it's related...
179

180 A1: ...or just...

181

182 Q1: ...let's go ahead and start it from when you had first contact with him.

183

184 A: Um, I'm not sure on the time. I'm thinking it's probably about 1700 hours, 5
185 o'clock give or take. Um, Officer Ratkovich and I were en route to another
186 call and we were um, basically westbound (Cypress) about that time in front
187 of the apartments there um, just between (Harold) and (Montgomery). As we
188 were driving uh, this individual um, uh, basically raised up his hands above
189 his head and called something out. And uh, um, both of us kind of looked at
190 each other and believed he, you know, he needed, he was flagging us for one
191 reason or another so we flipped a U-turn and came back. Um, we didn't exit
192 the car. We just wheeled up and said, "Hey what's up?" And um, this
193 individual uh, called out and said, "We - we got to keep the streets safe. Um,
194 keep the streets safe." And we re like, "Okay, keep the streets safe." He goes,
195 "Yep, I'm gonna keep this street safe. You guys be safe." So we said, "Right
196 on, you know?" Basically waved ourselves, made another U-turn and headed
197 back to our call. That was the extent of that contact. Um, you know, basically
198 it was a - just a - a hello basically. And we kind of giggled. We don't get that
199 kind of stuff in that neighborhood very often and we went on to our call. And
200 then uh, uh, approximately I - and I don't know - I - I know the exact time
201 'cause I just talked to dispatch. I was filling out some paperwork. About 2145
202 hours or so um, there was a call reference a possible 51-50 subject uh, in the
203 middle of the roadway there um, uh, causing a hazard and yelling and
204 screaming at cars. Um, we took the call. We came in off of (Harold) and went
205 um, westbound on (Cypress) and traffic was backed up. Uh, so we went
206 around the traffic. As we went around traffic, we saw the individual standing
207 in the middle of the street. And um, cars that were coming eastbound were
208 stopped because they couldn't get by him. Um, I immediately recognized him
209 as the subject that we'd talked to earlier. As we - as I exited the car uh, he was
210 uh, had his head down a little bit but he was making weird, loud noises,
211 grunting sounds. Um, I directed him out of the roadway. Um, told him to get
212 out of the street um, several times. Uh, like no real response. He looked at me.
213 He wasn't moving. Um, told him again as I - as I got within a - I don't know,
214 a couple feet maybe, of him um, he uh, jerked into um, you know, a fighting
215 stance. He brought both hands up into a - into a fight like this. And um, I don't
216 know. You can call it a bark or a growl. Um, um, I immediately jumped back,
217 pulled my ASP um, expandable baton. And uh, I mean as soon as that ASP
218 was deployed he was advancing on me. Um, I took um, a double hand swing
219 and I swung into his uh, leg and that would be uh, I guess it would be his left
220 because I'm swinging right and he's coming to me. Um, I hit the first one uh,
221 mid thigh to knee. Uh, there was absolutely no uh, reaction from him at all. I
222 went back up and delivered another one. Um, still he continued to advance. As
223 I was coming down for a third swing my baton had collapsed. Um, next thing
224 I got was a nice uh, uh, cross punch to the face. Um, my glasses flew. Um, he

225 was coming back around with another punch. I abandoned my baton and
226 basically uh, went and uh, delivered my own punch. He grabbed me. Uh, next
227 thing I know, we're on the ground um, wrestling around. Uh, I felt him at that
228 point I'm on - basically on top of him. He's more or less on his knees and I'm
229 up and over him. And I felt him going for my thigh with his - a bite. Um, I
230 whipped his head, reached around, rote - rotated his head around and began
231 delivering fist strikes to his face. Um, I - I don't know how many strikes there
232 were. Um, and uh, he went down to his um, back. I moved in. I attempted to
233 grab arms. We're yelling, "Roll over, roll over." Um, trying to get his arm and
234 he was - he was fighting. It was - it was hard. I mean this guy was strong. I
235 barely could get an arm on him. He's moving around. He comes back up and I
236 get another punch. And um, I think that's probably when I got the scratch to
237 the back of my neck. Um, I looked to (Jeff) and I'm - and I yell at (Jeff), "Tase
238 him, tase him." Um, I heard the deployment of the taser uh, the rattle. The uh,
239 subject um, uh, he didn't go prone. He laid out but then he started rolling into
240 the taser. And I'm on - kind of on my knees now and I'm scooting and I'm
241 trying to gain control of him as he's rolling. And he's rolling his body towards
242 um, (Jeff). And I'm yelling at (Jeff), "Hit him again." And by that I meant
243 with the taser. Um, I heard another deployment of the taser. He stopped the
244 roll but then rolled back towards me. And I was able to grab an arm but his -
245 this guy is - he was - he would - I mean I'm a big guy and this guy was, you
246 know, basically I had no control on him. I had um, was able to saddle myself
247 over his shoulders on - on his back. I had one arm and he's lifting me off the
248 ground. He's lifting me off the ground. Um, I had one hand and I'm delivering
249 punches to his back. Um, and I told (Jeff) to contact him. Um, and again I
250 heard the - the taser rattle. It had absolutely, other than uh, the suspect yelling
251 out, no effect, none. This guy was - was just out of control. Um, I was able to
252 saddle up the one arm that I had and um, I'm on - I had his - his um, right arm.
253 And I - and I'm wrenching on it and I'm trying to get him to lay out flat. I - I
254 know I was yelling um, basically to get his other arm. Um, I was able to
255 saddle him with one cuff and we couldn't get that other arm. He's fighting.
256 He's lifting his up. Uh, we were finally able to um, secure that other arm. Uh,
257 by now we're no longer standing. This all began at the beginning of the front
258 of the police car and now we were over to the north curb area in the street.
259 And uh, we got him um, handcuffed and he still - I mean I am - I am 265
260 pounds yesterday. Um, and I'm on him. I - I mean I'm on him and I'm trying to
261 keep him down um, and he's still lifting us up. Uh, (Jeff) was uh, grabbing
262 and trying to control his legs in a - in the move prescribed um, where we bring
263 almost a figure four of his legs and bring 'em up and holding 'em. And I could
264 hear Air One putting out um, traffic. I don't know exactly what they were
265 saying but I was hearing it and they were saying, you know, that basically that
266 we were in a fight. And uh, we could hear cars coming. And I'm on the radio
267 and I don't know if my radio was going out. It wasn't - it didn't transmit after
268 the - the fact. Um, but I was calling for the tarp. And I said, "The next car up,
269 bring me a tarp, bring me a tarp." And uh, (Jeff) was holding his legs and he -

270 he still was, I mean he was just out of control. I believe it was Officer um, uh,
271 Heiting was basically the first car. And I - and I turned and I yelled at him to
272 bring me the tarp. And then finally just said, "The hobble, we need a hobble."
273 He ran to us, no hobble, then ran back to the - to his vehicle and digging
274 around, digging around. And then I don't remember if he came back or if it
275 was another officer. Um, maybe it's Officer (Lim) that came. I directed him to
276 take over the feet and I yelled at (Jeff) 'cause Juh- (Jeff) said, "I have mine." I
277 said, "Go get it." So somebody else took over the legs. I was maintaining the
278 posture on top of him and I still had - he was cuffed but I still had his right
279 arm up. And I'm trying to pressure him into - into the - into the roadway. And
280 the tarp arrived. We tarped him. Uh, it was - it wasn't very tight, it was uh, I
281 remember discussing, "Give us another, give us another wrap." And uh, once
282 we had him tarped was about the time Fire was (unintelligible) the scene. Um,
283 the suspect basically became compliant. He was no longer fighting. I rolled
284 him to the side as Fire was getting there but I was still maintaining my weight
285 upon him um, just not as direct as it was before because I had him up to his -
286 on his side. Fire came. We told him, "Hey, he's been tased. He has, you know,
287 this." Um, and uh, um, one of the paramedics was - came down and they said,
288 "You know, he's not breathing." Um, and that AMR was getting their stuff
289 out. Um, I un-tarped him. Um, and at the request of Fire, I began to take a cuff
290 off of him. That was a, you know, a nightmare in itself with all of them in
291 there but we got him un-cuffed, got him up on the gurney and he was - he was
292 out of the - out of the - out of the scene. They had started uh, CPR and moving
293 him to the - to the um, to the rig and took him out. And that was the end of
294 that.

295
296 Q1: The CPR was started in the ambulance? Outside?

297
298 A: They were doing chest compressions as soon as they got him on the - on the -
299 on the gurney. I mean they - we - we got him onto the backboard. I'm un-
300 cuffing him as they're throwing him on the gurney and they were starting
301 chest compressions about that time.

302
303 Q1: Okay. So your initial contact with this guy was uh, a couple hours earlier?

304
305 A: Yeah.

306
307 Q1: And it was just in passing obviously and - and um, I think we all know the
308 area down there. Um, did you think he was drunk at the time? Did you know?

309
310 A: No. Um, to be honest with you, he also had that um, the - the care facility off
311 of (Phillbin).

312
313 Q1: Right.

314

- 315 A: And a lot of their clients are up and down (Cypress) all the time so, you know,
316 basically we thought he was, you know, part of - of that care facility. Um, his
317 demeanor at the time was not threatening. It was, you know um, you know,
318 basically it was humorous. I mean we don't get that kind of, you know, "Keep
319 the streets safe" type from anybody there um, let alone a wave (unintelligible)
320 a lot of times. And, you know, it was kind of like we wheeled up, it didn't - it,
321 you know, we never got out of the car. It didn't appear threatening so it was
322 kind of like, "Right on, see you later. Have a good day." Off we were to our
323 call. So um, uh, when I got on scene and saw it was him, you know, I - I -
324 basically my first inclination when I opened the door was this was gonna be
325 the same, you know, hop on out but it - it...
- 327 Q1: Other than this - the - the 5 o'clock sighting of this guy, had you seen him uh,
328 prior shifts? I mean any run-ins before with him?
- 330 A: No. I don't normally work the 20 beat. In fact um, Officer Ratkovich and I,
331 we - we - excuse me, like to team up quite a bit and we normally work the 10
332 area. That's the (Las Sierra) and (Magnolia) Corridor(unintelligible). That's -
333 I don't - I'm not up there since the shift change have I been through um,
334 Arlanza hardly ever.
- 336 Q1: Okay. So you get the 51-50 call. How did the call come out? What do you
337 remember he was doing as far as to - to generate the call?
- 339 A: Well to be completely honest with ya um, I got bits and pieces of it. I was
340 yakking.
- 342 Q1: Okay.
- 344 A: And uh, they had dispatched somebody else so I really didn't pick up on it 'til
345 (Jeff) says, "Hey," we were gonna head over to a resident check that we were
346 at earlier in the evening, a res check and he kept going past the street
347 (unintelligible) turn and I - and I said, "Where we going?" "We're gonna head
348 over here." "Oh 10-4" and that's when I said, "You know, we'll be en route to
349 that." I didn't get all of it other than blocking traffic. Um, I was just, you
350 know, basically shooting uh, the word with (Jeff), talking back and forth and I
351 was busy. But it was, you know, uneventful.
- 353 Q1: Okay. How about your - your observations when you - when you arrived at
354 that 2145 call? What did you first see?
- 356 A: I saw the - the subject standing in the middle of the street between the um,
357 broken yellow lines directly in the middle of the street, standing in the middle
358 when I first - when we passed the traffic. He was swaying um, side to side.
359 Um, and just moving his arms. And he was just making weird sounds. You

360 know um, almost barking, growling type, you know, chuck - I don't - I don't
361 know how to explain it.

362

363 Q1: Not words? Just...

364

365 A: Not words.

366

367 Q1: ...noises?

368

369 A: And not words, not noises um, almost like the bark he initially did when we
370 kind of drove by. Um, you know, and called out. So um, that's what I initially
371 saw.

372

373 Q1: When you first arrived, was - was there confrontations between this subject
374 and any cars? Or was it just him by himself in the middle of the street?

375

376 A: No, I mean he had cars. There was probably um, three cars backed up that
377 were going westbound. And I don't know how many eastbound. I saw
378 headlights and they were stopped. Um, I don't remember how many were
379 actually coming eastbound. So he had traffic stopped. We had to go around
380 the three cars that were stopped. So the confront - there was no other than him
381 standing there acting, the side to side movement and the - and the strange
382 sounds there wasn't anything.

383

384 Q1: And these cars were stopped because he was actually in the middle of the
385 street blocking them?

386

387 A: Yeah. I mean with his movements, the side to side, they really couldn't get by
388 him or didn't want to get by him. I don't know. But that's what we had when
389 we wheeled in.

390

391 Q1: Was he - what - what kind of state was he in? Was he agitated? Was he just
392 nonsensical? What - what was he...

393

394 A: Initially, nonsensical. I mean - I mean using your word, I - I mean I got out
395 and said, "Get out of the street, you know?" And it - it - the - the threat of
396 anything didn't come until I got within a couple feet and he jumped I mean
397 literally jumped like that in- into that stance. I mean it was that, just that
398 quick.

399

400 Q1: Okay. And that's my next question. How - how far away? You say a couple
401 feet. Um, uh, uh, I mean is that from me to you? Or is it - when he took that
402 stance of you - what you were showing me is two clenched fists, right?

403

404 A: Right.

405
406 Q1: Okay. How - how far do you think he was...
407
408 A: When he - when he bounced into that?
409
410 Q1: Yeah.
411
412 A: I think I was probably maybe a step closer than you and I when he bounced
413 into that.
414
415 Q1: Okay. And then it was at that point you obviously felt the threat?
416
417 A: Yeah.
418
419 Q1: Okay. You - you - you perceived the two clenched fists as he was gonna fight
420 you?
421
422 A: Exactly. I mean (unintelligible)...
423
424 Q1: I mean I don't want to put words in your mouth. Is that...?
425
426 A: No, that's exactly the - I mean it went from, you know, this little side to side,
427 you know, little uh, and they were loud grunts. It wasn't little. But the side to
428 side to like that. And like I said, I was probably a step closer.
429
430 Q1: Okay.
431
432 A: You know?
433
434 Q1: Um, just briefly describe him to me, what - what you remember, what he was
435 wearing, how big he is.
436
437 A: Well I - he was probably maybe five seven, five eight.
438
439 Q1: Okay.
440
441 A: He was a good 220 plus maybe. Like I said, I'm 265. I know I carry it well but
442 he - he was a - he was a big man. He was very thick. Um, I - he was wearing a
443 - a dark shirt, maybe a T-shirt.
444
445 Q1: Okay.
446
447 A: Um, and jeans.
448

- 449 Q1: My understanding is that he - he has family over there and lives nearby um,
450 where the stop was initially made. Was there any signs of family out there
451 trying to get him in, yelling at him, yelling at you?
452
- 453 A: The - the eh, there was family out there um, when the uh, struggle went to the
454 ground there to the north curb line. I heard someone saying, "That's my son."
455 I heard screaming, you know, and yelling, "That's my son." I did - when I was
456 getting - had that arm, I looked back. I saw several women and I just - I
457 yelled, "Get back." And I didn't have much time to mess with them. This guy
458 was, like I said, he was - he was all over the place, lifting me up. It was - I had
459 my hands full.
460
- 461 Q1: Okay. So then from the time that he clenched his fists um, you - your decision
462 was to uh, take our your expandable, your - your ASP, right?
463
- 464 A: Yes.
465
- 466 Q1: Um, when you did that, did he advance further or did he - or - or do you
467 know? Did he stay? Did he advance?
468
- 469 A: You know, he - I don't remember. I mean we were very close and when -
470 when that came up I mean I'm - I'm telling you I mean I've been doing this job
471 a long time and I - it was - I - I went back and just automatically came up with
472 it. And um, I hit him on that left leg and it was forward so...
473
- 474 Q1: Okay. And you said two strikes and still no effect, is that correct?
475
- 476 A: Two strikes, no effect, nothing.
477
- 478 Q1: When you deployed these strikes and - and I assume right after that is when
479 the - the - the - he punched you as you said, right?
480
- 481 A: Yes.
482
- 483 Q1: He punched you? Did you go down?
484
- 485 A: I went back. He, I mean he was on me.
486
- 487 Q1: Okay.
488
- 489 A: He was on me.
490
- 491 Q1: Do you remember going to the ground?
492

493 A: Well I think that's basically when we went and then I wasn't all the way to the
494 ground. He was positioned, you know, on his knees in my midsection and I
495 felt teeth go into my - go into my inside groin.
496
497 Q1: That's when he tried to bite you?
498
499 A: Right.
500
501 Q1: Okay. Did - did he actually do that? He actually...
502
503 A: Did he actually bite me?
504
505 Q1: ...get - get to bite you?
506
507 A: No, I felt the - I felt the clamping and that's when I pulled around and exposed
508 him and I went to fist strikes.
509
510 Q1: Okay. There's a lot going on obviously. But do you have any idea where uh,
511 (Jeff) is at this time?
512
513 A: Um, when I - when I was calling for (Jeff) to tase him, (Jeff) had moved
514 around basically towards the south curb as I was telling the individual as -
515 'cause he exited - (Jeff) was driving as - so he came up from the driver's side
516 and I was at the passenger side. And when I was calling for (Jeff) to tase him,
517 (Jeff) was right there. I mean he was - I mean right there.
518
519 Q1: If you're able to and again I don't want you to guess or - or put words in your
520 mouth or anything like this but from the - from the time he threw the first
521 punch at you until the time he was tased, I - it probably seemed like 20
522 minutes but do you have any idea how long do you think time passed?
523
524 A: No.
525
526 Q1: Um, you never actually were able to get to your radio, call 11-11, call a
527 backup or did you?
528
529 A: No, I heard the - I heard - I heard Air One.
530
531 Q1: From Air One?
532
533 A: And when I was able to get to my radio was after the handcuffing.
534
535 Q1: Okay.
536

537 A: And then I was putting up, "I need the first officer up with the - with the tarp."
538 I was calling for a tarp.

539

540 Q1: Do you know one way or another whether (Jeff) was able to talk on the radio?
541

542 A: I saw (Jeff) on the radio. Again, I don't know if he was - what was going out,
543 you know, if he was calling for the same thing I was. Um, you know, once
544 things were done I was trying to broadcast on my radio went (unintelligible)
545 my radio was not working. The little light would come off but that was it,
546 there was no...

547

548 Q1: Okay. And I - I don't want to get out of sequence but I don't want to forget to
549 ask you, you have a recorder. Was it on?
550

551 A: No, it wasn't on.
552

553 Q1: Okay. Um, what about your - your overheads on the car? Do you remember if
554 you turned those on or not?
555

556 A: I know they were on. Um, I did not turn them on. (Jeff) turned them on but
557 they were on.
558

559 Q1: At the time of the stop, that happened? (Jeff) turned the lights on?
560

561 A: (Jeff) turned on the wigwags I believe when we cut over traffic to go around
562 the backed up traffic.
563

564 Q1: Okay.
565

566 A: I have little to do in the car.
567

568 Q1: You yell out, "Tase him" a couple times obviously. Um, you're trying to hold
569 this guy down. He's pushing you off. Is (Jeff) - is (Jeff)'s weight and your
570 weight on this guy? I mean does it take both of you or is (Jeff) somewhere off
571 to the side?
572

573 A: No um, my recollection at - at the time from the - (Jeff) was on his feet when I
574 called for the tase.
575

576 Q1: Okay.
577

578 A: I mean because the guy was doing a barrel roll. When I was finally able to get
579 that arm and uh, he was pushing me off, a lot of his weight was on that arm.
580 He was - he had it tucked and - and so (Jeff) was pulling at it. But I do not
581 believe and I - and - and - and really not sure of his positioning. The - the only

582 time I do recall that (Jeff)'s weight and my weight were - were on the subject
583 is when (Jeff) was holding his feet in that figure four and I had the arm and I
584 had cradled my um, knee across the blades of his back and, you know, had the
585 - had the arm scissored basically.

586

587 Q1: Okay.

588

589 A: And that's the only time I recall that both of us had our weight on him.

590

591 Q1: And - and it's okay. I'm just trying to understand how it was out there, that's
592 all. Uh, obviously the guy for some reason had enough strength to be able to
593 push you off and - and uh, I guess (Jeff) well. Why - it - you mentioned a
594 contact. Um, I - you talked about contact tase?

595

596 A: Yes.

597

598 Q1: Okay. So he deploys his cartridge?

599

600 A: Yes.

601

602 Q1: Um, it cycled how many times? Do you know?

603

604 A: I know - I know a minimum of - I - I don't want to say a minimum, I mean a
605 minimum. I know I remember two cycles.

606

607 Q1: Okay.

608

609 A: I remember calling for two cycles. The first one, he rolled and - and like I
610 said, I was on my knees and I'm kind of scooting. My, you know, I'm basically
611 going after as he's rolling towards (Jeff). And then I called for another one
612 and he was continuing to roll. And once I was able to grab that one arm and I
613 was scissoring and he's forcing me off, then I called for a contact. There may
614 have been more with the darts. I don't remember. I know I heard two. I called
615 for those two. There may have been more.

616

617 Q1: Okay.

618

619 A: I don't remember.

620

621 Q1: And - and so for anybody in the room that doesn't understand a taser and its
622 function and once the cartridge is deployed um, the - you can only use it as a
623 contact after the darts have been deployed, is that correct? Once - once the
624 initial darts have been dep- the - the cartridge has been used, he deploys his
625 tasers, the darts go in the subject, unless you have another cartridge you can
626 assemble in there right - right away, you have to use it as a contact, right?

627
628 A: No. You're - this - this taser is designed when the darts deploy...
629
630 Q1: Right.
631
632 A: ...okay? As long as the darts have contact, you can cycle that.
633
634 Q1: Okay.
635
636 A: Okay? All right? You can cycle it as many times as necessary as long as the
637 darts are in, okay? If one dart falls out, one dart's pulled out and you don't
638 have that contact, pulling - pulling of the taser will - you'll hear the - you'll
639 hear it cycling but it may not deploy the necessary charge which to get
640 compliance. With this individual doing his rolls, that takes tension off of the
641 lines and could, you know, easily pull from the body if it didn't make a good
642 solid impact, if it got caught up in the clothing. So it - it wasn't being
643 effective. So when I was - had the arm and we're not getting that and I'm
644 yelling for a contact, the other ones weren't working.
645
646 Q1: Okay.
647
648 A: So you could pop that cartridge off. You have exposed prongs and then you
649 can um, deploy a contact taser shot without the darts.
650
651 Q1: Okay, good. And - and that's what I was trying to clarify is the - that - that
652 you called for a contact because you didn't feel it was deploying correctly?
653
654 A: Yeah, we weren't getting any compliance. Not- nothing - nothing that I had
655 done to - to any point during - during that struggle was having any effect on
656 the subject. I mean I went through basically every level of force to that point
657 so anything that I say or do was to get compliance. The contact shot was the
658 fact that it wasn't working, you need to try something else.
659
660 Q1: Okay. In your 20 plus years experience, is that normal to not have contact? Or
661 not have uh, compliance with baton strikes and tasers and - is that abnormal or
662 is that...
663
664 A: It's happened. I mean it's happened. I've tried all - I've been in different circ -
665 situations, nothing that equals this as far the outcome but I have um, utilized
666 all forms of - of force, up and including the carotid and not everything is
667 foolproof. And, you know, that's the one thing that they stress here is, you
668 know, one - if you're not getting somewhere, you know, you need to move on.
669
670 Q1: Go to another? And - and it - whatever was going on out there was ineffective
671 is what you're saying?

672
673 A: Correct.
674
675 Q1: Did - did he in - did (Jeff) in fact make this contact?
676
677 A: Yes.
678
679 Q1: Okay. So we have a total of basically three deployments of two cycles on the
680 taser and then the contact?
681
682 A: To - to the best of my recollection.
683
684 Q1: To what you remember? Okay. You - you mentioned carotid so I'll - I'll just
685 ask you. Did you apply that at all in this case?
686
687 A: I wanted to. I just - I couldn't get into that position. Um, you know, it just - it
688 wasn't available for me.
689
690 Q1: Okay.
691
692 A: Um, just the - the circumstances in which we ended up to the ground. Um, I - I
693 - I couldn't get it.
694
695 Q1: Eventually some officers arrived and you asked for um, the hobble basically.
696 Uh, you called it a tarp a couple times and a hobble a couple times. But you -
697 you asked for the device that secures the person's legs?
698
699 A: Correct.
700
701 Q1: Um, that ultimately came, right? Do you know who - who helped you with
702 that yet?
703
704 A: (Jeff) Ratkovich had to leave to go get it because the other officer couldn't
705 find his or whatever (unintelligible). To me, it was just taking too long.
706
707 Q1: Okay.
708
709 A: And um, I believe it was Officer (Lim) that rolled up and I said, "Take the
710 legs." And then I told (Jeff), "Go get it, go get it." So (Jeff) went and got it.
711
712 Q1: Okay. And what you remember is (Jeff) bringing back the hobble?
713
714 A: Yes.
715
716 Q1: Okay. Um, while - while you didn't have it, this person was still struggling?

717
718 A: Right.
719
720 Q1: The suspect was still struggling on the ground?
721
722 A: Correct.
723
724 Q1: Was uh, the strength factor was still there?
725
726 A: Correct.
727
728 Q1: It was still a fight going on with you guys?
729
730 A: I wouldn't call it a fight at this point.
731
732 Q1: Okay.
733
734 A: He had both hands handcuffed. He was basically lifting me up...
735
736 Q1: To the front...
737
738 A: ...and trying to roll...
739
740 Q1: ...or to the back? Hand - handcuffs?
741
742 A: Handcuffs were to the back.
743
744 Q1: Okay.
745
746 A: He was actively resisting to lifting me up, the - the um, violence that had
747 started this with him was down to now - it was a matter of control. Um, you
748 know, the feet were flailing. He was still, you know, actively participating in
749 resisting and, you know, he could've kicked and hurt somebody and - and the
750 same thing, I couldn't let him go. He - he had already known he could roll. So
751 from the point that both handcuffs went on and we controlled the feet, it was
752 all about control now.
753
754 Q1: Okay. So there are two officers still uh, before the hobble? Um, there's -
755 there's you and there's Officer (Lim)?
756
757 A: (Lim) I believe, yes.
758
759 Q1: Oh okay. And the suspect, how was he positioned? Is - his hands are behind
760 his back.
761

762 A: His hands are behind his back. I'm still cradling that one arm between my legs
763 and both mine, one knee on one side of it and my other knee on the other side
764 of it. And I'm - I'm thinking and - and believing that it was Officer (Lim)
765 'cause Officer Heiting wasn't finding it. And took over the - the figure four on
766 the legs for um, um, (Jeff). So he was still thrashing about. Um, (Lim) had to
767 grab the legs one or two times as they slipped out. So um, he was still actively
768 participating in that.

769

770 Q1: And - and just so I'm clear, is the suspect facing down?

771

772 A: Yes.

773

774 Q1: Okay. Um, the hobble comes. You - you successfully are able to get his legs
775 in the hobble?

776

777 A: Correct.

778

779 Q1: And then what's the next thing that happens?

780

781 A: We bring the strap up and we connect the flip to the handcuffs.

782

783 Q1: Okay.

784

785 A: Um, it was the - loose enough where he was still being able to move his legs.
786 Um, I wanted it one more wrap around. Uh, I don't recall if we got that other
787 wrap around. Looked up, Fire was coming. Um, I was able to move him to his
788 side and then I kneeled um, basically um, as he's on his side I kneeled across
789 his arm, maintaining the - and then when the Fire came over and explained
790 that the - the taser uh, taser darts and so forth. And then it went from
791 (unintelligible).

792

793 Q1: How - do you know who - who uh, dispatched the Fire? I mean who - who
794 actually put that on the radio? You don't know?

795

796 A: I have no idea.

797

798 Q1: Okay. So they were arriving it sounds like right after the - the hobble was
799 actually uh, attached to the tarp position?

800

801 A: Yeah they were - pretty much the - the rig had stopped almost I want to say
802 simultaneously, almost when, you know, time and space continuum it
803 appeared that the - the rig stopped as the - the click was on.

804

805 Q1: And what is the suspect doing at this point? Is he still alert? Is he fighting? Is
806 he not fighting?

807
808 A: He's not fighting.
809
810 Q1: Okay.
811
812 A: He's - but he's, you know, grunting and growling. Um, I don't know if that's
813 a great word, growling but he was to the side. And I continued to maintain uh,
814 um, weight across his shoulder area keeping him down as we were talking
815 with the firemen saying, "He's darted here." Um, I don't know who called
816 them so they showed up. It was kind of like hooray.
817
818 Q1: Okay. And - and the way you're deploying your weight, is - is it with a knee?
819 With your hands? Kind of so I know what you're doing.
820
821 A: I rolled him from the belly. He's still tarped.
822
823 Q1: Which side is he on?
824
825 A: Um, he's on his left.
826
827 Q1: Okay.
828
829 A: Facing south. So I rolled him up (unintelligible) as Fire were coming up.
830 Talking to 'em. Talking to us, and we were showing him. They're saying, you
831 know, they're going down to check him. My thought was A, who called Fire?
832 And 'cause this guy is not going in the Fire engine, he's going to need an okay
833 to book him we can transport him, you know, per policy with two officers,
834 with the two officers. Um, and they're the ones that noticed the distress at that
835 point. So it was - at that point it was - we went - I went to whole different dir-
836 mode, a whole different direction. I was taking orders from them.
837
838 Q1: All right. So up 'til to that point you had no idea or sense that he was in any
839 kind of medical distress?
840
841 A: That's correct.
842
843 Q1: Uh, in - in fact he was alert at that point or at least up? You saw his uh, he - he
844 was grunting, right?
845
846 A: Correct.
847
848 Q1: And obviously breathing. Um, when was the, if you know, when was the
849 hobble removed?
850

851 A: The - the hobble was removed the minute that the paramedic went up and
852 noticed that uh, evidently he said, "You know, it doesn't look like he's
853 breathing." They started - one of 'em checked the carotid pulse and um, soon
854 as they said that, the tarp was coming off. The gurney was coming out of
855 AMR. Um, I'm, you know, fighting the handcuffs, trying to get them off so we
856 can get, you know, I went into a whole different direction then. I mean it was,
857 you know, we could handcuff him to the gurney, do what we have to do, you
858 know? I was working with the fire department at that point.

859
860 Q1: Who removed the uh, the - the tarp?

861
862 A: I did.

863
864 Q1: You did? Okay. And then that whole sequence from the time the - the fire
865 engine got there to the time the ambulance left, any idea how long a - had
866 passed?

867
868 A: Um...

869
870 Q1: Was it quickly in your thought?

871
872 A: I'm sorry. Would you go back with the time question?

873
874 Q1: Yeah that's okay. I'm just - I'm just looking to find out from the time the fire
875 engine arrived and started rendering medical aid from the time it left, was it a
876 matter of...

877
878 A: Oh, once they - once we got - once the tarp came off um, I got - I was able to
879 get one handcuff off. We rolled him to the board. They were putting him on
880 the gurney and I'm running around the other side trying to get the other cuff
881 off. And he was gone.

882
883 Q1: (Unintelligible).

884
885 A: I - I looked at um, Officer (Floyd) and I said, "Somebody needs to go with this
886 guy." And Officer uh, Officer (Floyd) took care of that through uh, officer
887 ride over there. They're a two man, you follow 'em to the hospital. I mean it
888 was (unintelligible). There's no time lapse.

889
890 Q1: Okay.

891
892 A: Uh, the...

893
894 Q1: Safe to say that you were tired through this event? Wore out?
895

896 A: Um...

897

898 Q1: You've been in fights before obviously...

899

900 A: Yeah I mean...

901

902 Q1: ...on the job.

903

904 A: ...it's - I don't know what you call tired. I mean I..

905

906 Q1: Well were you winded?

907

908 A: Um, I'd say some but not - not a lot. I mean, you know, I'm a big guy so it - I

909 no, I mean my - I didn't feel my knee and I didn't feel my shoulder for a little

910 while. Um, I don't want to say that I was overly - overly tired or winded. I -

911 yeah I was - I was spent but it wasn't, you know.

912

913 Q1: Okay.

914

915 A: There was a lot of movement going on.

916

917 Q1: Yeah, it sounds like it. Ron?

918

919 Q: Anything you can uh, think of that we're not asking you or anything you want

920 to add as far as what you were thinking when this whole thing was going on

921 when you were dealing with this guy? Was there anything going through your

922 mind at all, why - why he was acting this way or - or is it just basically you

923 were in a fight and you really weren't thinking about much about it or did you

924 have anything going through your mind at that point?

925

926 A: You know, not really. I mean I - it wasn't a fight or flight, I don't want to say

927 a fight or flight.

928

929 Q: Mm-hm.

930

931 A: My concern was, you know, this guy had just punched me in the face and my

932 whole thing was to get the cuffs on him. I mean again I had one arm, we're

933 yelling, we're trying to get the other arm. That was my whole, you know, once

934 we were able to get one cuff on, that was my whole goal and intent. Um, you

935 know, he punched me, he's trying to bite me, that was a different story. You

936 know, that was the fight. I had nothing else to think about that. But once we

937 got him cuffed then that was our - our ultimate goal. We had one, we had - it

938 was the securing, you know, control, you know?

939

940 Q: Hm.

941
942 A: I, like I said, I heard - I heard the Air One putting stuff out. I mean I - I know
943 people were coming so, you know, the control once - once we got to the one
944 cuff I thought we were - I thought we were on the downhill from there. But he
945 just, I mean, like I said...

946
947 Q: Mm-hm.

948
949 A: ...(unintelligible).

950
951 Q: It just get - it just kept getting uh, harder and harder. You said at one point he
952 even lifted you and I don't know if you said you lifted (Jeff) too but you felt
953 you were being lifted?

954
955 A: Yeah I was - I mean his whole bod- I'm on top of him and I'm raising up with
956 him. I'm being picked up.

957
958 Q: Like he's trying to get off the ground or his - he's just lifting his body up from
959 the ground? Is he just...

960
961 A: I was...

962
963 Q: It's pretty unusual though isn't it for you 'cause like you said you're a big guy
964 and - and guys like that, when you're on top of 'em, you feel pretty secure and
965 this guy is obviously doing something that's pretty unusual. I mean he's a big
966 guy but still he's lifting you up.

967
968 A: It's unusual but it's happened before.

969
970 Q: Yeah. Was he saying anything at all at any point when you guys were - other
971 than growling and doing that stuff? He never said anything or he wasn't
972 (unintelligible)?

973
974 A: I don't recall. All I hear - all I heard was all them weird noises...

975
976 Q: Mm-hm.

977
978 A: ...and sounds. I don't know what was audible and what wasn't audible as far
979 as what he was saying. I mean um, you know, so I don't want to think that the
980 one punch was surprising enough.

981
982 Q: Mm-hm.

983
984 A: I mean it was coming. You know, my - my baton collapsed so I'm thinking
985 let's try to get this baton back up and, you know, then I get punched.

986
987 Q: Is that what happened? Is that how he punched you? You end up taking your
988 attention away by trying to do the baton and he just came up on you and...
989
990 A: Well...
991
992 Q: ...got ya?
993
994 A: It - it wasn't there, you know?
995
996 Q: Yeah.
997
998 A: It - you can feel it, you know, it wasn't there. So as I was...
999
1000 Q: It diverted your attention?
1001
1002 A: ...bringing my - bringing it back up, try and re-expand it...
1003
1004 Q: Mm-hm.
1005
1006 A: ...that's when I got it.
1007
1008 Q: Okay. That's all I got at this point.
1009
1010 Q1: All right, we're gonna take a real quick break, make sure there's nothing we
1011 didn't forget, okay? And then we'll come back. Just a minute.
1012
1013 A1: (Unintelligible) good.
1014
1015 Q1: You can relax and we'll leave 'cause we're coming right back.
1016
1017 A1: Have a bite...
1018
1019 A: I'm going to.
1020
1021 Q1: Okay. We're back on tape. It's uh, 4:50. Um, we don't really have any other
1022 questions. We - you - you know the blood draw thing's coming up so I'm just
1023 gonna ask you if you want to do that voluntarily or not.
1024
1025 A: No.
1026
1027 Q1: Okay.
1028
1029 Q: I'm good.
1030

SUPPLEMENTAL REPORT

Date Prepared: 11-27-08

1. Original File No. P0-81-575-87		2. [Redacted]		3. Off. ID 496	4. Dist. W	5. Crime-Ct.	6. Crime-Ct.	7. Crime-Ct.	8. Date / Time Occurred 10-31-08 / 2145		9. Day 6	
10. Time Assigned		11. Date / Time Inv. Start			12. Date / Time Inv. Term.			13. Type Clr. EXC	14. Type Cont. RCL	15. Additional Adults Arr.	16. Additional	
17. Address of Occurrence (Street No. - Name - City - Zip) 7800 block of Cypress Ave., Riverside									18. Type of Place city street			
For ID USE: V = Victim, I = Informant, W = Witness, O = Other												
19. ID: V-1	20. Last Name - First - Middle (Firm Name if Business) Officer Koehler (RPD)							21. Race - Sex		22. DOB		
23. Residence Address					24. Business or School Address			25. Home Phone		26. Bus. Phone		
27. ID:	28. Last Name - First - Middle (Firm Name if Business)							29. Race - Sex		30. DOB		
31. Residence Address					32. Business or School Address			33. Home Phone		34. Bus. Phone		
S U P P L E M E N T	35. Last Name - First - Middle Acevedo, Marlon Oliver				36. Race - Sex H - M	37. Age 35	38. Ht. 5-7	39. Wt. 230	40. Hr. BLK	41. Eyes BRN	42. DOB or ID [Redacted]	43. Arrested Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
	44. Address - Clothing - Other Marks or Identifying Characteristics 7857 Cypress Ave., Riverside											
45. Juv. Other () 2 Disp: Juris.		Juv. Ct. Prob. () 5		Within Dept. () 6		Detained () 1		Not Detained () 2				
S U P P L E M E N T	46. Last Name - First - Middle				47. Race - Sex	48. Age	49. Ht.	50. Wt.	51. Hr.	52. Eyes	53. DOB or ID	54. Arrested Yes <input type="checkbox"/> No <input type="checkbox"/>
	55. Address - Clothing - Other Marks or Identifying Characteristics											
56. Juv. Other () 2 Disp: Juris.		Juv. Ct. Prob. () 5		Within Dept. () 6		Detained () 1		Not Detained () 2				

ORIGINALLY REPORTED DOLLAR VALUES ARE CHANGED AS SHOWN BELOW

Cat.	A Currency Notes	B Jewelry Prec. Met.	C Clothing Furs	E Office Equip.	F T.V. - Radio Cameras	G Firearms	H Household Goods	I Consum. Goods	J Livestock	K Misc.	
PS	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
PR	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
60. Originally Reported Offenses (Code - Crime) (1) 69 P.C. (2)					61. Original Offenses Changed to (Code - Crime) (1) (2)					58. Stolen Auto Value ASP: 59. Recovered Auto Value A2	
62. Narrative of Supplemental Report See attached transcript of re-interview of Officer Koehler on 11-19-2008 at 1500 hours.										Reporting Officer Det Sanfilippo Reviewed By [Signature] COPIES TO VCLD () ACTIONS APB Sent APB Cancld. APR Sent APR Cancld. DOJ - NCIC Entered Cancld. ENTERED STATS ARBK ANI	

AUG 31 2009

INTERVIEW OF Officer Dan KOEHLER
P08-157587 69 PC/Officer Involved Fatal Incident

DATE: 11-19-08, 1500 hours

PRESENT: Det. R. Sanfilippo =SANFILIPPO
Officer Dan Koehler =KOEHLER
Attorney Saku Ethir =ETHIR

(11-14-08 / 1500 hours)

SANFILIPPO: It is 11-19-2008. It is approximately 1500 hours. We're at the Riverside Police Department, Magnolia station. I'm in the room with, uuh, Officer Dan Koehler and his attorney Saku Ethir.

ETHIR: Yes.

SANFILIPPO: Uuh, hey, Dan, we, in our previous interview, we mentioned to you that we did have, uuh, the availability of some video and possible audio from the Coban. Uuh, we did retrieve that from the two vehicles, your vehicle, uuh, and also Officer, uuh, Heiting. And we reviewed with the two officers the other day, uuh, and I'm gonna give you the opportunity also to, uuh, talk to me about, after viewing the, the Coban and also listening to one of them, because one had audio, one didn't, if anything else has come up since our interview that you remember, maybe that you feel is important, or anything since you've been viewing the Coban and listening to the Coban along with, uuh, the vehicles, police units. Anything you wanna add or anything else that we may not have touched on, uuh, that evening on your previous interview? So I'm gonna give the floor to you after, uuh, your attorney makes a quick statement, OK?

ETHIR: And I'll make it short, uuh, basically just reiterating which is kind of a follow-up interview on to, uuh, Dan's initial interview, and during that interview I indicated, uuh,

he's here to cooperate with what we understand is a criminal investigation that's under 4.8. He's required to do so, uuh, and if he doesn't cooperate with the criminal investigation he is subject to disciplinary action up to and including termination. That, uuh, so he's not to violate that section of the policy. He's here to answer any questions you have today.

SANFILIPPO: OK. So, Dan, is there anything that since that, that night when we first talked to you and, uuh, since viewing the Coban approximately 15 minutes ago, anything else you wanna add or anything that you may have, uuh, remembered since that night?

KOEHLER: No. The only thing I wanna add is that, uuh, on the initial interview I said I had two baseball style baton strikes before my baton collapsed and viewing the tape it looked like I had about five.

SANFILIPPO: OK.

KOEHLER: But it looks like everything else is pretty much spot on.

SANFILIPPO: OK.

KOEHLER: And, no, I don't think there's anything more to add that I didn't already said.

SANFILIPPO: OK. How about your injuries? Did, did you go in for any kind of care?

KOEHLER: Yeah, my, my, uuh, collarbone is a little, still a little bit—

SANFILIPPO: That your right collar bone?

KOEHLER: Yeah, right up, along the right.

SANFILIPPO: OK.

KOEHLER: It's still a little bit sore every now and again. Uuh, they said there's nothing wrong with it, so of course it's a city doctor. And my knees are, uuh, my knees and back are good.

SANFILIPPO: OK. You had a, some knee abrasions also.....

KOEHLER: Yeah.

SANFILIPPO: Abrasions only?

KOEHLER: They're scabbed up

SANFILIPPO: OK, and you had a cut on the back of your neck also?

KOEHLER: Yeah. It's, but I can still feel, feel a little scar there but—

SANFILIPPO: OK. OK. Good deal. Uuh, a couple of questions refer, as you saw in the Coban, you guys rolled out on the scene. Uuh, when they, when they, one point at the audio portion of the Coban, you hear somebody saying, "Knock it off. Don't do that," and, "You better not bite me." You remember who was saying that?

KOEHLER: That was me.

SANFILIPPO: That was you? Can you kind of go into that a little bit what, what your positioning was and why you thought he was gonna bite you or if he actually did bite you?

KOEHLER: Uuh, he attempted on several occasions to bite me, through, through the, through the altercation.

SANFILIPPO: OK.

KOEHLER: And, uuh, viewing the Coban, you know, of course you, you couldn't see us—

SANFILIPPO: Right.

KOEHLER: And that was where I, I had positioned myself, uuh, kind of in the felony handcuffing above him and he kept rolling and he was trying to, I can, you know, feel his teeth going on me. And then of course I yelled and, and, and, and a close fist strike and, you know, tell him, you know, basically what I was saying, "Knock it off. Quit trying to bite me."

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: That was the time we were trying to get the tarp on him and—

SANFILIPPO: Now you were, uuh, the positioning, meaning you were facing him kind of on his shoulder, off the shoulder then?

KOEHLER: Correct.

SANFILIPPO: Offset

KOEHLER: And he would, I mean, as I, as I stated earlier in, in my first interview, this guy was lifting us off the ground but, I mean, it was just unbelievable. Uuh, the strength that, which he was doing.

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: So, you know, with, with my weight on him, he was still lifting me and was able to move, I mean turn his head. I mean, it was like he was ungodly strength.

SANFILIPPO: OK. And then what part of, what part of your body was he actually trying to bite? Do you remember what, which portions

KOEHLER: Well, at that point he was, he was, uuh, like almost where I had my, my two legs straddled up in the felony handcuffing, and even though I think at that time I wanna say, my best recollection, we'd already, was able to have his, both his hands handcuffed at that point.

SANFILIPPO: You were on his right side then? Would that be his left side?

KOEHLER: Could be on his left side.

SANFILIPPO: OK.

KOEHLER: Waiting for the tarp to arrive.

SANFILIPPO: Right.

KOEHLER: Pulling him. He just kept rolling and, and literally trying to, to bite my, my inner leg.

SANFILIPPO: Your left leg?

KOEHLER: Lifting me up. Yeah.

SANFILIPPO: OK.

KOEHLER: Lifting me up. And, you know, so that, that's to my best recollection, but that was me yelling "stop biting me", so.

SANFILIPPO: OK. Did he actually put teeth on you? Do, do you know?

KOEHLER: I felt the teeth and then he got a closed fist strike and, and I tried to readjust, I mean, you know.

SANFILIPPO: What other part of the altercation do you remember him trying to bite you at?

KOEHLER: I, I want to say right when we, right when we went to the ground when we were rolling.

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: I, I thought that's when he was trying to bite me as well, but, uuh, I mean I don't, I don't recall, but I know, I know he was trying to bite me throughout the altercation.

SANFILIPPO: OK. Uuh, now the positioning of the suspect when RFD and them were rolling up, I spoke to RFD and AMR and it's, it's conflicting to a degree but not that major. Some say he was down by himself, nobody was near him. Some say there was officer kneeling next to him. Uuh, do you remember the positioning of the suspect when RFD rolled up? On one of the Cobans, the one with the audio, you can see somebody was kneeling next to him and then when RFD rolled in, you see the officer get up. Do you know who that was?

KOEHLER: Well, viewing the Coban, uuh, it's like I, like I said, like I said earlier--

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: --on our earlier thing, RFD rolled in almost simultaneously with, with us getting the last click of that tarp. The, the, the, the clip—

SANFILIPPO: Right.

KOEHLER: --of the tarp on the handcuffs. And that pretty much coincided with what we saw on, on Heiting's Coban.

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: I mean, I'm still yelling at this, at this guy when the fireman is getting out of his truck.

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: Once we, you know, once we got him hooked and we had a discussion, and it was on Coban as well and, and I believe we're still talking about that, "Should we roll him up one more time? Should we tighten it up?" because of, of his, his strength and the way he was—

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: --kicking and lifting. "Should we go up one notch?"

SANFILIPPO: The hobble?

KOEHLER: Yes, the tarp. That conversation was almost completed and clipped in when the firemen were walking up.

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: Once it, once it was clicked, I kneeled off and rolled him to the side. I, I don't recall but I believe it was Heiting that was the one that, uuh, stood up. I, cause he was down near the feet at one point. And Ratkovich, uuh, again, I believe was kind of conversing with one of the firemen, "This is what we got."

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: "We had a taser," and blah, blah, blah. So, uuh, I was near the head cause at first, for the most part of it, Heiting was at the feet.

SANFILIPPO: Right.

KOEHLER: And, uuh, at one point I remember just standing up and that's when the one fireman said, "Hey," you know, and it was a split second, and he goes "doesn't look good." And then I rolled him to his, back to his stomach.

SANFILIPPO: Yeah, but you rolled him to what side? Do you remember what shoulder he was on?

KOEHLER: I rolled him, rolled him to the left. So he was laying on his left. He was facing, uuh, south,

SANFILIPPO: OK.

KOEHLER: And, you know, the fire truck rolled in and parked on the north side—

SANFILIPPO: OK.

KOEHLER: --of the curb. The ambulance rolled in and they were, uuh, basically right in front of us—

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: --as, as, on, they were on the, uuh, south side.

SANFILIPPO: OK.

KOEHLER: I mean they were basically in the middle of the street.

SANFILIPPO: Right.

KOEHLER:

SANFILIPPO: Uh-hu (affirmative), and then you, and the handcuffs were taken off.

KOEHLER: Yes.

SANFILIPPO: The restraints. You know who did that?

KOEHLER: I did that.

SANFILIPPO: OK. I had to roll him back to his stomach to do that. I was able to get one off and they wanted to work on him, so once I got that one off I was able to, to roll him back. They, they were, I was unhandcuffing him too, as they were putting him on the backboard

SANFILIPPO: OK.

KOEHLER: Getting the other one off.

SANFILIPPO: OK. And the first thought or even sight of any kind of distress is when you were told by one of the medical personnel, "Hey, he don't look good," and that was moments after they just arrived. He was just--

KOEHLER: I mean that was seconds, I mean milli-seconds because like I said, you could see them walking up.

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: And then I, I, I stated on the 31st or the 1st during my interview that evening.

SANFILIPPO: Uh-hu (affirmative)

KOEHLER: But it was simultaneous from the, when we got the click to where they were walking up, it was almost like that.

SANFILIPPO: OK. You have any questions, for me, or anything you wanna add?

KOEHLER: Uu-uh (negative)

SANFILIPPO: I have no further questions. Do you have anything you wanna add?

ETHIR: No, I think we covered it.

SANFILIPPO: OK. It's, uuh, approximately 1510 hours and that will conclude the interview.

(end of interview)

This transcript has been reviewed with the audio recording submitted and it is an accurate transcription.

Signed _____

938R