

INTERVIEW WITH DEP. DAMINGO

Q=Sgt. McAllister

Q1=Sgt. (Alanese)

A=Dep. Damigo

A1=Woman

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42

A1: Oh, it's kinda chilly in here.

Q: I - I was freakin' like that. And I felt bad 'cause I'm like.

A1: No, it's kind of cool down here.

Q: It is, yeah. (Unintelligible). All right. You ready?

A1: Mm-hm.

A: Yes ma'am.

Q: Sergeant McAllister, Sergeant (Alanese) talking with, uh, Deputy (Mike) Damigo in regards to Case 10-202-0038E - Edward. It is now, the 22 of July at...

A: 01:10.

Q: ...110 hours. Deputy Damigo, um, you understand that you are not under arrest, that you're here to give a voluntary statement, um, at our request in a criminal investigation at (unintelligible) in that investigation?

A: I do.

Q: And you have an attorney with you. Um, have you had ample time to discuss with her, uh, what's gonna be going on today?

A: Yes.

43

44 Q: Okay. And are you willing to have a conversation with us about what
45 happened, um, in the marijuana garden or on your, um, brain's not
46 functioning.

47

48 A: Operation?

49

50 Q: Thank you. Operation (unintelligible).

51

52 A: Yes, I...

53

54 Q: Okay.

55

56 A: ...would like to give a statement.

57

58 Q: Okay. Um, Deputy Damigo, uh, how long have you been employed at the
59 sheriff's office?

60

61 A: Mm, 11 years.

62

63 Q: Mm-kay. And, um, what is your current assignment at the Sheriff's Office?

64

65 A: Currently, the assignment that I, uh, marijuana eradication team, in the Special
66 Operations Division.

67

68 Q: Mm-kay. And how long have you, uh, had that assignment?

69

70 A: A little over a year and a half.

71

72 Q: Okay. And what, um, and did you have a prior law enforcement before joining
73 the sheriff's office?

74

75 A: I worked for 10 years at the Department of Correction. Santa Clara County
76 Department of Correction.

77

78 Q: Okay. And what was, um, prior to this morning or yesterday morning at, um,
79 when you started? What was your prior shift? And when was the last time you
80 worked?

81

82 A: On the day shift, 08-05, on the day before.

83

84 Q: On Tuesday?
85
86 A: Yes.
87
88 Q: Okay. Um, and what were you doing on Tuesday, from 8:00 to 5:00?
89
90 A: Planning this operation and contacting people.
91
92 Q: Okay. Uh, anything unusual happen during the day?
93
94 A: During yesterday?
95
96 Q: Yeah - during Tuesday.
97
98 A: Tuesday? No.
99
100 Q: Okay. Um, did you work Monday?
101
102 A: Yes, I did.
103
104 Q: Okay. And what was your shift on Monday?
105
106 A: Um, 8:00 to 5:00.
107
108 Q: Okay.
109
110 A: Day shift.
111
112 Q: Okay. And what did you do during that shift?
113
114 A: Planned another day for an operation.
115
116 Q: A different operation or this operation?
117
118 A: A different operation.
119
120 Q: Okay. And did you work either Saturday or Sunday?
121
122 A: No I did not.
123
124 Q: Okay. And what time did you start work on, uh, Wednesday the 21st?
125

126 A: Zero - Wednesday the 21st was the day that I, uh, 0400 hours.
127

128 Q: Okay. And when you got in, what did you do?
129

130 A: Start preparing the truck, gathering gear, filling up, uh, our binds full of water.
131 Refueling the vehicles. Um, basically just busy stuff to get everything ready
132 so when the rest of the team showed up at, uh, 0500 we didn't have anything
133 left to do.
134

135 Q: Okay. And who was your team today?
136

137 A: It was me, Detective (Diver), uh, Deputy (Fontana), Deputy (Bret) (Moore),
138 uh, Deputy (Doug) (Morrow), and Sergeant (Spegnola). I've got too many
139 operations planned for - picturing in my mind right now.
140

141 Q: Um, and so they were all to be at the sheriff's of- meet at the sheriff's office at
142 5:00?
143

144 A: Yes.
145

146 Q: Okay. And what was the, uh, the plan after everyone arrived?
147

148 A: Um, we were supposed to leave a little after five o'clock and meet the
149 Alameda County Sheriff's Office deputies that were gonna be helping us in
150 this eradication. Um, (or at least), um, I'm tired. I've lost my words.
151

152 Q: Me too. I've lost many.
153

154 A: Scouting. Scouting for a marijuana, uh, garden on our side of the county. They
155 believe they had some on their side of the county. Uh, we're meeting at the
156 Livermore P.D. to go ahead and, uh, go over the briefing for the (opps order),
157 that, uh, Sergeant (Peterson) had made. Um, he located (current) - and then
158 from there, we go over to meet the ranchers on the entry ranch. And, uh, they
159 show us w- where they believe they see, um, a water pipe.
160

161 Q: Mm-kay. Um, so wh- when you, um, were going to meet, uh, the Alameda,
162 uh, deputies, what - what information did you have on this grow? What had
163 they - did - were you the one to receive the information or did they?
164

165 A: They - they received the information from one of the ranchers.
166

167 Q: Okay.
168
169 A: They said he saw a black water pipe...
170
171 Q: Okay.
172
173 A: ...in, uh, in a creek - a...
174
175 Q: Okay.
176
177 A: ...dried creek bed. And he said he didn't believe it was there last year or the
178 year before, and it looked fairly new. And in our line of business when people
179 who own property, and ranches that usually - about 99 times out of 100
180 signifies that - that water is going to or from a marijuana garden.
181
182 Q: Okay. Um, and so Alameda had - had gotten the initial information from, um,
183 workers at the entry ranch?
184
185 A: That's correct.
186
187 Q: And then, uh, who did they con- they contacted you?
188
189 A: They contacted me, and they believed that the garden, if there was one - if
190 they did locate one, it was a good possibility that it'd overlap both sides of the
191 county lines.
192
193 Q: Okay. Um, and have you ever been to the entry ranch...
194
195 A: I have...
196
197 Q: ...previously?
198
199 A: ...not on a marijuana operation.
200
201 Q: Okay. Um, so you said you got to Livermore PD and you met up with the, um,
202 Alameda deputies. Uh, and there was some type of briefing?
203
204 A: Yes.
205
206 Q: Tell me about the briefing. What did you guys discuss?
207

208 A: The briefing is - th- the format of the briefing is fairly standard. Uh, it goes
209 along with incident command system, um, rules of engagement, uh,
210 emergency procedures in case anybody's hurt or injured. Um, there's - in an
211 officer involved shooting, um, that is also encompassed with all the other stuff
212 involved.

213

214 Q: 'Kay.

215

216 A: Um, the front sheet, which showed the location of where we plan at - on going
217 in and scouting. Um, it'd also include the names of all the deputies, their
218 badge numbers, and call signs if they had any. Um, the cell phone numbers, of
219 some of the lead deputies. So that was included. Also some of the safety -
220 safety parts that I.

221

222 Q: You said, um, it - they'd have to go through rules of engagement, what were
223 the rules of engagement?

224

225 A: Rules of engagement that we talked about - and - and I brought that up only
226 because we had been discussing it the week before because of the Oakland
227 riots. Whose rules of engagement do we go by? Oakland's or ours?

228

229 Q: Okay.

230

231 A: And obviously we go with ours.

232

233 Q: Okay.

234

235 A: Regardless of where we go.

236

237 Q: Okay. Mm-hm.

238

239 A: And so I brought that up.

240

241 Q: Okay.

242

243 A: Um, saying that if we end up in a shooting or a critical incident inside
244 Alameda County, then we're still going by Santa Clara County Sheriff's Office
245 rules of engagement - standard rules of engagement.

246

247 Q: Okay.

248

- 249 A: And so that was pretty much - everybody agreed on that. Sergeant (Pearson)'s
250 gonna - brought that up. Because that at - it has become a question, um,
251 amongst some of their team members.
252
- 253 Q: Okay. Um, and then you said you guys traveled to, um, you're at the ranch and
254 met up with, um, some workers from the ranch?
255
- 256 A: Yes.
257
- 258 Q: Okay. Um, what happened after that?
259
- 260 A: Well they loaded up there, uh, horse trailer. And, uh, we all drove in a little
261 convoy out to the place where we were going to be dropped off. We were
262 gonna hide guns in the creek. They, uh, rode up on, I guess, a higher ridge,
263 um, on horseback, and our team, uh, the Santa Clara County (unintelligible)
264 team, we took point and moved first down into the creek. And when we - had
265 two separate teams we usually leave about 30 or 40 yards between us. So
266 we're not all bunched up and if somethin' happens, that gives the second team
267 time to react and respond properly.
268
- 269 Q: Mm-hm. And, um, why was it that the Santa Clara Sheriff's Office took lead,
270 er, point?
271
- 272 A: Well, for one thing, we have a lot more experience in tackling marijuana
273 gardens tactically.
274
- 275 Q: Okay.
276
- 277 A: Um, a couple of years ago, uh, Alameda County really didn't do much with
278 their marijuana team. We started working together and it completely changed
279 a whole lot of what they do. And so we work well together. A lot of people
280 like us, because of our experience, to go in first. Plus also, we were about two
281 miles within our side of the county line. So it w- it was our county at the time.
282 So it was only rightful that we would take point.
283
- 284 Q: Okay. And w- when you enter, um, you start hiking in what is the order that
285 you guys are going in?
286
- 287 A: Well that.
288
- 289 Q: And how was that provided?
290

291 A: That would change - well it was decided by the team leader.
292
293 Q: Okay.
294
295 A: I was a team leader today.
296
297 Q: Okay.
298
299 A: Um, but it's - it's often decided on who was there, and who's experienced. We
300 don't want an inexperienced person walking point. Because it's a very critical
301 position. At the same time, we didn't want a experienced person - the person
302 taking the tail because you could be ambushed from behind. So you need
303 somebody who's very sharp on the back too. Uh, we try to keep the medic in
304 the middle, if he is able to be there. Um, because he doesn't carry a rifle or a
305 shotgun. He's got a 100-pound pack with all kinds of trauma gear -- IV's and
306 stuff. Um, and so as a team leader, I was, like, the second or third person in
307 the file.
308
309 Q: Okay. And who.
310
311 A: A little more control.
312
313 Q: And who was in the front?
314
315 A: In the front was, uh, (Devin), (Fontana), and (Craig) (Divert).
316
317 Q: Okay. And once you start your hike in, why don't you just go ahead and tell
318 me from there what - what goes on?
319
320 A: Generally or what happened yesterday?
321
322 Q: No. Yester- yesterday.
323
324 A: Yesterday? Okay. Um, since we are working with the creek...
325
326 Q: Mm-hm.
327
328 A: ...and often we will split up one - one, uh, a couple of the guys that want to
329 take a little higher road...
330
331 Q: Uh-huh.
332

333 A: ...or I'm sorry, a higher trail, and the rest of the team may stay down more
334 towards the creek. It gives everybody a little different advantage point...

335

336 Q: Okay.

337

338 A: ...to have a better visual on the surrounding areas of terrain. Having some hire
339 and some lower. Um, so we'll walk and run a 2-man point, which was (Craig)
340 and (Devin). So (Craig), (Devin), and S- and Sergeant (Spegnola) took, uh,
341 followed the water line high up on the r- uh, (once he had raised up on the
342 bank).

343

344 Q: Okay.

345

346 A: Which is probably about 40 feet higher than we were down in the creek. And I
347 led the team down in the creek bed. The remainder of our team and Alameda
348 County followed behind us, probably about 30 to 40 yards.

349

350 Q: Okay. And then what happened? And how - how long does this go on? This -
351 that, um, (Spegnola), (Divert), and (Fontana) are above? Is that pretty much
352 consistent through your entire hike or?

353

354 A: No, that - that was - they had been up there for probably about maybe 15
355 minutes.

356

357 Q: Okay.

358

359 A: And then (Devin) said, hey, you know, we've - we've the - the waterline is
360 staying up on top because before it was kind of down inside the creek. It
361 started working its way out and then it leveled off and slowed down a little bit.
362 And (Devin) just called me on the radio said, "Hey, it looks like the water pipe
363 it - going to the garden, um, were suspected gardens, uh, is gonna stay up
364 there and continue to stay high." He said, "Why don't you go ahead and bring
365 the team if you want. Find the quickest way out and way up - the easiest trail
366 up to the top. And that way we have all of our guys up on top." Um, I was in
367 the process of looking for a good, um, spot without falling down, you know,
368 and losing half of our team because of the - the steepness of the slope. And,
369 uh, (Bret) (Moore), um, who was our tailgunner at the time, um, whispered up
370 to me, kind of loudly, he says, "Hey, there's somebody up there on the hill."

371

372 Q: Okay.

373

374 A: And so that was when (McGufney) had to readjust, and I could see the, uh,
375 person that had been our suspect, uh, walking, um, in the opposite direction
376 that we were.
377

378 Q: Okay. So just so I - I - I understand, you're going, do you know what direction
379 you're headed - north?
380

381 A: We were heading eastward.
382

383 Q: So you're going.
384

385 A: That's the direction - I - I'm not sure if the whole creek end - the whole creek
386 end of itself is running from, like, northwest to southeast.
387

388 Q: Okay.
389

390 A: At this point, there's probably a - a 150, maybe a 200-yard stretch. It was
391 going pretty much east and west.
392

393 Q: Okay. So you're headed east.
394

395 A: We were headed east and he was heading west, probably 75 yards up the hill
396 from us.
397

398 Q: Okay. And is he - if you're east west, is he on the north side or the south side?
399

400 A: He's on the north side.
401

402 Q: He's on the north side?
403

404 A: Right.
405

406 Q: And where are, uh, (Fontana), (Spegnola), and (Divert)?
407

408 A: They're on the south side of the creek. It's almost a cliff going straight up.
409 Think he's...
410

411 Q: Uh-huh.
412

413 A: ...like, 50 feet above the creek.
414

415 Q: Okay.

416
417 A: And they were up on top, little further back. I - I - I couldn't see him at that
418 point.
419
420 Q: Okay.
421
422 A: I was - I was attracted over to see where the suspect was.
423
424 Q: Okay.
425
426 A: Um, I lost all visual on (Craig) and (Devin).
427
428 Q: Okay.
429
430 A: And (Speg).
431
432 Q: Okay. And when you see, um, the suspect who (Bret) (Moore) had said he
433 saw, what - what do you perceive? What's the first thing you see when you?
434
435 A: First thing I see is a - a guy moving out of some heavy brushes. A lot of heavy
436 brush up there. Some of it only knee-high, some of it, you know, chest high.
437 And I saw him walking out of - out of the brush and he had what appeared to
438 be a shoulder-fired weapon or some sort of long gun slung over this shoulder.
439 I could see the shininess of the woodstock.
440
441 Q: Okay.
442
443 A: And he's walking away - he's walking along and he's - he's, like, you're lookin'
444 down towards the creek bed. But I didn't think he was looking right at me. I
445 don't think - I don't know if he saw me or anybody else, but he kept looking
446 down into the creek bed, um, and he was moving - he was walking kind of
447 fast.
448
449 Q: Okay.
450
451 A: And so I had to keep adjusting - adjusting my steps. And as soon as I really,
452 you know, could - could really see this guy, I got on the radio, put out a
453 description, said, "Hey, we got a - a possible suspect on the other side. But
454 (unintelligible) carrying a weapon-make." And then (Omaro) will - get's on
455 the radio and said, "He's got a rifle."
456
457 Q: Okay.

458
459 A: And - and so now I'm - I'm kind of movin' left and right, down this creek
460 trying to find out where this guy is because I don't want to lose visual on him
461 because I, you know, I can't tell if he's gonna, run, walk, shoulder his weapon
462 and try to fire at somebody. I couldn't tell if he could see anybody above me. I
463 didn't at that time know how far back (Spatic), (Fontana), and, um - um,
464 (Divert) were.
465
466 Q: Okay.
467
468 A: Like, if they're right near the edge or they're further back up the hill.
469
470 Q: Mm-kay. So, let me just go back a second. He, um, Deputy (Moore) says, "I
471 see someone."
472
473 A: Correct.
474
475 Q: Right? And he whispered that to you in louder voice. You said that you can
476 hear him. How - how far away from - from him are you?
477
478 A: 25 feet.
479
480 Q: Mm-kay. Um, and is he right - is he the person that's next in line or where's
481 deputy?
482
483 A: No. (Omaro) was right behind me.
484
485 Q: Okay, so it's you, (Omaro), and...
486
487 A: Right.
488
489 Q: ...then (Bret) and (Moore) and then...
490
491 A: Right.
492
493 Q: ...30, 40 feet back - yards back from that is...
494
495 A: Alameda County.
496
497 Q: ...Alameda County? When, um, when you - and then you look up to - to get a
498 visual, and you say the first thing you saw i- is him and you saw something
499 slung?

500

501 A: I see something slung over his shoulder. And usually what we see is, uh,
502 either a shotgun or a rifle.

503

504 Q: Okay.

505

506 A: I couldn't tell one way or the other what it was.

507

508 Q: Okay.

509

510 A: But I could see the sun reflection off of the stock.

511

512 Q: Okay.

513

514 A: Um, I was pretty convinced that it was a shoulder-fired weapon.

515

516 Q: Okay.

517

518 A: But he was moving. His arms are kind of goin' like this.

519

520 Q: Mm-hm.

521

522 A: Um, and then I lost him in the brush.

523

524 Q: Mm-kay.

525

526 A: So I was trying to readjust my position to see if I can pick him up.

527

528 Q: Mm-hm.

529

530 A: There's a lot of chatter on the radio. I see him and so.

531

532 Q: And did you know who that chatter was from?

533

534 A: No. I know, I heard - I heard (Craig)'s voice. I heard (Devin)'s voice.

535

536 Q: Okay.

537

538 A: I heard (Spag)'s voice, and I couldn't tell you what they said or when they said
539 it.

540

541 Q: Okay.
542
543 A: Too much happening at one time.
544
545 Q: I - I understand. Um, did you g- did you get on the radio?
546
547 A: I - I got on the radio once when I was down in the creek. That was just to
548 point out the fact that I'd seen the suspect.
549
550 Q: Mm-kay.
551
552 A: Or a possible suspect. I said, "We got a guy up on the hill." Tan - he had a tan
553 shirt. At least that's what it looked at the time. Um, and I think that's all I said.
554
555 Q: Okay.
556
557 A: And, uh, I came back right after that and I said, "He's got something on his
558 shoulder. He's got a possible rifle or somethin'". And then immediately after
559 that, (Doug) said he's got a rifle.
560
561 Q: And is that.
562
563 A: I had already lost visual of him so I - I don't know if he s- he moved or swung
564 it or somethin'.
565
566 Q: Okay. And what does, um, and that's (Omaro), said that it - is that over the
567 radio or is that?
568
569 A: That was over the radio.
570
571 Q: Okay. Okay. So he - he said I - I - he's got a rifle?
572
573 A: He did. He was adamant. He - and the way - the way it was - it wasn't, I think
574 he's got a rifle, he said, "He's got a rifle."
575
576 Q: Okay. And at that point you had lost visual on him...
577
578 A: Right.
579
580 Q: ...that's correct?
581
582 A: I lost him.

583

584 Q: Okay. And do you ever regain visual on him?

585

586 A: Not till I get up on top of the hill.

587

588 Q: Okay. So after, um, Deputy (Moore) says, "He's got a rifle." What happens?

589

590 A: It was just a few seconds later I heard (Divert) and one other person yell,
591 Sheriff's Office, drop the weapon, turn and face me, walk towards me. Not
592 necessarily in that sequence, but they were yelling, "Drop the weapon. I see
593 you've got a rifle. Drop the weapon." And it's probably - maybe five seconds
594 later, I heard one gunshot. I can tell it sounded like an AR-15, but I never
595 really saw what the gunman was carrying. Um, I was- I wasn't sure who shot.
596 I don't...

597

598 Q: Okay.

599

600 A: ...know - I didn't know at the time, if it was the suspect shooting at some -
601 somebody behind me up on the hill.

602

603 Q: Mm-hm.

604

605 A: Or if it was one of our guys firing.

606

607 Q: Okay.

608

609 A: And there is probably another two or three second lul...

610

611 Q: Uh-huh.

612

613 A: ...maybe a little longer. And then I heard two or three more shots.

614

615 Q: Okay.

616

617 A: And someone yelled, "I think he's down. I think he's down." In the meantime,
618 people are still yelling, "Drop the weapon, drop the weapon."

619

620 Q: Okay.

621

622 A: Inbetween the gunshots.

623

624 Q: Uh-huh. Mm-kay. So Deputy (Moore) says, "He's got a rifle." Very adamant
625 about it. Um, shortly after that you hear Deputy (Fontana) and Deputy
626 (Divert) start with some type of verbal, you know...
627
628 A: (Unintelligible).
629
630 Q: ...(unintelligible) verbal command?
631
632 A: (Unintelligible).Yes.
633
634 Q: Okay. Um, and then you said you heard one, um, one shot - one shot...
635
636 A: Mm.
637
638 Q: ...sound kind of like an AR-15 to you, but you didn't know from whom?
639
640 A: Right.
641
642 Q: Mm-kay.
643
644 A: That's correct.
645
646 Q: Um, after that one shot is - do you hear - is there any radio traffic or anyone
647 saying anything about the shot?
648
649 A: After the very first shot?
650
651 Q: The very first shot.
652
653 A: Other than - other than just yelling commands. And none of that was over the
654 radio.
655
656 Q: Right.
657
658 A: But it was loud. I mean, they were yelling. Um. yelling, "Drop the weapon. I
659 see you've got a weapon, drop it, put it on the ground." Someone - I think
660 someone yelled it in Spanish. I think it was (Bag). He yelled it in Spanish.
661
662 Q: Okay. So you're...
663
664 A: Something.
665

666 Q: ...(able) to hear one thing, stuff in Spanish?
667
668 A: Right. And I did, too.
669
670 Q: Okay.
671
672 A: Well, I'm sorry, after I get up on top of hill.
673
674 Q: Okay.
675
676 A: Um.
677
678 Q: We'll get to that then.
679
680 A: Okay. Sorry I jumped ahead.
681
682 Q: No, you're fine.
683
684 A: I didn't mean to.
685
686 Q: You're fine.
687
688 A: Um, but there is a lot of - a lot of yelling and giving commands. Drop the
689 weapon. I see you've got a gun.
690
691 Q: Uh-huh.
692
693 A: See you've got a weapon or whatever.
694
695 Q: And then (he) said, within seconds, two to three more shots?
696
697 A: Two to three. I think two.
698
699 Q: Okay. Uh, and then what happened?
700
701 A: And then the firing stopped. I was down in the bottom of the - very bottom of
702 the creek. They yelled that the suspect was down, but he's - he dropped down
703 behind some brush or something and they couldn't see - they didn't really have
704 a visual on him.
705
706 Q: Okay.
707

708 A: And so (Craig) said he was gonna try to get to some higher ground. He's
709 telling us this over the radio, trying to get some higher ground so he can get a
710 visual on the suspect. Um, I believe he did. And so he said, "Someone's gonna
711 have to go up there and secure him, handcuff him, and render first aid or
712 whatever." And so I was the closest one from the side of the hill so, I started
713 scrambling up the hill. Had to do it on all fours. Um, no traction whatsoever
714 and it's extremely steep, like, 70 degrees. It was an insane angle. Um, (Doug)
715 (Demaro) was right behind me because he's gonna need to check the suspect
716 and, you know, give him first aid and all that. And so we both got up there as
717 quickly as we could. I was listening to (Divert) radio to me, um, the location
718 of the suspect from my position. So he'd say, it is 10 o'clock at 20 yards. He's -
719 he's 9 o'clock at - at 30 feet now. He's immediately to your left. He's still
720 moving. I can see movement. You know, I - I.

721
722 Q: Okay.

723
724 A: So (Doug) and I went up a little higher and we kind of made a U-turn and
725 came down on to him, um, because of the, you know, the - the - the soft dirt in
726 the ground, the leaves and everything. The gr- the ground was just caving in
727 underneath ya. And so we had to be very careful about getting down there and
728 getting into position. And when I got up there I could see that the guy was still
729 moving. Um, he looked at - he - he raised his neck a little bit and looked at
730 me, and he started trying to reach for his weapon.

731
732 Q: Okay.

733
734 A: And he had a rifle, a wooden stock rifle. I don't know what kind. Um, but
735 there was a woodenstock rifle, probably 18 inches from his body.

736
737 Q: Okay. Okay. And then what happened?

738
739 A: So he's moving. I - I see him. It looks like he's trying to feel for the weapon...

740
741 Q: Okay.

742
743 A: ...or grab the weapon. And he's - he's kind of - his neck's up just a little bit and
744 he's looking at me. Um, I yelled at him as loud as I could yell, "Don't move.
745 Sheriff's Office. Don't move." ((Spanish Spoken 00:24:54)). And he just kept
746 feeling out there. He got his - got a grip on the stock of the rifle and pulled it
747 into his waist, and I fired. I fired probably four or five rounds.

748

749 Q: Okay. Okay. And then what happened after you fired?

750

751 A: After that I could see his left hand started going over behind his head. Because
752 of the steepness of the slope, he was up against a - a, like, a pile of - of dead
753 branches. Two inches thick. (Unintelligible) and gnarled into each other. And
754 everything loose was sliding down. His body started sliding down inside there
755 and I thought, well, if he had a pistol in his waistband and it fell out, he could
756 be trying - it might have slid down underneath that stuff and he could be
757 reaching for that. And so at that point, I didn't feel it was necessary to fire any
758 more rounds. (Doug) and I went down there. I said, "Let's try to get him
759 secured before he can grab ahold of anything." And so we dug out some
760 handc- some handcuffs. Uh, one of the Palo Alto guys had a set that was, you
761 know, easily accessible. I kept my rifle covered on the guy. While, I believe,
762 (Doug) handcuffed him. Um, and after that (Doug) started slappin' on
763 (unintelligible) chest valves.

764

765 Q: Okay.

766

767 A: On his chest.

768

769 Q: Okay.

770

771 A: One thing I did leave out. As I was crawl- as I was climbing up the side with
772 (Doug) straight above me, there was the sound of someone moving the - the
773 brush and off to the right about the same level that the guy came out of the
774 brush at...

775

776 Q: Mm-hm.

777

778 A: ...the suspect that's now shot. There are somebody - it sound like they were
779 running through.

780

781 Q: Okay.

782

783 A: So there was at least two other suspects there. Now I'm thinkin' about this as
784 I'm crawling up the hill. I'm tryin' to make sure I don't get myself in a position
785 to get shot by this guy because I don't know if he's down because he's shot or
786 if he's down, because he's scared and he's waiting to ambush me. And now
787 I've got these two guys taken off in different directions. I felt they were
788 armed. I don't know what they're gonna do. I don't know if they're running out
789 there just to get out of there.

790

791 Q: Right.
792
793 A: I don't know if they're running back to get some weapons and come back. Um,
794 so it was a little intense there for a few minutes, um.
795
796 Q: And did you communicate that with anybody else?
797
798 A: Yes. Um, a couple of other guys heard it. And - and...
799
800 Q: Okay.
801
802 A: ...I think they were a couple of, uh, the Al- uh, Co- um, Alameda County guys
803 that were coming up. I'll figure out who we had yesterday. Um, a couple of
804 the, uh, Alameda County guys, they were coming up probably about 20 feet
805 below us.
806
807 Q: Okay.
808
809 A: And they were saying they could hear guys running up there?
810
811 Q: Okay.
812
813 A: And so they moved up as - as a - we went over to the left...
814
815 Q: Mm-hm.
816
817 A: ...to, uh, check on the suspect. The downed...
818
819 Q: Right.
820
821 A: ...suspect. Um, a couple of Alameda County guys went up above us to the
822 right a little bit and started yelling in Spanish, you know, (unintelligible) to
823 come out here. You know one of the - one Hispanic guys on the team.
824
825 Q: Okay.
826
827 A: Um, started telling me stuff in Spanish.
828
829 Q: Okay. So, um, you're - you talked about going above, um, where the suspect is
830 and you're kind of getting directions from, um, Deputy (Divert) about where
831 you are in relation to - to him?
832

833 A: Yes ma'am.
834
835 Q: Uh, how far above him do you end up going before you are?
836
837 A: We didn't - I marked my firing position...
838
839 Q: Mm-hm.
840
841 A: ...with orange - that orange bright tape. By, like, a big clump that of that really
842 stiff bushes. That's where I fired...
843
844 Q: Mm-hm.
845
846 A: ...from. Um, probably about 15 feet above the suspect.
847
848 Q: Okay.
849
850 A: We had probably gone maybe five feet higher than that.
851
852 Q: Okay.
853
854 A: In a - in a little bit of a loop.
855
856 Q: Okay. And was Deputy (Omaro), uh, right with you?
857
858 A: He was right there. I mean, he was - he was right on him.
859
860 Q: Okay.
861
862 A: Um, y- you know, he had on all his first aid stuff. But he had his weapon out -
863 - his pistol out.
864
865 Q: Okay. And um, when - what - where are you when you first get a visual on the
866 suspect?
867
868 A: Right in front of my firing position.
869
870 Q: At your firing position?
871
872 A: Right.
873

874 Q: Okay. Um, and what is he doing when you first see him? Where...
875
876 A: When I first see him?
877
878 Q: ...is he? Do you know?
879
880 A: I come aro- as soon as I come around the corner and I can see his - his arm
881 moving a little bit.
882
883 Q: Mm-hm.
884
885 A: It's - would be his left arm. (Unintelligible). And so I came up on my rifle and
886 I'm yellin' at him, "Don't move. Sheriff's Office. Don't move. Sheriff's office.
887 ((Spanish Spoken 00:29:53))." And he - he's - he's still, like, he's, like, he's
888 feeling for this pistol.
889
890 Q: Mm-hm.
891
892 A: Or I'm sorry. His ri- his pistol - his rifle. Um, and, you know, I - I wanted to
893 see if he was - if he was not gonna grab it. You know...
894
895 Q: Right.
896
897 A: ...then I think we're probably okay, then we can probably secure him safely.
898 But he grabbed the rifle, and pulled it into him and got it just about on his left
899 leg, and I fired on him.
900
901 Q: Okay.
902
903 A: I am not - I'm not gonna die out there for.
904
905 Q: N- no one wants you to. If he, um, i- where is his head in relation to where
906 you are? Is it pointed towards you, is it pointed away from you?
907
908 A: It - he was facing up, but his head was down the slope.
909
910 Q: Okay.
911
912 A: And his feet were, um, his feet were up high.
913

914 Q: Okay. Um, so the - the - the way I understand that is, he's kinda - he's kind of,
915 like, with his face so he could s- looking at towards your direction?
916

917 A: Right. I was above...

918

919 Q: So he's looking up?
920

921 A: ...him. But still the slope was kind of down, so I think that's why he tryin' -
922 was tryin' to li- lift his neck up a little bit...
923

924 Q: Mm-hm.
925

926 A: ...to look at me.
927

928 Q: Okay. Did you make eye contact with him? Do you think...
929

930 A: Yes.
931

932 Q: ...he saw you?
933

934 A: I think he did, yes.
935

936 Q: Okay.
937

938 A: Now I - I don't - I don't know how - I don't know where he was hit. I don't...
939

940 Q: Uh-huh.
941

942 A: ...know how badly damaged he was.
943

944 Q: Uh-huh.
945

946 A: I don't know if any of his injury might have affected his eyesight or...
947

948 Q: Uh-huh.
949

950 A: ...anything, but he looked like he was lookin' at me.
951

952 Q: Okay. And when he, uh, pulled the weapon towards him, what - what are you
953 thinking he's trying - what do you think he's gonna do?
954

955 A: I'm thinkin' this cat wants to shoot me, or (Doug). I was afraid...

956

957 Q: Okay.

958

959 A: ...that if he - if he got control of that weapon, that he was either gonna shoot
960 me or (Doug). So I was in fear for my life and for (Doug)'s life.

961

962 Q: Okay. And after, um, your shots - well let me ask you this. Wh- when you see
963 him and - and he's doing all this, um, you know, reaching for the gun 'cause
964 he's - 'cause I - I - I did go out to the scene and so I know the - the slope. Is he
965 sliding at all or is he pretty good at that point?

966

967 A: Once - at that point no.

968

969 Q: Okay.

970

971 A: He hadn't - he hadn't slid at least, not that I could see.

972

973 Q: Okay.

974

975 A: His head had not gone past that brush, but it - probably, like sticks and stuff.

976

977 Q: Okay.

978

979 A: Um, but when we went down there, I was still trying to cover him just in case
980 - 'cause that left - I see a left hand, it was like he was trying to reach somethin'
981 behind his head. And I.

982

983 Q: Uh-huh.

984

985 A: I - I don't know what that meant. I don't know if he had anything. If he
986 dropped anything or what. Um, but I kept my rifle on him and I'm trying to
987 hold myself from sliding down the rest of the way and, you know, gettin'
988 injured. And we finally were able to get his hands under control. And once we
989 started handling - once (Doug) started handling him, then I guess that little
990 moment or whatever started causing despite a little bit.

991

992 Q: Okay.

993

994 A: Yeah. I do- kind of, he got part of his head, maybe down to here underneath
995 that brush. And so we decide, if we don't get this guy, you know, tethered
996 somethin'.

997

998 Q:
999

Yeah.

1000 A:
1001
1002

Tethered or something that he's gonna be - he's gonna go all the way down the hill.

1003 Q:
1004

Mm-kay.

1005 A:
1006
1007

Whatever evidence might be under that brush, you know, he's gonna - damaged or somethin'. I don't.

1008 Q:
1009
1010
1011
1012
1013

Okay. Um, I had a question - it's gone. Um, so you talk about this - the hand that kind of - kind of appeared and you didn't know if it was reaching for something. W- w- when did you see it? Um, is he lifting it at some point? Did you see that, or is it when you come over and first see him is it already up there? Do you know?

1014 A:
1015
1016
1017

I don't recall what position it was in before - as I - as I first saw it. The first time I really paid attention to any movement of his hand was when he was reaching over to what I believe was to grab the rifle.

1018 Q:
1019

Right.

1020 A:
1021

Um, yeah, it- it was - it was kind of coming up in the air...

1022 Q:
1023

Uh-huh.

1024 A:
1025
1026
1027

...like that. And he was g- and get - and sometimes he'd - he'd come down here - (unintelligible) would come down here. Um, but it would always end up kind of behind his head.

1028 Q:
1029

Okay.

1030 A:
1031
1032

So it - my only interpretation that I thought was valid at the time was he's - he's possibly trying to reach for a gun.

1033 Q:
1034

Uh-huh.

1035 A:
1036
1037
1038
1039

I didn't see any reason - I didn't have the fear that he was gonna be able to grab a - that - that rifle again. And I couldn't see a weapon by his head. But we went ahead and went down there, slid down the last whatever, 10 or 15 feet, and we were able to secure his hands so it didn't matter if he did have a gun, we had his hands - his hands secured.

1040

1041 Q: Okay. Let me just make sure I get the - the sequence. You come over. You see
1042 him and, you know, start givin' him commands.

1043

1044 A: Mm-hm.

1045

1046 Q: You see him reaching for the rifle, um, and not quite sure what he's gonna do
1047 with it, so you don't do anything yet. But it gets to about his, um, thigh area
1048 where it's almost touching him.

1049

1050 A: When he first got control of the weapon.

1051

1052 Q: When - when he first got control the weapon, becomes concern for you and,
1053 um, Deputy (Moore)'s safety. Shoot a couple rounds. Is it after that that he
1054 starts moving that hand?

1055

1056 A: I didn't s- I didn't see him until I actually got within, like, the last 15 feet.

1057

1058 Q: Okay.

1059

1060 A: When I'm top then I could see him laying next to some brush and with his
1061 head down by the - the pile of branches. Um, I don't know what he was doing
1062 with that hand before I got there. Like, the first time I ever laid eyes on him -
1063 well, after - after he was down, was when I got to that position. Which was the
1064 same position I fired from.

1065

1066 Q: Mm-hm.

1067

1068 A: I don't know - I don't - I don't recall if - if his hands were doing something...

1069

1070 Q: Mm-hm.

1071

1072 A: ...as soon as I rolled up. But I do recall the first - the first attention I really
1073 paid to what's his his hand doin'...

1074

1075 Q: Right.

1076

1077 A: ...he's reaching out and the weapon was there.

1078

1079 Q: Okay.

1080

1081 A: And so I started yelling the commands in English and Spanish and, um, he
1082 wasn't payin' attention. He kept reaching out. He was reaching too far for the
1083 rifle, and he was looking at me so I didn't know if maybe he couldn't see
1084 where the rifle was. He thought it was further away? But when he finally got
1085 his hands on it and pulled it up against his thigh, that's what I went ahead and
1086 fired.
1087
1088 Q: Mm-kay.
1089
1090 A: Um, there's something else I was gonna say. Oh, when I went down there with
1091 (Doug) to secure him, I grabbed the rifle and shoved it off to the side.
1092
1093 Q: Okay.
1094
1095 A: So - so it wasn't within reach of him.
1096
1097 Q: Okay. And, um, and I think earlier you talked about, um, or maybe that's
1098 another interview. Um, the - when you first see him and you're still down in
1099 the creek bed. And you can see kind of the - the glint of the wood, right? That
1100 you - and you think you're, you know...
1101
1102 A: It was shiny. I - I thought...
1103
1104 Q: ...(unintelligible) shiny?
1105
1106 A: ...it was probably wood.
1107
1108 Q: But something shiny and you feel - I think your words were you felt pretty
1109 confident that it was some type of..
1110
1111 A: Shoulder fire weapon.
1112
1113 Q: ...shoulder fire weapon. God I goin' (unintelligible) where it's at. I think we're
1114 all too tired. Um, could you tell - or did you notice how he was carrying it?
1115 Or.
1116
1117 A: It was on his right sh- it was on his right shoulder.
1118
1119 Q: Okay.
1120
1121 A: Um, I - I really couldn't tell.
1122

1123 Q: Okay.
1124
1125 A: I mean, I - I believe the stock - I believe the butt stock was up.
1126
1127 Q: Okay.
1128
1129 A: Because I believe that's what I saw, was the wood there. If he held - if he
1130 carried it with the barrel pointing up, then I believe the barrel would have
1131 stuck up behind his shoulder.
1132
1133 Q: Uh-huh.
1134
1135 A: So that's - I - I - I can't know 100% for sure...
1136
1137 Q: Right.
1138
1139 A: ...but I believe that - that's the way it was and we've seen other, um, of the
1140 illegal aliens in the gardens carrying their shotguns with their rifles the exact
1141 same way. Some sort of homemade swing.
1142
1143 Q: Okay.
1144
1145 A: Um, they make either - either piece of rope or they braid it or somethin', and
1146 they'll swing it over their shoulder with the barrel pointing down.
1147
1148 Q: Okay. And when, um, when you finally get down to him, um, to secure him,
1149 did you look at the weapon? Was there some type of sling or homemade sling
1150 or?
1151
1152 A: Yes, it was, uh, like, a quarter inch rope or somethin', it was blue or turquoise.
1153
1154 Q: Okay.
1155
1156 A: Kind of odd looking.
1157
1158 Q: Okay. Um, and homemade? So - but something that y- you just described
1159 something where you just sling it ov- like, hold it over here. Something
1160 similar to that? That you've seen before?
1161
1162 A: I'm not sure I understand.
1163

1164 Q: Okay. Yeah,
1165
1166 A: I'm sorry.
1167
1168 Q: I don't doubt it. No, don't worry about it. It's me. Um, (unintelligible) together.
1169
1170 A: I think it was.
1171
1172 Q: I'm sure.
1173
1174 A: I think it was, like, tied off in a knot.
1175
1176 Q: Okay.
1177
1178 A: Not, like, uh, like, you would normally see a rifle with a sling in the sling
1179 mounts and the rings and.
1180
1181 Q: Right. Okay. Um, and you say you kind of moved it?
1182
1183 A: I pushed - I - I.
1184
1185 Q: Pushed it to the side?
1186
1187 A: I set it off to the side far enough where - no way he could reach it.
1188
1189 Q: Left or right, do you remember?
1190
1191 A: Um, towards the west, yeah.
1192
1193 Q: Towards the west? That's fine.
1194
1195 A: Which would have been...
1196
1197 Q: Okay.
1198
1199 A: ...away from his left arm.
1200
1201 Q: Okay. So to the west, um, away from - from where he couldn't get it?
1202
1203 A: Right.
1204

1205 Q: Okay. And then, um, you say just dep- uh, (unintelligible) Deputy (Omaro)
1206 was the one who actually handcuffed him?
1207

1208 A: Yes.
1209

1210 Q: Okay. And then started giving, um, medical aid?
1211

1212 A: Correct.
1213

1214 Q: Did you see any of that?
1215

1216 A: I saw some of it. Um, once he was secured...
1217

1218 Q: Uh-huh.
1219

1220 A: ...I was convinced that (Doug) had it handled.
1221

1222 Q: Okay.
1223

1224 A: And I turn my attention to the rest of our perimeter.
1225

1226 Q: Okay.
1227

1228 A: Because as far as I'm concerned, we had two suspects who were outstanding.
1229

1230 Q: Mm-hm.
1231

1232 A: Uh, I stayed there obviously to help (Doug), if he needed any. Um, he put, uh,
1233 he put two (Acherman) chest valves on, uh, the suspect, the downed suspect.
1234

1235 Q: Mm-hm.
1236

1237 A: Uh, those are for lung injuries.
1238

1239 Q: Mm-hm.
1240

1241 A: Lung perforations. Um, as soon as we got the situation, um, settled into what
1242 we were doing, um, I got on my satellite phone...
1243

1244 Q: Uh-huh.
1245

1246 A: ...and I contacted radio.

1247

1248 Q: Okay.

1249

1250 A: Um, took several minutes to get through, we were having satellite issues. And,
1251 uh, let them know of the situation that, uh, we're pretty much coded for. No
1252 officers injured, but we got a suspect down. And, um, (passenger) contact, get
1253 a helicopter. Eventually, it - 10:25 hours. (Doug) pronounced the guy dead.

1254

1255 Q: Okay. Yep.

1256

1257 A: And, uh, we didn't need the helicopter anymore, but I didn't think about that.
1258 And the helicopter came anyway. And it's better anyway just in case - just
1259 incase another need for a helicopter came up.

1260

1261 Q: So did you hear Deputy (Omaro) pronounce at 10:25?

1262

1263 A: Yes.

1264

1265 Q: Okay.

1266

1267 A: I was three feet away - five feet away.

1268

1269 Q: Okay. Did anyone assist, um, Deputy (Omaro) in medical treatment with -
1270 with the suspect?

1271

1272 A: Uh, Deputy (Hope) from Alameda County was right there.

1273

1274 Q: Uh-huh.

1275

1276 A: Um, came over to it, to see if he could help. I don't - I don't know that he
1277 actually helped.

1278

1279 Q: Okay.

1280

1281 A: I know he - he had quick access to a pair of handcuffs.

1282

1283 Q: Uh-huh.

1284

1285 A: But, uh, I don't - I don't believe he actually give r- you know, rendered any
1286 medical...

1287

1288 Q: Okay.
1289
1290 A: ...out with (Doug).
1291
1292 Q: Okay. And did you, um, see any of the injuries on the suspect?
1293
1294 A: Uh, yeah. When - when, uh, Deputy (Inwall) was - I think he rolled them over
1295 to handcuff him...
1296
1297 Q: Uh-huh.
1298
1299 A: ...um, at least up on his left side - part of his, uh, I could see - yeah, I could see
1300 somewhere, uh, in his torso...
1301
1302 Q: Uh-huh.
1303
1304 A: ...blood spot about 3 inches across. And, um, his - his, uh, gr- groin - crotch
1305 area was full of blood. Uh, lower stomach maybe?
1306
1307 Q: Uh-huh. Okay. Um, and then you said - did you stay with the body or did you
1308 move somewhere else?
1309
1310 A: We stayed with the body, uh, (Doug) and I stayed with the body for an hour
1311 and a half, maybe two hours at the most.
1312
1313 Q: Uh-huh.
1314
1315 A: Um, and then he was starting to become concerned about everybody on that
1316 side of the hill, since it was in direct sunlight, we had no shade, um, of pe-
1317 becoming heat casualties. Um, our - pretty much our standard operating
1318 procedures are if we have any sort of major injury on the team, um, then
1319 (Doug) is - (Doug) becomes the team commander.
1320
1321 Q: Uh-huh.
1322
1323 A: Um, outside of tactical decisions, that's - that would be my job today. But if he
1324 says, get these guys out of the sun or you're gonna have some heat problems
1325 here. Like, heat exhaustion, heat-stroke, um, then we do that. Or either that or
1326 we're gonna get medivaced. And, uh, and so the, uh, the suspect was 1055,
1327 confirmed. He was covered up. We had rocks weighting the outside of the, uh,
1328 emergency blanket.
1329

1330 Q: Mm-hm.
1331
1332 A: Uh, at that time we were still pending the helicopter and I said, "Let's weight
1333 these things down because the helicopter's gonna blow this all away."
1334
1335 Q: Mm-hm.
1336
1337 A: And so, uh, we decided we would rotate. Um, (Doug) and I went down the
1338 other side of the creek where there is some shade and, uh, got some water.
1339
1340 Q: Okay.
1341
1342 A: And Alameda County guys were able to find a place up on top of the ridgeline
1343 where they had a little bit of shade.
1344
1345 Q: Okay. Um, you're talking ab- about - you just talked about weighting, um,
1346 like, the emergency blanket. Who put that on?
1347
1348 A: Um, somebody from Ala- somebody from Alameda County, or maybe (Doug)
1349 had it in its medical backpack. It was a blue - it wasn't really an emergency
1350 blanket, it was kind of like the - kinda like the ones we had in patrol cars.
1351
1352 Q: Uh-huh.
1353
1354 A: It was, like, a light blue.
1355
1356 Q: Okay.
1357
1358 A: Or a - a cover sheet for, uh, an emergency room.
1359
1360 Q: Okay.
1361
1362 A: Just a real light, flimsy thing.
1363
1364 Q: Uh-huh. And did (Doug) put that on or did you put that on or?
1365
1366 A: (Doug) did.
1367
1368 Q: (Doug) did?
1369
1370 A: I put rocks around the edges just to weight it down.
1371

1372 Q:
1373
1374
1375
1376 A:
1377
1378 Q:
1379
1380 A:
1381
1382 Q:
1383
1384 A:
1385
1386
1387
1388 Q:
1389
1390 A:
1391
1392 Q:
1393
1394 A:
1395
1396 Q:
1397
1398 A:
1399
1400 Q:
1401
1402 A:
1403
1404 Q:
1405
1406 A:
1407
1408 Q:
1409
1410 A:
1411
1412 Q:
1413

Okay. Um, you're a member, uh, cert team, are you? Is that correct?

1414 A: Yes.
1415
1416 Q: And how long have you been in (unintelligible) cert team?
1417
1418 A: Uh, eight years.
1419
1420 Q: Mm-kay. And what is your assignment in the cert team?
1421
1422 A: Sniper system team leader.
1423
1424 Q: Okay. And how long have you been, uh, a sniper?
1425
1426 A: Eight years.
1427
1428 Q: Okay. And what weapons did you, um, have together with you?
1429
1430 A: My AR-15 and my issued (unintelligible) glock 22.
1431
1432 Q: Okay. And what weapon did you shoot today?
1433
1434 A: My AR-15.
1435
1436 Q: Okay. Um, so you did not shoot your glock?
1437
1438 A: No.
1439
1440 Q: And you are current - are you current on your qualification in both of those...
1441
1442 A: Yes.
1443
1444 Q: ...weapons?
1445
1446 A: Just qualified with them about two weeks ago.
1447
1448 Q: 'Kay. Have you ever, um, been involved in any other officer-involved
1449 shooting incidents?
1450
1451 A: Yes.
1452
1453 Q: When was that?
1454
1455 A: August the 5, 2005.

1456

1457 Q: Were you a shooter in that incident?

1458

1459 A: Yes I was.

1460

1461 Q: And was that also in a marijuana garden?

1462

1463 A: Yes it was.

1464

1465 Q: Any other officer-involved shooting incidents?

1466

1467 A: No.

1468

1469 Q: Okay. Hang on. Got it.

1470

1471 A: (Unintelligible). Covered my (unintelligible). You covered it all.

1472

1473 Q: No, that's not possible. Anything?

1474

1475 A: (Unintelligible).

1476

1477 Q: Wow. Did you get injured at all today? No?

1478

1479 A: No. Not that I (would be able to tell). I would get injured every time I go out.

1480

1481 Q: I'm just asking. Um, you, um, intimated that the one shot that you had heard -
1482 the first shot, just the one of by itself...

1483

1484 A: Yeah?

1485

1486 Q: ...sounded to you like an AR-15. Um, how familiar are you with that sound?

1487

1488 Why was - are you familiar with guns enough to where you would know that?

1489

1489 A: Been shooting 'em for - the same rifle for 30 years. Yeah. I mean, there's some

1490

1491 - some rifles have a very distinct sound.

1492

1492 Q: Mm-hm.

1493

1494 A: AR-15 does. An AK-47 does. M-14 does.

1495

1496 Q: 'Kay.

1497

1498 A: Um, some rifles you're not gonna be able to tell, but to me it sounded like it
1499 was an AR-15, but with - (I was in a flat-wall) canyon. The reverberation of
1500 the sound in there, you can't tell which direction it came from.
1501
1502 Q: Okay.
1503
1504 A: So I probably kind of thought that it was one of our guys that took a shot. But
1505 I never saw the type of rifle the guy had until I actually got up there.
1506
1507 Q: Mm-hm.
1508
1509 A: He might of had an AR-15 too.
1510
1511 Q: Right. And what kind of rifle did he have?
1512
1513 A: I don't know. It...
1514
1515 Q: Okay.
1516
1517 A: ...uh, a wooden stock. At a glance, it looked like it was probably a 22.
1518
1519 Q: Okay. Did you, um, ever make it to the marijuana garden?
1520
1521 A: No.
1522
1523 Q: Did anyone ever make it to the marijuana garden?
1524
1525 A: No, not today. Not - unless - unless a couple of the guys - it - I don't believe
1526 they were gonna do this, unless a couple of the guys who are familiar with,
1527 you know, doing marijuana opps decided to go ahead and - and move up the
1528 creek. Um, our T.F.O. (Leo) (Gonzales)...
1529
1530 Q: Mm-hm.
1531
1532 A: ...or, yeah, (Gonzales), um, found six marijuana gardens...
1533
1534 Q: Mm-hm.
1535
1536 A: ...in less than three-quarters of a mile...
1537
1538 Q: Okay.
1539

1540 A: ...from where the shooting site was.
1541
1542 Q: Okay. Okay. But let's go through verbal. We'll be right back.
1543
1544 A: So how do you think it went?
1545
1546 A1: (Unintelligible).
1547
1548 A: (Unintelligible).
1549
1550 Q1: Um, think you mentioned, uh, that (Moore) had told you he saw somebody
1551 walk there up on the hill. Is that correct?
1552
1553 A: Yes.
1554
1555 Q1: Uh, prior to that happening, did you hear anybody else say, um, to stop, so
1556 they can assess noises that they had heard?
1557
1558 A: No I didn't.
1559
1560 Q1: (Unintelligible).
1561
1562 A: No.
1563
1564 Q1: Okay.
1565
1566 Q: Had you heard (Divert) tell anyone, "We don't need to stop, or stop."
1567
1568 A: Right before the shooting?
1569
1570 Q: Yeah.
1571
1572 A: No.
1573
1574 Q: Okay. Did you hear any noises before the shooting, uh, before, um, (Bret)
1575 (Moore) told you that he saw someone? Had you heard...
1576
1577 A: I was...
1578
1579 Q: ...any noises?
1580
1581 A: ...unaware of anything. I mean...

1582
1583 Q: Okay.
1584
1585 A: ...we we're lookin' for it, but, I mean, I wasn't aware of any suspect or any
1586 sounds...
1587
1588 Q: Okay.
1589
1590 A: ...until (Bret) notified me.
1591
1592 Q: Cool. I got it.
1593
1594 Q1: You know, my understanding is you're in two different locations thought. You
1595 guys are down in the creek and I think (Divert) and, uh, (Fontana) were up
1596 top.
1597
1598 A: Him and (Spagnola) were up on top.
1599
1600 Q1: On top? How, uh, were you - from your location do you know how much
1601 further east they were from you?
1602
1603 A: South - further south?
1604
1605 Q: Er, further south?
1606
1607 A: Oh, no I don't, because I - there's kinda a little bit of a plateau...
1608
1609 Q1: Okay.
1610
1611 A: ...up on that part. So I don't know how far back they were.
1612
1613 Q1: Okay.
1614
1615 A: Um, b- but initially they were following the pipeline.
1616
1617 Q1: Right.
1618
1619 A: Um, but at the time I didn't know how far back they were.
1620
1621 Q1: Okay.
1622
1623 A: We have problems with our radios all the time.

1624

1625 Q1: All right.

1626

1627 Q: Okay. I - I - I'm good. You good?

1628

1629 Q1: Yep.

1630

1631 Q: Good job there. I know you've been up for over 24 hours. Mm-hm.

1632

1633 A: 24 hours will be in about 53 minutes.

1634

1635

1636

1637 This transcript has been reviewed with the audio recording submitted and it is an accurate
1638 transcription.

1639 Signed _____