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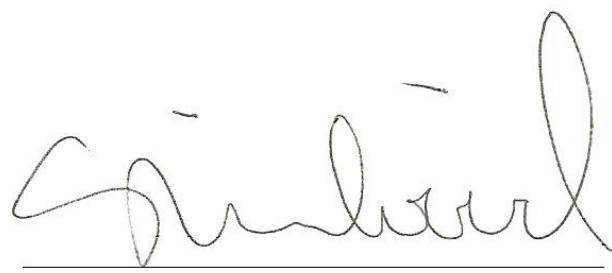
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IA23_07_23_08_Ofc_Arone_Skelly_Conference.m4a

This file was submitted by **Martinez Police Department** on January 16, 2024 is a true, accurate and faithful representation to the best of the transcribers training and ability and no intentional changes or redactions have been made.

DATED: January 16, 2024



A handwritten signature in black ink, appearing to read "Anilur".

VIQ Representative, SVP Client Experience

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8 **INTERVIEW WITH OFC. GIANI ARONE**

9 **Q=Chief Andrew White**

10 **Q1=Atty. (Suzanne Solomon)**

11 **A=Ofc. Giani Arone**

12 **A1=Atty. William Baird**

13
14

15 Man: I'm going to a stop.

16

17 Q: No, no, it's fine just getting my - trying to get the time. Okay, uh, my name is
18 Andrew White. I'm the designated Skelly officer for this matter. Uh, present
19 here is Officer Giani Arone along with his, uh, Attorney, Mr. William Baird.
20 We have (Suzanne Solomon), Attorney for the, uh, department, and
21 Lieutenant Patrick Salamid, who is, uh, observing, uh, this,
22 uh, conference. Uh, the purpose of this meeting is to conduct a pre-discipline
23 conference on the proposed charges. You've been provided the written
24 materials, reports, and documents, uh, and other evidence upon which the
25 proposed disciplinary action is based. Uh, as we discussed before we went on
26 the record, uh, which by the way today is, uh, January 11 at - or, sorry, 12th
27 at, uh, 1:02, uh, pm. Uh, but before we went on the record you advised you
28 received all that documentation, so you'll waive the, uh, the reading, uh, any
29 of that.

30

31 A: Yes, sir.

32

33 Q: Um, obviously, you know you have the right to be accompanied by an
34 attorney, and you do have that - that person, uh, representing you here today,
35 Mr. Baird. Uh, following the conference today I will make a written
36 determination regarding the proposed, uh, charges that are against you. Uh,
37 just to confirm you received a copy of the letter from me dated December 26,
38 2023, titled Notice of Intent to Impose Discipline Termination, IA Number
39 IA23-07 and IA23-08. Is that correct?

40

41 A: Yes, sir.

42

43 Q: Okay. Um, all right so at this point in time the notice indicates that the level of
44 proposed disciplinary action to be taken as termination of employment.
45 Uh, now is the opportunity for you, or your representative, uh, to respond to
46 any of the charges against you and the supporting, uh, evidence.

47

48 A1: And this is William Baird of Mastagni Holstedt, representing Officer
49 Arone. If, uh, I'd like to be able to just speak first if that's okay?

50

51 Q: Absolutely, yeah.

52

53 A1: I know Officer Arone has some things he'd like to say as well. Um, the first
54 thing I'd like to say, and where I'm going to focus the majority of my remarks,
55 are on gonna be on the use of force because I understand, um, a sustained
56 finding there or - or maintaining a sustained finding is - is problematic for a
57 number of reasons. But I think that, and I guess in preference, we're obviously
58 looking for something not termination. Um, and - and so that's why I'm
59 starting my remarks with this one, um, I think that if - if this were not
60 sustained or if it were exonerated or some other determination, um, it's easier
61 to move into a realm of something else besides a - a termination. I think that -
62 I think the finding that this was an unreasonable use of force that it was a
63 violation of the use of force policy is a little bit, um, I think it can be made the
64 other way. I think there can be a finding that this was a reasonable use of
65 force. While I still respect what seems to be the concern of both the
66 investigator and the department was which - which is that the force was not
67 necessary. The investigator mentions that in his report on Page 44, um, where
68 he says, "The force used by Officer Arone was not necessary given the facts
69 and the totality of circumstances to accomplish a legitimate law enforcement
70 purpose." It's the second, uh, paragraph down or the first full paragraph I
71 guess. Um, that standard seems to be repeated in the Notice of Intent on Page
72 2. And I say seems to be, but it says, "The force was not justified because the
73 suspect was handcuffed, not resisting and was not disobeying any commands
74 that he had been given." And I - I read that and - and my paraphrasing of that
75 is that because the suspect was handcuffed, in fact, handcuffed, and in fact,
76 not resisting or I - I guess the determination may, not resisting and not
77 disobeying any commands that therefore the force was not necessary. And -
78 and that standard appears to be repeated, again, on Page 5 of the Notice
79 of Intent, uh, under level of penalty, "He engaged in an unnecessary use of
80 force towards the suspect at Velvet dispensary, he was handcuffed and not
81 resisting any commands at the time you kneed him." And as I mentioned I -
82 I can certainly appreciate the concern the department has with, um, a use of
83 force on someone who has been shot, was appeared to be complying, not
84 resisting and, um, and handcuffed. And in fact handcuffed, but the - the policy
85 reads a little bit differently, and it doesn't mandate that officers use force only
86 when necessary, but it requires the officers use reasonable force. And -
87 and that takes into account, uh, the facts known to or perceived by. And I
88 think that's a really important word, uh, that perceived by the officer at the
89 time of the event, and it considers the totality of circumstances. And the report
90 seems to concede that the circumstances were, uh, unquestionably chaotic and
91 stressful. And just to kind of give - to recap those, you know, there was - there

92 had just been an OIS. When Officer Arone arrived he didn't know the status of
93 who had been shot, who had been not shot. Um, the vehicle had crashed. He
94 had to break open a window because it wouldn't open on its own either
95 because the driver, as it turned out, had been shot or because they were not
96 complying with commands. A fire hydrant had been busted and there was
97 water spraying in the air. It was the middle of the night. Their side curtain
98 airbags had deployed which prohibited Arone from being able to see inside
99 the vehicle and figure out what was going on. There were commands being
100 shouted from multiple different officers at different unknown suspects. Arone
101 described it as a stress level 12 out of ten, and he was able to get in there.
102 There's officers yelling at one person to get out of the vehicle from the other
103 side, there's the driver who appeared to be deceased. Um, Arone tried to take
104 the - open the door using his baton, I believe, and - and that snapped the door
105 handle off. And so it was a - it was chaotic, it was stressful. Um, his position
106 didn't allow him to fully see what was going on, on the other side of the
107 vehicle. And it didn't allow him to hear all the commands being given by the
108 other officers, such as, you know, get out of the vehicle. H- his position didn't
109 allow him, and he didn't perceive this person complying with officer
110 commands to get out of the vehicle. What he perceived was this person exiting
111 the - the, um, passenger side window. And I think that there was conversation
112 there, at least it can be characterized - I'll characterize as, this person's going
113 out the window, um, of a vehicle, you know, he's either continuing to resist or
114 he's being drug out because he's being resistive. And - and so those are the
115 things that are kind of being perceived. And those perceptions are important
116 because, uh - oh, and then, you know, as he's moving around the vehicle, once
117 he realizes this driver is deceased, he's moving around and can hear officers
118 continuing to shout commands. Uh, he can hear the suspect ye- yelling
119 something in return so at least there appears to be this verbal altercation going
120 on, which is consistent with somebody who's resisting or continuing to be
121 combative. One of the things that is noted in the report was that, um, of course
122 it said - the report says on Page 43, "According to Officer Mendez, Wilson
123 was not offering resistance quote, but was heavy." And then it continues, and
124 quote, "Officer Arone said he perceived Wilson was, quote, dropping his
125 weight, and he considered that to be active resistance or non-compliance."
126 And - and I understand the report here is making a distinction between what
127 one officer perceived and - and noted versus another one, but I don't read
128 those as being inconsistent or mutually exclusive. So if I think one officer can
129 maybe rightly know that the person wasn't, uh, resisting but was heavy, and
130 that could be a fact, um, an accurate fact based on this one officer's better
131 perceptions and better knowledge of the incident, but it's not inconsistent with
132 a separate officer arriving later and perceiving this person to be, you
133 know, passively resisting or actively resisting by dropping his weight. Uh,
134 they can feel the same if someone's being - if someone is in fact heavy or
135 someone is dropping their weight, it can feel the - the same. And so it's a
136 question of one - one officer's perceptions versus another one. Which the

137 reason I said that, that perceptions is important because I think that a - a -
138 a question or the way to filter this would be, you know what
139 Officer Arone's perceptions are because he answered all of those questions
140 during his - his IA. The question then becomes, were those perceptions
141 reasonable? And - and then if his perceptions were reasonable was the use of
142 force based on those reasonable perceptions a reasonable use of force as
143 well. And so whether - were those perceptions reasonable, I understand that
144 the conclusion appears to be, from the investigation, that no they were
145 not. The investigation notes that the fact that Wilson wasn't, this is again
146 on Page 43, the - and it looks like after the interview portion, one, two, third
147 paragraph down, "The fact that Wilson was in handcuffs should - should have
148 been apparent to Officer Arone by the way he was being dragged by Officer
149 Mendez, parentheses, hands behind his back and being pulled under his arm."
150 This sentence appears to be the - the sort of conclusion by the investigator
151 that, um, Officer Arone's perceptions were not reasonable. But it's unclear
152 why this conclusion - how this conclusion was come to, or why this
153 investigator came to this conclusion. Um, it appears to be just the opinion of
154 the - the investigator, who I'm - I'm sure is qualified, but I - I don't - I didn't
155 see that any qualifications in here specifically as it might relate to this
156 investigator's, um, training on - on, you know, force, use of force science or,
157 um, human performance factors relating to, um, the use of force. I think that,
158 you know, if this were something that I, you know, I'll be kind of blunt and
159 hopefully in not a disrespectful way, but in a way that's meant to be, um,
160 candid and, and - and frank, if I was going to - to litigate this, and - and if
161 I'm gonna be - if this were to go to a civil service commission hearing or an
162 arbitration or something, I would have an expert that can review this who has
163 studied use of force science, and - and they know the limitations of a person's
164 ability to perceive, especially during stressful and chaotic situations. And I
165 would expect that in that - in that review the conclusion that a number of use
166 of force experts, I don't think I would have to, you know, shop around for one
167 or anything, but I - I think that it wouldn't be a stretch to find one that would -
168 would say yes in a - in a highly stressful situation, where all the factors that
169 I've already mentioned were happening and present, it's not unreasonable for
170 an officer's ability to perceive to be somewhat limited. I don't see that being
171 considered in this report. If it was - so and if it wasn't, I think it should be,
172 which is, I think, the point of this Skelly. So, um, I'm asking that - that this
173 sentence be reconsidered, um, the fact that Wilson was in handcuffs should
174 have been apparent because I think it could very easily be written that it
175 shouldn't have be- that it - it was reasonable that it wasn't apparent. He was in
176 a - it was night, it was a chaotic scene, he was in the sweatshirt. And I think
177 that was mentioned, uh, in the notice as well. But I think that what hasn't been
178 considered, and the bigger point of what I'm trying to make, is the use of
179 force the abil- a person's ability to perceive, in a highly stressful situation,
180 is gonna be impacted by essentially human limitations. So if, um, we consider
181 that Officer Arone's perceptions, um, given the stressful event were

182 reasonable then it becomes was his use of force based on those reasonable
183 perceptions. Re- and I'll say reasonable but inaccurate. I don't think anybody's
184 trying to say that he was accurately perceiving anything that night because in
185 fact we all know that the person was in fact handcuffed and been shot and had
186 come out of the car voluntarily by the point he was kneed. So, you know, was
187 his perceptions, that were inaccurate, were they reasonable, and if they were
188 reasonable was the use of force reasonable. And I think that the answer to that
189 question is also a yes, because he perceives this guy as - as dropping his
190 weight and continuing to resist right after and prevent - and doing something
191 with his weight and his hands to prevent him from being handcuffed. So he
192 delivers two, uh, quick knee strikes to the head. And once he's able to perceive
193 this guy as - as now being compliant, laying there, allowing himself to be
194 manipulated and not be drug. We understand that he was being drugged
195 partially on his own will and in response to officer commands, but that's again
196 not how it was being perceived to Arone at the time. This is where that sort of
197 mistaken but reasonable perception comes into play. You know so was he -
198 and that's when he stopped. And was that sort of minimal use of force
199 reasonable I would say yes as well. And when that kind of analysis is
200 done, and those factors are considered, I think that's how you can take this
201 from a - a case where you have a sustained use of force to, um, I would say an
202 exonerated use of force, understanding that - that it's based on, um, inaccurate
203 perceptions, inaccurate but reasonable perceptions, from Officer Arone. And
204 if you're able to take out that use of force from being sustained, then we're left
205 with - with other allegations being sustained, which I don't think merit a
206 termination. The first that I'll talk about, and - and really the only one that
207 I'm gonna talk at any sort of length about, is going to be the reporting of the
208 use of force that was noted as, um, not being seen on - on body-worn camera.
209 I didn't see it on body-worn camera either. Um, but Officer Arone did have a -
210 a pretty strong recollection about the circumstances in which he had reported
211 that on the scene. And, um, you know, he - he remembers the response he was
212 given at the time. And I understand there was a little bit of a conflict
213 there, um, with I believe it was, uh, Sergeant Espinoza.

214
215 Q:
216 Yes, sir.

217 A1: And I believe there was a little bit of conflict because, Espinoza, Sergeant
218 Espinoza says that he didn't hear that, and that had he heard that he would
219 have taken some certain actions consistent with policy. But I think that, um,
220 you know, while I - I don't think anybody's being dishonest, I think
221 people have, um, are - are unable to remember certain things in a stressful
222 situation. And I think perhaps it's the situation where Sergeant Espinoza didn't
223 remember, um, being told that either. And - and I think why would that be the
224 case, aside from stressful events affecting people's ability to remember things?
225 Well, I do think that's the reason, but another way that Sergeant Espinoza, I
226 don't think had a great memory on this point, was in, uh, Page 11 through 13

227 of his transcript. He's being asked about, um, Arone documenting the use of
228 force in his report and whether, um, Sergeant Espinoza had read that in the
229 report. And he essentially, I'm summing this part up, but I've given you the
230 portion of the interview where it's discussed, so you can read more later, but
231 he says that he doesn't remember seeing that in - in the report. And the
232 investigator kind of says, "Well, you know, you're aware that there's audit
233 trails on viewing these reports right? And would it be surprising to you if you
234 were showing up on these audit trails?" And Espinoza essentially says, "Yes,"
235 which is a concession that he's not remembering, um, having actually
236 reviewed it. So there is some evidence in the file about Espinoza being aware
237 of this, but then not remembering it later, which is, again, I'm not saying any -
238 due to any dishonesty on Sergeant Espinoza's part, but what I am saying is
239 when a stressful event like this happens, everybody's doing their best and
240 trying to follow all the different protocols and rules and procedures that are in
241 place and sometimes people, you know, they're so focused on thing number A
242 that they're not getting to thing number M or letter M. And so I think that, you
243 know, when you have an example like this where Sergeant Espinoza is
244 documented, I think, somewhat proven that he had seen something, learned
245 about something, and didn't remember it later you have the same situation
246 now here where there's a question of whether he was told something on scene
247 or not. He's saying that he didn't, but what we're saying is perhaps that he was,
248 and he just doesn't remember it, just like he learned about the use of force by
249 viewing the report as part of the review process but didn't remember that. And
250 if you consider that that's a possibility then I think that it at least mitigates the
251 reporting on the use of force pretty heavily because while I understand that
252 there were time within that 30-minute video that's caught on body-worn
253 camera for Officer Arone to have reported that use of force, and the fact that
254 he didn't do it for 30 minutes may still be unacceptable to you - to you
255 understand that completely, but it is mitigated in any event that he's saying
256 that he eventually did say something while on scene albeit maybe too late. But
257 if he did, he's - he's still saying it and so that can be - that can be addressed
258 with a correction rather than a - a termination and loss of a career. As for,
259 um, the other allegations, which sort of revolve - involved the knife, um,
260 I'm gonna let Officer Arone talk a little bit more about that. But I - I think
261 what he's going to say is that he understands how that looks. He understands
262 that that's not acceptable. He understands that, um, although there was no ill
263 intent or anything there, he doesn't want to - he, you know, he doesn't want to
264 - he understands how reputations are made, and he doesn't want, uh, to go
265 down that road and - and have that reputation. And if he's allowed to be able
266 to come back, he's gonna do everything he can to - to earn it and to ma- re-
267 earn, or earn, and maintain, uh, your trust going forward. And that's what I
268 have to say. That was a lot. Thank you for listening. I'll - I'll let sergeant Ar-
269 or Officer Arone talk now.
270

271 A: Um, just, like, today marks 140 days since I've been put on here. Um, so 140
272 days I've - I've had to kind of mull over this all, look at the man in the mirror
273 listen to the walls talk to you for a while, you know, and - and kind of replay
274 everything in my head. Uh, I think most importantly, or - or, uh, foremost I
275 want to start with, I - I did not know the suspect was handcuffed, let alone
276 shot at that time. Um, with the luxury of hindsight being 20/20 I can look back
277 and say, you know, clearly that a suspect who was handcuffed and - and shot
278 did not need to be kneed. Uh, but my perceptions at the time, trying to do the
279 best I could under the chaotic circumstances, uh, is kind of what unfolded. But
280 I - I again did not know the suspect was handcuffed more than I know he was
281 shot or that wouldn't have happened. Um, I love being a police officer in the
282 city, especially this community. Uh, credibility can take a lifetime to build
283 right in an instant to - to - to go away. Uh, I think that's one of the biggest
284 struggles I've dealt with is that - that, you know, my - I know that my moral
285 compass, my ethical compass points north, that I'm not somebody who's a
286 shady person or trying to hide things. In regards to the knife, I understand the
287 optics of that. Uh, it was a lapse in judgment at the time because my mind was
288 so focused elsewhere on other things at the time of the scene, um, but that's
289 not who Giani Arone is. That's not the officer I want to be or the person I've
290 been trained to be or the person that goes out there and represents this
291 department. Um, I - I own wholeheartedly that I could have done something
292 differently or I should have made better judgment at the time, um, so I'm not
293 disputing that at all. But, um, I - I, uh, oh of course I - I - again, I think just the
294 - the - of all these things combined I think the - the biggest thing was my
295 perceptions at the time I didn't know that he was handcuffed, I didn't know
296 that he was shot. We'd had a conversation relatively recently before this that
297 was still at the forefront of my mind. I took to heart everything you said. Um,
298 and so it wasn't - this wasn't some kind of, you know, I don't know the word
299 I'm trying to use here, I - I - this was all because of the perceptions I had at the
300 time is the was the way that it unfolded. It wasn't any kind of, you
301 know, gratuitous thing or anything of that nature. Um, again, I know that my -
302 morally that - that I try and represent myself and this department the best way
303 I can when I go out there. And these circumstances, had they been different,
304 things would have gone differently, but, uh, it was a perfect storm. It was a
305 chaotic scene and my perceptions, uh, I did the best I could at the time with
306 what I was perceiving. Um, I think that's more or less, without talking your
307 ears off, more or less the message I wanted to convey.

308 Q: What do you guys, uh, it feels as if - what's your opinion on an appropriate,
309 uh, penalty level?

310 A1: I think Officer Arone is understanding that, um, there are aspects to this that
311 he could have done better, and he understands and wants to do better. He's
312 willing to accept correction, and he's willing to accept, I - I think, a suspension
313 up to 30 days. And I don't think, well, I can make a representation that a
314
315

316 suspension of 30 days would not be appealed if the use of force is changed,
317 the actual use as well the - the actual use of force, that is, um...

318
319 Q: I had a question for you, uh, you had mentioned on that, uh, you were,
320 uh, making a legal argument about, um, a dispute between what's in the notice
321 and then in terms of the review. And obviously I get that, uh, you know, any
322 use of force, uh, can't be evaluated with 20/20 hindsight, I understand that
323 concept. Um, but you had raised about that somewhere you had read that it's
324 only that the force is reasonable and not necessary. And I was curious to your
325 relationship with that, and 835A, which is cited in here, and the policy, which
326 says that to use reaso- force that reasonably appears necessary given the facts
327 and totality.

328
329 A1: Right. And I think that's what, I apologize for not making that clearer. Um, it's
330 that word appears that reasonably appears necessary, or I guess the two words
331 reasonably appears necessary, which is why I was trying to talk about how I
332 think that the - the proper lens is not what the facts actually were, although
333 that can be considered in evaluating Arone's perceptions and determining
334 whether they were reasonable or not. But the - the, I think, appropriate lens to
335 view this through is what was Officer Arone perceiving. And then I think you
336 have to ask were those perceptions reasonable because that's that part right
337 here where it says reasonably appears. Of course the actual facts matter
338 because, you know, you take somebody who's for example sitting handcuffed
339 on a sidewalk in broad view not doing anything and - and if somebody were to
340 run up take a running start and knee that person in the head with nothing
341 around nothing going on that's can't reasonably be perceived by anybody to be
342 reasonable or necessary to do anything right, but that's not really the situation
343 here because there's a whole lot of other factors. And there are the totality of
344 circumstances that are perceived by the officer which include, you know, the
345 fact this guy's exiting out the other side of the vehicle, that he was at least -
346 while he's being handcuffed on the ground was out of sight from Arone, that
347 there was yelling happening at the time, um, consistent with somebody who's
348 continuing to struggle and resist. Those are the facts that are being perceived
349 by Arone at the time. And so his conclusion, when he comes around the
350 vehicle, sees this person, I guess, being drug, I'd have to look at the exact
351 language that was used when he was being questioned about that, but sees this
352 person being moved by officers, or in the process of being detained it
353 appeared to him, was his use of force - did his - was his use of
354 force reasonably necessary to help get this person detained? And it presents
355 this interesting concept of, well, factually he was already detained, but that
356 wasn't known to Arone at the time that he did that he executed the knee
357 strikes.

358
359 Q: Um, in - in reading the, uh, the interview, and I - I appreciate the - and
360 understand the argument in terms of his actions based upon what he knew at

361 the time versus us looking back now. And so even if it was a
362 mistake and fact was it reasonable for him to have that...

364 A1: Yes.

366 Q: ...uh, mistake of fact in terms of not recognizing at the moment that uses about
367 whether or not he was in - in handcuffs. But one of the challenges is
368 determining what, assuming that he didn't know, uh, tha- in other words that
369 he was unhandcuffed, and then the knee strikes are delivered, but then there's
370 no real indication in terms of what that effort was to do, uh, like, what the -
371 the lawful basis was. So the knee strikes are delivered, and then what, what's
372 the - the goal of that force was never clear to me in terms of the - the interview
373 that was done. So I don't know - do you have a - an argument on that in terms
374 of what - what that was about? And - and if initially - so I think a two part
375 question is what that was about? And then the second part is that if initially it
376 wasn't realized he was in handcuffs, that once you deliver those knee
377 strikes then at - at some point, a reasonable officer I think would be expected
378 to determine that the person is in fact handcuffed and maybe go, "Oh, my
379 gosh I didn't realize that," or something like that effect.

381 A1: Sure. Uh, and I - I - I think, and - and what I'd be willing to do if - if it would
382 be, you know, I'm - I'm fine to relook over the - the interview and provide
383 something in writing that points out later, if you'd like. My memory is that he
384 stated he used, and I can't point to this exactly because I didn't know this
385 question was coming necessarily, but he did e- execute the knee strikes to
386 assist with putting the person in handcuffs, with detaining him. When I
387 watched the video and I, between the video and - and the overall interview,
388 what I'm seeing is he delivers the knee strikes and that's when the person has
389 finished being moved and now is, like, laying there prone not - not moving,
390 not struggling, really kind of can't because he's handcuffed, but he's - he's not -
391 he's not moving around to the point where he needs to be controlled anymore.
392 And that's when you see Officer Arone kind of at the head and looking away
393 while the other officer moves up, which I would say would be consistent with
394 another officer putting handcuffs on this person. And that's when that stopped,
395 that's when - and - but Arone's looking away from the person. He's looking -
396 he's not looking back to where the hands are to see oh he's already been
397 handcuffed, he's looking at the opposite direction.

399 Q: Do you have any statement regarding the lack of any commands prior to the
400 knee strike for dropping weight?

402 A1: My, again, my - my comment on that, from having looked at the reports and
403 everything or - and - and interviews, was that it was a - a very rapidly
404 unfolding situation, and the need to get compliance outweighed the - the need

405 to, you know, give commands and wait and see if there's going to be,
406 uh, compliance lines with the commands.
407

408 Q: Um, the comment, uh, "Play stupid games, win stupid prizes," what was that
409 in reference to?

410 A: So I do remember saying that, Chief. And what that was is, if I, and my
411 recollection the best I could recall was, it was when one of the medics had
412 already treated, um, Mr. Wilson was the one that survived, correct? Mr.
413 Wilson, they treated him already. Then he asked me about the - the driver,
414 what's going on with the driver. And I think at that point I said he was either,
415 he's either dead or he was shot in the head or something to that effect. Then
416 Mr. Wilson had said something like, "Oh, you MFers killed my brother,"
417 something like that. And then so it was, again, was it maybe not appropriate at
418 the time to say, sure, but it was kind of like, "Well, you play stupid games,
419 you win stupid prizes," in regards to his brother being shot and killed. And
420 after, you know, um, the best I could recall, that's what it was.
421

422 Q: Did...

423 A: ...it wasn't directed at, Mr. Wilson, like, "Hey, you, sir, this is your
424 punishment." It was like, "Hey, your brother, yeah, well, your brother got shot
425 because he tried to run over police officers," and ...
426

427 Q: It wasn't in reference to the force against...

428 A: No, not at all. It was - and that's why I - I - I actually did mention that at one
429 point that day. It read in - in this that it would look like almost like a standing
430 over somebody after, you know, you make a big play or something
431 like, "Oh, yeah, take that." That wasn't the - the - the - the purpose of that.
432 That was more, as I was talking to the firefighter, he heard me say that his
433 brother, or whoever it was, is dead, or shot. He made the remark of like, "Oh,
434 well, you guys killed my brother." Well, he did just try and run over and
435 kill a police officers, so stupid game, stupid prizes. Again, appropriate,
436 probably not. But, um, it wasn't at Mr. Wilson as a - as a dig at him, it was a
437 comment regarding why his brother ended up shot.
438

439 Q: Um, I think we all recognize that - that hindsight's always a lot clearer than -
440 than something in the moment, but...

441 A: Yes, sir.

442 Q: ...one, um, one question I had was, you - you had mentioned on the -
443 the events subsequent to the use of force that related to the whole knife
444 incident and so forth, you said, well, I think the, and I - and I, correct me if I'm
445

450 off on the wording, but I think you said, like, "Well, I could have done some
451 different things or whatever else." But, uh, one of the things I wonder is, is it
452 that you could have done some different things or you should have done some
453 different things?

454 A: Uh, both, should have I think is the more important one, should have done
455 things differently, but I - I guess in hindsight looking back it was, you know,
456 um, and like we say, you know, in hindsight it's so easy to sit back, and think
457 oh I should have done this I should have done this. So I guess the - the -
458 the term should have been should have is - is the term I should have used...

460 Q: So...

461 A: ...should have...

462 Q: ...um, you're obviously both arguing from different, uh, you
463 know, positions so to speak of sort of a, um, the mind and, I think, the heart
464 argument to an extent of reducing this to something, uh, different than -
465 than termination. Um, how - so part of a police officer's job, uh, is to make
466 appropriate decisions in very difficult situations, um, and miscalculations in
467 those things, while certainly in some cases may even be legally justified, can
468 create liability for the city and so forth, get other people hurt, that sort of
469 thing. Uh, what I haven't heard is how, you - you mentioned a little bit
470 about you've had a lot of time to think about things and stuff like this, but
471 what assurances, both realized in this case, and what's cited in the Notice
472 of Intent of, um, the prior case, that we would have some level of assurance
473 that a situation wouldn't reoccur and then the same, uh, rationale as offers,
474 well it's an intense situation, and, uh, you know, I could have should have
475 would have type thing, like, what - what would we have going forward? And -
476 and I do want to acknowledge, and I think the investigator acknowledges,
477 and I acknowledge, that this situation, uh, was out of the norm for the city of
478 Martinez, uh, in terms of an officer involved shooting not happening I think
479 for 15 years, um, and really not responding to those type of incidents on any
480 sort of regular basis. I just want to throw that out there, but, um, or
481 acknowledge that. But going forward what - how would we have that
482 assurance to know that these things don't happen and that there's some beyond
483 discipline?

484 A1: I'll say, and I - I don't know that you're gonna like my answer necessarily, but
485 it's, uh, I've thought a lot about that right, because I - I think it's an extremely -
486 it's a very reasonable thing to want to know. And - and a majority of the time
487 when - when we're in here doing Skelly hearings we want to make sure we're
488 communicating, here's our plan so that this never happens again. It's a - it's a -
489 it's a little bit of the playbook so to speak from - from where we sit. What

495 makes it difficult in this situation is, is I don't know that - I don't know that
496 there's something we can say ki- because of the nature of this. You know, I
497 think that it's - if we were to say that, you know, here's - here's our suggestions
498 for how this wouldn't happen again I think it almost - it a little bit undercuts
499 what we're trying to say because it makes it - because we'd - on the one hand
500 we'd be saying there are factors that are outside of our control yet here's how
501 we can control them going forward. You know, I mean the - the sort of nature
502 of being human is that we're - we're limited on certain things on what we can
503 process. And - and so how can we get better at - at maximizing our ability to
504 perceive under stressful events is, I think, one of those challenges that's a bit
505 beyond, you know, that ability - our ability to - to solve. To the extent that we
506 don't want to be helpless, and we want to take some control over things, I
507 think that there are, I mean, I think we're open to really anything. If there are
508 ways to put someone through training to improve their ability to perceive
509 under stressful environments, I think that would be welcome. But I think that
510 police agencies all over the country are wanting to do that, because they
511 realize that the better officers are able to, you know, the better able officers
512 in perceiving and reacting to events, esp- esp- especially under stressful
513 situations, the better the community served by that police force, the better the
514 - the, you know, everybody is from a - a reduction of risk standpoint, um, ad
515 everything else. But I think that that's a - a really tough question to ask when
516 it's sort of based on the - the sort of essence of being human, which is, you
517 know, there's limited ability just given our - our the humanity that we have. I
518 hope that makes sense.
519

520 Q: I - I think on count or ground number one, in terms of use of force, I
521 understand what you're saying. Um, but there's also other significant ones that
522 happen afterwards. Um, and I'll tell you, like, the incongruent behavior is that
523 right before the, we'll call it the knife component, um, you know, individuals
524 asked to, uh, to turn off cameras. And Officer Arone said, he (unintelligible)
525 I guess.

526
527 Q1: Yeah.

528
529 Q: Yeah, uh, they asked to turn off cameras, right? And Officer Arone said, "No,
530 you need to talk to a sergeant." But then, you know, and I don't remember the
531 exact time, but a few minutes later we then end up with what formulates the
532 basis for these other incidents occurring. And I hear like, well, thinking back
533 or whatever else, but that wasn't in the midst of the stuff. It was in the overall
534 incident. And so trying to wrap my head around understanding is it how could
535 we be assured that, you know, this happened to be caught on camera and so
536 forth. And I think by your own argument, like, reporting to the supervisor you
537 can see that, if that happened in the way that he remembers, it happened off
538 camera, uh, which didn't serve him or the department very well and was
539 otherwise not documented. So if you can talk about that.

540

541 A1:

Sure, and I appreciate having the opportunity to talk about two different things because I do think they are different, and I appreciate you understanding and limiting my - my sort of...

544

545 A:

Yes, sir.

546

547 A1:

...attributing it only to that first part, which is, it's of course intended to because there are a bunch of things that happen afterwards, which, you know, uh, can be addressed as well. You know, one of the district attorneys I - I learned from in - in Colorado, he talked about, and he was one of the pioneers of body-worn cameras for officers. And back when that first was happening, he said, "Sunlight's the best disinfectant." And that idea is not unique to him or to, you know, or it's not earth-shattering either. I believe that I think Officer Arone believes that as well. Um, I think those policies that have body-worn camera, you know, keeping them on and capturing that is beneficial for the reasons that you mentioned and - and reasons that we're all familiar with. As for how can you be assured that this isn't going to happen again from Officer Arone, I think he's a better person that can answer that rather than me. He can tell you a little bit about how he wants to be perceived if he's allowed to come back and what this, you know, what, I guess, integrity means to him. I'll let him answer that.

562

563 A:

Yeah, Chief, and just to touch on what he said, I think if I am allowed to come back, and I'm allowed to stay here, um, I understand that I have a hill like this to climb. I understand that, you know, I'll be under a microscope where all eyes will be on me. Um, and if I, one, didn't think that it was something I could rise to the occasion of I - I wouldn't be here fighting for a job that I love. I wouldn't be making assurances that things like this wouldn't happen. Again, I - I mentioned that today's 140 days, that's 140 days that I've, every single day I walk by here. Every day I - I sit and watch my daughter. Every day I - I stay awake at night. It's - it's, you know, looking introspectively at myself. Um, seeing the words termination on a - on a piece of paper for a career that you love have - have rocked my foundation maybe in, um, maybe a good way. In - in that being able to it's rocked my foundation in that be more, I guess what am I trying to say, bear with me I'm trying to put my...

576

577 Q:

Sure.

578

579 A:

...my - my mouth is going before my thoughts are finished. I recognize the things that I should have done better. Um, and again it's - it's easy to sit here in - in hindsight and say differently. But I think this whole experience has - has shown me a lot in - in that - that, you know, I wish there was a word that I could say that this is the assurances, and it's right here this gold card, but the assurance is this - this -this whole time off to sit here and think about it, this -

584

585 this facing this possible termination has - has -has taken that - the de- desired
586 effect I guess so to speak in that going forward, you know, using better
587 judgment in - in - in moments, even stressful moments, or - or, uh, taking
588 precautions to make sure keeping the camera on from - from day to night,
589 whatever the case may be, you know what I mean? But I - I - I don't have one
590 specific word that I think of this as my golden ticket that - that I have on -
591 on paper. But I think this whole experience, and this whole 140 days of -
592 of introspectively looking back at things, um, I punish myself more than
593 anybody else can punish me. Uh, the word termination isn't even the worst
594 punishment that could be given, I think it's myself and - and the - the - the -
595 my credibility being questioned and things of that nature. Um, I've beaten
596 myself up plenty over that. And so while I don't have, again, one phrase that -
597 that I think would be the, this is the magic phrase, I think this is definitely put
598 things into perspective.
599

600 Q: Um, and looking through anything, obviously, there's a couple, uh, lenses to
601 look at. There's obviously you involved, there's the rest of the department,
602 there's also the community.

603 A: Yes, sir.

604 Q: Um, you mentioned 140 days, obviously, of impact to you.

605 A: Right.

606 Q: Um, but it's 140 days impact too to the community of not having, you
607 know, an officer out there to serve...

608 A: Yes, sir.

609 Q: ...which I realize the decision to place you out and not doing that is not yours,
610 but you have a role in the conduct that led up to...

611 A: Yes, sir.

612 Q: ...that decision. And then of course to, uh, the peers and - and, you know,
613 chronologically following another, uh, incident. I realize this one's a little bit
614 different because timing of things, um, but, uh, that's something else to - to -
615 to consider and really considering is the - the, uh, the impact not only this has,
616 but then to, uh, you know, a likelihood of if - if reoccurrence happened, what
617 that impact would be to, uh, the community. And on any front of
618 these because I think that the use of force is, um, is a very serious component
619 of it...

620 A: Yes, sir.

630

631 Q:

...but I also think the other ones are equally very important. And - and particularly, I think, as you both acknowledged, uh, not only the - the actual impact of, uh, you know, the - the knife component, but literally the visual optics of what's seen...

635

636 A:

Sure.

637

638 Q:

...on camera. And - and some of which I acknowledge that you didn't at the time have knowledge of - how it would have played out, but you now see how the pieces all...

641

642 A:

Yes, sir.

643

644 Q:

...fold together, and you're inextricably linked, um, you know...

645

646 A:

Yes, sir.

647

648 Q:

...to - to that within there. Did you have anything?

649

650 Q1:

No.

651

652 Q:

Do you have anything that - other than you would like to add?

653

654 A1:

You know, you identified kind of what we were doing here, right, which is I'm addressing it from a more legal and - and sort of logical type of argument, and I'm leaving the part that's relating to how this has affected him and what this means to him, for him to talk about, because I think it maximizes the effectiveness of both. You know, however, being an attorney, and somebody who, um, like it or not, I'm - I'm fairly skilled with words and language I - I don't really have trouble communicating things in the way that a lot of people might have trouble communicating. So the only thing I would ask, in addition for you to consider, would be something that, if I may add on for what he's saying, and I think he said, but perhaps can be expressed in a little bit different way, which is, he's - he's talked about one thing he just said that I think is really powerful, Arone has said that's very powerful, has been termination's not even the - the worst thing on here it's really about that hit to his credibility. And I know that I've talked with him, and he's expressed this to me, and I hope that it's come across to you that, you know, credibility and integrity are kind of those things that - were you gonna say something, I'm sorry?

671

672 Q:

No, no. I was taking a break.

673

674 A1: They are - they are things that he, as Officer Arone said, they take a -
675 a lifetime to build and an instant to lose. Um, and I think that he understands
676 that this is not, um, the decision-making here was not what it should have
677 been that he should have definitely done something different. That the fact
678 that he didn't do something different, and that he did what he did has affected
679 his credibility and his - the way he's viewed. Um, I think if people, um, and -
680 and that's not something that can be fixed by putting him back to work and
681 having him show at the right place in the right uniform, that takes doing that
682 day in day out. And then every time that you're faced with one of those
683 questions about what am I going to do, am I going to turn the camera off or
684 am I gonna leave it on, you leave it on. Am I gonna stay and take this extra
685 report or am I gonna call it good with just those statements I got? You know,
686 and I think being com- what he didn't maybe explain for, you know, in - in
687 detail, but what I hope has come across in spirit, has been he understands that
688 it's going to take that work to rebuild that - that trust and rebuild that
689 credibility but that he's willing to do it. Correct me if I said that wrong.
690

691 A: Yeah, no, I did. I think you said that exactly. Sometimes I can stumble over
692 my words a little bit, and I'm not as articulate, and especially when there's a
693 lot of emotion behind it but, uh, it's essentially exactly what I was trying to
694 convey.
695

696 A1: So, as for assurances, where does that come from? And I think it comes from
697 hearing that this matters to him as a person, and that this is more than just a
698 job. That this is sort of, he doesn't want to be seen as a person that doesn't
699 have credibility, or he doesn't want to be seen as somebody who is anything
700 less than completely trustworthy.
701

702 Q: Understood. Anything else?
703

704 A1: No, sir.
705

706 Q: All, right.
707
708

709 The transcript has been reviewed with the audio recording submitted and it is an accurate
710 transcription.
711 Signed: _____