

IA-2020-10

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Administrative Investigation **IA No: IA2020-10** Received: Jul 15, 2020

Case No:

Officers involved:

Lieutenant Fabio Rodriguez [563]

Officer current info:

Bureau: Investigations
Division: Major Crimes Section
Unit/Squad/Section:

Snapshot - Officer information at time of incident:

Badge #: 563
Bureau: Investigations
Division: Major Crimes Section
Unit/Squad/Section:
Rank/title: Lieutenant
Age: [REDACTED] Years of employment: [REDACTED] Years with unit: [REDACTED]
Off duty: No Off duty employed: No

Policy outcome: Not yet entered

Allegations:

Standards of Conduct - OPEN INVESTIGATION
< Open allegation - no finding >
Property and Evidence - OPEN INVESTIGATION
< Open allegation - no finding >

Summary:

INCIDENT DATE: UNK VPD CASE 20-06322 (RELATED)
Per COP, open IA case as it relates to proper evidence handling. Parallel criminal investigation being conducted by DOJ. Windshield was repaired on June 4, 2020.

Investigative tasks:

Due dt	Done dt	Type
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< N/A >	Jul 15, 2020	Assigned to OIR
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Assigned To: Admn Analyst Joni Brown

Assigned to OIR Group

< N/A >	Jul 22, 2020	Assignment Transferred - OUT
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Assigned To: Admn Analyst Joni Brown

Assignment transferred OUT to Rudy Escalante, Municipal Resource Group

When/where:

Date/time occurred:

Associated Case Nos:

IA2020-09 Original Incident

Status/assignment information:

Status: Active

Opened: 07/15/2020 Assigned: 07/22/2020 Due: 10/13/2020

Completed:

Disposition:

Unit assigned: Un-assigned
Handled at field/unit level: No
Investigator assign: Un-assigned
Supervisor assign: Un-assigned
Source of information:

Organizational component(s):

Bureau: Investigations
Division: Major Crimes Section

Entered by: Admn Analyst Joni Brown on Jul 28, 2020 at 16:10

ATTACH. B



VALLEJO POLICE DEPARTMENT

NOTICE OF INTERVIEW

TO: Lieutenant Fabio Rodriguez
FROM: Interim Assistant Chief Joe Allio
DATE: July 31, 2020
SUBJECT: Notice of Interview – Administrative Investigation IA2020-10

An administrative investigation is currently being conducted into your potential misconduct and policy violations related to your role in the evidence collection process. Upon further review of this matter, it has been determined that you potentially violated City and/or Vallejo Police Department policies and procedures, including but not limited to:

Police Department Policy 306.4.5 Involved Officers

Police Department Policy 321 Standards of Conduct

Any additional violations discovered in the investigation are subject to investigation.

You are ordered to report to Vallejo City Hall, 555 Santa Clara Street, Department of Human Resources, on August 27, 2020 at 9:00 a.m. to answer questions relating to this administrative investigation. Failure to appear will be considered insubordination and an independent basis for disciplinary action, up to and including termination.

The investigation is being conducted on behalf of the City of Vallejo and the City of Vallejo Police Department. The investigation will be conducted by Rudy Escalante of the Municipal Resource group. You are ordered to cooperate fully with Mr. Escalante and to answer any questions in a complete and truthful manner. You are also ordered to obey any lawful order given by Mr. Escalante as though such an order were coming from a superior in your chain of command. The interview may also be conducted remotely to accommodate social distancing requirements.

The investigative interview will be tape recorded pursuant to Government Code section 3303. You will have access to the tape if any further proceedings are contemplated or prior to any further investigative interview at a later time. You have the right to bring your own recording device and record any and all aspects of the investigative interview.

You also have the right to be represented by a union representative of your choice who may be present at all times during the investigative interview. The representative shall

not be a person subject to the same investigation. Your representative shall not be required to disclose nor shall be subject to any punitive action for refusing to disclose any information received from you while under investigation in non-criminal matters.

You must provide with three working days' notice if you will be represented by an attorney so that we may arrange for an attorney to also be present on our behalf.

To ensure a full, fair, and effective investigative in this matter and in order to preserve the integrity of the investigation and security of the public, during the pendency of this investigation you are directed not to discuss the investigation (including the specific allegations of misconduct against you) with anyone other than the investigator or your representative. This order shall automatically be lifted at the conclusion of the investigation, when the needs for accurate collection of information, to ensure preservation of evidence, to prevent fabrication of testimony, to protect witnesses, and to ensure the integrity of the investigation will abate.

Nothing in this Notice is intended to prevent you from engaging in protected concerted activity under the Meyers-Millias-Brown-Act. You may continue to engage in protected concerted activity, including but not limited to discussing any aspect of your employment and working conditions with others. If you are unsure whether discussing certain issues would violate this order, please contact your union representative, lawyer, or Human Resources with any questions.

Please also be advised that the City will not tolerate retaliation against any person who has made a complaint or participated in this investigation. Please also be advised that failure to comply with any portion of this Notice shall be deemed insubordination and may subject you to punitive action.

If you have any questions regarding the logistics of the investigation, please contact Mr. Escalante at [REDACTED]@solutions-mrg.com

Thank you,
Joe Allio

Bobby Knight

From: Fabio Rodriguez
Sent: Friday, July 31, 2020 1:43 PM
To: Bobby Knight
Cc: Joe Allio; [REDACTED]@rlslawyers.com
Subject: RE: NOTICE OF INTERVIEW
Attachments: Notice of Interview Rodriguez IA2020-10.pdf

Lt. Knight,

This email serves as confirmation of the receipt of 'Notice of Interview'.

I am replying within the three days specified in the notice.

I will be represented by an attorney. My attorney has been cc'd on this email.

Please advise if there is anything else you require.

Thank You,

Fabio

Fabio Rodriguez
Lieutenant-Detective Division
City of Vallejo | Police Department
(707) 917-4112 | Fabio.Rodriguez@cityofvallejo.net

From: Bobby Knight
Sent: Friday, July 31, 2020 12:28 PM
To: Fabio Rodriguez <Fabio.Rodriguez@cityofvallejo.net>
Cc: Joe Allio <Joe.Allio@cityofvallejo.net>
Subject: NOTICE OF INTERVIEW

Lt. Rodriguez-

See attached notice of interview being sent on behalf of Interim Asst. Chief Allio.

Please acknowledge service of this notice by replying to this email.

Should you have any questions, contact the investigator listed on the notice.

*Document being sent to email address listed on administrative leave notice

Lieutenant Bob Knight, #550
Vallejo Police Department
Professional Standards Division
Phone: (707) 649-3570
Fax: (707) 649-4871

bobby.knight@cityofvallejo.net



NOTICE OF CONFIDENTIALITY: This e-mail message, including any attachments, is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential or exempt from disclosure under applicable laws. If you are not the intended recipient, you are notified that dissemination, distribution, or copying of this communication is strictly prohibited and may be a violation of law. If you have received this communication in error, please notify the sender by reply e-mail and delete all copies of the original message.

Date: August 18, 2020
To: Lieutenant Fabio Rodriguez
From: Joseph Allio, Assistant Chief of Police
Subject: **UPDATED** Notice of Administrative Investigation Interview,
IA2020-10 (RESCHEDULED)

An administrative investigation is currently being conducted into your potential misconduct and policy violations related to your role in the evidence collection process. Upon further review of this matter, it has been determined that you potentially violated City and/or Vallejo Police Department policies and procedures, including but not limited to:

Police Department Policy 306.4.5 Involved Officers

Police Department Policy 321 Standards of Conduct

Any additional violations discovered in the investigation are subject to investigation.

On July 31, 2020, you were provided a notice of interview regarding this administrative investigation and that the interview was to occur on August 27th, 2020.

At the request of your representative, [REDACTED] your interview has been rescheduled due to a conflict with your attorney's schedule. Your new interview date is set for **Thursday, September 3rd, 2020, at 3:00 p.m.** Your attorney has also offered to utilize a conference room at his office located at 2300 Contra Costa Blvd., Suite 500, Pleasant Hill 94523, as to the location for the interview.

According to Vallejo Police Department, Policy #1011, Entitled Personnel Complaints states: 1011.6.2 (b) Unless waived by the member, interviews of an accused member shall be at the Vallejo Police Department or other reasonable and appropriate place. According to your attorney, he has agreed that his office would constitute a "reasonable and appropriate place".

Pursuant to guidelines set forth in the City of Vallejo Administrative Rules & Regulations and the Vallejo Police Department Policy Manual, you have been named as the **Subject** of the Investigations that could potentially lead to discipline.

Accordingly, the following information is being provided:

The investigation is being conducted on behalf of the City of Vallejo and the City of Vallejo Police Department. The investigation will be conducted by Rudy Escalante of the Municipal Resource Group. You are ordered to cooperate fully with Mr. Escalante and to

answer any questions in a complete and truthful manner. You are also ordered to obey any lawful order given by Mr. Escalante as though such an order were coming from a superior in your chain of command. The interview may also be conducted remotely to accommodate social distancing requirements.

The investigative interview will be tape recorded pursuant to Government Code section 3303. You will have access to the tape if any further proceedings are contemplated or prior to any further investigative interview at a later time. You have the right to bring your own recording device and record any and all aspects of the investigate interview.

You also have the right to be represented by a union representative of your choice who may be present at all times during the investigative interview. The representative shall not be a person subject to the same investigation. Your representative shall not be required to disclose nor shall be subject to any punitive action for refusing to disclose any information received from you while under investigation in non-criminal matters.

To ensure a full, fair, and effective investigation in this matter and in order to preserve the integrity of the investigation and security of the public, during the pendency of this investigation you are directed not to discuss the investigation (including the specific allegations of misconduct against you) with anyone other than the investigator or your representative. This order shall automatically be lifted at the conclusion of the investigation, when the needs for accurate collection of information, to ensure preservation of evidence, to prevent fabrication of testimony, to protect witnesses, and to ensure the integrity of the investigation will abate.

Nothing in this Notice is intended to prevent you from engaging in protected concerted activity under the Meyers-Milius-Brown-Act. You may continue to engage in protected concerted activity, including but not limited to discussing any aspect of your employment and working conditions with others. If you are unsure whether discussing certain issues would violate this order, please contact your union representative, lawyer, or Human Resources with any questions.

This provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your Investigation. You may not contact or in any other manner retaliate against any individual who has provided information regarding your inquiry.

If you have any questions regarding the logistics of the investigation, please contact Mr. Escalante at [REDACTED]@solutions-mrg.com

Thank you,

Joe Allio



VALLEJO POLICE DEPARTMENT

Professional Standards Division

NOTICE OF INTERVIEW

Date: August 18, 2020

To: Lieutenant Fabio Rodriguez

From: Joseph Allio, Assistant Chief of Police

Subject: **UPDATED** Notice of Administrative Investigation Interview,
IA2020-10 (RESCHEDULED)

An administrative investigation is currently being conducted into your potential misconduct and policy violations related to your role in the evidence collection process. Upon further review of this matter, it has been determined that you potentially violated City and/or Vallejo Police Department policies and procedures, including but not limited to:

Police Department Policy 306.4.5 Involved Officers

Police Department Policy 321 Standards of Conduct

Civil Service Commission Policy Rule 18.1

Any additional violations discovered in the investigation are subject to investigation.

On July 31, 2020, you were provided a notice of interview regarding this administrative investigation and that the interview was to occur on August 27, 2020.

At the request of your representative [REDACTED] your interview has been rescheduled due to a conflict with your attorney's schedule. Your new interview date is set for **Thursday, September 3rd, 2020, at 3:00 p.m.** Your attorney has also offered to utilize a conference room at his office located at 2300 Contra Costa Blvd., Suite 500, Pleasant Hill 94523, as to the location for the interview. Failure to appear will be considered insubordination and an independent basis for disciplinary action, up to and including termination.

According to Vallejo Police Department, Policy #1011, Entitled Personnel Complaints states: 1011.6.2 (b) Unless waived by the member, interviews of an accused member

shall be at the Vallejo Police Department or other reasonable and appropriate place. According to your attorney, he has agreed that his office would constitute a "reasonable and appropriate place".

Pursuant to guidelines set forth in the City of Vallejo Administrative Rules & Regulations and the Vallejo Police Department Policy Manual, you have been named as the **Subject** of the Investigation that could potentially lead to discipline.

Accordingly, the following information is being provided:

The investigation is being conducted on behalf of the City of Vallejo and the City of Vallejo Police Department. The investigation will be conducted by Rudy Escalante of the Municipal Resource Group. You are ordered to cooperate fully with Mr. Escalante and to answer any questions in a complete and truthful manner. You are also ordered to obey any lawful order given by Mr. Escalante as though such an order were coming from a superior in your chain of command. The interview may also be conducted remotely to accommodate social distancing requirements.

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This provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your Investigation. You may not contact or in any other manner retaliate against any individual who has provided information regarding your inquiry.

If you have any questions regarding the logistics of the investigation, please contact Mr. Escalante at [\[REDACTED\]@solutions-mrg.com](mailto:[REDACTED]@solutions-mrg.com)

Thank you,

Joe Allio



CITY OF VALLEJO

OFFICE OF THE CHIEF OF POLICE

111 AMADOR STREET • VALLEJO • CALIFORNIA • 94590-8301 • (707) 648-4540 FAX (707) 648-4390

July 17, 2020

Dear Fabio Rodriguez:

NOTICE OF PAID ADMINISTRATIVE LEAVE

The Vallejo Police Department ("Department") has received complaints regarding your role in the evidence collection process. It is necessary that these allegations be investigated given their serious nature. You are hereby placed on paid administrative leave effective immediately, and until further notice. This is not a disciplinary action, but is intended to allow the City an opportunity to conduct an investigation and determine what, if any, disciplinary action may be appropriate.

While on paid administrative leave, you will receive your full pay with no charge to your accrued leave balances, unless you are unavailable due to illness, personal business, or vacation. Your paycheck and pay statement will continue to be distributed as usual.

While on paid administrative leave, you are directed to comply with the following orders:

- 1) Your police officer powers are suspended for the duration of your time on paid administrative leave or until further written notice. You shall not report or perform any official Department or City related duties, unless otherwise directed to by the Chief of Police.
- 2) You are required to immediately surrender your badge, police identification, department or City key(s), City-owned vehicle(s), firearm(s), or any other City issued property, which will be retained at the Police Department.
- 3) You shall not carry your City issued firearm unless authorized to do so in writing by the Chief of Police.

- 4) Unless authorized in writing by Chief Williams, you are not permitted to enter any City property which is not open to the public for the purpose of conducting City business. You are not to visit the Police Department without prior approval from the Chief of Police and arrangements will be provided for obtaining your payroll check, if necessary. You may contact the office of the Chief of Police at (707) 648-4540 should you need to retrieve items from the Police Department.
- 5) While you are on paid administrative leave, you are required to remain readily available to the City and investigator(s) for telephone contact, email contact, meetings (virtual or live), or in response to a directive to immediately return to work. Specifically, you are required to remain available during your normal scheduled work hours. (8:00 a.m. to 5:00 p.m. Monday through Friday). If you will need to be unavailable due to sickness, personal business or vacation, you are required to contact Chief Williams at (707) 648-4540 in advance and as soon as possible for prior authorization. A charge to your accrued leave balances may be made.
- 6) While on paid administrative leave, you are required to phone in to the office of the Chief of Police at (707) 648-4540 each Monday morning by 0900 hours.
- 7) You are required to obtain specific authorization from the Chief of Police for any other law enforcement activity, whether or not previously scheduled, including but not limited to court appearance, off duty employment, or public appearances.
- 8) You are required to immediately notify the office of the Chief of Police at (707) 648-4540 if you move, change your telephone number, or plan to be out of town for more than one workday.
- 9) You are ordered not to discuss the circumstances of your duty status or the investigation with another other than the Chief of Police, the investigator(s) as noted in the "Internal Affairs Investigation" notification, or your attorney or union representative, unless authorized to do so in writing by the Chief of Police. If your chosen representative is anyone other than an attorney, you must identify that person prior to discussing the case with them to ensure that the selected representative is not a party to this investigation. This includes Command Officers (Lieutenants and Captains) in the Department.
- 10) You are prohibited from retaliating against employees for making a complaint or participating in workplace investigations, and the City will take all appropriate disciplinary action.

Please be advised that failure to comply with the above directives will be considered insubordination and grounds for disciplinary action, up to and including termination. Additional directives may be issued. If you have any questions during the time you are on paid administrative leave, please contact the office of the Chief of Police at (707) 648-4540. You will receive additional information and/or instructions with regards to the work status and requirements for retuning back to work.

I acknowledge receipt of these orders and that I have had the opportunity to review these orders:

Signature: [Signature] Date: 7/17/20

Member Name: FABIO RODRIGUEZ

Telephone Number: [Redacted]

Email Address: FABIO. RODRIGUEZ @ CITY OF VALLAJO . NET

Personal Service Witnessed by: [Signature] #550 Date: 7/17/20
JAVIER G B #562 7/17/20

Sincerely,

Shawny K. Williams
Chief of Police

cc: Heather Ruiz, Human Resources Director
Mark Love, Assistant Human Resources Director

2

ATTACH C

**INTERNAL AFFAIRS
ADMINISTRATIVE RIGHTS/INVESTIGATION
ADVISEMENT**

I am Rudy Escalante, a consultant hired by the City of Vallejo, and I am assigned to conduct an investigation for I.A. Case IA2020-10. You are about to be questioned as part of an official Vallejo Police Department Administrative Investigation. Today's date is 9-3-, 2020, and the time is 3:32 pm hours.

This investigation concerns: Allegations of potential misconduct about activity that reflects negatively on the City of Vallejo, the Law Enforcement profession, and the Vallejo Police Department for the alleged violations: On or about June 10th, 2020, IA2020-10, case #20-06322, an item of evidence, a windshield, was allegedly destroyed without authorization that was evidence in an officer involved shooting investigation.

The Investigation is to determine if your actions during these investigations met performance standards set forth by city or department policy or rule.

If this were a criminal investigation, any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence, which is gained by such statements, can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Vallejo Police Department.

MIRANDA RIGHTS

- You have the right to remain silent.
- Anything you say can and will be used against you.
- You have the right to an attorney.
- If you cannot afford an attorney, one will be appointed to you before any questioning.
- Do you understand each of these rights? Yes Sir
- Having these rights in mind do you wish to talk with me? No Sir!

LYBARGER

- While you have the right to remain silent with regard to any criminal investigation and not incriminate yourself, you do not have the right to refuse to answer my administrative questions.

- This is strictly an administrative investigation.
- I am therefore, now ordering you to discuss this matter with me.
- If you refuse to discuss this matter, your silence can be deemed insubordination and result in administrative discipline, up to and including termination.
- Any statement you make under compulsion or the threat of discipline cannot be used against you in a later criminal proceeding.

You have the right to have a representative of your choice, who is not involved in this investigation, and present with you during your interview(s). Your representative is here to insure that your rights are not violated. ~~He/She will not answer questions on your behalf.~~ Present with you today as your representative is [REDACTED]

This interview will be tape recorded. You have the right to bring your own recording device and record any and all aspects of the interrogation. If you need a break or a refreshment during the interview, please let me know.

If prior to or during the interrogation it is deemed that you may be charged with a criminal offense, you shall be immediately informed of your constitutional rights.

At the conclusion of this interview you are specifically ordered not to discuss this interview or this investigation with anyone except your representative.

Do you have any questions regarding this notice? No Sir

So you understand your answers need to be honest and candid? YES, YES

The above admonition has been explained to me and I understand its contents.

Date 9-3-2020

Employee 

Witness 

The purpose of this interview is to look into complaints received by the Vallejo Police Department and complaint(s) involving alleged performance issues against you.

3

Administrative Investigation IA No: IA2020-09 Received: Jul 15, 2020

Case No: 20-06322

Officers Involved:

Lieutenant Michael W Nichelini [606]

Officer current info:

Bureau: Field Operations
Division: Traffic
Unit/Squad/Section:

Snapshot - Officer information at time of incident:

Badge #: 606
Bureau: Field Operations
Division: Traffic
Unit/Squad/Section:
Rank/title: Lieutenant

Off duty: No On duty employed: No

Policy outcome: Not yet entered

Allegations:

Standards of Conduct - OPEN INVESTIGATION
< Open allegation - no finding >
Property and Evidence - OPEN INVESTIGATION
< Open allegation - no finding >

Summary:

INCIDENT DATE: UNK VPD CASE 20-06322 (RELATED)
Per COP, open IA case as it relates to proper evidence handling. Parallel criminal investigation being conducted by DOJ. Windshield was repaired on June 4, 2020.

Investigative tasks:

Due dt	Done dt	Type
< N/A >	Jul 15, 2020	Assigned to OIR

Assigned To: Admn Analyst Joni Brown

Assigned to OIR Group.

< N/A > Jul 22, 2020 Assignment Transferred - OUT

Assigned To: Admn Analyst Joni Brown

Assignment transferred OUT to Rudy Escalante, Municipal Resource Group

When/where:

Date/time occurred:

Status/assignment information:

Status: Active

Opened: 07/15/2020 Assigned: 07/22/2020 Due: 10/13/2020 Completed:

Disposition:

Unit assigned: Un-assigned
Handled at field/unit level: No
Investigator assign: Un-assigned
Supervisor assign: Un-assigned
Source of information: Internal

Organizational component(s):

Bureau: Investigations
Division: Major Crimes Section

Entered by: Admn Analyst Joni Brown on Jul 22, 2020 at 22:47



VALLEJO POLICE DEPARTMENT

NOTICE OF INTERVIEW

To: Lieutenant Michael Nichelini
From: Interim Assistant Chief Joe Allio
Date: July 31, 2020
Subject: Notice of Interview – Administrative Investigation No. IA2020-09

An administrative investigation is currently being conducted into your potential misconduct and policy violations related to your role in the evidence collection process.

Upon further review of this matter, it has been determined that you potentially violated City and/or Vallejo Police Department policies and procedures, including but not limited to:

- Police Department Policy 306.4.5 Involved Officers
- Police Department Policy 321 Standards of Conduct
- Civil Service Commission Policy Rule 18.1

Any additional violations discovered in the investigation are subject to investigation. You are ordered to report to Vallejo City Hall, 555 Santa Clara Street, Department of Human Resources, on August 27, 2020 at 1:00 p.m. to answer questions relating to this administrative investigation. Failure to appear will be considered insubordination and an independent basis for disciplinary action, up to and including termination.

The investigation is being conducted on behalf of the City of Vallejo and the City of Vallejo Police Department. The investigation will be conducted by Rudy Escalante of the Municipal Resource group. You are ordered to cooperate fully with Mr. Escalante and to answer any questions in a complete and truthful manner. You are also ordered to obey any lawful order given by Mr. Escalante as though such an order were coming from a superior in your chain of command. The interview may also be conducted remotely to accommodate social distancing requirements.

The investigative interview will be tape recorded pursuant to Government Code section 3303. You will have access to the tape if any further proceedings are contemplated or prior to any further investigative interview at a later time. You have the right to bring your own recording device and record any and all aspects of the investigative interview.

You also have the right to be represented by a union representative of your choice who may be present at all times during the investigative interview. The representative shall

not be a person subject to the same investigation. Your representative shall not be required to disclose nor shall be subject to any punitive action for refusing to disclose any information received from you while under investigation in non-criminal matters.

You must provide with three working days' notice if you will be represented by an attorney so that we may arrange for an attorney to also be present on our behalf.

To ensure a full, fair, and effective investigative in this matter and in order to preserve the integrity of the investigation and security of the public, during the pendency of this investigation you are directed not to discuss the investigation (including the specific allegations of misconduct against you) with anyone other than the investigator or your representative. This order shall automatically be lifted at the conclusion of the investigation, when the needs for accurate collection of information, to ensure preservation of evidence, to prevent fabrication of testimony, to protect witnesses, and to ensure the integrity of the investigation will abate.

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Please also be advised that the City will not tolerate retaliation against any person who has made a complaint or participated in this investigation. Please also be advised that failure to comply with any portion of this Notice shall be deemed insubordination and may subject you to punitive action.

If you have any questions regarding the logistics of the investigation, please contact Mr. Escalante at [REDACTED]@solutions-mrg.com

Thank you,
Joe Allio

Bobby Knight

From: VPOA [REDACTED]@vallejopoa.org>
Sent: Friday, July 31, 2020 3:43 PM
To: Bobby Knight
Cc: [REDACTED]@vallejopoa.org; Mike Nichelini; Joe Allio
Subject: Re: NOTICES OF INTERVIEW

Received [REDACTED] is representing me.

Michael Nichelini
President
Vallejo Police Officers' Association
President
PORAC - Northern Chapter

On Jul 31, 2020, at 12:33, Bobby Knight <Bobby.Knight@cityofvallejo.net> wrote:

Lt. Nichelini

See attached three notices of interview being sent on behalf of Interim Asst. Chief Allio

Please acknowledge service of this notice by replying to this email.

Should you have any questions, contact the investigator listed on the notice.

**Document being sent to email address listed on administrative leave notice as well as COV email.*

Lieutenant Bob Knight, #550
Vallejo Police Department
Professional Standards Division
Phone: (707) 649-3570
Fax: (707) 649-4871
bobby.knight@cityofvallejo.net

<image001.png>

<image002.png>

<image003.png>

<image004.png>

<image005.png>

NOTICE OF CONFIDENTIALITY: This e-mail message, including any attachments, is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential or exempt from disclosure under applicable laws. If you are not the intended recipient, you are notified that dissemination, distribution, or copying of this communication is strictly prohibited and may be a violation of law. If you have received this communication in error, please notify the sender by reply e-mail and delete all copies of the original message.

<Notice of Interview [REDACTED]>

<Notice of Interview Nichelini IA2020-09.pdf>

<Notice of Interview [REDACTED]>

***** This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

Date: August 18, 2020

To: Lieutenant Michael Nichelini

From: Joseph Allio, Assistant Chief of Police

Subject: **UPDATED** Notice of Administrative Investigation Interview,
IA2020-09 (RESCHEDULED)

An administrative investigation is currently being conducted into your potential misconduct and policy violations related to your role in the evidence collection process. Upon further review of this matter, it has been determined that you potentially violated City and/or Vallejo Police Department policies and procedures, including but not limited to:

Police Department Policy 306.4.5 Involved Officers

Police Department Policy 321 Standards of Conduct

Any additional violations discovered in the investigation are subject to investigation.

On July 31, 2020, you were provided a notice of interview regarding this administrative investigation and that the interview was to occur on August 27th, 2020.

At the request of your representative [REDACTED] your interview has been rescheduled due to a conflict with your attorney's schedule. Your new interview date is set for **Thursday, September 3rd, 2020, at 1:30 p.m.** Your attorney has also offered to utilize a conference room at his office located at 2300 Contra Costa Blvd., Suite 500, Pleasant Hill 94523, as to the location for the interview.

According to Vallejo Police Department, Policy #1011, Entitled Personnel Complaints states: 1011.6.2 (b) Unless waived by the member, interviews of an accused member shall be at the Vallejo Police Department or other reasonable and appropriate place. According to your attorney, he has agreed that his office would constitute a "reasonable and appropriate place".

Pursuant to guidelines set forth in the City of Vallejo Administrative Rules & Regulations and the Vallejo Police Department Policy Manual, you have been named as the **Subject** of the Investigations that could potentially lead to discipline.

Accordingly, the following information is being provided:

The investigation is being conducted on behalf of the City of Vallejo and the City of Vallejo Police Department. The investigation will be conducted by Rudy Escalante of the Municipal Resource Group. You are ordered to cooperate fully with Mr. Escalante and to answer any questions in a complete and truthful manner. You are also ordered to obey any lawful order given by Mr. Escalante as though such an order were coming from a superior in your chain of command. The interview may also be conducted remotely to accommodate social distancing requirements.

The investigative interview will be tape recorded pursuant to Government Code section 3303. You will have access to the tape if any further proceedings are contemplated or prior to any further investigative interview at a later time. You have the right to bring your own recording device and record any and all aspects of the investigate interview.

You also have the right to be represented by a union representative of your choice who may be present at all times during the investigative interview. The representative shall not be a person subject to the same investigation. Your representative shall not be required to disclose nor shall be subject to any punitive action for refusing to disclose any information received from you while under investigation in non-criminal matters.

To ensure a full, fair, and effective investigation in this matter and in order to preserve the integrity of the investigation and security of the public, during the pendency of this investigation you are directed not to discuss the investigation (including the specific allegations of misconduct against you) with anyone other than the investigator or your representative. This order shall automatically be lifted at the conclusion of the investigation, when the needs for accurate collection of information, to ensure preservation of evidence, to prevent fabrication of testimony, to protect witnesses, and to ensure the integrity of the investigation will abate.

Nothing in this Notice is intended to prevent you from engaging in protected concerted activity under the Meyers-Milias-Brown-Act. You may continue to engage in protected concerted activity, including but not limited to discussing any aspect of your employment and working conditions with others. If you are unsure whether discussing certain issues would violate this order, please contact your union representative, lawyer, or Human Resources with any questions.

This provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your Investigation. You may not contact or in any other manner retaliate against any individual who has provided information regarding your inquiry.

If you have any questions regarding the logistics of the investigation, please contact Mr. Escalante at [REDACTED]@solutions-mrg.com

Thank you,

Joe Allio



VALLEJO POLICE DEPARTMENT

Professional Standards Division

NOTICE OF INTERVIEW

Date: August 18, 2020

To: Lieutenant Michael Nichelini

From: Joseph Allio, Assistant Chief of Police

Subject: **UPDATED** Notice of Administrative Investigation Interview,
IA2020-09 (RESCHEDULED)

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Police Department Policy 306.4.5 Involved Officers

Police Department Policy 321 Standards of Conduct

Civil Service Commission Policy Rule 18.1

Any additional violations discovered in the investigation are subject to investigation.

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At the request of your representative, [REDACTED] your interview has been rescheduled due to a conflict with your attorney's schedule. Your new interview date is set for **Thursday, September 3rd, 2020, at 1:30 p.m.** You are ordered to report to 2300 Contra Costa Blvd., Suite 500, Pleasant Hill 94523, as to the location for the interview. Failure to appear will be considered insubordination and an independent basis for disciplinary action, up to and including termination.

According to Vallejo Police Department, Policy #1011, Entitled Personnel Complaints states: 1011.6.2 (b) Unless waived by the member, interviews of an accused member shall be at the Vallejo Police Department or other reasonable and appropriate place. According to your attorney, he has agreed that his office would constitute a "reasonable and appropriate place".

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The investigative interview will be tape recorded pursuant to Government Code section 3303. You will have access to the tape if any further proceedings are contemplated or prior to any further investigative interview at a later time. You have the right to bring your own recording device and record any and all aspects of the investigative interview.

You also have the right to be represented by a union representative of your choice who may be present at all times during the investigative interview. The representative shall not be a person subject to the same investigation. Your representative shall not be required to disclose nor shall be subject to any punitive action for refusing to disclose any information received from you while under investigation in non-criminal matters.

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If you have any questions regarding the logistics of the investigation, please contact Mr. Escalante at [REDACTED]@solutions-mrg.com

Thank you,

Joe Allio



CITY OF VALLEJO

OFFICE OF THE CHIEF OF POLICE

111 AMADOR STREET • VALLEJO • CALIFORNIA • 94590-6301 • (707) 648-4540 • FAX (707) 648-4390

July 15, 2020

Dear Mike Nichelini:

NOTICE OF PAID ADMINISTRATIVE LEAVE

The Vallejo Police Department ("Department") has received complaints regarding your role in the evidence collection process [REDACTED]

[REDACTED] It is necessary that these allegations be investigated given their serious nature. You are hereby placed on paid administrative leave effective immediately, and until further notice. This is not a disciplinary action, but is intended to allow the City an opportunity to conduct an investigation and determine what, if any, disciplinary action may be appropriate.

While on paid administrative leave, you will receive your full pay with no charge to your accrued leave balances, unless you are unavailable due to illness, personal business, or vacation. Your paycheck and pay statement will continue to be distributed as usual.

While on paid administrative leave, you are directed to comply with the following orders:

- 1) Your police officer powers are suspended for the duration of your time on paid administrative leave or until further written notice. You shall not report or perform any official Department or City related duties, unless otherwise directed to by the Chief of Police.
- 2) You are required to immediately surrender your badge, police identification, department or City key(s), City-owned vehicle(s), firearm(s), or any other City issued property, which will be retained at the Police Department.
- 3) You shall not carry your City issued firearm unless authorized to do so in writing by the Chief of Police.

- 4) Unless authorized in writing by Chief Williams, you are not permitted to enter any City property which is not open to the public for the purpose of conducting City business. You are not to visit the Police Department without prior approval from the Chief of Police and arrangements will be provided for obtaining your payroll check, if necessary. You may contact the office of the Chief of Police at (707) 648-4540 should you need to retrieve items from the Police Department.
- 5) While you are on paid administrative leave, you are required to remain readily available to the City and investigator(s) for telephone contact, email contact, meetings (virtual or live), or in response to a directive to immediately return to work. Specifically, you are required to remain available during your normal scheduled work hours. (8:00 a.m. to 5:00 p.m. Monday through Friday). If you will need to be unavailable due to sickness, personal business or vacation, you are required to contact Chief Williams at (707) 648-4540 in advance and as soon as possible for prior authorization. A charge to your accrued leave balances may be made.
- 6) While on paid administrative leave, you are required to phone in to the office of the Chief of Police at (707) 648-4540 each Monday morning by 0900 hours.
- 7) You are required to obtain specific authorization from the Chief of Police for any other law enforcement activity, whether or not previously scheduled, including but not limited to court appearance, off duty employment, or public appearances.
- 8) You are required to immediately notify the office of the Chief of Police at (707) 648-4540 if you move, change your telephone number, or plan to be out of town for more than one workday.
- 9) You are ordered not to discuss the circumstances of your duty status or the investigation with another other than the Chief of Police, the investigator(s) as noted in the "Internal Affairs Investigation" notification, or your attorney or union representative, unless authorized to do so in writing by the Chief of Police. If your chosen representative is anyone other than an attorney, you must identify that person prior to discussing the case with them to ensure that the selected representative is not a party to this investigation. This includes Command Officers (Lieutenants and Captains) in the Department.
- 10) You are prohibited from retaliating against employees for making a complaint or participating in workplace investigations, and the City will take all appropriate disciplinary action.

Please be advised that failure to comply with the above directives will be considered insubordination and grounds for disciplinary action, up to and including termination. Additional directives may be issued. If you have any questions during the time you are on paid administrative leave, please contact the office of the Chief of Police at (707) 648-4540. You will receive additional information and/or instructions with regards to the work status and requirements for returning back to work.

I acknowledge receipt of these orders and that I have had the opportunity to review these orders:

SIGNATURE: 

DATE 16 JUL 20

MEMBER NAME: Michael Nicheloni

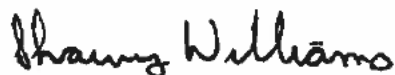
TELEPHONE NUMBER: 

EMAIL ADDRESS: 

PERSONAL SERVICE WITNESSED BY: 

DATE 16 JULY 20

Sincerely,



Shawny K. Williams
Chief of Police

cc: Heather Ruiz, Human Resources Director
Mark Love, Assistant Human Resources Director

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ATTN. F

**INTERNAL AFFAIRS
ADMINISTRATIVE RIGHTS/INVESTIGATION
ADVISEMENT**

I am Rudy Escalante, a consultant hired by the City of Vallejo, and I am assigned to conduct an investigation for I.A. Case IA2020-09. You are about to be questioned as part of an official Vallejo Police Department Administrative Investigation. Today's date is 9-3-, 2020, and the time is 2:22pm hours.

This investigation concerns: Allegations of potential misconduct about activity that reflects negatively on the City of Vallejo, the Law Enforcement profession, and the Vallejo Police Department for the alleged violations: On or about June 10th, 2020, IA2020-09, case #20-06322, an item of evidence, a windshield, was allegedly destroyed without authorization that was evidence in an officer involved shooting investigation.

The Investigation is to determine if your actions during these investigations met performance standards set forth by city or department policy or rule.

If this were a criminal investigation, any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence, which is gained by such statements, can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Vallejo Police Department.

MIRANDA RIGHTS

- You have the right to remain silent.
- Anything you say can and will be used against you.
- You have the right to an attorney.
- If you cannot afford an attorney, one will be appointed to you before any questioning.
- Do you understand each of these rights? I DO
- Having these rights in mind do you wish to talk with me? I DO NOT

LYBARGER

- While you have the right to remain silent with regard to any criminal investigation and not incriminate yourself, you do not have the right to refuse to answer my administrative questions.

- This is strictly an administrative investigation.
- I am therefore, now ordering you to discuss this matter with me.
- If you refuse to discuss this matter, your silence can be deemed insubordination and result in administrative discipline, up to and including termination.
- Any statement you make under compulsion or the threat of discipline cannot be used against you in a later criminal proceeding.

You have the right to have a representative of your choice, who is not involved in this investigation, and present with you during your interview(s). Your representative is here to insure that your rights are not violated. He/She will not answer questions on your behalf. Present with you today as your representative is [REDACTED]

This interview will be tape recorded. You have the right to bring your own recording device and record any and all aspects of the interrogation. If you need a break or a refreshment during the interview, please let me know.

If prior to or during the interrogation it is deemed that you may be charged with a criminal offense, you shall be immediately informed of your constitutional rights.

At the conclusion of this interview you are specifically ordered not to discuss this interview or this investigation with anyone except you representative.

Do you have any questions regarding this notice? NO

So you understand your answers need to be honest and candid? YES, YES

The above admonition has been explained to me and I understand its contents.

Date

9-3-2020

Employee

[Signature]

Witness

[Signature]

The purpose of this interview is to look into complaints received by the Vallejo Police Department and complaint(s) involving alleged performance issues against you.

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IA2020-09
Case #20-06322

Subject Officer Questions

- 1) What is your name, rank and current assignment? How long?
- 2) What is your date of hire for the City of Vallejo?
- 3) Have you been trained by the City of Vallejo or the Police Department on its Discriminatory Harassment Policy? When and by whom?
- 4) Does the PD have a policy through Lexipol?
- 5) Do you recall when was the last time you reviewed the policy manual?
- 6) Tell me about your investigatory experience as a police officer?
- 7) Were you on duty on the evening of this officer involved shooting case?
- 8) Who was in charge of the scene investigation?

9) What was your role in this investigation?

10) Who processed the police vehicle at the scene?

11) Did someone of higher rank give you permission or direction to replace the windshield?

12) Who gave you permission to replace the windshield?

13) Are you familiar with Lexipol policy 801.2, Evidence is defined: "Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case"?

14) In handling property and evidence, care shall be taken to maintain the chain of custody for all evidence; would you agree that all items in an officer involved shooting should maintain proper chain of custody?

15) Did you receive permission from the lead detective or the supervisor in charge of the administrative or criminal investigation as mentioned in policy 801?

16) In your experience have you been involved in cases that potentially could involve city litigation?

17) Describe these situations?

18) As a manager/commander do you have the responsibility to protect the city from civil liability and to make decisions in the best interest of the city?

19) Through your investigatory experience, have you been assigned as the investigating detective by the prosecution?

20) In your experienced as a trained investigator are you familiar with the Best Evidence Rule?

21) Are you familiar with the California Evidence Code?

22) do you know how it relates to the production of evidence?

23) Are you familiar with the term burden of proof?

24) Would the city be responsible for producing the burden in a civil case?

25) Have you acknowledged receiving the departments Lexipol Policy?

26) Are you familiar with policy 103 in regards to department policy acknowledgement and what that means?

27) Are you familiar with the Lexipol policy covering Officer Involved Shootings, policy 306?

28) what are the types of investigations in an officer involved shooting?

29) Does the department conform to the Solano County Officer Involved Fatal Incident Protocol for investigating officer-involved shootings?

30) In a criminal investigation, who is responsible for the criminal investigation into the circumstances of any officer involved shooting or death?

31) Did you know if there was a DA investigator assigned to this case?

32) Did you check with them before releasing the windshield, why or why not?

33) Are you familiar with the Lexipol policy covering Property and Evidence?

34) Are you familiar with the county's officer involved shooting protocol?

35) Do you have a duty of care for civil or criminal liability against the City, its officials, or its members?

36) Do members of this department have a civil liability response in an officer involved shooting case?

37) Based on your training and experience as an investigator, would there be potential for significant liability in an officer involved shooting case?

38) If a death occurs by a police officer would this qualify as a justifiable homicide under 196 PC and therefore require the preservation of evidence under the best evidence rule?

39) Would there be a higher responsibility for duty of care of evidence in a civil case?

40) Have you ever impounded a vehicle under section 22655.5 CVC?

41) Describe some of the evidentiary reasons for holding onto someone's vehicle?

42) As a traffic commander, have you or any of your assigned staff held on to parts of vehicle that was involved in a hit run accident or fatality?

43) Would there ever be a reason to hold on to evidence, i.e. a windshield or vehicle if it was part of a crime so that it may be examined by attorney's involved?

44) Does the police department have access to a secure storage facility?

45) Does the police department have access to inside storage?

46) When an officer is involved in an on-duty accident is there a responsibility to hold on to the vehicle for insurance purposes in the event of a claim?

47) Could the windshield of been replaced and the police vehicle been put back into service and the damaged windshield been preserved without destroying the evidentiary value item?

48) In your training and experience have you ever preserved an item of evidence that ultimately was not presented in court

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Witness Questions
IA2020-09 & 10
20-06322

1. What is your name, rank and current assignment and how long?
2. How long have you been working for the City of Vallejo?
3. Tell me about your training and experience in regards to homicide investigations?
4. Tell me about your training and experience in regards to evidence recognition and collection?
5. How did you become involved in this case?
6. What was your role in this investigation?
7. Are you familiar with the Solano County Officer Involved Fatal Incident Protocol?
8. In your role, did you work with an investigator from the DA's office and who?

9. Who was responsible as the venue agency liaison?

10. Who was assigned to complete the crime scene work on the police vehicle, i.e. truck?

11. What is this vehicle used for?

12. Who had supervisory responsibility for the crime scene work?

13. Who photographed the police vehicle?

14. Who took measurements?

15. What other items were collected at the scene?

16. When and where was the police truck processed?

17. Who in the police department is responsible for police fleet management?
18. How was the vehicle moved and to where?
19. Who made the decision to move the vehicle?
20. As a supervisor do you have a duty to intercede in the event you observe a policy violation or a criminal act?
21. Are you familiar with Policy 801 as it relates to Property and Evidence?
22. Within this policy, who has responsibility to authorize the disposition or release of all evidence and property coming in the care and custody of the Department?
23. Who has authority to release property?

24. Who has authority to release items relative to a criminal case?
25. Do you have a responsibility to investigate cases that could be related to a civil proceeding involving the City of Vallejo?
26. In the Solano County Fatal Incident Protocol what is the protocol for making items that are collected available in a timely manner to those agencies which have an interest in the investigation?
27. What is the Best Evidence Rule?
28. Have you ever brought evidence into court for examination? Explain?
29. In your training and experience have you ever made evidence available for review by the DA or the Defense prior to trial? Explain?
30. What items did you collect while at the scene?

31. Do you know who authorized the release of the truck?
32. Do you know who researched the quote for the repair of the police truck?
33. Do you know where the truck was stored?
34. Do you know who repaired the truck and where?
35. Did Lt. Nichelini tell you to have the truck repaired?
36. Did Lt. Rodriguez tell you to have the truck repaired?
37. Do you know why the truck was repaired?
38. Did anyone tell you not to hold on to the windshield or that it was not needed?

39. Did anyone consider that the windshield might be needed for any civil proceedings?

40. Did you check with the DA's Office about the release of the truck or the windshield?

41. Have you been completely truthful with me?

42. Is there anything else you feel would be important for this investigation?

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ATTACH. H



VALLEJO POLICE DEPARTMENT

Professional Standards Division

To: [REDACTED]
From: Joseph Allio, Assistant Chief of Police
Subject: Witness Officer Interview Notice
Date: August 14, 2020

The Office of the Vallejo City Attorney has retained the services of Mr. Rudy Escalante, Consultant for Municipal Resource Group, to conduct an internal personnel investigation regarding the conduct of Lieutenant Michael Nichelini and Lieutenant Fabio Rodriguez. We ask that you cooperate fully regarding any and all information that is not privately protected so that we may conclude this investigation as efficiently as possible.

Mr. Escalante has been granted all authority by the Office of the Chief of Police to conduct a complete and thorough investigation into the matter at hand. This is an Administrative Internal Affairs Investigation into the alleged conduct listed below. You are a witness to this investigation and are ordered to cooperate with the investigator and be truthful in your responses.

At the conclusion of your interview, you are ordered not to discuss your interview with anyone except your representative, the Chief of Police or the consultant, Mr. Escalante. If, during the interview, information is discovered that identifies you as a possible subject officer, the interview will be terminated and you will be advised of your Lybarger admonishment and your right to a representative. Failure to comply with this notice shall be deemed an act of insubordination, and may result in discipline up to, and including termination.

You are scheduled for an interview with Mr. Escalante on Tuesday, August 25th, 2020 at 4:00 p.m. in the police department conference room to discuss the incident listed below.

You are being interviewed as:

Subject Officer/Employee _____

Witness Officer/Employee XX _____

The Administrative investigator(s) conducting the interview will be:
Rudy Escalante, Consultant for Municipal Resource Group

The nature of the complaint(s) or allegation(s) are:

This investigation concerns: Allegations of potential misconduct about activity that reflects negatively on the City of Vallejo, the Law Enforcement profession, and the Vallejo Police Department for the alleged violations: On or about June 10th, 2020, case #20-06322, an item of evidence, a windshield, was allegedly destroyed without authorization that was evidence in an officer involved shooting investigation.

Date and time of incident: On or about June 10, 2020
Location of incident: City of Vallejo, Vallejo Police Department
Case/Incident/Citation # Case #20-06322

WARNING AGAINST RETALIATION

This provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your investigative matter. You may not contact or in any other manner retaliate against any individual who has provided information to the Vallejo Police Department or to the investigator regarding your conduct being investigated in this matter.

*Please acknowledge receipt of this notice via 'reply-all' to the email in which it was sent.

Should you have any questions or scheduling issues for the indicated interview time, please contact the investigator directly: Rudy Escalante [REDACTED]@solutions-mrg.com



VALLEJO POLICE DEPARTMENT

Professional Standards Division

To: [REDACTED]

From: Joseph Allio, Assistant Chief of Police

Subject: Witness Officer Interview Notice

Date: August 14, 2020

The Office of the Vallejo City Attorney has retained the services of Mr. Rudy Escalante, Consultant for Municipal Resource Group, to conduct an internal personnel investigation regarding the conduct of Lieutenant Michael Nichelini and Lieutenant Fabio Rodriguez. We ask that you cooperate fully regarding any and all information that is not privately protected so that we may conclude this investigation as efficiently as possible.

Mr. Escalante has been granted all authority by the Office of the Chief of Police to conduct a complete and thorough investigation into the matter at hand. This is an Administrative Internal Affairs Investigation into the alleged conduct listed below. You are a witness to this investigation and are ordered to cooperate with the investigator and be truthful in your responses.

At the conclusion of your interview, you are ordered not to discuss your interview with anyone except your representative, the Chief of Police or the consultant, Mr. Escalante. If, during the interview, information is discovered that identifies you as a possible subject officer, the interview will be terminated and you will be advised of your Lybarger admonishment and your right to a representative. Failure to comply with this notice shall be deemed an act of insubordination, and may result in discipline up to, and including termination.

You are scheduled for an interview with Mr. Escalante on Tuesday, August 25th, 2020 at 3:00 p.m. in the police department conference room to discuss the incident listed below.

You are being interviewed as:

Subject Officer/Employee _____

Witness Officer/Employee _____XX_____

The Administrative investigator(s) conducting the interview will be:
Rudy Escalante, Consultant for Municipal Resource Group

The nature of the complaint(s) or allegation(s) are:

This investigation concerns: Allegations of potential misconduct about activity that reflects negatively on the City of Vallejo, the Law Enforcement profession, and the Vallejo Police Department for the alleged violations: On or about June 10th, 2020, case #20-06322, an item of evidence, a windshield, was allegedly destroyed without authorization that was evidence in an officer involved shooting investigation.

Date and time of incident: On or about June 10, 2020

Location of incident: City of Vallejo, Vallejo Police Department

Case/Incident/Citation # Case #20-06322

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Should you have any questions or scheduling issues for the indicated interview time, please contact the investigator directly: Rudy Escalante [REDACTED]@solutions-mrg.com

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Attach. I



POST PROFILE NAME:
RODRIGUEZ, FABIO

CALIFORNIA COMMISSION ON POST CONFIDENTIAL PROFILE REPORT

AKA: N/A

DATE: 07/30/2020

Page 1 of 4

A. PERSONAL IDENTIFICATION

POSTID	Agency	Birth Date	Sex	Race
[REDACTED]	VALLEJO PD	[REDACTED]	[REDACTED]	[REDACTED]

B. CERTIFICATES AWARDED

CCN No.	Type	Awarded	Education	F	T	Comments
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

C. EMPLOYMENT

Hired From	To	R*	Rate	Rank Date	Agency	Address Name	FID	FUI	Rank
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

D. POST CERTIFIED TRAINING

Comp Date	Car	CCN	Hrs	Min	Sec	Agency	School	Course Name
03/25/2000	K	4200-29900-99-072	8		Y	60000	NAPA C	S&K-FIRST AID CPR
08/03/2000	K	4890-23272-00-020	8	R	Y	48070	M TOLERNC	CULT. DIV.-TOOLS FOR TOLERANCE
12/22/2000	A	2010-00100-99-004	1051	R	Y	48070	OPD	BASIC COURSE-INTENSIVE
09/20/2001	K	4200-29900-01-017	8		Y	48070	NAPA C	S&K-DRIVER AWARENESS
03/27/2003	K	4910-29900-02-003	4	X	Y	48070	VPD	S&K-CRIMES AGAINST PERSONS #12
04/25/2003	K	9590-31445-02-029	40		Y	48070	B.A.T.I.	INTERVIEW & INTERROGATION
08/18/2003	K	8790-29900-03-005	8	X	Y	48070	CNOA	S&K-INFORMANT DEV MOD #9
03/24/2004	K	4200-29900-03-020	10		Y	48070	NAPA C	S&K-FIRST AID/CPR #52
04/29/2004	K	9260-22020-03-028	8		Y	48070	DOJ	ELECTRONIC SURVEIL-WIRETAP
05/12/2004	K	4200-29501-03-013	4		Y	48070	NAPA C	* FIREARM(PSP)
05/12/2004	K	4200-29503-03-011	4		Y	48070	NAPA C	* ARSTCTL(PSP)
07/08/2004	K	8790-29900-04-001	8	X	Y	48070	CNOA	S&K-SEARCH WARRTS NAR MOD #8
07/20/2004	K	8790-29900-04-002	8	X	Y	48070	CNOA	S&K-NARCOTIC ST DEV MOD #1
07/28/2004	K	4200-23282-04-002	5		Y	48070	NAPA C	RACIAL PROFILING
07/28/2004	K	4200-29504-04-001	3		Y	48070	NAPA C	* TACCOM(PSP)
08/05/2004	K	8790-29900-04-006	8	X	Y	48070	CNOA	S&K-CLANDEST LAB INV MOD #13
02/18/2005	K	5590-20005-04-032	8	R	Y	48070	CONTRASO	* DRIVING/FORCE OPTION SIM.COMBO
09/22/2005	K	9720-20352-05-001	24	R	Y	48070	CDAA	DRUG ASSET FORFEITURE, BASIC
11/17/2005	K	9720-22271-05-001	28	R	Y	48070	CDAA	ASSET FORFEITURE FIN. INVEST.
01/11/2006	K	5380-23161-05-007	24		Y	48070	SONOMA SO	GANGS/CAL GANG COMPUTER SYSTEM
05/17/2006	K	4200-29900-05-016	8		Y	48070	NAPA C	S&K-#52 FIRST AID/CPR RECERT
09/01/2006	K	4200-22405-06-002	16	R	Y	48070	NAPA C	OFGR. SAFETY/FIELD TACTICS UPD
09/27/2006	K	4200-29502-06-002	8		Y	48070	NAPA C	* DRIVING(PSP)
11/21/2006	K	8790-28000-06-001	20	X	Y	48070	CNOA	TRAINING CONFERENCE
03/14/2007	K	9720-20351-06-001	20	R	Y	48070	CDAA	DRUG ASSET FORFEITURE, UPD.
05/16/2007	K	4200-29504-06-007	3		Y	48070	NAPA C	* TACCOM(PSP)
08/01/2007	K	4200-29503-07-004	8		Y	48070	NAPA C	* ARSTCTL(PSP)
10/18/2007	K	4200-29502-07-011	8		Y	48070	NAPA C	* DRIVING(PSP)
11/28/2007	K	4200-29501-07-008	8		Y	48070	NAPA C	* FIREARM(PSP)
04/09/2008	K	4200-21771-07-019	8		Y	48070	NAPA C	FIRST AID/CPR REFRESHER
10/16/2008	K	4200-31583-08-003	2	X	Y	48070	NAPA C	BLOODBORNE PATHOGENS

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D. POST CERTIFIED TRAINING <i>continued</i>									
Comp Date	Cat	CCN	Mrs	Amb	Comp	Agency	School		Course Name
10/16/2008	K	4200-31552-08-003	4	X	Y	48070	NAPA C		EVIDENCE COLLECTION ✓
10/16/2008	K	4200-20800-08-003	2	X	Y	48070	NAPA C		CRISIS INTERVENTION UPDATE
12/11/2008	K	4200-30780-08-003	4	X	Y	48070	NAPA C		COURT & TEMPORARY HOLDING FACIL
06/11/2009	K	4200-29504-08-006	2		Y	48070	NAPA C		* TACCOM(PSP)
09/03/2009	K	4200-29503-09-007	4	X	Y	48070	NAPA C		* ARSTCTL(PSP)
10/29/2009	K	4200-29502-09-016	4		Y	48070	NAPA C		* DRIVING(PSP)
10/29/2009	K	4910-29000-09-140	2	X	Y	48070	VPD		WORKPLACE HARASSMENT
11/24/2009	K	8790-28000-09-001	8	X	Y	48070	CNOA		TRAINING CONFERENCE
07/01/2010	K	4910-29000-10-140	2	X	Y	48070	VPD		WORKPLACE HARASSMENT
10/08/2010	K	4910-29000-10-063	2	X	Y	48070	VPD		RECOGNIZING MENTAL ILLNESS: A PROACTIVE APPROACH
10/08/2010	K	4910-29000-10-109	2	X	Y	48070	VPD		DOMESTIC VIOLENCE UPDATE
07/12/2011	K	9180-25554-11-012	2	X	Y	48070	POST		* COMMUNICATION: KEEPING YOUR EDGE (WEB)
12/14/2011	K	2980-21155-11-007	8	R	Y	48070	SCJCTC		* DRIVER TRAINING (EVOC) UPDATE
03/09/2012	K	9180-25575-11-253	3	X	Y	48070	POST		SEARCH WARRANT FUNDAMENTALS (WEB)
03/23/2012	K	7920-31921-11-004	80	R	Y	48070	CSU-SAC		HOMICIDE INVESTIGATION (ICI) ✓
03/30/2012	K	7920-31911-11-002	40	R	Y	48070	CSU-SAC		HOMICIDE INV., ADVANCED (ICI) ✓
04/09/2012	K	4200-29503-11-023	4	X	Y	48070	NAPA C		* ARSTCTL(PSP)
04/09/2012	K	4200-29501-11-022	4	X	Y	48070	NAPA C		* FIREARM(PSP)
02/12/2013	K	1270-20272-12-027	16		Y	48070	CHP		ADVANCED ROADSIDE IMPAIRED DRIVER ENFORCEMENT
02/28/2013	K	9260-22020-12-029	4	X	N	48070	DOJ		ELECTRONIC SURVEILLANCE
03/08/2013	K	2540-28000-12-005	20	X	Y	48070	SOBAYRTC		TRAINING CONFERENCE
10/10/2013	K	4200-29503-13-004	4	X	Y	48070	NAPA C		* ARSTCTL(PSP)
10/17/2013	K	9180-25560-13-109	1	X	Y	48070	POST		OFFICER SAFETY: HOT OR NOT (WEB)
10/17/2013	K	9180-25577-13-109	2	X	Y	48070	POST		OFFICER SAFETY: MAKE THE RIGHT CHOICE (WEB)
11/07/2013	K	4200-29504-13-001	3		Y	48070	NAPA C		* TACCOM(PSP)
12/05/2013	K	4200-29501-13-009	4	X	Y	48070	NAPA C		* FIREARM(PSP)
12/05/2013	K	4200-29503-13-007	4	X	Y	48070	NAPA C		* ARSTCTL(PSP)
03/28/2014	K	8790-21516-13-005	8	X	Y	48070	CNOA		HUMAN TRAFFICKING
04/17/2014	K	9070-20334-13-003	8	X	N	48070	SDRTC		DNA EVIDENCE FOR INVESTIGATORS ✓
04/21/2014	K	4200-29503-13-032	4	X	Y	48070	NAPA C		* ARSTCTL(PSP)
04/21/2014	K	4200-29501-13-035	4	X	Y	48070	NAPA C		* FIREARM(PSP)
05/19/2014	K	4200-29502-13-005	8		Y	48070	NAPA C		* DRIVING(PSP)
08/07/2014	K	4910-29000-14-223	2	X	Y	48070	VPD		AUTISM RECOGNITION AND RESPONSE
08/07/2014	K	4910-29000-14-253	2	X	Y	48070	VPD		SOVEREIGN CITIZEN EXTREMISTS
08/11/2014	K	4200-29501-14-008	4	X	Y	48070	NAPA C		* FIREARM(PSP)
09/08/2014	K	4910-29000-14-255	2	X	Y	48070	VPD		MENTAL HEALTH UPDATE
09/08/2014	K	4910-29000-14-258	2	X	Y	48070	VPD		HUMAN TRAFFICKING: IDENTIFY & RESPOND
10/03/2014	K	1095-22419-14-005	24	R	Y	48070	CTI		OFFICER SAFETY/FORCE ENCOUNTERS ANALYSIS
10/08/2014	K	4200-29501-14-027	4	X	Y	48070	NAPA C		* FIREARM(PSP)
11/03/2014	K	4200-29502-14-011	4		Y	48070	NAPA C		* DRIVING(PSP)
11/03/2014	K	4910-29000-14-167	2	X	Y	48070	VPD		PRISONER SECURITY
11/03/2014	K	4910-29000-14-252	2	X	Y	48070	VPD		ETHICAL DECISION MAKING
11/25/2014	K	8790-28000-14-001	20	X	Y	48070	CNOA		TRAINING CONFERENCE
02/26/2015	K	4910-29000-14-262	2	X	Y	48070	VPD		SURVIVING DEADLY ASSAULTS 2014

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D. POST CERTIFIED TRAINING <i>continued</i>									
Comp Date	Cat	CCN	Hrs	Rmb	Comp	Agency	School		Course Name
02/26/2015	K	4910-29000-14-260	2	X	Y	48070	VPD		BIAS BASED POLICING: REMAINING FAIR & IMPARTIAL
02/26/2015	K	4910-29000-14-239	2	X	Y	48070	VPD		HOMEMADE EXPLOSIVES
03/27/2015	M	1269-50000-14-001	24		Y	48070	JJA		TEAM BUILDING WORKSHOP FOR VALLEJO PD (NO CPT CREDIT)
04/01/2015	K	4910-29000-14-250	2	X	Y	48070	VPD		LEGAL ASPECTS OF TERRORISM UPDATE
04/06/2015	K	4200-29502-14-022	8		Y	48070	NAPA C	*	DRIVING(PSP)
05/04/2015	K	4910-29000-14-073	2	X	Y	48070	VPD		CRISIS POINT: DOMESTIC VIOLENCE & HOSTAGE NEGOTIAT
05/04/2015	K	2950-24203-14-088	2	X	Y	48070	BUTTE CTR		CRITICAL INCIDENT FOR PATROL
06/18/2015	K	4200-29501-14-065	4	X	Y	48070	NAPA C	*	FIREARM(PSP)
08/31/2015	K	4910-29000-15-211	2	X	Y	48070	VPD		RESPONSE TO IMPROVISED EXPLOSIVE DEVICES
11/05/2015	K	4200-29502-15-002	8		Y	48070	NAPA C	*	DRIVING(PSP)
11/06/2015	K	4910-29000-15-224	2	X	Y	48070	VPD		RADICALIZATION
12/03/2015	K	4200-29503-15-009	4	X	Y	48070	NAPA C	*	ARSTCTL(PSP)
12/03/2015	K	4200-29504-15-005	2		Y	48070	NAPA C	*	TACCOM(PSP)
12/03/2015	K	4200-29501-15-014	4	X	Y	48070	NAPA C	*	FIREARM(PSP)
03/03/2016	K	4910-29000-15-249	2	X	Y	48070	VPD		ENGAGING THE MUSLIM COMMUNITY
04/21/2016	K	4200-29502-15-006	8		Y	48070	NAPA C	*	DRIVING(PSP)
05/22/2016	K	4910-29000-15-235	2	X	Y	48070	VPD		HOMEGROWN ISLAMIC TERRORISM
06/17/2016	D	1010-00400-15-005	80	R	Y	48070	ALAMEDA SO		SUPERVISORY COURSE
08/24/2016	K	4910-29000-16-133	2	X	Y	48070	VPD		TERRORISM AND FIRST RESPONDERS
11/29/2016	K	4910-29000-16-263	2	X	Y	48070	VPD		STATE THREAT ASSESSMENT SYSTEM
01/27/2017	K	9180-25585-16-211	2	X	Y	48070	POST	*	TACTICAL COMMUNICATION (WEB)
06/05/2017	K	4200-29502-16-016	4		Y	48070	NAPA C	*	DRIVING(PSP)
11/01/2017	K	4200-29501-17-022	8	X	Y	48070	NAPA C	*	FIREARM(PSP)
11/28/2017	K	2540-28000-17-003	8	X	Y	48070	SOBAYRTC		TRAINING CONFERENCE
02/07/2018	K	9900-32120-17-002	16	X	Y	48070	PORAC		INTERNAL AFFAIRS/DISCIPLINE
03/11/2018	K	4910-29000-17-277	2	X	Y	48070	VPD		END OF LIFE OPTION ACT
03/15/2018	K	4910-29000-17-278	2	X	Y	48070	VPD		Hate Crimes: Identification and Investigation
04/12/2018	K	4200-29502-17-006	8		Y	48070	NAPA C	*	DRIVING(PSP)
05/22/2018	K	4910-29000-17-258	2	X	Y	48070	VPD		HUMAN TRAFFICKING: IDENTIFY & RESPOND
05/22/2018	K	4910-29000-17-268	2	X	Y	48070	VPD		ELDER AND DEPENDENT ADULT ABUSE
06/13/2018	K	4200-29501-17-035	4	X	Y	48070	NAPA C	*	FIREARM(PSP)
06/23/2018	G	9180-12311-17-015	24	R	Y	48070	POST		SHERMAN BLOCK SLI SESSION 1
07/21/2018	G	9180-12312-18-002	24	R	Y	48070	POST		SHERMAN BLOCK SLI SESSION 2
08/18/2018	G	9180-12313-18-003	24	R	Y	48070	POST		SHERMAN BLOCK SLI SESSION 3
08/29/2018	K	4910-29000-18-268	2	X	Y	48070	VPD		ELDER AND DEPENDENT ADULT ABUSE
08/30/2018	K	4200-29501-18-002	4	X	Y	48070	NAPA C	*	FIREARM(PSP)
09/02/2018	K	4910-29000-18-258	2	X	Y	48070	VPD		HUMAN TRAFFICKING: IDENTIFY & RESPOND
09/15/2018	G	9180-12314-18-004	24	R	Y	48070	POST		SHERMAN BLOCK SLI SESSION 4
09/28/2018	K	4910-29000-18-278	2	X	Y	48070	VPD		HATE CRIMES: IDENTIFICATION AND INVESTIGATION
10/13/2018	G	9180-12315-18-005	24	R	Y	48070	POST		SHERMAN BLOCK SLI SESSION 5
11/16/2018	K	4890-12309-18-005	16	R	Y	48070	M TOLERNC		SHERMAN BLOCK SLI SESSION 6A (MOT ONLY)
11/17/2018	G	9180-12319-18-005	8	R	Y	48070	POST		SHERMAN BLOCK SLI SESSION 6B

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D. POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	Course Name
12/15/2018	G	9180-12317-18-005	18	R	Y	48070	POST	SHERMAN BLOCK SLI SESSION 7
12/20/2018	K	4200-29504-18-004	2		Y	48070	NAPA C	* TACCOM(PSP)
12/20/2018	K	4200-29503-18-008	4	X	Y	48070	NAPA C	* ARSTCTL(PSP)
12/20/2018	K	4200-29501-18-009	4	X	Y	48070	NAPA C	* FIREARM(PSP)
01/25/2019	G	9180-12318-18-005	24	R	Y	48070	POST	SHERMAN BLOCK SLI SESSION 8
02/14/2019	K	4200-29501-18-019	4	X	Y	48070	NAPA C	* FIREARM(PSP)
02/14/2019	K	4200-29503-18-013	4	X	Y	48070	NAPA C	* ARSTCTL(PSP)
02/14/2019	K	4200-29504-18-005	2		Y	48070	NAPA C	* TACCOM(PSP)
09/18/2019	K	9180-25586-19-080	8	X	Y	48070	POST	FIRST AID/CPR/AED (WEB)
12/31/2019	K	4910-29000-19-260	2	X	Y	48070	VPD	BIAS BASED POLICING: REMAINING FAIR & IMPARTIAL
03/05/2020	K	1357-20799-19-010	8		Y	48070	LODD	* DE-ESCALATION & TACTICAL COMMUNICATION
05/28/2020	K	4200-29502-19-005	8		Y	48070	NAPA C	* DRIVING(PSP)

*Meets Perishable Skills

F. FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

A. PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)

POST ID:	Unique identification number assigned to subject by POST
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date / Sex:	Self-explanatory.
Race:	A = Asian B = African American (Black) N = Native American S = Spanish/Hispanic W = White O = Other

B. CERTIFICATES AWARDED

Cert:	Certificate serial number.
Type:	B = Basic I = Intermediate A = Advanced S = Supervisory M = Management E = Executive R = Reserve D = Public Safety Dispatcher SX = Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

C. EMPLOYMENT: Subject's employment history as indicated in POST database

Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
Reason:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked
F/P:	Time base: F = Full time P = Part time
P/U:	Wage status: P = Paid U = Unpaid
Seas:	Provisional or seasonal employment.

D. POST TRAINING: Courses attended or completed as indicated in POST database

Comp Date:	Date course ended
Cat:	General course category (for POST use only)
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Reimb:	Reimbursement indicator: R = Reimbursed (before FY 83/84 reimbursable agency not necessarily reimbursed) J = Job specific * = Job specific SALARY NOT PAID Blank = None or no data available
Comp:	Completion indicator: Blank or Y = Course completed N = Course not completed 7 = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

E. NON-CERTIFIED COURSES

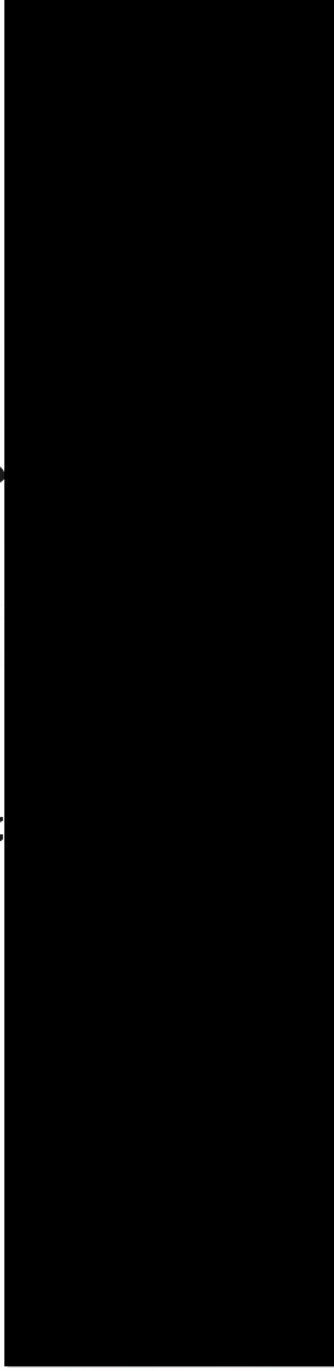
This section will only appear if applicable.

F. FOOTNOTES

This section reserved for additional information.

**VALLEJO POLICE DEPARTMENT
2019 - 2020 Approved External Training Calendar**

7/30/2020



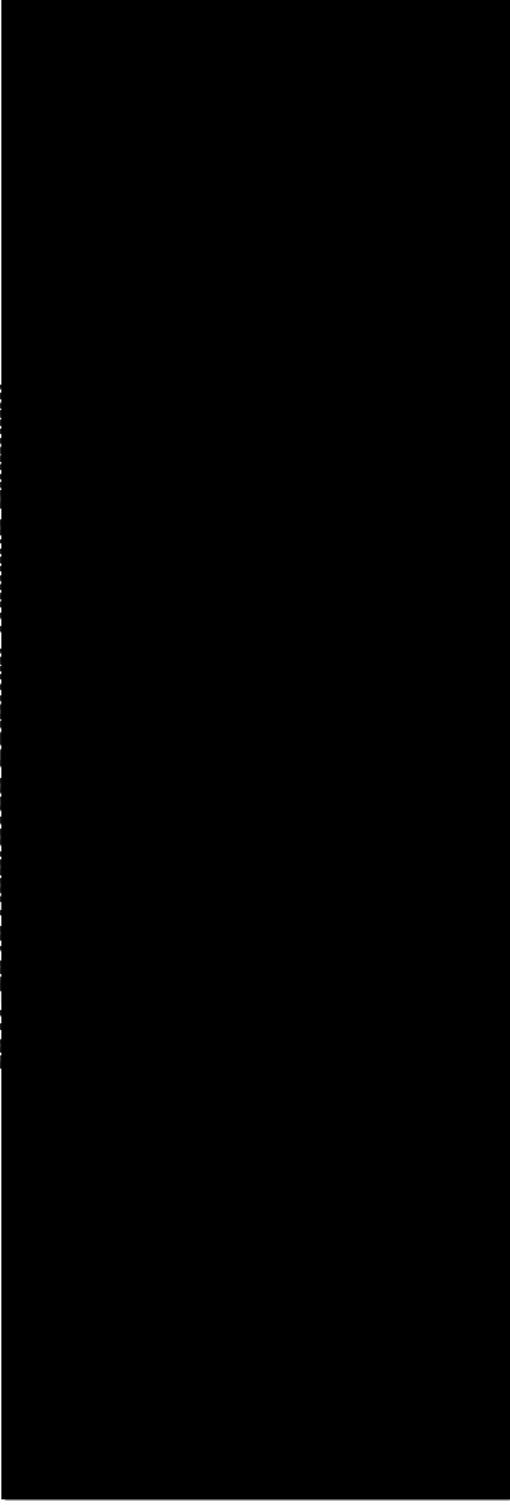
VALLEJO POLICE DEPARTMENT
2018-2019 Approved External Training Calendar

7/30/2020



**VALLEJO POLICE DEPARTMENT
2017-2018 Approved External Training Calendar**

7/30/2020



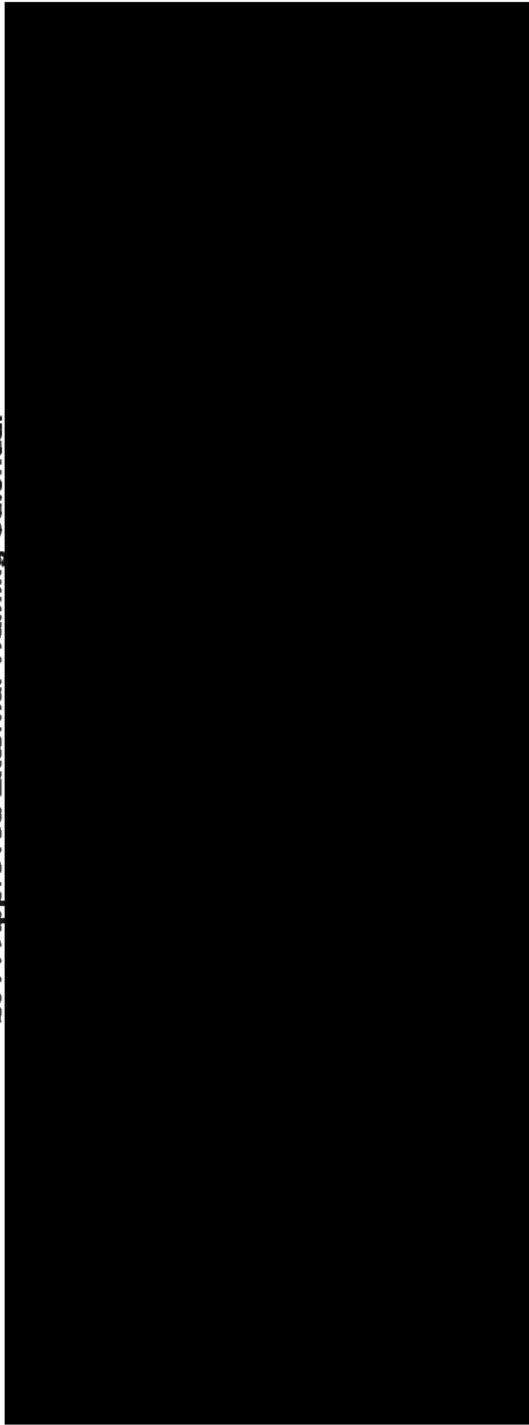
VALLEJO POLICE DEPARTMENT
2016-2017 Approved External Training Calendar

7/30/2020



**VALLEJO POLICE DEPARTMENT
2014 Approved External Training Calendar**

7/30/2020



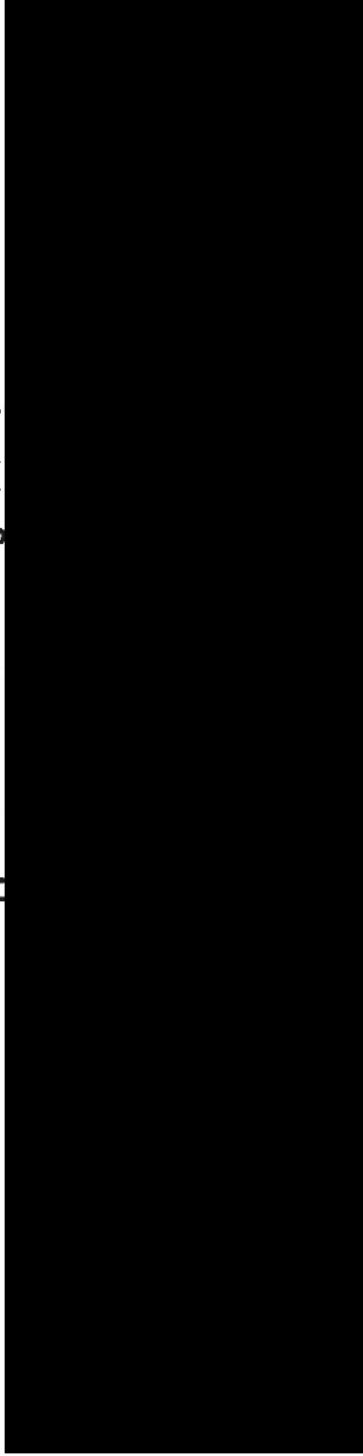
VALLEJO POLICE DEPARTMENT
2013 Approved External Training Calendar

7/30/2020



VALLEJO POLICE DEPARTMENT
2012 Approved External Training Calendar

7/30/2020



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VALLEJO POLICE DEPARTMENT LEXIPOL POLICY ACKNOWLEDGEMENT

First Name	Last Name	Policy Number	Policy Title	Issue Date	Acknowledgement Date
Fabio	Rodriguez	203	Administrative Communications	8/16/2017	10/21/2019
Fabio	Rodriguez	309	Officer Response to Calls	6/1/2019	10/21/2019
Fabio	Rodriguez	334	Private Persons Arrests	6/1/2019	10/21/2019
Fabio	Rodriguez	337	Communications with Persons with Disabilities	3/22/2016	4/19/2016
Fabio	Rodriguez	339	Biological Samples	10/2/2015	11/13/2015
Fabio	Rodriguez	344	Volunteer Program	6/1/2019	10/21/2019
Fabio	Rodriguez	419	Obtaining Air Support	5/14/2014	9/15/2014
Fabio	Rodriguez	603	Asset Forfeiture	12/6/2016	12/10/2016
Fabio	Rodriguez	701	Police Facility, Building Security, Parking and Gym	7/22/2019	10/21/2019
Fabio	Rodriguez	702	Personal Communication Devices	12/6/2016	12/10/2016
Fabio	Rodriguez	800	The Communications Center	7/22/2019	10/21/2019
Fabio	Rodriguez	1009	Communicable Diseases	6/26/2019	10/21/2019
Fabio	Rodriguez	1014	Personnel Records	7/16/2019	10/21/2019
Fabio	Rodriguez	1027	Department Badges	6/26/2019	7/1/2019
Fabio	Rodriguez	423	Mobile Audio Video	3/22/2016	4/19/2016
Fabio	Rodriguez	207	Training Policy	8/16/2017	10/21/2019
Fabio	Rodriguez	200	Organizational Structure and Responsibility	10/3/2017	10/21/2019
Fabio	Rodriguez	507	72-Hour Parking Violations	7/31/2019	10/21/2019
Fabio	Rodriguez	604	Informants	7/31/2019	10/21/2019
Fabio	Rodriguez	1010	Smoking and Tobacco Use	6/26/2019	10/21/2019
Fabio	Rodriguez	1023	Personal Appearance Standards	6/26/2019	7/1/2019
Fabio	Rodriguez	432	Public Recording of Law Enforcement Activity	7/31/2019	10/21/2019
Fabio	Rodriguez	301	Critical Incident Review Boards	10/3/2017	10/21/2019
Fabio	Rodriguez	302	Family/Citizen Point of Contact after Critical Incident	7/16/2019	10/21/2019
Fabio	Rodriguez	304	Control Devices and Techniques	10/3/2017	10/21/2019
Fabio	Rodriguez	312	Search and Seizure	12/12/2017	10/21/2019
Fabio	Rodriguez	317	Missing Persons	7/16/2019	10/21/2019
Fabio	Rodriguez	400	Patrol Function	1/16/2018	5/10/2019
Fabio	Rodriguez	803	Restoration of Firearm Serial Numbers	7/22/2019	10/21/2019
Fabio	Rodriguez	1030	Employee Speech, Expression and Social Networking	7/22/2019	10/21/2019
Fabio	Rodriguez	347	Department Use of Social Media	11/29/2017	10/21/2019

ATTACH. J.

VALLEJO POLICE DEPARTMENT LEXIPOL POLICY ACKNOWLEDGEMENT

First Name	Last Name	Policy Number	Policy Title	Issue Date	Acknowledgement Date
Fabio	Rodriguez	101	Chief Executive Officer	8/16/2017	7/1/2019
Fabio	Rodriguez	201	Special Order	10/3/2017	10/21/2019
Fabio	Rodriguez	327	Reserve Officers	6/15/2016	6/15/2016
Fabio	Rodriguez	331	Death Investigation	10/2/2015	11/13/2015
Fabio	Rodriguez	417	Aircraft Accidents	11/29/2017	10/21/2019
Fabio	Rodriguez	422	Watch Commanders	5/14/2014	9/15/2014
Fabio	Rodriguez	503	Vehicle Impound Hearings	7/31/2019	10/21/2019
Fabio	Rodriguez	1004	Grievance Procedure	6/26/2019	10/21/2019
Fabio	Rodriguez	1007	Drug- and Alcohol-Free Workplace	6/26/2019	7/1/2019
Fabio	Rodriguez	1016	Fitness for Duty	6/26/2019	7/1/2019
Fabio	Rodriguez	430	Crisis Intervention Incidents	7/16/2019	10/21/2019
Fabio	Rodriguez	202	Electronic Mail	8/16/2017	3/9/2018
Fabio	Rodriguez	330	Major Incident Notification	6/1/2019	10/21/2019
Fabio	Rodriguez	336	Limited English Proficiency Services	6/1/2019	10/21/2019
Fabio	Rodriguez	341	Public Safety Video Surveillance System	6/1/2019	10/21/2019
Fabio	Rodriguez	421	Criminal Organizations	7/16/2019	10/21/2019
Fabio	Rodriguez	506	Disabled Vehicles	7/31/2019	10/21/2019
Fabio	Rodriguez	1008	Sick Leave	6/26/2019	10/21/2019
Fabio	Rodriguez	1011	Personnel Complaints	6/26/2019	7/1/2019
Fabio	Rodriguez	1021	Outside Employment	6/26/2019	10/21/2019
Fabio	Rodriguez	205	License to Carry a Firearm	1/24/2018	10/21/2019
Fabio	Rodriguez	306	Officer-Involved Shootings and Deaths	1/27/2020	2/18/2020
Fabio	Rodriguez	311	Domestic Violence	7/16/2019	10/21/2019
Fabio	Rodriguez	402	Roll Call Briefing Training	4/15/2015	4/30/2015
Fabio	Rodriguez	424	Mobile Digital Computer Use	6/20/2016	9/8/2016
Fabio	Rodriguez	427	Foot Pursuits	6/23/2016	8/26/2016
Fabio	Rodriguez	704	Vehicle Use	7/22/2019	10/21/2019
Fabio	Rodriguez	802	Records Section	7/22/2019	10/21/2019
Fabio	Rodriguez	1024	Uniform Regulations	1/12/2017	5/10/2019
Fabio	Rodriguez	1029	Mentoring Program	9/30/2014	5/5/2015
Fabio	Rodriguez	1001	Background Investigations	6/26/2019	10/21/2019

VALLEJO POLICE DEPARTMENT LEXIPOL POLICY ACKNOWLEDGEMENT

First Name	Last Name	Policy Number	Policy Title	Issue Date	Acknowledgement Date
Fabio	Rodriguez	100	Law Enforcement Authority	7/16/2019	10/21/2019
Fabio	Rodriguez	103	Policy Manual	8/16/2017	10/21/2019
Fabio	Rodriguez	411	Foreign Diplomatic and Consular Representatives	4/15/2015	5/5/2015
Fabio	Rodriguez	416	Patrol Rifles	9/30/2014	5/5/2015
Fabio	Rodriguez	505	Traffic Citations	7/31/2019	10/21/2019
Fabio	Rodriguez	600	Investigation and Prosecution	7/31/2019	10/21/2019
Fabio	Rodriguez	1006	Reporting of Employee Convictions	6/26/2019	7/1/2019
Fabio	Rodriguez	1015	Commendations and Awards	12/12/2019	12/30/2019
Fabio	Rodriguez	318	Public Alerts	7/16/2019	10/21/2019
Fabio	Rodriguez	323	Report Preparation	7/16/2019	10/21/2019
Fabio	Rodriguez	409	Mental Illness Commitments	7/16/2019	10/21/2019
Fabio	Rodriguez	426	Automated License Plate Readers (ALPRs)	7/22/2019	10/21/2019
Fabio	Rodriguez	325	Subpoenas and Court Appearances	6/1/2019	10/21/2019
Fabio	Rodriguez	403	Crime and Disaster Scene Integrity	6/20/2016	9/8/2016
Fabio	Rodriguez	408	Response to Bomb Calls	4/15/2015	5/5/2015
Fabio	Rodriguez	502	Vehicle Towing and Release	7/31/2019	10/21/2019
Fabio	Rodriguez	1003	Promotional and Transfer Policy	1/27/2020	2/18/2020
Fabio	Rodriguez	1032	Line-of-Duty Deaths	7/22/2019	10/21/2019
Fabio	Rodriguez	808	Animal Control	1/9/2018	10/21/2019
Fabio	Rodriguez	206	Retiree Concealed Firearms	7/16/2019	10/21/2019
Fabio	Rodriguez	333	Anti-Reproductive Rights Crimes Reporting	9/30/2014	5/5/2015
Fabio	Rodriguez	342	Child and Dependent Adult Safety	12/6/2016	12/10/2016
Fabio	Rodriguez	343	Off-Duty Law Enforcement Actions	4/15/2015	5/5/2015
Fabio	Rodriguez	606	Brady Material Disclosure	7/31/2019	10/21/2019
Fabio	Rodriguez	705	1033 Program-Demilitarized Equipment	7/22/2019	10/21/2019
Fabio	Rodriguez	1012	Seat Belts	6/26/2019	10/21/2019
Fabio	Rodriguez	1015	Request for Change of Assignment	8/14/2014	5/5/2015
Fabio	Rodriguez	1020	Overtime Compensation Requests	6/26/2019	10/21/2019
Fabio	Rodriguez	1025	Police Cadets	6/26/2019	10/21/2019
Fabio	Rodriguez	350	Event Management	10/19/2016	10/28/2016
Fabio	Rodriguez	204	Staffing Levels	8/16/2017	10/21/2019

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First Name	Last Name	Policy Number	Policy Title	Issue Date	Acknowledgement Date
Fabio	Rodriguez	300	Use of Force	2/27/2020	6/12/2020
Fabio	Rodriguez	305	Conducted Energy Device	8/16/2017	10/21/2019
Fabio	Rodriguez	308	Vehicle Pursuits	7/16/2019	10/21/2019
Fabio	Rodriguez	313	Temporary Custody of Juveniles	7/16/2019	10/22/2019
Fabio	Rodriguez	341	Service Animals	2/12/2015	5/5/2015
Fabio	Rodriguez	426	Medical Marijuana	7/16/2019	10/21/2019
Fabio	Rodriguez	700	Department Owned and Personal Property	7/22/2019	10/21/2019
Fabio	Rodriguez	703	Vehicle Maintenance	8/22/2016	9/8/2016
Fabio	Rodriguez	1013	Body Armor	6/26/2019	10/21/2019
Fabio	Rodriguez	1026	Nepotism and Conflicting Relationships	6/26/2019	10/21/2019
Fabio	Rodriguez	326	Labor Disputes And Free Speech Activities	9/30/2014	5/5/2015
Fabio	Rodriguez	310	Canines	7/16/2019	10/21/2019
Fabio	Rodriguez	315	Discriminatory Harassment	7/16/2019	10/21/2019
Fabio	Rodriguez	401	Bias-Based Policing	7/16/2019	10/21/2019
Fabio	Rodriguez	406	Hazardous Material Response	5/31/2019	10/21/2019
Fabio	Rodriguez	500	Traffic Function and Responsibility	7/31/2019	10/21/2019
Fabio	Rodriguez	801	Property and Evidence	1/27/2020	2/11/2020
Fabio	Rodriguez	805	Computers and Digital Evidence	7/22/2019	10/21/2019
Fabio	Rodriguez	1028	Modified Duty Assignments	7/16/2019	10/21/2019
Fabio	Rodriguez	102	Oath of Office	12/6/2016	12/10/2016
Fabio	Rodriguez	322	Information Technology Use	7/16/2019	10/21/2019
Fabio	Rodriguez	328	Mutual Aid and Outside Agency Assistance	6/1/2019	10/21/2019
Fabio	Rodriguez	333	Identity Theft	6/1/2019	10/21/2019
Fabio	Rodriguez	413	Reporting Police Activity Outside of Jurisdiction	12/6/2016	12/10/2016
Fabio	Rodriguez	418	Field Training Officer Program	7/16/2019	10/21/2019
Fabio	Rodriguez	504	Impaired Driving	8/22/2016	9/8/2016
Fabio	Rodriguez	1017	Meal Periods and Breaks	6/26/2019	10/21/2019
Fabio	Rodriguez	349	Native American Graves Protection and Repatriation	6/23/2016	9/8/2016
Fabio	Rodriguez	324	Media Relations	6/1/2019	10/21/2019
Fabio	Rodriguez	407	Hostage and Barricade Incidents	5/31/2019	10/21/2019
Fabio	Rodriguez	412	Rapid Response and Deployment	12/6/2016	12/10/2016

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First Name	Last Name	Policy Number	Policy Title	Issue Date	Acknowledgement Date
Fabio	Rodriguez	1002	Evaluation of Employees	6/26/2019	7/1/2019
Fabio	Rodriguez	1005	Anti-Retaliation	6/26/2019	10/21/2019
Fabio	Rodriguez	607	Unmanned Aerial System (UAS) Operations	9/30/2014	5/5/2015
Fabio	Rodriguez	314	Adult Abuse	7/16/2019	10/21/2019
Fabio	Rodriguez	405	Ride-Along Policy	12/6/2016	12/10/2016
Fabio	Rodriguez	410	Cite and Release Policy	7/16/2019	10/21/2019
Fabio	Rodriguez	427	Homeless Persons	7/21/2019	10/21/2019
Fabio	Rodriguez	804	Protected Information	7/22/2019	10/21/2019
Fabio	Rodriguez	807	Jeanne Clery Campus Security Act	7/21/2019	10/21/2019
Fabio	Rodriguez	1032	Physical Fitness Policy	6/26/2019	10/21/2019
Fabio	Rodriguez	431	Civil Disputes	7/22/2019	10/21/2019
Fabio	Rodriguez	316	Child Abuse	6/1/2019	10/21/2019
Fabio	Rodriguez	321	Standards of Conduct	6/1/2019	10/21/2019
Fabio	Rodriguez	346	Illness and Injury Prevention	3/10/2016	4/17/2016
Fabio	Rodriguez	404	Emergency Services Unit	5/10/2019	5/10/2019
Fabio	Rodriguez	501	Traffic Collision Reporting	7/31/2019	10/21/2019
Fabio	Rodriguez	430	First Amendment Assemblies	7/22/2019	10/21/2019
Fabio	Rodriguez	706	Cash Handling, Security and Management	7/22/2019	10/21/2019

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Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Vallejo Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Vallejo Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Vallejo Police Department reserves the right to revise any policy content, in whole or in part.

103.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Special Orders, which shall modify those provisions of the manual to which they pertain. Special Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

103.4 DEFINITIONS

The following words and terms shall have these assigned meanings throughout the Policy Manual, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older.

CCR - California Code of Regulations (Example: 15 CCR 1151).

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CHP - The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Vallejo.

Non-sworn - Employees and volunteers who are not sworn peace officers.

Department/VPD - The Vallejo Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.

Manual - The Vallejo Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Vallejo Police Department, including:

- Full- and part-time employees
- Sworn peace officers
- Reserve, auxiliary officers
- Non-sworn employees
- Volunteers.

Officer - Those employees, regardless of rank, who are sworn peace officers of the Vallejo Police Department.

On-duty - A member's status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

POST - The California Commission on Peace Officer Standards and Training.

Rank - The title of the classification held by an officer.

Shall or will - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

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The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

USC - United States Code.

103.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Special Orders. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

103.7 REVISIONS TO POLICIES

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Division Commander will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Division Commanders, who will consider the recommendations and forward them to the command staff as appropriate.

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Officer-Involved Shootings and Deaths

306.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

306.2 POLICY

The policy of the Vallejo Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

This department conforms to the Solano County Officer Involved Fatal Incident Protocol for investigating officer-involved shootings.

306.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A critical incident review as to training or tactics..

306.4 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

306.4.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved VPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

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306.4.2 WATCH COMMANDER RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Watch Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Division Commander.

All outside inquiries about the incident shall be directed to the Watch Commander.

306.4.3 NOTIFICATIONS

The following person(s) shall be notified as soon as practicable:

- Chief of Police
- Investigations Bureau Commander
- Operations Bureau Commander
- Investigations Supervisor
- Officer Involved Fatal Incident Protocol Team
- Outside agency investigator (if appropriate)
- Internal Affairs Unit supervisor
- Involved officer's agency representative (if requested)
- Press Information Officer

306.4.4 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved VPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any VPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Watch Commander and the Communications Center. If feasible, sensitive information should be communicated over secure networks.

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- (d) Take command of and secure the incident scene with additional VPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - 1. Each involved VPD officer should be given an administrative order not to discuss the incident with other involved officers or VPD members pending further direction from a supervisor.
 - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

306.4.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 - 1. Involved VPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - 2. Requests from involved non-VPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved VPD officer. A licensed psychotherapist may also be provided to any other affected VPD members, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer (Government Code § 8669.4).

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

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Each involved VPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave.

306.5 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) VPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of VPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

306.5.1 REPORTS BY INVOLVED VPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved VPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

While the involved VPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

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Nothing in this section shall be construed to deprive an involved VPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

306.5.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

306.5.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigations Division supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Investigations Division supervisor for approval. Privileged reports shall be

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maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

306.6 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of VPD officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws (see the Personnel Complaints Policy).

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
 - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
 - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - 5. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.

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6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

306.7 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

306.8 DEBRIEFING

Following an officer-involved shooting or death, the Vallejo Police Department should conduct a stress debriefing as appropriate.

306.8.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administration Division Commander is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs Unit personnel.

306.9 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Watch Commander, Investigations Division Commander and Press Information Officer in the event of inquiries from the media.

The Department shall not subject any involved VPD officer to visits by the media (Government Code § 3303(e)). No involved VPD officer shall make any comment to the media unless he/she

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is authorized by the Chief of Police or a Division Commander. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

306.10 REPORTING

If the death of an individual occurs in the Vallejo Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Operations Division Commander will ensure that the Records Supervisor is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

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Standards of Conduct

321.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Vallejo Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

321.2 POLICY

The continued employment or appointment of every member of the Vallejo Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

321.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

321.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

321.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

321.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. This policy is not intended to cover every possible type of misconduct.

321.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

321.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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321.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Vallejo Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

321.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

321.5.4 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.
- (d) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (e) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (f) Any personal action contributing to a preventable traffic collision.
- (g) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

321.5.5 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

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- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

321.5.6 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or legal marital status.

321.5.7 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Members should refrain from the use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.

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- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

321.5.8 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges, in accordance with applicable MOU.
- (d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

321.5.9 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.
 - 1. Members of this department shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Vallejo Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

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Property and Evidence

801.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

801.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case.

Safekeeping - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

801.2.1 FOUND PROPERTY RETAINED BY FINDER

- (a) A citizen finder may retain custody of found property, except firearms, controlled substances and other contraband, when the property has no evidentiary value or significance and is valued at less than \$100.00; provided that he or she makes a found property report. Personnel shall inform finders wishing to retain found property of the California Civil Code requirement to make a reasonable effort to locate the owner of the property.
- (b) The responding member or employee should complete, and route to Records, a Found Property report which includes the name and address of the finder.
- (c) Legal Requirements imposed on Finder:
 1. A citizen must relinquish to the Department found property valued at \$100.00 or greater.
 2. Finders may claim property (except firearms and contraband) after a period of ninety days, if the owner of the property has not been located and the value of the property is less than \$250.00.

801.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage

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room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form should be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

801.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

- (a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (d) Place the case number in the upper right hand corner of the bag.
- (e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.

801.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Section and detectives. The remaining copy will be detached and submitted with the case report.

801.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Property Officer is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

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801.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids on items such as blood or semen stains shall be air dried prior to booking.
- (b) License plates found not to be stolen or connected with a known crime, should be released directly to the Property Officer, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.
- (c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Property Officer, or placed in the bicycle storage area until a Property Officer can log the property.
- (d) The Watch Commander shall be contacted for cash in excess of \$1,000 for special handling procedures.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

801.3.5 HAZARDOUS MATERIALS

- (a) Hazardous materials which may be booked include, but are not limited to, paint, solvents, gasoline, other flammables, insecticides, household products, or any item contaminated with these substances.
- (b) Personnel should secure hazardous materials in the connex box designated for that purpose, and email the Evidence and Property Unit when items are placed there for booking.
- (c) Personnel should place items of hazardous materials in tightly sealed, clearly-labeled containers.
- (d) Members may, with the approval of a supervisor and upon notification of Investigations personnel and the Property and Evidence Unit, temporarily secure suspected clandestine laboratory materials in the hazardous materials connex box. It is strongly recommended that investigating officers/supervisors attempt to have the appropriate agency, DEA, State Fire Marshall, or Vallejo Fire Department take possession of any chemicals or flammable materials prior to booking them into the connex box.

801.3.6 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

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- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
 - 1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property Officer shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Section Policy).

801.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

801.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

801.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The officer shall initial the sealed envelope. Narcotics and dangerous drugs shall not be packaged with other property.

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A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

801.4.3 OTHER PACKAGING GUIDELINES

Personnel should package items as follows:

- (a) Items containing and/or contaminated with body fluids shall be clearly marked with "biohazard" written on the packaging.
- (b) Small, light items, envelopes, and similar objects should be placed in a Property and Evidence Unit mailbox.
- (c) Items requiring refrigeration should be placed in the refrigerator at the main station or at the Property and Evidence Unit.
- (d) Items too large for lockers shall be submitted in the following manner:
 - 1. Transported to the Property and Evidence Unit and placed in the enclosed locked caged area inside the sally port.
 - 2. Email notification sent to the Property and Evidence Unit.

801.4.4 FIREARMS UNLOADING AND PACKAGING

Personnel shall, at the earliest opportunity, book weapons, and particularly firearms, coming into their possession, absent express authorization from a supervisor. Personnel shall clearly identify and property label or package firearms and weapons in accordance with this order.

Unloading;

- (a) Personnel shall remove ammunition and magazine from firearms, utilizing an unloading barrel, and package them separately.
- (b) Personnel accepting custody of a firearm at any time shall conduct an examination to determine whether such weapon is loaded. In the event that such determination cannot be made, or that the mechanism for unloading cannot be ascertained, personnel shall secure the assistance of a Department Force Options instructor to determine whether the weapon is loaded and to unload it, if appropriate.

Packaging;

- (a) Rifles and Shotguns-Only those rifles and shotguns which are to be processed for latent prints or other evidence should be packaged. Such weapons should be submitted in a rifle box or paper wrapping, accompanied by the California Law Enforcement Telecommunications System (CLETS) printout for that weapon. Rifles and shotguns not requiring processing should have a property tag completed and attached to the firearm with string or wire, and should be accompanied by the CLETS printout.
- (b) Handguns-Personnel should, after unloading the firearm, place it in an unsealed handgun envelope on which identifying information has been completed, accompanied by the CLETS printout.

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- (c) Ammunition-Cartridges, cartridge cases and magazines from handguns may be placed, packaged separately, in the handgun envelope, unless they are to be processed for evidence. If they are to be processed for evidence or submitted to the Crime Lab, they should be individually sealed in envelopes or other small containers, and packaged separately from any firearm.

801.5 RECORDING OF PROPERTY

The Property Officer receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag.

Any changes in the location of property held by the Vallejo Police Department shall be noted in RIMS..

801.6 PROPERTY CONTROL

Each time the Property Officer receives property or releases property to another person, he/she shall enter this information into RIMS. Officers desiring property for court shall contact the Property Officer at least one day prior to the court day.

801.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property Officer. This request may be filled out any time after booking of the property or evidence.

801.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.

The Property Officer releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Section for filing with the case.

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801.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted in RIMS, stating the date, time and to whom released.

The Property Officer shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded in RIMS, indicating date, time, and the person who returned the property.

801.6.4 AUTHORITY TO RELEASE PROPERTY

The Investigations Division shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

801.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property Officer shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Section for filing with the case. If some items of property have not been released the property card will remain with the Evidence/Property Unit. Upon release, the proper entry shall be documented in the Property Log.

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Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Evidence/Property Unit Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

801.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

801.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Investigations Division will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health and Safety Code § 11364.

801.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Property Officer shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

801.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.

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- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Department shall make the weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ which conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed or retained as provided in Welfare and Institutions Code § 8102.

801.6.10 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Vallejo Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

801.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property Officer shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

801.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)

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- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

801.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

801.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Evidence/Property Unit Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Investigations Bureau supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Evidence/Property Unit Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless

Vallejo Police Department

Vallejo PD Policy Manual

Property and Evidence

a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigations Bureau supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigations Bureau supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

801.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

14

OFFICER INVOLVED FATAL INCIDENT PROTOCOL



COUNTY OF SOLANO

**Published by the Solano County District Attorney's Office
Krishna A. Abrams, District Attorney**

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OFFICER INVOLVED FATAL INCIDENT PROTOCOL COUNTY OF SOLANO

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Memorandum of Agreement

All of the law enforcement agencies in Solano County hereby agree to adopt this Protocol and abide by its procedures in the investigation of Officer Involved Fatal Incidents.

In witness whereof, each agency head has executed this agreement on the date specified.

Solano County District Attorney's Office:

By: Krishna A. Abrams
Krishna A. Abrams, District Attorney

Date: 8/11/16

Solano County Sheriff's Office:

By: Tom Ferrara
Tom Ferrara, Sheriff/Coroner

Date: 5-12-2016

Benicia Police Department:

By: Erik Upson
Erik Upson, Chief of Police

Date: 5/12/16

Dixon Police Department:

By: Ron Willingmyre
Ron Willingmyre, Interim Chief of Police

Date: 05-12-2016

Fairfield Police Department:

By: Joe Allio
Joe Allio, Chief of Police

Date: 5-12-2016

Suisun City Police Department:

By: 
Tim Mattos, Chief of Police

Date: 5/12/16

Rio Vista Police Department:

By: 
Greg Bowman, Chief of Police

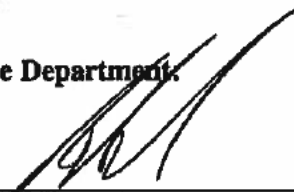
Date: 5-12-16

Vacaville Police Department:

By: 
John Carli, Chief of Police

Date: 5-12-16

Vallejo Police Department:

By: 
Andrew Bidou, Chief of Police


Date: 6-28-16

California Highway Patrol:

By: 
Rodney Strate, Captain

Date: 6-9-16

California Department of Corrections:

By:  906
Office of Internal Affairs

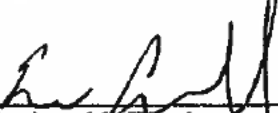
Date: 8-23-16

Correctional Medical Facility (CMF):

By: 
Robert Fox, Warden

Date: 6/9/16

California State Prison - Solano (CSP-Solano):

By: 
Eric Arnold, Warden

Date: 6/27/16

Probation Department

By: 
Christopher Hansen, Director of Probation

Date: 6/29/16

California Maritime Police Department

By: 
Donny E. Gordon, Chief of Police (Interim)

Date: 5/12/16

I. DEFINITIONS

A. "Officer Involved Fatal Incident"

Incidents occurring in Solano County involving two or more people, in which a police agency employee is involved as an "Actor," or custodial officer, where a "Fatal Injury" occurs. "An Officer Involved Fatal Incident" includes, but is not limited to, the following:

1. Intentional and accidental shooting, including police tactical incidents involving specialized response teams.
2. Intentional and accidental use of any other dangerous or deadly weapons.
3. Assault upon police officers; assault on other police employees who are on duty or are acting for a law enforcement purpose.
4. Attempt by police employees to make arrests or to otherwise gain physical control for a law enforcement purpose.
5. Physical altercation, mutual combat, and domestic violence in which the police employee is acting in a private citizen capacity.
6. Any Fatal Injury in police custody, but excluding fatal injuries of prisoners which occur while the inmate is under physician's treatment for a disease or other natural condition which has been diagnosed prior to death and which does not involve custodial trauma, custodial suicide or custodial ingestion of toxic substance.
7. Any Fatal Injury to a person who is a passenger of a police officer (such as ride-alongs, emergency transports, etc.).
8. Vehicular collision, and specifically
 - a. including any vehicle fatality which occurs:
 - 1) after, although not necessarily as Proximate Cause of, police gunfire directed at the suspect or the suspect vehicle

- 2) in connection with use of vehicle(s) by police as an "enforcement intervention" technique intended to apprehend a suspect. ("Enforcement intervention": includes vehicle ramming, roadblocks, and forcing a vehicle to alter its course by cutting in front of it or by contact.)
- b. excluding any vehicle fatality which involves:
- 1) off-duty police employees who are not at the time of the incident acting for an actual, apparent or purported law enforcement purpose;
 - 2) solo vehicular collisions in which the only injury is suffered by a police employee who was the driver and sole occupant of a vehicle which was not involved in a collision with any other occupied vehicle;
 - 3) police pursuits wherein the suspect vehicle which is being pursued by police vehicle(s) collides with another vehicle, a pedestrian or an object, where that collision did not result from collision contact between the suspect vehicle and a police vehicle or from "enforcement intervention".

B. "Law Enforcement Employee"

This Protocol applies to employees and to certain other people affiliated with the law enforcement agencies which are members of this Protocol agreement, as follows:

1. Full-time, part-time, and hourly sworn officers, whether on-duty or off-duty, and whether acting for a law enforcement or a private purpose at the time of the Incident;
2. Full-time nonsworn employees who are on-duty at the time of the Incident, or who are acting actually, apparently or purportedly for a law enforcement purpose at the time of the Incident;

3. Part-time nonsworn employees (same as paragraph B.2 above);
4. Reserve Peace Officers who are on-duty or who are acting actually, apparently or purportedly for a law enforcement purpose at the time of the Incident;
5. Temporary employees and volunteers whether paid or unpaid, who are on-duty or who are acting actually, apparently or purportedly for a law enforcement purpose at the time of the Incident. This category includes informants when they are working under the direct control and supervision of a police officer.

C. "Actor/Involved Officer"

1. A person whose act is a "Proximate Cause" of a Fatal Injury to another person; or
2. A person who intends that his act be a "Proximate Cause" of serious bodily injury or death to another person who is actually killed by another.

D. "Proximate Cause"

A cause which, in a natural and continuous sequence, produces the Fatal Injury, without which cause the injury would not have occurred. Reasonable foreseeability of the Fatal Injury is not a factor relevant to this definition.

E. "Fatal Injury"

Death, or injury which is so severe that death is likely to result. Injury likely to cause serious impairment if the victim survives.

F. "Venue Agency"

The agency, or agencies, within whose geographical jurisdiction the Incident occurs.

G. "Employer Agency"

The agency by whom the involved Law Enforcement Employee is employed or with which he/she is affiliated. (In many cases the Venue Agency will also be the Employer Agency.)

H. "Criminal Investigator"

Those investigators assigned by the Venue Agency(cies), the Employer Agency(cies), the California Highway Patrol (when applicable), and the District Attorney's Office to conduct the criminal investigation of the Incident.

I. "Administrative Investigator"

Those investigators assigned by the Employer Agency to conduct the Administrative Investigation of the Incident.

J. "Member Agencies"

The law enforcement agencies in Solano County which are members of this Protocol agreement.

II. **INVOCATION OF PROTOCOL**

A. Automatic and Immediate

Upon the occurrence of an Officer-Involved Fatal Incident, this Protocol is automatically effective, immediately upon the occurrence.

Venue Agency/Employer Agency shall immediately notify the District Attorney, Coroner, Department of Justice or other-appropriate forensic laboratory, and (when applicable) the California Highway Patrol of required response when applicable.

B. Optional

1. By Venue or Employer Agency

Each Member Agency of this agreement, when in the capacity of a Venue Agency or Employer Agency, may itself invoke this Protocol upon the occurrence of any sensitive or critical event involving a Law Enforcement

Employee which may have possible criminal liability attached. Upon this unilateral invocation, the matter will be investigated under the provisions of this Protocol.

a. Examples:

- 1) a fatality which is not covered by this Protocol
- 2) an officer involved incident where the injuries are not fatal
- 3) any other sensitive or critical event involving a Law Enforcement Employee where criminal conduct is a possibility to be investigated.

b. The District Attorney has discretion to decline participation in optional invocations.

2. Alternative to Optional Invocation

In lieu of invoking this Protocol, the involved agency(cies) may, of course, investigate the matter by itself (themselves) or may seek aid from other agencies.

III. **INVESTIGATIVE AGENCIES, FORMATS AND RESPONSIBILITIES**

A. **Criminal Investigation**

The criminal investigation has investigative priority over the administrative investigation, and it begins immediately after an incident has occurred. It is performed by Criminal Investigators from the Venue Agency(cies), the Employer Agency(cies), the California Highway Patrol (when applicable), and the District Attorney's Office, formed into an Investigative Team for each incident. The participating agencies are co-equal within the investigation, but the agency within whose geographical jurisdiction the incident occurred has the ultimate authority to decide irreconcilable investigative issues. The District Attorney has final oversight of the criminal investigation, which will subsequently be forwarded to the District Attorney for independent review.

1. Purpose

- a. To determine presence or absence of criminal liability on the part of all those involved in the incident. Specifically:
 - 1) To determine whether the nature and the quality of the conduct involved is prohibited by statutes which provide for criminal penalties upon conviction; and
 - 2) If criminal conduct does exist, to determine the identity of the person(s) responsible for that conduct; and
 - 3) If criminal conduct does exist, to determine the degree of the crime(s), the existence of any factual or legal defenses to that crime, and the presence or absence of any factors which would mitigate or aggravate punishment for that crime.
- b. To incidentally provide factual information to the Employer Agency's management for its internal use. (While the Criminal Investigators do not direct their investigation attention to administration concerns, it is recognized that the criminal investigation's results are of proper interest to agency management for its internal use and those results are fully available for that purpose.)
- c. Performed in a manner that provides both the appearance and the reality of a thorough, fair, complete, and professional investigation which is free of conflicts of interest.

2. Venue Determination

- a. When an Incident occurs in part in two or more jurisdictions, each of those jurisdictions is a Venue Agency.
- b. When an Incident occurs on the boundary of two jurisdictions, or at a location where the relevant boundary is not readily ascertainable or is in dispute, the Venue Agency(cies) shall be:

- 1) The Employer Agency, if the Actor is employed by either boundary agency.
 - 2) Both boundary agencies, if Actors are employed by both.
 - 3) That agency which has the greater interest in the case by virtue of having the predominant police involvement in the incident or by virtue of having had the majority of acts leading up to the fatality occur within its jurisdiction.
- c. For in-custody deaths, the agency having custody of the person at the time of his/her distress was first discovered is a Venue Agency. Also, a Venue Agency is the one within whose jurisdiction any fatal stroke was inflicted.
 - d. If an on-duty peace officer is involved as the Actor in an Incident which occurs within the jurisdiction of another Member Agency, and if that officer was acting in the performance of his/her duty at the time of the Incident, the/a Venue Agency may elect to relinquish its role in the Criminal Investigation to the other Protocol Investigation agencies.
 - e. If an on-duty probation officer is involved as the Actor in an Incident which occurs within the jurisdiction of another Member Agency, and if that probation officer was acting in the performance of his/her duty at the time of the Incident, the/a Venue Agency and the District Attorney's office will jointly conduct the Criminal Investigation.
3. Protocol Briefing
 - a. The initial meeting of the combined forces who will be conducting the fatal incident Protocol investigation.
 - 1) Held at the Venue Agency's facility or agreed upon alternate location when deemed warranted.
 - 2) Venue determination will be established.

3) Time and place where the on-scene supervisor, officer or detective most familiar with the circumstances of the Incident relates all that is known to the full complement of the Protocol members assembled to conduct the Protocol Investigation.

a) Identify Actors and witnesses, both law enforcement and civilian.

b) Threshold decision as to criminal culpability of the Actor and witness officers, as well as the injured party.

4. Selection of Investigators

Within the Protocol, the Criminal Investigators will be divided into one or more teams (the number depending upon the complexity of the Incident and upon the number of people to be interviewed). Each team will consist on one Criminal Investigator from the Venue Agency(cies), the Employer Agency(cies), the California Highway Patrol (when applicable), and a Criminal Investigator from the Solano County District Attorney's Office. The Protocol Investigation will be led by a primary team which is composed of the primary investigators from each of the Protocol agencies.

5. Agency Assistance, Substitution and Conflicts

a. When a Venue or Employer Agency lacks sufficient resources, or when it believes it cannot properly investigate an Incident for another reason, it has two options:

1) Obtain criminal investigative assistance from other Member Agency(cies). Borrowed officers would then be assigned to the Protocol Criminal Investigation as members of the requesting agency.

2) Relinquish criminal investigative responsibility to another Member Agency or to the California Department of Justice.

b. Vehicle Collision Incidents:

- 1) Accidental collision fatalities shall be investigated by Protocol Criminal Investigators, joined by accident investigation specialists from the California Highway Patrol (C.H.P.) or from another agency. The accident investigation specialists have the primary responsibility for documentation, collection and preservation of physical evidence. On-scene collaboration with the California Department of Justice or other appropriate forensic laboratory is also encouraged.
- 2) If the fatality results from a collision that was not accidental (e.g., use of "enforcement intervention" techniques), OR if vehicle movement was merely incidental to a fatality which was caused by non-vehicular means, the accident investigation specialists may be used by the Protocol for that phase of the investigation, but their role will be limited to investigation of physical movement of the vehicle(s) and to collision reconstruction.

6. Scene Security

Each Agency has initial responsibility for immediately securing crime scene(s) within its territorial jurisdiction. This responsibility includes preservation of the integrity of the scene(s) and its/their contents, access control, and the identification and sequestration of witnesses. Responsibility may be changed by mutual agreement as the investigation progresses.

7. Video Recorded Evidence/Scene Walk-Through

- a. Prior to the interview of the Actor/Involved Officer, Detectives/Investigators from the primary agency should review all available audio/video recordings from police vehicle in car cameras, personal body cameras worn by responding officers and Actor/Involved Officers, independent third parties and, independent sources.

- b. An Actor/Involved Officer will have an opportunity to review their own audio/video recording prior to giving a statement (Review of video by CDCR employees shall be at the discretion of the CDCR Office of Internal Affairs or Prosecuting Agency-See CDCR Policies). The Actor/Involved Officer should only view the video that was captured by their body camera or patrol video camera. The officer may also review any visual or audio material he/she saw or heard prior to the incident. Investigators should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by an actor/involved officer. If the investigator shows any audio/video recordings to Actor/Involved officer, the investigator should admonish the Actor/Involved Officer about the limitations of audio/visual recordings.
- c. The following is an example of an admonishment that would be appropriate in a case involving video evidence:

“In this case, there is video evidence that you will have an opportunity to view. Video evidence has limitations and may be depict the events differently than you recall, and may not depict all the events as were seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. Remember, the video evidence is intended to assist your memory and ensure that your statement explains your state of mind at the time if the incident. It is your choice whether to view any audio/video recordings prior to giving a statement.”
- d. Investigators may ask the Actor/Involved Officer to view the incident scene during a “walk-through”. The investigator will determine the timing of the “walk-through.” Only one Actor/Involved Officer at a time will be permitted to do a “walk-through” of the scene.

8. Interviewing Law Enforcement Employees

- a. Actor/Involved Officer
 - 1) Voluntary statements for criminal investigation.

- 2) Entitled to representation at all phases of investigation (attorney).
- 3) Normally last to be interviewed.
- 4) Interview team should be comprised of one investigator from each of the Protocol agencies (venue/employer/D.A. and C.H.P. (when applicable)).
- 5) Audio recorded and preferably video recorded.
- 6) Timing of Interview.
If any actor/involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allow a reasonable period of time, up to 48 hours from the time of the incident, for the officer to be interviewed.

b. Witness(es)

- 1) Interviews should follow accumulation of as much information as possible at scene and from uninvolved witnesses.
- 2) Witness officers have no Fifth Amendment rights; may be ordered by agency superior to give statement/write report.

9. Laws Governing Investigation

- a. The criminal investigation is required to follow the rules of law which apply to all criminal proceedings, including constitutional, statutory, and case law regarding rights which are covered by the United States Constitution's 4th, 5th, 6th and 14th Amendments.

10. Intoxicant Testing

Law enforcement employees have the same rights and privileges that any civilian would have regarding intoxicant testing. When Protocol

investigators determine that a law enforcement employee's state of sobriety is relevant to the investigation, they have these options:

- a. Obtain the blood and/or urine sample by valid consent.
- b. Obtain the blood and/or urine sample incidental to valid arrest.
- c. Obtain a search warrant.
- d. When applicable, utilize Vehicle Code Section 23157 for vehicular driving Incidents.
- e. If an arrestee refuses to comply with the request for a sample, attempts will be made to obtain the sample in accordance with case law.

11. Physical Evidence (Collection, Preservation and Analysis)

- a. The California Department of Justice Laboratory (DOJ Laboratory) or another appropriate forensic laboratory will document the scene(s) and collect, preserve and analyze physical evidence, except in some vehicular fatalities.
- b. Pending arrival of laboratory personnel, there are several important duties to be performed by police field evidence technicians or other.
- c. In unusual cases, the Protocol agencies may all agree that the laboratory need not be called to process the scene(s) and collect evidence. However, if any Protocol agency desires, a laboratory shall be used.
- d. Trained and experienced evidence collection officers from Member Agencies will have full responsibility for evidence work until the laboratory criminalist(s) arrive. These officers may be asked to assist the criminalist upon his/her arrival. Together, they will document, collect and preserve the physical evidence. Forensic opinions and analysis will be obtained from the laboratory designated by the Protocol members.

- e. The Venue or Employer Agency(cies) may be requested by the laboratory to furnish officers to assist with evidence and scene documentation, collection and preservation. Officers so involved will work under the direction of the laboratory's criminalist.
- f. Prior to final relinquishment of the scene, the Protocol investigators and the criminalist (and C.H.P. investigators when applicable) will provide the Administrative Investigators an opportunity to assess the need for further evidence processing.

12. Autopsy

- a. At least one member of the Protocol's primary investigative team, including a District Attorney's representative, will attend the autopsy. Investigators representing other Protocol agencies may also attend.
- b. The autopsy pathologist will receive a complete briefing prior to the post mortem examination. This briefing, which includes all information known to that time which may be relevant to the manner, cause, and means of death, shall be attended by at least one member of the Protocol's primary team, a District Attorney's representative, and a member of the criminalistics team.
- c. For autopsies conducted in Solano County, and for autopsies conducted in other counties where the pathologist agrees, the forensic laboratory may be utilized to document and collect physical evidence. In vehicular collision deaths, the California Highway Patrol or other accident investigation specialists have the responsibility, with assistance if appropriate from the DOJ Laboratory.
- d. Although the Coroner has authority to determine who attends an autopsy, it is usually advisable to allow attendance by a licensed medical doctor or licensed private investigator, or by a recognized professional criminalist, who has been retained by representatives of the decedent.

13. Report Writing

- a. All Criminal Investigators will write reports documenting their participation in the investigation.
- d. The investigators within each Protocol team will allocate and divide among themselves the responsibility for documenting interviews and observations.
- c. The lead Venue Agency has the ultimate responsibility for report writing and for collecting reports from other agencies.
- d. Prompt completion and distribution of reports is essential. All involved agencies and investigators will strive for report completion and distribution within 30 days after the incident.

14. District Attorney's Office

- a. The District Attorney's Office has the following roles in Incident Investigations:
 - 1) Will participate in a supervisory role together with the Venue and Employer Agency(cies) and the California Highway Patrol (when applicable) in the Protocol team performing the criminal investigation.
 - 2) Assist and advise the Protocol members on various criminal law issues which may arise, such as Miranda, voluntariness, search and seizure, probable cause to arrest, detentions and releases, elements of crimes, immunity, and legal defenses.
 - 3) Upon completion of the criminal investigation, analyze the facts of the Incident as well as the relevant law to determine if criminal laws were broken. If so, prosecute as appropriate.
- b. The District Attorney has its own separate investigative authority. When deemed appropriate by the District Attorney (or his designated alternate in his absence), the District Attorney's Office

may perform an independent investigation separate from the Protocol.

- c. If no charges are filed, the District Attorney will issue a closing report summarizing the results of the investigation. It is not the purpose of the District Attorney's investigation or report to determine if any officer or deputy violated policy or procedure, or committed any act that would be subject to civil sanctions. The District Attorney's Office will issue a closing report containing its findings and conclusion within 90 days of the receipt of the completed investigative package.
- d. In an Officer-Involved Incident where the injuries are not fatal, the involved agencies should submit the original crime report for review and prosecution. The District Attorney's Office will not issue a closing report summarizing the results of the investigation pertaining to a non-fatal Officer Involved Incident, unless charges are not filed against the suspect.

B. Administrative Investigation

1. Necessity

In addition to its concern about possible criminal law violations by civilians and its own employees who are involved in an Incident (which concerns are addressed by the Criminal Investigation), the Employer Agency also has need for information about the Incident for non-criminal purposes:

- a. Internal Affairs: Determination of whether or not its employees violated departmental regulations.
- b. Agency Improvement: Determination of the adequacy of its policies, procedures, programs, training, equipment, personnel programs and supervision.
- c. Government & Community Relations: Informing itself of the Incident's details so that it may adequately inform its parent governmental body, and so that it may be responsive to comments

about the Incident from the public and the media.

- d. Claims and Litigation: Preparing for administrative claims and/or civil litigation that may be initiated by or against the agency.

2. Administrative vs. Criminal

The Employer Agency may use an Administrative Investigation and/or a more specific "civil litigation investigation" format to investigate these concerns as it considers appropriate. While both the Criminal Investigation and the Administrative Investigation are important and should be aggressively pursued, investigative conflicts between the two formats shall be resolved by allowing the Criminal Investigation to have investigative priority. It is intended that this prioritization will preclude competition between the two formats for access to witnesses, physical evidence, and the involved parties, and that it will prevent the Criminal Investigation from being compromised by an untimely exercise of the Employer Agency's administrative rights.

3. Responsibility - Employer Agency

The initiation of Administrative Investigations and the extent of those investigations is, of course, solely the responsibility of the Employer Agency.

4. Liaison Between Administrative and Criminal

The Employer Agency should immediately assign at least one Administrative Investigator upon being notified of the Incident. This officer can function as a liaison between the Employer and the Protocol Investigations, gather information for the Agency, and is the Protocol Investigator's contact for personnel matters, even if no actual investigation is then warranted by that officer.

5. Laws Governing

Interview statements, physical evidence, toxicology test results, and investigative leads which are obtained by Administrative Investigators after ordering police employees to cooperate shall not be revealed to

Criminal Investigators without approval of the District Attorney's Office. Other results of the Administrative Investigation may or may not be privileged from disclosure to others, including the Protocol Investigators, depending upon applicable law. See California Penal Code 832.6; California Government Code 3300 et seq; Vela v. Superior Court, 108 Cal.App.3d 141, People v. Gwillim 223 Cal. App.3d 1254.

6. Results

The Protocol Team will promptly and periodically brief the Administrative Investigator(s) of the criminal investigation's progress. The Administrative Investigators will have access to briefings, the scene(s), physical evidence and interviewees' statements.

IV. **NEWS MEDIA RELATIONS**

A. **Balance of Rights**

The interests of the public's right to know what has occurred must be balanced with the requirements of the investigation and with the rights of involved individuals.

B. **No False Statements**

As in all other cases, care must be taken to insure that intentionally misleading, erroneous, or false statements are not made.

C. **Uninformed Parties Making Statements**

Agencies and individuals who are not well informed and not intimately involved with the investigation's results and progress should not make statements to the press.

D. **Guidelines**

While any agency cannot be prohibited from making statements to the news media about an Incident, these guidelines are established:

1. Lead/Venue Agency: The lead agency has the responsibility for making press releases about the Incident and its investigation for the first 48 hours.
 - a. Officers in close contact with the Protocol Team are in the best position to provide publicly released publicly releasable information about the facts of the case and the progress of the investigation be to the lead agency's administration and/or public information officer.
2. Employer Agency: If the Employer Agency is not also the Venue Agency, fewer problems will arise, especially at the early stages of the investigation, if the Employer Agency limits its comments to the following areas:
 - a. The employer-employee relationship.
 - b. Factual material revealed by the Employer Agency's own Administrative Investigation of the Incident.
 - c. Information which has been cleared for release by the Protocol Team.
3. Criminalistics Laboratory: Information released will usually be confined to general laboratory procedures, scientific facts and principles, and testing procedures. Specific results of searching, testing and analysis will generally not be released without clearance from an investigator from the Protocol's primary team.
4. Coroner: Release of information will generally be limited to the following:
 - a. Autopsy findings, including the condition of the deceased, the cause of death, and toxicology test results, after the involved agencies have received this information.
 - b. The identity of those present at the autopsy, including the identity and affiliation of the pathologist(s).

- c. The general nature of further medical testing or medical investigation to be done.
- d. Information obtained by Coroner's investigators directly from medical sources, the deceased's family members, or witnesses. Information obtained from the Incident Investigators or from the involved agencies will not be released by the Coroner without prior clearance from those agencies.
- e. Information regarding the holding of a Coroner's Inquest.
- f. Comments upon the verdict of a Coroner's Inquest Jury, or upon any testimony or evidence presented to the jury.
- g. The role of the Coroner in the investigation of death, in general terms.

E. Notification on Sensitive Investigative Information

If Protocol Investigators determine that the release of a specific piece of information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge of the hazards of releasing it.

F. Assignment of Specific Individuals

Interruptions to the investigators will be minimized if the agencies assign particular individuals to be the sole designated contacts with the news media.

V.

REPORTS AND EVIDENCE

A. Access

Material (as defined below) which is created or collected by, or at the request or direction of, Protocol Criminal Investigators (including the Criminalistics Laboratory) will be made available in a timely manner to those agencies which have an interest in the investigation, including the Administrative Investigator.

B. Material

The material will include:

1. Reports, written and collected.
2. Access to physical/forensic evidence.
3. Photograph, diagrams, videotapes and audiotapes.

VI. CORONER'S INQUEST

A. Purpose

In each Officer Involved Fatal Incident wherein a non-police employee dies, where no criminal charges have yet been filed, and where the cause and manner of death have not been conclusively established, a Coroner's Inquest may be held. The purposes of the Inquest would be to develop any further evidence regarding the circumstances of the death, and to inform the public through sworn testimony of the facts of the Incident as well as to determine the cause and manner of death.

B. Exceptions

In those cases where the facts of the Incident are very clear and the Actor's conduct was obviously justified, the Coroner, the police chief of the involved agency(cies) and the District Attorney may all decide that an Inquest is not necessary.

C. Government Code section 27491.6 - Mandatory

Government Code section 27491.6 provides that the Coroner shall hold an Inquest if requested to do so by the Attorney General, the District Attorney, the Sheriff, City Prosecutor or City Attorney, or a Chief of Police in the county where the Coroner has jurisdiction.

15

ATTACH. P

CITY OF VALLEJO

OATH OR AFFIRMATION OF ALLEGIANCE FOR CIVIL
DEFENSE WORKERS AND PUBLIC EMPLOYEES

"I, Fabio Rodriguez, do solemnly swear (or affirm)
that I will support and defend the Constitution of the United States
and the Constitution of the State of California against all enemies,
foreign and domestic; that I will bear true faith and allegiance to the
Constitution of the United States and the Constitution of the State of
California; that I take this obligation freely, without any mental
reservation or purpose of evasion; and that I will well and faithfully
discharge the duties upon which I am about to enter.

Fabio Rodriguez
Signature

Police Officer
Title or Department

The above oath was taken and subscribed to before me this

26th day of December, 2000.

Robert W. Nichelini ROBERT W. NICHELINI, Chief of Police
City Clerk (Notary or other person authorized to administer oaths)

16

Q



Police Lieutenant

Class Code:
03110

CITY OF VALLEJO
Revision Date: Jun 4, 2007

SALARY RANGE

\$54.76 - \$66.56 Hourly
\$4,380.95 - \$5,325.09 Biweekly
\$9,492.06 - \$11,537.69 Monthly
\$113,904.75 - \$138,452.29 Annually

DEFINITION:

DEFINITION

Under direction, during an assigned shift, serves as commanding officer and is responsible for supervising the enforcement of laws, the prevention of crimes, and related operations of the department; does related work as required.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from supervisory or management staff

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - Important responsibilities and duties may include, but are not limited to, the following:

Plans, assigns, and directs the activities of police officers and civilian personnel in an assigned division or shift.

Supervises and participates in investigation and arrest in criminal and non-criminal cases.

Inspects officers, equipment, prisoners.

Investigates traffic conditions.

Reviews patrol activities; accompanies officers and police sergeants, observes their work, reviews logs of individual officers, discusses problems of traffic control, arrests, patrol activities with subordinates and superiors.

Investigates complaints against departmental personnel and makes recommendations for disciplinary action.

Collects and reviews information or data and prepares reports on activities during shift.

Supervises the searching and handling of prisoners.

Attends court sessions to give testimony, as required.

Confers with other personnel of the department, officials of other city departments, or other

public civic agencies on law enforcement problems.

Prepares reports, correspondence, and budgetary information.

Makes special investigations or studies of administrative or law enforcement problems.

Gives talks before civic groups on law enforcement matters.

Acts for superior officers in their absence or at their direction.

KNOWLEDGE AND ABILITIES:

QUALIFICATIONS

Knowledge of:

Criminal law, investigation, and crime prevention methods.

The rules of evidence and the laws governing the custody of persons.

The capabilities and limitations of operating units in the department.

Police records.

Personnel administration as it relates to police work.

Ability to:

Effectively deploy personnel.

Direct personnel in their work and advise on technical police problems of investigation and arrest.

Analyze law enforcement problems and adopt effective programs for action.

Plan and coordinate the work of a large number of subordinates.

Prepare accurate and comprehensive reports.

MINIMUM QUALIFICATIONS:

Experience

Two years of experience performing the duties of a police sergeant in the City of Vallejo.

Training

Possession of an A.A. degree and/or possession of the P.O.S.T. Intermediate or Advanced Training Certificate may substitute for up to one year of the required experience.

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Property List for Case 20-6322

07/24/2020

ID No.	Status/Disposition	Qty - Item Description	Value	Val Recovered	Val Damaged
1	Evidence	654-1 - 1 Taser Axon Body 3 Video - VIDEO FROM SCENE IN RODEO			
2	Evidence	654-2 - 1 Black Shoe - BLACK SHOE FOUND OUTSIDE TRUCK			
3	Evidence	654-3 - 1 Clothing - CLOTHING FROM DOG BITE SUSPECT			
4	Evidence	633-1 - 1 Axon Video - AXON FOOTAGE FROM TRACKING AND ARRESTING DRIVER AFTER PURSUIT			
5	Evidence	730-1 - 1 Taser Axon Body Camera - BWC TRACKING AND K9 DEPLOYMENT			
6	Evidence	618-1 - 1 - BWC VIDEO			
7	Evidence	730-5 - 1 Buccal Swab - [REDACTED] BUCCAL SWAB			
8	Evidence	2053-1 - 1 - 2053-1-IPHONE 11 MAX PRO W/OTTERCASE			
9	Evidence	2053-2 - 1 - 2053-2-22 .223 ROUNDS PLUS PMAG			
10	Evidence	2053-3 - 1 - 2053-3-HAMMER PLACARD 13			
11	Evidence	2053-4 - 1 - 2053-4-MASK; PLACARD 12			
12	Evidence	730-2 - 1 Black Cell Phone [REDACTED] CELL PHONE			
13	Evidence	730-3 - 1 Glove - [REDACTED] RIGHT GLOVE			
14	Evidence	730-4 - 1 2 Oz Pepper Spray - 2 OZ PEPPER SPRAY			
15	Evidence	2053-5 - 1 - 2053-5-KEY FOB; PLACARD 14			
16	Evidence	2053-6 - 1 - 2053-6-LIVE ROUND; PLACARD 30			
17	Evidence	2053-7 - 1 - 2053-7-BOTTLE LABELED XARELTO; PLACARD 7			
18	Evidence	2053-8 - 1 - 2053-8-BLACK GLOVE; PLACARD 2			
19	Evidence	2053-9 - 1 - 2053-9-AMERISOURCE BERGAN BOTTLE; PLACARD 25			
20	Evidence	2053-10 - 1 - 2053-10-KNIFE; PLACARD 11			
21	Evidence	2053-11 - 1 - 2053-11-CHLORHOXIDINE BOTTLE; PLACARD 9			
22	Evidence	2053-12 - 1 - 2053-12-EMPTY BOTTLE; PLACARD 18			
23	Evidence	627-1 - 1 - 627-1-BLACK NIKE TENNIS SHOES			
24	Evidence	2053-13 - 1 - 2053-13-WARFARM; PLACARD 20			
25	Evidence	2053-14 - 1 - 2053-14-HANDSANTIZER; PLACARD 29			

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7/24/20 [Signature]



VALLEJO POLICE DEPARTMENT

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Property List for Case 20-6322

07/24/2020

ID No.	Status/Disposition	Qty - Item Description	Value	Val Recovered	Val Damaged
26	Evidence	2053-15 - 1 - 2053-15-XARELTO PILL BOTTLE; PLACARD 8			
27	Evidence	2053-16 - 1 - 2053-16-WARFARIM SODIUM; PLACARD 19			
28	Evidence	2053-17 - 1 - 2053-17-POSSIBLE CAR PART; PLACARD 27			
29	Evidence	2053-18 - 1 - 2053-18-BUCCAL MONTESSARO, SEAN			
30	Evidence	2053-19 - 1 - 2053-19-GSR SEAN MONTESSARO; 04/24/1998			
31	Evidence	2053-20 - 1 - 2053-20-SWABS-BLANK, FACE, LEFT AND RIGHT HAND; MONTESSARO, SEAN			
32	Evidence	2053-21 - 1 - 2053-21-BLACK GLOVE; PLACARD 2			
33	Evidence	2053-22 - 1 - 2053-22-GIRLINFLUENCE BASEBALL CAP; PLACARD 28			
34	Evidence	2053-23 - 1 - 2053-23-5 EXPENDED CARTRIDGES; PLACARD 3, 4, 5, 6, 16			
35	Evidence	2053-24 - 1 - 2053-24-BLACK BAG; PLACARD 10			
36	Evidence	2053-25 - 1 - 2053-25-BLACK MATERIAL IN BLOOD; PLACARD 26			
37	Evidence	2053-26 - 1 - 2053-26-SWABS OF SUSPECTED BLOOD; BLANK, PLACARD 1, 17, 21, 22, 23, 24			
38	Evidence	2053-27 - 1 - 2053-27-PHOTOGRAPHS OF SCENE AND SUSPECT			
39	Evidence	730-6 - 4 Photos - PHOTOS OF [REDACTED] ITEMS			
40	Evidence	627-2 - 1 Underwear - 627-2 BLACK TOMMY HILFINGER MENS UNDERWEAR			
41	Evidence	627-3 - 1 Nike Sweat Pants - 627-3-BLACK NYLON SWEAT PANTS			
42	Evidence	627-4 - 1 Shirt - 627-4 WHITE MENS TEE SHIRT			
43	Evidence	627-5 - 1 Hooded Jacket - 627-5 BLACK MENS HOODED JACKET			
44	Evidence	627-6 - 1 Colt Commander Rifle - 627-6 BLACK .223 M4 POLICE SWAT RIFLE, OPTIC, AND SUPPRESSOR			
45	Evidence	618-1 - 1 Bwc Video - BWC VIDEO			



Property List for Case 20-6322

07/24/2020

ID No.	Status/Disposition	Qty - Item Description	Value	Val Recovered	Val Damaged
46	Evidence	602-1 - 1 - PHOTOS OF [REDACTED] VEHICLE AFTER TC, INVOLVED OFFICERS, SKTECHES OF SCENE DONE BY [REDACTED] AND [REDACTED] PHOTOS OF [REDACTED]			
47	Evidence	602-2 - 1 - DVD INTERVIEW WITH [REDACTED]			
48	Evidence	602-3 - 1 - DVD INTERVIEW WITH [REDACTED]			
49	Evidence	602-4 - 1 - DVD INTERVIEW WITH [REDACTED]			
50	Evidence	2053-28 - 1 - 2053-28-(S) LEFT AND RIGHT HAND FINGERNAIL CLIPPINGS			
51	Evidence	2053-29 - 1 - 2053-29-BULLET FROM (S) HEAD			
52	Evidence	2053-30 - 1 - 2053-30-(S) BLOOD			
53	Evidence	2053-31 - 1 - 2053-31-PHOTOGRAPHS OF AUTOPSY			
54	Evidence	638-1 - 1 - CD- CHP AIR VIDEO OF PURSUIT			
55	Evidence	638-2 - 1 - AXON VIDEO OF VEHICLE PURSUIT ARREST			
56	Evidence	680-1 - 1 - STATEMENT OF [REDACTED]			
57	Evidence	638-3 - 1 - USB- NAPA COUNTY RESPONDING DEPUTIES BODY WORN CAMERA			
58	Evidence	680-2 - 1 - STATEMENT OF [REDACTED]			
59	Evidence	680-3 - 1 Bdr 25 - WALGREENS VIDEO			
60	Evidence	680-4 - 1 - PHOTOS OF DRONE SCREENS VIDEO AND SETTINGS			
61	Evidence	680-5 - 1 BDR25 - DIRECT DOWNLOAD AND SD ACCESS OF SD MICRO SD			
62	Evidence	680-6 - 1 - AUDIO OF SECOND PHONE ATTEMPT W [REDACTED]			
63	Evidence	2053-32 - 1 - 2053-32-CELL PHONE DRIVER'S SIDE FLOORBOARD			
64	Evidence	2053-33 - 1 - 2053-33-BLACK BACKPACK IN FRONT PASSENGER FLOORBOARD			
65	Evidence	2053-34 - 1 - 2053-34-7 PRINT CARDS FROM 96180C2			
66	Evidence	2053-35 - 1 - 2053-35-6 EXTERIOR SWABS			
67	Evidence	2053-36 - 1 - 2053-36-16 INTERIOR SWABS			
68	Evidence	2053-37 - 1 - 2053-37-BLACK FLASHLIGHT LOCATED ON DRIVER'S SIDE FLOORBOARD			



Property List for Case 20-6322

07/24/2020

ID No.	Status/Disposition	Qty - Item Description	Value	Val Recovered	Val Damaged
69	Evidence	2053-38 - 1 - 2053-38-HAMMER FROM REAR DRIVER'S SIDE FLOOR BOARD			
70	Evidence	2053-39 - 1 - 2053-39-BLUE FACE MASK FROM DRIVER'S FLOOR BOARD			
71	Evidence	2053-40 - 1 - 2053-40-GLOVES NEAR HAMMER ON REAR DRIVER'S FLOOR BOARD			
72	Evidence	2053-41 - 1 - 2053-41-BLUE MASK FROM BACK SEAT			
73	Evidence	2053-42 - 1 - 2053-42-HAIR BRUSH FROM DRIVER'S FLOOR BOARD			
74	Evidence	2053-43 - 1 - 2053-43-HOOD/MASK FROM BACK SEAT			
75	Evidence	2053-44 - 1 - 2053-44-BLACK MATERIAL FROM REAR PASSENGER DOOR (INTERIOR)			
76	Evidence	2053-45 - 1 - 2053-45-VAPE PEN FROM CENTER CONSOLE			
77	Evidence	2053-46 - 1 - 2053-46-CELL. PHONE FROM GLOVE BOX			
78	Evidence	2053-47 - 1 - 2053-47-USED MASK FROM GLOVE BOX			
79	Evidence	2053-48 - 1 - 2053-48-MASK FROM CENTER CONSOLE			
80	Evidence	2053-49 - 1 - 2053-49-RETRACTIBLE ASP FROM GLOVE BOX			
81	Evidence	2053-50 - 1 - 2053-50-2 BLACK BANDANA AND A SCREW DRIVER FROM CENTER CONSOLE			
82	Evidence	2053-51 - 1 - 2053-51-WATER BOTTLE FROM FRONT PASSENGER DOOR			
83	Evidence	2053-52 - 1 - 2053-52-BLACK BAG FROM FRONT PASSENGER SEAT			
84	Evidence	2053-53 - 1 - 2053-53-PHOTOGRAPHS OF TITAN TRUCK [REDACTED]			
85	Evidence	2053-54 - 1 - 2053-54-PATROL BOTTLE FROM CENTER CONSOLE			
86	Evidence	2053-55 - 1 - 2053-55-WATER BOTTLE FROM REAR PASSENGER DOOR			
87	Evidence	2053-55 - 1 - 2053-55-SWABS FROM INTERIOR WALGREENS			
88	Evidence	680-7 - 1 Cdr - WALGREEN'S VIDEO SHOWING DESTRUCTION OF CAMERA			



Property List for Case 20-6322

07/24/2020

ID No.	Status/Disposition	Qty - Item Description	Value	Val Recovered	Val Damaged
89	Evidence	680-8 - 1 - PHOTOS OF WALGREENS EXTERNAL CAMERA LOCATIONS ON EAST SIDE OF BUILDING			
90	Evidence	680-9 - 1 Cdr - SFPD GTF PHOTOS			
91	Evidence	509-1 - 1 Swab - DNA SWAB			
92	Evidence	509-2 - 1 Swab - DNA SWAB			
93	Evidence	509-3 - 1 Swab - DNA SWAB			
94	Evidence	661-1 - 1 - CD CONTAINING AUDIO RECORDING OF STATEMENT			
95	Evidence	661-2 - 1 - CD CONTAINING AUDIO RECORDING OF STATEMENT			
96	Evidence	602-5 - 1 - DIAGRAM BY			
97	Evidence	602-6 - 1 - AUDIO INTERVIEW WITH			
98	Evidence	602-7 - 1 - INTERVIEW WITH			
99	Evidence	638-4 - 1 - CD- VIDEOS OF LOOTERS			
100	Evidence	661-3 - 1 - SKETCH DRAWN BY			
101	Evidence	638-5 - 1 - CD INT 6-2-20			
102	Evidence	2053-56 - 1 - 2053-56-5 TEST FIRED CARTRIDGES CASES, 2 TEST FIRED BULLETS: OFFICER DUTY RIFLE TR			
103	Evidence	680-10 - 1 - MAVIC 2 DRONE, CONTROL, IPAD			
104	Evidence	680-11 - 1 - SS HARD DRIVE RELATED TO 680-10			
105	Evidence	2053-57 - 1 - 2053-57-PHOTOGRAPHS OF NISSAN TITAN			
106	Evidence	680-12 - 2 - ORIGINAL WALGREENS FLASH DRIVES			
107	Evidence	680-13 - 1 - VM FROM ATTN ADVISING WILL NOT MEET			
108	Evidence	661-4 - 1 - 661-4-AUDIO RECORDING OF			
109	Evidence	680-14 - 1 - FOLLOW-UP			
110	Evidence	680-15 - 1 - FOLLOW-UP			

**VALLEJO POLICE DEPARTMENT****111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER**

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VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

Report Date: June 2, 2020
Agency: Vallejo Police Department
Agency Case #: 20-6322
TOC: 0035 hours
Victims: Walgreens
Suspects: Monterrosa, Sean Isreal
[REDACTED]
Location: 1050 Redwood Street
Crime: 459 PC

CRIME SCENE INVESTIGATION - SUPPLEMENTAL REPORT**OVERVIEW**

On June 2, 2020 at 0100 hours I was contacted by Corporal Joe McCarthy advising of an officer involved shooting that just occurred in the drive-thru are of Walgreens at 1050 Redwood Street in the city of Vallejo.

Corporal McCarthy requested that I respond to the scene and meet with him to document the scene and collect evidence.

I responded to the scene and arrived at approximately 0200 hours on June 2, 2020.

Sergeant Rob Greenberg was in charge with scene security and was assisted by multiple Vallejo Police Department Officers and police officers from many jurisdictions due to the volatility in town at the time.

DA Investigator Paul Wilcox assisted me in processing the scene.

PURPOSE OF EXAMINATION

To process the scene to include photographing the scene, marking property to collect, photograph the property to collect, document items to collect and collect the items of evidentiary value at the scene.

To photograph, GSR and swab (S) MONTERROSA.

Prepared By:
2053 DAILEY, STEPHANIE

Date:
06/04/2020

Approved By:
569 MUSTARD, MAT

Date:
06/05/2020

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**VALLEJO POLICE DEPARTMENT****111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER**

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VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

To download photographs into Evidence.com and book property collected at the scene and the Vallejo Police Department.

EVENT DESCRIPTION

On Tuesday, June 2, 2020 at approximately 0035 hours the Vallejo Police Department Dispatch Center received a phone call pertaining to a burglary at the Walgreen's Pharmacy. When officers arrived on scene an altercation occurred and MONTERROSA was shot. He succumbed to his injuries at Kaiser Hospital.

Vallejo Police Officers and officers from other agencies maintained scene security. It should be noted in the City of Vallejo many businesses had been burglarized and vandalized for many days prior to this incident.

Upon my arrival, (S) MONTERROSA was not on the scene. He was transported to Kaiser Hospital. I responded to Kaiser Hospital to photograph him and swab him after processing the scene.

Several pill bottles were located throughout the parking lot along with suspected blood, a black bag, a knife, a hammer, a face mask, a piece of black material and possible car parts. An iPhone was located east of the drive thru window and black baseball cap was located near the back door of the store. A pickup truck and a SUV were located in the parking lot. Items of evidentiary value were marked with yellow placards, photographed and later collected by me. A pool of suspected blood was noted and life savings equipment.

The drive thru window of Walgreen's was smashed and a board was on the upper half of the window. Pieces of wood were on the ground and access could be made into the pharmacy through the bottom portion of the window. The back door lock was broken and the door was open upon my arrival.

After processing the scene I responded to Kaiser to process (S) MONTERROSA.

I returned to the scene and met with Walgreen's [REDACTED] Suspected blood

Prepared By:

2053

DAILEY, STEPHANIE

Date:

06/04/2020

Approved By:

569

MUSTARD, MAT

Date:

06/05/2020

**VALLEJO POLICE DEPARTMENT****111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER**

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20-6322

VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

was noted throughout Walgreen's. I photographed the interior of Walgreen's and swabbed areas of suspected blood. It should be noted that the blood throughout Walgreen's was in the shape of a dog paw.

EXAMINATION RESULTS-EXTERIOR SCENE

Upon my arrival on scene I began to do overall photographs. The scene consisted of the east side of the Walgreen's building at 1050 Redwood Street. Near the north east corner of the building is a Drive Thru Pharmacy window. Walgreen's was previously burglarized and the glass window was shattered and boarded up to prevent additional individuals from gaining access to the Pharmacy. The board was removed and laid on the ground broken. Suspected blood was noted throughout the parking lot and in Walgreen's.

A grey Ford pickup truck with California license plates [REDACTED] was in the parking lot south east of the drive through window. The front doors of the vehicle were open. The windshield of the truck had 5 bullet holes in it. Located on the front passenger side of the vehicle were 3 casings. An additional casing was located on the runner board of the passenger side of the vehicle. A fifth casing was located in the dashboard of the truck. These items were marked with yellow placards and later collected.

East of the truck was a puddle of blood. This was marked as item #1 and later swabbed (2053-26).

East of the truck were two black rubber gloves. The gloves were marked with placard #2. They were not together on the ground so they were booked separately (2053-8 and 2053-21).

Three casings were located on the ground near the passenger side of the Ford truck. The casings were marked with placard numbers 3, 4 and 5. Another casing was located in the runner board of on the passenger side of the truck (placard 16) and one on the dash board of the truck (placard 6). The casings were photographed and packaged in individual packages prior to being placed in one bag labeled 2053-23.

A Xarelto pill bottle was located next to the second island east of the drive thru window. The bottle was marked with placard 7, photographed and collected (2053-7).

Prepared By:

2053 DAILEY, STEPHANIE

Date:

06/04/2020

Approved By:

569 MUSTARD, MAT

Date:

06/05/2020

**VALLEJO POLICE DEPARTMENT****111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER**

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VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

A Xarelto pill bottle was located in between the two islands east of the drive thru window. The bottle was marked with placard 8, photographed and collected (2053-15).

A Chlorhoxidine bottle was located north east of placard 7. This bottle was marked with placard 9, photographed and collected (2053-11).

A black bag (placard 10) was located north of placard 9. On top of the bag was a black folded knife (placard 11). The bag was marked with placard 10 and the knife placard 11. These items were photographed and collected.

A blue face mask was located east of the bag and knife. The mask was marked with placard 12, photographed and booked (2053-4).

A 15 inch Vaughn 19 oz framing construction hammer was located north east of placard 12 (mask). The hammer was marked with placard 13, photographed and collected (2053-3).

A key fob was located north of the black bag. The key fob was marked with placard 14, photographed and collected (2053-5).

An iPhone 11 max pro with a black otter case was located on the second island east of the drive thru window. The phone was marked with placard 15, photographed and given to Detective Rose (2053-1).

A suspected blood trail was noted east of the drive thru islands. I marked three areas of suspected blood with placards 17, 21 and 22. I swabbed each area with separate swabs. I used the same water source on all three swabs as I used for the blank swab sample (2053-26).

An empty prescription bottle was located in the first lane of the drive thru (closest to the drive thru window. This bottle was marked with placard 18, photographed and collected (2053-12).

A Warfarim Sodium pill bottle was located under the drive thru window (exterior). The bottle was marked with placard 19, photographed and collected (2053-16).

Prepared By:
2053 DAILEY, STEPHANIE

Date:
06/04/2020

Approved By:
569 MUSTARD, MAT

Date:
06/05/2020

**VALLEJO POLICE DEPARTMENT****111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER**

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VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

A Warfarim pill bottle was located under the drive thru window (exterior). The bottle was marked with placard 20, photographed and collected (2053-13).

A suspected blood drop south of the first drive thru lane was noted. The suspected blood was marked with placard 23, swabbed and booked (2053-26).

A suspected blood drop was noted on a piece of broken ply wood east of the drive thru window. The suspected blood was marked with placard 24, swabbed and booked (2053-27).

An Amerisource Bergan pill bottle was located under the driver thru window (exterior). The bottle was marked with placard 25, photographed and collected (2053-9).

A piece of black material was noted in a puddle of suspected blood. The material was marked with placard 26, photographed and collected (2053-25). The material was placed in a secured drying locker at the Vallejo Police Department Evidence section prior to being booked.

A possible car part was located north east of the drive thru window. The item was marked with placard 27, photographed and collected (2053-17).

A black baseball cap with 'GIRLINFLUENCE' on the front of the cap was located outside of the north door of Walgreen's. This item was marked with placard 28, photographed and collected (2053-22).

A hand sanitizer bottle was located in the gutter of the north east driveway of the parking lot (east of the police SUV). The bottle and cap were marked with placard 29, photographed and collected (2053-14).

A cartridge was located on the west side of the SUV. The cartridge was marked with placard 30, photographed and collected (2053-6).

All items from the scene were transported to the Vallejo Police Department Evidence Section and booked.

Prepared By:

2053 DAILEY, STEPHANIE

Date:

06/04/2020

Approved By:

569 MUSTARD, MAT

Date:

06/05/2020



VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

EXAMINATION RESULTS-KAISER

While officers from the Traffic Unit were mapping out the scene with Total Station I was asked to respond to Kaiser Hospital to process (S) MONTERROSA. I responded to Kaiser Hospital with DA Investigator Wilcox and met with Cpl. McCarthy, Officer K. Jackson and Officer J. Callinan. Cpl. McCarthy advised he processed MONTERROSA for GSR.

MONTERROSA is a Hispanic male with black hair and slight facial hair. MONTERROSA had multiple tattoos. I noted a deformity in MONTERROSA's forehead.

With permission from Deputy Hendry I processed MONTERROSA's face, left and right hands with swabs. I used the same water source for the three individual swabs as I used for the blank sample swab. I then obtained a Buccal swab. I photographed MONTERROSA at Kaiser Hospital.

See Cpl. McCarthy's report pertaining to MONTERROSA being sealed in a body bag, seal number, what time he was sealed and the Solano County Coroner's case number.

EXAMINATION RESULTS-INTERIOR WALGREEN'S

I was advised the manager of Walgreen's arrived on scene while I was at Kaiser and was asked to return to Walgreen's.

DDA Investigator Wilcox and I walked through Walgreen's. We noted blood several areas of suspected blood. The impression left on the ground appeared to be that of a dog paw. I swabbed multiple areas in the store and in the pharmacy. I photographed the pharmacy as well.

All swabs and photographs were later booked into the Vallejo Police Department Evidence Section.

Placard List:

1- Suspected blood

Prepared By:

2053 DAILEY, STEPHANIE

Date:

06/04/2020

Approved By:

569 MUSTARD, MAT

Date:

06/05/2020

**VALLEJO POLICE DEPARTMENT**

Page 7

**111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER**

20-6322

VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

- 2- Black rubber gloves
- 3- Casing
- 4- Casing
- 5- Casing
- 6- Casing
- 7- Pill bottle
- 8- Xarelto pill bottle
- 9- Pill bottle
- 10- Black bag
- 11- Black folding knife
- 12- Face mask
- 13- Hammer
- 14- Key fob
- 15- iPhone given to Detective Rose at the scene
- 16- Casing
- 17- Suspected blood
- 18- Empty liquid prescription bottle
- 19- Warforim pill bottle
- 20- Warforim pill bottle
- 21- Suspected blood
- 22- Suspected blood
- 23- Suspected blood
- 24- Suspected blood
- 25- Pill bottle
- 26- Black material in blood
- 27- Car part
- 28- Girlinfluence baseball cap
- 29- Hand sanitizer and cap
- 30- Cartridge

PROPERTY COLLECTED

2053-1-IPHONE 11 MAX PRO W/OTTERCASE
2053-2-22 .223 ROUNDS PLUS PMAG
2053-3-HAMMER PLACARD 13

Prepared By:

2053 DAILEY, STEPHANIE

Date:

06/04/2020

Approved By:

569 MUSTARD, MAT

Date:

06/05/2020

**VALLEJO POLICE DEPARTMENT**

Page 8

111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER

20-6322

VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

2053-4-MASK; PLACARD 12
2053-5-KEY FOB; PLACARD 14
2053-6-LIVE ROUND; PLACARD 30
2053-7-BOTTLE LABELED XARELTO; PLACARD 7
2053-8-BLACK GLOVE; PLACARD 2
2053-9-AMERISOURCE BERGAN BOTTLE; PLACARD 25
2053-10-KNIFE; PLACARD 11
2053-11-CHLORHOXIDINE BOTTLE; PLACARD 9
2053-12-EMPTY LIQUID PRESCRIPTION BOTTLE; PLACARD 18
2053-13-WARFARIM PILL BOTTLE; PLACARD 20
2053-14-HANDSANTIZER; PLACARD 29
2053-15-XARELTO; PLACARD 8
2053-16-WARFARIM SODIUM; PLACARD 19
2053-17-POSSIBLE CAR PART; PLACARD 27
2053-18-BUCCAL MONTESSARO, SEAN
2053-19-GSR SEAN MONTESSARO; 04/24/1998
2053-20-SWABS-BLANK, FACE, LEFT AND RIGHT HAND; MONTESSARO, SEAN
2053-21-BLACK GLOVE; PLACARD 2
2053-22-GIRLINFLUENCE BASEBALL CAP; PLACARD 28
2053-23-5 EXPENDED CARTRIDGES; PLACARD 3, 4, 5, 6, 16
2053-24-BLACK BAG; PLACARD 10
2053-25-BLACK MATERIAL IN BLOOD; PLACARD 26
2053-26-SWABS OF SUSPECTED BLOOD; BLANK, PLACARD 1, 17, 21, 22, 23, 24
2053-27-PHOTOGRAPHS OF SCENE AND SUSPECT

Stephanie Dailey
Senior Police Assistant
CSI #2053
Vallejo Police Department

ADDITIONAL PROPERTY

Item 26 updated: 1 2053-15-XARELTO Pill Bottle; Placard 8> Description: 2053-15-XARELTO;
PLACARD 8 changed to 2053-15-XARELTO PILL BOTTLE; PLACARD 8

Item 47 updated: 1 Dvd Interview With [REDACTED] Location: EVID TALL LOCKER 1 changed to
OIS120

Prepared By:

2053 DAILEY, STEPHANIE

Date:

06/04/2020

Approved By:

569 MUSTARD, MAT

Date:

06/05/2020

**VALLEJO POLICE DEPARTMENT****111 AMADOR ST VALLEJO, CA 94590
SUPPLEMENT 24 - SCENE AND KAISER**

Page 9

20-6322

VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

Item 47 updated: 1 Dvd Interview With [REDACTED] ReceivedBy added: 2053

Item 48 updated: 1 Dvd Interview With [REDACTED] Location: EVID TALL LOCKER 1 changed to OIS120

Item 48 updated: 1 Dvd Interview With [REDACTED] ReceivedBy added: 2053

Item 49 updated: 1 Dvd Interview With [REDACTED] Location: EVID TALL LOCKER 1 changed to OIS120

Item 49 updated: 1 Dvd Interview With [REDACTED] ReceivedBy added: 2053

Item 54 updated: 1 Cd- CHP Air Video Of Pursuit> Location: STATION MAILBOX changed to OIS120

Item 54 updated: 1 Cd- CHP Air Video Of Pursuit> ReceivedBy added: 2053

Item 55 updated: 1 Axon Video Of Vehicle Pursuit Arrest> Location: AXON OR EVID.COM changed to PCBC

Item 55 updated: 1 Axon Video Of Vehicle Pursuit Arrest> ReceivedBy added: 2053

Item 56 updated: 1 Statement Of [REDACTED] Location: AXON OR EVID.COM changed to PCBC

Item 56 updated: 1 Statement Of [REDACTED] ReceivedBy added: 2053

Prepared By:

2053 DAILEY, STEPHANIE

Date:

06/04/2020

Approved By:

569 MUSTARD, MAT

Date:

06/05/2020



VALLEJO POLICE DEPARTMENT

111 AMADOR ST VALLEJO, CA 94590

SUPPLEMENT 7

Page 1

20-6322

VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

Report Date: June 2, 2020
Agency: Vallejo Police Department
Agency Case #: 20-6322
Crime: 245(C) PC
Location: 1050 Redwood Street
Victim: [REDACTED]
TOC: 0036 Hours

CRIME SCENE INVESTIGATION - SUPPLEMENTAL REPORT

OVERVIEW

On June 2, 2020 at approximately 0100 hours I was notified by Det. Sgt Mustard that an Officer Involved Shooting had just occurred in the parking lot of Walgreens Drug Store at 1050 Redwood Street, and that a male adult was pronounced deceased at Kaiser Hospital, **(MONTERROSA, SEAN, WMA, 04/24/1998)**.

Vallejo Police Department patrol Officers were on scene and had the ER and crime scene secured. Sergeant Mustard requested that I respond to assist in documenting the scene and collect evidence.

I responded to Walgreens Drug Store SSMC and met with Patrol Sergeant Rob Greenberg who was securing the immediate perimeter. He gave me a run down of the repeated break-ins of Walgreens tonight, as well as the shooting which occurred shortly after officers arrived on scene. P.A. Dailey arrived on scene and photographed began to process the crime scene with photographs, and evidence collection. Refer to her supplemental scene report for details.

I made contact with Officers Ken Jackson and Jeremy Callinan at Kaiser Hospital who were standing by with (S) Monterrosa. His identity was undetermined at that time. I requested Officer Hector Campos to obtain an ID print scan of Monterrosa to confirm his identity. Officer Campos confirmed Monterrosa's Identity via print scan. I provided Det. Sgt. Mustard Monterrosa's information based on that positive identification for investigative purposes.

I conducted a view of Monterrosa's injuries. He sustained one GSW to the back of his head, a protruding indentation to his front left eyebrow, and an abrasion to his left knee. I collected Monterrosa's personal effects from Kaiser ER and booked same into evidence drying locker. He had a pair of black nylon sweat pants, a pair of black underwear, white tee shirt, a black hooded sweatshirt, and a pair of black Nike running shoes.

Solano County Coroner's office was notified to respond to Kaiser Hospital ER to take charge of Monterrosa at 0542 hours. All medical devices remained attached to Monterrosa, and were

Prepared By:
627 MCCARTHY, JOE

Date:
06/02/2020

Approved By:
569 MUSTARD, MAT

Date:
06/05/2020

SCANNED
FOR IA
7/24/20

**VALLEJO POLICE DEPARTMENT**

111 AMADOR ST VALLEJO, CA 94590

SUPPLEMENT 7

Page 2

20-6322

VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT

transported to the Coroner's office in the sealed bag.

Deputy Hendry sealed the bag at 0542 hours, with tag number 399451, under Solano County Coroner's case number 20-0569.

SCENE INVESTIGATION

The scene was located adjacent to the North East driveway entry to 1050 Redwood Street. There was damage to the drive through window glass to the pharmacy. The pharmacy window was boarded up with plywood from a prior break in, and the lower piece of plywood was forcibly removed allowing entrance. There were wood blocks on the ground with wood screws attached used by the board up crew to secure the plywood. The rear door to the store at the NE corner had been forced open, causing damage to the locking alarm system. There were multiple prescription medication bottles on the ground outside in the drive through and parking lot. I noted a large Vaughn 19oz framing hammer with a hickory handle on the ground near the large pool of blood on the ground. There appeared to be blood smear on the upper handle, and the handle had been cut at the bottom to make it shorter.

I viewed the interior of the Pharmacy to see it had been ransacked by looters. There was damage to [REDACTED] unmarked Unit parked partially blocking the north east driveway with moderate front end damage.

P.A. Dailey and I documented, collected, and booked multiple items into property as evidence. Refer to P.A. Dailey's supplemental report for further details. Traffic officers Trimble and Alamon responded and documented the location of each item of evidence on scene via Leica Total Station.

I collected Officer [REDACTED] service Colt Commander M4 and loaded magazine as evidence from Sgt. Greenberg. I booked secured the firearms into property as evidence under 627-6, and completed a round count of his magazine with (22) .223 rounds. PA Dailey booked the magazine and rounds into property under 2053-2.

EVIDENCE COLLECTED

Refer to P.A. Dailey's supplemental report for further details.

Corporal J. McCarthy #627

Prepared By:

627 MCCARTHY, JOE

Date:

06/02/2020

Approved By:

569 MUSTARD, MAT

Date:

06/05/2020

**VALLEJO POLICE DEPARTMENT**

111 AMADOR ST VALLEJO, CA 94590

SUPPLEMENT 7

Page 3

20-6322

VALLEJO POLICE DEPARTMENT CONTROL DOCUMENT*****
ADDITIONAL PROPERTY

Item #40 added: Status: Evidence

1 Black Tommy Hilfiger Mens Underwear. 627-2 BLACK

TOMMY HILFIGER MENS UNDERWEAR

Item #41 added: Status: Evidence

1 Nike Sweat Pants. 627-3-BLACK NYLON SWEAT PANTS

Item #42 added: Status: Evidence

1 627-4 White Mens Tee Shirt

Item #43 added: Status: Evidence

1 627-5 Black Mens Hooded Jacket

Item #44 added: Status: Evidence

1 Colt Commander Rifle. BLACK .223 M4 POLICE SWAT
RIFLE, OPTIC, AND SUPPRESSOR

Prepared By:

627

MCCARTHY, JOE

Date:

06/02/2020

Approved By:

569

MUSTARD, MAT

Date:

06/05/2020

18

AUTO GLASS NOW

AUTOGLASSNOW - OAKLAND, CA
1258 WEST GRAND AVENUE
OAKLAND, CA 94607
510-451-4111
PART AA ARD275061

WORKORDER: 002-11033652

BY: 6749-STEVEN A

DATE: 06/04/20
SERVICE: INSHOP

CUSTOMER / INSURED

BILL TO INFORMATION:

LOUIS
111 AMADOR ST
VALLEJO, CA 94590
707 648 4558

CAL CARD

AUTOMOBILE INFORMATION

YEAR: 2020
MAKE: FORD
MODEL: F SERIES F150
STYLE: 4 DOOR CREW CAB

VEH ID: _____ HOME#: 707 648 4558
LIC#: _____ WORK#: _____
STATE: _____
ODOMETER: GET

Qty	Part	Mfg	Description	List	Price	Ext. Price
1	DW02492GTYN		WINDSHIELD, SOLAR CONTROLLED,	863.35	245.00	245.00
1	NAGSLABOR		NAGS LABOR (DW02492GTYN)	85.00	85.00	85.00
1	HAH000448		(2) ADHESIVE, FAST-CURE URETHANE/DAM/PRIMER	0.00	0.00	0.00

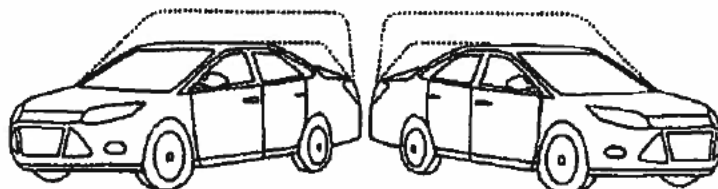
Job Scheduled For: 5 06-05-20 ORDER PLEASE
Original Est. 362.49 FLAT RATE

PRE INSPECTION

S = Scratched P = Paint Chipped C = Corrosion
D = Dented M = Missing

Cash
TOTAL MATL 245.00
TOTAL LABR 85.00
SUBTOTAL 330.00
SALES TAX 23.49
SU 9.00
TOTAL 362.49
TOTAL DUE 362.49

Credit Card payments may be subject up to a 4% surcharge



INSPECTION NOTES

ALL WARRANTY DONE IN SHOP.

All parts are new unless otherwise specified.

Auto Glass Now™ is authorized to perform the above work, with terms and conditions on reverse side.

I acknowledge notice and oral approval of an increase in the original estimated price.

After thorough inspection of my vehicle, the above work has been done to my complete satisfaction.

I authorize MY INSURANCE COMPANY to make payment to Auto Glass Now™ on their invoice to follow, full amount due me under the terms of my policy covering said loss. I understand that if for any reason my insurance company does not pay this claim I will be responsible for payment of same.

30 minute curing adhesive was used to install your windshield at _____ on ____/____/____ your vehicle must not be operated for 30 minutes after installation time. Original manufacturer part was installed. Yes No

TECHNICIAN NAME: _____

CUSTOMER SIGNATURE: _____

We Appreciate Your Business!

41110

From: [REDACTED]
Sent: Wednesday, June 03, 2020 12:22 PM
To: Ayat Biltagi; Bonnie L. Mirante
Subject: FW: Regarding your estimate

Just want to give you a heads up. We will be replacing the windshield on our U [REDACTED] Truck and we have an appointment in Concord next week to have this done. I will need to have the truck towed there as well. Please see attached quote. They advised that we have an account with them so I have will them charge the city directly unless you would like me to charge it on my city credit card.

Thanks,
[REDACTED]

From: Kevin Barreto
Sent: Wednesday, June 03, 2020 12:10 PM
To: [REDACTED]
Subject: Fw: Regarding your estimate

Kevin Barreto
Detective
City of Vallejo | Investigations
[REDACTED]

From: Safelite AutoGlass <noreply@safelite.com>
Sent: Wednesday, June 3, 2020 11:26 AM
To: Kevin Barreto <Kevin.Barreto@cityofvallejo.net>
Subject: Regarding your estimate



We're here when you're ready

Kevin Barreto, thank you for choosing Safelite AutoGlass. We have saved your quote to replace the windshield on your 2020 FORD F SERIES F150. You will be prevented from operating your vehicle for approximately 1-hour after installation.

Your estimate: \$475.00

To finish scheduling your appointment, simply call 800-800-2727 and reference work order number 01843-639743. In most cases, we can get you scheduled for service to be completed the same or very next day.

Your windshield is a non-Original Equipment manufactured part

**Quote does not include tax, disposal fee and other applicable fees*



Why choose Safelite?

When you choose Safelite you get more than just glass, you get the safety and reliability of the Safelite Advantage featuring the industry's only nationwide lifetime guarantee.

"Very simple process, great overall experience!"

Everything from scheduling the appointment, to the confirmation, to the work being performed, was very simplified for a person with a full time job. They came to my office, and were done in 2 hours. Overall great experience.

Bo1142, Knoxville, TN



You will be covered by our work order for vehicle for approximately 1 hour after installation. Your windshield is a non-original equipment manufactured part.

The quote is good for one full day. The price quoted is based on the information provided and related to your vehicle make, year, model, service and location. Additional charges may apply for any other related services. In some cases, additional charges may apply.



or if it is otherwise deemed likely to cause damage to the system or to the data stored on the system. The user shall be responsible for the security of the system and for the protection of the data stored on the system. The user shall be responsible for the security of the system and for the protection of the data stored on the system. The user shall be responsible for the security of the system and for the protection of the data stored on the system.

***** This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments *****



19

Request #20-492

📁 OPEN

2 of 2 filtered by: Keyword search: windshield

As of July 21, 2020, 4:50pm

Request Visibility: Staff

Details

IMMEDIATE DISCLOSURE REQUEST

July 7, 2020

To Whom It May Concern:

This is an immediate disclosure request.

Pursuant to the California Public Records Act (Government Code Section 6250 et seq.) ("CPRA"), the Vallejo Sunshine Ordinance, and all other applicable laws, please disclose the following records.

- Any video or audio recording relating to the fatal police shooting that occurred on or around 12:30 a.m. near the Walgeren's store on Broadway Street in Vallejo on June 2, 2020.

These records are disclosable pursuant to AB 748, which took effect July 1, 2019.

This request includes communications involving private as well as public infrastructure, devices, and/or accounts. *See, e.g., San Jose v. Superior Court*, 2 Cal.5th 608 (2017) (holding that when a city employee uses a personal account to communicate about the conduct of public business, the writings may be subject to disclosure under the California Public Records Act).

The fundamental rule of the CPRA is a presumption of public access. "In other words, [A]ll public records are subject to disclosure unless the Legislature has expressly provided to the contrary." *Williams v. Superior Court*, 5 Cal. 4th 337 (1993). This presumption finds further support in the California Constitution, as amended by Proposition 59 in 2004. "A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." Cal. Const. Art. 1 § 3(b)(2).

Pursuant to the Vallejo Sunshine Ordinance, please provide a response by close of business today, July 7, 2020.

If you determine that any or all of the information qualifies for an exemption from disclosure, please note whether, as is normally the case, the exemption is discretionary, and if so whether it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, please redact it for the time being

and make the rest available as requested. In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

Please apply a fee waiver to this request. If the request for a fee waiver is denied, please provide notification of any duplication costs exceeding \$20 before you duplicate the records. If the request for a fee waiver is denied, please further provide an index of all other requests since 2015 for which a fee waiver was denied, and the reason therefor.

Please disclose the requested record(s) electronically via email to records@openvallejo.org. If you have any questions, please do not hesitate to be in touch.

Thank you.

[— Read less](#)

Received

July 7, 2020 via web

Due

November 1, 2020

Departments

Police Department

Requester

Open Vallejo

✉ records@openvallejo.org

Requester email status list

1

Documents

Public (pending) 1

(none)

Requester

(none)

Staff

Only

(none)

Staff

Point of Contact

whouse@dpmclaw.com

Support

joni.brown@cityofvallejo.net

katelyn.knight@cityofvallejo.net

Tasks

Timeline

External Message

Requester + Staff

Dear Ms. House, The city relies heavily on the PRA's investigative exemptions. However, yesterday the interim city attorney reportedly confirmed that the police department discarded the windshield through which Det. Tonn fired his rifle, thus permanently rendering that evidence unavailable. Further, the city has not explained how footage from the drone seized by police "was corrupted and unreadable," or why it could not be retrieved by forensic experts. The district attorney has recused herself from the investigation, and the state attorney general has indicated he will not step in, as he apparently does not view the grounds offered for the recusal to be legitimate. Thus the only investigation that appears to be underway is being conducted solely by Vallejo police, who have destroyed at least one critical piece of physical evidence. This counsels in favor of more oversight by the public, not less. Please disclose the requested records, including but not limited to footage from the several other cameras overlooking the Walgreens parking lots, as well as footage beyond the initial response by police to Mr. Monterrosa's death. Thank you.

July 15, 2020, 4:21pm by the requester via email

Due Date Changed

Staff Only

11/01/2020 (was 07/17/2020).

July 15, 2020, 3:52pm by Wendy House

External Message

Requester + Staff

The City received your California Public Records Act ("PRA") request dated July 7, 2020. Devaney Pate Morris & Cameron LLP has been retained to assist the City in responding to your request.

Some of the records you seek may be found at the following Vallejo Police Department website link: https://www.cityofvallejo.net/city_hall/departments_divisions/police/public_information/officer_involved_shooting_june_2_2020. Any other responsive records relate to an active criminal and administrative investigation and are exempt from disclosure at this time pursuant to Penal Code section 832.7(b)(7), subdivisions (A) and (C). At present, the City has not identified nor had an opportunity to interview all witnesses, is still conducting both the criminal and administrative investigations, gathering evidence, and may take additional statements from witnesses for the administrative investigation. Additionally, any responsive records would need to be reviewed for the presence of exempt material prior to disclosure. The City recognizes the high public interest in this matter; however, releasing the records at this time will interfere with the City's ability to conduct its investigations, possibly taint witnesses and/or otherwise jeopardize the integrity of the investigations. For these reasons, the public interest in disclosure is clearly outweighed by the public interest in nondisclosure. The City estimates that records will be available by November 1, 2020. If the City is able to make the records available prior to this date, it will do so. Alternatively, if additional time is needed, the City will notify you in writing.

Please feel free to contact Wendy House at whouse@dpmclaw.com should you have any additional questions or concerns.

July 15, 2020, 3:51pm by Wendy House (Staff)

Internal Message

Staff Only

This is an immediate disclosure request. Pursuant to the California Public Records Act (Government Code Section 6250 et seq.) ("CPRA"), the Vallejo Sunshine Ordinance, and all other applicable laws, please disclose the following records. Any video or audio recording relating to the fatal police shooting that occurred on or around 12:30 a.m. near the Walgeren's store on Broadway Street in Vallejo on June 2, 2020. These records are disclosable pursuant to AB 748, which took effect July 1, 2019.

July 9, 2020, 5:33pm by Joni Brown, Administrative Analyst II (Staff)

Support Staff Added

Staff Only

Joni Brown

Katelyn Knight

July 9, 2020, 5:33pm by Joni Brown

New Point of Contact

Staff Only

Wendy House

July 9, 2020, 5:32pm by Joni Brown on behalf of Wendy House

Department Assignment

Public

Police Department

July 7, 2020, 11:52am (auto-assigned)

Request Visibility

Staff Only

All Staff

July 7, 2020, 11:52am (auto-assigned)

Request Opened

Public

Request received via web

July 7, 2020, 11:52am by Open Vallejo

Request #20-520

🚩 DUE SOON

1 of 2 filtered by: Keyword search: windshield



As of July 21, 2020, 4:50pm

Request Visibility: Staff

Details

July 15, 2020

To Whom It May Concern:

Pursuant to the California Public Records Act (Government Code Section 6250 et seq.) ("CPRA"), the Vallejo Sunshine Ordinance, and all other applicable laws, please disclose the following records.

- All records relating to the replacement, repair, disposal and/or destruction of the windshield through which Det. Jarrett Tonn fatally shot Sean Monterrosa on June 2, 2020, including but not limited to any invoice, work order, internal or external communication, memorandum, CAD record, photograph, drawing, recording, personnel record or any other record that could shed light on how physical evidence came to be destroyed less than two months after this critical incident.

The fundamental rule of the CPRA is a presumption of public access. "In other words, [A]ll public records are subject to disclosure unless the Legislature has expressly provided to the contrary." *Williams v. Superior Court*, 5 Cal. 4th 337 (1993). This presumption finds further support in the California Constitution, as amended by Proposition 59 in 2004. "A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." Cal. Const. Art. 1 § 3(b)(2). See *National Lawyers Guild v. City of Hayward*, S252445 at 27 (2020) ("California's constitutional directive [is] to 'broadly construe[] a statute 'if it furthers the people's right of access.'")

Please provide a determination on this request within 10 days of your receipt of it, and an even prompter reply if you can make that determination without having to review the records in question. If you determine that any or all of the information qualifies for an exemption from disclosure, please note whether, as is normally the case, the exemption is discretionary, and if so whether it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, please redact it for the time being and make the rest available as requested. In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

Please apply a fee waiver to this request. If the request for a fee waiver is denied, please provide notification of any duplication costs exceeding \$20 before you duplicate the records. If the request for a fee waiver is denied, please further provide an index of all other requests since 2015 for which a fee waiver was denied, and the reason therefor.

Please disclose the requested record(s) electronically via email to records@openvallejo.org. If you have any questions, please do not hesitate to be in touch.

Thank you.

[— Read less](#)

Received

July 15, 2020 via web

Due

July 25, 2020

Departments

All Other Departments

Requester

Open Vallejo

✉ records@openvallejo.org

Documents

Public (pending) ⓘ

(none)

Requester

(none)

Staff

Only

(none)

Staff

Point of Contact
whouse@dpmclaw.com

Support
Joni.brown@cityofvallejo.net
katelyn.knight@cityofvallejo.net
melissa.rhodes@cityofvallejo.net
randy.risner@cityofvallejo.net

Tasks

Timeline

Support Staff Added

Staff Only

Joni Brown
Katelyn Knight
Randy Risner
Melissa Rhodes

July 15, 2020, 6:10pm by Dawn Abrahamson, City Clerk

New Point of Contact

Staff Only

Wendy House

July 15, 2020, 6:10pm by Dawn Abrahamson, City Clerk on behalf of Wendy House

Department Assignment

Public

All Other Departments

July 15, 2020, 6:01pm (auto-assigned)

Request Visibility

Staff Only

All Staff

July 15, 2020, 6:01pm (auto-assigned)

Request Opened

Public

Request received via web

July 15, 2020, 6:01pm by Open Vallejo




Bobby Knight

From: Katelyn Knight
Sent: Tuesday, July 14, 2020 2:21 PM
To: Melissa Nold
Cc: Randy J. Risner
Subject: RE: Monterrosa

I have been advised that the repair company used takes the glass with them when they do a replacement, I have requested that staff provide me with the invoice for the repair.

Katelyn M. Knight
Deputy City Attorney
City of Vallejo | City Attorney's Office
555 Santa Clara Street
Vallejo, CA 94590
707.648.4388 | katelyn.knight@cityofvallejo.net



From: Melissa Nold [<mailto:melissa.nold@johnburrislaw.com>]
Sent: Tuesday, July 14, 2020 2:16 PM
To: Katelyn Knight <Katelyn.Knight@cityofvallejo.net>
Cc: Randy J. Risner <Randy.Risner@cityofvallejo.net>
Subject: Re: Monterrosa

Was the window itself preserved as evidence?

On Tue, Jul 14, 2020 at 2:11 PM Katelyn Knight <Katelyn.Knight@cityofvallejo.net> wrote:

Hi Melissa,

I have consulted with the Department have learned that the undercover truck being driven during the incident is back in service, but we will of course preserve all photographic evidence of its condition. We will also be sure to preserve the drone post-examination.

Katelyn M. Knight

Deputy City Attorney

City of Vallejo | City Attorney's Office

555 Santa Clara Street

Vallejo, CA 94590



From: Melissa Nold [mailto:melissa.nold@johnburrisslaw.com]
Sent: Thursday, July 09, 2020 5:27 PM
To: Randy J. Risner <Randy.Risner@cityofvallejo.net>; Katelyn Knight <Katelyn.Knight@cityofvallejo.net>
Subject: Monterrosa

Good afternoon Mr. Risner,

I want to restate our demand for preservation of evidence in the Monterrosa case, to specifically include preservation of the truck Officer Tonn was riding in and the drone the police department confiscated. We intend to examine the drone and truck as part of our upcoming litigation.

Thanks,

Melissa

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Bobby Knight

From: Randy J. Risner
Sent: Monday, June 15, 2020 2:36 PM
To: Melissa Nold
Cc: Katelyn Knight
Subject: RE: Monterrosa videos

Hi Melissa,

I am not opposed to your request. However, I'm not the ultimate decision maker on this so let me see what I can do to expedite this for you. I'll get back to you as soon as I can which should be within the next couple of days. Feel free to check back if you don't hear from me.

Regards,

Randy

Randy J. Risner
Interim City Attorney
City of Vallejo | City Attorney's Office
555 Santa Clara Street
Vallejo, CA 94590
(707) 648-4548 | randy.risner@cityofvallejo.net



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From: Melissa Nold <melissa.nold@johnburrslaw.com>
Sent: Monday, June 15, 2020 2:31 PM
To: Randy J. Risner <Randy.Risner@cityofvallejo.net>
Subject: Monterrosa videos

Good afternoon Mr. Rinser,

We are representing the family of Sean Monterrosa. As you know, Sean was shot in the throat by a member of the Vallejo Police Department the week before last and died on the scene.

Sean's family would like the opportunity to view the camera footage, prior to public release. Historically, the City of Vallejo has permitted these viewings ahead of public release. In the past, the City has mandated that the family view the video outside of the presence of counsel. We're hoping that new leadership has resulted in a change in how these video viewings are conducted. Please let me know if the family will be permitted to view the video ahead of public release and if their attorney and religious leader of choice will be permitted to attend.

Further, this correspondence serves as notice of your legal requirement to preserve any and all evidence related to the death of Sean Monterrosa, without limitation.



Thanks,

Melissa

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Bobby Knight

From: Vallejo POA <[REDACTED]@vallejopoa.org>
Sent: Friday, August 7, 2020 4:24 PM
To: Bobby Knight
Cc: [REDACTED]@vallejopoa.org; Mike Nichelini; Joe Allio
Subject: Re: NOTICES OF INTERVIEW

I trust the Department is sending this and any other notices to my attorney as I previously indicated was [REDACTED]

On Aug 7, 2020, at 1539, Bobby Knight <Bobby.Knight@cityofvallejo.net> wrote:

Lt. Nichelini

The City of Vallejo - Department of Human Resources has reserved the Economic Development conference room on the 3rd Floor of City Hall for your interview. Please report there on the date/time indicated on your notices of interview.

Thank you

From: Bobby Knight
Sent: Friday, July 31, 2020 12:34 PM
To: [REDACTED]@vallejopoa.org; Mike Nichelini <Mike.Nichelini@cityofvallejo.net>
Cc: Joe Allio <Joe.Allio@cityofvallejo.net>
Subject: NOTICES OF INTERVIEW

Lt. Nichelini

See attached three notices of interview being sent on behalf of Interim Asst. Chief Allio

Please acknowledge service of this notice by replying to this email.

Should you have any questions, contact the investigator listed on the notice.

**Document being sent to email address listed on administrative leave notice as well as COV email.*

Lieutenant Bob Knight, #550
Vallejo Police Department
Professional Standards Division
Phone: (707) 649-3570
Fax: (707) 649-4871

bobby.knight@cityofvallejo.net

<image001.png> <image002.png> <image003.png> <image004.png> <image005.png>

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Bobby Knight

From: Fabio Rodriguez
Sent: Friday, August 7, 2020 4:50 PM
To: Bobby Knight
Cc: Joe Allio
Subject: Re: NOTICE OF INTERVIEW

Lt Knight,

My understanding is the time is going to change from that which was originally on the notice.

I just learned this yesterday. I don't have the updated time yet.

Fabio

On Aug 7, 2020, at 15:40, Bobby Knight <Bobby.Knight@cityofvallejo.net> wrote:

Lt. Rodriguez,

The City of Vallejo Department of Human Resources has reserved the Economic Development conference room on the 3rd Floor of City Hall for your interview. Please report there on the date/time indicated on your notice of interview.

Thank you

From: Bobby Knight
Sent: Friday, July 31, 2020 12:28 PM
To: Fabio Rodriguez <Fabio.Rodriguez@cityofvallejo.net>
Cc: Joe Allio <Joe.Allio@cityofvallejo.net>
Subject: NOTICE OF INTERVIEW

Lt. Rodriguez-

See attached notice of interview being sent on behalf of Interim Asst. Chief Allio.

Please acknowledge service of this notice by replying to this email.

Should you have any questions, contact the investigator listed on the notice.

*Document being sent to email address listed on administrative leave notice

Lieutenant Bob Knight, #550
Vallejo Police Department
Professional Standards Division
Phone: (707) 649-3570
Fax: (707) 649-4871

bobby.knight@cityofvallejo.net

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From: [REDACTED]@rlslawyers.com
Subject: RE: Interviews of Vallejo PD Lieutenants Nichelini and Rodriguez
Date: August 14, 2020 at 2:56 PM
To: Rudy Escalante, rescalante@solutions-mrg.com
Cc: [REDACTED]@rlslawyers.com



Rudy: You can rest assured that, as the Attorney for both Lt. Nichelini and Lt. Rodriguez, they have waived their right to be interviewed at the Vallejo Police Department, and both would prefer to do the interviews at my Office in Pleasant Hill. The address here is 2300 Contra Costa Blvd., Suite 500, Pleasant Hill 94523.

[REDACTED]
Attorney at Law
RAINS LUCIA STERN
ST PHALLE & SILVER, PC
Phone 925.609.1699
Fax 925.609.1690
www.RLSlawyers.com

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From: Rudy Escalante [mailto:rescalante@solutions-mrg.com]
Sent: Friday, August 14, 2020 2:34 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Interviews of Vallejo PD Lieutenants Nichelini and Rodriguez

[REDACTED]
Thanks for the quick response. September 3, at 1:30 p.m. works for me. Send me the address and I will draft a new notice and have them served with the new dates/times and location.

The VPD policy #1011, Entitled Personnel Complaints states: 1011.6.2 (b) Unless waived by the member, interviews of an accused member shall be at the Vallejo Police Department or other reasonable and appropriate place.

if you are in agreement, I believe your office would constitute a "reasonable and appropriate place".

Rudy

Sent from my iPad

On Aug 14, 2020, at 2:17 PM, [REDACTED]@rlslawyers.com> wrote:

Rudy: September 3 at 1:30 to do interviews is fine with me. If you wish, we could do them at the large conference room at my Office in Pleasant Hill—Plenty of room to socially distance, and plenty of room where one of the clients can wait while the other one is being interviewed. Let me know if you want to interview them here, or somewhere else. Thanks.

[REDACTED]
Attorney at Law
RAINS LUCIA STERN
ST PHALLE & SILVER, PC
Phone 925.609.1699
Fax 925.609.1690
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From: [REDACTED]@rlslawyers.com
Subject: RE: Administrative Interviews of Vallejo Police Lieutenants Michael Nichelini and Fabio Rodriguez
Date: August 1, 2020 at 1:25 PM
To: Rudy Escalante rescalante@solutions-mrg.com
Cc: [REDACTED]@rlslawyers.com



I should be able to get to Vallejo from Oakland by 11:00, but could be a few minutes late. Also, having received the Notices of the Interview yesterday, I am going to send a letter to the City/Department and will copy you asking to be provided with greater factual specificity, particularly with respect to some of the allegations pertaining to Lt. Nichelini.

[REDACTED]
Attorney at Law
RAINS LUCIA STERN
ST PHALLE & SILVER, PC
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www.RLSlawyers.com

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From: Rudy Escalante [mailto:rescalante@solutions-mrg.com]
Sent: Friday, July 31, 2020 8:49 PM

[REDACTED]
Subject: Re: Administrative Interviews of Vallejo Police Lieutenants Michael Nichelini and Fabio Rodriguez

Good Evening [REDACTED]

I can definitely accommodate your suggested schedule changes.

Just to confirm the following:

Interviews to occur on Thursday, August 27th, 2020
Lt. Rodriguez at 11:00 a.m.

Lt. Nichelini at 2:00 p.m.

Please confirm this is correct? I am available the entire day so if we need to make another adjustment on that day, let me know.

I will be on vacation next week returning on Friday, August 8th.

Rudy Escalante
[REDACTED]

On Jul 31, 2020, at 4:43 PM, [REDACTED]@rlslawyers.com> wrote:

Mr. Escalante: I am representing both Lt. Nichelini and Lt. Rodriguez in connection with the Administrative investigation you are conducting. Both of my clients got written notices today, advising them about the allegations, and that you will be interviewing them on August 27, with Lt. Rodriguez scheduled for 9:00 am and Lt. Nichelini scheduled for 1:00 pm. Unfortunately, I have a Court appearance in Alameda County Superior Court in Oakland on the morning of the 27th, at 9:00 a.m. I expect I will not be able to leave Oakland until around 10:00 a.m., and could drive directly from there to Vallejo. This is not a Court appearance I can continue, or that I can "hand-off" to someone else. Thus, I don't know if you would be able to start Lt. Rodriguez around 11:00, and perhaps move Lt. Nichelini to around 2:00 on the 27th. Since I am sure you want to interview both Officers on the same date, if you do not think my suggestion above will work, I might ask if you would consider re-scheduling the interviews to a different day, and giving me a call or sending me an email to discuss and agree on the date of the interview. Thanks for your anticipated courtesy.

[REDACTED]
Attorney at Law
Rains Lucia Stern
St Phalle & Silver, PC
Phone 925.609.1699
Fax 925.609.1690
www.RLslawyers.com

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PA2020-10 provided 9.3.20 to RVE

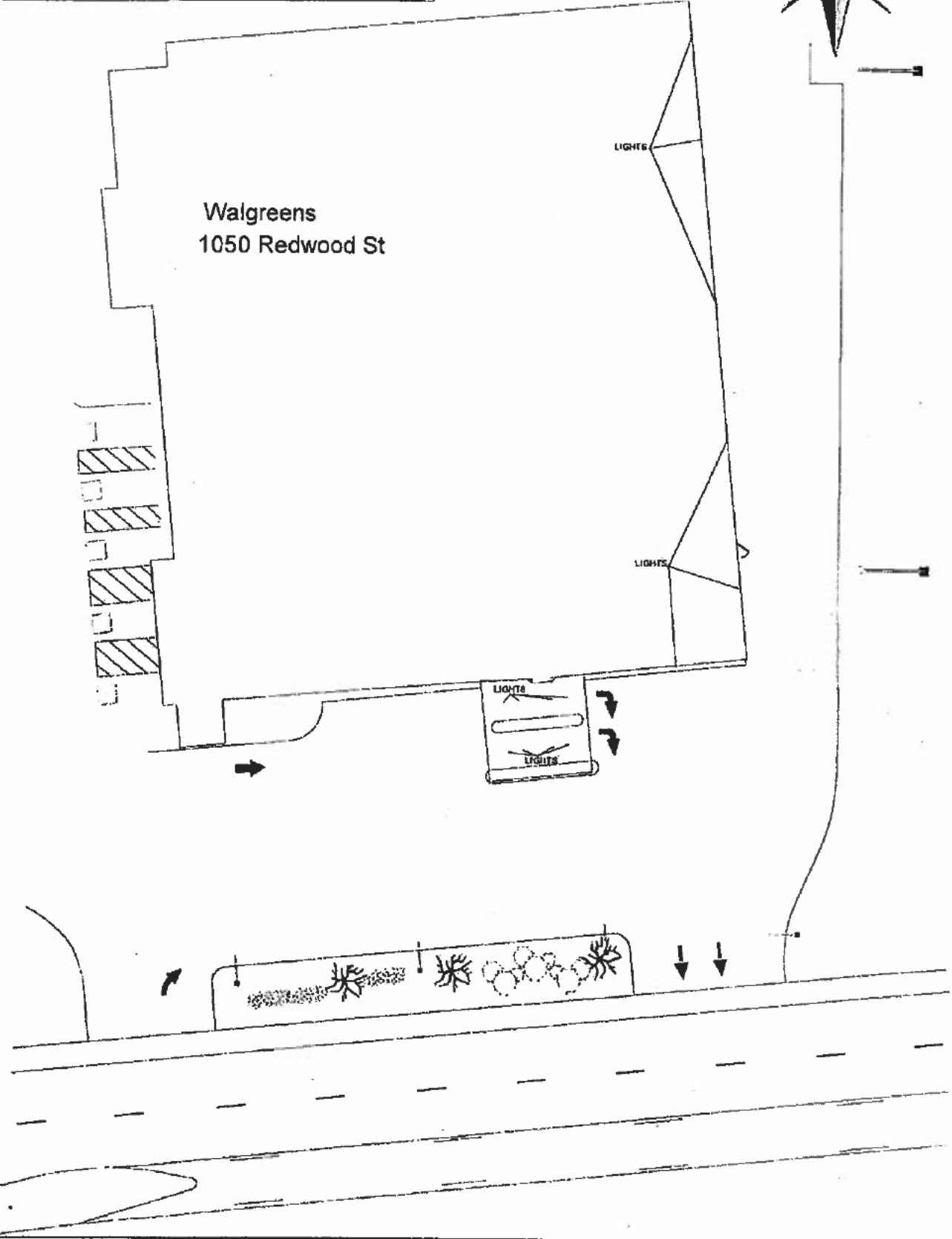
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Case #	VPD 20-6322	Date	08/01/2020
Location	Walgreens - 1050 Redwood St		
City	Vallejo		
Investigator/Officer	Vallejo Police Department		
Case #	K Rose #000	Case #	OIS
Officer	Trimble, Alamon	Date	08/01/2020
Drawn by	K Trimble 705	Date	08/01/2020

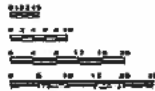


Walgreens
1050 Redwood St

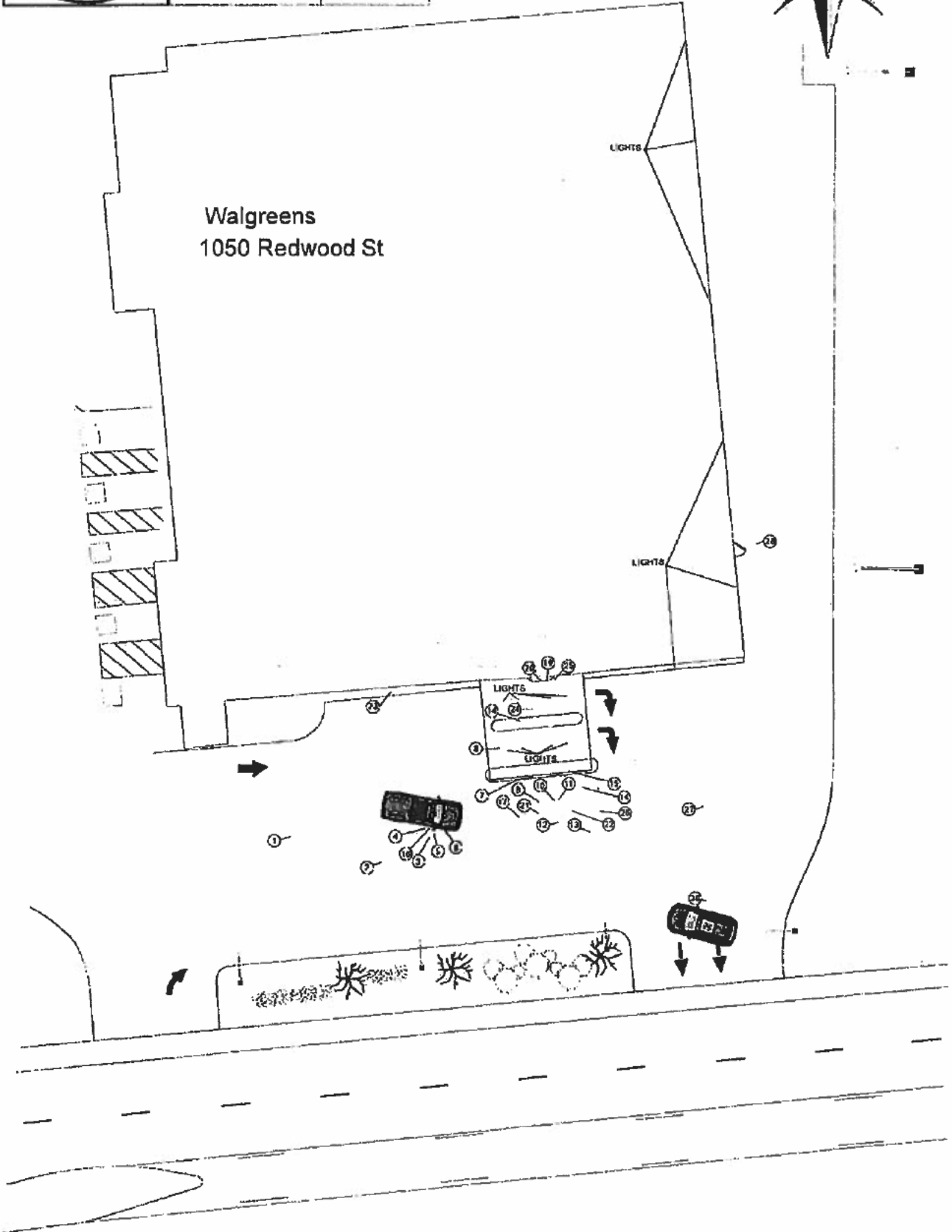


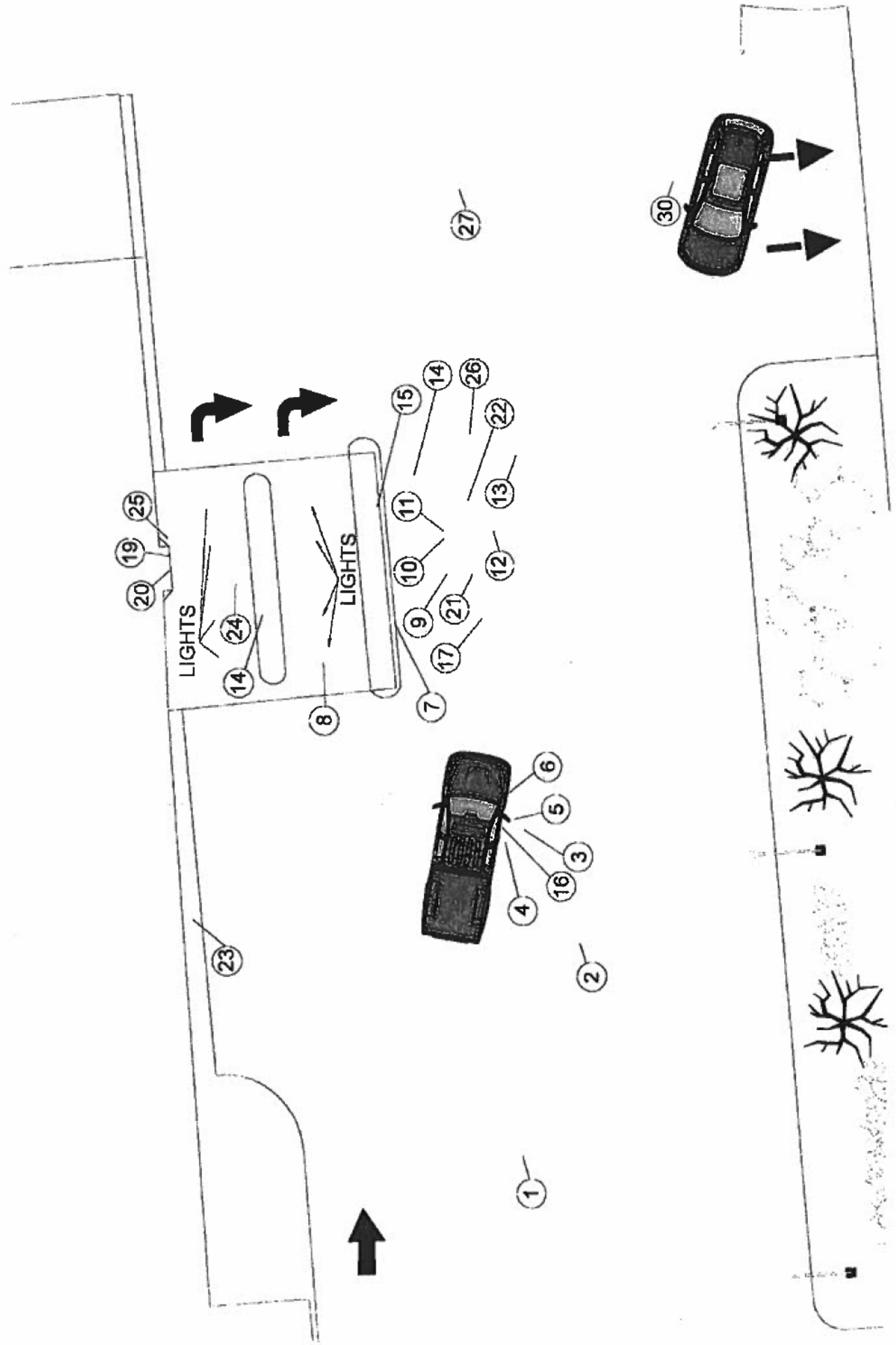


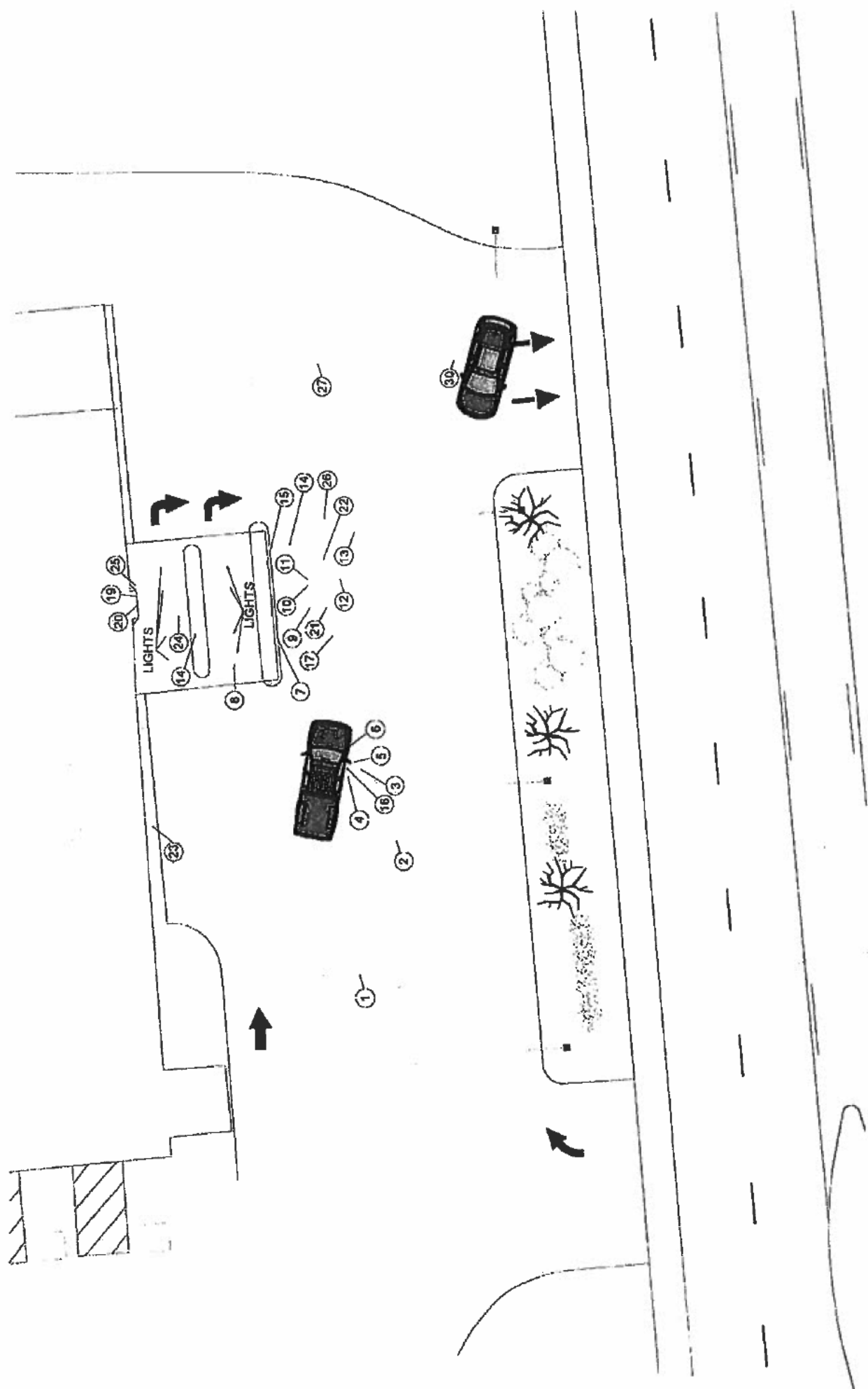
FILE #	VPD 20-6322	DATE	06/01/2020
LOCATION	Walgreens - 1050 Redwood St		
DATE	Vallejo		
REPORTING OFFICER	Vallejo Police Department		
STREET NUMBER	K Rose #580		
OFFICER	OIS		
WITNESS	Trimble, Alamon		
DATE WRITTEN	06/01/2020		
DRAWN BY	K Trimble 705		
DATE DRAWN	06/01/2020		

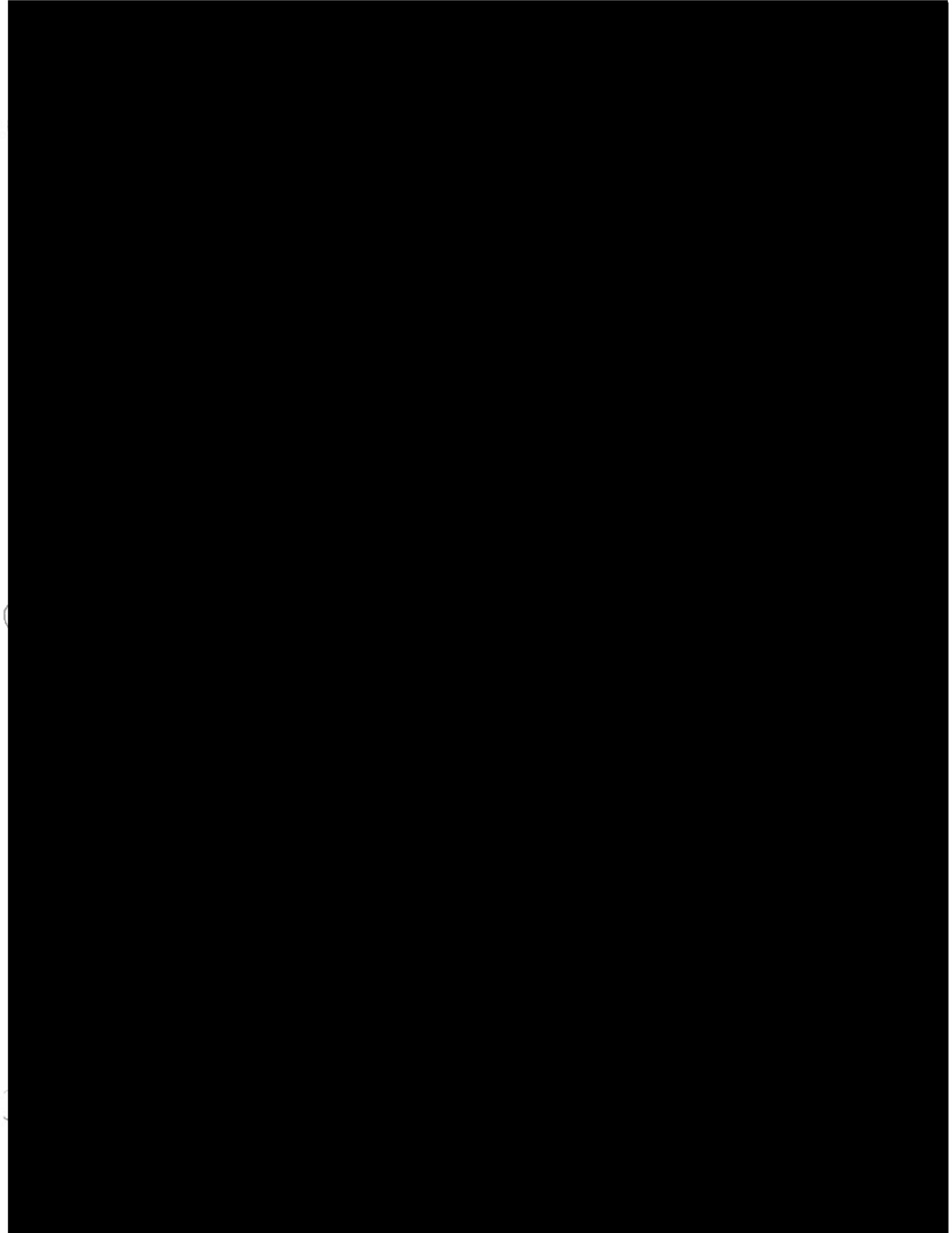


Walgreens
1050 Redwood St









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Rudy Escalante:

Okay, this is Rudy Escalante. I'm a consultant with Municipal Resource Group. Today's date is August 12th, 2020. The time is approximately 11:54 AM. I'm here at the Vallejo Police Department in an Annex trailer from the administrative section. This is in regards to I2020-09. And there is a relative police report number behind this investigation number 20-06322. I am here with [REDACTED] of the Vallejo Police Department. And [REDACTED] as I've mentioned before, you are not the subject of this investigation, you are a witness. I'm here to interview you in regards to some of the procedural issues and questions in regards to this particular incident.

Rudy Escalante:

I do not have a copy of the police report, but for when I understand this occurred back in May of 2020 in regards to a shooting incident-

[REDACTED]
On June 2nd.

Rudy Escalante:

On June 2nd, [REDACTED] obviously you do have the right to have a representative with you. Nobody is here with you. Is that your preference to not have a representative?

[REDACTED]
That's my preference, yes.

Rudy Escalante:

Okay. And you understand that you're responsible for answering my questions, truthfully, I work for an outside consultant that has been brought in to review the procedures in regards to a specific item that was involved in this case from the officer involved shooting.

Rudy Escalante:

It's just, I got to put a couple of notes here, sorry. Are you familiar... Well, let me back up for a minute. You've been here since November, so approximately nine months as the role of the chief?

[REDACTED]
Yes, that's correct.

Rudy Escalante:

And prior to your current assignment, you worked for the city of [REDACTED]

[REDACTED]
Yes. For [REDACTED] years.

Rudy Escalante:

And you oversaw the investigation section?

[REDACTED]
Yeah. For [REDACTED] Yes, Metro crimes.

Rudy Escalante:

And during your investigation, did you ever involve, or did you ever have the occasion to investigate or oversee as a manager any officer involved shooting protocols?

[REDACTED]
Yes.

Rudy Escalante:

How about cases of items of evidentiary value?

[REDACTED]
Yes. I oversaw a crime scene unit. Yes.

Rudy Escalante:

And during your experience, have you ever had the occasion to take items of evidentiary value in preparation for court?

[REDACTED]
Yes.

Rudy Escalante:

Are you familiar with certain evidentiary standards, specifically the California Evidence Code, which talks about the burden of proof?

[REDACTED]
Yes.

Rudy Escalante:

In you're understanding who is responsible for the burden of proof as far as presumptions in regards to a criminal case and in the police department role?

[REDACTED]
The police department and the District Attorneys' Office.

Rudy Escalante:

Got it. And under the best evidence rule, are you familiar with that terminology?

[REDACTED]
Yes.


 Rudy Escalante:

And in regards to preserving evidence, what is the best evidence rule?


Well, in my experiences working homicide and overseeing major crimes, we try to preserve all physical evidence.

Rudy Escalante:

Does it matter what size or how small?


No, it doesn't.

Rudy Escalante:

And does the Vallejo or the police department have the capability of preserving items of energy value?
Let's say like a car?


Yes, absolutely.

 Rudy Escalante:

And so under 22655.5 of the vehicle code, an officer has the authority to impound a vehicle as evidence?


Yes, that's correct.


Rudy Escalante:

And in preserving evidence, if I mark, or in your experience, if you mark an item of evidentiary value, do you record that item?


Yes. It's recorded. Yes.

Rudy Escalante:

And who has the authority to release items of evidentiary value?


The chief of police, the supervisor, captain, lieutenant, in some occasions, potentially a sergeant can sign off on release of evidence.

 Rudy Escalante:

And if it's an item of evidentiary value in a criminal case, would it be the authority of the District Attorney's Office to give the police department the authority? In other words, if it's a pending case, a pending criminal case, and I want to release an item of evidence before it's gone to court.

[REDACTED]
In many occasions, a district attorney will say that we are not to release evidence.

Rudy Escalante:

Got it.

[REDACTED]
Especially in homicides.

Rudy Escalante:

Obviously you've had many roles in management from the lieutenant and up, do you also have a responsibility as a manager to protect the best interest of the city in regards to civil repercussions?

[REDACTED]
Absolutely. Yes.

Rudy Escalante:

In policy 306, which is the officer involved shootings and deaths. It lists four different types of investigations, criminal investigation of a suspect's actions, criminal investigation of the involved officers action and administrative investigation as to policy compliance and then critical incident review is to training or tactics. The administrative side of it, does that involve civil litigation or potential civil litigation?

[REDACTED]
Yes, it does.

Rudy Escalante:

Vallejo is part of Solano County, correct?

[REDACTED]
Yes, it is.

Rudy Escalante:

Is there a Solano County officer involved fatal incident protocol for investigating officer involved shootings?

[REDACTED]
Yes there is.

Rudy Escalante:

Who's responsible for the criminal investigation in an officer involved shooting?

[REDACTED]
The venue agency and the District Attorney's Office.

Rudy Escalante:

The incident that we're talking about, do you ever recall the evening on when that happened?

[REDACTED]
June 2nd.

Rudy Escalante:

And briefly, what were the circumstances?

[REDACTED]
The circumstances where, a looting was occurring at a Walgreens, the officers responded to the scene. One officer reported that there were suspects or a suspect armed or possibly armed. The [REDACTED] detectives responded in a unmarked truck observed-

Rudy Escalante:

What does [REDACTED] stand for?

[REDACTED]
[REDACTED] All right. [REDACTED] I'm sorry [REDACTED] And they observed a male in the parking lot. And one of the officers believed that the person had pointed a weapon and the officer shot from the backseat of the truck, through the windshield, striking the suspect and he failed to live, he died.

Rudy Escalante:

Describe the vehicle that they were in.

[REDACTED]
It's a undercover police truck.

Rudy Escalante:

You know what type of make?

[REDACTED]
I can't recall the make and model of it.

Rudy Escalante:

And so there were, there was the driver, a passenger and an officer in the backseat?

[REDACTED]
Yes.

Rudy Escalante:

So there were three people?

[REDACTED]
Three people.

Rudy Escalante:

And were they all various ranks who were in the car?

[REDACTED]
They were officers.

Rudy Escalante:

Okay. In the event of an officer involved shooting, the venue agency has an assigned supervisor or manager?

[REDACTED]
Yes.

Rudy Escalante:

Do you know who that was that evening?

[REDACTED]
That investigated the incident? Well, let's see. The Lieutenant in charge of detectives was Fabio Rodriguez. I believe a Sergeant that showed up on scene with Sergeant Greenberg. I'm not sure what officers arrived to do the investigation for the crime scene incident.

Rudy Escalante:

Do you have a separate crime scene unit that collects evidence and takes measurements and photographs?

[REDACTED]
We have one senior police assistant that comes out. Sometimes the detectives or the corporal in evidence will come out. And many times the traffic unit folks will come out with their special equipment to do measurements for different types of scenes.

Rudy Escalante:

In the case of an officer involved shooting, does the DA's office bring crime scene folks?

Not that I'm aware of.

Rudy Escalante:

Does the department of justice? Do they get someone to come out and do evidence collection?

No. No, they don't.

Rudy Escalante:

And do you know if the investigation unit has specialized training in regards to directory measurements?

I'm not sure of the different qualifications for each detective. The senior police assistant that does the crime scene investigations has been doing it for quite a number of years and has a expertise level of expertise.

Rudy Escalante:

Who is that by the way?

That's Stephanie. I don't recall her last name. First name, Stephanie.

Rudy Escalante:

She a sworn staff member or civilian?

Civilian.

Rudy Escalante:

Do you know if she was called out that night?

I don't know. Yeah.

Rudy Escalante:

Who would be responsible for calling her out?

Well, that would be the Detective Bureau. So either the Sergeant or the Lieutenant.

Rudy Escalante:

And who's the Sergeant in investigations?

[REDACTED]
Matt Mustard.

Rudy Escalante:

And you said the vehicle was an undercover police truck. Does it have red and blue lights?

[REDACTED]
Yes.

Rudy Escalante:

Does it have a siren?

[REDACTED]
I believe it does.

Rudy Escalante:

But it doesn't have any police emblems on the outside of it?

[REDACTED]
No.

Rudy Escalante:

And what color is it?

[REDACTED]
I don't want to guess. Dark, I'd just said dark truck.

Rudy Escalante:

But it does have the capability to make a traffic stop to comply with comfort of view [inaudible 00:11:12]
?

[REDACTED]
Yes, it does. Okay.

Rudy Escalante:

And were the officers on duty in uniform that day? Do you remember?

[REDACTED]
Yes.

Rudy Escalante:

At some point in time or did you go to the crime scene at all that day?

[REDACTED]
Yes, I did.

Rudy Escalante:

At some point in time, did you get notified by the city attorney's office of a preservation order?

[REDACTED]
Yes, I did.

Rudy Escalante:

Tell me about that.

[REDACTED]
So that was perhaps a little over a month later. I believe it was an email first, which said that Melissa Knowles had contacted their office to preserve evidence. And she was informed that the evidence from the truck was no longer available because the windshield had been repaired. And so I did a followup phone call, I believe, and spoke with the city attorney regarding that issue.

Rudy Escalante:

Who's Melissa Knowles?

[REDACTED]
So Melissa Knowles, is an attorney that works with John Burriss and they're representing the victim's family, Sean Monterosso's family in this case.

Rudy Escalante:

You said you got an email from the city attorney's office?

[REDACTED]
I believe it was an email. Yes.

Rudy Escalante:

And that was from, do you know who?

[REDACTED]
Randy Riser.

Rudy Escalante:

Is there any way you can give me a copy of that?

[REDACTED]
I will try to get it. Yes.

Rudy Escalante:

And once you got that email to preserve evidence, when did you find out that the windshield had been destroyed?

[REDACTED]
When Randy notified me about it?

Rudy Escalante:

So you had no prior knowledge that the windshield had been destroyed?

[REDACTED]
No. No. In fact, my belief would be that, that would have been preserved as just a matter of practice.

Rudy Escalante:

Why was that?

[REDACTED]
Well, over my 26 years of experience in overseeing major crimes investigations, any vehicle involved in a homicide is that standard practice, that the vehicle would be impounded and preserved and for reconstruction, if necessary. So it's just based upon speaking to crime scene investigators, people that manage critical incidents like this, that's standard practice.

Rudy Escalante:

In your experience, have you had the occasion to hold on to large items of evidence for long periods of time?

[REDACTED]
Absolutely. Many vehicles involved in homicides are stored in.

Rudy Escalante:

Here at Vallejo Police Department, do you guys have the availability for inside storage of large items?

[REDACTED]
The police department as I'm aware it doesn't directly store those, that it would be stored by a third party, wherever it's stored. And it's possible that we do have some other places that they could be stored. But-

Rudy Escalante:

If due to logistics, sometimes obviously it's not like you could pick up a semi truck and hold onto it for a long period of time. You either try to minimize the amount of space or do as much as you can at the crime scene. In this instance, would it be relative to assume that instead of preserving the truck, you could just have preserved the windshield?

Well, in my experience, you preserved the entire truck. However, if you had, you need to be able to reconstruct that. So best practice would be just preserve the entire truck. If you couldn't do that, well, yes, you would need the windshield at minimum.

Rudy Escalante:

When you say reconstruct, tell me more about that. What does that mean to you?

So if you wanted to do trajectory rods to the windshield to see how the bullets were fired or whatever you want to do, re-examine it, you would need the physical evidence to do that.

Rudy Escalante:

Couldn't you just do that at the scene and then make photographs with a measurement with like a ruler?

It could have been done at the same, however, it's standard practice, because if the defense wants to look at it or whoever else wants to look at it, it needs to be available for them to do so.

Rudy Escalante:

Would that qualify under best evidence rules?

Yes. In my opinion, yes.

Rudy Escalante:

Okay. So you learned of this incident about three weeks, or you learned of the fact that the windshield was replaced and that the windshield that had the bullet holes in it had been destroyed?

Yes.

Rudy Escalante:

That was no longer available.

It wasn't available yes.

Rudy Escalante:

And you learned about it through the email from the city attorney?

Yes. Yes.

Rudy Escalante:

And-

[REDACTED]
Then I confirmed it. I had someone look into, is it possible to recover it? Where is it? And I was told that it wasn't recoverable.

Rudy Escalante:

Do you recall who told you that?

[REDACTED]
I believe it was captain Potts. Yeah.

Rudy Escalante:

And do you know who made the decision to release that?

[REDACTED]
My conversation with Captain Potts, because I wanted to know what happened after I got the call from the city attorney, if this was even true. He told me he had a conversation with the Lieutenant in charge of investigations. And he reported to me what the Lieutenant in investigations told him was that, Mike Nichelini called the Lieutenant in investigations to ask him, what did he want to do with the truck? And apparently the Lieutenant Fabio Rodriguez in charge of investigations authorized Mike Nichelini to go ahead and repair the truck.

Rudy Escalante:

Do you know if there was any discussion between Lieutenant Nichelini and Lieutenant Rodriguez about the importance of the preservation of this item of evidence?

[REDACTED]
Yeah, I didn't ask the Captain Potts if they discussed that. So I don't know if they-

Rudy Escalante:

We haven't conducted any interviews or investigations with Lieutenant Nichelini and Rodriguez?

[REDACTED]
I have not.

Rudy Escalante:

Okay. So they have not to the best of your knowledge, they haven't been questioned about this?

[REDACTED]
Yes. To the best of my knowledge, although there is a current criminal investigation being conducted by the Department of Justice.

Rudy Escalante:

And that criminal investigation is in regards to whether this was a justifiable homicide or not?

[REDACTED]
No. It's into whether or not they tampered or destroyed evidence. So it's, they're looking at the destruction of evidence or tampering with evidence section.

Rudy Escalante:

Okay. And do you know if Lieutenant Mike Nichelini responded to this shooting and investigation?

[REDACTED]
I don't know. I just know that the traffic unit that's in charge of, I think it's called a total station or a device that can do the measurements possibly responded.

Rudy Escalante:

Have you since learned how long after the incident happened when the windshield was destroyed?

[REDACTED]
Yes. Oh, I was told. I haven't verified this, but on the 5th of June. So the incident happened on the 2nd of June by the 5th of June, the windshield was replaced or repaired.

Rudy Escalante:

Do you know why it was replaced within that amount of time?

[REDACTED]
No. The only thing I was told by Captain Potts was, it's a new truck and they wanted to put it back in service.

Rudy Escalante:

Would it be possible just to remove the windshield, preserve the windshield, put a new windshield into the truck and then put the truck back into service?

[REDACTED]
Possible. Yes.

Rudy Escalante:

Do you know if anybody tried to explore that idea?

[REDACTED]
I don't know if they did or not.

Rudy Escalante:

But the discussions about moving, getting that replaced, did that involve you?

[REDACTED]
No, it did not.

Rudy Escalante:

Okay. Was there a DA investigator that was appointed from the DA's office to be part of this investigation?

[REDACTED]
Yes. So there are, to my understanding DA investigators that per the protocol are part of this investigation.

Rudy Escalante:

And do they take the lead on that? Or how does that? It works in conjunction with the venue agency?

[REDACTED]
Yeah, it is supposed to be in conjunction, a partnership, but I guess in the past practice has been, the lead agency is the venue agencies kind of lead the agency.

Rudy Escalante:

Got it. In policy 801 of the Vallejo Police Department, any code there's a definition under 801.2 evidence includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. Based on that definition, would this, in your opinion, as the representative of the agency, would you expect that this windshield would have been preserved?

[REDACTED]
Absolutely. It should have been preserved.

Rudy Escalante:

Is there a potential civil litigation in regards to this case?

[REDACTED]
There is a current lawsuit that was filed against the city.

Rudy Escalante:

And the same policy sub-section 3.3, it talks about care shall be taken to maintain the chain of custody for all evidence. Do you know why this particular item may not have been identified as an evidence item?

[REDACTED]
No, I have no idea what they were thinking.

Rudy Escalante:

In section 801.3.4. It talks about exceptional handling city property unless connected to a known criminal case should be released directly to the appropriate city department, no formal booking is required in cases where no reasonable person can be located. The property should be booked for safe keeping in the normal manner. This particular vehicle is owned by the city of Vallejo?

[REDACTED]
Yes.

Rudy Escalante:

Do you know if the windshield was booked for safekeeping?

[REDACTED]
No. It was not.

Rudy Escalante:

When it talks about under property control 801.6, responsibility of other personnel section says, no property or evidence is to be released without first receiving written authorization from a supervisor or detective. Do you know if, either Lieutenant Nichelini or anybody else receive written authorization from anybody investigations?

[REDACTED]
They did not. Yes. I do know, they did not.

Rudy Escalante:

There's been no written authorization anywhere for anybody to do anything?

[REDACTED]
They didn't receive authorization from the captain or me.

Rudy Escalante:

Okay.

[REDACTED]
Yeah.

Rudy Escalante:

And nobody checked with you?

[REDACTED]
No, they didn't check with me.

Rudy Escalante:

Further, the same policy, the investigations division shall authorize the disposition or release of all evidence and property coming into the care and custody of the department and that the release authorization shall be signed by the authorizing supervisor and that the release of all property shall be documented on the property form. Do you know if that occurred anywhere in the process?

[REDACTED]
No. No. I'm not aware.

Rudy Escalante:

Okay. Did Lieutenant Nichelini or Lieutenant Rodriguez come to you and say, after learning about the preservation order and say, "chief, I had this repaired and destroyed." Have there anybody come to you and told you that they did that?

[REDACTED]
No, they did.

Rudy Escalante:

So nobody's come up and owned it to you and said this is what I did?

[REDACTED]
No.

Rudy Escalante:

And neither one of them asked for your permission?

[REDACTED]
No, they did not.

Rudy Escalante:

Has the DA's office expressed any concern about this item of evidence?

[REDACTED]
No. And they don't officially receive the case until it's completed.

Rudy Escalante:

Is the matter of investigation still open?

[REDACTED]
Yes, it is.

Rudy Escalante:

Okay. Who's in charge of the investigation?

[REDACTED]
The DA and the venue agency, we are.

Rudy Escalante:

Who from the venue agency is in charge? Who's the particular Vallejo Police Department investigator who's in charge of it?

[REDACTED]
That's overseeing the OIS investigation? Well, the supervisor would be Matt Mustard at this point.

Rudy Escalante:

He's a Sergeant?

[REDACTED]
He's a Sergeant. Yes.

Rudy Escalante:

Before he submits his report to the District Attorney's Office, does he have to submit that for approval to the manager?

[REDACTED]
Normally it would be with his Lieutenant. They would take the case over. They would brief their captain, and in this situation, they would have to brief assistant chief Vallejo.

Rudy Escalante:

Okay. The commander or the captain who oversees investigation is Captain Horton?

[REDACTED]
Investigations was Captain Potts. I've since transferred Captain Potts to patrol. And I put Captain Iacono over in investigations but he's out on disability currently on 4850.

Rudy Escalante:

And on the day of this incident was Captain Pott still in charge?

[REDACTED]
Yes, he was.

Rudy Escalante:

Okay. Anything else that I'm missing or that you feel you need to add?

[REDACTED]
No, I think you got it all.

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Rudy Escalante:

Okay.



Yeah.

Rudy Escalante:

All right. That's going to conclude this interview. It is now 1222.

22

Rudy Escalante:

Okay, we're back on the record. This is Rudy Escalante with Municipal Resource Group. Today's date is September 3rd, 2020. The time is approximately 2:21 PM. We are at the office of [REDACTED] is the representative of Lieutenant Nichelini who was present with me today. This is in regards to internal affairs investigation, 2020-09. Prior to going on the record, [REDACTED] and I agreed that instead of reading the entire notice that we could use the first reading in case [REDACTED] that has been completed. But what we will do is read the administrative rights advisement thoroughly through before we proceed with any line of questioning.

Rudy Escalante:

Okay. As mentioned Lieutenant, my name is Rudy Escalante. I am a consultant hired by the City of Vallejo and assigned to conduct an investigation Pry case 2020-09. You're about to be questioned as part of an official Vallejo Police Department administrative investigation. Today's date is 09-03-2020. The time is approximately 2:22 PM. This investigation concerns allegations of potential misconduct, and activity that reflects negatively on the City of Vallejo, the law enforcement profession of Vallejo Police Department, or the alleged violation on or about June 10th, 2020 case 20-06322. An item of evidence, a windshield was allegedly destroyed without authorization. That was evidence in an officer involved shooting investigation. The investigation is determinant of your actions, during these investigations, in that performance standards set forth by the city or department policy or rule.

Rudy Escalante:

If this were a criminal investigation, any statements you make could be used against you in a court of law, since this is an administrative investigation, neither your statements, nor any information or evidence, which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions. You're being ordered to answer questions specifically related to the performance of your official duties and or your conduct that is related to your employment with the Vallejo Police Department.

Rudy Escalante:

The Miranda rights. You have the right to remain silent. Anything you say can and will be used against you. You have the right to an attorney. If you cannot afford an attorney, one will be appointed to you before any questioning. Do you understand each of these rights?

Lt. Nichelini:

I do.

Rudy Escalante:

Having these rights in mind, do you wish to talk to me?

Lt. Nichelini:

I do not.

Rudy Escalante:

I'll read you the Lybarger admonishment. While you have the right to remain silent with regard to any criminal investigation and not incriminate yourself, you do not have the right to refuse to answer my

administrative questions. This is strictly an administrative investigation. I'm therefore now ordering you to discuss this matter with me. If you refuse to discuss this matter, your silence can be deemed insubordination and result in administrative discipline up to and including termination. Any statement you make under compulsion or the threat of discipline cannot be used against you in later criminal proceeding. Sorry, my glasses fog up. You have the right to have a representative of your choice, who is not involved in this investigation and present with you during your interview. Your representative is here to ensure that your rights are not violated. She will not answer questions on your behalf. Present with you today is your representative is [REDACTED]

Rudy Escalante:

This interview will be tape recorded. You have the right to bring your own recording device and record any and all aspects of the interrogation. If you need a break or refreshment during the interview, please let me know. If prior to or during the interrogation is deemed that you may be charged with a criminal offense. You shall be immediately informed of your constitutional rights. At the conclusion of this interview, you are specifically ordered not to discuss this interview or this investigation with anyone except your representative. Do you have any questions regarding this?

Lt. Nichelini:

No.

Rudy Escalante:

So you understand your answers need to be honest and candid?

Lt. Nichelini:

Yes.

Rudy Escalante:

Based under the order of compulsion, are you going to answer my questions?

Lt. Nichelini:

Yes.

Rudy Escalante:

Based on our prior interview in case [REDACTED] I understand your rank. You're currently the Lieutenant in charge of the traffic unit. You've been with the City of Vallejo [REDACTED]

Lt. Nichelini:

Yes.

Rudy Escalante:

And prior to that, you spent [REDACTED]

Lt. Nichelini:

Correct.

Rudy Escalante:

Thank you. In regards to your years of experience in public safety, can you tell me about your investigatory experience as a police officer?

Lt. Nichelini:

Well, I've investigated the standard issue crimes that occur while I'm in patrol. Most of my career has been spent in the traffic division where I have investigated hundreds and hundreds of collisions, including fatalities and serious bodily injury crashes. I have attended collision training, investigation training, all the way up through reconstruction, a variety of side specialties, auto pit train, different dynamics. I'm well versed in airbag control module downloads, vehicle forensic downloads, skid mark analysis. I don't know, I'm getting old so I got a lot of experience in investigating, mostly track collisions.

Rudy Escalante:

Have you ever testified as an expert witness in a criminal case involving traffic?

Lt. Nichelini:

I have.

Rudy Escalante:

Were you on duty on the evening of this officer involved shooting that I believe occurred... I don't have the exact date. I'm sorry. I believe it was June...

Lt. Nichelini:

2nd-ish.

Michael Reigns:

2nd I think.

Rudy Escalante:

Yes. That's correct. Thank you.

Lt. Nichelini:

I was called into duty I wasn't on duty at the time.

Rudy Escalante:

Right. And when you were called in, who called you in?

Lt. Nichelini:

I don't remember.

Rudy Escalante:

Did you respond directly to the scene?

Lt. Nichelini:

I don't remember. Likely, I went directly to the scene. I might've gone to the station first. I don't remember.

Rudy Escalante:

You kind of got into my next question. Did you have to pick up any equipment or anything like that?

Lt. Nichelini:

I did not. I think my guys picked up the equipment.

Rudy Escalante:

And what was your role at the scene?

Lt. Nichelini:

To make sure that the scene diagram was completed? I note a little bit more detail on that. So we use what we call total station for diagramming.

Rudy Escalante:

I'm just going to get into those questions, but you got it. I was going to say you were bringing specialized equipment to conduct this, but go ahead.

Lt. Nichelini:

Okay. So we use the total station and we use it for collisions, but we are also called out for homicides and officer involved shootings et cetera. Part of the problem I have in the traffic division is staffing, that night I have... Right now I have a Sergeant and two officers. One of the officers is brand new to traffic, so he's not very well versed in operating the total station. The other officer is somewhat experienced, but again, not well versed. So normally what we do, it kind of depends on the situation, whether the scene is large or; that dictates how many people I call out. So I get the call first, and then I determine there was an officer involved shooting. Well, I knew not only was I going to be able to have to go there to deal with the scene and that kind of stuff but I was probably going to have to put my POA hat on and take care of officer that was involved in the shooting.

Lt. Nichelini:

And so I called everybody in. Why do I say everybody, all four of us, the Sergeant two cops. So initially at the scene, I'm there to make sure that my two officers and actually the Sergeant is not very well versed in the total station either. So I'm there to make sure that they're doing the scene and diagramming with a total station appropriately, correctly. And if there's any problems and they have an issue, they have someone there who's well versed in it that can answer their questions. So I guess the original question, what was my role? My role was to make sure that my two guys diagram the shooting scene appropriately.

Rudy Escalante:

And the equipment. And I just want to clarify this. The equipment that you're talking about diagrams the scene and requires specialized training to operate it so that it can be diagrammed accurately?

Lt. Nichelini:

Yes. However, we also provide some. Because of timing and schools and that kind of thing, the one officer that was there had not gone to the training yet. And so we do a lot of on job training. Like you just, "Here you go, kid. You're in the fire." So yes, I have attended many hours of training as well as the other officer on the scene. But then the third officer did not have that.

Rudy Escalante:

But at that point you were the only one who has the experience and the training to work that equipment.

Lt. Nichelini:

Well, there was me and one other guy had the real training to do that.

Rudy Escalante:

And you were called out, you were not working that night?

Lt. Nichelini:

Correct. Called out from home.

Rudy Escalante:

And when you got there, who was in charge of the scene investigation?

Lt. Nichelini:

I have no idea. I got asked the same question by the DOJ, I have no idea. I don't know if it's just an anomaly for Vallejo, but we don't, I don't know. I would assume that there was either the Detective, Lieutenant or Sergeant is ultimately responsible for that scene. We're not as regimented where there's a guy wearing a green vest saying, "I'm the guy in charge". So I don't know who was in charge.

Rudy Escalante:

Nobody identified as the incident commander.

Lt. Nichelini:

Right. We don't, there's not enough of us. And things are happening too quickly for us to even dedicate one guy like that. I don't know. I don't know who was in charge.

Rudy Escalante:

Was there crime scene tape up?

Lt. Nichelini:

Yes.

Rudy Escalante:

Was there anybody logging in who was coming in and out of the crime scene.

Lt. Nichelini:

I believe so, yes.

Rudy Escalante:

Do you happen to know who that was?

Lt. Nichelini:

I do not. A young whoever the rookie policeman was.

Rudy Escalante:

I mean, oftentimes it could be a community service officer, non-sworn person.

Lt. Nichelini:

Generally. We generally don't have those available. So generally it's a police officer. It could be, but I have not seen that recently.

Rudy Escalante:

Not knowing, or I need to back up. When you got the call at home, do you recall what it was that they said and what the need was?

Lt. Nichelini:

For the diagram. For the map.

Rudy Escalante:

And do you remember who called you?

Lt. Nichelini:

I don't. Like I could go back and look at phone records and see if... I'm sure they called my cell phone, but I don't know.

Rudy Escalante:

The reason why I asked that question is that would be the person that I would report to but if and once I got there.

Lt. Nichelini:

Yeah. Because a lot of times, just the way it works for us is that that's not necessarily... I've gotten calls from either Fabio, who's the Lieutenant in investigation. I've gotten calls from Matt Mustard who's the Sergeant investigations. I've gotten calls from the watch commander. I've gotten calls from my captain. Our system is not that clear. Someone will say, "Hey, call traffic.", "Okay. I'll call traffic."

Rudy Escalante:

Have you had experience working with the Solano County District Attorney's office in officer involved shooting cases?

Lt. Nichelini:

Yes. Just to the extent of diagramming. The traffic division is really only role in an officer involved shooting is to diagram stuff. So I'm not put on one of their teams. I'm not in the investigations meetings. And so we just simply are there to diagram.

Rudy Escalante:

Okay. And when you were there at any time, did you process a silver truck? I think it's vehicle 118 that belongs to the City of Vallejo.

Lt. Nichelini:

No.

Rudy Escalante:

You did not process any of that?

Lt. Nichelini:

No. By process, you mean photograph?

Rudy Escalante:

That's correct.

Lt. Nichelini:

Or look inside? No.

Rudy Escalante:

Was Lieutenant Rodriguez and, or Sergeant Mustard there when you got there?

Lt. Nichelini:

I do not believe so.

Rudy Escalante:

When you got there, who was the highest ranking official at that time? If you can recall...

Lt. Nichelini:

Probably [REDACTED]

Rudy Escalante:

Did you see him there?

Lt. Nichelini:

I saw him there at one point. I don't know if he was there right when I got there. I did drive a number of people from the station at one point to the scene and [REDACTED] was one of them and it was after the

attorneys got there and wanted to go to the scene. So I think I drove two attorneys and [REDACTED] to the scene, but I don't remember who was the highest ranking person there when I got there.

Rudy Escalante:

Got it. So you did no examination of, and I think it's vehicle 118, the silver truck where the officer shot through the windshield?

Lt. Nichelini:

Correct? I did not.

Rudy Escalante:

Okay. Did anybody assign you that task?

Lt. Nichelini:

No.

Rudy Escalante:

And at any time were you responsible or did you participate in getting that vehicle from the scene to, or removing it from the scene?

Lt. Nichelini:

I was not.

Rudy Escalante:

And you gave no direction to anybody to move the vehicle from the scene to the courtyard?

Lt. Nichelini:

I didn't not.

Rudy Escalante:

Okay. And you didn't drive it?

Lt. Nichelini:

I did not.

Rudy Escalante:

Okay. Did anybody consult with you in regards to the replacement of the windshield?

Lt. Nichelini:

They did not.

Rudy Escalante:

Did you ask anybody to replace it?

Lt. Nichelini:

I did not.

Rudy Escalante:

Is that vehicle assigned to the traffic unit?

Lt. Nichelini:

It is not.

Rudy Escalante:

Had you any knowledge of, or did you participate in any of the decision making to get the windshield replaced?

Lt. Nichelini:

I did not.

Rudy Escalante:

Did you know that the windshield was being replaced at anytime?

Lt. Nichelini:

I did not.

Rudy Escalante:

When was the first time you heard about it?

Lt. Nichelini:

Was have been a Tuesday morning the... When was I put on admin leave? Wednesday, the 15th. I can tell you that I am part of this. I believe [inaudible 00:17:16] the way things are, but I am part of a [REDACTED] weekly meeting. And you're probably thinking, what the hell is this got to do with anything [REDACTED]

Lt. Nichelini:

It was a zoom call at the end of that zoom call, Caitlin Knight asked me if I knew anything about a windshield being replaced in 118. And I said, I have no idea. Never heard about it. Never knew nothing about it. I said, but I'll find out. She says, "Oh, that would be great. If you could find out there was some paper trail or something that had that windshield replaced, that'd be great". The reason she asked me is because I'm the fleet manager. Well, that sounds like a fancy title, it's not. I basically am the guy that has a list of cars and I work with the courtyard on ordering new cars, outfitting cars et cetera.

Lt. Nichelini:

So I'm the liaison, I guess you could say between the police department and the corp-yard. So by Caitlin asking me, can you find out about the windshield, she's saying, get ahold of Travis. He's the city fleet manager. And so I sent him an email and I go, "Hey, do anything about this windshield being replaced? And if so, can you shoot me over the copy of the invoice or whatever?" and then he said, "Yeah, no problem". I didn't ask any more questions on that. And then two days later I'm put on leave. So I don't ever get that receipt or I don't ever... I'm out of the loop.

Rudy Escalante:

Okay. At no time Lieutenant Rodriguez asked you or consulted with you about replacements?

Lt. Nichelini:

About 118? No.

Rudy Escalante:

Yeah. Okay.

Lt. Nichelini:

I'm trying to think. Was it July? I can't remember. What day? I should know this. What date was I put on admin leave? June or July?

Rudy Escalante:

I have a copy of your...

[REDACTED]
I don't have that notice here. I think it was...

Rudy Escalante:

July 17th is the date of the notice.

Lt. Nichelini:

July?

[REDACTED]
July. Yeah. It would have been, no. Yeah.

Lt. Nichelini:

No, I thought it was in June. Wasn't it?

[REDACTED]
No, I thought it was July 15th. [crosstalk 00:19:52] I have down July 15th you're put on admin leave and on 16th Rodriguez.

Rudy Escalante:

That's correct? I'm sorry. I wasn't looking through my glasses.

Lt. Nichelini:

So the 14th was the first time I ever heard anything about this windshield being replaced. And I will take this opportunity to add that the Chief of Police knew on the 14th, 15th, and probably the 16th that I had nothing to do with this windshield being replaced. And I was still put on admin leave.

Rudy Escalante:

In regards to this investigation is there anything else that I need to be aware of? Oh, I'm sorry. I have one more question. Was Caitlin Knight from the City Attorney's office at the crime scene when you got there?

Lt. Nichelini:

No. Not that I'm aware of. I never saw her, I don't believe that night at all.

Rudy Escalante:

Did you see anybody from the City Attorney's office there that night?

Lt. Nichelini:

No.

Rudy Escalante:

Have you been completely truthful with me in this regards?

Lt. Nichelini:

I have.

Lt. Nichelini:

I have no further questions. This will conclude our interview. It is 2:42 PM. Hold on. I got to turn the other one off here. Sorry.

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Rudy Escalante:

Okay, good afternoon. This is Rudy Escalante. I'm a consultant with Municipal Resource Group. Today's date is September the 3rd, 2020. The approximate time is 3:26 PM. I'm here with Lieutenant Fabio, F-A-B-I-O Rodriguez with a Z at the end from the Vallejo Police Department. We were here in his representative's office [REDACTED] who is also present with us. This is in regards to IA2020-10 and Lieutenant, I'm going to read you the notice of the interview so that I know you acknowledged that you had received. An administrative investigation is currently being conducted in your potential misconduct and policy violations related to your role in the evidence collection process. Upon further review of this matter has been determined that you potentially violated city and/or police department policies and procedures, including, but not limited to, 306 involved officers, 321 standards of conduct, and the civil service commission policy rule 18-1.

Rudy Escalante:

And additional violation... Any additional violations discovered in the investigation are subject to investigation. On July 23rd or July 31st, you were provided a notice of the interview and that this would occur on August 27th. With the agreement between [REDACTED] and I, we have rescheduled this to today and we are here at 2300 Contra Costa Boulevard, Suite 500. It should be noted that you were on time and that the interview is starting later than scheduled, but you were here and prepared. Thank you.

Rudy Escalante:

In according to police department policy 1011 entitled personnel complaints, unless waived by the member, interviews an of accused member shall be at the Vallejo Police Department or other reasonable and appropriate place. According to [REDACTED] and I we've agreed that obviously this location is sufficient and that it is reasonable and appropriate. So we've agreed that this will suffice. As noted, you've been named as the subject of the investigation that could potentially lead to discipline. Accordingly, the following information is being provided. The investigation is being conducted on behalf of the City of Vallejo in the City of Vallejo Police Department. The investigation will be conducted by myself of Municipal Resource Group. You're ordered to cooperate fully with me and to answer any questions in a complete and truthful manner.

Rudy Escalante:

Sorry. You are also ordered to avail any lawful order given by me as though such an order were coming from a superior in your chain of command. The interview may also be conducted remotely to accommodate social distancing requirements, if you feel more comfortable. The investigation interview will be tape recorded pursuant to government code section 3303. You will have access to the tape. If any further proceedings are contemplated or prior to any further investigative interview at a later time. You have the right to bring your own recording device and record any and all aspects of the investigative interview. You also have the right to be presented... Represented by a union representative of your choice who may be present at all times during the investigative interview. The representative shall not be a person subject to the same investigation. Your representative shall not be required to disclose nor shall be subject to any punitive action for refusing to disclose any information received from you while under investigation in noncriminal matters.

Rudy Escalante:

To ensure a full, fair and effective investigation in this matter, and in order to preserve the integrity of the investigation and security of the public during the pendency of this investigation, you are directed

not to discuss the investigation, including specific allegations of misconduct against you with anyone other than the investigator or your representative. This order should automatically be lifted at the conclusion of the investigation when the need for accurate collection of information, to ensure preservation of evidence, to prevent fabrication of testimony, to protect witnesses, and to ensure the integrity of the investigation will abate. Nothing in this notice is intended to prevent you from engaging in protected concerted activity under Meyers-Milias-Brown Act. You may continue to engage in protected concerted activity, including, but not limited to, discussing any aspect of your employment and working conditions with others. If you are unsure whether discussing certain issues would violate this order, please contact your union representative, lawyer or human resources with any questions.

Rudy Escalante:

This additional provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your investigation. You may not contact or in any other manner retaliate against any individual who has provided information regarding your inquiry. If you have any questions, feel free to contact me through [REDACTED] He has my email and phone number for contact information. Any questions?

Lt. Rodriguez:

Yes. Just real quickly? You mentioned a policy 306...

Lt. Rodriguez:

... is that included because I thought in the notice I had was actually 306.4.5?

Rudy Escalante:

That's correct.

Lt. Rodriguez:

[crosstalk 00:05:34] specific. Okay.

Rudy Escalante:

Yeah, you got it. That's correct.

Lt. Rodriguez:

All right.

Rudy Escalante:

As mentioned the administrative rights advisement, I'm Rudy Escalante, consultant hired by the City of Vallejo and I'm assigned to conduct an investigation, IA Case 2020-10. You're about to be questioned as part of an official Vallejo Police Department administrative investigation. Today's is 9/3/20, and the approximate time is 3:32 PM. The investigation concerns allegations of potential misconduct about TA activity that reflects negatively on the city of Vallejo, the law enforcement profession and the Vallejo police department for the alleged violations on or about June 10th, 2020, under case number two zero zero six three two two. An item of evidence of windshield was allegedly destroyed without authorization. That was evidence that an officer involved shooting investigation, the investigation is to

determined if your actions, during these investigations met performance standards, set forth by city or department policy rule.

Rudy Escalante:

If this were a criminal investigation, any statements you make could be used against you in a court of law, since this is an administrative investigation, neither your statements, nor any information or evidence, which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions. You're being ordered to answer questions specifically related to the performance of your official duties and or your conduct as related to your employment with the Vallejo police department. In Miranda rights, you have the right to remain silent. Anything you say can and will be used against you. You have the right to an attorney. If you cannot afford an attorney, one will be appointed to you before questioning. Do you understand each of these rights?

Lt. Rodriguez:

Yes, sir.

Rudy Escalante:

Having these rights in mind, do you wish to talk with me?

Lt. Rodriguez:

No, sir.

Rudy Escalante:

Well now BJ, your Lybarger admonishment, while you have the right to remain silent with regard to any criminal investigation and not incriminate yourself, you do not have the right to refuse to answer my administrative questions. This is strictly an administrative investigation. I am therefore now ordering you to discuss this matter with me. If you refuse to discuss this matter, your silence can be deemed insubordination and result in administrative discipline up to and including termination. Any statement you make under compulsion or the threat of discipline cannot be used against you in a later criminal proceeding. You have the right to have a representative of your choice who was not involved in this investigation and present, present with you during your interview. Your representative is here to ensure that your rights are not violated.

Rudy Escalante:

He, she will not answer questions on your behalf, present with you today. As your representative, [REDACTED]

Rudy Escalante:

This interview will be tape recorded. You have the right to bring your own recording device and record any and all aspects of the interrogation. If you need a break or a refreshment during the interview, please let me know. If prior to or during the interrogation is deemed that you may be charged with a criminal offense. You should be immediately informed of your constitutional rights. At the conclusion of interview you are specifically ordered not to discuss this interview or this investigation with anyone except your union representative. Do you have any questions regarding this notice?

Lt. Rodriguez:

No, sir.

Rudy Escalante:

So you understand your answers need to be honest and candid?

Lt. Rodriguez:

Yes.

Rudy Escalante:

And you're now going to answer my questions?

Lt. Rodriguez:

I'm sorry?

Rudy Escalante:

And you're now going to answer my questions?

Lt. Rodriguez:

Yes, sir.

Rudy Escalante:

And [REDACTED] already signed these already, but I'll let you sign the other ones.

Rudy Escalante:

Okay. Lieutenant for the record, can you at least state your name and spell your last name please?

Lt. Rodriguez:

It's Fabio Rodriguez, R O D R I G U E Z.

Rudy Escalante:

And your current assignment with the Vallejo police department?

Lt. Rodriguez:

I'm currently the Lieutenant in charge of the detective division.

Rudy Escalante:

And how long have you been the Lieutenant there?

Lt. Rodriguez:

Since [REDACTED]

Rudy Escalante:

And how long have you been with the police department?

Lt. Rodriguez:

Since [REDACTED]

Rudy Escalante:

Any other law enforcement experience and other agencies?

Lt. Rodriguez:

No, sir.

Rudy Escalante:

When was it, you were promoted to Lieutenant?

Lt. Rodriguez:

I was promoted in [REDACTED]

Rudy Escalante:

And how long were you a Sergeant?

Lt. Rodriguez:

Rudy Escalante:

Tell me about your investigatory experience since becoming a police officer.

Lt. Rodriguez:

Lt. Rodriguez:

Rudy Escalante:

Okay. Obviously during that time, you've probably written numerous search warrants, testified in court.

Lt. Rodriguez:

Yes, sir. I've written search warrants for both drug crimes, crimes against persons. Obviously homicides, have been officer of all shooting cases, have been the lead detective and murder investigations. Officer involved shooting cases have taken murder investigations through conclusion, through jury trials and have successfully obtained convictions of several, several cases. As the Sergeant I oversaw the day to day running of investigative cases that came in as well as ran the investigative team, which covered murders and officer involved shootings and my role as a Lieutenant were pretty much the same thing. I would liaison with the district attorney's office, chief deputy under the officer of all protocols, and I would basically oversee the investigation of all shootings.

Rudy Escalante:

Okay. Since your time in the Bureau, this time around as a Lieutenant, how many officer loss shootings have you been the manager over.

Lt. Rodriguez:

Two.

Rudy Escalante:

And were you on duty that evening of the shooting that occurred? I believe it was June 2nd.

Lt. Rodriguez:

Yes, sir. I will. I'm sorry. I was not on duty.

Rudy:

And, did you respond directly to the scene? Or did you-

Lt. Rodriguez:

No.

Rudy:

Went to your office?

Lt. Rodriguez:

We went to the office first, the thought process being that it was I was aware it was taking place in the city that night, I knew there was rioting, I knew there had been a lot of there were shootings going on that night. So, the thought was to gather everybody on the detective's side, get them together at our off site facility and then as a team and for safety purposes, actually move to the scene together. I didn't want anybody lagging behind or anything, I wanted us going in together and I wanted us leaving together.

Rudy:

So, you guys had all met at the off site facility?

Lt. Rodriguez:

Correct, I'd say I had a good chunk of the investigating crew that we left together, yes.

Rudy:

Okay. And when you got to the scene who was in charge of the scene when you got there?

Lt. Rodriguez:

I remember I think Rob Greenberg was a sergeant and he was at the scene when I got there, he was a patrol sergeant.

Rudy:

Greenberg?

Lt. Rodriguez:

Greenberg, yes.

Rudy:

Was there crime scene tape put up?

Lt. Rodriguez:

Crime scene tape was put up, I remember that I don't believe there was a Vallejo police car there, it was Allied Agencies were actually manning the scene because I remember when I actually pulled in I didn't

recognize any of the cars and I didn't recognize anybody. And I don't think they recognized me. And that was just due to the amount of violence that was taking place that night, the resources were depleted.

Rudy:

And as a course of business did you at some point in time, did you or Sergeant Muster relieve the patrol supervisor in regards to scene security who was in charge of it?

Lt. Rodriguez:

Yes, at one point actually I physically remember as we were there I believe pursuits were taken place throughout the city and people were leaving, Corporal McCarthy, Joe McCarthy was the corporal who was assigned to the crime scene. So, I remember Joe getting there with Stephanie Daily who was one of the police assistants who helped process the crime scene so when they got there, by then we controlled that scene.

Rudy:

Got it. Was there a point of entry, an exit point for people to check in and check out when they left the crime scene?

Lt. Rodriguez:

There was two points, there was one off of Redwood street, one of Broadway street, because I don't know how familiar you are with the Walgreens but it takes up a good chunk of the corner intersection at Broadway and Redwood street so it's got multiple points of entry, so we had Broadway and Redwood street and people would come in through there and check in with the officer who was keeping track of the crime scene lot.

Rudy:

Okay. At some point in time did you or did somebody else summon the assistance of Lieutenant Nicolini to perform measurements?

Lt. Rodriguez:

Yes.

Rudy:

And do you know who did that?

Lt. Rodriguez:

I don't believe that I was the one who called, I believe I asked Matt, Sergeant Mustard, I believe I asked Matt to call Mike and to get his people out here with the laser. So, yes.

Rudy:

And then per the officer involved shooting protocol, you guys are the venue agency.

Lt. Rodriguez:

Correct.

Rudy:

And so your agency would be in charge of that crime scene?

Lt. Rodriguez:

Our agency would be in charge of the crime scene however under the protocol, the DA's office has an investigator who is assigned to the protocol as well, I'm sorry he was assigned to the crime scene as well.

Rudy:

And who was that?

Lt. Rodriguez:

I believe for the crime scene it was Paul Wilcox was the DA investigator assigned out there.

Rudy:

And did you assign anybody to process the gray truck, it's a city vehicle, where the officer shot his weapon from?

Lt. Rodriguez:

Yes so the truck was processed by Joe McCarthy and Stephanie Daily. They were the two crime scene people who were assigned out there.

Rudy:

And did you view them going through that process?

Lt. Rodriguez:

I was still at the scene when they were taking photographs of the truck itself, yes.

Rudy:

Okay. And at some point in time, once the vehicle got processed, was it removed from the crime scene?

Lt. Rodriguez:

The vehicle, the F150, eventually was removed yes.

Rudy:

I believe it's vehicle 118.

Lt. Rodriguez:

That seems about right sir, it's the 2020 Ford F150 that's outfitted with the red lights that belongs to the

Rudy:

And do you know once that was processed, did anybody call you and say, "Hey we want to take this vehicle from the crime scene and move it somewhere else."

Lt. Rodriguez:

So, initially I couldn't remember but I believe [REDACTED] called me at some point, and you got to remember just for context sir I mean I was there probably 10 hours for this thing from beginning to end and to say that I got maybe four to five phone calls an hour is probably very conservative.

Rudy:

You probably got about 10 to 20, I get that.

Lt. Rodriguez:

Yes, so I believe it was [REDACTED] whose a sergeant of the [REDACTED] who had called asking if it was okay for the car to be driven away and I said yes it is.

Rudy:

Do you know who drove it?

Lt. Rodriguez:

No sir I don't. Once I left that crime scene I went back with a briefing and then I never returned back there.

Rudy:

So you were at the office for a briefing?

Lt. Rodriguez:

Yes, so prior to my arrival I enacted a protocol, I contacted a chief deputy for the Solano county DA's office, Andre Charles. Andre and his contingent of investigators met us out at the scene, we did a quick walk through of hey this is what we know so far and then we from there went back to the police department for the subsequent watching of the videos, listening to the 911 calls, listen to the radar traffic and subsequent briefings.

Rudy:

And so while you were in the middle of that briefing that's when you got a call from [REDACTED] asking if he can move the vehicle?

Lt. Rodriguez:

I would say it probably would have been after that briefing because I'd say we had at least two briefings that night, maybe even three.

Rudy:

Okay.

Lt. Rodriguez:

I can tell you that it would have been after the first briefing had taken place because nothing was moved, nothing would have been moved or anything until we had the first briefing and watched the videos, watched the body cam videos, listened to the 911 calls, and at least got something of a better grip of what had taken place out there.

Rudy:

Okay. And so at some point in time, I mean obviously not being able to nail it down, [REDACTED] gave you a phone call and asked if he can move the vehicle?

Lt. Rodriguez:

Yes sir, I think that's fair, yes.

Rudy:

And do you know where he was going to move it to?

Lt. Rodriguez:

I believe it was going to go back to the [REDACTED] office.

Rudy:

Where's that?

Lt. Rodriguez:

That's an offsite facility, not at the PD, offsite facility that they try to keep the actual physical address disclosed.

Rudy:

Right.

Lt. Rodriguez:

Yeah.

Rudy:

And then who was the lead detective assigned to this OIS?

Lt. Rodriguez:

The lead on this one was Kevin Rose I believe.

Rudy:

And at some point in time did you get a chance to talk to Sergeant Muster or Corporal McCarthy about the processing of the vehicle? The silver truck.

Lt. Rodriguez:

I'm sorry did I talk to Sergeant Muster or-

Rudy:

Or Corporal McCarthy, sorry.

Lt. Rodriguez:

I think when we were out at the scene we did yeah I remember Joe was out there I remember I was standing there, at least one door was open on the truck and there was discussion of we're going to have traffic come out here, total station, the whole thing, we're going to take photographs of it. I mean Joe McCarthy was a detective long before I got there and now he's doing crime scenes, I trust him. He knows take photos, so yeah but we had a gentle discussion, I remember we even had a discussion with Andre Charles the chief DA investigator got there and we did our walkthrough through the whole scene and just kind of got the lay of the land of everything.

Rudy:

And at some point in time did [REDACTED] reach out to you again about replacing the windshield?

Lt. Rodriguez:

I believe he did. Yeah I would say he had to of and I just can't remember if it was that day or the next day.

Rudy:

Well then a couple of days after the incident?

Lt. Rodriguez:

I mean I think that's fair. Sorry, I can tell you from a day or two after that shooting until sometime in July, I didn't think when, which we'll get into here in a second, I didn't think twice about the windshield.

Rudy:

Okay. But did [REDACTED] call you or contact you directly and ask for permission to replace the windshield?

Lt. Rodriguez:

I believe he did, yes sir.

Rudy:

Did he say how that was going to be done?

Lt. Rodriguez:

I can't tell you that, I don't remember that.

Rudy:

Did you ask him if he had checked with the DA's office to see if they wanted the windshield?

Lt. Rodriguez:

No, because the DA investigators were present before we started processing the truck and there was no discussion of that, if there would have been any objection both from the chief investigator or the investigator assigned to the scene it would have been a conversation that would have been had at the scene or it would have been a conversation that would have been had at the briefing which is the whole point of the briefing.

Rudy:

When [REDACTED] called you or contacted you to get permission to get the windshield replaced, do you know if he or did you actually strike that, did you call Andre or anyone from the DAs office asking for permission to get rid of it?

Lt. Rodriguez:

For the windshield, no.

Rudy:

And why not?

Lt. Rodriguez:

Because the windshield had no evidentiary value at that point.

Rudy:

The body camera footage that you guys reviewed, did that have evidentiary value?

Lt. Rodriguez:

Yes sir, it showed the sequence of events that led to the shooting from the inside of the truck, and showed the windshield being shot out.

Rudy:

And was that preserved as evidence?

Lt. Rodriguez:

Yes sir.

Rudy:

And the radio dispatch tapes, were those preserved as evidence?

Lt. Rodriguez:

Yes sir.

Rudy:

And any radio transmissions between officers was that preserved as evidence?

Lt. Rodriguez:

Yes sir.

Rudy:

But the windshield was not preserved as evidence?

Lt. Rodriguez:

No sir. By the time that vehicle left that lot, the vehicle had been processed, it had been photographed, the car had been processed itself and we even, like I said, had called out traffic asking that they actually bring out the total station in order to total station measurements and actually we can discuss from the map to take the measurements of the scene because my concern was not only the truck but there are other items of evidence that were within the parking lot that I felt needed to get measured and distance needed to be taken as well.

Rudy:

Sure. In your experience have you been involved in cases that potentially could have civil litigation involved with the city?

Lt. Rodriguez:

Yes sir.

Rudy:

And were there ever items that were collected in regards to those cases that were held onto?

Lt. Rodriguez:

Yes sir.

Rudy:

Can you describe a couple of those?

Lt. Rodriguez:

Aside from your standard casings, things like that, I mean casings, blood from a suspect, blood from an officer if any was taken, vehicles, things like that, yes.

Rudy:

And as a manager commander within the police department do you have the responsibility protect the city from civil liability, make decisions in the best interest of the city?

Lt. Rodriguez:

Absolutely sir, yes.

Rudy:

Through your investigatory experience have you been assigned as the investigating detective by the prosecution where you sit at the table with the prosecutor?

Lt. Rodriguez:

Yes sir.

Rudy:

And in your experience as a trained investigator are you familiar with the best evidence rule?

Lt. Rodriguez:

Yes sir.

Rudy:

And what is your understanding of the best evidence rule?

Lt. Rodriguez:

It's a legal concept in regards to provide the best evidence or put forth the best evidence in the case to help push a point across, to help explain to a jury, to help explain to the judge if needed what took place and how it took place.

Rudy:

As a trained investigator over the years have you ever had experience of having the prosecution and or the defense come to the police department to review evidence before trial?

Lt. Rodriguez:

Yes sir.

Rudy:

And are you familiar with the term with the burden of proof?

Lt. Rodriguez:

Yes which falls on prosecution sir.

Rudy:

Okay. Would the city be responsible for producing the burden in a civil case?

Lt. Rodriguez:

Yes sir.

Well, actually that's not true.

Lt. Rodriguez:

Okay.

It's a legal opinion. In a civil case [crosstalk 00:15:15] against the city by the [crosstalk 00:15:17] the plaintiff has the burden of proof.

Lt. Rodriguez:

Ah you're right. You're right.

Rudy:

That's right. Have you acknowledged receiving the department's Lexipol policy?

Lt. Rodriguez:

Which Lexipol policy?

Rudy:

The Lexipol manual.

Lt. Rodriguez:

Yes.

Rudy:

The policy manual on a Lexipol.

Lt. Rodriguez:

Yes.

Rudy:

And in regards to 306, the officer involved shooting, the types of investigations, do you know the four types of investigations in regards to those?

Lt. Rodriguez:

Not off the top of my head sir.

Rudy:

Yeah, they include a criminal investigation of the suspects actions, criminal investigation of the involved officers' actions, and administrative investigation as due policy compliance by involved officers. A critical incident review as to training or tactics. Based on those four items of area, would the windshield be required to be present?

Lt. Rodriguez:

No.

Rudy:

Would it be important to have the windshield present for review by the DA's office?

Lt. Rodriguez:

No.

Rudy:

Would it be possible that the windshield be brought into court for examination? Under the best evidence rule?

Lt. Rodriguez:

It's possible if you could find a way to remove the windshield from the vehicle without having additional glass fall off it, store it, transport it, and keep it, and be able to present it to a jury. But yet I still think you would still have some limitations in regards to the actual what could be derived from the windshield.

Rudy:

Were those opportunities explored before the decision was made to get rid of it?

Lt. Rodriguez:

I looked at the windshield sir and I looked at the windshield, I saw the video, and I was aware of the circumstances related to the windshield and to the crime scene, so yes those were part of my thought process sir.

Rudy:

Do you know how the windshield was ultimately replaced? Was it done by an outside vendor or somebody locally?

Lt. Rodriguez:

It's my understanding it was done by an outside vendor but I don't know first hand [inaudible 00:17:17]

Rudy:

Okay. Did you have any communication from anybody from the city attorney's office in regarding replacing a windshield?

Lt. Rodriguez:

No.

Rudy:

Anybody express any concern to you regarding the windshield being replaced?

Lt. Rodriguez:

No, and I believe the city attorney's office was present at the briefing also, so no, there was no discussion by that by the city attorney's office.

Rudy:

Almost forgot to ask this, at any time did you have any discussion with Lieutenant Nichelini about the replacement of the windshield?

Lt. Rodriguez:

No.

Rudy:

At any time did he ask you to replace it?

Lt. Rodriguez:

No, Lieutenant Nichelini sent me a note asking about replacing or fixing [REDACTED] vehicle, each of them struck. Initially I thought it was in regards [inaudible 00:18:08] but it was actually for that vehicle.

Rudy:

But to be clear Lieutenant Nichelini had no involvement in the windshield...

Lt. Rodriguez:

No sir, that's my-

Rudy:

Decision.

Lt. Rodriguez:

The windshield decision is my decision sir.

Rudy:

Thank you. Why don't we go over the maps here, and just so I am clear too, Lieutenant Nichelini's role at this incident was to conduct the total-

[REDACTED]
Total stations.

Rudy:

Yeah thank you.

[REDACTED]
I think that's what it is.

Rudy:

Yes, the total station representation to conduct the measurements correct?

Lt. Rodriguez:

No, his role was he was the person that was called and he sent his people out, I never saw, to my knowledge Lieutenant Nikoleany was never on scene that I physically saw. I saw the architects of this map, Kenny Turnville and Leonard Allaman, those are the two people that I saw before I left the scene. When I left my understanding was they were going to begin the process.

Rudy:

Okay. Have you ever had the opportunity or experience of investigating a traffic fatality that involved a hit and run?

Lt. Rodriguez:

I've been to them, I haven't been the primary investigator on, no sir.

Rudy:

How about towing vehicles for evidence, have you towed a vehicle for evidence?

Lt. Rodriguez:

Yes sir.

Rudy:

Would there be reason to hold onto evidence, a windshield or a vehicle, if it was part of a crime so that it may be examined by the attorney's office?

Lt. Rodriguez:

It depends on what facts you had sir.

Rudy:

Does the police department have access to secure storage facility?

Lt. Rodriguez:

Yes.

Rudy:

And do they have access to an inside storage in case you got to take it out of weather or...

Lt. Rodriguez:

Yes sir.

Rudy:

Okay. And do you happen to know what the police department's policy is about holding onto a vehicle where an officer is involved in an on duty collision?

Lt. Rodriguez:

Not off the top of my head sir, no.

Rudy:

Okay. You had mentioned earlier before we had gone on the record that there was some communication or text messages involving city attorney Kaitlin-

Lt. Rodriguez:

Knight.

Rudy:

Yes, I don't have copies of those, do we want to go over those?

Yeah, I think we made extra copies so-

Rudy:

Sure.

I think Lieutenant Rodriguez has just handed you one of those copies.

Rudy:

Since this is the first time I'm looking at it do you want to go over this with me and explain to me what this is?

Lt. Rodriguez:

Yeah. Yes sir. So, these are a series of screenshots that I text messages that I took off of my phone and provided them to [REDACTED] and the first one is let's see, the first one is from July 10th I believe. And I have more of the dates on here. And actually I believe if you go to page two sir that's the first one, so it's going to be Kaitlin Knight Friday July 10th at 1:20 in the afternoon.

Rudy:

Yes I see that date.

Lt. Rodriguez:

So, she text me and says, "Do you have a few minutes to chat?" I say, "Sure." She goes, "I'll call you in two." "Okay." So, she calls me or I call her I can't remember, but I have a conversation with her that day and it was essentially she asked me some questions about the windshield, asking if the truck was back in circulation, I said, "I believe it is." And during the course of that conversation she made a comment about the suspects attorney was asking questions about the windshield, do we still have the windshield. And this is July 10th and I believe the shooting was June 2nd.

Rudy:

June 2nd, correct.

Lt. Rodriguez:

So, that's the first that I've talked to anybody about this windshield and I tell her I believe it's already back there, I give her I think five or six reasons in regards to why the car was back in circulation, the windshields were restored. I ended up telling her, "Let me check with [REDACTED] He's one of the [REDACTED] And there's a text message. Go to page four dated July 10th, Friday July 10th at 13:46. I text messaged [REDACTED] because the F150 back in circulation, he says, "Yes." I say, "Okay thank you." And then I end up texting, and then you got to go back to page number two. I text Caitlin back and I say, "Hey it's fixed and in circulation." She says, "Rats okay, did the [inaudible 00:23:50] yard do it?" Just anticipating that she might ask for the glass, and I said, "Nikoleany would know that, I bet so." And she says, "Okay thanks." And my thought process behind that was since Nikoleany was the fleet manager, he would probably know where the truck went.

Rudy:

Sure.

Lt. Rodriguez:

So, that was that. So, that was July 10th. She texts me on, let me see. If you go to page three, there's a text dated Tuesday at 1700 hours from 562, 562 is Jason Potts whose my Captain. He says, "Let's chat when you are free, if you want to talk about OIS stuff." I tell him, "I'm on the road, do you mind if we talk tomorrow?" "No problem." And then he forwards me the text messages that he got from Cheryl Heard who I believe is a reporter for MBC, bay area.

[REDACTED]
MBC.

Lt. Rodriguez:

Yeah. So Cheryl ends up saying, "I just called you PIO looking for reaction, allegation, evidence was destroyed in the Monte Rosa case. Cheryl." And I text him back and I go, "Yeah Caitlin asked me about that last week. I told her the windshields have already been repaired and the car is back in service." Is what I tell him. And then Caitlin text me, if you go to page one, text me on Tuesday and that's at 8:55. So, Caitlin text the city attorney and says, "Any chance you're up and available for a five minute call, sorry to bother you so late." And I said, "Yeah go ahead." I talked to her [REDACTED]

Lt. Rodriguez:

Rudy:

Okay. I noted on these documents which I did earlier with Lieutenant Nickeleany, [REDACTED] is the date that these were provided to me.

Yeah.

Rudy:

So I can add these into the report?

Sure.

Rudy:

Thank you.

You bet.

Rudy:

Anything else I need to add?

Lt. Rodriguez:

Yeah if you like me to explain the reason why-

Rudy:

Yeah absolutely.

Lt. Rodriguez:

The reasons I decided when I got the phone call to have the car driven back and have the car back in circulation. So, there was a couple things. I'm on the scene, I remember looking at the scene and the truck is parked-

You're going to your map?

Lt. Rodriguez:

Yeah, if you go to the map let's go to page two. If you go to the second page on your map and for reference there's two vehicles that are visible on the map, I'll be talking about the vehicle that has markers number four, 10, three, five, and six which is next to the area where it says lights.

Rudy:

Yes, I see it.

Lt. Rodriguez:

That's the F150.

Rudy:

Yes.

Lt. Rodriguez:

So, that's the F150 marked in place, measured in place where it was found at least when I got there or after the shooting happened to my understanding it was never moved again. Monte Rosa's body, from my understanding and I'm just going by some blood, some medical leads that are on the ground, it was somewhere in the area of maker number 151426. Monte Rosa's body was not at the scene when we arrived there, he had been transported prior to that to Kaiser Hospital.

Rudy:

Mm-hmm (affirmative)

Lt. Rodriguez:

So, the first thing I thought when I get there is I have bullet holes in the truck, so I have one fixed point. I don't have a second fixed point to come up with a trajectory to come up with a line. So, if I'm being asked to take one point and make a trajectory out of that, I don't have a second fixed point.

Rudy:

Right, right.

Lt. Rodriguez:

Not only don't I have a second fixed point, I don't know what that fixed point, that one point was. If Mr. Monte Rosa wherever the trauma was on Mr. Monte Rosa's body, if it was to the front of it, the front of him, to the side, I don't know where he was standing, what angle he was standing at. So, there's no trajectory that you're gaining from a single point. The second thing was the rounds that go through were from [REDACTED] 223 rifle. I remember looking at those and I believe the holes were bigger than the 223 rifle, so the rifle at that close of range actually I think, do you have the pictures of the crime scene sir?

Rudy:

No I do not, no.

Lt. Rodriguez:

Okay. So, if I remember the holes are actually a little bigger than the 223, so you're talking about taking a trajectory rod now that's not going to fit in there and you're putting it in there and don't have a second point in order to come up with a trajectory and I remember that. By the time I talked to [REDACTED] to [REDACTED] I had been back to the briefing, we had watched the video, we knew that there was going to be a discussion in regards, that the officers were going to provide a statement that night because the attorney's weren't there. I knew the sequence of events that led to the window shattering, that window being broken, there was no concern. I've had murder cases where I've had people shoot through a door and you don't know, you don't have the suspect's statement, you don't have witness statements and you're trying to establish some time of intent.

Lt. Rodriguez:

I had the intent here because for two reasons, the actor was going to give me the intent, I had witness officers who were being interviewed who were telling me the sequence of events that took place that they saw that led to the intent and additionally I had two body cam videos that showed the sequence of events that led to the window being blown out which were [REDACTED] video, he's the driver. And I got [REDACTED] video from the pack. So I have a sequent of events recorded in the vehicle already. The chief DA investigator was at the scene, if there was a concern, we operate under protocol for a reason so it's not a unilateral decision that we're going to do this and no one's getting involved. If there was some concern in regards to that, in regards to the windshield or the processing, we've done these before, there was no discussion about that.

Lt. Rodriguez:

There was a DA investigator that was actually assigned to this crime scene who actually went back to the crime scene afterwards again part of the protocol in order to make sure that everyone's on the same page, in regards to that. There was no concerns, now just being here I believed the city attorney was actually in one of the briefings, I thought Caitlin or a representative from, I thought it was Caitlin, was in one of the briefings and was there with professional standards.

[REDACTED]
That night?

Lt. Rodriguez:

That night I believe.

Rudy:

And that was Lieutenant Knight?

Lt. Rodriguez:

Yeah no so Lieutenant Knight was at the briefing and I thought he had Caitlin with him that night. I thought so which has usually in all honesty has kind of been what we done the last couple years in these things to help mitigate some of these issues. So, there was no mention, there was no concern, there was nothing brought up about the windshield or hey we need to make sure we keep that windshield. I can tell you this, I can tell you my prior knowledge of broken out windshields in officer involved shootings, in 2018 I had just promoted out to Lieutenant, I was on patrol though, officer involved shooting happens that starts off in Valeo, doesn't even happen in our county, ends up in Alameda County where we shoot somebody through a window. Our Sargent, similar circumstances, actually very similar circumstances through video rolling shoots through his own windshield at the suspect, not even Saloma County, Alameda County.

Lt. Rodriguez:

Car's processed, car's scanned, whatever. Car comes back to us. Car number 163, Sargent car, George Simpson was the shooter on that one. I can tell you that I know that those vehicles came back because I was the watch man the next morning, we didn't have enough cars and we put those cars back in circulation. So, now I'm talking about cars with bullet holes in them because a suspect actually returned fire at our officers. There's 2013, 2014 I was a detective and I was lead investigator on an officer

involved shooting that took place at Taco Bell on Solano Avenue. Joe McCarthy, one of the shooters in that one.

Rudy:

Yeah he'd mentioned that to me.

Lt. Rodriguez:

Yeah I investigated that case. Joe shoots through his windshield at the suspect, suspects ramming cars, Joe shoots, gets out, returns fire. Same thing. Vehicle's processed, do the total station, do that. Car goes back in circulation, there was no evidentiary value to that windshield and that shooting was not on video. 2008 I was in crime suppression at the time, I had taken the night off, my teammates got into an officer involved shooting that night at main and ryn, end up shooting the back window out of their old car, shoot from inside their car outside at a suspect running with a gun I believe. That car gets processed, that car goes right back into circulation.

Lt. Rodriguez:

Like I said I've been part of cases where we've done some trajectory but it's because you don't have the shooting on video, you don't have the intent of your shooter, you don't have witness statements. Here we had all those things and what you had in those cases and what you didn't have in this case is you have two points. You had a round going through a windshield and hitting a car, hitting the seat inside, so you took your trajectory, you put it through both points and it actually gave you the trajectory where the rounds were coming. You did not have this in this car, sorry this case. You had a car with a blown out windshield, holes that were bigger than the rounds that go through them and no secondary point in which to line up a trajectory with. And in all honesty sir if I ever took that thought process and took it to a court and tried to present some type of trajectory in a murder case or some other type of case, I'd be negligent, how do you do that?

Rudy:

Anything else that needs to be added?

Lt. Rodriguez:

No I don't think so.

Rudy I don't know if this will be of help to you, I think I mentioned this. When I first got involved in this case I did call Caitlin Knight the deputy city attorney and I knew that there were some emails because I talked to [REDACTED] I don't know if you have but I talked to [REDACTED] and he mentioned that there were emails that had been sent from his unit and he had those emails and I don't know if you have them or not, I just figured I'd throw out some of those.

Rudy:

I believe I do but let me double check because-

Okay, yeah I just for your purposes of your timeline I thought just maybe have some value because the emails I have for instance are on June 3rd the very next day where Kevin Barretto has already got an estimate on June 3rd to replace the windshield.

Rudy:

Yeah I do hold on here.

[REDACTED]
You may have that.

Rudy:

I just want to I'll show you. So, yeah I have copies of the Auto Glass Now with the estimates, I have the emails from Kevin Barretto.

[REDACTED]
Good okay. [inaudible 00:37:27] That's not a big deal. And then the second thing I had was Caitlin Knight had sent me emails with her and Melissa Knowles the attorney that was representing-

Rudy:

What were the dates of those [REDACTED]

[REDACTED]
They're various, the first one is an email from her to me saying I got your voicemail and here's the emails I had with Melissa Knowles. And then the first one from Melissa Knowles looks to me to be June 15th. She sends one to city attorney Randy Risener.

Rudy:

Yes I have that too.

[REDACTED]
You do okay. And then there's some other emails back and forth where she's asking that things be preserved and again this is all stuff she had sent to me. There is a June 16th confidential memo from Randy Risener to various people [REDACTED]

Rudy:

Yes I have that.

[REDACTED]
You got that.

Rudy:

Yes sir.

You probably have everything I have. And then there is, and again I'm thinking about the timeline, July 9th there's another email from Melissa Knowles to Randy Risener and this is the one on July 9th and of course it's more than a month after the shooting.

Rudy:

Five weeks.

[REDACTED]
I want to restate our demand for preservation of the evidence. To specifically include the truck officer [REDACTED] was riding in and drone-

Rudy:

I have that too.

[REDACTED]
You got that?

Rudy:

Yes sir.

[REDACTED]
You got all that. Okay I didn't know if you had it, I had gotten it from Caitlin so I just wanted to make it available to you if you didn't.

Rudy:

Thank you.

Lt. Rodriguez:

[REDACTED] on that stuff, on those emails, I just want to clarify I was never involved.

[REDACTED]
No.

Lt. Rodriguez:

I was never-

Rudy:

Yeah lets put that on the record. In the emails that you just stated neither you nor Nikoleany are mentioned in those emails.

[REDACTED]
No.

Lt. Rodriguez:

Okay because I was going to say I don't remember receiving any of those emails.

Rudy:

When I say mentioned, you're not included as a CC or directed to them.

Yeah that's true, that's true.

Lt. Rodriguez:

Which usually on those type of things when there's evidence hold or things like that or preservation requests I usually am Cced as a Sargent and Lieutenant I have them Cced on that stuff. So for some reason I wasn't on the-

Rudy:

Yeah for the record we'll note the you nor Lieutenant Nikoleany are included in these.

That's true, that's very true.

Rudy:

Any other questions or comments.

Lt. Rodriguez:

No sir.

Rudy:

You've been completely truthful with me this evening.

Lt. Rodriguez:

Yes sir.

Rudy:

Just as a reminder in regards to the retaliation people cannot retaliate against you for participating nor can you retaliate against them. Please do not disclose this as I mentioned in the notice. Obviously you can talk about this with your representative. That's going to conclude the interview, it is 4:22.

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Rudy Escalante:

This is Rudy Escalante. I'm a consultant with Municipal Resource Group. The time is 3:14 PM. Today's date is August 25th, 2020. I am in the chief's conference room at the Vallejo Police Department. Present with me is [REDACTED]. I just wanted to confirm that you received a notification, the assistant chief of police, Joseph Allio, regarding your notice of on or about August 14th, about the fact that you were a witness to this investigation.

[REDACTED]
Sure.

Rudy Escalante:

And what I'm going to do is I'm going to incorporate that into the record here so that is pretty clear about your role as a witness officer. The office of the Vallejo city attorney has retained the services of myself for Municipal Resource Group to conduct an internal personnel investigation regarding the conduct of Lieutenant Michael Nichelini and Lieutenant Fabio Rodriguez.

Rudy Escalante:

We ask that you cooperate fully regarding any and all information that is not privately protected so that we may conclude this investigation as efficiently as possible. I have been granted all authority by the office of the chief to conduct a complete and thorough investigation in the matter at hand. This is an administrative internal affairs investigation into the alleged conduct, which I will describe to you below. You are a witness to this investigation and are ordered to cooperate with the investigator and be truthful in your responses. After conclusion of the interview, you're ordered not to discuss your interview with anyone except your representative, the chief of police or myself.

Rudy Escalante:

If during the interview, information is discovered that identifies you as a possible subject officer, the interview will be terminated and you will be advised of your Lybarger admonishment and your right to a representative. Failure to comply with this notice shall be deemed an act of insubordination and may result in discipline up to, and including termination.

Rudy Escalante:

Thank you for being on time for the interview today. The nature of the complaint is the allegations of potential misconduct about activity that reflects negatively on the city of Vallejo, the law enforcement profession, and the Vallejo police department for the alleged violations on or about June 10th, under case number 20-06322. An item of evidence, the windshield, was allegedly destroyed without authorization. That was evidence in an officer-involved shooting investigation, and this occurred on or about June 10th in the city of Vallejo, and I gave you the reference case number.

Rudy Escalante:

Warning against retaliation. This provision is to notify you that it's illegal and inappropriate to retaliate against any person who has participated in complaining or providing information of the investigative matter, who may have contact or in any other matter, retaliate against any individual who's provided information to the Vallejo Police Department or to the investigator regarding conduct being investigating this matter. Additionally, anybody retaliates against you, makes any threats to you or

attempts of coercion, please let me know as people who may not retaliate against you for participating or providing information in this investigation. Any questions at this point?

I guess maybe just one question from off of what you read. Destruction of evidence of what?

Rudy Escalante:

The windshield.

Evidence of what?

Rudy Escalante:

That it was not properly secured as evidentiary value.

I don't understand the evidentiary value.

Rudy Escalante:

If there was evidentiary value in the windshield, why it was not held as evidence, and that it being destroyed was not afforded the opportunity to be reviewed by a party such as a criminal defense lawyer, civil litigation or any criminal matters.

Okay.

Rudy Escalante:

I think that's about it in regards to the notifications. So, currently you're rank and assignment?

My rank is [REDACTED] I'm currently assigned to the [REDACTED] division.

Rudy Escalante:

How long have you been in that assignment?

I've been in that assignment since, I believe, the [REDACTED] right around that period of time.

Rudy Escalante:

Of this year?

Of [REDACTED]

Rudy Escalante:

How long have you been working with the city of Vallejo?

[REDACTED]
I've been here since [REDACTED]

Rudy Escalante:

Prior to that, any other experience?

[REDACTED]
I worked for the city of [REDACTED] Police Department and I have started with the County of [REDACTED] In
totality, over 25 years.

Rudy Escalante:

Can you tell me about your experience in regards to either officer-involved shooting investigations or homicide investigations?

[REDACTED]
I worked as a detective from 2003 till September of 2018, when I'm promoted. During that period of time, I investigated as a lead detective over a hundred homicides and probably have been the lead detective on over 50 officer-involved shootings. I would say in reference to the knowledge base that you have in this department, I probably didn't have more than anybody.

Rudy Escalante:

And-

[REDACTED]
Unfortunately.

Rudy Escalante:

And then, in regards to this particular case, we're talking about an officer-involved shooting that occurred June 2nd, 2020 at approximately 0035 hours at Walgreens. How did you become involved in this case?

[REDACTED]
I was called at home and notified of the incident. One of my detectives was here working. He's the one that called and notified me. I then began to deploy resources that were not already tied up in it. One of the things about this department and they come from some smaller agencies, you get it, but there's collateral assignments galore. There were people involved in mobile field force, there were people that work in patrol over time, there were people that were already here, but we got the resources that we needed. I notified my Lieutenant, which I worked... My Lieutenant is Fabio Rodriguez. I notify my Lieutenant of what was going on and responded, got the crime scene personnel started. I don't know

who specifically made the request, whether it was Fabio or I, but we would have called traffic personnel for a total station measurement mapping and then ultimately would have responded to the location.

[REDACTED]

This was a unique situation where we had a very volatile sense going on. Even by the time I got here, the city was in a state of chaos, I think, has been probably the best way to say it. There were multiple things that were going on between pursuits and looting was still happening. By the time that I arrived, there was shootings that were still going on. I had told my people that we typically will... you would respond to a scene. When people come from several different locations, you're going to arrive at different times, but typically I want people to go to the scene, get a look about what's going on, and then they're going to deploy to the station and ultimately began assignments from there.

[REDACTED]

But I did not want people to go to the scene. We were going to go to the scene as a group because I didn't want people to straggle or to get sucked into things that were going on at Walgreens that was not going to be their assignment. So that was originally the intention that happened. Ultimately, I did send a group of people to the scene. I did not go on the original response. Myself and the Lieutenant were in the office, and then we responded roughly together. I left before he did and I remember specifically, he called me and he said, "Wait, don't leave yet. There's a pursuit coming up the street." In the office, there was no radio communication.

[REDACTED]

He said, "There's a pursuit coming up the street and I don't want you to get hit. Wait." And I waited and he came out and I ultimately turned the car radio on and waited for the pursuit to happen. I think there was 18 pursuits that night. It was ridiculous. It was one of the, I mean by far, the craziest things I had ever seen and I saw a piece of it. I didn't even get to experience what a lot of these other people were experiencing earlier in the evening. I ultimately did respond to the scene.

[REDACTED]

And then, there was a a breakout from the DA's office as it related to assignments and relationship to who was going to do what particular assignments. Typical assignments for us is that, we do a two-detective rotation on a weekly basis of on call. If you're on call, you're going to catch it, depending on what it is. You're going to have a primary and a secondary, and that's probably going to be your two people that are going to be associated to that case. Kevin Rose and Craig Long were, I believe, my detectives that were on call and they caught that case.

Rudy Escalante:

Craig Long, you say?

[REDACTED]

Long, L-O-N-G. Kevin Rose is the primary with Craig Long to back or as a second. And then we made assignments in relationship to... When the briefings happen in an officer-involved shootings that usually take forever to take place because you're waiting for tons of people who can't get here from agencies that you don't have control over so the DA's office filters in. There's an original briefing that involves the

DA's office and then from there, we'll make assignments to who's going to go to, we call them, team A, team B, and team C, depending on how those teams are going to be assigned.

There's typically, if staffing allows, two detectives and a DA investigator assigned to each team. And then, once the teams are established, then from there assignments are given to each of those teams in relationship to who's going to interview who or what particular assignments are going to be. One of those assignments in any of these situations is typically going to be crime scene. My crime scene person is my corporal. I have a corporal that is assigned to my evidence section that deals with crime scenes. That's Joe McCarthy. Joe McCarthy has the title as senior police assistant, but that's Stephanie Dailey and she's a non-sworn personnel that works on crime scenes as well as works in the evidence section. She would have been called out to this scene as well. There would be somebody from the DA's office that would have been assigned to this scene as well.

In this particular case, I got to think about who that was. I don't remember off the top of my head. I'd have to go back and read a report to figure out exactly who it was, but there's going to be a crime scene or a DA's investigator that would have been assigned to that as well. And then, ultimately, it starts, right? The interviews take place. There's a component with the IA. For the administrative piece of it there... Collaboration, I don't know if it's the right word, but working with the administrative team.

Working with the city attorney's office several years ago, we introduced the city attorney's office into coming in on officer-involved shootings. It was a thing that actually... I've worked with a previous chief and we developed because there was questions that would happen later down the road from the city attorney's office that we thought would be a really good idea just to bring them in that night. If there's things that come up let's deal with them.

And we always try to have the city attorney and the administrative team watching interviews that are going on. There's interview rooms that are here. You can broadcast them off the internet and put them up on a screen and someone could sit here and watch an interview that's going on. If there were questions of the person that was being interviewed, whether that was a witness or an officer or whoever it may be that needed to be asked that weren't asked in the criminal element that the administrative team, including the city attorney wanted to ask a question, then we would try to determine, could we figure out some way to craft that question to where it's criminal-based to or it's not necessarily internal affairs asking the question. It's not administrative only.

Typically, that works out usually very well. We try our best to avoid a secondary interview of the officers in those cases, not only for them, but for the liability aspects of it, and the exposure as it relates to the potential civil liabilities down the road of multiple statements that could take place. We've been exposed to these things before, and we try to do our best with those and work in conjunction with that. That's typically the, I don't know, overall broad shell of it.

Rudy Escalante:

No, that helps quite a bit. Did somebody show up from the city attorney's office that night?

I believe so. I believe Katelyn Knight was here. I'm not 100% sure on that, but I'm relatively certain she was.

Rudy Escalante:

Obviously, you report to Lieutenant Fabio Rodriguez and after you guys left here, you went to the scene?

No. Our office is not in this building any longer. They've moved us out into a different office space. We were at 400 Mare Island. When I left 400 Mare Island, we both went and arrived at that scene at the same time, or roughly within minutes of each other, we were close in reference to arriving at that scene. The scene was secured by the time I got there, there was no chaos, if you would say. There was no problems in reference to that going on at that scene. There was several outside agencies that were helping to secure the location, secure the scene, but, no, there was no chaos going on at that point.

Rudy Escalante:

Do you guys utilize the Solano County officer-involved fatal incident protocol.

Yep.

Rudy Escalante:

You guys utilize that there? Kind of go over step by step process, or how do you guys typically incorporate that into your investigative process?

We are fairly familiar with it. We've worked through that protocol quite a bit over the last... I have for the last, I don't know, 10 or 15 years. It is usually in someone's hand. Should there be a question that come up about something and how we're going to deal with something, we typically work with whoever is in charge from the DA's office at that point in time. On this particular night, the guy's name that was in charge is Andre Charles. Andre Charles is the chief DA investigator. I remember there was something that came up that we round tabled with Andre, but I don't remember what specifically it was and it didn't end up sticking. It wasn't a big deal. I don't remember what it was. It doesn't revolve around the windshield.

Rudy Escalante:

In regards to the venue agency, who was the representative from the venue agency.

The venue agency that would have been in the investigative team, that would have been the representative is the Lieutenant. It would have been Fabio Rodriguez and, or the captain of the unit

because he was here as well, depending on what role is going to be given at that point in time, which is Jason Potts, was the captain in charge of the unit.

Rudy Escalante:

And you said that he was at the scene as well?

[REDACTED]
Captain Potts?

Rudy Escalante:

Yes.

[REDACTED]
Yes.

Rudy Escalante:

Thank you. The truck that was used, I think it's Vehicle 118.

[REDACTED]
I don't know the number.

Rudy Escalante:

I was looking at the registration to it. Was that still at the scene when you got there?

[REDACTED]
Yes.

Rudy Escalante:

And who is responsible for processing that vehicle?

[REDACTED]
The vehicle would have been processed by the crime scene personnel that would have been there-

Rudy Escalante:

So, Stephanie?

[REDACTED]
... so that's going to be McCarthy. Dailey, would have been the ones that were responsible for processing the vehicle as it relates to, I mean... You may look at this differently. I just want to make sure we're looking at this the same way. There's no question in my mind as in relationship to who's in the car. There was no question in my mind in relationship to people sitting in certain locations, as it relates to where people were at. I'm not fingerprinting and DNA, there's not that type of stuff in reference to you have a vehicle and you're trying to put somebody in it. Those things were not of concern to me.

[REDACTED]

The location where the car was physically where it came to a stop, that is of concern to me. I want to know exactly physically where it was when it came to arrest. The heights could be of an issue for me in reference to seat, heights and things along those lines. But those are things that if you needed to recreate, you could recreate. It's not the processing of the car like maybe, I want to say, novice or someone that's not familiar with the business wouldn't understand.

Rudy Escalante:

Seating arrangements is not a concern of that-

[REDACTED]

There's no question in my mind who was sitting where. There's no question in my mind as to who shot. There's no question in my mind as to how many rounds that they fired. Those things were not at issue in this particular case in my mind.

Rudy Escalante:

Just so I know, Corporal McCarthy would have reported to you if there was any issues in regards to processing the vehicle?

[REDACTED]

Yeah.

Rudy Escalante:

I'm assuming trajectory rods were used through the front windshield as to where the bullet trajectory were?

[REDACTED]

Trajectory to what?

Rudy Escalante:

From the backseat out through the front of the windshield.

[REDACTED]

I don't know that to happen and I don't know what your experience is with trajectory. Do you have you any experience in trajectory?

Rudy Escalante:

Yeah. We use trajectory rods to get an idea as to... Typically, when it was in question as to where people were, but-

[REDACTED]

Typically, my experience with trajectory is that you need two points. Glass is a horrible one to start with. Glass is a problem when you deal with trajectory, but ultimately you need two stationary points. Something that you can draw a straight line from point A to point B to get trajectory. In this particular

case, you have one point. In my mind, I think that you have two objects that are in motion. You have a person that got shot that's in motion. You have a vehicle that is in motion, right to arrest, but you only have one point in relationship to it being able to be hit. I don't see the trajectory side of being able to be able to be accomplished in relationship to this. I didn't request trajectory to be done and to my knowledge, it wasn't done.

Rudy Escalante:

I totally agree with you on that. I was just asking the question, if it was or was not-

No.

Rudy Escalante:

... I understand the reasoning, why not.

I think it's important to explain because someone's going to read this at a later date. Someone's going to listen to this at a later date and I think that it's important that people in a non law enforcement field that are going to make judgements in relationship to this should have some context as it relates to why things are done and not done.

Rudy Escalante:

Obviously, there was a lot of stuff that was collected at the scene in regards to evidentiary value. Once the police truck was processed, where did it go from there?

I'm not 100% certain, but I don't know where it went from there. I gave no direction as to where it should go. I can tell you where I saw it. It was parked right over there in the courtyard. If we stand up in this room, you see that, where the cars are back then on that fence line right there?

Rudy Escalante:

Yeah. There's a white truck over there.

There's a white truck, there's a marked police car and then there's another vehicle. That might be an SUV, I'm not sure exactly what that is. I believe that it was backed in, in that third spot. I remember seeing it there when I came to get fuel.

Rudy Escalante:

You don't know who... I'm assuming it was towed here.

I couldn't tell you. I don't know. I don't know. I can tell you based on historically things that I've seen, it was probably driven here, but I have no knowledge. I don't know.

Rudy Escalante:

You know who would have been responsible for getting that from the crime scene to here?

[REDACTED]
I'm assuming that... I don't know. The right person to ask is probably McCarthy. I think that he could probably answer how it happened or who did it, but I don't know. I'm not sure.

Rudy Escalante:

Once it was moved here, was there any timeframe as to what the process was going to be for it? I mean, in other words, I'm assuming this is where you guys store city vehicles that might have been involved in any type of accident or incident.

[REDACTED]
I'll break down so you understand. Anything that's evidence-based in a vehicle, we have storage facilities for those, that's not here. Evidence-based storage vehicles end up in one tow yard that's in town that we do business with. It's called Bob's Tow. They tow and store all of our evidence vehicles. I have to deal-

Rudy Escalante:

On an inside storage shelf?

[REDACTED]
Both inside and outside, I have to manage this process too. It's \$13,000 a month that we ultimately end up paying on it. It's not the best business practice that I've ever seen, but ultimately that falls into my preview as well. It did not end up there, it ended up here and it was here for several days. I saw it for many days. And anybody else that drove through this back lot would've seen it. If they would've went up and got gas, they would've seen it well.

Rudy Escalante:

And just so we know, for the record too, inside storage is not applicable here because DNA, latent prints, all of that was not... There were not in question.

[REDACTED]
Those were things that were not in question to me at all.

Rudy Escalante:

Again, it's just for the latent prints.

[REDACTED]
I gave no direction to anyone that it needed to be towed and stored as evidence. I gave no direction to anyone that it needed to be processed for DNA and for prints or nothing. I didn't do any of that.

Rudy Escalante:

I need to look at the time so I can refer to what you just said. In regards to Policy 801 as it relates to property and evidence, within that policy, who's ultimately responsible for releasing property?

I'd have to read the policy. I don't have the policy here in front of me to read. But, I'm going to use typical evidence releasing of property as an example and I'll tell you how it typically would work. Hypothetically, if I'm a detective and I have a case where a piece of evidence is collected and by order of the court, it's to be released. By my decision as the detective, it's no longer of evidentiary value. I don't need it. The victim needs it back. Or, it's been processed, whatever the case may be, and we're done with it and we can give it back.

The statute is up. There many different facets that could happen. That's all going to be run out of the evidence section, depending on... We have an offsite facility that I don't know if you've been to or not. It's over by city hall. Out of that office, they store things that would be non-vehicles as it relates to evidence and non-hazardous waste is stored there. That stuff would typically be released out of that office. Appointments would be made, releasing of property would take place from that office of things that were deemed to be evidence.

They're safe-keeping stuff that happens there. There's found property stuff that happens there. It's not all evidence-based stuff that's out of there, but for the majority 95, 98% of it is evidence-based. They make their own determinations in certain instances, based on timing, based on reading court documents about things that are no longer needed. Active cases that are run out of the investigations unit, usually the detective that's involved in it is contacted to make a determination whether that's going to happen or not. If they have a victim, usually the detective is in contact with the victim anyway, then puts them in touch with the evidence section about releasing item one or six or whatever it is that is ultimately released.

Rudy Escalante:

In active cases that involve the district attorney's office, do you guys have a process or what has been your practice for releasing the items?

I can give you a couple of good examples that are real recent. I was the lead detective in the Capoot murder case. In that case, Henry Smith is convicted of killing Capoot. We have a vehicle that was taken as evidence in that particular case. It's a car chase, the vehicle is a piece of evidence. It was actually shown to the jury during court processes. That conviction is six years old, something like that. I still have the vehicle.

Rudy Escalante:

And that case was from 2000, 2001?

No, he was killed in 2011, but I think the adjudication was done in '14. It's been through the appellate process and it was not overturned. However the DA has not released that as a piece of property. I actually had communication with the district attorney's office about that vehicle, and one other particular vehicle on cases that are adjudicated that we're still paying storage fees on that, now I'm on the fiscal side of it trying to get rid of the overhead, right? And, I've pushed this along for several years on these, trying to get rid of these things and I'm like, "Listen, the court couldn't store the piece of evidence because they don't physically have the ability, like if it was normally introduced." I go, "But somebody's going to have to start paying this bill."

And now, they're to the point where, "We're working on trying to get this thing released." On a prosecuted case, a case has gone through prosecution, there's a good example of that. Now, a case that is in... Let's say it's filed and let's use vehicles for examples in these things. It's a filed case that is a piece of what took place in the crime. The DA is going to have a rule in that, or have a role in that process about whether that's going to be released or not.

And typically if it's the vehicles involved in the crime, it's not going to go and doesn't get released. We have cases where the person is arrested in a car, but this is the car that was used in the crime, but I arrested you in another car. The other car could easily be released, but this car that was involved in the crime, we may keep until the case is adjudicated or get us down the road to the point of when everyone said, "I have no further interest in relationship to that." Those are criminalities, in a relationship to it. There are the criminal look as it relates to how we might deal with some of those things.

Rudy Escalante:

And then, what about in the case of a potential civil case. Your patrol car gets damaged in a pursuit, somebody gets hurt. Is it-

I have no knowledge. I don't deal with car wrecks. I don't deal with that part of it. I don't know.

Rudy Escalante:

Got it. Thank you. And-

I'll use one example. I got hit horribly in a car wreck on 180. Lady rear-ended me about 60 miles an hour when I was parked in dead stop traffic and my car got towed. It was totaled. It got towed to the station here. It was here for about a week and it got scrapped.

Rudy Escalante:

Insurance company. Yeah, they scrap it pretty... Once they do that, it stops to-

My worker's complaint was not completed. No lawsuit, in the relationship to that thing was completed and it was gone. Personal knowledge, I can tell you as it relates to me, I know that.

Rudy Escalante:

I had a similar case where I got hit as well and it sat there for about six weeks, but then suddenly, insurance company got rid of it. In regards to any cases that are involved civilly, that you would not have any... In other words, if there is a connection that there's a piece of property or something that would have any type of civil liability against it's the city, what would be the process for getting that item released if you no longer needed it?

I guess what we're talking about specifically here is we're talking about the windshield. I can tell you that we do work with the city attorney's office. We have communication with the city attorney's office commonly as it relates to cases, and I'm very cognizant as it relates to the civil side of these. I personally have not been involved in an officer-involved shooting. I haven't gone through what some of these people have gone through in relationship to this, but having been the detective on several of them I've been involved. And it's not uncommon for their communication to go on in relationship to those, the releasing of documents to the city attorney's office, the releasing of videos and other things to the city attorney's office. It's not uncommon for a detective or someone in the detective division to be working with the city attorney's office.

But as it relates to, can I release this phone or can I release this car? I don't know. Unless the detective or the person that was doing it had the feeling or the thought process that it was a potential piece of evidence to be released, I'm not sure that that communication would go on.

Rudy Escalante:

Did anybody contact you in regards to the potential civil liability that this case might have had in regards to, can we dispose of the windshield?

I think there's two questions there. Did anyone contact me in the relationship to the civil liability? The answer to that question is, I'm sure that in my mind, or I had a conversation with someone about the civil liability in this case. As it related to specifics to the windshield, did anybody contact me? The answer to that is no. Until after the fact.

Rudy Escalante:

I want to make sure I phrase this right. When the vehicle... I know you did not know or give any direction or permission when the vehicle was towed from the scene to here, you were not involved in that process?

Sure. Or, if it was driven? I don't know.

Rudy Escalante:

Yeah. You have no idea.

I don't know.

Rudy Escalante:

No, I understand. That's clear for me. Do you know if anybody had a conversation with the district attorney's office investigator, Andre Charles, in regards to what was going to be done with the vehicle?

I don't know. I can tell you, I did not.

Rudy Escalante:

Thank you. And you already described, you've had cases where you've brought evidence into court for examination?

Sure.

Rudy Escalante:

Have you ever had a situation where either the DA's office or the public defender have requested to view evidence here at the police department that you've ever provided to them?

Yes, but not at the police department. In the evidence section. Yes.

Rudy Escalante:

Or had to take it to the DA's office so that they can look at it?

Sure.

Rudy Escalante:

Do you know if the truck was seized as evidence?

I don't know that it was and based on what I saw, I would believe, no.

Rudy Escalante:

Did you know when the windshield had been repaired?

No.

Rudy Escalante:

Did anybody ask you if they could repair the windshield?

[REDACTED]
No.

Rudy Escalante:

Did anybody ask you, "Hey serg, we need to get the truck back into service. Should we hold onto the windshield-

[REDACTED]
No.

Rudy Escalante:

... once it gets repaired?"

[REDACTED]
I have no conversations like that.

Rudy Escalante:

Nobody came to you at all?

[REDACTED]
No.

Rudy Escalante:

Anybody tell you not to hold onto the windshield or that it was no longer needed?

[REDACTED]
I had no conversation with anybody about that. I can tell you what my personal opinion is, and my professional opinion is, but in relationship to conversations prior to this event, no, I had not.

Rudy Escalante:

In your experience, what would be your professional opinion?

[REDACTED]
It had no evidential value, and I would talk a little bit as it related to what it goes to prove. I know there's a discussion that's going on in the press and the discussion that's going on in social media related issues, as it relates to the destruction of evidence. The question that I get back to is kind of the same question that I asked you when this thing started, evidence of what? What are we trying to prove with this windshield as it relates to evidence?

[REDACTED]
I don't think there's any dispute in relationship to who shot. I don't think there's any dispute in relationship to who was in this car. I don't think there was any dispute in relationship to how many rounds were fired. I don't think there's any dispute in relationship to who was shot and who did the

shooting. I think that there is an opportunity for people to jump on the bandwagon of corrupt police officers and that the thought process is that, and I'm actually appalled by it, but that doesn't matter.

[REDACTED]

I'll give you my experience in relationship to it. I've been involved in three cases where officers have fired through glass as officer-involved shootings. I worked a case at the intersection of Maine and Marin where officer Badour shot through glass in relationship to an officer-involved shooting. In that particular case, that vehicle was towed back to the courtyard and was back in service in a matter of days. I was involved in a case at Taco bell on Solano Avenue where Corporal McCarthy, and I believe then Sergeant Steve Darden, he may have been a corporal, but I think he was a Sergeant, we're involved in an officer-involved shooting, where one of them shot through glass in relationship to that particular case. Again, that car was brought back to the courtyard and that car was back in service within days.

[REDACTED]

I was involved in an officer involved shooting where George Simpson... not there. I was involved in the investigation side of it, of an officer-involved shooting, where Sergeant George Simpson is involved in a pursuit with several officers from the city of Vallejo to Oakland. And the suspect vehicle comes to termination in a pursuit, and the suspect has opened fire on the officers and the officers returned fire. George Simpson pulls up and shoots through his windshield at the suspect, in that particular car, in that particular case. I believe that was on a Thursday, and I believe that car was back at service on Monday. In that particular case, there was three or four cars that were shot at. They had bullet holes in them. Those cars were in service that night. They put black tape on them and put them back in service that particular night.

[REDACTED]

As it relates to history of vehicles being shot or vehicles being hit or officers shooting through glass at subjects, I've been involved in those three, and I've never seen the vehicle taken as evidence. I've never seen the windshield taken as evidence. I've never anyone do anything like that. On the one went to Alameda County, that particular one was investigated by the Alameda County DA's office. They released the car at the scene and told us to drive it back. It came back to the city of Vallejo, not on a tow truck, it was driven.

[REDACTED]

There's a recent case that I've been involved in out of... It's a combination of Contra Costa and Richmond, where we had a lady that gets kidnapped here. She's killed... She's actually not killed, she's fatally shot. She dies later. And there's a body dump that takes place in the Oakland Hills that suspect gets into a pursuit with the city of Oakland. It ultimately ends up in Richmond where there's an officer-involved shooting. Again, you have Oakland Police Department shooting through glass in that particular case. I've read that case. I'm familiar with that case just based on the officer, based on our victim being a portion of that. Again, glass not collected as evidence. The vehicle is not towed and kept forever as evidence. The glass is not removed and stored in the glass warehouse, wherever that's supposed to be. That stuff's not done. I don't see that as a normal practice in this business.

Rudy Escalante:

In regards to best evidence rules, in regards to making that available for any type of civil liability that may come with that, would that be applicable there?

[REDACTED]

I think that always best evidence is the item, whatever the item is. I can't argue with you in relationship to that. I don't disagree that any of that stuff is best evidence, but I think that there are so many things that you could try to say are the best evidence. The officer gets his gun back, we don't keep that forever. We don't take the uniform from the officer. We don't take the cars out of service forever. Those aren't things that happen. If we want to get to the best evidence side of things, it's a lot broader spectrum than one item.

Rudy Escalante:

And just to be clear, you're not being argumentative with me or-

[REDACTED]

No. I mean, I'm trying to be factual.

Rudy Escalante:

No, I just want to make sure that that's clear for the record.

[REDACTED]

The record is clear, right?

Rudy Escalante:

Yeah.

[REDACTED]

And I'm not trying to be... If someone on the other side of the... I've listened to these things though so I'm very direct.

Rudy Escalante:

I don't think so, so I just want to make sure that that's clear.

[REDACTED]

I've been questioned. I can't tell you the amount of times I've been on the stand and questioned, and you get to be to a certain, I don't know, vernacular and then you get to the point of directness and making sure that you get your point across.

Rudy Escalante:

Just to be clear, nobody came to you, said, "Hey, Sergeant. We're going to get this vehicle repaired. We're going to throw away the windshield." Nobody checked with you [inaudible 00:41:18].

[REDACTED]

I was not involved in that at all. No.

Rudy Escalante:

Thank you.

[REDACTED]
And to be honest with you, I can only assume who was, I don't know.

Rudy Escalante:

I don't want you to assume-

[REDACTED]
Yeah. I don't know.

Rudy Escalante:

If you don't know, you don't know.

[REDACTED]
I don't.

Rudy Escalante:

Okay. Have you been completely truthful with me in regards to-

[REDACTED]
Yes, sir. Absolutely.

Rudy Escalante:

Is there anything else that you feel would need to be important for this investigation that I've forgotten or missed?

[REDACTED]
I guess the only thing that we have not discussed here and maybe that I don't have any knowledge of it, but we've talked specifically as it relates to the investigations unit. In the investigations unit piece of this, I want to make sure that you've got it. You understand it. Fabio Rodriguez is the Lieutenant in that unit, I'm his [REDACTED] and then from that branch out is the [REDACTED] that falls under [REDACTED] That's where this vehicle that is in question here... I can't remember the truck's number, but that's the vehicle that's in question. If you look at the org chart, that's the way that goes.

[REDACTED]
In relationship to Mike Nichelini, which you've asked me not one question about in this process, the portion as it relates to Mike Nichelini that we would have used Mike Nichelini in this particular thing is, I can't tell you it was certainty that I called him, or whether it would've been Lieutenant Rodriguez called him, but we would have called him for total station. And the traffic side of it does total station, which would have brought Nichelini to that particular scene. But I don't know, outside of that, what any involvement that Nichelini would have had as it related to this.

 Rudy Escalante:

Just to clarify, when I asked you the question about, nobody asked you about windshield replacement, I was referring to Lieutenant Rodriguez, Lieutenant Nichelini, or anybody else-

 No.

Rudy Escalante:

In the police department.

 I had no conversations with anybody about the replacement of that window or windshield until after it was done.

Rudy Escalante:

I think that's it.

 Perfect.

 Rudy Escalante:

It is 3:58 PM. That concludes our interview. Thank you.

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Rudy Escalante:

Okay, we're on the record. This is Rudy Escalante. I am a consultant with municipal resource group. Today's date is 8/25/20, the time is 4:04 PM. I am at the Vallejo Police Department in the chief's conference room. Present with me is [REDACTED] This is in regards to IA 2020-09 & 10. And reference to a Vallejo police case number 06322, that occurred on June the 2nd, 2020, at approximately 00:35 hours. This is an officer involved shooting case that occurred in the city limits of the City of Vallejo. Present with me now is [REDACTED] Thank you for being here today.

[REDACTED]
Thank you, sir.

Rudy Escalante:

And thank you for being on time. I know we started a little bit late, but you were waiting outside. I just want to make back claire.

[REDACTED]
No worries.

Rudy Escalante:

On or about August 14th, did you receive a email notification advising you of an interview from me to Lieutenant Knight via Assistant Chief Joseph Leo.

[REDACTED]
I did receive an email. I don't have it in front of me, so I don't know the exact date.

Rudy Escalante:

Okay. I'm looking at a copy of it, is that appear to be right?

[REDACTED]
Yes, sir.

Rudy Escalante:

Okay. I'm going to read this and incorporate this in here, so you understand what it is that we're going to be talking about, what your role is. So the Vallejo City Attorney has retained the services of myself through municipal resource group to conduct an internal personnel investigation regarding the conduct of Lieutenant Michael Nichelini and Lieutenant Fabio Rodriguez. We ask that you cooperate fully regarding any and all information that is not privately protected so that we may conclude this investigation as efficiently as possible.

Rudy Escalante:

I've been granted all authority by the office of the chief of police to conduct a complete and thorough investigation into the matter at hand. This is an administrative internal affairs investigation into the alleged conduct, which I will describe below. You are a witness to this investigation and are ordered to cooperate with the investigator, be truthful in your responses. At the conclusion of your interview

you're ordered not to discuss your interview with anyone except your representative if you have one, the chief of police or myself. If during the interview information is discovered that identifies you as a possible subject officer, the interview will be terminated and you will be advised of your Lybarger admonishment and your right to a representative. Failure to comply with this notice shall be deemed an act of insubordination and may result in discipline up to and including termination. Again, you were here on time for your scheduled appointment. Thank you again.

Rudy Escalante:

The nature of this complaint or allegation is that of potential misconduct of our activity that reflects negatively on the City of Vallejo, the law enforcement profession and the Vallejo Police Department for the alleged violation in that on or about June 10th, under case 20-06322 an item of evidence of windshield was allegedly destroyed without authorization. That was evidence in officer involved shooting investigation. A warning against retaliation. This provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding the investigative manner. You may not contact or any other matter retaliate against any individual who has provided information to the police department or to the investigator regarding the conduct being, investigating this matter. It also includes the nobody's allowed to contact you or harass you or threatened or coers you, whether it's electronically or in person in regards to you providing information in this matter. Any questions on that?

[REDACTED]
No, sir.

Rudy Escalante:

Okay. We go ahead and get started. What is your current rank and assignment?

[REDACTED]
I am currently a [REDACTED]

Rudy Escalante:

And how long have you been in that assignment?

[REDACTED]
Since [REDACTED]

Rudy Escalante:

And how long have you been with the Vallejo PD?

[REDACTED]
It will be [REDACTED] years next month.

Rudy Escalante:

Any experience with any other agencies?

[REDACTED]
No, sir.

Rudy Escalante:

Okay, [REDACTED] tell me what that is about.

[REDACTED]
So we were originally the [REDACTED] before everything got disbanded, which is a street level narcotics team. However, we have more or less shifted our focus on covert operations, doing more covert surveillance, tracking fugitives, violent suspects. We're basically the enforcement arm of our Investigations Division. So any major cases that they have such as the homicides or any type of series cases, we are the, I guess, feet on the ground for them.

Rudy Escalante:

So essentially if you have one person in regards to make a sexual assault or a homicide, instead of the detectives go in and find that person, that is your guys's role.

[REDACTED]
Exactly.

Rudy Escalante:

So you guys have specialized training in regards to fugitive apprehension?

[REDACTED]
Yes.

Rudy Escalante:

And Surveillance work?

[REDACTED]
Mm-hmm (affirmative).

Rudy Escalante:

Okay. And the vehicle in question the silver or gray pickup truck, I think it's vehicle 118 maybe.

[REDACTED]
Yes, sir.

Rudy Escalante:

Yeah. That was part of the [REDACTED]

[REDACTED]
It is. Yes.

Rudy Escalante:

Got it. Prior to [REDACTED] any investigative experience?

[REDACTED]
I was the [REDACTED] I can look in my phone if...

Rudy Escalante:

No, that's fine.

[REDACTED]
Okay. I was only in there for about [REDACTED] and then I got [REDACTED]

Rudy Escalante:

Okay. Congratulations.

Sgt. Bautista:

Thank you.

Rudy Escalante:

And in regards to this particular team or the [REDACTED] what was your role on the night of this incident?

[REDACTED]
The supervisor. So basically overseeing any tactical operations, any investigative work and...

Rudy Escalante:

Were you called out to the scene?

[REDACTED]
To the original call?

Rudy Escalante:

Yeah. To the Walgreens?

[REDACTED]
Yes. So, when that call came out, our team actually got split. Because half the team who ended up at Walgreen was there and then I'd say the other half was on a pursuit. That's where I was.

Rudy Escalante:

So you were working on duty the night of this?

Yes. We were called in, that wasn't our normal work day. Mondays, we don't normally work. So we were actually called in to assist with alluding and stuff like that. So-

Rudy Escalante:

Got it.

[REDACTED]
During that incident actually split and went with the pursuit portion of it.

Rudy Escalante:

Got it. So how many people are part of your team?

[REDACTED]
We currently have five. And I also manage a task force officer assigned to the FBI Violent Crimes Task Force.

Rudy Escalante:

So that night you were on duty, but you were not at that call for service as it was...

[REDACTED]
I was heading to that call for service until we got the call that the vehicle fled. And then, so it sounded like they had enough units at the scene to secure that portion of it. So I then directed my attention to the pursuit portion, which ended up enrichment.

Rudy Escalante:

Okay. And once the scene was secured, did you have an investigative role with the Investigations Unit?

[REDACTED]
No. Not that portion at all.

Rudy Escalante:

And the vehicle in question, the gray truck.

[REDACTED]
Yes, sir.

Rudy Escalante:

That is part of the [REDACTED] fleet.

[REDACTED]
It is.

Rudy Escalante:

It's assigned to your section.

It is.

Rudy Escalante:

Got it. And during this investigation at the crime scene, Walgreens, that included the truck, did you participate in any investigative work there?

No.

Rudy Escalante:

Okay. And were you assigned any role in regards to the Officer Involved Shooting Protocol?

No. Once I found out it was one of my guys that were involved, I basically came and sat with him to make sure if he needed anything and make any calls to his family if need be, and just provide with any drinks and stuff like that. Any food that they may have needed. So I basically sat with my team.

Rudy Escalante:

So any crime scene work, photography, measurements, anything like that, you were not there, you were here?

Yes.

Rudy Escalante:

Got it. Were you part of any of the decision making on how the vehicle got from the crime scene to over here, to storage facilities?

Yes.

Rudy Escalante:

Tell me about that.

So, I called Lieutenant Rodriguez to see if the truck was clear to be picked up from the scene. And I believe in that same conversation or another conversation shortly thereafter, I asked, because we were very short with our undercover cars, I asked if it would be okay to go ahead and replace the windshield.

Rudy Escalante:

Do you recall when that happened?

I believe it was that same night, it would be morning, I'd say 3:00 or 4:00 in the morning maybe. And I remember him asking, I don't know who he was talking to, maybe it was Detective Rose or someone else in the background, I mean, everything has been done, been processed, is there any other reason why we need to keep this windshield? Because [inaudible 00:11:03] so we had to replace. And then they're like, no, there's no reason for us to keep it. So I went ahead and asked Detective Barretto to make an appointment with Safelite, to get the windshield replaced.

Rudy Escalante:

I'm at, as soon as I can, I just want to be able to confirm this with you. Just give me one second. Sorry. There we go. So, before I show you this, just to be clear, about 3:00 or 4:00 in the morning, you had a phone conversation with Lieutenant Rodriguez.

Mm-hmm (affirmative).

Rudy Escalante:

Asking if you get the windshield replaced if the vehicle was...

Yeah. If I could pick it up and then ultimately get the windshield.

Rudy Escalante:

So did you go to the crime scene and pick it up?

Yes, we did.

Rudy Escalante:

Who went there?

Myself and Detective Barretto.

Rudy Escalante:

Okay. Did you drive it here or was it towed?

It was driven. So, I followed Detective Barretto in tow. I asked him if there was anything wrong mechanically that would prohibit us from driving. He said, "No, it's fine. It's just a windshield." And there wasn't really anyone out on the street and so we took the back roads back to our office. And I followed him and we parked it in our office parking lot. And that's when Detective Barretto made the appointment

with Safelite. And so I emailed Bonnie Mirantis to let her know, just to give her a heads up, that we made an appointment with Safelite. And she-

Rudy Escalante:

You checked with Lieutenant Rodriguez first?

[REDACTED]
Yes.

Rudy Escalante:

Okay. I'm going to show you an email, Wednesday, June 3rd at 12:20. And I see Bonnie Mirantis is on that. Who is she?

[REDACTED]
She's our finance-

Rudy Escalante:

I think we're probably looking at the same email that you brought.

[REDACTED]
Yeah. It is.

Rudy Escalante:

It is the same email.

[REDACTED]
Mm-hmm (affirmative).

Rudy Escalante:

So this is what you're talking about. You'd given detective Baretto who is assigned you direction to get this-

[REDACTED]
Windshield replaced. Yes.

Rudy Escalante:

Okay. And Safelite is who you guys contract with?

[REDACTED]
Yeah. We've used them in the past for windshield repair when we've done like auto burs things for our rental cars and stuff like that. But then she reminded me, it wasn't on the email, but I believe she called me and said, "Hey, that's a fleet vehicle. The corp yard will take care of it." I was like, "Oh, I totally forgot." So that's when I told detective Baretto, I was like, "Hey, cancel that appointment." Because we

were supposed to, I think we're just going to drop it off that week or the following week to get replaced. But Bonnie's like, "Hey," Basically we put the brakes on that. Because it's a fleet car. So the corp yard will take care of it.

Rudy Escalante:

And what does Bonnie do?

[REDACTED]
I believe she's our finance manager.

Rudy Escalante:

Okay. And have you ever been involved in cases where... Did anybody tell you that, that vehicle was involved in the criminal investigation?

[REDACTED]
No. Wait, I don't understand.

Rudy Escalante:

When you guys went and picked up the truck and brought it here, was there any concern from the Lieutenant Rodriguez that this vehicle would be needed for any type of criminal investigation?

[REDACTED]
No. Not at all.

Rudy Escalante:

Did Lieutenant Nichelini or Lieutenant Rodriguez indicate that the truck itself was evidence to any type of crime?

[REDACTED]
No.

Rudy Escalante:

Was there any concern from Lieutenant Rodriguez if there was any civil liability associated with the vehicle?

[REDACTED]
No. It had already been processed. So there was no other concern.

Rudy Escalante:

You know how it was processed?

[REDACTED]
I know it was processed by our evidence stacks, but I don't know how they processed it.

Rudy Escalante:

You [crosstalk 00:15:42] though?

No.

Rudy Escalante:

Okay.

Rudy Escalante:

And you don't know if Lieutenant Nichelini responded to the scene or not?

I don't remember. I don't even know if he was there or not.

Rudy Escalante:

Okay. And then once Bonnie told you, I'm sorry, I don't mean to jump around.

It's Okay.

Rudy Escalante:

But going back, when Bonnie told you, hey, cancel that appointment with Safelite, our corp yard people will take care of the windshield. Did anybody notify the corp yard of who that was?

So once I found that out, I brought the windshield to the corp yard with Detective Barretto. He drove it again from our office, we have an offsite office. We drove it here, basically parked it right against the North fence line there and made contact, I think it was Travis, Travis or [Jorge 00:16:42] one of those two. And just to let him know, we need to get this windshield replaced.

Rudy Escalante:

Travis is somebody that-

Travis Thompson, he's one of the corp yard managers, I think. And I think Jorge is one of the head mechanics or on of the-

Rudy Escalante:

Did he ask you or anybody do we need to save the windshield?

No.

Rudy Escalante:

What I do is, I check the time so that when I go back to listen I know. It's a shorter distance [crosstalk 00:00:17:09].

[REDACTED]
Yeah. That's smart.

Rudy Escalante:

And do you know if Lieutenant Nichelini was out at the scene that night?

[REDACTED]
I don't know.

Rudy Escalante:

Because you weren't there.

[REDACTED]
Yeah. I only went there just to pick up the truck.

Rudy Escalante:

When you got there was Lieutenant Rodriguez there?

[REDACTED]
I don't think so.

Rudy Escalante:

Okay. Was he in the office or on duty that night?

[REDACTED]
He was on duty. I don't know if he was in the office or where exactly.

Rudy Escalante:

Okay. And was there any concern about best evidence rules about securing the windshield?

[REDACTED]
On my part?

Rudy Escalante:

Yeah.

[REDACTED]
No.

Rudy Escalante:

Okay. Past practice, have you always gotten rid of, as far as the windshield after it's been processed?

[REDACTED]

I wasn't... So when I think about previous incidents, I think about, we had a Taco Bell shooting, I can't remember when, 2012 maybe. It was an OIS where our officers shot out of the windshield. And I think one of our officers shot through the suspect windshield as well. Like I said, I didn't investigate it, but I don't remember ever seeing windshields at evidence or anywhere else or even them talking about taking a windshield. And then we had a more recent one last year, I believe, or 2018, maybe even, I think it was last year, where our officers were shot at, by a suspect. And I know our Sergeant shot through his windshield to shoot at the suspect that was shooting at our officers. And as far as I remember, I don't even think we preserved those windshields either.

Rudy Escalante:

Got it. They were process at the same, and then released.

[REDACTED]

Yes. So in my mind Lieutenant Rodriguez, he's worked investigations almost his entire career. And to me he's a subject matter expert. So I wouldn't even second guess his decision to allow me to replace the windshield of the truck. So if he says it's good to go, I take his word for it.

Rudy Escalante:

Right. I understand. How long did it take to get the truck repaired?

[REDACTED]

I believe, I have notes here for when we called.

Rudy Escalante:

Sure.

[REDACTED]

So let's see. It was billed out on the 8th of June. So I'm sure we picked it up soon after that either that week, if not that week, then at least the following week, but we wouldn't let it sit because we needed it back. So I know it was billed out on the 8th of June. So I'm assuming that week is when we picked it up.

Rudy Escalante:

You don't [crosstalk 00:20:12].

[REDACTED]

I'm not for sure.

Rudy Escalante:

Okay. In your experience as a supervisor, have you had the occasion to investigate cases where the City may have civil liability exposure?

[REDACTED]
Yes.

Rudy Escalante:

And what is your thought process in regards to that? How do you preserve evidence? What is your thought in regards to... Or How do you make a thought... That's too vague. In your experience investigating those, what is your process of preserving items that would be relative to civil investigation?

[REDACTED]
It depends. It depends on a case by case basis. If it's something that can be photographed and then discarded later, that's fine. It depends on the severity of the case. It depends on the size of the item. It depends on their ability to keep it in evidence. And if you take measurements and all that kind of stuff. So I mean, it all depends. It's not like one case fits all. I wouldn't keep a [ned 00:21:38] pipe, I would photograph it or good copy and discard it. But yeah, it all depends.

Rudy Escalante:

Got it. In your experience, have you ever brought physical items in the court?

[REDACTED]
Have.

Rudy Escalante:

And in regards to the best evidence rule, what is your understanding of that?

[REDACTED]
That you're supposed to keep the original items?

Rudy Escalante:

Have you ever had an occasion where you've provided items of evidentiary or just items that were whether they're of evidentiary value or not, but in a criminal case where the public defender of the DA's office wants to physically look at items of evidence?

[REDACTED]
I'm sorry. What was the question?

Rudy Escalante:

Yeah. That was kind of confusing. I apologize.

[REDACTED]
It's okay.

Rudy Escalante:

Have you ever had an occasion where the DA's office said, hey, we want to look at all the items of evidence at this case, make arrangements for the DA to go to property and evidence to look at that?

[REDACTED]
Yes.

Rudy Escalante:

Okay. Do you know if there was any cause or concern in regards to the windshield that might be for best evidence rules available for the DA or the city attorney or a defense attorney to look at? Do you know if there's any consideration given to that?

[REDACTED]
Based on my experience? No. I mean, especially if it's already been processed. We have video of the shooting. We have witness statements on exactly what happened, where people were seated and things of that nature. If there was any question as to if even occurred, trajectory, things of that nature, if there's any questionable thing about that, then yes, that would probably come into play. However, in this situation, we're not denying anything. Everything is out there on the table. We're like, yes, this is what happened. This is what we did. This is what we saw. This is where you were sitting. This is the nature in which it occurred.

Rudy Escalante:

So those items as far as who did it and where, and how many times those were not questioned?

[REDACTED]
No.

Rudy Escalante:

There was no question as who fired the weapon?

[REDACTED]
No.

Rudy Escalante:

And from where?

[REDACTED]
Yes.

Rudy Escalante:

And how many times?

[REDACTED]
Yes. There's no question.

 Rudy Escalante:

I understand.


Because it's all on video.

Rudy Escalante:

I understand. Thank you.


Mm-hmm (affirmative).

Rudy Escalante:

To the best of your knowledge was the windshield of the truck booked in as evidence?


No.

Rudy Escalante:

And why was that?


Because I was told it was clear to be replaced.

Rudy Escalante:

[inaudible 00:24:26] Thank you.


Yes.

Rudy Escalante:

To the best of your knowledge Lieutenant Nichelini, do you know if he was involved in the decision about getting the windshield repaired?


I never consulted him.

Rudy Escalante:

You consulted your direct supervisor, who is Lieutenant Rodriguez?


Yes.

Rudy Escalante:

Got it. Okay. Have you been completely truthful with me in regards to this interview?

[REDACTED]
Yes, sir.

Rudy Escalante:

All right. Is there anything else that you feel would be important for us in this investigation?

[REDACTED]
No. I like my Lieutenant back.

Rudy Escalante:

I understand. All right, that's going to conclude our interview, is 04:29.

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**City of Vallejo
Office of the City Attorney**

**Police Department
Internal Affairs Investigation
IA-2020-10**

Confidential Personnel Report



Prepared by

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California BSIS Private Investigator License, PI188047
Municipal Resource Group, LLC
September 2020

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I. INTRODUCTION

The Office of the City Attorney for the City of Vallejo ("City") retained Rudy Escalante, a consultant of Municipal Resource Group, LLC ("MRG") to conduct an independent investigation regarding an allegation of the mishandling of property/evidence from a crime scene that occurred on June 2, 2020, in relation to an Officer Involved Shooting.

Specifically, the case involves the handling of a windshield from a City Police vehicle that was not preserved after an on-duty Vallejo Police Officer shot through the windshield, fatally wounding a suspect. The Vallejo Police Investigation for the Officer Involved Shooting is case number is 20-06322.

The complainant, [REDACTED] notified me verbally of the alleged allegation and also provided a written Complaint (**Attachment A.**) The written notification is a printout from the Department's Administrative Investigation software, IA Pro, which tracks and categorizes complaints and their status. I received a copy of this written Complaint from Lt. Robert Knight of the Vallejo Police Department.

This Report is not intended to be a comprehensive recitation of the evidence. Instead, it provides an overview of the investigative methodology, credibility determinations, and a summary of the investigative analysis and findings. The investigative Report does not provide recommendations based on any findings.

II. INVESTIGATION SCOPE

Based on the Complaint, I was retained to determine if Lt. Fabio Rodriguez violated Department policy by mishandling evidence from a crime scene, including allowing items to be destroyed without proper authorization, and failing to properly preserve items for later examination. Based on the written and verbal complaint I received from [REDACTED] I conducted an administrative investigation into the alleged allegation to provide factual findings regarding the following:

1. Lexipol Policy #306 – Officer Involved Shootings and Deaths;
2. Lexipol Policy #321 – Standards of Conduct; and
3. Lexipol Policy # 801 – Property and Evidence.

This serves as the Confidential Investigative Report ("Report") related to the Complaint against Lt. Rodriguez as defined by the above scope.

This investigation is being conducted simultaneously with IA-2020-09. In that case, Lt. Michael Nichelini is listed as the subject Officer, as it is unclear if Lt. Rodriguez, Lt. Nichelini, or both made the decision to have the windshield replaced and not preserved. This investigation is looking into the same allegation(s) as IA-2020-09, the destruction of a windshield from a Police vehicle, that was damaged during an Officer Involved Shooting case. Statements obtained in IA-2020-09 are copied and pasted in this Report.

III. SUMMARY OF FINDINGS

Based on the preponderance of evidence, including credibility, I made the following finding:

- Did Lt. Rodriguez mishandle property/evidence from a crime scene that occurred on June 2, 2020, in relation to the Vallejo Police Investigation 20-06322, violating the Officer Involved Shootings & Deaths Policy, the Standards of Conduct Policy, and/or the Property and Evidence Policy in an incident involving the handling of a windshield from a City Police vehicle impacted by a weapon discharged by an on-duty Vallejo Police Officer, fatally wounding a suspect? FINDING: **Sustained**.

IV. METHODOLOGY

This Report contains detailed information, witness accounts, relevant documentation, analyses, and findings relating to the allegation. It is anticipated this Report will be maintained confidentially by decision-makers and will not be disseminated except as required by law or as determined by the Office of the City Attorney for the City of Vallejo.

To better understand the allegation, I contacted Chief Williams on or about July 19, 2020. I developed a list of witnesses based on the narrative given to me by Chief Williams. With the assistance of Lt. Knight and Interim Assistant Chief Joe Allio, subject Officers and witnesses were served their individual notices of interviews.

Prior to conducting interviews, I informed witnesses of this investigation and notified them that they were protected by, and subject to, governing policies prohibiting retaliation for participating in the investigation. The rights of all parties were carefully considered to ensure fairness. I recorded the interviews and had them transcribed. (Interview transcripts for the witnesses and the two subject Officers are included in this report as **Attachments W through Z**.)

Quotations in this Report are not verbatim recitations of witnesses' statements but are cited as accurately as possible from interview transcripts and interview summaries created from my written notes, unless otherwise stated.

A. Witnesses and Evidence

The following interviews were conducted:

Name of Interviewee	Title	Relationship to Respondent	Date of Interview
		Complainant	August 12, 2020
		Witness Officer	August 25, 2020
		Witness Officer	August 25, 2020
Fabio Rodriguez	Lieutenant	Subject Officer	September 3, 2020
Michael Nichelini	Lieutenant	Subject Officer	September 3, 2020

B. Documents

I reviewed relevant documents including interview transcripts and summaries. This Report does not purport to include every detail described by witnesses or specified in documents. Instead, I assessed the important facts as they pertain to the specific allegation within the scope of the investigation. Documents I relied upon are listed in the chart below.

Attachment	Document
A	Written Internal Complaint from IA Pro printout IA-2020-10 for Lt. Fabio Rodriguez
B	Notices of Interview for Lt. Fabio Rodriguez
C	Administrative Rights Advisement for Lt. Fabio Rodriguez
D	Written Internal Complaint from IA Pro printout IA2020-09 for Lt. Michael Nichelini
E	Notice of Interview for Lt. Michael Nichelini
F	Administrative Rights Advisement for Lt. Michael Nichelini
G	Questions for Witness and Subject Officers
H	Witness Interview Notices
I	Lt. Fabio Rodriguez Training Records
J	Lt. Fabio Rodriguez Lexipol Acknowledgement Records
K	Lexipol Policy #103 Policy Manual
L	Lexipol Policy #306 Officer Involved Shootings & Deaths
M	Lexipol Policy #321 Standards of Conduct
N	Lexipol Policy # 801 Property and Evidence
O	Officer Involved Fatal Incident Protocol County of Solano
P	City of Vallejo Oath of Office Lt. Fabio Rodriguez
Q	City of Vallejo Police Lieutenant Job Description
R	Property List for Case 20-06322
S	Repair Quotes Obtained by [REDACTED]
T	Public Records Act Requests and Relative City Email
U	Copies of Sketch and Text Messages Provided by Lt. Michael Nichelini and Lt. Fabio Rodriguez at their interviews
V	Transcribed Interview of [REDACTED]
W	Transcribed Interview of Lt. Michael Nichelini
X	Transcribed Interview of Lt. Fabio Rodriguez
Y	Transcribed Interview of [REDACTED]
Z	Transcribed Interview of [REDACTED]

C. Evidentiary Standard

The findings in this Report do not reach questions of law, but instead address the factual basis (or absence thereof) for each allegation.

I reviewed, compared and analyzed the evidence to determine whether the allegation was with or without merit under a preponderance of the evidence standard. The preponderance was

on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. The standard was qualitative, not quantitative. I drew conclusions from the totality of the evidence, a thorough analysis of all the facts and, where necessary, credibility determinations.

The following terminology was used to describe the findings:

- **Unfounded** – The investigation established that, more likely than not, the allegation was not true.
- **Sustained** – The investigation established that, more likely than not, the allegation was true.
- **Exonerated** – The investigation established that, more likely than not, the alleged conduct did not occur, or the individual named in the complaint was not involved in the conduct, or the alleged conduct occurred and was justified.
- **Not Sustained** – There is insufficient evidence to determine whether, more likely than not, the alleged conduct occurred or did not occur.

D. Independence

I was given discretion by the Office of the City Attorney, the Vallejo Police Department, and the City of Vallejo to conduct this investigation as determined to be necessary, with no attempt to influence or direct the outcome of the investigation.

V. FACTUAL BACKGROUND

A. Agency Name and Information

The City of Vallejo was founded in 1851 and was later incorporated in 1868. The City population according to the 2010 census was at 115,942 residents at that time, and is located in the County of Solano. The municipal government is a Mayor-Council form of government with the mayor being elected by the voters.

The City of Vallejo is a full city municipality providing numerous municipal services including a Police Department, with a Chief of Police providing oversight. The Police Department's mission statement is: "To provide professional law enforcement services that enhance, protect, and promote the quality of life for persons residing, visiting, or doing business in the City of Vallejo."

The Department is staffed with approximately 90 sworn and 30 non-sworn personnel serving their community. There are several divisions within the Department that include Traffic, Investigations, Patrol, and Records.

B. Undisputed Facts

Certain facts relevant to the allegation were undisputed. I corroborated the following facts by reviewing documents provided to me and interviewing the witnesses.

- FACT: On or about June 2, 2020, a sworn Police Officer with the City of Vallejo discharged his duty weapon in the City of Vallejo through the front windshield of a Vallejo Police Department vehicle, an unmarked Ford F150 truck, vehicle #118, fatally wounding a suspect.
- FACT: Numerous investigative personnel were called to the scene to assist in the investigation, which included Lt. Nichelini, Lt. Rodriguez, [REDACTED]
- FACT: The Vallejo Police Department provides professional policing services in the City of Vallejo.
- FACT: Sworn Police Officers within the Vallejo Police Department have completed the basic course of instruction under the Peace Officer Standards of Training (P.O.S.T.) and are in compliance under Penal Code Section 832(a).
- FACT: Lt. Rodriguez and Sgt. Mustard are the ranking Officers in the Investigations Division for the Vallejo Police Department and were responsible for the investigation for the Police Department.
- FACT: There is a Solano County Officer Involved Shooting Protocol and the Vallejo Police Department has adopted those protocol standards.
- FACT: The Vallejo Police Department is governed by a Lexipol Policy Manual as its policy and procedures manual.
- FACT: The Solano County Officer Fatal Incident Protocol was implemented in this incident.
- FACT: The windshield that was shot through by a Vallejo Police Officer fatally wounding a suspect on June 2, 2020, was replaced by the City of Vallejo at the direction of the Vallejo Police Department and was not preserved.
- FACT: Lt. Rodriguez authorized the replacement of said windshield.
- FACT: Lt. Rodriguez is the commander of the Investigations Division for the Vallejo Police Department.
- FACT: At the direction and approval of Lt. Rodriguez, [REDACTED] had the windshield replaced by the City of Vallejo Maintenance Department at the City's Corporation Yard.
- FACT: Lt. Nichelini, Lt. Rodriguez, [REDACTED] are all sworn members of the Vallejo Police Department and were working during the course of this investigation.

VI. SUMMARY OF ALLEGATIONS AND WITNESS ACCOUNTS

A. Allegation

Did Lt. Rodriguez mishandle property/evidence and fail to preserve an item from the scene of a crime that occurred on June 2, 2020, in relation to the Vallejo Police Investigation 20-06322, violating the Officer Involved Shootings & Deaths Policy, the Standards of Conduct Policy, and the Property and Evidence Policy in an incident involving the handling of a windshield from a City Police vehicle impacted by a weapon discharged by an on-duty Vallejo Police Officer, fatally wounding a suspect?

B. Summary Statement of [REDACTED]

[REDACTED] was interviewed on August 12, 2020. [REDACTED] first became aware the Police vehicle windshield involved in this case was replaced and destroyed was when he received an email from Randy Risner of the Vallejo City Attorney's Office informing him of this fact. Mr. Risner informed [REDACTED] that an attorney who is representing the family of the suspect who was shot and killed by Police in this specific incident had filed a preservation order, which included a request for preservation of the windshield from the Police vehicle, the unmarked F150 truck, vehicle #118. The order asked that the windshield and other items be retained for examination.

Prior to the communication from Mr. Risner [REDACTED] was unaware the windshield had been replaced and the bullet damaged windshield destroyed. Based upon his training and experience, he had anticipated that this windshield evidence would have been preserved as a matter of practice. After learning that the windshield had been destroyed, he directed Captain Jason Potts to determine what had occurred with the windshield evidence and whether the windshield could be recovered from the disposal location.

According to [REDACTED] Captain Potts communicated with Lt. Rodriguez, who is the Commander of the Police Department Investigations Section. Captain Potts reported that Lt. Rodriguez told him that Lt. Mike Nichelini called Lt. Rodriguez and asked him, what he wanted to do with the truck. Apparently, Lt. Rodriguez authorized Lt. Nichelini to go ahead and repair the truck.

[REDACTED] was unaware if Lt. Nichelini and Lt. Rodriguez had discussed the importance of the preservation of the windshield relative to the crime being investigated, Justifiable Homicide, 192 PC, or its potential civil ramifications. Captain Potts did not investigate as to the alleged conduct, nor did he conduct any interviews of staff involved in this matter because he knew an investigation would be conducted and he could not interrogate the Officers without violating their POBOR rights.

For complete details of the interview, please refer to the interview recording and the attached transcript. (Attachment V.)

C. Summary Statement of Subject Officer Lt. Michael Nichelini

Lt. Nichelini was interviewed on September 3, 2020, in the presence of his legal counsel, [REDACTED]. Lt. Nichelini is the fleet manager for the Police Department and is the manager in charge of the Traffic Division.

On June 2, 2020 Lt. Nichelini was called while at home and asked to respond with his assigned staff and assist with the investigation of the Officer Involved Shooting. Lt. Nichelini was asked to assist in ensuring the scene diagram and measurements were completed.

According to Lt. Nichelini, the Department possesses and utilizes scene diagram equipment known as "A Total Work Station." The system is routinely used to take measurements for vehicle collisions. This tool is also utilized for homicide cases and specifically for any Officer Involved Shootings. A Total Work Station is an electronic, optical instrument used in surveying that uses computer technology to reconstruct accident or crime scenes.

At no time on June 2, 2020 did Lt. Nichelini process or examine the Vallejo Police vehicle with the damaged windshield (vehicle #118), a gray Ford F150 truck assigned to a specialized unit in the Department. He stated that he did not take photographs or examine the vehicle while on site during this event. Lt. Nichelini was unaware which Vallejo Police Department official was in charge of the crime scene, but he assumes based upon his experience as a Detective, the Investigations Lieutenant or Sergeant would have been ultimately responsible for activities at the scene.

Lt. Nichelini also stated he was not involved in discussions regarding how to process and examine the Police vehicle #118. His assignment that evening was to conduct scene measurements only. Lt. Nichelini was not involved in the decision to remove the vehicle from the scene. That conversation occurred between Lt. Rodriguez and [REDACTED] over the phone. At no time did any staff member consult with Lt. Nichelini regarding the decision to replace the windshield, nor did he ask or direct staff to replace the windshield. Lt. Nichelini oversees the Traffic Division and this vehicle is not within the Traffic Division's responsibility.

Lt. Nichelini stated he had no knowledge of, nor did he participate in any of the decision-making involving replacement or removal of the windshield. According to Lt. Nichelini, he had no knowledge the windshield had been replaced until he participated in a Zoom meeting on or about July 15, 2020 with the City Attorney's Office when they were addressing [REDACTED]. According to Lt. Nichelini, in this Zoom meeting, he was asked by Assistant City Attorney Kaitlyn Knight if he could provide any information regarding the windshield replacement on vehicle #118. Lt. Nichelini told her in this meeting that he was unaware of what had occurred with the windshield, and had not been told by anyone in the Police Department that the windshield had been replaced. Lt. Nichelini said that at no time did he discuss the windshield replacement with Lt. Rodriguez or [REDACTED].

For complete details of the interview, please refer to the interview recording and the attached transcript. (Attachment W.)

D. Summary Statement of Subject Officer Lt. Fabio Rodriguez

Lt. Rodriguez was interviewed on September 3, 2020, in the presence of his legal counsel, [REDACTED]. Lt. Rodriguez is the Investigations Commander overseeing the Investigations Division for the Police Department. He was being interviewed as a Subject Officer and in relation to the same allegation listed in this Complaint that is also being investigated in [REDACTED] 2020-09.

Lt. Rodriguez was not on-duty on June 2, 2020, the night of the Officer Involved Shooting incident at issue in this matter. He recalled that he was contacted at home by phone and asked to respond and assist in the investigation. Lt. Rodriguez represented the Vallejo Police Department as the venue agency in the Solano County Officer Involved Shooting Protocol. As the Lieutenant assigned to the Investigations Section, he would have ultimate oversight and responsibility of the investigation over the Officer Involved Shooting case, #20-06322.

According to Lt. Rodriguez, he worked with and coordinated the investigation with District Attorney Chief Investigator Andre Charles. Prior to responding to the crime scene, Lt. Rodriguez and Sgt. Mustard led a briefing identifying assignments that needed coverage and assigning team members to those specific tasks. Chief Investigator Andre Charles was also in attendance at this briefing.

Once the crime scene investigation was complete, Lt. Rodriguez received a phone call from [REDACTED] asked Lt. Rodriguez for permission to remove vehicle #118 from the crime scene. Lt. Rodriguez authorized removal of the vehicle. [REDACTED] had the vehicle driven to a City-owned secured area at the Police Department.

Approximately two days after transporting vehicle #118 from the crime scene, Lt. Rodriguez received a second phone call from [REDACTED] seeking permission to replace the damaged windshield. Lt. Rodriguez stated that he "didn't think twice" about giving [REDACTED] permission to have the windshield replaced, as he determined there was no "evidentiary value" to the windshield, as it had been thoroughly photographed and processed at the incident scene.

I asked Lt. Rodriguez if he spoke with Andre Charles or other officials from the District Attorney's Office seeking permission to replace the windshield. Lt. Rodriguez responded that he did not consult the District Attorney's Office prior to giving this authorization. I also asked Lt. Rodriguez if he consulted with the City Attorney's Office seeking permission to replace the windshield or about preserving the windshield for any future civil litigation. He responded that he had not.

As a Police Lieutenant, Lt. Rodriguez told me he understood his role and responsibility in supporting the City of Vallejo involving incidents with potential civil repercussions, along with his responsibility for conducting criminal investigations. Lt. Rodriguez has significant experience as a lead investigator, and has preserved and collected physical evidence and testified regarding that evidence at jury trials. Lt. Rodriguez has also coordinated with attorneys seeking to examine evidence prior to trial.

Lt. Rodriguez confirmed that Lt. Nichelini was not involved in his decision to replace the windshield. Lt. Rodriguez had no discussions with, nor did he receive any influence from Lt. Nichelini regarding disposing of the windshield and placing a new windshield in vehicle #118. Lt. Rodriguez took no steps to preserve the windshield for future examination and was solely responsible for the decisions involving this evidence.

Lt. Rodriguez cited past practice of the Vallejo Police Department in both homicides and other Officer Involved Shooting incidents as examples for not preserving the windshield. In those cases, windshields and doors had been damaged and they were not preserved.

For complete details of the interview, please refer to the interview recording and the attached transcript. (Attachment X.)

E. Summary Statement of Witness Officer [REDACTED]

[REDACTED] was interviewed on August 25, 2020. He is a Witness Officer and was not represented by counsel during the interview. [REDACTED] is the supervisor in charge of the Investigation Division and was the on-scene supervisor in charge of the crime scene investigation at Walgreens where the Officer Involved Shooting occurred on June 2, 2020, Vallejo Police Report 20-6322.

[REDACTED] was called at home and notified of the incident by an on-duty detective. [REDACTED] immediately began to deploy City of Vallejo resources not already involved with other calls for service. He notified Lt. Rodriguez of what had occurred and the serious incident of an Officer Involved Shooting. [REDACTED] responded and while in response, deployed crime scene personnel as additional resources were needed.

Based on the City's Officer Involved Shooting Protocol, [REDACTED] conducted a briefing at Police Department headquarters and made specific assignments. Present during this briefing were individuals representing the Solano County District Attorney's Office and the City of Vallejo City Attorney's Office.

[REDACTED] assigned Corporal Joe McCarthy and Evidence Technician Stephanie Dailey to process photograph and examine vehicle #118 at the scene. According to [REDACTED] there is no question in his mind regarding who was in the vehicle. There was no question in his mind concerning where people were sitting in the vehicle as it relates to where they were sitting at the time of the shooting. He was not fingerprinting or taking swabs for DNA, and there was no concern about putting people in the vehicle. Additionally, there was no concern as to the location where the car was physically at the time of the shooting, or where it came to a stop. These issues were not a concern to [REDACTED] because it involved Vallejo Police Officers. Once the Police truck was processed, he gave no direction as to where it should go and did not know where it went once the scene was released.

[REDACTED] was asked if he consulted with the District Attorney's Office on the release or preservation of the windshield evidence. He did not, and was not aware if any other individual at the scene had communicated with the District Attorney's Office regarding the windshield. He was unaware when the windshield was repaired and was not consulted prior to it being destroyed and replaced.

According to [REDACTED] he believed that the windshield had no "evidential value" to the facts of the case. He does not know how the windshield would be valuable as evidence, when no other factors are in dispute and the vehicle and windshield were properly photographed and processed at the scene.

According to [REDACTED] he does not believe there is any dispute with regard to who fired a weapon at the suspect. He does not believe there is any dispute concerning who was present in vehicle #118. Additionally, he believes that the number of rounds fired is not in dispute. Lastly, he does not believe there is any dispute regarding to who was shot and who did the shooting.

[REDACTED] then cited numerous past examples of homicides and Officer Involved Shootings that involved vehicles, vehicle windows, doors, and windshields being damaged and destroyed by bullet fire. He is unaware of any similar case where the door or window was retained as evidence in an Officer Involved Shooting. In one example cited by [REDACTED] in 2011, a Vallejo Police Officer was murdered while in the line of duty. The Police Department still has a vehicle that was taken as evidence in that particular case. It was a car chase, and the vehicle is a piece of evidence. It was actually shown to the jury during court processes. That conviction is six years old and they still have the vehicle.

With regard to making property or evidence available for any type of review or examination for civil or criminal proceedings [REDACTED] indicated he has participated in these situations in the past. He stated that photographs were taken of the damaged windshield during the processing of the crime scene, and those photographs were booked as evidence.

For complete details of the interview, please refer to the interview recording and the attached transcript. (Attachment Y.)

F. Summary Statement of Witness Officer [REDACTED]

[REDACTED] was interviewed on August 25, 2020. He is a Witness Officer and was not represented by counsel during the interview. [REDACTED] is the supervisor in charge of the [REDACTED] and Police vehicle #118 is assigned to his unit.

[REDACTED] was on-duty the night of June 2, 2020. He was called to the Walgreens where the Officer Involved Shooting occurred. [REDACTED] was not involved in the Officer Involved Shooting and did not have a role in the investigation of it. He did not participate in any of the crime scene work that included: photos, measurements, collection of evidence, or interviews.

During the course of the investigation [REDACTED] called Lt. Rodriguez to see if the truck was clear to be picked up from the scene. [REDACTED] then took Detective Kevin Barreto to the crime scene of the Officer Involved Shooting and Detective Barreto drove the Police vehicle, #118, back to the Police station.

[REDACTED] later called Lt. Rodriguez and asked if it would be okay to go ahead and replace the windshield of vehicle #118, since they were very short on undercover cars. After receiving authorization from Lt. Rodriguez to replace the windshield, [REDACTED] asked

Detective Barreto to make an appointment with Safelight to get the windshield replaced. This is confirmed by emails attached to this Report and a copy of the quote by Safelight. [REDACTED] later learned that the windshield was to be replaced at the City's corporation yard rather than Safelight, so the private vendor did not complete the repairs and the appointment was cancelled.

[REDACTED] said there was no concern from Lt. Rodriguez that the vehicle or the windshield would be needed for any type of criminal investigation or civil litigation. At no time did Lt. Nichelini or Lt. Rodriguez indicate that the truck itself or the windshield was evidence to any type of crime. [REDACTED] said there was no concern expressed to him by Lt. Rodriguez about the windshield being preserved for any civil liability associated with this incident.

[REDACTED] said he had no conversations with Lt. Nichelini about Police vehicle #118, and he does not know if Lt. Nichelini was even at the scene. In [REDACTED] mind, Lt. Rodriguez, has worked investigations almost his entire career, and to [REDACTED] Lt. Rodriguez is a subject matter expert. So, he wouldn't even second guess Lt. Rodriguez's decision to allow him to replace the windshield of the truck.

[REDACTED] reports directly to Lt. Rodriguez, and at no time did he consult with Lt. Nichelini about the replacement of the windshield, or take direction from him regarding that matter.

For complete details of the interview, please refer to the interview recording and the attached transcript. (Attachment Z.)

VII. ANALYSIS

After considering the evidence and items reviewed, I find that more likely than not, Lt. Rodriguez failed to fulfill his duties as a Police Lieutenant under the Standards of Conduct Policy #321 and within the City of Vallejo's job description when he approved the removal of the windshield from a City Police vehicle that was shot through by a Vallejo Police Officer, fatally wounding a suspect, and not preserving the windshield. Lt Rodriguez failed to provide proper foresight and direction to preserving the windshield for potential future examination in criminal or civil proceedings and had a duty as a risk manager representing the City of Vallejo.

In Lt. Rodriguez's statement, he indicated that he allowed the replacement of the windshield because he determined the windshield had no "evidentiary value." He cited past practice as examples for not preserving the windshield. He did not provide, nor was I able to obtain, any documentation from the California Penal Code or the California Evidence Code that would indicate a Police Officer has the authority to determine what items are of "evidentiary value" or not.

While Lexipol Policy, #801.6.4, Authority to Release Property, gives the Investigations Division the authorization regarding the disposition or release of all evidence and property coming into the care and custody of the Department, there were no risk management concerns or thought processes regarding the preservation of the windshield to mitigating future legal issues.

Lt. Rodriguez admitted that he did not consult with the District Attorney's Office or the Office of the City Attorney for the City of Vallejo prior to deciding to have the windshield replaced or preserve it. The City of Vallejo and the Police Department have sufficient storage capabilities to temporarily store the windshield, in itself, had it been removed and preserved. The only exigency cited for having the windshield replaced was by [REDACTED] who stated they were short on undercover vehicles.

While there were photographs taken at the scene of the damaged windshield while it was still intact, the windshield is now not available for examination. There were other items at the scene that were collected and preserved that did not dispute facts, while the windshield was not.

According to the current job description for Police Lieutenant for the City of Vallejo, examples of duties performed include, but are not limited to: supervises and participates in investigation and arrest in criminal and non-criminal cases. Additionally, a Police Lieutenant's duties are to confer with other personnel of the Department, officials of other city departments, or other public civic agencies on law enforcement problems. The Police Lieutenant qualifications are to have knowledge and abilities regarding the rules of evidence and the laws governing the custody of persons.

Under Lexipol Policy #306, Officer Involved Shootings and Deaths, specifically section 306.5, Criminal Investigation, the District Attorney's Office is responsible for the criminal investigation into the circumstances of any Officer Involved Shooting or death. Further, under the same policy, there is a response for civil liability as well. Specifically, under section 306.7, Civil Liability Response, "A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation. All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations."

Lt. Rodriguez admits to not checking with City Attorney's Office or the District Attorney's Office prior to getting the windshield replaced, even though they were available during and after this incident. As indicated in the Department's Standard of Conduct Policy, section 321.2, Policy: "The continued employment or appointment of every member of the Vallejo Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action." Section 321.4, General Standards, states: "Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority. Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty."

By failing to follow and fulfill the duties and responsibilities in the Vallejo Police Lieutenant Job Description, the following policies are determined to be violated. Under the Standards of

Conduct Policy #321.5.6, Efficiency: "(b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse." A shortage of undercover vehicles is not a reasonable and bona fide excuse to replace and not preserve the windshield.

These unsatisfactory performance standards additionally are covered under Lexipol Policy, #321.5.7, Conduct; "(m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members."

The fact that Lt. Rodriguez failed to consult with outside resources that were available and the inability to have proper foresight in a role as a Police manager has resulted in a situation that has now reflected unfavorably upon the Vallejo Police Department. Even though past practice may dictate procedure, it does not necessarily mean current procedure and practice is correct based on past practice.

VIII. CREDIBILITY

Prior to making a determination as to the allegation, I assessed the credibility of [REDACTED] Lt. Nichelini, Lt. Rodriguez, [REDACTED] where credibility was relevant to my findings.

In general, the I found no reason to question the participants' credibility. Participants were forthright and cooperative, maintained consistent demeanor, and were without apparent bias. I attributed disputes over specific incidents or statements to varying perceptions and recollections of what occurred or was said on a particular occasion.

There was one item that alerted me during my interviews that is worth mentioning regarding a statement/comment made by both Lt. Rodriguez [REDACTED] When asked why they did not collect or preserve the windshield as evidence, they both stated the item had "no evidentiary value." While this did not completely sway my opinion in assessing their credibility, the common thread in them both making this statement was ironic, since [REDACTED] reports to Lt. Rodriguez. Overall, I found no other compelling reason to question their credibility.

In assessing the participants' credibility, I used the below-listed criteria:

- (1) Inherent plausibility (or implausibility) of each witness' respective view of the facts and whether his or her version of the facts makes sense or seems reasonable or probable;
- (2) All corroborating documentation (**Attachments A thru Z**) submitted by the Police Department was consistent with the statements of the subject Officers and various witnesses;

- (3) Respective witnesses' potential motivations (or lack of motivation) to falsify their witness statements (based on the existence of a bias, personal or financial interest, or other motive);
- (4) Witness statements were consistent throughout their respective interviews;
- (5) All statements were compelled under Lybarger with the possibility of discipline, up to and including termination if they did not cooperate;
- (6) The extent the witnesses and subject Officers were able to perceive, hear, see, recollect, or communicate the matter, as it was occurring; and
- (7) The manner of answering questions during the investigative interviews, such as, evasiveness, hesitations of speech, and indirect answers (especially when the witness has given direct answers to foundational questions).

According to the statements of witnesses and the subject Officers, the complainant in this manner, [REDACTED] had no apparent motive to falsify the allegation, and none of the witnesses questioned or mentioned his credibility.

IX. FINDINGS

On June 2, 2020, Officers from the Vallejo Police Department were involved in an Officer Involved Shooting incident in the City of Vallejo. The Officer involved discharged his duty rifle at the suspect through the front windshield of a City of Vallejo-owned Police vehicle. Subsequent to the investigation of this incident, the windshield was replaced and the damaged windshield was destroyed and not preserved as property or evidence, therefore making it unavailable for future examination. While photographs are available, the actual item is not.

My scope of work included a complete review of all documents that included; but were not limited to, the following: witness interviews, review of evidence documents, policies from the Vallejo Police Department, subject Officer interviews, County shooting protocols, Officer actions, job descriptions, and training documents.

I reviewed Lt. Rodriguez's actions to determine if there was a violation of Department Policy #306, Officer Involved Shootings and Deaths; Policy #321, Standards of Conduct; and Policy #801, Property and Evidence.

I reviewed, compared, and analyzed the evidence, including credibility determinations, to find whether the allegation was with or without merit under the preponderance of the evidence standard. My findings did not reach questions of law, but instead addressed the factual basis (or absence thereof) for the allegation.

After analyzing the evidence provided relevant to the allegation, I made the following findings regarding the Complaint:

- Did Lt. Rodriguez mishandle property/evidence from a crime scene that occurred on June 2, 2020, in relation to the Vallejo Police Investigation 20-06322, violating the

Officer Involved Shootings & Deaths Policy, the Standards of Conduct Policy, and/or the Property and Evidence Policy? Specifically, with regard to the handling of a windshield from a City Police vehicle that was shot through by an on-duty Vallejo Police Officer, fatally wounding a suspect. FINDING: **Sustained**.

Specifically, sections:

- Lexipol Policy #306, Officer Involved Shootings & Deaths;
 - ♦ 306.7 Civil Liability Response;
- Standard of Conduct Policy, section 321.2 – Policy
- Standards of Conduct Policy, section 321.4 – General Standards;
- Standards of Conduct Policy: section 321.5.6, Efficiency: (b) “Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse”; and
- Unsatisfactory performance standards additionally are covered under Lexipol Policy, #321.5.7 Conduct; (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

These findings are based on the totality of the circumstances, including such factors as the evidence gathered during the investigation, witnesses’ descriptions of events and conduct, and credibility analyses.

These findings do not reach questions of law, but address whether the alleged actions and conduct, more likely than not occurred, and if they occurred, whether they violated Department or City Policies.

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This concludes the investigation.

Respectfully Submitted,



Rudy Escalante
California BSIS Private Investigator License PI188047