

County of Santa Clara
Office of the Sheriff



55 West Younger Avenue
San Jose, California 95110-1721
PH: (408) 808-4900

Laurie Smith
Sheriff

MEMORANDUM

TO: Undersheriff Hirokawa
FROM: Sergeant Jennifer Bice #10573
Internal Affairs Unit
DATE: September 12, 2014
SUBJECT: Internal Affairs Case IAU 2013-033
Statement of Findings

Involved Parties:

Involved Employee: Correctional Deputy Timmy Tri #10701

Complainant: Office of the Sheriff

Witnesses: Sergeant James Jensen #1756
Deputy Kala Bragg #10463
Deputy Candelar Murillo #10738
Deputy Sean Lozada #10713
Officer Miguel Cortes # 2599
Officer Pablo Tempra # 2752
Officer Richard Durand #2818
Deputy Saiyad Hussain #10646
Inmate
Inmate
Inmate
Inmate
Inmate

Violations:

- I. Violation of Santa Clara County Merit System Rule A25-301(a)(1): "Violation of the county charter, merit system rules and regulations and written and published departmental rules and policies which do not conflict with this article."

- II. Violation of Santa Clara County Merit System Rule A25-301(a)(4): “Brutality in the performance of duties.”
- III. Violation of Santa Clara County Merit System Rule A25-301(b)(1): “Guilty of gross misconduct, or conduct unbecoming a county officer or employee which tends to discredit the county or county service.”
- IV. Violation of Santa Clara County Merit System Rule A25-301(b)(2): “Guilty of immoral conduct or criminal act.”
- V. Violation of D.O.C. Policy 3.31.II.B: Employee Relationships with Inmates: “Brutality will not be tolerated and is cause for dismissal and possible criminal charges.”
- VI. Violation of D.O.C. Policy 3.31.IV.J.1.a - Employee Conduct/Conformance to Law: “Employees are expected to adhere to Department Policies and Procedures, County Personnel Regulations, County Administrative Procedures, Executive Orders, County Merit System Rules, and all laws applicable to the general public.”
- VII. Violation of D.O.C. Policy 3.31.IV.J.3.a – Employee Conduct/Use of Force: “Employees shall only use force in accordance with the law and the Department Policy 9.01, Use of Force and Restraints.”
- VIII. Violation of D.O.C. Policy 3.31.IV.J.9.a. - Employee Conduct/Conduct Unbecoming: “An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude.”
- IX. Violation of D.O.C. Policy 3.31.IV.J.14.a: Employee Conduct/Untruthful Statements: “Employees shall not make less than truthful statements, either verbal or written.”
- X. Violation of D.O.C. Policy 9.01.I.A.1- Use of Force: “In the performance of their duties, badge staff is authorized to use that level of force, which is necessary and objectively reasonable, under the circumstances.”
- XI. Violation of D.O.C. Policy 9.27.I.B.1 – Reporting of Incidents: “All staff involved in a reportable incident shall submit a written Incident Report describing the event in detail to the supervisor.”

Basis for Complaint:

It is alleged Deputy Tri used excessive force and failed to accurately report the facts.

Investigation:

On October 9, 2013, Captain Hoyt requested Internal Affairs conduct a Formal Investigation on Deputy Timmy Tri. The memorandum alleged Deputy Tri used excessive force, omitted facts, and documented events that did not occur.

This investigation was assigned to me on October 11, 2013, and originally tracked under PII 2013-38. I presented the preliminary evidence to command staff. Due to the nature and seriousness of the allegations, Deputy Tri was investigated both criminally and administratively.

I received and reviewed copies of the Watch Commander's Summary, Supervisor Summary Report, 10 Employee's Reports (IR#13-51267), Crime Report # 13-277-0001J, media and inmate interviews, generated by Main Jail staff.

The following are summaries of these documents and interviews for an exact record please refer to the originals.

Watch Commander's Summary Report – Lieutenant E. Borgzinner #10031:

On October 3, 2013, a deputy involved disturbance occurred in housing module 5A of the Main Jail. Inmate _____ attacked Deputy Bragg. During the ensuing fight, the two fell to the ground with Deputy Bragg landing on the back of _____ was faced down, resisting Deputy Bragg's efforts to grab his arms by hiding his right hand underneath his stomach.

Deputy Tri, the first responding staff member on scene, kicked and punched _____ in the face and head. The situation was not a dire emergency in which a deputy was being injured or beaten. Absent exigent circumstances, Level III pain compliance would have been the appropriate forced used.

Sergeant Jensen, Deputy Tri's immediate supervisor, informed Lieutenant Borgzinner the first few employee reports Deputy Tri submitted never mentioned he kicked or struck _____ in the head or body. Not until Deputy Tri was told other deputies reported he struck _____ did he include these facts in his report. These omissions raised questions as to the integrity of Deputy Tri's recollection and reporting of the incident.

Due to the inconsistencies in Deputy Tri's reporting of the incident, the witnesses' statements, and the contradicting reports from the other deputies involved, it appears Deputy Tri may have used excessive force and been less than truthful in his reporting of this incident.

Supervisor Summary Report – Sergeant J. Jensen #1756:

Sergeant Jensen was assigned to supervise Main Jail North floors four through six. At approximately 2303 hours, he heard radio traffic announcing Deputy Bragg, set off his emergency radio pack set alarm. Deputy Bragg was assigned to module 5A.

At approximately 2305 hours, Sergeant Jensen and Sergeant Bracket arrived on scene. Sergeant Jensen noticed several Correctional Deputies escorting inmate _____ out of

module 5A. was bleeding profusely from his head, and trail of blood from inside the housing unit to the 5th floor core area. Officer Cortes #2599 and Officer Durand #2828 grabbed towels and placed them on head. Sergeant Jensen saw Deputy Bragg #10463, Deputy Murillo #10738 and Deputy Tri #10701 walking behind

Deputy Bragg appeared disheveled and out of breath. His left hand had a minor cut and he complained of pain to his right hand. Deputy Murillo's clothing was disheveled. He was sweating, and complained of pain to his right knee. Deputy Tri was breathing rapidly, and complained of pain to his right hand and right knee. Sergeant Duran #10439 arrived on scene and assisted Sergeant Jensen with the employee injury paperwork.

Sergeant Brackett #10112, video recorded Officer Cortes and Officer Durand escorting to the 2nd floor medical clinic until Emergency Medical Services (EMS) arrived to transport to Valley Medical Center (VMC).

Sergeant Jensen made contact with inmate on the 2nd floor to get his statement.

Statement of Inmate

admitted to being verbose and argumentative with Deputy Bragg but when Deputy Bragg took him to the ground he stopped resisting. said he was 'just talking shit,' not fighting and an unknown deputy kicked his face into the wall causing the lacerations.

Sergeant Jensen completed is interview with returned to the 5th floor. Sergeant Jensen spoke with Deputy Bragg, Deputy Murillo and Deputy Tri to gather information about the incident. Sergeant Jensen instructed several staff members involved with inmate to document their role on an Employee's Report. Deputy Bragg, Deputy Murillo and Deputy Tri stated they could write their employee reports prior to seeking medical attention for their minor injuries. Deputy Lozada #10713 was assigned to interview the inmates housed in 5A, for any witnesses.

Sergeant Jensen reviewed the final employee reports received from Deputy Bragg, Deputy Murillo and Deputy Tri, and the inmate witness statement's reported by Deputy Lozada. Sergeant Jensen determined Deputy Tri used excessive force and made less than truthful statements. Sergeant Jensen also determined the force used by the other deputies involved in the incident, was reasonable and necessary to prevent from assaulting staff and causing further disturbance.

was charged with Felony 148.10 PC: Resisting a Peace Officer Resulting in Injury. sustained a laceration to his upper right forehead requiring ten sutures, a laceration to his right eyebrow requiring three sutures, and a broken (right) sinus cavity.

Employee Report – Deputy K. Bragg #10463:

Inmate was a transfer from Special Housing to the 5A housing unit earlier in the evening. At approximately 2256 hours, Deputy Bragg completed the search of property bag and opened cell door so he could retrieve his property.

approached Deputy Bragg at the officer's station and said in an aggressive tone 'so this is how you are going to do my stuff.' Deputy Bragg told [redacted] to take his stuff but [redacted] continued his aggressive tone, saying 'you do this because you can, you mother fucker' and then took a combative stance. Deputy Bragg told [redacted] to lockdown but he refused.

Fearing for his safety, Deputy Bragg pressed his radio pack set alarm and pushed [redacted] backwards. [redacted] came toward Deputy Bragg with his arms flailing. Deputy Bragg used an Arm Bar maneuver to take [redacted] to the ground. [redacted] fell face down and may have hit his head on the sundeck door or ground. Deputy Bragg landed on top of [redacted] back. [redacted] attempted to push up off the ground. Deputy Bragg struck [redacted] several times in his right rib/back area to gain compliance, while giving verbal commands to stop resisting. [redacted] continued to kick and tense up until Deputy Tri #10701 and Deputy Murillo #10738 arrived on scene.

Deputy Bragg was on [redacted] left side and Deputy Tri and Deputy Murillo were on [redacted] right side. Deputy Tri delivered several punches and kicks to [redacted] facial area as Deputy Murillo knelt on his right side, both giving [redacted] verbal commands. Additional officers arrived [redacted] was handcuffed and escorted out of the unit.

During the incident, Deputy Bragg suffered a swollen right hand with a cut on his middle left finger and a tear to his uniform. [redacted] was transferred to VMC code 3. Sergeant Jensen approved the hazardous material clean up from the incident.

Employee Report – Deputy T. Tri #10701:

Deputy Tri reported he heard Main Jail North Control announce a pack set alarm in 5A. Deputy Tri immediately responded from module 5C. As he entered 5A, he saw Deputy Bragg sitting on inmate [redacted] back while trying to overcome his resistance.

The following is an exact narrative of Deputy Tri's final report, which was called into question after Sergeant Jensen reviewed information from inmate witnesses and the employee's reports.

"As I approached the struggle, I attempted to grab inmate [redacted] right arm to prevent him from injuring Deputy Bragg. I was unable to secure his right arm. Inmate [redacted] then grabbed onto my left leg with his right arm. I shouted, stop resisting, let go of my leg multiple times but inmate [redacted] continued to try and pull me down by my left leg. I feared for my safety so I delivered 2-3 kicks with my right foot striking inmate [redacted] in the head and facial area. Despite my efforts, I lost my balance and inmate [redacted] was able to pull me to the ground by my left leg. After falling to the ground landing on my knees, inmate [redacted] maintained his grasp on my left leg and repeatedly yelled 'fuck you, fuck you' multiple times. I feared inmate [redacted] was preparing to bite me as he pulled my left leg towards his head. At that time, I delivered 4-5 closed fist strikes with my right hand to his head and facial area to prevent inmate [redacted] from biting my left leg. I wrestled my leg away from inmate [redacted] grasp. When I was tapped out by responding Deputies, inmate [redacted] was still unsecured."

Deputy Tri closed his report stating he had no further contact with [redacted] and felt pain to his right hand and right knee.

Employee Report – Deputy Murillo #10738:

Deputy Murillo was in module 5B when he heard North Control announce Deputy Bragg’s pack set alarm was activated. He immediately responded and followed Deputy Tri into module 5A. Deputy Murillo saw Deputy Bragg in front of the Sundeck door, struggling to secure [redacted] was face down on the ground, parallel to the sundeck, with his head facing toward the main core area. Deputy Bragg was kneeling to the left side of [redacted] attempting to secure [redacted] left arm. [redacted] right arm was tucked under his chest. Deputy Bragg was ordering [redacted] to give him his hands, and stop resisting. [redacted] continued pulling his left arm upward toward Deputy Bragg, attempting to get out of Deputy Bragg’s grasp.

Deputy Tri positioned himself on [redacted] right side near his head. Deputy Murillo saw Deputy Tri kick [redacted] approximately two times in the face/head. Deputy Tri then placed his left knee on [redacted] right shoulder, using his right fist, punched [redacted] in the face four to five times.

Deputy Murillo positioned himself on [redacted] right side. [redacted] right arm was unsecured and remained tucked under his chest. Deputy Murillo grabbed [redacted] right inner elbow area in an attempt to pull [redacted] right arm from underneath his body. Deputy Murillo ordered [redacted] to stop resisting but [redacted] refused to give up his right hand.

Deputy Murillo used three to four knee strikes to [redacted] right arm, hoping the pain compliance would cause [redacted] to give up the arm. Between each knee strike, Deputy Murillo gave [redacted] verbal commands “Stop resisting” as he attempted to pull [redacted] right arm from underneath him. [redacted] kept moving his body from side to side as, Deputy Murillo and Deputy Bragg struggled to secure him. Deputy Murillo was unable to secure [redacted] right arm. Responding officer’s over powered [redacted] resistance and handcuffed him. [redacted] was removed from the unit and escorted to the medical floor.

Deputy Murillo sustained bruising, redness and swelling to his right knee.

Employee Report – Deputy Lozada #10713:

Deputy Lozada responded to 5A from the 7th Floor. He was instructed by Sergeant Jensen to interview all inmates housed in module 5A, to determine if they witnessed the altercation between inmate [redacted] and Deputy Bragg. Sergeant Jensen provided a digital voice recorder. Deputy Lozada asked each inmate if they witnessed the incident. Four inmates came forward as witnesses and Deputy Lozada interviewed them separately in the 5A Module Multipurpose Room.

Statement of Inmate

[redacted] state, inmate [redacted] was face down on the ground, in front of the Multipurpose Room. There were two officers on each side of [redacted] holding him down. [redacted] had his arms behind his back but couldn’t tell if [redacted] was handcuffed. [redacted] said [redacted] was not resisting because he was already subdued. There were one or two officers at the top of [redacted] head. One of the officers kicked [redacted] head three or four times. [redacted] head began to bleed profusely and the officer ran out the door.” With the exception of Deputy Bragg, [redacted] was unable to identify the other officers involved. [redacted] said Deputy Bragg was on [redacted] left side holding him down.

Once there was blood on the ground, the officers dragged the unit.

who was limp and unresponsive, out of

Statement of Inmate

saw Deputy Bragg on top of arms were behind his back. said, Deputy Tri was the first to respond. He stomped and kicked on the head for no reason until blood came out. Other officers responded and pulled out.

Statement of Inmate

said, and Deputy Bragg had an argument. was yelling at Deputy Bragg while at the same time pacing back and forth in an agitated manner. said, it looked like was going to do something to Deputy Bragg. Deputy Bragg pushed from the officer's station toward the door. At that point, view was obstructed and he saw nothing further.

Statement of Inmate

said, he saw get into an argument with Deputy Bragg over his property. resisted Deputy Bragg's effort to handcuff him. Deputy Bragg took hold of and they fell to the ground. Deputy Bragg placed in handcuffs. Other officers came in and started beating was kicked in the head by Deputy Tri and the other officers did not step in to stop him.

After concluding the interviews, Deputy Lozada approached the inmates housed in 5A module for a second time. No additional inmate witnesses came forward.

Employee Report – Officer Cortes #2599:

Officer Cortes heard the call for assistance and responded to module 5A. He saw Deputy Bragg, Deputy Murillo and Deputy Tri wrestling on the ground attempting to gain control of inmate Officer Cortes placed his right knee on upper back. Officer Cortes noticed arms and feet were unsecured. body was parallel to the Sundeck entrance. was thrashing his body side to side. Officer Cortes used his body weight to stop from getting up, while Deputy Bragg secured him with handcuffs. Officer Cortes focused his effort on keeping pinned to the ground. He couldn't recall the positioning of the other deputies.

Officer Cortes assisted to his feet and escorted him out of the housing unit. was bleeding profusely from the top of his head. Officer Cortes used a handful of paper towels and applied pressure to injury. Officer Durand assisted Officer Cortes with applying continual pressure to head injury, as they escorted him to the 2nd floor.

Employee Report – Officer P. Tempra #2752:

Officer Tempra was working Main Jail North, module 4B when he heard North Control announce a pack set alarm in module 5A, he responded immediately. Officer Tempra saw on the ground. Deputy Bragg, Deputy Murillo and Deputy Tri were trying to secure his arms with handcuffs.

body was a few feet away from the Sundeck entrance, parallel to the Sundeck door. was thrashing his body side to side. right arm, with his right hand balled to a fist, was swinging outward. Officer Tempra grabbed right arm and placed it behind his back. Deputy Bragg secured arms with handcuffs. Officer Tempra couldn't recall the position of any officer or deputy listed in his report.

Employee Report – Officer Durand #2818:

Officer Durand was assigned to Men's Booking. He responded from the basement when he heard the radio call for assistance. Officer Durand saw officers on the ground with inmate was restrained and being lifted up off the ground. Officer Durand noticed was bleeding profusely from the top of his head and grabbed a towel to apply pressure. Officer Durand and Officer Cortes escorted to the 2nd floor medical clinic and had no further contact.

Employee Report – Deputy Caldwell #10693:

Deputy Caldwell responded from 3rd East when North Control announced the pack set alarm in 5A. Sergeant Stream #2039 advised Deputy Caldwell, he and Deputy Crawford would transport to VMC. At approximately 2330 hours, emergency medical technicians brought to the Main Jail North Ramp and placed him inside the ambulance. Deputy Crawford drove the transportation van, while Deputy Caldwell rode with

During transport to VMC, was being verbose and defiant stating the medical technicians were 'uncompassionate and fucking assholes' for having him restrained to the gurney. At approximately 2350 hours, the VMC Trauma Unit assessed injuries. was transferred to the Computed Tomography (CT) room, the X-Ray room, then back to the emergency room pending further medical evaluation and suturing.

At approximately 0140 hours, Deputy Caldwell was outside of room with Deputy Crawford when he saw attempting to pull the leads from the electrocardiograph. Both deputies entered the room, held arms and legs, and told to release the leads. refused and said, 'Fuck off.' Deputy Caldwell applied a twist lock to right wrist and told him to release the leads. told Deputy Caldwell to 'Fuck off, you ain't shit.' Deputy Caldwell applied additional pressure to right wrist and he released the leads. Deputy Caldwell handcuffed right arm to the bed rail and told him to remain calm. As the deputies left the room, continued his verbal assault and spit in their direction.

VMC staff provided Deputy Caldwell with a summary of injuries and associated treatment: 10 sutures to the three centimeter laceration on right upper forehead; three sutures to the one centimeter laceration on his right eyebrow; a broken right sinus cavity; very mild anterior conformity compression of the vertebrae, unlikely caused by the incident.

At approximately 0420 hours, was discharged from VMC without further incident. Upon arrival at Main Jail, was escorted to the Men's Intake area and assessed by Once was cleared by medical staff he remained secured to a lobby chair pending rehousing.

Employee Report – Deputy Crawford #10662:

Deputy Crawford drove the transport van and followed the ambulance to VMC. [redacted] was taken to the Trauma Room and assessed.

During the x-ray examination the technician requested the waist chains be removed to get a better x-ray of [redacted] back. Deputy Crawford asked [redacted] if they'd have problems if he released his hands. [redacted] replied, 'I don't know, remove them and we will find out.' Deputy Crawford informed the x-ray technician he would not remove the cuffs for safety and security reasons. The x-ray was completed without further incident and [redacted] returned to the emergency treatment room.

Deputy Crawford saw [redacted] violently pulling on the leads connected to the vital signs monitor. [redacted] continued screaming obscenities and attempted to sit up on the gurney. [redacted] wouldn't let go of the leads, so Deputy Crawford grabbed [redacted] right foot and twisted inward and down to apply pain compliance. Deputy Crawford released his hold on [redacted] foot once Deputy Caldwell secured the leads, and [redacted] right arm was handcuffed to the gurney rail. As the deputies exited the room, [redacted] continued to yell obscenities and spit at them. [redacted] was transported back to Main Jail without further incident.

Employee Report – Deputy Fields #10352:

On October 3, 2013, Deputy Fields was assigned to Main Jail North Central Control Room. At approximately 2303 hours, a pack set alarm assigned to Deputy Bragg, module 5A, was activated. Deputy Sanchez #10687, advised staff via radio that a pack set alarm was activated and officer response was needed.

As the pack set alarm sounded, some verbal exchange could be heard over the open microphone. Deputy Fields recalled hearing 'stop resisting and place your hands behind your back' but couldn't identify the voice. Rapid breathing could be heard, as if someone was struggling. Deputy Fields recalled hearing profanity and something to the effect of 'stop going through my shit nigger.' Shortly after, the pack set alarm reset ending her ability to hear anything else.

Employee Report – Deputy Sanchez #10687:

Deputy Sanchez was assigned to Main Jail Central Control when Deputy Bragg activated his pack set alarm. Deputy Sanchez notified jail staff of the alarm and requested officers respond to 5A. Before Deputy Bragg's radio automatically reset, Deputy Sanchez heard Deputy Bragg breathing rapidly and saying, 'stop resisting.' Another unidentified officer said, 'put your hands behind your back.' It sounded like the officer was in a struggle with the inmate.

Summary of Video:

Sergeant Brackett video recorded inmate [redacted] while he was being escorted from the 5th floor until he left in the ambulance for VMC. Sergeant Brackett requested a code 3 ambulance. He directed Officer Duran and Officer Cortes to escort [redacted] down to 2nd floor medical area.

I noticed blood on [redacted] pants and t-shirt, his t-shirt was torn around the collar. As they entered the elevator, a bloody towel remained pressed against [redacted] forehead, his face was not visible. [redacted] was grunting and he complained of pain to his right wrist. Sergeant Bracket advised the restraints would be adjusted once they got downstairs.

Upon arrival on the 2nd floor, Sergeant Brackett advised medical staff a code 3 Ambulance was called, and [redacted] sustained a laceration to his head. The officers transitioned [redacted] from handcuffs to waist chains and shackles and sat him on a gurney.

When the nurses removed the towels, I could see a large laceration on [redacted] forehead. Blood was smeared on the top and right side of his head and face. [redacted] stated, [redacted] had cuts to both eyebrows and a cut on his upper forehead. Medical staff covered [redacted] head in a gauze type bandage.

Sergeant Jensen is seen taking photos of [redacted]. He asked [redacted] questions about the incident. The noise from medical staff made it difficult to hear [redacted] answers. The following snippets of statement were discernable.

[redacted] said he was talking shit to Deputy Bragg for the way he treated his property. Deputy Bragg said, 'what are you going to do about it?' [redacted] said "you're a punk bitch for doing stuff like this." Deputy Bragg then took [redacted] to the ground, by the yard door, and landed on [redacted] back. [redacted] said, "He half-assed cooperated" by giving Deputy Bragg his arms. [redacted] said, he wasn't fighting, just wiggling, but quickly gave up his hands to Deputy Bragg. [redacted] said, he was under control with his hands behind his back, just "talking shit" when another officer kned his head into the wall for no reason. [redacted] said, he was lying next to the wall with his head turned toward Deputy Bragg (left), so he didn't see which officer struck him in the head.

San Jose Fire and Emergency Medical Services (EMS) arrived to transport [redacted] to VMC. [redacted] told EMS he almost lost consciousness when kned in the head, but his major complaint was blurred vision and pain to his left elbow. While EMS was rolling the gurney off the 2nd floor, I heard [redacted] laughing. He said, "Real hard Deputy, you fucking nigger." [redacted] laughed again and said, "you're a hard dude."

Summary of Crime Report # 13-277-0001J

On October 9, 2013, Deputy Bragg submitted Incident Report #13-277-0001J charging inmate [redacted] with felony 148.10 PC: Resisting Peace Officer resulting in injury. The report listed inmate witnesses identified in Deputy Lozada's report. Deputy Bragg's narrative was the same as his employee's report written October 3, 2013, with the exception of Deputy Tri's actions.

Deputy Bragg wrote in his crime report; "*Deputy Tri was standing at the head area of S01 [redacted] I saw Deputy Tri deliver two knee strikes to [redacted] upper body head area.*" Sergeant Jensen identified Deputy Bragg's reporting and recollection of the incident was inconsistent and reported it to Lieutenant Borgzinner.

On October 10, 2013, Deputy Murillo submitted a supplemental incident report. The narrative of events and actions matched his employee report.

On October 17, 2013, Deputy Tri submitted supplemental incident report. The narrative of events and actions matched his employee report.

Summary of Photos Crime Report #13-277-0001J:

Deputy Bragg: Face/torso, cut left finger, possible bruising on the right hand, torn uniform shirt at the right cuff area with a visible blood smear.

Deputy Murillo: Face/torso and right pant leg.

Deputy Tri: Face/torso, right hand knuckle area had redness and pinky finger appeared bruised, no visible redness or marks on the left hand. Deputy Tri was wearing glasses.

lying on the gurney head wrapped with gauze, his t-shirt and hands covered with blood.

5A Housing unit:

Floor area next to the sundeck door contained a large pool of blood, random in shape that covered the length of one and a third floor tiles (approximately 15 inches) with a width ranging from approximately three to eight inches. Several blood droplets leading out of the unit appear to be smeared.

Core area and surrounding cells

Officers Station with property spread out on the floor.

5th Floor Core Area: Several blood droplets leading out of 5A housing to the floor station interview room.

Investigation Continued:

On April 9, 2014, I received notification from Undersheriff Hirokawa the Santa Clara County District Attorney's (DA) Office would not be filing felony PC 149 Assault under Color of Authority charges against Deputy Tri.

On April 10, 2014, I requested and received copies of Sergeant Brown's criminal investigation report #14-008-0118J, Deputy Sammy Tarazi #2029 supplemental report, photographs, housing unit floor diagrams. I also received copies of interviews, and medical reports for Deputy Bragg, Deputy Tri and Deputy Murillo.

The following statements are compilations of the interviews conducted and are not verbatim translations or transcriptions of the interviews. Please examine the original interviews, reports and/or case notes, if a comprehensive transcription is required.

Summary Incident Report 14-008-0118J – Sergeant J. Brown #1688

On October 21, 2013, Sheriff's Office Investigations Captain Rodriguez contacted Sergeant Brown to investigate an incident that previously occurred at the Main Jail between inmate () (later identified as) and a group of Correctional Deputies. During a review of the original incident reports, it was discovered excessive force by one of the deputies was used against

Statement of

On October 22, 2013, at approximately 1430 hours, Sergeant Brown and Sergeant Quinonez contacted at the Main Jail and obtained the following statement:

stated he came into custody July of 2013. Due to a leg injury, requiring the use of a cane, he was housed on the second floor medical unit. went on to state, "there was no way I could have assaulted any cops." He was very clear on what happened during this incident.

On October 3, 2013, was advised he was being re-housed to the 5th floor of the jail and arrived at approximately 1900 hours. Deputy Bragg asked to place his property bag on the floor near the officer's station. He sent to a cell in the corner of the bottom floor where he remained for approximately 30-45 minutes until the cell doors opened for program. asked Deputy Bragg for his soap and towel but was denied. Program ended at approximately 2200 hours and had not received his property.

After program ended, Deputy Bragg was checking the cell doors. began to get upset over not having his property. described being cold because of the low temperature in his cell. He asked Deputy Bragg for his blanket on a few separate occasions, but denied until Deputy Bragg could search it for contraband. admitted to kicking the cell door to which Deputy Bragg said, 'you don't fucking kick my Mother Fucking door, you fucking punk.' responded to Deputy Bragg by saying "You call me a punk Mother Fucker? I'll Mother Fuck you out there like I'll Mother fuck you in here."

said, Deputy Bragg walked away from the cell. Approximately 30 minutes later, the door to cell popped open. walked out of his cell and saw Deputy Bragg standing with his arms and hands folded down near his beltline, adjacent to a pile of property on the floor. looked at the pile of property on the floor and asked Deputy Bragg, "So this is how you get down?" Deputy Bragg said, 'what you gonna do about it?' admitted he called Deputy Bragg a "Mother Fucking Asshole!" Deputy Bragg responded by coming forward toward and yelling 'down on the ground, down on the ground.' said, he sprung away from Deputy Bragg. He dropped directly down to the ground, his left side nearest to the sundeck wall, and put his hands behind his back.

Deputy Bragg dropped down onto [redacted] back and grabbed his hands. Deputy Bragg hadn't handcuffed [redacted] when the main unit door opened. [redacted] heard the sound of people running to the area. [redacted] described one of the deputies coming into the struggle and landed on his head, it was a "major, major, major thump." [redacted] looked to see the deputies face, but then there were more "thumps" and he started "leaking" all over the place. [redacted] heard people saying "Mother Fucker" and "Punk Bitches" but did not know who was yelling out these phrases. [redacted] said, he did not lose consciousness and thought the whole incident lasted about 30 seconds to a minute. [redacted] recalled a Sergeant being on scene and having a rag held to his head while he was escorted down to the 2nd floor medical unit.

[redacted] thought the injury to the top of his head occurred when he was smashed by the first officer who arrived to assist Deputy Bragg, not when he went to the floor. [redacted] was unable to determine how the injury to his right eyebrow occurred. He remembered having his head turned to the left and the right side of his face was on the floor.

Sergeant Brown asked [redacted] if he knew what he had been hit with by the deputies as they responded. [redacted] said the deputies "knees" and "thighs" hit him while his head was on or near the floor, causing all of the injuries. [redacted] described the deputy who landed on his head as a white male, thick, with brown hair slicked back and short on the sides.

Sergeant Brown asked [redacted] at what point during the struggle he reached up to grab one of the deputies legs, or attempted to bite one of the deputies. [redacted] looked confused and said he never tried to grab or bite any of the deputies. [redacted] said, he immediately put his hands behind his back upon going to the floor. When the first deputy landed on his head, the fight instantly went out of him and his anger/aggression was gone.

[redacted] remembered hearing the deputies yelling and cursing at him while he was on the ground. [redacted] did not remember hearing anyone tell him to "stop resisting" or "give me your hands." [redacted] described his head being "enveloped" by the responding deputy's knees and thighs. He remembered being struck on the head three times. [redacted] said the deputies had their full body weight on his head and back during the struggle, even though he had given up, become cooperative, and had his hands behind his back.

[redacted] did not know if anyone else had struck him in any other area of his body. He could not identify any of the deputies who were involved in the incident other than Deputy Bragg.

Sergeant Brown asked [redacted] what he had anticipated happening, and what he wanted the outcome to eventually be, when he was interacting with Deputy Bragg prior to the struggle. [redacted] realized he put himself in a bad situation, but also wanted his property returned. [redacted] said he knew he had a couple of options, with one of them being he simply picked up his property and returned to his cell. However, [redacted] also wanted Deputy Bragg to know he can't be treated like that without saying something about it. [redacted] didn't want to be in any type of large or "ugly scene."

[redacted] felt the entire incident was a result of him being an [redacted] dropout. He felt Deputy Bragg may have read his classification card and thought [redacted] was a racist, which caused Deputy Bragg to treat [redacted] the way he did.

said he dropped out of the [redacted] in 1990 and since married a Filipino woman. [redacted] no longer believes in the philosophies of the [redacted] Deputy Bragg's race was not the reason challenged him.

[redacted] said Deputy Bragg had a right to look through his property, but thought Deputy Bragg was stalling on purpose. [redacted] had never met or seen Deputy Bragg prior to this incident. [redacted] felt he was set up to get hurt because the other deputies were too quick to arrive at the struggle. [redacted] thought the deputies must have been waiting at the door. Sergeant Brown verified [redacted] did not actually see any of the deputies waiting at the door, only felt they arrived too quickly.

Sergeant Quinonez asked [redacted] if he could describe the deputy who used his knees and struck him in the head area. [redacted] provided the same description as he had earlier in the interview. [redacted] was only able to quickly look up at the deputy's face. He described the look on the deputy's face to be "angry." [redacted] said the deputy's knees and thighs "enveloped" his head, which meant "all consuming." The force of the deputy landing on [redacted] was very hard. The deputy placed all of his body weight down on head.

[redacted] is concerned the deputies will try and "cover" for one another. [redacted] also felt the other inmates will provide a more accurate account of what happened.

[redacted] reiterated he never resisted or struck any of the deputies involved in the struggle. [redacted] said he sprung back and went to the ground. He immediately put both hands behind his back, to avoid a physical altercation. [redacted] stated, Deputy Bragg grabbed both of his hands and twisted his arms up toward the back of his head. The movement caused injuries to [redacted] elbows, which he stated were still sore.

[redacted] mentioned the infraction process conducted in the County Jail system. [redacted] said he expected this type of discipline for confronting a deputy, but didn't expect to get "smashed like this." [redacted] said, "He did nothing to warrant this type of fucking ass whooping" and felt the deputies were deliberately trying to hurt him.

[redacted] did not want to report what happened to him out of fear of retaliation by the deputies. [redacted] has since become "spooked" by what he feels is continued poor treatment at the Main Jail. [redacted] said, he thought the deputies had turned off the water to his cell for a couple of days, withheld personal items needed, and kept him on "ass out status" since returning from the hospital. Sergeant Brown asked [redacted] what he meant. [redacted] said, "it meant he could not ask for anything from the deputies because he would be out of luck." [redacted] admitted he may have a bad attitude and at times, say things that may get him into trouble. However, he also feels the correctional Deputies have poor attitudes, which has contributed to the problems he's had while in custody.

[redacted] stated he's recovered well since the incident. He experienced headaches for approximately two weeks. It was five or six days before [redacted] could look upward without his eyes fluttering and getting dizzy. After the incident, [redacted] said he was continually vomiting due to the injuries he sustained to his head.

[redacted] said, the hospital performed two CAT scans of his head area, but did not know the test results. [redacted] said he received ten stitches to the top of his head and three stitches to a cut on his right

eyebrow. had a cut to his left eyebrow that did not require stitching. said he had a broken sinus cavity and broken cheek bone on the right side of his face. suspected he had a broken right eye socket, but this was not something diagnosed by a doctor. signed a Release of Medical Records and Information form to be sent to VMC. Sergeant Brown took a series of digital photographs of and the condition of the injuries he received during the struggle with the deputies.

Sergeant Brown faxed the Medical Records request to VMC. He copied the digital photographs onto two Compact Discs (CD's). Sergeant Brown submitted one CD as an attachment to this report and submitted the second CD as evidence to the Sheriff's Headquarters Evidence Room.

Sergeant Brown conducted a check of the Santa Clara County Criminal Justice Information Control System and determined was originally booked into the Main Jail on July 10, 2013. The charges included violations of California Penal Code sections 207(a) – Kidnapping, 273.5 (a) – Domestic Violence, 236 – False Imprisonment, and a parole hold. At the time of booking, was housed in Main Jail South B/C dorm. On July 17, 2013, was moved to Main Jail North 2^d floor medical unit, where he remained until the date of this incident.

Sergeant Brown and Sergeant Quinonez arranged to meet with the deputies involved in the incident with V1

Statement of Other Party 6 - Sergeant James Jensen:

On October 23, 2013, at approximately 1830 hours, Sergeant Jensen came to the Sheriff's Office Investigations Bureau, where he provided the following recorded statement. Sergeant Jensen stated he's been the supervisor for the "D-Team" at the Main Jail for approximately four months. Sergeant Jensen normally supervises the same individuals every week and remembered the events of the incident.

Sergeant Jensen stated he was on the main floor of the jail when he heard the 5A emergency call coming over his radio. He arrived on the 5th floor with Sergeant Stream and Sergeant Brackett. Sergeant Jensen noticed an inmate being escorted out of unit 5A, was bleeding from the head. Sergeant Jensen ordered officers to immediately take down to the 2nd floor medical unit for treatment. Sergeant Jensen verified he had turned on a video recorder upon arriving on the fifth floor. He gave the device to Sergeant Brackett who recorded the events from that point forward.

Sergeant Jensen remained on the 5th floor to take digital photographs of the scene. While waiting for the second camera to arrive, Sergeant Jensen spoke with some of the involved deputies to gather information on what occurred.

Deputy Bragg told Sergeant Jensen, was a new housing to 5A. was upset with Deputy Bragg for searching his property. Deputy Bragg told to come out of his cell and pick up his property. A verbal altercation occurred which led to a physical struggle in the dorm. Deputy Bragg did not provide Sergeant Jensen with any further information.

Deputy Murillo told Sergeant Jensen he responded from 5C. Upon entering the 5A housing unit, Deputy Murillo noticed Deputy Bragg and in a physical struggle on the floor of the unit. Deputy Bragg

was on [redacted] left side trying to control [redacted] left hand. Deputy Murillo noticed [redacted] right hand was still free and tried to control [redacted] right hand until the responding deputies secured him. Deputy Murillo did not provide Sergeant Jensen with any further information.

Deputy Tri told Sergeant Jensen he was the second deputy on scene. Deputy Tri noticed Deputy Bragg was trying to get control of [redacted] left arm. Deputy Tri told Sergeant Jensen he “punched [redacted] in the face a few times” to help. During this conversation, Sergeant Jensen noticed Deputy Tri was out of breath and had a hard time telling him all of the details. Sergeant Jensen did not get any further information from Deputy Tri at that time.

Sergeant Duran handled the employee injury paperwork. Deputy Bragg suffered general soreness and a cut to the top of one of his hands. Deputy Murillo had a sore knee and Deputy Tri complained of pain to one of his hands, the pinky finger, and soreness to one of his knees.

Sergeant Brown verified with Sergeant Jensen, Deputy Tri told him he struck [redacted] in the face with his fist. Sergeant Jensen said, at that time, Deputy Tri told him he had only struck [redacted] with his fist during the struggle.

Sergeant Jensen took digital photographs of the scene. Sergeant Jensen photographed a puddle of blood in the unit near the sundeck door, several droplets leading out of the unit, and a puddle of blood in the interview room [redacted] had been sitting prior to being taken to the second floor medical unit.

Sergeant Jensen said he obtained a short statement from [redacted] but could not immediately remember what [redacted] said. Sergeant Jensen recalled [redacted] being extremely upset, used foul language, and seemed to be directing his anger toward the deputies involved in the incident.

When [redacted] left for VMC, Sergeant Jensen returned to the 5th floor and continued the investigation. Sergeant Jensen took digital photographs of various angles looking toward the location where the struggle occurred, including angles some of the inmates would have as they were looking out of their cell doors.

Sergeant Jensen directed Correctional Deputy Lozada to contact each inmate in the unit and obtain their statements. Sergeant Jensen contacted Deputy Murillo, and Deputy Bragg to verify they were able to complete their Employee’s Reports (ER). Deputy Tri was not on the 5th floor at the time. Sergeant Jensen later made contact with Deputy Tri and confirmed he was able to complete his ER before seeking medical attention.

Deputy Lozada notified Sergeant Jensen a few of the inmates in 5A had witnessed the incident and provided statements as to what occurred. Some of the inmates had stated they were able to see Deputy Bragg struggling with [redacted] when the other deputies came in to assist. After [redacted] had been subdued, Deputy Tri came in and kicked [redacted] in the head area and then ran out of the unit. Sergeant Jensen instructed Deputy Lozada to make sure he had full statements from the inmates and advised him to complete an ER dictating what the inmates saw. Sergeant Jensen confirmed all of the inmates had been locked down prior to, during, and after the incident. Sergeant Jensen did not think the inmates had time to discuss the incident amongst each other prior to being contacted by Deputy Lozada.

After receiving the first drafts, with limited detail. Sergeant Jensen instructed the deputies to provide as much detail as possible. The deputies made some revisions to their reports and had them approved prior to leaving for medical attention.

Upon reading the final ER submissions, Sergeant Jensen noticed Deputy Tri, Deputy Murillo and Deputy Bragg all described Deputy Tri kicking [redacted] in the head area 3-4 times. Deputy Tri explained in his ER, [redacted] had tried to grab and bite his left leg during the struggle. Deputy Tri kicked [redacted] to prevent this from happening. Neither, Deputy Murillo or Deputy Bragg documented nor mentioned seeing [redacted] trying to grab or bite Deputy Tri during the struggle.

Sergeant Brown asked Sergeant Jensen to estimate the size of [redacted] versus the size of Deputy Bragg. Sergeant Jensen described Deputy Bragg as being quite a bit larger than [redacted]. With this in mind, Sergeant Brown asked Sergeant Jensen, "So if I'm Deputy Bragg and I put hands on inmate [redacted] and I take him to the ground, and have a left arm that I'm trying to get a handcuff on, as stated by Deputy Bragg, and other deputies are running in, how necessary would you think it would be to kick a prone inmate in the face and head?" Sergeant Jensen replied, "It would not be necessary. It's not something I would do."

Statement of Other Party 2 – Deputy Candelario Murillo:

On October 23, 2013, at 2005 hours, Deputy Murillo came to the Sheriff's Office Investigations Bureau, where he provided the following recorded statement. Deputy Murillo said he works Main Jail D-Team and was assigned to housing unit 5B the evening of the incident. Deputy Murillo stated he was very familiar with the incident.

Deputy Murillo heard control announce a packset alarm in 5A around 2300 hours. He took a few seconds to lock down his unit and immediately responded to 5A. Upon exiting his unit, Deputy Murillo saw Deputy Tri running toward 5A. The floor station officer unlocked 5A housing unit door and Deputy Tri ran in first, followed by Deputy Murillo.

As Deputy Murillo entered 5A, he saw Deputy Bragg on the floor in the sundeck doorway threshold in a struggle with [redacted]. [redacted] was unsecured and extremely combative with Deputy Bragg. [redacted] was in a prone position, his head pointing toward the dayroom area, feet toward the unit entrance. Deputy Bragg was on the left side of [redacted] trying to gain control of [redacted] left arm.

Deputy Tri ran to [redacted] head area. Deputy Murillo went to [redacted] right side. Deputy Murillo went down to his knees and tried to pull [redacted] right arm to a position of control. [redacted] resisted Deputy Murillo's attempts to get his right arm, was very combative, and not responding to his directives.

Deputy Murillo said, [redacted] right arm was tucked under his body. Deputy Murillo felt [redacted] trying to push himself up off the ground. Deputy Murillo continually ordered [redacted] to give up his right arm and stop resisting. [redacted] did not comply. Deputy Murillo grabbed [redacted] right arm near the elbow area and tried to "yank" [redacted] right arm from under his body to secure it. [redacted] refused to cooperate.

Deputy Murillo used the top of his knee to strike [redacted] on the back tricep area, to gain compliance from [redacted] continued to resist and Deputy Murillo could not secure [redacted] right arm behind his back. Deputy Murillo said, although he was unable to secure [redacted] right arm, he felt comfortable in the position he was in. [redacted] was not swinging his arm from side to side or using his arm in a threatening manner.

Deputy Murillo gave [redacted] opportunities to surrender his right arm, but [redacted] intentionally kept his arm underneath him. After approximately 8-10 seconds, additional deputies responded to the scene and secured [redacted]

Deputy Murillo was unsure if Deputy Bragg ever gained control of [redacted] left arm, as he maintained focus on [redacted] right arm. Deputy Murillo said he trusted Deputy Bragg would be able to get control of the left arm.

Sergeant Brown asked Deputy Murillo if he noticed what Deputy Tri did upon arriving at the scene of the struggle. Deputy Murillo said, Deputy Tri was standing at the head area of [redacted] Deputy Murillo saw Deputy Tri kick [redacted] in the face/shoulder area two to three times. Deputy Tri then crouched down and put his left knee on [redacted] right shoulder. Deputy Tri struck [redacted] in the head with his fist at least three times to gain compliance.

Sergeant Brown asked Deputy Murillo to confirm what he saw. Deputy Murillo said, “he could clearly see what Deputy Tri was doing, including kicking [redacted] in the face and head area, right up to the point where Deputy Tri crouched down and put his knee on [redacted] shoulder.”

Deputy Murillo was certain he saw Deputy Tri kick [redacted] with his foot, but could not tell which part of Deputy Tri’s foot actually struck [redacted] Deputy Murillo described seeing Deputy Tri swing his leg to kick [redacted] but knew Deputy Tri had not crouched down yet, so Deputy Tri could not have used his knee. Deputy Murillo said, Deputy Tri made a “big swing” with his leg like he was trying to get off him or trying to get him to respond, but it wasn’t like a field goal kick. Deputy Murillo was sure he saw Deputy Tri kick [redacted] in the face then crouch down on [redacted] shoulder.

Sergeant Brown asked Deputy Murillo what [redacted] was doing while Deputy Tri was kicking him and kneeling on his shoulder. Deputy Murillo said, [redacted] never stopped resisting at any point. Deputy Murillo stated, [redacted] right arm was tucked underneath his body the entire time, including when Deputy Tri kicked [redacted] in the face, as well as when Deputy Tri kneeled down on [redacted] shoulder and punched [redacted] on the head. [redacted] right arm remained tucked underneath his body until other deputies arrived on scene and relieved Deputy Murillo from the struggle and handcuffed him.

Deputy Murillo noticed the blood on the floor when [redacted] was escorted out of the unit. Deputy Murillo remembered hearing Deputy Bragg giving verbal commands, but did not recall Deputy Tri ever saying anything to [redacted] Deputy Murillo denied ever saying, or hearing anyone else say anything derogatory to [redacted] during the struggle. Deputy Murillo only heard commands “stop resisting.”

Deputy Murillo said he sustained some redness and swelling in his right knee during the struggle, sought medical attention at O’Connor Hospital and diagnosed with a sprain, off for three days and returned to work and no longer having any problems with his knee.

Deputy Murillo said he spoke to Deputy Bragg and Deputy Tri after the incident to learn why the incident occurred, and what caused [redacted] to resist the way he did. Deputy Murillo asked Deputy Tri, why he kicked and struck [redacted] in the head and face area. Deputy Tri told Deputy Murillo, he kicked [redacted] because [redacted] had tried to grab his leg.

Deputy Murillo verified he never saw [redacted] grab Deputy Tri's leg, or anyone else, with his right arm because it was tucked underneath him the entire time. However, Deputy Murillo could not say what happened between [redacted] and Deputy Tri before he joined the struggle a few seconds later.

Deputy Murillo could not speak for anything that happened with [redacted] left arm, other than he could see [redacted] left elbow and Deputy Bragg trying to gain control of [redacted] left arm. He did not see [redacted] left hand at any time.

Sergeant Quinonez asked Deputy Murillo to verify his exact location in relation to [redacted] as he lay prone on the floor of the unit. Deputy Murillo said he was kneeling on the right side of [redacted] just below his right shoulder, adjacent to his upper right arm.

Sergeant Quinonez asked Deputy Murillo, having in mind that he witnessed Deputy Tri kick [redacted] in the face, what threat [redacted] face and head were to the deputies during the struggle that would require that level of force. Deputy Murillo replied, "I don't know. You would have to ask him. I couldn't tell you." Deputy Murillo also said he could not speculate what threat Deputy Tri may have felt at the time. Deputy Murillo told the sergeants he could not see [redacted] face during the struggle.

Deputy Murillo was absolutely sure he saw Deputy Tri kick [redacted] in the face and head area, at the same time, Deputy Murillo reached for [redacted] tucked right arm. Deputy Murillo never saw [redacted] reach toward Deputy Tri with his right arm. Deputy Murillo was certain [redacted] did not have his right arm wrapped around Deputy Tri's legs at the time Deputy Tri kicked him in the face.

Statement of Other Party 3 – Deputy Kala Bragg:

On October 23, 2013, at 2235 hours, Deputy Bragg came to the Sheriff's Office Investigations Bureau, where he provided the following recorded statement. Deputy Bragg said he works Main Jail D-Team and was assigned to housing unit 5A the evening of the incident.

Sergeant Brown advised Deputy Bragg of the reason for his contact and Deputy Bragg stated he remembered the incident. Deputy Bragg stated [redacted] had come into unit 5A from the special housing unit. [redacted] property was in a large plastic bag. Deputy Bragg inspected the property which is normal protocol.

[redacted] participated in program time with the other inmates and returned to his cell once it was over. Deputy Bragg hadn't had a chance to inspect [redacted] property until the end of "Pill Call", which was just after program time ended. [redacted] kicked his cell door and told Deputy Bragg he wanted his property back. Deputy Bragg said, he told [redacted] to "cut it out" and that he would return his property after searching it. [redacted] had a friend in the 5A unit, later identified as Witness 1 Steve [redacted] who told [redacted] to "relax" and "chill out" because Deputy Bragg ran the unit well and was not deliberately mistreating him.

Deputy Bragg inspected [redacted] property, removed a few items of contraband. Deputy Bragg allowed [redacted] out of his cell to collect the property off the floor, near the officer's station. Immediately, [redacted] began to "berate", "challenge" and "cuss out" Deputy Bragg. He feared [redacted] was about to do something so Deputy Bragg ordered [redacted] to lock down in his cell. [redacted] did not respond. Deputy Bragg pushed the emergency button on his packset radio so deputies would respond to assist him.

Deputy Bragg said he stepped forward and pushed [redacted] who stumbled backwards a little bit. [redacted] came forward at Deputy Bragg. Deputy Bragg stepped to the side, grabbed [redacted] arms, and pushed him face first against the wall. [redacted] continued to resist Deputy Bragg. [redacted] stiffened his body making it impossible for Deputy Bragg to bend [redacted] arms and put them behind his back. Deputy Bragg responded by taking [redacted] down to the ground. [redacted] landed on his chest and was lying face down on the ground, next to the sundeck door.

Deputy Bragg thought [redacted] may have hit his head on the opening of the sundeck doorway as they went down. Deputy Bragg said he was on his knees, straddling [redacted] back in an effort to keep him on the ground and gain control of [redacted] left arm. [redacted] tried to get Deputy Bragg off his back by rising up and "bucking." Deputy Bragg did not notice what [redacted] was doing with his right arm during the struggle.

Deputy Bragg gave [redacted] verbal commands to "stop resisting" and "calm down" but [redacted] would not stop struggling. [redacted] kept moving his arms and legs in an effort to escape. Responding deputies arrived and assisted Deputy Bragg gain control of [redacted] Deputy Bragg said, he did not recognize who came to his aid because he was so focused on the struggle with [redacted] However, after they subdued [redacted] Deputy Bragg learned Deputy Murillo and Deputy Tri were the first to provide aid.

Deputy Bragg said, Deputy Murillo placed himself to [redacted] right side. He thought Deputy Murillo began yelling commands at [redacted] but not sure what Deputy Murillo was saying. Deputy Bragg thought Deputy Murillo was trying to gain control of [redacted] right arm, since it was free.

Deputy Bragg said, Deputy Tri ran up and placed himself near [redacted] head and shoulder. When Deputy Tri arrived, he fell down onto his knees adjacent to [redacted] Deputy Bragg did not know what Deputy Tri did while he was down on his knees. Deputy Bragg said, Deputy Tri eventually got back up to his feet. Deputy Tri then fell back down to his knees in the same area as he had fallen the first time. Deputy Bragg said, he was too focused on trying to get control of [redacted] left arm to see what Deputy Tri was doing near [redacted] head and shoulders.

Sergeant Brown asked Deputy Bragg at what point he noticed blood either on the floor or on [redacted] Deputy Bragg said, he noticed blood on his uniform. He did not see the blood on the floor until they lifted [redacted] up off the floor and escorted him out of the unit. Sergeant Brown asked Deputy Bragg how long he estimated it was from the time he took [redacted] to the ground until he noticed the blood. Deputy Bragg estimated it was approximately 60 to 90 seconds.

Sergeant Brown read an excerpt "I saw Deputy Tri strike [redacted] in the head and upper body area two times with his knee" from Deputy Bragg's original crime report (13-277-0001J). Sergeant Brown asked Deputy Bragg, at what point during the struggle did this occur. Deputy Bragg said, it was while they were down on the ground fighting with [redacted]

Sergeant Brown asked Deputy Bragg if this was before or after Deputy Tri dropped down to his knees near [redacted] head and shoulder area. Deputy Bragg said the knee strikes were Deputy Tri falling to the ground. Deputy Bragg stated Deputy Tri did not use knee strikes, he actually fell twice. Deputy Bragg could not say how far apart each fall was.

Sergeant Brown then read to Deputy Bragg an excerpt from his crime report; Deputy Murillo was kneeling on [redacted] right side and used his knee to strike [redacted] in the side of the body, while yelling at him to stop resisting. Deputy Bragg said, "This was a statement Deputy Murillo had told him and not something he actually witnessed himself."

Sergeant Brown asked Deputy Bragg if the statements they had just covered from his original crime report were things he had actually witnessed or things other people had told him prior to his completing the original crime report. Deputy Bragg said, the information he documented about Deputy Murillo were things Deputy Murillo had told him, and he did not witness. The information concerning the actions of Deputy Tri during the struggle was things Deputy Bragg actually witnessed, as opposed to what he and Deputy Tri talked about after the incident.

Sergeant Brown asked Deputy Bragg how many times he witnessed Deputy Tri striking [redacted] with his hand or fist during this struggle. Deputy Bragg said he originally documented in his ER that he had witnessed Deputy Tri kicking and striking [redacted] with his fist. Deputy Bragg said he needed to "redact" this information from his ER, but it had been turned in to his supervisor and did not have a chance to do it. Deputy Bragg said, while he was off work for a week, he "had more clarity about the incident." Deputy Bragg then provided a third version and said, he saw Deputy Tri striking [redacted] two times with his knee as he fell to the ground.

Sergeant Brown asked Deputy Bragg at what point during the struggle did Deputy Tri kick Deputy Bragg stated, "Oh, I don't know. He kicked him? He kicked the guy?"

Sergeant Brown advised Deputy Bragg he was seeking an honest statement as to what had occurred on the night of the incident, and what he observed happening as the struggle was occurring. Sergeant Brown emphasized any information Deputy Bragg could provide to further their knowledge of what happened and assist with the investigation could prove valuable in the outcome of the case. Deputy Bragg simply stated, "he did not remember Deputy Tri kicking [redacted] at any time."

Sergeant Brown asked Deputy Bragg if he ever documented, either in his original crime report or in the ER he completed the night of the incident, that Deputy Tri had kicked [redacted] at any point during the struggle. Deputy Bragg said, he did not remember Deputy Tri kicking [redacted] but described seeing the knee strikes previously mentioned. Deputy Bragg also stated he would have to look at his reports to tell Sergeant Brown if he had at any point documented seeing Deputy Tri kick [redacted] in the face/head area with his foot or boot.

Deputy Bragg said he had only learned what Deputy Murillo had done during the struggle after talking to him some time later. Sergeant Brown asked Deputy Bragg what he and Deputy Tri had talked about since the incident. Deputy Bragg said they had talked since the incident. He could only tell what Deputy Tri did if he was to read Deputy Tri's reports about what had occurred.

Sergeant Quinonez tried to clarify with Deputy Bragg that they were asking him what Deputy Tri had told him he had done during the incident. Deputy Bragg said, "Oh, I didn't ask him what he did. I don't know."

Deputy Bragg told the sergeants he did not know at what point [redacted] had reached up grabbed Deputy Tri with either hand. However, Deputy Bragg was certain [redacted] did not grab Deputy Tri with his left hand at any point because he was focused on the left arm the entire time. Deputy Bragg admitted [redacted] left arm was loose at various times during the struggle, but acknowledged [redacted] did not grab Deputy Tri with his left hand or arm at any time.

Sergeant Brown confronted Deputy Bragg with Deputy Murillo's statements of clearly seeing Deputy Tri kick [redacted] in the head/face area three times with his foot. Deputy Bragg denied ever seeing Deputy Tri kick [redacted] at any time. Sergeant Brown asked Deputy Bragg if he ever documented he saw Deputy Tri kick and punch [redacted] in his ER. Deputy Bragg denied ever seeing Deputy Tri kick

Sergeant Brown discussed the injuries Deputy Bragg sustained during the struggle with [redacted] Deputy Bragg said, he injured his hand and sought medical attention at a hospital in Tracy. Deputy Bragg was given two days off work, and returned to duty without restrictions. Deputy Bragg said, he should still be off work because of the injury, but said he wanted to "tough it out" and come back to do his job as soon as possible. Upon returning to work, Deputy Bragg was directed to complete the original crime report for the incident.

Sergeant Quinonez asked Deputy Bragg what he saw Deputy Tri do during the struggle. Deputy Bragg described Deputy Tri as being in a standing position at the head and upper body area of [redacted] as [redacted] lay on the ground. Deputy Tri delivered two knee strikes to [redacted] but Deputy Bragg could not see where Deputy Tri's knees contacted

Sergeant Quinonez tried to clarify how Deputy Tri got from his standing position to the point where he delivered the knee strikes to [redacted] Deputy Bragg was unsure of how Deputy Tri moved to a position to strike [redacted] with his knee, including whether or not Deputy Tri went to his knees on purpose or simply fell to the ground due to a loss of balance.

In an effort to clarify Deputy Bragg's answer, Sergeant Quinonez asked Deputy Bragg if Deputy Tri lost his balance and fell, or if he delivered actual "knee strikes" to [redacted] upper body and head area. Sergeant Quinonez pointed out Deputy Bragg documented "he saw Deputy Tri deliver two knee strikes to [redacted] upper body and head area." Deputy Bragg began to stumble over his words. Deputy Bragg said, he "figured" the knee strikes hit [redacted] in the head area, but he did not actually see Deputy Tri's knees make contact with [redacted] Deputy Bragg was now unsure if Deputy Tri kneeed [redacted] on purpose, or if the actions were unintentional as a result of Deputy Tri falling to the ground. Later, Deputy Bragg stated he did not know if Deputy Tri struck [redacted] with his knees, or if Deputy Tri fell to his knees onto the floor without ever striking anything.

Sergeant Quinonez asked Deputy Bragg if he ever noticed [redacted] trying to assault Deputy Tri. Deputy Bragg said he did not see [redacted] assault Deputy Tri. Deputy Bragg said, he was solely focused on controlling [redacted] left arm.

Deputy Bragg could not remember whether [redacted] had simply given up fighting or if enough deputies had arrived to overcome his resistance. He did remember placing a handcuff on [redacted] left wrist.

Deputy Bragg could not recall how [redacted] right arm was handcuffed, but he remembered lifting [redacted] up from the floor and walking him toward the main door of the unit. Another officer took Deputy Bragg's place in escorting [redacted] out. Deputy Bragg stepped away to assess his injuries, calm himself down, and provide Sergeant Jensen a briefing.

Deputy Bragg described [redacted] as being injured as a result of the struggle, but did not know exactly what his injuries were. Sergeant Brown showed Deputy Bragg some photographs taken of the scene after [redacted] had been removed from the unit. Deputy Bragg said, it looked as if there was a large struggle in that area and described there being "blood all over." Using these photos, Deputy Bragg pointed out the general area of [redacted] head and feet as he lay on the floor during the struggle.

Deputy Bragg thought [redacted] had only sustained a cut to the head requiring three stitches and a couple of black eyes. Sergeant Brown described the rest of [redacted] injuries to Deputy Bragg and asked if he felt they could have been a result of striking his head against the wall or the floor as they were falling. Deputy Bragg replied, "Not all of them." Sergeant Brown asked Deputy Bragg if it was possible some of the injuries could have been a result of something other than them falling to the ground. Deputy Bragg said, "it would be possible."

Deputy Bragg described some of the additional photos depicting [redacted] property as it lay on the floor of the unit after the struggle, but the sergeants concluded their contact with him without any further information.

Sergeant Brown recalled [redacted] previously telling him how Deputy Bragg was a large person. From the contact he just had with Deputy Bragg, he could also tell Deputy Bragg seemed to be larger than the average male Correctional Deputy. As a comparison, and for information related to this investigation, Sergeant Brown gathered information on the height and weight for both [redacted] and Deputy Bragg. From the original report prepared for Sheriff's event 13-277-0001J, [redacted] was listed as standing approximately 5'11" tall and weighing 160 pounds. A check of Deputy Bragg's California driver's license information revealed he was listed as standing approximately 6'5" tall and weighing 240 pounds.

Statement of Other Party 1 – Deputy Timmy Tri:

On October 24, 2013, at approximately 0010 hours, Deputy Tri arrived at Sheriff's Headquarters Investigations Bureau. Sergeant Brown advised Deputy Tri of the reason for their contact with him. Sergeant Brown read the Behealer Advisement, stating Deputy Tri did not need to provide information if he did not want to, and has the ability to end the conversation at any time. On his own, Deputy Tri stated, "If this leads to discipline or criminal charge, I would like to have a representative."

Sergeant Quinonez and Sergeant Brown verified Deputy Tri was aware of how to obtain such representation and ended their contact with Deputy Tri at that time. Deputy Tri left Sheriff's Headquarters without providing any further information.

Investigation Continued:

On October 24, 2013, Sergeant Quinonez and Sergeant Brown responded to the Main Jail to contact the inmates who witnessed the incident between [redacted] and the involved deputies. At approximately 1415 hours, they contacted witness inmate [redacted] ([redacted]), who provided the following recorded statement.

[redacted] stated he was familiar with the incident and admitted he had tried to talk with [redacted] prior to it escalating to a struggle. [redacted] has known [redacted] for quite a while and wanted to make sure [redacted] did not disturb the way the unit normally runs. [redacted] heard words exchanged between [redacted] and Deputy Bragg while the inmates were out for program. After program ended, pill call was conducted. When [redacted] went to get his medication he stopped at [redacted] cell and spoke to him about not creating a problem and to relax. [redacted] told [redacted] he wanted his property and felt Deputy Bragg was withholding it on purpose. [redacted] approached Deputy Bragg on [redacted] behalf and Deputy Bragg told him [redacted] will get his property when he was done searching it. [redacted] advised [redacted] of Deputy Bragg's response and returned to his cell.

A short time later, [redacted] heard the commotion on the unit floor, which included yelling from both parties. Near the end of the commotion, [redacted] could hear [redacted] yelling and one of the deputies telling him to "get on your feet." [redacted] said, "I can't", and heard more screaming from [redacted]

[redacted] described [redacted] as "hostile" when complaining about wanting his property back, including the use of foul language. Sergeant Brown asked [redacted] if the actions Deputy Bragg took with property were unusual or if it was what he would normally do with a new inmate's property. [redacted] responded, "That's what every C.O. (corrections officer) does. That's what every Deputy does. To be frank, we ain't special. We're in jail. Look at where we're at."

[redacted] described Deputy Bragg as usually being "pretty laid back, using 'please' and 'thank you', he's pretty cool." [redacted] felt the deputies working at the jail were normally respectful and would treat an inmate with respect if they were shown respect from the inmate.

[redacted] denied ever hearing anyone say, during the struggle, "Let go of my leg." [redacted] thought he remembered hearing someone say, "Stop jumping on my legs" or something similar to that, but did not hear anyone yelling "let go of my leg." However, [redacted] was certain he heard [redacted] say "I can't get up" near the end of the incident.

Sergeant Quinonez asked [redacted] what the other inmates had told him happened to [redacted] during the incident. [redacted] said, the other inmates told him [redacted] cell door opened and Deputy Bragg threw him down to the ground. The other deputies came running in to assist with the struggle. During the struggle, the deputies kicked, hit, and jumped on [redacted] head. Due to this, Deputy Bragg was trying to protect [redacted] head to prevent him from getting hurt.

Sergeant Quinonez and Sergeant Brown ended their contact with [redacted] without any further information and contacted Witness Inmate [redacted] ([redacted] - [redacted])

Statement of Witness 2

stated he was reading a book in his cell when he heard a lot of yelling, such as “get off of him” and “quit hitting him” coming from outside of his cell. described the noise as being different from the noises he normally hears in the unit, so he got up and went to the window of his cell to see what was going on.

looked down to the unit floor and saw a large group of deputies had pinned down on the ground near the entry/exit to the sundeck. described there being two deputies on either side of and two deputies near head area as he lay on the ground. had already been handcuffed and subdued by the time looked out of his window.

Deputy Bragg was on left side, up against the wall of the unit. There was a deputy near head, with a knee pressed against his neck and throat area. There was a third deputy on right side, but did not know his name and could not see what he was doing to All of the deputies were yelling at to “stop resisting”; which thought was strange because they already had him handcuffed and pinned to the floor. was not moving and described him as being “out already”, but the deputies were still hitting and kneeling him.

said, “And then ah, out of nowhere the dude in the front, man, just started fucking nailing him with his boot, kicking him on the top of his head.” As was saying this, he stuck his foot out as if he was kicking someone with it. described the deputy as “standing there straight and rearing back and kicking him in the top of his head, with his boot.”

said, the deputy kicked a “minimum” of three times, and then there was a pool of blood that started “pouring out” of head. reiterated was “out already” when the deputy was kicking him.

thought the deputy who was kicking must have seen the blood coming from his head. After the third kick, it appeared the deputy “freaked out and jammed. He took off.” did not see the deputy any time after that.

described Deputy Bragg as bent over holding his hands behind his back. thought was already handcuffed. Although he did not know his name, said a deputy was on right side, punching in the ribs with a fist. did not know why the deputy was punching but could hear him yelling “quit resisting.”

was unable to name the deputy at s head delivering the kicks, but described him as possibly being “Latin” or “Asian”, with short hair, wearing a green jumpsuit and glasses. did not get a good look at the deputy’s face because the angle he had from his cell and how fast the deputy ran out of the unit. As continued to describe the deputy who kicked he began to become more certain that the deputy was “Asian with glasses.”

described as “bleeding profusely” from the head after the deputy kicked him. said the blood started “pooling around his head.” The deputy appeared surprised, and took off out of the unit.

Sergeant Brown asked [redacted] if he thought the deputy standing at [redacted] head and kicking him was in any danger from [redacted] said the deputy was not in any danger because the other deputies already had [redacted] pinned down. [redacted] did not hear anyone yelling "let go of my leg." He did not see the deputy kicking [redacted] ever lose his balance or fall to the ground at anytime. [redacted] said [redacted] appeared to be unconscious and was not resisting.

[redacted] did not see any type of argument or confrontation between [redacted] and Deputy Bragg at any point during the day. [redacted] had not seen any type of altercation with anyone in the unit since being housed there approximately a week before this incident.

Sergeant Brown asked [redacted] about the amount of force used by Deputy Bragg during the incident. [redacted] said Deputy Bragg was just standing over [redacted] holding his hands. When asked about the force used by Deputy Murillo. [redacted] said Deputy Murillo was punching [redacted] even though he was not moving. When asked about the amount of force used by Deputy Tri during this incident. [redacted] said, "That was just a straight up assault." There was no reason for anyone to kick [redacted] because he was already pinned down on the ground, and not a threat.

[redacted] told the sergeants inmates in the unit had talked about the incident and what happened. Sergeant Brown verified everything [redacted] had told him was things he personally witnessed, and not information he had learned from anyone else.

[redacted] said he was housed in cell [redacted] at the time of the incident and had a clear view of [redacted] and the deputies throughout the event. [redacted] described the force used by the deputies as "excessive", "unnecessary", "unethical", and "wrong." When the deputies picked [redacted] up, he was limp. [redacted] thought the deputies had "killed him" due to the amount of blood pooled up on the floor near [redacted] head. [redacted] said "he has never seen anything like that, including all of the time he has previously done in the state prison system."

Sergeant Brown ended his contact with [redacted] without any further information. He next contacted Witness Inmate [redacted] ([redacted]), who provided the following recorded statement.

Statement of Witness 3

Sergeant Brown told [redacted] the reason for contacting him. [redacted] said, "I take it you're just here to do the right thing." Sergeant Brown asked [redacted] what he thought the right thing was. [redacted] said, "I think the right thing is that the guards shouldn't be treating inmates like that."

[redacted] said he was lying on his bed in [redacted] when he heard some "scuffling." [redacted] got up to look out of his cell window and saw Deputy Bragg lying on top of "some white inmate" ([redacted]) [redacted] did not know [redacted] and described him as being new to the unit.

Deputy Bragg had [redacted] pinned down on the ground. [redacted] assumed Deputy Bragg had hit his "panic button" because soon after a group of deputies came running in to help him. [redacted] was pretty certain Deputy Bragg had [redacted] handcuffed. [redacted] saw Deputy Bragg lying on top of [redacted] with one hand controlled using something "silver and spray painted orange."

said, "Officer Tri comes in and landed a knee on the guys face, then got back up and positioned himself, and he just started stomping the guy's head."

confirmed Deputy Tri was the first deputy in the unit to assist Deputy Bragg. did not see resisting or struggling with Deputy Bragg when Deputy Tri came running in. did not feel could get away from Deputy Bragg because Deputy Bragg is such a large person.

said, as soon as Deputy Tri arrived he "landed a knee to face." said, "Deputy Tri got back up onto his feet, placed his hands against the wall for balance, and just started stomping away."

said, Deputy Tri did not accidentally fall down to his knees, and was never pulled down to the ground. Deputy Tri's knee intentionally landed on the right side of face. Deputy Tri then stood up and started kicking

never reached around Deputy Tri's legs or any part of his body. never grabbed or pulled Deputy Tri to the ground because he was already handcuffed. stated, "I don't know how much more vulnerable you can be, I mean, he was, he was pinned. He had both arms behind his back, handcuffed, with big old Deputy Bragg sitting right on top of him like he was a horsey."

Since had used the word "kicking" and then used the word "stomping", Sergeant Brown asked to clarify what the difference was between the two, and what exactly Deputy Tri did to Using his foot, made an up and down motion, slamming his foot on the floor, and said this was a stomping motion. described a kicking motion, as someone swinging their foot, as if kicking a football or soccer ball. said, Deputy Tri stomped on the top of head approximately four times. was asked if he witnessed both kicks and stomps, or just stomps. said, he did see Deputy Tri do some kicking to head, as well as the stomping he spoke of earlier.

stated he did not see any blood on or the floor prior to Deputy Tri arriving on scene. Once Deputy Tri arrived and started stomping on a large amount of blood started to pool on the floor under head. Sergeant Brown asked if felt the blood was a result of Deputy Tri stomping said, "Oh, I know it was. It had to be. There's no other way all that blood would have got there."

Sergeant Brown asked if ever posed a threat to Deputy Tri while he was on scene. said, "I didn't see, no." Sergeant Brown asked if he felt was ever in a position to assault Deputy Tri. said, "Oh no, no, no, not a chance." was asked if he felt there was any chance was going to resist Deputy Bragg. said, "There's no way, I mean he was handcuffed with both arms behind his back. Unless he started like trying to head-butt him, but that ain't gonna do nothing, you know, and I definitely didn't see him trying to jerk his head around, trying to head-butt him." said he was expecting Deputy Bragg to stop Deputy Tri, but no one intervened to stop Deputy Tri from stomping

said, once Deputy Tri had stopped stomping head, the deputies eventually tried to get up and out of the unit. Deputy Tri left the scene with and the other deputies as they went out of the unit.

clarified he did not see Deputy Bragg using any force he felt was unnecessary. felt Deputy Bragg had the "situation taken care of." However, felt Deputy Tri's actions were "completely unnecessary" and "uncalled for."

said, he's seen a few inmates versus deputy struggles in the past and never thought to say anything about, it or make a statement for an investigation. However, after witnessing this event wanted to make sure he reported what happened because he did not think it was right. said, "Yeah that could have been any one of us that could have been me."

As was being escorted out of the unit, thought he was conscious, and appeared to be hurt. described as "wounded" and "limp." wasn't saying anything when he was escorted out of the unit.

did not remember hearing or any of the deputies yelling anything during the struggle, including hearing someone saying "let go of my leg." did hear one deputy tell to "get on your feet."

confirmed a property search was routine when an inmate first arrives in the housing unit. He added, sometimes the deputy can get to it right away, other times it takes longer due to the activities in the unit.

said, he had a clear view of the incident from his cell window. After was taken out of the unit, the inmates were all talking about what they witnessed. confirmed his statements only contained the information he personally saw as he was looking out the window.

Sergeant Brown asked if he thought there was any reason why Deputy Tri would have stomped head during the incident. could not speak to any arguments Deputy Tri and might have had prior to coming into the unit. said, he did not see anything during this incident that would have warranted Deputy Tri using such force.

Sergeant Brown and Sergeant Quinonez ended their contact with without any further information, and contacted Witness Inmate (- who provided the following recorded statement.

Statement of Witness 4

The sergeants explained they were there to talk to him about the 5A incident involving a few weeks earlier. Sergeant Brown asked what he witnessed. said, "He (was restrained, he was handcuffed, and then he was assaulted, I guess by the others that came in. Ya know, they beat him up pretty bad."

said, he was housed in at the time of the incident. recognized Deputy Bragg as the normal Deputy in charge of the unit, and described him as the deputy initially involved in the incident with

At the time of the incident, [redacted] was standing in his cell, watching the unit television through his cell window. [redacted] saw [redacted] and Deputy Bragg arguing about some property that was on the floor. [redacted] knew [redacted] had been newly housed in the unit earlier in the day, and wanted to retrieve his property. During the argument, [redacted] had motioned to his property. [redacted] assumed the property was the issue. The argument turned into a struggle between [redacted] and Deputy Bragg. Deputy Bragg took [redacted] down to the ground and [redacted] thought the whole incident was over. [redacted] said, the incident took place after evening program. He could not hear what they were saying because the unit is normally loud.

Sergeant Brown asked [redacted] if he saw Deputy Bragg take [redacted] to the ground, or if [redacted] went down to the ground on his own. [redacted] said, Deputy Bragg approached [redacted] and grabbed him up around the neck area. “ [redacted] did not offer much resistance and just kind of went down to the ground. Deputy Bragg was able to handcuff him pretty easily.”

Sergeant Brown verified with [redacted] that he saw both of [redacted] hands in handcuffs. [redacted] said, he had a pretty good view of the incident as it happened. Once [redacted] was on the ground, Deputy Bragg was able to grab one of [redacted] hands, put it behind him, and place it in handcuffs. Deputy Bragg then grabbed [redacted] other hand, controlled it, and placed it in handcuffs.

[redacted] said he saw [redacted] lying on the unit floor, in front of the sundeck door. [redacted] could not see Deputy Bragg’s head during the struggle, but could see that he was on top of [redacted] straddling him. [redacted] was moving a little bit and seemed to be trying to resist. [redacted] said Deputy Bragg was clearly in control.

Once Deputy Bragg restrained [redacted] in handcuffs, [redacted] noticed two additional deputies came running into the unit. [redacted] identified one of the deputies as Deputy Tri. [redacted] said, “He came in and just started going at dude pretty rough, ya know. He just busted dude’s head up, just kicking him with a boot, stomping him out, jumping up on his head and everything.”

Sergeant Brown asked [redacted] if he knew the difference between a “stomp” and a “kick.” [redacted] said, yes and demonstrated each motion. Sergeant Brown asked if a “stomp” would be described as someone using the bottom of their shoe on something and a “kick” would be with the top or toe of the shoe. [redacted] agreed with this description and again demonstrated each motion. [redacted] said Deputy Tri used both stomps and kicks. [redacted] said, Deputy Tri stomped [redacted] approximately three or four times, and kicked [redacted] approximately three to four times.

[redacted] said he did not see any blood on the floor or on [redacted] prior to Deputy Tri and the other deputies running into the unit. When Deputy Tri ran in to assist Deputy Bragg, there was one other deputy with him. [redacted] could not see what this deputy was doing, but described him as just being off to [redacted] side. [redacted] thought this other deputy had pulled something from his belt and struck [redacted] in the side a couple of times. [redacted] had no information, or a reason, as to why the deputy did this because it appeared Deputy Bragg had control of

[redacted] described [redacted] as still moving around on the ground a little bit. [redacted] said it looked as if [redacted] was just trying to protect his head and face from getting hit again.

After Deputy Tri kicked and stomped [redacted] a couple of times, [redacted] noticed the blood coming from [redacted] head. [redacted] stopped moving around, and did not appear responsive. Sergeant Brown asked [redacted] if [redacted] was "limp" or if he just stopped moving. [redacted] said, "It appeared as if [redacted] was still alert, but stopped moving in hopes the beating would stop."

[redacted] could not identify who said it, he did hear someone yelling "stop moving" as the deputies we're dealing with

[redacted] said, a deputy came in the unit and stopped Deputy Tri from stomping and kicking [redacted] by stepping between them. [redacted] said he was surprised to see another deputy step in and assist Sergeant Brown asked [redacted] why he thought the other deputy stopped Deputy Tri. [redacted] stated, "Because he seen it for what it was. He was killing the guy, ya know."

[redacted] said, [redacted] appeared to be injured, and had a hard time getting up. Once he was up off the floor, the deputies were trying to get [redacted] to walk out of the unit, but he couldn't, so they drug him away.

Sergeant Brown asked [redacted] if he ever noticed Deputy Tri losing his balance or falling to the floor during this incident. [redacted] said he did see Deputy Tri "slide" into [redacted] upon initially entering the unit. [redacted] described the slide, as if Deputy Tri was "sliding into third base", hitting [redacted] on the head with his elbow at the same time. Deputy Tri then slid to a stop and stood, then started kicking and stomping [redacted] in the head.

[redacted] did not see Deputy Tri strike [redacted] with either of his knees. [redacted] said it could have been possible Deputy Tri hit [redacted] with his knee when he slid into him, but [redacted] said, it all happened so fast that he could not be sure. [redacted] added, once Deputy Tri got back up to his feet after the initial slide, he did not see Deputy Tri ever drop back down to his knees or strike [redacted] with his knee.

[redacted] said, he never witnessed Deputy Tri striking [redacted] with either of his hands during the incident. [redacted] was not sure if [redacted] was bleeding or not, because of the angle of his view. [redacted] did not remember seeing any blood coming from [redacted] head until after Deputy Tri started kicking and stomping him.

Sergeant Brown asked about the physical altercation between Deputy Bragg and [redacted] prior to the other deputies running in. [redacted] said, he did not have a problem with any part of that altercation and described it as being "normal." [redacted] recognized the deputies have been trained to deal with subjects who may not be cooperating, and said "an inmate will normally just turn around and cuff up to avoid any drama." [redacted] felt [redacted] had been subdued prior to Deputy Tri and the other deputies arriving, and again, thought the incident was over. Everything after that point surprised [redacted] and he described being "blown away" by what happened, stating the incident "just got out of hand."

[redacted] said he did not see [redacted] posing any type of threat to Deputy Tri because he had already been subdued and handcuffed. [redacted] felt as a secondary responder, Deputy Tri would "see it for what it is as he is running in." With Deputy Bragg having [redacted] under control, [redacted] thought Deputy Tri "took it on his own, and to try and kill this guy. I saw this guy getting killed, ya know what I mean. That's what I saw."

Sergeant Brown asked [redacted] if there was any chance Deputy Bragg may have lost control of one of [redacted] hands, as Deputy Tri was running up. [redacted] said “there was no way this would have happened because [redacted] was handcuffed, subdued, and just done with the fight.” [redacted] felt the deputies should have been able to get [redacted] up off the floor and take him wherever they wanted to take him.

[redacted] said, there was no way [redacted] could have reached out and grabbed either of Deputy Tri’s legs during the struggle, causing him to lose his balance, or fall down. [redacted] said, it was not possible for [redacted] to be in a position to bite Deputy Tri, or to bring Deputy Tri closer to him in an effort to bite him. [redacted] said, [redacted] was handcuffed the whole time and his hands were never in a position to grab anyone who came running in.

[redacted] did not feel [redacted] could have protected himself from Deputy Tri’s assault. His hands had already been secured behind his back and he was in a vulnerable situation. It’s natural for a person to want to protect their head from attack. [redacted] was unable to do anything but move his head around in an effort to avoid injury. [redacted] was “exposed” during the incident. [redacted] did not feel [redacted] had any way to protect himself, other than just lying there, and hoping it would stop.

[redacted] said he had not discussed this incident with anyone else in the unit. The information he provided was what he witnessed during this incident, and not things he heard from anyone else. [redacted] felt as if everyone in the unit was afraid to talk about what had occurred, and even more afraid to come forward because of the intimidation and possible repercussions by Deputy Tri. Throughout life, [redacted] estimated he’s done approximately 20 years in custody and described this incident as being “the worst thing I’ve ever seen.”

When asked why he felt it was so important for him to come forward and provide his statement, [redacted] said he knew what happened was wrong. [redacted] said, he hoped that someone would come forward and tell his family if the same thing were to happen to him. [redacted] added, he provided statements on assaults he witnessed in the past, and felt he needed to stand up for what he thought was right.

Sergeant Brown and Sergeant Quinonez concluded their contact with [redacted] without any further information. At that time, they were unable to contact any further inmates who witnessed the incident. All of the statements provided by the witness inmates were audio recorded, placed onto Compact Discs (CD’s) and submitted as evidence and attachments to Sheriff’s Office report (14-008-0118J).

Upon returning to Sheriff’s Headquarters, Sergeant Brown located a map depicting the floor plan for the 5th floor of the Main Jail. The map included one page depicting the bottom tier of the floor, and one page depicting the top tier of the floor. Sergeant Brown labeled housing units 5A, 5B and 5C. He labeled cells 1 thru 48 in unit 5A, as they correspond to the cells on the 5th floor of the Main Jail. The odd numbered cells on the bottom tier, and even numbered cells on the top tier of the unit. Using these maps, Sergeant Brown was able to see the views each of the inmate witnesses had while looking out of their cells during the incident.

Inmate [redacted] stated he was in cell [redacted] at the time of this incident. From the map, Sergeant Brown could see a person looking out of the window in cell [redacted] had a mostly unobstructed view of the main area, and down the hallway leading to the entry/exit door. [redacted] had a clear view of the incident.

Inmate _____ stated he was in _____ at the time of this incident. From the map, Sergeant Brown could see a person looking out of the window in _____ could look down the stairs, and have a mostly unobstructed view of the entrance to the hallway leading to the entry/exit door. _____ had a view of the incident as it took place at the hallway entrance and near the door leading onto the sundeck.

Inmate _____ stated he was in _____ at the time of this incident. From the map, Sergeant Brown could see a person looking out of the window in _____, could look through the main area of the unit, over the officer's desk. _____ had a mostly unobstructed view of the hallway entrance and the door leading to the sundeck.

Sergeant Brown later contacted Sergeant Leon, of the Sheriff's Crime Scene Investigations Unit (CSI), and requested a CSI detective take a series of photographs of the 5th floor at the Main Jail, and the views _____ and _____ would have as they looked out of the windows in their cells.

On 01/14/2014, CSI Detective Tarazi went to the 5th floor of the Main Jail and took a series of digital photographs showing the view each witness inmate had of this incident. From the photographs, it appears possible each of the witness inmates may have had a mostly unobstructed view of the incident as it happened. Deputy Tarazi provided Sergeant Brown with one CD copy of the photographs for his investigation and booked a second CD copy into evidence.

Investigation Continued:

On October 24, 2013, at approximately 1840 hours, Sergeant Brown and Sergeant Quinonez met with Correctional Officer Cortes in the Sheriff's Headquarters third floor interview room. Sergeant Brown advised Officer Cortes of the reason for his contact. Officer Cortes said he remembered the incident.

Statement of Other Party 4 Officer Miguel Cortes:

Officer Cortes stated he was assigned to housing unit 4C at the Main Jail when he heard the call for assistance out of 5A. He responded to unit 5A, which required him taking the elevator from the 4th floor to the 5th floor.

As Officer Cortes responded with Officer Tempra from the 4th floor and arrived on scene together. Upon entering unit 5A, Officer Cortes saw _____ lying on the floor in front of the sundeck door. Officer Cortes thought _____ was on his right side, rolling around from side to side, with deputies around him, trying to restrain him. Officer Cortes could not remember which deputies were involved in the struggle with _____ at that time.

Officer Cortes noticed _____ was bleeding from the head area. _____ was not yet secured in handcuffs and was actively resisting the deputies. Officer Cortes pushed his knee onto _____ left side to pin him face down onto the floor, and they placed _____ into handcuffs to secure him. At the time, Officer Cortes did not know who placed the handcuffs on _____ but later learned it was Deputy Bragg.

Officer Cortes could not recall Deputy Bragg's exact position in relation to _____ when he ran into the unit. Officer Cortes remembered seeing Deputy Murillo engaged in a struggle with _____ but could not recall where he was in relation to _____ or what he was doing.

Officer Cortes recalled seeing Deputy Tri at the scene. Officer Cortes could not recall where Deputy Tri was, or what he was doing.

Officer Cortes estimated it took approximately 10-15 seconds from the time he arrived until they secured [redacted] in handcuffs. [redacted] resisted the entire time, but used enough force to secure his hands and end the struggle. Once [redacted] was in handcuffs, Officer Cortes assisted in picking him up to his feet. [redacted] did not resist the deputies' efforts to lift him up off the floor. Officer Cortes stated [redacted] did not lose consciousness while he was on scene.

Officer Cortes said he never verbally told [redacted] to get up off of the floor, and never heard anyone else give the command. Officer Cortes could not remember hearing [redacted] or the other deputies, yelling anything as he ran in to assist.

Officer Cortes said he was on [redacted] left side as they walked out of the unit, but could not remember who was on [redacted] right side. They escorted [redacted] to the 2nd floor. [redacted] did not complain of any pain or injuries, and did not resist after they assisted him up off the floor.

Officer Cortes said he never witnessed any of the deputies using their fists or knees to strike [redacted] He never witnessed any of the deputies using any of the weapons from their duty belts against [redacted] He never saw anyone stomp or kick [redacted]

Sergeant Quinonez asked Officer Cortes if he was familiar with the term "tapping out" as used in the jail setting. Officer Cortes described it as, "a deputy intervening in a possible excessive use of force situation, where another deputy may be using too much force against an inmate." Officer Cortes could not remember if he tapped any of the other deputies out during this incident. Officer Cortes said he was not tapped out by another deputy, because he did not use any force on [redacted] during the struggle.

Sergeant Brown and Sergeant Quinonez ended their contact with Officer Cortes without any further information. Deputy Officer Tempra arrived at Sheriff's Headquarters and provided the following recorded statement.

Statement of Other Party 5 Officer Pablo Tempra:

Officer Tempra stated he knew the sergeants wanted to talk with him regarding the incident in unit 5A involving [redacted] Officer Tempra said he heard the emergency call come over the radio after Deputy Bragg had pushed his packset alarm. He and Officer Cortes responded to the 5th floor. When they entered the unit, Officer Tempra saw a group of deputies in a struggle with [redacted] on the floor. Officer Tempra described getting "tunnel vision" as he ran in. Officer Tempra noticed [redacted] right arm was unsecured so he went to try and grab it.

Officer Tempra said [redacted] was on his stomach, on the floor, with his head pointing toward the main area of the unit. Officer Tempra knelt down on the floor, next to [redacted] and tried to grab his right arm. [redacted] pulled his right arm away from Officer Tempra. In a second attempt to grab it, Officer Tempra secured [redacted] right arm behind his back to be handcuffed.

Before controlling [redacted] right arm, Officer Tempra described the arm as being free. [redacted] was “swinging it around.” Officer Tempra knew there was a deputy on the floor next to him, also trying to secure [redacted] right arm, but couldn’t recall who it was. Officer Tempra knew the deputy was struggling with [redacted] but could not tell what the deputy was struggling with.

Officer Tempra could not recall the identity of any of the other deputies involved in the struggle as he ran in to help. [redacted] appeared conscious and bleeding from the facial area. Officer Tempra did not know the exact location [redacted] was bleeding from, or why.

Officer Tempra said someone took over for him, and assisted [redacted] up off the ground. Officer Tempra noticed a pool of blood on the floor when [redacted] picked up off the floor. [redacted] did not say anything as he was escorted out of the unit.

Officer Tempra recalled seeing [redacted] right hand balled up in a fist, as he was trying to gain control of [redacted] right hand. Officer Tempra said, [redacted] did not strike anyone with his fist, but his arm was swinging about and difficult to gain control of. Officer Tempra estimated it took him a few seconds to gain control of [redacted] right arm and place it behind his back.

Other than reading the reports, Officer Tempra did not know why the incident in unit 5A started. Officer Tempra had not spoken to Deputy Bragg about the incident. He did not know how [redacted] sustained his injuries. Since the incident, [redacted] was housed in Officer Tempra’s unit on the 4th floor. Officer Tempra described [redacted] as physically appearing much better than he did after the struggle. [redacted] has not talked to Officer Tempra about what happened on the night of the incident.

Sergeant Quinonez asked Officer Tempra about his positioning upon making contact with [redacted] Officer Tempra said he was on the floor next to [redacted] trying and gain control of his arm.

Officer Tempra described being “tapped out” by another deputy after gaining control of [redacted] right arm. Officer Tempra said, “This meant he was simply relieved by someone else who could assist in getting [redacted] up off the floor.” Officer Tempra did not “tap out” or relieve any of the other deputies.

Officer Tempra did not know how [redacted] sustained the injuries to his face and head. The sergeants concluded their contact with Officer Tempra without any further information.

Investigation Continued:

On January 7, 2014, at approximately 1430 hours, Sergeant Brown was able to make telephone contact with [redacted] was in custody and housed in unit 5A at the time of this incident. [redacted] was released from custody prior to conducting the other inmate witness interviews. [redacted] provided the following recorded statement.

Statement of Witness 5

[redacted] said, Deputy Bragg had done anything wrong during the verbal confrontation with [redacted] did not see anything that happened after Deputy Bragg pushed [redacted] said [redacted] instigated the whole incident and Deputy Bragg only reacted to what [redacted] did. [redacted] has

seen incidents between inmates and corrections officers in the past, and felt Deputy Bragg reacted in the same manner any other deputy would.

said, he could see the altercation between Deputy Bragg and from his cell, but he could not hear what they were saying. thought it looked as if Deputy Bragg and were tense, and it appeared as if something was going to happen. did not know what started the argument. described as getting “heated” and “instigated” the incident. He thought Deputy Bragg was able to step up, and take care of it before it got out of hand.

mentioned Deputy Bragg’s actions seemed to be appropriate for the situation. When went down to the bottom tier to provide his statement after the incident, he saw all of the blood on the floor. said, “That seemed too extreme.”

said he did not see what Deputy Tri did when he arrived on scene, and could not see anything after they fell to the ground. did not know who hit who during the incident, or where the blood came from. later learned the blood came from did not know how was injured or what part of his body was bleeding.

heard from some of the other inmates in the unit what had happened after Deputy Tri and the other deputies arrived on scene, but did not see it for himself. was unable to provide any further information.

Investigation Continued:

Sergeant Brown faxed the completed Release of Medical Records and Information forms signed by Deputy Tri, Deputy Murillo and Deputy Bragg to their respective hospitals, requesting a copy of their medical records, pertaining to the treatment for the injuries sustained during this incident.

On 02/06/14, at approximately 1240 hours, Sergeant Brown made telephone contact with Deputy Tri. They briefly talked about how Deputy Tri was recovering from the injuries he sustained during the struggle with Deputy Tri said he still has leg pain when he walks, and there is pain and some deformities in his hand. Deputy Tri mentioned an upcoming MRI and possible surgery to help with his injuries, but he did not provide any further information.

Sergeant Brown reminded Deputy Tri of their previous conversation on 10/24/13, and asked if he had the opportunity to speak with an since that meeting. Deputy Tri said he had spoken with an Sergeant Brown asked if they would like to take the opportunity to come into the Sheriff’s Office, to provide a statement as to what occurred on the night of 10/3/13. Deputy Tri said, he needed time to speak with his but they would contact Sergeant Brown with further information.

At approximately 1640 hours, Sergeant Brown received a telephone call from stated she worked for the and was representing Deputy Tri. They spoke about the possibility of Deputy Tri coming in to provide a statement on what occurred between and the correctional deputies on 10/03/13. said she would speak with Deputy Tri about providing a statement, and provide their decision at a later time.

On 02/11/14, at approximately 1455 hours, Sergeant Brown received a telephone call from stated Deputy Tri would not be providing a statement on this incident.

Sergeant Brown’s report and information was submitted to the District Attorney’s Office for review of possible charges of California Penal Code section 149, Assault under Color of Authority.

Investigation Continued:

I printed and reviewed Deputy Tri’s training history, which included self instructional courses he had taken from May 2009 thru April 2013. Examples of these courses are listed below:

| Course | Hours | Training Dates |
|---|-------|----------------|
| ACA – Working with Manipulative Inmates | 24 | 4/16/2013 |
| ACA – Managing Stress: Performing Under Pressure | 40 | 4/16/2013 |
| Jail Crimes Investigations/Crowd Control for Custody | 8 | 11/8/2012 |
| S/O Incident Report Writing System | 2 | 3/5/2012 |
| Inmate Management Documentation Review | 2 | 2/4/2012 |
| Officer Safety and Liability | 2 | 12/7/2011 |
| Report Writing Review & Arrest and Control Techniques | 8 | 9/27/2011 |
| Emergency Response Team Review | 2 | 12/23/2010 |
| Title 15 / Arrest Control Review | 8 | 9/27/2010 |
| First Responder/Ethics & Professional Conduct | 12 | 12/3/2009 |
| PC 832 Laws of Arrest – Academy #43 | 40 | 5/29/2009 |
| Chemical Agents – Academy #43 | 40 | 5/29/2009 |

As indicated above, Deputy Tri received extensive training specific to dealing with use of force, ethical dilemmas, manipulative inmates, officer liability and report writing requirements.

Statements:

The following statements are compilations of the interviews conducted and are not verbatim translations or transcriptions of the interviews. Please examine the original interviews, reports and/or case notes, if a comprehensive transcription is required.

Interview with Inmate

On October 18, 2013, at approximately 1053 hours, Sergeant Sepulveda and I interviewed inmate in the Main Jail North, 4th floor interview room.

said, after program time shut down, Deputy Bragg opened his cell door to get his property. was upset because Deputy Bragg held his property for four hours, and denied him access to his blanket and hygiene kit. Deputy Bragg dumped property on the floor to search it, and then told to get his stuff. confronted Deputy Bragg by saying “is this how you get down” Deputy Bragg replied, ‘yeah what do you want to do about it.’ replied “you’re an asshole.” Deputy Bragg ordered to get on the ground. said he complied, put his hands behind his back, then responding staff came in and “beat the hell out of me.”

said, he felt it was a set up because of Deputy Bragg's posturing and how quickly the other officer's responded. said he's a drop out member. He's been in and out of jail for 38 years, and never charged with assault on an officer. Because of his prior gang status, wanted to verbally challenge Deputy Bragg for "putting him on blast in front of the dorm" and disrespecting his property. said, he jumped away from Deputy Bragg and went face down to the ground in a "push up position." He gave up his hands to avoid a physical altercation. Deputy Bragg straddled lower back area, and took control of his hands, but wasn't cuffed when the other officers arrived. denied taking a combative stance or tucking his arms underneath his body.

said, his body was next to the sundeck door, feet facing the housing unit entrance. head was turned toward Deputy Bragg, (left side up) when the first officer slammed his knee and full body weight into head, causing it to hit the wall. said he briefly saw the officer who delivered the blow and thought he was Caucasian.

After the second blow to the head, thought he lost consciousness for a moment. thought three to four officers came in. He heard a lot of grunting, feet shuffling and "Mother Fucker" coming from the officers. thought the incident lasted for a minute and a half.

denied grabbing any officers at any time, and restated he'd given up his hands to Deputy Bragg.

I showed a numbered photo line-up without descriptors of the Main Jail D- Team officers. said, it was difficult to tell, but thought it might be number 40 (Deputy John Luporini), but younger looking. Deputy Tri's was photo number 65. In comparing the one inch square photos of Deputy Tri and Deputy Luporini, both are light skinned, and could be considered Caucasian at a glance.

stated he sustained a forehead cut requiring 10 sutures, cuts on both eyebrows, the right requiring sutures. also had a broken right sinus cavity, bruised ribs, bruised ears, two black eyes, possible broken right cheek bone underneath the eye, a sprained left elbow and blurred vision.

was in the process of securing an to file a lawsuit for the injuries he sustained. The Sheriff's Office had since received a legal request to preserve all evidence.

I took four photos of face and head. The red slashes of scars on forehead and eyebrows were recognizable. The area around both eyes appeared blue gray, as if bruises were fading.

Interview with Inmate

. :

On October 18, 2013, at approximately 1435 hours, Sergeant Sepulveda and I interviewed in the Main Jail North, 5th floor interview room. was housed in 5A, at the time of the incident.

I showed a photo line-up that included six photos without descriptors. immediately selected I showed a numbered photo line-up without descriptors of Main Jail D- Team and asked if he recognized the officers involved. None of the photos looked familiar to He remembered the first officer who did all the kicking wore glasses. said the other inmates in the unit called the officer "Tri", but didn't know him.

heard inmates banging and yelling “stop it” and “get off him.” He looked out his cell window and saw Deputy Bragg and an inmate struggling on the ground next to the sundeck door. Deputy Bragg was sitting on [redacted] back, [redacted] was face down and moving his head back and forth as if trying to find a position on the floor. [redacted] thought [redacted] was hand cuffed.

About a minute later, [redacted] saw the first officer (Deputy Tri) run in and slide into [redacted] head, as if sliding into a base. Deputy Tri got up, stood over [redacted] and kicked [redacted] head 3-4 times with the tip of his boot. [redacted] saw [redacted] blood dripping off the officer’s right boot.

[redacted] turned to his cell mate and said, “This guy is getting hurt.” [redacted] thought it was going to stop but the officer kept kicking him. [redacted] said, he’s been to prison, and this was the worse assault he’s seen in a while. [redacted] said, [redacted] was bleeding and trying to move his head to protect himself, but was getting hit on his side by another officer (Deputy Murillo).

[redacted] said, [redacted] never grabbed any officer he couldn’t because he was secured, and unresponsive. When additional officer’s arrived, Deputy Tri was standing to the side. The other officers kept telling [redacted] to quit struggling, but he wasn’t moving. The officer’s lifted [redacted] up off the floor, and drug him out of the unit, while they yelled at him to get up. [redacted] thought [redacted] was dead from too many kicks to the head.

[redacted] said, his cell mate didn’t want to give a statement because he was going to be released in a few days, and was fearful his testimony would impact his release. [redacted] said, a lot of the inmates wanted to say something, but they were afraid of Deputy Tri.

[redacted] came forward because he saw something that didn’t look right. He hoped if something like that happened to him someone would speak up. [redacted] recognized [redacted] from going to court the same day but denied knowing him on the street.

I took photographs from inside [redacted] and determined [redacted] had an unobstructed view of the dayroom, and hallway area next to the sundeck door, where the incident took place.

Interview with Inmate

On October 18, 2013, at approximately 1402 hours, Sergeant Sepulveda and I interviewed [redacted] in the Main Jail North, 5th floor interview room. [redacted] was housed in 5A, [redacted] at the time of the incident.

I showed [redacted] a photo line-up that included six photos without descriptors. [redacted] said the photos all looked alike. [redacted] couldn’t see the inmates face because the officers had him pinned down, and when they picked him up, his head lullled to the side and all the officers were around him. [redacted] didn’t know how long the inmate was in the housing unit because he keeps to himself, and doesn’t know any of the inmates.

I showed [redacted] a numbered photo line-up without descriptors of Main Jail D-Team, and asked if he recognized the officers involved. [redacted] said, he wasn’t really looking at the officers, and only knew Deputy Bragg. [redacted] said, the officer that kicked [redacted] was wearing glasses and had short hair.

The officer had his back to [redacted] so he only got a quick glimpse of the officer's face before he ran out. [redacted] later learned from other inmates the officer's name was "Tri." The other inmates said, 'he's got priors for doing that to inmates.'

[redacted] said he was on his bunk reading and heard inmates yelling "Get off him" while hitting their doors. [redacted] didn't get up at first, but when the yelling and banging continued, he looked out his cell window and saw approximately six officers. Two officers each were on [redacted] left side, right side and at his head. [redacted] was pinned to the floor with their knees. One had his knee on [redacted] neck the other one was hitting [redacted] on his side. [redacted] body was next to the sundeck door head facing toward the cells. [redacted] hands were behind his back and cuffed, he wasn't responding. Deputy Tri was at the top of [redacted] head and kicked him at least three times, maybe four. A big pool of blood started pouring out of [redacted] head. [redacted] said, Deputy Tri saw the blood and ran out of the unit, and he didn't see him again. [redacted] said, Deputy Bragg was on [redacted] left side, over the top of him, against the wall.

[redacted] said, [redacted] wasn't responding, and his body was limp. The officers picked [redacted] up off the floor, and drug him out of the unit. Due to the loud banging and yelling by the inmates, [redacted] didn't hear the officer's give [redacted] any verbal commands, and thought the incident lasted about three minutes.

[redacted] said he came forward because at CDC the inmates are encouraged to report abuse and misconduct from staff. He's trying to do the right thing in life, and be the person who now picks up the phone and calls the police when something happens.

[redacted] said all the inmates were locked down at the time of the incident. He denied talking to other inmates before being interviewed by Deputy Lozada.

I took photographs from inside [redacted] and determined [redacted] had an unobstructed view of the dayroom and hallway area next to the sundeck door, where the incident took place.

Interview with Inmate

On October 18, 2013, at approximately 1340 hours, Sergeant Sepulveda and I interviewed [redacted] in the Main Jail North 5th floor interview room. [redacted] was housed in 5A on the top tier, [redacted] at the time of the incident.

I showed [redacted] a photo line-up that included six photos without descriptors. [redacted] said he didn't get a good look at the inmate because he ([redacted] just arrived in the unit. [redacted] knew [redacted] was housed in [redacted], and as soon as he got there, got into it with Deputy Bragg. [redacted] recalled the inmate was an older white guy with salt and pepper hair, not bald, like the booking photo.

I showed [redacted] a numbered photo line-up without descriptors of Main Jail D-Tea, and asked if he recognized the officers involved. Deputy Tri had been [redacted] dorm officer in the past and remembered Deputy Tri well. [redacted] said, Deputy Tri joked around and "chopped it up with the inmates, he seemed like a cool dude, I didn't expect that kind of behavior from him." [redacted] also identified Deputy Bragg and Deputy Murillo from working the 5A unit. None of the other responding officers looked familiar.

said he was resting on his bunk and heard scuffling noises for two to three seconds, no voices. got up and looked out his cell window, and saw Deputy Bragg on top of [redacted] by the sundeck door. [redacted] said, "Bragg had [redacted] pinned face down to the floor with his arms behind him."

[redacted] didn't hear Bragg give [redacted] verbal commands until he was on top of him. Deputy Bragg told 'don't move.' [redacted] said he had a good view of [redacted] upper body. [redacted] couldn't tell if [redacted] was struggling to get Deputy Bragg off his back, but it looked like [redacted] was handcuffed with orange or red cuffs when Deputy Tri came in.

[redacted] said, Deputy Tri was the first to arrive. Deputy Tri jogged in, and landed his knee on [redacted] face/ head. Deputy Tri got up, and positioned himself by putting his hand on the wall, and started stomping [redacted] head for maybe 10 seconds, or less, before the next officer arrived. A big puddle of blood was on the floor, and a group of officers came rushing in. Some of the officers walked around the unit, checking cell doors, while the others drug [redacted] out of the unit.

Two officers returned later and approached all the inmates. The officer interviewed the inmates who were willing to talk about what they witnessed.

[redacted] was adamant [redacted] never grabbed Deputy Tri's leg. [redacted] said, "[redacted] was handcuffed and pinned to the floor. There was no way for [redacted] to defend himself, because Deputy Bragg is a 250 pound man, and he was on top." [redacted] said he felt sorry for the guy, and the only reason he's coming forward is because that could've been him. No one coerced or threatened [redacted] on what to say.

I took photographs from inside [redacted] and determined [redacted] had an unobstructed view of the dayroom and partial view of the hallway, across from the sundeck door.

Interview with Inmate

On October 18, 2013, at approximately 1417 hours, Sergeant Sepulveda and I interviewed [redacted] in the Main Jail North, 5th floor interview room. [redacted] was housed in 5A, [redacted] at the time of the incident.

I showed [redacted] a photo line-up that included six photos without descriptors. [redacted] immediately identified [redacted]

[redacted] came forward because Deputy Bragg is religious, gives the inmates program time. [redacted] didn't want Deputy Bragg to get in trouble, as [redacted] started the fight. [redacted] said, after program he was watching television. He noticed Deputy Bragg searching [redacted] property, and then allowed [redacted] to come out and get his stuff.

[redacted] appeared agitated. His back was stiff, and he paced back and forth. [redacted] couldn't hear the verbal interaction. He saw Deputy Bragg talking to [redacted] before he pushed [redacted] toward the Multi-purpose room door. [redacted] said he only saw the beginning of the incident, but heard thumping and the other inmates yelling.

When [redacted] was removed from his cell to be interviewed by Deputy Lozada, he saw the large amount of blood on the floor. [redacted] said, he became scared and confused, about how the incident escalated. [redacted] was unsure about the right and wrong of those involved, but positive [redacted] started it.

I took photographs from inside of cells [redacted] I confirmed Sergeant Brown's findings; the inmate witnesses housed in cells [redacted] had a clear view of the incident from their cell windows.

Interview with Officer Richard Durand:

On February 27, 2014, at 1908 hours, Sergeant Sepulveda and I interviewed Officer Durand in the Sheriff's Headquarters Internal Affairs interview room. Officer Durand was notified he was being interviewed as a witness to the incident that occurred in 5A on October 3, 2013.

Officer Durand recalled this incident, and responded from the basement. Upon entering the dorm, he saw a puddle of blood on the ground, and noticed [redacted] was secured. Officer Durand assisted by checking the cell doors to ensure they were secure.

Officer Durand couldn't identify the many officers that responded, but recalled Deputy Tri leaving the 5A unit, as he was entering. Officer Durand did not "tap out" any officer, as [redacted] was secured by the time he arrived.

Officer Durand heard the command "stop resisting" and said, even though [redacted] was secured, he was resisting. Although he couldn't identify the officer's, he thought about five officers were crouched down, trying to control [redacted] Officer Durand said [redacted] was handcuffed behind his back when he arrived. As the officers stood [redacted] upright, he started cussing at them. Officer Durand never saw [redacted] unconscious. As they escorted [redacted] out of the unit, his head continued to bleed profusely, so Officer Durand grabbed a towel and placed it on [redacted] head. Officer Durand and Officer Cortes escorted [redacted] to 2nd floor medical.

Officer Durand confirmed the sergeants arrived on scene quickly and immediately started the video recorder. Officer Durand confirmed [redacted] was not combative during the escort, but made verbal statements, 'why did you guys have to do that, I didn't do anything wrong.'

Interview with Officer Miguel Cortes:

On February 27, 2014, at 1950 hours, Sergeant Sepulveda and I interviewed Officer Cortes in the Sheriff's Headquarters Internal Affairs interview room. Officer Cortes was notified he was being interviewed as a witness to the incident that occurred in 5A on October 3, 2013.

Officer Cortes said, he responded from the 4th floor. As he exited the elevator on the 5th floor, he could see through the large window of the 5A housing unit. Officer Cortes noticed bodies piled together, moving around on the ground, in front of the sundeck door.

[redacted] was leaning on his right side, with Deputy Bragg "spooning" [redacted] trying to control the left arm. Officer Cortes placed his knee on [redacted] left shoulder, and pinned him to the ground, so he

couldn't get up. Officer Cortes didn't recall any dialog from the officer's or They quickly positioned arms behind his back, allowing Deputy Bragg to handcuff him.

Officer Cortes recalled Deputy Bragg, Deputy Murillo and Deputy Tri being on scene when he arrived with Officer Temptra. Officer Cortes couldn't recall what each was doing, as his focus was getting left shoulder down, and securing him.

I asked Officer Cortes if he "tapped out" Deputy Tri. Officer Cortes said, "Deputy Tri was standing, kind of in the way, so I pushed him aside." Officer Cortes said he didn't consider his action as tapping out.

Officer Cortes didn't notice the blood until he assisted up off the floor. Officer Cortes confirmed was conscious and made a couple comments to the officer's as they exited the 5A unit.

Sergeant Bracket had arrived on scene, and gave Officer Cortes some paper towels to place on top of head. He and Officer Durand immediately escorted to 2nd floor medical for treatment. Officer Cortes had no further contact with him.

Interview with Deputy Candelar Murillo:

On February 27, 2014, at 1808 hours, Sergeant Sepulveda and I interviewed Deputy Murillo in the Sheriff's Headquarters Internal Affairs interview room. Deputy Murillo was notified he was being interviewed as a witness to the incident that occurred in 5A on October 3, 2013. Deputy Murillo was not familiar with the Internal Affairs investigation process, and brought As a courtesy, we allowed to sit in on the interview.

Deputy Murillo said he was assigned to 5B unit. Around 2300 hours, he heard the emergency request for assistance in 5A. He immediately locked down the inmate workers and responded. As Deputy Murillo was running towards 5A, he saw Deputy Tri running into the unit. Deputy Tri arrived just a few seconds ahead of Deputy Murillo.

Upon entering 5A, Deputy Murillo saw face down on the floor, struggling with Deputy Bragg. Deputy Bragg was giving verbal commands, and trying to handcuff him. Deputy Murillo's first thought was securing the scene, by bringing the inmate under control.

Deputy Murillo said, the incident happened very quickly, but stated he had a vivid recollection of the events. Deputy Murillo said, Deputy Tri ran in first and positioned himself on the right side of head area. Deputy Bragg was positioned on left side and Deputy Murillo on right side.

 was tussling, sort of jolting back, as if he was trying to elbow Deputy Bragg. Deputy Murillo attempted to grab right arm, but it was under body. Deputy Murillo said right elbow was sticking out enough for him to put his hand through, and start tugging on the elbow.

Deputy Murillo told "stop resisting, give me your arm" and said it loud enough for to hear. Deputy Murillo said, was very strong, and resisted Deputy Murillo's efforts to secure the

right arm. In an attempt to get [redacted] to comply, Deputy Murillo delivered three to four knee strikes to [redacted] right tricep area, while issuing verbal commands. As Deputy Murillo delivered the knee strike, he made contact with [redacted] right elbow, which caused the injury to his knee.

Deputy Murillo stated, he saw Deputy Tri kick [redacted] in the head two to three times. Deputy Tri then placed his left knee on [redacted] right shoulder. Using a closed fist, Deputy Tri struck [redacted] a couple times in the face/head area. Deputy Murillo couldn't recall if Deputy Tri was giving [redacted] verbal commands.

Deputy Murillo stated the struggle lasted about 10-15 seconds before additional officer's arrived. Deputy Murillo remembered he was still struggling with [redacted] right arm when they arrived, and couldn't recall who took over for him. Deputy Murillo didn't know which officer "tapped out" Deputy Tri. Deputy Murillo recalled the responding officer's pushed them aside, and took over. Deputy Murillo said, at the point, he was just tired, and let them take over.

Deputy Murillo couldn't recall [redacted] making any statements other than when the officer's told him to stand up. [redacted] said, 'It's slippery, I can't.' Deputy Murillo looked down, and noticed the blood on the floor. Deputy Murillo confirmed [redacted] was not unconscious.

Deputy Murillo stated the sergeants were on scene when they escorted [redacted] out of the 5A unit. Deputy Murillo recalled Sergeant Jensen directing the officer's to write a very descriptive report of what happened. Deputy Murillo said, Sergeant Jensen told them "to document as much information as they remember, what each officer did, what you did, and give as much detail as possible."

Sergeant Jensen addressed Deputy Murillo's knee injury, and confirmed with Deputy Murillo was physically okay to write his report before seeking medical attention. Deputy Murillo stated he was off work for a few days, but had no lingering problems from the injury.

On April 24, 2014, at 1913 hours, I met with Deputy Murillo at the Main Jail Administrative conference room. I advised Deputy Murillo I had some follow up questions pertaining to the October 3, 2013, 5A incident involving inmate [redacted]

Deputy Murillo said he was not aware of the totality of [redacted] injuries, but thought the injuries could be a result of the punches or kicks delivered by Deputy Tri. Deputy Murillo also thought [redacted] could have sustained some injury when taken to the ground by Deputy Bragg.

I asked Deputy Murillo to clarify if he saw Deputy Tri "kick" or "stomp" [redacted] Deputy Murillo said, it was a short kick, and described Deputy Tri bringing his foot back about 12 inches, and motioned his foot forward. Deputy Murillo said, "It definitely was not a stomp."

Deputy Murillo confirmed after the incident was over he asked Deputy Bragg what caused the altercation. Deputy Murillo had no further discussions with Deputy Bragg later that evening. Deputy Murillo stated, Deputy Tri, Deputy Bragg and he were placed on separate floors to write their ER's. Deputy Murillo recalled he was in constant contact with Sergeant Jensen, but denied ever calling or meeting, with Deputy Bragg. Deputy Murillo never told Deputy Bragg what he wrote on his ER.

Deputy Murillo stated, he's been with the department for a couple years, and prior to the custody academy he went through the Enforcement academy. Deputy Murillo said he is very aware of the department's use of force policy 9.01, and described the five levels of force, as defined in the policy.

I asked Deputy Murillo, in this incident what other force options were available to Deputy Tri, to gain control of [redacted] Deputy Murillo responded, "if you're asking me what I would have done in his (Tri) position, if one officer is attempting to control the left arm, and the other officer is attempting to control the right arm, I would control his ([redacted] head and prevent him from getting up. Deputy Murillo added, if you control the head, you control the body. Maybe put your weight on his head, such that he's able to breathe, by turning it to the side and press the back of the head, not the neck, to the floor. I'd place my body weight to the back of his ([redacted] shoulders. There's a lot of things you can do."

I asked Deputy Murillo, in this incident what exigent circumstances existed, with Deputy Bragg having [redacted] pinned face down on the ground. Deputy Murillo said, going into a situation with an unsecured combative inmate is difficult to assess. With an inmate who's not secured there is a threat or risk because of the uncertainty of knowing if weapons were involved. Weapons were Deputy Murillo's concern, when he noticed [redacted] arm underneath his body. Deputy Murillo said, he did not see any weapons, but it could have been possible with [redacted] right arm tucked under his body. Deputy Murillo felt he used the appropriate force to gain control of [redacted] right arm.

I read to Deputy Murillo Policy 9.01, the definition of Objectively Reasonable Force which states: "*That level of force, which is appropriate when analyzed from the perspective of a reasonable Correctional Officer in the same situation and possessing the same information as the officer who actually used the force. Objectively Reasonable Force is not evaluated in hindsight, and will consider, where appropriate, that officers make rapid decisions regarding the amount of force to use in tense, uncertain and rapidly evolving situations.*"

I asked Deputy Murillo if he felt the force used by Deputy Tri was reasonable and necessary. Deputy Murillo replied, "that's a very good question, I don't know when he came in what he saw, it's difficult for me to sort of, Monday night quarterback him on what he did. If you ask me would I have, based on the knowledge I have, I would have chosen something different."

I asked Deputy Murillo if the department ever trained him, either in the academy or during STC, to kick an inmate as a tactic to gain control. Deputy Murillo replied, "No."

I later made telephone contact with Deputy Murillo, to clarify if he ever saw [redacted] grab Deputy Tri's left leg, causing him to fall to the ground. Deputy Murillo said, "No, [redacted] never grab Tri's left leg, if he had tried, I would have been able to grab his right arm."

Interview with Officer Pablo Tempra:

On April 24, 2014, at 1821 hours, I interviewed Officer Tempra in the Main Jail Administrative Conference room. I advised Officer Tempra he was being interviewed as a witness to the incident that occurred in 5A, on October 3, 2013.

Officer Tempra said, he recalled responding to the incident. I asked Officer Tempra to clarify what Deputy Bragg, Deputy Tri and Deputy Murillo were doing to gain control of inmate [redacted]. Officer Tempra said, they were all on the ground trying to secure him. Officer Tempra said, he couldn't recall what position they were in but saw [redacted] hands free, so he zoned in, to grab a hand.

Officer Tempra said he didn't notice what Deputy Tri was doing, all he saw was an inmate on the ground, with a hand free. Officer Tempra said he was focused on controlling [redacted] right arm.

Officer Tempra recalled taking over for Deputy Murillo. Officer Tempra said, [redacted] was swinging his right hand. Officer Tempra used two hands to grab [redacted] because it was slippery from the blood. Officer Tempra placed [redacted] right hand behind his back, and Deputy Bragg handcuffed him. Officer Tempra did not notice the blood on the floor when he ran into the unit.

We discussed [redacted] injuries. Officer Tempra thought [redacted] may have sustained the injuries when he was taken down to the ground by Deputy Bragg. Officer Tempra didn't know if the injuries were a result of being kicked or punched. Officer Tempra did not see Deputy Tri kick, stomp, or punch [redacted]. Officer Tempra did not see [redacted] grab Deputy Tri's leg.

Officer Tempra said he's currently a member of the Main Jail Emergency Response Team (ERT) and confirmed he understood the department's Use of Force Policy 9.01. Officer Tempra explained the five levels of force options.

Keeping the Use of Force policy in mind, I asked Officer Tempra in this particular incident, what other force options were available to Deputy Tri. Officer Tempra said, "He could've used an Arm Bar." If Officer Tempra was in Deputy Tri's situation, he'd keep [redacted] down, and control his arm. Officer Tempra would put his knee and weight on [redacted] try to grab whatever is free, and put him in cuffs.

I asked Officer Tempra if he felt the level-IV use of force used by Deputy Tri was necessary and reasonable. Officer Tempra replied, "No." Officer Tempra said he never felt [redacted] was a threat when he arrived to this incident.

I offered Officer Tempra a copy of his employee's report. I asked Officer Tempra why he wrote the sentence "I do not recall the position of any officer or deputy listed in this report" at the end of his ER. I asked Officer Tempra to clarify the statement, as it contradicted what he wrote at the beginning of his report.

Officer Tempra said, "I knew they (Bragg, Tri, Murillo) were there, but I don't recall where they were positioned. Officer Tempra said he wasn't really sure if it was Deputy Murillo he took over for when he went in. Officer Tempra said, "I kind of had tunnel vision when we came in. I just went for the loose arm."

I asked Officer Tempra if he recalled documenting, he experienced "tunnel vision" in any other use of force reports. Officer Tempra said he couldn't recall documenting he had tunnel vision, but confirmed he had experienced tunnel vision during other force incidents. Officer Tempra described his tunnel vision as "concentrating on what's in front of him, not looking at the big picture."

I asked Officer Temptra when he's experiencing tunnel vision; how does he determine his partners are safe, or the situation is under control. Officer Temptra said, "I don't, I just try not to be too, to have just the tunnel vision, instead of assessing the whole situation."

Officer Temptra said, he understood how the sentence seemed odd, given the nature of this situation, but had nothing further to add. Officer Temptra said he documented the events in his ER as he saw them.

Interview with Deputy Sean Lozada:

On July 29, 2014, at 1814 hours, I met with Deputy Lozada at the Main Jail Administrative Conference room. Deputy Lozada was notified he was being interviewed as a witness to the incident that occurred in 5A, on October 3, 2013. I provided Deputy Lozada with a copy of his employee's report if he needed to refresh his memory.

Deputy Lozada recalled there was an officer involved fight that occurred in module 5A. He responded after the incident had ended. Sergeant Jensen instructed Deputy Lozada to speak with all the inmates housed in 5A, to see if there were any witnesses to what occurred.

Deputy Lozada printed a 5A housing report listing the inmates. Deputy Lozada used Sergeant Jensen's digital voice recorder and placed it in his pocket. With the digital recorder turned to the "on" position, Deputy Lozada approached each cell starting with the bottom tier inmates. Deputy Lozada asked each inmate what their account was of the incident.

Deputy Lozada stated Sergeant Jensen had provided him with a series of questions to ask; name, PFN, if they had seen the altercation. For the inmates who said they witnessed the incident, Deputy Lozada marked the housing list. Deputy Lozada interviewed the witness inmate individually and privately in the 5A Multi- Purpose room.

Deputy Lozada recalled four inmates who witnessed the altercation and were willing to come forward to provide him with statements. Deputy Lozada confirmed he did not provide the inmates with any information related to the incident, or asked leading questions.

Deputy Lozada said, his ER reflected the statements of what the inmates witnessed. After Deputy Lozada completed the four individual interviews, he went back around the 5A unit one more time. Deputy Lozada asked the inmates a second time, if they had seen anything. No additional inmates came forward.

Deputy Lozada documented the witness statements in an employee's report. He returned the digital recorder to Sergeant Jensen, who downloaded the recordings onto a disc. I asked Deputy Lozada when he submitted his ER to Sergeant Jensen, did he read it in your presence. Deputy Lozada replied, "yes." I asked Deputy Lozada if Sergeant Jensen made any comments about the witness statements. Deputy Lozada said, "No, he did not." Deputy Lozada returned to his assignment on the 7th floor and had no further discussions with Sergeant Jensen.

Interview with Sergeant James Jensen:

On March 9, 2014, at 1645 hours, Sergeant Sepulveda and I interviewed Sergeant Jensen in the Main Jail Administrative Conference room. Sergeant Jensen was advised he was being interviewed as a witness to the 5A incident, on October 3, 2013.

Sergeant Jensen recalled the incident and said, he heard the radio traffic and the D-Team sergeants immediately responded to the scene. When they arrived on the 5th floor, Sergeant Jensen noticed a lot of blood, and [redacted] being escorted out of the 5A unit. The escorting officer's were holding paper towels on [redacted] head. He instructed the officer's to escort [redacted] down to 2nd floor medical. Sergeant Brackett videotaped the events up to [redacted] leaving for VMC. Sergeant Jensen remained on scene to get information on what happened.

Deputy Bragg told Sergeant Jensen, inmate [redacted] was upset with him searching his property. [redacted] became argumentative and the altercation ensued. Deputy Bragg said, Deputy Tri was the first deputy in [redacted] and Deputy Murillo ran in right after Deputy Tri.

Sergeant Jensen briefly spoke with [redacted] but couldn't recall the specifics to the conversation. Sergeant Jensen recalled [redacted] saying, 'he got in a fight and then they started beating my ass.' Sergeant Jensen interpreted [redacted] statement as meaning he agreed with what Deputy Bragg did, but didn't agree with what the other deputies did.

Sergeant Jensen completed his interview with [redacted] and returned to the 5th floor. He learned Deputy Bragg had hurt his hand and Deputy Murillo had some knee pain. Deputy Tri wasn't on deck at the time. Sergeant Jensen later learned, Deputy Tri had gone for a walk. Deputy Tri returned to speak with Sergeant Jensen a few minutes later.

Sergeant Jensen learned Deputy Tri hurt his finger and knee. Deputy Bragg, Deputy Murillo and Deputy Tri said they were okay to write their employee's reports. Sergeant Jensen separated them on different decks to complete their report as quickly as possible, and leave to get medical attention.

Sergeant Jensen said he instructed Deputy Lozada to interview the inmates. He provided Deputy Lozada with his department issued recorder.

I asked Sergeant Jensen when he first noticed any discrepancies from what he was told in person, or what was documented in the employee reports. Sergeant Jensen replied, "When I saw [redacted] injuries." Sergeant Jensen explained [redacted] had a significant injury on top of his head, and sensed something was wrong right away. Sergeant Jensen said when he received their (Bragg, Murillo and Tri) initial briefing of the incident, no one mentioned the kicking. Trying to figure out [redacted] injury, Sergeant Jensen asked them if [redacted] was hit into the wall. They all stated 'No. [redacted] did not hit the wall.'

Sergeant Jensen couldn't recall if he determined the inconsistencies with the reports after Deputy Lozada's inmate interviews, or after reading Deputy Murillo's report. Sergeant Jensen noticed Deputy Bragg and Deputy Tri had not documented the kicking in their first ER submission.

Sergeant Jensen stated, he spoke with each of them individually. He advised Deputy Bragg and Deputy Tri, he noticed some inconsistency in their reports. Sergeant Jensen did not tell them what the inconsistency was, but reminded them, “if you lie, you’re going to lose your job and nobody is going to pay for your mortgage.”

Sergeant Jensen said, the first ER submissions from Deputy Bragg, Deputy Murillo and Deputy Tri lacked the positioning and location of _____ and their positioning during this incident. Due to the nature of _____ injuries, he instructed the deputies to include these details.

When speaking with Deputy Tri, Sergeant Jensen told him “your report is inconsistent with everybody else’s reports.” Deputy Tri asked how his report was different. Sergeant Jensen said, “There is some use of force issues that were inconsistent.” Sergeant Jensen asked Deputy Tri to write everything he did and everything he saw. No other deputy is going to pay your mortgage. Deputy Tri replied, ‘okay Sarge, okay Sarge.’

Sergeant Jensen said, Deputy Tri may have submitted two ER’s before the use of force was included. He was absolutely sure the first submission did not include the kicks and punches he delivered to _____

I asked Sergeant Jensen when he received Deputy Tri’s final ER submission that explained why he kicked _____ were there any questions that came to mind. Sergeant Jensen said, “Yes, a lot.” Sergeant Jensen added, he had been in many use of force incidents as a deputy for 13 years, “He’s never kicked somebody in the head.” Deputy Tri was the first deputy to arrive in the 5A unit, Deputy Bragg had _____ left arm, we’re trained the next deputy on scene gets the other arm.

Sergeant Jensen said, after reading Deputy Tri’s report all kinds of “red flags” went up. Deputy Tri documented he kicked _____ while his left leg was being held by _____ Sergeant Jensen said he started drawing pictures, trying to ascertain how _____ could grab Deputy Tri’s left leg with his right arm. Sergeant Jensen’s analysis of Deputy Tri’s action was, “why not pull your leg away, there’s more muscle mass in Deputy Tri’s legs, than in _____ hand.”

Sergeant Jensen said when he read Deputy Murillo’s report describing his efforts to remove _____ right arm from underneath his body, he concluded Deputy Tri was lying in his report. Sergeant Jensen never shared his conclusions with Deputy Tri, to ensure he did not violate Deputy Tri’s POBAR rights (Public Safety Officers Procedural Bill of Rights Act). Sergeant Jensen stated, “with regards to the POBAR stuff, I’m very fortunate to have a wife who’s a _____ so I’m up on POBAR. I’ve been to Gordon Graham and Marty Meyer’s class, so I understand the POBAR violations, not talking and stuff like that, and at no time were their POBAR rights violated.”

We discussed the departments Use of Force Policy 9.01. I asked Sergeant Jensen under what type circumstances would a level-IV use of force (kick) be used. Sergeant Jensen said, “A one on one situation if you’re losing the fight and there’s no way you can control the inmate.” All the deputies who responded, reported in their ER’s, _____ was face down on the ground, with Deputy Bragg sitting on top of _____ back to secure his hands.

I asked Sergeant Jensen, as a reasonable law enforcement officer, under the exact situation, would you consider this incident as life threatening, or exigent circumstances. Sergeant Jensen replied, “not at all.”

I asked Sergeant Jensen with his 13 years of training and experience as a deputy and sergeant, was he ever trained to kick and inmate as part of his defensive tactics training. Sergeant Jensen replied, "No mam."

I asked Sergeant Jensen, with this incident in mind, did he feel a kick to the head was reasonable, necessary and justified. Sergeant Jensen said, "No mam."

I asked Sergeant Jensen, as a reasonable officer performing the same duties, under the same circumstances as this incident, what force options would he use on [redacted] Sergeant Jensen said, "As I stated earlier, I would have went for his arm right away, because Deputy Tri was the second deputy in the room. Deputy Tri should have tried to get the arm then Deputy Murillo would have got his legs."

I asked Sergeant Jensen as an enforcement sergeant familiar with criminal investigations, did he think an "excessive force crime, PC 149" was committed by Deputy Tri. Sergeant Jensen replied, "Yes I do. I made that determination after reading the employee reports."

Sergeant Jensen said he advised Lieutenant Borgzinner of the discrepancy in Deputy Tri's ER, and documented the 5A incident on a Supervisor Summary Report. At the time, Lieutenant Borgzinner directed Sergeant Jensen to write a PC 148.10 crime report against [redacted] for the officer's injuries sustained during the incident.

Sergeant Jensen confirmed he never verbally counseled any of the deputies involved in this incident, on proper defensive tactics, or discussed the excessive force with Deputy Tri.

I showed Sergeant Jensen a photograph of Deputy Tri's right hand/ pinky finger and asked if Deputy Tri received medical attention prior to writing his employee's report. Sergeant Jensen said, "Tri said, he didn't need it, and was okay to write his ER."

Sergeant Jensen said, Deputy Tri needed to submit several ER drafts to finally capture all the details, correct spelling and grammatical errors.

Sergeant Jensen confirmed Deputy Tri left the Main Jail on October 4, 2013, around 0400 hours, to seek medical attention. Deputy Tri submitted his final report, and Sergeant Jensen gave him the Worker's Comp paperwork.

I asked Sergeant Jensen what Deputy Tri's demeanor was, did he ever complain of any pain. Sergeant Jensen said, "No. He seemed jovial as always, he's a pretty jovial person." Deputy Tri wasn't complaining of any pain and just said, 'I'm ready to go Sarge.'

Sergeant Jensen confirmed Deputy Tri was off work for about a week and returned to work, full duty with no restrictions.

Interview with Deputy Kala Bragg:

On April 16, 2014, at 1812 hours, Sergeant Sepulveda and I interviewed Deputy Bragg in the Sheriff's Headquarters Internal Affairs interview room. Deputy Bragg was notified he was being interviewed as a

subject and witness to the incident that occurred in 5A on October 3, 2013. Deputy Bragg's was also present.

Sergeant Sepulveda asked Deputy Bragg if he was familiar with the department use of force policy 9.01. With some assistance, Deputy Bragg was able to describe some aspects of the five levels of force, as noted in the policy. Sergeant Sepulveda asked Deputy Bragg if he understood "Objectively Reasonable Force." Deputy Bragg could not recall the definition, so Sergeant Sepulveda read it to him.

Sergeant Sepulveda asked Deputy Bragg if he was familiar with DOC policy 9.27 Reporting of Incidents. Deputy Bragg replied, "Um." Sergeant Sepulveda read the policy requirements. Deputy Bragg said he understood he was required to report and document any of the events listed in the policy, especially a use of force incident. The purpose of questioning Deputy Bragg on the policies, was confirm him had a frame of reference, to answer additional questions related to both investigations.

Sergeant Sepulveda asked Deputy Bragg if he witnessed another employee had committed a policy violation, would he report it to a supervisor. Deputy Bragg replied, "Yes." Sergeant Sepulveda asked Deputy Bragg if he considered excessive force to be a policy violation. Deputy Bragg said, "Yes."

Sergeant Sepulveda asked Deputy Bragg, if he witnessed a deputy using excessive force would he report it. Deputy Bragg said, "Yes."

Sergeant Sepulveda asked Deputy Bragg if there ever was any reason, he wouldn't document an incident accurately. Deputy Bragg said, "No, whatever I saw, that's what I wrote."

I asked Deputy Bragg, with his 12 years of experience and training, if he was ever trained to kick an inmate in head as part of the department's defensive tactics training. Deputy Bragg said, "Oh, not- not-kick but, punch yeah. Um, it's been explained like if you have an incident and it's- it's to the point where it's your life or those persons – you have to do what you have to do, to get out of that situation."

Sergeant Sepulveda asked Deputy Bragg to provide his account of the events in 5A, October 3, 2013, involving inmate Deputy Bragg's said was upset over him checking his property. Deputy Bragg felt threatened and pressed his packset alarm, signaling he needed assistance. Deputy Bragg took to the ground using an Arm-Bar maneuver. Deputy Bragg landed on back and struggled to gain control of left hand as the responding deputies arrived to help.

Deputy Bragg could not recall who arrived first, Deputy Tri or Deputy Murillo, but stated they arrived seconds apart. Sergeant Sepulveda asked Deputy Bragg, what actions the first deputy took. Deputy Bragg replied, "Well, if it was Tri, then he was at the top area." I clarified, by head. Deputy Bragg said, "Yes."

I asked Deputy Bragg to describe what Deputy Tri was doing while at head. Deputy Bragg said, "You know what, um, as I'm – as I'm tussling, you know trying to get his hand, his hand comes loose, so I'm able to look up and grab his hand, so that's again, and you know, that's when I saw Tri fall. Again, whether he slipped, he tripped or whatever, that's when he fell on his knees. Um, and I saw him do that twice, and then I'm back on this guy's arm. And that's just all I saw."

Sergeant Sepulveda asked Deputy Bragg, if at anytime, he witnessed Deputy Tri kick [redacted] in the head. Deputy Bragg said, "No, I mean as – as far as uh foot being planted on his head no, uh to my vantage point, it was knees." I asked Deputy Bragg to clarify what "knees" meant. Deputy Bragg said, "I saw him (Tri) fall to his knees, uh again, like I said earlier. Did he slip, did he fall, did he intentionally, I don't know."

I asked Bragg if Deputy Tri's knee struck [redacted] head. Deputy Bragg said, "I don't know. If it was like I said, it was the, from like, cause I'm on his ([redacted] back, so I'm up here, so it would be like from the shoulders here up." Deputy Bragg confirmed he was facing in the direction of [redacted] head. Deputy Bragg added, "but whether one knee hit, two knees hit, whether it hit the pavement, whether they hit, I- I can't tell you exactly where his (Tri) knees hit."

Sergeant Sepulveda asked Deputy Bragg if he saw Deputy Tri punch [redacted] in the face or head. Deputy Bragg said, "No, I didn't, no." When questioned further about the punches Deputy Tri documented on his report, Deputy Bragg said, "I don't, I don't remember. I don't remember seeing that."

Sergeant Sepulveda reminded Deputy Bragg, he wrote in his employee's report; Deputy Tri Kicked and punched inmate [redacted] in the head. Deputy Bragg said, "Uh huh. No, that's – yeah, that's what he (Tri) said. That's what he told. I, I put what I saw. Just like what Deputy Murillo did, they – they told me that." Deputy Bragg was adamant he did not see Deputy Tri kick or punch [redacted]. The use of force information Deputy Bragg documented in his ER was what Deputy Tri and Deputy Murillo had told him, not what he witnessed.

I asked Deputy Bragg if he saw [redacted] grab Deputy Tri's leg. Deputy Bragg said, "Hmm, not that I – not that I can recall."

We questioned Deputy Bragg about the conflicting statements of what he witnessed and documented in his ER versus the Crime Report he wrote and submitted on October 9, 2013. Deputy Bragg wrote in his crime report; I saw Deputy Tri deliver two knee strikes to inmate [redacted]

Sergeant Sepulveda asked Deputy Bragg to clarify the two knee strikes written in the Crime Report. Deputy Bragg said, "again, I didn't have a chance to say what I thought-I-what I though, what it appeared to me as was. Again, I can't assert whether it was intentional, unintentional, whatever. I-I can't- I don't know that. You'd have to ask Tri. The only thing I can assert, uh to the best of my recollection, is that he (Tri) went down on his knees. Did he slip? Did he slip over his shoelace? I don't know. Nobody asked me to clarify that."

I presented to Deputy Bragg, there's a possibility he may have to testify in court. His employee report and crime report were legal documents and could be called into question. I asked Deputy Bragg, the District Attorney asked him, "What did you see during this incident" how will he respond? Deputy Bragg said, "Well, that, and again, that should go all the way back to, you know the beginning of the report. What- what are knee strikes, that's what he's going to say." Deputy Bragg's [redacted] interjected and said, that's not the sergeant's question. Her concern is, your answers are hard to defend on cross examination. Deputy Bragg replied, "yeah, but how is that any of my fault." The [redacted] asked for a break.

The interview resumed and I restated the scenario and asked Deputy Bragg to explain Deputy Tri's knee strikes. Deputy Bragg stated, "That um, it was just you know, without getting all, you know super technical, it was him falling on his knees, or to his knees, and um uh, and that was the- the-the, where he made contact with the inmate, with his knees um, I'm sorry, can I take a break real quick, gather my thoughts."

Deputy Bragg and his [redacted] stepped out again. Approximately five minutes later we resumed the interview and same question. Deputy Bragg said, "yeah um, in regards to that uh, I- I wrote up not a, I-I guess to some extent misleading, not-not intentionally but just based on what I-I what I gathered from him saying he struck- with him saying he struck, Deputy Tri saying he struck somebody, you know the- the [redacted] I, you know, just that I-I made a mistake in tying that together with the knee strikes, when it was-I should have been more clear in my writing of the-of the incident. Instead of saying it was, you know, a strike I should have said more clearly what uh, what exactly it was."

I asked Deputy Bragg was "it" knee strikes. Deputy Bragg said, "Um, using his knees, um but um, maybe gathering more understanding of-of exactly you know um, what-what-what they were. Were they flops, or basically on- on my part being, getting more facts, um about what kind of knees they were. Instead of saying strikes, I should have been clear on what-what-what it actually was, and I didn't. It just appeared that, I mean, I know it was knees but to call it strikes, I should have gotten more clarity on that."

I said to Deputy Bragg let's call it a "knee" and not a "strike." I asked Deputy Bragg if Deputy Tri's knee landed on [redacted] head. Deputy Bragg said, "Yes."

I confirmed Deputy Tri kneed [redacted] two times, Deputy Bragg said, "from what I recall, I should have got more clarity, sorry about that." I reminded Deputy Bragg, he documented in his crime report; I saw Deputy Tri's knee hit [redacted] head, upper body area twice. Deputy Bragg said, "I'm so stuck on the knee strikes, the-the word strike."

I told Deputy Bragg we needed to understand what he saw. I asked Deputy Bragg if Deputy Tri's knee made contact with [redacted] upper body head, two times. Deputy Bragg said, "Uh yeah, torso, head."

Deputy Bragg said he saw Deputy Tri use his knee, which came straight down onto [redacted] head/upper torso area, two times. Deputy Bragg said he never witnessed Deputy Tri kick [redacted]

Sergeant Sepulveda asked Deputy Bragg if he was minimizing his recollection to keep Deputy Tri from getting in trouble. Deputy Bragg said, "Heck no. No. I-I understand where you're coming from, you're saying you can't fathom how you can't-no, I really was that focused. I-I really I did not see him kick or punch that guy." Deputy Bragg denied trying to protect Deputy Tri or cover for him.

I asked Deputy Bragg under the same set of circumstances that occurred in this incident, would he ever kick an inmate in the head. Before Deputy Bragg could respond, his [redacted] stated, "the answer is no." Deputy Bragg answered "No-No."

Deputy Bragg had extreme difficulty comprehending a "hypothetical situation", placing himself in Deputy Tri's situation, same circumstances and the force options available. Deputy Bragg's [redacted]

explained to him, the sergeants are asking your opinion as a California Peace Officer, does the situation call for a kick to the head. Deputy Bragg replied, "No."

Interview with Deputy Timmy Tri:

On April 30, 2014, at approximately 1031 hours, I interviewed Deputy Timmy Tri at the Internal Affairs Interview Room. Also present for the interview were Sergeant Sepulveda and Deputy Tri's representative, _____ from _____. Deputy Tri was advised he was being interviewed as a subject and witness to the incident that occurred in 5A on October 3, 2013.

The interview was audio recorded for purposes of accuracy and to free me from having to take handwritten notes. All parties present were aware that the interview was being recorded. An audio CD containing these recordings is included as an attachment to this investigation. The following is a synopsis of the interview. For an exact record please refer to the original recording.

I began the interview by reading Deputy Tri the Department of Correction Policies which specifies he is to answer my questions truthfully and that he is to obey all lawful orders from his supervisors. Deputy Tri acknowledged his understanding of these policies and of the fact by virtue of being the investigator for this Internal Affairs Investigation I was acting as his superior officer.

I read Deputy Tri his Miranda Rights in accordance with Department Policy and the Public Safety Officers Procedural Bill of rights. Deputy Tri acknowledged his understanding of his rights and invoked his right to refuse to speak with me. I then read Deputy Tri the Lybarger Admonishment, which clarified this is an administrative investigation only, and nothing he said could be used against him in any criminal proceeding. I explained to Deputy Tri that his failure to answer all of my questions would be considered insubordination. Deputy Tri acknowledged his understanding of this point and agreed to cooperate.

I confirmed with Deputy Tri my interview with him was being conducted during his normally scheduled work hours. Deputy Tri confirmed he was on duty (Paid Administrative Leave). His schedule is Monday through Friday, 0800 hours to 1700 hours.

I advised Deputy Tri he could take a break at any time during the interview. If there was a need in the future to re-interview him, he had a right to a copy of the recording of this interview. Deputy Tri acknowledged his understanding of this point as well.

Deputy Tri has been employed with the County for approximately five years. He has only worked the Main Jail facility (North and South) and currently assigned there. Deputy Tri stated, he was part of the Emergency Response Team (ERT) at the beginning of his career, until he was bumped to nightshift. Deputy Tri said, although he didn't have seniority to join the nightshift (D-Team) ERT team, he trained with Sergeant Bungy and the team almost every evening. Deputy Tri attended several classes and received training related to; emergency response, arrest and control techniques, first responder, Ethics & Professional conduct and jail crimes investigation. Deputy Tri had no prior law-enforcement experience.

I advised Deputy Tri, IA received complaints which led to this investigation. I asked him if he recalled the 5A incident involving inmate _____ on October 3, 2013. Deputy Tri said, he remembered the event and stated, "Um, you know, as I remember it was um, it was like-like almost lockdown. So um,

I-I was uh, I had my trustee out and uh, I-I heard a-a-packset alarm from 5A. So uh, I responded, and then as I entered to uh 5A um, I saw Deputy uh Bragg on top of inmate uh near the sundeck and uh, was uh, laying on his stomach face down, kicking his uh feet. Um was laying uh parallel to the sundeck wall with his head near the sundeck.”

Using a photograph from the scene, I clarified and Deputy Bragg’s positions. I asked Deputy Tri what he did next. Deputy Tri said, “So um, I responded um, I went in, um Deputy Bragg can, uh trying to hold him (down over his resistance. When I got in uh, I was uh, trying to attempt to uh, grab uh inmate right arm to prevent uh, hurting Deputy Bragg.”

I asked Deputy Tri how he grabbed right arm. He said, “So I-I went in um it was just so quick-I went in and it was like – Bragg’s on top of him but trying to um control him, so I went-I grabbed his-his right- right arm.” Again, I asked Deputy Tri how he grabbed right arm. Deputy Tri said, “with-with my uh my hands.”

I asked Deputy Tri, where right arm was located, when he attempted to grab it. Deputy Tri said, “Um, it-it was uh out here. He was trying to uh-so I went in there – uh Bragg was on top of him-you know, but I didn’t know-you know. I-I don’t remember what he did, but I remember what I did.”

I asked Deputy Tri what he did to secure right arm. Deputy Tri said, “Yeah. So um, I tried to grab his uh, his-his arm um, right arm. Yeah and um, I told him um, but I-I couldn’t get, because you know he-he was- he was struggling so and then, like um you know moving back and forth so, I tried to grab him and he got on to my left leg. I told him uh, stop resisting and let go of my legs. And um, you know, at that time, uh-at that time, I-I you know, all I can think let go of my leg, but if you don’t let me go, it’s just instantly, I start to kick him.”

I asked Deputy Tri if he bent over to grab right arm, or was he on his knees. Deputy Tri said, “No I went in, I’m just-just-just um like leaning over.” I confirmed Deputy Tri was standing, not kneeling, next to right side.

Deputy Tri described right arm as being out, and up toward his head. I reminded Deputy Tri was face down on the ground with a 260 pound Deputy Bragg sitting on his back, struggling to gain control of left arm. I asked Deputy Tri, how grabbed his leg. Deputy Tri said, “He- he grabbed uh, he grabbed-like when he went down like that’s – as I responded, when uh-and went up like this, so- I tried to grab him.”

I asked Deputy Tri to show me right arm motion when grabbed him. Deputy Tri made a sweeping motion from top down (swimmer’s stroke outward and down) emulating palm being face up, moving his arm in a downward motion toward the front part of Deputy Tri’s leg. Deputy Tri said, “So I tried to grab his-his-his arm and then he got onto my-my left leg. So at that time, I told him uh, stop resisting.”

I asked Deputy Tri what happened when grabbed his left leg. Deputy Tri said, “I, you know, um he-he, I feared for my safety, and you know, and I, I kicked him.”

I asked Deputy Tri to confirm if [redacted] hand was coming from the front of Deputy Tri's leg/ankle area, or from behind where his Achilles is located. Deputy Tri said, "No-no, it's uh in- in front. So I- tried to grab him, he grabbed- from uh, front of my-my, uh left leg, and tried to pull me down. I told him stop resisting, that's when I kicked him."

I asked Deputy Tri if [redacted] arm was out, and semi controlled, because [redacted] had hold of your leg, why not use an Arm Bar (level-III use of force), instead of kicking him. Deputy Tri said, "you know at that time- at that time, I you know, that's – that's- that's the uh – you know- that's all I can think of- it was, just happened so quick."

I read the section from Deputy Tri's employee report where he described kicking [redacted] two to three times in the head. I asked Deputy Tri if [redacted] said anything. Deputy Tri said, "He-he was yelling and screaming you know. The second time I said, let go um, when I, that's-that's when I uh- landed on the ground, both knees. Uh he-he keep um-um maintaining his uh-his grabs. Um, then he start cussing, say 'fuck you'-'fuck you' and then at that time, you know, I thought he was gonna bite me, so I-I delivered um, with my-my fist, I- I hit him uh in the facial and head area."

I asked Deputy Tri if [redacted] loosened his grip on his leg after Deputy Tri kicked [redacted] the first time. Deputy Tri said, "He-he- he just kept, he just got on, he still got control of my legs."

I asked Deputy Tri, if the two to three kicks to [redacted] head, was stomps or kicks. Deputy Tri said [redacted] kicks. I asked Deputy Tri to demonstrate his interpretation of a kick and a stomp. Deputy Tri stood up and demonstrated the kicking motion he used during this incident. Deputy Tri said his kicks were, "not like a full motion kick, it- it's but I didn't – no, I didn't stomp him."

I asked Deputy Tri why he picked [redacted] head area to kick. Deputy Tri said, "because that's- that's- that was right there." Deputy Tri confirmed [redacted] never looked at him. Deputy Tri said [redacted] head was turned to the left, toward Deputy Bragg.

I confirmed with Deputy Tri he delivered two to three kicks to [redacted] head. I asked Deputy Tri why he didn't kick [redacted] more than three times. Deputy Tri said, "Because he-he got him maintained, uh, my-my uh left leg, and I landed on-on-on the ground because I lost my balance."

I asked Deputy Tri if he landed on his buttocks or on his knees. Deputy Tri said, "No I –I- I landed on my knee, like-you know it's- it's just uh, I kicked him you know, two or three times, that's all I can remember. Then I landed on the ground, my knees, both." I confirmed Deputy Tri fell as a result of [redacted] pulling him to the ground, and not as a result of losing his balance from delivering the kicks to [redacted] head.

I asked Deputy Tri if [redacted] ever bit him during the incident. Deputy Tri said, "No he didn't."

Due to the lack of information, and unclear answers being provided by Deputy Tri, I read from Deputy Tri's ER. I asked Deputy Tri if [redacted] said, or did, anything between the kicks to the head. Deputy Tri said, "Um, I-I don't remember." I asked Deputy Tri if [redacted] was it possible [redacted] put his right arm out in an effort to protect his head from his kicks. Deputy Tri said, "He's grabbed, if he's protecting his head he shouldn't have his – you know- No."

I asked Deputy Tri how he succeeded in wresting his leg away from [redacted] grasp. Deputy Tri said, "Um that's when I, um, I got tapped out by uh, 'cause I- I throwing a punch at him, uh, that's when I get tapped out by deputies." I confirmed Deputy Tri was on his knees, at the right side of [redacted] head area, at the time he delivered the four to five punches to [redacted] head and face.

I asked Deputy Tri, which deputy tapped him out. Deputy Tri said, "I-I don't remember."

I asked Deputy Tri if he recalled which additional officers responded after he and Deputy Murillo arrived in 5A. Deputy Tri said, "You know what at that time, I- I, all I know it was uh, Bragg and I." I told Deputy Tri, the 5th floor surveillance video captured the time when Deputy Murillo exited his unit. Deputy Murillo testified, he saw Deputy Tri enter 5A, and was just a few seconds behind him. Deputy Tri said, "I don't remember."

Again, I asked Deputy Tri how he accomplished removing his left leg away from [redacted] grasp. Deputy Tri said, "So when um – when I got- I remember, when I got tapped out. They kind of like pulled me over, and then that's when I- I wrestled my um, my legs away from him."

Deputy Tri's [redacted] stated to Deputy Tri, "I think she's asking, can you, or do you remember, how it was you were able to get out of the grasp of the inmate." Deputy Tri said, "Um, because he keep holding on, so I uh and uh, that's when I got tapped out, and um, that's when he was unsecure, so um, when I got tapped out um, deputy um, jump in that's when I got out."

Again, failing to answer the question, Sergeant Sepulveda asked Deputy Tri if he was still on his knees when he was tapped out. Deputy Tri said, "Yes."

Sergeant Sepulveda reminded Deputy Tri he stated earlier, [redacted] had a hold of the front part of his left leg, while he was standing to the right side of [redacted]. Sergeant Sepulveda asked Deputy Tri why he didn't yank his leg upward to get out of [redacted] grasp.

Deputy Tri then demonstrated and said [redacted] used his right arm in a scooping motion sweeping from the lower part of his body upward, a contradiction to the swimmer's top down motion Tri stated earlier.

Sergeant Sepulveda asked Deputy Tri, using the sweeping upward motion, if [redacted] had trapped Tri's left foot and leg between his forearm and bicep, as if [redacted] had a chokehold on Tri's lower leg. Deputy Tri said, "You know what, at the time I remember that he grabbed by his-his um-his right arm, to my left leg, like trying to pull it, that's when I – I landed – when I lost my balance, that's when I landed on the ground, that's when he still have my-my- my left leg, that's when I started throwing punches at him."

Sergeant Sepulveda asked Deputy Tri to explain how it was possible to kick [redacted] in the head using his right foot, while [redacted] held onto Tri's left leg. Deputy Tri said, "You know what at the time it was so quick you know, I – you know it- it would just happen so quick you know, he tried to grab my um, left leg, and then I told him let go of my leg, and then you know it would just – it was just a reaction."

In an attempt to get a concise, intelligible answer from Deputy Tri, Sergeant Sepulveda and I asked Deputy Tri to participate in a reenactment of the event. I played the role of inmate [redacted]. Sergeant [redacted]

Sepulveda played the role of Deputy Bragg and we had Deputy Tri walk us through, step by step, what did, and what Deputy Tri's reactions were to each action.

We started the scenario from the point when Deputy Tri arrived in 5A. I was face down on the ground, Sergeant Sepulveda on my left, and Deputy Tri on my right side. I swept my right arm from the top of my head out to the right, in a downward swimming motion, with my palm face up. Deputy Tri confirmed this was the motion made when he grabbed Deputy Tri's left leg.

I then attempted to grab Deputy Tri's left leg using this motion. I asked Deputy Tri if this was the point he kicked two to three times in the head. Deputy Tri replied, "Right."

I proceeded to try and pull Deputy Tri's left leg toward my head. Deputy Tri quickly realized I had very limited grasping power on his leg. Additionally, the angle of my motion would not allow me to pull Deputy Tri's left leg toward my mouth, as if to bite him. The pulling motion and natural rotation of my arm, only allowed me to pull Deputy Tri's leg toward the right side of my torso area, and stopped at my arm pit. It was absolutely impossible for me to maintain my grip or bite Deputy Tri.

When Deputy Tri realized it was impossible for me to bite him, he changed his story. Deputy Tri then said, motion came from the lower part of his body, in an upward motion, and that's when he fell to the ground on his knees. Deputy Tri said he started punching in the face, again out of fear was going to bite him.

I asked Deputy Tri how could use his right arm to grab him, when Deputy Murillo was fighting for control of the same arm. Deputy Tri could not remember seeing Deputy Murillo on right side. Deputy Tri said, "It's a tunnel vision. I- I did at that time, to be honest, I didn't even see, I know Murillo- I know Bragg's there, but I didn't - I didn't even see Murillo until he went out and told me he was involved."

I revisited Deputy Tri's ER. I asked Deputy Tri to clarify how he wrestled his leg away from grasp, because he wrote a factual sentence that said; "I wrestled my leg away from inmate grasp." Deputy Tri also wrote; "when I was tapped out by responding deputies, inmate was still unsecure." I explained to Deputy Tri, these were two separate actions that he documented. Deputy Tri said, "That's when I, you know, I-I don't remember, but then I got away from his-his-his arm."

I asked Deputy Tri how could maintain a hold on his left leg, while Deputy Tri was kneeling to the right side of Deputy Tri said, "Uh, he have my uh- my uh my leg."

I demonstrated to Deputy Tri, that when I fall to my knees, my feet go behind me. Based on the human anatomy, I asked Deputy Tri to explain when he fell to his knees, how maintained a hold on his left leg. Deputy Tri did not answer the question.

I asked Deputy Tri if he fell backwards onto his buttocks. Deputy Tri said, "No- no, I didn't fall backward. I landed, you know at that time - I landed, not trying to land at all on his head - because it was my left - my- my left, my landed on - on the ground. Deputy Tri confirmed he landed on both knees.

Sergeant Sepulveda and I demonstrated the natural movement of the lower leg and foot when falling to your knees. Each time our lower leg moved behind us. Based on this demonstration, it was not possible for [redacted] to maintain a grip on Deputy Tri's leg. I asked Deputy Tri to offer us a possible alternative. Deputy Tri said, "He still has my-my-my-my legs, then pulled and won't let go. Due to his – his – at that time, you know, he was um, back and forth, back and forth, that's when- at that time, that's the only thing that's – I feared for my safety is- if he's going to bite me."

Again, I asked Deputy Tri how he got out of [redacted] grasp. Deputy Tri said, "Um, it was you know, right now- it's uh six months, but at that time I-I-I remember, I remember I- I stood up."

I asked Deputy Tri if he removed his leg after he delivered the first punch to [redacted] face, or the fourth punch to his face. Deputy Tri said, "No – no, four or five punches, that's when I get up, and then I remember they grabbed me by the shirt."

I asked Deputy Tri if the deputies grabbed him by the shirt and pulled him off of [redacted] Deputy Tri said, "Yes."

I asked Deputy Tri why he thought the deputies needed to pull him off of [redacted] said, "I'm sorry, I don't know if he can know exactly what's going through their heads." I pointed out, Deputy Bragg had been in the fight the longest, and was probably the most tired, so why tap out a second responder, unless Deputy Tri's actions were called into question. Deputy Tri replied, "I'm sorry, what was your question?"

I asked Deputy Tri why the deputies tapped him out instead of Deputy Bragg. Deputy Tri said, "Because I was throwing punch at him."

Again, I asked Deputy Tri to tell me how he got out of [redacted] grasp. Deputy Tri stated, "When I got pulled out uh, you know I just stood up- because I got pulled out."

Because Deputy Tri had provided three answers to the same question (I don't remember, I stood up, pulled out but responding deputies), I asked Deputy Tri, as the deputies pulled you up and off of your leg then became free of [redacted] grasp. Deputy Tri said, "Yes."

I asked Deputy Tri if it would surprise him to learn both Deputy Bragg and Deputy Murillo said they never saw inmate [redacted] grab your leg. Deputy Tri's said, "you now what, how you gonna, um when you, he was struggling."

I reminded Deputy Tri; Deputy Murillo came into 5A unit a few seconds behind him. Deputy Murillo witnessed him run to the right side of [redacted] head and immediately started kicking him. Deputy Tri replied, "Okay."

I further explained, Deputy Murillo was positioned on [redacted] right side and noticed [redacted] right arm was tucked underneath his body, with his right elbow poking out. Out of concern [redacted] may have had a weapon, Deputy Murillo attempted to remove [redacted] arm from under [redacted] body by placing his hand through the opening at the elbow. Deputy Murillo delivered knee strikes, but was unsuccessful in pulling [redacted] right arm out to secure it.

I asked Deputy Tri how it was possible for [redacted] to grab his left leg, when [redacted] right arm was tucked underneath his body. Deputy Tri said, "Tucked in his body?" I clarified [redacted] was lying on his right arm. Deputy Tri said, "No it wasn't tucked under, he trying to grab my legs, that's when I kicked him."

I reminded Deputy Tri, Deputy Murillo was on [redacted] right side, facing Deputy Tri, and at no time did Deputy Murillo, ever see [redacted] grab his leg. Deputy Tri said, "That's what he said, but look, how is he – how is he- he was struggling, how can he- how can he see me?" I told Deputy Tri, Deputy Murillo was right next to him, observing his actions.

I advised Deputy Tri; Not only Deputy Murillo, but Deputy Bragg, Officer Cortes, Officer Tempra and four inmate witnesses never saw [redacted] grab his leg. Deputy Tri said, "You know what." interjected, "Tim, she's trying to understand how there can be this inconsistency; are you telling her what you recall happened and what you felt?" Deputy Tri said, "Yes. I don't know what he said, I – I don't know."

We discussed Deputy Tri's years of service and his ERT training. I asked Deputy Tri if he had a good understanding of the levels force as defined in policy 9.01. Deputy Tri said, "Yes I do. The previous year I was on the fourth floor, um, so I'm involved in a lot of um- um, 415 with the inmates."

I asked Deputy Tri during the previous use of force incidents, had he ever kicked an inmate in the head. Deputy Tri said, "No. But it-it was just a, you know, a quick reaction I-I-I you know."

I asked Deputy Tri to articulate the five levels of force. I confirmed he understood what methods and tools existed for each level. Deputy Tri confirmed he had OC pepper spray, handcuffs and yuwara/kubaton stick on his duty belt during this incident. Deputy Tri agreed the use of a yuwara / kubaton stick could be used as a level-III pressure point / pain compliance tool, in addition to being a level-IV striking device.

I presented Deputy Tri's personnel training record and discussed his academy training, STC training and CIP self course work. Specifically; PC 832 Laws of Arrest, First Responder/ Ethics & Professional Conduct, Arrest and Control Review and Emergency Response Team Review, Report writing review, Sheriff's Office Incident Report Writing System, Jail Crimes Investigations, Crowd Control for a Custody Facility, Managing Stress: Performing Under pressure and Working with Manipulative Inmates. I asked Deputy Tri if he recalled those classes. Deputy Tri said, "Yeah- yeah."

I asked Deputy Tri, with all the training, and the tools available to him on his duty belt, why kick [redacted] Deputy Tri said, "Because- you know, because um, Officer Bragg is a big man. You know at that time, I just think that you know, if a big man, you can't control the inmate, then you know, I went in there, you know, trying to grab his ([redacted] arm and next thing, I, he trying to grab my left leg, that's when I, you know."

I asked Deputy Tri why he didn't step on [redacted] arm, until he let go. Deputy Tri said, "It happened so quick."

I reminded Deputy Tri of Deputy Bragg's height and weight, and by sitting on the back of 5'11" /160 pound who was face down on the ground, Deputy Bragg had some control of him. Deputy Tri replied, "You know the incident happened so quick and that's what I-I responded, you know I don't know if he had – if he had some control, or he had full control, then why would he put a packset alarm, so at that time you know."

I asked Deputy Tri, prior to this incident, if he ever responded to a packset alarm from his dorm. Deputy Tri said, "Yes."

Sergeant Sepulveda asked Deputy Tri, in the 45 to 60 seconds it took to arrive, would he agree the circumstances could change. Deputy Tri did not answer. stated, "Is it fair to say Tim, something can change in a couple of seconds?" Deputy Tri replied, "Yeah."

Sergeant Sepulveda explained that from the time Deputy Bragg hit his packset alarm, to the time Deputy Tri and Deputy Murillo arrived, Deputy Bragg had taken down to the ground, was sitting on back, attempting to control left arm. Deputy Tri said, "No, I didn't see."

Sergeant Sepulveda asked Deputy Tri what he was looking for when he entered the 5A unit to assist Deputy Bragg. Deputy Tri said, "Well, he's on top of him but you know he was on top of him but that's and trying to take control of his left hand, that's all I saw."

Sergeant Sepulveda reminded Deputy Tri he's been trained to respond and evaluate a scene to determine what action to take. Sergeant Sepulveda asked Deputy Tri how he justified using a level-IV use of force under these circumstances. Deputy Tri said, "You know it happened so quick I mean, you know what, uh."

Sergeant Sepulveda pointed out there were three deputies on scene. Deputy Bragg was controlling the left side, Deputy Murillo went to the right side and Deputy Tri went to head. Deputy Tri said, "You know what uh-No, but you know when I responded I was – saw Bragg- I didn't see- you know-my adrenalin."

I asked Deputy Tri to explain the exigent circumstances that would justify a level-IV use of force. Deputy Tri said, "You know it happened quick, it just." Again Deputy Tri's answer trailed off into nothingness. I acknowledged events can occur quickly in the jail, and reminded Deputy Tri we're trained to handle such events.

I advised Deputy Tri, I reviewed the Main Jail North elevator surveillance video which depicted Officer Cortes and Officer Temptra responding from the 4th floor. They exited the 5th floor sally port, approximately 19 seconds from the time I saw Deputy Murillo exiting his dorm.

I reminded Deputy Tri the department does not train staff to kick inmates in the head. I asked Deputy Tri, as a reasonable, objective officer, running into a situation where you've acknowledged seeing Deputy Bragg sitting on back trying to control the left arm. Why didn't not use his yuwara stick, or drop his knee on right arm. Deputy Tri said, "See—it – you know it happened so quick, you know, I- I- I did- so quick, you know, and like you know, going back in time right now, and yes I would do, you know, but it, at that time, it happened so quick, you know I."

Not receiving an intelligible answer, I asked Deputy Tri one more time, to explain the circumstances that existed for him in this situation, to use a level- IV use of force. Deputy Tri said, "I'm sorry I- I- you know, he grabbed my leg, so you know I-I at the time, you know it happened so quick, right now I- I – you know, I mean it's, he trying to grab my."

I asked Deputy Tri if he felt he used the proper level of force with Deputy Tri answered, "At that time, you know, yes." I reconfirmed with Deputy Tri, as an objective, reasonable peace officer, he felt his use of force actions were correct.

I read the use of force policy section; Objectively Reasonable Force, and asked Deputy Tri how he was in compliance with this policy. Deputy Tri said, "You know what, um you see the thing is like right now you know, we're talking, we're sitting, you know we-you know, but when your involved in the incident it – it just, you know you don't remember everything."

I reminded Deputy Tri that we're paid to remember the policies it's our responsibility, to understand the potential liability involved from such incidents. These aspects are reinforced over and over again in our training. Deputy Tri said, "That was my reaction."

I asked Deputy Tri, based on his reaction, to please explain how his actions complied with our use of force policy and training. Deputy Tri stated, "You see now, you know, sitting here breaking it down, you know, right now, you know looking back six months yes, you know – you know I did a thing I shouldn't do but at that time you know it-it was just- it was uh- a fast uh pace, when you're in a fight you don't, you know, pretty much um, make sure you know, your partner okay, you know I, you know, I- I love my job- you know my coworker is like my you know, my brother." "So you know I-I at that time, if you're sitting, at that time, you know I did whatever, you know to help my partner – you know, not trying to hurt anybody but at that time, you know– now it's today."

I asked Deputy Tri, looking back at this incident, was there anything he would do differently. Deputy Tri said, "Oh, I would do uh, make sure, you know um, if you know my partner got on the other side – but I would not overreact. Um sitting here, you know-you know I would do it differently."

I asked Deputy Tri what he would do differently. He said, "you know, so I'm sorry – what was your question?"

I repeated the question and Deputy Tri said, "Um, you know what I would um, you know come in, I would do something different like grab his leg and do a figure four on him." Deputy Tri's answer segued to the next set of questions related to other use of force incidents he's responded to in the past.

I requested an audit report from Main Jail, listing all of the employee reports Deputy Tri had submitted since 2009. Focusing on the previous year, 9/1/2012 through this incident on 10/3/2013, Deputy Tri was involved in 11 Use of Force incidents. In reviewing these 11 Employee Reports, I discovered Deputy Tri responded to an incident with very similar circumstances he faced when he responded to this incident under investigation. The similar use of force incident occurred on June 15, 2013. I read Deputy Tri's ER for this event which stated the following:

“On June 14 (typo), 2013, I was working at the Main Jail assigned as the 6C officer. At approximately 2044 hours, I was conducting clothing exchange. I heard North Control inform via radio that there was a knock off alarm in 6A. I ordered all inmates in 6C to lock down and immediately responded to the incident in 6A. As I entered module 6A, I saw Deputy Benson in a physical struggle with inmate on the 2nd tier, in front of 28.

Inmate was prone, face down. Officer Benson was on top of inmate and struggling to position inmate arms behind his back in an effort to handcuff him. I heard Officer Benson yelling, ‘Stop resisting Stop resisting.’ I heard inmate yell ‘fuck you.’

I saw inmate kicking Officer Benson with rear kicks as Officer Benson tried to restrain him. I attempted to stop inmate from kicking Officer Benson by holding his legs down and performing a figure four. Throughout my attempt to restrain his legs, inmate continued kicking backwards at Officer Benson and I. I was having a difficult time controlling inmate legs due to his size and strength.

Additional officers arrived and assisted us in controlling and handcuffing inmate Officers then escorted inmate out of module 6A. I had no further contact with inmate

I remarked how the June 15, 2013, incident with Deputy Benson sounded very similar to the October 3, 2013, incident involving Deputy Bragg. I asked Deputy Tri if he ever kicked inmate Deputy Tri said, “No.”

Deputy Tri agreed a “knock off phone” equated the same sense of urgency as a “packset alarm.” I continued referencing the June 15, 2013 ER line by line, identifying the parallelisms to Deputy Tri’s October 3, 2013 incident report. Deputy Tri seemed confused and I gave him an opportunity to read his June 15, 2013 employee’s report.

I asked Deputy Tri if he thought the two incidents were similar. He said, “Yes.”

I asked Deputy Tri if he experienced “tunnel vision” in the June 15th incident. Deputy Tri replied, “See uh, you know, when I ran in, I remember, you know...I just can’t think. So you were asking... I’m sorry what were you asking me again?”

I repeated the question by explaining the similar situations and asked Deputy Tri if he kicked inmate in the head. Deputy Tri replied, “No- no, no I did not kick him.”

I pointed out he agreed to the same set of urgency on both calls for assistance and Deputy Tri replied, “I’m sorry, what – what, ‘cause I was just trying to visualize um from the”

I asked Deputy Tri, did you feel there was a sense of urgency to aid Deputy Benson. Deputy Tri said, “yes.”

I asked Deputy Tri how he knew what to do when he entered Deputy Benson’s dorm. How did he figure out what actions he was going take? Deputy Tri said, “You know I remember that uh, yeah Benson was on top of him but um, think I remember, you know.”

interjected, and told Deputy Tri, “Her question is, how did you know what to do when you saw Benson on top of _____ Deputy Tri said, I’m sorry what – what?”

_____ continued, “she wants to know why you decided to grab the legs in this situation with Officer Benson.” Deputy Tri answered, “Um, because at that time uh, you know-you know I remember, I remember at the time it was just um, maybe ‘cause it was um kicking his leg back so I – I that’s the only thing in my- I just jumped, and – and- and- jumped his leg.”

I disclosed the injuries inmate _____ sustained from this incident. I asked Deputy Tri if he heard _____ complain of any pain. Deputy Tri said, “he was yelling and- and you know screaming but um, no I- I didn’t hear him complain of pain.”

I asked Deputy Tri if he would be surprised to learn, at one point, _____ thought he lost consciousness. Deputy Tri replied, “No, I’m sorry what’d you.” _____ interjected again did you ever see him unconscious or anything? Deputy Tri said, “No.”

I showed Deputy Tri the scene photos depicting the large pool of blood on the floor and asked him when he first noticed _____ was bleeding. Deputy Tri said, “You know I- I didn’t notice anything when- when he came out I saw it.”

I asked Deputy Tri if he was still in the housing unit when the deputies secured _____ and lifted him off the floor. Deputy Tri said, “No – no I uh, I left.”

I pulled out several additional photos depicting the blood pooled on the floor of 5A, blood drops exiting 5A hallway and photos of _____ with bloodied clothing. I asked Deputy Tri when he first noticed the blood pool in 5A. Deputy Tri said, “Um because the – the – um, the door was open, I was in uh the core area looking and I saw that.”

I confirmed with Deputy Tri, at no point after his kicks or punches to _____ head, did he notice any blood. I asked Deputy Tri how _____ sustained his injuries. Deputy Tri said, “Um- kicking him, punching him.”

I told Deputy Tri, Sergeant Jensen had reported after he interviewed _____ on the 2nd floor he went back to speak with Deputy Tri but wasn’t there. I asked Deputy Tri where went. Deputy Tri said, “Um, I – I remember that uh I went to uh- uh South Control ‘cause I just got into a- a 415 so I just need some fresh air.”

I asked Deputy Tri how long he remained at South Control. Deputy Tri said, “um not that long because Sergeant uh Jensen were uh rushing me to write a report. You know, I don’t remember but I was in the-in the locker room, yeah, not- not hang out South Control, no.”

I asked Deputy Tri if he went to the locker room to compose himself. Deputy Tri said, “Maybe uh- uh I remember um- I only went there um, I was you know, I was exhausted and uh, went there and washed my hands, you know my face, ‘cause it was uh, I was sweaty, you know, and then um and, you know, then I started to notice, you know, my hands you know, I went outside took um, you know catch a breath of fresh air.

Sergeant Sepulveda asked Deputy Tri what he noticed about his hands. Deputy Tri said, "It swelling up."

I confirmed Sergeant Jensen was Deputy Tri's supervisor. Deputy Tri couldn't remember if Sergeant Jensen spoke with him before he left the 5th floor to go to his locker. I asked Deputy Tri what directives Sergeant Jensen gave him. Deputy Tri replied, "Well he-he told me uh, write down everything, a thorough report."

I asked Deputy Tri if Sergeant Jensen talked to him about what happened. Deputy Tri said, "No, he never – he never talked to me what happened. But, he-he-he, uh told me to go uh-uh sixth floor."

I asked if Deputy Tri if Sergeant Jensen asked him if he was injured. Deputy Tri said, "Yes."

I asked if Sergeant Jensen took photographs of his injuries/hand. Deputy Tri replied, "I don't recall – uh, you know, I remember uh, yes."

I asked Deputy Tri if Sergeant Jensen asked him if he was okay to write his employee's report. Deputy Tri said, "Um, I, you know, I don't remember. You know, it's-at that time it's, you know, I was tired, I was hurting and I tried to type and then I, you know, eventually it's – it got worse so I didn't type. So I asked, um, so I ask the- the officer to help me uh type for me."

I asked Deputy Tri which officer helped him type his report. Deputy Tri said, "Um, Officer uh- uh Hussein 'cause 'cause my hands were hurting."

I asked Deputy Tri if he typed his first report, the one that did not include the use of force. Deputy Tri said, "Yes."

I asked Deputy Tri if Deputy Hussain took over typing his report at the second draft. Deputy Tri said, "Sarge, I- I- I- I- don't remember. But he – he did help me, um type it up."

I asked Deputy Tri if he discussed the incident with Deputy Hussain. Deputy Tri said, "Well when he-he-well when uh-when he type it, then I have to talk to him then-then you know my word and then I told him this, you know, yes I discussed with him."

I asked Deputy Tri if Deputy Hussain gave him advice on how to write his report. Deputy Tri replied, "I- I'm sorry what-what's the- did he give me any advice- yes. I mean yes, you know sometime I have a short sentence or I didn't put it in there, he'd say well you need you know, be specific, what you did, yes."

Sergeant Sepulveda asked Deputy Tri what he told Deputy Hussain. Deputy Tri said, "Yeah, I tell him (Hussain) I kicked him () I hit him. Hussain asked me why um, then- then I – I told him what happened."

Sergeant Sepulveda asked Deputy Tri if he explained to Deputy Hussain why he kicked Deputy Tri said, "I told him because he, I went in there, and he try and grabs my legs, and that when I- I kicked him."

I asked Deputy Tri why he excluded the use of force information in his first report submission to Sergeant Jensen. Deputy Tri said, "Because, I, you know, I was hurting you know, I was scared, I don't know."

I told Deputy Tri I understood him being scared. I floated my theory he was scared because he made a mistake, and then needed to make up a story of grabbing his leg to help justify the mistake. I recalled Deputy Tri's facial expression changed while I shared my theory of what happened. Deputy Tri's jaw clenched, his eyes narrowed as he glared at me and then replied, "No." Deputy Tri never exhibited any outrage or adamant denial to my theory.

I asked Deputy Tri if he ever notified Sergeant Jensen he was hurting. Deputy Tri said, "Um, I-I- um, I was kept to myself so I didn't."

I asked Deputy Tri to clarify his answer. Deputy Tri said, "like, you know when- but I- I didn't um, I'm sorry what – what?"

I asked Deputy Tri if Deputy Hussain took over the typing of his report due to the finger pain. Deputy Tri replied, "Yes." Deputy Tri attests the content of the ER were his words. I confirmed the report contained Deputy Tri's signature, and Deputy Hussain acted as a scribe only, by typing Deputy Tri's words.

Deputy Tri's ER showed the report was completed at 0030 hours. I asked Deputy Tri if he finished his ER at that time. "Deputy Tri said, "No-no we didn't finish until like four o'clock in the morning."

I asked Deputy Tri why the ER took so long to complete. Deputy Tri said, "I- but – I –uh because the sergeant just kicked back the report, and uh he went up there and told me, you know, he never talked to me about the incident um, he just told me, keep changing – changing – changing."

I asked Deputy Tri what was missing in his report. Deputy Tri said, "um, misspelling or um,-um, run on sentence, um you know."

I asked Deputy Tri if Sergeant Jensen discussed the use of force with him. Deputy Tri said, "I'm sorry, what was that?"

I asked Deputy Tri if he recalled Sergeant Jensen asking him to be very specific on the positioning of the inmate, positioning of the deputies, his actions and whatever force used. Deputy Tri replied, "Right. Yes. He- he keep ask – well he keep telling us to write down what see, and uh Murillo, I said I- I didn't at that time. Yeah and then you know then um, I think he got mad at me because he keep telling me write down- no, no, I was like Sarge, how am I – how am I going to write when I don't see that somebody uh, you know um, like Deputy Murillo and Deputy Bragg. You know what, I know what I did and I'll write down, I have nothing to hide – but like you know, it was right in front of lieutenant office, he keep asking me, write down what Murillo this and that and uh I remember um, I told him, Sarge I, you know I can't predict what they did. But I didn't, you know, at that time, or if I think it's not right when I think, you know, I was focused tunnel vision, I, you know, I described what I did."

I asked Deputy Tri, of the 15 use of force incident reports he was involved in and wrote about, since the beginning of his career in 2009, how many of those incidents did he experience tunnel vision. Deputy Tri said, "I- I don't remember."

I asked Deputy Tri if the tunnel vision occurred often. Deputy Tri said, "No-no-no-no you know some incidents is, uh different than others."

Again, I asked Deputy Tri how often he experienced tunnel vision and could not observe what was happening around him. Deputy Tri said, "Not very often."

Sergeant Sepulveda asked Deputy Tri if he had difficulty documenting what occurred during any of the previous incidents. Deputy Tri said, "Uh no-no, I don't have any, you know if – I'm sorry."

Sergeant Sepulveda explained policy 9.27 reporting of incidents and policy 3.31, the section on making less than truthful statements. Sergeant Sepulveda again asked Deputy Tri if he ever had trouble reporting what he saw and what he did. Deputy Tri said, "Oh, gee the thing is when I- I you know I- I write it and you know- give it to sergeant if the sergeant say it's not enough information then I'll write, you know, then uh." Sergeant Sepulveda reminded Deputy Tri he's been trained to include important details in his reports.

I asked Deputy Tri if he agreed a kick was a level-IV use of force. Deputy Tri replied, "Yes."

I asked Deputy Tri, when Sergeant Jensen directed him to write his report, did he advise Sergeant Jensen at that time that he used a level-IV use of force (kicks and punches) on inmate Deputy Tri said, "I don't remember."

I told Deputy Tri, Sergeant Jensen testified that Tri' first employee's report submitted on this incident didn't include the use of force. I asked Deputy Tri why he didn't include such significant information? Deputy Tri said, "You know what, at that time I was frustrated you know, but I yeah."

Again, I asked Deputy Tri, why he would omit such a significant detail. Deputy Tri said, "Yeah but- but um, right now I remember, he never asked me, he just said write down what you did."

I reminded Deputy Tri, his first ER did not include the force, nor was he forthcoming with Sergeant Jensen during their verbal interactions. In fact it wasn't until Sergeant Jensen advised Deputy Tri that his account of the incident did not match Deputy Bragg's and Deputy Murillo's account of what happened. Deputy Tri said, "But you know, at- at I was hurting you know, you know I was hurting and you know uh, you know, he – he could have, you know I mean like, he could have least offered me, or drive me to the hospital or – or you know, I mean like at that time I was."

I reminded Deputy Tri he told Sergeant Jensen he was okay to write. Deputy Tri said, "yes, but then later on, I can't you know- but I didn't tell them." I asked Deputy Tri, as an adult responsible for their own self care, if he told the sergeant his finger hurt, and he needed medical attention before writing the employees report. Deputy Tri said, "No."

I again pointed out to Deputy Tri, his initial employee report submissions, did not include any information regarding his use of force on Deputy Tri said, “Yes, Uh- I think I turned in one but then- you know what was the time I was like, no that’s not right, you know, I mean you’re changing but the final will have sergeant signature, you know.”

With Deputy Tri admitting he excluded the use of force in his initial report, I asked him why? Deputy Tri said, “Um- I was- I- you know I don’t remember.”

I asked Deputy Tri if he agreed the use of force was an important detail to include in any draft version of a report. Deputy Tri said, “Yes.”

I asked Deputy Tri, on the evening of this incident, if he had discussed his report with any of the other deputies involved in the incident. Deputy Tri said, “Uh, you know I don’t remember that um, when I uh, my first draft, I – I gave to Bragg and say that’s what I did. And um, I remember uh, that’s when I came down to Sarge and say that’s not enough information, I’m like okay.”

I reminded Deputy Tri he confirmed his first draft did not include his use of force and asked if that was the report he gave to Bragg. Deputy Tri said, “Yes.”

I asked Deputy Tri if he ever shared his second, third, or fourth ER draft with the deputies involved in the incident. Deputy Tri said, “Um. I, you know I don’t remember the um, I don’t remember giving Murillo or uh, but they- they (Bragg and Murillo) looked at my report but I- I don’t remember. Deputy Murillo came to up to my floor, and then I said this is what I did, and then he went and fix I-I- You know I –I remember, yes I – I did look at his report.”

I asked Deputy Tri what time in the evening did he see Deputy Murillo’s report. Deputy Tri said, “I-I don’t remember, but then Bragg- you know and then I looked at uh, his uh Bragg’s report and he said I was kneeling him (I’m like Bragg I didn’t knee him, why you put it in there, he said, well that’s what I saw.”

I pointed out to Deputy Tri the knee reference from Deputy Bragg came a week later when he documented that information in his crime report. I confirmed Deputy Tri couldn’t recall having a conversation, on the evening of the incident, with Deputy Bragg or Deputy Murillo regarding their reports.

At 1245 hours, Deputy Tri requested a break and the digital recorder was stopped.

At approximately 1258 hours, the interview resumed and the digital recorder was started. We revisited questions Deputy Tri failed to explain earlier. acknowledged the inconsistencies in the facts reported and Deputy Tri’s lack of recollection, certainly about some issues with this case.

Sergeant Sepulveda asked Deputy Tri how grabbed his leg when Deputy Murillo was delivering knee strikes to right arm, in an attempt to remove it from underneath his body. Deputy Tri said, “I told you, this is what happened, so I wrote down everything and now Murillo is not here, he can say pretty much say but you know what that’s what I did and I reported.”

I asked Deputy Tri if he was alleging Deputy Murillo made untruthful statements. Deputy Tri said, “No, no, I didn’t say that, but I’m just saying like I did what I, I did, I admitted I kicked, yes.”

I told Deputy Tri we were seeking the truth about how inmate grabbed his leg, when he wasn’t in a position to do so. Deputy Tri said, “he grabbed my legs. That’s when I fall.”

I continued questioning Deputy Tri to explain how it was possible for to grab his leg when Deputy Murillo was struggling to pull right arm from underneath his body. interjected, “he’s gonna continue to tell you what he’s told you for the last couple of hours.”

I advised Deputy Tri a criminal investigation was conducted against him for Felony 149 PC, Assault under Color of Authority. The criminal investigation was included in the allegations against him, along with the County Merit System Rules and Department Policy Brutality violations. I told Deputy Tri there was evidence to support he committed a crime. Deputy Tri did not respond.

I further advised Deputy Tri, On April 9, 2014, the Santa Clara County District Attorney Office decided not to file the criminal complaint against him. However this did not eliminate the possibility of filing at a later date, nor did it exclude Deputy Tri from being sued in civil court. Deputy Tri did not respond.

I reviewed the tolling time frame with and Deputy Tri. I advised them when the criminal case and tolling started and when the tolling ended. We agreed in order to be in compliance with Deputy Tri’s POBAR rights, any discipline he received as a result of this investigation needed to be served by March 30, 2015. I provided with a copy of the tolling letter. said she would make a copy for Deputy Tri and explain the situation.

In closing the interview, I revisited the allegations and asked Deputy Tri what he thought should happen to a deputy if they were found guilty of brutality. Deputy Tri replied, “I don’t know. This- this is my first time and I don’t know.”

I asked Deputy Tri what should happen if an employee made less than truthful statements. Deputy Tri said, “I- I don’t know.”

asked Deputy Tri, “Tim, do you agree that honesty is important in law enforcement?” Deputy Tri said, “Yes.”

I asked Deputy Tri if he recalled Sergeant Jensen referencing policy 3.31, and telling him to be honest in his report. Deputy Tri said, “Yes.”

I asked Deputy Tri why he was able to recall details on how grabbed his left leg, and yet cannot recall all the other details in our questioning. Deputy Tri said, “You know, this is what he did to me so you know, it’s like yeah I remember like the-the-the main important thing.”

I asked Deputy Tri if kicking wasn’t important? Deputy Tri said, “No-no-no I mean, it’s like-like what happened, you know, I mean it’s, you know at that time, I you know, I did what I had to, you know, from prevent from the officer safety, uh you know.”

Sergeant Sepulveda showed Deputy Tri a photograph of the blood pool at the scene. He asked Deputy Tri, when the supervisors responded to this scene what were the things they wanted to know? Deputy Tri said, "Why is there blood there." Sergeant Sepulveda replied, exactly, and they want to know how it happened. So in this incident Deputy Tri, how did that happen?" Deputy Tri said, "I kicked him, I punched him."

Sergeant Sepulveda asked Deputy Tri, so by you kicking and punching inmate _____ he incurred the injuries that caused him to bleed. Deputy Tri said, "Yes."

I asked Deputy Tri if this investigation concluded he used excessive force and made less than truthful statements, should he be allowed to continue working in the jails. Deputy Tri replied, "I'm sorry what was- what was- what is your question."

_____ interjected again, "Tim doesn't know what should happen if there is such a finding."

I told Deputy Tri I was still unclear how it was physically possible for inmate _____ to grab Deputy Tri's leg. Deputy Tri said, "Uh, he grabbed my legs."

_____ interjected, "He, we demonstrated it, he's not- you're not going to have a Perry Mason moment here, Sarge. I mean he's not going to tell you something different."

I told Deputy Tri, his testimony is a contradiction to all of the witness testimony. His peers have been truthful and forthcoming about what actions they took, and what they witnessed. I told Deputy Tri he's less than forthcoming in his ability to recall anything, but the aspects that serve him. Deputy Tri replied, "Sarge, you just keep doing it uh going back and forth and back and forth."

Sergeant Sepulveda told Deputy Tri, if we go with your story, then Deputy Bragg, Deputy Murillo, Officer Cortes and Officer Tempura's stories become inaccurate and we can't overlook the large discrepancy in your story.

_____ interjected again, "He told you he (_____ got injured from the kicks and the punches, so he's not saying he doesn't know how the injury happened. He knows there are inconsistencies between his report and other peoples. I don't know how much further you can you know brow beat him, he's not going to confess to you right now sergeant you're asking him to confess."

Sergeant Sepulveda replied, I'm pressing him to explain the inconsistencies. I commented to _____ that she keeps answering for Deputy Tri.

_____ continued her statement, "You're asking him to confess to something, that's what you, that's the only way that you, it seems like you will think he picks up what you're putting down. He knows there's inconsistencies, but you also know that eyewitnesses, to a similar, to the same event have different perceptions, different recollections in any number of circumstance, that's human nature. So he can't ascribe a certain level of fault to anybody else. He can just tell you what he recalls happening, what he did. You're asking him to do more than that and ascribe some kind of blame or fault or understanding is more than he can do at this point. I feel like we've trodden this area and the opinions and impression and the inconsistencies."

In closing, I asked Deputy Tri, looking back on this incident is there anything he would have done differently. Deputy Tri said, "Uh, look at the same incident like that." I repeated the question, Deputy Tri replied, "Of- going in and observe and maybe uh control his uh his legs um, until maybe pepper spray him."

I asked Deputy Tri if there was anything else he wanted to say. He replied, "No."

I admonished Deputy Tri not to discuss this investigation with anyone other than his I conveyed my duty to conduct a fair and impartial investigation and the only way to achieve that was through confidentiality.

The interview ended at 1400 hours.

Summary of Main Jail North Video Surveillance:

Deputy Tri stated he was in pain from his finger injury. Deputy Tri said the injury affected his ability to type his report, and impacted his ability to be forthcoming in reporting his use of force in this incident. I reviewed and copied the Main Jail North elevator surveillance video from October 3, 2013, at approximately 2300 hours, through October 4, 2013 0418 hours.

The following is a summary of Deputy Tri's opportunities to notify a Sergeant he was in pain and couldn't write his report.

October 3, 2013:

2302 Hours: Sergeant Jensen, Sergeant Brackett and Sergeant Stream arrive on the 5th floor.

2312 Hours: Sergeant Jensen leaves the 5th floor and arrives at 2nd floor medical to interview

2317 Hours: Deputy Tri leaves the 5th floor to Main Jail South for 14 minutes.

2336 Hours: Deputy Tri is seen at the Main Jail North 1st floor sergeants office and receives paperwork (workers comp) from Sergeant Duran.

2338 Hours: Sergeant Jensen arrived at the 1st floor Sergeants Office.

2343 Hours: Sergeant Jensen and Deputy Tri ride together on elevator 4 and appear to be discussing something. Both exit the 6th floor together. **Deputy Tri wrote his ER at the 6th Floor Officer's Station.*

2346 Hours: Sergeant Jensen leaves the 6th floor.

October 4, 2013:

0034 Hours: Sergeant Jensen arrives on the 6th floor.

0154 Hours: Sergeant Jensen again arrives on the 6th floor.

0308 Hours: Deputy Tri leaves the 6th floor to the 1st floor sergeant's office with paperwork in hand.

0315 Hours: Deputy Tri leaves the 1st floor sergeant's office and exits the elevator at the basement.

0325 Hours: Deputy Tri enters the elevator from the basement and exits the 5th floor.

0326 Hours: Deputy Tri enters the elevator from the 5th floor with food in hand, exits on the 6th floor.

0354 Hours: Deputy Tri enters the elevator from the 6th floor and seen interacting with Officer Albert Lee and an unidentified officer. Deputy Tri appeared to be smiling with no indication of pain. Deputy Tri used his injured right hand to signal the floor he wanted. Deputy Tri exited the elevator on the 1st floor and walked to the sergeant's office.

0359 Hours: Deputy Tri seen leaving the 1st floor sergeant's office, holding paperwork in his right hand with no indication of pain. He exited the elevator on the 6th floor.

0404 Hours: Deputy Tri leaves the 6th floor with paperwork to the 1st floor sergeant's office.

0413 Hours: Deputy Tri leaves the 1st floor sergeant's office. Video showed Deputy Tri holding a dish in his injured right hand. Deputy Tri had no indication of pain as he held the dish until he exited on the 5th floor.

0415 Hours: Deputy Tri leaves the 5th floor and exits the elevator at the basement. This is approximately the same time Deputy Tri said he went off duty to seek medical attention.

I also utilized the elevator video surveillance to provide a timeline of the responding officers. The surveillance video for Main Jail North floors two through eight the camera view and recording is pointed toward housing unit B on each floor. The video did not capture Deputy Tri exiting his housing unit 5C and running into 5A housing unit. The video did not capture 4C Officer Cortes until he arrived at the 4th floor elevator sally port.

2301:15 Hours: Officer Tempra is seen exiting unit 4B, running toward the elevators.

2301:20 Hours: Deputy Murillo is seen exiting unit 5B, running toward unit 5A. Based on Deputy Murillo's testimony of watching Deputy Tri enter the 5A housing unit a few seconds before he entered. I timed the running stride of Deputy Murillo. The calculation approximated Deputy Murillo arriving in the 5A housing unit within five seconds, 2301:25 hours.

2301:44 Hours: Officer Cortes and Officer Tempra exit the 5th floor elevator sally port area.

Based on the video time stamps, it appears Deputy Tri, Deputy Murillo and Deputy Bragg were fighting with inmate 19-23 seconds before Officer Cortes and Officer Tempra arrived to assist.

2302:02 Hours: Basement and Main Jail South Officers exit the elevator on the 5th floor.

2302:53 Hours: Sergeant Jensen, Sergeant Brackett and Sergeant Stream arrive on scene.

2303:00 Hours: Deputy Tri is seen at the 5th floor officer's station area.

2304:04 Hours: Officer Cortes, Officer Durand and Sergeant Bracket escort onto the 5th floor elevator.

2304:47 Hours: and staff exit the elevator on 2nd floor medical.

Interview with Deputy Saivad Hussain:

On June 18, 2014, at 1832 hours, I met with Deputy Hussain at the Elmwood Administrative Conference room. Deputy Hussain was notified he was being interviewed as a witness regarding the incident that occurred in 5A on October 3, 2013. I explained that although he was not a participant in the incident, Deputy Tri named him as being involved with writing Deputy Tri's employee report.

I showed Deputy Hussain a copy of the Main Jail D-Team schedule Deputy Hussain confirmed he was on duty and assigned to the 6th floor.

Deputy Hussain recalled Deputy Tri writing his report on the 6th floor. I provided a copy of Deputy Tri's so I could determine what portions of the report Deputy Hussain assisted Deputy Tri.

I asked Deputy Hussain if he helped Deputy Tri with his report. Hussain replied, "I helped him with some words, but not helping him write it and all that stuff, no." Deputy Hussain said, he recalled reading over Deputy Tri's report and said, "This would sound better, this word would sound better."

I asked Deputy Hussain, if at anytime, he physically sat at the keyboard and type the report for Deputy Tri. Deputy Hussain said, "No, I did not type the report, I was sitting there and maybe I, like spelling or something like that, maybe I typed in but that's about it." Deputy Hussain confirmed Deputy Tri was sitting at the 6th floor work station typing his report. Deputy Hussain said, he proofread the report and made minor edits.

I asked Deputy Hussain, if Deputy Tri ever asked him to take over the typing of his ER because of the pain from his finger injury. Deputy Hussain replied, "No." Deputy Hussain confirmed Deputy Tri told him his hand and leg were hurting but couldn't recall what time the comment was made. Deputy Hussain couldn't recall Deputy Tri's demeanor or any indications of duress.

Deputy Hussain re-confirmed, he never typed Deputy Tri's report at any time, for any reason.

Conclusion:

On October 9, 2013, Main Jail Administration submitted a preliminary investigation to Internal Affairs requesting a formal investigation be conducted on Deputy Tri. The complaint alleged that Deputy Tri used excessive force during an October 3, 2013, inmate versus staff altercation. Additionally, Deputy Tri failed to properly document his involvement and made untruthful statements while reporting the incident to his supervisor.

An Administrative Investigation was conducted and the following facts were determined.

Inmate _____ was a member of the _____, was booked into custody on July 10, 2013, for two felony assault charges, and was released from jail on December 21, 2013.

_____ had been housed on the medical floor until October 3, 2013, when he was transferred into the 5A housing unit. Inmate _____ became argumentative with Deputy Bragg, and appeared as if he was going to assault Deputy Bragg. Fearing for his own safety, Deputy Bragg activated his radio alarm to request assistance.

Deputy Tri responded from 5C unit and was the first officer on scene to assist Deputy Bragg. Deputy Murillo responded from 5B unit, saw Deputy Tri enter 5A, and followed closely behind Deputy Tri. Officer Cortes and Officer Tempra responded from the 4th floor and arrived at the scene together, which was approximately 19-23 seconds after Deputy Murillo arrived.

During the course of the criminal and Internal Affairs investigations, inmates _____ and _____ were interviewed. All three inmates had a fairly unobstructed view of the incident. Inmates _____ and _____ did not know Deputy Tri, but provided an accurate description of him as the first deputy on scene, and the sole deputy who delivered the kicks to _____ head. Inmate _____ remembered Deputy Tri very well, as Deputy Tri had been _____ dorm officer in the past. Inmate _____ also confirmed Deputy Tri was the first to enter 5A and immediately kick inmate _____. All three inmate-statements are consistent; _____ was pinned face down to the ground by Deputy Bragg. Inmate _____ never grabbed or held Deputy Tri's legs. Deputy Tri kicked and punched inmate _____ in the head without justification, as there was no immediate threat or danger to staff. Inmate _____ injuries were a direct result of Deputy Tri's actions. I read the Classification files of inmates _____ and _____. None of the inmates had negative write-ups or issues with Deputy Tri, nor had they made any frivolous allegations against staff. No questions or concerns arose about their motives or credibility.

Deputy Murillo responded to 5A a few seconds behind Deputy Tri. Deputy Murillo's employee report and his interviews with Criminal investigators and Internal Affairs were very consistent and determined to be the most accurate and credible account of the actions by Deputy Tri. Deputy Murillo's version of the events was also consistent with the inmate witness statements; _____ was pinned face down to the ground by Deputy Bragg. Inmate _____ never grabbed or held Deputy Tri's legs. Deputy Tri kicked and punched inmate _____ in the head for no apparent reason.

Officer Cortes and Officer Tempra arrived at the scene approximately 19-23 seconds after Deputy Murillo and did not witness Deputy Tri kick or punch inmate _____. Officer Cortes stated Deputy Tri was standing next to _____ when he stepped in to take over for Deputy Tri. Officer Tempra took control of inmate _____ right arm from Deputy Murillo and assisted Deputy Bragg with handcuffing inmate _____. Officer Tempra did not witness Deputy Tri punching inmate _____ and never "tapped out" Deputy Tri.

Enforcement Sergeant Jensen reviewed the evidence available and determined inmate _____ injuries were the direct result of an excessive force crime committed by Deputy Tri. Sergeant Jensen stated he'd been in many use of force incidents during his 13-year career and never had to kick somebody in the head. Sergeant Jensen immediately advised Lieutenant Borgzinner of his concerns, as well as the

numerous discrepancies in Deputy Tri's employee reports. Sergeant Jensen confirmed Deputy Tri never complained of any pain and that Deputy Tri's demeanor when he left to get medical attention was jovial as always.

Deputy Bragg's initial statement of the altercation with inmate [redacted] was corroborated by Deputy Murillo and inmate witness testimony; Deputy Tri kicked inmate [redacted] Deputy Bragg's use of force to take [redacted] down to the ground was necessary, reasonable and justified.

Deputy Lozada recorded each inmate witness privately to ensure confidentiality and accuracy of their statements. I confirmed Deputy Lozada never coached any of the inmate witnesses, or offered them any type of information to assist them with their statements.

Deputy Hussain confirmed he did not type Deputy Tri's employee report. Either as a result of the pain from the finger injury Deputy Tri sustained during the incident, or any other reason. Deputy Hussain proofread Deputy Tri's report and offered grammatical and spelling corrections. Deputy Hussain denied contributing to the content of the Deputy Tri's report.

Although Deputy Tri admitted to kicking and punching inmate [redacted] in the head and face, throughout the interview process, he lacked memory recall when his answer could prove unfavorable. Otherwise, his memory recall was impeccable.

Deputy Tri admitted he used level-IV use of force in an incident that should not have exceeded level-III force; pepper spray, pain compliance control holds, etc. Law enforcement staff who was involved in this incident, as objective, reasonable, officers under the same situation and processing the same information, could not justify Deputy Tri using level IV force.

Deputy Tri admitted he did not include details of his use of force in the first report he submitted to Sergeant Jensen. He justified his negligence by stating that the pain from his finger injury was the reason he was not forthcoming in reporting the level-IV force to Sergeant Jensen.

During the Internal Affairs interview and reenactment demonstration of how inmate [redacted] grabbed Deputy Tri's leg, Deputy Tri changed his story repeatedly when he realized there was no way for to maintain a grasp on Deputy Tri's leg and pull the leg upward to bite him.

Deputy Tri documented and testified that inmate [redacted] grabbed his left leg. Deputy Tri, fearing inmate [redacted] was going to bite, kicked inmate [redacted] in the head. Deputy Tri stated he was "tapped out" by responding officers and his leg was then freed from [redacted] grasp. Deputy Tri also denied Sergeant Jensen spoke to him, following the incident, to ascertain how [redacted] sustained his injuries. Witness reports and testimony support Deputy Tri made less than truthful statements.

Sergeant Owens and Sergeant Brown presented both criminal cases ([redacted] #13-277-0001J and Tri 14-008-0118J) to the District Attorney's Office. The DA decided not to file the criminal complaint against [redacted] because of Deputy Tri's use of force and the inconsistencies surrounding Deputy Tri's actions.

The evidence indicates Deputy Tri committed brutality against an inmate, falsified information, failed to be forthcoming and obstructed an investigation. Deputy Tri's conduct has brought discredit to the County of Santa Clara, to the Sheriff's Office and to the law enforcement profession.

Deputy Tri purposefully violated County Merit System Rules and Departmental Policies. He is fully aware that his inappropriate actions could result in liability to himself, liability to the Sheriff's Office, and to the County.

Based upon the facts gathered in this investigation, the findings are as follows:

Findings:

- I. Violation of Santa Clara County Merit System Rule A25-301(a) (1): "Violation of the county charter, merit system rules and regulations and written and published departmental rules and policies which do not conflict with this article."

Sustained
- II. Violation of Santa Clara County Merit System Rule A25-301(a) (4): "Brutality in the performance of duties."

Sustained
- III. Violation of Santa Clara County Merit System Rule A25-301(b) (1): "Guilty of gross misconduct, or conduct unbecoming a county officer or employee, which tends to discredit the county or county service."

Sustained
- IV. Violation of Santa Clara County Merit System Rule A25-301(b) (2): "Guilty of immoral conduct or criminal act."

Sustained
- V. Violation of D.O.C. Policy 3.31.II.B: Employee Relationships with Inmates: "Brutality will not be tolerated and is cause for dismissal and possible criminal charges."

Sustained
- VI. Violation of D.O.C. Policy 3.31.IV.J.1.a. Employee Conduct/Conformance to Law: "Employees are expected to adhere to Department Policies and Procedures, County Personnel Regulations, County Administrative Procedures, Executive Orders, County Merit System Rules and all laws applicable to the general public."

Sustained
- VII. Violation of D.O.C. Policy 3.31.IV.J.3.a – Employee Conduct / Use of Force: "Employees shall only use force in accordance with the law and the Department Policy 9.01, Use of Force and Restraints."

Sustained

VIII. Violation of D.O.C. Policy 3.31.IV.J.9.a. Employee Conduct / Conduct Unbecoming: “An employee shall not commit any act which constitutes conduct unbecoming a Department employee. Conduct unbecoming an employee includes, but is not limited to, any criminal or dishonest act or an act of moral turpitude.”

Sustained

IX. Violation of D.O.C. Policy 3.31.IV.J.14.a: “Employee conduct/Untruthful Statements: “Employees shall not make less than truthful statements, either verbal or written.”

Sustained

X. Violation of D.O.C. Policy 9.01.I.A.1 – Use of Force: “In the performance of their duties, badge staff is authorized to use that level of force, which is necessary and objectively reasonable, under the circumstances.”

Sustained

XI. Violation of D.O.C. Policy 9.27.I.B.1 – Reporting of Incidents: “All staff involved in a reportable incident shall submit a written Incident Report describing the event in detail to the supervisor.”

Sustained