



**ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATION**

SA 19-006

INTERVIEW REPORT

CASE NAME: RODRIGUES, RICKEY HOWARD FELIX

CLASSIFICATION: OFFICER INVOLVED SHOOTING (NON-FATAL)

INTERVIEW OF: STEVEN HERNANDEZ, POLICE OFFICER
ANAHEIM POLICE DEPARTMENT

PRESENT: JOHN MCCLINTOCK, DETECTIVE
ANAHEIM POLICE DEPARTMENT

JULISSA TRAPP, DETECTIVE
ANAHEIM POLICE DEPARTMENT

AMY JOHNSON, ATTORNEY
RAINS, LUCIA, STERN, ST. PHALLE, & SILVER

DATE AND TIME: 03/20/2019 1241 HOURS

LOCATION: ANAHEIM POLICE DEPARTMENT

On Wednesday, March 20, 2019, at approximately 1241 hours, Anaheim Police Department (APD) Detective JOHN MCCLINTOCK, APD Detective JULISSA TRAPP and I conducted a digital audio recorded interview of APD Officer STEVEN HERNANDEZ in the presence of his attorney, AMY JOHNSON at the above location. The following is a transcript of the interview:

LEGEND: ... Denotes pauses between words or phrases, incomplete sentences, stammering, etc. (Does not indicate missing words).
*** Denotes unintelligible conversation.
(Sic) Denotes precisely reproduced word.
*** (INAUDIBLE BACKGROUND CONVERSATION)

[BEGINNING OF INTERVIEW]

Investigator: D. MELNYK #251

David F. Melnyk

Approved By:

Stan Berry

Date of Report: 04/19/2019

Date: 4/22/2019

MELNYK: Today is May 20th, 2019. It is 1248 hours. I'm Investigator DAVE MELNYK of the Orange County District Attorney's Office on Special Assignment case number SA 19-006. I'm at the Anaheim Police Department to interview, your name sir?

HERNANDEZ: Officer STEVEN HERNANDEZ.

MELNYK: And he is represented by...?

JOHNSON: AMY JOHNSON, with Rains, Lucia, Stern.

MELNYK: And my partners on the case are...?

MCCLINTOCK: Detective JOHN MCCLINTOCK, Anaheim PD.

TRAPP: And Detective JULISSA TRAPP, Anaheim PD.

MELNYK: And is this a free and voluntary statement?

HERNANDEZ: Yes it is.

MELNYK: Has anyone from your organization ordered you to give a statement?

HERNANDEZ: No.

MELNYK: Does the fact that the Orange County District Attorney's Office is involved in this investigation make you feel like you have to give a statement?

HERNANDEZ: No,

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MELNYK: Okay. Let me get some preliminary questions here. Uh, your ID number sir?

HERNANDEZ: 2366.

MELNYK: And how long have you been an Anaheim police officer?

HERNANDEZ: Approximately two years and three months.

MELNYK: Have you worked for any other police organizations?

HERNANDEZ: I worked for the City of Downey Police Department.

MELNYK: And how long were you there?

HERNANDEZ: Uh, almost three years.

MELNYK: And what's your assignment here?

HERNANDEZ: I'm assigned to patrol.

MELNYK: Is there a team number or letter... (SPEAKING SIMULTANEOUSLY)

HERNANDEZ: I'm on...

MELNYK: ...or something?

HERNANDEZ: Yeah, Team 7.

MELNYK: Team 7?

HERNANDEZ: Uh, patrol.

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MELNYK: And what is Team 7?

HERNANDEZ: It's, uh, Friday dayshift, which is, uh, 6:00 am to 6:30 pm. Saturday, uh cover shift, which is 2:30 pm to 3:00 am the following day, and then Sunday, uh, nights, which is 6:00 pm to 6:30 am on Monday morning.

MELNYK: Okay. And, uh, so we're, we're here to talk about the incident that occurred on March 15th, which was Friday?

HERNANDEZ: Correct.

MELNYK: Okay. And was that your first day of your work week? I know it's your first official day, but you working overtime or anything leading up to that? Do yo-, that you recall?

HERNANDEZ: I was working a, a T.A.D. with burglary that week, which was Monday through Thursday, um, 7:00 am to 5:00 pm.

MELNYK: And what is T.A.D.?

HERNANDEZ: It's a Temporary Assignment Detail or Duty. Um, basically you work with a, a detail at the department for that week. It's kinda job shadowing. Kinda learn, uh, how that detail operates.

MELNYK: I see. Okay. And if you could just start at, um, how you became aware that there was an incident, and then just in a-, in as much detail as you can, just walk us through everything that happened.

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HERNANDEZ: Okay. So on Friday, March 15th, 2019, I was assigned to the Anaheim, um, Police Department Patrol Team 7. I had started my shift at, uh, 0600 hours in the morning.

MELNYK: Okay (WHISPERED).

HERNANDEZ: On that day I was wearing a, a Class B uniform similar to what I'm wearing right now. Um, I was driving a marked, uh, black and white, City of Anaheim, uh, police vehicle, um, with forward facing, uh, lights and siren. Um, that day, uh, I was by myself, it was one man unit, uh, Unit 126. Um, at approximately 1030 hours, uh, I was dispatched to the area of North and Pine, um, reference AOD, which is uh, Assist Other Department. Uh, I believe it was a Priority 2 call. Um, um, Dispatch advised that, uh, Station 18, which is the Orange County Sheriff's Department, um, had two, uh, 459, which is burglary suspects, um, in that area and requested assistance. Um, I asked Dispatch, did Station 18 want us to respond Code 3, lights and sirens to get there quickly, and approximately 15 seconds later Dispatch told me that I could respond Code 1, regular driving, and that Station 18 deputies have the two, uh, um suspects detained, um, NFD (No Further Details). So Officer FLEET was also dispatched to the call. At the time, uh, that area's considered uh, District 2. I was the only unit that was available in that district to respond to that call. So they had, uh, Officer FLEET who works District 1 respond as a backup officer. Um, when I got dispatched it was around, I

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was driving the area of, uh, La Palma and East, which is, it takes about three to five minutes normal traffic to get to North and Pine, just based off my two years working District 2. Um, that's why I asked if they wanted me Code 3. So when I did get on scene, um, I forgot to mention, as I was driving to the call Dispatch updated me and told me that Station 18 was on the northwest alley of North and Pine. So I arrived on scene, and, um, as I was going westbound on North Street I passed the east alley of the 800 block of North Pine, and I saw, um, two Station 18, um, patrol vehicles in the alley. Um, so then I gave the updated location to Dispatch to confirm the correct location. I told 'em that Station 18 was currently in the east alley of 804 North Pine Street. Uh, had to make U-turn to come back to the proper location, and, uh, I positioned my patrol vehicle, uh, in the alley facing northbound behind two marked Station 18, uh, patrol vehicles.

UNKOWN: (Sneeze) Bless you.

HERNANDEZ: Um, their vehicles were the Ford Explorers. They were both marked, uh, police vehicles with the Station 18, um, emblems, lights and sirens, and, um, there was four deputies wearing their, uh, issued green, um, patrol uniforms at the scene. Um, I saw the-, their two, uh, patrol vehicles facing north down the alley. One was slightly ahead. The other one was slightly behind, and there was a deputy at each door of each car. So two patrol cars, one deputy at each door, the doors open. As I walked up I

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saw a white, uh, Mitsubishi, um, SUV, an older model vehicle, facing southbound the alley, on the east side. Um, that location is like a, a garage. Well it's kind of, um, how do I explain this? It was kinda like a cove for the garage like a inlet that kind of extends in the alley, and I saw that white Outlander positioned facing southbound and uh, easterly direction. Um, and I saw a male, male Hispanic standing at the, outside the car on the driver's side, and I saw an additional male Hispanic standing on the passenger side of the car. Um, when I got there I was kinda confused because Dispatch had told me Station 18 advised that these two males were detained already. So my mindset was getting there that these two suspects were gonna be either A, handcuffed, or B, uh, seated on a curb, uh, detained. Um, I noticed that ther-, the four deputies on scene did not have their guns out. Uh, they were not giving commands to the suspect-, suspects, and one suspect just started walking away northbound the alley. Um, the deputies didn't give any commands to control him. Um, so I had just arrived on scene so right away I asked, uh, my Dispatch if they could expedite, um, responding units Code 3 based off the totality that, uh, Station 18 advised they had 459 suspects detained and now one was walking away. Um, I approached the deputy on the car farther to the west of the alley. Um, it was a Asian older deputy. Uh, I asked him hey, sir, I'm here. Um, what do we, what do we got? What's the crime? What do you need help with? And, uh, he was kinda hesitant, and he told me that he was unsure on the crime. That

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they were in the area and a passerby had flagged 'em down and told 'em that these two males are possibly involved in, uh, trying door handles in the area. Um, and that the, the males appeared, uh, 918, which means, um, acting crazy. Um, um, as the guy was walking away I asked them are you guys gonna attempt to detain or chase this guy? And they kinda look at me like hesitant, like we don't know, like we don't know what we have. So I got the impression that they're, um, didn't know what they were doing. Either they lacked experience. Um, just the way that they were approached, the way we're trained is if you're handling a 459 suspect, which is a felony you're gonna be doing a felony car stop with your guns drawn, and the four deputies on scene were just kind of, just standing there at the door not giving commands, to not have command presence, to not have control of the scene. Uh, two of them were-, actually came from behind the car while I was talking to that one deputy and they're just-, had their hands in their pockets, and were not even addressing the, the subjects, which, uh, made me concerned. 'Cause now we have a safety issue here. You have two suspect who are not properly detained. Um, so at that point I tell Dispatch the want, which is vehicle tampering, and that one suspect walked away, and that the deputies weren't gonna get involved. They couldn't confirm a crime. So just based off whether to handle the si-, situation I felt like it wasn't safe. Wasn't the proper way to handle things. So I told the deputies that, um, they could leave, and that when my back boss arrived on scene we would handle the situation

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our way. I thought that was the best way to deescalate the situation, um, because I didn't feel safe the way they were handling. Not to mention their cars are blocking the alley, their two cars. So I, I was parked way back there, I could even really see what was going on. So they took off, they went northbound through the alley of-, the east alley of Pine, and sh-, shortly after, maybe 30 seconds to a minute, Officer FLEET arrives on scene. At this point because of the way the deputy vehicles were parked in the alley my car was parked farther south, a good distance away where the, the white Outlander was. So Officer *** got on scene. I, uh, spoke to him, debriefed him on what, what I had. I told Officer FLEET that just based off the way the deputies were handling the call, the lack of safety, officer safety, I told 'em to leave and that we would handle it. Um, I told FLEET that just from watching the male from a distance he appeared 11550. He looked paranoid, um, there was no license plates on the vehicle from what I could see. Um, the two, two, uh, years of working District 2 I've recovered, uh, one or two stolen cars in that immediate area, and that's a high crime area. Um, which made me to believe that this vehicle's possibly stolen as well. Uh, based on the time of day there's no other cars in that alley. I knew that the residence-, um, there was houses that backed up to the alley, and based off my experience, um, people who burglarize residence during the day usually use the alley as a means of ingress and egress. It's a good way to hop over the backyard fence, go in the house without the public driving by and seeing what's

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going on. So just based off what I saw I told FLEET I think this car might be stolen. They may be, uh, involved in uh, vehicle burglaries, or resident-, residential burglaries in the area. And based off this guy's behavior, from a distance, he appeared like he was under the influence of drugs or alcohol. I told FLEET that the other guy had already walked off northbound on Pine, and the next major street, he had turned and I lost him. I don't know where he went. So I told FLEET, we have to do our due diligence, because this guys obviously not gonna leave. As I'm talking to FLEET, the car is still in the alley, the guy is still standing on the driver's side, um, door, and just kind of looking at us (SOUND OF RUSTLING PAPER). So I told him, I told FLEET, we would contact this guy, find out if we have a crime, um, um, make sure he's not wanted, and if anything, we'll kick 'em loose if he checks out okay. So at the time my car is, and Officer FLEET'S patrol car is pretty far away from where the Outlander is. Probably about three houses south in terms of distance in the alley. So I told Officer FLEET let's get back in our cars and just drive up closer to where the Outlander's parked, and then we'll get out and go contact him. That we have some type of cover in case something does happen. So, get back in the car, we drive up to the Mitsubishi Outlander. Um, my patrol vehicle is facing northbound the alley. The Outlander's facing southbound, and, uh, facing a easterling-, dir-, easterly, um, direction, um, by a garage, which makes it, um, hard for the male to come forward towards me. The only way he'd be able to contact us is get backtracked

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around the car and then come towards us. So I get out of th-, my patrol car. I give the male like commands to walk over towards me, and he immediately, uh, declines. I could see that he's a male Hispanic, wearing a d-, dark colored flannel. He's wearing a dark colored, uh, baseball style hat on, and he's standing directly behind the driver door, but behind the vehicle. The door's closed and it appears like the driver window is rolled completely down. From where he's standing, I could only see, um, probably mid waist up. Um, I cannot see his hands. So at that point I become concerned for my safety because as I'm taught in the Academy the hands kill. If you can't see the hands you can't control the situation. So I, I give commands to, uh, the male to, um, let me see your hands for officer safety reason, and he doesn't comply. Um, he starts mumbling words which I can't understand, and notice that his eyes are very large, he's kind of-, he's looking at me but then he's not looking at me, kin-, kinda sp-, he appears like spaced out, confused, um, paranoid, and, um, I continue to give him commands. Officer FLEET, I hear Officer FLEET give the guy commands and, uh, he refuses to show his hands. Um, at that point Officer FLEET, who's on the, the right side passenger door of my vehicle starts to walk up on the male. As he's walking up, I start to walk up as well to, to be his follow. The male, um, with his right hand I could see him like reach behind his back. I can't see the hand, but do see the motion of the arm go behind the back. So I, I yell at FLEET, he's reaching for something, and we both backtracked back to our patrol vehicles. At

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that point I, uh, broadcast on the, the radio that the subject is uncooperative. Um, that he placed his right arm behind his back. That it appears that he's-, he has a weapon of some type. Um, I asked for additional Unit, Code 1, and then I asked for a Sergeant. Um, my mindset was he's not going with the program, he's being uncooperative, may have a weapon, all signs are kinda leading towards a possible use of force. So I believed having a sergeant on scene there prior was, was best. Um, I continue giving commands. I told him, I told the suspect that I need to see your hands. I don't know if he had a weapon or not. I don't what you got behind your back. I need to see your hands. I told him that he was making me scared. That I was getting nervous, and that if he didn't show his hands he may get shot. Um, at some point during the interaction he mentioned the Second Amendment, and refused to come out (SOUND OF RUSTLING PAPER). Uh like I stated prior, um, he appeared 11550, under the influence of, of some type of drug. Just based on my training and experience of dealing dope, uh, people who use drugs he ap-, appeared paranoid, and he's unable to, to, to talk to me. He just kinda his speech is real like stumbled and couldn't unders-, understand what he was telling me. And so I continued to give him commands. I told him you're making me nervous. I need to see your hands. I need you come out with your hands up. Come around the vehicle. Come talk to us. He continued to refuse. I gave an addition update on the radio, stating that the suspect was still uncooperative, still refusing to show his hands, and mad. Then I

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also advised Dispatch that prior Station 18 advised me that, uh, the suspect was seen, um, trying door handles in the area, and that he appeared 918, and I told Dispatch that there was no plates on the car, and that it was a possible stolen vehicle. Um, at that point I heard the Tone on the radio go on. The Tone for our department means emergency traffic only, and it's a continuous, um, beep on the radio that lets other officers know that, um, emergency traffic only. So at that point, um, I believe every cop that was available in the area started driving towards the call to assist. Um, I continued to tell the male, let me see your hands. I need to see your hands. I don't know if, I don't know if you have a weapon behind your back. Um, I don't want to get shot. I don't want to shoot you, but you're making me scared. I continue to tell him to come out with your hands up. Um, at that point Officer VALDISERRI and Officer NGUYEN arrived on scene. I saw Officer VALDISERRI take the position to the rear-, driver's rear of my car, and he had a, a rifle slinged around his back, and I saw Officer NGUYEN, um, to the right side of, um, Officer VALDISERRI. I heard on my radio, um, Officer REAMS said that he was 97, and had the less-lethal shotgun. Um, I never actually saw REAMS there 'cause I was-, my, my attention was focused on the suspect behind the car. Um, and I continue to give commands, I need you to come out with your hands up, hands up high, come around the vehicle and come talk to us. I told him you're being detained. Um, at some point I even told the suspect, I don't know if the

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car is stolen, there's no plates. I need you to come out, you're detained, and continued to re- to refuse. Uh, at this point, um, I believe I heard on the radio someone ask for a K-9, and air ship. It wasn't me that requested it, but I believe I, I heard someone, um, req-, request those things. And, um, and then the male, um, retreated towards the rear passenger, I mean, the rear driver's side portion of the car. So now he's, he's still on the same side of the car, but now he's towards the back where the, the trunk area is at making it a lot harder to see him. Um, I believe the SUV had a window tint on the rear windows. So at this time I could only see his upper torso and his head, and he's still kinda he's looking at us, he's kinda bobbing his head from side to side. Um, I have no idea what's in hands, but I could see that his, his right arm is behind his back. Um, I believe that he, he was armed with some type a weapon. It's not normal behavior for a person to not want to come out from behind a car let alone have their right arm behind their back the whole time. At one point I did see his left hand momentarily and that was as he's trying to reach for something inside the, the driver window, but it was real-, very brief. He reached in and he brought it back to his waist. Um, so at that time we're on scene for approximately nine minutes. There's no, there's no rush to, to go in and get him at that time, 'cause we have him cornered. Just waiting for more resources to come. Um, I heard ALAN VALDISERRI ask for a unit to set up on a, a perimeter in case he did run. So we're kinda slowing things down. Um, it's been about

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nine minutes. The whole time I was giving him commands to come out, hands up. I need to see your hands, come talk to us. And the whole time he refuses. Um, and at that point, uh, I heard a gate open. So there's a gate just, the residence just north of where he was in the alley, a gate opened. I could hear the sound of a gate, and, uh, a female, probably in her early 20's appeared in the alley. She was wearing like a white tink-, white top, and dark color jeans, and as soon as she opened the gate and entered the alley, um, the male, uh, the male's attention turned to the female, and he started running towards her. So at that point I became in fear for the female. Um, I feared that the male was gonna r-, um, run towards her-, I mean he was running towards her. I fear that he was gonna grab her and possibly take her hostage, and just based off his behavior leading up to that, I had to believe that he was possibly armed with a weapon of some type, either a knife or a handgun. And so I saw Officer VALDISERRI run from the passenger side of my car, forward into the alley to chase after the m-, the male suspect. Um, I had, uh, my driver door was open at the time. I was standing on a wall behind it, so I had to run up, close the door and then run northbound in the alley to, um, assist Officer VALDISERRI. I wasn't gonna let him run after the male alone. And I was in fear that the male was gonna cause harm to the female and possibly take her hostage. As we're running, um, I temporarily lost sight of where the female went and where the male went, because I had to close my door and then reengage. Um, behind

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where the, uh, Mitsubishi Ou-, SUV is there is about a six foot wall with a gate that leads to the back of the residence. Um, as soon as I crossed the threshold of that gate, I was about the center, center alley at the time, I saw the same male suspect, um, by the garage in the backyard of that residence, in a shooting stance with a, a gray colored handgun in his hand. It was clearly a, a handgun, and the gun was pointed directly at me. Um, I was approximately 15 to 20 feet away from him, looking directly at him. Um, he's took a shooting stance. The gun was about chest high, and the barrel was pointing directly at me. Um, as soon as my mind processed that the gun was pointed at me, um, I fired one round at him, because I became in fear for my life. Uh, I thought that I was about to get shot. I was in fear for, um, Officer VALDISERRI'S life, 'cause he was running in front of me, and I was in fear for the safety and life of the, the female who had exited from the residence. 'Cause at that point I had, I lost track of where she was at because I was focused on the suspect, and I had the mindset that I was about to die. Um, as soon as I saw the gun my, my body tensed up, and I kind of, um, I cringed expecting to get shot. At the same time I fired one round, and immediately took cover. Um, after I took co-, took cover I saw Officer, uh, VALDISERRI run northbound and take the northwest wall of that residence with the rifle. Um, I immediately took cover just south of where that gate was. The gate was open approximately three to four feet at the time, and, um, on the radio I advised a 998, which means officer involved shooting. That the suspect

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had a, a weapon, and I could no longer see him in that, um, by the garage. He had, uh, hid behind the garage. We could longer see him. Um, at that time I saw Officers HORN, NGUYEN and JAMES LOPEZ on scene, and they were, uh, they had their guns out. They were at that-, the gate of that backyard residence, their guns drawn giving the suspect commands to, um, drop the gun. Um, I had noticed that on that residence, south of the garage, there was an additional gate and there was no officers, uh, providing, um, containment at that, that area. So based on the fact that we can no longer see him, and he's-, the suspect was hunkered down behind the garage with the gun, I went to cover that south, uh, gate in case he were to backtrack and come around and start shooting us. Um, I saw Officer REAMS in the alley and I directed him to assist me of covering that, that back gate. Um, and then, um, approximately a minute later, um, while I was still watching that south gate of the residence, uh, I heard officers go inside and say that he was detained. So I went back into the backyard of that residence. I saw the same suspect who had pointed the gun at me, uh, on the ground. He was handcuffed. I saw a gunshot wound to his upper right buttocks, and, um, I immediately went back to my patrol car to get, the, the medic bag. Each patrol car has a, a orange medic bag which has just basic, um, basic medic supplies. I got that, brought it back to the backyard and, uh, I observed Officer NGUYEN and Officer REAMS, um, escort the suspect, handcuffed, uh, from out of the backyard to the alley, because at that time we didn't

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know if that residence was secured. It w-, had not been cleared. So there was-, we had to clear that residence to be safe. Um, once we were in the alley I, um, opened the medic bag. I got out some, some gauze padding, opened it up, and handed it to Officer NGUYEN who, who rendered, uh, medical aid to the suspect, and, um, shortly after Care Ambulance arrived on scene in the alley, and started providing first aid to the suspect. Um, I heard on the radio, uh, Officer HORN advise that there was dogs inside the residence that still need to be cleared for safety reasons. Um, I s-, I saw the female that had, uh, initially ran out of the residence, um, standing in the alley just north of us. I asked her if, um, if there was anyone in the house. She told me no, there was just dogs, and then, uh, I had her coordinate with Officer HORN to come back to the residence to secure the dogs. That way officers could go inside and clear the residence. Um, I think that's about it.

MELNYK: Uh, so you only fired one round from your handgun if I'm understanding you correctly?

HERNANDEZ: Yes sir.

MELNYK: In wha-, what direction was that in?

HERNANDEZ: So at the time I was in the, the center alley, as soon as I broke the threshold of that residence where that gate was swung open...

MELNYK: Um-hmm.

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HERNANDEZ: ...um, I was, I was facing the backyard and I fired a round easternly (SIC) into that, that open gate area. Um...

MELNYK: Did you hear any other gunshots?

HERNANDEZ: I did, yes. I forgot to mention that. So as I was running up I saw Officer VALDISERRI with the rifle out, and, um, I heard gunshots. At the time I wasn't sure if it was the suspect firing or Officer VAL-, VALDISERRI firing the rounds, but I heard several gunshots, approximately four to six gunshots. Um, but I believe I was the one that fired the initial round at the suspect.

MELNYK: Okay. And, um, what was, uh, what was VALDISERRI carrying? What kinda weapon?

HERNANDEZ: He was carrying a, assault rifle.

MELNYK: Okay. And, um, that was a good description of what happened. I've go-, I'm gonna, uh, some things to clarify, uh, that I probably know what you mean but I just wanna make sure everybody knows what you mean. You said NFD when, uh, initially you got there, what does that stand for?

HERNANDEZ: Oh, No Further, uh, Details.

MELNYK: And 11550, what is that?

HERNANDEZ: Uh, some one that's under the influence of a controlled substance.

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MELNYK: Does that relate to some sort of a, a crime or a ca-, uh, a code?

HERNANDEZ: Yes. 11550 is, uh, a section where if a person's under the influence of a controlled substance such as methamphetamine, heroin, ecstasy, LSD in a public place.

MELNYK: Okay.

HERNANDEZ: Or they're unable to-, they're acting erratic and unsafe.

MELNYK: And yo-, you s-, you said that he, he appeared to be paranoid. Um, what led you to believe that?

HERNANDEZ: Um, so his eyes were wide, and very large, and he kept looking around like he's looking at the officers, um, but he wasn't, he wasn't talking to us. He wasn't making sense. The times he did speak it was very mumbled, hard to hear, and it wasn't making sense. He just kept looking, looking around, which made him seem paranoid to me.

MELNYK: And you mentioned he, um, said something about the Second Amendment? Um...

HERNANDEZ: Um-hmm.

MELNYK: ...did that-, what would that be? What is the Second Amendment? What does that mean to you?

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HERNANDEZ: It's the right-, his right to go, actually I can't recall right now what the exact definition of the Second Amendment. But basically when he, when he mentioned that he was referring to, um, his rights like we couldn't detain him, because I told him that you're detained, and he, he mentioned about the Second Amendment, um, meaning, from what I interpreted the situation was, we didn't have the right to stop him after I told him he's detained.

MELNYK: And you said he refused to come out, but did, did he actually say something that he was refusing or are you basing that he, that he just didn't comply or what?

HERNANDEZ: Based off his actions and not complying.

MELNYK: Okay.

HERNANDEZ: Um, he refused to come out and kept his hands, um, below his waist where I could not see 'em. He had that one r-, right arm behind his back, and he was refusing to comply with my commands for him to show his hands and then to come out and talk with his hands up.

MELNYK: So as opposed to verbally refusing, he's refusing by his actions, is that what you're, am I understanding you correctly?

HERNANDEZ: Yeah. Correct. I said...

MELNYK: Okay.

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HERNANDEZ: ...his actions.

MELNYK: And you may have said this already and I just didn't, you know, went somewhere else for a second or something. But, uh...

HERNANDEZ: Yeah.

MELNYK: ...what was the ta-, the time of this, the incident, approximately?

HERNANDEZ: Approx-, approximately 10:30.

MELNYK: 10:30 in the morning?

HERNANDEZ: Correct.

MELNYK: And you had an opportunity to review your body worn camera's fo-, prior to the interview?

HERNANDEZ: I did.

MELNYK: Um, was there anything there y-, I'm gonna try and differentiate between your recollection of the incident, and then viewing the body worn camera. So, uh, you know, it doesn't always reflect the same stuff. That's okay. I just want to know, is there anything that surprised you when you were looking at the body worn camera that was different from your perception or recollection of the incident?

HERNANDEZ: Uh, there was one thing I noticed. So like I mentioned earlier, uh, when the female exited to that gate, the male rushed at her, um, I temporarily

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lost sight of him, 'cause I had to closed my door, and then reengage. Um, I had lost sight of where the female had, had gone, 'cause I was so focused on where the male was, was going. Uh, after watching the, the body worn camera I saw that the female was directly, um, on the side a me, in between me and Officer VALDISERRI, directly inside the where the male was pointed (SIC) his handgun at me.

MELNYK: Okay. And you're indicating with your hand to your left, is that correct? The-, to your left side...

HERNANDEZ: Yeah. So...

MELNYK: ...with your hand?

HERNANDEZ: ...so I'm in the center of the alley...

MELNYK: Right.

HERNANDEZ: ...Officer VALDISERRI is in front a me, center of the alley, and the female was right in between us, but more towards the, the western portion of the alley. But she was directly inside the where the male was standing with the gun pointed at me.

MELNYK: Okay. And what-, when you say VALDISERRI was in front of you, you don't mean direct-, or do you mean directly in front of you? (SPEAKING SIMULTANEOUSLY)

HERNANDEZ: I mean in front of me in a north direction.

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MELNYK: So he was a little bit to your north?

HERNANDEZ: Yeah. So...

MELNYK: But closer to the fen-...

HERNANDEZ: Not, not in front a me, I think, direct, but...

MELNYK: Right.

HERNANDEZ: ...in front a me towards like north.

MELNYK: Okay.

HERNANDEZ: So the alley runs south to north. If I'm in the center of the alley, he's center of the alley as well but more north of me.

MELNYK: And are you guys kind of even with each other in the alley like in relationship to the fence or the gate, or is he forward, closer than you, do you recall?

HERNANDEZ: I believe I was a little bit farther back, slightly. Um, but we were both facing easterly towards where the threat was, the suspect with the gun, and but he was just more ahead a me in terms of distance, north in the alley.

MELNYK: I see. Okay. And, um, do y-...

HERNANDEZ: If I, if I could draw it, it'd be to explain. If that helps you.

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MELNYK: You're, you're doing a good job of explaining. That's fine. Um, the, uh, what-, you said you gave commands. Did anyone el-, was anyone else giving commands or were you, um...

HERNANDEZ: I did hear officers FLEET...

MELNYK: ...*** (SPEAKING SIMULTANEOUSLY)?

HERNANDEZ: ...initially give a comm-, command or two when we...

MELNYK: Okay.

HERNANDEZ: ...first contacted the, the suspect and he wasn't cooperative, and then towards the end, um, I heard Officer VALDISERRI. So when I told you that he, uh, at one point towards the end, um, went toward the rear driver's side, uh, more towards the rear of the car, Officer VALDISERRI started taking over commands because he had to get a better view of the suspect at that point or at, because he's-, now, now he's farther back behind the car and VALDISERRI is more east in the alley, so he had a better line of sight of him. So he started giving those last commands...

MELNYK: Okay.

HERNANDEZ: ...before the suspect actually ran a-, from us.

MELNYK: And you, you said the suspect took a shooting stance, can you describe that for us?

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HERNANDEZ: Yeah. So as soon as I broke that threshold in the alley where the gate was open and I could see directly through the open gate into the backyard of that residence, um, he was standing next to the end of, of the garage ends, inside the backyard, um, and he was facing westernly towards the alley. He was, he was standing, wasn't moving, and he had the gun out with the barrel pointed westernly, uh, at-, it's about chest high.

MELNYK: Okay. So, with two hands?

HERNANDEZ: I ca-, can't recall with-, if he had one or two hands.

MELNYK: Okay.

HERNANDEZ: My, my attention directly was focused on the gun once I perceived the gun. Um, but he was standing still, um, standing up, um, with the gun chest level and the barrel was pointed directly westernly at, at me, and I was directly in sight of him, where I could see him square on. Um, and that's when I perceived the gun. I expected to get shot. I thought I was gonna die. Uh, I was in fear for my life, VALDISERRI'S life, and the female who'd I lost track a where she went, and, um, I was expecting to get shot. Um, I kinda, kinda like tensed up and cringed, and then that's when I kinda fired the round at the same time, and I immediately got cover, 'cause I didn't wanna get shot.

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MELNYK: Okay. And, um, I already asked you the direction you were firing in. Did you uh, um, two handed grip on your pistol or a one handed grip? Do you recall?

HERNANDEZ: I cannot recall.

MELNYK: Did you recall seeing your sights?

HERNANDEZ: No. I just remember I'd have enough time to properly aim. I just from where my gun's at I just fired a round.

MELNYK: And, and at what point did you draw your gun from your holster?

HERNANDEZ: So my gun was already out while we're giving commands from the car. I had my, my gun out.

MELNYK: Okay.

HERNANDEZ: Um, and so when, so when he started running I started running after him my gun was in my right hand as I'm, as I'm running. So the gun's already drawn, at a low ready. And then as soon as I crossed that threshold of the gate, I see the gun pointed at me. I just come up, fire a round and take cover.

MELNYK: And when you fired the round you said you took cover. Um, describe that for me again, 'cause I'm not re-, understanding exactly where you went to.

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HERNANDEZ: So we're in, we're in the alley. It runs north and south. That residence, um, their backyard has a wall, and then has like a, a gated, uh, a gate, like a pedestrian gate that was opened so I could see through the residence. So as soon as I crossed the portion of the alley where the-, align-, aligned with that pedestrian gate that was open, um, I was in a area where I had no cover. So I was widely opened, he's pointing a gun at me, and I had nowhere to take cover. So after I shot the round, I went southbound back in the alley to get out of the line of sight, to get away from being in the open.

MELNYK: Okay.

HERNANDEZ: And then I went behind in the garage. Still in the alley but now I'm like at the garage as somewhat covered from being in that open area.

MELNYK: Okay. And s-, at that point could you still see the suspect?

HERNANDEZ: No, I could not see him anymore.

MELNYK: Okay. (PAUSE 40:34 TO 40:42). And then if I'm understanding you correctly, you went to the-, another gate that was further south of the garage, is that right?

HERNANDEZ: Yes. I'm right... (SPEAKING SIMULTANEOUSLY)

MELNYK: *** cover *** (SPEAKING SIMULTANEOUSLY)?

HERNANDEZ: ...same residence, um, the garage that leads to the alley...

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MELNYK: Um-hmm.

HERNANDEZ: ...there wa-, there was two gates. The north gate, south gate, and there, there was no one on the south gate, and at the time the suspect was in the backyard, on the east side of the garage, hiding with the gun still. So I wanted to go cover that south gate in case he were to backtrack and come to start shooting cops from behind.

MELNYK: And how do you know that that h-, that's where he was?

HERNANDEZ: 'Cause aft-, after I shot him, I looked back, the-, I come back to look and he wasn't there anymore, and, uh, I believe I heard a officer say he's behind the garage, behind the garage.

MELNYK: Okay.

HERNANDEZ: But I could no longer see him in that open entry.

MELNYK: Okay. And at some point other officers went up and actually detained him?

HERNANDEZ: Yeah. S-...

MELNYK: If I'm understanding you right?

HERNANDEZ: So I wasn't there for that part 'cause I was still covering that south gate.

MELNYK: Or, uh...

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HERNANDEZ: I'm kind of, say I have a containment at this point, and then I heard on the radio he's being detained, suspect's being detained. 'Cause that's when I...I already had known there was only one suspect. So I went, went back to go help.

MELNYK: Okay.

HERNANDEZ: Wen-, went into the backyard through that, that pedestrian gate and saw the suspect on the ground...

MELNYK: And where...

HERNANDEZ: ...in front of the garage.

MELNYK: ...oh, I'm sorry. And, um, yeah, I think you're just gonna tell me what ii was gonna ask you.

HERNANDEZ: Yeah. So he was lying on the ground...

MELNYK: Um-hmm.

HERNANDEZ: ...uh, ju-, where the garage is in the backyard just like a north easternly direction of the garage.

MELNYK: Okay.

HERNANDEZ: And he was handcuffed. But I didn't see when the officers, uh, cuffed him or...

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MELNYK: I wrote another word down here and I have absolutely no idea why I wrote it down. So, um, *** questions and I check some and stuff.

MCCLINTOCK: Sure, um, did you ever talk to the female, uh, that flagged down, uh, the Orange County Sheriff's Deputies?

HERNANDEZ: No. So when I talked to the deputies, um, initially I asked them if the RP was still, uh, at th-, at the scene, they said that she took off, or the RP took off.

MCCLINTOCK: Got it. So you never talked to her? (LOUD SOUND OF RUSTLING PAPER). Okay. And can you tell me about your training and experience related to stolen cars and burglaries?

HERNANDEZ: Yeah, so, um, stolen car is actually one a my, um, my niches as a patrol officer. Um, in my five year career I've recovered over, probably close to 200 to 300 stolen cars, or I've been involved in the recovery. Um, s-, um, usually with stolen cars, uh, the suspects take off the plates, license plates, in order to avoid police detection, or they put on but a, paper plates. Uh, they usually take older model vehicles because they're easier to take with a shaved key. Um, uh, just in my short time at Anaheim I've, I've recovered approximately 100 stolen cars, and based off that, that white SUV not having a front plate, being in the area where I've recovered one or two stolen cars, and it is a high crime area for stolen cars in that area. I've seen several Mission Sheets where, uh, they said

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that area of Harbor and North there's a lot a stolen cars. So, it's just all that together kinda helped me, um, made me believe that that was possibly a stolen car.

MCCLINTOCK: And you say Mission Sheet, can you explain what that is?

HERNANDEZ: A Mission Sheet is, um, it's basically a form that the department creates, um, every so often and it has high crime areas in the city, usually where there's a trend of crime occurring. So for example, the live in the area of Harbor and North h-, uh, there'll be a little, um, synopsis saying in the past two weeks the area Harbor and North there's been an increase of stolen cars. Typically they occur around, um, late, late night hours, um, and then basically the Mission Sheet, uh, allows the patrol cops to be aware of the problem in the area, and conduct extra patrol checks in that area during those times to try to eliminate that problem. So in the two years that I've worked in Anaheim I've seen several, uh, Mission Sheets that have come out with, uh, advising there's a high crime area, um, around Harbor and North, Harbor and Lemon, for stolen car-, stolen cars.

MCCLINTOCK: And is that passed out during briefing or discussed in briefing?

HERNANDEZ: Uh, it's discussed in briefing and then it's also on the My Anaheim Page. Um, or you could click it, and then, um, the PDF version comes up on your computer and it'll tell you the different Mission Sheets, and the different areas in crimes.

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MCCLINTOCK: And My PD, is that like a website that patrol officers or Anaheim Police Officers have access to, to...

HERNANDEZ: Yeah. It's... (SPEAKING SIMULTANEOUSLY)

MCCLINTOCK: ...see those things?

HERNANDEZ: ...it's a website that we're able to access on our, our computers that are issued to us, but it's a secured website. It's only, uh, available to Anaheim Police Department employees...

MCCLINTOCK: Got it.

HERNANDEZ: ...with police, uh, related information.

MCCLINTOCK: Okay. And when you saw that second suspect walk northbound, um, do you know where he went, or where did you lose sight of him?

HERNANDEZ: I, I saw him walk northbound, uh, out of sight once he hit that next major street, where the alley turned into a residential street.

MCCLINTOCK: Is that a east-west street or?

HERNANDEZ: It's a east to west street. I'm not sure of the name of that street.

MCCLINTOCK: Okay.

HERNANDEZ: But he went in-, that street and I lost sight of him.

MCCLINTOCK: Can you describe him for me?

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HERNANDEZ: Um, all I could say is a male Hispanic, probably his late 20s.

MCCLINTOCK: Okay. Did you see his face? Could you identify him?

HERNANDEZ: I saw him very brief, 'cause when I arrived on scene I saw him look at the c-, at the officers, the deputies, and then he immediately turned around and started walking away.

MCCLINTOCK: Okay.

HERNANDEZ: And from the distance I was at it was, it was pretty far away to a good, good look at him.

MCCLINTOCK: Okay. Do you remember what he was wearing by chance?

HERNANDEZ: I don't.

MCCLINTOCK: Okay. Um, but you never saw him again, so he was somewhere in the area s-, during this whole incident, is that correct?

HERNANDEZ: Correct.

MCCLINTOCK: And when you guys were giving the subject commands who was standing next to the car, um, was the alley was it loud with sirens or was it quiet? And can you tell me kind of how that was?

HERNANDEZ: From what I recall, the only noise you could hear is the, the traffic flow from, um, Harbor Boulevard, which runs north and south. It's one of the more, uh, busy intersections and or streets in the city. So you could hear,

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um, just regular traffic flow. Other than that it was quiet. It was just officers giving commands.

MCCLINTOCK: No one had their sirens on?

HERNANDEZ: There was no sirens on.

MCCLINTOCK: Was the helicopter on scene? Do you know?

HERNANDEZ: They were not.

MCCLINTOCK: They were not? Okay. And what about a K-9?

HERNANDEZ: Uh, I'd-, I never saw a K-9 officer. (LOUD SOUND OF RUSTLING PAPER).

MCCLINTOCK: Okay.

HERNANDEZ: But I did, I did hear, I believe I heard someone ask for one.

MCCLINTOCK: Okay. And when you, um, we'll fast forward to when you said you crossed that, uh, threshold and you saw the suspect pointing a gun at you and when you said you aimed, was it you pointed and aimed, uh, or did you use the sights?

HERNANDEZ: Uh, I just pointed my gun in the direction and shot.

MCCLINTOCK: Okay. And how far do you think you were from the suspect when you shot?

HERNANDEZ: Approximately 15 to 20 feet.

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MCCLINTOCK: *** (WHISPERED). Do you know who requested the Fire Department?

HERNANDEZ: I remember hearing, uh, Sergeant CUMMINGS after I broadcasted a 998, I believe I heard him on the radio ask to have Fire stage.

MCCLINTOCK: Okay.

HERNANDEZ: Prior to that I'm not sure if Fire was staged.

MCCLINTOCK: Okay. And after the sub-, suspect was detained, and, uh, he was in handcuffs, you said you went back to your police car to get a medical bag?

HERNANDEZ: Correct.

MCCLINTOCK: Was it immediately or did you pause for a second and assess? Uh, how long did it take you f-, from the time you saw the guy was detained to get to your car, do you know?

HERNANDEZ: So I went to the backyard. I saw the suspect handcuffed on the ground. I saw the gunshot wound, and, um, and once I-, it was determined it was Code 4, meaning he was handcuffed and the scene was somewhat safe right there, I noticed that there was no medical bag on scene and so that's when I immediately, I went back to my patrol and got the medic bag.

MCCLINTOCK: How much time do you think that is?

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HERNANDEZ: Um, it's pretty quick, 'cause once I got out of the backyard there's nothing for me to do in terms of helping out.

MCCLINTOCK: Um-hmm.

HERNANDEZ: So, as soon as I realize there is no medic bag I went to grab that right away.

MCCLINTOCK: Okay.

HERNANDEZ: So that, *** pretty quickly.

MCCLINTOCK: Okay. Um, what gun do you carry?

HERNANDEZ: Glock 17. Department issued.

MCCLINTOCK: Okay. It's a department issued? Okay, do you have a light on it or anything like that?

HERNANDEZ: I do.

MCCLINTOCK: Okay. And special sights or...

HERNANDEZ: No. Just department issued.

TRAPP: I just have one. Um, when you were describing when you crossed the threshold and you saw him, um, several times during the interview, I know you can't tell me what hand it was in, but you motioned that the barrel was pointed at you and you had your hands out. Could you tell if

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the suspect's, in his shooting stand, had his arms extended out towards you? And if you can't it's okay.

HERNANDEZ: From, from what I saw almost directly face on with him, and I *** I saw the gun and I just kind of zoned in and I couldn't really tell if it was extended but I just-, it was mid chest level pointed at me.

MELNYK: And I figured out. I had safety written down and, uh, I didn't know why it, did-, was there a safety statement, um, asked of you at some point?

HERNANDEZ: Yeah. Sergeant CUMMINGS, uh, came up to me and asked to give a safety statement, uh, he ordered me to give one.

MELNYK: Okay. And what was the safety statement?

HERNANDEZ: Uh, he asked me how many rounds did I fire, in what direction, and if there was *** (SPEAKING SIMULTANEOUSLY)...

MELNYK: Or, more what you said?

HERNANDEZ: I told him that I believed I fired one to two rounds, uh, in the direction of the house, and there was no, no suspects outstanding.

MELNYK: Okay. And you had a body worn camera on?

HERNANDEZ: I did.

MELNYK: Like e-, where, where, where was that located on your body?

HERNANDEZ: I, I keep it on my gun belt or right...

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MELNYK: *** (SPEAKING SIMULTANEOUSLY).

HERNANDEZ: ...in the middle or right here ***.

MELNYK: Okay. So and, uh, do you have any collateral duties here?

HERNANDEZ: Uh, I don't.

MELNYK: And how about at Downey? Did you have any collateral duties there?

HERNANDEZ: I did.

MELNYK: What, what were they? (SPEAKING SIMULTANEOUSLY)

HERNANDEZ: Um, I was, uh, on the Crime Impact Team, which was basically, um, like a plain clothes, where you wear like jeans and a exterior vest, and you're going in an unmarked car, and you would do a direct enforcement in, uh, areas of the city, which were, have high crime areas, so they would assign us to a certain area, say there's been a lot of gang activity in this area, and so you would, uh, go out and just look for people that were, uh, committing crimes.

MELNYK: And how long did you do that for?

HERNANDEZ: For approximate a, a year.

MELNYK: Okay. And, um, looking for what level at-, you were at with firearms. Are you, um, yo-, obviously all police officers get firearms training. Have you

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been to any instructor's schools, range master schools, anything like that?

HERNANDEZ: No. I haven't.

MELNYK: Okay. And are you taking any-, w-, at the time of the shooting on the 15th were you taking any prescribed medication, anything like that?

HERNANDEZ: No.

MELNYK: Any supplements, anything like that?

HERNANDEZ: No.

MELNYK: Okay. And d-, do you remember if you ate breakfast that morning?

HERNANDEZ: I did.

MELNYK: And you were dressed-, I think you asked-, d-, your-, you're dressed as you're dressed now, basically...

HERNANDEZ: Yeah.

MELNYK: ...in a...

HERNANDEZ: ...Cla-, Class B...

MELNYK: ...Class B...

HERNANDEZ: ...uniform.

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MELNYK: ...uniform? That's the way you were dressed and you were photographed that day or...

HERNANDEZ: Correct.

MELNYK: ...later that day? Um, do y-, did you carry a backup or just the, the handgun?

HERNANDEZ: I do carry a backup, but that day, um, I didn't.

MELNYK: Okay. And I think you said you were Unit 126. Is that your call sign or is that your unit number?

HERNANDEZ: Uh, call sign.

MELNYK: And do you recall what unit number you were driving?

HERNANDEZ: Um, I cannot recall.

MELNYK: Okay. Have you ever, uh, seen this guy before?

HERNANDEZ: Never seen him before.

MELNYK: Never encountered him?

HERNANDEZ: Or at least I didn't recognize him.

MELNYK: Okay. And if I'm understanding you correctly, initially you made contact with the Sheriff's Deputies, um, but at the time of the shooting it-, was it all Anaheim police officers, or were there any other officers present?

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HERNANDEZ: Yeah. I had told them they coul-, they could leave and that Anaheim would handle the call. So they had already left approximately ten minutes prior to that.

MELNYK: Okay.

HERNANDEZ: They left the scene.

MELNYK: And did you see any other civilians other than that female that you described earlier?

HERNANDEZ: So, I did notice when we were still at our patrol cars, giving him commands, in, in the alley, um, at one point I looked back to see who was kinda at, at the scene, and I did see people gathering on-, at the intersection of North and Pine, kinda like looking at what the police activity was, but it was a very quick glance.

MELNYK: Okay. And the-, do you the address to the residence?

HERNANDEZ: I don't.

MELNYK: Um, did-, does that residence face onto, um, Pine or does it face onto Harbor?

HERNANDEZ: So it's a, a Harbor Boulevard address. So it-, the residence faces east towards Harbor, but the alley that runs north to south is where the garage, um, the entry next to the garage, and the backyard it faces the alley, the east alley of Pine

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MELNYK: And where is Pine?

HERNANDEZ: Pine is the first, uh, north to south street west of Harbor.

MELNYK: And North Street?

HERNANDEZ: North runs east to west, um, on Harbor. Go down Harbor Boulevard, and then you got North that runs east to west.

MELNYK: So that's the street that's at the south end of that alley, is that correct?

HERNANDEZ: Correct.

MELNYK: Okay. And, uh, 10:30 in morning it's obviously daylight. What was the weather like that day?

HERNANDEZ: It was sunny. Um, it was-, it wasn't warm but it wasn't cold, but maybe 70's.

MELNYK: Clear sky, raining, cloudy?

HERNANDEZ: Clear sky, clear sky.

MELNYK: Clear sky? And...

HERNANDEZ: Sun was up.

MELNYK: Okay. And were you injured in any way in this incident?

HERNANDEZ: I was not.

MELNYK: Okay.

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MCCLINTOCK: I have a couple quick questions about initially what the deputies told you. Um, they said they were they were flagged down. Do you know if their RP pointed these guys out?

HERNANDEZ: I don't.

MCCLINTOCK: No?

HERNANDEZ: But I did ask the deputies if, is the RP still here.

MCCLINTOCK: Okay.

HERNANDEZ: 'Cause I wanted to maybe talk to her myself.

MCCLINTOCK: Um-hmm.

HERNANDEZ: Um, but they told me that she, or, I don't know if it was the guy or girl, but they told me that person was gone.

MCCLINTOCK: Got it. Okay. And, and, and they obviously didn't have anybody detained, but they were standing nearby south of this person and they weren't really making any efforts to detain 'em, or really doing anything, is that correct?

HERNANDEZ: Yeah. So yeah, they, they seemed like they, uh, lacked in training, in terms of like being a patrol cop...

UNKNOWN 1: Yeah (WHISPERED).

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HERNANDEZ: ...or experience, but, um, they weren't engaging, and then several of the deputies just kinda walked back towards me, as I was talking to the other one, and I lost visal-, visual of the, the people. So the guys are just doing whatever they wanted, and they're just kinda behind their cars, just like...

MCCLINTOCK: Like...

HERNANDEZ: ...like if nothing...

MCCLINTOCK: Okay. I'm sorry. Yeah?

HERNANDEZ: So, I'm trying to explain it. It, it just appeared to me like they really didn't care. Didn't have control of the situation, and were just like waiting for us to get there to handle it.

MCCLINTOCK: Okay. And, um, and that's why you chose to investigate it yourself?
Um...

HERNANDEZ: Yeah. Because I felt like the w-, the way they're r-, the way they were doing thing was unsafe, and they had no control of the situation. One guy just walked away from them, another person was behind the car doing whatever he wanted to. They weren't giving commands. They didn't have their guns out. So, it appeared to me that they were incompetent to do the job safely, and so I didn't wanna be in that poor situation, so I told 'em to leave that way I could handle it, um, with Officer FLEET, I guess in a safer manner.

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MCCLINTOCK: When the s-, when the subject who walked away, uh, had you just arrived?

HERNANDEZ: I had just arrived, parked my car, and started walking up to them...

MCCLINTOCK: Okay.

HERNANDEZ: ...and then I noticed that guy just walked away.

MCCLINTOCK: So you didn't know if there was any crime afoot at, at the point the subject walked away?

HERNANDEZ: Just based on what Dispatch told me.

MCCLINTOCK: Okay.

HERNANDEZ: And Dispatch told me that Station 18 had two 459 suspects detained.

MCCLINTOCK: *** (SPEAKING SIMULTANEOUSLY)...

HERNANDEZ: Which obviously wasn't the case. They weren't detained.

MCCLINTOCK: Okay. Yeah?

TRAPP: So when that subject was leaving you had-, did, did anybody ever broadcast the fact that the subject had walked away?

HERNANDEZ: I'd-, so had I walked out of my car, I saw him walking away.

TRAPP: Um-hmm.

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HERNANDEZ: Initially I saw him by the car, and so I figured he's involved, 'cause those are the two people. Their cars are fa-, their two deputies cars are facing that car, so I figured he's the one involved, one of the two. So as he's walking away, I put on the radio give me 10-3, you got one uncooperative, 'cause he was uncooperative. And then, uh, right away I went over to that door handle of the first car on the west side, just to make sure we had a good crime, with the deputy, and that's when he was like hesitant, couldn't confirm a crime, uh, didn't wanna engage, said he wasn't gonna chase the dude or, so then I was like alright, well, I'm not gonna run after that person by myself while passing the other suspect, possibly get hurt. So, so I let him walk away.

MCCLINTOCK: Okay.

TRAPP: Did you think of anything else?

MCCLINTOCK: I don't have anything.

JOHNSON: No.

MELNYK: No. Nothing else. So anything we didn't ask you about that you think's important that would be helpful?

HERNANDEZ: Um, I think I forgot to mention I, I didn't see the, the handgun on the ground...

MELNYK: Oh, good.

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HERNANDEZ: ...um, so initially where I told you when I saw him point the gun at me...

MELNYK: Um-hmm.

HERNANDEZ: ...um, after, uh, other officers said that they had the suspect detained in the backyard, and I went to the backyard I saw the gun, um, a gray colored, um, handgun on the ground exactly where I'd seen him point it at me.

MELNYK: And was it a, um, semi-automatic or revolver or...?

HERNANDEZ: It appeared to be a semi-automatic. Um, I never touched it or d-, did anything but I just noticed it was there and then went to get the medic bag.

MELNYK: And it was-, where exactly on the ground was it?

HERNANDEZ: So, in that backyard where the garage is at, right where the garage begins, um, it was directly on the ground just north of the garage.

MELNYK: So, that'd be the northeast?

HERNANDEZ: The northeast of the garage. The, the...

MELNYK: Corner of the garage?

HERNANDEZ: ...corner of the garage, yeah.

MELNYK: Good. I'm glad you said that. I had...

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HERNANDEZ: *** (SPEAKING SIMULTANEOUSLY).

MELNYK: ...that written down and I *** (SPEAKING SIMULTANEOUSLY).

HERNANDEZ: *** but that was directly where I'd seen him pointing at me.

MELNYK: Okay.

HERNANDEZ: But I don't know how it ended up there. I don't know, uh, if he had thrown it or he had dropped when he got shot, but it was in that same area where I, I saw him point it at me.

MELNYK: Okay. Anything else?

HERNANDEZ: No.

MELNYK: Okay. That concludes the interview. It is now 1348 hours.

[END OF INTERVIEW]

TRANSCRIBED BY: LAMA LANE
ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
MARCH 22, 2019

REVISED BY: DAVE MELNYK / INVESTIGATOR
(NAME) / (TITLE)
ORANGE COUNTY DISTRICT ATTORNEY / 4-19-2019
(DEPARTMENT) / (DATE)

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