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VIDEOTAPED INTERVIEW

WILFREDO DIAZ

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APPEARANCES:

Scott Gardner
John Saraya
Patrick D'Angelo
Jeffrey Follmer
Steve Kinas

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1 MR. SARAYA: John Saraya with BCI.

2 THE WITNESS: Nice to meet you.

3 MR. GARDNER: Scott Gardner.

4 THE WITNESS: Nice to meet you.

5 MR. SARAYA: This is the canned speech
6 that everyone's been getting so far, so just bear
7 with us so you understand where -- where
8 everybody's coming from.

9 Okay. I'm with BCI. We've been tasked
10 overall to oversee this investigation. I've been
11 doing officer-involved shootings for about 15
12 years; one of the many things we do over here.
13 Okay?

14 What we have is a list of questions.
15 Everyone's getting the same basic questions.

16 At certain points we're just going to
17 let you rant and carry on with everything and
18 come back and ask questions.

19 Understand we're not second-guessing
20 you. We're not berating you. Some of the
21 questions aren't to do that. It's just to make
22 sure that you're articulating some of the things
23 that we need you to bring out. All right?

24 There are a couple of questions that are

1 a bit of an eye-roller, we understand that, but
2 it's questions we have to ask so we know the
3 information.

4 If there's anything you want to know,
5 ask us. Okay? This is not an internal
6 investigation. This is a criminal investigation.

7 Your attorney, your union rep should
8 have given you the heads-up a Miranda's going to
9 be given ahead of time. It's not because we
10 think you're a criminal. It's just as a criminal
11 investigation, you have all rights and privileges
12 the same as everybody else. You understand all
13 that?

14 THE WITNESS: Yes.

15 MR. SARAYA: All right. So with that,
16 I'm going to start with the Miranda warnings.
17 All right?

18 You have the right to remain silent.
19 Anything you say can and will be used against you
20 in court. You have the right to consult with an
21 attorney and have an attorney present during
22 questioning. If you can not afford an attorney,
23 one can be provided to you before questioning at
24 no cost.

1 Do you understand these rights?

2 THE WITNESS: Understood.

3 MR. SARAYA: Okay. We are recording
4 this. Might have to speak up once in awhile
5 here.

6 THE WITNESS: All right.

7 EXAMINATION

8 BY MR. SARAYA:

9 Q. Now the sheet of paper I have has your
10 first name as Wilfredo. That is correct?

11 A. Yes.

12 Q. What's your home address?

13 A. [REDACTED] [REDACTED]
14 [REDACTED]

15 Q. Okay. A cell-phone number where I can
16 reach you at or something?

17 A. [REDACTED]
18 [REDACTED]

19 Q. Okay. Your date of birth?

20 A. [REDACTED].

21 Q. Okay. Understand, and I'm sure these
22 guys have said the same thing, honest answers.
23 If you don't know, it's all right to say you
24 don't know.

1 We expect there to be some variations
2 between what you experienced and what other
3 officers experienced, so that's okay.

4 If everybody came in and gave the exact
5 same statement, that's a concern. All right?

6 So down the road here we're going to ask
7 you if you talked to anybody else about it. Make
8 sure you're telling me your observations and your
9 actions, not what someone else said, what you
10 heard, or anything like that. Okay?

11 A. Uh-huh.

12 Q. All right. All right. The first
13 question, how are you holding up with everything?

14 A. It's -- it's stressful. It's intense.
15 I think overall I'm doing okay.

16 Q. Okay. I know we've talked yesterday
17 about different things. Support networks, use
18 them. Don't be afraid to reach out to people.

19 I know in law enforcement the mental
20 health thing is a bit of a stigma, based on
21 experience and being with other cops. Reach out
22 if you need to. All right?

23 It's, you know, survive the streets,
24 survive the court. You've got to survive

1 everything else, too, especially in these
2 situations.

3 A. All right.

4 Q. What is your current assignment with
5 CPD?

6 A. Basic patrol at the Second District.

7 Q. Okay. How many years have you been at
8 Cleveland?

9 A. Four years.

10 Q. Four years?

11 A. Yeah.

12 Q. A police officer anywhere else?

13 A. No.

14 Q. Any military or anything prior to?

15 A. (Negative shaking of head.)

16 MR. D'ANGELO: Your prior employment
17 with the city?

18 A. I have prior employment with the city as
19 a police officer. I was a paramedic for
20 Cleveland EMS for about four years.

21 Q. For four years prior?

22 A. Yes.

23 Q. Okay. What shift do you normally work?

24 A. This is my second day at the district.

1 It was a different unit before that. I'm on
2 second shift.

3 Q. Okay. What's the hours?

4 A. There are two start times right now.
5 That night I was 1530 to 0130. I'm sorry. 1430
6 to 0130.

7 Q. 1430 to --

8 A. 1230.

9 Q. -- 1230. And what -- what were your
10 days off last week when this happened?

11 A. That was my second night there. I had
12 three more to go. So after this past Sunday I
13 was going to be off for three days.

14 Is that what you're asking?

15 Q. So -- yeah. Your -- your work days were
16 Thursday --

17 A. Thursday, Friday, Saturday, Sunday --
18 I'm sorry. Wednesday, Thursday, Friday,
19 Saturday, Sunday. I had to work five days.

20 Q. Okay. So you were off Monday, Tuesday?

21 A. Correct.

22 Q. Second day of the district. Just got
23 bounced in there. Do you know who your
24 supervisor was?

1 A. I was trying to remember that. I'm not
2 too sure. It might have been Kutina, Sergeant
3 Kutina.

4 Q. Do you know how to spell it?

5 A. K-u-t-i-n-a.

6 Q. So maybe Sergeant Kutina?

7 A. Yeah.

8 Q. Where were you at before you got to the
9 Second?

10 A. I was in downtown service unit.

11 Q. Okay. Do you work any side jobs,
12 secondary jobs, anything like that?

13 A. Once in a blue moon.

14 Q. Anything this week?

15 A. No.

16 Q. No. Okay. Thursday when all this
17 starts, how are you feeling; tired, sick, head
18 cold, sneezy?

19 A. No, I felt good.

20 Q. Everything's fine?

21 A. Yes.

22 Q. Okay. Any type of medications,
23 prescription, over-the-counter?

24 A. No.

1 Q. No, okay.

2 I see you wear glasses. Do you wear
3 contacts too or just glasses?

4 A. I wear contacts. I was wearing contacts
5 that night.

6 Q. Okay. All right. You were in uniform?

7 A. Yes.

8 Q. Okay. Full uniform?

9 A. Yes.

10 Q. Exterior vest like is the new fad and
11 everything?

12 A. Yes.

13 Q. All right. On your vest and belt, what
14 are you carrying?

15 A. On my vest I carry my taser and pepper
16 spray. On my belt my gun, my magazines,
17 flashlight, radio, and handcuffs.

18 Q. I like the way you did that. You had to
19 walk yourself through your belt, where is
20 everything attached.

21 A. Yeah.

22 Q. That's fine.

23 Are you carrying all your magazines?

24 A. Yes.

1 Q. Which is how many on your belt?

2 A. Two magazines on my belt.

3 Q. Okay. How are they loaded? Fully
4 loaded?

5 A. Yes.

6 Q. How many rounds are you carrying, do you
7 know offhand, between everything, both magazines
8 and pistol?

9 A. Total 46 rounds.

10 Q. Okay. Good. Are you carrying a backup
11 gun or anything?

12 A. No.

13 Q. Let me ask you, are you guys allowed to
14 carry backup guns?

15 MR. KINAS: Yeah. The process is a
16 little difficult, so a lot of guys don't.

17 MR. SARAYA: Okay. Kind of maybe
18 scratch that one off.

19 Do a lot of guys carry backup guns in
20 the agency?

21 MR. KINAS: Maybe less than 5 percent.

22 MR. SARAYA: Okay.

23 BY MR. SARAYA:

24 Q. Okay. Do you carry a digital recorder

1 or video recorder or anything on your person?

2 A. No.

3 Q. No? All right. What car are you
4 assigned to this night?

5 A. The call number was 2 Adam 27. The
6 actual patrol car was 215.

7 Q. 215. Okay. Solo, with a partner?

8 A. With a partner.

9 Q. Okay. Who is your partner?

10 A. Officer O'Neil.

11 Q. Who was driving, you or him?

12 A. I was driving.

13 Q. All right. Do you guys got your own --
14 I know some guys put their own dash cam in there
15 and record. Do you have a camera in your car?

16 A. No, we do not.

17 Q. Okay. How's the car working? Lights,
18 sirens, spotlights, everything functional?

19 A. Yeah.

20 Q. Any problems with any of the
21 equipment?

22 A. No, not that I noticed. It was a newer
23 car.

24 Q. Okay. Training-wise, you said no

1 military, right?

2 A. Huh-uh.

3 Q. Do you still keep your paramedic
4 certification active? Paramedic or EMT?

5 A. Paramedic. Yeah.

6 Q. You got the higher rate.

7 MR. GARDNER: That is state certified?

8 THE WITNESS: Yes, I am state certified.

9 BY MR. SARAYA:

10 Q. Okay. Any other type of special
11 qualifications, training, certifications you're
12 carrying? SWAT negotiator?

13 A. CIT trained.

14 Q. Okay.

15 MR. GARDNER: What is that?

16 THE WITNESS: Crisis intervention
17 training.

18 BY MR. SARAYA:

19 Q. Okay. Firearms qualified this year?

20 A. Yes.

21 Q. In what?

22 A. In what, in-service?

23 Q. Handgun? Shotgun?

24 A. Handgun and shotgun, yes.

1 MR. GARDNER: Anything else?

2 THE WITNESS: No.

3 BY MR. SARAYA:

4 Q. Okay. You guys do use-of-force
5 training?

6 A. Yes.

7 Q. You had that in the past calendar year
8 or so?

9 A. Yes.

10 Q. Okay. So you're OPOTA certificate is
11 current, active, no problems there?

12 A. Correct.

13 Q. Okay. You get to start rambling now.
14 Tell me about your shift.

15 A. It was a normal shift. Like I said,
16 it's my second day back in the district. And my
17 partner, it was her second week back in basic
18 patrol. She's a detective for domestic violence.

19 So we're still trying to, you know, get
20 the feel of things, radio and stuff like that.
21 Just, we answered a few calls. Nothing that I
22 can think of really out of the ordinary.
23 Yeah, just the normal shift.

24 Q. Okay. Since you both are kind of new

1 here, you two -- your second day, her second week
2 -- you guys are pretty familiar with the
3 district?

4 A. Yes. I live in the Second District and
5 I worked there two years before I came back
6 now.

7 Q. Okay. All right. Normal shift.
8 Running calls. Keep going. What happened next?

9 A. Nothing -- we conducted a traffic stop
10 around right before this all happened on 44th and
11 Cav's arena, which is just north of Star Avenue.

12 You know, I get out of the car. My
13 partner -- we both got out the car. We're
14 talking to the driver at this point.

15 We hear, you know, "Shots fired, shots
16 fired, shots fired," and a description of the
17 vehicle, so we jump.

18 You know, we terminate the traffic stop.
19 We advised the male he was to be warned. We get
20 back in the car.

21 We realize this is downtown, so we're
22 not sure, you know, where it's going to head, so
23 we start driving towards the area.

24 I get on -- I go back around and get on

1 90 Eastbound, try to get off at East 125th, if
2 they were coming our way.

3 As I'm getting on 90, I hear the
4 broadcast that the car is heading westbound on
5 Detroit Superior Bridge.

6 At this point I get off on West 125th
7 and I head north to try to catch up to the chase.

8 You know, they're calling out pursuit.
9 May well -- possibly armed.

10 We -- we go around the Detroit
11 westbound -- I'm not too -- I can't remember
12 exactly what route we take, but I know roughly
13 around 44th and Bridge is where we caught up with
14 the chase, and we're about five or six zone cars
15 behind the chase. So I see lights pretty much
16 and just listening to the direction.

17 Q. Okay.

18 A. They're calling out the vehicles, you
19 know, the directions they're going. He's going
20 Westbound Lorain, northbound on 85th towards
21 Clark, and then eastbound on Clark.

22 We continue going down Clark. When we
23 get around Steelyard area, at this point we're
24 still, you know, six, seven, maybe eight zone

1 cars behind.

2 We're not -- I still haven't seen the
3 vehicle yet. I just keep seeing lights in front
4 of me.

5 I hear one of the officers call out, "He
6 just pointed a gun out. He pointed a gun out.
7 Be careful. Be careful he will shoot."

8 MR. GARDNER: That's at Steelyard you
9 hear this?

10 THE WITNESS: Yeah. On the roundabout,
11 somewhere around there, they're coming off the
12 roundabout.

13 So, you know, my heart's starting to
14 pump now, you know, thinking everything. My
15 family, I've got two boys at home. I've got a
16 pregnant wife. She's due in March. You know,
17 starting to get a little nervous.

18 We go down Steelyard down and then he
19 gets down towards -- continues on Clark towards
20 90. And he gets on the highway at 90, I believe
21 it's Abbey, 90 and Abbey there.

22 As we're getting on the highway a few
23 minutes into the -- into the chase, someone calls
24 out, "He just pointed a gun out. The passenger

1 pointed a gun out. Be careful. Be careful."

2 I hear someone say to light up the
3 spotlight in his back windows so he doesn't have
4 a view of us.

5 Again, you know, my -- I'm nervous. I'm
6 starting to go get a little scared because this
7 is real. I felt, "These guys are really trying
8 to get away."

9 We continue the chase. Somewhere --
10 somewhere before the East 72nd I hear he lost his
11 tire, you know, so I'm thinking he's probably
12 going to stop or, you know, slow down and take
13 off running.

14 MR. GARDNER: Just -- not to interrupt
15 your train of thought. Just to clarify, what
16 channel are you hearing the broadcast on?

17 THE WITNESS: I'm on Channel 2 the whole
18 time.

19 MR. GARDNER: The entire time?

20 THE WITNESS: The entire time, yeah.

21 You know, we don't -- we couldn't change
22 our channel because that's where it came across,
23 so I figured that's the primary.

24 MR. GARDNER: Okay.

1 THE WITNESS: Again, you know, I hear,
2 "They're pointing the gun out." I hear, you
3 know, "He will shoot. He will shoot."

4 We get off on East 72nd. At this point
5 throughout the chase I'm still -- I'm getting a
6 glimpse of the car. I can't really see what, you
7 know, what the car looks like. I'm just getting
8 a description of it. I'm picturing it in my
9 mind.

10 We get off on East 72nd. We hit south,
11 I believe it was, 69th or something like that and
12 I hear, "He just rammed the zone car. He just
13 rammed the zone car."

14 You know, at this point I'm just seeing
15 dust and lights, because, you know, we're --
16 there's zone cars everywhere.

17 We continue to pursue all the way until
18 we get to Euclid Avenue. When we get to Euclid
19 Avenue, we're going up roughly 115, 117th, I
20 think it was.

21 The vehicle pulls into a parking lot. I
22 believe it was, like, a Happy's Pizza. He pulls
23 in, and a couple zone cars, I see them follow in.

24 I'm still seven or eight cars behind. I

1 continue on the road because I figured if he's
2 not going to stop, he's going to come out the
3 front of the parking lot.

4 He comes back out, the suspect comes
5 back out, and gets back on Euclid. At this
6 point, since a few cars had gone in the parking
7 lot, I kind of gained ground. I'm about three or
8 four cars behind maybe. Maybe, I don't know,
9 more like three.

10 He gets back on Euclid and he turns up
11 that side street. I believe it's Wymore. As
12 he's turning into the side street, I see him,
13 like, accelerate up the hill, and I see an East
14 Cleveland zone car come across.

15 And I remember thinking, "This guy's
16 going to t-bone this police car," because, I
17 mean, it was, like, six inches maybe at that
18 point.

19 This is the first time I actually get a
20 good look at the zone car -- at the suspect's
21 car, and I remember feeling my heart drop. I'm
22 like, you know, "This is going to get bad really
23 quick."

24 MR. GARDNER: You're saying the zone car

1 was on Terrace?

2 THE WITNESS: Yeah, I believe that's
3 Terrace.

4 Yeah, they start of just -- he crossed
5 the intersection as the suspect's car is going up
6 the hill.

7 When that happened, the lead car that
8 was behind the suspect's car, I remember seeing
9 him kind of veer to the left.

10 I don't know if -- for whatever reason
11 -- you know, after he crosses the intersection,
12 the suspect crosses the intersection, the lead
13 car behind the suspect veers off to the left, and
14 I ended up being right behind the suspect at this
15 point.

16 BY MR. SARAYA:

17 Q. Okay. So now you've got the lead of the
18 pursuit?

19 A. Correct.

20 Q. Okay.

21 A. But this is right where the -- I
22 remember seeing I'm thinking it's a side street
23 where he turned in and -- because it's kind of
24 wide, it looks like a side street. I turned into

1 the side street. Ended up being a parking lot.

2 THE WITNESS: May I use this?

3 MR. GARDNER: Absolutely. That's what
4 they're here for.

5 Just to give you an orientation here.
6 You're talking about Wymore. This is Wymore,
7 Terrace. You can't really see the drive, but the
8 drive is right -- essentially comes in right
9 here.

10 BY MR. SARAYA:

11 Q. This is a little bit wider. As a matter
12 of fact, here's the same view, just rotated a
13 little bit.

14 So you can get your -- here's Terrace,
15 here's Lee, and actually here's Wymore here on
16 this picture.

17 A. Okay. So this is where -- this is where
18 he almost hit the zone car coming up this
19 intersection here.

20 Q. Okay.

21 A. You know, the zone car that was lead
22 kind of veered to the left and I ended up in the
23 lead.

24 This looks like a lot bigger. It felt

1 like it was right away after Terrace. But I'm
2 assuming this is the entrance here.

3 Q. Right.

4 A. I don't know if there's any side streets
5 here or not.

6 Q. I think it's straight through. The
7 problem is, the trees --

8 A. The trees, right.

9 MR. KINAS: Was that (inaudible) Drive
10 that you guys were on?

11 THE WITNESS: This one here?

12 MR. SARAYA: Yeah. You end up over
13 here. Keep on with your story. Tell me what
14 happens next.

15 THE WITNESS: Well, that's what I'm
16 trying to -- this here felt like a short distance
17 from Terrace. Once you crossed that, to me it
18 felt like seconds that we were turning into that
19 drive right there, into the parking lot.

20 MR. GARDNER: So the zone car veers
21 left. Did you see where the first pursuing zone
22 car went?

23 THE WITNESS: Somewhere -- like, he
24 didn't really get off the road. He kind of just

1 went into like the other lane. Like, I mean --
2 like, he didn't lose control. He kind of just
3 slowed down and veered. I thought maybe he hit
4 something or slowed down. For what, I really
5 don't know.

6 MR. GARDNER: Okay.

7 THE WITNESS: I mean, he was still kind
8 of moving. So I'm, like, "I don't know why he's
9 slowing down."

10 So, you know, we pull in here and I'm
11 right behind the suspect. He goes into the --
12 into the parking lot. And I'm not sure --
13 there's this --

14 MR. SARAYA: There's two islands here.

15 THE WITNESS: Yeah. I think it's the
16 first one here. Come around --

17 MR. GARDNER: This is probably a better
18 picture, parking lot.

19 THE WITNESS: Yeah, there you go. So he
20 comes in. I'm right behind him. And he -- you
21 know, at this point I know -- I view -- I saw
22 that it was a parking lot.

23 MR. D'ANGELO: Use that to point with.

24 THE WITNESS: Okay, yeah.

1 So I saw it was a parking lot. I
2 figured he's going to keep going this way to one
3 of the exits. He continues to go drive and he
4 kind of veers off to the right. Kind of -- I'm
5 right behind him and he's in front of me. He
6 veers to the right.

7 And I remember thinking he's going to --
8 you know, if he's going to take off running, let
9 me try to gain ground and at least get him at the
10 door before he gets out of the car.

11 As I -- as I'm pulling up, accelerating
12 closer to him, he does a sharp left turn right --
13 almost right in front of me.

14 It's kind of weird to describe, because,
15 you know, he wasn't -- he wasn't -- I don't
16 believe he was going that fast, but it felt like
17 he was going fast, and he -- his car kind of,
18 like, fishtailed a little bit. As it does that,
19 since I was gaining ground towards him, my car
20 sort of ended up like right at this point here at
21 the driver's side -- rear driver's side door.

22 And I remember slowing down a little bit
23 and running into his car. Because I was within
24 feet from when he turned in front of me. So I

1 didn't -- I didn't accelerate. It was kind of
2 just like we hit. There was nowhere for me to
3 go.

4 MR. SARAYA: Right.

5 THE WITNESS: So when we hit, it wasn't
6 a big impact. I definitely jolted a little bit.
7 I seen them jolt up a little bit.

8 And after we hit, the cars kind of
9 continue, like, heading in this direction here.
10 Like, you know, he makes a left turn in front of
11 me. I'm coming in, he makes a left turn, and the
12 car kind of, like, continues this way.

13 MR. SARAYA: Okay.

14 THE WITNESS: Okay? My car is facing
15 that way.

16 As he does that, I see his car start to
17 turn, like, back out this way. He turns going
18 this way.

19 And I remember thinking like split
20 seconds -- I'm left-handed. My guns on my left
21 side. I remember thinking, "If he" -- "If he
22 comes right next to me, whoever's got the gun is
23 just going to be able to shoot me before I even
24 take out my gun."

1 You know, I'm like -- I'm convinced --
2 in my mind I'm convinced they both have a gun. I
3 know the passenger for sure is the one that --
4 that has the gun, in my mind.

5 So I didn't want to be stuck in the zone
6 car when he's coming across me, so I jump out of
7 my car.

8 As I jump out of my car --

9 MR. GARDNER: Can you show approximately
10 where your car is and his car is when you jump
11 out?

12 THE WITNESS: Yeah. I'm somewhere
13 around here. He's somewhere around here making
14 the turn back out. You know, kind of just -- I
15 would say his front end --

16 MR. SARAYA: Feel free to draw on it.
17 Yeah.

18 THE WITNESS: Okay. I would say his
19 front drive's side -- driver's side is right
20 around here and this is his passenger side, so
21 this is roughly where I remember seeing him.

22 My car was at this point here when we --
23 we collided. As soon as we collide, you know, he
24 starts --

1 MR. GARDNER: The front of your car is
2 this way?

3 THE WITNESS: Right, my front is facing
4 this way.

5 BY MR. SARAYA:

6 Q. Okay.

7 A. As soon as we collide, he -- you know,
8 he fishtails and he starts to turn back out.

9 So this is where I'm thinking, "He's
10 going to shot at my head. I can't even take out
11 my gun."

12 I jump out the car, and I'm roughly
13 around here kind of like -- I don't remember
14 where my car was. I remember thinking it's
15 there, but I don't know its exact position.

16 And I'll tell you why I'm thinking that
17 now, because I actually left the car in drive
18 when I jumped out the car.

19 As he's -- he's turning the car, I'm
20 outside the car. I remember -- it's kind of --
21 I'm sorry.

22 Q. No. That's fine.

23 A. I remember feeling my heart drop, almost
24 like I remember hearing my voice say "Stop" but

1 in a -- like in a crying way. You know, like,
2 "Stop." I was scared.

3 Q. So you were yelling --

4 MR. GARDNER: You were yelling "Stop"?

5 A. At -- I was fully looking at the
6 passenger and yelling "Stop," because at this
7 point when the car turns around, his -- the car
8 starts going up this mound here and it's kind of
9 at an angle. As I'm yelling "Stop," it's kind of
10 at an angle.

11 And I vividly remember the passenger do
12 this, like look at me, go down like she's
13 reaching or he's reaching into something, and
14 come up, and it was like so quick. I remember
15 him kind of just doing this movement, you know.

16 And I remember seeing the back of a
17 black object, what appeared to be a black object
18 to me. It was more, like, at this angle. It
19 wasn't, you know, sideways. It wasn't straight
20 up. It was kind of like sideways almost like
21 he's going to shoot, you know.

22 So I had my gun out and I remember
23 thinking I'm not going to get my -- my -- I
24 wasn't going to be able to shoot fast enough.

1 Q. Okay.

2 A. I remember thinking my daughter, who was
3 born in March, I won't see her.

4 Q. Okay.

5 A. Even though I had my gun out, I just
6 remember not feeling like I was going to shoot
7 the rounds off fast enough. And I -- I fired two
8 rounds.

9 Q. Take your time. It's okay.

10 A. As I fired two rounds, the car continues
11 to go up this hill here and it turns back out off
12 the curb. Like, it's coming off the curb.

13 At this point I'm like kind of -- like
14 kind of here. This is the car. This is where it
15 went up.

16 And I threw the car off a little bit,
17 because the car was, like, on the curb, but I was
18 here, so I remember the car coming off the curb.

19 The driver, I remember making eye
20 contact with the driver. And I -- over all the
21 noise, I vividly remember the engine rev up like
22 he accelerate -- accelerated the car as he's
23 coming towards me.

24 And I fired two rounds at him or his

1 direction, and I remember jumping out -- out of
2 the way and thinking, you know, "If he continues
3 to pull his car towards me, he's going to pinch
4 me between my zone car and -- and his car." I
5 felt like he was going to ram the car at me.

6 So I -- you know, I jump out the way,
7 and he went down the curb and then he
8 straightened it out after I jumped out of the
9 way.

10 I felt this relief, like he didn't hit
11 me. I look up and my car was roughly more down
12 the hill a little bit, because, you know, like I
13 said, I had left it in drive.

14 My partner jumped in and put it in
15 park --

16 Q. Okay.

17 A. -- or I later heard.

18 So the car was somewhere around here. I
19 jump back in. I turn around. I do a U-turn,
20 because he's, you know, going back out.

21 And by the time I do the U-turn, his car
22 was somewhere around here, I think it was. You
23 know, had he already had passed -- kind of passed
24 the mound.

1 Q. Okay.

2 A. Almost like heading back out.

3 And at this point, I just hear gunfire
4 and I duck in my car. I grab my partner. I'm
5 like, "Get down, get down, get down."

6 And I remember peeking up and just
7 seeing smoke and lights. I'm thinking, "This
8 guy's out the car shooting at us."

9 You know, I'm looking more towards the
10 sides because, in my mind, he -- they ran out the
11 car and are just, you know, shooting and running,
12 so I'm thinking, "If he's coming this way, I've
13 got to be ready to shoot or whatever."

14 So, you know, I kept peeking up,
15 ducking, and then I remember thinking, "I don't
16 want to die inside this car," which is what I
17 think is stupid.

18 Q. It's not stupid.

19 A. Well, just -- I ran outside the car
20 because I felt safer in the back of the zone car
21 instead of sitting in the zone car.

22 And I run in the back of the zone car to
23 the -- into the gunfire. And then I remember,
24 you know, seeing people --

1 Q. How does that work for you with the
2 cruiser numbers on it?

3 A. Okay.

4 Q. This is the suspect vehicle now here.
5 And this is where (inaudible) turns across the
6 island here.

7 A. Right. And this is my zone car here.

8 Q. Okay.

9 A. So, yeah, I remember, you know, looking
10 up and seeing the gunfire and all that with the
11 smoke.

12 You know, it ended so quick. I ran up
13 to the back of the car. As soon as I hear the
14 last round go off, or what I thought was the last
15 round go off, you know, I peek up to see if
16 anyone's still running or anything like that or
17 shooting or anything, and I see officers out the
18 car.

19 I run up -- I can't remember which side
20 I ran up, but I remember running up, running up,
21 seeing everyone with their -- their weapons
22 drawn.

23 I remember -- oh, okay. This is the
24 suspect's car. I remember running up what it

1 seems like --

2 MR. GARDNER: Is this after the --

3 THE WITNESS: At the end of the shots,
4 yeah.

5 I remember running up and -- this is --
6 I mean, I ran all the way up to the suspect's
7 car. I jumped on top of the zone car here, the
8 hood.

9 BY MR. SARAYA: Okay.

10 A. Yeah. On the hood or whatever. If it's
11 the back of the car, I'm not sure. I jumped on
12 top of the zone car, because I remember seeing
13 everyone still had their guns drawn. I don't
14 remember anyone that had approached the car yet.

15 And my mentality was like let's just
16 make sure these guys are either dead -- if
17 they're dead, we'll put away. If they're alive,
18 let's get, you know, EMS. Going back to my
19 training...

20 Q. Right.

21 A. I run up to the car. I jump on top of
22 the hood. I don't know if this car's facing that
23 way or not.

24 Q. Both of these cars, these two cars are

1 facing this car coming in.

2 A. Okay. I remember jumping on top of the
3 hood and I look into the driver.

4 My heart is -- I mean, I can't even
5 describe the feeling. I was horrified.

6 Just like, you know, "This guy just
7 tried to kill me." Like I'm thinking to myself,
8 "Why am I going up to the car?"

9 But I wanted to make sure that everybody
10 was safe. I wanted to make sure that it ended.

11 And I didn't see anyone approaching it
12 right away, so I run up. I look -- I take a peek
13 at the driver and I look at the passenger, and I
14 moved her -- I know "her" now because I know it's
15 a female. Initially I thought it was "him."

16 I moved up his sleeve to check for a
17 pulse to see if he had a pulse. You know, I
18 checked the pulse and I, you know, confirmed
19 again with the driver. He was kind of -- I
20 believe he was facing that way, so I couldn't
21 really see his face, but I figured he wasn't
22 moving. I'm thinking he's done, he's dead or
23 something.

24 So I check the pulse. You know, I'm

1 like she's -- I'm already a paramedic. I'm going
2 to pull her out and start CPR if I need to or
3 whatever.

4 I remember feeling no pulse and I look
5 up. You know, there's officers still with their
6 guns drawn. I'm like, you know, "Put them down,
7 put them down. I think it's over."

8 So, you know, they put them away. I
9 jump off and that was it.

10 Q. Okay?

11 MR. GARDNER: Clarify a point for
12 myself.

13 I don't know if you were re- -- how many
14 total shots did you fire?

15 THE WITNESS: I fired four.

16 MR. GARDNER: Okay. So two --

17 THE WITNESS: I can't remember exactly
18 which one got which. I honestly can't tell you
19 if it was three and one or two and two. I just
20 remember, you know, I thought I fired more.

21 And then, you know, I felt like I was
22 firing a lot, but I guess I was so scared.

23 I shot two, I heard -- I know I felt
24 like I shot more at her, at the passenger, than

1 at the driver, but I keep replaying it in my
2 mind. I think it was two and two.

3 BY MR. SARAYA:

4 Q. Okay. All right. Got a lot of things
5 now, so bear with me --

6 A. Sure.

7 Q. -- as we go back and look at this again.

8 You guys are driving up here. He starts
9 turning and ends up -- you guys end up like
10 t-boning him?

11 A. Right.

12 Q. His car -- when you hit him, does his
13 car go straight or does it spin around?

14 A. It spins around slightly, but, like I
15 said, I don't think the impact was so hard. I
16 think it was more of him actually turning the
17 wheel. I'm thinking my impact wasn't hard enough
18 to turn him around.

19 Q. Almost like a pick (sic) the way you
20 spun around him?

21 A. It seemed like that. But, no, no, not
22 as fast, because, like I said, we t-boned and
23 like I -- I remember the car kind of doing this
24 and almost like stopping but not -- you know, he

1 was still --

2 Q. And then he slid off you.

3 A. Right.

4 Q. There wasn't a big --

5 A. No. In my mind -- I believe my impact
6 did not start the spin. My impact just kind of
7 we touched and he was still trying to spin the
8 car. Like, it looked like he was driving it
9 around, basically.

10 Q. Okay. So let's bear with this. He
11 comes up this way. You get out of your car.

12 A. Right. He's more like here.

13 Q. Okay. So you can see the driver and the
14 passenger inside?

15 A. Correct.

16 Q. Okay. And this is where you see this
17 passenger reaching down?

18 A. When they're on the hill, I remember
19 getting out the car and seeing both of them. And
20 it's -- this was the point that his car was on
21 the -- on the little mound there. So his car was
22 more like this when I actually -- that's when I
23 actually saw her go down.

24 Q. Okay. So the car -- the passenger side

1 is tilted up so you can see more --

2 A. More of the passenger --

3 Q. -- more of the passenger?

4 A. -- than the driver, right.

5 And my mind is, "This is the guy with
6 the gun. This is the guy with the gun." You
7 know, "This is the guy that's going to shoot at
8 me."

9 Q. Okay. So when you see the passenger
10 bend down and come up, you say the hand comes up
11 fist clenched and you can see something black
12 there?

13 A. Uh-huh.

14 Q. That's when you fire your first two
15 rounds?

16 A. Correct.

17 Q. And you're aiming at --

18 A. At the passenger.

19 Q. -- at the passenger? Okay.

20 Did you see your rounds hit the
21 windshield?

22 A. I don't remember where they hit.

23 Q. Okay.

24 A. I'm thinking the windshield, but I

1 couldn't tell you. It was so quick.

2 Q. All right. That's fine. That's fine.
3 That's allowable to register like that.

4 You fired off your first two rounds now.
5 All right. You're standing about here, and the
6 car's cocked up at an angle.

7 A. Huh-uh.

8 Q. He comes back and it's starting to back
9 down at you right now?

10 A. Yeah, yeah. I mean, it was -- I
11 don't --

12 Q. Draw on that all you want.

13 A. Yeah.

14 Q. If you want to use that marker, go
15 ahead.

16 A. I remember thinking --

17 MR. D'ANGELO: (Inaudible.)

18 A. To me the car was more closer to, like,
19 the edge. Like, the whole car didn't -- I don't
20 remember it actually being on the hill. I might
21 be wrong. Maybe like the first part of it --
22 like, it was a quick over the hill.

23 Q. Bouncing around over curbs and
24 everything else?

1 A. Right. So, yeah. So I'm -- this is
2 kind of off.

3 Q. That's fine.

4 A. I was somewhere around here, somewhere
5 around there when the car was coming back down
6 off the hill.

7 Q. So about how far away do you think you
8 were?

9 A. I was maybe about this distance from
10 the --

11 Q. From me to you?

12 A. Right.

13 Q. So in feet, 5 to 6 feet?

14 A. Right.

15 Q. Okay.

16 A. It seemed like a lot closer, but it was
17 maybe about this distance from the -- from the
18 driver's first quarter part of the front car.

19 Q. Okay.

20 MR. GARDNER: I just want to ask -- and
21 the reason is there's a possibility this may have
22 to be reconstructed. I want to be as detailed as
23 possible.

24 You hit there. You're on the passenger

1 side at this point --

2 THE WITNESS: No.

3 MR. GARDNER: -- on the suspect vehicle?

4 MR. SARAYA: The driver's side he just
5 said.

6 MR. GARDNER: Driver's side?

7 THE WITNESS: Yes.

8 MR. GARDNER: But when it comes back
9 around?

10 MR. SARAYA: He's making a U-turn?

11 THE WITNESS: Right. He's -- he's
12 coming back. This is the front of the car, of
13 his car. He's coming back around this way. This
14 is where he gets on the hill, somewhere around
15 here.

16 MR. SARAYA: That's fine.

17 THE WITNESS: And he's -- his car is
18 coming off the hill like this way towards me.
19 I'm always on the driver's side at one point. At
20 one point I was here, I was kind of like here the
21 way he was turning the wheel.

22 MR. SARAYA: Right.

23 THE WITNESS: So I was maybe -- my body
24 at one point -- I remember having direct eye

1 contact with him, so at one point my body was
2 like on the front left side of the car just maybe
3 within feet.

4 MR. GARDNER: Okay.

5 THE WITNESS: I don't know if you
6 understand what I mean.

7 BY MR. SARAYA:

8 Q. So the car is coming at you --

9 A. At one point -- what I'm trying to say
10 is at one point my -- I was here and the car was,
11 like, at this angle.

12 Q. So you're --

13 A. This is where I saw the driver. I
14 looked in his eyes.

15 Q. The car is coming right at you?

16 A. Right. This is where I remember him
17 accelerating the car.

18 And I think -- I don't know if he had a
19 flat tire or not at this point, but I remember
20 him -- you know, they had said his tire went out,
21 so I'm thinking because of the tires or older
22 car, I don't know, it just didn't respond as fast
23 as I thought it was going to respond, the way his
24 engine revved up.

1 You know what I mean?

2 It went "wheew" like he gunned it, like
3 he stepped on it.

4 So this is where I went when he stepped
5 on it. I turned and I fired. And, you know, I
6 moved out the way as he -- and I don't know which
7 way he went after that, because I was, like,
8 running towards my door of my car.

9 Q. So the car comes at you. So you're
10 diving off to your right to get out of the way
11 now, right?

12 A. I didn't dive. Right.

13 Q. Okay.

14 MR. GARDNER: Do you know where your
15 partner is at this point?

16 THE WITNESS: I have no clue. I'm
17 assuming she's somewhere behind. I don't -- I
18 don't know where she was.

19 BY MR. SARAYA:

20 Q. Do me a favor. If you would, go ahead
21 and initial off on this for me. You're drawing
22 all of this. I appreciate that.

23 Did you broadcast -- you or your partner
24 broadcast anything on the radio during this

1 pursuit?

2 A. Earlier in the pursuit when we first
3 came off 22nd, the zone car that was leading the
4 pursuit was like, "Bear with me, I'm not too
5 familiar with the streets."

6 And I remember telling him -- Decker was
7 one of the streets that we were on. That's the
8 only thing that I broadcast.

9 MR. GARDNER: Decker?

10 THE WITNESS: Decker, yeah, one of those
11 side streets he turned on.

12 But actually I remember thinking like it
13 was almost fate, because when I was trying to get
14 in, trying to get in to the radio traffic, we
15 were almost off of Decker at that point, so it
16 was like after we were getting off.

17 BY MR. SARAYA:

18 Q. Did you broadcast any "shots fired" call
19 up here?

20 A. I had no chance at all. I had my
21 (indicating). No, not at all.

22 MR. GARDNER: Did your partner?

23 THE WITNESS: I'm not sure what she
24 said. I don't think she did. At this point,

1 like I said, I can't hearing anything but the car
2 and my gun and seeing this. And --

3 MR. D'ANGELO: There's a rule of thumb
4 when the passenger talks on the radio
5 (inaudible).

6 THE WITNESS: Yeah.

7 BY MR. SARAYA:

8 Q. Now, when you -- you're engaging them up
9 here, okay?

10 And you said after the fact when you got
11 down here and you were checking the pulse, you
12 realized the passenger was a female. Up here you
13 didn't know that was a female?

14 A. I didn't know she was a female even in
15 the car because she had a hoodie -- I believe she
16 had, like, a hoodie or a scarf. It was like kind
17 of --

18 Q. Something over her --

19 A. Yeah, it was, like, around her, if I
20 remember right.

21 Q. Okay.

22 A. So I'm thinking that they're both males
23 the whole time.

24 You know, I was, like, baffled the next

1 morning when they said on the news that she was a
2 female.

3 Q. Okay. Have you heard the names of the
4 two suspects?

5 A. Yes, I have.

6 Q. Okay. Do the names ring any bells with
7 you?

8 A. No.

9 Q. Do you remember dealing with them on any
10 other calls or anything like that?

11 A. I -- I -- no, not really. I don't
12 remember. The names are common. I don't
13 remember dealing with them at all.

14 Q. Just for the sake, do they look familiar
15 to you from any other calls, any other
16 interactions?

17 A. She looks familiar. I worked for the
18 downtown service unit and I remember -- I guess
19 they said she lives in a shelter downtown.

20 So she looks very familiar, like I might
21 have dealt with her or seen her on a call or
22 something, but I couldn't tell you, you know,
23 when or how. I'm not good with remembering
24 names.

1 Q. Okay. That's fine.

2 A. He looks familiar because he looks like
3 a policeman, but that's why.

4 Q. (Laughs.) Okay. During the pursuit
5 about how fast do you think you were going; do
6 you have any idea either from the speedometer or
7 feeling?

8 A. It felt like most of the pursuit was in
9 the 40s, 50s.

10 Like I said, I would say 95 percent of
11 the pursuit I was always behind -- you know,
12 seven, eight cars behind until we get towards the
13 end of it when we get off the highway.

14 So most of the time I felt like I was in
15 the 40s, because it just felt that way. I didn't
16 really see the speed.

17 On the highway I'd say about 60s, 70s.
18 I think at one point I remember thinking we were
19 up to 80s, 90s when I was trying to gain, get
20 closer. That's probably as far as I --

21 Q. Okay.

22 A. -- I remember.

23 Q. And, obviously, you're not going real
24 fast here doing all this maneuvering here in the

1 parking lot?

2 A. No. Like I said, it was -- you know, it
3 was weird now that I think about it because, you
4 know, if it was really going fast, you know, we
5 probably would have been up here somewhere.

6 But he slowed down I guess because he
7 thought he was going to make the turn or
8 something.

9 And I remember slowing down because I'm
10 like, you know, I don't want to -- you know, for
11 him to jump off and then run me over -- run him
12 over or something, you know. So I remember,
13 like, just being cautious.

14 But just this incident here, it was so
15 fast, I can't -- it's just really hard to
16 remember some of the stuff. To me this felt like
17 five to ten seconds, how fast it happened.

18 From the time -- I mean, even from the
19 time I go into the parking lot to here, it was
20 like -- all this together was like a five-second
21 to ten-second incident. That's how I felt how
22 fast it was happening.

23 Q. Okay. So from the time you go --
24 started up the driveway until you're out the car,

1 he's driving away, you already fired your shots
2 felt like five to ten seconds?

3 A. From the time -- yeah, when he -- from
4 the time -- you know, five to ten seconds here
5 and then five to ten seconds here.

6 Q. Okay.

7 A. So 20 seconds maybe total, you know.

8 Q. Okay. Here again, a lot of this is
9 subjective. It's your opinion. Okay? Because
10 you're the guy that counts here.

11 What did you feel the lighting was like
12 there?

13 Could you see what was going on?

14 Was is pretty well lit, kind of dark?

15 A. It was -- I think it was dark. I think
16 that's what made it a little bit more scarier,
17 because I -- you know, I mean, I remember seeing
18 the car because my lights were on him and we were
19 right under I believe it was a light pole. So
20 this area here was fairly well lit, but not the
21 whole parking lot itself.

22 Q. Okay. So right where you're at here
23 around the car, there's a light pole there, so
24 that's pretty well lit, you can see what's going

1 on?

2 A. Right.

3 Q. No problem with seeing what's going on
4 in the car, then?

5 A. No, not at all.

6 Like I said, I don't want to tell you
7 the colors, but I could almost see, like, I think
8 she had like black and red or something like
9 that. I could almost see that. She was, like,
10 dark colored. I remember seeing something red.
11 I don't know if it was her hat or jacket or shirt
12 or something.

13 Q. Okay. All right. Do you think your
14 rounds hit the car?

15 A. I think so. I was close enough I think
16 even a bad shot would hit.

17 Q. All right. Here again now we're going
18 to get into a couple of questions; understand
19 where they're coming from.

20 A. (Affirmative nodding of head.)

21 Q. Based on everything that happened, okay,
22 your involvement, do you think there was any
23 other options, any other practical things that
24 could have happened, the availability of any

1 other options you could have done?

2 A. No.

3 I -- like I said, I kind of get
4 emotional when I think of my daughter. I didn't
5 think I was going to come out of there alive.

6 My biggest thing is, like, I had my gun
7 out and I still -- even now I think I should get
8 down to the range, because I felt that she had
9 the upper-hand on me.

10 And I fire my rounds and I just -- I
11 don't know (inaudible) I can't remember -- I
12 don't understand how I'm still here.

13 I'm a heavysset guy. I don't even
14 remember jumping out of the way of the car the
15 way that it happened so fast. I remember
16 thinking, "I'm not going to be able to move away
17 in time" or something. I thought I was going to
18 either get hit by a car or get hit by a bullet.
19 That's how I felt at that moment.

20 Q. Okay. That's fine. That's perfect.
21 You're allowed to get choked up, too. That's all
22 right.

23 A. I'm trying not to.

24 Q. Don't -- don't fight it. All right?

1 You know, you don't know -- you don't
2 know where your partner was at. Did you see any
3 other officers up here with you?

4 A. No. It seemed like we were isolated.
5 It seemed like it was just my partner and I, but
6 I knew there were zone cars coming behind. And
7 then -- but in a sense it felt like it was just
8 my partner and I.

9 Q. Okay. Do you know who called the EMS?

10 A. No. I remember hearing EMS being
11 called, but I don't know who called.

12 Q. Did you reload your gun, drop your
13 magazine, anything like that after everything
14 kind of calmed down, after you checked the
15 suspects in the car?

16 A. Did I reload it?

17 No, I didn't reload it.

18 Q. Okay. Did you get injured at all?

19 A. No.

20 Q. No, okay.

21 Check yourself after the fact?

22 Rounds were flying. Check your vest to
23 make sure you didn't get hit?

24 A. You know, surprisingly enough, no, I

1 didn't.

2 I'm walking around thinking the medic
3 point of view. I felt like if I would have seen
4 it, I would have known. I mean, I looked down,
5 but, no, I didn't feel like I needed to check
6 myself.

7 Q. All right. Everything's calming down.
8 What were -- is there any conversation about what
9 happened amongst guys or what are some of the
10 other officers saying?

11 A. I think generally I think everybody was
12 in shock.

13 You know, I remember -- like, back to
14 the incident when I was on top of the zone car
15 checking them out, checking the pulse, and I was
16 telling everybody, you know, to put their guns
17 away, I just remember seeing the pale look on
18 everyone's face. Just almost like speechless.

19 You know, I could see people were
20 frightened. I remember thinking there's a couple
21 officers that I have respect for on the scene and
22 I'm thinking, "Wow, you know, they're just as
23 scared as I am," you know.

24 Q. Okay. Who have you talked to about

1 this? Family members? Other officers?

2 A. Obviously our attorney and the reps.

3 My family, I advised them that they're
4 going to see a lot of stuff on the news; just try
5 to ignore it.

6 They -- you know, they started asking
7 all the questions, so I was like, "I can't
8 really, you know, say much other than just what's
9 on the news."

10 Q. Okay.

11 A. I called my wife right away and told her
12 I was okay right after all of this was -- you
13 know, towards the incident.

14 Q. Okay. Anybody else you called from the
15 scene?

16 A. My old partner from downtown was calling
17 me, and I called him and told him we were okay
18 and so forth and everybody was okay. That's as
19 far as I can remember. I called Jeff Follmer
20 from the union.

21 Q. Okay. Who was your former partner from
22 downtown?

23 A. Orlando Velasquez. And (inaudible), he
24 was working with another female, Sanchez. I

1 called Orlando. I didn't talk to Sanchez.

2 Q. Right. Okay. That's fine.

3 Anybody else from the parking lot that
4 you talked to about this?

5 Anybody else that was involved in here?

6 A. No. Just casual like, "Oh, where were
7 you at?" "I was here." Just stuff like that.
8 Nothing, like, in detail.

9 Q. Okay. Do you remember who you were
10 talking to about it?

11 A. No, not -- not -- you know, I can't even
12 remember any specifics of anything other than the
13 fact that, you know, "Oh, yeah, I was pulling
14 up," or whatever. That's about it.

15 Q. You don't remember a specific person?

16 A. (Negative shaking of head.)

17 Q. Okay. A couple of questions here.
18 Here, again, like I said, this will be a couple
19 you're going to say, "That was kind of dumb."

20 Do you believe your actions were
21 consistent with your training?

22 A. Absolutely. Absolutely.

23 Q. What about the other officers?

24 A. Absolutely.

1 You know, I think any -- just given the
2 facts of the incident, the guns being pointed,
3 the guns reloading, you know, ramming zone cars
4 in the street, in my mind to this day, I -- I
5 really think this guy -- these guys were out to
6 either hurt us or, you know, do anything they
7 needed to do to get away.

8 Q. Okay. I've got to ask this:

9 Did you use your cell-phone on scene to
10 take any pictures?

11 A. No, I did not.

12 Q. Okay. And bear with me on this one.

13 Has anyone asked you to lie or otherwise
14 try to influence your statement to us?

15 A. No.

16 Q. Okay.

17 A. Absolutely not.

18 Q. Okay.

19 MR. GARDNER: Did you -- and maybe I
20 missed the question. Did you -- have you ever
21 been involved in any -- any previous shootings?

22 THE WITNESS: I've been at scenes where
23 they're shooting, but I haven't shot myself.

24 MR. GARDNER: He asked you a question

1 about afterwards, and I just want to clarify.

2 When you went up -- other than pulling
3 the sleeve up, checking for pulse, did you touch
4 or do anything else inside the car?

5 THE WITNESS: Yeah, I -- her arm was --
6 I'm trying to remember how her arm was. It was
7 kind of -- if I remember right, it was on her
8 leg.

9 So I remember checking her pulse and
10 shaking her, you know, make sure, you know, she's
11 responding or not.

12 MR. GARDNER: Uh-huh.

13 THE WITNESS: And I believe that was it.

14 You know, I think I -- oh, I remember
15 moving her leg to see if there was a gun that was
16 in her reach, you know, if they would have moved
17 (inaudible), and I didn't see nothing.

18 MR. GARDNER: How about the driver?

19 THE WITNESS: No. I was always on the
20 passenger side.

21 MR. GARDNER: Do you have anything?

22 MR. D'ANGELO: I just have a question.

23 You were talking about the timing, you
24 know, five to ten seconds down to here and then

1 five to ten seconds with you firing your shots.

2 Then how much time lapsed until all the
3 gunfire was over, that you would estimate?

4 THE WITNESS: From the time the gunshots
5 started and over or --

6 MR. D'ANGELO: Well, yeah.

7 From -- well, when you fired your
8 weapon, you said you're coming down the street
9 here. That was about five to ten seconds, your
10 best guess.

11 And then this incident here where you
12 described discharging your weapon four times, I
13 think you described that action as being maybe
14 five to ten seconds.

15 THE WITNESS: Uh-huh.

16 MR. D'ANGELO: So then from that point
17 after the end of those five or ten seconds, how
18 much -- what's your best estimate of the time
19 that passed until you heard the last shot go off?

20 THE WITNESS: Man, it's -- it seemed
21 like forever in my mind, but I would probably say
22 about 20 seconds maybe.

23 Again, I was thinking these guys ran out
24 the car -- in my mind, I don't know, just police

1 brutality, but I'm thinking these guys are
2 running and shooting. I'm not even thinking
3 they're in the car right now. I'm thinking these
4 guys are shooting back at us.

5 MR. D'ANGELO: Do you have anything that
6 you want to say in terms of -- there's been some
7 reporting about all the officers were white and
8 you were the only member of the minority
9 community.

10 From having been there and your
11 observations and what you heard from all
12 officers, do you think -- did you hear any racial
13 epithets?

14 THE WITNESS: No, not at all.

15 MR. D'ANGELO: Did you say anything?

16 THE WITNESS: Not at all.

17 I think -- like I said, when I looked at
18 everybody's face at the end, I -- it was like not
19 even -- that was, like, not even in my mind. I
20 didn't feel that way.

21 I grew up in the projects. You know, I
22 -- public schools all my life. Never in my mind
23 it crossed.

24 I just thought it was absurd to me that

1 in the news that these guys -- not everybody
2 that's involved, I haven't worked with them per
3 se in a car, but I've seen them (inaudible) and
4 stuff.

5 And I -- I think I would work with every
6 single one of them and not feel any type of
7 racial discrimination.

8 I think it's just -- I actually feel
9 offended by that, because I don't feel that's
10 even close to the truth.

11 MR. D'ANGELO: Did you observe any
12 racial animus coming from any of the officers?

13 THE WITNESS: Absolutely not. No one --
14 I don't think -- like I said, race wasn't brought
15 up. No one said -- you know, no one said
16 nothing, black, white, nothing.

17 It was just, "You guys are okay?"
18 "Yes." You know, when everybody's safe, yes,
19 that was, like, the only thought that we felt.

20 MR. D'ANGELO: The other thing is, you
21 mentioned that when you observed the faces of the
22 other officers they looked pale and scared like
23 you.

24 THE WITNESS: Uh-huh.

1 MR. D'ANGELO: Even some of the people
2 that you knew on scene that you respected.

3 THE WITNESS: Uh-huh.

4 MR. D'ANGELO: Could you identify who
5 you were speaking of?

6 THE WITNESS: I forget his name. I'm
7 talking about the guy with the long hair.

8 MR. D'ANGELO: Demchak.

9 THE WITNESS: Demchak.

10 Yeah, I mean, you can tell he's been on
11 forever. And I've seen -- I see him, you know,
12 just -- I've been -- I was in the third, and then
13 I went to the downtown service unit, so that's
14 how I've seen him a long time.

15 I don't know, maybe it's me being naive,
16 but I see an older officer and I automatically
17 assume they know what they're doing, they know
18 what's going on.

19 And I remember seeing him and just,
20 like, "Wow."

21 I don't know his history, but I'm
22 assuming he's been around, you know, stressful
23 incidents, and I remember seeing how moved he
24 was, you know.

1 Seeing that his partner, O'Donnell I
2 think her name is, you know, she was shook up.

3 My partner was shook up. She's a
4 female.

5 I was -- I think everybody there was a
6 little shook up by everything.

7 I remember talking to one of the
8 sergeants that was there, Patty Coleman, and her
9 hand was, like, shaking as she's taking my
10 statements.

11 I'd never seen her so, you know, I don't
12 know, upset or scared. I don't know. But I
13 remember her shaking her hand as she's writing my
14 statement.

15 MR. D'ANGELO: And how do you know her?

16 THE WITNESS: She's in the Second
17 District. And before I left to the third, she
18 was actually one of my supervisors. She's with
19 the Vice Unit now.

20 MR. D'ANGELO: So she's a former
21 supervisor, so she was a boss in the Second
22 District on the day of this incident?

23 THE WITNESS: Yes, she was a boss there.
24 She was one of the ones in the pursuit.

1 MR. SARAYA: Okay. Real quick.

2 BY MR. SARAYA:

3 Q. During the pursuit your lights are on
4 and your siren's on?

5 A. Correct.

6 Q. No doubt in your mind the suspects knew
7 the police were behind them?

8 A. Yeah, there was no doubt.

9 I kept wondering, "Why are these guys
10 not stopping?"

11 And I'm thinking -- when we're coming up
12 Steelyard, you know, I'm like, "I hope there's no
13 pedestrians or nothing like that, because these
14 guys are not stopping."

15 I seen cars moving out of the way,
16 getting out of the way of us. I personally
17 thought in my mind (inaudible).

18 MR. GARDNER: One other question. How
19 do you know you fired four shots?

20 THE WITNESS: How do I know?

21 Because homicide counted the rounds
22 after.

23 MR. GARDNER: Do you know who that was?

24 THE WITNESS: Yeah, the lieutenant,

1 Lieutenant Timm.

2 MR. KINAS: T-i-m-m.

3 Your call sign was what that day?

4 THE WITNESS: Our call sign? 2 Adam 27.

5 MR. KINAS: Are you on Channel 2 the
6 entire duration?

7 THE WITNESS: The whole time we're on
8 Channel 2, yes.

9 MR. KINAS: Did you hear any supervisor
10 on there?

11 THE WITNESS: A supervisor?

12 Yeah, I heard, like, Patty Coleman when
13 she said -- I think she said -- I'm not 100
14 percent sure, but I thought it was her that said,
15 "The zone car just got rammed." So yeah.

16 MR. KINAS: When you passed the car and
17 you're going up to the drive there, could you
18 tell who was in the car?

19 THE WITNESS: Could I tell who was
20 inside the car?

21 MR. KINAS: Yeah.

22 THE WITNESS: As in --

23 MR. KINAS: The other zone car that you
24 passed as you drove up --

1 THE WITNESS: Oh, that veered to the
2 left?

3 No, I -- I didn't -- you know, I saw the
4 car. It was like the back end of the car as he
5 was coming up.

6 I was so focused at this point at the
7 suspect, because I knew what was coming up, so,
8 no, I couldn't tell who it was.

9 MR. KINAS: Was it a Crown Vic or a
10 Charger?

11 THE WITNESS: It was a Charger.

12 MR. GARDNER: Did you see it afterwards?
13 I mean, were they like parallel or were
14 you just --

15 THE WITNESS: After I passed them up?

16 MR. GARDNER: Yeah.

17 THE WITNESS: No.

18 After I passed them up -- like I said,
19 this happened so quick that after I passed them
20 up, it felt like as soon as I passed them up,
21 within seconds we were in this driveway.

22 MR. SARAYA: It was a fully marked
23 Charger?

24 THE WITNESS: Yes. It was a zone car.

1 MR. SARAYA: Okay. I just wanted to
2 make sure, because there was a couple, you know,
3 unmarkeds in there.

4 THE WITNESS: Yeah, it was a zone car.
5 It was a fully -- it was a -- I remember seeing
6 the lights.

7 It veered off to the left. Like I said,
8 he didn't stop. He just kind of moved up, I
9 guess, and proceeded.

10 MR. SARAYA: Okay. Do you have any idea
11 who called out that the passenger car lost a
12 tire?

13 THE WITNESS: No, I do not know.

14 MR. GARDNER: That's around East 72nd,
15 you said?

16 THE WITNESS: Before that. Somewhere
17 between, like, DeadMan's Curve and there.

18 MR. SARAYA: All right. 72nd and
19 Deadman's is where you think that was
20 broadcasted?

21 THE WITNESS: Somewhere between there, I
22 believe. It was definitely before 72nd.

23 MR. GARDNER: Is there anything else
24 that you think is important that we didn't ask

1 you?

2 THE WITNESS: Just -- I don't know. I
3 just feel like I can't emphasize enough I felt --
4 and, like I said, the look of the other officers
5 that day, I mean, it was, like, genuine.

6 It wasn't a game. It wasn't, you know,
7 "Oh, let's get these guys."

8 You know what I mean?

9 I didn't get that sense at all. The
10 whole time it was like, "This is the real deal.
11 This is happening."

12 You know, I think that's -- you know, it
13 frustrates me when I see the bits and pieces on
14 the news how they portrayed us to be --

15 MR. SARAYA: They select a little piece
16 of information.

17 THE WITNESS: Yeah. It's like -- and
18 this is all before we even give any statements.
19 (Inaudible.)

20 Like I said, I'll pull this out, I grew
21 up in the projects. It's a normal -- I know that
22 side. I've been there, you know. I've been in
23 situations where, you know, people have pulled
24 guns out on me as a kid.

1 I just -- it didn't matter at this
2 point. It was just our safety. I wanted to go
3 home. I wanted to see my -- my first baby girl.
4 I've got two boys and a baby girl on the way.

5 MR. SARAYA: Very good. All right. I
6 think that's good.

7 MR. GARDNER: Good luck to you.

8 MR. SARAYA: Thank you. Don't be afraid
9 to call people. Okay?

10 MR. GARDNER: I mean, unless there's
11 some sort of internal policy, talk to -- talk to
12 someone else. Unless you don't want them to
13 know.

14 THE WITNESS: Okay. Thank you.

15 MR. GARDNER: I mean, again, you might
16 want to consult with him. I don't know if
17 there's some sort of internal policies.

18 (End of videotaped interview.)

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