

San Rafael Police Department  
ADMINISTRATIVE INVESTIGATION  
IA# 18-04

TABLE OF CONTENTS

<u>Tab #</u>		<u>Page</u>
<b>1. Internal Affairs Report</b>		
	Introduction/Summary/Signature Page	1
	Kevin MacDougald Complaint/Authorities	3
	Background	5
	Investigation	6
	Kevin MacDougald Conclusions/Findings	23
<b>2. Attachments</b>		
	Attachment A	Complete copy, contained in a separate binder, of the joint criminal investigation conducted by both the San Rafael Police Department, #SR18-06261, and the Sonoma County Sheriff's Department, #180806-002
	Attachment B	Copy of investigative summary from criminal investigation #180806-002
	Attachment C	Copy of letter from the Marin County District Attorney's Office informing SRPD no criminal culpability on the part of Officer MacDougald was discovered
	Attachment D	Copy of the Table of Contents from the criminal investigation, Sheriff's Report #180806-002
	Attachment E	Transcript of Sheriff's Detective interview of MacDougald
	Attachment F	Report summarizing SRPD Detective interview of Piombo
	Attachment G	Report summarizing SRPD Detective interview of Garrison
	Attachment H	Report summarizing SRPD Detective interview of Graham
<b>3. Transcripts</b>		
	Section I	Piombo Transcript
	Section J	Garrison Transcript
	Section K	Graham Transcript
	Section L	MacDougald Transcript

San Rafael Police Department  
ADMINISTRATIVE INVESTIGATION  
IA# 18-04

**4. Advisement Forms**

Piombo Pre-Interrogation Notice  
Piombo Administrative Admonishment  
Garrison Pre-Interrogation Notice  
Garrison Administrative Admonishment  
Graham Pre-Interrogation Notice  
Graham Administrative Admonishment  
MacDougald Pre-Interrogation Notice  
MacDougald Administrative Admonishment

**5. Electronic Copy of Investigation**

CONTROL DOC DO NOT DUPLICATE

**San Rafael Police Department**  
**ADMINISTRATIVE INVESTIGATION**



**IA# 18-04**

**Involved Subject: OFFICER KEVIN MACDOUGALD**

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**THIS IS A CONFIDENTIAL DOCUMENT AND AS SUCH, IS NOT FOR REVIEW WITHOUT THE PERMISSION OF THE CHIEF OF POLICE, OR THEIR DESIGNEE**

**ORIGINAL Submitted by:**

**Command Consulting & Investigations, Inc.**

**San Rafael Police Department**  
**ADMINISTRATIVE INVESTIGATION**



**IA# 18-04**

**Involved Subject: Officer Kevin MacDougald**

---

**THIS IS A CONFIDENTIAL DOCUMENT AND AS  
SUCH, IS NOT FOR REVIEW WITHOUT THE  
PERMISSION OF THE CHIEF OF POLICE, OR THEIR  
DESIGNEE**

**ORIGINAL Submitted by:**

**Command Consulting & Investigations, Inc.**

Paul Henry  
**Paul Henry**

Bill Cogbill  
**Bill Cogbill**



## Memorandum

DATE: January 28, 2019  
TO: Aaron Piombo  
FROM: Captain Glenn McElderry  
SUBJECT: **Pre-Interrogation Notice**  
Administrative Investigation No. 18-04

The San Rafael Police Department is conducting an administrative investigation and has retained Bill Cogbill and Paul Henry of Command Consulting and Investigations, Inc. (25 McDonell St., Suite B; Sonoma, CA 95476; Telephone: 707-242-6272; CA License #PI 27388) as outside investigators to conduct this investigation. You are hereby directed to cooperate fully with these investigators who are acting directly under the authority, and at the behest, of the Chief of Police.

You will be notified of the date, time and place of your interview.

You are a **witness** in this investigation; the alleged acts took place on August 5, 2018, during the arrest of Faramarz Aghazadeh, and involve current members of the San Rafael Police Department.

The complete interview will be recorded. You are not the subject of this investigation and you are being interviewed solely in your capacity as a **witness**.

As a **witness** in this investigation you do not have the right to representation.

You are hereby ordered NOT TO DISCUSS this internal investigation with any persons.

Should you have any questions, please feel free to contact the outside C.C.I. investigator at 707-484-7871.

Receipt Acknowledged

Date: 02-04-19

Signature: \_\_\_\_\_

Aaron Piombo

CONTROL DOCUMENT DETERMINE DATE

# Witness Administrative Admonishment

Today's date is: 3/13/19 The time is: 4:10 p Location: San Rafael Police Department

This recorded interview is with: Corporal Aaron Piombo  
Who is a witness in San Rafael Police Department Administrative Investigation # 18-04  
Corporal Piombo is represented by: NONE

Present in the room are: CCI Investigator Paul Henry

Before we begin the interview, I want to advise you of two sections of the San Rafael Police Department Policy 339 which apply to this interview. They are:

## San Rafael Police Department Policy Manual

### 339 Standards Of Conduct

#### 339.5.1 Laws Rules and Orders

- (b) Disobedience of any legal directive or order by any department member of a higher rank.

#### 339.5.8 Performance

- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.

Do you understand these Policy sections? Do you understand that I am considered a designee of the Police Chief?

I am now giving you a direct order to answer all questions and to answer them truthfully and that failure to do so could lead to disciplinary action up to and including termination with the San Rafael Police Department. Do you understand?

Additionally, do not discuss the interview or this investigation, or the contents thereof with anyone except your legal representative unless directed to do so by myself or a superior officer. Do you understand?

Please sign and date below that I have advised you of Policy 339 regarding insubordination, and truthfulness, as well as having given you a direct order to answer all of my questions.

Aaron Piombo  
Employee Name (Print)

[Signature]  
Employee Signature

63-13-19  
Date

P. Henry  
Witness Name (Print)

[Signature]  
Witness Signature

3/13/2019  
Date

CONFIDENTIAL



## Memorandum

DATE: January 28, 2019  
TO: Michael Garrison  
FROM: Captain Glenn McElderry  
SUBJECT: **Pre-Interrogation Notice**  
Administrative Investigation No. 18-04

The San Rafael Police Department is conducting an administrative investigation and has retained Bill Cogbill and Paul Henry of Command Consulting and Investigations, Inc. (25 McDonell St., Suite B, Sonoma, CA 95476; Telephone: 707-242-6272; CA License #PI 27388) as outside investigators to conduct this investigation. You are hereby directed to cooperate fully with these investigators who are acting directly under the authority, and at the behest, of the Chief of Police.

You will be notified of the date, time and place of your interview.

You are a **witness** in this investigation; the alleged acts took place on August 5, 2018, during the arrest of Faramarz Aghazadeh, and involve current members of the San Rafael Police Department.

The complete interview will be recorded. You are not the subject of this investigation and you are being interviewed solely in your capacity as a **witness**.

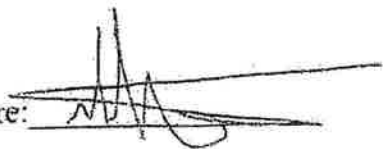
As a **witness** in this investigation you do not have the right to representation.

You are hereby ordered **NOT TO DISCUSS** this internal investigation with any persons.

Should you have any questions, please feel free to contact the outside C.C.I. investigator at 707-484-7871.

Receipt Acknowledged

Date: 2/4/19

Signature: 

Michael Garrison

# Witness Administrative Admonishment

Today's date is: 3/13/19 The time is: 4:49 Location: San Rafael Police Department

This recorded interview is with: Officer Mike Garrison  
Who is a witness in San Rafael Police Department Administrative Investigation # 18-04  
Officer Garrison is represented by: NONE

Present in the room are: CCI Investigator Paul Henry

Before we begin the interview, I want to advise you of two sections of the San Rafael Police Department Policy 339 which apply to this interview. They are:

## San Rafael Police Department Policy Manual

### 339 Standards Of Conduct

#### 339.5.1 Laws Rules and Orders

- (b) Disobedience of any legal directive or order by any department member of a higher rank.

#### 339.5.8 Performance

- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.

Do you understand these Policy sections? Do you understand that I am considered a designee of the Police Chief?

I am now giving you a direct order to answer all questions and to answer them truthfully and that failure to do so could lead to disciplinary action up to and including termination with the San Rafael Police Department. Do you understand?

Additionally, do not discuss the interview or this investigation, or the contents thereof with anyone except your legal representative unless directed to do so by myself or a superior officer. Do you understand?

Please sign and date below that I have advised you of Policy 339 regarding insubordination, and truthfulness, as well as having given you a direct order to answer all of my questions.

MICHAEL GARRISON  
Employee Name (Print)

[Signature]  
Employee Signature

3/13/19  
Date

P. Henry  
Witness Name (Print)

[Signature]  
Witness Signature

3/13/2019  
Date

CONFIDENTIAL DOCUMENT





## Memorandum

DATE: January 28, 2019  
TO: Justin Graham  
FROM: Captain Glenn McElderry  
SUBJECT: **Pre-Interrogation Notice**  
Administrative Investigation No. 18-04

The San Rafael Police Department is conducting an administrative investigation and has retained Bill Cogbill and Paul Henry of Command Consulting and Investigations, Inc. (25 McDonell St., Suite B, Sonoma, CA 95476; Telephone: 707-242-6272; CA License #PI 27388) as outside investigators to conduct this investigation. You are hereby directed to cooperate fully with these investigators who are acting directly under the authority, and at the behest, of the Chief of Police.

You will be notified of the date, time and place of your interview.

You are a **witness** in this investigation; the alleged acts took place on August 5, 2018, during the arrest of Faramarz Aghazadeh, and involve current members of the San Rafael Police Department.

The complete interview will be recorded. You are not the subject of this investigation and you are being interviewed solely in your capacity as a **witness**.

As a **witness** in this investigation you do not have the right to representation.

You are hereby ordered **NOT TO DISCUSS** this internal investigation with any persons.

Should you have any questions, please feel free to contact the outside C.C.I. investigator at 707-484-7871.

Receipt Acknowledged

Date: 2/7/19

Signature: 

Justin Graham

CONTROL DOCUMENT NOT TO DISSEMINATE

# Witness Administrative Admonishment

Today's date is: 3/21/19 The time is: 5:32 PM Location: San Rafael Police Department

This recorded interview is with: Sergeant Justin Graham  
Who is a witness in San Rafael Police Department Administrative Investigation # 18-04  
Sergeant Graham is represented by: ~~NONE~~

Present in the room are: CCI Investigator Paul Henry

Before we begin the interview, I want to advise you of two sections of the San Rafael Police Department Policy 339 which apply to this interview. They are:

## San Rafael Police Department Policy Manual

### 339 Standards Of Conduct

#### 339.5.1 Laws Rules and Orders

- (b) Disobedience of any legal directive or order by any department member of a higher rank.

#### 339.5.8 Performance

- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.

Do you understand these Policy sections? Do you understand that I am considered a designee of the Police Chief?

I am now giving you a direct order to answer all questions and to answer them truthfully and that failure to do so could lead to disciplinary action up to and including termination with the San Rafael Police Department. Do you understand?

Additionally, do not discuss the interview or this investigation, or the contents thereof with anyone except your legal representative unless directed to do so by myself or a superior officer. Do you understand?

Please sign and date below that I have advised you of Policy 339 regarding insubordination, and truthfulness, as well as having given you a direct order to answer all of my questions.

JUSTIN S. GRAHAM  
Employee Name (Print)

[Signature]  
Employee Signature

3/21/2019  
Date

P. Henry  
Witness Name (Print)

[Signature]  
Witness Signature

3/21/19  
Date

CONFIDENTIAL DOCUMENT



## Memorandum

DATE: January 28, 2019  
TO: Officer Kevin MacDougald  
FROM: Captain Glenn McElderry  
SUBJECT: **Pre-Interrogation Notice**  
Administrative Investigation No. 18-04

The City of San Rafael is conducting an administrative investigation and has retained Bill Cogbill and Paul Henry of Command Consulting and Investigations, Inc., (25 McDonell St., Suite B, Sonoma, CA 95476; Telephone: 707-242-6272; CA License #PI 27388) as outside investigators to conduct this investigation. You are hereby directed to cooperate fully with these investigators who are acting directly under the authority, and at the behest, of the Chief of Police.

You are a **subject** of this investigation, which will determine if your conduct, including your use of deadly force during the arrest of Faramarz Aghazadeh, on August 5, 2018, violated the following San Rafael Police Department's policies, general orders, rules and/or regulations. Violations of these policies could result in disciplinary action up to and including termination:

San Rafael Police Department Policy Manual

SRPD Policy Manual Section 300.3 Use of Force - *Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.*

*The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.*

*Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.*

*It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to*



*rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.*

*While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.*

*SRPD Policy Manual Section 300.3.1 Use of Force to Effect an Arrest - Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835).*

*SRPD Policy Manual Section 300.6 Medical Consideration - Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.*

*Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.*

*The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).*

*Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.*



**You will be notified of the date, time and location of your interview.**

The complete interrogation will be recorded. You will have access to the recording and transcription if any further proceedings are contemplated or prior to any subsequent interrogation. You have the right to bring your own recording device and record any and all aspects of the investigative interview.

As a subject of this investigation you have the right to representation, if you so desire.

Other than the information you have provided for the criminal investigation, you are hereby ordered NOT TO DISCUSS this internal investigation with any persons, except the legal representative/legal counsel you might retain.

You are advised that your rights are outlined in the Public Safety Officers Procedural Bill of Rights (POBR), Government Code Sections 3300-3312.

Should you have any questions please feel free to contact myself or the outside C.C.I. investigators at 707-484-7871.

Receipt Acknowledged

Date:

2/5/19

Signature:

*Kevin MacDougald*

Kevin MacDougald

CONFIDENTIAL  
DO NOT DUPLICATE

# Administrative Admonishment

Today's date is: 3/20/19 The time is: 4:22 pm Location: San Rafael Police Department

This recorded interview is with: Officer Kevin MacDougald  
Who is the subject in San Rafael Police Department Administrative Investigation #18-04

Present in the room are: CCI Investigator Paul Henry  
Officer MacDougald is represented by: None

Before we begin the interview, I want to advise you of two sections of the San Rafael Police Department Policy 339 which apply to this interview. They are:

## San Rafael Police Department Policy Manual

### 339 Standards Of Conduct

#### 339.5.1 Laws Rules and Orders

- (b) Disobedience of any legal directive or order by any department member of a higher rank.

#### 339.5.8 Performance

- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.

Do you understand these Policy sections? Do you understand that I am considered a designee of the Police Chief?

I am now giving you a direct order to answer all questions and to answer them truthfully and that failure to do so could lead to disciplinary action up to and including termination with the San Rafael Police Department. Do you understand?

Additionally, do not discuss the interview or this investigation, or the contents thereof with anyone except your legal representative unless directed to do so by myself or a superior officer. Do you understand?

Please sign and date below that I have advised you of Policy 339 regarding insubordination, and truthfulness, as well as having given you a direct order to answer all of my questions.

K. MacDougald  
Employee Name (Print)

[Signature]  
Employee Signature

3/20/19  
Date

P. Henry  
Witness Name (Print)

[Signature]  
Witness Signature

3/21/19  
Date

CONTROLLED DOCUMENT NOT TO BE REPRODUCED

## Case Summary Report

Agency: Sonoma County Sheriff's Department

Case Number: 180806-002

### Incident Information

Date/Time Reported 08/05/2018 23:01	Date/Time Occurred 08/05/2018 21:00	Date/Time Found 08/05/2018 22:00	Officer (SD2360) MITCHELL, RYAN
Incident Location BELVEDERE ST/VERDI ST, SAN RAFAEL, CA 94901			Supervising Officer (SD1641) CUTTING, BRANDON A
Location Comments			
Case Status FURTHER INVESTIGATION			Disposition

### Incident Synopsis

Suspect was contacted by San Rafael Police Officers near the intersection of Lisbon St. and Verdi St. in San Rafael. During their contact with the suspect, a San Rafael Police Officer was forced to shoot the suspect after he advanced toward officers, while armed with a knife and a pair of scissors. The suspect was wounded, survived, and was ultimately charged with attempted murder on a peace officer in Marin County.

### Charges

<b>1</b>	Charge Type	Description NON-FATAL INCIDENT PROTOCOL	Statute NO	UCR 99Z	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type HIGHWAY/ROAD/ALLEY	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input type="checkbox"/> No	Weapons 1. 2. 3.
Entry	Exit	Criminal Activity			
Bias Motivation		Bias Target	Bias Circumstances		Hate Group
<b>2</b>	Charge Type	Description AGENCY ASSIST	Statute NO	UCR 999	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type HIGHWAY/ROAD/ALLEY	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input type="checkbox"/> No	Weapons 1. 2. 3.
Entry	Exit	Criminal Activity			
Bias Motivation		Bias Target	Bias Circumstances		Hate Group

# Case Summary Report

Agency: Sonoma County Sheriff's Department

Case Number: 180806-002

## Narratives

### Case Summary

Sonoma County Sheriff's Office Case No. 180806-002

San Rafael Police Department Case No. SR186261

Sonoma County Sheriff's Office

Violent Crime Investigations Unit

Detective Ryan Mitchell #2360

Re: Officer Involved Shooting of Faramarz Aghazadeh

\*\*\*\*\*

This report is a short summary of facts in regard to the officer involved shooting involving San Rafael Police Officer Kevin MacDougald and Marin County Sheriff's Deputy Jaime Rodarte. The suspect in this case was identified as Faramarz AGHAZADEH. I learned of the specifics of this case from my review of officers' body worn cameras, numerous interviews, official reports, surveillance video, other evidence, and my own investigation. For details regarding this case, refer to the attached reports, audio/video recordings, and other evidentiary items.

On 08/05/2018, shortly after 2100 hours, a San Rafael Police Officer contacted AGHAZADEH as he was standing in the roadway near the intersection of Lisbon St. and Verdi St. in San Rafael. AGHAZADEH was observed wielding "knives" in a "martial arts" manner. The "knives" were later found to be an open, folding pocket knife and a pair of scissors. Numerous law enforcement officers arrived on scene and a perimeter was established to contain AGHAZADEH with the purpose of not allowing him to put the public at risk. Several officers with the San Rafael Police negotiated with AGHAZADEH, using de-escalation techniques, and told him to put the weapons down on the ground. AGHAZADEH did not comply with the officers' directions. AGHAZADEH made peculiar statements in regard to a government conspiracy and his desire for officers to shoot him. Many law enforcement resources were requested from the officers on scene to assist with a peaceful outcome of the incident. A San Rafael Police Sergeant instructed the other law enforcement officers on scene to not allow AGHAZADEH to escape the perimeter due to the danger posed to the public. Law enforcement requested medical and fire personnel to stage in the nearby area during the negotiations.

After over thirty minutes of negotiation, AGHAZADEH left the area where he was initially contacted and walked northbound on Verdi St. towards the intersection with Belvedere St., where Deputy Rodarte and Officer MacDougald were positioned. AGHAZADEH approached the two law enforcement officers and was ordered to stop several times by Deputy Rodarte. AGHAZADEH did not comply with Deputy Rodarte's orders. Deputy Rodarte warned AGHAZADEH he would be shot if he continued towards the officers' position. AGHAZADEH was still armed with the opened pocket knife and the scissors. Deputy Rodarte shot



## Case Summary Report

Agency: Sonoma County Sheriff's Department

Case Number: 180806-002

### Narratives

AGHAZADEH four times with bean bags from a "less-than-lethal" shotgun. AGHAZADEH would later admit to being very angry when he was hit with the bean bags and responded by running towards Deputy Rodarte, while still holding the mentioned weapons. AGHAZADEH screamed, "Ah! Motherfucker!" and ran towards Deputy Rodarte, clutching his weapons in an overhand manner. As AGHAZADEH ran towards Deputy Rodarte, Officer MacDougald ran towards AGHAZADEH. Simultaneously, Deputy Rodarte turned and retreated by running away from AGHAZADEH. Officer MacDougald shot AGHAZADEH shortly before he could come in contact with Deputy Rodarte, preventing Deputy Rodarte from potential injury or death. After Officer MacDougald's first shot, AGHAZADEH quickly turned towards Officer MacDougald and was shot two more times by Officer MacDougald. At the moment AGHAZADEH was shot this second time, it appeared AGHAZADEH was within a few feet of Officer MacDougald and still armed with knives. AGHAZADEH then fell to the ground and cried out. All three of the rounds fired by Officer MacDougald struck AGHAZADEH; striking him in the chest, pelvis, and left arm. Numerous law enforcement personnel immediately render medical aid to AGHAZADEH and he was transported by ambulance to Marin General Hospital where he underwent surgery and ultimately survived.

Both Officer MacDougald and Deputy Rodarte were sequestered at the San Rafael Police Department. Both law enforcement officers ultimately met with their attorney and were processed by Sonoma County Sheriff's Crime Scene Investigation (CSI) Detectives. Both Officer MacDougald and Deputy Rodarte were interviewed by Sonoma County Sheriff's Violent Crime Investigations Detectives.

AGHAZADEH was identified by Sonoma County Sheriff's CSI Detectives.

AGHAZADEH admitted to investigators he was angry after being shot with the bean bag rounds and did not blame the police for shooting him.

The San Rafael Police Department conducted an investigation into the incident and ultimately arrested AGHAZADEH for Attempted Murder on a Peace Officer and Brandishing a Weapon in the Presence of a Peace Officer (Sections 664/187(a) and 417(a)(1) of the Penal Code).

Nothing further/Case Closed.

Det. Mitchell/#2360



OFFICE OF THE DISTRICT ATTORNEY  
MARIN COUNTY, CALIFORNIA

Prevention \* Prosecution \* Protection

Edward S. Berberian  
District Attorney

TO: CHIEF DIANA BISHOP  
SAN RAFAEL POLICE DEPARTMENT

FROM: MARIN COUNTY DISTRICT ATTORNEY'S OFFICE

DATE: NOVEMBER 29, 2018

RE: OFFICER INVOLVED SHOOTING

CASE NUMBERS: SAN RAFAEL PD CASE NO. SR18-06261  
SONOMA COUNTY SO CASE NO. 180606-002

SHOOTING OFFICER: KEVIN MACDOUGALD; #SR268

PERSON SHOT: FARAMARZ AGHAZADEH

The Marin County District Attorney's Office has completed an independent review of the above-referenced officer-involved shooting. Issues of civil liability, tactics, and departmental policies or procedures were not considered. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Mr. Faramarz Aghazadeh. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other items, including Sonoma County Sheriff's Office Violent Crime Investigations Unit Critical Incident Investigation Report number 180806-002, San Rafael Police Department report number SR18-06261, interview recordings/transcripts, officer body worn camera recordings, and dispatch recordings with their associated CAD logs.

FACTUAL SUMMARY:

On August 5, 2018, at approximately 9:04 p.m., SRPD Officers Aaron Piombo and Justin Dodson contacted Mr. Aghazadeh as he was standing in the roadway near the intersection of Lisbon Street and Verdi Street in San Rafael. Mr. Aghazadeh was observed wielding "knives" in a "martial arts" manner. The "knives" were later determined to be an open folding pocket knife and a pair of scissors. Both officers repeatedly told Mr. Aghazadeh to drop the knives. Numerous law enforcement officers from multiple agencies arrived on scene and a perimeter was established for the purpose of not allowing Mr. Aghazadeh to put officers or the public at risk. SRPD Sergeant Justin Graham, who was in charge of the scene, advised officers that they were not to allow Mr. Aghazadeh to break the perimeter and were authorized to use reasonable force to keep Mr. Aghazadeh from escaping. San Rafael Police Department

requested mutual aid assistance from other law enforcement agencies to establish and maintain the perimeter, and also had medical and fire personnel stage nearby in the event that they were needed.

Marin County Sheriff's Office Deputy Jamie Rodarte was instructed to take a perimeter position on Belvedere Street at Verdi Street. Deputy Rodarte got back in his patrol vehicle and drove through the alleyway that runs between Lisbon Street at Belvedere Street. Deputy Rodarte arrived at the intersection and took a position armed with his less than lethal shotgun. Officer MacDougald stated he would be Deputy Rodarte's lethal cover. Deputy Rodarte took cover in front of a parked car on the southeast corner of Belvedere Street and Verdi Street to avoid crossfire with the officers on the other end of the street and Officer MacDougald

Officer Michael Garrison and then Officer Aaron Piombo attempted to negotiate with Mr. Aghazadeh, repeatedly asking him to place the weapons on the ground. Although Mr. Aghazadeh did at one point place the weapons on the ground for a moment, he quickly picked them back up and did not otherwise comply with the officer's repeated requests/commands to put the weapons down. Mr. Aghazadeh made numerous statements in regard to a government conspiracy and also indicated that he wanted officers to shoot him. Mr. Aghazadeh was noncompliant and mostly nonresponsive. Throughout the encounter, Mr. Aghazadeh was moving around, looking away, and had difficulty focusing.

After approximately 30-35 minutes of negotiation, Mr. Aghazadeh left the area where he had been initially contacted and walked northbound on Verdi Street, towards the intersection with Belvedere Street where Deputy Rodarte and Officer MacDougald were positioned. He walked towards Deputy Rodarte and Officer MacDougald with weapons in hand and would not stop even when Deputy Rodarte yelled out, "Stop, stop, Ali stop, stop, you are gonna get shot, stop!" Mr. Aghazadeh continued to advance toward Deputy Rodarte and Officer MacDougald. Deputy Rodarte yelled out, "Less Lethal," and fired his first less than lethal round. Deputy Rodarte repeated his command of "Less lethal" and deployed a second round. Deputy Rodarte repeated, "Less lethal" and deployed a third round. Mr. Aghazadeh initially stopped moving forward, but the rounds did not appear to have any other effect on him. Mr. Aghazadeh was still armed with the knife and scissors.

Mr. Aghazadeh then screamed and charged toward Deputy Rodarte with the weapons held in an overhead manner. Deputy Rodarte fired a fourth less lethal round as Mr. Aghazadeh was charging at him. Deputy Rodarte then began to retreat backwards to avoid imminent contact with Mr. Aghazadeh. At that point, Officer MacDougald fired the first round from his handgun. After the first shot, Mr. Aghazadeh quickly turned towards Officer MacDougald and was shot two more times. Mr. Aghazadeh then fell to the ground and cried out. The three shots fired by Officer MacDougald had struck Mr. Aghazadeh in the chest, pelvis, and left arm. Numerous other law enforcement officers immediately began to render first aid to Mr. Aghazadeh. Mr. Aghazadeh was transported to Marin General Hospital where he underwent surgery and survived his gunshot wounds. The knife and scissors were located and then collected from the area where Mr. Aghazadeh fell after he was shot.

## LEGAL ANALYSIS

Possible criminal charges against an officer involved in a shooting/use of lethal force event include attempted murder (Pen. Code §664/187); assault with a deadly weapon (Pen. Code §245(a)(2)); and assault by a police officer (Pen. Code §149.)

In order to convict an officer of any of these charges, it would be necessary to prove beyond a reasonable doubt that no legal justification existed for the officer's actions. Several such justifications may apply in any given case.

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. California law permits the use of deadly force if the officer actually and reasonably believed he or someone else was in imminent danger of death or great bodily injury. (CALCRIM 505, 507, 3470.) An officer who uses deadly force must actually believe that force is necessary. The appearance of danger is all that is necessary; actual danger is not. (*People v. Toledo* (1948) 85 Cal.App.2d 577 [overruled on other grounds in *People v. Burney*, (2009) 47 Cal.4th 203]; *People v. Jackson* (1965) 233 Cal.App.2d 639.) Thus, the officer may employ all force reasonably believed necessary. (CALCRIM 3470.) The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight. The calculus of reasonableness — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation. (*Graham v. Connor* (1989) 490 U.S. 386.)

An officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11; *Graham v. Connor* (1989) 490 U.S. 386, 396; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; Cal. Pen. Code §835a; CALCRIM 2670.) The person being detained or arrested may be subjected to such restraint as is reasonably necessary for his arrest and detention and has a concomitant duty to permit himself to be detained. (*People v. Allen* (1980) 109 Cal.App.3d 981; 985; CALCRIM 2670, 2671, 2672.) Officers, having additional rights by virtue of their need to enforce the law, do not need to retreat or desist their efforts if the person they are arresting or detaining resists or threatens resistance; nor shall the officer be deemed an aggressor or lose the right to self-defense by use of reasonable force. (Cal. Pen. Code §835a.<sup>1</sup>)

Deadly force may be used to prevent an apparently unarmed suspected felon's escape if the force "is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." (*Tennessee v. Garner* (1985)

<sup>1</sup> Penal Code section 835a provides that: "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. ¶ A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance."

471 U.S. 1, 3.) "If the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given." (*Id.*, at pp. 11-12.)

Applying these legal principles to the factual circumstances, Officer MacDougald clearly had the right to act in defense of himself, in defense of his fellow officer, and in defense of the public. The officer was faced with a subject who was armed with two stabbing weapons and who had refused repeated attempts to voluntarily put the weapons down. Deputy Rodarte commanded Mr. Aghazadeh to stop multiple times, and warned him he would be shot if he did not comply. Mr. Aghazadeh, still armed with the weapons, continued to walk towards Deputy Rodarte. Deputy Rodarte then attempted to stop Mr. Aghazadeh through the use of his less lethal shotgun. After the final less lethal round, Mr. Aghazadeh, with the weapons still in his hands, rushed towards Deputy Rodarte causing him to retreat. Officer MacDougald actually and reasonably believed that Deputy Rodarte's life was in danger when he observed Mr. Aghazadeh rush at the deputy with two stabbing weapons. Officer MacDougald also reasonably felt in danger by the threat that Mr. Aghazadeh posed to Officer MacDougald when Mr. Aghazadeh turned towards him after the first shot. Officer MacDougald was also justified in using deadly force to prevent Mr. Aghazadeh's escape as he had cause to believe that Mr. Aghazadeh posed a significant threat of physical injury to other officers and the public.

### CONCLUSION

Given the totality of the circumstances and the applicable law, there is overwhelming evidence that Officer MacDougald's actions met the standard of a reasonably prudent law enforcement officer and that the discharge of his firearm was an objectively reasonable use of force. Accordingly, the Marin County District Attorney's Office finds that there is no evidence of criminal culpability on the part of Officer MacDougald and will take no further action in this matter.

CR#180806-002

**Sonoma County Sheriff's Office  
Violent Crime Investigations Unit  
Critical Incident Investigation**

**Binder 1 of 1  
TABLE OF CONTENTS**

---

**CASE SUMMARY**

---

Tab 1.....Case summary

---

**SUSPECT INFORMATION**

---

Tab 2.....Faramarz Aghazadeh -

- Son. Co. Jail booking photograph (Dated: 4-2-17)
- Son. Co. Jail Sheets (from 1-12-96 to 4-1-17)
- Son. Co. Jail Personal Data Sheet
- Son. Co. Superior Court Criminal Docket (#SCR-644058)
- Son. Co. Intergraded Justice System (IJS) printout
- Smart System Printout
- California DMV printout
- Record of arrest and prosecution (RAP)
- DOJ/CLETS/NCIC Warrant Abstract (ORI#CA0490010)
- I/Leads Reporting System RAP sheets
- TLO Online Comprehensive Report



CR#180806-002

**Sonoma County Sheriff's Office  
Violent Crime Investigations Unit  
Critical Incident Investigation**

---

**SONOMA COUNTY SHERIFF'S OFFICE REPORTS**

---

SCSO I/Leads Crime Case Report

Tab 3.....VCI Detective R. Mitchell #2360 (CR#180806-002)

Violent Crime Investigations Reports

Tab 4.....VCI Detective J. Hanshew #1627 (CR#180806-002)

Tab 5.....VCI Detective T. Vellis #1021

Tab 6.....VCI Detective J. Horsman #1917

Tab 7.....VCI Detective A. Diehm #2392

Crime Scene Investigations Reports

Tab 8.....CSI Detective D. Fong #1125 (CR#180806-002)

Tab 9.....CSI Detective T. McNeil #1173

Non-Leads Reports

Tab 10..... Legal Processor (CR#180806-002)

San Rafael Police Department Reports

Tab 11.....San Rafael Police Department Rpts. (CR#1808050093)

CAD Incident report

Supplemental Reports:

- Sergeant T. Berringer #501
- Officer J. Dodson #618
- Officer C. Maldonado #582
- Sergeant J. Graham #494

\*Denotes Transcripts Available

TABLE OF CONTENTS

CR#180806-002

CR#180806-002

**Sonoma County Sheriff's Office**  
**Violent Crime Investigations Unit**  
**Critical Incident Investigation**

- Officer L. Murphy #581
- Det. R. Demarta #531
- Det. R. Cleland #526
- Officer A. Augustyn #534
- Officer M. Garrison #571
- Officer P. Melodia #500
- Det. R. Reese #448
- Officer M. Laplante #465
- Officer S. Eberle #475
- Officer E. Chiu #538
- Officer J. Bellamy #518
- Officer E. Adams #552
- Det. M. Mathis #433
- Officer L. Bracken #463
- Officer K. Finerty #591
- Officer G. Rantissi #587
- Sergeant. L. Holton #478
- Det. G. Rantissi
- Officer A. Hoim #517
- Officer O. Ocon #605
- Officer J. Camins #541
- Officer J. Bellamy #518
- Officer C. Duncan #542
- Officer J. Dooley #615
- Officer S. Ingels #524
- Sergeant R. Aguilar #460
- Officer K. Finerty #591
- Officer M. Wilkinson #572
- Officer C. Fuller #567
- Officer D. Prince #476
- Officer T. Carney #565
- Officer A. Piombo #499
- Officer T. Ruggles #551



**CR#180806-002**

**Sonoma County Sheriff's Office  
Violent Crime Investigations Unit  
Critical Incident Investigation**

---

**MARIN COUNTY SHERIFF'S OFFICE REPORTS**

---

- Tab 12.....Marin County Sheriff's Office Reports (CR#18-2431)**
- Deputy M. Dawson #1660
  - Deputy B. Schneider #1684
  - Deputy J. Litle #1784
- 

**CRIME SCENE LOGS**

---

- Tab 13..... Marin County Sheriff's Office Crime Scene Log**
- Tab 14..... San Rafael Police Department Crime Scene Log**
- 

**TRANSCRIPTS**

---

- Tab 15..... Transcript of Officer MacDougald's Interview**
- 

**NEWS ARTICLES**

---

- Tab 16..... News articles related to this event.**
- 

**DIGITAL MEDIA**

---

- Tab 17..... All associated digital media. (BWC footage, Interviews, Dispatch Audio and Medical Records)**
-

**Detective Ryan Mitchell (Interviewer)**

**Detective Anthony Diehm (Interviewer)**

**(Counsel)**

**Officer Kevin MacDougald (Interviewee)**

Detective Ryan Mitchell: The time is 0420 hours, 4:20 a.m., August 6<sup>th</sup>, 2018. This is in reference to San Rafael Case 186261 at Sonoma County Sheriff's Office, Case No. 180806002, and we are presently at the San Rafael Police Department. This is Detective Ryan Mitchell with the Violent Crimes Investigations Unit from Sonoma County Sheriff's Office. If, uh, everyone in the room could please state their name and spell their last name. All starting with my partner.

Detective Anthony Diehm: Detective Anthony Diehm with Sonoma County Sheriff's Office. Last name is D, as in David, I-E-H-M, as in Mary.

Officer Kevin MacDougald: Officer Kevin MacDougald, M-A-C- capital D-O-U-G-A-L-D. I'm an officer with the San Rafael Police Department.

with RLS Lawyers.

Detective Ryan Mitchell: And again, it's Detective Ryan Mitchell, M-I-T-C-H-E-L-L. This is a voluntary statement. Uh, you're free to leave at any time. You're not obligated to answer any questions. Do you understand that officer?

Officer Kevin MacDougald: Yes, sir.

Detective Ryan Mitchell: As I understand it, earlier you, uh, provided a blood sample. Was that blood sample voluntarily?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: Uh, are you prepared to provide a statement? Have you had ample time to gather your thoughts and otherwise prepare for this interview?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: Do you have anything that would hinder you from giving a statement at this time?

Officer Kevin MacDougald: No.

Detective Ryan Mitchell: Has, and I know I just recently met you, uh, tonight, a few hours ago, um, do we have any type of friendship or relationship, either you and I, or yourself and Detective Diehm that would –

Officer Kevin MacDougald: None –

Detective Ryan Mitchell: – create any sort of bias?

Officer Kevin MacDougald: None of us have ever met to my knowledge.

Detective Ryan Mitchell: Okay, Officer MacDougald, are you sick or injured?

Officer Kevin MacDougald: No.

Detective Ryan Mitchell: Did you receive any injuries as a result of the incident?

Officer Kevin MacDougald: No.

Detective Ryan Mitchell: At the time of the incident were you suffering from any medical condition or taking any medication that may have impaired your abilities as a law enforcement officer?

Officer Kevin MacDougald: No.

Detective Ryan Mitchell: When did you last sleep?

Officer Kevin MacDougald: Uh, it would've been in the morning and afternoon of the 5<sup>th</sup>, so yesterday.

Detective Ryan Mitchell: Okay. And, how long?

Officer Kevin MacDougald: About 7 hours. I think I fell asleep about 7 in the morning and got up about 2 in the afternoon.

Detective Ryan Mitchell: And when did you last eat?

Officer Kevin MacDougald: Um, 3 hours ago now.

Detective Ryan Mitchell: And, and what did you eat?

Officer Kevin MacDougald: I had a sandwich from Sole Food after the incident.

Detective Anthony Diehm: When did he eat prior to the incident?

Detective Ryan Mitchell: That's prior to the incident?

Officer Kevin MacDougald: No, this was after the incident.

Detective Ryan Mitchell: Okay, and prior to that?

Officer Kevin MacDougald: Uh, I think I had a mango after I woke up, before I came to work, but I don't remember prior to that.

Detective Ryan Mitchell: Okay. Have you consumed any alcoholic beverages in the last 24 hours?

Officer Kevin MacDougald: No.

Detective Ryan Mitchell: Officer MacDougald, how long have you worked in this, your current agency?

Officer Kevin MacDougald: Either in a full time capacity or as a reserve officer for about 42 years. Actually 2 years of that I was down at Stanford University, '77 to '79. Other than that I've been a sworn officer here, either a regular or a reserve since January of '76.

Detective Ryan Mitchell: And any, uh, special collaterals or special training, uh, firearms, SWAT, things of that nature?

Officer Kevin MacDougald: I was on the SWAT team in its infan-, infancy back in the early '80s, but other than that, uh, no.

Detective Ryan Mitchell: Any training specific to CIT, tactical communications, drugs, recondition expert, anything of that type?

Officer Kevin MacDougald: Um, I have been to DAR. I'm not a DRE. Uh, I have been to standardized field sobriety test school and standardized field sobriety test instructor school. I am a post-certified and CHP certified SFST instructor, and I've been a field training officer for most of my career. Uh, CIT and CIT updates, uh, as well as all the FTO updates.

Detective Ryan Mitchell: Okay. And your present assignment, uh, what is your present assignment?

Officer Kevin MacDougald: Assigned to patrol.

Detective Ryan Mitchell: Okay. The nature of your duties?

Officer Kevin MacDougald: Uh, general patrol.

Detective Ryan Mitchell: And what is your current, uh, work hours and shift?

Officer Kevin MacDougald: 5 at night until 5 in the morning, Thursday, Friday, Saturday nights, and then every third Sunday night including tonight, is my normal Sunday shift.

Detective Ryan Mitchell: Okay, and at what time did you start working tonight?

Officer Kevin MacDougald: 1700, 5 p.m.

Detective Ryan Mitchell: And did you have a call sign?

Officer Kevin MacDougald: Uh, my radio call sign is 3L9.

Detective Ryan Mitchell: And is this assignment a uniform or non-uniform assignment?

Officer Kevin MacDougald: Uniform.

Detective Ryan Mitchell: And specifically this assignment that you're on now, how long have you been on this assignment, specifically?

Officer Kevin MacDougald: On this particular shift with these hours or this, just -

Detective Ryan Mitchell: This particular shift with these hours working, uh, patrol?

Officer Kevin MacDougald: It's been the last 5 or 6 years.

Detective Ryan Mitchell: Okay. And the vehicle that you are assigned?

Officer Kevin MacDougald: The general, the vehicle that I normally drive is Unit 242. It's generally assigned to me for this patrol shift. There's no guarantees. If it's not available, it's not available to me.

Detective Ryan Mitchell: Okay, and if you could, uh, describe your uniform for me starting from the top down.

Officer Kevin MacDougald: I was wearing a, uh, LAPD blue short sleeve uniform, uh, specifically, there's a 511, Class B, uh, as in boy uniform. So it's the rip stop with cargo pocket uniforms. Uh, I was wearing a silver metal badge that contains my I.D. number. I had a silver nametag on. I had a tag above that one for the numbers 23152 on it. Um, I was wearing, I don't wear a tactical vest, I wear a regular Sam Brown type vest, or belt. I was wearing that with all of my traditional equipment on it. Would you like me to go through that?

Detective Ryan Mitchell: Uh, yeah that would be next. Uh, with the equipment as far as specifically to your belt, if you could describe that for me starting from, uh, from the middle to the right, and going around, please.

Officer Kevin MacDougald: So, middle to the right, I, I wear, I wear a nylon belt. It's not the, it's not a basket weave. It is a nylon belt. Um, to my immediate right of the belt buckle would be, the first thing is actually my, uh, sidearm, on my right side. Behind my sidearm is my, uh, collapsible ASP baton. Then I have two single cuff, handcuff cases that I wear generally in the middle of my back. Uh, to the right, to the next going around is my, uh, portable radio. Uh, next to my portable radio would be my magazine pouches. I don't carry OC spray. And that's it.

Detective Ryan Mitchell: And description caliber of your firearm?

Officer Kevin MacDougald: It's a Colt 1911 Model 45 caliber handgun.

Detective Ryan Mitchell: Any backup guns?

Officer Kevin MacDougald: No.

Detective Ryan Mitchell: Any other firearms in your vehicle?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: And what are those?

Officer Kevin MacDougald: Uh, there's an M4 .223 carbine, and then there's a Remington 870 Wingmaster, uh, shotgun with less lethal beanbag rounds in it.

Detective Ryan Mitchell: And at the time of the incident, did you have a body worn camera or an audio recorder?

Officer Kevin MacDougald: Yes..

Detective Ryan Mitchell: Both?

Officer Kevin MacDougald: No, just, well, I wearing a body worn camera that's audio and digit-  
, and video.

Detective Ryan Mitchell: Okay, and did you have an electronic control device, or otherwise known as a Taser on your person?

Officer Kevin MacDougald: Oh, yes, I did, I'm sorry. It's that one.

Detective Ryan Mitchell: And that was on your belt?

Officer Kevin MacDougald: Yes. My left side next to my radio.

Detective Ryan Mitchell: Any other equipment that you, that is relevant?

Officer Kevin MacDougald: Uh, I had a folding knife in my back pocket.

Detective Ryan Mitchell: Okay. Okay the nature of this investigation concerned is, concerns a significant incident you were recently involved in. It occurred in the general area of Market and Verdi Street in San Rafael. Uh, please describe the event in as much detail as you can. Include the time of the event, names of witnesses, names of officers as best as you can recall. Include all the information you can remember relative to the circumstances.

Officer Kevin MacDougald: The event began when Corporal Peombo advised over the radio that he needed personnel assistance behind Burger King because he had a subject that was waving knives. I don't remember if in that initial con-, in that initial broadcast he said he was not responsive. Subsequent to that, uh, other officers began arriving there. I was still in the downtown area, and then they asked for additional officers after that. I responded from the area of 4<sup>th</sup> and, 4<sup>th</sup> Street at Luten's, uh, Code 3. While I was driving I was asked to take a position on Belvedere Street at Verde Street to block off Verde Street from vehicle and pedestrian traffic. Uh, I got there. I took that position for a short period of time by myself, and then a deputy, Marin County deputy sheriff arrived, and at various times we relocated our cars to block off not just Verde Street, but Belvedere Street in both directions to vehicular traffic. Uh, we were paying attention to both vehicular tra-, traffic, pedestrian traffic that was walking. We were aware that, that the incident was active in the intersection of Verde and Market Street, which was maybe a hundred yards away from my position. Uh, the deputy and I watched and listened while the events were unfolding. Uh, at various times I was listening to radio traffic. Um, the radio traffic that I recall was that the subject had, was waving knives in both hands, that he was non-compliant with orders, and that he was yelling at, at least at one point he was yelling that he wanted the police to shoot him. That was all radio traffic that I heard. Uh, I could hear Officer Garrisons giving him, or engage, trying to engage with him verbally. I could see the subject walking generally in circles in the intersection of Verde and, uh, Lisbon Street. And then immediately before the incident the subject disengaged with the officers that were talking with him at that intersection. He turned his back to them and started advancing, uh, toward myself and the deputy. Um, I saw that occurring. I asked if the dog could be released. I advised over the radio that there was only two of us in that position, that we needed more officers. The subject kept advancing. The deputy, and I'm sorry I wish I knew his name so I could personalize this, uh, told this, yelled at the subject to stop advancing, advised him that he would - remember his exact, I don't remember the exact warning that he gave. Uh, he, he then yelled less lethal several times, and fired four rounds from, uh, his shotgun. It contained less lethal beanbags in it. After the third or f-, after the third shot and during the fourth shot, the subject, um, stood up, or straightened up, started screaming, and started running at the deputy, flailing with both hands with what I understood to be knives in both hands. I stepped into the street from kind of a position that I was standing in which was next to a, or behind a small pickup truck that was parked. Uh, as I did that the subject, I don't think he paid attention to me prior to that, but he turned to look at me. Uh, I could see that he was flailing with knives. He was not compliant. I was concerned that he was, he was attacking the deputy. I was concerned that he was going to attack me. When that happened I fired one shot from my handgun. I could tell that it hit him. It doubled him over. He bent down a little bit. He began to straighten up so I did not incapacitate him. Uh, when he started to stand up I fired two more rounds from my handgun, uh, and he fell to the ground.

Detective Ryan Mitchell: Okay. I'm just gonna have a couple of follow-up questions. Um, did anything happen after he fell to the ground?

Officer Kevin MacDougald: He was immediately, uh, provided with First Aid by a number of officers that ran up to him. I actually stood, stepped back so I didn't engage with him further.

Detective Ryan Mitchell: Okay. And backing up a little bit, towards the beginning you mentioned when you responded, you responded Code 3, and, and can you define what Code 3 is?

Officer Kevin MacDougald: I activated all of my, uh, strobe emergency lights and siren.

Detective Ryan Mitchell: Have you kind of, this, this area, if you could kind of describe it to me. Um, the, the approximate time of this incident was?

Officer Kevin MacDougald: It began somewhere after 9 p.m., 2100 hours, somewhere, so maybe 2110 hours, 9, 9:10. Uh, the scene is, uh, an odd shaped, a couple of odd shaped streets. Uh, there is a Burger King restaurant that kind of forms the base of it, uh, and all of this is generally occurring toward the back, what I would call the back of the Burger King parking lot and the, and the intersection next to it. Uh, other than the Burger King almost all of the adjacent businesses are auto repair shop businesses, uh, that are not open at that time on a Sunday night. Burger King is. So it's an industrial, light industrial area, mostly comprised of auto repair shops and the Burger King.

Detective Ryan Mitchell: And, and the lighting, officer? How, how was the lighting? Was it, was it dark, light out?

Officer Kevin MacDougald: The lighting, well it was night time, it was well after dark, even at this time of year. Uh, my recollection is surprisingly that there was a lot of light right where we were standing. I, I think back, I don't know if it's bright overhead street lights. If it was a reflection of our vehicle lights, uh, but, but it was actually a well-lit area for that time of night.

Detective Ryan Mitchell: And were there other people in the area?

Officer Kevin MacDougald: I was not able to determine how many officers were at the other end of the street engaging with him or-, originally. Um, at my end of the street there was myself and the Deputy Sheriff and then there were a number of, uh, bystanders who were off to the side on both sides of the street. I couldn't tell you how many.

Detective Ryan Mitchell: Okay. And did you, did you know the suspect?

Officer Kevin MacDougald: No.

Detective Ryan Mitchell: Can you describe him to me please?

Officer Kevin MacDougald: A male. That's as good as I'm gonna get.

Detective Ryan Mitchell: Okay. And as I understand it, you heard on the radio that he had knives, is that correct?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: Did you ever see them yourself?



Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: Okay. At what point did you first see that the suspect was, was armed with knife or knives?

Officer Kevin MacDougald: He went, as he was advancing toward me I could see items clenched in each of his hands based on all of the information that I had I understood that those were knives.

Detective Ryan Mitchell: Okay. And if you could describe how, um, the suspect was holding the knives when you first saw him.

Officer Kevin MacDougald: Best of my recollection just holding them, I don't know how to describe it, in this manner. So he was holding -

Detective Ryan Mitchell: Okay, you're, you're holding your left hand up and you have glasses, and you're holding like in a stabbing motion with your left hand -

Officer Kevin MacDougald: \*\*\*\* stab. Correct.

Detective Ryan Mitchell: - and your right hand the same.

Officer Kevin MacDougald: Correct. He was not, he was not holding them with his palms up, and what expert knife fights might look like, he was holding them where in this, in a slashing or stabbing maneuver.

Detective Ryan Mitchell: His, his hands were, you're hold about, about head level, shoulder level -

Officer Kevin MacDougald: I mean -

Detective Ryan Mitchell: - approximately that?

Officer Kevin MacDougald: He was holding them, he was holding them mid chest level as he was advancing. After he was shot with the bean bags his hands went up and he, as if he, and started to flail, and he was yelling and started running toward the Deputy Sheriff.

Detective Ryan Mitchell: You mentioned yelling, do you remember what he yelled?

Officer Kevin MacDougald: No. I have no idea.

Detective Ryan Mitchell: Do you remember any specific things that were said to him from either yourself or other law enforcement officers?

Officer Kevin MacDougald: I told him to stop at least once. I know the Deputy Sheriff yelled at him, gave him commands to stop. I don't remember exactly what he said, but it was a command to stop, and it, and I believe it included a threat that he was going to be shot or hurt if he didn't.

Detective Ryan Mitchell: Do you know if the less lethal device as you described it, uh, struck the suspect?

Officer Kevin MacDougald: Yes I believe that all four beanbags hit him.

Detective Ryan Mitchell: And you said after that he advanced is that correct?

Officer Kevin MacDougald: The first shot hit him, and he kind of turned away for a s-, for a fraction of a second. He straightened up, squaring up again at the deputy sheriff who was standing maybe 20 feet away from me. The next three rounds, or the next two rounds he didn't advance. After the third round he started advancing rapidly. I'll call it running toward the deputy. The deputy fired the fourth round which did not have any affect, uh, at that point the deputy was out of, uh, his shotgun was empty. He started retreating and the subject started running, continued to run at the deputy with his arms flailing and screaming.

Detective Ryan Mitchell: You said his arms were flailing, is he, is he moving at this point? His, his arms are, are moving?

Officer Kevin MacDougald: He was running or he sped up, and I know run can be relative, but he was screaming, he was running at the deputy and he holding his hands and his hands were going, were wind milling --

Detective Ryan Mitchell: You're, you're describing wind milling or moving, your arms back and forth, in the same, that same stabbing motion you were showing early.

Officer Kevin MacDougald: Yes. He was -- yes.

Detective Ryan Mitchell: And when, when he started, uh, as you described it, running, running, he, he wasn't walking, is that correct?

Officer Kevin MacDougald: He was not walking, and he was going faster than any of the movements that I had seen, or seeing that my impression was that he started running at the deputy.

Detective Ryan Mitchell: Understood. When he ran towards the deputy what, what was your, uh, thought process at that time?

Officer Kevin MacDougald: He was attacking the deputy. The deputy had, was backing away because he no longer had, uh, a functional weapon in his hand, and so I, I moved from my position toward him. Uh, I think, I, I, I don't know what went through his mind, but he turned, he turned toward me so I assumed that he saw the movement and turned toward me, uh, and I believe that he was going to attack me at that point.

Detective Ryan Mitchell: Okay, backing up to where the deputy, what did you see the deputy do in response to the suspect advancing towards him?

Officer Kevin MacDougald: He started backing up.

Detective Ryan Mitchell: Okay. And did he, was he walking backwards, did he turn and run? Uh, can you describe that please?

Officer Kevin MacDougald: He started backing up. My impression is that he actually turned his back at one point, but I can't be positive of that, but he was, he had exhausted his, the weapon that he had in his hands. He didn't, he was still holding the shotgun. He didn't drop it. He didn't go to a different weapon system. Um, and I, and I believe that the subject was, uh, was intensing, attacking. I couldn't, I was watching the subject, I was not watching the deputy.

Detective Ryan Mitchell: And –

Officer Kevin MacDougald: I saw him backing away, but I didn't focus on him.

Detective Ryan Mitchell: Understood. And you mentioned the suspect turned towards you at one point, is that correct?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: And at that point, can you describe what the suspect was doing?

Officer Kevin MacDougald: He turned toward me and when he did that I fired a weapon at him.

Detective Ryan Mitchell: Okay.

Officer Kevin MacDougald: He was, he was going to come at me.

Detective Ryan Mitchell: And what did you think was going to happen?

Officer Kevin MacDougald: I, I thought he was going to attack me with his knife. If he, if he's able to do that, knives.

Detective Ryan Mitchell: Detective Diehm, do you have any other questions?

Detective Anthony Diehm: Yeah, I'm gonna back up just a little bit, I just have a couple –

Officer Kevin MacDougald: Sure.

Detective Anthony Diehm: – follow-up questions. Um, during that time you set up at the perimeter spot at the beginning before he had ever advanced, um, how long was it that you were

on this scene, from the time you arrived and set up until the time he advanced, how long would you estimate \*\*\*\* each time?

Officer Kevin MacDougald: I can't tell you officer, it was probably, I, I, I would hate to hazard a guess, but I think it was around 20 minutes or so.

Detective Anthony Diehm: Okay, and during that time, um, could see what the suspect was doing?

Officer Kevin MacDougald: I could see at limited times the way that, the way the other police vehicles were positioned, there was at least one patrol car that was pointing directly at me. Uh, that patrol car had all of its takedown and alley lights on, which it was really bright, so when I looked straight down to that, to the intersection all I could see generally was those lights, the police vehicle lights, until he, at times he, my impression was that he was walking around in oval-type circles in front of the patrol cars engaging with all of the officers that were there, but I could see him walk, my impression was it was like an oval circle back and forth in that intersection that I described, but I couldn't see everything, I could only see him when he kind of got away from the central part of this takedown lights.

Detective Anthony Diehm: Okay. Jumping forward, the, uh, in your career, have you ever, either yourself, or observed another law enforcement officer fire a, uh, for lack of better term, bean bag shotgun, uh, what, whether, uh, whether in a real life scenario or in just in training?

Officer Kevin MacDougald: Yeah, so, I've, I have not been present in a field shooting, but we've all, I've received training with the beanbag shotgun, uh, and I've been present when, you know, hundreds of rounds of beanbags have been fired on the training range.

Detective Anthony Diehm: Okay. And based on that exp-, your training and that experience of saying hundreds of rounds fired, um, do you have expectation of the, the effects of being hit with a beanbag round, after seeing, after seeing rounds fired, do you have an expectation of what you think would happen if a person's hit by a beanbag round?

Officer Kevin MacDougald: No, I've only seen them fired at paper targets. Um, I've heard anecdotal stories, um, you know, from different people, but I didn't have necessarily any, any expectation of what was going to happen.

Detective Anthony Diehm: Well I guess what I'm trying to ask is based on what you've seen, seeing the rounds being fired at paper targets, if you yourself was hit with a beanbag, bag round from a shotgun, uh, do you think it would hurt?

Officer Kevin MacDougald: I can't tell you.

Detective Anthony Diehm: You can't tell. Okay. Um, as, as the subject was running at the deputy, with what you described as the, uh, knives raised, did you have any feeling as to, um, what might happen if the subject didn't stop?

Officer Kevin MacDougald: Yes, he was gonna stab, slash the deputy.

Detective Anthony Diehm: Okay. Okay.

Officer Kevin MacDougald: And he was going to do the same to me when he turned at me.

Detective Anthony Diehm: Okay.

Detective Ryan Mitchell: Uh, in backing up again, uh, officer, um, at any time, uh, during your interaction with the suspect or what sounds like you heard over the radio, there were things that he, he was doing, uh, did you hear of him or did he appear to, uh, be, uh, compliant or surrender in any way?

Officer Kevin MacDougald: No, I, it had, it was put out over the radio several times that he was being, that he was not being compliant. I also witnessed that he was not responding to orders to put the knife down. Uh, and I do recall at one point Sergeant Graham over the radio told us that the subject was demanding or requesting that he be shot by officers.

Detective Ryan Mitchell: And at what point did you hear that, officer?

Officer Kevin MacDougald: That was early on.

Detective Ryan Mitchell: Okay. And, uh, again, backing up towards, uh, your, your, your training, um, have, you, you've been in law enforcement I think you said 42 years approximately?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: And during that time, have, have you, um, I would've imagined you've seen, uh, a lot of injuries inflicted by various weapons, is that correct?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: And specifically, have you seen, um, stabbings?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: Oh, would it be fair to say you're familiar with the damage that can be caused by, by a knife?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: Um, and when you were, I believe you said you were behind cover at one point shortly before the suspect advanced, is that correct?

Officer Kevin MacDougald: There as a small Toyota or Nissan-type pickup truck that was the last truck parked on, uh, Verde at the intersection, uh, on the west side of the street, so it was facing southbound, uh, I was using that generally to stand behind to avoid what I'll call as friendly fire, cross fire should officers at the other end of the street start shooting it would've been shooting in my direction so I was standing behind that truck generally as a position of cover.

Detective Ryan Mitchell: And I understand you said before you were, you were assigned with the, the deputy I believe, and correct me if I say anything that's not right to block that street, is that correct?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: And what, what was the, uh, in your opinion, what was the idea of blocking that, that street, of setting up there?

Officer Kevin MacDougald: Citizen safety.

Detective Ryan Mitchell: Uh, from the suspect –

Officer Kevin MacDougald: I was –

Detective Ryan Mitchell: – is that correct?

Officer Kevin MacDougald: Yes, I was, I was a perimeter unit and our primary concern early was for the safety of citizens, uh, both, both vehicular cross traffic and civilians, uh, walking on the area to keep them from going down Verde Street and to keep them from walking into what might've been the field of fire should that have, have occurred.

Detective Ryan Mitchell: Understood. And, I believe at one time you said you, you left your position of cover, is that correct?

Officer Kevin MacDougald: I think I probably walked away from it a couple of times because there were people on Belvedere Street that were starting to gather and congregate and they were inching closer and closer to what I would've thought a field of fire would have been had that started to occur.

Detective Ryan Mitchell: And specifically when the suspect, uh, as you said started to advance towards the deputy, uh, I believe you said you left your cover at that point too, is that correct?

Officer Kevin MacDougald: Yes.

Detective Ryan Mitchell: And, and why did you at that time leave that position?

Officer Kevin MacDougald: Uh, he was, he was attacking a deputy sheriff, and my intent was to see what I could do to stop that from happening or to prevent that from happening .

Detective Ryan Mitchell: Understood. At this time I'd like to take a break unless counsel you had any, any follow-up questions.

Not right now, no.

Detective Ryan Mitchell: Okay, the time is 0442, 4:42 a.m. Uh, taking a break.

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**RM=Detective Ryan Mitchell (Interviewer)**

**AD=Detective Anthony Diehm (Interviewer)**

**(Counsel)**

**KM=Officer Kevin MacDougald (Interviewee)**

RM: The time is 0458 still on August 6<sup>th</sup>. Detective Ryan Mitchell of Violent Crimes, Sonoma County Sheriff's Office with Officer McDougald. Back from break. Um, Officer, we just had some follow-up questions. Um, I was wondering at any point did you, um, discuss with the deputy that you were I'm gonna say stationed with, so to speak in that area, did you discuss with him a plan, um, of any type, uh, during this incident?

KM: No, we did not discuss a plan other than when he first arrived he announced that he would go to less lethal and I would go to lethal. I put that information, I broadcast that information over the radio that he was on less lethal and I was on lethal. Other than that we really didn't discuss what would happen if he advanced on us.

RM: At --

KM: I did say something at one point to him I expressly concerned that this, that if it turned out badly it would ruin my day.

RM: And, excuse me. And at what point during this incident, uh, did you unholster your firearm?

KM: Officer, I tried to remember that and I don't know.

RM: Understood.

KM: I, I did not - it was at the very last second I was not holding my, I was not holding my weapon in my hand until immediately before I fired it. It was, it was holstered; I wasn't standing at a position of, uh, low ready or anything like that. I did not have my handgun in my hand until the very last second, but I can't, I can't, I don't, I honestly don't know what second I pulled it out, but it wasn't until a while after we announced that he was advancing towards us.

RM: Okay. Uh, have you, uh, reviewed your body worn camera footage?

KM: Yes, briefly.

RM: Okay. Is there anything, uh, you would like to add or that you think is relevant to this investigation?



KM: After being struck with the beanbags his actions were to attack. He was not trying to run away, he was not trying to escape, he was intentionally, he was intentionally running at initially the deputy sheriff and then, and turned toward me and he was, it was not in an effort to escape containment or to break the perimeter. He was attacking us and that's what I, and that's what was clear to me at the time.

RM: Uh, Detective Diehm, do you have any follow-up questions?

AD: No.

RM: Counsel?

No.

RM: That will conclude the interview. The time is 0501, 501 hours.

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**Detective Ryan Mitchell (Interviewer)**

**Detective Anthony Diehm (Interviewer)**

**(Counsel)**

**Deputy Jaime Rodarte (Interviewee)**

Detective Anthony Diehm: It is August 6<sup>th</sup>, 2018 at approximately, uh, 3:07 a.m. This is in reference to San Rafael Case No. SR18-6261 and Sonoma County Sheriff's Office Case No. 180806-002. This is, uh, VCI Detective Anthony Diehm, um, and if everyone at the table could just introduce themselves, starting with my partner.

Detective Ryan Mitchell: Detective Ryan Mitchell, Violent Crimes, Sonoma County Sheriff's Office.

Deputy Jaime Rodarte: Deputy Jaime Rodarte, Marin County Sheriff's Office.

with RLS Lawyers.

Detective Anthony Diehm: And, uh, this is also in reference to an officer-involved shooting in San Rafael. Uh, the deputy, uh, Rodarte, uh, was a witness officer. Um, Deputy, could you tell us, about your current assignment?

Deputy Jaime Rodarte: Sure, I'm assigned to patrol division. Have been so for the last 2 1/2 years, approximately.

Detective Anthony Diehm: Okay, and, uh, on this evening, uh, that we're talkin' to you about, was, uh, were you working your normal assigned shift or was it, like, an overtime shift?

Deputy Jaime Rodarte: Normal -

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: - assigned shift, correct.

Detective Anthony Diehm: Normal patrol shift?

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: Okay, and what are the hours of that shift?

Deputy Jaime Rodarte: Uh, 7 p.m. to 7 a.m.

Detective Anthony Diehm: Okay, and, uh, on that patrol shift you wear, you were, normally wear the uniform that you're currently wearing?

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: Which is a tan top and brown bo, bottoms?

Deputy Jaime Rodarte: Uh, green bottoms.

Detective Anthony Diehm: Or, green bottoms.

Deputy Jaime Rodarte: Yes.

Detective Anthony Diehm: Excuse me, sorry. Um, could you tell me about your training and experience?

Deputy Jaime Rodarte: Well, I went to the typical police academy in Napa, um, in 2000 and, uh, '04, 2005, uh, our custody division, um, a total of thir, uh, 12 year, 11 years prior to coming out to, um, patrol. I have specialized training in gangs, um, and classification, um, -

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: Yeah.

Detective Anthony Diehm: So you've been on patrol for how long?

Deputy Jaime Rodarte: A little bit over 2 years, I believe.

Detective Anthony Diehm: Okay, and have you tal, you've been to, it sounds like gang training and -

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: - what else?

Deputy Jaime Rodarte: A gang classification OIC and then the regular, -

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: - uh, bi-monthly trainings that we have here for firearms, um, CIT, I mean, the, -

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: - the common stuff that -

Detective Anthony Diehm: Do you have any cu, uh, collateral assignments, like, uh, -

Deputy Jaime Rodarte: Uh, -

Detective Anthony Diehm: - SWAT, HNT

Deputy Jaime Rodarte: No.

Detective Anthony Diehm: like, uh, -

Deputy Jaime Rodarte: Uh, HNT, yes.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: I was just selected for HNT.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: Um, still haven't been certified or sent to any training, but I've just been selected for HNT within the last few months.

Detective Anthony Diehm: Okay, and part of your training, does that include, like, uh, training with, uh, less, less-than-le, -lethal, -

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: - uh, weapons?

Deputy Jaime Rodarte: Yes.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: Part of our rifle and firearms training.

Detective Anthony Diehm: Okay. What, what are the, uh, less-than-lethal options that you carry on you or in your patrol vehicle?

Deputy Jaime Rodarte: A less-than-lethal, uh, Remington shotgun with the, uh, sandbag, uh, X26 Taser, and, obviously, baton and, uh, OC.

Detective Anthony Diehm: Okay. Um, in regards to the incident this evening, wha, uh, what I'm gonna ask is that, that you just give us a narrative of, uh, what happened tonight, uh, you know, what time you came on duty, and then how you ended up, uh, whatever the circumstances led up to you being at the scene or going to this call, and then just, just walk us through with, -

Deputy Jaime Rodarte: Okay.

Detective Anthony Diehm: - uh, what happened and what you witnessed.

Deputy Jaime Rodarte: Uh, today's date or yesterday's date, I, um, uh, got ready around, um, 1830 hours, got dressed out of the Kentfield substation, um, eh, took a couple calls for service for parking complaints, then I was asked by a sergeant to, uh, cover the southern Marin area, 'cause the units were tied up in the southern Marin area with, uh, priority calls. I went to southern Marin for about an hour and a half maybe, uh, grabbed some food at In and Out prior to comin' back to my, uh, original beat, which is Kentfield. Um, when I was on 101 northbound, I heard dispatch, uh, advise our sergeant that San Rafael had a, uh, incident that m, that may, uh, request that, that they may, uh, there, they could possibly request our assistance. Um, he acknowledged, the sergeant acknowledged the, uh, you know, the radio traffic and then shortly, I'd say within 2 minutes, dispatch came on the air and said, uh, you know, San Rafael is requesting additional units to respond. Uh, at that point I didn't know what the call was actually about. I just respond to the area, um, behind Burger King. I'm not sure of the address exactly. Uh, I arrived on scene within a few minutes of being dispatched, uh, saw another one of my, uh, Marin County partners parked next to a San Rafael unit, um, he was on the driver's side, um, I can hear San Rafael giving commands to a subject who is directly in front of him, uh, shadowboxing with knives. My partner asked me to hold his position for a few seconds while he gathered somethin' from his vehicle or gathered somethin' from some other area, uh, came back within a few seconds, and then asked me if I can hold, uh, hold, hold, uh, you know, uh, my position at a different location where there's only one officer. so I did. I went over, uh, to the second position where it was just me and a San Rafael unit. Um, from that, from that position I could see the subject in question, um, again shadowbox with some knives, they were givin' him commands, as far as put the knives down, uh, you know. what are your requests? That went on for approximately, I don't know, 15, 25 minutes. Um, at a couple times during the interaction with the officer, I saw the subject put the knives down on the pavement and then, but quickly picked 'em back up. That officer that was speakin' to the subject, uh, did come over the radio and say that the subject, um, was requesting that, you know, law enforcement shoot him, that he had a problem with the government, that he wanted a flight to Atlanta or somewhere out in the east coast, and, um, that the subject was not to leave the area because he posed a threat to, to the public. Um, like I said, after 35 minutes, I believe, \*\*\*\*, um, 35, 40 minutes of negotiating with the subject, he started walkin' in our direction, which was about a block distance. Um, there was several floodlights pointed in my direction, so I can see the subject walking towards me with, so I can see his silhouette. Uh, once he got within, I'd say, 20, 25 feet of my location, um, I had called out his name - 'cause I can hear the officers callin' out Ali - I said, I just, he was comin' at me, I told him, Ali, stop several times, stop, stop, I don't wanna shoot you, um, you know, and he kept comin' at me, and I yelled out less lethal several times, um, and shot him approximately four times with less lethal. I believe I made contact each, each time that I shot him. Um, the first one stunned him a little bit and then he kind enra, it kinda woke him up and he got up a little quicker. I shot him again, um, then he started chargin' at me, uh, mumbling and sayin' something, yellin' somethin' at me, and at that time he was, uh, closin' in on me. I'd say at that point he was 10, 15 feet from me with a knife over, uh, shoulder and, uh, I knew that I had officers downrange and I didn' wanna, uh, transition to my lethal 'cause of the people comin' towards my direction, so, as he's coming towards me, I try to break the angle so I can shoot from a different angle when I knew I had my partner on the right who's, had lethal. Um, as he, I'd say he got within 10 feet, 8 feet of me, a San Rafael officer - I forget his name - um, shot him, uh, multiple times and then he fell to the ground and we rendered first aid.

Detective Anthony Diehm: Okay. So, I'm gonna go back a little and just ask a few follow up

Deputy Jaime Rodarte: Okay.

Detective Anthony Diehm: - clarifying follow-up questions. When that initial part, at the beginning when you were told - well before that, at what point did you deploy the less lethal?

Deputy Jaime Rodarte: When I got to the second post.

Detective Anthony Diehm: Okay. So, when you first got at the scene.

Deputy Jaime Rodarte: I had just my regular firearm because -

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: - I, I believe I saw someone with less lethal so I just, I took out my firearm.

Detective Anthony Diehm: And when they asked you to move to the other scene where there was only one officer.

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: Um, did you walk to that location or drive?

Deputy Jaime Rodarte: I drove.

Detective Anthony Diehm: You drove?

Deputy Jaime Rodarte: Yeah.

Detective Anthony Diehm: And at that point, when you drove to that second location, um, at what point did you deploy your less lethal?

Deputy Jaime Rodarte: Uh, I talked to, uh, the Officer Shorlee, um, I said hey I got less lethal, you got lethal and he said okay so I we - went back to my car, I, uh, got the less lethal out.

Detective Anthony Diehm: Okay. And how far was this second scene from, uh, the active scene we have you initially responding to?

Deputy Jaime Rodarte: From my second location?

Detective Anthony Diehm: Yeah, how far was it from this other \*\*\*\*.

Deputy Jaime Rodarte: I, I, it's, it was a, exactly a block.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: So, whatever I \*\*\*\* to estimate, um, I don't know 60, I don't know 40, 40, 50 yards maybe.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: Yeah.

Detective Anthony Diehm: And from that location could you see – it sound, uh, it sounds like there was about a 35 or 40-minute window where you're at this second location.

Deputy Jaime Rodarte: Correct, yes.

Detective Anthony Diehm: While this is developing.

Deputy Jaime Rodarte: Mm hnm.

Detective Anthony Diehm: And from that location could you see and hear what was going on at the scene?

Deputy Jaime Rodarte: I'd say, uh, um, 80 percent I can hear and I can see most of it just because he was standing right in front of – he was standing right in the middle of the street and then there was a patrol vehicle with his fly lights on so it was, yeah, I could see what he was doing.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: When I – what I forgot to mention was there was people tryin' to cross the street so we were tryin' to do two things at once. We were tryin' to keep people from not crossing the street 'cause there was rifles pointed down range and a couple times I yelled at the crowd hey, there's rifles in this. in this, yanno, direct – there's rifles pointed in this direction. Um, I yelled it out in Spanish 'cause Canal is predominantly yanno, Hispanics, um, and, and, yanno, but I could see, I had a clear view of the subject who was down the street basically

Detective Anthony Diehm: Okay. And during that time, that 30 or, 35 or 40-minute window, um, did you see anything. I, uh, you went into it a little but, uh, can you describe anything that, uh, mighta concerned you in the moment or, or.

Deputy Jaime Rodarte: Absolutely, um.

Detective Anthony Diehm: \*\*\*\* was at the forefront of your mind.

Deputy Jaime Rodarte: Yeah, he, uh, he was basically shadowboxing with knives going like this. Um, what I – he had, he had two objects in his hand, um, from the reflection of the lights I can see the, the, the, um, the shining coming off whatever metal object he had in his hand.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: And he was just basically, yanno, shadowboxing and, um, and, and that's when he told the officer who was talkin' to him that he wanted to be shot by law enforcement and that he had issues with the government and several other things that I can't recall.

Detective Anthony Diehm: And that – those statements by him, did you hear them or were they being broadcast over the radio?

Deputy Jaime Rodarte: Uh, they were being broadcasted over the radio.

Detective Anthony Diehm: Okay. And, were they broadcasting that he had knives, or could you just see that he had –

Deputy Jaime Rodarte: I, I could see the knives.

Detective Anthony Diehm: Okay, okay.

Deputy Jaime Rodarte: And I don't remember they were broadcasting that he had knives.

Detective Anthony Diehm: Okay. Could you describe the knives?

Deputy Jaime Rodarte: Um, I, initially obviously when, when he was about a block away I'd say it just looked like somethin' shiny. Um, when he came at me, um, when he finally dropped the knife after he was shot it was just like a folding knife.

Deputy Jaime Rodarte: And the other object was a pair of scissors.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: Yeah.

Detective Anthony Diehm: Um, when he – you described, uh, at some point, him advancing towards you?

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: Okay. Um, it sounds like it appeared to you that he, he saw and recognized that somebody was there.



Deputy Jaime Rodarte: Correct. He, he's, he's, he disengaged from the officers at the first site and he started walking down the, the street towards our location. Um, obviously there was patrol cars behind me, or, yeah, behind me and the other officer, um, I, like I said, I told him to stop. Ali, stop, Ali stop, I don't wanna shoot you -

Detective Anthony Diehm: And that was like -

Deputy Jaime Rodarte: - and it's like he wasn't hearing me and just advanced towards me.

Detective Anthony Diehm: And he made no response that, uh, you recall acknowledging that -

Deputy Jaime Rodarte: No response at all, correct.

Detective Anthony Diehm: --your statements? And how far would you say he was when you fired - uh, fired the less lethal?

Deputy Jaime Rodarte: Uh, I'd say, uh, 20 feet approximately.

Detective Anthony Diehm: Okay. And that first, uh, round, you said that kinda woke him up?

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: Did it, did it knock him down or did it - what, how -

Deputy Jaime Rodarte: From what I -

Detective Anthony Diehm: - did he react \*\*\*\*

Deputy Jaime Rodarte: - from what I recall as he, as he was walking down, um, he was mainly on the - if you're looking at him, on my left side -

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: - of the street. Once I hit him with the first one he kinda stumbled over to the right side, kinda took a knee and then immediately tried to get up again and then I hit him a second time, third time and a fourth time.

Detective Anthony Diehm: Okay, and did you have any cover, at that point when he was coming towards you?

Deputy Jaime Rodarte: Uh, initially when I shot him the first time I was - there was a, a, uh, Ford, uh, Escape I think, or Ford SUV and I was usin' that just because I was also concerned about someone possibly shooting down range. Um, but once I shot him the first time, I, I kinda advanced towards him a little bit just to see what he would do with the knives and, yanno, to see if he'd drop 'em or give up or quick cuff or, um, but he didn't do any of that and just got up

immediately, yelled somethin' out and then just started walking briskly or, um, well maybe even running towards me with the knife.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: Yeah.

Detective Anthony Diehm: And just – and just so I understand, you were positioned – can you explain to me how you were positioned behind this Ford.

Deputy Jaime Rodarte: Sure, can I show you with this?

Detective Anthony Diehm: \*\*\*\* how he was.

Deputy Jaime Rodarte: So, here, here, so, here's the street –

Detective Anthony Diehm: Uh huh.

Deputy Jaime Rodarte: - there's a vehicle here and a vehicle here, I'm standing here, my partner is standin' over here and this is the other street.

Detective Anthony Diehm: Yes.

Deputy Jaime Rodarte: Um, so when he, he's comin' down, he's comin' down this street – come out a little bit and I tell him to stop, stop.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: I don't wanna shoot you, stop. And then he, he ignored my commands, shoot him. He kinda stumbled back this way, it looked like he took a knee and then I kinda move towards the center at this point to get a better angle or a better shot at him and then that's when he got up again and, uh, said something and advanced towards me.

Detective Anthony Diehm: So, it sounds like there's vehicles parked on each –

Deputy Jaime Rodarte: On opposite sides of the street.

Detective Anthony Diehm: - side of the street.

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: And your positioned behind one vehicle –

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: And another officer's positioned behind another vehicle on the opposite –

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: - side of the street and he advances down the street between those two vehicles.

Deputy Jaime Rodarte: Correct.

Detective Anthony Diehm: Okay, um, did it appear that he saw the other officer to you – and if you don't know it's okay but –

Deputy Jaime Rodarte: Uh, I can't say.

Detective Anthony Diehm: - \*\*\*\*. Okay.

Deputy Jaime Rodarte: I can't say.

Detective Anthony Diehm: Um.

Deputy Jaime Rodarte: He was focused on me, uh, I can tell ya that for a certainty.

Detective Anthony Diehm: Okay. Um, anyway \*\*\*\*

Detective Ryan Mitchell: Had a couple things in – kinda hop around a little bit.

Deputy Jaime Rodarte: Okay.

Detective Ryan Mitchell: Um, uh, first just real quick, uh, the less lethal device that we're talking about, can you describe, uh, what that, what that is?

Deputy Jaime Rodarte: It's a Remington, um, can't remember the model number but it's a regular standard shotgun but uses beanbags instead of obviously slugs.

Detective Ryan Mitchell: Okay, so, it protects beanbags \*\*\*\* right?

Deputy Jaime Rodarte: \*\*\*\* yeah, correct. It's, it's, it's green in color as well.

Detective Ryan Mitchell: And does part of your training, that you've had before, include, uh, training regarding, um, uh, mental health and crisis situations?

Deputy Jaime Rodarte: Yes.

Detective Ryan Mitchell: Can, can you, uh, can you describe a little bit of what that training entails?

Deputy Jaime Rodarte: Sure. We, uh, we have CIT officers who are trained in that. Um, our last one was a few months ago. Basically, ya talk about case law, new, new veins, uh, resources for mental health patients, um, how to deal with them on a deputy level basically.

Detective Ryan Mitchell: Okay. And this, um, this suspect that, I believe you called him Ali, but -

Deputy Jaime Rodarte: That's what I heard the other officer call him, Ali -

Detective Ryan Mitchell: Okay.

Deputy Jaime Rodarte: - so I figure that that's -

Detective Ryan Mitchell: Okay.

Deputy Jaime Rodarte: - the name he gave him.

Detective Ryan Mitchell: Did, do you know him, ever seen him before?

Deputy Jaime Rodarte: No, not that I recall.

Detective Ryan Mitchell: And if you could describe what he was wearing and describe him, uh, to the best of your ability.

Deputy Jaime Rodarte: Uh, I can't really remember what he was wearing, to be honest with you.

Detective Ryan Mitchell: Okay.

Deputy Jaime Rodarte: Um, he was, yanno, um, brown complexion, um, I don't know maybe 5, 10, medium build, um, and that's all the, all that I can remember from him.

Detective Ryan Mitchell: And if you could describe his, um, mannerisms, I know you've mentioned he was shadowboxing. You, you, you held your hands up like you, you, you were boxing him.

Deputy Jaime Rodarte: Yeah, he had the knives in both hands as he was shadow, shadowboxing.

Detective Ryan Mitchell: Okay so he held 'em up, he held them up in front of him?

Deputy Jaime Rodarte: Correct. Like I said he's, he, he put 'em down a few times. I see him - I mean I could see him bend over and set 'em down and then he would immediately pick 'em up and then, yanno, that was also broadcasted over the radio that he put 'em down, but he just picked 'em back up.

Detective Ryan Mitchell: And was – how was his, uh, volume of voice?

Deputy Jaime Rodarte: At sometimes it was low and then it was high. Um, I, I do remember call, uh, hearin' him say, yanno, you're full of shit or you're bullshitting me, something along those lines to the officer who was givin' him commands or try, try to, tryin' to engage with him.

Detective Ryan Mitchell: It, would it be fair to say he seemed, he seemed angry?

Deputy Jaime Rodarte: Correct, right.

Detective Ryan Mitchell: And, uh, you may have mentioned this before but what time did this start, approximately \*\*\*\*.

Deputy Jaime Rodarte: Approximately, um, 9, 9:10, 9:15 approximately.

Detective Ryan Mitchell: So, was it dark outside or \*\*\*\*.

Deputy Jaime Rodarte: Correct.

Detective Ryan Mitchell: And I think you mentioned it a little bit before but, where this is at, is this a populated area in, in a city, is it more rural if you could \*\*\*\*.

Deputy Jaime Rodarte: It's a populated area in the city, um, basically surrounded by businesses, um, body shops, um, a lot of buildings with roll up doors, so there's a lotta cars on the street.

Detective Ryan Mitchell: Any, any residences?

Deputy Jaime Rodarte: Um, within, uh, two blocks from the location.

Detective Ryan Mitchell: And Deputy Rodarte did you, uh, ever I.D. yourself to, uh, this, this gentleman?

Deputy Jaime Rodarte: I don't believe I did, I just said at least stop 'cause he was comin' at me kinda fast and I just wanted to get his attention to stop, stop, stop I don't wanna shoot you.

Detective Ryan Mitchell: And if you, if you, um, give me approximately – how, how many, um, commands that you remember were told to \*\*\*\*.

Deputy Jaime Rodarte: Stop, two or three.

Detective Ryan Mitchell: By, by you specifically?

Deputy Jaime Rodarte: By me specifically.

Detective Ryan Mitchell: And collectively, uh, uh, everybody who \*\*\*\*.

Deputy Jaime Rodarte: Uh, it was just me and another officer at that point.

Detective Ryan Mitchell: Okay.

Deputy Jaime Rodarte: Uh, I don't think -- I don't remember if he gave any commands or not, to be honest with you.

Detective Ryan Mitchell: Okay. And, when he was -- you, you mentioned he, he was, uh, running towards you towards the end of this incident, is that correct?

Deputy Jaime Rodarte: Well he kinda got up quick and, uh, uh, I wouldn't say running but kind of a fast-paced walk maybe.

Detective Ryan Mitchell: So, he got up from a seated position?

Deputy Jaime Rodarte: From a knee, I believe.

Detective Ryan Mitchell: Okay

Deputy Jaime Rodarte: From like a knee, after bein' hit. Then he yelled somethin' out, um, sounded like somethin' he yelled out somethin' out in anger, um, said somethin' said came, came at me, um, and then like I said I remember seein' him raise either the left or right. I can't remember what --

Detective Ryan Mitchell: And you, you're describing you were holding it up over your --

Deputy Jaime Rodarte: Correct.

Detective Ryan Mitchell: - your head.

Deputy Jaime Rodarte: Raised his hands up over his, uh, on over his head, um, so.

Detective Ryan Mitchell: And at, at -- at what -- and when he got close to you, what was your thought in that moment, um, when he was, when he was approaching you?

Deputy Jaime Rodarte: He was there, he was there to commit harm to me. Obviously, he was, uh, uh, in my mind I, if, if my partner wouldn't a been there I probably woulda been stabbed, or, um, woulda been hurt seriously. Um, 'cause after I, I shot him the fourth time -- I, I, I don't, I don't, I, I think I remember that I hit the trigger one more time but realized oh shit, there's no more, uh, there's no more, uh, bullets, or no more, uh, bags so I kinda retreated and, um, went for my lethal and then for a quick second I, I just remember thinkin' there's people down, down, down by the street, they're officers so I kinda broke the angle where I can, if I'd

shot him it's hit a wall or a car that was parked not, not went downhill but at that point my partner stepped in and, uh, shot him.

Detective Anthony Diehm: So, were you -- you were \*\*\*\*, when you were braking the angle, uh, it sounds, um, it sounds like you were tryin' to create distance, buy you time and, and change your backdrop?

Deputy Jaime Rodarte: Correct. I was definitely tryin' to create distance just because I knew I had to, to change the angle, um, and I remember turnnin' my back at him at one point just to run faster so I could turn the other direction. And once I -- as soon as I turned, that's when he was shot.

Detective Anthony Diehm: And during that moment, um, it sounds like you were in essence fleeing, for a moment to try and create distance and, and change the angle. Was he -- he was still advancing towards you?

Deputy Jaime Rodarte: Correct and, uh, he then -- that's when he got shot, um, at that point I, I, uh, threw the shotgun over my shoulder, slinged it and then I still removed my, my taser just in case 'cause I knew my partner had lethal on him again, so, and then within seconds the other officers were running down the street and, yanno, rendering CP, uh, not CPR but rendering first aide.

Detective Ryan Mitchell: And he, he was continuing to charge you after he's been struck, you said four times.

Deputy Jaime Rodarte: Four times.

Detective Ryan Mitchell: Four times --

Deputy Jaime Rodarte: Correct.

Detective Ryan Mitchell: - four times with the less lethal beanbag round?

Deputy Jaime Rodarte: Correct.

Detective Ryan Mitchell: I think we wanna take a break?

Other Speaker: I'm, I'm, I'm doin' good but yeah, we can take a break for a couple minutes.

\*\*\*\* quick, uh --

Detective Anthony Diehm: Yeah.

Detective Ryan Mitchell: Yes.

- clarification question. So, you described he had his hands up, or his hand up over his head.

Deputy Jaime Rodarte: Correct.

What was he doing with the hand?

Deputy Jaime Rodarte: He was yellin' or mumbling somethin' and comin' at me like in an aggressive manner.

Now, you're makin' a motion with your hand, was he \*\*\*\*.

Deputy Jaime Rodarte: I don't \*\*\*\*.

Did he have anything in his hand at that point?

Deputy Jaime Rodarte: I, he, he did have somethin' in his hand. As far as what it was at that point I, I couldn't, I couldn't tell you but when he, when he fell to the ground he dropped the knife.

Okay, so, when his hand was up did he have the knife in his hand?

Deputy Jaime Rodarte: Correct

It was like in a stabbing position?

Deputy Jaime Rodarte: Correct, yes.

So, he didn't have his hand up surrendering?

Deputy Jaime Rodarte: No. He mumbled somethin' along the line of like fuck you or somethin' and came at me with a, came at - was charging me at the same time when he had his hand over his head.

With the blade toward you.

Deputy Jaime Rodarte: With the blades, toward me, correct.

Okay. That's all I have, yeah.

Other Speaker: Okay.

Detective Anthony Diehm: Let's take a break, it is, uh, 3:30 hours

Detective Ryan Mitchell: Going off the record.



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**Detective Ryan Mitchell (Interviewer)**

**Detective Anthony Diehm (Interviewer)**

**(Counsel)**

**Deputy Jaime Rodarte (Interviewee)**

Detective Anthony Diehm: Back on the record regarding Case No. 180806002. It is 3:32 a.m. We have no further questions at this time and our interview with Deputy Rodarte is now concluded. Well, unless you have anything else you want to say or that we didn't ask that you think we need to know?

Deputy Jaime Rodarte: Um, no.

Detective Anthony Diehm: Okay.

Deputy Jaime Rodarte: Thanks though.

Detective Anthony Diehm: Okay. That will conclude the interview.

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Date: 09/07/2018  
Billed Words: 100

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INTERNAL AFFAIRS INVESTIGATION  
IA# 18-04

**San Rafael Police Department**  
**Administrative Investigation Report**

INCIDENT TYPE: Standard of Conduct	DATE REPORTED: 08/05/18	DATE OF INCIDENT: 08/05/18	FILE NUMBER: 18-04
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EMPLOYEE: KEVIN MACDOUGALD	DIVISION OR ASSIGNMENT: Police Officer	WORK LOCATION: San Rafael Police Department
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COMPLAINANT: SAN RAFAEL POLICE DEPARTMENT	ADDRESS: 1400 Fifth Avenue	
CITY: San Rafael	STATE: CA	ZIP CODE: 94915
HOME TELEPHONE: N/A	WORK OR CONTACT TELEPHONE: (415) 485-3000	

SUMMARY OF COMPLAINT:

On August 5, 2018, at approximately 2104 hours, San Rafael Police Department (SRPD) Corporal Piombo came upon a subject on Verdi St. near Market St., armed with a knife and a pair of scissors. The subject was waving his arms about in a "martial arts" fashion and was yelling and gesturing as if he was about to stab someone. Numerous other officers from the SRPD, Marin County Sheriff's Office and the California Highway Patrol responded to the scene. A perimeter was established and negotiation with the subject was initiated. After nearly 35 minutes of continuous negotiation, the subject refused numerous requests to drop his weapons and submit to the officers' demands. The subject walked north on Verdi St. toward Belvedere St., where Officer MacDougald and Marin County Sheriff's Deputy Rodarte were stationed.

The subject refused Deputy Rodarte's commands to stop as he advanced toward the Deputy. Deputy Rodarte shot the subject four times with less than lethal beanbag rounds. The subject then charged at Deputy Rodarte with his weapons raised. Officer MacDougald, fearing that the subject was attacking him and the Deputy, fired his handgun at the subject, striking him three times. The subject fell to the ground and was taken into custody and treated for his injuries. He was then transported by ambulance to an area hospital where he was further treated. The subject survived his injuries.

DIVISION ASSIGNED: Command Consulting & Investigations, Inc.	DATE ASSIGNED: 12/10/18	DATE COMPLETED: 05/22/19
INVESTIGATOR: Bill Cogbill and Paul Henry	SUPERVISOR (S) REVIEW: SRPD Management	

INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

Officer Kevin MacDougald

VIOLATION (S):	REVIEWER'S FINDING:	REVIEWER'S FINDING:	REVIEWER'S FINDING:
SRPD Policy Manual Section 300.3			
SRPD Policy Manual Section 300.3.1			
SRPD Policy Manual Section 300.6			
	SIGNED and DATED:	SIGNED and DATED:	SIGNED and DATED:

DISPOSITION:	
SIGNATURE:	DATE:

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## Officer Kevin MacDougald Complaint / Authorities

The focus of this investigation is Officer Kevin MacDougald's conduct on August 5, 2018, while using force to prevent the escape and to arrest Faramarz Aghazadeh, who was armed with a knife and a pair of scissors. At issue is whether MacDougald's conduct violated the San Rafael Police Department's Policy Manual, more specifically:

SRPD Policy Manual Section 300.3 Use of Force - Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

SRPD Policy Manual Section 300.3.1 Use of Force to Effect an Arrest - Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835).

SRPD Policy Manual Section 300.6 Medical Consideration - Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical

**INTERNAL AFFAIRS INVESTIGATION**

**IA# 18-04**

*distress after an encounter should be continuously monitored until he/she can be medically assessed.*

*Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.*

*The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).*

*Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.*

**Background Summary**

On December 10, 2018, Command Consulting and Investigations, Inc. (CCI) was informed by Captain Glenn McElderry of the San Rafael Police Department's desire for CCI to conduct an independent Administrative Investigation into a use of force incident in which Faramarz Aghazadeh was shot by Officer MacDougald.

After explaining the details of the case, including the fact that a criminal investigation of this incident had been completed by the Sonoma County Sheriff's Office, CCI agreed to conduct the investigation. CCI was provided with all the relevant documents and information regarding the incident, including the names of potential witnesses.

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INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

Investigation

On December 10, 2018, Command Consulting & Investigations, Inc. was requested and authorized by San Rafael Police Chief Diana Bishop to conduct this investigation.

During the first weeks of the investigation, SRPD management provided CCI with the following information:

- NO. (Attachment A) A complete copy, contained in a separate binder, of the joint criminal investigation conducted by both the San Rafael Police Department, # SR18-06261, and the Sonoma County Sheriff's Office, #180806-002
- (Attachment B) Copy of investigative summary from criminal investigation #180806-002
  - (Attachment C) Copy of letter from the Marin County District Attorney's Office informing SRPD no criminal culpability on the part of Officer MacDougald was discovered
  - (Attachment D) A copy of the Table of Contents from the criminal investigation, Sheriff's Report #180806-002
  - (Attachment E) Transcript of Sheriff's Detective interview of MacDougald
  - (Attachment F) Report summarizing SRPD Detective interview of Piombo
  - (Attachment G) Report summarizing SRPD Detective interview of Garrison
  - (Attachment H) Report summarizing SRPD Detective interview of Graham

Upon reviewing the above listed materials and the information provided by SRPD management, CCI created the following general timeline:

**08/05/18** At approximately 2104 hours, Cpl. Piombo observes Subject Aghazadeh on Verdi St., near Market St., waving his arms about in a martial arts fashion, while armed with a knife and a pair of scissors.

Officers from the San Rafael Police Department, Marin County Sheriff's Office and the California Highway Patrol respond to the scene to assist.

Both Cpl. Piombo and Ofc. Garrison engage Aghazadeh in conversation to get him to voluntarily lay down his weapons. Aghazadeh refuses multiple requests to comply with the officers' direction. After approximately 35 minutes of negotiation, Aghazadeh ignores the officers' commands and begins to walk north on Verdi St. toward Belvedere St.

As Aghazadeh nears the intersection, Dep. Rodarte orders him to stop and warns him that he will be shot if he refuses to comply. Aghazadeh continues to ignore the commands of Dep. Rodarte and walks to within approximately twenty feet of the deputy. Dep. Rodarte then shoots Aghazadeh four times with less than lethal beanbag rounds.



**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

Aghazadeh then yells, raises his weapons and charges at Dep. Rodarte. Ofc. MacDougald moves from his position of cover, toward the path of Aghazadeh. Aghazadeh runs to within approximately five to ten feet of Ofc. MacDougald. Fearing that both the Deputy and he are about to be stabbed, Ofc. MacDougald shoots Aghazadeh three times with his authorized handgun. Aghazadeh is then taken into custody and treated for his injuries. He is transported to Marin General Hospital and he survives his injuries.

The Sonoma County Sheriff's Office conducts an independent criminal investigation of the shooting incident.

- 10/01/18** The Sonoma County Sheriff's Office completes its criminal investigation and submits it to the Marin County District Attorney's Office.
- 11/29/18** The Marin County District Attorney's Office notifies the San Rafael Police Department that no criminal culpability on the part of Ofc. MacDougald is discovered and no criminal charges will be filed.
- 12/10/18** CCI agrees to conduct an independent Administrative Investigation into this shooting incident.
- 03/13/19** CCI conducts recorded interviews with Corporal Piombo, Officer Garrison.
- 03/21/19** CCI conducts recorded interviews with Sergeant Graham and Officer MacDougald.
- 05/22/19** Final report is submitted to SRPD management.

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Interview of Aaron Piombo

On March 13, 2019, at 1610 hours, CCI conducted a recorded interview with Corporal Aaron Piombo. The interview took place in a conference room at the SRPD Annex Building. CCI Investigator Paul Henry conducted the interview. Piombo was not represented by an attorney. Piombo read and signed the SRPD Administrative Admonishment form prior to the interview.

Piombo was interviewed for the criminal investigation of this incident by Detective Corporal Rob Cleland from the SRPD. That interview took place on August 6, 2018.

In preparation for this Administrative Investigation, Piombo reviewed his initial statement provided to Cpl. Cleland and he reviewed the video from his body worn camera which recorded his involvement in this incident.

INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

Piombo stated that he has worked for SRPD for seventeen years. At the time of this incident, Piombo had over sixteen years of experience as a police officer and was assigned to the weekend graveyard shift as a patrol corporal.

Piombo stated that on August 5, 2018, he was wearing a standard SRPD blue uniform. He stated that his uniform shirt had SRPD police patches on each sleeve and he was wearing an outer tactical vest carrier over his uniform shirt. The vest carrier is black and had his issued SRPD silver badge on the left side and his name tag on the right side of the vest carrier.

Piombo carried the following equipment on his person: handgun, taser, collapsible baton, pepper spray, handcuffs, extra magazines, flashlight and radio.

He was driving a marked SRPD patrol vehicle that is black and white in color, has a SRPD police star on each front door, and is equipped with red and blue emergency lights. The vehicle contains a patrol rifle and a less than lethal shotgun that fires beanbag rounds.

Piombo stated that in addition to the numerous professional training courses he has completed, he has completed training in Crisis Intervention Training. He explained that the training provided strategies for talking with people in crisis.

Piombo stated that prior to responding to the call that is the subject of this investigation, he had responded to a call of a hit run accident, involving a pedestrian. He explained that while driving in the area and looking for the pedestrian accident victim, he came upon a subject, later identified as Faramarz Aghazadeh, who was standing in the area of Verdi St. and Lisbon St. Piombo said Aghazadeh appeared to be "shadow boxing" and as Piombo looked around to see if Aghazadeh was fighting with someone else he saw that there was no one else in the immediate area of him. He said Aghazadeh was armed with what appeared to be a knife in each of his hands and he was practicing strikes and thrusts that appeared to be similar to a "kata" or some other "martial arts moves".

Piombo notified SRPD dispatch of his location and observations and then exited his patrol vehicle. He stood near the opened driver's side door of his patrol vehicle and he armed himself with his less than lethal shotgun. Piombo was on Verdi St., just north of Market St. Aghazadeh was on Verdi St. near Lisbon St.

Other SRPD officers arrived into the area almost immediately. Officer Dodson took up a position on the right side of his (Piombo's) patrol vehicle and he directed Dodson to utilize the patrol rifle from his (Piombo's) patrol vehicle. Officer Melodia, who was a K-9 Officer at the time, took up a position to Piombo's left. Piombo said that Sergeant Graham and Officer Garrison were on Lisbon St. at its intersection with Verdi St. Additionally, Piombo said that several Marin County Sheriff's Deputies had also responded to the scene.

INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

Piombo said that the Burger King Restaurant, which was adjacent to their location, was open for business and there were patrons of the restaurant and other pedestrians in the area.

Piombo attempted to engage Aghazadeh in conversation. He yelled at Aghazadeh to get his attention and he told him to drop the weapons in his hands. Piombo said that it became apparent to him after just a few moments that Aghazadeh was not listening to him. Piombo said that Garrison, who had just arrived on scene, began to give Aghazadeh commands and that Aghazadeh turned to face Garrison.

Piombo then stopped giving Aghazadeh commands and stated that he knows from his training and experience that it can be distracting to a subject if multiple officers give multiple different commands.

Piombo stated that Aghazadeh appeared to be clenching his hands around the knives he held in each hand. He was pacing around in circles and he was punching his hands into the air while swinging his hands around in movements that looked like a martial arts style of fighting. According to Piombo, the movements by Aghazadeh appeared to be precise and not just "flailing about". He said the movements were specific "hand over hand movements" and involved right handed "forward slashing" movements, followed by left handed "stabbing" movements in a series or sequence. Piombo said that it appeared to him that Aghazadeh had formalized training in fighting with knives.

Piombo also said that it appeared to him that Aghazadeh was preparing for a fight with someone. He believed that Aghazadeh appeared to "know what he was doing" and that he was "very dangerous".

Piombo said he had no doubt in his mind that Aghazadeh represented a significant danger to the officers on scene and to the bystanders in the immediate area. He said that he specifically thought about how close he would allow Aghazadeh get to him, as Aghazadeh paced back and forth in circles, before he (Piombo) fired his less than lethal shotgun at him. Piombo also stated that he thought about having to shoot at Aghazadeh's head, turning the less than lethal shotgun into a potentially lethal weapon, if the less than lethal beanbag rounds did not stop Aghazadeh from advancing toward him.

Piombo said that at one point during the incident, Graham made an announcement over their radio to the other police officers on scene, that Aghazadeh was not to be allowed to exit the perimeter that had been established. Graham advised that reasonable force should be utilized to prevent Aghazadeh from leaving the area.

Piombo said that he had been thinking the same thing himself when he heard Graham's direction to the other officers on scene. He repeated that, based on the movements by Aghazadeh and his refusal to comply with the orders to drop his weapons, he believed Aghazadeh was a threat to any person he met.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

Piombo said that after some time had elapsed, he moved from his original position and took up a position near Graham and Garrison. Graham then asked Piombo to take over for Garrison as the primary negotiator with Aghazadeh. It appeared to him that Garrison was getting tired and was running out of ideas to build rapport with Aghazadeh to gain his compliance.

Piombo said that his goals, while talking with Aghazadeh, were to get him to engage in conversation, to gain his compliance by dropping the knives he was armed with, and to take him into custody without injury to Aghazadeh or anyone else.

Piombo said that he offered Aghazadeh something to eat and Aghazadeh said something about wanting seeds. Piombo thought he could gain an added level of rapport with Aghazadeh, and potentially his compliance with commands to drop the knives he was armed with, if he could get Aghazadeh something to eat and drink.

Piombo said that Aghazadeh never did comply with any of the commands he was given. He said that at one point, Aghazadeh set one of the knives he was carrying down on the ground for just a few seconds, but then he immediately picked it back up.

Piombo said that throughout this incident, Aghazadeh was pacing around the intersection of Verdi St. and Lisbon St. in a figure eight motion. He said that after approximately forty-five minutes of attempted negotiation with Aghazadeh, Aghazadeh began to walk toward Belvedere St. Piombo said that Aghazadeh had been walking around his "normal route or path", but this time, instead of turning and walking back toward Market St. on Verdi St., Aghazadeh continued toward Belvedere St.

Piombo continued to call out to Aghazadeh to get him to come back toward their location, but Aghazadeh continued to walk toward Belvedere St.

Piombo said he moved to the corner of a commercial building at the corner of Lisbon St. and Verdi St. and looked toward Aghazadeh. Piombo was concerned that, if the perimeter officers located at Belvedere St. and Verdi St. had to engage Aghazadeh with weapons, a crossfire situation could exist.

Piombo said that shortly after Aghazadeh walked toward Belvedere St. he heard a weapon being fired and that he believed it to be a less than lethal shotgun. He thought he heard four less than lethal beanbag rounds fired from the weapon. He heard three rounds fired in succession, followed by a pause, and then a fourth round fired from the weapon.

Piombo said that almost immediately after the fourth less than lethal beanbag round was fired, he heard the distinctive sound of a handgun being fired.

Piombo said that after hearing the handgun rounds being fired, they all ran to the corner of Belvedere St. and Verdi St. Upon arrival at the shooting scene, he saw Aghazadeh on the ground. Piombo yelled to the other officers on scene to watch the suspect's

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

hands. He was concerned that Aghazadeh may still be armed and capable of attacking one of the officers on scene.

Piombo said that Aghazadeh's hands were secured by officers on scene and Piombo then ordered an officer, he believed it was Ofc. Dodson, to get a medical bag from one of the patrol vehicles on scene.

Piombo said he assisted other officers on scene with providing medical attention to Aghazadeh and that the fire department and an ambulance arrived on scene very shortly after. He assisted the effort to provide medical aid to Aghazadeh by cutting his clothes off him to make his wounds visible and readily treatable.

Once the fire personnel and ambulance personnel arrived, they took over the primary care for Aghazadeh. Aghazadeh was loaded into the ambulance and Piombo was directed by Graham to follow the ambulance to the hospital.

Piombo said that he went into the emergency room and stood close by as the hospital staff treated Aghazadeh. Piombo did not hear Aghazadeh make any statements that are related to this investigation.

Interview of Michael Garrison

On March 13, 2019, at 1649 hours, CCI conducted a recorded interview with Officer Mike Garrison. The interview took place in a conference room at the SRPD Annex Building. CCI Investigator Paul Henry conducted the interview. Garrison was not represented by an attorney. Garrison read and signed the SRPD Administrative Admonishment form prior to the interview.

Garrison was interviewed for the criminal investigation of this incident by Detective Corporal Ronda Reese from the SRPD. That interview took place on August 6, 2018.

In preparation for this Administrative Investigation, Garrison reviewed his initial statement provided to Cpl. Reese. He stated that he had not reviewed the video from his body-worn camera and declined to review the video prior to his interview for this investigation.

Garrison stated that he has worked for the SRPD for six years. At the time of this incident, Garrison had over five years of experience as a police officer and was assigned to the weekend graveyard shift as a patrol officer.

Garrison stated that on August 5, 2018, he was wearing a standard SRPD blue uniform. He stated that his uniform shirt had SRPD police patches on each sleeve and he was wearing an outer tactical vest carrier over his uniform shirt. The vest carrier is black and

INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

had his issued SRPD silver badge on the left side and his name tag on the right side of the vest carrier.

Garrison carried the following equipment on his person: handgun, taser, collapsible baton, pepper spray, handcuffs, extra magazines, flashlight and radio.

He was driving a marked SRPD patrol vehicle that is black and white in color, has a SRPD police star on each front door, and is equipped with red and blue emergency lights. The vehicle contains a patrol rifle and a less than lethal shotgun that fires beanbag rounds.

Garrison stated that in addition to the numerous professional training courses he has completed, he has completed training in Crisis Intervention Training. He explained that the training provided strategies for talking with people in crisis.

Garrison stated that prior to responding to the call that is the subject of this investigation, he had responded to a call of a hit run accident involving a pedestrian. He explained that while searching the area for the pedestrian accident victim, he heard Piombo state, over the police radio, that he was out with a subject armed with knives near the intersection of Verdi St. and Market St.

Garrison said that he was in the area at the time of Piombo's transmission and that he was on scene at nearly the same time the transmission ended. He said that he was on Lisbon St. at its intersection with Verdi St. Upon his arrival, Garrison observed the subject, later identified as Aghazadeh, in the intersection of Verdi St. and Lisbon St., directly in front of his patrol vehicle.

Garrison exited his patrol vehicle and stood behind the opened driver's side door. According to Garrison, Aghazadeh was "dancing around" and appeared to be armed with knives in each of his hands. He said it looked as if Aghazadeh was "shadow boxing" with the knives.

Garrison said that he armed himself with one of the weapons he had with him to protect himself and others in the area against attack from Aghazadeh, but he could not remember which weapon he utilized. A review of Garrison's body worn camera video depicts him armed with a less than lethal shotgun.

He said that Graham, who also responded to the scene, parked his patrol vehicle right next to his. Graham then took up a position behind Garrison's passenger side patrol vehicle door.

Garrison said that he observed there was a subject, who he thought may be a homeless person, at the intersection of Lisbon St. and Verdi St. The person was near Aghazadeh and he instructed the person to move away from the area for his own safety.

INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

Garrison said that he attempted to engage Aghazadeh in conversation. He tried to develop rapport with Aghazadeh, and he tried to discover why Aghazadeh appeared to be agitated. Garrison went on to describe Aghazadeh as angry. He said that Aghazadeh had a short attention span and would only maintain communication with him (Garrison) for short time periods. Garrison said that Aghazadeh was yelling and making statements that did not make sense.

Garrison said that he talked with Aghazadeh in a calm voice and tried to avoid yelling at Aghazadeh to get Aghazadeh to calm down and cooperate with the police officers on scene. Garrison asked Aghazadeh what his name was. He asked Aghazadeh what was bothering him, and he asked if he could contact someone on his behalf.

On more than one occasion, Aghazadeh asked the officers on scene to shoot him. Garrison told Aghazadeh that he did not want to do that and that he wanted to help Aghazadeh.

Garrison said that throughout his contact with Aghazadeh, Aghazadeh moved about in circles, pacing back and forth. He said that Aghazadeh made "thrashing" and "slashing" movements with the knives that he held in each hand. Garrison said that it appeared to him that Aghazadeh had professional training in fighting with knives. He said that Aghazadeh had "good footwork" and appeared to be dancing. He said that Aghazadeh moved his hands around and "angled" the knives in such a way that he appeared to be experienced and dangerous.

Garrison said there were pedestrians in the area and that a Burger King Restaurant in the immediate area was open for business.

Garrison said that based on Aghazadeh's movements, his refusal to put his weapons down on to the ground, and his agitated state, he believed Aghazadeh represented a deadly threat to both the officers and bystanders in the area.

Garrison believed that Aghazadeh was "challenging" the officers on scene with his movements and his refusal to cooperate with the directions he was given.

Garrison recalled that at one point during the incident, Graham notified the other officers on scene over the police radio that Aghazadeh should not be allowed to get outside the established perimeter.

Garrison said that approximately twenty-five minutes after he began talking with Aghazadeh, Aghazadeh put one of his knives down on to the ground for only a few seconds. Garrison explained that Aghazadeh had been asking the police officers to leave the area and Garrison explained that they could not do that if Aghazadeh was armed with his weapons. Garrison said that Aghazadeh then put one of the knives down, but when Garrison asked Aghazadeh to step away from the knife, Aghazadeh immediately picked it up again.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

Garrison said that he talked with Aghazadeh for approximately thirty minutes. He said that he became fatigued and had run out of things to say to Aghazadeh and had run out of strategies to gain his compliance. At that point Graham asked Piombo to take over primary negotiations with Aghazadeh.

Garrison said that several times, during this incident, Aghazadeh walked a short distance toward Belvedere St., but each time he turned and walked back to his original location. Immediately before the shooting, Aghazadeh began to walk toward Belvedere St. and this time he did not turn around. Garrison said that they called after Aghazadeh and tried to get him to turn around and come back to them, but Aghazadeh continued to walk toward Belvedere St. According to Garrison, Aghazadeh walked faster toward Belvedere when they called out to him.

Shortly after this, Garrison heard commands for Aghazadeh to "stop" and "don't come any closer". Garrison thought it was Marin County Sheriff's Deputy Rodarte that shouted these commands.

Garrison heard what he thought was a less than lethal shotgun being fired. He heard several rounds being fired from the less than lethal shotgun and he believed Aghazadeh briefly stopped his advance toward the other officers. Garrison believed the beanbag rounds fired at Aghazadeh had struck him, causing him to pause his advance toward Rodarte. He said that he then observed Aghazadeh take off "sprinting" toward Rodarte. Garrison said that it appeared the beanbag rounds fired at him "infuriated" Aghazadeh.

Garrison stated that based on his training and experience he can distinguish between the sound of a handgun and a less than lethal shotgun being fired.

Garrison said that it appeared to him that Aghazadeh had raised up his hands as he ran toward Rodarte. He said that Rodarte began to retreat and back away from Aghazadeh. From his vantage point, it appeared to Garrison that Aghazadeh got very close to Rodarte.

Garrison then heard MacDougald fire his handgun at Aghazadeh and he observed Aghazadeh fall to the ground. Garrison said that he has "no doubt" that it appeared from his vantage point that Aghazadeh would have stabbed Rodarte had MacDougald not stopped Aghazadeh by shooting Aghazadeh with his handgun.

Garrison said that he and the other officers on scene then ran to Belvedere St. and began to administer first aid to Aghazadeh. Garrison observed a knife on the ground next to one of Aghazadeh's hands. He said that he then kicked the knife away from Aghazadeh.

Garrison said that immediately after the gunshots, Graham announced on the radio that shots had been fired and he asked for the fire and ambulance personnel staged in the area to respond to the shooting scene. He said that the fire and ambulance personnel



**INTERNAL AFFAIRS INVESTIGATION**

**IA# 18-04**

arrived on scene in only a few minutes and that other officers on scene provided medical treatment to Aghazadeh prior to their arrival.

Interview of Justin Graham

On March 21, 2019, at 1732 hours, CCI conducted a recorded interview with Sergeant Justin Graham. The interview took place in a conference room at the SRPD Annex Building. CCI Investigator Paul Henry conducted the interview. Graham was not represented by an attorney. Graham read and signed the SRPD Administrative Admonishment form prior to the interview.

Graham was interviewed for the criminal investigation of this incident by Detective Sergeant Todd Berringer from the SRPD. That interview took place on August 9, 2018.

In preparation for this Administrative Investigation, Graham reviewed his initial statement provided to Sgt. Berringer and he reviewed the video from his body-worn camera.

Graham stated that he has worked for the SRPD for seventeen years. At the time of this incident, Graham was assigned to the weekend graveyard shift as a patrol sergeant.

Graham stated that on August 5, 2018, he was wearing a standard SRPD blue uniform. He stated that his uniform shirt had SRPD police patches on each sleeve and he was wearing a SRPD sergeant badge on the left side of his uniform shirt.

Graham carried the following equipment on his person: handgun, taser, collapsible baton, pepper spray, handcuffs, extra magazines, flashlight and radio.

He was driving a marked SRPD patrol vehicle that is black and white in color, has a SRPD police star on each front door, and is equipped with red and blue emergency lights. The vehicle contains a patrol rifle and a less than lethal shotgun that fires beanbag rounds.

Graham stated that in addition to the numerous professional training courses he has completed, he has completed training in Crisis Intervention Training. He explained that the training provided strategies for talking with people in crisis.

Graham stated that prior to responding to the call that is the subject of this investigation, he had responded to a call of a hit run accident involving a pedestrian. He explained that while searching the area for the pedestrian accident victim, he heard Piombo state over the police radio that he was out with a subject armed with knives near the intersection of Verdi St. and Lisbon St.

## INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

At the time he heard Piombo's radio transmission, Graham was near the Burger King Restaurant on East Francisco Blvd. He drove directly to Lisbon St. at intersection with Verdi St.

Upon his arrival, Graham observed Aghazadeh standing in the intersection on Verdi St. at Lisbon St. Graham said that Aghazadeh was armed with a knife in each hand and he was waiving his hands and arms in what appeared to be a "rehearsed martial arts fashion". He stated that Aghazadeh made stabbing and slashing motions.

Graham stated that his entire patrol shift responded to this call. He identified the officers as: Cpl. Piombo, and Ofcs. Garrison, Dodson, Melodia, and MacDougald. Graham stated that he quickly formed the opinion that Aghazadeh was a significant danger to both the officers on scene and the general public. He formed this opinion because Aghazadeh appeared to refuse to acknowledge the police officers on scene, he was armed with knives, and he was making martial arts type movements. Graham said, "he reminded me of somebody that was either trained in some type of knife fighting or martial arts."

Garrison was talking to Aghazadeh and attempting to build rapport with him. He said that as this was occurring, one of his primary considerations was to establish a perimeter around Aghazadeh to keep the public away from him and to ensure he could not escape.

Graham said that as he directed SRPD officers to specific locations, he realized that he needed additional resources. He then requested through the dispatch center mutual aid from the Marin County Sheriff's Department and the California Highway Patrol.

Once additional peace officers arrived on scene, Graham asked a Marin County Sheriff's Sergeant to take over coordination of the outer perimeter at the scene. He asked the CHP officers on scene to evacuate the Burger King Restaurant, which was open for business, and to assist with evacuating pedestrians in the immediate area.

Graham stated that with these responsibilities delegated to the allied law enforcement agencies, he could focus his attention on managing and supervising the officers on the inner perimeter of this scene.

Graham stated that besides the additional peace officers he requested, he also asked for Crises Negotiators to respond to the scene. Graham also asked that fire personnel and an ambulance respond to the area and stage at a nearby location.

Graham stated that at this point in the incident, Aghazadeh was walking back and forth within the intersection in a circular pattern and he was waiving his hands and arms about in stabbing and slashing motions.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

Graham told Melodia to secure his K-9 partner in his patrol vehicle because the dog was barking loudly. Graham believed the dog was an impediment to Garrison building rapport with Aghazadeh.

According to Graham, initially Garrison was the primary officer attempting to address Aghazadeh and obtain his cooperation and compliance with setting down his weapons. He said that after approximately thirty minutes of negotiation with Aghazadeh, it appeared to him that Garrison was getting tired and was running out of things to say to Aghazadeh. Graham then asked Piombo to take over the primary negotiator responsibilities.

Graham said that he specifically wanted only one officer at a time to attempt to negotiate with Aghazadeh. He said that he knows from his training and experience that it can be confusing to the subject if more than one officer at a time attempts to negotiate with him.

Graham said that Aghazadeh was speaking English when he communicated with the officers on scene and he believed that there were no language barriers impeding the negotiation.

Graham remembered that on two occasions he heard Aghazadeh ask the officers on scene to shoot him. He said that Aghazadeh was told that the officers did not want to harm him and Aghazadeh was asked repeatedly to put down the weapons he was armed with.

Graham said that at the time Aghazadeh made the request for the officers to shoot him, Aghazadeh was not advancing on any of the officers on the inner perimeter and there was no immediate necessity to shoot him.

Graham said that on one occasion, Aghazadeh put one of his knives on the ground but then immediately picked it up again after a second or two.

Graham said that generally, Aghazadeh was non-compliant with the directions given to him by Garrison and Piombo. Aghazadeh continued to pace back and forth within the intersection and he continued to waive his arms about in slashing and stabbing motions throughout this incident.

Graham said that during this incident he broadcast over the radio that the officers on scene should not allow Aghazadeh to get outside the established perimeter. Graham explained that he believed that Aghazadeh was a grave threat to anyone he met. Another concern of his was that it was unknown if Aghazadeh had already committed other serious crimes, such as an assault on a yet unknown victim.

Graham said that once Aghazadeh started to walk toward Belvedere St. he moved from his patrol car to a position near the corner of a building on the northeast corner of Lisbon St. and Verdi St.

INTERNAL AFFAIRS INVESTIGATION  
IA# 18-04

Once Aghazadeh neared Belvedere St. Graham heard an officer shout at Aghazadeh. Graham could not recall what was shouted, but he then heard several less than lethal beanbag rounds being fired. A short time later, Graham heard the distinct sound of a lethal firearm being fired.

Graham said that he could only partially see the events at the corner of Belvedere St. and Verdi St. He said that he could only see silhouettes at the intersection because of the bright lights from the patrol cars in the area.

He said that he remembered hearing the slide action of the less than lethal shotgun being worked and then he observed a silhouette move out from the corner of a building, followed by the sound of three handgun rounds being fired.

Graham stated that it appeared to him that Aghazadeh had "attacked" the officers and the incident was "very violent". He said that he observed quick and fast movements immediately prior to the sound of the less than lethal beanbag rounds.

Graham said that at the time he did not know that it was Marin County Deputy Sheriff Rodarte that had the less than lethal shotgun, but it appeared to him that Aghazadeh was attempting to attack the person with the shotgun. He said that he observed Rodarte back up in order to get away from Aghazadeh. Graham did not know if Aghazadeh was making slashing or stabbing motions with the knives, but he repeated that Aghazadeh's attack appeared to be violent.

Graham said that it was at this point that an officer, who he later discovered was MacDougald, stepped out from his position of cover and shot at Aghazadeh with his handgun.

Graham said that once he saw Aghazadeh fall to the ground, he and the other officers from the inner perimeter ran to the location of the shooting. Graham said Piombo, Dodson and an unknown Marin County Deputy Sheriff immediately began to administer first aid to Aghazadeh. Graham notified dispatch that the Fire Department and ambulance personnel that had staged in the area were needed at the shooting scene.

Graham remembered seeing at least one knife in the immediate area of Aghazadeh. He could not recall if the knife was on the ground or in Aghazadeh's hand, but he remembered yelling at the other officers on scene to be careful and he remembered that an officer moved the knife away from Aghazadeh.

Graham said that when Aghazadeh was loaded into the ambulance he ordered Piombo to follow the ambulance to the hospital. He explained that Aghazadeh was under arrest and he did not know the extent of Aghazadeh's injuries and was concerned he could represent a threat to the hospital staff.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

**Interview of Kevin MacDougald**

On March 21, 2019, at 1622 hours, CCI conducted a recorded interview with Officer Kevin MacDougald. The interview took place in a conference room at the SRPD Annex Building. CCI Investigator Paul Henry conducted the interview. MacDougald was not represented by an attorney. MacDougald read and signed the SRPD Administrative Admonishment form prior to the interview.

MacDougald was interviewed for the criminal investigation of this incident by Detective Mitchell from the Sonoma County Sheriff's Office. That interview took place on August 6, 2018.

In preparation for this Administrative Investigation, MacDougald reviewed his initial statement provided to Det. Mitchell and he reviewed the video from his body worn camera which recorded his involvement in this incident.

MacDougald stated that he has worked for the SRPD for approximately forty-one years. At the time of this incident, MacDougald was assigned to the weekend graveyard shift as a patrol officer.

MacDougald stated that on August 5, 2018, he was wearing a standard SRPD blue uniform. He stated that his uniform shirt had SRPD police patches on each sleeve and he was wearing his issued SRPD silver badge on the left side of his shirt and his name tag on the right side.

MacDougald carried the following equipment on his person: handgun, taser, collapsible baton, handcuffs, extra magazines, flashlight and radio.

He was driving a marked SRPD patrol vehicle that is black and white in color, has a SRPD police star on each front door, and is equipped with red and blue emergency lights. The vehicle contains a patrol rifle and a less than lethal shotgun that fires beanbag rounds.

MacDougald stated that in addition to the numerous professional training courses he has completed, he has completed training in Crisis Intervention Training. He explained that the training provided strategies for talking with people in crisis.

MacDougald stated that he heard Piombo's radio transmission that he was out with a subject who was armed with knives in the area of Lisbon St. and Verdi St. He stated that he was subsequently dispatched to assist on the call and was directed to take up a perimeter position on Belvedere St. at intersection with Verdi St. His assignment was to keep vehicular and pedestrian traffic from traveling down Verdi St. from Belvedere St.

MacDougald said that when he arrived in the area, his view of Aghazadeh was obscured by the spotlights from the patrol vehicles pointed in his direction. He said that he could see Aghazadeh pacing around as he passed between his location and the

INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

spotlights. He could not see what Aghazadeh was doing with his hands, though MacDougald recalled a radio transmission by one of the officers in which Aghazadeh was described as moving his hands about in a martial art fighting style.

MacDougald said that after a short time he was joined at his location by Deputy Rodarte, from the Marin County Sheriff's Department. MacDougald stood behind a parked vehicle on the west side of the St., while Rodarte stood behind a parked vehicle on the east side of the street.

MacDougald said that based on the radio transmissions of the officers on scene, together with his own limited observations, he believed that Aghazadeh was armed with two knives and was pacing around in circles. He also believed that Aghazadeh was generally unresponsive to the orders and commands from the officers that were attempting to talk with him.

MacDougald said that he heard Graham broadcast over the radio that Aghazadeh should not be allowed to get outside their established perimeter and that the officers on scene were authorized to use reasonable force to follow this directive.

MacDougald heard Graham broadcast on the radio that Aghazadeh was asking the officers on scene to shoot him.

MacDougald said that based on the radio transmissions and his own limited observations, he believed that Aghazadeh could be a grave danger to any of the officers on scene and to any bystanders he met. He said that there were between fifteen and twenty people in the area at his location that had gathered to watch the incident.

MacDougald said that he addressed several pedestrians in the area that were directly behind him and when he turned his attention back toward Aghazadeh, Rodarte told him that Aghazadeh was coming toward them. He said that he could see Aghazadeh walking in their direction.

As Aghazadeh neared their location, MacDougald said that he could see that Aghazadeh had both of his hands clenched in fists. He appeared to have something in each hand, but MacDougald could not tell what the objects were. He added that based on what he was told previously, he believed that the objects were knives.

Rodarte yelled at Aghazadeh and told him to stop. According to MacDougald, Rodarte told Aghazadeh to stop several times and he told Aghazadeh that he would be shot if he did not stop. MacDougald said Aghazadeh continued to walk "purposefully" toward their location despite Rodarte's commands and the warning that he would be shot. MacDougald also yelled at Aghazadeh two times to stop. Rodarte stated, during his interview with the Sheriff's detective, that Aghazadeh got to within twenty feet of him.

As Aghazadeh continued to walk in their direction, Rodarte yelled "less lethal" and he shot Aghazadeh with a less than lethal beanbag round. MacDougald said that Rodarte's

INTERNAL AFFAIRS INVESTIGATION  
IA# 18-04

deployment of the weapon and his communication with Aghazadeh was a "textbook" example of utilizing this weapon in the way that they are instructed. He stated that Rodarte shot Aghazadeh four times with the less than lethal beanbag rounds and he yelled "less lethal" before each shot.

MacDougald said that he believed that each of the four beanbag rounds struck Aghazadeh. He said that he observed that Aghazadeh seemed to have a reaction after each round was fired at him.

MacDougald said the purpose of using the less than lethal beanbag round is to gain a subject's compliance through the implementation of pain compliance. This was why both Rodarte and MacDougald yelled at Aghazadeh to "stop" and why Rodarte told Aghazadeh he would be shot if he failed to comply.

MacDougald said that after being struck for the third time by a less than lethal beanbag round, Aghazadeh raised both of his arms to shoulder height, still armed with the two knives, and he began to run in the direction of Rodarte while screaming "You motherfucker!".

According to MacDougald, Rodarte shot Aghazadeh a fourth time with the less than lethal beanbag round and then Rodarte started to back up. MacDougald said that his attention and focus was on Aghazadeh, as Aghazadeh continued to run at them, and he therefore could not see Rodarte very clearly at this point. He said that he lost sight of Rodarte after Rodarte began to back up.

MacDougald said, "There is no doubt in my mind that the subject was attacking Deputy Rodarte at that time." He added, "I think that the subject would have done everything he could in order to attack Deputy Rodarte with whatever that was in, whatever those items, objects were in his hands."

MacDougald said that in response to Aghazadeh's attack on Rodarte, he stepped out of his position of concealment and moved toward Aghazadeh at an angle to cut off Aghazadeh's attack on Rodarte. Aghazadeh ran to within five to ten feet of MacDougald. MacDougald then fired his handgun at Aghazadeh one time. He stated, "I could tell that I hit him. It stunned him. He turned and looked at me...he was looking right at me. So, I believed that he was going to attack me. And I fired two more rounds from my handgun at him."

MacDougald said that had he not fired his handgun at Aghazadeh to stop his attack, he believed that Aghazadeh was going to attack Rodarte or himself or one of the bystanders in the area with the knives he had in his hands.

MacDougald said that Aghazadeh fell to the ground after he fired his third round from his handgun. He stated that Aghazadeh was no longer an immediate threat and he then stopped firing his gun at Aghazadeh and he put it back in his holster.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

After Aghazadeh fell to the ground, MacDougald saw both a folding knife in the opened position and a pair of scissors on the ground near Aghazadeh.

The other officers on scene ran to his location and several of them began to administer first aid to Aghazadeh. He said that the fire engine and ambulance that had staged in the area also arrived at the shooting scene after just a few minutes.

Aghazadeh's injuries were treated by both the police officers on scene and the fire and ambulance personnel. Aghazadeh was then transported to an area hospital.

**Body Worn Camera Video Evidence**

A review of the videos from the body-worn cameras for all four officers, MacDougald, Graham, Piombo, and Garrison, confirm that the statements provided by the officers, both during the criminal investigation and this Administrative Investigation, are a consistent and accurate reflection of what occurred at the scene of this officer-involved shooting incident on August 5, 2018, in the City of San Rafael.



## Kevin MacDougald Conclusions and Findings

The purpose of this investigation was to determine whether Officer Kevin MacDougald's conduct on August 5, 2018, during the arrest of Faramarz Aghazadeh, violated the following policies in the Police Department Policy Manual, more specifically:

SRPD Policy Manual Section 300.3 Use of Force - *Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.*

*The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.*

*Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.*

*It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.*

*While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.*

SRPD Policy Manual Section 300.3.1 Use of Force to Effect an Arrest - *Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835).*

During the investigation, it was determined that Kevin MacDougald did not violate the above listed San Rafael Police Department Policies.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

On August 5, 2018, at approximately 2104 hours, Piombo was in the area of Verdi St. and Market St., looking for a pedestrian victim of a hit and run traffic accident. Piombo then observed a subject, later identified as Aghazadeh, near the intersection of Verdi St. and Lisbon St. Piombo noticed that Aghazadeh was pacing back and forth and was waving his arms about, appearing to be fighting with someone. Piombo did not see any other person immediately near Aghazadeh. Piombo observed that Aghazadeh appeared to be armed with a knife in each of his hands and he said that Aghazadeh was moving his hands and arms about in a "martial arts" fashion.

Piombo notified SRPD dispatch of his observations regarding Aghazadeh and he stopped his patrol car on Verdi St. near the intersection with Lisbon St. He stood behind the driver's door of his patrol vehicle and he armed himself with his less than lethal shotgun. Almost immediately there were several other SRPD officers on scene. Dodson took up a position behind Piombo's right passenger door while Melodia was on Piombo's left. Graham and Garrison were on Lisbon St. east of Verdi St.

Piombo had initially attempted to engage Aghazadeh in communication as he was the first officer on the scene. He ordered Aghazadeh to drop his weapons and Aghazadeh refused to comply. Piombo said that it appeared to him that Aghazadeh was ignoring him.

Upon his arrival, Garrison immediately began to shout at Aghazadeh to drop his weapons. Aghazadeh turned and looked at Garrison. Piombo then discontinued his attempts to talk with Aghazadeh because he knew from his training and experience that suspects are often confused if more than one officer is shouting commands at them.

All of the SRPD officers in the immediate area of Aghazadeh described Aghazadeh's behavior and movements similarly. Aghazadeh was described as armed with a knife in each hand. He was pacing around in circles within the intersection of Verdi and Lisbon St. He was moving his hands and arms about in a "martial arts" fashion and he gave the officers at the scene the impression that he had formalized training in fighting with knives. Piombo said that Aghazadeh was not simply "flailing" his hands about and that his movements were specific. He said that Aghazadeh's movements involved right handed "forward slashing" followed by left handed "stabbing" movements in series or sequence. While pacing in circles and waiving his knives in slashing and stabbing movements, Aghazadeh refused to comply with the officers' commands to drop his weapons.

It was learned later that Aghazadeh was armed with a pair of scissors in one hand and a fixed blade folding knife, opened in the locked position, in his other hand.

All of the SRPD officers at this scene formed the opinion that Aghazadeh was a potentially deadly threat both to the officers on scene and to any member of the public that he encountered.

## INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

Graham requested through SRPD dispatch the assistance of Marin County Sheriff's Deputies and Officers from the California Highway Patrol. Additionally, Graham requested the assistance of a trained negotiator.

Graham also requested that fire personnel and an ambulance stage in the area in the event they were needed to provide emergency medical aid.

Once additional police resources arrived on scene, Graham asked a Marin Sheriff's Sergeant to take over managing the outer perimeter of this scene. Graham asked several CHP Officers to evacuate the nearby Burger King Restaurant and any other pedestrians in the area.

MacDougald was dispatched to the intersection of Belvedere and Verdi St. to prohibit vehicular and pedestrian traffic from traveling down Verdi St. and into this scene. MacDougald was joined by Marin County Sheriff's Deputy Rodarte at his location. (Rodarte's complete interview is contained in Attachment A)

MacDougald took up a position behind a parked vehicle on the north side of Verdi St. at Belvedere St. while Rodarte was on the south side of the intersection.

Based on his belief that Aghazadeh represented a grave threat to anyone he encountered, together with the fact that it was unknown if Aghazadeh had already committed other unreported, serious crimes, Graham broadcast over the police radio that Aghazadeh should not be allowed to exit their established perimeter. Graham advised the officers on scene that they should use only that amount of force that would be necessary, but they were not to allow Aghazadeh to exit their perimeter.

Piombo had the same thought as Graham when Graham gave this direction. He said that he himself had thought about how close he would allow Aghazadeh to get to him before he shot at Aghazadeh. He said that if his less than lethal beanbag round did not stop Aghazadeh from advancing toward him, he would shoot Aghazadeh in the head with his less than lethal beanbag round.

Garrison attempted to negotiate with Aghazadeh for approximately thirty minutes. He stated that he specifically utilized a "calm voice" and he did not shout at Aghazadeh. He learned that Aghazadeh went by the name "Ali" and he therefore called him this name. He asked Aghazadeh what it was that was bothering him, and he asked how he could help Aghazadeh.

Graham ordered Melodia to secure his K-9 partner in his patrol car because he believed that the dog's loud barking could have been impeding Garrison's efforts to develop rapport with Aghazadeh.

On several occasions, Aghazadeh asked the officers at the scene to shoot him. Garrison told Aghazadeh they wanted to help Aghazadeh and that they did not want to shoot him.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

After approximately thirty minutes, Piombo moved from his original location to the area near Graham and Garrison. Graham then asked Piombo to take over negotiating with Aghazadeh. Both Graham and Piombo said that it appeared to them that Garrison was getting tired and was running out of ideas to build rapport and to gain Aghazadeh's compliance with putting down his knives.

At this point, Aghazadeh was continuing to pace around in circles and he continued to move his hands and arms about in slashing and stabbing movements. Except for a moment, Aghazadeh had failed to comply with any of Garrison's demands to drop the knives. Garrison said that Aghazadeh did set down on the ground one of the knives he was holding, but when Garrison asked Aghazadeh to back away from the knife, Aghazadeh immediately picked it up again.

Piombo began to engage Aghazadeh in conversation as he attempted to build rapport with him. He said that his goal was to gain Aghazadeh's compliance with disarming himself and to submit to arrest without anyone getting hurt. Piombo offered Aghazadeh something to eat and Aghazadeh said he wanted pumpkin seeds.

MacDougald said that prior to Aghazadeh walking in his direction, he could see that Aghazadeh was pacing around in circles. His view of Aghazadeh was obstructed by the bright spot lights from the patrol cars that were pointed in his direction. He could not see what was in Aghazadeh's hands, though he said that he heard on the police radio that Aghazadeh was armed with two knives and that he was moving them about in a martial arts fashion.

MacDougald said that based on his limited observations, the radio transmissions which described Aghazadeh's movements and behavior, and Graham's direction that Aghazadeh was not to exit the perimeter of this scene, he believed that Aghazadeh was a dangerous threat to the officers on scene and to anyone he came into contact with in the area.

After approximately thirty-six minutes of continuous negotiation with Aghazadeh, Aghazadeh began to walk in the direction of MacDougald and Rodarte.

MacDougald said that he was addressing a pedestrian in the area and that when he turned his attention back to Aghazadeh, Rodarte told him that Aghazadeh was walking in their direction.

As Aghazadeh neared their location, both Rodarte and MacDougald yelled at Aghazadeh to stop and not to come any closer. MacDougald said that Aghazadeh appeared to be "walking with a purpose" as he walked quickly. MacDougald believed that he yelled at Aghazadeh to stop at least two times.

Rodarte yelled at Aghazadeh and told him to stop and he told Aghazadeh that he would be shot if he did not stop. Aghazadeh continued to walk toward Rodarte, who was still

INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

positioned on the south side of Verdi St. at Belvedere St. Rodarte then yelled, "Less lethal" and he fired a less than lethal beanbag round at Aghazadeh.

MacDougald said that it appeared to him that Aghazadeh was struck by the round because he had a physical reaction to it. Aghazadeh continued to walk toward Rodarte. Rodarte then yelled, "Less lethal" two more times immediately before he fired two additional less than lethal beanbag rounds at Aghazadeh. MacDougald said that he believed that each of the rounds struck Aghazadeh.

Aghazadeh then began to yell at Rodarte. MacDougald believed that Aghazadeh raised both of his hands to shoulder height. He said that Aghazadeh was still armed with the knives in each of his hands. According to MacDougald, Aghazadeh then began to run toward Rodarte as Aghazadeh yelled, "You mutherfucker!".

Rodarte then yelled, "Less lethal" a fourth time and shot Aghazadeh with a less than lethal beanbag round. MacDougald believed this round also struck Aghazadeh, but it had no effect on him. Aghazadeh continued to yell and run toward Rodarte. Rodarte began to back up and he circled toward the north, to get away from Aghazadeh.

MacDougald, who was armed with his handgun, moved away from his position of concealment, and he moved in a direction toward Aghazadeh to cut off his path as Aghazadeh ran toward Rodarte.

MacDougald said that he had no doubt in his mind that Aghazadeh was attacking Rodarte and that he intended to stab Rodarte with the knives he was armed with.

MacDougald fired one round at Aghazadeh. He stated that he believed the round struck Aghazadeh. MacDougald said, "I could tell that I hit him. It stunned him. He turned and looked at me...he was looking right at me. So, I believed that he was going to attack me. And I fired two more rounds from my handgun at him."

MacDougald said that Aghazadeh fell to the pavement after he fired his third round at him. MacDougald said that while Aghazadeh was not yet secured in handcuffs, he was no longer an immediate threat. Accordingly, MacDougald stopped firing his handgun and he put it back in his holster.

MacDougald said that the other officers from the original scene ran toward him and were at the scene of the shooting within seconds. Several officers began to administer first aid to Aghazadeh.

MacDougald observed a pair of scissors and a folding type knife in the opened position on the ground near Aghazadeh. Both weapons were moved away from Aghazadeh as the officers provided medical aid.

A thorough review of the criminal investigation was completed for this Administrative investigation. All witness interviews in that investigation were thorough and complete.

## INTERNAL AFFAIRS INVESTIGATION

IA# 18-04

Accordingly, it was not necessary to re-interview every witness for this Administrative investigation.

The evidence developed during both the criminal and administrative investigations establish that Aghazadeh represented a clear and imminent threat of great bodily harm to all officers present at this scene. Aghazadeh was armed with a pair of scissors and a three-inch folding knife which was locked in the opened position. Both weapons are deadly weapons and Aghazadeh failed to comply with repeated commands to drop these weapons.

The officers on scene were patient and specifically utilized tactics that were designed to defuse and de-escalate the situation. Only one officer at a time attempted to negotiate with Aghazadeh. They spoke in a calm voice. The officers had previously undergone training in Crisis management. A police K-9 was moved away from the scene in an attempt to calm the situation and to calm Aghazadeh. In spite of these tactics, and the actions of the officers at this scene, Aghazadeh remained uncooperative and appeared to be in a highly agitated state.

All of the officers present at this scene articulated reasonable and justifiable fear that Aghazadeh was a grave threat to anyone he encountered.

Rodarte's firing of four less than lethal beanbag rounds at Aghazadeh was reasonable and justified.

Had MacDougald not stepped toward Aghazadeh, and fired his handgun at him, Aghazadeh may have attacked Rodarte, with serious, potentially fatal consequences. At the time of the shooting, Aghazadeh was engaged in committing a felony assault, a violation of Penal Code Section 245(c), assault with a deadly weapon, other than a firearm, upon the person of a Peace Officer.

As the investigation established by a clear preponderance of the evidence that excessive force was not used and that the amount of force used was reasonable, within policy and the law, the finding for each of the above-listed policies is Exonerated.

**Finding: Exonerated**

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SRPD Policy Manual Section 300.6 Medical Consideration - Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

**INTERNAL AFFAIRS INVESTIGATION**  
**IA# 18-04**

*Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.*

*The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).*

*Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.*

During the investigation, it was determined that Kevin MacDougald did not violate the above listed San Rafael Police Department Policy.

Early on in this incident Graham requested that fire personnel and an ambulance stage in the area in the event emergency medical aid was necessary.

Aghazadeh's actions and his refusal to comply with lawful orders to stop made it necessary for MacDougald to fire his handgun at Aghazadeh. Once Aghazadeh fell to the pavement, MacDougald stopped firing his weapon. Other officers from the original scene location responded immediately to the shooting scene. Piombo ordered Garrison to get a medical bag from one of the patrol cars as Piombo and several other SRPD Officers and Sheriff's Deputies began to administer first aid.

Graham immediately notified SRPD dispatch that shots had been fired and he requested that the fire and ambulance personnel who were staged in the area respond to the shooting scene.

Both San Rafael Fire and the ambulance were at the shooting scene within minutes. Aghazadeh was treated and he was transported to an area hospital. Aghazadeh was treated at the hospital and he survived his injuries.

INTERNAL AFFAIRS INVESTIGATION  
IA# 18-04

As the investigation disclosed that neglecting to provide or obtain medical assistance did not occur and the evidence confirmed that emergency medical care was obtained and provided, the finding as to this allegation is Unfounded.

**Finding: Unfounded**

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Conclusions

All SRPD employees involved in this incident used good judgement and restraint in dealing with a highly dangerous subject and an evolving situation. When it became necessary to change from a use of force situation to a medical emergency, they seamlessly started life-saving efforts to do what they could to save the life of the suspect.

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1 Garrison

2

3 [Beginning of recorded material]

4

5 Paul Henry: Today's date is March 13, 2019. The current time is 4:49 in the  
6 afternoon. And we are across the street from the San Rafael Police Department  
7 in a annexed building. This is a recorded interview with Officer Mike  
8 Garrison, who is a witness in San Rafael Police Department Administrative  
9 Investigation 18-04. Uh, present in the room is myself, CCI Investigator Paul  
10 Henry.

11

12 Before I begin the interview, I want to advise you of two sections of  
13 the San Rafael Police Department Policy 339, which apply to this interview.  
14 They are 339.5.1, Laws, Rules, and Orders, Subsection B. It's a violation of  
15 policy to disobey any legal directive or order by any department member of a  
16 higher rank.

17

18 339.5.8, Performance, Subsection C. It's also a violation of policy to  
19 fail to participate in, give false or misleading statements, or misrepresent  
20 or omit material information to a supervisor or other person in position of  
21 authority in connection with any investigation or in the reporting of any  
22 department related business. Do you understand each of these policy sections?

23

24 Michael Garrison: I do.

25

1 Paul Henry: Do you understand that I'm considered a designee of the chief of  
2 police?

3  
4 Michael Garrison: Yes.

5  
6 Paul Henry: I'm now answering -- giving you a direct order to answer all  
7 questions, to answer them truthfully, and that failure to do so could lead to  
8 disciplinary action up to and including termination of the San Rafael Police  
9 Department. Do you understand?

10  
11 Michael Garrison: Yes, I do.

12  
13 Paul Henry: Additionally, do not discuss the interview or this investigation  
14 or the contents thereof with anyone except your legal representative, unless  
15 directed to do so by myself or a superior officer. Do you understand?

16  
17 Michael Garrison: Yes.

18  
19 Paul Henry: I want to know for the record that you've read and signed this  
20 form. Is that correct?

21  
22 Michael Garrison: Yes, I have.

23  
24 Paul Henry: Okay. Can you please state your first and--and -- state and spell  
25 your first and last name.

1  
2 Michael Garrison: Yeah, it's -- my name is Michael, M-I-C-H-A-E-L. Last name  
3 Garrison, G-A-R-R-I-S-O-N.  
4

5 Paul Henry: Okay. This administrative investigation in relation to an  
6 officer-involved shooting incident that occurred on August 5, 2018. Do you  
7 recall this incident?  
8

9 Michael Garrison: Yes, I do.  
10

11 Paul Henry: Okay. My understanding is that you were interviewed by Corporal  
12 [Reese] on August 6, 2018, regarding this incident, is that correct?  
13

14 Michael Garrison: Yes.  
15

16 Paul Henry: Okay. Now, have you had a chance to adequately prepare for this  
17 interview?  
18

19 Michael Garrison: Meaning?  
20

21 Paul Henry: My -- in -- our interview here today.  
22

23 Michael Garrison: Yeah, I haven't reviewed [V view] or I've reviewed my  
24 statement. I haven't reviewed the-the video footage, though.  
25

1 Paul Henry: Okay. And is that something you want to do right now?

2

3 Michael Garrison: Uh, no. I have reasons why I don't want to do that.

4

5 Paul Henry: Okay. How long have you worked at the San Rafael Police  
6 Department?

7

8 Michael Garrison: I've worked here for six years.

9

10 Paul Henry: Okay. And do you have other law enforcement experience?

11

12 Michael Garrison: No.

13

14 Paul Henry: Okay. And what is your current assignment?

15

16 Michael Garrison: Currently assigned to night shift patrol.

17

18 Paul Henry: Okay. And what was your assignment on August 5, 2018?

19

20 Michael Garrison: Night shift patrol.

21

22 Paul Henry: Okay. Were you in an uniform assignment on August 5th?

23

24 Michael Garrison: Yes, I was.

25

1 Paul Henry: And can you describe your uniform?

2

3 Michael Garrison: Uh, I wear a, uh, a blue shirt with SRPD, uh, patches.

4 Uh, and a, uh, a tactical vest. Uh, and I wear a duty belt with [a] firearm

5 and Taser attached. Uh, it's-it's a standard-issued SRPD uniform.

6

7 Paul Henry: Okay. And do you have a badge?

8

9 Michael Garrison: Yes, I do.

10

11 Paul Henry: And can you describe that?

12

13 Michael Garrison: Uh, it's a five-point star with my badge number 571. It's  
14 affixed to my l- -- uh, left side of my -- left [breast] side of my tactical  
15 vest.

16

17 Paul Henry: Okay. Were you driving a marked police vehicle on that date?

18

19 Michael Garrison: Yes, I was.

20

21 Paul Henry: And can you describe that?

22

23 Michael Garrison: Uh, it's a marked SRPD Ford Explorer. Uh, with, uh, San

24 Rafael Police Department and ba- -- uh, the San Rafael Police badge on the

25

1 side. It's black and white. It has overhead, uh, lights. Uh, and a [push  
2 boulder].

3  
4 Paul Henry: Okay. And does it say -- you said -- does it have an insignia  
5 that says "San Rafael Police Department"?

6  
7 Michael Garrison: Yes, it does.

8  
9 Paul Henry: Okay. Can you describe what equipment you carried with you on  
10 your person on that date?

11  
12 Michael Garrison: Uh, like I carry a Glock .22, uh, on my right hip. Uh, I  
13 carry a, uh, a SOP-issued Taser on my left hip. I have a, uh, extendable  
14 baton, uh, pepper spray, uh . . . I believe that covers equi- -- and a -- and  
15 a -- and a radio.

16  
17 Paul Henry: Okay. And are there any, uh, tools or weapons in your patrol  
18 vehicle?

19  
20 Michael Garrison: Yes.

21  
22 Paul Henry: And can you describe those?

23  
24 Michael Garrison: We have a non-lethal, uh, shotgun, which, uh, fires, uh,  
25 uh, less lethal beanbag rounds.

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Paul Henry: Mm-hmm.

Michael Garrison: Uh, and then I have an AR-15, uh, rifle.

Paul Henry: Okay. And did you deploy a weapon on that night?

Michael Garrison: I believe I deployed my, uh . . . [Hmm], that's funny. I haven't thought about that. Uh --

Paul Henry: I don't want you to guess. So if you don't remember --

Michael Garrison: Yeah.

Paul Henry: -- that's okay.

Michael Garrison: I don't -- yeah, I don't remember which -- I believe I s- -  
- I traded with somebody about three-quarters of the way through the  
incident. But I believe I had my -- yeah, I'm -- I'm not going to guess. I  
can't remember.

Paul Henry: Okay. Now, do you have specialized training of any kind?

Michael Garrison: Yes.

1 Paul Henry: And what specialized training do you -- have you had?

2

3 Michael Garrison: Uh, pertaining to this incident, uh, CIT training was-was  
4 probably the biggest, uh, training that I've -- that I've had. Uh, I've -- I  
5 have, uh, narcotics training. Uh, uh, [SFST] and [A-ride], which are, uh,  
6 analyzing people who are under the influence of-of narcotics or alcohol. Uh,  
7 and we've -- I've been through the department use of force training, uh, our  
8 yearly training. Uh, that's what I can think of right now.

9

10 Paul Henry: Okay. And can you describe what is the nature of the crises  
11 intervention training?

12

13 Michael Garrison: Uh, it's focused on people that might be suffering from --  
14 dealing with people that might be suffering from mental illness. It, uh,  
15 teaches us different varieties -- or different ways in which to talk to these  
16 people and try to, uh, differentiate whether someone's suffering [from] a  
17 mental illness or if they may be under the influence of a, uh -- of drugs.  
18 Uh, and then some de-escalation, uh, techniques that are taught.

19

20 Paul Henry: Okay. Now, my understanding is that prior to responding to the  
21 incident that's the subject of this administrative investigation, you had  
22 responded to a call of a hit-and-run accident involving a pedestrian. Is that  
23 correct?

24

25 Michael Garrison: I don't -- uh, yes --



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Paul Henry: Supposedly somebody was hit by a car --

Michael Garrison: Right. And we --

Paul Henry: -- and walked into the [pet] -- emergency hospital.

Michael Garrison: Correct. And then he was gone when we got there. And so we were searching the area for him.

Paul Henry: Okay.

Michael Garrison: Yes, that's correct.

Paul Henry: And that while looking for this pedestrian you heard on the radio that Corporal [Piambo] advised he was out with a 415 physical and that the subject was armed with knives. Does that sound correct?

Michael Garrison: Yes.

Paul Henry: Okay.

Michael Garrison: I arrived at almost the-the exact same time as -- that he radioed. We were both searching the same area. And he put the radio transmission out. And I was there less than 10 seconds later.

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Paul Henry: Okay. Now, do you recall where your location was?

Michael Garrison: Yes, uh, I came in off of Lis- --

Paul Henry: If-if this helps.

Michael Garrison: Yeah, I came in off of Lisbon Street. Uh, and, uh, [hang on]. Yeah. So I came off of -- I came -- I was coming in off of Lisbon Street. And then Corporal Piambo, I believe, came up, uh, Verdi Street. And he called it out right here. And so I blocked this intersection. So I stopped just short of the -- of the limit line with, uh, Verdi Street --

Paul Henry: Okay.

Michael Garrison: -- on Lisbon.

Paul Henry: Now, can you describe what your initial observations were?

Michael Garrison: So I exited my patrol car. And I -- and I saw the-the, uh, the subject that Corporal Piambo had reported. He was standing in the middle of the intersection, uh, with, uh, two what appeared to be knives in his hand. And he was dancing around. It looked as if he was shadow-boxing with the knives. Uh, I also saw that there was a homeless subject who was on the

1 corner of, uh, Verdi and Lisbon, uh, who I instructed to-to back away from  
2 the -- to the scene, uh, as other officers got on scene.

3  
4 Paul Henry: Okay. Now, you stated previously that you thought you were about  
5 35 or 40 feet away from the subject. Is this still your best recollection?

6  
7 Michael Garrison: Yeah, he-he was pacing back and forth. So, uh, for the  
8 majority of the time I think [I was about] 30, 35 feet. Uh, and then he --  
9 you know, he would approach. I think the closest he got was probably about 25  
10 feet. And then he would turn around and pace back the other way.

11  
12 Paul Henry: Okay. Now, at some point did you engage this person in  
13 conversation or try to?

14  
15 Michael Garrison: Yes, I was the, uh, the primary, uh, person who was -- who  
16 was talking to him. Uh, as soon as I arrived on scene, uh, uh, and we set up  
17 the-the perimeter, I just -- I just began talking to the guy, trying to  
18 figure out who he was, uh, trying to figure out why he was so agitated. Uh,  
19 just trying to en-engage with him.

20  
21 Paul Henry: Okay. And w-what was his demeanor like?

22  
23 Michael Garrison: Uh, he had what I would estimate to be about a -- maybe a  
24 5- to 6-second attention span. Uh, he would engage with me as I -- as I'm  
25 talking to him, asking him questions, uh, he was very angry. And he was

1 yelling. Uh, uh, and he was rambling about, you know, various things that  
2 didn't really make any sense. Uh --

3  
4 Paul Henry: Okay.

5  
6 Michael Garrison: And so I was just trying to -- just to calm him down.

7  
8 Paul Henry: And what was your demeanor like?

9  
10 Michael Garrison: Uh, I spoke to him in a -- in a calm, conversational tone.  
11 You know, just tried to like ask him questions, trying to -- you -- uh,  
12 asking him what I could -- what I could do for him to help him. Uh, you know,  
13 I-I wasn't yell- -- uh, el- -- yelling orders or anything. I was just trying  
14 to establish somewhat of a rapport with him, if that was possible. Uh, and  
15 just trying to-to calm him down.

16  
17 Paul Henry: Okay. Did you ask him to put the weapons down?

18  
19 Michael Garrison: Yes, I did.

20  
21 Paul Henry: And did he do that?

22  
23 Michael Garrison: Uh, so I would say probably 25 minutes into me reasoning  
24 with him, uh, he kept saying, uh, that he wanted us to leave. And I said, "We  
25 can't do that, you know. Uh, we want to make sure that everything's safe. And

1 I'm going to need you to put the-the weapons on the ground." And, uh, uh, he  
2 did. He set them down for like just maybe three seconds.

3  
4 And I asked him to back away from them. And then he went right back,  
5 and he picked them right back up again.

6  
7 Paul Henry: Okay. Now, you described the subject as sort of pacing back and  
8 forth?

9  
10 Michael Garrison: Yes.

11  
12 Paul Henry: And what was he -- was he doing anything in particular with his  
13 hands?

14  
15 Michael Garrison: Yeah, he was shadow boxing at the -- at the air with these  
16 knives. Uh, uh, you know, making thrusting movements, making slashing  
17 movements. Uh, one thing that I did think was-was unique is that, uh, I do  
18 have training in that from -- in knife fighting from the Marine Corps and a  
19 lot of footwork and stuff. Uh, and it looked more [than] just random slashing  
20 and-and thrusting.

21  
22 It was -- it actually looked like he was almost kind of dancing. Uh, he  
23 had good footwork and was, you know, you know, angling the knives at the --  
24 at the right direction. So to me, it told me that he may have had some  
25 experience with it. Uh --

1  
2 Paul Henry: Did you think he had some sort of formalized training in fighting  
3 with knives?

4  
5 Michael Garrison: I-I suspected it, yes.

6  
7 Paul Henry: Okay. Now, did you fear for your safety?

8  
9 Michael Garrison: Uh, where I was positioned, uh -- I-I feared for the safety  
10 of-of all the -- of all the citizens that were around. From where I was  
11 positioned, I was behind a patrol car door. Uh, I was backed away further  
12 enough -- far enough away from him. I -- I only really got nervous about my  
13 safety at one point when he did, uh, get close, I'd say about 25 feet.

14  
15 Uh, and he was staring directly at me. So I was -- so at that point I  
16 was worried that he was going to charge us. Uh, Sergeant Graham was standing  
17 right next to me. Uh, and he [keyed it on] as well. Uh, but for the majority  
18 of the encounter, I [felt] I was in -- I was in a safe -- a safe position.

19  
20 Paul Henry: Okay. Were there other people in the area?

21  
22 Michael Garrison: Yes, there was.

23  
24 Paul Henry: And -- uh, there's a restaurant in the area, correct?

25

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1 Michael Garrison: Yes.

2

3 Paul Henry: A Burger King.

4

5 Michael Garrison: Yes.

6

7 Paul Henry: And that was open for business?

8

9 Michael Garrison: Yes.

10

11 Paul Henry: Okay. Did you think the subject represented a danger to either  
12 the police officers on scene or to members of the community?

13

14 Michael Garrison: Absolutely.

15

16 Paul Henry: Okay. And why is that?

17

18 Michael Garrison: Uh, his -- he was just on -- he was -- his state was so  
19 agitated. Uh, he was -- I wasn't able to reason with him. He was very, very  
20 angry. Uh, I felt that if a civilian or somebody attempted to contact him or  
21 walked by him, that he would key on them and that they would, you know -- the  
22 way that he was slashing the knives around, that he might attempt to attack  
23 them.

24

25

1 Paul Henry: Okay. Now, other SRPD officers also responded to this scene,  
2 correct?

3  
4 Michael Garrison: Yes.

5  
6 Paul Henry: And did you say, uh, earlier that Sergeant Graham was near you?

7  
8 Michael Garrison: Yes.

9  
10 Paul Henry: Okay.

11  
12 Michael Garrison: He pulled his patrol car up directly on -- to the left of  
13 mine. And then he exited, and he came around to the passenger side. So he  
14 was, uh, you know, just a few feet away from me.

15  
16 Paul Henry: Do you recall anything the subject may have said?

17  
18 Michael Garrison: Uh, he was ranting about how, uh --

19  
20 Paul Henry: Well, let me ask you this, uh, before you answer that. Uh, do you  
21 recall if the subject said something similar to, "Shoot me"?

22  
23 Michael Garrison: Yes.

24  
25 Paul Henry: Okay. And do you recall how you responded to that?



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Michael Garrison: I told him that we didn't want to do that, we weren't going to do that.

Paul Henry: Okay. And you attempted to build a rapport with him?

Michael Garrison: Yes.

Paul Henry: Okay. And, uh, you talked a little bit about it already, but I just want to be clear. How -- what strategies did you utilize to build a rapport? How-how did you do that?

Michael Garrison: Uh, I just talked to him very calmly. Uh, I asked him what his name was. I asked him if he had any family. I asked him if there was anybody that we could contact for him. Uh, just asked him what the issue was, "How can I help you?" Uh, just trying to engage with him and-and let it know that -- let him know that we're there to-to help him through whatever it is that he is going through.

Paul Henry: [Okay].

[Extended silence]

1 Paul Henry: You said previously that you thought the subject did not appear  
2 to be afraid of the police or afraid of police presence. Do you recall making  
3 that statement?  
4

5 Michael Garrison: Yes.  
6

7 Paul Henry: And why did you think that?  
8

9 Michael Garrison: Uh, because he-he was basically challenging us.  
10

11 Paul Henry: [Okay].  
12

13 Michael Garrison: Uh, you know, usually people -- I mean, as you know, people  
14 -- well, I won't -- I won't go into that. But, yeah, he was challenging us.  
15 He was pacing around. He was yelling at us. He was telling us to, you know,  
16 to shoot him.  
17

18 Paul Henry: Okay. Do you recall Sergeant Graham making an announcement on the  
19 radio that the subject should not be allowed to get outside of the  
20 established perimeter?  
21

22 Michael Garrison: Yes, I do.  
23

24 Paul Henry: Okay. And did you think when the sergeant made that statement  
25 that the subject represented a danger to the community?

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Michael Garrison: Absolutely.

Paul Henry: Okay. Now, my understanding is that you said previously that you thought you talked with the subject for about 30 minutes. Does that sound correct?

Michael Garrison: Yes.

Paul Henry: Okay. And while you were engaging him in conversation, what was your goal?

Michael Garrison: My goal is to get him to put the knives down and then to surrender himself, uh, into our custody.

Paul Henry: Okay. Now, do you recall Sergeant Graham at some point asking Corporal Piambo to attempt to c-communicate with the subject?

Michael Garrison: Yes, I basically [had] just -- my brain was kind of fried from trying to think of things to say to engage him. Uh, so Corporal Piambo relieved me --

Paul Henry: Okay.

Michael Garrison: -- trying to talk to him.

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Paul Henry: Do you recall the subject being offered something to eat or drink?

Michael Garrison: Yes. Uh, I forget what he wanted exactly. But, uh, I believe we were making -- he-he requested, uh, something. And I remember Sergeant Graham was seeing if-if we could get that for him, if it would be, uh, something that we could de-escalate the situation with.

Paul Henry: Okay. So I think you may have just answered my question. But why would you offer somebody in his environment, in his situation something to eat or drink?

Michael Garrison: To-to calm him down, to show him that we're willing to give him something, you know, and then in turn he can maybe give us a, you know, the courtesy of putting the knives down and-and reasoning with us a little bit better.

Paul Henry: Now, at some point, uh -- now, you mentioned previously that he put the knives down for just a very brief time, a few seconds, right?

Michael Garrison: Yes.

Paul Henry: Other than that, did he ever comply with any of the directions he was given?

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Michael Garrison: No.

Paul Henry: Okay. And at some point he begins to walk toward, uh, the intersection of Verdi and Belvedere, is that correct?

Michael Garrison: Correct.

Paul Henry: Okay. Do you recall how he did that? Or can you describe that at all?

Michael Garrison: Well, I think he did a couple times. He started pacing down, uh, down Verdi Street and, uh, and then he would turn around. And then he'd walk back -- walk back towards us. Uh, the last time that he did it, he just -- you know, we were calling after him. And he just quickly, uh, started walking faster. And then -- and then, uh, uh, didn't turn ar- -- didn't turn around and come back.

Paul Henry: Now, did you hear any commands being shouted at the subject?

Michael Garrison: Yes, I did.

Paul Henry: At that point?

Michael Garrison: Yes.

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Paul Henry: What did you hear?

Michael Garrison: Uh, I believe it was, uh, Deputy [Rodarte] was instructing him to stop, uh, you know, to -- "Don't come any closer." Uh, something along those lines.

Paul Henry: Okay. Now, did you ever hear the sound of a weapon being fired?

Michael Garrison: I did.

Paul Henry: And do you recall what you heard about that or can you tell me what you remember?

Michael Garrison: Yeah, I heard the less -- I heard, uh, the less lethal rounds, uh, fire. And then, uh, I saw the suspect appear to stop for just a brief second and then just took off sprinting towards, uh -- it seem -- it seemed like the beanbag rounds infuriated him. And he just took off sprinting, uh, towards Deputy Rodarte.

Paul Henry: And how did you know or why do you think those were less lethal rounds being fired?

1 Michael Garrison: Uh, because I can tell the difference. I've fired a less  
2 lethal shotgun, uh, countless times. And I've fired a-a regular firearm  
3 countless times. I can tell the difference between the-the shots.  
4

5 Paul Henry: Okay. And from your position you were able to see that, uh, the  
6 subject appeared to be struck by the less lethal round.  
7

8 Michael Garrison: Yes.  
9

10 Paul Henry: And why did you think that?  
11

12 Michael Garrison: Because he pau-paused for just a -- for just a second. Uh -  
13 -  
14

15 Paul Henry: Okay.  
16

17 Michael Garrison: [Yeah], this is the part where everything just kind of  
18 starts blurring a little bit.  
19

20 Paul Henry: Okay.  
21

22 Michael Garrison: Uh, so I -I don't know that, uh -- I don't know if he  
23 flinched or anything like that, but, uh --  
24

25 Paul Henry: Okay.

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Michael Garrison: -- that was my impression.

Paul Henry: And then you said -- well, let me ask you -- ask the question, this way. What happened next?

Michael Garrison: So then he just -- he just started full-on sprinting, knives up, uh, right towards, uh, Deputy Rodarte. Uh, and I could see Deputy Rodarte start taking a couple steps backward to put some -- put some distance. Uh, and I remember -- I just remember thinking, you know, uh -- to me, from where I was at, it looked like he-he got extremely close to Deputy Rodarte.

And I was just thinking in my head, "Shoot him." Uh, like, "Somebody shoot him." And then that's when I heard Officer [McDougall] discharge, uh, his firearm and-and shoot the subject.

Paul Henry: What do you think would've happened had Officer McDougall not fired his firearm?

Michael Garrison: He would've been on top of Deputy Rodarte and-and Deputy Rodarte would've been stabbed numerous times, I have -- I have no doubt.

Paul Henry: So at that point you feared for the deputy's safety?



1 Michael Garrison: Correct.

2

3 Paul Henry: Okay. And then you said Officer McDougall fired his weapon at the  
4 subject?

5

6 Michael Garrison: Yes.

7

8 Paul Henry: Okay. And what happened next?

9

10 Michael Garrison: Uh, as-as he's -- as it was apparent that he wasn't going  
11 to turn around and come back down Belvedere Street, uh, the-the units that  
12 were with me on Lisbon and Verdi, we kind of started collapsing in, uh,  
13 [following] the subject. Uh, and as soon as we heard the, uh, the shots of  
14 the-the -- Officer McDougall shoot, we just started sprinting down the street  
15 towards, uh, the suspect.

16

17 Uh, we arrived on -- or we got to his location. He was laying on the  
18 ground. Uh, we could see that he was obviously hit. Uh, and then we  
19 immediately went into, uh, uh, triaging, uh, his-his gunshot wounds.

20

21 Paul Henry: Did you see any weapons on the ground?

22

23 Michael Garrison: I did.

24

25 Paul Henry: Or any weapons in his hands?

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Michael Garrison: Uh, it wasn't in his hands. It -- I -- there was one of the -- one of the knives, uh, was on the ground. And I kicked it away from his body towards the curb. Uh, and then we went to-to working on seeing where he was hit.

Paul Henry: And so was medical aid given to the subject?

Michael Garrison: Yes. Uh, Sergeant Graham had asked for medical to, uh -- for f- -- the fire department [to stage]. Uh, and as soon as, uh, as soon as the shots were fired, Sergeant Graham called out, "Shots fired," and-and told them -- told medical to-to come in. Uh, we -- we removed his shirt and assessed where the bullet holes were at. But before we could even like really patch anything up, the fire department was there, and they-they went to work on-on him.

Paul Henry: So did you assist with medical then initially?

Michael Garrison: Uh, I-I -- I moved in, and then there were just so many people that were right there, that I just kind of, you know, backed up, uh, and just -- just checked the immediate area, you know.

Paul Henry: So was medical aid given to the subject before the fire department and the ambulance was on scene?

1 Michael Garrison: Yes.

2

3 Paul Henry: Okay. So you guys didn't just stand around and wait for them,  
4 right --

5

6 Michael Garrison: No. No. It was -- it was [snaps fingers] like that. It was  
7 instantaneous.

8

9 Paul Henry: You said that there was a process where his clothes were removed

10 --

11

12 Michael Garrison: Mm-hmm.

13

14 Paul Henry: -- and-and wounds were examined -- identified, examined.

15

16 Michael Garrison: Correct.

17

18 Paul Henry: Okay. And then at that point, fire and ambulance arrived on  
19 scene?

20

21 Michael Garrison: Yeah, the fire department -- uh, yeah, they-they came up  
22 Belvedere Street carrying their kits. And I-I don't remember exactly when the  
23 ambulance arrived, but it was shortly after.

24

25 Paul Henry: Okay. Is there anything else you'd like to add?

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Michael Garrison: Uh, no, I mean it's -- I-I feel like everyone performed very admirably. Uh, I'm very happy that the people that were working that night were the, uh, more senior people. Uh, I'm happy that, uh, Officer Rodarte's unhurt and, you know, Officer McDougall and that his -- that he's doing really well. Uh, I know that -- again, I-I've never shot somebody myself, but I can imagine the, uh -- what that would put you through.

Paul Henry: Right.

Michael Garrison: Uh, yes, I-I think the best -- I mean it was -- obviously the perfect outcome would've been if he just put the knives down. But, uh, you know, we did everything that we possibly could to-to make that happen. And he decided to make a different decision regarding that. So what happened, happened. Uh, but I have no complaints how any of the officers performed or any- -- or my performance or anything.

Paul Henry: Is there anything else you'd like to add?

Michael Garrison: Uh, no, that's it.

Paul Henry: Okay. Current time is 5:14, and this'll be the end of our interview.

[End of recorded material]

1 Graham

2

3 [Start of recorded material]

4

5 Paul Henry: Today's date is March 21, uh, 2019. The current time is  
6 5:32 in the afternoon, and we are in an annex building across the street from  
7 the San Rafael Police Department. This is a recorded interview with Sergeant  
8 Justin Graham, who is a witness in San Rafael Police Department  
9 administrative investigation 18-04. Conducting the interview is myself, CCI  
10 Investigator Paul Henry. Before we begin the interview, I want to advise you  
11 of two sections of the San Rafael Police Department Policy 339, which apply  
12 to this interview. They are 339.5.1 -- Laws, Rules, and Orders, Subsection B.  
13 It's a violation of policy to disobey any legal directive or order by any  
14 department member of a higher rank. 339.5.8 -- Performance, Subsection C.  
15 It's also a violation of policy to fail to participate in, give false or  
16 misleading statements, or misrepresent or omit material information to a  
17 supervisor or other person in position of authority in connection with any  
18 investigation or in the reporting of any department-related business. Do you  
19 understand each of these policy sections?

20

21 Justin Graham: Yes, I do.

22

23 Paul Henry: Do you understand that I'm considered a designee of the  
24 chief of police?

25

1 Justin Graham: Yes, I do.

2

3 Paul Henry: I'm now giving you a direct order to answer all questions,  
4 to answer them truthfully, and that failure to do so could lead to  
5 disciplinary action up to and including termination with the San Rafael  
6 Police Department? Do you understand?

7

8 Justin Graham: Yes, I do.

9

10 Paul Henry: Additionally, do not discuss the interview or the inv--  
11 this investigation with -- or the contents thereof with anyone except your  
12 legal representative, unless directed to do so by myself or a superior  
13 officer. Do you understand?

14

15 Justin Graham: Yes, I do.

16

17 Paul Henry: I want to note for the record that you've read and signed  
18 this form. Is that correct?

19

20 Justin Graham: Yes, I have.

21

22 Paul Henry: Okay. Can you please state and spell your first and last  
23 name?

24

25

1 Justin Graham: Sure. First name is Justin -- J-U-S-T-I-N. Last name is  
2 Graham, G-R-A-H-A-M.

3  
4 Paul Henry: Okay. This administrative investigation is in relation to  
5 an officer-involved shooting incident that you were involved in on August 5<sup>th</sup>  
6 of 2018. Are you familiar with this incident?

7  
8 Justin Graham: Yes, I am.

9  
10 Paul Henry: Okay. My understanding is that you were previously  
11 interviewed by Sergeant Berringer on August 9<sup>th</sup> of 2018 regarding this  
12 incident. Is that correct?

13  
14 Justin Graham: That's correct.

15  
16 Paul Henry: Okay. Have you had the chance to adequately prepare for  
17 this interview?

18  
19 Justin Graham: Yes.

20  
21 Paul Henry: Have you reviewed your previous interview with Sergeant  
22 Berringer?

23  
24 Justin Graham: Yes.

25

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1 Paul Henry: And have you reviewed your body -- the video from your  
2 body-worn camera?

3  
4 Justin Graham: Yes.

5  
6 Paul Henry: How long have you worked for the San Rafael Police  
7 Department?

8  
9 Justin Graham: Uh, it'll be 18 years this September.

10  
11 Paul Henry: Okay. And do you have other law enforcement experience?

12  
13 Justin Graham: Uh, no.

14  
15 Paul Henry: Okay. And what is your current assignment?

16  
17 Justin Graham: Uh, sergeant assigned to patrol.

18  
19 Paul Henry: Okay. And what was your assignment on August 5<sup>th</sup> of 2018?

20  
21 Justin Graham: Uh, sergeant assigned to night shift patrol.

22  
23 Paul Henry: Okay. And were you in a uniformed assignment on August 5<sup>th</sup>  
24 or 2018?

25



1 Justin Graham: Yes, I was.

2

3 Paul Henry: And can you describe what your uniform

4

5 Justin Graham: Uh, it was a class, uh, B uniform. Long sleeve, badge --  
6 uh, silver badge, uh, nametag, uh, displayed. Uh, patches on either side --  
7 uh, chevrons on either sleeve as well. Uh, navy blue, uh, shirt, navy blue  
8 pants, boots, and a duty belt.

9

10 Paul Henry: Okay. And do the patches on the sleeves indicate that you  
11 work at the San Rafael Police Department?

12

13 Justin Graham: Yes, they do.

14

15 Paul Henry: Okay. And can you describe the badge that you said you were  
16 wearing?

17

18 Justin Graham: Uh, the badge says San Rafael Police. It has my badge  
19 number in the middle, 4-9-4, with a, uh, sergeant rocker across the top.

20

21 Paul Henry: Okay. And were you driving a marked police vehicle on this  
22 date?

23

24 Justin Graham: Yes, I was.

25

1 Paul Henry: And can you describe what that looks like?

2

3 Justin Graham: It's a, uh, black-and-white Ford utility police vehicle.

4 Uh, it has a white, uh, front passenger door, white front, uh, driver door  
5 with San Rafael Police written on it and a San Rafael Police star. Uh, it is  
6 equipped with, uh, overhead emergency lights, um, a police radio, standard  
7 equipment.

8

9 Paul Henry: Okay. And did you have equipment on your person on that  
10 day?

11

12 Justin Graham: Yes, I did.

13

14 Paul Henry: And can you describe what that equipment was?

15

16 Justin Graham: Uh, I have a, uh -- my sidearm pistol is a Kimber 1911, uh,  
17 .45 caliber, uh, 2 magazines, a set of handcuffs, pepper spray, a taser; a  
18 police radio, and a hobble.

19

20 Paul Henry: Okay.

21

22 Justin Graham: And a baton.

23

24 Paul Henry: Okay. And, um, is there weapons inside your vehicle as

25 well?

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Justin Graham: Uh, there is a shotgun -- a less-than-lethal, uh, shotgun that I -- that holds four less-than-lethal rounds and an AR-15 rifle -- patrol rifle.

Paul Henry: Okay. And do you have specialized training?

Justin Graham: In?

Paul Henry: In law enforcement?

Justin Graham: Uh, it -- I mean --

Paul Henry: Can you just list some of the training that you've had?

Justin Graham: Sure. Uh, I have gone to, uh, uh -- I've had field sobriety training.

Paul Henry: Mm-hmm.

Justin Graham: I've had radar/lidar.

Paul Henry: Mm-hmm.

Justin Graham: Uh, I've had a crisis intervention training.

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Paul Henry: Mm-hmm.

Justin Graham: I've had, um, drug abuse recognition, uh, basic collision, investigation school. Uh, I've been to ICI core investigation school. I've been to ICI, uh, child abuse school. I've been to ICI sexual assault school. Um, I'm trying to remember all the top highlights in a variety of --

Paul Henry: Okay.

Justin Graham: Oh, and supervisor school.

Paul Henry: Okay. Um, a moment ago you said that you had crises intervention training?

Justin Graham: Yes.

Paul Henry: Can you describe what the nature of that training is?

Justin Graham: Uh, it was a training sponsored by the San Rafael Police Department. It was held up at the AAA office up in Terra Linda. Um, the instructor was, uh, Officer Joel Fay of the San Rafael Police Department at the time, now retired. Uh, and it consisted of several days, uh, discussing, uh, indivi-individual in crisis dealing with mental health issues, self-medication with drugs and so forth and de-escalation techniques.

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Paul Henry: Okay. So is it fair to describe or characterize the training as they-they give you, um, techniques or tools to deal with people in crises?

Justin Graham: Yes.

Paul Henry: Okay. Now my understanding is that prior to responding to this incident, uh, that's the subject of this administrative investigation, you had responded to a hit and run accident involving a pedestrian. Is this correct?

Justin Graham: Yes, it is.

Paul Henry: Okay. And that you heard on the radio that Corporal Piombo was out with a subject armed with a knife or knives at the intersection of Verdi and Lisbon street. Does that sound correct?

Justin Graham: That's correct.

Paul Henry: Okay. Now, uh, did you respond to this incident?

Justin Graham: Yes, I did.

1 Paul Henry: And do you re-- can you tell me what you recall about your  
2 initial observations?  
3

4 Justin Graham: Uh, I heard, uh, Corporal Piombo's radio transmission. I  
5 was at the driveway of the Burger King, uh, uh, on East Francisco. Uh, I  
6 drove directly to the parking lot, which was parked on Lisbon street, right  
7 at the intersection with Verdi. Uh, I pulled alongside and, uh, observed, uh,  
8 a male subject who was standing in the intersection of Lisbon and Verdi, uh,  
9 who appeared to be waving, uh, two knives at them time in what I would  
10 consider some type of rehearsed or martial arts fashion.  
11

12 Paul Henry: And I think you said previously that he was making slashing  
13 or stabbing motion with these weapons. Is that correct?  
14

15 Justin Graham: That is correct.  
16

17 Paul Henry: Okay. Now did other officers respond to this scene?  
18

19 Justin Graham: Yes, they did.  
20

21 Paul Henry: Do you recall who any of those officers would have been?  
22

23 Justin Graham: Uh, it would have been everybody assigned to the patrol  
24 Sunday shift. Uh, so Corporal Piombo was already there. I was there. Uh,  
25

1 Officer Garrison, um, Officer Dodson, uh, Officer Melodia, um, and Officer  
2 MacDougald.

3  
4 Paul Henry: Okay. Now at this point, uh, during the incident, had you  
5 formed any sort of opinion about whether or not this person posed a threat or  
6 danger to the community?

7  
8 Justin Graham: Yes, I did.

9  
10 Paul Henry: And what was that opinion?

11  
12 Justin Graham: Uh, my opinion is that there was an individual with two  
13 knives who initially did not appear to be responding to our presence, uh,  
14 which is very unusual. Um, he was -- the stabbing motions and the, uh,  
15 movements that he was making, uh, reminded me of somebody that was either  
16 trained in some type of knife fighting or martial arts. Um, and my concern  
17 was for, uh, the surrounding public, um, as well as the officers responding  
18 to the scene.

19  
20 Paul Henry: Okay. Now I believe you stated previously that one of your  
21 primary concerns was establishing a perimeter around this subject. Is this  
22 correct?

23  
24 Justin Graham: Yes, it is.

25

1 Paul Henry: Okay. Why is it important to establish a perimeter?

2  
3 Justin Graham: Uh, to keep the public out, and the other part is I did not  
4 want him -- the individual -- to be able to flee and break our perimeter and  
5 end up outside where he would be able to harm the public or anyone else.

6  
7 Paul Henry: Okay. And I know this is going to sound like an obvious  
8 question, but why is it important to keep the public out?

9  
10 Justin Graham: Uh, in this particular case, um, he's armed with two deadly  
11 weapons. Um, any interaction with somebody who's either untrained or unknown  
12 -- you know, has no training or doesn't know what's going on could easily end  
13 up, uh, being placed in harm's way, uh, resulting in great bodily injury or  
14 death.

15  
16 Paul Henry: Okay. Now, do you recall what steps you took, uh, to  
17 establish the perimeter?

18  
19 Justin Graham: Uh, I directed officers to certain locations and then, uh,  
20 realizing that we were, uh, slim on manpower for a Sunday, I requested, uh,  
21 mutual aid. Um, I had, uh, the sheriff's office and the highway patrol  
22 initially respond to the scene, uh, including the, uh, Marin County Sheriff  
23 Sergeant, uh, who I, uh, ended up assigning the perimeter control.

24  
25 Paul Henry: Mm-hmm.



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Justin Graham: Um, and making sure that we got places evacuated and that the crowds were, uh, removed from the nearby area.

Paul Henry: Okay. Um, well, that was actually a question I was going to ask you later, but since you brought it up, um, why did you decide to give the other sergeant the responsibility of coordinating the perimeter?

Justin Graham: Uh, I was, uh -- just because of the, uh, involvement, I, um -- my thought process was an inner-inner perimeter, which was the engagement officers, um, and I was going to take on that responsibility. And then the outer perimeter was to keep, uh, the public away, um, sa-- establish a safety barrier, clear out any businesses or anybody, uh, that could possibly encroach on the inner perimeter.

Paul Henry: And so by giving the assignment to the other sergeant to establish the outer perimeter, did that allow you the ability, then, to be more focused on what was happening right in front of you?

Justin Graham: Yes, it did.

Paul Henry: And then manage that sort of inner perimeter?

Justin Graham: Yes.

1 Paul Henry: Okay. Now were you armed with any sort of weapon at this  
2 point?

3  
4 Justin Graham: Uh, I had the -- my, uh, service pistol --

5  
6 Paul Henry: Okay.

7  
8 Justin Graham: -- uh, with me, and I had that initially drawn, um, because  
9 I was right-right on the inner perimeter.

10  
11 Paul Henry: Mm-hmm.

12  
13 Justin Graham: Uh, and-and what I would say would be the -- what I called  
14 the front --

15  
16 Paul Henry: Mm-hmm.

17  
18 Justin Graham: -- um, or the a-- Corporal Piombo and-and Officer Garrison  
19 were also engaged in negotiating and speaking with the individual. So, um, I  
20 had myself armed in case the, uh, suspect either approached us or tried to  
21 attack us.

22  
23 Paul Henry: Okay. And, um, you just referenced this, but were there  
24 officers that were trying to engage the subject in communication?

25

1 Justin Graham: Yes. Um, I had assigned that to Officer Garrison and  
2 Corporal Piombo.

3  
4 Paul Henry: Okay. Now were officers on scene at this point able to  
5 approach the subject?

6  
7 Justin Graham: No. Uh --

8  
9 Paul Henry: And why is that?

10  
11 Justin Graham: Uh, just because of his movements. Uh, he wasn't staying  
12 put in any one particular spot. He was making left and right motions, uh,  
13 walking front, walking backwards, uh, sometimes circular. Uh, at one point,  
14 he actually started to walk towards Belvedere Street and then came back. So  
15 he wasn't in one particular spot where we could, uh, get close without  
16 endangering ourselves.

17  
18 Paul Henry: Okay. And he was, in fact, armed, right?

19  
20 Justin Graham: Yes.

21  
22 Paul Henry: And waving his arms about in sort of slashing or stabbing  
23 motions?

24  
25 Justin Graham: Yes.

1  
2 Paul Henry: Okay. Now, do you recall telling Officer Melodia to secure  
3 his K-9 partner in his vehicle?  
4  
5 Justin Graham: Yes.  
6  
7 Paul Henry: Okay. And why did you tell him that?  
8  
9 Justin Graham: Uh, the dog, uh, was barking, obviously. Um, some  
10 familiarity with-with K-9s, I know that, um, their often response to, uh,  
11 aggressive behavior or just a response in general with that many officers,  
12 uh, can cause the dog to bark. Um, my hope was to deescalate, um, while still  
13 having the dog handy, um, but to get the dog away from being a focal point  
14 for both the suspect and a distraction from Officer Garrison and Corporal  
15 Piombo who were trying to, uh, speak with the individual.  
16  
17 Paul Henry: Okay. Did you think by securing the-the dog in the car,  
18 that that may enhance the ability to develop rapport with the subject and  
19 then consequently get the subject to comply?  
20  
21 Justin Graham: Yes.  
22  
23 Paul Henry: Okay. Now, what was your primary assignment or role on this  
24 incident?  
25

1 Justin Graham: Uh, managing the inner perimeter, uh, figuring out, uh, uh,  
2 what, uh, logistics needed -- were needed at the scene, um, determining, uh -  
3 - you know, trying to get CNT or the Crisis Negotiations Team to the scene.  
4 Uh, you know, based on what I was seeing was a noncooperative suspect, uh,  
5 and concerned that he would engage us, so I wanted also to make sure that  
6 medical was standing by, fire department, and so forth. Um, making sure that  
7 our perimeter was tight, making sure that officers knew what their role was,  
8 what needed to be done, where they needed to stand, and so forth.

9  
10 Paul Henry: Okay. So, uh, you again referenced another question I was  
11 going to ask you later, but I'll ask it now.

12  
13 Justin Graham: Okay.

14  
15 Paul Henry: Uh, did you, uh -- we already talked about you requested  
16 mutual aid because you felt like you needed additional police officers,  
17 correct?

18  
19 Justin Graham: That's correct.

20  
21 Paul Henry: And then were there other resources that you requested?

22  
23 Justin Graham: Uh, I requested the the fire department --

24  
25 Paul Henry: Mm-hmm.

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Justin Graham: -- uh, and the paramedics to the scene --

Paul Henry: Mm-hmm.

Justin Graham: -- as a standby. Uh, I wanted them close and available in case this went, uh, in a -- in a direction that we weren't trying to go, uh, where somebody would get hurt. Um, and then also requesting additional resources like crisis negotiation -- uh, negotiators, uh, to the scene --

Paul Henry: Okay.

Justin Graham: -- to help, uh, deescalate.

Paul Henry: Okay. Um, why would it be important to have the fire and the paramedics on scene or-or staged nearby?

Justin Graham: Uh, I did that for, um, the suspect --

Paul Henry: Mm-hmm.

Justin Graham: -- um, in case he caused us, uh, a situation where we would have to engage with him and it resulted in some type of action where he or us would get, uh, harmed or hurt -- injured. In addition to, somehow, if he was able to break our perimeter and go after the public, I wanted, uh, medical

1 close-by so that there wasn't a lengthy response. Because usually what  
2 happens, as we all know, when you first initially arrive on scene and  
3 suddenly you realize that you need fire, it's another four-to-six-minute  
4 wait. So I wanted something that was more instantaneous and immediate.

5  
6 Paul Henry: Okay. Now was the subject given commands to drop his  
7 weapons?

8  
9 Justin Graham: Yes.

10  
11 Paul Henry: And did he comply with these commands?

12  
13 Justin Graham: Uh, for the most part, no. There was one brief moment where  
14 he, uh, looked like he was going to place both weapons on the ground. And I  
15 think it was only like a second or two and then picked them right back up.

16  
17 Paul Henry: Okay. Um, I think you said a moment ago that you had  
18 directed Officer Garrison to tr-- attempt to engage the subject in  
19 conversation. Is that right?

20  
21 Justin Graham: Yes.

22  
23 Paul Henry: Okay. And, um, is that what he was doing?

24  
25 Justin Graham: Yes.

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Paul Henry: Okay. Um -- okay. Is it accurate to say that in general, um, attempts were made to ensure that only one officer was giving the subject commands at a time?

Justin Graham: That's correct.

Paul Henry: Okay. And why is that important?

Justin Graham: Uh, it eliminates confusion. It keeps the suspect focused in one particular, uh, direction. Uh, it also prevents contradictory directions and orders. Um, and overall, uh, it's a de-escalation technique when it sounds organized and-and your orders and directions are only coming from one direction.

Paul Henry: So we talked about how, um, another strategy that you used to try to deescalate the situation and develop rapport was to put the dog away. Another one would be to have just one with the subject at the same time. Do you remember if there were any other strategies that were employed to try to gain compliance with the subject?

Justin Graham: Uh, one of the things that we wanted to do was kind of blind, uh, the suspect, so we had used overhead lights, spotlights, uh, headlights and so forth so that he wouldn't know where we were, specifically. Um, because one of the things I was kind of concerned about is him locking on



1 to an individual if it was going to be a suicide-by-cop type situation. I  
2 didn't want him to be readily focused on one particular individual, so we  
3 were using lighting as well.  
4

5 Paul Henry: Do you recall if the subject was ever offered food?  
6

7 Justin Graham: I believe there was -- he had requested something. I don't  
8 remember exactly what it was.  
9

10 Paul Henry: Okay.  
11

12 Justin Graham: But I-I believe there was some request and that, you know,  
13 it was --  
14

15 Paul Henry: Okay.  
16

17 Justin Graham: -- part of the engagement.  
18

19 Paul Henry: Okay.  
20

21 Justin Graham: And the conversation.  
22

23 Paul Henry: Did you ever hear the subject ask for police officers to  
24 shoot him?  
25

1 Justin Graham: Yes.

2

3 Paul Henry: Can you describe what you remember about that?

4

5 Justin Graham: Uh, I re-- I remember him just saying, um, shoot me. Um,  
6 there was a couple times when I think he may have said it, uh, at least twice  
7 if not three times during the engagement with him.

8

9 Paul Henry: And was he shot at that point?

10

11 Justin Graham: No.

12

13 Paul Henry: How come?

14

15 Justin Graham: Uh, because he was not, uh -- he was not advancing towards  
16 us to where we would have had to take any type of action.

17

18 Paul Henry: Mm-hmm.

19

20 Justin Graham: Um, one of the goals was to slow everything down, which was  
21 what we had done. Um, so other than just him making motions and slight  
22 movements inside the inner perimeter, he wasn't actively going after somebody  
23 where it would have caused, uh, the need for an immediate reaction initially.

24

25

1 Paul Henry: Okay. And were the officers who were speaking with the  
2 subject speaking English?

3  
4 Justin Graham: Yes.

5  
6 Paul Henry: And was the subject speaking English in return?

7  
8 Justin Graham: Yes.

9  
10 Paul Henry: Okay. Now at one point, you asked Corporal Piombo to take  
11 over negotiating with the subject. Is this correct?

12  
13 Justin Graham: Yes.

14  
15 Paul Henry: And why did you do that?

16  
17 Justin Graham: Um, Officer Garrison had been speaking to the individual  
18 for quite a period of time. I could tell by, um, the tone in his voice and  
19 kind of the-the repetition of what he was trying to rehash, um, that he was  
20 probably getting tired. Um, and I know also that it can be frustrating when  
21 you're constantly giving orders and directions plus also trying to obtain  
22 information -- that it can be frustrating after a while; uh, where-where you  
23 feel like you're not getting anywhere. So, um, I put Corporal Piombo as a  
24 new, fresh officer, uh, to maybe try a different angle.

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Paul Henry:           Okay.

Justin Graham:       Um, and just to try to keep the conversation going.

Paul Henry:           And I know that we talked about this, uh, a minute ago, but I just kind of wanted to make sure that I'm clear. Um, I believe that you stated previously that you thought the subject may have had some formalized training with fighting with knives. Why did you think this?

Justin Graham:       Uh, just his motions and his mannerisms while he was walking. Uh, the stabbing, slashing motions, um, seemed rehearsed. Um, one of our officers, Officer [Camines], here at the police department is actually trained in Filipino knife fighting and has done a briefing training demonstrating, uh, what that looks like. Um, and it looked kind of reminiscent of some of the things that he had talked about in his training. Um, uh, and so that's -- that was kind of my mindset is that it didn't just appear that somebody was just going up and down or in a slashing motion, but there was some movements that appeared to have, like I said, been rehearsed or practiced.

Paul Henry:           Okay. Now was the subject ever compliant with the directions he was given?

Justin Graham:       No.

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1 Paul Henry: Okay. Do you recall -- let me -- immediately prior to the  
2 subject, um -- I'm going to strike that. Let me change the question. Do you  
3 recall, um, giving some direction on the radio about whether or not the  
4 subject should be allowed to exit the perimeter?  
5

6 Justin Graham: Yes, I do.  
7

8 Paul Henry: Okay. Can you tell me about that?  
9

10 Justin Graham: Um, like I had originally stated, uh, one of my concerns  
11 was obviously public safety. Um, I didn't want the individual to be able to  
12 get outside of our perimeter where we would end up being in either a foot  
13 pursuit situation, a hostage-taking situation, or just an attack situation  
14 against the public. Um, that was my primary concern also due to the fact that  
15 he wasn't very responsive to any of our commands or suggestions, our  
16 negotiations. Um, so I didn't -- I didn't want him to be outside of our  
17 perimeter. I knew that what we had between the inner perimeter and the outer  
18 perimeter had him contained, and I did not want him outside of that.  
19

20 Paul Henry: Okay. And, um, is the reason you didn't want him outside of  
21 the perimeter is because you believed he represented a significant threat or  
22 danger to anyone he might come in contact with?  
23

24 Justin Graham: Uh, exactly. And I -- the other issue was I hadn't -- I had  
25 no history on the subject or why we were in the situation that we were in. So

1 I didn't know if something had al-also already happened, um, that we just  
2 weren't aware of, like an attack or anything like that as well. So a lot of  
3 unknowns that I didn't want the public being basically in that situation  
4 where we would have to respond to an escalated situation --

5  
6 Paul Henry: Okay.

7  
8 Justin Graham: -- outside of our perimeter.

9  
10 Paul Henry: Now at one point, the subject begins to walk toward  
11 Belvedere Street. Is this correct?

12  
13 Justin Graham: Yes.

14  
15 Paul Henry: And do you recall, uh, what happened next?

16  
17 Justin Graham: Uh, he -- the first -- are we talking about the first or  
18 the second time?

19  
20 Paul Henry: The second time.

21  
22 Justin Graham: Uh, the second time, he continued to walk towards Belvedere  
23 Street, um, and, uh, that's when, um, I moved from my police car position  
24 over to the corner, um -- I guess you could call it kind of the northeast  
25 corner of Lisbon and Verdi. There's a building right on the corner, and so I

1 had moved over to that position. Uh, I could see that the suspect was pretty  
2 much in a straight-line motion towards that direction and became concerned  
3 that he was going to engage with the officers on that side, which is  
4 inevitably what he ended up doing.

5  
6 Paul Henry: Now at some point, did you hear the sound of a weapon being  
7 fired?

8  
9 Justin Graham: I heard yelling first, uh, commands being given, and then I  
10 heard, um, the sounds of-of the beanbag -- a beanbag gun -- uh, shotgun --  
11 less-than-lethal shotgun being discharged. Um, it's a different sound --

12  
13 Paul Henry: Mm-hmm.

14  
15 Justin Graham: -- than a firearm. Um, and I heard, uh, what sounded like  
16 four, um, uh, discharges --

17  
18 Paul Henry: Mm-hmm.

19  
20 Justin Graham: -- from the less-than-lethal, followed by a brief pause  
21 and then three more, uh, what was distinctly a-a firearm.

22  
23 Paul Henry: Okay. You mentioned that you heard commands being shouted.

24  
25 Justin Graham: Yes.

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Paul Henry: Um, do you remember what those commands were?

Justin Graham: Not re-- at this very moment, I don't -- I don't recall the specifics.

Paul Henry: Okay.

Justin Graham: But I do recall commands being given.

Paul Henry: Okay. Um, and you say that you heard what you thought was four less-lethal shotgun rounds being fired?

Justin Graham: Yeah. They're distinctly different than the -- than a firearm. I think I even recall hearing, like, the-the slide action of-of the less-than-lethal shotgun --

Paul Henry: Okay.

Justin Graham: -- between-between discharges.

Paul Henry: Okay. Now after hearing these shots being fired, what happened next?



1 Justin Graham: Uh, what I could see was as -- just as the rounds were  
2 being fired, the only description I can have is-is it moved. I could see the  
3 suspect appear to be in kind of an attack -- it appeared very violent from my  
4 direction. I could see basically the silhouette because there were spotlights  
5 coming from the police cars in that direction. Um, uh, I just saw a lot of  
6 quick, fast movement. I heard the discharge of the less-than-lethal shotgun  
7 and, um -- and, uh, I saw, uh, another element -- another person -- a  
8 silhouette, which ended up being Officer MacDougald, um, just off to what  
9 would be my left looking in that direction, um, with the three shots being  
10 fired and then seeing the suspect go to the ground.

11  
12 Paul Henry: Now were you close enough, or did you have a-a good enough  
13 view of what was occurring to have any sort of opinion about whether or not  
14 the subject was attacking anybody at that point?

15  
16 Justin Graham: Yes. Um, I could definitely tell that, uh -- and I didn't  
17 know at the time that it was Deputy Rodarte. But I knew that whoever had the  
18 less than lethal shotgun was the one that appeared to be in, I guess, a  
19 primary engagement role with the suspect. And it appeared that the suspect  
20 was going after that individual.

21  
22 Paul Henry: Okay. Were you able to see what the deputy did in response?

23  
24  
25

1 Justin Graham: Uh, I just saw him move very quickly. Um, I could see --  
2 like I said, it-it appeared very violent, as if -- kind of like a-a -- lack  
3 of a better phrase, more of a cat-and-mouse, if you will.

4  
5 Paul Henry: Okay.

6  
7 Justin Graham: Where I knew that the person with the less-than-lethal was  
8 trying to avoid and back up --

9  
10 Paul Henry: Okay.

11  
12 Justin Graham: -- um, while I could see that the-the suspect was kind of  
13 doing a-a -- like a rotating, side motion. I didn't know if it was a slashing  
14 motion or what was going on. But I-I -- it looked violent from my direction.

15  
16 Paul Henry: Okay. And then at some point, um, after the shots were  
17 fired, what did you do?

18  
19 Justin Graham: Uh, once I saw the suspect go down, um, basically everybody  
20 that was holding the perimeter from my side and from the south, um, advanced  
21 forward. Uh, I ran up to the scene, and I could see that the suspect was  
22 down, um, had suffered some type of -- at least one or two gunshot wounds  
23 from what I could immediately see. Uh, Corporal Piombo, uh, Officer Dodson,  
24 and a deputy immediately began first aid. And I called in for, uh, the fire  
25 department, uh, to respond into the scene. I --

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Paul Henry: Did you see -- I'm sorry. Go ahead.

Justin Graham: [Unintelligible] Um, and I also saw, um -- and I remember this, specifically, was, um, that there was a -- still a knife or an edged weapon still in his close proximity. And so I was calling out to the officers to be aware of-of the weapons. Um, I do remember them being cleared from, uh, his near grasp.

Paul Henry: So when you say close proximity, were the weapons on the ground?

Justin Graham: Uh, I believe -- I'm trying to remember. I -- this one -- this is the part I don't quite --

Paul Henry: Okay.

Justin Graham: -- remember right off the bat, specifically. But I remember seeing either -- it was either in his hand or right outside of his hand, and it got -- it had gotten moved away.

Paul Henry: Okay. And a second ago, um, you mentioned that, um, the subject was given medical aid?

Justin Graham: Yes.

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Paul Henry: And, um -- and who was giving him medical aid?

Justin Graham: Uh, Corporal Piombo, Officer Dodson, and another deputy.  
And there may have been another -- uh, a fourth officer --

Paul Henry: Okay.

Justin Graham: -- or deputy involved in that.

Paul Henry: And I think you said a moment ago, too, that, um, at or near this time, the fire and ambulance crew were notified that they should respond into the scene?

Justin Graham: Yes.

Paul Henry: And at some point, did you ask Corporal Piombo to either ride in the ambulance or follow the ambulance to the hospital?

Justin Graham: Yes, I did.

Paul Henry: Okay. And why would that be important?

Justin Graham: Uh, because of -- I -- i-in my mind that the suspect was under arrest. There was sufficient probable cause. He was a suspect in a

1 situation. Uh, he j-- clearly, obviously, just went after, um, the deputy,  
2 caused an officer-involved shooting scenario. The suspect -- um, he was a  
3 suspect. He was going to be arrested, um, in addition to the fact that, just  
4 based on prior behavior prior to that moment, uh, very violent actions,  
5 didn't know the extent of his injuries. Didn't know if he would still be, uh,  
6 able to pose a threat to paramedic staff and medical staff. Um, and he was in  
7 our custody, so for all those reasons.

8  
9 Paul Henry: Okay. I think that's all the questions I have. Is there  
10 anything you'd like to add?

11  
12 Justin Graham: No. I think that covers it.

13  
14 Paul Henry: Okay. The current time is 6:02, and this will be the end of  
15 our interview.

16  
17 [End of recorded material]

18

19

20

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25

1 MacDougald

2

3 [Start of recorded material]

4

5 Paul Henry: Today's date is March 21, 2019. The current time is 4:22 in  
6 the afternoon. And we are in an annex of the San Rafael Police Department.  
7 This is a recorded interview with Officer, now Detective Kevin McDougald, who  
8 is the subject in San Rafael Police Department administrative investigation  
9 number 18-04. Conduction the interview is myself, CCI Investigator Paul  
10 Henry. Before we begin the interview, I want to advise you of two sections of  
11 the San Rafael Police Department Policy 339, which apply to this interview.  
12 They are 339.5.1 -- Laws, Rules, and Orders, Subsection B. It's a violation  
13 of policy to disobey any legal directive or order by any department member of  
14 a higher rank. 339.5.8 -- Performance, Subsection C. It's also a violation of  
15 policy to fail to participate in, give false or misleading statements, or  
16 misrepresent or omit material information to a supervisor or other person in  
17 position of authority in connection with any investigation or in the  
18 reporting of any department-related business. Do you understand each of these  
19 policy sections?

20

21 Kevin MacDougald: Yes.

22

23 Paul Henry: Do you understand that I'm considered a designee of the  
24 chief of police?

25

1 Kevin MacDougald: Yes.

2

3 Paul Henry: I'm now giving you a direct order to answer all questions,  
4 to answer them truthfully, and that failure to do so could lead to  
5 disciplinary action up to and including termination with the San Rafael  
6 Police Department? Do you understand?

7

8 Kevin MacDougald: Yes.

9

10 Paul Henry: Additionally, do not discuss the interview or the  
11 investigation or the contents thereof with anyone except your legal  
12 representative, unless directed to do so by myself or a superior officer. Do  
13 you understand?

14

15 Kevin MacDougald: Yes.

16

17 Paul Henry: I want to note for the record that you've read and signed  
18 this form. Is that correct?

19

20 Kevin MacDougald: Yes.

21

22 Paul Henry: Okay. Can you please state and spell your first and last  
23 name?

24

25

1 Kevin MacDougald: It's Kevin, K-E-V-I-N, McDougald, M-A-C-capital D-O-U-G-A-  
2 L-D.

3  
4 Paul Henry: This administrative investigation is in regards to an  
5 officer-involved shooting incident that you were involved in on August 5,  
6 2018. Do you recall this incident?

7  
8 Kevin MacDougald: Yes.

9  
10 Paul Henry: Okay. My understanding is that you were interviewed by two  
11 detectives from the Sonoma County Sheriff's Department on August 6, 2018  
12 regarding this in-cent-- this incident. Is that correct?

13  
14 Kevin MacDougald: Yes.

15  
16 Paul Henry: Have you had the chance to adequately prepare for this  
17 interview?

18  
19 Kevin MacDougald: Yes.

20  
21 Paul Henry: Okay. Have you reviewed your previous interview with  
22 Detective Mitchell?

23  
24 Kevin MacDougald: Yes.

25



1 Paul Henry: Have you reviewed your body-worn camera video?

2

3 Kevin MacDougald: Yes.

4

5 Paul Henry: Okay. Can you tell me how long you've worked at the San  
6 Rafael Police Department?

7

8 Kevin MacDougald: I have either been, uh, a full-time officer here or a  
9 reserve officer here since January of 1976 with the exception of two years  
10 between '77 and '79, when I was a police officer at Stanford University.  
11 Other than that, I've been with San Rafael PD since January of '76.

12

13 Paul Henry: Okay. And do you have other professional experience as  
14 well?

15

16 Kevin MacDougald: Uh, yes.

17

18 Paul Henry: And can you describe what that is?

19

20 Kevin MacDougald: I'm an attorney admitted to practice in the California  
21 State Bar.

22

23 Paul Henry: Okay. And what is your current assignment?

24

25

1 Kevin MacDougald: Uh, I'm assigned as, uh, a detective in the Investigations  
2 Division.

3  
4 Paul Henry: Okay. And what was your assignment on August 5, 2018?

5  
6 Kevin MacDougald: Patrol.

7  
8 Paul Henry: And were you in a uniformed assignment on August 5<sup>th</sup> of  
9 2018?

10  
11 Kevin MacDougald: Yes.

12  
13 Paul Henry: Can you describe what your uniform was?

14  
15 Kevin MacDougald: I was wearing a standard, um, San Rafael PD uniform,  
16 consisted of 5'11" shirt and pants, LAPD blue, with patches on each shoulder.  
17 I was wearing a silver San Rafael issue badge with my ID number on it. I was  
18 wearing a name tag. Uh, I was wearing a standard duty belt and black boots.  
19 Yeah.

20  
21 Paul Henry: Okay.

22  
23 Kevin MacDougald: Would you like me to go through the duty belt equipment?

24  
25

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