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INTERVIEW WITH DEPUTY DEREK POPE

Q=Sgt. Quinonez

Q1=Det. Josh Armijo

Q2=Det. Patrick Smyth

A=Deputy Derek Pope

A1=

A2=Deputy Keith Lydon

Q: Okay, yeah, just to make you feel more comfortable, uh, you're - you get the comfy chair. (Unintelligible). Okay (Berto) - (Berto)'s gonna ask you basic questions and stuff and go over everything. Um, before we get started, I wanna turn the recorder on and I wanna, um, timestamp it and give my name, um, and ask you for your first and last name, spell both, and your rank. And then we're gonna go around the room to everybody who's in there d- will do the same. Okay it's now July 22nd. So (unintelligible). Zero. Zero. All right. Good morning, everyone, it is now July 22, 2010, uh, at approximately 0005 hours, Sergeant Quinonez, Santa Clara County Sheriff's Office and we are in the, uh, Detective Division of the main - of headquarters in downtown San Jose. And, uh, with me today from the Alameda County Sheriff's Office is...

A: Derek Pope.

Q: Spell your first and last.

A: My first name is spelled, uh, D-E-R-E-K. Last is P-O-P-E and badge number is 441 and I'm a deputy sheriff.

Q: You're a deputy sheriff?

A: Yes.

Q: And, uh...

A1: My name is - last name
attorney from the representing Mr. Pope.

Q: Okay.

46 Q1: Josh Armijo, a detective with the Sheriff's Office. My name is spelled J-O-S-
47 H, A-R-M-I-J-O.
48
49 Q: And, uh, Josh is here, uh, only as a - as a monitor. He's not here to ask any
50 questions, he's not here for administrative, he's just here to monitor. Uh,
51 there's no room in the (unintelligible) so he'll be sitting in here with us, okay?
52
53 A: Mm-hm.
54
55 Q: All right so before we get started, um, I want you to know that you are not
56 under arrest. You're a witness, uh, you do not have to answer any questions
57 you are not comfortable with, and you are free to leave at any time, okay?
58
59 A: I understand.
60
61 Q: And have you, uh, consulted with your attorney before this interview?
62
63 A: Yes.
64
65 Q: And are you comfortable speaking with me at this time?
66
67 A: Yes.
68
69 Q: Okay good. Um, Deputy Pope, can you please tell me, uh, your employment
70 history and your collateral duties and assignments?
71
72 A: Uh, I work for the Alameda County Sheriff's Office. I've been with the
73 Sheriff's Office for about 20 years. Uh, I'm currently assigned to Airport
74 Police Services, um, collateral duty of, uh, Special Response Unit and, uh,
75 firearms instructor.
76
77 Q: You're currently assigned to airport duty?
78
79 A: Airport Police Services, yeah.
80
81 Q: And you're also part of the...
82
83 A: The Special Response Unit, our tactical team.
84
85 Q: SWAT?
86
87 A: SWAT, yeah.
88
89 Q: All right are you a team member or team leader?
90

91 A: Uh, as a team member.
92
93 Q: And you're the firearms instructor?
94
95 A: I'm one of our firearms instructors, Departmental Firearms Instructor's
96 Academy and I teach on the - the team and I'm also assigned to our, uh, sniper
97 team as an, uh, operator.
98
99 Q: And, uh, what law enforcement training, um, have you had specific to this
100 incident today?
101
102 A: Um, past military training in the, uh, infantry and then basic academy training
103 and (unintelligible) tactical training, um, associated with - to be on the SWAT
104 team. Most recent, I guess, related to this would be I just attended our
105 department's, uh, marijuana eradication and rural operations course, um, at the
106 beginning of the summer (unintelligible).
107
108 Q: Just - just - was that, uh...
109
110 A: Just about one or two months ago.
111
112 Q: Was it a 40...
113
114 A: One course, 40 hours, yeah.
115
116 Q: Forty hours?
117
118 A: Yeah.
119
120 Q: And that was put on by Alameda County?
121
122 A: Yes.
123
124 Q: And, um, were you working your regular assignment today or was this a
125 special assignment for you today?
126
127 A: This was a special assignment.
128
129 Q: Special assignment. Okay and was there an ops plan for today's event?
130
131 A: Yes, there was.
132
133 Q: And, uh, written assignments for everybody?
134
135 A: Yes.

136
137 Q: And was all - was the - the ops plan - uh, was there a briefing for the ops plan
138 with all the members?
139
140 A: Yes, at the Livermore Police Department, we met and had, uh, a briefing
141 about the mission.
142
143 Q: Um, when - when I've asked you about the ops plan, you're just speaking
144 about your agency, was - is that correct?
145
146 A: Yes.
147
148 Q: W- did you see or did you hear, uh, Santa Clara had an ops plan as well?
149
150 A: Uh, I didn't see one from Santa Clara. Sergeant (Peterson) led the briefing and
151 he handed out ops plans. Um, I believe it was one he prepared so that's what I
152 normally see. So he...
153
154 Q: (Unintelligible)?
155
156 A: Yeah, I believed he prepared it.
157
158 Q: Okay and were the rules of engagement discussed during this briefing?
159
160 A: Yes, our use of force policy was reviewed and went over and - and then I
161 think the Santa Clara guys addressed theirs.
162
163 Q: And, uh, did you guys have any suspect information prior...
164
165 A: No.
166
167 Q: ...to the incident?
168
169 A: Mm-mm.
170
171 Q: (Unintelligible) to the best of your recollection, can you tell me what
172 happened today?
173
174 A: Um, my assignment was, uh, point, uh, leader, uh, for our team. The Santa
175 Clara guys' team led out 'cause it was - it was your guys' county. Um, I was
176 point for our team. Everyone t- was behind me and I trailed your guys' team
177 about between 25 yards, 50 yards, um, this is with - uh, just so I could keep
178 their - them in view. Uh, we were moving down, um, a - uh, a draw along a s-
179 a water source, along a stream and came around a bend and saw that your rear
180 security was signaling for us to hold so I passed that signal on to the rest of

181 my team, looked back to make sure everyone had stopped. And I watched to
182 see what the reason for the hold was and, uh, the rear security guy
183 (unintelligible) pointing at his eyes and pointing up the hillside to our left,
184 which would be the north hillside.
185
186 Q: Rear security for...
187
188 A: Rear security for - for the Santa Clara team.
189
190 Q: For the Santa Clara team?
191
192 A: Yeah.
193
194 Q: You were - you were...
195
196 A: I was point for our team, for Alameda County.
197
198 Q: So that means you could - you could see the rear guy?
199
200 A: Right.
201
202 Q: Gotcha.
203
204 A: So I passed the - he was indicating - pointing at his eyes and indicating up the
205 hill to my left, which would be the north side of the hill, the north side of the
206 stream that we're moving down. Um, we were moving east, yeah - yeah, east
207 along the stream. So I passed that information that - back as well and looked
208 back to make sure that it was being acknowledged and saw that that was being
209 passed on down the line to our guys. And because I didn't have a radio -
210 normally, in circumstances like that, you would pretty much hold in place so
211 you're not making any noise, uh, but because I didn't have radio
212 communications with the Santa Clara team, I started to move up so I'd be
213 close enough - we'd had a couple stops prior to that - move up close enough to
214 the tail guy so that he could relay any information that's coming out over his
215 radio that I wasn't able to hear. Um, as I was moving up - um, as I was
216 moving up to him, I got to within about 10 feet of the rear security guy and I
217 heard a shot. Um, I couldn't tell really from what direction it was coming
218 from. It was a single shot. It was pretty loud. I figured it was a rifle shot and it
219 was coming from, uh, above us. Um, I believed the suspect was shooting at
220 us. Um, I knew that there was somebody up to our left-hand side - to my left-
221 hand side and because the shot came from above us and it was a single shot, I
222 figured that the suspect had - had taken a shot at us or at some guys that were
223 from Santa Clara across on the - the southside hill of just directly above us.
224 Um, and, actually, just prior to the shot, one - one of the guys from Santa
225 Clara that was to my right-hand side up the hill, uh, identified as seeing a

226 suspect and started giving verbal commands to the suspect. And then he said,
227 "He's got a rifle," and shout- shouted out words to the effect of drop the gun,
228 drop the rifle. I heard that single shot. Um, I moved up with one of the Santa
229 Clara guys - I believe it's (Mike) and we began to move up the hillside to our
230 left.

231
232 Q: Uh, hold on one second.

233
234 A: Okay.

235
236 Q: Uh, you said that you were - you were point leader for your team?

237
238 A: Yeah.

239
240 Q: And the San- and that Santa Clara had the lead?

241
242 A: Mm-hm.

243
244 Q: And that their rear gave you the signal - hand signal to stop and then you're
245 telling me that you - on top of you, there was Santa Clara deputies also?

246
247 A: Yeah, we had - uh, our team was all - our complete team was down in the
248 riverbed.

249
250 Q: How many members - uh, how many members were there total?

251
252 A: I think we had six guys.

253
254 A1: From Santa Cl- from Santa Clara or just from...

255
256 Q: From h- your - your team was...

257
258 A: There was six, yeah.

259
260 Q: Do you know how many were with Santa Clara?

261
262 A: Uh, no, not offhand. I don't know.

263
264 Q: Okay.

265
266 A: But - but I do know that they had three or four guys in the riverbed and I knew
267 that at least two guys were paralleling their team along the waterline that we
268 found, uh, up the hillside to our right-hand side. So I was aware that they were
269 up there for quite a while.

270

- 271 Q: Okay so they - was there - was there a split somehow where the - 'cause the
272 team started out together or was there no split or...
273
- 274 A: Um, we were following the - we were following the - the river...
275
- 276 Q: Mm-hm.
277
- 278 A: ...the stream and along that stream was a - a - a water hose that's common to
279 run water to marijuana grows so we were following that pipe that was in the
280 stream as well.
281
- 282 Q: Was that - was that mission to - to locate something?
283
- 284 A: Yeah, to follow the water, you know, follow down the - the stream and locate
285 any signs of a marijuana grow and one of the...
286
- 287 Q: Okay.
288
- 289 A: ...signs being a - a pipe that's piping water to where they grow marijuana. Uh,
290 probably I would say maybe 100 yards, 50 yards prior to our hold, that pipe
291 took, uh, a right-hand turn and started going up the hillside. And so two - at
292 least two Santa Clara guys that I could see from my position back where I was
293 were up paralleling - I believe what they were doing was paralleling the pipe,
294 staying with the pipe and plus providing - probably hiding ground cover for
295 the team that was moving down through the - through the stream because -
296 that's what I assumed they were doing and that makes sense and would make
297 sense that two guys would go because you don't send any of 'em by
298 themselves. So I was aware that tho- that those two guys were up to my h-
299 right-hand side probably - probably about maybe, like, 20 feet up the hill. It
300 was a fairly steep hill. So I hear one of those two guys identify the suspect and
301 say, "Got a gun." I believe they said he had - actually had a rifle.
302
- 303 Q: And this was from the top?
304
- 305 A: Yeah, this was somebody from my right-hand side and then - then they
306 switched from te- telling - I think talking to us in the riverbed to yelling
307 commands at the suspect. Um, it was about that time I heard a shot go off
308 which I believe was coming from the suspect 'cause, normally, if we engage,
309 we're gonna do a double-tap especially if you're engaging who's got a rifle,
310 um, so that was another reason why I would believe it was probably the
311 suspect that took the shot.
312
- 313 Q: Did you hear the shot first or did you hear he has a gun first?
314
- 315 A: I heard the commands from the guys up high to my right. Um, so it was about

316 time I heard a lot of ru- um, rustling in, um, bushes about 20 yards above us
317 directly to the rear security guy's left-hand side and - and just about where I
318 got - so - uh, and then I heard the guys on the other side indicating that, uh,
319 he's got a rifle, he's down in the bushes, he's by a log, and they were basically
320 giving us - kind of describe to us where he was. They said, "We lost sight of
321 him. We can't see him but he's hunkered down in this area." And they were -
322 as we were moving up the hill, they were just trying to describe to us where he
323 was. I - I couldn't see him. I could hear, uh, somebody moving around up
324 there, uh, making a lot of noise in the bush - uh, bushes so I didn't know if he
325 was taking a position to keep shooting at us or whether he was crawling
326 through the bushes trying to escape or - or what exactly he was doing. So I
327 know (Mike) and I and - and one other person s- started moving to the right
328 plank.
329

330 Q: When you say (Mike), are we just talking about, uh...

331
332 A: I don't know his last name.

333
334 Q: ...the - uh, (Domico) - (Mike Domico)?
335

336 A: I - I think so, yeah.
337

338 Q: Santa Clara County?
339

340 A: Yeah.
341

342 Q: Okay.
343

344 A: I know him as (Mike).
345

346 Q: Okay.
347

348 A: So he and I started out moving to - I'm sure he was thinking the same thing,
349 we're gonna go up the right plank, we've got high cover over here, um, you
350 know so we're - they've - they've got a good line of sight on the suspect of
351 where the suspect is or was, and we're gonna move up to the right plank. The
352 - uh, the hillside was ex- very steep and we - where, literally, the dirt and
353 rocks were crumbling as we're trying to move up. We had - I had to let go of
354 my weapon several times to scramble using all fours. I'm, literally, moving
355 five feet forward and sliding three back trying to - trying to move up to where,
356 you know, I believed the suspect was. Um, and (Mike) is a little bit above me
357 and to my right-hand side. So as we're moving up, I'm hearing...

358
359 Q: Are you, actually, climbing up the side wall or how...
360

361 A: We're by the - it's a very steep bank, I mean, almost a cliff..
362

363 Q: Uh-huh.
364

365 A: ...it was so steep and the dirt and the rocks are crumbly so as you're trying to,
366 you know, grab on to something, it's breaking free and sliding out from
367 underneath you so..
368

369 Q: Okay.
370

371 A: ...you're - you're scrambling up, you know, three or four feet and s- and
372 sliding back two feet. You know, I know that I've got a suspect up here, I can
373 hear him moving in the bushes, he's very close to me, and I've gotta take my
374 hand off my rifle so I can scramble up. Uh, the guys that were across the -
375 well, I don't - actually, I don't know who now was yelling directions of where
376 he thought the - the suspect was and then it went from - their voices changed
377 from when I knew they were talking to us trying to describe where the suspect
378 was to now they're seeing the suspect again and they're starting to give verbal
379 commands. Um, I don't - I don't recall exactly what was said. I just know that
380 they were now not talking to us, they were yelling at the suspect and I heard
381 another..
382

383 Q: So the tone changed?
384

385 A: Yeah, there was no - I don't remember what they were saying but there was
386 no doubt in my mind that they went from talking to us to, uh, giving verbal
387 commands to the s- to the suspect again. Um, that - I heard a s- another series
388 of shots, probably three, possibly four I think coming from more than one rifle
389 but I'm not absolutely certain. Um, I'm continuing up the hillside and just
390 about the time I get about even with where I believe the suspect probably was
391 based on the sounds that I'm hearing, him scrambling around and making loud
392 noises in the brush, I told (Mike), "Hey, I'm gonna - I'm gonna hold on this
393 spot." And (Mike) continued on up to the right. I couldn't see the suspect. I
394 was reasonably certain he was very close and he was probably directly to my
395 left-hand side. It turned out I was right, he was about 15 feet from where I
396 was. Um, (Mike) and I - I believe one other person - I think it was the - uh, the
397 - uh, the paramedic, the firefighter..
398

399 Q: Okay (unintelligible) guys?
400

401 A: Yeah. I believe he moved up to my right-hand side. (Mike) continued on a
402 little bit over - uh, a little bit higher. I told - I was kind of in a spot where I
403 couldn't really go much higher anyways 'cause of the - how steep it was
404 getting for me so I told (Mike), "I'm gonna hold on - on this spot. I'll cover
405 you while you move." Uh, the - both of those guys continued moving up, um,

406 and then, uh, I don't know, a few seconds after that (Mike) got above me
407 maybe about 10 more feet where I'm pretty sure he could now see down into -
408 into the bushes where the suspect was. He yelled out some verbal commands,
409 "Don't move. Uh, drop the gun." And then I saw and heard him fire probably
410 three rounds - three of four more rounds, um, and then he moved in. Um, and
411 then by the time I got up there, the - the - uh, just because I had - the difficulty
412 I was having climbing up there, uh, (Mike) was all the way - was covering the
413 suspect. The - the paramedic was up there and I was up there. So the - this guy
414 is now - he's laying - I can, you know, clearly see him. He's laying on his
415 back. He's got his hands above his head and he's - he's thrashing around with
416 his hands in - in the bushes. And I could look over and see that the rifle was
417 to, uh, h- his left-hand side pr- probably out of his reach now. Um, I don't
418 know if (Mike) moved it over there or took it away from him or what but it
419 was now to the side. But he's got his hands above his head and I know (Mike)
420 and I'm sure I was and the firefighter was telling him, you know, "Don't
421 move. Stop moving." You know, uh, and he's thrashing around above his
422 head reaching into the bushes up here. My concern was that he could possibly
423 be going for a handgun or something to that effect. So we gave him a bunch of
424 verbal orders. He didn't comply with any of 'em and finally w- his - we just
425 took hold of him, flex cuffed him, and searched him. And by about that time,
426 our medic had gotten up to us and so our - I covered our medic and (Mike)
427 was covering our medic and the, uh, Santa Clara medic pulled the - pulled the
428 suspect out from the bushes as he was up and under branches of this fallen
429 tree and started administering first aid to him. And then my - uh, I was doing -
430 basically pulling perimeter security for them. Oh, uh, as we were scrambling
431 up, just about the time I had got even with the suspect, I heard to my right-
432 hand side definitely somebody moving through the bushes right even with us
433 about 15 yards away moving at - rapidly away from us.

434
435 Q: Okay.

436
437 A: I'm absolutely certain there was at least one other suspect.

438
439 Q: All right so - so you got to the top of the ridge where the suspect was?

440
441 A: Well, when I got to about even to where I believe the suspect was to my left
442 and I told (Mike), "I'll call - cover while you move," (Mike) continued on up,
443 the - I believe the firefighter continued on up and just about that time, I heard
444 to m- directly to my right-hand side about maybe - it was close, 15 to 20 yards
445 - somebody moving really fast through the - through the underbrush,
446 definitely - definitely at least one suspect. I believed at the time it was one. I
447 don't remember why.

448
449 Q: So you heard someone running?

450

451 A: Away from us, yeah, back - uh, back t- you know, down the direction that we
452 were originally traveling, um, along the - the hillside. And I know I put that
453 information out to the other guys that - you know, "Hey, I got - I got
454 somebody to the right here."
455
456 Q: On your radio or did you yell it out?
457
458 A: I - I'm sure I didn't put it on the radio 'cause I would've had to find the
459 transmit button so I - it was ver- definitely verbally that I - yeah, I didn't put it
460 over the radio.
461
462 Q: Okay, um, so when you got up on that ridge, um, you...
463
464 A: The ridge is up - up where the suspect was?
465
466 Q: Yeah.
467
468 A: Yeah, we were on a hillside and the...
469
470 Q: Hillside?
471
472 A: ...hill continued way above where we were.
473
474 Q: It just kept going?
475
476 A: Yeah.
477
478 Q: And (Domico) got - you told (Domico) you'll cover him from here and
479 (Domico) went up with the other SO, uh, (Armado) - uh, (Armana) I believe is
480 his name?
481
482 A: Yeah.
483
484 Q: Our - our medical guy?
485
486 A: I think that's who it was. It was definitely another Santa Clara guy, it wasn't
487 one of our guys.
488
489 Q: Okay and when you held, they continued up?
490
491 A: Yeah.
492
493 Q: And you told (Domico) that you'll provide cover for him...
494
495 A: Yeah.

496
497 Q: ...from where you (unintelligible) point?
498
499 A: Yeah.
500
501 Q: And then you could - you could see (Domico) though - (Mike)?
502
503 A: Uh, I - peripherally I could see - yeah, I could him to my right - right side
504 moving up.
505
506 Q: But you did not - you could not see the suspect?
507
508 A: I could not, no.
509
510 Q: Okay.
511
512 A: Not through the bushes where he was, no.
513
514 Q: Okay and you heard (Domico) giving commands?
515
516 A: Yeah.
517
518 Q: Don't move and things like that?
519
520 A: Yeah.
521
522 Q: And, uh, you were still 10 feet away from him at that point?
523
524 A: Well, I didn't know at the time but, yeah, it turned out...
525
526 Q: Yeah.
527
528 A: ...I was 10 feet from where the suspect was through a bunch of branches and a
529 fallen tree and - and, um, the bushes and stuff that were there.
530
531 Q: Okay by any chance did you hear anyone, uh, give any commands in Spanish?
532
533 A: Uh, that I don't remember, no. I don't remember anyone saying any
534 commands in Spanish. I think possibly before we even started up the hillside,
535 one of our guys was yelling out commands in Spanish but I'm not - I'm not
536 certain about that. I know...
537
538 ((Crosstalk))
539
540 A: Before I even started up the hillside, yeah. When we - when they first

541 identified the suspect, I think I heard - and I think it was one - I think it was
542 (Gus), I think it was one of our guys but that was before I even left the
543 riverbed.
544
545 Q: So before - before you left the riverbed so...
546
547 A: Once we were on the hillside, I don't - I don't remember any commands in
548 Spanish.
549
550 Q: While in the riverbed, uh, you - you heard - who did you think it was?
551
552 A: I think it was (Gus), uh, it was one of our guys because I - 'cause (Gus) was
553 directly behind me. I don't - I was point, (Gus) was right behind me, uh, and then I
554 think it was Sergeant (Peterson). So (Gus) would've been very close or - or
555 right next to me relatively quick so...
556
557 Q: And what - what is (Gus)'s last name?
558
559 A: Um, oh my gosh.
560
561 A1: (Mora).
562
563 A: It's (Mora), yeah. (Unintelligible).
564
565 Q: That's okay. So you think you heard (Gus Mora)?
566
567 A: I - I believe - yeah, I think so. Uh, there was...
568
569 Q: Did - did you...
570
571 A: ...a lot of commands being yelled out while we were in the riverbed before the
572 first shot and I believe one of 'em was (Gus) yelling out. It - and - and (Gus)
573 normally does yell out our - does our commands in Spanish for us.
574
575 Q: Do you remember what he yelled out?
576
577 A: I don't have any idea.
578
579 Q: Do you understand any Spanish at all?
580
581 A: No, huh-uh.
582
583 Q: Okay but you did hear - you heard Spanish being...
584
585 A: Yeah.

586
587 Q: ...yelled out?
588
589 A: I'm pretty sure.
590
591 Q: So you think it was (Gus Mora) but you definitely heard commands in
592 Spanish?
593
594 A: Oh, yeah. Yeah. When I was on the hillside, I don't remember - I don't even
595 remember really specifically what commands were being yelled
596 (unintelligible).
597
598 Q: So, um, (unintelligible) cover for (Domico). (Domico) went over and did his
599 commands, fired three shots that you saw?
600
601 A: Three to four, yeah.
602
603 Q: Three or four shots?
604
605 A: Yeah, 'cause he was right - he was very close to me. He was probably - he
606 was above me but really only, like, probably five feet from me. But five feet
607 on that steep hill...
608
609 Q: Yeah.
610
611 A: ...he would've got way high and could definitely see down in where the guy
612 was so...
613
614 Q: Now, did you - uh, you did make your way up and...
615
616 A: Yeah.
617
618 Q: ...and you assisted the other Santa Clara deputy take the suspect into custody
619 by using cuffs or what'd you guys use?
620
621 A: Well, I gave my flex cuffs but - but I held my rifle...
622
623 Q: You held?
624
625 A: Yeah.
626
627 Q: So you held your rifle, (Domico) and then, uh, (Amaro) - (Amaro)...
628
629 A: I think (Mike) and - (Mike) was, I think, pulling security. I was holding the
630 cover. I was covering the suspect and I don't even know who did the flex

631 cuffs. Oh, I think it was (Mike) by then had gotten up to us. He was our medic
632 'cause Lydon is the one I handed my flex cuffs to.

633
634 Q: Okay.

635
636 A: And then Lydon and somebody else, probably the firefighter - uh, 'cause the
637 guy wasn't listening to our verbal commands. He kept thrashing around so
638 they just took hold of him, flex cuffed him, searched him, and then pulled him
639 out of the bushes that he was buried up into - burrowed up into. Uh, and they
640 s- they started administering first aid. Uh, at that time I had turned outward
641 and covered pretty much the direction I heard the last suspect run off. I
642 covered that direction so I didn't really see them - you know, then working on
643 him but I was just aware they were administering first aid.

644
645 Q: And, um, when they started first aid, how long before - after did you hear that
646 the, uh, suspect had expired?

647
648 A: Oh, it was probably four or five minutes I think. They worked on him for
649 quite a while. They had - they had a hard time pulling him out from the bushes
650 and stuff that he kind of burrowed into.

651
652 Q: Mm-hm.

653
654 A: So once they pulled him free of that, he had already been flex cuffed and
655 searched. So they pulled him free of that and then, uh, the last time I think I
656 really looked back and saw anything, they were putting a - um, I can't
657 remember the name of that - that - it's an occlusive dressing for a separate
658 chest wound. They were applying that and then four or five minutes after I
659 think was when, um, your guys' paramedic said that he had 10 - or I think he
660 called - we call it 10-55 but I think he called it 10 - or we are 10-10 but I think
661 he called it 10-55.

662
663 Q: 10-55, yeah, that's our...

664
665 A: So, yeah, he - he noted the time, he (unintelligible) what time it was.

666
667 Q: Okay. Okay do you remember what time it was?

668
669 A: 10-something. I don't remember.

670
671 Q: Okay, uh, do you remember what the suspect looked like?

672
673 A: Hispanic male probably in his late 20s. He was wearing, uh, a camouflage T-
674 shirt identical to the pattern of camouflage we wear and I believe he had blue
675 jeans on. He had, uh, some kind of red necklace that looks like the ones that

676 they make in the jail.

677

678 Q: Those rosary ones with the little cross from jail?

679

680 A: The ones - the little handmade ones they make with the crosses. I don't know
681 why that stuck in my mind but...

682

683 Q: Okay so, um, a couple questions I wanna ask you about the - the whole
684 shooting thing, um, would - did you know anything about the suspect prior to
685 the shooting?

686

687 A: No, other than they were saying that he had a rifle.

688

689 Q: And how close to the suspect were you?

690

691 A: At that point, uh, then I didn't know but now - he was pr- he was directly to
692 my left and up in an elevated position probably, I wanna say, 25, 30 yards up
693 the hill. And I - I never did see him. I could just hear where he was and then
694 based on what the description of the other guys yelling out where he was is
695 how I was figuring that out.

696

697 Q: Okay and did the suspect have a weapon?

698

699 A: Yes.

700

701 Q: We covered that.

702

703 A: Yeah.

704

705 Q: Do you know what kind of weapon it was?

706

707 A: Uh, it was a rifle of some sort. I - I didn't close enough to the rifle to identify
708 it. I think it was a bolt-action, it was a wood stock and - but other than that,
709 no.

710

711 Q: Did you - uh, did you hear the suspect say anything?

712

713 A: No, I - I did hear him, uh, groaning, um, shortly after, I think, (Mike) got up to
714 him. Uh, that was before I could see him but other than that, I didn't hear him,
715 uh, say anything.

716

717 Q: Did you say anything to the suspect?

718

719 A: No.

720

721 Q: Did you hear others say anything to the suspect?
722

723 A: Yes, my - the guys across the hill, whoever was yelling out in Spanish, (Mike)
724 definitely, and then one other person that was up with us but I'm not sure who
725 it was.
726

727 Q: Do you know our deputies that were up there with you? I mean...
728

729 A: By sight I do.
730

731 ((Crosstalk))
732

733 A: I - I know (Mike) because he taught in the marijuana interdiction classes and,
734 uh, I think I've seen him at our range before. And his partner I know by sight,
735 uh, but I don't know his name and...
736

737 Q: And was this...
738

739 A: ...this was the first time I'd ever done a mission with 'em.
740

741 Q: ...partner that you're talking about that you - you can recognize by sight, was
742 he down in the river with you or was he up on the embankment?
743

744 A: I think - I think he was up on the - uh, the hillside to our right.
745

746 Q: Uh, did anyone identify themselves as law enforcement to the suspect?
747

748 A: Uh, I heard them yelling, "Sheriff's Office." Um, I think that's all I - I ever
749 heard and I think that was down when we were in the riverbed.
750

751 Q: Okay and what were you feeling prior to shots being fired?
752

753 A: Prior to shots being fired?
754

755 Q: Prior.
756

757 A: That, uh - um, I don't know. They were identifying...
758

759 Q: Were you shocked?
760

761 A: ...that we - that we had a suspect - you mean before any shots were fired?
762

763 Q: Before - before shots were fired, you're - you're on this detail, and did you -
764 uh, what - what feelings did you have about - about what you were doing? Did
765 you have anything like that? Did you feel anything?

766
767 A: No, I was kind of surprised that we had encountered somebody so soon 'cause
768 it - I th- I thought we were probably pretty far still from the grow, um, but we
769 - you know, other than that, I guess I was happy that we found somebody
770 'cause a lot of times we can go and never find anybody.
771
772 Q: Uh, surprised they encountered someone that soon?
773
774 A: Yeah.
775
776 Q: Um, did you ever make it to the grow?
777
778 A: Not this time, no. I guess it was - they were - it was further down, like, about a
779 quarter mile or so.
780
781 Q: And what were your feelings while shots were being fired?
782
783 A: Uh, I was extremely concerned and in fear of my - you know, getting killed
784 because I had a guy that I knew, uh, another deputy identifying he had a rifle,
785 he was in an elevated position, he was directly above us and so that's at a s- an
786 extreme disadvantage if I couldn't see him. Um, I could definitely hear him
787 moving around and knew he was close. And he'd already t- taken one shot so,
788 um, I - I didn't think he was shooting at me because the shot was so far above
789 but I thought he was shooting at the guys acrost above me to the right.
790
791 Q: Okay and what were your feelings after the shots were fired?
792
793 A: Um, the first one or the second or...
794
795 Q: Yeah, what was - let's start with the first one.
796
797 A: ...after this was all done?
798
799 Q: Well, let's start with the first because, obviously, that's gonna be your - your
800 reaction.
801
802 A: Um, well, that was - you know, I w- I was thinking I need to get up and find
803 this guy and stop him. We had to keep him from escaping or keep him from
804 getting in a position where he could, you know, shoot down, uh, at us or - um,
805 you know, that's I guess what was going through my mind.
806
807 Q: You needed to get to a point?
808
809 A: Yeah, I r- I really wanted to get, uh, to plank him from the right and I was
810 getting frustrated by not being able to climb up the - that steep hill as fast as I

811 would've liked to have been able to do.

812

813 Q: And, um, after the shots were fired up at the top?

814

815 A: After the last shots were fired?

816

817 Q: Yeah.

818

819 A: Oh, I was, um - um, I'm not really sure 'cause I was still concerned that we
820 had a suspect that was outstanding so I was really focused on watching that
821 direction that he disappeared in. Um, I think I was happy that - that I got all
822 the way up this hill and I didn't get shot and nobody else did that - I didn't
823 think anyone else had been shot. Um, I think that was the main thing going
824 through my mind at the time.

825

826 Q: The - uh, the first shot that you said you heard when you were down in the
827 river, um, did you think that was a deputy sh- (shooting) or did you think that
828 was the suspect?

829

830 A: I think now that it was a deputy taking a shot but at the time I thought it was
831 him because, one, it was the - it was coming from directly above me and it
832 was one shot and they had just identified him as having a weapon and a rifle.
833 And, normally, if we would be engaging a suspect like that, we would be
834 firing at least a double-tap, um, and more than one round. It wouldn't be just a
835 single round. And then no - no more shots were taken for, you know, it
836 seemed like a long time. It probably wasn't all that long but there was a long -
837 it seemed like a long pause.

838

839 Q: And, um, what did you think the suspect was gonna do?

840

841 A: I believed he was ambushing us. If they knew we were there and they were
842 moving down towards us and t- taking an elevated position, well, we know the
843 reason for someone to do that, uh, they - they were trying to ambush us
844 intentionally and they had a good position of advantage being up on the hill
845 like that. And it was not a very easy place to move along. Um, it wouldn't - to
846 move up and down that valley to tend to plants or check your waterline, you
847 could take the easiest route which would be right along the water. Moving up
848 along that hillside like it was, was very - extremely difficult. Uh, there'd be no
849 other reason why somebody would go to all the work to climb up there. And if
850 they were setting up to try to ambush us, then that was a very good spot. If - I
851 truly believe if those deputies hadn't had an elevated position across from us,
852 that guy would've shot, uh, down on us and we wouldn't - we would not have
853 seen where the shots were coming from.

854

855 Q: Okay so you just answered my next question. Do you feel the suspect intended

856 to harm anyone today?
857
858 A: Oh, absolutely no doubt in my mind.
859
860 Q: Did you fire at the suspect?
861
862 A: No.
863
864 Q: And who was working with you today?
865
866 A: Uh, all the deputies with me?
867
868 Q: Your team.
869
870 A: My team, okay, (unintelligible) hours.
871
872 Q: That's okay.
873
874 A: Okay I'll start with myself, uh, I was there, uh, Sergeant (Peterson), Sergeant
875 (Matt Pruda), um - uh, Keith Lydon, uh, (Gus Mora), um - uh, (Ortiz), and I
876 think that's - I think that's - I think that's all of us.
877
878 Q: You think that's it?
879
880 A: Yeah. Um, I can't even keep my kids' names straight.
881
882 Q: We just filled this (unintelligible) book up today.
883
884 ((Crosstalk))
885
886 Q: Derek, what - can I get your date of birth?
887
888 A:
889
890 Q: And are you out of the, uh, San Leandro, uh, station or where are you from?
891 Oh, the airport?
892
893 A: Well, this was a (unintelligible) mission so, yeah, that - it would be out of
894 the...
895
896 ((Crosstalk))
897
898 A: But my full-time duty assignment is at the airport. So, unfortunately, I do not
899 have my wallet or any cards but...
900

901 Q: We'll go ahead and use this though since you were on a special ops detail.
902
903 A: Yeah. Yeah.
904
905 Q: And do you know your, uh, driver's license number by heart?
906
907 A: Uh, I don't, no.
908
909 Q: Me either.
910
911 A: My wife does, which is kind of scary but...
912
913 Q: And, uh, what's a good number, a contact phone for you?
914
915 A: Um, I'll give my personal cell 'cause I don't know my work cell by heart.
916
917 Q: Go ahead.
918
919 A:
920
921 Q: Okay so I'm just gonna really quick go over everything. So you were, uh,
922 special detail today it says as a - as a SWAT team member, uh, to assist and
923 locate a marijuana...
924
925 A: Assigned to SIU.
926
927 Q: Assigned - assigned to SIU?
928
929 A: Yeah.
930
931 Q: Uh, you were assisting Santa Clara County today, um...
932
933 A: It was a joint mission.
934
935 Q: ...or - a joint mission?
936
937 A: Yeah.
938
939 Q: Uh, there - what was the - the reason for the call? Uh, I don't think you
940 explained that to me, right, today?
941
942 A: Well, uh...
943
944 ((Crosstalk))
945

946 A: It was on the (unintelligible) cattle ranch and a couple - the - the ranch
947 workers up there had discovered, um, a waterline, um, and they - they - they
948 knew from talking to deputies in the past and Sergeant (Peterson) that that's
949 an indication of marijuana so - a marijuana grow so they backed out of that
950 area and called us. And so Sergeant (Peterson) did some recon,
951 (unintelligible), and then put the mission together and that's why we were
952 there today.

953

954 Q: Oh, so, uh, you were point for your team?

955

956 A: Yes.

957

958 Q: Um, you were - uh, Santa Clara was lead?

959

960 A: Right, yeah.

961

962 Q: You guys went up, you're on this - this creek bed following this, uh, waterline
963 to see where it goes to?

964

965 A: Yeah.

966

967 Q: Obviously, it's - they say you trained for these types of things, they were -
968 they were mostly just for marijuana grows or...

969

970 A: Right.

971

972 Q: ...somebody just needs water in certain - in the middle of nowhere.

973

974 A: Mm-hm, yeah.

975

976 Q: And, um, as you guys were going, uh, a couple of SO - Santa Clara County
977 SO deputies took the high road to come - give you guys cover, uh, you hear a
978 shot fired. Um, you heard commands being given, you heard that there was a
979 suspect, somebody has a gun, um, you guys then - did you guys just decide to
980 move up that embankment on your own or did somebody give a command
981 to...

982

983 A: I think Sergeant (Peterson), actually thinking about it, directed us to move up
984 there but I was headed that way anyways to go to the right plank.

985

986 Q: But before you ma- made it up that hill, you were hearing a bunch of
987 commands being yelled at this guy and you also...

988

989 A: Yeah.

990

991 Q: ...heard some Spanish commands...
992
993 A: Yeah.
994
995 Q: ...being yelled out? You don't understand Spanish so...
996
997 A: No.
998
999 Q: ...you don't know what was said? Um, you started making your way up this -
1000 uh, this embankment. Um, did you have a - uh, Deputy (Domico) made it
1001 about 10 feet above you and he engaged the suspect, you could hear the
1002 commands, and you could actually - you could see (Domico) but you couldn't
1003 see the suspect?
1004
1005 A: Right.
1006
1007 Q: Uh, you saw several shots fired towards the suspect, made your way up, uh,
1008 Lydon got up and Lydon and the other SO deputy from Santa Clara County,
1009 uh, took the suspect into custody and started administering first aid?
1010
1011 A: Yes.
1012
1013 Q: And then you heard that the suspect was pronounced dead at the scene?
1014
1015 A: Yes.
1016
1017 Q: And you had also heard somebody running away from you guys to the bushes.
1018 But you couldn't see anybody though?
1019
1020 A: No.
1021
1022 Q: No description or nothing?
1023
1024 A: No.
1025
1026 Q: One or two people?
1027
1028 A: I thought it was one. I know that - I think that afterwards we were - we were -
1029 uh, people were saying that they thought they heard more than one person so
1030 that's why we set up a - a perimeter like we did 'cause we - possibly there was
1031 more than one. But I definitely heard one person. I'm absolutely certain of it.
1032
1033 Q: Okay, um, so your - your - your - your - your concern was watching where
1034 this guy ran off in case he came back and let these guys do what they were
1035 doing?

1036
1037 A: Right.
1038
1039 Q: And, um, after he was pronounced dead, uh, did anybody decide to start going
1040 after this - this - these people that possibly ran away or did you guys just hold
1041 your position?
1042
1043 A: Well, what we did is we - we kinda pushed our perimeter out. Um - uh, I
1044 posted on the suspect and then our plan was to wait and we did this - we
1045 waited for the helicopter to come in and then we used the helicopter to - to do
1046 an area search and - but we pretty much just held our ground, we didn't -
1047 because of what we had to deal with there, we didn't send out anybody
1048 looking for the - any additional suspects and we didn't continue on down, um,
1049 you know, because we were probably gonna encounter more people 'cause we
1050 hadn't gotten to a campsite yet, we hadn't gotten to a kitchen site yet. We
1051 hadn't actually gotten to a grow.
1052
1053 Q: (Unintelligible).
1054
1055 A: No, that's why I was surprised that we had run into somebody so - so soon
1056 'cause we were pretty high up, um, along the water source from where I
1057 figured the grow would probably show - show up just by looking on the - you
1058 know, from looking at the map I had had, um, where I kinda thought it would
1059 probably be based on the (unintelligible) that was seen on the map so...
1060
1061 Q: And then after that you guys were relieved. Do you know h- about what time
1062 you were relieved of your duty up there?
1063
1064 A: Uh, I don't remember that, no. I mean, we were up there for, uh, the majority
1065 of the day...
1066
1067 Q: Yeah.
1068
1069 A: ...'til pretty - probably pretty close to four o'clock or three I think. I don't
1070 remember.
1071
1072 Q: Okay, um, anything I may have missed that you might wanna - that you think
1073 is important and you might wanna tell me?
1074
1075 A: I think I covered everything I can remember, yeah.
1076
1077 Q: Anything from you?
1078
1079 A1: Not that I can think of. That's it.
1080

1081 Q: You're not really here so we're not gonna ask you. Alrighty, uh, I - I don't
1082 have any other questions. I think I've as- asked pretty much all the questions I
1083 need to ask you. Um, so that'll be it for us. I'm gonna go ahead and shut the
1084 recorder off. So what is it? 0051 hours. Mr. Pope, thank you very much.
1085
1086 A: No, thank you.
1087
1088 Q: Good job, man.
1089
1090 ((Crosstalk))
1091
1092 Q: Hold on. Let me see if she wants (unintelligible).
1093
1094 ((Crosstalk))
1095
1096 Q: Let's see where she's at, maybe she (unintelligible).
1097
1098 ((Crosstalk))
1099
1100 Q: Just right in here. All right, um, I'll be turning on - we're gonna be going
1101 through the questions and stuff. Um, when I turn it on, I'm gonna introduce
1102 myself. I'm gonna ask you to state your first and last name and spell it for me,
1103 your rank, and we're gonna go around the room and everybody who's in the
1104 room with us will, uh - uh, present themselves as well. And, uh, he's only here
1105 as a - as a - as, um, a monitor. He's just mon- monitoring everything. He's not
1106 here for anything administrative or anything like that, okay? So we'll get
1107 started. It is July 22, 2010, at approximately 0059 hours. This is Sergeant
1108 Quinonez, Santa Clara County Sheriff's Office. I'm in the, uh, headquarters,
1109 uh, investigative services, uh, interview room and I am here today with, uh,
1110 Alameda County Sheriff's Deputy...
1111
1112 A2: Deputy Keith Lydon, K-E-I-T-H, Lydon, L-Y-D-O-N.
1113
1114 Q: And you are a deputy?
1115
1116 A2: Yes.
1117
1118 Q: And your attorney?
1119
1120 A1: last name from - uh, attorney
1121 from the representing Mr. Lydon.
1122
1123 Q2: Uh, Detective Patrick Smyth, uh, Alameda County Sheriff's Office
1124 investigator, P-A-T-R-I-C-K, S-M-Y-T-H.
1125

1126 Q: Okay that's everybody in the room. Um, Deputy Lydon, before we get started,
1127 uh, I just want to let you know that you are not under arrest. You are a
1128 witness. Uh, you do not have to answer any questions that you are not
1129 comfortable with and you are free to leave at any time. And, uh, before we
1130 start the interview, have you consulted with your attorney and...
1131

1132 A2: Yes, sir.
1133

1134 Q: ...you're - you're okay to - to speak with me right now to everything?
1135

1136 A2: Yes, sir.
1137

1138 Q: Okay great. Um, we're just gonna be running through a couple of questions
1139 and then we'll get to the incident, okay? Um, could you please tell me, uh,
1140 your employment history, collateral duties, and your assignment?
1141

1142 A2: Uh, I currently work at, uh, the (unintelligible) substation for the Sheriff's
1143 Office. Uh, I've been employed for the Sheriff's Office the past five years. I
1144 work in the patrol (unintelligible) officer on our, uh, special response unit.
1145

1146 Q: Would that be the SWAT team?
1147

1148 A2: Yes.
1149

1150 Q: And how long have you been a member of that team?
1151

1152 A2: Approximately a little over two years.
1153

1154 Q: And your current work schedule, shift, days of work?
1155

1156 A2: I work C-team. It's every Thursday, Friday, Saturday, and every other
1157 Wednesday from six at night to six in the morning.
1158

1159 Q: And, uh, today was your day off - Wednesday?
1160

1161 A2: Uh, no, I - today was actually my workday.
1162

1163 Q: Oh, you're - so you were on regular time for this assignment?
1164

1165 A2: Not regular duty hours but, uh, it...
1166

1167 Q: Your - your workday?
1168

1169 A2: Yeah.
1170

1171 Q: Okay were you on overtime today with us?
1172
1173 A2: No, sir.
1174
1175 Q: No? Okay adjusted your schedule?
1176
1177 A2: Yes, sir.
1178
1179 Q: Okay and, um, what type of, uh, training, uh, have you had specific to this
1180 incident - this type of an incident?
1181
1182 A2: Um, well, I performed a couple of these marijuana eradication missions, uh,
1183 (unintelligible), uh, I'm also an EMT. I'm working in an EMT-type function
1184 for the SWAT team and through our SWAT team, uh, we have been put
1185 through some of these, uh, marijuana eradication type trainings such as
1186 (unintelligible).
1187
1188 Q: So you are the team medic for the...
1189
1190 A2: Yes, sir.
1191
1192 Q: ...for - for - in case something happens out in the field?
1193
1194 A2: Yes, sir.
1195
1196 Q: And how long have you been an EMT?
1197
1198 A2: I have been an EMT for seven years - six or seven years.
1199
1200 Q: And that's prior to becoming a law enforcement officer you were an EMT
1201 somewhere else?
1202
1203 A2: Yes, I worked for American Medical Response for approximately three years
1204 so I'd say about eight years I've been an EMT.
1205
1206 Q: Okay and, um, today's incident, um, was there an ops plan?
1207
1208 A2: Yes, there was.
1209
1210 Q: And were there written assignments for the ops plan for you?
1211
1212 A2: Yes, there was.
1213
1214 Q: And, uh, the ops plan, did that come from your agency or from Santa Clara
1215 County's agency?

1216
1217 A2: Our agency.
1218
1219 Q: Do you know or did you see an ops plan from Santa Clara County?
1220
1221 A2: Uh, I believe I heard their - um, I believe they had their own ops plan, uh, but,
1222 uh, during our, uh, briefing in the morning, I - we r- I just primarily read from
1223 mine.
1224
1225 Q: So you did have a briefing?
1226
1227 A2: Yes, sir.
1228
1229 Q: And were the rules of engagement, um, discussed...
1230
1231 A2: Yes.
1232
1233 Q: ...during the briefing?
1234
1235 A2: Yes, they were.
1236
1237 Q: Okay, well, we'll get started with the specifics about the incident. So what
1238 was your specific assignment today?
1239
1240 A2: Uh, my specific assignment was, uh, tactical medic.
1241
1242 Q: And what were you guys doing today?
1243
1244 A2: Uh, we were - had a marijuana eradication.
1245
1246 Q: And, uh, tell me about that marijuana eradication. What was it? Where -
1247 where did you guys go? What were you - how were you notified?
1248
1249 A2: Uh, the - we were notified - uh, I believe it's the N3 ranch - one of the ranch
1250 hands had, uh, notified, uh, ACSO that they located a waterline, uh, up on
1251 their property. And, uh, through previous history of, uh, marijuana grows,
1252 including marijuana gardens that the - there's a very pr- uh, a chance that
1253 there was multiple gardens in that area.
1254
1255 Q: Based on your training and experience?
1256
1257 A2: Based on my training and experience. I also believe, uh, Sergeant (Peterson) -
1258 that he did, uh - um, an aerial and I believe...
1259
1260

1261 The transcript has been reviewed with the audio recording submitted and it is an accurate
1262 transcription.

1263 Signed _____