

**INTERVIEW WITH DEP. (DEVIN) FONTANA**

**Q=Woman**

**Q1=Man**

**Q2=Woman 2**

**A=Dep. (Devin) Fontana**

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Q: Uh, yeah (Unintelligible).

A: (Unintelligible).

Q: Fifty-two. (Unintelligible).

A: You guys are - you guys are pushing it now. I'm getting sleepy.

Q1: All of us are, man. I've been up since four in the morning. (Unintelligible) or earlier, so.

A: Have a coffee while (Unintelligible) will help you.

Q1: You wanna another, man? I can get you (Unintelligible).

A: I don't believe it. So it wasn't that bad, right?

Q1: What's that?

A: The (Unintelligible) wasn't that bad?

Q1: Not too bad. Nah, it was all right. I'm shaky though. It's probably harder for me than most people but I...

A: 'Cause I worked - I worked really hard, like, finding, like, a pretty, nice...

43  
44 Q1: I appreciate that, man.  
45  
46 A: ...(Unintelligible). And then I don't know if you notice the zigzags. Like, on  
47 the (Unintelligible) parts. It wasn't, like, straight up the (Unintelligible).  
48  
49 Q1: Right.  
50  
51 A: I was trying to make it. Especially on the way out its kind of tough, but...  
52  
53 Q1: But you did better on the way out, I think.  
54  
55 A: Really?  
56  
57 Q1: Yeah. (Unintelligible). I think what happened is, uh, going in...  
58  
59  
60 A: Uh-huh.  
61  
62 Q1: I think we kinda got off the trail a little bit.  
63  
64 A: (Unintelligible).  
65  
66 Q1: We gotta get our own little trail. (Unintelligible) oh my goodness it's yellow.  
67  
68 A: Okay.  
69  
70 Q1: You know where they put the yellow tape?  
71  
72 A: Right.  
73  
74 Q1: I don't know (Unintelligible).  
75  
76 A: Yeah.  
77  
78 Q1: It's not too bad.  
79  
80 A: Mm-hm. Yeah. I was just really worried. You know, I thought, you guys  
81 have been carrying all kinds of gear and all that. I guess I (Unintelligible) a  
82 bit.  
83

84 Q1: Yeah.  
85  
86 A: You know, carrying a lot of weight. You're not used to it, but...  
87  
88 Q1: Yeah. That's for sure.  
89  
90 Q: (Unintelligible). I thought you were at (Unintelligible).  
91  
92 A: Um...  
93  
94 Q: But it's the same as far as what (Unintelligible). Okay. Okay. Okay. We're  
95 not on, right?  
96  
97 Q1: Not yet, no.  
98  
99 Q: We'll do a quick interview in about 50, 55 minutes. Okay.  
100  
101 A: Wow.  
102  
103 Q: So yours maybe a little less though. I intend to (Unintelligible) that good.  
104  
105 A: (Unintelligible).  
106  
107 Q: (Unintelligible). You do a nice job. Okay.  
108  
109 A: (Unintelligible).  
110  
111 Q: What?  
112  
113 A: (Unintelligible).  
114  
115 Q: No. Sgt. McAllister, Sgt. (Allie), and, uh, from  
116 (Unintelligible). And we're talking to Deputy (Devin) Fontana in regards to  
117 case 10-202-0038E (Edward). It is the 21st of July at, ooh, 11:58ish. Um,  
118 Deputy Fontana, you understand that you're not under arrest. You're making a  
119 voluntary statement as a witness in a criminal investigation.  
120 A: I do.  
121  
122 Q: Okay. And you have an attorney present. Have you had adequate time to  
123 confer with that attorney?  
124  
125 A: I have.

126

127 Q: Okay. How do you know what I, we just talked about, do you wanna make a  
128 statement?

129

130 A: Sure do.

131

132 Q: Okay. Thank you. Deputy Fontana, in what capacity are you employed with  
133 the Sheriff's Office? What is your current assignment?

134

135 A: I'm currently assigned, uh, to the Justice Training Center Sheriff's Office  
136 Academy.

137

138 Q: Okay. And how long have you been, uh, in that assignment?

139

140 A: Uh, about nine months.

141

142 Q: Okay. And how long have you been employed with the Sheriff's Office?

143

144 A: Um, I've been employed here for about eight years.

145

146 Q: Okay. And prior to your current assignment, what was, what did you do  
147 before that? Was your?

148

149 A: I was a patrol...

150

151 Q: Okay.

152

153 A: ...patrol, um, in (Unintelligible).

154

155 Q: Okay. And how long did you do that?

156

157 A: About eight months.

158

159 Q: Okay. And before that?

160

161 A: Um, I was assigned to the, uh, marijuana eradication team for four years.

162

163 Q: Okay. And when you were on the marijuana eradication team, who were you,  
164 um, did you have a partner?

165

166 A: I did.

167

168 Q: And who was that partner?

169

170 A: Detective (Diver).

171

172 Q: Okay. And what time did you start work today?

173

174 A: 5:00 am.

175

176 Q: Okay. And before you came on this morning at 5:00 am., um, when was your last work shift?

177

178

179 A: Um, I worked, uh, yesterday at the academy, uh, from 7:00 to 5:00.

180

181 Q: Okay. And what - what is your role out at the academy? What do you do?

182

183 A: I'm a, uh, training officer for the recruits.

184

185 Q: Okay. And what does your day consist of on, um, (Unintelligible) than Tuesday for your shift? What did you do?

186

187

188 A: Um, do a lot of different stuff out there, so I'm trying to (Unintelligible) together. Um, we had an inspection, um, early in the morning. And, uh, we had, uh, a combination of, uh, different classroom, uh, learning for the recruits and scenario preparation for some testing they have coming up.

189

190

191

192

193 Q: Okay. Anything unusual happens yesterday during your shift at the academy?

194

195 A: No.

196

197 Q: Okay. And what, um, did you work on Monday?

198

199 A: I, uh, I had Monday off, but I worked, uh, in the evening. I worked overtime.

200

201 Q: Okay.

202

203 A: And, uh, assisting, uh, the academy preparing the recruits for scenarios.

204

205 Q: Okay. So on Monday, what - what did you work?

206

207 A: So I worked from 5:00 to 10:00 pm on Monday.

208

209 Q: Okay - okay. And you said you were preparing, helping to prepare  
210 recruits. What does that entail?  
211

212 A: Um, basically running them through different scenarios that they might, uh,  
213 encounter on a Friday when they're tested on the different, uh, subject matter?  
214

215 Q: Okay - okay. And did anything unusual happen during that training?  
216

217 A: No.  
218

219 Q: Okay. And did you work on the weekend?  
220

221 A: I worked on Saturday.  
222

223 Q: Okay. And what did you work on - on Saturday?  
224

225 A: Um, sorry. I was at the academy.  
226

227 Q: Okay.  
228

229 A: I was, uh, training the recruits in how to drive patrol cars.  
230

231 Q: Okay. And - and what hours did you work?  
232

233 A: I worked from 8:00 to 5:00.  
234

235 Q: 8:00 to 5:00. Okay. So the, uh, recruits are there on Saturday from 8:00 to  
236 5:00?  
237

238 A: It was a voluntary thing on their part...  
239

240 Q: Oh.  
241

242 A: And it was a, I was directed to be there for that. So that was my, uh, that was  
243 my Monday, basically. I worked, uh, Saturday and do it Monday.  
244

245 Q: Oh, okay - okay. Um, and - and how did that go?  
246

247 A: Um, it went well. Nobody crashed any cars and I didn't have to write any  
248 report.  
249

250 Q: There you go. That's very good. Okay. So nothing unusual then.  
251  
252 A: Nothing.  
253  
254 Q: Okay. Um, and you said you started this morning at 5:00 am.  
255  
256 A: Yes.  
257  
258 Q: And where did you start from?  
259  
260 A: Um...  
261  
262 Q: You said, go ahead.  
263  
264 A: Right here in the parking lot.  
265  
266 Q: Okay. And what, um, was your understanding when you came in this  
267 morning at 5:00 am what was gonna happen today?  
268  
269 A: I understood that we would be, uh, going to (Livermore) to meet up with  
270 (Alameda) County, um, deputies, and be going to examine a waterline on the,  
271 uh, (N3) Ranch, the (North) 3 Ranch, uh, in the area of the county line...  
272  
273 Q: Okay.  
274  
275 A: ...on, out in the east side of the county.  
276  
277 Q: And who was going to go, uh, with you?  
278  
279 A: Um, from our department?  
280  
281 Q: Mm-hm.  
282  
283 A: Um, Detective (Diver), Detective (Domingo), um, Deputy, uh, (Demora)...  
284  
285 Q: Mm-hm.  
286  
287 A: ...Deputy (Moore), oh Sergeant (Spegнал). I was missing one there.  
288  
289 Q: Okay. And when you arrived at (Unintelligible) um, were you first one here  
290 or were people over here?  
291

292 A: Um, I think everybody was here, um, outside of, uh, myself and Detective  
293 (Diver).  
294

295 Q: Okay.  
296

297 A: I arrived at about 10 to 5:00.  
298

299 Q: Okay. And, um, was there any briefing or discussion about what was going  
300 on that day before you left for meeting up with (Alameda) County?  
301

302 A: Um, just that we'd be a briefing at (Livermore) Police Department parking lot.  
303

304 Q: Okay. Were you have given any, um, ops plans or any type of paper or any  
305 indication of where you were going?  
306

307 A: Not at that point.  
308

309 Q: Okay, and how did you get to (Livermore)? Did you drive with somebody, by  
310 yourself?  
311

312 A: Um, we um, well, we took two separate vehicles. Um, it was, uh, (Diver),  
313 (Domingo), (Spegнал), and myself in the, uh, marijuana, uh, assigned vehicle,  
314 the marijuana team assigned vehicle. And, uh, Deputy (Moore) and (Demora),  
315 Deputies (Moore) and (Demora) were in a, uh, marked patrol car following.  
316

317 Q: Okay. And when you, what time do you get to, um, (Livermore)?  
318

319 A: About, uh, 0610.  
320

321 Q: Okay. And tell me what happens when you get to (Livermore).  
322

323 A: Um, we, uh, met up with the, uh, personnel from (Alameda) County. We did  
324 our hellos, we, uh, we gathered around once everyone gets ready, suited  
325 up. And we had our briefing.  
326

327 Q: Okay. Tell me about the briefing.  
328

329 A: Um, we had, um, two separate plans, um, one from, uh, one from (Alameda)  
330 County. Uh, it was a very detailed operations plan. And then, uh, from our  
331 department, we had a, uh, very basic scale plan. Um, the uh, the deputies  
332 from (Alameda) County, uh, were the ones that were dealing with the ranch -  
333 ranch hands, all of the folks that work at the ranch.



334

335 Q: Mm-hm.

336

337 A: And they had all the background information and all the, uh, um, things that  
338 had been going on out there, um, on the property. Um, so their's was very  
339 detailed. Ours was very basic, but we covered both of them completely.

340

341 Q: Okay.

342

343 A: Um, you know, the uh, the uh, more complete plan from (Alameda) County to  
344 do contingency plans and equipment, different things like that.

345

346 Q: Okay.

347

348 A: Um, and, uh, ours was basically, uh, personnel and some maps.

349

350 Q: Okay. Um, you talked about contingency plans. What did you guys talk about  
351 in - in regards to contingency plans?

352

353 A: Uh, it's a - it's a standard page on an operations plan.

354

355 Q: Okay.

356

357 A: Um, most of it applies to, um, uh, something you would do inside a city,  
358 inside buildings...

359

360 Q: Okay.

361

362 A: ...of that nature. But, you know, uh, things, like, if a suspect barricaded  
363 himself, how to react to that.

364

365 Q: Mm-hm.

366

367 A: What to do if somebody's, uh, injured or - or shot or something like  
368 that? How to deal with that...

369

370 Q: Okay.

371

372 A: ...and things like that.

373

374 Q: Um, did you have any discussion about what would happen if you  
375 encountered a suspect or any, um, use of force?  
376

377 A: Um, we always discuss the, uh, um, rules of engagement for that day.  
378

379 Q: Okay.  
380

381 A: And they were standard, uh, um, office policy, um, nothing special...  
382

383 Q: Mm-hm.  
384

385 A: ... today, standard rules of engagement.  
386

387 Q: Okay. Um, and had you ever been to the (North Three) Ranch, the (N3)  
388 Ranch?  
389

390 A: Yes.  
391

392 Q: Okay. When did you been there?  
393

394 A: Over the years, uh, I don't know, 20, 30 times.  
395

396 Q: Okay. And why had you been there on previous occasions?  
397

398 A: Um, to investigate, uh, marijuana cultivation.  
399

400 Q: So it's something that they had called about before?  
401

402 A: Yes.  
403

404 Q: Okay. And had you ever worked with, um, (Alameda) on those prior, um,  
405 investigations?  
406

407 A: Yes.  
408

409 Q: Okay. So you had worked with them before?  
410

411 A: Yes.  
412

413 Q: Okay. After your briefing, what happened?  
414

415 A: Um, we consolidated into, uh, as few vehicles as we could.

416

417 Q: Okay.

418

419 A: We drove out to the property.

420

421 Q: Mm-hm.

422

423 A: We met with the, uh, the mass. I'm sorry, the manager of the ranch.

424

425 Q: Okay.

426

427 A: And um, we looked at the maps.

428

429 Q: Okay.

430

431 A: Had a little discussion about, uh, how remote the location was, um, how it  
432 would be a good 18-hour hike from the roadway to, uh, to get out there...

433

434 Q: Mm-hm.

435

436 A: ...much less carrying supplies or carrying, uh, harvested marijuana back into  
437 that nature. Um, and how long it would take to drive there, where we were  
438 gonna park., um, dropping off the vehicle at the bottom, basically at the low  
439 end of the hike, at the end of the hike. And we could ride back as opposed to  
440 hiking all the way back up into that nature. And then, uh, we followed the  
441 ranch hands out to the site.

442

443 Q: Okay. And what happens when you get to the site?

444

445 A: Um, we parked the vehicles. We suited up. We, uh, discussed, uh, our game  
446 plan with regard to locating the pipe that was seen by the ranch hand. And,  
447 uh, we waited for the, uh, lower vehicle to be put in position and, uh, the, uh,  
448 personnel to return. And as soon as that occurred, we, uh, began hiking.

449

450 Q: Okay. And tells me about, uh, how you guys go enter in. Who- who's where?

451

452 A: Um, Detective (Domingo) was the case agent today, so he, uh, directed  
453 everybody with regard to their assignment or responsibilities. Um, he  
454 directed, uh, Detective (Diver) and I to be in the front.

455

456 Q: Okay.

457

458 A: And, uh, he, uh, directed all the rest of the personnel with regard to where  
459 they were to be um, you know, uh, where they were supposed to try to stay.  
460

461 Q: Okay.

462

463 A: Like, ob- obviously, that varies depending on where everybody is, uh, and  
464 obstacles along the way. But he - he gave us all some guidance in that  
465 regard...  
466

467 Q: Okay.

468

469 A: ...where he wanted us to be in the stack if you will.  
470

471 Q: Okay. And so you and - and Deputy (Diver) were - were, um, tasked with  
472 being upfront.  
473

474 A: Yes.  
475

476 Q: And what does that - what does that kind of entail? I mean, what - what is the  
477 - what is, what did he tell you about that?  
478

479 A: Um, well, when you're directed to be in front, it basically, uh, means that you  
480 know, you're gonna be looking for any sort of suspect. Um, you're gonna be  
481 looking for what we were there looking for, which would be the waterline.  
482

483 Q: Mm-hm.  
484

485 A: And, uh, what comes with the waterline would be the cultivation of marijuana,  
486 so looking for that. Um, also looking for a trail that maybe, uh, the suspects  
487 are using. Um, we located the pipe. We located the trail and we were  
488 following that trail, um, for a while before we encountered anybody.  
489

490 Q: Okay. Um, how - how far from the roadway were you before you  
491 encountered. And I think you talked about black, uh, the - the piping, the  
492 waterline. How far in were you before you encountered that?  
493

494 A: Um, probably 50 yards...  
495

496 Q: Okay.  
497

498 A: ...fifty-five yards.  
499

500 Q: Okay. And then you said you also found a trail. Was that at the same time?  
501  
502 A: Um, yeah. We had, uh, we had several, uh, trails that were created by cattle.  
503  
504 Q: Okay.  
505  
506 A: But as we followed the pipe, we may be 150 yards in, um, we had a, uh, a trail  
507 that was certain to be human.  
508  
509 Q: Mm-hm.  
510  
511 A: So and that was, uh, running alongside the waterline.  
512  
513 Q: Okay. Um, and you said you - you followed the - the trail in the waterline.  
514  
515 A: Mm-hm.  
516  
517 Q: Um, and were you still in the front with Deputy (Diver)?  
518  
519 A: Yes.  
520  
521 Q: Okay. Was he in front or were you? Were you the first person on was he?  
522  
523 A: Um, we were both...  
524  
525 Q: Okay.  
526  
527 A: ...in the front and we were both number two. I mean...  
528  
529 Q: So back and forth?  
530  
531 A: ...countless times we would trade-off.  
532  
533 Q: Okay. Any reason or just how it - how it happened?  
534  
535 A: Um, you know, it's - it's one of those things. If, uh, if I'm looking off to the  
536 left because I think I see something, um, he'll continue straight and he'll end  
537 up ahead of me.  
538  
539 Q: Mm-hm.  
540

- 541 A: And the same circumstance - circumstance will happen to him mo- moments  
542 later and I'll bypass him.  
543
- 544 Q: Okay - okay. So why don't you, uh, continue on. So you're - you're walking  
545 following the line going on this - this more human path, a trail that you found.  
546 What happens next?  
547
- 548 A: So the waterline is mainly in the bottom of the creek bed...  
549
- 550 Q: Okay.  
551
- 552 A: ...for quite some time, probably 250, 300 yards.  
553
- 554 Q: Okay.  
555
- 556 A: And then the waterline starts to go up, um, on the, uh, what would be the  
557 south bank of the creek. Um, it starts to gain elevation, maybe, um, 10, 20  
558 yards above the stream. And, um, um, we began following. Um, Detective  
559 (Diver) and myself and Sergeant (Spegal) began following the waterline  
560 uphill slightly. The remainder of the team stayed down in the bottom of the  
561 creek. So we were following the waterline uphill for a little while, moving  
562 very slowly because, uh, once you're out of the creek and off of the s- suspect  
563 trail, um, the leaves and branches when you step on them make a lot of  
564 noise. So that's obviously a bad thing. Giving away your position to a - a bad  
565 guy, um, could be, uh, uh, could bring on countless, uh, negative things, so  
566 moving very slowly along the waterline. And, uh, I happened to end up, uh,  
567 quite a ways in front of the team when, uh, I heard a loud crash or, uh,  
568 branches breaking, something like that.  
569
- 570 Q: Mm-hm.  
571
- 572 A: Which is actually very common, um, when you're hiking in the woods  
573 because, uh, you know, as you're walking along you may scare animals. Um  
574 you know deer or other animals that are in the area. And they take off running.  
575
- 576 Q: Mm-hm.  
577
- 578 A: And when they run away, they often, um, crash through branches or, um, you  
579 know, fall down or something like that makes a loud sound. So when I heard  
580 the, uh, loud crashing sound, I stopped. Um, and I was looking around to see  
581 what it was. Maybe a second or two later Detective (Diver) came on the, uh,

582 police radio. And I could hear in my, uh, left ear in my earpiece, um, he  
583 wanted the whole team to stop...

584

585 Q: Mm-hm.

586

587 A: ...so that we could assess what was the cause of the noise.

588

589 Q: Okay.

590

591 A: So, um, seconds later, um, I heard more noise coming from the same area,  
592 which was, um, slightly off to my left. I was walking, um, on the south bank  
593 of the river. I was walking eastbound. And there was something across the  
594 river, um, which would be walking westbound on the North Bank of the  
595 river. And, uh, it was still up ahead of me. And it was walking toward us.

596

597 Q: Okay.

598

599 A: Um, still didn't know what it was. And then a couple of seconds later I  
600 identified, um, the noise as coming from a person that was walking in that  
601 direction. Um, you want me to just keep going through the whole story?

602

603 Q: Yeah.

604

605 A: Okay. So, um, what I heard at that point, uh, or what I could see at that point  
606 was a person walking. And I could only see the person's legs moving. And I  
607 could hear, um, the sound that correlated with the movement of the legs. And,  
608 uh, there was a lot of tree cover in between myself and the person that was  
609 walking, the unidentified person. Um, I kept an eye on that person. I was  
610 trying to, uh, evaluate, uh, not only if I could recognize him, maybe as part of  
611 our team...

612

613 Q: Mm-hm.

614

615 A: ...that somehow got ahead, um, or - or something like that. Um, or if it was,  
616 uh, uh, maybe one of the ranch hands. Um, that often happens where one of  
617 the ranch hands doesn't take your advice to go away and stay away for the day  
618 and they come on down and, you know, do their thing. So, um, once this  
619 person got out in the open. Um, and when I say in the open, I mean, I had a  
620 clear view of, uh, his upper body. Um, I heard a - a loud bang. And I wasn't  
621 sure if it was from the suspect or from someone else on the team. Um, but I  
622 heard a gunshot. And the suspect continued walking for another few  
623 feet. And he actually stopped and I moved to a position, um, slightly ahead of

624 where I was so that I could see him clearly. Uh, I was - I was looking across  
625 the stream, um, which would be, I was looking basically due north of the  
626 subject. And I could clearly see that I had a, uh, Hispanic male who I'd never  
627 seen before, um, wearing, uh, uh, basically, um, a shirt or, you know, green,  
628 brown-colored clothing...

629

630 Q: Okay.

631

632 A: ...a t-shirt and pants. And that he had a, uh, a rifle, um, slung, uh, on his right  
633 side. I couldn't tell if it was on his shoulder or around his neck. But there was  
634 something holding the rifle, um, just above waist level, um, maybe at the  
635 bottom of his rib cage. Um, the muzzle of the weapon was pointed in front of  
636 him. The, uh, buttstock was pointing to the rear. And it was a - it was a long  
637 rifle. Um, and uh, I immediately began yelling commands at the subject. Um,  
638 "Sheriff's Office, put your hands up." And he did. He put his hands up. And  
639 uh, I was yelling at him, "Don't move." And then I was yelling out, "Sheriff's  
640 Office, don't move" in Spanish as well. I wanted to make sure that he didn't  
641 move toward the weapon. And uh, I could hear some other people, um,  
642 yelling that they could see a gun. And I yelled the same. "Um, don't reach for  
643 the weapon." Um, and I'm yelling, "He has a - he has a rifle." Um, so at that  
644 point, he had his hands up in the air. And I noticed that he had something in  
645 his left hand. I can't identify what it is, but I'm yelling at him, "Drop what's in  
646 your left hand. Keep your hands up, but drop what's in your left hand." Um,  
647 he's just kind of looking around. He's looking at me. Um, he's looking down  
648 the creek. Um, he's kind of, I - I - I believe he was evaluating what he was,  
649 maybe where he was hearing the voices from trying to evaluate what he had  
650 around him.

651

652 Q: Mm-hm.

653

654 A: Um, I continued yelling, um, to, uh, drop what's in your left hand. And then I  
655 was yelling down to Detective (Domingo) in the creek. "Hey, get some guys  
656 together and go up and, uh, uh, put some handcuffs on the guy" because we  
657 weren't in a position where we could normally, like, what we would do, which  
658 would be to prone him out or have him get on his knees and keep his hands  
659 on his head or something like that. It's a - it's a very unusual circumstance to  
660 arrest somebody, um, to handcuff somebody that actually has a long gun slung  
661 on their - on their body somewhere and, uh, accomplish, um, taking them into  
662 custody safely while being safe with the weapon and controlling all of  
663 that. At the same time, he was on a very steep hillside, which, uh, I could  
664 clearly see that many animals had slid down from where he was standing or  
665 above where he was standing. Um, in front of him, behind him, I could that,



666 um, many, um, many different things, maybe tree branches and other things  
667 like that. It slid down the hill, so I could tell it was very steep. Um, so, um,  
668 basically, my - my hope and desire was to keep him exactly where he was and  
669 have him not move until we could get some guys up there to, uh, arrest  
670 him. So I'm yelling out trying to coordinate that and I'm telling (Craig), "Hey,  
671 we need to get some guys over there to, uh, put some handcuffs on this  
672 guy." Um, so then I'm - I'm telling, and you know, I'm doing all this while I'm  
673 looking at the subject through my, uh, my rifle scope. Um, and he's clearly  
674 following our instructions up to the point where I tell him to drop what's in  
675 your left hand. Drop what's in your left hand. And, uh, he's not doing it. He's  
676 kind of smirking, um, smiling. He's, uh, his body is - is facing, uh,  
677 westbound. His head is kind of turned toward me, looking at me, um, looking  
678 at the other of- or deputies that he could find. Um, at that point we have, uh, I  
679 - I believe we have some deputies moving up to try to move up the hill and  
680 then arrest the gentleman. And suddenly he, um, his hands went from up in  
681 the air to his right hand went down to the - to the weapon. And his left hand  
682 looked like it was going down to support it. And it looked like he was turning  
683 toward, um, not all the way toward me, but toward the - the deputies down in  
684 the creek. And he was well above. He had a great position, um, tactically,  
685 um, on me. He was above my position. And he was well above the deputies  
686 in the creek who actually had nowhere to go. They were down in this very  
687 steep ravine and they were surrounded by rock, basically. And, um, their only  
688 avenue of escape would be to turn and run. But I don't know if they could  
689 clearly see him or what was going on with the subject. Um, I believe I had the  
690 best, uh, the position where I could observe him out of the whole team. So,  
691 um, at that point, um, I fired my weapon, um, because I was afraid that, uh, he  
692 would, uh, seriously injure or - or kill one of my partners, um, or me. And,  
693 uh, at the same time that I was firing, I could hear gunfire from where I, uh,  
694 understand Deputy, uh, (Diver) was standing, uh, just behind me to my  
695 right. And, uh, I fired, uh, at least three rounds. I'm not sure how many, um,  
696 and the, uh, subject fell, um, right - right at the same location where he was  
697 standing. And I lost sight of him. He was behind some grass, um, so I kept  
698 looking at that area and I was yelling out that, um, I could no longer see the  
699 subject, but I could see the grass was moving. And uh, that, uh, the deputies  
700 that were planning on moving up to the, um, subject or the suspect should be  
701 very careful as he may have just fallen to a prone position and be looking for a  
702 target. And, uh, based on my training and experience, um, in my, uh, my, uh,  
703 assignment on our SWAT team is - is a, I'm a sniper. And I know that, uh, if  
704 you're lying prone in a position such as that where you have, uh, the - the  
705 tactical advantage of being higher up than whoever you are dealing with, um,  
706 really all you need is, uh, to look between a couple of blades, grass and  
707 position your weapon. And you can - you can shoot people and they can't

708 even see you. So I can see that movement, um, in the grass. And I kept, uh,  
709 yelling out, um, "Stop moving. Stop moving. Sheriff's office, stop  
710 moving." And I said it again in Spanish. Um, and I was yelling down to the  
711 guys down below. "Um, he's still moving. Be careful. Go out wide, "um,  
712 giving advice such as that. Um, I was really focused on the grass where he  
713 was moving. Um, next thing I know, Deputy, I'm sorry, Detective (Domingo)  
714 and Deputy. (Demora) were above the suspect moving down on him. And,  
715 um, I heard, uh, Detective (Domingo ) yelling out commands, "Stop  
716 moving. Don't move." And then I heard a bunch more gunfire, another five  
717 rounds or so. Um, and uh, shortly thereafter I saw Detective (Domingo) and,  
718 uh, Deputy (Demora) move down the subject. And they were, um, I assume,  
719 securing him. And, uh, Deputy (Demora), um, said something about  
720 providing medical treatment. And I know that, uh, Detective (Domingo) was,  
721 uh, on the satellite phone trying to get, uh, some kind of medical treatment for  
722 the suspect at that point. Um, at that point, I - I, uh, told, uh, Detective  
723 (Diver) that around the time I heard the first shot, I could hear someone else  
724 behind the subject that was walking may be with him, um, kind of crunching  
725 through the same area that where the loud noises came initially. Even though  
726 I could see the subject was walking on, uh, some grass. So I could hear - I  
727 could hear the, uh, suspect that - that I engaged, um, walking, um, and I could  
728 see his feet. And there was a correlation there between the sound and the  
729 movement of his feet. But also to the rear of him, which would be to the east,  
730 I could hear movement, um, as well. And that movement, um, after the first  
731 shot was fired, um, sounded like it was going away to me. Um, Detective  
732 (Diver), um told me that he also heard something, um, to the east of our  
733 position. But on our side of the creek, and that he could hear somebody  
734 running away on our side of the creek. So based on that information that we  
735 had at the time, we both, um, covered each other as we did tactical reloads and  
736 moved up to a large oak tree. That was, uh, uh, something we could use for  
737 cover and concealment while we, um, protecting the rest of our team, um, to  
738 the, uh, which would be to the east in case the, uh, suspect that we heard  
739 running away decided to come back. Um, based on my training and  
740 experience, I - I anticipated that if there was marijuana cultivation going on  
741 out there, that it would be large scale and that there would be multiple  
742 suspects, um, harvesting or - or cultivating marijuana. So, um, we were really  
743 concerned for a long period of time that maybe some, um, suspects may come  
744 back towards us and our team, um, maybe to help their - their, uh, um, their  
745 buddy, or, um, you know, to see, maybe just to see what was going on or  
746 something like that. So we stayed in that position for a while. Uh, Sergeant  
747 (Spegal) came shortly after and, um, asked if I would move to a different  
748 location. Um, and uh, he had me go to the opposite - opposite side of the area  
749 we were working and, um, um, provide security in a westerly direction.

750

751 Q: Um, go back (Devin) and take a couple of questions. Your, um, you say that  
752 as you're walking, you're in, um, at that point are you - are you ahead of, uh,  
753 Deputy (Diver), correct?

754

755 A: At the point where...

756

757 Q: Where you - you start hearing noises.

758

759 A: ...I hear the noises. Yes.

760

761 Q: Okay. And do you hear a noise? What's your first thought when you hear the  
762 noise?

763

764 A: I thought that maybe we startled a deer...

765

766 Q: Okay.

767

768 A: And it was running away.

769

770 Q: Okay. And was it on, uh, I think you are in the South bank.

771

772 A: I was on the south side.

773

774 Q: Right. Was it on the south bank, or was it on the north side?

775

776 A: It was on the north side.

777

778 Q: Okay. And, um, you said right then shortly thereafter, um, Deputy (Diver)  
779 told everyone to stop that he wanted to kinda assess the noise. And you said  
780 you heard that on your, uh, and you indicated, pointed to your ear, the radio  
781 transmission?

782

783 A: Yes.

784

785 Q: And you were wearing something in your ear to hear that transmission?

786

787 A: Yes.

788

789 Q: Okay. Uh, was everyone having, did everyone have their own radio?

790

791 A: Um, everybody had a radio. But I believe that, um, our sheriff's office  
792 personnel.  
793

794 Q: Mm-hm.  
795

796 A: Um, well, I know for sure our sheriff's office personnel that everybody has an  
797 earpiece.  
798

799 Q: Mm-hm.  
800

801 A: And everyone's on the same frequency. And we did a radio check, uh, um, at  
802 the, uh, at the briefing, as well as, uh...  
803

804 Q: Okay.  
805

806 A: Well before we began hiking.  
807

808 Q: Okay.  
809

810 A: And we communicated on those, uh, police radios throughout the entire  
811 incident.  
812

813 Q: Okay.  
814

815 A: On the (Alameda) County, uh, Sheriff's Office personnel had police radios so  
816 they could communicate with their dispatchers, but they did not have the same  
817 frequency that we were communicating on.  
818

819 Q: Okay.  
820

821 A: Um, that's one of the reasons we asked them to stay, um, further to the rear.  
822

823 Q: Mm-hm.  
824

825 A: Um, so that they could, uh, provide support, if necessary, uh, which they did,  
826 um, eventually. But uh, we had a Deputy (Moore) relay any important or  
827 pertinent information to their team, um, from the rear. And he was, uh, he  
828 was the last man or the tail of our team.  
829

830 Q: Okay.  
831

832 A: And we communicated with the, uh, the appointed person on the (Alameda)  
833 County team.

834

835 Q: Okay. Is one of his jobs given (Unintelligible) him (Unintelligible) by De-  
836 Deputy (Domingo) was to be the liaison communication person with  
837 (Alameda)?

838

839 A: Yes.

840

841 Q: Okay. Um, so you stopped to kind of assess, um, where the noise is. Um, and  
842 here that's what Deputy, um, (Diver) wanted everyone to do was just  
843 stop. Now at this point, could you. You said d- other than you  
844 (Unintelligible) and Deputy (Diver) everyone else is in the creek. Can you see  
845 them from where you're...

846

847 A: Um...

848

849 Q: ...from you are, where you are?

850

851 A: I don't recall looking down to see them.

852

853 Q: Okay.

854

855 A: Like, I knew that they were there because of I had seen them, you know, 30  
856 yards prior. But, uh, I hadn't looked to my left to look at them for...

857

858 Q: Mm-hm.

859

860 A: ...25 yards or so. And then I heard the noise. I was focused on the  
861 noise. Like I said, I thought it was a deer, but I didn't write it off as a deer.

862

863 Q: Right.

864

865 A: I always have to expect that maybe it's the bad guy. Um, so I was really  
866 focused on what caused that noise. I wanted to make a determination. If I  
867 saw a deer running away, then great, I could write it off. But I didn't see that.

868

869 Q: Okay.

870

871 A: Um...

872

873 Q: And where, um, where is Sergeant (Spegнал) and Deputy (Diver) at that point  
874 when you're kind of focused on trying to figure out what - what this noise is?  
875

876 A: I believe they were, um, 15 or 20 yards behind me.  
877

878 Q: Oh okay.  
879

880 A: And I believe that, uh, (Diver) was in front of (Spegнал), but I'm not sure  
881 about that.  
882

883 Q: Okay. Um, and then if I remember correctly and correct me if I'm wrong. But  
884 you said, um, often you start seeing, um, (Unintelligible) from the suspect?  
885

886 A: Yes.  
887

888 Q: Okay. Um, were you, um, communicating with anybody about what you're  
889 seeing at that time. Was anyone communicating to - to you that they see the  
890 same thing?  
891

892 A: Um, I believe that I whispered in my radio, um, that I could see a suspect.  
893

894 Q: Okay.  
895

896 A: But, um, I was the nearest person to the suspect and I was concerned that he  
897 would hear me or see me. Um, so my transmission was very low volume.  
898

899 Q: Okay.  
900

901 A: I'm not sure if anyone else copied it.  
902

903 Q: Okay.  
904

905 A: I didn't hear any response from anyone else...  
906

907 Q: Okay.  
908

909 A: ...after I made the transmission.  
910

911 Q: Okay. And - and you didn't say anything louder 'cause you were concerned  
912 that he was (Unintelligible). He could hear you and figure out where you  
913 were.  
914

915 A: Yes.  
916  
917 Q: Okay. Um, and then eventually, uh, from the ledge you start seeing his upper  
918 body.  
919  
920 A: Yes.  
921  
922 Q: And did he - and did he continue to walk or are you moving?  
923  
924 A: Um, I'm trying to, uh, move very slowly and quietly to a position where I can  
925 see him.  
926  
927 Q: Okay.  
928  
929 A: But simultaneously, he's moving.  
930  
931 Q: Okay.  
932  
933 A: So it was very difficult to find a position where I could really see him. Um, I  
934 could see a silhouette of a person walking.  
935  
936 Q: Okay.  
937  
938 A: Um, it wasn't the best I had prior to him coming into a clearing where I could  
939 see him clearly.  
940  
941 Q: Okay. And what direction is he walking?  
942  
943 A: He's walking eastbound.  
944  
945 Q: Okay.  
946  
947 A: Scratch that, he's walking westbound. I was walking eastbound.  
948  
949 Q: Okay. So he's coming toward you. So you're kinda gonna, I mean, at some  
950 point while you're cross banks, you're gonna end up crossing and passing.  
951  
952 A: Right. The - the nearest, uh, he was to me was about 50 yards. And that was  
953 when he and I were almost perfectly lined up across the street from each  
954 other.  
955

956 Q: Okay. Um, when you first get a full visual, he's in a clearing or a light, what  
957 do you see?  
958  
959 A: Um, I see a Hispanic male...  
960  
961 Q: Okay.  
962  
963 A: ...um, T-shirt over pants. I can't see his shoes. Um, uh, I don't recall what his  
964 face at all. Um, but I do recall clearly that he had a rifle...  
965  
966 Q: Okay.  
967  
968 A: ...um, slumped, um, on the right side of his body. I'm not sure if it was on his  
969 shoulder or over his neck or what it - what in what position he, uh, had  
970 secured it on his body. But I could clearly see the muzzle in front of his body.  
971  
972 Q: Mm-hm.  
973  
974 A: Um, and I could see the uh, wooden buttstock of the rifle to the rear of his  
975 body.  
976  
977 Q: Okay. And in what direction is the muzzle pointed?  
978  
979 A: It's pointed westbound.  
980  
981 Q: Okay. So he's pointing westbound and the muzzle is pointed westbound?  
982  
983 A: Yes.  
984  
985 Q: Up, down, straight, out...  
986  
987 A: Um...  
988  
989 Q: (Unintelligible)?  
990  
991 A: Yeah. Um, It looked like it was pretty level if you will...  
992  
993 Q: Okay.  
994  
995 A: ...from - from front and rear.  
996



997 Q: Mm-hm.  
998  
999 A: ...um, maybe slightly upward.  
1000  
1001 Q: Okay. Um, is from - from your angle, can you see, is he holding it or where  
1002 his hands?  
1003  
1004 A: At that point, I don't know.  
1005  
1006 Q: Okay.  
1007  
1008 A: Um, but as soon as he came into a clearing.  
1009  
1010 Q: Mm-hm.  
1011  
1012 A: I immediately challenged him because I could see him clearly. Therefore, he  
1013 could see me clearly.  
1014  
1015 Q: Right.  
1016  
1017 A: And I have his, uh, as soon as I started, uh, giving commands to him. Um, I  
1018 didn't want him to move out of the clearing and I would lose sight of him. So  
1019 I was very forceful in my commands.  
1020  
1021 Q: Mm-hm.  
1022  
1023 A: Um, and, uh, at that point he had his hands up.  
1024  
1025 Q: Okay.  
1026  
1027 A: Um, I don't recall where his hands were prior to that. Um, um, actually I'm,  
1028 you know, I'm not sure where his hands were.  
1029  
1030 Q: Okay. But now confirm for me and make sure I'm right is at that point though  
1031 there had already been one shot fired.  
1032  
1033 A: Yes.  
1034  
1035 Q: Or did you know by whom...  
1036  
1037 A: No.  
1038

1039 Q: ...at that point?  
1040  
1041 A: I didn't know.  
1042  
1043 Q: Okay. Was anything said over the air or yelled at by anybody?  
1044  
1045 A: I don't recall. I don't recall. I just remember straining my eyes to see this guy.  
1046  
1047 Q: Mm-hm.  
1048  
1049 A: Um, and, uh was, I was trying really hard to see him through the trees. I was  
1050 moving my head around trying to get a - a view of him. Um, I don't recall any  
1051 radio transmissions. Um, I remember really being focused on the sound of his  
1052 feet and correlating the sound of his feet to the ground. Um, I was really  
1053 trying hard to identify the fact that he was the one making that noise versus  
1054 the noise I was hearing from - from the rear of his position.  
1055  
1056 Q: Mm-hm.  
1057  
1058 A: Um, but no I, uh, to answer your question, I don't recall any radio  
1059 transmissions.  
1060  
1061 Q: Okay.  
1062  
1063 A: I don't recall anybody yelling anything. But I do recall, um, several people  
1064 yelling, "He has a gun" throughout the incident.  
1065  
1066 Q: Mm-hm.  
1067  
1068 A: But I don't remember if that was said prior to the first shot, after the first shot.  
1069  
1070 Q: Okay.  
1071  
1072 A: Um, I do remember a lot of people saying that several people yelling that  
1073 out...  
1074  
1075 Q: Mm-hm.  
1076  
1077 A: ...after I started yelling commands at him, so.  
1078

1079 Q: Okay. Um, then you, were you the first person to yell commands, or did you  
1080 hear commands being yelled before that?

1081  
1082 A: I believe I was the first person to yell commands.

1083  
1084 Q: Okay - okay. Um, and when you started yelling commands, in any peripheral  
1085 vision can you see where, um, Sergeant (Spegal) or any member of your  
1086 team?

1087  
1088 A: Um, no. Um, I was focused on the suspect through my scope. Um, I didn't  
1089 look anywhere else but the suspect the entire time I was yelling commands.

1090  
1091 Q: Okay.

1092  
1093 A: And I was doing radio traffic. Um, but I do remember, um, hearing Detective  
1094 (Diver)...

1095  
1096 Q: Mm-hm.

1097  
1098 A: ...behind me and to my right, um...

1099  
1100 Q: Okay.

1101  
1102 A: ...saying something. Um, I don't recall what exactly. But um, when it came to  
1103 the point where we needed to coordinate a team to go up and arrest the guy,  
1104 um, I remember looking to my right, um, for a moment, um, and then focusing  
1105 back on the suspect. And after - after that confirming that Detective (Diver)  
1106 was there with me. I told him because, um, I'm just a - I'm just a helper  
1107 now. I'm - I'm not that guy anymore. So I don't have any control over, um,  
1108 what goes on. Um, it's not my decision who goes to arrest the guy and - and  
1109 how many and - and when and how and anything like that. So I said to, um,  
1110 Detective (Diver) that we need to coordinate that. But I was also yelling  
1111 down to the guys in the creek to get ready to go up and arrest this guy. And I  
1112 told Detective (Diver) when I realized that it wasn't my place anymore. I am  
1113 still kind of flashbaced to when I used to, um, be part of the, uh, running of  
1114 the show. Um, I said, "Hey, we need a coordinate a team to go up there and  
1115 get this guy. Um, we can't just stand here all day. He's gonna eventually,  
1116 um." What I was thinking is he's gonna eventually gonna take off  
1117 running. He's gonna realize that we don't have anyone in position, um, to  
1118 arrest him and that he can just take off...

1119

1120 Q: Mm-hm.  
1121  
1122 A: 'Cause that's what always happens.  
1123  
1124 Q: Right.  
1125  
1126 A: The suspects always run away and they're fresh light on their feet and we're  
1127 weighed down with all his gear. Um, and they get away every time without  
1128 fail. So I was really expecting him to run away. Um, I was extremely  
1129 surprised when he didn't follow the commands I was giving him.  
1130  
1131 Q: Okay - okay. Um, let's just go into, um, what - what the suspect is doing right  
1132 before you shoot. Where is he? Where's he facing? And what - where are  
1133 you in relation to him?  
1134  
1135 A: Okay. I'm - I'm - I'm basically due south of him.  
1136  
1137 Q: Okay.  
1138  
1139 A: I may be a little bit southeast of him...  
1140  
1141 Q: Okay.  
1142  
1143 A: ... but barely, maybe 10 yards at the most.  
1144  
1145 Q: Okay.  
1146  
1147 A: Um, I'm looking at him through a small hole in the tree cover. I can clearly  
1148 see him. Um, his hands are up. He's following my commands outside of, um,  
1149 well he's following my commands perfectly up to the point where I tell him to  
1150 drop what's in his hand. "Keep your hands up but drop what's in your left  
1151 hand." And I don't know what it was. I can't. I still don't know. But he was  
1152 holding something in his left hand, uh, up above his head. Um, his hands  
1153 weren't straight up above his head. They were a little bit more to the front.  
1154  
1155 Q: Okay.  
1156  
1157 A: Um, but, uh, it was still acceptable in my mind.  
1158  
1159 Q: Mm-hm.  
1160

1161 A: They were - they were up. And, uh, it would be, um, it would be over the top  
1162 to ask him to move your hands back eight inches and lockout your elbows and  
1163 all this kind of stuff. I was just really concerned that he'd keep his hands up  
1164 and drop what was in his left hand. Um, I told him that several times, um,  
1165 unsure how many, um, and he would not drop it. Then he - he seemed to have  
1166 a little smirk on his face, and he was just really looking around at everybody.  
1167

1168 Q: Mm-hm.  
1169

1170 A: Um, and uh, I'm not sure, um, what made him smirk. Um, but then suddenly,  
1171 um, there was nothing - nothing prior to the movement that would, um,  
1172 telegraph that it was coming. And, uh, his right hand went down to the, uh,  
1173 buttstock of the gun.  
1174

1175 Q: Mm-hm.  
1176

1177 A: His left hand came down to, um, it was moving toward the, uh, the, uh, the  
1178 barrel of the weapon.  
1179

1180 Q: Mm-hm.  
1181

1182 A: And simultaneously he turned slightly to his left. Um, and I felt that he was,  
1183 uh, going to fire the weapon at, um, one of my teammates.  
1184

1185 Q: Okay. Um, you say he - you just said that, um, he kinda had a smirk and was  
1186 looking around at everybody. What did you think he was doing when he was  
1187 doing that?  
1188

1189 A: Um, then?  
1190

1191 Q: Mm-hm.  
1192

1193 A: Uh, I had no idea. In retrospect, I think he was looking at you know, what he  
1194 was dealing with.  
1195

1196 Q: Okay.  
1197

1198 A: Uh, I don't, I'm not sure. But at that point, I didn't give it much thought. Um,  
1199 in retrospect, I guess that was telegraphing what was coming next, the smirk.  
1200

1201 Q: Okay. And how long, um, do you think it was between him looking around at  
1202 everybody and him making that move where he moved his hand to the rifle?  
1203

1204 A: A few seconds.  
1205

1206 Q: Okay - okay. And, um, when he takes the rifle and he has one hand, right-  
1207 hand goes to, uh, stock of the weapon and other hand is going toward the  
1208 barrel. What - what are you thinking?  
1209

1210 A: I'm thinking that he's, uh he's, um, quickly, uh, acquiring his - his weapon so  
1211 that he can fire.  
1212

1213 Q: Okay. And when you say he's quickly acquiring his weapon to  
1214 (Unintelligible) to do what?  
1215

1216 A: Um, I - I believe that he was trying to fight his way out of the circumstance  
1217 that he was in and escape.  
1218

1219 Q: Okay.  
1220

1221 A: Um, I - I don't. I mean, it's all speculation. I - I don't see how he could  
1222 possibly, uh, when he was so outnumbered. Um, I - I just, uh, based on all my  
1223 previous experience, I - I just assumed that he wanted to getaway. Um, but he  
1224 felt the need to, uh, shoot the weapon to make his escape.  
1225

1226 Q: Okay. Um, and you said that you could see this smirk. Was this something  
1227 that you could see with your naked eye or were you using something else to  
1228 do that?  
1229

1230 A: I was using my scope.  
1231

1232 Q: From your weapon?  
1233

1234 A: Yes.  
1235

1236 Q: Okay. So you were looking through that to him?  
1237

1238 A: Yes.  
1239

1240 Q: Okay.  
1241

1242 A: Most of the time he was looking directly at me. Um, but then he was looking  
1243 around and came back to me.  
1244

1245 Q: Okay. And did you, um, you said he was directly looking at you, like, he saw  
1246 you or just in your direction?  
1247

1248 A: I - I felt like he saw me. I felt like he was looking at me.  
1249

1250 Q: Okay. Um, did - did you ever go and see? Af- after the shooting, did you  
1251 ever go to the south, um, bank of the - the creek bed were his - his body was?  
1252

1253 A: He was on the north bank.  
1254

1255 Q: I'm sorry. The north bank. Yeah. You're right.  
1256

1257 A: No. I did not.  
1258

1259 Q: You did not.  
1260

1261 A: No. I, uh, I was - I was providing security for - for the team.  
1262

1263 Q: Okay. And you said, uh, originally right for that security, you were, um, east  
1264 of the location and then Sergeant (Spegнал) had you go to the west?  
1265

1266 A: Yes.  
1267

1268 Q: Okay. Um, did you ever see the grow? Did you ever find an - an actual  
1269 marijuana garden?  
1270

1271 A: No.  
1272

1273 Q: Okay. Um, so you never entered one?  
1274

1275 A: No.  
1276

1277 Q: Okay. D- do you know if anyone did?  
1278

1279 A: I know that our helicopter, um, observer spotted, uh, a garden a hundred yards  
1280 away from the...  
1281

1282 Q: Okay.  
1283

1284 A: ...location of the incident and then several other gardens, um, to the east or  
1285 southeast of - of the position.  
1286  
1287 Q: Okay. But no- no one as far as you know, everyone in (Unintelligible), know  
1288 what you (Unintelligible) of your team.  
1289  
1290 A: No. I'm sure that nobody did.  
1291  
1292 Q: Okay, in your briefing, did you get any indication that anyone had, uh, been  
1293 up to that area, um, prior to your going in today to scout it out, look at it to see  
1294 if they saw the line on either, um, from the sheriff's office from - from  
1295 (Alameda) County? Or is this the first time that anyone was going in?  
1296  
1297 A: Um, I know that the - the deputies from (Alameda) County have - have  
1298 flown...  
1299  
1300 Q: Mm-hm.  
1301  
1302 A: ...around the area.  
1303  
1304 Q: Mm-hm.  
1305  
1306 A: Um, they've been, uh, on eradications and scouts in the area, but not in that  
1307 particular, uh, immediate area.  
1308  
1309 Q: Okay.  
1310  
1311 A: Um, you know, as - as far as I understand, um, no one had been there.  
1312  
1313 Q: Okay.  
1314  
1315 A: No law enforcement presence in that location, uh, until today.  
1316  
1317 Q: Okay. Um, let's go back to the - the and the way I think (Unintelligible) used  
1318 was to explain that this gentleman had. Did you see what it looked like, that  
1319 he had the rifle, how it was set up?  
1320  
1321 A: I couldn't. Um, I, you know, I didn't look at the sling itself.  
1322  
1323 Q: Okay.  
1324



1325 A: I was focused on the position of his hands. Um, and, uh, while I was looking  
1326 at his hands, um, the item in his left hand, I was asking him to drop and his  
1327 face, uh, were all very clear.  
1328

1329 Q: Mm-hm.

1330

1331 A: Um, and, uh, and no. I don't recall. And that's - that's why I say I know that  
1332 the rifle was slung on his right shoulder or around his neck. But I, that's the  
1333 only way it could've been slung.  
1334

1335 Q: Right.

1336

1337 A: That's the reason I say that.

1338

1339 Q: Okay.

1340

1341 A: Not because I know, um, it - it had to be. It - it must have had a sling on  
1342 it. Otherwise, it would be floating in mid-air with nothing holding it up, so.  
1343

1344 Q:

1345

1346

1347 A:

1348

1349

1350 Q:

1351

1352 A:

1353

1354 Q:

1355

1356 A:

1357

1358 Q: And I think you had mentioned earlier that you were a member of the  
1359 Sheriff's Office at, uh, at (Unintelligible)?  
1360

1361 A: Yes.

1362

1363 Q: Is that correct? And how long have you been a member of that team?

1364

1365 A: Six years.

1366

1367 Q: Six years. Okay. And I think you also said that you were a sniper on the  
1368 team. How long have you been a sniper?  
1369

1370 A: Four years...  
1371

1372 Q: Okay.  
1373

1374 A: ...give or take.  
1375

1376 Q: Okay. And uh, what, uh, weapon were you carrying today? What weapon did  
1377 you have?  
1378

1379 A: I had a, uh um, an AR-15...  
1380

1381 Q: Okay.  
1382

1383 A: ...A3...  
1384

1385 Q: Mm-hm.  
1386

1387 A: ...which is a semi-automatic, uh, rifle...  
1388

1389 Q: Okay.  
1390

1391 A: ...um, with a, uh, four-power scope. And I also had, uh, my duty, uh, sidearm,  
1392 which is a GLOCK 22, .40 caliber.  
1393

1394 Q: Okay. And uh, what weapon did you use? Uh, you said you shot three or four  
1395 rounds from what weapon?  
1396

1397 A: From my rifle.  
1398

1399 Q: Okay. Did you shoot your GLOCK 22 at all today?  
1400

1401 A: No.  
1402

1403 Q: Okay. Are you currently qualified on using both of those weapons?  
1404

1405 A: Yes, uh, qualified for the second half of this year, uh, a week ago.  
1406

1407 Q: Okay.  
1408

1409 Q1: And are you, uh, right-handed or left-handed?  
1410  
1411 A: I'm right-handed,  
1412  
1413 Q1:  
1414  
1415 A:  
1416  
1417 Q1: No. Okay. Um, I'm also asking you a question. Uh, you said he'd reached for  
1418 the, with the butt of the gun with his right hand. Is that right? And then the  
1419 left hand was on the muzzle. When he touched it with the right hand, did he  
1420 use both hands simultaneous or did - he first go with the right hand or first  
1421 with the left hand?  
1422  
1423 A: Um, it seemed that the right hand went down, um, a lot further and faster than  
1424 the left.  
1425  
1426 Q1: Okay.  
1427  
1428 A: The left hand was, like, a - a late follow.  
1429  
1430 Q1: Okay.  
1431  
1432 A: Um, and, uh, I - I understand that, uh, um, you could fire a weapon with just  
1433 the right hand. Um, so that was the one I was really concerned about, which  
1434 would be his - his right hand, his trigger hand, if you will.  
1435  
1436 Q1: Okay. By the time his left hand got to the muzzle, where was the muzzle  
1437 facing at that point?  
1438  
1439 A: I'm not sure. I can't - I can't really say where it was facing, but it - it had  
1440 moved toward, um, the rest of the team in the creek and to the rear of my  
1441 position. Um, and he - he was still moving, um, when I fired.  
1442  
1443 Q1: Okay. At that point, that's where you felt afraid that he was gonna try to fight  
1444 his way out with that weapon?  
1445  
1446 A: Yeah. I feared that, uh, he would cause serious bodily injury or death to a  
1447 person on my team.  
1448  
1449 Q1: You know, you said you been with the SO, I think, you said nine years?  
1450

1451 A: About eight years.  
1452  
1453 Q1: Eight years. Okay. Do you have any, uh, prior law enforcement experience?  
1454  
1455 A: Yes.  
1456  
1457 Q1: Uh, where else have you worked?  
1458  
1459 A: I worked for (Alameda) County Sheriff's Office for about two-and-a-half  
1460 years prior to that.  
1461  
1462 Q1: Two-and-a-half years. Okay. And while you were, were you part of any  
1463 special, specialized teams (Unintelligible)?  
1464  
1465 A: Negative.  
1466  
1467 Q1: Okay.  
1468  
1469 Q: Um, have you ever been involved in another officer-involved shooting?  
1470  
1471 A: Yes.  
1472  
1473 Q: Okay. When was that?  
1474  
1475 A: Um, I was, uh, on the scene at a shooting, uh, in 2008, 7. And I also was on  
1476 the scene at a shooting, uh, in a marijuana garden in 2005. And I've also been  
1477 on the scene. in two additional shootings, uh, prior to that on patrol. Um, I  
1478 was never one of the involved officers in the actual shooting e- event prior to  
1479 today.  
1480  
1481 Q: Okay. Do you wanna? I think that's four previous, uh, officer-involved  
1482 shooting scenes, and you've never been the shooter?  
1483  
1484 A: Exactly.  
1485  
1486 Q: Okay. And all four of those incidents, were they with the sheriff's office, or  
1487 were they when you were with (Alameda)?  
1488  
1489 A: They were all with our department.  
1490  
1491 Q: With our department. Okay.  
1492

1493 A: Yes. Actually, uh, I forgot about one. Um, (Unintelligible), a couple of  
1494 months ago, um, I was on-scene at the shooting. Um, sorry about that.  
1495  
1496 Q: Okay. Involving (Unintelligible)?  
1497  
1498 A: Yes.  
1499  
1500 Q: Okay.  
1501  
1502 Q1: Now today, uh, I'm sorry. (Unintelligible) did you start at 5:00 in  
1503 the morning?  
1504  
1505 A: Yes.  
1506  
1507 Q1: What time did you go to bed, uh, that prior night?  
1508  
1509 A: 9 o'clock at night. I slept from, um, about 9:00 to 4:00.  
1510  
1511 Q1: Okay.  
1512  
1513 Q: That's (Unintelligible) needed. Hang out for just two seconds. Let me go  
1514 check with (Unintelligible).  
1515  
1516 Q2: How's your eye?  
1517  
1518 A: It still hurts. Yeah, no. It's not - it's not bad. It just kinda comes and goes.  
1519  
1520 Q2: Yeah.  
1521  
1522 A: One minute it looks like I'm crying. The next minute I just have red eyes.  
1523  
1524 Q2: It's okay to cry. You need to see a doctor about your ears though.  
1525  
1526 A: Yeah. Tomorrow. I'll go out to (Stanford). Yeah. Check me out.  
1527  
1528 Q2: Did (Unintelligible)?  
1529  
1530 Q1: Thank you. Hey.  
1531  
1532 Q: Hey. All right. Ready, um, and did - did you ever hear him say anything, the  
1533 suspect?  
1534

1535 Q1: The suspect, yeah.  
1536  
1537 A: You know, he might've been murmuring something. Um, I didn't hear him  
1538 say anything...  
1539  
1540 Q: Okay.  
1541  
1542 A: ...that I can recall.  
1543  
1544 Q: Okay. And you said you were giving commands in Spanish?  
1545  
1546 A: Yes.  
1547  
1548 Q: Um, can you - can you tell me that in Spanish what you told him?  
1549  
1550 A: Um, Deputy (Eline) taught me way back then, the other (El), um, ((Foreign  
1551 Language Spoken 01:02:35)).  
1552  
1553 Q: Mm-hm.  
1554  
1555 A: ...and, uh, "nose weapon ((Foreign Language Spoken 01:02:37))."  
1556  
1557 Q: Okay. And so those were the two things that you were saying?  
1558  
1559 A: Those were the only commands I gave in Spanish.  
1560  
1561 Q: Okay - okay.  
1562  
1563 A: But I do recall other, some other deputies saying policia ((Foreign Language  
1564 Spoken 01:02:52)) in Spanish.  
1565  
1566 Q: Okay. So more, there was more Spanish being given in command than just  
1567 you?  
1568  
1569 A: Yes.  
1570  
1571 Q: Okay. Do you know who was giving those commands in Spanish?  
1572  
1573 A: No.  
1574  
1575 Q: Okay. Okay. Anything else?  
1576

1577 Q2: I think just a couple of things which you could. (Devin), did you suffer any  
1578 injuries today?  
1579

1580 A: Um, yeah. My uh, my right ear is, uh, it feels as if I have - I have lost half of  
1581 my hearing in my right ear today. And my right eye, um, something got in my  
1582 right eye and, uh, having, uh, uh, some pain in my right eye.  
1583

1584 Q2: Okay.

1585

1586 Q1: And did you tell anybody this out at the scene, like, your injuries or...  
1587

1588 A: Um,no. But I mentioned it when I got back to the office.  
1589

1590 Q1: Okay. Has anyone looked at them yet, or...  
1591

1592 A: No. No.  
1593

1594 Q1: No.  
1595

1596 A: No. No. I plan to see a doctor tomorrow at some point, uh, about my ear and,  
1597 uh, hopefully, that doctor will be nice enough to look at my eye  
1598 (Unintelligible) so I don't have to make a separate appointment.  
1599

1600 Q: Good luck with that. Okay. Uh, have they given any p- paperwork to fill out  
1601 for injury?  
1602

1603 A: Yes.  
1604

1605 Q: They did?  
1606

1607 A: It's already complete (Unintelligible).  
1608

1609 Q: Just checking (Unintelligible). Does d- (Unintelligible), right?  
1610

1611 A: Yes. Absolutely.  
1612

1613 Q: Good man. Good man. Okay. Anything else?  
1614

1615 Q2: No.  
1616

1617 Q: Okay.  
1618

1619 Q2: Not a problem.  
1620  
1621 Q: Okay. We're done. Okay.  
1622  
1623 Q2: So 1:00 am I have.  
1624  
1625 A: Yeah.  
1626  
1627 Q2: 1:00 am. All right. You get to go home. Do you wanna talk to  
1628 (Unintelligible)?  
1629  
1630 Q: Oh, I'll walk out too.  
1631  
1632 Q2: Okay.  
1633  
1634 Q: Thank you, (Devin).  
1635  
1636 A: (Unintelligible).  
1637  
1638 Q2: Do you need to take a break or do you want to just...  
1639  
1640 Q: Can you give me, like, five minutes leave, right?  
1641  
1642 Q2: (Unintelligible).  
1643  
1644 A: No. I got (Unintelligible).  
1645  
1646 Q1: I got a total of 58.  
1647  
1648  
1649  
1650  
1651  
1652 This transcript has been reviewed with the audio recording submitted and it is an accurate  
1653 transcription.  
1654 Signed \_\_\_\_\_