

TACOMA POLICE DEPARTMENT

Intra-Departmental Memorandum



TO: Avery L. Moore
Chief of Police

DATE: January 2, 2024

FROM: Assistant Chief Tammy Floyd *TF*
Operations Bureau Commander

SUBJECT: COMPLAINT FINDINGS AND RECOMMENDATIONS
INTERNAL AFFAIRS CASE 21COM-0061
OFFICER MATTHEW COLLINS

SYNOPSIS

On Tuesday, March 3, 2020, at approximately 2322 hours (11:22 p.m.), Tacoma Police Department Officer Matthew Collins and Officer Chris (Shane) Burbank were on duty in a marked Tacoma Police vehicle and patrolling as a two-person car. At the intersection of South 96th Street and Ainsworth Avenue, they encountered Manuel Ellis, a pedestrian, after they observed Manuel Ellis attempt to enter a vehicle that was in the intersection. During the contact, a struggle between the officers and Manuel Ellis occurred while the officers attempted to take Manuel Ellis into custody.

Numerous officers responded to the scene from various agencies, including Tacoma Police Department (TPD) Officer Masyih Ford and Officer Timothy Rankine. Manuel Ellis was handcuffed behind the back and eventually a hobble restraint was used on his legs and attached to the handcuffs that had already been placed on Manuel Ellis. A spit hood was placed on Manuel Ellis by Officer Armando Farinas after one was requested due to Manuel Ellis spitting.

Per the Computer Aided Dispatch (CAD), at 23:25:44, Tacoma Fire/EMS were called to the scene by Sergeant Michael Lim. Officer Rankine kept control of and managed Manuel Ellis' condition on the ground while waiting for Tacoma Fire/EMS. Tacoma Fire/EMS arrived at 23:34:06. Manuel Ellis went into respiratory arrest and at approximately 23:41:11, his condition deteriorated into cardiac arrest. Despite resuscitative efforts, Manuel Ellis died at the scene. Tacoma Fire/EMS noted the confirmation of his time of death as 00:12:30.

TPD Command Staff and Internal Affairs were notified by scene commander Lieutenant Jennifer Mueller of the incident. TPD initiated the callout of the Pierce County Sheriff's Department's Independent Investigation Team (IIT) who responded and took over the investigation. The involved officers were transported from the scene to Sheriff Department offices where they were processed, and some were interviewed by IIT investigators. Other officers gave statements to the IIT on later dates.

In late May 2020, the Pierce County Medical Examiner released his findings. The Medical Examiner's report indicated Manuel Ellis' cause of death was "hypoxia due to physical restraint." Other significant conditions noted in the Medical Examiner's report were methamphetamine intoxication and dilated cardiomyopathy. The manner of death was classified as Homicide by Dr. Thomas Clark III, the Pierce County Medical Examiner.

At the time the incident occurred, the case was investigated by the IIT. As their investigation developed, it was determined that members of the Pierce County Sheriff's Department (PCSD) were actively

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involved in the encounter with Manuel Ellis, and on June 17, 2020, Governor Jay Inslee requested the Washington State Patrol (WSP) take over the independent investigation.

The State Attorney General's Office was involved in the investigation, and on May 27, 2021, criminal charges were filed against Officers Collins, Burbank, and Rankine regarding the death of Manuel Ellis.

There are two other Internal Affairs investigations related to this investigation – TPD IA #21COM-0069 regarding the actions of Officer Ford, and #21COM-0071 regarding the actions of Officer Farinas.

This investigation (21COM-0061) is specific to the allegations against Officer Burbank, Officer Collins, and Officer Rankine.

ALLEGATION

Officer Collins has been accused of violating the Department Policies that were in effect in 2020: Conformance to Laws P1.1.6.A.02, Use of Force Policy P3.1, and Courtesy P1.1.6.A.17.

INVESTIGATION

As part of the investigation, Internal Affairs (IA) gathered material from a number of outside agencies. These agencies include the Pierce County Sheriff's Department, Washington State Patrol, Washington State Attorney General's Office, and the Medical Examiner's Office. The material includes, but is not limited to, incident reports, transcripts of interviews, audio/video evidence, photographs, and various reports. Internal Affairs either interviewed or reviewed interviews of a number of witnesses, including TPD officers, Tacoma Fire Department (TFD) personnel, and community members.

Officer Collins was asked, "Based on your knowledge of the Use of Force Policy, do you believe you violated the Department's Use of Force Policy?" Officer Collins stated, "*Absolutely not.*"

Officer Collins did not recall telling Mr. Ellis to "Shut the fuck up," adding, "*But like I said, if it's between Shane and I, uh, um, I don't h-, think I've ever heard Shane say the F word.*"

Officer Collins was asked if it would be a violation of the Department's Courtesy Policy if it was said. He stated, "*It would be.*"

Officer Collins was asked if he observed anything while on scene that violated policy. He stated, "*Mm, not if, besides my swearing, sir.*"

Officer Collins was asked, "Have you ever had the occasion in which policies have exceptions to 'em for things like when you're in dramatic fights for things like courtesy?" and responded by stating, "*Um, I would hope that he would use common sense to know that if you're in a life and death fight, that things are said, but I mean the policy I understand is, that's what it's for.*"

I have reviewed the material and have summarized the relevant portions of the investigation below.

Criminal Investigatory Interview of Officer Matthew Collins

Officer Collins was partnered with Officer Burbank when the incident with Mr. Ellis occurred. Officer Collins confirmed he was driving a marked TPD patrol SUV, and his partner, Officer Burbank, was in the front passenger seat. Officer Collins confirmed their call sign was Henry-317.

Officer Collins stated he and Officer Burbank were at South 96th Street stopped for the light at Ainsworth (facing westbound) when Officer Collins observed what he described as "some sort of disturbance" between a black male (who was later identified as Manuel Ellis), and a vehicle turning westbound onto South 96th Street. This disturbance was occurring on the south side of the intersection from where Officer Collins and Officer Burbank were located. Mr. Ellis appeared to be trying to open the passenger door of the vehicle that was trying to turn westbound onto South 96th Street. This vehicle, however, turned onto

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South 96th Street, driving slowly and around Mr. Ellis as to avoid hitting him. Officer Collins was not sure what was occurring, but he believed it could possibly be a domestic violence situation or even a carjacking. Officer Collins described the vehicle Mr. Ellis approached as a silver, boxier style Chrysler 300 type of vehicle.

Officer Collins rolled down his window and hollered in the direction of Mr. Ellis. Officer Collins stated, *"I say hey, come over here, what's goin' on."* Officer Collins said Mr. Ellis jogged over to the patrol car and came right up to the driver's front seat window. Officer Collins believed this to be abnormally close, so he backed the patrol car up a little. Officer Collins noticed Mr. Ellis' eyes were unusually wide, and he appeared to be sweating all over the top of his head. Mr. Ellis told Officer Collins he had warrants and something to the effect of, *"We need to talk."* Officer Collins directed Mr. Ellis to go sit on the curb while he notified Dispatch, and he would come over to talk to him. Officer Collins said he did not recognize Mr. Ellis from any previous calls.

As Officer Collins picked up the mic to notify Dispatch, he noticed Mr. Ellis fixating on Officer Burbank as he walked around the front of the patrol vehicle. Officer Collins said he realized something was wrong as Mr. Ellis approached the front passenger window where Officer Burbank was located. Officer Collins stated there was some talk between Mr. Ellis and Officer Burbank, but the only portion of the conversation he heard was Mr. Ellis telling Officer Burbank, *"I'm gonna punch you in your face."* Officer Burbank started to roll up his window as Mr. Ellis began to punch it. Next, Officer Collins described what appeared to be a struggle over opening the front passenger door.

At this point, Officer Collins dropped the radio mic, exited the driver's seat, and ran around the front of the patrol car to try and get control of Mr. Ellis. Officer Collins said he intended to take Mr. Ellis to the ground, handcuff him, and get the situation under control. However, as soon as Officer Collins got around to the front passenger side of the patrol car, Mr. Ellis saw him, turned in his direction, and ran right at him. Mr. Ellis grabbed Officer Collins by his external vest and lifted him off the ground (off of his feet). Officer Collins said he was trying to grab Mr. Ellis but could not. Mr. Ellis then threw Officer Collins into the intersection where he landed on his back. Officer Collins remarked to himself that this guy has superhuman strength.

Officer Collins got to his feet and saw Officer Burbank in a physical fight with Mr. Ellis. Officer Collins described it as a melee between Officer Burbank and Mr. Ellis. Officer Collins said, *"It's just wild. There's fists flyin'. I run in and I, I'm a grappler by background, so I immediately grab him and I'm trying to take him to the ground. At some point I end up on top of him. He's just swinging wildly at me, grabbing at me, and he's like growling and, and just making like kind of animal noises."* Officer Collins said he tried to get out on his portable radio and recalled the beeper being activated at some point during the fight.

Officer Collins ended up on the ground, on top of Mr. Ellis. Officer Collins described taking up a "mounted" position around the area of Mr. Ellis' torso as Mr. Ellis was then completely on his back. Officer Collins stated he was throwing elbow strikes to the head of Mr. Ellis, but they appeared to have no effect. Not only did the elbow strikes appear to be ineffective, but Officer Collins also described being lifted up by Mr. Ellis. Officer Collins said Mr. Ellis lunged at his face, but he was able to move to the side, and both parties were then lying on their sides in the street. Officer Collins scrambled around to the back side of Mr. Ellis and took up a position behind him, in what is described as "taking someone's back." Officer Collins and Mr. Ellis were then facing the same direction.

Officer Collins never completed the Lateral Vascular Neck Restraint (LVNR) technique on Mr. Ellis due to the Taser application by Officer Burbank. Once the first Taser application was underway, Officer Collins pushed Mr. Ellis face down and moved to his left arm. Officer Collins instructed Officer Burbank to grab Mr. Ellis' right arm. The officers tried to handcuff Mr. Ellis while the Taser was on its 5-second

cycle, but they were not able to. Officer Collins stated once the Taser cycle was over, Mr. Ellis started fighting again.

The fight continued as Officer Collins had both arms wrapped around one of Mr. Ellis' arms, and he tried to get the arm behind Mr. Ellis' back. Officer Collins said Mr. Ellis was still fighting them when he felt Officer Burbank apply what he believed was a second Taser application. Officer Collins felt Mr. Ellis' body lock up, so he and Officer Burbank were able to move Mr. Ellis enough to get him handcuffed.

Officer Collins stated that even though Mr. Ellis was handcuffed, he continued to resist. *"Once he's cuffed, the fight's not over. He kind of comes back to, again, starts growling. And now he's trying to stand up. His legs are kind of going underneath him. He's face down on the ground, handcuffed behind his back, and he starts lifting himself up. So Shane jumps on his back and I move to his feet. And I kind of criss cross his feet, so I put one foot in the crook of his knee and then I put the other foot down and I'm pressing his feet down so that he can't get his knees underneath him. And at that point I can start hearing sirens. There's other units coming."*

When the first two back-up officers arrived, Officer Rankine and Officer Ford, Officer Collins said he asked them for a hobble because Mr. Ellis was still not under control even though he was handcuffed behind his back. Officer Collins said he repeated his request for a hobble a couple of times and eventually one was found. He was not sure whose hobble it was at the time, but he did see Officer Burbank leave the struggle and return with one. The hobble was then applied by Officer Burbank and maybe someone else. Officer Collins said once the hobble was applied, he looked up and saw multiple units arriving. Officer Collins confirmed there were County officers on scene as well as several other officers.

Once the additional units were on scene, Officer Collins ceased his contact with Mr. Ellis. Officer Collins described himself as being "pretty smoked" at this point. He said he could feel the effects of lactic acid building up in his forearms. He said his hands were almost frozen and locking up. As he was stepping away, he believed he heard Officer Burbank instructing officers to get Mr. Ellis into the recovery position (on his side). Officer Collins saw Mr. Ellis rolled onto his side and as he separated himself from the incident, he saw Mr. Ellis kind of spitting at people. Officer Collins said a spit mask was put on Mr. Ellis, but he was not sure by whom.

The Tacoma Fire Department (TFD) arrived shortly thereafter, and Officer Collins told them that Mr. Ellis might be displaying the effects of excited delirium. Officer Collins described to TFD the "freakish" strength Mr. Ellis had and also mentioned that Mr. Ellis was not really speaking to them. Officer Collins also informed TFD that Mr. Ellis was basically out of control. A short time later, he saw CPR underway on Mr. Ellis.

Photographs were taken of Officer Collins' injuries. The photos show abrasions and cuts to both knees as well as abrasions and bruising on an elbow. There were abrasions and cuts on his left hand, specifically a cut appeared to be on the outside of his lower left thumb, and abrasions to the middle knuckles on the middle and ring fingers. The glass on Officer Collins' wristwatch, worn on his left wrist, was shattered.

Officer Collins was asked if anything seemed effective against Mr. Ellis, he replied, *"Absolutely not."* Officer Collins was asked if he observed any injuries to Mr. Ellis. He confirmed he did, that a cut had opened up on Mr. Ellis' face after he (Collins) had struck him. Officer Collins believes the fight with Mr. Ellis lasted 3 to 4 minutes.

Officer Collins described Mr. Ellis' overall actions not of a person trying to run away but that of someone who was in attack mode. Officer Collins said Mr. Ellis never tried to disengage and went back and forth attacking both officers.

When Officer Collins was asked if any citizens were around. He recalled a homeowner on the north side of South 96th Street – a white male, bald, who was asking the officers if they needed help and who offered to call 911. Officer Collins also remembered Mr. Ellis appeared to be carrying a plastic grocery bag and after the incident was over, he noticed a box of doughnuts on the street.

Officer Collins confirmed he never armed and/or deployed his Taser during the incident. However, Officer Collins' Taser download showed that it was armed for a few seconds, minutes after the incident was over. Per the Taser download data, this arming of the Taser would not have occurred during the physical encounter with Mr. Ellis. It was not determined why Officer Collins armed his Taser post physical encounter.

Officer Collins confirmed he used elbow strikes on Mr. Ellis and targeted his face when he did so. Officer Collins denied any closed-fist punches, citing previous injuries to his hands.

Officer Collins was asked if Mr. Ellis was listening to the commands he was given and what the commands were, *"No. It wasn't, he was, he was literally growling and kind of baring his teeth, and I mean there was no, there was no verbal commands that were doing anything. Nothing was having an effect on this guy."* *"Yeah, I was telling him stop, roll on your stomach. I mean he was, he was engaging a fight."*

Officer Collins confirmed Mr. Ellis was moved from a face down position to a recovery position at some point after additional officers arrived.

Officer Collins was asked by the attorney representing him (Mike Staropoli) to describe what he was thinking when he decided to deploy the LVNR. Officer Collins stated, *"Yeah. So with that first incident when we found that gentleman on PCP, I remember, we got to a point, I mean six minutes in all our gear was, I was completely exhausted by that point. And I remember after that learning that, with someone under that state and that kind of strength, it's physical pain and even if you were to break something, it's not gonna have an effect and so my, my thought at that time was, if I get to this place I'm gonna have to put this person temporarily unconscious because that's gonna be the safest way to provide a window to get them in cuffs. Because we got to a point with that gentleman in that hotel room, where we were gonna have to use lethal force. And it was, we had no weapons, but it was just literally his physical strength and ability. So, from that I had learned and I, and I realized when I was striking this gentleman with my elbows and it just kind of enflamed him, and he lunched up in my face, that this was a different kind of deal. And I was already getting tired. I didn't think I would prolong this fight. At that time I heard zero sirens. I wasn't able to get anything out on the radio, and I had, I couldn't even see Shane at this point. So I wasn't sure is he unconscious, I might be the only one in this fight right now. So I felt like it was my only option to keep him under control."*

The prior incident referred to by Officer Collins occurred on October 15, 2017, and was documented under Tacoma PD case 1728800241.

Officer Collins was asked if he was afraid of what was occurring at that moment. Officer Collins said there are some people who try to kill you, and he felt Mr. Ellis was.

Officer Collins does not know whose hobble was used but acknowledged that he keeps a hobble in the glove box of his patrol car. Officer Collins was asked if the hobble used during the incident was Department-issued. Officer Collins said it was, that it was in his patrol car when the patrol car was assigned to him.¹

¹ At the time of this incident, a leg restraint was not specifically mentioned in the Department's Use of Force Policy of 2020. There was also no Department training on the application of such a device. The only reference to a hobble/leg restraint in the Department's Policies and/or Procedures is within Transportation – Detainee D.2, which states in part, "Arrestees will not be transported in a 'hog-tied' position or face down."

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Internal Affairs Interview of Officer Matthew Collins

Information gathered during Officer Collins' IA interview was consistent with the interview he gave PCSD after the incident summarized above. However, during the IA interview, he was asked to elaborate on some of his statements made in his PCSD interview.

The first was his initial observations of Mr. Ellis. When asked by IA what his mindset was when he told Mr. Ellis to go sit down on the curb, Officer Collins replied, *"I thought it was gonna be, kinda of a 4-1-4 kinda situation, uh, drug situation where we'd end up, ya know, just calling the Fire Department. Um, that was my initial kinda thoughts."* Mr. Ellis never made it to the curb.

Officer Collins did not remember the position of Officer Burbank's window when Mr. Ellis began hitting it but believed he hit it once or twice. Officer Collins said he exited the patrol vehicle as soon as Mr. Ellis started hitting the window. Officer Collins believes this is when he activated the amber flashing lights on the patrol car. Officer Collins believed Mr. Ellis was hitting the window hard enough to break it.

Officer Collins confirmed that once Mr. Ellis threatened to punch Officer Burbank and started to punch the front passenger window, this went from a possible community caretaking/welfare check to probable cause for threatening to punch Officer Burbank in the face as he then proceeded to punch the window separating the two. Officer Collins confirmed he believed it was necessary to detain Mr. Ellis. Officer Collins said that as he ran over to stop Mr. Ellis, it appeared that Officer Burbank and Mr. Ellis were fighting over the front passenger door; Officer Burbank was trying to keep it closed, and Mr. Ellis was trying to open it. Suddenly Mr. Ellis spotted Officer Collins. This was the moment Mr. Ellis shifted his focus, charged Officer Collins at the front/passenger side wheel of the patrol car, grabbed him, lifted him up, and threw him to the ground.

As in Officer Collins' previous statement, he got up off the ground and saw Mr. Ellis going after Officer Burbank who was now out of the patrol car. Officer Collins emphasized he believed Officer Burbank's life was in danger, and he ran at a dead sprint to re-engage Mr. Ellis. Officer Collins did not give Mr. Ellis any verbal commands, adding he did not believe he had any time to give commands.

Officer Collins was asked about his statement where he discussed taking Mr. Ellis to the ground. Officer Collins confirmed he took a mounted position above Mr. Ellis' waistline while Mr. Ellis was on his back. Officer Collins said Mr. Ellis was reaching up and grabbing at his gear (Officer Collins visually showed this by putting his hands near his neck where the top of his carrier would be located). Officer Collins confirmed striking Mr. Ellis in the face 3 to 5 times with his elbow, not his fists, and only did so from the mounted position. Officer Collins did not recall being struck or punched by Mr. Ellis but stated his jaw was sore the next morning.

Officer Collins elaborated on targeting Mr. Ellis' head. Officer Collins said that was the only target when he took a mounted position on Mr. Ellis. Also, Officer Collins described himself as a grappler and if he could get Mr. Ellis to turn away from him, he would be able to get to Mr. Ellis' back, control him, and get him handcuffed.

Officer Collins was asked what level of resistance Mr. Ellis was presenting during this time, and he said, *"assaultive."* Officer Collins was unaware that Officer Burbank had "door checked" Mr. Ellis a few moments earlier. Officer Collins was able to eventually maneuver to the back side of Mr. Ellis. When Mr. Ellis did a sit-up, lunging forward with his entire body, this movement gave Officer Collins the opportunity to pivot around to Mr. Ellis' back. Officer Collins was asked if it was normal to sit up and push someone off a mounted position, such as the position he had taken up on top of Mr. Ellis. Officer Collins stated, *"Absolutely not. Especially not someone like me, 230 pounds on top of you."* Officer Collins was asked if that was significant to him. He confirmed it was, describing Mr. Ellis' strength as *"overwhelming."*

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IA asked Officer Collins to explain what an LVNR is. Officer Collins described it as a move that will temporarily cut off the blood supply to both carotid arteries for a short time. He said it only takes a few seconds and then the subject can lose consciousness. This allows for an opportunity to handcuff the subject before regaining consciousness. When asked how long he applied the LVNR to Mr. Ellis, Officer Collins explained he never actually applied it. He explained he was trying to get into the correct position to do so but noticed Officer Burbank with his Taser out, so he decided he did not need to apply the LVNR.

Officer Collins was asked about his training in regard to the LVNR, *"I've grappled for over 15 years so at different Jujitsu schools and in the military, I was a trainer for Second Ranger Battalion for our fight team."*

- Officer Collins confirmed he never received LVNR training while in the Academy or from Tacoma PD.
- When the incident with Mr. Ellis occurred, Officer Collins was a member of the Department's Controlled Tactics Cadre.
- Officer Collins advised he was involved in developing an LVNR policy for TPD, but it was never published.
- Officer Collins was asked how many times he has applied an LVNR. He stated, *"Thousands."* Officer Collins said none of the applications resulted in a serious injury or death.

Officer Collins confirmed the level of resistance that would have allowed an LVNR application in the policy that was being developed was "assaultive."²

Officer Collins confirmed that once Officer Burbank started deploying his Taser on Mr. Ellis, they were able to get him into handcuffs. Officer Collins said Mr. Ellis continued to resist once the Taser cycle ended, and he had no idea how many times Officer Burbank deployed his Taser. Officer Collins also confirmed Mr. Ellis was face down after being handcuffed.

Officer Collins confirmed with IA he was struggling to control Mr. Ellis' legs as back-up units were arriving. He also confirmed Officer Burbank was attempting to control Mr. Ellis' upper body. Officer Collins said as back-up was arriving, Mr. Ellis was trying to straighten his legs in what Officer Collins believed was an attempt to put them underneath his body and stand up. Officer Collins described being in the middle of the street, in traffic with Mr. Ellis, trying to hold his legs down so he stayed down. When asked by IA what he thought Mr. Ellis was trying to do, escape or kick him, he said he was not sure. However, Officer Collins pointed out that whether Mr. Ellis was trying to kick him or run into traffic, he assessed both as the same issue and could not let it happen.

IA asked Officer Collins about the hobble application. Officer Collins said someone requested the hobble because they were unable to control Mr. Ellis. Officer Collins did not know who applied the hobble or who assisted in the application but recalled it being placed around Mr. Ellis' ankles. Officer Collins did not recall the hobble being attached to the handcuffs; however, he did confirm the incident was not stabilized until the hobble had been applied. Officer Collins disengaged during the application of the hobble and returned to his patrol car. He did not have any additional contact with Mr. Ellis. Officer Collins confirmed Mr. Ellis was still on his stomach when he walked away.

Officer Collins advised he was not aware his hobble had been used until PCSO retrieved it from his patrol car. He said a Sergeant had given it to him, and he believed it was issued to him by the Department.

² It should be noted the Tacoma Police Department never implemented the LVNR policy that was being developed at the time of this incident in 2020 and Washington State HB 1054, passed in 2021, now bans law enforcement from using chokeholds and neck restraints, including the LVNR.

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Officer Collins advised he has not received any training in the application of the hobble, not in the Police Academy or from the Tacoma Police Department.

Officer Collins did not know how long Mr. Ellis was on his stomach. Officer Collins did not see Mr. Ellis kicking against the restraints, and he did not see Mr. Ellis being rolled back onto his stomach. Officer Collins was aware that medical aid was en route and that Sergeant Lim had requested it. Officer Collins also believed Officer Burbank requested medical aid. Officer Collins said he never had a chance to request medical aid during the fight.

When asked by IA about the spit hood, Officer Collins said he did not see who applied it and did not see the application of it. Officer Collins did see the spit hood on Mr. Ellis while Mr. Ellis was on his side.

Officer Collins was asked if he observed any signs of medical duress from Mr. Ellis, and he said he believed Mr. Ellis was possibly suffering from excited delirium because he was profusely sweating and had amazing strength. Officer Collins said he himself weighs around 230 pounds when all of his gear is on, and Mr. Ellis threw him like it was nothing. He said at that moment he believed he had a situation involving a case of excited delirium. Officer Collins was not aware of any respiratory issues with Mr. Ellis during his contact with him.

At this point in the interview, Officer Collins was shown 4 videos.

- Cell Phone Video from Ms. McDowell (1 of 2).
- Cell Phone Video from Ms. McDowell (2 of 2).
- Cell Phone Video from Cowden.
- Vivint Doorbell Videos All Merged.

Cell Phone Video from Ms. McDowell (1 of 2):

- The video was played for Officer Collins.
- Officer Collins confirmed he was the officer with his back to the camera when the video started.
- Officer Collins said Mr. Ellis had already picked him up and thrown him to the ground and engaged with Officer Burbank prior to the beginning of the video.

Cell Phone Video from Ms. McDowell (2 of 2):

- The video was played for Officer Collins.
- Officer Collins confirmed Officer Burbank was directing Mr. Ellis to put his hands behind his back.
- Officer Collins was asked about the phrase, *"You're going to get it again."* He guessed it was Officer Burbank referring to another Taser deployment against Ellis.

Cell Phone Video from Cowden:

- The video was played for Officer Collins.
- Officer Collins confirmed he was positioned behind Mr. Ellis, with Officer Burbank in front of Mr. Ellis.
- Officer Collins was asked about the positioning on his knees, specifically if he ever placed a knee on the back of Mr. Ellis' neck. He stated, *"No."*

Officer Collins added, *"You want to try and center it on, on their back, or in between their shoulder blades to keep, keep them from leveraging up. The head actually really doesn't really do anything for you, so I, I never do that. Cause that gives you all your leverage in your hips to stand up. If your heads down, it doesn't do anything. Appears to me like Ellis is swiping the wires right there."*

- Officer Collins commented that it appeared Mr. Ellis was swiping at the Taser wires in an attempt to remove or break them.

Vivint Doorbell Videos All Merged.

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- The video was played for Officer Collins.
- Officer Collins was asked who growled and yelled, *"Try again. (at 1:16 in the video)"* Officer Collins does not know who made the statement.
- *"I can't breathe sir, I can't breathe,"* is heard at 1:44/1:45. Officer Collins did not recall ever hearing Mr. Ellis state, *"I can't breathe,"* or anything similar.
- Officer Collins was asked who said, *"Shut the fuck up." (1:58)*
 - Officer Collins stated, *"I mean, it sounds like they're just talking. I will tell you if I, I've ridden with Burbank for awhile, and known him for a long time, I don't think I've ever just heard him, heard him say the 'F' word. So, if it was somebody, it was probably me. I don't recall saying that, but from that video, I do not hear him saying, 'I can't breathe,' and me telling him to, 'Shut the F up,' uh, but I hear some mumbling."*

Officer Collins was asked if he has a good understanding of the Department's Use of Force Policy. Officer Collins indicated he did, *"Yes sir."*

Officer Collins was asked, *"Based on your knowledge of the Use of Force Policy, do you believe you violated the Department's Use of Force Policy?"* Officer Collins stated, *"Absolutely not."*

Officer Collins did not recall telling Mr. Ellis to *"Shut the fuck up,"* adding, *"But like I said, if it's between Shane and I, uh, um, I don't h-, think I've ever heard Shane say the F word."*

Officer Collins was asked if it would be a violation of the Department's Courtesy Policy if it was said. He stated, *"It would be."*

Officer Collins was asked if he observed anything that violated policy. He stated, *"Mm, not if, besides my swearing, sir."*

Officer Collins was asked, *"Have you ever had the occasion in which policies have exceptions to 'em for things like when you're in dramatic fights for things like courtesy?"* and responded by stating, *"Um, I would hope that he would use common sense to know that if you're in a life and death fight, that things are said, but I mean the policy I understand is, that's what it's for."*

Criminal Investigatory Interview of Officer Masyih Ford

When he and Officer Rankine arrived at 96th and Ainsworth, Officer Ford saw Officers Burbank and Collins fighting with a subject, Mr. Ellis. Officer Burbank was on Mr. Ellis' back, and Officer Collins had his legs. Mr. Ellis was pushing both officers off him, so Officer Ford immediately took control of one of his (Mr. Ellis') feet and pulled it toward him so he would not be kicked in the face. Once he had control of one of Mr. Ellis' legs, he saw that Mr. Ellis was handcuffed. Officer Ford said that the way Mr. Ellis overpowered Officers Burbank and Collins, whom he considered physically strong officers, was "weird."

Since he did not know what had transpired before his arrival, Officer Ford told Mr. Ellis to "just relax" and "just breathe" since he was screaming incoherently. Officer Ford said Mr. Ellis was "thrashing around," and he had to hold onto his feet "for dear life" to ensure he did not break free. He said Officer Collins requested leg restraints, but he and Officer Rankine did not have one. Officer Ford said TPD Sergeant Lim and multiple other units arrived on the scene, and while he was holding Mr. Ellis' leg down, the leg restraint was applied to Mr. Ellis shortly afterward.

Once the leg restraint was on Mr. Ellis, Officer Ford released his grip from his leg and held his foot while telling Mr. Ellis to "relax" and reassuring him that he would be okay.

Officer Ford was aware that Sergeant Lim had requested TFD, and he continued to tell Mr. Ellis to remain calm as Mr. Ellis continued to scream. Officer Ford said he could not recall what he was trying

to say, but he did hear Mr. Ellis say, "I can't breathe." Officer Ford said the "remarkably calm fashion" in which Mr. Ellis made the statement did not sound like someone unable to breathe. However, once Mr. Ellis said he could not breathe, he was rolled over from his stomach to his side in a recovery position, and Officer Ford could see Mr. Ellis' face.

As Officer Ford continued to talk to Mr. Ellis, he asked Officer Rankine how warm Mr. Ellis was. When Officer Rankine told him that "he's burnin' up" and his pulse was low, Officer Ford suspected that Mr. Ellis was suffering from excited delirium.

When TFD arrived, Officer Ford said he ran up to them and advised that Mr. Ellis was unresponsive and possibly suffering from excited delirium. When TFD requested the restraints be removed from Mr. Ellis, Officer Ford warned them that Mr. Ellis had just fought with officers, was "incredibly strong," and to be cautious when the restraints are removed. Officer Ford said the restraints were then removed.

Officer Ford said Mr. Ellis was still breathing since he could see his chest moving, but he was unresponsive when TFD arrived. He believes TFD started CPR on Mr. Ellis within a few minutes of their arrival.

Criminal Investigatory Interview of Officer Chris Burbank

Officer Burbank was working a two-officer marked patrol car with Officer Collins and sitting in the front passenger seat at South 96th Street and Ainsworth when Officer Collins verbally contacted Mr. Ellis. Mr. Ellis jogged up to the driver's side front door and was directed to the curb by Officer Collins. Instead of walking over to the curb, Mr. Ellis saw Officer Burbank and approached his window. There was a dialog between the two, part of which consisted of Mr. Ellis threatening to punch Officer Burbank in the face. Mr. Ellis suddenly started punching Officer Burbank's window and tried to open his door.

Officer Burbank and Officer Collins tried to arrest Mr. Ellis but a fight ensued. Officer Burbank ended up deploying his Taser multiple times before Mr. Ellis is taken into custody. Officer Burbank was on top of Mr. Ellis' torso, trying to get control of him when Officer Rankine and Officer Ford arrived. Mr. Ellis "bucked" Officer Burbank off as he was trying to gain control of his torso area. At this point, Officer Burbank said he retrieved a leg restraint from his vehicle and applied it to Mr. Ellis' feet to keep him from kicking. Mr. Ellis was rolled onto his side, and his restraints were removed when TFD arrived and made the request. Mr. Ellis was given repeated commands, and Officer Burbank described Mr. Ellis as assaulting officers and very strong.

Criminal Investigatory Interview of Officer Timothy Rankine

Officer Rankine said when he arrived at 96th and Ainsworth, Mr. Ellis was on the ground with Officer Burbank on his back, and Officer Collins was trying to secure his legs. The two officers were trying to hold Mr. Ellis down, but he was throwing them around like "rag dolls."

Officer Rankine assisted Officer Burbank with Mr. Ellis' upper body, while Officer Ford and Officer Collins were trying to hold his legs. Officer Rankine said Mr. Ellis was kicking "pretty violently," and Officer Ford and Officer Collins were trying to avoid being kicked in the face.

Officer Rankine said Officer Collins asked for a leg restraint. Officer Rankine said Mr. Ellis was making "animal, grunting noises" and violently thrashing around. Officer Rankine told Mr. Ellis to stop struggling and to calm down. Mr. Ellis then said, "I can't breathe" in a "very calm, normal voice." After the leg restraint had been applied, Mr. Ellis felt really warm and was sweating profusely. Mr. Ellis was rolled over on his right side in a recovery position, and his pulse was checked. Mr. Ellis' heart rate was 80 beats per minute, and he was breathing since Officer Rankine was watching Mr. Ellis' chest rise and fall. Officer Rankine said all four officers held him down, and he was only "slightly more compliant" once the hobble was applied.

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Criminal Investigatory Interview of TPD Sergeant Mike Lim

Tacoma Police Department Sergeant Mike Lim said that when he arrived on the scene, he saw Officers Burbank, Collins, Rankine, and Ford trying to hold Mr. Ellis down. Mr. Ellis was handcuffed and attempting to kick his legs around. Sergeant Lim said Mr. Ellis nearly got on his knees while the officers were trying to hold him down and appeared to have extraordinary strength. Sergeant Lim saw an officer retrieve a leg restraint and place it on Mr. Ellis' legs. Sergeant Lim said Mr. Ellis was sweating profusely and possibly suffering from excited delirium. Sergeant Lim requested medical aid to respond. Sergeant Lim checked on Officer Burbank, and when CPR started on Mr. Ellis, Sergeant Lim made the command decision to treat the scene with the same protocol as an Officer-Involved Shooting.

Criminal Investigatory Interview of PCSD Lieutenant Anthony Messineo

Pierce County Sheriff's Department Lieutenant Anthony Messineo responded to 96th and Ainsworth to assist officers and arrived on the scene less than one minute after Officer Ford and Officer Rankine. Lieutenant Messineo reported that Mr. Ellis was face down on the ground and was fighting, kicking, and making animalistic noises. Lieutenant Messineo said Mr. Ellis was "thrashing around," "moving," and "struggling," and he appeared to be "obviously on some type of drug." Lieutenant Messineo heard the request for a leg restraint and saw a TPD officer run to his vehicle to get one. He said there were five officers with Mr. Ellis, and one of the officers had control of Mr. Ellis' feet, pushing them toward his back in preparation to be restrained. Lieutenant Messineo saw PCSD Detective Sergeant Sanders assist the officers in detaining Mr. Ellis by holding Mr. Ellis' feet. Lieutenant Messineo heard officers giving Mr. Ellis commands such as "Give me your hands" and "Stop fighting."

After Mr. Ellis' legs had been restrained, he made animalistic noises while lying on his stomach. One of the officers stated that Mr. Ellis' temperature was "super-hot." Lieutenant Messineo said he "immediately" recognized that Mr. Ellis was experiencing excited delirium. He made this determination based on Mr. Ellis' agonal breathing, how he fought with officers, and his training and experience. Mr. Ellis was moved to a recovery position as medical aid was being requested.

Lieutenant Messineo never went "hands-on" with Mr. Ellis, nor did he observe any strikes of Mr. Ellis by the officers on the scene. Lieutenant Messineo said that once Mr. Ellis was placed in leg restraints, everyone went "hands-off." Lieutenant Messineo also heard an officer caution TFD personnel that Mr. Ellis would likely start kicking if the restraints were removed, but they were removed anyway.

Criminal Investigatory Interview of PCSD Detective Sergeant Gary Sanders

Pierce County Sheriff's Department Detective Sergeant Gary Sanders arrived around the same time as Lieutenant Messineo. Detective Sergeant Sanders saw four officers struggling to get Mr. Ellis handcuffed. After handcuffs were applied, an officer asked for a leg restraint. He saw an officer trying to use the leg restraint, so he grabbed one of Mr. Ellis' feet and pulled it toward Mr. Ellis' waist. Detective Sergeant Sanders said it took two officers to handcuff Mr. Ellis and two officers to try and pin his legs. Due to Mr. Ellis' kicking, Detective Sergeant Sanders said he assisted and took control of Mr. Ellis' foot.

Detective Sergeant Sanders said that Mr. Ellis was then on his stomach, struggling against the restraints, making a grunting or animal noise. He and Lieutenant Messineo thought Mr. Ellis was suffering from excited delirium and told officers on the scene their belief. Once the leg restraint went on, Mr. Ellis made several loud grunts and growls, and then he became quiet. Detective Sergeant Sanders said a mask (spit hood) had been placed on Mr. Ellis because he had been spitting, but he could see his eyes and "he just had the stare."

Detective Sergeant Sanders did not observe any officers striking Mr. Ellis or doing anything inappropriate. When Mr. Ellis stopped struggling against the restraints, he was put on his side. Detective Sergeant Sanders described Mr. Ellis as "pretty built" and a "bigger guy." He estimated the elapsed time

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from his arrival to when the leg restraint was applied was about 2 minutes. Detective Sergeant Sanders never heard Mr. Ellis say an intelligible word, just growls and grunts. Officers were giving Mr. Ellis commands like "stop resisting" and "put your hands behind your back." Detective Sergeant Sanders did not know if Mr. Ellis was breathing but did comment that one of the officers was doing a good job checking on Mr. Ellis, ensuring he was calm, monitoring his pulse, and telling him to focus on his breathing.

Criminal Investigatory Interviews of Tacoma Fire Department Personnel

The first aid vehicle that arrived was TFD Engine 10, staffed by Nicholas Wilson, Jeffrey Polo, and Marlon Ridgeway. Nicholas Wilson said that when he arrived, he observed superficial scratches and abrasions on Mr. Ellis, and officers were holding Mr. Ellis down so he would not get up and be a threat to them. When asked if Mr. Ellis was still breathing, Wilson said that Mr. Ellis had a "deteriorating respiratory drive" when he arrived. Wilson added that Mr. Ellis had agonal respirations and was not breathing normally. Wilson said Mr. Ellis had a slowing pulse and needed "aggressive airway management."

Jeffrey Polo said that when he arrived, Mr. Ellis was handcuffed and had a spit hood over his head. Mr. Ellis was saying muffled, garbled words, and his breathing was slow, with respiratory effort. Polo said Mr. Ellis had adequate respiratory drive when they arrived that deteriorated into labored, then ceased breathing. Polo said the spit hood was removed from Mr. Ellis when all other restraints were removed. Polo said he believed Mr. Ellis' condition was already on a downward trajectory, and his change in breathing was not related to the removal of his spit hood. Polo said that after approximately 3 to 5 minutes on scene, Mr. Ellis' heart rate went from 80 bpm to zero, and then CPR was started.

Marlon Ridgeway said Mr. Ellis was restrained and had a spit hood on when he arrived. Ridgeway described Mr. Ellis' breathing as shallow and said he was still breathing when the spit hood was removed. Ridgeway said Mr. Ellis did not appear to have trouble breathing with the spit hood on, and although his breathing was shallow, it did not change once the spit hood was removed. Ridgeway said the restraints and spit hood were removed when requested.

Other officers on the scene from several different agencies said Mr. Ellis was non-compliant, combative, breathing heavily, shouting, extremely agitated, fighting against the restraints, growling like a dog, and did not appear in physical distress.

Citizen Witness Interview of Shad Hayes by the Pierce County Sheriff's Department

The interview of Shad Hayes occurred on March 5, 2020. Shad Hayes was staying at 1433 South 96th Street, three houses east of the intersection of South 96th and Ainsworth, on the north side of 96th Street.

Mr. Hayes was asked what he heard when the incident occurred. Mr. Hayes was in his bedroom watching TV when he heard some yelling outside and observed flashing lights sometime after 11:00 pm. Mr. Hayes went outside and noticed a patrol car at the traffic light (96th and Ainsworth) with its lights on. Mr. Hayes saw two officers trying to subdue an individual in the middle of the intersection and confirmed the patrol car was facing west.

Mr. Hayes stated, *"I saw two Officers tryin' to subdue this individual and they were havin' problems subduing him because he was, I don't know if he was drunk or high on drugs or whatever, but he was, but he was throwin' 'em around pretty good. And I yelled at 'em and asked if they need help and they said no, they think we've got it. But while they were tryin' to subdue him there was traffic and stuff goin' by so I stood right down here and directed traffic until I heard the back, 'til I heard their backup comin' and they came from that direction on Pacific Avenue. And then I came back in and just after that watched TV."*

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Mr. Hayes observed the incident, *"One was on the ground tryin' to get his hands behind his back and the other one was kinda bending over trying to subdue him from the top. Plus they were havin' problems 'cause he was tryin' to get up and move around and stuff."* *"Yeah. He was just standing trying to bend over him. Like one was towards the top of his body, one was towards the bottom of his body or the middle more."*

Mr. Hayes confirmed the individual the officers were trying to subdue was lying face down on the ground, adding he was not complying with the officers. Mr. Hayes was asked what the subject was doing, *"Tryin' to get up and fightin' with 'em and stuff. Not, I, I didn't see any punches swung but you could tell just by he wasn't complying. He wasn't givin' his arms and they were tryin' to get him to subdue him."* Mr. Hayes believed the subject was trying to get away from the officers. Mr. Hayes stated, *"Yeah. There was, the, the one Officer towards the end of his feet was trying to get his arms behind his back to put the handcuffs on him, it looked to me like. I, I wasn't really up close to 'em 'cause I didn't want them to freak out and think I was, so I stayed back towards my gate. But it looked like the one Officer was tryin' to get his hands behind his back and, and the other Officer was tryin' to hold him from the front down, so the other Officer could get his hands on, um put his handcuffs on him."*

Mr. Hayes said he was at the end of his driveway when he observed the incident, adding the incident occurred in front of the patrol car. Mr. Hayes believed he heard one of the officers say "comply."

Mr. Hayes was asked if the officers were successful in placing the subject into custody. He confirmed they were. Mr. Hayes was asked if he observed anything other than wrestling, *"No, I didn't. It didn't look to me like at anytime he got up and any blows or anything exchanged. It didn't look like that, it looked to me like from what I saw most of the time they had him on the ground but he wasn't complying with their orders to put his hands behind his back so they could subdue him."*

Citizen Witness Interview of Aiyana White by the Pierce County Sheriff's Department

The interview occurred on June 7, 2020. Mrs. White lives at 1438 96th Street South.

Mrs. White was asked what occurred, *"Yes. So I was laying down in bed, going to sleep, and I heard some noises outside. Not unusual for where I live. So I looked outside the window and I saw the police were talking to Manuel, and I saw him attempting to get away from them, and I saw him being shoved down to the ground. At that point I heard someone in the cars behind yelling at the officers, mostly just things like stop and what are you doing. At that point I stopped looking out the window and woke up my spouse who was sleeping. From that point I couldn't see much, other than him on the ground. I saw some struggling to get away. From that I couldn't see much more from just him on the ground with the police on top."* Mrs. White said that soon after, numerous police cars showed up, and her view became obstructed. Mrs. White stated she was recording the incident at this point and still has those recordings.

Mrs. White was asked if she could hear what the officer and/or Mr. Ellis was saying. Mrs. White believes she heard Mr. Ellis say something about "can't breathe" three or four times. Later in the interview, Mrs. White said she heard two different sets of "I can't breathe, I can't breathe," adding the different sets both occurred within a 3- to 4-minute span, both while Mr. Ellis was on the ground. Mrs. White confirmed she exited the residence to observe what was occurring.

Mrs. White was asked if she observed any of the officers on the ground, if the officers tried to hit or punch Mr. Ellis, she confirmed she did, *"I saw some punches being thrown by the officer. I, most I saw from Manuel was a, attempting to get free. I didn't see him try and attempt to punch the police officer or hit them. So I don't, like, just the twisting movements."*

Mrs. White was asked if she saw anyone trying to tackle another person, she confirmed she did, *"The, they jumped on top of Mr. Ellis."* Mrs. White was asked where Mr. Ellis was when the officers jumped on top of him, *"He was laying on the ground."*

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Mrs. White confirmed an officer contacted her the night the incident occurred. Mrs. White was asked if she remembered what she told the officer, she stated, *"Yes. I said that I did not see exactly what happened."* Mrs. White confirmed she did not see what led up to the officers fighting with Mr. Ellis. Mrs. White was asked if she remembered any of the officers using a Taser, and she believed it went off five to six times.

Citizen Witness Interview of Kennett Ashford-White by the Pierce County Sheriff's Department

The interview occurred on June 8, 2020. Mr. Ashford-White lives at 1438 96th Street South. Mr. Ashford-White confirmed he was aware of an incident involving the Tacoma Police Department on March 3, 2020.

Mr. Ashford-White was asked what he heard, *"So there was a, a female in a brown car that was yelling don't punch, or don't punch him, just arrest him. And then there was a man in another vehicle behind her just saying go around."* Mr. Ashford-White confirmed he could not hear the officers and/or the person on the ground. Mr. Ashford-White also confirmed he could not see the incident due to a telephone pole that was between him and where the incident occurred.

Initially Mr. Ashford-White checked his Vivint doorbell camera video to see if he could see what was going on. Mr. Ashford-White said the camera did not record what initially occurred; however, it did start recording once the two people out front made enough movement. Mr. Ashford-White decided to push the curtain aside and look out through the door.

Mr. Ashford-White was asked what he observed. He said he saw a slight altercation of trying to get Mr. Ellis from his knees to the ground and then fighting on the ground. Mr. Ashford-White believes he heard the Taser deploy 3 to 4 times. He believes the first two deployments were close together and the last one or two were further apart.

Mr. Ashford-White was asked about the subject on his knees, and he said there was some kneeling and being pushed down to the ground from the kneeling position. He confirmed the altercation occurred in front of the patrol car, 4 to 5 feet in front of it. Mr. Ashford-White believed the officers at least had Mr. Ellis' arms and forced him to the ground.

Mr. Ashford-White was asked if it looked like the police were fighting with Mr. Ellis, *"There was resistance."* When asked to explain, Mr. Ashford-White stated, *"Like so, the second time I had been able to pull, pull the curtain around after looking at the panel, I saw that the police officers were trying to handcuff him and restrain him. And I could physically see two officers being able to be manhandled by the man underneath them. So being able to lift up to, to fully get at officers. I personally, from the Marine Corp, I know that kit's not a light thing to carry around, so (unintelligible) or anything."* *"So being able to lift two people that had body armor on..."*

Mr. Ashford-White confirmed Mr. Ellis was lying face down when the resistance occurred. He confirmed one officer was on the left-hand side, and the other was behind him just trying to hold Mr. Ellis down. Mr. Ashford-White stated he could not see Mr. Ellis' arms or tell if he was being restrained. He could only see his legs and part of Mr. Ellis' head. Mr. Ashford-White believed Mr. Ellis appeared to be moving, trying to get up, and the officers were essentially on his back.

Mr. Ashford-White did not see any fists or elbows thrown by the officers. He also confirmed he did not see Mr. Ellis strike, punch, or kick the officers.

Mr. Ashford-White confirmed that an officer contacted them that night, and he told the officer about the video. The officer took down their information.

Mr. Ashford-White was asked if he could hear Ellis say anything, he confirmed he did, *"Um, there was at one point, he said I could not breathe..."* Mr. Ashford-White was asked when, during the incident, he

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heard Ellis make the statement, *"I think that's probably right after the first two squad cars that arrived afterward, or arrived for backup, the first two."*

Mr. Ashford-White confirmed he observed the police officers performing CPR around the time Fire arrived.

Citizen Witness Interview of Sara McDowell by Washington State Patrol

This interview was conducted on October 5, 2020, and present during the interview was James Bible, the attorney representing Manuel Ellis' estate/family.

Ms. McDowell stated she was driving to her sister's house (westbound on South 96th) and was being followed by the father of her children (Keyon Lowery). She pulled up behind a police car at the intersection of 96th and Ainsworth and observed Mr. Ellis walking on the sidewalk. Ms. McDowell believed Mr. Ellis and the officers were having a normal conversation that lasted 10 to 15 seconds. She stated that when Mr. Ellis turned around from the front passenger door, he was knocked to his knees by the door swinging open. According to Ms. McDowell, the passenger officer exited the patrol car, grabbed Mr. Ellis, and *"just started pounding him, his face."*

Ms. McDowell confirmed she does not know any of the involved officers and did not hear any of the dialog between Mr. Ellis and the officers because her music was up in the car. Ms. McDowell was asked if she observed anything in Mr. Ellis' hands, and she said *"No."* Ms. McDowell was asked if she observed Mr. Ellis strike the patrol car, and she did not.

Ms. McDowell said the driver officer turned the lights on and went around the front of the patrol car. That officer grabbed Mr. Ellis, and they ended up flipping him to the ground. She added the driver officer held Mr. Ellis on the ground while the passenger officer used his Taser on Mr. Ellis. Ms. McDowell was asked if her belief on the Taser being used was based on Ellis' reaction or if she heard a sound, *"Yeah, just, no I didn't hear anything. I didn't hear anything."*

Ms. McDowell was asked about the position of the officers around Mr. Ellis. She said one officer was on top of Mr. Ellis, and the other officer was either kneeling down on top of him or to his side.

Ms. McDowell was asked about the positioning of the officer's knee. It was described as being all over Ellis' back, Ellis' body or Ellis' shoulder area. Ms. McDowell was asked what part of the officer was on Ellis' back, and she stated the officer's whole body.

Ms. McDowell believed there was a 10- to 20-second break between the end of the first and beginning of the second video.

Ms. McDowell was asked what she observed/heard as she was driving around Mr. Ellis and the officers, referring to her second cell phone video. She said she saw the police telling Mr. Ellis to put his hands behind his back before *"they"* do it again. Ms. McDowell said that to her this meant the Taser, and one of the officers was standing there with the Taser in his hand.

After leaving the area to drop her kids off at the Aero Apartment, Ms. McDowell returned to the area and observed around eight officers surrounding Mr. Ellis. The Tacoma Fire Department was then on scene.

Citizen Witness Interview of Keyon Lowery by Washington State Patrol

The interview was conducted on October 28, 2020, and present during the interview was James Bible, the attorney representing the Manuel Ellis estate/family.

Mr. Lowery was in a vehicle following Ms. McDowell. Mr. Lowery was on South 96th Street when he observed a police car stopped at a red light. The light turned green, and the patrol car did not move. It

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appeared Mr. Ellis had been called over to the police car and was having a conversation with the officers. Mr. Lowery observed Mr. Ellis walking toward the sidewalk, then walking toward him (eastbound).

Mr. Lowery said that when Mr. Ellis turned his back to the cop car, the passenger door swung open and knocked him to the ground. The officer driving the car exited about 10 seconds later, and he went around the front of the police car and got on top of Mr. Ellis.

Mr. Lowery said he exited his vehicle and yelled, *"Hey, y'all in the wrong right now."*

Mr. Lowery described seeing the officers "whaling" on Mr. Ellis. Mr. Lowery was asked if he heard anything said between the officers and Mr. Ellis, he stated, *"No. Heard Nothing."* Mr. Lowery was asked if the police car had any lights on. He confirmed they did, flashing yellow lights then blue lights when one of the officers exited the police car. Mr. Lowery was asked how long the conversation was between Mr. Ellis and the officers before the door opened and struck Ellis, *"45 seconds, not very long. It was quick."*

Mr. Lowery said he could clearly see Mr. Ellis and the officers as there were streetlights in the area, and he never observed Mr. Ellis touch the police car. Mr. Lowery was asked if he observed Mr. Ellis carrying anything, he stated, *"No. I feel like he was on his way to the store."*

Mr. Lowery confirmed there were only two officers on scene while he was there, and no aid vehicles. Mr. Lowery described seeing two people on top of another as he drove around the incident. Mr. Lowery confirmed he saw one of the officers had a Taser in his hand, adding he did not see it deployed. Mr. Lowery said he never saw Mr. Ellis fighting back.

Citizen Witness Interview of Samuel Cowden by Washington State Patrol

The interview was conducted on September 22, 2020, and present during the interview was James Bible, the attorney representing the Manuel Ellis estate/family.

Mr. Cowden was asked what drew his attention to the incident involving Mr. Ellis. He said he was approaching the intersection of South 96th and Ainsworth to make a right turn back toward the Domino's store when he observed a police car sitting at the intersection.

Mr. Cowden said he saw the front passenger door of the cop car suddenly open, and Mr. Ellis fell in front of the car. He saw the officer in the driver seat exit the car, and this is when Mr. Cowden started recording the incident on his phone. He said once the officers were out of the cop car, a brawl ensued.

Mr. Cowden was asked if he heard what was occurring between Mr. Ellis and the officers. Mr. Cowden said he only heard screaming because he had his music going. He said it was Mr. Ellis who was screaming while on the ground. Mr. Cowden observed Mr. Ellis going to the ground but was not sure how Mr. Ellis got to the ground. Mr. Cowden observed an officer behind Mr. Ellis, bringing Mr. Ellis to the ground with his hands behind his head, describing it as a "full nelson."

Mr. Cowden said he observed an officer deploy his Taser, but he was not sure how many times. Mr. Cowden said he could see the Taser wires, and he could hear Mr. Ellis screaming. Mr. Cowden was asked what it looked like Mr. Ellis was doing; was he trying to comply, get up, get away, or did it look like he was fighting, and Mr. Cowden stated, *"Well yeah, at first he was seemed like he was just trying to keep his hands up but it seemed like they were kind of forcing him to go in different positions. Like his hands behind his back, and then hands behind his head, but no one else, no one could figure it out. Um I, it doesn't seem like he was fighting all to me."*

Mr. Cowden said he saw one officer throwing punches at Mr. Ellis and believes Mr. Ellis was actually choked unconscious at one point due to being put into a "full nelson." Mr. Cowden confirmed there were only two officers on scene when he left the area.

FINDINGS

Officer Matthew Collins has been accused of violating the following department policies:

PI.1.6.A.02 Conformance to Laws

Members shall obey all laws of the United States and of any state and local jurisdiction in which the members are present.

Members shall promptly report in writing, through the chain of command to the Chief of Police, when they are the subjects of:

- An arrest or citation for a crime, including felonies, gross misdemeanors, or misdemeanors. Noncriminal infractions need not be reported*
- Any arrest or administrative action, which results in the revocation or suspension of the member's driving privileges*
- The exercise of police authority while not working in an official law enforcement capacity or off-duty employment, unless same is clearly indicated in Tacoma Police Department reports relating to the incident*
- The filing of civil litigation either by or against the member in connection with their City employment or official duties*

Members shall promptly report to the Chief's Office when requested to pick up legal documents serviced to Tacoma Police Department as the employer of the member. A conviction of the violation of any law shall be prima facie evidence of a violation of this section.

On May 27, 2021, the Washington State Attorney General's Office filed a Declaration for Determination of Probable Cause, charging Officer Collins with Murder in the Second Degree and Manslaughter in the First Degree. The criminal trial involving Officer Collins commenced on September 18, 2023. On December 21, 2023, a jury returned a verdict of "Not Guilty" to both charges – Murder in the Second Degree and Manslaughter in the First Degree.

I find this allegation to be **Unfounded**.

PI.1.6.A.17 Courtesy

Members shall be courteous to the public. Members shall be tactful in the performance of their duties, shall control their tempers, and exercise the utmost patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation. In the performance of their duties, members shall not use coarse, violent, profane, or insolent language or gestures, and shall not express any prejudice concerning race, religion, politics, national origin, lifestyle, or similar personal characteristics.

The Courtesy allegation is related to a comment that was recorded on surveillance video. During the investigation, the Vivint surveillance videos were reviewed. During one of the videos, at 23:23:45, Manuel Ellis stated, "Can't breathe sir." A voice responded by telling Manuel Ellis, "Shut the fuck up man." There were only two officers on scene when this occurred – Officer Burbank and Officer Collins. During his Internal Affairs interview, Officer Burbank denied stating, "Shut the fuck up man." During his Internal Affairs interview, Officer Collins reported he did not recall stating, "Shut the fuck up man," adding he did not think he has ever heard Officer Burbank say the "F" word and that if anyone said it, it was probably him (Officer Collins). The Vivint Doorbell camera footage that captures this audio by Mr. Ellis does so at the 1:44 and 1:45 mark. The verbal response made by Officer Collins is done so at the 1:58 mark. While there is additional dialog in these 13 to 14 seconds, it is uncertain whether Officer Collins is responding to Mr. Ellis' statements. Officer Collins acknowledged that he is most likely the one who responded with "Shut the fuck up man."

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I find this allegation to be **Sustained**.

P3.1 Use of Force

Officers of the Tacoma Police Department may use force when necessary and shall use only that force which is reasonable.

On March 3, 2020, Officer Collins verbally contacted Mr. Ellis at the intersection of South 96th Street and Ainsworth after watching what he believed was a possible domestic violence incident or carjacking involving a silver, boxier style Chrysler 300 type of vehicle.

Mr. Ellis approached the driver's side door of the patrol car where Officer Collins was located. Officer Collins noticed Mr. Ellis' eyes were super wide, and he appeared to be sweating all over the top of his head. Mr. Ellis told Officer Collins he has warrants and something to the effect of, *"We need to talk."* Officer Collins directed Mr. Ellis to go sit on the curb while he notified Dispatch, and he would then come over to talk to him.

Instead of going over to sit on the curb, Mr. Ellis refocused his attention on Officer Burbank. Mr. Ellis approached the front passenger side window and had a dialog with Officer Burbank. At some point, Mr. Ellis was heard saying, *"I'm gonna punch you in your face"* to Officer Burbank. Mr. Ellis began to punch Officer Burbank's window as he was rolling it up. Officer Collins exited the patrol car because he stated he needed to stop the actions of Mr. Ellis who had then threatened his partner and is punching the window. Officer Collins ran around the front of the patrol car, and it appeared Mr. Ellis was trying to open Officer Burbank's door. Mr. Ellis saw Officer Collins, changed his focus, and ran at Officer Collins who was then standing by the front passenger corner of the patrol car.

Mr. Ellis grabbed Officer Collins by his external vest and lifted him off the ground (off of his feet). Officer Collins said he was trying to grab Mr. Ellis but could not. Mr. Ellis then threw Officer Collins into the intersection where he landed on his back. Officer Collins got to his feet, saw that Officer Burbank was then in a fight with Mr. Ellis and ran over to help his partner.

Officer Collins ended up on the ground, on top of Mr. Ellis. Officer Collins described taking up a "mounted" position around the area of Mr. Ellis' torso as Mr. Ellis was then completely on his back. Officer Collins stated he threw 3 to 5 elbow strikes to the head of Mr. Ellis, but they appeared to have no effect. Not only did the elbow strikes appear to be ineffective, but Officer Collins also described being lifted up by Mr. Ellis who was in a supine position with Officer Collins mounted on top of his chest. Officer Collins said Mr. Ellis lunged at his face, but he was able to twist his body, moving to the side, and both parties were then lying on their sides in the street. Officer Collins scrambled around to the back side of Mr. Ellis and took up a position behind him, in what is described as "taking someone's back." Officer Collins and Mr. Ellis were then facing the same direction. Officer Collins started to set up to apply the LVNR to Mr. Ellis but stopped when he saw Officer Burbank in front of them with his Taser out and pointed directly at Mr. Ellis' chest. Officer Collins stated he never actually applied the LVNR on Mr. Ellis.

The fight continued as Officer Collins then had both arms wrapped around one of Mr. Ellis' arms trying to get the arm behind Mr. Ellis' back. Officer Collins said Mr. Ellis was still fighting them when he felt Officer Burbank apply what he believed was a second Taser application. Officer Collins could feel Mr. Ellis' body lock up, so he and Officer Burbank were able to move Mr. Ellis enough to get him handcuffed. Once handcuffed, Officer Collins transitioned to Mr. Ellis' legs and attempted to pin his legs down using his bodyweight. It took the arrival of backing units, specifically Officer Ford, who took ahold of one leg to get Mr. Ellis' legs under control long enough for a hobble to be applied.

"To create a safe and secure environment in which to live, work, and visit by working together with the community, enforcing the law in a fair and impartial manner, preserving the peace and order in our neighborhoods, and safeguarding our constitutional guarantees."

After the elbows, there were no more strikes thrown by Officer Collins. There was a continuous struggle for positioning and grappling for control of Mr. Ellis' arms. The level of strength and resistance demonstrated by Mr. Ellis required multiple officers to try and control his movements.

Given the circumstances and the facts known to Officer Collins at the time, I find his actions reasonable and necessary under the Department's Use of Force model in effect at the time of this incident to take Mr. Ellis into custody. Officer Collins used compliance techniques and defensive tactics to counter the active resistant and assaultive behavior of Mr. Ellis.

This investigation showed Officer Collins has a background in Jujitsu with over 15 years' experience. Officer Collins was also a trainer in the military for the Second Ranger Battalion fight team. Officer Collins was a member of TPD's Controlled Tactics Cadre.

Under former Tacoma Police Department Use of Force Policy 3.1, which was in effect at the time of this incident, I find this allegation to be **Exonerated**.

RECOMMENDATION

I recommend the investigation be closed as **Unfounded** in regard to ***PI.1.6.A.02 Conformance to Laws***.

I recommend the investigation be **Sustained** for ***PI.1.6.A.17 Courtesy*** with a **Department Level Written Reprimand**.

I recommend the investigation be closed as **Exonerated** in regard to ***P3.1 Use of Force***.

Officer Collins has six Use of Force incidents from June 2015 to March 2020. Officer Collins has no prior Sustained complaints and no previous discipline.

TF:man

cc: Officer Matthew Collins
Tacoma Police Union, Local 6