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25

1 **ROUGH-UNEDITED-UNCERTIFIED DRAFT**

2 MR. POINTER Q. Good morning, sergeant.

3 A Good morning.

4 Q I represent the plaintiffs in this case. Can

5 I get you to state and spell your full name.

6 A Jonathan bell lee J-O-N-A-T-H-A-N, Laos name

7 is BELLUSA and which.

8 Q Okay. I'm here to take your deposition in the

9 matter this is all vis at all versus Oakland Unified

10 School District chief sergeant bat do you understand

11 that?

12 A Yes.

13 Q Okay. Seated to your right is your counsel in

14 this matter I'm sure he's probably already gone ground

15 rules of a deposition I'm going to go over them with

16 you as well as?

17 A Okay.

18 Q Good job want you seat today your left there's

19 a court reporter transcript of everything that's said

20 hoar today denounce that?

21 A Yes.

22 Q Okay. What that means in terms of making sure

23 that where she a clear transcript response need to be

24 verbal. Do you understand that?

25 A Yes.

1 Q Typically course of conversation nods shakes
2 of the head so forth and reframe clear record of your
3 answers do you understand that?

4 A Yes.

5 Q Like wise if for some reason we ask you a
6 question that you don't understand let me know I will
7 either ask the question again rephrase the question or
8 move on?

9 A Okay.

10 Q This my ohm opportunity to take your
11 deposition here today before trial in this matter if we
12 should go to trial entitled to receive I'm entitle
13 today ask and questions unless your counsel do you
14 understand that?

15 A Yes.

16 Q Like wise if you answer my of any questions
17 assume that you understand my question you understand
18 that?

19 A Yes.

20 Q If you need to take a break for any reason ask
21 that we don't take any breaks while the question is
22 pending?

23 A Okay.

24 Q Okay. I don't want you to I'm not entitled to
25 information that conversations that you had with your

1 attorney okay Sony of the questions I am not asking for
2 any attorney-client privilege information do you
3 understand that?

4 A Yes.

5 Q I also do not want you to guess or speculate
6 so if you don't know an answer to something just let me
7 know okay?

8 A Okay.

9 Q However, I may ask follow up questions to see
10 if I can jolling your memory see you might have
11 whatever I'm asking you about?

12 A Okay.

13 Q I'm entitle today that recollection how vague
14 or slight it may be do you understand that?

15 A Yes from okay.

16 Q Is there any reason why your deposition can't
17 go forward fod?

18 A No.

19 Q Okay. So currently are you currently employed
20 with Oakland Unified School District?

21 A Yes.

22 Q Watch commander sergeant. Technically they
23 haven't switched, but I was promoted watch commander
24 August 2010?

25 A Okay.

1 Q And prior to that promotion what was your
2 rank, as sergeant?

3 A Yes.

4 Q Okay. Now, when did you start working for
5 Oakland Unified School District?

6 A September 1999.

7 Q Prior to that other law lumbar?

8 A Yes.

9 Q Oakland city of Oakland police department?

10 A Yes.

11 Q Okay. And for what term of time were you
12 working for the Oakland police department?

13 A February 1994 to may of 1999.

14 Q And what was the reason you left Oakland
15 police and went to stay at Oakland Unified School
16 District?

17 A I was released from probation.

18 Q What does that mean?

19 A Probation for a year and if they feel that you
20 either didn't meet.

21 Q Okay?

22 A You feel you didn't meet their standard or for
23 whatever reason they have a right to release you from
24 probation.

25 Q Did they give you any reason why did they give

1 you indicate the reason why you were released.

2 A Yes. General conduct.

3 Q And was is that something you disclosed?

4 A Yes.

5 Q Okay. Then did they ask for any reinstated on

6 documentation from you during the course of your

7 employment application with the district?

8 A I don't know if they did.

9 Q Do you recall giving them anything as it

10 relates that particular point release from OPD?

11 ATTORNEY2: You mean like a piece of paper.

12 MR. POINTER: Yes.

13 THE WITNESS: I don't recall.

14 MR. POINTERQ. Okay. Do you have any other

15 law enforcement experience other than the time you just

16 testified to OPD?

17 A No.

18 Q Okay. Prior to this deposition have you had

19 your deposition taken before?

20 A Yes.

21 Q Okay. Have you been a party to any lawsuits

22 other than this lawsuit that we're here to discuss

23 today?

24 ATTORNEY2: By that does he means have you

25 Seuss something that was the reason your deposition was

1 being taken.

2 THE WITNESS: No.

3 ATTORNEY2: Okay.

4 THE WITNESS: Can you clarify something are
5 you talking about have I ever been sued recently or.

6 Q Just have you ever been name as a defendant
7 meaning have you ever been sued?

8 A Yes.

9 Q Have you ever been sued relates your duties
10 charge police officer?

11 A Yes.

12 Q How many times?

13 A I'd say three to five times.

14 Q Oakland Unified School District?

15 A Yes.

16 Q How many times have you been sued as relates
17 to your duties since you have been employed by the
18 Oakland Unified School District?

19 A I believe three.

20 Q Okay. Do you recall the name of the person
21 who sued you the last time?

22 A Yes.

23 Q What's the name?

24 A Virgil Walden.

25 Q And was that in state court or federal court?

1 A No.

2 Q Do you know about the year as when that
3 lawsuit was filed?

4 A 2000.

5 Q And so there were approximately two other
6 times that you were sued so there was approximately two
7 other times other than the accident the lawsuit
8 involving Virgil Walden duties that you were
9 discharging for Oakland Unified School District?

10 A Yes.

11 Q Do you remember the names of those two other
12 lawsuits or -- strike that do you remember the names of
13 the two other plaintiffs in those lawsuits?

14 A Yes.

15 Q Okay. What was the name of one of can you
16 give me the name of one of them?

17 A Sure troy Emanuel.

18 Q Okay. And what's the name of the other?

19 A Jose Cabrera I believe.

20 Q And provide Emanuel and Jose Cabrera those
21 were two different lawsuits?

22 A Correct.

23 Q And was the basis of the allegations charged
24 against you or made against you by Mr. Walden
25 Mr. Cabrera use of force?

1 A Yes. Which ones.

2 Q Mr. Walden federal or state court?

3 A Correct.

4 Q Do you know whether or not involving

5 Mr. Emanuel state court?

6 A No.

7 Q What about Mr. Cabrera?

8 A I don't know either.

9 Q Do you have estimation of years to when the

10 lawsuit involving Mr. Emanuel was filed?

11 A 2001.

12 Q Okay. And want lawsuit involving Mr. Cabrera?

13 A 2001.

14 Q Did any of those three lawsuits involved

15 allegation use of deadly force?

16 A Yes.

17 Q Which one?

18 A Virgil Walden.

19 Q So fire say the other two were not?

20 A Dre Yes, correct.

21 Q Now the district we are Ryan brown and his

22 death denounce that?

23 A Yes.

24 Q About the time of this incident how old were

25 you?

1 ATTORNEY2: I'm sorry I didn't here that THE
2 COURT.

3 MR. POINTER: At the time how tar were you at
4 the time of this incident.

5 A Close to 64.

6 Q Okay. I take it your haven't grown or since
7 then?

8 A No.

9 Q About how many time did you weigh at the time
10 of this incident?

11 A I would say 280 regular work out register
12 engine of any sort meaning.

13 Q Did you exercise did you regularly exercise.

14 A Periodically I would say.

15 Q Okay. What type 06 exercise wow periodically
16 do?

17 A Cardio.

18 Q What type of exercise in any type of cardio
19 exercise?

20 A Sit ups treadmill or bicycle.

21 Q About it.

22 Q No weight lifting?

23 A No.

24 Q I'm going ask you questions regarding your
25 trining?

1 A Okay.

2 Q Prior to OPD did you attend a training
3 academy?

4 A Yes.

5 Q Which academy did you attend?

6 A Oakland police department.

7 Q Okay and you graduated from Oakland police
8 academy I take it?

9 A Yes.

10 Q You were post certified?

11 A Yes.

12 Q Okay. And after the post -- strike that after
13 OPD training academy did you continue to receive
14 training through the course of your law enforcement
15 career?

16 A Yes.

17 Q Did you receive additional training Oakland
18 Unified School District?

19 A Yes.

20 Q Questioning regarding your training do you
21 recall taking a training or being trained during the
22 course that was entitled surrender date deadly
23 assaults?

24 A Yes.

25 Q While you were at OPD. Did you say yes?

1 A Yes.

2 Q Can you describe what that training consisted
3 of?

4 A Not at this time.

5 Q Did it involved hand to hand combat CPR?

6 A I don't know.

7 Q Okay. Do you recall defensive tactical class
8 OPD training academy?

9 A Yes.

10 Q Okay did you do any other type of similar
11 Oakland Unified School District?

12 A Yes.

13 Q Do you recall the names of those courses?

14 A Defensive tactics.

15 Q So you took a defensive tactics course while
16 you were employed with the Oakland Unified School
17 District?

18 A Yes.

19 Q Do you recall the year?

20 A 2011 I believe.

21 Q And can you describe what at a training
22 consisted of?

23 A I believe it just consisted of striking moves
24 about hand to hand combat things of that nature.

25 Q Okay. Did you receive any training during the

1 course of your police career as it relates disarming
2 subjects?

3 A Yes.

4 Q What type of training did you receive can you
5 describe it for us?

6 A I was given training how to disarm somebody if
7 they have a gun to your head and also a gun to your
8 back or shotgun to your head or shotgun to your back.

9 Q What about as relates arm with the knife?

10 A Yes.

11 Q Okay. When did you receive that training?

12 A I can't recall.

13 Q Do you know if it was can you recall Oakland
14 unified or OPD?

15 A Both.

16 Q Okay. So it's fair to say disarm a while you
17 were at police officer at OPD as well when you were a
18 police officer with Oakland unified school district.

19 A Don't recall specifically that training OPD or
20 OUSD or both strike that what I'm trying to what you
21 mean what you just stated are you saying you never
22 recall having such training unsure when you received?

23 A I believe I had training how to deal with
24 people with edged weapons but I cannot recall them
25 teaching me how to disarm somebody at this time with an

1 edged weapon.

2 Q Okay. But you do remember some training
3 dealing with suspect which you termed edge web?

4 A Yes.

5 Q And edge web would be arm shore is that strew?

6 A Yes.

7 Q Okay. And you remember such training while
8 you were employed with OUSD?

9 A Yes.

10 Q Okay. Now I understand that you also received
11 training in officer involved shooting as it relates
12 being a field supervisor that true?

13 A Yes.

14 Q Do you recall that training in your line what
15 that consisted of, some of it yes.

16 Q What can you recall?

17 A I recall interim effectses outer per rim term
18 effectses medical aid coordinating safers to go to
19 posts coordinating notification efforts coordinating a
20 log to mark down who's on the scene coordinating a
21 media post for a media to go to and any other
22 logistical stuff that happens with that.

23 Q What about evidence preservation?

24 A Yes.

25 Q Okay. What did your training tell you as it

1 relates evidence preservation when there's a firearm on
2 the scene?

3 A To leave everything as they are if it's safe
4 to do so and mark them accordingly or designate
5 somebody to mark them accordingly usually that's an
6 evidence tech anything's job to do all that what about
7 did you receive any training as it relates to firearm
8 safe on the scene of an incident involved sheeting.

9 A Yes.

10 Q What did that training consist of?

11 A Making sure that the gun is in you know you're
12 number of the it's in a safe position that you do not
13 you're mindful of putting African on the gun they talk
14 to you about holding it a certain way to not put your
15 fingerprints on there about how to safely clear a
16 weapon or to lock a slide back secure the weapon in
17 general.

18 Q And does your training tell you anything as it
19 relates when you're suppose to handle a firearm on the
20 scene versus not handle the fire shooting?

21 A No I don't think so.

22 Q And how are you trained in terms of handle ago
23 firearm so that fingerprints are not left on the
24 firearm?

25 A Usually two hands put your two hands on the

1 spot where the fingerprints aren't normally taken if
2 it's wood so you can put two hands on hood or use we
3 don't tell you to do that and you can now they have
4 spots with where you can take lock box in the trunk and
5 keep it there.

6 Q As it relates the firearm you have given
7 previous statements that you recovered or at least saw
8 firearm incident rod any brown correct?

9 A Correct.

10 ATTORNEY2: And I appreciate your question
11 making a distinction between the weapon that's in the
12 side compartment of the carvers the web that sergeant
13 bath had I think there's a big difference but go ahead
14 I understand.

15 MR. POINTER: So the question is you saw a
16 weapon that you associated with during the marriage
17 helium brown during the course of this incident
18 correct.

19 A Yes. Weapon firearm correct.

20 Q All right and you saw in the passenger side
21 door Mr. Brown was seated in is that true?

22 A Yes.

23 Q Okay now did you touch that weapon?

24 A No.

25 Q Did you see anybody touch that weapon during

1 the course of this incident?

2 A No.

3 Q Did you later leper that either sergeant bat

4 had touched that weapon?

5 A No.

6 Q Okay. Now, it's also true that during the

7 course of your training that you have been trained that

8 if you see a weapon do you agree the dealing with alert

9 your fellow officers that there's a gun on the scene

10 correct?

11 A Correct.

12 Q Okay. And you're to do that what is your

13 training tell you as it relates how you're to let your

14 fellow firearm on the scene?

15 A Basically an officer safety matter so you

16 would just tell someone as loud as you can that there's

17 a gun so you would yell it out gun gun gun or something

18 along those lines.

19 A Yes.

20 Q So is it fair to say that an that you're not

21 trained that if you see a gun on the scene that your to

22 keep it to yourself right?

23 ATTORNEY2: Keep that knowledge to yourself.

24 MR. POINTER: Yes.

25 THE WITNESS: No.

1 MR. POINTERQ. It's important for offer
2 safety reasons that scene though there's a gun present
3 correct?

4 A Yes.

5 Q Now also true contact dispatch when you're
6 going to make a car stop?

7 A It's not retired but appropriate.

8 Q Okay what do you mean by appropriate?

9 A It's appropriate to put out location to put
10 out the reason for the stop the license plate and the
11 number of occupant so number one they in case something
12 happens information from the car get relayed back from
13 the dispatcher.

14 Q Okay. Taking your officer bat and during the
15 marriage helium brown you yourself and sergeant bat
16 riding in a patrol car?

17 A That's true.

18 Q And that patrol car was unmarked?

19 A Yes.

20 Q Insignias indicating that it was a police car
21 is that true?

22 A True.

23 Q All right side is that correct?

24 A That correct.

25 Q And two tone car associate meaning white and

1 black or something along those lines?

2 A That's correct.

3 Q It was all black parole car?

4 A Yes.

5 Q Did it have lights sitting on the top of the
6 car?

7 A No.

8 Q Before you it did have lights inside
9 windshield?

10 A Yes.

11 Q Spotlight passenger side of course no.

12 Q Now, sergeant bat was driving this car is that
13 true. Yes.

14 Q And you were seated in the right frond
15 passenger seat?

16 A Yes.

17 Q Prior to getting into the car had you and
18 scening bat had any conversations related to sergeant
19 bat will be the driver -- strike that.

20 Prior to get stopping the car had drill
21 sergeant bat had any conversations related to how any
22 duties or responsibilities would be split between the
23 two of out the work you as you drove around?

24 A I don't believe so.

25 Q And by that I mean it's my understanding that

1 speak for myself officers will decide hay this officer
2 is going be the one do all the communicating with
3 dispatch meaning the in a long time and the driving
4 officer one who will initiate contact with the
5 citizens?

6 A Are you talking about if we were to
7 stop something.

8 Q Yes?

9 A No we never had a conversation.

10 Q Okay. In fact the conversation that you --
11 let me ask another way what conversation had you had
12 yourself and sergeant bat prior to making contact with
13 Mr. Brown that night?

14 A I wanted him to show me the area since he was
15 more familiar with that Heche and the surrounding
16 entrances and exits so I asked if I could jump in the
17 car with him have him take me inner perimeter and outer
18 perimeter.

19 Q So that was your intent with getting in the
20 car grounds of walking Miller park?

21 A Yes.

22 Q Okay. When you is and sergeant bat grounds of
23 your essentially walk Miller road is that true?

24 A Yes.

25 Q Okay. And you're driving down the hill is

1 that correct?

2 A Yes.

3 Q And is that when you guys came upon this

4 Honda?

5 A Yes.

6 Q Okay and that was the car with Ms. Stew want

7 is that true?

8 A Yes.

9 Q Okay. Now, when you came upon this car had

10 there been any discussion or conversation as to say

11 between yourself and officer bat making contact with

12 the car?

13 A I don't believe so.

14 Q Okay. So why don't you describe for he how it

15 is that you buys pulled over and made contact with this

16 car?

17 A Sure we were engaged in a conversation

18 together his dais when he was a police ranger and as we

19 drove down the street I remember looking and seeing a

20 Honda park objection no foundation the side of the road

21 blinkers were on and I'm not sure if I said look they

22 need help or thought in my mind but that is what was

23 going someone needed help sergeant bat pulled the car

24 behind the Honda and that's what made us stop.

25 Q So did you communicate there's a Honda check

1 out what's going on?

2 A If any conversation it was about help what
3 specific words I use today him but I can't remember at
4 this point if I was thinking in my ahead I wonder if
5 they need help or if I said it out loud to him but
6 that's what was going on in my mind.

7 Q What made you they the occupants of the Honda
8 may have needed help?

9 A Well, there was no one around our dance was
10 very close to this location and I was thinking maybe
11 this is a parent that dropped off a child broke down
12 the side of the road there was nothing there was no
13 businesses around no houses around very rural part of
14 the road that with the flashers and the way it was I
15 thought well, geez I need to stop and help these people
16 there's no pay phones or even the cell reaccepting is
17 bad up there.

18 Q Approaching from behind correct?

19 A Yes.

20 Q Could you see how many people in the vehicle I
21 don't say you approached this car?

22 ATTORNEY2: I don't mean to interrupt you.

23 This is all you mean after he got out of the car while
24 driving up to it.

25 MR. POINTERQ. Before you got out the car we

1 haven't got to that point yet but you're driving up to
2 the car could you see how many people were in the car?

3 A No as I'm driving up to the car no.

4 Q Okay. Did you see anybody which you
5 interpreted as putting their hand out the window trying
6 to flag you down anything along those lines?

7 A No.

8 Q And prior to getting out of the car did you
9 have any reason to believe that the car was stolen?

10 A No.

11 Q Prior to getting out of your patrol car did
12 you have any reason to leave that there was any type of
13 crime that was afoot?

14 A No.

15 Q So sergeant bat pulls the car over correct?

16 A Correct.

17 Q And do you recall who gets out of the car
18 first?

19 A I think we both exited about the same time.

20 Q Okay. I believe sergeant bat goon east may
21 mud approach the car he was in front of you correct?

22 A Correct.

23 Q Now, at some point in time prior to sergeant
24 bat get to go the passenger -- getting up to the
25 drive's side window you had made an observation of

1 marijuana?

2 A Yes.

3 Q You smelled marijuana correct?

4 A Yes.

5 Q And you let sergeant bat that?

6 A Yes.

7 Q Smell marijuana words to that effect?

8 A Yes.

9 Q That's true?

10 A Yes from did he respond back no.

11 Q How far away was he from you when you told him
12 that you smelled marijuana?

13 A Approximately seven, 8 feet.

14 Q Okay. And did you say it in a voice loud
15 enough to be able to here you?

16 A Yes.

17 Q Okay. And did sergeant bat acknowledge what
18 you were saying?

19 A No.

20 Q Meaning did he look back at you handle signals
21 or gesturing what you had said regarding marijuana?

22 A No.

23 Q And he didn't voice anything saying okay or
24 words to that effect acknowledge in your statement
25 regarding the marijuana?

1 A No.

2 Q Prior to this evening had you worked with
3 sergeant bat before meaning been partnered up with him?

4 A I believe so.

5 Q Down there do you recall how many occasions
6 approximately?

7 A Very few.

8 Q Less than five, more than five?

9 A I would say less than five.

10 Q Do you recall what type of situations were
11 those similar to hear patrol the distance specific
12 school function or activity?

13 A Yes.

14 Q Okay. Were they dancing?

15 A Supporting athletic events.

16 Q Partnered up with sergeant bat to cover other
17 special events?

18 A Yes.

19 Q Okay. The fact that sergeant bat didn't
20 acknowledge what you were saying related to the
21 marijuana did they surprise you or did they strike you
22 as being odd or anything like that?

23 A No.

24 Q Why was that?

25 A Well, I can't speak for him but if I was him

1 and it was dark and it was situation presented itself
2 to where someone need help focus on the car even if
3 you're trying to help the person you still have to be
4 careful and you still have to take precaution anything
5 happen to you so I basically want today tell him weed
6 marijuana smell but it didn't strike me as odd that he
7 didn't acknowledge me.

8 Q Prior to you approaching the vehicle you
9 actually turned on your patrol car's lights like
10 directed them ton vehicle correct?

11 A That's correct.

12 Q I mean when I say direct them on the vehicle
13 you lit up the spotlight correct?

14 A Not the spotlight I turned on the emergency
15 lights.

16 Q And the emergency room lights are those like
17 the wig wag splash flashing light?

18 A It controlled four blue and red lights in the
19 grill and it controlled a certain red and blue pattern
20 adviser of the car.

21 Q Occupant know the car they were being detained
22 is that true?

23 A Yes.

24 Q Did you turn on the spotlight any point in
25 time during this incident?

1 A No.

2 Q Any describe the area as being dark?

3 A Yes.

4 Q Okay. Was there an respect you didn't turn on
5 the spotlight?

6 A There was not a spotlight on my side.

7 Q Okay. So did it strike you as -- strike that
8 that question now you didn't see officer bat turn off
9 the spotlight did you?

10 A I think I did.

11 Q So from your memory officer bat turn on the
12 spotlight prior to approaching this Honda?

13 A I believe so.

14 Q Okay. Now, so sergeant bat is in front of you
15 walking down to this Honda correct?

16 A Correct.

17 Q You turn on the lights.

18 Q Your patrol car proceed to the Honda as well
19 correct?

20 A Yes.

21 Q Okay. What was your role as it relates to
22 being a cover officer a contact officer?

23 A My role was being a cover officer.

24 Q What difficulties you see it a cover officer
25 have in a police contact such as this?

1 A Well, initially parts isn't watching ace and
2 transcribed physician pair of eyes to look at the
3 surrounding area to look another any other dangers that
4 may occur need be step in basically to kind of stay
5 back and kind of watch what's happen --

6 Q So it's fair to say you're looking into the
7 backseat of the weapons back this officer should be
8 aware of is that true.

9 A I wasn't that close to get a view of the
10 backseat but close enough where I can scan no one in
11 the backseat.

12 Q Okay how far away were you from the Coor you
13 said you weren't close enough to see in the backseat
14 where were you?

15 ATTORNEY2: I guess my only question is do you
16 mean when he first got out of the squad car could be a
17 different length.

18 MR. POINTER: I'm trying to find out O too.

19 ATTORNEY2: No I understand.

20 MR. POINTERQ. Okay so let's go back there?

21 A Sure.

22 Q So you turn ton light?

23 A Correct.

24 Q Contact with the driver?

25 A No.

1 Q Okay so he's still walking up to the driver's
2 side window is that strew?

3 A If.

4 Q And your still patrol car?

5 A Yes.

6 Q Position of patrol car?

7 A Yes.

8 Q Front passenger door correct?

9 A For Mr. KAPBG.

10 Q At some point in time you made it.

11 A At some point in time I made it.

12 Q So why don't you describe the positions and
13 locations that you're in prior after you getting out of
14 the patrol car and prior to making contact with the
15 passenger?

16 A Sure.

17 Q Okay. I exited the patrol car the right side
18 of the vehicle I walked at an angle so I veer today the
19 right and I walked up to where I was approximately I'd
20 say ten about ten to 12 feet from the passenger's door
21 the right front passenger and the right rear passenger
22 door about ten to 12 feet off to the right side and as
23 I was so when you were in that position.

24 Q So when you were in that position right?

25 A Correct.

1 Q And you said about 10 feet or so from I guess
2 it would be to the right of the passenger door out
3 flight the door that true?

4 A Yes, correct.

5 Q Okay. And so when you were in that position
6 what were you doing of these I was just watching.

7 Q Just observing the car and what was going on
8 is that true?

9 A Correct.

10 Q Okay. Did you have a radio on?

11 A I did.

12 Q Can you describe that radio ?

13 A A little transistor radio police radio to
14 communicate with dispatch.

15 Q Is it hand held?

16 A Yes.

17 Q A walk I can talk I can looks?

18 A Yes.

19 Q Okay. And you had your duty belt on?

20 A Yes.

21 Q What was your duty belt?

22 A 2 handcuffs my duty weapon my firearm OC
23 pepper spray my two magazines and a magazine pouch two
24 magazines of bullets a baton ring a radio holder and a
25 radio .

1 Q Did you have OC spray on?

2 A Yes.

3 Q And how were you dressed?

4 A I was in a long sleeve shirt long pants and I
5 had motor boots on.

6 A Okay.

7 Q Can you describe any markings on your or
8 patches or badges or your uniform?

9 A I have Oakland school police on left shoulder
10 I have a badge a police badge on my left chest I have
11 two stars symbolizing commander on my lapels I had my
12 name with my first initial last name two pens.

13 Q When say two pens where were those located?

14 A My pens for writing located on my left chest.

15 Q Ink pens?

16 A Ink pens.

17 Q Were you wear ago jacket or windbreaker.

18 Q Similarly?

19 A I believe blue uniform.

20 Q Jacket wind brakier?

21 A I think he was wearing a jack should be more
22 like wind brakier jacket.

23 Q Did that jacket have any type of markings on
24 it related to police or anything along those lines?

25 A Yes.

1 Q Can you describe it?

2 A Sure. It had sergeant stripes arrow shaped
3 symbols on each of the arms police patch on the
4 shoulder sergeant's badge on the left chest his first
5 initial last name on his right chest and I believe
6 that's all.

7 Q The badge on the left shoulder of the jacket
8 was it a back what was on the shoulder?

9 A Emblem so Oakland school police.

10 Q Do you know what chloroit is?

11 A Yes.

12 Q What Baylor colors?

13 A Blue and gold same as OPD.

14 Q Oakland school police?

15 A Yes it says Oakland school police.

16 Q Okay. Now, we were going back when you were
17 going back to where you were describing your location
18 or your out to the right and to the rear of the
19 passenger side of the car how long were you in that
20 location?

21 A Can you repeat the question.

22 Q Yeah sure you described earlier about how when
23 you left from out of your patrol car next location
24 arrived stopped in was about ten to 12 feet to the rear
25 of the front passenger door of the Honda and ten the

1 12 feet flanging the Honda?

2 A Sure.

3 Q And so you came to rest or you stopped in that
4 position that true?

5 A Yes.

6 Q How long did you remain in that position until
7 you moved again?

8 A I'd say probably close to 25 second.

9 ATTORNEY4: Admonition whether you advise he's
10 not the guess or speculate to give his best estimate
11 when we can provide one.

12 ATTORNEY2: All that Mr. Edwards is saying is
13 true already said this you can give a best estimate as
14 long as area where you're getting again he just wanted
15 Hong you were standing there before you moved forward.

16 THE WITNESS: Oh, I thought the question was
17 from the time I exited the car to the where I stopped.

18 ATTORNEY2: Okay.

19 MR. POINTERQ. Least just go back more
20 confusing than illuminating the situation so you were
21 gout out of the patrol car right?

22 A Correct.

23 Q Position which we described previously right?

24 A Yes.

25 Q Which is where your kind of flanging the car

1 right?

2 A Yes.

3 Q How much time pass between you opening the car
4 door and move to go that position?

5 A Probably 20 close to 25 seconds.

6 Q Okay. And when you move today that position
7 you were there for a period of time before you moved
8 again?

9 A Strike that I'm getting confuse.

10 ATTORNEY2: Just explain I think Mr. Point he
11 were get a timeline.

12 A Walking up to the car probably took me from
13 leaving up to walking up to where I flanked and stopped
14 probably took about ten seconds.

15 MR. POINTERQ. Okay. And you so after that
16 ten -- so you got to at a position where you're
17 flanking the car?

18 A Yes.

19 Q Stood there for a moment?

20 A Yes.

21 Q How long were you there in that position?

22 ATTORNEY2: How long did you stand there?

23 A Okay so I probably stood there took me about
24 ten seconds I probably to do there close to 20 seconds.

25 MR. POINTERQ. Okay and during that 20

1 seconds observations of the vehicle and the people
2 within it is that true?

3 A That's correct.

4 Q Okay. During that 20 seconds while you're
5 standing there in this position what is sergeant bat
6 doing?

7 A He is communicating with the --

8 Q Can you hear what he's saying?

9 A No.

10 Q Okay. You just know that he's saying from
11 your perception can't here what it is is that true?

12 A Correct.

13 Q Can you here what the driver is saying back, I
14 cannot.

15 Q Okay. While you're standing there for this 20
16 seconds or so did you see the driver side window move
17 in any way?

18 A No.

19 Q Okay. Did you see the peak side window move
20 any way?

21 A No.

22 Q While you're standing there for these 20
23 seconds did you see the driver side door open?

24 A No.

25 Q While you're standing there for these 20

1 seconds did you observe officer bat with his flashlight
2 in his hand?

3 A Yes.

4 Q Was his flashlight on?

5 A Yes.

6 Q After those 20 seconds had passed you left
7 from the position where your out flanking the car
8 correct?

9 A Correct.

10 Q What prompted you to move?

11 A I left that I need today make my presence
12 known.

13 Q Okay why you had it you feel that way?

14 A Because I observed the passenger moving around
15 which was inconsistent to what a normal person would do
16 if they were cooperating or if they were up
17 to something or there was a lot of red flags that I was
18 paying attention to as I was standing there.

19 Q So let's go through what red flags that you
20 saw proceed prompted you to move?

21 A It appear today sergeant bat asked the drive a
22 question it appear today me that she would look over
23 the passenger and I don't know what was being said but
24 she appeared to turn and focus back on sergeant bat and
25 then it appeared that the next question that was asked

1 she did the same thing that was one red flag second red
2 flag was that the passenger seem to follow sergeant bat
3 to the driver's door and it seemed odd because it
4 seemed to me that it was that passenger was very
5 focused on it's movements and then I saw in the third
6 red flag I saw the passenger right front passenger's
7 shoulders dip as if his arms were going to the floor
8 board or going to the side something to where he was
9 moving around and I just felt kind of uncomfortable at
10 the time make myself known.

11 Q Prior to seen as you testify passenger's right
12 front shoulder dip had you seen his hands?

13 A No.

14 Q So is it fair to say until you saw the right
15 front shoulder dip you didn't know what his hands were
16 doing is that true?

17 A I didn't know correct.

18 Q And when you were making the observations that
19 you just testified to where the driver awe peer today
20 look twice at the passenger you couldn't here what
21 officer -- sergeant bat was asking her at that point in
22 time correct?

23 A Correct.

24 Q And you coolant here what they're conversation
25 meaning driver and sergeant bat sent of correct?

1 A Correct.

2 Q And did it appear that when the driver was
3 looking at the passenger that she was speak to go the
4 passenger?

5 A It appeared to me that she was speaking to him
6 I want to had one more red looking at the observe one
7 of the marijuana that was another red flag the smell.

8 Q Speaking of which it's true that you once
9 again tried to -- strike that second time that you
10 smelled marijuana is that correct?

11 A As I was walking up as I was flanking I said
12 it a second time.

13 Q Once initially getting out of the car?

14 A Correct.

15 Q Second time as you were making a flank
16 position?

17 A Correct.

18 MR. POINTER: Off the record please.

19 (Recess taken from 11:02 a.m. to 11:13
20 a.m.)

21 MR. POINTERQ. So officer sergeant bell lieu
22 is a you said that you turned on the lights stone car
23 in order to indicate puppying of the Honda they were
24 being detained?

25 A Yes.

1 Q What was your position outside the car can you
2 describe?

3 ATTORNEY2: When you turn the light on how do
4 you turn it on.

5 THE WITNESS: Oh, I kind of lent in the car
6 kind of kneeled in and turned it on.

7 Q Okay so you were standing outside the car when
8 you turned on the lights correct?

9 A I was half way going in the car when I turned
10 on the lights.

11 Q So you feet were outside of the car leaned
12 into the car is that fair?

13 A Right.

14 Q Okay. And prior to turning objection no
15 foundation the lights smelled the marijuana is that
16 true?

17 A Correct.

18 Q Okay. And is that why you turned on the
19 lights because you smelled marijuana?

20 A Yes.

21 Q Any other reason?

22 A No.

23 Q Okay. Prior to this incident had you served
24 as sergeants immediate supervisor?

25 A Yes.

1 Q Okay. Do you know how many times
2 approximately?

3 A I'd say for a period of a few years.

4 Q Where you had been his immediate supervisor?

5 A Yes.

6 Q Okay. And what did I see that mean to you
7 immediate supervisor?

8 A Someone that you would report to.

9 Q Okay.

10 Q And as his immediate supervisor would be
11 responsible for reviewing his police reports, yes.

12 Q And approving?

13 A Yes.

14 Q Prior to this incident had you been assign
15 today any Oakland unified school district campuses?

16 A No.

17 Q So where was your low day ago that you
18 regularly worked?

19 A I was city wide I was right below chief sarp
20 in a.

21 Q City wide meaning you responded patrolling
22 different campus?

23 A I was no longer overseeing parole patrol
24 options.

25 Q Okay. And that was serving as a watch

1 commander?

2 A Yes.

3 Q As watch commander were you also responsible
4 for taking respondents of uses of force?

5 A Yes.

6 Q As watch commander did you have any
7 responsibility as it relates to directing the
8 investigation of the use of force?

9 ATTORNEY4: Objection that question is vague
10 and ambiguous.

11 THE WITNESS: I'd have to say sometimes.

12 Q Okay. Meaning that if force was used by an
13 officer that you were -- strike that. Meaning if force
14 was use during the cows of their duties as Oakland
15 unified police officer you would be responsible for
16 following up and directing the investigation into
17 whether or not that force was within policy or not?

18 A I would have to say no.

19 Q Okay. So what was your role in if I as it
20 relates to investigating or up on use of force?

21 A I role to inform chief say on the patio in a
22 with regard to the incident.

23 Q Where would you git relates informing chief
24 say on the patio in a?

25 A Either supervisor or sergeants or officers if

1 sergeants were absent had to cover be their director
2 supervisor.

3 A Okay.

4 Q So is it fair to say that tip cap situation
5 you were not a patrol officer's director supervisor
6 sergeant between yourself and the patrol officers that
7 true?

8 A That's correct.

9 Q Okay and so the structure would then be that
10 the supervisor the sergeant who's over the patrol
11 officer who would be directorially responsible for kind
12 of directing those investigations and report to you is
13 that true?

14 ATTORNEY2: I'm not sure if that's what he
15 said.

16 Q Let's find out?

17 ATTORNEY2: I think what he said might learn
18 about it from a sergeant that rowd say on the patio in
19 a.

20 Q Is a and a?

21 A Can you police just ask.

22 Q I'm trying to figure out how it work?

23 A I know it's.

24 Q I got you we have all day?

25 A I know.

1 ATTORNEY2: No we have seven hours.

2 MR. POINTER: That's all day.

3 THE WITNESS: Yeah.

4 MR. POINTERQ. Okay. So you're the watch
5 commander right?

6 A Correct.

7 Q In between yourself and the patrol officers
8 sergeant that's correct?

9 A That's correct.

10 Q What was your responsibility if any that you
11 would have involved in the reported use of force by a
12 patrol?

13 A To report that to chief say on the patio in a.

14 Q What information were you responsible for
15 report to go chief say on the patio in a?

16 A What level of force was used by what officer
17 and what would he want to do about it.

18 Q Okay. And what responsibility of duties did
19 you have as it relates to gathering that information?

20 A If it was approved, then I would assign a
21 sergeant to do a division level investigation and they
22 would either conduct a division level investigation or
23 if it was not approved I would make sure that there was
24 a letter of discussion that went along with the
25 sergeant and that particular officer.

1 Q What's a letter of discussion?

2 A A letter of discussion is basically saying
3 documenting the incident and then offering some
4 directive training or just basically document the
5 incident on a supervisory level.

6 Q And the information that you would communicate
7 chief say on the patio in a report of use of force were
8 you also required to put that in produce some type of
9 report that we want to the chief?

10 A No.

11 Q Okay. So you didn't have a duty to put your
12 to document your role in any use of force investigation
13 is that true?

14 A Let me clarify that I'm not sure if it says at
15 this point in time what it says in the general orders
16 about my role if doing that but I was told by chief
17 say on the patio in a to verbally tell him incidents
18 and he would make up a decision whether to gait or it
19 not.

20 Q Okay and that's what you're describing prior
21 to the incident involving Mr. Brown is that true,
22 that's true well before and after.

23 Q Unless I say other wise I'm interested in
24 state of affairs at or about of this incident?

25 A Okay.

1 Q Not afterwards?

2 A Okay.

3 Q Unless I ask you?

4 A Okay.

5 Q Thank you. Now, during the course of the
6 times where you had Brunei partnered or working with
7 sergeant bat had you heard him use any racial epithets
8 at the times towards anyone no differently.

9 Q As it relates to your deposition today have
10 you reviewed anything?

11 A Yes.

12 Q In preparation for your deposition here today
13 have you reviewed anything?

14 A Yes.

15 Q Okay. What. My OPD interview.

16 Q And did you the longer it read a summary what
17 did you do?

18 A I bereave I listened to it and I read over it.

19 Q And when did you do this?

20 A I would say within the last two weeks.

21 Q Now your deposition had parole officially been
22 scheduled for other times than today prior to today did
23 you do anything other time deposition had been
24 scheduled?

25 A Yes.

1 Q Okay. What had you done?

2 A I just read other and listened to my OPD
3 statement.

4 Q Have you reviewed any other police reports
5 related to this incident?

6 A No.

7 Q Have you listened to any other you
8 have something else you want to add?

9 A Well, no can you just clarify are you talking
10 about the speck time tashed deposition.

11 Q Yeah I'm just whatever you were doing to
12 prepare for the deposition?

13 A Okay that's correct then.

14 Q So trying to find out what, if anything, you
15 looked at in preparation for you deposition?

16 A Okay.

17 Q So right now it's it sound like some other
18 time where you thought your deposition was scheduled
19 you have reviewed your statement that you gave to OPD
20 correct?

21 A Correct.

22 Q And that consisted of listen to go the
23 statement and reading it is that true?

24 A That's true.

25 Q Okay and so the question is at any other time

1 have you looked at or reviewed something else to
2 prepare for this deposition for deposition related to
3 this case?

4 A No.

5 Q At any point in time have you listened to
6 sergeant bat's statement?

7 A No have have you talked to sergeant bat
8 related to this incident.

9 ATTORNEY4: Objection that attorney-client.

10 ATTORNEY2: Well, that's a good point because
11 there was a period of time when sergeant bat and
12 sergeant bell lieu is a were represented by Mr. Edward
13 HAR do you want reinstated on ton's office exclusive of
14 that is no yeah.

15 ATTORNEY2: I exclude I have of that sergeant
16 bat abdomen-of-about the incident other the incident in
17 rip to the lawsuit I suspect that night I don't know if
18 what's that your meant.

19 MR. POINTER: Growths into that.

20 ATTORNEY3: Hype even while they were
21 represented koum in the presence of counsel I don't see
22 how that conversation would be pro-teched by the
23 attorney-client.

24 MR. POINTER: It's not.

25 ATTORNEY2: That's no what I'm saying.

1 ATTORNEY3: During the time they were
2 represented.

3 ATTORNEY2: Go ahead.

4 MR. POINTER: Let's do it this way.

5 ATTORNEY2: Okay.

6 MR. POINTERQ. So what I want to know is
7 after the shooting took place you had conversations
8 with sergeant bat what took place?

9 A Yes.

10 Q And this is on the scene of the accident,
11 correct?

12 A On the scene.

13 Q Yes?

14 A No.

15 Q Okay. So you're tell me in a after the
16 shooting took place did you have you had no
17 conversations with sergeant bat what had taken place?

18 A After the shooting.

19 Q Yes while on the scene?

20 A While on the seen no.

21 Q Ed did is sergeant bat ever say to you mention
22 to you while you were on the scene that he saw a gun?

23 A No.

24 Q Sergeant bat never said anything to you while
25 you were on the scene?

1 A That's true.

2 Q Now, after leaving the scene of the incident
3 you were taken to OPD?

4 A Yes.

5 Q Where you were given a statement?

6 A Yes.

7 Q Review reparation for you deposition today?

8 A Yes.

9 Q Now, prior to leaving the scene and arriving
10 at OPD who did you talk to about the incident?

11 ATTORNEY2: You mean out at the scene?

12 MR. POINTER: Out on the scene or on the way
13 to OPD.

14 ATTORNEY2: Okay.

15 THE WITNESS: I didn't go into the incident
16 with anyone I did notify chief say on the patio in a
17 that a shooting took place and that the officers that
18 were from the dance all had to come down to the scene
19 and we had no one at the dance.

20 Q And where were you another when you place this
21 call to chief say on the patio in a?

22 A Probably let's say 20 feet from the police
23 car.

24 Q From your patrol car?

25 A Yeah.

1 Q Okay.

2 A Kind of a little bit about where the area that
3 yeah probably 20 feet from my police car from my door.

4 Q And about how much time had pass from the
5 shooting to when you place this car to chief say on the
6 patio in a?

7 A I don't recall.

8 Q Was it more than 15 minutes?

9 A I think so.

10 Q Do you think it was more than 30 minutes?

11 A I don't know.

12 Q Is it fair to say that you think it was more
13 than 20 minute from the time of the shooting?

14 A If I had to gave rough estimate I'd say puppy
15 20 minutes.

16 Q So this phone call that you place to chief
17 say on the patio in a 15 to 20 minutes after the
18 shooting had taken place is that correct?

19 A Correct.

20 Q How did you what did you use to contact him
21 radio him use cell phone what did you use to catting
22 him?

23 A I think I went to sergeant bat knocked on his
24 window do you have your cell phone I dip have any
25 phones on my at the time and.

1 ATTORNEY2: He just wants to know who's phone
2 you use.

3 A Oh, sergeant bat.

4 MR. POINTERQ. At that point in time patrol
5 car?

6 A Yes.

7 Q Who's patrol car?

8 A I don't know which one.

9 Q But it wasn't the patrol car you drove to the
10 scene in correct?

11 A I don't believe so.

12 Q Okay. So you went over to sergeant bat knock
13 on the window his cell taupe right.

14 A Yes.

15 Q Okay. He gave it to you?

16 A Yes.

17 Q Was he on the phone when you asked for it?

18 A No.

19 Q Cell phone prior to you asking him between the
20 shot shooting and when you asked?

21 A No.

22 Q Okay. How long was your conversation chief
23 say on the patio in a?

24 A If I had to estimate I'd say 20 seconds.

25 Q And testified that you gave him information

1 told him about what had taken place correct?

2 A I just told him that there was a shooting that
3 bar had gotten into he asked me is the suspect alive
4 and I said I don't know and I told him I couldn't
5 talk about anything he seem to respect that didn't ask
6 any questions emphasize no one at this dance because
7 everybody is here he said he would take care of it.

8 Q Did chief say on the patio in a make any
9 statements?

10 A No.

11 Q Did chief say on the patio in a give you any
12 direction orders or commands?

13 A No.

14 Q Was that the only time you talked to chief
15 say on the patio in a prior to you arriving at OPD and
16 giving your statement?

17 A Yes. Wait prior to giving my statement.

18 Q Yes?

19 A No.

20 Q Okay so you spoke to chief say on the patio in
21 a conversation again?

22 A Yes.

23 Q When did you speak to him again?

24 A At the second floor of the police department.

25 Q Okay and this was prior to giving your

1 statement?

2 A Yes.

3 Q Person or also by phone?

4 A In person.

5 Q And who else was present when you spoke to the
6 chief?

7 A The superintendent Tony chief.

8 Q Of Oakland unified school district?

9 A Yes.

10 Q You said second floor of OPD?

11 A It was I think it was yeah it was a second
12 floor.

13 Q Okay. And what did that conversation consist
14 of?

15 A Superintendent wanted to know what happened.

16 A And so he Tony Smith asked you what had taken
17 place.

18 A Yes.

19 Q And chief say on the patio in a was present
20 when he was asking you these questions?

21 A Yes.

22 Q Was anyone else present?

23 A Yes.

24 Q Who else?

25 A Jack Lin minor.

1 Q And did you respond to the Tony Smith
2 question?

3 A Yes.

4 Q All right. And how that conversation went if
5 you will?

6 ATTORNEY4: Objection.

7 ATTORNEY2: Well, I have a question Miss Minor
8 I believe lawyer for the school district seems to me
9 this discussion could be cloaked with the
10 attorney-client.

11 ATTORNEY4: Yeah chief counsel for the school
12 district.

13 MR. POINTER: Tony Smith is not.

14 ATTORNEY2: Let me do this appreciate your
15 question let me talk with sergeant believe is a make
16 sure issue of the attorney-client privilege as they
17 think come right back go ahead take a quick break.

18 MR. POINTER: Okay you know that's your
19 privilege to assert or not.

20 ATTORNEY2: Well.

21 MR. POINTER: Thank you.

22 ATTORNEY2: Whatever okay we'll be right back.

23 (Off the Record.)

24 ATTORNEY2: Back on the record if we can.

25 MR. POINTER: Okay.

1 ATTORNEY2: Mr. Bell lieu is a had a
2 conversation in the presence of superintendent Smith
3 apparently when the attorney was not present so with
4 that understanding Mr. Bell lieu is a ask you go ahead
5 and answer it.

6 MR. POINTERQ. The question was pepping.

7 MR. POINTERQ. What conversations did you
8 have with chief say on the patio in a and Tony Smith
9 being present at Oakland police department prior to you
10 giving your statement to OPD regarding this incident?

11 ATTORNEY2: Again outside the presence of a
12 lawyer go ahead.

13 THE WITNESS: Okay just so you.

14 ATTORNEY4: Just excuse me conversation that
15 sergeant bell lieu is a outside the present of dick's
16 counsel.

17 ATTORNEY2: Yes.

18 ATTORNEY4: All right.

19 THE WITNESS: I don't remember the district
20 counsel Baton Rouge here for this.

21 MR. POINTERQ. Okay.

22 A Let me say end could be term effects felt
23 normal they were both my supervisors I didn't think
24 anything of it but the superintendent was asking me
25 what had happened and I just give him a very brief

1 spiel as you will about what had happened very short
2 and then there was a time when that's it.

3 Q Okay. So when you say is a very short spiel
4 how long did you take to recount the events of this
5 night?

6 A How long to tell him what happened.

7 Q Yes?

8 A Probably a matter of it be to 15 seconds.

9 Q Okay. And what did let's start with
10 superintendent. What did he say in response to what
11 you told him?

12 A He just reassured me glad that I was okay and
13 if I needed anything that you know they would be there
14 for me and he did say that told chief say on the patio
15 in a that she should start the paper workmen injury
16 because of what happened.

17 Q Make sure we're clear so you told in response
18 to the questions that you were getting from subpoena
19 Smith when he asked you what had taken place you
20 responded by telling him what had happened correct?

21 A A very short general.

22 Q Okay.

23 A Yes.

24 Q When you say short general what did you say?

25 A I just said we thought these people needed

1 help we contacted him the guy started stabbing me with
2 the screwdriver but shot him there was a gun in the car
3 that was it.

4 Q Okay. And in response that the superintendent
5 said something along the lines of telling chief say on
6 the patio in a they need to get your worker comp papers
7 for you?

8 A Yes.

9 Q Did the superintendent say anything else?

10 A Yes.

11 Q What else did he say?

12 A There was a time when he left the radiological
13 and he came back and then he said specifically John
14 tell me where the gun was tell me everything you can
15 remember about the gun and what it looked like.

16 Q Okay. And when the superintendent left the
17 room how long was the superintendent away from the
18 asking you those questions?

19 A I really cannot recall.

20 Q 5 minutes ten mens do you have any estimate?

21 ATTORNEY3: I'm sorry confuse Tony Smith or
22 chief say on the patio in a L.

23 A They both did.

24 MR. POINTERQ. For asking that after you gave
25 brief spiel words chief say on the patio in a left the

1 radiological?

2 A Yes.

3 Q Okay. And later came back?

4 A Yes.

5 Q How much time were they gone from the room
6 before coming back?

7 A Well, you're asking me for an something like
8 that.

9 Q Yes?

10 A Because I have to reiterate that during that
11 time I just wanted to go home to my family it was a
12 very traumatic time I one point keeping track of
13 anything and I was.

14 Q You were emotional is that fair to say?

15 A Yes.

16 Q And you wanted to go home?

17 A That's all I wanted to do but I'd say five
18 minutes.

19 Q Okay. So in this approximate?

20 A Approximate.

21 Q So after you had given your short spiel both
22 chief say on the patio in a and Tony Smith police chief
23 the room approximately five minutes.

24 Q Were you left alone during that particular
25 point in time?

1 A Yes.

2 Q Okay. And the bilateral wrist they did they
3 both return to the room in five minutes?

4 A With Jack Lin minor.

5 Q So they returned back for attorney to the
6 school district, yes.

7 Q And during that point in time when they
8 returned they were more questions asked of you
9 regarding where the gun was at is that true?

10 A No more questions about the gun that was it.

11 Q Okay so has let me make sure we have this
12 clear when were you asked about where the gun was at?

13 A The second visit.

14 Q Okay. And that was a visit with just Tony
15 Smith and the chief being present?

16 A I believe so.

17 Q Okay. And were those the first words they
18 mention questions regarding the location of the gun?

19 A Yes.

20 Q Okay. To the best of your ability can you just
21 tell us what how that conversation went?

22 ATTORNEY2: Well, I don't mean to go with you
23 a little bit vague what did you do he say in response
24 to the inquire.

25 MR. POINTER: Just tell me what happened

1 exactly during the course of this second conversation

2 irk the second conversation.

3 MR. POINTER: Yes.

4 ATTORNEY4: With jack Lin minor present.

5 MR. POINTER: No.

6 A Well, I was standing there staring at the

7 window and I didn't see him come in but they room that

8 had a back room to it so I was in the very back so they

9 came around the corner and superintendent John do you

10 know where the done was do you know what it look like

11 can you remember anything else ability it and that was.

12 And what did you say.

13 Q Response to those questions?

14 A Revolver white handle black grips and that was

15 it.

16 Q Now, and chief say on the patio in a relating

17 this information?

18 A Yes.

19 Q Did he say anything in the course of this

20 second conversation?

21 A No.

22 Q And this was prior to you being interviewed by

23 OPD.

24 Q This is the time see the letter quest term

25 effected did he recollect?

1 A During that time again I wasn't thinking of
2 anything and like I said before and I wanted to make
3 sure you know that is that I the encounter seemed very
4 normal this is my supervisor and I one thinking of
5 anything else.

6 Q Right. Essentially when they came into the
7 room to ask you these questions the chief of police and
8 the summit of the school district correct?

9 A Correct.

10 Q You're responding questions thinking they
11 wouldn't do outside of the policy lawn was going today
12 correct?

13 A No.

14 Q Is that correct?

15 A That's correct.

16 Q So you listened to their question and
17 responded?

18 A That's correct.

19 Q All right. Now, you mentioned that the school
20 district's counsel at some point came into the room?

21 A Yes.

22 Q Were there any said to you prior to her coming
23 in that room?

24 A Just like I told you about the conversation
25 about the gun and then you know hay what happened are

1 you okay just that those two conversations.

2 Q Okay. Were you told anything as it relates
3 what sergeant bat had said at any point in time?

4 A No.

5 Q So those two conversations as well when Jackie
6 long came into the room?

7 ATTORNEY3: Who.

8 MR. POINTER: Jackie long.

9 ATTORNEY3: Minor.

10 MR. POINTER: Miner jackly long is a football
11 player thank you.

12 ATTORNEY3: I was sleeping over here.

13 MR. POINTERQ. So when you had the two
14 conversations with chief say on the patio in a as well
15 Tony Smith you had not been requested by OPD yet
16 correct?

17 A Correct.

18 Q All right. When you had the tax second
19 conversations that you had with chief say on the patio
20 in a and Tony Smith Jackie minor then came into the
21 room is that correct?

22 A That's correct.

23 Q Conversations were had during that point in
24 time?

25 A Yeah but I guess glue during that time.

1 Q Okay.

2 ATTORNEY3: Yes, I do. Good objection.

3 A Oh, I'm sorry I didn't.

4 ATTORNEY2: You've been doing this too long.

5 MR. POINTERQ. Were there any further
6 conversations between outwards and anyone else before
7 you were interviewed by OPD?

8 A No.

9 Q Okay. Now, going back to the incident, so
10 taking you back in the point in time when you were in
11 the flank position and you saw what you said were three
12 flags that were three red flags?

13 A 4.

14 Q 4 red flags I'm sorry four red flags that had
15 raised your suspicion is that true, that's correct.

16 Q Okay. And you decide today move out of a
17 flank position closer to the passenger door is that
18 true?

19 A Not closer to make contact though it wasn't
20 just to get a better look reveal myself.

21 Q Okay. So you left the flank position --

22 A Yes.

23 Q And you walked over to the directorially you
24 walked O over directorially to the passenger door true?

25 A True.

1 Q When you got to the passenger door what
2 happened next?

3 A I opened up the passenger door.

4 Q Did you announce yourself before you opened
5 the puppying door?

6 A Before no.

7 Q Prior to you opening the passenger door?

8 A No.

9 Q Okay. Prior to you opening the passenger door
10 had you seen the driver with any papers in her hand?

11 A No.

12 Q Prior to you opening the passenger door did
13 you see the passenger with any papers in his hand?

14 A No.

15 Q Prior to you opening believe is a with any
16 papers in his hand?

17 ATTORNEY3: He's sergeant bell lieu is a.

18 MR. POINTERQ. Sergeant bat any papers in his
19 hand?

20 A No.

21 Q Now, so you opened the puppying door and what
22 happened next?

23 A I squatted down and kind of like a catchers
24 position I saw brown towards me but his concentration
25 he didn't look right at me he looked up in the sky

1 somehow but I spoke with him I could tell that he was
2 sweating and perspiring I could tell that his demeanor
3 was very tense and it's because of what I observed
4 about his eyes it was seem focus very focused person
5 and I remember trying to break the ice with him and I
6 said what are you guys doing here are you guys part of
7 this dance I was I kind of laughed a little bit I could
8 tell how serious basically implying I don't care if you
9 guys are spoking weed what are you going to break the
10 edge not like it's a where himny ha fault it was AOUR's
11 body.

12 Q We know it's at the jet state?

13 A I know probably.

14 Q So when you open the door at or about that
15 time did you order the passenger at that car?

16 A No.

17 Q When you opened the door did you notice if the
18 passenger had anything in his hands?

19 A No.

20 Q Prior to you opening the door did you see the
21 passenger make any move that you interrupted as going
22 into the come parking lot that's on the side of the
23 door?

24 A Are you talking about the magazine
25 compartment.

1 Q Yes?

2 A He was making movements and could imply to me
3 that he was going in that correction yes.

4 Q So you saw him making you saw the passenger
5 making movements towards the map compartment of the
6 passenger door?

7 A Both right and left arms going down like this
8 or if he was putting something prop up the best way to
9 describe it he was very fidgety.

10 Q But you couldn't see his hand?

11 A Correct.

12 Q Best of where you shoulders and upper body
13 moving around is that true?

14 A Correct.

15 Q But you couldn't see hands were going is that
16 true?

17 A For Mr. KAPBG that's correct.

18 Q Okay. So when you opened the passenger door
19 and you began having this exchange with him where you
20 were saying what are you guys doing part of this dance?

21 A Yes.

22 Q What were his response?

23 A He say handcuff he said something to the
24 effect of I don't know what you're talking about
25 jumbled and jargon you have I don't know or something

1 like that.

2 Q When you opened the door and you're having
3 this exchange with Mr. Brown where was your body.

4 Q Regular to the door in the car and the opening
5 of the compartment of the passenger compartment of the
6 car do you understand what I mean?

7 ATTORNEY2: I think I understand where you're
8 going are you asking where he's position in rip to the
9 open door if TROELGS Mr. Brown were you looking at him
10 off the side or something like that.

11 Q No what I'm asking 83 open the door?

12 A Correct.

13 Q How far did you?

14 A All the way.

15 Q Okay so the door is fully opened correct?

16 A Correct.

17 Q Okay. And Mr. Brown is he still sitting in
18 the car?

19 A Yes.

20 Q Okay. Where were you in relation to the door
21 and the opening the door opening that's part of the car
22 compartment?

23 A Between the door and him.

24 Q Okay. And at this point in time when you were
25 in the catchers stands?

1 A Yes.

2 Q And that's when you're having this

3 conversation with him?

4 A Yes.

5 Q He's not looking at you looking is it above

6 you?

7 A Yes.

8 Q Okay. And you see him sweating right?

9 A Correct.

10 Q At that point in time when you're having this

11 conversation cue see his hand?

12 A Yes.

13 Q Okay what was he doing, if anything?

14 A They were on his lap.

15 Q Okay were they holding anything?

16 A No.

17 Q Okay. And so did you ask him to step out of

18 the car when you're having this conversation with him?

19 A Not at that time.

20 Q Did you here sergeant bat verbal exchange with

21 the driver at this point in time?

22 A I don't recall if he was.

23 Q Okay. Do you know if the car was on when you

24 were having this exchange?

25 A I believe it was off.

1 Q Okay. So what happened next?

2 A I was in the middle of speaking with him and
3 having some dialogue I scanned the vehicle and I could
4 see that there was no i got all anything in the con sol
5 or had been punched I noticed that the steering --
6 stereo was ripped out wiring protruding stereo on the
7 floor screwdriver on the floor and what I mean right
8 front right floor board or.

9 Q Passenger side?

10 ATTORNEY2: Passenger.

11 THE WITNESS: Passenger floor.

12 MR. POINTERQ. When you say floor the part
13 where his feet?

14 A Yes.

15 Q A person sitting in the chair would rest their
16 feet?

17 A Yes.

18 Q Okay.

19 A So that's what e d light I observed when I was
20 talking to him.

21 Q Can you describe it?

22 A Not at this time I can't recall what it looked
23 like.

24 Q Is that the same screwdriver that you later
25 saw him try to inyou want certificate into the

1 ignition?

2 A I don't believe so.

3 Q So it was a different screwdriver?

4 A Yeah.

5 Q The screwdriver passenger floor board is that

6 the same screwdriver that you claim he attacked you

7 with?

8 A Yes.

9 Q So A different screwdriver.

10 A Yes.

11 Q Okay. Now, as you're making these

12 observations and essentially you came to the opinion

13 that this car was stolen is that true?

14 A Yes.

15 Q Okay. You actually have some type of pin for

16 uncovering or recovering?

17 A Recognition.

18 Q Recognition?

19 A Yeah.

20 Q All right. What type of recognition can you

21 explain?

22 A Stolen cars you get certain number certain

23 color and then next color is you know larger recovered

24 stolen vehicles next larger itself is a I ward

25 California highway patrol.

1 Q So what color pen do you have?

2 A And yesterday and where is that on the
3 hierarchy.

4 A I don't know.

5 Q How many times have you changed colors?

6 A I think two other times.

7 Q Okay. All right. Now, when you were making
8 this observation and arrived at is it opinion that the
9 car was stolen or maybe stolen had you seen firearm at
10 that point in time?

11 A No.

12 Q Okay. Did you communicate your opinion that
13 the car was stolen to sergeant bat should be no.

14 Q What was sergeant bat's location when you were
15 making this oak central nervous system change with
16 Mr. Brown and catchers position?

17 A Remaining in his position on the driver
18 outside of the car but along the driver side window.

19 Q Okay. Now, you know that it turns into
20 between Mr. Brown so describe how it you went from
21 making pokes this car might be stolen to until you
22 hands on with Mr. Brown?

23 A Sure. As I was exchanging dialogue with him
24 left hand was slogan slowly moving towards the center
25 con sol of the vehicle right you understand oath the

1 break level with his left hand I told him I said what
2 are you doing with your hand let me see your hand
3 started off slow go a little bit faster and at that
4 time try the and grab what was there so I
5 congressmanned saying let me see you hand let me see
6 your break level.

7 A It appeared to be pulled up.

8 Q So your started asking to see you started show
9 you his hand?

10 A Yes.

11 Q All right did he comply?

12 A No.

13 Q What happened?

14 A He immediately grabbed what I saw was a
15 screwdriver and transferred it into his right hand and
16 then he lunged forward in the car kind of in a coveting
17 position for the ignition and it appear today stick the
18 screwdriver in the ignition peer to fourth down the
19 right.

20 Q Did you here the car turn on?

21 A Not at that time.

22 Q Okay. So went from being the conversation if
23 you will again yourself and Mr. Brown show me your hand
24 pulls out the screwdriver with the left hand?

25 A Yes.

1 Q Transfers to the right hand and reaches body
2 to the i got all anything in order to insitter the?

3 A That's correct.

4 Q Okay. And it awe peered that the screwdriver
5 went into the ignition?

6 A Yes.

7 Q And you made the movie THAOETment turned his
8 hand is that true?

9 A Yeah, I would see him try to turn the i got
10 all anything.

11 Q Okay. And did you say anything to him in
12 response to what you were observing?

13 A Drove drop the screwdriver stop resisting.

14 Q Okay what it did you do next?

15 A I observed the female as this was
16 simultaneously taking place I observed the female jump
17 back and put her hands up in the area like this.

18 Q When you saw the female make in a move or that
19 movement do you know where sergeant bat was at?

20 A I believe he remained in the front outside the
21 driver's I wouldn't area.

22 Q Okay. And did you know did he was he saying
23 anything at that point in time?

24 A I think he was I believe he along the stop
25 resisting or stop I don't know what at this time what

1 he said but I believe he was saying almost the same
2 things I was.

3 Q Okay. And when you saw the driver kind of get
4 back and lean back into the driver's seat, was that at
5 the same time sergeant bat put his gun into the car?

6 A No.

7 Q Had you did you do you see sergeant bat into
8 the car at that point in time when you saw the driver
9 Perries kind of get back as you driver laid back into
10 the driver seat and put her hand up?

11 A No.

12 Q Okay. What took place next?

13 A Well, I feared that the car was stolen that he
14 was trying the attempt to flee by starting the car and
15 I was worried that later finding out possibly kidnapped
16 that was all going through my mind throw hers she
17 didn't whatever was going on.

18 Q Okay. So you're concerned now for the driver
19 as well?

20 A Yes.

21 Q Cooperating with what the passengers request
22 are to drive off?

23 A Yes.

24 Q You're unsure where she's interesting held
25 against her will?

1 A Correct.

2 ATTORNEY2: Read.

3 MR. POINTERQ. So cxsvatds shes concerned
4 about her safety remember yes.

5 Q And at this point in time when you see the
6 driver lean back in her seat what was Mr. Brown doing?

7 A He was remained with a he was doing i got all
8 anything yelling at her go I believe he even said drive
9 bitch Cryuff.

10 Q I'm sorry go ahead?

11 A No that's it.

12 Q Did you see him trying to did you see him
13 reaching for the gear selector?

14 A I don't think at this time no.

15 Q Okay. So did he remain in that position of
16 trying to start the ignition?

17 A Yes from what happened stop doing do something
18 else.

19 A Eventually.

20 Q How long did that take place how much time
21 pass when he was turning the ignition?

22 A You know I don't think I can give an estimate
23 on the ignition part I think from the time that I
24 entered the vehicle and the struggle that was inside
25 the vehicle I would guess.

1 ATTORNEY4: Excuse me.

2 THE WITNESS: Or estimate ability I'd say give
3 or take 20 seconds.

4 MR. POINTERQ. Okay. So from the time you
5 actually leaned into the vehicle and Mr. Brown dealing
6 with the ignition with the screwdriver that point in
7 time is 20 seconds?

8 A From the time i n e don't know how to break
9 down the amount of time he spent on the ignition what I
10 can give you an something like that on is the time when
11 I jumped in the car the struggle by the time I was
12 trying to exit the vehicle that's all I can give you a
13 time frame about accurate estimate for the actual i got
14 all anything.

15 Q Okay. So when you say jumped in the car did
16 you physically get into your leave your feet into the
17 passenger compartment what do you mean by that?

18 A My fealty I believe were touching the ground
19 at times but they were outside of the car my body was
20 inside the car I was almost sitting in the passenger
21 seat with my arms at certain parts of the struggle
22 around many brown.

23 Q Okay. So in terms of body positioning when
24 Mr. Brown reached for the ignition and you initially
25 inserted your body into the car describe your body

1 position?

2 A I was leaning so when I was in a catchers
3 stance I went forward and I turned and I know my bottom
4 was sitting on the seat and my legs were leaning
5 against the sidewalk.

6 Q Okay?

7 A I remember just being grabbing Mr. Brown as I
8 was almost sitting in the seat lap some was cough
9 vetting this gear shifter and I remember that's when
10 the struggle end sued.

11 Q So in terms of your back was your back facing
12 when you were describing the struggle end sued and you
13 went into the car from out of the catchers position was
14 your back facing the dash board or was it facing which
15 what was your back facing?

16 ATTORNEY2: My only concern is that there
17 maybe ambiguity there in that his back may have move
18 from spot to spot go ahead and answer.

19 THE WITNESS: That's what I was going to say
20 that I wasn't situated in one position the whole time
21 you know I was moving around in a fair correction my
22 back was facing the rear of the car.

23 Q Your back was facing the rear of the car?

24 A If I'm sitting in the passenger site right now
25 rear of the car grabbing like this.

1 Q Okay. So you mentioned that Mr. Brown had
2 jumped up in almost sitting in your lap at this point
3 in time?

4 A Yes.

5 Q So you're thigh area and torso was behind
6 Mr. Brown then correct?

7 A Yes.

8 Q Okay. And with your legs out of the car is
9 that true?

10 A Yes.

11 Q So your body if you will your buttocks?

12 A Booties.

13 Q Glutety I couldn't say maximum if you will
14 towards the i got all anything of the car?

15 A Yes from okay. And you are grabbing him from
16 behind and bringing him towards yourself.

17 A Trying to.

18 Q In order to him helium membershiping the
19 ignition that true?

20 A That's correct.

21 Q Okay. And your grabbing him about his upper
22 body is that true?

23 A Periodically.

24 Q Okay. Speak for myself around his shoulder
25 area is that correct?

1 A That's correct.

2 Q All right. And were you also reaching for his
3 hands?

4 A I don't know if I could reach that far but I
5 was trying to reach for his arms.

6 Q In order to restrain him?

7 A Yes.

8 Q And I believe you said he was sweating?

9 A Yes.

10 Q And shirt was ultimately ripped?

11 A Yes.

12 Q At what point in time half way in the strug
13 cxsvatds ment.

14 Q Do you know how it was ripped were you pulling
15 on the shirt catch on something do you know how the
16 shelter ripped?

17 A Yes.

18 Q I rich audiotape pull him back getting more of
19 the shirt and end up ripping down.

20 Q Okay. And at that point in time was it what
21 position was he in was he still leaned over sitting up?

22 A Just leaning over the hand leveler and the
23 gear shifter.

24 Q And he still had the screwdriver?

25 A I believe so.

1 Q Can you describe the color of the screwdriver?

2 A I want to say green that's what pops in my

3 head.

4 Q Okay. And I believe previous statements you

5 said that you thought it was a Phillips screwdriver.

6 A I believe I recall saying that driving do you

7 still.

8 A I just remember seeing a point I honestly

9 can't say flat head or Phillips today's date.

10 Q Sure. Now, in the statement that you gave to

11 OPD within hours of this statement that an vat?

12 A Yes.

13 Q Memory better than it is today?

14 A Yes.

15 Q Okay. So you see him with the crew driver

16 he's trying to get the car started at least that's how

17 it appeared to you?

18 A Yes.

19 Q You're grabbing him back away from the

20 ignition?

21 A Correct.

22 Q Closer to you?

23 A Trying to.

24 Q Trying to. Okay at any time did he actually

25 grab you and hold you?

1 A No.

2 Q Okay. Now, did you see sergeant bat hit or
3 strike Mr. Brown at any point in this time during this
4 incident with his flashlight?

5 A I believe I did.

6 Q Do you know what part of the body that strike
7 or hand -- strike that question do you know what part
8 of the body sergeant bat's flashlight hit Ryan brown?

9 A I remember seeing it hit his cochlea I have
10 call.

11 Q All right. Did that flashlight hit you?

12 A No, I don't think so -- I don't believe it
13 did.

14 Q May have public services but you don't have a
15 memory is that true?

16 A That's correct.

17 Q There's a lot going on?

18 A Yes.

19 Q All right. So at some point in time I believe
20 you given testimony -- strike that you made statements
21 that Mr. Brown turned and tried to stab you is that
22 true?

23 A That's true.

24 Q Okay describe for me how that took place?

25 A I got the impression that because the amount

1 of time that went on brown's demands of driving away
2 didn't seem to have been met it was my impression that
3 and I can't speak for him but my impression was that he
4 felt there was no other place to go and I was trying my
5 hardest to get control over him I was trying to you
6 know I ended up doing a hammer first strike back Pam of
7 your hands hammer first strikes to him side get limb to
8 either release screw screwdriver situation more control
9 over him.

10 Q Just a question the first strikes how many did
11 you do?

12 A Tree and five.

13 Q Okay. And where did they land?

14 A His lower back I'd say his back somewhere in
15 his lower back.

16 Q More to the left side right side?

17 A Right side.

18 Q Okay. And did you do they appear to have any
19 affect on him?

20 A No.

21 Q Did you use any other strikes or blow us to
22 him?

23 A No.

24 Q Okay. So and this was hammer strikes that was
25 prior to him turning on you with the screw screwdriver?

1 A Yes.

2 Q So you do is hammer no effect and some point
3 turns you towards the screwdriver?

4 A He went back and elbow me in the buy accept on
5 the right buy accept.

6 Q After the hammer strikes?

7 A This was after the hammer strikes.

8 Q Okay?

9 A And then I ripped his shirt off at that time
10 because I was trying to get control of husband
11 shoulders then arched myself point guards put his hand
12 around his upper body so I put my hand around like this
13 to try to pull him back and.

14 Q So move you used try to pull him co-op radded
15 restraint?

16 A That wasn't my goal but similar kind of
17 California natural re S.

18 Q Okay?

19 ATTORNEY2: Belieu is a reaching with his
20 right arm as he was demonstrating this.

21 ATTORNEY3: Sergeant.

22 ATTORNEY2: I didn't mean to interrupt please
23 go ahead.

24 MR. POINTERQ. Are you done describing okay.
25 So you use your right arm to try to grab Mr. Brown in a

1 form of fashion similar to the co-op radded restraint

2 although that wasn't your intent?

3 A Yeah.

4 Q Grab him back towards you correct?

5 A Yes, it was more along the lines of shoulder.

6 Q Okay all right.

7 A And then at that time when I did that he bit

8 my wrest.

9 Q Okay?

10 A And he bit it in I don't know how long he bit

11 down for he to registering the pain and before I felt

12 that he could have a real good clamp on it right at

13 that point I rolled my arm backwards.

14 Q So you moved your arm away from a the bite?

15 A Yeah, I rolled it out.

16 Q Like flick of the wrist?

17 A Yeah.

18 Q Flick your wrist away from Mr. brown's teeth?

19 A Yeah.

20 Q Okay. All right. And what happened next?

21 A So at that point it I mean it kind of hurt my

22 wrist so I flicked it out and I actually did I waive my

23 hand in the air like if you were to cool it down with

24 air that's kind of the motion they did so when I did

25 that I actually let go of him and I actually flicked my

1 wrist at that point Mr. Brown turned towards the right
2 and then struck me a couple times in my vest area.

3 Q You just demonstrated you turned to your right
4 and you used your right hand correct?

5 A Correct if and you had palm facing down is
6 that true with your fingers clenched in a fist.

7 A Hand were but that's that you makes sense to
8 me.

9 Q And you made a motion lights a hemier strike
10 is that true?

11 A True.

12 Q And I take it the pointed edge of the
13 screwdriver was also facing right, as well right?

14 ATTORNEY2: I'm not sure your question to me
15 is vague and ambiguous but go ahead and answer if you
16 understand you want to understand how he's.

17 Q Describe how he was holding the screwdriver?

18 A I think it was the same motion that he had it
19 when he started the ignition I believe that he just
20 went back with the screwdriver point end pointing away
21 from me and I believe that the backside of the
22 screwdriver he used at that .2 strike me in the chest
23 that's what makes sense to me.

24 Q So when the initial I 30 you said two times
25 you were initially struck in the chest with the

1 screwdriver with the blunted end of the screwdriver?

2 A I believe it was.

3 Q Okay. That's fine you said you need today go

4 to the bathroom?

5 A Yeah could I go next maybe couple minutes

6 continue but.

7 Q I can take a break right now?

8 A Okay.

9 (Recess taken from 12:15 p.m. to 12:21

10 p.m.)

11 MR. POINTERQ. So before we went off the

12 record sergeant two times with the screw driver

13 corrects?

14 A Yes.

15 Q And then you were saying that Mr. Brown then

16 went on to hit you additional times is that true?

17 A Yes.

18 Q Describe how the additional what happened

19 after the initial two strikes?

20 A I flew window motion there wasn't any little

21 in the strikes two strikes that's when it started

22 register strike striking me and is that I new there was

23 a screwdriver in his hand so I immediately went back

24 into the car back into the seat put my hand up to

25 defend myself.

1 Q Okay. And so what took place next?

2 A I remember seeing a point from the screwdriver
3 and I remember wanting to go down to my own weapon and
4 to shoot Mr. Brown but I felt the time and if I did
5 that I would leave myself vulnerable for a strike and.

6 Q So you decide not to pull your own weapon
7 right?

8 A I couldn't.

9 Q Okay. And at this point in time this about
10 the time when you told sergeant bat to shoot?

11 A Yes.

12 Q Okay. Do you know sergeant bat's position
13 when you told him to shoot?

14 A No.

15 Q Okay. Now, Mr. Brown what position was he in
16 when you told sergeant bat to shoot?

17 A He was striking me he was I was still back in
18 the chair and Mr. Brown was still in he was turned with
19 his back to the door and.

20 Q You said back to the door which down?

21 A The driver's door like a hammer first strike
22 sideways and so when I realized when I say the point
23 and I was afraid that I was going to get stabbed in the
24 throat clear as day right up here.

25 ATTORNEY2: Let the record reflect that

1 Mr. Buddy belieu is a wassing one of the screwdriver
2 position just below the neck and shin area.

3 ATTORNEY3: His neck and shin area.

4 ATTORNEY2: His neck and shin area yeah.

5 MR. POINTERQ. Mr. Brown's arm as it was
6 making this stabbing motion as he was stracking you it
7 was using his right hand out away from his body is that
8 true?

9 A That's true.

10 Q And the bent of his elbow was such to where
11 his hand was going out and away mean to go the right?

12 A That's true that's correct.

13 Q And you were still in the seat with both of
14 your hands up blocking trying to block these blows?

15 A Yes.

16 Q And Mr. Brown had his back to the driver's
17 door while he was doing this stature?

18 A Approximately I don't know exactly where he
19 was but that makes sense.

20 Q In his legs and feet were still in the car is
21 that true?

22 A Mr. Brown's.

23 Q Yes?

24 A Yes.

25 Q Okay. Now, cue see his face when he was doing

1 this?

2 A I don't believe so.

3 Q Okay. Is there was there anything obstructing
4 your vision of his face?

5 A No I was solely concentrated where his hands
6 were.

7 Q Okay. And he was doing the stabbing motion
8 with one hand?

9 A Yes.

10 Q Do you know what the other hand was doing?

11 A No.

12 Q Was he saying anything while he was trying to
13 stab you?

14 A No.

15 Q And every it's true that every strike that he
16 tried to deliver actually made contact with you and
17 your person?

18 A With me and my person correct.

19 Q All right. Now she says when you told what it
20 did you say in terms of telling Mr. Sergeant bat to
21 shoot?

22 A I just screamed shoot him shoot him.

23 Q Okay. And prior to you screaming shoot him
24 shoot him you hasn't said anything related to the gun?

25 A No.

1 Q Cause you hasn't?

2 A That's correct.

3 Q When you said shoot him shoot him what took
4 place next?

5 A I want I was still defending myself I wanted
6 to exit the car as quickly as I could 'cause even
7 though I said shoot him shoot him I didn't know if that
8 was actually going to happen and I need out of this
9 vehicle as well as defending myself I cannot stay in
10 this vehicle I remember trying to use Mr. Brown's force
11 that he was trying to use that try to counter to give
12 me some leverage to exit the vehicle.

13 Q Okay. And so did you hear did sergeant bat
14 shoot him?

15 A Yes.

16 Q About how much time pass shoot him shoot him
17 and you hearing shots?

18 A I don't know if I can give you an estimate.

19 Q That because you don't know or you didn't have
20 a sense as to when the shots initial shots were fire or
21 why is that?

22 A I know that I don't know if I can give you an
23 estimate in time I know where I was looking and I know
24 what direction I was at when the first two shots were
25 taking place.

1 Q Okay. When you say you can't give me estimate
2 of time was it base instantaneous to you sating sense
3 as to how much time pass?

4 ATTORNEY4: Objection asked and answered.

5 ATTORNEY2: Go ahead.

6 THE WITNESS: I think you know it was very --
7 shortly after I said shoot him shoot him so if I were
8 to give an estimate you know I'd probably three
9 seconds.

10 Q Okay. When wow said shoot him shoot him were
11 you hit any additional times with the screwdriver?

12 A I don't know.

13 Q Okay. So the five or so times that you recall
14 being hit with the screwdriver was prior to you saying
15 shoot him shoot him?

16 A That's fair to say.

17 Q And then shoulder pains range out
18 approximately three seconds after you said shoot him
19 shoot him?

20 A Correct.

21 Q Okay. And at or about that time when the
22 shots were fired you were still in the car?

23 A I was in the car.

24 ATTORNEY2: What you were intending to do.

25 THE WITNESS: Yes.

1 MR. POINTERQ. All right. Now, is it
2 immediately before and I'm talking about within seconds
3 of you saying shoot him shoot him was Mr. Brown holding
4 you in any kind of way?

5 A I don't believe so.

6 Q Okay. Was there anything preventing you from
7 getting out of the car prior to you saying shoot him
8 shoot him?

9 A The way my body was positioned preventing but
10 I would say it would be very difficult and I would have
11 really been off balance if I try to.

12 Q Was it the balance off balance is what made it
13 difficult for you to get out of the car prior to the
14 shooting?

15 A Correct.

16 Q Okay. Now, it did you give my warning prior
17 to ordering officer bat to shoot Ryan Brown?

18 ATTORNEY2: Well, I'm going to object to your
19 term ordering because I think that's argumentative but
20 you may answer the question Mr. Bell lieu is a.

21 THE WITNESS: What type of wash warning the
22 only thing I said was shoot him shoot him.

23 MR. POINTERQ. Okay. It's fair to say you
24 didn't give my warn to go ha helium audiotape brown
25 stop you're going to be shot don't stap me or you're

1 going to be shot prior to you telling sergeant bat to

2 shoot him shoot him is that fair to say?

3 ATTORNEY2: Do you mean other than prior to

4 add month 96 quit resisting 'cause I'm not distinction

5 www there was no time for me many to allow me had to

6 say that shoot him shoot him.

7 Q Okay. So nothing was said in terms of don't

8 do X or Y is going to happen to you?

9 A That's correct.

10 Q Okay. Now, you did hear the shots correct?

11 A Yes.

12 Q Okay. And in listening to your statement that

13 you gave to OPD in preparation for you deposition here

14 today do you recall you telling OPD that the shots

15 sounded precise almost like a training exercise words

16 to that effect?

17 A Correct.

18 Q Okay. Were the shots that you hear consist

19 with a person using a double tap technique of course I

20 don't know.

21 Q Do you know what the double tap technique is?

22 A Yes.

23 Q What is it?

24 A That's just two shots at a mass to a person.

25 Q Okay. And is that what you heard two shots?

1 A Yes.

2 Q Did you hear more shots?

3 A Yes.

4 Q Okay. Have you been informed that sergeant
5 bat's gun reportedly jammed or malfunction during the
6 course of this incident?

7 A Yes.

8 Q Okay. It did you know that at the time of
9 this incident?

10 A For Mr. KAPBG.

11 Q When did you first learn that information?

12 A Through added recommendations.

13 ATTORNEY2: He just wants to know when you
14 want to know when -- well, forgo it.

15 MR. POINTERQ. So through added recollection
16 what does that mean?

17 ATTORNEY2: Is your inquiry out the work when
18 he became aware that the gun had jammed.

19 MR. POINTERQ. Sergeant, you've said that you
20 later you didn't know at the time of the incident that
21 the gun had reportedly fall functioned correct?

22 A I didn't remember -- are you saying that night
23 at OPD.

24 Q Just okay so when the shooting took mace you
25 heard two shots, yes.

1 Q When the shotting you married two?

2 A Yes.

3 Q Additional shots later on?

4 A I believe I did.

5 Q Okay. Were you aware when you were hearing
6 those this gun reportedly malfunctioned?

7 ATTORNEY2: My only problem with your question
8 is with them two shots were fired did you do he then
9 become aware it was jammed or at some point as this was
10 taking place.

11 MR. POINTERQ. At any point in time when you
12 heard the shots being fired were you aware that the
13 fun?

14 A I the gun aware that night.

15 Q Okay. So at in point in time that night were
16 you told that sergeant bat's gun reportedly
17 malfunction. No.

18 Q At least a day later that true?

19 A That I remember later.

20 Q You remembered later?

21 A Yes.

22 Q Immaterial lid of something tell you?

23 A Yes.

24 Q And when it did you remember that?

25 A Let's see it would have to be I'd say a few

1 months later.

2 Q Triggered this memory?

3 A Yes.

4 ATTORNEY2: Just a moment question believe is a
5 aspect of that discussion you had with your attorney
6 or.

7 THE WITNESS: Yes.

8 ATTORNEY2: Well then we're not going to go
9 there attorney-client privilege.

10 MR. POINTERQ. Excuse me so something else
11 triggered this memory is that true?

12 A Yes.

13 Q Okay. Now, prior to and you said this was
14 months later that you recall this happening?

15 A When you're talking specifically to the gun
16 manipulating.

17 Q Well if you thinking?

18 A Yes the gun malfunctioning was later.

19 Q Okay. Cause you didn't mention any of that
20 when you spoke to OPD that night correct?

21 A That's correct.

22 Q All right. Now --

23 A But I want to say on the record I was never
24 asked about a gun manipulation.

25 Q When you say manipulation happen are you refer

1 to go the gun malfunctioning?

2 A Yes.

3 Q Okay. Now, what is your memory as relates to
4 this gun malfunctioning?

5 A I remember seeing sergeant bat tap the gun a
6 couple of times and appear to me that he was trying to
7 clear a jammed gun.

8 Q Meaning discharge a cartridge from out of the
9 gun?

10 A Yes.

11 Q Unexpended cartridge out of the gun?

12 A Yes.

13 Q Do you recall how much time it took for
14 sergeant bat to do that?

15 A I don't recall.

16 Q Okay. Now, so is it fair so say and you can
17 correct me if I'm wrong that your memory is that there
18 were two shots and then movements that you associate
19 with gun malfunction and then additional shots?

20 A Correct.

21 Q Okay. Is it pause between the first two shot
22 and say the additional shots that came out?

23 A From my view I believe endless.

24 Q Okay. And from your view do you have a
25 expense as to how long that pause was?

1 ATTORNEY4: Objection asked and answered.

2 THE WITNESS: Are you talking about between
3 the last round of the two shots in comparison to when
4 the additional shot occurred.

5 MR. POINTERQ. Yes?

6 A I would say between five and ten seconds
7 estimate.

8 Q Okay. Now, when the first two shots were
9 fired and when you heard this noise what was during the
10 marriage helium's body position?

11 A I don't know I can't recall.

12 Q E example what was your body position another
13 that point in time?

14 A I was facing when I heard the shots I was in
15 the middle of trying to get out of the car so I was
16 actually when I heard the first two shots my cheek was
17 probably to where Mr. Brown would have been my hands
18 were up in the air like this trying to get out of the
19 car and exit.

20 Q Your checks you were touching your left cheek?

21 A Yes.

22 Q Mr. Brown would have been do you mean that you
23 guys were clique to cheek something else?

24 A I'm trying to describe where my face was
25 pointed in the direction and if the car door was open I

1 could see the top part of I was looking just above the
2 top part of the door and there's a space in between
3 when obviously you could see the outer part you know
4 the atmosphere but I remember seeing the top part of
5 the door.

6 Q Okay. So when you heard the shots were you
7 still seated in the passenger seat?

8 A Technically yes.

9 Q Okay. Your buttocks in the seat?

10 A Yes.

11 Q Okay. And but you however trying to get out
12 of the get out of the car at that time.

13 A Yes.

14 Q Okay. And Mr. Brown do you recall which
15 direction his back was facing was it still towards the
16 driver side door towards the front window the passenger
17 door?

18 A I don't know.

19 Q Do you have any sense?

20 A No.

21 Q Okay. When the first when those for two shot
22 range out did you have a sense as to whether or not
23 Mr. Brown was hit?

24 A Not at that time.

25 Q At some later point in time you had sense

1 Mr. Brown was hit?

2 A Yes.

3 Q When the first two shots range out you

4 testified that you were trying to get out of the car?

5 A Yes.

6 Q And that there was a pause of maybe five to

7 ten seconds correct?

8 ATTORNEY2: Well, I think your question is he

9 said there was a pause his estimated pause of five to

10 ten seconds between hearing the last of the first two

11 shoulder pains and then hearing the next shot which

12 would be shot number three.

13 MR. POINTER: Is that true.

14 A Yes.

15 Q Greta two and five to second correct?

16 A Correct.

17 Q All right. And when that third shot range out

18 where were you remember well, the third shot was a

19 misfire.

20 Q Okay. I'm sorry go ahead?

21 A So I was so then cue repeat the question.

22 Q Sure. Let's make sure we're clear so there

23 was two shots you were still in the car seated in the

24 car correct?

25 A Correct.

1 Q All right. There was a third shot although
2 that was a misfire correct?

3 A Correct.

4 Q Then in between this second and the
5 fourth shot bat to you clear ago misfire?

6 A That's correct.

7 Q All right the time frame between you can tell
8 me correct me if I'm wrong between the a third and
9 fourth shot five to second?

10 ATTORNEY2: That's not what he said.

11 MR. POINTER: I'm confuse I want to know.

12 ATTORNEY2: I don't.

13 MR. POINTER: He's the one testifying.

14 ATTORNEY2: No.

15 ATTORNEY3: The question is that what the
16 witness is.

17 ATTORNEY2: The o.k. is mischaracterization
18 the witness said.

19 ATTORNEY3: I'm asking what he said.

20 ATTORNEY2: 5 to ten seconds between hearing
21 the two sets of some of thes.

22 THE WITNESS: That's correct.

23 MR. POINTERQ. What's I don't know what's
24 correct now?

25 A So it's after the first after the second shot.

1 Q Okay?

2 A They heard I would estimate about five to ten
3 seconds before another shot I believe was heard.

4 Q Okay. So between the second and fourth five
5 to ten seconds that true?

6 A I believe so yes.

7 Q Okay. So say it another way there's?

8 ATTORNEY2: I appreciate your question but
9 there will be the guyty in the record maying there was
10 a five to ten second pause between him hearing the
11 second shot and hearing what we came to the third
12 expended shot I think we're we understand there but
13 when you using this third shot in two different ways
14 misfire which he obviously doesn't here because doesn't
15 go off and then what becomes.

16 ATTORNEY3: Click.

17 ATTORNEY2: He didn't say he heard anything.

18 ATTORNEY3: I'm saying he could have.

19 MR. POINTERQ. We're going to listen my
20 question listen depot no question about it witness
21 answer settle all right there?

22 A Right.

23 Q So question all right. Is it fair to say that
24 between the second shot and the noise that you
25 associated with the fourth shot there was a five to ten

1 second pause?

2 A Yes.

3 Q Thank you. Now, how many shots if you know
4 range out after you heard the fourth shot?

5 A I honestly don't know.

6 Q Okay. Had you made any observations of the
7 marriage helium brown after the second shot?

8 A Yes.

9 Q Okay. What was that observation?

10 A I saw his left shoulder part of his arm just
11 outside of the seat I saw his side of his head facing
12 the driver's door and he was back against the seat.

13 Q Okay. You say his left shoulder closest to
14 the passenger side is that true?

15 A Closest to the driver's side.

16 Q I'm sorry okay so when you say left shoulder
17 closest to the driver side?

18 A Yeah kind of almost in a con sol you know in
19 between the driver's seat and the passenger seat.

20 Q Okay. And you said he was looking face was
21 looking in driver's side is that true?

22 A Yes.

23 Q Okay. And was he holding anything in his
24 hands at that point in time?

25 A I don't know.

1 Q Was he doing anything with his hands at that
2 point in time?

3 A I don't know.

4 Q Okay. Did it appear that he was reaching for
5 anything at that point in time?

6 A I couldn't see his hands if he was I can only
7 see his arm just outside of the seat just like this.

8 Q Okay. And where were you at that time that
9 point?

10 A I was in the rear of the car looking through
11 the rear window.

12 ATTORNEY3: In the rear of the car.

13 A I was directorially behind the vehicle.

14 ATTORNEY3: You were not there can't in the
15 backseat.

16 A No.

17 MR. POINTERQ. Observation outside of the car
18 correct?

19 A Yes.

20 Q And to the rear of where he was seated in the
21 puppying seat?

22 A Correct.

23 Q And your were looking through the back window
24 into the car where you could see his shoulder doing
25 what you just described is that true?

1 A Correct.

2 Q Okay. And after you made the observation
3 that's when you saw the observe heard so I understand
4 associated additional shots is that true?

5 A Correct.

6 Q Okay. When you made that observation of
7 Mr. Brown being is it fair to say that he was again
8 passenger seat when you made this observation?

9 A I believe he was.

10 Q So when you made the observation of Mr. Brown
11 being against the passenger seat did you form the
12 opinion that he was in capacity stated?

13 ATTORNEY4: I'm sorry could you repeat that
14 please.

15 ATTORNEY4: Objection requires the witness to
16 speculate.

17 THE WITNESS: Yes.

18 MR. POINTERQ. Okay. Did you think Mr. Brown
19 was still at risk at that point in time?

20 A No.

21 ATTORNEY4: Objection require it is witness to
22 peck lite.

23 MR. POINTERQ. These are your thoughts?

24 A These are strictly my thoughts.

25 Q Okay. And when you heard the additional shots

1 ring out did Mr. Brown's body position change after the
2 shots were completed.

3 A I didn't see.

4 Q Is that when you left from the position being
5 as you described to the rear and outside of the car
6 looking through the back window and starting
7 strangulating?

8 A I was lost.

9 Q That's fine. I don't like the question aisle
10 withdraw the question I'm trying to figure out where
11 you were what you did I should say what you did after
12 you made that observation of Mr. Brown being against
13 the seat and appearing to you to be incapacity stated?

14 A That before the shot or after the shot.

15 Q Good question when you heard the initial shots
16 come where were you at?

17 A I was directorially behind the vehicle in an
18 area where I could see the driver's I mean the
19 passenger door and in an area to where I thought I
20 would be best triangulated with sergeant bat.

21 Q So is it fair to say that you were moving
22 behind the car like the trunk area of the car moving
23 towards officer bat?

24 A I wouldn't say towards him bawling because I
25 wanted to look at the passenger door area.

1 Q Okay.

2 A At the same time so I tried to get as close to
3 sergeant bat as possible with keeping my view on the
4 passenger door.

5 Q Okay. As you're moving from the position in a
6 you describe being to the rear of Mr. Brown and the
7 passenger seat when you were looking through the back
8 window from that position into the position that you
9 ultimately came to rest in when you were trying to
10 training angle late that when the shots were fired?

11 A I miss a point go over it again.

12 Q That's fine?

13 A I'm ruminating over this stuff.

14 Q It's a lot to think about not a problem?

15 A Yeah.

16 Q Not a problem. Simply put I'm trying to
17 figure out where you were at when you heard the
18 additional spots become fired?

19 A Behind the hood right side I would probably say
20 in between the if you were to draw a line separating
21 the trunk from this right side left of the down the
22 middle I would say middle of the right side of the
23 trunk.

24 Q Middle of the right side meaning from by my
25 hair you with tick trunk?

1 A Offset to the right.

2 Q So passenger side of the car?

3 A Exactly.

4 Q Okay. And but you were moving towards the
5 driver side of the car is that true?

6 A Not at that time.

7 Q Okay. So you weren't walking you were
8 actually stationary?

9 A Yes.

10 Q Okay. When you heard the additional shots
11 ring out did you here sergeant bat say anything prior
12 to discharging his weapon?

13 A Yes.

14 Q What did he say?

15 A Fuck fuck.

16 Q So you heard fuck fuck and then additional
17 shots?

18 A Yes.

19 Q Okay do you know what he was refer to go?

20 A I think to me.

21 ATTORNEY4: Objection requires the witness to
22 speculate.

23 ATTORNEY2: Speculation.

24 MR. POINTERQ. What did you do?

25 ATTORNEY2: Same objection retires the witness

1 to speculate.

2 MR. POINTERQ. What did they mean to you?

3 ATTORNEY2: Answer him.

4 THE WITNESS: Okay I took that as he was
5 frustrated with his gun.

6 MR. POINTERQ. All right. Now, when you saw
7 these additional shots did it appear to you that those
8 additional shots were impacting Mr. Brown?

9 ATTORNEY2: Well, we do want you laid a
10 foundation that he could see them strike Mr. Brown so
11 that he would know that but go ahead read the question.

12 ATTORNEY4: Retire the witness to guess or
13 speculate.

14 MR. POINTERQ. Withdraw the question did you
15 see if any of those bullets hit Mr. Brown?

16 A No.

17 Q Did they appear to you that they hit
18 Mr. Brown?

19 ATTORNEY3: Again your talking about the
20 second.

21 A I don't know.

22 MR. POINTERQ. Okay did you see body move in
23 conjunction with those shots Norfolk.

24 Q Sergeant bat change his position when he
25 discharged the second volley of shot.

1 Q So as far as you know he was still with his
2 gun in the car point I mean strike that what was his
3 position a you saw it to be when he second volley of
4 shots?

5 A In the same position that he was the whole
6 time and right next to the driver's door.

7 Q Okay. Do you know if his gun was extended to
8 the cabin of the car?

9 A I don't know.

10 Q Okay. Now, you described Mr. Brown's body
11 hunched over?

12 ATTORNEY4: At what time.

13 ATTORNEY2: You mean at some point.

14 MR. POINTER: After the shot do you recall
15 seeing Mr. Brown's body hunched over.

16 ATTORNEY4: Objection the question is vague
17 and ambiguous did you ask if he saw some point after
18 the first two shots fired or second fires were fired.

19 MR. POINTERQ. Do you even recall seeing his
20 body hunched over?

21 A I don't remember that statement sounds
22 familiar something I might have said but as I recall
23 here today I don't remember being hunched over.

24 Q Okay. Now, base upon your observations did it
25 appear necessary for sergeant bat to fire the secretary

1 bollly of shots?

2 ATTORNEY2: Well that calls for speculation

3 also arguably ultimate fact which not permit today

4 instruct him not the to answer that question

5 argumentative.

6 MR. POINTER: And I'm going to struck you

7 sergeant asking you about your impression okay your

8 watch commander correct.

9 A Yes.

10 Q You gone through training through the academy

11 correct?

12 A Yes.

13 Q Supervisory officer rhetoric you and you have

14 some responsibility as relates to investigating use of

15 force correct?

16 A Yes.

17 Q You have been trained in officer involved

18 shootings?

19 A Yes.

20 Q Present at the seen?

21 A Yes.

22 Q You dwelt this person who was shot correct?

23 A Yes.

24 Q You actually said shoot him?

25 A Yes.

1 Q Now you give that you told bat that base upon
2 your observation that you were feeling at that point in
3 time?

4 A Yes.

5 Q So now I'm asking you heard this second bolly
6 of shots what was your impression what was your belief
7 as relates bolly of shots were they necessary?

8 ATTORNEY4: Objection his brief is irrelevant.

9 Q No tell him you can talk to talk to me?

10 ATTORNEY2: Mr. Instruct you not to answer
11 that for all radio previous refer R reasons on the
12 rock.

13 ATTORNEY4: add my objection to that his
14 brief is not relevant in a deposition he's asking for
15 expert opinion and sergeant bell lieu is a has not been
16 December close opinion would have no relevance ins in
17 case didn't see what bat was doing what bat saw.

18 MR. POINTER: Are those legal o.k.s because
19 I'm hearing a bunch of talk.

20 MR. POINTERQ. What was Mr. Brown doing from
21 your observations that justify is second set of shots?

22 ATTORNEY2: That's the same question and
23 different way he's already told you that he doesn't
24 know what Mr. Brown was doing you're notling he
25 can'ting justification.

1 Q What was Mr. Big trouble doing when the second
2 bollly of shots went out?

3 A I honestly couldn't tell you what he was
4 doing.

5 Q Okay. What position was his body in if any if
6 you know on the second bollly of shots ring out?

7 A I don't know.

8 Q Okay. So you weren't looking when the second
9 bollly of shots went out is that fair?

10 A I can shaken it this way.

11 Q Please?

12 A When I heard fuck fuck and the manipulation of
13 the weapon redirected from brown I don't know what
14 brown was doing by the time I was concentrating on him
15 by the time I looked at sergeant bat I honestly can't
16 tell you that I can honestly tell you beforehand I did
17 not see him move.

18 Q Okay.

19 A That's the best thing I can tell you
20 Mr. Pointer.

21 Q So after you heard these volley of shots come
22 out did you look at brown's body again?

23 A Yes.

24 Q Okay. What position was his body in at that
25 point?

1 A Fairly similar to the position I saw him in.

2 Q When you say fairly similar was there any
3 distinction body was when you last see it prior to the
4 second volley of shots co-meaning after he was
5 initially hit with the first two shots?

6 A It was a little behind school district
7 property in what way.

8 A It was maybe that word hunched over was use
9 more appropriately at that time when he was a little
10 bit leaning over more across the main of the gear shift
11 and the emergency break but still against the sheet.

12 Q So before the second volley in between the
13 first volley of shots and up to the second volley of
14 shots you has not seen Mr. Brown move in the way is
15 that true?

16 A I did not see him.

17 Q Okay. Nor had you seen sergeant bat -- in
18 between the first volley of shots and the fuck fuck you
19 didn't here him directing anything to Mr. Brown meaning
20 don't move or anything along those lines that true?

21 A That's true.

22 Q Okay. And when you were outside the car to
23 the rear as you have described and you saw Mr. Brown in
24 the passenger seat and this is after the first volley
25 of shots and in between strike that the before the

1 second volley of shots you hasn't fired your gun

2 correct?

3 A No.

4 Q Although you had your gun out isn't that true,

5 that's a true.

6 Q But you yourself elected?

7 ATTORNEY2: I didn't here.

8 Q You did not decide to fire your gun that's

9 correct?

10 A Correct.

11 Q Why is that?

12 A Just like I said my statement with OPD I

13 didn't see a threat.

14 MR. POINTER: Good time too take a lunch.

15 ATTORNEY2: Sure.

16 (Recess taken from 12:58 p.m. to 1:37

17 p.m.)

18 MR. POINTERQ. Welcome back sergeant?

19 A Welcome back.

20 ATTORNEY2: Welcome back cotter.

21 MR. POINTER: There you go.

22 MR. POINTERQ. All the same guidelines rules

23 still in effect still under oath do you understand?

24 A Yes.

25 Q Okay. Going back to the incident so at some

1 point in time it did you see the driver out of the car?

2 A Yes.

3 Q After the shooting?

4 A Yes.

5 Q Can you describe how that took place?

6 A I watch sergeant bat at a hurts student out of
7 the car and I saw him open up the car door and have her
8 I believe it was on her own exit the vehicle.

9 Q Okay. Did you hear him when he ordered her
10 out of the car words don't move or I'll shoot you?

11 A I believe so.

12 Q Do you know at what point in time that was at.
13 When he proned her on the ground.

14 Q While she feels on the ground?

15 A Yes.

16 Q Any point in time or racial epithets?

17 A No.

18 Q Okay. And she was ultimately placed in
19 handcuffs?

20 A Yes.

21 Q Do you know who did that?

22 A I did.

23 Q Handcuffed control of her is that fair way of
24 saying?

25 A Yes.

1 Q Okay. And you had her stand up is that right?

2 A Yes.

3 Q And you walk her back up the hill past the

4 Honda?

5 A Correct.

6 Q Okay. And you handed her off what did you do

7 what did you ultimately do with her in terms of did you

8 place her in patrol car CPR I give heifer to Rick moor.

9 Q Was on seen?

10 A Yes.

11 Q Were are there any other officers on seep by

12 the time you transferred control of Ms. Stew want to

13 officer moor?

14 A I think they were just pulling up.

15 Q Okay. Now, I don't think I went through this

16 you now the passenger to be during the marriage helium

17 brown?

18 A Want.

19 A Correct.

20 Q Familiar with either one?

21 A No.

22 Q Okay so you when you walked up on them and

23 made contact with the passenger you didn't who he was,

24 that's correct.

25 Q Same for the driver correct?

1 A Correct.

2 Q Nothing about their criminal histories if any
3 correct?

4 A Correct.

5 Q All right. Now, after the shooting you wind
6 up sending out some communications through dis-dispatch
7 correct?

8 A Correct.

9 Q And the first communication to dispatch after
10 the shooting was in fact the first communication that
11 yourself that you had put out about this incident to
12 dispatch correct?

13 A Correct.

14 Q All right. And you're not aware that officer
15 sergeant bat had put out any communication to dispatch
16 prior to you contacting dispatch after the shooting
17 correct?

18 A Correct.

19 Q I was never aware.

20 Q All right. In that initial call to dispatch
21 you told dispatch that you had a K3 officer involved
22 shooting?

23 A Correct.

24 Q He believe you also asked for emergency
25 Medi-cal ponderosa to understand to the scene?

1 A 2 of them.

2 Q 2 so so you?

3 A Two ambulance.

4 Q Request for two ambulance to respond to the
5 scene?

6 A Correct.

7 Q Did you notified dispatch of your low day ago?

8 A Yes.

9 Q And you left yourself and sergeant bat?

10 A I don't believe so.

11 Q Okay. Did you notified dispatch of anything
12 else from the scene as when you were made
13 communications to dispatch?

14 A I believe I just said we had had a K3 which is
15 a general order for discharging of firearms that's a
16 known phrase that means you know you discharge a weapon
17 I notified them of K3 notified them to send two
18 balances and then I requested estimated time of
19 arrivals for those balances because I wanted to make
20 sure that the dispatch rechecked with the balance drive
21 to see what their location was usually when you do that
22 it forces them to put out their location see on their
23 own closer then dispatch that one.

24 Q So you asked what the ETA was of medical
25 response in an effort to get them there quicker is that

1 true?

2 A Correct.

3 Q Okay. And you requested to balance to respond

4 to the seen one for Mr. Brown and one for potentially

5 Ms. stew want you thought she maybe injury?

6 A That's correct.

7 Q And when you were putting out your initial

8 call for dispatch where were you at that time that

9 point in time what was your physical location?

10 A Still behind the car.

11 Q Shot putting out first call to dispatch?

12 A Let me just take a moment to think about it

13 real quick.

14 Q Sure. Take your time.

15 A I would estimate about five seconds.

16 Q Okay. And in between the last shot being fire

17 department and you printing out that communication to

18 dispatch did you have you have any communication with

19 sergeant bat?

20 A Say that again.

21 Q 5 second put out to call to spasm

22 communication with sergeant bat?

23 A No.

24 Q He didn't say anything to you either?

25 A No.

1 Q After you put out the call to dispatch what
2 was the first thing that was said between yourself and
3 sergeant bat?

4 A I was trying to get his attention.

5 Q Okay. And how did you do you get that?

6 A I was saying bat bat.

7 Q Okay. And was this after your dispatch your
8 first call to dispatch?

9 A Yes.

10 Q Had you made any calls to dispatch prior to
11 you trying to get his attention?

12 A Just that just ordering the medical.

13 Q Okay. And what other communication if any it
14 did you have with sergeant bat while you were on the
15 scene?

16 A I communicated with him trying to get he has
17 attention and then the last time I spoke with him I
18 showed him where the gun was.

19 Q Okay. can you describe how that conversation
20 went?

21 A I yelled bat bat because I wanted to see if he
22 could come back to my lobbying 'cause he was in the
23 proning stew want how the since there was a gun on the
24 side pocket leave to be is a gun his attention to come
25 back my way.

1 Q And when you say come back to rear point in
2 time bring stew want from where she was at or about the
3 driver's side door back away from the vehicle?

4 A Yes.

5 Q Okay. And did he do that?

6 A No.

7 Q Okay so has then what happened next in terms
8 of your communication with sergeant bat?

9 A I went up to him and I told him point your gun
10 at brown I got her.

11 Q So you told him to continue to train his gun
12 at brown?

13 A Yes handcuffs on Ms. Stew want.

14 A Yes.

15 Q Was she on the ground?

16 A Yes.

17 Q Handcuffs on her and what happened next?

18 A I could be more specific.

19 Q Yeah I'm trying to determine after the
20 shooting you tried to initially attention in order for
21 him to bring Ms. Stuart back away from the car?

22 A Why he should be.

23 Q He didn't do it do you think to where his
24 location was?

25 A Correct.

1 Q Frown done on the ground?

2 A Yes.

3 Q something about don't move or I'll shoot?

4 ATTORNEY2: I'm sorry.

5 MR. POINTERQ. He said something to the AOE

6 electrons architect of words don't move or I'll shot?

7 THE WITNESS: Correct.

8 ATTORNEY2: Do you mean offer beLouisiana HRA

9 see.

10 MR. POINTERQ. I said sergeant bat?

11 ATTORNEY2: Interrupt other way.

12 MR. POINTERQ. How did you do you understand

13 my question?

14 A Sergeant bat has her on the ground don't move

15 or I'll shoot.

16 Q Yes.

17 Q So that true?

18 A Yes.

19 Q Do you understand belieu is a bat was at

20 acting?

21 A Yes.

22 Q So you get down there you take 7 o'clock you

23 tell him hay I'm going to deal with Ms. Stew want

24 should be yes.

25 Q Train is firearm Mr. Brown?

1 A Correct.

2 Q All right you then place handcuffs on

3 Ms. Stuart true?

4 A Yes.

5 Q What if any conversation was between yourself

6 and sergeant bat?

7 A I said point your gun at brown because there's

8 a gun -- a firearm in the door.

9 Q And did sergeant bat say anything in response

10 to that?

11 A He said what and I said over there other there

12 and so then point you gun at him he redirected pointed

13 his gun at him.

14 Q Is this the first time was that the first time

15 that you mention today him there was a gun on the

16 scene?

17 A No previously gun gun I just didn't see gun

18 door pocket.

19 Q When you yelled gun gun anything that you

20 interrupted him acknowledging what you had said?

21 A Not that I recall.

22 Q Okay. So when you now come over to where he

23 is dealing with Ms. Stew want directing him to point

24 his gun in the correction of Mr. Brown and you

25 essentially telling him because there's a gun on the

1 side of the door this is the first time that he's
2 acknowledge any way at least from your impression that
3 there's a gun on the scene correct?

4 ATTORNEY2: I don't think sergeant
5 acknowledging anything so I think your question is
6 mischaracterize saying of his prior testimony.

7 ATTORNEY4: Yeah it does mis-station sergeant
8 bell into is a's testimony.

9 MR. POINTERQ. So denounce my question?

10 A I believe so can you rephrase it please.

11 MR. POINTERQ. Yeah. Now, you testified that
12 prior to you walking over the where sergeant bad guy
13 bat was dealing with Ms. Stuart that you said gun gun
14 gun right?

15 A Yes.

16 Q And that was communication that you were
17 directing towards sergeant bat correct?

18 A Yes.

19 Q In fact a gun on the seen correct?

20 A All right when you said that did he do
21 anything that you interrupt today him to be
22 acknowledging what you were saying.

23 A Not that part.

24 Q Okay. And when you say that part not in
25 acknowledge the gun on the seen right?

1 A Correct.

2 Q Gun really where is it at?

3 A I did not here any words to that effect.

4 Q So the next time you and sergeant bat have a
5 communings you physically walk over to where after?

6 A Correct.

7 Q And at that point in time you director him to
8 point his weapon at Mr. Brown and essentially once
9 again identify that there is a gun on the scene and
10 this time you're more specific as to where the gun is
11 at is that true?

12 A That's correct.

13 Q And he said what is that correct?

14 A That's correct.

15 Q And he said in a in response to you question
16 correct?

17 A Correct.

18 ATTORNEY4: Objection misstates his testimony
19 he didn't say yes to question.

20 ATTORNEY2: It was a statement.

21 MR. POINTERQ. Sony way point is sergeant bat
22 says what is that true?

23 A Yes.

24 Q That's the first time he's verbal agreement
25 pally acknowledge you when you have mentioned anything

1 about the gun correct.

2 A Correct.

3 Q All right. Now, he then trains his weapon on

4 Mr. Brown is that true?

5 A Correct.

6 Q Okay. You take control of Ms. Strew wart

7 true?

8 A Yes.

9 Q Okay. Then what takes place?

10 A I walk Ms. Stuart up I walk her towards the

11 police cars that were coming down the hill I remember

12 officer more walking down the million and I directed

13 him to take custody of Ms. Stuart.

14 Q Now, going back to your interaction with

15 sergeant bat over there at his location where he's

16 standing above well he was standing above pruned ton

17 ground that true?

18 A Excuse me.

19 Q I'm sorry that was my fault take you second

20 time there was a gun on the seen?

21 A Okay.

22 Q You have that in your mind?

23 A Yes.

24 Q Okay. And he said what in response true?

25 A True.

1 Q Okay. Did he say anything else other than
2 that when you essentially told him and pointed to where
3 the gun was at did he say anything else?

4 ATTORNEY2: Well, that's not what the witness
5 has said the witness said he told bat the point his gun
6 towards Mr. Brown because of there been a gun over in
7 that location so I think you're question
8 mischaracterization of his prior testimony.

9 MR. POINTERQ. As he went a mis-cake ration
10 after lunch the question is when you said told sergeant
11 bat point weapon Mr. Brown did you or did grow not also
12 words to the effect of where the gun was at ton scene?

13 A Yes.

14 Q So you told him to point weapon and you let
15 him know where the gun was at is that true?

16 A Yes.

17 Q At that point in time was where?

18 A In the pocket door.

19 Q Words to the effect pocket door?

20 A Yes.

21 Q Okay. Now, did Mr. Did sergeant bat say
22 anything other than what when you let him know that?

23 A I'm pretty sure he said where and that was the
24 only words he said.

25 Q And from there you did you then again tell him

1 that it was in this location or say anything in

2 response at all?

3 A No I just told him where it was and point his

4 gun at brown.

5 Q Was that the second time essentially repeating

6 yourself?

7 A I don't think I repeated said it one time.

8 Q E example so sergeant bat says what and where

9 in response?

10 A Yes.

11 Q Okay. And then you then proceed to deal with

12 Ms. Stuart that true?

13 A Yes.

14 Q Okay. And you walk her away from the car

15 which is what you essentially directed sergeant bat to

16 do auto previously?

17 A Yes.

18 Q As you're walking Ms. Brown Ms. Stuart away

19 from the car what happened next?

20 A I gave her to Miss Ms. Stuart to officer moor

21 told him to take custody of her I release custody to

22 her she's handcuffed he I saw him walk her up to his

23 patrol car then I saw officer Matthews I believe she

24 was jogging down the hill.

25 Q Right?

1 A And I had just given Ms. Stuart to more
2 officer more and then I told holly I said holly go give
3 him CPR see if he knees help I said there's a gun in
4 the Puckett door.

5 Q And when you made those statements where was
6 holly what's her last name?

7 A Matthews.

8 Q Where was officer Matthews in relation to you?

9 A She was I think there was a car in between her
10 I believe I walked up the hill to the sergeant bat
11 cease vehicle off to officer more and holly Matthews is
12 jogging down on the passenger of sergeant bat's
13 vehicle.

14 Q So as she's jogging down and there's a car
15 between us yelling at her to go give him CPR make sure
16 there's a gun.

17 Q Passing you on the on side to side of the car?

18 A Yes.

19 Q And so she goes down what did you do you see
20 her do, if anything, after you gave after you told her
21 that information?

22 A I believe I saw her take out her firearm and
23 as she got closer to the vehicle I believe she had her
24 gun kind of as she's scanning the car right side of the
25 Honda.

1 Q Okay. And when you say the right side you
2 mean the passenger side of the Honda?

3 A Yes.

4 Q Okay. And where was sergeant bat if you know?

5 A He remained on the same location where I saw
6 him last.

7 A Which was the driver of the Honda.

8 A Yes.

9 Q Okay he still had his gun drawn?

10 A Yes.

11 Q Okay. And do you know if he had trained
12 anything in particular?

13 A No.

14 Q So now you're further up the hill to the rear
15 of the Honda correct?

16 A Yes.

17 Q Okay. And what it did you do next, if
18 anything,?

19 A I went back and talk to sergeant bat asked him
20 if he was okay.

21 A Okay.

22 Q And what did he say in response?

23 A I don't know acknowledge me I the travelers he
24 said he was okay.

25 Q All right. And did you director him to put

1 his firearm at that point in time?

2 A Yes.

3 Q What took place sergeant bat up to pin of the
4 police cars and put him in a police car.

5 Q Was that was it your thought essentially have
6 his see the letter quested?

7 A Right.

8 Q Protocol should be right.

9 Q Shooting separate and see the letter quest
10 term effected CPR sure.

11 Q All right. What took place, if anything,
12 after you put him in the patrol car what did you do
13 next?

14 A I just tried to gain come people noticed Mr
15 sure I was still in a state of shock that's all I just
16 stayed there I watch officer Matthews around brown
17 units started arriving and they just took over.

18 Q And then where did you go when these units
19 aradiod out on the scene?

20 A Yes.

21 Q People talking to you asking you questions?

22 A No.

23 Q Okay so is it fair to say dealing with the
24 scene while you were standing away from the immediate
25 area of the Honda?

1 A Yes.

2 Q And where I'm trying to figure out how what
3 took place between you kind of -- strike that what took
4 place between when these units arrived you're gaining
5 your come people STKR noticed Mr sure and when you went
6 over and got bat's phone what took place during that
7 point?

8 A I maid contact with lieutenant rigs I think
9 testifies sergeant or lieutenant but made contact with
10 him he was the I believe he was the watch commander for
11 OPD patrol so I met with him and he told me to sit
12 tight and the technician coming around taking
13 photographs she did pull me away we went to a spot.

14 ATTORNEY3: Who is she.

15 A Technician gooder 20 feet from the scene I
16 think there was a light pole in the park area we went
17 there to take pull pictures of me.

18 MR. POINTERQ. Okay so is it fair to say you
19 indecent the park?

20 A No probably just in the still in the entrance.

21 Q Okay. Now, the car was parked ton street
22 correct?

23 A Yes.

24 Q And so was your patrol car right?

25 A Yes.

1 Q So in terms of where ever you went to take the
2 location of where you went to take these pictures where
3 was it at in relation to the Honda?

4 A I'd say probably 30 feet from the Honda.

5 Q Okay. Now, the tech took the pictures
6 correct, correct.

7 Q Is that also when you showed the tech portion
8 of your body which you attributed to saying they were
9 injuries, I cannot.

10 Q Okay. Then what took place?

11 A Then I was put in the police car and after I
12 was put in the police car that went down to homicide.

13 Q Then you got down to homicide?

14 A Correct.

15 Q And when you got to homicide what did you do
16 once you actually physically arrived at OPD what
17 happened next?

18 A I went into at a room I went to room on the
19 second floor.

20 A Okay.

21 Q And that's where that's when course of events
22 that you testified to earlier where you were contacted
23 by chief say on the patio in a as well the
24 superintendent correct?

25 A Correct.

1 Q After having two conversations with them the
2 school district's counsel came?

3 A Correct.

4 Q At some point after the school district's
5 counsel came you then gave your statement to OPD
6 homicide is that true?

7 A Correct.

8 Q Okay. Prior to giving your time to OPD
9 homicide did you feel any pressure to tell the store in
10 any particular way?

11 A No.

12 Q When you told your statement to OPD homicide
13 do you have any other conversations with persons who
14 were not attorneys?

15 A Besides the interview.

16 Q Yes, I mean prior to giving that interview?

17 A No.

18 Q Okay. So you gave your statement?

19 A Correct.

20 Q Okay. Which was recorded?

21 A Correct.

22 Q Okay. And after O your recorded statement
23 what took place?

24 A Captain ma dare Ross walked me outside.

25 Q Were you free to go further conversations that

1 were had or what?

2 A He told me to he wanted to interview me again

3 and again go do a walk through.

4 Q Were you interviewed again but captain ma dare

5 rows?

6 A No.

7 Q Were you taken to go do a walk through?

8 A No.

9 Q Was it your understanding that OPD follow up

10 interview?

11 A Yes.

12 Q Was 89% your upsetting that OPD was going to

13 do the walk through with you?

14 A Yes.

15 Q That's actually part of protocol officer

16 involved shooting correct?

17 ATTORNEY2: That place of birth spec on the

18 part of this witness but if you know.

19 THE WITNESS: I believe it is.

20 MR. POINTERQ. Okay base upon your train and

21 go experience right?

22 A Yes.

23 Q Okay. You've been involved in officer

24 previously correct?

25 A Yes.

1 Q And you during that incident you did a walk
2 through correct?

3 A I don't remember.

4 Q Okay. So prior to you leaving -- OPD contact
5 with any sergeant bat that night?

6 A No.

7 Q Okay. While you were there at OPD were you
8 advise as to what sergeant bat was saying as it relates
9 to his version of the events?

10 A I have a question because there was an
11 attorney-client.

12 ATTORNEY2: Oh.

13 MR. POINTER: Okay well, I don't.

14 ATTORNEY2: Sorry I missed that.

15 MR. POINTER: I don't want to know about that
16 you know any conversation that were had with your
17 self-and your attorney.

18 THE WITNESS: It wasn't my attorney.

19 ATTORNEY2: That's in the same capacity other
20 than that is what Mr. Pointer is asking.

21 MR. POINTERQ. Had with yourself Jackie minor
22 being present and sergeant bat present who was not a
23 school district employee?

24 ATTORNEY2: I'm not aware that he.

25 A No, I didn't speak sergeant bat.

1 MR. POINTERQ. Any conversation that were had
2 where you were asked questions regarding or related to
3 this incident other than those we already talk about
4 and I mean setting aside with your attorney?

5 A Are you still talking about at OPD.

6 Q Yes we'll start there?

7 A Okay so can you rephrase the question.

8 Q Yes I'm trying to get the full range of all
9 the conversation you had at OPD then aisle move brae
10 that incident?

11 A Okay.

12 Q So again but talked about the once previously
13 correct?

14 A Yes.

15 Q Do you recall those considerations?

16 A Yes.

17 Q Okay. You just Meganed that you had one
18 lieutenant ma dare rose swell?

19 A Yes.

20 Q Any other conversation that you had that are
21 not protected by the attorney-client meaning your
22 counsel was not present?

23 A Yes.

24 Q Okay. What conversations were those?

25 A Chief say on the patio in a instructed captain

1 ma dare rose that I would not be interviewed again and
2 not participate in a walk flu.

3 Q Okay. Do you know why chief say on the patio
4 in a instructed him that?

5 ATTORNEY2: I think that really calls for
6 speculation.

7 MR. POINTER: I'm asking do you know why.

8 ATTORNEY3: Yes or no question.

9 THE WITNESS: No I don't know the full
10 details.

11 MR. POINTERQ. Did he tell you why?

12 A No.

13 Q Okay. What is your understanding as to why?

14 ATTORNEY2: I'm sorry what his understanding
15 of why.

16 MR. POINTER: Yeah.

17 ATTORNEY2: Well, that calls for speculation.

18 MR. POINTER: I'm asking what is your
19 understanding if you have an objection then.

20 ATTORNEY2: Objection.

21 MR. POINTER: Dually noted and now you can
22 tell me.

23 ATTORNEY2: He wanted to know if you know why
24 say on the patio nay Gaye.

25 THE WITNESS: I don't know he told me that

1 chief Howard Jordan AIA call out Jordan not to have IA
2 come down there that's the only thing that he said.

3 Q Okay. So it's your understanding that chief
4 OPD chief Jordan internal affairs come out take a look
5 at this incident?

6 A Correct.

7 Q Also your understanding that internal affairs
8 come out speak to you correct?

9 A Correct.

10 Q And internal affairs do a walk through
11 correct?

12 A Correct.

13 Q And chief say on the patio in a inter-seeded
14 told chief Jordan not apartmented either one of those
15 activities correct?

16 A No I witness not interviewed walk through
17 chief car is that sheaf Jordan cancel the call out.

18 Q You mean call out for internal affairs?

19 A Yes.

20 Q Was there any response by lieutenant ma dare
21 rose as relates that conversation?

22 A Yes.

23 Q What did lieutenant ma dare rose say?

24 A This is my impression.

25 ATTORNEY2: What did he say in other words not

1 your impression.

2 THE WITNESS: Okay.

3 MR. POINTERQ. I'll ask about your impression
4 later?

5 A He said well I prefer him to stay here because
6 I want to cause you were the first person that was
7 interviewed something I want to interview bat and then
8 revisit you and he had said well, if you don't want him
9 to be interviewed if there becomes a time where I need
10 him back then he's going to have to drive back from
11 home that was the conversation.

12 Q Okay. And did chief say on the patio in a say
13 anything response to lieutenant ma dare rose concerns?

14 A I don't remember him saying anything.

15 Q And you were consistently allow today Lee
16 without being reinterviewed is that true of course yes.

17 Q You were allowed to leave OPD without any walk
18 through taking place is that true?

19 A Yes.

20 Q Okay. Now, what was your impression at this
21 point in time what was going through your mind when
22 this conversation was taking place between sheaf car in
23 a and lieutenant ma dare rose?

24 ATTORNEY2: I appreciate the what you've asked
25 him I think it is calling for speculation I don't know

1 it's relevant vague and ambiguous assumes something was
2 going through his mind assumes facts not in evidence.

3 MR. POINTER: Were you thinking.

4 THE WITNESS: Dawn this is all what I was
5 thinking at that point was to go home.

6 MR. POINTERQ. Okay?

7 A Honestly I'm telling you as it happened and it
8 didn't it was my imlegacy was a little weird lieutenant
9 ma dare rose wanting necessary to stay I didn't give it
10 another thought I just wanted to go home and hug my
11 wife.

12 MR. POINTERQ. Understood as you sit here
13 today do you have an impression of that conversation?

14 ATTORNEY2: Again, I think it obligates him to
15 speculate I think it's vague and ambiguous I don't
16 think it's relevant.

17 Q So you can answer?

18 A Yes.

19 Q Okay and what is that impression?

20 A I think there were steps taken from my
21 knowledge from that point onto now taken to minimize
22 liability.

23 Q And what steps were those that you feel have
24 been taken to minimize liability in the after math of
25 the shooting?

1 ATTORNEY2: I believe that calls for
2 speculation vague and ambiguous and think the question
3 obligates him to give a narrative it's overly broad
4 also involved matters of attorney-client privilege so
5 I'm going to instruct him not to answer as it question
6 is opposed.

7 MR. POINTERQ. We already know ad nauseam
8 cannot invade the premise of attorney-client setting
9 whatever in your mind that you just testified as
10 relates the steps that have been used are taken to
11 minimize a little bit what else is left, if anything,?

12 A What other conversation I had.

13 Q Conversations or steps as to use your word
14 minimize liability as relates this incident regarding
15 Ryan brown?

16 ATTORNEY2: Same objections previously noted I
17 think it's vague and ambiguous calls for speculation
18 absence of foundation.

19 ATTORNEY4: The attorney-client.

20 MR. POINTER: 10 other objections they can
21 throw in.

22 A Do I still.

23 MR. POINTER: Yes.

24 ATTORNEY2: Without guessing.

25 A No I'm not chief say on the patio in a told me

1 periodically that Howard Jordan chief Howard Jordan
2 still insisted having internal affairs make do the
3 investigation.

4 Q Okay?

5 A And chief say on the patio in a's words to me
6 were he can kiss my assist I don't want him in my
7 department.

8 A I was told by homicide sergeant Rachel van
9 slow ten that there were issues go in on periodically
10 throughout whenever I had to go back and get
11 photographed of my injuries.

12 Q What's your understanding as to what issues
13 are?

14 A She wouldn't call me she just told me.

15 ATTORNEY2: Don't be guessing.

16 MR. POINTERQ. What did he tell you?

17 ATTORNEY2: He just said.

18 MR. POINTERQ. No he said I don't know but
19 she told me now I want to know what you were told?

20 ATTORNEY2: They were issues you asked him
21 what did he say those issues were.

22 MR. POINTER: And he answered yellow light.

23 ATTORNEY3: He didn't fish his answer.

24 A She didn't go into any issues she just said
25 that she said bat ass has issues.

1 MR. POINTERQ. And this was van slow ten and
2 when did she make those statements?

3 A He told me different occasions when I had
4 fingerprints or my photographs taken.

5 Q Okay and that was during the night of this
6 incident?

7 A This was afterwards.

8 Q Okay. This was within while you were still on
9 the scene -- conversation that you just had with van
10 slow ten where she bat would have issues if this ever
11 goes to court photographs on scene?

12 A No.

13 Q Okay. This is some other point in time?

14 A Yes.

15 Q Okay was this while you were at OPD?

16 A No.

17 Q When did this conversation van slow ten attack
18 place?

19 A Span of a month after the incident.

20 Q So van slow ten pictures of your injuries?

21 A She asked pictures she wanted to see my
22 injuries she requested that the technician or our
23 technician our department take photos of my injuries.

24 Q Okay were the photos ever taken of your
25 injuries?

1 A Yes.

2 Q And those tech in your department?

3 A Yes.

4 Q On how many occasions were photos taken?

5 A I believe three occasions.

6 Q And do you know the tech niece name at a took

7 the photos?

8 A Holly Matthews took I believe two out of the

9 three and I do not know the other person's name.

10 Q Okay. But they are that other person was

11 Oakland unified school district employee?

12 A I don't believe so.

13 Q Do you know if that person was an employee or

14 acting of Petersen?

15 A No.

16 Q Meaning you don't know whether?

17 A I do not know.

18 Q Okay. And so was van slow ten present when

19 the pictures were taken on these other occasions?

20 A I don't believe so.

21 Q So when were you having these conversations

22 with her by phone in person?

23 A No I was just one time I was I remember

24 sitting in court about to testify I was waiting to be

25 called and she walked down the hall and asked how I was

1 doing and that's how it came up.

2 Q Testifying in court something having to do
3 with this particular matter?

4 A No.

5 Q Some other case that you had been
6 investigating?

7 A Yes.

8 Q Crime case a criminal case?

9 A Yes.

10 Q That officer or somehow involved in?

11 A Yes.

12 Q Okay. So was this more of a happen pen chance
13 meeting?

14 A Yes.

15 Q Passing by you had this ex-the change with
16 her?

17 A Yes.

18 Q Where she made the statement regarding bat
19 having issues?

20 A Yes.

21 Q And I believe more than one occasion?

22 A 3 times.

23 Q Issues what did you take that to mean?

24 A I didn't know.

25 Q And when you say you didn't know at the time

1 she was making?

2 A Correct.

3 Q As you sit here today do you know?

4 A No.? So as you sit here today you're still
5 unsure what she was referring to.

6 A Correct.

7 Q Has anybody outside of your attorneys or
8 people who are representing you as it relates to
9 sergeant bat having issuance as it relates to this
10 case?

11 A Other than chief say on the patio in a.

12 Q We can talk about chief say on the patio in a
13 what statements has chief say on the patio in a made to
14 you as it relates this case?

15 ATTORNEY2: I don't know what he already said.

16 ATTORNEY4: The question retires
17 attorney-client privilege.

18 MR. POINTER: Just so we're clear here chief
19 say on the patio in a represented by counsel and same
20 counsel that we representing you for a period of time
21 until you got separate counsel I don't want any
22 conversations that are protected by attorney-client
23 however made statements to you outside of the presence
24 of his counsel throws the conversation I I'm entitled
25 to know about are we clear.

1 A Yes.

2 Q So that's all I'm asking you about?

3 A Okay.

4 Q Conversation related to this incident outside
5 of the ones that you already testified to?

6 A I wouldn't say it was a conversation.

7 ATTORNEY4: Other than what he already
8 testified to.

9 MR. POINTERQ. Yes?

10 A I didn't have a conversation per se I was at a
11 dialogue with him it was statements that he made toward
12 me.

13 Q Why don't you tell me what those statements
14 are?

15 A I was walking down the hall to notify him
16 of something I observed him you know do you know a
17 boisterous yell with his first up in the area and he
18 comes back on the phone talking with somebody and he
19 gets off the phone and he was just saying yes, yes and
20 he said that meaning we as a department that's how I
21 took it we as a department don't have to worry about
22 anything Peterson agreed to do the investigation and
23 then I said who what Peterson ordinary care my friend
24 Pete Peterson and he turns into his assistant Jane
25 Wong's get Peterson's contact going and then he turn us

1 back towards me I still wanted to know fie him
2 about something that I was doing not now I got to talk
3 to the superintendent.

4 Q So when this exchange you describe took place
5 in relation to the incident was it ten minutes dais
6 months?

7 A Probably about a month after.

8 Q And up to this time you had not been
9 reinterviewed by anyone correct?

10 A No.

11 Q Okay and so when he was saying that Pete
12 Peterson was going to do the investigation you took
13 that what did that mean to you?

14 A Nothing at the time.

15 Q Okay. You later come to find out that Pete
16 Peterson is actually the person who was in charge into
17 this incident that true?

18 A Yes.

19 Q Okay. But at the time the chief is making
20 these statements essentially being happy that Pete
21 agreed to do the international affairs investigation
22 you didn't know who Pete was is that true?

23 A At the time.

24 Q Okay you new him to be what?

25 A Say on the patio in a's apprehend superior

1 from OPD.

2 Q Pete Peterson friend of chief say on the patio

3 in a is that true?

4 A Yes.

5 Q Direct supervisor when say on the patio in a

6 OPD?

7 A I believe I don't know.

8 Q To the best of your understanding?

9 A Yes.

10 Q Same later come find out conduct internal

11 affairs investigation incident Ryan brown?

12 A Yes.

13 Q When you said that chief say on the patio in a

14 punched into the air what do you mean by that can you

15 describe what that was?

16 A He was sound bited he teem to be excited to

17 me.

18 Q What made you think he was sound bited what

19 did he do?

20 A I mean he didn't say I'm excited he just seem

21 today me he resolved something.

22 Q Okay. And chief say on the patio in a words

23 of the effect that Pete Petersen had agreed to do the

24 investigation is that true?

25 A Yes.

1 Q Okay and you said he turned to his Talent's
2 office?

3 A Yes.

4 Q What's?

5 A Jamaicamy Wong.

6 Q Okay did she appear to respond to the chief's
7 request for her to prepare the contact?

8 A I don't know.

9 Q Okay. But that's what he told her to start
10 preparing Pete's contact?

11 A Yes.

12 Q And you took that to mean related to
13 preparing -- you took the chief's words about preparing
14 the contact to mean this contact related to
15 investigating this incident right?

16 A Yes.

17 Q Now, and then you heard the chief instruct his
18 assistant on the phone is that right?

19 A No he said I couldn't notify him of was going
20 to say because he was going to do it.

21 Q Essentially told you talk about instead he
22 wanted to take his time to get in contact with the
23 superintendent?

24 A Yes.

25 Q And were you did you actually see him place a

1 call to the superintendent?

2 A No.

3 Q And the superintendent being Tony Smith?

4 A Yes.

5 Q Did you have any further conversations with

6 chief say on the patio in a other this dialogue since

7 this took place?

8 A Yes.

9 Q What conversations were those?

10 A I told him I was uncomfortable.

11 Q When you told him uncomfortable what were you

12 uncomfortable about?

13 A After my interview with Petersen probably

14 somewhere in the summertime I remember a lot more

15 stuff.

16 ATTORNEY2: Just a minute whatever swatting

17 lieu is a may have said or done.

18 Q Connection with the internal affairs

19 investigation and this maybe part of that I don't want

20 is privileged from disclosure it was lie bar

21 instructing and?

22 ATTORNEY3: What kind.

23 ATTORNEY2: Lie bar I don't believe that you

24 can inquire into this and I'm I guess the concern I

25 have is I don't know that this it was part of the IA

1 investigation or not sergeant belieu is a either that's
2 my concerns.

3 MR. POINTERQ. I appreciate your concerns we
4 all have concerns here it's not going the sergeant
5 belieu is a saying what conversations he had?

6 ATTORNEY2: It may.

7 MR. POINTER: Because the internal affairs
8 investigation and his interviews and any statements and
9 any observations and his participation clearly covered
10 by the protective order in this case so to that extent
11 I'm entitle today find out entitle today inquire and
12 he's not ohm entitled his required to have to respond
13 to my questions.

14 ATTORNEY2: I don't agree with your
15 characterization he's not retired to answer.

16 MR. POINTER: At the end of the day are you
17 instructing him not to answer.

18 ATTORNEY2: My problem is I don't know and
19 make I further his discussion part of the internal
20 affairs investigation if he doesn't proceed parking lot
21 of it well, then certainly go ahead.

22 MR. POINTER: If they are.

23 ATTORNEY2: Well, then I think the internal
24 affairs investigation is off limits.

25 ATTORNEY3: Between sergeant and chief

1 internal affairs if there's no investigator there.

2 ATTORNEY2: That's why I don't know I want to
3 ask the question.

4 MR. POINTER: The question is for me because
5 do you need thyme time.

6 ATTORNEY2: I would like to talk to him
7 further inquire so that I can provide the appropriate
8 o.k. if it's necessary.

9 MR. POINTER: I will at the time you before
10 you take the break if there's any objection as relates
11 what e d light involving the internal affairs whatever
12 it was participation of in a conjunction with that o.k.
13 was without merit and I say at a because we're still
14 bingo to get into the instruct him not to answer that's
15 fine be back on another bay after we go talk to judge
16 chin.

17 ATTORNEY2: We may or may not.

18 MR. POINTER: We'll find out off the record.

19 (Recess taken from 2:25 p.m. to 2:35
20 p.m.)

21 MR. POINTERQ. We just took break you were
22 telling me that you had a conversation say on the patio
23 in a correct?

24 A Correct.

25 Q All right. And as a result of that

1 conversation I believe you were saying that you felt
2 uncomfortable that true?

3 A I need to know the time frame where you
4 talking.

5 Q All right. So you previously testified
6 regarding conversation that you had with you on the
7 patio in a where in or strike that it wasn't
8 conversation but where chief say on the patio in a had
9 inched you that his friend Pete Peterson was going to
10 be had a agreed to conduct the internal affairs
11 investigation into this incident is that true?

12 ATTORNEY2: I think what he said was that
13 chief say on the patio in a said that Mr. Petersen was
14 going to conduct the IA I don't think the witness said
15 that chief say on the patio in a said his friend
16 Mr. Peter so.

17 MR. POINTER: To dual will you noted.

18 MR. POINTERQ. But do you recall this
19 conversation that I'm referring to?

20 A Owe.

21 Q Okay. Did you have subsequent conversations
22 with chief say on the patio in a after that particular
23 conferring related to this incident regarding Rhine
24 brown?

25 A Yes.

1 Q Okay. Please just what was the next
2 conversation after the one where you were informed that
3 Pete Petersen was going to be conducting the
4 investigation into this incident?

5 A It was a few days before my interview with
6 Peterson.

7 Q Okay. And what was said between yourself and
8 chief say on the patio in a during the course of that
9 conversation?

10 A I didn't really say anything during the course
11 of the communication.

12 Q Okay what did chief say on the patio in a say?

13 A He instructed bat and I to report to rain
14 cheens and tern for interview with Pete pet certify son
15 2011.

16 Q Okay. Did he say anything else?

17 A Yes.

18 Q What else did he say?

19 A He said I'm not worried about anything as he
20 went taken care of he said he might as well have a limb
21 Moe pick us up and have drinks on the limb Moe and take
22 us to Mike rains office to meet with Petersen.

23 Q This is the chief saying this?

24 A Yes.

25 Q And the interview that he's refer to go is the

1 internal affairs interview into this district?

2 A Yes.

3 Q And how did that make you feel?

4 A I took that.

5 ATTORNEY2: No how did you do it take make you
6 feel if you can relate how it made you feel.

7 ATTORNEY3: He was about to answer until you
8 interrupted him.

9 ATTORNEY2: No. It made me feel that say on
10 the patio in a was just I know how it sounds but
11 honestly sitting there my impression how it paid me
12 feel was that it was a normal just go down to meet with
13 Petersen I know how I told that to you doesn't sound
14 good at all but I didn't get any indication that
15 anything was staged or that there was any cover ups if
16 you can understand that that's what he said say on the
17 patio in a's character is kind of similar to that so
18 everyone though I'm being absolutely honest with you
19 about what was said I didn't perceive that as if this
20 thing was one big cover up and we're going down here to
21 cover things up I didn't get that impression.

22 Q So at this point in time this is conversation
23 talking post accident conversation number two that row
24 had where first conversation where he's advising you
25 that a person that you know to be his going to be

1 conducting the investigation into this incident, yes.

2 Q And that he's say on the patio in a responded
3 or was acting in a way which he was happy?

4 A Yes.

5 Q Is that a fair way of saying it?

6 A Yes.

7 Q Second interaction regarding that accident
8 pertain to go during the marriage helium brown he's is
9 telling you that you have your interview is going to be
10 taken down at ray hue generated the marriage stern?

11 A Yes.

12 Q Drinks on the limb know to your interview
13 related to the death of RAUTed during the marriage
14 helium brown?

15 A Correct.

16 Q And at that point in time when he made those
17 statements during the conversation number two you did
18 not have any feeling that there had been any type
19 composure up investigation into this incident had been
20 staged is that true?

21 A Sure at that time.

22 Q Okay.

23 A At that particular time.

24 Q So do you mean to say at some later point in
25 time that feeling changed?

1 A Yes.

2 Q When did that change?

3 A A few months later.

4 Q What caused that change?

5 A That might be pro-techned.

6 ATTORNEY2: Okay at some point you went or

7 brought in by the FBI is that correct poke to the FBI.

8 THE WITNESS: Yes.

9 ATTORNEY2: Those conversations with the FBI

10 law enforcement agency any kind of disclosure.

11 MR. POINTER: Under what privilege.

12 ATTORNEY2: Well, under a variety of them.

13 MR. POINTER: Okay let's trot them out.

14 ATTORNEY2: There limited by evidence code

15 section 1040 official information privilege.

16 MR. POINTER: That a hold on dress one by one

17 is that a.

18 ATTORNEY2: 1040 is that a state.

19 ATTORNEY2: Yes is that doesn't apply here.

20 ATTORNEY2: There's also a variety of case law

21 on that also federal regulation 28 code federal

22 regulation 16.22.

23 MR. POINTER: What is that.

24 ATTORNEY2: Prevents that.

25 ATTORNEY2: You asked me I'm telling you.

1 MR. POINTER: Least take them one by one sin
2 you appear to have a list we want the record to be
3 cheer first objection you have is you understand
4 evidence code.

5 ATTORNEY2: The court has it.

6 MR. POINTER: Evidence code 1040 common law
7 cases that interrupt evidence code 1040 I just want it
8 to be clear.

9 ATTORNEY2: I am giving I know I can.

10 ATTORNEY3: I can read them myself too.

11 ATTORNEY2: Yes I'm sure you can.

12 MR. POINTER: The point is that's the first
13 one.

14 ATTORNEY2: The .1 is I'm telling you okay.

15 MR. POINTER: I'm trying to make sure there's
16 no reason to argue just tell me I'm just making that
17 was the first one.

18 ATTORNEY2: Next 28CFC section 16.24, and
19 28CFR section 16.26.

20 MR. POINTER: And those privileges commonly
21 refer today anything.

22 ATTORNEY2: They are what I just said they
23 were we're not bingo to go into his communications with
24 law enforcement agency.

25 MR. POINTER: Do you have any further

1 description other than quote to go me these federal
2 rules of regulation other than just the numbers that
3 you given to me.

4 ATTORNEY2: Do you have case law.

5 MR. POINTER: What case.

6 ATTORNEY2: I'm not going to share I don't
7 think I have look it up yourself.

8 ATTORNEY3: Privileged.

9 MR. POINTER: Hold on it's real easy this is
10 silly but that's fine learned attorney so now you're
11 refusing to give me the case law.

12 ATTORNEY2: I'm going to go and read it US2E
13 versus Reagan, 340U462, U.S. versus Allen five bough
14 fed second 398 earthquakes Miller versus mail treader
15 478 feted sub second 415, those are the cases that I
16 have in my hand.

17 MR. POINTER: School district property from
18 your position stand for the proposition that your
19 client relates to statements that were made during the
20 course of his conversation with the FBI.

21 ATTORNEY2: Yes that's my instruction that he
22 is not.

23 MR. POINTER: Okay.

24 ATTORNEY4: Let me add something for the
25 record same would obtain any discussions that sergeant

1 belieu is a ma with the United States state attorney.

2 ATTORNEY3: Your not claiming attorney-client
3 privilege those discussions are you.

4 MR. POINTER: No? Silence we'll take the
5 silence to mean no.

6 ATTORNEY4: I think those conversations are
7 privileged under the same privileges that are being
8 claimed resited two you understand CFR .2 for, and is
9 16.26.

10 ATTORNEY4: Simply defer specific language of
11 the statutes that are provided by Mr.

12 ATTORNEY3: That are not statutes they are
13 regulations.

14 MR. POINTER: Off the record for a moment
15 please.

16 (Recess taken from 2:47 p.m. to 2:48
17 p.m.)

18 MR. POINTERQ. Any conversation conversations
19 or statements made by chief say on the patio in a
20 related to this incident that were outside the presence
21 of counsel?

22 A Yes.

23 Q Okay. What conversations is that please
24 describe?

25 A In June of 2011 I went up to chief say on the

1 patio in a and I told him I was unaware way things were
2 and how it was investigated.

3 Q What were the things that made you
4 uncomfortable how things were in the investigation?

5 A I think that might be privilege.

6 ATTORNEY2: Is that.

7 MR. POINTER: Well, I'm asking you about I
8 don't want to know any conversations like if it's a
9 conversation that you should have with counsel I don't
10 want to know about that.

11 A Okay.

12 Q But if it's something else I do want to know?

13 A It's not something else.

14 Q Okay. How as it relates the investigation
15 itself did I take any issues with the investigation
16 that do not have to do with something that your counsel
17 told you or something that you told counsel?

18 A I don't believe so but can you repeat the
19 question.

20 Q Yeah. I'm trying to get to what made you
21 uncomfortable?

22 A Yeah.

23 Q That will not and does not based upon your
24 attorney-client privilege if it's all counsel making
25 you comfortable and something that took place in that

1 sphere I'm not asking you I can't even get into that?

2 A Sure.

3 Q Despite how much I might want to I'm not going

4 to ask you I'm not going to go there?

5 A There became aware of what I believe what I

6 take that back what I suspected as being crimes that

7 chief say on the patio in a was involved in.

8 ATTORNEY2: Okay.

9 THE WITNESS: And that might fall into.

10 ATTORNEY2: And that's where we're going to

11 stop met me ask you this clear whatever that concern or

12 issue may have been deduct have anything to do

13 unrelated to the events of the.

14 THE WITNESS: Unrelated to testimonies of the

15 shooting.

16 ATTORNEY2: That is a subject matter of.

17 ATTORNEY3: Well, with the objection it has to

18 be reasonably county jail calculated add admissible

19 evidence on the grounds that not quite a patient all he

20 said those crimes weren't anything to do with this case

21 but apatiently in his mind connected relatives I think

22 the objection has to be possibly lead admissibility

23 evidence I haven't heard him say that.

24 ATTORNEY2: I heard him say that as long as

25 you're comfortable whatever your concerns were at that

1 time unrelated to the shooting as far as say on the
2 patio in a and supposed crimes that is your state of
3 mind.

4 THE WITNESS: It was that time frame I started
5 feeling distressed and I started questioning a lot of
6 they thinks that I probably normally seen.

7 Q When brow say that time frame June of 2011?

8 A Yes.

9 Q Okay. So sometime June 2011 you began to
10 distrust sergeant characteristic June of 2011 you began
11 to distrust chief say on the patio in a as being
12 truthful is that fair?

13 A Yes.

14 Q Okay. Set also fair to say that around 2011 you
15 began to view chief say on the patio in a as not
16 conducting the investigation in a fair and in a fair
17 way?

18 ATTORNEY2: That's not what he say.

19 ATTORNEY4: Objection never testified chief
20 say on the patio in a conducted the investigation.

21 MR. POINTERQ. Well, I'm asking. If it's not
22 it's not we'll go to something different?

23 A I'm pausing 'cause I'm trying to analyze time
24 frame that we're at.

25 Q Can you repeat the question previously

1 testified that in or about sometime June of 2011 that
2 you began to distrust chief say on the patio in a?

3 A Start today yes.

4 Q Okay. And I'm asking whether or not the
5 distrust that you felt for chief say on the patio in a
6 if that also affected the way that you perceived his
7 handling of the investigation into the shooting of Ryan
8 brown?

9 A It started too.

10 Q Okay. In what way did you begin to question?

11 ATTORNEY4: Objection states faxes not in
12 evidence.

13 MR. POINTER: Okay.

14 ATTORNEY2: Join in on that.

15 MR. POINTER: Sure.

16 MR. POINTERQ. In what way did it begin to
17 question his handling of the investigation into the
18 Ryan brown isn't irk objection he never testified that
19 he handled the investigation?

20 MR. POINTER: But 83 did testify detect
21 conduct the investigation correct.

22 A Yes.

23 Q And that was chief say on the patio in a's
24 direction?

25 A Yes.

1 Q So once again so that we're clear here what
2 decision if any did you begin to question as relates
3 chief say on the patio in a's handling of this
4 investigation?

5 ATTORNEY4: Same objection.

6 THE WITNESS: I started thinking back to what
7 sergeant van slow ten was saying and then I started
8 thinking about chief Jordon want to go gait it and
9 that's pretty much all I thought at the time.

10 Q I was rue it my mat ticking over the accident
11 and that's about it.

12 Q Okay so you began to question is it fair to
13 say you began to question the decision that had been
14 made for you not to participate in the walk through?

15 A No.

16 Q Okay?

17 A Not at that time.

18 Q At some precinct later point in time?

19 A Yes.

20 Q Okay. What point in time was that?

21 A Probably in September 2011 why.

22 Q Whited did you begin to question the decision
23 that was made for you not to participant in the walk
24 through?

25 ATTORNEY2: I don't know this but I want to

1 caution witness that in this has anything to do with in
2 you level of auto immune day ago with your attorney in
3 any fashion you need to tell me that because that's an
4 area they don't belief you should be allowed to be
5 asked about if it's not then you can respond.

6 THE WITNESS: Cue rephrase it.

7 MR. POINTER: Welcome to hanging out with
8 attorneys.

9 THE WITNESS: Yeah I'm the only one sitting
10 here.

11 MR. POINTERQ. So you said sergeant that
12 sometime approximately in or about September 2011 you
13 began to question the decision that had been made for
14 you plot to participate in the walk through that true?

15 ATTORNEY4: The way the way question phrase
16 inwould intrude in the attorney-client privilege.

17 A It was more along the lines of August.

18 MR. POINTERQ. Okay. And what was it, if
19 anything, in August of 2011 that maid owe feel that
20 way?

21 A There was a complaint that I had to make
22 against the chief.

23 Q And what complaint was that?

24 ATTORNEY2: Well, I think there are concerns
25 about privacy rights here.

1 ATTORNEY3: Who's privacy.

2 MR. POINTER: Go ahead.

3 ATTORNEY2: If the complaint was specific to
4 this incident the shooting then you can answer that you
5 took position if this complaint resentment today over
6 inter-California natural re S between you chief certify
7 in a perception then I think there's a right to privacy
8 here issue that's.

9 MR. POINTER: And I will say that privacy
10 grounds that appear to be asserted here federal lawsuit
11 they don't I'm sorry you may feel other wise but the
12 law is pretty clear I'm comfortable there and it also
13 goes bias interest motive and or the ma nil issue here
14 so with that all being said what complaint was that.

15 ATTORNEY2: And I'm telling the witness unless
16 relates this shooting then it is irrelevant and I'm
17 going to instruct him not to answer as well reasons for
18 privacy.

19 MR. POINTER: And we'll just be here on
20 another day everybody's dime and sanctions after we
21 talk to jump chin.

22 ATTORNEY2: With that admonition I'm going you
23 can answer the question or if you can answer the
24 question go ahead and answer.

25 THE WITNESS: The only okay so I think it's

1 hard for me to narrow down that particular thought I
2 any the best thing I can tell you Mr. Pointer is that
3 from Juneish 2011 to August, September, 2011 I started
4 to distrust chief say on the patio in a and I don't
5 know I can't honestly say at what time period I
6 formulated certain aspects of my thinking but there was
7 events that occurred throughout the course of that time
8 that diminished that trust.

9 A I don't want to go off on a and the engine but
10 the best way I can describe it is the feeling that you
11 would have with a girlfriend or a boyfriend that
12 cheated on you don't want to believe it you trust --
13 you still trust that person after that relationship is
14 broke up pick up and remember and see what really
15 happened that's the best I can tell you.

16 Q Okay. Fair enough. And so taking up on your
17 analogy if you will of the boyfriend and girlfriend
18 who's strected on you and you start to look back is
19 that fair to say the course of your relationship with
20 this person?

21 A Yes.

22 Q And you may start to pinpoint or identify
23 particular events particular conversations particular
24 instances where you may say hey I think this person
25 told me what I believed initially not true or they were

1 being deceptive or lying to me I'm trying to figure
2 iota your perspective relationship with chief say on
3 the patio in a what districts what events what
4 conversations did you begin to look at in a you go to
5 different light at or about the time that you started
6 feeling that way?

7 A Okay.

8 ATTORNEY4: Well, let me make an o.k. before
9 he begins to answer that this inquire may intrude in
10 matters that are privileged and comfortable as part of
11 chief say on the patio in a's personal file more over I
12 am fairly persuaded that the line of questioning has no
13 retrieves this case and would not lead to discovery of
14 any add admissible evidence except for an issue
15 directorially involving the shooting which took place
16 in January of that year.

17 ATTORNEY2: I join in on that there's also
18 complication and that is you are by the your question
19 asking sergeant belieu is a state of mind interrupt I
20 don't think that's relate but also calls for
21 speculation so go ahead.

22 MR. POINTERQ. Do you have to speculate about
23 what's in your ahead?

24 ATTORNEY2: No WHRORBLT Kawasaki or sal
25 relationship.

1 MR. POINTERQ. Do you know what's request in
2 your ahead sergeant?

3 A Yes.

4 Q Are you sane sergeant?

5 A Yes.

6 Q Do you hallucinate?

7 ATTORNEY2: Okay that's enough you're being
8 owe fen sieve is that.

9 MR. POINTERQ. Your being owe fentive?

10 ATTORNEY2: Your being owe fen time you saw to
11 me but I'm his attorney and you are being owe February.

12 MR. POINTER: Simple questions simple.

13 ATTORNEY2: Flay not simple questions.

14 MR. POINTER: Okay. We like to dance and tang
15 goes we're not the show.

16 ATTORNEY2: I think your show.

17 MR. POINTER: See me in quite a show.

18 ATTORNEY2: I'm sure your spectacular.

19 MR. POINTER: No I'm okay but I'm working
20 objection no foundation it.

21 MR. POINTERQ. Sergeant what was it in your
22 mind looking back on your relationship chief say on the
23 patio in a that you began to question or think
24 differently base upon the feelings that you had
25 sometime between June of 2011 and August 2011?

1 ATTORNEY2: Same objection go ahead.

2 ATTORNEY4: Same objection not likely to lead
3 to discovery of add admissibility evidence.

4 THE WITNESS: I found how the.

5 ATTORNEY2: He's not asking event back
6 Bolander who they were.

7 ATTORNEY3: Let him up on answer the question.

8 ATTORNEY2: That was the question.

9 ATTORNEY3: You interrupted him.

10 MR. POINTERQ. Holiday schedule on did you
11 understand my question I think so?

12 ATTORNEY2: Read it back.

13 MR. POINTERQ. No?

14 ATTORNEY2: I'm asking to be read back but I
15 want to know first sergeant did you understand my
16 question.

17 A I think so.

18 ATTORNEY4: I don't represent sergeant belieu
19 is a any information provide or requested to provide
20 part and bar very well personal filing would be
21 privilege and comfortable sergeant belieu is a himself
22 waive that privilege.

23 ATTORNEY3: He never written files he doesn't
24 know what's in it.

25 MR. POINTER: Anything that you put in the

1 file that's your information sergeant.

2 THE WITNESS: I they're seen his file there

3 you go don't worry.

4 ATTORNEY2: Would you read the question

5 please.

6 THE WITNESS: Yes so the events.

7 Q Yes?

8 A Chief say on the patio in a put his had the

9 government courts put checks into his own personal name

10 and he was trying.

11 ATTORNEY2: This is the problem I don't know

12 that Mr. Pointer is asking what chief say on the patio

13 in a did that caused you to have feelings or if he's

14 asking you with this knowledge you began to look back

15 on events that had occurred that caused yow have

16 whatever word was regarding what had previously

17 existed.

18 MR. POINTER: This is bordering on the line of

19 ab soaredty when we began simple ground rules which one

20 understand my question answer the question unless your

21 instructed not to do you remember that.

22 A Yes.

23 Q Okay. If you have a question regarding

24 anything that I ask you simply ask me do you understand

25 that?

1 A Yes.

2 Q If you don't understand?

3 ATTORNEY2: Wait a minute you're suggesting
4 that he has to ask you or all he has to ask scow
5 clarification.

6 MR. POINTER: Did you ask clarification.

7 A No.

8 MR. POINTERQ. And you started your answer
9 correct?

10 A Yes.

11 Q Your response correct?

12 A Yes.

13 Q Under the rules of this dissembling they
14 explained to you if you understand my question you are
15 to respond correct?

16 A Yes.

17 ATTORNEY2: Unless I tell him other wise.

18 MR. POINTER: When you began that last had you
19 been directed not to respond.

20 A Can you repeat that.

21 Q Has any?

22 A My I'm getting kind of worked up my heard has
23 got.

24 ATTORNEY2: Least take a break.

25 Q There's a question pending?

1 ATTORNEY2: No there is not the question did I
2 tell him not to answer the.

3 MR. POINTER: No.

4 ATTORNEY2: That is the last question
5 Mr. Pointer let's go ahead.

6 MR. POINTER: You need.

7 ATTORNEY2: I need to go to the bathroom.Ees.

8 (Recess taken from 3:08 p.m. to 3:21
9 p.m.)

10 MR. POINTERQ. Sergeant what information did
11 you have or believe that led you to think that chief
12 say on the patio in a was covering up the investigation
13 into the shooting regarding Ryan brown?

14 ATTORNEY2: Well, I'm going to object I don't
15 think that's what the witness testified to I think
16 that's a mess characterization of his testimony but go
17 ahead and answer the i questioned in the sense of what
18 you learned about certify in a.

19 ATTORNEY4: Let me add an objection as well in
20 so far as questions opposed by counsel may ask the
21 witness to offer opinion as to ran out of moneyer or
22 speculation or other issues which he does not have
23 first hand knowledge and that testimony would not be
24 relevant nor would it lead to discovery of add
25 admissible evidence also only evidence that's Michelle

1 in federal court to impeach a witness criminal
2 background moral turpitude attitude felonies any other
3 type of conduct which someone may have said
4 characterize as criminal which is not address that
5 specific topic include only those items which I
6 described is not relevant 92 okay so that's an
7 objection.

8 ATTORNEY4: That's it.

9 MR. POINTER: Or is that a motion in limine
10 flay.

11 THE WITNESS: Can you repeat the question
12 please.

13 ATTORNEY3: It was only five minutes ago.

14 MR. POINTERQ. This is come my call okay what
15 information did you believe -- strike that. What led
16 you to believe that chief say on the patio in a was
17 covering the investigation into Ryan brown?

18 ATTORNEY2: That I'm O I'm going to object
19 toics state departments facts not in evidence.

20 ATTORNEY2: Mischaracterize prior testimony go
21 ahead.

22 THE WITNESS: When I made a complaint about
23 the shooting investigation to the general counsel.

24 MR. POINTERQ. And you made this complaint
25 who was the general counsel?

1 ATTORNEY2: Just give the name.

2 A Jackie mire.

3 MR. POINTERQ. And how was that complaint
4 given written or oral?

5 ATTORNEY2: That is attorney-client I'm I'm
6 going to object to instruct him not to answer
7 communications with Ms. Mire whatever they may have
8 been are privileged.

9 MR. POINTERQ. And you hold the privilege
10 sergeant do you waive that privilege so you can tell
11 me?

12 ATTORNEY2: I'm instructing him not to answer
13 that question that is a.

14 MR. POINTER: I'm asking the question.

15 ATTORNEY2: Well,.

16 MR. POINTER: You can say no.

17 ATTORNEY2: S in litigation I'm privilege
18 communication with Ms. Minor.

19 MR. POINTER: So I guess the question are you
20 not going to answer.

21 THE WITNESS: I'm going to follow the advise
22 from my attorney for that particular day.

23 MR. POINTERQ. And so is there another day
24 that is there something else that you can tell me what
25 led you to believe that chief say on the patio in a was

1 tempting to cover up the investigation into this
2 incident?

3 A Can you repeat question.

4 MR. POINTERQ. Yeah. Setting aside and just
5 so we're clear okay?

6 A Yeah.

7 Q Setting aside the conversations that you had
8 with counsel?

9 A Okay.

10 Q Okay. What information led you to believe
11 that chief say on the patio in a was attempting to
12 cover up this incident related to RAUTed during the
13 marriage meme brown?

14 A When Pete Petersen was assign today
15 investigate me.

16 Q When you assigned to you investigation into
17 your involvement with the RAUTed during the marriage
18 meme brown situation?

19 A No.

20 Q A whole separate incident?

21 A Yes.

22 Q What was Pete Peterson investigating you for?

23 ATTORNEY2: Well, that I'm going to instruct
24 him not to answer Mr. Belieu is a has a right of
25 privacy relative to whatever other matters may or may

1 not have existed during his employment as long as they
2 don't have anything to do with the shooting.

3 MR. POINTER: Well, they.

4 ATTORNEY2: I think you can ask him
5 investigation had anything to do with the shooting or
6 unrelated to that but doesn't have anything to do with
7 the shooting I want to right of privacy not to answer
8 that.

9 MR. POINTER: We have thousand times written
10 letters to all counsel here related to the right of
11 privacy lady out the case law around this does not
12 apply to federal litigation so you're instructing him
13 not to answer.

14 ATTORNEY2: I think we need to establish
15 whether or not whatever this oh thing that Mr. Peterson
16 did has anything to do with the shooting.

17 ATTORNEY3: In his mind.

18 MR. POINTER: True in his mind more
19 importantly we don't know you do I don't.

20 ATTORNEY2: I don't know unless we're not
21 going to go into it.

22 MR. POINTER: On top of that directorially
23 relate to this particular shooting we all know we're
24 counsel we've done a lot of bias interest motive okay
25 whether truthfulness veracity number of cays federal

1 litigation doesn't have to be this something that may
2 led us to with all that being said, please.

3 ATTORNEY2: What's your question.

4 MR. POINTER: 5 minutes.

5 THE WITNESS: I forgot if you can ask me can.

6 MR. POINTERQ. What was Pete Peterson
7 fighting you for?

8 A Retaliation complaints.

9 Q Retaliation for what?

10 A For speaking about the shooting and for
11 turning say on the patio in a in for racial remarks.

12 Q Okay. So you felt that say on the patio in a
13 had Pete Petersen gait you because of statements or
14 information that you provided related to the shooting
15 RAUTed during the marriage meme brown?

16 A No.

17 Q Okay. What was it that you took position then
18 as it relates to retaliation?

19 A Complaints that I made to the way I thought
20 this investigated.

21 Q You maid dissatisfied as to the way incident
22 RAUTed during the marriage meme brown investigate?

23 ATTORNEY2: This is complaint you made to
24 Ms. Minor.

25 THE WITNESS: Well, there was.

1 ATTORNEY2: Separate one that Heidi erotica

2 was.

3 THE WITNESS: Yes.

4 MR. POINTERQ. Yes meaning?

5 A There was another complaint that I made to

6 human resources.

7 Q And how did you do you make that complaint was

8 it in brig or just?

9 A In writing.

10 Q And did they how did you make how did you give

11 this writing to human resources?

12 A I guess I can't talk about the attorney-client

13 privilege so I did there was something on August 4 I

14 can't talk about it August 23rd or all of that 24th I

15 emailed from my OUSD email in a to yards of soil Bryce

16 OUSD human resources begging for help and I asked I

17 told 92 to yards of soil Bryce that I had learned

18 retaliation measures against me I had a separate

19 paragraph because I didn't want to dress the shooting

20 and investigation as a statement because of how I was

21 treated on August 4th so I worded it that I have also

22 other concerns they would like to privately to

23 salespeople sick to imagine and people and fearful of

24 retaliation.

25 Q Okay so this is an email that you sent from

1 your official OUSD email to HR is that true?

2 A Yes on August 23rd or 24th to in a tow yards
3 of soil Bryce.

4 Q August 4?

5 A Yes.

6 Q What took place?

7 A A complaint Pete say on the patio in a and
8 Luis silva Jew your.

9 Q Who is Jew list?

10 A Friend of say on the patio Floridas that
11 worked as a program manage.

12 Q What was it that Kawasaki you to complain
13 about Pete say on the patio 92 and Luis junior?

14 A On June 18 there was and on duty incident
15 where chief say on the patio in a golf tournament
16 called another African sergeant the N word among other
17 things Luis silva junior participated in racial slurs
18 on July 19 the African American segment went to Luis
19 junior in the a.m. and complained to him he thought a
20 complaint was made I thought a complaint was made I
21 found out a week later a complaint was not made I had
22 to make a the complaint for sergeant for the other
23 African American sergeant and when I did I felt at that
24 moment they need today ask questions about how the
25 shooting was investigated.

1 Q Is it fair to say that the handling of Pete
2 say on the patio in a's racial comments by OUSD led you
3 then to question the way in which the investigation
4 into the RAUTed during the marriage helium brown was
5 taken place?

6 A It further added that preclusion.

7 Q So way in which the racial statements that
8 Pete say on the patio in a had made the way that was
9 investigated just caused you further concern and I
10 would use the word skepticism as to the ways in which
11 the RAUTed during the marriage helium brown incident
12 OUSD is that true?

13 A That would be correct.

14 Q Do you know if Luis silva junior plaid any
15 role investigate participating in the basing of RAUTed
16 during the marriage helium brown incident?

17 A No.

18 Q Now, the complaint that you filed -- strike
19 that the complaint that you wrote to in a to yards of
20 soil Bryce?

21 A Bryce.

22 Q This content of that communication dealt with
23 what I mean you were -- the con tent of the email that
24 you sonnet in a to yards of soil Bryce related to the
25 racial slurs that Pete say on the patio in a had made

1 or something else?

2 A Yes.

3 Q Well, the email to in a yards of soil Bryce
4 dealt with the retaliation measures that was going on
5 at work.

6 Q All right. What retaliation measures were
7 going on at work?

8 A Chief say on the patio in a's assistant
9 generalny Wong told a bunch of officers something like
10 this is what I was told something like don't worry
11 say on the patio in a is goke beat this case he's going
12 to fire John.

13 ATTORNEY3: By John you mean you.

14 THE WITNESS: Me.

15 MR. POINTERQ. Do you know what officer?

16 A Holly Matthews is the one that told me that.

17 Q So it's your unking chief wrong made that
18 statement to Ms. Matthews?

19 A Nevertheless holly Matthews that told you
20 about the statement that chief say on the patio in a's
21 reportedly made is that true.

22 A Yes.

23 Q Okay. And do you know and do you know when
24 about what time that statement was made by chief say on
25 the patio in a's assistant?

1 A I learned about that statement on August 15th.

2 Q And do you know why chief say on the patio in
3 a -- strike that. Why do you believe chief say on the
4 patio in a was retaliating?

5 ATTORNEY4: Objection calls if witness to
6 speculate.

7 ATTORNEY2: It does retire him to speculate.

8 ATTORNEY4: Can't read chief say on the patio
9 in a's mind.

10 MR. POINTER: I don't want you to read chief
11 I'm asking you what you belief, same thing asks him to
12 speculate.

13 THE WITNESS: I spoke with chief say on the
14 patio in a in July of 2011 and I was upset about him
15 not disciplining officers can you repeat the question
16 'cause I'm getting kind of emotional.

17 MR. POINTERQ. I asked you?

18 ATTORNEY4: Could you move your hands please
19 sergeant thank you.

20

21 MR. POINTERQ.

22 MR. POINTERQ. I was asking you why you leave
23 in your mind chief say on the patio in a was
24 retaliating against you?

25 ATTORNEY4: Objection question retire the

1 witness to speculate.

2 ATTORNEY2: Calls for speculation go ahead.

3 ATTORNEY4: Additionally his opinion as to

4 what someone braves there's a belief someone

5 did something is not relevant nor reasonably calculate

6 reasonable evidence.

7 THE WITNESS: I was told chief say on the

8 patio in a how he swindled millionaire \$5000 for a

9 police dog told them they would pay for a police dog

10 \$5000 get to name the dog bragged free from the Sonoma

11 county sheriff's chief say on the patio in a also told

12 me that him andny Wong trying to get a bank account

13 say on the patio in a put duplex the courts on traffic

14 violation into his own personal name he was trying to

15 get a bank account with generalny Wong I also found out

16 that lieu so end Pete say on the patio in a all the to

17 motive scheme lieu silva bar Pete say on the patio in a

18 were sending their personal cars down to a shop on 16

19 avenue and employees at the Antioch office fourteenth

20 and this is all were over charging the police cars to

21 not be charged or be charged very minimal December

22 silva bragged about it Pete silva bragged about it when

23 I found out about these thicks made me think what else

24 are you doing when I found out what say on the patio in

25 a did with the African American sergeant not to

1 complain when I found out that he called another
2 officer told him do not report what had happened in
3 front of the African American who is a witness to the
4 witness racial slurs with this thing I do don't sand
5 louse nothing at all when I found out all this stuff
6 signature year and a half and I'll answer I don't want
7 to go I think I answered your question but sitting
8 knowing all this information.

9 Q Is there anything else related to Ms. Conduct
10 by chief say on the patio in a that led you to belief
11 and question the investigation into this Ryan brown?

12 A Yes.

13 Q What else?

14 A Chief say on the patio in a or I can straited
15 officers to not work their shifts or to on overtime
16 drive the superintendent around on variouser rands or
17 going to the anticipate while on duty getting overtime
18 chief say on the patio in a also did this with a person
19 that was friends one of the school board membership
20 drove them around unlicensed political Tice marrow OPD
21 as a commander and he was trying to apiece different
22 political parties he donate add Brandon new police bike
23 \$15,000 chopper that was why owe tech but the police
24 bike we want to be them was put into a chopper and it
25 was supposed to be for parades all this stuff was

1 happening around this time.

2 Q What is a chopper.

3 A Like a muscle car or some sort of.

4 ATTORNEY3: Customized motorcycle.

5 MR. POINTER: Okay I got you customized
6 motorcycle is what a chopper is.

7 A 2 more incidents where chief say on the patio
8 in a was trying to have a summer camp and it was called
9 together we can I witnessed the owner of me Jimenez
10 east fourteenth and high street south east corner he
11 told chief say on the patio in a in front of me he
12 would close to \$300 for a T shirts chief say on the
13 patio in a ordering 27 Hubbard dollars chief say on the
14 patio in a used one of the officers my gel December
15 lieu in a to go and collect money different businesses
16 to fund this camp the guy from me Jimenez was upset
17 that say on the patio in a collect money from him
18 numerous times where I happened up a check he told
19 December lieu in a collect 2700 last chance tell him
20 that I will give him a accommodation chief say on the
21 patio in a called a city koum member or a person who
22 own add company getting the money from him saying that
23 his other source fell through this guy ended up giving
24 \$2700 December lieu in a collect number the gay gave
25 him the check saying that I'm I'll get this

1 accommodation and chief say on the patio in a bragged
2 that he just came up on 27 from this guy but didn't
3 collect from the organize guy from a go so for drunk
4 driving around the time of August 4th.

5 Q Separate incident?

6 ATTORNEY4: Objection excuse me objection www
7 and he was.

8 ATTORNEY4: Excuse me I have to get out the
9 words witness is not permitted to discuss aristocracies
10 of individuals.

11 MR. POINTERQ. What is your objection?

12 ATTORNEY4: That the individual officer has a
13 right to privacy castlety about an arrest conviction is
14 another matter you can't make arrest of people public
15 so I would ask that answer to be stricken as well all
16 the answers that sergeant given to questions and the
17 last ten minutes regarding chief say on the patio in
18 a's allege fall feasance it is.

19 ATTORNEY3: Are you asking to strike.

20 MR. POINTER: Do you have anything further.

21 ATTORNEY2: We're running out of time seven
22 hours moving closer.

23 ATTORNEY4: The statements made by the
24 witness.

25 MR. POINTER: What is the o.k.

1 ATTORNEY4: Throughout this proceeding
2 discovery of admissible stricken.

3 MR. POINTER: Okay thank you.

4 MR. POINTERQ. Now, keep going you said there
5 was an officer Fremont insurance go so for DUI?

6 A I believe so yes.

7 Q Okay. And how did chief say on the patio in a
8 deal with that particular situation?

9 ATTORNEY4: Objection.

10 MR. POINTERQ. In a way?

11 ATTORNEY4: Objection.

12 MR. POINTER: Can I get my question objection
13 damn question has even been asked you.

14 ATTORNEY3: I'm with him.

15 ATTORNEY2: You don't have to yell we're not
16 that far away.

17 MR. POINTER: I mean very patient and
18 professional and all of that by my running out okay
19 just like the time is running out 'cause your wasting
20 my time relatives we all know in lawyering 101
21 east may mud relatives objection in a deposition.

22 ATTORNEY2: We aproverbialuate your just ask
23 the question so we can get it out on the table.

24 MR. POINTER: Thank you.

25 ATTORNEY4: I didn't finish my objection I

1 wanted to object before he answered a question that any
2 testimony.

3 MR. POINTER: I haven't gotten the question
4 out is the whole point I haven't gotten the question
5 out so I got you if you want an objection would you
6 please hold on off answering the until his o.k. is
7 lodged.

8 A Yes.

9 MR. POINTERQ. What was it that chief say on
10 the patio in a did as it relates officer Fremont
11 insurance go so that made you question his handling of
12 the RAUTed during the marriage helium brown affair
13 there's an objection?

14 ATTORNEY4: Witness drunk driving arrest or
15 any other charge made against police officer is
16 privileged and comfortable for that officer sergeant
17 does not have a right to unilaterally waive that
18 privilege.

19 MR. POINTER: Okay thank you.

20 MR. POINTERQ. Let's go?

21 A Sure. I was told by I believe it was sergeant
22 Mike Anderson that he over heard say on the patio in a
23 tell him that do not investigate this let the DA's
24 office handle it on their side but do not do an IE on
25 this.

1 Q Okay. Now, you mentioned something bat's name
2 in relation to the conduct of Ms. Conduct according to
3 you of chief say on the patio in a on a couple of
4 occasions one of which is just the situation regarding
5 officer Fremont insurance go so correct?

6 A Yes.

7 Q Okay. It was your understanding that sergeant
8 bat was to conduct some type of investigation into
9 officer Fremont insurance go so's reported misconduct
10 and arrest is that true?

11 ATTORNEY4: Objection that's information
12 privilege and comfortable.

13 THE WITNESS: Can you repeat it. Question
14 that seeks information privilege comfortable does not
15 have the right to disclose that.

16 MR. POINTERQ. Okay anything else any other
17 o.k.s thank you?

18 THE WITNESS: Can you repeat the question.

19 MR. POINTERQ. Yeah sure it's your
20 understanding that sergeant bat was to conduct some
21 order of investigation into officer Fremont insurance
22 go sos arrest assist it reals to this DUI charge?

23 ATTORNEY4: Same objection.

24 A I don't that would be a good question officer
25 Fremont insurance go so should have I don't know it's

1 my I understanding that say on the patio in a should
2 have gone through his direct supervisor and forwarded
3 off to be investigated.

4 Q Okay. What is your understanding as it
5 relates to sergeant bats participation if any as
6 relates to officer Fremont insurance go so's arrest?

7 ATTORNEY4: Objection www I don't know.

8 MR. POINTERQ. Your memory is that chief
9 say on the patio in a directed sergeant bat not to
10 investigate this incident?

11 A That's what I was told I didn't here that.

12 Q Okay. And but sergeant Mike Anderson was a
13 witness to that incident to that conversation?

14 A I believe so it was him I'm not hundred
15 percent.

16 Q Okay. Is there any other misconduct that
17 you're aware of that chief say on the patio in a
18 engaged in that caused you to question his handling of
19 the RAUTed during the marriage helium brown affair?

20 ATTORNEY4: Objection that question may
21 intrude into areas contained personal file and the
22 Keefe of police.

23 ATTORNEY2: If I told your mike also.

24 ATTORNEY4: Discipline etc. any misfeasance
25 east may mud ledged chief or any other personal file

1 there are not a subject and this witness can't invade
2 that privilege.

3 ATTORNEY2: Also calls for speculation he just
4 want foster freeze foe if there was any other.

5 THE WITNESS: I don't believe so.

6 MR. POINTERQ. Okay. Now, 83 had mentioned
7 that you were upset or not happy baptize fact that
8 chief say on the patio in a had not disciplined
9 officers?

10 A Yes.

11 Q What do you feel officers conduct engaged in?

12 ATTORNEY4: I will object to this question
13 misconduct police officers is not an issue which can be
14 addressed in a deposition by an individual who does not
15 share that privilege these officers have a right
16 Froogle court misconduct alleged against them subject
17 to the privacy and comfortable rights and may not be
18 disclosed by this witnesses in a deposition it's really
19 owe fence against the ground ask the question.

20 MR. POINTER: I don't know the ground we live
21 in American.

22 ATTORNEY4: You are silent about all these
23 issues.

24 MR. POINTER: Exhaust he new it is law
25 presumably the privilege that you're talking about

1 unintelligible and they are not the 11th a federal
2 litigation.

3 ATTORNEY4: That's not true.

4 MR. POINTER: We may disagree lodged and now
5 it's on the witness would you please answer the
6 question.

7 A Can you please repeat it.

8 MR. POINTERQ. You were not happy that
9 officer W-RS not disciplined?

10 A That's correct.

11 Q What was the conduct or misconduct that these
12 officers were engaged in that was not disciplined?

13 ATTORNEY2: Do not mention any officer by name
14 or position.

15 ATTORNEY4: Same objection I lodged earlier.

16 THE WITNESS: Okay untruthfulness.

17 Q Okay.

18 A Theft, failure to report, inappropriate
19 unethical behavior.

20 Q Is that it?

21 A That's about it.

22 Q And in is the conduct that you felt should
23 have been disciplined something that urs understanding
24 chief say on the patio that was aware of?

25 A I'm going take off my tie.

1 Q That's fine?

2 ATTORNEY4: Belated objection same one I made
3 earlier.

4 ATTORNEY3: Obligate to go taking his tie off.

5 MR. POINTERQ. The fill why you are to
6 discipline officers is that a feeling that you have had
7 in other instances besides the chalk you spoke to chief
8 say on the patio in a about on or about July of 2011?

9 A I believe so.

10 Q Were any of the officers who were engaged in
11 the conduct that you spoke to the chief about in
12 July 2011 -- strike that was sergeant bat one of the
13 officers whom you spoke to the chief about engaging in
14 misconduct that you described on July of 2011?

15 ATTORNEY2: As to racial.

16 MR. POINTER: Excuse me.

17 ATTORNEY2: The racial issue.

18 MR. POINTER: Well, he no it's a
19 untruthfulness theft failure to report inappropriate
20 unethical behavior.

21 A Yes.

22 MR. POINTERQ. Okay. What was the conduct
23 that you believe sergeant bat engaged in that failed
24 into the category of untruthfulness theft failure to
25 report or inappropriate unethical behavior?

1 ATTORNEY2: Don't answer that.

2 ATTORNEY3: I see a conflict of interest here
3 if you're trying to help sergeant bat how are you
4 helping sergeant bell lieu is a.

5 ATTORNEY2: I got to be very honest with you
6 challenging me on a conflict of interest.

7 ATTORNEY3: Well, that's what I see.

8 ATTORNEY2: We don't want to get into
9 conflicts of interest here I want to promise you that
10 we don't want to bet into conflicts of interest now
11 what I don't.

12 MR. POINTER: Your objection is fine.

13 ATTORNEY2: What I don't want officer belieu
14 is a to be testifying about officer bat are matters
15 unrelated to this shooting and that I think has privacy
16 sergeant bell but is a should snot be obligated to
17 provide information.

18 MR. POINTER: Right anything else.

19 ATTORNEY4: Objection.

20 MR. POINTER: Okay.

21 MR. POINTER: At what conduct did sergeant bat
22 engaged in that you complain today the chief about.

23 Q On or about July 2011?

24 A I told him he had a bottle of alcohol in his
25 desk brother that I saw him drink or you e d light saw

1 him pour the alcohol into a cup.

2 Q And that was while sergeant bat was on duty?

3 ATTORNEY4: Standing objection committed by
4 sergeant bat this witness will testify to.

5 THE WITNESS: Yes.

6 MR. POINTERQ. Okay. And when you
7 communicated this complaint specifically related to
8 sergeant bat did you put that in writing?

9 A No.

10 Q Did you understand that you were make ago
11 formal complaint to the chief related to sergeant bat?

12 A I honestly did not perceive that.

13 Q Okay?

14 A However that sounds I brought it you up to a
15 sense of maybe he needed help like a post traumatic
16 stress help.

17 Q So this is after the incident regarding RAUTed
18 during the marriage helium brown?

19 A Yes.

20 Q Had you received any information -- strike
21 that were you aware of any charges prior to the
22 accident relate today RAUTed during the marriage helium
23 brown or sergeant bat had drank any type of alcoholic
24 beverage while on duty?

25 A No.

1 Q So this is information this is the first time
2 that you were aware that sergeant bat had been drinking
3 while he was on the job is that true?

4 ATTORNEY2: I'm not sure he said he was
5 dricking on the job.

6 ATTORNEY4: He say he poored.

7 THE WITNESS: Honest that is what he was doing
8 I just saw him pooring.

9 MR. POINTERQ. What kind of alcohol was this?

10 A Wild Turkey.

11 Q Did you see him what did he with the alcohol.

12 A No.

13 Q It was a bottle on desk?

14 A He personally showed the from his desk
15 previous to that.

16 Q When did he show you this bottle that was in
17 his desk?

18 A I think it was around April 2011 okay.

19 Q Okay also after the incident regarding
20 Mr. Brown true?

21 A Yes.

22 Q What did the chief say in response to this
23 information you gave him?

24 A He was concerned.

25 Q Have you had any further conversations with

1 sergeant bat related to the alcohol?

2 A No.

3 Q Was there any response well, strike that what

4 response did you receive if any to your email to

5 Ms. Bryce?

6 A She said thank you so much I will Fahd this to

7 legal.

8 Q Did you receive any further contact from

9 anybody?

10 A Never.

11 Q OUSD regarding the issues you raised in that

12 email you sent to Ms. Bryce?

13 A Never.

14 Q Are there any other acts of retaliation you

15 feel have been directed against you by chief say on the

16 patio in a?

17 A Yes.

18 Q What are those?

19 A Again, it's probably attorney-client

20 privilege.

21 MR. POINTER: We don't want.

22 ATTORNEY2: If it is let's not get into it.

23 THE WITNESS: Okay.

24 ATTORNEY2: I'm going to instruct you not to

25 answer.

1 MR. POINTERQ. Anything other than what you
2 were going to covered by the attorney-client privilege?

3 A No.

4 Q The use of racial slurring by employees OUSD
5 aware of other than the incidents that you have already
6 testified to regarding chief say on the patio in a?

7 A Racial slurs.

8 Q Yes?

9 A No.

10 Q Other type of slurs that you are you're aware
11 of?

12 A I made a distinction because chief say on the
13 patio Florida called me a talking about.

14 Q And what time point in time was that?

15 A April 2011.

16 Q And describe the course of that conversation
17 or how those remarks on were made?

18 A Chief say on the patio in a transposed my face
19 and another officer's face poster of a movie belieu is
20 a and that officer's name above face pictures were
21 people holding each other he sent the this to me
22 through an email and sent it to the other officer
23 assistant Jane Wong her Wal-Mart incident wall and I
24 was just bringing to sheriff deputies in from Alameda
25 county into the office when they saw it looked up at it

1 and I saw it and I went and dealt with chief say on the
2 patio in a why did you put this up here why did you
3 send this to embarrassing and his words were you guys
4 are cut couple or look like a couple of fags.

5 Q And he said this email was sent to you
6 sometime around April 2011?

7 A The email was sent to me in February around
8 from the 23rd, two to 24th or 27th somewhere around
9 there.

10 Q During the year 2011?

11 A Yes.

12 Q And what movie poster was it?

13 A Step brothers little fair well.

14 Q Were you amused by what the chief had done?

15 A Cause it was funny but seeing it later in
16 generalny Wong's it wasn't tour and you know.

17 Q So when did that antibiotic can you give me a
18 date when you sate it in Generalny Wong's office?

19 A Activity shooter training.

20 Q Also 2011.

21 A Yes.

22 Q Did the two Alma requesting a hearing
23 immediate Daniels counselty see this position of
24 control substances?

25 A I believe they did.

1 Q What led you to believe?

2 A 1 of them started laughing.

3 Q And did you file any type of complaint about
4 this incident?

5 A Yes.

6 Q And when did you file that complaint?

7 A I want to say December or January of 2011.

8 Q And was that complaint that you filed in
9 writing?

10 A Yes.

11 Q Okay. Who did you file it with?

12 A The EEOC.

13 Q What's the status of that complaint?

14 A They are suppose to be investigate soon I
15 don't know when.

16 Q Do you still have that can you answer the
17 question cytosin that email?

18 A No.

19 Q I n e have the picture but I don't travelers
20 check the email.

21 Q When you say you have picture you mean you
22 attachment, I have the actually picture I saved the
23 picture but I don't have the email from him.

24 Q Okay I ask that you provide that to the
25 counsel?

1 ATTORNEY3: What about the other email he said
2 August 23rd 24th.

3 MR. POINTER: Good question.

4 MR. POINTERQ. In a to yards of soil Bryce?

5 A The only email I have from in a to yards of
6 soil Bryce is from August 29th.

7 Q And what was discuss what was mentioned in
8 that email?

9 A In that email I say that I learned information
10 about that lieu silva was arming himself and his
11 position did not require to I complained in that email
12 that I had recently found out that Luis silva was going
13 to be my captain after I made the complaint about chief
14 say on the patio in a my protest for that was is that
15 he was the subject of my complaint his position was not
16 in law enforcement position at the time he was required
17 police officer and my complaint that was in that body
18 of email I believe was how could you attempt to think
19 about putting someone I complained about for racial
20 slurs and fair I couldn't like to report African
21 American supervisor I said it was a hostile work
22 environment and in that complaint I said that I am also
23 concerned about sergeant bat's mental state.

24 Q What was et that led you to concern?

25 A Clean his firearm for a long period of time

1 this was about I'd say may or June.

2 Q 2011. When you say?

3 A It was around the time the alcohol.

4 Q When you say cleaning for long period of time

5 can you describe anything further?

6 A I don't so here's I left the office at nine I

7 returned at 11 he was still in the same position

8 cleaning his weapon I did V no idea came back I can't

9 tell you what he did peer to me he was still on there

10 but when I made remarks on say on the patio in a about

11 the alcohol I included seeing him in the armory

12 cleaning his weapon and it was never a formal complaint

13 about him simply does he need help.

14 Q Okay. And when you dolled chief about this

15 incident did the chief respond any kind of way about

16 that conversation?

17 A He said he would deal with it and thank you.

18 Q Now, the email that you sent August 29 lieu

19 silva?

20 A Yes.

21 Q From what email did you send that?

22 A My OUSD.

23 Q And you sent that to whom?

24 A In a to yards of soil Bryce.

25 Q Any other emails?

1 A Which I don't have position I know what I mutt
2 in it August 23rd or 24th to in a to yards of soil
3 Bryce I reference that email in my August 29th email to
4 in a to yards of soil Bryce.

5 Q When you say you erroneous that email what
6 email are you referring to?

7 A I reference HR the one where I quoted you
8 saying they learned of retaliatory measures privately
9 that was an email on August 23 or
10 24th August 29th email I have I do not have the 23rd I
11 do have.

12 Q Have you received any written communication as
13 it relates to any -- strike that. Interviewed by
14 anyone other than an attorney as relates the complacent
15 you made?

16 A Yes from KA*EFPLT whom.

17 A The FBI and U.S. attorney.

18 Q Anyone else?

19 A No.

20 Q Okay. So as far as you're aware there hasn't
21 been any type of OUSD EUFRPLT that would calls for
22 speculation?

23 THE WITNESS: None what so officer I'm I had
24 to say that.

25 MR. POINTERQ. No one followed up on these

1 advise chief certify in a HR about?

2 A Absolutely not.

3 Q Was sergeant bat involved at tow motive seem

4 district repairs to patrol cars?

5 A I would like to clear up something two

6 questions or maybe previous question are you implying

7 the district knows about this stuff that I had told you

8 so your question was have they investigated any of your

9 complaints.

10 Q All right.

11 A So I just want to assume the district knows

12 about that stuff it's my belief they do not know that

13 stuff.

14 Q What are when we say when I say the district I

15 mean the chief I mean any other employee that has some

16 responsibility that you're aware of as it relates

17 following up in investigate complaints that are made by

18 officers does that make sense to you?

19 A No.

20 Q Okay. I mean if it doesn't?

21 ATTORNEY2: I'm not sure we're really canine

22 indicating here.

23 MR. POINTER: Right go ahead what is your

24 question.

25 MR. POINTERQ. When you were make ago

1 distinction I believe sergeant belieu is a I don't want
2 do assume the district all these complaints is that
3 true?

4 A Yeah, I those events that I described they
5 suspect are criminal I believe OUSD doesn't know
6 anything about that the events that were taking place
7 so I didn't know if you were including that portion in
8 it the emails that I have sent HR as they have never
9 followed criminal stuff.

10 Q Okay.

11 A That's why I just want to clarify that.

12 Q Fair enough who have you told if anybody auto
13 motive seem have you told anybody in the district about
14 this auto motive scheme?

15 A No.

16 Q And you said sergeant bat was involved?

17 ATTORNEY2: That calls for speculation but
18 answer the question.

19 ATTORNEY4: Join in the objection.

20 THE WITNESS: I never heard sergeant bat say
21 specifically he was involved in something criminal so I
22 know I have knowledge that he took a car personal cars
23 down there I believe he told me that I did not get time
24 on the misdemeanor pregnancy that he was doing anything
25 illegal I got the impression from say on the patio in a

1 and lieu silva that something wasn't right as far as
2 why we were there why our account switch from San lee
3 an do for the record to this one.

4 Q Name of the business?

5 A Quality tune up.

6 Q And the location of this quality tune up?

7 A 1300 block of 16th avenue.

8 Q Is there any particular person that you're
9 aware of OUSD quality tune up?

10 A Bruce.

11 Q By chance do you know his last name?

12 A No.

13 Q What about did you tell anybody O at OUSD
14 summer camp together we can?

15 A No but.

16 ATTORNEY2: Just answer the question did you
17 tell anybody at OUSD about this summer camp incident
18 whatever that may have been.

19 A Can I have a home with him real quick.

20 MR. POINTER: Off the record.

21 (Recess taken from 4:13 p.m. to 4:23
22 p.m.)

23 MR. POINTERQ. Are there any other
24 conversations that you had with chief certify in a
25 other than those we already discuss so far today that

1 led you believe that the investigation into the
2 incident related to RAUTed during the marriage helium
3 brown has been compromised?

4 ATTORNEY2: I don't believe he said
5 compromise.

6 ATTORNEY3: I think he said cover up.

7 MR. POINTER: Well, that's my word.

8 ATTORNEY2: Well, then we're assuming fangs
9 not in evidence mischaracterize's the witness'
10 testimony.

11 ATTORNEY3: Is there a question pending.

12 MR. POINTER: Yeah.

13 ATTORNEY2: Do you have any more conversations
14 with certify in a.

15 THE WITNESS: I don't believe I did.

16 MR. POINTERQ. Okay since this incident --
17 in the hooting of RAUTed during the marriage helium
18 brown have you been pressured to give statements in
19 this case?

20 ATTORNEY2: Well, I'm.

21 MR. POINTER: Is there an o.k.

22 ATTORNEY2: Well, yeah when you say statements
23 outside the con tech of the lawsuit like answering
24 discovery taking deposition and.

25 MR. POINTER: Have you felt any pressure have

1 you felt any pressure to give statements during do you
2 recognize this case then specific instances.

3 ATTORNEY2: I don't want to imply this in my
4 objection.

5 MR. POINTER: But your implying donating it
6 any way.

7 ATTORNEY2: Anything to do with the
8 attorney-client but.

9 MR. POINTER: We already know for the 100
10 first time that I'm not in any of my questions going to
11 attorney-client privilege I cannot get that information
12 do you understand that.

13 A Yes.

14 Q Okay. Have you felt pressured to testify?

15 A Yes.

16 Q Okay. What pressure have you felt?

17 A From OUSD legal department from chief James
18 Williams from my former attorneys.

19 ATTORNEY2: In which case that's covered by
20 the attorney-client privilege.

21 MR. POINTER: Sure.

22 MR. POINTERQ. What pressure chief Williams?

23 A Every time I've had to do something that's
24 protected under attorney-client privilege fit innocence
25 for duty by chief will jumps.

1 Q What is fitness desult?

2 A Use two purposes one to evaluate to send or
3 recommend an officer to their department doctor for
4 evaluation if they can perform their duties second
5 would be to send an officer to their department doctor
6 when they are ready to return back to work and released
7 from their own treating physician.

8 ATTORNEY2: You understood his testify that's
9 the question have you been from herred by chief will I
10 didn't means to testify.

11 THE WITNESS: Oh, I'm sorry not from no.

12 Q Do you feel as if you being sent -- strike
13 that. Do you feel as if this the process for fitness
14 for duty that you describe retaliatory pressure again
15 you?

16 A Yes.

17 Q Why what do you mean by that?

18 ATTORNEY2: Well, that I'm going to instruct
19 him not to answer I think that then becomes the subject
20 matter of potential litigation by Mr. Belieu is a which
21 he's represented by.

22 ATTORNEY3: Sergeant.

23 THE WITNESS: Commander technically.

24 ATTORNEY2: I do not want him to testify
25 ability subject that one I don't think is relevant to

1 this lawsuit that is his retaliation issues when he's
2 not protected by his own attorney in that regard
3 instruct him not to answer.

4 MR. POINTERQ. Retaliation that you feel that
5 you have received as it relates the fitness for duty is
6 that retaliation for your participation in as it
7 relates the shooting of RAUTed during the marriage
8 helium brown?

9 A I believe it is.

10 Q Do you believe that you have been retaliated
11 in that manner meaning fitness for duty because you
12 providing information that is adverse to the district
13 and or any district employee?

14 ATTORNEY2: I'm going to object because that
15 assumes facts not in evidence go ahead.

16 THE WITNESS: Yes.

17 MR. POINTERQ. What district employees have
18 you provided add versus information about as it relates
19 to the incident related to RAUTed during the marriage
20 helium brown and or the investigation of the incident
21 related to the shooting death of RAUTed during the
22 marriage helium brown?

23 ATTORNEY4: Objection is.

24 ATTORNEY2: Calls for speculation.

25 THE WITNESS: Jackie minor and Michael Smith.

1 ATTORNEY4: Can you repeat your answer.

2 THE WITNESS: Jackie minor and Michael Smith.

3 MR. POINTERQ. And Michael Smith is whom what
4 position does he hold in the district?

5 A Documents that I see are trial attorney for
6 OUSD.

7 Q And jack Lin minor what oh, she's the also an
8 attorney for the district is that true?

9 ATTORNEY3: General counsel.

10 THE WITNESS: General counsel.

11 MR. POINTERQ. And so you feel that
12 retaliation that you have testify today as it relates
13 to fitness duty you have adverse information to Michael
14 Smith and jack Lin minor?

15 A I have not seen any jack Lin minor was just in
16 the month of August 2011 it's been Michael Smith ever
17 since then to present.

18 Q And you feel these two people are retaliating
19 against you?

20 A Yes.

21 Q Starting with jack Lin minor who way he asked
22 has she done that you feel is retaliation against you?

23 ATTORNEY2: Mr. Belieu is a I'm going to
24 instruct you not to answer.

25 ATTORNEY3: Command.

1 ATTORNEY4: Let him speak please.

2 ATTORNEY2: Instruct you not to answer that
3 question please as relates any communications she is
4 made to you now if there's conduct that is not the form
5 of communication that is where she said something to
6 you then you may answer that.

7 ATTORNEY4: add an objection that in so far
8 as his question entered upon the attorney-client
9 witness will be not permit to answer that question.
10 You're saying that if she's.

11 ATTORNEY2: If she said something to you as
12 general counsel I want to instruct you plot to answer
13 that if there's something you bereave she's done or
14 become aware of that you.

15 THE WITNESS: Outside of.

16 ATTORNEY2: Yeah that you bereave is retaliate
17 foyer.

18 THE WITNESS: Well, this wasn't a pro-ticketed
19 under attorney-client privilege she went into August 9
20 address Tony Smith the whole department staff and
21 officers and she not quoting her verbatim but she said
22 she did not believe that the incident took place with
23 say on the patio in a complaints she said that she was
24 hiring an outside firm to investigate us because she
25 wanted to be the officer's advocates and her and Tony

1 Smith were soliciting officers to come forward speak
2 with them privately want to be their advocates and they
3 die volume.

4 A Ed information that I spoke to them officers
5 indicated there was drinking involve objection no
6 foundation July 18th she indicated that she named the
7 people that were involved in making a complaint she
8 they handed out business cards and ordered people to
9 come down meet with them privately I was told by two
10 officers that Jackie minor and specifically was
11 soliciting complaints against me one girl name officer
12 galore yards of soil bell tran Oakland police
13 department academy said I cannot tell you by any
14 conversation about say on the patio in a what I can
15 tell you is that the interview they had with Jackie
16 minor was not about say on the patio in a it was all
17 about you she said did John has John ever yelled at
18 your been mean to you has he ever done anything
19 inappropriate to you watch out that they are trying to
20 find anythings about you officer holly Matthews then
21 later came to me told me that jack Lin minor who's
22 avenue 40 can't American stated to her that the use of
23 the N word is not that big a deal that people say it
24 all the time and holly Matthews told me that her
25 interview with jack Lin minor was not what she thought

1 it was she did not think that it was about the
2 complaint she referenced or implied she did not get
3 into what they said she told me John it was not about
4 your complaint I didn't know what chief say on the
5 patio in a did until afterwards she implied the
6 interview was about me she called Jackie minor in for a
7 long time of me and argued with Jackie minor second
8 interview with Jackie chief say on the patio in a now
9 that she e d light learned of her racial slurs of
10 husband irk what's her name Ghana.

11 THE WITNESS: Holly H-O-L-L-Y-M-A-T-T-H-E-W-S.

12 MR. POINTERQ. Okay. Anything else along
13 those same lines with Jackie minor?

14 A I followed Jackie minor I raced my hand and I
15 specifically said what about retaliation superintendent
16 answered it I didn't think he did a good job I followed
17 Jackie minor and superintendent down to the parking lot
18 I was on one side of the fence watching them they were
19 approximately 20 feet from me and I over heard Jackie
20 minor and the summit say they were not going to let
21 John get away with this and they were both talking I
22 could not make out exactly what was said I did hear
23 that John is not going to get away with this I
24 therefore I called Jackie minor on her cell phone right
25 as she left I was actually saying Tony Smythe T Smith

1 trying to get their attention this was August this was
2 August 9th at around 10 o'clock in the morning video
3 surveillance video could show me standing there
4 watching them she was 20 feet away I don't know if it
5 will record that much but that's what I did.

6 Q This is what?

7 A Street I called Jackie minor immediately I had
8 the impression that there was some sort of speculation
9 about me being upset with something I had told her I
10 had no personal both of with anyone I'm just doing what
11 was receipting what was required of me to do and she
12 told me that she would call me later but I told her
13 they heard her in the parking lot and I wanted to
14 reaffirm her I do not have a grudge against anyone
15 there's nothing that I'm trying to spearhead it was
16 basically I'm doing the right thing I'm reporting stuff
17 and I wanted to report more stuff to her never
18 happened.

19 Q So do you feel that you're a whistle blower.

20 A Yes.

21 Q Do you feel whistle blowing?

22 A Yes and I want to.

23 ATTORNEY2: You answered the question.

24 THE WITNESS: Okay.

25 ATTORNEY3: Let the witness finish the answer

1 I tell you million times.

2 MR. POINTERQ. Is there additional I've asked
3 you?

4 A Yes.

5 Q What is that?

6 A I'm scared I do not want to be retaliated
7 against again I am fearful of retaliation this incident
8 has caused me so much anxiety just doing the right
9 thing.

10 Q Has anybody threatened you in any way for your
11 whistle blowing activities?

12 A Yes.

13 Q Who?

14 A Former attorneys.

15 Q What kind of threats do they make to you?

16 A Do not answer that question you're invading
17 whatever the discussions may have been.

18 Q You understand you hold that right that
19 privilege officer you understand that?

20 A Yes.

21 ATTORNEY3: Commander.

22 MR. POINTER: Commander sorry.

23 MR. POINTERQ. You understand you hold that
24 right commander?

25 A Yes.

1 Q Have you told anyone else related to those
2 threats?

3 A Yes.

4 Q Okay. Whom?

5 A The FBI and U.S. attorney.

6 Q Did you tell anyone else someone that works if
7 for FBI U.S. attorney or your attorneys in this matter
8 regarding those threats?

9 A Yes.

10 Q Whom else?

11 A Michael I don't like it.

12 Q Former OPD officer?

13 A Former Oakland police lieutenant.

14 Q What it did you tell him that's not protected
15 by attorney-client privilege conversation you not your
16 attorneys?

17 A I just wanted to look for him.

18 Q That's fine?

19 A I was telling him basically that I needed help
20 he helped me in going to the FBI and the U.S. attorney
21 and periodically I have told him things that have
22 happened regarding the threats and retaliation.

23 Q What did you specifically tell him as it
24 relates the threats that you received?

25 A That I felt intimidated about my defense and

1 my indemnification that I felt that I need today be
2 along the same lines as codefendants.

3 Q What do you mean by that?

4 A In any statements that I would deposition that
5 I would apartment in.

6 Q When you say you need today codefendants the
7 case that we're involved in here is a civil case?

8 A Yes.

9 Q So what I'm trying to understand what you
10 meant when you told him that in terms of you need along
11 codefendants?

12 A Being on the same lines or saying what
13 codefendants are saying happened.

14 Q Okay are you saying that you have been
15 pressured to give statements that are consist with what
16 sergeant bat has said despite you want to go give
17 statements that inconsistent with what sergeant bat has
18 said?

19 ATTORNEY2: Do not say that is protected
20 attorney-client privilege.

21 MR. POINTER: I have not asked him.

22 ATTORNEY2: That's what you asked him.

23 MR. POINTER: I dip say anything.

24 MR. POINTERQ. Sergeant, I'm not asking you
25 what your attorneys told you I'm asking you what you

1 have been pressured or threatened to do all right and
2 so my question to you so we're clear have you been
3 pressured to give statements that are consist with
4 sergeant bat despite have you been pressure isn't with
5 sergeant bat?

6 ATTORNEY2: Do not answer question relates any
7 communication from an attorney that you represented you
8 in this in that matter.

9 MR. POINTER: Question stands.

10 A Okay I don't recall him telling me that.

11 Q You don't recall is that you adopt have memory
12 whether or not pressured to give statements consist
13 with sergeant bat?

14 A I have told him that I have felt that if I
15 gave statements that went against the district that I
16 would be thrown in jail for perjury.

17 Q So you have been threatened with jail?

18 ATTORNEY4: Objection this question violate it
19 is attorney-client privilege.

20 MR. POINTER: So your add politicizing
21 threatened with jail.

22 ATTORNEY4: Same objection.

23 ATTORNEY2: I'm going to instruct him not to
24 answer that.

25 MR. POINTER: It's already been answered.

1 ATTORNEY2: I don't know that it has I
2 appreciate what you're saying what's your next
3 question.

4 MR. POINTERQ. So you're instructing the
5 witness?

6 ATTORNEY2: I just did.

7 MR. POINTER: Okay.

8 MR. POINTERQ. So sergeant,?

9 ATTORNEY3: Commander we'll get it right.

10 A Just tell the district that.

11 MR. POINTERQ. Commander have you been
12 instructed to give false statements as it relates to
13 what happened during the course of this incident
14 related to RAUTed during the marriage helium brown
15 shooting?

16 ATTORNEY2: I'm going to instruct the witness
17 to not answer the question in the con tech if that type
18 of information was ever communicate today him by an
19 attorney I'm not saying that it has or hasn't I just
20 don't want to breech the attorney-client privilege
21 outside of that Mr. Belieu is a.

22 THE WITNESS: No.

23 Q I can't even recommend he has he just answered
24 it.

25 MR. POINTERQ. We're going the withdraw the

1 question and before I ask the next question before the
2 15th time that we have inter-seed with this
3 attorney-client instructing secularly directing the
4 client commander watch commander at that have you been
5 threatened with jail as it relates providing testimony
6 here that's adverse to the district?

7 ATTORNEY4: Objection intrudes attorney-client
8 privilege.

9 ATTORNEY2: He's making the point exclusive
10 any communication have you.

11 THE WITNESS: No.

12 MR. POINTERQ. Okay. Now previously you said
13 you have so and we got objections up the with a zoo at
14 that point in time so I take that to renales
15 essentially coming from your attorneys?

16 ATTORNEY2: Don't answers that well, don't
17 answer.

18 MR. POINTERQ. The record speaks for itself.
19 Now, have you been pressured to give -- have you been
20 pressure today fab bring indicate and provide false
21 statements related to the incident involving the
22 shooting death of RAUTed during the marriage helium
23 brown?

24 A Within the attorney-client privilege.

25 ATTORNEY2: All of his questions and he said

1 this several times and I appreciate him doing so all of
2 these questions are outside exclusive to any
3 communications you may have had with your attorneys
4 that's the context right Mr. Pointer I the travelers he
5 said that go ahead and answer it with that
6 understanding.

7 THE WITNESS: Outside of that no.

8 MR. POINTERQ. What have you told Mr. Noll as
9 it relates to the pressures that you have felt to give
10 fab bring indicated testimony relating to the shooting
11 death of RAUTed during the marriage helium brown?

12 ATTORNEY2: I'm going to object assuming
13 statics not in event question is what have you told
14 Mr. I don't like it.

15 THE WITNESS: What I have told Michael I don't
16 like it is that I felt this way I never told him
17 specifically what or read him anything or discuss
18 verbatim what people have said I have always told him
19 this is how I feel this is what has been happen to go
20 me I understand that you know if I do talk to someone
21 it might put them in a bad situation what I told Mr. I
22 don't like it was a lot of the criminal things that
23 were going on that I suspected and I had very lengthy
24 conversations with him about that I suspected some
25 stuff with this I've told him I felt this is what's

1 been happening outside of the attorney-client privilege
2 whether it's true or not I felt that he has been he
3 worked with getting me to first the DOJ and then it was
4 the FBI and I met with them and the U.S. attorney so
5 that's basically all he I believe he nose.

6 Q So as you sit here today you feel like you
7 have been pressured by the district to give false
8 statements as it relates the shooting of RAUTed during
9 the marriage helium brown?

10 ATTORNEY2: Do not an ideal understand the
11 question.

12 MR. POINTER: Why not.

13 ATTORNEY2: Because now you are of now you are
14 naturally invading the attorney-client privilege.

15 MR. POINTER: I'm sorry go ahead.

16 ATTORNEY2: Question invading the
17 attorney-client privilege because is no that's all
18 that's needed for the o.k.

19 MR. POINTERQ. And your still understand?

20 A Can you repeat it.

21 Q Sure. Have you felt pressure from the
22 district to give false testimony related to the
23 shooting death of RAUTed during the marriage helium
24 brown?

25 A No.

1 Q Okay. Have you felt pressure from the
2 district to give testimony that is consist with what
3 sergeant bat said took place in relation to the
4 shooting death of RAUTed during the marriage helium
5 brown?

6 A Can you please repeat it my ahead is kind.

7 Q Mine too?

8 ATTORNEY3: You got ten minutes.

9 MR. POINTERQ. Have you felt pressured from
10 the district to give statements that are consist with
11 sergeant bat's version of the incident related to the
12 shooting death of RAUTed during the marriage helium
13 brown?

14 ATTORNEY4: Objection the question was just
15 asked and answered.

16 THE WITNESS: No.

17 MR. POINTERQ. Okay. Now, we talk about jack
18 Lin minor what about?

19 ATTORNEY3: Smith.

20 MR. POINTERQ. Who is Ken Lay Smith?

21 ATTORNEY2: I appreciate your inquire I'm not
22 what about.

23 Q You're correct that's pretty vague you dress
24 or bath breath or anything focus and pointed.

25 ATTORNEY3: There's no question pending.

1 MR. POINTER: There's to question.

2 ATTORNEY2: Okay you were just.

3 MR. POINTER: Strike the question withdraw the
4 question.

5 ATTORNEY2: You were just making your owe d b
6 a traffic foyer comment then.

7 MR. POINTERQ. Do you have any conversations
8 with with Michael Smith related to this case where
9 there was someone who was not a party to the case
10 present?

11 A No.

12 Q Do you have any conversations with jack Colin
13 minor not a party to this case that was present?

14 A No.

15 Q What is your OUSD official email?

16 A John in a than dot belieu is a at OUSD at K12
17 dot CA dot US I believe that's it I don't have it any
18 more but.

19 Q Did you get that ma'am clerk I didn't get it
20 that the same email dress that you were using at about
21 the time that you already testified to?

22 A Yes.

23 Q Have you had any other email with the dick
24 since you have employed as a school district employee?

25 A No.

1 Q So as you sit here today have you been
2 declared fit for duty?

3 A I am.

4 ATTORNEY2: Just yes or no.

5 THE WITNESS: No.

6 MR. POINTERQ. And what is the none the
7 declaration that you're not fit for duty based upon?

8 ATTORNEY2: I'm going to instruct him not to
9 answer first of all patient client privilege as far as
10 any communications he may have had with a fission and I
11 don't believe it's relevant and I think invasive of
12 this man's privacy.

13 MR. POINTER: Okay you're done.

14 ATTORNEY2: I am.

15 MR. POINTERQ. So I will reor the it baring
16 relates to not being declared to the truth veracity of
17 the testimony that you're here to give today meaning if
18 you have been not fit duty emotional issue going on
19 that may bare upon the here today the sworn testimony
20 highly relevant or second progress or if the
21 declaration not fitness for duty the condition whatever
22 that may be that apparently present today was existent
23 at or a time of this incident the shooting death of
24 RAUTed during the marriage helium brown even that much
25 highly relevant so if your instructing him not to

1 answer that's fine but you unmy position?

2 ATTORNEY2: I believe I already instructed him
3 not to answer.

4 MR. POINTER: Okay.

5 MR. POINTERQ. So now, you testified earlier
6 that you thought this fitness for duty procedure was
7 being use against you as retaliation is that true?

8 A Yes.

9 Q Do you yourself feel as if you're fit for duty
10 is that true do you or do you not?

11 ATTORNEY2: May I here the question well, I 30
12 that berates him had to just a moment please I believe
13 that offer an opinion that requires medical training
14 and I think it also berates him to speculate I also
15 don't think it's relatively and also invasive to his
16 rights to privacy I'm going to instruct him to leave
17 not to answer on each of those grounds.

18 ATTORNEY3: That's asking for an opinion is
19 that the twist we're putting on this.

20 MR. POINTER: Let the judge decide that's not
21 a problem okay.

22 MR. POINTERQ. Are you suffering from any
23 type of malady sickness illness that would affect your
24 ability to testify the results here today?

25 A No.

1 Q Okay?

2 MR. POINTER: Off the record.

3 (Off the Record.)

4 MR. POINTER: Back on the record thank you
5 commander I'm done with my questions.

6 A Okay.

7 Q Mr. Calvin probably has a couple more than
8 that I have some type constraints but fair to say that
9 you're acceptability towards say on the patio in a
10 altered since the if we could of January 2010 is that
11 true.

12 A I would say my trust in him has diminished.

13 Q Now you testified earlier that after the shots
14 were fired that you called chief say on the patio in a
15 on bat's telephone?

16 A Yes.

17 Q For some reason you didn't have telephone?

18 A That's correct.

19 Q Now when you recall van slow telling him
20 everything ten police head quarter did you make any
21 phone calls do you remember asking that?

22 A Yes.

23 Q And you said that you asked officer brand to
24 call your brother correct?

25 A I believe so.

1 Q And you yourself called your wife briefly you
2 were okay but you couldn't discuss the accident?

3 A Correct.

4 Q When you got the head quadricalled you dad
5 very bereavely to say your were okay?

6 A Correct.

7 Q You never mentioned the call to chief say on
8 the patio in a?

9 A At that time I don't remember it.

10 Q You just made it an however before right?

11 A I don't leave it was an hour I think it was I
12 think it was interviewed at two in the morning I think
13 the incident occurred around 930 so a few hours.

14 Q All right. But she clearly asked you did you
15 make any phone calls you dib just say tell us some of
16 the phone calls?

17 A Sure.

18 Q So you just forgot the mention it?

19 A Just didn't come to my mind.

20 Q And how long did you talk to the chief on that
21 occasion?

22 A I can't give 83 an estimate at this time I
23 just know what I report today him and that was it.

24 Q And at the time you're shaking this phone call
25 who else was present at the seen?

1 ATTORNEY2: You mean just in the broad sense
2 as pose today might have been in his.

3 ATTORNEY3: I don't mean earshot both to sign
4 and date were there other police officers there.

5 A In the vicinity where I was.

6 ATTORNEY2: Just iota there ordinary care sure
7 yes.

8 ATTORNEY3Q. All right and so did you tell
9 chief say on the patio in a in that a gun had been
10 found in the car?

11 A I don't remember.

12 Q But you're sure that you told holly Matthews
13 that there was a gun in the car?

14 A Yes.

15 Q Have you read her report?

16 A No.

17 Q You never read it?

18 A I would like to have marked as first Exhibit
19 to this deposition two page report of holly Matthews
20 and read it.

21 ATTORNEY4: It's five cloak.

22 ATTORNEY2: It's okay.

23 ATTORNEY3Q. Go ahead and read it and let
24 know when you're done.

25 A Okay.

1 Q You agree with me she doesn't mention anything
2 in her report is there a reason you're hand is im?

3 ATTORNEY2: Until you had a chance to complete
4 your question.

5 Q 82 you would agree with me officer Matthews
6 anything about you telling her there was a gun in the
7 car?

8 A I do not see anywhere in her report.

9 Q Well, it says she spoke with you right?

10 A No.

11 Q Doesn't say she asked you how you were?

12 A Did I read that part okay yes she spoke to me.

13 Q And she asked you how you were and your said
14 okay?

15 A Yes.

16 Q She told me there was a gun in the car?

17 ATTORNEY2: He wants to know whether which
18 have been exhibit 1.

19 ATTORNEY3: Yes first in order plaintiff's
20 first nor.

21 THE WITNESS: No.

22 Q I feel can we go off the record for a second.?

23 ATTORNEY2: Let's say off the record.

24 MR. POINTER:

25 ATTORNEY3: I'm not done release her she has

1 to go ahead and break.

2 ATTORNEY2: Didn't I just say that.

3 ATTORNEY2: Break for the evening.

4 ATTORNEY3: All right that's fine.

5 ATTORNEY2: Okay off the record.

6 MR. POINTER: I want one.

7 ATTORNEY2: I wasn't one.

8 ATTORNEY4: I want one.

9 ATTORNEY3: I will wait.

10 (Deposition concluded at 5:06 p.m.)

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