

INTERVIEW WITH OFC. CHERI MILLER

Q= Sgt. Jennifer Wilson

Q1= Det. Daniel Quezada

Q2=Atty. Harry Stern

A=Ofc. Cheri Miller

Q: It's up to you...I just don't want you to feel - let me get the sound... let me put this closer to you. That's...

A: Okay.

Q: Okay. So that's my recorder. So today, we're on record recording with an audio recording. It's Sunday, August 7 - or 2nd. It's 12:18. I'm Sergeant Jennifer Wilson. I'm here with Detective Daniel Quezada-Garcia and Officer Miller and then your representative, your attorney, Harry Stern. We are here in the Berkeley Police Department, Detective Conference Room. I have the - a few things I want to go over, and then I'll turn it over to you guys. So we have a list of questions we want to go over and then you will have an opportunity to give your account of what happened uninterrupted. You may have already discussed what to expect with Mr. Stern, but we want to go through this to be sure everyone is on the same page. The investigation we are conducting is to determine the cause and circumstances which led to this incident. This investigation will be used to determine whether or not anyone during the course of events that led up to and including the incident committed a crime. It is being conducted under the rules and procedures and under the rights and authorities of a criminal investigation. Our investigation will eventually be available to others, including administrative or internal affairs investigators and will be available to others who might be involved in any civil litigation. This is not an administrative or internal affairs investigation, so you will not be ordered to talk to us under the authority of Garrity or Lybarger. You will be interviewed as an involved party of the incident. This is a free, voluntary, and consensual interview, and because you are here voluntarily and are not in custody, have not been in custody and are free to leave at any time, you will not be given a Miranda admonition.

A: Okay.

46 A: Okay.
47
48 Q: Do you have any questions about any of this, and if you do at any time, we
49 can have you guys go to the administrative conference room if you prefer.
50
51 A: Okay.
52
53 Q: Okay?
54
55 Q2: Thank you.
56
57 Q: All right. No questions. All right. So we're just gonna go through some
58 background and then we'll give you an opportunity to tell...
59
60 A: Okay.
61
62 Q: Okay. So what is your name?
63
64 A: Cheri Miller.
65
66 Q: Okay. And your badge number?
67
68 A: 12.
69
70 Q: Rank?
71
72 A: Officer.
73
74 Q: And your assignment that night?
75
76 A: Was, uh, 3 Adam 2.
77
78 Q: Okay. When were you hired with the Berkeley Police Department?
79
80 A: October of 2019.
81
82 Q: And I understand you have law enforcement experience prior to that?
83
84 A: Yeah, a few months prior with the Hercules Police Department.
85
86 Q: And the length of service there was?
87
88 A: Approximately three months.
89
90 Q: Okay. So does that mean you were hired about summer of 2019 with...

91
92 A: Hm...
93
94 Q: ...Hercules?
95
96 A: ...I was hired - like I was sworn in in May after I graduated from the
97 Academy.
98
99 Q: Okay. So prior to the incident on Thursday night...
100
101 A: Hm.
102
103 Q: ...what was the last shift that you worked?
104
105 A: The last shift was the night prior. I worked 3 Adam 2 as well, from 1530 hours
106 to 0130 hours.
107
108 Q: Did you work any extended hours or time shifts?
109
110 A: Not that night, but the next day, yes. I came in for Team 2, so the not the day
111 of. That - not the day prior to that you're talking about. The night prior I only
112 worked my regular shift.
113
114 Q: So this happened on a Thursday?
115
116 A: Mm-hm.
117
118 Q: So on Wednesday did you work any extended overtime?
119
120 A: No.
121
122 Q: And on Tuesday?
123
124 A: No.
125
126 Q: Monday?
127
128 A: No.
129
130 Q: So what - when did you work...
131
132 A: Thursday.
133
134 Q: ...the 2...
135

136 A: Thursday.
137
138 Q: Oh, Thursday you...
139
140 A: Yeah.
141
142 Q: ...did 2?
143
144 A: Mm-hm. Prior to my shift, yeah.
145
146 Q: So Team 2, so does that mean that you started at - what is it 11:00?
147
148 A: 11:00, yeah.
149
150 Q1: 1100 hours.
151
152 Q: So you worked on Thursday...
153
154 A: Mm-hm.
155
156 Q: ...the day of this incident starting at 11:00...
157
158 A: Correct.
159
160 Q: ...on overtime on Team 2. What was your assignment then?
161
162 A: What was that? I was swing. I think it was 3 Adam - 2 Adam 23 I think was
163 the call sign.
164
165 Q: Okay. And then I presume that you then went straight into your shift?
166
167 A: Correct.
168
169 Q: Okay. And do you wear prescription glasses?
170
171 A: Yes, I do.
172
173 Q: Okay. When was the last time you slept prior to the incident on Thursday?
174
175 A: I got off at 1:30, got home about 2:30. I went to sleep about 2:45.
176
177 Q: Mm-hm.
178
179 A: So I slept probably like about six and a half, seven hours.
180

181 Q: Okay. And then were you injured during this incident?
182
183 A: Yeah, my right foot was, like the toe area was ran over. There's no fractures,
184 just some bruising and contusions.
185
186 Q: We took photos that night. Have you taken photos of your foot since then?
187
188 A: No, I have not.
189
190 Q: Okay. Would you be open to us taking photos of your feet today?
191
192 A: Sure. I don't have a pedicure
193
194 Q: So...
195
196 A: ...just FYI via, yeah.
197
198 Q: Stranger request but, yeah.
199
200 A: Okay.
201
202 Q: So if we can do that...
203
204 A: Okay.
205
206 Q: ...before this over?
207
208 A: Okay.
209
210 Q: I'm just gonna make sure I note of that so it's not something we're gonna
211 think of later.
212
213 Q1: I'll write it in, too.
214
215 Q: So just to recap, your right foot toe area is an injury that you received, no
216 fractures, and that's from - I understand you went to the hospital?
217
218 A: Yeah, I went to John Muir, Walnut Creek.
219
220 Q: Okay. Okay. And did you receive any care after that?
221
222 A: No.
223
224 Q: Okay. Do you have any follow-up care that you need to do?
225

226 A: Oh, yeah, I do.
227
228 Q: Because it's...
229
230 A: It's...
231
232 Q: ... workers' ...
233
234 A: ...occupational therapy...
235
236 Q: ...comp that...
237
238 A: ...is what they stated.
239
240 Q: Okay. So do you...who are doing follow-up care with?
241
242 A: John Muir, just the facility. I don't have an actual physician listed on the
243 documents.
244
245 Q: Okay...all right. Can you give me a description of the uniform you were
246 wearing that night?
247
248 A: It's the tactical BDU.
249
250 Q: Mm-hm.
251
252 A: And I had on my exterior tactical vest and a - black boots, like Nike boots.
253
254 Q: Mm-hm.
255
256 A: Long - it was a long-sleeve, BDU top.
257
258 Q: You were wearing a duty belt?
259
260 A: Yes.
261
262 Q: Okay. Can you describe the equipment that's on your - first on your vest?
263
264 A: I have radio. The BWC is on my right-front pocket.
265
266 Q: Okay.
267
268 A: And then I have a flashlight - a smaller flashlight under my armpit area. A
269 work phone in the front pocket, two magazines in the front, and I think that's
270 it. Everything else was just like, extra facemasks and stuff like that.

271
272 Q: Do you have your OC canister on...
273
274 A: Oh...
275
276 Q: ...your vest?
277
278 A: ...OC on the left side, correct, yes.
279
280 Q: Okay. All right. Is - and does it have it a badge on it or...
281
282 A: I have...
283
284 Q: ...patch...
285
286 A: ...a badge, yes. It's on the left side of my chest. It's the, what's that material?
287 The Velcro...
288
289 Q: Okay.
290
291 A: ...on my - yes.
292
293 Q1: Is it visible?
294
295 A: Yes, visible and then s- my name is on the right side right next to my BWC.
296
297 Q1: Okay.
298
299 Q: And, you say you were wearing your duty belt. What equipment did you have
300 on your duty belt that night?
301
302 A: So I have a - my gun. The h- the holster and the gun.
303
304 Q: Mm-hm.
305
306 A: I have my double cuffs on the front, and then on this side I have a collapsible
307 baton.
308
309 Q: Mm-hm.
310
311 A: A larger flashlight and, and an O-ring like a baton.
312
313 Q: Mm-hm.
314
315 A: And that's all I have on my belt.

316
317 Q: Do you have a keyholder on your belt?
318
319 A: No. Keyholder, yeah. That's in between the handcuffs and in my holster.
320
321 Q: Okay.
322
323 A: The gun, yeah.
324
325 Q: And were you wearing your prescription glasses that night?
326
327 A: Yes.
328
329 Q: Are they the same glasses you're wearing right now?
330
331 A: Yes.
332
333 Q: Okay. And this tactical vest and this duty belt and this uniform, is that
334 typically what you wear...
335
336 A: Yes.
337
338 Q: ...when you're on duty?
339
340 A: Yes.
341
342 Q: Okay. Was there any damage to your uniform or to your equipment that night?
343
344 A: No, just had scuff marks on my right boot.
345
346 Q: And what was that from?
347
348 A: The tire, I'm assuming, from the vehicle, the suspect vehicle, running over my
349 foot.
350
351 Q: And we...I'll just put it on record now. We do...we collected your duty belt,
352 and the items on your duty belt and we also - we collected your boots.
353
354 A: Correct.
355
356 Q: Yes.
357
358 A: Yes.
359
360 Q: Okay. So that brings us to the section where we're gonna talk about your

firearm. Was - what is the make and model of the firearm that you used that night?

A: The Glock 17.

Q: Was this issued to you by the Berkeley Police Department?

A: Yes. It's department issued, yes.

Q: Okay. Any chance you know your serial number?

A: Oh, no.

Q: That's all right.

A: I was gonna say...

Q1: Do you know when it was issued?

A: Ooh, no I don't 'cause it - we had that newer - we had...

Q1: Okay.

A: ...different...

Q1: And this is...

A: ...weapons...

Q1: ...when you (unintelligible)?

A: ...and I don't remember what time frame that was. Yeah. No, I don't.

Q: Was this the time when they were issuing them at...

A: Yeah.

Q: ...the range?

Q1: Yeah, they were swapping them out.

A: Yeah.

Q: Is that - w- were you issued that at the range...

406 A: Uh...

407

408 Q: ...or...

409

410 A: ...I don't want to...

411

412 Q: ...current with the range?

413

414 A: ...misstate. I'm not sure.

415

416 Q: Okay. That's fine. And I'm sorry...what's the caliber?

417

418 A: It's a ni- a .9 millimeter.

419

420 Q: So prior to having this did you use a different firearm here at the police

421 department?

422

423 A: I carried one that we were issued when I first got hired, yes. I don't recall

424 what that one was, though. But that was before we swa- we switched different

425 guns. It was a...

426

427 Q: Oh...

428

429 A: ...Glock, but I can't remember which - which Glock it was.

430

431 Q: And do...

432

433 A: I don't remember.

434

435 Q: ...you have any modifications on this firearm?

436

437 A: No.

438

439 Q: I noticed you had like a tactical light on it?

440

441 A: Yeah, that it added on. Yeah, I do.

442

443 Q: Okay.

444

445 A: Is that considered a modification?

446

447 Q: Mm-hm. No, I just - want to get...

448

449 A: Oh.

450

451 Q: ...on record that you had...

452
453 A: Oh.

454
455 Q: ...a lighting...

456
457 A: A li...

458
459 Q: ...source so...

460
461 A: ...lighting source on it, yeah.

462
463 Q: Okay. Do...let's see. You stated that on your tactical vest you had two
464 magazines?

465
466 A: Mm-hm.

467
468 Q: Okay. Do you know how many rounds were in your gun?

469
470 A: Seventeen.

471
472 Q: And that was in the magazine?

473
474 A: Seventeen in the magazine and one in the chamber, yeah.

475
476 Q: Okay. So 18?

477
478 A: Total.

479
480 Q: Okay. And then do you know what type of ammunition is...

481
482 A: Department issued.

483
484 Q: Okay. Do you know when that was issued?

485
486 A: Well we just - I went to range like - like a couple months back, so I got...

487
488 Q: That...

489
490 A: ...more in, but...

491
492 Q: Okay.

493
494 A: ...I don't know what the time frame was on that.

495

496 Q: All right. So just to confirm it, the ammo that was in your gun was ammo that
497 was issued by the police department?
498
499 A: Yes.
500
501 Q: Okay. Were you carrying any other firearms during this incident?
502
503 A: No.
504
505 Q: Okay. What vehicle were you driving?
506
507 A: I believe it's 1813 is the vehicle number. I'm not for certain.
508
509 Q: Eight...
510
511 A: 1813. It's the Beat 2 car.
512
513 Q: Do you normally work Beat 2?
514
515 A: No.
516
517 Q: What beat do you normally work?
518
519 A: I swing south.
520
521 Q: Okay.
522
523 A: Yeah.
524
525 Q: And then that has been your assignment for how long?
526
527 A: Since the start of Team 3, so when did we start? February of this year? I'm not
528 really sure.
529
530 Q1: March.
531
532 A: March, I mean. March of this year.
533
534 Q: And we're kind of...
535
536 A: Yeah.
537
538 Q: ...comin' up to the end of the timesheet?
539
540 A: Yeah.

541

542 Q: Okay. So do you normally drive this vehicle was my next question.

543

544 A: No.

545

546 Q: Okay. And just to describe it...it's a black and white...

547

548 A: Fully marked patrol vehicle, yeah, with lights and sirens that I check prior to
549 my shift.

550

551 Q: Mm-hm.

552

553 A: Everything was functioning good. The left and right alley, I just went through
554 the whole process of...

555

556 Q: Mm-hm.

557

558 A: ...checking the vehicle. I had a shotgun in it and what not, so...

559

560 Q: Oh.

561

562 A: ...yeah.

563

564 Q: SUV?

565

566 A: SUV, Explorer.

567

568 Q: Oh, all right. Well you just answered the next four questions. Thank you. So
569 for that shift, the Team 3 portion of that shift...

570

571 A: Mm-hm.

572

573 Q: ...it's my understanding you worked Team 2 of the first part.

574

575 A: Correct.

576

577 Q: Who was your supervisor?

578

579 A: Sergeant Coats and Sergeant Marble.

580

581 Q: So what team was Sergeant - or Lieutenant Hong working as a sergeant on
582 that shift?

583

584 A: He didn't come down to briefing. I didn't even know he was here.

585

586 Q: Okay. All right. You're normally assigned to Team 3, which the hours are
587 1530 to 0130...
588
589 A: Correct.
590
591 Q: ...is that right?
592
593 A: Yes.
594
595 Q: Covered all that, that, and that. All right. So basically, I'm at the point where
596 I've covered kind of my background questions. This is the time now that I'm
597 gonna offer to you an opportunity to give us a narrative uninterrupted. We
598 may have some follow-up questions afterwards. We will have some follow-up
599 questions afterwards about what happened that night.
600
601 A: Okay.
602
603 Q: Okay?
604
605 A: Okay. And just start?
606
607 Q: Sure.
608
609 A: Okay. So I was working Beat 2. I was parked on the west curb line of
610 Shattuck between, like I think it's like the 1400 Block. And I'm parked -
611 Safeway's on my right and then across the street is the CVS. And I was
612 parked there for probably about 45 minutes to an hour just trying to be a
613 deterrent 'cause I know there's a lot of thefts and robbery that occur at those
614 two locations.
615
616 Q: Mm-hm.
617
618 A: And I can't recall exactly what I was doin', but I had my driver's side window
619 rolled down and I heard a commotion coming from the left side, and I looked
620 over and I saw like a group of people like running through the parking lot, and
621 I saw a female wearing like a white shirt running toward a vehicle. It looked
622 like she was struggling with someone or something. I couldn't really see
623 exactly, but I saw her, like, drop some stuff, and then she was just yelling and
624 yelling. And I was, like, what the hell's goin' on? I was like maybe it was like
625 a robbery or theft or something happening. I assumed it was a robbery, so I
626 just turned my Code 3 lights and I, like, pushed the siren a couple times just to
627 clear the intersection. There wasn't any kind of traffic on the roadway.
628
629 Q: Mm-hm.
630

631 A: But I pulled into the - to the driveway and I parked right behind the suspect
632 vehicle, where I saw the female standing and I saw - she had got in at some
633 point. I didn't see when she got in on t- the passenger side.
634

635 Q: Mm-hm.
636

637 A: And there was a taller, heavysset black male adult on the driver's side and the
638 driver's side door was open, and I recognized one of the loss prevention clerks
639 that I had contacted the night - the day prior from a theft, and I recognized
640 him. And I was like, okay, so something's going on here, like a robbery or
641 whatever.
642

643 Q: Mm-hm.
644

645 A: I get on-scene. He moves out the way. I don't question him or talk to him at
646 all. He doesn't say anything to me. And I just get out and attempt to talk to the
647 driver 'cause he's the one outside the vehicle and he's, like, making all these,
648 like, hand gestures and just turning around. I just told him to "Stop. Stop
649 moving. Stop moving". He's not complying. And he's just like doin'
650 whatever. He's like - doesn't say anything to me, and he's just like putting his
651 hands up and down, reaching in and out of the car, and I didn't know what the
652 hell he was doing, if he was, like, reaching or something. And I was just, like,
653 "Okay. You're not listening to me". And I just drew my - my w- my service
654 weapon...
655

656 Q: Mm-hm.
657

658 A: ...and I challenged him. I was like, "Stop moving", and I put out on the radio
659 like, "I'm challenging three", and I was just waiting for cover. So I pulled my
660 weapon out, and he kind of stops and looks at me, and he puts his hands up,
661 but he doesn't say anything. And I'm like, "Stop moving. Stop moving". So
662 he stops for a moment, but then he starts moving again. And then he walks
663 straight over to the car and says, "I got to get my keys. I got to get my keys".
664 And I said, "Stop moving. Stop moving". So he walks to the rear of the
665 vehicle and I see some keys dangling from the trunk. And I was, like, okay,
666 maybe he's trying to get a weapon. I don't know what the hell he's doing.
667 He's not complying still. So I just keep my eye on him, and he walks and
668 grabs the keys and he walks back toward the vehicle. And I'm, like, "Get back
669 in the car. Get back in the car". And he's, like, "Get back in the car?", like
670 questioning me. And I was, like, "Yes, get back in the car". And I asked him
671 to get back in the car because I'm treating it like a felony stop and I just
672 wanted everybody to be contained in one space. Like, I don't know what the
673 hell you guys have in the car. No one's been searched. I don't know what's
674 goin' on. So he gets back in the car, closes the door, and I immediately tell
675 him, "Put the keys on top of the - up on the hood of the car, on top...

676

677 Q: Mm-hm.

678

679 A: ...of the car". And he proceeds to put the keys on top of the vehicle.

680

681 Q: Mm-hm.

682

683 A: Okay. So I'm, like, okay. So I'm just standin' there now. Like, I feel a little
684 more comfortable. Like, okay. The keys are on top. You're not gonna flee.
685 He's not gonna try to run or anything like that. So I'm just waiting for cover
686 to come.

687

688 Q: Mm-hm.

689

690 A: So I'm waiting for cover. Cover hasn't arrived yet, but I hear the vehicle start.
691 And I'm like, okay, so "Turn the vehicle off". He's not listening, so I walk up
692 closer to the car on the driver's side and he's parked in a handicap spot that's
693 maybe like ten feet away from the entrance of the CVS and it's like - there's
694 two raised curbs on each side of the vehicle. So I walk up to the driver's side
695 of the vehicle, and it's parked. Like there's a cinderblock wall right behind
696 him, and it's facing straight. And I just walked up to the car. I was, like, "Turn
697 the vehicle off. Turn the vehicle off". And he's, like, "Somethin's wrong with
698 my car". He's got one hand like partially goin' up and down, like he's not
699 touching or controlling anything. And I - at this time he's still making all
700 these movements. I'm, like, are you reaching for a gun, like what are you
701 doin' in my head. And I'm just tellin' him, "Turn the car off. Stop the car.
702 Turn the car off. Turn the car off". And then there's a female passenger yellin'
703 at him, "Just stop. Just listen. Listen. Listen. Just stop, stop". And then he - the
704 car proceeds to roll backwards at an angle. And I'm, like, "Stop the car. Turn
705 the car off". And he's still not complying and he's reaching up and down still
706 - like I don't know what the hell's goin' on. And she was like just saying,
707 "Stop. Stop. Just listen. Just listen". And he's, like, "You do it. You do it".
708 And I don't know if they're talking about a weapon in the car, like shoot me
709 or whatever. So I proceed just to get closer to the car and was telling him to
710 "Turn the car off. Stop the car. Stop the car".

711

712 Q: Mm-hm.

713

714 A: And the car proceeds to move forward, and it starts goin' over the raised curb,
715 and I'm standing right next to the car on the driver's side, and I'm thinking,
716 like, they're gonna run me over or they're gonna shoot me.

717

718 Q: Mm-hm.

719

720 A: So I just kept my - my - my - my service weapon pointed at the driver's side

721 of the vehicle, and it just proceeds to, like come up on the curb closer to me,
722 and I just shot what I believe was like two rounds at the driver.

723
724 Q: Mm-hm.

725
726 A: And I only shot two rounds 'cause I thought it was like, okay, I hit him. The
727 car's gonna stop, but it just continued out the parking lot. And I was just like,
728 shit. Okay. Get on the radio. So I sh- "Shot's fired. Suspect vehicle is
729 traveling eastbound on Rose", so and so is in the car. It's, like, updated as I'm
730 trying to catch my breath and calm down and whatnot, but not - but I believe I
731 shot two rounds directed at the driver, and I didn't - I don't recall any kind of
732 movement from the vehicle, but I just know that I was very close and I didn't
733 feel like I could get out of the way at the time, so I just shot two rounds is
734 what I believe, and then the vehicle didn't - like I said, didn't make any kind
735 of sudden movements, but it just proceeded...

736
737 Q: Hm.

738
739 A: ...at a high rate of speed out of the driveway, of the vehicle, and then updated
740 what I could over the radio at that point.

741
742 Q: All right. So I'm gonna go back to the very beginning of that. Okay?

743
744 A: Okay.

745
746 Q: Just, okay, listen up. I understand were across the street, so we're talking
747 about the 1400 block of Shattuck Avenue...

748
749 A: Correct.

750
751 Q: ...right? At the Safeway parking lot?

752
753 A: Yeah, like right on the curb line of that.

754
755 Q: So which direction was your car facing?

756
757 A: Facing south.

758
759 Q: Facing south, so you could see basically south direction, east of you and also
760 west of you?

761
762 A: Right.

763
764 Q: ...on - so, and across the street would be east of Safeway, east of the median...

765

766 A: Correct.
767
768 Q: ...and east of CVS?
769
770 A: Correct.
771
772 Q: At...
773
774 A: Yes.
775
776 Q: Like I think it's 1450.
777
778 A: 51.
779
780 Q: O- four- 1451...
781
782 A: Yeah.
783
784 Q: ...Shattuck.
785
786 Q2: Is that - used to be the Long's?
787
788 Q: It used to be the Long's...
789
790 Q2: Okay.
791
792 Q: ...yeah.
793
794 A: Oh, yeah. That - that I don't know.
795
796 Q: Okay.
797
798 A: Yeah.
799
800 Q2: I'm just trying to place...
801
802 Q: We've been around for a long time...
803
804 A: Yeah.
805
806 Q: ...but that used to be a Long's.
807
808 A: Okay.
809
810 Q2: They - they used to be a chain.

811
812 Q: They used to be a what?
813
814 Q2: A chain. I don't think - I think it's gone.
815
816 Q: Oh.
817
818 Q2: I think that's gone, too.
819
820 Q1: Oh, okay. Yeah.
821
822 Q: So you could see into the parking lot of CVS from where you were parked?
823
824 A: Yeah, not clearly 'cause there was some vehicles parked that were...
825
826 Q: All right.
827
828 A: ...kind of obstructing my view like more toward the east. Oh, or south of the
829 curb.
830
831 Q: Okay.
832
833 A: Or the area of the - of the parking lot. But, yeah, I could see to my left or the
834 east side, so, yeah.
835
836 Q: Okay. And can you see the front of the store?
837
838 A: Mm, not like the doors, but I could...
839
840 Q: Okay.
841
842 A: ...see the CVS sign and it...
843
844 Q: Okay.
845
846 A: ...was illuminated, yeah.
847
848 Q: Okay. All right. So that's a - that part of the street, I think, it kind of veers and
849 there's like a couple...
850
851 A: Yeah.
852
853 Q: ...different raised...
854
855 A: Mm-hm.

856
857 Q: ...medians. So, how did you get from where you were...
858
859 A: I just...
860
861 Q: ...facing southbound to that...
862
863 A: I...
864
865 Q: ...for the...
866
867 A: ...pulled up a little further to clear, like, the raised areas of - of Shattuck.
868
869 Q: Okay.
870
871 A: The 1400 Block of Shattuck and I just r- drove straight across. I didn't go,
872 like, to the light and make a U-turn or anything like...
873
874 Q: Okay.
875
876 A: ...that. I was still straight across 'cause I thought it was like a robbery or
877 something happening.
878
879 Q: Okay.
880
881 A: And proceeded - I turned my Code 3 lights before I pulled, like, into the
882 traffic lanes.
883
884 Q: Okay.
885
886 A: There wasn't no traffic flow, but I did, like, honk the siren a couple times just
887 to clear. Entered the driveway and parked immediately behind the suspect
888 vehicle that I thought was involved 'cause I saw the female, like, running
889 toward that vehicle.
890
891 Q: Okay. So let's start with describing the suspect vehicle.
892
893 A: So it was a dark-colored Ford Fusion with a temporary license plate on it, and
894 I believe it started with "AU".
895
896 Q: Okay. "A"..."
897
898 A: So - yeah, I didn't put that information out initially. I parked so close to the
899 car I didn't really - wasn't focusing on it. I was just trying to focus on all the
900 people that were - the moving parts that were involved. So that was the

901 vehicle that I saw.

902

903 Q: Okay.

904

905 A: It was like an older model. It wasn't new. It was an older model that...

906

907 Q: Okay.

908

909 A: ...I was...

910

911 Q: And you...

912

913 A: ...trying...

914

915 Q: ...indicated earlier it was in like a handicapped...

916

917 A: It was parked in a handicapped stall.

918

919 Q: Mm-hm.

920

921 A: So I'm thinking, oh, I can at least - you know, whatever's happening, like, you
922 know, I know that that's a handicapped spot because there was, I think, an
923 empty one next to it...

924

925 Q: Mm-hm.

926

927 A: ...or I think the blue sign - I can't recall exactly what made me believe what I
928 saw 'cause it had a raised curb and had those little hatch marks on there like
929 for, you know, wheelchair access and stuff...

930

931 Q: Right.

932

933 A: ...like that.

934

935 Q: Right. Okay. And then you saw people by the car?

936

937 A: Yes.

938

939 Q: So...

940

941 A: Across the street, more or less, like, that's - I saw a commotion near that
942 vehicle, and I saw a female running to the passenger side. I don't know if it
943 was at the front or the rear.

944

945 Q: Okay. Could you hear any little piece of what the c- what the...

946
947 A: I...
948
949 Q: ...commotion...
950
951 A: ...just...
952
953 Q: ...was?
954
955 A: ...just heard a female yelling is really what caught my attention to have me...
956
957 Q: Okay.
958
959 A: ...look over, and I was looking, and I was, like, what are those people running
960 in the parking lot? And then I recognized one of the loss prevention clerks.
961 He's got a bald head. And then I saw him, like, going like this and like going
962 to the side of a vehicle. I ha- didn't see at the time, which was the suspect
963 vehicle. And I was, like, oh I recognize him. He's loss prevention. They're
964 probably trying to deter some kind of a robbery. I don't know what's
965 happening. Just let me get over there and see what's going on.
966
967 Q: The loss prevention officer you recognized from a prior contact?
968
969 A: Yeah. So the day prior there was - I was parked in the same location.
970
971 Q: Mm-hm.
972
973 A: Well actually I was on the west curb at that time...
974
975 Q: Hm.
976
977 A: ...right next to CVS.
978
979 Q: Facing north?
980
981 A: Present - no, facing south. No. No, facing north. I was...
982
983 Q: Okay.
984
985 A: ...placed in the correct...
986
987 Q: All right.
988
989 A: ...uh, flow of traffic. And, they - they were detaining someone who had stolen
990 some product or who they suspected had stole some of their stuff. And a

991 citizen, in fact, "Hey, I think there's like some kind of theft thing happening".
992 And I was, like, "Okay". So I peeked over and I didn't see anybody, but then I
993 got out and I saw him and another loss prevention guy with like longer hair
994 talking to someone who had a whole bunch of stuff in their backpack, and I
995 was, like, "Do you guys need me"? Like - he's, like, "No, we're good". I was,
996 like, "Are you sure"?.
997

998 Q1: The day prior?
999

1000 A: The day prior, yeah. And I was, like, "Are you sure"? I was - he's, like, "No,
1001 we're good". I said, "Okay. I'll just stand by". So, you know, they recovered
1002 their property or whatever and then they let the guy go. And I was, like, all
1003 right. So I didn't get their names or anything. I just recognized their faces.
1004 And so I got back in the car and just, you know, continued with my regular
1005 patrol that night, and that was the end of that.
1006

1007 Q: About what time did that happen 'cause you said it happened on Wednesday?
1008

1009 A: Correct. Sometime in the afternoon. I can't remember exactly. So like maybe
1010 4:00 or 5:00. It was still very much like daylight outside.
1011

1012 Q: And then was that something that you broadcast on the radio?
1013

1014 A: Did I broadcast that? I don't believe I did.
1015

1016 Q: Or write a case number or - or write an incident or a case or...
1017

1018 A: No.
1019

1020 Q: Okay. Okay. So that bald loss prevention officer...
1021

1022 A: Mm-hm.
1023

1024 Q: ...that you see on Thursday night...
1025

1026 A: Mm-hm.
1027

1028 Q: ...in the parking lot is the same person that you saw...
1029

1030 A: On Wednesday...
1031

1032 Q: ...on...
1033

1034 A: ...afternoon...
1035

1036 Q: ...Wednesday?
1037
1038 A: ...sometime, yeah.
1039
1040 Q: So, what does that person look like?
1041
1042 A: He is bald. I - I don't want to mis...
1043
1044 Q: She looked at you when she said that.
1045
1046 Q1: I know.
1047
1048 A: Well 'cause his hair's like - I don't - he wasn't bald. It's got a low fade, I'd
1049 guess...
1050
1051 Q1: A buzz?
1052
1053 A: you could say. Yeah, buzzcut.
1054
1055 Q1: Buzz fade.
1056
1057 A: He's probably like 5'7". He's got a thin build. I don't - I don't know if you'd
1058 identify him as like Middle Eastern or - I don't want to get that wrong. I just -
1059 I don't know.
1060
1061 Q: Okay.
1062
1063 A: Probably like in his 30s.
1064
1065 Q1: Is he another male?
1066
1067 A: Other male, yeah.
1068
1069 Q1: Yeah.
1070
1071 A: Yeah. Yeah. In his 30s and - yeah. Thin build, about 5'7", 5'8", yeah.
1072
1073 Q: What was he wearing on Thursday?
1074
1075 A: I think he was wearing a white shirt and maybe grey pa- white shirt for sure.
1076 A white shirt 'cause I know there was nothin' that caught my attention, was a
1077 white a shirt that he had on, and I recognized his buzzcut.
1078
1079 Q: All right. And is that part of the uniform that he...
1080

1081 A: No, it's just - they were wearing regular clothing.
1082
1083 Q: Oh.
1084
1085 A: Like so I don't know - I just know he identified as with loss prevention the
1086 day before.
1087
1088 Q: Okay. Okay.
1089
1090 A: I did activate my BWC, so I don't know if I was on a security check. I think I
1091 might have been on a security check for the...
1092
1093 Q: Oh.
1094
1095 A: ...the situation that - that just happened to be on a security check at that time,
1096 so I'm trying to think back.
1097
1098 Q: So that is for the incident that...
1099
1100 A: That the...
1101
1102 Q: ...happened on Wednesday?
1103
1104 A: Yes. Yeah.
1105
1106 Q: Do you think that you may - that part of that might be on BWC?
1107
1108 A: Yeah, I did activate my BWC.
1109
1110 Q: Oh, okay.
1111
1112 A: Yeah.
1113
1114 Q: All right. Okay. So go back to - now we're talking again about the incident
1115 that happened on Thursday.
1116
1117 A: Okay.
1118
1119 Q: You see the bald-headed guy that you knew from the day before that was loss
1120 prevention for CVS...
1121
1122 A: Mm-hm.
1123
1124 Q: ...and then you...you said you saw a female?
1125

1126 A: Yeah, a black female, short stature. She was wearing white, and this is from
1127 afar, and I got close enough to see...
1128
1129 Q: Yeah.
1130
1131 A: ...get a better description of her. She was running out. I saw her, like, going
1132 like this, and then I saw some - some stuff fall. Like I don't know exactly
1133 what it was at the time, but, eh, when I got on-scene it looked like some Dove
1134 soap was near the trunk, rear passenger side of the vehicle.
1135
1136 Q: Uh-huh.
1137
1138 A: Some product was down there. And she was seated in the passenger front seat
1139 when I made contact like with the vehicle and contacted the male suspect on
1140 the driver's side.
1141
1142 Q: So the first time you see her you said she was running?
1143
1144 A: Yeah.
1145
1146 Q: From where?
1147
1148 A: Like running, it looked like, from the front of the CVS store and she was kind
1149 of like going like back and forth on the - from the front door to the rear, like
1150 making this kind of a motion.
1151
1152 Q: Of the Ford Fusion?
1153
1154 A: Yeah...
1155
1156 Q: Okay.
1157
1158 A: ...the Ford Fusion.
1159
1160 Q: All right. Who else did you see?
1161
1162 A: I saw the loss prevention guy, the - the one with the buzzcut, and then I saw -
1163 at the time I just saw like some other people running, and I couldn't really
1164 recognize who that was.
1165
1166 Q: And where were those people running from?
1167
1168 A: They were - it looked like running from CVS, as well.
1169
1170 Q: Towards?

1171
1172 A: Toward the suspect vehicle like 'cause it - I was partially - like my view is
1173 partially blocked a parked vehicle in the - in the parking lot.
1174
1175 Q: And the "suspect vehicle", there's only suspect vehicle you're referring to. So
1176 when you say "suspect vehicle", it's the blue...
1177
1178 A: It's the blue...
1179
1180 Q: Or the...
1181
1182 A: ...Ford Fusion...
1183
1184 Q: Yeah.
1185
1186 A: ...yeah.
1187
1188 Q: Or the dark...
1189
1190 A: The dark-colored Ford...
1191
1192 Q: Okay.
1193
1194 A: ...Fusion.
1195
1196 Q: All right. Oh, all right. At one point you said that there was a heavyset male?
1197
1198 A: Mm-hm.
1199
1200 Q: Oh...can you describe him?
1201
1202 A: He was...so he had a - like a low-fade buzzcut, as well. He was heavyset. He
1203 had on a - I believe it was like a dark blue or black shirt that was like not
1204 form-fitting. And he had on some sweatpants and he had on a mask, like a
1205 blue-colored mask similar to the one I'm wearing. And he was probably about
1206 five - 5'8", 5'9". And I believe he had some sneakers on, but I can't recall
1207 what color the sneakers were.
1208
1209 Q: And how old is he about?
1210
1211 A: He appeared to be maybe between 20 and 30 years of age, and he had like a
1212 high-pitched voice.
1213
1214 Q: And what race was he?
1215

1216 A: He's a black male adult.
1217
1218 Q: And I'm sorry. Go back to the black female. And you said she was short in
1219 stature and was wearing white. How old is she, about?
1220
1221 A: She appeared to be in her 20s. She had like long wavy hair that went to her
1222 shoulders and she had really big eyeballs. And I don't know if that was, like,
1223 just her 'cause of me and my presence or whatnot, but her eyes were like very
1224 big. And the third suspect was a black female, but I can't describe anything
1225 more than that 'cause I was- wasn't really paying attention. I just know she
1226 was a black female seated in the - in the rear of the vehicle behind the
1227 passenger seat.
1228
1229 Q: And did you see her outside of the car at any point?
1230
1231 A: Prior to me making my way across, I believe that was who I saw that was near
1232 the passenger side of the vehicle...
1233
1234 Q: Uh-huh.
1235
1236 A: ...so I - I didn't see her otherwise, tough. I couldn't see her.
1237
1238 Q: Okay. Oh, so the first female that you're describing, where does she end up?
1239
1240 A: She was seated in the front passenger seat.
1241
1242 Q: Okay. So you saw her kind of go back and forth outside the car...
1243
1244 A: Mm-hm.
1245
1246 Q: ...between the front and rear passenger...
1247
1248 A: Like on...
1249
1250 Q: ...side...
1251
1252 A: ...the side.
1253
1254 Q: ...and she ends up in the front passenger side?
1255
1256 A: Correct.
1257
1258 Q1: Is that the one with the big eyes?
1259
1260 A: Yes.

1261
1262 Q1: Yeah.
1263
1264 Q: All right. So at the point that you - do you cross the median to get across? Do
1265 you drive...
1266
1267 A: Not over...
1268
1269 Q: ...the median?
1270
1271 A: Not over like a raised...
1272
1273 Q: Okay.
1274
1275 A: ...anything, but just across, like, the level asphalt track, like the concrete...
1276
1277 Q: Okay.
1278
1279 A: ...and everything.
1280
1281 Q: And I think there's two ways to get into that parking lot, so you drive into the
1282 CVS parking lot from the western entrance near the...
1283
1284 A: Yes.
1285
1286 Q: Okay.
1287
1288 A: Yeah.
1289
1290 Q: All right. And then how would you describe where the suspect vehicle is from
1291 the - from the entrance of that parking lot that you...
1292
1293 A: So it was directly in front me.
1294
1295 Q: Okay.
1296
1297 A: And there's a handicapped spot right in front with the raised curbs and there's,
1298 I think, a blue sign right there, and they're parked right there.
1299
1300 Q: Okay. Okay. And I - you - let's see. So where are we here? Do you remember
1301 what you broadcast on the radio?
1302
1303 A: "Theft in progress"...
1304
1305 Q: Okay.

1306
1307 A: ...is what I - I put out...
1308
1309 Q: Mm-hm.
1310
1311 A: ...once I got like on-scene. It wasn't prior to me seeing what I saw. "Theft in
1312 progress" and then when I'm tryin' to deal with him, I put, "Challenging
1313 three".
1314
1315 Q: Okay.
1316
1317 A: And then - and in between that time I think dispatch, like, asked, like, for me
1318 to like c- clarify my location. I was, "I'm at the CVS at 1451 Shattuck". And
1319 they're, like, "What's the address"? And I was, like, "1451" and then they
1320 were like, "What"? And I was like - and they were, like, "1451 Shattuck"? I
1321 was like, "Affirm" and I had, like, kind of an attitude. But yeah, that w- there
1322 was some discrepancy with that situation. So I'm just trying to think about the
1323 exact pattern of what I put out over the radio 'cause it was kind of sporadic
1324 and it was in between different...
1325
1326 Q: Right.
1327
1328 A: ...of those things that were happening.
1329
1330 Q: So I'll go back and I should this have asked you this earlier, but your radio,
1331 how do you have it set up?
1332
1333 A: So I have it set up where it runs along the back here, and it - I have seated
1334 here, and I have an earpiece.
1335
1336 Q: So you're talking about the paddle mic?
1337
1338 A: The paddle mic, yes.
1339
1340 Q: So the paddle mic goes over your back and then you...
1341
1342 A: Yeah. So my radio sits here, and then...
1343
1344 Q: On your back?
1345
1346 A: ...the cord - yeah. The cord comes over and the mic is sitted here - seated here.
1347
1348 Q: So...
1349
1350 A: It's a...

1351
1352 Q: ...your - underst- I'm gonna describe what you're acting out.
1353
1354 A: Okay.
1355
1356 Q: So your radio, is it on your vest or is it on your belt?
1357
1358 A: It's on my belt. The radio is on my belt.
1359
1360 Q: So it's on in a radio like holster on your belt...
1361
1362 A: Correct.
1363
1364 Q: ...and it's on your left side?
1365
1366 A: Yes.
1367
1368 Q: So then it has a cord that then you - it looks like you have it go over your
1369 back?
1370
1371 A: Mm-hm.
1372
1373 Q: And then come around and you clip it on the front of you...
1374
1375 A: Yep, my vest.
1376
1377 Q: Of your vest?
1378
1379 A: Yeah.
1380
1381 Q: And is that how you wear it...
1382
1383 A: Normally, yes.
1384
1385 Q: Okay. And then did you have an earpiece that's associated with that?
1386
1387 A: Yes.
1388
1389 Q: Okay. And were you wearing that that night?
1390
1391 A: Okay.
1392
1393 Q: And was that functioning properly?
1394
1395 A: Yes.

1396
1397 Q: Okay. All right. So when you transmit on the radio, you're using your paddle
1398 mic?
1399
1400 A: Yes.
1401
1402 Q: Okay. It doesn't have like an extra...
1403
1404 A: No.
1405
1406 Q: ...like some people have, like a...
1407
1408 A: Some - yeah. No, I have just - just a regular.
1409
1410 Q: You just hit the paddle mic...
1411
1412 A: Mm-hm, and it transmits, yeah.
1413
1414 Q: All right. So do you remember at what point you decided that you were gonna
1415 remove your firearm and challenge them?
1416
1417 A: Yes.
1418
1419 Q: Okay.
1420
1421 A: So, I was - this - the male suspect was standing at the driver's side of the door
1422 and kept telling him to stop moving, and he's making all these movements in
1423 and out of the car, and I didn't know if he was grabbing a weapon, and I kept
1424 telling him to stop. He just was not complying, and I finally drew my weapon,
1425 and I said, "Stop moving". And that's when I put out "Challenging three".
1426
1427 Q: Okay.
1428
1429 A: So...
1430
1431 Q: And that's what I means to you when you say "challenging" is that...
1432
1433 A: Perceiving a threat and pulling my firearm...
1434
1435 Q: Okay.
1436
1437 A: ...because I didn't know. It was like if he was grabbing a weapon if he had a
1438 weapon on him...
1439
1440 Q: Hm.

1441
1442 A: ...'cause his clothes were, like, very - he's a big guy, but then they...
1443
1444 Q: Yeah.
1445
1446 A: ...they weren't form-fitting clothing on him, either...
1447
1448 Q: Okay.
1449
1450 A: ...so...
1451
1452 Q: So when you say you're challenging, is that - you're basically acting out like
1453 you're pointing your firearm?
1454
1455 A: Yeah. Well I...
1456
1457 Q: Okay.
1458
1459 A: ...that's I say - when I say "challenging", that's what I put out on the radio.
1460
1461 Q: Right. Right.
1462
1463 A: Yeah.
1464
1465 Q: So I'm just trying to apply what your definition is of challenging to what
1466 you're physically doing.
1467
1468 A: Okay.
1469
1470 Q: Like what does it mean? Like...
1471
1472 A: The pointing my service weapon at...
1473
1474 Q: Right.
1475
1476 A: ...the male suspect.
1477
1478 Q: Okay. At the male suspect?
1479
1480 A: Yes.
1481
1482 Q: And then did you see him in the car at any point...
1483
1484 A: Yeah, when I first...
1485

1486 Q: ...prior to this?
1487
1488 A: ...pulled up - yeah, he was seated...
1489
1490 Q: Okay.
1491
1492 A: ...like - like seated like with one foot out of the car peeking out, standing up...
1493
1494 Q: Mm-hm.
1495
1496 A: ...and that's what I saw him on the driver's side, so I knew he was associated
1497 with the vehicle 'cause he was definitely, like, in and out of it.
1498
1499 Q1: Let me backtrack a little bit. When you pull into the parking lot...
1500
1501 A: Mm-hm.
1502
1503 Q1: ...were your lights still on?
1504
1505 A: Yes.
1506
1507 Q1: And when you boxed him were you lights forward red...
1508
1509 A: Forward-facing light, yes.
1510
1511 Q1: With the lo...
1512
1513 A: I didn't turn anything off...
1514
1515 Q1: So...
1516
1517 A: ...no.
1518
1519 Q1: ...they knew...
1520
1521 A: Yes.
1522
1523 Q1: ...what you were trying to do or make contact with them?
1524
1525 A: Yes.
1526
1527 Q1: Okay.
1528
1529 Q: After this incident, just to cover that part of it, did you change the way that
1530 your lights were on your car or did you ever...

1531
1532 A: No, I didn't even...
1533
1534 Q: Okay.
1535
1536 A: No, I didn't touch anything in there.
1537
1538 Q: All right. Okay. So you said the male had a high-pitched voice?
1539
1540 A: Yeah, like...
1541
1542 Q: Do you remember what he said? Any part of that?
1543
1544 A: He said, "I want to get my keys. I just want to get my keys". "It's not me. It's
1545 not me". And then he was, like, "My car don't work. My car don't work".
1546 And that's pretty much all he was saying 'cause anytime I kept tellin' him to
1547 do something, he wasn't responding to me.
1548
1549 Q: Mm-hm.
1550
1551 A: He just said "I'm gonna" - the first thing he says, "I'm gonna get my keys".
1552 And I kind of associated with him being a homosexual. Like, I'm a
1553 homosexual, and I just - I know I come into contact with a lot of people, and I
1554 just - he sounded like - you know, he had a very high-pitched voice.
1555
1556 Q: Okay. So was he talking to you or was he talking to the people in the car?
1557 Could you tell?
1558
1559 A: So he told- when he said, "I'm getting my keys, I'm getting my keys", I - he
1560 was talking to me 'cause he's lookin' right at me with his hands, like, goin'
1561 like this toward the rear of the vehicle, and now - and he was sayin', "My car
1562 don't work, my car don't work", he was talking to me, as well. Now when he
1563 was saying, "You do it, you do it", I'm pretty sure he was talking to the front
1564 female passenger.
1565
1566 Q: That was later on...
1567
1568 A: Yeah.
1569
1570 Q: ...in...
1571
1572 A: Mm-hm.
1573
1574 Q: ...this? Okay.
1575

1576 A: Yeah.
1577
1578 Q: Would it help you to look at those - do you have those photos?
1579
1580 Q1: Yeah.
1581
1582 Q: Would it help you to look at photo- like photos of that parking lot...
1583
1584 A: Yeah.
1585
1586 Q: ...where that car was? I don't have photos of that car in the parking lot.
1587
1588 A: Okay.
1589
1590 Q: I have a picture of - really have...
1591
1592 A: Like, ah, where it was at lo- specifically or something like that?
1593
1594 Q: Yeah. So okay. This is Photo No. 1, marked Photo No. 1. This is a photo
1595 facing southbound in the parking lot showing basically an overview of the
1596 front of the CVS Pharmacy. It has crime scene tape up 'cause this is taken
1597 after the incident. Your police car is there that you were driving. So why don't
1598 you first look at Photo No. 1?
1599
1600 A: Okay.
1601
1602 Q: All right. Is - do you agree that's...
1603
1604 A: Yes, that's...
1605
1606 Q: ...what I just...
1607
1608 A: ...the scene.
1609
1610 Q: ...described?
1611
1612 A: Yes.
1613
1614 Q: All right. And is your vehicle parked - does it look that represents where your
1615 - where you parked that vehicle?
1616
1617 A: Yes.
1618
1619 Q: All right. And I'm also gonna describe your vehicle. It has, it looks like, a
1620 forward facing - well I don't know. Is that from a flashlight? Your vehicle -

1621 yeah, it looks like your vehicle has its emergency lights on?
1622
1623 A: Mm-hm.
1624
1625 Q: Is that right?
1626
1627 A: Yes.
1628
1629 Q: Okay. So that's Photo No. 1. This is Photo No. 2, which shows a different
1630 angle of your vehicle. This photo is facing eastbound. It shows like kind of
1631 your driver's side of your - the police car that you were driving and then
1632 mostly why I want you to look at it is because it has the handicap parking spot
1633 that you were talking about.
1634
1635 A: Okay. Yeah.
1636
1637 Q: Is that...
1638
1639 A: Yes.
1640
1641 Q: Okay. All right. I think that's - what's this? All right. So this where you're - I
1642 just want to confirm. This is where your car and the way that is, that's y...
1643
1644 A: Or how I left it, yes.
1645
1646 Q: Okay. All right.
1647
1648 Q2: Can I just take a look real quick?
1649
1650 Q: Yes.
1651
1652 Q2: Thank you.
1653
1654 Q: That's 1 and 2. Here's 3. 3, Photo 3 is, well, a different angle of what is the
1655 handicapped parking area...Maybe I think it would be helpful for you to
1656 identify which photo - which - it shows two handicapped stalls.
1657
1658 A: Mm-hm.
1659
1660 Q: Just so you can verify...
1661
1662 A: Which one's...
1663
1664 Q: ...so it's...
1665

1666 A: ...the car's in?
1667
1668 Q: Yeah. That car was not there when I got there. Which handicap stall that the
1669 car was parked in?
1670
1671 A: Oh.
1672
1673 Q: So this is just...let's see. This is a photo facing, mmm, northwest into the
1674 parking lot. And it shows your - the - kind of the front of your vehicle.
1675
1676 A: Front of the vehicle, yeah. So it was parked in the - in this parking spot here.
1677 As far as - I don't know how to describe...
1678
1679 Q1: Well, it's the...
1680
1681 A: ...location of...
1682
1683 Q1: ...north...
1684
1685 A: ...yeah.
1686
1687 Q1: ...handicap...
1688
1689 A: But this one...
1690
1691 Q1: ...stall?
1692
1693 A: Yeah, so right next to this curb.
1694
1695 Q: Okay.
1696
1697 Q1: Yeah.
1698
1699 Q: So basically it would be - so y- so there's a metal rail that divides the two
1700 because I guess there's...
1701
1702 A: Spots.
1703
1704 Q: ...somehow a...
1705
1706 A: Oh, okay.
1707
1708 Q: ...ramp.
1709
1710 A: Yeah.

1711
1712 Q: So there's a metal - I'm just gonna describe. There's a metal rail that divides
1713 the two handicap parking spots. The car that you're talking about was parked
1714 in front of your police car here that's photographed as is...
1715
1716 A: Correct.
1717
1718 Q: ...right? And it was in the northern parking - handicapped parking stall?
1719
1720 A: Yes.
1721
1722 Q: And up against this raised curb that you described...
1723
1724 A: Yes.
1725
1726 Q: ...right? Okay. And just to clarify, was - which car - which direction was that
1727 car facing?
1728
1729 A: That was facing the cinderblock that's right here, so it was directly facing -
1730 what direction is that? Oh. I always get the directions messed up.
1731
1732 Q: I would say that's facing east.
1733
1734 A: The same direction that my vehicle is facing, so...
1735
1736 Q: So...
1737
1738 A: ...it's in...
1739
1740 Q: ...it was...
1741
1742 A: ...the front of it.
1743
1744 Q: ...basically as if it had pulled in straight to the...
1745
1746 A: Yeah.
1747
1748 Q: ...parking lot?
1749
1750 A: Correct.
1751
1752 Q: So when you pull in, you're facing the trunk area of the car...
1753
1754 A: Yeah.
1755

1756 Q: ...the back of the car?
1757
1758 A: Yeah.
1759
1760 Q: Okay. That's Photo 3. Photo 4 is basically a photo facing the raised curb or I
1761 would call it a median area of the northern handicapped spot.
1762
1763 A: Yes, that's it.
1764
1765 Q: Okay.
1766
1767 Q: Here's 4.
1768
1769 Q2: Thank you.
1770
1771 Q1: Sure.
1772
1773 Q: Okay. All right. So go back to when this male subject was saying to you to get
1774 to his keys. You said the keys looked like they were in the trunk?
1775
1776 A: They were stuck inside the trunk of the - like the little keyhole...
1777
1778 Q: Okay.
1779
1780 A: ...to - to access the truck, I'm assuming.
1781
1782 Q: Okay.
1783
1784 A: So that's where I saw it, but when - I saw it sitting there, but I wasn't paying
1785 attention 'till he went over there and grabbed it, and I was, like, oh damn
1786 there's keys in there.
1787
1788 Q: Uh-huh.
1789
1790 A: And I was, like - yeah, so that's what I saw.
1791
1792 Q: And when he said, "I want to - I need to get my keys" or something about
1793 wanting to get his keys or whatever that was...
1794
1795 A: Mm-hm.
1796
1797 Q: ...where was he standing?
1798
1799 A: He was standing on the driver's side, the open driver's side door.
1800

1801 Q: Okay.
1802
1803 A: He was standing in that area.
1804
1805 Q: So the driver's side door was open?
1806
1807 A: Yes.
1808
1809 Q: Do you remember it being open and then that's where he was standing?
1810
1811 A: Yes.
1812
1813 Q: Okay. Did you order him out of the car?
1814
1815 A: No.
1816
1817 Q: Okay. So when you get out of your car, where is he?
1818
1819 A: He's on the driver's seat. I believe he stood up from being seated inside the
1820 driver's side door.
1821
1822 Q: Okay. All right. And he stood up on his own...
1823
1824 A: Yes.
1825
1826 Q: ...that was not...
1827
1828 A: No.
1829
1830 Q: ...in response to direction that you gave...
1831
1832 A: No.
1833
1834 Q: ...him?
1835
1836 A: Yeah. No.
1837
1838 Q: Okay. Do you remember if you identified yourself as the police?
1839
1840 A: No, I didn't say, "The Berkeley Police". I just assumed. Yeah, I had my Code
1841 3s on and...
1842
1843 Q: Yeah.
1844
1845 A: ...yeah, had full uniform on, so I did not announce myself.

1846
1847 Q: Okay. And did it appear that suspect was understanding what you were
1848 saying?
1849
1850 A: I think he understood, but he just didn't care, honestly. But, yeah, I believe he
1851 - I believe he understand. I don't think there was any kind of language barrier,
1852 issue...
1853
1854 Q: Okay.
1855
1856 A: ...or anything like that. He understood what I was saying.
1857
1858 Q: All right. And he could hear you?
1859
1860 A: Yes.
1861
1862 Q: Okay.
1863
1864 A: Yes.
1865
1866 Q: And what about what was happening told you that he could, (a) understand
1867 you, and (b) hear you?
1868
1869 A: 'Cause he - 'cause every time I said, "Stop", he would stop, but, like, move.
1870 Like I - like, "Stop moving. Stop moving". He's like, okay, but stop, and then
1871 moved a little bit and just made all these like movements. He - he understood
1872 what I was saying 'cause he would stop for a moment, but do whatever he felt
1873 like he needed to do.
1874
1875 Q: And where - and when you say he's moving, what is he doing specifically?
1876
1877 A: So he's like moving his arms, turning his body, like get - reaching back into
1878 the car, like leaning into the car...
1879
1880 Q: Uh-huh.
1881
1882 A: ...standing up. Like he never sat back down or anything at that point in time,
1883 but he just kept movin' around in that vicinity of the vehicle, like...
1884
1885 Q: Okay.
1886
1887 A: ...the door's open.
1888
1889 Q: Did he walk around at all?
1890

1891 A: No, not until he walked to the trunk, and he walked right back.
1892
1893 Q: Okay. So tell me about the time that he walked to the trunk.
1894
1895 A: So he's standing at the driver...
1896
1897 Q: Uh-huh.
1898
1899 A: ...the open driver's side door, and I'm telling him stop moving. He's not - he's
1900 stopped not - he's not stopped moving. So he walks. He's, like, "I just gotta
1901 get my keys. I just gotta get my keys". So he's...
1902
1903 Q: Mm-hm.
1904
1905 A: ...like proceeding to go like this, but he...
1906
1907 Q: So...
1908
1909 A: ...quickly goes around to the trunk...
1910
1911 Q: All right.
1912
1913 A: ...and reaches to get the keys.
1914
1915 Q: And I don't mean to interrupt you because I know it's frustrating to get
1916 interrupted but...
1917
1918 A: No, that's fine.
1919
1920 Q: When you said, "He's goin' like this", I'm just trying to get words to with
1921 your actions...
1922
1923 A: Right.
1924
1925 Q: ...so - so I get that...
1926
1927 A: So...
1928
1929 Q: ...right.
1930
1931 A: ...he - where he's - has his arms like partially raised up and they're, like, goin'
1932 down, up and down...
1933
1934 Q: Okay.
1935

1936 A: ...and he's, like, proceeding, like, to reach to get the keys. So he walked to the
1937 rear of the vehicle, reaches...
1938
1939 Q: Okay.
1940
1941 A: ...around to grab the keys, and is just like, "I just need my keys. I just need my
1942 keys". And he walks back to the driver's side of the vehicle.
1943
1944 Q: Okay.
1945
1946 A: And then he stands there, and then I tell him - then I tell him - like, he's
1947 standing with the keys, I'm assuming, and he's, like standing there, and I was,
1948 like, "Get back in the car". And then he questions me, like, "Get back in the
1949 car"?
1950
1951 Q: Mm-hm.
1952
1953 A: And I'm, like, "Yes, get back in the car"...
1954
1955 Q: Okay.
1956
1957 A: ...and then when he proceeds to get in the car.
1958
1959 Q: All right. And does he have the keys then?
1960
1961 A: Yes.
1962
1963 Q: Okay. So what did you think of the fact that he starts with the driver's side
1964 door and then walks back and gets the keys? Like, what is that...
1965
1966 A: To me I thought he was goin' to get a weapon. I thought he was gonna open
1967 the trunk and grab something out of the - the trunk and shoot me or whatever.
1968 That's what I thought initially.
1969
1970 Q: Okay.
1971
1972 A: And then he just grabbed the keys and goes back to the driver's side door.
1973
1974 Q: Okay. Does it seem like he tries to open the trunk?
1975
1976 A: I can't recall the exact time, how long he was there. It wasn't long very - like
1977 it wasn't there long enough, like for me to...
1978
1979 Q: Right.
1980

1981 A: ...think, like, oh, God he's opening something. But I was just, like, "Okay. I
1982 don't know what the hell you're doin'. You're not listening to me. You've not
1983 been listened to me this whole time".
1984
1985 Q: Right.
1986
1987 A: And he grabs the keys. Is like pulls it, and then he goes back to the driver's
1988 side.
1989
1990 Q: Okay. So, you understand now that his intention is to get the keys and not to
1991 open the trunk?
1992
1993 A: Yeah, a...
1994
1995 Q: Okay.
1996
1997 A: ...after the fact, yes.
1998
1999 Q: All right. Okay. So goes back to the car, and then you said earlier that you told
2000 him to get in the car, he questions you, "Do you want me in the car?" and then
2001 - or something like that.
2002
2003 A: Yeah.
2004
2005 Q: That he...
2006
2007 A: ...get back - he, like, "Do you want me to get back in the car"? And I was,
2008 like, "Yes, get back in the car".
2009
2010 Q: And then he gets back in the car?
2011
2012 A: Yes.
2013
2014 Q: Okay. And have these other two people in the car...
2015
2016 A: Gotten out or something?
2017
2018 Q: ...what are they doing?
2019
2020 A: They're not doing anything. They're just sitting there. The front female
2021 passenger just state, "Please don't shoot us. Just let us go. Let us go" is what
2022 she says as I'm tryin' to deal with the male suspect on the driver's side. She
2023 said...
2024
2025 Q: When did....

2026
2027 A: ...that.
2028
2029 Q: ...say that?
2030
2031 A: I can't recall exactly when she said it. I don't know if it was before the keys
2032 or after the keys.
2033
2034 Q: Mm-hm.
2035
2036 A: But she says it before he gets back in the car, and...
2037
2038 Q: She...
2039
2040 A: ...it's before...
2041
2042 Q: ...says it before he gets back in the car?
2043
2044 A: Before I tell him to get in the vehicle.
2045
2046 Q: Okay. All right. And you mentioned earlier that you were treating it like a
2047 felony car stop. So...
2048
2049 A: That's why - that's why I had him get back in the vehicle after he got the keys.
2050
2051 Q: Right. So I just - and I just want to understand in more detail to you what a
2052 felony car stop is. So you said, "I wanted him to get him back in the car".
2053 Something like you wanted him to get back in the car so that you could treat it
2054 as a felony car stop. So what is that?
2055
2056 A: To detain everybody because...
2057
2058 Q: Okay.
2059
2060 A: ...specifically he was the one not complying. Like, no one else had gotten in
2061 and out of the car...
2062
2063 Q: Okay.
2064
2065 A: ...but he was the one adamant on...
2066
2067 Q: Mm-hm.
2068
2069 A: ...not listening to any of my commands to stop moving and whatnot, and...
2070

2071 Q: Okay.
2072
2073 A: ...I thought it - deemed it safer to have him get in the car...
2074
2075 Q: Okay.
2076
2077 A: ...with the other two that I didn't know were searched or if they had weapons
2078 or anything...
2079
2080 Q: Right. Right.
2081
2082 A: ...and I was just waiting to cover to come, and I felt like if everybody was
2083 contained in the car, I could at least wait up for backup to get up there and we
2084 can better assess the situation...
2085
2086 Q: Right.
2087
2088 A: ...and attack it that way.
2089
2090 Q: And what's the descript- like what is your take of what a felony car stop is?
2091 For anyone that would, like, hear what your story is and doesn't understand
2092 what a felony car stop is.
2093
2094 A: So a felony car stop would be to enact like your - like a detaining, like, sense
2095 of lights. So your forward-facing red light.
2096
2097 Q: Mm-hm.
2098
2099 A: Pull up behind the car. You know, give commands to remain in the vehicle,
2100 put the keys on top, just keep everybody in one place until, you know, you can
2101 get - cover there to help...
2102
2103 Q: Mm-hm.
2104
2105 A: ...get other vehicle- like the suspects of the vehicle to assess what you have.
2106
2107 Q: And is a felony, uh, car stop at gunpoint generally?
2108
2109 A: Yes.
2110
2111 Q: Is that what you mean when you're saying...
2112
2113 A: Yes.
2114
2115 Q: ...a felony car stop?

2116
2117 A: Yes, so...
2118
2119 Q: ...car...
2120
2121 A: Yes.
2122
2123 Q: ...stop?
2124
2125 A: My - sorry. Yeah.
2126
2127 Q: All right. Oh, no need to apologize. I just want to make sure, like, some of
2128 these - it's not that you're giving a poor description of it. It's just I need to
2129 make sure that...
2130
2131 A: More in depth...
2132
2133 Q: ...anyone... Yeah, that everyone understands it...
2134
2135 A: Yeah.
2136
2137 Q: ...then the way that you mean it.
2138
2139 A: Okay.
2140
2141 Q: Okay?
2142
2143 A: Yeah.
2144
2145 Q: And I don't want to presume that. So okay. Let's see. So, after he gets in the
2146 car, you said earlier that you told him to put the keys on top of the car?
2147
2148 A: Yes.
2149
2150 Q: Okay. And what does that mean?
2151
2152 A: The keys to the vehicle, I...
2153
2154 Q: Mm-hm.
2155
2156 A: ...the ones that I assumed he grabbed from the trunk, I told him to...
2157
2158 Q: Yeah.
2159
2160 A: ...put on top of the vehicle.

2161
2162 Q: Like meaning the...
2163
2164 A: Out of the driver side window to put on...
2165
2166 Q: Yeah.
2167
2168 A: ...top of the car to keep it from being started, from him...
2169
2170 Q: Right.
2171
2172 A: ...attempting to flee.
2173
2174 Q: Okay. And was his win- the...
2175
2176 A: The driver's...
2177
2178 Q: ...driver's side...
2179
2180 A: ...side window...
2181
2182 Q: ...was down?
2183
2184 A: ...was down, yes.
2185
2186 Q: Okay. So you're now giving him directions, it sounds like, at this point with
2187 him inside the car. The car door is closed?
2188
2189 A: Correct.
2190
2191 Q: And the window is down?
2192
2193 A: Yes.
2194
2195 Q: Do you know if any of the other windows were open?
2196
2197 A: Not on the passenger side.
2198
2199 Q: Okay.
2200
2201 A: The rear - the rear driver's side window I don't think it was down. I think it
2202 was...
2203
2204 Q: Oh.
2205

2206 A: ...down. I think it was just the front.
2207
2208 Q: Oh.
2209
2210 A: I couldn't see on the passenger's side...
2211
2212 Q: Did it...
2213
2214 A: ...on the other side.
2215
2216 Q: ...seem like the other doors were closed?
2217
2218 A: Yes.
2219
2220 Q: Okay. So, you ask or direct him, it sounds like, to put the keys on top of the
2221 car, and does he do that?
2222
2223 A: Yes, he does.
2224
2225 Q: All right. And it appears to you that those are the same keys that you saw
2226 hanging from the trunk?
2227
2228 A: Correct.
2229
2230 Q: Okay. And then what happened?
2231
2232 A: Then, seconds passed and...
2233
2234 Q: Mm-hm.
2235
2236 A: ...I hear the vehicle start.
2237
2238 Q: 'Cause it was not running before?
2239
2240 A: No, it was not. It started - it wasn't running.
2241
2242 Q: Mm-hm.
2243
2244 A: And I heard it start up, and that's when I was like, okay. It got closer to the
2245 vehicle and I was, like, "Turn the car off". I challenged him. I got to a better -
2246 like I got a closer location to him on the driver's side, and I was, like, "Turn
2247 the vehicle. Turn the car off. Turn the car off". He's not complying.
2248
2249 Q: Okay. And you're acting out right now that you're like...
2250

2251 A: Have my - my - my weapon, my gun, pointed at the driver, like...
2252
2253 Q: Okay.
2254
2255 A: ...on the driver's side.
2256
2257 Q: Okay. And what are you thinking? Like why are you - like explain to me why
2258 you're now moving towards him or that...
2259
2260 A: 'Cause...
2261
2262 Q: ...it's...something has changed..
2263
2264 A: ...I told him to put the keys on the top of the vehicle...
2265
2266 Q: Right.
2267
2268 A: ...and the vehicle wasn't startin', and it started, and I got closer so he could
2269 hear me...
2270
2271 Q: Mm-hm.
2272
2273 A: ...say, "Turn the car off" because with the noise you may - he may not be able
2274 to hear me...
2275
2276 Q: Mm-hm.
2277
2278 A: ...say it 'cause I was pretty good distance away at that...
2279
2280 Q: Mm-hm.
2281
2282 A: ...time. So I got closer to reiterate, like, "Turn the car off". Like I hear the car
2283 startin'. "Now turn the car off".
2284
2285 Q: Right.
2286
2287 A: And that's why I got closer.
2288
2289 Q: Okay. So about how close do you think you were? Obviously it's "an about"?
2290
2291 A: Maybe within one to two feet.
2292
2293 Q: Okay.
2294
2295 A: Yeah.

2296
2297 Q: All right.
2298
2299 A: So pretty close.
2300
2301 Q: All right. Could you see what the other people in the car were doing?
2302
2303 A: Yes. The front pa- I could see - I could see her, I should say. I don't know
2304 what she was doin', but I could...
2305
2306 Q: Okay.
2307
2308 A: ...see the front passenger, and that's when I saw the - the third passenger in the
2309 back was a black female, but I can't really describe what she looked like
2310 'cause I was more concerned on the two in the front.
2311
2312 Q: Okay. And were the keys still on top of the car?
2313
2314 A: Yes.
2315
2316 Q: Okay. So, then what happened?
2317
2318 A: Then the - I'm tellin' him to turn the car off, turn the car off. He's saying,
2319 "Oh, my car's not working". He doesn't say anything about I turned it on, I
2320 turned off or anything. He just said, "My car's not working" ...
2321
2322 Q: Mm-hm.
2323
2324 A: ...and it starts to slowly go backward. And I...
2325
2326 Q: The car does?
2327
2328 A: Yeah.
2329
2330 Q: Okay.
2331
2332 A: And I don't know - like I see the - the passenger female, like, yelling, "Stop.
2333 Stop. Stop".
2334
2335 Q: Mm-hm.
2336
2337 A: "Just listen to her. Just listen to her". And he's, like, "My car's not working.
2338 My car's not working". And it's still rolling backwards, and then it stops, like
2339 he brakes. And I was, okay, well he's gonna turn the car off. He's gonna turn
2340 the car off. So she's like - he's, like, "You do it. You do it". And then...

2341
2342 Q: Who said that?
2343
2344 A: The.. the male - the male suspect in the...
2345
2346 Q: Okay.
2347
2348 A: ...driver's seat says, "You do it. You do it". and I don't know what the hell
2349 he's talkin' about, but...
2350
2351 Q: Okay.
2352
2353 A: And so the vehicle starts to go forward, and it's angling toward me where I'm
2354 standing, and I'm still yelling, "Turn the car off. Turn the car off. Stop. Stop.
2355 Stop. Turn the car off". And they're not - he's not complying, but he has his
2356 hands still, like, goin', like, up and down, so I don't know if he's holding on
2357 to the steering wheel or if he's grabbing for a weapon or anything. He's just -
2358 his hands are like over the place and she's crying and...
2359
2360 Q: So but...
2361
2362 A: Just...
2363
2364 Q: ...I want to just again. I'm sorry. I want to...
2365
2366 A: His hands are goin' up and down near the...
2367
2368 Q: Up and down, like...
2369
2370 A: ...steering wheel.
2371
2372 Q: ...like they're by his...
2373
2374 A: So...
2375
2376 Q: ...toward the side?
2377
2378 A: ...his left hand is - what I specifically remember was up. I don't - I can't really
2379 recall where his right hand was at that time...
2380
2381 Q: Mm-hm.
2382
2383 A: ...but it was closer to the steering wheel but still like pointed up. Like both -
2384 all things were erect up.
2385

2386 Q: Could you see his hands?
2387
2388 A: The left hand...
2389
2390 Q: The left...
2391
2392 A: ...specifically...
2393
2394 Q: ...hand?
2395
2396 A: ...yeah.
2397
2398 Q: Okay. And that was the hand that was closest to you?
2399
2400 A: Yes.
2401
2402 Q: And then do you know where his right hand was?
2403
2404 A: Couldn't see it.
2405
2406 Q: Okay. So, all right. So you don't know where his right hand was?
2407
2408 A: No.
2409
2410 Q: All right. Could you tell who was operating the vehicle?
2411
2412 A: No.
2413
2414 Q: Okay. When you said the car rolled back, was it in reverse?
2415
2416 A: I couldn't see the gear shift. I - from the speed I thought it might have been in
2417 neutral from them tryin' to change...
2418
2419 Q: Okay.
2420
2421 A: ...the gear.
2422
2423 Q: Uh-huh.
2424
2425 A: But I didn't hear like the - the engine revving like they were in the wrong
2426 gear.
2427
2428 Q: Okay. And it - what - just to give me a sense, like what are the speeds of this -
2429 it's rolling back at?
2430

2431 A: Less than 5 miles per hour.
2432
2433 Q: Okay. So, and then you said it went forward? It's...
2434
2435 A: He braked or the car stopped...
2436
2437 Q: Okay.
2438
2439 A: ...and then it started goin' forward, but it was, like, angling towards me on the
2440 driver's...
2441
2442 Q: Okay.
2443
2444 A: ...side, and then that's when I was, like, "Stop. Stop. Stop. Stop. Stop".
2445
2446 Q: Right.
2447
2448 A: And then the car started, just went really fast toward me, and then that's when
2449 I shot what I believe was two rounds at the driver.
2450
2451 Q: Okay. So...
2452
2453 A: But...
2454
2455 Q: ...was it...
2456
2457 A: ...as it was going - it was going - it's - it was going forward, and then it started
2458 goin' over the - the raised curb.
2459
2460 Q1: Would it help to see the curb?
2461
2462 Q: Would it be helpful to look at this picture...
2463
2464 A: Sure.
2465
2466 Q: ...of that parking spot...
2467
2468 A: Yeah.
2469
2470 Q: ...so that when we're...
2471
2472 Q1: That one.
2473
2474 Q: ...describing it...what's that?
2475

2476 Q1: Let me see if I can pull up one on the...
2477
2478 Q: I don't think 1 is helpful. It's too far away, but if you want to use it, you can.
2479 I think...
2480
2481 A: It might be...
2482
2483 Q: ...maybe...
2484
2485 A: ...the...
2486
2487 Q: ...the Photo 2 -2. Or you're pointing at Photo 4 of the median, Photo 2?
2488
2489 A: Okay. Yeah.
2490
2491 Q: So, you said the car went forward? Was the car - could you tell if the car was
2492 in drive? First it rolled back...
2493
2494 A: And then it's a...
2495
2496 Q: You don't know if it was in neutral or what?
2497
2498 A: Right.
2499
2500 Q: But then when it changes course now it's going forward?
2501
2502 A: At an angle toward me, yeah.
2503
2504 Q: Right. Did it seem like it was in drive or...
2505
2506 A: Yes, because I - you need momentum to get over the curb, I assumed, so...
2507
2508 Q: Oh.
2509
2510 A: ...that's why I assumed that he was getting ready to flee.
2511
2512 Q: Okay. So your assessment of the car's rolled back, you're not sure if it was in
2513 reverse or if it was in...
2514
2515 A: At that time...
2516
2517 Q: ...neutral...
2518
2519 A: ...it was...
2520

2521 Q: ...and rolling?
2522
2523 A: ...no, I didn't.
2524
2525 Q: But then when it then changes course now it's going...
2526
2527 A: Toward me.
2528
2529 Q: ...forward?
2530
2531 A: Yes.
2532
2533 Q: Is your sense that that car was in drive...
2534
2535 A: Yes.
2536
2537 Q: ...or...
2538
2539 A: Yeah, I believe it was in...
2540
2541 Q: Okay.
2542
2543 A: ...drive because I was up on the curb area somewhere in this vicinity, and I
2544 saw the car kind of like bumping up, and I was, like, oh, there's a curb.
2545
2546 Q: So, so...I guess - I think he is reading my mind, which is helpful. But I think
2547 he's trying to get a better photo so we can...
2548
2549 A: Oh, okay.
2550
2551 Q: ...capture the back and the forth.
2552
2553 A: Okay.
2554
2555 Q: So maybe we just wait for that. But - yeah.
2556
2557 A: Okay.
2558
2559 Q: So that's kind of, I think, what's he's doing. I hope he's, I hope I'm right.
2560 We'll see. This is a test of how good he is.
2561
2562 A: Oh, I guess the other picture has like a broader picture of the s- the
2563 handicapped space, and this curb. This is just a partial of it.
2564
2565 Q: Yeah.

2566
2567 A: But, yeah.
2568
2569 Q: And like when he's going forward, like how fast is the car going...
2570
2571 A: Um...
2572
2573 Q: ...ish?
2574
2575 A: ...little more than it was going backwards.
2576
2577 Q: Mm-hm.
2578
2579 A: And then, like I was kind of rocking back and forth because he was - I could
2580 tell he was goin' up on the curb where I was d- where I was standing at.
2581
2582 Q: Okay.
2583
2584 A: And then I just heard the tires screeching and it just - just zoomed like toward
2585 me, and I was just like trying to protect myself.
2586
2587 Q: So you're say your're standing you on the curb?
2588
2589 A: I don't know exactly...
2590
2591 Q: This...
2592
2593 A: ...where I was at, yeah.
2594
2595 Q: Okay. So I'm pointing at Photo 4, which is at the parking spot that you
2596 indicated he was in?
2597
2598 A: Yeah. It's probably...
2599
2600 Q: And...
2601
2602 A: ...marked here.
2603
2604 Q: ...it is like a yellow painted m- like median? I would call this a median.
2605
2606 A: Okay, a median.
2607
2608 Q: But - so is this what you mean - I mean, I'm trying to get into semantics, but a
2609 curb to me is like narrow, but this is large median...
2610

2611 A: It's large...
2612
2613 Q: ...right?
2614
2615 A: ...yeah. Okay.
2616
2617 Q: So when you say you're standing on the curb, do you mean you're standing
2618 here on this...
2619
2620 A: It...
2621
2622 Q: ...median?
2623
2624 : Yeah, I'm standing on the median.
2625
2626 Q: Okay. And the car at the time is pulled into the parking spot?
2627
2628 A: Yeah, and it's like all the way in. It's not like partially sticking out. It was like
2629 all the way up toward - closer to the cement...
2630
2631 Q: Okay.
2632
2633 A: ...block, like a cement wall.
2634
2635 Q: And your memory of before the car starts, about where are you in relation to
2636 the car?
2637
2638 A: Before the car started?
2639
2640 Q: Yeah.
2641
2642 A: Probably - I don't even understand what - it's hard to say.
2643
2644 Q: You were not on the...
2645
2646 A: I...
2647
2648 Q: median...
2649
2650 A: ...median.
2651
2652 Q: ...or curb?
2653
2654 A: No.
2655

2656 Q: Okay. We can call this a curb. That's fine. But...
2657
2658 A: In this...
2659
2660 Q: ...and when...
2661
2662 A: ...vicinity...
2663
2664 Q: ...the car's...
2665
2666 A: ...somewhere.
2667
2668 Q: Okay.
2669
2670 A: I was trying to have my ang- my truest angle was where the driver - I could
2671 see the driver very well.
2672
2673 Q: So you were kind of on the driver's side but behind the car?
2674
2675 A: Yes.
2676
2677 Q: Okay. And then when the car started, that's what...
2678
2679 A: And proceeded to go on top of - you know, I walked on...
2680
2681 Q: Then you...
2682
2683 A: ...the...
2684
2685 Q: ...advanced towards the car...
2686
2687 A: But the...
2688
2689 Q: ...up until this...
2690
2691 A: The median...
2692
2693 Q: ...curb?
2694
2695 A: ...yeah.
2696
2697 Q: Okay. All right. And then you could kind of see into the driver's window?
2698
2699 A: Yeah.
2700

2701 Q: All right. And you thought about like one or two feet, it sounds like?
2702
2703 A: Within, yeah...
2704
2705 Q: Okay.
2706
2707 A: ...the window area.
2708
2709 Q: All right. And, while you're standing on this median and curb, is that when
2710 the car then rolls back?
2711
2712 A: Yes.
2713
2714 Q: Okay, and then...
2715
2716 A: It rolls back at an angle, too. It's not like it is...
2717
2718 Q: And it...
2719
2720 A: ...just straight back.
2721
2722 Q: Okay. So at an angle goin' which way?
2723
2724 A: The tail end is probably goin' toward the entrance of the CVS. That's what
2725 I'm go- like the east and west and...
2726
2727 Q: I don't know how this is gonna be more comfortable to see it on - so it's Photo
2728 No. 5. This is facing south in front of the CVS. It's kind of like closer to that
2729 big retaining wall. So it's kind of almost - it's like a southwestern-facing
2730 situation, I think. 5?
2731
2732 A: Okay.
2733
2734 Q: Does that work for you?
2735
2736 A: Uh...
2737
2738 Q: So when...
2739
2740 Q1: Uh...
2741
2742 Q: ...it's - I'm just trying to understand the angle that the car is rolling back at. Is
2743 it rolling back - w- which direction is it - you said it's rolling back at an
2744 angle...
2745

2746 A: Yeah.
2747
2748 Q: ...right? So it's not going straight back out of...
2749
2750 A: No, it's...
2751
2752 Q: ...that parking spot?
2753
2754 A: No, it's going toward - geared toward - like turning toward the CVS...
2755
2756 Q: Okay.
2757
2758 A: ...entrance...
2759
2760 Q: And what...
2761
2762 A: ...so what the...
2763
2764 Q: ...is...
2765
2766 A: ...like...
2767
2768 Q: So it's - so that what you're with the pen is- you're kind of showing like it's
2769 backing out an angle with the - or it's rolling back at an angle with the trunk
2770 facing southwestern and the - so it's kind of like...
2771
2772 A: Yeah.
2773
2774 Q: Or what...
2775
2776 A: Yeah.
2777
2778 Q: ...you would say, like, backing out kind of to the right?
2779
2780 A: Yeah.
2781
2782 Q: Okay?
2783
2784 A: Backing out to the right, yes.
2785
2786 Q: Okay. And then you...and then it's - then it goes forward?
2787
2788 A: Correct.
2789
2790 Q: Okay. And so then what direction i- is it...

2791
2792 A: It's - it's getting a greater angle toward me, so...
2793
2794 Q: Okay. 'Cause you're still on this...
2795
2796 A: Yeah.
2797
2798 Q: ...median curb?
2799
2800 A: Yes.
2801
2802 Q: Okay. So, so when it starts going forward, you said it was like...
2803
2804 A: It was turning into me so the vehicle - yeah, I'm standing on curb. I mean, on
2805 the raised island...
2806
2807 Q: Mm-hm.
2808
2809 A: ...in this vicinity, and the vehicle like it backed out at an angle and then it
2810 starts going forward in - like in the direction toward like into me.
2811
2812 Q: Okay. Does the car collide with you?
2813
2814 A: Not that I recall, no.
2815
2816 Q: So when you said the car is like going "into" you?
2817
2818 A: Like toward me.
2819
2820 Q: Towards you?
2821
2822 A: Yes.
2823
2824 Q: Okay. And what do you do?
2825
2826 A: I just hold my position.
2827
2828 Q: Okay.
2829
2830 A: I didn't move back or anything, just held my position, telling him, you know,
2831 "Stop. Stop the vehicle. Stop the vehicle".
2832
2833 Q: All right. Do you remember what he was saying at that time?
2834
2835 A: No, I don't. I don't recall him saying anything at that point.

2836
2837 Q: All right. Could you see his hands at this point?
2838
2839 A: I can't remember.
2840
2841 Q: Okay. You said you held your position. What was your - like what's your
2842 thinking on holding your position...
2843
2844 A: Uh...
2845
2846 Q: ...as to opposed to specifically like moving?
2847
2848 A: Moving out of the way?
2849
2850 Q: Yeah.
2851
2852 A: Uh...
2853
2854 Q: Like what...
2855
2856 A: ...just holding my position. I don't know. I just was adamant on him just like
2857 not...
2858
2859 Q: Mm-hm.
2860
2861 A: ...fleeing and like not - I didn't think about the fact that I could have got ran
2862 over.
2863
2864 Q: Mm-hm.
2865
2866 A: At that time I was just focused on keeping my eye on the suspect vehicle and
2867 the suspect at that time. I can't say either one way or another why I didn't
2868 move out of the way.
2869
2870 Q: Okay.
2871
2872 A: But I know that if I had, like, moved back I may have fallen over or
2873 something, but I - at the time like I'm just thinking back at it right now I was
2874 just adamant on staying where I was at.
2875
2876 Q: Okay. So, you're on this median. Do you know anywhere where you are in
2877 relation to this...
2878
2879 A: Okay.
2880

2881 Q: ...triangle?

2882

2883 A: So the vehicle is pulled the way into spot, so I'm assuming I was maybe like
2884 more above this yellow area 'cause the driver side is more concentrated up h-
2885 closer to here.

2886

2887 Q: Okay. And where about on the vehicle are you at the point that it starts going
2888 forward?

2889

2890 A: I'm sorry. Ask the question again?

2891

2892 Q: Where - what's - sorry. That was poorly asked. But wha- i- where are you in
2893 relation to the vehicle as it starts coming forward? Do you know?

2894

2895 A: No, I don't. I'm...

2896

2897 Q: Okay.

2898

2899 A: You know...

2900

2901 Q: Okay.

2902

2903 A: ...I'm like - I'm on the driver's side like the window area. Like specifically I
2904 just don't know exactly where I'm s- standing at.

2905

2906 Q: Okay. So would it be fair to say that you were by the driver's side...

2907

2908 A: Window...

2909

2910 Q: ...window...

2911

2912 A: ...yes.

2913

2914 Q: ...or door?

2915

2916 A: Yes.

2917

2918 Q: Okay. All right. And then what happens?

2919

2920 A: Then the car starts rocking back and forth like - and I see it going over the
2921 curb and the like the angle is like he's about to run me over, so I fired what I
2922 thought was two rounds at the driver. And I watched the vehicle pass me and I
2923 thought, you know, maybe I hit him so it's gonna stop, but it didn't. It just
2924 excelled even faster out of the parking lot.

2925

2926 Q: Okay. And so...
2927
2928 A: And went to the path by (unintelligible).
2929
2930 Q: So where do you think you were when you fired?
2931
2932 A: Maybe over here.
2933
2934 Q: Okay. So you, you - you're pointing to the median, that you were...
2935
2936 A: On the median...
2937
2938 Q: ...on the median?
2939
2940 A: ...yes.
2941
2942 Q: Okay. And when you said the car was rocking back and forth, what does that
2943 mean?
2944
2945 A: Like going up onto the - to the - the median. Like are we calling it...
2946
2947 Q: So...
2948
2949 A: ...the median now or...
2950
2951 Q: What - we can call it whatever.
2952
2953 A: Okay.
2954
2955 Q: I just want to make sure that we're - that it's established what we're talking
2956 about in relation to the photo.
2957
2958 A: Oh...
2959
2960 Q: So...
2961
2962 A: ...yeah...standing...
2963
2964 Q: ...so he...
2965
2966 A: ...on the median...
2967
2968 Q: Okay.
2969
2970 A: ...and I...

2971
2972 Q: You're standing on the median and it's rocking back and forth, but...
2973
2974 A: Like it's rocking - not back and forth in the sense the ways - like rocking to
2975 get on top of the median. Like you can - I can see that the car is, like,
2976 proceeding straight toward me and it's going up on the - on the island...
2977
2978 Q: So...
2979
2980 A: ...or...the median.
2981
2982 Q: So does he drive up on the median?
2983
2984 A: Yes.
2985
2986 Q: Okay. All right. And then at about, like, how fast was he doing this? Like
2987 what's your sense?
2988
2989 A: It started off maybe like 10 to 15. Maybe 10. I don't know...
2990
2991 Q: Uh-huh.
2992
2993 A: ...exactly how much. It - I'm not good at the estimations of speeds but, yeah, I
2994 would say maybe 10 to 15 miles an hour. I don't...
2995
2996 Q: Okay.
2997
2998 A: I don't know.
2999
3000 Q: All right. And does this car go all the way up on this median?
3001
3002 A: Yes.
3003
3004 Q: All right. And then the car is facing what direction?
3005
3006
3007 A: It's, oh...
3008
3009 Q: So he's able to back out of the spot kind of to the right, I think we would call
3010 it, and then...
3011
3012 A: Yeah.
3013
3014 Q: ...go...
3015

3016 A: Not that much, though. He didn't...
3017
3018 Q: ...forward...
3019
3020 A: ...go back much.
3021
3022 Q: So then he's now kind of angling up onto the median?
3023
3024 A: Correct.
3025
3026 Q: And then he's - does he back up any more?
3027
3028 A: No.
3029
3030 Q: No? So...then he's able to get up on this median, and then which direction is
3031 he and his car facing now?
3032
3033 A: Facing like to exit out of the - out of the parking lot, so facing...
3034
3035 Q: This is Rose Street up here.
3036
3037 A: Facing north towards Rose...
3038
3039 Q: Okay.
3040
3041 A: ...yeah.
3042
3043 Q: All right. So, okay and then you said you fired you believed to be two shots at
3044 him...
3045
3046 A: Yeah.
3047
3048 Q: ...and...
3049
3050 A: At the driver, yes.
3051
3052 Q: ...and that - at the driver?
3053
3054 A: Yes.
3055
3056 Q: So to talk about what you were shooting at...
3057
3058 A: Mm-hm.
3059
3060 Q: ...what were you were aiming at, you're saying it was the driver?

3061
3062 A: Right.
3063
3064 Q: So what do you mean by that?
3065
3066 A: I was trying to eliminate the threat because I know he was the one that was
3067 driving the vehicle, and I was trying to stop him from possibly running me
3068 over...
3069
3070 Q: Okay.
3071
3072 A: ...so I just aimed down at him.
3073
3074 Q: At what part of him?
3075
3076 A: I assume it was like maybe like the shoulder or neck, that area.
3077
3078 Q: Mm-hm.
3079
3080 A: Down that way.
3081
3082 Q: Okay.
3083
3084 A: So - but I was like raised up and the car's like kind of low, so...
3085
3086 Q: Mm-hm.
3087
3088 A: ...I can't remember exactly where my gun was pointed at...
3089
3090 Q: Mm-hm.
3091
3092 A: ...the time, but...
3093
3094 Q: Mm-hm.
3095
3096 A: ...in that vicinity. I was definitely trying to shoot him...
3097
3098 Q: Okay.
3099
3100 A: ...'cause I perceived him to be the threat and didn't want to hit, you know, the
3101 other suspects in the vehicle, but I was more just more trying to focus on
3102 stopping him 'cause I know he's the one that's behind the wheel.
3103
3104 Q: Okay. And what was your backdrop?
3105

3106 A: Was the cement - like a cement wall. Like a retaining wall made of cement.
3107
3108 Q: Okay. And then what about the front passenger? Did you see her?
3109
3110 A: I was focused on the driver. I didn't...
3111
3112 Q: Okay.
3113
3114 A: ...see her, no.
3115
3116 Q: Okay. And then was the car on the median when you - or off the median?
3117
3118 A: I think it was off.
3119
3120 Q: Now...
3121
3122 A: Maybe the front - like the front tire may have been off the median.
3123
3124 Q: Mm-hm.
3125
3126 A: I can't recall exactly.
3127
3128 Q: Okay. Did you see the suspect with a weapon?
3129
3130 A: No, I didn't.
3131
3132 Q: Did...
3133
3134 A: His right hand wa- I never saw what that was doin', but, no, I did not see a
3135 weapon.
3136
3137 Q: Okay. So at no point you - could you see his right hand while you were...
3138 while this event was happening?
3139
3140 A: No.
3141
3142 Q: While he was back in the car?
3143
3144 A: Not - no.
3145
3146 Q: Okay. So it's fair to say that when he was in the car you could see his left
3147 hand moving...
3148
3149 A: Yeah...
3150

3151 Q: ...but you did not see his right hand...
3152
3153 A:I could not see his right hand, no.
3154
3155 Q: Okay. Did it look like he was reaching for anything?
3156
3157 A: Yeah. 'Cause I saw his like shoulder is kind of goin' - like leanin' like toward
3158 like the radio or the dash part.
3159
3160 Q: Mm-hm.
3161
3162 A: ...on one occasion. I can't exactly say when, but I did see the should- I didn't
3163 see his right arm or hand...
3164
3165 Q: Mm-hm.
3166
3167 A: ...moving...
3168
3169 Q: Mm-hm.
3170
3171 A: ...but I did see his body gesturing like he was moving toward that area of the
3172 car.
3173
3174 Q: Okay. And you say you were injured at some point?
3175
3176 A: Yes.
3177
3178 Q: When in this situation does that happen?
3179
3180 A: So I don't recall at what point when he fled.
3181
3182 Q: Okay.
3183
3184 A: I just know when Lieutenant Hong got on-scene...
3185
3186 Q: Okay.
3187
3188 A: ...and I'm standing there talkin' to him and my foot - my right foot just starts
3189 throbbing, and I look down and I see like a scuffmark on my right - like the
3190 right portion of my boot like near the toes...
3191
3192 Q: Okay.
3193
3194 A: ...and my foot was just like throbbing and...
3195

3196 Q: Okay.
3197
3198 A: ...so...
3199
3200 Q: And then you said you thought your foot got run over?
3201
3202 A: Yeah.
3203
3204 Q: Okay.
3205
3206 A: That's what I told Lieutenant Hong.
3207
3208 Q: Okay. Do you think that's what happened now?
3209
3210 A: Yes. Yeah.
3211
3212 Q: Okay. So do you know at what point that happens is what I'm trying to narrow
3213 down.
3214
3215 A: I can't - I don't know if like - the point I don't know - recall if it's the - I think
3216 it's the rear of the vehicle because I believe the front, the tire had already
3217 passed me. The front tire on the driver's side had already passed my - like, my
3218 - the way I'm standing. So I believe it would have been the rear of the vehicle.
3219
3220 Q: So it would have been the driver's side rear...
3221
3222 A: Yeah, the...
3223
3224 Q: ...tire?
3225
3226 A: ...driver's side rear tire.
3227
3228 Q: And do you know this or do - are you...
3229
3230 A: No, I don't remember...
3231
3232 Q: Okay.
3233
3234 A: ...feeling it or - I just know the vehicle is very close to me and my adrenaline
3235 was running and I don't know exactly when it happened.
3236
3237 Q: So were you not near the front tire?
3238
3239 A: I was - initially the - the way the - when the vehicle is first parked and started
3240 angling backwards...

3241
3242 Q: Mm-hm.
3243
3244 A: ...I'm - I'm near it, per se...
3245
3246 Q: Okay.
3247
3248 A: ...se, but I just don't exactly when that transpired.
3249
3250 Q: But when that - when that happened, you were on the median and the car
3251 would - had backed up and was not yet coming up on the...
3252
3253 A: No.
3254
3255 Q: ...median? Because the coming up on the median came with it - then after it
3256 rolled back, that...
3257
3258 A: Mm-hm.
3259
3260 Q: ...that time, it then went forward?
3261
3262 A: Yes.
3263
3264 Q: Okay.
3265
3266 A: Yeah, up on the median.
3267
3268 Q: All right. So just so I'm clear, you don't know for sure when that happened?
3269
3270 A: Right.
3271
3272 Q: But, uh, you think that it - like the - whatever tire it would be the...
3273
3274 A: The right.
3275
3276 Q: ...right...
3277
3278 A: ...rear...
3279
3280 Q: ...rear.
3281
3282 Q1: Dri- Driver.
3283
3284 Q: No. No.
3285

3286 A: The driver.
3287
3288 Q: The left rear, which is the driver's side...
3289
3290 A: The first side, yeah.
3291
3292 Q: ...because you don't believe that you were in the position where that would
3293 have happened in the front?
3294
3295 A: No, I don't think- I was pretty close, though. Shit, I don't know.
3296
3297 Q: Would it be fair to say that it could have been either tire?
3298
3299 A: Either tire, yes.
3300
3301 Q: Would it - is it possible that it was neither tire?
3302
3303 A: Ah, my foot wasn't hurtin' before then but...
3304
3305 Q: Okay.
3306
3307 A: ...yeah, maybe.
3308
3309 Q: Okay. But as far as you know, nothing else happened to you?
3310
3311 A: No.
3312
3313 Q: Okay.
3314
3315 A: No.
3316
3317 Q1: So you didn't feel it at all?
3318
3319 A: I didn't - no. Not initially, no.
3320
3321 Q: Okay. Did the suspect make any threats, tell you to get out of the way...
3322
3323 A: No.
3324
3325 Q: ...anything like that?
3326
3327 A: He was just makin' it seem like he didn't know what was goin' on per se, like
3328 he didn't hear me and was doin' his own thing.
3329
3330 Q: Okay...meaning he didn't hear you like what?

3331

3332 A: Like all the commands I was saying, he was not responding, didn't - wasn't -
3333 it just seemed like he was tryin' to get out - get out of there, like trying to flee
3334 or get away.

3335

3336 Q: Okay. So your take on what was happening was like he was trying to get
3337 away?

3338

3339 A: Yeah.

3340

3341 Q: Okay. And why do you think he was trying to get away?

3342

3343 A: Because he had committed some type of crime. I thought he - like I thought he
3344 had robbed or committed some kind of a robbery, whether it was strongarm or
3345 whether there was a weapon involved. It...

3346

3347 Q: Okay.

3348

3349 A: Because of just his whole demeanor the whole time was just adamant on -
3350 adamantly not goin' along with, like, the investigation of lettin' me kind of,
3351 like, investigate what's goin' on, just not listening to anything I was saying or
3352 commanding him to do.

3353

3354 Q: Okay. Okay. All right. If you saw the suspect again, do you think you could -
3355 or this driver again, do you think you could ID him?

3356

3357 A: Yes.

3358

3359 Q: You do?

3360

3361 A: Yes.

3362

3363 Q: Okay. At one point you said he had a mask on?

3364

3365 A: Yes, so he had a - when I first got on-scene, I saw he had a mask that was like
3366 partially covering his mouth, more or less.

3367

3368 Q: Okay.

3369

3370 A: So maybe the bottom lip portion, not even...

3371

3372 Q: All right.

3373

3374 A: ...the full mouth, so...

3375

3376 Q: So you saw, like, a majority of his face?
3377
3378 A: Yeah.
3379
3380 Q: Okay. What about the front passenger?
3381
3382 A: The front passenger did not have a mask on at all.
3383
3384 Q: Okay.
3385
3386 A: I believe I could - if I saw her again, I could recognize her.
3387
3388 Q: And that's the one with the big eyes?
3389
3390 A: Yes.
3391
3392 Q: And then, the rear passenger?
3393
3394 A: I don't think I could identify her...
3395
3396 Q: Okay.
3397
3398 A: ...if I saw her.
3399
3400 Q: What about the vehicle?
3401
3402 A: If I saw the vehicle again, I could identify it, yes.
3403
3404 Q: Okay. All right. Have you had contact with that male before?
3405
3406 A: I - no, I have never seen him before or...
3407
3408 Q: Okay.
3409
3410 A: ...or seen that vehicle before.
3411
3412 Q: Okay. All right.
3413
3414 Q1: In your estimate, how many times did you give commands for him to stop?
3415
3416 A: Oh, when - I talk fast. Stop, stop. At - well over maybe like 40 or 50.
3417
3418 Q1: What...
3419
3420 A: ...yeah.

3421
3422 Q1: But, yeah. And so you repeatedly go over...
3423
3424 A: Yeah, just repeatedly. I felt like I never stopped saying it.
3425
3426 Q: Do - does that mean that you felt you were saying the same thing...
3427
3428 A: Yeah.
3429
3430 Q: ...over and over?
3431
3432 A: Yeah.
3433
3434 Q: And what was that?
3435
3436 A: "Stop. Stop. Stop". And then once the car started, I said, "Turn it off. Turn it
3437 off. Turn it off". And I just kept saying, "Turn off the car. Turn off the car.
3438 Turn off the car". Just kept saying, like, the same...
3439
3440 Q1: Yeah.
3441
3442 A: ...versions of both things like the entire time 'cause he was not complying.
3443
3444 Q: Do you have any idea how that car was started?
3445
3446 A: I don't know if it was the passenger or the key- I'm assuming the key that he
3447 got was the key to the car to start it and...
3448
3449 Q: He...
3450
3451 A: ...he put some other keys on top. That's when I - that's what I first thought
3452 when I initially saw him put - when I heard the car start. 'Cause when I
3453 thought - when he put the keys on top, I was, like, okay. He's - now he's
3454 listening to me, I think. Then a couple moments later the car starts.
3455
3456 Q: So you're assuming the key that he got, you mean the key that he got from the
3457 trunk...
3458
3459 A: Mm-hm.
3460
3461 Q: ...was the key to the car?
3462
3463 A: Yeah.
3464
3465 Q: And you think that's the same key that he put on top of the car?

3466
3467 A: No, I don't think it was the same key.
3468
3469 Q: Oh...
3470
3471 A: I thou- initially I thought it was, but once the car started, I was, oh, no, it's
3472 not.
3473
3474 Q: Right.
3475
3476 A: I thought it was...
3477
3478 Q: Right.
3479
3480 A: ...initially, yes.
3481
3482 Q: Okay.
3483
3484 Q1: You didn't see like the ignition, did you? You couldn't see if it was a push
3485 start?
3486
3487 A: No, and that was an older model Fusion.
3488
3489 Q1: Yeah.
3490
3491 A: I don't think it was a push start.
3492
3493 Q1: Okay.
3494
3495 Q: Well let me go - let me go over my list here. So I know you didn't end up
3496 getting to investigate what was going on at CVS.
3497
3498 A: Right.
3499
3500 Q: So that situation aside, whatever preceded - like, let's just set aside whatever
3501 preceded you coming into that parking lot.
3502
3503 A: Mm-hm.
3504
3505 Q: Based on everything that you observed, is this - in your mind, does probable
3506 cause exist for that driver for anything?
3507
3508 A: For the driver?
3509
3510 Q: Mm-hm.

3511
3512 A: Probable cause to arrest or...
3513
3514 Q: Yes. Like based on - setting aside everything that happened before because
3515 you don't know and you did not have a - a chance to complete an
3516 investigation then...
3517
3518 A: Mm-hm.
3519
3520 Q: ...right? So,uh - but in terms of what...
3521
3522 A: What I s- what I thought transpired?
3523
3524 Q: Yeah...
3525
3526 A: I believe...
3527
3528 Q: ...with...
3529
3530 A: ...there was...
3531
3532 Q: ...you.
3533
3534 A: ...PC to ...I didn't see the driver per se though. I saw the female, and I believe
3535 she was, like, involved in the robbery for sure.
3536
3537 Q: Okay. So I want to like...I don't care about that part.
3538
3539 A: Right.
3540
3541 Q: I'm just gonna say that so it's super clear.
3542
3543 A: Okay.
3544
3545 Q: I do care about it, we're investigating it 'cause clearly that's...
3546
3547 A: Right.
3548
3549 Q: ...part of the story.
3550
3551 A: Mm-hm.
3552
3553 Q: And I...but in terms of what happened with him...but if you were to - oh,
3554 what's another way of saying this. This is me, not you. Like in terms of what
3555 he did once he was...

3556
3557 Q: ...once you...
3558
3559 A: Once I contacted him?
3560
3561
3562 Q: ...started contacting...
3563
3564 A:mm-hm.
3565
3566 Q: ...him, is he violating any laws, and if so what are they in your mind because
3567 you're the person that's observing, right?
3568
3569 A: Right.
3570
3571 Q: I'm not there, so...
3572
3573 A: PC 148, for sure...
3574
3575 Q: Okay.
3576
3577 A: ... and possibly like conspiracy.
3578
3579 Q: Okay.
3580
3581 A: 'Cause like, you know, he's gonna commit a crime...
3582
3583 Q: Okay.
3584
3585 A: ...pending further investigation as far as, like, what transpired in the store or
3586 what happened, but...
3587
3588 Q: So you're...
3589
3590 A: ...yeah.
3591
3592 Q: ...s- so you're referencing back again what happened in the store?
3593
3594 A: So I'm thinking about PC 148 at the very...
3595
3596 Q: Okay.
3597
3598 A: ...least, yeah.
3599
3600 Q: And – and PC 148 is what?

3601
3602 A: A misdemeanor, like obstruction of justice, like or, you know, resisting arrest.
3603
3604 Q: Okay. So, what would be - so you would say that he committed 148 against
3605 you because he was resisting or obstructing...
3606
3607 A: Right.
3608
3609 Q: ...you?
3610
3611 A: Yeah, my ability to - to, like, investigate and arrest him for - or detain him
3612 more or less of - so I can investigate what's goin' on. Yeah. He wasn't
3613 listening to anything I was telling him.
3614
3615 Q: Okay. Is there any other crime that you think he committed, either
3616 contemporary with that 148 or after that?
3617
3618 A: Yeah, the robbery or theft.
3619
3620 Q: Of the store?
3621
3622 A: Yes.
3623
3624 Q: Okay. Anything after like when you start trying to detain him, the 148 and
3625 everything that happens after that?
3626
3627 A: No.
3628
3629 Q: Did you see any witnesses to what - to what happened?
3630
3631 A: Beside the loss prevention, there was some other people gathered in the
3632 parking lot, but I don't know - yeah, I think there were, but I didn't make
3633 contact with them. I didn't exactly see where they went.
3634
3635 Q: So the loss prevention, that's the bald guy or the guy with the low fade?
3636
3637 A: Yeah.
3638
3639 Q: Okay. That you saw the day before?
3640
3641 A: Yeah.
3642
3643 Q: Okay.
3644
3645 A: And then after the suspect vehicle fled, I saw the second loss prevention. It

3646 was just like a longer, curly hair. I believe he had on a red shirt. But he was
3647 walking back in to the business.
3648
3649 Q: Tell me what he was wearing?
3650
3651 A: He was wearing - I believe it was a red shirt.
3652
3653 Q: A red shirt?
3654
3655 A: Yeah. I don't...
3656
3657 Q: And longer curly hair?
3658
3659 A: Yeah, long curly hair.
3660
3661 Q: And do you think he was an employee or he walked back into the business, he
3662 was...
3663
3664 A: I believe he was an employee because I recognized him after the fact. Like,
3665 oh, you were out here the whole time like while I'm trying to, you know,
3666 investigate this, and I saw him walking back toward - like walking into the
3667 CVS. And he was - the day prior for the - the theft that I, you know, was
3668 standing by for, he was also with the other bald loss prevention clerk. So I
3669 don't if he was loss prevention or if he was just like a cashier, but he was also
3670 employed at CVS. I know that.
3671
3672 Q: Okay. All right. Okay. Do you remember at what point -- let's go back-- you
3673 activated your body camera?
3674
3675 A: I think I activated when I got on - when I got out the car and I was talking to
3676 him. I think I activated it at that point.
3677
3678 Q: Do you...
3679
3680 A: Or...
3681
3682 Q: ...how do you normally...for that incident, do you know what the state of your
3683 body camera was?
3684
3685 A: Like if it was in standby or...
3686
3687 Q: Yeah.
3688
3689 A: I think it's on standby.
3690

3691 Q: Is that how you...
 3692
 3693 A: Yeah.
 3694
 3695 Q: ...normally...
 3696
 3697 A: Yeah.
 3698
 3699 Q: Okay. So you would normally be out on the street with it on...
 3700
 3701 A: Like sitting in the car? Yeah...
 3702
 3703 Q: ...standby? So then when you are responding or getting out of a car or doing
 3704 whatever, then you would activate it by pushing it?
 3705
 3706 A: Yeah, the double tap.
 3707
 3708 Q: Because it would already be on standby?
 3709
 3710 A: Like recording prior how - what the - whatever...
 3711
 3712 Q: Oh.
 3713
 3714 A: ...the timeframe is beforehand.
 3715
 3716 Q: Okay. So, you think it was on standby and then you double tapped it or turned
 3717 it on when you were getting out of the car?
 3718
 3719 A: Yeah.
 3720
 3721 Q: Okay. What do you think would have happened had not fired at that car?
 3722
 3723 A: It would have just fled and then - I don't know. I - I thought there were some -
 3724 some people that were still in the parking lot that may have gotten ran over or
 3725 something while they - they flew through the lot. But...
 3726
 3727 Q: Mm-hm.
 3728
 3729 A: ...otherwise I don't - I don't think anything else would have happened.
 3730
 3731 Q: Tell me what you mean exactly when you say "they flew through the lot"?
 3732
 3733 A: So they - they fled. Like they drove at a very high rate of speed out of the
 3734 parking lot to flee, and then I saw them, like, go up on the curb and, like, rock
 3735 and then hit when - go eastbound Rose out of the - the parking lot.

3736
3737 Q: So there was another part that they drove up on?
3738
3739 A: That it appears because I saw the car rock...
3740
3741 Q: Okay.
3742
3743 A: ...as it fled like out of the - out of the parking lot.
3744
3745 Q: Okay. And that was eastbound...
3746
3747 A: Yes.
3748
3749 Q: ...on Rose?
3750
3751 A: Mm-hm.
3752
3753 Q: Okay. Do you remember if you gave warning that you would shoot or...
3754
3755 A: No, I recall I did not.
3756
3757 Q: Okay. And why is that?
3758
3759 A: Just a lot goin' on. I didn't - I - I don't know. I just didn't.
3760
3761 Q: Okay. And then let's see here. What do you think you hit?
3762
3763 A: I thought I hit the - if not the driver, I at least the - like the driver's side door
3764 'cause I thought like I heard clank, clank. Like I heard - hit something, but I
3765 thought I hit the driver and then at least the door 'cause I heard so- what
3766 sounded like metal after I fired, so...
3767
3768 Q: Okay.
3769
3770 A: ...I thought.
3771
3772 Q: And that would be the driver's side about - do you know where on the driver's
3773 side door? If you don't...
3774
3775 A: Hm.
3776
3777 Q: ...know, then you don't know.
3778
3779 A: Not exactly...
3780

3781 Q: Okay.
3782
3783 A: ...no.
3784
3785 Q: I was just asking. All right.
3786
3787 A: A lot closer to, like definitely like near the door, like the window frame of and
3788 how it meets the - the door frame.
3789
3790 Q: Okay.
3791
3792 A: Right out in that- that area.
3793
3794 Q: Okay. But did you see any bullet holes there?
3795
3796 A: No.
3797
3798 Q: Okay. Do you know if you hit the car at all?
3799
3800 A: No.
3801
3802 Q: Okay. Did - what was the - did your firearm perform appropriately?
3803
3804 A: Yes.
3805
3806 Q: Okay. So you didn't...
3807
3808 A: It didn't...
3809
3810 Q: ...have a...
3811
3812 A: ...jam...
3813
3814 Q: ...misfire?
3815
3816 A: ...or anything, no.
3817
3818 Q: Okay. ll right. And what did you do with your gun afterwards?
3819
3820 A: Uh, I did hold it at a low ready for a couple seconds, and then I realized I had
3821 my gun in my hand, like I just fired, and I reholstered it.
3822
3823 Q: Okay. And did you, like, locate any casings or do anything...
3824
3825 A: No. I literally just stood where I was at until, like, Lieutenant Hong and them

3826 got on scene.
3827
3828 Q: Okay.
3829
3830 A: Yeah. Didn't go in the car, just kind of stood in the same vicinity to where I
3831 shot at, just stood there.
3832
3833 Q: Did - do you remember if anyone said anything to you?
3834
3835 A: Like anybody else, like remained on scene?
3836
3837 Q: Yeah.
3838
3839 A: No.
3840
3841 Q: Or if you talked to anybody else?
3842
3843 A: No, I didn't.
3844
3845 Q: All right. And then who- so Lieutenant Hong was the first person you...
3846
3847 A: Yes.
3848
3849 Q: ...recall contacting you?
3850
3851 A: Yeah.
3852
3853 Q: And then what did he say when he contacted you?
3854
3855 A: He asked - he requested me to give a officer - oh, what is it called?
3856
3857 Q: Do you remember exactly...
3858
3859 A: A statement.
3860
3861 Q: ...what he said to you? Or...
3862
3863 A: No, I don't.
3864
3865 Q: How - do you remember what he said to you?
3866
3867 A: He requested - He's, like, "I'm - I'm requesting to give me an officer's state-"
3868 no it's not an officer's statement. He said something statement. I can't recall
3869 the exact wording of...
3870

3871 Q: Okay.
3872
3873 A: ...it. Because I didn't - I didn't know what the hell he was asking of me...
3874
3875 Q: Oh, what...
3876
3877 A: ...in all honesty.
3878
3879 Q: You didn't - you didn't...
3880
3881 A: No, and I was - I was like, "What"? And he was, like, "Explain to me w- kind
3882 of what happened". And I was...
3883
3884 Q: Okay.
3885
3886 A: ...like, "Oh, okay".
3887
3888 Q: All right. And what did you...
3889
3890 Q2: I'm going to actually tell her not to answer that question...
3891
3892 Q: Okay.
3893
3894 Q2: ... because it was a compelled statement.
3895
3896 Q: Okay. Oh, okay. And do you know if your body camera was on for that part of
3897 what you're talking about?
3898
3899 A: Yes.
3900
3901 Q: All right. And at what point did you turn your body camera off?
3902
3903 A: Uh, when Sergeant Cots...Sergeant Cots? When Sergeant Coats got on
3904 scene...
3905
3906 Q: Okay.
3907
3908 A: ...and her and Lieutenant Hong were talking, and then I asked her - I was, like,
3909 "Is it okay to turn it off now"? And we - while we're walkin' to her vehicle to
3910 remove me from the scene and she said yes, and that's when I turned it off.
3911
3912 Q: Okay. So....
3913
3914 A: How - I don't know how much time had elapsed at that time.
3915

3916 Q: Okay. So when Lieutenant Hong contacted you initially at the scene, your
3917 body camera was...
3918
3919 A: Was on...
3920
3921 Q: ...on?
3922
3923 A: ...yeah.
3924
3925 Q: And that conversation you had or whatever happened between you and
3926 Lieutenant Hong...
3927
3928 A: Is on.
3929
3930 Q: ...that was on your body camera?
3931
3932 A: Yes.
3933
3934 Q: And then after - after that you then turned your body camera off?
3935
3936 A: Yeah, mm-hm.
3937
3938 Q: And then how did you get to the station?
3939
3940 A: Sergeant Coats escorted me in her, in the sergeant vehicle.
3941
3942 Q: Okay. And then where did you go when you were...
3943
3944 A: Brought here? I came directly...
3945
3946 Q: To this...
3947
3948 A: ...here.
3949
3950 Q: ...room?
3951
3952 A: Yes.
3953
3954 Q: Okay. And then who took your weapon and equipment?
3955
3956 A: Sergeant Coats.
3957
3958 Q: Okay. And that was in this room?
3959
3960 A: Yes.

3961
3962 Q: Okay.
3963
3964 A: Once I got in here, I never left.
3965
3966 Q: Okay.
3967
3968 A: She escorted me up here. We came in here and we - I never left.
3969
3970 Q: All right.
3971
3972 Q1: Did - did you go to the hospital from here?
3973
3974 A: Yes.
3975
3976 Q1: Okay.
3977
3978 A: Yeah.
3979
3980 Q: Do you have anything?
3981
3982 Q1: Yeah. Did... from the best of your ability- of your recollection, how far were
3983 you from the vehicle when you discharged your first firearm - the first...shot?
3984
3985 A: Within a foot.
3986
3987 Q1: A foot?
3988
3989 A: Maybe closer.
3990
3991 Q1: Were you, uh, like the A, B, or C pillar? Do you remember?
3992
3993 A: Oh...
3994
3995 Q: Man, what are - what's the A, B, and C...
3996
3997 A: The side...
3998
3999 Q: ...Pillar?
4000
4001 A: ...view, like the side view mirror area or...
4002
4003 Q1: So like...
4004
4005 A: No. The A Frame, is that driver's side?

4006
4007 Q: I don't even know what the...
4008
4009 Q1: The A...
4010
4011 Q: I know what the A pillar is, but I - I can't tell you what the B pillar is.
4012
4013 Q1: The A - the A is like where the side mirror is at. The B is like the middle...
4014
4015 A: A.
4016
4017 Q1: In the...
4018
4019 A: Yeah, A.
4020
4021 Q1: ..., uh, middle one.
4022
4023 Q: Oh. So the A is the front...
4024
4025 Q1: Front.
4026
4027 Q: ...like front driver's side?
4028
4029 Q1: The B divides the driver and rear.
4030
4031 Q: Okay.
4032
4033 Q1: And the C is like the back part against the trunk.
4034
4035 Q: Okay.
4036
4037 A: Yeah, 'cause that's what you're supposed to use for cover when you're, like -
4038 we just had that training.
4039
4040 Q1: Yeah.
4041
4042 A: But, yeah...
4043
4044 Q1: And that's...
4045
4046 A: ...so A - A frame.
4047
4048 Q1: So the A frame?
4049
4050 A: Yeah. Near that, yeah.

4051
4052 Q1: And that's all I have- and you were like pointing like toward the driver?
4053
4054 A: Yes. So the vehicle, like I said, was kind of low, so I'm pointing it, like, this
4055 direction, like at, you know - it's like angle...
4056
4057 Q: Describe what you just did.
4058
4059 A: So - so I have my - my - my service weapon in my hand and I'm pointing it at
4060 an angle like downward...
4061
4062 Q: Mm-hm.
4063
4064 A: ...into the driver's s- like the driver...
4065
4066 Q1: To...
4067
4068 A: ...side of the vehicle.
4069
4070 Q1: ...Towards the driver's seat?
4071
4072 A: Yeah.
4073
4074 Q: Mm-hm.
4075
4076 Q1: Okay. So you're at the A Pillar, you're pointing at the driver's seat as the
4077 vehicle is coming towards...
4078
4079 A: Yeah, like...
4080
4081 Q1: ...over the curb?
4082
4083 A: Yes.
4084
4085 Q1: Okay.
4086
4087 Q: Is this the first time that you've been in a shooting?
4088
4089 A: Yes.
4090
4091 Q: I have your body camera footage. I want to offer it to you guys to watch. I
4092 don't know if this a good time to do that if that makes sense or if you...
4093
4094 Q2: I actually have a few questions, I have a few questions.
4095

4096
4097 Q: Okay.
4098
4099 Q2: That I wanted to ask to try to...
4100
4101 Q: All right.
4102
4103 Q2: ...clarify things.
4104
4105 Q: Okay.
4106
4107 Q2: So the - is it Ford Fusion?
4108
4109 A: Yes, dark-colored Ford Fusion, older model.
4110
4111 Q2: Oh, we've seen some photographs 1 through 4, 5. Obviously the car isn't
4112 there.
4113
4114 A: Mm-hm.
4115
4116 Q2: That was a handicapped spot?
4117
4118 A: Correct.
4119
4120 Q2: Did you have any indication that this - anybody in the car suffered from a
4121 disability?
4122
4123 A: No, not the - not the - the male suspect or the front female passenger. I don't
4124 know that the third one 'cause she never - I don't recall seeing her get in the
4125 vehicle or get out.
4126
4127 Q2: Was there a placard in the car?
4128
4129 A: Not that I can recall, no.
4130
4131 Q2: Okay. Why would someone park in that particular space?
4132
4133 A: If they're not handicapped?
4134
4135 Q2: Yeah.
4136
4137 A: Probably to evade some kind of capture if they're committing a crime to get
4138 away quickly.
4139
4140 Q2: Okay. Is that...

4141
4142 A: It's closer to the storefront to get in and out quickly.
4143
4144 Q2: Is that spot relatively closer than to the store entrance than some other spots?
4145
4146 A: Yeah. Most - mostly all handicap spots are generally closer to the store so
4147 they can get in and out faster and quicker and not have to travel a long
4148 distance.
4149
4150 Q2: Okay. Now focusing on the driver, the larger male, I want to go through his
4151 actions and what - what if any crimes there may have been probable cause to
4152 arrest him for. So what do you believe was - what did you observe either from
4153 when you were parked, when you were driving up, or when you finally
4154 arrived? What did you specifically see him do?
4155
4156 A: I saw him - so from across the street I didn't see him specifically. I just saw
4157 like a group and then I saw - I heard a female yelling and then I saw a female
4158 running back and forth from the passenger side of a vehicle that was parked in
4159 what I now know was the handicap spot. And when I got on-scene, I saw him
4160 on the driver side reaching in and out of the car and looking at me with, like,
4161 you know, this perplexed look and like his eyes were really big, like, okay,
4162 like goin' in and out of the car. So that's all I saw him do.
4163
4164 Q2: Was there any question in your mind that he was with the other two people?
4165
4166 A: I didn't - no, I knew - it just appeared that he was definitely with them 'cause
4167 they were all associated with the same vehicle that was parked in the
4168 handicapped spot.
4169
4170 Q2: Okay. Why did you think it was robbery of a - you know, instead of a...
4171
4172 A: When...
4173
4174 Q2: ...petty theft?
4175
4176 A: Well I thou- well I heard the female yelling and I saw a group of people going
4177 and I saw the female goin' back and forth. I don't know if she was struggling
4178 with someone. I just - I heard her screaming and I saw her goin' back and
4179 forth like pulling something, and then the next thing, you know, I see the -
4180 what appeared to be merchandise fallin', but I didn't know who she was
4181 struggling with. I just know she was like on the passenger side. And I was
4182 pretty far away, and then I saw - as I'm driving closer, I see the loss
4183 prevention clerk, and then I see the black male standing on the...
4184
4185 Q2: So what did...

4186
4187 A: ...driver's side...
4188
4189 Q2: ...you...taking that information that you just described, how did you put it
4190 together?
4191
4192 A: That like as far as crime-wise?
4193
4194 Q2: Yes.
4195
4196 A: Like a robbery had occurred.
4197
4198 Q2: Okay. What - what's - what's the difference between a petty theft and a
4199 robbery?
4200
4201 A: Force or fear being used, and I thought that she was struggling with someone.
4202 Somebody was maybe taking something from her or she was struggling with
4203 someone to get something back...
4204
4205 Q2: Okay.
4206
4207 A: ...and...
4208
4209 Q2: So was he - the driver of a car that was fleeing a robbery?
4210
4211 A: Yes.
4212
4213 Q2: Okay. And what kind of crime is a robbery?
4214
4215 A: A felony.
4216
4217 Q2: Going to the end of the incident, was it your perception that he was trying to
4218 hit you with the car?
4219
4220 A: Yes.
4221
4222 Q2: Okay. Is that crime?
4223
4224 A: Yes.
4225
4226 Q2: What kind of crime?
4227
4228 A: A felony like - well I don't want to call it hit and run 'cause I'm not a vehicle,
4229 but...assault, like a battery on a police officer, like assault with a deadly
4230 vehicle, weapon.

4231
4232 Q2: Okay. And why exactly did you fire your, your service weapon?
4233
4234 A: Because I thought like he was in the position to run me over and he was not
4235 complying. His vehicle was, like, rest next to me, like p- like angled at me
4236 from where I was standing.
4237
4238 Q2: Okay. And so what - what did you - what were you trying to accomplish by
4239 shooting your weapon?
4240
4241 A: Stop the threat of him running me over.
4242
4243 Q2: How?
4244
4245 A: By shooting at him and the vehicle that he was in.
4246
4247 Q2: Okay. Well would that do?
4248
4249 A: Stop the threat.
4250
4251 Q2: Okay. But would - I mean, by stopping the car or by getting him to change
4252 directions? What? How?
4253
4254 A: I'm sorry. Say that again?
4255
4256 Q2: Sure. By - were you trying to stop him, stop the car? How were you - how'd
4257 you think that was gonna accomplish it?
4258
4259 A: If I had - I felt like if I had shot the driver that the vehicle would stop, like that
4260 he wouldn't be able to like maybe fully run me over or whatnot. I just thought
4261 that I would eliminate him running me over.
4262
4263 Q2: Okay. I want to talk about the driver's actions. And I - you made a lot of
4264 gestures and trying to replicate what he was doing. At some points he raised
4265 his hands?
4266
4267 A: Yeah. He did at some point when I first, like got on-scene and I was telling
4268 him to stop motioning as he was going in and out the vehicle. And he like
4269 raised his arm when I challenged, when I - when I pointed my service weapon
4270 at him. And I had pointed it at him and he raised, like his hands, both hands.
4271 Like, not fully up, but, like, at least to the shoulder, I believe.
4272
4273 Q2: Did he - and I know Sergeant Wilson asked you this question. Did he ever at
4274 any point fully comply with what you were telling him to do?
4275

4276 A: No.
4277
4278 Q2: Did it seem like he was pretending or feigning to comply?
4279
4280 A: Yes.
4281
4282 Q1: Explain that. What was he doing? What effect did that...
4283
4284 A: It was...
4285
4286 Q2: ...have on your thinking about the situation?
4287
4288 A: So when I would command him to do something like stop, he would stop s-
4289 for a little bit and then continue his movements and just move his arms or go
4290 reach back into the car or things like that, and then when I - he was in the
4291 vehicle telling him to turn the vehicle off, he was - one hand was up. The
4292 other one was in some other area I didn't see, and he was stating to me that the
4293 vehicle - "Something is wrong with my vehicle" and he wasn't - wasn't
4294 making any attempt to stop the vehicle. Like, he's making it seem like, oh,
4295 he's hiding. Like, um, "There's something wrong. I can't control it".
4296
4297 Q2: How'd you interpret that?
4298
4299 A: That he was, you know, trying to make it seem - like trying to play me,
4300 basically. Like in a sense of, like trying to show I'm kind of complying. Like I
4301 am complying with what you're telling me, but I just can't control it.
4302
4303 Q2: Okay. And did that cause that to be concerned or...
4304
4305 A, Yes, it did.
4306
4307 Q2: Had you ever encountered that before or heard about that?
4308
4309 A: From - yeah, from prior training and training videos and stuff, like people to
4310 play like, you know, they're complying or like they're like have their hands
4311 up partially but one hand is, like, motioning to something like a weapon or
4312 they're getting' ready to run.
4313
4314 Q2: As far as ordering the driver to get back in the car, is that - would that kind of
4315 tactic be similar to a regular car stop?
4316
4317 A: Yes.
4318
4319 Q2: How?
4320

4321 A: Because when you - everybody - when you make a car stop, everybody within
4322 the vehicle is detained at that point in time. And I treated it like a traffic stop
4323 because there was a car associated and there was two people already inside
4324 that were in the car, and he was the only, like, in - like getting in and out and
4325 not complying with anything I was telling him, and I just wanted everybody to
4326 be contained in that car to properly investigate everything that was happening.
4327
4328 Q2: Well just tell me - let me ask it in other words. So if you did a regular traffic,
4329 assuming, that the Berkeley P.D. will continue doing those...
4330
4331 Q: A big if.
4332
4333 Q2: If you pull a car over and the driver jumped out and started walking back to
4334 them, what are you trained to do in response?
4335
4336 A: To command them to get back in the car or in - if - if need be, like, depending
4337 on, I would probably, like, have my hand, like, ready, in case they have a
4338 weapon or something. It - it depends on the situation. But definitely command
4339 to get back in the car. Like, "Hey. Stop. Get back in the car". Like, "And I'll
4340 contact you at the driver's side window."
4341
4342 Q2: Okay. Do you what - what the tactical thinking behind that is?
4343
4344 A: Officer safety. Just you don't know what they have. They don't - you haven't
4345 searched them. You don't know if they have weapons. So you're just...
4346
4347 Q2: Okay.
4348
4349 A: ...keep everything contained within the vehicle.
4350
4351 Q2: I don't have any other questions.
4352
4353 Q: I just want to go back and clarify what you mean by something...
4354
4355 Q2: Sure.
4356
4357 Q: ...that I didn't want to interrupt. You said...you were talking about him in the
4358 car and you... he was acting or saying something like he couldn't control it.
4359 You were saying "couldn't control it". I want to know what you mean by
4360 what...
4361
4362 A: So he's like...
4363
4364 Q: ...what he...
4365

4366 A: He just kept saying, "My car doesn't work" is what he specifically said. I -
 4367 "My car don't work. My car don't work".
 4368
 4369 Q: Okay.
 4370
 4371 A: And then I wasn't paying to anything - any attention to what he was saying. I
 4372 was just telling him to "Stop the car. Stop the car".
 4373
 4374 Q: Uh-huh.
 4375
 4376 A: And then at the point, he said, "You do it. You do it". And that's why - I
 4377 believe he was talking to the front passenger.
 4378
 4379 Q: Okay. And so when you say that he was like acting like there was something
 4380 wrong and he can't control it, you're talking about the car?
 4381
 4382 A: Correct.
 4383
 4384 Q: That you understand that he's trying to talk about the car?
 4385
 4386 A: Yes.
 4387
 4388 Q: Okay.
 4389
 4390 A: But he's referencing yeah, the vehicle.
 4391
 4392 Q: All right. And then I don't think I asked this earlier, but why didn't you drive
 4393 after him or pursue him in the car?
 4394
 4395 A: So initially I - I didn't drive after him because I didn't know if I had struck the
 4396 vehicle or not and I - I saw like - I thought cover was, like, coming, so I
 4397 assumed that they could kind of go and search and...
 4398
 4399 Q: Mm-hm.
 4400
 4401 A: ...I still needed to find out what had happened prior to me getting there.
 4402
 4403 Q: Okay.
 4404
 4405 A: And honestly, to be honest, I was, like, in shock.
 4406
 4407 Q: Mm-hm.
 4408
 4409 A: That's in other words, like, really the real reason I didn't stop...
 4410

4411 Q: You were shocked about what?
4412
4413 A: By, you know, what had just transpired, like almost getting ran over and sh-
4414 and, you know, discharging my weapon. That's...
4415
4416 Q: Oh.
4417
4418 A: ...you know, was a shock.
4419
4420 Q: Okay.
4421
4422 A: And I literally thought - I thought I hit the car or the driver, so I expected it to
4423 stop at some point, but it didn't.
4424
4425 Q: Okay. I need to photograph your feet.
4426
4427 A: Okay, both feet?
4428
4429 Q: But also, why don't you guys look at the - do you - I'm offering you an
4430 opportunity to review your body-worn camera footage before the conclusion
4431 of this interview.
4432
4433 A: Okay.
4434
4435 Q2: Yeah. So we'll - we'll talk about it. I just want to check and see how she's
4436 doing. I definitely want to see it.
4437
4438 Q: All right.
4439
4440 Q2: I don't know if she's up for it or not, so...
4441
4442 Q: Yeah. I - yeah, I mean it..
4443
4444 Q2: Okay.
4445
4446 Q: It's up to the two of you guys...
4447
4448 Q2: Of course.
4449
4450 Q: ...on that. So do you want...and then - yeah, that may be - if you decide to
4451 watch it...that may be harder to watch or whatever, so I don't know if you
4452 want me to take a picture of your feet before or after.
4453
4454 Q2: Okay. Go ahead.
4455

4456 Q: It's up to you. Do you want to now?
4457
4458 Q2: Is that okay?
4459
4460 A: Yeah.
4461
4462 Q: How about -- I'm gonna go grab my work phone so I can take a picture.
4463
4464 Q2: Okay.
4465
4466 A: Okay.
4467
4468 Q2: Good.
4469
4470 Q: And I...
4471
4472 A: Okay.
4473
4474 Q: And then I'll be right back.
4475
4476 A: Okay.
4477
4478 Q2: Okay.
4479
4480 Q: And I'm just - should I pause this?
4481
4482 Q2: It's totally up to you. Either way is fine with me.
4483
4484 Q: I'm just gonna let it run.
4485
4486 Q2: Okay.
4487
4488 Q: Just so you know. I'll be right back. Do you want to make...
4489
4490 Q1: Don't forget about your water, Cheri.
4491
4492 A: Hm?
4493
4494 Q1: Look at your water. It's bubbly.
4495
4496 A: Oh, I don't really want flavor. Hm. I haven't really been eating a lot lately.
4497 I've been really stressed out. So, being - like I have had, like, something with
4498 flavor in it yesterday and it make me really like nauseous.
4499
4500 Q1: It is...

4501
4502 A: I've just...
4503
4504 Q1: Yeah.
4505
4506 A: ...drinkin'...
4507
4508 Q1: Yeah.
4509
4510 A: ...a lot of water. It's good to see you, D.Q.
4511
4512 Q1: Of course. Likewise.
4513
4514 A: I have never met Jennifer before and I - I don't think I had ever seen her
4515 before her until like the night of and she just happened to walk through the
4516 hallway, and I was, like, oh, I wonder who that is.
4517
4518 Q1: Oh, really?
4519
4520 A: I had never seen her before, no.
4521
4522 Q1: Oh. Oh, yeah, that's the boss. You guys been busy at RLS? Especially now,
4523 huh? Busy, busy.
4524
4525 Q2: It's Sunday. Here I am, so...
4526
4527 Q1: I know. I'm sorry.
4528
4529 Q2: No, it's fine. I - I actually usually work on Sundays. I take Saturday off and
4530 then I'm...
4531
4532 Q1: You can get a lot of stuff - if I could go in on Sundays and get stuff done, you
4533 get so much done then.
4534
4535 Q2: It's a great way to start the week ahead.
4536
4537 Q1: Hey, because nobody's here...
4538
4539 Q2: The same.
4540
4541 Q1: ...and, like, you can just mind your own business, put your - your headphones
4542 on.
4543
4544 Q2: Mm-hm. I find it helpful.
4545

4546 Q: Okay. I'm here to photograph your feet. Do you want to just stand right here,
4547 this one?
4548
4549 A: I just take my shoes off?
4550
4551 Q: Yeah. Why don't you sit down, like, and take your shoe off. I just - I have
4552 photos from that night.
4553
4554 A: Mm-hm.
4555
4556 Q: Your feet might look different...
4557
4558 A: Yeah.
4559
4560 Q: ...than they do that night.
4561
4562 A: Yes, they said that if I saw any changes to take pictures, and so...
4563
4564 Q: Okay.
4565
4566 A: ...that...
4567
4568 Q: So that's...
4569
4570 A: ...what I - I...
4571
4572 Q: ...just what I'm doing. And if they look the same, they look the same. And if
4573 they look different, I want to - if they look different, I want to photograph
4574 them. So why don't you step up...
4575
4576 A: Both feet?
4577
4578 Q: ...or, uh...
4579
4580 A: Both?
4581
4582 Q: Yeah.
4583
4584 A: Okay.
4585
4586 Q: 'Cause we have pictures of both feet.
4587
4588 A: Okay.
4589
4590 Q: Sorry. And then I'm gonna take pictures of, all right. And I believe that you

4591 were standing up, so I'm just gonna ask you to stand up. This is, this is not, -
4592 is not what I expected to doing in this room.
4593
4594 A: I just took a shower before...
4595
4596 Q: All right. Let me just take one overall so that we can say that that's you.
4597
4598 A: Okay.
4599
4600 Q: Whenever you're ready. Okay.
4601
4602 A: Do you want me take my mask off?
4603
4604 Q: No, that's...
4605
4606 A: Okay.
4607
4608 Q: ...good. That's all. Anything else about your feet or any other injury that you
4609 want me to photograph?
4610
4611 A: No.
4612
4613 Q: Okay. All right. You can put your feet - shoes back on. Maybe I'll...
4614
4615 Q2: Thank you.
4616
4617 Q: ...show that. Then when we're done with that, I think I have one more
4618 question and then we can do video. You can watch it however you want to do
4619 it.
4620
4621 Q2: Sure.
4622
4623 Q: Or if you want, we can - you guys can go talk about it and we can come back
4624 when you're done. It's up to you.
4625
4626 Q2: Yeah. Go ahead and ask your question and then we'll go from there if you
4627 want to.
4628
4629 Q: Okay. I'll wait 'till she's done before I go on. Have you played this on this
4630 laptop to see if it plays at the right speed?
4631
4632 Q1: Mm-hm.
4633
4634 Q: It's okay?
4635

4636 Q1: Yeah.
4637
4638 Q: All right.
4639
4640 Q1: Well not this video. I've done it for more - other things. I was just...
4641
4642 Q: So...
4643
4644 Q1: ...using that.
4645
4646 Q: ...you - okay. 'Cause if we did it straight from evidence it would be slow.
4647
4648 Q1: Okay. I got it. It's on...
4649
4650 Q: Yeah.
4651
4652 Q1: ...the hard drive.
4653
4654 Q: Okay. So I have one more question I want to ask you and that is, what would
4655 have happened if you just backed up away from the car when he drove up the
4656 curb?
4657
4658 A: I mean depending how...
4659
4660 Q: Well let me ask you this. That's a - I'm gonna totally withdraw that question
4661 because I don't think that's fair 'cause it's a hypothetical. Why did you not
4662 just back up?
4663
4664 A: Well as an officer you don't necessarily retreat.
4665
4666 Q: Okay.
4667
4668 A: So that's what I was thinking, and I was - thought if I just got more stern and
4669 developed my more command presence that...
4670
4671 Q: Mm-hm.
4672
4673 A: ...they wouldn't - it wouldn't proceed to continue to try to, you know, flee or
4674 run me over.
4675
4676 Q: Okay.
4677
4678 A: So then I was like on the raised curb and I didn't know where I was at as far
4679 as...
4680

4681 Q: Mm-hm.
4682
4683 A: ...like if I'd step off and fall or something like...
4684
4685 Q: Okay.
4686
4687 A: ...that, so...
4688
4689 Q: Okay. Okay. I should you have asked you that earlier. I just wanted to see
4690 kind of what your thinking was on that. All right. So what - how do you want
4691 to do this? Do you want to go to that room?
4692
4693 Q2: Sure. You could pau- you could - it's totally up to you but we're just take a
4694 second and talk about whether she wants to watch the video now or...
4695
4696 Q: Okay.
4697
4698 Q2: ...how - how she wants to see it. So...
4699
4700 Q: Okay. I'm gonna pause the recording then. It's 1:56. Okay. We're back on
4701 record. It's 1:58. You guys just stepped out and talked and you said you both
4702 want to watch the video, the body camera footage?
4703
4704 Q2: Right.
4705
4706 Q: Okay. So we had it prepped for you. Hopefully our technology works.
4707
4708 Q1: Probably have to do is just press "play".
4709
4710 Q: I don't know how loud it's gonna be.
4711
4712 Q1: It looked pretty loud when I...
4713
4714 Q: Is it? Okay?
4715
4716 Q1: Okay. In case you have any - the first 30 seconds it's buffering. There's no
4717 mute - audio.
4718
4719 Q2: Okay. So is your recording running or how do...
4720
4721 Q: My re- my recorder is running.
4722
4723 Q2: Okay.
4724
4725 Q: So when you said the first 30 seconds are buffering, you're talking about her

4726 bodycam?
4727
4728 Q1: Yes. Yes.
4729
4730 Q: Okay.
4731
4732 Q1: There's no audio.
4733
4734 Q: So for the first 30 s...
4735
4736 Q2: So usually what we usually do is watch it alone...
4737
4738 Q: Yeah, that's fine.
4739
4740 Q2: ...so we can talk about it.
4741
4742 Q: You can watch it...
4743
4744 Q2: Okay.
4745
4746 Q: ...alone. So, is it paused?
4747
4748 Q1: Yeah, I just paused it.
4749
4750 Q: Okay. So I just want to clarify what he said since it's recording.
4751
4752 Q2: Sure. You...
4753
4754 Q: So the first 30 seconds buffering, no audio, means that on our body camera
4755 footage the first 30 seconds of a recording...
4756
4757 Q2: Is back, right?
4758
4759 Q: ...does not have...
4760
4761 A: Audio.
4762
4763 Q: Audio. So it - the audio will not kick in 'till the - after the first 30 seconds.
4764 Okay?
4765
4766 Q2: All right then.
4767
4768 Q: I'm gonna step out.
4769
4770 Q2: Thanks.

4771
4772 Q1: Right.
4773
4774 Q2: Recording off, though?
4775
4776 Q: You know, well...
4777
4778 A: I mean, that's re- no, it's going.
4779
4780 Q: Going off record..1:59. Okay. 1407. You guys watched the body camera
4781 footage.
4782
4783 Q1: Okay.
4784
4785 Q: It worked okay for you?
4786
4787 Q2: Yes, it did.
4788
4789 Q: All right. So is there anything else that...
4790
4791 Q2: No. You...
4792
4793 Q: ...you want to...
4794
4795 Q2: ...may - you...
4796
4797 Q: ...go over or?
4798
4799 Q2: I went over...and I know everything's in a state of flux in terms of what your
4800 policy is, but I went over what I believe is the most recent policy with respect
4801 to body-worn camera. And OIS investigations, they incorporate an
4802 admonishment that has to do with, like, the difference between video and
4803 memory and...
4804
4805 Q: Hm, I know.
4806
4807 Q2: ...2D and 3D. So...
4808
4809 Q: Uh-huh.
4810
4811 Q2: ...just keeping all those things in mind, I don't think - you know, she doesn't
4812 want to add anything other than, not surprisingly like the video is different
4813 than what she remembers and the - you know, I think we'll leave it at that.
4814 So...
4815

4816 Q: Oh, we absolutely do recognize that video...

4817

4818 Q2: Yeah.

4819

4820 Q: ... will not show everything.

4821

4822 Q2: Yeah.

4823

4824 Q: And we do not have any expectation that it will match a statement. Okay? So,
4825 yeah. I think we can all agree with that.

4826

4827 Q2: I think that's it.

4828

4829 Q: All right? Okay. So then if we're done, then I will go off record.

4830

4831 Q2: Okay.

4832

4833 Q: Okay? It is 1409.

4834

4835 A: Uh...

4836

4837

4838 The transcript has been reviewed with the audio recording submitted and it is an accurate
4839 transcription.

4840 Signed _____