



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

*****DISCLAIMER*** San Jose Police Department Report Released to District Attorney and Court.
For Official Use Only *****

COURT COPY



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

General Offense Information

Operational status: **OPEN**
Reported on: **Jul-24-2020 (Fri.) 1425**
Occurred on: **Jul-22-2020 (Wed.) 1745**
Report submitted by: **3608 - JENNINGS,TODD J**
Org unit: **COP, Internal Affairs, Staff**
Address: **1299 E SANTA CLARA ST**
Municipality: **SAN JOSE**
District: **K** Beat: **K4** Grid: **146**
Felony/Misdemeanor: **MISDEMEANOR**
Family violence: **No**

Offenses (Completed/Attempted)

Offense: **# 1 242-1 242 PC BATTERY - COMPLETED**
Location: **PARKING LOT/GARAGE**
Offender suspected of using: **NOT APPLICABLE**
Bias: **NO BIAS**

Related Image - 200-3A SUPPLEMENTAL

Attachment Description: CSU OKUMA #3745 MCDONALDS PHOTO SUPP

Reference Number:



**SAN JOSE POLICE DEPARTMENT
NARRATIVE / SUPPLEMENTAL REPORT**

General Offense Number
20-209-9704

REPORT TYPE <input type="checkbox"/> NARRATIVE <input checked="" type="checkbox"/> SUPPLEMENTAL	VICTIM: Sumame, Given, Mid.	
Officer-Involved Incident		
SUSPECT: Sumame, Given, Mid.	SUSPECT ADDRESS	CITY/ZIP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Crime Scene Supplemental
McDonald's Photos

08/18/20, 0545 hours:

I responded to the McDonald's restaurant located at 1299 E. Santa Clara St. in San Jose. Crime Scene Sergeant Oki #2995, Crime Scene Investigator Pender #3276, Forensic Analyst Triggs #1304N, and I assisted Internal Affairs Sergeant Jennings #3608 and Internal Affairs Sergeant Vallejo #3810 with the further documentation of the McDonald's parking lot. I took 73 digital photos of the exterior areas of McDonald's. The following are the file names of the digital photos as well as a description of the photos' content.

<u>File Name:</u>	<u>Description:</u>
DCS_4827 to DCS_4846	Overalls of area
DCS_4847 to DCS_4865	Position of BMW and Police Vehicle
DCS_4866 to DCS_4873	Location of Videographer
DCS_4874 to DCS_4883	Overalls of West Parking Stalls
DCS_4885	Role Players for Officer and Driver in Squatting Position
DCS_4887	Role Players for Officer and Driver in Kneeling Position
DCS_4888	Role Players for Officer and Driver in Seated Position
DCS_4889 to DCS_4891	Role Players for Officer and Driver Pulled to Patrol Vehicle
DCS_4892	Vantage of Videographer
DCS_4893 to DCS_4895	3D Scanner's Height/Location for Second Officer
DCS_4896 to DCS_4898	Location of Role Players for Second Officer and Driver
DCS_4899 to DCS_4901	Estimated Vantage of Second Officer

The photos were later given to Sergeant Jennings on an external hard drive.

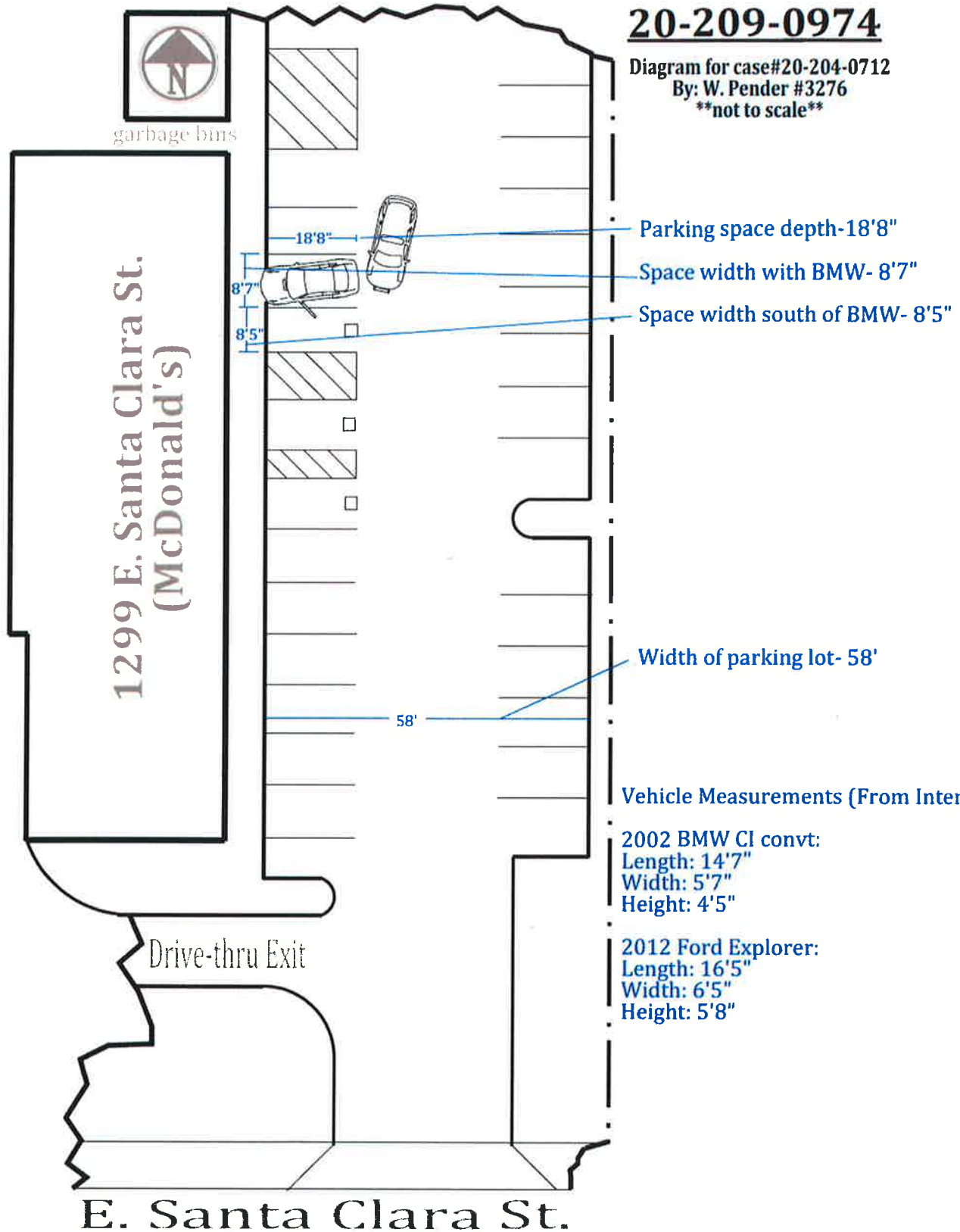
- End of Report -

Submitted By: Okuma	Badge #: 3745	Date:	Approved By:	Badge #:	Date:
-------------------------------	-------------------------	-------	--------------	----------	-------

Related Image - 200-3A SUPPLEMENTAL

Attachment Description: SUPPLEMENTAL BY CSU PENDER #3276

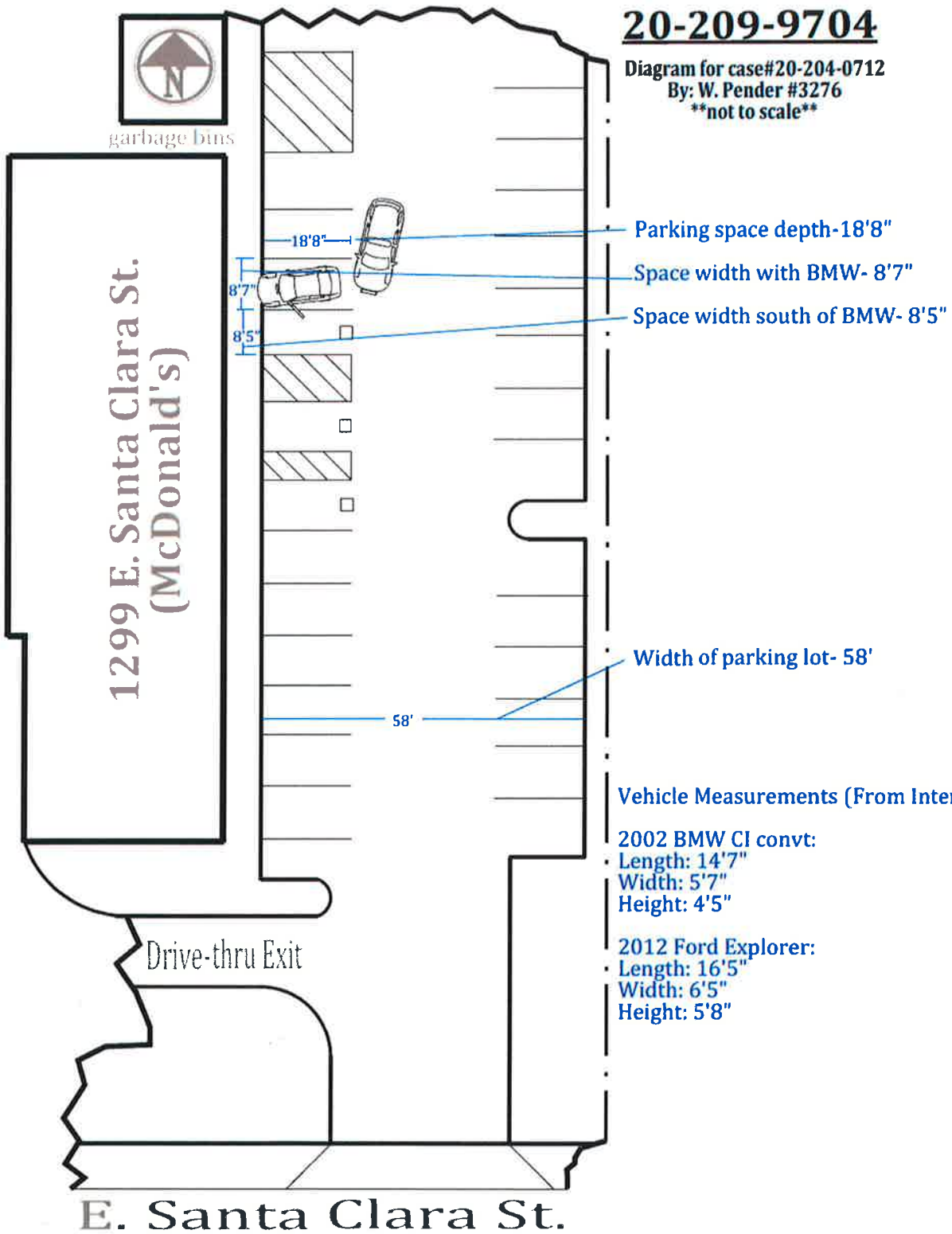
Reference Number:



Related Image - ATTACHMENT

Attachment Description: **DIAGRAM FROM CSU PENDER #3276**

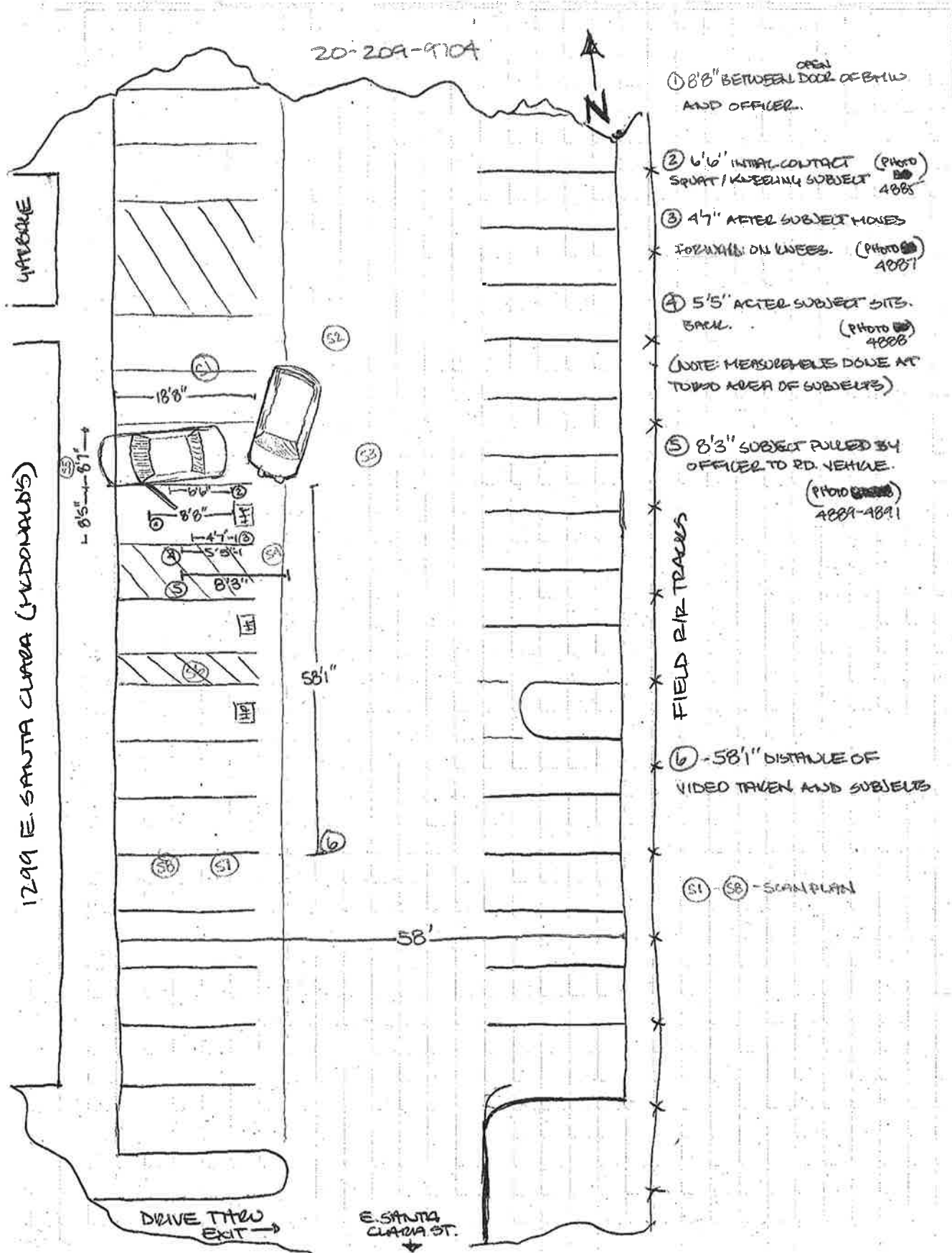
Reference Number:



Related Image - 200-3A SUPPLEMENTAL

Attachment Description: CSU PENDER #3276 ROUGH SKETCH

Reference Number:



Related Image - 200-3A SUPPLEMENTAL

Attachment Description: CSU PENDER #3276 SUPPLEMENTAL REPORT

Reference Number:



SAN JOSE POLICE DEPARTMENT NARRATIVE / SUPPLEMENTAL REPORT

General Offense Number
20-209-9704

REPORT TYPE <input type="checkbox"/> NARRATIVE <input checked="" type="checkbox"/> SUPPLEMENTAL	VICTIM: Surname, Given, Mid.
Officer-Involved Incident	
SUSPECT: Surname, Given, Mid.	SUSPECT ADDRESS: CITY/ZIP

1

2

Crime Scene Supplemental Report

3

4 **Notification:** On 8/13/20, at approximately 1300 hours, Crime Scene Unit Sergeant Oki #2995,
5 Crime Scene Unit Officer Okuma #3745 and I met with Internal Affairs Sergeant Jennings #3608
6 and Internal Affairs Sergeant Vallejo #3810 at their office. They asked us to assist them by
7 reconstructing a scene. They wanted vehicles placed in the parking lot of the McDonald's located
8 at 1299 E. Santa Clara St. based on video footage of case #20-204-0712. They wanted photos,
9 3D scans and measurements taken. One of the vehicles, a BMW (Ca. license plate#6LAK063),
10 was at the San Jose Police Department's vehicle warehouse and the other Sgt. Vallejo was
11 bringing to McDonald's. The reconstruction was to take place on 8/18/20 at 0500 hours.

12

13 **8/18/20, 0430 hours:** I arrived at the San Jose Police Department's vehicle warehouse located
14 at 1588 Monterey Rd. The 2002 BMW Ca. license plate #6LAK063 was parked in evidence cage
15 # 2 facing south. The cage was locked, I opened it.

16

17 **8/18/20, 0453 hours:** Junior Cortez from Matos Towing arrived at the vehicle warehouse. He
18 picked up the BMW and drove to 1299 E. Santa Clara St. I followed the tow truck.

19

Submitted By: W. Pender	Badge # 3276	Date: 8/20/20	Approved By:. Sgt. Oki	Badge #: 2995	Date: 8/25/20
----------------------------	-----------------	------------------	---------------------------	------------------	------------------



**SAN JOSE POLICE DEPARTMENT
NARRATIVE / SUPPLEMENTAL REPORT**

General Offense Number
20-209-9704

REPORT TYPE <input type="checkbox"/> NARRATIVE <input checked="" type="checkbox"/> SUPPLEMENTAL	VICTIM: Sumame, Given, Mld.
Officer-Involved Incident	
SUSPECT: Sumame, Given, Mld.	SUSPECT ADDRESS: CITY/ZIP

1 **8/18/20, 0516 hours:** We arrived at the McDonald's. Sergeant Oki was already on scene.
 2 Sergeant Jennings, Sergeant Vallejo, Officer Okuma and Forensic Analyst Triggs #1304N arrived
 3 shortly after.
 4
 5 The Mcdonald's located at 1299 E. Santa Clara St. was located on the north side of E. Santa
 6 Clara St. E. Santa Clara St. ran east and west and was lined by businesses on both sides. The
 7 closest cross streets were 27th St. to the west and 28th St. to the east. It had a parking lot area
 8 that was on the east and north sides of the restaurant. Driveways to the parking lot area ran off E.
 9 Santa Clara St. to the south and 27th St. to the west. The parking lot area on the east side of the
 10 building was where we conducted our reconstruction. The parking lot ran north and south and
 11 had parking stalls on the east and west sides. The BMW was placed in the 11th parking stall north
 12 of the entrance of E. Santa Clara St. on the west side of the parking lot. Triggs reviewed video
 13 footage from the officer's body worn cameras and video taken from Twitter that showed the
 14 incident. Using the video as reference, we were able to place the BMW approximately in the
 15 same position it was in the video footage. Sergeant Vallejo brought a marked Ford Explorer patrol
 16 vehicle to use as the unmarked Ford Explorer the officers were driving in the video. We placed
 17 the patrol vehicle in the approximate location it was in based on video footage.
 18
 19 Sergeant Oki and I began taking measurements of the area the car stop took place. We used a
 20 roll-a-tape and laser measuring device. The parking lot was 58' in width. We measured the two
 21 parking stalls which were the 10th and 11th stalls north of the south exit/entrance off E. Santa

Submitted By: W. Pender	Badge #: 3276	Date 8/20/20	Approved By:; Sgt. Oki	Badge #: 2995	Date 8/25/20
----------------------------	------------------	-----------------	---------------------------	------------------	-----------------



**SAN JOSE POLICE DEPARTMENT
NARRATIVE / SUPPLEMENTAL REPORT**

General Offense Number
20-209-9704

REPORT TYPE <input type="checkbox"/> NARRATIVE <input checked="" type="checkbox"/> SUPPLEMENTAL	VICTIM: Surname, Given, Mid.
Officer-Involved Incident	
SUSPECT: Surname, Given, Mid.	SUSPECT ADDRESS: CITY/ZIP

1 Clara St on the west side of the parking lot. The 10th stall, a handicap parking space, measured
 2 8'5" in width and 18'8" in length. The 11th stall, where the BMW was parked, measured 8'7" in
 3 width and 18'8" in length.

4
 5 Using the video footage, Triggs and I positioned ourselves in the approximate area of Officer
 6 Rodriguez #4185 and the driver. The BMW driver door was open. A measurement was taken of
 7 the inside door near the hinge area and the position of where Officer Rodriguez stood. The
 8 distance was 8'8" between the officer and the door. We took measurements of where they were
 9 at the initial contact when the driver exits the BMW and squats. The measurement was
 10 approximately 6'6" between the officer and driver. (Depicted in Okuma's photo number
 11 DCS_4885) The next measurement was where the driver had kneeled to her knees and shuffled
 12 forward in the direction of Officer Rodriguez. The measurement was 4'7" between the officer and
 13 the driver. (Depicted in Okuma's photo number DCS_4887) The next measurement was when the
 14 driver sits back onto her feet. The measurement was 5'5" between the officer and driver.
 15 (Depicted in Okuma's photo DCS_4888) The next measurement was the distance Officer
 16 Rodriguez pulled the driver away from the BMW to the front of the Ford Explorer. The
 17 measurement was 8'3". (Depicted in Okuma's photos DCS_4889-4891)

18
 19 The last measurement taken was the distance between Officer Rodriguez and the driver and
 20 where the videographer was standing. The measurement was 58'1". (Depicted in Okuma's photo
 21 DCS_4892)

Submitted By: W. Pender	Badge #: 3276	Date: 8/20/20	Approved By:. Sgt. Oki	Badge #: 2995	Date: 8/25/20
----------------------------	------------------	------------------	---------------------------	------------------	------------------



SAN JOSE POLICE DEPARTMENT NARRATIVE / SUPPLEMENTAL REPORT

General Offense Number
20-209-9704

REPORT TYPE <input type="checkbox"/> NARRATIVE <input checked="" type="checkbox"/> SUPPLEMENTAL	VICTIM: Surname, Given, Mid.	
Officer-Involved Incident		
SUSPECT: Surname, Given, Mid.	SUSPECT ADDRESS:	CITY/ZIP

1

2 We then used a FARO Focus 3D scanner (Serial # LLS081914715 the calibration was done
3 3/29/19 and was issued certificate LLS14715-2010329-US) to take scans of the scene. The first
4 scan was set up to depict the vantage point of Officer Moran #4248 standing on the passenger
5 side of the BMW during the contact (Depicted in Okuma's photos 4899-4901) Officer Moran's
6 height per Sergeant Jennings was 5'8". The scanner was set at approximately 5'5" (Approximate
7 officer's eye level) height in the area where Officer Moran was standing at the time of the incident.
8 Triggs kneeled and sat back onto her feet in the same area on the driver's side of the BMW
9 where the driver was. The driver's height per Sergeant Jennings was 5'1" and Triggs height was
10 5'4". I did the scan while Triggs stayed in her position.

11

12 I did the next scans of the parking lot area with the cars in place where we had set them to get an
13 overall 3D image of the scene.

14

15 8/18/20, 0925 hours: We completed the scans, photos and measurements that were requested
16 by Sergeant Jennings and Sergeant Vallejo. I had the tow driver load up the BMW and I followed
17 him to the San Jose Police Department's vehicle warehouse.

18

19 8/18/20, 0942 hours: We arrived at the vehicle warehouse and the BMW was placed back inside
20 in front of the cages.

21

Submitted By: W. Pender	Badge #: 3276	Date: 8/20/20	Approved By:; Sgt. Oki	Badge #: 2995	Date: 8/25/20
-----------------------------------	-------------------------	-------------------------	----------------------------------	-------------------------	-------------------------



SAN JOSE POLICE DEPARTMENT NARRATIVE / SUPPLEMENTAL REPORT

General Offense Number
20-209-9704

REPORT TYPE <input type="checkbox"/> NARRATIVE <input checked="" type="checkbox"/> SUPPLEMENTAL	VICTIM: Surname, Given, Mid.
Officer-Involved Incident	
SUSPECT: Surname, Given, Mid.	SUSPECT ADDRESS: CITY/ZIP

1 **8/18/20, 0957 hours:** I left the vehicle warehouse.

2

3 **8/18/20, 1015 hours:** I arrived at the Crime Scene Unit. I gave Sergeant Oki the Scan SD card to
4 create a Scene to Go file for Sergeant Jennings and Sergeant Vallejo. The raw scans and Scene
5 to Go were uploaded to Sgt. Jennings portable hard drive and returned to him.

6

7 **End of Report**

8

9

10

11

12

13

14

15

Submitted By: W. Pender	Badge #: 3276	Date: 8/20/20	Approved By: Sgt. Oki	Badge #: 2995	Date: 8/25/20
-----------------------------------	-------------------------	-------------------------	---------------------------------	-------------------------	-------------------------

Form 200-3A AFR (rev 1/11-8-11/1640N)

Page 5 of 5



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Person(s)

1. Victim # 1 - MARIN, GUADALUPE ESPERANZA

(Case Specific Information)

[REDACTED]

Linkage factors

[REDACTED]

2. Suspect # 1 - RODRIGUEZ, MATTHEW

(Case Specific Information)

Sex: MALE
Race: HISPANIC/LATIN/MEXICAN
Date of birth: May-01-1984



6. Witness # 4 - AUGUSTINE, JADE JETAIME

(Case Specific Information)

[REDACTED]

7. Witness # 5 - LOPEZ, RONNIE

(Case Specific Information)

Sex: [REDACTED]

Particulars

Occupation: **POLICE SERGEANT**
Employer: **CITY OF SAN JOSE**

Linkage factors

Resident status : **RESIDENT**



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Statement taken : Yes
Age range : 30-49 YEARS

8. Other # 1 - CARTER, JAMIL

(Case Specific Information)

[Redacted case specific information]

Particulars

Occupation: **POLICE OFFICER**
Employer: **CITY OF SAN JOSE**

Linkage factors

Resident status : **RESIDENT**
Age range : 30-49 YEARS

9. Other # 2 - JURIC, ELIAS

(Case Specific Information)

[Redacted case specific information]

Particulars

Occupation: **POLICE OFFICER**
Employer: **CITY OF SAN JOSE**

Linkage factors

Resident status : **NONRESIDENT**
Statement taken : **Yes**
Age range : 50-64 YEARS

10. Other # 3 - DURAN, DIANE



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

(Case Specific Information)

[REDACTED]

11. Other # 4 - LA PLANTE, MAURICIO

(Case Specific Information)

[REDACTED]



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: NARRATIVE

Author: 3810 - VALLEJO, JUAN J

Subject: INITIAL NARRATIVE REPORT

Related date/time: Sep-15-2020 (Tue.) 1049

INITIAL REPORT

OFFICER'S NARRATIVE:

On 7-24-2020, I was assigned to Internal Affairs (IA) Criminal Investigations Detail (CID) with the San Jose Police Department. My partner during this investigation was Sergeant Todd Jennings #3608. At approximately 1425 hours, IA Commander Lieutenant Stanley McFadden #3076 notified us of a use of force incident involving Officer Matthew Rodriguez #4185. The incident occurred during a vehicle enforcement stop on San Jose Police case #20-024-0712. We launched an investigation into the matter for a potential violation of Penal Code 149 - assault under the color of authority.

We learned there was an open source video via a Twitter account where it depicted a portion of the interaction between Officer Rodriguez and the occupants of the vehicle. We also learned that the incident occurred on July 22, 2020 at approximately 1742 hours at the McDonald's parking lot located at 1299 E. Santa Clara Street in San Jose, County of Santa Clara.

We reviewed the Twitter video posted under the account of "[REDACTED]." The post was made public on July 23, 2020 at approximately 1433 hours. The video was approximately 59 seconds in length, and it depicted the following interaction between two officers and the occupants of the vehicle they subsequently detained. The video was preserved and downloaded to our digital case folder. Refer to the video for a full version of the interaction.

TWITTER VIDEO SUMMARY POSTED BY "[REDACTED]":

The Twitter video appeared to be filmed within the same McDonald's parking lot with a north direction point-of-view towards the incident. The person filming the incident was behind a white pickup truck that had a utility box attached to the bed. At the initial portion of the video, there was an officer (identified as Officer Matthew Rodriguez) standing at the driver's side of the suspect vehicle towards the rear compartment/trunk area. The vehicle was a grey two-door vehicle with a black top. The vehicle appeared to be parked facing west in a stall inside the McDonald's parking lot. There was a Sport Utility Vehicle (SUV) that was parked at an angle behind the suspect vehicle with red and blue lights flashing visible from the windshield compartment of the SUV. The vehicle was identified as an unmarked vehicle assigned to the Violent Crime Enforcement Team (VCET) of the San Jose Police Department.

The Twitter footage depicted a female wearing a teal top (later identified as [REDACTED]) as she was on her knees facing the officer in an eastern direction within the parking lot. The female was near the open driver's side door of the vehicle. The officer was standing facing the female in a western direction several feet away from the



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

female. The female moved back slightly and sat at which point the officer immediately takes a step forward and kicks her with his right foot in the lower abdomen area. The officer then placed the female in a prone (face down) position on the asphalt and handcuffed her.

The second officer (later identified as Officer Tyler Moran #4248) walked over to the driver's side of the vehicle where Officer Rodriguez was taking the female into custody. It was at this point that a female passenger was seen in the front passenger seat and a child was seen moving to the front passenger compartment from the rear seat. Officer Rodriguez then pulled the female from her arms towards his unmarked patrol vehicle. The female was face down as the officer dragged her several feet. The officer eventually stood the female near the front of the unmarked patrol vehicle. The video footage ends at that point of the interaction. We began to conduct follow-up to identify the owner of the Twitter video for an interview. We eventually identified two people associated with the footage who we later interviewed. Refer to the Twitter footage for further information.

OFFICER NARRATIVE CONTINUED:

At approximately 1440 hours, we reviewed the use of force report prepared by Officer Rodriguez. We also learned that Sergeant Ronnie Lopez #3187 responded to the scene to conduct a use of force investigation in compliance with San Jose Police Department policy. Refer to Officer Rodriguez's and Sergeant Lopez's supplemental report for further details on San Jose Police case #20-204-0712.

On **7-25-2020** at approximately 1208 hours, we began to review body worn camera (BWC) footage of the incident from Officer Rodriguez's and Officer Moran's Body Worn Camera. We learned that several other officers to include, Officer Jamil Carter #3785 and Elias Juric #3486 responded to the scene to assist with the tow of the vehicle and transport of Guadalupe Marin to Santa Clara County Main Jail. Their BWC footage was stored under San Jose Police case #20-204-0712.

At this point of our investigation we were unable to locate Sergeant Ronnie Lopez's BWC footage. He later clarified during his interview that he forgot to upload his BWC to the server the day of the incident and he subsequently had been off from work for three weeks following the incident. Refer to Sergeant Lopez's interview which was conducted on **8-12-2020**.

On **7-26-2020**, Sergeant Jennings and I continued to research all reports, communication logs (CAD), audio recordings and we requested copies of the photographs taken from the event. As we researched the vehicle that [REDACTED] was driving, we learned the vehicle fled from police about an hour prior to her being detained on **7-22-2020**. The vehicle fled from VCET Officers in the area of Highway 280 and King Road in San Jose. The following is a timeline of events associated to [REDACTED] and several vehicles which fled from VCET officers within the past several weeks:

TIMELINE OF EVENTS:

Friday, July 10, 2020 1725 hours:



SAN JOSE POLICE DEPARTMENT
DISTRICT ATTORNEY HARDCOPY
DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

A Black Infinity (Oregon Plate 454BVS) fled from VCET Officers (Preuss #4423 and Gaona #4416). The driver was described as an unknown Hispanic male adult. VCET subsequently secured a vehicle seizure warrant for 2800.1 CVC (SJPD case #20-192-0659).

Friday, July 17, 2020 1500 hours:

Same Black Infinity (Oregon Plate 454BVS) was contacted by VCET Officers (Preuss #4423, Pfiefer #3951 and Gaona #4416). The driver was identified as [REDACTED]. She was cooperative and released at the scene. The vehicle was subsequently impounded via the vehicle seizure warrant. (SJPD case #20-199-0454).

Saturday, July 18, 2020 2000 hours:

A BMW Series 3 was attempted to be stopped by VCET Officers for several vehicle code violations (following too closely and expired registration). The vehicle immediately fled from VCET Officers (Preuss #4423, Pfiefer #3951 and Gaona #4416).

The driver of BMW was described as an unknown Hispanic male adult with both arms sleeved with tattoos. There was a passenger described as an unknown Hispanic female adult. There was no pursuit initiated and the driver was in violation of 2800.2 CVC. A "Be on the Lookout" (BOL) was broadcasted and a report was written. (SJPD case #20-200-0803).

Wednesday, July 22, 2020 0738 hours:

VCET Officers authored a vehicle seizure warrant for the BMW and it was signed by Judge Colin. (SJPD case #20-200-0803).

Wednesday, July 22, 2020 1700 hours:

VCET Officers (Preuss #4423, Pfiefer #3951 and Gaona #4416) observed the same BMW Series 3 vehicle in the area of HWY 280 and King Road in San Jose. The same unknown Hispanic male driver from July 18, 2020 was observed driving the vehicle. The vehicle again fled the area in a dangerous manner and VCET did not try to stop vehicle. A "Be on the Lookout" (BOL) was initiated.

Wednesday, July 22, 2020 1740 hours:

VCET Officers (Rodriguez #4185 and Moran #4248) located the BMW Series 3 vehicle. Two Hispanic female adults were inside the vehicle as well as two small children. The driver was [REDACTED] and the passenger [REDACTED]. [REDACTED] was arrested and booked into jail for 11364 HS, 148PC and 14601 CVC. (SJPD case #20-204-0712).

OFFICER'S NARRATIVE CONTINUED:

On 7-27-2020, we downloaded the BWC audit trails for Officer Moran and Officer Rodriguez's body worn camera. We also completed a record's check of victim [REDACTED] using public and police databases.

At approximately 1630 hours, Sergeant Jennings attempted to contact [REDACTED] and [REDACTED] to schedule an interview. He was unsuccessful via cell phone and voicemails were left. At approximately



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

1709 hours, [REDACTED] contacted Sergeant Jennings stating she would call back to schedule interviews. We did not hear back from either party that day.

On 7-28-2020 at approximately 1357 hours, Sergeant Jennings spoke with Attorney [REDACTED] Zaky who stated he was representing [REDACTED]. An interview was scheduled for Wednesday, July 29, 2020.

Sergeant Jennings was also contacted by Attorney [REDACTED] Marinho who stated she was representing [REDACTED]. They agreed to meet with us for an interview and it was also scheduled for Wednesday, July 29, 2020.

On 7-29-2020 at approximately 0955 hours, Sergeant Jennings and I responded to the McDonald's located at 1299 E. Santa Clara Street in San Jose. We canvassed the parking lot for additional video surveillance footage and we noticed there was only one camera affixed on the east side of the building where the incident took place. The camera was pointed in a southern direction towards the front door of the business and it would be very likely that the camera would have not captured the incident if the camera was positioned the same way on 7-22-2020.

We contacted shift manager [REDACTED] to request video surveillance from the incident date. She contacted her supervisor [REDACTED] via phone as he was not on scene. We also contacted [REDACTED] to request access to the video surveillance footage. We left several voicemails and we did not hear back from the McDonald's supervisor.

We took several photographs of the McDonald's and parking lot area where the incident occurred. We later uploaded the photographs to our case folder.

At approximately 1148 hours, witness [REDACTED] and her attorney [REDACTED] Zaky arrived at the CID office located at 777 N. First Street Suite #430 in San Jose. The interview was audio recorded with their knowledge. Refer to the recording and the supplemental report authored by Sergeant Jennings for further information regarding her statement.

At approximately 1226 hours, Sergeant Jennings received a call from [REDACTED] who identified herself as the field security manager for the McDonald's. She subsequently emailed us a video release agreement as part of them releasing any video surveillance video to us. The agreement was completed and returned to [REDACTED]. We have not been supplied with the video surveillance footage to date.

At approximately 1320 hours, victim [REDACTED] and her attorney [REDACTED] Marinho arrived at our office for an interview. The interview was audio recorded with their knowledge. Refer to the audio recording and a supplemental report authored by Sergeant Jennings regarding her statement.

At approximately 1500 hours, I contacted Officer Tyler Moran requesting a voluntary interview. Officer Moran stated he would respond to me in several days to schedule an interview. Officer Moran subsequently retained an attorney who was identified as [REDACTED] Shore. On 9-3-2020, I received a letter from attorney [REDACTED] Shore stating that Officer Moran respectfully declined to voluntarily participate in the interview I requested. Attorney Shore listed the reasons for declining the interview in his letter.



SAN JOSE POLICE REPORT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

On **7-31-2020**, Sergeant Jennings contacted Sergeant Ronnie Lopez and a voluntary interview was scheduled for **8-12-2020**. Sergeant Jennings also contacted Officer Elias Juric #3486 and a voluntary interview was scheduled for **8-5-2020**.

At approximately 1305 hours, I contacted Attorney Michael Rains who was representing Officer Matthew Rodriguez. Attorney Rains stated Officer Rodriguez would be providing a statement and I advised him I would call him back once we were ready for the interview. The interview was eventually scheduled for **9-2-2020**.

On **8-11-2020** at approximately 1137 hours, Officer Jamil Carter #3785 and her attorney [REDACTED] Miller arrived at our office for a voluntary interview. The interview was audio recorded with their knowledge. Refer to the recording and a supplemental report authored by Sergeant Jennings for further details regarding her interview.

At approximately 1229 hours, Officer Elias Juric #3486 and his attorney [REDACTED] Miller arrived at our office for a voluntary interview. The interview was audio recording with their knowledge. Refer to the recording and a supplemental report authored by Sergeant Jennings for further details regarding his statement.

At approximately 1400 hours, we conducted follow-up and identified a possible person associated to the Twitter account [REDACTED]. Sergeant Jennings and I wanted to interview any other eyewitness to the event that occurred on **7-22-2020**. We identified an address for a female named [REDACTED]. Her address was listed as [REDACTED]. Sergeant Jennings and I responded to the location and contacted Duran. She verified she posted the Twitter video and agreed to give us a voluntary statement.

At approximately 1505 hours, we interviewed Diane Duran outside of her apartment. The interview was audio recorded. Refer to the recording and my supplemental report for further details regarding her statement.

During our interview with Duran, we learned she was not the person who videotaped the incident and was just helping a friend post it on her social media platform. She provided us information for Mauricio La Plante who may know the identity of the person who filmed the video footage. La Plante was identified as a journalist for [REDACTED]. We subsequently contacted La Plante and he agree to reach out to his "source" for permission to provide us with his information. La Plante later contacted us and gave us the person's contact information and name as Josh Gil.

Sergeant Jennings contacted Josh Gil who agreed to meet with us for an interview.

On **8-12-2020** at approximately 1300 hours, Sergeant Ronnie Lopez arrived at our office for a voluntary interview. The interview was audio recorded with his knowledge. Refer to the recording and my supplemental report for further details regarding his statement.

During Sergeant Lopez's interview, we learned there was body worn camera footage of his interaction on scene. He explained he had a second camera that he did not dock at the end of his shift the day of the incident. He stated



SAN JOSE POLICE REPORT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

this was his first day back at work and has subsequently docked it and at the time of our interview it should have been uploaded to the server. Sergeant Jennings later located the BWC footage. The BWC footage was "privatized" under our case management.

At approximately 1517 hours, Sergeant Jennings and I interviewed [REDACTED] Gil in the area of [REDACTED] and [REDACTED] Street in San Jose. The interview was audio recorded with his knowledge. Refer to the recording and supplemental report authored by Sergeant Jennings for further information regarding his statement.

We learned from Gil that his girlfriend ([REDACTED]) was also present and may have witnessed the incident. He supplied us with her contact information. We attempted several times to contact his girlfriend and Gil for several days and we did not get any response.

During our investigation, Sergeant Jennings and I decided to request assistance from our Crime Scene Unit. Crime Scene Unit officers have specialized skills and equipment to assist them with reconstructing crime scenes, prepare sketches and take measurements. We contacted Sergeant Kyle Oki #2995 and requested his Unit's assistance with crime scene reconstruction.

On **8-12-2020** at approximately 1500 hours, we learned the BMW vehicle bearing license plate 6LAK063 was being stored at Matos tow yard on a 30-day impound. We subsequently requested the vehicle to be moved to the San Jose Police warehouse for storage as we were going to bring the vehicle to the McDonald's parking lot as part of the crime scene reconstruction efforts. Sergeant Jennings attempted to contact alleged owner of the vehicle [REDACTED] and her attorney [REDACTED] Zaky to inform them of the movement of the vehicle. Neither party responded to Sergeant Jennings' phone messages.

On **8-13-2020** at approximately 1139 hours, the BMW vehicle was towed from Matos Tow to the San Jose Police vehicle warehouse.

On **8-18-2020** at approximately 0500 hours, Sergeant Jennings and I met with Crime Scene Officers at the McDonald's parking lot located at 1299 E. Santa Clara Street. The BMW had been towed to the McDonald's location. Crime Scene Unit Members Sergeant Kyle Oki #2995, Officer Wakana Okuma #3745, Officer William Pender #3276 and Police Forensic Analyst Courtney Triggs #1304N conducted the reconstruction. Photos, a sketch and 3D imaging of the scene were conducted. Refer to Crime Scene Unit supplemental reports and attachments for further details. The vehicle was subsequently towed to Matos Tow yard in compliance with the 30-day impound hold.

On **9-2-2020** at approximately 1300 hours, Officer Matthew Rodriguez and his attorney [REDACTED] Rains arrived at our office for a voluntary interview. The interview was audio recorded with their knowledge. Refer to the recording and my supplemental report for further details regarding his interview.

On **9-10-2020** at approximately 1321 hours, [REDACTED] from McDonalds Security contacted Sergeant Jennings regarding the video surveillance footage. He was advised that McDonald's did have video footage of the incident from the parking lot and that local counsel would be contacting Sergeant Jennings to get him the video footage.



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

End of initial report.



SAN JOSE POLICE .PT

DISTRICT ATTORNEY HARDCOPY
DISTRICT ATTORNEY COPY ***FOR OFFICIAL USE ONLY***

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: STATEMENT

Author: 3608 - JENNINGS, TODD J

Subject: (Witness #1) MARINRAMOS, MARCELLA R [REDACTED]

Related date/time: Jul-29-2020 (Wed.) 1145

On Wednesday, July 29, 2020 at 1145 hours, Marcella Marin-Ramos arrived at the CID office located at 777 N. First Street in San Jose. Present for the interview was her attorney who identified himself as [REDACTED] Zaky. My partner Sergeant Juan Vallejo #3810 was also present inside the interview room. We advised that we would be recording the interview. Marcella was advised that she was not in any trouble and it was understood that she was there on her own free will. The interview room we were in had a door that was left open.

The following is a synopsis of our conversation with Marcella Marin-Ramos. Refer to the recording for word for word content.

We began the interview by obtaining biographical information from Marcella Marin-Ramos with a date of birth of [REDACTED].

She told us about the incident that occurred on July 22, 2020. It was just about evening time approximately 4:00PM. She was in a car with her sister [REDACTED]. Marcella was seated in the front passenger position and her sister was driving. Marcella's son was seated behind the front passenger seat. Marcella's daughter was behind the driver's seat. They had just pulled into the McDonald's parking lot. They were getting ready to get out of the car when she heard tires screeching. The kids began screaming and yelling as the police were yelling, "Put your hands up!" The police had their guns out and she wasn't sure if they yelled Police. They yelled, "Driver, get the fuck out the car, get on your knees." Marcella saw a gray / black car which did not look like a typical police car. She saw red and blue lights flashing on the car but didn't hear a siren.

Marcella was trying to calm her kids down as they were both crying. She said the officer on the side yelled "put your fucking hands up." Marcella said she had her hands up. The other officer was yelling to her sister ([REDACTED]) to crawl. The officer said, "I'm going to fucking kick you." Then he (the officer) kicked her in the stomach. Her son started screaming and tried to get out of the car. She said he was probably trying to get out to go protect her "Tia" (aunt - [REDACTED]). She kept him inside the car. The officer yelled for her to put her "fucking hands up." Marcella put her hands back up. The officer told her to get out the fucking car. She told him the door didn't open. He told her to crawl out. Marcella got out and she wasn't sure when the kids got out. She didn't remember much after that. The officers took them to the car (police vehicle). Her son and daughter were going "crazy". She asked why they did that to her sister. "Do you guy just go around hitting girls or kicking her for no reason." She told the officers that they just got the car. The officer kept saying the car was stolen. Marcella kept telling her son to use the phone and call his "tia." She wanted to keep him distracted to calm him down.

The officers were talking to them about the car. One officer said, "I guess you got it up on offer up again." Her sister told the officer she had nothing to do with it. Marcella told the officer it wasn't her sister's car. She said the



officer was pushing the issue. Marcella thought the officer was more focused on her sister. He wasn't paying any attention to Marcella and he didn't care about anything she was saying. Marcella looked at her sister and knew she was in a lot of pain. She asked her sister if she was ok and what happened to her face. She told her, "he hit me." Marcella could see her stomach fluttering and that she had heart problems. (Hyper thyroid). She told her sister she should go to the hospital. The police asked her if she needed medical attention which [REDACTED] declined.

Marcella started crying during the interview and allowed her a short break.

Marcella explained that she kept replaying the incident in her head. Marcella said if the incident could have gone very differently and if the officers didn't know there were kids in side of the vehicle they could have been shot. She believed her son wouldn't be here or her sister or any of them. She told us that she has lost two sons already. She explained that God was with her on that day. (She was very emotional).

The officers told her son that they weren't going to take Marcella to jail. Isaac was worried about his mom going to jail and asked why she was handcuffed. Eventually her "tia" came to the scene and took custody of the two children. The officers moved Marcella and [REDACTED] out of the sun and over to the wall. The officer who was going to search the car asked her if she had anything inside the car. Marcella said she had her purse in the car, some water and ice-cream. The officer began searching the car and Marcella asked the officer if the car was stolen. The other officer kept telling her sister something.

[REDACTED] asked what her sister was being arrested for. The officer told her she was being arrested for resisting arrest and evading the cops. Marcella told her sister that she had nothing to do with it and it wasn't her car. Marcella explained that just she got in it to drive because Marcella didn't want her to jump in the other side cause the door didn't open. She told us that the officer didn't care what she was saying. Marcella ask the officer for a case number or card. The officer said that she would get out and Marcella said she would just get it from her. The officers ask Marcella if she needed anything else and she told them no. Marcella said she left after that.

Marcella's two children were waiting off to the side. They did not leave the scene. They were told that Marcella was not going to jail so they just waited on the side.

We told Marcella that we wanted to go back to the beginning and get more details.

Marcella was in the driver's seat of the car originally. The vehicle was a two-door car. She did not want her sister going through the window so she slid over to the passenger seat. They were at her house on Shortridge. They both live together. They drove directly to the McDonalds. They did not make any stops.

She described the police car as a gray vehicle. She said all the windows were tinted (blacked out). She said she thought she has saw the police car earlier on the opposite side of the street, but she wasn't looking behind her to worry about it. They came into McDonalds parking lot on the 27th street side. Marcella showed us where she parked inside the parking lot of McDonalds next to the garbage cans and the wall. There was some handicap parking and some regular stalls. Marcella agreed to look at some photos. Refer to photos labeled



SAN JOSE POLICE . LPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

A (Google aerial view of McDonalds) and B (Google ground view of parking stalls of where they parked) for details. Marcella placed a blue mark on photo B where she believed she parked.

We asked her how soon after they had parked the vehicle did she notice the screaming going on. Marcella said the driver's door was open as her sister had taken out the keys and was grabbing her purse. Her sister was getting ready to get out when she heard screeching. She also heard, "put your hands up or get the fuck out of the car."

She turned and saw officers on both sides of the car. Marcella turned her head outside (right side) of the window and saw a car behind them and an officer. She turned her head the other way (driver's side) and saw another officer. The kids in the car were screaming.

Marcella described the officer on the passenger side being White with short blond hair. She described the officer on the driver's side as stocky, short, White or Mexican with a bald head.

The officer on the driver's side of the car told her sister to get out. She only saw two police officers and there were no other police cars or sirens. The uniforms they were wearing were an all- black jumpsuit. It's was hard for her to remember what kind of uniform it was. She did not remember seeing any letters on the uniform or a badge. She said she knew that they were officers.

We asked her if she remembered seeing the officers wearing a duty belt or have any type of equipment around their waist. She said, "yes," they had guns and cuffs. She doesn't remember them saying "San Jose Police." She did not hear any sirens. She remembered looking back and seeing an "officer." She also remembered seeing the lights of the police car while she was looking back (towards the driver's side) and the one officer was telling her sister to get out of the car. She remembers seeing the lights going. We asked her, "Would it be fair to say at this point you knew they were police officers." She responded, "Yes."

We asked Marcella to explain what she saw as her sister was exiting the vehicle. She stated as her sister was exiting the car, Marcella was seeing a lot of people coming out of the McDonalds. There were some people by their vehicles. As her sister got down on the floor, she heard the officer say to her sister to crawl to him. Then she heard the officer say, "I am going to fucking kick you." Marcella told the officer, "What, she isn't moving fucking fast enough for you." Then he kicked her.

She remembers seeing a guy and a girl recording the incident. The officer then took her sister back and she doesn't know where she went from there but guessed she went to the police car. Her son started to freak out and tried to jump out of the car. She grabbed her son and pulled him back because cops don't know for sure if it is a kid or not. She believed the cops don't know who is coming running out and they may feel like they are being attacked. That is why she grabbed her son as she didn't want anything to happen to him. She did not see her sister until she got out of the car.

We asked Marcella if she saw the actual kick and where her sister was when the officer kicked her. Marcella remembers seeing her sister with her hands up on the floor. Her sister was right outside the door frame. She was on her knees and had her hands up. The officer said, "I am going to fucking kick you" and he kicked her and she saw her fall down. After that she did not see her.



SAN JOSE POLICE DEPARTMENT
DISTRICT ATTORNEY HARDCOPY
DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Marcella saw the officer kick her with an unknown leg to the stomach. She didn't hear or see anything after that. She was grabbing her son Isaac.

She heard the bald officer say, "You don't want to listen, or you are resisting, or you are not complying" (something like that). Marcella could not see her sister at that point.

We asked Marcella what was going through her mind at this point. Marcella said she told the officer, "She is listening, she is already on her knees." She was not sure at what point she told the officer the following, "You just go around kicking people and hitting them." Marcella didn't know when or how she saw it but for some reason she knew that he hit her. She wasn't sure if she was outside or inside the car at that point.

Marcella was still in the car when the White officer with blond hair told her to put her hands up and ordered her to get out of the car in the passenger side. Marcella couldn't get out through the passenger door. She told the officer she couldn't open the door. The officer told her to crawl over the seat and get out. Marcella eventually got out and the officer came up to handcuff her as her kids came out of the car after that.

We asked Marcella if when the bald officer first came up to the car did he notice there were kids in the car. Marcella said, "No." She stated that was one of the things that scared her the most and she kept replaying in her head.

We asked Marcella if she remembered any of the officers giving the kids commands. She said one of the officers (unknown which one) told the kids to shut up or be quiet or something.

Marcella said there was a lot of yelling and screaming and she's telling the officers they did not steal the car. They were yelling about the car being stolen was after her sister had been moved. Marcella said the car was not stolen she had just gotten it. Marcella said for them to call the person who gave them the car. Her son was saying the same thing.

Later on, the officer told her that the car was not stolen. Marcella was never placed inside a police car. She was standing the whole time next to her sister. Marcella explained that the police told her they stopped the car because there was a warrant for the car. Marcella said they just got the car and it wasn't stolen. She was asking her sister if she was ok. Isaac was asking why her mom was handcuffed.

Marcella was not injured at any point during the contact with the officers. Marcella said her children were not injured during the incident.

We told Marcella the incident appeared to be very chaotic and we asked her at which point did things start to calm down. Marcella said the situation started to get more calm after they were handcuffed and her children went off with their "tia."



SAN JOSE POLICE DEPT
DISTRICT ATTORNEY HARDCOPY
DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Marcella said the whole incident happened very quick. From the time she left her house to when they were handcuffed.

Marcella said she was questioned and then her handcuffs were taken off after they ran her name. She said the officer searched her car and her purse. She was interviewed by the white officer. He explained to her that the car had a warrant. They told her it was not stolen. We asked her if she remembered being told by the officers that the vehicle has previously fled from officers 45 minutes earlier. She said she thought the officers said it was a couple hours earlier when it had fled from officers. The officer told her son that mommy wasn't going to jail and that a couple hours earlier that the car was running from police and hoped his mommy wouldn't do that with kids.

We asked her what she was thinking about when you heard them tell you that the vehicle had fled earlier or were they mistaken. She answered she wasn't worried about that. She felt like the officers didn't care what she was saying. They weren't trying to hear anything she had to say.

Marcella described the following injuries to her sister. Marcella stated her sister has heart problems. Her stomach was fluttering really fast. She knew she was in pain. She asked her sister if she was ok. Her sister responded, "Yeah," but Marcella knew she wasn't. Her nose started to bruise. Marcella asked her sister about her face and what happened to her nose. She asked her if she hit herself. She said, "No, he hit me." She wanted to make sure her sister was okay at that moment and everything could have happened so differently at that moment. She thanked God that she was okay and that everyone was okay.

Marcella was released and got her purse. The police asked her sister what she wanted out of her purse and she just wanted her phone. She thought the police grabbed a couple phones. Her sister asked what she was being arrested for or detained for. The officer told her she was being arrested for resisting arrest and suspended license.

Marcella believed she got all of her property. Marcella said she asked for a case number or a card because she wanted one and the officers did not have one right there. They told her it would be on her sister's paperwork and that she could get it from her sister. She didn't remember the officer's names.

At the time Marcella left, her sister was standing against the wall at McDonalds (refer to photo B). Marcella never saw her sister go into a police vehicle. Marcella said she never saw any medical personal show up.

We asked her if she knew what ended up happening to her sister. Marcella said on her way home she received a phone call from her sister's boyfriend. Marcella told him that her sister going to jail. Marcella told him that her sister was kicked and arrested by the police. She told him that she was at the McDonalds. Her sister's boyfriend went over to the McDonalds (via bicycle) and afterwards came over to her house and told her they had just taken her to jail. He also asked the officers why they had kicked her.

Marcella recalled at some point another police car similar to theirs showed up. They were checking on the officers. Those officers never got out of the car. They were standing up against the wall at that point.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Marcella never spoke to anyone that had witnessed the incident. She was aware that people had been recording the event. Marcella told us she saw the Twitter video. She told us that everything she told us in this interview was from her memory.

We asked her about the vehicle. Marcella was hesitant about talking about the vehicle. We reminded her that she had told the police that she had just bought the car. Marcella told us she barely had the car for two days before the incident and she was waiting for the pink slip. She told us about a time where she had bought a car off Facebook and that it ended up being stolen. We asked her if she had possession of the vehicle the entire day on July 22. Marcella said the car was her house on July 22. We asked her if anyone else had driven it that day. She did not want to answer the question.

We advised her that the car had fled from the police earlier (on 2-3 separate occasions). On one occasion the driver was identified as a male. We also advised her that there was a female in the front passenger seat when the vehicle fled from officers.

We asked her how her sister was feeling. She told us she was in pain and that she had been released that night. Her kid's aunt went to pick her up from jail.

We asked her about how her sister's injuries were doing. Marcella said that one of her sister's eyes was starting to get black. She had scabs to her face (left forehead), scabs to her knees and her left arm was very hard for her to move. Her arm was hurting her a lot.

Marcella told us everything she told us was the truth. We asked about interviewing her son. She did not want us talking to us at this time. She told us her kids were traumatized and that she needs to get them some kind of counseling. Her son needs it more. She doesn't want him to be more scared. He told his mom that he did not want to lose her or want her to die. Marcella wants her kids to call the police if they need help. She told us that he used to want to be a police officer but now he doesn't. She doesn't want her kids to hate the police. She will get ahold of us if they decide he can have an interview.

We gave Marcella our business cards with the case number and our names and badge numbers.

The interview ended at 1255 hours.



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: STATEMENT

Author: 3608 - JENNINGS, TODD J

Subject: (Victim #1) [REDACTED]

Related date/time: Jul-29-2020 (Wed.) 1315

On Wednesday, July 29, 2020 at 1315 hours, [REDACTED] arrived at the CID office located at 777 N. First Street in San Jose. She walked into the office on her own free will without any assistance. Present for the interview was her attorney who identified herself as [REDACTED] Marinho. My partner Sergeant Juan Vallejo #3810 was also present inside the interview room. We advised that we would be recording the interview. [REDACTED] was advised that she was not in any trouble and it was understood that she was there on her own free will. The interview room we were in had a door that was left open.

The following is a synopsis of our conversation with [REDACTED]. Refer to the recording for word for word content.

We began the interview by obtaining biographical information from [REDACTED] with a date of birth of [REDACTED].

She told us about the incident that occurred on July 22, 2020. [REDACTED] first noticed the police when they ran up into the windows. They had their guns out. They said put your hands up. [REDACTED] said she and her sister put their hands up. Everyone was screaming. Her nephew was screaming. A cop was telling her to get out. He banged on the window and said, "driver get out the car." [REDACTED] got out of the car. He told her to get on the ground. She got on the ground. He told her to get on her knees and crawl. He was right there and there was nowhere to crawl. She moved forward on her knees. The officer said, "I'm going to kick you." Then he kicked her. She was not sure if she fell or if he pushed her down. He put handcuffs on her and dragged her to the police car. He told her to get up, but [REDACTED] couldn't get up. The officer got her up and he started talking to her about the last time she went to jail. [REDACTED] said she did not go to jail and the officer said she was lying. The other cop ran up while she was still on the ground and said the car wasn't stolen. He said it was his mistake. He then said the vehicle had a felony arrest warrant.

They then started telling her sister to get out the car. They were yelling for her niece and nephew to shut up and be quiet. They got out the car and pulled them aside. The officer was asking her about the car and was it her car or was this another "Offer Up" story. She explained she previously bought a car from "Offer Up" a week before she got stopped by the police and her vehicle was seized. It was seized by the same police officers that were there during this contact. The officer said she was lying. The police were talking to her sister and her sister's kid. The police were telling them that her sister was not going to jail and the eventually took the handcuffs off her sister and she left.

She said the police were still accusing [REDACTED] of owning the vehicle. Her sister kept telling the police that it did not belong to [REDACTED], but it was hers (Marin-Ramos). Her sister told the police that she had just picked her up. The police did not hear anything Marin-Ramos was saying. They didn't care.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

The police asked [REDACTED] if she wanted to stand up or sit down. She wanted to stand. The police asked her if she wanted to go to the hospital. She told them no. The police asked again if she wanted to go to the hospital. She told them no. She was advised it was going to be a long process and they have to wait for someone to come down and identify you.

Her boyfriend showed upon a bike and gave her some water. He asked [REDACTED] what was wrong with her makeup and that it was all over her face. She told him it wasn't makeup and that the cop kicked her. He asked the cop why he would kick her. The police officer told him he didn't kick her, but we as police officer have the duty and the authority to enforce. Citizens have a responsibility to listen and to obey what they say and you can't go around doing whatever you want or acting stupid like you don't hear. Her boyfriend said she was on the ground already. The officer kept going on and on about civilians having a responsibility.

She said they the police were unable to identify her as the driver for the evading. They charged her with paraphernalia, resisting arrest and driving on a suspended license. She went down to the jail.

We asked [REDACTED] to go back over the incident in more detail.

She started by saying they were coming from her sister's house on [REDACTED]. [REDACTED] also lives there. She told us the passenger's side door didn't open and it was her first time being in the car. She was the driver and drove it from [REDACTED] to the McDonalds. She pulled into the McDonalds parking lot. She saw the police car before she pulled into the parking lot. She saw their faces. The car was on Santa Clara Street in between 24th and 26th when she saw the police car. She saw the car jump out of line and turn in the middle of the street. She told us her sisters [REDACTED]

We showed her some photos. The first photo was labeled "A". Photo A was an aerial photo of Santa Clara Street where the McDonalds in question was located. She labeled the photo "1" where they live on Shortridge. She put a "2" where she first noticed the vehicle. The police car was traveling westbound Santa Clara Street (Labeled "3") and made a U-turn (labeled "4"). The first time she saw the car was on Santa Clara Street and the next time she saw the police was at her window when she was in the parking lot of the McDonalds.

The photo labeled "B" was a Google aerial view the McDonalds. Photo labeled "C" was a photo of the McDonalds parking lot. Photo labeled "D" was a photo of the McDonalds entrance on the Santa Clara side. They drove into the McDonalds parking lot off the 27th Street Side (referenced photo "A"). They pulled into a stall (photo "C"). She said it was one of two handicapped spots. She wasn't too sure about the parking spot.

The first thing that alerted her to the police was the officers running up to the window and the screaming. She said they said put your hands up. [REDACTED] then looked at her nephew.

[REDACTED] described the occupants of the car. [REDACTED] was driving, her sister (Marin-Ramos) was in the front passenger seat. The two kids were in the backseat. [REDACTED] was seated behind [REDACTED] in the left rear passenger seat.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

She heard yelling and knew it was the police. She recognized the police officer from last time. There were two officers. She described the one she recognized from last time as 5'06", light skinned, Mexican and bald. He was on the driver's side. The other officer was on the passenger side. That officer had light brown hair. She didn't know their names. She referred to the officers as the "bald" one and the one "with hair"

█████ looked out the window and she saw the officer. The officer told her to get out of the vehicle. She was told "Driver get out the vehicle." She said he was close enough to see who was in the car. She remembered one of the officers saying something about kids. She didn't remember what he said to the kids. The officer told her to get out of the car. She got out of the car. She was told to get on the ground. She got on her knees. The officer was pretty close when he was giving her commands. He was standing on the other side of the door. She estimated about 2-3 feet away from her. The officer told her to crawl. She moved a couple of feet (two steps). She said there wasn't anywhere to crawl. She said there wasn't room. She said she didn't crawl. He said he was going to kick her and then he kicked her. She said right after he said it, he kicked her. She didn't remember what foot he used to kick her but that she watched the video and saw that it was his right foot. He kicked her in her stomach.

We asked her, "Did he give you clear commands to crawl. She answered, "Yes, he said crawl to me, but I was already on the ground. I just wasn't on my hands and knees."

We asked her, you didn't crawl because you didn't have room or because you just didn't want to crawl. She answered, because there was nowhere to crawl and why would I crawl. She took two steps. (steps on her knees).

She felt pain when she was kicked. She couldn't breathe. She was handcuffed by the bald officer. She was on her stomach. She was handcuffed and she was dragged through the parking lot. She didn't remember all the details after she got kicked. She hit her head a couple times and burned her legs while she was being dragged through the parking lot. She got to her feet when the officer pulled her up. The officer asked her about the last time and that she was lying about the last situation. She could remember the details. She had a hard time breathing. She couldn't believe that this had happened.

She was offered medical attention. She declined it. She had pain to her stomach. 20-30 minutes later, she noticed that her legs were scraped up and burning. Her left arm hurt (internal) as well. She had no prior problems with her left arm. She had scars to both sides of her forehead. She consented to us taking photos of her injuries just not the one on her stomach.

She was dragged from where she was handcuffed to the police car. The police car was right behind her car.

We asked her to describe the police vehicle and how she noticed it was a police vehicle. She said she didn't notice it was a police vehicle. She didn't remember seeing the lights and siren of the police car. She couldn't recall what the officers were wearing. The officers were wearing a black top. She did recognize the bald officer from a prior police contact.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

We asked her to describe the situation when she was back at the car with the bald officer. We asked her what was going on next with her sister and her niece and nephew. She said they were screaming. Her sister was saying that they had just bought the car. Her sister was brought to where she was standing at the police car. Her nephew was talking to the officer.

Things eventually calmed down. There was no more screaming. She didn't remember what the conversations were like at the police car. She didn't see her sister get out of the car. She didn't see her niece and nephew get out of the car. Her head was down, and she didn't remember. Her sister was handcuffed.

She and her sister kept saying they just bought the vehicle. The cops kept saying you're lying; this is two times this is a coincidence. Her sister told the officers that the car was not stolen. The cops said it wasn't stolen. The officer said the car was wanted for evading like the last car she had bought. She told them it wasn't her car. The officers let her sister go. The officers moved [REDACTED] to the brown wall (photo "C"). [REDACTED] was at the wall for a while. The cop never came down. They sent a picture to whoever. They told her this time you are going to jail. Last time you didn't go to jail. Her boyfriend showed up 15 minutes before she left for jail.

Another officer came and questioned her. He took a report. He also asked her if she wanted to go to the hospital. She just wanted to hurry up and go to jail. She didn't want this to drag out and take longer. She was never refused medical treatment. This officer was described as possibly Mexican, (Portuguese) long hair. She thinks he was a sergeant. She didn't know why she was talking to him. She said the police were trying to blame her for driving / owning the car. She wasn't even in the car long enough to be charged for anything. She wanted to give a statement if he was going to listen. The other cops "didn't give a shit".

She gave all her property (purse) to her sister but one phone. She had three phones in the car. A pipe was found in her purse, but it was broke by the officer.

We asked her if it was a meth pipe. [REDACTED] said, "yeah." and at the same time her attorney (Marinho) advised she was not going to answer the question.

Another male officer transported her to jail. He was different from the officers that stopped her. She was then booked by the officers who first contacted them. The bald officer said he had to use the restroom at the jail. She walked into the jail. She was never transported to the hospital after speaking with the nurses at the jail. She was in jail about 5 hours before being released.

Officers explained to her that the car had evaded police ("on a high speed").

We explained to her that the car had evaded police on July 18 and also 45 minutes prior to her contact with police at McDonalds on July 22, 2020. We advised her that there was a warrant attached to the vehicle.

Marin wanted us to know that a week prior the bald officer was there when she was stopped by police (downtown San Jose). She had bought a car from "Offer up." It was a black Infinity. She had only had the car for a couple



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

days. The situation went real smooth. She was told to put her hands up and they pulled them out of the car. There was no incident. The police explained that the car was involved with evading from the police. They knew she wasn't the driver. [REDACTED] felt that it was personal what happened the other day. The officer was mad and that's all he kept talking about (today's incident). This first event happened within a week. [REDACTED] was talking to the bald officer. [REDACTED] said she was not cited on the previous event. The vehicle was towed. She was issued a case receipt 20-199-0454.

We told [REDACTED] the dangers of letting other people drive their vehicles especially when children are involved.

Marinho wanted her client ([REDACTED]) to date the photos that she sent to the police. The photo of the injury to her stomach was taken the day after the incident (July 23, 2020). Left side of face pic, leg injury pic, (were photographed the next morning). The ankle injury pic (left foot) and arm pic. [REDACTED] told us that her left arm was in a lot of pain. She could lift her arm. It was swollen. Her left arm has since gotten better. We were shown the back-shoulder bruise photo. She told us there was swelling towards the back. She told us she went to O'Conner Hospital on July 23, 2020. She had x-rays done. She told us there was a voicemail of Isaac from when he tried to call her friend Lydia during the incident.

She told us she had a lump on the back of her head and that it started hurting that night (July 22, 2020). She also had another injury to her nose. Marinho also sent us the face photo.

[REDACTED] told us about her stomach injury and how it felt the day after. She said it was hard for her to sit down and was hard for her to breathe. She could not tie her shoes. She told us her left arm was in pain. She advised she would most likely go back to the hospital. Her whole body hurt. As of today's (July 29, 2020) interview everything but her arm was a little better. She was however able to move her left arm around (above her head) inside our office.

[REDACTED] consented for us to obtain medical records from her visits to the hospital as it pertains to this incident. Marinho advised we could send her the release.

The sergeant on scene read [REDACTED] her Miranda rights. She understood her Miranda rights and then gave a statement. The sergeant asked her if she used drugs. [REDACTED] said she did not have to answer that. He told her that she did. He asked her if she snorts and then said she had white stuff on her nose. [REDACTED] said she doesn't snort. He then asked how she did it. Marinho then stopped her client from saying anything else about drugs.

[REDACTED] said the bald officer also read [REDACTED] her rights at the police car. She wasn't sure if she said anything to him.

We gave [REDACTED] our business cards with our names and badge numbers as well as the case #20-204-0712.

Marinho asked us for the name of the arresting officer. We advised her that the name of the arresting officer was officer Rodriguez #4185.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Sergeant Vallejo took photos of [REDACTED] injuries as they appeared in our office on July 29, 2020. She declined to let us photograph her stomach injury. Her attorney was present for the entire interview and photographs.

Our interview concluded at 1419 hours.



SAN JOSE POLICE . PT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY ***FOR OFFICIAL USE ONLY***

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: STATEMENT

Author: 3608 - JENNINGS, TODD J

Subject: (Other #2) JURIC, ELIAS [REDACTED]

Related date/time: Aug-11-2020 (Tue.) 1128

On Tuesday, August 11, 2020 at approximately 12:28 PM, Officer Elias Juric #3486 arrived at the CID office located at 777 N. First Street in San Jose. Present for the interview was his attorney who identified himself as [REDACTED] Miller. My partner Sergeant Juan Vallejo #3810 was also present inside the interview room. We advised Officer Juric that we would be recording the interview. Officer Juric was advised that he was not in any trouble and it was understood that he was there on his own free will. Officer Juric was identified as a witness officer on this incident. The interview room we were in had a door that was left open.

The following is a synopsis of our conversation with Officer Juric. Refer to the recording for word for word content.

Officer Juric has been a peace officer for 26 years. He has had no prior military experience.

His call sign for Wednesday, July 22, 2020 was 61K1, swing shift, with Friday, Saturday and Sunday off.

Officer Juric explained that he was unable to prepare for this interview because he had no access to the reports or Body Worn Camera (BWC). He tried to recall the incident from his memory as best he could. He did not write a report as his duty for this event was to only transport suspect [REDACTED]

Officer Juric recalled on the day of the incident he was called to do a transport via Dispatch. VCET (Violent Crimes Enforcement Team) officers requested assistance at the McDonalds located at Santa Clara and 26th Street. Officer Juric said when he arrived, he was greeted by Sgt. Lopez #3187. He saw another officer writing paperwork in his car and he saw another officer (Officer Moran) standing against a wall with a male and a female ([REDACTED]). [REDACTED] was handcuffed at the time.

While Officer Juric was waiting, he asked one of the VCET officers for a mask because he didn't want anyone sitting in his car without a mask on. He received a mask. The other VCET officer brought the female over to his car. A mask was put on the female and she was placed inside his patrol vehicle. She was in the backseat of the car for 10-15 minutes before he drove to transport her to jail. One officer (unknown which VCET officer) asked Officer Juric if she could ride without a mask, or if she could pull it down. Officer Juric advised, "No."

The female [REDACTED] stated she was claustrophobic. They left for jail shortly after that.

Officer Juric transported [REDACTED] by himself. He did not observe any injuries on the female. She did not complain of injuries to Officer Juric. There was no conversation between Officer Juric and the female.

Officer Juric arrived at the jail. The VCET officers were already there and ready to receive [REDACTED]. They opened the door to Officer Juric's police car and [REDACTED] exited. Officer Juric left the jail.



SAN JOSE POLICE . LPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

We went over some clarifying questions. Officer Juric had no knowledge about what had transpired prior to him arriving at the scene. He described the suspect vehicle as a silver BMW. He described the VCET officer car as an unmarked van. Officer Jamil Carter arrived on scene after Officer Juric had already arrived. Officer Carter had offered to take [REDACTED] to jail but Officer Juric said he would do it since she was already in the back of his car. Officer Juric told us that the air conditioner was on and the windows were all the way down for the drive from the scene to the jail.

Officer Juric explained that [REDACTED] walked over from the wall at the McDonalds and got into the patrol vehicle on her own.

Officer Juric to his knowledge has never had any interaction with [REDACTED] either before or after this incident in question.

The interview concluded at 12:43PM.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: STATEMENT

Author: 3608 - JENNINGS, TODD J

Subject: (Other #1) CARTER, JAMIL (██████████)

Related date/time: Aug-11-2020 (Tue.) 1135

On Tuesday, August 11, 2020 at approximately 11:35AM Officer Jamil Carter #3785 arrived at the CID office located at 777 N. First Street in San Jose. Present for the interview was her attorney who identified himself as ██████████ Miller. My partner, Sergeant Juan Vallejo #3810 was also present inside the interview room. We advised Officer Carter that we would be audio recording the interview. Officer Carter was advised that she was not in any trouble and understood that she was there on her own free will. Officer Carter was identified as a witness officer in this incident. The door to the interview room was open and unlocked.

The following is a synopsis of our conversation with Officer Carter. Refer to the recording for word for word content.

Officer Carter has been a peace officer for 18 years and had no prior military experience. Her call sign for her shift at the time of the incident was 61K4 (swing shift, with Friday, Saturday and Sunday off). Officer Carter explained that she reviewed no body worn camera footage or documentation to prepare for this interview. Although she had used her BWC for the incident, she did not have access to review it. She responded to the scene of the incident because it was her beat. She was responsible for anything that occurred within her beat (area designated to Officer Carter).

Officer Carter recalled on the day of the incident she heard a call come out via Dispatch for a transport. She remembered it was daylight. VCET (Violent Crimes Enforcement Team) Officers were asking for a cage car for transport. She arrived on scene (McDonalds - 26th / Santa Clara) and saw four Officers already on scene. Sergeant Lopez was on scene as well as VCET officers Moran and Rodriguez. Officer Juric was also on scene. A handcuffed female (██████████) was in the back of Officer Juric's patrol car. She advised Officer Juric that she would do the transport. Officer Juric told her that he would do the transport and she could stay and help by waiting for the tow truck for the BMW.

One of the officers (unknown) asked Officer Juric if he could transport her without a mask. Officer Juric told that officer that it was policy and he had to transport her with a mask. Officer Carter said she heard the female say she couldn't breathe, but she did not appear to be distressed. She didn't appear to have any injuries. The car door to the police car was left open for her. The female did not say anything to Officer Carter personally.

Officer Rodriguez told Officer Carter that the vehicle (BMW) was wanted for evading. Officer Carter recalled a BMW that had been stopped by other officers and that the female (██████████) had been arrested by VCET a week ago.

Officer Carter recalled a BMW (similar to this car) had taken off from officers. This was about a week ago.



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Officer Carter waited for the tow truck. Officer Moran had filled out the CHP-180. Officer Carter gave the tow truck driver the CHP-180 and turned in her copy of the CHP-180. While she was waiting for the tow truck, she was by herself. All other officers had left the scene.

We went over some clarifying questions. Officer Carter had no knowledge about what had transpired prior to her arriving at the scene. Officer Carter did not hear about the BMW being wanted that day (July 22, 2020) on the radio. She heard about the vehicle being wanted days prior to this event. She was unsure if the female had a mask on her face when she first arrived. Officer Carter did not recognize the suspect (██████) as a person she has dealt with before. Officer Rodriguez has told her the BMW had been wanted for evading and that she had been arrested a week prior. Officer Carter was unsure of the charges against the female. She never observed the female move around or get outside the patrol car. Officer Carter never physically touched the female. Officer Carter got within two feet of the female and she did not notice any injuries on the female. The female never complained of any injuries to Officer Carter. The female was handcuffed.

Officer Carter told us she did not document this event in a report because she did not do anything that required a report. This was not uncommon for officers to not write a report.

Officer Carter to her knowledge has never had any interaction with ██████ either before or after this incident in question.

The interview concluded at 11:51AM.



SAN JOSE POLICE LPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY ***FOR OFFICIAL USE ONLY***

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: STATEMENT

Author: 3810 - VALLEJO, JUAN J

Subject: (Witness #5) LOPEZ, RONNIE ([REDACTED])

Related date/time: Aug-12-2020 (Wed.) 1318

OFFICER SUPPLEMENTAL:

On August 12, 2020 at approximately 1318 hours, Sergeant Todd Jennings #3608 and I interviewed Sergeant Ronnie Lopez at 777 N. First Street Suite #430 in San Jose. I advised Sergeant Lopez that the interview was voluntary and if he wished to terminate the interview at any time we would do so. Sergeant Lopez was identified as a witness in this incident. He was the supervisor assigned to the Violent Crimes Enforcement Team (VCET) during the date of the incident on July 22, 2020. Sergeant Lopez responded to the scene and conducted a use of force investigation as listed within San Jose Police Department policy. The interview was audio recorded with Sergeant Lopez's knowledge. The following is a summary of the interview. Refer to the recorded for a full and accurate version of the interview.

STATEMENT OF SERGEANT RONNIE LOPEZ #3187:

Sergeant Lopez has been a peace officer for approximately 25 years and his current assignment was as a Sergeant for VCET Team #1. He explained that there were two teams in VCET and he was assigned to Team #1. He stated on the date of this incident (July 22, 2020) he was assigned to supervise both VCET teams. VCET Team #2 Sergeant, Anthony Vizzusi #3714, had time off and his responsibilities were to supervise both teams. Sergeant Lopez then spoke about the incident we were investigating. He remembered receiving a phone call notifying him of a use of force incident which occurred at the McDonalds located at 26th Street and Santa Clara Street. I then asked Sergeant Lopez if he had the opportunity to review anything prior to this interview and he stated he was unable to view his report or body worn camera (BWC) footage. Sergeant Jennings and I "privatized" all documents and BWC footage as part of this investigation. When "privatization" occurs, limited members involved in the investigation are able to view the documents and BWC footage. Sergeant Lopez did not have access to view any of these documents prior to the interview.

Sergeant Lopez continued to describe the incident and stated Officer Tyler Moran and Officer Matthew Rodriguez were the VCET officers involved in this incident. He explained they were members of VCET Team #2 and under the direct supervision of Sergeant Anthony Vizzusi. Since Sergeant Vizzusi was off, Sergeant Lopez was responsible for their supervision.

Sergeant Lopez responded to the scene and he recalled observing one female standing against the McDonald's building and a silver vehicle parked which he believed was a BMW. He also observed Officer Moran and Officer Rodriguez and he met with one of the officers to obtain a synopsis of the incident. He learned that there was a passenger and two children involved but they were no longer on scene at the time of his arrival. After obtaining a synopsis of what occurred, he directed Officer Moran to canvass the McDonald's parking lot for cameras and additional witnesses. Sergeant Lopez noticed a surveillance camera pointed towards Santa Clara Street



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

(southbound) and he believed the camera would not have captured the incident but instructed Officer Moran to make contact with staff.

He then instructed Officer Rodriguez to show him the BWC footage of the incident. He also directed Officer Moran to photograph the suspect's injuries and officers' injuries (or lack thereof). He then retrieved his Miranda card and he asked Officer Rodriguez if the female was Mirandized prior to his arrival. Officer Rodriguez advised Sergeant Lopez that she was read her Miranda warning and she waived her rights. Sergeant Lopez then activated his BWC and made contact with the female. He observed several injuries to the female to include; abrasions or scratches to the left side of her forehead, he believed her left arm, and her left knee area. He described the injuries to be 5 to 6 inches in size in a scratch or scrape type of injury. He then read the female her Miranda Rights and she waived her rights. She expressed her desire to speak about the incident and she also declined medical attention when Sergeant Lopez offered her medical assistance. She appeared calm during the interaction but upset. He then obtained a statement from the female.

The female stated her sister drove the vehicle to her house and asked her if she wanted to go for a ride. Her sister asked if she could drive and they drove to the McDonalds where they were pulled over by police officers. She was not sure why she was pulled over and recalled seeing one of the officers approach her door and one of the officers requested for her to exit the vehicle. She then exited the vehicle and she described getting into a "squatting" position without fully placing her knees on the ground. Sergeant Lopez recalled that the female stated she believed that she was doing what the officer was requesting of her. She then said that she did not know the officer was telling her to lay on the floor. Sergeant Lopez believed there was some miscommunication on what "get on the ground" meant. She then said she was kicked on her right side and then handcuffed and dragged to the police vehicle. She again declined medial attention. Sergeant Lopez did not recollect any other statements she made. He then reviewed the BWC footage from Officer Rodriguez's camera. He remained on scene and he finished the police report in his patrol vehicle. Sergeant Lopez was the last one to leave the scene.

Sergeant Lopez stated after reviewing the BWC footage, he entered his vehicle and called his Lieutenant who was identified as Lt. Brian Matchett #3302. Sergeant Lopez informed Lt Matchett that he was investigating a "Category 1" use of force but Sergeant Lopez had some concerns. Sergeant Lopez gave Lt. Matchett the details of the incident over the phone. They both agreed that they would write up a supervisory use of fore report and the report would be forwarded to Lt. Matchett. Lt. Matchett would then review the report and BWC footage in the morning and address it further from there.

Sergeant Lopez also recalled a male on a bicycle that showed up on scene who he believed may have been the suspect's boyfriend. He did not have any interaction with the male. He waited for the reports to be finished and he eventually reviewed Officer Rodriguez's report which Sergeant Lopez had issues with. Sergeant Lopez stated he reviewed Officer Rodriguez's report and he wrote vague information. Sergeant Lopez then contacted Officer Rodriguez and directed him to write more detail. Officer Rodriguez then submitted his second version of the report and Sergeant Lopez approved it.

I advised Sergeant Lopez that we would have additional questions regarding in the incident and I separated the incident in four different sections.

Section 1: Pre-arrival



SAN JOSE POLICE LPT

**DISTRICT ATTORNEY HARDCOPY
DISTRICT ATTORNEY COPY ***FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

- Section 2: Arrival on-scene and his interaction with the Officers (Moran and Rodriguez)
- Section 3: Arrival on scene and interaction with detained female (Guadalupe Marin)
- Section 4: Disposition of incident

Section 1: Pre-arrival

Sergeant Lopez explained that part of his duties was to respond to all use of force incidents and complete an investigation into the use of force. Sergeant Lopez stated that he knew Team #2 Officers had been trying to stop that (BMW) vehicle for several days. The vehicle fled from officers on multiple occasions. He also knew that the officers (Moran and Rodriguez) conducted a vehicle enforcement stop as the information was broadcasted over police radio but Sergeant Lopez was not aware that a use of force incident had occurred as he continued to monitor the radio traffic.

Sergeant Lopez stated that VCET officers patrol throughout the city and since there are multiple radio channels that cover the entire city, VCET uses a back-up channel to communicate. Sergeant Lopez stated that he heard the vehicle stop conducted by Officers Moran and Rodriguez via the back-up channel (VCET Channel). He recalled a couple of hours prior to this incident, Officer Pfeiffer assigned to VCET attempted to stop this same vehicle but it fled from Officer Pfeiffer. Officer Pfeiffer did not pursue the vehicle. Sergeant Lopez stated Officer Pfeiffer gave a description of the driver as being a female but he did not recall the location of the incident.

Sergeant Lopez believed the VCET channel was not monitored by San Jose Police Communication via an assigned Dispatcher but it should be recorded.

Sergeant Lopez stated he was notified via a text message that there was a use of force incident and he contacted Officer Rodriguez. Officer Rodriguez verified there was a use of force and they needed Sergeant Lopez to respond.

Section 2: Arrival on-scene and his interaction with the Officers (Moran and Rodriguez)

Sergeant Lopez remembered that there was also a patrol officer on scene but he was not entirely certain. Sergeant Lopez stated Officer Rodriguez and Moran were driving an SUV at the time. He then described the vehicle as follows: there were no police marking on the SUV and it was equipped with lights and sirens. The vehicle was "undercover." The lights were affixed inside the vehicle and easily visible. There were also lights to the rear of the vehicle.

As he arrived, Sergeant Lopez made contact with Officer Rodriguez. Officer Rodriguez stated he was involved in a use of force involving the female who was detained. He did not notice any witnesses recording the incident at the time of his arrival. Sergeant Lopez only remembered the male who he believed was the female's boyfriend.

I later asked Sergeant Lopez if he reviewed Officer Rodriguez's BWC and if the footage matched what Officer Rodriguez had informed him upon arrival. Sergeant Lopez stated it did match what he was told by Officer Rodriguez. I asked Sergeant Lopez if he saw the Twitter video footage that was posted online and he stated he did. Sergeant Lopez stated the Twitter video matched what Officer Rodriguez stated occurred. Sergeant Lopez



SAN JOSE POLICE SPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY ***FOR OFFICIAL USE ONLY***

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

stated he saw the Twitter video several days after the incident. He did not remember watching Moran's BWC of the incident.

Section 3: Arrival on scene and interaction with detained female ([REDACTED])

The female was standing up and was handcuffed when Sgt. Lopez arrived on scene. The female was cooperative at the time of his contact with her. He asked her about narcotics use and she stated she used methamphetamine earlier in the day. Sergeant Lopez remembered seeing some white powder under her nose, but could not recall what she responded. Sergeant Lopez had no prior contacts or knowledge about the female. Sergeant Lopez believed based on his training and experience that she was under the influence of a controlled substance at the time of his interaction with her. I then asked Sergeant Lopez if he knew if the female was charged for being under the influence. He stated he was not sure if she was charged and if she was not, it was possible the officers did not notice any of the objective symptoms he noticed. Sergeant Lopez did not direct the officers to charge her with being under the influence. He explained he directed officer Moran to take photographs of her injuries. Sergeant Lopez did not recall her complaining of any type of pain but due to the visible injuries he afforded her medical assistance which she declined.

Sergeant Lopez stated based on her statement, he believed there were communication problems between the message the officer gave her and her understanding of the commands she was given. She stated when she exited the vehicle, she did not get fully on the ground the way the officer wanted. The female stated she was told to get on the ground. The female described that she squatted without getting on her knees. She stated she did not know the officer wanted her to get on her stomach. She was kicked on her side once then handcuffed. She was then dragged to the police vehicle.

Section 4: Disposition of incident

Sergeant Lopez stated they were not able to identify any additional witnesses to the use of force incident. I then asked Sergeant Lopez about his concerns regarding the use of force incident he mentioned earlier. Sergeant Lopez was not trying to judge whether it was authorized or unauthorized use of force, his concern was how necessary it was. He believed there were better tactics that could have been used by the officers. His concern was whether or not the use of force was necessary. He wanted to voice those concerns to Lt. Matchett who had previously been assigned to Internal Affairs and also because he was their (VCET) direct supervisor. Sergeant Lopez further described that he was looking at the incident from a "20/20 perspective" and was concerned. Sergeant Lopez questioned whether it was necessary from a tactical standpoint. Sergeant Lopez wanted to collaborate with his Lieutenant for training purposes and questioned the necessity of the officer's actions. He felt there was a communication gap between the female and the officer. I then asked him the concerns of the tactics involved. Sergeant Lopez explained that although the officers approached the vehicle, they could have been more disciplined in relation to a high-risk car stop. Sergeant Lopez stated the ability to have the officers call her (Marin) out of the vehicle from a distance or having more patience in the communication once the female was contacted, the outcome could have been avoided. Sergeant Lopez again expressed that his concern was not whether it (use of force) was approved or not approved but whether it was necessary. I then asked him to explain how our department conducts high-risk vehicle stop. Sergeant Lopez explained the process (refer to the recording



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

for a full version of his explanation). Sergeant Lopez's concerns were in the tactics utilized by the Officers in regards to time and distance. He knew the vehicle was wanted for fleeing from police officers and was entered into the system as a felony vehicle. He explained it did not mean that the driver was wanted for a felony but the vehicle was wanted for fleeing.

Sergeant Lopez then gave a description of the scene and explained the suspect vehicle was parked inside the McDonald's parking lot. The officer's car was parked behind the BMW closer to the vehicle that would be normal on a high-risk vehicle stop. The positioning of the officer's vehicle could have been dictated due to the size of the parking lot which he described to be "constricting."

Sergeant Lopez stated he has not reached out to the officers involved in this incident since that date as he has been off from work. Today was his first day back. I then told him we have had the opportunity to review the report he authored but we were unable to locate his BWC footage of the incident. Sergeant Lopez explained that VCET officers, to include himself, had two cameras assigned to them. He used one of his cameras that morning during a search warrant and he switched to his secondary camera sometime in the afternoon. He forgot to dock his secondary camera the night of the incident. Sergeant Lopez subsequently had time off for the past three weeks and finally docked his camera today. He stated we should have access to his BWC footage today. I asked him if he captured his conversation with Officer Rodriguez at the time of his arrival. Sergeant Lopez stated he believed his conversation with Officer Rodriguez was not recorded.

We then offered Sergeant Lopez the ability to review his report. He acknowledged and requested to review his report for accuracy. He was given four (4) pages of the report he authored in relation to this investigation. We collected the copy of the report prior to the end of our interview and we did not allow him to take it. After his review, he stated he did not have anything else to clarify and I asked him several questions regarding the report. I asked him he wrote in his report that a high-risk vehicle stop was conducted. He earlier described the manner in which the felony vehicle stop was conducted, was not within our standard operation procedures. Sergeant Lopez explained he referenced the situation as a high risk stop the officers were faced with but he did not use the reference in a tactical perspective.

I then directed Sergeant Lopez to the second page in his report where he wrote he reviewed Officer T. Moran's BWC footage. Sergeant Lopez stated it was a typographical error and it should have been written with Officer Rodriguez's name. He did not remember reviewing Officer Moran's BWC. He remembered Officer Rodriguez being calm at the time during his interaction at the scene.

Sergeant Lopez then spoke about the first report Officer Rodriguez wrote and he stated the report was too vague in relation to what he told Sergeant Lopez at the scene. Sergeant Lopez directed Officer Rodriguez to properly document to include additional details in regards to the incident. He further explained the report writing process and the supervisory review of use of force reports. We ended the interview at approximately 1421 hours.



SAN JOSE POLICE .PT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: STATEMENT

Author: 3608 - JENNINGS, TODD J

Subject: (Witness #3) GIL, JOSHUA E (DOB: Nov-20-1995)

Related date/time: Aug-12-2020 (Wed.) 1517

On Wednesday, August 12, 2020 at approximately 3:17PM Joshua Gil date of birth [REDACTED] was interviewed. We identified Joshua Gil as the person who recorded the video that had subsequently been uploaded and broadcasted on Twitter. The interview was conducted inside our city vehicle in the area of [REDACTED], California. My partner sergeant Juan Vallejo #3810 was present inside the vehicle during the interview. We advised Gil that we would be recording the interview. We told Gil he was not in any trouble and that he was here on his own free will. He agreed to speak with us.

The following is a synopsis of our conversation with Joshua Gill. Refer to the recording for word for word content.

We began the interview by obtaining biographical information from Joshua Gil with a date of birth of [REDACTED].

Gil [REDACTED] " [REDACTED] [REDACTED] McDonalds located at 26th / Santa Clara. He exited the McDonalds with his food orders. As he had several orders and was organizing his food inside the passenger seat of his [REDACTED], he heard "shouts of commands from the officers." The officers had their firearms drawn and they demanded the suspects to get out of the vehicle including the kids. The driver was a female. She was listening to commands and had her hands up. She then got out of the vehicle and the officer commanded her to get down on her knees and put her hands on her knees. She did what she was told. Gil said she went into a full squat. As she did that the officer saw she was being cooperative and gave her a "spartan" kick. He explained that the kick had momentum. He said the kick knocked the wind completely out of her. The kids were crying with complete hysteria. The other officer had his firearm pointed in the vehicle and demanded them to exit. They exited with their hands in the air.

When the officer kicked the female in the stomach and detained her, the officer was "using brute force" and had her head shoved against the ground. He detained her and picked her up from the handcuffs and dragged her.

We told Gil that we wanted to start over from the beginning and provide more details.

Gil said he was at the McDonalds with his girlfriend Jade Augustine [REDACTED]. He was inside his vehicle (seated) which he described a [REDACTED]. He was parked in the "pick-up" designated parking spot. He was parked facing in towards the McDonalds. The police were not there when he arrived to pick up the orders. When he exited the McDonalds, everything was still normal. He entered into the passenger side of his car. The windows to his vehicle were down and he was organizing the food orders. The suspect vehicle was parked facing in towards the McDonalds. He was unsure of the make of the suspect vehicle. An undercover police vehicle was behind the suspect vehicle.



SAN JOSE POLICE REPORT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Gil heard shouts and commands being given from the officers. He heard, "put your hands up, put your hands up, shut up, shut up" stuff like that. There were two officers, one on each side and they were to the rear of the suspect vehicle. They had their firearms drawn and were giving commands. The officer on the left side of the vehicle (driver's side) was telling the driver to exit the vehicle with her hands up. The officer was standing next to gas tank of the suspect vehicle. The female exited the car with her hands up.

Gil described the officer that kicked the female as Caucasian and "bald." The other officer was Caucasian as well. The bald officer told the female to "get out, get on your knees, put your hands on your knees." She did as she was told. She did not resist. She complied and the bald officer did a "spartan" kick. Gil described the kick as an "angry kick with intent to harm." It was unknown what leg the officer used to kick the female. He said they were very close to each other. He said the distance was not even a foot. The last command the bald officer gave the female was for her to put her hands on her knees. She complied and then she was kicked.

Gil then described the scene. He said there was another car (unknown type of SUV) parked next to his Honda. It was to the right of him on the passenger side. The windows on the SUV were rolled down. He could see through it. There were three empty spaces to the right of the SUV and then there was the suspect vehicle that was driven by the female. In total the suspect vehicle was in the fourth spot to the right of him. He said the distance from his car to the female's car was approximately 80-100 feet.

Gil told us that his girlfriend was also recording the incident from inside their car. She was in the driver's seat. Gil got out of the car with his camera when he heard the shouts of commands. He got out of the car because the SUV was there. The shouts and commands are what first got his attention. He stepped out and was trying to record. He got an error from his camera roll on his cell phone (android), so he had to open his Snapchat camera. He missed recording the first 30 seconds of the incident because of the error. He started recording "4 seconds" before the kick. Gil was outside the car recording. His girlfriend was inside the car recording.

As Gil exited his car and began recording, he told us that he saw the female put her hands on her knees and she dropped in a low position. He explained that when someone is on their knees you could be "postured up or slouched." The female was slouched. She was as low as she could go. The bald officer kicked in her stomach and the wind was knocked out of her. Gil said he heard the wind get knocked out of her. He heard, "UGH" (refer to recording). The female went back and then she curled into a ball. As she curled up the bald officer grabbed her and pushed her head to the cement. The bald officer detained her (put her hands behind her back and handcuffed her). The bald officer picked her up by her handcuffs which caused the female's arm to be hyperextended. He dragged her face down (hyperextending arms) from the driver's side door of the suspect vehicle to the driver's side door of the police vehicle. The police vehicle was parked about a foot behind the suspect vehicle. Gil said that the distance she was dragged was approximately 8 feet. He picked her up and placed her against the police vehicle. Her face was against the police car.

He described the undercover SUV car. He didn't remember the color. He didn't hear any sirens but saw dashboard lights that were red and blue.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

The other officer (not bald officer) had his firearm pointed in the vehicle and he was demanding the occupants including the kids in hysteria to shut up. He described the other female in the car as a middle-aged Latina woman that was heavy set. She was the front passenger of the suspect vehicle. There were two kids in the car as well. There was a baby and a young kid. The young kid had long hair and was around six years old. The baby was 2-3 years old.

When the bald officer dragged the female to the police car the other officer walked around the suspect vehicle and pointed his gun inside the car. He repositioned himself to the driver's side window. He said, "shut up" several times. He demanded them to get out of the car with their hands raised. The kids exited the car through the driver's side door. The kids were in hysteria. The front passenger was shouting they had just bought the car.

Gil believed the officers had stopped the car because they had suspicion it was a stolen vehicle. He clarified and said he had read that in a news report after the incident. At the time of the incident he did not know why the officers had stopped the suspect vehicle.

The heavy-set passenger had her hands behind her back (detained) after she exited the car. She was placed next to the rear of the suspect vehicle and police car. Gil assumed the heavy-set passenger was family because the baby and 6-year-old put their head on her for comfort.

Gil was on the clock and working so he had to leave. He left the scene. Gil said he never talked to any officers.

I asked Gil when he first heard the shouts and commands, did he recognize them as police officers. Gil knew they were police officers. He didn't recognize the officers from prior incidents. He had seen undercover officers before. They were dressed in a blue police suit. It looked like a normal police uniform with badge and patches.

Gil did not recall the officers saying, "San Jose Police." When he left, he believed other reinforcements for the officers were coming as he left. He never saw any. He just thought other officers were coming. He went out the parking lot on to Santa Clara Street.

His girlfriend was also recording the incident, but he was in her way because she kept telling him to get out of the way.

Gil mentioned that the female driver was a family friend that he did not know about. Gil felt bad and wanted to bring justice to that family and the lady. He wanted to go to the San Jose Police Department, show them the video and file a report on that officer for police brutality. The main lobby at the police department was closed. It was around 9:00PM. He first went to the main jail. They advised him to go over to Mission Street.

Gil posted the video on his Snapchat account. His handle for the Snapchat account was "[REDACTED]." The original video was too long to post as Snapchat only allowed 30 seconds. He clipped the video and posted it. People were attempting to contact him for permission to repost the video and get it exposure. Gil consented to have his video reposted. The next day he was contacted by news reporters / journalists. They wanted to publish the report/video. One of his friends (Jonathan - Jonah) reposted the video via "[REDACTED]." Jonah was



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

contacted by [REDACTED] reporter Mauricio. Jonah gave contact information for Joshua Gil to Mauricio and Mauricio reached out to Joshua Gil. A news reporter from KRON (Dan) reached out to Gil as well. Another reporter (unknown from NBC) also reached out.

Gil said he uploaded the video in the parking lot of McDonalds before he left the scene. The original video was about one minute in length.

Gil exited the car to go and find a charger for his phone to show us the original video from his phone. His phone had died.

We asked Gil about his comment to [REDACTED] report about Officers not giving their names and badge numbers. Gil said that someone that was present at the scene and asked the officers for their badge numbers.

Gil said that person was a witness not associated to the incident. The officers told the person to step back. The person was a white male adult. The male stepped back and then Gil left the scene.

We had Gil show us the video (video of incident) that he recorded on his phone. The video was one minute in length. After watching the video, he noticed that the car parked next to his was a white truck and not an SUV.

He also pointed out the lights of the police car that was behind the suspect vehicle. We used our department issued camera to record a copy of his recording. He was unable to email us the video as the file was too big to email. He also showed us a ten second clip which was the video he first posted on his Snapchat account. We also recorded a copy of that video using our department issued camera.

Gil said KRON was going to compensate him \$100.00 for the video. He never received the money from KRON. He told us everything he told us was the truth. He said he would be willing to drive out with us to the McDonalds and point out where he was parked. He just couldn't do it today as he had to get going. He told us he was parked in the stall next to the first handicapped spot. The parking spot he parked in was in front of the door to the McDonalds. He said the white truck was parked in the first handicapped spot to the right of his car.

We gave Gil a report receipt with the case number and our badge numbers. We also gave Gil our business cards and thanked him for his time.

The interview concluded at 4:29PM.



SAN JOSE POLICE . . . PT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY ***FOR OFFICIAL USE ONLY***

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Related Text Page(s)

Document: STATEMENT

Author: 3810 - VALLEJO, JUAN J

Subject: (Suspect #1) RODRIGUEZ, MATTHEW [REDACTED]

Related date/time: Sep-02-2020 (Wed.) 1300

OFFICER'S SUPPLEMENTAL:

On 9-2-2020 1310 hours, Sergeant Todd Jennings #3608 and I interviewed Officer Matthew Rodriguez #4185 with his attorney Michael Rains at 777 N. First Street Suite 430 in San Jose, County of Santa Clara. We advised Officer Rodriguez that the interview was going to be digitally recorded and this was a voluntary interview. I also advised him he was free to end the interview at any time and he was free to leave at any time [REDACTED] Rains then expressed concerns in the San Jose Police Department's decision not to allow him or Officer Rodriguez the opportunity to review body worn camera footage or his report prior to the interview. He claimed it was only for the purpose to refresh his memory. Rains explained there was no criminal behavior in this incident.

Sergeant Jennings then obtained biographical information from Officer Rodriguez prior to our questioning. The following is a summarized version of his statement. For a complete and accurate version of his statement refer to the audio recording:

STATEMENT OF OFFICER MATTHEW RODRIGUEZ #4185:

Officer Rodriguez began to explain the incident and stated he currently was assigned to the Violent Crimes Enforcement Team (VCET). He explained an incident where some of his partners located a stolen car prior to the incident we were interviewing him for. His partners attempted to stop a vehicle but it fled. He did not have the exact description of the vehicle in his memory. The officers obtained a vehicle seizure warrant for that vehicle. The same officers located the vehicle a week later with a female driver identified as [REDACTED]. Her boyfriend was the passenger in the vehicle. Officer Rodriguez showed up to that stop and assisted. That was the first time he had contact with [REDACTED]. This occurred a few weeks prior to 7-22-2020.

On a separate incident (prior to 7-22-2020), other VCET officers attempted to stop a silver BMW and it fled from them. A vehicle seizure warrant was obtained for that vehicle. A week later, they spotted the vehicle again and it took off from the officers. The VCET officers broadcasted the information on police radio and Officer Rodriguez heard the radio traffic on the VCET Channel. Officer Moran was in the passenger seat as he drove during that radio transmission.

They were then driving westbound on Santa Clara Street and they spotted the BMW. Officer Rodriguez remembered broadcasting on the VCET Channel that they had the vehicle in sight. The vehicle continued eastbound on Santa Clara Street and turned northbound on the street where the McDonald's was located. That is when he got a good view of the driver and he identified her as [REDACTED].



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Officer Moran then ran the license plate with their vehicle computer. Officer Moran read the vehicle license plate returns as a felony car. The car then pulled into one of the parking stalls at the McDonald's. It parked between the front doors of the business and the drive-thru. He then got behind the suspect vehicle and activated his red lights and sirens. He got out of his vehicle and noticed the front driver's door open and [REDACTED] looked at him. She then closed the door.

He pulled his gun out and approached the vehicle. Rodriguez believed she fled from officers earlier that day as he contacted her at the door. She got out of the vehicle with her hands up and turned towards him. She was by the car door as he instructed her to get on the ground. Officer Rodriguez believed she knew what it meant to get on the ground. She then got into a "duck walk." She squatted down and sat on her "butt." He then repeated to get on the ground and she then got on her knees with her hands up.

She then was seated up off her "butt." Officer Rodriguez thought why is she taking so long? He believed she may run. He believed she knew what he meant by get on the ground. He then said get on the ground or "I'm going to kick you in the fucking face." He cursed because she was not paying attention to his orders.

She was taking too to comply with his commands, and he didn't know if she going to arm herself. He also did not know what was going on inside the vehicle. She then placed her hands down by her waistband and then he kicked her once in her stomach area as he holstered his gun.

He then prone her out and handcuffed out. He didn't like the position he was in and knew he had to move her as quick as possible. He then moved her from that area to his police vehicle. Rodriguez stated he would normally do a pat search after handcuffing. Rodriguez was not in a safe spot for him to pat search her, so he moved her. He told her, "Why you didn't fucking listen?" He didn't remember what she responded.

He eventually moved her to the front of his vehicle. Officer Moran was still near the suspect vehicle giving commands for the occupants to get out. The front passenger then came out followed by the back passengers. He offered Guadalupe Marin medical assistance which she declined.

Other VCET Officers arrived on scene to assist, but Officer Rodriguez told them they did not need any help. He asked for his partners to contact Sergeant Ronnie Lopez for a use of force investigation. Rodriguez believed at the beginning of the interaction with the suspect that the vehicle was a stolen car. Officer Moran later explained the vehicle was wanted for a seizure warrant. The sergeant responded to the scene and he interviewed Moran. A patrol car also responded to transport [REDACTED] to jail due to Covid-19 as VCET Officers were not able to transport.

I then advised Officer Rodriguez that we were going to ask several questions and would break up the interview in four sections:

1. Pre-arrest knowledge
2. Vehicle stop
3. Use of force
4. Post-arrest



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

PRE-ARREST KNOWLEDGE:

Officer Rodriguez remembered he had previous contact with [REDACTED] about two weeks prior to his interaction on 7-22-2020. She had been detained by other VCET Officers and he responded to assist. He remembered she was already handcuffed at the time of his arrival as other officers searched her vehicle. He remembered she was not taken to jail, but was cited for something. He could not remember why she was cited.

He then began to talk about the prior incident involving the BMW on 7-22-2020. He did not remember the time or location where it fled from other VCET officers. He remembered that officers gave a description of the vehicle, but he did not remember the description of the occupants. He remembered there were two people in the vehicle at the time the vehicle fled.

Officer Rodriguez wrote down the license plate as he listened on the radio channel, but he did not remember anything regarding the vehicle other than it fled from officers. He did not remember if a description was given of the driver other than there were two occupants. When he saw the BMW later the same day, he confirmed the vehicle plate with the notes he took earlier. They (Officer Moran and Officer Rodriguez) ran the license plates. By the time they were alerted it was a felony car, the suspect parked and he had to deal with the occupants. He stated they did not meet with the other VCET officers at any point after the vehicle fled from them earlier in the day. He also did not remember if the officers spoke to him to give him information on the vehicle or passengers. Sergeant Jennings asked about the prior contact with [REDACTED]. Rodriguez remembered she was cooperative, and he did not know if she was the driver. Officer Rodriguez then explained the vehicle seizure warrant process. He again stated he did not remember if he had any information that the vehicle was only wanted for a vehicle seizure warrant prior to his vehicle stop.

VEHICLE STOP:

Officer Rodriguez remembered being on Santa Clara Street when he first saw the vehicle. He did not see the occupants of the vehicle and noticed the vehicle matching the description given earlier.

He positioned his vehicle behind it, and he confirmed the vehicle was the felony vehicle by running the plate with their computer. He did not remember whether they broadcasted the vehicle stop over the radio with SJPD Dispatch. His understanding was the vehicle was wanted as a felony vehicle. He stated it was a "high-risk stop." He then explained what a high-risk stop was.

He claimed the area where the vehicle stop was conducted was a tight parking area and he was unable to get the distance he would have liked. He also stated he was comfortable with the distance. Officer Rodriguez claimed he did not know why he didn't call the passengers out like a traditional high-risk vehicle stop. He then stated he saw the car door opened and he approached the vehicle because he didn't like the door opened.

He decided to approach, and he opened the driver's side door. He believed something was going to happen. He believed they were going to put the vehicle in reverse and flee or get something from the car. He knew the driver



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

saw him and recognized him as a police officer. He wanted to prevent any type of escape and he decided to approach the car.

Officer Rodriguez has had multiple experiences when suspects have fled from him. He then clarified that the first time he recognized her was prior to the stop as she was driving towards the McDonald's. He has not had any other previous contacts or knowledge about [REDACTED].

Officer Rodriguez described his uniform as black BDUs, with police patches, a badge, and "POLICE" on the back with an exterior vest. The vehicle he drove was unmarked and it was a grey Ford Explorer. The lights were equipped inside of the vehicle near the windshield area and the back windows. The siren was affixed in front grill area of the vehicle. Officer Rodriguez stated he activated his lights and sirens at the time of the vehicle stop. Rodriguez did not remember seeing any other occupants in the vehicle prior to the car stop.

USE OF FORCE:

Officer Rodriguez remembered he activated his BWC and he did not remember what his initial commands to [REDACTED] were. He then walked up to the suspect vehicle and he noticed someone in the front passenger seat. Officer Rodriguez claimed he did not know there were any people in the back seat. He was not able to identify the person in the front seat at the time he approached the vehicle. He also didn't remember looking inside of the back seat.

Officer Rodriguez did remember screaming coming from the vehicle. He remembered hearing children screaming at the point he handcuffed [REDACTED]. He claimed he did not know there were children in the car prior him handcuffing her. As he approached the vehicle, he opened the driver's door and she came out and was compliant. [REDACTED] then squatted with her hands up and he did not remember if she said anything to Officer Rodriguez.

He did not remember if he gave exact commands to her to get her stomach on the ground. She eventually got on her knees and he did not remember if she moved forward. He claimed not to remember what she was wearing. He did not pat search her at that time. He stated he was getting no compliance from her so he decided to use profanity to see if it would gain compliance.

Officer Rodriguez stated it was taking her too long to do what he wanted her to do. He didn't know what was going through her head. He did not remember if he gave her any other specific commands other than "get on the ground." He then explained that she sat and placed her hands down to her side then he kicked her.

He did not remember her verbally saying anything to him. Officer Rodriguez did not remember seeing any type of weapons or bulges in her waistband area. He was not wearing steel toe boots at the time he kicked her. He did not remember the distance between him and the suspect prior to the kick. He then stated he was fairly close. He began to close the distance once she placed her hands to her waistband because he didn't want anything to happen.

He didn't remember if he took a step prior to the kick. He didn't remember if she was reaching towards her waistband as she placed her hands down. He stated he didn't like it when her hands went to her waistband. He



SAN JOSE POLICE . . . PT
DISTRICT ATTORNEY HARDCOPY
DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

then stated that he was one of the only officers in this department where he had a suspect pull a gun on him and he was able to grab the gun.

He again stated that he did not remember any of [REDACTED] clothing. He believed she was very close to the driver's door as she was on her knees. He didn't remember looking into the driver's compartment to check for weapons. At the time of the kick, he knew there was a front passenger, but did not know if there were any other people. He did not remember if he felt any hard objects in her waistband when he kicked her. He didn't remember communicating with his partner at this point during his interaction with [REDACTED].

He then remembered [REDACTED] was on the ground as he handcuffed her. He noticed Officer Moran walk to his side (driver's side) to cover him. She was on her stomach at the time. He could not remember her saying anything during the handcuffing process. He remembered telling her why she didn't listen to him. He stated that he decided to drag her because it was quicker to move her from the area and the threat of the unknown occupants in the vehicle. He wanted to move as quick as possible and standing her up at that location was not something he thought about.

He did not remember how far he dragged [REDACTED]. He remembered it was from the front of her driver's side door to the front of his patrol car. He could not remember if she said anything while she was being dragged. He also believed that she may have been able to stand up during the dragging sequence. He doesn't remember what type of communication they had at the police car.

He then realized that there were other people in the car. He realized there were two other children in the car. Officer Rodriguez noticed there were bystanders in the parking lot during the arrest. He did not remember calling for back-up at any point during the arrest process. He then noticed [REDACTED] leg had an abrasion. He doesn't remember her complaining of pain. He asked her if she needed medical attention several times. [REDACTED] declined medical attention. He did not remember seeing any facial injuries on [REDACTED]. Sergeant Jennings asked Rodriguez several clarifying questions. Rodriguez stated he was not actually going to kick her in her face although he said, "I'm going to kick you in your fucking face." He stated he had his hands full and there were plenty of actions he could have taken other than kicking her. He decided to choose this force option. He stated he had a Taser, OC spray but he didn't remember that coming to his mind at the time. He didn't know what she was going to do with her hands when she placed them to her side. He didn't know if [REDACTED] was going to reach inside car or reach in her waistband. He felt that he was not getting any compliance to his verbal commands.

Officer Rodriguez believed based on his experience, people who have been arrested before know that when an officer says to get on the ground, that meant to "sprawl out." She made Officer Rodriguez feel uncomfortable and he did not want to get hurt or his partner to get hurt. Her noncompliance made him uncomfortable. He knew she understood English from previous contacts, and he gave verbal commands in English. She did not appear confused or under the influence prior to him kicking her



SAN JOSE POLICE DEPARTMENT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

He stated he was not upset or angry and this was not the reason for him kicking and dragging her. He claimed he did not have any biases towards [REDACTED]. He then remembered that someone inside of the car was yelling that they just bought the car.

POST-ARREST:

Officer Rodriguez learned the occupants stated they purchased the vehicle around the corner. He did not know why he nor his partner conducted follow-up with the story the occupants gave regarding the ownership of the vehicle. He did not conduct any follow up to verify if the car was stolen. He felt they did not need assistance from any other VCET Officers, but he did need help from patrol officers with transport.

Officer Juric responded and transported [REDACTED] to jail. He did not believe any other passengers were injured as a result of this incident. He remembered that [REDACTED] was charged with possession of a pipe, resisting arrest and driving with a suspended license. He then explained that he followed the use of force protocol and explained the protocol to the best of his knowledge.

He did not remember taking photos on this incident. He then spoke with Sergeant Ronnie Lopez and he gave Sergeant Lopez a briefing of what occurred. Rodriguez told Sergeant Lopez what type of force he used. The conversation with the Sergeant was not recorded.

Officer Rodriguez did not canvass for witnesses and he noticed the McDonald's camera was pointed in the wrong direction. He did not remember if [REDACTED] was under the influence at any point of his contact with her. Rodriguez stated Officer Moran conducted the booking process at the jail while he sat in his patrol vehicle. He stated she was not medically rejected at the jail.

Officer Rodriguez stated he saw the Twitter video the day he was placed on administrative leave. He did not believe the video was accurate due to distance and the length of the recording. The incident was not captured in its entirety.

He stated Officer Moran clarified the vehicle was not stolen after the use of force. He did not know why he was not thorough after the female was taken into custody regarding canvassing for witnesses or following up on their alibi regarding the suspect vehicle. Officer Rodriguez did not believe they contacted any employees from McDonald's. He explained he located a "meth" pipe and it broke on accident. He did not know why he did not evaluate [REDACTED] for being under the influence.

At this point we offered Officer Rodriguez and Attorney Rains the opportunity to review the body worn camera footage (BWC) or his report. Attorney Rains wanted to take a break to discuss it further with Officer Rodriguez. We paused the audio recording and they had some time to discuss their options in private.

We continued the interview at approximately 1510 hours. Attorney Rains expressed they declined to view the BWC or his report. He then wanted time to ask several questions to Officer Rodriguez.



SAN JOSE POLICE DEPT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

Rains asked if Rodriguez knew if the vehicle was stolen at the time of his vehicle stop. Rodriguez stated that he believed that the vehicle was stolen throughout the stop until Officer Moran told him that it was actually a vehicle seizure warrant. Officer Rodriguez stated he confirmed the vehicle was actually not stolen. He clarified the reason for him approaching the vehicle was due to a concern he had that [REDACTED] could have fled by driving the vehicle away. He also clarified that the car fled from officers earlier in that day, he was not sure if the suspect was the driver. Rodriguez then explained his previous experience when he approached a vehicle in November of 2019. He opened the passenger door of that vehicle and the passenger pulled a gun out. He was able to grab the gun in that incident. He was very vigilant on where people place their hands. That was the reason why he acted so quickly with [REDACTED] based on his training and experiences. As [REDACTED] hands went down to her side, he decided to kick her. He perceived that to be a danger. He did not give her those commands. Officer Rodriguez believed for him to perceive [REDACTED] to be compliant she would have placed her stomach on the ground with her hands out. To his experience, when he has given this command before, people would lay down on the ground. That was what he expected [REDACTED] to do. He did not remember the description of the front passenger and he did not know the back passengers were children. He decided to move [REDACTED] because he did not see what the passengers were doing. He was not trying to hurt [REDACTED] as he moved her.

Sergeant Jennings and I then asked several clarifying questions. How did you follow up that the vehicle was actually not stolen? Officer Rodriguez stated Officer Moran confirmed it was not a felony want for being stolen but for a seizure warrant. He did not remember who the vehicle was registered to and they (Officers) did not reach out to the registered owner to confirm whether the vehicle had been stolen. Rodriguez again did not remember what the suspect was wearing. Sergeant Jennings gave him a description of a loose-fitting tank top, shorts, and sandals. Officer Rodriguez stated that it did not help with his memory into what she was wearing. Sergeant Jennings then asked him that she dropped her hands, but she would have had to do that to get on the ground. Officer Rodriguez explained that she placed her hands next to her side. [REDACTED] would have to place them out in front of her or she would have to fall on her face. He remembered that Officer Moran took care of potentially conducting an in-field on [REDACTED] by the original VCET Officers. An in-field was not conducted.

Attorney Rains then then asked Officer Rodriguez questions regarding his police report. He asked if Sergeant Lopez approved his report. Officer Rodriguez stated Sergeant Lopez did approve his report and viewed his body worn camera footage. He did not remember if Sergeant Lopez asked him to modify or change his report in any way.

We then then asked Officer Rodriguez if he remembered that his report was rejected by Sergeant Lopez at any point. He did not remember. He also did not remember if he viewed his BWC as he was writing his report to reflect his recollection.

We ended the interview at 1537 hours



SAN JOSE POLICE . . . PT

DISTRICT ATTORNEY HARDCOPY

DISTRICT ATTORNEY COPY *FOR OFFICIAL USE ONLY*****

GO# SJ 2020-202099704 OPEN

242-1 242 PC BATTERY

***** END OF HARDCOPY *****