

SUPPLEMENTAL REPORT

Date Prepared: 11-08-08

1. Original File No. P08-157587	2. [Redacted]	3. Off. ID 496	4. NPC 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 Cir. Exc	14. Type Cont. Rec	15. Additional Adults Arr.	16. Additional Juv. Arr.					
17. Address of Occurrence (Street No. - Name - City - Zip) 7800 block of Cypress Avenue, 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 James Heiting #1610					21. Race - Sex W - M		22. DOB				
23. Residence Address			24. Business or School Address Riverside Police Department			25. Home Phone		26. Bus. Phone (951) 353-7100				
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 S P E C 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	43. Arrested Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
	44. Address - Clothing - Other Marks or Identifying Characteristics 7857 Cypress Avenue, Riverside											
45. Juv. Other () 2 Disp. Juris.		Juv. Ct. () 5 Prob.		Within () 6 Dept.		Detained () 1		Not Detained () 2				
S U S P E C 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. () 5 Prob.		Within () 6 Dept.		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) Officer Involved Fatal Incident	61. Original Offenses Changed to (Code - Crime) (1) (2)	58. Stolen Auto Value ASP	59. Recovered Auto Value A2
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62. Narrative of Supplemental Report See page two for a synopsis of the recorded interview with Officer Heiting. For more details refer to the transcript and the recorded interview downloaded to the server.	62a. Audio Recording Available? Yes	62b. Incident Number:
Reporting Officer Det Sanfilippo Reviewed By U. Rossi COPIES TO VCLD () ACTIONS APB Sent APB Cancl. APR Sent APR Cancl. DOJ - NCIC Entered Cancl. ENTERED STATS ARBK ANI		

AUG 31 2009

**RIVERSIDE POLICE DEPARTMENT
CONTINUATION PAGE**

PAGE NO. 2

FILE NO. P08-157587

DATE 11-08-08	TYPE OF REPORT Officer Involved Fatal Incident	REPORTING OFFICER Det Sanfilippo
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Interview with Officer James Heiting #1610 / Watch 3 / 410 Beat / Unit #3612

On 11-01-2008 at 0307 hours I met with Officer James Heiting at the Riverside Police Department Magnolia Street Station. Present during the interview was Detective Mike Medici, District Attorney Michelle Paradise, District Attorney Will Robinson, District Attorney Investigator Rick Fuentes, Attorney Saku Ethir and Attorney Kimberly Rice.

Officer Heiting advised he was dispatched to a 5150 W.I.C. call at Van Buren Blvd. and Cypress Avenue. Officer Heiting stated while enroute he heard on the police radio that another unit (420 beat) had arrived at the scene. Officer Heiting said the 420 beat unit requested more units for crowd control. Officer Heiting stated he drove to the location Code-3 to assist the 420 beat unit. Officer Heiting said upon arrival he observed Officer Koehler and Officer Ratkovich struggling to control S-Acevedo on the ground. Officer Heiting stated he was immediately asked by Officer Koehler and Officer Ratkovich for a "tarp or a hobble". Officer Heiting said he retrieved his hobble from the trunk of his unit and went over to assist Officer Koehler and Officer Ratkovich.

Officer Heiting advised Officer Koehler was attempting to control S-Acevedo's upper torso and Officer Ratkovich was trying to hold S-Acevedo's legs from kicking. Officer Heiting said it was difficult to put the hobble on S-Acevedo because he was moving around so much. Officer Heiting stated Officer Ratkovich hooked the hobble to the handcuffs. Officer Heiting said he helped by grabbing S-Acevedo's legs while the hobble was hooked to the handcuffs. Officer Heiting said he double locked the handcuffs after the hobble and the handcuffs were connected. Officer Heiting said the only sounds he heard from S-Acevedo during this incident were grunting noises.

Officer Heiting advised that RFD was on scene within 30 seconds after S-Acevedo was placed in the "Tarp" position. Officer Heiting added AMR arrived a few seconds after RFD arrived. Officer Heiting advised he rolled S-Acevedo on his left side so medical personnel could check him. Officer Heiting stated he was then told to check the area for witnesses so he left S-Acevedo and began that search. Officer Heiting said as he started searching for witnesses he observed AMR personnel retrieving the guernsey for S-Acevedo.

Officer Heiting advised he didn't know S-Acevedo was in any medical distress as he began searching for witnesses. Officer Heiting said he didn't hear any medical personnel say anything about S-Acevedo not breathing or having any problems. Officer Heiting stated he never saw any CPR given to S-Acevedo at the scene. Officer Heiting said he wasn't aware the taser was used on S-Acevedo until he rolled S-Acevedo to the side and observed the taser wires.

Officer Heiting was re-interviewed on 11-14-2008 at 1410 hours at the Riverside Police Department Magnolia Street Station. Present for the re-interview was Attorney Saku Ethir. Prior to the re-interview Officer Heiting viewed the "Coban" video (Officer Koehler and Officer Ratkovich's RPD unit #3746) and heard the audio from his own unit (#3612). Officer Heiting had no new information to offer reference this investigation.

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INTERVIEW WITH OFC. JAMES HEITING

Q=Detective Ron Sanfilippo

Q1=Detective Mike Medici

Q2=DA Investigator Rick Fuentes

Q3=DA Will Robinson

Q4=DA Michelle Paradise

Q5=Sgt. Rossi

Q6 Detective Lanzillo

Q7= Captain Boyer

A=Officer James Heiting

A1=Attorney Saku Ethir

A2=Attorney Kimberly Riley

Q5: Kimber- Kimberly will be the point of contact. Uh...

Q: Okay.

Q5: Okay? And I will call the counselor.

Man: Very good.

Q: This is the officer right here?

Q5: Uh, this is Heiting, Officer Heiting.

Q: Okay.

Q5: And uh, if you guys want to do (unintelligible).

((Crosstalk))

Q5: No, it's simple. Yeah (unintelligible) how's it going?

Q1: Hi. Mike Medici. How are you?

A1: Hi. I'm Kim Riley. Good to meet you.

Q1: Hi, I'm Mike.

46
47 A1: Hi, Saku Ethir, nice to meet you.
48
49 Q1: How are you?
50
51 ((Crosstalk))
52
53 Q6: start shoving those in your mouth, guys.
54
55 Q1: Unbelievable.
56
57 Q1: (Unintelligible) to the interview (unintelligible).
58
59 ((Crosstalk))
60
61 A1: Wow.
62
63 Q1: I'm surprised there's any left with you here.
64
65 Q4: Oh you know what? (Unintelligible).
66
67 ((Crosstalk))
68
69 Q6: (Unintelligible) a little bit ago.
70
71 Q: about what?
72
73 Q1: We're not expecting (unintelligible) anyone else, right?
74
75 Man: (Unintelligible).
76
77 A2: Uh, yeah I think there's a DA and DA investigator. At least that's what we
78 were told.
79
80 Q: They probably needed some chairs too then.
81
82 Q1: I'll get 'em.
83
84 A1: (Unintelligible) batteries (unintelligible) is running low.
85
86 ((Crosstalk))
87
88 Q: Yeah we're just gonna - yeah.
89
90 Q: How's your dad doing?

91
92 A: Uh, I haven't talked to him in a couple weeks but...
93
94 Q: Oh really?
95
96 Q1: ...he's busy. (Unintelligible).
97
98 Q: (Unintelligible) years ago I coached baseball with him.
99
100 Q1: Oh yeah?
101
102 Q: Yeah. You remember Johnny Porche?
103
104 Q1: played baseball.
105
106 Q: He was a coach with us with Little League years ago.
107
108 Q4: You need to be in - hi guys.
109
110 Man: (Unintelligible).
111
112 Q1: No.
113
114 Man: He's one (unintelligible).
115
116 Q1: You got one more, right? You need one more chair? Oh I'm sorry.
117
118 Q4: I can (unintelligible).
119
120 Q1: Okay.
121
122 Q4: Unless (unintelligible) you want that one?
123
124 Q: (Unintelligible). Uh, who?
125
126 Q1: No, that's fine.
127
128 Q4: Oh okay.
129
130 Man: (Unintelligible) there?
131
132 Q1: Yeah we'll slide down and - and...
133
134 Man: Oh yeah.
135

136 Woman: Sorry.
137
138 Q1: (Unintelligible) tape recorder.
139
140 Q: you want to slide down.
141
142 Q1: (Unintelligible) do it together? All right.
143
144 Man: (Unintelligible).
145
146 ((Crosstalk))
147
148 Q7: I want you to take the next two days off, take your weekend and report back
149 on Friday. And if something changes we'll (unintelligible) a call.
150
151 A: (Unintelligible).
152
153 Man: (Unintelligible).
154
155 Q1: And who did we uh, (unintelligible)?
156
157 Woman: (Unintelligible)?
158
159 Q7: (Unintelligible) off Tuesday, Wednesday, Thursday?
160
161 Woman: (Unintelligible).
162
163 Q7: And then Thursday night (unintelligible) you can (unintelligible) Friday.
164
165 A: Correct.
166
167 Q7: So just um, what - we'll get - we'll get in touch with you beforehand.
168
169 A: Right.
170
171 Q7: But just take the rest of the week off and (unintelligible) you're gonna...
172
173 A: (Unintelligible)?
174
175 Q7: Yeah, yeah. These guys can get (unintelligible) if you want but we'll give you
176 a call. Just make sure (unintelligible) the other guys (unintelligible).
177
178 A: That's good.
179
180 Q7: All right, thanks. You want me to turn on the fan?

181
182 Q1: Yeah (unintelligible).
183
184 A: It's probably gonna get warm in here with all these bodies.
185
186 ((Crosstalk))
187
188 Man: (Unintelligible).
189
190 Q: Okay I'm Detective Ron Sanfilippo, Riverside Police Department. This is
191 Detective Mike Medici. And what I'm gonna do, since there's so many people
192 here, I'm gonna have everybody go around and just...
193
194 Man: (Unintelligible).
195
196 Q: ...identify themselves and who they're from. We'll start with - with Officer
197 James.
198
199 A: Yes. Officer James Heiting, Riverside PD.
200
201 Q2: (Rick), Investigator (Rick) Fuentes from the DA's office.
202
203 Q3: Um, Will Robinson, DA's office.
204
205 Q1: Uh, Mike Medici, Detective here.
206
207 Q: I'm Ron Sanfilippo.
208
209 Q4: Michelle Paradise, DA's office.
210
211 A2: Kim Riley, Lackie, Dammeier and McGill.
212
213 A1: And Saku Ethir, Lackie, Dammeier and McGill.
214
215 Q: Okay. Um, what we're gonna do is I'm going to uh, start off by asking you
216 some basic questions, you know, from your employment and ID and all that
217 stuff. And then what I'll do is I just have you go into what happened this
218 evening. And then we will uh, probably have some questions for you. And
219 then if you have questions for us then feel free to ask any questions you want
220 and we'll go from there, okay?
221
222 A1: Uh, be - yeah before we get started I'll just uh, put on the record that um, uh,
223 Officer Heiting is here um, under the Riverside uh, Police Department's
224 policies and procedures manual section 4.8 I believe. Um, he is uh, required
225 under that policy um, to cooperate with any criminal investigation that is

226 being conducted. And um, should he fail to do so, that is to cooperate um, he
227 uh, can be um, disciplined or discipline can be imposed or punitive action can
228 be imposed based on a failure by him to cooperate. And so we would consider
229 uh, this statement to be in compliance with that uh, policy section. And so
230 he's here today to answer those questions because if he uh, refused to do -
231 do so, he could be disciplined by the department.

232
233 Q: Okay.

234
235 A1: One of the other things we wanted to make sure on tape uh, so we understand
236 it from the uh, department uh, there may be video of some or a portion of um,
237 the incident or maybe all of the incident um, but it is our understanding that
238 the department has not been able to upload that video yet or audio. And we've
239 been told that um, potentially at a later date if it does exist that um, the officer
240 will be permitted to review it but is not - has not been permitted to review it
241 um, prior to providing this statement.

242
243 Q: Okay. Okay James?

244
245 A1: Very good.

246
247 Q: Okay. Um, start off by with your name, can you spell your last name and your
248 first name for me?

249
250 A: Yes, last name's spelling Heiting, H-E-I-T-I-N-G. First spelling James, J-A-M-
251 E-S.

252
253 Q: Okay. And what's your ID number, James?

254
255 A: 1610.

256
257 Q: And your hire date here with the RPD?

258
259 A: October 26 of last year.

260
261 Q: And that would be '07?

262
263 A: Correct.

264
265 Q: Did you work anywhere - any other agency before that?

266
267 A: Yes, Orange County Sheriff's Department.

268
269 Q: Okay. And how long were you there?

270

271 A: Approximately a year not including the academy.
272
273 Q: Okay. So you - what was your hire date for the Orange County Sheriffs then?
274 Do you remember?
275
276 A: Uh, I want to say uh, in December of uh, '05. And then I started the academy
277 in '06 in February.
278
279 Q: Okay. And while you were at RPD your - your current assignment is?
280
281 A: Patrol.
282
283 Q: Patrol? And on this date, on (unintelligible) on October 31, which was last
284 night um, you were assigned what beat?
285
286 A: Uh, the 4-10 beat.
287
288 Q: Okay. And what beat does - what does that con- consist of?
289
290 A: Uh, it's the south end of the west side from I believe its Arizona to Hole on
291 Las Sierra to Tyler.
292
293 Q: Okay. And what's - what shift were you working?
294
295 A: Uh, Charles Watch.
296
297 Q: Okay. And that's gonna be the uh, swing shift?
298
299 A: Correct. From 3:00 to 1:00 and...
300
301 Q: And were you riding by yourself or were you riding with a partner?
302
303 A: Single officer, yes.
304
305 Q: Okay. Okay why don't you tell me, James, basically what um, what you know
306 of this case and what you either uh, partaken - partook in or what you
307 observed or what uh, if you heard anything on the radio or anything like that?
308 Just go through your story and then we'll - we'll fill in and ask you some
309 questions.
310
311 A: I was dispatched to a call of a 51-50 uh, along with I think it was Charles 4-
312 16. Uh, which is out of our beat, it was in the 20 beat. My understanding was
313 it was Van Buren and Chalen.
314
315 Q: Mm-hm.

316
317 A: ...was the call. So I started heading that way. Um, and then it - another unit
318 came on, said they were gonna also be en - en route, which is a 4-20 car. Um,
319 and they were closer in that area. They didn't cancel us. They just said that
320 they were uh, going 97. And that they needed uh, units for crowd control. So
321 myself and 4-16 kind of sped over there. Uh, then all of a sudden they said
322 they needed some help. So we uh, kind of took it a little bit faster trying to get
323 there. Uh, then I get on Van Buren and Chalen and they said they - they need
324 somebody for uh, immediate assistance one code three so I - I rolled code
325 three into the - into uh, Chalen excuse me, Cypress.
326
327 Q: Mm-hm.
328
329 A: I want to make that correction; it was Van Buren and Cypress.
330
331 Q: Okay. Wasn't Chalen then? It was Cypress?
332
333 A: Correct.
334
335 Q: Okay.
336
337 A: Yeah. And uh, so that activated my recorder at that time. As I'm pulling up, all
338 I could see was the unit. I didn't see where the officers were at um, until I got
339 really close to the unit and pulled up and my lights were shining on the - the
340 uh, suspect on the ground. Officer Koehler and Officer Ratkovich were uh,
341 attempting to control the suspect. And they're waving me on, asking me if I
342 had a tarp...
343
344 Q: Mm-hm.
345
346 A: ...or a hobble. And uh, excuse me, I said I did but it was in my trunk. So I had
347 to go back to my trunk of my vehicle. Uh, it wasn't where I thought it was at
348 so I was uh, scurrying around trying to find it. Um, I finally found one.
349 Officer Ratkovich uh, approached and said, "Did you get it?" 'Cause he was
350 over to get his. And I said, "I found it." So we both went back over to um, the
351 suspect that was on the ground. Officer Koehler was uh, still attempting to
352 hold the suspect from moving around. Um, as I approached the suspect,
353 Officer Ratkovich uh, was trying to hold his legs from kicking around and
354 they said, "Let's try to get it on his legs." Um, and as I was putting on the
355 strap, Officer Koehler was controlling the suspect from flailing around. He
356 was kicking and moving around. Um, because his legs were moving, it was
357 difficult to get the - the tarp on. Uh, slid it over his feet and then I asked, you
358 know, did they want it up to the knees or - or were they gonna have him stand
359 up so, "Where do you want the positioning of the tarp?" And they said, "No
360 we'll - just put it on for right now." Um, so as he's kicking around uh, Officer

361 Ratkovich was attempting to hook the uh, hobble to the handcuffs um, and he
362 wasn't able to with his legs in that position. So I grabbed his legs, put 'em in a
363 - a - I guess like a triangle position, one over the other to hold the legs from
364 kicking around so that the tarp can then be uh, hooked up to the handcuffs. At
365 that time he was able to hook the tarp to the handcuffs, release the leg. Um,
366 then I decided I'm not sure if his handcuffs are double locked so I attempted to
367 double lock the handcuffs. Um, shortly after um, the ambulance arrived or
368 RFD personnel started coming onto scene uh, probably within uh, 30 seconds
369 to a minute of us struggling with the suspect. As they walked up uh, the
370 officers, all of us got off the suspect and I started to turn him to his side so that
371 uh, AMR could take a look at him at that point. And I do remember seeing
372 one AMR, I don't know if it was ambulance or paramedic, I wasn't sure um,
373 started reaching around for a pulse. I didn't - I think that's just normal,
374 standard what they do. And I held the suspect on his side so that they can
375 continue to reach around. And then from that point uh, RFD said, "You know
376 uh, you guys want us to transport?" And they said, "Well let's - let's wait to
377 take off the hobble until we can get him on the gurney." And at that point I
378 backed away and started talking to the - the RFD to give them some
379 information. And then after that it was uh, talking to Officer Koehler. He said,
380 "You know, try to find some people that witnessed and - and get some witness
381 statements." Uh, I walked over to the crowd that had gathered uh, on the south
382 side of Cypress, 7850 is the apartment complex. A bunch of people had
383 gathered around there so I started talking to uh, several of the people there.
384 Uh, many were (unintelligible), they were standing around, said they didn't
385 see anything and didn't look like they want to have any part of it. So I found
386 one uh, witness who said that he called in because there was a person that was
387 going crazy in the street. And I interviewed that person. And then from that
388 point I just helped with the uh, putting up the crime scene.

389
390 Q: Okay. Um, so when you got the - heard the original call go out, do you
391 remember what exactly dispatch put it out? Just a 51-50?

392
393 A: Yeah, a 51-50 yeah.

394
395 Q: Did they say what the 50, what he was doing or anything or it just 51-50 call
396 itself?

397
398 A: Uh, that he was in the center of the - the roadway and traffic was coming by.
399 That's what I heard - heard originally.

400
401 Q: Hm. And this - this was dark, obviously?

402
403 A: Yes.

404
405 Q: Do you remember what time it was?

406
407 A: I don't recall exactly at this time.
408
409 Q: Okay. But it was in the evening hours, dark? It wasn't light, correct?
410
411 A: For sure. Yes.
412
413 Q: So then you - you responded. They needed backup so you ride code three and
414 when you pulled up you couldn't see the officers or anything 'cause they were
415 down on the ground in front of their units?
416
417 A: Correct.
418
419 Q: Okay. And then when you first saw them, were both of them uh, with the
420 suspect on the ground or was one of the officers standing? Do you remember
421 the positioning at that point?
422
423 A: I believe uh, Officer Koehler was on the upper torso of the suspect. And
424 Officer Ratkovich was at the feet. I can't recall if he was kneeling or if he was
425 bending over.
426
427 Q: Okay. And the suspect was - was prone out at that point? Do you remember
428 what his positioning was?
429
430 A: Uh, he was - his back was facing up and his hands were behind his back.
431
432 Q: Okay. So he was handcuffed at that point?
433
434 A: When I pulled up, I'm not sure if he was handcuffed or not. I - I didn't notice
435 the handcuffs until I walked up with the tarp so it may have been during that
436 time. I'm not sure.
437
438 Q: Okay.
439
440 A: That he was handcuffed.
441
442 Q: Was there any conversations going on? Do you remember hear between the
443 officers or the suspect at any point when you were there?
444
445 A: Uh, the only conversation that I heard from the officers was, "Do you have a
446 tarp? Get a tarp."
447
448 Q: Mm-hm.
449
450 A: That was it.

451
452 Q: Then the uh, suspect you didn't hear him say nothing at all? Or - or saying or
453 talking or...
454
455 A: I didn't hear...
456
457 Q: ...yelling?
458
459 A: ...any - any words coming from the - the suspect as far as uh, I mean he was
460 making noises but it sound more like uh, grunting of...
461
462 Q: Mm-hm.
463
464 A: ...you know, like he was (unintelligible), you know, being mad.
465
466 Q: Okay. So then you went to get the uh, the hobble, tarp and then when you
467 came back, Koehler left and he came over towards you? How - how far away
468 were you parked away from where they were at?
469
470 A: Uh, just to make a correction...
471
472 Q: Mm-hm.
473
474 A: ...Officer Koehler did not leave the suspect at any time. It was Officer
475 Ratkovich...
476
477 Q: Okay.
478
479 A: ...that left. Uh, Officer Koehler was keeping the suspect from moving away.
480 He was trying to get up and so Officer Ratkovich was the one that stood up
481 and said, "Hey did you get that tarp?" They were really concerned about him
482 kicking.
483
484 Q: Now how was - how was he doing that? How was he holding the suspect
485 down without him moving while (unintelligible) positioning (unintelligible)
486 then? Well was he just laying on him? Was he kneeling on him? Do you
487 remember or...
488
489 A: He - he had his feet crossed um, one over the other.
490
491 Q: Mm-hm.
492
493 A: Um, and I don't know if he had him with his knees or not but it - it looked like
494 he was attempting to stand up. Um, from that point I don't know if he actually

495 let go of his legs and walked over 'cause I was behind in my trunk at that
496 point. So I just heard verbalization.
497
498 Q: And you don't know if he was handcuffed when Ratkovich left him at that
499 point? Was he handcuffed or do you - you don't know?
500
501 A: From my vantage point, I couldn't see it because Officer Koehler was on the
502 upper portion of him so he was blocking my view of the hands. So I don't
503 know if - if he was handcuffed at that point or not.
504
505 Q: Okay. And then when you went back over to uh, the suspect and - and the
506 officers, you started applying the - the hobble? Is that what you were doing?
507 You were...
508
509 A: Yeah it was a feeble attempt but yeah I tried.
510
511 Q: Okay. Was he - was he kicking or something?
512
513 A: Yeah. His legs were moving.
514
515 Q: Mm-hm.
516
517 A: And uh, the position that his legs were in uh, you have to do one foot at a time
518 so it was - it took me a little while to get...
519
520 Q: Was he - the suspect moving around during this time also and kind of
521 squirming around or...
522
523 A: Yes.
524
525 Q: ...was he - okay. Were they - was he give - was give - was he giving
526 commands or anything to anybody? Any of the officers that at that point did
527 you hear anybody giving commands or was it just basically it was just a fight
528 and it was just on?
529
530 A: I don't recall any - any specific commands. It doesn't come to my - to my
531 memory. Um, I think it was like, "Hey, you know, stay still. You know, we're
532 trying to get - to get the hobble on." That's - that's all I remember at that
533 point.
534
535 Q: Mm-hm.
536
537 A: I don't remember any verbalizations from - from the officers.
538

539 Q: Okay. And then you finally got the hobble on. And then you said - what was
540 the next step? It was gonna be to connect it to the handcuffs?
541
542 A: Yes.
543
544 Q: Were the handcuffs on at that point then when you were putting the hobble
545 on?
546
547 A: Yes.
548
549 Q: Okay. But you don't know when they went on? Were they on when you came
550 back? Do you remember when you started putting the hobble?
551
552 A: Yeah they were on at that time.
553
554 Q: Okay. And then - and you got the um, did you say you got the uh, handcuffs -
555 the hobble applied to the tarp? It was all hooked up?
556
557 A: Correct.
558
559 Q: Okay. And then...
560
561 A: I - I was able to get 'em on the legs. Officer Ratkovich was able to apply the
562 hook.
563
564 Q: Okay. And at that point what happened? When it was applied and he was
565 body restrained, what - did everybody just kind of stand up there for a second
566 or did they stay on top of him or do you remember what?
567
568 A: Uh, my frame of reference was only to see the handcuffs and make sure that
569 they were gonna be double locked. So I don't know where the other officers
570 were at that point. I'm focusing on the handcuffs and trying to double lock - he
571 was still moving around at that time.
572
573 Q: Okay.
574
575 A: So I'm trying to get the cuff key in there and everything. But I believe Officer
576 Ratkovich let go of the legs so that uh, the hobble was in place and that's what
577 it is for.
578
579 Q: And he was on his stomach at that point still?
580
581 A: Yes.
582

583. Q: Okay. And then you got up and what - what happened next? You started uh,
584 talking to witnesses or something at that point he was secured and the medical
585 personnel came up and then basically they were checking on him and at that
586 point he was still breathing and everything was okay as far as you knew?
587
- 588 A: Uh, once I applied the - the double locking of the cuffs uh, medical personnel
589 were coming up. And I thought well it would probably be a good time to
590 move him on his side so I grabbed his belt loop and started moving him to his
591 side. Um, and at that point medical personnel stepped in and I'm just holding
592 him up so he wouldn't fall back over or try to move around. I wanted them to
593 check him out so I held him in place with a belt loop and then just holding his
594 shoulder.
595
- 596 Q: You remember what side you - you turned him on?
597
- 598 A: Yes, I turned him to his - he would be on his left - laying on his left side, right
599 side facing up.
600
- 601 Q: Okay. And then during that time, did they say anything, medical personnel
602 have any - any problems? Did they say, "This guy's not breathing"? Was there
603 any concerns on medical personnel at that point when you were there?
604
- 605 A: I didn't hear any of that. I - I was focusing on making sure that he didn't move
606 around.
607
- 608 Q: And he was conscience at that point as far as you remember?
609
- 610 A: I...
611
- 612 Q: When you rolled him over?
613
- 614 A: His eyes were closed. I don't know if he was conscious or not. I didn't check
615 for a pulse so I couldn't say.
616
- 617 Q: Was he struggling at all at that point?
618
- 619 A: No.
620
- 621 Q: Hm. And then after that, what - what happened after medical personnel? Did
622 you lay him back on his stomach or did you keep him on his side or did you
623 help him up or what - what happened next?
624
- 625 A: At that point, they stepped in and were able to either uh, hold him up or he
626 was able to stand on his side. And I stepped away from that point, let them do
627 their job.

628
629 Q: Okay. And when was the first time you heard that there was some kind of
630 medical distress out there? Was it moments later or was it a few minutes later
631 or...
632
633 A: I didn't know that there was a medical distress.
634
635 Q: Okay. So you didn't know anything had happened?
636
637 A: No. I had no idea, not until the detectives showed up.
638
639 Q: Oh really? Okay. So he was - did you see him get loaded into the uh,
640 ambulance and everything?
641
642 A: No I did not.
643
644 Q: Okay. Do you remember who you interviewed? You said you interviewed a
645 witness. Do you remember the person's name?
646
647 A: Uh, I could recall it if I saw the name again.
648
649 Q: Okay. Was it a male or female?
650
651 A: It was a male.
652
653 Q: Okay. Was he a white - white guy?
654
655 A: Yes.
656
657 Q: Earrings?
658
659 A: Yes, lots of piercings on his face.
660
661 Q: Was his name Justin? You remember?
662
663 A: That does ring a bell, yes.
664
665 Q: Okay.
666
667 A: Rescoral, something...
668
669 Q: Right.
670
671 A: ...to that effect.
672

673 Q: Okay. Michael?
674
675 Q1: Yeah James, just a couple things. When you arrived um, did you see any
676 physical confrontation going on or was that already done?
677
678 A: I didn't see any physical confrontation. It was just - seemed like a static.
679 except for the wiggling around.
680
681 Q1: Okay. And - and then obviously them asking you to get the hobble. Um, but
682 no punches? No nothing like that was going on? That had already occurred
683 while you don't know at this point...
684
685 A: (Unintelligible) at all.
686
687 Q1: ...but you didn't see it, right?
688
689 A: Correct.
690
691 Q1: Is this an area um, a beat area that you're familiar with?
692
693 A: I have worked it before. I've been down that street before but I'm not familiar
694 with the people that are on the street.
695
696 Q1: No prior contacts with this guy?
697
698 A: No. I didn't.
699
700 Q1: That you're aware of?
701
702 A: ...(unintelligible) recognize him from anything.
703
704 Q1: Okay. Um, you mentioned grunting, that kind of thing. Um, I don't know if
705 you're able to distinguish a grunt between you - you - we've all seen people
706 under the influence snarling and that kind of thing versus uh, a medical issue.
707 Can you tell the difference? Or do you have an opinion?
708
709 A: At that - at that point, I didn't - didn't think it was a medical issue. It seemed
710 like he was just struggling to get out of a hold.
711
712 Q1: Okay. Okay. Um, you said your overheads were on. Were there any other
713 overheard lights on to the units out there?
714
715 A: I believe the primary units uh, from the rear, it looked like the hazard lights
16 were on and so either...
717

718 Q1: Okay.
719
720 A: ...either a one or a two. Uh, I do recall seeing later on a red light on so it
721 looked like there was um, takedown lights. Uh, the reason I know this is
722 'cause I shut down the lights uh, afterwards.
723
724 Q1: Okay. So you shut down the light?
725
726 A: Correct.
727
728 Q1: From the other unit?
729
730 A: Yeah. They had a spotlight, a takedown light, a red light uh, flashers uh, and
731 then my unit had uh, lights on. Those were the first two units on the scene.
732
733 Q1: Okay. And - and I - I think I know the answer tot his but to be clear, you had
734 no use of force other than applying this hobble, is that correct? No batons?
735
736 A: Correct.
737
738 Q1: No sprays? No tasers?
739
740 A: Correct.
741
742 Q1: Yourself?
743
744 A: Correct.
745
746 Q1: Okay. Do you carry a taser?
747
748 A: I do.
749
750 Q1: Um, okay. You didn't use it at all tonight?
751
752 A: No.
753
754 Q1: Throughout the whole evening?
755
756 A: Correct.
757
758 Q1: Do you have any knowledge of whether or not this guy was tased tonight?
759
760 A: Uh, I did see some wires. I didn't see the probes or anything, just the - the
761 wires. I don't know if they uh, landed there any place on his body.
762

763 Q1: You recognized the wires through as...
764
765 A: Yeah.
766
767 Q1: ...being from a taser?
768
769 A: Thin - thin - thin copper wires. When I rolled him to his side, I - I saw the
770 wires.
771
772 Q1: Okay. So your own personal observations then were just this guy on the
773 ground, the officers restraining him and then you placing the hobble on his
774 legs?
775
776 A: Correct.
777
778 Q1: Do you remember at what point that hobble and - and this may have been
779 asked and answered. If - if it was I apologize but at what point the tarp was
780 removed like the - the clip removed from the handcuffs, was it ever or do you
781 know?
782
783 A: I do not know.
784
785 Q1: Okay. I don't think I have anything else, Ron.
786
787 Q: Do you know if you had your recorder on when you rolled up, your audio
788 recorder?
789
790 A: Uh, the digital audio recorder was not on. And I'm not sure if my Coban
791 activated or not 'cause I think I have a faulty um, mic light.
792
793 Q: Mm-hm.
794
795 A: I know the microphone uh, works uh, but I don't know if the light works on it.
796
797 Q: Okay.
798
799 A: So I don't know if my Coban was activated. I do remember going back uh,
800 once everything was under control and the scene was contained to shut off the
801 camera. Uh, I do remember pressing the uh, camera - I don't know how to
802 describe its - it's a little - little window...
803
804 Q: Mm-hm.
805
806 A: ...that shuts off the camera inside the...
807

808 Q: Okay.

809

810 A: ...the screen.

811

812 Q: Okay. What unit number were you driving?

813

814 A: 3612.

815

816 Q: I want to check that. And your recorder, you said you weren't - we're gonna

817 have that checked. We just (unintelligible)...

818

819 A: The only thing that I recorded was the witness statement.

820

821 Q: Okay. We'll just check it. We just got to do it for - make sure we give it back

822 to ya.

823

824 A: Okay.

825

826 Q: Um, anything else you can remember that we may not have touched on or

827 anything else you want to add or anything that occurred out there that you

828 observed that you've been thinking about?

829

830 A: No. As I'm talking about it, it seems like I've unfolded all my memories.

831

832 Q: Mm-hm. Do you remember at any point when the officers were on their - did

833 they ask for backup or did somebody else ask for their backup? Was there

834 somebody else that came on the Air One or something that asked to expedite

835 units or was it the units involved that actually asked for the units to expedite?

836 Do you remember?

837

838 A: Uh, I believe it was the - the primary unit that was there. Air One was there

839 first spotlighting...

840

841 Q: Mm-hm.

842

843 A: ...um, and then the officers got there soon after. So I - I don't believe that Air

844 One asked for additional units. I think it was the units that were struggling

845 with the suspect asked for additional units, not only for the struggle but for

846 crowd control.

847

848 Q: Okay. And when you first rolled up and you - you made contact, was there

849 any conversation between you and the officers as far as your role? Did they

850 say, "Grab his ankles" or "do this" or "do that" other than "go get a - the uh,

851 hobble"?

852

853 A: No.
854
855 Q: But I mean, "Hey we're struggling", they didn't say, "Hey we had to tase 'em,
856 we had to do this, we got to do that" or whatever?
857
858 A: No.
859
860 Q: Nothing? No communication between...
861
862 A: Correct.
863
864 Q: Okay. Um, if you don't have anything else at this point I think we'll uh, step
865 out for a second. And then um, we'll take a quick break and then uh, we'll
866 come back in and finish it up.
867
868 Q2: I got a just two real short questions.
869
870 Q: Okay. Why don't we...
871
872 A1: I...
873
874 Q: ...take a break...
875
876 A1: Yeah.
877
878 Q: ...real quick and then we'll take a break real quick and then we'll come back in,
879 okay?
880
881 A: Sure.
882
883 Q: Okay.
884
885 ((Crosstalk))
886
887 Q: Okay we're back on tape. We broke off tape approximately 3:33 in the
888 morning. And we're back on tape at 3:38. We just have a couple of quick
889 questions to ask ya. Um, did you receive any injuries during this? Do you
890 remember anything happening to you uh, that would cause any injuries to
891 you?
892
893 A: No.
894
895 Q: Okay. There's nothing on your face or anything. Something - it looked like a
896 mark on your face. Was it nothing that you remember? Okay. Um, when you
897 went and walked up to the officers um, do you know what the timeframe was

898 from the time they started fighting or wrestling with this guy to the time you
899 got there? Was it a - a - a few minutes or you're not aware of how long
900 they've been dealing...

901
902 A: No.

903
904 Q: ...with this guy? Did they appear that they had been out of breath or fighting
905 him for a while or did it appear that the - they were not having a problem or
906 you didn't even recognize?

907
908 A: Well it - it looked like Officer Koehler was uh, a little uh, reddish.

909
910 Q: Mm-hm.

911
912 A: That's about all I noticed. Uh, and then upon closer look I saw, because I
913 photographed him and saw some injuries that he had.

914
915 Q: Okay.

916
917 A: That's the only...

918
919 Q: Now when did you photograph him?

920
921 A: Uh, after the suspect was transported.

922
923 Q: Okay. Out of the scene?

924
925 A: Correct.

926
927 Q: Okay. Did - did you photograph anything else out there?

928
929 A: The scene, the - yeah.

930
931 Q: And that was the direction of the sergeant or somebody?

932
933 A: Correct.

934
935 Q: Okay. Do you remember what sergeant that was?

936
937 A: Uh, it was kind of secondhand. They said somebody needed a camera on
938 scene. I had one there.

939
940 Q: Un-huh.

941
942 A: So I took the initiative to start taking photos.

943
944 Q: Okay. The last question um, when you had him on the side rolled and you're
945 holding onto the belt and medical was there checking on him, you had him
946 rolled onto his shoulder, after you let go, was it because medical took over and
947 you were pretty much done there and they took over the body and everything,
948 you didn't need to be there no more, is that why you kind of just...
949
950 A: Yeah.
951
952 Q: ...(unintelligible) him?
953
954 A: Kind of handed it off.
955
956 Q: Was he still on the side when you left him?
957
958 A: Yep. Yes, to the best of my recollection.
959
960 Q: Okay. And at that point do you stand by and watch? Are they doing any -
961 anything to him? With the - with CPR or anything? Or were they just doing
962 regular stuff to him and it wasn't...
963
964 A: I didn't see any CPR. I didn't see any uh, I backed away and started talking to
965 the uh, Riverside Fire Department, some of the guys that were standing there.
966
967 Q: Okay. But it didn't appear they - they were doing anything at - the guy was
968 going through a distress at the time like they were trying to revive him or CPR
969 or any of it?
970
971 A: No. No, it was sounded like they were getting ready to bring the gurney in and
972 lift him up but that's - that's about it.
973
974 Q: Okay. Michael, anything else?
975
976 Q1: Just - just one. James, do you remember what he was wearing?
977
978 A: I do remember seeing uh, jean type material pants uh, and a dark colored shirt.
979
980 Q1: Like full pants or...
981
982 A: Yes.
983
984 Q1: ...do - do you know? Okay. And what'd you say about the shirt?
985

986 A: Uh, dark colored shirt. Uh, I do remember yeah he had socks on 'cause when I
987 grabbed his feet it - it was a cloth. And I remember seeing his shoes on the
988 ground so...

989 Q1: Okay.

990 Q: Okay. Any questions for us, James before we finish up?

991 A: Uh, blood draw, that kind of thing?

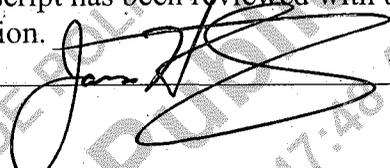
992 Q: Yeah we'll get to that in a second. (Unintelligible) at the scene or anything like
993 that? There's nothing you can remember you want to add or anything at this
994 point?

995 A: No.

1000 Q: Okay. It is 3:41 and we're off tape. This is...

1001
1002
1003
1004
1005 This transcript has been reviewed with the audio recording submitted and it is an accurate
1006 transcription.

1007 Signed



#1610

12-15-08

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INTERVIEW OF Officer James HEITING
P08-157587 69 PC/Officer Involved Fatal Incident

DATE: 11-14-08, 1410 hours

PRESENT: Det. R. Sanfilippo =SANFILIPPO
 Officer James Heiting =HEITING
 Attorney Saku Ethir =ETHIR

(11-14-08 / 1410 hours)

SANFILIPPO: OK, it is Friday, November 14, 2008, approximately 1410 hours. Riverside Police Department, Magnolia Station. And I'm with James Heiting, Officer James Heiting, and Attorney Saku Ethir?

ETHIR: Ethir.

SANFILIPPO: Ethir. Uuh, the reason that you're back here to, to talk to us is that at the last interview we mentioned there was a video, uuh, actually two videos from police units driven by Officer Ratkovich and also one driven by you. And we told you once we recovered those we, we'd allow you guys to come back to look at those, and if there's anything that you remember since then or since viewing the video you can express that with us. Uuh, so before we get started, I think, Saku, you wanted to mention something.

ETHIR: Yes. If I may, uuh, again, uuh, Officer Heiting is here as indicated previously in the initial interview, uuh, under the Policy and Procedures Manual, Section 4.8. Uuh, it's our understanding, his understanding, that he's required to cooperate, uuh, with any criminal investigation that is being conducted and, as we understand it, this is a criminal investigation regarding the incident that night. And so, uuh, under the threat of discipline if he fails to cooperate he's here today to answer you your questions.

SANFILIPPO: OK. Everything good?

HEITING: Yes.

SANFILIPPO: OK. Uuh, since that evening, and since you just viewed the, the video, the two videos, and heard the audio on your Coban, is there anything else that you want to add before I ask you any questions? Anything you remember since then re-, going back over your head or anything you wanna add to, uuh, your original statement that you may have remembered, or you're pretty comfortable with what you've told us that night?

HEITING: I have no additional information.

SANFILIPPO: OK. Uuh, just a few things for me. When you rolled up, what, at the time, and you may have already answered this, but I don't remember and I'm we got the transcripts out, we're getting it done, when you first rolled up, what was the positioning of the officers at the time? Where they, uuh, was the subject handcuffed already? Were they on the ground, do you remember?

HEITING: When I first rolled up, I, I couldn't see them cause the, the unit was in the way.

SANFILIPPO: OK. So when you first noticed them, what were they, what were they all doing? You noticed all three of them, were they still wrestling with him? Were they on the ground with him? Was the guy still standing or is he sitting? If you can remember. If you don't then I don't want you to guess either.

HEITING: No, I would rather not guess.

SANFILIPPO: OK. Uuh, and, at one point they asked for a hobble. I heard on the audio, uuh, talking about hobble. Were they talking to you at the time of the hobble?

HEITING: Yes.

SANFILIPPO: OK. And did you actually bring the hobble or Ratkovich get his?

HEITING: Uuh, I found my in the trunk.

SANFILIPPO: OK. So when you went there, there was also some audio about "Do you want the hobble higher?" Uuh, was that your voice saying, being told or, or telling the officer they want it higher or was that somebody else saying that?

HEITING: That was my voice.

SANFILIPPO: OK. Do you remember where, or at the time, on his body, was it down by his ankles or up higher at the time?

ETHIR: You mean initially when, before he asked--

SANFILIPPO: Yeah, cause I think—

ETHIR: --if they want it higher?

SANFILIPPO: --.....the hobble higher and stuff. Where was it at the point where he thought maybe it needed to be higher or—

HEITING: When we first put it on, his legs were kicking so it was somewhere near his ankles.

SANFILIPPO: OK.

HEITING: But it wasn't exactly on his ankles. I think it's a little bit higher than his ankles.

SANFILIPPO: OK.

HEITING: And I didn't know if they were gonna let him up and have them walk to the car, so I asked if they wanted to put it up around his knees so that he can walk to the car.

SANFILIPPO: OK. And did you move them up towards his knees or do you know where you left the hobble?

HEITING: I tried moving them towards his knees but, uuh, because I tightened it to be around his ankles, I was trying to loosen it to go up around his calves and they were so thick I couldn't move it up to his knees, so it's probably maybe a couple of inches higher by

the time we just decided to, to put the handcuffs, uuh, hook the hobble to the handcuffs so his legs would stop kicking Ratkovich in the face.

SANFILIPPO: OK. Uuh, did you remember at what point were you present or were you still looking at the hobble when there mention about "don't bite me" or, did you hear that on the video? Somebody had mentioned--

HEITING: I heard that on the video. Yes.

SANFILIPPO: OK. Did you know who said that? Could you tell who was, who was talking at that point? Was Ratkovich or Koehler?

HEITING: It would be a guess, uuh--

SANFILIPPO: But you don't wanna guess.

HEITING: Yeah.

SANFILIPPO: If, if you weren't there present for it and, and just heard it on the audio, I don't want you to guess.

HEITING: Yeah. I don't remember it from the scene.

SANFILIPPO: After he was, uuh, put in the tarp position, or, uuh, actually his legs and handcuffs were, were basically connected together, do you know what the time frame was before RFD arrived? Was it a short period of time, or do you remember?

HEITING: Uuh, it was less than a minute. Probably 30 seconds, if not less.

SANFILIPPO: OK. And do you remember the positioning of the, uuh, subject at that point? Was he lying on the ground or was he--

HEITING: At which point?

SANFILIPPO: In the time waiting, from the time you put the, the restraints on, put him where his legs and his, his handcuffs were connected--

HEITING: Uh-hu (affirmative)

SANFILIPPO: --to the time that RFD arrived, was he in a position of just laying flat or was he on the side or sitting? Do you remember what position he was at until RFD rolled up?

HEITING: After, after we were able to get the hook onto the cuffs, uuh, we were able to step away for a second to see if he was gonna still kick and flail, and he was still moving. And probably ten seconds after that, I and, uuh, I believe it was Officer Lackey, excuse me, Officer Koehler put him on the side, and then I held him at his side so that he wouldn't fall forward or backwards until paramedics got there.

SANFILIPPO: OK, so the paramedics got there and then that's when you guys just, you make contact, I, I thought the paramedics, RFD, they mentioned it was a, a briefing for like 30 seconds to a minute. Do you remember partaking?

HEITING: Ipart of that.

SANFILIPPO: OK.

HEITING: Yeah, I was hold, still holding, uuh, the suspect to the side at that time.

SANFILIPPO: While they were talking?

HEITING: It was, yeah, there was one I think, uuh, officer talking with the, uuh, fire personnel. I'm not sure which it was.

SANFILIPPO: Uh-hu (affirmative)

HEITING: And then there was a paramedic checking, and that's when I was, uuh, watching a female paramedic check the suspect.

SANFILIPPO: Uh-hu (affirmative) Yeah, because when, when they rolled up, just so you know, I talked to the firemen and paramedics, all of them, except for one, have the guy is just laying there on his stomach. When they rolled up. They didn't see anybody holding

him. Only one of them saw somebody leaning the guy possibly to the side. So it could've been just a situation when they rolled up they're really not looking. But you're pretty comfortable with, that you had him to his side. Was that on, what side? Do you remember what side it would've been on? What shoulder?

HEITING: Yeah, he was laying on his left side and I was holding his, uuh, bet-, belt buckle on the ride side.

SANFILIPPO: OK. Do you remember who was doing the briefing at that point of the officers? Was it Ratkovich or Officer Koehler?

HEITING: I believe it was Officer Ratkovich.

SANFILIPPO: OK. And were you the only one holding him? Was Koehler with you?

HEITING: Uuh, at first Koehler was also holding, helping in holding the side and then I think he stop up to talk to the paramedics about what happened.

SANFILIPPO: OK. Do you remember if he was talking, meaning the suspect, he talking still at that point or saying anything, or making any sounds at all that you remember?

HEITING: When he was on his side, no.

SANFILIPPO: What was the last thing you remember him saying at one point? Was it when, before he rolled or was he talking while you guys were trying to get his, uuh, the hobble on him and everything? Was he still making noises and—

HEITING: Now when you say he, are you referring to the suspect?

SANFILIPPO: Yes.

HEITING: OK. Uuh, I don't remember him saying anything. I just remember him like grunting and yelling and all of that. The last time he said something was when we were, uuh,

putting the hobble on and he was kicking and flailing his legs. And then from that point I didn't hear any verbal.

SANFILIPPO: OK. I think that's it. I don't have anything else further for you. Anything that you have to add to it?

HEITING: No.

SANFILIPPO: Saku?

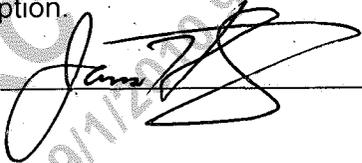
ETHIR: No, nothing.

SANFILIPPO: OK. Uuh, that concludes. It will be approximately 1418 hours.

(end of interview)

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

Signed



12-15-08

938R