TAB 61
INTERNAL AFFAIRS COMPELLED INTERVIEW

I/A CONTROL NUMBERS: 21COM-0061, 21C0M-0069, 21COM-0071

Employee/Witness: Officer Timothy Rankine

1. You are about to be questioned as part of an Internal Affairs investigation being conducted by the Tacoma Police Department.

2. You are hereby ordered to answer the questions, which are put to you, which relate to your conduct and/or job performance, and to cooperate with this investigation.

3. Your failure to cooperate with this investigation can be the subject of disciplinary action in and of itself including dismissal.

4. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be introduced into evidence in a criminal proceeding.

5. You are further ordered not to discuss this matter or interview with any other parties (except those with a legally recognized privilege or union representatives) until the conclusion of this investigation.

I have read and understand the above explanation of my rights as an employee of the Tacoma Police Department.

[Signature]
Employee 8-25-21

[Signature]
Witness 8/25/21

[Signature]
Witness 8/25/21
Interview of Timothy Rankine

Location: Internal Affairs Office, Room 360, Tacoma Police Headquarters

August 25, 2021 – 1101 Hours

Internal Affairs Control Number 21COM-0061, 21COM-0069, 21COM-0071

PARTICIPANTS: Sergeant John Rosenquist and Sergeant Gary J. Roberts, Internal Affairs; Detective Henry Betts, Representative, Tacoma Police Union – Local 6; Anne Bremner, Attorney, Representing Officer Rankine, and Officer Timothy Rankine

Rosenquist: Kay. We’re on tape. This is Internal Affairs Sergeant Rosenquist. This is the Internal Affairs interview of Officer Tim Rankine. The date is August 25th 2021. Time is 1101 hours. Location is IA Office, Room 360, Police Headquarters. This is in reference to IA case numbers 21COM-0061, 21COM-0069, and 21COM-0071. Present in the room are myself; Internal Affairs, Sergeant G.J. Roberts; Detective Henry Betts, Vice President, Local 6, Officer Rankine, and Anne Bremner, attorney representing Officer Rankine. Officer Rankine, are you aware this interview is being recorded?

Rankine: Yes, Sarge.

Rosenquist: Is this interview being recorded with your permission?

Rankine: Yes, Sarge.

Rosenquist: Did you read the Compelled Interview Form?

Rankine: Yes, Sarge.

Rosenquist: Do you understand the Compelled Interview Form?

Rankine: Yes, Sarge.

Rosenquist: Do you understand that you’re compelled to answer all questions truthfully?

Rankine: Yes, Sarge.

Rosenquist: Okay.

Bremner: And just note, um, o-, on the sufficiency of the Garrit-, Garry warning, just note an objection but given the warning, um, I’ve, i-, I’ve indicated to my client that he
should participate.

Rosenquist: Kay. So before I start going into the questioning, um, there’s one thing I, I wanna bring up. In your transcribed statement from with Pierce County, there were a couple like really long answers that you gave, I mean like two and a half pages of just the transcription, so there may be times where you answer a questions where I’m gonna interrupt you because there’s, I’m gonna wanna try to clarify something or I’m gonna follow up question that I don’t wanna I, I get lost because of a long answer, just so you’re aware of it.

Rankine: Sounds good.

Rosenquist: Kay. So...

Bremner: (coughing)

Rosenquist: ...when we provided you with your paperwork we gave you a copy of your transcribed statement, um, from the Sheriff’s Department. I don’t know if you’d seen, seen it prior to that or not, um, but I know you’ve had it, um, and I don’t know if you reviewed it or not but, um, do you have anything you want to add or clarify from your statement before we start asking our questions?

Rankine: No.

Rosenquist: Okay.

Roberts: And, Tim, you haven’t given any other interviews since the Pierce County interview?

Rankine: No.

Rosenquist: And the interview you did with Pierce County occurred on March 6th and just so that we know, there was, eventually there was some video, some cell phone video that came out on the incident with Ellis...

Rankine: Kay.

Rosenquist: …but between the incident on March 3rd and when you gave your interview on
March 6th, you did not see any video of the incident at all?

No.

Okay. So, let’s start. That night you were with Officer Ford?

Yes.

And, you responded to 96th and Ainsworth?

Yes.

Start walking us through, um, kind of the how and why you responded there.

Um, we responded because there was, uh, mic clicks over the radio. Um, and Dispatch informed us that it was, uh, Henry 317, which we just was on a traffic stop with them. Uh, so we had the general idea of where they were coming from.

And, who was Henry 317?

Henry 317 was Officer Burbank and Officer Collins.

And, how did you eventually know to respond to 96th and Ainsworth?

Uh, eventually after a few mic clicks, I don’t know the exact number, um, I pretty sure it was Officer Burbank that came on the radio, uh, yelling out for a 96th and Ainsworth. Basically just a location.

And, when you say “yelling,” actually yelling?

Uh, I wouldn’t say, to be exact it was more of a panicked voice. Uh, it was more like, uh, they were in the middle of a fight or something bad was happening and all he could get out was 96th and Ainsworth, in a panic.

Okay, not as just a regular standard transmission?

Yeah. Not that he like he was yelling, like a position of authority, it was more of a panic kinda outburst.

Okay. So you’re driving to the location, do you recall where you were when you first observed their patrol car stopped at 96th and Ainsworth. And, when I re-, say their pro-, their patrol car, Burbank and Collins patrol car?
Rankine: I, I do. It was when we first made the right off of Pacific onto nine, 96th, um, so we were by the seven eleven that’s right on 96th and Pacific. Um, that’s when I saw their car in the distance. Um, and it was just their patrol car was in the middle of the road, um, none of their emergency flashers were on and only their back ambers were lit.

Rosenquist: So you were able to see their patrol car at 96th and Ainsworth...

Rankine: Yep.

Rosenquist: …from 96th and Pacific?

Rankine: Yep.

Rosenquist: Okay. As you’re approaching their location, were you able to observe them struggling with somebody?

Rankine: No. Oh, no, the only time I got to see him, cause I remember asking Ford numerous times if he could see him, um, cause I was just trying to focus on driving, uh, the only time I could see ‘em was when we got pretty close to ‘em, maybe two, three blocks away before we were able to see ‘em and I basically I moved my car off to the right side of the road, um, and that’s when Ford advised me that he saw them in front of their patrol car.

Rosenquist: Okay. So you arrive, you get out of your car, your patrol car, what do you see?

Rankine: Uh, I see a black male subject that was laying, so they were like, the officers and the subject were about ten, fifteen feet in front of the car, um, they’re kinda lit up by their headlights of the patrol vehicle, um, black male subject was laying proned out on the floor. Uh, Officer Burbank was on top of his back and Officer Collins was trying to secure his legs.

Rosenquist: What, how were they trying to secure him?

Rankine: Uh, well Officer Burbank was straddling his back and then I think from my statement it from what I recall is he was kind of sitting on him like the way I described was like he was riding a horse, um, so both his legs were draped over his
arms…

Bremner: (coughing)

Rankine: … and sitted pointed in the same direction as where the subjects head was pointed.

Rosenquist: Okay.

Rankine: Which is sou-, s-, it was south direction, um, and then Officer Collins was struggling trying to secure, uh, the subjects legs by trying to wrap both his arms around his legs.

The subject was kicking violently.

Rosenquist: Okay. Um, real quick, jus- you can, if you need to, during this you can refer to your statement if you want to and, um, we, we know the subject is Ellis so if, if you want to choose to use his name instead of subject, that’s fine as well.

Rankine: Kay.

Rosenquist: So, what level of resistance was Ellis presenting at that time?

Rankine: He was, I mean, um, from…

Rosenquist: Using our use of force policy.

Rankine: …for using our use of force policy, actively resisting, um, and when you looked at Collins and the way he was kicking Collins, I would say almost to the point where he was assaultive.

Rosenquist: Okay.

Roberts: I-, in your, your statement and, and you can look at it if you need to, um, i-, y-, it reads that, uh, uh, “…straddling upper torso, almost like riding a horse, which both hands pressed on his, on his upper body and then I saw Officer Collins try and secure both his legs and his legs were kicked out almost like in a prone position.” Whose legs?

Rankine: Uh, when I was talking about the kicked out part, that was uh, I was talking about Officer Collins’ legs.

Roberts: So can you describe to me how Officer Collins’ is, is proned out on these…
Rankine: So...

Roberts: ...legs?

Rankine: ...Officer Collins was basically, for lack of a better term, mo-, mirroring Ellis' le-, uh, position. So he, he was facing the same direction as, uh, Officer Burbank and Ellis, um, he was trying to secure both his legs, uh, with both his arms, um, and Ellis was kicking violently, so, Officer Collins kicked out both his legs to get in a prone position to get lower, um, so that Ellis could not kick him.

Roberts: Thank you.

Rosenquist: You mentioned that Ellis', you've used the word wiggle. Can you kind of elaborate on that?

Rankine: I mean it's kinda how I describe it, but the way I describe it's like a wiggle, kinda like a worm, like he was trying to just lift his upper body and his lower body, um, basically like he was trying to stand up, um, on us and that's the best way I can describe it. Like he was just trying to move forward and backwards trying to just shake us off of him.

Rosenquist: Yeah. The reason I ask is that, that worm comment has been pretty consistent in this from, from people so I'm just trying to kinda dial down what everybody's version of, of...

Rankine: Yeah.

Rosenquist: ...a worm is. When you first get to their location, could you tell if Ellis was handcuffed yet?

Rankine: I cannot.

Rosenquist: Were you able to make a determination any time after that, whether or not he had already been handcuffed or that, if he had been placed in handcuffs after you had arrived?

Rankine: I was only able to tell that he was in handcuffs after we got, uh, um, side by side with
Officer Burbank and Collins and we started assisting securing Ellis. Um, Officer Ford had, we had, I had helped Officer Ford secure one of, of his right leg, Ellis’ right leg, um, and then I was making my way up to help Officer Burbank secure his torso. Um, but as I was making my up, I checked to see if he was handcuffed ‘cause I was unsure if he was handcuffed and I noticed, I observed, that his, he was in fact handcuffed, um, so I just made sure, with the help of Officer Ford, to make sure that the handcuffs were secured so that he was not able to break free from the handcuffs...

Rosenquist: So...

Rankine: ...while we’re transitioning.

Rosenquist: Okay. Sorry to, so this, up to this point, all this resistive behavior and assaultive behavior that you’re describing by Ellis was occurring after the handcuffs had been applied?

Rankine: I, you talking...

Rosenquist: So when, when you’re walking up to the scene and you’re describing him...

Rankine: Mm-hm.

Rosenquist: ...he’s, he’s kicking, he’s bucking...

Rankine: Mm-hm.

Rosenquist: ...was he, do you know whether or not he was already handcuffed?

Rankine: No.

Rosenquist: Okay. I think you’ve answered this already, but I, I just wanna confirm it, the kicking that Ellis was doing, was it a, a flailing kicking at random or do you believe he was targeting one or both of the officers?

Rankine: I think he was targeting specifically Officer Collins, um, from what I remember is he was kicking violently towards Officer Collins’ face, um, that’s why Officer Collins got in a prone position to get low–, as low as possible to secure his legs.
Rosenquist: Did you, do you know if he made contact with Collins or did Officer Collins give off any n-, ki-, any indication that he'd been kicked?

Rankine: I, I don't know.

Rosenquist: Okay. So you noticed the taser wires, did you remove the probes from Ellis?

Rankine: I did.

Rosenquist: Both of them?

Rankine: Yes.

Rosenquist: Do you remember their location on him?

Rankine: Um…

Rosenquist: And again, you can refer to your statement if you need to.

Rankine: …I think, according to my statement, um, one of 'em was on his jacket, uh, left side of his jacket.

Rosenquist: Okay.

Rankine: Yep. One of the probes was embedded to his jacket that he was wearing and the second probe was located around his left chest area.

Rosenquist: Okay. So you're talking about you're, that he's still resisting. You place a right knee on his right shoulder and then left knee in the lower back, securing his right arm. So is that kinda like a bar arm, where you're getting the arm like a counter-joint strike getting control of it?

Rankine: Y-, it's more trapping his arm so he couldn't break free of it. Um, my knee was on the ground and, if you're referring to the point where we pulled out the probes, he was already rolled over to his side, um, and I just put my knee to trap one of his arms so that he couldn't break free.

Rosenquist: Okay.

Roberts: And, and up to this point, you still don't know why Burbank or Collins has contacted this individual?
Rankine: Right.

Roberts: At some point you see a Glock magazine somewhere?

Rankine: Right. This was earlier on when we, when I was first was trasit-, transitioning up, uh, to his upper torso. Um, and when I, we were checking the handcuffs to make sure they were secure.

Roberts: I-, is there a concern about the magazine?

Rankine: It was, um, we were unsure whose, whose it was and why it was sitting on this individual. Um, we didn’t know if it came from the individual, we didn’t know if it came from the other officers and I, per my statement and my recollection of it, I remember Officer Ford asking about it, um, and because no one answered, Officer Ford, I jus’ remember exactly that Officer Ford just took it and threw it off to the side, just so it would be out of our way.

Unknown: (coughing)

Roberts: I, I, I think we need to d-, kinda discuss, uh, uh, “...at that point in time I kicked out my ankles so I almost seat-, like in a seated position,” I, I, I wanna get a better description of what that is?

Rankine: Okay. Um...

Roberts: A-, and I, I believe that’s kinda where we’re at?

Rosenquist: Mm-hm.

Rankine: Basically...

Rosenquist: Yes it is.

Rankine: ...it’s the kneeling position with just your ankles kind of rolled under you, um, so you could put more pressure on. Um, don’t only where y-, from my statement to describe it is, it’s almost like you’re in a kneeling, seated position.

Roberts: Does that help?

Rosenquist: It does. Um, so, so I guess with, when I viewed that, I, you have, it’s described in
your report as, "...right knee over the top of his thi-, of his spine, just below the base
of his neck, left knee middle of spine or, or lower back." And you kicked your ankles
out, so did you, did you, and I'll try to explain it, did you flair them out so that your,
your lower legs were more like parallel to the street you were applying pressure
against more of his torso, does that make sense?

Rankine: Yes. It, it, it makes sense. Um,...

Rosenquist: Is that an accurate description of what you did?

Rankine: Y-, kind of.

Rosenquist: Okay.

Rankine: Um, for me the way I usually do the kneeling position when it comes to jus-, to
arrestees or subjects, uh, I usually stay on my feet, so I stay or like sit on my ankles,
and, if I need to apply more pressure, I tuck my, I basically roll my ankles in.

Rosenquist: Okay.

Rankine: Um, so my shin, um, ends up resting on Ellis' back.

Rosenquist: As opposed to just more of your knee?

Rankine: Right.

Rosenquist: Okay. Think we're, are we good with that?

Rankine: Yep.

Roberts: Yes.

Rosenquist: Okay. How was, y-, you put in your report that, "...Ellis was pulling all four of us
across the roadway." Can you elaborate on that? Was that that worm type motion
that y-...

Rankine: Right. It was, it's the worm-type motion, um...

Bremner: (coughing)

Rankine: ...but this is after he had bucked off Burbank and then Burbank had repositioned
himself to gain control of his left torso area, um, and all four of us basically I had the
right side of Ellis' upper body, Burbank had the left side of the upper body, and then
Ford was on the right leg and Officer Collins was on the left leg and all four of us
were in the prone position, hanging on to him just trying to maintain control of him
as he was trying to wiggle his way across the road.

Rosenquist: Okay. As this is occurring, is he being given any commands by anybody?

Rankine: I am, I was giving commands. I was telling him to calm down.

Rosenquist: Was anybody else giving him commands?

Rankine: No.

Rosenquist: How exactly was he able to buck Burbank off?

Rankine: I, he just kinda did a, he almost, I think he, I can't say exactly but I think he got up
towards his knee and just kinda to-, tossed his torso up and Burbank was in the
process of transitioning up to his left side, um, it just kinda caught him at the right
time and Burbank just rolled off of the side.

Rosenquist: Okay.

Roberts: H-, how far, how, how, how far do you think he was moving you, the group of
officers?

Rankine: I, I, I can't say exactly, um, if I was to guess, probably a few feet, um, the only thing
I can think of is when we first got there and, and I explain in my statement that
Collins was in a prone position trying to secure his legs, uh majority part of Collins'
body was on the curb, um, when he was dragging us across the roadway, both Ford
and Collins their whole entire body was now on the roadway.

Roberts: Thank you.

Rosenquist: So I, I wanna read one of your st-, um, something from your statement and I wanna
clarify whether or not it, this was before or after the leg restraint hobble had been
applied. You're talking about how Ellis was throwing all four of us around, "...I
thought we could have handled this guy. I had doubts that this individual could have,
if he was not properly restrained and properly ha-, held down, could’ve seriously
hurt us.” Was that prior to the hobble being applied?

Rankine: That was prior to the hobble.

Rosenquist: So even with Ellis being handcuffed, you believe that Ellis presented that much of a
threat to you guys?

Rankine: Yes.

Rosenquist: Can you just explain...

Rankine: That statement...

Rosenquist: …your thought, your thought process on that?

Rankine: …right. That statement was, was basically my initial thoughts after he started
dragging us across the roadway. Um, I just, in my mind, I, I didn’t know what else to
do, um, with the individual if he was, if four of us could not hold him down and
control him, I didn’t know what else to do so that was my thought process in my
statement.

Rosenquist: Do you believe if he had gotten up to his feet that he would have presented a threat?

Rankine: I do.

Rosenquist: So eventually you note in your statement that Ellis says, “I can’t breathe, I can’t
breathe.” Do you recall that?

Rankine: I do.

Rosenquist: And, your response was something to the effect of, “If you’re talking to me, you can
breathe just fine.” Other than his statement at that time, were there any indications
coming from him or any observations from you that he was having any breath-
breathing difficulties?

Rankine: No.

Rosenquist: Was he still presenting any resistance at this time?

Rankine: Yes.
Rosenquist: So, I don’t wanna, I don’t wanna put words in your mouth, but it would be fair to say that based on his resistance, the fact that he’s still struggling, that you believed he was still, still able to breathe okay?

Rankine: Yes.

Rosenquist: Kay.

Rankine: I think, my next statement that was said, uh, right after my response to him that, “I can’t breathe,” was on the lines of, “If you calm down, I will release some pressure off of you.”

Rosenquist: And at that, this point, this was still prior to the leg restraints...

Rankine: Yes.

Rosenquist: …restraint being applied?

Rankine: Yes. This was, the timeframe was this was when Burbank already had been bucked off and it was only me on his upper torso.

Rosenquist: Okay.

Roberts: Did you mention anything about, “If you can talk to me, you can breathe?”

Rankine: I did.

Roberts: I-, if, in about that same timeframe?

Rankine: It, it’s only when he said, “I can’t breathe.”...

Roberts: And,...

Rankine: …that I was saying...

Roberts: and what’s the, what’s, are, are ya having a conver-, thinking you’re having a conversation with this guy?

Rankine: Yes. Um, from what I remembered and from my statement, um, one thing I noted was that it was very weird, um, when he said, “I can’t breathe,” it wasn’t in a panicked voice, it was just like I was just having a regular conversation like from me to you, um, it was very calm, monotone, “I can’t breathe, I can’t breathe,” and then I
responded.

Roberts: So, so was it more of a reassuring, “Hey, if you can talk to me, you’re breathing.”

Rankine: Yes.

Roberts: Or was it something sarcastic?

Rankine: No, it was more of a reassuring.

Rosenquist: You’re talking about applying pressure to Ellis, was the amount of pressure, or do you think the amount of pressure could have affected his breathing at that time?

Rankine: Not from my training and experience. I do not think so.

Rosenquist: Okay. So, let’s, the hobble application, understanding that the hobble was placed around his ankles, and, and were, were down around his legs and you were up on his upper torso at that point still, correct?

Rankine: Mm-hm.

Rosenquist: Do you re-, what do you recall from the hobble application?

Rankine: I don’t remember who put it on there. I remember seeing the hobble, um, I think it’s more close to a dog leash than a hobble, um, it was just a, I think, according to my statement it’s like a silver carabiner with a flat black rope. That’s all I remember. I don’t remember who placed it on there or where it came from.

Rosenquist: Do you recall if it was attached to the handcuffs?

Rankine: I don’t recall it.

Rosenquist: Okay. And I know you’ve said you don’t recall if, um, but we have a couple kinda just general questions that we’ve asked everyone about the hobble…

Rankine: Kay.

Rosenquist: …is once it was applied, do you recall the position of Ellis’ legs? Were they at like at a 90 degree angle, were they bent more towards his body?

Rankine: I do not. I was solely focused on controlling his upper body so I did not have the chance to look at it.
Rosenquist: Okay. He wasn’t bowed or his thighs lifted off the ground by it?

Rankine: I don’t know.

Rosenquist: Okay. So once the hobble is applied, did you ever hear Ellis say, “I can’t breathe?”

Rankine: No.

Rosenquist: So he’s on, and correct me if I’m wrong, he’s handcuffed and hobbled, he’s still on his, Ellis is still on his stomach at this point...

Rankine: Right.

Rosenquist: …do you recall the timeframe between when the hobble was applied to when Ellis was rolled onto his side?

Rankine: I can’t give you an exact estimate. Maybe a few seconds to maybe a minute, two minutes but I think it’s closer to a minute. It was pretty quick.

Rosenquist: Okay. And do you, who assisted in putting, rolling Ellis onto his side? Do you recall?

Rankine: I don’t remember.

Rosenquist: Did you assist with it?

Rankine: I assisted a bit, cause I made, I made the decis-, decision, um, because after hobbles were placed that even if he was to ac-, to resist us we could still get control him better when he’s on his side still.

Rosenquist: Than on his?

Rankine: Than on his back. Or, on his chest.


Roberts: Wh-, what’s your observations of Ellis prior to rolling him onto his, uh, uh, once he’s hobbled and prior to him, rolling him to the recovery position?

Rankine: He was still resisting but he wasn’t resisting as much once the hobbles went on.

Roberts: Is, is he saying anything to ya?

Rankine: No, he’s not.
Roberts: And how could you tell he’s resisting?

Rankine: He’s still was trying to do a little bit of the, the wiggle motion, um, like I previously described, but he wasn’t doing it as much, uh, or as violently as he was before.

Rosenquist: Up to this point, to where he was rolled onto his side, any indications or observations that he was in medical distress?

Rankine: No.

Rosenquist: Did you observe any injuries to Ellis?

Rankine: The only injuries I noted, um, per my statement, um, was his head was bleeding, with the, his forehead area was bleeding and then his hands were ple-, pretty bloody, uh, I couldn’t really tell what it was s-, cut up and then he was sweating profusely.

That’s, that’s it.

Rosenquist: Did you notice any bleeding from his mouth or nose area?

Rankine: I don’t remember exactly.

Rosenquist: Okay. So, eventually Ellis was rolled back onto his stomach.

Rankine: Yes.

Rosenquist: What led to that happening?

Rankine: He started, um, when he was rolled over his side and he was hobbled, he started bucking pretty hard all over again and we were having a hard time, uh, maintaining control of him, uh, that’s when I made the decision to roll him back over his stomach.

Rosenquist: You know, and again, I, y-, you know you’ve said you don’t remember exact times, rough idea on how long Ellis was on his side for before that bucking started again?

Rankine: Couple of minutes, was best guess.

Rosenquist: Was he given any commands at all during that time? Was anybody talking to him?

Rankine: No. I think I was monitoring his pulse, that was about it.

Rosenquist: Okay. So he starts the bucking again and he’s rolled back onto his stomach…
Rankine: Yep.

Rosenquist: ...who was trying to, who was assisting you in trying to control him at that point?

Rankine: I don’t know, I was...

Bremner: (coughing)

Rankine: ...controlling his upper body, but I don’t know who else was controlling the bottom part of him.

Rosenquist: And, did he stay in that position on his stomach, I believe, almost until Fire arrived?

Rankine: N-, I wouldn’t say so, I mean, he was rolled back over, um, per my recollection through my statement, uh, right as we saw Fire was coming towards us, so whe-, right as they turned onto Pacific.

Rosenquist: So how long was E-, do you believe Ellis was on his stomach the second time?

Rankine: Couple seconds to maybe, maybe a minute or two.

Rosenquist: And, was anybody applying pressure or physically holding him down at that point?

Rankine: I was the only one that was applying pressure but it was to his right shoulder and, and that’s about it. I kinda just pinning down his right shoulder.

Rosenquist: Okay. And you see Fire starting to come into the area and at that point he’s rolled onto his side...

Rankine: Right.

Rosenquist: ...again?

Rankine: Right.

Rosenquist: Okay.

Roberts: And when you say you’re pinning down his shoulder, h-, how are you pinning it down?

Rankine: Uh, just putting my knee, uh, towards the, his right shoulder blade, um, jus- holding him there.

Roberts: What’s the position of your left knee?
Rankine: Uh, honestly, I, I don’t remember.

Roberts: Wha-, would it be on the ground or would it be somewhere in contact with Ellis?

Rankine: Possibly on the ground, possibly contact with, I, I don’t know.

Roberts: Thanks.

Rosenquist: You’d mentioned earlier taking his pulse, and you described the pulse as about 80 bits, 80 beats per minute, normal but that you thought it was weird?

Rankine: Yes.

Rosenquist: Can you elaborate on that?

Rankine: Yes. I...

Bremner: (coughing)

Rankine: ...um, I remember just making a note of it and even just ye-, like saying out loud was, “That’s weird,” and everyone just kinda looked at me and it was like his pulse is normal which is 80 beats, he just had been in a fight with four of us and was struggling with us for a few minutes to however long, um, and usually if anyone’s doing that, guessing your heart rate should be in the 120, 130 range, um, but his pulse was normal, 80, like he was just resting.

Rosenquist: Could you tell what his, how his breathing was at that time?

Rankine: I remember looking at his, when he was rolled over to his side, I remember monitoring his chest, and he seemed like he was breathing just fine.

Rosenquist: So up to the point that you saw Fire arriving, you didn’t see any indications that there was a medical issue with him?

Rankine: No.

Rosenquist: Kay. So Fire arrives on scene and there was a discussion, almost described as an argument, between our officers and Fire in regards to the removal of the restraints.

Rankine: I do.
Rosenquist: Can you walk me through it?

Rankine: Um, so it's with the, I think it was like the head firefighter, uh, a guy by the name, I remember his name tag very well, Wilson. 'Cause I remember I was looking directly at him, uh, and I asked him, when they first got there, I asked him what they needed. They said they needed him on his back. So we assisted him, rolled him over to his back, then we jus...

Rosenquist: A-, and real quick, when he was roll-, when Ellis was rolled onto his back, did he still have the handcuffs and hobbles on it?

Rankine: Yes.

Rosenquist: Okay, go on.

Rankine: And then Fire had asked us to take off his handcuffs and his hobbles because they needed to start an IV. And remember Sergeant Lim at that point in time was standing right next to me and I looked to Sergeant Lim, and I asked him if that was okay. And I explained to the firefighter that he had just fought four officers, that the potential risks of him regaining his energy or his strength when we take off the hobbles and the handcuffs could be pretty bad for us. Um, as in he could just end up fighting all of us again. Um, but it was a very quick conversation and Sergeant Lim gave me approval and he said, I remember right, he said something along the lines of, “Give them whatever they need,” and we just instantly took off the handcuffs and hobbles.

Rosenquist: How quick was that conversation?

Rankine: Seconds. It wasn’t even a argument, it wasn’t a huge debate.

Rosenquist: And Ellis was on his back...

Rankine: Yes.

Rosenquist: ...during this? Was he repos-, was Ellis repositioned before the restraints were taken off?

Rankine: He was repositioned to his side so we could take off the handcuffs and hobbles.
Rosenquist: And who took off the restraints?

Rankine: I don't know. I assisted in it, but I don't know exactly.

Rosenquist: Okay. So, one of the things that Pierce County never brought up in their interview with you was the spit hood. Did you ever see a spit hood on Ellis?

Rankine: I don't, I don't remember seeing it. I never requested it. I don't carry one, I don't know about it. So, I don't know who put it on there.

Rosenquist: Did you ever see Ellis spitting or hear anybody comment about Ellis spitting?

Rankine: When he was on his side the first time after we did our weapons sweep and we removed taser probes and before he started struggling with us, he was spitting.

Rosenquist: Was he, s-, si-, it's kinda the same question I asked about his legs, was he spitting to spit or do you think he was spitting to target officers with it?

Rankine: I think he was spitting to spit.

Rosenquist: Okay. Did you notice any blood coming from his mouth during that time?

Rankine: No.

Rosenquist: And jus-, you never, did you ever hear anybody ask for a spit hood?

Rankine: No.

Rosenquist: And...

Rankine: It was hard for me to see his face because I was on his back so he was facing away from me.

Rosenquist: Okay.

Rankine: So, I could just see the spit coming out from his like coming from him but other than that I couldn't see his face.

Rosenquist: Okay. A-, and again like before, I'm gonna have some general questions. So, you never saw a spit hood on his head?

Rankine: I don't remember seeing one, no.

Rosenquist: So you would, you didn't see the application of it?
Rankine: I did not.

Rosenquist: Okay. Do you remember if he still had a spit hood on when you were taking the restraints off?

Rankine: I don’t.

Rosenquist: Okay. So Fire’s arrived, the restraints are being removed, were you able to, do you know what Ellis’ condition was at that point? Responsive, non-responsive, breathing?

Rankine: He was breathing on his own, um, I could see, like his eyes were wide open and he was looking around, um, responsive. I, I don’t know. Fire wasn’t really asking him too many questions. Fire was more talking to us than talking to him, um, but he was breathing on his own.

Rosenquist: Okay. Was this prior to the bag, breathing...

Rankine: Yes.

Rosenquist: …bag being, being placed on him by Fire?

Rankine: Yes.

Rosenquist: You assist Fire at all with...

Rankine: I did.

Rosenquist: …first aid?

Rankine: With CPR.

Rosenquist: Do you know how long you did it for?

Rankine: I couldn’t tell you.

Rosenquist: Did you do just one cycle or multiple?

Rankine: Multiple cycles. Uh, Officer Ward, from what I remember and from my statement, uh, Offic-, Officer War was the first one to start and I relieved him after a couple minutes to a few minutes and then I just carried on CPR till Medic One got there.

And Medic One got there pretty late.
Rosenquist: Okay.

Unknown: (slam)

Rosenquist: During your contact with Ellis, d-, were there any strikes involved? Elbows, punches?

Rankine: No.

Rosenquist: You didn’t deploy any tools on him?

Rankine: No.

Rosenquist: Kay.

Roberts: Nothing.

Rosenquist: Did you see any strikes by anybody else?

Rankine: No.

Rosenquist: It was just physical force, counter joint kind of the grappling?

Rankine: It’s more a control hold more than anything else. Uh, for all f-, four of us, um, the rest of and the other officers come th-, there was, we were just trying to control of him and hold him down…

Rosenquist: Okay.

Rankine: …that’s it.

Rosenquist: Did you have any contact with Officer Burbank or Collins at the scene?

Rankine: No. Besides talking to them about positioning on his body that, that was the only thing we had…

Rosenquist: Nothing about the reason for contact originally? Did you have, observe any injuries on either of them?

Rankine: Um, per my statement, I do remember Officer Burbank and Collins talking to Sergeant Lim about it. I don’t know exactly what the injury was, I just remember they were kinda just looking over each other and they were kinda showing Sergeant Lim, I think Officer Burbank was showing Sergeant Lim the left side of his face.
That was, that’s all.

Rosenquist: Okay. Video?

Roberts: So, show you a video of, um, the video’s titled, “Cell Phone Video from Ms. White” and it’s one of two. It’s a fifteen second video.

Rankine: Kay.

Roberts: It, uh, uh, the timeframe is about 23:32 and 05 seconds. It’s prior to Fire being there and if everything works properly. And I will run it through as often as you want. I can slow it down, we’ll let it, we’ll let it, uh. So, I will just…

Unknown: (sneezing)

Roberts: …start it and pause it. So, this is the scene, uh, of, that is Burbank and Collins’ SUV and you’ll see a, a group of officers here…

Rankine: Mm-hm.

Roberts: …you’re gonna be kneeling, uh, uh, uh, near this area at the, the, the upper torso head of Ellis, um, and I’ll just let it play through a couple of times here so we get more into it.

Rankine: Kay.

Roberts: And if you want to stand up you certainly can get closer to it, um. I will pause it now, uh, so, so this is you?

Rankine: Yep.

Roberts: This is Ellis, this would be this, uh, it appears to me to be a spit hood, uh, he’s, he’s lying with his head to the south, his feet up to the north there, uh, Sergeant Rock, I believe it’s gonna be, uh, Kate Madden is at the feet or the, the lower end uh, uh, I’m, I’m, my question to you is, can you describe your positioning and the positioning of Ellis at this point, and I’ll run it through it again. And if you want I can slow it down so it runs a little bit slower. So let’s do that. A-, and are you able to describe your positioning at all?
Rankine: Yeah, I think this is what I w-, you, uh, what you guys were asking about, um, when
he was on his side, um, my knee was basically trapping one of his arms and his, the
other knee was just on the ground just trying to gain control of his one of his arms.

Roberts: So, so Ellis is in the recovery position here?

Rankine: Yes.

Roberts: Uh, uh, and your knees are basically preventing him from rolling back either onto his
back...

Rankine: Right.

Roberts: ...and if you your hands are on him at all, they're making sure he doesn't roll
forward...

Rankine: Right.

Roberts: ...onto his, into the prone again.

Rankine: Right.

Roberts: John?

Rosenquist: I, I just have one question and it's not necessarily related to the video. You talked
about the positioning of your knees on, on either Ellis' shoulders or middle, lower
back. At any time this inci-, during this incident did you ever put your knee directly
on the back of Ellis' neck?

Rankine: No.

Rosenquist: Kay.

Roberts: I-, in this portion of the video is Ellis doing anything, saying anything, is he, um,
making any noises, any sounds, are you monitoring his breathing at this point?

Rankine: I can't say exactly, but from this video it looks like he's just kinda laying there.

Roberts: Nothing that you recall?

Rankine: Nothing that...

Roberts: Trying to spark a memory.
Rankine: No.

Roberts: Okay.

Rosenquist: Couple of questions on Fire’s response. I know you’re on top of Ellis, but did you see Fire coming into the area?

Rankine: I did.

Rosenquist: Do you recall how we r-, they were responding?

Rankine: Yes.

Rosenquist: Routine or priority?

Rankine: They were responding routine.

Rosenquist: You did not observe lights or sirens on?

Rankine: No.

Rosenquist: How far away did they park from the scene when they stopped?

Rankine: Pretty far. Uh, they were probably four or five cars behind my patrol vehicle.

Rosenquist: To the east?

Rankine: Yes.

Rosenquist: And then they walked in?

Rankine: Yes.

Rosenquist: Okay.

Rankine: I wouldn’t say walk, more like a stroll.

Rosenquist: Okay.

Rankine: They had no, um, per my statement, and from I remember this very well, uh, I remember them turning from Pacific onto 96th and no lights and sirens were on and they was slowly driving down the road. I remember Sergeant Lim asking Dispatch what’s the ET on Fire and telling Fire they need to step it up which I’m not a firefighter so I don’t know what their thought process is with how they respond but you see a, I think at that point in time when Fire had turned that corner they probably
would have seen ten cop cars parked in that one area which usually means something serious is happening in my thought process, um, they still carried on, no lights and sirens, drove up, parked, was three, three of, three firefighters in Engine 10. They got out, slowly walked and say how can we help you.

Rosenquist: Okay. So I just, I wanna, I asked you about this earlier but I just wanna make sure that we’re on the same page as far as your streets cause you kept referring to Pacific Avenue, and the reason I’m asking this now is because the, Engine 10 responded from their station which is at 70, is it 73rd or 74th

Roberts: And Park.

Rosenquist: …and Park. So, according to them, they made the westbound turn onto 96th off of Yakima. Not Pacific. That’s why I’m bringing it up.

Rankine: Kay. Yeah, that might be true, but from where I was sitting, it seemed like they were turning from Pacific.

Rosenquist: Okay.

Rankine: Cause, it from Pacific down towards Ainsworth, uh, it’s kind of a little gradual slope.

Rosenquist: Okay.

Roberts: And, and while you’re controlling Ellis, is anybody talking around you about maybe a medical condition, uh, excited delirium, anything like that.

Rankine: I didn’t hear it. I was solely focused on maintaining control of Ellis.

Roberts: And when you say mainto-, maintaining control, why are you trying to maintain control of him?

Rankine: Just, didn’t want him to gain strength back or get that second burst of energy where he starts fighting us and us and catch us off guard.

Roberts: Thanks.

Rosenquist: Union, do you have anything?

Betts: Um, we jumped around a little bit on kind of the order of events. I wanna see if I
1 have this correct. If I understand it right, you get there, he’s fi-, Ellis is fighting, at
2 some point after that round of fighting and you go from legs to torso to how he calms
down, you roll him over, he begins fighting again, he gets rolled back over to his
3 chest.
4 Rankine: Right.
5 Betts: At some point, he calms down, then he gets rolled to the recovery position again.
6 Rankine: Right.
7 Betts: Uh, I just wanna make sure that that timeline is correct on…
8 Rankine: Yep.
9 Betts: …okay, and now you’ve talked about keeping pressure on him and we’ve discussed
10 a bunch of your other statement and you said, uh, he fought with all four of you and
11 that the pressure you applied to him, had you not applied that pressure what do you
12 believe would have occurred?
13 Rankine: He’d have gotten free, broken away from our grasp.
14 Betts: Okay. And after there was no more struggling, the pressure was removed and he was
15 rolled to side?
16 Rankine: Yes.
17 Betts: Kay. On the verbal commands, you stated I think that you were talking to him and
18 trying to calm him down and you were giving commands…
19 Rankine: Right.
20 Betts: …and other people were not, it was mostly you speaking?
21 Rankine: Yes.
22 Betts: Uh, in your law enforcement, or even prior to that with the other careers you have
23 were you ever taught that when multiple officers are dealing with a subject, it is
24 beneficial to have only one talker?
25 Rankine: Yes.
Betts: And that's from your training?

Rankine: Yes.

Betts: Do you remember why that is?

Rankine: It makes more sense. It's more concise, um....

Betts: Okay.

Rankine: ...it's not all garbled.

Betts: You referred to your statement quite a bit, your statement was given March 6th. Is that right?

Rankine: Yes.

Betts: And that was, uh, very close in time to the date the incident?

Rankine: Yes.

Betts: And now it's been 18 months.

Rankine: Yes.

Betts: Do you believe your statement is more likely to be better than your memory now, 18 months later?

Rankine: Yes.

Betts: Is that why you're referring to it?

Rankine: Yes.

Betts: That's all I have.

Bremner: Nothing further.

Rosenquist: Are we good?

Roberts: Is there anything you want to add?

Rankine: Nope.

Rosenquist: Do you believe the force you used against Ellis in this incident was reasonable, within Department policy?

Rankine: Yes.
Rosenquist: Do you believe you violated any Department policies at all during this incident?

Rankine: No.

Rosenquist: Did you observe any actions by any other Tacoma PD officers that violated policy?

Rankine: No.

Rosenquist: Kay. This is Sergeant Rosenquist. It is 1152 and we are off tape.

END OF INTERVIEW/
TAB 62
INTERNAL AFFAIRS COMPELLED INTERVIEW

I/A CONTROL NUMBERS: 21COM-0061, 21COM-0069, 21COM-0071

Employee/Witness: Officer Matthew Collins

1. You are about to be questioned as part of an Internal Affairs investigation being conducted by the Tacoma Police Department.

2. You are hereby ordered to answer the questions, which are put to you, which relate to your conduct and/or job performance, and to cooperate with this investigation.

3. Your failure to cooperate with this investigation can be the subject of disciplinary action in and of itself including dismissal.

4. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be introduced into evidence in a criminal proceeding.

5. You are further ordered not to discuss this matter or interview with any other parties (except those with a legally recognized privilege or union representatives) until the conclusion of this investigation.

I have read and understand the above explanation of my rights as an employee of the Tacoma Police Department.

[Signature]
Employee
Date: 8/27/2021

[Signature]
Witness
Date: 8/27/2021
Interview of Matthew Collins

Location: Internal Affairs Office, Room 360, Tacoma Police Headquarters

August 27, 2021 – 1456 Hours

Internal Affairs Control Number 21COM-0061, 21COM-0069, 21COM-0071

PARTICIPANTS: Sergeant John Rosenquist and Sergeant Gary J. Roberts, Internal Affairs; Detective Henry Betts, Representative, Tacoma Police Union – Local 6; Jared Ausserer, Attorney, Representing Officer Collins, and Officer Matthew Collins

Rosenquist: This is Internal Affairs Sergeant Rosenquist. This is the Internal Affairs interview of Officer Matt Collins. The date is August 27th 2021. Time is 1456 hours. Location is IA Office, Room 360, Police Headquarters. This is in reference to IA cases 21COM-0061, 21COM-0069, and 21COM-0071. Present in the room are myself; Internal Affairs, Sergeant G.J. Roberts; Detective Henry Betts, Vice President, Local 6, Officer Collins and Jared Ausserer...

Ausserer: Ausserer.

Rosenquist: …Okay. Uh, attorney representing Officer Collins. Matt, are you aware this interview is being recorded?

Collins: I am.

Rosenquist: Is this interview being recorded with your permission?

Collins: It is.

Rosenquist: Did you read the Compelled Interview Form?

Collins: I was explained it, yes.

Rosenquist: Do you understand the Compelled Interview Form?

Collins: I do.

Rosenquist: Do you understand that you’re compelled to answer all questions truthfully?

Collins: I do.

Rosenquist: So prior to this, um, you were provided a copy of your transcribed statement from the Pierce County Sheriff’s Department. Do have anything you want to add or clarify?
to that before we start?

Collins: No sir.

Rosenquist: Kay. So this incident occurred on March 3rd and the interview that you conducted with Pierce County occurred on March 9th. Prior to your interview with Pierce County Sheriff's Department, did you have an opportunity to see any videos or photos related to the incident with Ellis?

Collins: No sir.

Rosenquist: I'm assuming that since then you've seen videos either news, social media, few other means?

Collins: I have.

Rosenquist: Okay. So when we're asking you questions today, if, if it's something that you recall from something you saw after the ninth, just clarify that in your answer so we can differentiate between what you've learned since you gave your interview, compared to what you knew at the time you were doing your interview with Pierce County.

Does that make sense?

Collins: It does. It may be a little hard to do after 18 months but...

Rosenquist: Agreed.

Collins: ...I'll do my best.

Rosenquist: Agreed.

Collins: Yeah.

Roberts: A-, and Matt have you given any other formal interviews?

Collins: Um, no sir.

Rosenquist: So March 3rd, 2020, you were partnered with Officer Burbank?

Collins: Correct.

Rosenquist: You were driving that night?

Collins: Yes.
Rosenquist: And, your patrol car?

Collins: Yes.

Rosenquist: And your call sign was Henry 317?

Collins: Correct.

Rosenquist: You’re stopped at 96th and Ainsworth. Tell me about your observations that led to the contact with Ellis?

Collins: So we’re stopped, um, we’re facing westbound at that T-intersection and there was a car that had a green light and was turning and there was a, what we now know as Ellis, was at the passenger seat, or the passenger side standing up facing away from us and he l-, had his hand on the handle. We couldn’t really tell what’s happening, but the car was kinda slowly turning left and trying to avoid him and eventually took off and it left him in the middle of the inter-, intersection.

Rosenquist: When you said the vehicle took off, did it take off at a normal speed or did it take off at a higher rate, or do anything to give any indication to you that he was, the driver was concerned or worried about Ellis?

Collins: To be honest with you, my focus was on him at that point, not the car, so I’m not, I don’t recollect.

Rosenquist: Okay. So how did you direct him over to the patrol car?

Collins: Well at that point after that, he’s standing in the middle of the intersection now and I just opened my window and said, “Hey, come here.”

Rosenquist: And, he, you described it as jogged over to the patrol car?

Collins: Mm-hm.

Rosenquist: You noted “abnormally close,” can you elaborate on that?

Collins: Uh, yeah I, I almost, uh, it just, he came, ya know if you’re coming to talk to someone from their window there’s just a, a normal distance that you would talk, um, but he came almost with his chest up to my window. Which seemed, right away,
seemed out of place to me.

Rosenquist: And you noted that his, his eyes are super wide, sweating all over on the top of his head and then he says something to the effect off, “I got warrants” or “we need to talk” or “I need help” or…

Collins: Yeah.

Rosenquist: So you directed him over to the curb?

Collins: Yes.

Rosenquist: When you did that, what was kinda your mindset of what was going on? I mean was this, social contact, community caretaking based on his opin-, appearance? What, where were you going with the contact at that point?

Collins: 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.

Rosenquist: And, for those of, that are gonna review this that aren’t familiar what 4-1-4 means?

Collins: Just means that kind of a mental, um, uh, s-, they’re just not quite, they might have some sort of mental, um, I don’t know, a disability but, um…

Rosenquist: Mental health?

Collins: …mental health kinda issue, yeah. Thank you.

Rosenquist: Yep.

Roberts: A-, and I don’t wanna jump ahead, but you, direct him to the curb,…

Collins: Yes sir.

Roberts: …does he ever make it to the curb or the sidewalk on the…

Collins: He does not.

Roberts: …northend?

Collins: No sir.

Roberts: Thank you.
Rosenquist: So you indicated in your statement that you were about ready to call out your location, out with one and you realized somethings wrong, that you described Ellis as being fixated on your partner, Officer Burbank. Can you kinda just elaborate, explain what you mean by that?

Collins: Yeah. So, as soon as I told him, um, "Alright just go over to the curb and I’ll call this out, and I’ll be with you in a minute." And he started walking, he just, his gaze fixated on Burbank and he just walked really slowly around the car, staring at him the whole time and his hands were down below the hood of the car so I had the radio but I didn’t make the call ‘cause I’m not, I knew something was up, and his demeanor, the way he was looking at Burbank, everything, I knew something was about to happen. So it kinda froze me for a second.

Rosenquist: Were you able to tell if he had anything in his hands when he walked up to the patrol car?

Collins: He had a bag, he had a bag of something.

Rosenquist: Okay.

Roberts: It, you took the ra-, radio mic from the vehicle it tha...

Collins: I did.

Roberts: What’s Burbank doing at this time?

Collins: Um, I’m not sure, I think he was just sitting in the seat next to me. I think we’re both just trying to process at this time. What, what are we dealing with right here, what’s going on.

Rosenquist: So Ellis makes it over to the passenger window and you indicate that there’s some talk, some conversation and then you hear Ellis say something to the effect of, “I’m gonna punch you in the face?”

Collins: Yes.

Rosenquist: Do you recall any of the other co-, conversation they had or just that portion?
Collins: I could barely hear it. It was really low and they were talking through Burbank’s window was down a little bit and they were talking through that and I, all I heard was, “Maybe I’ll just punch you in the face,” or “I’m gonna punch you in the face,” or something like that.

Rosenquist: Do you recall how far down the window was at that point?

Collins: Um, uh, ya know, I don’t. I don’t but I know that he said, I know Burbank said, “Well, I’ll just roll the window up then,” and then started to roll the window up. But it was, it wa-, musta been at mid-height.

Rosenquist: Okay.

Collins: But, I don’t firmly recall.

Rosenquist: Do you remember the position of the window when Ellis started punching it?

Collins: Uh, I don’t.

Rosenquist: How many times do you think he hit it?

Collins: Well after, um, once or twice, I was out of the car running to the other side of the car, so I didn’t wait very long, I mean as soon as, soon as I saw his intentions and he started punching, ...

Rosenquist: How hard was he hitting it?

Collins: Pretty hard. I thought he was gonna break the window.

Rosenquist: Do you know if he threw anything, if Ellis threw anything at the window.

Collins: I do not know that.

Rosenquist: Did he have anything in his hands while he was punching the window?

Collins: I imagine he probably had the same bag that he had, whatever was in his hands when he approached my car.

Rosenquist: Okay.

Roberts: And is he punching the window knuckles first, could you tell, open hand?

Collins: I could not tell. I saw him up there and then I just saw his body language and heard
the hit and then I was out running around the car.

Roberts: A-, and as that’s going on, are you making any observations of Burbank?

Collins: Not until I got around the car. But at that point, no. As soon as I saw that I was out
and going.

Roberts: And had you turned the amber lights on yet in th-

Collins: I think my, I think my had my flashers on at the point. Once he came up to me and
said, “We need to talk,” I believe I turned my flashers on.

Rosenquist: And-, I had asked you earlier when Ellis was approaching your card kinda what your
thought process was, was ya know, community caretaking or what you were
planning on doing, did that change once Ellis threatened to punch Burbank and then
punched the window?

Collins: Well absolutely, I mean, no matter what I wanna do, which we wanna help them, we
wanna get them to facilities or whatever, w-, if he’s assaultive, we’ve gotta get him
in handcuffs before we can do anything. So, as soon as he starts trying to punch the
window out, I no longer can just drive away or just sit there and wait for him to see
how long he’s gonna assault my partner.

Rosenquist: So you felt it necessary at that time to detain Ellis?

Collins: Absolutely.

Rosenquist: So you get out of the patrol car. You mentioned that Ellis contacted you and picked
you up and threw you down. Where did that occur in relation to the patrol car?

Collins: So, um, the patrol is facing west, my door is open, and Ellis is over here on the
passenger’s side. I ran around and when I got around the vehicle, it looked like he
and, and Burbank were fighting over the door. Burbank’s trying to keep it close and
he’s like kinda pulling it open. And then he turned around to me and he grabbed me
and he threw me to the front of the patrol car. So I went on my back basically where
the headlights shine…
Rosenquist: Okay.

Collins: ...in the front of the car.

Rosenquist: Alright, so, um, what I'm gonna show you is this is an ortho from when Pierce County processed the scene...

Collins: Mm-hm.

Rosenquist: ...and there's a couple things that we want you to, um, kinda circle and just number one through four, um, the first one being in the intersection. So this is your patrol car...

Collins: Okay.

Rosenquist: ...right there, um, that's Ellis' body there...

Collins: Okay.

Rosenquist: ...just roughly where in the intersection to the best of your recollection, was Ellis standing?

Collins: Um, if that's the centerline, he was probably right about here.

Rosenquist: Okay. Can you jus, uh, just put a circle there and number it one?

Collins: So I'm guessing this is the centerline.

Rosenquist: Okay.

Collins: So probably somewhere in there.

Rosenquist: Okay. And, um, number two, you said Ellis came right up to your driver's side?

Collins: Yes.

Rosenquist: Yeah, go ahead and circle that and then do the same for number three. So that would be number two, where he was at your door...

Collins: Okay.

Rosenquist: ...and then number three will be where he first made contact with you and picked you up.

Collins: Okay, it was, um, maybe, maybe here.
Rosenquist: And, so he threw you towards the front, which would have been westbound?

Collins: Right into the middle of the headlights pretty much like ri-, right there in front...

Rosenquist: Right.

Collins: ...of the patrol car.

Rosenquist: Right in front of the car?

Collins: Mm-hm.

Rosenquist: Okay. Alright.

Roberts: I think there's a fourth one, correct?

Rosenquist: Yeah, I was gonna wait until we get a little farther into the incident, um, it's gonna come up real quick here. So, he grabs you by your vest carrier, picks you up, throws you and at what point do you see Ellis and Officer Burbank engaged?

Collins: So I, I hit my back and I think I rolled backwards and I kinda got up expecting him to be charging me, but he was now back on Burbank, they were engaged.

Rosenquist: Okay and that's number four. Can you indicate...

Collins: Well that's gonna be...

Rosenquist: ...where they were?

Collins: I don't know. I, I think it was just right outside the door, maybe...

Rosenquist: Okay.

Collins: ...here.

Rosenquist: And can you describe, wh..., let me go back. You were on your back, you rolled, did you see who approached who, whether Burbank went to Ellis or Ellis went to Burbank?

Collins: It looked to me like, cause at that point I'm running towards the two of them, it looked to me like Shane was backpedaling and trying to get away and Ellis was going at him.

Rosenquist: Can you describe the fight, what was occurring?
Collins: Uh, ya know, at that point honestly it was like, I mean I was running as, at a dead sprint. I got up and I was running at a dead sprint because, uh, the situation felt very serious to me. I never had someone engage us like that back and forth, um, so I thought Burbank’s life could be in danger so I wasn’t, I mean I just s-, sprinted and re-engaged him as fast as I could.

Rosenquist: Okay. Was there any opportunity or was Ellis was given any verbal commands during this initial part of the confrontation?

Collins: Um, not by me, he was not, I don’t recall, I don’t know if Burbank did or not.

Rosenquist: Okay, but not by you?

Collins: No.

Rosenquist: Did you feel that you had time to give him any verbal commands?

Collins: I don’t, I didn’t.

Rosenquist: Okay. So you talk about the y-, you’re observing the fight between Officer Burbank and Ellis and you get to the location, immediately grab Ellis and take him to the ground, ending up on top of him. What was Ellis’ position at that time?

Collins: When we got on the ground?

Rosenquist: Yes.

Collins: So his, initially, his back was on the ground and I was m-, in like a mount position over him, around his waist, above him.

Rosenquist: Okay. And, what happened while you were in that mount position?

Collins: So he’s reaching his hands up to me, at me, and kinda grabbing at my gear and I started to strike him.

Rosenquist: What did you strike him with?

Collins: My elbow.

Rosenquist: And where were you striking him at?

Collins: In the face.
Rosenquist: Do you recall how many times you struck him?

Collins: Um, I don’t, I don’t maybe three to five times.

Rosenquist: Did he ever make contact with you at all with a punch or an elbow or anything?

Collins: Um, ya know, it was, with the initial part of getting him down was such a scuffle, um, that I didn’t recall it in the time, but when I woke up the next morning, my jaw was completely sore like I had been hit in the jaw.

Rosenquist: How come you went straight to the head, with your impacts?

Collins: Well, there’s, there was no target at all so when I got on top, so I’m a grappler, so I want him to, the best way I can control someone is if they turn their back to me so I’m just trying to get him to turn away from me. The na-, the natural reaction of someone when you do that is to turn their face and protect their body and then that way I can get on his back and control him and get him in handcuffs.

Rosenquist: Okay.

Collins: And there was no target to hit his body because the way I’m mounted over him all that is there is arms and head and he’s reaching up at me so the only thing I can do is over the top of his arms.

Rosenquist: And, based on the Department’s use of force policy, what level of resistance is Ellis presenting at this time?

Collins: He’s assaultive.

Rosenquist: While this was going on, prior to this, were you aware that Burbank had, it’s been described to us as, checked Ellis with the door when he opened it?

Collins: I didn’t, was not aware of that.

Rosenquist: Okay. So when you were talking about how you were mounted on top of Ellis and Ellis is on his back, how did it transition from that to where you were positioned behind Ellis right before you attempted the LVNR?

Collins: So he basically did a sit up, lunged up, his entire body and si-, sat me up off of him
and then I just stepped off with my foot, stepped around and got his back.

Rosenquist: Okay. So you decide to attempt the LVNR, how long into that application were you when you saw Officer Burbank with the taser and it was deployed?

Collins: Um, 'til I noticed him it was probably only a few seconds. And at that point I was just then trying to hold him as a target and protect my face from behind Ellis' head so I didn’t get a probe to the face.

Rosenquist: Okay. You got anything, Gary?

Roberts: No.

Rosenquist: Okay, um, we’re gonna have some questions on the LVNR, so for people that are gonna listen to this interview can you describe what an LVNR is?

Collins: Yeah, the Lateral, uh, Vascular Neck Restraint is where you're, you can cut off the, temporarily cut off the blood supply of both carotid arteries for a short time, it only takes a few seconds and then the subject can lose consciousness quick enough to be handcuffed and then regain consciousness.

Rosenquist: And, how long were you applying the LVNR for, before you came off of it.

Collins: I never actually applied it. I got into position and I was holding him and if you, so if you go around someone’s chin and the bone structure and you start squeezing you’re just gonna completely tire yourself out, waste your time, and so, and then they can also bite you. And then if you go low, you’re not gonna, it’s gonna be a pain compliance thing which in someone in his condition, pain does nothing. So I was trying to get it positioned correctly which is, with my hand, all of my bicep on one side and my forearm on the other side and by the time I started to get into position, I saw Burbank and saw his taser out and knew I didn’t need to do it.

Rosenquist: Okay. Uh, real quick, pain compliance, did it appear that anything was having an impact on Ellis?

Collins: Absolutely not.
Roberts: A-, and just so we’re, we’re aware wh-, later when we read this and transcribe it, you say your bicep on one side and your forearm on the other side, what exactly are you pointing to?

Collins: On the sides of their neck, sir.

Roberts: Thank you.

Rosenquist: Where did you, have you had training in an LVNR application?

Collins: Yes, lots.

Rosenquist: Where at?

Collins: I’ve grappled for over 15 years so at different Jujitsus school and in the military I was a trainer for Second Ranger Battallion for our fight team.

Rosenquist: Did you ever receive LVNR training while employed with Tacoma PD?

Collins: I didn’t because we were actually in the middle of, um, we were asked by the Department to develop policy for it and we were in the middle of developing it to actually put it out. So it never got, it was never official.

Rosenquist: Okay.

Roberts: H-, how about it, uh, the basic law enforcement academy or the e-, equivalency?

Collins: At the, at the basic law enforcement academy your Department had to ask for you to do it when I was going through so that wasn’t an option for us to, ‘cause Tacomia didn’t ask for it.

Roberts: And, and how about, uh, I, I think we may get into it later, but, how about training for your, uh, control tactics instructor, anything there?

Collins: Uh, no we did not do it there.

Rosenquist: So, going back to the military, how many times do you think you’ve applied an LVNR?

Collins: Thousands.

Rosenquist: And have you ever had anybody have a serious injury or die from it?
Collins: Never.

Rosenquist: So back in March in 2020 when this occurred, there was nothing in the Department’s use of force policy, um, regarding an LVNR? C-, based on your control tactics instructor and training, where, well based on the policy that you were developing, where, where was the LVNR going to fit in within the Department’s use of force policy?

Collins: So we had two provisions in the policy. One was that if you had outside training that would apply and was reasonable, you could use it. Um, and I, I told the Pierce County investigators, ya know, Burbank and I we got into an incident with an individual on PCP a few years back and got into a six minute fight in a room and it was, it was bad and looking back, knowing pain did nothing, I knew in my mind if I dealt with someone at that level of strength, at the level of intoxication, I would have to do that to end it. Because you can’t, our brains can’t keep up with that kind of, um, that did, they jus’ don’t feel pain, they don’t get tired, it’s just, it’s like dealing with a robot.

Rosenquist: So on, on the policy that you were working on, was, were there any requirements that needed to be met? What level of resistance did the person have to be showing in o-, would that would’ve allowed one?

Collins: Assultive.

Rosenquist: Assultive? Okay. Do you have anything else on the LVNR?

Roberts: W-, what’s your concern, the longer, uh, uh, an engagement like that takes place?

Collins: My concern is, is, uh, getting tired, um, and also having to, um, ya know, like I said with, with narcotics at that level, and when you’re dealing with someone like that, you just can’t match them strength for strength, um, it’s not like an endurance game where I can, ya know, I’m in better shape than you, it’s, it, you’re dealing with, their, their mind isn’t quite there so I’m concerned if it goes too long, I’m not gonna be
able to keep up with this guy and he's gonna either draw my weapon and kill me or
kill my partner or kill a citizen.

Roberts: Thanks.

Rosenquist: Okay. Uh, I was gonna bring this up a little later in the interview but since we've
been talking about it, I'm gonna do it now. The incident that you mentioned to Pierce
County, the prior incident, um, I'm gonna show you a dot one and a dot two from
Tacoma PD case number 1728800241. It was an incident that occurred at the St.
James Apartments with you and Officer Burbank.

Collins: Yes.

Rosenquist: Is this the incident that you referred to? You can take a minute and review the reports
if you need to.

Collins: I remember the guy's name. It was, uh, Philemon Shark. Yep. Philemon Jerome
Shark. This is the one I referenced.

Rosenquist: Okay. And I just, we were both comfortable that was it, we just wanted to make
sure...

Collins: Yes, sir.

Rosenquist: ...that's the one that you referenced.

Collins: That's the one.

Rosenquist: So Officer Burbank deploys his taser, what happens with Ellis?

Collins: Um, so like I said, I'm, I have my face kinda shielded behind his head and I'm
holding on and once I, I waited until I felt him lock up and as soon as I did, I grabbed
his arm and then Shane transitioned and grabbed his other arm and went to cuffing.

Rosenquist: And was that successful?

Collins: We were able to get int-, into cuffs and it was successful and it seemed like it was
over. He came back to, um, I don't remember if he said anything but then he started
bucking again.
Rosenquist:  But this was after he was cuffed?

Collins:  Yes.

Rosenquist:  Do you know how many times Officer Burbank deployed his taser?

Collins:  I have no idea.

Rosenquist:  Okay. So you said y-, in your statement he’s, he k-, he k-, he kind of comes back up again, um, I jus-, we’re not talking about his consciousness or unconsciousness, we’re talking about his ability to resist?

Collins:  Yes.

Rosenquist:  Okay.

Collins:  Yes, his fit actually physically like trying to get up.

Rosenquist:  Did he ever get up?

Collins:  Um, not once we got him down.

Rosenquist:  And what position was he in at that point?

Collins:  So when he’s cuffed he is, um, he’s facedown still.

Rosenquist:  Okay. Other than the time where Ellis was on his back and you were mounted on top of him and you were striking his head, was there any other e-, times during this incident where you were striking him?

Collins:  No.

Rosenquist:  Or, was it a kind of, as you described, grappling from that point on?

Collins:  It was all grappling from that point on. From my side.

Rosenquist:  Okay. And it’s, so we’re clear, I’m asking specifically about your actions here.

Collins:  Yeah.

Rosenquist:  Nobody else’s. So Ellis was able, you were able to get Ellis into handcuffs before anybody else was on scene?

Collins:  I believe so.

Rosenquist:  Okay.
Collins: I believe so.

Rosenquist: Do you recall who was next on scene?

Collins: It was either, um, Rankine and Ford or Sergeant Lim, actually it mighta been the Pierce County Deputies. I'm not, I'm not sure.

Rosenquist: Okay.

Collins: Once I looked up it seemed like, 'cause then once we got him cuffed and then I switched to his legs, 'cause his legs were flying around so I kinda folded his legs over one foot behind the crook of one knee and then pushed his other leg over so he couldn't put his feet underneath him and stand up. I switched to that, my focus was all down. I'm just trying to keep his legs down so he can't stand up and then by the time I looked up it seemed like there was lots of cops there.

Rosenquist: So Ellis is on his stomach...

Collins: Mm-hm.

Rosenquist: ...you were controlling his legs. Was Officer Burbank controlling upper body?

Collins: Uh, yes.

Rosenquist: So describe the resistance that Ellis is presenting at that time while he's, he's on his stomach and handcuffed?

Collins: So, if you can think about the position I described it, he's trying to basically, I guess, flex his quads to straighten his legs from me, which would then allow him to put them underneath his body and stand up. Which now we're in traffic, he's handcuffed in the middle of the street, so I'm holding his legs down and keeping him down.

Rosenquist: Was Ellis, with his legs, do you think he was trying to escape or kick you?

Collins: I'm not sure.

Rosenquist: Okay.

Collins: Y-, yeah, I'm not sure. Whether he was trying to kick me or run into traffic, I assessed both those as the same issue that I can't let happen, so.
Rosenquist: Okay. The hobbles, how did, um, the leg restraints come into play? How did that happen?

Collins: Um, I don’t recollect who put them on, but, uh, we were calling for them ‘cause we couldn’t control him. Everybody kept hearing that, hey, someone get hobbles, someone get hobbles, and then someone grabbed ‘em.

Rosenquist: Y-, you don’t know who applied ‘em?

Collins: I don’t.

Rosenquist: Did you see the application of it?

Collins: I saw them go on the feet, yes, ‘cause I’m still holding them.

Rosenquist: Can you describe the application?

Collins: I just saw the, so I’m still looking down the ground, I’m pinning his legs. Once I saw the, the, ya know the loop of the hobbles go over his ankles that, then people took over for me and that ended my involvement.

Rosenquist: Were you still on his legs when it was a-, the hobble was attached to the handcuffs?

Collins: Uh, no, once the hobbles got on I, uh, I believe I got replaced.

Rosenquist: Just on r-, just on the ankles?

Collins: ‘Cause there was other people at that point. There was people kinda standing all around us.

Rosenquist: Do you know who assisted putting his legs or ankles in the hobbles?

Collins: I don’t recollect that.

Rosenquist: Okay.

Roberts: And Matt at this time would you consider it stabilized?

Collins: Um, well, I mean, once you get the hobbles on you’re pretty much stabilized but until that point.

Roberts: But is there still a level of resistance that Ellis is presenting?

Collins: Ya know to be honest with you, I, once I got relieved, I was completely exhausted at
that point and I was done. I walked away from it and then everybody else kinda was, um, gathered around and I, I, I don’t know.

Roberts: So, so I, I understand that but how ‘bout w-, prior to the, the hobbles being applied.

Is he, is that, would you call that stabilized yet?

Collins: Oh, absolutely not.

Roberts: And there’s a point while the hobbles are being applied, is it stabilized yet?

Collins: No.

Roberts: Is it immediately once those hobbles are applied, is it stabilized?

Collins: I mean I would say that just from a, not from something I observed, but just in, ya know, common sense of once hobbles are on it’s pretty hard to do anything.

Roberts: But at that time you, you left?

Collins: Correct.

Roberts: Okay. Thanks.

Rosenquist: When you left the area of where Ellis was at, where did you go?

Collins: Um, back towards my patrol car.

Rosenquist: And at that point you didn’t have any more contact with Ellis?

Collins: No.

Rosenquist: So I do, I have a couple more questions on the hobble, but i-, it’s questions that we’ve asked everybody, so i-, if you didn’t see it, if you don’t recall it that’s fine, um, do you recall the angle that Ellis’ legs were at once the hobble was applied and attached to the handcuffs?

Collins: I don’t.

Rosenquist: Did you notice if Ellis was bowed or his thighs picked up off the ground?

Collins: I, I don’t...

Rosenquist: Kay.

Collins: ...I don’t recall.
Rosenquist: So Ellis is handcuffed and hobbled and he’s on his stomach when you, when you walked away?

Collins: Yes.

Rosenquist: Did you recall seeing Ellis placed onto his side?

Collins: Yes.

Rosenquist: Do you know how long he was on his stomach for before being placed onto his side?

Collins: I don’t but I know that as soon as we started to walk away, like the moment we got up from actually detaining him, I heard Burbank say, “Let’s get him in the recover position,” to the other guys.

Rosenquist: So while not knowing the amount of time would it be safe to say that it was fairly quick?

Collins: I would say it’s very quick, yes.

Rosenquist: And that, so that was done kind of at the direction of Officer Burbank?

Collins: Yes.

Rosenquist: So Ellis is on his side and…

Collins: Yep.

Rosenquist: …if you weren’t, if you weren’t observing what was going on, um, that’s fine, did you, did Ellis start resisting or trying to kick against the restraints while he was on his side?

Collins: I don’t recall, I didn’t see that.

Rosenquist: Did you ever see Ellis put back onto his stomach?

Collins: No.

Rosenquist: Kay. So, in your, in your statement you put, “I walked away from it at that point and there was a bunch of other people on top of him.” Can you elaborate on that? Were they on top of, physically on top of him, were they using their hands to hold him, can you explain that?
Collins: Um, I just remember that, um, Masyih and, uh, Ford and, and Rankine were, had taken over control and there was Pierce County Deputies there and I, I don’t recall actually, no. I mean I just know that there was a lot of people around him.

Rosenquist: Okay.

Collins: I wasn’t concerned about him doing anything at that point. I knew that it was under control.

Rosenquist: Okay. G.J.?

Roberts: And you’re, you’re pretty gassed, winded, at...

Collins: Yes.

Roberts: ...at that point?

Collins: Yes.

Roberts: Had anybody asked for medical aid yet? Still too early in the, in the encounter?

Collins: Um, somebody did. Somebody said, it mighta been Sergeant Lim, right away said, “Let’s get medical aid started,” and I think Burbank did as well, if I remember right. But I heard it a few times.

Roberts: And that happened?

Collins: Yes. It felt like it took a long time for that to happen but it, it got there.

Rosenquist: During your struggle with Ellis, was there a time where you could’ve called for medical aid?

Collins: No. In fact, uh, there was a few times I tried to just call out our location and as s-, soon as I got to my mic he grabbed me or grabbed my gear or grabbed my face, something so I’d immediately have to go back to him. I thought I got out a couple times but apparently it, from what I heard, I did not. I was trying to call out our location.

Rosenquist: No, we, it was, uh, Burbank that eventually called it out. The spit hood. Did you see the spit hood applied to Ellis?
Collins: Um, I saw it on him at one point, but I didn’t see it actually put on. Like I remember looking back and seeing in on.

Rosenquist: Do you know why it was put on?

Collins: I heard it pretty much as soon as we got off, I heard people saying he was spitting on them.

Rosenquist: Okay. And just, I wanna make sure, you didn’t see who applied it?

Collins: I did not.

Rosenquist: Okay. Do you have any idea how long it was on for?

Collins: I don’t.

Rosenquist: Okay. So you didn’t, and I just, you didn’t see the application so you don’t know what Ellis’ position was when it was put on or anything like that?

Collins: Well I do know when I saw him with it on he was still on his side...

Rosenquist: Okay.

Collins: ...facing back towards the car.

Rosenquist: Which would be east?

Collins: East.

Rosenquist: Okay. During the incident with Ellis, did you ever hear him state, “I can’t breathe,” or anything similar to that?

Collins: I didn’t recall him call or any statements at all.

Rosenquist: Do you know whose hobble was used that night.

Collins: I, I actually the only reason I do is because a Pierce County guy came and Detective got it out of my car, eventually. But I didn’t even know it was, it was mine from my car.

Rosenquist: And is that something, ya know this, it kinda gets back to what we said at the beginning, is this something that you, you figured out after...

Collins: Yes.
Rosenquist: ...your interview with Pierce County?

Collins: Yes.

Rosenquist: And, how did you obtain the hobble?

Collins: Um, it was given to me by a Sergeant somewhere on the shift, I don’t remember which Sergeant but, um, they were kinda handed out but we hardly ever used ‘em so I didn’t even realize that I had one in my car.

Rosenquist: So was it Department issued...

Collins: Yes.

Rosenquist: ...or did you believe it was issued to you by the Department?

Collins: It was Department issued, yes.

Rosenquist: Have you received any training in the application of the hobble?

Collins: No.

Rosenquist: Not basic academy, not from the Department?

Collins: Um, I don’t think the academy covered it but I know that the Department did not.

Rosenquist: And you, you said earlier that you, you hardly ever used it?

Collins: Correct.

Rosenquist: Had you used it prior to this incident?

Collins: I had, um, given them to a couple officers. I act-, actually never have applied them myself, I don’t think. No, ya know what, I helped put them on, we had a guy one time at McDonald’s, he tried to run someone over with a car and he was experiencing a drug episode and I helped put ‘em on but they weren’t mine.

Rosenquist: Okay.

Collins: So I saw the application of them.

Rosenquist: That’s it?

Collins: That’s it.

Rosenquist: Okay. During your contact with Ellis, did you observe any signs that he was in any
Collins: Um, I mean, I, I remember thinking that he was excited delirium be-, because of the manner in which he approached my car, his eyes, his sweating, 'cause it was cold that night, he was just like covered in sweat and then his strength. It just, everything kinda lined up and the moment he threw me, I remember just thinking like, I got excited delirium on my hands.

Rosenquist: Okay.

Collins: That was as much of a medical situation as I thought and we wa-, ya know, I always wanna help somebody but we kinda gotta stop them from attacking us before I can do that so they gotta be in handcuffs.

Rosenquist: Did you ever, uh, observe Ellis having any kinda respiratory issues during your contact with him?

Collins: Oh, no.

Rosenquist: Kay. You touched on this a little bit earlier in the interview but I, um, I wanna ask you about your response to a question near the end of your interview with Pierce County and you were asked if Ellis was trying to get away from you or attack you. And you talked about that he was coming at you, he was coming at Shane, Officer Burbank, and that there were multiple times, just going back and forth, that, between the two of us, you described Ellis as pressing the fight, never trying to disengage. Can you elaborate on that or add to that at all?

Collins: Absolutely, so you know everytime that I’ve been in like a quote, unquote fight, what police would call a fight, in the job, it’s usually someone that’s trying to get away. So it’s usually, it’s a scuffle, there pushing you and then they’re immediately running. Ellis, when I came around, so first of all, he started the aggression because, ya know, we, we don’t even know what we have, we’re here to just help this guy. He starts the aggression by trying to break my passenger side window and pull my
partner out, so that's number one. Then he throws me and then when I get up I expect him to either be coming at me or running and he's going back at Burbank, so he had plenty of time after throwing me to take off down the street. I mean, Burbank was still all the way back by the car, he couldn't split the houses, he couldn't done a lot of things but he didn't. He went back to Burbank and then back to me so there was multiple chances where he showed me his intention and he had plenty of room to get away if he needed to.

Rosenquist: So once he throws you onto the street, how far did he have to go to reach Burbank?

Collins: I, I, ffffft, maybe, um, ya know, from the front of the car to just at the door level, so whatever that would be, five or six feet.

Rosenquist: Okay.

Roberts: W-, when he throws you, are, are you injured in any way?

Collins: Yeah, I hit my elbows, uh, really hard and they just got scraped up but nothing.

Roberts: A-, and you hit your elbows on what?

Collins: On the s-, on the street.

Roberts: Thanks.

Rosenquist: Other than your elbows, do you have any other injuries?

Collins: Uh, my knees were really banged up and then my jaw was sore but aside from that.

Rosenquist: Do you know if Officer Burbank was injured at all?

Collins: I don't know.

Rosenquist: Did you observe any injuries to Ellis?

Collins: Yeah, I observed a couple, um, small lacerations on his face.

Rosenquist: And those were the result of?

Collins: I imagine the strikes from the ground.

Rosenquist: Okay.

Roberts: But you don't know that...
Collins: I don't know that.

Roberts: ...they could also be as he's face down on the ground with the asphalt?

Collins: True.

Rosenquist: Videos?

Roberts: So, we're gonna jump into some videos, so do we take a break real quick?

Rosenquist: Yeah do you guys wanna take a break first? We're 42 minutes in.

Collins: I'm good if you're good.

Ausserer: I'm good.

Betts: I'm good. Yeah.

Rosenquist: Okay.

Betts: Yep.

Rosenquist: Henry do you have anything you wanna bring up now or do you want to wait until we're done?

Betts: It might make more sense. I have a couple, if we run both of those now before we start the video.

Rosenquist: Then le-, then let's go ahead and do it.

Betts: Okay. Uh, Matt, going back, we talked a little bit about when Ellis goes to the ground you're able to get into a mount...

Collins: Yes.

Betts: ...and you answered a couple of questions about that and you were saying that he's reaching up at you and the recorder can't see it but you were demonstrating, you were reaching up toward your neck, was he grabbing your neck?

Collins: Uh...

Betts: Or y-, you said gear at one point or you tried to use the radio and there was some fighting their hand, fighting with that, but did he get into your neck area 'cause you're showing that?
Collins: Uh, I believe he did. I mean, I just remember hands everywhere, um, all over my gear, up towards my face, on my mic.

Betts: Okay. You also talked about when you’re in that mount position on top of him and he’s on the ground that that, uh, stopped with you describing him sitting up and just pushing you off?

Collins: Correct.

Betts: You talked about grappling and a lot of other things that you’ve done, is that normal to be able to just sit up and push somebody off a mounted position?

Collins: Absolutely not. Especially not someone like me, 230 pounds on top of you.

Betts: Did that signa-, was that of significance to you? Did that tell you something?

Collins: Absolutely.

Betts: What did you gather from that happening that?

Collins: I mean it was the same thing as, you know I, I was getting concerned ‘cause it was the same thing as when he threw me, it w-, nothing was having effect and his strength, he was just overwhelming, overwhelming me with his strength pretty much.

Betts: Okay. Uh, we talked a little bit about the use of force policy and LVNR specifically, uh, along with some strikes and whatnot, as part of that policy that, as you understand it, is there a section of the policy that you’re familiar with that discusses the use of other tactics, not listed specifically by name in that policy?

Collins: Yes.

Betts: What, uh, when is it okay to use those other tactics or what are some of the requirements for that?

Collins: When the subjects assaultive and when it’s reasonable and necessary.

Betts: Um, lastly we’ve talked a little bit about your statement, your previous statement with County, we talked about like that there was a, a bunch of other officers on him and that phrase of “on him”, uh, do you use that in terms, not necessarily as
physically on him but meaning that there’s other people that are prepared to take care of this problem or that can assist if needed?

Collins: Yeah, no, I, I’m sorry when I say that, I don’t mean physically on him, I just mean it’s my job and Shane’s job when we’re the only cops dealing with this person and now when there’s other police officers who relieved us, they’re on him...

Betts: Yeah.

Collins: …like, they’ve got him so now I can relinquish my responsibility a little bit.

Betts: Okay. That’s all I had for follow up so far.

Rosenquist: Kay. Do you have anything?

Ausserer: No, thank you.

Rosenquist: Kay. Real quick, with, um, the ortho photo, if you could just circle where he threw you and then just sign and date somewhere down the bottom, we can put that away and be done with it.

Collins: So that’s number five?

Rosenquist: Yeah.

Collins: Okay.

Rosenquist: Thank you.

Roberts: Matt, is, a couple questions that I have before we get into the videos. Are, are you aware at any time of other people in the area?

Collins: Um, I remember, um, when we finally got him tased, and we were able to transition to his arms, I remember someone screaming at me from a car and then I also remember someone behind me saying, “Hey, are you guys okay? Do you need any help? You need me to call the cops?”

Roberts: And, when you leave Ellis to the other officers, do you have contact with a supervisor?

Collins: Uh, Sergeant Lim, yes, he did talk to us.
Roberts: What’s your conversation with Sergeant Lim?

Collins: He said to me, um, well it took a while because there was other officers on the scene and then eventually Fire showed up, um, and then after Fire was there for a while then all of a sudden, once they started doing CPR, maybe five minutes into them being there, Sergeant Lim came up to me, I wasn’t aware of what was happening, he said, “Hey, they’re doing CPR right now, I don’t know what’s going on, but just in case why don’t you just sit in your car and just don’t say anything to anybody ‘cause I don’t know what’s gonna happen.”

Roberts: H-, had, had you ever mentioned to Sergeant Lim what took place, what precipitated the encounter?

Collins: Um, I remember saying to him, ‘cause it was just so crazy and he just kinda looked at us like what happened, and I, and I was like, “Man, he just attacked us,” or something to that effect.

Roberts: A-, and did, would you have gone into specific details at that time or just?

Collins: I don’t believe so, no sir, I don’t know.

Roberts: Okay. Thanks.

Unknown: (whispering)...water, some Kleenex

Roberts: Which one do you wanna start with, uh...

Rosenquist: McDowell one and two.

Roberts: So, so we’re gonna start here with, uh, uh, video that for our reference for later it’s titled Cellphone from Ms. McDowell Part 1 or 1 of 2. To put this in a timeframe, this is at approximately 23:21 hours and 46 seconds and I will let this play and I will, uh, uh, let it loop through, it’s a very quick video, um, and I can certainly slow it down if you need to move closer I’ll try to get it as large as I can, so...

Collins: Kay.

Roberts: ...with all these, i-, it starts in the play mode right away so bear with me. I’m just
gonna pause it there and I’ll go back to the beginning and then let me go the full
screen. I-, if it tur-, helps turning off the lights we can certainly do that um, so this is
cell phone video again from a vehicle, oh, that’s behind you and uh, a-, at this point
are you able to narrate what’s ou-, what’s, what’s being seen there?

Collins: Well, can you play it and then, then...

Roberts: You want me to play it first?

Collins: Yeah.

Roberts: Okay. Let me mute it initially cause I don’t think that there’s much that we need to
hear.

(extended silence) 49:14 – 50:18

Roberts: So, so I think what John and I are after more than, uh, uh, anything here, let me
pause that and go back to the beginning. Um, let me do this real quick, let me slow it
down a speed here. So, as I play it a little slower, this is you, correct?

Collins: Yes.

Roberts: And, let me back it up to see where you come from. This would be you.

Collins: Yep.

Roberts: And somehow now you are behind, uh, Mr. Ellis and Burbank…

Collins: .Yeah.

Roberts: ....any, any, h-, how do you get behind them? Is that, is that what portion of that
encounter are y-, are we at here?

Collins: So that’s gotta be after I was thrown and then he and Burbank were engaged and
then I came back.

Roberts: Kay and let me, let me just play that through now and I’ll just play the first, I think
it’s the first ten seconds or so where, before it goes to the center console so. And then
Burbank steps away.

Collins: Yep, and then I got in the mounted position on top of him.
Roberts: John?

Rosenquist: And just confirming, when this video starts, Ellis had already engaged you once with the, essentially the, the, almost the body slam in front of the car...

Collins: Mm-hm.

Rosenquist: ...and with Burbank?

Collins: Yes.

Rosenquist: Okay.

Roberts: A-, and he never makes it to that sidewalk?

Collins: Uh, no, he did not. Yeah so that would be after he’s come to the window, he started punching the window, I go to him, he throws me back, then him and Burbank have a scuffle and then I get re-engaged, so that’s starting at that, I guess my second engagement of him.

Roberts: John, anything?

Rosenquist: No.

Betts: It’s not crystal clear, but, uh, Sarge do you, Sergeant Roberts you said that Burbank steps away and to me it looks more like, uh...

Roberts: He’s thrown away?

Betts: ...Ellis is kicked, uh, Ellis kicks Burbank out of scene, this, a minor discrepancy there, but, and I’m not an expert on the video but it, uh...

Rosenquist: Somehow distance is created between Ellis...

Betts: Yeah.

Rosenquist: ...and Burbank.

Betts: And Ellis’ legs appear to be up near Burbank...

Rosenquist: Extended out towards him.

Betts: ...correct.

Roberts: Right.
Betts: Right.

Roberts: A-, and the reason we know it’s, who’s who there, is because Burbank when he comes back into the scene, he’s now armed with his tasers out, so, um, anything else on this? Anything else Matt?

Collins: No sir.

Roberts: So, we’ll go to McDowell, uh, uh, and again this is gonna be the, her second video, uh, and this is cell phone video from Ms. McDowell, part two, and this would be at 23:22:30 seconds. Um, as she’s, had maneuvered around your vehicle westbound and, uh, is now passing, uh, the engagement so...

Collins: Kay.

Roberts: ...again, bear with me as I start this up. Uh, it starts in the run mode b-, and, and, uh, I wanna get the full screen.

(extended silence) 54:10 – 54:48

Roberts: And again, that’s, that’s a rather quick video, I will stop it, go back to the beginning. I will unmute it here because there is some, some vocabulary or some, some conversation that, uh, we wanna discuss here.

(Video audio begins, not transcribed in this document) 55:04 – 55:20

Roberts: So, is Ellis controlled at that point?

Collins: No. No, cause I’m telling him to put his hands behind his back, so.

Roberts: And, and there’s several times that you’re telling him to put his hands behind his...

Collins: Mm-hm.

Roberts: ...back.

Collins: Mm-hm.

(Video audio begins again, not transcribed in this document) 55:37 – 55:56

Roberts: John?

Rosenquist: When the car is driving around, somebody says something to the effect of, “You’re
going to get it again.” Do you know what context that’s said in?

Collins: Um, I imagine he’s maybe saying about the taser, but that would just be a guess.

Rosenquist: Okay.

Collins: Maybe get another ride…

Rosenquist: Okay.

Collins: …so the probes are in ‘em.

Roberts: And you’re thinking that’s Burbank?

Collins: Yes.

Roberts: That say’s you’re gonna get it again?

Collins: Yeah, I had, I didn’t have my taser out, so.

Rosenquist: I don’t have anything else on this video.

Roberts: Kay. Henry?

Betts: Nothing.

Ausserer: No, thank you.

Roberts: So, different perspective of, uh, and this next video will be, uh, from the south looking north and it is, uh, real close in that proximity in time to where that vehicle is passing you and, and that encounter where you and, uh, Burbank are over Ellis,
telling him to put his hands behind his back and this one is uh, uh, a cell phone video from Mr. Cowden and this would be at 23:21 and 56 seconds.

Collins: Kay.

Rosenquist: You’ll actually see the video, in this video the car that drove past. And there’s no sound on this.

(extended silence) 57:32 – 58:29

Roberts: And that would be the passing cars that we, that took the, the initial video that we saw.

Collins: Mm-hm.
Roberts: So, this shows some of your application or that attempted application of that LVNR, so let me, uh, slow it down a little bit.

(extended silence) 58:47 – 58:57

Roberts: And Matt, if you wanna explain anything?

(extended silence) 59:00 – 59:04

Collins: So, it looked like he was trying to get back up towards Burbank and then

(extended silence) 59:08 – 59:13

Collins: Burbank’s got his taser out, you can see the wires there, I would be swiping the wires.

Roberts: And when you’re saying, “He’s swiping the wires,” we’re talking about Ellis?

Collins: That’s when I felt, that’s when I felt him lock up when I released and I switched to his arm.

Roberts: When you released the LVNR, it, but it’s the taser that’s having the effect?

Collins: Yes.

Roberts: A-, and let me pause it real quick, you, you s-, talk about swiping the wires, what’s your concern there?

Collins: So, if someone, some people that have dealt with police a lot when you tase them, they’ll just swipe the wires, like this, and they just rip the taser probes right out, make them ineffective.

(extended silence) 1:00:04 – 1:00:16

Roberts: And again, looking at this, there’s still a level of resistance that…

Collins: Oh yeah. Yeah, he was, it was still taking everything we had to hold him to the ground.

Roberts: And he’s not handcuffed?

Collins: It doesn’t, no, no cause once we got him handcuffed I switched to his legs, I’m pretty sure.
Rosenquist: Matt, where were you positioning your knee at times? Was it on the back of Ellis' neck?

Collins: No.

Rosenquist: The back? Do you recall where?

Collins: 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.

(extended silence) 01:01:04 – 01:01:30

Collins: Looks like my knee is in his shou-, in his what would be his, I guess, left shoulder, cause I'm trying to just completely go for that arm cause Burbank's got the other one.

(extended silence) 01:01:39 – 01:01:43

Roberts: And again his resistance kind of throws Burbank off, off of him.

Collins: Yeah. I remember being amazed by how strong his movements were just kinda shucking us off as we were trying to hold him down.

01:02:00 – 01:02:10

Rosenquist: Alright, anything else from the video?

Unknown: Nope.

Unknown: (whispering)...the lights.

Roberts: We still good, do we need a break?

Unknown: We're good.

Unknown: Good.

Unknown: Good to go.

Roberts: So, the last video is a, a merged, uh, uh, cell phone video or not cell phone video,
doorbell ring video, it’s called it’s Vivint, the Vivint Ring video if you’ll, you’ll hear
it talked about. Uh, and this is a copy that’s been merged together. It’s taken several
30 second blurbs, if you will, or, or files and they’ve been, uh, uh, s-, strung together.
Uh, and, uh, this one is called Vivint Doorbell Videos, all merged and this starts at
about 23:21 and 47 seconds. So, a second after, uh, the cell phone video that, uh, uh,
cell phone video one from McDowell. And in the merged file that I’ll open up here,
uh, it’s been merged from prior to the encounter. So there’s about 30 seconds of
nothing that we’re interested in so I’ll have to zip forward and then the encounter is
just there. So it’s just the limitations of the system didn’t capture everything, just that
there’s an encounter, uh, or vehicles in front of it. So, just to put that in perspective
when you open up the file. And bear with me, again, and pause them. Let me start
and I’m gonna zip forward to about the 29 second because again the files are roughly
30 seconds. So, it’s gonna start. Again, this is your vehicle with the hazards on…

Collins: Oh, okay.

Roberts: …right here. This would be that vehicle behind you, uh, that took the first cell phone
video that we watched, the McDowell video and this would be significant other of
McDowell, so they are acquaintances here. Uh, and I will have the video on, the
audio on, because there’s some things audio wise we wanna listen to and get ya, uh,
uh, your narrative on. So, initially, let me just play, y-, y-, you don’t see any of your
encounter. It’s pixelated so we, we’re not able to see that, so, let me just run it. I, I’ll
run it for about two minutes and 18 sec-. Do we wanna show the transcription? Do
we have the transcription?

Rosenquist: No. Do we wanna go off tape real quick and go grab it?

Roberts: Um, it, it may help.

Rosenquist: Okay, help.

Roberts: Let’s, let’s do that. Let’s take a break before we get into this one and we…
Unknown: Okay.

Unknown: Okay.

Roberts: We’ll go grab the transcription to...

Rosenquist: This is Sergeant Rosenquist. It is 1600 and we are going off tape.

Rosenquist: It. This is Sergeant Rosenquist. It is 1604 hours. We are back on tape. Officer Collins, um, confirm this interview is still being recorded with your permission?

Collins: It is.

Rosenquist: Alright. Uh, we put a transcript, uh, in front of you and this is a transcript of what it can be heard on the merged Vivint video that Sergeant Roberts described earlier.

Roberts: And, and just so you’re aware, this is a transcription that the Internal Affairs office has put together, uh, based on a State Patrol video that they, that they produced...

Collins: Okay.

Roberts: ...or merged together, so, uh, it’s difficult to follow. The transcription may help a little bit but there’s a lot of yelling and screaming, uh, and not necessarily from the encounter itself, the encounter between the police and Ellis but between, uh, uh, Ms. McDowell and Mr. Lowery in the following vehicles, so...

Collins: Mm-kay.

Roberts: ...I-, let’s just run it through real quick and, and play it and listen to the (unintelligible), unfortunately volume has to go very high and uh, so, we’ll just play it and again this is from about the 30 second mark.

(Radio audio begins, not transcribed in this document) 01:06:41 – 01:08:50

Roberts: And I’ll end it there at about the, uh, 2:36 mark or so. So, couple things we’re interested in. Um, at about the 1:16 mark, and I’ll go back to it. I want you to pay attention to what’s being said here, and I, I maybe you can put it in context, maybe you can recall who’s saying it...

Collins: Mm-hm.
Roberts: ...and it’s on that, uh, uh, sheet it would be, uh, uh, it’s the, the, the, it’s a growl and “try again.” It should have a time next to it two sic-, one, 1:16.

Collins: Mm.

Rosenquist: Uh, let’s just play it and...

Roberts: Okay.

Rosenquist: ...listen to it and see.

Collins: Okay, I gotcha.

(Video audio begins, not transcribed in this document) 01:09:56 – 01:10:06

Roberts: I can go back?

Collins: No I, what, what do you, what’re you asking me?

Rosenquist: Do we know who said that?

Collins: What it said, “Go around them?”

Roberts: No, no.

Rosenquist: No. The growl, “…try again?”

(Video audio begins, not transcribed in this document) 01:10:23 – 01:10:29

Collins: I don’t know. I don’t know.

Rosenquist: Okay.

Roberts: And so the, the next thing we’re after is that, about the two minute mark and, uh, you’re gonna hear a, a soft-spoken voice, um, uh, you’re gonna hear what I believe is Burbank, uh, speaking with a witness, Shad Hayes, who is, uh, here in his vide-, her in the video, uh, out on the sidewalk and Shad Hayes is the one that’s saying, “Hey, you guys need help?” Uh, and Burbank responds to him, “No, we got people coming,” or whatever the, uh, the, the...

Unknown: Kay.

Roberts: ...the transcription says there and, and I believe it to be Burbank that says that only

because he mentions that in his statement with the County. What we’re listening for
here is, it appears to be Ellis saying he can’t breathe and somebody saying, “Shut the
fuck up, man.” So let me play that, and I think it’s up loud enough where we should
be able to hear.

Rosenquist: Hope so, it’s not getting any louder.

(Video audio begins, not transcribed in this document) 01:12:03 – 01:12:19

Roberts: Any, any idea who’s saying it?

Collins: So, what I’m hearing is not that he’s saying, he’s saying something else, I don’t hear,
“I can’t breathe,” right there.

Roberts: Play it one more time.

(Video audio begins, not transcribed in this document)

Collins: 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.

Roberts: Okay. John?

Rosenquist: Can we go back, um,..

Roberts: Yep.

Rosenquist: ...to the beginning and play it one more time?

Roberts: Uh, let me go to the 30 second…

Rosenquist: Yeah.

Roberts: ...what happens is it, it like it, it’s, the system, the, the recording system is just
seeing motion and turns on so they took the first 30 seconds prior to that anything
was captured and it has nothing to do with it so let me go about 24 so y-....

(Video audio begins, not transcribed in this document) 01:13:43 -

Roberts: ...it goes, you’ll see. There’s nothing there and all of a sudden something is there.
Rosenquist: You can stop it.

Collins: Yeah, I hear the, I hear the point where he says, "I can't breathe," but the time from that to the time to, "Shut the F up," was not, it wasn't immediate, that was other stuff said it sounds like to me.

Roberts: Yeah, no, that was uh, uh, a separate e-, uh, a separate...

Collins: Okay.

Rosenquist: Yeah, and I wasn't, when I wanted to replay it one more time, I didn't, I wasn't trying to connect those two.

Collins: Okay.

Rosenquist: You have no recollection of hearing him say, "I can't breathe?"

Collins: I don't.

Rosenquist: Okay.

Roberts: Henry?

Betts: Nothing, nothing.

Ausserer: Thanks.

Rosenquist: So I know w-, we've covered a lot of stuff, um, is there anything else that you think we should be aware of that we haven't asked you about or that you haven't discussed with us?

Collins: Nothing from my end sir. No...

Rosenquist: Okay.

Collins: ...I've.

Rosenquist: So, i-, with you're, probably with control tactics and you talked about working on the LVNR policy that was, that was kind of in process, um, do you believe you have a pretty good understanding of the Department's use of force policy?

Collins: I do, at least before it was changed, yes.
Rosenquist: Let me rephrase. You had a good understanding of the use of force policy that was in place when this incident occurred on March 3rd 20 of 20?

Collins: Yes sir.

Rosenquist: Based on your knowledge of the use of force policy, do you believe you violated the Department’s use of force policy?

Collins: Absolutely not.

Rosenquist: And you don’t specifically recall telling Ellis to, “Shut the fuck up?”

Collins: I don’t.

Rosenquist: Okay.

Collins: 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.

Rosenquist: Kay. Would that be a violation of the Department’s courtesy policy, if that was said?

Collins: It would be.

Rosenquist: Did you observe anything during the incident that indicated anybody violated any policies at all.

Collins: Mm, not if, besides my swearing, sir.

Rosenquist: Kay. I don’t have anything else.

Roberts: I have nothing else.

Betts: 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?

Collins: 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.

Unknown: Okay.

Rosenquist: Matt, do you have anything else?

Collins: No sir.
Ausserer: Nothing.

Rosenquist: Okay. This is Sergeant Rosenquist. It is 1616 and this is the end of the interview.

END OF INTERVIEW/ar
#1. Where did you observe Ellis contacting the vehicle/attempting to get into the vehicle?

#2. Where did Ellis arrive at the driver’s side of the patrol car?

#3. Where were you when Ellis picked you up and threw you to the ground?

#4. Where were Burbank and Ellis when you observed them fighting?

Any additional locations on we should be aware of?

Signed: ________________ 08/27/2021
TAB 63
INTERNAL AFFAIRS COMPELLED INTERVIEW

I/A CONTROL NUMBER: 21COM-0061, 21COM-0069, 21COM-0071

Employee/Witness: Officer Christopher Burbank

1. You are about to be questioned as part of an Internal Affairs investigation being conducted by the Tacoma Police Department.

2. You are hereby ordered to answer the questions, which are put to you, which relate to your conduct and/or job performance, and to cooperate with this investigation.

3. Your failure to cooperate with this investigation can be the subject of disciplinary action in and of itself including dismissal.

4. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be introduced into evidence in a criminal proceeding.

5. You are further ordered not to discuss this matter or interview with any other parties (except those with a legally recognized privilege or union representatives) until the conclusion of this investigation.

I have read and understand the above explanation of my rights as an employee of the Tacoma Police Department.

Employee

Date

Witness

Date

Witness

Date
Interview of Christopher Shane Burbank

Location: Internal Affairs Office, Room 360, Tacoma Police Headquarters

August 31, 2021 – 1059 Hours

Internal Affairs Control Number 21COM-0061, 21COM-0069, 21COM-0071

PARTICIPANTS: Sergeant John Rosenquist and Sergeant Gary J. Roberts, Internal Affairs; Detective Henry Betts, Representative, Tacoma Police Union – Local 6; Wayne Fricke, Attorney, Representing Officer Burbank, and Officer Christopher Shane Burbank

Rosenquist: Kay. We’re on the air. This is Internal Affairs Sergeant Rosenquist. This is the Internal Affairs interview of Officer Christopher Burbank. The date is August 31st 2021. Time is 1059 hours. Location is IA Office, Room 360, Police Headquarters. This is in reference to IA cases 21COM-0061, 21COM-0069, 21COM-0071. Present in the room are myself; Internal Affairs, Sergeant G.J. Roberts; Detective Henry Betts, Vice President, Local 6, Officer Burbank, and Wayne Fricke, attorney representing Officer Burbank. Shane, are you aware this interview is being recorded?

Burbank: Yes.

Rosenquist: Is this interview being recorded with your permission?

Burbank: Yes.

Rosenquist: Did you read the Compelled Interview Form?

Burbank: I did.

Rosenquist: Do you understand the Compelled Interview Form?

Burbank: Yes.

Rosenquist: Do you understand that you’re compelled to answer all questions truthfully?

Burbank: Yes.

Rosenquist: Okay. Uh, a couple kinda housekeeping issues, um, prior to the interview today, you were given a copy of your transcribed statement, uh, from your interview with Pierce County Sheriff’s Department. Uh, do you have anything you want to add or clarify in regards to that statement?
Rosenquist: So the incident occurred on March 3rd 2020, your interview occurred, uh, three days late on March 6th. Between March 3rd and March 6, did you observe any videos and or photos related to your incident with Manuel Ellis?

Burbank: None at all, no.

Rosenquist: Kay. Understanding this happened 17 months ago now, um, obviously because of the court proceedings I'm sure that there's things that you've become aware of since you did your interview.

Burbank: Right.

Rosenquist: Um, so in, during the interview and answering questions, if you do bring something up that you learned after your interview with Pierce County, just clarify that that's where you learned that from.

Burbank: Okay.

Rosenquist: If that makes sense?

Burbank: Yeah, it does.

Rosenquist: Kay. So March 3rd 2020 you were partnered with Officer Collins. Your call sign was Henry 317?

Burbank: Yes.

Rosenquist: And you were using Officer Collins' patrol car that night?

Burbank: Yes.

Rosenquist: Kay. You're at 96th and Ainsworth. Describe your observations that led to your contact with Ellis.

Burbank: Um, we were stopped at the intersection. It was a red light intersection. Uh, we were at the very front at the, uh, stop bar. Um, waiting for the light to turn green. We were heading, what direction is that, west towards like Hosmer Street, I think that's westbound. Um, and there was a vehicle stopped at the intersection on Ainsworth
waiting to make a left, west turn onto 96th. Um, and right about the time it started to
actually make that turn, um, a gentleman ran into the intersection, like stopped the
vehicle from moving and then ran to the, uh, passenger side door and started like
ripping at the door handle, trying to open the passenger door.

Rosenquist: And, did that vehicle eventually drive off? Did the subject get in the vehicle?

Burbank: Uh, he, he didn’t get in. The vehicle kinda s-, just kinda kept going, trying to get
away from him it looked like and then eventually just turned and then kept going on,
uh, down, uh 96th Street westbound.

Rosenquist: In your statement, you described the vehicle as “speeding off.” Um, did it drive off at
a normal rate, did it drive off in a manner that might’ve led you to believe that it was
trying to get away from the individual that was trying to open the door?

Burbank: I believe it was trying to get away from that person, like it didn’t know that person.

That was my impression at the time.

Rosenquist: Okay. So when Ellis starts approaching your patrol car, did he start for the patrol car
before or after Collins had rolled down the window and kind of verbally connected
with him?

Burbank: I, I don’t remember that part. I just remember he started coming towards our vehicle.

Rosenquist: Can you describe him coming towards the patrol car?

Burbank: Yeah. Uh, he was kind of quick, I don’t know if it was at a run, um, or like a jog, but
it was like quickly coming towards our car. He was trying to close that distance
quick.

Rosenquist: And how close did he come to the patrol car?

Burbank: Um, from what I recall, he came straight up to the pa-, uh, the driver’s door where
Collins was. Like right up onto the window.

Rosenquist: Did you observe i-, if Ellis had anything in his hand anything in his hands when he
approached the patrol car?
Burbank: Um, he was carrying some type of bag. I'm not sure what was in there. I think it was a plastic bag and I think maybe some water or something. Like a jug of water.
Rosenquist: Okay. What was the conversation between Collins and Ellis?
Burbank: Um, it just, I remember Ellis was like very, trying to think of the right word is, just it, hyper aware...
Rosenquist: You can re-, you can...
Burbank: Okay.
Rosenquist: ...refer to your statement...
Burbank: Okay.
Rosenquist: ...during the interview if you need to. I...
Burbank: Yeah.
Rosenquist: ...shoulda mentioned that earlier. Sorry.
Burbank: Yeah, right here, in, in my, uh, interview I st-, I used the term “hyper vigilant.” He w-, he was like that, kind of almost like pacing back and forth and kind of like darting his eyes around looking around.
Rosenquist: Okay.
Burbank: And, um, he extremely sweaty and he said something about he had warrants and needed help. And was just kind of, uh, very hyper vigilant.
Rosenquist: And this is while he was at the driver’s door?
Burbank: That was at the driver’s door, yes.
Rosenquist: Were you concerned, based on your observations? Were there any kind of alarms or warning bells going off?
Burbank: Oh yeah, its, that wasn’t normal behavior I didn’t felt like he was in a intersection, trying to open a car door, um, and then he was sweating. I remember it was cold that night, uh, sweating profusely, and then most people don’t run up to our cars, in my experience, and say, “I have warrants.”
Rosenquist: Okay.

Burbank: It’s just not a common occurrence in my experience.

Rosenquist: Okay. At that point in the contact, um, where did you feel you were at, uh, like reasonable suspicion where you need to just stop and detain Ellis or were you community caretaking function because he was asking for help?

Burbank: I think at that point I f-, not sure, I think at that point it was more of community caretaking ‘cause I don’t know if he has warrants or not. That’s not, but, you can tell me you have warrants, that don’t mean anything, I don’t even know who you are, um, but something wasn’t right. Just the fact that he was in the intersection stopping traffic and then approaching our car in that sweaty manner and just, it just didn’t seem right.

Rosenquist: Okay. So Officer Collins directed Ellis over to the sidewalk. Did Ellis ever make it to the sidewalk?

Burbank: No.

Rosenquist: So Ellis begins walking around the front of the patrol car?

Burbank: Yes.

Rosenquist: Go ahead and walk us through what happened next.

Burbank: So as he’s walking around the front of the patrol car, instead of going directly to the sidewalk, he kind of focuses in on me and comes directly to my passenger side window. Um, I put the window down slightly so I could tell him, “Hey, go to the sidewalk so we can pull over and help you. We’re stopped in the roadway, can you just go the sidewalk and we’ll, we’ll get out and help you.” Uh, he said something to the effect of, um, “It’s really hot. I just need to cool down. I need to sit down for a few days,” and then immediately says, “I’m gonna punch you in the fuckin’ face,” out of nowhere and he starts to rear back and hit the, so I start put the window up really quick and he starts striking the, uh, the window I’m at several times with his
fists. What I thought to be as hard as he could.

Rosenquist: Do you recall how many times he struck it?

Burbank: Um, I think I said in my statement, let's see, I said in the statement probably two or three times. It was at least two or three times. It was several times very hard.

Rosenquist: Did he strike the window or did he strike, um, the frame around the window?

Burbank: I believe it was the window, um, actually I'm certain it was the window.

Rosenquist: And when you said it was down slightly, uh, halfway, not quite halfway?

Burbank: Um, I can't recall exactly but I know I didn't put it all the way down. I would never let someone approach my car window and put my window all the way down.

Rosenquist: Okay. Was the window all the way up when it was struck or was it still going up?

Burbank: Um, I don't re--

Rosenquist: If you recall.

Burbank: ...I don't recall.

Rosenquist: Okay. Gary.

Roberts: Yeah, uh, have you given any other interviews since your, uh, March 6th 2000 interview with the County?

Burbank: Not at all.

Roberts: Ha-, have you seen any videos since then?

Burbank: I have seen, um, small clips of videos probably last summer, um, but...

Roberts: But...

Burbank: ...other than that...

Roberts: ...just through media?

Burbank: ...media, media, yeah.

Roberts: And, when you and, and Officer Collins initially see Ellis in the middle of the intersection there and the car drives away,..

Burbank: Mm-hm.
Roberts: ...does Officer Collins call Ellis over, does he say anything while Ellis is still out in
the middle of the intersection?

Burbank: I don’t remember if he did or not. I can’t recall if he did.

Roberts: Thank you.

Rosenquist: E-, earlier you mentioned that, um, Ellis was carrying a jug of water and like a
grocery sack,…

Burbank: Mm-hm.

Rosenquist: …what did he do with those items prior to striking the patrol car.

Burbank: I don’t recall exactly, but I believe he actually dropped them on the ground. From
what I recall, he had a empty closed fist when he was striking the windows, I don’t
think anything was actually in his hand.

Rosenquist: Did he ever throw anything at the patrol car?

Burbank: Not that I’m aware of, no.

Rosenquist: Okay. So earlier I asked you kinda where you were at in the con-, contact with Ellis
when he was at the driver’s side. Reasonable suspicion where you were gonna stop
and detain him, community caretaking, um, and you indicated at that point you
thought it was more of a community caretaking contact. Did that change once…

Burbank: Oh…

Rosenquist: …the threat was and he punched the window?

Burbank: …yes. Then he was attempting to assault me at that point and needed to be detained.

Rosenquist: So, are you at the reasonable suspicion or are you probable cause at this point?

Burbank: At that point I’m, I have probable cause that he is attack-, he’s, he’s made the verbal
threat to assault me and he’s, uh, actively attempting to assault me at that point.

Rosenquist: Okay. So, he makes the threat, he punches the window, what happens next?

Burbank: Um, after he had struck the window a couple times, it didn’t break, um, he
immediately went to grab the door handle and, I can’t remember if the door was, I’m
pretty sure I reached down and made sure the door was locked real quick and I just
started holding onto the door so he didn’t rip, try to rip the door open ‘cause he, after
he got ahold of the door handle he started actually trying to pull the door open.

Rosenquist: And, obviously, you mentioned in your statement that you felt he was a threat
towards you if he would have been able to get the door open?

Burbank: Oh yes. A hundred percent because I was seated in the patrol car with a seatbelt on,
I’m right handed, um, and I can’t defend myself sitting in the patrol car with my left
hand.

Rosenquist: Gary?

Roberts: Are, are you observing anything that Officer Collins is doing at this time?

Burbank: No. At that point my whole concern was jus-, I had all my attention holding that
door.

Rosenquist: So the door’s locked, he’s not able to get in, what happens next?

Burbank: Um, the next thing I’m aware of, Officer Collins had went ar-, had exited the vehicle
and went around the front of the vehicle and had made some type of verbal contact
with him that got his attention, ‘cause he kind of lost his focus on the door and
focused back towards the front of the vehicle where Officer Collins was.

Rosenquist: Did you see any physical contact between Officer Collins and Ellis at that point?

Burbank: No, not at all.

Rosenquist: So Ellis focuses on Collins…

Burbank: Mm-hm.

Rosenquist: …and in your statement you indicated that you opened the door to just strike Ellis
and divert, I believe you did describe, to divert his attention away from Collins?

Burbank: Right, because he had, he had turned to f-, I remember he had, when he lost focus to
the door he had turned to actually focus on Collins and kinda squared up like he was
ready to fight him at that point. I knew that I needed to get out of the vehicle with
him standing at the vehicle so I had to push the door open which also would cause
him to, I guess, kind of lose that focus on Collins for a second.

Rosenquist: Okay. So you said “squared up”...

Burbank: Right.

Rosenquist: ...um, any other indicators that you observed on Ellis?

Burbank: Not that I recall. I don’t recall hearing him say anything ‘cause I know the window
was up, the door was still shut but just that focus on Collins that he had squared up
like he was ready to fight him.

Rosenquist: So, based on our Department’s use of force policy, where would you put Ellis at
right now in the continuum?

Burbank: He was at assaultive behavior at that point.

Rosenquist: Okay. So, you hit Ellis with the door. Did Ellis fall to the ground, did he go down to
a knee? How did he react to that?

Burbank: He didn’t go to the ground, I know he did not go to the ground. I don’t even think he
went to a knee. I think he just kind of more bumped off of it and then I was able to
get out of the door.

Rosenquist: Okay.

Burbank: I don’t think it was that effective at all actually.

Rosenquist: And do you recall where Officer Collins was when that door check occurred?

Burbank: He was still a the front of the vehicle as I, I don’t know though. ‘Cause that was, I
didn’t see him, uh, eh, at that moment.

Rosenquist: Okay. So the door check occurs...

Burbank: Mm-hm.

Rosenquist: ...you were able to exit the patrol car...

Burbank: Yes.

Rosenquist: ...what happens next?
Burbank: Um, I start to exit the vehicle and I realize the car is still running so I reached back in and actually physically lock the doors cause we had the vehicle running with a rifle in there and another rifle in the back so I didn’t want the, um, Ellis to get I guess access to anything in the vehicle.

Rosenquist: And once you completed that, what did you observe?

Burbank: Um, by that time, check my report real quick, as though they were, they were in some type of physical contact at the f-, kinda the front of the vehicle around the like, I guess, the front right passengers, or the front right tire, or the front right headlight.

Rosenquist: Okay. S-, I’m gonna, this is from page six of your statement, um, “Once I’m able to get the door locked and exit, I’m not exactly sure, I don’t recall if Officer Collins and the suspect were already on the ground or I know they were in some type of contact with each other. Kind of wrestling around and I’m not, I don’t recall if they were still up on their feet but they were already on the ground.” So, can you clarify that? Were, were they on their feet, were they on the ground? Do you recall?

Burbank: I don’t recall, it was such a tangled mess, ag-, it was just like they were in physical contact with each other. It was, I don’t recall them being clean on the ground but I don’t recall them being on their feet at the same time. It was just like them together in front of the ve-, like at the, the corner of the vehicle.

Rosenquist: Okay. How did they disengage from each other?

Burbank: I know that, what I do recall was Officer Collins was, kinda had Ellis like wrapped up, trying to pull him to the ground at one point and Ellis was just striking, like Collins repeatedly with just like both hands while Officer Collins was trying to like pull him to the ground.

Rosenquist: So were they face to face at this point?

Burbank: I don’t recall, I believe they were face to face ‘cause I know Ellis’ back was kind of against the vehicle and so Collins couldn’t have been behind him so he was either off
kind of to his side or to his front.

Rosenquist: Okay. Okay. Um, real quick, I'm gonna show you what this is, this is a, a forensics image that Pierce County completed during their investigation and, um, there's some spots here that I want you to circle and number on the map, um, I, I think we're, ya know, we've gotten to number four where you first, well, uh, that's gonna be where you made contact but, um, ya know, I just number one where you first saw Ellis trying to contact the vehicle...

Burbank: Kay.

Rosenquist: ...number two, um, mark where he was on the driver's side of the patrol car, and then number three and four, just so we're all on the same page...

Burbank: Just circle and then, then...

Rosenquist: ...yeah,

Burbank: ...number it...

Rosenquist: ...yeah, just...

Burbank: Okay.

Rosenquist: ... yeah, just put a circle and number it.

Burbank: Alright, I would say, roughly the first one is right, I mean, without that vehicle there to have in complete contact it would be probably in this area, right here at the intersection as the vehicle is trying to make this turn...

Rosenquist: Okay.

Burbank: ...for number one, it's not completely accurate but in that general area. And then at the, he was directly at the driver's side of the window...

Rosenquist: Okay.

Burbank: ...for number two. If you can read that, number two...

Rosenquist: Yeah.

Burbank: ...number three, I would estimate somewhere right here, just around that front right
tire, front right headlight area...

Rosenquist: Kay.

Burbank: ...for their, their contact. And right there at number four is when I first, or number three number and number four would be the exact same place.

Rosenquist: Okay.

Burbank: So I'll just write a four next to it...

Rosenquist: Okay.

Burbank: ...is where I made initial contact with Ellis as well.

Rosenquist: Okay. And if you just want to sign and date it real quick...

Burbank: Yes.

Rosenquist: ...then you'll be done with that. So real quick, based off of this, between your number one and number two, Ellis had to cover a pretty significant distance to get to the patrol car. How far do you think that was?

Burbank: Um, without seeing the intersection I'd, thirty, forty feet out. I really don't know. I can't estimate it without seeing that intersection. It's been quite a while since I've been through there.

Rosenquist: Okay. So you're seeing the confrontation between Collins and Ellis, they're face to face, and you describe Officer Collins as trying to wrap Ellis up?

Burbank: That's what I, I recall, yeah. He was like mainly trying to pull him to the ground.

Rosenquist: And then, how did they disengage? I know I already asked you that but, how did they break up?

Burbank: It, when I saw, um, Officer Collins struggling to pull Ellis to the ground and Ellis just striking him repeatedly.

Rosenquist: Where was he hitting Collins at?

Burbank: He k-, kind of everywhere it looked like. He was just like wild strikes. I'm not sure if anything was connecting good, I just know that he was swinging pretty much what
I’d remember is fast and as hard as he could at Collins. Um, and I do recall Collins trying to reach for the radio and saying “fighting.” I remember him saying that and I thought he was trying to get out on the radio and said “fighting.” And it was around that area and that around that time, um, at that point I started trying to pull Ellis off of Collins and I also started striking at Ellis.

Rosenquist: Where were you striking Ellis at?

Burbank: Just anywhere I could. Um, he was throwing wild strikes, I was trying not to get struck as well, um, I can’t remember if I put it in my report, for my, uh, first interview. Yeah, is said I was just delivering strikes to his body. Just anywhere that I could strike at that point.

Rosenquist: Do you recall what you were striking him with?

Burbank: Just my fist.

Rosenquist: Okay.

Burbank: Yeah, my...

Rosenquist: So i-...

Burbank: ...my, my impact tool was actually in the, uh, vehicle. I have a straight baton that was in the vehicle...

Rosenquist: Okay.

Burbank: ...um, and I was just using a closed right fist.

Rosenquist: Okay. Gary?

Roberts: There’s a moment of time where you’re not, uh, where you’re moving to lock the car. You’re not observing Collins and Ellis...

Burbank: Correct...

Roberts: ...correct?

Burbank: ... I don’t, I don’t, I did not see their initial first contact with each other. I don’t know how that happened. I just know that it happened after I had struck Ellis with
the car.

Roberts: Thanks.

Rosenquist: So you’re striking Ellis. Is Officer Collins striking him as well or did they separate?

Burbank: I don’t know if he’s striking him, um, cause I believe at that point he was still just mainly just kinda trying to maintain or pull him to the ground, um, and that’s when I started striking at Ellis trying to break him off of, uh, Collins, um, once I started striking at Ellis it kinda looked like he had lost focus on and then kinda focused on me. He like directed his attention to me, is what I’d describe it as.

Rosenquist: Okay, so just continue the confrontation.

Burbank: Um, once he kind of focused on me, I re-, well I realized my strikes weren’t being effective. This guy seemed very strong, nothing was working strike wise on this guy, um, I was gonna try to deploy my taser see if that had any effect but I knew I couldn’t deploy it right there ‘cause y-, we were right on top of each other. So I actually turned and try to break and get some distance between myself and Ellis to actually draw my taser out so I could get a shot off on him and have some type of spread with the probes, um, I ran I’d estimate probably 10 to maybe 15 feet away from the vehicle, like into the intersection trying to get that distance so I could get my taser out. Um, thinking maybe, “alright if he breaks off of Collins and he takes off, he takes off,” um, but as I got the intersection it kinda turned over my, my shoulder he was right on top of me, Ellis was physically chasing me into the street.

Unknown: (coughing)

Burbank: And he was right on top of me.

Rosenquist: And what happened then?

Burbank: Um, we came into contact and I tried to kinda turn and defend myself, think I may have tried to strike at him but he was right on top of me and struck me and I went to the ground.
Rosenquist: When this occurred, do you remember where Officer Collins was at?

Burbank: No. I, I assume he was still probably around the front of the vehicle but I’m not sure.

Rosenquist: Okay.

Burbank: ‘Cause my focus was trying to get Ellis off of him and then trying to get that distance and to get my taser out.

Rosenquist: So you and Ellis reengage...

Burbank: Mm-hm.

Rosenquist: …at that point, you’re striking him again?

Burbank: I think. I don’t know if I’m striking him but I’m trying to just defend myself at this point. I’m just kinda turned and just like, he’s just right on top of me.

Rosenquist: And was he striking you?

Burbank: Yes.

Rosenquist: Where w-...

Burbank: He’s like...

Rosenquist: …where was...

Burbank: …he was like...

Rosenquist: …where was he?

Burbank: …like kinda like flailing right on top of me.

Rosenquist: Where was his hitting you at?

Burbank: Anywhere he could.

Rosenquist: Where were you hit?

Burbank: Um, I don’t recall exactly, need to, if I just stated in the interview. Said he was just kinda swinging wildly but he, I distinctly remember getting hit one time in the face.

Rosenquist: Okay. So you and Ellis are face to face at this point?

Burbank: I wouldn’t even say, well were face to face but it was not like on our feet, it was
like...

(banging sound)

Burbank: ...contact and then I was on the ground.

Rosenquist: Okay. Did Ellis ever get on top of you or were you able to get back up?

Burbank: No, he did not get on top of me.

Rosenquist: And did Collins reengage then?

Burbank: Um, when I w-, got back up and kind of got my bearings, um, cause I’d went to the ground, Collins, I believe Collins was on top of Ellis at that time, I’m not exactly sure if Ellis went to the ground when he struck, when we came into contact, or if Collins took him to the ground.

Rosenquist: What was their position at that point?

Burbank: Um, from what I recall, Ellis was on his back and, uh, Collins was kind of on top him, mounted and like striking him.

Rosenquist: Do you recall what he was being s-, what he was using to strike him?

Burbank: I believe it was, uh, his right forearm or maybe his elbow.

Rosenquist: Do you remember how many times?

Burbank: Uh, several. I’m not sure. I don’t recall the exact number.

Rosenquist: Okay.

Burbank: There were several strikes.

Rosenquist: Okay.

Roberts: D-, do you have your taser out at this point?

Burbank: No, I don’t believe I never even got it out, I don’t believe. But I don’t, I don’t recall. I don’t think I had time to d-, to deploy it yet.

Roberts: Thanks.

Rosenquist: And neither of you were able to get on, out on the radio at this point?

Burbank: Before that, Collins had tried to get on the radio, like I had said, he had said
“fighting.” I remember him saying “fighting” like he would say on the radio. I don’t know if he keyed out, I don’t really know if he got ahold of it but the way he said it, it was like he was calling that on the radio, “fighting.”

Rosenquist: Okay.

Burbank: Um, but at that point I had not been on the radio, no.

Rosenquist: Okay. So Collins is on top of Ellis, um, you described a mounted position, striking him...

Burbank: Right.

Rosenquist: ...what happened after that?

Burbank: Um, take a look at this real quick, when he was striking, uh,...

Unknown: (clearing throat)

Burbank: ... Ellis,...

Unknown: (clearing throat)

Burbank: ...I came back in and actually tried to kinda grab his legs and maybe control his lower body as well ‘cause I know he was flailing around...

Unknown: (clearing throat)

Burbank: ...while...

Unknown: (clearing throat)

Burbank: ...while, um, Collins was on top of him.

Rosenquist: And at this point Ellis is on his back?

Burbank: Yes.

Rosenquist: Was Ellis able to get up off the ground or partially off the ground?

Burbank: He eventually was, I, I do recall he was able to get, somehow he was to get off the ground, ‘cause it, shortly after that, Officer Collins was actually behind Ellis at that point.

Rosenquist: Do you know how that transition occurred?
Burbank: Um, I don’t recall off the top of my head. Let me look through this. I don’t recall the
exact transition but my interview I’d stated that he had just h-, he regained his
footing and Officer Collins had got to his back. I don’t...

Rosenquist: Okay.

Burbank: …recall it specifically.

Rosenquist: And one thing I kinda forgot to ask at the beginning of this is verbal commands. Are
y-, are you or Collins giving Ellis any verbal commands?

Burbank: I know at some point I was telling him to put his hands behind his back trying to
handcuff him, I, it was just so fast, I don’t recall my exact commands at all…

Rosenquist: That’s…

Burbank: … but I know there were verbal commands given during this.

Rosenquist: And, did Ellis respond to those at all?

Burbank: No, he was not responsive to anything. It was more just like a growling or like a
aggressive scream from him the entire time.

Rosenquist: Okay. So Collins is able to get behind Ellis at this point?

Burbank: Yes.

Rosenquist: And you describe what you believe to be Collins doing an LVNR application?

Burbank: It looked like Collins was attempting to place an LVNR on Ellis, yes.

Rosenquist: And just for people that are gonna review this later, what’s your understanding of
what an LVNR is?

Burbank: Um, it just a, it’s a neck restraint that, um, affects the blood flow to the brain that can
momentarily, I guess, incapacitate someone so they can be handcuffed and, um, put
under control.

Rosenquist: Did you see that result in your observations of Ellis?

Burbank: No, not at all. He still looked like he was trying to throw Matt off and, I, buck
Collins off while he was attempting to apply this LVNR.
Rosenquist: And, is that when, was that you're first taser application at that point?

Burbank: Yes, um, I'd, I got to my feet during that time and was able to draw my taser, or had my taser, um, and when I finally had a shot, or like a good target presented to me at one point Ellis kind of opened up, I guess his torso area, that's when I deployed the taser.

Rosenquist: And what was the result of that application?

Burbank: It was effective. He immediately kinda like we got that, uh, incapacitation effect of, that we were looking for with the taser deployment.

Rosenquist: And, did you try to do anything with Ellis while he was under the effect of the taser?

Burbank: At that point Officer Collins had physical control of him. I assumed he was trying to get him over, I d-, I don't know, I just had the taser, uh, but it had stopped that, it had stopped like that im-, that assaultive, ya know, behavior that he was having, um, but as soon as that sec-, that uh, cycle was over, he had gained like that strength back I guess, there was, he was back to, ya know, kinda bucking and throwing Collins around.

Rosenquist: So did you, did you end the cycle on your own or did you do the, the full five second?

Burbank: I believe, I believe I did the full five sec-, second cycle. I don't recall...

Rosenquist: Okay.

Burbank: ...ending the cycle early at all.

Rosenquist: Once the cycle ends, Ellis?

Burbank: He's kind of, he's like he, he's kind of regained that strength and starts to get to his feet again.

Rosenquist: And, that led to another application?

Burbank: Yes. I gave him a second application at w-, at which point Officer Collins, we were able to get him kind of on his stomach into more of a handcuffing position during the
Rosenquist: And what was, Ellis is on his stomach, what was your position on Ellis at that point?

Burbank: I don’t recall that point when I, ‘cause when I deployed the taser that second time, I didn’t have any physical contact with him but once he was in a like prone handcuffing position that’s when I went to control like lowered his lower body. I kind of wrapped his legs up with my legs on the ground.

Rosenquist: And did Officer Collins have Ellis’ upper body?

Burbank: I believe so, yes.

Rosenquist: Do you recall where, how Officer Collins was controlling Ellis’ upper body?

Burbank: No, I don’t. Let me look through my interview really quick. Uh, I’d stated that, um, I was focused on trying to pull his right arm out from under his body and Officer Collins was co-, trying to control his left arm. Cause at that time when he initially went to the ground, when we got him in that handcuffing position, he had went down with both arms directly under him, like pinned under his body.

Rosenquist: When this occurred did you ever see Officer Collins put a knee on Ellis’ neck, on the back of Ellis’ neck.

Burbank: No, not at all. Not, I was so focused on controlling his arms.

Rosenquist: Okay. So Ellis is on his stomach, he’s got his hands tucked underneath him...

Burbank: Right.

Rosenquist: …you’re still trying to handcuff him...

Burbank: Right.

Rosenquist: …what happens next?

Burbank: Um, he’s, seems like he’s got that, like I’d mentioned earlier, that strength like he was almost like, almost able to buck us both off of him trying to control him, um...

Rosenquist: How was he trying to buck you off?

Burbank: Well, I guess just kinda like throw his body backwards, does that make se-, if that
makes sense, kinda like a horse or somethin' I can't really...

Rosenquist: So, a word we've heard in a lot of these interviews is "a worm."

Burbank: Oh, that, that would make sense, yeah. Kind of, I guess, shift his body weight front
to rear kind of that motion, I guess.

Rosenquist: Okay.

Burbank: Um, I know he was also trying to kick his legs cause I had, I recalled actually
wrapping, trying to wrap his legs up with mi-, like kinda pin his legs between mine, I
guess my thighs would be the.

Rosenquist: So, you described Ellis as kicking, was this, was he kicking to try to get away or was
he targeting his kicks to assault you?

Burbank: They were just, they were wild flailing, Um, I don't think he was trying to get away
at any point, um, the entire time that we were in contact with him, I never felt he was
trying to evade us. My contact with, he w-, coming at me that initial contact after
he'd broke away from Collins, I just, I don't think he was ever trying to get away. I
think if anything he was trying to get to his feet to continue assaulting us.

Rosenquist: So do you think, was there ever an opportunity during your contact with Ellis where
he had the opportunity to flee from you?

Burbank: Multiple times. Yes.

Rosenquist: Okay. So back to second taser application, Ellis is on his stomach, he's tucked in,
you're still trying to handcuff him.

Burbank: Right.

Rosenquist: What happens next?

Burbank: I remember the, uh, the first we were able to get his left hand in a handcuff the
quickest. That was the first handcuff we were able to get on a left hand. His right arm
was still tucked un-, under him for a significant amount of time. Um, I end up, I
know I deployed the taser again, trying to, uh, get that compliance, get that hand out
from under him.

Rosenquist: Eventually you were able to get Ellis into handcuffs?

Burbank: Yes.

Rosenquist: Were you and Officer Collins the only one there when the handcuffs were applied or at that time had anybody else arrived?

Burbank: No, as far as I re-, I was aware we were the only ones there. I don’t recall anyone else being there when the handcuffs were applied.

Rosenquist: Okay, so Ellis is handcuffed, is he still on his stomach at this point?

Burbank: Yes.

Rosenquist: What is your position on him at that point?

Burbank: I am mo-, I’m still kinda that straddled around like I guess his butt, trying to pin his legs.

Rosenquist: And what’s Officer Collins position?

Burbank: I, I don’t recall at that point.

Rosenquist: And, did you maintain that position until other officers were on scene?

Burbank: I, I believe I did. The first officer I remember showing up on scene was, uh, Sergeant Lim, cause I remember we were facing south, we were kind of in the intersection facing south at that point, down towards, um, down Ainsworth Road. Um, and I remember the first car I recall was Sergeant Lim pulling up from, coming from west to east and him running over and I re-, I specifically remember him running up and trying to like grab Ellis almost like he didn’t think he was handcuffed yet. Like him grabbing to try to force his hand behind his back to our handcuff, but I said, I remember saying, “No, he’s cuffed,” and I just kind of rolled off of him at that point.

Rosenquist: Okay. This is gonna sound like a weird question, but, how did you know it was Sergeant Lim?

Burbank: I just recall his silver SUV and car number. That’s the first thing I remember seeing
cause I know he's, he was, uh, he's our supervisor, he had that same car since I've
worked for him and I just remember his silver SUV pulling up and seeing the car
number.

Rosenquist: Okay, any chance that it was a County Sergeant and not Sergeant Lim or are you
positive it was Sergeant Lim?

Burbank: I'm, at the time I was pretty sure it was Sergeant Lim. That's the first person I
remember...

Rosenquist: Okay.

Burbank: ...having any contact with.

Rosenquist: Okay. Gary?

Roberts: C-, Could anybody have been with him?

Burbank: With, in Sergeant Lim's car?

Roberts: With Sergeant Lim when they came or when Sergeant Lim...

Burbank: Nobody woulda been in his vehicle but if someone arrived at the same time as him I
don't know, but I, if they did I don't recall it, I just remember focusing, seeing
Sergeant Lim and being glad that someone was there to help.

Roberts: Thanks.

Rosenquist: So at this point Ellis is still on his stomach?

Burbank: Um, when Sergeant Lim arrives? Yes.

Rosenquist: How did the hobble come into play?

Burbank: Um, he was, after being handcuffed, um, he was still violently kicking, uh, flailing
around, kicking his legs, um, I think there was an officer, maybe two officers, I'm
not sure who, I was actually still trying to control his legs at that point from kicking,
um, someone had asked about a hobble. I'm not sure who. And I remember someone
ran up and said they didn't have hobbles, someone had been looking for hobbles,
they didn't have 'em, and I knew that we had hobbles in our car so I went and got the
hobbles out of our glove box and brought ‘em back.

Rosenquist: So when you leave Ellis to go retrieve the hobble, who is left at the scene controlling Ellis?

Burbank: I, I don’t know if his leg, um, like I said I remember Sergeant Lim, he was the first officer I remember being there, but I kind of got that relief from him for a second and got u-, ya know, left that contact with Ellis. The next thing I know there was numerous officers there. I’m not sure who all was there.

Rosenquist: Okay. You retrieved the hobble, you bring it back. Can you describe the application of it?

Burbank: Uh, yeah, we, um, I remember Sergeant Lim helping me control his legs so we could get the hobble wrapped around his ankles. Cause I, I r-, I specifically remember Sergeant Lim on the right side of Ellis hol-, trying to control his legs so we could get the hobbles wrapped around his ankles.

Rosenquist: So once the hobble is wrapped around his ankles, what ha-, how did you finish the hobbling process?

Burbank: Um, we, uh, re-, secured them to his handcuffs.

Rosenquist: So once the legs were secure, how much of the hobble to you have left. I mean, the way I’ve asked it in the past is, is the lead. How much do have coming from the ankles to the end of the hobble?

Burbank: I, I don’t know, it’s might be, I, I, I don’t know. I, I couldn’t give you a measurement.

Rosenquist: Okay the hobble’s attached to the handcuffs…

Burbank: Yes.

Rosenquist: …what was the position of Ellis’ legs at that point? Were they 90 degree angle, were they bent towards his, his back?

Burbank: Oh, oh, um, I, I, I get it. Um, I would estimate probably a 90 degree angle just kind
of like a, like just bent 90 degrees. That I know that the hobbles weren’t pulled like
tightly up, like h-, h-, up like ankles to his feet, uh, that wasn’t…
Rosenquist: Okay, s-, so was he bowed at all?
Burbank: I don’t recall his exact position. Cause it, once they were applied, I was kind of
away.
Rosenquist: Okay. Okay. Gary?
Roberts: A-, and you mentioned, uh, ankle to his feet, did you mean ankle to his hands?
Burbank: Yeah, yeah, yes. Sorry. Ankle to hands.
Roberts: Are ya gonna get into training at all?
Rosenquist: You can.
Roberts: So, the hobble i-, that’s in Officer Collins’ vehicle…
Burbank: Mm-hm.
Roberts: …h-, is that issued to him? How, how…
Burbank: I believe it is, um, I just recall me and Officer Collins had been partners for several
years, three maybe going on four years at this point and I remember that hobble
being in his first issued patrol car of seven forty. Um, I always assumed it was a
issued piece of equipment.
Roberts: Kay. H-, have you guys used it before?
Burbank: Um, yes, I’ve been at several scenes where hobbles have been used, yes.
Roberts: H-, have you been trained on the use of the hobble by the Department at all?
Burbank: Not that I recall, no.
Roberts: Thanks.
Rosenquist: Training, um, Sergeant Roberts asked you about Department, did you receive any
training in applying a hobble at the academy?
Burbank: Not that I recall no.
Rosenquist: So just, you have no recollection of having any specific training related to a hobble
application at all?

2 Burbank: I can't remember any, no.

3 Rosenquist: Okay. So after Ellis is hobbled, um, you wrote in part that Ellis started to turn his
head and tried to spit at officers?

4 Burbank: Yes.

5 Rosenquist: Can you explain that?

7 Burbank: Yeah, I remember he was still on his stomach and he was looking backwards trying
to spit at officer that were around him. Like I said, there were several officers at that
point, um, all ov-, all around and he was just trying to spit on officers.

10 Rosenquist: Did you observe any blood coming from Ellis' mouth at that point?

11 Burbank: No, not at that point, no.

12 Rosenquist: So, to the best of your knowledge, it was just saliva that he was...

13 Burbank: Yeah, I believe it was just saliva.

14 Rosenquist: Do you know who asked for the spit hood?

15 Burbank: No I don't recall. I re-, I do recall someone mentioned the spit hood and I went to our
car to see if we had one, I looked through our car and we didn't have any.

17 Rosenquist: Do you recall who eventually put a spit hood on Ellis?

18 Burbank: No, I didn't find out until months later who actually did.

19 Rosenquist: Okay and that was, just so we're clear, this is kinda what we got into at the beginning
of the interview...

21 Burbank: Right.

22 Rosenquist: ...so you found out who put it on but it was after your interview?

23 Burbank: It was probably like December of last year that I found out, probably six months or
more out.

25 Rosenquist: Okay. So let's, let's focus on what, on what you knew at the time....

26 Burbank: Okay.
Rosenquist: ...you did your interview with County. At that, you did, you didn’t recall who put it on at that time?

Burbank: No, I had no idea.

Rosenquist: Do you recall Ellis’ position when it was put on him?

Burbank: Not when it was put on him, when it was put on him I wasn’t present, um, after, after he was restrained with the hobbles, I was, there was so many officers, I was so smoked from that, uh, altercation with him I was kind of away from him for the majority of that time.

Rosenquist: S-, so once the hobble was applied, did you have any more contact with Ellis or were you pretty much done at that point?

Burbank: I remember one more contact, uh, several minutes later where he was in a, um, I guess a recovery position on his side and my, um, my hat that I was w-, my patrol hat I was actually wearing that night had came off, I didn’t realize it, but it was under, had been under his body. When he was rolled over it was actually under his body, my patrol hat.

Rosenquist: Okay. Do you know how long he was on his stomach while handcuffed and hobbled before he was put in a recovery position?

Burbank: No, I have, I have no idea.

Rosenquist: Do you recall if he was ever placed back onto his stomach again?

Burbank: I don’t know if he was, um, I do recall at one point when I found my hat, I said, “Make sure he stays in a recov-,” I’d walked over and I said, whoever was tending to him I said, “Make sure he stays in a recovery positions or you can, it can help with position.”

Rosenquist: When you went back to recover your hat, did you observe what Ellis’ condition was?

Burbank: Um, he had the spit hood on and I think that’s when I saw a little bit of blood like maybe in the spit mask and around his mouth, um, but he seemed to be just laying
there quietly, just looking around. I remember his eyes just kinda looking around,
just laying there.
Rosenquist: So, responsive?
Burbank: From what I could tell, yeah. I didn’t like engage with him but he appeared…
Rosenquist: Correct.
Burbank: …to be responsive, yes.
Rosenquist: And breathing?
Burbank: Appeared to be, yes.
Rosenquist: Okay.
Burbank: He didn’t appear to be in any type of distress that I could see.
Rosenquist: Okay.
Roberts: Y-, you mentioned that, uh, uh, you were smoked?
Burbank: Yes.
Roberts: What’s the term “smoked” mean?
Burbank: I was extremely just I was out of breath, I was out strength, that, that fight I estimate
it last, I probably two to four minutes from start to finish and I was, I had nothing left
in me to f-, I couldn’t fight somebody else like that again right there, if that makes
sense.
Roberts: Yes. And, and did you have any concerns at the time of the spit hood, uh, being
applied? Did it seem appropriate?
Burbank: It, yes, it seemed appropriate, um, he was spitting at officers.
Rosenquist: In your statement there’s a couple comments after the, the spit hood. You stated that
“there’s still several officers restraining the suspect.” How were they restraining
Ellis?
Burbank: Um, maybe the wording “restraining,” they were just more with him, I don’t think no
one would be pinning him down, more just kind of controlling any movement he
Rosenquist: Okay. You also said, “After I had been relieved, like I said, there were several officers kind of contained, restraining him and keeping him on the ground.”

Burbank: Right.

Rosenquist: So you’re, you’re telling me is, they weren’t physically putting pressure on him to keep him on the ground?

Burbank: Not that I recall. I recall when he was on his side, um, people being with him and just kind of, just with him I guess. And when I say restrain I mean just kind of controlling him, if that makes sense? Not physically laying on top of him. There would be no need for that.

Rosenquist: So, would controlling him through presence?

Burbank: That, that makes more sense that the word “restraining” does.

Rosenquist: And do you remember who at that point was kind of, who was with Ellis or who was monitoring him?

Burbank: I have no clue. Like I said there was, a-, by this point there was probably in my estimation ten to twenty officers there.

Rosenquist: Okay.

Burbank: So many officers there, I’m not sure who was even on scene.

Rosenquist: During your contact with Ellis, did you hear, ever hear him state, “I can’t breathe,” or anything similar?

Burbank: No, I did not.

Rosenquist: Kay. So, Ellis is on his side, Fire arrives...

Burbank: Right.

Rosenquist: …did you assist Fire at all?

Burbank: When Fire got there, uh, I had been sitting in the patrol car, uh, I guess taking, ya know, catching my breath, drinking water. I saw Fire when they actually got up to
Ellis on foot, um, I went back to help cause I thought that we would have to probably maybe take him out of restraints if those hobbles, if we were gonna put him like on a four point restraint on like one of the gurney’s or something. So I went up there to help any way I could.

Rosenquist: And you assisted in the removal of the restraints?

Burbank: Yes.

Rosenquist: Do you recall what Ellis’ condition was at that point?

Burbank: No, I was just, I helped pull the restraints off of him, uh, I flipped the, they, uh, restraints, take ‘em off of his ankles and the I just kind of stepped back out of the way and let Fire kind of do their thing. I have no idea what was going on with him.

Rosenquist: Do you recall Ellis’ position when the restraints were being removed?

Burbank: No I don’t I would assume probably on his side for us to actually access them.

Rosenquist: Okay. Were you present for any of the conversation between the officers that were monitoring Ellis and Fire? We’ve been told that there was a discussion, almost an argument, over the removal of the restraints?

Burbank: I got there, there was some back and forth, um, I’m not exactly sure what was said. I know that Fire had said something about the restraints and then someone said, I, I, I don’t recall, I just remember there was some type of back and forth. I’m not sure exactly what it was or who it was between.

Rosenquist: Okay.

Burbank: And I remember, I think it was Sergeant Lim said, “Removed the restraints,” and that’s we removed the restraints.

Rosenquist: Okay.

Roberts: It was, was it a long delay?

Burbank: Not that I recall. It couldn’t have been more than a few seconds cause I got up there, Fire was up there and then we were taking the restraints off.
Roberts: And, and do you recall who, who called Fire? Who called for medical aid?

Burbank: Uh, I have no idea.

Roberts: Was it you?

Burbank: I wasn’t me, no.

Roberts: Were you ever in a position that you could call for medical aid?

Burbank: No, I got out on my radio one time, um, before any help arrived and that was, I remember, putting out 96th and Ainswor-, Ainsworth on the radio and that was the only radio traffic I ever got out.

Roberts: Once, once the scene with Ellis was somewhat stabilized, did you call for medical aid?

Burbank: I did not. Someone else did at some point but I believe it was pretty quick, but it was after there was officers there present with us.

Rosenquist: So you were already aware that medical aid had been requested?

Burbank: Yes, I knew medical aid was requested and I recall, um, the radio traffic asking, I think it was for a four-point restraint as well based on his actions.

Rosenquist: Okay.

Burbank: But I don’t recall who said it or when exactly that was said.

Rosenquist: You’d mentioned seeing blood inside the spit hood that was on Ellis. Did you observe any injuries at all to Ellis during this incident?

Burbank: No, uh, I didn’t look h-, look him over, if that make sense, um, we were just, we were there trying to, uh, restrain him and then once we were relieved I was, like I didn’t have much contact with him.

Rosenquist: Did you have any injuries?

Burbank: Um, I, I remember I had scraped, I think, I can’t, let me look through, I remember I had got something photographed, I think I had scraped my knee when I went to the ground and the next day my shoulder had actually hurt pretty bad, I think from when
I went to the ground, uh, but I didn’t get checked out medically, no.

Rosenquist: Okay. Did Officer Collins have any injuries?

Burbank: Um, I believe he had some type of, um, some scrapes on his maybe his arms or elbows, I’m not certain.

Rosenquist: Okay.

Burbank: And I remember his watch had been like shattered.

Rosenquist: Okay.

Roberts: Do you know who removed the spit hood?

Burbank: I do not.

Roberts: And I don’t know if it was asked.

Rosenquist: No, I didn’t.

Roberts: What, uh, when the restraints were removed from, uh, Ellis, do you, do you recall his condition?

Burbank: No, I, I, like I said, I would not have, after the hobbles were removed, I stepped back and I went back to our patrol car and just sat.

Roberts: Was he resistant at all to the removal of the...

Burbank: I don’t, I don’t recall him being resistive.

Roberts: And do you, do you remember who you were assisting?

Burbank: Um, there was so many officers, I remembered Sergeant Lim saying take the hobbles off, I believe it was Sergeant Lim, but there was so many officer, I, I couldn’t tell ya who all was there.

Roberts: Thanks.

Rosenquist: We have some photos we wanna show ‘em and the videos.

Burbank: Yep.

Rosenquist: Do we want to push through or do you guys wanna take a break or do you wanna some input before we take a break, how do you wanna do it?
1 Betts: Yeah, can I go back and...

2 Rosenquist: Yep.

3 Betts: ...cover one or two things?

4 Rosenquist: Yeah.

5 Betts: Um, kinda most recently, uh, well, I know we’re calling you Shane but it’s Chris Burbank but you go by Shane, right?

6 Burbank: Right.

8 Betts: Okay. Uh, we were just talking about your injuries, do you recall having a, a, a bloody lip or a bloody mouth at all, being worried about an injury inside your mouth?

11 Burbank: I do, I remember, uh, tasting blood in my mouth, um, and I had, I remember Sergeant Lim actually, I asked him to look in my mouth with his flashlight, see if I had any cuts or lacerations or anything in my mouth.

14 Betts: And did that persist for some time? I know you were later at the County substation, did that feeling of maybe an injury to your mouth persist for a while?

16 Burbank: I, I, I don’t remember. I just, I remember having that pain I believe it was in my, my knee from when I had went to the ground. I can’t remember if my knee now or my elbow it’s been so long.

19 Betts: Okay. Um, and now kinda going back to the beginning, when you were initially with the initial contact with Ellis, uh, you talked about when he came around the car and then he changed focus and you used the term “squared up” a lot…

22 Burbank: Right.

23 Betts: …uh, when he turned to face, uh, Officer Collins and as you’re explaining that to Sergeant Rosenquist, you’re showing us, you’re clenching both of your fists…

25 Burbank: Right.

26 Betts: …when you’re showing us that. Is that, uh, what Ellis did or you’re, you’re
describing it but I’m seeing your mannerisms where you’re showing it to us. Is that what he did...

Burbank: Yes.

Betts: ...or are you just...

Burbank: When I, when I, when I use the term “squared up” um, very common to see that when someone’s about to fight you I guess in this line of work and they’ll usually square their chest up to you, uh, clench their fists, that type of behavior.

Betts: And that’s what you saw that night?

Burbank: Yes.

Betts: Okay. Um, after that, there was a, a little bit of a contact before him when you described Collins as “trying to get Ellis to the ground and Ellis is throwing punches at Collins” and you demonstrated, uh, kind of a wrapping motion with your arms. Do remember Collins being wrapped around him with the arms?

Burbank: I don’t re-, I don’t re, it was so fast and fluid at that point, it was just like them like tangled up and I remember just, uh, Ellis just striking, just repeatedly at Collins.

Betts: Yeah. Okay. Um, I know you talked about the first person that you saw arriving was Sergeant Lim.

Burbank: Right.

Betts: In other portions of this, we’ve talked about kind of this, this fight taking place and you’re not sure where even Collins was during portions of the fight...

Burbank: Right.

Betts: ...the first person you remember seeing a-, added to you and Collins is Sergeant Lim...

Burbank: Yes.

Betts: ....is it possible other people could have been arriving that you didn’t see?

Burbank: Um, I later found out that, uh, Rankine and Ford were actually the first ones there
and then I again later found out that I guess two officers from County were there as well. I was completely unaware of that I just remember being focused on restraining, uh, Ellis and then seeing Sergeant Lim’s car arrive and park next to me.

Betts: And real quick, I think Sergeant Roberts already kind of, uh, reiterated this but I want to make sure, uh, when the hobble’s applied and the hobble goes from the ankles to the handcuffs, you said, “ankles to feet” but you meant where the, the ankles close to the handcuffs and the hands and I believe what you said is they were not?

Burbank: Right.

Betts: Okay. Maybe a 90 degree angle as you remember it?

Burbank: As much as it could be a 90 degree angle, I’m not sure the length of the hobble itself but it was, cause the way that a hobble works to, to have it fully restraining the ankles there, you’ve got the full length of that hobble still left with the clip at the end and it was, so it was the full length of whatever was left.

Betts: Okay. Um, you described Mr. Ellis actually grabbing your door handle and pulling on the door handle?

Burbank: Yes.

Betts: And then later you said that after the fight and you kind of are relieved from other officers, you went and sat in the patrol vehicle?

Burbank: Yes.

Betts: You sat back in your own seat at your own patrol vehicle?

Burbank: Yes.

Betts: The door was closed, I’m assuming you opened it with the door handle?

Burbank: Yes.

Betts: Okay. That’s all I have of what we’ve done so far.

Rosenquist: Okay.
Betts: I don’t if, yeah, Mr. Fricke’s? Maybe a quick break and then we go on with

Roberts: L-...

Betts: ... photos and videos?

Roberts: ...let me a-, l-, i-, is there a point during this encounter with Ellis where you become
fearful?

Burbank: Well, yes, um, this might sound crazy but me and, me and Collins had been partners,
like I said, for three or four years. I knew Collins has a strong, uh, background in
wrestling, uh, like a Jujitsu thing, um, I’ve never seen anybody able, and we’ve been
in a lot of altercations together. I’ve never seen anyone able to overpower Collins,
ever, in all the alter-, altercations we’ve been in. To see him struggling with Ellis
initially when I was able to get out of the vehicle and lock it and Ellis is
overpowering and striking him, that scared me. ‘Cause if, if Matt’s losing a fight,
I’m gonna lose that fight, um, and I think I became the most fearful is when he broke
away from Collins and I was trying to create that distance, instead of him fleeing, he
came after me. I’ve never had that happen. Ten years at that time in law
enforcement, I’ve never had anyone physically chase me down. That’s not, that’s not
someone trying to evade, that’s someone trying to hurt me, and that was very scary.

Roberts: Thanks.

Rosenquist: We ready for break then?

Betts: Yeah, quick break?

Rosenquist: Okay. This is Sergeant Rosenquist. It is 1157, we are off tape.

Rosenquist: This is Sergeant Rosenquist, it is 1203. We’re back on tape. Uh, Shane confirming
that you’re aware this interview is still being recorded?

Burbank: Yes.

Rosenquist: And, being recorded with your permission?

Burbank: Yes.
Rosenquist: Okay, um, we’re gonna show you some photos and then we also have some videos...

Burbank: Kay.

Rosenquist: ...we’re gonna show you as well. So, we’ll start with the photos. So, these are all taken by Pierce County Sheriff’s Forensics and this photo is of 96th and Ainsworth, facing west and it shows this passenger side of the patrol car and that’s, uh, Officer Collins patrol car, and couple things I want to point out is, um, next to the curb. Does that look like the water bottle? You can stand up and take a look if you want or we can zoom in if we need to.

Burbank: It looks like a water bottle, but can’t say specifically that’s the one he had in his hand that night. I don’t recall.

Rosenquist: Okay. And, do you know what the item here is at the bottom of the patrol car on the ground?

Burbank: It looks like, uh, I recall him having some kind of like doughnuts or something, possibly the, like the doughnut box or somethin’.

Rosenquist: Okay. Go ahead and, let’s just get to the close up. That’s another photo just of the passenger side of the patrol car with the, the box right underneath of it.

Burbank: Okay, yep.

Rosenquist: So, the photo I’m shah-, gonna show you now, it’s a close up of your passenger window and when County took this, they didn’t take any samples and this is why I asked you earlier if Ellis had thrown anything at the car, um, we’re not sure if this is powdered sugar off of the doughnuts, but it appears that something made contact with your window and given the striations, the window more likely than not was going up when it, the substance made contact with it. I mean, do you recall s-, ever seeing anything on his hands or anything attached to the window?

Burbank: No. I just remember him striking it with a fist several time. That’s all I recall.

Rosenquist: Okay. Alright.
Burbank: After this, if I can clarify though, after this picture was ta-, or before, I guess before this picture was taken, I had been in the car for quite some time and may have put the window up or down several times for someone comin' to speak to me, 'cause like I said between the time I was relieved and Fire got there, I was in the car for like extended period of time.

Rosenquist: Okay. So just for, just to clarify, so it's likely you moved the window up and down between the times where Ellis punched it to when it would've been photographed by County?

Burbank: Yeah, I can't specifically remember, but I do recall being in the car for an extended period of time and people were coming up to check on me, um, periodically so I know I was speaking to people.

Rosenquist: So any idea...

Burbank: So it's possible...

Rosenquist: ...any idea what that substance is or how it got there?

Burbank: No, I've...

Rosenquist: Okay.

Burbank: ...I don't remember seeing it.

Rosenquist: Okay.

Roberts: Do you remember stepping on the, the, the box of doughnuts by chance?

Burbank: No, not that I remember.

Roberts: Or, if you did, I, I. We gonna go onto videos?

Rosenquist: Yep.

Roberts: So, we'll start with, um, video from Ms. McDowell, one of two.

Burbank: Mm-hm.

Roberts: And, uh, cell phone video from Ms. McDowell, part one and this is in time reference at 23:21:46 is when this video, uh, in a, in a time span when it starts.
Burbank: Okay.

Roberts: So let me, uh, stop it here. Size it. And try to go back to it. So, that’s how the video starts the first frame of it…

Burbank: Okay.

Roberts: …um, and I’ll let it run. Uh, it’ll, it’ll, it’s a 37 second video so let me mute it because, uh, what’s being said is not important in this instance. We’ll just run it a couple times, let it play through.

(extended silence) 01:03:01 – 01:03:50

Rosenquist: We can slow it down on the next cycle too if you want us to?

Burbank: Yeah, let me see the beginning next time. It’s just hard to kinda see.

(extended silence) 01:03:57 – 01:04:25

Roberts: Let me go back to the beginning now that I’ve increased the speed a little bit.

(extended silence) 01:04:30 –…

Unknown: (coughing) 01:05:14

…01:05:49

Roberts: So, we’re at the beginning of the video again, are, are, are you able to narrate any of that? Are you aware of who this officer with his back…

Burbank: Can’t really tell…

Roberts: …could it be Collins?

Burbank: …I believe it’s Collins just based off his stature.

Roberts: And if I play, we’ll, we’ll concentrate on this first, uh, ‘bout twelve seconds. So…

Burbank: Okay, yeah, so that’s gotta be Collins. That’s me, that’s right as I, um, Ellis had kinda chased me down and made contact with me. And this is me falling out of, kind of I guess, camera view.

Roberts: And, and any idea how Collins got behind you?

Burbank: No, I just, I was under the impression he was still like back here towards the car and
I went that way and that’s when, uh, Ellis had actually, ya know, chased me to the intersection.

(extended silence) 01:06:48 – 01:07:05

Roberts: And, and when you’re reengaging you’ll come back with your taser in hand.

Burbank: Okay, yeah, I do have my taser.

Roberts: And that’s about what we get out of that video.

Burbank: Okay.

Roberts: John?

Rosenquist: So, obviously this video doesn’t show Ellis in the middle of the intersection or approaching the driver side of the patrol car or punching your window...

Burbank: Right.

Rosenquist: ...what occurred in your contact with Ellis prior to the beginning of this video?

Burbank: Wh-, what, what do you,

Rosenquist: It’s the, as far as the physical confrontation involving you and Officer Collins and Ellis?

Burbank: Before this video?

Rosenquist: Yes.

Burbank: So this is after, um, this is after Ellis had started punching the window, this is after he had tried to open my door, this is after he and Collins were in that physical confrontation towards the right front of the car, um, this is after I had attempted to pull him off of Collins and that’s, this is right where, this is kinda where Ellis had chased me away from the car and made contact with me.

Rosenquist: Okay, can you play it forward a little bit? And, and I’ll tell you when to pause it.

Roberts: Let me see if, doing it one more.

Rosenquist: So that’s, okay. Go ahead stop. So is that where, around this time, we’re about three seconds into it, where you talked about Officer Collins being mounted?
Burbank: Yeah, I believe this, this is right here where Officer Collins mounted on Ellis and was striking him.

Rosenquist: Okay.

(extended silence) 01:09:17 – 01:09:34

Rosenquist: I don’t have anything else on this one.

Roberts: Henry?

Betts: Nope.

Roberts: Kay. So we’ll, we’ll bring this into the second part of that video, uh, there’s a pause, uh, inadvertently stopped recording and, uh, video from, uh, Ms. McDowell, two of two. This is, uh, at 23:22 and 30 seconds.

(extended silence) 01:10:05 – 01:10:23

Roberts: And I, I’m gonna just leave it muted initially...

Burbank: Okay.

Roberts: ...just so we

(extended silence) 01:10:27 – 01:10:53

Roberts: I’m gonna unmute it and play it.

Burbank: Kay.

Unknown: (coughing)

(video audio begins, not transcribed for this document) 01:11:05 – 01:11:33

Roberts: And, you’re right handed?

Burbank: Yes.

Roberts: Taser is in your right hand, I think you can see the, uh, maybe not the taser but the, the, uh, in the right hand there in the red dot, uh...

Burbank: Yes.

Roberts: ...the indicator. Is Ellis in, being controlled yet?

Burbank: No, this is before he was in handcuffs. This was while trying to handcuff him.
Roberts: And, and is that you telling him to put his hands behind his back, if you can hear?

Burbank: Yes, that’s, that’s me trying to control his, I guess his lower body and then also pull his, uh, right arm out from under him.

Roberts: John?

Rosenquist: So, based on what we talked about earlier, is this video show the time between your second and third taser application?

Burbank: I, I don’t recall exactly the, the length of time between those applications, um, I just know that it took several applications before we could actually get him in handcuffs. I can’t recall the exact...

Rosenquist: Okay.

Burbank: …timeframe.

Rosenquist: And, just to clarify, was it you or Officer Collins that was giving him commands to, to put his arms behind his back?

Burbank: I think it was both of us. If you play it again, I believe it l-, may have been both of us.

Rosenquist: And there was also, before we play it again, there was a warning about doing it, doing it again. I don’t remember the exact verbiage. Was that a warning to Ellis that if he didn’t comply...

Burbank: I would deploy the taser again, yes.

Rosenquist: Okay.

(video audio begins, not transcribed for this document) 01:13:21 – 01:13:42

Roberts: When you finally get him, Mr. Ellis there in handcuffs, a-, a-, you indicate that you, and I don’t wanna put wods, words in your mouth but I believe you have to put this taser down?

Burbank: Right.

Roberts: And at this point you still have the taser in hand...
Burbank: Right.

Roberts: ...so, he's not in handcuffs yet?

Burbank: He's not in handcuffs 'cause I specifically remember after we actually got him in handcuffs, I pulled the, uh, cartridge off, threw it towards the curb and ended up securing it in my pants pocket. After he was fully in handcuffs.

Roberts: So are you still, you were still, after he was in handcuffs?

Burbank: After he was in handcuffs. Yeah, yeah, at this point he was not in handcuffs.

Roberts: John?

Rosenquist: Nothing.

Unknown: Mm.

Betts: Nothing.

Roberts: Wayne?

Fricke: Nope.

Roberts: Anything else you ne-, you would like to add to that?

Burbank: No.

Roberts: Go to the Vivint...

Rosenquist: Uh...

Roberts: ...video?

Rosenquist: ...no. No, no, um, Cowden.

Roberts: Oh, Cowden. And, uh, so this would be, uh, a different perspective, different angle.

Burbank: Kay.

Roberts: Pretty much of that second video we just watched...

Burbank: Mm-kay.

Roberts: ...to where, where, uh, i-, it initiates basically with Collins attempting the LVNR.

Burbank: Okay.

Roberts: And this is video from, uh, uh, Mr. Cowden. The timeframe it starts at 23:21 and 56
seconds.

Roberts: Let me pause it and start it again. And there is no audio to this one.

Burbank: Kay.

(extended silence) 01:15:35 – 01:16:37

Roberts: Tha-, that would appear to be the first taser application.

Burbank: Yeah, right, this was the first time I deployed the taser, somewhere in this clip. I don’t, I’m not sure if it’s actually caught on camera. It looks like it mighta been between that…

Roberts: ‘Cause now you see the wires.

Burbank: Right. As I recall I was just waiting for an actual open target to en-, deploy the taser.

(extended silence) 01:17:03 – 01:17:37

Roberts: And, doesn’t appear at any time that he’s ever, that Mr. Ellis is ever controlled or detained?

Burbank: No, not at all.

Roberts: Never handcuffed?

Burbank: No.

Roberts: John?

Rosenquist: I don’t have anything.

Roberts: And that was nothing from the Henry or Wayne. Anything else you’d like to add, uh, regarding this video?

Burbank: No.

Roberts: So, the next video we’ll get into is the doorbell video from across the street. It’s the, it’s titled the Vivint video all merged orig 1438, uh, South 96th is where the address is that this is being taken from and the timeframe that this starts where the officers are engaged with, uh, uh, Mr. Ellis is 23:21 and 47 seconds. So, let me set this up a little bit. So there is audio in this one and, uh, let me just start by saying that this was
all merged. They recovered eighteen or so, 30 second snippets of video from this
doorbell camera the first 30 seconds contain nothing other than movement in front of
the house prior to, uh, the engagement with, uh, the officers and Mr. Ellis. So we’re
gonna go to about the 28:07, uh, seconds and we’ll start from there. Your cars will
just appear uh, and we’re gonna let the audio play in this a couple times so you can
kinda adjust your ears.

Rosenquist: Kay.

Burbank: Yep.

Rosenquist: Before we start, um, this is a transcription of what we were able to get from the
video, um, you can read that and follow along if you want. We are gonna have, uh, a
couple questions about some statements that were specifically said in there.

Burbank: Okay.

Roberts: And, we’re just gonna start to play here.

(video audio begins, not transcribed for this document) 01:20:00 – 01:22:06

Roberts: A-, and we’ll stop there at about the 02:34 and I’ll go back to the beginning just to
put things in perspective here. So, this would be the vehicle here, uh, the Sara
McDowell video was, was, uh, uh, uh, videotaped from this perspective, uh, she is
alone in this car and she is being followed by her significant other with, uh, their
children…

Burbank: Mm-hm.

Roberts: …and so the hollering you hear hollering back and forth is her hollering at him…

Burbank: Okay.

Roberts: …and I think somewhere in there you mentioned hearing.

Burbank: I remember when we were, um, attempting to get him in handcuffs or somewhere
around the front of the car, um, there was yelling somewhere behind our car. I never
knew what it was from or.
Roberts: And then eventually, uh, there's a gentleman that comes out of, uh, this home, th-, the offhand the address, uh, his name is Shad Hayes and he's the one that you, uh, that asks you if you need help.

Burbank: Right.

Roberts: And I believe it's you that says...

Burbank: I said, "No, we've got people coming." Cause by that point I believe I could hear sirens and maybe even see lights coming down 96th.

Roberts: And, and again the confrontation is not captured there. It's some pixelated images...

Burbank: Right.

Roberts: ...if you look in front of the uh, uh, the amber light there when it goes off and on, you don't see any of the, uh, uh, encounter taking place. John?

Rosenquist: Um, no let's just go up to about, probably about 01:15, 01:16.

Roberts: So, we're interested in a portion of the video...

Burbank: Mm-hm.

Roberts: ...at about the 01:16 mark and, uh, you can follow it there. There, there should be a mark next to what's being said. And I'll play it. I'll play it a couple of times.

(video audio begins, not transcribed for this document) 01:24:18 – 01:24:30

Rosenquist: Do you know who said, "Try again."

Burbank: No, I can't tell what that is.

Rosenquist: It wasn't you?

Burbank: Not that I recall. No.

Roberts: Could it have been Officer Collins?

Burbank: It doesn't sound like him at all. But, I, like I said I, just this is the first time I've ever heard this. I don't recall this at all.

(video audio begins, not transcribed for this document) 01:24:52 – 01:24:57

Burbank: That doesn't sound like Collins to me, no.
1 Rosenquist: Any chance it was Ellis?

2 Burbank: I, I can’t say yes or no either way.

3 Rosenquist: Alright.

4 Burbank: But it doesn’t sound like me at all and it doesn’t sound like Collins.

5 Rosenquist: Okay. About 01:46 probably. 01:45, 01:46

6 Unknown: Okay.

7 Roberts: For?

8 Rosenquist: “I can’t breathe.”

9 (video audio begins, not transcribed for this document) 01:25:32 – 01:25:51

10 Rosenquist: Earlier I asked you if, if you had ever heard him say, “I can’t breathe,” or…

11 Burbank: Right.

12 Rosenquist: …anything similar and just confirming you never heard that?

13 Burbank: No, I don’t recall hearing him say that…

14 Rosenquist: Okay.

15 Burbank: …during that fight, no.

16 (video audio begins, not transcribed for this document) 01:26:08 – 01:26:30

17 Rosenquist: So this is specific to the courtesy allegation.

18 Burbank: Right.

19 Rosenquist: Um, it, it sounds like somebody may have told Ellis to “shut the fuck up.”

20 Burbank: Right.

21 Rosenquist: Did you say that?

22 Burbank: I don’t recall ever saying that, no.

23 Rosenquist: Do you recall hearing it?

24 Burbank: I don’t recall hearing it, no.

25 Roberts: And that’s your voice talking to Shad Hayes, correct?

26 Burbank: Yes, I was the one yelling at Shad Hayes. Cause I remember hearing someone yell
from like, I never even saw 'em, I just heard it come from like behind our patrol car
someone asking if we needed help and that's when I said, "No, we, we've got people
coming," or something similar to that.

Rosenquist: So you don't know who said "shut the fuck up" or in what context it was said?
Burbank: No, I don't recall ever hearing that while there.
Rosenquist: Okay.
Roberts: Anything else?
Rosenquist: Not on the videos, no.
Roberts: Henry?
Betts: Just, uh, for the record, you guys h-, we talk about these videos and we give
timestamps?
Roberts: Yeah.
Betts: Are they just the times that are listed on those videos or are these all?
Roberts: So, so the timestamps where I tell you that times they start are kind of
approximations based on in this case the Vivint video, gives ya a reference of when
it started. Now, we're also talking about a timestamp which is the running time of the
video itself. This video goes on for nine minutes and, uh, for where there's nothing
past a certain point, um, so yeah we're taking a couple of times and timestamps...
Betts: Yeah.
Roberts: ...the running time of the video.
Fricke: Just to be clear, the video goes on for 9:21, I guess for according to the timestamp
but that's just the merged videos which are each, what 29 seconds each?
Roberts: Roughly, yeah.
Fricke: And there's missing gaps with...
Roberts: There, there's, yeah, there's a missing gap of, uh, from 23:25:07 through 23:41:21
where the Vivint does not capture any...
Fricke: A-, and there’s obviously missing videos whether it’s 29 seconds, 58 seconds, add the 29 seconds time...

Roberts: Yeah, they don’t loop...

Fricke: …because those cars magically appear. Where as all the motions of the other cars are shown going to and fro. Do you know why those are missing?

Roberts: I’m just gonna tell you that my understanding of the system itself, uh, is the limitation of the system, uh, the owner of the system says that, uh, it’s based off movement. Sometimes cars reflections, their paints will make it start. But, you’re right in this case it, the, the first v-...

Fricke: The video shows...

Roberts: …video...

Fricke: …they’re driving from to, to fro.

Roberts: Yeah, so several cars and then, uh, so that was the first, uh, uh, uh, video file prior to anything of the officers being shown. So,

Fricke: Mm-hm.

Roberts: …and which is, which is actually, um, several minutes...

Fricke: Right. So how many minutes, there’s like several minutes between the first 29 seconds and the beginning of...

Roberts: Yeah, it’s quite a long time.

Fricke: …yeah...

Roberts: Yeah.

Fricke: …which would have included lead up.

Roberts: Right, right and the Vivint picture, or the Vivint video, does not capture any of, uh, any, any of allega-, alleged, uh, behavior of Ellis prior...

Fricke: Right.

Roberts: …to that. Correct.
Betts: Thank you.

Rosenquist: I don't have anything else on the video. Couple of follow up questions. In Officer Collins' statement he said that he was picked up by Ellis and slammed to the street.

Did you see that?

Burbank: No, if that happened, that happened when I was back, I guess probably locking the door or something. I, if that was the initial contact with him, that's what I didn't see.

Rosenquist: Okay and just so we're clear, you're not saying it didn't happen and you're just saying you didn't observe it?

Burbank: Correct.

Rosenquist: Kay. We've covered a ton today, um, is there anything you wanna add that you think we should know about that we haven't asked you about or talked to you about?

Burbank: No, I don't believe so.

Rosenquist: Kay. Do you believe you violated the Department's use of force policy during the incident with Ellis?

Burbank: No, I don't.

Rosenquist: Do you believe you violated the Department's courtesy policy during your contact with Ellis?

Burbank: Not at all.

Rosenquist: Did you observe anything during the incident, by anybody, that you believe violated Department policy?

Burbank: No. Not, not that I witnessed no.

Rosenquist: Kay.

Roberts: Nothing.

Betts: Nothing.

Fricke: No thank you.

Rosenquist: Okay. This is Sergeant Rosenquist. It is 1237 and we are off tape.
END OF INTERVIEW/
#1. Where did you observe Ellis contacting the vehicle/attempting to get into the vehicle?

#2. Where did Ellis arrive at the driver’s side of the patrol car?

#3. Where did you observe Collins and Ellis on the ground/wrestling with each other?

#4. Where were you when you first made physical contact with Ellis?

Any additional locations on we should be aware of?
P3.1.4 ACTIVE RESISTANT-COMPLIANCE TECHNIQUES CALEA 1.3.1, 1.3.4, 1.3.5, 1.3.7

A) Definitions
Active Resistant – The use of physical effort or mechanical resistance in achieving and/or maintaining noncompliance. Active Resistance is not the sole determinant of an Officer’s use of force. The Officer must consider the following factors when making a force elective decision:
- The severity of the crime
- Whether the suspect posed an immediate threat to the safety of officers or others
- Whether the suspect is actively resisting
- Whether the suspect is attempting to evade arrest by flight

Compliance Techniques – Tactical procedures and tools designed to be deployed upon actively resistant subjects who employ physical force or mechanical resistance to enhance resistance or non-compliance.

FORCE MODEL

Subject Actions Reasonable Officer Response

B) Enforcement Electives
Enforcement electives are those tools, tactics and techniques made available at each level of force application. Regarding compliance techniques, the following enforcement electives are consistent with the Tacoma Police Department’s Integrated Force Management program and use of force model.
- All Cooperative Control Enforcement Electives
- All Contact Control Enforcement Electives
- Electronic Control Tool (ECT) application, see Section C below
- Control Techniques
- Lateral Vascular Neck Restraint
- Neuro-Muscular Controls
- OC/Chemical Application
- Leverage Tools
- Arrest Tactics
- Restraint Devices
- Canine Search Deployment
- Takedown Techniques
C) ECT Application Guidelines
The Electronic Control Tool is one of the options available to officers when confronted with enforcement electives in the field. ECTs, like the baton, OC spray or contact enforcement electives, are not effective in every situation. Personnel must assess the effectiveness of each application and determine whether further applications are warranted or if a different tactic should be employed. Review of the use of the ECT will be made considering the totality of circumstances surrounding the incident. An ECT will not be used against an actively resistant subject in the following situations:
- When the officer knows a subject has come in contact with flammable liquids or is in a flammable atmosphere
- When the subject is in a position where a fall may cause substantial injury or death
- Punitively for purposes of coercion, or in an unjustified manner
- When a prisoner is handcuffed
- To escort or jab individuals
- To awaken unconscious or intoxicated individuals
- When the subject is visibly pregnant, unless deadly force is the only other option

The ECT should not be used in the following circumstances (unless there are compelling reasons to do so which can be clearly articulated):
- When the subject is operating a motor vehicle that is moving or not in park
- When the subject is holding a firearm
- When the subject is at the extremes of age or physically disabled
- In a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officers and/or civilians, as necessary

D) Special Instructions CALEA 1.3.5
1) OC/Chemical Post-Application Procedures:
- Advise subject that OC/Chemical has been applied and assistance will be rendered
- Request qualified medical assistance or transport to an appropriate location for assistance
- If not available, rinse eyes and nose with fresh water
- Expose to fresh air
- Area should be ventilated
- If subject exhibits respiratory distress, transport immediately to a hospital for treatment

2) OC/chemical application used against an animal shall not be considered a reportable use of force.

3) ECT Post-Application Procedures: CALEA 1.3.5
The subject should first be handcuffed and controlled before any removal of the probes is attempted. Once that has been accomplished, you should do the following:
- Glove up using disposable gloves.
- Use one hand to stabilize the subject’s body. While keeping this hand several inches away from the probe impact site, with the other hand grasp the body of the probe and quickly “pluck” the probe from the impact site.
- Have the Tacoma Fire Department (TFD) respond to the scene to medically screen the subject for any injuries. NOTE: TFD will not respond to remove the probes. Make sure to inform TFD if the subject is showing any signs of excited delirium.
- If the probes are in a sensitive area (such as face, neck or groin) removal should only be attempted by medical personnel.

4) ECT application used against an animal shall be considered a reportable use of force.

5) In order to avoid negative results with our K-9s, officers should not deploy an ECT when a K-9 contact is in progress or imminent. The only exception is if the K-9 handler specifically directs the officer to deploy an ECT.
6) Lateral Vascular Neck Restraint (LVNR) Post-Application Procedures:
The subject should first be handcuffed before any Post-Application procedures are applied. Once this is accomplished, you should do the following:

- Check the subject for consciousness. If unconscious, check subject’s breathing and pulse. When properly applied LVNR can cause the subject to go unconscious, if no pulse or breathing is detected initiate immediate CPR.
- If subject is unconscious but breathing and pulse are detected request the Tacoma Fire Department (TFD) respond to the scene to medically screen the subject for any injuries. Any subject who loses consciousness must be transported to a hospital for medical clearance prior to booking or release.
- If unconsciousness occurs, an officer will observe the subject for a two-hour period prior to release to jail staff.
- A copy of medical clearance form shall be provided to jail staff at the time of booking and LVNR application will be noted on their booking form.

7) LVNR technique which applies pressure to the lateral sides of the neck and restricts blood flow to and from the brain shall not be considered a use of deadly force. “Bar arm” type chokes that compress the airway and other structures of the front part of the neck shall be considered a use of deadly force.

E) Duties and Responsibilities

1) Officer Responsibilities CALEA 1.3.6
- Initiate Post-Application procedures, if necessary
- Notify immediate Supervisor
- Refer to actions in the Incident Report Narrative
- Look for, identify and document all visible injuries
- Inquire of, and document, complaints of non-visible injuries

2) Supervisor Responsibilities CALEA 1.3.7
- Respond to the scene and/or hospital
- Investigate and review the use of force incident
- Report findings in Blue Team and forward through chain of command for review
(Refer to Blue Team UOF/Pursuit/MVC Process)

3) Chain of Command Responsibilities CALEA 1.3.7
- Review Blue Team
- Make comments, if necessary
(Refer to Blue Team UOF/Pursuit/MVC Process)
Lateral Vascular Neck Restraint System (LVNR)

The LVNR as a Use of Force consideration for the Tacoma Police Department

March 11, 2019

LVNR

Presented by Sgt. Verone and PPO Koskovich

March 11, 2019

Items to be addressed

Should the department consider LVNR
What form of LVNR should be considered
Policy questions
Training of LVNR

March 11, 2019
Briefing Outline

1. What is LVNR
2. Creation and Development
3. Research
4. Policy considerations
5. Training considerations

What is LVNR?
- LVNR impedes the flow of blood to and from the brain

What is LVNR
- LVNR is NOT a Choke
- Chokeholds restrict the airway
- A true choke has the potential for airway damage and serious injury is greatly increased
CREATION AND DEVELOPMENT OF LVNR/VNR

- INTRODUCE AS A LAW ENFORCEMENT CONTROL METHOD BY JAMES LINDELL IN 1970 (KCPD)
- DEVELOPED FROM JUDO TECHNIQUES (SHIME WAZA)

Variations of LVNR

- LVNR (original)
- VNR (modified LVNR)
- Carotid Restraint

LVNR Statistics

133 years of vascular neck restraint used in Judo with no deaths or serious injuries to practitioners or competitors

Kansas City PD:
- From 1970-2004
  LVNR used 165,000 times
- In 1991, one death blamed on LVNR
- The subject that died in 1991 was a 6-6" 290 pound schizophrenic male that died after fighting with police.
- The ME stated that the cause of death was asphyxiation
- Further review confirmed the cause of death BUT attributed it to pressure on the subject's back by officers, NOT the LVNR.

LVNR is SAFE
- NELTC data
- Czarnecki, NELTC 2000
- Rosen, Arch Neurol Psychiat 1943
- Reay, FBI Law Enforcement Bulletin 19
- Reay JT, Eslele JW, Am J Forensic Med Pathol 1986 Jun;7(2) 177
- Kowalski EK, J Forensic Sci 53 1987
- Deitel L, Ruchamed J 1988
- Sycopke A videometric analysis of 50 episodes of transient cerebrovascular ischemia
- Analysis of the Human Strangulation Experiments: Comparison to GC-Induced Loss of Consciousness

VNR Research and Conclusions
- Safety of Shime-Waza (Choking) in Judo, Ichiru Koizumi, M.D., 1987
  - Study of airway chokes and carotid holds in judo competition
  - No fatalities in decades of judo competition
  - No long term harmful effects
VNR Research and Conclusions

- *Acute Arrest of Cerebral Circulation in Man*, Rossen, Kabat and Anderson, 1943
  - Mental patients underwent fast compression of neck arterial and venous structures using an inflatable cuff around the neck.
  - No harmful effects for compressions up to 100 seconds.
  - No long term side effects.

Deadly Force

- LVNR is not deadly force
  - It is usually found at the Active Resistance level for the Use of Force Continuum.
  - Some agencies also list it within the Passive Resistant level.
- LVNR is safe

Agencies using LVNR

- Statewide 35
- Pierce County SO
- Lakewood PD
Tacoma Police Control Tactics Cadre

- Item #1: The CT cadre would recommend the department consider the LVNR, specifically the Carotid Restraint version.

Why Carotid Restraint?
Item #2

- It is as safe as the LVNR
- It is more modern
- It is more flexible in terms of building a policy and procedure
- It is more flexible in terms of training and applying it in the field
- Backed by medical research

Item 3: Policy considerations

- What level of force would the Carotid Restraint be utilized?
- The CT cadre requests consideration for it to be added at the Active Resistant level of Use of Force.
- A rough draft policy has been submitted to the ASB chain of command.
### Item 4: Training of Carotid Restraint

<table>
<thead>
<tr>
<th>Training/Hours</th>
<th>Equipment/Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Instructors</strong></td>
<td><strong>Equipment required</strong> None</td>
</tr>
<tr>
<td>1 Certification</td>
<td>1. Instructor Class $400/student</td>
</tr>
<tr>
<td>2 Recertification</td>
<td>2. Officers, In-Service Training</td>
</tr>
<tr>
<td><strong>Officers</strong></td>
<td><strong>Costs</strong></td>
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<tr>
<td>1 Certification</td>
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<tr>
<td>2 Recertification</td>
<td>Biannual</td>
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**QUESTIONS?**

Thank you
Options for Certification

- Lateral Vascular Neck Restraint (LVNR)
- Cardiac Resuscitation Training Institute (Certi)
- CPR (VRP)
- Grace Survival Tactics (VTR)

Lateral Vascular Neck Restraint (LVNR)

- Developed by Jim Lindell (Kansas City) in 1970. In use since 1979.
- Term "LVNR" patented in 1994.
- No Deaths associated with the LVNR in over 175,000 documented applications.
- Technique has not been updated since 1970.
- Proper application is based on the bilateral compression of the carotid arteries.

LVNR Pro's and Con's

- Pros:
  - Well recognized name in relation to law enforcement neck restraint techniques.
  - Most documented applications with no associated deaths.

- Cons:
  - Have not been updated since 1970.
  - LVNR application has been patented; LVNR system requires specific compliance and training.
  - LVNR application is limited on small departments or agencies.
  - Law enforcement agencies can be held away from the LVNR system.
  - Under legal scrutiny.
LVNR- Cost, Certification, Recertification
- Certification: 1 hour
- Cost: $250
- Recertification: Every 3 years
- Cost: $250
- Training center is located in Kansas City (NLEFC)
- NLEFC was founded in 1981
- Unknown number of agencies currently utilizing the LVNR system

Carotid Restraint Training Institute
- Developed in 2013 to create expert bilateral vascular restraint instruction and professionally trained end users at the agency level
- California based company under Boyd Products
- Since 2013 CFTI has trained over 700 instructors and 200 agencies nationwide
- Backed by modern research and most recent studies by Dr. Jamie Haggard on Vascular Neck Restrains
- Focusing on full body controlling, providing more spinal cord protection and limiting neck manipulation

Carotid Restraint Training Institute
- Washington State agencies utilizing CFTI:
  - with Bobbi PD
- Out of State Notable Agencies Utilizing CFTI:
  - LA County
  - Los Angeles County PD
  - San Diego Sheriff
  - Riverside Sheriff
  - Hillsborough PD
  - San Francisco PD
  - Tempe PD
  - State Department of Corrections
CRTI Pro's and Con's

- Pro's:
  - Utilized nationwide
  - Course provides CRTI certified instructor certificate with the ability to earn with agency rates
  - Focused by most recent studies
  - Isolation paper and tape application, climber is in a ground position
  - "Lifting" the half body and securing body, preventing the technique from being driven
  - No associated costs related to the application of VNR

- Con's:
  - Very tight/recognition of the system with Washington State
  - Newer developed in 2013

CRTI- Cost, Certification, Recertification

- Certification= 14 hours
- Cost= $399
- Recertification= 3 years
- Cost= $399

  - CRTI instructors will travel to us, provided we host a course
  - Host agency receives 2 free slots per 12 students

CJTC-VNR (Cost, Certification, Recertification)

- CJTC teaches the Vascular Neck Restraint

  - Certification= 24 hours
  - Prerequisite: 40 hours CJTC Control Tactics Instructor Course
  - Cost= $775
  - Recertification (every 3 years, 8 hours)
  - Cost= $125
CJTC Pro’s and Con’s

Pro’s:
- Easy access to state selector and facility
- Local expert testimony
- Over 30 local agencies utilizing VNR via CJTC

Con’s:
- Low percentage available yearly
- Pre-requisites required to obtain certification
- 2 weeks to obtain required instructor certification

Gracie Survival Tactics - VNR

Gracie Ju-Jitsu: developed by Helio Gracie. Beginning in the 1970’s, Helio began his journey of teaching the Gracie legacy. He put his techniques to real-life testing and decided to implement the techniques where they were needed: training police and military personnel. 

Gracie Ju-Jitsu’s way of thinking was a larger, more inclusive approach. The Gracie way worked, the techniques worked, and the philosophy worked to bring law enforcement and the public a better way to handle dangerous situations.

Gracie Survival Tactics Pro’s

Pro’s:
- Gracie survival tactics (GST) is based on 3 primary techniques: the leg, the arm, and the head. It is a system that allows one to use the techniques of Gracie Jiu-Jitsu in a variety of situations.
- Constantly evolving
- Based on real-life situations and research by Dr. Jacoby McMillan
- Provides an excellent defensive tactics curriculum program, not only for law enforcement agencies, but also for military and private sector clients.
- Sedative effects are external obligations arise from GST
- Nationally and internationally recognized
- Structured police is the headquarters for GST
GST Con's

- Conv.
  - Does not offer an individual shift certification
  - 3 day full instructor certification

GST- Cost, Certification, Recertification

- Certification: 3 days
- Cost: $895
- Recertification: Every 18 months (only to maintain state testimony) 3 days
- Cost: $715

- Instructor Certification allows end user certification within agency
- Recertification frequency is due to constantly changing and evolving techniques to include case law and best practices

Recommendation

- All retraining and recertification should be mandatory to thecardid arteries.
- Hemorrhage using a tamponade technique in a patient that is already reperfusion in their circulation and application.
- The end result of the techniques remains the same as with what: sometimes with or without a drain. A drain procedure then to achieve compression or even on the cardiac arteries to restrict blood flow.

- System Recommendation:
  - 6 Days state instructor certification instead of 3 days in-state training program
  - 6 week state certification that incorporates HIV and hepatitis by an entire national level of program certification.
Information

- VAR has NEVER downgraded a red card or penalty by physical contact in
  the Supreme Court because of the extremely low probability of serious physical injury. The red card should not be deemed deadly force.
TAB 65
Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
CRIMINAL JUSTICE DIVISION

REPORT OF INVESTIGATION - SUPPLEMENTAL

Date: May 5, 2021
Case Name: Manuel Ellis Death Investigation
Investigator: D. S. Heitzman
Date Prepared: June 2, 2021

INTERVIEW OF DETECTIVE SERGEANT BYRON BROCKWAY

Wednesday, May 5, 2021 / 0900hrs

SAAG Patty Eakes, AAG Kent Liu and I interviewed Det. Sgt. Brockway about his work on this case. We conducted this interview at the AGO Tacoma Office. We did not record this interview. The following is a summary of the interview.

Det. Sgt. Brockway was called out from home by dispatch. The information that he received from dispatch was the TPD had been in a struggle at 96th St S. and S. Ainsworth. The person involved was Tasered, hobbled, and was now deceased. He had talked with Lt. Messineo by phone on the way to the scene. He had learned that Lt. Messineo and Det. Sgt. Sanders had both responded when the call came out.

Through a secure server in the field, Det. Sgt. Brockway was able to access the radio traffic recordings. He later had them transcribed.

He arrived at the scene at 0138, per his report. It was cold and windy at the scene. There were a couple of TPD officers blocking the intersection. Lt. Muller was there as well as someone from TPD Internal Affairs, maybe Gary Roberts. It was not a crowded scene. He does not believe that any fire or medical personnel were at the scene. The body was still there.
Det. Sgt. Brockway was asked what his initial observations were. He noted the patrol car, the body, and how the scene was contained. Brockway had parked to the east of the scene and walked in on foot. The scene had been taped off.

Brockway talked with Lt. Messineo first. He learned that a fingerprint scanner had been used to identify the deceased. He was told a body core temperature had been obtained, and Taser probes were collected.

He did not recall getting information about how the contact with Ellis had started. He did hear that Ellis had tried a car door, but he was not sure when he heard that.

Det. Sgt. Brockway is part of the Officer Involved Shooting Team. He was put in charge of this case while he was on the way. He did not know who from TPD was in charge at the scene. He did not talk to TPD that much. He basically interacted with Lt. Messineo, Det. Sgt. Loeffelholz, Det. Catey, Det. Hotz and Det. Moss. He was not sure who arrived first.

According to Lt. Messineo, Ellis was not yet handcuffed when he arrived. Det. Sgt. Brockway did not remember if Messineo used the words "agonal breathing" or "snorting" to describe Ellis's breathing.

Brockway thought that PCSD does issue hobbles. He was not sure about spit masks. He was last in patrol in 2010 or 2011. He believed that hobbles are part of the use of force training they receive.

The briefing with Lt. Messineo lasted about 5 to 10 minutes. Det. Sgt. Brockway took notes during this time, which he retained. (He stated that he would get them to us.)

Following the briefing he made assignments. Det. Sgt. Loeffelholz was going to handle the scene. Detectives Catey, Moss and Dos Remedios were assigned to assist in processing the involved officers at the Spanaway Pct.

Asked if he gave directions to Mell and Wilkins, Det. Sgt. Brockway said that they may have talked some. Loeffelholz documented the scene. Det. Sgt. Brockway did examine the body when the ME arrived. He did not disturb or touch it until then.

Det. Sgt. Brockway referred to his report to tell us his observations about the body. Ellis was on his back. There was a black sweatshirt, medical debris and other clothing. The spit hood was off and back behind Ellis's head.

Det. Sgt. Brockway did not see a hobble at the scene. He learned a couple days later through interviews that the hobble was in Collins's car. He did not search the police vehicle. That would
have been up to Loeffelholz. He sent Det. Peterson to photograph it the hobble. The hobble was not taken into evidence because he thought a photograph was sufficient.

The spit hood was bagged as evidence. He had never seen one like the one placed on Ellis. He remembered that it was black at the top. He was unsure if the spit hood went to the ME. It eventually came to PCSD. The spit hoods he had seen in the past were full mesh and tannish in color. He had seen the same type of hobble that was in Collins’s car before.

Brockway did not remember seeing a cell phone at the scene.

When he was at the autopsy he saw that Ellis had abrasions on his face.

Brockway saw the gallon water bottle and donuts at the scene from a distance. He did not remember if there was a label on the water bottle. The box of donuts was creased, he did not know if it had been opened. He could not tell if the box had been stepped on. He did not see any donuts. He did not see any powder on the ground. There was a white substance on the window which was photographed. He just noticed that it was white. He did not obtain a sample for testing.

Brockway was asked why a sample was not taken. He did not know. He was asked what happened to the water and the donut box. He said that they were photographed. He said that he did not have a good answer as to why they were not collected as evidence. He did not remember if he was aware of any significance for those items while at the scene. He learned about these items during the interviews with Officer Burbank and Officer Collins.

Brockway did not recall a bag or a receipt. He was not sure what had been related because the scene was close to a garbage bin.

Investigator Wilkins went to photograph the involved officers.

Asked if he had other observations of the scene, Brockway said no.

Det. Sgt. Brockway did not speak to any TPD officers as to what they saw. He thought he saw Sgt. Lim and verified everyone from TPD wrote reports.

Det. Sgt. Brockway took part in canvassing the neighborhood. He did a lot of door knocking, but not many of the doors knocked on elicited an answer.

He did not recall if Lt. Messineo talked about Ellis saying that he couldn’t breathe. He did not recall if he was told when Ellis had been moved to the recovery position.

In DT training they talked about putting a detainee on their side if they were hobbled.
Brockway was asked if Lt. Messineo told him when the hobble was removed. Brockway said that during his interview, Messineo said it was around the time that fire arrived. He thought that Lt. Messineo did say something about excited delirium during his interview. Brockway did not remember if Messineo said anything about excited delirium during the initial briefing.

Fire had been asked to come back to the scene prior to Det. Sgt. Brockway arriving. Brockway learned that from Lt. Messineo.

It had been the decision of Det. Sgt. Loeffelholz to release the patrol vehicle. At the time he thought that photos were enough. Brockway did not see any damage to the vehicle that might have occurred from someone hitting the vehicle.

Nothing stood out during the autopsy. There were no broken bones, or other indication of mechanism of injury on Ellis. The Taser probes had been removed from Ellis. Brockway believed that Dr. Clark looked at the spit hood at the autopsy. Det. Helmke had gone down latter for photos. A substance was seen on the spit hood. Brockway did not have any other recollections of the exam of the spit hood or what Dr. Clark said about it. He was later asked for a timeline from Dr. Clark. This was the first time Brockway had been asked by an ME for a timeline.

This timeline was prepared from interviews, radio transmissions. Brockway listened to PCSD dispatch, TPD dispatch, Fire communications. He also used the time stamps from the Vivint video, as well as the Taser records. (When it was armed and when it was fired.) Brockway also saw dispatch sheets.

Brockway listened to the recordings and they were transcribed. He went over them with Det. Helmke and Det. Holder. They helped build the power point timeline. He did some triple checking.

Det. Helmke had been directed to go through the Vivint video that was obtained through a search warrant.

Det. Sgt. Brockway was asked about the adjustment to the timeline. There was an initial timeline made on March 20. Later he listened to radio transmissions and could hear Ellis say “I can’t breathe” during one of Sgt. Lim’s transmissions. He said that he looked through the transmissions of the time when Officer Farinas arrived. He had been going through everything and backtracking. He did not talk with Officer Farinas. It was noted on CAD when Farinas arrived. Brockway was not able to tell from the interviews when the spit hood was placed on Ellis’s head. Farinas was audible heard arriving at 2327:17. It was determined that the spit hood was placed on later than was initially thought. This information was passed on to Dr. Clark.
Brockway passed on the fire records to Dr. Clark. He did not think that he passed transcripts to Dr. Clark.

Dr. Clark had asked how long Ellis had been in the prone position and the recovery position. Rankine would have been the closest. Brockway did not believe he knew exactly.

Burbank had talked about being on top of Ellis. Brockway did not know if it was ascertained how long he had been on Burbank. He did not remember if he provided information about Burbank being on top of Ellis to Dr. Clark.

When asked how long Rankine had been on top of Ellis, Brockway sad he would have to review the interview.

Det. Sgt. Loeffelholz had been assigned to check on getting the video from 7-Eleven. He did not know what happened in that regard.

Brockway was present during all four officer interviews. There was no pre-interview discussion with the officers. The officers did not bring notes to the interview. Brockway did not observe any injuries on any of the four officers.

Brockway was present during the interviews with Cedric Armstrong and Kimberly Mays. He did view the room Manny and Mendel shared. A couple photos were taken of the room. There was a to-do list and it looked like Ellis had been playing video games.

There might have been a cell phone in the room. Brockway would need to review the photo.

He watched a recording of Ellis playing drums on a phone. He was not sure if the recording was from the night before the incident.

There was nothing unusual noted about the room.

Cedric Armstrong did not talk about any security video he may have had in the house. Cedric did tell him Manny would have been able to exit the lower level without Cedric knowing about it.

Brockway did not know if “The Jungle” was ever mentioned while he was at Cedric and Kimberly’s house.

Brockway did attempt to locate Mendel. He talked with Mendel’s mom on the phone. She did not want Brockway’s contact information. Det. Holden later reached Mendel. Mendel didn’t want to talk. Brockway was not present for this contact.
Det. Sgt. Brockway did not talk with any of the other residents of the house. He recalled there was someone else living downstairs, and a younger guy in the house. The only person from the house he talked to was the one lady who called.

Brockway said that following the media release, they did not receive any calls about the case. Some media releases on this case included still photos of the vehicles that had been at the scene at the time. Following the release of those still shots, the video came out, but not as a result of the PCSD media releases. The stills were posted on either Twitter or Facebook. The posts may have included video from the Vivint video.

Brockway was not sure if PCSD conducted training on restraints and positional asphyxia. Perhaps in DT.

Det. Brockway was not sure if the involved officers were asked if they had spoken with each other since the incident. He did not know if the officers got directions to not speak with each other. The officers were separated from each other at the precinct. The officer interviews were conducted at different times. The attorneys had requested that the interviews be recorded with audio only, and not video. Det. Sgt. Sanders and Lt. Messineo both consented to have their interviews video recorded. Brockway did not think that Collins or Burbank talked about the spit hood. He was not sure whether he listened to dispatch prior to the interviews of the officers. Rankine and Ford did talk about the spit hood.

PCSD had put out a press release trying to identify the car Ellis allegedly tried to open in the intersection. No one came forward as a result of the press releases. They tried to locate video to the west of the incident. Brockway was not sure where he had received the information that the driver of that vehicle may have been female. Outside of Collins and Burbank, there was no other information about that car.

There would have been more to do on this case. Prior to the new video coming out, they were still attempting to contact the occupants of the two vehicles.

The PowerPoint was prepared for the Prosecutor, Administration and ME. Brockway believes that WSP asked for everything.

End of Report.
INTERVIEW OF Lt. James Loeffelholz

Monday, May 24, 2021 1300hrs

SAAG Patty Eakes, AAG Kent Liu and I interviewed Lt. Loeffelholz via Zoom. This interview was not recorded. The following is a summary of that interview:

On 3/3/2021 Loeffelholz was a Detective Sergeant assigned as one of the Homicide supervisors at PCSD. He only wrote one report regarding this incident. That report is dated 3/5/2020.

Lt. Loeffelholz believed that when he was called out, it was from the Everbridge system PCSD uses. It is a PC automated system where the information can be typed in and a voice message is generated and passed on. The system lets the supervisor know who is responding.

The information received on this incident was that it was an in-custody death. Lt. Loeffelholz was not sure if he talked with anyone on the way to the call or not. It takes him about an hour to get to most places in the County if he is called out from home. When he arrived at the scene, it was determined that Det. Sgt. Brockway would be the lead on the call as Lt. Loeffelholz had been assigned previous cases.
Lt. Loeffelholz would not have signed the crime scene log until he crossed the taped off area. He thought that dispatch would have a more accurate time of when he actually arrived on scene.

Investigators Mell and Wilkins were on scene when he arrived. He saw the TPD patrol car at the intersection. Ellis’s body was on the street to the west of the patrol car. Lt. Loeffelholz did not remember how many LE personnel were there. There were patrol cars blocking the intersection from the south, east and west. Det. Sergeants Catey, Brockway and Sanders were present, as was Lt. Messineo. There were maybe eight or so officers standing around.

Lt. Messineo provided a briefing after the investigators were all on scene. Lt. Messineo had arrived at the end of the incident. There was a person still fighting who had been hobbled. This person (Ellis) had started snoring and groaning, and was moved to a recovery position, then aid was called. Lt. Messineo had not elaborated on the snoring or groaning.

When asked if Lt. Messineo had used the term “agonal breathing” describing Ellis’s condition, Lt. Messineo said “not that I recall”.

It was Lt. Loeffelholz’s memory was that it was the officers on scene who had placed Ellis in the recovery position.

Lt. Loeffelholz said he thought he was told that Ellis had attacked the car. He did not think that came from Lt. Messineo. Lt. Loeffelholz said that he heard from an unknown TPD officer in passing that the officer on the passenger side had attempted to open the door, and Ellis closed the door.

By the time that Lt. Loeffelholz arrived on the scene, all the involved TPD officers had been remove from the scene.

In examining the passenger door of the patrol car, there were smears on the outside of the window, and the back (rear) side of the door/window frame. There was white stuff within the smear. There was a box of donuts on the ground below the passenger door.

Lt. Loeffelholz said that he did not do a whole lot on this case. He did read his report before talking with us, but he had not looked over any of the photographs.

AAG Liu shared his screen and showed Lt. Loeffelholz a photo taken of the patrol vehicle that showed a horizontal line of white material. His impression was that was from material collecting on the part of the window when the window was rolled down. He had not made any judgements about the striations on the window, other than the window had been going up or down at the time.
Lt. Loeffelholz was asked why he had not asked that the material on the window to be processed. He said that he did not know if the crime lab has the capability to determine what it was. He asked Forensics to photograph the box of donuts. He did not recall if he asked them to collect them as evidence. He does not know what eventually happened to them. Lt. Loeffelholz stated that this would have been his responsibility. He has not recently looked at the evidence sheets to see what was booked into evidence.

Lt. Loeffelholz did not see any damage to the door of the patrol vehicle. He was asked to describe the water bottle at the scene. He said that it was a larger rectangular bottle, and looked like it had skidded on the ground. He thought that it had recently been purchased and that it had not been opened. He had not picked up the water bottle. Lt. Loeffelholz did not know if he asked Forensics to collect the water bottle as evidence.

Lt. Loeffelholz did not recall any green wire at the scene. He did see a Taser wire that was underneath Ellis. He was not aware of any cell phones at the scene. He added that sometimes the scene investigators will act independently.

The spit hood that had been used was under Ellis's head. At first, Lt. Loeffelholz did not know what it was. He asked someone at the scene and was told that it was a spit hood. None of the spithood was still attached to Ellis's head. Officer Chung obtained a spit hood from out of his patrol car. (Officer Chung had been parked to the east at the time, providing scene security.) This mask looked identical to the one that was recovered from under Ellis's head. He recalled that it was made of a couple of different materials and was white. He did not see any tags on the spit hood Officer Chung showed him. He had been told this was Tacoma PD issue. He said that he did not look at the interior of the spit hood and did not know the color of the material on the interior.

Lt. Loeffelholz did not think that PCSD issued spit hoods and did not think that he had seen them at other scenes. He did not see what Officer Chung did with the spit hood after showing it to him.

Lt. Loeffelholz had heard that a hobble was used. He did not see one that night. He had heard, maybe from Det. Sgt. Brockway, that the hobble had been taken off Ellis and returned to a car with an officer.

Lt. Loeffelholz said that it appeared to him that the water and donuts might have been recently purchased. He went to two of the 7-Eleven stores in the area. He spoke with the clerks at both stores. He could not remember what the clerks looked like, their gender or their ethnicity. He did not receive any call back from either of the stores. He passed this information on to Det. Sgt. Brockway. He did not discuss the case or pass on any information
about Ellis to the 7-Eleven clerks; he had just asked that the managers call him. He did not notice if the stores had security cameras.

In the early hours of the morning following the incident, Lt. Loeffelholz canvassed at one residence. There was no answer at that house. Lt. Loeffelholz had then left.

Lt. Loeffelholz did not attend the autopsy or the interview any of the involved officers. He did not see any damage to the patrol car. He did not recall if he saw a brownish plastic bag, similar to what would be from a store.

He said that based on the information they had at the time. At the time, there was no reason to impound or search the patrol car involved.

Lt. Loeffelholz said that he was pretty positive he was told the hobble had come from a different patrol vehicle, not the patrol vehicle at the scene.

Lt. Loeffelholz did not recall if Sgt. Lim from TPD was on scene when he was there. He briefly watched the ME investigator process the body.

End of Report
REPORT OF INVESTIGATION

Case Name: Manuel Ellis Death Investigation

Investigator: D.S. Heitzman

Date Prepared: 5/15/21

INTERVIEW OF INVESTIGATOR STEVEN MELL

Wednesday, April 14, 2021 / 0900hrs

SAAG Patty Eakes, AAG Kent Liu and I interviewed Inv. Steven Mell at the Tacoma AGO. The interview was not recorded. The following is a summary of what Inv. Mell told us.

Inv. Mell advised that he had reviewed his report the other day.

Inv. Mell arrived on scene shortly before Inv. Wilkins. The scene was taped off when he arrived. The patrol car was facing westbound. Inv. Mell first spoke with Lt. Messineo who gave him a brief synopsis of the incident. Inv. Wilkins showed up about 15 minutes or so later. At the time, Lt. Messineo was the ranking Sheriff’s Dept official. There were other officers still arriving at the time. Inv. Mell did not recall if there were any aid unit personnel still on scene. There was no one viewing or attending the body at the time. Prior to responding, he had been told by dispatch that this was an in-custody situation with TPD.

Lt. Messineo told Inv. Mell that the officers had been stopped for that light at the intersection, and that Ellis had been walking in and out of the intersection, and started making comments to the officers. The incident had then escalated. Lt. Messineo did not give any specific insight on where he had received the information. No notes were written about this information. Inv. Mell had then waited for Inv. Wilkins to arrive. He received the green light to start processing the scene about 30 min later. Inv. Mell did not talk with any of the involved officers.
A TPD officer had commented about having the hobble. Inv. Mell told this officer; whoever removed the hobble from the scene should book it into evidence. Inv. Mell did not catch the officer’s name. He described this officer as a white male officer with a dark complexion, late 30’s 5-10 with shorter hair, in full uniform.

Inv. Mell did not know any of the officers who had been involved. He did not believe any of the officers pictured in the news was the one who had discussed the hobble with him. He did not talk with any other Tacoma PD officers. Inv. Mell’s main contact while he was processing was Sgt. Loeffelholz from PCSD. Inv. Mell was unable to determine who was in charge at TPD.

Inv. Mell said that it was hard to say how many people were on scene. He thought there may have been five to six there at first, but it quickly grew to well over ten.

Inv. Mell said that there might have been a fire engine on Ainsworth when he arrived. He believed that he saw Sgt. Sanders well into his work at the scene.

Once Inv. Wilkins and Inv. Mell got the green light to start processing the scene, Wilkins began to photograph and video tape the scene. Inv. Mell set up and ran the FARO scanner. Inv. Wilkins was later called away from the scene to assist with processing the involved officers.

Inv. Mell took photos of the car, and photos of Ellis’s body after the ME did their assessment. He also collected the gloves that were lying against the curb.

Officers were mostly behind the crime scene tape, occasionally one would come inside the tape. No one went into the patrol car while he was processing.

Inv. Mell said that he was not sure if someone was keeping a crime scene log, although this is usually done.

Inv. Mell took perspective photos. He was asked to be sure to photograph the box of donuts on the passenger side of the patrol car. He was told that Ellis had thrown the donuts at the car. He thought this information came from Det. Sgt. Loeffelholz.

The observations he had of the scene included Ellis’s body, the donut box, the patrol car, the gloves up against the curb and a water bottle next to the garbage bin.

Inv. Mell said that he had been told that Ellis had made contact with the patrol vehicle. He heard that Ellis had first approached the driver side. The window had been down initially, but was rolled up. Ellis had then gone to the passenger side.

Inv. Mell said that he remembered seeing at least one window down slightly down, but he could not remember which window it was.
Inv. Mell had been told the donuts had been thrown. He was asked to get photos of the windows. He did not swab the window that had something smeared against it. He thought that the smear on the passenger side window came from a hand going down the window, or from the window moving. He did not think that he picked up the box of donuts. He did not recall if the box was open or not. He did not know if there was powder from the donuts on the ground or on the box. There was no analysis done of any possible powder and no observation as to whether the box of donuts had been stepped on. The donuts were a perishable item.

Inv. Mell said that there may have been a briefing prior to processing the scene.

The unit was understaffed at the time that this incident occurred. Inv. Wilkins was the manager. Usually there are five investigators.

Inv. Mell was directed to collect the gloves that were against the curb. He did not know the significance of the gloves. He thought that the donuts were discussed. He was not sure about the water bottle. He said that they may have stood the water bottle up. He did not remember if the bottle had a label on it or not.

Inv. Mell was asked about a green wire looking item. He thought that he remembered it, but is not sure what it was. It had looked to him like it had been there a while. Inv. Mell did not recall if he saw a plastic bag or a receipt.

Inv. Mell said that as he was wrapping up the scan, he was told by Inv. Wilkins that Wilkins was going to go photograph the involved officers. Inv. Wilkins told him he had shot videos and taken overview photos. Inv. Mell was asked by Wilkins to take additional photos of the patrol car.

Inv. Mell was asked if there were any backpacks at the scene. He said that he did not remember what all was right next Ellis's body.

Inv. Mell was asked what else had drawn his attention at the scene. He said that once the ME arrived and the blanket was removed from the body, he saw markings on the wrist and ankles, which would have supported the information that a hobble was used.

Inv. Mell did not recall seeing any damage to the front passenger window. When asked if there were any prints on the door, he said that he did not recall.

Inv. Mell said that he and Inv. Wilkins do not use black gloves. He said that he uses blue or purple.

Inv. Mell saw abrasions on Ellis's face and knuckles. He did take photos of the injuries with a small scale. He did not attend the autopsy.
Inv. Mell did not recall any powder inside the vehicle. He did not remember anything about a cell phone or other person property of Ellis's personal property other than was at the body. He believed there was a Taser wire, and that someone from TPD had picked up and bagged other Taser evidence.

After the autopsy, Det. Holden asked Inv. Mell to photograph Ellis's clothing. He did not recall any unusual about the clothing.

Inv. Mell said that nothing was said to him about anyone getting back in the patrol car after the incident.

The powder on the front passenger looked very much like powdered sugar to Inv. Mell. It did not strike him as being meth. He believed that the driver side window was partially open when he was on scene, but could be wrong.

Inv. Mell did not take any daylight photos.

End of report.
Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
CRIMINAL JUSTICE DIVISION

REPORT OF INVESTIGATION

Date:  4/14/2021
Case Name:  Manuel Ellis Death Investigation
Investigator:  D. Heitzman
Date Prepared:  5/15/2021 – 5/23/2021

INTERVIEW OF STEVEN WILKINS

Wednesday, April 14, 2021 / 1025hrs

SAAG Patty Eakes, AAG Kent Liu and I interviewed PCSD Inv. Steven Wilkins at the Tacoma Office of the AGO. The interview was not recorded. The following is a summary of that interview:

When Inv. Wilkins was called out for this case he first went to the office and picked up the scanner. When he arrived at the scene, the area around the TPD car involved had been cordoned off. He spoke with Lt. Messineo who gave him a brief rundown of the information he had. There were a handful of law enforcement officers around, but Inv. Wilkins did not recall how many. He was advised this was an in-custody death involving Tacoma PD. Inv. Wilkins did not speak with any Tacoma PD officers at the scene. Later in the investigation, he had gone to the PCSD Spanaway Pct to take photos of the involved officers and document the condition of their weapons. None of the officers talked about what had occurred.

After arriving on scene, it was decided that Inv. Mell would operate the scanner. Inv. Wilkins started photos and a video of the scene. He was sometimes behind Inv. Mell, filming where Mell was not scanning.
At the time Inv. Wilkins arrived, there were no fire vehicles on scene. The victim was lying on his back in the road, with a medical sheet over him. He noted the police vehicle and items strewn around. There were several trashcans nearby.

When he was at the scene, Inv. Wilkins did not know who the involved officers were.

Inv. Wilkins took overview photos of the victim and the TPD car from different angles. He said that the donuts at the scene were discussed afterward. In his discussions, it was assumed some things were trash. He did not remember purposely taking photos of the donuts. No one directed his attention to the donuts.

Inv. Wilkins had been told that Ellis had banged on the passenger side window, and the hood of the patrol car. Inv. Wilkins was later told the significance of the donuts after the fact during a briefing when he learned that Ellis had them in his hand while he was banging on the car.

While at the scene, Inv. Wilkins had looked for dents on the passenger side door, hood and fender area. He did not see any damage.

When the sheet was removed from the body, he took more photos and looked for evidence of the use of restraints.

Inv. Wilkins had heard that Ellis had been banging on the car, and the officers got out and confronted him. Inv. Wilkins thought that it was TPD detectives who had been talking about that. Inv. Wilkins did not know where Ellis had been banging on the car.

Initially Inv. Mell was running the scanner. Inv. Wilkins did not remember a water bottle, did not specifically remember black gloves.

PCSD was not able to get any other Crime Scene Investigators to respond. Inv. Wilkins was reassigned to go photograph the involved officers. They usually try to have at least two Crime Scene Investigators at the scene. He did not remember who asked him to go to the precinct. He was at the scene for approximately an hour.

Inv. Wilkins does keep notebooks with basic information only, nothing about the scene. He still has those notebooks. Inv. Wilkins did not recall Det. Sgt. Brockway being at the scene while he was there. Any evidence (at the scene) would have been handled by Inv. Mell.

Inv. Wilkins was at the Spanaway Precinct for a couple of hours. He took a series of photographs and documented the conditions of the involved officers’ weapons. He did not know the involved Tacoma officers. The officers did not discuss the incident. Photos were taken of the Tasers. He may have taken a Taser and cartridges as evidence.
He did not recall if any of the officers had injuries. The demeanor of the officers seemed professional and above board. There was a PCSD detective that was present as well.

This process took a couple of hours. Inv. Wilkins did not receive any updates from Inv. Mell during that time. He did not recall if he booked any evidence. He did not return to the scene.

Inv. Wilkins said that he thought they talked about going back to the scene several days later.

He said that he had looked at the patrol car with a flashlight and did not see any distinguishable prints. He did not see anything that would help. There was no discussion with detectives about processing the vehicle while he was on the scene.

He did not recall if there were any plastic bags associated with the scene or any personal property of Ellis. He did not remember anything about any store videos.

While Inv. Wilkins was at the front passenger window of the patrol car, he did not remember smelling anything. He noted that he was sick at the time and was not able to smell. He also looked across the hood of the patrol car with an opaque light and did not see anything of note.

End of report.