

**INTERNAL AFFAIRS CASE
SUMMARY REPORT
IAD2012-0254**

ALLEGATION: Improper Search
COMPLAINANT: ██████████
REPORT PREPARED BY: Sgt. Adam Vassallo #3047
INVESTIGATING OFFICE: Internal Affairs
ACCUSED EMPLOYEE: Officer Matthew Fetch #273
Officer Jonathan Magner #492

BACKGROUND:

On August 26, 2012 at approximately 2140 hours Officer Fetch and Magner, working as TAC51 made a consensual encounter with a MBA subject while he was walking in front of ██████ Teekay Way. The short conversation is captured on ICC. The subject discontinues the consensual stop and starts to walk toward the residence. The officers exit their vehicle and pursue after the subject. The subject enters the residence and shuts and locks the security screen behind him. The resident, ██████████, comes to the door and Officer Magner engages him in conversation while the unknown subject is heard behind him in the house. The subject is identified as ██████████, the resident's 35 year old son. He is found to be on probation with an address of ██████ East Parkway ██████. Officer Magner tells ██████████ to open the screen door, which he does, and ██████████ is detained in the rear of the patrol vehicle.

Both ██████ and ██████████ advise the officers that ██████████ does not live at the residence. Officer Donnell responds to the call and watches ██████████ and another female guest in the front living room of the residence, for approximately 40 minutes, while Officer Fetch and Magner conduct a probation search of the house for anything illegal ██████████ may have hidden or attempted to destroy. (ICC 043907.av/08-26-12/ 21:39:07)

During the call, after ██████████ is detained and while inside the residence, both Officer Fetch and Magner manually turn their ICC mics off.

Acting Sergeant Moore responds to the call during this time and is given an update of the circumstances.

Officers did not locate anything illegal in the house and ██████████ was released.

At the conclusion of the call the officer's note comments on the call, but do not generate a report documenting their observations.

██████████ contacted IAD and stated the officers searched his residence without the legal right to do so. He stated his son does not live with him and never has. He wished to make a formal complaint against the officers involved.

WITNESSES:

IAD interviewed both ██████████ and his son, ██████████.

IAD interviewed witness Officers Donnell, Severi, and Trefethen.

IAD interviewed witness Sergeant Moore.

[Print](#)

Sacramento Police Department Citizen Complaint Report

Incident Details

Date Received	Date of Occurrence	Time of Occurrence
08/27/2012	08/26/2012	
Record ID Number	Report Number	IA No
13657		IAD2012-0254
Date/Time Entered	Entered By	
08/27/2012 11:36	[IAPro entry - PC III Betty Allison #6600]	
Sacramento PD Blue Team Assigned Investigator	IAPro Assigned Investigator	
[Pending assignment]	Sergeant Sameer Sood	

Incident Summary

OPSA audit. 2 Binders; ICC thumb drive attached.

Comp [REDACTED] has medical conditions and doesn't want SPD coming around to his home; in the past, he wasn't there for his son and is trying to make things right with him. Son is 35-yo [REDACTED] is on probation/parole & only visits dad, doesn't live w/him.

[REDACTED] is upset that ofcrs 1/2 his age were disrespecting him and attempted to break his screen door. His son was just walking down the street, minding his own business when ofcrs chased [REDACTED] in to compl's house.

9/24 - I have been unable to reach compl after multiple attempts. I sent him a contact letter on 9/4 and he has not contacted me. This case will be closed pending any further contact from compl. AV

10/29/12 - Compl came into IA today and wanted to file a formal complaint after another incident that occurred at his residence mirroring the first one.

12/06/12 - Comp's son [REDACTED], came into IA and stated dad received the contact letter but he and his dad (comp) do not have access to phone and could not contact investigato [REDACTED] stated comp still wanted to pursue complaint and comp will come back in to follow through. Neither comp no [REDACTED] have a working phone for contact. CV

6/7/18 Binders returned from DC Bernard's review. B/jh

5/17/22: Flagged and held for SB16. -DNS

Incident Location

Addresses

[REDACTED] Teekay Way, Sacramento, CA, 95823
5A

- Location of Occurrence: 5 - South

Reporting/Involved Citizen

[REDACTED]
Date of Birt [REDACTED] Race: Black Ethnicity: Unknown Gender: Male

[Redacted]

5A

Phone Numbers

[Redacted]

Role: [None Entered]

[Redacted]

Date of Birt [Redacted] **Race:** Black **Ethnicity:** Unknown **Gender:** Male

Addresses

[Redacted]

[Redacted] East Parkwa [Redacted]

[Redacted]

Phone Numbers

[Redacted]

[Redacted]

Role: [None Entered]

[Redacted]

Date of Birt [Redacted] **Race:** Black **Ethnicity:** Unknown **Gender:** Male

Addresses

[Redacted]

[Redacted] East Parkwa [Redacted]

[Redacted]

Phone Numbers

[Redacted]

[Redacted]

Role: [None Entered]

Involved Officers

Police Officer Matthew Fetch

Assignment at time of incident: Police Officer OOF /DIST 4--SW /PATROL / [None Entered]

Role: [None Entered]

Policy Outcome: Not yet entered

Linked Allegations

[Redacted]

- Neglect of Duty - Sustained - 07/24/2013
- Improper Search And Seizure - Sustained - 07/24/2013

Police Officer Jonathan Magner

Assignment at time of incident: Police Officer OOF /DIST 4--SW /PATROL / [None Entered]
Role: [None Entered]
Policy Outcome: Not yet entered

Linked Allegations

- Neglect of Duty - Sustained - 07/24/2013
- Improper Search And Seizure - Sustained - 07/24/2013

Officer Witnesses

Police Officer Justin Donnell

Assignment at time of incident:
 [None Entered]
Role: [None Entered]

Police Sergeant Michael Severi

Assignment at time of incident:
 [None Entered]
Role: [None Entered]

Police Sergeant Clinton Trefethen

Assignment at time of incident:
 [None Entered]
Role: [None Entered]

Police Captain Stephen Moore

Assignment at time of incident:
 [None Entered]
Role: [None Entered]

Tasks

Task Description	Date Due	Date Completed	Summary
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Running Sheet Entries

No running sheet entries to show

Attachments

No Attachments

Assignment History

No assignment history

Chain of Command History

Sacramento Police Department Citizen Complaint Form

HOW REPORTED:

MAIL _____ IAD NUMBER: IAD2012-0254
 PERSON _____
 PHONE INJURY: YES _____ NO PHOTOS: YES _____ NO OPSA PD _____
 DISTRICT 5 BEAT _____ ASSIGNMENT Tac51 INCIDENT SUPERVISOR _____ MED. WAIVER: YES _____ NO

DATE REPORTED August 27, 2012	TIME REPORTED	DATE OCCURRED August 26, 2012	TIME OCCURRED	DAY Sunday
LOCATION: [REDACTED] Teekay Way				

CITIZEN

NAME [REDACTED]	AGE	DATE of BIRTH [REDACTED]	SEX Male	RACE Black
RESIDENCE ADDRESS [REDACTED]		RESIDENCE PHONE		
BUSINESS ADDRESS		ZIP CODE	BUSINESS/CELL PHONE	

NARRATIVE: Complainant alleges Officers searched his house illegally after stopping his son in the front yard. Son does not live there.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME Matthew Fetch	BADGE # 0273	SEX Male	RACE White	DESCRIPTION	VEHICLE NUMBER
-----------------------	-----------------	-------------	---------------	-------------	----------------

Person Accepting Inquiry: Sergeant Adam Vassallo Badge #: 3047

Per California Penal Code Section 148.6(b):

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood this statement.

Signature: _____

Acknowledged via phone Refused to sign Initials: _____ Badge #: _____ Date: _____

Sacramento Police Department

Citizen Complaint Form

INCIDENT CLASSIFICATIONS:

- | | | | | |
|--|---|---------------------------------------|---|---|
| <input type="checkbox"/> Force | <input type="checkbox"/> Discrimination | <input type="checkbox"/> False Arrest | <input checked="" type="checkbox"/> Improper Search | <input type="checkbox"/> Missing Property |
| <input type="checkbox"/> Discourtesy | <input type="checkbox"/> Harassment | <input type="checkbox"/> Dishonesty | <input type="checkbox"/> Firearm Discharge | <input type="checkbox"/> Conduct Unbecoming |
| <input type="checkbox"/> Insubordination | <input type="checkbox"/> Intoxication | <input type="checkbox"/> Garnishment | <input type="checkbox"/> Traffic | <input type="checkbox"/> Neglect of Duty |
| <input type="checkbox"/> Service | | | | <input type="checkbox"/> Improper Tactics |

DISPOSITION:

Approved By: _____
Chief of Police

Date: _____

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____
Chief of Police

Date: _____

Sacramento Police Department

Citizen Complaint Form

HOW REPORTED:

MAIL _____ IAD NUMBER: IAD2012-0254
 PERSON _____
 PHONE INJURY: YES _____ NO PHOTOS: YES _____ NO OPSA PD _____
 DISTRICT 5 BEAT _____ ASSIGNMENT Tac51 INCIDENT SUPERVISOR _____ MED. WAIVER: YES _____ NO

DATE REPORTED August 27, 2012	TIME REPORTED	DATE OCCURRED August 26, 2012	TIME OCCURRED	DAY Sunday
LOCATION: [REDACTED] Teekay Way				

CITIZEN

NAME [REDACTED]	AGE	DATE of BIRTH [REDACTED]	SEX Male	RACE Black
RESIDENCE ADDRESS [REDACTED]		RESIDENCE PHONE		
BUSINESS ADDRESS		ZIP CODE	BUSINESS/CELL PHONE	

NARRATIVE: Compl alleges Officers searched his house illegally after stopping his son in the front yard. Son does not live there. Also, they searched his house a few months later for no reason at all. They just came in and started searching.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME Jonathan Howard Magner	BADGE # 0492	SEX Male	RACE White	DESCRIPTION	VEHICLE NUMBER
--------------------------------	-----------------	-------------	---------------	-------------	----------------

Person Accepting Inquiry: Sergeant Adam Vassallo Badge #: 3047

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| <input type="checkbox"/> Service | | | | <input type="checkbox"/> Improper Tactics |

DISPOSITION:

Approved By: _____
Chief of Police

Date: _____

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____
Chief of Police

Date: _____

Sacramento Police Department Citizen Complaint Form

HOW REPORTED:

MAIL _____
 PERSON _____
 PHONE INJURY: YES _____ NO PHOTOS: YES _____ NO OFSA PD _____
 DISTRICT 5 BEAT _____ ASSIGNMENT Tac51 INCIDENT SUPERVISOR _____ MED. WAIVER: YES _____ NO

IAD NUMBER: IAD2012-0254

DATE REPORTED August 27, 2012	TIME REPORTED	DATE OCCURRED August 26, 2012	TIME OCCURRED	DAY Sunday
LOCATION: [REDACTED] Teckay Way				

CITIZEN

NAME [REDACTED]	AGE	DATE of BIRTH [REDACTED]	SEX Male	RACE Black
RESIDENCE ADDRESS [REDACTED]		RESIDENCE PHONE		
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NARRATIVE: Compl alleges Officers searched his house illegally after stopping his son in the front yard. Son does not live there. Also, they searched his house a few months later for no reason at all. They just came in and started searching.

WITNESSES

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| <input type="checkbox"/> Service | | | | <input type="checkbox"/> Improper Tactics |

DISPOSITION:

SEARCH - SUSTAINED
160 SUSPENSION - NO EBD
DEPT RETRAINING
NEGLECT - SUSTAINED

Approved By:

K. Paul
Chief of Police

Date:

7.24.13

SKELLY OR DISCIPLINE SETTLEMENT:

REDUCED TO WRITTEN REP.

Approved By:

K. Paul
Chief of Police

Date:

12.5.13

Sacramento Police Department Citizen Complaint Form

HOW REPORTED:

MAIL _____
 PERSON _____
 PHONE INJURY: YES _____ NO PHOTOS: YES _____ NO OP/SA PD _____
 DISTRICT 5 BEAT _____ ASSIGNMENT Tac51 INCIDENT SUPERVISOR _____ MED. WAIVER: YES _____ NO

IAD NUMBER: IAD2012-0254

DATE REPORTED August 27, 2012	TIME REPORTED	DATE OCCURRED August 26, 2012	TIME OCCURRED	DAY Sunday
LOCATION: [REDACTED] Teckay Way				

CITIZEN

NAME [REDACTED]	AGE	DATE of BIRTH [REDACTED]	SEX Male	RACE Black
RESIDENCE ADDRESS [REDACTED]		RESIDENCE PHONE		
BUSINESS ADDRESS		ZIP CODE	BUSINESS/CELL PHONE	

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NAME Jonathan Howard Magner	BADGE # 0492	SEX Male	RACE White	DESCRIPTION	VEHICLE NUMBER
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I have read and understood this statement.

Signature: _____

Acknowledged via phone Refused to sign Initials: _____ Badge #: _____ Date: _____

Sacramento Police Department
Citizen Complaint Form

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|--|---|---------------------------------------|---|---|
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| <input type="checkbox"/> Service | | | | <input type="checkbox"/> Improper Tactics |

DISPOSITION:

SEARCH - SUSTAINED
160 SUSPENSION - NO EBD
DEPT RETRAINING
NEGLECT - SUSTAINED

Approved By:

DC K. B. ...
Chief of Police

Date:

7-24-13

SKELLY OR DISCIPLINE SETTLEMENT:

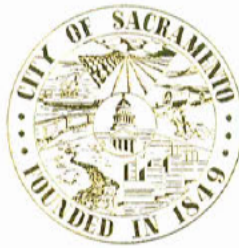
REDUCED TO WRITTEN REP.

Approved By:

K. B. ...
Chief of Police

Date:

12-5-13



OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
915 I STREET
5TH FLOOR
SACRAMENTO, CA
95814-2604

PH 916-808-5704
FAX 916-808-7618

July 31, 2013

Dear [REDACTED]:

This letter is to inform you that the administrative investigation prompted by your complaint of misconduct involving a member of the Sacramento Police Department (SPD) has been completed. The complaint was investigated by SPD's Internal Affairs Division.

The OPSA audit determined there were sufficient facts to support an allegation of misconduct. The Police Department is in agreement with our findings and has taken appropriate corrective action.

The Mayor and City Council established the OPSA to receive, monitor and audit community complaints involving misconduct by public safety personnel and to provide an independent review of public safety issues.

Sincerely,

Francine Tournour
Director, Office of Public Safety Accountability



CITY OF SACRAMENTO
CALIFORNIA

Internal Affairs Division #IAD2012-0254
DEPARTMENT OF POLICE 5770 FREEPORT BLVD., SUITE 100
SACRAMENTO, CA 95822-3516

RETURN SERVICE REQUESTED



B
8.21.13

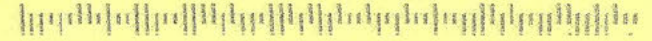
742

070000000000

NIXIE 957 FE 1270 0008/17/13

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

BC: 95822351625 *2772-01658-17-32



Internal Affairs Division #IAD2012-0254



September 4, 2012

IAD2012-0254

[REDACTED]

Dear [REDACTED]:

On August 27, 2012, the Internal Affairs Division of the Sacramento Police Department received your complaint involving an employee of this Department.

Your phone number on file has been disconnected and additional information is needed before the investigation can proceed. If you wish to pursue this matter, you must contact the **Internal Affairs Division** at **808-3791**, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. Your failure to respond to this request within ten (10) business days from the date of this letter will result in a final disposition of this matter based on our information at hand.

Sincerely,

Sergeant Adam Vassallo
Internal Affairs Division

November 28, 2012

IAD2012-0254

[REDACTED]

Dear [REDACTED]:

On August 27, 2012, the Internal Affairs Division of the Sacramento Police Department received your complaint involving an employee of this Department.

I am unable to reach you on the phone numbers you have provided. Additional information is needed before the investigation can proceed. If you wish to pursue this matter, you must contact the **Internal Affairs Division** at **808-3791**, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. Your failure to respond to this request within ten (10) business days from the date of this letter will result in a final disposition of this matter based on our information at hand.

Sincerely,

Sergeant Adam Vassallo
Internal Affairs Division



OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
915 I STREET
5TH FLOOR
SACRAMENTO, CA
95814-2604

PH 916-808-5704
FAX 916-808-7618

July 31, 2013

TO: Mike Bray, Police Captain, SPD
David Risley, Police Lieutenant, SPD

FROM: Francine Tournour, Director, OPSA *FT*

SUBJECT: OPSA 2013-017; IAD 2012-0254 ([REDACTED])

The OPSA audited the administrative complaint investigation filed [REDACTED]
We agree with the disposition:

Officer #0492
Improper Search – Sustained
Neglect of Duty – Sustained

Officer #0273
Improper Search – Sustained
Neglect of Duty - Sustained

Thank you.

Internal Affairs Division #IAD2012-0254



August 8, 2013

IAD2012-0254

[REDACTED]

Dear [REDACTED]:

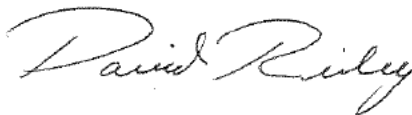
Your complaint of misconduct involving members of our Department has been thoroughly investigated. Relative to your concern about (*nature of the investigation*), the investigation revealed improper conduct by our employee. Appropriate corrective action has been taken. The California Penal Code prohibits us from providing you with additional information regarding the disposition of your complaint.

The Department is making every effort to provide the best possible service and ensure that our employees conduct themselves in a professional manner. We appreciate your taking the time to bring this incident to our attention. If you have further questions regarding this investigation, you may contact **Officer Sameer Sood**, Internal Affairs Division, at **916/808-6606**.

Sincerely,

A handwritten signature in blue ink, appearing to read "Samuel D. Somers Jr.", with a horizontal line extending from the end of the signature.

Samuel D. Somers Jr.
Chief of Police

A handwritten signature in black ink, appearing to read "David Risley", written in a cursive style.

David Risley, Lieutenant
Internal Affairs Division

August 8, 2013

IAD2012-0254

[REDACTED]

Dear [REDACTED]:

Your complaint of misconduct involving members of our Department has been thoroughly investigated. Relative to your concern about (*nature of the investigation*), the investigation revealed improper conduct by our employee. Appropriate corrective action has been taken. The California Penal Code prohibits us from providing you with additional information regarding the disposition of your complaint.

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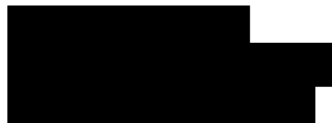


Samuel D. Somers Jr.
Chief of Police



David Risley, Lieutenant
Internal Affairs Division

Internal Affairs Division #IAD2012-0254





SACRAMENTO POLICE DEPARTMENT

GENERAL ORDERS



525.03 IN-CAR CAMERAS 04-03-12

PURPOSE

The purpose of this order is to establish procedures to ensure that **digital** in-car camera systems are used to accurately and independently document the actions of citizens and employees.

POLICY

It shall be the policy of the Sacramento Police Department to use **digital** in-car cameras in a manner that will assist in criminal **prosecutions** or civil **litigation** by providing a recording of the incident that may supplement an officer's report and help **document** professional police conduct.

PROCEDURE

A. DEFINITIONS

1. ICC Front End Client - Panasonic ICC Arbitrator 360's software solution to control the systems functionality in the mobile environment.
2. ICC Back End Client - Panasonic ICC Arbitrator 360's software solution used to view and archive recorded ICC video after it has been off loaded from the vehicle.

B. USE OF EQUIPMENT

1. All employees shall utilize the in-car camera (ICC) system in accordance with Department training and this order whenever operating a vehicle equipped with an ICC.
2. All employees who utilize the ICC system shall have an operational wireless microphone.
 - a. If an employee's microphone is malfunctioning, the employee shall immediately contact his/her supervisor if available, or the District supervisor for a replacement.
 - b. If an employee's microphone is lost/stolen the employee will immediately contact their supervisor and submit a Red Border form (as required in G.O. 410.02) through the chain of command with a summary of the circumstances.
 - c. If no replacement microphone is available that fact shall be noted in the remarks section of the MDC log-on screen along with the supervisor's name.
3. At the start of a shift, employees operating an ICC equipped vehicle shall check the system to ensure that it is operating properly. This shall include:
 - a. checking the wireless **microphone** for function and battery strength.
 - b. positioning the transmitter and microphone properly. **Wireless microphones shall be carried on or above the employee's duty belt. Suggested positions for the wireless microphone:**
 - (1) duty belt.
 - (2) inside the uniform shirt pocket.
 - (3) on the uniform shirt epaulette.
 - c. positioning the cameras to record events.
 - d. activating the system and recording a five (5) second test. The employee will then confirm on playback that the system recorded.
4. In the event an ICC equipped vehicle is malfunctioning employees shall:
 - a. place the vehicle on the "dead line."
 - b. prepare a Fleet Management Equipment Request/Repair Form which includes a description of the problem.

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- c. notify the employee's supervisor of the malfunction.
- d. take another ICC equipped vehicle from the "ready line."

NOTE: In the event of a shortage of vehicles for a scheduled shift, only a Sergeant or higher authority can authorize an officer to utilize a vehicle with a non-functioning ICC system; officers shall list the name of the authorizing supervisor and that the ICC system is not functioning in the remarks section of the MDC log-on screen.

- 5. During a shift, employees who encounter a problem with the ICC system shall contact their supervisor. Supervisors shall determine if a vehicle should be dead-lined if the ICC system is not functioning. Employees shall complete a journal entry on their unit history, to include:
 - a. nature of the problem.
 - b. name of the notified supervisor.
 - c. whether the vehicle was dead-lined or remained in service.

C. USING THE SYSTEM

- 1. Prior to going in service each officer will be required to log into the ICC Front End Client with a username and password.
- 2. The ICC system can be activated manually by pressing the "Record" button on the camera, wireless microphone, or on the "Arbitrator 360 Front End Client Application."
- 3. The ICC system has four (4) automatic activation triggers:
 - a. Light Control: The ICC system will automatically begin to record when the patrol vehicle's emergency lights are activated.
 - b. Speed Activation: The ICC system will automatically begin to record when the patrol vehicle's GPS speed reaches 90 MPH.
 - c. [REDACTED].
 - d. Crash Sensor: The ICC system will automatically begin to record if the vehicle is involved in a collision.
- 4. The ICC system will save 30 seconds of video recorded before the system was activated by any of the triggers. The ICC system will record an additional 30 seconds of video after the system is stopped.
- 5. The ICC system (audio and video recording) shall be activated as soon as practical whenever an officer in an ICC equipped vehicle makes any field contact for enforcement or investigative purposes (e.g., suspicious vehicle, suspicious subject, traffic stop, bike stop, subject stop), whether self-initiated or in response to a dispatched call.
 - a. When the system has been activated in response to any of the above, the incident/contact shall be recorded until the incident/contact has reasonably concluded.
- 6. The ICC system shall be activated whenever a patrol vehicle is involved in a pursuit, or operating Code 3.
 - a. Officers that reduce driving Code 3, but continue to the call, shall not turn off their ICC until the incident has reasonably concluded. [see GO 521.01 (Pursuit of Vehicles) and GO 521.02 (Code 3 Driving)].
- 7. In the event that an employee is unable to activate the ICC system or the system fails to record all or part of an event, the employee shall immediately contact his/her supervisor and note the reason why a recording was not made on the call history and in the appropriate report(s).
- 8. In the event that an employee has recorded an incident that may have significant evidentiary value, the employee shall contact the appropriate supervisor as soon as practical. If the supervisor determines that the recorded material is of significant evidentiary value, the vehicle shall be driven to the nearest station for wireless video offload as soon as possible.
- 9. Employees shall note in reports, on citations, or on the related calls (e.g., when no report is

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generated), if the ICC system was used during the event being documented. Employees clearing a call in CAD where the ICC system was activated shall:

- a. note in the "Remarks" data field that a recording was made.
- b. classify the recording by selecting a specific incident type from the drop down list.
- c. enter the call number in the notes box.

10. Employees may review videos and make notes in recordings using the ICC Front End Client prior to the video being wirelessly off-loaded from the vehicle. After the video is off-loaded officers will only be able to review and make notes using the ICC Back End Client. Employees will only have access to the video footage captured by their assigned ICC.

11. Supervisors will have the ability to view all recorded ICC video utilizing the ICC Back End Client.

12. Employees shall not tamper with or modify any part of the ICC system.

D. SUPERVISOR RESPONSIBILITIES

1. Sergeants shall:

- a. ensure that a burned DVD for an event listed in F1 is properly booked under the corresponding case number.

2. Watch Commanders, Homicide Supervisors and Internal Affairs shall:

- a. maintain keys to the ICC recorder locker (located in the vehicle's trunk) in the event the vehicle is disabled or recordings are required immediately.
- b. download the ICC video into the Back-end Client by using a card reader located at the nearest station.
- c. return the SD Card to PSIT in a completed SD Card envelope.

E. VIDEO REVIEW

1. Authorized employees may review video footage captured by the ICC system via the Back End Client application.

2. Sergeants and above shall have access to video footage of all users. This will allow instant access when creating or reviewing a Pursuit Report or Use of Force Report in BlueTeam and for training or administrative purposes.

3. Patrol Sergeants shall monitor the system regularly to ensure compliance with this order.

F. DIGITAL VIDEO ARCHIVES AND DUPLICATION

1. Recordings created by the ICC system are not to be booked as evidence unless they contain evidentiary information useful in investigations including but not limited to:

- a. homicide investigations.
- b. officer involved shooting investigations.
- c. in-custody death investigations.
- d. major officer involved collisions.
- e. upon the direction of a lieutenant or his/her designee.

2. Recordings may be copied by authority of an approved SPD 524 (Video Request Form).

- a. An SPD 524 may be approved by:
 - (1) a sergeant or higher authority.
 - (2) the Internal Affairs Division.
 - (3) the Professional Standards Unit.
 - (4) the District Attorney's office.
 - (5) the City Attorney's office.
 - (6) a Supervising Police Records Assistant, in response to a subpoena.

3. Video duplication requests made through EPS shall be received at least ten (10) working days before the date required.

4. Copies (DVD) of ICC recordings may be made by:

- a. a Sergeant or higher authority.

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- b. authorized Evidence and Property Section (EPS) personnel.
 - c. Court Liaison personnel.
 - d. authorized Public Safety IT personnel.
 - e. officers, only in response to a subpoena for traffic court.
5. When a copy is made, the back end client will create a traceable journal entry for that particular video which contains the date/time of the copy and employee's name and badge number.
 - a. A remark shall be added to the video, giving the reason for the copy and the name of the approving supervisor.
6. Outside Law Enforcement Agency Requests
 - a. All outside law enforcement agency requests for recordings of In-Car Camera footage or footage captured from the Air Unit will be sent to the Professional Standards Unit.
 - b. These requests shall be approved by the PSU supervisor.
Exception: A Watch Commander may authorize the immediate copy and release of ICC footage to outside law enforcement agencies when it is essential to an ongoing investigation.
 - c. Approved requests shall be processed by the Evidence & Property Section.
 - (1) The Air Unit supervisor can make copies of Air Unit ICC footage when requested by PSU or EPS personnel.
7. Original digital recordings produced by the ICC system must be maintained for a period of eighteen months from the date they were created. Original recordings that are evidence in any criminal case, administrative investigation, any claim filed, or any litigation shall be preserved until the matter is resolved.
8. Original recordings produced by the ICC system and any copies made are the property of the Department and may not be used for any personal or commercial purposes. Copies made for court or other review purposes shall be returned to EPS as soon as practical. Once returned, the copied DVD shall be destroyed if it is not needed for further proceedings.
9. Digital recordings shall only be reviewed and/or copied by authorized personnel under the following:
 - a. as part of an official Department investigation (including matters referred to the Internal Affairs Division).
 - b. personnel complaints.
 - c. civil claims.
 - d. administrative investigations.
 - e. to ensure compliance with this order.
 - f. for employee evaluation purposes.

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SEARCH MANUAL



RM 526.01



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REFERENCE MANUAL



Revised 03-07

SEARCH MANUAL

Department General Order 526.01 implements this manual and requires that all officers know its contents, follow its guidelines, and use it as the primary reference for all types of searches. This policy statement is an expansion of that found in the General Order.

Search and seizures of people and property shall be conducted in a manner consistent with federal and state laws and this manual. Examples of lawful searches and seizures include, but are not limited to, consent searches, probation/parole searches, searches incident to arrest, searches based upon emergency or exigent circumstances, search warrants, searches based upon the mobility of the item being searched, and search and seizure of abandoned or lost property.

When planning or conducting searches or seizures, the safety of officers, citizens, and suspects shall be of primary consideration. A manual of this kind cannot address all of the issues associated with the topic of searches. This manual shall, however, serve as the primary reference for all searches.

The foundation of a professional and lawful entry, search, or seizure is that the correct person or property is the subject of the entry, search, or seizure. Officers shall verify and confirm the authority for the search, as well as the location of the search, as required in this manual. Supervisors shall ensure that officers follow the verification and confirmation requirements in this manual.

Needless damage and/or destruction of property is unprofessional, illegal, and counterproductive. Supervisors shall assure that it is never done.

Proper documentation of evidence seized is a legal requirement and an essential element of court presentation. Because an otherwise successful effort can be destroyed without proper documentation, it shall always be an element of planning.

Officers attach a special relationship to themselves and the Department when they take control of property while conducting searches. Officers have a legal obligation to render that property reasonably secure from intrusion or leave it in the custody of a responsible party who can exercise reasonable control of it. Officers shall park, lock, or store vehicles according to the guidelines of this manual. Officers shall lock or secure structures, or turn them over to responsible persons according to the guidelines of this manual.

Officers shall report, through the chain of command to the Chief of Police, any discrepancies or conflicts they discover between the contents of this manual and current law or police procedure.

Albert Nájera
Chief of Police

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INTRODUCTION

A. DEFINITIONS

1. **PLANNED SEARCH:** A search incident to probation, parole, and/or a search warrant, where there is sufficient time to plan, prepare, and execute the search. This includes searches of people and property (e.g. structures, cars, personal items) under their control.
2. **FIELD SEARCH:** A search that develops as a result of self initiated activity (e.g. vehicle stops, pedestrian stops, surveillance, knock and talk), calls for service, other situations that develop rapidly, and situations where it is impractical to comply with the planning requirements in this manual. These searches can be incident to probation, parole, and/or exigent circumstances. Generally, there is not enough time to plan or prepare for these searches and/or it is impractical to do so.
3. **STRUCTURE SEARCH:** A search of a residence, business, or place of dwelling.

B. GENERAL

1. Evidence found during searches is often important to the conviction of suspects. In many instances, the case itself may depend on the legality of the search or seizure. A search manual of this kind could never cover all of the legal issues for each and every type of search/seizure situation, nor can it cover every decision an officer may be required to make regarding a search or seizure. Officers are encouraged to read and refer to the California Peace Officer Legal Source Book, which is available via computer throughout the Department.
2. Searches and seizures of property must be conducted in a safe and systematic manner. Proper planning should be done whenever possible to ensure the proper person or property is being searched and that Department resources are being used efficiently and effectively.

C. SEARCHES

1. This manual covers the following aspects of any search:
 - a. Verification
 - b. Planning
 - (1) Personnel needs
 - (2) Equipment needs
 - (3) Game Plans and Operational Outlines
 - (4) Briefings/Staging areas
 - (5) Entry/Perimeter Teams
 - c. Methods for searching
 - (1) Securing persons
 - (2) Techniques for searching buildings, vehicles and open areas
 - d. Methods for concluding a search
 - (1) Summary inventory
 - (2) Security of property
2. This manual provides additional information for the following types of searches:
 - a. Probation/Parole Searches
 - b. Search Warrants
 - c. Strip searches

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VERIFICATION

A. GENERAL

1. No person or property should be searched without:
 - a. some type of verification that the person or property to be searched is the intended objective.
 - b. verification that there is legal authority to conduct the search.
2. In general, officers have time to prepare and plan the execution of a search. In cases where officers conduct a search incident to exigent circumstances or secure a location pending the issuance of a search warrant, it may not be possible or practical to follow the guidelines listed in this section.
3. Officers are encouraged to check as many sources of information when verifying the person or property to be searched. The number of sources checked may depend on the amount of time, if any, there is to plan the search. Officers need to be aware that some sources of information can contain unreliable information. The types of sources of information officers can check includes, but is not limited to:
 - a. Department of Corrections Identification Unit (24 hour number)
 - b. California Youth Authority (24 hour number)
 - c. County Probation Departments
 - d. The statement of the person being searched
 - e. The officer's own observations or personal knowledge
 - f. Relatives, neighbors, friends, landlords and witnesses
 - g. Informants
 - h. CLETS
 - i. Law Enforcement Data Banks (e.g. LEADS)
 - j. City and county records systems
 - k. Indicia/records (e.g. rental agreements, hotel/motel records, lease agreements)
 - l. Public utilities and governmental agencies
4. Officers shall document in their reports all of the sources of information used to verify the legal authority to conduct the search unless directed otherwise by this manual.
5. Prior to conducting a search, officers should check with local law enforcement agencies in the county where the suspect resides to see if the suspect is in custody.

B. OFFICER OBSERVATIONS

1. [REDACTED] A detailed description shall be prepared by the officer, including, when applicable:
 - a. the street address and where the address numbers appear on the building.
 - b. on which side of the street the building is located and how many buildings or lots it is from cross streets.
 - c. on what floor the door(s) is located and where it is relative to the rest of the building or complex.
 - d. the style and type of the building and the color and type of building materials of the walls, doors, windows, chimney and roof.
 - e. distinctive landmarks, fixed objects or trees and their relationship to and direction or distance from the building.
2. [REDACTED]
3. Officers shall look for dogs and children, known or targeted suspects, and any possible criminal activity. These observation shall be forwarded to the officer in charge of the search and documented in a report if necessary.

C. INFORMANTS

1. Officers shall not plan or conduct a search of any structure armed only with information supplied by even the most reliable and proven informant.
2. The procedures outlined in this section shall be followed to supplement, verify and confirm the informant information.

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D. SUPERVISOR RESPONSIBILITIES

1. Supervisors shall:
 - a. verify who is the officer(s) in charge of the search.
 - b. review all reports that document:
 - (1) how and why the identity of the targeted suspect(s) is known.
 - (2) how and why it is known that the targeted suspect(s) occupy the location in question.
 - (3) the description of the building.
 - c. ensure that officers have:
 - (1) established the information necessary for the search warrant, or
 - (2) verified and confirmed necessary information which was received from an informant.
 - d. ensure that the search accurately and adequately apply to the actual and correct location.
 - e. ensure that accurate and adequate information about the actual and correct location is given at the briefing.
 - f. ensure the reasonableness of the search.
2. If the supervisor is not satisfied that the proposed search is based on proper legal grounds, or that the search will be done at the correct location, the supervisor shall halt the process until satisfied that these requirements are met.

E. SITE VERIFICATION CHECKLIST (SPD 900)

Officers shall complete an [SPD 900](#) when conducting a planned search. The only exception to this is when the area to be searched has already been secured in the field or approval has been given by the officer's supervisor.

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PLANNING

Personnel

A. GENERAL

1. Safety is the primary consideration in planning any type of search. A sufficient number of properly trained personnel must be deployed to ensure the safety of officers, citizens, and suspects. Supervisors shall ensure that plans include the right personnel to do the job efficiently, effectively, and safely.
2. Search operations can vary in terms of their complexity. Some may require few personnel (e.g. a search of a storage locker) while others may require the use of numerous personnel, including people from outside agencies. The types of personnel officers should consider using includes, but is not limited to:
 - a. SWAT - Special Weapons and Tactics
 - b. EOD - Explosive Ordinance Disposal Team
 - c. CSI - Crime Scene Investigator
 - d. Assistance from outside agencies, to include:
 - (1) ATF - Alcohol, Tobacco and Firearms
 - (2) DEA - Drug Enforcement Administration
 - (3) FBI - Federal Bureau Investigation
 - (4) ABC - Alcohol Beverage Control
 - (5) SFD - Sacramento Fire Department
 - (6) Animal Control
 - e. Assistance from civilian personnel, to include:
 - (1) Safe company
 - (2) Contracted repair company
 - (3) Utilities

B. INTELLIGENCE

1. Interior Diagrams
Interior diagrams depicting the physical layout of the building and furniture aid in determining the weapons and number of personnel required for entry. The more dangerous the entry, as assessed by the type and number of suspects and the layout of the building itself, the more need there is for an interior diagram. Methods for obtaining an interior diagram include:
 - a. Officer's observation from having been inside the actual site
 - b. Informant's observations from having been inside the actual site
 - c. 
2. Exterior diagrams
Exterior diagrams aid in determining the number of personnel required to secure a perimeter. They are also useful in identifying staging areas. Methods for obtaining this information include:
 - a. Apartment complex diagrams
 - b. Fire Department maps showing scaled street and alley layouts
 - c. Thomas Brothers maps
 - d. Aerial photographs
3. Informants
If the search is based upon information received from an informant, the informant shall be asked if he/she has seen or knows whether there are:
 - a. guns present.
 - b. dogs present.
 - c. children present.
 - d. fortifications present.

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4. Dogs/Dangerous Animals

Officers shall gather intelligence as to the presence of dogs/dangerous animals located in or around the location to be searched. If information is obtained that dogs/dangerous animals may be present, officers shall develop a plan on how to deal with the dogs/dangerous animal prior to conducting the search. Plans can include, but are not limited to:

- a. Have an Animal Control Officer present to help deal with the dog/dangerous animal.
- b. Have an animal noose available for use in controlling dogs/dangerous animals.
- c. Designate an officer on the entry team specifically assigned to deal with the dog/dangerous animal by using a less lethal device.

NOTE: A person's dog is considered personal property and as such, unnecessary destruction of personal property is a violation of the Fourth Amendment. The Department fully recognizes that situations may occur during planned searches that make pre-planned options impractical to employ and the the destruction of a dog/dangerous animal may be the only option available to the officers at the scene.

C. ENTRY TEAM

1. The entry team is a critical part of the overall success of the operation. Their job is to enter the target location in a legal and timely manner and to secure all persons at the site. The primary concern for the Entry Team is the safety of the officer(s), suspect(s), and citizen(s). Preventing the destruction of evidence is secondary.
2. In operations involving search warrants, probation searches, and parole searches, the case officer (the officer to whom investigative responsibility is assigned) shall lead the entry team to the door and make the knock and notice whenever possible. This relieves the entry team of the added responsibility of conducting the knock and notice requirements and perhaps later testimony in court. In instances where the case officer is not able to lead the entry team to the location(s), this responsibility shall be delegated by the supervisor to another officer. The designated officer shall be briefed and knowledgeable about the target location and shall do a site verification check with the case agent prior to entry.
3. The entry team is the first group of officers in contact with persons in the area or location(s) to be searched. They must be able to identify the exact location and circumstances in which each individual was encountered.
4. To simplify the documentation of where each individual was encountered, a photograph placard system ([SPD 902](#)) has been developed.
5. As soon as possible after the residence or business is safely secured, the supervisor or case officer shall determine which entry team officer can testify to where an individual(s) was located. When utilizing the photograph placard system ([SPD 902](#)), a placard shall then be filled out using a bold felt pen or grease pencil. The form includes:
 - a. Date
 - b. Name of officer who can testify
 - c. Suspect's name and DOB
 - d. Location (address)
 - e. Location where subject was encountered (bedroom, bathroom, etc.)
 - f. Warrant checks; parole/probation checks.
6. The completed placard shall be placed in front of the corresponding individual and photographed like a mug shot. The placard shall then be given to the officer in charge. Placards may be included in the report.
7. This procedure is extremely valuable when there are several subjects in one house and can be applied to other multiple arrest situations.
8. On the lower right corner of the placard is a check off section which serves as a reminder and documentation that the following was done:
 - a. Warrant check
 - b. SA number if warrant check is positive
 - c. Parole check
 - d. Probation status
 - e. Searchable status

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D. PERIMETER TEAM

1. In large operations, perimeter teams are responsible for outside locations. [REDACTED]
[REDACTED]
They shall also protect the search scene from outside interference and identify any person(s) found outside who may be connected with the search location.
2. Perimeter officers shall also secure vehicles and outbuildings connected with the search location.

Equipment

A. GENERAL

The complexity of the search will determine what type of equipment is needed. Officers should have all of the equipment available prior to the search. The types of equipment officers should consider using/having include, but are not limited to:

1. Report and evidence forms
2. Evidence envelopes, bags and receipts
3. Camera and film
4. Door ram
5. Cable/entry tool to pull window/door bars or barricades
6. Video equipment
7. Trucks, vans or heavy equipment
8. Armored vehicle

B. SEARCH KITS

Officers who conduct searches on a regular basis shall have:

1. a search kit containing all items and forms commonly used in searches, such as:
 - a. Report and evidence forms
 - b. Evidence envelopes, bags and receipts
 - c. Camera & Film
 - d. Photographic number stands and identification placards
 - e. Presumptive field test kit
2. an arrest kit so booking forms can be completed on suspects in the field.

Operational Outlines and Game Plans

A. OPERATIONAL OUTLINE

1. Department General Orders require an Operational Outline, as appropriate, for all planned searches. (Refer to [GO 532.07](#))
2. The supervisor of each planned search shall ensure an Operational Outline is entered into the computer aided dispatch (CAD) system, and a copy is sent to each agency and jurisdiction involved.
3. An Operation Outline for search warrant service shall show:
 - a. the location(s) to be searched, and a list of all officers and agencies involved.
 - b. the time the operation will be in effect and a brief description of the event.

B. GAME PLAN

A Game Plan shall show the location(s) to be searched, the officer(s) in charge of the search and all officers assisting with the operation.

Briefing

A. GENERAL

1. The briefing is one of the most important aspects of planning a search. A briefing shall be conducted prior to a planned search. The briefing shall be attended by all of the personnel involved in the search. Personnel shall be accounted for, tactics shall be outlined, and specific assignments shall be given to all personnel.
2. Before conducting a search, personnel should be given information which includes, but is not limited to:
 - a. any safety concerns (terrain/environment).

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- b. what items are being searched for.
- c. what equipment will be needed (e.g. clothing, communications).
3. The case officer should be present/available to answer any questions that may arise from the briefing.

B. LOCATION

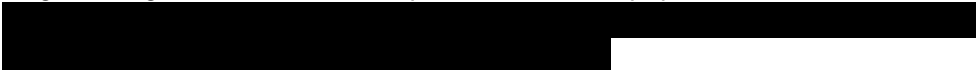
Depending on the complexity of the search, the briefing may be held on the street or it may be held in a large room. In any event, the place chosen for the briefing should be private, secure, and free of any distractions. For large scale operations, it may be necessary to set up a command post.

C. SEARCH OPERATION CHECKLIST (SPD 901)

A search operation checklist (SPD 901) has been developed to assist officers and supervisors with search planning. Officers shall complete the SPD 901 prior to conducting a briefing, unless approved by a supervisor.

Staging Areas

A. GENERAL

1. The staging area is the location where officers meet and organize into teams prior to actually going to the search scene. The staging area must be:
 - a. large enough to accommodate personnel and equipment.
 - b. 
2. More than one staging area may be needed if two or more locations are going to be searched.

B. EQUIPMENT AND SUPPLIES

The staging area should be used for last minute preparations. This is typically where officers get their equipment ready for the search. The supervisor or designee shall make sure each officer has:

1. an appropriate uniform on.
2. flexible body armor.
3. specialized equipment ready (as determined during briefing).

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SEARCH TECHNIQUES

Structure Searches

A. GENERAL

1. A systematic and controlled approach must be utilized in all types of searches. There must be an orderly, preplanned method for the chain of custody of any evidence found. The procedure can best be described and emphasized in building searches, however, the techniques outlined in this section can also be applied to vehicles and open areas.
2. Once the person(s) in the business or residence have been secured, the accuracy and integrity of the scene must be protected.
3. Receipts for any and all items seized shall be left with the person(s) from whom they were seized. If no one is present, a receipt shall be left in the building in plain view. A copy of the evidence booking form may be used.
4. If the search was based on a search warrant, a copy of the warrant shall be left with the receipt.

B. PHOTOGRAPHS

1. Officers shall take photographs of the scene before and after conducting a search.
2. Photographs accurately show how the areas to be searched are laid out prior to starting the search and the condition of the area upon completion of the search. Photographs will show the location of:
 - a. furniture and other items.
 - b. evidence found in plain view.

C. SEARCH TEAMS

Officers should form into two-officer teams when conducting searches. One officer shall be designated as the finder/recorder. Any officer who locates possible evidence, when practical, shall not touch or move it until the finder/recorder documents it.

1. The finder/recorder shall:
 - a. be the case officer or a designee. A designee may be necessary when the case agent cannot be present at the search location.
 - b. be familiar with what evidence is being sought.
 - c. record where each piece of evidence is found and collect each item from its original location.
 - d. be able to testify where each item of evidence was found and its significance.
2. To assist the finder/recorder, the following procedures should be used:
 - a. Take a series of photographs which depict where the evidence was found (e.g. overall picture of room, picture of cabinet, picture of evidence within the cabinet). If available, officers may want to place a photograph number stand next to the item found and photograph it. The photograph number stand should correspond with the item number on the evidence sheet. Do this systematically as you move through the building.
 - b. Make a diagram of the building illustrating:
 - (1) where each suspect was located at the time of entry.
 - (2) where each item of evidence was located.
 - (3) any other note-worthy items or structures.
3. In some cases, it may not be possible or practical to have teams (unplanned searches). In these cases, one person should be designated to collect and record any evidence found.

D. SEARCH METHOD

To guarantee a thorough search, each area or room shall be searched in a systematic fashion.

1. Search consistently in a clockwise or counter-clockwise fashion so as to not overlook anything or any area.
2. When looking for small items such as narcotics, it is necessary to go through each item of clothing and every item which could possibly conceal narcotics or other items of evidence.

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- a. The most effective way to conduct this type of search is to search and then clear a selected area of the room.
 - (1) Bed in bedroom
 - (2) Large open area on floor
 - (3) Large table top.
 - b. Go through the room systematically, search each item thoroughly and place items that will not be seized in the cleared area.
 - (1) Place the items in an orderly fashion stack them neatly.
 - (2) Use boxes, blankets, or newspapers as necessary to protect floors, beds or the items.
 - c. Careful handling of items that will not be seized is necessary to prevent:
 - (1) covering or destroying other items or evidence.
 - (2) losing track of what has or has not been searched.
 - (3) a sustained complaint for violation of Department policy.
3. Many items to be searched, or to be moved to gain access for search, may be easily damaged or subject to spoilage. Use special care when handling such items as:
- a. Foods
 - b. Plants
 - c. Artwork
 - d. Furniture
 - e. Jewelry
 - f. TV or sound equipment.
4. Some searches justify doing structural damage to a building or disassembling items to reveal a possible hiding spot.
- a. Structural damage shall not be done without approval of the supervisor. Officers shall damage property only when necessary to seek and/or recover evidence.
 - b. Photograph the area to be damaged prior to the search.
 - (1) May show probable cause for looking.
 - (2) May prevent later false complaints.
 - c. Use proper tools and/or personnel (e.g. carpenters, locksmiths, mechanics, etc.) to complete the job. This serves to:
 - (1) reduce the amount of damage.
 - (2) make for easier repair.
 - (3) reduce complaints.
 - d. Photograph the area that has been damaged; photograph again if repairs are made.
 - e. Document any structural damage or damage to any item caused by the search on City of Sacramento Incident/Loss Report (red border) form as well as in the Crime Report.

Vehicle Searches

A. GENERAL

1. Vehicle searches account for a large number of arrests and can be planned and completed in a systematic manner. Due to safety concerns, vehicles shall not be searched until all of the occupants of the vehicle have been secured. These procedures also apply for other mobile items, such as boats and aircraft.
2. If the vehicle is occupied prior to the search, note where each person was in the vehicle at the time of the stop. Officers may want to photograph and diagram this information as explained in section "[Search Teams](#)" above.
3. Prior to searching a vehicle, officers must determine what areas can be searched legally (e.g. passenger compartment, trunk, under the hood). Officers must consider whether the item they are looking for can be found in the area being searched.

B. SEARCH METHOD

1. Use your imagination and experience to look for alterations to the vehicle which might conceal a storage area (e.g. false pickup beds, hollow headrests, openings in headliners).

**SACRAMENTO POLICE DEPARTMENT
SEARCH MANUAL**

2. Whenever possible, use proper tools to disassemble these areas.
3. Whenever possible, photograph, record, and collect evidence as explained in section “[Search Teams](#)” above.

Open Area Searches

A. GENERAL

Searches of vacant lots, open fields, or wooded areas require a planned, systematic, and controlled approach for the search to be successful. The focus of this section is on locating evidence, however, the techniques described below could also be used when searching for victims. This manual does not address the safety concerns associated with looking for wanted subjects.

B. TYPES OF OPEN AREA SEARCHES

1. **[Line search](#)**
Searchers stand in a line, side by side at one end or side of the area, and walk forward to the opposite end or side of the area.
 - a. Each searcher moves ahead at the same pace.
 - b. At the other end of the area, the searchers shift over and walk back to the starting line.
2. **[Grid search](#)**
 - a. The area is set off into grids and a specific grid(s) is assigned to each searcher.
 - b. The technique can be repeated by switching assignment of the grid(s).
3. **[Concentric Circle](#)**
Starting in the middle of the area, one or two searchers walk out in pinwheel pattern, increasing the circle until reaching the perimeter.
4. When possible, photograph, record and collect evidence as explained in section “[Search Teams](#).”

Summary Inventory

A. GENERAL

1. The summary inventory is designed to ensure that all search operations, both large and small, are properly concluded.
2. The complexity of the inventory depends on the type and magnitude of the search conducted.
3. While the tasks described below are usually assigned during the briefing, there may be times when the search operation does not occur as planned. This will require personnel to complete these tasks even though they were not assigned.
4. The case officer and supervisor shall be accountable for the following:
 - a. **Personnel**
All personnel deployed are accounted for. All officers or units have advised dispatch that they are clear from the scene.
 - b. **Equipment**
 - (1) All police equipment is removed from the scene.
 - (2) All equipment is returned to the proper location.
 - (3) Any equipment that was used has been replaced (e.g. film, batteries, forms, evidence containers, presumptive field test agents).
 - c. **Evidence**
 - (1) All evidence found has been removed from the scene.
 - (2) All evidence has been booked.
 - (3) Any special processing is made known to those handling the evidence.
 - d. **Prisoners/Suspects/Witnesses**
All subjects connected with the case have been interviewed, booked, and transported as necessary.
 - e. **Reports/Documents**
 - (1) All reports, including supplements, are prepared.

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SEARCH MANUAL**

- (2) Search warrant returns are completed and presented to the magistrate in the required time.
- (3) Any special notifications or memorandums have been completed.

B. SEARCH SUMMARY INVENTORY CHECKLIST (SPD 906)

Officers are encouraged to use the search summary inventory checklist (SPD 906) to assist them with this process.

Securing Damaged Property

A. GENERAL

Officers take legal control of a property during a search. Because of this, officers must either render the property reasonably secure from intrusion before leaving it or turn the property over to a responsible person who can care for it. Procedures for meeting these responsibilities are as follows:

B. DAMAGED BUILDINGS - NO OWNER, AGENT, OR TENANT ON SCENE

1. Damage done by officers to perimeter doors and/or windows to gain entry, which exposes the property to entry by others, shall be repaired to the extent the property is rendered reasonably secure. Examples of "reasonably secure" are:
 - a. Door and window locks are in working order
 - b. Plywood is secured over broken windows
 - c. Doors with broken locks, panels or jambs are nailed shut or plywood is secured over them
2. Officers shall call for assistance to repair other damage.
 - a. Contract firms are listed in the CAD system.
 - b. The City Department of General Services, Facility Management Division, may be called if contract firms cannot respond.
 - c. Describe the material and resources necessary when making the request.

C. DAMAGED BUILDINGS - OWNER, AGENT, OR TENANT ON SCENE

1. The property shall be turned over to any owner, agent, or tenant not in custody.
2. All owners, agents or tenants in custody, shall be asked to recommend a responsible party to respond and take control of the property.
 - a. Make sure that whoever responds is responsible and agreeable to the arrestee.
 - b. Turn the property over to the responsible party after valid identification is presented (drivers license, etc.).
 - c. Make no repairs. A search is a legal event and the owner, agent or tenant, or their chosen representative, is responsible for repairs.
3. If the owner, agent or tenant is in custody and cannot or will not recommend a responsible party, secure the building as required when the owner, agent or tenant is not present.

D. PHOTOGRAPHS

Officers shall photograph any damage caused during the search, as well as any repairs made and any security measures taken.

E. VEHICLES

Refer to [GO 536.02](#) for information on towing, storing, impounding, and seizing vehicles.

F. DOCUMENTATION

1. Officers shall document the following information in their report:
 - a. Who the property was turned over to and why
 - b. Damage done, discovered, and repaired
 - c. Photographs taken
 - d. The disposition of any vehicles
2. When parole and probation searches of persons do not result in an arrest of that person, a detailed Field Contact entry shall be made in the Mobile Report Entry system.

**SACRAMENTO POLICE DEPARTMENT
SEARCH MANUAL**

PAROLE AND PROBATION SEARCHES

A. GENERAL

1. Prior to conducting a parole/probation search, officers shall verify (see "Verification"):
 - a. the identity and probation/parole status (including search conditions) of the person to be searched.
 - b. the subject's dominion and/or control of the location/address to be searched.
 - c. the dominion and control of the object(s) to be searched.
2. Sergeants shall, to the extent possible or applicable under this order:
 - a. ensure that parole and probation searches conducted by their personnel are reasonable.
 - b. ensure that officers follow the procedures as outlined in this manual.
 - c. review the information used by officers to determine the parole/probation status of a subject and the location/address to be searched, in an effort to ensure the reliability of the information.
3. There shall be at least two (2) officers present when a structure is searched.

B. PLANNED SEARCHES

1. Officers conducting a planned search shall obtain approval from their supervisor prior to conducting the search.
2. Officers shall follow other provisions of this manual (e.g. Planning, Search Techniques, etc.), as applicable. Any exception to this must be approved by their supervisor.
3. Verifying Information:
 - a. Adult Parolees
 - (1) Officers shall contact the subject's parole agent (either by contacting the Department of Corrections Identification Unit or using a Department phone list) and confirm the subject's parole status and address information.
 - (2) If the subject's parole agent is not available, officers shall confirm the subject's parole status and address information with the parole agent's supervisor or the on-call supervisor.
 - b. Juvenile Parolees
 - (1) Officers shall contact the subject's parole agent (either by contacting the California Youth Authority or using a Department phone list) and confirm the subject's parole status and address information.
 - (2) If the subject's parole agent is not available, officers shall confirm the subject's parole status and address with the parole agent's supervisor or the on-call supervisor.
 - c. Adult/Juvenile Probationers
 - (1) Officers shall contact the appropriate county probation department and confirm the subject's probation status (including search conditions) and address information with the subject's probation officer.
 - (2) If the subject's probation officer is not available, officers shall confirm the subject's probation status (including search conditions) and address with the probation officer's supervisor or the on-call supervisor.
4. Officers shall permit the probation/parole officers to accompany them on the search to the extent that their presence does not interfere with a criminal investigation or compromise the safety of officers.

C. FIELD SEARCHES

Officers who conduct a field search of a structure must obtain approval from their supervisor prior to conducting the search. All other types of field searches do not require supervisor approval.

D. REPORTING REQUIREMENTS

1. When structure searches do not result in the generation of a crime report, officers shall complete an incident report ([SPD 107](#)).
2. The report shall detail the following information:

**SACRAMENTO POLICE DEPARTMENT
SEARCH MANUAL**

- a. Date and time of the search
 - b. Information on the subject searched, including the sources used to determine searchable status
 - c. Reason for the search
 - d. Brief narrative outlining what, if anything, was found during the search
 - e. Supervisor who approved the search
 - f. All officers/personnel that participated in the search
 - g. Names of all the people legally identified in the structure being searched (these subjects shall be listed individually on a [SPD 104](#).)
3. If there were multiple structures searched under one operation (e.g. probation sweep), only one incident report ([SPD 107](#)) is needed to document the information required by this manual.
 4. When non-structure field searches do not result in the generation of a report, officers shall note on the call (miscellaneous command) the sources used to verify the search condition and which officers were present during the search.

**SACRAMENTO POLICE DEPARTMENT
SEARCH MANUAL**

SEARCH WARRANT SEARCHES

A. OFFICERS

1. Prior to obtaining a search warrant, the investigating officer shall discuss the facts and circumstances of the investigation with their supervisor.
2. The investigator obtaining a search warrant shall conduct a thorough investigation to ensure that there is probable cause to believe the facts and circumstances are true and correct.
3. No officer shall execute a search warrant without having notified their supervisor.

B. SUPERVISORS

1. Before the search warrant is submitted to the District Attorney's Office for review, the investigator's supervisor shall review the facts, circumstances and corroboration. If the facts, circumstances, and corroboration do not sufficiently identify the person/place to be searched, or there is insufficient probable cause, further investigation shall be directed.
2. Before serving the search warrant, the investigating officer's supervisor shall review the investigation and corroboration, and personally compare the place to be searched with the description contained in the search warrant.
3. Supervisors shall ensure plans are made so the correct location is entered and searched.
4. A complete address shall be verified by the supervisor reviewing the search warrant.
 - a. If a rear door is entered in an apartment complex, supervisors shall ensure some verification has been made to tie the rear door to the correct front door. If this is not done, the search warrant shall not be requested.
 - b. The intended result does not justify the risk of subjecting possible innocent parties to the trauma of a forced entry made in error.
5. If the wrong location is entered, the supervisor shall immediately notify the section lieutenant and the watch commander.
 - a. A written report shall be submitted to the section lieutenant no later than the next working day.
 - b. The section lieutenant shall immediately notify the Deputy Chief, Office of Investigations (OOI), and forward a copy of the written report to the Office Chief upon receipt.

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STRIP SEARCHES

A. DEFINITION

1. **STRIP SEARCH:** A search which requires a person to remove or arrange some or all of his/her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.
2. **BODY CAVITY:** The stomach or rectal cavity of a person, and vagina of a female. (**NOTE:** This does not include the mouth).
3. **VISUAL BODY CAVITY SEARCH:** Visual inspection of a body cavity.
4. **PHYSICAL BODY CAVITY SEARCH:** The physical intrusion into a body cavity for the purpose of discovering any object concealed in the body cavity.
5. **EXIGENT CIRCUMSTANCES:** An emergency situation requiring swift action to prevent:
 - a. imminent danger to life; or
 - b. serious damage to property; or
 - c. imminent escape of a suspect; or
 - d. the destruction of evidence.

NOTE: The requirements and conditions for a strip search should not be confused with a "pat down" search for officer safety.

B. GENERAL

1. Strip searches shall be conducted by officers of the same sex as the individual being searched.
2. Strip searches may be conducted by officers provided there is reasonable suspicion an individual is concealing a weapon or contraband, or the individual is a confidential informant making controlled purchases of contraband.
3. Strip searches may not be conducted in the field unless a supervisor's approval is obtained, and pursuant to:
 - a. exigent circumstances surrounding an incident; or
 - b. during the service of a search warrant or conducting a parole/probation search; or
 - c. the use of a confidential informant making a controlled purchase of contraband.

NOTE: Generally speaking, conducting strip searches for contraband (like narcotics) on arrestees should be done at the jail whenever possible.

C. SEARCHING

1. If a search requires that the suspect has to remove their clothing, the search shall be conducted in a private area, so that the search cannot be observed by persons not participating in the search.
2. Under no circumstances shall employees perform any "physical body cavity search."
3. For security reasons, an opposite sex officer may remain directly outside the door of the room when an individual is being searched. The door may be left slightly ajar during the search, but the officer conducting the search shall take reasonable precaution to avoid exposing the suspect to outside view.
4. Officers shall not perform a search of a person exhibiting violent resistance to custody or who violently resists being searched. If violence erupts during the search, officers:
 - a. may use force consistent with Department policy.
 - b. should disengage with the suspect as soon as safety permits. Once the situation stabilizes, officers shall evaluate the situation and determine whether or not to continue the search.

APPENDIX

SITE VERIFICATION CHECKLIST

REPORT NUMBER

TARGET ADDRESS	_____
CITY	_____ ZIP _____

SUSPECTS

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

DESCRIPTION OF BUILDING

Shown in case # _____

Shown on Search Wrt # _____

Observed by _____ and by _____

Photographed Yes No By _____

Area Diagram/Map Yes No By _____

Interior Diagram/Map Yes No By _____

PERSONS OBSERVED LIVING/WORKING AT TARGET LOCATION

- | | | | |
|----------|----------|----------------------------|----------|
| 1. _____ | at _____ | hrs. _____ / _____ / _____ | By _____ |
| 2. _____ | at _____ | hrs. _____ / _____ / _____ | By _____ |
| 3. _____ | at _____ | hrs. _____ / _____ / _____ | By _____ |
| 4. _____ | at _____ | hrs. _____ / _____ / _____ | By _____ |
| 5. _____ | at _____ | hrs. _____ / _____ / _____ | By _____ |
| 6. _____ | at _____ | hrs. _____ / _____ / _____ | By _____ |

SITE VERIFICATION CHECKLIST

REPORT NUMBER

UTILITIES CUSTOMERS SHOWN BY:

SMUD: _____ Since ____ / ____ / ____
Check made _____ hrs. ____ / ____ / ____ By _____

PG&E: _____ Since ____ / ____ / ____
Check made _____ hrs. ____ / ____ / ____ By _____

VEHICLES REGISTERED AT TARGET ADDRESS

1. CA Lic: _____ To _____
Desc: _____
2. CA Lic: _____ To _____
Desc: _____
3. CA Lic: _____ To _____
Desc: _____

PERSONS LISTING TARGET ADDRESS ON DRIVERS' LICENSE

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

PERSONS LISTED IN POLICE REPORTS AS LIVING/WORKING AT TARGET ADDRESS

1. _____ at _____ hrs. ____ / ____ / ____ By _____
2. _____ at _____ hrs. ____ / ____ / ____ By _____
3. _____ at _____ hrs. ____ / ____ / ____ By _____
4. _____ at _____ hrs. ____ / ____ / ____ By _____
5. _____ at _____ hrs. ____ / ____ / ____ By _____
6. _____ at _____ hrs. ____ / ____ / ____ By _____

REGISTRANT/PROB-PAROLE/OTHER INFO SHOWING PERSONS AT TARGET ADDRESS

CHECKLIST PREPARED BY _____

REVIEWED BY _____

SEARCH OPERATION CHECKLIST

OFFICER IN CHARGE _____

TARGET LOCATION 1) _____
2) _____
3) _____

STAGING AREA 1) _____
2) _____
3) _____

MAPS DIAGRAMS

SITE VERIFICATION		LAST 24 HR UTIL CHECK
TARGET 1 BY WHO _____	HOW DONE _____	<input type="checkbox"/>
TARGET 2 BY WHO _____	HOW DONE _____	<input type="checkbox"/>
TARGET 3 BY WHO _____	HOW DONE _____	<input type="checkbox"/>

PERSONNEL NEEDS

<input type="checkbox"/> SWAT	<input type="checkbox"/> YONET	<input type="checkbox"/> _____ FIRE DEPT.
<input type="checkbox"/> CSU	<input type="checkbox"/> ABC	<input type="checkbox"/> _____ UTILITY
<input type="checkbox"/> EOD	<input type="checkbox"/> BNE	<input type="checkbox"/> _____ AMBULANCE
<input type="checkbox"/> CSI	<input type="checkbox"/> ATF	<input type="checkbox"/> _____ SAFE CO.
<input type="checkbox"/> SSD	<input type="checkbox"/> DEA	<input type="checkbox"/> _____ REPAIR CO.
<input type="checkbox"/> PD W. SAC	<input type="checkbox"/> FBI	<input type="checkbox"/> _____
<input type="checkbox"/> SO. YOLO	<input type="checkbox"/> _____	<input type="checkbox"/> _____

OPERATIONAL OUTLINE

COPY TO CAPTAIN COPY TO O/S AGENCIES

COPY TO LIEUTENANT(S) COPY TO W/C..... VERIFIED

COPY TO CIVILIAN STAFF COPY TO COMMUNICATIONS..... VERIFIED

EQUIPMENT NEEDS

REPT & EVI FORMS.....WHO _____
 EVI ENVPS/BAGS/RECEIPTS....WHO _____
 CAMERA & FILM.....WHO _____
 VIDEO CAM & EQUIP.....WHO _____
 NUMBER STANDS.....WHO _____
 PHOTO PLACARDS/PENS.....WHO _____
 DOOR RAM.....WHO _____
 PULL CABLE.....WHO _____
 TRK/VAN/HEAVY EQUIP.....WHO _____
 ARMORED VEHICLE.....WHO _____
 CP VAN.....WHO _____
 CELLULAR PHONES.....WHO _____

TAPE RECORDERS.....WHO _____
 PHONE JACKS.....WHO _____
 BODY WIRE/MONITOR.....WHO _____
 BATTERIES.....WHO _____
 PLASTIC GLOVES.....WHO _____
 VESTS.....WHO _____
 RAID JACKETS/CAPS.....WHO _____
 HANDCUFFS.....WHO _____
 HANDI TALKIE RADIOS.....WHO _____
 ARREST KITS.....WHO _____
 SEARCH WARRANTS.....WHO _____
 _____ WHO _____

ASSIGNMENTS

LOCATION 1

LOCATION 2

LOCATION 3

PERIMETER
TEAM

KNOCK & NOTICE

ENTRY TEAM

REVIEWED BY _____

DATE	OFFICER		
LAST NAME		DOB	
FIRST NAME		MIDDLE NAME	
SEARCH WARRANT ADDRESS			
LOCATION SUSPECT FOUND			
CASE NUMBER		WARRANT CHECK POS [] NEG [] S/A # PROBATION Yes [] No [] PAROLE Yes [] No []	

LINE SEARCH

Second Phase

				1	2	3	4				
1	2	3	4					1	2	3	4

First Phase

(Repeat Direction As Needed)

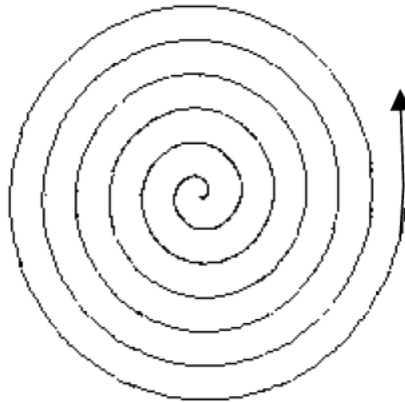
Showing Four (4) Searchers in Use

GRID SEARCH

3	4	3	4	3	4	3	4
2	5	2	5	2	5	2	5
1	6	1	6	1	6	1	6

Showing Six (6) Searchers In Use

CONCENTRIC CIRCLE



SEARCH SUMMARY INVENTORY CHECKLIST

PERSONNEL

- | | |
|---|--|
| <input type="checkbox"/> Assigned personnel accounted for | <input type="checkbox"/> Dispatcher shows all units clear from scene |
| <input type="checkbox"/> Extra personnel accounted for | |

EQUIPMENT

All police equipment is removed..... Checked by _____

Equipment to be returned to designated place:

Item(s) _____ Assigned to _____

Item(s) _____ Assigned to _____

Item(s) _____ Assigned to _____

Assignments to replenish spent equipment

Film _____ Batteries _____

Env/bags _____ Forms _____

EVIDENCE

All evidence found was collected..... Checked by _____

Who is assigned to book evidence... _____

Special processing needs known to _____

Receipt left by _____

PRISONERS/SUSPECTS/WITNESSES (indicate "P", "S", or "W" each line)

1. _____ trans by _____ to _____

2. _____ trans by _____ to _____

3. _____ trans by _____ to _____

4. _____ trans by _____ to _____

5. _____ trans by _____ to _____

6. _____ trans by _____ to _____

7. _____ trans by _____ to _____

8. _____ trans by _____ to _____

9. _____ trans by _____ to _____

10. _____ trans by _____ to _____

SECURITY OF PROPERTY

Left in custody of _____

Left locked and secure

Repaired and left secure

NOTIFICATIONS

Parole Agent(s) _____

Re: _____

Probation Off(s) _____

Re: _____

O/S Agencies _____

Re: _____

Special Forms/Memoranda

City red border form done by _____

Memo to _____ by _____ re _____

Memo to _____ by _____ re _____

SEARCH WARRANT RETURN

Prepared by _____ Returned by _____

MISC (ASSIGNMENTS FOR ARREST/CRIME/INFO REPORTS OR OTHER DUTIES)

Checklist completed by _____

Reviewed by _____

- CRIME REPORT SUPPLEMENT
- MOTOR VEHICLE SUPPLEMENT
- COLLISION/TRAFFIC SUPPLEMENT
- INCIDENT REPORT SUPPLEMENT
- CASUALTY REPORT SUPPLEMENT
- MEMORANDUM

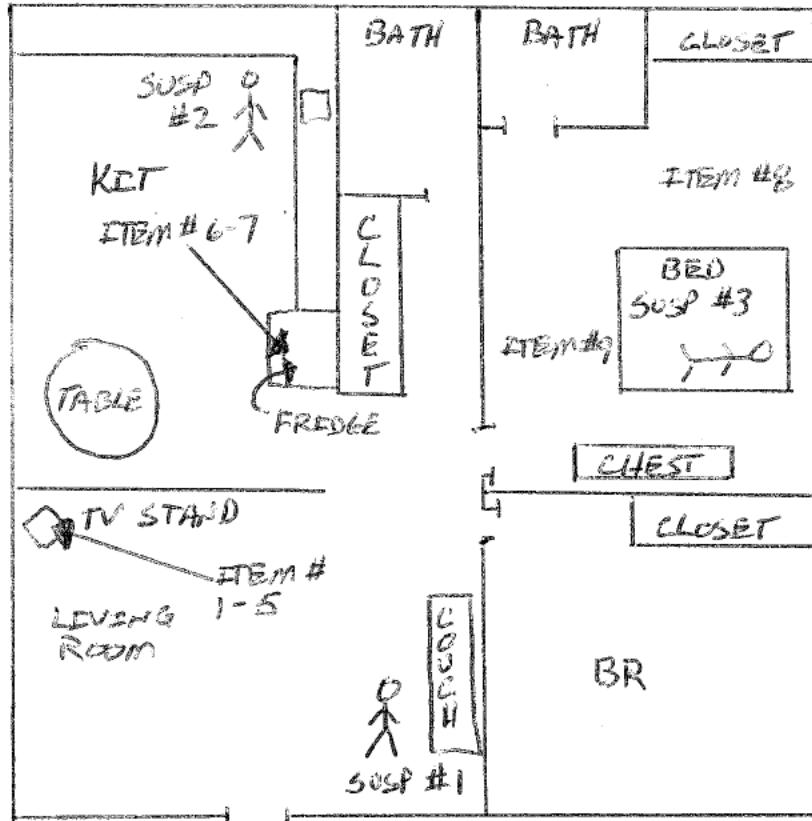
SACRAMENTO POLICE DEPARTMENT
REPORT SUPPLEMENT

1 REPORT NUMBER
04-34056

VICTIM OR COMPLAINANT	
2 LAST NAME, FIRST, MIDDLE (FIRM NAME, IF CRIME AGAINST BUSINESS) Rehm, Steve	3 CRIME CODE SECTION 11358 HS
NARRATIVE	



515 3RD ST #207



NOT TO SCALE

4 REPORTED BY Peletta	5 BADGE 245	6 DIV 8	7 YRS OF SERVICE 15	8 DATE 2/24/04	9 APPROVED BY		
10 ASSISTED BY Harvey	11 BADGE 378	12 DIV 8	13 YRS OF SERVICE 30	14 TIME	15 BADGE	16 DATE	17 TIME



SACRAMENTO POLICE DEPARTMENT
REFERENCE MANUAL



Photo Placard System



Evidence Photos



**Sacramento Police Department
Internal Affairs Division**

**Supplemental Report
IAD2012-0254**

Investigative Log:

8/27/12 Complainant [REDACTED] called into IAD and wanted to make a complaint regarding his house being searched illegally. I attempted to contact him for a statement multiple times unsuccessfully.

09/24/12 I sent Complainant a contact letter after I was unable to contact him on 9/4/12. The letter gave him ten days to contact me or the case would be closed. I did not receive any communication with him after sending the letter and the case was closed as an inquiry.

10/29/12 Complainant [REDACTED] and his son, [REDACTED] came into the Internal Affairs office. They stated that neither of them have a working phone and were unable to contact me after receiving my letter until today. I took both of their statement. Neither statement was recorded at their request. Complainant wished to make a formal complaint against the officers at his house that night for the way they treated him and what he thought was an illegal search.

I ran [REDACTED] and [REDACTED] in Versadex and WebKPF. Neither of them showed a listed address of [REDACTED] Teekay Way. [REDACTED] did show on formal searchable probation until 11/13/13 with a listed address of [REDACTED] East Parkway [REDACTED] Sacramento, Ca 95823.

02/27/13 I reviewed the ICC for the call **(043907.av/ 8-26-12/ 21:39:07)**. The video shows Officer Magner and Fetch make a subject stop of [REDACTED] in front of [REDACTED] Teekay Way. The ICC covers the audio of the stop, the conversation at the front door, and a short portion of the interaction inside the house before officers turn their portable mics off for an unknown reason. The audio in the vehicle where [REDACTED] is detained is running the entire call. A short video summary/timeline used for the accused officer interviews is attached to this case.

I ran the GPS of the location during the call. I found the following units were in the area:

- TAC51 – Officer Fetch/Officer Magner – entire call
- 1A51 – Officer Donnell – 2148 to 2234
- 3SM5 – A/Sgt Moore – 2151 to 2155
- TAC50 – Officer Severi/Officer Trefethen – 2200 to 2218

I responded to complainant's house and spoke with him. I clarified some things in his statement in preparation for officer interviews.

03/12/13 I, along with Officer Jenn Nichols interviewed Witness Officer Donnell in the Internal Affairs office. He was represented by Sgt Jerry Camous. The interview was recorded and will be preserved with this case.

**Sacramento Police Department
Internal Affairs Division**

**Supplemental Report
IAD2012-0254**

Investigative Log:

04/01/13

I spoke with Detectives about legal standing in a third party residence as it relates to this case. I received an email about the subject and attached it to the case.

04/03/13

I reviewed multiple cases and the legal source book looking with negative results for a lawful reason for the search of [REDACTED] house minus consent or a warrant, in this circumstance.

04/03/13

I contact SPD sustainment team and had them review the ICC when Officer Fetch and Officer Magner's portable mics go off within five seconds of each other. I advised I believed they intentionally turned them off on this call. After a review, Officer Light agreed that the mics were turned off and did not go out of range or un-sync.

I reviewed these Officer's ICC footage through the rest of their shift and found that the audio on their mics are off throughout the shift. So they never manually turned them back on after this call.

I responded back to complainant's house and took photos of his residence and areas officers search. I also made a floor plan of the residence. The photos and floor plan are attached to this case.

04/18/13

I, along with Officer Jenn Nichols, interviewed Officer Fetch in the Internal Affairs Office. He was represented by SPOA Officer Aaron Wallace. The interview was recorded and will be preserved with this case.

04/23/13

I, along with Officer Jenn Nichols, interviewed Officer Magner in the Internal Affairs Office. He was represented by SPOA Officer Aaron Wallace. The interview was recorded and will be preserved with this case.

04/24/13

I, along with Officer Jenn Nichols, interviewed Witness Officer Severi in the Internal Affairs Office. He was represented by SPOA Officer Aaron Wallace. The interview was recorded and will be preserved with this case.

05/16/13

I, along with Officer Jenn Nichols, interviewed Witness Officer Trefethen in the Internal Affairs Office. He was represented by SPOA Officer Aaron Wallace. The interview was recorded and will be preserved with this case.

I, along with Sergeant Charles Husted, re-interviewed Officer Fetch in the Internal Affairs Office. He was represented by SPOA Officer Aaron Wallace. The interview was recorded and will be preserved with this case.

**Sacramento Police Department
Internal Affairs Division**

**Supplemental Report
IAD2012-0254**

Investigative Log:

07/03/13

I, along with Sergeant Charles Husted, re-interviewed Officer Magner in the Internal Affairs Office. He was represented by SPOA Officer Aaron Wallace. The interview was recorded and will be preserved with this case.

The follow-up interviews were needed to clarify some inconsistencies in the prior two interviews.

07/10/13

I submitted this case to the IA Lieutenant for review.

From: Halstead, Greg
Sent: Thursday, April 04, 2013 10:36
To: Vassallo, Adam
Subject: Some research on probation and entry into 3rd party residence without a warrant.

SEARCHING HOMES: DOES HE “LIVE” THERE? Officers may search a home pursuant to the terms of parole or probation only if the parolee or probationer lives there. This requirement can be troublesome because many parolees and probationers move around a lot or stay in several residences sometimes for the purpose of making it difficult for officers to find them. Still, it is strictly enforced. Technically, a search is permitted whenever officers have “reason to believe” that the parolee or probationer lives in the residence, either alone or with others. While it could be argued that this “reason to believe” standard is essentially the same as mere reasonable suspicion, the Ninth Circuit has consistently interpreted it to mean probable cause. Thus, in *United States v. Howard* the court explained:

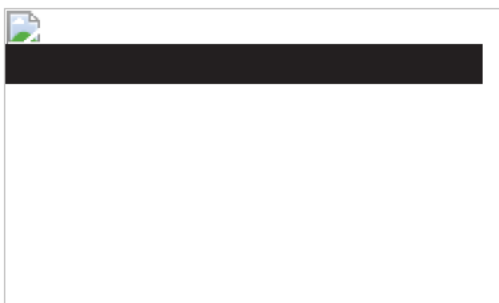
We have applied a relatively stringent standard in determining what constitutes probable cause that a residence belongs to a person on supervised release. It is insufficient to show that the parolee may have spent the night there occasionally. Instead, the facts known to the officers at the time of the search must have been sufficient to support a belief, in a man of reasonable caution, that [he] lived [there].⁸⁹ Although the California courts have not yet ruled on the issue, it is likely that, because of the high privacy expectations in homes, they will also rule that probable cause is required.

See *U.S. v. Mayer* (9th Cir. 2008) 530 F.3d 1099, 1104 [“Before law enforcement officers may conduct a warrantless probation search, they must also have probable cause to believe that the probationer actually lives at the residence searched.”]; *Cuevas v. De Roco* (9th Cir. 2008) 531 F.3d 726, 732; *Motley v. Parks* (9th Cir. en banc, 2005) 432 F.3d 1072, 1080 [“Law enforcement officers are allowed to search a parolee’s residence, but they must have probable cause to believe that they are *at* the parolee’s residence.”]; *U.S. v. Howard* (9th Cir. 2006) 447 F.3d 1257, 1262 [probable cause is required]

The “*Steagald Warrant*.” If the person is in a *third party’s home*, absent consent to enter, a *search warrant* for the residence must be obtained in addition to the arrest warrant. (*Steagald v. United States*, *supra*, at pp. 211-222 [68 L.Ed.2nd at pp. 45-52]; *People v. Codinha* (1982) 138 Cal.App.3rd 167; see **P.C. § 1524(a)(6)**.) *Note*: Securing such a search warrant will, of course, require “probable cause” to believe that the subject of the arrest warrant is in the place to be searched.

Within a Third Person’s Home: Probable cause justifying an arrest warrant for one person does not authorize entry into to a third person’s home to look for the subject of the arrest warrant. To do so violates the privacy interests of the third party. Therefore, a *search warrant*, based upon probable cause to believe the wanted subject is in fact in the home of the third party (absent exigent circumstances), is necessary. (*Steagald v. United States* (1981) 451 U.S. 204 [68 L.Ed.2nd 38]; *People v. Codinha* (1982) 138 Cal.App.3rd 167; sometimes referred to as a “*Steagald Warrant*.”

See also **P.C. 1524(a)(6)**; legal authorization for obtaining such a search warrant.) The arrestee, if doing no more than merely visiting the lawful resident, probably has no standing to contest the unlawful entry of another’s house. (*United States v. Underwood* (9th Cir. 1983) 717 F.2nd 482.) It is when a police officer obtains evidence against the third party homeowner, while looking for the subject of the arrest, that *Steagald* becomes an issue. The homeowner, in such a case, has standing to contest the warrantless entry of his house in defense at his own prosecution. (*Steagald v. United States*, *supra*, at pp. 212, 216 [68 L.Ed.2nd at pp. 45, 48].)





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8/26/2012 10:47:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:47:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:47:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:47:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:47:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:46:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:45:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:45:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:45:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:45:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:45:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:45:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:44:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:44:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:44:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:44:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:43:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:42:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:42:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:39:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:39:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:37:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:37:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 10:36:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:36:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:35:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:34:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:33:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:32:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:32:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:31:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:28:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:28:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:27:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:26:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:26:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:26:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:24:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:23:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:20:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:19:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:19:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:19:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:19:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:18:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:18:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:18:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 10:17:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:15:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:13:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:13:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:10:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:09:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:08:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:07:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:07:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:02:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:01:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 10:00:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:00:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 10:00:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:59:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:58:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:58:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:58:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:56:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:56:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:55:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:55:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:53:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 9:53:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:52:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:52:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:51:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:49:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:49:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:48:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:47:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:46:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:45:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:44:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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				KV: [REDACTED]	SO: objectsettings



8/26/2012 9:40:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:37:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:36:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:35:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:35:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:34:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:34:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:34:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:34:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:33:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:32:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:31:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:30:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:27:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:25:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:25:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:23:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:21:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:21:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:21:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:21:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:19:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:16:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:14:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 9:14:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:13:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:11:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:11:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 9:08:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:06:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:05:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:02:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
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				KV: [REDACTED]	SO: objectsettings
8/26/2012 9:00:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:57:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:56:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 8:56:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:52:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:52:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:51:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:50:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:46:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:46:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:45:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:45:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:45:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:45:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:44:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 8:39:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:38:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:36:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:36:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:36:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:35:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:32:00 AM	CA0340100	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:31:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:31:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:28:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 8:22:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:21:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:20:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:19:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:16:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:13:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:12:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings
8/26/2012 8:10:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 8:08:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 7:38:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 7:38:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 7:35:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 7:33:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 7:31:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 6:28:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 6:25:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 6:22:00 AM	CA0340400	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 6:21:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 5:44:00 AM	CA0340H00	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 5:23:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 5:21:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 5:11:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 5:07:00 AM	CA0349600	SUID: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 4:25:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 4:19:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 4:18:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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8/26/2012 3:28:00 AM	CA0349600	SUID: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
				KV: [REDACTED]	SO: objectsettings



8/26/2012 3:24:00 AM	CA0340000	XREF: [REDACTED]	[REDACTED]	KT: XREF	PR: WebKPF PersonDetails
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Legal Source Book Reference

1. "Protective Sweep "

A "protective sweep" is a limited, quick, visual inspection of those places where a person who poses a danger to you or others might be hiding. (Buie (1990) 494 U.S. 325, 327; Furrow (9th Cir. 2000) 229 F.3d 805, 811.) "Protective sweeps" generally involve two scenarios: officers are inside a residence to effect an arrest or perform other inherently at-risk duties or officers must enter a residence based on some immediate exigency.

Note: The Ninth Circuit uses different terminology for a "protective search incident to arrest" and a "protective sweep" based on reasonable suspicion that persons posing danger to officers or others are in non-adjointing areas. However, the legal standards in the Ninth Circuit and in the California state courts are the same. (Lemus (9th Cir. 2009) 582 F.3d 958, 962-963.)

With regard to arrests, in Buie the U.S. Supreme Court determined that if you legally arrest a dangerous felon inside a residence, you are entitled to ensure your own safety by:

- looking into "closets and other spaces immediately adjoining the place of arrest from which an attack could be immediately launched," without needing any probable cause or reasonable suspicion and
- conducting a protective sweep throughout the remainder of the residence, i.e., looking anywhere else where another person could be hiding, if you have reasonable suspicion, based on specific facts, "that the area swept harbors an individual posing a danger to the officer or others." (Buie (1990) 494 U.S. 325.)

This type of "protective sweep" requires that you clearly distinguish between "immediately adjoining" areas and other areas where someone could be hiding. Reasonable suspicion that persons posing a danger to officer safety (or others) is required for a search into any area not immediately adjoining the place you have a lawful right to be. (Celis (2004) 33 Cal.4th 667, 679.) This same test applies to an entry to conduct a protective sweep after suspects have been arrested outside the premises.

Example: It was proper under Buie, for officers to enter a house without a warrant and make a protective sweep for other suspects, where they had just apprehended and arrested the defendant (an armed robber) in front of the house and knew that he normally "pursued his criminal activities with accomplices in a most dangerous manner." Accordingly, the weapon that was discovered during the sweep was admissible. (Maier (1991) 226 Cal.App.3d 1670; see Paopao (9th Cir. 2006) 469 F.3d 760, 766.)

Example: Officers arrested Brevetz in his home. Because Brevetz had previously harbored a fugitive and possessed a sawed-off shotgun, it was proper for the officers to then sweep the home to determine whether anyone else was present and to seize contraband discovered in plain view during the sweep. (Brevetz (1980) 112 Cal.App.3d 65.)

Example: A domestic violence suspect was arrested outside the apartment where he was reported to be staying. The victim had already fled to safety. The officers' generalized concern based on past domestic battery investigations did not amount to reasonable suspicion to believe that there were potentially dangerous persons inside the residence. HELD: The protective sweep of the apartment was unlawful. (Ormonde (2006) 143 Cal.App.4th 282, 295.)

Example: Hours after a woman reported that she had been assaulted by her boyfriend, officers went to his residence to arrest him. Defendant stepped outside. After he was handcuffed, he asked his roommate, who had also come outside, to retrieve his keys and shoes from his bedroom. One officer accompanied the roommate back into the house. The roommate was not armed, he did not have warrants or warrants, he said no one else was inside, and the officers were not aware of ongoing criminal activity at the residence. HELD: The officer's entry with the roommate was unlawful. (Werner (2012) 207 Cal.App.4th 1195.)

The other category of "protective sweep" involves the immediate need to sweep a residence in response to an exigency connected with the residence.

Example: Officers were investigating a tip that stolen property, including guns, was being stored in a residential garage. They knew one of the occupants was dangerous. As they approached the residence, two males came out of the garage, saw them, and ducked back in, yelling "Look out! The cops!" An officer identified himself and told the occupants to come out. After five males came out, the officer entered the garage to see if anyone else remained. Once inside, the officer did not see any other suspects but did see the stolen property. The evidence was admissible because (1) the officer was justified in protecting himself by entering the garage to make sure no one who might shoot him remained in the garage and (2) the evidence was in plain view from that lawful vantage point. (Mack (1980) 27 Cal.3d 145.)

Example: Protective sweep of defendant's residence was proper where a large sum of money inside a brown paper bag had been seized from a man previously seen leaving the residence, there was a heavy volume of unusual vehicular traffic outside the residence, a well-armed lookout was outside and sounded a vehicle's horn, two persons attempted to flee, and the defendant and his girlfriend were reluctant to comply with the agents' requests. (Meza-Corrales (9th Cir. 1999) 183 F.3d 1116, 1117.)

If you see crime-related evidence in plain view during a protective sweep, you may seize it without a warrant. (Buie (1990) 494 U.S. 325, 330.) You may also re-enter to seize evidence observed in plain view during the initial entry but not seized because you were performing duties that took priority over the seizure of evidence, such as looking for victims or suspects. (Chapman (2012) 204 Cal.App.4th 1004, 1014, 1016.) Absent these circumstances, it is better to obtain a warrant so that you can search more thoroughly for other similar evidence.

Example: Police entered an apartment lawfully under the exigent circumstances doctrine. While making a "protective sweep" inside, they saw a gun in plain view. Instead of seizing the gun, they left and directed another officer to pick it up later. The subsequent re-entry required a warrant. (Keener (1983) 148 Cal.App.3d 73; but see McDowell (1988) 46 Cal.3d 551, 564.)

"Protective sweeps" have been approved in cases involving an officer's presence in a residence to perform duties other than making an arrest. For example, with "specific and articulable" facts, officers could conduct a security sweep prior to a residential probation search. (Ledesma (2003) 106 Cal.App.4th 857.)

C. Residences/"Possessions"

1. Knock and Notice

With regard to searching a parolee's or probationer's residence, the "knock and notice" requirements apply, although they may be excused entirely or only substantially complied with, depending on the circumstances. (See Ch. 3; Murphy (2005) 37 Cal.4th 490, 496; Urziceanu (2005) 132 Cal.App.3d 747; Britton (1984) 156 Cal.App.3d 689, 698; LaJocies (1981) 119 Cal.App.3d 947, 952.) Additionally, the "exclusionary rule" should not be applied to evidence obtained in a search of a parolee or a probationer with a search condition if the court determines that the search condition provided the lawful authority for the search or seizure similar to the authority provided in a warrant and the only irregularity was a knock/notice violation. (See generally Hudson (2006) 547 U.S. 586, discussed at Ch. 3-V.)

2. Probable Cause to Arrest

If something you see or find during such a search provides probable cause to arrest, you may make the arrest inside the residence without an arrest warrant. This is so because the purpose behind an arrest warrant is to provide you with judicial authorization for entering the suspect's home. But with a "search condition," you already have a legal justification for entering the home, so no warrant is necessary. (Palmquist (1981) 123 Cal.App.3d 1, 15.)

3. Entering Residence to Arrest

Because you have the power to enter the residence of a person on searchable supervision (parolee, PRCS releasee, or probationer with a search condition) and conduct a search--even if the person is not at home--at least one court has ruled that you may also enter, on the strength of the search condition, for the purpose of making an arrest, assuming, of course, that you have probable cause to arrest: "There is no violation of either Ramey or Payton if officers entitled to enter a home to search enter [instead] to make an arrest." (Lewis (1999) 74 Cal.App.4th 662, 665.)

Note: The Supreme Court held in Steagald (1981) 451 U.S. 204 that a search warrant is required in order to enter a third person's residence to arrest a suspect who is visiting there, even though you have an arrest warrant for the suspect himself. Although there is no case directly on point, Steagald would most likely apply to entering a third person's residence to arrest a probationer, parolee, or PRCS subject who is inside, temporarily visiting. It is the third person's privacy that is at issue in these situations. Even though the probationer/parolee/PRCS subject could not challenge the entry (no standing), you could be exposing yourself to potential civil rights liability for an illegal entry in an action by the third party.

4. Protective Sweeps and Detentions

With "specific and articulable facts" justifying a cursory inspection of the residence, officers may conduct a Buieprotective sweep of the entire residence, including a nonprobationer's quarters. Courts will consider (1) the type of criminal conduct underlying an arrest or search, (2) the presence of ongoing criminal activity in the residence, (3) the potential presence of firearms, and (4) the potential presence of others in the home. (Ledesma (2003) 106 Cal.App.4th 857.)

Further, officers may briefly detain others present in a residence during a probation search to ascertain identity, relationship to the probationer, and relationship to the probationer's residence. (Rios (2011) 193 Cal.App.4th 584, 595 [relying on the reasoning in Summers (1981) 452 U.S. 692, 705].) The detention is justified by the same safety concerns justifying detentions during the service of a warrant recognized in Muehler v. Mena (2005) 544 U.S. 93 and Rettele (2007) 550 U.S. 609. (Sanchez (9th Cir. 2009) 574 F.3d. 1169, 1172-1175.)

Example: Probation officer conducting home visit/search of a juvenile probationer, whose conditions included an order not to associate with gang members, started to question Rios, who had visible gang-related tattoos on his face and hand, about his identity and reasons for being in the residence. HELD: Even assuming that Rios was detained when the officers entered the residence, the detention was lawful so that his identity and connection with the probationer and the residence could be established. It was also lawful for the probation officer to conduct a patdown search of Rios, who was a probable gang member, overly dressed for the weather, and belligerent in his refusal to answer questions and his refusal to stop evasive movements. (Rios (2011) 193 Cal.App.4th 584 [the court noted that the probation officer was acting within the scope of his duties under Pen. Code, § 830.5, subd. (a)(1)].)

5. Joint Occupants

People who live with probationers/parolees cannot "reasonably expect privacy" in shared areas of the residence. (Pleasant (2004) 123 Cal.App.4th 194, 197.) Thus, an objection of the cotenant (roommate, spouse, etc.) cannot prevent you from conducting a search of the shared areas. However, you cannot search areas that are occupied or controlled exclusively by the cotenant. You must limit your search to those areas exclusively occupied by the probationer/parolee or those areas that are jointly occupied by the probationer/parolee and the cotenant.

Example: Defendant 's mother, who was on probation with a search condition, had a key to her son's locked room in which officers found a rifle under the bed. HELD: Because the probationer had access to the key to the room where the gun was found, the officers could enter and search that room under the authority of the probationer's Fourth Amendment waiver. (Pleasant (2004) 123 Cal.App.4th 194, 198.)

A search condition will validate even a search for evidence associated with a nonprobationer in a jointly occupied residence where the search is limited to the areas under the probationer's exclusive or joint control. (Woods (1999) 21 Cal.4th 668, 671-672.) Officers must have prior knowledge of the the co-occupant's probation condition or parole status prior to conducting a search. (Robles (2000) 23 Cal.4th 789; Sanders (2003) 31 Cal.4th 318.)

Example: Evidence obtained against Robles during a warrantless search of his garage was suppressed and inadmissible despite the fact that, unknown to the searching officers, Robles' brother, who lived at the same residence, was on searchable probation. The officers were not aware of the brother's probationary status at the time they conducted the search. (Robles (2000) 23 Cal.4th 789.)

Example: Officers were investigating a domestic violence call in an apartment shared by Sanders (victim) and McDaniel (suspect). Sanders had a recent cut on her cheek, and McDaniel was observed hiding something metal behind the sofa cushion; both became verbally and physically abusive toward the officers. A protective sweep of the apartment followed, and a work boot full of rock cocaine was observed in plain view in an open closet. The officers learned of McDaniel's parole status after the protective sweep, which the court of appeal held exceeded its lawful scope. HELD: McDaniel's parole search condition could not be relied upon to validate the warrantless search. (Sanders (2003) 31 Cal.4th 318.)

Robles and Sanders reflect the California Supreme Court's concern that police might conduct "illegal" searches of jointly occupied premises, hoping to validate them after the fact by discovering that one of the occupants was on searchable probation or parole. Thus, whenever possible (and it was not possible or advisable inside Sanders' residence before the protective sweep), you should check the probationary or parole status of all suspects and any joint occupants before conducting the search.

Non-Association Condition. If a probationer has a "non-association" condition, it is proper for you to briefly detain those who are present or departing to check their status. (Matelski (2000) 82 Cal.App.4th 837, 846-853.)

6. What Establishes a "Residence"?

Before entering a residence to conduct a search, you must have a "reasonable belief" that the probationer or parolee resides there. A "reasonable belief" is less than "probable cause to believe." (Downey (2011) 198 Cal.App.4th 652, 662.)

Example: After searching various data bases and calling different agencies, officers found different addresses for a probationer subject to a search condition. The most recent utility bills and phone records listed the same residence. Defendant Downey, who was not the probationer, was living at the residence and was arrested for being a felon in possession of a firearm found in a search of the kitchen. HELD: The probation search was lawful based on the officers' reasonable belief that the probationer was still living at the residence at the time of the search. (Downey (2011) 198 Cal.App.4th 652.)

Note that the Ninth Circuit has ruled that a parole search must be supported by "probable cause to believe that the parolee is a resident of the house to be searched." (Motley (9th Cir. 2005) 432 F.3d 1072, 1080; Howard (9th Cir. 2006) 447 F.3d 1257, 1262.) They do note, however, that probable cause can be based on the parolee's reported address. (Motley (9th Cir. 2005) 432 F.3d 1072, 1082; see also Franklin (9th Cir. 2010) 603 F.3d 652 [motel room rented for a night].)

7. Searching Objects and "Possessions"

As for a specific item you find during your contact with a person under searchable supervision, you need some basis for thinking it belongs to or is under the control of the parolee/PRCS subject/probationer in order to search it. This basis may be supplied by the surrounding circumstances. (Britton (1984) 156 Cal.App.3d 689, 700-703; Baker (2008) 164 Cal.App.4th 1152, 1159.)

Example: Officers searched a male probationer's residence pursuant to a valid search condition. In the bedroom the probationer shared with Smith, a narcotics dog responded to a woman's purse on their bed. HELD: The search of the purse was lawful. The "question was not whether the purse was female or gender-neutral; the critical issue was whether the officers reasonably believed the item was one under [probationer's] control or one to which he at least had access." Once it was determined that the bedroom was linked to a criminal enterprise, the officers were reasonable in believing that the purse was another potential repository for narcotics, even if the purse was not jointly owned by the probationer. (Smith (2002) 95 Cal.App.4th 912.)

Example: Officers conducted a narcotics parole search of a small trailer after removing the male (the parolee) and his female companion (the defendant, who was not on parole or probation) to the main residence a few feet away. One officer picked up a brown leather "gender neutral" clutch-purse or handbag that was on top of the only bed in the trailer. The bed appeared to have been recently used by both occupants. The container was a type that the officer had seen both males and females use to keep drugs. He opened it and discovered methamphetamine, along with makeup and other "female" items. HELD: The officer's actions were proper because the object was not "distinctively female" (appearance is only one factor) and he had reasonable suspicion that it was owned, controlled or possessed by the parolee. The failure to inquire about ownership should never automatically invalidate a parole or probation search and was not unreasonable here. (Boyd (1990) 224 Cal.App.3d 736, 745-751.)

Example: Officer could not search a "female" purse located on the floorboard in front of the passenger seat when the driver was male and the passenger was female solely on the basis of the driver's parole search condition. The court found "nothing to overcome the obvious presumption that the purse belonged to the sole female occupant of the vehicle who was not subject to a parole-condition search." (Baker (2008) 164 Cal.App.4th 1152, 1159-1160.) (Note that this decision is inconsistent with existing precedent in its analysis and reasoning.)

IV. ARRESTS

A. Definition

An arrest occurs when you take a person into custody. This requires either (1) that you physically restrain or at least touch the person or (2) that he submits to your authority. (Pen. Code, § 835; Hodari D. (1991) 499 U.S. 621, 626; Turner (1994) 8 Cal.4th 137, 180.)

Custody is an objective condition: your subjective intent is not controlling. (Parker (1978) 85 Cal.App.3d 439.)

To be a valid arrest, you must take the person into custody "in a case and in the manner authorized by law." (Pen. Code, § 834.) If you do not, it is a "false" arrest. False arrest may be a crime or the start of a civil lawsuit, and it may result in the suppression of crime-related evidence. To be valid, an arrest must always be supported by probable cause. (Kraft (2000) 23 Cal.4th 978, 1037.)

In *Atwater* (2001) 532 U.S. 318, the U.S. Supreme Court ruled that it is constitutional for police to make a full custodial arrest for even the most minor offenses. *Atwater* came out of Texas, however, where state law gives police statutory authority to do so. In California, minor Vehicle Code offenses are generally classified as infractions for which police are required by statute to cite and release unless certain specified conditions exist. (McKay (2002) 27 Cal.4th 601, 618.)

Although, as a sworn peace officer, you should comply with all state provisions, it is now clear that a custodial arrest for even a cite-and-release offense that produces evidence will not result in the exclusion of the evidence under the Fourth Amendment if the arrest is supported by probable cause. (Moore (2008) 553 U.S. 164, 178; see *Redd* (2010) 48 Cal.4th 691, 720, fn. 11.)

Further, *Atwater* extends to "unintentional" de facto arrests. For example, what if a detention for a cite-and-release traffic violation is prolonged to the point that the seizure becomes a de facto arrest? In such a case, the suppression of evidence is precluded if probable cause supported an arrest on the traffic violation despite California's cite-and-release provisions. (Gomez (2004) 117 Cal.App.4th 531, 539 [prolonged detention for seatbelt violation resulted in de facto arrest supported by probable cause; arrest supported by probable cause does not violate the Fourth Amendment]; see *Gallardo* (2005) 130 Cal.App.4th 234, 239, fn. 1 ["even if the defendant was detained so long that the stop became a de facto arrest, the initial traffic stop provided probable cause"].)

Probable cause for an arrest must be justified by the objective circumstances--regardless of the arresting officer's motivation. This is because the "Fourth Amendment regulates conduct rather than thoughts." (Al-Kidd (2011) 131 S.Ct. 2074, 2080, 2083.)

B. Who May Arrest

Under the proper circumstances, everyone has some authority to make an arrest. However, as a peace officer, you have more authority than a private person does. (See discussion of "private arrests" in Chapter 5, section XII.)

For a felony, you may arrest a person (1) with a warrant or (2) without a warrant if you have probable cause to believe he or she committed a felony, regardless of whether or not it was committed in your presence.

For a misdemeanor, you may arrest a person (1) with a warrant or (2) without a warrant if the misdemeanor was committed in your presence. (Pen. Code, § 836.)

Also, there are now numerous situations where a statute allows you to make a warrantless arrest for a misdemeanor--assuming the arrest is supported by probable cause--even though the misdemeanor was not committed in your presence. These include:

- the crime was committed by a juvenile (Welf. & Inst. Code, § 625; Samuel V. (1990) 225 Cal.App.3d 511, 513);
- the suspect was driving while under the influence (DUI) and (1) was involved in an accident, (2) is observed in or about a vehicle that is obstructing a roadway, (3) will not be apprehended unless immediately arrested, (4) may cause injury to himself or herself or damage property unless immediately arrested, or (5) may destroy or conceal evidence of the crime unless immediately arrested (Veh. Code, §§ 40300.5, 40600);

Note: Because anyone under the influence of alcohol is "destroying evidence" simply by letting time go by (because his BAC is diminishing), a timely DUI arrest would be legal (with probable cause, of course) even though you did not actually see the vehicle being driven. (Thompson (2006) 38 Cal.4th 811, 819; see Schofield (2001) 90 Cal.App.4th 968, 972-975.)

- the suspect was carrying a loaded firearm on his or her person or in a vehicle while in any public place or on any public street (Pen. Code, § 25850, subd. (g));
- the suspect committed an assault or battery while on school property (as defined) during hours when school activities are being conducted (Pen. Code, § 243.5);
- the suspect committed an assault or battery upon a firefighter, emergency medical technician, or mobile intensive care paramedic while that person is on duty engaged in the performance of his or her duties (Pen. Code, § 836.1);
- you have probable cause to believe that the suspect has committed an assault or battery on any one of a wide range of persons with whom he or she presently has or did have a relationship, including a current or former spouse; current or former fiancé(e) or cohabitant; person with whom the suspect is or was engaged to or had a dating relationship (as defined in Pen. Code, § 243, subd. (f)(10)); person with whom the suspect parented a child with or is presumed to have parented a child; the suspect's actual child; a child who is a subject of an action against the suspect under the Uniform Parentage Act; the child of any person in any of the foregoing categories; or any other person related to the suspect by consanguinity (blood) or affinity (marriage) within the second degree (Pen. Code, § 836, subd. (d));

Note: This exception will cover many domestic violence situations where there appears to have been an assault or battery but no protective or restraining order is involved and the victim is less than eager to press charges.

- you have probable cause to believe that an assault or battery was committed upon any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship (Pen. Code, § 836, subd. (d));
- you are at an airport in an area to which access is controlled by the inspection of persons and property, and you have probable cause to believe that the suspect has violated Penal Code section 25400 (carrying a concealable firearm concealed on his person) (Pen. Code, § 836, subd. (e)).

D. When You May Arrest

For a felony, you may make an arrest --with or without a warrant--at any time of the day or night. (Pen. Code, § 840.)

G. Probable Cause

"An arrest is valid only if supported by probable cause." (Kraft (2000) 23 Cal.4th 978, 1037.) As has been stated, you may arrest someone without a warrant only if you have "probable cause" to believe he or she committed an offense. The classification of the offense--felony, misdemeanor, infraction--does not control. An arrest is "constitutionally reasonable" when an "officer has probable cause to believe a person committed even a minor crime in his presence." (Moore (2008) 128 S.Ct. 1598, 1604.)

"Probable cause" to arrest (1) requires more than the "reasonable suspicion" necessary for a detention and (2) is essentially the same as the "probable cause" required to obtain an arrest warrant or a search warrant. (Campa (1984) 36 Cal.3d 870, 879; Gorrostieta (1993) 19 Cal.App.4th 71, 84.)

Note: There is no difference between the meaning of "reasonable cause," which is the term that appears in the California statutes (Pen. Code, § 836), and the term "probable cause" as used in federal Fourth Amendment law. The two terms are identical. (Memro (1995) 11 Cal.4th 786, 843; Puryear (1998) 66 Cal.App.4th 1188, 1195.)

Whether "probable cause" exists depends upon the reasonable conclusions that can be "drawn from the facts known to the arresting officer at the time of the arrest." (Devenpeck v. Alford (2004) 543 U.S. 146, 152; Pringle (2003) 540 U.S. 366, 371.) "Probable cause" exists when the totality of the circumstances would lead a person of ordinary care and prudence to entertain an honest and strong suspicion that the person to be arrested is guilty of a crime. (Scott (2011) 52 Cal.4th 452; Price (1991) 1 Cal.4th 324, 410; Kraft (2000) 23 Cal.4th 978, 1037; Charles C. (1999) 76 Cal.App.4th 420, 423.) "[S]ufficient probability, not certainty, is the touchstone of reasonableness under the Fourth Amendment." (Garrison (1987) 480 U.S. 79, 87.)

Your training and experience are relevant to a determination of probable cause. (Guajardo (1994) 23 Cal.App.4th 1738, 1742; Gonzales (1989) 216 Cal.App.3d 1185; Rosales (1987) 192 Cal.App.3d 759.) However, "an arresting officer's state of mind (except for the facts he knows) is irrelevant to the existence of probable cause." (Devenpeck v. Alford (2004) 543 U.S. 146, 153, added emphasis.)

As in other areas of Fourth Amendment law, when courts assess whether the information you had amounted to probable cause to arrest, they will use an objective standard "without regard to the underlying intent or motivation of the officers involved." (Gonzales (1989) 216 Cal.App.3d 1185, 1190; accord, Devenpeck v. Alford (2004) 543 U.S. 146; Boissard (1992) 5 Cal.App.4th 972, 980; Miranda (1993) 17 Cal.App.4th 917, 924-928; Valencia (1993) 20 Cal.App.4th 906, 914-918.) This is a critical point: if you have probable cause to arrest a suspect for any offense--not just the one articulated at the time of the arrest--the arrest and fruits of the arrest are valid.

Example: If you arrest a suspect for "X" offense, and a court later decides that there was no probable cause for that arrest, the arrest will still be upheld, if, objectively, you had probable cause to arrest the suspect for "Y" offense. Furthermore, "X" and "Y" do not have to be "related." *Devenpeck v. Alford* (2004) 543 U.S. 146; *Rodriguez* (1997) 53 Cal.App.4th 1250, 1262-1267; see *McDonald* (2006) 137 Cal.App.4th 521--applied to detentions.)

Example: Suspect who pulled a gun on officers fled in a green Ford Focus. The Focus was found in a Fred Meyer parking lot 30 minutes later and placed under surveillance. That evening, Lopez, who partially matched the description of the suspect, pulled up in a Ford Taurus and dropped off a female to drive the Focus out of the lot. Lopez was stopped and taken into custody. He consented to a search of the Taurus, in which officers found narcotics, cash and a loaded gun in a secret compartment. HELD: Although the initial seizure was lawful, the probable cause to believe that Lopez was the principal had dissipated as the officers collected additional information. However, based on the objective facts, they did have probable cause to believe that Lopez was an accessory (after the fact). Under *Devenpeck*, Lopez's seizure and its fruits--his consent to search--were valid. (*Lopez* (9th Cir. 2007) 482 F.3d 1067.)

Probable cause does not require certain, positive information, or even enough to convict someone. (*Hart* (2006 9th Cir.) 450 F.3d 1059, 1067.) Rather, "[t]he standard of probable cause to arrest is the probability of criminal activity, not a prima facie showing." (*Charles C.* (1999) 76 Cal.App.4th 420.) This means that it is something less than a preponderance (51%) of the evidence! (*Gates* (1983) 462 U.S. 213, 235.)

Example: During a consensual encounter, an officer observed some marks on Rios' arm and asked him whether he was using drugs. Rios said that his last "fix" of heroin had been two weeks earlier. Based on this admission, the officer arrested Rios for felony possession of heroin and searched him incident to the arrest. HELD: Even though Rios could not be convicted based on his confession, his statement provided probable cause to arrest, so the arrest and search were valid. (*Rios* (1956) 46 Cal.2d 297.)

Example: At 11:30 p.m., an officer spotted a Datsun, parked with its lights on and engine idling, 20 feet from a man in a phone booth. There was no one else in the area. The Datsun's license plate was on the officer's "hot sheet" as a stolen vehicle. There was probable cause to arrest the man in the phone booth. (*Windham* (1987) 194 Cal.App.3d 1580.)

Example: There was probable cause to arrest the suspect for murder where (1) he lived near the victim; (2) had been seen near the victim's residence shortly before her death; and (3) his palm print was found on two articles in the same room where the victim's body was discovered. (*Wright* (1990) 52 Cal.3d 367, 392; see also *Kaurish* (1990) 52 Cal.3d 648, 676.)

Example: Conflicting statements for which there could be no apparent innocent meaning, in combination with the suspect's admission of having been with the victim around the time he vanished, went a long way towards establishing probable cause to arrest. (*Memro* (1995) 11 Cal.4th 786, 843.)

Example: An officer saw Gonzales, an admitted and known narcotics user, in a deteriorated physical state one day and asked him what he was doing. Gonzales gave some improbable answers and kept

reaching toward a pocket out of which the officer could see one-half inch of a protruding "cylindrical rolled-up" clear plastic baggie. Based on his considerable training and experience in the identification and packaging of controlled substances, the officer believed it to be a bindle of contraband, so he removed it. The officer's actions were legal: the encounter was originally consensual but quickly developed into probable cause to arrest based on Gonzales' background, emaciated condition, track marks, hand movements, the story he told, and the type of container which the experienced officer could see. This probable cause to arrest justified the search and seizure, even though the actual arrest did not occur until moments later. (Gonzales (1989) 216 Cal.App.3d 1185.)

Example: Two Anaheim undercover officers saw four males running down the street and heard one of them yell, "He's over there!" after running around a corner. One officer recognized J.G. as a member of the ATC gang and saw him holding a red brick while he ran. Another of the males was holding the plastic top of a lamp. One of the males pointed north, and the four eventually ran out of sight. The officers followed them in an unmarked car. The four males were still walking in a group and still carrying the brick, the lamp top, and a rock when the officers approached them. All four were arrested. The officers did not locate a victim being chased. HELD: J.G. was properly arrested for possession of a deadly weapon with intent to commit assault. He was recognized as a member of a gang and running with a brick in his hand with three others, one of whom yelled that someone was "over there." The court found that these facts clearly suggested that the group intended to use their rudimentary weapons to harm someone. (In re J.G. (2010) 188 Cal.App.4th 1501, 1507-1508.)

Example: Experienced narcotics officer had probable cause to arrest Guajardo (and therefore to search him) where (1) he saw him in a neighborhood known for street narcotics trafficking, (2) he saw him hand a small object to one of two males who were with him, (3) the recipient put the object into a cigarette package, (4) the officer had arrested the suspect one month earlier for selling narcotics, and (5) the suspect seemed nervous when the threesome approached the patrol vehicle afterwards. (Guajardo (1994) 23 Cal.App.4th 1738, 1742-1743.)

The facts supporting probable cause are not limited in the same way that evidence, such as hearsay, is limited at a jury trial. In addition to your personal knowledge, training, expertise, experience, observations, etc., probable cause can include information conveyed from others (i.e, victims, citizens, other officers, "official channels," reliable informants, corroborated tipsters, etc.) if it is reasonable to rely on this information under the totality of the circumstances. (Ramirez (1997) 59 Cal.App.4th 1548, 1553; Rosales (1987) 192 Cal.App.3d 759; Boissard (1992) 5 Cal.App.4th 972, 979; Ngaue (1992) 8 Cal.App.4th 896, 906; Alcorn (1993) 15 Cal.App.4th 652, 655.) It is not sufficient, however, to rely on an alleged victim's hearsay if inconsistencies or generalities undermine its "indicia of reliability." (Gillan (2007) 147 Cal.App.4th 1033, 1044-1047 [student accused teacher of sexual molestation].) In such a case, the better course would be to present your probable cause to a magistrate for the issuance of an arrest warrant. (For a more complete discussion of probable cause based on information from others, see "Informants" in Ch. 6.)

If more than one officer has worked on an investigation, probable cause may be based on the "collective knowledge" of all the officers involved and all the inferences that may reasonably be drawn therefrom.

(Ramirez (1997) 59 Cal.App.4th 1548, 1555-1556; Alcorn (1993) 15 Cal.App.4th 652, 655.) "[W]hen police officers work together to build "collective knowledge," the important question is not what each officer knew, but how valid and reasonable the probable cause was that developed in the officers' collective knowledge." (Gomez (2004) 117 Cal.App.4th 531, 538; accord Ramirez (9th Cir. 2007) 476 F.3d 1026, 1037 ["Where one officer knows facts constituting reasonable suspicion or probable cause . . . and he communicates an appropriate order or request, another officer may conduct a warrantless stop, search, or arrest without violating the Fourth Amendment"].)

If all the information you possess, individually or collectively, does not rise to the level of "probable cause" at the moment of custody, the arrest (seizure) is unreasonable, and all the evidence gathered as a result of the arrest will be inadmissible. This is why it is so important that you don't arrest someone by "accident," e.g., turn a detention into an arrest by your conduct, even though you were not intending to do so. Additionally, if previously established probable cause "dissipates," a person cannot be arrested or must be released from custody. (Lopez (9th Cir. 2007) 482 F.3d 1067, 1073.)

If probable cause is based on the violation of a presumptively valid statute or ordinance, the subsequent invalidation of the statute does not affect the existence of the officer's probable cause at the moment of custody. (DeFillippo (1979) 443 U.S. 31, 37-38.) For example, a subsequent state court decision overturning a local ordinance did not invalidate the officer's reasonable reliance on the ordinance at the time of the defendant's arrest. (DeFillippo (1979) 443 U.S. 31, 37-38.) The subsequent finding that a 25-mph zone was an illegal "speed trap" did not invalidate a detention based on a violation of the posted speed limit. (Hardacre (2004) 116 Cal.App.4th 1292, 1300.)

VII. PROBABLE CAUSE

A. Generally

It is possible, of course, to have probable cause to search without having probable cause to arrest, or vice versa, although often both will exist at the same time because they are both based on the same evidence. (Henderson (9th Cir. 2001) 241 F.3d 638, 648.)

But no matter what the context is, "probable cause" always boils down to the same question: does an officer possess enough factual knowledge or other reliable information so that it is reasonable, in light of the officer's training and experience, to believe "X". (See Gorrostieta (1993) 19 Cal.App.4th 71, 84; Temple (1996) 36 Cal.App.4th 1219, 1227-1228.)

For example, in the context of arrests, "X" means enough information for you to believe that the person is guilty of a crime. (Hamilton (1990) 217 Cal.App.3d 838.) In the context of a warrantless search of a vehicle, it means enough information for you to believe that the object of the search is in a particular portion of the car. (Chavers (1983) 33 Cal.3d 462; Wimberly (1976) 16 Cal.3d 557.) In the context of the plain view doctrine, it means enough information to reasonably believe that the object is contraband, stolen property, or evidence of a crime. (Stokes (1990) 224 Cal.App.3d 715, 719.)

In the search warrant context, "probable cause" means essentially the same thing, namely, enough credible information to reasonably provide a "fair probability" that the object you seek will be found at the place you want to search. (Gates (1983) 462 U.S. 213, 236, 238; Bennett (1998) 17 Cal.4th 373, 391; McDaniels (1994) 21 Cal.App.4th 1560, 1564; Lamas (1991) 229 Cal.App.3d 560, 567.) A magistrate is not allowed to issue a search warrant unless he or she concludes that the affidavit contains "probable cause." (Pen. Code, § 1525.)

"The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place." (Gates (1983) 462 U.S. 213, 238 (emphasis added); Tuadles (1992) 7 Cal.App.4th 1777, 1783; Kraft (2000) 23 Cal.4th 978, 1040-1041.) It is reasonable for a magistrate to conclude that the logical place to look for specific incriminating items is a suspect's residence. (Gonzalez (1990) 51 Cal.3d 1179, 1206; Carrington (2009) 47 Cal.4th 145, 163 [recognizing that this is particularly true when the warrant is for stolen property].)

Probable cause means more than mere suspicion, but less than prima facie proof and less than a preponderance of the evidence. (Gates (1983) 462 U.S. 213, 235; Tuadles (1992) 7 Cal.App.4th 1777, 1783; \$48,715 (1997) 58 Cal.App.4th 1507, 1517.) The rules of evidence that apply at a trial do not apply in determining probable cause to search. For example, hearsay, privileged information, and other "inadmissible" information may be considered. (Morgan (1989) 207 Cal.App.3d 1384.)

As law enforcement officers, you may draw upon your "expertise to interpret the facts" in the affidavit and your expertise may be considered in evaluating probable cause for a warrant. (Nicholls (2008) 159 Cal.App.4th 703, 711.) It is possible for activity that might otherwise appear "innocent" (e.g., a pattern of phone calls to certain people at certain times) to amount to probable cause (bookmaking). (Andrino (1989) 210 Cal.App.3d 1395; Rodrigues-Fernandez (1991) 235 Cal.App.3d 543, 547--countersurveillance, use of beeper, etc; Tuadles (1992) 7 Cal.App.4th 1777, 1784; Glenos (1992) 7 Cal.App.4th 1201, 1206; Valencia Amezcua (9th Cir. 2002) 278 F.3d 901, 906.)

Furthermore, "the evidence must be seen and weighed as understood by those versed in the field of law enforcement." (Von Villas (1992) 11 Cal.App.4th 175, 217.) This means that a narcotics officer's training and experience must be considered and can make it reasonable, for example, to conclude that contraband and other incriminating evidence might be found at a drug dealer's residence (Ornelas (1996) 517 U.S. 690, 695-696; Sandlin (1991) 230 Cal.App.3d 1310, 1314; Gonzalez (1990) 51 Cal.3d 1179, 1206; Cleland (1990) 225 Cal.App.3d 388, 393) or in his automobile (McNabb (1991) 228 Cal.App.3d 462, 469; Tuadles (1992) 7 Cal.App.4th 1777, 1785).

With regard to warrants authorizing the seizure of books, writings, or films, the Supreme Court has squarely rejected the argument that a heightened probable cause standard applies when the warrant involves materials protected by the First Amendment. (P.J. Video, Inc. (1986) 475 U.S. 868, 875; see Giberson (9th Cir. 2008) 527 F.3d 882, 889--same standard for computers that store First Amendment material.)

Finally, the U.S. Supreme Court has noted that officers "are under no constitutional duty to call a halt to criminal investigation the moment they have the minimum evidence to establish probable cause."
(Hoffa (1966) 385 U.S. 293, 310; King (2011) 131 S.Ct. 1849.)

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SAN JOSE: 408-292-4802

FED. ID# 94-2678460

RECEIVED
AUG 21 2013
OFFICE OF THE
CHIEF OF POLICE
Sacramento

JUDITH A. ODBERT
CHRISTINA J. PETRICCA
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KYLE A. WENDE
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ACE T. TATE
MARIBETH ARENDT
CALEB M. COUCHMAN
DAVID G. RITCHIE
W. DAVID CORRICK

August 20, 2013

Via Email and U.S. Mail

Samuel D. Somers, Jr., Chief of Police
Sacramento Police Department
5770 Freeport Blvd., Ste. 100
Sacramento, CA 95822
Email: ssomers@cityofsacramento.org

Geri Hamby, Human Resources Director
Historic City Hall
915 I Street, Plaza Level
Sacramento, CA 95814
Email: ghamby@cityofsacramento.org

Re: Officer Jonathan Magner; Case No. IAD2012-0254

Dear Gentilepersons:

I will be representing Sacramento Police Officer Jonathan Magner during all pre-disciplinary ("Skelly") hearings and any post-disciplinary proceedings. Please accept this letter as a formal written appeal and request for a pre-disciplinary hearing in response to Captain Jim Maccoun's notice of intent to reduce Officer Magner's salary from Police Officer Step 4 to Step 3 for 40 (forty) bi-weekly pay periods, dated August 15, 2013.

Prior to any disciplinary proceeding my client is entitled to any relevant information related to the proposed discipline. Relevant information includes evidence that has any tendency within reason to prove or disprove any disputed fact that is of consequence to the determination of the action or the truthfulness of a witness's testimony or of a declarant's hearsay statement. (See Evidence Code §§ 210, 780, 1202).

Penal Code § 135.5¹ has expanded the nature of information that must be provided to a public safety officer during any disciplinary proceeding. It is now unlawful to conceal any relevant evidence during the disciplinary process. Concealment would include knowingly not providing any relevant evidence.

Some information that may not have been relevant to you in making the decision to discipline my client, a public safety officer, is relevant to disproving the allegations or mitigating the facts or the level of proposed discipline. Therefore, I have provided a list of information I consider relevant to defending my client from the allegations in the notice of intent to discipline. Please keep in mind the information I am requesting is in addition to that information that must be provided pursuant to the case of *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194.

On behalf of my client I request the following information:

1. A current copy of all policies and procedures alleged to have been violated by my client.
2. A current copy of Officer Fetch's personnel file, including but not limited to the complaint, the internal affairs investigation file for case number IAD2012-0254, any evaluations, any commendations, and/or any records relating to prior disciplinary actions.
3. All written reports prepared as a result of the allegations against my client.
4. All investigator notes.
5. A copy of all radio and dispatch transmissions related to this investigation.
6. A copy of all in-car camera recordings related to this investigation.
7. All written or recorded statements taken from, or notes taken from statements of, any potential witness.
8. All prior criminal history of any known potential witness related to this investigation, including probation reports relating to [REDACTED] and [REDACTED].
9. All information that could lead to or tends to mitigate the conclusions as set forth in the notice of intent to discipline. Information includes any information known to members of your agency whether in a written form or merely within the knowledge of members of your staff.
10. All statements or utterances by my client, oral or written, however, recorded or preserved, whether or not signed or acknowledged by my client.

¹Penal Code 135.5 states "Any person who knowingly alters, tampers with, conceals, or destroys relevant evidence in any disciplinary proceeding against a public safety officer, for the purpose of harming that public safety officer, is guilty of a misdemeanor.

11. The names and addresses of any witness who may have knowledge of the events that caused the discipline to be proposed.
12. The opportunity to examine all physical evidence obtained in the investigation against my client.
13. All laboratory, technician, and other reports concerning the testing and examination of any physical evidence.
14. All reports of experts, made in conjunction with the case, involving the results of physical or mental examinations, scientific tests, experimental, or comparisons which relate to the allegations as set forth in the notice of intent to discipline.
15. All photographs, motion pictures, or videotapes taken or reviewed during the investigation.
16. Any exculpatory or mitigating evidence in the possession of your agency.
17. Any information relevant to the credibility of any witness.
18. Any potential rebuttal evidence in the possession of your agency.
19. Any or all relevant evidence known or in the possession of your agency.
20. Any opinions, analysis, and recommendations from supervisory or management staff relating to the investigation of internal affairs case number IAD2012-0254 or the findings, conclusions, or proposed discipline set forth in the August 15, 2013 notice of intent to discipline.

Please treat this request as a continuing request until this matter has been settled or adjudicated. Please advise if you contend that this request is procedurally defective in any way. Thank you for your anticipated cooperation.

Sincerely,

**MASTAGNI, HOLSTEDT, AMICK,
MILLER & JOHNSEN, APC**



DAVID E. MASTAGNI
Attorney at Law

DEM/prb

Cc: Shelley Banks-Robinson, Labor Relations Manager (*via Email & US Mail*)
Dustin Smith, SPOA President

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August 20, 2013

Via Email and U.S. Mail

Samuel D. Somers, Jr., Chief of Police
Sacramento Police Department
5770 Freeport Blvd., Ste. 100
Sacramento, CA 95822
Email: ssomers@cityofsacramento.org

Geri Hamby, Human Resources Director
Historic City Hall
915 I Street, Plaza Level
Sacramento, CA 95814
Email: ghamby@cityofsacramento.org

Re: Officer Matthew Fetch; Case No. IAD2012-0254

Dear Gentilepersons:

I will be representing Sacramento Police Officer Matthew Fetch during all pre-disciplinary ("Skelly") hearings and any post-disciplinary proceedings. Please accept this letter as a formal written appeal and request for a pre-disciplinary hearing in response to Captain Jim Maccoun's notice of intent to reduce Officer Fetch's salary from Police Officer Step 4 to Step 3 for 40 (forty) bi-weekly pay periods, dated August 15, 2013.

Prior to any disciplinary proceeding my client is entitled to any relevant information related to the proposed discipline. Relevant information includes evidence that has any tendency within reason to prove or disprove any disputed fact that is of consequence to the determination of the action or the truthfulness of a witness's testimony or of a declarant's hearsay statement. (See Evidence Code §§ 210, 780, 1202).

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8. All prior criminal history of any known potential witness related to this investigation, including probation reports relating to [REDACTED] and [REDACTED].
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Sincerely,

**MASTAGNI, HOLSTEDT, AMICK,
MILLER & JOHNSEN, APC**



DAVID E. MASTAGNI
Attorney at Law

DEM/prb

Cc: Shelley Banks-Robinson, Labor Relations Manager (*via Email & US Mail*)
Dustin Smith, SPOA President

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SACRAMENTO, CA 95811



Samuel D. Somers, Jr., Chief of Police
Sacramento Police Department
5770 Freeport Blvd., Ste. 100
Sacramento, CA 95822

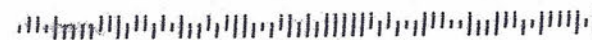
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Video summary; IAD2012-0254

2139- Consensual stop of [REDACTED] [REDACTED] in front of [REDACTED] Teekay Way.

2140- [REDACTED] starts to walk toward house and officer asks for his name.

2140.06 – Officers car door heard opening and officer exits vehicle.

2140.13 – Sound of a door slamming. (Found to be security door of residence.

2140.18 – Officer says, that was kind of rude. Hear [REDACTED] telling father police are outside.

2140.25 – Officer talking with [REDACTED] [REDACTED] at the security door, saying son does not want to talk to the police.

2140.39 – Officer speaking to [REDACTED] through screen door advising him he wanted his daddy's help.

2141.30 – [REDACTED] gives name and birthday through screen door after continued conversation.

2142.29 – dispatch gives information that it is the fathers house and [REDACTED] does not live there per prior call.

2143.09 – Officer in car finds probation status and yells to officer at screen door.

2143.17 – Officer tells [REDACTED] [REDACTED] to open the door.

2143.20 – Officer tells [REDACTED] to, come here right now and door is opened. After probation status is found. Officer enters the house. Conversation that [REDACTED] is at his dads house, and he did not dump nothing in the house.

2144.25 – Officer tells [REDACTED] now we are going to go through every part of that house and he is placed in back of squad car.

2148 – Officer Donnell arrives.

2150 – Officer says they have access to the house because [REDACTED] ran into it.

2150.51 – Officer tells [REDACTED] [REDACTED] that that [REDACTED] being on probation infringes on his fourth amendment rights after he repeatedly tells officers [REDACTED] does not live at address.

2151 – Mics turned off within 5 seconds of each other. Conversation about their right to be in the house is still continuing when mics go out. Never re-sync.

2159.35 – Officer Severi and Trefethen arrive. Officer Trefethen exits the vehicle and speaks with [REDACTED] in the patrol car. He then walks in the direction of the house.

2210 – Officer Trefethen returns to patrol car from the area of the residence.

2215.37 – Officer Magner walks in front of camera with gloves on.

2218.45 – Officer Severi and Trefethen leave.

2236 – C4 [REDACTED] let out of car.

From: [Kathy McAllister](#)
To: [Allison, Betty](#)
Cc: [Tournour, Francine](#)
Subject: RE: Will you be auditing IAD 12-0254?
Date: Monday, May 6, 2013 3:24:38 PM
Attachments: [2012-0254.pdf](#)
[image001.jpg](#)

Hi Betty,

We will audit IAD 20120254. Please see attached. KM

From: Allison, Betty [mailto:BALLison@pd.cityofsacramento.org]
Sent: Thursday, February 28, 2013 1:19 PM
To: Francine Tournour; Kathy McAllister
Subject: Will you be auditing IAD 12-0254?

Betty Allison

808-3796



From: [Francine Tournour](#)
To: [Allison, Betty](#); [McAllister, Kathy](#)
Subject: RE: Will you be auditing IAD 12-0254?
Date: Tuesday, March 5, 2013 9:32:23 AM
Attachments: [image001.jpg](#)

OPSA will **NOT** audit 2012-0254

From: Allison, Betty [mailto:BALLison@pd.cityofsacramento.org]
Sent: Thursday, February 28, 2013 1:19 PM
To: Francine Tournour; Kathy McAllister
Subject: Will you be auditing IAD 12-0254?

Betty Allison

808-3796



Citizen's Complaint Against Police or Fire Personnel

City of Sacramento, Office of Public Safety Accountability

915 I Street, 5th Floor, Sacramento, CA 95814 (916) 808-5704

Indicate Fire or Police Complaint: Police Fire

OPSA CASE #

2013-017

Primary Complainant

First and Last Name: [REDACTED]

Address: [REDACTED]

Home Phone: _____ Other Phone (please specify): _____

Date of Birth: _____ ID #: _____ Race: _____ Gender: _____

Secondary Complainant

First and Last Name: _____

Address: _____

Home Phone: _____ Other Phone (please specify): _____

Date of Birth: _____ ID #: _____ Race: _____ Gender: _____

Incident Details *(be as specific as possible. It is NOT necessary to know the name and badge # in order to file a complaint)*

Date and Time: **October 26, 2012**

Place of Occurrence: [REDACTED] **Teekay Way**

Employee's Name or Description	Gender	Race	Badge #
Employee's Name or Description	Gender	Race	Badge #
Employee's Name or Description	Gender	Race	Badge #

Alleged Misconduct:	Activity Being Performed	Injuries:	Photos?
Discourtesy <input type="checkbox"/>	Arrest <input type="checkbox"/>	None <input type="checkbox"/>	YES <input type="checkbox"/>
Discrimination <input type="checkbox"/>	Booking <input type="checkbox"/>	Visible <input type="checkbox"/>	NO <input type="checkbox"/>
Force <input type="checkbox"/>	Custody <input type="checkbox"/>	Claimed <input type="checkbox"/>	
Improper Tactics <input type="checkbox"/>	Detention <input type="checkbox"/>		
Service <input type="checkbox"/>	EMS <input type="checkbox"/>		
Other <input checked="" type="checkbox"/> Improper Search	Investigation <input type="checkbox"/>		
	Patrol <input type="checkbox"/>		
	Traffic Stop <input type="checkbox"/>		
	Use of Emerg. Vehicle <input type="checkbox"/>		
	Other <input type="checkbox"/>		

Notes/Remarks

Request to audit IAD12-0254.

For Staff Use Only

<p>Date Complaint Received: 02.28.2012</p> <p>By Phone <input type="checkbox"/></p> <p>In Person <input type="checkbox"/></p> <p>By Email <input type="checkbox"/></p> <p>Other <input type="checkbox"/></p> <p>Referral from CC <input type="checkbox"/></p> <p>Referral from IA <input type="checkbox"/></p> <p>Other Referral <input type="checkbox"/></p>	<p>New complaint <input type="checkbox"/></p> <p>INFO ONLY</p> <p>Monitor Existing IA Complaint <input checked="" type="checkbox"/></p> <p>Date existing complaint filed _____</p> <p>REFERRED TO IA <input type="checkbox"/> <i>Internal Affairs</i></p> <p>REFERRED TO OJA <input type="checkbox"/> <i>Outside Jurisdiction Agency</i></p> <p>NO REFERRAL <input type="checkbox"/> <i>Stays within OPSA</i></p>
<p>IA Case # _____</p> <p>SPD/SFD Case # _____</p>	<p>REFERRED TO DEPT. <input type="checkbox"/></p> <p>POLICY & PROCEDURE</p>



Citizen's Complaint Against Police or Fire Personnel

City of Sacramento, Office of Public Safety Accountability

915 I Street, 5th Floor, Sacramento, CA 95814 (916) 808-5704

Indicate Fire or Police Complaint: Police Fire

OPSA CASE # 2013-017

Primary Complainant

First and Last Name [REDACTED]

Address [REDACTED]

Home Phone _____ Other Phone (please specify) _____

Date of Birth _____ ID # _____ Race _____ Gender _____

Secondary Complainant

First and Last Name _____

Address _____

Home Phone _____ Other Phone (please specify) _____

Date of Birth _____ ID # _____ Race _____ Gender _____

Incident Details *(be as specific as possible. It is NOT necessary to know the name and badge # in order to file a complaint)*

Date and Time **October 26, 2012**

Place of Occurrence [REDACTED]

Employee's Name or Description	Gender	Race	Badge #
Employee's Name or Description	Gender	Race	Badge #
Employee's Name or Description	Gender	Race	Badge #

Alleged Misconduct:	Activity Being Performed	Injuries:	Photos?
Discourtesy <input type="checkbox"/>	Arrest <input type="checkbox"/>	Investigation <input type="checkbox"/>	None <input type="checkbox"/> YES <input type="checkbox"/>
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Force <input type="checkbox"/>	Custody <input type="checkbox"/>	Traffic Stop <input type="checkbox"/>	Claimed <input type="checkbox"/>
Improper Tactics <input type="checkbox"/>	Detention <input type="checkbox"/>	Use of Emerg. Vehicle <input type="checkbox"/>	
Service <input type="checkbox"/>	EMS <input type="checkbox"/>	Other <input type="checkbox"/>	
Other <input checked="" type="checkbox"/>			

Notes/Remarks

Request to audit IAD12-0254.

For Staff Use Only

<p>Date Complaint Received: 02.28.2012</p> <p>By Phone <input type="checkbox"/></p> <p>In Person <input type="checkbox"/></p> <p>By Email <input type="checkbox"/></p> <p>Other <input type="checkbox"/></p> <p>Referral from CC <input type="checkbox"/></p> <p>Referral from IA <input type="checkbox"/></p> <p>Other Referral <input type="checkbox"/></p>	<p>New complaint <input type="checkbox"/></p> <p>INFO ONLY <input type="checkbox"/></p> <p>Monitor Existing IA Complaint <input checked="" type="checkbox"/></p> <p>Date existing complaint filed _____</p> <p>REFERRED TO IA <input type="checkbox"/> <i>Internal Affairs</i></p> <p>REFERRED TO OJA <input type="checkbox"/> <i>Outside Jurisdiction Agency</i></p> <p>NO REFERRAL <input type="checkbox"/> <i>Stays within OPSA</i></p>
IA Case #	<p>REFERRED TO DEPT. <input type="checkbox"/></p> <p>POLICY & PROCEDURE</p>
SPD/SFD Case #	

1
2
3
4
5
6
7 **INTERVIEW WITH OFC. MATTHEW FETCH**

8 **Q=Sgt. Adam Vassallo**
9 **Q1=Ofc. Jennifer Nichols**
10 **A=Ofc. Matthew Fetch**
11 **A1=Det. Aaron Wallace**
12
13

14 Q: The date is April 23, 2013. The time is 1620 hours. Present in the internal
15 affairs office is Officer Matthew Fetch. He is represented by Detective Aaron
16 Wallace. Officer Jennifer Nichols and myself, Sergeant Adam Vassallo are
17 also present. The purpose of this investigation is to conduct an interview of
18 Matthew Fetch who is an employee with the Sacramento Police Department in
19 the capacity of a police officer. This is an administrative investigation on the
20 charges against Officer Fetch and Officer Wagner for improper search. Do
21 you understand that this is an administrative investigation only?
22

23 A: I do.
24

25 Q: The result of this investigation could lead to disciplinary action up to and
26 including termination of the employees allegedly responsible. Do you
27 understand this?
28

29 A: Yes.
30

31 Q: Based upon the authority vested in me by the chief of police I'm ordering you
32 to cooperate with this investigation. This means that you must be truthful in
33 all your statements and answer all questions fully and honestly. Also you are
34 ordered to provide at this time all information you may know regarding this
35 incident. Failure to answer a question or failure to answer it truthfully and
36 fully will be considered a lack of cooperation that could subject you to
37 disciplinary action up to and including termination for insubordination. Do
38 you understand this?
39

40 A: Yes.
41

42 Q: Do you understand that this is an administrative investigation?
43

44 A: Yes.
45

46 Q: Do you understand the allegations?
47
48 A: Yes.
49
50 Q: And do you understand that I'm ordering you to answer my questions and that
51 if you don't answer them truthfully and fully it could result in disciplinary
52 action up to and including termination?
53
54 A: I understand.
55
56 Q: Matthew, how long have you worked for the Sacramento Police Department?
57
58 A: Over seven years.
59
60 Q: And did you attend our academy?
61
62 A: I did.
63
64 Q: And what is your current assignment including shift, days off, and area?
65
66 A: Patrol, swing shift, north in Natomas.
67
68 Q: And who's your current supervisor?
69
70 A: Sergeant Kaneyuki.
71
72 Q: And who was your supervisor in August of last year?
73
74 A: That would've been Sergeant Ellis.
75
76 Q: And last year in August what was your assignment and shift?
77
78 A: Patrol, swings.
79
80 Q: And were you in the north area?
81
82 A: Oh, I'm sorry. South.
83
84 Q: Okay.
85
86 A: Sector four.
87
88 Q: Sector four. Have you had any other assignments at Sacramento Police
89 Department?
90

91 A: No, just patrol and I was assigned to CST for three months.

92

93 Q: And do you have any other law enforcement experience outside the
94 Sacramento Police Department?

95

96 A: No, sir.

97

98 Q: Have you had a chance to review the video, call, and documents that I
99 provided?

100

101 A: Yes.

102

103 Q: And do you have an independent recollection of the 927 call that took place
104 on August 26, 2012 at approximately 2140 hours?

105

106 A: For the most part, yeah.

107

108 Q: Okay. Can you tell me your involvement in this call in detail from beginning
109 to end?

110

111 A: My partner and I were assigned as a TAC unit based on high crime problem
112 areas. And we were patrolling I think it was the 24th Street area which we
113 know is a high crime area and the street specifically Teekay which is where
114 officers were just involved in a shooting recently. And my partner and I have
115 gotten a lot of gun and drug arrests in the area. And observed a male walking
116 in the area. My partner I think was - he was driving and I was in the
117 passenger seat. Consensual contact, I think my partner was asking him about
118 if he heard gunshot calls or heard about the shooting with the officers, were a
119 guy had a gun. And he started to walk away - or no, he didn't start to walk
120 away yet. My - my partner got out of the car and he took off running into a
121 house and can't remember if I or my partner and I walked up to the house
122 together or if I stayed in the car. I don't really remember. He went in the
123 house as if he had dominion and control. And there was a security screen that
124 was shut and locked. And I had to have been out of the car because I
125 remember seeing inside that you could see into the house. And somehow -
126 somehow we got the name of [REDACTED] I think 'cause his dad told us or I
127 ran - ran the address. I can't remember exactly how. And found out that he
128 was on formal searchable probation with a sales history. And based on that
129 because he ran from us and that's a high crime area and he was wearing baggy
130 clothing I thought either he was trying to conceal or destroy evidence. And
131 my partner asked the homeowner. He said he was [REDACTED] I think.

132

133 Q: Mm-hm.

134

135 A: [REDACTED] opened the door and let us in and at that point we handcuffed
136 [REDACTED] and put him in the backseat of our car. And we did a
137 protective sweep of the house and I think there was one other woman there.
138 There was [REDACTED] and another woman. We asked for a K9 because we thought
139 maybe there was drugs in the house. There was no K9 and - sorry, I'm trying
140 to remember as I...as I tell it. There were - there were three bedrooms and
141 one was like, an office storage room. I think there was only one bathroom
142 that was in between the bedrooms. Another bedroom that looked like it was
143 occupied. Looked like a bed and personal belongings. And then there was
144 one more bedroom. I think there was just a bed and a clo- or a dresser and
145 that was it. And we mostly just did kind of a plain view walk through to see if
146 like, maybe like, a gun or drugs were tossed under a bed or opened up a
147 couple drawers to see if there's any plain view 'cause he had access to that
148 whole back of the house 'cause that's where he ran to. And I think pretty
149 much that's all we did. And then we ended up letting him go eventually. I
150 think we were planning on doing a - well, I know we were thinking about
151 doing a probation violation on him for lying about his probation status and we
152 ended up letting him go.
153

154 Q: Okay. We'll go through it a little bit and see if we can't give you some details
155 maybe that will spark your recollection or see if you can or cannot. But you
156 said - who was driving on that day?
157

158 A: I think - I think my partner, Magner was driving.
159

160 Q: That's what it looks like in the video, right? You did watch the video? You
161 guys did?
162

163 A: I did.
164

165 Q: Okay. Cool. And what was your identifier that day?
166

167 A: Tac 51.
168

169 Q: And what does, you kind of alluded to it but what is the tac? What were you
170 working that day?
171

172 A: War- our directive from the captain is to bring down part one crimes and w-
173 you know, get - get guns off the street, reduce gun violence, get drug dealers
174 off the street.
175

176 Q: Do you work...
177

178 A: Work high crime areas.
179

180 Q: Do you guys work in that tac capacity on a regular basis or is it something that
181 rotates?
182

183 A: We - we did at the time. A lot of weekends we did for - for that reason.
184

185 Q: And you said that you had contact with [REDACTED] [REDACTED]
186

187 A: Yes.
188

189 Q: And how was that contact made?
190

191 A: We drove alongside him in the street. We didn't activate any lights. We
192 didn't order him to stop and talk with us. I'm trying to remember the
193 conversation that was - my partner, Officer Magner was asking about guns or
194 gunshots or I don't know if - I don't remember exactly.
195

196 Q: Mm-hm.
197

198 A: And my partner asked him if he could get his name and I don't know if he
199 said no or he just didn't answer. And I can't remember if we asked him if he
200 was on probation or parole at that time. I - I know I just watched the video
201 but I don't - I - I don't remember. And I think we did and I think he said no.
202 And - but we got out of our cars to continue in a consensual contact. We
203 didn't block his path. And when we got out of the car he took off into the
204 house like he was - I think he was standing right in front of it.
205

206 Q: Did you have any prior knowledge of [REDACTED] ?
207

208 A: No.
209

210 Q: Did you have any prior knowledge of [REDACTED] Teekay Way?
211

212 A: Not that house. No.
213

214 Q: Not that house.
215

216 A: Just the area.
217

218 Q: So at the time of the consensual contact and the time in which [REDACTED] turned
219 and left you - you had no knowledge of him whatsoever?
220

221 A: That - no, just that he's - was a suspicious person.
222

223 Q: Exactly.
224

225 A: Yeah.
226
227 Q: I mean, what I'm saying is...
228
229 A: No.
230
231 Q: ...you didn't have any prior knowledge or...
232
233 A: No.
234
235 Q: ...he didn't give you any information that would have led you to believe -
236 have any more information from him than when you first stopped him?
237
238 A: No.
239
240 Q: Whose idea was it to contact [REDACTED] Do you recall?
241
242 A: I don't remember. I think - I mean, I think we both just agree that, you know,
243 we see people walking around in those a- those high crime areas that we just
244 drive up and say hi to - we - I mean, we talk to most everyone.
245
246 Q: And, I think you already said this but did he give you his name when you first
247 contacted him?
248
249 A: No.
250
251 Q: When he turned to go in the house at first on the video it looks as though he
252 might turn and walk away, starts to walk away. The car lunges forward a little
253 bit and then it sounds as if Officer Magner, your partner might say, "Hey, can
254 I get your name?" And then the door opens up. So when he turned to go to
255 the house did he turn and run or did he start to walk and then something made
256 him run when you, maybe when you guys got out or how did that happen if
257 you recall?
258
259 A: The way I remember it is when the door opened up and I don't remember if I
260 got out of the car with Magner at that point but I know Magner did and that's
261 when he started to head towards the house. And we didn't give pursuit or
262 anything. We just kinda walked up to the house with him.
263
264 Q1: Can I ask a question?
265
266 Q: Yeah.
267
268 Q1: Did he run? 'Cause you said he took off. So what do you mean by took...
269

270 A: Yeah, he...
271
272 Q1: ...like, clarify what took off means.
273
274 A: ...it wasn't like, a full sprint but it wasn't - he wasn't walking either. I mean,
275 he was getting away from us and so, you know, then I guess you'd say a jog.
276
277 Q: Did you have reason other than him running? Did you have a reason to chase
278 him?
279
280 A: No.
281
282 Q: Had he committed a crime?
283
284 A: No.
285
286 Q: Did he have the right to leave based on the fact that it was a consensual
287 contact?
288
289 A: Yes. And we allowed him.
290
291 Q: What if he had stopped?
292
293 A: We would have just kept talking with him consensually.
294
295 Q: And if he would've started to walk away again would you have continued to
296 follow him?
297
298 A: I guess it would depend on what the conversation is like and if we felt that he
299 s- was started to feel detained. Maybe if he had given his name I mean, we
300 would've ran him up and found that he was on probation or if he just said, "N-
301 hey, go away. I don't wanna talk to. You're bothering me." Then we
302 probably would've left but based on just a - just the conversation we're having
303 with him I didn't - I didn't feel like there was any reason to - to stop and then
304 he took off running and that raised a - a red flag to us so we thought we'd
305 follow it up and try to keep eyes on him and I would run up the address and
306 see what's going on with the house.
307
308 Q: You said he slammed the screen door. Did he slam the screen door and the
309 door or just the screen door?
310
311 A: The - it was just a screen door 'cause you could see inside the house.
312
313 Q: So you could see inside the house? Could you see inside the house
314 personally?

315
316 A: I know I did see inside the house but I don't remember if I saw him run in the
317 house or if it was my partner went up and saw him run in the house but I
318 mean, I was outside at one point where I could see in the house and my
319 partner was talking to another male.

320
321 Q: Okay. So after he shut the screen door were you able to see or did you see
322 [REDACTED] inside the house after the screen door was shut?

323
324 A: I don't remember if I saw him right after he ran in or if it was after I ran him
325 up and saw that he was on probation but I did see him on the other end of the
326 screen door that - at one point. I don't know if I - I can't remember if it's
327 what my partner's telling me is what my memory is or if - if I saw it myself
328 from him running into the back.

329
330 Q: How long would you say went by between when the door was slammed...

331
332 A: Mm-hm.

333
334 Q: ...the screen door was slammed and when you saw [REDACTED] next?

335
336 A: I don't remember. Like I said, I don't remember if I - if it was the one that
337 saw him run in the back and then come back out later or if that's what my
338 partner's telling me and I think that's my memory.

339
340 Q: Okay. Could you hear him inside the house?

341
342 A: At s- at some point, yeah.

343
344 Q: How long would you say that went by from the door slamming to when you
345 heard him?

346
347 A: I don't - I don't remember.

348
349 Q: So [REDACTED] is the dad.

350
351 A: Mm-hm.

352
353 Q: And so when Magner is talking with [REDACTED] at the front door and you
354 can hear that on the video, right?

355
356 A: Mm-hm.

357
358 Q: Where were you?

359

360 A: I don't remember. I - I think I was standing at the grass or I don't know if I
361 was in the car running him at that time. I don't remember.
362
363 Q: Did you take a perimeter spot or anything since he ran into the house? Did
364 you go around the side gate or something? I know it's not a corner there. Did
365 you go around the side or anything like that or take a position?
366
367 A: No.
368
369 Q: Why wouldn't you do that? I mean, isn't it indicative these guys who take off
370 would bail out the back or anything like that?
371
372 A: Yeah, it could happen but then I could have - I could have also seen him like I
373 said but I don't remember. I don't know why. I either stayed there or was in
374 the car at - run the house at that time. My memory of the order of events is
375 not exactly...
376
377 Q: Crisp?
378
379 A: ...crystal clear.
380
381 Q: I guess this would - because of what you just said this would probably be
382 speculation but did you not take a perimeter spot and go to the car because
383 Magner or yourself could see [REDACTED] inside the house at some point?
384
385 A: Yeah, I mean, I just know I didn't feel like I needed to take a perimeter spot.
386
387 Q: Okay.
388
389 A: Like, I - I remember believing or knowing he was in the house still.
390
391 Q: Who found out that [REDACTED] was on probation?
392
393 A: I did.
394
395 Q: And how did you do that?
396
397 A: Ran a records check. And I - like I said, I don't remember if - if I was told his
398 name or if I ran the house up and found his name that way. I think I mighta
399 ran the house up.
400
401 Q: [REDACTED] [REDACTED] - once you find out [REDACTED] on probation [REDACTED] [REDACTED] the dad,
402 is told to open the door. Who tells him that?
403

404 A: I guess Magner. D- I thought - I thought he asked but...or maybe he told. I
405 don't know.

406
407 Q: [REDACTED] is told come here.

408
409 A: Mm-hm.

410
411 Q: Who does that?

412
413 A: I think Magner.

414
415 Q: Are you in proximity when that occurs?

416
417 A: Yeah. I was at the door at that point.

418
419 Q: With him?

420
421 A: Yeah.

422
423 Q: Okay.

424
425 A: 'Cause I - I found out he was on probation and I walked up and let Magner
426 know.

427
428 Q: Okay. So you have at this point you have a third party probationer inside a
429 house. Are you okay legally entering that house at that time?

430
431 A: Well, I - I believed he lived there and I also thought that evidence was being
432 destroyed in the house.

433
434 Q: Why did you believe he lived there?

435
436 A: Because he went in the house like he owned it and if I recall on the records
437 check it showed he lived there. Yeah, 'cause I think I ran the house up and
438 found his name.

439
440 Q: I think he comes back to somewhere off of East Parkway or something.

441
442 A: Oh. Okay then...I - I don't even know how I got his name unless someone
443 told me.

444
445 Q: In the audio you hear [REDACTED] [REDACTED] and [REDACTED] telling Manger his name and
446 birth date and you also hear dispatch giving you...

447
448 A: Mm-hm.

449
450 Q: ...his name and relating I believe a report that said something to the effect of
451 his name from a report on such and such a date, at that time he did not live
452 there and you can hear that on the audio. But I'm just wondering at this point
453 how you believed he lived there, or that you believed he lived there because
454 he made the door and then what legal - if you were okay legally with entering
455 that house at that time.

456
457 A: Yes.

458
459 Q: Based on?

460
461 A: Based on him having control of the house, he has access into the house, he
462 walked in like he owned it, and that based on his history and him being on
463 formal searchable probation that he had evidence on him that he was either
464 destroying or gave to someone else to do something with.

465
466 Q: Two things on that. Do you - could you enter your father's house without
467 knocking?

468
469 A: Well, yeah, I can.

470
471 Q: Do you live there?

472
473 A: No.

474
475 Q: If he's destroying evidence do you have to have a crime, or his he possibly
476 destroying contraband?

477
478 A: Okay. I'm sorry. Can you repeat that?

479
480 Q: So there's a difference between contraband...

481
482 A: Mm-hm.

483
484 Q: ...and evidence. If you're destroying evidence...

485
486 A: Mm-hm.

487
488 Q: ...then there's a crime afoot. There's a crime associated with that evidence.

489
490 A: Yeah.

491
492 Q: If it's a possibility that he could be destroying contraband that could be
493 deemed as maybe reasonable suspicion that he's destroying contraband. If

494 you tell me he's destroying evidence that means that you believe based on
495 articulable facts that he has committed a crime or is committing a crime...
496
497 A: Mm-hm.
498
499 Q: ...and he's possibly destroying it.
500
501 A: Well I believe that he was in possession of something illegal and that's why
502 he ducked into the house when we got out of the car 'cause he knew that he
503 was on probation and how he run in the house and went in the back that he did
504 have something illegal that he was getting rid of.
505
506 Q: You believe that...
507
508 A: I did believe that.
509
510 Q: ...but you don't know that?
511
512 A: Well, no, it's not - I had reasonable suspicion to believe that. Yes.
513
514 Q: Based on the circumstances that you found out he's on probation for sales...
515
516 A: Yeah.
517
518 Q: ...you believed that he possibly had some contraband on him and was
519 possibly destroying it in the house?
520
521 A: Yes. Otherwise there would be no reason for him to take off from us like that
522 because he knew that he'd get searched if we found out he was on probation
523 and that it's a high crime area with guns and drugs and...
524
525 Q: Okay. Can you go into a third party residence to effect an arrest or to take
526 someone into custody?
527
528 A: Well I guess I would need - need a warrant for that.
529
530 Q: A warrant or probation status or consent or something to that nature, right.
531
532 A: Yeah...Can you reword that last question?
533
534 Q: Well let me ask - I'll ask you how this case stands, I said to take someone into
535 custody, but do you believe that you can enter a third party residence for a
536 probationer that enters their house without a warrant, exigency, or consent?
537

538 A: Yeah, and if - and especially if I think that evidence or contraband is being
539 destroyed that it's currently happening.
540
541 Q: How is that, which one of those would that fall under, warrant, exigency, or
542 consent?
543
544 A: I guess none of those. I thought - I guess I misunderstood but I thought
545 destruction of evidence was - and someone being on probation in the house.
546
547 Q: Was there someone on - well an individual being on probation...
548
549 A: Yes.
550
551 Q: ...not a cohabitant being on probation. So what you're saying, earlier you
552 said that you believed he lived there, for some reason that you can't recall, and
553 then he was possibly destroying evidence but you can't create an exigency...
554
555 A: That's true...
556
557 Q: ...you didn't have a warrant, and you didn't have any consent to enter a third
558 party dwelling for somebody. If you have somebody who's wanted
559 rightfully...
560
561 A: Mm-hm.
562
563 Q: ...you would have to write a warrant to get into a third party residence, right?
564
565 A: Yup.
566
567 Q: So would the circumstances be different if they were on probation - if
568 somebody was on probation that entered that house?
569
570 A: No, I was - I was - I w- thinking yes but...no
571
572 Q: Did you speak with [REDACTED] [REDACTED]
573
574 A: I did at some point. Yeah.
575
576 Q: Throughout the course of the call? Was [REDACTED] [REDACTED] on probation?
577
578 A: No.
579
580 Q: Did you check?
581
582 A: Yes. I think. Yeah. Somebody ran him.

583
584 Q: What did he tell you about his son, [REDACTED] living in his house?
585
586 A: He said he didn't live there.
587
588 Q: Did he tell you multiple times that [REDACTED] didn't live there?
589
590 A: Yes, he did.
591
592 Q: Okay. Did you have any evidence at this time other than him entering the
593 dwelling like you stated...
594
595 A: Mm-hm.
596
597 Q: ...that [REDACTED] lived at the house?
598
599 A: No. Unless I saw s- something on the computer. I don't know why I was
600 thinking that but that's what I thought.
601
602 Q: So you don't recall...
603
604 A: But I don't remember it...
605
606 Q: Okay.
607
608 A: ...at this moment.
609
610 Q: At this - okay. All right. I - I couldn't find anything.
611
612 A: Okay.
613
614 Q: Just so you know. I looked back on all of his addressed in Versedex and in
615 county. And on that date he didn't show to live on Teekay Way. Since that
616 date somebody put something in there that shows him there but on the day that
617 you were there on August 26 there was nothing in there that I could find.
618
619 A: Okay. So - so he's never shown that address?
620
621 Q: He never showed that. Yeah.
622
623 A: Okay. Then I - forget that then.
624
625 Q: [REDACTED] is taken out of the house?
626
627 A: Mm-hm.

628
629 Q: And put in the car? Who puts him in the car?
630
631 A: I don't remember.
632
633 Q: Okay. So on the audio you see [REDACTED] get in and then you hear, right then
634 and there you hear basically what sounds like your partner, Officer Magner sit
635 into the seat and talk with him.
636
637 A: Okay.
638
639 Q: Okay. But I believe that's who it is. I can't tell 'cause I'm looking at [REDACTED]
640 in the...
641
642 A: Yeah.
643
644 Q: ...on the camera.
645
646 A: It probably is.
647
648 Q: And so if Officer Magner takes [REDACTED] to the car where are you when this
649 happens?
650
651 A: I don't know.
652
653 Q: Would you still be in contact with [REDACTED] [REDACTED]
654
655 A: Yeah, I probably was talking...
656
657 Q: Was somebody ever not in contact with Mr. [REDACTED]
658
659 A: No, I don't think so. No one - I think he was around an officer the whole
660 time.
661
662 Q: Legally do you think that if - based on the reasons why you felt you had the
663 right...
664
665 A: Yeah.
666
667 Q: ...to go into his house do you think that if we left the house legally we would
668 - we could be able to go back in?
669
670 A: No, I - I don't know if someone else showed up at that point 'cause...
671
672 Q: Oh. By then?

673
674 A: By then.
675
676 Q: Okay.
677
678 A: 'Cause I - 'cause I know more people showed up so...
679
680 Q: Mm-hm.
681
682 A: ...I don't know if that was someone had shown up when we put him in the car
683 or...
684
685 Q: Okay.
686
687 A: But there was always somebody - somebody there.
688
689 Q: I think Officer Donnall was the first one to show up and I think he got there a
690 few minutes after [REDACTED] was put in the car.
691
692 A: Okay, so then I was - I was with [REDACTED] [REDACTED]
693
694 Q: [REDACTED] [REDACTED] Okay. And were you speaking with him at that point? Were
695 you just holding down the front entry way? Were you inside the house?
696
697 A: I can't - I seriously can't remember. I know I watched the video but I just
698 don't...
699
700 Q: Okay. Yeah, the video doesn't help you show you where you were.
701
702 A: Yeah, I...
703
704 Q: Yeah.
705
706 A: ...I don't remember.
707
708 Q: So Officer Donnall shows up at some time, correct?
709
710 A: Yes.
711
712 Q: And what does he do?
713
714 A: I think he just hangs out in the - the living room with the two other people in
715 the house.
716
717 Q: [REDACTED] [REDACTED] and then he had a lady friend there, right?

718
719 A: Yeah, [REDACTED] [REDACTED] ?
720
721 Q: Were those the only two people in the house?
722
723 A: I think.
724
725 Q: And so he watches [REDACTED] and then you and Officer Magner proceed to search
726 the house?
727
728 A: Yep.
729
730 Q: Any other officers enter the house?
731
732 A: I know s- Sergeant Moore showed up and came in and we advised him what -
733 what was going on.
734
735 Q: Did he come into the house?
736
737 A: Yeah, I think so.
738
739 Q: Okay.
740
741 A: And someone else showed up. Maybe - maybe it was Loriaux showed up.
742
743 Q: Okay. I saw a few other people on a call but they didn't mark...
744
745 A: Yeah, I didn't even - I didn't look to see who was...
746
747 Q: ...on scene but that doesn't mean that somebody didn't just roll by and check
748 on you guys, you know, see if you needed anything.
749
750 A: Yeah. I didn't see who was actually on the call.
751
752 Q: Okay. So [REDACTED] in the vehicle. Donnall is watching [REDACTED] and his friend.
753 And so what happens next?
754
755 A: We do a - just a walkthrough of the house [REDACTED]
756 [REDACTED]. So we - we didn't really search the
757 house that well. We just kinda did plain view to see if maybe there was
758 something in the garbage or something in or around the toilet, looked under a
759 bed or two, and kinda just checked around but didn't r- actually like, dive into
760 the house. It was kind of a nonintrusive kinda search.
761
762 Q: So this is, I got a few pictures we'll go over real quick.

763
764 A: Okay.
765
766 Q: I'm trying to set this up so I don't lose...
767
768 Q1: I have a question.
769
770 Q: Go ahead.
771
772 Q1: Were you in the living room? You and Officer Magner when Sergeant Moore
773 came in or were you guys already searching when he came in? Do you recall?
774
775 A: I think - I think we had already maybe started searching. I don't remember.
776
777 Q1: Do you remember if you came out and spoke to him or if he came down the -
778 the hallway to talk with you guys?
779
780 A: Don't remember.
781
782 Q: So Officer Donnall shows up and he watches, we already said, he watches
783 [REDACTED] and his friend in the front room. You and Officer Magner...
784
785 A: Mm-hm.
786
787 Q: ...start to go through the back of the house to search the house area. This is a
788 picture of [REDACTED] Teekay Way. Is that the way that it looked? Maybe darker
789 obviously when you were there.
790
791 A: Kinda looks like it. Yeah.
792
793 Q: So this is as you come into the front entry way there's a like, looking straight
794 in the front door...
795
796 A: Mm-hm.
797
798 Q: ...that would be the hallway, hall closet and like, I'm taking this from the
799 front door of the screen...
800
801 A: Okay.
802
803 Q: ...right into the center hallway. Did you look into this hall closet here?
804
805 A: I - I don't remember.
806
807 Q: I know that's a hard one.

808
809 A: 'Cause I - I - I think we only looked in the areas he...
810
811 Q: Okay.
812
813 A: ...went and that was in - towards the back.
814
815 Q: So this is the front area. Two pictures of the front living room area, correct?
816
817 A: Mm-hm.
818
819 Q: When you come in you hang a hard right and it's right there. In the front.
820
821 A: Yeah.
822
823 Q: Is that where [REDACTED] and his friend were seated and Officer Donnall was
824 watching them?
825
826 A: Yeah, I think they were just on the couch.
827
828 Q: On the couch there?
829
830 A: If I remember.
831
832 Q: Okay. If you come into the house and you make a hard left you come into the
833 kitchen area.
834
835 A: Yeah.
836
837 Q: Did you search through that area?
838
839 A: No.
840
841 Q: You didn't open up any drawers or go through any cupboards or anything in
842 that area?
843
844 A: No.
845
846 Q: Did any officer go through anything in that area?
847
848 A: No, not that I know of.
849
850 Q: Over in this area there is also like a kitchenette area and a, I don't have a
851 picture of it, and it feeds into the garage and stuff like that. Did you look into
852 the garage?

853
854 A: The where? Oh, into the – by the kitchen?
855
856 Q: In here. Yeah.
857
858 A: I don't think so.
859
860 Q: In the front area here right here there's a garage door...
861
862 A: Okay.
863
864 Q: ...in between that goes into the garage and then there's also one from the
865 kitchen area that goes into the garage. Did anybody go in the garage?
866
867 A: Unless it was like, for protective sweep but I don't - I don't think. I don't
868 remember. I don't think I went in the garage. I don't know if anyone did.
869
870 Q: Okay. You proceed down the hallway here and right in front of you is a - is
871 the bathroom.
872
873 A: Mm-hm.
874
875 Q: And right to your right hand side is a room where these pictures are taken
876 from. Is - is that – do you recollect any at all?
877
878 A: Yeah.
879
880 Q: Is that, did you look through that area?
881
882 A: Yeah.
883
884 Q: Did you know whose room that is?
885
886 A: No.
887
888 Q: Did you ask?
889
890 A: I don't re- I don't remember.
891
892 Q: Did you open up any...
893
894 A: I think we just went to - 'cause all the doors are open and unlocked and...
895
896 Q: Mm-hm.
897

898 A: ...he could've gone in any of them. He had access to them all.
899
900 Q: He had access to them. So you went through the - did you disturb or move
901 anything in any of these pictures? In any of these rooms?
902
903 A: Yeah, I did. I - I remember just leaning I think it was at the - on the left hand
904 side of the room.
905
906 Q: Yes.
907
908 A: I remember just leaning it back to see if there was anything shoved in there
909 'cause I think if I remember it's a - a shelf faced against the wall.
910
911 Q: Yes. You're correct.
912
913 A: So yeah, I looked to see if there's anything in there.
914
915 Q: This is that. This here is this right here so...
916
917 A: Yeah. So I - I pull - I just pulled that away from the wall to see if there was
918 anything behind there.
919
920 Q: Was there any drawers or anything there?
921
922 A: I don't think it had drawers.
923
924 Q: Did you go through this closet area at all?
925
926 A: I don't remember.
927
928 Q: And move any of that stuff and put it onto the bed or, I know the search
929 manual tells us that we put it all in one spot. Did you do any of that?
930
931 A: I don't remember. I mean, I might have looked in there just to see if there's
932 anything like, maybe tossed in there but I don't remember. And I think I just
933 looked under the bed. I don't know.
934
935 Q: Down the hall, further down the hallway is another bedroom before you get to
936 the bathroom on this side right here, that's the picture of just the open
937 bedroom there. Did you go into that room?
938
939 A: This is on the right?
940
941 Q: Yes. Right past...
942

943 A: Yes. Yeah, we went in there.
944
945 Q: Okay. Was there anything in there?
946
947 A: Yeah, there was some boxes and I think that's all that - like, a couch and some
948 boxes.
949
950 Q: Did you go through any of the boxes or anything?
951
952 A: Yeah. We looked in the - some - I think we looked in the boxes. Yeah.
953
954 Q: Do you know whose room that was?
955
956 A: I don't think that was even a - an inhabited room. I think it was just - I think it
957 just had a bunch of storage in it.
958
959 Q: Okay. If you go down straight down through you go into the bathroom. Did
960 you go into the bathroom?
961
962 A: Yes.
963
964 Q: What did you search or look through in the bathroom?
965
966 A: A cupboard and I mean, proba- like, I - I don't remember but I mean, probably
967 looked to see if there was anything shoved in the - the top part of the toilet and
968 make sure there was nothing in the bathtub.
969
970 Q: Nothing was flushed or dumped?
971
972 A: Yeah, make sure like, there was no residue on the - the toilet.
973
974 Q: Did you get up underneath the cupboard there like, you know, see if there was
975 anything hidden up underneath up in the cupboard - in this cupboard?
976
977 A: I think we opened - yeah, we opened it.
978
979 Q: Okay. If you're going down towards the bathroom and you hang a left there's
980 a couple bedrooms down there. There's a bedroom straight ahead and then
981 there's a bedroom on the left there. Did you go down that way?
982
983 A: Yeah, but I - I don't even remember a bedroom being there.
984
985 Q: Okay.
986
987 A: So it must've been locked or something.

988
989 Q: Was there locked rooms in this house?
990
991 A: I d- I don't even remember that bedroom. I - I remember this one.
992
993 Q: Okay. And so you're going straight down towards the bathroom down the
994 hallway and the two bedrooms are on the side and then...
995
996 A: Mm-hm.
997
998 Q: ...you can hang a left down here and that's where I took this picture looking
999 left. And so there's a bedroom in the back and then there's a bedroom straight
1000 ahead.
1001
1002 A: Okay.
1003
1004 Q: And so you did go into this bedroom straight ahead?
1005
1006 A: Yeah. Yeah, 'cause all - all the three that we've talked about including this
1007 one...
1008
1009 Q: Uh-huh.
1010
1011 A: ...door - all the - the - all the doors were open unlocked so.
1012
1013 Q: Based on the fact that you thought that he had access to those you thought that
1014 you had a right to search them? Or look through them for evidence?
1015
1016 A: Yes.
1017
1018 Q: Okay. And you said you don't recall whether anybody went in the garage?
1019
1020 A: I don't remember.
1021
1022 Q: You don't remember? After you're done searching what happens next?
1023 Actually let me back up one question.
1024
1025 A: Mm-hm.
1026
1027 Q: How long do you think that it took you to look through these bedrooms or
1028 search through these bedrooms and the bathrooms or the house that we just
1029 discussed?
1030
1031 A: Total? Maybe 15 or 20 minutes I think.
1032

1033 Q: Okay.
1034
1035 A: Maybe - I don't know.
1036
1037 Q: All right. So 15 or 20...
1038
1039 A: Maybe a little - maybe a little longer. I don't...
1040
1041 Q: Maybe a little longer? Okay. 15 or 20 minutes, maybe a little longer to go
1042 through a couple bedrooms and a bathroom.
1043
1044 A: Mm-hm.
1045
1046 Q: Okay? 'Cause we didn't go to the other side and into the kitchen to search
1047 any of that?
1048
1049 A: No.
1050
1051 Q: Did we say that we searched the hall closet when you first went in the house
1052 right there?
1053
1054 A: I can't remember.
1055
1056 Q: Can't recall?
1057
1058 A: I - maybe - maybe we did. I don't know.
1059
1060 Q: Okay. When Donnell shows up on the audio an officer says, "Mr. Donnell,
1061 we needs to search this house." Was that you or Officer Manger that you
1062 recall?
1063
1064 A: I don't - I don't remember.
1065
1066 Q: You don't recall?
1067
1068 A: No.
1069
1070 Q: Okay.
1071
1072 A: If - if we pull it up I could tell you if it's my voice.
1073
1074 Q: Yeah. Let me see here. I will pull that up and see if you recall whether that's
1075 you or him.
1076
1077 Q1: Are you and Officer Manger the only two that searched the house?

1078
1079 A: I think.
1080
1081 Q1: Did you conduct a search in the family room, the room that [REDACTED] and the
1082 female were in?
1083
1084 A: I think we just looked to make sure that was like, no weapons wherever they
1085 were seated. And I think that was it.
1086
1087 Q: Just in the interior of the couches and stuff like that? Would that possibly be
1088 because [REDACTED] didn't go in there or it's just because you didn't feel the need
1089 to look in there?
1090
1091 A: I - like I - I don't think we - we searched - just for weapons but if we - if that's
1092 - if we didn't search then that was because I guess we didn't see him go in
1093 there.
1094
1095 Q: Okay.
1096
1097 A: I don't remember what I was thinking at that time.
1098
1099 Q1: Is that why the kitchen wasn't searched then?
1100
1101 A: Yeah.
1102
1103 Q: Why?
1104
1105 A: Because we - we didn't - there was nobody in there. We didn't see him run in
1106 there.
1107
1108 Q: 'Cause he didn't go left? He went right?
1109
1110 A: Yeah. He went right. Yeah.
1111
1112 Q: Is that what, okay. All right. Let's see here.
1113
1114 Q1: And how long did it take...
1115
1116 Recording: Hey, Officer Donnell. Hey, we wanna search the back bedroom 'cause
1117 probationer we contacted...
1118
1119 Q: That was Jon?
1120
1121 A: That was - that was Officer Magner. Yes.
1122

1123 Q: Okay. So we wanna search the back bedroom. There's a probationer found.
1124 He went back there. That's basically what he's telling him? Just kinda...
1125
1126 A: Mm-hm.
1127
1128 Q: But Officer Donnell didn't go search that? He watched Mr. [REDACTED]
1129
1130 A: Yeah. I think. Yes.
1131
1132 Q: When you left Mr. [REDACTED] [REDACTED] inside his house was the house in disarray?
1133
1134 A: No.
1135
1136 Q: Was any room whether it's within policy or not searched that was left with
1137 stuff out of place or stuff like, we, you know, we've discussed that when you
1138 search a room, you know, everything goes into a cleared area and maybe
1139 thrown on a bed or - was anything like that?
1140
1141 A: No.
1142
1143 Q: Were the drawers like, even down to the - you're saying that even the drawers
1144 that you opened up you closed back up? Cupboards that you opened up you,
1145 everything was been like, like you weren't even there after 20 minutes or
1146 more?
1147
1148 A: Yeah. I mean, I wouldn't say with absolute but I mean, maybe like,
1149 something was picked up and put over here, you know.
1150
1151 Q: Mm-hm.
1152
1153 A: But I - if there was - there was no, you know, massive search where it was left
1154 in disarray at all.
1155
1156 Q: Who put the comments on the call?
1157
1158 A: I think I did.
1159
1160 Q: You did? When you put the comments on the call when you and Officer
1161 Magner both in the vehicle talking about them or whatever or did you just do
1162 it without eliciting information?
1163
1164 A: I - I don't - and I - I think I'm the one that did it. I don't remember.
1165
1166 Q: You don't recall whether you documented the comments?
1167

1168 A: Yeah. I'm...
1169
1170 Q: Okay.
1171
1172 A: I'm like, 90% sure that I did it but we didn't talk about it.
1173
1174 Q: We're gonna - we'll go through them.
1175
1176 A: Okay.
1177
1178 Q: I'm gonna ask you a few questions about them. First I'm gonna go over the
1179 timeline of some of these things before we go through it. So the stop of
1180 [REDACTED] was about approximately 2139 hours. Is that correct?
1181
1182 A: Yes.
1183
1184 Q: A minute later, 2140 [REDACTED] starts to walk inside the house after Officer
1185 Magner asked him what his name is. And this timeline is based on what I got
1186 from the video, okay?
1187
1188 A: Okay.
1189
1190 Q: So, 2140 and 6 seconds Officer - you can hear the car door opening and then a
1191 officer exits the vehicle. So he asked his name, [REDACTED] starts to walk towards
1192 the house about six seconds later. I think the car jumps forward a little bit.
1193 "Hey, can I get your name?" is what Magner says. And then the door opens
1194 up and about six seconds later. Sounds of the door slamming 2140:13 so
1195 about 6 seconds later s- we're - we're at the front door and the door slams.
1196 And then you hear Officer Manger say to [REDACTED] [REDACTED] "Hey, that was kind of
1197 rude," about 2140 18 seconds. And then you hear [REDACTED] telling the father
1198 that the police were outside. So door slams, Officer Magner says, "Hey, that
1199 was kinda rude." 'Cause he slams the door. Like you said he walks up to the
1200 screen door there. And then you can hear [REDACTED] say, "Dad, the police are
1201 outside," in the audio.
1202
1203 A: Okay.
1204
1205 Q: Okay? About 12 seconds later, 2140:25 officers talking to [REDACTED] [REDACTED] at the
1206 front security door. Magner says son doesn't wanna talk to the police. Back
1207 and forth conversation. Back and forth conversation from the screen door
1208 between [REDACTED] [REDACTED] and [REDACTED] [REDACTED] about his name, about hey, I don't
1209 need to talk to you. You wanted your daddy's help. Now I'm talking to your
1210 daddy. So obviously [REDACTED] is somewhere in that ar- he's talking to [REDACTED]
1211 saying, "I'm talking to your dad now. Leave me alone." Right? That - 'cause
1212 he didn't want help. He wanted his daddy's help. From the time that on the

1213 audio where I can hear from the time that the door slams to the time that I see
1214 [REDACTED] - I hear [REDACTED] voice is about 12 seconds. Okay? [REDACTED] gives his
1215 name and birthday through the screen door. Dispatch gives information that
1216 the father's house - that it's the father's house, [REDACTED] [REDACTED] and [REDACTED] does
1217 not live there per a prior call. And that's what I - we were talking about prior.
1218

1219 A: Mm-hm.

1220
1221 Q: When I hear - I believe you're in the vehicle running him up. Dispatch gives
1222 that information over there air.
1223

1224 A: Yeah.

1225
1226 Q: Officer you at 2143:09 which is about 2 and 1/2 minutes after the door slams
1227 find a probation status and say, "Hey partner, formal searchable on him." So
1228 a couple minutes after that, door opens up like we talked about. [REDACTED] is hey
1229 come here. [REDACTED] is put in the backseat of the car. [REDACTED] [REDACTED] has contact
1230 at the door with the other officer which I believe is you 'cause I believe per
1231 the video that Magner puts him in the car and you're still up talking to [REDACTED]
1232 [REDACTED] An officer at 2144:25 - no, officer - I'm sorry. Somebody tells either
1233 [REDACTED] or [REDACTED] [REDACTED] that now we're gonna go through every part of that
1234 house as he's placed in the back of a squad car. And I think what I get - what
1235 I - what I get from this is not - I'm not trying to say that that was wrong.
1236 What I get from it is Magners walking [REDACTED] out of the thing and he's
1237 basically saying, "Now you got your dad involved and we're gonna go
1238 through every nook and cranny of that house. So if you dumped something
1239 you should probably tell me." That's what I get just based on being...
1240

1241 A: Yeah.

1242
1243 Q: ...thing but that's - that's on the timeline. That's what I'm thinking that is
1244 occurring at that point. Somebody tells [REDACTED] [REDACTED] that [REDACTED] being on
1245 probation infringes on his fourth amendment rights after he repeatedly tells
1246 officers that [REDACTED] does not live at the address. He don't live here. He don't
1247 live here. You heard that on the tape, correct?
1248

1249 A: Mm-hm.

1250
1251 Q: Okay. Officer walks in front of the camera at 2115 with his gloves on and
1252 then later on the second black and white that pulls up next, I think we saw it
1253 here later on, takes off. So I'm guessing that we're putting winded down and
1254 code four and that's at 2118 to 2230 - I'm - 2218. I'm sorry. 2236 code four
1255 and [REDACTED] is let out of the car. And you guys discuss some things about
1256 some issues that [REDACTED] has with being placed in the back of a car. Putting
1257 the jacket on him is what he was saying I think.

1258
1259 A: Hmm.
1260
1261 Q: All right? So we're gonna go through the comments that were placed on the
1262 the call now. It says that basically that the first comment says that the - the -
1263 contacted the probationer [REDACTED] [REDACTED] near address. Did you know he was
1264 on probation when you contacted him?
1265
1266 A: No.
1267
1268 Q: Okay. It was a consent stop, right? We already went over that.
1269
1270 A: Yes.
1271
1272 Q: So would you say that that comment would - based on the information that
1273 you knew then that comment wouldn't be accurate but based on the
1274 information you knew at the conclusion of the call it would be accurate.
1275
1276 A: Yes. I meant - I meant as he - he is a probationer.
1277
1278 Q: Okay.
1279
1280 A: That's...
1281
1282 Q: And then the comments say that during the conversation male ran into the
1283 house. Did he actually run?
1284
1285 A: Not in a full sprint from what I remember but it was like, quick speed to get
1286 away from us.
1287
1288 Q: Okay. So would you say that that statement...
1289
1290 A: Is true.
1291
1292 Q: ...is true...
1293
1294 A: Yes.
1295
1296 Q: ...but not entirely correct?
1297
1298 A: Well I'd say it's entirely correct but - but if we wanna break down exactly
1299 what running means by different - different speeds but yeah, he - he was
1300 getting away from us - to get away from us.
1301

1302 Q: So contacted probationer [REDACTED] [REDACTED] near address. During conversation
1303 male ran into house and locked security door behind him. You think that that
1304 statement shows like, a false sense of knowledge that you knew [REDACTED] was
1305 on probation and that he ran from you? If you contacted [REDACTED] [REDACTED] a
1306 probationer - if I contact a probationer - if I tell I contacted this probationer
1307 near the address and he ran into the house would I get a false sense of
1308 knowledge that you knew that when he ran he was on probation and now he
1309 ran into that house?
1310

1311 A: Well, that's not how I meant it.
1312

1313 Q: Okay. But it - I mean, in reading it would that be...
1314

1315 A: No, I mean, I guess you can perceive it that way but that's - that's...I guess
1316 the - the bad part about writing things in text is, you know.
1317

1318 Q: It can get...
1319

1320 A: Yeah.
1321

1322 Q: ...perceived in a different manner.
1323

1324 A: Yeah.
1325

1326 Q: Okay.
1327

1328 A: 'Cause if I was talking to you I said yeah, he was a probationer and ran into
1329 the house and if you had any questions about it I'd say yeah, he ran into the
1330 house, we ran up the house, he's on probation but it was just a - I was just
1331 noting that he is a probationer and with no intention to mislead anything.
1332

1333 Q: All right. I said this in the timeline earlier but from the time that the door
1334 slams to the time that I can hear [REDACTED] talking at the door to Officer Magner
1335 is about 12 seconds.
1336

1337 A: Okay.
1338

1339 Q: Is that - in the next line it says that contacted - I'm sorry. [REDACTED] played
1340 interference at the door. After a few minutes [REDACTED] came out from back. Is
1341 that 12 seconds the few minutes that we are talking about here?
1342

1343 A: Yeah, I guess so.
1344

1345 Q: Would that statement be entirely true then that he was out of your view for a
1346 couple of minutes when in actuality the audio, the video shows it was about
1347 12 seconds.
1348
1349 A: Well then he was either out of my view for that long or that's just the I guess
1350 the way I perceived it...
1351
1352 Q: Okay.
1353
1354 A: ...was that just that he came back at a later time.
1355
1356 Q: So as I spoke before the time that he slams the door to the time that you guys
1357 go in and grab him is a couple of minutes. Would that be the couple minutes
1358 in your view of that he was out of your view?
1359
1360 A: No, that was a longer time.
1361
1362 Q: Okay. 'Cause that was a couple of minutes.
1363
1364 A: Mm-hm.
1365
1366 Q: That was about two and a half minutes.
1367
1368 A: Yeah.
1369
1370 Q: So the...
1371
1372 A: It was not that long. It was - it was shorter than that obviously.
1373
1374 Q: The time he slams the door to the time that we hear him interacting with
1375 Officer Magner and Officer Magner actually talking to him is about 12
1376 seconds. The time that we hear the door slam to the time that you and Officer
1377 Magner open up the screen door and take [REDACTED] out of the house...
1378
1379 A: Yeah.
1380
1381 Q: ...was about two and half minutes. So is that the couple of minutes that
1382 you're talking about when you wrote that?
1383
1384 A: I d- I don't remember. Yeah. I...
1385
1386 Q: 'Cause it says that after a few minutes [REDACTED] came out from the back, so are
1387 we talking about that 12 seconds or are we talking...
1388

1389 A: I mean, I'm assuming it's the totality of.....yeah, I mean, I don't know if I'm
1390 writing about, you know. I'm done running him and we go grab him and
1391 that's when we get him out or...or if that's just because, you know, I didn't
1392 see him. I don't remember where I was standing...I don't know.
1393
1394 Q: Because that would change things a little bit, right? If he was only back in
1395 that back area for 12 seconds versus a couple of minutes as far as where you
1396 thought he went and how he would have the opportunity to enter certain
1397 areas? 12 seconds?
1398
1399 A: Yeah, it could. I think - I think within 12 seconds he could've gotten
1400 anywhere in that house and ran back if he knew where he was going 'cause 12
1401 seconds is a long time.
1402
1403 Q: So with the ICC footage which...
1404
1405 A: Actually real quick...
1406
1407 Q: Go ahead.
1408
1409 A: ...can I go back?
1410
1411 Q: Go ahead. Yeah.
1412
1413 A: So you heard a - you heard a screen door slam...
1414
1415 Q: Yes.
1416
1417 A: ...but can I - can I listen to that?
1418
1419 Q: Yeah.
1420
1421 A: 'Cause - 'cause also I'm not sure we're 100% positive that that was actually
1422 him slamming the door or if that was maybe Officer Magner hitting the door.
1423 I don't know. Can we watch it?
1424
1425 Q: Yeah. So we have at 2140 hours and 13 seconds.
1426
1427 A: 'Cause I - I just - I mean, the way I remember it is that we don't run after him
1428 towards the door so we wouldn't have been right up on there when the door
1429 shut.
1430
1431 Q: Okay. So you're thinking that the door was slammed prior to...
1432
1433 A: Us getting up there.

1434
1435 ((Crosstalk))
1436
1437 Q: Okay.
1438
1439 A: I don't - that's just the way I remember.
1440
1441 Q: Okay.
1442
1443 A: I remember us being right up behind.
1444
1445 Q: Okay.
1446
1447 Q1: Do you remember getting out of the car then right away?
1448
1449 A: No, that's what I'm saying. I don't - I don't remember us running up on him.
1450
1451 Q: But earlier you said you didn't remember whether you went up there with him
1452 at all. What...
1453
1454 A: Yes. Yeah. I don't - I don't remember going up with him but...
1455
1456 Q: Okay.
1457
1458 A: ...I - the way I - I remember it is that we didn't pursue after him.
1459
1460 Q: Okay. All right. Okay.
1461
1462 A: So I...
1463
1464 Q: So...
1465
1466 A: ...I just wanted to hear the audio again.
1467
1468 Q: Okay. Yeah. So from the time the police car - you hear the police car open to
1469 the time I hear the door slamming is about six seconds. So not a full sprint but
1470 you're up at the - somebody's up at the door rather quickly and that's what I
1471 perceived based on the video and being out at the residence that that was a
1472 screen door slamming. And then about 12 seconds later is when you hear
1473 [REDACTED] Officer Magner talking with [REDACTED] So this is 2140:06 and at
1474 2140:13 is gonna be what I believe is a screen door slamming.
1475
1476 (Recording)
1477
1478 A: Can you rewind it more?

1479
1480
1481 Q: Yeah. Oh I don't wanna hear is the thing again.
1482
1483 (Recording)
1484
1485 Q: Good?
1486
1487 A: Mm-hm.
1488
1489 Q: Okay.
1490
1491 A: Yeah, it sounded like the door slamming.
1492
1493 Q: You can hear him say, "I'm not doing nothing." Yeah.
1494
1495 A: Yeah.
1496
1497 Q: It sounded like the door so it coulda been him hitting it.
1498
1499 A: Yeah.
1500
1501 Q: But regardless the time from the time that you opened, or Magner and yourself
1502 or were the officer opens the car door to the time that you can hear [REDACTED]
1503 inside is still less than a couple of minutes, right? I mean, that you can see
1504 him.
1505
1506 A: Oh yeah.
1507
1508 Q: Yeah. Okay. So is that based on what we see here and what we know now is
1509 that statement not entirely correct that he was...
1510
1511 A: Is - no, not entirely correct.
1512
1513 Q: Okay.
1514
1515 A: It was not a couple minutes that he was in the back of the house.
1516
1517 Q: Officers enter the house and search unlocked open door areas where
1518 probationer had access to. Based on what legal standing did you do this?
1519
1520 A: What I was saying earlier is that I believed he belonged to that house and that
1521 he had s- and that he was getting rid something of evidentiary value.
1522

1523 Q: Based on the circumstances once he was found to be on probation and he
1524 found to be - and you had another officer there and he was put in the back of
1525 the car is our exigency for the destruction of evidence lowered or heightened?
1526
1527 A: Lowered.
1528
1529 Q: Do we have time to obtain a warrant if we had to or to think through the call
1530 to see if we have legal standing to be where we're at, at that time?
1531
1532 A: We do.
1533
1534 Q: The search was not intrusive. Mostly plain view. Explain that comment to
1535 me.
1536
1537 A: Meaning we like I said it was mostly just what we could see laying around
1538 and we kinda looked behind things, looked under things, didn't go through
1539 every single item. Just wanted to see if he had tossed something and came
1540 back to the door.
1541
1542 Q: Officer Donnall arrives at 2148 hours.
1543
1544 A: Mm-hm.
1545
1546 Q: He stands there and watches [REDACTED] and a friend while you and Officer
1547 Magner, at different times, but for the rest of the duration search through the
1548 house. [REDACTED] is let out of the car at 2236 hours. That's
1549 approximately 44 minutes. Earlier you said that 20 plus minutes that you
1550 were looking through that house.
1551
1552 A: Mm-hm.
1553
1554 Q: For a resident of a house is that - does that sound nonintrusive?
1555
1556 A: I - I guess - I mean, I don't - I don't see it as that intrusive but you have a
1557 probationer going through your house getting away from the cops.
1558
1559 Q: At 2215 hours which is approximately a half an hour, 25 minutes after
1560 Donnall arrives Magner walks in front of the ICC camera with his gloves on.
1561 Does that look nonintrusive? Is that nonintrusive to you?
1562
1563 A: So by wearing gloves that would make it intrusive or...
1564
1565 Q: Well do we put our gloves on to do a plain view search or a nonintrusive
1566 search?
1567

1568 A: Well I mean, it's - it's a - it's a filthy house.
1569
1570 Q: So you would say that you might do that?
1571
1572 A: Might do what?
1573
1574 Q: Put your gloves on even though you were just gonna do a plain view search?
1575
1576 A: Yeah...And like I said, I mean, we looked through a couple boxes and opened
1577 a couple drawers and did - I mean, we weren't pulling things out of drawers
1578 and throwing them on the bed or anything but...
1579
1580 Q: Mm-hm.
1581
1582 A: ...that's - and that's what I mean by nonintrusive was mostly plain view,
1583 looked through a couple boxes, a couple drawers, and then we were done.
1584
1585 Q: So based on the totality of the circumstances that you were in the house for
1586 over 40 minutes you detained the homeowner in the front room with an officer
1587 present so that he didn't, you know, go anywhere or leave the premises and
1588 that the officers had their gloves on, does that - could that be perceived as an
1589 intrusive probation search to the resident of the house?
1590
1591 A: I mean, it could be perceived that way.
1592
1593 Q: Was your intent to mislead the readers of this call that the search was
1594 nonintrusive and was mostly plain view?
1595
1596 A: No, 'cause I didn't think it was intrusive.
1597
1598 Q: You doing all right?
1599
1600 A: Yes.
1601
1602 Q: Okay. Are you familiar with the Sac PD search manual?
1603
1604 A: Yeah, I just - just looked over it.
1605
1606 Q: We're not gonna go over the whole thing. We are gonna go over just a part of
1607 it. Have you read that manual before?
1608
1609 A: I have.
1610
1611 Q: If you go to page four and on the top there's an A section one, two, and three.
1612 And what type of search was this from this manual?

1613
1614 A: A field search or structure search.
1615
1616 Q: It's kind of a...
1617
1618 A: Kind of...
1619
1620 Q: ...field search that turned into a structure search, correct?
1621
1622 A: That's correct.
1623
1624 Q: If we go to page 15 of the manual and we look at A at the top, prior to
1625 conducting a parole probation search officers shall verify (a) the identity of
1626 the probation parole status including search conditions of the person to be
1627 searched. Did you do this on this day?
1628
1629 A: And I - I can't tell you why I thought he lived there but I thought he lived
1630 there. I - it's - it's killing me because at the time I thought he lived there. I
1631 don't know why I can't explain that now.
1632
1633 Q1: I have something, is there a possibility when you ran the house that you see a
1634 report pop up with his name, that you just automatically assume because his
1635 name is attached to the house that he's on probation there? Like...
1636
1637 A: And that could be it. I don't - I don't remember.
1638
1639 Q1: ...and there was a report generated and he was listed as, you know, a subject
1640 or whatever but you just see it there and you say, oh, he's gotta come back
1641 here without further looking into the report.
1642
1643 A: And that's - that's possible and the fact that I mean, he is there and that - I
1644 can't - I just don't remember.
1645
1646 Q: So going back to all this stuff that we've talked about about why you had legal
1647 standing to be in the house, why you searched this house, why...
1648
1649 A: Mm-hm.
1650
1651 Q: ...I thought or you thought you had the legal right to be in this house you're
1652 telling me now that you thought that he lived at this house? Throughout the
1653 course of this call?
1654
1655 A: I - and - and I said that earlier too but your - you told me that he didn't live
1656 there.
1657

- 1658 Q: Yes, I did.
1659
1660 A: ...so then I just - but I did think he lived there at the time. I just don't re- I
1661 can't tell you why I thought that. I don't remember.
1662
1663 Q: But then obviously there was some doubt in your mind raised by [REDACTED]
1664 and raised by the fact that you didn't find anything in the house that belonged
1665 to [REDACTED] or anything of those things, right? And I mean, even though
1666 that you thought he lived there or you thought for some reason he was there
1667 and [REDACTED] is telling you over and over again that he doesn't live there
1668 obviously there's some doubt forecast on that, correct?
1669
1670 A: But I mean, I get lied to all day.
1671
1672 Q: Mm-hm.
1673
1674 A: So it didn't really cast that much doubt on it.
1675
1676 Q: While looking through the house - I think we already - I already asked you
1677 this but...
1678
1679 A: Yeah.
1680
1681 Q: ...while looking through the house or going through the house did you find
1682 anything that belonged to [REDACTED]? Any indicia or anything like that?
1683
1684 A: And I wasn't looking at like, mail or anything like that. I was just looking for
1685 if he threw a gun or if he threw drugs.
1686
1687 Q: So you didn't look for any, based on [REDACTED] saying that he didn't live
1688 there and the circumstances regarding your presence in that house you weren't
1689 - you didn't think it was important to look for indicia to tie [REDACTED] to
1690 that house?
1691
1692 A: I guess - guess not at the time. No.
1693
1694 Q: If you go down on the search manual still on page 15 if you go down to the
1695 bottom C field searches, Officers who conduct a field search of a structure
1696 must obtain approval from their supervisor prior to conducting a search. All
1697 other types of field searches do not require supervisor approval. Did you get
1698 the approval of your supervisor before conducting this structure search?
1699
1700 A: No.
1701
1702 Q: You did say that you ended up advising him when he showed up, right?

1703
1704 A: Yeah.
1705
1706 Q: Sergeant Moore?
1707
1708 A: I did.
1709
1710 Q: But prior to going in and searching this house you didn't get his approval?
1711
1712 A: I - I didn't ask for approval. No. But I don't remember if we di- I think we'd
1713 already started searching when he showed up. I don't remember.
1714
1715 Q: On D reporting requirements, when structure searches do not result in the
1716 generation of a crime report officers shall complete an incident report. Did
1717 you complete an incident report in this case?
1718
1719 A: No.
1720
1721 Q: The report shall detail the following information. And there's A through G.
1722 Seeing as you didn't do a report you obviously didn't document any of that
1723 information in there, correct?
1724
1725 A: Correct.
1726
1727 Q: Would you be in violation of this manual in regards to report requirements
1728 and field searches of notification of supervision - of your supervisor on this
1729 call?
1730
1731 A: Yes.
1732
1733 Q: Why at...at 2151 hours Officer Magner's microphone followed roughly five
1734 seconds after yours follows about roughly five seconds after his, turns off.
1735 Why did you guys turn your microphones off on this call?
1736
1737 A: I don't remember but I mean, the only reason why we do that is to have a
1738 private conversation or something or something that I don't know, I guess to
1739 say like, the - where the F did he or wha- or something that we just didn't
1740 want on the camera but it - maybe just a private conversation. I don't
1741 remember.
1742
1743 Q: But you did turn your mics off on this call?
1744
1745 A: It - it shows it turned off so I guess.
1746
1747 Q1: Can I ask a question?

1748
1749 Q: Yep.
1750
1751 Q1: How come you wouldn't mute your mic?
1752
1753 A: 'Cause it buzzes...
1754
1755 Q1: Okay.
1756
1757 A: ...and it's really annoying.
1758
1759 Q1: While muted it'll buzz the entire time?
1760
1761 A: Yes.
1762
1763 Q1: Okay.
1764
1765 A: It's uncomfortable.
1766
1767 Q: And this is general order 525.03 in car cameras. It's for the new system. If
1768 you go page 2 and look at C, number 5.
1769
1770 A: What page?
1771
1772 Q: Page two.
1773
1774 A: Page two.
1775
1776 Q: Yeah, second one. C. C say using the system and then number five says the
1777 ICC system audio and video recorded shall be activated as soon as practical
1778 whenever an officer in an ICC equipped vehicle makes any field contact for
1779 enforcement or investigation purposes, suspicious vehicles, suspicious
1780 contact, traffic stop, bike stop, subject stop whether self-initiated or in
1781 response to a dispatched call. Did you do that on this call?
1782
1783 A: Did I activate it? Yes.
1784
1785 Q: Yes. When the system has been activated in response to any of the above the
1786 incident contact shall be recorded until the incident contact has reasonably
1787 concluded. Based on C number five were you in violation of this general
1788 order on this call?
1789
1790 A: So which - which part?
1791

1792 Q: The last one that says that it should be running. The incident shall be recorded
1793 until the incident contact has reasonably concluded.
1794

1795 A: And we - we did keep our ICC on and...
1796

1797 Q: Well it says audio and video.
1798

1799 A: Yeah. So I mean, I wasn't thinking about being in violation of general order.
1800 It was - whatever we were doing was not - most likely not even part of the
1801 investigation that we didn't want on audio and that our subject who we were
1802 investigating was in a car with audio. And I - I mean, I - I don't even know
1803 why we have mute buttons I guess if we're not allowed to - to mute for a - a
1804 side conversation.
1805

1806 Q: Did you turn them back on at some point?
1807

1808 A: No. And that's - I mean, that might have just been - I mean, that was just a
1809 mistake then.
1810

1811 Q: At the point that the mic goes off you are in a house where the residents of the
1812 home is disputing your right to be in there or search the house. He keeps
1813 telling you that his son does not live there and that...
1814

1815 A: Mm-hm.
1816

1817 Q: ...and not giving consent to search the home would you feel that that call was
1818 reasonably concluded?
1819

1820 A: Well I don't think we were in the same room when that - 'cause I was
1821 listening to it. I don't even think we're in the same room with him anymore.
1822

1823 Q: When you turn it off you're not in the same room as the subject?
1824

1825 A: As Mr. [REDACTED] Yeah. 'Cause it sounded like he was in the background.
1826

1827 Q: Okay. Then - but would you say that the call was reasonably concluded?
1828

1829 A: It was not.
1830

1831 Q: And so based on the fact that whether you were trying to violate this general
1832 order or not by turning off your mics during this call are you in violation of
1833 this general order 5C, 5A?
1834

1835 A: Yes.
1836

1837 Q: The mute button would show a - to mute it...
1838
1839 A: Mm-hm.
1840
1841 Q: ...and have a side conversation and then turn it back on based on the
1842 circumstances I think would be appropriate and that's why you have a mute
1843 button. You asked I don't know why we have it if we can't do this so...
1844
1845 A: But wouldn't that still be a si- a violation of the...
1846
1847 Q: It would technically be a violation of this but if you s- if you told me that you
1848 mute - if you turn that thing off and then 30 seconds to 45 seconds later you
1849 turned it back on based on the circumstances that you were in, this
1850 environment and this house where people, you know, didn't want you to be
1851 and that you were searching this house then that would be I believe a more
1852 valid reason for you to turn that off. And that would be - but I think you
1853 turned it off at a point in which audio on this complaint - on this citizen
1854 complaint would've been very valuable, don't you think? The rest of this -
1855 when this audio goes out all we have is the audio in the car and we have
1856 nothing what goes on in the house whether you talking to [REDACTED] or how
1857 you interacted with him or what your disposition was with him or any of the
1858 other officers. And don't you think that that would be very valuable to what
1859 we're doing here today?
1860
1861 A: I mean, I wasn't looking that far into advance and I wasn't talking to Mr.
1862 [REDACTED] I was having a conversation I would assume with my partner 'cause
1863 the - you can hear him in the background so it doesn't sound like we're in the
1864 same room.
1865
1866 Q: Mm-hm.
1867
1868 A: So, yes, it would be valuable during any investigation to have cameras and
1869 microphones on at all times everywhere you go but it wasn't going through
1870 my head that I was muting during a valuable point at a future IA investigation.
1871
1872 Q: Okay. At, just to prove my point here at 2150 and 51 seconds the officer tells
1873 [REDACTED] that [REDACTED] being on probation infringes on his fourth
1874 amendment right after he repeatedly tells officers [REDACTED] does not live there.
1875 Nine seconds later the mic goes off. So you're still actively engaged or
1876 somebody is with [REDACTED] as to your legal right to be there.
1877
1878 A: And that sounded like a officer other than my partner and I.
1879
1880 Q: Does it?
1881

1882 A: Yeah. That sounded like I th- it sounded like Loriaux. It was not me or
1883 Officer Magner. But I don't know if he was even on the call...
1884
1885 Q1: But...
1886
1887 A: ...but it's somebody else.
1888
1889 Q1: And Donnall stayed in the room with [REDACTED] correct?
1890
1891 A: Yes.
1892
1893 Q1: But it's still safe to say that even if you're not in the same room you hear him
1894 telling you guys that [REDACTED] is not on probation to that house, correct?
1895
1896 A: I did hear that.
1897
1898 (Recording)
1899
1900 Q: Who's that? Unfortunately for you the people that come into your lives. Is
1901 that you or Officer Magner?
1902
1903 A: No.
1904
1905 Q: All right. This audio is picked up by - Donnall is there already and it might be
1906 him maybe?
1907
1908 A: It doesn't show who's on this call.
1909
1910 Q: So...
1911
1912 A: No, so I guess it wasn't Loriaux. It just sounded like him but it wasn't...
1913
1914 Q: Okay.
1915
1916 A: ...me or my partner.
1917
1918 Q: But you are like Officer Nichols said you are in proximity because we can
1919 hear the conversation, correct?
1920
1921 A: Correct.
1922
1923 Q: Where was I?
1924
1925 A: I mean, you can - you can tell by the voice that wasn't - that wasn't us.
1926

1927 (Recording)
1928
1929 Q: And that's where turning them off. So let me understand this though. You're
1930 having a conversation with your partner...
1931
1932 A: Mm-hm.
1933
1934 Q: ...about where he might have put it or where it might be...
1935
1936 A: Mm-hm.
1937
1938 Q: ...and you and him are the only ones in the back of the house, right?
1939
1940 A: I'm not sure exactly where we are.
1941
1942 Q: When you're having that conversation?
1943
1944 A: Yeah.
1945
1946 Q: What would be the need of turning that off?
1947
1948 A: Well like I - like I said earlier if we're gonna say something that I don't want
1949 caught like - like - like maybe I wanna use a swear word or something or tell
1950 my partner a piece of my mind like I can't believe we fng lost a gun or
1951 whatever.
1952
1953 Q: Mm-hm.
1954
1955 A: Like, I don't want that on camera or - or maybe I don't know what we were
1956 talking about. But it was...
1957
1958 Q: Do you think that saying that on the video would get you in trouble for talking
1959 to your partner and using a foul word as long it's not of the citizen or not in
1960 front - in a threatening towards somebody else?
1961
1962 A: I think it's happened here before.
1963
1964 Q: Where you can't curse?
1965
1966 A: Yes.
1967
1968 Q: Okay.
1969
1970 A: Even though I - later in the video I s- I didn't know the camera was on...
1971

1972 Q: Cursed?
1973
1974 A: ...and s- said an F word.
1975
1976 Q: Mm-hm. You brought this up earlier and we'll talk about it briefly. [REDACTED]
1977 [REDACTED]
1978 [REDACTED]
1979
1980 A: [REDACTED]
1981
1982 Q: [REDACTED]
1983 [REDACTED]
1984 [REDACTED]
1985 [REDACTED]
1986 [REDACTED]
1987
1988 A: [REDACTED]
1989
1990 Q: [REDACTED]
1991 [REDACTED]
1992 [REDACTED]. Structure searches include homes, businesses, and
1993 any other place of dwelling. Is that correct?
1994
1995 A: Yes.
1996
1997 Q: Officers are also required to verify there is a legal authority to conduct the
1998 search. Is that correct?
1999
2000 A: Say that one more time?
2001
2002 Q: Officers are also required to verify there is a legal authority to conduct the
2003 search.
2004
2005 A: Yes.
2006
2007 Q: Officers shall take photographs of the scene before and conducting a search in
2008 order to show the condition of the designated areas. Do you recall writing
2009 that?
2010
2011 A: Yes.
2012
2013 Q: Is there a reason why you didn't do that in this case?
2014
2015 A: I really thought that we asked for that but no pictures were taken and I...
2016

2017 Q: That you asked...

2018

2019 A: ...and I know it's common that there is no CSI available or sergeant's
2020 cameras are broken all the time or...

2021

2022 Q: Did you - so you're saying that you asked for CSI prior to searching this
2023 residence?

2024

2025 A: I don't know. I don't think we asked for CSI but I think we asked Sergeant
2026 Moore if he had a camera to take photos.

2027

2028 Q: And what was the answer, no?

2029

2030 A: Well didn't take photos and I thought before I came here that we did take
2031 photos.

2032

2033 Q: That you took photos of this residence?

2034

2035 A: Yes. I thought we did.

2036

2037 Q: Could you have been mistaken?

2038

2039 A: Well yeah, 'cause we don't have photos.

2040

2041 Q1: Did Sergeant Moore stay the entire time you searched?

2042

2043 A: No, I think he left shortly after he showed up.



2044

2045 Q: We've already talked about this but you write in your paper that parole and
2046 probation searches shall be done after officers verify the identity and status of
2047 the subject to be searched in the dominion and control of the location and
2048 objects to be searched. Officers also need supervisor approval for field
2049 searches. When searches of structures do not result in a crime report officers
2050 shall complete an incident report. Did you complete an incident report on this
2051 structure search?


2052

2053 A: Like I said earlier no, I did not.

2054

2055 Q:  Can you see
2056 

2057

2058 the perspective of  now looking back at everything we've gone
2059 over?

2060

2061 A: I suppose so.

2062
2063 Q: Can you see how documenting, being in compliance with the search manual,
2064 and documenting this in a report in which - that you could write and document
2065 all these things that you discussed to me today as to why you went in the
2066 house and what your mindset was on that day and the reason for the legality of
2067 the stop and your reasonable suspicion on why you felt that he had some stuff
2068 inside, documenting that in a report and, and keeping your microphone on so
2069 that we had the audio of this entire call in its entirety would help in this
2070 investigation?
2071
2072 A: Absolutely, 'cause then I'd remember what my mindset was more and I'd
2073 remember why I did everything I did. And I don't remember everything now.
2074
2075 Q: Okay. You have anything?
2076
2077 Q1: No.
2078
2079 Q: You have anything Aaron?
2080
2081 A1: One thing. When you guys add comments onto a call at the end of a whatever
2082 your call might be, an alarm call, a - a burglary report, a consensual contact,
2083 when you add comments is it more as a summary? Is it more to more direct
2084 and factual?
2085
2086 A: Summary.
2087
2088 A1: Summary. And then I think Sergeant Vassallo was talking about the
2089 timeframe as far as like, 44 minutes from the time that you guys put suspect in
2090 the back of the car until when you leave the scene. In those entirety of 44
2091 minute were you guys searching the entire time?
2092
2093 A: No.
2094
2095 A1: You - could you been talking to partners some of the time or...
2096
2097 A: Yes.
2098
2099 A1: Like most cops do when they get done with a call kind of BS a little bit
2100 afterwards?
2101
2102 A: Yeah. And also I called for another officer because we were considering a
2103 probation violation for, you know, taking off from the officers and being in
2104 the house with known drug users, and not providing that he was on probation.
2105 And so I called another officer to ask what his perspective was on that because
2106 he regularly violates people's terms of probation. And I determined that it

2107 would've not served anyone's best interest to violate his probation at the time.
2108 So I did stuff like that and...
2109
2110 A1: You did...
2111
2112 A: ...but not - yeah, not the entire time we were searching. No.
2113
2114 A1: All right. And then like I - I think you already mentioned it before like,
2115 difference between running and a jog, furtive movements or something like
2116 that. You perceived at that time like he was not walking home from going to
2117 a grocery store but walking away from you guys in some kind of manner that
2118 he was trying to get away from you guys?
2119
2120 A: Yes.
2121
2122 A1: And then just I know 'cause the - the search manual states a lot of this and -
2123 and being in a police department where we make a lot of contacts daily do you
2124 consistently update your sergeant on every probation contact that you have?
2125
2126 A: No, and it's not common for anyone to.
2127
2128 Q: Okay, just two follow ups, we did say 20 plus minutes you were searching
2129 throughout the course of that call. Is that what you - 15, 20 plus minutes is
2130 what you had said?
2131
2132 A: Yes.
2133
2134 Q: You were there 44 minutes after the officer showed up and I did state that.
2135 You are correct. But we said 20 plus minutes. In the long and short of this
2136 thing do you feel that based on not writing the I report and the violations of
2137 the search manual are heightened because of your prior knowledge of this
2138 search manual and because of the work or papers that you wrote [REDACTED]
2139 [REDACTED]? Do you feel that your exposure or that this issue of you not
2140 following the manual should be or is heightened by the department?
2141
2142 A: It is and I mean, it was not my intention at all to violate the manual. It just
2143 worked out that way and on n- not my intention.
2144
2145 A1: Do you have anything else to add, Matt?
2146
2147 A: Nope.
2148
2149 Q: Is there anything else relating to this matter that I have not covered that needs
2150 to be added, clarified, or changed? I'm ordering you to provide that
2151 information now.

2152

2153 A: No.

2154

2155 Q: After you leave this interview should you remember anything that is different
2156 from or in addition to the information that you've given to them I order you to
2157 contact me immediately. I'm also ordering you not to discuss this matter with
2158 any other department employee. Do you understand these orders?
2159

2160 A: I do.

2161

2162 Q: All right. The time is 1743 and that concludes this interview.

2163

2164

2165 This transcript has been reviewed with the audio recording submitted and it is an accurate
2166 transcription.

2167 Signed _____

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INTERVIEW WITH OFC. MATTHEW FETCH

Q=Sgt. Adam Vassallo
Q1=Sgt. Charles Husted
A=Ofc. Matthew Fetch
A1=Det. Aaron Wallace

Q: The date is July 3, 2013. The time is 1508 hours. Present in the Internal Affairs Office is Officer Matthew Fetch. He is represented by Detective Aaron Wallace. Sergeant Charles Husted and myself, Sergeant Adam Vassallo are also present. The purpose of this investigation is to conduct an interview of Matthew Fetch, who is an employee with the Sacramento Police Department in the capacity of police officer. This is an administrative investigation on the charges against Officer Fetch and Officer Wagner for improper search. Do you understand that this is an administrative investigation only?

A: I do.

Q: The result of this investigation could lead to disciplinary action up to and including termination of the employees allegedly responsible. Do you understand this?

A: Yes.

Q: Based upon the authority vested in me by the chief of police, I'm ordering you to cooperate with this investigation. This means that you must be truthful in all your statements and answer all questions fully and honestly. Also, you are ordered to provide at this time all information you may know regarding this incident. Failure to answer a question or failure to answer it truthfully and fully will be considered a lack of cooperation that could subject you to disciplinary action up to and including termination for insubordination. Do you understand this?

A: Yes.

Q: Do you understand that this is an administrative investigation?

A: Yes.

1 Q: Do you understand the allegations?
2
3 A: Yes.
4
5 Q: Do you understand that I'm ordering you to answer my questions and that if
6 you don't answer them truthfully and fully it could result in disciplinary action
7 up to and including termination?
8
9 A: Yes.
10
11 Q: Okay. Matthew do you recall the interview you gave to Internal Affairs and
12 myself on April 23, 2013?
13
14 A: I do.
15
16 Q: Have you had a chance to review the transcript of that interview?
17
18 A: I looked over it today, yeah.
19
20 Q: Are you aware of the answers you gave to those questions asked in that
21 interview pertaining to this case?
22
23 A: Yes.
24
25 Q: On August 26, 2011, the night of the incident, who was your partner that
26 night?
27
28 A: Officer Magner.
29
30 Q: And what was your assignment?
31
32 A: Patrol.
33
34 Q: Did you contact a subject on the sidewalk outside of [REDACTED] Teekway Way at
35 approximately 2140 hours?
36
37 A: Yes.
38
39 Q: Who was that?
40
41 A: [REDACTED] - [REDACTED].
42
43 Q: What was the nature of the contact?
44
45 A: Consensual contact. Talked to him just about crime in the area.

1
2 Q: What is a consensual contact?
3
4 A: I mean we didn't order him to stop. We didn't turn on any lights or sirens.
5 Didn't block his path. Didn't order him to speak with us.
6
7 Q: At some point did he walk towards the residence at [REDACTED] Teekay Way?
8
9 A: Well some - some point he ran towards it yes.
10
11 Q: At some point he turned and went towards the residence?
12
13 A: Correct.
14
15 Q: Okay. Did he have the right to do that based on the circumstances of the
16 contact?
17
18 A: Yes.
19
20 Q: Was he running?
21
22 A: He did run, yes.
23
24 Q: Did you document on the call, on the CAD call that he ran towards the
25 residence?
26
27 A: Yeah something like that, yes.
28
29 Q: Okay. In your interview prior interview we spoke a few different times about
30 his actions and how he moved. And so at some portion you said it was a jog,
31 others a run. What actually did he do when he went towards the residence
32 after the consensual contact?
33
34 A: Well he ran. I mean a jog is also a run. It's - I don't remember a year ago
35 exactly what speed he left from us but he defiantly didn't walk, he didn't take
36 his time getting there. He was moving at a quicker speed to get away from us,
37 is how I remember it.
38
39 Q: Did you pursue him?
40
41 A: No.
42
43 Q: Why not?
44
45 A: Because at that point we didn't have any kind of probable cause to stop him.

1
2 Q: Did he enter the residence?
3
4 A: He did.
5
6 Q: What did you do after he entered the residence?
7
8 A: At one point I either ran up the house or ran up his name, found out that he
9 was on probation.
10
11 Q: Where were you doing this from?
12
13 A: The car.
14
15 Q: Did you go to the front door?
16
17 A: Before I ran him, I can't remember if I did.
18
19 Q: So he...
20
21 A: I did eventually, yes.
22
23 Q: Did Officer Magner go to the front door?
24
25 A: Yes.
26
27 Q: When Mr. [REDACTED] entered the residence, Officer Magner went to the front
28 door?
29
30 A: Yes.
31
32 Q: You did or didn't?
33
34 A: I don't remember if I did at that point.
35
36 Q: Was the security screen door shut?
37
38 A: Yes.
39
40 Q: Could you see [REDACTED] at the front door through the screen?
41
42 A: At one point yeah.
43
44 Q: At what point was that?
45

1 A: Definitely after I ran Mr. [REDACTED] name. But I guess I don't remember if I
2 went up there at the beginning or not.
3
4 Q: But you personally remember seeing him through the screen?
5
6 A: Yes.
7
8 Q: Okay. Could you see [REDACTED] at any time through the security screen?
9
10 A: Yes.
11
12 Q: At what point was that?
13
14 A: After I ran his name.
15
16 Q: What was he doing when you saw him through the screen?
17
18 A: I think he was just standing there. I don't remember. Standing there next to his
19 dad or I don't know. I don't remember.
20
21 Q: Could you hear [REDACTED] at all through the security screen?
22
23 A: I don't remember if he was talking.
24
25 Q: What was the basis for asking [REDACTED] to exit the house?
26
27 A: 'Cause he's on probation.
28
29 Q: You found out he was on probation?
30
31 A: Yes.
32
33 Q: How did you do that?
34
35 A: How'd I find out he was on probation?
36
37 Q: Yeah.
38
39 A: I ran his name.
40
41 Q: Who placed [REDACTED] in the patrol vehicle?
42
43 A: I think Officer Magner did.
44
45 Q: Did you establish attempt to establish residency for [REDACTED]?

1
2 A: I don't - I don't remember how we did or did not. I just - from the last
3 interview I remember saying that at that time I just remembered him - me
4 believing that he lived there. And I don't remember how I figured that out
5 and from the - like from the last interview I thought I had figured out who he
6 was by running the address, but, you know, I don't remember.
7
8 Q: But you don't recall establishing that his address was [REDACTED] Teekay Way?
9
10 A: No and I - and I - and like I said, I think part of it was because of the way that
11 he entered the house as if it was his own.
12
13 Q: Did you and your partner enter the house after [REDACTED] was detained?
14
15 A: Yes.
16
17 Q: Based on what legal authority did you enter the house that night?
18
19 A: I believe that we had exigent circumstance that we didn't know that there was
20 - if there was other people in the house that he had tried to get rid of it, any
21 kind of contraband, since he was on probation for drugs is what I remember,
22 that that's why he took off from us, went in the house to get rid of something
23 that was illegal.
24
25 Q: Do you still believe today that that's a lawful entry?
26
27 A: Well I'm doubting it now.
28
29 Q: Are you doubting it today or have you - I mean why are you doubting it now?
30
31 A: Because my - well my memory is fuzzy on it. If he doesn't - if he doesn't live
32 there then, you know, I'd have to establish either some sort of way he lives
33 there or I'd have to remember why I thought that. I'd have - I'd have to get
34 consent and like I said, when he - when he ran from us we didn't have a
35 crime. But after finding out he was on probation and that we thought he did
36 have something illegal based on our experience of people who run from us
37 and people with that kind of history, that typically do that to get rid of illegal
38 substance. I think - I think it's a gray area.
39
40 Q: So you're saying that your legal authority to enter the house was based on
41 exigency?
42
43 A: Correct, and that I believed that he lived there. But today I can't tell you why I
44 thought that.
45

1 Q: Your exigency was based on what factors?
2

3 A: That he either was in the process, when he went in the house before we
4 entered, of hiding or destroying, or get someone else to do it for him, anything
5 illegal.
6

7 Q: Can exigency be created by officers?
8

9 A: It can.
10

11 Q: Can we base our legal authority to do something based on exigency that we
12 create?
13

14 A: No.
15

16 Q: So would you that you created this exigency in which you're formulating as
17 your basis for entry into the house?
18

19 A: Well I wouldn't say I caused him to run into the house, no.
20

21 Q: You made a consensual contact of him correct?
22

23 A: Correct.
24

25 Q: And after that consensual contact he ran into the house.
26

27 A: Okay. So if that is the definition of me creating an exigency, than I did create
28 the exigency.
29

30 Q: In your first interview you mentioned that you went into the house based on
31 the fact that he was on probation and that you had the common areas.
32

33 A: Mm-hm.
34

35 Q: Is that no longer the case?
36

37 A: Is that no longer the case?
38

39 Q: Do you not believe that that was the reason for your entry?
40

41 A: Well I still believe that was the reason why we went in. Like I said, 'cause I
42 believed that he lived there.
43

44 Q: But you're saying today that you believe that exigency that he was destroying
45 evidence you said?

1
2 A: Well I think it was both.
3
4 Q: Both what?
5
6 A: That we had exigency to enter and also that he was on pro- well because he's
7 on probation with the exigency and that I believed that he lived there.
8
9 Q: You contact [REDACTED], [REDACTED] at the front. He's asked to come
10 outside. And at that point do you have exigency to enter the house?
11
12 A: Say again?
13
14 Q: At that point when which [REDACTED] is detained in the back of the patrol
15 car, by which I believe you said it was Officer Magner...
16
17 A: Mm-hm.
18
19 Q: ...correct? You're talkin' to [REDACTED] at the front door of the house, of the
20 residence?
21
22 A: Yes. That - yes I think so.
23
24 Q: Do you now have exigency to enter that residence?
25
26 A: Well we don't know how many people are in the house so yes. So if he had
27 handed it off to somebody, whatever we think that he might've had that was
28 illegal.
29
30 Q: So based on what you think he had it was your exigency? Did you have any
31 knowledge that he had anything on him?
32
33 A: No. But I had reason to believe just based on his history and his reason for
34 getting away from police, which is uncommon for people to do unless they're
35 doing something illegal and that he's on probation. He's - probationers have a
36 high recidivi- recidivism rate.
37
38 Q: Okay. Did you note on the comments of the call that you entered and
39 searched unlocked, open door areas where probationer had access to?
40
41 A: Did I write that on the call?
42
43 Q: Yes.
44
45 A: That sounds familiar. Yes, I did write that.

1
2 Q: Okay. Did you call other officers to assist you on the call?
3
4 A: Yes.
5
6 Q: For what reason?
7
8 A: To help with us checking those areas I guess.
9
10 Q: What areas?
11
12 A: The areas that he had access to.
13
14 Q: The areas that who had access to?
15
16 A: [REDACTED] or [REDACTED]
17
18 Q: At what point?
19
20 A: What do you mean?
21
22 Q: Well...
23
24 A: At what point did he have access to?
25
26 Q: Yes.
27
28 A: When he ran into that house.
29
30 Q: Okay.
31
32 A: And like I said, I don't remember if it was me seeing him run to the back or if
33 that's what my partner told me. But where he went when he ran from us into
34 the back.
35
36 Q: So you...
37
38 A: And there were - and there were open - open doors that he could've gone in
39 any of them.
40
41 Q: But you don't recall whether you saw him do that or your partner told you?
42
43 A: That's correct.
44
45 Q: So, you called other officers to the scene to assist in what now?

1
2 A: To assist with a probation search of those areas that he ran.
3
4 Q: Were [REDACTED] and his female friend detained in the front room by Officer
5 Donnell while you and Officer Magner investigated this call?
6
7 A: Yes.
8
9 Q: Do you recall reviewing the SPD search manual in our last interview?
10
11 A: Yes.
12
13 Q: Per the SPD search manual, did you conduct a structure search of the
14 residence?
15
16 A: Yes.
17
18 Q: Did you or your partner enter and or search the common areas of the
19 residence?
20
21 A: Just the areas that we believed he went.
22
23 Q: So what areas were those?
24
25 A: There were three back bedrooms that were open and the bathroom.
26
27 Q: So are those the areas that you either entered and or searched in the house?
28
29 A: Yes.
30
31 Q: Did you enter any unlocked bedrooms within the residence?
32
33 A: Wait, did I enter...
34
35 Q: I'm sorry. Did you enter unlocked bedrooms within the residence?
36
37 A: Yes, just those ones that were in the back where he ran.
38
39 Q: Did you enter any locked bedrooms in the residence?
40
41 A: No.
42
43 Q: Do you recall there being locked bedrooms in the residence?
44
45 A: I didn't but you showed me a picture of it last time.

1
2 Q: Okay.
3
4 A: On the first interview...
5
6 Q: Uh-huh.
7
8 A: ...I didn't remember there being another bedroom back there. But you showed
9 me a picture of it and I remembered you showed me a picture of a fourth
10 bedroom and we did not enter that one.
11
12 Q: So do you recall why you didn't enter that room?
13
14 A: Just probably 'cause it was locked. I mean he could've locked the door but we
15 weren't gonna kick someone's door open. We - like I said, the last one just
16 wanted to go through, make sure he didn't run in the back and throw a gun or
17 throw drugs somewhere and that's pretty much how we handled it.
18
19 Q: Do you recall whether that bedroom that you're speaking of was locked?
20
21 A: I don't even - I still don't remember it when I'm thinking back on it. I just
22 remember you showing me a picture of it.
23
24 Q: So you don't...
25
26 A: I would assume it's locked. That's why we didn't go into it.
27
28 Q: But you don't know that for a fact?
29
30 A: No.
31
32 Q: Were any of the bedrooms you entered found to be [REDACTED] room?
33
34 A: Not that I would prove or remember, no.
35
36 Q: Well did you find any indicia belonging to [REDACTED] within the
37 residence?
38
39 A: I wasn't even looking for that, which I should've.
40
41 Q: So you didn't establish or look for any of his clothing or mail or anything with
42 his name on it?
43
44 A: No. Like I said, we were just lookin' for what we believed he was getting rid
45 of.

1
2 Q: Did [REDACTED] ever give you consent to search the residence?
3
4 A: No.
5
6 Q: Did you ever ask [REDACTED] for consent to search the residence?
7
8 A: I can only assume we did.
9
10 Q: On the ICC at 2215 hours we see an officer walk in front of the camera,
11 although we viewed it prior to the last interview.
12
13 A: Mm-hm.
14
15 Q: With gloves on. Who is that officer?
16
17 A: I remember it being Officer Magner.
18
19 Q: Why was he wearing gloves?
20
21 A: To look through those areas.
22
23 Q: Did you turn off your ICC mike while inside the residence?
24
25 A: Yes.
26
27 Q: Why?
28
29 A: Like I said in the last one I only - only turn it off to have a side conversation
30 so I can only assume it was to have a non-investigative related side
31 investigation and then I just guess I - I mean I forgot to turn it back on.
32
33 Q: So the reason why you didn't turn it back on after you turned it off was
34 because you forgot?
35
36 A: Yeah, 'cause otherwise I would've turned it back on. The - I had no motive to
37 turn it off, to hide anything. Because I mean I turn my ICC on at the beginning
38 of a stop to follow procedures and to show what we're doing. And I didn't - I
39 didn't turn it off for any reason but to most likely have a side conversation.
40
41 Q: Do you recall reviewing the general order 525.03 regarding ICC mics in our
42 first interview?
43
44 A: Yes.
45

1 Q: Are you aware that general order 525.03 states that when the ICC is activated
2 shall be recorded audio and video until the incident has reasonably concluded?
3
4 A: Yes.
5
6 Q: Were you in violation of this order when you turned off your mic?
7
8 A: I was.
9
10 Q: Did you find any illegal contraband in the residence?
11
12 A: No.
13
14 Q: Did was anyone in the house charged with a crime?
15
16 A: No.
17
18 Q: Did you prepare a written report documenting your activity on this call?
19
20 A: No.
21
22 Q: Why not?
23
24 A: I don't know.
25
26 Q: Do you recall reviewing portions of the search manual in our first interview?
27
28 A: What's that?
29
30 Q: Do you recall reviewing portions of the search manual in our first interview?
31
32 A: I do.
33
34 Q: Were you aware that not preparing a report document in a structured search of
35 a residence was in violation of the Sacramento Police Department Search
36 Manual?
37
38 A: I'm aware of that.
39
40 Q: If you were aware of that, why didn't you produce a report on this call?
41
42 A: I mean I can't - I can't tell you exactly why. Either I was stupid and I didn't
43 do it because I was tryin' to move onto the next thing and didn't get around to
44 it, or I forgot, or I don't know why I didn't. Either I got involved in somethin'

1 else later and thought, "Well that's- that was not a big deal," and move onto
2 this thing. I don't know why I didn't. And I wish I did it.

3
4 Q: [REDACTED] ?

5
6 A: [REDACTED].

7
8 Q: [REDACTED]

9
10
11 A: [REDACTED]

12
13 Q: [REDACTED]

14
15
16
17 A: [REDACTED]

18
19 Q: [REDACTED]

20
21 A: [REDACTED]

22
23 Q: [REDACTED]

24
25 A: [REDACTED]

26
27 Q: I read some excerpts [REDACTED].

28
29 A: Okay.

30
31 Q: And asked you if you recalled writing them.

32
33 A: Okay.

34
35 Q: Do you recall that now?

36
37 A: Yes.

38
39 Q1: Officer Fetch, other than our police academy have you had any other formal
40 criminal justice education or training?

41
42 A: Just in college I had classes.

43
44 Q1: Did you graduate from college?

45

1 A: I did.
2
3 Q1: With a degree?
4
5 A: Yes.
6
7 Q1: What type of degree do you have?
8
9 A: I have a Bachelor's degree in Criminal Justice.
10
11 Q1: Then as part of your criminal justice degree did you study search and seizure
12 laws and consensual contacts and so forth?
13
14 A: Yes.
15
16 Q1: Then so based on your experience as a police officer, based on the police
17 academy training, based on your criminal justice degree, what do you
18 understand the term exigency to mean as it applies to a police officer?
19
20 A: To prevent someone else from getting hurt, to keep evidence from being
21 destroyed. That's what I see as exigency.
22
23 Q1: Then specific to keeping evidence from being destroyed, do you believe that
24 an officer should have some level of belief that there is evidence that could be
25 destroyed?
26
27 A: Yes.
28
29 Q1: Then based on what you've described today in your last interview, your
30 contact with [REDACTED], do you feel or believe now that you had enough
31 belief that he was gonna destroy some type of evidence?
32
33 A: I did have belief.
34
35 Q1: What are you basing that on?
36
37 A: As - I - I've - as I explained is that based on his history, based on the way that
38 he took off from us, and out of the thousands of contacts I've made in my
39 career, when people do that it's consistent across the board, they're doing that
40 to get something away from you that they don't want you to find. And that
41 him running to the house is him trying to get rid of that whatever he has that's
42 illegal. And that's what I believed he was doing and that's what I tried to stop.
43
44 Q1: Did [REDACTED] give you his name?
45

1 A: From the beginning?
2
3 Q1: Yes.
4
5 A: No.
6
7 Q1: How did you identify him?
8
9 A: Well at the time I - I thought I found him by running the address, but on the
10 last interview someone, I don't know if I heard on audio or what, but someone
11 gave me his name.
12
13 Q1: And...
14
15 A: I don't know if he gave me his name or my partner gave me his name. I don't
16 really remember how I got his name.
17
18 Q1: Okay.
19
20 A: But.
21
22 Q1: So what I'm asking you is, is this individual that you attempted consensual
23 contact with and then he runs into the house as you described...
24
25 A: Mm-hm.
26
27 Q1: ...how did you know definitively that was [REDACTED] ?
28
29 A: 'Cause after I ran him there was a picture on the computer.
30
31 Q1: Did you recognize him from the picture?
32
33 A: Yes.
34
35 Q1: About how long did that process take from the time that you attempted a
36 consensual contact to the time that you saw the picture and knew that it was
37 the same guy?
38
39 A: Maybe couple minutes.
40
41 Q1: Was he on searchable probation?
42
43 A: Yes.
44

1 Q1: When you went up to the door to make contact, did he come out
2 cooperatively?
3
4 A: Yes.
5
6 Q1: Did Mr. [REDACTED] his father, tell you and or Officer Magner that [REDACTED] did not
7 live there?
8
9 A: Yes.
10
11 Q1: Then on these comments on the call, do you remember specifically entering
12 the comments?
13
14 A: No.
15
16 Q1: Okay. But are you familiar with the comments in the sense that you and or
17 Officer Magner entered these when clearing the call?
18
19 A: Yes.
20
21 Q1: Okay. Do you believe that working partners, that you're equally responsible
22 for these comments as he is?
23
24 A: Yes.
25
26 Q1: Okay. So the first part of the - one of the comments that was written on the
27 call says, "[REDACTED]" and then in parentheses, "Father, played in- interference at
28 the door trying to block officer view of [REDACTED] as [REDACTED] ran to back of house
29 out of sight." What are you basing your statement that the father played
30 interference? What are you basing that on?
31
32 A: I don't - I don't even remember. Whenever I - whenever that was written at
33 the time it was based on that fact, that he was interference at the door.
34
35 Q1: So what does that mean? I mean interference at the door?
36
37 A: Well I said in there right that he was blocking view so.
38
39 Q1: So he's at the door trying to block officer's view. Would you agree that this
40 statement essentially infers that the father was consciously trying to prevent
41 you and your partner from seeing into his house?
42
43 A: Yes.
44
45 Q1: Is that assumption on your part or do you know that for a fact?

1
2 A: Well that - the way I remember is - is a fact is when I - whenever that was
3 written, it's written as - as the way it's interpreted at the time.
4
5 Q1: Okay. So it's based on your interpretation correct?
6
7 A: Interpretation, yes.
8
9 Q1: Okay. And then I think Sergeant Vassallo was asking you this earlier but in
10 your previous interview did you indicate that one of the reasons that you went
11 into search was because of the exigency that you described?
12
13 A: Yes.
14
15 Q1: In reference to the report or not completing a report, and you said just a few
16 minutes ago that you don't know why a report was completed - not completed.
17 Is that correct?
18
19 A: Mm-hm.
20
21 Q1: Do you agree now the report should've been completed?
22
23 A: Absolutely.
24
25 Q1: Did you and Officer Magner, at the conclusion of this call or some time
26 thereafter have some type of conversation or agreement that you were not
27 gonna complete a report?
28
29 A: No. I don't know why we would say that.
30
31 Q1: Okay. And then in your previous interview when you were going through
32 describing the search that was conducted you used the term of non-intrusive
33 kind of search. Do you remember that?
34
35 A: Yes.
36
37 Q1: What do you mean by that?
38
39 A: I mean we didn't get too involved in our search. It was as I stated mostly plain
40 view, walking around the room, seeing that there's something that stands out.
41 Maybe, you know, pulling something sp- aside to look behind it, looking
42 under a bed, stuff like that. Not like - not intrusive as in digging everything
43 out and piling it up and going through everything.
44

1 Q1: Based on your experience conducting probation searches prior to this contact
2 that we're talking about, what's your general method of conducting a
3 probation search?
4

5 A: Well, since the - the last case? Is that what you're asking?
6

7 Q1: No I'm saying since this incident - or prior to this incident.
8

9 A: Mm-hm.
10

11 Q1: Did you have a standard way of conducting probation searches, I.E. if an
12 individual's on probation do you generally go through their drawers, check
13 their closet, check under the bed, check the little boxes? Do you go through
14 and search the areas where contraband and or weapons or illegal items could
15 be located?
16

17 A: I used to.
18

19 Q1: Okay. And at some point did that change?
20

21 A: Yes.
22

23 Q1: Why?
24

25 A: Because to be honest I'm scared with searches [REDACTED]. I'm very -
26 I'm afraid to get involved with a search.
27

28 Q1: At some point during this incident that we're talkin' about did you start to be
29 concerned that the search or the work going on between you and Officer
30 Magner could be problematic?
31

32 A: No 'cause I thought I was in the right.
33

34 Q1: So when you talk about a plain view type of search, what do you mean by
35 that?
36

37 A: Well the entire search wasn't plain view. It was just mostly plain view,
38 meaning what we can see right in front of us without touching anything. But
39 then, you know, we - there was like a shelf I remember that was facin' a wall.
40 You know? I had pulled that out and made sure there was nothing in the
41 shelves. And like we opened up a couple drawers, so that wasn't plain view
42 but that - we weren't pulling things out and piling them up is what I meant by
43 not in - non-intrusive. It was more - mostly plain view, what's in this drawer,
44 what's in this bathroom area, or what - I don't know.
45

1 Q1: Do you believe...
2
3 A: And - and we looked in a couple boxes too I remember, from one of the
4 rooms.
5
6 Q1: Do you believe that at the time that you were involved in this incident that
7 we're talkin' about, do you believe at that time that you had every legal
8 authority to conduct an intrusive probation search?
9
10 A: I did believe that otherwise I wouldn't have done it.
11
12 Q: Why didn't you?
13
14 A: I - most of the time I even try to stay away from searching houses period and
15 if I - like I said, I thought he just ran in there, tossed something, that I'd find it
16 easily and I didn't. And so then I left. [REDACTED] I - I just - I try to
17 - I'm afraid of searching houses to be honest.
18
19 Q: But you called other officers to the scene right?
20
21 A: Correct.
22
23 Q: To assist you and your partner?
24
25 A: Correct.
26
27 Q: With what?
28
29 A: Like I said, with - with a search, yes.
30
31 Q: So like Sergeant Husted just said, you had - at - that night you had every
32 thought in your mind...
33
34 A: Mm-hm.
35
36 Q: ...you believed you had the ability to do an intrusive structure search of that
37 residence.
38
39 A: Correct.
40
41 Q: So why didn't you?
42
43 A: If everyone in the house said, "Go ahead, search my house, tear it apart," I
44 probably still would've searched the same way because I am afraid to get
45 involved in a search because all it takes is for someone to say, "You made my

1 house messy," [REDACTED], well why wouldn't we believe that?
2 There's a pattern here.
3
4 Q1: Matthew let me ask you this, based on what you're describing would it be fair
5 to characterize what you're saying as that [REDACTED]
6 [REDACTED] you're reluctant to get engaged
7 with search type incidents?
8
9 A: Yes.
10
11 Q1: Okay. And with that being said, that reluctance [REDACTED]
12 [REDACTED], do you agree that it would be
13 abundantly prudent to document in detail searches that you're involved with?
14
15 A: Yes.
16
17 Q1: Do you see where the fact that you didn't document this appropriately per
18 policy, where your actions and Officer Magner's actions are being called into
19 question? Do you see why that's happening?
20
21 A: I absolutely do.
22
23 Q1: Okay. And in reference to conducting probation searches, you have a degree
24 in criminal justice, you went to the police academy, you've been a police
25 officer, [REDACTED], based on all of that
26 experience and knowledge what types of things are you required to do to
27 verify a person's residency before you can conduct a probation search?
28
29 A: You're asking me how am I supposed to verify?
30
31 Q1: Correct.
32
33 A: If they say they live there, if there's mail there, their ID shows them living
34 there, etcetera, etcetera.
35
36 Q1: Okay. So we covered some of those already.
37
38 A: Mm-hm.
39
40 Q1: You said that you did not search for indicia, ID, any mail in the house that
41 would show [REDACTED] living there correct?
42
43 A: Correct.
44
45 Q1: At any point in time did [REDACTED] tell you that he lived there?

1
2 A: No.
3
4 Q1: Did [REDACTED] tell you that he lived elsewhere?
5
6 A: I don't remember.
7
8 Q1: Do you remember ever asking him for his address?
9
10 A: No.
11
12 Q1: Would potential verification include asking other residents as to who resides
13 there?
14
15 A: Yes.
16
17 Q1: Did you do that?
18
19 A: His dad said he didn't live there.
20
21 Q1: So then the dad was asked correct? You said that earlier?
22
23 A: Well I don't - I don't know if he was asked or he just stated it.
24
25 Q1: Okay. All right. Do you remember definitively confirming via your computer
26 checks that that particular address that you're at was [REDACTED]
27 residence?
28
29 A: I don't remember definitively but like I said in my head there was some
30 reason why I was thinking that he lived there. And I don't know if - and I
31 believe that I found his name by running - running up the address. But it's
32 apparently not true 'cause his name doesn't come back to that address.
33
34 Q1: Okay. You mentioned somethin' about the radio tapes of the telling you that
35 the individuals name may be [REDACTED] correct?
36
37 A: What?
38
39 Q1: Said somethin' about in the previous interview...
40
41 A: Yeah that - based - 'cause based on the last interview I learned that, you
42 know, he doesn't - he doesn't live there, the history of that. So I don't know if
43 there was like attached reports with his name that I s- I saw and I just assumed
44 and went ahead and had tunnel vision. Or I don't know.
45

1 Q1: Have you ever heard the phrase, "A house is a man's castle?"
2
3 A: I have.
4
5 Q1: And what does that mean to you?
6
7 A: It means that, I don't know how to describe it. I understand it though.
8
9 Q1: All right. Do you understand that in general it means that someone's
10 residence, a man's house if you will, is their castle, it's their place to be safe
11 and secure without law enforcement coming in whenever they feel like to
12 search?
13
14 A: That's true.
15
16 Q1: Okay. So with that being said do you agree that it is completely incumbent
17 upon you as a police officer to do everything you can to make sure that you're
18 legally entering a house before doing so?
19
20 A: That is true, I should obviously make sure I have the legal right to enter a
21 house, yes.
22
23 Q1: Right. Do you agree that it's okay to walk away when you don't have a legal
24 right to enter?
25
26 A: Yes.
27
28 Q1: Did you walk away in this incident?
29
30 A: No.
31
32 Q1: Looking back on this incident now, thinking of all that you've learned in
33 reference to the attempted consensual contact, the knowledge that you just
34 shared that [REDACTED] did not in fact live there, in fact the father is telling
35 you that time that [REDACTED] does not live there, do you agree now that
36 you and Officer Magner should've walked away and tried to contact him some
37 other day?
38
39 A: Can you say that one more time?
40
41 Q1: Absolutely. So based on everything that you've learned in regards to this
42 particular incident, you've been interviewed before about it in April right?
43 And you've learned that [REDACTED] does not have a address that comes
44 back to that location correct?
45

1 A: Correct.
2
3 Q1: You've learned that the dad, and you remember that the dad was telling you
4 that day that his son, [REDACTED], did not reside there correct?
5
6 A: Correct.
7
8 Q1: Based on all of that knowledge, do you agree today that in this particular case
9 attempted consensual contact, [REDACTED] goes in the house, that you and Officer
10 Magner at that point are definitely, after not being able to verify that you can
11 get into that house, really should've just walked away?
12
13 A: Well even still I felt like I had exigency.
14
15 Q: So there's no doubt that you're saying that in the last interview and in this
16 interview you and Officer Magner searched this residence correct?
17
18 A: That's correct.
19
20 Q: You say that - you gave me a definition earlier and a lawful authority to enter
21 based on exigency, correct?
22
23 A: Correct.
24
25 Q: When you went to the house when [REDACTED] goes into the house and you run
26 and you go to the car and you run up [REDACTED] and find out he's on probation,
27 and you go to the house and you pull [REDACTED] out of that house, and you put
28 him in the car, do you believe that you still have exigency at that point?
29
30 A: Well obviously I still need to make sure there's no one else in the house
31 that...
32
33 Q: Okay.
34
35 A: ...he could've given it to that can still destroy it.
36
37 Q: Okay. So you go into the house.
38
39 A: Mm-hm.
40
41 Q: And who do you contact in there?
42
43 A: Some other woman.
44
45 Q: And some other woman?

1
2 A: Yeah there was another woman in there.
3
4 Q: Ms. [REDACTED] correct?
5
6 A: Yes.
7 -
8 Q: Was there anybody else found in the house?
9
10 A: No, I don't think so.
11
12 Q: So who was in the house?
13
14 A: The father and [REDACTED]
15
16 Q: And [REDACTED] So now you have Officer Donnell come out and he watches [REDACTED]
17 and Mr. [REDACTED] Mr. [REDACTED], in the front of the house. Do you still have
18 exigency?
19
20 A: No.
21
22 Q: Then what legal authority did you have to search the house at that point?
23
24 A: The probation. But if he doesn't live there than I don't.
25
26 Q: You thought you had probation status for who?
27
28 A: For [REDACTED] - [REDACTED]
29
30 Q: So based on what factors did you think you had probation status for [REDACTED]
31
32 A: I - I'm sorry. I just feel like I'm going in circles...
33
34 Q: Mm-hm.
35
36 A: ...with the same things and I keep answering the same way. But...
37
38 Q: What I'm trying to establish and we're going is that you exigency is an answer
39 that you gave.
40
41 A: Yes.
42
43 Q: Exigency at some point is diminished correct?
44
45 A: That is correct.

1
2 Q: And at that point there is a search conducted of this residence.
3
4 A: Correct.
5
6 Q: And so I'm trying to define and figure out what that search was based off.
7
8 A: Well also probation 'cause like I said at the time I was thinkin' that he lived
9 there and it was a year ago, I don't remember why I thought that, and that's
10 exactly why I wish I'd written a report. That I could write down why I
11 thought that or what I saw or...
12
13 Q: Did you share that information with your partner, Officer Magner?
14
15 A: What?
16
17 Q: That you believed he lived there?
18
19 A: No, I just said he's on probation.
20
21 Q: Did you share that information that you believed he lived there at any time
22 during the call?
23
24 A: I don't know.
25
26 Q: These factors that we talk about, about establishing and verifying residency
27 that you did not do, are these things that you would normally do when you
28 conduct a structure search or probation search?
29
30 A: Say again.
31
32 Q: These things that we've talked about already, I think we've talked about the -
33 in both interviews we talked about looking for indicia looking for a male and
34 ID like you just said couple minutes ago, and verifying a person's residence
35 based on computer checks and all those good things...
36
37 A: Mm-hm.
38
39 Q: ...are those things that you normally would do prior to conducting a probation
40 search?
41
42 A: Yes.
43
44 Q: So why didn't you do them on this night?
45

1 A: Well like I said, my memory, like I said, it's - it happened a year ago. I don't
2 know if I saw somethin' in that house. But I can't tell you why exactly I
3 believed there, whether maybe it was just 'cause I assumed he lived there and
4 then I just went with that and I had tunnel vision 'cause I'm like he just threw
5 a gun in there, or I had a actual factual reason of believing that he lived there.
6 I can't remember. And I don't know.
7
8 Q: So when you state - but earlier - so when you say earlier that you entered and
9 searched the house based on exigency we just - did we just describe that the
10 exigency was diminished prior to you searching?
11
12 A: Yes.
13
14 Q: So if I ask you why you searched the house, would your answer still be
15 exigency?
16
17 A: No.
18
19 Q: So what would your answer be?
20
21 A: Probation.
22
23 Q: On [REDACTED] ?
24
25 A: Yes.
26
27 Q: But you cannot recall how you verified that he lived at that residence?
28
29 A: That's correct.
30
31 Q1: I just have a couple last questions, just in reference to the call that you cleared.
32 This is Call Number 2012-237257. Do you have that with you? Okay. And on
33 this call is it correct that you and Officer Magner are TAC51?
34
35 A: Yes.
36
37 Q1: Okay. And if you could, looking at the call, the front page of the call there and
38 we'll start at the top where it says, "SR4." Do you see that?
39
40 A: Yes.
41
42 Q1: Is it your understanding that that is information that the person sitting at SR4
43 entered into the call?
44
45 A: Yes.

1
2 Q1: And that was at 2141 hours and it says, "TAC51 just had a male black - or
3 MBA run into the house. No warrant at this time. Asking unit to run up the
4 house." Would it be fair to say that that's information that you and or Officer
5 Magner broadcast and the dispatcher entered on your behalf?
6
7 A: Most likely, yes.
8
9 Q1: Okay. So then the next one down says, "At TAC51," in parenthesis, and this
10 is at 2157 hours so this is 16 minutes later. Now is this section a comment or
11 entry that you or Officer Magner entered?
12
13 A: What is it - I don't know why this is, "At TAC51."
14
15 Q1: Well my belief is if you look down here where you entered comments on
16 the...
17
18 A: Guess it's the same thing.
19
20 Q1: ...it's the same thing. So it would cause me to believe that the unit that
21 creating that information is the one entering it. Does that make sense to you?
22
23 A: Yeah.
24
25 Q1: Do you see where it says, "Resident," and it has a DL number, says, "Name,
26 [REDACTED]?"
27
28 A: Mm-hm.
29
30 Q1: Do you remember entering that information on the call?
31
32 A: No.
33
34 Q1: All right. Do you see down below, the next one below where it says at 2159
35 hours it says, "Staying as a guest," and then it has the DL number and date of
36 birth for [REDACTED]?
37
38 A: Yeah I see that right here.
39
40 Q1: Okay. And then if you look down the rest of this page where it has comments
41 that you or Officer Magner entered, you see anywhere in there that it indicates
42 that [REDACTED] is a resident at that house?
43
44 A: No. But I - I know I didn't enter this 'cause I never put in driver's license
45 numbers with people's names.

1
2 Q1: Do you...
3
4 A: In my remarks.
5
6 Q1: ...have any knowledge as to why it indicates that [REDACTED] is a resident?
7
8 A: Well it was obvious that he's a resident there. I don't know who put that in
9 there though.
10
11 Q1: All right. And so was it obvious that [REDACTED] was a resident?
12
13 A: It was in our mind at the time, yes.
14
15 Q1: All right. And you've already said that you don't know why a report wasn't
16 prepared. Do you know why the extensive comments were entered on this
17 call?
18
19 A: What do you mean?
20
21 Q1: Would you agree that in reference to this particular subject stop there's
22 relatively extensive comments entered in reference to what occurred?
23
24 A: I wouldn't - no I wouldn't say that's extensive.
25
26 Q1: Okay. How would you characterize it then?
27
28 A: As adding comments to a call.
29
30 Q1: And this is a standard amount of comments for your calls?
31
32 A: For someone who runs and possibly destroys or hides evidence, yes.
33
34 Q1: Okay. So would that...
35
36 A: And it would be for whoever else runs up the address so that way they have
37 information on these people and what this person did and that they know who
38 they're dealing with.
39
40 Q1: Okay. Do you believe that at the time when these comments were entered that
41 it was an effort to have information generated in replace of preparing a report?
42
43 A: No.
44
45 Q1: Okay.

1
2 Q: Would it surprise you if I told you that Officer Magner in his interviews stated
3 something to the effect that it was established very early on in the call that that
4 [REDACTED] Teekay Way was not the address of record for [REDACTED] ?
5
6 A: Yeah I guess so.
7
8 Q: That would - that...
9
10 A: Yeah.
11
12 Q: Yeah what?
13
14 A: That would surprise me.
15
16 Q: That would surprise you that he would say that?
17
18 A: Yes.
19
20 Q: Do you have any reason why if I told you he did say that would you have any
21 rationale or reason why he might?
22
23 A: No.
24
25 Q: All right.
26
27 A: But I could just tell you in my head I was thinkin' that he did, and I thought
28 his dad was lying to us. And I'm not gonna say that there weren't mistakes
29 made on - obviously there were mistakes made throughout this whole thing.
30 But I wish I could've done it better and cleaned it up and - or yeah, I don't
31 know.
32
33 Q1: Let me ask you this, why did you think the dad was lying to you?
34
35 A: 'Cause it's, you know, same reason why you'd know someone was lying to
36 you. It's like almost every probation house that you go to the probationer
37 sleeps on the couch but we all know that he sleeps in the back bedroom. But
38 just you know that you get lied to all day, every day.
39
40 Q: So you believed you were being lied to by the father?
41
42 A: Yes.
43
44 Q: Based on?
45

1 A: Well and that he, you know, his son runs from the police into the house and I
2 just, you know, he's got a drug history, son's on probation for drugs, why
3 would I believe him?
4
5 Q1: Let me ask you this, do you believe that it's appropriate to give a resident
6 such as [REDACTED] benefit of the doubt that he's not lying until you can
7 prove otherwise?
8
9 A: Well I mean I guess you could say that about anybody.
10
11 Q1: Sure.
12
13 A: So.
14
15 Q1: So then my next question, do you believe anybody deserves the benefit of the
16 doubt until you can prove otherwise?
17
18 A: I suppose.
19
20 Q: Anything Aaron?
21
22 A1: Yeah I got a couple, if I can just a little bit. You guys were assigned TAC51
23 correct?
24
25 A: Correct.
26
27 A1: And so I know from the last interview we talked about TAC units and what is
28 the mission of a TAC unit?
29
30 A: To bring down part one crimes and to really just reduce violent crimes, get
31 guns off the street, and get drugs and drug dealers off the street and make the
32 city safer place to live in.
33
34 A1: Gotcha. As a TAC unit I know you talked about your prior case and having a
35 TAC unit mentality in mind. Was it kind of like a tug and pull for you?
36
37 A: Yes.
38
39 A1: You know? In that you kind of want to make sure you're okay from your last
40 case and want to make sure you produce some numbers as a TAC unit?
41
42 A: Yes.
43
44 A1: Then just another thing too, and not just related to this case but any other case,
45 if you're stopped somebody or you're on a car stop or you're at a house and

1 there's more people than you and your partner you typically ask for more
2 units.
3
4 A: Yes.
5
6 A1: Because you want to do what?
7
8 A: Be safe.
9
10 A1: Be safe because you want to outnumber the people right that are your contact?
11
12 A: Yes.
13
14 A1: So in this case maybe you called other officers to assist with detaining people
15 that are in the house to keep a watch on 'em like you said Officer Donnell did
16 so they weren't able to cause you guys any harm while you're goin' through
17 the house.
18
19 A: Yes.
20
21 A1: I think just one other one that I know we've talked about a little bit, when you
22 go to stop 'em and you guys were doing your consensual contact and you've
23 mentioned this about 1000 times like anybody here, and then he moves away
24 from you and in a fashion that you said was moving at quick speed, about
25 running or in between running and walking, at that time your interpretation of
26 the situation is that he's getting away from you for matters that you think he
27 might...
28
29 A: Yes and there wasn't a doubt in my mind.
30
31 A1: And so when you go and you do what you need to do I think I remember the
32 call, watching the video, you ask dispatch to run the house for you and they
33 come back with [REDACTED] name there and then also [REDACTED]
34 name connected to the house as somebody goin' there part-time, was it
35 malicious in your intent just to tell Magner he's on probation just go from
36 there?
37
38 A: No.
39
40 A1: [REDACTED], I think there was some incidences maybe there
41 was some malicious intent in some of the things, you guys didn't have any of
42 that kind of goal in mind for this case.
43

1 A: No and my heart is in the right place and I'm trying to do the right things for
2 the right reasons and I'm just trying to do the best I can do and so mistakes
3 have obviously been made and I am sorry for any problems.
4

5 Q1: Matthew just to follow-up on the last set of questions, you mention in
6 reference to the mission of the TAC unit...
7

8 A: Mm-hm.
9

10 Q1: ...would you agree that the mission of the TAC unit does not authorize you or
11 anybody else workin' TAC to circumvent the laws and procedures?
12

13 A: Yes, that's true.
14

15 Q: Do you have anything else other than what you've already answered to before
16 we close?
17

18 A: No just want to reiterate that I had no bad intentions and I didn't think that I
19 was doing anything wrong and really wish I wrote a report and...
20

21 Q: When you say you don't think you did anything wrong, you're saying that in
22 regards to the entry and the search of the residence right?
23

24 A: It's meaning that everything I did, I never was thinkin' I was doin' anything
25 wrong and I just wasn't in my head.
26

27 Q: Is there anything else relating to this matter that we have not covered that
28 needs to be added, clarified or changed I am ordering you to provide that
29 information now.
30

31 A: No, nothing to add.
32

33 Q: After you leave this interview should you remember anything that is different
34 from or in addition to the information that you've given today I'm ordering
35 you to contact me immediately. I'm also ordering you not to discuss this
36 matter with any other department employee. Do you understand these orders?
37

38 A: I do.
39

40 Q: All right. It's 1605. That concludes this interview.
41
42

43 This transcript has been reviewed with the audio recording submitted and it is an accurate
44 transcription.

45 Signed _____

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INTERVIEW WITH OFC. JONATHAN MAGNER
Q=Sgt. Adam Vassallo
Q1=Ofc. Jennifer Nichols
A=Ofc. Jonathan Magner

Q: The date is April 24th, 2013. The time is 1625 hours. Present in the Internal Affairs Office is Officer Jonathan Magner. He is represented by Detective Aaron Wallace. Officer Jennifer Nichols, and myself, Sergeant Adam Vassallo are also present. The purpose of this investigation is to conduct an interview of Jonathan Magner, who is an employee with the Sacramento Police Department in the capacity of police officer. This is an administrative investigation on the charges against Officer Magner and Officer Fetch for improper search. Do you understand that this is an administrative investigation only?

A: Yes.

Q: The results of this investigation could lead to disciplinary action up to and including termination of the employees allegedly responsible. Do you understand this?

A: Yes.

Q: Based upon the authority vested in me by the Chief of Police, I'm ordering you to cooperate with this investigation. This means that you must be truthful in all of your statements and answer all questions fully and honest. Also you are ordered to provide at this time all information you may know regarding this incident. Failure to answer a question or failure to answer it truthfully or fully will be considered a lack of cooperation that could subject you to disciplinary action up to and including termination for insubordination. Do you understand this?

A: Yes.

Q: Do you understand that this is an administrative investigation only?

A: Yes.

46 Q: Do you understand the allegations?
47
48 A: Yes.
49
50 Q: Do you understand that I'm ordering you to answer my questions and that if
51 you don't answer them truthfully and fully it could result in disciplinary action
52 up to and including termination?
53
54 A: Yes, sir.
55
56 Q: A few background questions first, Jon. How long have you worked for the
57 Sacramento Police Department?
58
59 A: Seven years.
60
61 Q: And did you attend our academy?
62
63 A: Yes.
64
65 Q: And what is your current assignment including shift, days off, and area?
66
67 A: I am currently assigned to Sector 1 Swings with Saturday, Sunday, Mondays
68 off.
69
70 Q: And who is your current supervisor?
71
72 A: Sergeant Kaneyuki.
73
74 Q: And who was your supervisor in August of last year?
75
76 A: Primarily Sergeant Ellis but that night - the night in question is Sergeant
77 Moore, Stephen Moore.
78
79 Q: And what other assignments have you had at the Sacramento Police
80 Department?
81
82 A: Official assignments? No other official assignments.
83
84 Q: Have you done some like TDY's?
85
86 A: No, sir.
87
88 Q: No, okay. Do you have any other law enforcement experience outside of the
89 Sacramento Police Department?
90

91 A: No.

92

93 Q: And have you had a chance to review the video, the call, and the document I
94 provided?

95

96 A: Yes.

97

98 Q: Okay. And do you have an independent recollection of the 927 call that took
99 place on August 27 of 2012, at approximately 2140 hours?

100

101 A: Yes.

102

103 Q: And that night on August 27th, what was your identifier that night?

104

105 A: Tac51.

106

107 Q: And what does Tac mean?

108

109 A: Tac Unit that night was tasked with just bringing down Part 1 crimes, catching
110 bad guys, gangsters, probationers, doing enforcement on those people --
111 people that may be shooting or robbing people, selling drugs.

112

113 Q: So it's a proactive enforcement unit?

114

115 A: Yes. We don't - we don't respond to calls for service per say unless it's like a
116 hot call.

117

118 Q: Mm-hm.

119

120 A: And it is proactive in nature.

121

122 Q: And in this call that is in question at [REDACTED] Teekay Way, can you explain your
123 involvement in that call in detail from beginning to end?

124

125 A: Yeah. So we're Tac 51. We're going to - I believe we were in 5A Teekay's or
126 5AB. We know that there's been some guns located in the area often subjects
127 standing around and vehicles as well. So that's why we're rolling through the
128 area driving. I don't remem- I don't recall if I'm driving or sitting in the
129 passenger seat, but when we turn the corner on Teekay we see a subject just
130 standing there in the dark just - just standing there, which is weird and
131 peculiar for the area because we don't see a lot of foot traffic (unintelligible) at
132 that time. So we decide to initiate contact - consensual contact at that point,
133 and as you see the conversation went on the ICC. It was consensual. We
134 didn't have hit our overhead lights or siren. We order the man to stop. We
135 didn't blocked his path of travel. He fled into a house. I went up to the house,

136 I believe with Officer Fetch, at first, or I don't know if he stayed in the car to
137 run back- records checks, but I start having a conversation with Dad who's
138 playing interference by a locked screen door. I couldn't really see behind the
139 Dad very well. I could see the Dad, but I could hear [REDACTED] voice down the
140 hall in the back of the house saying something about the cops are here,
141 something like that. So I knew he had retreated to the - the far end of the
142 house at that point. My train of thought was - my thinking was that he ran
143 'cause he was trying to conceal something. He had something illegal on him,
144 or a warrant because that's why everyone runs from me, a - a police officer,
145 and I was suspicious at the time that there was a crime being committed and,
146 but it was still consensual at that time until we got confirmation that who he
147 was, I think through Dispatch or through a records check, I'm not sure exactly
148 how we found out who he was because Matt came out and said, "Hey, he's on
149 probation." He confirmed it somehow. Looking at the video I see that radio
150 or Dispatch said something about the guy's been contacted out there before or
151 something like that, and I - I didn't recall that 'cause I was trying to have a
152 conversation with Dad whenever he was probably done or something, but I
153 asked Dad to let us in, did that, detain probationer. Probationer went in the
154 car. One of us stayed in the house, and ask Dad questions and stuff, trying to
155 establish whether or not the probationer lived there, whether or not, you know,
156 we had standing in the house - the entire house, who the dad was, who his
157 female friend was, if there were more subjects in the back 'cause I was, you
158 know I thought it was strange that [REDACTED] was- seem to be alerting the entire
159 house as if there was lots of people there, that the cops were here, and so on.
160 So anyways... where was I? So at that point we - we asked for more units.
161 You know - you know, we let Dispatch know what we were doing. We
162 identified people in the house. I knew that we had standing in the areas - the
163 common areas that he could've retreated to and had access to because his
164 probation status. More units showed up. I talk with Dad. Officer Fetch
165 moved through the house. I didn't see him searching the house, but I assume
166 that's what he's doing at the - when I was just talking to Dad, and when I - I
167 came back to the car to kind of talk to the suspect and try to see if I can get
168 him to crack, or I mean not crack, but you know what I mean, like admit that
169 he lived there. It was weird the time of day he's there. He seemed to have no
170 legitimate reason for being there, and kind of try to establish residency for this
171 guy if he's going to be hanging out there wanting to update his probation
172 address. In the end we were unsuccessful 'cause Dad, through all the
173 interrogation we had for him and - and the lady there, and the son they - they
174 seem to have their stories straight that he didn't live there and, but anyways,
175 we still had the areas in the house the probationer had access to so we froze
176 the scene 'til we could see if we get us a canine to help us out. So at one point
177 Officer Fetch comes to me and we have a little Pow-wow of - of, you know,
178 make sure we're on the same page with, you know, what should be searched,
179 what shouldn't be searched, and if we should pursue this anymore, as a tac
180 unit we're pressured to get an arrest that night. I don't know, I don't recall if

181 we already had an arrest that night, or what, but we were looking for another
182 one. And anyways, so we - we talked about, you know, even if we find
183 something, is it something we can pin on the probationer or anyone in the
184 house it's going to be hard to identify a suspect if we find drugs or a gun. But
185 anyways, we really wanted a dog, and I think we were working on that. So at
186 one point, Officer Fetch goes, "You know I'm done looking through the house.
187 Do you want to go check it out to make sure?" So I remember going through
188 a couple of rooms, or the hallway and one room, maybe just one room. I don't
189 recall. I didn't go through any unlocked doors. I mean I went to the
190 bathroom, just looked around. I don't remember manipulating anything, just
191 looking at the clutter, you know, mess in the house and like, this is just too big
192 of a job. I was - didn't seem really worth the effort, to be honest with you for
193 the payoff. So again, I asked Matt, "You want to Code 4 this?" He's like,
194 "Yeah," and we let the guy out - out of the car, wrote copious notes
195 documenting everything that happen, and - on the call and then took off. At
196 one point, you know, other officers respond on scene. We updated them on
197 what our plan was including our sergeant, I think it's Stephen Moore, and
198 yeah, I think I - maybe I hit the - the main points.
199

200 Q: All right. We will clarify some of those points with some questions. After
201 watching the video you said just now that you don't - after watching the video
202 you don't recall whether you were driving or not?
203

204 A: That's correct. I don't recall.
205

206 Q: Wasn't it pretty obvious on the ICC that you were driving? I mean when you
207 roll up to him and start talking to the dude from the driver's side?
208

209 A: Oh yeah, yeah, you're right. I was driving.
210

211 Q: Okay. So who - how did the contact of [REDACTED] [REDACTED] how did it start?
212

213 A: The way ICC show.
214

215 Q: What's that?
216

217 A: Hello. Introduce myself, tell 'em why we were doing - what we're doing -
218 what we're doing out there.
219

220 Q: You said prior that it was a consensual contact, right?
221

222 A: Yes, sir.
223

224 Q: Did you have any knowledge of [REDACTED] [REDACTED] prior to that stop?
225

226 A: No.
227
228 Q: Did you have any knowledge of the address, [REDACTED] Teekay Way prior to that
229 stop?
230
231 A: I didn't, no.
232
233 Q: So it was purely consensual. You were just out there, saw a suspicious
234 subject.
235
236 A: Yes.
237
238 Q: Made consensual contact.
239
240 A: Yes.
241
242 Q: Okay. Whose idea was it to talk with [REDACTED]
243
244 A: I don't know.
245
246 Q: Just you guys said, "Let's stop this dude." You don't know who said it?
247
248 A: You know if I'm driving, you know, I mean if officer see - or my partner sees
249 me slowing down, he's worked with me long enough to know that I don't slow
250 down for no reason. So he probably guessed, hey, he wants to talk to him. I
251 don't know if I said anything to him.
252
253 Q: Mm-hm.
254
255 A: Or, you know.
256
257 Q: Okay.
258
259 A: We just...
260
261 Q: When you contacted him did he give you his name?
262
263 A: I don't think so. I remember - I remember getting his actual name from Dad,
264 and then almost simultaneously seem like Fetch was running out saying, "He's
265 on probation."
266
267 Q: So when he turned to go to the house was he running?
268
269 A: He was not in a full sprint. He was looking back to see to make sure there's a
270 good distance between him and us.

271
272 Q: Mm-hm.
273
274 A: And he was jogging/power walking. He kind of went back and forth it seem
275 like to me, just kind of like make sure he kept a good distance. When he saw
276 me jump out of the car he was kind of like horse out - out of - out of the gates
277 and then - and then he saw that I wasn't really high-stepping it 'cause I knew I
278 wasn't going to beat him to the door.
279
280 Q: Mm-hm.
281
282 A: He's like, oh you know, it's all casual, just walking away, you know, so.
283
284 Q: So as we see from the ICC, he starts to walk away. The car looks like it goes
285 forward a little bit and then you said, "Hey, can I get your name?" And then
286 the door pops and that's when you get out and he continues towards the
287 house?
288
289 A: Yes, sir.
290
291 Q: Did you have a reason to go after him?
292
293 A: Did I have a reason? I had a - not a legal reason to detain him at the time and
294 that's why he wasn't detained, but I had my personal reasons why I wanted to
295 go after him, yes.
296
297 Q: What if he'd of stopped?
298
299 A: Then I would've had a conversation.
300
301 Q: And if he'd of said, "I don't want to talk to you. I'm going to go inside here."
302 Would you...
303
304 A: Okay.
305
306 Q: Okay. So it would've been all right up until the point that he decided he didn't
307 want to give you his name?
308
309 A: What would've been all right?
310
311 Q: The stop. Like he would've been okay. So if he'd of stopped and you'd of had
312 a con- continue to have a conversation with him, and he didn't want to give
313 you his name and he kept - started to walk towards the house again...you'd of
314 been okay with that?
315

316 A: I wouldn't of been okay with it. I would've felt defeated, but...
317
318 Q: But what changed between that scenario and what actually happened? So if
319 he'd of stop- if he said, "No, dude. I don't want to give you my name, Officer.
320 I'm going to go in my dad's house," and start walking away.
321
322 A: Okay.
323
324 Q: What changed in your perception of the event that made you go up to the
325 house and continue doing what you did, and, you know take this call the way
326 it happened?
327
328 A: Him fleeing?
329
330 Q: When he started moving quicker than just the power, or power walk?
331
332 A: It was obvious that he was trying to get away from us to a safe place.
333
334 Q: Did... He goes inside the house and he slams the screen door?
335
336 A: Yeah.
337
338 Q: Behind him?
339
340 A: Yeah.
341
342 Q: Did he close the door too, or just the screen door?
343
344 A: I don't recall if it was both.
345
346 Q: And it was obviously a little bit darker outside, light inside. Could you see
347 inside the residence?
348
349 A: Oh, just a little ways, like, you know, two or three feet. The screen doors
350 don't let you see very far in.
351
352 Q: Shadows or you could basically see a couple feet inside the screen door.
353
354 A: Yeah, I could see a couple feet inside the screen.
355
356 Q: Okay. Could you see [REDACTED] inside after he shut the door?
357
358 A: I couldn't really see him, no, 'cause Dad was playing interference and I look
359 this way, Dad would move this way trying to block my - my line of sight, but
360 I could see that [REDACTED] wasn't at the door, and I could hear him.

361
362 Q: Okay. So how would you say went by between when he slam the door and
363 when you saw him next?
364
365 A: You know I didn't see him until the door was open for me.
366
367 Q: Okay.
368
369 A: Again. So for whatever the ICC shows, you know, for me, you could hear the
370 door slam, to me saying, "Hey, get your hands up," detaining, you know, that's
371 how long it took for me to see him.
372
373 Q: Before you saw him again.
374
375 A: Yes, sir.
376
377 Q: Okay. And how long - so give me an approximate - what about a - okay, so
378 when he slams the door, Matthew tells you...
379
380 A: Three minutes. You want to say three minutes rough estimate.
381
382 Q: Rough.
383
384 A: Yes, sir.
385
386 Q: Roughly three minutes.
387
388 A: Okay.
389
390 Q: And how - so when you went inside you could hear him though, you said.
391
392 A: Yeah.
393
394 Q: Right? So how much time would you say went by when you slam the door
395 from when you heard him next?
396
397 A: Almost immediately.
398
399 Q: It was quick...
400
401 A: Yeah.
402
403 Q: ...that you were engaging him in conversation.
404
405 A: Well, [REDACTED] I could hear him. Cops are here, cops are here.

406
407 Q: Okay.
408
409 A: So I immediately heard that as soon as the door shut.
410
411 Q: And then after that?
412
413 A: I don't recall.
414
415 Q: Don't recall?
416
417 A: He - he would come back to kind of see if his Dad wa- I - and my feel- my
418 feeling was, okay, I don't want to - I don't want to put, you know, I'm not
419 mind reader, but I was suspicious that when he was coming back, you know,
420 peek around and say, "I didn't do nothing," or whatever, it - it was his way of
421 kind of keeping tabs of how my contact with his dad was progressing, to see if
422 he had more time, or what, because then he come look, see, say something,
423 and I could hear him down the hall like footsteps going back down the hall,
424 then come back, and then go back down the hall. So it was like, that's kind of
425 strange. That's not normal behavior. So I was like, okay, he's concealing
426 something and it turned into maybe - I started to transition my thought to he's
427 got something to hide, and it's not necessarily a warrant, and when I confirm
428 he had no warrant, I was like, okay, now I'm even more sure that the only
429 other motive to run would be to conceal something, and he was kind of seeing
430 how much time he had to - to find a good hiding spot, or whatever. That's -
431 that's what I was thinking.
432
433 Q: So this going back and forth that you're talking about we're talking about it's
434 all by your hearing, right, 'cause you can't see past three feet, isn't that what
435 you said?
436
437 A: Correct.
438
439 Q: So you can hear his voice as he's talking getting closer, then you hear the
440 footsteps go down the hall and his voice gets far away, right?
441
442 A: Yeah.
443
444 Q: Okay. But so after he slam the door on you, the next time you saw him - saw
445 him physically was when he came out when you - when you told Dad to open
446 up the gate and you said, "You come here."
447
448 A: Yes.
449

450 Q: That's the next time you saw him, but you heard him and engaged him in
451 conversation throughout the course of those three minutes.
452
453 A: I didn't engage him in conversation. I engaged Dad in conversation.
454
455 Q: He was helping in the back. We hear on the audio that, you know, "You
456 wanted your Daddy's help. I'm talking to your dad now," that...
457
458 A: Oh, that's right.
459
460 Q: ...that, you know, all that - all that good stuff, and so we hear him.
461
462 A: You're right. I did say that, okay.
463
464 Q: He's close enough...
465
466 A: Okay.
467
468 Q: ...he's close enough that I can hear it on your microphone, so.
469
470 A: That's right. I remember that.
471
472 Q: So you're engaging with him and Dad almost immediately but he, like you
473 said, it sounds as if he's further away and not standing like right behind Dad.
474 Is that...
475
476 A: Off and on, yes.
477
478 Q: Off and on.
479
480 A: Yes.
481
482 Q: Okay.
483
484 A: So he's going back...
485
486 Q: Back...
487
488 A: ...he's going back and forth.
489
490 Q: So he was going back and forth, okay.
491
492 A: Deeper into the house and then back to the door. Deeper into in the house...
493

494 Q1: How many times do you think he went like back down the hallway and then
495 came back?
496
497 A: Probably twice, I think.
498
499 Q: When you were talking with [REDACTED] [REDACTED] at the front door and he was playing
500 interference, what was being said between you and him?
501
502 A: Exactly what was on ICC, but basically to sum it up, yeah, we were just - I
503 was just trying to establish who he was, his relationship to him, his name,
504 Dad's name. I told him - I know. I'm trying to figure out why his son ran.
505 Ask him, "What's up?" You know and try and engage - the reason we do that
506 is try to gage people's cooperation with the police, you know, if this is a
507 friendly house. If this is like, you know, he's confused and he's really
508 legitimately scared or he's like, he's in cahoots with the - with the son, 'cause it
509 - it depends on how - you know, the investigation goes from there. But
510 anyways continue.
511
512 Q: Where is - as you're engaging Dad at this point and listening to [REDACTED] run
513 back and forth, where is Officer Fetch at this point?
514
515 A: I believe he was back at the car.
516
517 Q: And so he didn't take like a perimeter spot or anything 'cause the dude went in
518 the house or anything like that?
519
520 A: No, he didn't take a perimeter spot.
521
522 Q: Is there - would that be something that you guys normally do based on the two
523 officer car; one guy runs into a house, I mean, just in case the guy bails out the
524 back or anything like that, or...
525
526 A: We typ- we - not in this circumstance. No, it's not something we...
527
528 Q: Was it because you could hear him or see him still that you thought he was
529 still in the house?
530
531 A: Yeah.
532
533 Q: Is that - I mean...
534
535 A: Yes, sir.
536
537 Q: Okay.
538

539 A: And plus we didn't have any want at the time either so perimeter for what?
540 You know?
541

542 Q: Well maybe the same reason why you're trying to establish who the guy is
543 with his dad.
544

545 A: Yeah.
546

547 Q: It's - you know, you didn't have a wants for that either but you still wanted to
548 do it because you want to see if he's got anything dirty on him, or...
549

550 A: Yeah. I - I believe our time was better spent and it turned out to be correct,
551 and me talking with Dad, and Matt being on the computer system, and the
552 records system trying to find out who we're dealing with.
553

554 Q: So who found out that [REDACTED] was on probation?
555

556 A: Officer Fetch.
557

558 Q: And do you know how he did that?
559

560 A: Nope.
561

562 Q: So through your conversations and your Pow-wow that you had after
563 everything was kind of calm down and everything, he didn't tell you how he
564 verified he was on probation or anything like that?
565

566 A: I recall...
567

568 Q: Or where he lived?
569

570 A: I'm assume- I can assume what he meant, he's on probation. I don't know how
571 Officer Fetch would even know that without checking the record system, and I
572 believe my partner when he says he's on probation, he's on probation, and so,
573 but I don't want to put words in his mouth if - if there was some - 'cause I
574 wasn't able to talk to Fetch about this case to find out, okay, exactly let's
575 pinpoint how exactly you found out was on probation 'cause I don't recall
576 'cause it was back in August.
577

578 Q: And that's fine.
579

580 A: So.
581

582 Q: If you don't recall that's fine. I don't want you to...
583

584 A: Yeah.
585
586 Q: ...put words in your partner's mouth or make something up...
587
588 A: I can only assume.
589
590 Q: Assume, okay. So do you recall if Fetch advised you since he's the one that
591 found out that he was on probation, what his address of record was?
592
593 A: It was established - I don't recall what he said his address was, but it was
594 established very early on that this was not his known address.
595
596 Q: Okay. So that was known to you guys that that was not his probation address.
597
598 A: Yes, sir.
599
600 Q: So you're taking [REDACTED] down to the car after you grab him?
601
602 A: Yes, sir.
603
604 Q: And you're talking to him, and what did he tell you about where he lived?
605
606 A: He didn't live there.
607
608 Q: He didn't live there. And did you press him to try and get him to tell you that
609 he did, or that, you know that...
610
611 A: Yes.
612
613 Q: And so what types of things did you say to him?
614
615 A: Ask him why he was there that night. Ask him over and over again, "Do you
616 live here?" stuff like that.
617
618 Q: So [REDACTED] - once Officer Fetch finds out he's on probation...
619
620 A: Mm-hm.
621
622 Q: ... [REDACTED] told, "Open up the screen door." Did you do that?
623
624 A: Did I open up the screen door?
625
626 Q: No.
627
628 A: Oh.

629
630 Q: Did you ask or tell Mr. [REDACTED], the dad.
631
632 A: Yeah.
633
634 Q: To open the screen door.
635
636 A: Yeah.
637
638 Q: Okay. And then the officer's heard telling [REDACTED] to, "Come here." Was that
639 - did you do that?
640
641 A: Yes, sir.
642
643 Q: That was you. Was Officer Fetch now up with you at this point?
644
645 A: I believe he was coming up or he was standing there already.
646
647 Q: Okay. So as he tells you hey, what'd he say, formal searchable on him, on the
648 audio I believe he says that.
649
650 A: On the video, okay.
651
652 Q: And he's walking up to you as you do that, so you're not walking into that
653 place, alone, right? Is that...
654
655 A: Right, correct.
656
657 Q: So... you open up the door, you tell him to come out, you're searching him or
658 detaining him, or whatever. Are you legally at that point okay with entering
659 that house?
660
661 A: Yes.
662
663 Q: At that point?
664
665 A: At that point, yes.
666
667 Q: And why?
668
669 A: 'Cause he's on probation and we have a right to search probationers and we
670 have a right to search the areas they have - they have access to.
671
672 Q: Do you have a right to search a third party's residence just because a
673 probationer is in their house?

674
675 A: Their entire residence? Can you be more specific? Like we have - yeah, we
676 have the ability to search the areas that a probationer has access to inside a
677 residence.
678
679 Q: Of a co-habitant. But of somebody who does not co-habitate in that house, do
680 you have the right to search the common areas and the areas that they have
681 access to in somebody else's house?
682
683 A: Yes.
684
685 Q: Can you go in and arrest somebody in a third party residence that has a
686 warrant?
687
688 A: Not without a...
689
690 Q: That's wanted?
691
692 A: ...not without like a Ramey warrant or something like that, yeah.
693
694 Q: And so what is the difference between entering a third party residence where a
695 probationer is, and entering a third party residence in which, to arrest
696 somebody on a warrant? Why would you not need to freeze that scene and
697 get a warrant to articulate your reasonable suspicion on why you believe...
698
699 A: Fresh pursuit, preservation of evidence.
700
701 Q: Did you have fresh pursuit?
702
703 A: I felt like I did.
704
705 Q: Was the person that was running from you known to you?
706
707 A: Not at the time, but when I found out who he was, he ran from me and...
708
709 Q: Was he wanted?
710
711 A: No, he had probation status – that's why I went in...
712
713 Q: So you were in fresh pursuit of a person that was on formal searchable
714 probation, but you didn't have a want on him?
715
716 A: We could've done it for 148 at that point.
717
718 Q: Why is that?

719
720 A: Not complying with a police officer and he's obligated to.
721
722 Q: Did you...
723
724 A: No, you know what? I want to take that back. I want to take that back. Those
725 are the kind of things we Pow-wow about, and talk about. I didn't consider
726 the guy under arrest at the time. I wasn't thinking that he was in custody at the
727 time, sir.
728
729 Q: Mm-hm. Okay. So did you have the authority to go inside a third party
730 residence to search an area in which a probationer that does not live in that
731 residence common areas, or areas that he had access to? That was my original
732 question.
733
734 A: Yes.
735
736 Q: And why is that?
737
738 A: Because we have probation status in those areas that he has access to.
739
740 Q: But he doesn't live there.
741
742 A: Okay. Well, I believed he probably did live there, and I want to establish that,
743 and I don't want evidence destroyed, and I'm freezing the scene until we...
744
745 Q: Did you ever establish that he lived there?
746
747 A: No.
748
749 Q: Did you ever find any indicia or anything that belong to [REDACTED] [REDACTED] that
750 led you to believe that he lived in that house?
751
752 A: No.
753
754 Q: So did you ever have the right to have any legal standing within that
755 residence?
756
757 A: I believe I did because he's on probation and he - I watched him go into the
758 house. I knew that he - he retreated back into the house and; therefore, he had
759 access to those areas and I believe I had probation status in those areas even
760 though he didn't dwell in the - or he says he didn't dwell in the residence. I
761 believe that's what I had.
762
763 Q: That's what you believed that day.

764
765 A: Yes.
766
767 Q: Have you ever read anything in a legal source book or in a case law that gives
768 you the legal authority to do that?
769
770 A: I don't recall, but that's what I believe at the time because it didn't seem out of
771 the ordinary to search an area where a probationer had access to that we watch
772 the probationer to have access to.
773
774 Q: Those would be great articulable facts to put into a warrant to get into that
775 house.
776
777 A: Okay.
778
779 Q: I've looked upside down and sideways and I don't see a case law nor a legal
780 source that says that you can walk into a third party residence based on a
781 probationer walking into that house. Now...
782
783 A: Hm.
784
785 Q: ...I believe that you have reasonable suspicion and articulable facts to freeze
786 that scene based on what you knew, and what you know, and get a warrant
787 maybe, but I don't - I don't - I'm not tell- I'm asking you how you felt on that
788 night. So I'm not telling you, you know, that's what I'm asking. So based on
789 what you thought that night, you thought you had a legal right to enter that
790 house based on his probation status?
791
792 A: Yes.
793
794 Q: Even though you didn't establish residency or verify that he lived there.
795
796 A: Correct. Was what I did against the law?
797
798 Q: I'm not, we're not going to talk about that.
799
800 A: Oh.
801
802 Q: It's not what we're here to talk about. I'm just asking what your state of mind
803 was on that day, and whether based on our policy and our search manual. Did
804 you have a warrant? Did you have exigency? Did you have consent? And
805 those are the three things that you need to get into one of those houses, to get
806 into that house, and minus those going into a third party residence, I'm not
807 quite sure you had the legal right to be in there.
808

809 A: Ouch.
810
811 Q: So at this point, did you have a warrant, exigency, or consent?
812
813 A: I believe I had exigency.
814
815 Q: You believe you had exigency based on what circumstances?
816
817 A: Him fleeing. I believed he was concealing evidence.
818
819 Q: Can an officer rely on exigency when he creates his own exigency?
820
821 A: No.
822
823 Q: Did you create this exigency?
824
825 A: Yes, I think I did.
826
827 Q: So you can't really rely on the exigency. Common sense would tell us that if
828 you make a consensual contact with somebody and they flee into a house then
829 you have fresh pursuit and possibly some exigency. That's common sense.
830 Law would state otherwise, right? I mean we know that because of the
831 position that we hold in our job that consensual contact without knowing the
832 person's name, whether he's wanted, and who he is, that's exigency that you
833 have created. Did you speak with [REDACTED] that night?
834
835 A: Yes.
836
837 Q: Was [REDACTED] on probation?
838
839 A: No.
840
841 Q: Did you check?
842
843 A: Someone did.
844
845 Q: You don't know or you don't recall who did?
846
847 A: No.
848
849 Q: Somebody on the call check?
850
851 A: No.
852
853 Q: What did [REDACTED] tell you about [REDACTED] living at his house?

854
855 A: Just that he didn't live there.
856
857 Q: Did he tell you that multiple times?
858
859 A: Yeah.
860
861 Q: We've already talked about the fact that you didn't have any evidence of
862 [REDACTED] living at the house, and you didn't find any that night?
863
864 A: Right.
865
866 Q: When you put [REDACTED] in the car you said you were speaking with him, and we
867 talked a little bit about what you were speaking with him. On the audio we
868 can hear you saying, "Now that you got your dad involved in this we're going
869 to go through every nook and cranny of that house." What was your intention
870 when you were speaking with him about that?
871
872 A: So he'd confess to where stuff was hidden.
873
874 Q: You do that so that he tells you all right don't mess with my dad's house. Just,
875 I ditched it here.
876
877 A: Yeah.
878
879 Q: That's your intention in that. Your intention is not to go through every nook
880 and cranny in that house at that point, correct?
881
882 A: Right.
883
884 Q: Actually you're trying to save yourself from doing that, right, at that point?
885
886 A: Yup.
887
888 Q: Officer Donnell shows up sometime, correct?
889
890 A: Yeah.
891
892 Q: And you tell him, "We need to search the back room." What does that mean -
893 what does he do on this - I'm sorry, I'll go back. You say, "Officer Donnell."
894 And then you say, "We need to search this back room," and then what does
895 Officer Donnell end up doing on the call for you?
896
897 A: I believe he just stay in the living room.
898

899 Q: And watch Mr. [REDACTED] and his lady friend that was there?
900
901 A: Yeah.
902
903 Q: Those are the only other two people that were located in the house besides
904 [REDACTED] correct?
905
906 A: Yes.
907
908 Q: Okay. And so Officer Donnell stands in the front living room and watches
909 [REDACTED] and his friend, the female that was located in the house?
910
911 A: Yeah.
912
913 Q: And so [REDACTED] is in the vehicle. Donnell is watching [REDACTED] and the lady
914 friend. What happens now?
915
916 A: Officer Fetch is walking through the house and I'm still just interrogating
917 [REDACTED] and then I come back to the patrol car.
918
919 Q: And continue to - did you - do you search the house at that point? Is that
920 when you start searching the house?
921
922 A: I didn't start searching the house at that point. Officer Fetch - we were still
923 working on getting a canine and stuff at that time, I believe.
924
925 Q: So at that point you did not...
926
927 A: And - yeah, go ahead.
928
929 Q: You did not start searching the house?
930
931 A: I don't recall searching the house at that point, no.
932
933 Q: So I have some photos and a printout of the, not a printout, a drawing of the
934 layout of the house, and it's not to scale. I don't want any jokes about it. But
935 basically I'm just going to get kind of a grasp on where you went throughout
936 the course of the call and what you did at certain points. This is, that's the
937 house in question, correct, [REDACTED] Teekay Way?
938
939 A: That looks like it.
940
941 Q: Maybe a little darker when you were there.
942
943 A: Mm-hm.

944
945 Q: Come inside the entryway here and there's, this is the front door here where
946 you contacted Mr. [REDACTED] behind the screen door?
947
948 A: Mm-hm.
949
950 Q: There's a door that goes into the garage here from the outside, and then there's
951 another one on the inside of the house. When you walk straight inside the
952 door there's a front room to your right as you're walking in the door. Is that
953 where [REDACTED] and his friend were seated and Officer Donnell was
954 watching them...
955
956 A: Yeah.
957
958 Q: ...right here in this front room. All right, that's just another picture of the
959 front room there and the couches. Did you search that area?
960
961 A: I don't recall doing that.
962
963 Q: Okay. If you come inside this door and you go left here there's a kitchen then
964 like a little family room and a door that goes into the garage. Did - was that
965 area of the house searched?
966
967 A: I didn't search it.
968
969 Q: Do you know if any officer searched the kitchen area?
970
971 A: I don't recall.
972
973 Q: Okay. There's a slider over here that goes out in the backyard, patio, and
974 stuff. Did anybody go out in the backyard of the house?
975
976 A: I don't recall...if anyone went out there. I - I'm assuming that we did a
977 protective sweep though.
978
979 Q: Outside?
980
981 A: Yeah.
982
983 Q: I mean if you're worried about him throwing some - stashing some dope or
984 throwing a gun, don't you think somebody might, or should've gone out and
985 checked the side yard, or the backyard?
986
987 A: Mm-hm, yeah, I hope it was checked.
988

989 Q: Okay. This hall closet here, when you first walk into the house there's a hall
990 closet and then a furnace closet. Was that area searched?
991
992 A: I don't recall.
993
994 Q: No?
995
996 A: No.
997
998 Q: If you walk down this hallway here, which is I believe where you believe
999 based on the hearing that [REDACTED] was going back and forth, right? Down this
1000 hallway towards the bedrooms. So if you come in - I have a...
1001
1002 A: Do you have a picture looking inside the house from the front door?
1003
1004 Q: This is actually taken from the front door. If you come in, the hallway's down
1005 this way. The kitchen is this way.
1006
1007 A: Oh, all right.
1008
1009 Q: So I should've gotten a better one, but I don't. I have one in the hallway when
1010 you're standing in the hallway...
1011
1012 A: Uh-huh.
1013
1014 Q: ...and looking down, straight down to this bathroom here and two bedrooms.
1015
1016 A: All right.
1017
1018 Q: But that's where [REDACTED] you believe [REDACTED] was going up and down the
1019 hallway.
1020
1021 A: Right.
1022
1023 Q: You don't believe he was going in and out of the kitchen do you?
1024
1025 A: I'm trying to think.
1026
1027 Q: When we were talking...
1028
1029 A: Yeah.
1030
1031 Q: ...no, when we were talking earlier about where he had access and where he
1032 could have access have gone, your thought was that he had access down this
1033 to where the bedrooms were at, not where the kitchen and all that was, right?

1034 Like you didn't focus walking through the house over by the kitchen, to the
1035 left when you came in the door. It was right, wasn't it, like down where the
1036 bedrooms were?
1037
1038 A: I know that he went down the hallway at least once.
1039
1040 Q: Okay.
1041
1042 A: And he may have gone this way.
1043
1044 Q: Okay.
1045
1046 A: I don't recall for sure.
1047
1048 Q: Okay. So when you're coming down, when you're going down that hallway...
1049
1050 A: Yeah.
1051
1052 Q: ...there's this first bedroom here had a television and - television in it, the
1053 thing a little bed, and a bed. Do you recall going into that room? It's
1054 bedroom one B1.
1055
1056 A: Yeah, if it was open I - I went into it.
1057
1058 Q: If it was open you went into it?
1059
1060 A: Yeah.
1061
1062 Q: Okay. Did you recall searching anything in this room?
1063
1064 A: No, I don't recall searching anything in that room.
1065
1066 Q: Okay. This was [REDACTED] room.
1067
1068 A: Okay.
1069
1070 Q: So you don't recall being in his room or going into...
1071
1072 A: I do recall being in his room.
1073
1074 Q: Uh-huh.
1075
1076 A: I don't recall like - like taking things apart and manipulating anything or
1077 anything like...
1078

1079 Q: In that room?
1080
1081 A: Yeah.
1082
1083 Q: Okay, if you're looking straight at the bathroom down the hallway...
1084
1085 A: Yeah.
1086
1087 Q: ...this first room is the one that I just showed you the pictures of. There's
1088 another room right here right before you get to the bathroom.
1089
1090 A: Okay.
1091
1092 Q: And it's a bad picture, but that's the door open. Here's the bathroom here. Do
1093 you remember going into this room, this room right before the bathroom? It
1094 would be B2 on this one.
1095
1096 A: Okay. If it was in the room then or if it was open then I went into the room.
1097
1098 Q: Okay. Do you remember searching anything in that room?
1099
1100 A: No.
1101
1102 Q: Down this hallway...how about the bathroom?
1103
1104 A: Yeah.
1105
1106 Q: Do you remember going into the bathroom?
1107
1108 A: Yeah.
1109
1110 Q: Do you remember searching anything in the bathroom?
1111
1112 A: No.
1113
1114 Q: You didn't go in the cupboard, or take off the tank here to see if anything was
1115 dumped or foiled or anything? You didn't manipulate anything in that room,
1116 in the bathroom?
1117
1118 A: I don't - I don't recall doing that.
1119
1120 Q: Okay.
1121
1122 A: But no, I don't know.
1123

1124 Q: So if you hang a left-hand turn and when you get to this bathroom down this
1125 hallway there's two bedrooms down there.
1126
1127 A: Okay.
1128
1129 Q: There's one straight ahead and there's one off to the side which would be
1130 bedroom three and bedroom four in this house down this hallway. Do you
1131 remember going into those bedrooms?
1132
1133 A: I think I remember rooms being locked and so I didn't go into those rooms if
1134 they were...
1135
1136 Q: If they were locked?
1137
1138 A: Yeah.
1139
1140 Q: Did you ask for a key or anything or?
1141
1142 A: No.
1143
1144 Q: So what you're telling me is that you didn't search anything in this house.
1145
1146 A: I don't recall moving or searching anything in this house. That's what I'm
1147 saying, and Fetch, we Pow-wowed afterwards, and I'm like, I don't think we're
1148 getting canine, and he's like, "Why you don't take a look." So I got gloves
1149 from somebody and I was - I went in the rooms and like this is an
1150 overwhelming task. You know I don't think it's worth it. We were looking
1151 around like it's just cluttered and messed up. I'm looking for indicia, looking
1152 not searching for it, and yeah.
1153
1154 Q: So if Officer Fetch said that he searched these areas then he did that on his
1155 own and you didn't search with him at all?
1156
1157 A: We didn't search together.
1158
1159 Q: Did you each take a room or split it up?
1160
1161 A: I don't remember him saying I already - I got this room. You go get that
1162 room. I don't remember that conversation. I remember him just throwing in
1163 the towel and saying, "You go have a look," or something like that.
1164
1165 Q: How long would you say that you were on this call?
1166
1167 A: About an hour, right?
1168

1169 Q: Roughly.
1170
1171 A: Yeah.
1172
1173 Q: So does that sound like a walk through, just look through to you from the time
1174 that [REDACTED] was taken out of the house to the time that he was let out of the
1175 car. Let's just say from the time that Donnell showed up at 2148 hours to the
1176 time that [REDACTED] was taken out of the car was roughly 44 minutes, 44, 45
1177 minutes. So I know that other stuff goes on. You're waiting for the dog. You
1178 were doing some other things trying to verify like we already talked about, but
1179 there's still a good sizable chunk of time in between that doesn't lead me to
1180 believe that we just walked through this and didn't touch anything.
1181
1182 A: Right.
1183
1184 Q: Is that what you're telling me though? You're telling me that none of these
1185 rooms were searched and none of this stuff was gone through?
1186
1187 A: I'm not telling you that none of the rooms were searched. I'm telling you I
1188 don't recall searching and manipulating stuff. You want to call going in the
1189 room and looking around searching, fine, call it that. Call it a search. Like I
1190 said, I don't recall searching anything, and I can't speak to what Officer Fetch
1191 was doing.
1192
1193 Q: Mm-hm.
1194
1195 A: 'Cause I wasn't there looking over his shoulder.
1196
1197 Q: So in these rooms when you went into them you didn't move clothing within a
1198 closet, open up a drawer, close it back up, look underneath a bed. You didn't
1199 do any of those things?
1200
1201 A: I wish I could say for certain, but I don't recall doing those things.
1202
1203 Q: Can you say for certain that you didn't?
1204
1205 A: I can't say for certain that I didn't open up a drawer or move an article of
1206 clothing and look behind it or something like that.
1207
1208 Q: I mean you were looking for what [REDACTED] dumped, right? I mean that's what
1209 you wanted to find. That's what you established in the beginning to me that
1210 why you had the reason to be in there...
1211
1212 A: Right.
1213

1214 Q: ...now whether what I told you changes your view of what your legal
1215 authority was the night of the call...
1216

1217 A: Mm-hm.
1218

1219 Q: The night of the call you believe that you had the legal authority to go through
1220 and search the common areas of this house.
1221

1222 A: Right.
1223

1224 Q: Did you do that?
1225

1226 A: Like I said, I don't recall searching, manipulating something. When Officer
1227 Fetch said something to the effect of, "Go have a look through," he was done
1228 with their house. That from what I understand. So when I went in there I'm
1229 thinking yeah, what if I find something in there he missed, like a dumped gun
1230 underneath the bed or I see something like, you know, whatever, I'll grab it
1231 or...
1232

1233 Q: In the audio we hear you say when Donnell shows up. "Officer Donnell. We
1234 need to search this back room." Why does your mindset change...
1235

1236 A: Mm-hm.
1237

1238 Q: ...between that and what you just told me?
1239

1240 A: My mindset?
1241

1242 Q: Yeah, 'cause you told him...
1243

1244 A: Yeah, my mindset is that hey, we need to find a way to get into this back room
1245 because I think that's where something's dumped.
1246

1247 Q: And what back room are you talking about?
1248

1249 A: I don't know.
1250

1251 Q: Like the back of the house?
1252

1253 A: Yeah, a back room where he retreated to.
1254

1255 Q: Was like down this hallway somewhere.
1256

1257 A: Yeah.
1258

1259 Q: So what you're saying is that if searching occurred in this residence the
1260 majority of the searching was done or must've been done by your partner
1261 because you don't recall searching any of the areas. You recall going through
1262 them and walking through them after he threw in the towel, but you don't
1263 recall searching with your partner or while your partner was searching.
1264

1265 A: That's what I'm saying. I'm saying that - that it seemed when I went back
1266 there, too, I just want to add that, it didn't look like the place had been
1267 searched either. It looked like it hadn't been searched, and I don't know if it
1268 had been or not, but Officer Fetch, at some point said something about it was
1269 basically a plain view search, non-intrusive, or whatever. I don't know if I
1270 type that in the report 'cause he told me to, or the call, or he wrote that as an
1271 added note.
1272

1273 Q1: Let me ask you a question.
1274

1275 A: Yeah.
1276

1277 Q1: Where were you standing then, or where were you at in the house when Fetch
1278 is searching the house?
1279

1280 A: I am in the living room. I am definitely in my car for part of that. That's
1281 where I was definitely. I was definitely those two places. Whether or not I
1282 was standing in the hallway when he was somewhere else in the house, I can't
1283 speak to. I'm just a little bit flustered because I thought we had standing in the
1284 house and now I'm like...
1285

1286 Q: If you did have standing in the house, like I said...
1287

1288 A: Yeah.
1289

1290 Q: ...then would that change what you're telling me though?
1291

1292 A: No.
1293

1294 Q: I mean, so why are you, why did you not search these rooms if you had the
1295 legal authority to do it?
1296

1297 A: To be honest with you, I was - I was done with the call. I didn't think - we
1298 had a Pow-wow about it and - and at one point we're like, with no canine are
1299 we ever going to find anything? You know and ...
1300

1301 Q: What time - when did you have a Pow-wow?
1302

1303 A: When our mics got turned off.

1304
1305 Q: When you turned your mic off?
1306
1307 A: Yeah.
1308
1309 Q: Twenty-one - 2151 your mics got turned off.
1310
1311 A: Okay.
1312
1313 Q: Okay? You're seeing walking in front of the camera with your gloves on at
1314 2215, which is roughly 25 minutes after your mic got turned off.
1315
1316 A: Okay.
1317
1318 Q: How long was this Pow-wow? At some point if your mic got turned off and
1319 you had a Pow-wow about your legal authority to search or whether you lost
1320 the gun or lost the dope that this guy dumped and now you got to find it, and
1321 then you're there...
1322
1323 A: Mm-hm.
1324
1325 Q: ...on camera with gloves on 25 minutes later, and you clear the call another
1326 26 minutes after that. So you're still there.
1327
1328 A: Mm-hm. Yeah.
1329
1330 Q: And I know what you're saying about being in the car and stuff, but after
1331 you're out of the car...
1332
1333 A: Mm-hm.
1334
1335 Q: ...after your mic goes off, I see you with your gloves on. You're not in that
1336 car 'til the end - 'til you come back and you're talking to him. This is after you
1337 say tell him you're going to throw the jacket on him and all that stuff, and I'm
1338 not - that's not wrong. I like that. I like listening to it. But what I'm saying is
1339 that, that part of it, what you're telling me is not adding up; the time-wise,
1340 okay?
1341
1342 A: Okay.
1343
1344 Q: So your mic goes off at 2151 and you have a Pow-wow.
1345
1346 A: Yeah.
1347

1348 Q: And 25 minutes later you're seen walking in front of the car with your gloves
1349 on, and you hadn't been in the car since that Pow-wow. What are you doing?
1350 25 minutes?
1351
1352 A: In the rooms maybe and going back...
1353
1354 Q: Not searching them?
1355
1356 A: Well, in there...and I didn't say I didn't search it. I said I can't say for certain.
1357 I said I can't say for certain I didn't search them, okay?
1358
1359 Q: Okay.
1360
1361 A: What I'm saying is, I don't recall searching anything and I - at the time, if I did
1362 search something I felt justified in doing so, and I don't know, man.
1363
1364 Q: Okay.
1365
1366 A: Yeah.
1367
1368 Q: All right.
1369
1370 Q2: Yeah, can we take a break real quick?
1371
1372 Q: Yes, definitely.
1373
1374 (Break)
1375
1376 Q: All right, the time is 1732 and we're back on record.
1377
1378 A: Okay. Hey, Serge. Can I just say this?
1379
1380 Q: Yes.
1381
1382 A: Okay. Before - I now am thinking that, you know, the reason I thought we
1383 had standing in the house doesn't hold water, and that's a revelation to me
1384 today. I told Aaron, my Rep, that before this even started and I was feeling
1385 good about everything. I was like - and I don't remember even searching. I
1386 remember standing in rooms looking around and going, "This is a
1387 monumental task with one person or two officers without a dog and even if we
1388 spend hours here searching," something, which in my mind that day I was fine
1389 doing 'cause I believe we had standing that day, that it would've been a waste
1390 of time because who are we going to put the stuff on? You know what I
1391 mean?
1392

1393 Q: Mm-hm.
1394
1395 A: It's probably going to get thrown out of court. Matt and I have much better - I
1396 should say Matt and I have a much better track record with car stops and
1397 subject stops. We just do. I hate - I don't like being in houses [REDACTED]
1398 [REDACTED], and anyways, I don't want to incur any liability
1399 for broken stuff or anything like that. That's just - that's where I'm coming
1400 from usually and I told them that I don't remember searching anything. I
1401 remember looking through houses and I don't remember - and I seriously
1402 doubt that I did a systematic search 'cause I think I would've stuck out in my
1403 head. Now we do a lot of searches everyday. We contact a lot of people just
1404 in one day as a Tac unit let alone from August to now, and yeah, I just - I don't
1405 - I can't say for certain that I didn't search, but at the time even if I did, I
1406 believe I had standing, and I would've been okay with that, and I would've
1407 been okay with seeing Matt search something 'cause I wouldn't of had an issue
1408 with that that day either. So again, I don't know if that helps you clarify
1409 anything.
1410
1411 Q: Okay, all right. Did you, in this search...
1412
1413 A: Yeah.
1414
1415 Q: ...did you find anything?
1416
1417 A: No.
1418
1419 Q: Nothing was located?
1420
1421 A: No.
1422
1423 Q: And we already spoke that we didn't find any indicia or anything of [REDACTED]
1424 in the house, correct?
1425
1426 A: Correct.
1427
1428 Q: So after you're done searching the house and going through, what happens
1429 next?
1430
1431 A: After we're done at the house?
1432
1433 Q: Mm-hm. I mean not on your next call or anything. After you're done and you
1434 say all right, we're done. We've looked through what we want to look
1435 through, and we've gone through what we want to go through, how was your
1436 exit strategy on the house?
1437

1438 A: We just went back to the car, let him out of the car and left. I don't - I don't
1439 know what detail you're looking for, but yeah, that's what we did.
1440
1441 Q: When you left was any part of the house in disarray?
1442
1443 A: Not that I could tell.
1444
1445 Q: Was any part of the house, the bathroom, or boxes in any of the rooms or
1446 anything like that changed in any way?
1447
1448 A: I don't recall any of that.
1449
1450 Q: In the search manual, I know we go through it and I know you're familiar with
1451 it. You know it says that, you know, you can put stuff on the bed, or anything.
1452 Did you guys do any of that type of stuff in this house?
1453
1454 A: I didn't - no, I didn't do a systematic search and place stuff on the bed.
1455
1456 Q: Okay. And then we talked roughly how long when Donnell got there and you
1457 were out of the car, and I know I said that from the time Donnell got there to
1458 the time that your gloves were on there was 25 minutes.
1459
1460 A: Mm-hm.
1461
1462 Q: Your partner said that you were searching the residence for 15, 20 plus
1463 minutes yesterday. Would that be an accurate statement? Do you believe -
1464 how long do you think that you were searching that house or looking through
1465 these rooms?
1466
1467 A: That sounds about right.
1468
1469 Q: Okay.
1470
1471 A: From what I can recollect, yeah.
1472
1473 Q: So in that timeframe from when Donnell gets there to the time you let him out
1474 of the car and Mr. [REDACTED] [REDACTED] is detained or positioned with his lady
1475 friend in the front room is about 45 minutes. So of that 45 minutes roughly 20
1476 minutes were spent in back here, in the back of this house, or do you have a
1477 different number? I mean...
1478
1479 A: Back of the house or you know, back of the front room talking to them, yeah,
1480 back and forth, or all of it in the back of the house. I don't recall if I was
1481 going back and forth, or just I spent all that time back there.
1482

1483 Q: Okay, 'cause the whole time was 40 minutes or so.
1484
1485 A: Mm-hm.
1486
1487 Q: So I'm just saying like of that 40 minutes what portion of that?
1488
1489 A: Oh.
1490
1491 Q: 'Cause like we spoke prior...
1492
1493 A: Roughly 20 minutes...
1494
1495 Q: Okay.
1496
1497 A: ...sounds fine, I guess.
1498
1499 Q: And my point that we were talking about earlier was that, if a couple of these -
1500 you're saying that maybe some of these doors were locked. I know that B1
1501 and B2 were not locked. I'm not quite sure about B3 and 4 for certain. I
1502 know - that's what I know for certain. They could've been open, they could of
1503 not been open.
1504
1505 A: Mm.
1506
1507 Q: And the bathroom. What I'm saying is that 20 plus minutes in the back of that
1508 residence leads me to believe that more than just an observation was done.
1509
1510 A: Okay.
1511
1512 Q: Would you agree with that? I mean 20 plus minutes between you and your
1513 officer who are very good searchers that search all the time; go through cars,
1514 go through - do all these things all the time -- you're very proficient at
1515 searching.
1516
1517 A: Mm-hm.
1518
1519 Q: And in 20 minutes you could put some damage on some places. I didn't mean
1520 damage as far as property goes. I mean that you could search some places.
1521 So in that timeframe...
1522
1523 A: That's enough time to do an okay search on one room.
1524
1525 Q: Okay. That's about an okay...
1526
1527 A: An okay search. That's enough time to do an okay search on a room.

1528
1529 Q: Do you recall who put the comments on the call?
1530
1531 A: I don't recall who was typing the comments on that call.
1532
1533 Q: Were you guys both in the car when the comments were being typed?
1534
1535 A: I believe so.
1536
1537 Q: So you don't recall whether Fetch was typing or you were typing, but you
1538 believe that both of you guys were in the car. Were you talking about the
1539 comments as he put them onto the call?
1540
1541 A: Yes.
1542
1543 Q: The comments say on one of the lines it says that you contacted probationer
1544 [REDACTED] [REDACTED] near an address and during the conversation the male ran into
1545 the house and locked the security door behind him. Did you know [REDACTED]
1546 [REDACTED] was on probation when he went into the house?
1547
1548 A: I did not know he was on probation as he was going into the house.
1549
1550 Q: And when you say he ran, did he run into the house?
1551
1552 A: Like I said before he started off fast and then kind of went to a power walk
1553 and then jogged inside. It was - it was all of the above. I don't know. I
1554 couldn't really act it out for you though, but I just remember that.
1555
1556 Q: So do you think that that statement gives a false sense of knowledge that you
1557 knew he was on probation and he ran into the house from you, if it says,
1558 "Contacted probationer [REDACTED] [REDACTED] near address. During conversation
1559 male ran to the house and lock security door behind him." If I was reading
1560 that...
1561
1562 A: Yeah.
1563
1564 Q: ...would I think that you knew that [REDACTED] [REDACTED] was on probation and he
1565 ran from you into the house?
1566
1567 A: It's, I know, I - I see it.
1568
1569 Q: Oh, okay. I'm sorry.
1570
1571 A: Sorry, I was reading the comments before it.
1572

1573 Q: Those were placed by...
1574
1575 A: SR4?
1576
1577 Q: Yeah.
1578
1579 A: Okay. That would be a logical assumption for someone that didn't know what
1580 happened on a call.
1581
1582 Q: So would you say that that statement is not entirely accurate?
1583
1584 A: I would say - I would say if you read it...
1585
1586 Q: Mm-hm.
1587
1588 A: ...and didn't know what happened, I'd see how you could assume that we
1589 assume- or we knew before. My personal recollection can refute that though,
1590 and he is a probationer. [REDACTED] [REDACTED]
1591
1592 Q: Mm-hm.
1593
1594 A: ...is near an address. It doesn't say, you know, we knew he was a probationer
1595 or known probationer. There wasn't intent intended to mislead and, yeah...
1596
1597 Q: Okay.
1598
1599 A: ...and I mean, we have an ICC on. We kept ICC rolling, too, to help
1600 document what happen and we're not trying to hide anything. I mean you can
1601 watch the ICC tape and see obviously that we didn't know.
1602
1603 Q: Okay. From the time that the door slams on the ICC...
1604
1605 A: Okay.
1606
1607 Q: ...to the time that you can hear [REDACTED] talking at the front door to you, I think
1608 you're talking to the Dad, and then the Dad - you said, "Hey, you wanted your
1609 daddy's help. I'm talking to him now," and you're asking the name and he's
1610 giving his name as well, and his birth date, [REDACTED] and [REDACTED] [REDACTED] on the
1611 audio. From the time that you hear [REDACTED] [REDACTED] after the door slams is
1612 about 12 seconds, from the time that I can audio - audibly hear him is about
1613 12 seconds, after he says, "Dad, the police are outside." Is that the, in the next
1614 line, when you said that after a few minutes [REDACTED] came out from the back, is
1615 that 12 seconds the few minutes that you're speaking of in there? It says that
1616 [REDACTED] [REDACTED] played interference at the door trying to block officers' view of

1617 [REDACTED] as [REDACTED] ran to the back of the house out of sight. After a few
1618 minutes [REDACTED] came back out from the back.
1619
1620 A: Okay. I - your question is...
1621
1622 Q: I hear...
1623
1624 A: ...and I - I - I'd have to like - can I look at the tape again or?
1625
1626 Q: Yeah.
1627
1628 A: I mean that's why I wanted to see it before I answered that question.
1629
1630 Q: Okay. Yeah, I'll pull it back up.
1631
1632 A: I just don't recall, Yeah.
1633
1634 Q: I have the sound on my timeline 2140.13, 13 seconds...
1635
1636 A: Mm-hm.
1637
1638 Q: ...sound of the door slamming. At 2140.18, the officer says, "Well, that was
1639 kind of rude," and that was you, I believe. You hear [REDACTED] yelling, father,
1640 the police are outside, "Dad, the police are outside," right? At 2140.25, the
1641 officer, you, are talking with [REDACTED] [REDACTED] at the security door saying that
1642 your son doesn't want to talk to the police is what you said.
1643
1644 A: Okay.
1645
1646 Q: At 2140.39, which is about 12 seconds later you're speaking to [REDACTED]
1647 through the screen door advising him that hey you wanted your daddy's help
1648 and now...
1649
1650 A: Okay, 12 seconds later.
1651
1652 Q: About 12 seconds later is when you're talking to him about that.
1653
1654 A: Okay.
1655
1656 Q: So you say in the comments that he came from the back of the house after a
1657 few minutes, but you're engaging him in conversation after 12 seconds. So
1658 help me...
1659
1660 A: Okay.
1661

1662 Q: ...decipher that. Is that the same timeframe that you're talking about?
1663
1664 A: Him going back and forth, you know, I could've been referring to the second
1665 time he came back. I just - I didn't think that was going to be a detail that was
1666 going to be under the - underneath the magnifying glass. I - from the time I
1667 wrote the comment I just recalled a couple minutes.
1668
1669 Q: Okay.
1670
1671 A: You know and if I would've been shown the video and told that that detail was
1672 super important, I would've gotten the exact seconds.
1673
1674 Q: So it was a totality that whole time. Is that what you're, not just?
1675
1676 A: Not that time. The whole time - the whole time that I saw - last saw him to
1677 when he opened up the door and came back to the front door when the door
1678 was being opened.
1679
1680 Q: Okay.
1681
1682 A: I mean that's kind of what I'm referring to I believe at the time I wrote that.
1683
1684 Q: Okay. It says that officers entered house and searched unlocked open door
1685 areas where probationer had access to.
1686
1687 A: Mm-hm.
1688
1689 Q: And we spoke about this on what legal standing did you do that?
1690
1691 A: I believed I had probation status inside the house at the time.
1692
1693 Q: It says search was not intrusive, mostly plain view, and we spoke about this as
1694 well...
1695
1696 A: Yeah.
1697
1698 Q: ...but it's on the call. Donnell arrives at 2148 hours and [REDACTED] is let out of
1699 the car at 2236 hours. That's approximately 44 minutes in between that
1700 timeframe. Also within that timeframe you're seen at 2215 hours walking
1701 with your gloves...
1702
1703 A: Yeah.
1704

1705 Q: ...in front of the car and [REDACTED] [REDACTED] and his friend are detained in the front
1706 room with an officer present for that 40 some odd minutes. Does that sound
1707 non-intrusive to you, as a non-intrusive search or contact?
1708
1709 A: The way I meant that was, we didn't do a systematic search piling stuff onto
1710 the bed. We didn't do that.
1711
1712 Q: So it wasn't...
1713
1714 A: That's what I meant.
1715
1716 Q: ...it wasn't the time or the circumstances of the call. It was you were saying
1717 that strictly related to the search itself.
1718
1719 A: Yes.
1720
1721 Q: You're familiar with the Sacramento Police Department Search Manual?
1722
1723 A: Yes.
1724
1725 Q: Have you read it?
1726
1727 A: Yeah. Thank you.
1728
1729 Q: There's a copy. We're just going to go through, we're not going to go through
1730 the whole thing. We're going to go through just a couple of the points on it.
1731 If you go to Page 4, at the top under definitions, there are three searches.
1732 There's a planned search, a field search, and structure search. What type of
1733 search was this?
1734
1735 A: It was a str- structured search.
1736
1737 Q: Was it kind of a field search that turned into a structured search, correct? I
1738 mean...
1739
1740 A: Yes.
1741
1742 Q: ...it was a proactive contact that turn into, okay. And then if we move
1743 through to Page 15, and up at the top; A. General. Prior to conducting a
1744 probation parole search officers shall verify; a, the identity of the probationer;
1745 probation/parole status including search conditions of the person to be
1746 searched. Did you do that that night?
1747
1748 A: Officer Fetch did.
1749

1750 Q: Okay. B is: the subject's dominion and/or control of the location address to be
1751 searched. Did you do that that night?
1752

1753 A: We talked about the probationer having control of or access to the areas inside
1754 the house. Subject's dominion; it wasn't his residence. I - can I get the
1755 definition of dominion?
1756

1757 Q: Dominion would be ownership or control of the residence.
1758

1759 A: Okay, thank you. Thank you.
1760

1761 Q: I'm sorry. Yeah, go ahead.
1762

1763 A: Yeah, he did not have dominion of the residence.
1764

1765 Q: Did you know that that night?
1766

1767 A: We couldn't establish dominion. I believed he lived there personally based on
1768 him being there that strange time of night and...
1769

1770 Q: But that doesn't count...
1771

1772 A: Yeah, I know.
1773

1774 Q: ...in our world, right?
1775

1776 A: That doesn't count. Yeah.
1777

1778 Q: So...
1779

1780 A: So we - so we weren't able to establish he had dominion or residency at that
1781 address.
1782

1783 Q: The dominion and control of the subject's - of the objects to be searched. Did
1784 you establish the dominion and control of the areas and objects to be searched
1785 within this house that night when you were going through this call?
1786

1787 A: Speaking of ownership, no, we didn't.
1788

1789 Q: If you go down to the bottom Number C, and it says Field Searches. Officers
1790 who conduct a field search of a structure must obtain approval from their
1791 supervisor prior to conducting the search. Did you do that this night?
1792

1793 A: Being a Tac Unit you're expected to search areas that probationers are in. Did
1794 we call up? I - I didn't have a conversation in as, "Am I allowed to search

1795 this, Sarge?" I didn't ask that. Sergeant was advised of our call though, at one
1796 point.
1797
1798 Q: I think the way that this is reading is if you read it, it says all other types of
1799 field searches do not require. So if you search his car or a subject outside, but
1800 when a field search turns into a structured search, you are to notify your
1801 sergeant. Did you do that?
1802
1803 A: Notify my sergeant and ask permission? That's permission like as in...
1804
1805 Q: Well, it doesn't say...it says obtain approval.
1806
1807 A: Oh, obtain approval. I read that as, (reading) field search/structure search
1808 must obtain approval... Me telling a sergeant what we plan on doing and him
1809 not objecting to me is approval.
1810
1811 Q: Okay. So did you do that this night?
1812
1813 A: Yes, I did.
1814
1815 Q: All right. Did you do that prior to conducting the search or while conducting
1816 the search? Or which, which one was it?
1817
1818 A: I don't recall if it was while or - or before.
1819
1820 Q: Did you have a conversation with Sergeant Moore or did Officer Fetch?
1821
1822 A: In my head, I recall updating Sergeant, but I don't - I'm just trying to think of
1823 what - to what certainty. I wish I could say for certain that I updated Sergeant
1824 on the call personally.
1825
1826 Q: Sergeant Moore was there. So I'll tell you that.
1827
1828 A: Okay.
1829
1830 Q: So I mean, if that'll help you recollect at all. Sergeant Moore did show up to
1831 this physically.
1832
1833 A: Okay.
1834
1835 Q: He was there. So if that helps you in any way.
1836
1837 A: I updated Sergeant then because I would've - if he showed up then I would've
1838 said, "Hey, Sergeant. This is what we have," and just update him like that
1839 'cause I would've definitely been there if he showed up.

1840
1841 Q: If you go to D. Reporting Requirements...
1842
1843 A: Yeah.
1844
1845 Q: ...when structure searches do not result in the generation of a crime report
1846 officers shall complete an incident report.
1847
1848 A: Mm-hm.
1849
1850 Q: Did you do that on this night?
1851
1852 A: We documented the necessary facts in my opinion, but we didn't do it in an
1853 MRE SPD 107 format. That is correct. We did not fulfill that SPD 107
1854 requirement.
1855
1856 Q: Number 2: The report shall detail the following, and there's A through G, and
1857 being as you did not write a report, you did not detail the following in a report,
1858 correct?
1859
1860 A: Yes, sir.
1861
1862 Q: On Page 15 in regards to A and D, did you violate this search manual on this
1863 night?
1864
1865 A: I did.
1866
1867 Q: This is - why - this came up a little bit earlier.
1868
1869 A: Yeah.
1870
1871 Q: But why did you and your partner turn your mics off that night?
1872
1873 A: To have a meeting of the minds. I don't recall exactly everything said or yeah,
1874 to answer that question.
1875
1876 Q: And so what would necessitate you needing to turn your mic off to have a
1877 conversation with your partner?
1878
1879 A: I can tell you the reasons that I do it, and other officers do on the street, is so
1880 we can go back to plain talk. Sometimes swear words come in, stuff we don't
1881 want to record. We talk about intel. You know we talk about, "Hey, do you
1882 have any information on this house?" Or I mean, I'm - I'm - it's all conjecture
1883 'cause I don't remember exactly everything said, but I - I can tell you the
1884 reasons that officers utilize the off switch on their - on their mics and talking

1885 about stuff like, you know, informants, information that you've had on the
1886 street regarding maybe something that will help out with what you're doing,
1887 an investigation, like I said plain talk.
1888

1889 Q: Was this a good time to turn off - I mean you were in a house that...
1890

1891 A: Yeah.
1892

1893 Q: ...you didn't, you know that you were getting some flack from the resident of
1894 the house. He said that his son doesn't live there. You say you're legal
1895 standing is being questioned. You have a lot of stuff going on. Is that a good
1896 time to turn off your microphone just so you guys can have a side
1897 conversation? I mean cussing on - as long as you're out of the public view
1898 and you're not around anybody having a conversation on the ICC, I don't - I
1899 mean do you think you're going to get in trouble for cussing on the ICC when
1900 it's just you and your partner?
1901

1902 A: I think you can get in trouble for that.
1903

1904 Q: Can you?
1905

1906 A: It's rumored, yeah.
1907

1908 Q: Okay.
1909

1910 A: I didn't see any evidentiary value at the time to keep my mic on. I couldn't - I
1911 mean, I'm - if I wanted to make up something I mean, I would turn it off and
1912 say, "Oh yeah, you know he did say his son lived here." I mean, that could be
1913 - I mean if - I can't even think of a motive like a sinister motive to...
1914

1915 Q: To turn it off at that time?
1916

1917 A: ...turn it off. I don't know what kind of angle there is.
1918

1919 Q: But the call's not over. I mean you're still in an atmosphere or environment in
1920 which it would be useful. I know it'd be useful today because all these things
1921 that you're talking about we would actually have on audio...with the way that
1922 you spoke with ██████ what was actually said, what you actually said to him.
1923 You know when he comes in here to make a complaint...
1924

1925 A: Mm-hm.
1926

1927 Q: ...and all these things are, you know, he's throwing all these things left and
1928 right and ██████ saying, A and B, and stuff like that, you know, and then
1929 your mic goes off, and so I would have that. I would have that what your

1930 mindset was between you and your partner on whether you're going to search
1931 or not search when you tell me that he says, "Hey, I'm throwing in the towel.
1932 Why don't you go in and check," I'd have that on there. I'd have all these
1933 things that you are getting questioned for...
1934
1935 A: Mm-hm.
1936
1937 Q: ...and now we don't have them. And so that's why I'm asking why you would
1938 turn it off, and why not, if you want to have a side conversation why not mute
1939 it?
1940
1941 A: In effect isn't that what we just did though by turning off our mics?
1942
1943 Q: No.
1944
1945 A: It turns the sound off.
1946
1947 Q: Well it turns the sound off, but then what does it buzzes on here, right?
1948
1949 A: Sometimes. I don't know. The - the mics don't really give very good
1950 feedback.
1951
1952 Q: Well, the mute button buzzes at you to remind you that you muted it...
1953
1954 A: Mm-hm.
1955
1956 Q: ...so that you could possibly turn it back on after your side conversation.
1957 Your mics went off and were off for the duration of the shift, so every bike
1958 stop, traffic stop, subject stop that you made for the rest of that shift there's no
1959 audio. So...
1960
1961 A: Hm.
1962
1963 Q: ...in the violation of the order doesn't just go into this call, but it's through the
1964 extent of the rest of your evening. So if anything else would've happened we
1965 wouldn't have audio on that 'cause you guys never turned them back on.
1966
1967 A: Hm.
1968
1969 Q: If a mic is un-synced from a car like you go in the back of the house and it un-
1970 syncs itself when you get back in close proximity of that car it will sync itself
1971 back up.
1972
1973 A: Okay.
1974

1975 Q: This is...
1976
1977 A: Well I didn't have any alternative...
1978
1979 Q: Okay.
1980
1981 A: to...yeah.
1982
1983 Q: This is - this is General Order 525.03.
1984
1985 A: Yeah.
1986
1987 Q: And it deals with in-car cameras and microphones, and on Page 2, C Number
1988 5, it says: The ICC system audio and video recording shall be activated as
1989 soon as practical whenever an officer is in an ICC equipped vehicle makes
1990 any field contact for enforcement or investigative purposes whether self
1991 initiated or in response to a dispatched call. Did you do that on this night?
1992
1993 A: Yes.
1994
1995 Q: Subsection A: When the system has been activated in response to any of the
1996 above, the incident contact shall be recorded until the incident contact has
1997 reasonably concluded. Did you do that on this night?
1998
1999 A: Reasonably concluded. The contact wasn't concluded. Did I think it
2000 reasonable to turn off the ICC 'cause I didn't think it was going to capture
2001 anything evidentiary - of any evidentiary value? Yes. But the contact wasn't
2002 concluded. I - I'm kind of thrown by the word reasonably. Does that mean
2003 basically concluded?
2004
2005 Q: I would beg to say that if you're conducting...
2006
2007 A: Okay.
2008
2009 Q: ...a probation search on a house that the contact would be reasonably
2010 concluded when the probation search was over.
2011
2012 A: Okay.
2013
2014 Q: That's - that - that...
2015
2016 A: Yeah, okay. Yeah, that sounds - all right.
2017
2018 Q: So in regards to that did you do that this night, you, and your partner?
2019

2020 A: No.
2021
2022 Q: So in regards to...
2023
2024 A: This policy, I violated this policy.
2025
2026 Q: On that night in regards to A - Subsection A under 5C?
2027
2028 A: Mm, 5C, 5A or C 5A?
2029
2030 Q: Subsection A.
2031
2032 A: Yeah.
2033
2034 Q: Under C5.
2035
2036 A: Hm. Well, I was - I know ignorance of the law and like ignorance of the
2037 GO's. It's not good. It's not - it's not a accepted defense, but it's - it's really
2038 news to me.
2039
2040 Q: You haven't seen that one before?
2041
2042 A: I didn't know about it, and I can tell you we're trained in - we're trained in the
2043 ICC familiarization like training classes - not even like classes. Like they
2044 show up before roll call or during roll call, and they - they tell us how to
2045 utilize the mic, and here's the mute button, and at no point did I know that,
2046 "Oh, by the way. If you use the mute button you'll get DC'd 'cause you
2047 violated an order." If that's - I - I never even heard of that before. I can't even
2048 tell you how many times I'm on calls and officers ask everyone turn off their
2049 mics 'cause we have a Pow-wow or something like that during the call.
2050
2051 Q: Mm-hm.
2052
2053 A: So hey, it's surprising to me. It's good to know.
2054
2055 Q: That the order says that. So you've never been told that on these contacts you
2056 should record the whole contact until the contact is over? You've never been
2057 told that?
2058
2059 A: On the ICC video, yeah. But the - the audio, if you turn off the audio you're in
2060 violation of the GO. I didn't know that.
2061
2062 Q: So like you thought that you could just turn it off whenever you wanted or just
2063 was it was a heightened situation or just, as far as what you perceive as a
2064 heightened situation?

2065
2066 A: Looking back, I, like I said, I didn't think we needed it anymore, didn't see any
2067 evidentiary value. You're saying it would've helped out in knowing what was
2068 said to [REDACTED] right?
2069
2070 Q: Not only [REDACTED] but the other officers...
2071
2072 A: The other officers, okay.
2073
2074 Q: ...Matthew, your conversation with him, what your mindset -- all these things
2075 that you're...
2076
2077 A: Mm-hm.
2078
2079 Q: ...telling me...
2080
2081 A: Yeah.
2082
2083 Q: ...you know that - that it would help.
2084
2085 A: Yeah.
2086
2087 Q: I think that both of these violations, the search manual and this one in this
2088 General Order, if we would've had both of these it would've been much
2089 different. All of these things that you say to me as far as your mindset, your
2090 articulable facts, your reasonable suspicion, what your standing was, and what
2091 you thought your standing was...
2092
2093 A: Mm-hm.
2094
2095 Q: ...what occurred, who ran who, who found out what, who's on probation; if
2096 that was all documented in an incident report...
2097
2098 A: Mm-hm.
2099
2100 Q: ...that would be much easier...
2101
2102 A: Yeah. I - I'm hearing. Yeah, I'm hearing you.
2103
2104 Q: ...and then this audio, if we had, I mean, both of these things lead to the
2105 opinion of - it brings us to this improper search.
2106
2107 A: Mm-hm.
2108

2109 Q: Without these two violations, I don't know that we get there, but we got there
2110 because we're saying why wouldn't they document all this stuff, and why
2111 would they turn their mic off?
2112

2113 A: Mm-hm.
2114

2115 Q: If this was legitimate.
2116

2117 A: Well,...

2118

2119 Q: Because we know - because - hang on.
2120

2121 A: Okay.
2122

2123 Q: Because we know that you know these things within this search manual. We
2124 know you know that.
2125

2126 A: Right, right.
2127

2128 Q: So why would you not follow the manual if you knew it?
2129

2130 A: Follow the sections I violated as far as the not writing the report, right? What
2131 I say to that is, we should've done a report. I didn't feel like we were trying to
2132 do anything like behind the scenes or secretive. There are other officers on
2133 scene. There was a sergeant on scene. I mean we didn't have a sinister or
2134 malicious intent to hide anything. People are free to walk around. The guy,
2135 whatever his name is, [REDACTED] he didn't - did he complain that we were
2136 malicious or messy? No, he complained that he didn't like the search 'cause
2137 he thought it was illegal, okay? We didn't believe that that even held water at
2138 the time. We've already been through that. Other officers, there's no way they
2139 would've claimed misconduct including the sergeant, and I'm telling you there
2140 was no like, as far as misconduct goes, I mean like doing a - a messy search or
2141 tearing the place up or anything like that...
2142

2143 Q: I haven't said that.
2144

2145 A: Huh?
2146

2147 Q: I haven't said that one time. I - I...
2148

2149 A: Okay. Well, there's no way that - that you have someone...
2150

2151 Q: There's not. No, if you get down to the facts of this case been through them
2152 all, that you were in a house...
2153

2154 A: Yeah.
2155
2156 Q: ...that you didn't have a legal standing to be, and then on top of that you didn't
2157 write a report, and you turn your mic off halfway.
2158
2159 A: Well, I'm saying we weren't trying to hide anything from any officers.
2160
2161 Q: Okay.
2162
2163 A: Other officers knew what we were doing there. They knew what we were
2164 doing, why we were doing it, and I wasn't trying to hide anything. That's what
2165 I'm trying to get to. I'm not saying we didn't do anything wrong because now
2166 I'm talking to you, I realize that we did. I'm just trying to...
2167
2168 Q: Yeah.
2169
2170 A: And you're saying well, why would you - why would you do that? And you're
2171 kind of making it seem like well he might've had some sinister like plot
2172 behind that.
2173
2174 Q: No, that was - what I meant was you get a complaint about an improper
2175 search.
2176
2177 A: Mm-hm.
2178
2179 Q: You look at the legality of the search and then you go to what the officer's
2180 mindset was, and what their thought process, what their facts were...
2181
2182 A: Mm-hm.
2183
2184 Q: ...and you go to a report and there's no report there even though the officers
2185 know that when they do a structured search they're supposed to do an I-report
2186 if it doesn't turn into a crime report.
2187
2188 A: Mm.
2189
2190 Q: And then you go through the ICC and the officer's mic's turned off. I'm not
2191 saying that I'm telling you that something happened. I'm just saying without
2192 doing these things you lead someone to believe that that's what possibly
2193 occurred.
2194
2195 A: Okay.
2196
2197 Q: And now you have to come - you have to answer for it.
2198

2199 A: Right, and that's what I'm doing here.

2200

2201 Q: Exactly. And that's why it's a little bit harder when we don't have those things
2202 'cause we have to go through all these questions you have to answer and
2203 recollect this incident.

2204

2205 A: Yeah, and my intention wasn't to cover up anything, and I thought that's what
2206 you were insinuating because I'm telling you that this was my mindset from
2207 what I recall that night. I thought we had standing - probation standing -
2208 probation status and...

2209

2210 Q: If [REDACTED] [REDACTED]

2211

2212 A: Yeah.

2213

2214 Q: ...was on probation to [REDACTED] Teekay Way that night would you have written an
2215 I-Report after your search?

2216

2217 A: If he was on probation from that address? I know I should've done an I-
2218 Report instead of putting notes on the call.

2219

2220 Q: Okay.

2221

2222 A: I don't understand how that - why that would go into my - my thought process
2223 of deciding do the I-Report or not though, or change...

2224

2225 Q: So you're...

2226

2227 A: ...why I didn't do one that night.

2228

2229 Q: ...your lack of authority or legality do not play into the fact that you did not
2230 write an I-Report.

2231

2232 A: Correct.

2233

2234 Q: Okay, almost done. The last thing we're going to go over is - [REDACTED]

2235

2236

2237

2238

2239

2240

2241

2242

2243

Based on the violations described and how citizens probably viewed the

2244 officers and the department, and I'm not going to read this whole paper to you,
2245 but what I have in front of me is a seven page summary of the Sacramento
2246 Police Department 526.01 General Order 526.01 Search Manual. I'm going to
2247 read a few excerpts of this. If you recall writing them you can just say, yes, I
2248 recall writing that. If you don't, you would like to look at it to refresh your
2249 recollection then you can go ahead and do that as well, okay? The first
2250 excerpt is, the search manual sets a high level of professional standard to any
2251 officer's conduct and method while searching. A police department holds its
2252 officers to a high standard of professionalism so they do not betray the trust of
2253 the public. Do you recall writing that?
2254

2255 A: Yes.
2256

2257 Q: As the search manual outlines, there are steps that shall be carried out in order
2258 so that the most efficient search may be conducted by police officers in the
2259 field without sacrificing the professionalism expected of the individual officer
2260 by the public they serve. Do you recall writing that?
2261

2262 A: Yes.
2263

2264 Q: After the personnel and equipment legally enters onto the search location,
2265 officers shall take specific steps to ensure proper documentation of the search
2266 and dictate the method in which the search is conducted. Do you recall
2267 writing that?
2268

2269 A: Yes.
2270

2271 Q: Officers shall properly document the condition of how the location looks by
2272 photographing areas to be searched before the systematic search begins. Pre-
2273 search pictures protect the police department civilly from erroneous claims of
2274 damage caused by officers when they searched. Do you recall writing that?
2275

2276 A: Yes.
2277

2278 Q: A report shall shortly follow summarizing where, when, and why the search
2279 was conducted, that what evidence was obtained and booked, if there was
2280 damaged property on scene, and if arrests were made on scene. Do you recall
2281 writing that?
2282

2283 A: Yes.
2284

2285 Q: The only other question that I have in reading that, that I was wondering is,
2286 did it ever cross your mind, I know that earlier you said you don't like going
2287 into houses [REDACTED] and stuff like that. Did

2288 it ever cross your mind on this particular incident to take photographs of the
2289 residence pre and post search, or search photographs?
2290
2291 A: I don't - I don't recall thinking, let's not do photographs or let's do do
2292 photographs. I don't know if I just forgot or some- you know, you're probably
2293 wondering why wouldn't they take photos? I mean a lot of cameras weren't
2294 available to us, CSI is always busy.
2295
2296 Q: Do you recall if you checked...
2297
2298 A: Matthew...
2299
2300 Q: ...with CSI or you don't?
2301
2302 A: I don't recall.
2303
2304 Q: Okay.
2305
2306 A: I don't recall. I don't recall. I think that my whole feeling about the whole
2307 thing as - as - as we were leaving was that was - do you understand the street
2308 term a light weight - light weight sear- or light weight search. Yeah, it was
2309 just like, it didn't seem like a major search in the way that I assumed it had
2310 been searched a little bit 'cause Matt was gone for a while, and I was there,
2311 and I don't recall if I manipulate anything, but I didn't feel like I did a
2312 legitimate search on the house. So that may have been a factor in what I was
2313 kind of - my mindset at the time.
2314
2315 Q: You mean as far as the cutting the corner of writing the report, like you didn't
2316 - because it wasn't a full systematic probation search you didn't - you mindset
2317 wasn't to write an I-Report to document what happen?
2318
2319 A: That's was probably a factor in my mindset, yeah. I can't say for certain.
2320
2321 Q: I'm not trying to put words in your mouth. I was just trying to decipher what
2322 you just told me.
2323
2324 A: Yeah.
2325
2326 Q: I think that I may...
2327
2328 A: Yeah, yeah. Yes.
2329
2330 Q: Do you have anything? No?
2331
2332 Q1: Nothing.

2333
2334 Q: Jon, do you have anything else before we finish?
2335
2336 A: Yeah, I guess I do. I - before - before I leave, I just wanted to make sure that
2337 before I'm portrayed as like a rogue officer, you know, making up rules as I
2338 go, booting doors down. I don't know what kind of, you know, you guys are
2339 supposed to be a fact finding division - a department of the Sacramento Police
2340 Department, but it feels like maybe there's an agenda here [REDACTED]
2341 [REDACTED]. I don't know if that is, but I wish there was a little
2342 perspective on - on how things are done out in the field and that this - this
2343 violation isn't unhea- I mean we have - literally we have mandatory, what do
2344 you call it? I'm losing my words I'm so flustered. But mandatory prolific
2345 offender stops or checks. You know what I mean? I don't - you know I could
2346 guess between 5 and 20 of those happen in a day, and I doubt any of them get
2347 photographed, and I doubt even half of them get documented in I-Report. I
2348 mean, I just - that's - that's the way it is out in the field, and I just hope that
2349 they take into account that - that it was a, yes, a violation of a general order. It
2350 wasn't done intentionally to be malicious or misleading or cover up anything,
2351 and I was a corner that shouldn't of been cut and...I'm upset with myself for
2352 not doing that, if that would've helped in this case. I think - I think that's it. I
2353 just wanted to - just to say that.
2354
2355 Q: All right. So we're clear before I read this, I don't like the word agenda, and
2356 I'm not trying to preach to you, but citizens come in and they have the ability
2357 to make complaints.
2358
2359 A: Yeah.
2360
2361 Q: And we are fact finding, and I asked you questions based on what I perceive is
2362 the incident and it's your job because you're there.
2363
2364 A: Mm-hm.
2365
2366 Q: You're the one that was there and I wasn't, to tell me what your thought
2367 process was honestly, and that night and what occurred out there so that I can
2368 make a fact finding deci- I don't make the decision, right? This is an impartial
2369 thing. You could've told me what you want to tell me. I just hope you tell me
2370 the truth, all right? So the agenda - this is not a department complaint. This is
2371 not something that we generated. This is something a citizen walked through
2372 the door and believe that he was - his house was searched illegally.
2373
2374 A: Mm-hm.
2375
2376 Q: And I have - that's the job - that's the chair that I sit in right now.
2377

2378 A: Mm-hm.

2379

2380 Q: And so - and the chair that many people have sat in before me, and so I'm not
2381 quite sure that that answers your question or makes you feel any better, [REDACTED]

2382

2383

2384

2385

2386

2387 A: Mm-hm.

2388

2389 Q: [REDACTED]

2390

2391

2392 A: Mm.

2393

2394 Q: [REDACTED]

2395

2396 [REDACTED] It's civil service. That's the way we roll, and so do
2397 people want - is this - is this the case that's at hand? Did a citizen bring this to
2398 our attention? Yeah. Are we going to thoroughly investigate it? Does it
2399 mean that you're going to get looked at differently or perceived differently
2400 because...

2401

2402 A: Mm-hm.

2403

2404 Q: ... [REDACTED] you've done a ton of great work and in
2405 between this case and from here in the future you'll do a ton of great more
2406 work. So we roll through. We handle the case and we take lumps and we
2407 keep moving forward.

2408

2409 A: Well, I just - I want to get your - 'cause you hold a very important and
2410 powerful position here, and I'm sure somewhere down the line someone's
2411 going to ask you what your opinion of this is and I just want to - your - [REDACTED]

2412

2413

2414

2415

2416 Q: Mm-hm.

2417

2418 A: [REDACTED] it has nothing to do with unprofessionalism. I
2419 mean, if - I mean, well say - we'll say the place was searched 'cause I'm
2420 assuming Matt did some searching and I might have. I don't remember. I
2421 wish I could tell you I open up a drawer or that for certain 'cause I think that's
2422 what you want, but for the record. But I don't remember. [REDACTED]

2423 [REDACTED]
2424 [REDACTED]
2425 [REDACTED]
2426 [REDACTED]
2427 [REDACTED]
2428 [REDACTED]
2429 Q: You'd be correct.
2430
2431 A: Okay.
2432
2433 Q: [REDACTED]
2434 [REDACTED] is the fact that you wrote - you read the search manual...
2435
2436 A: Yeah.
2437
2438 Q: ...and you should've been aware of these violations, [REDACTED]
2439 [REDACTED]
2440 [REDACTED].
2441
2442 A: I just - I thank you for that, 'cause I don't - I didn't want you to think that we
2443 tore up the place 'cause that wasn't the guy's complaint.
2444
2445 Q: Mm-hm.
2446
2447 A: And it wasn't - I mean you know it could've been any of the officers that were
2448 walking around and whatever.
2449
2450 Q: He - Mr. [REDACTED] under - in his statement never said that you guys maliciously
2451 tore anything up in his house, no.
2452
2453 A: Okay.
2454
2455 Q: It was just what we - what was on the complaint form, and what we talked
2456 about today, all right? Did that raise anything else with you two?
2457
2458 Q1: No.
2459
2460 Q: No? Okay. Jon, is there anything else related to this matter that we have not
2461 covered that needs to be added, clarified, or changed, I am ordering you to
2462 provide that information now.
2463
2464 A: No.
2465
2466 A: After you leave this interview should you remember anything that is different
2467 from or in addition to the information that you've given today, I'm ordering

2468 you to contact me immediately. I'm also ordering you not to discuss this
2469 matter with any other department employee. Do you understand these orders?
2470

2471 A: Yes.

2472
2473 Q: All right, the time is 1820, and that concludes this interview.
2474

2475
2476 This transcript has been reviewed with the audio recording submitted and it is an accurate
2477 transcription.
2478

Signed _____

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INTERVIEW WITH OFC. JONATHAN MAGNER

Q=Sgt. Adam Vassallo
Q1=Sgt. Charles Husted
A=Ofc. Jonathan Magner
A1=Det. Aaron Wallace

Q: The date is July 3, 2013. The time is 1627 hours. Present in the Internal Affairs Office is Officer Jonathan Magner. He is represented by Detective Aaron Wallace. Sergeant Charles Husted and myself, Sergeant Adam Vassallo are also present. The purpose of this investigation is to conduct an interview of Jonathan Magner, who is an employee with the Sacramento Police Department in the capacity of police officer. This is an administrative investigation on the charges against Officer Fetch and Officer Magner for improper search. Do you understand that this is an administrative investigation only?

A: Yes.

Q: The results of this investigation could lead to disciplinary action up to and including termination of the employee's allegedly responsible. Do you understand this?

A: Yes.

Q: Based upon the authority vested in me by the chief of police, I am ordering you to cooperate with this investigation. This means that you must be truthful in all your statements and answer all questions fully and honestly. Also, you are ordered to provide at this time all information you may know regarding this incident. Failure to answer a question or failure to answer it truthfully and fully will be considered a lack of cooperation that could subject you to disciplinary action up to and including termination for insubordination. Do you understand this?

A: Yes.

Q: Do you understand that this is only an administrative investigation?

A: Yes.

1
2 Q: Do you understand the allegations?
3
4 A: Yes.
5
6 Q: Do you understand that I'm ordering you to answer my questions and that if
7 you don't answer them truthfully and fully it could result in disciplinary action
8 up to and including termination?
9
10 A: Yes.
11
12 Q: Okay. Jonathan do you recall the interview you gave to Internal Affairs and
13 myself on August 24, 2013?
14
15 A: Yes.
16
17 Q: Okay. Have you had a chance to review the transcript of that interview?
18
19 A: Yes.
20
21 Q: Are you aware of the answers that you gave to the questions asked in the
22 interview pertaining to this case?
23
24 A: Yes.
25
26 Q: On August 26, 2011, the night of the incident, who was your partner that
27 night?
28
29 A: Officer Fetch.
30
31 Q: Okay. What was your assignment?
32
33 A: We were a TAC unit.
34
35 Q: What area of the city were you in?
36
37 A: Sector 5, South Sacramento.
38
39 Q: Did you contact a subject on the sidewalk outside of [REDACTED] Teekay Way at
40 approximately 2140 hours?
41
42 A: Yes.
43
44 Q: Who was that?
45

1 A: [REDACTED] [REDACTED]
2
3 Q: What was the nature of the contact?
4
5 A: Nature was we thought it was suspicious he was there at that time of night
6 loitering around. We engaged in a consensual contact.
7
8 Q: What is a consensual contact mean to you?
9
10 A: Means that we didn't have a right to detain or place in custody at that moment,
11 and that was going up consenting - I mean contacting him.
12
13 Q: So it's just a consensual encounter then?
14
15 A: Yes sir.
16
17 Q: What are some things that you do to make sure that as an officer that you've
18 done in your in your past to make sure that consensual encounters are
19 consensual?
20
21 A: We don't order him to do anything. We don't block his path of travel. It was
22 just...
23
24 Q: Okay. At some point did he move towards the residence?
25
26 A: Yes.
27
28 Q: Did he have the right to move towards the residence based on the fact that it
29 was a consensual encounter?
30
31 A: Yes.
32
33 Q: Was he running?
34
35 A: He was moving quickly, is what I recall.
36
37 Q: Was he walking?
38
39 A: Part of it yes.
40
41 Q: Okay. So did you document on the CAD call in your comments that he ran
42 into the house?
43
44 A: Yes.
45

1 Q: What did you mean by that?
2
3 A: Light jog. He wasn't in a full sprint. I - I do remember that. It wasn't a full
4 sprint but at one point he was jogging quickly into the house.
5
6 Q: Did you pursue him?
7
8 A: Yes.
9
10 Q: And why?
11
12 A: 'Cause I thought he was a criminal trying to get away with a crime, or he had
13 a warrant.
14
15 Q: By get away with a crime what do you mean?
16
17 A: He was in possession of something, drugs, gun, that kind of thing.
18
19 Q: This was in your mind at the time?
20
21 A: Those were the two top things in my mind at the time, yes. Yes.
22
23 Q: Did he enter the residence?
24
25 A: Yes.
26
27 Q: When you got to the front door who did you contact?
28
29 A: [REDACTED] father.
30
31 Q: Do you recall his name?
32
33 A: Not the top of my head, sorry. Yeah, [REDACTED]
34
35 Q: Okay. Was this contact through a security screen?
36
37 A: Yes.
38
39 Q: Could you see [REDACTED] while you're speaking with him at the front door?
40
41 A: I could see there was a figure in front of me. I couldn't see his, you know, that
42 well. I couldn't see his face.
43
44 Q: Was there light behind him?
45

1 A: I don't recall if there was light behind him but I remember the security screen
2 door kept me from looking inside the residence.
3
4 Q: Could you see [REDACTED] [REDACTED] at anytime while you were at the security
5 screen?
6
7 A: When it was closed?
8
9 Q: Yeah.
10
11 A: No.
12
13 Q: Could you see him prior to it being closed?
14
15 A: Well as he was going inside the house yes.
16
17 Q: So while the security screen door was closed you could not see [REDACTED] [REDACTED]
18 at anytime?
19
20 A: Correct.
21
22 Q: Could you hear [REDACTED] [REDACTED] at anytime while you're at the security screen?
23
24 A: Yes.
25
26 Q: What were some things that you heard him say?
27
28 A: "The cops are here. I didn't do nothin'." I remember those two things he
29 said.
30
31 Q: Why did you think that that was him?
32
33 A: Well he was the only one that knew we were here. I - he ran from me so it
34 made sense to me that he was the one talking.
35
36 Q: But when you heard him you didn't see him?
37
38 A: Correct.
39
40 Q: You were having a conversation with [REDACTED] [REDACTED] at the door?
41
42 A: Yes.
43

1 Q: If I understand what you said correctly, and correct me if I'm wrong, you
2 could see a figure standing in front of you but you could not make out who he
3 was or facial features and things of that nature?
4
5 A: Yes.
6
7 Q: What was the basis for asking [REDACTED] to exit the house?
8
9 A: Because he was on probation.
10
11 Q: Who found out he was on probation?
12
13 A: Officer Fetch delivered me the news.
14
15 Q: Okay. And who placed [REDACTED] in the patrol vehicle?
16
17 A: Me.
18
19 Q: Did you attempt to establish residency of [REDACTED] [REDACTED]
20
21 A: Yes.
22
23 Q: How was that done?
24
25 A: Asking questions. We also - I also looked for indicia in some of the open
26 bedrooms that I was in that night.
27
28 Q: So did you ever establish residency of [REDACTED] [REDACTED]
29
30 A: No.
31
32 Q: Was it determined through via computer checks that [REDACTED] [REDACTED] did not
33 live at the residence?
34
35 A: I don't recall what his actual address of probation was in the computer but it
36 wasn't that one, it wasn't the house we were at.
37
38 Q: So it was established that his address...
39
40 A: Different.
41
42 Q: ...via computer checks was not [REDACTED] Teekay Way?
43
44 A: Correct.
45

1 Q: So your statement in your first interview I believe was, "It was established. I
2 don't recall what he said his address was but it was established very early on
3 that this was not his known address." Would that be correct?
4
5 A: Yes.
6
7 Q: Okay. Did you and your partner enter the house after [REDACTED] [REDACTED] was
8 detained?
9
10 A: Yes.
11
12 Q: Based on what legal authority did you enter the house that night?
13
14 A: We had no legal authority to enter the house that night.
15
16 Q: But based on what legal authority did you enter the house that night?
17
18 A: That night I believed the probation status.
19
20 Q: Based on what circumstances?
21
22 A: Based on him being on probation. And I believe that he was a probationer
23 trying to conceal evidence of a crime being committed in our presence,
24 because of his actions.
25
26 Q: Do you still believe that that was a lawful entry, today?
27
28 A: No.
29
30 Q: Why is that?
31
32 A: Because I needed a warrant to go inside. Maybe use those articulable facts that
33 I observed on scene to get a warrant before we entered to search it.
34
35 Q: When you entered the residence that night did you believe you were on lawful
36 ground?
37
38 A: Yes.
39
40 Q: Did you note on the CAD call comments that you entered and searched
41 unlocked open door areas where probationer had access to?
42
43 A: I don't recall if I put that or Officer Fetch put that.
44

1 Q: Okay. Would you agree that between yourself and Officer Fetch working as a
2 two officer car, that the comments on the call are put on there based on both
3 of your actions?
4
5 A: Yes.
6
7 Q: So do you recall speaking with Officer Fetch about the comments that were
8 placed on the call that night?
9
10 A: I don't recall talking about the exact comments that were placed on the call. I
11 remember talking about the call to Officer Fetch and notes based on that
12 conversation were put onto that call.
13
14 Q: Okay.
15
16 A: And I don't recall if it was me or Officer Fetch...
17
18 Q: Okay.
19
20 A: ...that put those there.
21
22 Q: And so when it says, "At TAC51," that was your call sign that night?
23
24 A: Yes sir.
25
26 Q: So under that, "At TAC51," either you or Officer Fetch did notate the fact that
27 you entered and searched unlocked open door areas where probationer had
28 access to?
29
30 A: Yes.
31
32 Q: So you did not enter the house based on exigency or consent?
33
34 A: It wasn't consent. At the time I thought there was a certain amount of
35 exigency yes because based on his actions and him being on probation, I
36 believed there was - there was some criminal action being done in my
37 presence. I didn't know what that was. There were other people inside the
38 residence that could have destroyed evidence after we left. And so I believed
39 that there was a possibility of exigency. But I realize now that I created my
40 own exigency that's not real.
41
42 Q: Did you call other officers to assist you on the call?
43
44 A: Yes.
45

1 Q: For what reason?
2
3 A: To help us control the scene.
4
5 Q: Who was the first officer to show up?
6
7 A: I believe Officer Donnell.
8
9 Q: What did he do?
10
11 A: He stayed in the living room with [REDACTED] [REDACTED]
12
13 Q: [REDACTED] [REDACTED]
14
15 A: [REDACTED] [REDACTED]
16
17 Q: Okay. And [REDACTED] [REDACTED] and [REDACTED] [REDACTED] correct?
18
19 A: Yes.
20
21 Q: Was that the female that was located in the house as well?
22
23 A: Yes.
24
25 Q: At the time that Officer Donnell gets there and watches [REDACTED] [REDACTED] and
26 [REDACTED] [REDACTED] in the front room and you have found anybody else in the house?
27 Did you find anybody else in the house besides those two individuals?
28
29 A: Other - no.
30
31 Q: Okay. Is there any exigency in that house at that time?
32
33 A: No.
34
35 Q: So at that point you would agree that the exigency that you had, or that you
36 felt you had, at that point would have been diminished?
37
38 A: Yes.
39
40 Q: Okay. Per the SPD search manual, did you conduct a structure search of the
41 residence?
42
43 A: Yes.
44

1 Q: Did you or your partner enter and or search the common areas of the
2 residence?
3
4 A: Yes.
5
6 Q: Did you enter unlocked bedrooms within the residence?
7
8 A: Yes.
9
10 Q: Did you establish that night, the bedrooms that you entered, did you establish
11 who they belonged to?
12
13 A: I believe [REDACTED] [REDACTED] claimed one of the bedrooms, yes, but I don't recall
14 every single room who claimed them.
15
16 Q: Okay. Were any of the bedrooms or common areas that you entered and or
17 searched that night found to be [REDACTED] [REDACTED] bedroom or area?
18
19 A: We could not determine that night.
20
21 Q: Did you find any indicia that night belonging to [REDACTED] [REDACTED] within the
22 residence?
23
24 A: No.
25
26 Q: Did [REDACTED] [REDACTED] ever give you consent to search the residence?
27
28 A: No.
29
30 Q: Did you ever ask [REDACTED] [REDACTED] for consent to search the residence?
31
32 A: I don't recall.
33
34 Q: On the ICC in car camera that you produced from that incident because you
35 guys turned on your ICC camera upon the consensual contact correct?
36
37 A: Yes sir.
38
39 Q: We see an officer at 2115 hours walk in front of the camera with his gloves
40 on. Who is that officer?
41
42 A: Me.
43
44 Q: Why were you wearing gloves that night?
45

1 A: In case I'd have to touch something gross.
2
3 Q: Within the residence of [REDACTED] Teekay Way?
4
5 A: Yes.
6
7 Q: Did you turn off your ICC mic while inside the residence?
8
9 A: Yes.
10
11 Q: Why did you do that?
12
13 A: To have a private conversation with Officer Fetch.
14
15 Q: Did you turn your mic back on at any time during the call?
16
17 A: No.
18
19 Q: Do you recall reviewing General Order 525.03 regarding ICC mics in our first
20 interview?
21
22 A: Yes.
23
24 Q: Are you aware that in General Order 525.03 that it states that when the ICC is
25 activated audio and recording shall be recorded until the incident has
26 reasonably concluded?
27
28 A: I do now yes.
29
30 Q: Were you in violation of that order when you turned your mic off that night?
31
32 A: Yes.
33
34 Q: Did you find any illegal contraband in the residence?
35
36 A: No.
37
38 Q: Was anyone in the house charged with a crime?
39
40 A: No.
41
42 Q: Did you prepare a written report documenting your activity on the call?
43
44 A: No.
45

1 Q: Why not?

2
3 A: At the time I can't - I can't recall exactly why. Some of the factors may have
4 been we felt like it was such a lightweight search, a minor search at that, and
5 we wanted to go get a - a good arrest that night so (unintelligible).
6

7 Q: Do you recall reviewing portions of the search manual in our first interview?

8
9 A: Yes.

10
11 Q: Were you aware that not preparing a report documenting the structure search
12 of a residence was in violation of Sacramento Police Department Search
13 Manual?
14

15 A: Yes.

16
17 Q: Were you aware of that that night?

18
19 A: Yes.

20
21 Q: [REDACTED]

22
23 A: [REDACTED]

24
25 Q: [REDACTED]

26
27
28 A: [REDACTED]

29
30 Q: [REDACTED]

31
32
33
34 A: [REDACTED]

35
36 Q: [REDACTED]

37
38 A: [REDACTED]

39
40 Q: Do you recall reviewing that paper with me in our first interview?

41
42 A: Yes.

43
44 Q: Okay. Got anything?

45

1 Q1: I do. John, you just said a few moments ago that I believe one of the factors
2 that came up in regards to not preparing a report pursuant to the search manual
3 was that it was a lightweight minor search.
4

5 A: Yes sir.
6

7 Q1: What do you mean by that?
8

9 A: What I mean was - is that the type of thorough search that we're used to
10 doing, which is to remove things from searched areas and place them in - in
11 systematic fashion, like basically to remove things from areas of the room,
12 place them in other parts of the room to make sure everything is thoroughly
13 searched, we did not do that. I remember leaving the house thinking, "This
14 house doesn't even look searched." I remember standing in a bedroom for
15 sure and looking around thinking, "If nothing pops out at me I'm done here,"
16 because I didn't want to be there any longer. Does that answer your question?
17

18 Q1: Sort of. Basically what I'm getting at is would it be fair to say that [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 would it be fair to say that you have a understanding and a working
22 knowledge of our search manual?
23

24 A: Yes.
25

26 Q1: All right. Is there anywhere at all in that search manual that designates that a
27 lightweight minor search, a search of a house that doesn't look to be searched,
28 any of those types of circumstances prevent you from having to write a
29 report?
30

31 A: No.
32

33 Q1: So then would you agree that at that time you should've written a report to
34 document the search regardless of whether you considered it lightweight or
35 not?
36

37 A: Yes sir.
38

39 Q1: All right. Does the condition of a house indicate whether or not you should
40 write a report?
41

42 A: No.
43

44 Q1: Then you mentioned early on that, and I'm gonna paraphrase so correct me if
45 I get this wrong, that the reason that you attempted a consensual contact with

1 [REDACTED] [REDACTED] was that he was suspicious and loitering around. Is that
2 correct?
3
4 A: Yes sir.
5
6 Q1: What do you mean by loitering around?
7
8 A: Milling around, standing around, not going anywhere with a purpose, which is
9 odd for that location at that time of day.
10
11 Q1: Teekay Way, is that an area that you normally work?
12
13 A: Not normally but I have before.
14
15 Q1: Okay. So can you articulate as to why what you just described is odd for that
16 location?
17
18 A: Yeah, we don't have pedestrians standing on street corners or in front of
19 residences at that time of night, normally.
20
21 Q1: Is that...
22
23 A: From my - from my experience in that area, yes.
24
25 Q1: Okay. So just that area or anywhere in the city?
26
27 A: That neighborhood.
28
29 Q1: Then you said that you pursued [REDACTED] [REDACTED] when he jogged, ran quickly,
30 or moved quickly towards the house correct?
31
32 A: Yes.
33
34 Q1: Then is it correct to say that you believed he was a criminal trying to get away
35 or he had a warrant?
36
37 A: Yes.
38
39 Q1: What are you basing that information on?
40
41 A: Based on the fact that people that exhibit that kind of behavior more than not
42 they're doing exactly that, they're committing a crime in our presence or they
43 have a warrant. So that's just based on my training and experience.
44

1 Q1: Without any other circumstances other than this unknown person in your
2 opinion trying to get away from you at that time, is there anything else that
3 would allow you to follow him into that residence at that time?
4

5 A: No, and that's why I didn't break down the door and pursue that any further
6 until I got confirmation from Officer Fetch that he was on probation.
7

8 Q1: All right. Are there occasions where that person that you believe in your
9 experience is trying to get away from you because they're up to something,
10 are there occasions when in fact make it away from you and you have to go
11 somewhere else and just leave the call completely?
12

13 A: Yes.
14

15 Q1: Did that happen in this incident?
16

17 A: No.
18

19 Q1: You said you remember looking for indicia in the house in regards to [REDACTED]
20 [REDACTED]
21

22 A: Yes.
23

24 Q1: What do you mean by indicia?
25

26 A: Mail on top of a dresser with his name on it, anything with his name on it or
27 pictures of him and his girlfriend, that's what we consider indicia.
28

29 Q1: You indicated you did not see any such indicia correct?
30

31 A: Correct.
32

33 Q1: Then you also said that you realize now that you created your own exigency in
34 regards to this incident that we're discussing correct?
35

36 A: Yes.
37

38 Q1: Are you basing that statement on something you've been told or are you
39 basing that on something that you truly believe was the case?
40

41 A: I think I understand that now after this internal affairs interview number 1 so.
42

43 Q1: Well let me rephrase the question.
44

45 A: Yeah.

1
2 Q1: The fact that you realize now that you created your own exigency, is that an
3 understanding that you came to within yourself and truly believe to be the
4 case?
5
6 A: At the time?
7
8 Q1: No right now.
9
10 A: Okay. Say it again. Sorry.
11
12 Q1: No that's okay. So what I'm asking you is...
13
14 A: Yes.
15
16 Q1: ...in reference to that statement...
17
18 A: Yes.
19
20 Q1: ...that you believe you created your own exigency...
21
22 A: Yes.
23
24 Q1: ...is that an understanding that you came to on your own and you believe to
25 be factually true?
26
27 A: Yes.
28
29 Q1: Okay. Would you agree that the search of the residence on Teekay was not a
30 legal search?
31
32 A: Correct.
33
34 Q1: All right. Just one last question I believe is in your previous statement, and I
35 can show you a transcript if you don't remember, but do you remember saying
36 something to the effect of early on in the contact that you believed that [REDACTED]
37 [REDACTED] and the dad [REDACTED] [REDACTED] were trying to get their stories straight?
38
39 A: I don't recall...
40
41 Q1: It's on...
42
43 A: Yeah.
44
45 Q1: ...it's on Page 4, line number 174.

1
2 A: Okay. I did say that.
3
4 Q1: Do you remember what context you were saying that? What did you mean by
5 that, do you remember?
6
7 A: Yeah. Typically when we do probation searches as a -a police department,
8 quite often even if it is their address of record on probation everyone's got the
9 same story as soon as we get there, "Oh, he doesn't have a room. He doesn't
10 live here." And that's what I meant as far as getting their stories straight. It
11 seems to be on the streets very common knowledge amongst criminals and
12 probationers is - is to confuse and obstruct justice by confusing law
13 enforcement on where they actually stay, despite what common sense may tell
14 you they refuse to really commit to actually having a location that they stay at
15 'cause they don't want those areas searched. They want a safe place to
16 conduct criminal activity and not have those areas searched because of their
17 probation status.
18
19 Q1: Okay.
20
21 A: So that's what I was referring to.
22
23 Q1: So in reference to that, you're speaking specifically in regards to the
24 probationer, whoever that probationer may be?
25
26 A: Yes.
27
28 Q1: All right. And so when you say, "Their stories straight," are you referring to
29 the probationer, in this case [REDACTED] [REDACTED] and his father [REDACTED] [REDACTED]
30
31 A: Yes.
32
33 Q1: Can you articulate why you are attributing the same level of distrust for [REDACTED]
34 [REDACTED]
35
36 A: Why did I judge his character in the way that made it seem like he was maybe
37 being not truthful? Is that what you're asking me?
38
39 Q1: If you want to...
40
41 A: Okay.
42
43 Q1: ...answer it like that, sure. That - basically...
44
45 A: Okay.

1
2 Q1: ...I'm just wondering do you have an obligation to accept [REDACTED] [REDACTED] for
3 who he is at that moment in time?
4
5 A: I wouldn't say accept but at the time I believed that they were lying.
6
7 Q1: All right. What about [REDACTED] [REDACTED] did you believe was lying? That's what
8 I'm getting at.
9
10 A: Okay. Well, back to the - the facts that I did know, the time of night, this
11 probationer's actions, the fact that he had free access to inside the house, and
12 it, you know, if someone were to run into your house, even if it was somebody
13 that you knew that you weren't expecting, you might holler or, you know,
14 "What are you doing here?" But it didn't seem to me that there was any
15 surprise that his son was hiding in the back bedrooms for moments at a time.
16 He seemed to at -in the beginning be playing interference so based on - on
17 those facts, I didn't believe that he was trying to cooperate with the police and
18 I didn't believe that - I believed he had a motive to lie. So maybe that's why I
19 said that.
20
21 Q1: Okay. So in your reference to facts would you agree that part of what you're
22 referencing, reference to facts, that it's based upon your perception at the
23 time?
24
25 A: Yes.
26
27 Q1: And you as a police officer have an obligation to disprove someone if you
28 believe that they're lying and the information they're offering is material to
29 what you're trying to do, I.E. in this case he's saying his son doesn't live there
30 and you want to search probation so would you have an obligation to disprove
31 that somehow?
32
33 A: I would have an obligation to do that, yes, if I believed at the time this
34 incident ha- occurred that my probation search was legal or illegal dependent
35 on that one fact.
36
37 Q1: Okay.
38
39 A: Yes sir.
40
41 Q1: Were you able to disprove [REDACTED] [REDACTED] that night?
42
43 A: No.
44
45 Q: Aaron anything?

1
2 A1: Yeah just a couple real quick. Adam you said August 24th for interview. It
3 was actually April 24th. I think the first interview.
4
5 Q: You're absolutely right. April 24, 2013 was our first interview.
6
7 A1: Yeah I just wanted to make sure...
8
9 Q: Okay. Thank you.
10
11 A1: Yeah no problem. And then Sergeant Husted was asking you some stuff about
12 the area of Teekay.
13
14 A: Yes.
15
16 A1: Was there an incident like a week or two prior to that why they had a lot of
17 TAC units out there on Teekay Way, do you recall?
18
19 A: I don't recall the specific actions out in that - in the - in that neighborhood but
20 I remember being an out of beat unit and being called to the area to handle
21 violent crimes in progress. I also was familiar with the exact street of Teekay
22 as being the street that Officers Severi and Officer Trefethen got into their
23 shooting of a suspect carrying an assault weapon. So I knew the area to be an
24 area where there are criminals doing violent things and carrying weapons.
25
26 A1: And was some of those are typical those facts that you have in your head,
27 some of those facts you have in your head, they're kind of helping you make
28 the decision to stop or consensual contacts with people out there then at that
29 time of night?
30
31 A: Yes sir.
32
33 A1: How many stops and probation searches you probably made throughout your
34 what, seven years career, like thousands or hundreds?
35
36 A: Thousands.
37
38 A1: And out of all those stops and probation searches, did that help you assess
39 situations as they happen pretty quickly?
40
41 A: Yes. I - I'm very effective - Officer Fetch and I are very effective as TAC -
42 TAC units, which is why they put us in this position.
43
44 A1: Okay. Good.
45

1 Q: Officer Magner do you think that based on how effective you and your
2 partner, Officer Fetch, are that doing things by policy and procedure within
3 our department is even that much more important because of how active you
4 are?
5

6 A: Yes.
7

8 Q: All right. Do you have anything else that you want to add before we finish?
9

10 A: No sir. Oh well yes I do. Reading through my transcript, you guys have me
11 pretty rattled because, you know, it was humbling to read this and, you know,
12 realizing that maybe I'm not as good of an officer as I thought I was as far as,
13 you know, knowing the law and having a grasp on different evolving
14 situations like this. And I'm glad it was brought to my attention and I hate the
15 idea that someone's rights were violated. I want to say that so guess I'm...
16

17 Q: All right. Is there anything else relating to this matter that we have not
18 covered that needs to be added, clarified or changed, I'm ordering you to
19 provide that information now.
20

21 A: No.
22

23 Q: After you leave this interview should you remember anything that is different
24 from or in addition to the information that you've given today I'm ordering
25 you to contact me immediately. I'm also ordering you not to discuss this
26 matter with any other department employee. Do you understand these orders?
27

28 A: Yes sir.
29

30 Q: All right. Time is 1700 and that concludes this interview.
31
32

33 This transcript has been reviewed with the audio recording submitted and it is an accurate
34 transcription.

35 Signed _____

**Sacramento Police Department
Internal Affairs Division**

IAD2012-0254

Witness statement of Officer Justine Donnell, #0407

1 Vassallo: The date is April 1, 2013; the time is 1305 hours. Present in the Internal Affairs
2 office is Officer Justin Donnell. He is represented by Sergeant Jerry Camous.
3 Officer Jen Nichols and myself, Sergeant Adam Vassallo are also present. The
4 purpose of this investigation is to conduct an interview of Justin Donnell who is
5 an employee with the Sacramento Police Department in the capacity of police
6 officer. This is an administrative investigation on the charges against Officer
7 Fetch and Officer Magner for improper search in which you may be a witness.
8 Do you understand this is an administrative investigation only?
9

10 Donnell: Yes.

11

12 Vassallo: The results of this investigation could lead to disciplinary action up to and
13 including termination of the employees allegedly responsible. Do you
14 understand this?
15

16 Donnell: Yes.

17

18 Vassallo: Based upon the authority vested in me by the Chief of Police, I am ordering you
19 to cooperate with this investigation. This means that you must be truthful in all
20 of your statements and answer all questions fully and honestly. Also, you are
21 ordered to provide at this time, all information you may know regarding this
22 incident. Failure to answer a question or failure to answer it truthfully and fully
23 will be considered a lack of cooperation that could subject you to disciplinary
24 action up to and including termination for insubordination. Do you understand
25 this?
26

27 Donnell: Yes.

28

29 Vassallo: Alright, Justin, standard questions in the beginning here. How long have you
30 worked for the Sacramento Police Department?
31

32 Donnell: Six years.

33

34 Vassallo: Six years and did you attend our Academy?
35

36 Donnell: Yes.

37

38 Vassallo: And what is your current assignment, including shift, days off and the area?
39

**Sacramento Police Department
Internal Affairs Division**

IAD2012-0254

Witness statement of Officer Justine Donnell, #0407

40 Donnell: Ah Patrol. Normally I'm assigned to Team 21, Sector 4 with
41 Tuesday/Wednesday/Thursday off.
42
43 Vassallo: And who's your current supervisor?
44
45 Donnell: Sergeant Lightfoot.
46
47 Vassallo: And what other assignments have you had at the Sacramento Police
48 Department?
49
50 Donnell: Just Patrol.
51
52 Vassallo: Okay and do you have any other law enforcement experience outside of Sac
53 P.D.?
54
55 Donnell: No.
56
57 Vassallo: Have you had a chance to review the documents and view the video that I
58 provided prior to this interview?
59
60 Donnell: Yes.
61
62 Vassallo: Do you have any questions regarding those?
63
64 Donnell: No.
65
66 Vassallo: Do you have an independent recollection of this call which took place on
67 August 26, 2012, at approximately 21:40 hours?
68
69 Donnell: Yes.
70
71 Vassallo: And what team were you on at that time last year?
72
73 Donnell: Ah, 31. I might be getting the numbers messed up.
74
75 Vassallo: That's okay. Just like
76
77 Donnell: Sector 5, Graveyard.
78
79 Vassallo: Okay and who was your current supervisor at that time?

**Sacramento Police Department
Internal Affairs Division**

IAD2012-0254

Witness statement of Officer Justine Donnell, #0407

80
81 Donnell: Ahhh, ...Sergeant Start I believe.
82
83 Vassallo: Start?
84
85 Donnell: I believe.
86
87 Vassallo: Did it change a few times during that, during the last year?
88
89 Donnell: Well, it was between the layoffs and everything because I wend Day Shift,
90 Graveyard and then now I'm back on Day Shift.
91
92 Vassallo: Okay. Alright.
93
94 Donnell: But the last time I was Graveyard, it probably was Sergeant Start so.
95
96 Vassallo: Okay. Can you explain your participation in this call, from beginning to end?
97
98 Donnell: Ah, yes. Tac 50 put out the suspicious circumstance call and I responded and
99 when I got there, Mr. [REDACTED] was in the back seat. I talked to Magner at the
100 entry of the house. He gave me his update of basically what happened and then
101 I stood by in the living room area with Mr. [REDACTED] Dad I believe and then his
102 female guest and then Fetch and Magner did a probation search of the house.
103
104 Vassallo: So when you first got there, you said you spoke to Officer Magner?
105
106 Donnell: Yes.
107
108 Vassallo: And what did he tell you?
109
110 Donnell: That he, they had contacted him and when they contacted him, he walked fast in
111 to the house. They closed the door on him and Magner said his Dad was kind of
112 playing interference at the door and they were, I guess they got in there and
113 talked their way in there and detained him and ran him up and found out that he
114 was on probation. He had narcotics history.
115
116 Vassallo: And that, what they needed you to do, did he tell you what
117
118 Donnell: Yeah, I was just standing by in the living room area, watching the occupants of
119 the house.

**Sacramento Police Department
Internal Affairs Division**

IAD2012-0254

Witness statement of Officer Justine Donnell, #0407

120
121 Vassallo: Did Officer Magner ask you to do that, like hey, can you watch these people
122 while we do this or did that just happen?
123
124 Donnell: Ah, he may have. I just assumed that's what I was there for.
125
126 Vassallo: Were there any other officers that came in to the residence prior to yourself,
127 Officer Fetch and Officer Magner?
128
129 Donnell: Not to my knowledge.
130
131 Vassallo: As long as you were there, you were the only three officers that entered the
132 house?
133
134 Donnell: No, Sergeant, Acting-sergeant Moore came in.
135
136 Vassallo: He did come in?
137
138 Donnell: After the fact or afterwards but he wasn't there beforehand; he wasn't there
139 before I got there.
140
141 Vassallo: Was there somebody else on the call that was outside like watching [REDACTED]
142 [REDACTED] the son, while he was in the back of the car while you guys were inside?
143
144 Donnell: Ahh
145
146 Vassallo: Or was it just you four, including you?
147
148 Donnell: I know there was other people dispatched and whether or not on the call history
149 they didn't mark 906 or on scene. So I don't believe someone was out there
150 watching the whole time.
151
152 Vassallo: So to your knowledge, Officer Fetch, Officer Magner, yourself and then for a
153 brief time at the end of the call, Acting-sergeant Moore.
154
155 Donnell: Yeah, he came in, wanted basically to know what's going on and he's there for
156 a couple of minutes and then left.
157
158 Vassallo: Did you ever have a conversation, I'm sorry, did you ever have a conversation
159 with [REDACTED] [REDACTED]

**Sacramento Police Department
Internal Affairs Division**

IAD2012-0254

Witness statement of Officer Justine Donnell, #0407

160
161 Donnell: Yeah, I believe so.
162
163 Vassallo: And what was said?
164
165 Donnell: I think it was more, I think he was more venting to the female, you know, *he*
166 *doesn't live here, why are they here* and I probably tried to explain why we
167 were doing what we were doing.
168
169 Vassallo: Did you ever, did he ever tell you that his son didn't live there?
170
171 Donnell: I don't know if he was talking directly to me; he may have said *he doesn't live*
172 *here*. Again, I don't know if it was, remember if it was directed directly at me
173 or at the guest, the female guest.
174
175 Vassallo: But you did hear him say that...
176
177 Donnell: Yeah.
178
179 Vassallo: ...the son didn't live there? At any time, did you hear [REDACTED] [REDACTED] give
180 consent to search the house?
181
182 Donnell: Not to my recollection. I'm pretty sure he didn't want us to be there, no.
183
184 Vassallo: What was the reason that you were told or the reason that you came to that you
185 have of the reason for conducting the search of the house?
186
187 Donnell: Fetch and Magner contacted the subject. He went inside. Once he was
188 detained, then they ran him up and they determined that he was on probation
189 and specifically they mentioned the narcotics history and that's I believe that's
190 what they were looking for because, probably raised their suspicion with him
191 walking away and you know, Dad playing interference just raised their
192 suspicions I would assume.
193
194 Vassallo: Do you, so you believe that the reason for the search, the probation search at
195 Dad's house was the fact that the son went inside or?
196
197 Donnell: Yes.
198
199 Vassallo: So do you think that they had the right to be in that house, to search that house?

**Sacramento Police Department
Internal Affairs Division**

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Witness statement of Officer Justine Donnell, #0407

200
201
202 Donnell: Yes. If that was my stop, once they determined he was on probation, I think
203 given his previous narcotic history, he's trying to get away from officers, that
204 would make me assume he's trying to discard something he's not supposed to
205 have, whether it be drugs, weapons or obviously, he didn't have any warrants
206 that I remember at that time but that's normally on my hit experience, that's
207 why people are trying to get away from us.
208
209 Vassallo: And so you would believe that that would warrant a probation search of the
210 residence?
211
212 Donnell: Yes.
213
214 Vassallo: What areas of the house were searched?
215
216 Donnell: Looking at the call history, it was the common areas. I was in the front room; I
217 know there was the closet right to the front but then there's a hallway went back
218 and specifically, what was searched, I didn't see. I know there's a kitchen over
219 to the left-hand side; I know officers went in there but I wasn't standing over
220 there and watching where they were searching.
221
222 Vassallo: Did you specifically, did you search any areas?
223
224 Donnell: Yeah, I may have like lifted up a couch cushion but no, I didn't go through
225
226 Vassallo: Your time there was spent in that front room, correct?
227
228 Donnell: Yeah.
229
230 Vassallo: Officers Fetch and Magner were in that back area, around down the hallway and
231 stuff for periods of time and stuff like that but you weren't, you're not sure what
232 specifically
233
234 Donnell: Yeah, I couldn't see, I didn't have any visual contact with them.
235
236 Vassallo: You were on the call for, you were on the call personally for about 40, 45
237 minutes. Is it fair to say that the majority of that time, Officer Fetch and
238 Magner were conducting the search of the house?
239

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Witness statement of Officer Justine Donnell, #0407

240 Donnell: Yes.
241
242 Vassallo: Do you recall any of the house, any of the rooms or any conversations between
243 Officer Fetch and Office Magner and Mr. [REDACTED] or anybody else who was
244 there? Do you recall anything of a locked room or a room that they couldn't get
245 in to or anything like that?
246
247 Donnell: I'm not sure.
248
249 Vassallo: No? Other than Mr. [REDACTED] and I think he had a female friend and then was
250 there anybody else in, located in the house?
251
252 Donnell: No.
253
254 Vassallo: No? No other roommates? Nobody else was in there?
255
256 Donnell: Those were the only two people I saw.
257
258 Vassallo: That you saw? Did you recall the condition of the house after they were done
259 searching?
260
261 Donnell: Aah, I didn't see the rooms prior to them and after searching so.
262
263 Vassallo: You never went down the hallway?
264
265 Donnell: No. I don't, can't really visually describe it. Say this is the front door; you
266 walk in, there's a little walkway right here and the living room's right here,
267 hallway's right here, kitchen area's over here. That hallway closet, I could see
268 that obviously but I didn't go look in the rooms or anything.
269
270 Vassallo: You didn't go down the hallway or look in the rooms or anything like that so
271 you wouldn't know what the condition were prior to or after.
272
273 Donnell: Correct.
274
275 Vassallo: The hallway, was the hallway closet that you speak of, was that searched?
276
277 Donnell: Yeah.
278

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Witness statement of Officer Justine Donnell, #0407

279 Vassallo: Was everything that was in that closet removed from the closet or was it just
280 kind of a search ah
281
282 Donnell: I don't think they were removing everything out of (inaud) but I don't really
283 recall honestly.
284
285 Vassallo: You said that you could observe the kitchen from the front room, I think you
286 can.
287
288 Donnell: Yeah, parts of it.
289
290 Vassallo: Parts of it and officers went in there. Do you recall if they thoroughly searched
291 the kitchen? Like went in drawers and did all that good stuff.
292
293 Donnell: Yeah.
294
295 Vassallo: Yeah? Was the kitchen left in disarray? Was the hall closet that you noticed
296 left in disarray to your recollection?
297
298 Donnell: Not that I recall, nothing ...that I can recall, no.
299
300 Vassallo: So you didn't see Officer Fetch or Officer Magner employ any searching
301 techniques that were outside of policy or that were reckless in any way?
302
303 Donnell: No.
304
305 Vassallo: You didn't notice anything that when upon leaving or upon you being there, you
306 didn't notice anything broken or hear anything that was possibly property or
307 anything being broken or anything like that?
308
309 Donnell: No.
310
311 Vassallo: Do you recall observing either Officer Fetch or Magner manipulate their mics
312 while inside the house at all? I mean this wasn't just something that you saw or
313 remembered?
314
315 Donnell: No.
316
317 Vassallo: Okay. So I'm going to go back to, I'm almost done here. Do you have
318 anything?

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Witness statement of Officer Justine Donnell, #0407

319
320 Nichols: I just want to (inaud). Did you know that, [REDACTED] [REDACTED] his name, correct?
321
322 Vassallo: [REDACTED]
323
324 Donnell: [REDACTED]
325
326 Nichols: [REDACTED] Excuse me, [REDACTED] [REDACTED] Did they tell you that he was on probation
327 to that house or did they just tell you that he was on probation?
328
329 Donnell: I'd have to look at the video again. I think he said he was on probation and
330 when they played the video the first time, I could hear myself saying I think I
331 ran him up but it wasn't to that address, probation wasn't to that address or his
332 address in WebK was not to the Teekay address.
333
334 Vassallo: That's you running him up?
335
336 Donnell: I believe so, based on hearing the audio.
337
338 Vassallo: Okay. When I listened to the audio, I thought that was either Officer Fetch or
339 Officer Magner are talking to you but I didn't
340
341 Donnell: I thought it was me. (Laughs)
342
343 Vassallo: Okay. Do you recall running him?
344
345 Donnell: Yeah, I believe so.
346
347 Vassallo: So ...if I'm walking down the street to my dad's house and an officer comes up
348 and makes a consensual contact with me and I walk in to the house and close
349 the door and you come up to the door, you, in your trained experience or in your
350 mindset, you now have the ability to go in and search that whole house under a
351 probation search?
352
353 Donnell: I would say more common areas if they're saying he doesn't live here but again,
354 getting back here to the whole scenario, it would raise my suspicions very
355 highly why he was in there.
356
357 Vassallo: Would you feel that at that point, let's just say even if [REDACTED] and you weren't
358 there so I'm just asking you a question, okay so I'm not asking to infer anything

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Witness statement of Officer Justine Donnell, #0407

359 and you're not getting anybody in to trouble. I'm just asking something. If you
360 go down a hallway and if I peeked out of view out of the hallway, down the
361 hallway a little bit for 30 seconds or so and then I came back and now you go in
362 and you're going to search those areas, does that now give you the ability to go
363 in to each bedroom down that hallway and search those bedrooms?
364

365 Donnell: I would say yes. If he had an access to that and he could've had access to hide
366 or destroy something in there.

367
368 Vassallo: Anything?

369
370 Nichols: No.

371
372 Vassallo: Anything?

373
374 Camous: Just clarification. Acting-sergeant Moore, that was Stephen Moore?

375
376 Donnell: Correct.

377
378 Camous: And the level of his inquiry, do you remember that at all?

379
380 Donnell: Yeah. He came in and I gave him a little spiel about what I knew and I only
381 recall him being there for a few minutes.

382
383 Vassallo: Is there anything else related to this matter that I have not covered that needs to
384 be added, clarified, or changes? I'm ordering you to provide that information
385 now.

386
387 Donnell: No.

388
389 Vassallo: After you leave this interview, should you remember anything that is different
390 from or in addition to the information you've given today, I am ordering you to
391 contact me immediately. I am also ordering you not to discuss this matter with
392 any other Department employee. Do you understand these orders?
393

394 Donnell: Yes.

395
396 Vassallo: Alright. Time is 13:20 and that concludes this interview.

397
398 **End of recording.**

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Witness statement of Officer Michael Severi, #0456

1 Vassallo: The date is May 16, 2013; the time is 15:20 hours. Present in the Internal
2 Affairs office is Officer Michael Severi. He is represented by Detective Aaron
3 Wallace. Officer Jen Nichols and myself, Sergeant Adam Vassallo are also
4 present. The purpose of this investigation is to conduct an interview of Michael
5 Severi who is an employee with the Sacramento Police Department in the
6 capacity of police officer. This is an administrative investigation on the charges
7 against Officer Fetch and Officer Magner for improper search in which you may
8 be a witness. Do you understand that this is an administrative investigation
9 only?
10
11 Severi: Yes.
12
13 Vassallo: The results of this investigation could lead to disciplinary action up to and
14 including termination of the employees allegedly responsible. Do you
15 understand this?
16
17 Severi: Yes.
18
19 Vassallo: Based on the authority vested in me by the Chief of Police, I am ordering you to
20 cooperate with this investigation. This means that you must be truthful in all
21 your statements and answer all questions fully and honestly. Also, you are
22 ordered to provide at this time, all information you may know regarding this
23 incident. Failure to answer a question or failure to answer it truthfully and fully
24 will be considered a lack of cooperation that could subject you to disciplinary
25 action up to and including termination for insubordination. Do you understand
26 this?
27
28 Severi: Yes.
29
30 Vassallo: Michael, how long have you worked for the Sacramento Police Department?
31
32 Severi: Since 2005.
33
34 Vassallo: Did you attend our Academy?
35
36 Severi: Yes.
37
38 Vassallo: And what is your current assignment, including shift, days off and area?
39
40 Severi: Sector 5, Monday/Tuesday/Wednesdays, Swing Shift.

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Witness statement of Officer Michael Severi, #0456

41
42 Vassallo: Who is your current supervisor?
43
44 Severi: Sergeant Pettit.
45
46 Vassallo: And last year in August, so it'd be August of 2012, who was your supervisor at
47 that time?
48
49 Severi: I think I was in 4 ...I think I was in 4 last year;
50
51 Vassallo: Last year?
52
53 Severi: ah, so it would've been Sergeant, because I know we switched in July, right?
54 So it would've been Sergeant Ellis in Sector 4, Monday/Tuesday/Wednesday/
55 so for Monday/Tuesday/Wednesday, Swing Shift. I think.
56
57 Vassallo: So same days off, just Sector 4?
58
59 Severi: Yes.
60
61 Vassallo: Last year. And have you had any other assignments here at the Sacramento
62 Police Department?
63
64 Severi: Ah, as of like shift and days off and all that?
65
66 Vassallo: Just, yeah, any other duties besides where you're at now?
67
68 Severi: Yeah, I've been on different shifts for the last few years and then CSO before
69 that, student training before that.
70
71 Vassallo: But mainly Patrol for your career thus far?
72
73 Severi: Yeah, yeah.
74
75 Vassallo: Any other law enforcement experience outside of Sac P.D.?
76
77 Severi: No.
78
79 Vassallo: And have you had a chance to review the call that I provided you?
80

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Witness statement of Officer Michael Severi, #0456

81 Severi: Yes.
82
83 Vassallo: And the video?
84
85 Severi: Yes.
86
87 Vassallo: Okay. Do you have an independent recollection of the call that took place on
88 August 26th at approximately 21:40 hours at [REDACTED] Teekay Way?
89
90 Severi: Ah, very vaguely.
91
92 Vassallo: Can you explain what you do recall, in detail from beginning to end?
93
94 Severi: After watching the video, just that we pulled up and I stayed in the car. Sort of
95 remember staying in the car because someone had to stay out with him and
96 that's really all that I remember. I mean, obviously, in the video I was talking to
97 Magner about some other call that they had been on. I don't know if it was
98 earlier in the day or a couple of days earlier; I vaguely remember that too, not
99 really and then other than that I just sat out in my car throughout the whole time.
100
101 Vassallo: Okay. Do you recall, besides talking to Officer Magner, do you recall any other
102 officers that were on scene?
103
104 Severi: Well, of being told that, I mean, he was with Fetch that night and then being
105 told that Donnell was there too; I did not remember that Donnell was there too.
106
107 Vassallo: So you didn't have any other contact with any other officers on the call?
108
109 Severi: Just Officer Trefethen.
110
111 Vassallo: Just Officer Trefethen and Magner,
112
113 Severi: Yes.
114
115 Vassallo: talking to them?
116
117 Severi: I believe so, yeah.
118
119 Vassallo: ...So in the video, you guys show up right before 22:00 hours, it's like 21:59 I
120 think and then Officer Trefethen leaves his car and he comes back about ten

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Witness statement of Officer Michael Severi, #0456

121 minutes later; it's like 22:10 hours. Did he tell you anything or do you recall
122 him saying anything to you about the call or about what he did?
123
124 Severi: I don't remember anything about what we talked about.
125
126 Vassallo: ...At the very end of the video, right before you guys leave, Officer Magner
127 approaches your vehicle and he had his gloves on in the video I think. Do you
128 remember what he told you at that time?
129
130 Severi: No.
131
132 Vassallo: No. Okay. I know you guys left shortly after that so
133
134 Severi: I'm sure he probably told us, you know, something along the lines of *we're*
135 *good* or *when I tell you we're good, you can leave* or I don't really remember
136 though but, I mean, obviously we leave so, we wouldn't leave without knowing
137 we're allowed to leave so, plus we're watching the guy so.
138
139 Vassallo: And to your recollection after that night, up until today, have you spoke with
140 any officers or talked to any officers about this call or the circumstances
141 surrounding this call?
142
143 Severi: No.
144
145 Vassallo: Anything?
146
147 Nichols: No.
148
149 Vassallo: Is there anything else related to this matter that I have not covered that needs to
150 be added, clarified, or changed? I am ordering you to provide that information
151 now.
152
153 Severi: No.
154
155 Vassallo: After you leave this interview, should you remember anything that is different
156 from or in addition to the information that you've given today, I am ordering
157 you to contact me immediately. I am also ordering you not to discuss this
158 matter with any other Department employees. Do you understand these orders?
159
160 Severi: Yes.

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Witness statement of Officer Michael Severi, #0456

161

162 Vassallo: Time is 15:25 and that concludes this interview.

163

164 **End of recording.**

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

1 Vassallo: The date is May 16, 2013; the time is 15:30 hours. Present in the Internal
2 Affairs office is Officer Ryan Trefethen. He is represented by Detective Aaron
3 Wallace; myself, Sergeant Adam Vassallo and Officer Jen Nichols are also
4 present. The purpose of this investigation is to conduct an interview of Ryan
5 Trefethen who is an employee with the Sacramento Police Department in the
6 capacity of police officer. This is an administrative investigation on the charges
7 against Officer Fetch and Officer Magner for improper search in which you may
8 be a witness. Do you understand that this is an administrative investigation
9 only?
10
11 Trefethen: Yes.
12
13 Vassallo: The results of this investigation could lead to disciplinary action up to and
14 including termination of the employees allegedly responsible. Do you
15 understand this?
16
17 Trefethen: Yes.
18
19 Vassallo: Based upon the authority vested in me by the Chief of Police, I am ordering you
20 to cooperate with this investigation. This means that you must be truthful in all
21 of your statements and answer all questions fully and honestly. Also, you are
22 ordered to provide at this time, all information you may know regarding this
23 incident. Failure to answer a question or failure to answer it truthfully and fully
24 will be considered a lack of cooperation that could subject you to disciplinary
25 action up to and including termination for insubordination. Do you understand
26 this?
27
28 Trefethen: Yes.
29
30 Vassallo: Ryan, how long have you worked for the Sacramento Police Department?
31
32 Trefethen: A little over four years.
33
34 Vassallo: Did you attend our Academy?
35
36 Trefethen: Yes.
37
38 Vassallo: And what is your current assignment, including shift, days off and area?
39

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

40 Trefethen: I work Sector 5, swing shift with Monday, Tuesday, Wednesday off on Team
41 29.
42
43 Vassallo: Who is your current supervisor?
44
45 Trefethen: Sergeant Pettit.
46
47 Vassallo: And going back to last year in August of 2012, who was your supervisor at that
48 time?
49
50 Trefethen: Sergeant Brian Ellis.
51
52 Vassallo: In what area and shift did you work then, last year?
53
54 Trefethen: I was on Sector 4? Yeah.
55
56 Vassallo: I know we did a shift sign up
57
58 Trefethen: I was Sector 5 sometimes but I think I was, yeah, I was Sector 4, swing shift,
59 Sergeant Ellis.
60
61 Vassallo: And have you had any other assignments here at the Sacramento Police
62 Department?
63
64 Trefethen: Other than Patrol, no.
65
66 Vassallo: And do you have any other law enforcement experience outside the Sacramento
67 Police Department?
68
69 Trefethen: No.
70
71 Vassallo: Okay. And have you had a chance to review the call and video that I provided?
72
73 Trefethen: Yes.
74
75 Vassallo: And do you have an independent recollection of the call that took place on
76 August 26, 2012, at approximately 21:40 hours at [REDACTED] Teekay Way?
77
78 Trefethen: Yes.
79

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

80 Vassallo: And what was your call sign that night?
81
82 Trefethen: I think we were TAC50.
83
84 Vassallo: TAC50. And can you explain your participation in this call from beginning to
85 end as you recollect it.
86
87 Trefethen: Some of it.
88
89 Vassallo: Can you explain it to me, please?
90
91 Trefethen: Yeah. I think we were just on patrol. I think we were 909 and I don't know
92 where we came from but Officer Severi was driving, I was seated as the
93 passenger. I'm sure Fetch and Magner were working as TAC51 and we heard
94 them (inaud) subject stop er 92P; I don't know what they put it out as but
95 basically that they had somebody run inside of the house and it was real brief
96 and I think that before we even like (inaud) responding code or whatever we
97 were doing, I think they had like stabilized it and verbalized that they had the
98 guy detained and I don't know if they asked for additional units but we were
99 just being nice guys so we meandered over that way. Then we parked our patrol
100 vehicle. I didn't remember before I watched the video but I watched the video,
101 I stepped out, walked over, looked at the guy they had because I was just
102 curious who they had detained. Talked to Officer Magner real quick and he told
103 me that the guy ran inside and then they detained him. So then I think I was,
104 was going to go help Fetch inside to see if he needed any help. Somebody said
105 that Donnell was there but I don't really remember that he was there; maybe he
106 was. Maybe that's why I went inside because we don't really work well with
107 Donnell so I didn't know if he might be, might've been burdened by me, need
108 me to hang out so I was going to see if he wanted to be replaced or something
109 like that. I was just trying to be a nice guy. So I went inside. I know that there
110 was, I think they referred to him as the guy's dad was inside, was like a male,
111 Black in his 40's or 50's. And then there was a female who I don't think was,
112 from what I remember being explained; I don't think it was his mom. I think it
113 was like the guy's girlfriend or just a friend or someone; she was like seated on
114 the couch. I think when I got inside, either Fetch or Magner said that they had
115 consent so I just kind of, just hung out with them. I was, in my own head, I was
116 trying to piece together like, you know, the guy had to run in here for a reason
117 so what'd they do? If they hadn't found it yet? You know, where is it? What is
118 it? So I think at one point, I briefly walked over like in to the kitchen common
119 area and like looked into the sink and I saw that there was like a, like a partial

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

120 plastic bag that looked kind of mangled and it was wet. It didn't look like it'd
121 be anything like obvious that like there could've been narcotics but it was just
122 like that's kind of weird so but there wasn't anything of substance in it so I just,
123 okay so I walked, went back into the family room area that was just to the right
124 of the foyer area and I think I just made small talk with the people there. They
125 were nice. I think I just kind of asked them like who's who and talked to the
126 lady a little bit. I remember that inside the house kind of smelled like rock
127 cocaine smoke smell (inaud) those. It was kind of prevalent and she had her
128 purse on the coffee table and so after I made small talk with her for awhile, I
129 said, I said *it kind of smells like cocaine in here* and they were just like *I don't*
130 *know* and was just like *I don't know if it does* and I said you know, *is there, you*
131 *don't have any drugs or anything illegal in your purse?* And she said *no*. I said
132 *you mind if I made sure* and she said *yeah* so I looked through her purse for a
133 second and then I remember then like they hadn't really found anything and it
134 was kind of getting towards the end of the call and Fetch said we don't need you
135 to hang out any more so I walked outside, got back in the car and we left.
136

137 Vassallo: Alright. Clarify a few things just for my purposes. So when you arrived on
138 scene, the officers that were there were, that to your recollection were Fetch,
139 Wagner and Donnell?
140

141 Trefethen: Um hum (yes).
142

143 Vassallo: Did you ever see Sergeant Moore there?
144

145 Trefethen: I don't remember.
146

147 Vassallo: Don't remember if he was there or not?
148

149 Trefethen: (inaud).
150

151 Vassallo: So when you first got there and you said you saw in the video that you recollect
152 talking to [REDACTED] real quick in the back and then you went in to the house.
153

154 Trefethen: Uh huh (yes).
155

156 Vassallo: And you said that you spoke with the officers. Who did you speak with in the
157 house that you recall? Other officers.
158

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

159 Trefethen: I think I talked with Fetch. Donnell's kind of quiet and he didn't want to talk so
160 I don't think I talked with him.
161

162 Vassallo: Yeah. Okay.
163

164 Trefethen: He was just kind of standing there, being like an extra person and I think of how
165 Fetch kind of greeted me and I was like what do you got? And he's like, he was
166 kind of going through his handbook, verbalizing oh, it's here, it's around in
167 here; we got consent though and I was like okay and so I just kind of hung out
168 off in the family room area and Donnell was there and the family room kind of
169 naturally flowed in to the kitchen so while I was in there, I was just kind of
170 meandering around, went to the kitchen the one time and then came back but I
171 was primarily, just kind of stood in the family room and hung out with those
172 two people that were there.
173

174 Vassallo: When you were doing that, where was Officer Fetch?
175

176 Trefethen: I think he, he was like, for a little while he was there and then I think he went
177 down the hallway
178

179 Vassallo: Where the rooms are?
180

181 Trefethen: because it goes like to the right and there's like, there's a wall of the family
182 room where you can't see the hallway but like it's obviously bedrooms down
183 there so he went down there a little bit.
184

185 Vassallo: So while you were meandering around, he was back in that area that
186

187 Trefethen: What I can recall, yeah cuz he wouldn't have been in the kitchen because I, he
188 might've been in there for a little bit but primarily I think he was down the
189 hallway, out of sight.
190

191 Vassallo: So other than the, in the sink, you didn't help search any of the rooms or any of
192 the, anything else in that house besides the female's purse?
193

194 Trefethen: I didn't like open any doors or anything; I just kind of like walked around,
195 looked at things that were in plain view.
196

197 Vassallo: And you said this a few times, you recollect them telling you that they had
198 consent to search the house?

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

199
200 Trefethen: Um hum (yes).
201
202 Vassallo: And do you recall who told you that?
203
204 Trefethen: I think Fetch did when he like greeted me at the door. I was like *what do you*
205 *got?* And he's like, I don't know, I think he just briefly said *I don't know, this*
206 *guy ran in. He's on probation* and I think he said *he claims he doesn't live here*
207 *but we have consent* and like the guy was, the older, Black male was standing
208 off to the side and they seemed like nice people. They didn't really have an
209 attitude. They were kind of passive acting. They never, never objected to
210 anything and I talked with them. They seemed like they were in a good, not a
211 bad mood, not a great mood but they just seemed neither here nor there.
212
213 Vassallo: Do you recall the older male, his name's [REDACTED] [REDACTED] do you recall him ever
214 tell to you that [REDACTED] his son didn't live there or?
215
216 Trefethen: I think he said that.
217
218 Vassallo: But you
219
220 Trefethen: (inaud) exactly in what context but I think was, when they were talking about
221 [REDACTED] they said he doesn't even live here or something like that. It might've
222 been, I can't say for sure but I don't think I really would've been talking to him
223 about [REDACTED] I think maybe Fetch was there and I was just overhearing it.
224 They were going, you know, talking back and forth about does [REDACTED] live
225 here? Does he not live here? I can't remember for sure.
226
227 Vassallo: And so when you talk to Fetch inside the house, where did that take place?
228 Was it
229
230 Trefethen: There was like a square entryway area
231
232 Vassallo: In the entry
233
234 Trefethen: and the family room breaks off and
235
236 Vassallo: It was right there then?
237
238 Trefethen: (inaud – talking at the same time)

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

239
240 Vassallo: Okay and then the kitchen's over to your left and the hallway's down to your
241 right.
242
243 Trefethen: Yeah.
244
245 Vassallo: So while you meandered into the kitchen and were kind of looking around in to
246 the family room and stuff, Fetch was down the hallway, down by the bedrooms.
247
248 Trefethen: I think so.
249
250 Vassallo: At some point during that thing, I think the overlap from you going in there and
251 then Magner coming inside, there's a part in the video before you come back to
252 your car, it's about five minutes that like Magner leaves his car from talking to
253 your partner Severi and you're inside and then about five minutes later you
254 come in. Do you recall Magner coming in to the house while you're in there?
255
256 Trefethen: I kinda do but I don't like know what time he came in, where he went, what he
257 did. I know he came back in because I know that they kind of like did another
258 pow-wow like just to kind of go over like what had happened and as you know,
259 each one wants to tell what they got but I don't know like what he did.
260
261 Vassallo: So in the recollection of them telling you what they had, do you recall what they
262 told you?
263
264 Trefethen: They said that they saw the guy outside when they got out to contact him. He
265 ran up and went inside and I assume that he came back out after a little amount
266 of time and after they detained him, they identified him and found out he's on
267 probation. You know by that time we had gotten there and they had, when I
268 walked in, he said that they had consent and so I just kind of stood by to be, just
269 to help out.
270
271 Vassallo: So they basically, from your recollection, they told you that they contacted this
272 dude. He ran inside. They, obviously however they got him back out,
273
274 Trefethen: Uh huh (agreeing).
275
276 Vassallo: he said he was on probation or they found out he was on probation and he stated
277 he didn't live there but they got consent and that's why they were searching?
278

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

279 Trefethen: Correct.
280
281 Vassallo: That's your understanding of what was going on there?
282
283 Trefethen: Correct.
284
285 Vassallo: So the search wasn't a probation search based on [REDACTED] being on probation, it
286 was a consent search based on having consent to search the house?
287
288 Trefethen: Correct.
289
290 Vassallo: So you come back out to the car about ten minutes later; you're in the house for
291 about ten minutes per the video, and then about five minutes after that, Magner
292 comes over to the vehicle and approaches the vehicle, on the video he's got his
293 gloves on and stuff. Do you recall what he said at that point? When you and I
294 think Severi were sitting in the car.
295
296 Trefethen: Just before we get ready to leave?
297
298 Vassallo: Yeah.
299
300 Trefethen: No. No ...
301
302 Vassallo: I think that's all I have; do you have anything?
303
304 Nichols: Do you recall Magner going down the hallway at all? With Fetch to search or
305 anything like that?
306
307 Trefethen: I can't say for sure.
308
309 Vassallo: You were just doing your own thing in the front room at that time?
310
311 Trefethen: Chitty-chatting, being social, making people feel as comfortable as you can.
312
313 Vassallo: Because your partner was outside watching [REDACTED] so that they, you guys could
314 do your thing and they could do their thing inside, yeah, so you were just kind
315 of
316
317 Trefethen: (talking over Vassallo) security. I'm just kind of there to help out. They said
318 that they have consent so I've always, you know, I'm kind of grateful for when

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319 people give consent so it's always nice to kind of chitty-chat and make them
320 feel at home even though you're in their house and chat it up with them.
321

322 Vassallo: So you don't recall at any point like when you're coming in and Fetch and
323 Magner, whichever one might've told you what they had and how they, you
324 know, they want to tell you what they got so you don't ever recall them saying
325 alright, we're going to go in the back here and we're going to search this room.
326 Can you do this or can you look over here? Was there anything like that?
327

328 Trefethen: Not that I can be sure of. I don't know if, I can't say for sure, I have like these
329 flash memories of it. I don't know how they come to me but, I don't know if
330 they, I'm just speculating. Maybe they had found a room that maybe had some
331 like clothing or something similar to [REDACTED] and maybe they were trying to
332 determine if he was lying or something but I do so many searches I don't know
333 if that's a different situation or.
334

335 Vassallo: Do you think that you would recall if they asked you to like search the kitchen
336 and you went through and searched that kitchen. Do you think that you would
337 recall that? Like do you think that if you would've done that, recalling what
338 you saw in the sink and that kind of stuff, if you would've went through that
339 kitchen or went through the garage or in to the back yard to look for anything,
340 do you think you would've recalled
341

342 Trefethen: Yeah.
343

344 Vassallo: that and that's something that would've stood out in your mind?
345

346 Trefethen: Yeah, the only like actual like physical like searching that I did was I walked
347 over to the sink. I looked into the sink and then I came back and as I was chitty-
348 chatting with the lady, I was kind of smelling cocaine so I'm like maybe she has
349 some cocaine in her purse so I asked her. She's real nice. She said go ahead
350 and so I looked and I stood by. That's it.
351

352 Vassallo: So your recollection, you don't recall [REDACTED] [REDACTED] advising you that he didn't
353 want the officers in his house and that he didn't care to have them there and that
354 he didn't want them there and he didn't think that they should be searching?
355

356 Trefethen: No, he was, he was a cooperative guy.
357

358 Vassallo: Alright. Anything else?

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Witness statement of Officer (Clinton) Ryan Trefethen, #0566

359
360 Nichols: No.
361
362 Vassallo: You got anything?
363
364 **Who replied? What was his noise?**
365
366 Vassallo: Is there anything else relating to this matter that I have not covered that needs to
367 be added, clarified, or changed? I'm ordering you to provide that information
368 now.
369
370 Trefethen: **(Guess he did the head nod??)**
371
372 Vassallo: After you leave this interview, should you remember anything that is different
373 from or in addition to the information that you've given today, I am ordering
374 you to contact me immediately. I'm also ordering you not to discuss this matter
375 with any other Department employee. Do you understand these orders?
376
377 Trefethen: Yes I do.
378
379 Vassallo: Alright. The time is 15:47 and that concludes this interview.
380
381 **End of recording.**

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Witness statement of Sergeant Stephen Moore, #3079

1 Vassallo: The date is April 18, 2013; the time is 1525 hours. Present in the Internal
2 Affairs office is Sergeant Stephen Moore. He is represented by Detective Aaron
3 Wallace. Officer Jen Nichols and myself, Sergeant Adam Vassallo are also
4 present. The purpose of this investigation is to conduct an interview of Stephen
5 Moore who is an employee with the Sacramento Police Department in the
6 capacity of police sergeant. This is an administrative investigation on the
7 charges against Officer Fetch and Officer Magner for improper search in which
8 you may be a witness. Do you understand that this is an administrative
9 investigation only?
10
11 Moore: Yes.
12
13 Vassallo: The result of this investigation could lead to disciplinary action up to and
14 including termination of the employees allegedly responsible. Do you
15 understand this?
16
17 Moore: Yes.
18
19 Vassallo: Based upon the authority vested in me by the Chief of Police, I am ordering you
20 to cooperate with this investigation. This means that you must be truthful in all
21 of your statements and answer all questions fully and honestly. Also, you are
22 ordered to provide at this time, all information you may know regarding this
23 incident. Failure to answer a question or failure to answer it truthfully and fully
24 will be considered a lack of cooperation that could subject you to disciplinary
25 action up to and including termination for insubordination. Do you understand
26 this?
27
28 Moore: Yes.
29
30 Vassallo: I'm going to go with the normal background questions, Steve. How long have
31 you worked for the Sacramento Police Department?
32
33 Moore: Over eight years.
34
35 Vassallo: And did you attend our Academy?
36
37 Moore: Yes.
38
39 Vassallo: What is your current assignment, including shift, days off and area?
40

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Witness statement of Sergeant Stephen Moore, #3079

41 Moore: Patrol Sergeant, Sector 4, Swings, Monday, Tuesday and Wednesday off.
42
43 Vassallo: Who is your current supervisor?
44
45 Moore: Lt. Don Davis.
46
47 Vassallo: And what other assignments have you had at the Sacramento Police
48 Department?
49
50 Moore: Patrol, mostly down south and then Motors.
51
52 Vassallo: And do you have any law enforcement experience outside the Sacramento
53 Police Department?
54
55 Moore: No.
56
57 Vassallo: Have you had a chance to review the call and a part of the video that we
58 provided prior to the interview?
59
60 Moore: Yes I did.
61
62 Vassallo: And on this date, August 26, 2012, what was your assignment at that time?
63
64 Moore: I was the Acting-sergeant for Team 29.
65
66 Vassallo: And that is in District 5?
67
68 Moore: District 5, Swings, Monday/Tuesday/Wednesday off.
69
70 Vassallo: And at the time, did Officer Fetch and Officer Magner work for you?
71
72 Moore: Not really. They worked Sector 4 but they were shipped over as a TAC Unit.
73
74 Vassallo: On this date?
75
76 Moore: On this date.
77
78 Vassallo: Okay, so they worked Sector 4, Swing shift?
79
80 Moore: Yes.

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Witness statement of Sergeant Stephen Moore, #3079

81
82 Vassallo: And do you recall who their supervisor was?
83
84 Moore: Ah, Sergeant Ellis, Brian Ellis.
85
86 Vassallo: And do you have an independent recollection with the call and the ICC that we
87 provided of this incident, with this call that took place at [REDACTED] Teekay Way?
88
89 Moore: A very vague recollection I guess.
90
91 Vassallo: Can you explain your recollection or participation in this call as you remember
92 it from beginning to end?
93
94 Moore: What I seem to remember is they had a call, an uncooperative subject of some
95 sort but nothing crazy. It wasn't a cover call or anything so as part of my
96 rounds, I drove down, see if they needed anything; got there. I (don't)
97 remember if I talked to Fetch, Magner or somebody else but they didn't need
98 anything from me so I went on to whatever else I did.
99
100 Vassallo: So you don't recall what officer you spoke to when you got on scene?
101
102 Moore: No I don't.
103
104 Vassallo: Do you recall, other than Fetch and Magner, what officers were there?
105
106 Moore: I don't particularly; the call log just shows who else was there. I don't
107 remember.
108
109 Vassallo: You don't remember? Okay. So did you get, ah, do you recall whether you got
110 any background as far as the reason they were there of what they were going to
111 do next or any of that stuff?
112
113 Moore: Not that I recall, no.
114
115 Vassallo: So you never had a conversation with any of the citizens that were involved in
116 this incident?
117
118 Moore: No.
119
120 Vassallo: ...Do you know of or have you ever heard of the name [REDACTED] [REDACTED]

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Witness statement of Sergeant Stephen Moore, #3079

121
122 Moore: I may have but it doesn't ring a bell.
123
124 Vassallo: Did you ever have a conversation, to your recollection, with Officer Fetch or
125 Magner about this call after the call? Ever?
126
127 Moore: After the call, no.
128
129 Vassallo: No. But you don't recall, do you recall talking to them at the call or no?
130
131 Moore: I talked to somebody at the call. The way I remember it, there was somebody
132 outside by the cars. I couldn't tell you if it was Fetch, Magner, somebody else;
133 asked if they needed anything and then I might've hung out in the front area a
134 little while. I don't totally remember and possibly talked to another officer but I
135 can't remember.
136
137 Vassallo: Okay. You don't remember anything about Officer Fetch or Magner's or
138 maybe this'll peek some of your recollection, whether their microphone during
139 that shift didn't work or wasn't working or was not operable?
140
141 Moore: No.
142
143 Vassallo: If an officer on your team or an officer within your supervision throughout the
144 course of the night conducts a probation search on a house, what are your
145 expectations as supervisor for those officers after they're done with that search?
146
147 Moore: Well, I know for a, for like a pre-planned probation search, they're required to
148 do an I Report on what they did. I know it's a little vague what the
149 determination of a pre-planned probation search is. From what I remember
150 from Roll Calls, when I was an officer it was if you, like you go to a house with
151 the intent of conducting a probation search and you got a little game playing
152 going on, then that's pre-planned. The explanation that I seem to remember
153 getting is if it's one, like you're there and it turns in to a probation search, then
154 it doesn't count. Then I also think there might be something a little different as
155 far as if you're searching a house, then
156
157 Wallace: (inaud) search.
158
159 Moore: Yeah, then there's supposed to be an I Report.
160

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Witness statement of Sergeant Stephen Moore, #3079

161 Vassallo: Some form of documentation
162
163 Moore: (inaud) Report. Sorry.
164
165 Vassallo: as related to this; on a call like this, if I just gave you the circumstances as I
166 understand them of a consensual contact outside the house, subject then moves
167 in to the house and there's some type of disagreement as to whether he lives
168 there or doesn't live there but then a probation search **is** done, would you expect
169 some type of report or some type of documentation as to what the circumstances
170 and the reasonable suspicion or probable cause was to believe that a probation
171 search was legal?
172
173 Moore: It would probably be a good idea.
174
175 Vassallo: You have anything?
176
177 Nichols: You didn't go inside the house then or you don't recall going in the house
178
179 Moore: I don't recall. I don't think I did but I don't totally remember.
180
181 Vassallo: Did you exit a vehicle?
182
183 Moore: I did exit.
184
185 Vassallo: You did exit a vehicle. You stand in the front yard you said and possibly
186
187 Moore: Yes.
188
189 Vassallo: Was there a subject in the back of their car to your recollection when you were,
190 at that point?
191
192 Moore: I can't remember.
193
194 Vassallo: I was just wondering at what point you were there because he was inside and
195 then he was in the car most of the call and I'm thinking that was probably when
196 you showed up but I was, based on the time frame
197
198 Moore: Looking at the times, I'd say I was probably there when he was in the car but I
199 don't actually recall.
200

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Witness statement of Sergeant Stephen Moore, #3079

201 Vassallo: Okay. Do you have anything Aaron?
202
203 Wallace: No.
204
205 Vassallo: Is there anything else relating to this matter that I have not covered that needs to
206 be added, clarified, or changed?
207
208 Moore: No.
209
210 Vassallo: I'm ordering you to provide that information now. After you leave this
211 interview, should you remember anything that is different from or in addition to
212 the information that you've given today, I am ordering you to contact me
213 immediately. I am also ordering you not to discuss this matter with any other
214 Department employees. Do you understand these orders?
215
216 Moore: I do.
217
218 Vassallo: The time is 15:35 and that concludes this interview.
219
220 **End of recording.**

Report Number: IAD2012-0254

Please note that the records provided in this release do not include records or portions of records that are exempt from disclosure pursuant to applicable law. Without limiting other arguments against disclosure that may exist, the following records or portions of records are specifically prohibited or exempted from disclosure:

Records or information, the disclosure of which would compromise the anonymity of whistleblowers, complainants, victims or witnesses (Cal. Pen. Code § 832.7(b)(6)(B));

Records or information, the disclosure of which would constitute an unwarranted invasion of personal privacy (Cal. Gov. Code § 7927.700; see also City of San Jose v. Superior Court (1999) 74 Cal.App.4th 1008);

Records or information, the disclosure of which is exempted or prohibited pursuant to federal or state law (Cal. Gov. Code § 7927.705; see also Cal. Const. art. 1 § 1; Cal. Pen. Code § 832.7(a); Cal. Evid. Code § 1040);

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Records or information wherein the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure (Cal. Gov. Code § 7922.000);

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Records or information that constitute confidential medical, financial, or other information, the disclosure of which is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy (Cal. Pen. Code § 832.7(b)(6)(C));

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