

1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

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8 **INTERVIEW OF: OFFICER BUCKLEY RESCHEDULE**

9
10 **INTERVIEWED BY: OCC INVESTIGATOR WECHTER**

11
12 **DATED: APRIL 14, 2015**

1 **Q: INVESTIGATOR WECHTER**

2 **A: OFFICER BUCKLEY**

3
4 Q: Today's date is April 14, 2015 and it is 3:44 PM. This is OCC Investigator Wechter. I'm
5 on the telephone with Officer Nicholas Buckley case number 040-15. And just to summarize
6 Officer Buckley, you called me (inaudible) representative for your interview scheduled for today
7 at 4:15 is being held over because of the protest march that is taking place downtown and is not
8 available today. So we have rescheduled your interview for Thursday April 15 at 4:30 PM is that
9 correct?

10 A: Hold on one second please.

11 Q: (inaudible). Mr. Buckley?

12 A: Hey thanks for waiting. Yeah that is true what you just said.

13 Q: Okay so I will see you Thursday April 16th at 4:30 PM.

14 A: Correct.

15 Q: Okay thank you for talking.

16 A: Appreciate your time. Thank you.

17 END OF AUDIO
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1
2 CERTIFICATE OF TRANSCRIPTION OF TAPE RECORDINGS

3 --o0o--

4 I, the undersigned, hereby certify as follows:

5 That the foregoing transcript, page 1 through and including 3, to the best of my
6 knowledge and belief is a full, complete and true transcription of certain tape recordings as
7 described below to the best of my ability to hear, understand, identify speakers and transcribe
8 said recordings, with the exception of any portion indicated as (inaudible), and words contained
9 in parentheses, which indicate the best guess. (Any errors, changes or omissions should be
10 brought to my attention for correction.)

11 That said tape recordings were furnished to CTI Transcription Services, 79
12 Pizarro Avenue, Novato, CA 94949, by The San Francisco Department of Police Accountability,
13 and requested to be transcribed.

14 IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of December
15 2019.

16
17 /s/ Kathy Kay
18 KATHY KAY
19 By Electronic Mail
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IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF POLICE ACCOUNTABILITY

CASE NUMBER: 040-15

CAD

1 D: DISPATCH

2 PU: POLICE UNIT

3
4 ***CAD File: 0026-0109 DT14***

5 PU: David 14 Edward can I get a 29 on 1

6 D: David 14 Edward go.

7 PU: Last of [REDACTED]

8 [REDACTED]
9 [REDACTED] Documented.

10 D: David 14 Edward I have you on foot at 16th and Mission are you still there?

11 PU: Yes, we're at 16th and Mission.

12 D: 10-4. Stand by. David 14 Edward - [REDACTED]

13 [REDACTED]. The 20 [REDACTED] still turning pages.

14 PU: Sorry, could you 10-9 that?

15 D: She's showing with a [REDACTED], her 20 is [REDACTED]. She does
16 have an [REDACTED] 31 Red once, 31 once. Currently 32, copy?

17 PU: 10-4 thank you

18 D: And just confirming your position out there?

19 PU: (inaudible)

20 D: 10-4

21 PU: David 14 Edward another 29 when you're ready.

22 D: David 14 Edward go

23 PU: Last name [REDACTED]

24 [REDACTED] verbal

25 D: Stand by

1
2 PU: David 16 David 916

3 D: David 16 David go

4 PU: Harrison and 26th, the plate is [REDACTED]. We're talking to two and we're
5 sufficient. We got (inaudible)

6 D: Harrison and 26th 10-4. David 14 Edward - [REDACTED]

7 [REDACTED] Still turning pages stand by.

8 D: David 14 [REDACTED].

9
10 D: Is there a unit with an emergency?

11 PU: David 16 David we're having a 148 right now.

12 D: David 16 David 148.

13 PU: Location?

14 D: David 16 David 148 Harrison and 26th is there a unit that can back?

15 PU: 11 David.

16 PU: 12 Edward going code 3.

17 D: 11 David and 12 Edward responding. Harrison and 26th. David 2 David responding.

18
19 PU: Code 4 slow your response. One in custody.

20 D: Units slow your response code 4. David 16 David advising one in cuffs, slow your
21 response.

22 PU: You guys need the wagon?

23 PU: David 16 David we need a 408 for about a 40-year-old male conscious and breathing and
24 bleeding from the face.

1 D: Is bleeding controlled?
2 PU: Semi. He's got a bloody nose.
3 D: 10-4.
4 PU: David 102, David 112 97.
5 D: David 102 and 112 copy.
6
7 PU: David 12 Edward re-route a 408.
8 D: David 12 Edward 408 is already been rolled. It is being rolled code 2. Do you want it
9 upgraded?
10 PU: No, code 2 should be fine.
11 D: 10-4 is there more than one patient or just the one?
12 PU: Just the one.
13 D: 10-4.
14
15 PU: (inaudible) and if you don't have it for the CAD the 408 is coming to [REDACTED]
16 D: David 102 copy I'll correct that.
17
18 PU: David 14 David Sam [REDACTED]
19 D: David 14 David Sam 10-4
20 PU: David 11 David
21 D: David 11 David
22 PU: One to run when you're ready
23 D: Go ahead
24 PU: Last name [REDACTED]
25 [REDACTED] documented

1 D: Confirming the year [REDACTED]?

2 PU: [REDACTED]

3 D: 10-4 and I can just confirm the spelling of that last name [REDACTED]

4 [REDACTED]?

5 PU: You got it

6 D: 10-4 stand by

8 D: [REDACTED]

9 [REDACTED]

10 PU: 3 David 11 Edward we'll take it.

11 D: [REDACTED]

12 [REDACTED].

13 PU: Copy.

15 D: David 11 David your subject [REDACTED] No

16 (inaudible) 32 with an [REDACTED] 31 twice currently 32 copy

17 PU: Copy, thanks.

19 D: Mission 3 car A priority [REDACTED] [REDACTED] [REDACTED] [REDACTED]

20 [REDACTED]

21 PU: David 13 Edward 98

22 D: [REDACTED]

23 [REDACTED].

1 D: [REDACTED]

2 [REDACTED]

3 PU: 10-4.

5 PU: David 15 Edward

6 D: David 15 Edward. David 15 Edward

7 PU: 10-8 from the last and we're 97 on this 26th and Folsom run

8 D: 10-4

9 PU: David 15 Edward can you show us 10-8 to this, 98 back to the company equipment
10 change. And just for info the 19th and Mission 917 is a pre-empt.

11 D: David 15 Edward 10-4. 10-4 I'll put on it and then clear it.

12 PU: (inaudible) 10-9

13 D: I said I'll put you on it and clear it since you're now David 13 Edward.

14 PU: (inaudible)

16 D: David 13 Edward [REDACTED]

18 D: [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 PU: (inaudible)

22 PU: Charlie 14 Edward

23 D: Charlie 14 Edward

24 PU: [REDACTED]

25 [REDACTED]

1 D: [REDACTED]
2 [REDACTED] [REDACTED].
3 D: 10-4
4
5 PU: Sam 102 you can show (inaudible)
6 PU: 3 David 2 David
7 D: Units stand by just one. Last unit that had medic 81 there?
8 PU: Sam 102 Medic 81 97
9 D: David 2 David
10 PU: [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED] [REDACTED] [REDACTED]
12
13 PU: David 11 David
14 D: David 11 David
15 PU: You can clear the [REDACTED] one advised.
16
17 D: [REDACTED]. Charlie 13 Edward 10-4. (inaudible) from
18 General hears possible movement and rattling.
19
20 PU: David 11 David
21 D: David 11 David
22 PU: You can clear the 915 on Mission Dolores. (inaudible) the 13 David advised
23 D: Already done thank you.
24
25 D: Mission 4 car 415 party [REDACTED] [REDACTED] [REDACTED]. [REDACTED]

1

2

PU: [REDACTED]

3

[REDACTED] [REDACTED]

4

[REDACTED]

5

[REDACTED]

6

[REDACTED]

7

8

[REDACTED]

9

[REDACTED]

10

[REDACTED]

11

[REDACTED]

12

13

PU: [REDACTED]

14

[REDACTED]

15

[REDACTED]

16

[REDACTED]

17

[REDACTED]

18

[REDACTED]

19

[REDACTED]

20

[REDACTED]

21

[REDACTED]

22

23

PU: Charlie 116 to Charlie 13 Edward George.

24

PU: 13

25

PU: Can you guys 902 please

1 PU: Yeah copy as soon as we get done here with this audible
2 PU: 10-4 thank you
3
4 PU: David 13 Edward for a case number
5 D: David 13 Edward your case number is [REDACTED]
6 PU: (inaudible)
7 PU: Go ahead B
8 PU: [REDACTED]
9 PU: Copy
10 PU: [REDACTED]
11 D: David 13 Edward copy
12 PU: 11 Edward copy.
13 D: 11 Edward copy.
14
15 D: [REDACTED] [REDACTED] [REDACTED]
16 PU: 11 Edward 97
17 D: [REDACTED]
18 [REDACTED]
19 PU: Charlie 13 Edward code 4
20 PU: David 14 Edward (inaudible) getting ready for a cold show
21 D: Charlie 13 Edward go ahead
22 PU: Code 4 (inaudible)
23 D: [REDACTED]
24
25 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

1 PU: 10-4.

3 PU: David 11 Edward code 4

4 D: David 11 Edward go

5 PU: [REDACTED]

6 D: [REDACTED] [REDACTED] [REDACTED].

7 PU: (Subject) was negative.

8 D: [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED] [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED] [REDACTED]

14 D: [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED]

24 [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED]

1
2 D: [REDACTED]

3 [REDACTED]

4 [REDACTED]

5
6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9
10 [REDACTED]

11
12 D: Headquarters to 3 David 12 Edward for a CAD update.

13 PU: 12 Edward we're gonna be going with the ambulance to SFGH.

14 D: 10-4.

15
16 PU: David 12 Edward.

17 D: David 12 Edward go ahead.

18 PU: We're 98 to SFGH with the in custody.

19 D: 10-4.

20 PU: 26th and Harrison while my partner is riding in the ambulance.

21 D: Copy.

22 END OF AUDIO
23
24
25

1 *CAD File 0320-0320 DT10*

2 PU: David 12 Edward

3 D: Go 12 Edward

4 PU: Show us clearing SFGH and we're 98 to CJ1.

5 D: 10-4

6 END OF AUDIO

CAD File 0445-0446 DT14

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

END OF AUDIO

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/s/ Kathy Kay
KATHY KAY
By Electronic Mail

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8 **INTERVIEW OF:**

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9
10 **INTERVIEWED BY:**

OCC INVESTIGATOR WECHTER

11
12 **DATED:**

FEBRUARY 2, 2015

1 **Q: INVESTIGATOR WECHTER**

2 **A:** [REDACTED]

3
4 Q: Okay today's date is February 2, 2015. It's 2:10 PM. This is OCC investigator Wechter
5 conducting telephone interview in connection with OCC case number 40-15. I'm speaking by
6 telephone with [REDACTED] Am I pronouncing that correctly?

7 A: Yeah.

8 Q: And [REDACTED], are you aware this is being recorded?

9 A: Yes.

10 Q: And as I explained, your [REDACTED] [REDACTED] gave me your contact
11 information. I'm investigating an incident that happened on the night of November 11th around
12 midnight.

13 A: Uh-huh.

14 Q: When [REDACTED] was arrested by police. So let me first ask, what is your address?

15 A: It's [REDACTED].

16 Q: Okay.

17 A: Uh-huh.

18 Q: And where is that in relation to [REDACTED] house?

19 A: So if you're looking at her house with your face looking to her door, it's [REDACTED]

20 [REDACTED].

21 Q: Okay.

22 A: We're [REDACTED].

23 Q: Okay.

24 A: If she sneezes, I probably can hear it.

25 Q: Okay. So do you remember this incident when the police were there?

1 A: The next day it was odd.
2 Q: I'm sorry what was that?
3 A: Just a lot of police and-
4 Q: You're breaking up. I couldn't hear everything you said.
5 A: I'm sorry.
6 Q: The connection-
7 A: Can I give you; can I give you a number and you can dial or no I'm probably fine-
8 Q: Sure.
9 A: I just won't move anymore.
10 Q: Sure.
11 A: You can hear me now, right?
12 Q: Yes.
13 A: Yeah, so it was just odd because it was just a lot of yelling going on so that's why I
14 remember that date. And I asked her about it the next day 'cause it was concerning. 'Cause there
15 was blood all over my garage like in front of my house. So I asked if [REDACTED] was okay.
16 Q: And so how did you become aware that something was happening outside?
17 A: So my bedroom is [REDACTED]. It's right there, right? With just a window
18 that faces on the outside of my house, that's my room. That's where I sleep.
19 Q: And are you on the first floor or the second floor?
20 A: I'm on the well I'm [REDACTED]. I'm right-
21 Q: Okay.
22 A: It's the [REDACTED] so I'm-
23 Q: Okay I'm looking at a photo that's on Google.
24 A: Yeah. Yeah. [REDACTED]
25 [REDACTED] Yeah.

1 Q: Okay.

2 A: So I woke up to hearing screaming "ow, ow, hurting me, you're hurting me, neighbors
3 help, help." Like he was in a lot of pain. Like and I got up and I was like what is going on. And I
4 opened the curtain and I saw two policemen with on top of [REDACTED] grabbing him and holding
5 him down. And he's yelling all the time "my arm, you're hurting my arm, my arm." And then I
6 looked out towards the park and there's like, I think there's like eight or nine police cars parked
7 all in front of my house. The lights are going off and I'm thinking who do they have on the floor.
8 I'm thinking it's some murder. You know it was intense. And then I look closely and then I
9 noticed it was [REDACTED] talking to the police officers and I was like that must be [REDACTED] on the
10 floor. And I looked closely, and it was. I like looked but his face was like on the floor so I really
11 couldn't tell if it was him 'cause his face was on the floor and like by my garage. And he was
12 like yelling. That, that's pretty much all. And they were like "stop yelling, stop yelling." And he
13 was like "you're hurting me, you're hurting me. Get off of me. I can't breathe." Like just you
14 know and that's all I heard was just him yelling. Asking for help.

15 Q: And what did you see?

16 A: That was it. There was just two cops on the floor on him and then there was like 1 cop
17 talking to [REDACTED] and two other cops standing by. So right in front of my house in terms of
18 officers, there was probably like two, four, five. Maybe five and then the other ones were by
19 their car.

20 Q: So the two that were by [REDACTED], what were they doing?

21 A: They were on him. Like handcuffing him and like you know telling him to be quiet. And
22 just that and he was yelling and yelling and yelling. And "help, got off me. You're hurting me.
23 My arm hurts. You're hurting my arm. You're hurting my wrist. I can't breathe. Get off of me.
24 Get off of me." And they were just like "shut up, shut up. Be quiet." You know just an order for
25 him to be quite. And then at a certain point I did see them, they got him up and then he was all

1 bloody in the face. And – and then I was like oh and then it just kind of quieted down. So they
2 had picked him up, you know? And then he was telling them, “my arms hurts. You put it on too
3 tight. You put it on too tight.” And then they weren’t loosening up. “I’m telling you my arm
4 hurts. My arm.” You know? He was hoping that they would loosen it up a little bit.

5 Q: Loosen what up?

6 A: The, the handcuffs. That’s how they were hurting his arm ‘cause they were trying
7 handcuff him, but he was like telling them, “you’re hurting my arm, you’re hurting my arm. Let
8 it go. You’re hurting my arm. Loosen them up.”

9 Q: And uh was he yelling? Talking in a loud voice?

10 A: No he was yelling to begin with. He was yelling when he was on the floor. And that’s
11 what woke me up.

12 Q: And what did he sound like?

13 A: Just like – it wasn’t even angry. It was more like a desperate cry for help. “Help, help.”
14 At a certain point he said, “neighbors, help me.” Like he wanted somebody to come and help
15 him. He didn’t sound angry you know like get the f-off me. You mother f- nothing like that. No,
16 nothing words ever like that came out of his mouth. It was more like, “it’s too tight. It’s too tight.
17 Help me. Help me.”

18 Q: And okay so going back, when you saw the two officers on him, I think you said he was
19 faced down, is that correct?

20 A: Yes, he was faced down.

21 Q: Where were the officers in relation to [REDACTED]?

22 A: They were laying on his back like towards his buttocks part. Holding him down. Kind of
23 grabbing his arms to handcuff him. But his face was like on like -- I don’t at what point, I don’t
24 know if it was because his face was on the floor, there was blood all – when they picked him up
25 there was blood all over his face. There was blood all over my garage the next morning. I don’t

1 know at what point he got, like if it was just because his face was on the floor and they were on
2 top of him or what happened that caused him to have blood on his face.

3 Q: So you said the officers were on his back near his buttocks grabbing his arms to handcuff
4 him?

5 A: Yeah.

6 Q: Was he handcuffed at that point?

7 A: I believe he was handcuffed and then once-

8 Q: I mean did he have the handcuffs on him or were they trying to get the handcuffs on?

9 A: They were, they were trying to get the handcuffs on him. They were and he was like
10 yelling, "ow, you're hurting my arm, you're hurting my arm." It was within like a couple of
11 minutes like where he's like "you're hurting me, you're hurting me" and then he put it up, put
12 the handcuffs on. And they were like "well hold on, hold on. Stop yelling. Stop yelling." And
13 then once they finished, they picked him up and then like "it's too tight. It's too tight. Loosen
14 them up. Loosen them up."

15 Q: When you first looked out-

16 A: Uh-huh.

17 Q: And the officers were on him and they were trying to handcuff him.

18 A: Uh-huh.

19 Q: Were the officers saying anything to him?

20 A: I think they were just saying you know "stop yelling. Stop yelling. Calm down. Calm
21 down."

22 Q: Did you ever hear anyone tell him to stop resisting?

23 A: I shouldn't say yes for sure 'cause it was a lot of, 'cause it was them two yelling at him
24 and then the other two cops were yelling at him. But no, I don't think he was fighting them to get
25 off of him. 'Cause I never saw him move. And there was only what I saw was two of them. And

1 you would think if he was like moving there would be more people. But no I think he was kind
2 of, you know now that I don't remember I think maybe he could have. But all I remember is his
3 voice was overpowering what they were saying. You know 'cause he was really desperate to
4 have them loosen his, his arm.

5 Q: Right, but before the officer's hand, put the handcuffs on him?

6 A: When they were on top of him and stuff? No, I don't think he was resisting. So no, I
7 don't think I heard them say stop resisting. "Stop moving, stop moving."

8 Q: Did you hear them say that?

9 A: I, I "stop moving." And he said "I'm not moving. You're having it too tight. You're
10 grabbing me too tight. You're hurting my arm. You're hurting my arm." But he was on the floor
11 face down. He wasn't moving from what I saw. He was on the floor face down.

12 Q: When you first looked out, could you see where his hands were? Where [REDACTED] hands
13 were?

14 A: No, they were on the, the person's (inaudible)

15 Q: Yeah, [REDACTED] hands.

16 A: Yeah, they were in the back. They were on his back and he was face down.

17 Q: Okay.

18 A: Yeah, he was, they were on his back and he was faced down.

19 Q: His hands were behind his back? Is that correct?

20 A: Yeah. And so you see my garage goes at like a slope?

21 Q: Yes.

22 A: So I think that's how he, that's how I think he injured his face. Because they had him face
23 down and they had the guys on top of him. The two guys. So he might have like scratched his
24 face on my sidewalk because they were like his arms were behind him. He was face down and
25 then they had two guys with their knees on his back. So I think that maybe they were like

1 pushing him and that's why he was screaming. 'Cause it was just at a bad angle. I think if they
2 would have had him like flat, it would have been better, you know? Cause that angle, I don't
3 know if it was hurting his face or what was going on. When he got up, he was really bloody in
4 the face.

5 Q: Did you ever see an officer put his hand on the back of [REDACTED] head and push his face
6 into the ground?

7 A: No, no I did not. No. That I did not see. His face was himself had it on the floor, you
8 know what I mean? He himself had his face on the floor. To the floor. That's why I don't feel
9 like he was resisting because his face did not move from the, from the ground. "Got off of me.
10 Get off of me. You're hurting my arm. You're hurting my arm." All with his face on the floor.
11 At a certain point he would turn around to look you know and then like he would still be on, but
12 at no point was he trying to roll over. Was he trying to – you know, and I only saw for a little
13 while. 'Cause I was like; you know it was the middle of the night. I was sleeping and I was like
14 you know and then he and once they picked him up, you know he was telling them again "too
15 tight, it's too tight." And at a certain point they did loosen them up. They had listened to him
16 cause he was like you know "they're too tight. They're too tight." So they kind of and you can
17 see cause they shined a light on his arm and they themselves saw that it was too tight, and they
18 loosened them up. So that's when he stopped screaming.

19 Q: Do you remember, can you describe the officer who did that?

20 A: No. I don't know that at all. I was looking at him and I did not even pay attention to the
21 officers at all.

22 Q: You say they shown a light on his arm and could see that it was too tight. What, what did
23 they see regarding his arm?
24
25

1 A: Well, they were really tight. The, the you could see like the fat of his hands like you
2 know being squished by the – and the officers recognized that too and so he loosened. “I’m
3 gonna loosen them up, don’t move.” And so he loosened them up a little bit.

4 Q: Okay I’m gonna stop you, you said, what was it you said? You could see the fat of his
5 hands-

6 A: You could see like the – yeah you could see like they were really tight. You know when
7 you put something on that’s really tight you could see like the fat of your hand sticking over the
8 uh - and they were red. That I can see. I remember.

9 Q: And then what was it that the officer said to him about this?

10 A: “I’m gonna loosen them up okay? Don’t move.” And so he didn’t move, and he loosened
11 them. And he was “okay, okay, okay.” And then he loosened them up then he was fine. It was
12 like after they loosened ‘em up, he stopped yelling, he stopped – he was you know. Just – I think
13 the problem was to begin with they were really tight. They were hurting his arm. ‘Cause that’s
14 all he kept saying. You know I’ve seen a lot of arrests before. You know I live in a neighborhood
15 that’s kind of sketched, but I mean he wasn’t saying “get off me mother f-ers” or you know
16 nothing like that. He was just yelling-

17 Q: I would like you to just focus on what you actually saw not what didn’t happen.

18 A: Okay.

19 Q: And if you don’t remember something it’s okay, just let me know.

20 A: Okay.

21 Q: I don’t want you to guess. Do you remember anything about the officer who loosened his
22 handcuffs?

23 A: Nothing at all. If you tell me to pick him out, not at all.

24 Q: What about the officers who were on top of him?
25

1 A: No. It was the same guy who loosened up his, the initial guy who loosened them up.
2 'Cause he picked him up.

3 Q: Like what?

4 A: That loosen him up was the same guy that was on top of him trying to handcuff him and
5 you know hold him there.

6 Q: So was it the same officer who put the handcuffs on him?

7 A: Yes.

8 Q: And after they stood him up what happened?

9 A: Nothing. He kept complaining about it being too tight. "They're too tight. They're too
10 tight. Loosen them up."

11 Q: What about after they loosened them?

12 A: He was fine.

13 Q: I mean what happened then?

14 A: Nothing. They were talking about well am I gonna get arrested? And he's like, yeah
15 you're going to be arrested. Do you wanna be looked at by a medical person, 'cause his face was
16 all bleeding. And I don't know what he said to that. And then he was just – that was probably
17 why I started okay he's fine now I can go to sleep. He stopped yelling.

18 Q: Did any officer say anything about what he was being arrested for?

19 A: No. He, he did question that. And I think so did someone else. They're like "well what is
20 he being arrested for? What is he being arrested for?" And I was waiting to hear that same
21 response, but that never came. I didn't get to hear that. I was like wonder what is he being
22 arrested for. You know just out of curiosity.

23 Q: Do you remember seeing any officer kind of moving around? Like dancing around,
24 jumping around?

25 A: No, not at all. No.

1 Q: Did you see any officer – where, where did you first notice [REDACTED]?

2 A: He was, if you see in front of her house, she was in front of her house. Still visible to
3 where my house, my window is. Right at the edge of her house. Just looking down saying, “[REDACTED]
4 shut up, shut up.” Kind of trying to tell him to shut up too because he was really loud.

5 Q: Where, where was she?

6 A: She was standing there with another officer.

7 Q: I mean was she on the sidewalk? Was she-

8 A: Yeah, she was on the sidewalk. Right in front of her house on the sidewalk. Right before
9 her, you know how her house looks like a little sq- it’s like a little square right there, where the
10 rocks are? Right there. Right at the edge.

11 Q: At the bottom of the stairs.

12 A: Just looking at – yeah at the bottom of the stairs.

13 Q: And she was telling [REDACTED], “[REDACTED], shut up.”

14 A: Yeah. “[REDACTED] shut up, shut up.”

15 Q: Did she say anything else?

16 A: Noting else.

17 Q: Did you ever see her talking to an officer?

18 A: Yes, she was talking to an officer. And but I didn’t really hear. She did ask for what is he
19 being arrested for? What is he going to jail for? And she did kind of try to say you know “it’s too
20 tight for him. You guys are hurting him. Let it go.” You know kind of like I think but she was
21 more calmer in this, in the story. “Let him go. Loosen them up for him.” Kind of you know that
22 kind of thing. But at no point do I remember that they told them what they were being, or he was
23 being arrested for. ‘Cause I remember I was waiting for that.

24 Q: And did I ask you, did you ever see any officer punch or strike?

25 A: I, no, I did not.

1 Q: After he was handcuffed, did they keep him stand- did you see the ambulance arrive?

2 A: No, I did not.

3 Q: At what point did you go back to bed?

4 A: I think at the point where they stood him up and they loosened up the, loosened up the
5 things he said and that was it. They were like, well where am I going -- He goes "am I going to
6 jail?" "Yeah you're going to jail." "Why am I going to jail? What did I do? What did I do?" And
7 then they were like "you're going to jail sir. Do you need medical attention for your face?" And
8 that's when I was just like okay, I'm gonna go to sleep now. I think they're going to call the
9 ambulance.

10 Q: Did you ever hear him saying anything to the officer like "take off the handcuffs and I'll
11 fight you."

12 A: No.

13 Q: Did you ever hear him ask an officer for their badge number?

14 A: No.

15 Q: Or did you ever hear him or anyone there call the officers any names?

16 A: No.

17 Q: Coward, midget, rookie?

18 A: No.

19 Q: And did you get the sense that he might have had something to drink on the night
20 (inaudible)?

21 A: No. Not that I got a sense of it. No. I know they wanted to go to dinner so I had assumed
22 that he might have you know a beer or so.

23 Q: You knew they were going to dinner?

24 A: Well, I had talked to them right beforehand and I said, "hey where you guys going?" And
25 she said, "oh we're just gonna go to dinner."

1 Q: So you saw them leaving?

2 A: I saw, yeah. I had saw her earlier that day. And she said, "what are you doing tonight?"
3 And I said, "I'm probably gonna go to sleep." And she said, "oh okay." And then she's like, I
4 said, what are you guys? Oh we're gonna go to dinner later. They weren't walking out, but that's
5 what she told me she was going to do.

6 Q: And about what time was that?

7 A: I don't remember. That I don't remember at all.

8 Q: Did any, do you think anyone else in your house heard or saw anything?

9 A: No 'cause I woke up my husband. I woke up my husband to tell him. I say, hey [REDACTED]
10 boyfriend's getting arrested. And he was just like oh. He just didn't get up.

11 Q: Who lives in the, in the room above you?

12 A: That's [REDACTED] house. Yeah. I don't know. I don't know if somebody lives precisely in
13 that room.

14 Q: Is it possible that someone up there might have heard or saw something?

15 A: I would think so. I mean I'm sure everybody heard something. I mean if you go down the
16 road and asking the neighbors, they all heard something. 'Cause he was yelling to the point
17 where every- probably three doors down from my house they heard.

18 Q: And what's your aunt's name?

19 A: [REDACTED]

20 Q: [REDACTED]

21 A: [REDACTED].

22 Q: [REDACTED]

23 A: Yeah, but I don't have a phone number for her 'cause they disconnected their landline. I
24 can ask [REDACTED] for it tonight 'cause he has to, I'm sure [REDACTED] heard something 'cause he
25 would have gotten up. My [REDACTED] wouldn't have gotten up.

1 Q: Uh-huh.

2 A: [REDACTED] probably would have gotten up.

3 Q: And when did you next talk to [REDACTED] after this?

4 A: I never spoke to [REDACTED] after that. Just, I mean I see him all the time like hello, but I had
5 never, I asked [REDACTED] the next day what happened. And she just was like, I don't know. We were
6 coming home from dinner and all of a sudden this cop comes and knocks on our window and
7 drags [REDACTED] out of the car. And I was like that's weird. Yeah that's all. That's pretty much all.
8 And she was gonna go bail him out at that point. And that's all we had a discussion about.

9 Q: So she said, "all of a sudden this cop comes and knocks on our window and drags [REDACTED]
10 out of the car."

11 A: Yeah.

12 Q: What else did she say?

13 A: That's it. That they, she said "did you see the way the cops were like on him?" And I said
14 "yeah." And she's like "yeah, that's messed up. They hurt him and his face" and blah blah blah
15 and I said, yeah that's-

16 Q: So she said that they were in the car when the police officer approached?

17 A: That's what, yeah. She said, "we're just sitting in the car coming home from dinner."

18 Q: Did she say anything about what the officers said or did in relation to [REDACTED]?

19 A: No. She just said that they had hurt his arm. And that you know they, that he'd been
20 arrested. And I just asked how he was in terms of his face. And she said "fine. He didn't need
21 any stitches or anything." I mean he's - that's all I asked.

22 Q: Did she say whether or not an officer ever hit [REDACTED]?

23 A: She never mentioned that to me at all.

24 Q: And did you get the sense that she might have had something to drink? Last night.
25

1 A: No, I mean they both seemed kind of chill. I mean if they did, they wouldn't be any
2 different than any other day that I see her, you know? She's just kind of chill usually. Yeah.

3 Q: Did you ever hear anyone say anything about keys or car keys?

4 A: I don't remember, but I kind of want to say yes. But I don't remember. So I'd have to say
5 I don't remember.

6 Q: And so after you left the window, where did you go?

7 A: I went back to sleep. And it was just wild. You know I heard still people talking out there
8 and you know I didn't want to get up (inaudible)

9 Q: Was there anything that you heard after you went back to bed?

10 A: Nothing. Nothing that stuck out.

11 Q: And how long do you think it was between when [REDACTED] started complaining about the
12 handcuff being tight and when the officers loosened it?

13 A: I would say maybe a rough estimate would be like seven minutes. Not five, not – it
14 seemed like a long time, but I wouldn't say 10 'cause 10 minutes just seems like a long time for
15 him yelling. 'Cause that's the only reason it was like caught my attention was him yelling and
16 yelling and yelling. So I would say like seven minutes.

17 Q: Uh-huh. And it was the same officer who had handcuffed him?

18 A: Yeah. It was the same officer, yeah who loosened them up. Uh-huh.

19 Q: Was any officer helping him?

20 A: Not that I saw. Not that I saw that somebody was helping him.

21 Q: And at any point, and did you ever see them sit [REDACTED] down on the sidewalk cross legged?

22 A: No. At that point I probably was already asleep. No, last time I saw him he was standing.
23 And they had loosened up the thing and he had calmed down, stopped yelling. So then I was
24 done. I went back to sleep.
25

1 Q: Okay. Now if you could check with your cousin? I mean I would just want to check with
2 your aunt briefly-

3 A: Yeah.

4 Q: If anyone saw anything-

5 A: Yeah. Can you give me your information and I will give you a call or you want to call me
6 back or what? How do you want to do this?

7 Q: Let me give you my number.

8 A: Okay.

9 Q: Uh the num- my number is 415-

10 A: 415.

11 Q: 241.

12 A: 241.

13 Q: 7767.

14 A: Okay. All right.

15 Q: Okay?

16 A: And then-

17 Q: I'm sorry go ahead.

18 A: And what was your name?

19 Q: Jay Wechter.

20 A: Wechter. Okay. Okay I'm gonna ask [REDACTED] if he remembers the situation and then if
21 so, I'm gonna give, I'll give you a call immediately at this number.

22 Q: Okay great.

23 A: Okay.

24 Q: Is there anything I haven't asked you or anything you remember about this?

25 A: No.

1 Q: That we didn't discuss?

2 A: No. I mean it was all (inaudible)

3 Q: Okay.

4 A: So I mean it was a long time ago so a lot of things I don't remember. (inaudible) was
5 really bringing something back but I don't remember if that was true or if that was just my mind
6 playing tricks on me. But I do remember the blood. I do remember the blood on the face. And I
7 do remember the yelling.

8 Q: Okay. Well I appreciate you taking the time.

9 A: Okay. No problem.

10 Q: Okay.

11 A: Thank you. Goodbye.

12 END OF INTERVIEW

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1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

5
6
7
8 **INTERVIEW OF: OFFICER BUCKLEY**

9
10 **INTERVIEWED BY: OCC INVESTIGATOR WECHTER**

11
12 **DATED: APRIL 16, 2015**

1 **Q: INVESTIGATOR WECHTER**

2 **A: OFFICER BUCKLEY**

3 **OS: OFFICER (STEDSHELTER)**

4
5 Q: Okay this interview is regarding OCC Case Number 40-15 it's taking place on April 16th,
6 2015 5:04 PM at the OCC. Office. Conducting the interview is Investigator Wechter, the
7 member being interviewed is Officer Nicholas Buckley Star Number 529. His representative is
8 Officer (Stedshelter). Officer Buckley have you read the statement of complainant [REDACTED]
9 concerning an incident at [REDACTED] on November 11th, 2014 at 12:29 AM?

10 A: I have.

11 Q: Have you read the OCC added allegation in this case?

12 A: I don't know what that is.

13 Q: That would be attached to the 293. It should say OCC added allegation. It's the form you
14 have in your hand right now.

15 A: Right. What am I looking at? Say that again.

16 Q: It's says, the other side. It says the other OCC added allegation

17 OS: Yeah, that's your-

18 A: Added allegation, yes, I did read that.

19 Q: Okay. Have read General Order 2.08?

20 A: I've seen this before; I'll take a look at it right now.

21 Q: Take as much time as you need.

22 A: Yes, I'm familiar with this. I've read it.

23 Q: Have you read Rule 21 of General Order 2.01? It's probably on the other side of the
24 sheet.

25 A: Yes, I've read this and am familiar with it.

1 Q: Have you read Section 1A of General Order 2.04?

2 A: Yes, I have.

3 Q: Officer Buckley, you are obligated pursuant to DGO 2.01 Rule 21 and Rule DGO. Rule
4 2.04(1)(a) to cooperate with this OCC investigation, provide your full assistance and answer all
5 questions truthfully and without evasion. Additionally, pursuant to DGO 2.08(1)(a)(4) you must
6 answer all questions posed to you during this administrative investigation. You are obligated to
7 answer my questions without interruption by your representative. If your representative interferes
8 with the obstruction of this investigation you will be deemed to have failed to cooperate with this
9 investigation. Failure to cooperate with the investigation may subject you to discipline. If your
10 representative disrupts this interview, I will stop the interview and prepare a blue folder which
11 states that you were in violation of DGO 2.01 and DGO 2.04. Do you understand these orders?

12 A: No. If if my representative decides to interrupt what I'm saying I'm in violation of the
13 General Order? If I understand correctly.

14 OS: Maybe I can help clarify. Under Government Code 3303 I'm allowed to help the
15 represented speak for himself, clarify any issues, but I know as my role as a rep I cannot be
16 disruptive, yelling, screaming, telling people to you know not answer questions.

17 A: I understand.

18 OS: Let me ask a

19 A: If, if hypothetically, if you did do that, I would be in violation of the General Order?

20 OS: Yes.

21 A: Okay, understood.

22 Q: Okay, so, do you understand these orders?

23 A: I do.

24 Q: Okay. Are you prepared to be, prepared to be interviewed at this time?

25 A: Of course.

1 Q: Mr. Stedshelter, anything you want to put on the record?

2 OS: Officer Buckley since you are forcefully compelled to come to this interview and answer
3 the questions posed to you by the OCC investigator any findings, any information, any testimony
4 you give here, any conclusions done by the investigator here cannot be used against you in
5 criminal court. Do you understand?

6 A: I do.

7 OS: Any questions on that before we begin?

8 A: No. Okay.

9 Q: Officer Buckley when did you join SFPD?

10 A: When was I hired or when was I sworn in?

11 Q: Is hired when you went to the academy?

12 A: Correct.

13 Q: Yes, so when did you enter the academy?

14 A: I was hired into the academy May of 2013.

15 Q: Okay and when did you graduate?

16 A: December of 2013.

17 Q: And when did you complete field training?

18 A: Field training was April of 2014.

19 Q: Okay. And so, at the time of this incident where you still on probation, a probationary
20 officer?

21 A: Correct, I still am right now.

22 Q: Okay and what was your assignment on the shift that started on November 10th, 2014 and
23 extended into November 11th, 2014?

24 A: I was working patrol in the Mission District. I'll look at my reports to refresh what unit I
25 was.

1 Q: And for the record you have a copy of your incident report. Which is number [REDACTED]
2 [REDACTED]. Am I correct?

3 A: I wasn't listening to the number you stated. The Case Number.

4 Q: Yes, the Case Number.

5 OS: [REDACTED].

6 A: That's the report that I've printed out and I also have the OCC complaint copied.

7 Q: Okay correct.

8 OS: And that's the one I have as well.

9 A: To answer your question, the unit that I was working as with a partner was the 3David 16
10 David. The (6 car) in the Mission.

11 Q: Okay and who was your partner.

12 A: Officer Busalacchi, Frank Busalacchi.

13 Q: And between you and Officer Busalacchi, which one is senior?

14 A: Officer Busalacchi is.

15 Q: Okay. And I assume you were in full uniform, in a marked patrol vehicle.

16 A: That is, I was, yes.

17 Q: Okay, you were there, I wasn't. I want to get a full understanding from your perspective

18 A: Okay.

19 Q: Of what happened. I mean the complainant has given his account. So, please just you
20 know help me, what do you remember happening?

21 A: Which part would you like specifically?

22 Q: Start from the very beginning.

23 A: Until when?

24 Q: Until the end.

25 A: What part of the end would you like. I mean that's very broad, what you-

1 Q: When you when you, let say for now when you left the scene. When you left the

2 A: Okay.

3 Q: [REDACTED]

4 A: We were patrolling. I was a passenger. Officer Busalacchi was driving. We were driving
5 northbound on Harrison and as we crossed 26th I heard somebody. I heard a sound, I heard some
6 -- I heard kind of a commotion and someone kind of scream out "fuck." And right when I - right
7 when I heard that, my window was down. And I immediately looked to my right where I heard
8 the sound coming from. And I saw somebody appeared to just falling out of a car. And reaching
9 for something on the ground and looking very disoriented. Anyway, (inaudible) I saw there was
10 someone else in the car and I became concerned whether that person needed help who was
11 falling on the ground. Whether there was a fight that had happened between these two. Why it
12 was that guy who fell out was a victim or a suspect or just needed medical attention. So, I got out
13 of my car. I told Officer Busalacchi, told him to stop the car. And I got out of the car. And
14 walked over to the person who's on the, who I'd heard yell "fuck."

15 Q: Uh-huh.

16 A: And he looked at me and he immediately, he looked up and I could see him struggling to
17 stand up and maintain balance. And approached him and said hey are you okay? What's going
18 on? And he, something to that effect, and he immediately became very contentious with my
19 contacting him in any manner. I asked him kind of what's going on. And I looked inside made
20 sure there was a woman in the in the car in the passenger seat. Looked at her, saw that she
21 appeared to be okay. And the, the gentleman, the male, kind of immediately started yelling at
22 me. Telling me I had better things to do, fuck off, all this stuff. And just and as he was talking to
23 me, I was trying to -- I didn't know, this area that this took place in, I'm familiar with.

24 Q: Uh-huh.

25 A: And work in there a lot. A lot of incidents occur in there where there's robberies.

1 Q: Uh-huh.

2 A: Assaults, homicides and I -- the male is, it was very dark, he was turning from side to
3 side. He was yelling at me. And I could tell that he, I can smell the alcohol coming off his breath.
4 I could see his eyes were blood blood shot. So, I started believing that he was under the influence
5 of alcohol.

6 Q: Uh-huh.

7 A: So, I was trying to just talk to these guys. Deescalate it see what was going on. He was
8 having none of it. I asked him, trying to spark conversation. I asked if he, so, you were just
9 driving, is this your car? I don't know if it's a stolen car. I have no idea what's going on. And he
10 immediately yelled at me that, that it didn't matter. That I couldn't prove he was driving. The
11 keys weren't in the ignition. He had the keys in his hand. And he started walking away from me
12 and threw the keys up on to the, one of the front stoops that was right in front of where we were.
13 Probably about 20 feet away. Up on top of the stoop. He threw like a kinda like you'd throw a
14 baseball. Just fired them up there.

15 Q: Uh-huh.

16 A: Well, you know. So, he kept walking away from me. At that point I ordered him to stop.
17 Said "stop." Said "let me see your hands." I can see he was turning and acting fidgety. And, and
18 he just continued to yell. Saying I had better things to do. Just you know you can't, ya ya ya.
19 Then I -- then I ordered him to put his hands behind his back. And Officer Busalacchi and I tried
20 to take him into custody. At that point, he refused to do that. So, we grabbed on to his arms to
21 place him in handcuffs and place his hands behind his back. And he pulled away from us. Tensed
22 up, and he kept resisting us to the point where he started shaking on us violently back and forth
23 and we ended up all falling together to the ground in an effort to put him in handcuffs. I think I; I
24 look back on the CAD and I think it lasted about a minute, but it was a full-on fight on the
25 ground to get his hands. We, I hadn't conducted a pat search on him. I didn't know if he had

1 weapons. I had no idea who I was dealing with. All I knew is I had someone who appeared
2 drunk. Was yelling at me. Had thrown keys and was refusing to obey my commands. And we
3 were in a full-on fight to get his hands behind his back for about a minute. Right in front of --
4 right in front of where that car was.

5 Q: Uh-huh.

6 A: I put out over my radio, I said 148. I think -- I think while were tussling my microphone
7 was, the button was hit. So, it was keyed and the comotionn came over the air. And so, I think
8 dispatch asked us is there an emergency. And I went over there and said oh yeah, we got a 148.
9 And a bunch of the units, I think everybody came Code 3 to our location. And prior to anybody
10 getting to where were we got the guy we were fighting with - we got him. I already forgot his
11 name. It was -

12 OS: [REDACTED]

13 A: [REDACTED]. We got [REDACTED] into handcuffs before anyone showed up. Once we got him
14 into handcuffs he was face down. I lifted him up. Kind of sat him upright. And other units came
15 and relieved me. I noticed that he had a cut I think on his, I don't know where the cut was. I
16 noticed he was bleeding from his nose. He had a bloody nose. And it was, the blood was running
17 down from his nostril down, I think down around his mouth. So, I called an ambulance. I don't
18 know if I called. One of the, the Sergeant came on scene. Kind of took me aside, made sure that I
19 wasn't hurt. And a 408 was called. Or an ambulance was called to render aid to [REDACTED].

20 Q: Uh-huh.

21 A: I believe while we were waiting for the ambulance to come while the scene was kind of
22 calming down, at least from my perspective. [REDACTED] just went from a nine to a ten. Became
23 irate, he started in his, the symptoms of him under the influence of alcohol became even more
24 apparent to at least me. The, his slurred speech, his mumbling, his kind of erratic behavior. He
25 was berating me, Officer Busalacchi. Primarily he was focused on me. Insulting me and calling

1 me a rookie and a midget and threatening to fight me. He was telling me to take the handcuffs off
2 because he wanted to go. He wanted to fight me. He wanted, he told me to take my badge off and
3 then he, we can have a real fight. The woman who was in the car, at this point, subsequently had
4 come outside of the car and was standing kind of outside of the scene and was pleading for
5 [REDACTED] to shut up. Stop it, stop it you're being an idiot. Shut up, stop. And that the, that kind of
6 that the berating, the insults and his kind of anger continued until he was treated by the
7 ambulance. And then I left the scene while the units were still on the scene. And I went and
8 wrote my report.

9 Q: Uh-huh. Okay thank you. A couple more things. When you first saw him, was any part of
10 him on the ground?

11 A: Yes.

12 Q: Okay, which part of him was on the ground when you first saw him?

13 A: His kinda torso, his arms. He was a -- something was. Seems like his forearms, I don't
14 know exactly what points of contacts were. But there was something that was reaching on the
15 ground.

16 Q: Uh-huh.

17 A: At some point when he got out of the car, I think his knee came to the ground. I don't
18 know specifically.

19 Q: Uh-huh.

20 A: Yes, to answer your question.

21 Q: And, and I assume at some point, he got to his feet.

22 A: Yes.

23 Q: And when was that?

24 A: As soon as I opened the car door. Opened the car door and he, he struggled to get to his
25 feet. Kind of stumbled up in a stupor and stood up.

1 Q: As soon as you opened your car door. He stood up.
2 A: In the point of me opening the car and
3 Q: Uh-huh.
4 A: Taking my few steps towards him.
5 Q: Uh-huh. Okay, and you said what attracted your attention is that you heard this
6 commotion, and someone screamed fuck.
7 A: Correct.
8 Q: And you said your window was down. Was it completely down?
9 A: Yes. My window is always down.
10 Q: Okay, and were the radios on in your car?
11 A: I would assume so.
12 Q: I mean the low band.
13 A: I would assume so.
14 Q: Did you-
15 A: I don't remember specifically, but then I usually have it on.
16 Q: Did you have any other radio on. The FM radio, the AM radio anything like that.
17 A: I don't recall.
18 Q: Did you hear anything else at the time your heard that commotion in the area?
19 A: It was a quiet as could be.
20 Q: Uh-huh. Okay, did you hear the sound of anything dropping to the pavement?
21 A: Let me see here.
22 Q: I can see you're consulting the incident report.
23 A: Yeah,
24 OS: I can look.
25

1 A: I can't, I don't know. One way or the other. I'm not sure if the noise I heard was
2 something hitting a car, something hitting a curb, something hitting. Something inside the car
3 they looked over. I don't know it was -- it was a very specific and located noise that came kind
4 of like, it was noise that I can't recall followed immediately by a "fuck."

5 Q: Do you remember hearing the sound of the keys?

6 A: Yes.

7 Q: On the pavement.

8 A: Of keys hitting the pavement?

9 Q: Yes.

10 A: I remember hearing keys. Whether or not they hit the pavement I don't know.

11 Q: When did you first hear keys?

12 A: I don't know. I don't know. Sometime right in the, the initial of the incident. I mean
13 became explicitly aware of keys as soon as I walked right up to [REDACTED] and I saw he had them
14 in his hand.

15 Q: Uh-huh.

16 A: And he was telling me that it didn't matter because the keys weren't in the car. I couldn't
17 arrest him. And then he threw them. So, I, my memory of when this, it is April 14th, and this
18 incident occurred on November 11th of 2014. So, in the time between then and now I can't recall
19 at the very first moment I heard the keys. I just remember keys being a factor in the jingle and
20 hearing them.

21 Q: And who reported what was happening? The initial report before the 148 call went out to
22 dispatch. Was it you or officer Busalacchi?

23 A: I don't, I don't recall ever putting out where our location was.

24 Q: Uh-huh.

25 A: What we had-

1 Q: Uh-huh.

2 A: But I don't recall who it was.

3 Q: Okay. I mean clearly it was put out because the call went. The backup officers knew
4 where to go.

5 A: Exactly, exactly.

6 Q: Okay. When you -- at any point did you feel the hood of the car? Touch the hood of the
7 car?

8 A: I don't know. I remember hearing crackling. I don't remember if I touched it. I remember
9 hearing crackling.

10 Q: Did you ever ask [REDACTED] if he had been driving?

11 A: Yes.

12 Q: When was that.

13 A: At some point before, before, before we, before he started resisting me trying to put his
14 hands behind his back. There was kind of an attempt. I don't know if I -- if I was clear enough.
15 And that's why I was trying to refer to my report. I don't know if I was clear enough and even
16 recollecting the specific words that are said in a very fast

17 Q: Uh-huh.

18 A: Popping situation.

19 Q: Uh-huh.

20 A: But it was mostly me walking up to him trying to go what's up, what's going on?

21 Q: Uh-huh.

22 A: And an immediate confrontational approach to my presence even being there. No matter
23 what my intentions were being. And usually what I do in these situations is something of
24 conversation.

25 Q: Uh-huh.

1 A: Is something of de-escalation.

2 Q: Uh-huh.

3 A: And so, if I asked him who was driving, I very may well have. I may have not.

4 Q: Uh-huh.

5 A: But he, he was definitely concerned whether or not I believed he was driving. Cuz I
6 remember that specifically is what provoked him to throw the keys and tell me I couldn't arrest
7 him.

8 OS: Your initial contact was not challenging him about driving?

9 A: No, no, no.

10 Q: At any point did you say anything to him or the woman in the car with him that the car
11 was still warm and that you believed he'd been drinking and driving?

12 A: I'm going to look and see if wrote it in the report. Not there, not there, no. Could I ask
13 you what the specific words of your question was?

14 Q: Did you ever say anything to him or the woman in the car-

15 A: Yeah.

16 Q: the fact the car was still warm and that he had been drinking and driving?

17 A: I don't remember if I did or did not.

18 Q: And I want make sure I understand the sequence of the physical contact. So, he was
19 walking away. Is that correct? You told him to put his (inaudible)

20 A: He was, he was he was moving away.

21 Q: Uh-huh.

22 A: And I was in a joint movement of back peddling turning and walking.

23 Q: Uh-huh. And what was the very first physical contact?

24 A: Immediately following me, immediately after I ordered him to place his hands behind his
25 back.

1 Q: Uh-huh.

2 A: I saw that he was not going to do that.

3 Q: Uh-huh.

4 A: He was, he, I don't know if he said no, I can't remember exactly what he said. I believe
5 he continued along the line of you can't -- you have no business what to do here. No you can't
6 tell me what to do, go do real police work.

7 Q: Uh-huh.

8 A: He basically continued to do after I told him to put his hands behind his back.

9 Q: Uh-huh.

10 A: The first contact was made almost concurrently with Officer Busalacchi and I, who was
11 standing to my side

12 Q: Uh-huh.

13 A: I believe I grabbed his right arm. Officer Busalacchi grabbed his left arm.

14 Q: Okay.

15 A: Right around, how specific would you like?

16 Q: Are were you able to maintain your grasp on his right arm? Or after, what did you do?

17 A: No, no.

18 Q: Uh-huh.

19 A: No.

20 Q: Okay. Can you tell me how, how you lost your grasp?

21 A: It's, I lost his grasp. From my recollection, I lost the grasp once we fell to the ground.

22 Q: Uh-huh.

23 A: Go ahead I'm sorry.

24 Q: And how did you -- can you describe how you fell to the ground?

25 A: In which in which, which respect?

1 Q: I mean who fell where and what position? In relation to each other.

2 A: It was a, have you ever been in a physical fight or anything like that?

3 Q: Uh-huh, uh-huh.

4 A: So, there's it's it was a it was the result of momentum in its totality.

5 Q: Uh-huh.

6 OS: That's good. Reading through that's it's hard to remember these things because you have

7 so many you know interactions throughout your career.

8 A: Okay, so I wrote in here we wrestled to the ground. What I remember of that is we both

9 grabbed his arms.

10 Q: Uh-huh.

11 A: He immediately tensed up. He flexed his arms and he lunged forward in kind of like a

12 protective no you're not taking me anywhere. I'm kinda like.

13 Q: For the record you're bringing your arms together in about chest height.

14 A: He sort of turtled. I got my forearms about a 45-degree angle

15 Q: Uh-huh.

16 A: My fists are clenched.

17 Q: Uh-huh.

18 A: My biceps are flexed and budging.

19 Q: Uh-huh.

20 A: And he, he made that movement

21 Q: Uh-huh.

22 A: towards the center. Bent at the waist forward.

23 Q: Uh-huh.

24 A: Kind of like anchoring himself into position.

25 Q: Uh-huh.

1 A: And while I was trying to hold onto his arms – and again at this point I – neither Officer
2 Busalacchi or I had conducted any kind of cursory pat search on [REDACTED].

3 Q: Uh-huh.

4 A: We had no idea who he was.

5 Q: Uh-huh.

6 A: If he was a if he was -- we had no idea who he was, if he had any weapons, anything.

7 Q: Uh-huh.

8 A: And all of a sudden, he was resisting.

9 Q: Uh-huh.

10 A: An arrest we're trying to make on him.

11 Q: Uh-huh.

12 A: So, I was fighting for dear life to hold on to his arm. And went forward, there was about
13 three bodies all flexed

14 Q: Uh-huh.

15 A: And trying to hold remain control in that movement, kind of that momentum kind of
16 gained like a tackle wrestle to the ground as the movement of him moving forward happened.

17 Q: And do you recall how, what position he was when he was on, got to the ground, when he
18 fell to the ground?

19 A: So, initially I believe we all fell together.

20 Q: Uh-huh.

21 A: I think I fell on my right side. He fell, so, we had both of his arms and we fell with his
22 stomach going to the ground first.

23 Q: Uh-huh.

24 A: And when, as soon as he fell down Officer Busalacchi got into position before I could -- I
25 believe – should I speak about Officer Busalacchi's actions upon reflection?

1 OS: Just in tandem if you remember how both of you did something. I mean he can speak for
2 himself about how and why he did something.

3 A: Right but

4 OS: Both of you grabbed him. Like you said you grabbed his left arm, he grabbed his right
5 arm or whatever, however you guys did it.

6 A: Right, right.

7 OS: So, yeah. You can you know.

8 A: The reason I bring him up is because he had -- he had more control when he, I was unable
9 to get the position that I wanted to get in to try and get [REDACTED] in handcuffs because Officer
10 Busalacchi already kind of had taken up space on him. So, it was Officer Busalacchi and I kind
11 of on top of [REDACTED] on his back initially. And then [REDACTED] had tucked his arms in underneath
12 him and was fighting to keep them underneath his body and we couldn't pull them out. And in
13 the process of trying to pull them out he rolled onto his back and faced Officer Busalacchi and
14 myself.

15 Q: Uh-huh.

16 A: And that was kinda during that is when I put out the radio information.

17 Q: Uh-huh.

18 A: I'm sorry I know I'm being long winded but-

19 Q: I appreciate the detail.

20 OS: I think you got the gist of it.

21 Q: Alright.

22 OS: And then they brought him into custody. And they got, you know it's in the report.

23 Q: Uh-huh. Can you describe the blows you delivered when that happened and where and?

24 OS: I was kind of doing, when you're saying blows, what specifically so he -- because when
25 you start saying these types of things now investigator-

1 Q: Well you were

2 OS: you're getting into what we're trained and how we're trained to do things.

3 Q: The strikes, you said I was forced to strike [REDACTED] with my fist. So-

4 A: Where are you looking at that?

5 Q: I'm looking around

6 A: The first page?

7 OS: Yeah.

8 Q: This is the last page of the narrative. First paragraph at the top.

9 A: I describe in there what it is.

10 OS: Just so we know exactly which one -- Is this the, where you're here?

11 Q: Yes.

12 OS: Third from the bottom, I was forced to strike [REDACTED] with my fist, that one?

13 Q: Yes.

14 OS: Okay. Right here, that's what he's asking you about.

15 A: And so, what would you like, how would you like me to answer you?

16 Q: Can you describe that? What happened, why you began to strike?

17 A: Once [REDACTED] had turned onto his back.

18 Q: Uh-huh.

19 A: I, I became increasingly more concerned about both Officer Busalacchi and I becoming
20 injured. We were unable to get his hands behind his back. Unable to get his hands to get to take
21 into custody. And let's see, I remember he had, Officer Busalacchi was kind of covering a lot of
22 his mid-section and back. I couldn't get a hold of his hands at that point. So, I decided -- I believe
23 I hit him on-

24 OS: Right there.

1 A: Yeah with his with my right hand on (inaudible) to his left leg. So, he was kind of turning
2 in, he was taking a real. I don't want to get into (enemy) fighting. But he, he had a position of

3 OS: He looked like a turtle. That's a common term we've used.

4 A: He turtled himself and

5 Q: Uh-huh.

6 A: The only thing I had exposed to me, I was kind of doing a circle around to try and, I was
7 trying to control [REDACTED] legs at this point. I was trying, I was believing that if I could control
8 his legs that I could prevent him from turning and rolling over on to his back and keep him on his
9 stomach.

10 Q: Uh-huh.

11 A: Legs were flailing.

12 Q: Uh-huh.

13 A: Bodies are going, and so I hit him two to three times I think it was on his left thigh area.

14 Q: Okay and you, any place else that you struck him?

15 A: Left thigh area his hip thigh area.

16 Q: On the left side? And when you say strike with your fist, which part of your fist made
17 contact with his body?

18 A: A punching, when you punch somebody.

19 Q: So, the front knuckles of your?

20 A: As opposed to, yes.

21 Q: Okay.

22 A: Yes. Actually, you know what, it may have been you know what a hammer, a hammer
23 punch?

24 Q: Yes.

25 A: I think all it, it would have been one or the other.

1 Q: Uh-huh.

2 A: I think I may have done one of those and then maybe one of the hammer ones. Like the
3 fatty part of your hand.

4 Q: Yes.

5 A: The soft part. I think I may have hit him on his, the muscle of his leg with that.

6 Q: And what was his response when you delivered those strikes?

7 A: There was there was no response that he made that I recall that was distinctive in relation
8 to the strikes I delivered to his leg. He made no -- he made no change of behavior from those
9 strikes that was inconsistent with him already screaming, yelling and being belligerent.

10 Q: And what was your reason for delivering those strikes as opposed to using some other
11 method to gain compliance?

12 A: The others I used were rendered unsuccessful.

13 Q: Okay.

14 A: I can't-

15 Q: I'm sorry, those were?

16 A: I'm sorry.

17 OS: He just described it. He answered all the question. He described very detailed of what
18 they did

19 Q: And so, you'd done

20 OS: Until they resulted to that.

21 Q: Physical control, attempts at physical control?

22 A: Correct.

23 Q: And you any pain compliance prior to delivering the strikes?

24 A: I wasn't able to.

25 Q: Okay.

1 A: I attempt, I was attempting to, but I was not able to.

2 Q: But at a certain point you were able to after you delivered the strikes. Is that correct?

3 A: Correct.

4 Q: And, how did you become able to?

5 A: Well, he had no reaction to me punching his leg.

6 Q: Uh-huh.

7 A: So, then I repositioned myself and found an opening and got ahold of one of his hands. It

8 may be important which one it is. His right hand. And I grabbed his fingers and I bent them back

9 toward the top of his hand.

10 Q: Uh-huh.

11 A: And it had an effect.

12 Q: Okay. And was he handcuffed at that point?

13 A: No.

14 Q: Okay, what happened, when was he handcuffed?

15 A: Pulled his fingers backwards

16 Q: Uh-huh.

17 A: A control hold.

18 Q: Uh-huh.

19 A: A pain compliance hold.

20 Q: Uh-huh.

21 A: And he, he, he lessened his resistance to the point of he rolled over on to his stomach.

22 Q: Uh-huh.

23 A: And then I, Officer Busalacchi grabbed his other hand while I had his control hold and

24 while he was still resisting, we forced him into handcuffs.

25 Q: Uh-huh and who actually placed the handcuffs on [REDACTED] ?

1 A: I, I placed him in handcuffs.

2 Q: Okay and was that your handcuffs?

3 A: My, yes, they were my handcuffs. And I placed him into handcuffs, and I checked for
4 proper tightness and I double locked the handcuffs.

5 Q: And did you handcuff him with a single pair of handcuffs?

6 A: Yes.

7 Q: And I think you said, how, how long did he remain in that position face down on the
8 ground before you brought him up to the sitting position?

9 A: I, I think it was almost, almost immediately.

10 Q: And how long did he remain in the sitting position?

11 A: I believe he was in the sitting position until the until the ambulance came. I, you know,
12 I'm trying to think, I believe (inaudible) report, but I believe he was still sitting in that position
13 when I left the scene. When I was instructed by my sergeant to leave the scene and begin write,
14 doing my investigation. Or continue my investigation, my report.

15 Q: At any point did you draw your baton?

16 A: I did not.

17 Q: Did you ever strike him with anything other than your fist?

18 A: No.

19 Q: And did you, you said that he landed on his stomach. Did you see whether his head or
20 face ever made contact with the ground?

21 A: Did I see, no.

22 Q: During the struggle when you were on the ground did you ever, ever aware of his head or
23 face making contact with the ground?

24 A: Yeah. I mean I can recall I recall his cheek being on the ground probably next to mine
25 with my face being on the ground and Officer Busalacchi's face being on the ground.

1 Q: At any point did you push his head or face towards the ground?

2 A: No.

3 Q: Okay, did Officer Busalacchi push his head or face?

4 A: Not that I saw.

5 Q: At any point did [REDACTED] complain of the handcuffs being too tight?

6 A: Not that I heard, no.

7 Q: You know whether his handcuffs were ever adjusted?

8 A: I don't recall.

9 Q: Did you hear him ever asking anyone to loosen the handcuffs?

10 A: All I ever heard him doing was telling me to go fuck myself and that I was a midget and I
11 was a pussy and I was a bitch and to take my star off and fight me. So, outside of that-

12 Q: Uh-huh.

13 A: I didn't hear him asking if we could do anything to help him. It was -- it was -- all I really
14 heard until my sergeant removed me from the scene was him saying those types of things to me.

15 Q: And were you aware of any officer adjusting or doing anything to the handcuffs?

16 A: Not that I saw, no.

17 Q: And you returned to the station to write your report and other officers accompanied him
18 to the hospital.

19 A: I believe so. I did not accompany him to the hospital.

20 Q: And were your handcuffs returned to you at some point?

21 A: They were.

22 Q: Do you know who returned them?

23 A: I don't know.

24 Q: And do you recall who the first back-up officers who arrived on the scene were?

25 A: No. It's, they all arrived very quickly or were very concurrently.

1 Q: But at that point [REDACTED] was already handcuffed and seated correct?

2 A: I know I said we seated him immediately after. The, the other units responded so quickly
3 that whether or not he was sat up before they came on scene or while they were after, he was sat
4 up fairly immediately after he was placed in the handcuffs. We sat him up and the other units
5 came on. It was very fast it all happened.

6 Q: Did you sustain any injuries as a result of the struggle with [REDACTED]?

7 A: My, just my uniform sustained injuries. I did not, no.

8 Q: Were you aware of Officer Busalacchi sustaining any injuries?

9 A: Yes.

10 Q: Okay what, what injuries?

11 A: I don't recall what they were.

12 Q: Okay. But you do recall that he had some injuries.

13 A: I do, yeah.

14 Q: Okay. And did you have any contact with the woman who was in the car?

15 A: I think that contact, I didn't -- report -- I remember seeing her. I remember hearing her
16 speak. I believe I said a few words to her. Kind of asking her if she lived, where she lived. There
17 was another officer who was speaking, kind of obtaining her information. I don't remember who
18 that was. But I remember being next to that. So, it was kind while, while [REDACTED] was yelling
19 insults towards me. The woman, whose name is, I'll look in my report. Unless you can tell me
20 her name. I don't know how to say her name. [REDACTED]?

21 Q: [REDACTED].

22 OS: [REDACTED]

23 A: [REDACTED]

24 OS: So, we all are in agreement,

25 Q: Yes.

1 OS: It's the same woman we're talking about.

2 A: [REDACTED]. We'll call her [REDACTED]

3 OS: Yeah.

4 A: And she, she was standing right beside next to me.

5 Q: Uh-huh.

6 A: Pleading for [REDACTED] to stop. At that kind of similar instance there was another officer
7 who was obtaining her personal information. Her name, where she lived and that. I believe I was
8 involved briefly in that conversation.

9 Q: Uh-huh.

10 A: With that other officer obtaining information.

11 Q: Uh-huh.

12 A: Outside, outside of that there wasn't a lot of interaction, one on one speaking that I had
13 with her.

14 Q: Okay. Do you have any recollection of two pairs of handcuffs being used to cuff [REDACTED]
15 [REDACTED]?

16 A: I don't remember that, no.

17 Q: Okay. Is it possible that that took place?

18 A: Of course, it's possible.

19 Q: Okay. There's a photograph taken at the scene showing [REDACTED] in handcuffs.

20 OS: You placed him in one handcuff, correct?

21 A: Yes, not

22 OS: You can only speak to what you -

23 A: If I remember, I believe my handcuffs were black too.

24 Q: Do you have those handcuffs with you?

25 A: I do not, no.

1 Q: Were those department issued handcuffs?

2 A: Yes. No, we're only issued one and then we're instructed to get others because we
3 usually – we're instructed to patrol with more than one set of handcuffs.

4 Q: Uh-huh.

5 A: In case you use one.

6 Q: Uh-huh.

7 A: It was the exact same brand and model that is issued to us.

8 Q: Uh-huh.

9 A: I had another one of those.

10 Q: So, this was a personal pair of handcuffs that you used on [REDACTED], is that what
11 you're saying?

12 A: How do you mean personal?

13 Q: Purchased by you?

14 A: I use them at work. Correct, correct.

15 OS: All those handcuffs are. Mine are, you know

16 Q: Uh-huh.

17 OS: They get broken, they get lost

18 Q: Uh-huh.

19 OS: They get this.

20 A: I bought the handcuffs.

21 OS: Just for the record, we have a stipend issued to us about every paycheck of \$31.00

22 Q: Uh-huh.

23 OS: approximately. And that is used it is

24 Q: Uh-huh.

25 OS: from the department and generally used for buying our own equipment.

1 Q: Uh-huh.

2 OS: We buy all our replacement equipment. That is on us. So, any handcuff we buy it is ours.
3 It does not have to be issued by the department for us to use.

4 A: So, it's not-

5 OS: Nothing at all on that.

6 A: It's the same handcuffs

7 OS: So, I don't know what question you're going with that. But that, the department did not
8 have to issue

9 Q: Uh-huh.

10 OS: us handcuffs that we use.

11 Q: Okay. But you do not have those handcuffs with you today?

12 A: Correct, I don't have them today?

13 Q: You don't carry them anymore?

14 A: No, I do, I just don't have them today.

15 Q: Okay. Now that's a photograph taken by SFPD personnel.

16 A: Okay.

17 Q: Of [REDACTED] hand handcuffed.

18 A: Okay.

19 Q: Do you recognize your handcuffs?

20 A: I do.

21 Q: Where are they?

22 A: Mine are on the left.

23 Q: Okay.

24 A: See that, mine's the one connected to his left hand.

25 Q: Okay.

1 A: And, yes.

2 OS: But you did not put him in that position with handcuffs?

3 A: No, I put I put the handcuffs on him – the black pair of handcuffs were the only pair I put
4 on him.

5 Q: Okay, do you have any recollection of who put this second pair of handcuffs on him?

6 A: Like I've said, I don't know. I don't recall that being done.

7 Q: Uh-huh.

8 OS: Maybe this helps. When you left the scene he was, to the best of your recollection he was
9 in one pair of handcuffs. The handcuffs you had handcuffed him with.

10 A: That's what I

11 OS: And then you left the scene

12 A: That's what I remember

13 OS: And then that's the last you saw of him.

14 A: Correct.

15 OS: Okay.

16 Q: At any point when he -- after was in handcuffs, were you or any other officers laughing?

17 A: I don't recall. How do you mean by laughing?

18 Q: Laughing out loud.

19 A: I, I wasn't, nothing.

20 Q: Were you at any point bouncing or jumping around?

21 A: No.

22 Q: Did you see any other officer doing that?

23 A: Can you describe what bouncing or jumping around is? Literally-

24 Q: You know like bouncing around like a boxer, kind of.

25 A: No, absolutely not.

1 Q: Did [REDACTED] ever ask for your star number?

2 A: Yes, several times.

3 Q: Okay and how did you respond?

4 A: I told him my star number.

5 OS: We have a document

6 Q: Did he ever ask for any other officers Star Number?

7 A: I don't know.

8 Q: Did you hear him ask for Officer Busalacchi's star number?

9 A: I don't know. I didn't, I don't recall hearing that. I recall him asking him for mine. Me
10 giving it to him and then in the process of him challenging me to fight and calling me like I said
11 a bitch and a pussy. He was chanting my star number.

12 Q: Did, you mention that you saw him throw the keys towards the steps.

13 A: Uh-huh.

14 Q: Did you ever see where the keys landed?

15 A: I took a picture of that. Or had someone took a picture of it. I saw where they landed, and
16 I went down and took a I took a picture of where they landed.

17 Q: These were the photos taken by the scene by police personnel?

18 A: Correct.

19 OS: And these photos just go by these are photos of the stairwell. It looks like and on the
20 stairwell are the keys that

21 A: That he threw

22 OS: The guy supposedly threw.

23 A: Those are the keys that [REDACTED] threw.

24 Q: Yeah. Alright.

25 A: Upon my initial contact with him.

1 Q: Okay. Thank you. And you said that a sergeant arrived.

2 A: Correct.

3 Q: And which sergeant was that?

4 A: The one that I recall being there, the one that I recall speaking with I don't know if others
5 showed up. The one that

6 Q: Uh-huh.

7 A: I recall is Sergeant Edwards.

8 Q: And did Sergeant Edwards do a use of force investigation at the scene?

9 A: I believe he did.

10 Q: And do you know what involved?

11 OS: You should speak to him about what he did for his use of force.

12 Q: So, do you have any

13 A: I'm not a sergeant, I don't I don't conduct use of force investigations. So, I don't know
14 what that would entail. We spoke. He asked me to tell him kind of what happened.

15 Q: Uh-huh.

16 A: I told him something very similar to what I have told you. He asked me if I was injured.
17 If I was okay. And that was mostly the extent of our discussion.

18 Q: And what else did you observe Sergeant Edwards do at the scene?

19 A: So, I guess -- I'm referring to my report.

20 Q: Uh-huh.

21 A: I guess Sergeant -- it was Sergeant Morales who conducted the use of force.

22 Q: Uh-huh.

23 A: Investigation.

24 Q: Uh-huh.

25 A: I don't know what else to tell you. I recall Sergeant Edwards coming on first on scene.

1 Q: Uh-huh.

2 A: I recall having a conversation and de-briefing similar to what I told

3 Q: Uh-huh.

4 A: Sergeant Edwards. Told the exact same thing to Sergeant Morales. And he was the one
5 who conducted the investigation on the scene.

6 Q: Uh-huh.

7 A: But I, I provided the exact same information to both Sergeants. As far what they did at
8 the scene.

9 Q: Uh-huh.

10 A: I don't recall.

11 Q: Did you make any (E585) traffic stop data collection entries for anything done during this
12 shift?

13 A: I, I don't know. For the entire shift?

14 Q: Yes.

15 A: I can't recall that.

16 Q: Did you make any for this incident?

17 A: I don't recall. I don't know.

18 OS: (inaudible) it's not required.

19 Q: Excuse me.

20 OS: It's not required.

21 Q: Well this was a 916.

22 OS: If it comes out, how a how a call comes out and subsequently what the call turns into, you
23 can see in the CAD.

24 Q: Uh-huh.

25 OS: Right here.

1 Q: Uh-huh.

2 OS: Can I take a look at that?

3 Q: Yes, I have a clean copy here.

4 OS: That's alright, I'm not going to mark on it. Whether it comes out as a 916, 585, whatever
5 you want to call it and what it turns into could be totally different. We can go out to a call of a
6 theft and it can turn into a DV. I mean we've had that before. So, at the end you'll have a DV.
7 But if you look at your CAD it might originally come out as a theft. And you realize it's between
8 a husband and wife and then someone used physical force with – you know and there you have a
9 domestic violence arrest. There's, just because it starts as a 916 does not require it to be put in as
10 a E585. As you can see, he didn't do anything regarding the vehicle. This is the guy on the street.

11 Q: Okay, let me finishing asking – Officer Buckley what's your understanding

12 A: Sure

13 Q: of Department Policy 13-091 Traffic Stop Data Collection program information?

14 A: Can I refer to

15 Q: Yes.

16 A: So, my understanding of this bulletin and I the department policy-

17 Q: Uh-huh.

18 A: Regarding-

19 Q: Uh-huh.

20 A: What we called a E585, you referred to as a what's it called a data collection

21 Q: Uh-huh.

22 A: entry?

23 Q: Yes, yes.

24 A: My understanding and the policy and of the policy is that after the specifically listed kind
25 of police contacts they say. Things that mostly are associated with 916 vehicles and traffic stops

1 585's, at the conclusion of that you enter in specific information regarding the stop that is
2 including but not limited to the person who's contacted, sex, race, age, the location of where you
3 were, the nature of the stop, the conclusion -- the conclusion of that contact. Your star number,
4 the district in which you work in

5 Q: Uh-huh.

6 A: And you enter that into the computer within, within the car is how it's usually done.

7 Q: Okay and so, and is that required? Is that required for a 916 vehicle stop?

8 OS: Based on that bulletin it's one of the listed criteria, yes.

9 Q: Okay, should a E585 entry have been made for the contact with [REDACTED]?

10 A: I believe no. It was the contact in which I made that the what had transpired. What I
11 initially set our investigating was a well-being check. A person being drunk, a person being hurt,
12 it was a possibly suspicious person. Which is more likely to me called a 910.

13 Q: Uh-huh.

14 A: Which is a well-being check or a 917, which is a suspicious person. Those were really my
15 two initial thoughts of what was going on. And like you said, whoever put out in the radio traffic
16 that we had, like you said it can't be generated of where we are or what we're doing unless we
17 tell dispatch.

18 Q: Uh-huh.

19 A: Or do some kind of entry.

20 Q: Uh-huh.

21 A: I don't recall, I recall my only actions is of getting out of the car and trying to contact [REDACTED]
22 [REDACTED]. I don't ever recall putting out either the the police code for 916 suspicious, suspicious
23 vehicle or inputting the license plate. And giving the license -- we call it 916. Are you familiar
24 how 916's work?

25 Q: Uh-huh.

1 A: You usually tell your location.

2 Q: Uh-huh.

3 A: 916 your location and the vehicle license plate.

4 Q: Uh-huh.

5 A: I don't ever recall looking at the license plate and they're followed up at once, you know,
6 utterance, I don't ever recall looking at the vehicle license plate and making that from the radio. I
7 also don't recall because I was so immersed in contacting you know the belligerent [REDACTED], I
8 wasn't, I don't recall even hearing our location being put out.

9 Q: Oh, okay. If a E585 was required who would have been responsible for making it? You
10 or Officer Busalacchi?

11 A: So, hypothetically in the course of a shift of partners you're asking?

12 Q: Yes.

13 A: Who's responsible (inaudible) to?

14 Q: Yes.

15 A: I'm not aware of the responsibility falling on one partner or the other, more so than the
16 other.

17 Q: Okay. The record of E585 entries made for this shift.

18 A: Uh-huh.

19 Q: indicates that two entries were made with your star number. One for a stop at 22:50 on
20 11/10 and the other for a stop at 23:55 on 11/10.

21 A: Uh-huh.

22 Q: Do you recall making any other entries for any activity during the shift?

23 OS: Any other E585 entries that are not-

24 A: Like I said earlier, so, with the idea of this was this occurred in November 11, of 2014.

25 Q: Uh-huh.

1 A: We're in April, middle of April 2015.

2 Q: Uh-huh.

3 A: On a daily-- on a day to day basis each officer is different, I can contact up to 15-20
4 vehicles in a given day.

5 Q: Uh-huh.

6 A: Ten.

7 Q: Uh-huh.

8 A: Whatever it may be. So, no I have no specific recollection right now.

9 Q: Uh-huh.

10 A: Of making any other let alone making those E585's.

11 OS: Many times, the 916's put out from dispatch is in regards to something of the nature of
12 we have a 916 vehicle at this location. They'll describe the subjects in the vehicle and a lot of
13 times for instance what I've seen lately the RP's call in 6 suspected of dealing drugs out of the
14 vehicle.

15 Q: Uh-huh.

16 OS: That's your typical 916 vehicle. Someone in there. Or it might come out two people
17 inside the vehicle fighting. And you get there and it's again, a DV

18 Q: Uh-huh.

19 OS: Or a 245 a friend attacking a friend. It's not really a suspicious person in the vehicle it's
20 actually a crime being committed.

21 Q: Okay.

22 OS: I'm just trying to give (inaudible) around this

23 Q: Uh-huh.

24 OS: Because you know it seems for some reason these E585's pop up and I'll go more into it
25 at the end.

1 Q: Uh-huh.

2 OS: not to digress from your interview sir. But the E585 is not so germane to this
3 investigation. This investigation was a well-being check on someone.

4 Q: Why don't you why don't you do it at the end because I have some more questions to
5 ask. You mention that [REDACTED], you observed that [REDACTED] had a bloody nose.

6 A: Yes.

7 Q: Do you have an idea how he sustained that injury?

8 A: Yeah, I have an idea of how it happened. At some point during the tussle his nose came
9 in contact with the concrete. I believe it happened when we all fell to the ground together. When
10 Officer Busalacchi and I were trying to put his arms behind his back we had had control of his
11 arms. So, when we fell forward [REDACTED] didn't have the ability to brace himself before he hit the
12 ground. And at some point, I think he -- the momentum of his face and all of our bodies made
13 his nose contact the concrete. That was my deduction of the situation. I didn't hear it or see it.

14 Q: Uh-huh.

15 OS: Okay so I would stick. That's a very good answer thank you. But you never saw his nose
16 hit the ground.

17 A: That was my deduction.

18 OS: So, you don't know if he just has nose bleeds cuz he drinks too much and his nose -

19 A: I don't know if he punched himself in the face.

20 OS: Right.

21 A: I have no idea.

22 OS: As, we as has happened before.

23 A: Right. No, I don't know.

24 OS: As they are rolling around, as they swing around they hit themselves, yeah. So, you just
25 know he had a bloody nose.

1 A: I don't know if it was from exertion. I deduced that at the-

2 OS: And I think he asked the question Investigator Wechter, but (inaudible) you never struck
3 him in the nose?

4 A: That is correct, never once.

5 Q: Okay.

6 A: Although it would have been warranted, I did not.

7 OS: You just took him into custody and that okay and maybe (inaudible) to the ground
8 anything could have happened.

9 Q: Anything I haven't asked you that you think would be relevant for us to know?

10 OS: I'll say some things after this. But that's, anyway.

11 A: No, I do not.

12 Q: Okay.

13 OS: Yeah, we've gone over a lot here. First, I think as you can see investigator Wechter
14 Officer Buckley wrote a very detailed report. Statement is very detailed. Answers to your
15 questions and very forthcoming describing exactly how they came upon this person who then
16 decided he wanted to fight with them. So, a couple of things. We'll get to the 585 later. I think
17 the best way to go through with this is just you know just start with the allegations. First off it
18 comes out the officer detained the complainant without justification. Officers on the scene
19 Officer Buckley, Officer Busalacchi had every justification to detain someone like that. They
20 drive around in the middle of the night. Our job is to be keep a high high alert. High visibility of
21 what's going on. When you hear in the middle of the night in dead silence someone yelling. You
22 hear someone seeing they're having difficulties as you described with this person sort of
23 crawling in the street almost. That's what we're paid to do.

24 Q: Uh-huh.
25

1 OS: We investigate. He comes up 910 on someone, basically a well-being check is what this
2 starts out to be. And goes into all the details he provided of seeing someone who's intoxicated
3 who all of a sudden to him. Comes to him about driving keys, throwing them. This guys
4 obviously out of control. Officer Buckley is just trying to talk to him. And then he confronts
5 them. And then physically assaults the officers. And then Officer Buckley gave a very, you
6 know, used very professional restraint. They used physical control. This guy as you look is 5'9"
7 200 pounds. He's not a small person. Get's in a scuffle. They go to the ground. Summarizing
8 then what happens then after he turtles and continues to actively resist. They're able to take him
9 into custody with his hands behind his back, handcuffing him. As Officer Buckley's testified to,
10 he cuffed him with one cuff. The pictures you have of what happened afterward, Officer Buckley
11 can not speak to because other officers may have done something on the scene with him. So, the
12 first thing when we have, we have a lawful detention. A lawful take on, a lawful arrest. The part
13 I want to look at with you is unnecessary force. In, in his complaint he doesn't talk about the
14 scuffle at all. Doesn't talk about that at all. Unless I'm missing something. Doesn't talk about the
15 scuffle. Doesn't talk about the bloody nose which was documented by Officer Buckley and he let
16 Officer, Sergeant Morales know about it. Sergeant Morales conducted the investigation, the level
17 of use of force log He talked about handcuffs. So, as here what we're answering to for the
18 unnecessary use of force on the complainant, is that the allegation he is answering to?

19 Q: We don't know that (inaudible)

20 OS: Well in a sense we have to know. I mean he-

21 Q: I'm, I'm not going to (inaudible) to that so-

22 OS: He used necessary, he used reasonable force in taking [REDACTED] into custody.

23 Q: Uh-huh.

24 OS: In fact, he used restraint. He didn't escalate to a baton. He didn't escalate to OC.

25 Q: Uh-huh.

1 OS: He didn't escalate to multiple strikes in other parts of his body. He gave academy trained
2 strikes with his fist. He complied, took him into custody. This guy was medically evaluated. And
3 the handcuffs, if that's what he's complaining about. Because that's the only think I see written
4 here. There's nothing about the physical altercation. Unless I've read something wrong. With the
5 handcuffs, handcuffs are uncomfortable. You know look at put them on me right now, they're
6 uncomfortable. Officer Buckley properly handcuffed him and then was directed by a Sergeant to
7 leave to scene and begin the investigative report. What happened after that, that's for someone
8 else to speak to. And we can come down with them and go through the whole thing again. The
9 rest of it, the complaint without cause. As he detailed in his report, every element to arrest that
10 suspect [REDACTED] is here. From the take on, to [REDACTED] behaviors, to what he did then. To the
11 647(f), the 148 and the 243(b). They say neglect of duty to take required action. Does that
12 dovetailed in with the E585, is that what that's supposed to be?

13 Q: And again, I'm not gonna, it's a separate allegation.

14 OS: And what required action? So, if Officer Buckley has a chance, a fair chance then if
15 there's something to answer to that we haven't. Because I don't see any required actions that he
16 did not do here.

17 Q: It's our policy not to elaborate on the allegations that were brought.

18 OS: Well I'm just asking. I just want on the record him asking because-

19 Q: Uh-huh.

20 OS: You've made it an allegation made.

21 Q: Uh-huh.

22 OS: In all fairness and reasonableness you're asking he's being said you didn't take a required
23 action. As you can see, he's been very forthcoming. He's willing to give you any detail you
24 want. What required action? The only one here that you have specified is the E585, which I will
25 get to in a minute. Required action on the scene as it was reporting his use of force, which he did.

1 Medical assistance was called for and rendered to [REDACTED]. He wrote a report detailing what
2 he did. And you can see everything in here. There's nothing here that he did not do that he was
3 supposed to do. Inappropriate behavior, again and I think from what you asked is, you sort of
4 said was laughing if there was anything of the mocking and jumping around if that's what that is.
5 He testified he hasn't done that, and I don't see any other evidence that's been presented to any
6 of the contrary for that, for this officer during how he conducted himself. He conducted himself
7 in a professional manner. Again, saying you know using physical restraint to bring this very very
8 combative person into into custody. As he said coming up, you don't know what this guy's
9 doing. He's throwing keys. You don't know if he's throwing keys does, he live there, does he
10 not? Throwing the keys, later on does he want to go back and get into the car? I mean taking him
11 into custody and arresting him for the 647(f), perfectly lawful. I mean it almost would have been
12 not doing their duty because this guy obviously couldn't take care of himself to allow him
13 possibly to get in the car and drive, drive off. In the condition he was in it sounds like – would
14 you say in the condition he was in if he got into that vehicle and drove away would you see the
15 condition, he was in would have merited driving under the influence of alcohol?

16 A: It would have been criminally negligent, been astoundingly reckless and dangerous for
17 the public at large.

18 OS: For him to drive. And public at large for him driving.

19 A: Incredibly dangerous.

20 OS: In fact, you probably saved someone's life that night if this guy got in his car and drove
21 away. Down the mission with so many people you read about all the accidents that are going on
22 in the city with pedestrian, bicyclists, other vehicles. To let someone in that condition drive off in
23 that car, would have been that that person could have caused serious damage. The E585 again, is
24 he going to, he's coming up on this person and checking on him. The appropriate title if you
25 went by the beginning of this stop is basically a 910. Doing a well-being check on someone. And

1 then as it comes out if you want to put that as a well-being check too. Possibly a 917, a
2 suspicious person. What you know, turning that into then where it went to the 148 and to the
3 others. Would you agree with that officer?

4 A: Absolutely.

5 OS: Okay. What I see over this whole investigation is Officer Buckley conducted himself
6 with proper conduct throughout. He was professional. He did his job. He did his duty as an
7 officer. And while doing that duty because [REDACTED], probably if he's just at the beginning
8 answered some questions and didn't go off in some crazy drunken stupor and attack the officers,
9 it probably would have been a well-being check and he probably would have moved on. But
10 instead he escalated the situation. The officers by no means escalated the situation. And once he
11 went in that direction, they, they did their job.

12 Q: So, you mentioned that you checked the handcuffs for tightness and double locked them.
13 Is that when [REDACTED] was still face down on the ground?

14 A: I don't recall. I just know that every time I put someone in handcuffs I check for tightness
15 and I double lock them.

16 Q: Okay, so, you so, are you saying you did it that time because that's your standard
17 practice? Or do you specifically remember doing it with [REDACTED]?

18 A: No, I can remember checking it on him.

19 Q: Okay, do you remember how tight the handcuffs were on his right wrist?

20 A: Yeah, just, just enough for me to fit a bit of my pointer finger in between his what's it
21 ulnar bone?

22 OS: Ulnar yeah.

23 A: Yeah, ulnar bone and exactly how we're taught in the in the academy.

24 Q: Uh-huh.

25 A: About that amount of space.

1 OS: And that's post (inaudible)

2 Q: What, which finger did you say?

3 A: My pointer finger.

4 Q: Pointer finger okay or index finger okay. So, you were able to fit your index finger
5 between?

6 A: That's not what I said.

7 Q: No.

8 A: Part of, be able to put in a portion of your finger. Enough so that a portion of your finger
9 can be in between.

10 OS: So, it fits, it slides in. And that's based on post training that you received at SFPD
11 academy, correct?

12 Q: That is correct?

13 A: That is correct.

14 Q: Okay. Is there any other statement in relevant to this incident that you wish to make at
15 this time?

16 A: I, I have a question.

17 Q: Uh-huh.

18 A: If it's appropriate to ask at this time. I don't know.

19 Q: You can ask it; I don't know if I can answer it.

20 A: Just being as a new officer.

21 Q: Uh-huh.

22 A: And not been through this process.

23 Q: Right.

24 A: Will you tell me a little bit, especially kind of concerning the allegations that are made
25 and that

1 Q: Uh-huh.

2 A: I'm not aware of. And you not being able to divulge and that struck me a little strange not
3 being able to confront the allegations against yourself. If you don't know the details of it.

4 Q: Uh-huh.

5 A: I've, I'm just speaking more from criminal law and

6 Q: Sure.

7 A: My understanding of that.

8 Q: Okay.

9 A: But as far as concerning that and then also on your end the process of where we are and
10 what happens from here.

11 Q: Okay. In terms of this specific case because of the (inaudible) decision I can't reveal
12 anything from in terms of the investigation. Can't reveal it to you. I can't reveal it to [REDACTED].

13 [REDACTED] or to anyone else. You will receive a letter telling you what our findings are on each of
14 the allegations that concern you.

15 A: Okay.

16 Q: And you then have a right to come here and review something called the Openness
17 Summary. Which is a short summary several paragraphs of how we reached our finding, which
18 discusses evidence in a generic way. Will not name specific people. [REDACTED] would have the
19 same right to do that. We're required to investigate all allegations brought by the complaining
20 party.

21 A: Uh-huh.

22 Q: [REDACTED] wrote a narrative about what he what he said happen. And the allegations
23 are based on that. And beyond that we don't go into elaboration because we can't really speak
24 for the complaining party. We put that in writing.

25 A: Are you able to speak at all to

1 Q: And that's all

2 A: about to what the threshold to, to turn a complaint into an investigation?

3 Q: We're required by the charter to investigate every complaint we receive.

4 A: What's the threshold at which a complaint turns into bringing officers in for an
5 interview? Or does every complaint turn into an interview and a questionnaire or questionnaire
6 something like what's going on now?

7 Q: Our offices have certain policies that generally a complaint involving force will require
8 officer interviews. There -- we also are able to question officers in writing. That's called a
9 Member Response Form.

10 A: Uh-huh.

11 Q: It varies from case to case. But there are some standards within the office. So, typically
12 force cases do result in an officer being brought in for an interview. The fact that an officer is
13 brought into an interview is not a reflection of whether we -- our evaluation of the evidence.

14 A: Understood.

15 Q: As I said, we're required to take all the complaints to investigate them thoroughly, fairly
16 and-

17 A: Understood.

18 OS: And-

19 Q: And we don't have any discretion over that. In other words, if an if an officer, if someone
20 comes in and says I want to complain about the officer because as we were walking by, he
21 looked at his gun and I felt threatened. We have to take that as a complaint. They're lodging it.
22 We can then make an evaluation as to whether it was a violation of any department regulations in
23 that. Or we frequently get people saying I was not read my Maranda Rights. Well we, you
24 probably know from the law-

25 A: Right.

1 Q: You're only required to read Maranda when someone's in custody and when they're
2 being questioned.

3 A: Uh-huh.

4 Q: But people from television think every time whenever handcuffs are put on you have to
5 be read Maranda. So, we get a lot of those and we can find there's no violation there because
6 they're not required to read Maranda if they're not questioned by the officer.

7 A: Hypothetical?

8 Q: Yeah. And that's a hypothetical. Obviously so, just to give you an example of we are
9 required to take that complaint and investigate it. The only difference we do not investigate those
10 that are referred for mediation and that's both the complaining party and the officer have to agree
11 to that. And there's certain restrictions the department and our office place on eligibility for
12 mediation.

13 A: Understood.

14 Q: And a

15 A: What are what are the results that you said that will be mailed to me, what are the, the
16 different option, not options whatever you call it?

17 Q: It will -- it will have a definition that's basically proper conduct being that the and I may
18 not be quoting this correctly, the actions of complaint did take place, but they were proper.

19 A: And is that for us, is the burden of proof for proper conduct on myself and my POA rep?

20 Q: There's not a burden of proof on

21 A: Or is it?

22 Q: Anyone, the standard this agency uses is preponderance of the evidence.

23 A: Okay. So

24 Q: So

25 A: Absence preponderance of evidence it would result in -

1 Q: Not sustained, maybe there's insufficient evidence to prove or disprove the allegation.
2 And you can look at our annual report on-line. It will give a break down of the percentage of
3 cases that result in these findings.

4 A: I'm not concerned with that.

5 Q: Okay, but, but for a significant percentage result I think, over 50 percent result

6 A: I'm mostly intrigued by the, the difference between not sustained-

7 Q: Uh-huh.

8 A: And proper conduct. How you come to that conclusion.

9 Q: The findings are made by the agency. So, there's multiple levels of review.

10 OS: (inaudible) yeah.

11 Q: Of the investigation.

12 OS: He doesn't make the final decision.

13 A: Not you, I mean what is the difference between proper conduct and-

14 Q: Proper, proper conduct would mean as I said the evidence established that the actions
15 complained of did take place, but that they were lawful and proper.

16 A: And then unsustained would be?

17 Q: Not sustained means there's insufficient evidence to prove or disprove the allegation.
18 And unfounded would mean that a preponderance of the evidence indicates that the actions
19 complained of did not take place.

20 A: Okay.

21 OS: So, unfortunately a lot of these, to what your first example is. They felt threatened they
22 walked by because the cop looked at their gun.

23 A: No, I understand I understand that.

24 OS: When they say the preponderance would be unless we had video showing that that person
25 was looking the other way.

1 Q: Uh-huh.

2 OS: well that probably be a preponderance of saying well that's proper conduct actually it's
3 no merit

4 Q: Uh-huh.

5 OS: because he really didn't have anything there.

6 Q: Uh-huh.

7 OS: So, the other is, unfortunately, sometimes it comes down to yeah, that cop said this to me.

8 Q: Uh-huh.

9 OS: Well I didn't say it to you.

10 Q: Uh-huh.

11 OS: I've never seen you before.

12 Q: Uh-huh.

13 OS: I've never met. You I'd never even been near you. And we've had those. And someone
14 out of nowhere will just say hey these two officers here said this to me. Wasn't even working
15 that day. We've had that. But unfortunately, instead of getting the no merit, or proper conduct
16 because they never said it. It's un, it's not sustained because it's a he said, she said almost type of
17 thing, unfortunately. But that's

18 A: I understand. Okay. I

19 Q: No, you know, I'm sorry I hadn't realized you hadn't been here before.

20 A: I've been in an interview once but I-

21 Q: Okay, but yeah, I understand it creates apprehension.

22 A: Oh, not at all.

23 Q: The

24 A: Not at all.

25 Q: procedures may not be clear. So, I'm happy to explain.

1 A: Yeah no, it's not apprehension

2 Q: All this to you.

3 A: It's lack of clarity is the issue.

4 Q: Yeah. Okay, so

5 A: Thank you for your time.

6 Q: Sure. Is there any other statement relevant to this incident you wish to make at this time?

7 A: No.

8 Q: Are there any witnesses of evidence relevant to this case you wish to submit on your
9 behalf?

10 A: Can you read that, I couldn't-

11 Q: Are there any witnesses or other evidence relevant to this case that you intend to submit
12 on your behalf?

13 A: No.

14 OS: No, not unless something else different comes up and you know.

15 Q: Okay. This interview concludes at 6:14 PM. Thank you.

16 END OF INTERVIEW
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25

1

2 CERTIFICATE OF TRANSCRIPTION OF TAPE RECORDINGS

3 --o0o--

4 I, the undersigned, hereby certify as follows:

5 That the foregoing transcript, page 1 through and including 49, to the best of my
6 knowledge and belief is a full, complete and true transcription of certain tape recordings as
7 described below to the best of my ability to hear, understand, identify speakers and transcribe
8 said recordings, with the exception of any portion indicated as (inaudible), and words contained
9 in parentheses, which indicate the best guess. (Any errors, changes or omissions should be
10 brought to my attention for correction.)

11 That said tape recordings were furnished to CTI Transcription Services, 79
12 Pizarro Avenue, Novato, CA 94949, by The San Francisco Department of Police Accountability,
13 and requested to be transcribed.

14 IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of December
15 2019.

16
17 /s/ Kathy Kay
18 KATHY KAY
19 By Electronic Mail
20
21
22
23
24
25

1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

5
6
7
8 **INTERVIEW OF: OFFICER BURNS**

9
10 **INTERVIEWED BY: OCC INVESTIGATOR WECHTER**

11
12 **DATED: MAY 8, 2015**

1 **Q: INVESTIGATOR WECHTER**

2 **A: OFFICER BURNS**

3
4 Q: Today's date is May 8, 2015 and it's 4:14 PM. This is OCC Investigator Wechter
5 conducting an in-person interview at the OCC in connection with OCC case number 40-15. And
6 I'm interviewing Officer Daniel Burns, star number 4319. Here as a witness and Officer this is
7 being recorded.

8 A: Okay.

9 Q: Okay so as you probably know, this is about the incident that happened November 11th.
10 I'd sent you a member response form that you completed.

11 A: Correct.

12 Q: When you went to back up Officer Buckley and -

13 A: Busalacchi?

14 Q: Busalacchi. Yes. Down at 26 and Harrison.

15 A: Correct.

16 Q: So I just wanted to go over again what happened. What you recall about that incident.

17 A: The only thing that I remember was I was sitting at the station when I heard 148, which is
18 someone is resisting arrest. At that point I responded to 26th and Harrison.

19 Q: Uh-huh.

20 A: I saw a man handcuffed on the ground. He was yelling at Officers Buckley and
21 Busalacchi. Specifically, I remember Officer Buckley he was yelling at. He was telling him to
22 take off his star so that he could beat him up.

23 Q: Uh-huh. Did you respond alone?

24 A: No, I was with my partner.

25 Q: And who was that?

1 A: I do not recall that day.

2 Q: Okay. You say the man was on the ground, what position was he in?

3 A: He was seated.

4 Q: Do you remember where he was seated?

5 A: On the sidewalk.

6 Q: And was he handcuffed at that point?

7 A: I believe so.

8 Q: Okay. And what were you told when you arrived?

9 A: I was just told -- I mean nothing specific to the case. I was -- spoke with my Sergeant.

10 Sergeant Edwards. He told me that just to take picture of the injuries that were sustained by
11 Officers Buckley and Busalacchi.

12 Q: And did you take photographs?

13 A: I did.

14 Q: And what type of camera did you use?

15 A: My department cellphone.

16 Q: Okay. Do you know what kind of cellphone that it was?

17 A: Uh Sams- I don't know the Samsung. I don't know, I think it's a Samsung. I'm not sure
18 what specific model.

19 Q: And did your Sergeant direct you to take photographs of any particular thing?

20 A: Just of the injuries.

21 Q: Injuries?

22 A: So whatever they pointed to me that if they were, if their uniform was scuffed up or if
23 they had knee prob- knee scuffs or whatever their injury was is what I was told to take pictures
24 of.

25 Q: So the two officer injuries?

1 A: Correct.

2 Q: Okay. Were you told to take photographs of anything else?

3 A: No.

4 Q: And did you take photographs of anything else?

5 A: No.

6 Q: Okay. I just want to show some photographs. So is this one of the photographs you took?

7 This is a photograph of Officer Busalacchi.

8 A: Yes.

9 Q: Showing his injuries. So I have I guess four different photographs there showing some
10 blood dripping into his left wrist there. His left (foot). And you also took some photos of Officer
11 Buckley as well, is that correct?

12 A: I believe so.

13 Q: Did you take photographs -- did you take photographs of the car parked there?

14 A: I did not.

15 Q: No? Do you know who took those?

16 A: I do not. No.

17 Q: Okay. Or did you take photographs of keys on the step, on some steps?

18 A: I do not recall. Specifically, I just remember taking pictures of their injuries. Them
19 themselves. Officer Busalacchi and Buckley.

20 Q: Was anyone else taking photographs there?

21 A: I do not know.

22 Q: Okay. Do you remember taking photographs of the man who was arrested?

23 A: Do not.

24 Q: Okay. Is that the man there?

25 A: It appears to be.

1 Q: Okay, did you take this photograph?

2 A: I do not recall.

3 Q: Okay. (inaudible) So you took your photographs with your department issued Samsung
4 phone. Do you know whether anyone else was taking photographs there?

5 A: I do not know.

6 Q: Did you take any photographs with an iPhone?

7 A: No.

8 Q: No. Okay. So do you remember taking any of these photographs of this man who was
9 handcuffed wearing the Giants shirt?

10 A: I don't recall.

11 Q: Okay. Is it possible that you did?

12 A: I think that it's possible, but I don't recall doing it.

13 Q: And these photos here. He's in handcuffs.

14 A: Don't recall.

15 Q: Do you recall anyone saying anything to you about injuries that he had?

16 A: No.

17 Q: That should be documented?

18 A: I never heard anything of injuries about him. Only that I was instructed by my Sergeant
19 to take pictures of Officer Buckley and Busalacchi.

20 Q: Uh-huh. And what did you do with the photographs?

21 A: I print- I put them on the computer and then-

22 Q: And how did you, how's that done. I'm not familiar.

23 A: You use the phone cord to plug it into the computer. Download it to the desktop.

24 Q: And how are they saved?
25

1 A: I don't know. I gave them to Officers Buckley and Busalacchi. I'm not sure how they
2 saved them. If it was uploaded or on a CD or what have you.

3 Q: And at some point, was the man raised to a seated position?

4 A: He was in the seated position when I got there.

5 Q: When you arrived? Okay. 'Cause when you, in your member response form you wrote I
6 saw the complainant laying on the ground handcuffed. The complainant was sat up right on the
7 ground and then continually yelled at Officer Buckley and Busalacchi.

8 A: Yeah.

9 Q: So that seems to indicate that you saw him laying on the ground and then was-

10 A: Oh no, no. He was sitting, laying in the seated position on the ground.

11 Q: Oh okay.

12 A: Sorry for that confusion there.

13 Q: Okay. And then you also wrote Officers Buckley and Busalacchi sit the complainant in
14 the upright position. So was that, does that refresh your recollection?

15 A: It's the same.

16 Q: Excuse me.

17 A: It's the same.

18 Q: Un-huh. Okay. Did you recall them ever moving him up into a seated position?

19 A: He was not fully seated. He was not lying on the ground, but he was kind of slumped.

20 Q: Uh-huh.

21 A: So they pushed him upright.

22 Q: Okay.

23 A: So seated to, semi seated to seated I guess would have been a better way to phrase it.

24 Q: Okay. About how long were you at the scene for?

25 A: I was, I don't know specific numbers, but not very long.

1 Q: Okay and did you talk with either Officer Buckley or Busalacchi at the scene?
2 A: I just asked if they were okay.
3 Q: Okay. And did you talk with them at the station?
4 A: No.
5 Q: Okay. Did then what did you, did they tell you what had happened?
6 A: No.
7 Q: Okay. Okay anything else that comes to mind about the incident.
8 A: No. Just I was there for such a short time. I just took photos as directed by my sergeant
9 and then I gave them the photos and that was it for me.
10 Q: Okay. Do you have the department cellphone with you?
11 A: No, it's in my bag in my car.
12 Q: Okay. That was issued to you.
13 A: Correct.
14 Q: Okay. And is all the patrol officers at Mission station be issued those phones?
15 A: I'm not sure.
16 Q: How, how long have you had it?
17 A: I'm not sure of that either.
18 Q: Uh-huh.
19 A: A year maybe.
20 Q: Okay. So for a while.
21 A: Yeah.
22 Q: Okay. I have nothing further. We'll conclude this interview then. It's 4:22 PM. Thank
23 you.

24 END OF INTERVIEW
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1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

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8 **INTERVIEW OF: OFFICER BURNS**

9
10 **INTERVIEWED BY: OCC INVESTIGATOR WECHTER**

11
12 **DATED: OCTOBER 2, 2015**

1 **Q: INVESTIGATOR WECHTER**

2 **A: OFFICER BURNS**

3
4 Q: This interview is regarding OCC case number 40-15 and it's taking place on October 2,
5 2015 at 4:18 PM at the OCC office. Conducting the interview is Investigator Wechter and the
6 member being interviewed as a witness is Officer Daniel Burns, star number 4319. And I just
7 need to read this Officer Burns. You are obligated pursuant to DGO 2.01 rule 21 and DGO
8 2.04(1)(a) to cooperate with the OCC investigation and provide your full assistance and answer
9 all questions truthfully and without evasion. So I just called you back because I wanted to clarify
10 a couple of things. Um I think you said last time that you had taken these photographs? And
11 that's a photograph I believe that Busalacchi?

12 A: Correct.

13 Q: Holding his hands out?

14 A: Uh-huh.

15 Q: Now I think you also said you took the photo of Officer Buckley seen holding his hands
16 out?

17 A: Correct uh-huh.

18 Q: Okay. Did you also take this photo of Officer Busalacchi inside an ambulance?

19 A: Yes, I did.

20 Q: Okay. You did take that. And I know you said that you had taken these on your
21 department issued cellphone?

22 A: Just to clarify my answering this question is not gonna result in like (inaudible)

23 Q: No. No.

24 A: Or anything at this point?

25 Q: No. No. I'm just asking you to clarify.

1 A: I -- I think I indicated that in my first interview, but like further recollection of it, I'm
2 unsure what-

3 Q: Okay.

4 A: I took it on.

5 Q: Okay. 'Cause actually the (metadater) for the photos indicates that it was taken with an
6 iPhone.

7 A: Okay.

8 Q: So I assume you'd probably maybe made a mistake in the last interview? Okay. So and I
9 know you said you did not recall taking the photos of the suspect?

10 A: I do not recall that. Yeah.

11 Q: Okay. And because the (metadater) also indicates that the photos of Officer Busalacchi
12 are taken at 11:35 and the photos of Officer Buckley standing holding his hands out, taken at
13 11:36. But the photos of the suspect seated on the ground were taken at 11:46. And the photo of
14 Officer Busalacchi in the ambulance was taken at 11:52. So the photos of the suspect were taken
15 at sandwiched between those. So is it possible that you did take the photos of the suspect seated
16 on the sidewalk?

17 A: It's possible. I mean again I don't recall. I was only there for such a short amount of time.

18 Q: Any photos you took, would those have been taken because someone directed you to take
19 photographs of a particular thing or person?

20 A: I don't recall.

21 Q: Okay. Do you recall if you took any photographs just that you thought should be taken?

22 A: No, I don't recall.

23 Q: Okay and do you recall what the purpose of taking the photographs was? What was stated
24 to you?

25 A: I was to document their injuries. That's what I recall.

1 Q: Okay. And do you recall taking this photo of um, these photos of a car parked in the
2 driveway?

3 A: I do not recall that.

4 Q: Is it at all possible that you took those?

5 A: I guess it's possible, but I don't remember it.

6 Q: Okay. Do you recall anyone directing you to photograph anything in particular?

7 A: I don't recall that no.

8 Q: And if you did take the photograph of something, does that mean it was some
9 significance to it?

10 A: I can't speculate as to what the photo might or might not have meant.

11 Q: Okay.

12 A: I don't know.

13 Q: Okay. Do you have any recollection of you know what, why you took certain
14 photographs?

15 A: Only specifically them was to document their injuries with the hand and what not.

16 Q: Okay so the photographs you took of the officers at the scene was to document their
17 injuries?

18 A: Uh-huh.

19 Q: Did anyone, do you recall anyone talking about any other evidence that they wanted
20 documented?

21 A: No, I don't recall.

22 Q: No particular anything about keys sitting on some steps?

23 A: I don't remember anything about that either.

24 Q: And was anyone else at the scene taking photographs?

25 A: I don't know.

1 Q: Is this something you would recall if it had taken place?
2 A: If someone else was taking-
3 Q: Yes.
4 A: Would I remember it?
5 Q: Yes.
6 A: I don't know.
7 Q: Okay. And I think you said it was Sergeant Edwards who directed you to take the photos,
8 is that correct?
9 A: I believe so, yes.
10 Q: And was he the sergeant who was managing the scene?
11 A: He and Sergeant then Sergeant Morales were the two on scene. I don't remember who
12 was managing what. They were both there.
13 Q: Do you recall having any conversation with Sergeant Morales?
14 A: Uh no.
15 Q: Okay. Okay that's really all I wanted to ask you. Just wanted to clarify those things.
16 A: Okay.
17 Q: Okay. Thank you very much. We'll conclude this interview. It's now 4:23 PM.
18 END OF INTERVIEW
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I, the undersigned, hereby certify as follows:

That the foregoing transcript, page 1 through and including 6, to the best of my knowledge and belief is a full, complete and true transcription of certain tape recordings as described below to the best of my ability to hear, understand, identify speakers and transcribe said recordings, with the exception of any portion indicated as (inaudible), and words contained in parentheses, which indicate the best guess. (Any errors, changes or omissions should be brought to my attention for correction.)

That said tape recordings were furnished to CTI Transcription Services, 79 Pizarro Avenue, Novato, CA 94949, by The San Francisco Department of Police Accountability, and requested to be transcribed.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of December 2019.

/s/ Kathy Kay
KATHY KAY
By Electronic Mail

1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

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7
8 **INTERVIEW OF: OFFICER BUSALACCHI**

9
10 **INTERVIEWED BY: OCC INVESTIGATOR WECHTER**

11
12 **DATED: APRIL 30, 2015**

1 **Q: INVESTIGATOR WECHTER**

2 **A: OFFICER BUSALACCHI**

3 **OC: OFFICER CLARK**

4
5
6 Q: This interview is regarding OCC case number 40-15 and it's taking place on April 30th,
7 2015 at 4:19 pm at the OCC office. Conducting the interview is investigator Wechter. The
8 member being interviewed is Officer Frank Busalacchi, star number 4330. His representative is
9 Officer Joseph Clark. Officer Busalacchi, have you read the statement of complainant [REDACTED]
10 [REDACTED], concerning an incident at [REDACTED] on November 11th, 2014 at
11 approximately 12:29 am?

12 A: Yes.

13 Q: Have you read the OCC allegation in this case?

14 A: Yes.

15 Q: Have you read General Order 2.08?

16 A: Yes.

17 Q: Have you read rule 21 of General Order 2.01?

18 A: Yes.

19 Q: Have you read section 1A of General Order 2.04?

20 A: Yes.

21 Q: Officer Busalacchi, you were obligated pursuant to DGO 2.01 rule 21 and DGO 2.01
22 (1)(a), to cooperate with this OCC investigation, provide your full assistance and answer all
23 questions truthfully without evasion. Additionally, person to DGO2.01(1)(a)(4), you must
24 answer all questions posed to you during this administrative investigation. You are obligated to
25 answer my questions without interruption by your representative. If your representative interferes

1 with or obstructs this investigation, you'll be deemed to have failed to cooperate with this
2 investigation. Failure to cooperate with the investigation may subject you to discipline. If your
3 representative disrupts this interview, I will stop the interview, prepare a blue folder which states
4 that you are in violation of DGO 2.01 and DGO 2.04. Do you understand these orders?

5 A: Yes.

6 Q: Are you prepared to be interviewed at this time?

7 A: Yes.

8 OC: Hi, this is Officer Clark, quick question. Secondary complaints, the after added
9 allegation, you said there was an after added allegation?

10 Q: You should've received a copy, that would be this form here that says OCC add
11 allegation at the top.

12 OC: (inaudible) form only.

13 Q: Yeah. That's it there.

14 OC: Okay. Great.

15 Q: It's in the back.

16 OC: For the ID pending?

17 Q: Yes.

18 OC: No unit and then what is the after added allegation?

19 Q: Excuse me?

20 OC: Neglect of duty? Is that what it is?

21 Q: That's what it, what it says.

22 OC: Okay. So, Officer Busalacchi, you understand that you are compelled to be here, correct?

23 A: Yes.

24 OC: You understand that the department general orders require you to answer all the questions
25 fully and to the best of your knowledge?

1 A: Yes.

2 OC: That I am not here to object as if we were in court. I may have some follow questions at
3 the end, but I'm not going to be objecting to anything while the, I might ask for clarification, but
4 I'm not going to object while you're being interviewed, do you understand that?

5 A: Yes.

6 OC: You also understand that under *Lybarger* nothing you say here can be used against you in
7 a criminal proceeding in the future?

8 A: Yes.

9 Q: Officer Busalacchi, how long have you served with SFPD?

10 A: Almost two years.

11 Q: And did you have any previous law enforcement experience?

12 A: No.

13 Q: Okay. And when did you complete field training?

14 A: I think it was August 2013.

15 Q: And when did you enter the Academy?

16 A: I think it's October 2012.

17 Q: Okay. Have you reviewed any materials and/or documents in preparation for this
18 interview?

19 A: Yes.

20 Q: And what was that?

21 A: My statement.

22 Q: Okay. Is that, is that the statement you attached to the incident report?

23 A: Yes.

24 Q: Okay. Anything else?

25 A: No.

1 Q: Okay. Have you received any information about any, about the OCC investigation?

2 A: No.

3 Q: Other than the notice of, to appear?

4 A: No.

5 Q: Okay. Any information about the content of any other individuals interviewed?

6 A: No.

7 Q: Okay. All right. So, I just want to get as full a sense as possible from your perspective of
8 what happened that night. Why don't you start with the very beginning, tell me what happened,
9 please?

10 A: All right. So, Officer Buckley and I, we were patrolling driving northbound on Harrison.
11 We drive by, I guess it was 2995 Harrison. As we drive by I hear keys fall to the ground and
12 someone yelling. So, we back up. Officer Buckley jumps out of the car. I, I jump out of my side.
13 I see I believe his name is [REDACTED], he's, starts stumbling towards the sidewalk. Officer Buckley
14 goes to detain him. As I'm walking towards the car I see another passenger in the car. I go to the
15 passenger side. I start interviewing her, seeing what's wrong. During my interview with her,
16 [REDACTED], he keeps yelling at Buckley. He starts coming over to my side of the car, walking
17 towards 26th, on the sidewalk. So, I stop my interview with the female and then go talk to
18 [REDACTED]. And at that point, Officer Buckley's telling him to stop. He's not complying so we
19 decide to put him in handcuffs. When we grab his arms, he starts trying to resist us. And then,
20 turns into like a twp or, two-minute wrestling match till we finally got him in handcuffs.

21 Q: Uh-huh. And what happened then?

22 A: Several other units showed up to the scene. Sergeant showed up to the scene. They
23 conducted a use of force interview. I had to get checked out by medics 'cause I had scratches and
24 stuff all over my hands.

25 Q: Okay. So, you were in a marked patrol unit, correct?

1 A: Yes.

2 Q: And what was, do you remember what your unit identifier it was?

3 A: No.

4 Q: Did you have responsibility for a particular section of Mission District that night?

5 A: I did, but I, I don't know, if I don't know the unit identifier-

6 Q: Okay. Was Officer Buckley a permanent partner?

7 A: No.

8 Q: Had you worked with him before?

9 A: Yes.

10 Q: Okay. About how many times would you say you've worked with him, previously?

11 A: I don't know, like 5 times.

12 Q: Okay. And who was driving?

13 A: I was.

14 Q: And were there the windows in the vehicle up or down?

15 A: To our vehicles? I don't remember, sir.

16 Q: Okay. And you say you heard a sound of keys.

17 A: Uh-huh.

18 Q: Did you hear anything else?

19 A: I heard yelling. I couldn't make out what it was.

20 Q: And did Officer Buckley say whether he heard a (inaudible) too?

21 A: I believe he heard yelling. That's all I can remember what he saw.

22 A: And why did you make the decision to back up? Did you decide that or did Officer

23 Buckley say something to you?

24 A: I can't remember, but we had to check and see if someone was in distress or not.

25 Q: Uh-huh. Okay. And how's, did officer Buckley get out of the car immediately?

1 A: After I backed up, yeah, he got out pretty quick.

2 Q: And how soon after did you get out?

3 A: Probably like 5-10 seconds.

4 Q: Did either of you report where you were to dispatch?

5 A: I believe we did. I can't, I can't remember.

6 Q: Uh-huh. Do you, I'm sorry, go ahead.

7 A: I can't remember, so I think one of us had to have since it's a, the location is right there.

8 Q: Uh-huh. Okay. Do you recall what, what you told, dis, what dispatch was told?

9 A: No. I don't remember.

10 Q: Okay. So, when you got out of the car, what did you see at that point?

11 A: When I got out of the car, I started walking, I had to walk around the front of our car.

12 Saw Officer Buckley, he was approaching someone on the driver's side. Person was later

13 identified as [REDACTED].

14 Q: Uh-huh.

15 A: And then, he was yelling at Buckley and he started walking away from him, like

16 stumbling.

17 Q: When you first saw [REDACTED], where was he? What was he doing?

18 A: I think he was drivers' side of the car.

19 Q: Uh-huh. I mean was he in the car, was he getting out of the car, was he standing?

20 A: When I saw him, he was outside the car.

21 Q: In what position was he in?

22 A: I couldn't tell. It looked like he was like bent over.

23 Q: Okay. And what did you hear of the verbal interaction between Officer Buckley and [REDACTED]

24 [REDACTED] at that point?

25

1 A: I just heard [REDACTED] yelling at Buckley and Buckley was trying to talk to him. And I was
2 more focused on the other person in the car.

3 Q: And was that person seated in the car?

4 A: Yes.

5 Q: Okay. So, [REDACTED] is outside the car, is he moving in any, at all?

6 A: Yes.

7 Q: And where, what was he doing in terms of his movement?

8 A: When I was glancing over at him, he was walking towards a house and then coming back.

9 Q: Did you see whether he had anything in his hands?

10 A: I did not.

11 Q: So, you say you went to talk to the passenger, where did you, and that was [REDACTED].

12 A: Yes.

13 Q: Was, and was she still seated in the car at that point?

14 A: Yes.

15 Q: And where did you talk to her from?

16 A: From outside the car, while she was seated in the car.

17 Q: And was the door open, was the window open?

18 A: At first, the door was closed.

19 Q: Okay. The, did the door open?

20 A: Yeah. I knocked on the window and she opened the door.

21 Q: Okay. And what was said between you and [REDACTED]?

22 A: I asked her if everything was okay. What was wrong with [REDACTED]. And then she told me
23 that her and [REDACTED] were drinking earlier in the night.

24 Q: What else did she say about that?

25 A: She said that, I think his, he was upset because his phone broke.

1 Q: Uh-huh. Okay. Anything else?

2 A: Not that I recall.

3 Q: Did you ask her any specific questions?

4 A: I don't remember.

5 Q: Whether she was okay? If there's been any type of fight?

6 A: I probably did, but I don't remember.

7 Q: Okay. And about how long did you stand there talking to her?

8 A: I, I don't know, probably a minute or two.

9 Q: Okay. And what was your attention, next focus back on Officer Buckley and [REDACTED]
10 [REDACTED]?

11 A: When [REDACTED] continued yelling at Buckley. He started walking towards my side of the
12 car on the sidewalk. Walking towards 26th Street.

13 Q: And do you remember anything he was saying, Mr. Buck, [REDACTED]?

14 A: I don't remember.

15 Q: Uh-huh. Okay. So, he was walking towards your side of the car and what happened then?

16 A: I had to stop my interview with the female. I had to go over to [REDACTED] and ask him what
17 was wrong with him. And then, Officer Buckley, was like, was telling me we should put him in
18 handcuffs because he's not listening to our orders. So-

19 Q: Uh-huh.

20 A: We just had to go put him in handcuffs.

21 Q: And when you, you asked [REDACTED], what was wrong, did he respond?

22 A: I, I don't remember. I think he was saying, I didn't do anything.

23 Q: Did you make any observations about him?

24 A: Yes.

25 Q: What observations were those?

1 A: Oh, that he was stumbling around, which is indicative of a drunk person. Kept yelling,
2 not following orders. Can't follow simple instructions. While I talked to the female, she told me
3 that they were drinking earlier at a bar.

4 Q: Did she identify it as a bar?

5 A: I, I don't remember. I just assume she did.

6 Q: Did she say how much they'd been drinking?

7 A: I don't remember.

8 Q: Did you smell anything on [REDACTED]?

9 A: I don't remember.

10 Q: Okay. So, you asked him, approached him, Officer Buckley said you should put him in
11 handcuffs cuz he's not following directions. What's the very next thing that happened?

12 A: Tried to put him in handcuffs. As soon as I grab his arm he starts tightening up. Not
13 letting us put the handcuffs on him. And then he tried to, he broke free of my grasp and started
14 walking towards 26th Street. And so, I went into bear hug from behind.

15 Q: And I believe that the car was parked in the driveway facing the house, is that correct?

16 A: Yeah. On the street.

17 Q: So where was he in relation, where was [REDACTED] in, in relation to that at the point
18 that you and Officer Buckley first grabbed his arms?

19 A: More towards the passenger side, I think.

20 Q: Okay.

21 A: On the sidewalk.

22 Q: On the sidewalk. Okay. And you say he tensed up his arms, what happened then?

23 A: So, like I said, he broke free. I bear hugged him from behind. He kept trying to walk
24 away. And we all fell to the ground, eventually. And he's pinning his arms underneath his body.
25

1 Q: And you say, you all fell to the ground, was that, so that happened, all three of you at the
2 same time?

3 A: I believe so, yeah.

4 Q: Okay. Was, do you know what caused you and Officer Buckley and Officer Ramirez, any
5 of you to fall?

6 A: No.

7 Q: And how did [REDACTED] lie on the ground?

8 A: I don't remember. He's either on his side or on his stomach. 'Cause I was on the back of
9 him.

10 Q: Uh-huh. So, were you sort of on top of him when he was on the ground?

11 A: Yeah. Once he fell to the ground, he eventually got to his stomach, pinned his arms. So I
12 was on his back.

13 Q: Okay. And where were his hands at that point?

14 A: Pinned underneath his body.

15 Q: Okay. So, what was the first thing that you did after you were on the ground?

16 A: Trying to grab his arms, but we couldn't get them free from under his body.

17 Q: Uh-huh. Was anything being said at that point?

18 A: Yes. Stop, you're under arrest.

19 Q: Uh-huh. Anything said, anything else said by anybody?

20 A: No. I, I said that a couple times.

21 Q: Did [REDACTED] say anything?

22 A: I don't remember. I think he said, I, I didn't do anything.

23 Q: Do you remember him yelling at any point?

24 A: Oh, he was yelling the whole time.

25 Q: Do you remember anything he was yelling?

1 A: Aside from I didn't do anything.

2 Q: Okay. So, what did you do then to try and get control of his hand, or hands?

3 A: Oh, eventually he posted up. He set up a base on his knees and his hands, I grabbed both
4 his arms, we fell back to his stomach and then, Officer Buckley got control of one his arms. And
5 finally, just gave us both his arms and we handcuffed him.

6 Q: Did you use any other force on [REDACTED]?

7 A: No.

8 Q: Did you strike him at any time?

9 A: No.

10 Q: Or use any pain compliance?

11 A: No.

12 Q: And what about Officer Buckley?

13 A: I don't know what he did.

14 Q: Did you ever see him strike [REDACTED]?

15 A: No.

16 Q: At any point did you see [REDACTED] head or face in contact with the cement?

17 A: When he was pinning his arms on to the ground, yes.

18 Q: What, can you describe that contact?

19 A: He had his forehead on the ground.

20 Q: Uh-huh. Okay.

21 A: While he's pinning his arms.

22 Q: And you say you handcuffed him, who actually applied the handcuffs?

23 A: I don't remember.

24 Q: Did you know whose handcuffs he was cuffed with?

25 A: I don't remember.

1 Q: Was it one pair of handcuffs?

2 A: Yes.

3 Q: And, so once you had him in handcuffs, what happened immediately after that?

4 A: Several other units showed up. The sergeant showed up, so Officer Buckley and I went to
5 go talk to the sergeant and let him know what happened.

6 Q: Which sergeant was that?

7 A: I believe it was Sergeant Edwards.

8 Q: And where was [REDACTED] and what position was he in at that point?

9 A: He was sitting on his butt on the floor.

10 Q: And how'd he gotten in that position?

11 A: After we handcuffed him we had to move him to that position.

12 Q: Was he saying anything at that point?

13 A: He was, he was still yelling. I don't know what he was saying.

14 Q: And what happened then?

15 A: Sergeant Edwards had people take pictures of me, my injuries, and I had to go get treated
16 by a medic.

17 Q: Uh-huh. Okay. And what happened then?

18 A: They treated me.

19 Q: And where was, where was that?

20 A: On the street.

21 Q: Okay. What happened then?

22 A: They treated me. Okay.

23 Q: After they finished treating you.

24 A: And then we went back to the station to write the report.

25 Q: When you say, we, do you mean you and Officer Buckley?

1 A: Yes.

2 Q: Do you recall when you left to go back to the station?

3 A: I don't.

4 Q: And you said something about some injuries and scratches, what injuries did you sustain?

5 A: I had scratches on the back of my hands from I guess rubbing on the concrete. Then,
6 when I started getting in the patrol vehicle, my forearm started tensing up and my lower back.

7 Q: Uh-huh. Okay. Were those, did those problems worsen over time?

8 A: Yeah. Throughout the week, but then it went away.

9 Q: Okay. And so you said, you, you handcuff, a single pair of handcuffs. At any point did he
10 complain of tight handcuffs?

11 A: I don't remember.

12 Q: Did you ever do anything to adjust his handcuffs?

13 A: I don't remember.

14 Q: Do you know if anyone else did anything to the handcuffs?

15 A: I, I don't remember.

16 Q: Uh-huh. And when Officer Buckley approached him, did Officer Buckley ask any
17 questions?

18 A: When we initially approached him?

19 Q: Yes.

20 A: I don't remember exactly what he said, I think he asked him if he was okay, at first.

21 Q: Did he say anything about asking whether he was, he had been driving?

22 A: I don't remember.

23 Q: Did Officer Buckley feel the hood of the car as he approached?

24 A: I, I think he put his hand on the car as he was walking towards [REDACTED]

25 Q: And did he say anything about whether he felt that [REDACTED] had been driving?

1 A: I don't remember.

2 Q: Did [REDACTED] say anything about him being drive, or that he'd been driving?

3 A: I, I, I'd have to look at the report.

4 Q: And when did you last review the report?

5 A: I think yesterday.

6 Q: Do you have a copy of the report, do you want to take a look at?

7 A: I have a copy.

8 Q: Yeah. Why don't you go ahead and try to refresh your recollection.

9 A: Okay. He said, "I had been driving the vehicle, but the keys aren't in the ignition and you
10 can't do anything."

11 Q: Okay. Is that from your statement?

12 A: Yes.

13 Q: Okay. Did you ever see any keys there?

14 A: Me? I, I don't remember if I saw keys.

15 Q: Do you remember anything that [REDACTED] said after he was handcuffed?

16 A: I don't remember what he said.

17 Q: Anything he said to you or to Officer Buckley?

18 A: I don't think he talked to me.

19 Q: Did he, did you hear him say anything with Officer Buckley?

20 A: I don't remember what he said. I know, I know he was still yelling at him, but I can't
21 remember exactly what he said.

22 Q: Did you ever hear him call officer Buckley any names?

23 A: He probably did, but that's what he's saying the whole time.

24 Q: Do you remember anything, any of those names that he used?

25 A: No.

1 Q: Did he ever, did he ever challenge Officer Buckley to fight?

2 A: I believe he did.

3 Q: Okay. What do you remember about that?

4 A: Just that he challenged him to a fight.

5 Q: Did he ever ask for your star number?

6 A: I don't remember.

7 Q: Did you hear him ask for any other officer's star number?

8 A: No. I don't remember.

9 Q: And did you have any other contact with the passenger, [REDACTED]?

10 A: Not after that, no.

11 Q: You didn't, did any other officer have any contact with her?

12 A: I don't know.

13 Q: At any point did you, you or Officer Buckley draw your batons?

14 A: No.

15 Q: Did you ever see officer Buckley strike [REDACTED] with a baton?

16 A: No.

17 Q: Or see officer Buckley with his baton out?

18 A: No.

19 Q: I just want to play something. Communications audio. [Playing audio recording] Is that
20 your voice?

21 A: I don't know. [Audio Recording Playing] I don't know.

22 Q: You can't tell if that's your voice?

23 A: No.

24 Q: Do you recall anyone taking photographs at the scene?

25 A: I think Officer Burns took photographs of me at-

1 Q: Did he take photographs of anything else?

2 A: I don't know.

3 Q: Okay. Were you aware of anyone placing a second set of handcuffs on [REDACTED]?

4 A: I don't remember.

5 Q: Okay. 'Cause this photographs showing two sets of handcuffs on him.

6 A: Uh-huh.

7 Q: This photograph there.

8 A: Okay.

9 Q: Do you recognize either of those pairs of handcuffs?

10 A: No.

11 Q: Do you know how those second pair of handcuffs got on his wrists?

12 A: I don't remember.

13 Q: Is that something you would remember if you had done it?

14 A: Probably.

15 Q: Would you remember if you had put the second set of handcuffs on his wrists?

16 A: Probably.

17 Q: Do you have any recollection of that?

18 A: No.

19 Q: What were taught in the Academy about circumstances when you would use a second set,
20 pair of handcuffs to cuff someone?

21 A: If someone's complaining of pain, or either really large and you can't fit one cuz it's
22 putting too much tension on the shoulders.

23 Q: So, you might do it if someone is complaining of pain?

24 A: Uh-huh.

25 Q: And how would you do that?

1 A: If their saying they're in pain.

2 Q: Yes. I mean how would you apply the second set of handcuffs?

3 A: You'd have to control both their arms.

4 Q: Uh-huh-

5 A: While you release the handcuffs and put another pair on.

6 Q: Okay. What, what would you do first? Would you take one cuff off a wrist? Or would
7 you put the second pair of handcuffs on-

8 A: No. You control both his arms first.

9 Q: Uh-huh.

10 A: You'd unlatch one side, put another set of handcuffs on and latch them together.

11 Q: Uh-huh. Okay. Did you make any E585 entry for this contact?

12 A: I don't remember.

13 Q: Okay. Do you know, what's your understanding about the Department Bulletin 13091
14 concerning the 585 entries?

15 A: If you do a vehicle stop or you know you detain a suspicious vehicle then you have to do
16 E585.

17 Q: Okay. And this is just, would that be a 916?

18 A: What's that?

19 Q: Would that be a 916?

20 A: Would what be? Oh, the code, yes.

21 Q: Okay.

22 A: It would be a 585 or a 916.

23 Q: Okay. So, we heard on the communications audio this being recorded as a 916.

24 A: Uh-huh.

25 Q: So, would a, a traffic stop data collection entry have been required for this?

1 A: If it was in fact a 916, yes.

2 Q: Okay. Who, who would be responsible for that? You or Officer Buckley?

3 A: Probably both of us 'cause we're both in the vehicle.

4 Q: But you said that officer Buckley got out of the vehicle immediately and, after you
5 backed up-

6 A: Uh-huh.

7 Q: And that you got out several seconds later.

8 A: Yes.

9 Q: Is it possible that you contacted dispatch and reported where you were?

10 A: It is possible.

11 Q: Okay. Is that something you're required to do?

12 A: What do you mean, required to do?

13 Q: Well, when you're getting out of the car and contact someone, suspicious person, are you
14 required to notify dispatch of your location?

15 A: You should notify dispatch of your location in case something goes wrong.

16 Q: Okay. And I believe in this case, one of you did broadcast that you had a 148, is that
17 correct?

18 A: Yes.

19 Q: Do you remember that? And that's why the other officers responded as backup.

20 A: Uh-huh.

21 Q: Okay. Had you ever seen [REDACTED] before you and Officer Buckley grabbed him, had
22 you ever seen him partially on the ground?

23 A: I don't remember.

24 Q: If an individual who you have arrested, your partner's arrested, complains of tight
25 handcuffs, if the handcuffs are tight, who's responsible for addressing that?

1 A: Whoever is able to do it.

2 Q: Uh-huh. Wouldn't necessarily be the officer who'd applied the handcuffs?

3 A: It could be whoever he told.

4 Q: Uh-huh. And so, you didn't remember seeing any keys at the scene?

5 A: I don't remember. I just heard keys.

6 Q: You recall [REDACTED] ever throwing keys onto the front steps of the house?

7 A: I don't remember. I'd have to look at the report.

8 Q: Well, do you want to review your report and see if it mentions that?

9 A: [REDACTED] then starts to walk towards the house again and threw his keys into the stairwell.

10 Q: And that's something you wrote in your report?

11 A: Yes.

12 Q: You wrote in your report, this is the 5th paragraph down, I approached [REDACTED] on the

13 sidewalk and told him that he admitted that he was drunk in public earlier and to stay still. When

14 and how did he admit that he was drunk in public?

15 A: I don't remember. I can't find it in here.

16 Q: Do you have any recollection of him making any admission about being drunk in public?

17 A: Aside from the statement, "I had been driving the vehicle, but the keys aren't in the

18 ignition and you can't do anything," and his demeanor.

19 Q: And what was the reason for detaining [REDACTED]?

20 A: Initially?

21 Q: Yes.

22 A: To see if everyone was all right.

23 Q: And at what point did the detention begin? What point was he no longer free to leave?

24 A: Well, I'd say when he stopped complying with Officer Buckley's orders.

25 Q: Uh-huh. And you said he was detained to see if everyone was okay.

1 A: At first, yes.

2 Q: And from your conversation with the female passenger, did you determine whether she
3 was okay?

4 A: I did not, I didn't get a chance to because he retreated.

5 Q: But, so did you ask anything about whether she was okay, whether there was any
6 problem requiring police attention?

7 A: I didn't get to that point because [REDACTED] interrupted our interview.

8 Q: Uh-huh. Okay. Did you ask her any questions at all?

9 A: Aside from my initial conversation, no.

10 Q: Okay. Mr. Clark, anything you'd like to ask?

11 OC: Yeah. Just a couple things. Just to reiterate, in your report you did say that, in your
12 statement, you did say that the complainant, you overheard the complainant tell Buckley that he,
13 he had been drinking, but Buckley couldn't do anything, correct?

14 A: That he had been drinking?

15 OC: That [REDACTED] admitted that he had been drinking, but told officer Buckley that-

16 A: I think he implied it by his statement, yes.

17 OC: Okay. When [REDACTED] says, you can't do anything, based on the interaction to date, what
18 did you mean that to mean?

19 A: That you can't arrest him for DUI.

20 OC: Okay. And, and why did [REDACTED], why was [REDACTED] saying that, or why did, why, why
21 was that his belief that you couldn't do anything?

22 A: Because we didn't witness it. It's a misdemeanor not committed in our presences.

23 OC: Okay. Now, regarding the handcuffs, isn't the sole purpose of the second set of handcuffs
24 for the comfort of a custody?

25 A: It could be, yeah. Or if he's in pain, well, yeah. If he's in pain, yes.

1 OC: Can you think of another reason why you would put -- an officer would put two pairs of
2 handcuffs on a custody for the benefit of the officer?

3 A: Not really.

4 OC: Okay. Are you required to use a second set of handcuffs?

5 A: No.

6 OC: Okay. Is there an officer safety issue when you apply a second set of handcuffs after
7 having the first one already on?

8 A: Yes.

9 OC: Okay. So, do people like being put in handcuffs?

10 A: No.

11 OC: Okay. How often is it that a custody complains about their handcuffs?

12 A: Often.

13 OC: And out of the majority of the complaints made, how often would you say are the
14 complaint that the handcuffs are too tight?

15 A: More than half.

16 OC: Okay.

17 A: That I've arrested.

18 OC: Okay. And when you've had a custody in the past complain that handcuffs are too tight,
19 and you've checked for the proper degree of tightness, have you ever found that the handcuffs
20 were either the correct degree or even loose?

21 A: Yes.

22 OC: Okay. And just back to the disposition of the call. Was this a 916?

23 A: No.

24 OC: Okay. What type of call was this?

25 A: It's more of a 910.

1 OC: Okay. Is it common to put out a call as a 916 or a 917, when it's a 910 or a 585?

2 A: Yes. Due to the time restrictions.

3 OC: Okay. Would, would you say 916's and or 917's are the two most common call types that

4 we have in the department?

5 A: Yes.

6 OC: Okay. And officer often default to that regardless of what the call is?

7 A: Yes.

8 OC: Okay. To your knowledge, is there any way to change or correct the initial disposition of

9 a call after it's been put out?

10 A: No.

11 OC: Did you ever discuss on scene, about whether or not this could be a DUI?

12 A: I believe we did with Sergeant Edwards.

13 OC: Okay. And the conclusion, what was the, and the conclusion of this discussion was that

14 you couldn't (inaudible) because he was in public, correct?

15 A: Because he was in public?

16 OC: Well, 'cause you didn't, did you witness him driving?

17 A: No. We didn't witness him.

18 OC: Did you witness him in control of the vehicle?

19 A: Nope.

20 OC: Okay. So, when you saw him he was outside of the car?

21 A: Yes.

22 OC: Okay. So, you, did you feel that you could (inaudible) him?

23 A: No.

24 OC: Okay.

25 A: Not without a citizen's arrest.

1 OC: Okay. And also, when you, when we heard the audio, when you put out that you're
2 talking to 2, is that something you would put out on a 916 or a 917?

3 A: Usually a 917.

4 OC: Okay. And last question, on a, is it common, or not is it common, have you run a vehicle
5 when not on a 916? Have you run a vehicle for info, have you run a vehicle on a 917 or another
6 type of call?

7 A: Yes.

8 Q: Did you review a unit history that night?

9 A: My unit history?

10 Q: Yes.

11 A: I don't remember.

12 Q: Is that something you usually do?

13 A: Usually to see when the call came out.

14 Q: Excuse me.

15 A: Usually to see what time the call came out 'cause you need that for the report.

16 Q: Okay so would someone had done that?

17 A: I believe so.

18 Q: When you finish the shift -- let me go back, when you make E585 entries, where and how
19 do you make them?

20 A: Usually right after, but it doesn't have to be right after. You just have to make sure you
21 do it by your shift.

22 Q: Do you sometimes do it through a communal terminal at the station?

23 A: No.

24 Q: No? Do you understand-

25 A: I don't know how to.

1 Q: Okay. Do you always do it on the MVT in the car?

2 A: Yes.

3 Q: Do you recall any discussion between you and Officer Buckley about whether you would
4 make a 585 entry on this?

5 A: No.

6 Q: Okay. And have you spoken with Officer Buckley about this incident, since receiving the
7 notice to appear?

8 A: No.

9 Q: Anything we haven't asked you that you think would be useful for us to know and-

10 A: No.

11 Q: Okay.

12 OC: Just one last question. If you believe this was a 916, would you've made an E585 entry?

13 A: Yes.

14 Q: Okay. Is there any other statement relevant to this incident you wish to make at this time?

15 A: No.

16 Q: Are there any witnesses of evidence relevant to this case you intend to submit on your
17 behalf?

18 A: No.

19 Q: Okay. This is concluded at 454 pm. Thank you.

20 A: All right. Thank you, sir.

21 END OF INTERVIEW
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I, the undersigned, hereby certify as follows:

That the foregoing transcript, page 1 through and including 26, to the best of my knowledge and belief is a full, complete and true transcription of certain tape recordings as described below to the best of my ability to hear, understand, identify speakers and transcribe said recordings, with the exception of any portion indicated as (inaudible), and words contained in parentheses, which indicate the best guess. (Any errors, changes or omissions should be brought to my attention for correction.)

That said tape recordings were furnished to CTI Transcription Services, 79 Pizarro Avenue, Novato, CA 94949, by The San Francisco Department of Police Accountability, and requested to be transcribed.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of December 2019.

/s/ Kathy Kay
KATHY KAY
By Electronic Mail

1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

5
6
7
8 **INTERVIEW OF: SERGEANT EDWARDS**

9
10 **INTERVIEWED BY: OCC INVESTIGATOR WECHTER**

11
12 **DATED: SEPTEMBER 30, 2015**

1 **Q: INSPECTOR WECHTER**

2 **A: SERGEANT EDWARDS**

3 **IE: INSPECTOR EVANS**

4
5 Q: Today's date is September 30th, 2015. It is 9:15 P-M. This is OCC Investigator Wechter
6 at the OCC office. Present is Sergeant Scott Edwards number 541. Also, Inspector John Evans
7 and Sergeant you did come into the room saying that you have a right to record, and I can
8 explain to you, as I did before and as one of our attorney's has documented that you do not have
9 the right to record because you're a witness only. You're not, you're not named in this
10 allegation, and you're not subject to discipline as a result of this investigation.

11 A: Was there a question? Are you?

12 Q: So, I'm telling you, you cannot record.

13 A: Okay, sir. I am aware of the fact that you've already submitted me the IA for disciplinary
14 action regarding this case. Therefore, I am actually, absolutely under investigation and therefore,
15 all of my Peace Officer Bill of Rights absolutely here attach.

16 Q: Uh, and I'm telling you that they're not.

17 A: Okay, are you telling me you're not ready to proceed then? I'm ready to proceed right
18 now.

19 Q: I'm ready to proceed but you cannot, you may not record, and you may not have a
20 representative present.

21 A: Okay, well sir, I, yeah I'm aware that you've already submitted me the IA for an
22 investigation. That means I am the subject of the investigation related to this case, nobody else.

23 Q: That's the other office. Sir, we, we submitted a blue folder as we do anytime an officer
24 fails to cooperate with an investigation and because you were not ready to proceed during our
25 last scheduled interview unless you could record, which you don't have a right to do, that's our

1 standard practice to submit a failure to comply notice. And what the department does with it, is
2 they're concern. We have no access to their investigation, if any. We have no knowledge of that,
3 and we have no role whatsoever in that once we send that over.

4 A: Well, as I have not been privy to the actual allegations, I can't know that sir. All I know
5 is that you have submitted me to IA, pursuant to this investigation. I have not been interviewed
6 by IA. I don't know what your actual allegations are. I don't know what the charges against me
7 are. All I know, is that pursuant to this case, you have absolutely submitted me to Internal
8 Affairs, which means, because I'm member under investigation, I am reasonably entitled to all of
9 my rights under Government Code 3300 (inaudible).

10 Q: Okay, and I've explained to you, that what we submitted to the department is our
11 standard failure to comply notice when an officer either does not appear for an interview or come
12 to an interview and is not prepared to answer questions. And that's what we've submitted to
13 them.

14 A: Sir, are you referring to July, sorry June 2nd when I was here for an interview?

15 Q: Yes.

16 A: Okay, I was prepared to interview.

17 Q: But only if you could record and you did not have a right to record the interview.

18 A: No. I was prepared to name, to answer questions. The fact that you were not prepared to
19 interview me is irrelevant to this matter.

20 Q: Uh-hum.

21 A: But are you prepared to interview me now, cause I?

22 Q: I am but not if you record.

23 A: Right, so.

24 Q: If you are not prepared, if you insist on recording, I will again submit a failure to comply
25 to the department because you do not have a right to record now.

1 A: Okay, so.

2 Q: That is, that is our policy. I'll, I'll, I'll show you the email from our attorney, (inaudible)

3 A: Would you like to give me a copy of that? (Inaudible).

4 Q: I'd be happy to give you a copy of it. I may have to print it out. There it is. Okay.

5 A: Want me to copy of it?

6 Q: I'll make a copy of it for you. But first I want to clarify, are you gonna proceed with the
7 interview without recording and without having a representative present?

8 A: No, I, I'm ready to proceed right now with all of my rights intact.

9 Q: Okay. I, again, you're not answering my question. Are you willing to proceed with the
10 interview without recording or without having a representative present, because you're a witness
11 only in this case? You are not subject to any allegations we have brought. You are not subject to
12 discipline as a result of anything you say in this interview.

13 IE: Will not be, that would turn the tide.

14 A: So you're saying I will not be subject to any disciplinary action pursuant to this interview
15 or I am not?

16 Q: You, there are no allegations brought against you in this complaint.

17 A: Correct.

18 Q: But that, if they had been, if there had been, no, and because you have not been noticed in
19 any allegations, none can be brought by our agency if you cooperate with the interview. If you
20 answer the questions.

21 IE: I, that's really close.

22 A: That is, I am not so, I am not willing to be interviewed without tape recording because I
23 understand, I understand if you, what you've expressed.

24 Q: Uh-hum.
25

1 A: I'm also aware there is no department policy or procedure or case law or statute that
2 prohibits me from recording my own statement. In fact, there's plenty of case law to the opposite
3 that says that there is no inherent reason for an investigating agency to prohibit a person from
4 recording their own statement. I haven't read what you have there.

5 Q: Okay, let me read this then for the record.

6 A: Okay.

7 Q: This is from (inaudible) he's one of the OCC attorneys and in this email dated June 3rd,
8 2015, he wrote, Government Code Section 3303(g) provides for the audio recording of an
9 accused officers interrogation. There is no provision that authorizes a witness officer to audio
10 record an interrogation such as an OCC interview. Please inform the sergeant that he cannot
11 record the OCC interview. Please also inform him that the OCC will review any legal authority
12 or citation that he believes gives him the right to record the interview prior to the interview. He
13 may also have his attorney contact me directly to discuss the issue.

14 A: That's unfortunate that email was never sent to me.

15 Q: Other than, other than the above, he is obligated to appear for the OCC recorded
16 interview and is subject to discipline if he does not, and he cannot record the interview.

17 IE: And you would note that 3303 has been cited as when you can, nothing has been cited to
18 indicate why you can't.

19 A: Which is exactly my objection sir. I, I understand.

20 Q: Uh-hum.

21 A: I understand what you've said. I understand that from the OCC attorney. It is absolutely
22 clear that the Government Code Section 3300 (in sequence) provides an explicit right for a
23 named member to record an interview. That's not, that's not in question. I agree. I think all three
24 of us agree on that and I think the attorney agrees on that. The question we have is whether or
25 not there is a prohibition against recording for any other person. There's no prohibition in 3300.

1 There's no prohibition under California state law. There's no prohibition under any of the
2 California, I mean, the excuse me, San Francisco Municipal Codes. There's no prohibition under
3 my department's policy. You expressed to me, if I remember correctly on June 2nd, the OCC has
4 a policy. OCC's policy, however, is not incumbent upon me. I am ready and willing to cooperate
5 with your investigation. I understand everything you've said up till this point and I, I agree that if
6 I am not being, I, if I will not be subject to disciplinary action subsequent to this interview,
7 despite what's already occurred and what you've already sent to IA, I am willing to be
8 interviewed without the presence of a representative. However, I am not willing to be
9 interviewed without being, without being allowed to record my own statement unless you can
10 provide me a prohibition. And your lawyer's opinion is not a prohibition against me recording.
11 Your lawyer didn't say, state what section prohibits me from recording, sir. I am not trying to be
12 an objectionist. I'm trying to cooperate with you. And the only stipulation that I make, is that my
13 statement, my own statement be recorded.

14 Q: Okay well I'll read you again the last line the email said. He is obligated to appear for the
15 OCC recorded interview and is subject to discipline if he does not and he cannot record the
16 interview.

17 A: Okay. I understand your lawyer's opinion. I agree with two thirds of that. I am obligated
18 to appear, and I am here.

19 Q: Uh-hum.

20 A: I am prepared to be interviewed, that is the requirement. If you will find for me anything
21 that prohibits me from recording, I will turn that recorder off right now, and I will sit down, and I
22 will participate with this interview.

23 Q: Uh-hum.

24 A: But sir, there is no prohibition in the California state law.

25 Q: Uh-hum.

1 A: In case law.

2 Q: Uh-hum.

3 A: In Municipal Code or in our department policy.

4 Q: Uh-hum.

5 A: And the opinion of the OCC's lawyer, isn't the, your -- the OCC's lawyer is not my
6 commanding officer for me. He's not the Chief of Police. Is not a, is not a police commissioner,
7 and does not have the authority to give me an order.

8 Q: Uh-hum. Okay.

9 A: Again.

10 Q: You're on the record. The only thing I can offer to do is attempt to reach the attorney um,
11 at home and see if he will talk to you now on the record.

12 A: If, if the attorney would like to cite a case, a statute, a code section, a policy, again, I will
13 be happy. The opinion of the attorney of the OCC as to my non-ability or ability to record is
14 irrelevant unless there's a policy that prohibits me, sir.

15 Q: Okay, you've put it on the record. But I'm, I'm gonna say it again, is that you are
16 obligated to be interviewed without recording. If you refuse that, I will consider it a failure to
17 comply and it is our office policy, a failure to comply notice will be sent to the San Francisco
18 Police Department.

19 IE: Just for the record, sergeant is going to comply. Is trying to comply. The only thing he
20 wants to do is record his statement.

21 Q: Okay, and I've, I've told you many times that witness officers are not allowed to record.

22 A: Can I --

23 Q: So we cannot conduct an interview with you recording.

24 A: Can I ask you a simple question? You don't have to answer but.

25 Q: Uh-hum.

1 A: Beyond the, put the Government Code Section aside for a moment and our disagreement,
2 cause clearly we have a disagreement about the code itself.

3 Q: Um-hum.

4 A: Beyond that, what is the objection to me recording my own statement?

5 Q: You need to raise that issue with the director of the agency. It's the agency policy.

6 A: Okay.

7 Q: That witness officers may not record.

8 A: That's a fair answer. That's a fair answer investigator, that you're abiding by your agency
9 policy.

10 Q: Yes, I'm abiding by the agency policy.

11 A: That's a fair answer.

12 Q: And unfortunately I cannot, I'm not gonna make an exception for you, until the
13 management of the OCC instructs me to.

14 A: Okay, that's a fair answer.

15 Q: And I, put this matter before the director of the agency, and the attorneys, and this was
16 the response I was given.

17 A: Okay, and that is a fair answer.

18 Q: Uh-hum.

19 A: Again, for the record, I am ready to proceed under the, I am ready to proceed in all cases
20 for representation and recording, if what you say holds and whether no disciplinary action will
21 attach to our interview, I'm ready to proceed without it. Now without a representative, despite
22 the IA case that I'm aware of, I am, I will not proceed however, without being allowed to tape
23 record my own statement.

24 Q: Okay, then we're gonna consider that a failure to proceed and we'll deal with that
25 accordingly.

1 IE: I think we'll probably remain until we're told to leave.

2 Q: So, one more time, it's 9:30 PM, are you willing to proceed with the interview as a
3 witness officer not subject to discipline as a result of the OCC investigation without a recorder,
4 recording.

5 A: I am, I'm willing to proceed with interview on the terms specified. I am not willing to
6 proceed without recording the interview.

7 Q: Um-hum, okay then, as I stated, we will consider that a failure to comply and we'll
8 address that accordingly with a blue folder failure to comply to the department. That's your
9 decision. So I am unable to proceed with the interview because you are unwilling to comply with
10 the procedures of the agency regarding the rights of a witness officer. So unless -

11 IE: Regarding recording.

12 Q: Regarding recording, and the presence of a representative.

13 A: Well, regarding recording. I have already agreed that I will go without a representative.
14 The distinct, the, the, let's agree that the sticky widget is the recording.

15 Q: Okay, well.

16 A: Okay.

17 Q: And we'll simply re-notice you and bring you back again. That's your decision. So,
18 unless you're willing to turn off the recorder and proceed with the interview, there's really
19 nothing further to discuss.

20 A: Okay, so am I dismissed at this time?

21 Q: I, since you're, since you're not, since you're not willing to answer questions unless you
22 can record, then I cannot conduct the interview.

23 IE: Can he have a copy of your recording?

24 Q: No.

25 IE: No?

1 A: I would still, if the offer is still open I would like the copy of the email from the attorney.
2 Seeing that the attorney, clearly by what you read to me, assume that at some point it regarded
3 me, then let's, let's agree that I, that I'm not on there at all.

4 Q: Uh-huh. Uh-huh.

5 A: That I, I, it was not according to the email chain that it was never forwarded to me.

6 Q: Uh-hum.

7 A: It's, it's unfortunate, we could have had this conversation before the interview.

8 Q: Uh-hum, okay. Alright, I'm gonna leave the recorder running. It's 9:31 PM. I will go and
9 make you a copy.

10 IE: That was yeah. Did you see the rain out there today?

11 A: Yes.

12 IE: What's with the surprise?

13 A: I, am supposed to (inaudible)

14 IE: That is what they're saying.

15 A: They're also saying that won't even bring back the smallest part of the snowpack.

16 IE: Couple years of (inaudible) It was nice to see.

17 A: It was, well, it was nice to hear. I woke up to it.

18 IE: It, I, rain is the best sleeping weather. I don't know what it is. It's something soothing
19 about it. It's just.

20 A: I actually normally have no problem sleeping with it during the day. but I do have a, a
21 rain, the only thing I have on the white noise generator that I can pull up on my phone, is rainfall,
22 thunderstorm actually.

23 IE: Ooh, I could.

24 A: I was born in the Midwest, and I miss the big boomers.

25 IE: Yeah..

1 A: Yeah the house shaking

2 IE: My wife is from Texas and she's the same thing.

3 A: Yeah. Where the whole house would shake and lightening strikes, and thunder and rain.

4 My dad had a, in the house, he had a library and it had, skylights, plexiglass skylights which
5 would amplify a, just a easy rain into a.

6 IE: Right, a real rattle.

7 A: Right.

8 IE: Yeah.

9 A: When a true thunderstorm would hit it was deafening. It was absolutely amazing.

10 IE: Yeah.

11 Q: Okay, here you go.

12 A: Thank you, sir.

13 Q: It is 9:33 P-M. So as I said, I will be -- we'll be handling it as a standard procedure, and I
14 will be sending you a notice and bringing you back again.

15 A: Okay.

16 Q: Okay?

17 A: Can you.

18 Q: Okay. It's now 9:33 and sergeant.

19 A: Edwards.

20 Q: Is uh.

21 A: It's Edwards.

22 Q: Edwards, and Inspector Evans are leaving the room.

23 END OF INTERVIEW

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I, the undersigned, hereby certify as follows:

That the foregoing transcript, page 1 through and including 12, to the best of my knowledge and belief is a full, complete and true transcription of certain tape recordings as described below to the best of my ability to hear, understand, identify speakers and transcribe said recordings, with the exception of any portion indicated as (inaudible), and words contained in parentheses, which indicate the best guess. (Any errors, changes or omissions should be brought to my attention for correction.)

That said tape recordings were furnished to CTI Transcription Services, 79 Pizarro Avenue, Novato, CA 94949, by The San Francisco Department of Police Accountability, and requested to be transcribed.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of December 2019.

/s/ Kathy Kay
KATHY KAY
By Electronic Mail

1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

5
6
7
8 **INTERVIEW OF:**

████████████████████

9
10 **INTERVIEWED BY:**

OCC INVESTIGATOR WECHTER

11
12 **DATED:**

JANUARY 22, 2015

1 **Q: INVESTIGATOR WECHTER**

2 **A:** [REDACTED]

3
4 **Q:** Today's date is January 22nd, 2015. It is 12:05 pm. This is OCC Investigator Wechter,
5 conducting an in-person interview at the OCC with complainant [REDACTED], are
6 you aware that this is being recorded?

7 **A:** Yes. I am.

8 **Q:** Okay. So, I have the complaint form you filled out in our lobby here about an incident
9 that happened on November 11th, 2014 at [REDACTED]. And I'm on the front you've
10 written badge 529?

11 **A:** Yeah. That's the badge of the officer that assaulted me.

12 **Q:** Okay. So, let me just get some basic information first. What, about what time did this
13 happen? On 11, the 11th?

14 **A:** Around 10pm, somewhere thereabouts. I'm not exactly sure of the time.

15 **Q:** Okay. 10 pm. And you wrote here that you were with your friend, and I, how do I
16 pronounce

17 **A:** [REDACTED]

18 **Q:** [REDACTED]?

19 **A:** [REDACTED]

20 **Q:** [REDACTED]

21 **A:** It was in front of her home, the one at Harrison.

22 **Q:** [REDACTED]

23 **A:** [REDACTED] yeah. Just right in front of her, in front of her property her home.

24 **Q:** Okay. And you wrote that you had parked and who's car was it that you'd been-

25 **A:** Her vehicle.

1 Q: Okay. And who was driving?

2 A: I was driving.

3 Q: And do you know the make and model of her car?

4 A: A Honda Civic, I'm not sure if it's 2004, I think.

5 Q: Okay. You, you don't happen to have the license plate number?

6 A: No.

7 Q: Were you given any paperwork, citation, anything like that when you were released from
8 jail, or do you have any documents?

9 A: No. I got a, I go paperwork from the bail bondsman.

10 Q: Okay.

11 A: Yeah.

12 Q: Okay. And where was the car parked in relation to the house?

13 A: The car was parked in the driveway. Where she usually parks.

14 Q: Okay. So, why don't you start from the very beginning and tell me what happened.

15 A: We went out to dinner, La Traviata on Mission street. It's between 20th, 20th and Mission
16 Street. Ate some dinner. Came home. Parked in the driveway, got out the vehicle and as we were
17 about to enter the, her home, there's a staircase going up to her home, a patrol car pulls up
18 behind her car parked in the driveway. Puts the spotlight on us and the officer asked us what are
19 we doing, in a very loud voice. And my response was, we're going home. And he then asked
20 was, were you drinking or something, to that effect. And I said we had dinner earlier and we had
21 a glass of wine. But that was earlier and we're just going in the house. He then gets a, gets, goes
22 up to the vehicle, puts his hand on the hood and says the vehicle still feels warm. That means you
23 were drinking and driving, is what he says. And I, my response was, we're going in the house
24 already. I don't think you can give us a DUI after the fact. The car is parked, there's no keys in
25

1 the car. And we're about to walk in the house. So, and at that point he charged towards me, he
2 has a baton out and he was making this motion with his hand.

3 Q: You're, you're hug your right hand, palm outward-

4 A: Palm outward, hand out, pushing forward-

5 Q: Pushing your hand-

6 A: The other arm out he had holding his baton. So-

7 Q: The baton in the left hand.

8 A: Yeah. And I was like, what are you doing. And the next I know I was getting tackled by
9 him and arrested. And I got my face slammed into the sidewalk and a bloody nose and a bruised
10 face. And I remember that he put a cuff, handcuff on my left hand and then on my right hand he
11 squeezed the cuff extremely tight and I started screaming that my hand went numb. And can you
12 please loosen the cuffs and I was face down on, on the sidewalk. And he did not loosen the cuffs
13 for several minutes and I just kept you know, crying that my hand was really hurting, I can't feel
14 my hand. And my hands still numb to this day. This whole surface of my right hand is still numb.
15 And I remember after that several police, other policemen showed up and other patrol cars. And
16 that officer with badge 529 was jumping around, smiling and acting like a boxer, shadow boxing.
17 Throwing punches in the air and smiling. And the other officers were telling him to calm down
18 and he seemed really excited and happy about it. And after that it gets kind of hazy. They asked
19 me if wanted to go to the hospital after they handcuffed me. And I said, yeah, I need to be
20 checked. My face is bleeding, my head, my face it hurts and yeah, my hand hurts. And I go to the
21 hospital. And after they check me out at General they take me to 850 jail. And I spent the night
22 in jail. And I bail out the next day. And I missed work and that's pretty much what happened.

23 Q: You said this officer was, 529, was jumping around smiling. Throwing shadow punches?

24 A: Yeah.

25 Q: Could you describe that?

1 A: He was jump, he was jumping around like after the whole incident had occurred, he was
2 jumping around like, like you would see a boxer in a boxing match. Like standing in his corner,
3 jumping around like you know and throwing punches. So that, you know, in the air. Like, like
4 basically like a boxer. And he was very happy and shaking his head and excited. And the other
5 officers were smiling with him. And they were, some of them were smiling and some of them
6 were looking at me and looking at him. And going down telling him to calm down and settle
7 down. He was very like happy about it, I guess.

8 Q: So, can you describe officer 529?

9 A: To me he appeared to be like short, Hispanic male. Curly hair, about maybe 5'6", 5, 5'5",
10 5'6".

11 Q: Uh-huh. About how long is his hair?

12 A: Not shoulder length like, just a, maybe a little bit more neck up to somewhere-

13 Q: Was he in uniform?

14 A: He was in the uniform.

15 Q: Uh-huh. And about 5'5", 5'6". What about his size, or weight?

16 A: Weight, my guess would be about maybe 180, 190, somewhere around there.

17 Q: What about his age?

18 A: I guess on his age. He looked to be about late 20's, early 30's.

19 Q: Was he alone or was another officer with him?

20 A: There was another officer with him.

21 Q: Okay. What did you remember about that officer?

22 A: I don't remember much about the officer because that officer was, I couldn't, I couldn't
23 clearly see the officer because the spotlight was on me the whole time. And when that officer,
24 529, charged me, I never really heard or saw the other officer. Until after the whole incident
25 occurred.

1 Q: Uh-huh.

2 A: And more officers showed up. So I wasn't sure which other officer was actually with
3 him. I just remember the other officer helped him like tackle me. Like, after he tackled me the
4 other officer came to.

5 Q: Okay. So, was this sort of a standard Victorian with the stairs that go down to the street?

6 A: Yeah.

7 Q: Where were you on the stairs when the officer?

8 A: I was just in front of the stairs of the house. Like right in front, on the sidewalk. Where
9 the sidewalk meets the staircase. I was on that part and-

10 Q: So, at the bottom of the stairs?

11 A: Yeah. And then when I was tackled, I was like what are you doing, took a couple steps
12 back and I ended up in, face down like between the neighbor's right next door, the neighbor's
13 part of the driveway sidewalk and the location where this all started.

14 Q: And, where was, so the, the officers pull up behind your car. So their parked
15 perpendicular to the curb? Is that it?

16 A: Yes. I think so.

17 Q: Okay. And had you noticed the police car before that?

18 A: No. We hadn't noticed any police car before that.

19 Q: What we had noticed was that we had parked. There were no vehicles, cars around. We
20 got out; I was walking up the stairs. She was grabbing like something out of the car, her purse or
21 a bag. And that's when the patrol car pulled up, put the spotlight, asking us what we were doing
22 then and that's her home, so we're going into her home.

23 Q: So, where was, [REDACTED]?

24 A: [REDACTED]?

25 Q: [REDACTED]

1 A: Yeah. During this whole time she was watching and then when the other officers all
2 showed up, I remember being on the ground, being arrested, looking up at her and she's about
3 5'3", 5, 5 foot 3 maybe, 5'4". And about 160 pounds, 170, and she was totally surrounded by
4 officers. She just stood there being quiet and that must've been like six officers, 7seven officers
5 surrounding her.

6 Q: Where was she when the officer first approached you?

7 A: On the other side, on the passenger side of the vehicle grabbing something out of the, I
8 mean her purse or something out of the car. Purse or a coat, she was grabbing that out of the car.
9 'Cause we initially were walking up to the, walking in, and she had to go back and get that, so
10 the car got, I unlocked it, I had the keys on me-

11 Q: Uh-huh.

12 A: And so, yeah. That's how the car opened up. No, she didn't have the keys of the vehicle
13 at that moment.

14 Q: Uh-huh. So, was the first thing that the officer said, what are you doing?

15 A: Yes. And my immediate response was, going home.

16 Q: Uh-huh. Okay. And he then said, were you drinking?

17 A: And I said, well, we just came back from dinner, we had some wine with dinner.

18 Q: Uh-huh. And did, did he say anything between then and when he put his hand on the
19 hood?

20 A: No. He, he said something -- he said something like, walks up to the vehicle after we
21 answered that. He said something like, have you been, or, he said something like, have you been
22 drinking and driving. We were like, no. And he walks up to the vehicle and he puts his hand on
23 the hood, and he's like, well, the car engine still feels warm. So, you have been. And I responded
24 to him like, we're about to go in the house, there's no key in, there's no key in the ignition.
25

1 We're not in the vehicle right now. So, you can't like just pull up and touch our car and say,
2 decide to give us a DUI.

3 Q: Uh-huh.

4 A: And after that, I made that comment, that's when he, came, charged up, kind of charged
5 me at that moment. Yeah.

6 Q: Did, was anything said between the time when you said you can't cite me-

7 A: He didn't say anything after, he just charged me.

8 Q: Can you describe how he approached you?

9 A: He walked quickly towards me. Almost like a, like a slow run. Like, like not quite a walk,
10 kind of like, kind of charged at me. He had his hand in the baton. He had his other hand going
11 like this, with his right hand, pushing it out-

12 Q: Pushing outward?

13 A: Yeah. Pushing outwards with it. Like, like that was I guess a training move that they do.
14 Where one hand's pushing out and the other hands holding the baton.

15 Q: Had he, had he taken the baton, was he holding it-

16 A: He had it already in his, in his other arm. His other hand.

17 Q: Before he made any physical contact with you, did he tell you to do anything?

18 A: He said something like -- when he charged at me, he said, move back. Something like
19 that, move back. And I was already, I wasn't even near him. I was on the sidewalk. So he had
20 actually come close, he had to come towards me that even asking me, but I was already all the
21 way back near the house. The house was to my back, so there's nowhere back more I could go.
22 I'm at the point where the sidewalk meets the house, so.

23 Q: So, you were, somewhat, were you somewhat away from the stairs at that point?
24
25

1 A: I was standing directly in front of the stairs. Hadn't started up, I was starting up the stairs
2 when they put the spotlight. Then I stepped back down, like and responded to them. And I was
3 on the sidewalk, directly in front of the stairs, in front of the house.

4 Q: And what were you doing as he was approaching you?

5 A: I was just stunned. I, I just looked at him like what are you doing. 'Cause I, I was, I
6 looked directly at what he, what he was doing, and he charged me, I can see him pushing his
7 hands off. And that made, that made me respond like, what are you doing. And he was like, put
8 your hands up, or something like that. Or move back, and I was like, I just like stunned by it.
9 And I turned around like I was gonna walk away or backup and he just tackled me and got me on
10 the ground. I got my face smashed into the sidewalk.

11 Q: And what were you doing, doing with your hands as he was walking towards you?

12 A: I didn't do anything with my hands.

13 Q: I mean, where were, where were your hands?

14 A: My hands were just down to the side. I was just like, what are you doing? I remember just
15 being stunned, like what are you doing.

16 Q: Okay. And where did he first make physical contact with you?

17 A: He came up to me and he tackled me right there in front of the house.

18 Q: Can you describe how he tackled you?

19 A: He was doing that motion-

20 Q: With his right hand-

21 A: Yeah. I remember getting pushed by his hand, hit by his baton under my rib cage. Some,
22 I was hurting right here in this rib cage area for like weeks and weeks after that.

23 Q: And he bumped into your left ribs?

24 A: Yeah. I was hurting there for weeks and weeks after that. And then, then I turn around
25 and I remember he goes, I turned around after he hits me, and I fall on the ground. He gets on top

1 of me. I remember him just like pushing my face into the ground. Pushing my head into the
2 cement, the sidewalk. And I remember him grabbing my fingers, my pinkies and twisting them.
3 And saying you're under arrest and then he grabbed my other finger on my, my both, he grabbed
4 the pinky on both fingers. But my left hand and twisted them really hard. And then I remember
5 saying something like, I didn't do anything. I'm not doing anything. Why are you doing this, and
6 he was just proceeded to arrest me. He puts the cuff on this wrist, it's normal. And then he puts a
7 cuff on the right wrist, and he squeezes it really hard. It's like, its such a dramatic difference
8 between the left and the right. On the left it feels normal, on the right, it just feels like it's
9 crushing my bones. My hand goes entire, my whole hand goes-

10 Q: Hold on. So, he, he twisted your pinky fingers and said you're under arrest?

11 A: Yeah.

12 Q: And you said, you said something then? You're not, I'm not doing anything?

13 A: I said, I'm not doing anything, why are you doing this?

14 Q: And he's like, he just repeats, give me your hand, (inaudible). He has my hand already,
15 so I don't know why he's saying, give me your hand. I mean, he's twisting my fingers while he's
16 saying, give me your hand. I can't do anything with my hand at that point cuz my fingers already
17 getting twisted.

18 Q: Uh-huh. And then, so he cuffed the first, left wrist first. And that was normal.

19 A: Yeah. And then, he puts on the left one first and then he gets to the right one and he
20 squeezes it really hard. And I scream at that point, I'm like ah, my hand. I can't feel my hand. He
21 squeeze, I go, you squeeze it too hard. You squeeze it really tight. And I was yelling something
22 like you know, the cuff on my right hand, you really squeezed it really hard, I can't feel my
23 hands, it's numb. I remember the neighbors looking out the window and everybody seeing it.

24 Q: And how did your, you said that you, you're bleeding from your nose, how did your face
25 make contact with the ground?

1 A: He pushed my face into the sidewalk, into the ground. Pushed my head into the ground.

2 Q: Was that when you already had fallen to the ground?

3 A: Yeah. When he tackled me, I fell, I kind of like, I got tackled and I kind of ended up
4 turning around like on my stomach.

5 Q: So, you were on your stomach?

6 A: Yeah.

7 Q: Was that the first thing he did, or when did he, when did he, let me go back. How did he
8 push your, your face or head into the ground?

9 A: Oh, when he, he got on top of me when I was on my stomach and he, he, I could feel his
10 hand on my head push my face into the ground.

11 Q: So, you're making a motion with a hand on the back of-

12 A: On the back of my head, yeah.

13 Q: And how did your face make contact with the ground, do you remember?

14 A: Just hit the ground and then he was pushing it into the, pushing it into the sidewalk.

15 Q: Which part of your face made contact with the ground?

16 A: Both sides actually. My right side and my left side. I got pictures of it.

17 Q: Yeah. I'd like to get those. Did he push you in, your head to the ground, once, or more
18 than once?

19 A: He did it more than once.

20 Q: Was, were either of saying anything as he was doing that?

21 A: I was just like, stop. That's all I remember saying, stop. And she just stayed quiet. And I
22 remember lots of officers laughing when they showed up. They were all kind of-

23 Q: Okay. We'll, we'll get to that, but right now I just want some, he's got you on the ground
24 and he pushed your face in the ground, is he saying anything at that point?
25

1 A: No. After I'm handcuffed and, and the other squad cars come, he's just jumping around
2 like he's real happy about it all.

3 Q: So, what did he do after he pushed your face into the ground, what was the next thing he
4 did physically?

5 A: I was handcuffed, he handcuffed me. He squeezed it real tight around my wrist. Then he
6 got up and he just had a big smile on his face. And he was breathing hard. And other officers
7 showed up and he was, he was talking about it and he was jumping around like a boxer.
8 Throwing punches in the air with both his hands and acting like he was in a box, a boxer in a
9 ring. And-

10 Q: Were you still on the ground?

11 A: I was on, I was on the ground looking at him and I was, and I said something like, you,
12 you shouldn't be an officer, man but, you don't seem like you're the right person for this job.
13 And the other officers were like, you need to just be quiet. And I was like -- I go what for, I
14 didn't do anything and I'm going to jail, so. And I asked, I think asked him, I said, what reason
15 did you guys even have to come up to us? We're going in her home, this is her home.

16 Q: Uh-huh.

17 A: You guys never said why he even came up to us.

18 Q: Uh-huh. Did anyone respond to that?

19 A: Nobody answered me.

20 Q: So, you were on the ground and how did you get, how were taken from the ground, how
21 did you wind up getting up?

22 A: I didn't remember how I got up. They got me up. Put me in a, put me in a police car until
23 the ambulance came. And then took me to general or whatever.

24 Q: So, what, what injury did you have at that point? While you were lying on the ground
25 (inaudible)

1 A: My nose, my face was all bloody at that point. My nose was all bloody, my face was
2 bloody. My hand hurt like a lot. Like I couldn't feel my hand at all.

3 Q: You said he didn't loosen the handcuffs for several minutes; did he loosen the handcuffs?

4 A: Someone else did. It was like maybe after 15, 20 minutes, somebody finally did it. But I
5 was like, I was crying about it the whole time. I was like, my hand really hurts. I kept saying, I
6 repeated that, I really can't feel my hand, my hand. I don't feel anything in my hand at all.

7 Q: So, my hand really hurts-

8 A: He squeezed it. I go, he squeezed it too hard, really hard. I go and one cuff is really,
9 really super tight, I cannot feel my hand. And another officer eventually came up and loosened it.

10 Q: So, one cuff is too tight, I cannot feel my hand. Do you remember who, which officer
11 loosened it?

12 A: I don't know. It wasn't him.

13 Q: Do you remember what that officer looked like?

14 A: I don't know, a white officer. Short hair. I don't really recall more than that. Didn't get
15 his badge number.

16 Q: Did you ask for his badge number?

17 A: No.

18 Q: Okay. What else was said after you were on the ground, by, by 569 and any other officer?
19 I'm sorry, 529.

20 A: They, they didn't, they weren't saying anything directly to me. They were, they were
21 saying, I mean, they were saying stuff to me, but they were like making jokes about, about what
22 happened to me. To each other and talking to that officer, 529 about it. And they were all kind of
23 like you could hear everybody laughing, basically. My friend she could hear it, the neighbors
24 could hear it, we all talked about it the next day. We're like, they were all kind of joking about it
25 and laughing about it.

1 Q: Do you remember anything the officers said?

2 A: They said some things to me, I remember they said something. I can't remember clearly
3 what they said, but they were saying some stuff to me while I was handcuffed on the ground.
4 You shouldn't this; you should that; next time you won't be, you know, you won't say anything,
5 or watch what you say. They said a couple of comments to me that I can't clearly remember.
6 They were all making little comments to me and I just looked at them like, I respond like, you
7 guys, I don't even know why you guys can't, your, your fellow officer even came up to me.
8 We're walking in here. We're walking, this is the house, we're going in, so I don't know what
9 you think we're doing, we're going in, we're going home.

10 Q: Did 529 make any of those comments to you?

11 A: He never made anything after that, all that whole thing happen and he was jumping
12 around acting like he was a boxer, throwing punches in the air, smiling. Just like, they were just
13 trying to calm him down. I seen them, a lot of them laughing with him, but saying, settle down,
14 calm down. And they were like, hey dude, like you know, knock it off. You're, you know, you're
15 acting like real silly over here. And he just seemed like really happy and pumped up about it.

16 Q: Did you hear them say you're acting real silly?

17 A: I seen them do it and-

18 Q: Okay-

19 A: And a lot like I said, a lot of them were just, you can hear repeatedly a group of men, a
20 group of officers laughing.

21 Q: Uh-huh.

22 A: Over and over or making comments and laughing again. And, and she heard it and she
23 just stayed quiet.

24 Q: Okay so-

25 A: And the neighbors heard it and they talked to us the next day about it.

1 Q: Were you taken to General in the ambulance?

2 A: Yeah. I guess I was because at some point, I just like passed out or closed my eyes and I,
3 I barely remember very little about that. I have a bill for General that I have to pay now.

4 Q: Okay. Did, do you remember whether there was an officer in the ambulance with you?

5 A: I, I don't remember most of that.

6 Q: Do you remember anything that happened at the hospital?

7 A: No.

8 Q: Okay. And what were you charged with?

9 A: Resisting arrest, or resisting arrest, assaulting a police officer. Some other stuff too. But I
10 remember those are the two main ones. They were quite serious ones.

11 Q: Okay.

12 A: And I was like I can't resist-

13 Q: Uh-huh.

14 A: I can't resist. And I haven't, I haven't inflicted any injury to the officer because I was the
15 one getting beat up, so.

16 Q: Uh-huh. Okay. And what, what happened with those charges?

17 A: They were dismissed. I went to court the following Monday and they were just dropped.
18 I'm sorry, I have to go do something right now, so I'm going to have to like leave.

19 Q: Okay. Just let me ask you some more questions. I need to get some information about
20 witnesses. You said there were neighbors who, who saw this?"

21 A: Yeah.

22 Q: Do you-

23 A: The neighbor next door.

24 Q: Do you know their name?
25

1 A: No. I just know that, they, they know her, they know the woman who I was with who
2 owns that house.

3 Q: And how can I contact her?

4 A: You, just call her.

5 Q: What's her number?

6 A: I'll give it to you now. It's [REDACTED].

7 Q: [REDACTED]?

8 A: Yeah.

9 Q: Okay. And I want to get your medical records from the hospital. From San Francisco
10 General Hospital. And also, for the paramedics, so can you put your name and date of birth
11 there?

12 A: Okay. And I need you to sign this page here. Sign and date it. Right there. Okay. And I
13 also need you to initial there. Where it says yes, on page 3. And then, and so this would've been,
14 you would've been treated probably the day of this incident, or the following day?

15 A: That day.

16 Q: That day?

17 A: Right after.

18 Q: Okay. So, we'll say, okay. Can you initial over there, also? Let me make sure I can read
19 the phone number. It's [REDACTED], is that [REDACTED] or [REDACTED]?

20 A: Excuse me. [REDACTED] No it, yeah, it's [REDACTED]

21 Q: [REDACTED] And the work number is-

22 A: [REDACTED]

23 Q: [REDACTED]

24 A: Right.

25 Q: Okay. Okay. I'm going to need to call you to get some other information.

1 A: Yeah. All that stuff I have at home. I don't have it like on me.

2 Q: Yeah. So, and if you can, well, I'll, I'll call your friend to get the name of the neighbors.

3 Other than those neighbors, do you know of anyone else who saw?

4 A: No. They saw it and she saw it, so that's the only ones I could say right now, 'cause I-

5 Q: And do you remember what time you left the restaurant?

6 A: I'm not sure, it might've been like 9.

7 Q: Would it have possibly been later?

8 A: I think we got there around 8 and we left about 9, 9:30, so. It, it's around that time,

9 around 9:00.

10 Q: Okay. 'Cause the records indicate this happened after midnight.

11 A: I'm not exactly sure. Like all of it's kind of hazy to me after what all happened.

12 Q: And you had, how much did you have to drink at the restaurant?

13 A: I had a little bit of wine, maybe a glass of wine. And I think that's all I had is a glass of

14 wine there.

15 Q: Had you taken any medications or anything that day?

16 A: Yeah. I took like a ibuprofen.

17 Q: Was that over the counter or prescription?

18 A: Just like over the counter.

19 Q: Do you remember how much you took?

20 A: Maybe like 400.

21 Q: And about what time did you take that?

22 A: Probably around 3, 4 in the afternoon.

23 Q: Okay. Anything else you took that day?

24 A: No.

25 Q: Okay. And how did you pay for the meal at the restaurant?

1 A: (inaudible) with cash.

2 Q: Paid cash, okay. Okay. So, I think that's what I have for now. So, this would've been, just
3 to make sure I know what day it was.

4 A: No. I'm not sure about that. She might've paid with a card, so. You'll have to ask her
5 that. 'Cause I know, we've been there a couple times. So, one time I paid cash, one time she paid
6 with a card. That could've been the time she paid with a-

7 Q: So, was this Monday night, or Tuesday night? You can look at the calendar there, cuz
8 you wrote November 11th, so the 11th was a Tuesday?

9 A: I think it was Monday going into Tuesday. I'm not sure.

10 Q: Okay. Okay. And have you had any other contact with-

11 A: It was like Veteran's Day or something that day.

12 Q: Yeah. Okay. So, that would've made, with the night of Veteran's Day?

13 A: Yeah. Like the following day was Veteran's Day, or that evening was Veteran's Day or
14 something like that.

15 Q: Okay. Have you had any contact with any of these officers before?

16 A: No.

17 Q: Okay. Okay. Well, I'll let you go cuz I need, know you need to get going. Let me give
18 you my card here. And, and I'll be getting a, a case number for this and mailing you a copy of
19 that.

20 A: Okay.

21 Q: Okay.

22 A: Thank you.

23 Q: Okay. Thank you. We'll conclude this interview. It's now 12:37 pm.

24 END OF INTERVIEW

1 CERTIFICATE OF TRANSCRIPTION OF TAPE RECORDINGS

2 --o0o--

3 I, the undersigned, hereby certify as follows:

4 That the foregoing transcript, page 1 through and including 19, to the best of my
5 knowledge and belief is a full, complete and true transcription of certain tape recordings as
6 described below to the best of my ability to hear, understand, identify speakers and transcribe
7 said recordings, with the exception of any portion indicated as (inaudible), and words contained
8 in parentheses, which indicate the best guess. (Any errors, changes or omissions should be
9 brought to my attention for correction.)

10 That said tape recordings were furnished to CTI Transcription Services, 79
11 Pizarro Avenue, Novato, CA 94949, by The San Francisco Department of Police Accountability,
12 and requested to be transcribed.

13 IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of December
14 2019.

15
16 /s/ Kathy Kay
17 KATHY KAY
18 By Electronic Mail
19
20
21
22
23
24
25

1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

5
6
7
8 **INTERVIEW OF:**

████████████████████

9
10 **INTERVIEWED BY:**

OCC INVESTIGATOR WECHTER

11
12 **DATED:**

FEBRUARY 3, 2015

1 **Q: INVESTIGATOR WECHTER**

2 **A:** [REDACTED]

3
4 Q: Today's date is February 3rd, 2015, it is 2:07 pm. The is OCC Investigator Wechter
5 conducting a telephone interview in connection with OCC 40-15. I'm speaking complainant
6 [REDACTED], are you aware this is being recorded?

7 A: Yes. I am.

8 Q: Okay. So, you came into our office on, on January 22nd, to file a complaint and you need
9 to leave. So, I wanted to, before I complete the interview I wanted to go over some things with
10 you that we weren't able to cover then.

11 A: Okay.

12 Q: So, let me go back, what, where had you been before you went to the restaurant?

13 A: Where had we been?

14 Q: Yes.

15 A: We came from her place, but then Santa Cruz, we were there before that.

16 Q: Okay. And about what time did you leave to go to the restaurant?

17 A: I'm not exactly sure. 6, 7, I think maybe 7. We didn't make a reservation. We were just
18 lucky enough to, somebody didn't show up for their reservation, so we didn't have to wait very
19 long.

20 Q: Somebody didn't show up?

21 A: Yeah. At the restaurant for -'cause it was a full restaurant. We were, we didn't think we
22 were going to get a seat 'cause there was just one table open and somebody didn't show up and
23 so we ended up getting one.

24 Q: Okay. And how long would you say you were at the restaurant?

25 A: About an hour.

1 Q: Do you remember what, you remember what you had to eat and drink?

2 A: She had what she always had, which is like, seafood pasta. And what did I have, I had,
3 I'm not sure the name of the dish though. I've only had two dishes there and this was like the
4 second one I've had there, so. I'm not sure of the, the name of the dish exactly.

5 Q: Okay. And what-

6 A: Some kind of chicken dish, you know, with pasta, but I don't know exactly what it's
7 called-

8 Q: Chicken with pasta?

9 A: Yeah.

10 Q: And what did you have to drink?

11 A: We had like a glass of wine, water.

12 Q: So, you, you had one glass of wine?

13 A: We had two.

14 Q: You had two glasses?

15 A: Uh-huh.

16 Q: And what about, what about (inaudible)?

17 A: I think she also had two.

18 Q: Do you remember what kind of wine you had?

19 A: Red wine.

20 Q: (Do you remember what kind of wine)?

21 A: The house wine, I don't know exactly what that was. It's just house red.

22 Q: Okay. And how, so you think you were there for one hour, so about what time would you
23 have left?

1 A: I don't really know, 9:00, somewhere around 9:00, 9:00 or 10:00. We stayed there a little
2 while after we were done eating and we didn't leave like immediately. We kind of lingered for a
3 little bit.

4 Q: Were there many people in the restaurant when you left?

5 A: It was, yeah, it was still full.

6 Q: And who drove there?

7 A: I drove there. She only lives like, I would say this is maybe six to eight blocks away, it's
8 not that far.

9 Q: Okay.

10 A: We could've probably walked there if we wanted to.

11 Q: And did you drive back?

12 A: Yes.

13 Q: And I think you said that you were out of the car walking towards the step and-

14 A: Yeah. I was about to go up the steps when the spotlight was, patrol car pulled up behind
15 me. Car in the driveway and put a spotlight on, on me and her.

16 Q: And what had you done with the keys to the car?

17 A: They were in my pocket. 'cause after this whole altercation occurred she had to ask them,
18 she had to ask them to give, to give me, to have, the keys that were on me, she had to ask them to
19 get her keys before they took me away. She was like, I need, need you to give me his keys out of
20 his pocket because those were her keys to her car and her home. She wouldn't, she would've
21 been locked out of her own home, basically. Or she wouldn't've had the keys to her car or her
22 home.

23 Q: And-

24 A: What they did, which they did, they, it was like, I said what pocket it was in they took it
25 out. I'm like yeah, those are hers and they gave it to her. And she got her keys back.

1 Q: And did you see them give her the keys?

2 A: Yeah. It was right in front of me.

3 Q: They handed them to her in front of you?

4 A: Yeah.

5 Q: Remember which officer that took the keys from you and handed them to her?

6 A: No. By the time, by the time I was (inaudible) and I'm sitting there. I mean, there were a

7 lot of police there. I would say more, there were more than 10 officers there. So, I lose track of

8 exactly how many were there, but it was, it was less than 20, but more than 10.

9 Q: At any point, did you yell anything like, fuck, before the officer contacted you?

10 A: No.

11 Q: At any point were you kind of part in, part in, part out of the car?

12 A: No. I was completely out of the car. I was standing right in front of the first step of the,

13 the staircase leading up to the front door. I literally could've just taken one step and would've

14 been on her, her first step of her stairs, staircase to her house instead of the sidewalk, so. That's

15 where I was at. I wasn't even by the car. She was by the car at the time.

16 Q: Did you ever drop the car keys?

17 A: No.

18 Q: Were they ever on the sidewalk?

19 A: No.

20 Q: Or on any of the steps?

21 A: Nope.

22 Q: And while the officers were there, did you ever lose your balance and fall to the ground?

23 A: No. I was tackled to the ground. And had like bruised knees and everything. Knees were

24 hurting for a while, but, I didn't, I didn't lose my balance and fall.

25

1 Q: Did you ever say anything to the officers like they had better things to do than bother
2 you?

3 A: Maybe.

4 Q: Did they ever, did any officer ever tell you to put your hands behind your back?

5 A: No.

6 Q: Did an officer ever grab your arm?

7 A: Excuse me?

8 Q: Did officers ever grab your arm?

9 A: They tackled me and grabbed my hands, grabbed my arms and like, I guess they grabbed
10 my arm to put the handcuffs on. And then, they put the other cuff on and squeezed it really tight.

11 Q: Okay. When they, when they were, when officers grabbed you or tackled y you, were you
12 ever twisting side to side? Twisting around at all?

13 A: No. I just remember being stunned. They, I was just surprised at him coming at me and
14 tackling me. Just the whole incident was surprising.

15 Q: Did any officer ever tell you to stop resisting?

16 A: No.

17 Q: Did any officer ever punch you?

18 A: I can't recall that. All I know is they tackled me, and they were twisting my fingers. My
19 pinky fingers on both hands and you know-

20 Q: But do you remember any officer ever punching you like in the leg, hip or side?

21 A: I don't know. I have like a, all I can remember is I had like a mark on the back of my left
22 calf that stayed there pretty much for a long time. So, probably got kicked there or stepped on
23 there. I don't really recall specifically that happening, but I just had the mark there. So-

24 Q: Let's go through all the injuries you had, okay.

25 A: Uh-huh.

1 Q: So, why don't you start with all the injuries that you got as a result (inaudible)

2 A: My face was all beat up and bruised.

3 Q: And where were the-

4 A: My, my, my, my face-

5 Q: And where on your face?

6 A: My left, my left side of my face. Right there on my face, my nose was all bloody. My
7 fingers were, both my pinky fingers were, were really sore and twisted. And my wrist is still to
8 this day my hand is still numb.

9 Q: And which wrist is that?

10 A: My right wrist. I have, I still have a mark on there. It's pretty much like, looks like a
11 permanent scar now. It's about the size of, I would say a dime.

12 Q: Uh-huh.

13 A: And my knees got banged up really bad to where it was swollen up and hurting for a long
14 time. And I had like a, a, a large bruise on my left calf that was, it was I don't know, just like a
15 big deep, dark bruise. Looked like I got kicked there or stepped on right there maybe. And my
16 knee, my left knee, on that same leg was, was all banged up from getting tackled to the sidewalk.

17 Q: When you say, banged up, what do you mean?

18 A: Like when, when he tackled me, I-

19 Q: I want to know what happened to the knee. Was it scraped, was it bleeding, was it, did
20 have a bruise, what, what was the injury?

21 A: It was scraped and banged up and swollen.

22 Q: Uh-huh. Okay. Anything else? And did, I'm sorry, was there anything else?

23 A: No.

24 Q: And you said both sides of your face which were the, was it bruising, was it scraping?
25 Cut?

1 A: Yeah. It was all bruised up.

2 Q: And did you, did anyone take any photographs of you with the bruises, or any
3 photographs of your injuries?

4 A: We did. We took photographs.

5 Q: Who, who's we?

6 A: Me, my friend. She took photographs. My family took pictures.

7 Q: Okay. Can you give me the names of the people who took photographs?

8 A: If you need photographs, you know. If they ever need, anybody ever needs them, I have
9 them.

10 Q: Yeah. I'd like any photographs you have. Are they digital photographs?

11 A: I don't know.

12 Q: Well, I, I'd like to get any photographs of your injuries taken at any time because that's
13 very important in documenting it.

14 A: Uh-huh.

15 Q: So, can I give you my email address? Or, or better still, if you want me, want to give me
16 your email address, I'll send you an email and then you can just reply to it?

17 A: Uh-huh.

18 Q: What's your email address?

19 A: I'm not giving you my email address. I'm good. I don't even believe you're really here to
20 help me. I think you're here to help them. So, I don't know why I'm talking to you about this for,
21 'cause nothing's going to happen. Don't you see, you don't, you don't really do anything, right?
22 All you do is give this to his, his sergeant or whatever.

23 Q: No, no. As I explained, if we find that an officer violated department regulations, we send
24 our findings on to the police department. To either the Chief of Police or the Police Commission-

25 A: Yeah. That's what you do-

1 Q: They could discipline an officer. We do not independently have the power to discipline
2 an officer, but our investigations are completely independent of the police department.

3 A: Oh. Well, you can send them what you got. 'Cause I don't think it's going to happen with
4 what you're doing. I think you're collecting information for them, really, not for me.

5 Q: No. No, we, we are an independent agency and we take complaints very seriously. And
6 that's why I've called you back to get additional information because I want to be as thorough as
7 I can. And we do impartial independent investigations. (inaudible) We're not on anyone's side. I
8 think I, I don't know if I gave you a brochure about our agency, but I can certainly mail one to
9 you. I'd be happy to do that, but any -- documenting your injuries is very important because it
10 happened over two months ago. And you're the one who has those photographs, so, I, I would
11 really appreciate it if you would send them to me. It's very (inaudible).

12 A: Yeah. Like I said, you can send your report off without the photos, and if anything comes
13 of it, we'll pull out photos. I don't think anything's going to come of it anyway.

14 Q: Well, the photos would be important evidence. Once we complete our report, that's
15 largely the end of it, we can't then-

16 A: Hey listen, this cop beat my ass up for no, no reason. And he got away with it, and it's
17 over with now. And nobody's going to do nothing about it. And I'm not, I'm just worried about
18 getting my money back for all the bail I paid and all the hospital bills. I'm owing like 4 or 5
19 thousand dollars now, I owe. Just half of that bill and (inaudible) from the hospital. So, that's
20 why I'm really concerned about paying, getting that paid off and you don't sound like the right
21 person for that.

22 Q: No. As I explained when you came to our office, we don't have any control over that. It's
23 a separate agency, the controller's office and I think I gave you the form. You need to-

24 A: No. You didn't give me that. I think we had a conversation and then I had to go and then-

25 Q: Okay. Well I'll-

1 A: We never, we never, we never talked about that again.

2 Q: Okay. I'll, I'll mail that form to you. That's a totally separate process. Filing the
3 complaint with us is, results in an independent investigation. It's whether the officer violated
4 department regulation. So, that's our purpose. If you, you know you came to us so I'm acting on
5 your complaint to investigate it. If you don't want to investigate, us to investigate, that's up to
6 you, but as long as you filed the complaint, I need to do a thorough, as thorough investigation as
7 possible.

8 A: Yeah. The only people I know that have a picture might be [REDACTED] might have pictures.
9 She's got it on her iPhone. I don't think I have actual physical photo, unless I go home. I have to
10 go look for that photo.

11 Q: Okay.

12 A: You know, that's like a actual photo, like not, like a digital photo. She has like a actual
13 photo it may be on her, on her phone, I don't.

14 Q: (inaudible) question. At any point after you were handcuffed, anything (inaudible) like
15 take off the handcuffs, I want to fight you, or take off your gun and badge and I'll fight you?

16 A: No. No. What I said to him was, I'm like, your, you shouldn't be an officer, the way you
17 behave. I said, you're like the wrong person to be an officer. You shouldn't do this, you're not,
18 you're not, you're not cut out for this type of work. You harass people. You're not the right
19 person to be an officer. And he got pissed off about that. His friends were like, saying you know,
20 you need to be quiet, blah, blah, blah. And I was like, I'm just telling you the truth, I go, this guy,
21 your, your partner here, your fellow officer came up to me for no reason. (inaudible) even why
22 they came up to me. I'm going inside the house. I don't know what reason you had.

23 Q: And at any point did you call him anything like coward, a midget or a rookie?

24 A: No.

25 Q: At any point did you ask for his badge number?

1 A: I asked for the other officer's badge number. They didn't give it to me. I said, I know his
2 badge number, I go what's your partner's number and he walked away, he didn't give it to me.
3 'Cause I know he had a partner with him but, when I asked him, he didn't tell me. Only reason I
4 even knew what his badge number was 'cause when he was, when he was jumping on top of me,
5 I could see his badge. So, that's how I even knew what it was. 'Cause before that (inaudible) I
6 couldn't see his badge.

7 Q: Did you ever, were you ever yelling out that badge number?

8 A: Yeah. When I said hey, 529, you, your in the wrong business, man. You're not cut out to
9 be a cop. You shouldn't be an officer. You harass people. And I said just what I said to you now.
10 So, I still don't know, I don't know why he even came up to me. Came up to us. We're going in
11 the house and I don't even know why you're doing this.

12 Q: Okay. What I would like to do is read you parts of the police report.

13 A: Uh-huh.

14 Q: And you tell me, for the record, whether it's accurate or not.

15 A: Uh-huh.

16 Q: So, we were heading northbound on Harrison Street cross of 26th and I heard an
17 unknown male scream, fuck. I immediately looked to my right toward the area where I heard the
18 scream and observed an unknown Hispanic male, later identified as [REDACTED]. With his
19 torso and arm laying on the street. The lower half of his body was in the driver's seat of a Honda
20 Civic. He was parked perpendicular to the curb line. I also observed an unnamed known female,
21 later identified as [REDACTED] she was upright and facing forward in the vehicle passenger
22 seat. Is any of that accurate or inaccurate?

23 A: That's not accurate. At the time he pulled up, we, we were, I was already out, she was
24 already out of the vehicle. Neither of us were sitting in that vehicle when they pulled up
25 (inaudible). I didn't yell out, fuck. I didn't say that.

1 Q: Okay.

2 A: That whole description's not accurate.

3 Q: Okay. I walked toward [REDACTED] and asked if he was okay and observed [REDACTED]
4 appeared to be reaching for a set of keys which were on the street pavement directly in front of
5 an outstretched arm. [REDACTED] looked up at me and I observed his eyes were bloodshot and
6 watery. [REDACTED] reached his arms out further toward the key, the lower portion of his body fell
7 out of the vehicle. [REDACTED] attempted to brace himself but wasn't able to. His entire body
8 crumbled onto to the street pavement outside of the vehicle.

9 A: No. Not true. None of that's true at all. A complete lie.

10 Q: (inaudible) stand up but he lost his balance and remained on the pavement. I approached
11 [REDACTED] to help him so he would not fall over again and injure himself, but [REDACTED] waved me
12 away and refused my assistance. [REDACTED] slowly staggered to his feet and I observed he had
13 difficulty maintaining his balance. [REDACTED] looked directly at me, laughed, stated that he
14 (inaudible). I observed [REDACTED] speech was thick and slurred. Due to my training and
15 experience, I believe [REDACTED] is (inaudible) symptomatic of being under the influence of alcohol.
16 Due to the fact [REDACTED] was in public, under the influence of alcohol and unable to care for his
17 own safety, I determined to place [REDACTED] under arrest for 647(f) PC. That's being drunk in
18 public. (inaudible). Is any of that accurate or inaccurate.

19 A: No. That's not acc, all, it's all inaccurate. None of that's true.

20 Q: Okay. I asked [REDACTED] if he had been driving and he laughed and said that he had been
21 driving, he (inaudible). Is anything about that is true or untrue?

22 A: No. That's not. That's not what was said at all. I've already, you've already had recorded
23 what I said. I gave you my side of the story on that particular subject right there and it didn't
24 happen that way.

1 Q: With [REDACTED] slurred speech he was very antagonistic. He stepped off of the
2 sidewalk and he quickly turned and started walking toward the front steps at [REDACTED]
3 [REDACTED]. I believe [REDACTED] was going to walk up the steps, so I ordered him to stop and he threw
4 the keys on to the landing of the front step to [REDACTED] still remained seated in
5 the front passenger seat of the vehicle. Is any of that accurate or inaccurate?

6 A: That's not accurate, no.

7 Q: Okay. Is it all inaccurate?

8 A: It's all inaccurate.

9 Q: Okay. I told [REDACTED] to show me hands and he became visibly agitated. [REDACTED] raised
10 his voice and yelled at me that I had no right telling him what to do. [REDACTED] speech was still
11 slurred (inaudible) upper body swaying side to side. I told [REDACTED] to calm down and he began
12 yelling that the police have better things to do than bother him. Is any of that accurate?

13 A: That's not, that's inaccurate.

14 Q: Okay. I believed [REDACTED] was intoxicated, he refused to follow my simple instructions
15 and he was becoming visibly agitated. I ordered [REDACTED] to place his hands behind his back and
16 attempted to take him into custody. [REDACTED] did not comply with my orders, so I grabbed his
17 right wrist and Officer Busalacchi grabbed on to his left wrist. I felt [REDACTED] immediately tense
18 the muscles in his right arm and upper body causing his arms to become rigid on the side. This
19 action prevented Officer Busalacchi (inaudible) hands behind his back in the handcuffs.

20 (inaudible) and I struggled (inaudible) [REDACTED] (inaudible) custody. I ordered him several more
21 times to place his hands behind his back. (inaudible) upper body, twisted his body from side to
22 side. Officer Busalacchi and I wrestled [REDACTED] to the ground, then I told him he was under
23 arrest. I continued to order him to stop resisting us and place his hands behind his back. [REDACTED]
24 continued to resist. Is any of that accurate?

25 A: No. It's not. None of it's accurate. It's all inaccurate.

1 Q: Okay.

2 A: It's all falsehood, the whole things is falsehood.

3 Q: Okay. Next time I attempted to grab [REDACTED] right wrist, use a bent wrist control to take
4 him into custody. However [REDACTED] violently locked all arms and hands away from me and
5 towards his body. I observed as they had exited the vehicle and approached officer Busalacchi
6 and I from behind. I ordered [REDACTED] to get back (inaudible) moving towards him. I was, due to
7 [REDACTED] continued resistance and size, my ineffectiveness of my control hold, I was forced to
8 strike [REDACTED] with my fist several times to his left leg (inaudible) in attempts to take him into
9 custody. He continued to resist. I grabbed onto his right hand and bent his fingers back towards
10 the top of his wrist. [REDACTED] yelled in pain, placed his hands behind his back and I finally placed
11 him into custody. Any of that accurate or not accurate?

12 A: The part about bending my fingers, yeah, that was accurate. That's the only thing it
13 sounds like to me.

14 Q: While in handcuffs, [REDACTED] continued to yell at me and resist (inaudilbe) challenged me
15 to take the handcuffs off and fight him. [REDACTED] told me that I should take off my gun and badge
16 and then he would kick my ass [REDACTED] repeatedly screamed at the scene that I was a pussy.
17 [REDACTED] attempted to lure me into a fight by insulting me and yelling that I was a coward, a
18 midget who had no business being a police officer. [REDACTED] repeatedly demanded my badge
19 number and each time I provided it to him. [REDACTED] then would (inaudilbe). Is any of that
20 accurate or not?

21 A: No. That's not accurate. That's not what happened.

22 Q: Okay. Any part of it? Any, any part of that?

23 A: Oh, I asked for his badge number, he didn't, he wasn't offering me his badge number. I
24 remembered what it was. He didn't tell me what it was.

1 Q: So, I just want to clarify which of the officer's actions your complaining. So we can focus
2 our the investigation.

3 A: Well, it's not the other one, the other one I think he just followed what the other, what
4 the, what, 529 was doing. He just followed him.

5 Q: So, you're only complaining about 529, or you're complaining about both officers?

6 A: I'm complaining about both of them, but mainly 529 was the one that I feel like he's the
7 one that made, instigated it and then escalated it out of control. Made, made, made something out
8 of nothing. 'Cause I don't think the other officer was really like, you know, he didn't seem to be
9 like he, he wanted to really like make a big issue out of anything. The guy, the main guy that was
10 really pushing him walking towards me and saying, move back and pushing his hand out and
11 swinging a baton, he was that guy 529. The other guy he seemed like he just went along with it.

12 Q: Okay. So, just, so you're complaining about the force the 529 used on you, correct?

13 A: Yeah, he instigated the whole thing. He, he charged towards me while I was on the
14 sidewalk. Move back, was pushing his, swinging his hand out. I, I told you this before remember
15 when I was in the office.

16 Q: Okay.

17 A: So, it was all, it had all, it was all, the whole altercation occurred because he charged me.
18 It wasn't cuz anything else.

19 Q: Are you complaining about the fact that he arrested you?

20 A: Yeah. I'm complaining that I was assaulted and then I was arrested and now you know I
21 have to miss work and I had to bail out and I have a hospital bill, lots of things.

22 Q: Okay. Are you complaining about anything that 529 said?

23 A: What he said? It's the question, the, the whole, I don't even know what, what reasoning --
24 I mean what, what gave him a reason to even come up to us. I just don't even understand that,
25 like, what was the provocation for him to even come up to us. Put a spotlight on us. We're, we're

1 in front of her home. It's, we're in her driveway. We're going into her house. Nobody screamed
2 anything.

3 Q: Okay.

4 A: I mean, it was pretty like dead and quiet at the moment when he, he does this. It's, it's
5 dark and it's quiet on that corner, there's nothing going on. And there's people that are hanging
6 out like there's a park right across the street. There's people in that park hanging out there all
7 night long and drinking and partying and doing whatever they're doing and why come up to us.

8 Q: Okay.

9 A: There's plenty of other stuff going on right behind you guys and you didn't do anything
10 about that.

11 Q: I, I just want to make sure I'm, I'm thorough and get everything that you're complaining
12 about. And then are you complaining about the fact they didn't, that he didn't, complaining about
13 him putting the handcuffs on too tight.

14 A: I, I don't even know what his was probable, I still don't know what the probable cause
15 was. Did he invent it or 'cause I don't see any probable cause, to even come up to us, or
16 approach us, at all. For anything. We weren't doing anything.

17 Q: Okay. So, that will be (inaudible).

18 A: Yeah. Like the whole thing was just to me, it's just, unjustified. It was uncalled for. I
19 don't, I still don't know why he even did any of that.

20 Q: And are you complaining about the fact that he didn't adjust the handcuffs when you
21 complained about them being too tight?

22 A: No. He didn't, he left it like that for a while.

23 Q: Okay. So, are you complaining about that?

24 A: Yes. My hand's still numb.
25

1 Q: And I think you said that you were taken to the hospital in the back of a patrol car, is that
2 correct?

3 A: You know what I, I don't even remember. I thought it, it was a patrol car that took me
4 there or an ambulance 'cause I got a bill for an ambulance. I got a bill for ER, I don't know. I'm
5 getting bills 'cause a ambulance showed up and I had been taken in a patrol car anyways, but I'm
6 getting bills from that, so. It's all kind of a blur to me after, you know getting beat up. She never
7 moved though. That, that part, that comment or whatever his report says where she moved, she
8 didn't move at all. She stood completely still. [REDACTED], she stood completely still, and I
9 remember looking up at her. And there were like six, seven officers like surrounding her. And
10 she's like a small woman, so 5'2" or something. And they're all standing around her looking
11 down at her. And she just stood there like petrified. She didn't say a word, she didn't do
12 anything. She stood still. And they still were like intimidating her.

13 Q: Where was she when the officers were standing around?

14 A: They were, they were in her driveway, she was leaning against her, her house is a wall by
15 her driveway. And she was leaning on that and they were all surrounding her form like left to
16 right. She had like a wall of officers surrounding her.

17 Q: Did you hear anything that they said?

18 A: They were saying stuff to her, but she was just, I, I couldn't hear, make out what they
19 were saying to her. But they were saying some stuff to her. And I couldn't quite hear, and she
20 was just sitting there being quiet, like just standing still, not responding. Not saying anything.
21 She was completely still. She looked pretty scared, actually. Like she didn't want to move, she
22 won't say anything because obviously, we just came home from dinner and now I'm getting beat
23 up. But I'm about to go up the stairs, so-

24 Q: Right. Okay. I just want to look up some things. At any point, were you asking the
25 officer, like, what's going on, what's up?

1 A: Nah, I don't know, I don't recall that. I might've said, what are you charging me with,
2 and they wouldn't answer me. I'm like why, why did you even come up to me? It's like, why,
3 why did this guy even come up to us. We're walking in the house. They have no reason to come
4 up to us. I still don't understand why you guys came up to, what was your probable cause. Never
5 found that out.

6 Q: Were you asking them, the officers?

7 A: I was asking, there was another officer that was directly standing in front of me talking to
8 me when I was handcuffed, sitting on the sidewalk. And I don't know that officer's name. Didn't
9 see his, he didn't have a badge on. His name wasn't visible to me. So, he was, they were wearing
10 like the, the one-piece suit or uniform that they have.

11 Q: Uh-huh.

12 A: He was wearing something like that, like the kind the sheriff's wear.

13 Q: Uh-huh.

14 A: He was wearing like a one-piece uniform like that and I couldn't make out what his name
15 was because I'm sitting on the ground looking up at him and there's a glare from the lamp post
16 and I can't really make out what his little. He had a little name tag, little small one. Didn't have a
17 badge number showing, anything. He had a number, it was on his uniform somewhere, I couldn't
18 see it.

19 Q: Uh-huh.

20 A: But that was, that was the only officer that was really kind of just, consistently
21 continuously saying stuff and talking to me. And I was asking him like, what is your, what's
22 your partner say the probable cause was and they wouldn't answer. He's like, you don't worry,
23 we'll take you downtown, you'll figure it out, straighten out, you know.

24 Q: And was that all-
25

1 A: And she was like, and the only thing [REDACTED] -- I remember [REDACTED] she's like don't
2 say nothing 'cause they're going to use that as an excuse to get you, they're already mad at you,
3 I'm like (inaudible) he was like you should listen to her. And I was like, oh really, I go, why? I
4 go I didn't say anything to begin with and then your officer came up here and beat me up, for
5 what. I still don't know why you guys even came up to me. We're walking in this house right
6 here that I'm sitting here in front of. So, you guys, you still have never explained why you even
7 came up to us. This is her home; we're walking up the steps-

8 Q: Was that officer 529 you were talking to?

9 A: No.

10 Q: Which officer was it?

11 A: That was one of the many officers that showed up like, you know, ten minutes later, 5, 10
12 minutes later.

13 Q: Okay. So, you said earlier that you're complaining about both officers, but mainly
14 number 529. What are you complaining about that his partner did?

15 A: I'm complaining that his partner you know, just went along with it. Just helped him
16 tackle me and arrested me and participate, basically, participated in you know an unlawful, you
17 know harassment of a citizen you know without any probable cause. If that's how they do their
18 job, they're not doing their, they're not doing a good job, they're basically bullies.

19 Q: Okay. Anything I haven't asked you about that you think I should know that you think
20 will help me investigate.

21 A: No. I just, all I have to say is I just don't, I still per se, don't know what their probable
22 cause was to even come up to us in the first place. Never found that out. Now, I feel like I need
23 some, some, some resolution or some kind of you know settlement to deal with these bills that
24 they're giving me now. Like, I gotta, you know, I got in trouble and I'm, from, from what he did,
25 from his actions. Like I'm the one paying for it. It's not fair, you know, I feel like it's very

1 unfair. I'm, I'm out like 4 or 5 thousand dollars for somebody, some cop just coming up and
2 beating me up in front of my, my friend's house for no reason that I can even, anybody can
3 understand. The neighbors saw it. She saw the whole thing. Her family saw the whole thing, I
4 don't know how many of them saw it, but I know [REDACTED] talked to her and she was like, oh, I
5 saw the whole thing. If you guys, you know, have a case. I mean, she was like I'll be a witness.
6 So, I know that there's other neighbors that saw what happened. And I'm not just making it up or
7 imagining it, it did happen like that.

8 Q: Do you know of any neighbors other than [REDACTED], who lives next door, who saw?

9 A: I don't know who else saw it. So, I mean they might, and she might, and [REDACTED] might,
10 but I, I personally don't.

11 Q: Okay. I, I'm going to mail you the claim form for the control's office.

12 A: Okay.

13 Q: And the instructions on that. But as I said filing the complaint with us, will have no affect
14 on that. We, we can't, we don't have the power to give anyone money. We're a totally separate
15 agency. So, filing a complaint with us will not result in you getting any money. So, (inaudible)
16 take it up with the controller's office.

17 A: Okay.

18 Q: Okay. And I'll also email you a copy of the complaint form because you, I think you left
19 the (inaudible). Then after we, we finalize the allegations, I'll also email you a copy.

20 A: All right.

21 Q: After our review process.

22 A: Okay.

23 Q: Okay. Well, thank you very much, [REDACTED], for taking the time to talk to me.

24 A: Okay. Thank you.

25 Q: Your welcome. Bye, bye.

1 A: Bye.

2 Q: This interview (inaudible)

3 END OF INTERVIEW

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1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

5
6
7
8 **INTERVIEW OF:**

[REDACTED]

9
10 **INTERVIEWED BY:**

OCC INVESTIGATOR WECHTER

11
12 **DATED:**

FEBRUARY 2, 2015

1 **Q: INVESTIGATOR WECHTER**

2 **A:** [REDACTED]

3
4 **Q:** Today's date is February 2nd, 2015 at 11:22 AM. This is OCC Investigator Wechter
5 conducting a telephone interview (inaudible) OCC case number 40-15 and I'm connected by
6 telephone [REDACTED]

7 **A:** [REDACTED]

8 **Q:** [REDACTED]

9 **A:** [REDACTED]

10 **Q:** [REDACTED]

11 **A:** Correct.

12 **Q:** Okay. As we said, I'm investigating this incident that happened on November 11th or
13 2014.

14 **A:** I thought it was December 11th.

15 **Q:** No, I believe it was November 11th.

16 **A:** Okay, I know it was the 11th, I wasn't sure. I know the holidays were there and then.

17 **Q:** And it involving [REDACTED]

18 **A:** Yes.

19 **Q:** So, why don't you just start from the very beginning and tell me everything you
20 remember about this incident.

21 **A:** I know it's been awhile. [REDACTED] and I were at my house. We were relaxing watching T.V.
22 and then we decided to go out to dinner. We were planning on what restaurant to go to dinner in
23 my neighborhood. You know in the Mission District. Then, okay hang on, let me (inaudible)
24 because I'm actually driving, I'm so sorry. So, anyway we were driving along. I mean we were
25 at my house planning on where we were gonna go to dinner. And all of a sudden [REDACTED] and I said

1 well you know we'll go either to Traviata which is on Mission and 25th or we'll go to another
2 restaurant. So, we ended up going to the Traviata restaurant. We were there for about an hour or
3 two. Maybe like two hours and we had a really nice dinner and then we had a little bit of wine.
4 And then we said okay let's go home. So, we ended up getting in the car and we drove down
5 to my house. And we try and make you know a long story short here. We pulled into the
6 driveway. And [REDACTED] and I were sitting in the car chatting. We were talking about I think his son
7 or something like that. I don't remember now. But I know it was just some just you know stuff
8 that we were discussing, and we were just talking in the car. Then we got out of the car. And,
9 you know we locked up and everything and we got to right about my staircase, which is maybe
10 like three feet away from the sidewalk. And I'm at [REDACTED].

11 Q: Uh-huh.

12 A: When all of sudden we saw like a light, like a big light. And we turned around like what
13 the hell's going on? Excuse my language, so [REDACTED] turned around and I turned around and I said
14 what's this? And the police officer was saying for us to stop. And you know we were just about
15 to go inside on, on our stairs. Because I have like a high staircase. Excuse me. So, the police
16 officer got out of his car and he approached us. And then he started asking a bunch of questions
17 like you know what are you guys doing? What's going on here? You know things of that nature.
18 And he kind of struck me as like, you know, like what's going on? What you know is there
19 something going on in the neighborhood? Because usually if something goes on in the
20 neighborhood police officers will approach us and ask us questions. You know what I mean, that
21 type of thing. Or if they tape off some of the area, I notice that when it's when other areas get
22 taped off then police officers have asked me questions of what's going on or whatever.
23 Anyways, the police officer was standing pretty close to us and then I'm not sure what [REDACTED]
24 said, like what's going on guys, or something like that. And then the guy, the police officer took
25 his baton and, and pushed [REDACTED] from what I remember. Or you know he just kind of pushed

1 ■■■ back and you know ■■■ was like what is going on here? And then the police officer
2 started arguing with him and you know you'd better cooperate and just got really aggressive
3 really quick. A couple of minutes later from what I remember I looked up and it must have been
4 at least 10 police officer cars in front of my house. And the police officer, you know grabbed
5 ■■■ and then another police officer came up and was helping, supposedly helping the officer
6 and they were pretty much just roughing him up and they handcuffed him, and they were putting
7 on the floor. And then I remember I just kept thinking to myself you know just try to like move
8 away from the situation. So, I walked up into my stairs and there's like a little embankment
9 where you can stand. You know a few feet away from the sidewalk. So, I stood there. And then
10 about maybe five or six police officers were like surrounding me. And they were, they were just
11 like really close to me and asking me for ID and this and that. They were saying you know give
12 me your drivers license blah blah blah. And they were asking me you know was I arguing with
13 ■■■ or had he done anything to me. Any of that. And I said no. I don't know what you guys are
14 doing. What's going on? So, I gave them my driver's license. And I remember them, you know I
15 remember feeling afraid like something, if I said anything out of the ordinary or if I would have
16 said anything you know maybe verbally abusive. They were just kind of waiting for me to do
17 something negative. And I'm not that kind of a person. You know I'm very respectful of the law.
18 I'm very respectful you know of other citizens. I'm very respectful of myself, my family. So, I
19 was completely was complying because there was actually there was nothing you know I didn't
20 understand what in the first place I was saying to myself why, what is this all about? What's
21 going on? 'Cause we didn't do anything. We didn't do anything.

22 Q: Is that something you were asking?

23 A: I did ask. I said officer you know like what's going on, what happened, you know what's
24 up? I did remember saying like what's up? And they, no one said a word to me. They were like I
25 said, there were no female officers present. It was several Officers towering over me. And just

1 you know, one of them had my license after a while. And you know they kept saying like you
2 know just stand there. And I looked down over the stoop and I saw [REDACTED] on the sidewalk. And
3 he was handcuffed, and they were, you know then one other Officer came over to him. And he
4 was dancing around like jumping up and down. I mean, from what I remember he was jumping
5 up and down. He looked like he was like he was doing a boxing dance. Like, like jumping back
6 and forth like a boxer. With his you know kind of he hands up a little bit his kinda of he had his
7 fists going back and forth a little bit. And one of the other police officers was telling him like hey
8 you know relax calm down. They were so many police officers out there that I couldn't
9 understand. It was like you know was there a bank robbery. Was there some type of, of incident
10 that went on? Were we suspects? I had no idea. And you know [REDACTED] kept saying you know
11 what's going on? You know you're hurting my arms; you're hurting my arms. You're hurting
12 my hands. You know he kept saying that to them, and then I know that one of them put his knee
13 on [REDACTED] shoulder and you know it was absolutely a fiasco. And I to this day, this moment,
14 speaking to you, I do not know why they did that to us. No idea. It wasn't like we were being
15 followed. It wasn't any of that stuff.

16 Q: Okay. Well I'm gonna go back over this. So, about what time was it that you left your
17 house? Was it Traviata?

18 A: Traviata is on 25th and Mission. 20, you know I'm sorry, take that back. It's between
19 yeah, 25th and 26th, it's on one of those blocks. And it's an Italian restaurant.

20 Q: (inaudible) your house to go?

21 A: Oh, my goodness, maybe like about eight-ish. 8:30-9:00, somewhere around there. I
22 know it was a little later because we were watching a ball game. We were watching the Warriors
23 or something like that. We were watching a ball game. I'm not sure which ball game it was, but
24 we watching a sports game. And so, I was kind of taking my time. We were very relaxed because
25 [REDACTED] gets up at five.

1 Q: You said you'd been, you were at La Traviata for about two hours.

2 A: About that, about that.

3 Q: You know what time you left?

4 A: Maybe like about, oh my gosh, maybe -- I don't, I don't remember, it was like 11:00. I
5 don't really remember, but I know it was late. Because we were the last, one of the last people
6 out. And you know we had the full dinner, dessert, everything.

7 Q: You were one of the last out?

8 A: Yeah, we were the last customers out because we got there late. And it was during the
9 week.

10 Q: Did you pay with cash or credit card?

11 A: I believe it was a card.

12 Q: And whose card was it?

13 A: I think it was mine. I'm not, I don't remember because [REDACTED] has cash and doesn't have a
14 card. So, a lot of times he pays with cash, or I'll just use my card.

15 Q: So

16 A: Or he'll give me the money and I'll use my card, that type of situation. You know we
17 both-

18 Q: Can you check your bill and see if it was charged to your card?

19 A: I can.

20 Q: You said you had a little bit of wine. How much did you have to drink?

21 A: I probably had, maybe like a glass of some Merlot. or two maybe at the at the very least.
22 But we had a full heavy pasta dinner. With salads and everything.

23 Q: And what about [REDACTED]?

24 A: [REDACTED] not a big wine drinker. He probably had a maybe like the same, like a glass or
25 two. He doesn't drink that much wine. He doesn't really like wine. He likes beer.

1 Q: Did he-

2 A: But when we-

3 Q: Did he drink anything else that evening?

4 A: No, no, no, no, no.

5 Q: And you say, who drove the car?

6 A: I did. Down the street.

7 Q: So-

8 A: We have

9 Q: Back to your house?

10 A: Yeah, it was just like what four blocks something like that. Yeah, short distance.

11 Q: And how long were the two of you sitting in the car talking?

12 A: We were sitting there for like maybe you know we sat, turned off the car. We sat there
13 blah blah blah we were getting carried away with our little conversation. Maybe like a couple
14 minutes. You know maybe like, I don't know, three, three to five. Somewhere in there. Just a
15 short convo conversation. You know?

16 Q: Did you go anywhere after you went to the restaurant?

17 A: I don't believe so, no.

18 Q: You say you don't believe so.

19 A: I don't think so, no. Sometimes we do, you know we go around the neighborhood and we
20 just you know walk around or whatever. But no, not that night.

21 Q: Who had the car keys?

22 A: I did.

23 Q: And, where were they?

24 A: In my hand. As far as I can remember.

25 Q: Did you put them anywhere in a purse or your pocket?

1 A: I usually throw 'em in my purse. So, as soon as I get out of the car, I just hit my alarm
2 and I throw them in my purse. That's probably what I did. I believe I did that. Because my purse
3 it sashes around my shoulder cross wise. So, I just normally just dump them in my purse.

4 Q: So, you said when you reached the stairs you saw a bright light. Can you describe that?

5 A: Yeah. We were reaching the stairs and you know I saw like this silhouette behind me like
6 a light. And then that's when we turned around. Well, [REDACTED] turned around and he's like what's
7 going on? And then I turned around. And then we saw you know one of those headlights that the
8 officers have on the backs of their vehicles and then they shine them up on people?

9 Q: And

10 A: With the handle.

11 Q: What did you what did you see when you turned around in terms of what?

12 A: Well the light was kind of blaring a little bit and the Police Officer just got out of his car
13 and headed towards us. And then like I said a short while after that there was like 15 cop cars 10
14 cop cars. With two police officers in each car just you know.

15 Q: Can you describe the officer who approached you?

16 A: You know it was dark and all I know and all I really remember is that they were tall. Just
17 a tall police officer.

18 Q: He was tall?

19 A: Yeah, I'm a short person. I'm 5'4" so I just remember you know officers were just pretty
20 tall men.

21 Q: Do you remember the race or ethnicity?

22 A: Caucasian. I believe they were Caucasian. I don't remember seeing any officers of -

23 Q: I'm talking about the Officer who first approached you.

24 A: I believe he was Caucasian sir. I believe.

25 Q: And what was the first thing that was said?

1 A: The first thing that was said was hey stop. Something like that. And like I said he
2 approached us and then he was talking with [REDACTED]. I usually you know when approached by a
3 police officer I don't say anything until they ask a question.

4 Q: You say he was talking with [REDACTED]?

5 A: Yeah, he just said hey you know what's going on? Something like that. And the next
6 thing I know he just had his baton. He looked at [REDACTED] said hey, like what's going on? What's
7 up? We didn't know why we were being questioned. So, the baton, I just remember him pushing
8 [REDACTED] back with the baton or his hand. But I know, I'm pretty sure it was his baton.

9 Q: So, but before he pushed [REDACTED] with the baton, what was said?

10 A: He said, "hey stop."

11 Q: Uh-huh.

12 A: And then he came up to us and then he was talking to [REDACTED]. He said what's going on? He
13 was saying, I think he was saying what are you guys doing? You know where are you guys
14 coming from and then you know there was a part that I just remembered that he walked over to
15 the car and put his hands on the car, and he was saying were you guys driving? Are you driving
16 this vehicle? You know? Just being really aggressive. But it's kind of a blur right now because it
17 happened you know awhile back.

18 Q: And when he asked if you guys had been driving, what was said?

19 A: We just told him the story. We said we went up to you know. We went up to La Traviata.
20 We had some dinner. Heavy pasta. And you know that was pretty much it. I don't remember if
21 he asked us were you - were you drinking. You know he might have I don't remember.

22 Q: Did you

23 A: But at that point

24 Q: Did you said that you'd been driving?
25

1 A: He didn't ask me at that point, no. He wasn't asking any of that. He wasn't saying were
2 you driving, what's going on. 'Cause it really just got bad quick. It was a brief little couple of
3 words, baton, pushed him back. You know you need to cooperate; you need to cooperate, you
4 need you know, that's kinda like what I remember of it.

5 Q: The officer said you need to cooperate?

6 A: Yeah, you need to, he was telling [REDACTED] you need to -- something around that, you know,
7 kinda saying in other words, you need to cooperate with, with me.

8 Q: (Inaudible)

9 A: No, that was after I believe.

10 Q: After.

11 A: Yeah and

12 Q: I know it was a couple of months ago, but

13 A: Uh-huh.

14 Q: If you don't remember I don't want you to guess.

15 A: No, I'm not guessing.

16 Q: Just tell me I'm not sure I don't remember. But-

17 A: Yeah.

18 Q: anything else that was said before the officer pushed [REDACTED]?

19 A: Just [REDACTED] asking him what's going on like why are you stopping us? What's up? And
20 then that's what [REDACTED] and I wanted to know. Like what happened? What's going on? Did we do
21 something? 'Cause we were way already out of the car. We were already had like a five-minute
22 conversation and this cop comes out of nowhere with his light you know asking us a bunch of
23 questions. And we thought something happened in the neighborhood. That's what we thought.
24 That's what I thought.
25

1 Q: What I want to focus on is not so much what you thought, but what you what was said
2 and done.

3 A: Yes.

4 Q: So, you remember anything else being said before the officer pushed [REDACTED]?

5 A: No. It was no, he just was saying like I said, what's going on. [REDACTED] was asking him
6 what's going on. Like why are you stopping us. That's pretty much what I remember. The police
7 officer just was you know standing there, having a little bit of a conversation with him. But I just
8 remember [REDACTED] saying what's up, what's going on?

9 Q: What do, what was the last thing that was said before the Officer pushed [REDACTED]?
10 (inaudible)

11 A: Basically, he was just [REDACTED] saying that to him. Like what's up, what's going on? Why
12 are you, you know, why are you - why are you doing this? That's all I, I really just remember
13 hearing [REDACTED] talking. Not the Officer.

14 Q: And how was [REDACTED] speaking?

15 A: In a calm voice. We were -- we were not intoxicated, we were full from dinner. And I
16 remember [REDACTED] was telling me oh my god my stomach hurts. We ate too much. While we were
17 in the car. And I was like oh I know. You know that feeling after dinner when you eat too much?
18 That kinda feeling. So, that's pretty much what we were talking about and as we were going up
19 the stairs with all this happening. You know with the light and all, the whole incident, we still I
20 still couldn't figure out why this Officer came out of his car onto the sidewalk to us and
21 approached us with all of his questions.

22 Q: Yeah, again I just want to focus on what was said and done. I understand

23 A: Yeah.

24 Q: You had questions. But I just want to focus on what was actually said and done. So, can
25 you describe how he pushed [REDACTED]?

1 A: All I know is, I looked he took his baton out and you know he kept, he was pushing,
2 pushing [REDACTED] chest with his baton. Pushing him back. To me it just seemed like he was trying
3 to you know maybe antagonize the situation.

4 Q: What was-

5 A: He just kept pushing him back.

6 Q: Again, I prefer that you not speculate on why he was doing something.

7 A: Okay.

8 Q: Can you focus on what you actually saw?

9 A: That's what I saw, him pushing [REDACTED] with his baton.

10 Q: At his chest.

11 A: Yes.

12 Q: And what did [REDACTED] say or do in response?

13 A: He just said, hey what's going on? That's all [REDACTED] kept saying was what's going on?
14 Why are you doing this? What's up? What did I do? What did we do? You can't do that. He did
15 say to him you can't do that. I'm not doing anything.

16 Q: Did the Officer say anything as he was pushing him?

17 A: And then I do remember him saying, you need to cooperate or something like that. You
18 know, you need -- you need to cooperate, something of that nature. You need to cooperate.

19 Q: Okay. So, you were saying that happened, then you looked up and there were ten police
20 cars there. What happened between when the Officer pushed [REDACTED] and when all the police cars
21 arrived?

22 A: Well, I kinda was just standing there. And I felt like I could be in danger. Like if I said
23 anything or made a move, that I could possible be putting myself in jeopardy.

24 Q: Right, but what did you see? What happened with [REDACTED] and the Officer after the Officer
25 pushed him?

1 A: So, after the Officer, you know after the Officer kept pushing him and then [REDACTED] you
2 know was saying what's going on, what's going on, why are you doing this? Then the next thing
3 I know I look and [REDACTED] on the floor getting handcuffed. And Like I said about-

4 Q: Yeah, but how did [REDACTED] get to the floor?

5 A: The police officer grabbed him, and he like I said, [REDACTED] just ended up on the floor. It
6 happened so quick. The police officer was you know, trying to handcuff him. And, and put the
7 handcuffs on him. And I looked up and all these police officers came out of nowhere about ten
8 police officer's cars were parked in front in front of my house. And it was big, you know for
9 some reason it was pretty dark that night. And the, you know in that area there's not very good
10 lighting on my block.

11 Q: I understand that but, but this is important. You say you looked up and all these police
12 cars were there, but

13 A: Yeah.

14 Q: what happened before these other police cars arrived?

15 A: Like I said, he, the police officer was pushing [REDACTED] back kept pushing him. And then he,
16 then there was a struggle and [REDACTED] was on the floor being handcuffed.

17 Q: Can you describe the struggle?

18 A: The police officer was just grabbing [REDACTED] turned him around from what I remember.
19 And you know kept telling him you need to cooperate. And all I, and then I looked because at the
20 same time all these other cars were pulling up. So, I was taking my eyes away. All these other
21 cars were pulling up and I'm thinking what is going on here? But at the same time, I was feeling
22 in jeopardy for my own safety. That's how my sense, were like-

23 Q: Okay, I understand that, but, but I, I want to focus on what you saw. Was there only one
24 Officer there at first or more than one?

1 A: I remember seeing one coming up to us and that was it. I don't remember seeing another
2 one until a few minutes later. A bunch of them were there, like 20 of them.

3 Q: Uh-huh.

4 A: There was a lot of police officers at that point. By the way, I also have my neighbor that
5 wants to give her statement as well. Because the next day she, she was freaked out. She's like oh
6 my god, she said I've never seen so many police officers out here in my life. And she's been
7 there

8 Q: What's your-

9 A: [REDACTED]

10 Q: Neighbors name?

11 A: Her name is [REDACTED]

12 Q: Do you have any last name?

13 A: I do not, but I can get it.

14 Q: Do you have, which, which house does she live in?

15 A: [REDACTED]

16 Q: The house to the

17 A: [REDACTED]

18 Q: The one over

19 A: [REDACTED].

20 Q: [REDACTED]

21 A: Correct. [REDACTED] sir.

22 Q: And do you have her phone number?

23 A: Uh-huh. Hold on sir let get it in my contacts. Oh, my goodness. [REDACTED]. Okay her phone
24 number is [REDACTED]

25 Q: [REDACTED]

1 A: [REDACTED]

2 Q: [REDACTED]. Okay, does she live there alone or with someone?

3 A: No, she is with her whole entire family. Her husband, her mom, her dad. It's like a flat,
4 there's two, there's a flat and then there's one on top.

5 Q: Which one is she in?

6 A: [REDACTED]. And I believe her room is [REDACTED]. Like her, you know
7 the [REDACTED]. I'm not sure but she
8 did tell me the next day, and I didn't solicit her opinion. She just came and said to me, by the
9 way what happened last night? Were you guys okay? I saw the police officers, oh my god. I saw
10 how they were; you know treating [REDACTED] roughing him up and all that. I said I have no idea why.
11 I have no idea why they did that to us. No idea.

12 Q: Do you know who lives [REDACTED]?

13 A: Her [REDACTED] I believe, sir. They own that building as far as I know.

14 Q: About how old is [REDACTED]?

15 A: [REDACTED] probably mid-forties.

16 Q: (inaudible)

17 A: I'm sorry.

18 Q: I want to go back.

19 A: Uh-huh.

20 Q: So, you don't remember seeing the second police officer until you saw all those other
21 officers there.

22 A: Gosh, I'm not sure to be honest with you. There might have been somebody in the car.
23 But I'm not sure at this point. I know it was just the one officer with us.

24 Q: So, you say this officer grabbed [REDACTED]. How did he grab him?
25

1 A: I believe it was by his arm. Swung him around and then like I said at that point I was just
2 looking at you know why these other people were coming. And it was just all happening so fast.
3 And at the same like I said I was -- I felt in jeopardy. I felt like if I said one word

4 Q: Right, I -

5 A: You know

6 Q: Understand but it is important that I focus on-

7 A: Yeah.

8 Q: What you saw.

9 A: That's what I saw.

10 Q: Okay. So, you saw him grab [REDACTED] by the arm. Swung him around. What was [REDACTED] doing
11 when the officer grabbed him?

12 A: Of course, he was saying "hey what's up? What's going on? Why are you doing this?
13 What's up? What's going on?" That's all I kept hearing [REDACTED] say.

14 Q: Right, but what was he doing?

15 A: Nothing. Wasn't doing anything. He was just you know looked like a rag doll. He wasn't
16 doing anything. He wasn't raising his hands, fists, nothing. And I do remember him. I do
17 remember saying to him [REDACTED] just calm down. Don't say anything. You know that's all I
18 remember saying. Just don't say anything. You know. Kinda like go with it. And then I do
19 remember one of the Officers saying yeah, you know you better listen to your girlfriend dude,
20 something like that. But [REDACTED], to be honest with you, he wasn't swearing, he wasn't saying
21 anything. He wasn't trying to get his fists up nothing. He didn't have a weapon. He doesn't have
22 weapons. He certainly doesn't have you know any anything. No knives, guns, nothing. I never
23 even seen him with any weapons.

24 Q: Now you said that [REDACTED] ended up on the floor. How did he get there?
25

1 A: As far as I know you know like I said. The police officer was struggling with him I
2 looked, I didn't see exactly how he got pushed to the floor. But I know that he ended up on the
3 floor and then he was sitting Indian style.

4 Q: Okay, but when he was on the floor what, how was he on the ground? Face up, face down
5 on the side?

6 A: At first, he was face down and then I think someone grabbed his arm and then I looked
7 again, and he was sitting Indian style. You know with both of his legs crossed in the front and his
8 hands were back handcuffed.

9 Q: Did you see how he landed on the ground?

10 A: I know that when I was looking back, he was just you know like I said he was on his side,
11 on his stomach, people were on him. Somebody had their knee in his shoulder at point. And then
12 I looked, and you know he was sitting Indian style. It was dark I; you know it was really dark
13 that night. And again, he kept still trying to, still kept saying what is going on? What's up?

14 Q: Did you-

15 A: They kept telling him to be quiet.

16 Q: Did you ever see an officer place handcuffs on [REDACTED]?

17 A: I believe it was the first Officer that approached us that put the handcuffs on him.

18 Q: Did you see that happen?

19 A: Yeah, he was struggling with him and the next thing you know he had the handcuffs on
20 him. [REDACTED] a strong person too. So, you know I don't, you know, I didn't see him really like
21 you know trying to fight or struggle. He just kept saying with his mouth, what is going on?
22 What's up? Why are you doing this to us? And then at one point I just remember just kinda
23 shutting down. I literally wasn't trying to say anything to anyone.

24 Q: After [REDACTED] was sitting cross legged.

25 A: Yeah.

1 Q: Was he saying anything?

2 A: He was just saying my arms hurt, my arms. Your hurting my wrist. Oh my god I think my
3 arm's messed up. And I do remember someone saying you know we're going to call an
4 ambulance. Do you need an ambulance? There was blood on the floor, I took pictures of that.

5 Q: Was [REDACTED] bleeding?

6 A: He was.

7 Q: Where was he bleeding from?

8 A: I think it was his nose.

9 Q: And do you know how he got that injury?

10 A: He wasn't bleeding before we, you know, before we got to the house so, I'm assuming
11 you know like you said, I can't assume but that it was the struggle. His head was on the floor
12 when he was on his stomach. I did take pictures of that.

13 Q: Did you take any pictures of [REDACTED] at the scene?

14 A: Yes sir. Well not at the scene but the next day.

15 Q: Can I get those photos from you?

16 A: Yes.

17 Q: I'll give you my email. So, you said earlier that when you walked part way, part way up
18 the stairs

19 A: Yes.

20 Q: And you stood there. When was that?

21 A: After all the police cars showed up and they were all focusing on [REDACTED] I made my way
22 up the stairs.

23 Q: About how many steps did you walk up?

24 A: Maybe like five.

1 Q: You said (inaudible) officers were surrounding you? Can you describe where they were,
2 what they were doing?

3 A: Well after they all showed up and then put [REDACTED] on the floor and all that, they all they
4 came up my stairs. And they were -- they were standing in front of me. Just, just standing over
5 me, towering over me. And I put my head down. You know I had my head down. And then they
6 would you know ask me questions like, let's see your license. I was afraid for my you know for
7 myself. I was like what are they going to do to me.

8 Q: Right, I think you mentioned that. So, they asked for your license. What else did they ask
9 for?

10 A: Oh, I'm sorry hang on one second. Can you bear with me I have a class at one and I need
11 to order my lunch.

12 Q: Oh, okay, no that's fine.

13 A: Hi, how are you, can I get that sourdough bread with regular mozzarella turkey with
14 everything? No pesto.

15 A: Yeah. Thank you. Hello. I'm on the phone. Hello.

16 Q: Yes.

17 A: I'm sorry, okay.

18 Q: Okay. So, what other questions did they ask you?

19 A: As far as I remember that was it. It was like let's see your license. All I said to them was
20 you know Officer what's going on? What happened? And then no one said a word to me. They
21 weren't saying you know what happened or what the incident was about. I just remember them
22 standing in front of me and I was -- I just put my head down. I was afraid. You know I didn't
23 want to say anything. I didn't want to ask any other questions. I didn't want to antagonize; I
24 didn't want to say a word.

25 Q: You said earlier they asked you if you'd been arguing with [REDACTED]?

1 A: Oh, I think that one of the Officers yeah that's right, they said what did you -- were you
2 arguing? What were you guys doing in the car? That's what they asked me. I don't know, maybe
3 they thought we were doing stuff in the car. We weren't doing anything in the car. And I said, I
4 remember saying well we were just talking. We just came from dinner. That was all I remember
5 saying. I didn't say anything else after that. No, just a little bit of that, yeah.

6 Q: So, did you give the officer your driver's license?

7 A: Yes, sir I sure did.

8 Q: And what, you mentioned that an officer was bouncing around.

9 A: Yeah, he was, I looked over the -- been, oh my god I'm going to school now. I'm sorry
10 sir, I'm just paying for my lunch. Yeah, I'm getting interviewed right now. I'm sorry I'll come
11 back. Yeah, he's it's the regular, mozzarella with the turkey. Okay, one more minute sir. I have a
12 long day today. Yes. No, I just have class at one. I don't get off till six and if I don't pick
13 something up to eat now I won't.

14 Q: I really appreciate you taking the time for the interview.

15 A: Oh, no, no no I appreciate your call. We were waiting you know; I mean we've been
16 waiting for you to call. So, we can give you our side of the story. A little bag please. Thank you,
17 guys. I just seen (inaudible) and his dad outside. No, that's okay. Thank you. You too, I'll be
18 back, thank you guys. Thank you. Okay, I'm sorry I'm back.

19 Q: So, you said something about an Officer was bouncing around like a boxer can you
20 describe that?

21 A: Yeah, I looked over the stoop and I can take a picture and show you exactly and you'll
22 see what I mean because my stairs go up about five steps and then it angles and then it wraps
23 around, and it goes up to the front door.

24 Q: Uh-huh.
25

1 A: So, that's where I was standing. And I looked over and all these police officers were
2 around. But, the one cop was just kinda dancing back and forth. Like he was antsy. I don't know
3 if he was on something. I don't know what his problem was. But he was dancing back and forth
4 with fists. And one of the other Officers was saying hey calm down, relax. Something like that,
5 take it easy, something.

6 Q: Which officer was it that was dancing around?

7 A: One of the officers that got out of the vehicle who like I said about a good ten police
8 officer cars pulled up.

9 Q: So, you said one of the officers, was he there the first officer that was there or was it

10 A: No. I believe he probably arrived later.

11 Q: Can you describe the officer?

12 A: No, I just -- no, they all kinda look the same to me. Wearing the same uniform. Is was
13 kinda a melee.

14 Q: Now at any point did you hear anyone (inaudible)

15 A: You mean the police officers?

16 Q: Anyone at all.

17 A: I heard -- I don't think so.

18 Q: At any point was [REDACTED] in the driver's seat?

19 A: You know what, I thought I was driving but I don't uh-huh -- I don't think so. No. I don't
20 remember. But we were not arguing, and he wasn't doing anything to me.

21 Q: Okay.

22 A: And I told them that.

23 Q: Right at any point was he kinda half out of the car?

24 A: Half out of the car. What do you mean?

25 Q: Did he kind of fall out of the car?

1 A: No. He never fell out of anything. He walked, we locked the door, we got out like two
2 normal people would get out of a vehicle.

3 Q: Okay.

4 A: We locked the door.

5 Q: Were the car keys, were the keys ever on the sidewalk?

6 A: No, I don't think so no. I had the keys. No.

7 Q: Were the keys ever sitting on the stairs?

8 A: Uh-uh. I had the keys. They were put away. And I remember when we sat -- when we sat
9 in the car there was nobody there at that time. So, when we got out of the car and locked the
10 vehicle we were already, you know we were already heading upstairs. Everything was, you
11 know, just like a normal situation.

12 Q: When you locked your car, do you need the key for it or do you-

13 A: Yes.

14 Q: lock it. Uh-huh. So, someone would have had to have the key in their hand to lock the
15 car?

16 A: Yeah, we have to push the button for it to all lock up.

17 Q: Okay. Well, were the keys ever sitting on your stairs?

18 A: No. I don't remember the keys, no. They were not sitting on my stairs.

19 Q: Did anyone throw or toss them on the ground?

20 A: No. Absolutely not.

21 Q: At any point did you hear an Officer say anything to [REDACTED] like just show your hands?
22 Show me your hands?

23 A: Uh-uh, no.

24 Q: Did [REDACTED] ever say anything to the police about they should have better things to do then
25 bother him?

1 A: I think he might have said something like you know, don't you guys have other stuff to
2 do maybe. I've said that to them. I think I said that to them when they were all, when everything
3 was said and done. I was like man don't you guys have other things to do then to go and arrest
4 real criminals. Something like that. I might have said something like that. From my, from where
5 I was standing, I think I was saying that. I was so upset.

6 Q: Did you ever hear an officer tell [REDACTED] to put his hands behind his back?

7 A: No.

8 Q: And after the officer grabbed him, do you remember [REDACTED] ever move, twisting from side
9 to side.

10 A: I remember just him kinda still saying what's going on? Why you doing this?

11 Q: Okay, but do you remember him ever twisting?

12 A: No, I don't remember that.

13 Q: Did you ever hear an officer tell [REDACTED] to stop resisting?

14 A: No.

15 Q: Then do, you say you were completely out of the car before the officers arrived?

16 A: Both of us were completely out of the vehicle. We were just inches away from my first
17 bottom stair. We had already been sitting in the car for a while.

18 Q: Did an Officer ever tell you to step back or move back?

19 A: They were in my space. I wanted them to move back from me.

20 Q: Right, but did

21 A: No.

22 Q: An officer ever say that to you?

23 A: No.

24 Q: At any point did you see an Officer punch [REDACTED]?

25 A: A knee to the shoulder type of thing. I did see that. I did not see a punch.

1 Q: Did [REDACTED] ever say anything to the Officer that he should take off the handcuffs and fight
2 him?

3 A: Say that one more time.

4 Q: Did [REDACTED] ever tell the Officer to take off the handcuffs and [REDACTED] would fight him.

5 A: No. No.

6 Q: Or tell him say anything like I'd kick your ass?

7 A: No.

8 Q: Or tell the Officer take off your badge and gun.

9 A: No.

10 Q: Did-

11 A: I don't recall him saying that.

12 Q: Did [REDACTED] ever call the officer any name?

13 A: No. Not that I heard.

14 Q: Did he ever say anything to the officer like you no business being a police officer.

15 A: No, just saying you don't, why are you doing this? You can't do this. He kept saying you
16 can't do this to me. We didn't do anything. We didn't do anything. Why are you doing this? You
17 can't do this; you can't do this.

18 Q: Did he ever ask the Officer for his badge number?

19 A: He might have. I just don't remember.

20 Q: Do you remember him ever saying an officers badge number out loud?

21 A: I remember hearing 529. But I just remember hearing officer 529 something like that.

22 Q: And who was saying that?

23 A: I think [REDACTED] was saying that.

24 Q: And was he repeating it?

25 A: I just remember hearing 529, yes officer 529.

1 Q: Did you hear it once or more times?

2 A: Maybe like twice, I just remember hearing like 529.

3 Q: And was he yelling that?

4 A: He was talking loud.

5 Q: And did you tell any officer that you had been at La Traviata?

6 A: Yeah, we did. You know [REDACTED] had told him that we had gone to dinner. Told him that
7 like 10 times. We went to dinner we were at Traviata. We went to dinner; we were at dinner. We
8 didn't do anything; we didn't do anything. Why are you doing this? Why are you doing this?
9 That pretty much was the extent of the whole conversation.

10 Q: Did you ever talk to an officer at the passenger side of the car?

11 A: No. What do you mean at the passenger side of the car?

12 Q: At the passenger side of the car.

13 A: I never went up to any vehicle.

14 Q: No, no that passenger side of your car.

15 A: No sir.

16 Q: Okay, did you ever tell, say anything to an officer about [REDACTED] – had [REDACTED] broken his
17 phone that night?

18 A: Brocken his phone, no.

19 Q: Did he have a problem with his phone?

20 A: Uh-uh.

21 Q: Did you tell an officer that [REDACTED] had broken his phone?

22 A: Did I tell that to the Officer?

23 Q: Yes.
24
25

1 A: No. I don't I don't recall saying he broke his phone. Well let me think. What happened
2 about his phone? Uh-uh, not when the officer came up there would have been for me, there
3 wouldn't have been any reason to tell an officer he broke his phone.

4 Q: I mean did [REDACTED] have any problem with his phone that night?

5 A: While we were at dinner?

6 Q: That, that whole evening, that day.

7 A: Oh my god, I don't think so, I don't remember. I don't I don't think so. He didn't while
8 he was at dinner, he didn't while we were going, while we were in the car or going towards the
9 stairs.

10 Q: Do you remember seeing any officer have any injury?

11 A: Nope, no way.

12 Q: Did any sergeants ever show up? Supervisors?

13 A: Not that I know of, no.

14 Q: Did any officers there talk to you after what had happened?

15 A: No. You mean about the whole incident and what happened to [REDACTED]?

16 Q: Yeah.

17 A: Uh-uh, nope. They all they all started taking off one car at a time.

18 Q: And soon how soon were they all gone?

19 A: After the ambulance came, and they took [REDACTED] and a little bit after they all sat around
20 talking. And that's, you know I remember seeing them take off one at a time and that's probably
21 when I said oh don't you guys have anything better to do than to harass people? Go fight the real
22 criminals. I might have said something like that.

23 Q: I just want to look at something here.

24 A: Yeah. (Spanish) I'm sorry, I'm back home and I have contractors here at my home.

25 Q: And does [REDACTED] live at your house?

1 A: No, he's pretty much here a lot though. Hold on one second. [speaking in Spanish to
2 someone else] Hello?

3 Q: Okay, is there anything I haven't asked you that you think I should know.

4 A: Yes. Well, I have two questions. Number one, there was an agency or some type of who
5 it is, I don't know who it is who I can call to maybe get some of [REDACTED] medical bills paid or.

6 Q: I explained to [REDACTED] that filing a complaint with us has no effect on that. That he would
7 have to file a claim with the Controller's Office.

8 A: Oh, okay and how do we go about doing that exactly?

9 Q: I gave him a form for that.

10 A: A form, I don't think he has it anymore.

11 Q: Well, I can mail him another one. But or-

12 A: Can you mail it to my house?

13 Q: Yes, I'll mail it to your house.

14 A: [REDACTED], San Francisco, California.

15 Q: Yes, yes and I explained to him that it's a totally different process filing a complaint with
16 us won't have any effect on it. That if he sues the city, they will be able to get our file.

17 A: Okay.

18 Q: The city attorney office will have access to our file.

19 A: Okay well all I have to do when I get the form is help him fill it out. And mail it back, is
20 that how it works?

21 Q: You need to read the instructions. I'm not that familiar with it.

22 A: Okay. Well, I pretty much worked in a law firm for a couple of years. So, I'm sure I
23 could walk through a form. But I just want to make sure I understand the process. So, once you
24 mail it, we fill it out as best as we can and mail it back. Is that correct?

25 Q: You need to you need to read the instructions on it.

1 A: Okay.

2 Q: It's a separate agency and I'm not that familiar with how it works.

3 A: Oh, oh

4 Q: How that process works.

5 A: I see.

6 Q: So, I don't want to risk giving-

7 A: False information.

8 Q: you inaccurate information, that's why

9 A: Okay.

10 Q: It explains all that on the back of the form and there may be a phone number you can call
11 if you have questions.

12 A: And, you know once again you know I have pretty thick skin. You know I appreciate you
13 calling but that this -- that whole incident, I, you know, I and I told [REDACTED] this. Now, I believe, I
14 truly believe in either racial profiling or you know I understand -- I sort of understand now how
15 things happen quickly and you know people get in to trouble, people die. You know all kinds of
16 stuff that happens because I've never ever believed in that. And now after that incident that
17 happened to me, I truly believe that you have to be careful. See, I understand police officers have
18 to do their job. But they're just people like everybody else. The whole incident that happened,
19 should have never happened. They should have never approached us like that. And they should
20 have never treated [REDACTED] the way they did. So, that you know we're not perfect. I'm not saying
21 that, but you know I. I was just in shock after all that happened.

22 Q: Do you remember what you had for dinner that night?

23 A: Yeah, I had the linguini clam, seafood linguini. We had salad. [REDACTED] had chicken, stuffed
24 chicken with I think it was prosciutto or something like that. We had a bunch of bread. And like I
25

1 said I had a glass of wine. He doesn't like wine, so he probably had like one maybe. One and a
2 half. But I can get the bill for you and-

3 Q: Yeah, if you can check that I would really appreciate it because-

4 A: Uh-huh.

5 Q: If I can get the bill from there that shows how much wine you had that could be
6 significant.

7 A: Okay, alright. It wasn't you know a lot.

8 Q: But I just would like to, any documentation I can get that will prove anything that would
9 be useful.

10 A: Gotcha. What do you think about the whole situation? I know you're

11 Q: I can't give you an opinion. It's just my job to gather facts and investigate. I really-

12 A: Right.

13 Q: can't form any conclusions until the investigation is complete.

14 A: Alright, but I mean if anything you know the police officer should understand that
15 citizens, you know we depend on them. We count on them to protect us. You know, I've never in
16 whole life felt what I felt that night with those officers in my face. You know and I and I know
17 for a fact that if I would have said one word; if I would have did anything weird, they would
18 have had me on the floor and roughed me up too and I would've been gone to 850 Bryant. And I
19 was not, not trying to, you know I'm an adult. I'm a woman. I am a mother, I understand you
20 know the law and how it works as far as just being respectful and not saying anything. So, at that
21 point I felt like you know like a criminal. I was like what did I do. I didn't do anything.

22 Q: Do you think [REDACTED] was intoxicated?

23 A: No, he was not. I know when [REDACTED] intoxicated. He was

24 Q: Do you think they could have-

25 A: not intoxicated.

1 Q: mistakenly believed that he was intoxicated?

2 A: You know we have bounced that one back and forth so many times. But when we got out
3 the car you gotta understand. We both got out of the car on, on opposites sides of the doors,
4 right. Okay he's getting out, I'm getting out. We shut the doors. We come around the car. We're
5 standing there. And he's you know he's standing along side of me. You know, like we're just
6 gonna go in the house. Because normally he'll open the door for me. Like you know he'll grab
7 the keys out of my hand, and he'll open the door. And that's what happened. Just like any other
8 night. You know he (inaudible) to get the keys, you know but we didn't even have that chance.
9 We just got to the doorstep, the door, the the first step and when we were approached. I mean we
10 were told to stop. Like from the corner practically. I'm like what? What are you guys talking
11 about? What did we do? We, you know we were thinking oh this is mistaken identity or
12 something. So, you know on that note, we to this day we have no idea why the officers chose to
13 put their light on us and tell us to stop, you know.

14 Q: Well-

15 A: We don't. I honest to god do not understand why he told us to stop. Why they chose to,
16 you know, to make us stop, or have us stop. You know I could see if that wasn't our home. If we
17 were going up into the house and maybe, we were loitering or soliciting. You know what I mean,
18 and then stuff got out of hand. I could understand that. This is my home. I'm in front of my
19 home. The safest place for me to be and for someone to violate us like that for police officers,
20 that just that to me is, I'm still dumfounded about it. I just don't understand. You know why that
21 they chose to do that. I don't have a record. I don't have any felonies. I don't do drugs. You
22 know what I mean?

23 Q: Uh-huh.
24
25

1 A: I could see if we were smoking you know we were smoking marijuana or soliciting or
2 doing drugs or anything. Something give me something. But for us not to for them not even tell
3 us why or you know what we did, what we did. You know, it's just – I just don't understand.

4 Q: Uh-huh.

5 A: So. That's pretty much all.

6 Q: Okay. Okay, well again, I appreciate you taking the time out of your day to talk to me.

7 A: Thank you for bearing with me. Can I get your email?

8 Q: Yes, oh that's right I'm sorry for the photographs. Let me send you an email and then you
9 can just respond to it.

10 A: Okay.

11 Q: What is your email again?

12 A: Okay, it is [REDACTED]

13 Q: [REDACTED]

14 A: at [REDACTED]

15 Q: [REDACTED] Okay I'll send you an email because it's a little hard to spell
16 my name and that way you can just respond to it with a photograph.

17 A: Absolutely and I appreciate it. It might take me a little while because I got to get them out
18 of my phone.

19 Q: Okay.

20 A: So, I got to look for them.

21 Q: Okay.

22 A: Okay.

23 Q: Okay thanks very much, you have a good day.

24 A: Thank you sir, bye-bye.
25

1 Q: I'm completing this interview at 12:19 PM.

2 END OF INTERVIEW

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1 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

2 **DEPARTMENT OF POLICE ACCOUNTABILITY**

3
4 **CASE NUMBER: 040-15**

5
6
7
8 **INTERVIEW OF: OFFICER BUSALACCHI RESCHEDULE**

9
10 **INTERVIEWED BY: OCC INVESTIGATOR WECHTER**

11
12 **DATED: APRIL 14, 2015**

1 **Q: INVESTIGATOR WECHTER**

2 **A: OFFICER BUSALACCHI**

3
4 Q: Today's date is April 14, 2015 and it is 4:21 PM. This is OCC Investigator Wechter. I'm
5 on the telephone in connection with OCC case number 040-15 with Officer Frank Busalacchi.

6 And Officer Busalacchi to summarize our discussion you were scheduled for an interview today
7 at 4:45 and you informed me that you [REDACTED], that [REDACTED]

8 and will not be, you're leaving San Jose now (inaudible) can't make that. And because

9 [REDACTED] you cannot come in until next week. So we're rescheduling your
10 interview for Wednesday April 22, at 4:15 or 4:30?

11 A: I would do 4:30 just in case.

12 Q: Okay so Wednesday April 22, at 4:30 PM.

13 A: 22nd 4:30 sir?

14 Q: Yes so I will see you then April 22nd 4:30 PM. Thank you very much officer.

15 A: All right thank you sir. Bye.

16 Q: Bye.

17 END OF AUDIO

1

2 CERTIFICATE OF TRANSCRIPTION OF TAPE RECORDINGS

3 --o0o--

4 I, the undersigned, hereby certify as follows:

5 That the foregoing transcript, page 1 through and including 3, to the best of my
6 knowledge and belief is a full, complete and true transcription of certain tape recordings as
7 described below to the best of my ability to hear, understand, identify speakers and transcribe
8 said recordings, with the exception of any portion indicated as (inaudible), and words contained
9 in parentheses, which indicate the best guess. (Any errors, changes or omissions should be
10 brought to my attention for correction.)

11 That said tape recordings were furnished to CTI Transcription Services, 79
12 Pizarro Avenue, Novato, CA 94949, by The San Francisco Department of Police Accountability,
13 and requested to be transcribed.

14 IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of December
15 2019.

16
17 /s/ Kathy Kay
18 KATHY KAY
19 By Electronic Mail
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